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MEMORANDUM

State of Alaska

10 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. Pegue
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

*is not a dwelling
the statute is
for production.
is not what, although
the purpose of
ensuring*

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

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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

TO: Theodore G. Smith, Director
Division of Forest, Land and
Water Management
Dept. of Natural Resources
323 East Fourth Avenue
Anchorage, Alaska 99501

DATE: February 19, 1980

FILE NO:

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL
By: Thomas E. Meacham
Assistant Attorney General
AGO - Anchorage

SUBJECT: File No. A66-179-79
Applicability of AS 29.18.211
to State land entitlement
of the North Slope Borough

You have requested a brief analysis of the relationship of AS 29.18.211 to the North Slope Borough's land entitlement under AS 29.18.201-.213, in light of the pendency of North Slope Borough v. LeResche (581 P.2d 1112, Alaska 1978), Supreme Court File No. 2275. Based upon my analysis, contained in this memorandum, it appears that a legitimate inquiry should be made into the steps, if any, which the North Slope Borough took to waive any claim to land entitlement under the former AS 29.18.190-.200 and to instead elect to take benefits under the new Municipal Entitlement Act, AS 29.18.201-.213, pursuant to the terms stated in AS 29.18.211.

AS 29.18.211 states,

Election of Benefits. (a) A municipality which on July 1, 1970 is engaged in litigation, or which becomes engaged in litigation, regarding a claim to state land under former sections 190 and 200 of this chapter shall elect either to obtain the benefits provided in Sections 201-213 of this chapter or to pursue the litigation and thereby waive any claim to entitlement under Sections 201-213 of this chapter. An election shall be made by filing a motion for dismissal with prejudice in the court in which the litigation is pending. If the claim involves a municipality identified in Section 201 of this chapter, the municipality shall file its motion for dismissal within 60 days of July 1, 1978. If the claim involves a city eligible to receive an entitlement under Section 202 of this chapter, the city shall file its motion for dismissal within 60 days after receiving the certificate of entitlement provided by the Director under Section 202 of this chapter. Failure of the municipality to file a motion for dismissal during the time period provided in this subsection shall be considered a waiver of entitlement under Sections 201-213 of this chapter.

Re: File No. A66-179-79
Applicability of AS 29.18.211
to State land entitlement
of the North Slope Borough

Sections 201-213 of AS 29.18 became effective on July 1, 1978. The North Slope Borough is a municipality specifically listed in AS 29.18.201(11), and thus its motion for dismissal was required within 60 days of July 1, 1978, or in other words by August 30, 1978.

On July 1, 1978 the case of North Slope Borough v. LeResche, cited above, had been argued and was pending decision in the Supreme Court for the State of Alaska. On August 4, 1978 the decision of the Supreme Court, holding for the State of Alaska and against the North Slope Borough in this case, was issued. That decision did not become final, pursuant to Rule 27 of the Alaska Rules of Appellate Procedure, until the time for a possible petition for rehearing had passed. That time is set by the rule at ten days, unless extended by the Court. On August 9, 1978 and again on August 11, 1978 the attorneys for the North Slope Borough sought from the Supreme Court an extension of time for the filing of a possible petition for rehearing. Their first request did not specify a date to which they wanted the time extended, but their second motion requested an extension to September 4, 1978. The Court ordered the time for filing a possible petition for rehearing extended to September 5, 1978. No petition for rehearing was in fact filed, and the mandate of the Supreme Court, finally ending this lawsuit, was entered on September 11, 1978.

Thus it appears that during the entire time from July 1, 1978, the date of passage of AS 29.18.211, until September 11, 1978, the date upon which the Supreme Court mandate was finally entered, the North Slope Borough was "engaged in litigation" within the meaning of AS 29.18.211; further, during that time period, "... litigation [was] pending ..." within the meaning of that section. It appears that on the last day within which the North Slope Borough could have filed a motion for dismissal with prejudice, namely on August 30, 1978, the Borough was still within the time period granted them by their motion to consider filing a petition for a rehearing; that period did not expire until September 4, 1978. The litigation ceased to be "pending", and the Borough ceased to be "engaged in litigation", only after entry of the mandate of the Supreme Court on September 11, 1978.

The file in this case does not indicate that the North Slope Borough filed a motion for dismissal with prejudice before the Alaska Supreme Court regarding the election of benefits which is required under AS 29.18.211, and the presumption must be that such a motion was not in fact filed. Further, I am not aware of

Theodore G. Smith

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February 19, 1980

Re: File No. A66-179-79
Applicability of AS 29.18.211
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of the North Slope Borough

any other written documentation presented to the Court, which could be argued to have in effect fulfilled the purposes of a motion for dismissal with prejudice, within the time allowed by the statute. Instead, after the election period started running on July 1, 1978, the Borough, through its counsel, twice filed motions for an extension of time within which to consider filing a petition for rehearing. These motions were granted and the time was extended to September 5, 1978. The Borough took no affirmative act to close the period for filing such a petition until after August 30, 1978, and it expired by its own terms on September 5 upon the failure of the Borough to file a petition for rehearing.

Based upon the foregoing, the North Slope Borough should be requested to produce documentation meeting the requirements of AS 29.18.211 and demonstrating its eligibility for the land entitlement set forth in AS 29.18.201(11) for 89,850 acres of state land. If such documentation of compliance with the requirements of Section 211 was not filed and cannot now be produced, then the statute requires that the Borough's inaction "... shall be considered a waiver of entitlement under Sections 201-213 of this chapter."

If you have further questions, please contact me at your convenience.

cc: Robert E. LeResche, Commissioner
Alaska Dept. of Natural Resources
Pouch M
Juneau, Alaska 99811

Bill Beaty
Department of Natural Resources
323 East Fourth Avenue
Anchorage, Alaska 99501

**PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

TO: Senator-elect Don Gilman

FROM: Melissa Aber Fouse
Title 29 Revision Commission

SUBJECT: Revisions to Title 29

Here are copies of the drafting changes that have been submitted to and approved by the Title 29 Revision Commission Policy Group to date. Also included are a news release prepared by our office, a progress report (as of 7 October) and the minutes of the last Policy Group meeting.

These should give you a good idea of what has been accomplished to date.

Please let us know if there is any further information we can provide you with.

TITLE 29 REVISION COMMISSION
NEWS RELEASE

Alaska Legislative Resolve number 39 directed the Alaska Legislative Council to revise Title 29 of the Alaska Statutes (Municipal Government) with the assistance of a Policy Advisory Group. A group was appointed consisting of both public and legislative members. Members are:

Senator Arliss Sturgulewski-Chairman, Anchorage
Senator Bob Mulcahy, Kodiak
Representative Margaret Branson, District 5
Representative Charles Parr, Fairbanks
Ted Berns, Attorney, Municipality of Anchorage
Terry Cook, City Council, Alakanuk
Marilyn Dimmick, Assembly, Kenai Peninsula Borough
James Kohler, Manager, City of Yakutat
Ronald Larson, Mayor, Matanuska-Susitna Borough
Gene Moore, Manager, City of Kotzebue
Donna Sherby, City Clerk, City of Cordova
Jonathan Solomon, Mayor, City of Fort Yukon
Russell Walker, Attorney, City of Ketchikan and Ketchikan
Gateway Borough

Ex-Officio Members are:

Ginny Chitwood, Alaska Municipal League,
Palmer McCarter, Department of Community & Regional Affairs
Phil Smith, RuralCAP

The first meeting of the Policy Group was in Anchorage on the 27th and 28th of August, 1980. At that meeting the Policy Group discussed the direction their policy decisions would take. It was agreed that Title 29 needed to be clarified so that elected officials could understand Title 29 without the help of attorneys, and that there needed to be greater self determination and latitude for local governments. A Technical Revision Committee was appointed to perform actual drafting. It is composed primarily of attorneys with expertise in municipal law.

The second meeting of the Policy Advisory Group was held in Anchorage on September 29th and 30th, 1980. Presentations were made by representatives of the Department of Environmental Conservation, the Department of Community and Regional Affairs, the Department of Health and Social Services, the Haines Borough Assembly, and Tanana Chiefs Conference, Inc. The Policy Group reviewed the work that had been done by the Technical Committee.

Chairman Sturgulewski attended the Alaska Federation of Natives convention and a meeting of the Alaska Village Council Presidents to answer questions and receive comments.

The latest Policy Advisory Group meeting was held in conjunction with the Alaska Municipal League's convention in Fairbanks, 10 and 11 November, 1980. Members of the public were heard including representatives from the City of Fairbanks, the City of McGrath, the City of Nome, the City of Saxman, the City of Homer, the Kodiak Island Borough, and the City of Unalaska. The Policy Group reviewed the work that the Technical Committee had accomplished.

To date changes in Title 29 granted preliminary approval by the Policy Advisory Group include a reorganization of the order of the sections, clarification and technical clean-up of the wording in many of the sections, and substantive changes in the area of initiative and referendum, recall, limitations on home rule powers, and procedures dealing with adoption of home rule or unification charters. However, all decisions made by the Policy Advisory Group are subject to further consideration and possible revision.

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

October 7, 1980

SUBJECT: Progress report - Title 29 Revision Committee

TO: Senator Bill Ray, Chairman
Interim Projects Oversight Committee

FROM: Tamara Brandt Cook *TBC*
Legislative Counsel

CSSCR 66, Legislative Resolve 39 of the last regular legislative session directed the Alaska Legislative Council to revise AS 29 (the municipal government code). A Policy Advisory Group was authorized to assist in the revision and I was assigned to the project from the Legal Services Division. Members of the Policy Group were appointed in August, and the first meeting was held in Anchorage on August 27 and 28, 1980. Minutes of that meeting are attached.

During the first meeting the Policy Group appointed a Technical Revision Committee, composed primarily of attorneys with expertise in municipal law to perform actual drafting. The committee was directed to reorganize Title 29 as a first step in the revision. The Policy Group went on to consider various issues including: greater self-determination and latitude for local governments; whether the provisions relating to development cities should be restructured or eliminated; whether changes should be made in the present categories of municipal government; and the possibility of the state recognizing traditional village governments as municipal governments.

The Technical Committee met in Anchorage on September 8, 1980 and worked out a proposed reorganization format for Title 29. Staff was directed to prepare an index of Title 29 according to the proposed reorganization scheme. The Technical Committee met again in Anchorage on September 19, 1980 to consider the proposed reorganization. The proposed reorganization scheme was rejected as too complicated and

Senator Bill Ray
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October 7, 1980

unworkable. An alternative reorganization of Title 29 was worked out and adopted by the committee for presentation to the Policy Advisory Group.

The Policy Advisory Group met in Anchorage on September 29 and 30, 1980. Minutes of that meeting are attached. The morning of the first day was devoted to presentations by members of the public. In the afternoon the Technical Committee presented its reorganization of Title 29. Staff was directed to prepare a complete text of Title 29 according to the proposed reorganization scheme and to mail it to members of the Policy Advisory Group as soon as possible. The rest of the meeting was devoted to discussion of policy issues and proposed changes to Title 29, with the Technical Committee directed to make several drafts incorporating specific changes to be presented for review by the Policy Group at its next meeting.

The next meeting of the Technical Committee is scheduled to take place in Anchorage on October 20, 1980. The committee will attempt to produce a complete technical revision of Title 29, as well as incorporating the specific changes requested by the Policy Group into drafts. The Technical Committee may require three or four additional meetings in order to complete their revision of the municipal code. The Policy Group is scheduled to meet again in Fairbanks on November 10 and 11, 1980. The meeting is planned to coincide with a meeting of the Municipal League to provide maximum opportunity for interested persons to address the Policy Group. After receiving public comments, the group will make a final decision on the reorganization of Title 29, and consider all drafts submitted by the Technical Committee. It is possible that the Policy Group may request one or two additional meetings for the purpose of considering the final revision of the municipal code before presenting it to the legislature. A statement of actual and projected expenditures is attached.

If you have further questions concerning the Title 29 Revision project, please contact me.

TBC:ljb

Enclosures

cc: Senator Arliss Sturgulewski
Billy G. Berrier

Title 29 Commission
Actual and Projected Expenditures
As of 06 October 1980

SCHEDULED MEETINGS:

Balance as of 1 August 1980	\$53,785.00
Policy Group Meeting 27 & 28 August 1980	3,910.25
Technical Group Meeting 08 September 1980	1,601.25
Technical Group Meeting 19 September 1980	1,787.75
Estimated Cost: Policy Group Meeting 29 & 30 September 1980	3,500.00
Estimated Cost: Technical Group Meeting 20 Oct 1980	2,000.00
Estimated Cost: Policy Group Meeting 11 & 12 November 1980	6,000.00
Personal Services to 15 January 1981	11,400.00

UNSCHEDULED MEETINGS:

Policy Group Meeting: Late November 1980	3,500.00
Mid-December 1980	3,500.00
Technical Group Meetings: November 1980	2,000.00
November 1980	2,000.00
Technical Group Meetings: December 1980	2,000.00
December 1980	2,000.00
Projected Total Cost:	45,199.25
Balance:	8,585.75

TITLE 29 REVISION COMMISSION
Policy Advisory Group Meeting

Minutes of November 10 & 11, 1980

The third meeting of the Policy Advisory Group - Title 29 Revision Commission was held November 10 and 11, 1980 in the East Gold Room of the Traveler's Inn, Fairbanks, Alaska. The meeting was called to order by Senator Arliss Sturgulewski, Chairman, at 10:45 a.m.

Present as members of the Policy Advisory Group were: Senator Arliss Sturgulewski, Senator Bob Mulcahy, Senator-elect Charles Farr, Representative Margaret Branson, Ted Berns, Terry Cook, Marilyn Dimmick, Ronald Larson, Gene Moore, Deana Sherby, and Russell Walker. Present as Ex-Officio Members were Palmer McCarter, and Bonnie Hedley from RuralCAP substituting for Phil Smith. The Technical Committee was represented by Ted Berns and Russell Walker as members of both groups, and by Allan Tesche. Present from the staff of Legal Services were Billy G. Berrier, Director and Tamara Brandt Cook, Legislative Counsel.

Guests and members of the public attending were: Stephanie Scott, Haines Borough; Cris Fowler, AOGA; Bob Walker, Exxon; Mike Walleri, Tanana Chiefs; John Arney, Haines Borough; Bob Juetner, City of McGrath; Michael Tavoliero, City of Saxman; Marie Matsuno, Department of Community and Regional Affairs; Ivan Widom, City of Nome; Lisa Buskirk, Tanana Chiefs; John Halliwill, City of Haines; Tommy Nebel, Ketchikan Borough; Kathy Carssow, Ketchikan Borough; Marvin Yoder, Ketchikan Borough; Tom Blanton, Haines Borough; Jerry Clifton, Haines Borough Assembly; Dan Ogt, Kodiak Island Borough; Shirley Collins, Haines; Jack Carpenter, Sitnasuak Native Corporation; Edward A. Stahla, City of Wrangell; Richard Caraga, City of Unalaska; Robert Flint, Wohlforth & Flint; Jack P. Van Leuven, RainierBank.

There were no presentations by guests or members of the public.

Under Old Business, Palmer McCarter reported on ways of getting materials and information to the public. He said the Department of Community and Regional Affairs was planning newsletter inserts and coordinating with the University of Alaska for a special issue of their newsletter to include an insert concerning the revision of Title 29. Chairman Sturgulewski directed Bonnie Hedley to coordinate information activities with Mr. McCarter and Tamara Cook.

Bonnie Hedley gave a report from RuralCAP on special problems of rural communities. She stated that rural communities have little "hook-up" with state agencies and therefore have little access to programs and money. The legislature never meets as the assembly for the Unorganized Borough. It is felt that there are not enough people in small communities to perform all

10 & 11 Nov 80

the required municipal functions as well as the functions of existing forms of government, such as IRA councils. RuralCAP recommends the recognition of IRA councils. Chairman Sturgulewski directed staff to prepare a memo on these issues.

Mike Walleri presented a new draft of his report entitled "Tribal-State Relations, A New Paradigm for Local Government in Alaska". The chair directed staff to review it.

Chairman Sturgulewski reported attending a meeting of the AVCP in Bethel, and said they were getting funds to do a regional government study. She also reported on attending the AFN convention in Anchorage. The people she talked to questioned parallel governments and duplication of functions in the communities where there were municipal governments as well as traditional governments.

Ginny Chitwood of the Municipal League was stranded in Juneau due to weather and her report was postponed.

Billy Berrier reported what the Commission had done to date. Ted Berns said the Technical Committee planned to present final recommendations to the Policy Group by the 15th of December, 1980.

The Technical Committee presented their proposed drafts for consideration to the Policy Group. Representative Branson moved that the Policy Group accept all recommended changes except those requiring more discussion. The motion was seconded and carried. The following sections were accepted. (Note: There were wording changes in some in the following) Sec. 29.06.010, Sec. 29.06.050, Sec. 29.12.260, 29.15.020, 29.15.050, 29.15.110, 29.65.050, 29.30.010, 29.30.020, 29.30.030, 29.30.050, 29.30.095, 29.30.110, 29.30.120, 29.30.130, 29.30.140, 29.30.150, 29.30.160, 29.30.170, 29.30.180. Sections 29.09.180 and 29.30.040 were sent to subcommittees for study.

The meeting was recessed until 9:00 a.m. 11 November 1980.

At 9:00 a.m. 11 November 1980 the meeting was again called to order in the East Gold Room of the Traveler's Inn, Fairbanks, Alaska. All members of the Policy Advisory Group were in attendance. Members of the public and guests who attended the day before were present and the following people attended as well: Ginny Chitwood, Ex-Officio Member; Gerald Lee Sharp, Title 29 Technical Committee; Richard Carnett, III, Title 29 Technical Committee, David Dye, Department of Community and Regional Affairs; Leo Rasmussen, City of Nome; L.C. Farnen, City of Homer; Kathy Herold, City of Homer; Carol Maser, Anchorage Assembly; Jenny Files, Fort Yukon; and former Mayor Bill Wood, Fairbanks.

Mayor Wood gave the first presentation. He spoke on the need for municipalities to have developmental authority in order

to encourage investments within the cities and boroughs. He submitted a letter from the City of Fairbanks regarding tax incentive programs and referred to Fairbanks ordinance 3906. The Technical Committee was directed to review AS 29.53.025.

John Halliwill, Mayor of Haines spoke in favor of the elimination of Third Class Boroughs.

Bob Juetten, City Manager of McGrath spoke on the problems of communities with small populations supporting the large number of organizations making up municipal government. He recommended an evaluation of second class cities and abolishing those that are not functioning. He suggests that the group providing the best service delivery be chosen as the governing body of a community. He feels the different classifications of cities should be abolished and provisions made for local options concerning the assumption of powers and form of government. He sees a need in the bush for a means of dealing with the executive branch of government, perhaps a regional or sub-regional elected body in the Unorganized Borough.

Ivan Widom, City Manager of Nome said there was a need to regionalize concepts in order to see what is happening in specific areas. He recommends giving communities mechanisms for reaching the state in order to benefit from services offered. Mr. Widom also recommended giving communities the option of choosing their own form of government, such as home rule.

Michael Tavoleiro, City Manager of Saxman spoke next, saying there was no definition of local government, i.e., no expressed definition of eligibility characteristics. He feels that second class cities within an organized borough are disenfranchised from planning powers. He stated also that second class cities should have direct access to federal and state programs instead of being required to go through the borough. Mr. Tavoliero cited the Historical Districts program as an example. He feels that local communities should be allowed more self-sufficiency.

Larry Farnen, City Manager of Homer spoke in reference to 29.48.260. He recommended raising the dollar amount in that section from \$25,000 to \$250,000. He wants cities to have the authority to lease land to beneficial new industry. In reference to planning and zoning powers, Mr. Farnen recommended the statutory language be changed to allow boroughs to assume planning and zoning powers if the cities are not willing to exercise them.

Dan Ogt, Mayor of the Kodiak Island Borough cited AS 29.20.160 saying there was no provision for special elections, and recommended special elections be mandated in the statutes.

Richard Careaga, Planning Director for the City of Unalaska wants more definition/clarification of mandatory powers and duties.

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Leo Rasmussen, Mayor of Nome said small government feels that it has lost control of its own destiny. Planning is being taken over by REAAs and SRAAs. He said Nome feels threatened by the possible organization of the Unorganized Borough and he asked for more local autonomy.

Returning to Old Business, the Policy Group continued its review of the recommended drafting changes submitted by the Technical Committee. Sec. 29.30.210 was reviewed. James Kohler moved to not accept the drafted change but to retain the current language. Charles Parr amended the motion, and it carried. The chair directed staff to clarify the wording of the current statute and resubmit it at the next meeting of the Policy Group. Secs. 29.30.220, 29.30.225, 29.30.230, 29.30.240, 29.30.250, 29.30.260, 29.30.270, 29.30.280, 29.30.290, 29.30.300, 29.30.310, 29.30.320, were accepted with no changes or some wording changes. 29.30.330 was sent back to the Technical Committee for redrafting.

Two subcommittees were formed and are to give reports at the next meeting on AS 29.09.180 Organization Grants (Chair-McCarter) and AS 29.30.040 Voter Qualifications (Chair-Dimmick).

Two sections of Title 29 considered obsolete were discussed. The Policy Group will recommend the repeal of the sections on Involvement of Young People in Local Government and the repeal of the sections on Development Cities.

The dates of the next meeting of the Policy Advisory Group were set for 15, 16, and 17 December, 1980 in Anchorage.

Staff is to review the definition of "petitioner".

The meeting was adjourned at 4:30 p.m.

Respectfully submitted,

Melissa Aber Fouse
Secretary, Title 29 Commission

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.06.010. HOME RULE. A home rule municipality is a municipal corporation and a political subdivision. It is a city of the first class or an organized borough which has adopted a home rule charter, or it is a municipality unified in accordance with AS 29.12.190 - 29.12.350. A home rule municipality has all legislative powers not prohibited by law or charter.

EXPLANATION: A reference to unified municipalities along with a cross-reference to provisions dealing with the organization of unified municipalities has been included so that this section will provide a complete definition of home rule. No substantive change.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.06.050. Repeal

EXPLANATION: This section deals with the transition period following the 1972 revision of the Municipal Code and is of no effect. The reclassification of municipalities to conform to provisions of the 1972 Code were to have been essentially completed within two years of September 10, 1972.

Sec. 29.12.260. COMPOSITION OF CHARTER COMMISSION.

(b) If at least one nomination of a qualified charter commission candidate is not filed in accordance with AS 29.12.240. for each available seat the resolution or petition for unification is void and no election on the question of unification shall be held.

EXPLANATION: Subsection (b) has been added to avoid the expense and inconvenience of an election on unification where there is not enough interest in the question to assure that a charter commission can be formed. An alternative would be to provide for appointment of members when not enough nominations are received, but it was felt that in such cases basic interest in unification was probably lacking so the process should be halted.

Sec. 29.15.020. NOMINATION.

(b) A nomination petition shall be filed with the borough or city clerk on or before a date to be fixed by the borough assembly or city council. If at least seven nominations for qualified charter commission candidates are not filed, the petition or resolution calling for a charter commission is void and no election on the question shall be held.

EXPLANATION: Subsection (b) has been added to avoid the expense and inconvenience of an election on the question of forming a charter commission if not enough nominations for commission members are received. An alternative would be to provide for appointment of members in such cases but it was felt that failure to nominate a sufficient number of commission candidates indicated a general lack of interest in the formation of a charter commission.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.15.050. INITIATIVE AND REFERENDUM. (a) A municipal charter shall provide procedures for initiative and referendum.

EXPLANATION: This is technical clean-up creating no substantive change in existing law. However, it has been argued that the phrase "charters shall provide the procedures" refers to the procedures set out in Title 29 applicable to general law municipalities. Consequently, "the" has been dropped in order to clarify the fact that home rule municipalities are free to establish procedures which may differ from those set out in Title 29.

Sec. 29.15.110. LIMITATION OF HOME RULE POWERS.

(13) AS 29.24.340(a) (election and term of mayor) Repeal.

(19) AS 29.30.040 (voter qualification)

(28) AS 29.33.220 (expenditure of borough revenue) Repeal.

EXPLANATION: AS 29.24.340(a) provides that a home rule city may prescribe additional residency requirements by charter for eligibility to hold the office of mayor. This is not a limitation and does not properly appear in the list of home rule limitations. That section also stipulates that a mayor must be a municipal voter, but it is felt that those sort of administrative decisions ought to be left up to a home rule municipality.

AS 29.30.010 provides that three judges shall be appointed for each polling place and that the assembly or council prescribe rules for conduction elections. These appear to be administrative decisions properly left up to a home rule municipality. This section is eliminated from (19) as a limitation.

AS 29.30.030(b) provides that the assembly or council may call a special election upon at least 20 days notice. This is an administrative matter properly left up to home rule municipalities and was eliminated from (19). However, it was felt that AS 29.30.040 dealing with voter qualifications ought to be included as a limitation on home rule powers to preserve uniformity across the state in this area.

AS 29.33.220 provides that revenues collected on an areawide basis may be expended on general administrative costs and on areawide functions only. Likewise, revenues collected outside cities may be expended on general administrative costs and in providing services outside cities. It was felt that home rule municipalities ought to be given more flexibility in managing revenues.

Sec. 29.65.050. FULFILLMENT OF LAND ENTITLEMENTS.

(j) Notwithstanding AS 29.65.010 - 29.65.130, a municipality which is unable to satisfy its entitlement due to a shortage of vacant, unappropriated, unreserved general grant land suitable for residential, commercial or industrial purposes may fulfill its remaining entitlement by selection of other state land which is vacant, unappropriated and unreserved.

EXPLANATION: This added subsection addresses a problem which has come up when a municipality is formed in an area with little vacant state land nearby. This allows a municipality the option of selecting vacant state land which is not general grant land if general grant land is unavailable.

Sec. 29.30.010. ADMINISTRATION. The borough assembly or city council shall prescribe the rules for conducting a municipal election and shall appoint an election board composed of at least three judges for each precinct. If possible, a judge shall be a voter of the precinct for which he is appointed.

EXPLANATION: Adds the provision that judges be appointed from among precinct voters in order to conform to the 1980 revision of AS 15.10.120. "The municipality may not alter voter qualification requirements of this title" was deleted because that issue is addressed in AS 29.28.030. Subsection (b) which makes this applicable to home rule municipalities was deleted to conform to the change suggested in the proposed draft of AS 29.15.110.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.020. NOMINATIONS. (a) The assembly or council shall provide by ordinance the procedure for the nomination of elected officers by declaration of candidacy, or petition requiring the signatures of not more than 10 voters, or both.

EXPLANATION: This is a technical revision which does not substantively alter existing law.

Sec. 29.30.030. ELECTION DATES. (a) Unless otherwise provided by ordinance, a regular municipal election shall be held annually on the first Tuesday of October.

EXPLANATION: This is a technical revision assuring maximum flexibility for local governments.

Sec. 29.30.050. MAJORITY ELECTIONS. (a) A municipality may by ordinance provide for a runoff election if no candidate receives over 40 percent of the votes cast for the office of mayor or member of the assembly, council or school board.

(b) A municipality may by ordinance require a majority vote for the election of officials. A runoff election or other means of obtaining a majority may be used.

(c) Unless provided otherwise by ordinance, a runoff election shall be held within three weeks from the date of certification of the election for which a runoff is required and notice of the runoff election shall be published at least five days prior to the election date.

EXPLANATION: Under existing law a runoff election is required if no candidate receives over 40 percent of the votes cast for his office. This has been liberalized to allow a municipality to provide for this by ordinance for certain offices only. Otherwise, the person who receives the greatest number of votes is elected. The provisions specifying when a runoff must be held and the notice requirements is no longer mandatory. In addition, the procedure set out in (c) for municipalities which desire more procedural guidance allows three weeks before the runoff is held rather than two. The additional time would enable cities within boroughs to coordinate their runoffs and hold them at the same time.

Sec. 20.30.095. APPLICATION FOR PETITION. (a) An initiative or referendum is proposed by an application containing the bill to be initiated or the act to be referred. The application shall be signed by at least ten municipal voters who will sponsor the petition, shall contain the address to which all correspondence relating to the application may be sent and shall be filed with the municipal clerk. Within two weeks the clerk shall certify the application if he finds that it is in proper form, and, for an initiative petition, that the matter

- (1) is not restricted by AS 29.30.090;
- (2) includes only a single subject;
- (3) relates to a legislative rather than to an administrative matter; and
- (4) would not be unenforceable as a matter of law.

(b) A decision by the clerk on an application for petition shall be subject to judicial review.

EXPLANATION: This section is new. The first part is modeled after section 2 of the initiative article in the state constitution. As drafted, the section would require the clerk to review an initiative for substantive legality, with his decision subject to appeal. This would allow for a judicial determination of the legality of an initiative prior to incurring the expense of an election.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.110. PETITION. (a) Within two weeks after certification of an application for petition, a petition shall be prepared by the municipal clerk. The petition shall

(1) contain a summary of the bill to be initiated or the act to be referred;

(2) set out full, the ordinance or resolution sought to be initiated or referred;

(3) state the date on which the petition is issued by the clerk;

(4) contain notice that signatures must be secured within 60 days of the date the petition is issued;

(5) contain spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing address of each signer;

(6) contain a statement that the sponsor personally circulated the petition, that all signatures were affixed in his presence, that he believes the signatures to be those of the persons whose names they purport to be, that each signer had an opportunity before signing to read the petition, that he believes each signer to be a municipal voter, space for indicating the number of signatures on the petition, and space for the sponsor's sworn signature.

(b) Copies of the petition shall be provided to each sponsor by the clerk.

EXPLANATION: This section would require the clerk to provide the petition forms to the petitioners to insure that they are complete and legible. This is similar to the requirement imposed upon the Lieutenant Governor in state initiative proceedings. The petition contents are essentially the same as those provided in present law, with a shortening of the petition circulation time from 90 to 60 days, some expansion of the information the signers must provide, and the addition of the circulator's affidavit.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.120. REQUIRED SIGNATURES. (a) The necessary signatures on a petition shall be secured within 60 days of the date the clerk issues the petition. The statement provided under AS 29.30.110 (a)(6) shall be completed and signed by the sponsor. Signatures shall be in ink or indelible pencil.

(b) A petition shall be signed by a number of voters residing within the municipality based on the number of votes cast at the last regular municipal election held on or prior to the date the petition was issued equal to

(1) 25 percent, when a municipality has fewer than 7,500 persons; or

(2) 15 percent, when a municipality has 7,500 persons or more.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw his signature upon written application to the clerk prior to certification of the petition.

EXPLANATION: This section carries forward the 60 day signature gathering period. It does not eliminate the possibility of an initiative or referendum on a matter which affects only a service area, but it does require that such petitions contain the same number of signatures as a petition on an areawide matter. Permitting a service area to initiate and vote on a matter on a service area basis is contrary to the concept of the service area being under the control of the entire legislative body, and service areas will then have the authority to become essentially autonomous units of government. Changes have been made to require rejection of a signature not accompanied by a legible residence address and to allow a signer to withdraw his name up until the time the petition is certified, whereas now he must withdraw within seven days after the petition is filed.

Sec. 29.30.130. SUFFICIENCY OF PETITION. (a) The pages of a petition shall be assembled and filed as a single instrument. Within ten days of the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.

(b) If a petition is insufficient, it may be amended or supplemented with additional signatures obtained within 10 days after the date on which the petition is rejected.

(3) Within 10 days after the supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

EXPLANATION: The only significant change makes it clear that in providing supplementary signatures, the sponsors have only ten days to gather the signatures and may not use signatures which were gather prior to the first filing but not submitted, and that they may not use signatures gathered during the period in which the clerk is checking the petition.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.140. PROTEST. Repeal

EXPLANATION: Since the clerk determines the sufficiency of a petition, it was felt that allowing a protest to the municipal executive when a petition is rejected to be considered by the assembly or council would serve no purpose. The assembly or council would simply rely upon the clerk, since he has the voter registration records.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.150. NEW PETITION. Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new application for a petition on substantially the same matter may not be filed sooner than six months after the petition is rejected.

EXPLANATION: This section was changed slightly to take into account the application procedure and to clarify that a new petition may not be filed dealing with the same matter, but that a petition on a different matter may be filed sooner than the six month period.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.160. PRESENTATION OF INITIATIVE. (a) When a petition seeks enactment of an ordinance or resolution within the powers of the assembly or council the clerk, after certifying it, shall present it to the assembly or council at its next regular meeting or special meeting called for that purpose.

(b) Unless substantially the same measure is adopted, an initiative measure presented to the assembly or council shall be submitted to the voters at the next regular municipal election held more than 45 days after the measure was presented to the assembly or council. If the assembly or council adopts substantially the same measure and if it is not vetoed, the petition is void and the question shall not be submitted to the voters.

(c) The ordinance or resolution initiated shall be published in full in the notice of the election but may be summarized on the ballot to indicate clearly the proposal submitted.

EXPLANATION: The changes allow for the submission of a measure at any time of the year, but provides it would be placed before the voters at the first regular election occurring 45 days after submission to the assembly or council. Since the clerk determines whether the subject is within the restrictions and since this determination is subject to judicial review, the assembly or council no longer makes that determination. This section requires an areawide vote whether the matter is areawide or nonareawide because a service area should not be allowed to become autonomous.

Sec. 29.30.170. PRESENTATION OF REFERENDUM. (a) Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote, the clerk shall submit the matter to the voters at the next regular or special election. If no regular or special election occurs within 75 days of the certification of a petition, the assembly or council shall hold a special election within 75 days of filing.

(b) If a petition for referendum is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension, the assembly or council may not enact an ordinance or resolution substantially similar to the suspended measure.

(c) If the assembly or council repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

(d) If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it is suspended, becomes immediately effective.

EXPLANATION: The ability to suspend an ordinance or resolution which had taken effect when a petition is filed within 20 days of the passage of the ordinance or resolution has been deleted to avoid the apparent ability of a part of the voters to exercise a temporary repeal. The reference to amending a charter by initiative or referendum was deleted as it is covered under AS 29.13.080. This section once again requires submission of the question to the areawide voters.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.180. EFFECT. (a) An ordinance or resolution adopted in an initiative election or adopted after a petition which contains substantially the same measure has been filed may not be repealed or amended by the assembly or council within two years of its effective date.

(b) If an ordinance or resolution is repealed in an referendum election or by the assembly or council after a petition which contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the assembly or council for a period of one year.

(c) An unsuccessful initiative or referendum precludes the filing of a new petition application for substantially the same measure sooner than six months after the election results are certified by the assembly or council.

EXPLANATION: Technical revisions and a change in (c) to accommodate the petition application process.

Sec. 29.30.220. GROUNDS. Grounds for recall may include any grounds which constitute failure to perform official duties to the satisfaction of petitioners.

EXPLANATION: This section broadens the grounds for recall in order to avoid forcing petitions to name a ground in a petition which has no connection with the real reasons which may inspire a recall effort. It is felt that an elected official ought not to be subjected to being labeled incompetent or guilty of misconduct or failure to perform his duties in a petition when the reason for a recall effort may not be based on any of those things.

Sec. 29.30.225. APPLICATION FOR RECALL PETITION. An application for a recall petition shall contain

(1) the signature and residence address of at least ten voters who will sponsor the petition;

(2) the address to which all correspondence relating to the application may be sent;

(3) a statement in 200 words or less of the grounds of the recall stated with particularity as to specific actions, pertinent ordinances, laws, regulations, or judicial decrees.

EXPLANATION: This section requires a submission of an application to the clerk for a recall petition. The clerk will provide petition forms and the application procedure is necessary in order to allow the official sought to be recalled to be given an opportunity to have his statement included on the petition.

Sec. 29.30.230. PETITION. (a) If the municipal clerk determines that an application for a recall petition meets the requirements of AS 29.30.225, he shall submit a copy of the application to the official who is the subject of the application. The official shall have ten days from receipt of the application to provide the clerk with a statement of 200 words or less if he so chooses.

(b) The clerk shall prepare a recall petition containing

- (1) the name of the official sought to be recalled;
- (2) The statement of the grounds for recall as set forth in the application;

- (3) if provided, the statement of the official sought to be recalled;

- (4) the date the petition is issued by the clerk;
- (5) notice that signatures must be secured within 30 days of the date the petition is issued;

- (6) spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing address of each signer;

- (7) a statement that the sponsor personally circulated the petition, that all signatures were affixed in his presence, that he believes the signatures to be those of the persons whose names they purport to be, that each signer had an opportunity before signing to read the petition, that he believes each signer to be a municipal voter, space for indicating the number of signatures on the petition, and space for the sponsor's sworn signature.

(c) Copies of the petition shall be provided to each sponsor by the clerk.

EXPLANATION: This section sets forth requirements similar to those proposed under the initiative and referendum procedures as it relates to petition content. Requiring the clerk to prepare the petition insures that it is complete and legible. The period of time within which signatures must be collected has been reduced to 30 days to minimize the period of disruption in government created by a recall effort.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.240. REQUIRED SIGNATURES. (a) The necessary signatures on a recall petition shall be secured within 30 days of the date the clerk issues the petition. The statement provided under AS 29.30.230(b)(7) shall be completed and signed by the sponsor. Signatures shall be in ink or indelible pencil.

(b) If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by 35 percent of the voters residing within the municipality based on the number of votes cast at the last regular election for that office. If a petition seeks to recall an official who represents a district, the petition shall be signed by 35 percent of the voters residing within the district based on the number of votes cast at the last regular election for that office.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw his signature upon written application to the clerk prior to certification of the petition.

EXPLANATION: This section continues the 30 day signature gathering period and clarifies which election is to be used as a standard for determining the number of signatures required. The number of signatures required has been increased as compared to the number required for initiative and referendum because it is felt that recall is an especially disruptive process which should be more difficult to initiate. However, the signature requirement is based on the number who voted in a municipal rather than a state election. It is expected that this number will reflect a relatively low turnout, and therefore that it is not as difficult a requirement as may appear.

Sec. 29.30.250. SUFFICIENCY OF PETITION. (a) The pages of a petition shall be assembled and filed as a single instrument. Within ten days of the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.

(b) If a petition is insufficient, it may be amended or supplemented with additional signatures obtained within ten days after the date on which the petition is rejected, except that a petition which is insufficient on its face may not be supplemented. It shall be rejected and filed as a public record.

(c) Within ten days after the supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

EXPLANATION: Unlike the situation in initiative and recall, this section does not allow additional time for obtaining signatures when a petition is filed which does not have enough signatures even before any are disqualified. This keeps a petitioner from filing an insufficient petition to gain additional time to gather signatures. Once again, it is felt that in the case of a recall effort, the process ought not to be prolonged.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.260. NEW PETITION. The rejection of a petition for any reason does not preclude the filing of a new recall petition. However, a new application may not be filed sooner than six months after a petition is rejected.

EXPLANATION: Filing a new petition prior to the six month waiting period is prohibited even though the petition is rejected for a reason other than failure to obtain sufficient signatures. Under existing law, failure to obtain sufficient signatures alone triggers the waiting period.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.270. SUBMISSION. If a recall petition is sufficient, the clerk shall submit it to the assembly or council at its next regular meeting.

EXPLANATION: This section requires the clerk to submit the petition at the next regular meeting rather than immediately as required under existing law.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.280. ELECTION. (a) If a regular election occurs within 75 days, but not sooner than 40 days after submission of the petition to the assembly or council, the assembly or council shall submit the recall at that election.

(b) If no regular election will occur within 75 days, the assembly or council shall hold a special election within 75 days but not sooner than 40 days after a petition is submitted to the assembly or council.

(c) If a vacancy occurs in the office after a sufficient recall petition is filed with the clerk, the petition shall not be submitted to the voters. The assembly or council may not appoint the official who resigns from an office after a sufficient recall petition is filed naming him to the same office.

EXPLANATION: The 40 days requirement was added to insure that a petition submitted after the legal notices of a regular election were published would not complicate the election. Added in section (c) is the prohibition against the appointment of an official who resigns after a sufficient recall petition is filed.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.290. FORM OF RECALL BALLOT. A recall ballot shall contain

(1) the grounds as stated in 200 words or less on the recall petition;

(2) the statement of the official which appeared on the recall petition or a statement of 200 words or less which is filed with the clerk for publication and public inspection within 20 days before the election;

(3) the following question: "Shall (name of person) be recalled from the office of (office)? YES () NO ()".

EXPLANATION: This section makes reference to the fact that the statement of the grounds is limited to 200 words or less and provides that the statement of the official used on the petition will appear on the ballot unless the official provides a different statement.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.300. ELECTION PROCEDURE. Procedures for conducting a recall election are those of a regular municipal election if the question is submitted at a regular election. Procedures for conducting a recall election are those of a special election if the question is submitted at a special election, except that 20 days notice shall be given notwithstanding an ordinance or charter provision to the contrary.

EXPLANATION: This section was changed to provide for cases in which a recall election is held as a special election.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.310. MAJORITY REQUIRED. A majority vote is required to recall an official. Only those voters residing in the district or area which elects an official may vote on the recall of the official.

EXPLANATION: This section adds a new sentence which makes it clear that if an official is elected by the voters of a district, then only those voters may vote to recall him.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.30.320. EFFECT. If a majority votes to recall an official, the official's seat shall become vacant immediately upon certification of the result of the election. If an incumbent is not recalled at a recall election, an new application for a petition to recall the same incumbent may not be filed sooner than six months after the date the election is certified.

EXPLANATION: The first sentence was added to make it clear when a recalled official loses his seat. The second sentence clarifies the fact that the commencement of the six month period is the date of certification of the election results.

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Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capital
Juneau, Alaska 99811

Official Business

To: Billy Berrier, Director
Division of Legal Services

Date: September 22, 1981.

From: Linda Otey, Committee Aide
House CRA Committee *L.O.*

David Dye, Committee Aide *D.D.*
Senate CRA Committee

The following pages list the revised detailed changes that were adopted by the House CRA Committee during the meetings regarding the Title 29 Revision, HB 170 & SB 180. These same changes were also considered by the Senate CRA Committee but were not officially adopted. Senator Gilman, Chairman, and Senator Sturgelewski were in attendance during the meetings and agreed to support the changes and recommend their adoption to the absent committee members.

The Division of Legal Services has been directed to draft the necessary language to follow through with the intent of the committees. These changes will be drafted in the form of amendments and will be approved by both committees at a later date.

Joint CRA Committee Meeting
September 11 & 12

Revisions to HB 170 & SB 180:

1. Page 1, Line 11:

Delete "division of lands" and insert "Department of Natural Resources".

2. Chapter 04 was deferred until a later date.

3. Page 6, Line 8:

Delete "hearing" and insert "informational meeting". Legal Services was requested to draft language for a 'public notice' requirement.

4. Page 12, Article 2:

Title Change, delete "Exclusion" and insert "Detachment", also, make same change wherever necessary throughout Article.

5. Page 12, Article 2:

Legal Services requested to draft appropriate language which clarifies the Local Boundary Commission's power to alter boundaries from those presented in a petition and provide for formal process of appeal.

6. Page 13, Line 6:

Legal Services requested to check citation, AS 44.19.260.

7. Page 13, (new section)

Legal Services requested to add language for alteration authority and formal process for appeal using similar language as that in 29.05.100.

8. Page 16, Line 14:

Article 4 - Legal Services requested to draft language to clear up ambiguity as to whether or not a vote to form a charter commission is also a vote to unify.

9. Page 22, Line 13:

Delete "by radio and television" and insert suitable 'public notice' language (Legal Services request).

10. Page 23, Line 2:

Legal Services requested to draft language to require certification of election to the Commissioner of the Dept. of CRA in order that a certificate of reclassification may be issued.

Revisions to HB 170 & SB 180

11. Page 26, Line 11:

Legal Services requested to draft language under the proposed 29.06.470 section to allow for formal appeal procedures.

12. Page 29, Line 25:

Legal Services requested to check the citations listed under subsection (7) of 29.10.110.

13. Page 30, between lines 12 & 13:

Re-number and insert subsection "AS 29.25.060 (Resolutions)".

14. Page 30, Line 26

Delete (c) and insert (b).

15. Page 37, Line 20:

After the word representation insert "adopted by the voters", or similar language with same intent (Legal Services request).

16. Page 42, Line 14:

Legal Services draft language to reflect that the term of the governing body members may not be limited.

17. Page 44, Line 17:

Delete all of subsection (g).

18. Page 45, Line 23:

Article 3. Title Change, Delete "BOROUGH" and insert "Municipal".

19. Page 46, Line 20:

After the word "of", insert "consecutive".

20. Page 46, Line 21:

Legal Services requested to draft language at the end of the sentence to state that the term a mayor may serve can only be limited by an ordinance ratified by the voters.

21. Page 55, Line 16:

Delete "Chapters" and insert "sections".

1. Page 56, Line 1: 29.25.010:

Delete "except" and add "and".

Question: Is it correct that this section does not apply to home rule municipalities unless otherwise stated in subsections?

2. Page 58, Line 26: 29.25.060:

Insert this section on Page 30, Home Rule Limitations, and renumber accordingly.

3. Page 59, Line 6: 29.25.070

Delete "city and borough" and insert "municipality".

4. Page 60, Line 23 (b): 29.26.050:

Question: Does this intent cover district residency?
(Committees Intent)

5. Page 61, Line 4: 29.26.060:

Delete Subsection (b).

6. Page 62, Line 3: 29.26.070:

Delete "city and borough" and insert "municipality".

7. Page 62, Line 11: 29.26.100:

Delete (b) and insert at the end of the Article as new section; renumber accordingly. *

8. Page 62, Line 29: 29.26.120

Delete entire section (per Tam Cook)

9. Page 63, Line 10: 29.26.130:

Delete the semi-colon and add "as submitted by the sponsors."

10. Page 64, Sec. 29.26.150:

Legal Services to draft language to require notification to sponsor by certified mail before 10 day period begins. (add new subsection?)

11. Page 65, Line 18: 29.26.200

After the word "repealed" add "or amended".

12. Page 66, Line 20, 29.26.200:

Delete sentence after the word "filed."

13. Page 66, 29.26.200

Add new subsection after (c) to include change from page 62, Line 11, addition to Home Rule Limitations for the entire Article 2.

14. Page 67, Line 2: 29.26.240:

Legal Services to rewrite section 240 using 15.45.490 for consistency.

15. Page 68, Lines 19-21: 29.26.280:

Question: Legal Services prepare to address details of HB 170 as it could be amended to reflect details of 15.45.610 - Filing of Petition. The intent of both committees here is that municipal officials be subject to the same recall statutes as that of state officials.

See Legal Services Proposed Amendment

16. Page 69, Line 2: 29.26.290:

Use similar language as used in 29.26.150 regarding notification to sponsors by certified mail.

17. Page 69, Lines 14-16:

Legal Services to draft language requiring that petition be submitted at the next regular meeting or a special meeting called for the purpose of accepting the petition.

18. Page 70, Line 17:

Legal Services to draft language for (c) indicating reference for consistency of 14.12.070.

19. Page 70, Line 29: 29.26.350:

Question: Is subsection (e) in conflict with 29.20.180-regular vs. special elections?

20. Page 71, Line 15:

Delete "city and borough" and insert "municipalities"

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21. Page 72, Line 8 (9): 29.35.010:

Request legal opinion regarding this subsection (9).
Is this language an additional 'grant of power' to expend
money for "facilities and services"?

22. Page 72, Line 9: 29.35.010:

Delete "city and borough" and insert "municipality".



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

465-4934
465-3824

JUNEAU, ALASKA

Porch V
State Capitol
Juneau, Alaska 99811

11/16/81

M E M O R A N D U M

TO: Billy Berrier, Director
Division of Legal Services

FROM: Linda Otey, Committee Aide
House CRA Committee *LD*

Bob Berry, Committee Aide
Senate CRA Committee *W*

The following pages list the revised detailed changes that were suggested by both the House and Senate Community & Regional Affairs Committees during the November meetings in Anchorage regarding HB 170 and SB 180.

The Division of Legal Services has been requested to draft the necessary language to follow through with the intent of the Committees. There were also a few questions raised by committee members that were left unanswered. It is the desire of the Committees that you address these issues at the next Joint Committee meeting in December.

The December meeting will hopefully conclude the revisions to both HB 170 and SB 180. It is the intent of the Chairman of the Committees, to be prepared to adopt any amendments to these bills, in the final language, at this time.

(*) represents review and recommendations requested

Joint CRA Committee Meeting
 November 5, 6, & 7, 1981
 HB 170 & SB 180

1. Page 73, Line 9:

After 'of' insert a. Delete "authorized" and "in accordance with" and insert under the procedures set out in....

Legal Services to research question; Do utilities have a separate eminent domain power?

2. Page 76, Line 5:

Delete "by the mayor"

3. Page 77, Line 7:

Delete "except unified municipalities"

4. Page 77, Line 25

Delete "may"

5. Page 77, line 26:

After 'taxes' insert which are

6. Page 78, Line 2-4

Delete section 35.180.

* 7. Page 78, Line 7

Add section 29.35.190 to Home Rule limitations. Ask Legal Service if this is applicable.

8. Page 79, Line 9:

Delete subsection (8) and replace with:
(8)tax, spend and regulate for the purpose of promoting economic development.

9. Page 80, Line 9: Subsection (b):

Legal Services to draft language to insure that 2nd class cities are not school districts.

Page 2
Joint CRA Meeting
HB 170 & SB 180 Revisions

10. Page 80; Line 14:
Incorrect citation, Delete 29.35.180 and insert 29.35.190.
11. Page 80, Line 15:
(d) - Delete "municipalities, except unified municipalities" and insert cities.
12. Page 81, Line 11 & 12:
Legal Services to draft language in new subsection (c) with intent of 29.38.040 of existing law relating to public hearings.
- 13: Page 84, Line 21:
After "assembly may" add by ordinance.
14. Page 85, Line 10: Subsection (1):
Delete "prepare" and insert review.
15. Page 85, Line 13: Subsection (1):
Delete "prepare" and insert review.
16. Page 86, AS 29.40.050:
Legal Services to review (a) beginning with "The assembly shall provide.....", bottom of page.
17. Page 89, Line 5:
Delete "all lots" and insert any lot.
18. Page 89, Line 6:
Delete "tracts" and insert tract. Delete "created" and insert within.
19. Page 89, Line 11:
Delete "and", insert or.
20. Page 89, Line 17: AS 29.40.110:
Legal Services to draft language to be consistent with 29.40.100 (b).

31. Page 110, Line 2:

Delete "and amount of taxes".

32. Page 110, Line 25:

Legal Services to draft language permitting a graduated penalty (increment system).

33. Page 110, Line 27:

After "percent" insert unless a different rate is set by ordinance.

34. Page 113, AS 29.45.320 & 29.45.330:

Legal Services to review possible conflict of sections. There appears to be no option in .330 to provide otherwise by ordinance.

35. Page 119, Line 9:

After "time" insert within 10 years and

36. Page 119, Line 13:

Delete "of eight" and insert not to exceed 15

37. Page 119, Line 21:

Included omitted section 29.45.480 (29.53.380 of current law.)

* 38. Page 120, Line 24:

Legal Services to review effect of possible addition of 29.45.080 and 29.45.450 - and 29.45.240 (b).

39. Page 121, Line 25:

Delete "a home rule or".

40. Page 122, Line 20:

Delete last sentence and insert when recorded, a lien authorized under this section is superior to all other liens except those for property taxes and special assessments.

41. Page 122, Line 23:

After "collects" insert only.

42. Page 123, Line 18:

Delete subsection (b).

Page 5
Joint CRA Meeting
HB 170 & SB 180 Revisions

- * 43. Page 124, Line 16:
Legal Services to review 29.46.010
- 44. Page 143, Line 8:
Delete "(0:1)"
- 45. Page 143, Line 9:
After "the" insert per capita.
- 46. Page 144, Line 11:
"Census" is spelled incorrectly.
- 47. Page 148, Line 12 and
Page 150 Sec. 29.60.140:
Legal Services to delete and rewrite with intent of language
of SB 168 (Dept. CRA suggestion).
- 48. Page 168, Line 17,
Page 168, Line 25
Page 169, Line 3
Delete subsections (b). Request Legal Services to draft
replacement language if necessary.
- 49. Page 170, Line 11:
Legal Service to review definition of "(17) published".

Section-by-Section Analysis

SB 180

Sec. 29.03.030. This is a section added to the chapter dealing with the unorganized borough in order to cross-reference the section authorizing the division of lands to act as the platting authority in the unorganized borough.

Sec. 29.04.010. This section has been altered to allow a city of any class to adopt a home rule charter. Unified municipalities have been included within the definition of home rule municipality. (AS 29.08.010)

Sec. 29.04.020. No change. (AS 29.08.020)

Sec. 29.04.030. Third class boroughs are deleted from classes of general law municipalities. (AS 29.08.030)

Sec. 29.04.040. (a) The phrase "as provided in this subsection" has been deleted as unnecessary. (AS 29.08.040(a))

(b) No change. (AS 29.08.040(b))

(c) No change. (AS 29.08.040(c))

(d) No change. (AS 29.08.040(d) and (e))

(e) "Department of Community and Regional Affairs" has been altered to read "department". This bill adds "department" to the definitions section and uses that term throughout in place of "Department of Community and Regional Affairs". (AS 29.08.040(f))

(f) Deletes the reference to third class boroughs.

(AS 29.08.040(g))

The material currently dealing with reclassification to third class status has been deleted. (AS 29.08.040(h), (i), and (j))

Sec. 29.04.050. (a) This is new material providing that a third class borough in existence on the effective date of this bill will continue in existence until it is reclassified.

(b) Allows for reclassification of a third class borough to first or second class status. (AS 29.06.040(g))

(c) Provides that if a third class borough is reclassified, a school board shall be elected. The assembly will continue to serve as the school board until the new board is elected. Under existing law, if a third class borough is reclassified, voters have the option of retaining a combined assembly and school board. Note that under AS 14.12.110 a single body may serve as the assembly and school board for any borough school district, so a third class borough could, under that section, still retain the combined assembly and school board upon reclassification. (AS 29.08.040(i))

Sec. 29.25.010. (a)(1) No change. (AS 29.18.011(a)(1))

(a)(2) No change. (AS 29.18.011(a)(2))

(a)(3) The term "local services" has been altered to "municipal services". (AS 29.18.011(a)(3))

(a)(4) The term "local government" has been altered to "city government". (AS 29.18.011(a)(4))

(a)(5) The term "local government" has been altered to "city government". AS 29.18.011(a)(5))

(b) No change. (AS 29.18.011(b))

Sec. 29.05.020. (a) No change. (AS 29.81.021(a))

(b) The term "organized borough" has been altered to "home rule or general law" because borough is defined to include general law only. (AS 29.18.020(b))

Sec. 29.05.030. This section contains several technical changes. The term "organized borough" has been replaced with "borough" since that is defined to include only organized boroughs. The term "local services" has been replaced by "municipal services". The term "local government" has been replaced by "borough government" as being more precise, since this section deals with the incorporation of boroughs and not cities. (AS 29.18.030)

Sec. 29.05.060. "Department of Community and Regional Affairs" has been replaced by the word "department" and that word is defined in the bill. The word "municipality" has been replaced by "city or borough" because "municipality" is defined to include all classes of municipal government including home rule governments. Since only organized municipalities may adopt home rule charters, this section clearly does not apply to home rule municipalities.

(7) has been changed so that signature requirements apply to home rule and first class cities as a unit and then to the rest of the voters in the area of the proposed borough as another unit. Under existing law only first class cities are treated as a special unit for the purpose of gathering signatures. The paragraphs have been reorganized so that the most general requirements precede the most general requirements for incorporation. (AS 29.18.050)

Sec. 29.05.070. "Department of Community and Regional Affairs" has been altered to "department" which is defined. (AS 29.18.060)

Sec. 29.05.080. (a) Combines material currently found in (a) and (c). "Department of Community and Regional Affairs" has been altered to "department".

(b) No change. (AS 29.18.070)

Sec. 29.05.090. "Department of Community and Regional Affairs" has been altered to "department". (AS 29.18.080)

Sec. 29.05.100. "ON BOROUGH INCORPORATION" has been deleted from the heading because this section applies to incorporation of both cities and boroughs. The term "municipality" has been replaced by "city or borough". (AS 29.18.090)

Sec. 29.05.110. This section contains a few minor changes, so that the use of language is consistent throughout the bill. The word "officer" ^{is} to "official" and that is the term ^{used} throughout. Currently, Title 29 uses the terms municipal "officer" and "official" interchangeably. I note that effect January 1, 1981, the director of elections became responsible for conducting state elections rather than the lieutenant governor. I would recommend that the director of elections be made responsible for municipal elections under this section as well. (AS 29.18.110)

¹¹⁰
Sec. 29.05.110. This section has been reorganized. Once again, current references to the lieutenant governor ought to be changed to the director of elections.

(a) Contains material currently found in (b).
^{AS 29.18.120}

- (b) Contains material currently found in (b). ^{AS 29.18.120}
- (c) Contains material currently found in (b). ^{AS 29.18.120}
- (d) Contains material currently found in (c). ^{AS 29.18.120}
- (e) Contains material currently found in (d). ^{AS 29.18.120}
- (f) Contains material currently found in (e). (AS 29.-
18.120) ^{AS 29.18.120}

Sec. 29.05.130. The phrase "borough assembly or city council" has been replaced by the phrase "governing body" which is used consistently throughout this bill. The last line of the current section has been dropped as no longer necessary. The provisions of this section apply to all organized boroughs whether incorporated or organized before or after September 10, 1972.

Sec. 29.05.140. Minor wording changes have been made to this section to improve readability and to insure that terms are used consistently throughout the title.

Subsection (d) was added to indicate that the section applies to home rule and general law municipalities, however, this is not a substantive change because the section currently applies to home rule municipalities under AS 29.14.100. (AS 29.18.140)

Sec. 29.05.150. "Municipality" is replaced by "city or borough" defined to include general law cities and boroughs only. (AS 29.18.150)

Sec. 29.05.180. This section now applies only to organization grants for cities. A new section has been added to the bill to deal with organization grants ^{to cities}

boroughs. A city shall be entitled to a first year organization grant of \$50,000 and to a second organization grant of \$25,000. Under existing law, a municipality is entitled to receive \$10 for every voter or \$25,000 minimum, and the municipality receives no grant the second year. (AS 29.18.180)

Sec. 29.05.190. This section deals with organization grants to boroughs only and would apply to boroughs incorporated after July 1, 1981. A borough shall be entitled to a first year organization grant of \$300,000; a second year grant of \$200,000; and a third year grant of \$100,000. Under existing law a borough received \$10 for every voter or a minimum \$25,000 grant. (AS 29.18.180)

Sec. 29.05.200. This is new material establishing an organization grant fund. The Department of Community and Regional Affairs is required to prepare a yearly report on the fund to be presented the Department of Administration.

Sec. 29.05.210. This is new material which requires the Department of Community and Regional Affairs to determine the population of a newly incorporated borough, help the borough establish the initial assessment and collection department if it has adopted a sales or use tax; and to help the borough to determine the initial assessment roll if the borough has adopted a property tax.

Sec. 29.06.010. The phrase "qualified voters voting on the question at a regular or special election" has been replaced by "voters after an election". Both "voters" and "election" are defined. Subsection (d) has been added which applies the section to home rule municipalities, however, this is not a substantive change since the section applies under AS 29.13.100. Once again, references to the lieutenant governor ought to be changed to the director of elections. (AS 29.73.050)

Sec. 29.06.040. This section contains only minor word changes so that language used in Title 29 which is defined is uniformly ^{used} throughout the title.

(a) "Local government" is altered to "municipal".

(b) "Cities and boroughs" is altered to "municipalities" which by definition includes home rule governments. "Assembly or council" is changed to governing body which is defined. (AS 29.68.010)

Sec. 29.06.050. "City or borough" is changed to "municipality" which includes general law and home rule municipalities by definition. In the second sentence, home rule or general law is added before "city" and "borough" because "city" and "borough" are defined to include general law municipalities only. The requirement contained in the section that territory annexed by a city, in a borough automatically is annexed to the borough ~~should be~~ applicable to home rule municipalities as well. (AS 29.68.020)

Sec. 29.06.060. This is new material specifically applying the sections dealing with annexation to home rule municipalities. The material contained in AS 29.06.040 is currently a limitation on home rule municipalities.

Sec. 29.06.090. The phrase "home rule and general law" has been eliminated since "municipality" is now defined to include home rule and general law. (AS 29.68.030)

Sec. 29.06.100. "Department of Community and Regional Affairs" has been replaced by "department". The word "existing" has been added to make it clear that some requirements refer to the existing municipality and some to the proposed municipality. (AS 29.68.040)

Sec. 29.06.040. This section contains only minor word changes so that language used in Title 29 which is defined is uniformly ^{used} throughout the title.

(a) "Local government" is altered to "municipal".

(b) "Cities and boroughs" is altered to "municipalities" which by definition includes home rule governments. "Assembly or council" is changed to governing body which is defined. (AS 29.68.010)

Sec. 29.06.050. "City or borough" is changed to "municipality" which includes general law and home rule municipalities by definition. In the second sentence, home rule or general law is added before "city" and "borough" because "city" and "borough" are defined to include general law municipalities only. The requirement contained in the section that territory annexed by a city, in a borough automatically is annexed to the borough ~~should be~~ applicable to home rule municipalities as well. (AS 29.68.020)

Sec. 29.06.060. This is new material specifically applying the sections dealing with annexation to home rule municipalities. The material contained in ~~AS 29.06.040~~ ^{Sec. 29.06.040} is currently a limitation on home rule municipalities.

Sec. 29.06.090. The phrase "home rule and general law" has been eliminated since "municipality" is now defined to include home rule and general law. (AS 29.68.030)

Sec. 29.06.100. "Department of Community and Regional Affairs" has been replaced by "department". The word "existing" has been added to make it clear that some requirements refer to the existing municipality and some to the proposed municipality. (AS 29.68.040)

Sec. 29.06.110. "Department of Community and Regional Affairs" has been changed to "department". (AS 29.68.050, 29.68.060)

Sec. 29.06.120. "Department of Community and Regional Affairs" has been changed to "department". (AS 29.68.070)

Sec. 29.06.130. "Assembly or council" has been changed to governing body. Material contained in the last sentence under current law has been placed into a new subsection (b). (AS 29.68.080)

Sec. 29.06.140. Material currently contained (a) and (b) ^{AS 29.62.090} has been combined into (a). The statutory reference in (d) ^{AS 29.62.090} ~~of existing law~~ has been eliminated as unnecessary. ^{Reference to "conduct of elections"} (AS 29.68.090)

Sec. 29.06.150. No change. (AS 29.68.100)

Sec. 29.06.160. No change. (AS 29.68.110)

Sec. 29.06.170. This is a new section providing that the article on merger and consolidation applies to home rule municipalities. These sections are currently applied to home rule municipalities under AS 29.13.100.

Sec. 29.06.190. "Home rule or general law" has been added before "borough" and "cities" because the terms are ~~currently~~ defined to apply to general law municipalities. (AS 29.68.240)

Sec. 29.06.200. "Borough" has been dropped before "assembly" as unnecessary. "City" has been dropped before "council" as unnecessary. (AS 29.68.250)

Sec. 29.06.210. "Unification" has been added to make it clear that this is a special type of petition. (b)(1) and (2) have been slightly rewritten for clarity. (AS 29.-68.260)

Sec. 29.06.220. The statutory citation to the preceding section has been deleted as necessary. (AS 29.68.270)

Sec. 29.06.230. This has been slightly rewritten for clarity and the citation to the section which follows ' is been deleted as unnecessary. (AS 29.68.280, 29 68.290)

Sec. 29.06.240. No change. (AS 29.68.300)

Sec. 29.06.250. (a) This has been rewritten for clarity. Under existing law membership is divided between the area outside cities and the area inside cities. This is altered so that membership is divided between the area outside home rule and first class cities and the area inside home rule and first class cities in the borough. (AS 29.68.310)

(b) This is new material providing that a resolution or petition for unification is void if insufficient nominations are received for the charter commission.

Sec. 29.06.260. The phrase "home rule and general law" has been added before borough because this section applies to home rule municipalities and borough is defined to exclude them. Material currently found in subsection (b) has been added to subsection (a). (AS 29.68.320)

Sec. 29.06.270. "Home rule or general law" has been added before "borough" since that term is defined to exclude home rule. "Those" has been eliminated from (b) as unnecessary. (AS 29.68.330)

Sec. 29.06.280. Minor wording changes have been made for clarity. (f) contains the material now found in (f) and (g). (AS 29.68.340)

Sec. 29.06.290. The language "at a regular or special borough election called by the borough assembly held within 60 days of the date of publication and posting of the proposed charter as required in sec. 380 of this chapter" has been deleted as unnecessary. Parts have been slightly rewritten for clarification and statutory citations to other sections in (a)(5) and (7) are deleted as unnecessary. Subsection (b) is deleted as unnecessary. (AS 29.68.350)

Sec. 29.06.300. Some excessive verbage has been eliminated. (AS 29.68.360)

Sec. 29.06.310. "Home rule or general law" is added before "city" and "borough" since these terms are defined to exclude home rule municipalities. (AS 29.68.370)

Sec. 29.06.320. The language "once in at least one newspaper having general circulation distributed within the borough, if there is a newspaper having general circulation distributed in the borough" is eliminated as unnecessary since "published" is defined. "Home rule or general law" has been added since the words "city" or "borough" standing alone refer only to a general law municipality. (AS 29.68.380)

Sec. 29.06.330. The reference to the section dealing with charter preparation has been deleted in favor of restating the requirement that the election be held within 60 days. Subsection (e) has been altered to eliminate the citation to sec. 110(e) of this chapter, which is an incorrect citation. As changed the assembly shall simply appoint new members to fill vacancies. If these appointments are to conform with the area representation scheme established for the original

charter commission, this subsection would have to be altered to require the assembly to appoint members to fill vacancies in accordance with AS 29.68.310, under this bill AS 29.06.250. (AS 29.68.390)

Sec. 29.06.340. The statutory citation to the Article on unification is eliminated as unnecessary. (AS 29.68.400).

Sec. 29.06.350. This has been slightly reworded for clarity. (AS 29.68.410).

Sec. 29.06.360. This section has been slightly reworded for clarity. (AS 29.68.420).

Sec. 29.06.370. This has been reworded for clarity and the statutory reference to the unification article has been deleted as unnecessary. (AS 29.68.430).

Sec. 29.06.380. (2) has been changed so that it is clear that a unified municipality has the powers of a home rule borough, since a unified municipality is a home rule unit of government. (AS 29.68.440).

Sec. 29.06.390. This a new section making the provisions dealing with unification applicable to home rule municipalities. Although annexation, merger and consolidation, and dissolution are currently home rule limitations, the sections dealing with unification are not applicable to home rule municipalities, ^{in municipalities} under existing law.

Sec. 29.06.420. No changes other than changes in terminology used consistently throughout ~~title 29 in~~ this bill. (AS 29.68.500).

Sec. 29.06.430. No changes except for minor rewording for clarity. (AS 29.68.510).

Sec. 29.06.440. No changes, except for minor rewording for clarity. (AS 29.68.520).

Sec. 29.06.450. "Department of Community and Regional Affairs" has been altered to "Department". (AS 29.68.530, 29.68.540).

Sec. 29.06.460. No changes except for minor rewording for clarity. (AS 29.68.550).

Sec. 29.06.470. No change. (AS 29.68.560).

Sec. 29.06.480. Material contained in ^{AS 29.06.570} (a) and (b) ~~under~~ ^{of} existing law is contained in (a). References to the Lieutenant Governor ought to be changed to the Director of Elections, who is now in charge of state elections. (AS 29.68.570).

Sec. 29.06.490. The statutory reference contained in existing laws deleted as unnecessary. (AS 29.06.580).
68

Sec. 29.06.500. This is a new section providing that the article dealing with dissolution applies to home rule municipalities. AS 29.13.100 makes these sections applicable to home rule municipalities under current law.

Sec. 29.10.010. A city or borough of any class may adopt a home rule charter. This is a significant change from existing law which allows first class boroughs and cities, and second class boroughs to adopt a charter. (AS 29.13.010).

Sec. 29.10.020. (a) This has been reworded slightly, but contains no significant changes. (AS 29.13.020).

(b) This is new material providing that if nominations for candidates are not filed no election is held on the question of forming a charter commission.

Sec. 29.10.030. No change. (AS 29.13.030).

Sec. 29.10.040. The clerk shall have the charter published, which is defined, and shall make copies available. Under existing law the governing body is responsible for publishing a charter. (AS 29.13.040).

Sec. 29.10.050. No change, other than minor rewording. (AS 29.13.050).

Sec. 29.10.060. "Municipal" is deleted as no longer necessary as "voter" is defined. "Regular or special" is deleted since "election" is defined. (AS 29.13.060).

Sec. 29.10.070. (a) The provision that the charter becomes effective on the date the election is certified has been added. (AS 29.13.040).
070

Sec. 29.10.080. The provision that a charter may be amended by initiative referendum has been deleted. (AS 29.13.080).

Sec. 29.10.110. The following paragraphs contain sections which have been added to the limitations of home rule powers:

(5) unification of municipalities,

(7) home rule municipalities (the provisions dealing with charter amendment, now AS 29.10.080, is the only limitation listed under existing law,

(10) general power,

(15) executive power,

- (22) powers of initiative and referendum,
- (31) assessment and collection of taxes,
- (34) title to vacated areas,
- (35) property taxes (this adds ^{Sec.} AS 29.45.450-500 and ^{Sec.} AS 29.45.550 to the limitations listed under existing law),
- (39) construction,
- (42) general grant land,
- (44) dedication of municipal property.

The following paragraphs under AS 29.13.100 of existing law no longer appears as limitations ~~under this section of the bill:~~

- (4) election and term of mayor,
- (8) municipal elections (AS 28.010 is not a limitation; ^{material in} AS 29.28.020(b) has been expanded so that the notice requirement covers both regular and special elections),
- (15) borough building code jurisdiction within cities (this material has been ^{deleted} repealed),
- (20) expenditures of borough revenue,
- (25) bond attorneys (this material has been ^{deleted} repealed),
- (35) bonded debt for school construction (this material has been ^{deleted} repealed),

(37) zoning of state land for homesite entry (this was repealed in 1979),

(39) applicability of local platting regulations (this material has been ~~repealed~~),

(40) expulsion of borough assemblymen (this material has been substantially rewritten and not made binding upon home rule municipalities),

(41) removal of borough mayor from office (this material has been substantially rewritten and not made applicable as a home rule limitation),

(42) expulsion of city councilmen (this material has been substantially rewritten and not made applicable as a home rule limitation),

(43) removal of mayor from office (this material has been substantially rewritten and not made applicable as a home rule limitation),

(44) expulsion, removal from office (this material has been substantially rewritten and not made applicable as home rule limitation).

Sec. 29.14.010. No change. (AS 29.18.510).

Sec. 29.14.020. No change. (AS 29.18.520). ^{to Sec. 29.14.030} No change, except that statutory citations in subsection (a) have been changed to reflect the new numbering in this bill. (AS 29.18.530).

Sec. 29.14.040. "Designate" has been changed to "appoint". (AS 29.18.540).

Sec. 29.14.050. No change, except the statutory reference has been altered to reflect renumber in this bill. (AS 29.18.550).

Sec. 29.14.060. No change, except for minor rewording in (b) and a change in the statutory reference to reflect renumbering in this bill. (AS 29.18.570).

Sec. 29.14.070. No change, except for minor rewording of the heading. (AS 29.18.580).

Sec. 29.14.080. No change, except for minor rewording and the section has been divided into subsections for ease of use. (AS 29.18.590).

Sec. 29.14.090. No change, except the statutory references have been altered to reflect renumbering under this bill. (AS 29.18.600).

Sec. 29.14.100. No change, except that statutory references have been changed to reference to the chapter since this material has been placed in a separate chapter under this bill. (AS 29.18.610).

Sec. 29.20.010. A member of the governing body shall declare a financial interest he has in an official action and asked to be excused. The presiding officer rules on the question and decision may be overridden. Under existing law an officer and or employee is required to disqualify himself from participating in an official action in which he has a substantial financial interest. (Sec. 29.23.555).

Sec. 29.20.020. "Assembly and Council" has been altered to "governing body" and the section is divided into subsections for ease of use. (AS 29.23.580).