

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1285 SCRA SB 180 (#10, #11) 1285

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TELEPHONE
AREA CODE 907
276-6401

November 30, 1981

Hon. Don Gilman
State Senator
Chairman, Senate Committee
on Community and Regional Affairs
Pouch V
State Capitol
Juneau, Alaska 99811

Hon. Pat O'Connell
State Representative
Chairman, House Committee
on Community and Regional Affairs
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Gilman and Representative O'Connell:

Thank you for giving us the opportunity to comment on committee substitute for HB 170/SB 180, a revision of the existing Title 29 of the Alaska Municipal Code. The slowness of the mails (your letter was dated November 16 and received here on November 23) and the year-end rush prevents us from participating in your calendared hearing for December 5 and 6 in Juneau.

Nevertheless, please let us submit for the record the following comments with respect to the above draft bill:

1. I point out to the Committee that the 1972 revision of the Alaska Municipal Code deleted references to "city" or "borough" (except where required) and used the term "municipality". I do not see the utility of going back to using "city" or "borough", especially when the unified city and borough of Anchorage operates under the technical nomenclature of "Municipality of Anchorage".

2. With respect to AS 29.47.040 and 29.47.120 and 29-.47.200, in my opinion a sufficient and full expression of the nature of a general obligation bond or note is that "the full faith and credit of a municipality are pledged". Note that in the first two mentioned sections variant phrases are used (e.g.,

Hon. Don Gilman
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"a pledge of the full faith, credit and unlimited taxing power of the city and borough" is referred to in AS 29.47.040, line 23, and "the full faith, credit, taxing power and resources" is referred to in AS 29.47.120, line 26. All three sections should be made consistent and an adequate expression is to the "full faith and credit".

3. AS 29.47.180, line 13, the redundant phrase "negotiable or nonnegotiable" should be eliminated.

4. AS 29.47.190, line 16, the term "bond authorization ordinance" has required where applicable that lengthy ordinance proceedings must be undertaken by a municipality prior to submitting a bond proposition to the voters. Unless the Committee feels there are policy reasons for this requirement, the insertion of the term "or resolution" after the word "ordinance" would give municipalities the option to abbreviate this procedure prior to submission of the proposition to the voters.

5. The most important suggestion I would make would be to restore the language of 29.58.200(c) into next section 29.47-.350. This language provides "A municipality may also issue revenue bonds for any lawful purpose. The bonds are payable from any amounts pledged by the municipality except taxes and do not constitute general obligations of the municipality." The analogous provisions of proposed 29.47.350 would require that revenue bonds be payable solely from the revenue and property of the project being financed. This is an unnecessary limitation which was overcome by the above quoted language of 29.58.200(c). The reason for the AS 29.58.200(c) language was twofold:

(1) A municipality might desire to issue revenue bonds secured by the project being financed and another project already constructed. Such bonds would not be general obligation bonds, but would simply be bonds secured by the revenues of more than the project being financed.

(2) Secondly, a municipality might desire to issue industrial development bonds which are not necessarily secured by the project being financed, but are otherwise an obligation of the company on whose behalf the bonds are issued.

Both of these courses of action are desirable, but would be inhibited by the provisions of AS 29.47.350, page 138, lines 27 and 28; page 139, line 6 and line 14. In all these cases, revenue bonds may only be secured by the revenues of the

Hon. Don Gilman
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projects being financed. Finally, 29.47.350 should more appropriately be made a part of Article 4 or 6 of the Chapter. Perhaps as Section 270 or 460.

Thank you for the opportunity to comment on your proposed revision.

Very truly yours,

WOHLFORTH & FLINT

By


Eric E. Wohlforth

EEW:jr

cc: Mr. Robert Berry
Assistant to Senator Gilman

November 16, 1981

Mr. Eric Wohlforth
Wohlforth and Flint
Attorneys at Law
Suite 505
900 W. 5th Avenue
Anchorage, Alaska 99501

Dear Mr. Wohlforth:

The House and Senate Committees on Community and Regional Affairs have been meeting jointly this fall preparing a committee substitute for HB 170/SB 180, a revision of the existing Title 29, the Alaska Municipal Code. It is expected that the committee substitute bill will pass out of committee early in this year's legislative session.

The next hearing is calendared for December 5th and 6th in Juneau. At this meeting Chapter 47, Municipal Debt, will be discussed and considered. As your firm is known for interest and expertise on questions of municipal debt and municipal bonding, the Committees decided to send you a copy of this Chapter for comments and suggestions.

Please find enclosed a copy of the following:

- (1) Copy Chapter 47 Municipal Debt
- (2) Copy Index and Cross-reference for HB 170/
SB 180
- (3) Copy Sectional Analysis for HB 170/SB 180
prepared by Legislative Affairs Agency,
Division of Legal Services

Mr. Eric Wohlforth

-2-

November 16, 1981

Please send your response to the Juneau address given above. Feel welcome to attend the December meeting, but if this is not possible, your comments will be read into the record and given careful consideration.

Sincerely,

Don Gilman
State Senator
Chairman, Senate Committee on
Community and Regional Affairs

Pat O'Connell
State Representative
Chairman, House Committee on
Community and Regional Affairs

Enclosures



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

October 30, 1981

Joint Senate and House Community
and Regional Affairs Committees
Pouch B
Juneau, Alaska 99811

Subject: Problems Under State General Grant Programs

Ladies and Gentlemen:

The City and Borough of Juneau and other municipalities continue to experience problems with grants to a municipality which are initiated by private groups. A private group will lobby its delegation (or others) for an appropriation either to the group or for a purpose which the group supports. When the grant is for what is traditionally a service provided by a public entity, there is the policy question of whether such grants should be made if the municipality has not made or specifically endorsed the request.

The procedural problems which crop up are as follows. The grant requested by a private group makes its way into the budget bill as a municipal grant under AS 37.05.315. If the grant is specifically designated for the private group the above policy question is the only one that really arises. However, when it is designated as a grant to the municipality, the more serious problem arises. If it is a grant for a purpose which the municipality does not endorse or if it is for a purpose which will obligate the municipality to future expenses in operating a facility to be constructed with the grant the municipality may want to decline the grant. If it does so, there is no provision in law for the grant to go to the private group or to anyone else. One solution, of course, is for the local legislative delegation to coordinate very closely with its municipality on all municipal grants which are proposed by any group other than the assembly or council. The other, and perhaps more practical solution, would be to add a provision to AS 37.05.315 which would provide that if a grant to a municipality is declined by the municipality, then the Department of Administration or such other department as it may designate, will either directly implement the grant purpose with the appropriated monies or seek a private organization to provide the goods, services or facilities which were anticipated under the grant.

Sincerely,

Gerald L. Sharp
City-Borough Attorney

GLS: jr



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

October 30, 1981

Joint Senate and House Community
and Regional Affairs Committees
Pouch B
Juneau, Alaska 99811

Subject: Title 29 Revisions (SB 180/HB 170)

Ladies and Gentlemen:

Please consider the following comments and suggestions in your markup of the subject bills.

Page 73, lines 9 and 10. I suggest deleting the phrase "in accordance with" and substituting therefor the phrase "under the procedures set out in". Presently there is some question as to whether some of the substantive restrictions in AS 09.55.250 through 460 apply to municipalities or whether the reference in Title 29 was meant solely for the purpose of procedural matters. It is my understanding that when this section was adopted in the 1972 revision it was intended that only the procedural aspects of AS 09.55.250 through 460 were meant to apply. The proposed change would help clarify that intent.

Page 77, line 7. I think you could delete the phrase "except unified municipalities" without losing anything. This subsection, by its very nature, applies only to cities within a borough. There are no cities within a unified municipality and therefore there does not appear to be any need to include the exception.

Page 77, line 9. For consistencies sake, you might consider adding "or unified municipality" after the word "borough".

Page 77, line 25. I question the use of the word "may" in this line. The second sentence of this section makes collection by the borough of city taxes mandatory. What is the purpose of stating in the first sentence that the borough may collect taxes levied within its boundaries? It would appear that the permission collection of taxes applies only to those taxes which are levied by the borough itself. But, if the borough does not want to collect borough taxes it doesn't levy them. I suggest the word "may" should be changed to "shall" unless there is some specific purpose which I am overlooking.

Page 77, line 29. I suggest the word "municipalities" be changed to "boroughs and cities". This section deals with the relationship

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of cities inside a borough and is inapplicable to unified municipalities; therefore the term "municipalities" which includes unified municipalities should not be used.

Page 78, lines 2 through 4. I question the placement of this section under an article entitled "Mandatory Areawide Powers." This does not strike me as a power which is either mandatory or areawide. Special assessment districts are almost always established on a less than areawide basis. The use of the word "may" in the first line of this section is also contrary to any idea that the power is a mandatory power. If this section attempts to deal with a specific problem (for example, who assesses, levies and collects special assessments within a city created special assessment district of a city within a borough) then I suggest this section be redrafted to deal with the specific problem. I don't know what this section adds that is not already in Chapter 46.

Page 80, lines 15 and 16. As section 29.35.260 applies only to cities, the language in subsection (d) should be made consistent with that application. The phrase "municipalities, except unified municipalities" should be changed to "cities" so that it does not appear that we are trying to apply this section to boroughs.

Page 83, line 1. Add "or part of a city" after the word "city" to insure that the option is available for the creation of a service area which includes only a part of a city.

Page 86, lines 9 through 12. This section authorizes a permit system for the purpose of encouraging or discouraging certain activities. I suggest this section should be amended to include after the word "to" the word "prevent,". This would make it clear that a permit system could be used for more than mere encouragement or discouragement of uses.

Page 89, lines 5 and 6. I suggest the phrase "all lots or tracts created" be replaced by the phrase "any lots within". It appears that the existing language could be read to allow one to use the short plat procedure as long as at least one lot had physical and legal access even though the rest did not.

Page 91, lines 9 through 11. First, as a matter of drafting style, I had thought that where a section or subsections of Title 29 were made applicable to home rule municipalities, the section setting forth that applicability would be the last subsection in the section rather than one in the middle, as here. Also, it seems a little peculiar to state that the applicability section itself applies to

home rule municipalities. That is, what is the sense of saying in subsection (c) that (c) itself applies to home rule municipalities when the only purpose of subsection (c) is to state that certain other sections apply? Wouldn't it be simpler and more to the point just to state that "the provisions of (a) and (b) of this section apply to home rule. . . ". As to the substance, there is no reason for (b) to apply to unified municipalities. Subsection (b) deals with cities within a borough. If a unified municipality wants to permit the vacation of streets acquired for legal consideration without having the abutting property owners pay fair market value, the unified municipality ought to be given that option. On the other hand, there is justification for making this section applicable to boroughs so that a borough platting authority cannot vacate such a city street without compensation going to the city.

Page 93, following line 10. It may be helpful to add a new subsection (3) indicating that boroughs may also levy a service area property tax for functions which are limited to the service area. The word "non-areawide" is defined as including all the area outside cities. A service area is generally something less than the entire area outside cities and the addition of this specific authority may avoid questions in the future.

Page 98, beginning at line 5. I think section 29.45.040 should be moved to some other section of the code as it does not in any way affect the authority or the procedures used by municipalities to levy and collect taxes. AS 29.10.110(35) purports to make this a limitation on home rule municipalities yet neither home rule nor general law municipalities have any duties under this section nor does this section act as a restriction on any municipality.

Page 99, line 27. I believe that the need for the clause "excluding personal property from taxation" should be deleted as it gives rise to the implication that personal property could not otherwise be exempted by a borough. While this may be the case under the present Title 29, it appears that this has been changed by proposed section 29.45.010(c) (page 93 at line 14). This subsection refers to levying a tax on "real property, personal property, or both." The clear implication of this subsection is that a borough may, in effect, exempt personal property by levying its tax only on real property. This is a change from existing law. Leaving the reference to a personal property tax exemption on page 99 at line 27 implies that a borough may not fail to levy a tax on personal property unless it has exempted personal property by adopting such an exemption which a city within the borough has previously adopted.

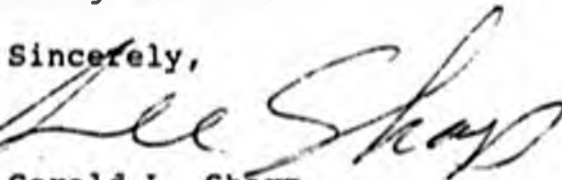
Joint Senate and House Community
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taxes, a sales tax lien should come in behind liens for property taxes and special assessments and ahead of judgment liens. The last sentence of this section should be changed to read, "When recorded, a lien authorized under this section is superior to all other liens except those for property taxes and special assessments."

Page 122, line 23. This section (29.45.660) requires that any borough levying and collecting a sales tax must provide sales tax equivalency notices for state grants. This means that a borough which levies both a property tax and a sales tax must give equivalency notices for each. The existing statute makes the requirements for the giving of sales tax equivalency notices applicable only to those cities which levy only a sales tax. I believe that the deletion of the word "only" may have been an oversight. In any event, the word "only" should be inserted after the word "a" in line 23. Otherwise, municipalities which levy both a sales tax and a property tax will be giving notices to its citizens which indicate that for every dollar of the subject grants received, the taxpayer has received a dollar of property tax relief and a dollar of sales tax relief.

Page 123, lines 14 through 22. Subsection (a) has been changed from the existing language to establish a procedure whereby the assembly approves the new sales tax or new rate by ordinance, but the ordinance does not take effect until ratified by a majority of the voters. This makes the first sentence of subsection (b) superfluous. Leaving this particular sentence in the statute creates confusion as it indicates that the assembly must then adopt another ordinance doing essentially what it has already done in subsection (a). I believe the entire subsection (b) can and should be eliminated. The last sentence, while in existing law, appears to give the seller the option of extending credit to his buyers for the payment of the tax. Thus, the municipality does not make the decision as to whether someone should be permitted to pay the sales tax on credit, the seller makes that decision. If a municipality wishes to establish that option, it should be permitted to do so but it should not be forced to accept the credit worthiness evaluation of the merchant who is collecting the tax.

Sincerely,



Gerald L. Sharp
City-Borough Attorney

GLS: jr



JUNEAU, ALASKA

Alaska State Legislature

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

465-4934
465-3824

Pouch V
State Capitol
Juneau, Alaska 99811

October 28, 1981

MEMORANDUM

TO:

FROM: Bob Berry, Committee Aide, Senate
Linda Otey, Committee Aide, House

Enclosed please find the following items for your consideration:

1. Agenda. The next Senate and House C&RA meeting will be held at 9:00 a.m., November 5, 6, and 7 in the Executive Room, #311, of the Anchorage Sheraton Hotel.

The last item covered in the October meeting was Sec. 29.35.010, General Powers.
2. Suggestions for Additions or Changes. This list now includes all of the suggestions that have come in to House and Senate C&RA.
3. Changes for SB 180/HB 170 addressed during the September and October meetings. See cover letters to Billy Berrier for explanation.
4. Public hearing notice.

Enclosures



Alaska State Legislature

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

465-4934
465-3824

JUNEAU, ALASKA

October 21, 1981

Pouch V
State Capitol
Juneau, Alaska 99811

Lee McAnerney, Commissioner
Department of Community & Regional
Affairs
Pouch B
Juneau, Alaska 99811

Dear Commissioner McAnerney:

In response to the large volume of inquiries and correspondence received by both the Senate and House Community & Regional Affairs Committees, a public hearing will be held in Anchorage regarding the administration of the Municipal Aide Program and the Municipal Grant Program. The meeting is scheduled to begin at 3 p.m. and will continue until 5 p.m. in the Executive Room of the Sheraton Hotel.

On behalf of the Standing Committees, we would like to request that a representative from both the Department of Community & Regional Affairs and the Department of Administration be in attendance to respond to any questions that may arise concerning the above mentioned programs.

The hearing will be held in conjunction with the Alaska Municipal League Convention and the Senate and House Community & Regional Affairs Interim Committee meetings regarding SB 180 and HB 170; Title 29 Revision.

Thank you for your attention to this matter.

Sincerely,

Don Gilman (eo)
Senator Don Gilman, Chairman
Senate CRA Committee

Pat O'Connell (eo)
Rep. Pat O'Connell, Chairman
House CRA Committee

cc: Alaska Municipal League
Senate CRA Committee Members
House CRA Committee Members



Alaska State Legislature

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

465-4934
465-3824

JUNEAU, ALASKA

October 21, 1981

Pouch V
State Capitol
Juneau, Alaska 99811

William R. Hudson, Commissioner
Department of Administration
Pouch C
Juneau, Alaska 99811

Dear Commissioner Hudson:

In response to the large volume of inquiries and correspondence received by both the Senate and House Community & Regional Affairs Committees, a public hearing will be held in Anchorage regarding the administration of the Municipal Aide Program and the Municipal Grant Program. The meeting is scheduled to begin at 3 p.m. and will continue until 5 p.m. in the Executive Room of the Sheraton Hotel.

On behalf of the Standing Committees, we would like to request that a representative from both the Department of Administration and the Department of Community & Regional Affairs be in attendance to respond to any questions that may arise concerning the above mentioned programs.

The hearing will be held in conjunction with the Alaska Municipal League Convention and the Senate and House Community & Regional Affairs Interim Committee meetings regarding SB 180 and HB 170; Title 29 Revision.

Thank you for your attention to this matter.

Sincerely,

Don Gilman (RB)
Senator Don Gilman, Chairman
Senate CRA Committee

Pat O'Connell (eo)
Rep. Pat O'Connell, Chairman
House CRA Committee

cc: Alaska Municipal League
Senate CRA Committee Members
House CRA Committee Members



Official Business

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Fouch V
State Capitol
Juneau, Alaska 99811

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".

MEMORANDUM
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF TECHNICAL SERVICES

State of Alaska

TO: The Files

DATE: September 10, 1981

FILE NO: 1150

TELEPHONE NO: 276-2653

FROM: Joseph C. Burch, Acting Director
Division of Technical Services

SUBJECT: SB 180 - HB 170
Recorder's Office Comments

Page 23 - Although statute says file with the district recorder, we have always recorded them. This would be a good time to change the wording. Some Boroughs are in more than one recording district and it should be recorded in each. Only one copy need be recorded in each.

Page 28-29 - Should be record instead of file.

Page 90 - line 16 filed.

Page 92 - line 6 filed
line 8 file

Page 107 - lines 22-26 - This reads as if the record owner should provide a copy to the Assessor. See AS 29.53.100(b) as now written.

Page 186 - line 1 - should be record.

Page 50 - line 29 - This is from present statute. As deeds are not acceptable for recordation unless fully acknowledged, perhaps this should be deleted. Perhaps this is a carryover from when deeds were witnessed?????

September 9, 1981

The Honorable R. E. Henderson
Mayor
Haines Borough
P.O. Box H
Haines, Alaska 99827

Dear Mayor Henderson:

Thank you for your letter of September 2, 1981. All comments which this committee has received regarding SB 180/HB 170, including your own, have been circulated to committee members. A copy of these comments is enclosed for your information.

If you have any further comments or questions, please feel free to contact me.

Sincerely,

David Dye
Committee Aide

Enclosure

HAINES BOROUGH

P.O. BOX H
HAINES, ALASKA 99827

September 2, 1981

David Dye
Senate Community and Regional Affairs
Committee Aide
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Mr. Dye,

Since Senate and House Community and Regional Affairs committees are holding a joint meeting in Anchorage September 11th and 12th, and are taking up unorganized Boroughs, classification of municipalities and incorporation, the Haines Borough would once again like to object to the elimination of all third class boroughs as spelled out in SB 180/HB 170.

We have large areas of unorganized boroughs in the State, some of which would like to incorporate into an organized borough. We feel that the third class borough offers the best type of a beginning borough. This is an organized form of government not too different from what they have been experiencing - only they will be taking over some of the State's responsibilities for themselves. We have been in correspondence with a number of citizens in unorganized boroughs inquiring about a third class borough. All of them state that they do not want any form of planning and zoning. I strongly feel that by denying them the third class borough status, we will be postponing for many years a decision to incorporate into any type of organized borough.

Once a third class borough, the transition into a second class borough would be relatively easy. Even our area is beginning to see some of the advantages of the second class borough, although it has been a long time in coming.

Page Two
David Dye
Senate Community and Regional Affairs
Committee Aide

In closing, the third class borough would be the logical borough for an unorganized area to incorporate into. From this point, they could progress on to other classes of boroughs with little problem.

We hope you will bring this to the attention of the Senate House hearings in Anchorage. Since public participation will not be encouraged, we will not send a representative.

Sincerely yours,

RE Henderson
R.E. Henderson
Mayor

REH:kk

MEMORANDUM

State of Alaska

Hon. Lee McAnerney, Commissioner DATE
Dept of Community & Regional Affairs

September 2, 1981

FILE NO

J-66-829-81

ATTN: Palmer McCarter, Director
Div. of Local Gov't Asst TELEPHONE NO

465-3600

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: State financial aid
to benefit unincor-
porated communities

By:

L. Davis
Laura L. Davis

Assistant Attorney General

By your memoranda of May 17 and June 12, 1981, you have asked us to address a number of questions related to state financial assistance to benefit unincorporated communities. First, as to your authority to distribute money to unincorporated villages under AS 29.89.050, we believe that statute to be unconstitutional if read literally to restrict aid to Native villages. We also believe that the statute may be construed in a constitutional manner by severing the words "Native" and "government" and the definition of "Native village government." Second, with regard to state financial aid to unincorporated communities in general, we will discuss the relevant constitutional principles which apply to the questions you have raised.

AS 29.89 provides for annual revenue sharing with municipalities (for roads, AS 29.89.020), operators of health facilities and hospitals (AS 29.89.030), volunteer fire departments in the unorganized borough (AS 29.89.040), and Native village governments (AS 29.89.050). As discussed in our memorandum of April 27, 1981, aid to Native village governments raises serious issues under (1) article IX, section 6 of the Alaska Constitution which prohibits expenditure of public money unless the expenditure is for a public purpose; (2) article I, section 1, which accords equal protection to all persons; and, (3) article X, section 2, which provides for the exercise of local governmental powers only by cities and boroughs which are incorporated under state law.

We stated that the public purpose requirement was satisfied if the money were used for public benefit, and not for the private benefit of a racially exclusive group. We also indicated that a local organization could receive and spend state money for the benefit of a community without becoming a de facto unit of local government. As to equal protection, we stated that the distribution of state money to a racially exclusive organization did not deny equal protection to persons who are not members of the organization, if benefits provided with the funds were made available to the public at large.

September 2, 1981

However, as we noted, the payment of state money under AS 29.89.050 only to those unincorporated communities which are identified as Native villages does exclude from participation a number of similarly situated communities which are not Native villages. The first inquiry necessary to determine if a statute is valid under Alaska's equal protection test is whether the statute has a legitimate purpose. State v. Erickson, 574 P.2d 1 (Alaska 1978).

Of the three possible purposes for AS 29.89.050 which we have identified, the only legitimate one is to provide public services to residents of unincorporated communities. */ If the statutory purpose were illegitimate under the Alaska Constitution, the statute would be unenforceable. There is a heavy presumption in favor of the constitutionality of any statute. SUTHERLAND STATUTORY CONSTRUCTION § 45.11.

Assuming that the legislature intended by AS 29.89.050 to provide public services to the residents of unincorporated

*/ A purpose to benefit Native villages solely because of the racial ancestry of their inhabitants would not be legitimate in the absence of a special motivation such as compensation for loss of aboriginal property rights. No such special motivation appears to be present here. A purpose to encourage the Native villages to assume the responsibilities of local governmental units would be in conflict with article X, section 2, of the constitution, and thus will not be inferred, despite the use of the term "Native village government."

We note that the Act which added AS 29.89 stated no purpose for that chapter, but did state a purpose for adding the general revenue sharing chapter, AS 29.88, as follows:

It is the purpose of sec. 2 of this Act to

(1) improve the revenue raising and distribution system for the benefit of residents of home rule and general law municipalities by providing for more equitable allocation of financial resources among municipalities to improve their fiscal capacities; and

(2) assure that no municipality suffers impoverishment of necessary public services, relative to other municipalities, because of the chance location of taxable wealth in the state.

September 2, 1981

rated communities, the means chosen are only loosely suited to that purpose because of the existence in the state of a substantial number of unincorporated communities whose residents would not be benefitted by the literal language of AS 29.89.050. Since the distinction is based upon the racial ancestry of the communities, we might conclude that the statute is unconstitutional despite its legitimate purpose. However, we note that the Alaska Supreme Court has held that a statute which denied equal protection by limiting its application to members of one sex (prohibiting prostitution by females) could be construed as constitutional by severing the offending restrictive language, and thereby expanding application of the statute to all persons. Plas v. State, 598 P.2d 966 (Alaska 1979).

The interpretation of AS 29.89.050 presents an analogous problem. The effect of severing the offending restriction to "Native" village "governments," and deleting the definition of that term, is to expand the group of eligible communities to include all "villages." */ Although this interpretation alters the literal wording of the statute significantly and is, therefore, not to be implemented hastily, State v. Campbell, 536 P.2d 105 (Alaska 1975), it does avoid the alternative interpretation that the statute is unconstitutional and void. The law strongly favors the construction of statutes to be consistent with constitutional requirements. State v. Sundberg, 611 P.2d 44 (Alaska 1980); Summers v. Anchorage, 589 P.2d 863 (Alaska 1979). According to Sutherland:

It has even been said that "a strained construction is not only permissible, but desirable if it is the only construction that will save constitutionality."

SUTHERLAND STATUTORY CONSTRUCTION § 45.11 at 34 (footnote omitted). We believe that the interpretation of AS 29.89.050 to authorize grants of state money to all villages is the only interpretation consistent with our constitution.

According to your estimates, the dilution of revenue sharing funds caused by including other unincorporated communities under AS 29.89.050 will not cause significant diminution in the fund allotments. Further, this interpretation

*/ A parallel deletion of "Native" and "government" from AS 29.89.010(b) is also necessary.

September 2, 1981

is consistent with the subsequent action of the legislature in providing for grants to all unincorporated communities. 1981 Alaska Sess. L., ch. 60, § 2. We believe that under the circumstances, the Alaska courts would uphold an administrative interpretation of AS 29.89.050 to permit revenue sharing to all villages in the state, regardless of their racial composition or ancestry.

A question arises as to the meaning of "village" under AS 29.89.050, in the absence of the language limiting it to a Native village organized under federal law. Generally, a village is any discrete and identifiable place where a group of people reside in close proximity, intend to remain in the place indefinitely, and carry on ordinary human social and economic activities as a community. Wyandotte Sav. Bank v. Eveland, 78 N.W.2d 612, 617, 347 Mich. 33; Union Sav. Bank of Patchogue v. Saxon, 335 F.2d 718, 721 (D.C. Cir. 1964). Your administrative regulations interpreting and implementing chapter 60, SLA 1981 should provide appropriate guidelines for both that Act and for AS 29.89.050.

Your memorandum of May 17 asked a number of questions regarding your assistance to local governments and to communities in the unorganized borough. Generally, the three constitutional principles discussed above should guide your conduct. You must administer money under your control in order to ensure that it is spent to achieve a public purpose. This requires active supervision of all grants and contracts, especially those transferring money to an organization other than a municipal government. Village and regional Native corporations are not incorporated as cities or boroughs and are not considered to be local governments under state law.

The equal protection provision requires that you administer your programs in order to provide similar treatment for people or organizations which are similarly situated, unless there is a very strong reason for treating them differently. The distinction between a municipality and an unincorporated village is created by the Alaska Constitution. This different treatment of municipalities is justified because of their status and duties as governmental entities. For example, the state may make general revenue sharing grants to municipalities, to be used at the discretion of the municipal government. The public purpose requirement is met by the operation of state law and the Alaska Constitution controlling the activities of municipal governments. The state may not make general revenue sharing grants to non-governmental entities. In administering the grants to villages under AS 29.89 and to unincorporated communities under chapter 60,

Palmer McCarter, Director
C&RA - Local Gov't Assistance

- 5 -

September 2, 1981

SLA 1981, you must ensure that the money is spent to achieve a public purpose.

The local government article of the Alaska Constitution (article X) provides for the exercise of local government powers by cities and boroughs and for the provision of services by multi-purpose service areas. In administering services in the organized borough, the state may contract with any entity capable of providing the needed services, as long as the contractor is actively supervised by the state, and not permitted to become de facto, a local government.

You are not absolutely prohibited by the constitution from contracting for the delivery of services by profit-making corporations or by Native organizations which may have sovereign status, if the services are necessary and no other capable and responsible contractor is available. However, it would be inconsistent with your duties as an administrator of public funds, to contract with these organizations if another more responsible and capable contractor is available. An entity which may be immune from contract enforcement because of its sovereign status should be considered less responsible to accept a state grant than any corporate entity.

We will defer your request for an authoritative statement of the powers of tribal governments for the time being, and hope that these general guidelines are adequate to resolve your immediate problems.

LLD/pjg

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF LOCAL GOVERNMENT ASSISTANCE

POUCH B

JUNEAU, ALASKA 99811

September 1, 1981

The Honorable Don Gilman
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator *Don* Gilman:

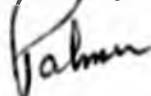
RE: LEGISLATIVE HEARINGS ON SB 180/HB 170

Your letter/memorandum of August 14, 1981 including a tentative agenda for 1981 Senate C&RA interim hearings on SB 180/HB 170 (municipal code revisions) has been reviewed and it appears that your time frame for hearings on various chapters of the proposed legislation is well thought out. I personally plan to attend the hearings scheduled for September, November and December, and during my vacation, I am requesting that Deputy Director Pat Poland attend the October 9-10 hearing in Anchorage.

Attached to this letter is a copy of a memo dated August 10, 1981, prepared by staff member Dan Bockhorst concerning technical and conceptual issues relating to the subject legislation. Although I have not personally reviewed these changes outlined by Dan, it appears that he has done a very thorough review of the legislation and I would presume all of the technical issues should be incorporated into the final draft. A brief review of what Dan identifies as "conceptual issues" also seems to have substantial merit and I would hope that members of your staff could review these prior to their being considered by the Senate C&RA committee.

Thanks again for the invitation to participate in the hearings scheduled this fall; if I can be of any assistance, please advise.

Sincerely,



Palmer McCarter
Director

cc: Deputy Director Pat Poland, Anchorage

MEMORANDUM

State of Alaska

TO Palmer McCarter
Director

DATE August 10, 1981

Thru: Patrick K. Poland
Deputy Director

FILE NO

TELEPHONE NO

FROM Dan Bockhorst *DB*
Local Government Specialist

SUBJECT HB 170/SB 180;
proposed revisions
to AS 29

Please consider the comments listed below with respect to the subject legislation. The comments are presented in two categories; those which are technical in nature and those which deal with conceptual issues. References are given in terms of "P" for page and "L" for line.

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P30, L26 - Substitute "AS 29.35.330(b)" for "AS 29.35.330(c)".

P143, L8 - Substitute "(0.001)" for "(0.1)". *(29.60.010)*

P143, L9 - Add "per capita" between "the" and "property". *(29.60.010)*

P144, L11 - Substitute "Census" for "Censis". *29.60.020*

CONCEPTUAL ISSUES

29.07.030 - The Department of Natural Resources is more a "replatting" authority for the unorganized borough (and third class boroughs). That is, it has no authority to approve initial plats, but may act only on amendments to existing plats and on vacations. It may be appropriate to extend DNR's authority in AS 40.15.075 to deal with initial plats.

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Palmer McCarter
HB 170/SB 180 Proposed Revisions
to AS 29
August 10, 1981
Page Three

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Finally, AS 29.03.020, regarding service areas in the unorganized borough, lacks procedures for the creation of such service areas. The existing AS 29.03.020 is unaffected by HB 170/SB 180.

DB/lh

MEMORANDUM

State of Alaska

TO: Palmer McCarter
Director

DATE: August 10, 1981

Thru: Patrick Poland
Deputy Director

FILE NO:

TELEPHONE NO:

FROM: Dan Bockhorst
Local Government Specialist

SUBJECT: HB 170/SB 180;
proposed revisions
to AS 29

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Palmer McCarter
HB 170/SB 180 Proposed Revisions
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DB/lh



Official Business

Alaska State Legislature

Senate

Committee on
Community & Regional Affairs

465-4934
465-4935


Donald Gilman, Chairman
Robert H. Ziegler, Sr., Vice-Chairman
Mike Colletta
Arliss Sturgulewski
Frank Ferguson

Pouch V
State Capitol
Juneau, Alaska 99811

August 25, 1981

MEMORANDUM

TO: Senate C&RA Committee Members

FROM: David Dye 
Committee Aide

In anticipation of the September 11 and 12 C&RA Committee meeting in Anchorage, I am sending you the following material for your convenience and information:

1. SB180/HB170
2. Section-by-Section Analysis
3. Cross reference index for Title 29 and SB 180/HB 170
4. Summary of comments and suggestions received by the Committee

The September, October and December meetings will be held in the conference room of the Legislative Information Office, 1024 W. 6th, Anchorage. The November meeting will be held at the Sheraton Anchorage Hotel in one of the meeting rooms reserved by the Alaska Municipal League for their annual convention.



Official Business

Alaska State Legislature

Senate Committee on Community & Regional Affairs

465-4934
465-4935

Pouch V
State Capitol
Juneau, Alaska 99811

Donald Gilman, Chairman
Robert H. Ziegler, Sr., Vice-Chairman
Mike Colletta
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Frank Ferguson

August 14, 1981

MEMORANDUM

TO:

Senate C&RA Committee Members

FROM:

Senator Don Gilman
Chairman

Last week I met with Rep. O'Connell and the staffs of both C&RA committees to work out a tentative agenda for interim hearings on SB 180/HB 170 (municipal code revisions) and related legislation affecting the unorganized borough. The agenda is attached for your information.

All hearings will be held in Anchorage. Except for the November hearings, we plan to use the conference room at the legislative information office, but have not yet confirmed the availability of that space. The November meeting will be held at the Sheraton Hotel and will coincide with the Alaska Municipal League convention.

Because of the extensive amount of public participation which has already gone into SB 180/HB 170, I feel that full-blown public hearings would be repetitive and marginally productive. It is my intention, therefore, to hold mark-up sessions during which public comment may be solicited when appropriate.

The December meeting is reserved to deal with legislation affecting the unorganized borough. We will look at legislation currently in committee as well as any new ideas in an attempt to come up with a comprehensive bill to provide some direction and structure for the unorganized portion of our state.

Memorandum
Page 2

August 14, 1981

Since SCR 33 did not pass last session, there is no joint C&RA Committee of both houses. Rather, we will be holding joint meetings of the separate committees presided over by their respective chairmen.

If you have any further questions, comments or requests, please contact David Dye, of my staff, at the address and phone number on the letterhead. I would appreciate knowing if there are any hearings which you definitely will not be able to attend.

Attachment

TENTATIVE AGENDA
FOR 1981 SENATE C&RA INTERIM HEARINGS

September 11, 12th

Senate Bill 180:

- Ch. 03 - THE UNORGANIZED BOROUGH
- Ch. 04 - CLASSIFICATION OF MUNICIPALITIES
- Ch. 05 - INCORPORATION
- Ch. 06 - ALTERATION OF MUNICIPALITIES
- Ch. 10 - HOME RULE MUNICIPALITIES
- Ch. 14 - CAPITAL CITY
- Ch. 20 - MUNICIPAL OFFICERS AND EMPLOYEES
- Ch. 25 - MUNICIPAL ENACTMENTS
- Ch. 26 - ELECTIONS

October 9, 10

Senate Bill 180:

- Ch. 35 - MUNICIPAL POWERS AND DUTIES
- Ch. 40 - PLANNING, PLATTING, AND LAND USE REGULATIONS
- Ch. 47 - MUNICIPAL DEBT
- Ch. 65 - GENERAL LAND GRANT
- Ch. 71 - GENERAL PROVISIONS

November 5, 6, 7
(Municipal League Convention)

Senate Bill 180:

- Ch. 45 - MUNICIPAL TAXATION
- Ch. 46 - SPECIAL ASSESSMENTS
- Ch. 55 - MUNICIPAL PROGRAMS
- Ch. 60 - STATE PROGRAMS

December 4, 5

1. Any unfinished SB 180 business
2. Legislation affecting the unorganized borough

MEMORANDUM

State of Alaska

TO: Palmer McCarter
Director

DATE: August 10, 1981

Thru: Patrick K. Poland
Deputy Director

FILE NO:

TELEPHONE NO:

FROM: Dan Bockhorns
Local Government Specialist

SUBJECT: HB 170/SB 180;
proposed revisions
to A 29

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Palmer McCarter
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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS SB 180/ CS HB 170
 Title "An Act relating to municipal government"
 Requested by Community and Regional Affairs Committee Date January 22, 1982

II. FISCAL DETAILS

Agency Affected Department of Community and Regional Affairs
 Program Category Affected Community Development
 BRU, Program, Or Subprogram(s) Affected Local Government Assistance
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

This bill, which substantially amends and restructures Title 29 of the Alaska Statutes, will not create any noticeable need for increases in administrative or grant program funding.

IV. DATE January 22, 1982 PREPARED BY Doug Griffin
 AGENCY C & RA/Local Gov't Assistance
 Original: Legislative Finance PHONE 465-6736
 c.: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

S B

180

11

Original sponsor Rules/Legislative Council

BY THE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 180 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal government; and providing
7 for an effective date."

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

9 * Section 1. AS 29.03 is amended by adding a new section to read:

10 Sec. 29.03.030. PLATTING AUTHORITY. Subject to AS 40.15.075, the
11 Department of Natural Resources is the platting authority in the un-
12 organized borough in the area outside all cities.

13 * Sec. 2. AS 29 is amended by adding a new chapter to read:

14 CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

15 Sec. 29.04.010. HOME RULE. A home rule municipality is a municipi-
16 pal corporation and political subdivision. It is a city or a borough
17 that has adopted a home rule charter, or it is a unified municipality.
18 A home rule municipality has all legislative powers not prohibited by
19 law or charter.

20 Sec. 29.04.020. GENERAL LAW. A general law municipality is a
21 municipal corporation and political subdivision and is an unchartered
22 borough or city. It has legislative powers conferred by law.

23 Sec. 29.04.030. CLASSES OF GENERAL LAW. General law municipali-
24 ties are of four classes:

- 25 (1) first class boroughs;
- 26 (2) second class boroughs;
- 27 (3) first class cities;
- 28 (4) second class cities.

29 Sec. 29.04.040. RECLASSIFICATION. (a) A second class city may

1 be reclassified as a first class city by holding an election on the
2 question, if the department determines from the best figures available
3 that the population of the city has reached 400 permanent residents.

4 (b) An election on the question of reclassification may be ini-
5 tiated in two ways:

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

9 (2) the council may propose reclassification.

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

14 (d) The council shall, within 30 days after its findings have been
15 made public, order an election on the question of reclassification. The
16 election shall be held at least 30 days after the order and not later
17 than the next regular election occurring after the 30-day period. If
18 more than one question is to be voted on at the election, each appears
19 separately on the ballot.

20 (e) The council shall certify the election results to the depart-
21 ment. If the majority of votes cast is favorable, the city shall be
22 considered reclassified to first class status 30 days after certification
23 of the election results.

24 (f) A second class borough may reclassify as a first class borough
25 in the manner provided by AS 29.35.320 - 29.35.330 for the addition of
26 an areawide power by a borough, except the petition or proposal requests
27 reclassification instead of requesting addition of a power.

28 Sec. 29.04.050. TRANSITION. (a) A borough that is third class on
29 the effective date of this Act continues as a third class borough under

1 the conditions established by this title before the effective date of
2 this Act and until it is reclassified or adopts a home rule charter in
3 accordance with this section.

4 (b) A third class borough may reclassify as a first or second
5 class borough in the manner provided by AS 29.35.320 - 29.35.330 for the
6 addition of an areawide power by a borough, except the petition or
7 proposal requests reclassification instead of requesting addition of a
8 power.

9 (c) A third class borough may adopt a home rule charter in the
10 manner provided by AS 29.10.010 - 29.10.070.

11 (d) Unless a single body serves as assembly and school board in
12 accordance with AS 14.12.110, within 90 days after the date reclassifi-
13 cation is approved or a home rule charter is adopted for a third class
14 borough a school board shall be elected in conformity with AS 14.12.030 -
15 14.12.100. Expiration dates of terms of school board members elected at
16 a special election must coincide with the date of the regular election.
17 Until a school board is elected and qualified, the assembly continues to
18 serve as the board.

19 * Sec. 3. AS 29 is amended by adding a new chapter to read:

20 CHAPTER 05. INCORPORATION.

21 ARTICLE 1. REQUIREMENTS.

22 Sec. 29.05.010. INCORPORATION OF A CITY. (a) A community that
23 meets the following standards may incorporate as a first class city:

24 (1) the community has 400 or more permanent residents;

25 (2) the boundaries of the proposed city include all areas
26 necessary to provide municipal services on an efficient scale;

27 (3) the economy of the community includes the human and
28 financial resources necessary to provide municipal services; in con-
29 sidering the economy of the community, the Local Boundary Commission

1 shall consider property values, economic base, personal income, resource
2 and commercial development, anticipated functions, and the expenses and
3 income of the proposed city, including the ability of the community to
4 generate local revenue;

5 (4) the population of the community is stable enough to
6 support city government;

7 (5) there is a demonstrated need for city government.

8 (b) A community that meets all the standards established in (a) of
9 this section except (a)(1) may incorporate as a second class city.

10 Sec. 29.05.020. LIMITATIONS ON INCORPORATION OF A CITY. (a) A
11 community in the unorganized borough may not incorporate as a city if
12 the services to be provided by the proposed city can be provided by
13 annexation to an existing city.

14 (b) A community within a borough may not incorporate as a city if
15 the services to be provided by the proposed city can be provided on an
16 areawide or nonareawide basis by the borough in which the proposed city
17 is located, or by annexation to an existing city.

18 Sec. 29.05.030. INCORPORATION OF A BOROUGH. An area that meets
19 the following standards may incorporate as a general law borough:

20 (1) the population of the area is interrelated and integrated
21 as to its social, cultural, and economic activities, and is large and
22 stable enough to support borough government;

23 (2) the boundaries of the proposed borough conform generally
24 to natural geography and include all areas necessary for full develop-
25 ment of municipal services;

26 (3) the economy of the area includes the human and financial
27 resources capable of providing municipal services; evaluation of an
28 area's economy includes land use, property values, total economic base,
29 total personal income, resource and commercial development, anticipated

1 functions, expenses, and income of the proposed borough;

2 (4) land, water, and air transportation facilities allow the
3 communication and exchange necessary for the development of integrated
4 borough government.

5 ARTICLE 2. PROCEDURE.

6 Sec. 29.05.060. PETITION. Municipal incorporation is proposed by
7 filing a petition with the department. The petition shall include the
8 following information about the proposed municipality:

9 (1) class;

10 (2) name;

11 (3) boundaries;

12 (4) maps, documents, and other information required by the
13 department;

14 (5) composition and apportionment of the governing body;

15 (6) a proposed operating budget for the municipality project-
16 ing sources of income and items of expenditure through the first full
17 fiscal year of operation;

18 (7) for a borough, based on the number who voted in the
19 respective areas in the last general election, the signature and resident
20 address of 15 percent of the voters in

21 (A) home rule and first class cities in the area of the
22 proposed borough; and

23 (B) the area of the proposed borough outside home rule
24 and first class cities;

25 (8) for first class borough, a designation of areawide
26 powers to be exercised;

27 (9) for a second class borough, a designation of areawide and
28 nonareawide powers to be exercised;

29 (10) for a city, a designation of the powers to be exercised;

1 (11) for a first class city, based on the number who voted in
2 the area in the last general election, the signatures and resident
3 address of 50 voters in the proposed city or of 15 percent of the voters
4 in the proposed city, whichever is greater;

5 (12) for a second class city, based on the number who voted in
6 the area in the last general election, the signature and resident
7 address of 25 voters in the proposed city or of 15 percent of the voters
8 in the proposed city, whichever is greater.

9 Sec. 29.05.070. REVIEW. The department shall review incorporation
10 petitions for content and signatures and shall return deficient petitions
11 for correction and completion.

12 Sec. 29.05.080. INVESTIGATION. (a) If the incorporation petition
13 contains the required information and signatures, the department shall
14 investigate the proposal and shall hold at least one public informational
15 meeting in the area proposed for incorporation. The department shall
16 publish notice of the meeting.

17 (b) The department may combine incorporation petitions from the
18 same general area.

19 (c) The department shall report its findings to the Local Boundary
20 Commission with its recommendations regarding the incorporation.

21 Sec. 29.05.090. HEARING. The Local Boundary Commission shall hold
22 at least one public hearing in the area proposed to be incorporated for
23 the purpose of receiving testimony and evidence on the proposal.

24 Sec. 29.05.100. DECISION. (a) If the Local Boundary Commission
25 determines that a proposed municipality fails to meet the standards for
26 incorporation, it shall reject the petition. If the commission deter-
27 mines that the proposed municipality meets the standards, it shall
28 accept the petition. If the commission determines that the proposed
29 boundaries can be altered to meet the standards, it may alter the bound-

1 aries and accept the petition.

2 (b) A Local Boundary Commission decision under this section may be
3 appealed under the Administrative Procedure Act (AS 44.62).

4 Sec. 29.05.110. INCORPORATION ELECTION. (a) The Local Boundary
5 Commission shall immediately notify the director of elections of its
6 acceptance of an incorporation petition. Within 30 days after notifi-
7 cation, the director of elections shall order an election in the pro-
8 posed municipality to determine whether the voters desire incorporation
9 and, if so, to elect the initial municipal officials. If incorporation
10 is rejected, no officials are elected. The election must be held not
11 less than 30 or more than 90 days after the date of the election order.
12 The election order must specify the dates during which nomination peti-
13 tions for election of initial officials may be filed.

14 (b) A voter who has been a resident of the area within the pro-
15 posed municipality for 30 days before the date of the election order may
16 vote.

17 (c) Areawide borough powers included in an incorporation petition
18 are considered to be part of the incorporation question. In an election
19 for the incorporation of a second class borough, each nonareawide power
20 to be exercised is placed separately on the ballot. Adoption of a
21 nonareawide power requires a majority of the votes cast on the question,
22 and the vote is limited to the voters residing within the proposed
23 borough but outside all cities.

24 (d) The director of elections shall supervise the election in the
25 general manner prescribed by the Alaska Election Code (AS 15). The
26 state shall pay all election costs under this section.

27 Sec. 29.05.120. ELECTION OF INITIAL OFFICIALS. (a) Nominations
28 for initial municipal officials are made by petition. The petition
29 shall be in the form prescribed by the director of elections and include

1 the name and address of the nominee and a statement of the nominee that
2 he is qualified under the provisions of this title for the office that
3 he seeks. A person may file for and occupy more than one office, but he
4 may not serve simultaneously as borough mayor and as a member of the
5 assembly or as city mayor and as a member of the council.

6 (b) Except for a proposed second class city, petitions to nominate
7 initial officials must include the signature and resident address of 50
8 voters in the area of the proposed municipality, or that area of the
9 proposed municipality from which the officials are to be elected under
10 the composition and apportionment set out in the accepted incorporation
11 petition.

12 (c) Petitions to nominate initial officials of a second class city
13 must include the signature and resident address of 10 voters in the area
14 of the proposed city.

15 (d) The director of elections shall supervise the election in the
16 general manner prescribed by the Alaska Election Code (AS 15). The
17 state shall pay all election costs.

18 (e) The initial elected officials take office on the first Monday
19 following certification of their election.

20 (f) The initial elected members of the governing body shall deter-
21 mine by lot the length of their terms of office so that a proportionate
22 number of terms expire each year, resulting in staggered terms of office
23 for members subsequently elected.

24 Sec. 29.05.130. INTEGRATION OF SPECIAL DISTRICTS AND SERVICE
25 AREAS. A service area in a newly incorporated municipality shall be
26 integrated into the municipality within two years after the date of
27 incorporation. On integration the municipality succeeds to all the
28 rights, powers, duties, assets and liabilities of the service area.
29 After integration, the municipality may exercise within a former service

1 area all of the rights and powers exercised by the service area at the
 2 time of integration, and, as successor to the service area, may levy and
 3 collect special charges, taxes, or assessments to amortize bonded in-
 4 debtedness incurred by the service area or by a municipality in which
 5 the service area was formerly located. Upon integration all property in
 6 the service area subject to taxation to pay the principal and interest
 7 on bonds at the time of integration remains subject to taxation for that
 8 purpose.

9 Sec. 29.05.140. TRANSITION. (a) The powers and duties exercised
 10 by cities and service areas that are succeeded to by a newly incorporated
 11 municipality continue to be exercised by the cities and service areas
 12 until the new municipality assumes the powers and functions, which may
 13 not exceed two years after the date of incorporation. Ordinances,
 14 rules, resolutions, procedures, and orders in effect before the transfer
 15 remain in effect until superseded by the action of the new municipality.

16 (b) Before the assumption, the new municipality shall give written
 17 notice of its assumption of the rights, powers, duties, assets, and
 18 liabilities under this section and AS 29.05.130 to the city or service
 19 area concerned. Municipal officials shall consult with the officials of
 20 the city or service area concerned and arrange an orderly transfer.

21 (c) After the incorporation of a new municipality, no service area
 22 in it may assume new bonded indebtedness, make a contract, or transfer
 23 an asset without the consent of the governing body.

24 (d) This section applies to home rule and general law municipali-
 25 ties.

26 Sec. 29.05.150. CHALLENGE OF LEGALITY. A person may not challenge
 27 the formation of a municipality except within six months after the date
 28 of its incorporation.

29 ARTICLE 3. TRANSITIONAL ASSISTANCE.

1 Sec. 29.05.180. ORGANIZATION GRANTS TO A CITY. (a) To defray the
2 cost of transition to city government and to provide for development and
3 interim government operations, each city incorporated after July 1,
4 1982, or, in the case of a second class city, incorporated or reclassi-
5 fied after July 1, 1982, is entitled to an organization grant of \$50,000
6 for the first full or partial fiscal year. The department shall disburse
7 the organization grant within 30 days after certification of the incor-
8 poration election favoring incorporation of a city or as soon after that
9 as money is appropriated for the purpose.

10 (b) A city eligible for an organization grant for the first full
11 or partial fiscal year is entitled to a second organization grant of
12 \$25,000. The department shall disburse the second organization grant
13 within 30 days after the beginning of the city's second fiscal year, or
14 as soon after that as money is appropriated for the purpose.

15 Sec. 29.05.190. ORGANIZATION GRANTS TO A BOROUGH. (a) To defray
16 the cost of transition to borough government and to provide for develop-
17 ment and interim government operations, each borough incorporated after
18 July 1, 1982, except a borough incorporated by consolidation or a
19 unified municipality, is entitled to organization grants for the first
20 three fiscal years after incorporation as follows:

- 21 (1) \$300,000 for the first full or partial year;
22 (2) \$200,000 for the second year; and
23 (3) \$100,000 for the third year.

24 (b) The department shall disburse the first organization grant
25 within 30 days after certification of the incorporation election favoring
26 incorporation of a borough, or as soon after that as money is appro-
27 priated for the purpose. The second grant shall be disbursed within 30
28 days after the beginning of the borough's second fiscal year, or as soon
29 after that as money is appropriated for the purpose. The third grant

1 shall be disbursed within 30 days after the beginning of the borough's
2 third fiscal year, or as soon after that as money is appropriated for
3 the purpose.

4 Sec. 29.05.200. ORGANIZATION GRANT FUND. (a) The organization
5 grant fund is established in the department. An appropriation made to
6 the fund shall be used for organization grants to municipalities that
7 qualify to receive a grant under AS 29.05.180 - 29.05.190 during the
8 fiscal year.

9 (b) Before August 31 of each fiscal year the department shall
10 submit a report to the Department of Administration indicating

11 (1) each municipality that qualifies to receive an organiza-
12 tion grant during the next fiscal year;

13 (2) the amount of money needed to cover all organization
14 grants during the next fiscal year.

15 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGHES. (a) Within
16 30 days after the date of incorporation of a borough incorporated after
17 July 1, 1982, the department shall determine the population of the
18 borough.

19 (b) The department shall provide assistance to each borough in-
20 corporated after July 1, 1982, in

21 (1) establishing the initial sales and use tax assessment and
22 collection department for a borough that has adopted a sales or use tax;

23 (2) determining the initial property tax assessment roll for
24 a borough that has adopted a property tax, including contracting for
25 appraisals of property needed to complete the initial assessment.

26 (c) This section does not apply to a borough incorporated by
27 consolidation or to a unified municipality.

28 * Sec. 4. AS 29 is amended by adding a new chapter to read:

29 CHAPTER 06. ALTERATION OF MUNICIPALITIES.

ARTICLE 1. CHANGE OF NAME.

1
2 Sec. 29.06.010. CHANGE OF MUNICIPAL NAME. (a) The governing body
3 of a municipality may change the official municipal name by adopting an
4 ordinance for the purpose and filing the ordinance with the office of
5 the lieutenant governor. Upon receipt of an ordinance ratified by the
6 voters, the lieutenant governor shall issue an order to the municipality
7 changing its existing name. The name change shall become effective on a
8 date fixed in the order and occurring within 45 days after receipt of
9 the ordinance. A copy of the order shall be transmitted to the depart-
10 ment.

11 (b) If an ordinance adopted under (a) of this section that results
12 in a change of the municipal name is subsequently repealed, the lieu-
13 tenant governor shall issue an order reinstating the former name within
14 45 days after the date of the order, unless a different name is adopted
15 as provided in (a) of this section.

16 (c) When a municipal name change takes effect by means of an order
17 issued under (a) or (b) of this section, a civil or criminal suit,
18 application, petition, hearing or other proceeding to which the munici-
19 pality is a party and which is pending at or brought after the date the
20 name change takes effect shall proceed in the municipal name as changed
21 by the order.

22 (d) This section applies to home rule and general law municipali-
23 ties.

ARTICLE 2. ANNEXATION AND DETACHMENT.

24 Sec. 29.06.040. LOCAL BOUNDARY COMMISSION. (a) The Local Boundary
25 Commission may consider any proposed municipal boundary change. It may
26 reject the proposed change, accept the proposed change, or alter the
27 boundaries and accept the proposal as altered. A Local Boundary Commis-
28 sion decision under this subsection may be appealed under the Adminis-
29

1 trative Procedure Act (AS 44.62).

2 (b) The Local Boundary Commission may present a proposed municipal
3 boundary change to the legislature during the first 10 days of a regular
4 session. The change becomes effective 45 days after presentation or at
5 the end of the session, whichever is earlier, unless disapproved by a
6 resolution concurred in by a majority of the members of each house.

7 (c) In addition to the regulations governing annexation by local
8 action adopted under AS 44.47.567, the Local Boundary Commission shall
9 establish procedures for annexation and detachment of territory by
10 municipalities by local action. The procedures established under this
11 subsection include a provision that

12 (1) a proposed annexation and detachment must be approved by
13 a majority of votes on the question cast by voters residing in the area
14 proposed to be annexed or detached;

15 (2) municipally owned property adjoining the municipality may
16 be annexed by ordinance without voter approval; and

17 (3) an area adjoining the municipality may be annexed by
18 ordinance without an election if all property owners and voters in the
19 area petition the governing body.

20 (d) A boundary change effected under (a) and (b) of this section
21 prevails over a boundary change initiated by local action, without
22 regard to priority in time.

23 Sec. 29.06.050. ANNEXATION OF MILITARY RESERVATIONS. A military
24 reservation may be annexed to a municipality in the same manner as pre-
25 scribed for other territory under AS 29.06.040. If a city in a borough
26 annexes a military reservation under this section, the area encompassing
27 the military reservation automatically is annexed to the borough in which
28 the city is located.

29 Sec. 29.06.060. APPLICATION. AS 29.06.040 - 29.06.060 apply to

1 home rule and general law municipalities.

2 ARTICLE 3. MERGER AND CONSOLIDATION.

3 Sec. 29.06.090. METHODS OF MERGER AND CONSOLIDATION. Two methods
4 may be used to initiate merger or consolidation of municipalities:

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

7 (2) the local option method specified in AS 29.06.100 -
8 29.06.160.

9 Sec. 29.06.100. PETITION. (a) Residents of two or more munici-
10 palities may file a merger or consolidation petition with the depart-
11 ment. The petition must be signed by a number of voters of each exist-
12 ing municipality equal to at least 25 percent of the number of votes
13 cast in each municipality's last regular election.

14 (b) The petition includes

15 (1) the name and class of each existing municipality;

16 (2) the name and class of the proposed municipality;

17 (3) the proposed composition and apportionment of the govern-
18 ing body;

19 (4) maps, documents, and other information which show that
20 the proposed municipality meets the standards for municipal incorpora-
21 tion.

22 Sec. 29.06.110. REVIEW. (a) The department shall review a merger
23 or consolidation petition for content and signatures and shall return a
24 deficient petition for correction or completion.

25 (b) If the petition contains the required information and signa-
26 tures, the department shall investigate the proposal.

27 (c) The department shall report its findings to the Local Boundary
28 Commission with its recommendations regarding the merger or consolida-
29 tion.

1 Sec. 29.06.120. HEARING. After receipt of the report by the
2 department on a merger or consolidation petition, the Local Boundary
3 Commission shall hold at least one public hearing in each of the existing
4 municipalities included in the petition, unless officials of the muni-
5 cipalities agree to a single hearing.

6 Sec. 29.06.130. DECISION. (a) If the Local Boundary Commission
7 determines that the proposed municipality fails to meet the standards
8 for incorporation, it shall reject the merger or consolidation petition.
9 If the commission determines that the proposed municipality meets these
10 standards, it shall accept the petition. If the commission determines
11 that the proposed boundaries or the composition and apportionment of the
12 governing body can be altered to meet the standards, it may change the
13 proposal and accept the petition.

14 (b) A Local Boundary Commission decision under this section may be
15 appealed under the Administrative Procedure Act (AS 44.62).

16 Sec. 29.06.140. ELECTION. (a) The Local Boundary Commission
17 shall immediately notify the director of elections of its acceptance of a
18 merger or consolidation petition. Within 30 days after notification,
19 the director of elections shall order an election within the area to be
20 included in the new municipality to determine whether the voters desire
21 merger or consolidation. The election must be held not less than 30 or
22 more than 90 days after the election order. A voter who is a resident
23 of the area to be included within the proposed municipality may vote.

24 (b) The director of elections shall supervise the election in the
25 general manner prescribed by the Alaska Election Code (AS 15). The
26 state shall pay all election costs.

27 (c) The director of elections shall certify the election results.
28 If merger or consolidation is approved, he shall, within 10 days, set a
29 date for election of officials of the new municipality. The election

1 date must be not less than 60 or more than 90 days after the election
2 order and it is the effective date for the merger or consolidation.

3 Sec. 29.06.150. ASSETS AND LIABILITIES. (a) When two or more
4 municipalities merge, one succeeds to the rights, powers, duties, assets,
5 and liabilities of the others.

6 (b) When two or more municipalities consolidate, the newly incor-
7 porated municipality succeeds to the rights, powers, duties, assets, and
8 liabilities of the consolidated municipalities.

9 Sec. 29.06.160. TRANSITION. After merger or consolidation, the
10 ordinances, resolutions, regulations, procedures, and orders of the
11 former municipalities remain in force in their respective territories
12 until superseded by the action of the new municipality.

13 Sec. 29.06.170. APPLICATION. AS 29.06.090 - 29.06.170 apply to
14 home rule and general law municipalities.

15 ARTICLE 4. UNIFICATION OF MUNICIPALITIES.

16 Sec. 29.06.190. UNIFICATION OF MUNICIPALITIES AUTHORIZED. A
17 borough and all cities within the borough may unite to form a single
18 unit of home rule government by complying with AS 29.06.190 - 29.06.400.

19 Sec. 29.06.200. UNIFICATION PROPOSED. (a) Formation of a charter
20 commission to prepare a unification charter shall be proposed by resolu-
21 tion of the assembly or by petition. A resolution to propose formation
22 of a charter commission may be adopted not more often than once every 12
23 months.

24 (b) An assembly, a council, or a person living within the area
25 proposed for unification may initiate a unification petition.

26 Sec. 29.06.210. PETITION REQUIREMENTS. (a) A unification peti-
27 tion shall read:

28 "PETITION FOR ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICATION
29 CHARTER. We, the undersigned, qualified voters of the borough do hereby

1 petition that the following proposition be placed before the voters as
 2 provided by law: 'Shall a charter commission be formed (and charter com-
 3 mission members be elected as elsewhere provided on this ballot) to
 4 prepare, adopt and submit to the voters for their approval or rejection
 5 a proposed charter uniting the borough and all cities within it as a
 6 single unit of home rule government having the powers, duties and
 7 functions of a unified municipality as authorized by law? Yes No

8 Inside First Class Outside First
 9 Class or or

10 Signature Address Home Rule City Home Rule City"

11 (b) The petition shall be signed by at least

12 (1) the number of voters of the borough living outside all
 13 home rule and first class cities in the borough equal to 25 percent of
 14 the votes cast in that area in the last regular borough election; and

15 (2) the number of voters residing in a home rule or first
 16 class city located in the borough equal to 25 percent of the votes cast
 17 in all home rule and first class cities in the borough in the last
 18 regular borough election.

19 Sec. 29.06.220. REVIEW OF PETITION. The assembly shall review a
 20 unification petition within 15 days to determine whether it complies
 21 with AS 29.06.210. If the petition does not meet the designated re-
 22 quirements, it shall be immediately returned to the person who initiated
 23 the petition with a statement indicating which requirements have not
 24 been satisfied.

25 Sec. 29.06.230. COMPOSITION OF CHARTER COMMISSION. The charter
 26 commission shall consist of 11 voters, three of whom are residents
 27 elected at large from the borough and eight of whom, proportionate to
 28 the population as determined by the department, are

29 (1) residents of and elected from the area outside all home

1 rule and first class cities in the borough; or,

2 (2) residents of and elected from a home rule or first class
3 city in the borough.

4 Sec. 29.06.240 CHARTER COMMISSION NOMINATIONS. (a) If the
5 assembly determines that a unification petition meets the requirements
6 of AS 29.06.210, or the assembly by its resolution proposes an election
7 on formation of a charter commission, the assembly shall issue a call
8 for the nomination of commission candidates, specifying the filing
9 deadline and the procedure for making nominations.

10 (b) Charter commission candidates shall be nominated by petition
11 signed by at least 50 voters of the area from which the candidate seeks
12 election, or by a number of voters from that area equal to at least 10
13 percent of the number of votes cast from that area in the last regular
14 borough election, whichever is less.

15 (c) Nomination petitions shall be filed with the borough clerk on
16 or before the date fixed by the assembly, which must be at least 30 days
17 after notice of the call for nominations has been given.

18 (d) If at least one nomination of a qualified charter commission
19 candidate for each available seat is not filed, the unification petition
20 or resolution to propose formation of a charter commission is void and
21 no election on the question shall be held.

22 Sec. 29.06.250. QUALIFICATIONS OF CANDIDATES. A person is eli-
23 gible to be nominated as a candidate for the charter commission if he
24 has been a voter of the area from which he seeks election for at least
25 one year immediately preceding the date his nomination petition is filed.

26 Sec. 29.06.260. ELECTION. (a) After receipt of a valid unifica-
27 tion petition or adoption of an assembly resolution to propose formation
28 of a charter commission, the assembly shall submit to the voters the
29 question of whether a charter commission shall be formed to prepare a

1 proposed unification charter. The vote shall be held at the next regular
2 borough election scheduled at least 90 days after receipt of the petition
3 or adoption of the resolution. The ballot shall be worded exactly as in
4 AS 29.06.210(a).

5 (b) The election of charter commission members shall take place at
6 the same time as the election on the question of formation of the commis-
7 sion.

8 (c) All costs incurred in conducting an election under AS 29.06.-
9 190 - 29.06.400 shall be paid by the borough.

10 Sec. 29.06.270. REQUIREMENTS FOR APPROVAL OF FORMATION AND ELECTION
11 OF CHARTER COMMISSION. (a) The votes on the question of formation of a
12 charter commission shall be tabulated in two separate classifications.
13 One classification consists of all votes cast in first class and home
14 rule cities in the borough. The other classification consists of all
15 votes cast in the remaining area of the borough. In order for formation
16 of a charter commission to be approved, a majority of the votes in each
17 classification must favor formation of the commission.

18 (b) If formation of a charter commission is approved, candidates
19 who received the highest number of votes from their respective areas
20 shall serve as members of the commission.

21 Sec. 29.06.280. CHARTER COMMISSION ORGANIZATION AND PROCEDURE.

22 (a) The charter commission shall hold its first meeting within 30 days
23 after certification of its election. The commission shall elect from
24 among its members a chairman and a deputy chairman.

25 (b) A majority of the total membership of the charter commission
26 constitutes a quorum. A decision of the commission is not valid or
27 binding unless approved by the number of members necessary to constitute
28 a quorum.

29 (c) The charter commission may elect other officials from among

1 its membership, adopt rules governing its procedures that are consistent
2 with AS 29.06.190 - 29.06.400 and hire and discharge employees.

3 (d) Meetings of the charter commission shall be open to the public
4 at all times. A journal of commission proceedings shall be kept and
5 made available for public inspection at the borough office.

6 Sec. 29.06.290. VACANCIES. (a) Vacancies on the charter commis-
7 sion shall be filled by a majority vote of the commission, except the
8 assembly shall appoint members to fill vacancies if, after a proposed
9 charter is rejected by the voters, more than one-half of the members
10 resign.

11 (b) A person who fills a vacancy on the charter commission must be
12 a voter of the same area as the person whom he succeeds and must have
13 been a voter of that area for at least one year immediately preceding
14 the date he fills the vacancy.

15 Sec. 29.06.300. PER DIEM. The assembly may grant a per diem
16 allowance to members of the charter commission and may reimburse the
17 members for travel expenses incurred in carrying out the duties pre-
18 scribed by AS 29.06.190 - 29.06.400. Costs, fees, and other expenses
19 incurred by the commission are a debt of the borough and shall be paid
20 upon proper verification.

21 Sec. 29.06.310. CHARTER PREPARATION. The charter commission shall
22 prepare, adopt, and submit a proposed home rule charter for the area to
23 be unified to the voters for approval or rejection. The charter shall
24 include

25 (1) provision for adjustment of existing bonded indebtedness
26 and other obligations in a manner which will reserve a fair and equitable
27 burden of taxation for debt service, subject to AS 29.06.370;

28 (2) provision for

29 (A) the establishment of service areas; and

1 (B) if election of members of the governing body is not
2 areawide, the establishment of districts or sections for the elec-
3 tion of members of the governing body of the unified municipality,
4 and procedures by which to reapportion the election districts or
5 sections;

6 (C) reapportionment of districts or sections if they are
7 established;

8 (3) provision for nonpartisan government, and the election,
9 organization, authority, and responsibilities of the governing body and
10 its executive and administrator;

11 (4) the transfer or other disposition of property and other
12 rights, claims, assets, and franchises of the municipalities to be
13 unified under the charter;

14 (5) provision for exercise of the rights of initiative and
15 referendum;

16 (6) a method of amending the charter;

17 (7) the date on which the charter, if approved at the charter
18 election, is effective;

19 (8) designation of the new unified municipality's official
20 name;

21 (9) other charter provisions that may be included in a home
22 rule charter.

23 Sec. 29.06.320. PUBLIC HEARINGS. Both before and after drafting
24 the proposed charter, the charter commission shall hold a public hearing
25 in each area represented on the assembly. Other public hearings may be
26 held by the commission as it considers necessary.

27 Sec. 29.06.330. FILING OF PROPOSED CHARTER. Upon the adoption of
28 a proposed home rule charter by the charter commission, the charter
29 shall be signed by at least a majority of the total membership of the

1 commission and shall be filed with the borough clerk. A copy with
2 signatures affixed shall also be filed with the clerk of each city in
3 the borough.

4 Sec. 29.06.340. PUBLICATION AND POSTING OF PROPOSED CHARTER.

5 Within 10 days after filing the proposed charter, the borough clerk
6 shall have it published. In addition, the clerk shall have a copy of
7 the proposed charter posted in at least three public places in each city
8 and each unincorporated community in the borough. Copies of the proposed
9 charter shall be made available by the assembly to the public at both
10 the office of the borough clerk and the office of the clerk of each city
11 in the borough. The clerk shall have notice of the publication, post-
12 ing, and availability of the proposed charter published.

13 Sec. 29.06.350. ELECTION ON CHARTER. (a) The proposed charter

14 adopted by the charter commission shall be submitted to the voters at a
15 borough election held within 60 days of the date of publication and
16 posting of the proposed charter. The borough clerk shall prepare the
17 ballots for use in the election and shall give notice of the election by
18 radio and television in a manner intended to apprise the entire borough
19 population of the election. The election shall be conducted under
20 procedures applicable to regular elections.

21 (b) A person who is a voter of the borough may vote in the elec-
22 tion on the proposed charter.

23 (c) If a majority of the votes in the area of the borough outside
24 all home rule or first class cities, and a majority of the votes in all
25 home rule and first class cities in the borough are cast in favor of the
26 proposed charter, the charter is ratified. If the charter is ratified,
27 election results shall be certified to the commission and two copies of
28 the charter shall be filed with

29 (1) the lieutenant governor;

- 1 (2) the commissioner of the department;
- 2 (3) the district recorder for the area of the borough;
- 3 (4) the clerk of the borough;
- 4 (5) the clerk of each city in the borough.

5 (d) If a proposed charter is rejected, the charter commission
6 shall prepare, adopt, and submit another proposed charter to the voters
7 at a borough election held within one year of the date of the first
8 charter election. If the second proposed charter is also rejected, the
9 charter commission shall be dissolved and the question of unification
10 shall be treated as if it had never been proposed or approved.

11 Sec. 29.06.360. EFFECT OF THE CHARTER AFTER RATIFICATION. Upon
12 ratification, the charter of a unified municipality operates to dissolve
13 all municipalities in the area unified in accordance with the charter.

14 Sec. 29.06.370. ASSETS AND LIABILITIES. A unified municipality
15 shall succeed to all the assets and liabilities of the municipalities it
16 unified. A bonded indebtedness or other debt incurred before unifi-
17 cation remains the tax obligation of the area that contracted the debt,
18 except that by ordinance the tax obligation may be assumed by a larger
19 area if the governing body determines that the asset for which the
20 bonded indebtedness or other debt was incurred benefited the larger area
21 before unification, or benefits the larger area after unification.
22 However, bonded indebtedness or other debt for sewage collection sys-
23 tems, water distribution systems, and streets, even if determined to be
24 benefiting a larger area than that which incurred the debt, remains the
25 tax obligation of the area which incurred the debt.

26 Sec. 29.06.380. TRANSITION. Within two years after ratification
27 of the charter, the unified municipality shall revise, repeal, or re-
28 affirm all municipal ordinances, resolutions, and orders in effect in
29 the area of the unified municipality on the date of unification. Each

1 ordinance, resolution, regulation, or order in effect on the date of
2 unification remains in effect until superseded by action of the unified
3 municipality.

4 Sec. 29.06.390. RIGHT TO STATE AND FEDERAL AID. All provisions of
5 law authorizing aid from the state or federal government to a former
6 municipality that was in the area of a unified municipality remain in
7 effect after unification.

8 Sec. 29.06.400. POWERS OF A UNIFIED MUNICIPALITY. A municipality
9 unified under AS 29.06.190 - 29.06.400 has all powers

10 (1) not prohibited by law or charter; and

11 (2) granted to home rule boroughs.

12 Sec. 29.06.410. APPLICATION. AS 29.06.190 - 29.06.410 apply to
13 home rule and general law municipalities.

14 ARTICLE 5. DISSOLUTION.

15 Sec. 29.06.450. METHODS OF DISSOLUTION. (a) Two petition methods
16 may be used to initiate dissolution of a municipality;

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

19 (2) the local option method specified in AS 29.06.460 -
20 29.06.520.

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

27 (c) A borough is dissolved when its entire territory is included
28 in a home rule or first class city or cities. A city is dissolved when
29 all its powers become areawide borough powers.

1 Sec. 29.06.460. PETITION. (a) Residents of a municipality may
2 file a dissolution petition with the department in the form prescribed
3 by the department. The petition must be signed by a number of voters
4 equal to at least 25 percent of the number of votes cast in the last
5 regular election in that municipality.

6 (b) The petition must include

7 (1) the name of the municipality;

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

10 Sec. 29.06.470. STANDARDS. (a) Except as provided in (b) of this
11 section, residents of a municipality may petition for dissolution when

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

14 (2) either it no longer meets the minimum standards pre-
15 scribed for incorporation by AS 29.05, or it ceases to use each one of
16 its mandatory powers.

17 (b) Residents of a city in a borough may petition for dissolution
18 if the borough consents to assume the city's rights, powers, duties,
19 assets, and liabilities. The consent must be ratified by a majority of
20 borough voters voting on the question

21 Sec. 29.06.480. REVIEW. (a) The department shall review a
22 dissolution petition for content and signatures, and shall return a
23 deficient petition for correction or completion.

24 (b) If the petition contains the required information and signa-
25 tures, the department shall investigate the proposal.

26 Sec. 29.06.490. REPORT AND HEARING. (a) The department shall
27 report its findings to the Local Boundary Commission with its recommen-
28 dation regarding the dissolution of a municipality .

29 (b) The Local Boundary Commission shall hold at least one public

1 hearing in the area proposed to be dissolved.

2 Sec. 29.06.500. DECISION. (a) If the Local Boundary Commission
3 determines that a municipality fails to meet the standards for dissolu-
4 tion, it shall reject the petition. If the commission determines that
5 the municipality meets the standards, it shall accept the petition.

6 (b) A Local Boundary Commission decision under this section may be
7 appealed under the Administrative Procedure Act (AS 44.62).

8 Sec. 29.06.510. ELECTION. (a) The Local Boundary Commission
9 shall immediately notify the director of elections of its acceptance of
10 a dissolution petition. Within 30 days after notification, the director
11 of elections shall order an election in the municipality to determine
12 whether the voters desire dissolution. The election must be held at
13 least 30 and not more than 90 days after the election order. A person
14 who is a voter of the municipality may vote in the dissolution election.

15 (b) The director of elections shall supervise the election in the
16 general manner prescribed by the Alaska Election Code (AS 15). The
17 state shall pay all election costs.

18 (c) The director of elections shall certify the election results.
19 If dissolution is approved, he shall declare that the municipality is
20 dissolved effective on the date of certification.

21 Sec. 29.06.520. SUCCESSION. The government succeeding to a dis-
22 solved municipality succeeds to all its rights, powers, duties, assets,
23 and liabilities.

24 Sec. 29.06.530. APPLICATION. AS 29.06.450 - 29.06.530 apply to
25 home rule and general law municipalities.

26 * Sec. 5. AS 29 is amended by adding a new chapter to read:

27 CHAPTER 10. HOME RULE MUNICIPALITIES.

28 ARTICLE 1. CHARTERS.

29 Sec. 29.10.010. MUNICIPAL CHARTER ADOPTION. A general law borough

1 or first class city may adopt a charter for its own government. A
2 second class city may adopt a charter for its own government if the
3 department determines from the best figures available that the population
4 of the city is at least 400 permanent residents. A home rule municipality
5 may adopt a new charter. A charter is prepared
6 by a charter commission of seven elected members. A candidate for the
7 commission shall be a voter of the municipality for three years immedi-
8ately preceding the election. An election is called by filing a petition
9 with the governing body or by resolution of the governing body. The
10 petition shall be signed by a number of voters equal to 15 percent of
11 the votes cast in the last regular election in the municipality.

12 Sec 29.10.020. NOMINATION. (a) A charter commission candidate is
13 nominated by a petition signed by 50 voters or the number of voters
14 equal to 10 percent of the number of votes cast in the municipality
15 during the last regular election, whichever is less.

16 (b) A nomination petition shall be filed with the municipal clerk
17 on or before a date fixed by the governing body. If at least seven
18 nominations for qualified charter commission candidates are not filed,
19 the petition or resolution calling for a charter commission is void and
20 no election on the question may be held.

21 Sec. 29.10.030. ELECTION. At a charter commission election the
22 voters shall consider the question "Shall a charter commission be elected
23 to prepare a proposed charter?" and shall elect the members of the
24 commission. If the question is approved, the seven candidates receiving
25 the highest number of votes shall immediately organize as a charter
26 commission.

27 Sec. 29.10.040. PREPARATION OF CHARTER. The charter commission
28 shall, within one year, prepare a municipal charter. The proposed
29 charter shall be signed by a majority of the members of the commission

1 and filed in the office of the municipal clerk. Within 15 days, the
2 clerk shall have the charter published and make copies available. The
3 commission shall give published notice of and hold at least one public
4 hearing on the proposed charter before the signing and filing of the
5 charter.

6 Sec. 29.10.050. INITIATIVE AND REFERENDUM. (a) A municipal
7 charter shall provide procedures for initiative and referendum.

8 (b) A charter may not require an initiative or referendum petition
9 to have a number of signatures greater than 25 percent of the total
10 votes cast at the last regular election.

11 (c) A charter may not permit the initiative and referendum to be
12 used for a purpose prohibited by art. XI, sec. 7 of the state constitu-
13 tion.

14 Sec. 29.10.060. CHARTER ELECTION. The charter shall be submitted
15 to the voters at an election held not less than 30 days or more than 90
16 days after the charter is published.

17 Sec. 29.10.070. CHARTER ADOPTION. (a) If a majority of those
18 voting on the question favor the proposed charter, it becomes the organic
19 law of the municipality effective on the date the election is certified.
20 Thereafter, a court shall take judicial notice of the charter. The new
21 home rule municipality shall file the indicated number of copies of the
22 charter with

- 23 (1) the lieutenant governor -- two copies;
- 24 (2) the department -- two copies;
- 25 (3) the district recorder -- one copy;
- 26 (4) the municipal clerk -- one copy.

27 (b) If a proposed charter is rejected, the charter commission
28 shall prepare another proposed charter to be submitted to the voters at
29 an election to be held within one year after the date of the first

1 charter election. If the second proposed charter is also rejected, the
2 charter commission shall be dissolved and the question of adoption of a
3 charter shall be treated as if it had never been proposed or approved.

4 Sec. 29.10.080. CHARTER AMENDMENT. (a) A municipal charter may
5 be amended as provided in the charter except that no amendment is effec-
6 tive unless ratified by the voters.

7 (b) This section applies to home rule municipalities.

8 ARTICLE 2. HOME RULE LIMITATIONS.

9 Sec. 29.10.110. LIMITATION OF HOME RULE POWERS. Only the follow-
10 ing provisions of this title apply to home rule municipalities as pro-
11 hibitions on acting otherwise than as provided. These provisions super-
12 sede existing and prohibit future home rule enactments that provide
13 otherwise:

- 14 (1) AS 29.05.140 (transition)
15 (2) AS 29.06.010 (change of municipal name)
16 (3) AS 29.06.040 - 29.06.060 (annexation and detachment)
17 (4) AS 29.06.090 - 29.06.170 (merger and consolidation)
18 (5) AS 29.06.190 - 29.06.410 (unification of municipalities)
19 (6) AS 29.06.450 - 29.06.530 (dissolution)
20 (7) AS 29.10.080 (charter amendment)
21 (8) AS 29.20.010 (conflict of interest)
22 (9) AS 29.20.020 (meetings public)
23 (10) AS 29.20.050 (legislative power)
24 (11) AS 29.20.060 - 29.20.120 (assembly composition and
25 apportionment)
26 (12) AS 29.20.140 (qualifications of members of governing
27 bodies)
28 (13) AS 29.20.150 (term of office)
29 (14) AS 29.20.220 (executive power)

- 1 (15) AS 29.20.630 (prohibitions)
- 2 (16) AS 29.20.640 (reports)
- 3 (17) AS 29.25.010(a)(10) (municipal exemption on contractor
- 4 bond requirements)
- 5 (18) AS 29.25.050 (codification)
- 6 (19) AS 29.25.060 (resolutions)
- 7 (20) AS 29.26.030 (notice of elections)
- 8 (21) AS 29.26.050 (voter qualification)
- 9 (22) AS 29.26.240 - 29.26.360 (recall)
- 10 (23) AS 29.35.020 (extraterritorial jurisdiction)
- 11 (24) AS 29.35.030 (eminent domain)
- 12 (25) AS 29.35.050 (garbage and solid waste services)
- 13 (26) AS 29.35.070 (public utilities)
- 14 (27) AS 29.35.110 (post audit)
- 15 (28) AS 29.35.150(b) (effect of areawide exercise of borough
- 16 powers)
- 17 (29) AS 29.35.160 (education)
- 18 (30) AS 29.35.170(b) (assessment and collection of taxes)
- 19 (31) AS 29.35.180(b) (land use regulation)
- 20 (32) AS 29.35.250 (cities inside boroughs)
- 21 (33) AS 29.35.260 (cities outside boroughs)
- 22 (34) AS 29.35.340 (acquisition of areawide power)
- 23 (35) AS 29.40.160(a) - (c) (title to vacated areas)
- 24 (36) AS 29.45.010 - 29.45.570 (property taxes)
- 25 (37) AS 29.45.650(d) (interest on sales tax)
- 26 (38) AS 29.46.090 (exemption from special assessment)
- 27 (39) AS 29.47.200(b) (security for bonds)
- 28 (40) AS 29.47.260 (construction)
- 29 (41) AS 29.60.050(a) (limitation on computation and use of

1 payment)

2 (42) AS 29.60.120(a) and (c) (state aid for health facilities
3 and hospitals)

4 (43) AS 29.60.230 (state aid for hospital and health facility
5 construction)

6 (44) AS 29.65.010 - 29.65.140 (general grant land)

7 * Sec. 6. AS 29 is amended by adding a new chapter to read:

8 CHAPTER 14. CAPITAL CITY.

9 Sec. 29.14.010. INCORPORATION. There is created and incorporated
10 a city of the state as the capital city of Alaska that is a city of the
11 first class. The capital city has all the powers of a first class city.

12 Sec. 29.14.020. BOUNDARIES. The boundaries of the capital city
13 shall include all of that area of land designated by the voters of
14 Alaska as the new capital site of the state.

15 Sec. 29.14.030. CITY COUNCIL. (a) Until council members elected
16 by the residents of the capital city take office as provided in AS 29.-
17 14.060, the council of the capital city shall have five members, four of
18 whom shall be appointed by the governor and shall serve at the pleasure
19 of the governor. The development corporation shall designate one person
20 to serve as a member of the council. The council members appointed by
21 the governor or designated by the development corporation shall serve an
22 initial term which expires on the Monday following the first Tuesday in
23 October of the calendar year following the calendar year of initial
24 appointment or designation. Council members may be reappointed by the
25 governor or redesignated by the development corporation. Except as
26 provided in AS 29.14.040, the successors of the initial appointees and
27 designee serve for a term of two years beginning on the date the initial
28 appointments and designation expire. Each appointee and designee holds
29 office for the term of his appointment and until his successor is ap-

1 pointed or designated and qualifies.

2 (b) Council members appointed by the governor or designated by the
3 development corporation need not be residents of the capital city.

4 (c) The council shall elect a chairman from among its membership.
5 The chairman presides at council meetings, determines the agenda for
6 council meetings, and carries out the other duties specified by ordi-
7 nance.

8 Sec. 29.14.040. FILLING A VACANCY. If a vacancy occurs among the
9 members appointed by the governor, the governor shall appoint the re-
10 placement who shall serve for the unexpired portion of the term.

11 Sec. 29.14.050. APPOINTMENT OF CITY OFFICIALS. Until a mayor is
12 elected in accordance with AS 29.14.060, the council shall appoint a
13 city manager for the capital city to serve at the pleasure of the
14 council. The city manager may not be a council member.

15 Sec. 29.14.060. TRANSITION. (a) When the capital city attains a
16 population of 400 permanent residents, as certified by the director of
17 elections based on the best information available, the director of
18 elections shall notify the council of this determination. The director
19 of elections shall specify an election date which shall be the first
20 Tuesday of October following the notification, except that if it is less
21 than six months from the date of the certification to the first Tuesday
22 of October then the election date shall be the first Tuesday of October
23 of the year following. The elected members take office on the Monday
24 following the election.

25 (b) After the director of elections specifies the election date,
26 the council shall make arrangements for an election at which five council
27 members and a mayor shall be elected in the manner prescribed by ordi-
28 nance and law. The expenses of the election shall be borne by the
29 state. The council of the capital city shall have six members. The

1 governor shall appoint one council member holding office on the date of
2 the election to remain a member of the council for a single three-year
3 term beginning on the date the elected council members take office. The
4 successors to the appointed council members shall be elected by the
5 residents, except that if the appointed council member leaves office
6 during the three years, the governor may appoint a successor. The terms
7 of all other appointed or designated council members expire when the
8 elected council members take office. The term of elected council members
9 is as provided in AS 29.20.150 except that three of the members are
10 elected for an initial term of one year.

11 Sec. 29.14.070. PLANNING AND LAND USE REGULATION. The general
12 development plan and specific development plans constitute the land use
13 plan for the capital city area. When a parcel of land has been developed
14 in accordance with the applicable specific development plan, that parcel
15 becomes subject to all planning, zoning, subdivision, building code or
16 other similar ordinances of the Matanuska-Susitna Borough.

17 Sec. 29.14.080. TRANSFER OF UTILITIES TO THE CAPITAL CITY. (a)
18 The development corporation, in cooperation with the capital city, shall
19 arrange for an orderly schedule for transferring to the capital city
20 ownership of and financial and operational responsibility for utilities
21 and other facilities that the development corporation considers to be
22 integral parts of the capital city infrastructure. Before January 1,
23 1985, the development corporation and the council of the capital city
24 shall jointly retain independent consultants to study and determine an
25 orderly schedule for transfer of the utilities and facilities to the
26 capital city. The study shall consider the capabilities of the capital
27 city to finance the cost of the utilities and other facilities and their
28 operating expenses. The consultants shall propose a recommended schedule
29 for and terms of transfer that are commensurate with the capital city's

1 existing and anticipated population, tax base, and other factors relating
2 to its capability to finance and operate the utilities and other facilities
3 as they consider appropriate. The development corporation shall,
4 after considering the consultants' report, propose a schedule of and
5 terms of the transfer to the capital city that shall, upon review and
6 approval by the council, be included in an agreement between the develop-
7 ment corporation and the capital city.

8 (b) If the development corporation and the capital city are unable
9 to agree within six months after the development corporation submits its
10 proposal, the development corporation shall submit the proposal to the
11 Legislative Budget and Audit Committee which shall consider the proposal,
12 and if the committee considers it appropriate to do so, shall recommend
13 to the legislature legislation it considers desirable for the disposition
14 of the utilities and other facilities. If the legislature does not
15 enact legislation regarding the disposition within one year after the
16 proposal is submitted to the Legislative Budget and Audit Committee, the
17 development corporation may at any time thereafter sell or dispose of
18 the utilities and facilities or any of them, or continue to operate
19 them.

20 Sec. 29.14.090. DEFINITIONS. In this chapter, unless the context
21 requires otherwise,

22 (1) "capital city area" means the area described in AS 29.-
23 14.020;

24 (2) "capital city " means the municipality incorporated by
25 this chapter;

26 (3) "development corporation" means the Alaska Capital City
27 Development Corporation;

28 (4) "general development plan" has the same meaning as pro-
29 vided in AS 44.07.360 and includes amendments to the general development

1 plan;

2 (5) "specific development plan" has the same meaning as
3 provided in AS 44.07.360 and includes amendments to each specific
4 development plan.

5 Sec. 29.14.100. SHORT TITLE. This chapter may be cited as the
6 Capital City Incorporation Act.

7 * Sec. 7. AS 29 is amended by adding a new chapter to read:

8 CHAPTER 20. MUNICIPAL OFFICERS AND EMPLOYEES.

9 ARTICLE 1. CONFLICT OF INTEREST, PUBLIC MEETINGS.

10 Sec. 29.20.010. CONFLICT OF INTEREST. (a) Each municipality
11 shall adopt a conflict of interest ordinance that provides that a member
12 of the governing body shall declare a substantial financial interest he
13 has in an official action and ask to be excused from a vote on the
14 matter. The presiding officer shall rule on the question. His decision
15 may be overridden by the majority vote of the governing body.

16 (b) This section applies to home rule and general law municipali-
17 ties.

18 Sec. 29.20.020. MEETINGS PUBLIC. (a) Meetings of all municipal
19 bodies shall be public as provided in AS 44.62.310. The governing body
20 shall provide reasonable opportunity for the public to be heard at
21 regular and special meetings.

22 (b) This section applies to home rule and general law municipali-
23 ties.

24 ARTICLE 2. GOVERNING BODIES.

25 Sec. 29.20.050. LEGISLATIVE POWER. (a) The legislative power of
26 a borough is vested in the assembly. The legislative power of a city is
27 vested in the council.

28 (b) This section applies to home rule and general law municipali-
29 ties.

1 Sec. 29.20.060. ASSEMBLY COMPOSITION AND APPORTIONMENT. (a)
2 Assembly composition and apportionment shall be consistent with
3 the equal representation standards of the Constitution of the United
4 States.

5 (b) The assembly of a newly incorporated borough is, after incor-
6 poration and until the adoption of an ordinance providing for a change
7 in composition or apportionment, composed of the number of members and
8 apportioned as set out in the incorporation petition approved by the
9 voters. If the borough is already incorporated, the assembly shall be
10 composed and apportioned in a manner that is consistent with the re-
11 quirements of this section and prescribed by charter or ordinance.

12 (c) An assembly may not provide for weighted voting.

13 (d) A member of the assembly of a borough may not be elected or
14 appointed by and from the council of a city in the borough.

15 (e) This section applies to home rule and general law municipali-
16 ties.

17 Sec. 29.20.070. COMPOSITION AND FORM OF REPRESENTATION. (a) The
18 assembly shall provide for its composition and for the form of its
19 representation.

20 (b) Not later than the first regular election that occurs after
21 the report of a federal decennial census, the assembly shall propose and
22 submit to the voters of the borough, at that regular election or at a
23 special election called for the purpose, one or more forms of assembly
24 representation. The forms of representation that the assembly may
25 submit to the voters are:

26 (1) election of members of the assembly at large by the
27 voters throughout the borough;

28 (2) election of members of the assembly by district, includ-
29 ing

1 (A) election at large by the voters throughout the
2 borough, but with a requirement that a candidate live in an election
3 district established by the borough for election of assembly
4 members; or

5 (B) election from election districts established by the
6 borough for the election of assembly members by the qualified
7 voters of a district;

8 (3) election of members of the assembly both at large and by
9 district.

10 (c) A form of assembly representation which includes election of
11 assembly members under (b)(2) or (b)(3) of this section shall be sub-
12 mitted to the voters of the borough with a plan of apportionment as
13 required by AS 29.20.080.

14 (d) The assembly shall, within 30 days after certification of the
15 results of the election held under this section, adopt an ordinance
16 providing for

17 (1) composition of the assembly;

18 (2) the form of assembly representation that received the
19 most votes; and

20 (3) if applicable, the apportionment of assembly seats in
21 accordance with the form of representation that received the most votes.

22 (e) This section does not apply to a

23 (1) unified municipality;

24 (2) home rule borough if the borough charter contains proce-
25 dures for changing assembly composition and form of representation.

26 Sec. 29.20.080. ASSEMBLY RECOMPOSITION AND REAPPORTIONMENT. (a)
27 Not later than two months after the official report of a federal de-
28 cennial census, the assembly shall determine and declare by resolution
29 whether the existing apportionment of the assembly meets the standards

1 of AS 29.20.060. If the assembly submits to the voters a form of repre-
2 sentation that includes election of assembly members under AS 29.-
3 20.070(b)(2) or (b)(3) the assembly shall submit with the proposition a
4 proposed plan of apportionment that corresponds to the form of represen-
5 tation proposed. The assembly shall describe the plan of apportionment
6 in the ballot proposition, and may present the plan in any manner that
7 it believes accurately describes the apportionment that is proposed
8 under the form of representation. If the assembly determines that its
9 existing apportionment meets the standards of AS 29.20.060, the assembly
10 may include the existing apportionment as a proposed plan of apportion-
11 ment of assembly seats that corresponds to a form of representation that
12 is proposed.

13 (b) The assembly shall provide, by ordinance, for a change in an
14 existing apportionment of the assembly whenever it determines that the
15 apportionment does not meet the standards of AS 29.20.060. At the same
16 time, the assembly may, by ordinance, change the composition of the
17 assembly.

18 (c) If a petition signed by not less than 50 voters requests
19 the assembly to determine whether the existing apportionment meets
20 the standards for apportionment in AS 29.20.060, and the petition con-
21 tains evidence that the existing apportionment does not meet those
22 standards, the assembly may make the determination requested. The
23 assembly shall make a determination required by this subsection within
24 two months of receipt of a petition that meets the requirements of this
25 subsection.

26 (d) An ordinance adopted by the assembly under (b) or (c) of this
27 section shall be submitted to the voters for approval. In order for the
28 ordinance to be approved it must receive the approval of a majority of
29 the votes cast.

1 (e) Within six months after a determination by the assembly under
2 (b) or (c) of this section that the current apportionment does not meet
3 the standards of AS 29.20.060 the assembly shall adopt an ordinance
4 providing for reapportionment and submit the ordinance to the voters.
5 If, at the end of the six-month time period, an ordinance providing for
6 reapportionment has not been approved by the voters, the commissioner
7 shall provide for the reapportionment in accordance with the standards
8 of AS 29.20.060 by preparing an order of reapportionment and delivering
9 the order to the borough mayor.

10 Sec. 29.20.090. APPORTIONMENT APPEALS. (a) A reapportionment
11 ordinance approved by the voters, or a decision of the assembly that the
12 standards of AS 29.20.060 do not require a change in apportionment, may
13 be appealed to the commissioner. Fifty voters may submit a petition to
14 the commissioner requesting the commissioner to determine whether the
15 proposed reapportionment ordinance approved by the voters meets the
16 standards of AS 29.20.060 or whether a decision of the assembly that the
17 standards of AS 29.20.060 do not require a change of apportionment is
18 correct. If the petition asks the commissioner to review an ordinance
19 approved by the voters under AS 29.20.080(e), the petition shall be
20 delivered to the commissioner not later than 20 days after certification
21 of the election. If the petition asks the commissioner to review a
22 decision of the assembly under AS 29.20.080(c), the petition shall be
23 delivered to the commissioner within 20 days of the decision of the
24 assembly.

25 (b) The commissioner shall review the petition and may make the
26 determination requested. The commissioner shall provide copies of his
27 determination to the persons petitioning for appeal and to borough
28 officials not later than 60 days after he receives the petition.

29 (c) If the commissioner determines that the proposed reapportionment-

1 ment ordinance approved by the voters does not meet the standards of
2 AS 29.20.060, or if he determines that the decision of the assembly that
3 the standards of AS 29.20.060 do not require a change of apportionment
4 is not correct, the commissioner shall, by order, direct the assembly to
5 prepare a reapportionment ordinance that meets the standards of AS 29.-
6 20.060 and submit the ordinance to the voters.

7 (d) When the assembly has been directed by the commissioner to
8 prepare a reapportionment ordinance under (c) of this section, the
9 assembly shall, within two months after its receipt of the commissioner's
10 order, adopt an ordinance providing for reapportionment. The assembly
11 shall submit an ordinance adopted under this subsection to the voters at
12 an election held within 60 days after the date of adoption of the re-
13 apportionment ordinance.

14 (e) If at the end of the time period provided under (d) of this
15 section an ordinance providing for reapportionment has not been approved
16 by the voters, the commissioner shall provide for the reapportionment of
17 the assembly in accordance with the standards of AS 29.20.060 by pre-
18 paring an order of reapportionment and delivering the order to the
19 borough mayor.

20 Sec. 29.20.100. JUDICIAL REVIEW AND RELIEF. (a) The commissioner
21 may request the superior court to enforce a reapportionment order issued
22 under AS 29.20.090(e).

23 (b) Each of the following is subject to judicial review:

- 24 (1) a plan of reapportionment approved by the voters under
25 AS 29.20.080(a);
26 (2) a determination by the assembly under AS 29.20.080 that
27 the standards of AS 29.20.060 do not require a change in apportionment;
28 (3) a reapportionment ordinance approved by the voters under
29 AS 29.20.080(d);

1 (4) a reapportionment order of the commissioner made under
2 AS 29.20.090(c);

3 (5) a reapportionment ordinance approved by the voters under
4 AS 29.20.090(d); and

5 (6) a reapportionment order of the commissioner made under
6 AS 29.20.090(e).

7 Sec. 29.20.110. EFFECTIVE DATE OF APPORTIONMENT. (a) A change in
8 assembly apportionment or composition under AS 29.20.080 or 29.20.090 is
9 effective beginning with the first regular election for members of the
10 assembly that is held more than 60 days after the later of

11 (1) approval of a reapportionment ordinance by the voters
12 under AS 29.20.080(a), 29.20.080(e), or 29.20.090(d); or

13 (2) the delivery to the mayor of a reapportionment order of
14 the commissioner under AS 29.20.090(d).

15 (b) The provisions of (a) of this section do not apply to a borough
16 in which a change in assembly composition or apportionment is subject to
17 review and approval or determination of nonobjection by the Attorney
18 General of the United States under the Voting Rights Act of 1965, as
19 amended (42 U.S.C. 1971 - 1974). A change in assembly composition or
20 apportionment subject to review under the Voting Rights Act of 1965, as
21 amended, is effective beginning with the first regular election for
22 members of the assembly which is held more than 60 days after

23 (1) receipt by the assembly of approval by the Attorney
24 General of the United States of the proposed change in the composition
25 or apportionment of the assembly;

26 (2) the delivery to the mayor of a reapportionment order of
27 the commissioner under AS 29.20.090(e); or

28 (3) the last day on which the Attorney General of the United
29 States may review a proposed change in the composition or apportionment

1 of the assembly.

2 Sec. 29.20.120. APPLICABILITY OF APPORTIONMENT PROVISIONS. The
3 provisions of AS 29.20.080 - 29.20.110 do not apply to a

4 (1) unified municipality;

5 (2) home rule borough if the borough, by charter, provides
6 for reapportionment of the assembly.

7 Sec. 29.20.130. CITY COUNCIL COMPOSITION. Each first class city
8 has a council of six members elected by the voters at large. Each
9 second class city has a council of seven members elected by the voters
10 at large. The council of a first or second class city may by ordinance
11 provide for election of members other than on an at-large basis for all
12 members.

13 Sec. 29.20.140 QUALIFICATIONS. (a) A borough voter is eligible
14 to be a member of the assembly and a city voter is eligible to be a
15 member of the council. A member of the governing body who ceases to be
16 a voter in the municipality immediately forfeits his office.

17 (b) A municipality may by ordinance establish a durational resi-
18 dency requirement not to exceed three years for members of the governing
19 body.

20 (c) A municipality may by ordinance establish district residency
21 requirements for members of its governing body. A member of the govern-
22 ing body who represents a district and who becomes a resident of another
23 district in the municipality continues to serve until the next regular
24 election unless provided otherwise by ordinance.

25 (d) Except by ordinance ratified by the voters, no limit may be
26 placed on the total number of terms or number of consecutive terms a
27 voter may serve on the governing body.

28 (e) This section applies to home rule and general law municipali-
29 ties.

1 Sec. 29.20.150. TERM OF OFFICE. (a) A member of the governing
2 body is elected for a three-year term and until his successor qualifies,
3 unless a different term not exceeding four years is prescribed by charter
4 or ordinance.

5 (b) Except when otherwise required by a change in composition or
6 apportionment, if the term of a member of a governing body is changed by
7 charter or ordinance the term of an official holding office at the time
8 the change becomes effective is not affected.

9 (c) The regular term of office begins on the first Monday fol-
10 lowing certification of the election, unless a different date is pre-
11 scribed by charter or ordinance.

12 (d) This section applies to home rule and general law municipali-
13 ties.

14 Sec. 29.20.160. PROCEDURES OF GOVERNING BODIES. (a) The assembly
15 shall elect from among its members a presiding officer and a deputy
16 presiding officer to serve at the pleasure of the members, except that
17 in a borough that has adopted a manager form of government under AS 29.-
18 20.450 - 29.20.520 the mayor serves as presiding officer. In a city the
19 mayor serves as presiding officer. If the presiding officer is not
20 present or disqualifies himself, the deputy presiding officer shall
21 preside.

22 (b) A governing body shall hold at least one regular meeting each
23 month unless otherwise provided by ordinance. If a majority of the
24 members are given at least 24 hours oral or written notice and reasonable
25 efforts are made to notify all members, a special meeting of the govern-
26 ing body may be held at the call of the presiding officer or at least
27 one-third of the members. A special meeting may be conducted with less
28 than 24 hours notice if all members are present or if absent members
29 have waived in writing the required notice. Waiver of notice can be

1 made before or after the special meeting is held. A waiver of notice
2 shall be made a part of the journal for the meeting.

3 (c) A majority of the total membership of a governing body autho-
4 rized by law constitutes a quorum. A member disqualified by law from
5 voting on a question may be considered present for purposes of consti-
6 tuting a quorum. In the absence of a quorum any number of members may
7 recess or adjourn the meeting to a later date.

8 (d) Actions of a governing body are adopted by a majority of the
9 total membership of the body. All members present shall vote on every
10 question, unless they are required to abstain from voting on a question
11 by law. The final vote of each member on each ordinance, resolution, or
12 substantive motion shall be recorded "yes" or "no", except that if the
13 vote is unanimous it may be recorded "unanimous".

14 (e) A governing body shall maintain a journal of its official
15 proceedings that shall be a public record.

16 (f) To the extent otherwise permitted by law, a governing body may
17 determine by ordinance its own rules of procedure and order of business.

18 Sec. 29.20.170. VACANCIES. The governing body may provide by
19 ordinance the manner in which a vacancy occurs in any elected office
20 except the office of mayor or school board member. Unless otherwise
21 provided by ordinance, the governing body shall declare an elective
22 office, other than the office of mayor or school board member, vacant
23 when the person elected

24 (1) fails to qualify or take office within 30 days after his
25 election or appointment;

26 (2) unless excused by the governing body, is physically
27 absent from the municipality for 90 consecutive days;

28 (3) resigns and his resignation is accepted;

29 (4) is physically or mentally unable to perform the duties