

1226

HCRA

HB

87

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HB

150

, 226

th delinquent taxes assessed and
d in private ownership.

right of redemption there is no
d for, or devoted to, a public pur-

Sup. Ct. Op. No. 269 (File No. AG
396 P.2d 68 (1954))

sale. Upon sale of foreclosed real
or city shall divide the proceeds
borough and the city having the
he division is in proportion to the
the property at the time of fore-

upon public utilization. If a city
p tax-foreclosed property for a
shall satisfy unpaid taxes and
eld by other municipalities, with
lty. If the amount required in
ments exceeds the assessed val-
orough shall pay the other tax-
which shall be divided between
on to their respective taxes and
l the time of foreclosure. (§ 2

(a) If a taxpayer pays tax
the superior court against the
judgment for recovery is given
shall refund the amount of the
t eight per cent from the date

y imposed, a remittance by a
exceeds the amount due, and
in question, is satisfied the
and the excess to the taxpayer
he date of payment. A check
e due date of the tax is for

erty Tax.

tion

Limited property taxing power
for second class cities

rule and first class cities
roperty tax. A property tax

levied, shall be levied in the manner provided for borough levies
in § 170(a) of this chapter and is subject to §§ 10—25, 50—55 and
50—55 of this chapter. The council shall by June 15 of each year
present to the borough assembly a statement of the city's rate of
levy, unless a different date is agreed upon by the borough and city.
(§ 2 ch 118 SLA 1972; am § 5 ch 147 SLA 1972)

Effect of amendment. — The 1972 amendment, effective September 10, 1972, in the second sentence, inserted "shall be levied in the manner provided for borough levies in § 170(a) of this chapter and," inserted "10—25," and inserted "55."

Sec. 29.53.405. Differential tax zones. Cities may by ordinance establish, alter and abolish differential tax zones to provide and levy property taxes for services not provided generally within the city or a different level of service than that provided generally within the city. (§ 2 ch 118 SLA 1972)

Sec. 29.53.410. Limited property taxing power for second class cities. A second class city may by referendum levy real and personal property taxes as provided for first class cities. However, levy by a second class city may not exceed one-half of one per cent of the assessed valuation of the property taxed, except that the limit does not apply to a levy necessary to avoid a default upon payment of principal and interest of bonded or other indebtedness which is secured by a pledge to levy ad valorem or other taxes without limit to meet debt payments. (§ 2 ch 118 SLA 1972)

Article 4. Borough Sales and Use Taxes.

Section

41. Sales and use tax

42. Referendum, adoption and modification

Sec. 29.53.415. Sales and use tax. (a) A borough may levy and collect a sales tax not exceeding three per cent on sales or rents, or on services made within the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

(b) A borough levying a sales tax may also by ordinance levy a use tax on the storage, use or consumption of tangible personal property within the borough. The use tax rate must equal the sales tax rate and the use tax shall be levied only upon buyers.

(c) A person who furnishes proof, in the form required by the borough tax collector, that he has paid a sales tax on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the amount of the sales tax paid and the amount of the use tax levied by the borough. This subsection applies to a sales tax levied in any taxing jurisdiction whether in or outside the state.

Sec. 29.53.210. Tax liability. (a) The owner of personal property assessed is personally liable for the amount of taxes assessed against his property. The tax, together with penalty and interest, may be collected in a personal action brought in the name of the borough.

(b) Real property taxes, together with penalty and interest, are a lien upon the property assessed, and the lien is prior and paramount to all other liens or encumbrances against the property. (§ 2 ch 118 SLA 1972)

The remedies for enforcing tax collection are given in this section and AS 29.53.220. *City of Anchorage v. Campbell*, 13 Alaska 739, 105 F. Supp. 607 (D. Alas. 1952).

Taxes are not a lien unless expressly made so by statute, and when expressly created, the lien is not to be enlarged by construction. *Libby, McNeill & Libby v. City of Yakutat*, 14 Alaska 367, 206 F.2d 612 (9th Cir. 1953).

Personal action may be brought.—Where a method of collecting taxes provided by statute is not exclusive, and does not provide an effective remedy, a personal action may be brought. *City of Anchorage v. Baker*, Sup. Ct. Op. No. 113 (File No. 210), 376 P.2d 482 (1962).

Personal actions to collect taxes limited to taxes assessed against individuals.—The rule that in the absence of statutory provision a personal action lies for the enforcement of the collection of a tax, is limited to taxes assessed against individuals. *City of Yakutat v. Libby, McNeill & Libby*, 13 Alaska 378, 98 F. Supp. 1011 (D. Alas. 1951).

Sec. 29.53.220. Enforcement of personal property tax liens by distraint and sale. The lien of personal property taxes may be enforced by distraint and sale of the property. The assembly may provide the procedure for distraint and sale by or through seizure, levy or distraint is legal unless demand is first made of the person assessed for the amount of the tax, penalty and interest, and no sale is valid unless made at public auction after 15 days notice given by posting or publication. The seizure is made in virtue of a warrant issued by the borough clerk to a peace officer. If the property sold is not sufficient to satisfy the tax, penalty, interest, and costs of sale, the warrant may authorize the seizure of other personal property sufficient to satisfy the tax, penalty, interest and costs of sale. (§ 2 ch 118 SLA 1972)

And a tax on real property creates no personal liability for the payment of which a judgment in personam may be obtained. *City of Yakutat v. Libby, McNeill & Libby*, 13 Alaska 378, 98 F. Supp. 1011 (D. Alas. 1951).

Lien may be enforced only against assessed property.—The remedy provided by this article is available only to enforce the lien of real property taxes against the realty assessed. *Libby, McNeill & Libby v. City of Yakutat*, 14 Alaska 367, 206 F.2d 612 (9th Cir. 1953).

Real and personal property may not be sold to satisfy taxes on both as lump sum.—Where the court ordered both real and personal property sold as an entirety to satisfy taxes, penalty and interest due on both classes in a single, lump sum, the court erred. *Libby, McNeill & Libby v. City of Yakutat*, 14 Alaska 367, 206 F.2d 612 (9th Cir. 1953).

Am. Jur. and ALR references.—Am. Jur., Taxation, § 1010 et seq.

Statutes impairing or postponing lien for taxes, 53 ALR 1184; 134 ALR 328.

Sec. 29.53.230. Real property tax enforcement. Real property taxes may be enforced against delinquent taxpayers, unless otherwise provided.

(b) If the tax on property is a leasehold interest in the borough may enforce against delinquent taxpayer through distraint to other remedies. (§ 2 ch 118 SLA 1972)

Design.—This section and others setting forth the procedure for enforcing tax liens on real property were plainly geared to real property, if not solely, with respect to improvements, and do not derive from a reading of the statute that they were not designed for foreclosure and sale of interests in real property, such as leasehold interests. *City of Anchorage v. Baker*, Sup. Ct. Op. No. 113 (File No. 210), 376 P.2d 482 (1962).

Personal action may be brought.—Where a method of collecting taxes provided by statute is not exclusive, and does not provide an effective remedy, a personal action may be brought. *City of Anchorage v. Baker*, Sup. Ct. Op. No. 113 (File No. 210), 376 P.2d 482 (1962).

A tax on real property creates a lien.

Sec. 29.53.240. Foreclosure.

(1) annually present a copy of the foreclosure list to the superior court for publication in the newspaper of general circulation. If there is no newspaper in the borough, post the list for 10 days;

(2) publish the foreclosure list in the newspaper of general circulation. If there is no newspaper in the borough, post the list for 10 days;

(3) within 10 days after the last known owner of the property appears on the list a notice which a petition for judgment describing the property and the amount due thereon.

(b) The list shall be in the same form and shall include:

- (1) the last known owner of the property;
- (2) the property described;
- (3) years and amounts.

Title 29 Municipal Government

(c) The assembly or council shall fix a time to hear objections to the roll. The municipal clerk shall send an assessment and hearing notice by mail to each record owner of an assessed tract not less than 15 days before the hearing. (§ 2 ch 118 SLA 1972)

Right to object may be waived.— A party may be held to have waived all right to a remedy by a course of conduct which renders it unjust and inequitable to others that he should be allowed to complain of the illegality. In re Ketchikan Delinquent Tax Roll, 6 Alaska 653 (1922).

Am. Jur. and ALR references.— Am. Jur., Special or Local Assessments, § 57 et seq.

Assessment by front-foot rule.— ALR 941.

Classification of streets as to source of payment for improvements.— 127 ALR 1090.

Sec. 29.63.050. Hearing and settlement. After the public hearing, the assembly or council shall correct errors and any inequities in the roll. When the roll is corrected, the clerk shall so certify. (§ 2 ch 118 SLA 1972)

Sec. 29.63.060. Payment. (a) The assembly or council shall fix the times of payment, rate of interest on unpaid installments, and delinquency of assessments. Payment may not be required more than 60 days after assessment. Payment may be in one sum or by installments, but a sum or installment may not exceed 25 per cent of the assessed value of the property affected. Penalty and interest are the same as for real property taxes.

(b) Within 30 days after fixing the time of payment, the municipal clerk shall mail a statement to the owner of record of each property assessed. The statement designates the property, the assessment amount, the time of delinquency, and penalties.

(c) Within five days after the statements are mailed, the clerk shall publish notice that the statements have been mailed.

(d) Assessments are liens upon the property assessed and are prior and paramount to all liens except municipal tax liens. They may be enforced as provided in AS 29.53.200—29.53.390 for enforcement of property tax liens. (§ 2 ch 118 SLA 1972)

Property must be described with certainty.—To create a lien on real estate, the property must be described with reasonable certainty, sufficient for identification. In re Ketchikan Delinquent Tax Roll, 6 Alaska 653 (1922).

Am. Jur., ALR and C.J.S. references.—39 Am. Jur., Notice and Notices, § 27; 48 Am. Jur., Special or Local Assessments, § 194 et seq.

Priority as between liens for improvements.— 5 ALR 1301; 19 ALR 1478.

Transfer or assignment of bonds.— ALR 667.

Priority of lien for improvements and pre-existing contractual liens.— ALR 613.

Duration of lien, 114 ALR 200. 63 C.J.S. Municipal Corporations § 1564 et seq.

Sec. 29.63.070. Reassessment. (a) The assembly or council shall within one year correct any deficiency in a special assessment made by a court.

(b) Notice and hearing must conform to the initial assessment procedures.

(a) Payments on the initial special reassessment.

(1) The reassessment becomes binding on failure to comply with procedure. (§ 2 ch 118 SLA 1972 reference.—63 C.J.S. Municipal Corporations § 1541 et seq.)

Sec. 29.63.080. Objection and hearing of an assessment may not be made with the municipal clerk until the roll before its confirmation.

(3) The decision of the assessor may be appealed to the superior court. Confirmation of the assessment is final.

(c) If no objection is filed or provided in this section, the assessment is regular and valid in all respects.

Sec. 29.63.085. Special assessment bonds may by ordinance authorize the council to issue bonds to pay all or part of a special assessment district. The bonds shall be payable solely from the property to be benefited or from a sinking fund for the payment of the bonds. The property benefited may be required to secure a payment.

(b) Upon default in a payment, the bondholder may enforce payment of collection in a civil action and have the same effect as actions for the foreclosure of property. Foreclosure shall be against the property in default. The period of limitation is the same as in the case of a mortgage foreclosure.

(c) Before the assembly or council makes a special assessment, it shall establish a guarantee fund. It shall annually appropriate a sum adequate to the payments of principal and interest on the bonds for the payment of assessments when collection is made against property for nonpayment of assessments credited to the guarantee fund. It shall be a cost of the improvement.

Linda Anderson

07/29/82

HISTORY OF LEGISLATION

RO1-33F-3040

PAGE 0050

HR 87 AN ACT ALLOWING MUNICIPALITIES TO EXEMPT LAND FROM PROPERTY TAXES AND FROM SPECIAL ASSESSMENTS FOR FIRE PROTECTION SERVICE AND FACILITIES; AND PROVIDING FOR AN EFFECTIVE DATE

AMENDED TITLE: CS*(CIRA)

PRIME SPONSORS: BROWN

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
02/04/81	01	0157	FIRST READING -- COMMITTEE REPORTS	** 03/31/81	09	0585	FIRST READING -- COMMITTEE REPORTS
03/24/81	02	0671	C&RA -- DNP01, CS02, NR02				C&RA RULES
03/30/81	03	0740	SECOND READING				
03/30/81	04	0740	C&RA CS ADOPTED BY UNAN CONSENT				
03/30/81	03	0740	ADVANCED TO 3RD READING BY UNAN CONSENT				
03/17/81	06	0740	THIRD READING				
03/17/81	07	0740	PASSED BY DIV 31-06-03				
03/17/81	08	0741	EFFECTIVE DATE VOTE SAME AS PASSAGE				

HR 88 AN ACT RELATING TO THE QUALIFICATIONS FOR THE FARM OR AGRICULTURAL LANDS TAX EXEMPTION; AND PROVIDING FOR AN EFFECTIVE DATE

AMENDED TITLE: *AM

PRIME SPONSORS: BROWN

CO-SPONSORS: MOSS ROGERS

DATE	SEQ. NO.	JOURNAL PAGE	HOUSE ACTION	DATE	SEQ. NO.	JOURNAL PAGE	SENATE ACTION
02/04/81	01	0157	FIRST READING -- COMMITTEE REPORTS	05/12/81	12	1040	FIRST READING -- COMMITTEE REPORTS
05/01/81	02	1166	C&RA -- DP(AM)., NR04	06/09/81	13	1423	C&RA COMM REFERRAL ADDED BY UNAN CONSENT
05/08/81	03	1303	SECOND READING	** 06/09/81	14	1423	MOVED FROM RES TO C&RA BY UNAN CONSENT
05/08/81	04	1303	AM01 ADOPTED BY UNAN CONSENT				C&RA
05/08/81	05	1304	AM02 ADOPTED BY UNAN CONSENT				IF SPORTATION
05/03/81	06	1304	ADVANCED TO 3RD READING BY UNAN CONSENT				F. CE
05/08/81	07	1304	THIRD READING				RI
05/08/81	08	1304	PASSED BY DIV 36-02-02				
05/08/81	09	1305	EFFECTIVE DATE VOTE SAME AS PASSAGE				

C&RA DEPARTMENT CONCERNS ON HB 87

The amendment to Sec. 3. AS 29.53.405 is improper because, as we read that section of the bill, it has no relationship to the differential tax zone concept. That concept provides for a systematic reduction of taxes paid for services, as those services, for reasons of geographic location and/or restricted access, are reduced in quality or amount. Differential tax zones may be established only in cities and, once established, provide a general property tax which funds all services within and throughout that city.

That section of HB 87 refers to "...a fire service district..." indicating to us that the intent of the bill is to apply the tax exemption of land in conjunction with some form of special service district and not in conjunction with the differential tax zones concept. Cities do not create "service districts" they can only create differential tax zones. That indication is further reinforced by Sec. 4 of the bill which suggests an amendment to AS 29.63. Special Assessments and Service Areas. We cannot see any workable way for a city to operate in accordance with the bill if Sec. 3. amending AS 29.53.405 is adopted.

If the intention of the bill is to allow a partial exemption of land (the fire protection portion of the mill rate only) throughout the area where the service is available, and on a basis equitable to all property owners within that area, it is our position that a modified Section 3 of the bill should appear under Sec. 29.53.025 Optional exemptions and exclusions.

We definitely object to the "no lien" concept stated in Sections 3 and 4 of the bill. If there can be no lien against the property, there is no way to ensure collection of revenues necessary to fund the fire protection service. In addition, the "no lien" provision in Section 4 certainly would cause problems in securing bonding for the cost of improvements (i.e. fire station, water system for fire protection, etc.) constructed after creation of a special assessment district.

Assuming the purpose of the bill is to collect revenues based on value of structures to be protected from fire damage, we can see a problem with undefined use of the term "improvements". Site preparation, septic tanks, etc. are normally considered to be improvements; however, they would not necessarily be damaged by fire.

Additionally, we see merit to the position that fire protection units normally protect land as well as structures (in cases of brush fires or forest fires) and, therefore, both land and improvements should be assessed for the service.

ALASKA
STATE LEGISLATURE
MEMORANDUM

To: Ben
From: Linda
Re: Comparison/ HB 87 & CSHB 87

Date: March 20, 1981

HB 87

- Sect. 1 - (Home Rule Limitations) amending 29.13.100(22) to include 'Differnetial Tax Zones' (29.53.405)
- Sect. 2 - (Home Rule Limitations) amending 29.13.100(36) to include 29.63.066 - new subsection "Optional Exemptions".
- Sect. 3 - 29.53.405 amended by new subsection (b) - allowing optional exemptions by municipalities and incorporating a "no lien" concept to certain assessments.
- Sect. 4 - 29.63 - amended by new section- 29.63.066 - Optional Exemptions and incorporating a "no lien" concept to certain assessments.

CSHB 87

Section Deleted

Section Deleted

Sect. 1- Optional Exemption for assessment placed under 29.53.025 (h) - Optional Exemptions and Exclusions. Deletes "no lien" concept.

Sect. 2- Addressing 29.63 to include 29.63.066 (same as HB 87) but deletes "no lien" concept.

voters at a regular or special election to be held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of adoption of a charter shall be treated as if it had never been proposed or approved. (§ 2 ch 118 SLA 1972; and § 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 paragraph (b) and substituted "Department of Community and Regional Affairs" for "Local Affairs Agency" in paragraph (d) of subsection (a).

Sec. 29.13.080. Charter amendment. A municipal charter may be amended as provided in the charter or by initiative referendum as provided in AS 29.28.060—29.28.110, except that no amendment shall be effective unless ratified by the voters. (§ 2 ch 118 SLA 1972)

Article 2. Home Rule Limitations.

Section

100. Limitation of home rule powers

Sec. 29.13.100. Limitation of home rule powers. Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. They supersede existing and prohibit future home rule enactments which provide otherwise:

- (1) AS 29.13.080 (charter amendment)
- (2) AS 29.18.140 (borough transition)
- (3) AS 29.23.020—29.23.050 (city representation and vote on borough assembly)
- (4) AS 29.23.250 (a) (election and term of mayor)
- (5) AS 29.23.540 (prohibitions respecting appointment and removal of personnel)
- (6) AS 29.23.560 (municipal reports)
- (7) AS 29.23.580 (meetings public)
- (8) AS 29.28.010, 29.28.020(b) — 29.28.080 (municipal elections)
- (9) AS 29.28.180—29.28.250 (recall)
- (10) AS 29.33.010(b) (areawide borough powers)
- (11) AS 29.33.290(c) (acquisition of additional areawide powers)
- (12) AS 29.48.020—29.48.040 (powers of cities outside boroughs)
- (13) AS 29.48.033 (garbage and solid waste services)
- (14) AS 29.48.085(b) (effect of areawide exercise of borough power)

- (16) AS 29.48.087 (extraterritorial jurisdiction)
- (17) AS 29.48.040—29.48.100 (utilities)
- (18) AS 29.48.180 (codification)
- (19) Repealed by § 8 ch 147 SLA 1972, effective September 10, 1972.

- (20) AS 29.48.210 (expenditure of borough revenue)
- (21) AS 29.48.220 (post audit)
- (22) AS 29.53.010—29.53.350, 29.53.4 (borough and city property tax)

- (23) AS 29.53.415 (d) (interest on sales tax)
- (24) AS 29.58.180 (b) (security for bonds)
- (25) AS 29.53.315 (bond attorneys, bond and financial consultants)
- (26) AS 29.68.010 (annexation and exclusion)
- (27) AS 29.68.030—29.68.110 (merger and consolidation)
- (28) AS 29.68.500—29.68.580 (dissolution)
- (29) AS 29.73.020 (eminent domain)
- (30) AS 29.73.030 (adverse possession)
- (31) AS 29.73.040 (taxation of municipalities)
- (32) AS 29.73.050 (municipal name changes)
- (33) AS 29.23.555 (conflict of interest). (§ 2 ch 118 SLA 1972; and § 2, ch 147 SLA 1972)

Editor's note (1972).—In ch. 118, SLA 1972, AS 29.48.036(b) was omitted from the list in AS 29.13.100. Here, by its own terms, it applies to home rule municipalities, it has been included here as AS 29.13.100(14); succeeding paragraphs (including the one added by § 2, ch. 147 SLA 1972)

have been renumbered. For specific discussion of AS 29.13.100, see 1972 House Journal, p. 1720 or 1972 Senate Journal Supplement No. 3, p. 3.
Effect of amendment. — The 1972 amendment, effective September 10, 1972, added paragraph (38) and repealed paragraph (19).

Chapter 18. Incorporation.

Article

- 1 Requirements (§§ 29.18.010—29.18.030)
- 2 Procedures (§§ 29.18.050—29.18.150)
- 3 Transitional Assistance (§§ 29.18.180—29.18.200)
- 4 Development Cities (§§ 29.18.220—29.18.460)

Article 1. Requirements.

Section

- 10 First class cities
- 20 Second class cities

Section

30. Organized boroughs

Sec. 29.18.010. First class cities. A community having 400 or more permanent residents may incorporate as a first class city. (§ 2 ch 118 SLA 1972)

8:40
HB87 Absent:
Randolph
O'Connell

concerns last time -
Jenkins (none) -

Peter Fralich - Aide Rep. Brown

Authorizes optional power of municip.
discussed comparison

Fuller - Define improvements - not addressed in bill.
not a problem by legal services.

Miller - Move bill out as CS w/ indiv. rec.

Bylsma - Objects to entire bill. - (voted 'no' to passing
bill out.

U. Reclassification.

ve date of reclassification of a borough for which s approved under (h) of this section is the first day of cal year which begins at least six months after the date eclassification proposition has been approved by the

LA 1977)

ments.

ent added subsection

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

V. Transition.

ope Native Ass'n v.
No. 2058 (File No.
99 P.2d 32 (1980).

Chapter 13. Home Rule Municipalities.**Article 1. Charters.**

adoption

Municipal charter adoption. A first class second class borough may adopt a charter for its own me rule municipality may amend its charter or adopt arter is framed by a charter commission of seven by the municipal voters at a regular or special late for the commission shall be a qualified voter of and a resident of the municipality for three years eding the election. A charter commission election is etition with the borough assembly or the city council. f the borough assembly or city council. The petition a number of municipal voters equal to 15 percent of he last regular election of the municipality. (§ 2 ch 1 § 2 ch 127 SLA 1980)

ent. — The 1980 "or second class nence, substituted

"shall" for "must" in the fourth and sixth sentences, and substituted "15" for "10" near the end of the section.

Initiative and referendum.

prohibited. — ubilitation to the rdinance on

signatures of 25 percent of those voting in the last general election. *Area Dispatch Inc. v. City of Anchorage*, Sup. Ct. (Op. No.

Article 2. Home Rule Limitations.**Section****100. Limitation of home rule powers**

Sec. 29.13.100. Limitation of home rule powers. Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. They supersede existing and prohibit future home rule enactments which provide otherwise:

(3) [Effective until January 1, 1981] AS 29.23.020 — 29.23.050 (borough assembly representation)

(3) [Effective January 1, 1981] AS 29.23.021 (borough assembly composition and apportionment), and AS 29.23.040 — 29.23.050 (borough assembly members)

(22) AS 29.53.010 — 29.53.400 (borough and city property taxes)

(34) AS 29.33.050, AS 29.41.010(a), AS 14.12.020(a) (responsibility for education on military reservations)

(35) AS 29.58.345 — 29.58.350 (bonded debt for school construction)

(36) AS 29.63.065 (exemption from special assessment)

(37) AS 29.33.090(d) (zoning of state land for homesite entry)

(38) AS 29.48.130(a)(12) (municipal exemption on contractor bond requirements)

(39) AS 29.33.150(b) (applicability of local platting regulations to state land in a municipality)

(40) AS 29.23.060(c) (expulsion of borough assemblyman)

(41) AS 29.23.130(f) (removal of borough mayor from office)

(42) AS 29.23.210(b) (expulsion of city councilman from office)

(43) AS 29.23.255 (removal of mayor from office)

(44) AS 29.28.050(f) (expulsion, removal from office)

(45) AS 29.73.070 (taxpayer notice)

(46) AS 29.88 (municipal tax resource equalization assistance)

(47) AS 29.89 (state aid for miscellaneous municipal services).

(am § 2 ch 32 SLA 1973; am § 43 ch 53 SLA 1973; am § 2 ch 137 SLA 1975; am § 2 ch 114 SLA 1975; am § 3 ch 218 SLA 1976; am § 4 ch 142 SLA 1977; am § 1 ch 20 SLA 1978; am § 2 ch 81 SLA 1978; am § 2 ch 83 SLA 1979; am § 1 ch 85 SLA 1979; am § 208 ch 100 SLA 1980; am § 1 ch 128 SLA 1980; am § 10 ch 155 SLA 1980)

Effect of amendments.

The first 1973 amendment added paragraph (34).

The second 1973 amendment deleted "city representation and vote on" preceding "borough assembly" and added "representation" to the end of paragraph (3) as it existed prior to the first 1979 amendment.

The 1974 amendment added paragraph (35).

The 1976 amendment added paragraph (36).

The 1976 amendment substituted "AS 29.58.345" for "AS 29.58.340" at the beginning of paragraph (36).

The 1977 amendment added paragraph (37).

nder AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure. The exemption granted by this subsection is limited to

(1) an amount equal to two percent of the value of the structure assessed on the assessment for 1981, if the fire protection system is a fixture of the structure on January 1, 1981; or

(2) an amount equal to two percent of the value of the structure assessed on the assessment as of January 1 of the year immediately following the installation of the fire protection system if the fire protection system becomes a fixture of the structure after January 1, 1981.

am §§ 1, 2 ch 60 SLA 1973; am § 1 ch 65 SLA 1975; am § 1 ch 191 SLA 1976; am § 1 ch 217 SLA 1976; am §§ 1, 2 ch 229 SLA 1976; am § 1 ch 97 SLA 1977; am §§ 2, 3 ch 45 SLA 1980; am § 2 ch 95 SLA 1980.)

Effect of amendments. — The 1973 amendment deleted "whose gross annual income totals less than \$10,000" preceding "is exempt" in the first sentence of subsection (e), deleted the language beginning "however" from the end of the present second sentence of that subsection, and deleted the language following "exemption claimed under this section" from the end of the fourth sentence of subsection (f).

The 1978 amendment, in subsection (f), divided the former second sentence into its present second and third sentences by substituting "The claimant" for "and" at the beginning of the present third sentence, added the language beginning "but during the same year" to the end of the second sentence, and added the present third sentence.

The first 1976 amendment, in subsection (b), substituted "a bishop, pastor" for "the pastor" in paragraph (1) and inserted "religious administrative files" in paragraph (2).

The second 1976 amendment, in subsection (e), deleted "After January 1, 1973" from the beginning of the first sentence, added the language beginning "up to and including an assessed value limit" to the end of that sentence, and added the former second sentence.

The third 1976 amendment added the second sentence of subsection (g), added "except as provided in (g) of this section," at the beginning of subsection (h), and

by reason of the exemption authorized in those provisions may be reimbursed to the municipality by the state."

The 1977 amendment, in subsection (e), deleted "up to and including an assessed value limit determined no later than January 15 of each year by the commissioner of the Department of Community and Regional Affairs" from the end of the first sentence and deleted the former second sentence, which read "The assessed value limit is the upper limit of the third quartile class in a frequency distribution of previous year assessed values in the state."

The first 1980 amendment, effective July 1, 1980, added paragraph (7) of subsection (e) and subsection (j).

The second 1980 amendment, effective July 1, 1980, added paragraph (8) of subsection (e).

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

Strict construction.

The courts must narrowly construe statutes granting tax exemptions. *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, Sup. Ct. Op. No. 1299 (File No. 2445), 553 P.2d 467 (1976).

Burden of showing eligibility for exemption. — A taxpayer claiming a tax exemption has the burden of showing that the property is eligible for the exemption.

Exclusive use for nonprofit religious, etc., purposes must be shown. In order to qualify for an exemption, the taxpayer must show not only exclusive use for nonprofit religious, charitable, cemetery, hospital or educational purposes. *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, Sup. Ct. Op. No. 1299 (File No. 2445), 553 P.2d 467 (1976).

When the property in question is used even in part by nonexempt parties for their private business purposes, there can be no exemption. *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, Sup. Ct. Op. No. 1299 (File No. 2445), 553 P.2d 467 (1976).

Actual use rather than owner's use should be analyzed in determining eligibility for an exemption. *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, Sup. Ct. Op. No. 1299 (File No. 2445), 553 P.2d 467 (1976).

Sec 1 - CS+B 87

Sec. 29.53.025. Optional exemptions and exclusions. (a)

Municipalities may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at a regular or special election. An exclusion or exemption authorized by this section may not exceed \$10,000 for any one residence.

(b) Municipalities may by ordinance

(1) classify boats and vessels for purposes of taxation and may establish the assessed valuation of boats and vessels on the basis of their registered or certificated net tonnage; a tax based upon a tonnage valuation shall not exceed \$5 a year for a boat or vessel of less than five net tons and shall not exceed \$15 a year for a boat or vessel of more than five net tons;

(2) classify and exempt from taxation

(A) the household furniture over \$500 in value and the effects of the head of a family or a householder; and

(B) the property of an organization not organized for business or profit-making purposes and used exclusively for community purposes, provided that income derived from rental of such property does not exceed the actual cost to the owner of the use by the renter; and

(C) historic sites, buildings and monuments;

(D) land of a nonprofit organization used for agricultural purposes if rights to subdivide the land are conveyed to the state and the conveyance includes a covenant restricting use of the land to agricultural purposes only; rights conveyed to the state under this section may be conveyed by the state only in accordance with AS

Office space rented to doctors engaged in private practice. — Office space in a building partially used exclusively for nonprofit hospital purposes, rented to doctors engaged in the private practice of medicine by a nonprofit charitable and religious corporation, was not exempt from taxation. *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, Sup. Ct. Op. No. 1299 (File No. 2445), 553 P.2d 467 (1976).

While the use of office space by doctor-tenants in conducting their private practices does provide incidental benefits to the adjacent hospital, the office space is not used exclusively for hospital purposes. *Greater Anchorage Area Borough v. Sisters of Charity of House of Providence*, Sup. Ct. Op. No. 1299 (File No. 2445), 553 P.2d 467 (1976).

(1) a home rule or first or second class borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of a city within it, including but not limited to, excluding personal property from taxation, establishing exemptions, and extending the redemption period;

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

(3) a home rule or general law city within an organized borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of the borough, including but not limited to exempting or partially exempting property from taxation.

(d) Exemptions or exclusions from property tax which have been granted by home rule municipalities in addition to exemptions authorized or required by law, and which are in effect on September 10, 1972 and not later withdrawn, are not affected by this Act.

(e) Municipalities may by ordinance classify and exempt or partially exempt from taxation privately owned land, wet land and water areas for which a scenic, conservation, or public recreation use easement is granted to a governmental body. To be eligible for a tax exemption, or partial exemption, the easement must be in perpetuity. However, the easement is automatically terminated before an eminent domain taking of fee simple title or less than fee simple title to the property so that the property owner is compensated at a rate which does not reflect the easement grant.

(f) A municipality may by ordinance exempt from taxation all or any part of the increase in assessed value of improvements to real property if an increase in assessed value is directly attributable to alteration of the natural features of the land or new maintenance, repair or renovation of an existing structure and if the alteration, maintenance, repair or renovation, when completed, enhances the exterior appearance or aesthetic quality of the land or structure. No exemption may be allowed under this subsection for the construction of an improvement to a structure if the principal purpose of the improvement is to increase the amount of space for occupancy or nonresidential use within the structure or for the alteration of land as a consequence of construction activity. An exemption provided in this subsection may continue for up to four years from the date the improvement is completed or from the date of approval for the exemption by the local

family dwelling if the principal purpose of the improvement is to increase the amount of space for occupancy. An exemption provided in this subsection may continue for up to two years from the date the improvement is completed or from the date of approval of an application for the exemption by the local assessor, whichever is later. (§ 2 ch 118 SLA 1972; am § 2 ch 1 FSSLA 1973; am § 1 ch 33 SLA 1975; am § 1 ch 111 SLA 1976; am § 1 ch 262 SLA 1976; am § 1 ch 95 SLA 1977; am § 31 ch 94 SLA 1980)

CSHB87 (h) - Sect 1.

Effect of amendments. — The 1975 amendment added the second sentence of subsection (a).
The 1977 amendment added subsections (f) and (g).
The 1980 amendment deleted "adopted without weighted voting" near the beginning of paragraph (1) of subsection (c).

The 1975 amendment added subsection (e).

The first 1976 amendment added paragraph (3) of subsection (c).

The second 1976 amendment added

paragraph (2)(D) of subsection (b).

The 1977 amendment added subsections (f) and (g).

The 1980 amendment deleted "adopted without weighted voting" near the beginning of paragraph (1) of subsection (c).

Sec. 29.53.035. Farm or agricultural lands. (a) Farm use lands included in a farm unit and not dedicated or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use, and shall not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be sold, leased, or otherwise disposed of for uses incompatible with farm use or be converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight per cent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceding seven years. The balance of the payment shall be made to the city or borough.

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor and shall include information which may reasonably be required to determine the entitlement of the applicant. If the farm use land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested.

(c) In this section "farm use" means the use of land for raising and

Ben -

3/20 Friday

Here is our CS for 87.

An opinion (as requested
by the committee) is

forthcoming by Billy

Berner - It will be

ready by meeting time

on Monday morning.

2.

The attached is in all
Committee files.

1) Sec 1 or Sec 2? (whichever relates to Home Rule Powers)

- CFA question - why is this under limitation of Home Rule Powers. (no longer necessary if "no lien clause removed")

2) Remove "no lien" concept in bill.

3) Sec. 4 - ~~also~~ delete 065 + insert in Sec. 29.53.025 addressed in on substitute for 29.53.025?

Tam

~~have additional clause~~

Reg- Jo Tam - 3/16/81 -

3/9/81 - Spoke w/ Rep. Brown - Reg. backup

3/10/81 - Notified ^{Rep} Moss

3/10/81 - " Rep. Carney

3/10/81 - call Terry Early - for fiscal/local Gov't.

Problems: CRA (McLester) expressed concerns:

- 1) bonding marketability
- 2) special assessment areas

Spoke w/ Tom about bill / - doesn't understand McLester's Problem

Requested 'written' position stating problems from McLester
(Dave Rose) bonding effects of bill.

request for redraft thru Tom Cook - would draft copy first - 3/14/81
address problems



Rick
linear - Int.
Summer
Assoc. -
misc file
J. Max
Carney

Chris
Albright

16 March 81

Adams
change: local governments as well as IRA villages

Palmer Carter:

Title 29

IRA - 1934 Aki: 1936 flow:

police power, etc.

councilmanate

Montak - IRA

~~100~~ - 2nd class cities

Vicky Lord

Chitwood 29.89 020

HB 87

Ken

Brown

Peter Froelick

Fire service district \neq differential tax zone

we now need 40000 for IRA villages! Annually

I need your office couch in my apt.

ALASKA

STATE LEGISLATURE

MEMORANDUM

To: Ben

Date: March 20, 1981

From: Linda

Re: Comparison/ HB 87 & CSHB 87

HB 87

- Sect. 1 - (Home Rule Limitations) amending 29.13.100(22) to include 'Differnetial Tax Zones' (29.53.405)
- Sect. 2 - (Home Rule Limitations) amending 29.13.100(36) to include 29.63.066 - new subsection "Optional Exemptions".
- Sect. 3 - 29.53.405 amended by new subsection (b) - allowing optional exemptions by municipalities and incorporating a "no lien" concept to certain assessments.
- Sect. 4 - 29.63 - amended by new section- 29.63.066 - Optional Exemptions and incorporating a "no lien" concept to certain assessments.

CSHB 87

Section Deleted

Section Deleted

Sect. 1- Optional Exemption for assessment placed under 29.53.025 (h) - Optional Exemptions and Exclusions. Deletes "no lien" concept.

Sect. 2- Addressing 29.63 to include 29.63.066 (same as HB 87) but deletes "no lien" concept.

... At a regular or special election to be held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of adoption of a charter shall be treated as if it had never been proposed or approved. (§ 2 ch 118 SLA 1972; and § 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 paragraph (b) of subsection (a).

Sec. 29.13.080. Charter amendment. A municipal charter may be amended as provided in the charter or by initiative referendum as provided in AS 29.28.060—29.28.110, except that no amendment shall be effective unless ratified by the voters. (§ 2 ch 118 SLA 1972)

Article 2. Home Rule Limitations.

Section 100. Limitation of home rule powers

Sec. 29.13.100. Limitation of home rule powers. Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. They supersede existing and prohibit future home rule enactments which provide otherwise:

- (1) AS 29.13.080 (charter amendment)
- (2) AS 29.18.140 (borough transition)
- (3) AS 29.23.020—29.23.050 (city representation and vote on borough assembly)
- (4) AS 29.23.250 (a) (election and term of mayor)
- (5) AS 29.23.540 (prohibitions respecting appointment and removal of personnel)
- (6) AS 29.23.560 (municipal reports)
- (7) AS 29.23.580 (meetings public)
- (8) AS 29.28.010, 29.28.020(b) — 29.28.030 (municipal elections)
- (9) AS 29.28.180—29.28.250 (recall)
- (10) AS 29.33.010(b) (areawide borough powers)
- (11) AS 29.33.290(c) (acquisition of additional areawide powers)
- (12) AS 29.43.020—29.43.040 (powers of cities outside boroughs)
- (13) AS 29.48.033 (garbage and solid waste services)
- (14) AS 29.48.035(b) (effect of areawide exercise of borough power)

- (16) AS 29.48.037 (extrajurisdiction)
- (17) AS 29.48.040—29.48.100 (utilities)
- (18) AS 29.48.180 (codification)
- (19) Repealed by § 8 ch 147 SLA 1972, effective September 10, 1972.

- (20) AS 29.48.210 (expenditure of borough revenue)
- (21) AS 29.48.220 (post audit)
- (22) AS 29.53.010—29.53.350, 29.53.400 (borough and city property tax)

- (23) AS 29.53.415(d) (interest on sales tax)
- (24) AS 29.58.180(b) (security for bonds)
- (25) AS 29.58.315 (bond attorneys, bond and financial consultants)
- (26) AS 29.68.010 (annexation and exclusion)
- (27) AS 29.68.030—29.68.110 (merger and consolidation)
- (28) AS 29.68.500—29.68.580 (dissolution)
- (29) AS 29.73.020 (eminent domain)
- (30) AS 29.73.030 (adverse possession)
- (31) AS 29.73.040 (taxation of municipalities)
- (32) AS 29.73.050 (municipal name changes)
- (33) AS 29.23.555 (conflict of interest). (§ 2 ch 118 SLA 1972; and § 2, ch 147 SLA 1972)

Reviser's note (1972).—In ch. 118, SLA 1972, AS 29.48.035(b) was omitted from the list in AS 29.13.100. Here, by its own terms, it applies to home rule municipalities, it has been included here as AS 29.13.100(14); succeeding paragraphs (including the one added by § 2, ch. 147 SLA 1972)

have been renumbered. For specific discussion of AS 29.13.100, see 1972 House Journal, p. 1720 or 1972 Senate Journal Supplement No. 3, p. 3.
Effect of amendment. — The 1972 amendment, effective September 10, 1972, added paragraph (33) and repealed paragraph (19).

Chapter 18. Incorporation.

- ### Article
- 1 Requirements (§§ 29.18.010—29.18.030)
 - 2 Procedures (§§ 29.18.050—29.18.150)
 - 3 Transitional Assistance (§§ 29.18.180—29.18.200)
 - 4 Development Cities (§§ 29.18.220—29.18.460)

Article 1. Requirements.

- | | |
|--|---|
| <h4>Section</h4> <ol style="list-style-type: none"> 11 First class cities 12 Second class cities | <h4>Section</h4> <ol style="list-style-type: none"> 10. Organized boroughs |
|--|---|

Sec. 29.18.010. First class cities. A community having 400 or more permanent residents may incorporate as a first class city. (§ 2 ch 118 SLA 1972)

Reclassification.

date of reclassification of a borough for which approved under (h) of this section is the first day of year which begins at least six months after the date classification proposition has been approved by the

1977)

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

Transition.

Native Ass'n v.
2064 (File No.
2d 32 11980).

13. Home Rule Municipalities.**Article 1. Charters.**

Adoption

Municipal charter adoption. A first class and class borough may adopt a charter for its own rule municipality may amend its charter or adopt a charter is framed by a charter commission of seven members by the municipal voters at a regular or special election for the commission shall be a qualified voter of the municipality for three years preceding the election. A charter commission election is held with the borough assembly or the city council. The petition for the borough assembly or city council. The petition number of municipal voters equal to 15 percent of the last regular election of the municipality. (§ 2 ch 2 ch 127 SLA 1980)

— The 1980 amendment substituted "shall" for "must" in the fourth and sixth sentences, and substituted "15" for "10" near the end of the section.

Initiative and referendum.

prohibited. — signatures of 25 percent of those voting in the last general election. Area Dispatch

Article 2. Home Rule Limitations.

Section

100. Limitation of home rule powers

Sec. 29.13.100. Limitation of home rule powers. Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. They supersede existing and prohibit future home rule enactments which provide otherwise:

- (3) [Effective until January 1, 1981] AS 29.23.020 — 29.23.050 (borough assembly representation)
- (3) [Effective January 1, 1981] AS 29.23.021 (borough assembly composition and apportionment), and AS 29.23.040 — 29.23.050 (borough assembly members)
- (22) AS 29.53.010 — 29.53.400 (borough and city property taxes)
- (34) AS 29.33.050, AS 29.41.010(a), AS 14.12.020(a) (responsibility for education on military reservations)
- (35) AS 29.58.345 — 29.58.350 (bonded debt for school construction)
- (36) AS 29.63.065 (exemption from special assessment)
- (37) AS 29.33.090(d) (zoning of state land for home site entry)
- (38) AS 29.48.130(a)(12) (municipal exemption on contractor bond requirements)
- (39) AS 29.33.150(b) (applicability of local platting regulations to state land in a municipality)
- (40) AS 29.23.060(c) (expulsion of borough assemblyman)
- (41) AS 29.23.130(f) (removal of borough mayor from office)
- (42) AS 29.23.210(b) (expulsion of city councilman from office)
- (43) AS 29.23.255 (removal of mayor from office)
- (44) AS 29.28.050(f) (expulsion, removal from office)
- (45) AS 29.73.070 (taxpayer notice)
- (46) AS 29.88 (municipal tax resource equalization assistance)
- (47) AS 29.89 (state aid for miscellaneous municipal services).
- (am § 2 ch 32 SLA 1973; am § 43 ch 53 SLA 1973; am § 2 ch 137 SLA 1975; am § 2 ch 114 SLA 1976; am § 3 ch 218 SLA 1976; am § 4 ch 142 SLA 1977; am § 1 ch 20 SLA 1978; am § 2 ch 81 SLA 1978; am § 2 ch 83 SLA 1979; am § 1 ch 85 SLA 1979; am § 208 ch 100 SLA 1980; am § 1 ch 128 SLA 1980; am § 10 ch 155 SLA 1980)

Effect of amendments.

The first 1973 amendment added paragraph (34).

The second 1973 amendment deleted "city representation" and "vote on" preceding "borough assembly" and added "representation" to the end of paragraph (3) as it related prior to the first 1973

The 1974 amendment added paragraph (35).

The 1975 amendment added paragraph (36).

The 1976 amendment substituted "AS 29.58.345" for "AS 29.58.340" at the beginning of paragraph (35).

The 1977 amendment added paragraph

der AS 18.70.081, in operating condition, and incorporated as a
ture or part of the structure. The exemption granted by this
section is limited to

1) an amount equal to two percent of the value of the structure
ed on the assessment for 1981, if the fire protection system is a
ture of the structure on January 1, 1981; or

2) an amount equal to two percent of the value of the structure
ed on the assessment as of January 1 of the year immediately
owing the installation of the fire protection system if the fire
tection system becomes a fixture of the structure after January 1,
1981.

§§ 1, 2 ch 60 SLA 1973; am § 1 ch 65 SLA 1975; am § 1 ch 191
A 1976; am § 1 ch 217 SLA 1976; am §§ 1, 2 ch 229 SLA 1976; am
ch 97 SLA 1977; am §§ 2, 3 ch 45 SLA 1980; am § 2 ch 95 SLA
(0.)

Effect of amendments. — The 1973
ndment deleted "whose gross annual
me totals less than \$10,000" preceding
exempt" in the first sentence of
section (e), deleted the language
uning "however" from the end of the
ent second sentence of that subsection,
deleted the language following
mption claimed under this section"
the end of the fourth sentence of
section (f).

The 1975 amendment, in subsection (f),
ed the former second sentence into
present second and third sentences by
tituting "The claimant" for "and" at
beginning of the present third
ence, added the language beginning
during the same year" to the end of
second sentence, and added the present
sentence.

The first 1976 amendment, in
section (h), substituted "a bishop,
or" for "the pastor" in paragraph (1)
inserted "religious administrative
es" in paragraph (2).

The second 1976 amendment, in
section (e), deleted "After January 1,
" from the beginning of the first
ence, added the language beginning
to and including an assessed value
to the end of that sentence, and
ed the former second sentence.

The third 1976 amendment added the
d sentence of subsection (g), added
nd as provided in (g) of this section,"
e beginning of subsection (h), and
e beginning of subsection (i).

by reason of the exemption authorized in
those provisions may be reimbursed to the
municipality by the state."

The 1977 amendment, in subsection (e),
deleted "up to and including an assessed
value limit determined no later than
January 15 of each year by the
commissioner of the Department of
Community and Regional Affairs" from
the end of the first sentence and deleted
the former second sentence, which read
"The assessed value limit is the upper
limit of the third quartile class in a
frequency distribution of previous year
assessed values in the state."

The first 1980 amendment, effective
July 1, 1980, added paragraph (7) of
subsection (e) and subsection (j).

The second 1980 amendment, effective
July 1, 1980, added paragraph (8) of
subsection (a).

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

Strict construction.

The courts must narrowly construe
statutes granting tax exemptions. *Greater
Anchorage Area Borough v. Sisters of
Charity of House of Providence, Sup. Ct.
Op. No. 1299 (File No. 2445), 553 P.2d 467
(1976).*

**Burden of showing eligibility for
exemption. —** A taxpayer claiming a tax
exemption has the burden of showing that
the property is eligible for the exemption.
Greater Anchorage Area Borough v.

**Exclusive use for nonprofit
religious, etc., purposes must be
shown.** In order to qualify for an
exemption, the taxpayer must show not
benefits, but exclusive use for nonprofit
religious, charitable, cemetery, hospital or
educational purposes. *Greater Anchorage
Area Borough v. Sisters of Charity of
House of Providence, Sup. Ct. Op. No. 1299
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**Actual use rather than owner's use
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Anchorage Area Borough v. Sisters of
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(1976).*

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valuation shall not exceed \$5 a year for a boat or vessel of less than five
net tons and shall not exceed \$15 a year for a boat or vessel of more
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(2) classify and exempt from taxation

(A) the household furniture over \$500 in value and the effects of the
head of a family or a householder; and

(B) the property of an organization not organized for business or
profit-making purposes and used exclusively for community purposes,
provided that income derived from rental of such property does not
exceed the actual cost to the owner of the use by the renter; and

(C) historic sites, buildings and monuments;

(D) land of a nonprofit organization used for agricultural purposes if
rights to subdivide the land are conveyed to the state and the
conveyance includes a covenant restricting use of the land to
agricultural purposes only; rights conveyed to the state under this
section shall be removed by the state only in accordance with AS

**Office space rented to doctors
engaged in private practice. —** Office
space in a building partially used
exclusively for nonprofit hospital
purposes, rented to doctors engaged in the
private practice of medicine by a nonprofit
charitable and religious corporation, was
not exempt from taxation. *Greater
Anchorage Area Borough v. Sisters of
Charity of House of Providence, Sup. Ct.
Op. No. 1299 (File No. 2445), 553 P.2d 467
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While the use of office space by
doctor-tenants in conducting their private
practices does provide incidental benefits
to the adjacent hospital, the office space is
not used exclusively for hospital purposes.
*Greater Anchorage Area Borough v.
Sisters of Charity of House of Providence,
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(1) a home rule or first or second class borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of a city within it, including but not limited to, excluding personal property from taxation, establishing exemptions, and extending the redemption period;

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

(3) a home rule or general law city within an organized borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of the borough, including but not limited to exempting or partially exempting property from taxation.

(d) Exemptions or exclusions from property tax which have been granted by home rule municipalities in addition to exemptions authorized or required by law, and which are in effect on September 10, 1972 and not later withdrawn, are not affected by this Act.

(e) Municipalities may by ordinance classify and exempt or partially exempt from taxation privately owned land, wet land and water areas for which a scenic, conservation, or public recreation use easement is granted to a governmental body. To be eligible for a tax exemption, or partial exemption, the easement must be in perpetuity. However, the easement is automatically terminated before an eminent domain taking of fee simple title or less than fee simple title to the property so that the property owner is compensated at a rate which does not reflect the easement grant.

(f) A municipality may by ordinance exempt from taxation all or any part of the increase in assessed value of improvements to real property if an increase in assessed value is directly attributable to alteration of the natural features of the land or new maintenance, repair or renovation of an existing structure and if the alteration, maintenance, repair or renovation, when completed, enhances the exterior appearance or aesthetic quality of the land or structure. No exemption may be allowed under this subsection for the construction of an improvement to a structure if the principal purpose of the improvement is to increase the amount of space for occupancy or nonresidential use within the structure or for the alteration of land as a consequence of construction activity. An exemption provided in this subsection may continue for up to four years from the date the improvement is completed or from the date of approval for the exemption by the local

family dwelling if the principal purpose of the improvement is to increase the amount of space for occupancy. An exemption provided in this subsection may continue for up to two years from the date the improvement is completed or from the date of approval of an application for the exemption by the local assessor, whichever is later (§ 2 ch 118 SLA 1972; am § 2 ch 1 FSSLA 1973; am § 1 ch 33 SLA 1975; am § 1 ch 111 SLA 1976; am § 1 ch 262 SLA 1976; am § 1 ch 95 SLA 1977; am § 31 ch 94 SLA 1980)

CSHB 87 (h) - Sect 1.

Effect of amendments. -- The 1973 amendment added the second sentence of subsection (a).

The 1975 amendment added subsection (e).

The first 1976 amendment added paragraph (3) of subsection (c).

The second 1976 amendment added

paragraph (2)(D) of subsection (b).

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The 1980 amendment deleted "adopted without weighted voting" near the beginning of paragraph (1) of subsection (c).

Sec. 29.53.035. Farm or agricultural lands. (a) Farm use land included in a farm unit and not dedicated or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use, and shall not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be sold, leased, or otherwise disposed of for use incompatible with farm use or be converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight per cent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceding seven years. The balance of the payment shall be made to the city or borough.

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor and shall include information which may reasonably be required to determine the entitlement of the applicant. If the farm use land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested.

(c) In this section "farm use" means the use of land for raising an



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Rep. Ben Grussendorf
Chairman
465-3870

Pouch V
State Capitol
Juneau, Alaska 99811

Summary - HB 87, By Rep. Brown

"An Act allowing municipalities to exempt land from property taxes for a fire service district; and providing for an effective."

This bill allows municipalities to exempt land from property taxes for a fire service district.

The bill adds a new subsection to AS 29.53.405 (Municipal Assessment and taxation. Differential tax zone) which states:

(b) If a tax under this section is for a fire service district, a city may exempt land and levy the tax only on improvements, including personal property affixed to the improvements.

Notwithstanding AS 29.53.210(b), a real property tax levied on improvements under this subsection is not a lien upon the property assessed."

Adds a new section to AS 29.63 (Special Assessments and Service Areas) to read: "Optional Exemption."

If an assessment under this chapter is for a fire service district, a municipality may exempt land and levy the assessment only on improvements, including personal property affixed to the improvements.

Notwithstanding 29.63.060(d), an assessment levied on improvements under this section is not a lien upon the property assessed.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, Governor

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

March 13, 1981

The Honorable Ben Grussedorf
Chairman
House Community & Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Grussedorf

RE: COMMUNITY AND REGIONAL AFFAIRS POSITION
ON HB 87 (as currently drafted)

The afternoon of March 12, 1981 we requested a meeting to discuss HB 87.
Those present were as follows:


Linda Otey aide to Rep. Grussedorf
Peter Froenlich, aide to Rep. Brown (Sponsor)
Palmer McCarter, Director, Community and Regional Affairs
Michael Worley, Assistant State Assessor

It was our understanding after the meeting that, in light of our suggestions,
HB 87 was to be redrafted and scheduled for hearing at a later date.

We now are told that the bill will be heard, unchanged, on Monday,
March 16, 1981. Considering that, and pursuant to your aide's request, we
have attached discussion of some of the problems we are having with the bill.

Sincerely,

LEE McANERNEY
COMMISSIONER


By: Michael W. Worley
Assistant State Assessor

Enclosure

3/13/81

Dear Representative Brown:

I support H.B. 87 which would exempt land from property taxes (allows taxing on improvements). Part of the reason Fire Service Districts get voted down is because people owning large areas of unimproved land don't want to pay for fire service when they have nothing to burn. This deprives those who have homes to lose the fire protection they need and may want. Let's separate the two and support this bill. Thank you for your time and efforts in consideration of this worthwhile bill.

Karen Ruddle

Mrs. Karen Ruddle, S. R. Box 40454-X, Fairbanks, AK 99701

C&RA DEPARTMENT CONCERNS ON HB 87

The amendment to Sec. 3. AS 29.53.405 is improper because, as we read that section of the bill, it has no relationship to the differential tax zone concept. That concept provides for a systematic reduction of taxes paid for services, as those services, for reasons of geographic location and/or restricted access, are reduced in quality or amount. Differential tax zones may be established only in cities and, once established, provide a general property tax which funds all services within and throughout that city.

That section of HB 87 refers to "...a fire service district..." indicating to us that the intent of the bill is to apply the tax exemption of land in conjunction with some form of special service district and not in conjunction with the differential tax zones concept. Cities do not create "service districts" they can only create differential tax zones. That indication is further reinforced by Sec. 4 of the bill which suggests an amendment to AS 29.63. Special Assessments and Service Areas. We cannot see any workable way for a city to operate in accordance with the bill if Sec. 3. amending AS 29.53.405 is adopted.

If the intention of the bill is to allow a partial exemption of land (the fire protection portion of the mill rate only) throughout the area where the service is available, and on a basis equitable to all property owners within that area, it is our position that a modified Section 3 of the bill should appear under Sec. 29.53.025 Optional exemptions and exclusions.

We definitely object to the "no lien" concept stated in Sections 3 and 4 of the bill. If there can be no lien against the property there is no way to ensure collection of revenues necessary to fund the fire protection service. In addition, the "no lien" provision in Section 4 certainly would cause problems in securing bonding for the cost of improvements (i.e. fire station, water system for fire protection, etc.) constructed after creation of a special assessment district.

Assuming the purpose of the bill is to collect revenues based on value of structures to be protected from fire damage, we can see a problem with undefined use of the term "improvements". Site preparation, septic tanks, etc. are normally considered to be improvements; however, they would not necessarily be damaged by fire.

Additionally, we see merit to the position that fire protection units normally protect land as well as structures (in cases of brush fires or forest fires) and, therefore, both land and improvements should be assessed for the service.

H B

8 8

AMENDMENT #1

OFFERED IN THE HOUSE:

By: Walter Brown

To: _____ HOUSE BILL No. 88

SENATE BILL No. _____

PAGE: 1

LINE: _____

A M E N D M E N T

OFFERED IN THE HOUSE:

BY: Brown, Carney, Moss

TO: _____ HOUSE BILL No. 88

and Rogers

SENATE BILL No. _____

PAGE: 1

LINE: 15 - 16

Delete: "and the land must have been in farm use"

Insert: "or developing the land for farming under an approved
United States Soil Conservation Plan"

Page 1: Line 20

After "surface rights" delete the period and add new language:
"for purposes incompatible with farming."

Page 2: Line 1

After "years" insert "in compliance with this section"

108
Applications
in 1980
16000
18000
145000
145000
145000
145000

State
reimbursement
land grant

Introduced: 2/4/81
Referred: Community & Regional
Affairs

1 IN THE HOUSE

BY BROWN, MOSS AND ROGERS

2 HOUSE BILL NO. 88

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the qualifications for the farm or
7 agricultural lands tax exemption; and providing for an
8 effective date."

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

10 * Section 1. AS 29.53.035(c) is amended to read:

11 (c) In this section "farm use" means the use of land for raising
12 and harvesting crops or for the feeding, breeding and management of
13 livestock or for dairying or another agricultural use ^{for profit} or any
14 combination of these [THEREOF]. To be farm use land, the owner or the
15 lessee must be actively engaged in farming the land, and the land must
16 have been in farm use for three of the preceding five years [DERIVE AT
17 LEAST 10 PERCENT OF HIS YEARLY GROSS INCOME FROM THE FARM USE LAND].
18 The provisions of this section do not apply to land respecting which
19 the owner has granted, and has outstanding, a lease or option to buy
20 the surface rights. A property owner wishing to file for farm use
21 classification for land having no history farm use or of farm use
22 during fewer than three of the preceding five years [OF FARM-RELATED
23 INCOME] may submit a declaration of intent at the time of filing the
24 application with the assessor setting out the intended use of the land
25 [AND THE ANTICIPATED PERCENTAGE OF INCOME]. An applicant using this
26 procedure shall file with the assessor before February 1 of the follow-
27 ing year a notarized statement of the actual use of the land [PERCENTAGE
28 OF GROSS INCOME ATTRIBUTABLE TO THE FARM USE LAND]. Failure to make
29 the filing required in this subsection or failure to maintain the land

1 in farm use for three of the five years following the filing of the
2 initial declaration of intent forfeits the exemption and subjects the
3 owner to liability for the tax which otherwise would have been due.

4 * Sec. 2. AS 29.53.035(d) is repealed.

5 * Sec. 3. This Act takes effect January 1, 1982.

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family dwelling if the principal purpose of the improvement is to increase the amount of space for occupancy. An exemption provided in this subsection may continue for up to two years from the date the improvement is completed or from the date of approval of an application for the exemption by the local assessor, whichever is later. (§ 2 ch 118 SLA 1972; am § 2 ch 1 FSSLA 1973; am § 1 ch 33 SLA 1975; am § 1 ch 111 SLA 1976; am § 1 ch 262 SLA 1976; am § 1 ch 95 SLA 1977; am § 31 ch 94 SLA 1980)

Effect of amendments. — The 1973 amendment added the second sentence of subsection (a).

The 1975 amendment added subsection (e).

The first 1976 amendment added paragraph (3) of subsection (c).

The second 1976 amendment added

paragraph (2)(D) of subsection (b).

The 1977 amendment added subsections (f) and (g).

The 1980 amendment deleted "adopted without weighted voting" near the beginning of paragraph (1) of subsection (c).

Sec. 29.53.035. Farm or agricultural lands. (a) Farm use lands included in a farm unit and not dedicated or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use, and shall not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be sold, leased, or otherwise disposed of for uses incompatible with farm use or be converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight per cent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceding seven years. The balance of the payment shall be made to the city or borough.

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor and shall include information which may reasonably be required to determine the entitlement of the applicant. If the farm use land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested.

(c) In this section "farm use" means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or another agricultural use for profit or any combination thereof. To be farm use land, the owner or the lessee must

be actively engaged in farming the land, and derive at least 10 per cent of his yearly gross income from the farm use land. The provisions of this section do not apply to land respecting which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land and the anticipated percentage of income. An applicant using this procedure shall file with the assessor before February 1 of the following year a notarized statement of the percentage of gross income attributable to the farm use land. Failure to make the filing required in this subsection forfeits the exemption.

(d) In the event of a crop failure by an act of God the previous year, the owner or lessee may submit an affidavit affirming that 10 per cent of his gross income for the past three years was from farming.

(e) Subject to legislative appropriations for the purpose, the state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of this section. (§ 2 ch 118 SLA 1972; am § 1 ch 90 SLA 1974; am § 3 ch 229 SLA 1976; am § 1 ch 66 SLA 1978)

Effect of amendments. — The 1974 amendment made such changes in subsections (a), (b), and (c) as to make a detailed comparison impracticable and added subsections (d) and (e).

The 1976 amendment, in subsection (a), substituted "uses incompatible with farm use" for "other than farm use purposes," "a use incompatible with farm use" for

"nonfarm use" and "eight per cent" for "five per cent" in the third sentence, inserted "at the current mill levy" in that sentence, and added "for the preceding seven years" at the end of the fourth sentence.

The 1978 amendment substituted "May 15" for "February 1" in the first sentence of subsection (b).

Sec. 29.53.045. Tax on oil and gas production and pipeline property. (a) A municipality may levy and collect taxes on taxable property taxable under AS 43.56 only by using one of the methods set out in (b) or (c) of this section.

(b) A municipality may levy and collect a tax on the full and true value of taxable property taxable under AS 43.56 as valued by the Department of Revenue at a rate not to exceed that which produces an amount of revenue from the total municipal property tax equivalent to \$1,500 a year for each person residing within its boundaries.

(c) A municipality may levy and collect a tax on the full and true value of that portion of taxable property taxable under AS 43.56 as assessed by the Department of Revenue which value, when combined with the value of property otherwise taxable by the municipality, does not exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. For purposes of this subsection the average per capita assessed full and true value of property in the

state shall be calculated under AS 43.56.

(d) By February 1 of each year, a municipality must inform the Department of Revenue that the municipality will use the exemption.

(e) For purposes of this section, the commissioner of statistics of the United States shall provide population data, and the assessor shall determine the value of property as so determined. 7 Jan 1978.

§ 6 ch 159 SLA 1975

Effect of amendments. — The 1976 amendment, in subsection (a), substituted "value" following "Department of Revenue" which" in the first sentence and "value" in the second sentence.

The 1976 amendment substituted "\$1,500" for "\$1,000" near subsection (b).

Editor's note. — Section 29.53.045, SLA 1975, contains a several

Legislative history report on ch. 107, SLA 1976, 583, see 1976 House Journal.

Alaska Statutes 29.53.045(a) authorize taxes on municipal bonds, independent

limitations of this section. 29.53.050, and regardless of whether bonds are in default or default in

North Slope Borough v. Sohio Petroleum Corp., Sup. Ct. Op. No. 1750 (1976), 3460, 3513, 3659, 585 P.2d 57.

Alaska Statute 29.53.045, read, does not render this section AS 29.53.050 meaningless. A

applies only to debt financial limitations of this section

29.53.050 apply to operating revenues. Merely because they do not also can

to pay for bonds does not render nullities. North Slope Borough v. Petroleum Corp., Sup. Ct. Op. No. (File No. 3460, 3513, 3659), 585 P. (1978).

Municipal taxation of AS property may only occur as authorized under this section. North Slope Borough v. Sohio Petroleum Corp., Sup. Ct. Op. 1750 (File No. 3460, 3513, 3659), 585 P.2d 57 (1978).

Sec. 29.53.050. Tax limitations on tax for any purpose in excess of the full and true value of property within the municipality.

Sec. 29.53.050. Tax limitations on tax for any purpose in excess of the full and true value of property within the municipality.

Public Buildings, Works, and Improvements

Supplement

APPENDIX B

FARM USE LAND ASSESSMENT

AS 29.53.035

APPENDIX B

FARM USE LAND ASSESSMENT AS 29.53.035

Effective January 1, 1968, the first Farm and Agricultural Land Deferred Tax Program was enacted. (ch 82 SLA 1967) Effective January 1, 1975, the act was substantially amended. (sec 1 ch 90 SLA 1974) Effective January 1, 1977, the act was further amended. (sec 3 ch 229 SLA 1976) And effective September 10, 1978, the filing deadline was moved to May 15. (sec 1 ch 66 SLA 1978)

The 1974 amendment reduced the yearly gross farm income requirement from 25% to 10%; provided for the averaging of income over a three year period; provided for estimated farm income for the current year; provided for the use of the lessee farm income to qualify the owner for farm use assessment; increased to seven years the deferred tax payment provision; and provided for reimbursement by the state of property tax revenue lost to the municipality in the operation of the act.

The 1976 amendment increased the penalty for conversion of the land to a use incompatible with farm use by requiring the owner to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years as though the land had not been assessed for farm use purposes.

The program was essentially inactive during the first four years of operation since agricultural and rural real estate, for a variety of reasons, simply was not assessed at as high a percentage of value as urban real estate.

The Farm Use Land Assessment Program provides differential assessment for qualified farm land. The owner paying taxes on the land value as a farm and the state paying the taxes on the remaining value. If the land is converted to a use incompatible with farming, the owner is liable to pay the deferred tax for the preceding seven years.

Experience over the last several years has vividly demonstrated the difficulty of administering existing legislation. The omission of a lien provision to make the eligible property liable for the payment to the state of an amount equal to the deferred taxes plus interest is a glaring weakness in the legislation which effectively negates the imposition of the penalty provisions.

FARM USE LAND ASSESSMENT

FISCAL YEAR 1980 PROGRAM SUMMARY BREAKDOWN

MUNICIPALITIES	NUMBER OF APPLICANTS	NUMBER OF ACRES	FULL AND TRUE LAND VALUE	TOTAL DEFERRED VALUE	TOTAL DEFERRED TAX
Anchorage, Municipality of	6	242.7	2,942,600	2,857,835	\$ 33,451.84
Fairbanks North Star Borough	5	540.1	477,950	404,050	3,037.42
Haines Borough	1	12.2	45,005	36,687	165.92
Kenai Peninsula Borough	21	4,020.4	3,472,150	2,913,000	11,635.01
Kodiak Island Borough	2	324.9	103,960	83,168	513.97
Matanuska-Susitna Borough	<u>73</u>	<u>11,271.6</u>	<u>12,664,040</u>	<u>12,043,940</u>	<u>96,324.87</u>
Statewide Total	108	16,411.9	19,705,705	18,338,680	\$145,129.03
Average Per Applicant		152.0	182,460	169,803	1,343.79
Average Per Acre			129,643	120,649	954.80

SEVEN-YEAR SUMMARY OF PROGRAM PERFORMANCE

Fiscal Year 1974	66	NA	NA	3,332,290	\$ 34,945
Fiscal Year 1975	71	11,250	NA	4,737,290	57,735
Fiscal Year 1976	91	18,759	9,279,400	6,140,300	77,805
Fiscal Year 1977	84	15,970	13,783,182	11,552,062	99,170
Fiscal Year 1978	86	15,467	13,807,490	11,373,877	118,616
Fiscal Year 1979	87	13,562	17,283,615	15,328,994	140,092
Fiscal Year 1980	108	16,412	19,705,705	18,338,680	145,129

Revenues collected through FY 80, as a result of withdrawal from the program, are as follows:

Number of Applicants:	9	Tax Deferred:	\$5,861.00
Number of Acres:	488	Tax and Interest Collected:	\$6,397.00

FARM LAND ASSESSMENT

FY 80 PROGRAM

USE SUMMARY BY ACRES

	<u>Anchorage</u>	<u>Fairbanks</u>	<u>Haines</u>	<u>Kenai</u>	<u>Kodiak</u>	<u>Matanuska-Susitna</u>	<u>Total</u>
Row Crops	64.69	28.00	1.14	39.60	-0-	498.10	630.53
Small Grains	-0-	9.00	1.20	3.00	-0-	1,407.85	1,421.05
Hay-Ensilage	-0-	188.00	.70	616.50	110.00	2,679.12	3,594.32
Rotation Pasture	11.50	30.68	-0-	769.81	-0-	962.91	1,774.90
Farm Buildings	5.02	24.50	.05	34.25	13.00	169.45	247.27
Residential Buildings	4.43	6.20	.20	15.79	-0-	89.45	116.07
Uncleared	78.09	253.69	3.20	1,862.18	15.00	4,335.00	6,547.16
Permanent Graze	78.00	-0-	5.71	679.78	186.89	1,129.65	2,080.03
Total	242.73	540.07	12.20	4,019.91	324.89	11,271.53	16,411.33

ALASKA STATUTES TITLE 29, MUNICIPAL GOVERNMENT
CHAPTER 53, MUNICIPAL ASSESSMENT AND TAXATION

Sec. 29.53.035. Farm or agricultural lands. (a) Farm use lands included in a farm unit and not dedicated to or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use, and shall not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be sold, leased, or otherwise disposed of for uses incompatible with farm use or be converted to a use incompatible with farm use by the owner, the owner shall be liable to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceding seven years. The balance of the payment shall be made to the city or borough. (sec 3 ch 229 SLA 1976)

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor and shall include information which may reasonably be required to determine the entitlement of the applicant. If the farm use land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor with a copy of the lease covering the period for which the exemption is requested. (am sec 1 ch 66 SLA 1978)

(c) In this section "farm use" means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or another agricultural use for profit or any combination thereof. To be farm use land, the owner or the lessee must be actively engaged in farming the land, and derive at least 10 percent of his yearly gross income from the farm use land. The provisions of this section do not apply to land respecting which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land and the anticipated percentage of income. An applicant using this procedure shall file with the assessor before February 1 of the following year a notarized statement of the percentage of gross income attributable to the farm use land. Failure to make the filing required in this subsection forfeits the exemption.

(d) In the event of a crop failure by an act of God the previous year, the owner or lessee may submit an affidavit affirming that 10 percent of his gross income for the past three years was from farming.

(e) Subject to legislative appropriations for the purpose, the state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of this section. (sec 2 ch 118 SLA 1972; am sec 1 ch 90 SLA 1974)

ALASKA ADMINISTRATIVE CODE TITLE 19
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS
CHAPTER 38, FARM OR AGRICULTURAL LAND

19 AAC 38.010. Forms. (a) The Department of Community and Regional Affairs Form 21-410 and Form 21-411 are adopted for use in application for the farm and agricultural land use assessment and tax deferment program. (b) Application and authorization forms shall be made available by and shall be returned to the clerk or assessor of the municipality in which the land for which the farm use assessment and tax deferment are sought is located. (Eff. 12/31/75, Reg. 56)

19 AAC 38.020. Annulled under AS 44.62.320, passed 5/25/77.

19 AAC 38.030. Appeal. An applicant for the farm use assessment and tax deferment who believes that the valuation or classification assigned to the land that is the subject of the application is erroneous may appeal to the board of equalization of the municipality in which the land is located in the manner provided by AS 29.53.130. The municipality shall report the disposition of all such appeals to the state assessor. (Eff. 12/31/75, Reg. 56)

19 AAC 38.040. Maintenance of Records - Duplicate Copies. The municipality in which the land is located shall maintain separate files and records of all applications for the farm use assessment and tax deferment, whether allowed by the municipality or not, including valuation of the property under the full and true value standard of AS 29.53.060. Duplicate copies of all records relating to the application entered in the file shall be forwarded to the state assessor. The municipality shall investigate to determine whether title to land for which the assessment and deferment have been granted has been conveyed or alienated in such a way that the assessment or deferment may be terminated and shall advise the state assessor as to the results of its investigation. (Eff. 12/31/75, Reg. 56)

19 AAC 38.050. Confidentiality. Tax records and other documents providing evidence of the applicant's eligibility for the farm use assessment and tax deferment are confidential and shall be used only for the purpose of ascertaining whether the applicant is entitled to the benefits of the assessment and deferment. (Eff. 12/31/75, Reg. 56)

19 AAC 38.060. Definitions. In this chapter

- (1) "farm use assessment" means the value of the unit or parcel of property for which application for a farm use assessment and tax deferment is made, based upon its highest and best use as farm or agricultural land;
- (2) "yearly gross income" means the income of the applicant for the year preceding the tax year for which the application is filed and means the adjusted gross income of the applicant as defined in Section 62 of the Internal Revenue Code (26 U.S.C. 62). (Eff. 12/31/75, Reg. 56)

① Some statements of farmers that they are farming
1980 - 108 applications
16,080

MEMORANDUM

State of Alaska

TO: Hon. Lee McAnerney
Commissioner
Department of Community
and Regional Affairs

DATE: September 4, 1980

FILE NO: J-66-801-80

Attn: Palmer McCarter

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Farm-use-land
assessment.

By: 
Rodger W. Pegues
Assistant Attorney General

This responds to your request for advice on this subject.

With respect to proof of eligibility, you may adopt a regulation to require persons to submit a copy of their federal income tax return for any year in which they claim benefits under AS 29.53.035. This is a reasonable requirement. If you do so, you also must, in the same regulations, provide that the returns are confidential, that the information they contain shall not be released except by court order or in aid of a criminal investigation, and that their intentional, unauthorized disclosure by agency employees is grounds for dismissal. See AS 43.05.230 for a good example which you can adapt to your needs.

With respect to the kinds of farms which qualify, while one could read AS 29.53.035(c) to include a greenhouse or vacant-lot garden patches, it would appear to mean something else. First, the use of the term "farm unit" in AS 29.53.035(a) and, in AS 29.53.035(c), the terms "raising and harvesting crops . . . feeding, breeding and management of livestock . . . dairying or another agricultural use for profit" in juxtaposition and as alternatives implies a level of agricultural activity in excess of a greenhouse or a garden patch. In other words, it is not customary to use dairying or livestock feeding, breeding, and management on the one hand as an alternative to raising a garden patch or operating a greenhouse on the other. Because the statute deals in terms of alternatives, the scale of land used in raising and harvesting crops should logically approximate that used in dairying or in feeding, breeding, and managing livestock. Second, the purposes of the statute -- it may reasonably be inferred -- are, principally, to preserve agricultural land and, secondarily, to preserve green space. The operation of a greenhouse contributes to neither. Third, a greenhouse is not, strictly speaking, agricultural land. The land under a greenhouse will generally be paved either by a basement or by a concrete slab. The arable land in

most greenhouses is in containers in which plants are cultivated. We do not, therefore, perceive a greenhouse as falling within the terms of the statute. Of course, a greenhouse used in conjunction with other farming activities would not disqualify the land on which it was located from being included within the overall farm or dairy. But by itself a greenhouse (or a garden patch) would not qualify.

With respect to incompatible uses, the possibilities are infinite, and a general guideline of universal application is impossible. You will have to handle the situations as they arise. If you have one at hand, send it along. You can reduce your uncertainties by adopting regulations to make the statutory provisions more particular. As a general rule, a sale or other disposal of land in and of itself does not trigger the penalties. It is incompatible use which does so. Accordingly, subdivision alone does not trigger the penalties. Subdivision and sale for non-agricultural purposes does. If you want to create a presumption of incompatibility on the basis of subdivision and sale, adopt a regulation based on expert advice, that subdivision and sale into parcels of less than, say, 40 acres constitutes incompatible (non-agricultural) use per se.

With respect to structures, it depends on the situation. If the structures are used for farm-use purposes, the lands they are on are being so used. If not, then they and the lands devoted to their use rather than to agricultural use are taxable at another rate.

With respect to interest, compound interest makes sense, i.e., if you do not compound the interest you do not fully recover. However, it could well be held that, because the statute does not prescribe compound interest, it is not chargeable. Nevertheless, your contemporaneous construction should be upheld.

With respect to who pays the penalty, there is an ambiguity. The statute says "the owner" is liable and shall pay. Obviously, in almost all cases, there will have been a sale of the lands to a new owner or owners. We will need to know what your practice has been here. Where there is an ambiguity such as this, contemporaneous, longstanding agency application carries great weight.

With respect to the means used for repaying the state, the statute is again ambiguous. On the one hand it prescribes payment of "an amount equal to the additional tax at the current mill levy" plus interest. On the other hand, it requires payment "to the state to the extent of its reimbursement for revenue loss" because of the farm-use

Hon. Lee McAnerney
Attn: Palmer McCarter

September 4, 1980
Page 3

assessment. If the current mill levy is less than that previously charged, the two may not be the same. However, it is an amount equal to the additional tax and the amount which the state paid in lieu of that tax which must be repaid. Accordingly, while open to debate, your interpretation and application of the statute is probably correct.

With respect to enforcement, you need a statutory lien against the property to arise upon the first approval of an application. Otherwise, your collection problems will be endless. If you have a lien, you need merely record it, and the lien will have to be taken care of when the property is sold or the new owner will be liable and his land can be sold to collect. You need a statutory amendment.

RWP:dlm



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Rep. Ben Grussendorf
Chairman
465-3870

Pouch V
State Capitol
Juneau, Alaska 99811

Summary - HB 88, By Reps. Brown, Moss & Rogers

"An Act relating to the qualifications for the farm or agricultural lands tax exemption; and providing for an effective date."

Relates to the qualifications for the farm or agricultural lands tax exemption under AS 29.53.025(c) (Municipal Assessment and Taxation. Farm or agricultural lands). States that to be farm use land, the owner or the lessee must be actively engaged in farming the land, and "the land must have been in farm use for three of the preceding five years..."

The Bill deletes the language requiring that the owner or lessee must derive at least 10 percent of his yearly gross income from the farm use land in order to qualify for the exemption.

Language is added stating that failure to maintain the land in farm use for three of the five years following the filing of the initial declaration of intent forfeits the exemption and subjects the owner to liability for the tax which otherwise would have been due.

The bill repeals section AS 29.53.035 (d).

Provides for a January 1, 1982 effective date.

ALASKA
STATE LEGISLATURE
MEMORANDUM

To: Ben
From: Linda
Re: HB 88

Date: March 27/Friday

Just a few notes:

- 1) Terry EARley will be there to testify and will offer an amendment which the Dept. feels is easier to administer than the suggested language by Rep. Brown.
- 2) Rep. Brown mentioned that he didn't necessarily care how the bill was written. just so the eligibility was not tied to the percentage of income
- 3) Senator Kerttula instigated the program originally, they may attend the meeting, I don't think they care much for the bill.
- 4) The attached AG's opinion is in regard to the existing statutes - there are many problems with the program itself and the definition of 'farm use' is one of them.

H P
9 8

5/10/81 - Reg. Backup from Ghareff

notified
mtg 4/23/81

Jim Dorn ²⁶¹⁴

Dem Cowles

8:30 Capital

Fed # for Sewage Systems, E

KODIAK ISLAND BOROUGH
ISLAND LAKE SEWER PROJECT

ESTIMATED CAPITAL COST \$4,700,000

PROJECT COMPONENT BREAKDOWN (x 1000)

ENGR DESIGN	293.7
PROJECT INSPECTION / SURVEYING	293.7
CONSTRUCTION	2,937.5
CONTINGENCIES / MISCELLANEOUS	1,175.1

FUNDING OPTIONS (x 1000)

OPTION I	Present State Funding	Proposed State Funding
EPA	\$ 3145.9	\$ 3145.9
ADEL	714.4	787.7
LOCAL	839.4	766.4
	\$ 4,700.0	\$ 4,700.0

OPTION II		
ADEL	\$ 1,965.8	\$ 2,948.7
LOCAL	2,734.2	1,751.3
	4,700.0	4,700.0

OPTION III		
LOCAL	4,700.0	\$ 4,700.0

KODIAK ISLAND BOROUGH
ISLAND LAKE WATER PROJECT

ESTIMATED CAPITAL COST $\$3,800,000$

PROJECT COMPONENT BREAKDOWN

ENGINEERING DESIGN	280.1
PROJECT INSPECTION / SURVEYING	280.1
CONSTRUCTION	2801.5
CONTINGENCIES / MISCELLANEOUS	<u>438.3</u>
	$\$3,800.0$

FUNDING OPTIONS

OPTION I	PRESENT STATE FUNDING	PROPOSED STATE FUNDING
ADEC	$\$1,706.6$	$\$2,559.9$
LOCAL	<u>2,093.4</u>	<u>1,240.1</u>
	$\$3,800.0$	$\$3,800.0$

OPTION II

LOCAL	$\$3,800.0$	$\$3,800.0$
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THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Funding Information
General Fund \$8,500,000
Other Funds -0-
\$8,500,000

Introduced: 2/4/81
Referred: Community & Regional
Affairs and Finance

1 IN THE HOUSE

BY ZHAROFF

2 HOUSE BILL NO. 98

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Kodiak
7 Island Borough for wastewater collection and water
8 supply projects; and providing for an effective date."

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

10 * Section 1. The sum of \$8,500,000 is appropriated from the general fund
11 for payment as a grant to the Kodiak Island Borough for design and construc-
12 tion of wast water collection and domestic water supply systems for Service
13 District No. 1 (Island Lake).

14 * Sec. 2. The appropriation made by this Act shall be disbursed in
15 accordance with AS 37.05.315.

16 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
17 10.070(c).

1.6 INSTITUTIONAL RESPONSIBILITIES

The Kodiak Island Borough is the lead local agency responsible for design, construction, capital funding, operation, maintenance, and administration of the selected alternative. The borough has initiated steps to negotiate an inter-governmental agreement with the City of Kodiak for treatment of wastewater discharged to the municipal treatment plant.

1.7 CONCLUSIONS

Based on analysis of existing conditions, economic analysis, and environmental assessment, the following conclusions are made:

- o Continuation of wastewater disposal methods presently utilized in most of the planning area is not acceptable because it presents serious potential for human health hazards, adversely effects water and air quality, aquatic fauna, and wetlands, and is not compatible with land use or recreation plans for the area.
- o The use of onsite individual treatment systems on an area-wide basis is not acceptable due to natural characteristics of the study area.
- o Alternative 2A is the most cost effective of the proposed facilities which complies with regional plans and regulatory wastewater discharge requirements.
- o Alternative 2B has the largest degree of beneficial environmental impact of the proposed facilities.
- o Development of Island and Dark Lakes, Naughton's Trailer Court, and along Mission Road requires installation of collector and/or interceptor sewers to alleviate water quality problems.
- o The use of gravity sewers to serve the low density areas of Island and Dark Lakes is not technically or economically practical.
- o Construction of a permanent primary plant at Mill Bay to serve the year 2000 needs of the Island Lake area would result in the lowest initial user charge for the entire district but would not meet current regional plans or federal discharge requirements.
- o If Alternative 2A is implemented, the City of Kodiak treatment plant will reach its design population of 9500 by about year 1990.

1.8 RECOMMENDATIONS

Based on the conclusions cited above and in the subsequent chapters, the following recommendations are made:

- o Alternative 2A is recommended for implementation because it is the most cost effective of the proposed facilities that meets regional plans and federal standards and has only slightly less positive environmental impact than the most beneficial, Alternative 2B.
- o Recommended collection systems for the developed areas are: a) pressure sewers for low population density areas around Island or Dark Lakes; b) gravity sewers for high-density areas on Island Lake; c) gravity sewer, where possible, along outer Mission Road; or d) house pressure laterals to serve homes on outer Mission Road below gravity sewer.
- o Federal, state, and local shares of the cost of interceptor and collection system facilities are estimated in Table 8.1. The borough's share of Alternative 2A is about \$728,000 (September 1981 dollars). Action should be initiated to finance the local share with consideration given to revenue bonds, Farmers Home Administration bonds and grants, general obligation bonds, special improvement district bonds, and Housing and Urban Development block grants.
- o If additional funding cannot be obtained and S.D. No. 1 residents cannot afford user charges for Alternative 2A then consideration should be given to implementing one of the local treatment options discussed in Appendix F. Since a permanent primary plant at Mill Bay does not comply with regional plans or federal standards the borough will have to obtain special approval from regulatory agencies in order to implement the local treatment option.
- o The borough should establish a program for administering, operating, and maintaining the recommended facilities. Direct maintenance of the recommended system would require one maintenance person on a full-time basis. A well-equipped maintenance shop would also be required. Consideration should be given to developing an intergovernmental agreement with the City of Kodiak for these services.
- o The borough must continue to work with the City of Kodiak to establish an equitable rate system for the use of the city's wastewater facilities.
- o The following implementation schedule is recommended.

CHAPTER 2 INTRODUCTION

The Borough of Kodiak Island, Alaska, is presently faced with the likelihood of entering a phase of population growth for which it does not have adequate municipal facilities. Attempts to establish a Gulf of Alaska bottom fishing industry based in Kodiak are the primary stimuli for this growth. A large percentage of the anticipated population growth would occur in and adjacent to the City of Kodiak. A chronic housing shortage in the City of Kodiak has already resulted in dense rural-type residential developments in adjacent areas which are not well suited to these conditions. The specific conditions of interest in this report are: present and future land use trends, water quality, and wastewater collection and treatment in the portion of Kodiak Island Borough known as Service District 1 (see Figure 1.1).

2.1 PLANNING AREA DESCRIPTION AND BACKGROUND (Service District 1)

The planning area covers 1,400 acres of land located directly northeast of the City of Kodiak. It is bounded on the south by city limits, on the east and north by Woody Island Channel and Mill Bay (marine waters), and on the west by a surveyed boundary. The area contains the Island Lake chain (Island, Dark, and Beaver Lakes), Mission Lake, portions of Lilly and Potato Patch Lakes, and numerous ponds, streams, and other wetlands.

Boundaries of Service District 1 were established by a Kodiak Island Borough ordinance. The area is divided for the purposes of this study into 15 wastewater collection basins based on natural surface drainage characteristics and property boundaries (see Figure 1.1). Wastewater collection basins are delineated to facilitate planning for specific portions of the study area and to assist in equitable distribution of project costs.

Service District 1 has been delineated in regional plans and is currently being developed as a suburban-type residential area. The estimated 1980 population of about 1,400 is mostly located in small, densely developed tracts scattered throughout the study area. An ultimate population of about 9,000 is predicted for the year 2000.

The Island Lake area of Service District 1 has long been recognized as a problem area in terms of water quality, primarily because of leaching of unstabilized wastewater from existing individual soil absorption systems (septic tanks and drain fields) which are inadequate due to the unfavorable geological conditions of the area. Residents of the Island Lake area have been cited by the Alaska Department of Environmental Conservation (DEC) for violation of state water quality standards.

Other point sources of water pollution include at least three sewer outfalls which discharge raw wastewater from small community collection systems directly to marine waters (see Figure 1.1). Outfall No. 2 is so deteriorated from lack of maintenance that sewage is discharged on land and drains over the ground surface to marine waters.

Discharge of raw or partially stabilized sewage has reduced and will continue to limit recreational opportunities in the area. The Island Lake chain ranks high in aesthetic quality but is not recommended for activities such as swimming or fishing because of water quality degradation. Drainage of raw sewage to marine waters reduces the aesthetic quality of beaches and creates potential human health hazards from activities such as shellfish gathering. An intensive program of wastewater collection and/or effective onsite treatment would promote recreational activities by improving water quality.

Although the intent of this study is not to promote development of the area, such development will probably occur with or without a coordinated, consolidated wastewater disposal system; the latter possibility would undoubtedly result in further degradation of water quality and increased likelihood of human health hazards. Therefore, the development of the area must be considered to ensure long-term maintenance, as well as short-term improvement of water quality.

2.2 STUDY PURPOSE AND SCOPE

The purpose of this facility plan is to investigate and develop the most cost-effective and environmentally sound plan for wastewater collection, treatment, and/or disposal systems for the Service District 1 planning area.

The major components of the facility plan are summarized as follows:

- o A presentation of water quality objectives and treatment requirements for wastewater.
- o A description and analysis of the existing conditions.
- o A projection of future land use, population, and waste loads.
- o A presentation of alternative wastewater facility plans.
- o A cost-effectiveness analysis of the proposed alternative plans.
- o An assessment of the environmental impacts of these alternatives.
- o A recommendation as to the most appropriate plan for wastewater facilities to serve the needs of the planning area.
- o A discussion of institutional and financial arrangements for implementation of the recommended plan.

PREVIOUS STUDIES AND REPORTS

A wastewater facility plan must consider in its objectives all federal, state, and local standards, regulations, water quality management plans, and other planning reports to avoid duplication, contradiction, or violation of statutes. The studies and reports reviewed and utilized in compilation of this report are listed below.

Tryck, Nyman, and Hayes. 1971. Kodiak Metropolitan Area Interim Regional Water Quality Management Plan. Anchorage. This report detailed possible wastewater collection and treatment alternatives for the urban Kodiak area.

Simpson, Usher, and Jones, Inc. 1976. Kodiak Island Borough Outer Continental Shelf Impact Study. Anchorage. This study inventoried community infrastructure, discussed possible levels of offshore oil development activity, described possible impacts of this oil development, and summarized possible policy alternatives available to the Borough.

Tryck, Nyman, and Hayes. 1977. Kodiak Island Lake Water and Sewer Study. Anchorage. This report described possible wastewater collection and water distribution systems for the Island Lake area. Cost estimates and possible financing mechanisms were also discussed in the report.

Kramer, Chin & Mayo, Inc. 1978. Kodiak Island Borough Regional Plan and Development Strategy. Seattle. This study consisted of the following major elements: projection of population and economic growth and the resulting need for additional community services, a comprehensive transportation plan, a comprehensive parks and recreation plan, zoning and subdivision regulations, design of a capital improvement program, and an environmental assessment.

PLANNING PARTICIPATION AND COORDINATION

The following governmental agencies are involved in the planning effort for compilation of this report: Kodiak Island Borough, the City of Kodiak, the Alaska Department of Environmental Conservation, and the U.S. Environmental Protection Agency.

KODIAK ISLAND BOROUGH
ISLAND LAKE SEWER PROJECT

Estimated Capital Cost \$4,700,000

Project Component Breakdown (x 1,000)

Engineering Design	293.7
Project Inspection/Surveying	293.7
Construction	2,937.5
Contingencies and Miscellaneous	1,175.1
Total	<u>\$4,700.0</u>

Funding Options (x 1,000)

Option I	EPA	\$3,145.9	67%
	ADEC	714.4	15%
	Local	839.4	18%
	Total	<u>\$4,700.0</u>	

Option II	ADEC	\$1,965.8	42%
	Local	2,734.2	58%
	Total	<u>\$4,700.0</u>	

Option III	Local Only	\$4,700.0	100%
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KODIAK ISLAND BOROUGH
ISLAND LAKE WATER PROJECT

Estimated Capital Cost \$3,800,000

Project Component Breakdown (x 1,000)

Engineering Design	280.1
Project Inspection/Surveying	280.1
Construction	2,801.5
Contingencies and Miscellaneous	438.3
	<u>\$3,800.0</u>

Funding Options (x 1,000)

Option I

ADEC	\$1,706.6	45%
Local	<u>2,093.4</u>	55%
Total	\$3,800.0	

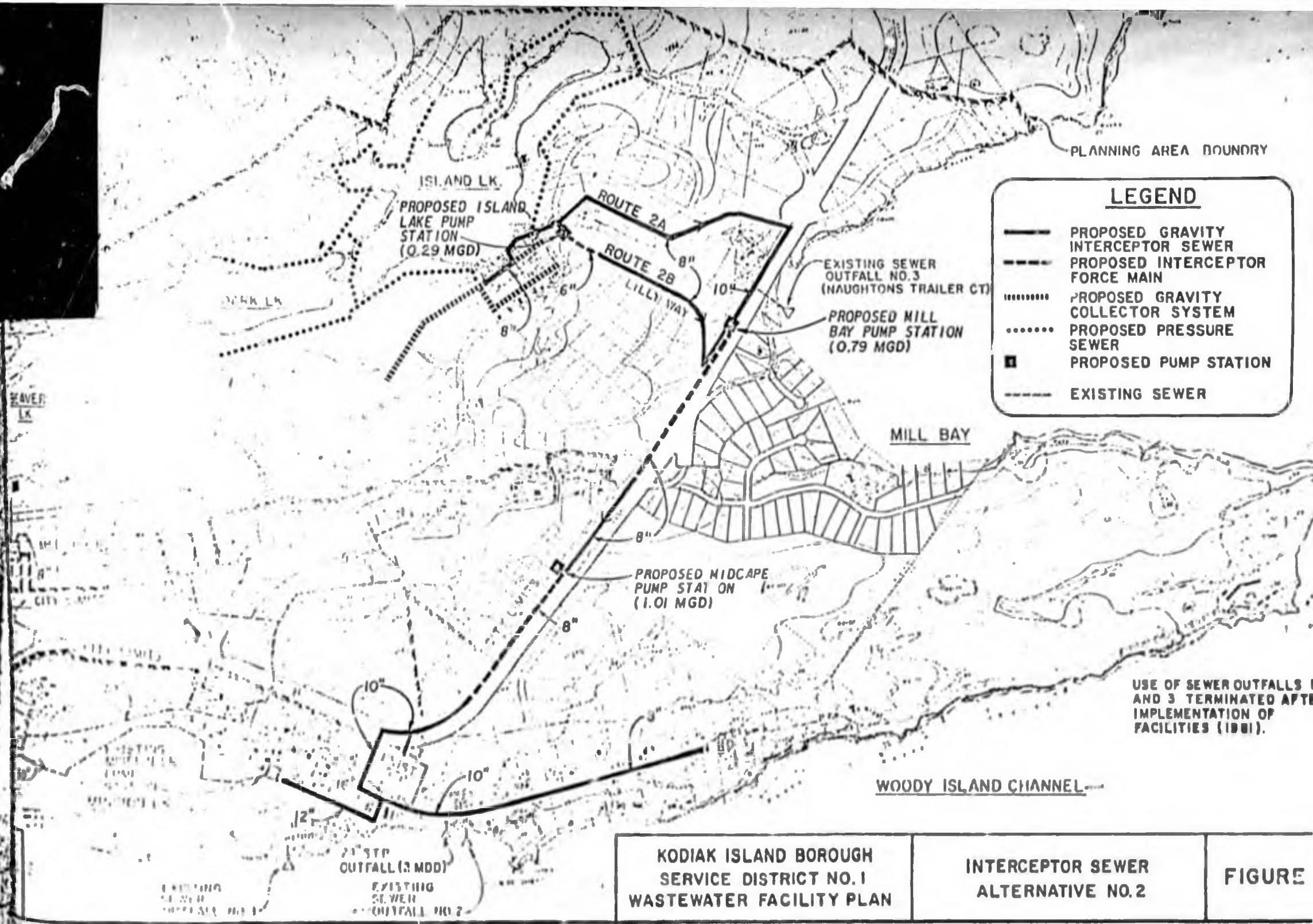
Option II

Local Only	\$3,800.0
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Kodiak Island Borough
Island Lake Sewer System
Cost Estimates (x 1,000)

Project Capital Cost	Option I EPA, ADEC and Local			Option II ADEC and Local		Option III Local Only
	EPA Grant	State Grant	Local Share	State Grant	Local Share	Local Share
626.0	\$1,965.1	\$330.4	\$330.5	\$1,313.0	\$1,313.0	\$2,626.0
272.0	-0-	136.0	136.0	136.0	136.0	272.0
<u>898.0</u>	<u>\$1,965.1</u>	<u>\$446.5</u>	<u>\$446.5</u>	<u>\$1,449.0</u>	<u>\$1,449.0</u>	<u>\$2,898.0</u>
288.1	\$ -0-	\$144.1	\$144.0	\$ 144.0	\$ 144.1	\$ 288.1
745.7	633.9	55.9	55.9	372.9	372.8	745.7
<u>033.8</u>	<u>\$ 633.9</u>	<u>\$200.0</u>	<u>\$200.0</u>	<u>\$ 517.0</u>	<u>\$ 517.0</u>	<u>\$1,033.8</u>
124.5	\$ -0-	\$ -0-	\$124.5	\$ -0-	\$ 124.5	\$ 124.5
643.7	546.9	48.4	48.4	-0-	643.7	643.7
<u>768.2</u>	<u>\$ 546.9</u>	<u>\$ 48.4</u>	<u>\$172.9</u>	<u>\$ -0-</u>	<u>\$ 768.2</u>	<u>\$ 768.2</u>
700.0	\$3,145.9	\$714.7	\$839.4	\$1,965.8	\$2,734.2	\$4,700.0

	1981	1982	1983	1984
Sewer Syst Design				
Sewer Interceptor Construction				
Sewer Collection Construction				
<hr/>				
Water Syst Design				
Water Trans. Const.				
Water Dist Const				
<hr/>				
Sewer Syst. Design	\$ 293.7			
Sewer Int Const.		\$ 2716.9		
Sewer Coll. Const.		1689.4		
Water Syst. Design		202.1		
Water Trans. Const.			\$ 2678.6	
Water Dist Const.			841.3	
	\$ 293.7	\$ 4686.4	\$ 3519.9	



PLANNING AREA BOUNDRY

LEGEND

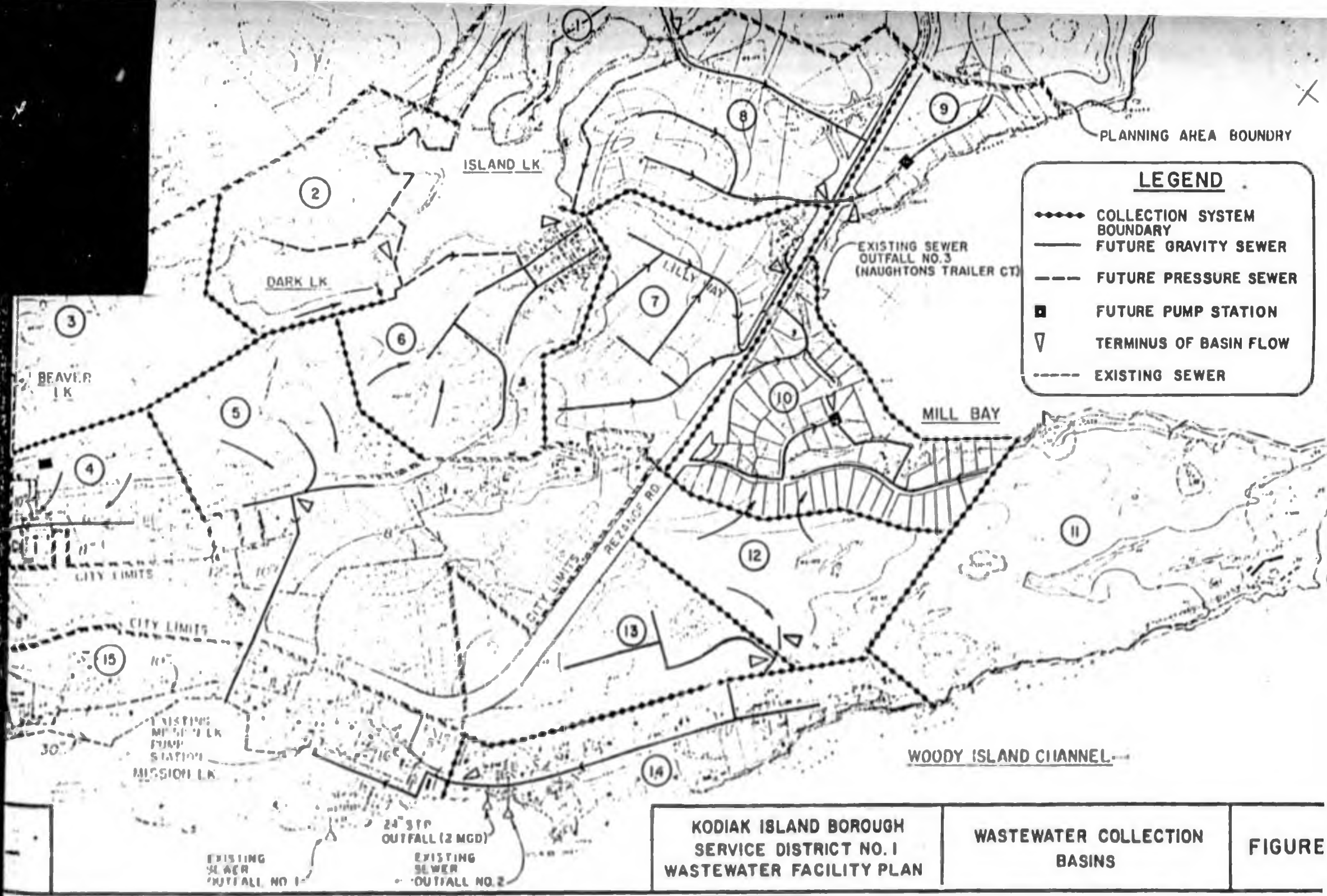
- PROPOSED GRAVITY INTERCEPTOR SEWER
- - - PROPOSED INTERCEPTOR FORCE MAIN
- PROPOSED GRAVITY COLLECTOR SYSTEM
- PROPOSED PRESSURE SEWER
- PROPOSED PUMP STATION
- - - EXISTING SEWER

USE OF SEWER OUTFALLS 1 AND 3 TERMINATED AFTER IMPLEMENTATION OF FACILITIES (1981).

**KODIAK ISLAND BOROUGH
SERVICE DISTRICT NO. 1
WASTEWATER FACILITY PLAN**

**INTERCEPTOR SEWER
ALTERNATIVE NO. 2**

FIGURE



PLANNING AREA BOUNDRY

LEGEND

- ◆◆◆◆ COLLECTION SYSTEM BOUNDARY
- FUTURE GRAVITY SEWER
- FUTURE PRESSURE SEWER
- FUTURE PUMP STATION
- ▽ TERMINUS OF BASIN FLOW
- - - - EXISTING SEWER

<p>KODIAK ISLAND BOROUGH SERVICE DISTRICT NO. 1 WASTEWATER FACILITY PLAN</p>	<p>WASTEWATER COLLECTION BASINS</p>	<p>FIGURE</p>
--	---	---------------

EXISTING SEWER
OUTFALL NO. 1

24" STP
OUTFALL (2 MGD)

EXISTING SEWER
OUTFALL NO. 2

EXISTING
MISSION LK
PUMP
STATION

EXISTING SEWER
OUTFALL NO. 3
(HAUGHTONS TRAILER CT)

BEAVER LK

ISLAND LK

DARK LK

MILL BAY

WOODY ISLAND CHANNEL

CITY LIMITS

CITY LIMITS

CITY LIMITS

REBARGE RD

LILLY WAY

2

8

9

3

6

7

10

4

5

12

11

15

13

14

Kodiak Island Borough
Island Lake Water Distribution System
Cost Estimate

<u>Item</u>	<u>Quantity</u>	<u>Cost/Unit</u>	<u>Estimate (X 1,000)</u>
Pipe, DI 12"	250 LF	\$ 61.50	15.4
Pipe, DI 10"	7,775 LF	46.50	361.5
Pipe, DI 8"	15,950 LF	30.50	486.5
Pipe, DI 6"	4,075 LF	25.50	103.9
Pipe, DI 4"	950 LF	21.50	20.4
Pipe, PVC 1½"	400 LF	6.50	2.6
Pipe, PVC 1"	175 LF	5.00	.9
Excavation & Backfill	19,075 LF	30.50	581.8
Excavation & Backfill	10,500 LF	46.50	488.2
Pressure Testing	29,575 LF	1.50	44.4
GV&VB 12"	1 each	1,856.50	1.9
GV&VB 10"	8 each	1,467.50	11.7
GV&VB 8"	19 each	1,079.00	20.5
GV&VB 6"	6 each	1,003.50	6.0
GV&VB 4"	4 each	847.00	3.4
Hydrants	50 each	3,782.50	189.1
Backfill Select	2,500 cy	23.00	57.5
Street Replacement, Gravel	18,800 LF	14.00	263.2
Short Water Service	50 each	812.00	40.6
Long Water Service	60 each	1,700.00	102.0
TOTAL CONSTRUCTION ESTIMATE			<u>\$2,801.5</u>

Sewer Funding Options
Advantages and Disadvantages

Option 1 -	EPA	\$3,145.9
	ADEC	714.7
	Local	839.4

Advantages: - lowest level of local funds necessary
 - certain items that wouldn't normally be eligible for State grant are eligible under federal determination

Disadvantages: - significant application procedures for federal funds
 - proposed user charge system prohibited under federal regulations
 - must utilize federal procurement and contracting procedures
 - plan and specification approval necessary
 - project must be audited
 - national average for projects 7 to 9 years to beneficial occupancy
 - must prepare public participation work plan
 - must implement annual review of O&M costs

Option 2 -	ADEC	\$1,965.8
	Local	2,734.2

Advantages: - local money needed is partially reduced by State grant
 - State assistance available in negotiating with consulting firms

Disadvantages: - plans and specifications must be approved by the State
 - change orders must be approved by State
 - application form must be completed
 - project will be audited

Option 3 -

Advantages: - essentially no strings attached to funds

Disadvantages: - greatest amount of local funds necessary
 - plans and specification still must be approved by ADEC

KODIAK ISLAND BOROUGH
SERVICE DISTRICT NO. 1
USER CHARGE SYSTEM DISCUSSION

The proposed method of distributing Service District No. 1 O&M costs would be to determine a fixed annual O&M cost that would be required no matter how many users were connected to the system. Assess all lots ultimately served by the facilities the fixed O&M equally. Determine the incremental increase in O&M cost per additional connection to the system. Charge users actually connected to the system this incremental charge on a monthly basis along with the City's monthly charge. Each year the rates would be adjusted to reflect the actual O&M costs and number of lots in the area.

Two alternatives are considered for distributing the fixed O&M cost. The first would be to assess all lots ultimately served by the interceptors equally. The second alternative would be to assess all lots served by the interceptors the interceptor portion of the fixed cost and in addition all lots served by the collector sewers the collector portion of the fixed cost. The example calculations below should illustrate the procedures.

Given:

257 lots within 250 feet of proposed sewer (collector service area)
421 lots within interceptor service area
\$26/month City of Kodiak monthly charge per connection
\$66,900 S.D. No. 1 Annual O&M cost with 180 connections (start-up)
\$94,400 S.D. No. 1 Annual O&M cost with 1,000 connections
Interceptor O&M equals 79% of total
Collector O&M equals 21% of total

includes collection as well as treatment costs

Incremental Cost:

$$\frac{\$94,400 - \$66,900}{1,000 \text{ conn} - 180 \text{ conn}} = \$33.54/\text{year}$$

Fixed Cost:

Total Annual Cost minus incremental cost times number of connections
= \$66,900 - (\$33.54) (180 conn)
= \$66,900 - \$6,040 = \$60,860
Interceptor portion of fixed cost equals (0.79) \$60,860 = \$48,080
Collector portion of fixed cost equals (0.21) \$60,860 = \$12,780

Property Assessment = Fixed cost divided by number of lots served

Alternative No. 1; all lots share equally

$$\$60,860/421 \text{ lots} = \$145/\text{yr.}$$

Alternative No. 2; all lots pay interceptor

$$\text{portion } \$48,080/421 \text{ lots} = \$114/\text{yr.}$$

Lots in collector service area pay an additional collector portion of fixed cost $\$12,780/257 \text{ lots} = \$50/\text{yr.}$

Service Charge = incremental O&M cost plus city charge

$$= \$33.54/12 \text{ months} + \$26/\text{month}$$

$$= \$2.80 + \$26.00 = \$28.80/\text{month}$$

Example User Charge:

Alternative No. 1

Lot outside service area:

Assessment

$$\$145/\text{yr. } \$12.08/\text{mo}$$

Lot inside collector service area but not connected:

Assessment

$$\$145/\text{yr. } \$12.08/\text{mo}$$

Lot connected to sewer.

Assessment

Service Charge

$$\$145/\text{yr. } \$28.80/\text{mo. } \$40.88/\text{mo}$$

Alternative No. 2

Lot outside collector service area:

Assessment

$$\$114/\text{yr. } \$9.50/\text{mo}$$

Lot inside collector service but not connected:

Assessment $\$114 + \$50 = \$164/\text{yr.}$

$$\$13.67/\text{mo}$$

Lot connected to sewer:

Assessment $\$114 + \$50 = \$164/\text{yr.}$

Service Charge

$\$28.80/\text{mo.}$

$$\$42.47/\text{mo}$$

Alt 2a (180 connections)

Interceptor O&M

$$\$26$$

Collector O&M

$$\$5$$

City of Kalak Charge

$$\$26$$

$$\frac{\$26}{\$57/\text{mo}}$$

KODIAK ISLAND BOROUGH

Telephones 486-5736 - 486-5737 — Box 1246

KODIAK, ALASKA 99615

January 22, 1981

Senator Bob Mulcahy
Representative Fred Zharoff
Pouch V
Juneau, AK 99811

Dear Senator Mulcahy and Representative Zharoff:

As you both know, the Kodiak Island Borough has, since 1976, had a critical health problem in the Island Lake-Dark Lake area with on-lot sewage disposal. None of these problems have been resolved to date because of the tremendous cost involved.

We have been awarded a grant from the Environmental Protection Agency and the Department of Environmental Conservation for step one of the Service Area Project. Step one would develop a Wastewater-Facility Plan and environmental assessment. The cost of this not to exceed \$49,486.00, shared 75% federal, 12.5% state, and 12.5% local. As of today, \$70,809.00 has been expended, shared by the Kodiak Island Borough alone. No plan has been accepted by the Service District because of cost. Until a plan is accepted and approved by the Environmental Protection Agency, it seems the Borough will not be reimbursed.

You have already received a letter from the Borough's Engineering Consultant-Kramer, Chin and Mayo - of which I am enclosing another copy since it suggests a remedy to the above-mentioned problem. We heartily endorse this recommendation and suggest the roads be built at the same time that the sewer and water are installed.

We respectfully request your assistance in this matter.

Sincerely,


Arnold T. Hansen,
Acting Manager

ATH:cmb

Enclosure

RECEIVED

JAN 5 1981



December 31, 1980

Mr. Arne Hansen
Acting Borough Manager
Kodiak Island Borough
P.O. Box 1246
Kodiak, Alaska 99615

Dear Mr. Hansen, *Arne*

Enclosed is a draft of a simple appropriation bill to secure funds to solve the severe health problem at Island Lake. I suggest that this draft be provided to Senator Mulcahy and Representative Zharoff for their action.

As you are aware, the physical soil conditions in the Island Lake area are not conducive to on-lot sewage disposal. The critical health hazard that has existed there is the direct result of this situation. Untreated and partially treated sewage flows over the ground where children play and walk to catch school busses. Domestic animals have complete access to these wastes and to the interior of residences. This contamination of the environment has led to a couple of consequences -- restricted housing development in the area and contamination of the lakes in the area. Boating and other aquatic recreation allows direct contact with these contaminated waters. I understand there is even a public water supply line beneath Island Lake that periodically breaks. This presents a direct threat of contamination to those supplied and constitutes a "cross-connection" to the City's water system, threatening the city consumers. Because of these severe threats to the health of the community, the Alaska Department of Environmental Conservation has placed on top-priority the funding of a sewage system at Island Lake.

I suggest that the appropriation bill be given urgent attention in the 1981 Legislature.

Sincerely yours,

KRAMER, CHIN & MAYO, INC.

Roger W. Allington
Roger W. Allington, P.E.
Chief Engineer

RWA:pjm

Encl.

cc: Bob Mulcahy
Fred Zharoff

SENATE BILL NO. ____

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing state aid to the Kodiak Island Borough for the abatement of a health hazard."

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

The sum of \$2,500,000 is appropriated from the general fund to the Municipal Grant account for payment as a grant to the Kodiak Island Borough for design and construction of wastewater collection and domestic water supply systems for Service District No. 1 (Island Lake).

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

HP

150

COMMITTEE REPORT

HOUSE

2/19/81

FURTHER: FINANCE

(5)

Date: March 11, 1981

Mr. Speaker:

The Committee on COMMUNITY & REGIONAL AFFAIRS has had SSHB 150

"An Act making a special appropriation to the Department of Community and Regional Affairs, senior citizens housing development fund to develop senior citizen housing; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

CHAIRMAN

Revisor's note. — This section was renumbered by the revisor of statutes formerly designated 18.100.050 and was pursuant to AS 01.05.031.

Sec. 18.54.060. Interest. The interest rate on loans made under this chapter shall be set by the department at a rate sufficient to pay the administrative costs of the fund but the interest rate may not exceed three per cent. (§ 10 ch 151 SLA 1975)

Revisor's note. — This section was renumbered by the revisor of statutes formerly designated 18.100.060 and was pursuant to AS 01.05.031.

Sec. 18.54.070. Senior citizen housing development. (a) There is created within the Department of Community and Regional Affairs a senior citizens housing development fund. Subject to direct appropriation or through proceeds of a bonding issue the department shall make grants or loans to municipalities or to corporations eligible for loans under AS 18.54.050 for the purpose of developing senior citizen housing. A grant from the proceeds of a bond issue may be made only to municipalities.

(b) Application for a grant or loan under (a) of this section shall be in the form prescribed by the department. The application shall demonstrate the need for senior citizen housing in the area to be served, the feasibility of the proposed project, and an adequate management plan which shall demonstrate the ability of the eligible recipient to sustain the proposed project.

(c) All projects under this section shall be in accordance with facility procurement policies developed under AS 35.10.160 — 35.10.200 and are public facilities under those sections.

(d) The department shall promulgate regulations to carry out the purposes of this section. The provisions of the Administrative Procedure Act (AS 44.62) apply to regulations adopted under this section.

(e) In this section "senior citizen housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations for persons 60 years of age or older, including the acquisition, construction or rehabilitation of land, buildings and improvements and other nonhousing facilities that are incidental or appurtenant to the housing. (§ 1 ch 238 SLA 1976; am § 20 ch 94 SLA 1980)

Revisor's note. — This section was formerly designated 18.100.070 and was renumbered by the revisor of statutes pursuant to AS 01.05.031.

Effect of amendment. — The 1980 amendment substituted "AS 35.10.160 — 35.10.200" for "AS 35.10.060 — 35.10.200" near the middle of subsection (c).

Chapter 55. Housing

Article 5. Regional Native Housing Auth

Article 1. Alaska

- Section
- 100. Powers of authority
- 190. [Repealed]
- 210. Right of obligee of authority to injunction
- 255. Procedure for title of land

Editor's note. — As to class brought by owners and occupants housing constructed from certain provisions alleging defects in the design construction of the housing units § 12-15, ch. 167, SLA 1978, in the Temporary and Special Acts and Re

Sec. 18.55.100. Powers of

(c) Any two or more authorities another in the exercise of their housing authorities law for undertaking, constructing or located within the area of of (am § 1 ch 151 SLA 1975)

Effect of amendments. The 1975 amendment added subsection (c).

As the rest of the section was affected by the amendment, it is out.

Sec. 18.55.190. Maximum

Repealed by § 1 ch 52 SLA

Editor's note. — The repealed derived from § 40-7-11, ACLA 194 § 1, ch. 64, SLA 1970.

Sec. 18.55.210. Right of injunction. An obligee of their rights which may be conf

POSITION PAPER
ON
SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 150

"An Act making a special appropriation to the Department of Community and Regional Affairs, senior citizens housing development fund to develop senior citizen housing; and providing for an effective date."

Seniors living on fixed incomes are finding it difficult to afford to pay the rising costs of housing and fuel in most areas of Alaska, especially in smaller communities.

The Department of Health and Social Services supports the concept of a study to assess the need for senior citizen housing and the development of senior citizen housing to meet identified needs. Housing for the frail elderly, group homes, congregate housing, and other housing that meets special needs are alternatives to unnecessary and premature institutionalization.

If, however, an Older Alaskans Commission is established, it may be appropriate to have the commission conduct such a study.

Recommended by: Elizabeth Muktarian
Elizabeth Muktarian
Director
Div. of Adult & Aging
Services

Date: 2/24/81

Approved by: Helen D. Beirne
Helen D. Beirne
Commissioner
Dept. of Health and
Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Sponsor Substitute for House Bill No. 150

Title "An Act making a special appropriation to the Dept. of Community & Regional Affairs, requested by senior citizens housing development fund....." Date February 26, 1981

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Social and Economic Assistance for the Aged

BKU, Program, or Subprogram(s) Affected Division of Adult & Aging Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-				

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Zero Impact

IV. DATE

2-26-81

PREPARED BY Dorothy W. Hill

AGENCY Division of Adult and Aging Services

PHONE 465-3250

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Hill Approval

Date 1/26/81

AGINA
P412

Funding Information

General Fund	\$25,000,000
Other Funds	-0-
	<u>\$25,000,000</u>

Introduced: 2/19/81
Referred: Community & Regional
Affairs and Finance

1 IN THE HOUSE

BY DUNCAN AND MILLER

2

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 150

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act making a special appropriation to the Department of Community and Regional Affairs, senior citizens housing development fund to develop senior citizen housing; and providing for an effective date."

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

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* Section 1. The sum of \$225,000 is appropriated from the general fund to the Department of Community and Regional Affairs, senior citizens housing development fund (AS 18.54.070), to study and assess the need in the state for senior citizen housing.

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Specialized / Housing

①
3/11/91

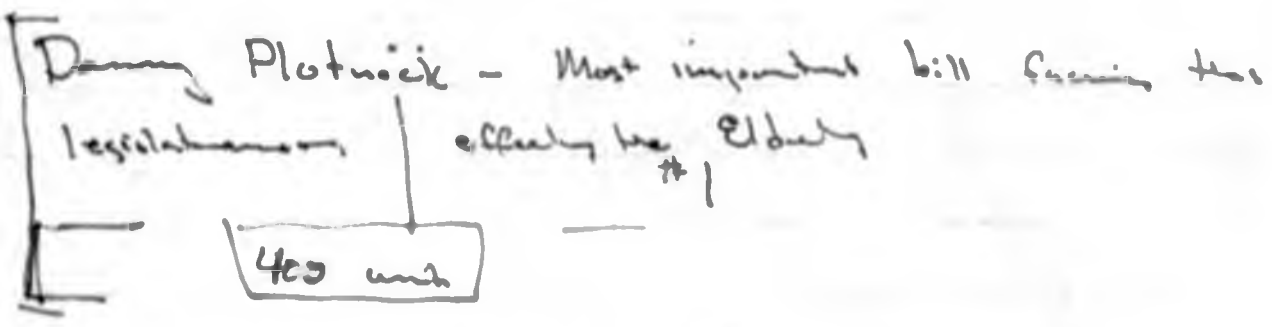
Kull - 25% unnecessary in Nursing Homes.
Congregate Housing. (It's -

→ probably have 2000 in Homes.

Do not want HUD - because [handicapped]

Want all State Money
for frail elderly

② extended family Concept - Grand ma - Grand pa Room.
isolating



C.R.A. - Marie Matsuda & Louis Crane } Have housing at the ^{Michigan} ~~state~~ level
is fact

13 public Housing authorities
non-profit would be qualified
non-profit

watch ASHA

ALASKA
STATE LEGISLATURE
MEMORANDUM

TO: Ben
FROM: Linda
RE: Comments on SSHB 150 by Duncan & Miller

Date: March 10, 1981

Rep. Miller will testify on the bill. Apparently, Rep. Duncan introduced the original bill without notifying Rep. Miller first. The Sponsor Substitute was introduced to increase the special appropriation from 15 million to 25 million. The 25 million dollar figure was derived from the needs determined by the Interim Committee on the Elderly of which Rep. Miller and Senator Rodey were co-chairman.

Senator Rodey is in the process of preparing a similar bill to HB 150. His bill will outline more clearly the direction for the funds for the needs assessment. The study will be to include more research as to design for efficient housing and architectural type construction that is done in other states that could be used in Alaska.

We also have, in our Committee, HB 259 and HB 260 (there are companion bills - SB 232 & SB 233 that have been introduced in the Senate). They will be meeting on these bills in Senate State Affairs next week. The ASHA bills (a package apparently introduced together) were introduced through Legislative Budget & Audit Committee at the request of the ASHA people (not sure of their names). It was introduced as a favor rather than a statement of recommendation by the Audit Committee. A meeting was held last week with the Interim Committee, both House and Senate members of that Committee and the ASHA representatives. The Committee still recommends that the Dept. of C&RA remain the administrators of the Senior Citizens Housing funds and that they continue to be permitted to utilize a portion of their allocation to assist ASHA in obtaining permanent financing.

Just a thought... perhaps a portion of the funds should be utilized in informing senior citizens of the funds available to them for housing assistance. Apparently it is not common knowledge that these citizens may go to their municipal government to request assistance; the municipal governments then go to the DORA to request funds needed.



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Rep. Ben Grussendorf
Chairman
465-3870

Pouch V
State Capitol
Juneau, Alaska 99811

Summary - SSHB 150, by Duncan & Miller

This bill changes the total amount of appropriation to \$25,000,000 (original bill called for \$15,000,000) and adds \$10,000,000 to the appropriation to the Department of Community & Regional Affairs, senior citizen housing, and adds language "including, but not limited to, conventional housing, housing for the frail elderly, group homes, congregate housing, and other housing that meets special needs." The bill requests a 'special' appropriation.

The bill provides for an immediate effective date.