ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1295 SCRA SB 180 (#14,#15)

1295

A RESOLUTION BY THE 3RD ANNUAL
YUKON-KUSKOKWIM DELTA MAYOR'S CONFERENCE

Bethel, Alaska
November 3, 4, 5, 1982

RESOLUTION NO. 82-28

A RESOLUTION REQUESTING THE ESTABLISHMENT OF A STATE PROGRAM TO ASSIST IN EXPEDITING TRANSFER OF LAND OWNERSHIP IN ALASKA.

WHEREAS, the existing transfer of land ownership in Alaska is not being conducted in an expedient manner so that community development of these lands can be facilitated; and

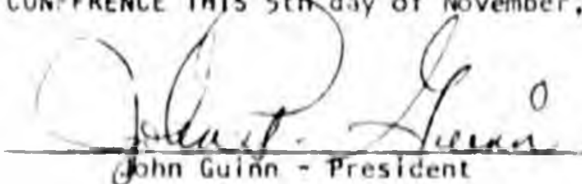
WHEREAS, they delay in these transfers results from the lack of resources, funds, and time of existing Federal programs which are now facing further Federal cutbacks and delays; and

WHEREAS, such transfers can be expeditiously performed by initiating a state program to assist in the development of surveys in each community in Alaska,

BE IT RESOLVED BY THE YUKON-KUSKOKWIM DELTA MAYOR'S CONFERENCE: That the 1983 Legislature establish a State program to assist in the expeditious transfer of existing land ownerships.

AND BE IT FURTHER RESOLVED BY THE YUKON-KUSKOKWIM DELTA MAYOR'S CONFERENCE: That this program be closely coordinated with existing Federal programs so that those resources and programs are fully utilized in the said transfer of land ownership.

PASSED and APPROVED by the Third Annual YUKON-KUSKOKWIM DELTA MAYOR'S CONFERENCE THIS 5th day of November, 1982.



John Guinn - President

Recording Secretary

cc: James Souby, Director
Division of Policy Development
& Planning

Senator Betty Fahrenkamp,
Chairman
Senate Resources Committee

Representative Eric G. Sutcliffe
Chairman
House Resources Committee

Senator Joe Josephson

Frank Ferguson, President
Alaska Federation of Natives

Nelson Angapak
Calista Corporation

BIA, Bethel

BIA, State Director
Juneau

Alaska State Legislature

Senate

Committee on
Community & Regional Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

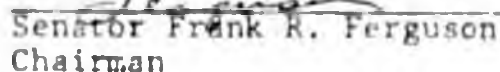
LETTER OF INTENT
TO CSSB 1

February 24, 1983

It is the intent of the Senate Community and Regional Affairs Committee that the assumption of the education power by newly formed or upgraded first class or home rule cities be dependent upon a vote in the existing Regional Education Attendance Area. If the vote both within the city and in the remainder of the REAA was not in favor of the city assuming the education power, it would not.

This Letter of Intent was discussed and unanimously approved by the Senate C & RA Committee. The attached page labelled "Proposed Amendment #10" is what the committee members had in front of them when the Letter of Intent was endorsed. The longer attached amendment, drafted by Legal Services, represents all of the actual changes that need to be made to SB 1 to carry out the Letter of Intent.

Though the committee strongly endorses this concept it was felt the full amendment should be available for review before it was adopted, which is why this method of presentation was followed. The Community and Regional Affairs Committee urges the Finance Committee to incorporate the intent of the attached proposed Amendment #10 into SB 1.



Senator Frank R. Ferguson
Chairman

S-E-N-A-T-E---A-M-E-N-D-M-E-N-T

PROPOSED SENATE AMENDMENT

By Community & Regional Affairs Committee

To: ______________________ SENATE BILL No. 1

To: ______________________ HOUSE BILL No. ________

PAGE: LINE:

Note: This change is listed as a proposal rather than an amendment because of the complex drafting that will be required to make sure all the necessary sections are cross referenced. Legal Services has reviewed this proposal and suggested this approach because of time constraints. If the Committee approves this proposal, Legal Services will incorporate it as part of the Committee Substitute.

Page 10, after line 19, insert new section:

"29.05.145. ASSUMPTION OF THE EDUCATION POWER. (a) When an unincorporated area or second class city that is part of a Regional Education Attendance Area incorporates or upgrades to first class or home rule city status, the assumption of the education power shall be in accordance with this section

(b) When an unincorporated area or city that is part of a REAA incorporates or upgrades to first class or home rule city status, that Director of Elections shall conduct an election in the REAA within 90 days of the incorporation.

(c) At this election, voters of the REAA shall be given an opportunity to approve or disapprove the assumption of the education power by the newly incorporated or upgraded first class or home rule city.

(1) The vote shall be counted separately within the city limits of the newly incorporated or upgraded city and in the remainder of the REAA.

(2) A majority of voters in both areas must approve the assumption of the education power by the newly incorporated or upgraded city or it may not assume the education power"

Alter other sections as necessary to conform.

Cook
3/7/83

A M E N D M E N T

Offered in the SENATE

TO: CSSB 1 (C&RA)

By the Community and Regional Affairs Committee

Page 2, after line 25 insert:

"(f) A second class city in a regional educational attendance area that reclassifies to first class status after July 1, 1983 remains part of the regional educational attendance area unless the education power is acquired under AS 29.35.270."

Page 10, after line 18 insert:

"(d) A first class or home rule city in a regional educational attendance area that incorporates after July 1, 1983 remains part of the regional educational attendance area unless the education power is acquired under AS 29.35.270."

Reletter the following subsection accordingly.

Page 34, after line 20 insert:

"(36) AS 29.35.270. (acquisition of education power)"

Renumber the following paragraphs accordingly.

Page 85, line 23:

Delete "A" and insert "Subject to AS 29.35.270, a"

Page 86, after line 5 insert:

"Sec. 29.35.270. ACQUISITION OF EDUCATION POWER. (a) A home rule or first class city formed in a regional educational attendance area after July 1, 1983 remains part of the regional educational attendance area and may not establish a city school district unless the education power is acquired by the city under this section.

(b) Within 90 days after a community in a regional educational attendance area is incorporated as a home rule or first class city or a second class city in a regional educational attendance area reclassifies to first class status or adopts a home rule charter the director of elections shall conduct an election in the regional educational attendance area on the question of whether the city should acquire the education power and form a city school district.

(c) After an election under this section the vote shall be counted separately within the boundaries of the newly formed city and within the area of the regional educational attendance area outside of the city.

(d) If a majority of voters within the newly formed city and a majority of the voters within the area of the regional educational attendance area outside of the newly formed city approve, the city shall assume the education power and form a school district. If a majority of voters in both areas do not approve, the city remains a part of the regional educational attendance area.

(e) This section applies to home rule and general law cities."

Page 186, after line 6 insert:

"* Sec. 21. AS 14.08.031 is amended by adding a new subsection to read:

(e) A first class or home rule city in a regional educational attendance area that incorporates after July 1, 1983 and a second class city in a regional educational attendance area that reclassifies to first class status or adopts a home rule charter after July 1, 1983 shall be included in the regional educational attendance area boundary unless the city acquires the education power under AS 29.35.270."

Renumber following sections accordingly.

Page 186, after line 29 insert:

"* Sec. 24. AS 14.12.010(1) is amended to read:

(1) each home rule and first class city in the unorganized borough is a city school district, except as provided under AS 29.-35.270;

* Sec. 25. AS 14.12.010(3) is amended to read:

(3) the area outside organized boroughs and outside home rule and first class cities is divided into regional educational attendance areas, except that a home rule or first class city may be included in a regional educational attendance area in accordance with AS 29.35.270."

Renumber following sections accordingly

Page 205, line 20:

Delete "86" and insert "89"

Page 205, line 23:

Delete "86" and insert "89"

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

EXXON COMPANY, U.S.A.
POUCH 6601 • ANCHORAGE, ALASKA 99502 (907) 276-4552

ALASKA OPERATIONS
WESTERN DIVISION

R.H. WEAVER
OPERATIONS MANAGER

October 9, 1981

Re: Twelfth Alaska Legislature
Joint House-Senate Committee
& Regional Affairs Committee
SB-180/HB-170 - Alaska
Municipal Code Review

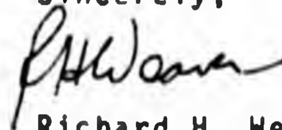
Senator Don Gilman, Co-Chairman
Representative Pat O'Connell, Co-Chairman
Joint House-Senate Community and
Regional Affairs Committee
Alaska State Legislature
Pouch V (MS3100)
Juneau, Alaska 99811

Gentlemen:

Exxon has followed with interest your committee deliberations on the captioned bills since they were introduced the middle part of last February. We would like to offer for your consideration the attached comments and suggestions to those chapters and sections of these bills which you propose to discuss at your October 9 and 10 meeting. Additional comments and suggestions on the chapters you will be considering at later meetings will be submitted at the appropriate time.

We sincerely appreciate your consideration of the attached material. If you should have any questions, please let us know.

Sincerely,



Richard H. Weaver

RHW:raw
Attachments

A DIVISION OF EXXON CORPORATION

Sec. 29.25.020. ORDINANCE PROCEDURE.

Presently, the Assembly of a municipality is only required to give five day's notice before enacting an ordinance. The proposed revisions to Title 29 would not change this five-day requirement. Therefore, we would suggest that Section 29.25.020 of the revised Title 29 be amended to require that the hearing follow publication by at least 30 days. This time period would give interested persons an opportunity to review the ordinance and appear at the public hearing. The amendment would be as follows:

(b) (4) The hearing follows publication by at least 30 days;

Sec. 29.25.070 PENALTIES.

The following language should be deleted from subsection (b):

"An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction."

These provisions are new to the statute and constitute a radical change in the established use of injunctive relief. The violation of a municipal ordinance does not require this extraordinary remedy and the provisions for the imposition of a fine or possible imprisonment should be adequate to insure compliance. Injunctive relief should be granted only after these other remedies have proven to be inadequate.

Sec. 29.35.010 GENERAL POWERS.

Subsection (8) of this provision has been amended by the deletion of the following underlined language:

"to acquire, manage, control, use and dispose of real and personal property <u>for a purpose authorized under this title, federal law, or other law, or in accordance with such law</u>...

This deleted language clearly recognized that federal and state law was to be considered in the management, control and use of this property by the city or borough. The language should be retained so that deletion may not in any way be viewed by a city or borough as a dispensation from the doctrine of pre-emption by federal or state entities.

Sec. 29.35.050. GARBAGE AND SOLID WASTE SERVICES.

Sec. 29.35.050 of the proposed revisions states that a municipality may provide for a system of garbage and solid waste collection and may require all persons within the municipality to use the system and to dispose of their garbage and solid waste as provided in the ordinance. Because of the remoteness of our locations, which may require sanitary waste facilities, we would propose that the following language be added to subsection (2) to allow for exceptions to a municipality's exclusive service right, provided certain conditions are met:

> (2) Require all persons within the municipality or district to use the system and to dispose of their garbage and solid waste as provided in the ordinance. An exception to this requirement will be allowed if a person can demonstrate that he has adequate facilities for disposal of garbage and solid wastes and that such facilities are in compliance with all lawful laws and regulations.

Sec. 29.35.090 BUDGET AND CAPITAL PROGRAM.

Adequate public notice should be given of the hearing required by this section. The language in subsection (a) should specifically state what the notice shall contain and how the notice is to be published.

In addition, provision should be made for a period for public comment or a public hearing to be held prior to any non-emergency appropriation by the governing body.

Sec. 29.35.250. CITIES INSIDE BOROUGHS.

Clarification is needed in this section on the question of whether a city's power absolutely ceases once the borough exercises a similar power. A conflict currently exists between the literal interpretation of this statute and the provisions of AS 29.48.035(b) which provides that a city and borough may concurrently exercise a power if the borough agrees to the exercise.

Sec. 29.35.320. INITIATION OF ACQUISITION OF POWER.

This section proposes to delete from existing law the provision that a public hearing be held on the question of the ability of the borough to exercise the power to be acquired.

We recommend that this provision be retained in the revised Title 29 in that it serves a useful public service in apprising concerned parties of any changes in borough authority.

Sec.29.40.010. PLANNING, PLATTING AND LAND USE REGULATION.

We suggest the following addition to subsection (b) to provide:

> "The Assembly may, by ordinance, without first obtaining the consent of the city, revoke any power or responsibility delegated under this section."

Any revocation by the Assembly of a power previously delegated to a city should be by ordinance to insure that the public will have an opportunity to comment at the required public hearing.

Sec. 29.40.020. PLANNING COMMISSION.

The proposed revisions to this chapter greatly enlarge the authority of the Planning Commission. Existing law calls only for the commission to prepare a Zoning Ordinance to implement the Comprehensive Plan, but this section would empower the Planning Commission to administer measures necessary to implement the Plan. This broad delegation of authority is unnecessary.

The powers of the Planning Commission should be firmly set by statute and enumerated in this section.

Sec. 29.40.030. COMPREHENSIVE PLAN.

This section provides for a "periodic" review of the Comprehensive Plan by the Assembly, based on recommendations from the Planning Commission. We believe that each Assembly should establish a definite time for these mandatory reviews. Existing law requires they be held every two years, however, each Assembly should have the discretion to determine a schedule in accordance with the particular needs or requirements of the municipality. In addition, a public hearing or a period for public comment should be provided so that the Assembly may consider the views of the public as well as that of the Planning Commission.

Sec. 29.40.040. LAND USE REGULATION.

Insofar as this section vests in the Assembly much greater authority over land use than currently exists, we suggest that the statute be revised by the addition of the following subsection:

> (c) An ordinance adopted or amended under (a) of this section may not preclude or otherwise impede an activity authorized under a permit issued by a state regulatory agency or department having jurisdiction over the activity.

Sec.29.40.050. APPEALS FROM ADMINISTRATIVE DECISIONS.

This section should be amended to provide for a right of appeal of all decisions on a request for a variance.

Sec. 29.40.060. JUDICIAL REVIEW.

We support the proposed provision in subsection (a) providing for the right of appeal on all decisions dealing with land use regulation.

But we also urge that a provision in the existing law be retained and expanded.

We suggest the addition of the following:

> (c) An appeal under (a) and (b) of this section shall stay enforcement proceedings unless the court issues an enforcement order based on a sworn certificate of imminent peril to human life or property made by an administrative body.

Sec. 29.40.120. NOTICE OF HEARING.

This section should be amended to state with specificity as to what information the notice shall contain, when it is to be published, and the earliest date after publication on which the hearing may be held. Publication by notice in a newspaper should require that the notice appear at least on two occasions not more than one week apart.

Sec.29.40.170. REMEDIES.

The following language should be deleted from subsection (b):

> "An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction."

These provisions are new to the statute and constitute a radical change in the established use of injunctive relief. Injunctive relief should be available only where no other remedy is available and its issuance should be within the sound discretion of the court.

PS/TRH/009a
10/5/81

A RESOLUTION OF THE ALASKA CONFERENCE OF MAYORS
SUPPORTING THE RE-INTRODUCTION OF
LEGISLATION TO REVISE THE BASIC MUNICIPAL CODE

WHEREAS, eighty percent of Alaska's population lives in incorporated cities and boroughs which provide the bulk of the public services and facilities necessary to support everyday modern life; and

WHEREAS, the period revision and refinement of the Alaska Municipal Code (Title 29) is a key element in the effective functioning of local governments throught the state; and

WHEREAS, the Alaska Legislature in 1982 considered and approved a revision of the Municipal Code (SB-180) after three years of extensive statewide public hearings and testimony; and

WHEREAS, in the final weeks of the 1982 session, SB-180 underwent significant amendments which would have created serious problems to local governments--particularly in the area of revenue and taxation; and

WHEREAS, the Governor, in response to the urgent request of local governments, vetoed SB-180 as harmful and deleterious to the people of Alaska.

NOW, THEREFORE, THE ALASKA CONFERENCE OF MAYORS RESOLVES:

1. That the original elements contained in SB-180 be incorporated in new legislation and introduced at the beginning of the 1983 legislative session; and

2. That the Governor and all members of the Alaska Legislature recognize the significance of this effort and the importance of maintaining this legislation in a basic form and of insuring that the legislation contain only the fundamental elements and guidelines for a basic municipal code; and

3. That any other proposals which would constitute major policy revisions or innovations in the function of local government be considered in separate legislation which, if approved, would be incorporated into Title 29 once the revised basic code had been adopted.

PASSED AND APPROVED by the Alaska Conference of Mayors this ____ day of __________, 1982.

____
Chairman

RECONSIDERATION OF A TITLE 29 REWRITE

It is anticipated that legislation will be reintroduced to totally revise Title 29. The "base document" being used for this new rewrite is House CS for Senate CS 180 (Finance). The following is a summary of some of the features included in the current effort and the deletions and additions that will substantially revise HCS for SCS 180 (Finance). The "KEEP" column summarizes the major elements contained in HCS for SCS 180 (Finance) with which many people are not aware.

KEEP

-Increased organizational grants. Provides $600,000 over three years to newly formed boroughs and $75,000 over two years for newly incorporated cities. Does not apply to consolidations and unifications.

-Direct home rule city formation. Second class cities or unincorporated communities with a resident population of at least 600 may adopt a charter and go directly to home rule status.

-Use of abbreviated plats. Local governing bodies shall establish an abbreviated plat procedure that may be used in certain instances.

-"ANCSA language" defining certain terms. For purposes of local tax exemptions as they apply to ANCSA lands the terms "developed", "exploration", and "lease" are defined. These definitions are the result of exhaustive negotiations between Native corporations, State officials, and the Legislature.

-Feasibility studies for proposed boroughs. A program of financial assistance to study the feasibility of forming boroughs in the unorganized borough is established.

-Boat taxation may be based on tonnage.

-Senior citizen tax exemptioncorrections. The motor vehicle tax exemption program for senior citizens is corrected and clarified.

DELETE

-Exemption of forest land as defined in AS 41.17.950(6) for purposes of property taxation is removed. This provision would devastate the tax base of most of the organized boroughs by providing a mandatory exemption for all "forested" undeveloped land.

-The language expanding the definition of population to include persons working in "isolated job sites" is eliminated. Other confusing language regarding population is also dropped. The existing population language is left mostly intact.

-The elimination of one word--"contract" will expand the applicability of the waiver of immunity required before the State can enter into a contractual relationship with Native governing bodies. Therefore, this word will be eliminated in the new bill.

-Language restoring municipal rate-making authority over all public utility rates to the extent not regulated under AS 42.05 has been dropped. The Alaska Public Utilities Commission objected to this language as it runs contrary to a 1980 law "sunsetting" the regulation of certain utilities. Language that is presently in Title 29 will replace the deleted utilities language.

-Gun control restrictions are deleted.

ADDITIONS

-Most of the additions to HCS for SCS 180 (Finance) are minor words and phrases added in several places to reinforce and further clarify the original intent of the bill drafters, sponsors, and supporters.

September 1, 1982

To: Legislative Committee

Re: Revenue Sharing/Municipal Assistance Consolidation

From: Ginny Chitwood

Coordinated by Senator Gilman, work has been progressing on a proposal to consolidate the revenue sharing and municipal assistance programs.

At the request of the Conference of Mayors, a group of finance officers met with State Budget and Management Director Ron Lehr to discuss the issue. Also attending were mayors; representatives of the Departments of CRA, Education, and Revenue; legislative staff and me.

Various options were examined and CRA was asked to do some computer runs. The subject was discussed further at the summer meeting of the Conference of Mayors, with presentations by the finance officers, and more computer runs were requested. A group of finance officers will be examining these runs at a meeting in Anchorage the same time the Legislative Committee is meeting in Whittier. We will have copies of the computer runs for your meeting.

During the last legislative session, two proposals were introduced that would have consolidated the two programs. SB 716 and HB 746, identical bills sponsored by the Governor, combined the two programs with distribution by the current revenue sharing formula. The minimum entitlement was increased to $100,000 and entitlements to unincorporated communities were deleted. SB 797, introduced by Senator Kelly's special property taxation committee, provided for per capita distribution, adjusted for cost of living. Neither version made any changes to the special revenue sharing entitlements for roads, volunteer fire departments, health facilities, hospitals, etc.

Attached are two sheets - one describing the existing programs and one summarizing the two proposals introduced last session.

2/26/82

REVENUE SHARING/MUNICIPAL ASSISTANCE

Two proposals have been introduced this session to combine the revenue sharing and municipal assistance programs into one. Neither bill makes any changes to the special revenue sharing entitlements for roads, volunteer fire departments, health facilities, hospitals, etc. Following is comparison of the proposals.

	SB716/HB746	SB 797
Municipal Assistance Fund (10% or Greater of Corporate Income Tax)	Repeals	Repeals
Distribution Formula	Current Revenue Sharing Formula	Per Capita Adjusted for Cost of Living
Minimum Entitlement	$100,000	$25,000
Unincorporated Communities	Transferred to Rural Development Grants Section	$25,000 grant
Requirements	Spend 50% on at least 3 basic services	None
Hold Harmless	Open-Ended	5-Years
Future Funding Levels	Intent to Increase With Inflation & Population	No Intent Language
Amount Needed to trigger bill	$140,851,300*	$143,100,000*

*The difference between the 2 figures represents the amount currently going to unincorporated communities.

Excerpts from report prepared by the Department of Community and Regional Affairs.

The Department of Community and Regional Affairs has examined state programs to provide financial assistance to localities in Alaska, with particular emphasis on revenue sharing and municipal assistance and finds the following problems:

- Revenue sharing emphasizes tax effort and ability to raise taxes while municipal assistance emphasizes population and tax relief.

- Municipal assistance is linked to the declining corporate income tax collections.

- Localities are growing increasingly dependent on the state for funding of property tax relief and increased service provision at the same time.

- The revenue sharing and municipal assistance programs are administered by two different agencies and have different reporting and accountability requirements.

In order to address these problems, the Department proposes the following program:

- The municipal assistance statute should be repealed and all funds for this purpose should be distributed through the revenue sharing program.

- The minimum entitlement for incorporated entities should be $100,000. Unincorporated entities should be deleted from the program and treated separately.

- The entire program should be funded at a level no less than the proposed fiscal year 1983 appropriation. This amount should increase each year by the same percentage that the proposed constitutional spending limit allows the state budget to increase.

- The existing Rural Development Assistance Program should be expanded to be a program of assistance to unincorporated communities that requires application on a competitive basis for grants up to $100,000 for capital projects, operation and maintenance of capital projects and community services.

Excerpts from report of the Special Committee on Property Taxation.

Notwithstanding the considerable attention given to municipal aid programs in recent years, many problems and dissatisfactions continue to exist. The passage of SB 524 during the past legislative session, for example, drastically reduced the source of revenue for the municipal assistance program established under AS 43.20.016. Additionally, the expressed desire of many legislators to reduce or eliminate local taxes through the application of surplus state revenues is contrary to the formula approach for local revenue sharing adopted less than two years ago, which may actually penalize local governments for reductions in locally generated taxes.

If the basic premise underlying a local assistance program is that all citizens should share more or less equally in the benefits of the state's surplus revenues, a simple per capita based distribution formula should be developed which will award a base entitlement to each municipality that is generally equal to that municipality's share of the statewide population. In order to reflect differences in the cost of providing government services, a regional cost-of-living allowance (COLA) should be applied in addition to the base entitlement. Also, recognizing the fact that small municipalities may experience higher per capita costs due to economies of scale, a minimum entitlement should be provided to guarantee that each local government receives a meaningful allowance to be used to provide municipal services.

STATE REVENUE SHARING WITH MUNICIPALITIES

Title 29, Chapter 88. Municipal Tax Resource Equalization

This chapter provides for revenue sharing to municipalities based on the formula - population times millage rate equivalent. Millage rate equivalent is determined by multiplying the sum of the locally generated revenue of the municipality by one-tenth of one percent of the full and true value of assessed property in the municipality. (The former revenue sharing program provided for per capita grants based on services provided, such as police, fire, planning, etc.)

Title 29, Chapter 89. State Aid for Miscellaneous Municipal Purposes

Road Maintenance: Provides $2,500 a mile for each mile of road, street or highway maintained by the local government and $1,500 a mile for ice roads (same provision as former program except amounts per mile increased)

Health Facilities and Hospitals: For municipally operated and non-profit hospitals, provides $1,000 per bed of $250,000 a hospital with ten beds or more, or $50,000 a hospital with less than ten beds. This money goes to the hospitals; there is no discretion on the part of the municipality on how the money should be spent. For a municipality operated health facility, provides $2,000 per bed or $8,000 per health facility, with the restriction that the money must be used for expenses of health facilities or operation and maintenance of health facilities. (same as former program except amounts increased)

Volunteer Fire Departments in Unorganized Borough: Provides $10 per capita for population served by a volunteer fire department in the unorganized borough. (former program contained a per capita amount for all fire departments) Since expenses for fire departments in organized municipalities are included in the Chapter 88 formula, this section applies only to departments in the unorganized borough.

Native Village Governments: Provides $25,000 to each native village government. (new provision)

Title 29, Chapter 90. State Aid for Hospital Construction

Provides $2,500 a bed for the maximum number of beds provided for in the construction design of the facility or five percent of the total project cost, whichever is greater. State aid continues until the municipality or other hospital sponsor has received an amount which, combined with state matching money for construction of the hospital, equals 25% of the total project cost. Money received for construction may not be used for any other purpose. (emphasis added) (same provision in former program)

Title 29, Chapter 95. Administration of Municipal Financial Assistance Programs

Provides for a $25,000 minimum entitlement and for cost of living differentials. The Department of Community and Regional Affairs administers the entire revenue sharing program.

Temporary and Special Acts, Chapter 155

Hold Harmless: Provides that for the first five years no municipality may receive less than 125% of what it was entitled to receive under the former program; further provides for proration of payments if appropriation is not sufficient to cover hold harmless provision.

* * * * *

MUNICIPAL ASSISTANCE FUND

The Municipal Assistance Fund, administered by the Department of Revenue, distributes money appropriated by the Legislature to municipalities on a per capita basis. There is no cost of living adjustment or payment to unincor- porated municipalities. The statute provides that the fund contain an amount "equal to or greater" than 30% of the corporate income tax receipts, subject to Legislative appropriation. Legislative intent is that this money be used for local tax relief.

The Municipal Assistance Fund was created when the Legislature repealed the Gross Business License Tax. Under that program, municipalities received 60% of revenues generated. Since it was a pre-statehood dedicated sharing, the amount was distributed automatically and not subject to Legislative appropriation.

Prepared by
Alaska Municipal League
July, 1982

September 1, 1982

To: AML Board of Directors/Legislative Committee

Re: Legislation - Twelfth Legislature, Second Session

From: Ginny Chitwood

Following is a brief description of legislation and some administrative action that relates to the AML policy statement. Number and letter headings refer to the policy statement, a copy of which is enclosed. A packet of Title 29 information is included separately.

PART I - TAXATION AND FINANCE

B.1. The Legislature did not adopt the FY 83 budget by June 1.

B.2. State revenue sharing was increased but not as much as an inflationary factor.

[illegible] The SB 168 per capita grants program was continued through FY 83, but an ongoing program was not established.

B.5. SB 612 (Chapter 86) raises the suggested percentage of corporate income tax proceeds that may be appropriated to the municipal assistance fund from 10% to 30%, bringing the level closer to what it would have been prior to changes in the oil and gas tax laws.

B.10. Administratively, the Departments of Community and Regional Affairs and of Revenue have coordinated on a combined single application form for revenue sharing and municipal assistance.

B.12. CRA is just starting the planning for implementation of the Community Development Block Grants, one of the federal block grant programs.

F.4. HB 876 (Chapter 125) creates a $20,000,000 federal budget impact fund. Agencies, including municipalities, may apply for grants from this fund to cover budget shortfalls due to any federal cutbacks. It is anticipated that there will be many more requests for funding than there is money available.

PART II - EDUCATION

A.2. The school foundation program is the subject of a two-year study directed by the Department of Education.

A.3. HB 279 (Chapter 92) increases the state share of school construction costs from 80% to 90% and eliminates the two-year delay in reimbursement for debt issued after December 31, 1982.

A.7. The Legislature reneged this year on its policy of setting the public school foundation program unit value a year in advance and reduced the FY 83 value that had been established during the 1981 legislative session.

A.9. Transfer of BIA schools to the state was considered, but no decision made. It is anticipated that some of the federal budget impact fund (HB 876 - Chapter 125) will be used for that purpose.

C.2. The televising of legislative sessions was not funded.

D.2. The student loan program was funded.

PART III - PUBLIC SAFETY

A.1. Provided by 1980 Legislature, AS 04.21.010.

PART IV - LAND USE

B.2. Administrative action has improved the situation.

D.6. Alaska Coastal Management Program was funded.

F.2. No state-mandated local land disposal programs were imposed.

PART V - TRANSPORTATION, DOCKS, & PORTS

A.2. SB 212 (Chapter 128) creates an Alaska Railroad transfer Advisory Commission.

A.5. Transfer of the responsibility for local maintenance of state roads may be accomplished with administrative agreements.

PART VI - MUNICIPAL UTILITIES

B.2. The Legislature adopted SB 252, increasing the state share to 70% for water supply, sewerage, and solid waste construction projects, but the Governor vetoed the bill and vetoed the bond bill that contained some funding for the program.

PART VII - MUNICIPAL ELECTIONS

The municipal election material is included with the Title 29 packet of information.

PART VIII - LOCAL GOVERNMENT POWERS

A.2. Municipal officials and employees continue to be exempted from the lobbying reporting requirements under AS 24.45.

B.2. Binding arbitration was not imposed on local governments or school boards.

PART IX - RESOURCES

B.3. HB 453 (Chapter 31) appropriates $2,000,000 for the Alaska Seafood Marketing Institute; HB 472 (Chapter 32) increases the limit for fisheries enhancement loans from $6 million to $10 million; SB 768 (Chapter 33) provides for fishery product revolving loan guarantees for fish processors; and SB 103 (Chapter 34) appropriates $170,000 for the Fishery Technology Center for a salmon quality control education program and $100,000,000 for the fishery product revolving loan guarantee fund.

B.4. SB 666 (Chapter 333) and HB 9 (Chapter 133) make changes to the alternative energy and residential energy conservation loan programs and other technical changes relating to power projects and the Alaska Power Authority.

D.'. Day care funding was included in the budget.

PART X - ECONOMIC DEVELOPMENT

D.1. Continued state funding for small business loans was provided.

Name	Address
[illegible]	Box 151 Ninilchik 99639
R. S. Best	P.O. Box 850 Soldotna, AK 99669
Mary L Brown	P.O. Box 714 Whittier, AK 99693
Jenny File	Box 55, Fort Yukon, AK., 99740
[illegible] Mason	2526 Glenwood Anch 99504
Edna S Armstrong	Bx 321 Palmer 99645
[illegible]	PO Box 478 Palmer 99645
Marvin L Yoder	B44 Front St, Ketchikan 99901
Patrick M Anderson	Pouch 6-650 Anchorage 99502
[illegible] O'Bryan	Po Box 24, Houston, AK 99694
McKIE CAMPBELL	POUCH U, JUNEAU, AK 99811
Ruth E Burnett	1901 Crosson Fairbanks AK 99701
BEN T. DELAHAY	PO Box 2838, KENAI, AK 99611
Ginny Chitwood	304 N Franklin St, Juneau 99801
Palmer McCarter	CRA - Pouch BH Juneau, 99811
Perry Lovett	Box 1210 Cordova 99574
Lee Sharp	JUNEAU 99811
[illegible]	

Initiative + Referendums -

$'s

Check w/ Glenn on #50(c) for
1st Class in Org. Bor.

Developed page 105 and page 102
item 7 para 7

Boat Tax - 107 -

Tomorrow
Basement 10AM Population

Leg Telecont - 1PM Fbx 18th

page 82 - Economic Development
Mat-Su Borough Non Area wide

area wide - taxation

Suggested Revisions for Title 29 Rewrite
Alaska Association of Assessing Officers

1. 29.45.030 Required Exemptions
   Page 98 Line 1 - need definition of "recognized religious organization" or possibly delete the word "recognized."

2. 29.45.160. Assessment Roll
   Page 111 Line 17 add "The last Known"

3. 29.45.200. Board of Equalization. Page 113
   Delete subsection (a) and rewrite as follows:
   "(a) For the purpose of hearing an appeal from a determination of the assessor, the governing body shall appoint a board of equalization composed of not less than three persons. Each member of the board shall be a resident of the municipality and shall not be currently serving in any elected capacity."

4. 29.45.210 Hearing
   Page 114 line 1 - Delete ~~remove~~ "too" and replace with "inequitably".
   Line 2 delete "may" and insert "shall."

5. 29.45.250. Rates of Penalty & interest.
   Page 115 Line 23 Delete "20%" insert "10%)

6. 29.45.500. Refund of Taxes.

Page 125 Line 7

Delete "The governing body" and insert "The Assessor".

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

By: [illegible]
[illegible]
[illegible]
[illegible]
[illegible] Riber
[illegible]
[illegible]
Paul Chizmar
Buzz Otis
Introduced: 01/13/83
[illegible]: [illegible]

[illegible]

WHEREAS, an advisory proposition on [illegible] question of limiting the terms of assemblymen and the Mayor was placed on the October 5, 1982, ballot; and

WHEREAS, this advisory proposition was passed 11520 - 5187 by the voters of the Fairbanks North Star Borough; and

WHEREAS, this question was also passed 2700 - 1100 by the voters of the Matanuska-Susitna Borough on October [illegible], 1982; and

WHEREAS, an Attorney General's opinion has been rendered stating [illegible] do not have the power to place such a limitation on [illegible];

NOW, THEREFORE, BE IT RESOLVED by the Fairbanks North Star Borough Assembly that the Twelfth Legislature of the State of Alaska is urged to revise Title [illegible] to allow general law municipalities the option of placing a limitation on the number of consecutive full terms [illegible] may serve.

PASSED AND APPROVED THIS 13th DAY OF JANUARY, 1983.

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UN'T IN THE ORIGINAL DOCUMENT.

Alaska State Legislature

Senate

Committee on Community & Regional Affairs

Official Business

465-4934
465-4935

Pouch V
State Capitol
Juneau, Alaska 99811

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

June 4, 1982

The Honorable Jay Hammond
Governor, State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Hammond:

For the past two legislative sessions I have worked long and hard for the passage of the Municipal Code Revision. I never envisioned that I would spend the waning hours of the Twelfth Legislature writing you to urge your veto of this piece of legislation.

Unfortunately, urging your veto of HCS CSSB 180 (Jud) am H is exactly what I must do, and I urge it most strongly.

The manner in which the amending and changing of SB 180 was carried out embodies all of the worst that the legislative process has to offer. After innumerable hearings before standing committees, these amendments were inserted on the floor of the House. An intense lobbying effort on behalf of the municipality and industry most favorably affected was then undertaken to convince the Senate to concur with the amendments without the benefit of a conference committee. It is absolutely the worst example of power politics I have ever witnessed. I am asking you as Governor of this state to rise above these tactics and veto this legislation, because if you don't, you will be condoning such action.

We have already discussed these damaging amendments together, and I have enclosed backup information on them. Therefore I will be brief and simply mention the most objectionable portions of the bill.

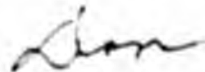
1) As a result of the 1980 Census, the population estimates of every municipality in Alaska over 500 were adjusted downward. The population amendments would benefit one municipality at the expense of the treasuries of the state and other Alaskan municipalities. The amendments would also hamper the ability of the state to collect accurate population data, either resulting in double counting or forcing the state to keep a double set of books. Specific information of the effect of this amendment is enclosed.

2) I believe the forest lands amendment is potentially the most harmful addition to the bill though it certainly was not the maker's intention; sloppy drafting produced an amendment that would exempt virtually all undeveloped land with trees on it from municipal taxation. This has the potential for wrecking the finances of municipalities throughout the state. Specific information is attached.

3) The AP[illegible]C has expressed strong concern over the portion of the revision dealing with utilities, and it is my understanding that Carolyn Guess is detailing their objections and will send them directly to you.

It is very unfortunate when a good piece of legislation is damaged so badly that a veto is necessary. Unfortunately, this is what has happened with SB 180, and an examination of the public policy issues connected with the bill will clearly show a veto is called for.

Sincerely,



Don Gilman
State Senator

Enclosures

Alaska State Legislature

Senate

Committee on Community & Regional Affairs

Official Business

465-4934
465-4935

Pouch V
State Capitol
Juneau, Alaska 99811

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

June 4, 1982

PRESS RELEASE

FROM: SENATOR DON GILMAN'S OFFICE

Senator Don Gilman sent a letter to Governor Jay Hammond today strongly urging the veto of SB 180, the Municipal Code Revision. In the letter Senator Gilman said:

"The manner in which the amending and changing of SB 180 was carried out embodies all of the worst that the legislative process has to offer. After innumerable hearings before standing committees, these amendments were inserted on the floor of the House. An intense lobbying effort on behalf of the municipality and industry most favorably affected was then undertaken to convince the Senate to concur with the amendments without the benefit of a conference committee. It is absolutely the worst example of power politics I have ever witnessed. I am asking you as Governor of this state to rise above these tactics and veto this legislation, because if you don't, you will be condoning such action."

As a result of the changes in the population definitions affecting the municipal assistance and revenue sharing programs, it is Senator Gilman's intent to work on a complete revision and combination of these programs. The Municipal League has announced its willingness to cooperate with Senator Gilman in this effort, and it is expected the Alaska Finance Officers Association and the Association of Mayors will also participate in the effort. Senator Gilman expects to prefile legislation on this matter for the start of the Thirteenth Legislature. If the Municipal Code Revision is vetoed as Senator Gilman is urging, he expects to prefile a revised version of that bill also for next session.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

[illegible] STATE CAPITOL
[illegible] ALASKA 99811
[illegible]

M E O R A N D U M June 1, 1982

SUBJECT: Amendment to municipal code revision (HCS CSSB 180 (Judiciary) am H)

TO: Senator Donald E. Gilman

FROM: Tamara Brandt Cook
Legislative Counsel

You have asked for an interpretation of Amendment No. 17 to HCS CSSB 180 (Judiciary) am H adopted by the House. In particular, you have asked whether the reference to AS 41.-17.950(6) can be construed to incorporate other provisions of AS 41.17.

Sec. 29.45.030(a) of the bill lists the types of property that are exempt from municipal taxation. Amendment No. 17 adds to that list "(7) forest land as defined in AS 41.-17.950(6)". AS 41.17.950(6) provides the following definition:

> "forest land" means land stocked or having been stocked with forest trees of any size and not currently developed for nonforest use, regardless of whether presently available or accessible for commercial purposes, and includes any such land under state, municipal, or private ownership;

Under the terms of Amendment No. 17, a municipality would not be able to tax any property that meets this broad definition of forest land. Note that the definition is not limited to tracts of a certain size or to tracts with commercial potential. Any land stocked with forest trees that is not developed for a nonforest use qualifies for the tax exemption.

None of the other provisions of AS 41.17 are applicable to the determination of whether land is "forest land" for the purpose of municipal taxation. In particular, AS 41.17.050(c)

authorizes the commissioner of natural resources to exempt certain forest lands "from the provisions of AS 41.17.010 - 41.17.950". The commissioner is not authorized to exempt any land from provisions contained in AS 29. Nor under Amendment No. 17 would he have the authority to provide that certain forest lands are subject to municipal taxation.

TBC:ljb

A poll of local assessors around the state resulted in the following estimates of value and revenue losses that would result from proposed AS 29.45.030(7).

Municipality	Value Loss	Revenue Loss	% of tax base loss
Anchorage	$458,415,224	$4,056,975	7%
Fairbanks	303,825,000	2,278,688	22%
Juneau	69,176,160	342,422	10%
Kenai	474,041,744	1,597,561	27%
Mat-Su	469,397,469	3,670,688	53%
Ketchikan	55,798,245	97,647	13%
Sitka	45,168,945	135,506	14%
Haines	20,995,620	88,811	36%
Total	$1,896,818,407	$12,268,298	

These figures are based on a strict interpretation of what appears to be very liberal language. Therefore, the total local revenue loss could be substantially higher.

Prepared at the request of Senator Gilman by the State Assessor's office, Department of Community and Regional Affairs. Poll of Assessors conducted by telephone.

TE/J1/09480

Alaska
MUNICIPAL
League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

July 9, 1982

The Honorable Jay S. Hammond
Office of the Governor
Pouch A
Juneau, Alaska 99811

Dear Governor Hammond:

One of the many rumors circulating is that you're planning to allow SB 180 to become law without your signature in order to force next year's legislature to deal with the forest lands issue. I hope this rumor is as false as are most rumors.

No matter what happens to SB 180, forest lands development and taxation will be an issue during the next legislative session. If you veto SB 180, the same forces that pushed for inclusion of the forest land exemption in the Municipal Code will continue their efforts. With or without SB 180, they have stated that they are interested in establishing a comprehensive forest lands policy that goes beyond the local tax exemption, and I have offered the League's help in developing such a policy.

If you allow SB 180 to become law, municipalities will push for changes, but in the meantime they will bear the brunt of bad law, however well intentioned. Since the bill would go into effect in October, municipalities would be impacted adversely before the next legislature could act. Additionally, past records would indicate that there would not be speedy action even after the legislature does convene. A minimum of two years of assessments and collections would be affected, forcing municipalities into costly court battles and possibly jeopardizing their ability to issue bonds and pay off existing debt because of reduced assessed values.

Using bad law as a hammer to pound out good law is a very questionable procedure. I urge you to veto SB 180.

Sincerely,

Ginny Chitwood
Executive Director

Dankworth (first person seated at right) sits in at Legislative Budget and Audit Committee hearing

Lobbyist helped draft state memo

by Bill White
Times Writer

Juneau — A North Slope Borough lobbyist last month helped draft an official state memo that urges enactment of a bill designed in part to fatten the treasury of the lobbyist's client by about $19 million a year.

Lee McAnerney, commissioner of Community and Regional Affairs, said this week she let former attorney general Av Gross, at her request, help draft her recommendation to the governor against a veto of the controversial 187-page rewrite of the state's municipal code.

That memo went to Gov. Jay Hammond on June 21 over the protests of three of McAnerney's top deputies. They submitted separate recommendations calling for a veto.

One week later, Gross registered with the Alaska Public Office Commission as a lobbyist for the borough. However, Gross had worked for the borough before that.

Last February the borough hired him to draft language, later attached to the municipal code rewrite, that lets the borough count about 4,000 temporary workers at Prudhoe Bay for revenue sharing purposes.

But that change has sparked the most heated denunciations of the bill, which has become the most controversial to come from the 1982 legislative session. The state Revenue Department estimates the population change will benefit the North Slope Borough almost exclusively by shifting $18.6 million to the borough and away from the state and local governments.

It would cost Anchorage at least $720,000 a year, Mayor Tony Knowles told Hammond, in calling for a veto.

Gross also became involved with the bill later.

In early June he joined in discussions with the governor on whether Hammond should sign the bill, according to a letter Gross sent to APOC on June 27.

Hammond is expected to act on the measure next week.

Gross was vacationing this week and was unavailable for comment.

But his APOC letter describes his involvement with the bill. The borough hired him only to draft language, he said. "(W)e had no arrangement with the borough to 'influence' administrative action," he said.

"All meetings with state officials held prior to passage were for the sole purpose of ascertaining the impact of language which we

(See GROSS, page A-4)

Negotiators discuss PLO busing plan

Associated Press

U.S. and Lebanese negotiators discussed a plan to evacuate the PLO to Syria by bus today after the embattled guerrillas dropped demands for a continued political and military presence in Lebanon.

With Yasser Arafat's forces under renewed bombardment by Israeli troops that surround west Beirut, the negotiations were aimed at getting the guerrillas out before Israel storms the PLO enclave.

But the official Syrian Arab News Agency, reacting to the idea for busing guerrillas to Syria, said the "The PLO has not suggested such a thing to us. What we understand is that negotiations going on with the Lebanese government concern the siege of the PLO and its apparatus and not the PLO fighters.

"In any case, Syria in normal circumstances is a homeland for the Palestinians as well as to all Arabs. But under the present circumstances, there is no possibility of moving the Palestinian fighters from Beirut to Syria because their normal place is where they are now — awaiting the return of their legitimate rights."

The position, however, appeared to be a statement of principle issued before the Syrian government was formally consulted by the Lebanese or U.S. negotiators on the evacuation plans, and therefore might not be Syria's final statement on the idea.

The diplomatic maneuvering came as heavy bombardment resumed in and around Beirut, with several shells hitting the suburb where talks were held. U.S. presidential envoy Philip C. Habib, who has been trying to stave off an assault on west Beirut by Israeli forces who invaded June 6, declined to talk to reporters after the latest negotiations.

Habib dispatched his assistant, Morris Draper, to the Syrian capital Friday and Lebanese government sources said Draper would try to get Syria's approval to take in the guerrillas temporarily pending arrangements to disperse them to other Arab states.

But Lebanese Prime Minister Shafik Wazzan, a key intermediary between Habib and Arafat, said: "We are scaling one obstacle after another, but time is running out and there are supreme interests we have to save of which Lebanon is the foremost.

"Very few snags are left, but they are important to the expected launching of the operation designed to end the squeezing crisis we are undergoing," Wazzan told Lebanese television. "I hope that we shall arrive at a finalized agreement in an early follow-up of negotiations."

Wazzan insists U.S. and other

(See PLO, page A-5)

Outside media go easy on 'blue-eyed A

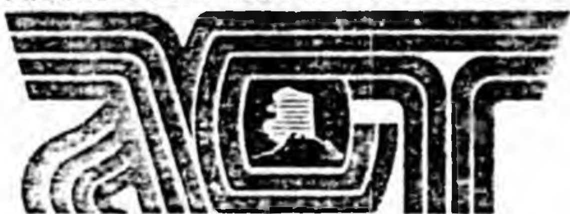
by Bill White

As one observer in Juneau said, "It looks like it made a small

Alaska is able to give away money, a big chunk to every man, woman and child." There followed what

dents would be eligible for the $1,000 payment. That would cost $416 million. Sounds like a lot of money and quite a bonanza for

Alaska Cable Television Association



June 11, 1982

The Honorable Jay S. Hammond
Governor, State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Hammond:

On behalf of the Alaska Cable Television Association, I am writing requesting you to consider a veto on HCSCSSB 180 (JUD) am H. Sec. 29.35.060 and Sec 29.35.070 would provide that public utilities could be regulated by a municipality as to rates not subject to AS 42.05 (Alaska Public Utilities Commission). This is in direct conflict with Chapter 136, SLA 1980 (FCCSSB577) which deregulated certain utilities from the Alaska Public Utilities Commission control over rates and tarriffs.

In 1980 the Legislature intended to deregulate, to a time certain, the cable television (CATV) industry. It was also the intent of the legislature that a municipality not regulate those items which the APUC no longer had control over. A problem does exist in Chapter 136 SLA 1980 that the language is not as concise as it might be, yet Legislative counsel in a memorandum to Representative Jim Duncan expressed the opinion outlined above. A copy of that memorandum is attached.

Should HCSCSSB 180 (JUD) am H become law, the cable industry, as well as other partially deregulated utilities would be faced with two regulatory bodies, the APUC and the municipality in which that utility operates. This scenerio would be untenable for the coninued growth and expansion of cable as an advancing telecommunications media or any other utility as well.

The remedy to this overlapping authority between title 29 (Municipal Code) and AS 42.05 (Alaska Public Utilities Commission) can be addressed by the 13th Alaska Legislature and resolved to the best interest of the people of the State of Alaska. Both statutes are meant to serve the public but the enactment into law of HCSCSSB 180 am H would cause undo hardship on the cable industry and the public we are trying to serve.

Thank you, Governor Hammond, for your time and consideration of this matter.

Sincerely,

Clark J. King
Executive Director

~~cc: Honorable Don Gilman, Honorable Arliss Sturgulewski~~
Honorable Patrick O'Connell

M E M O R A N D U M September 30, 1980

SUBJECT: Regulation of Utilities
(Work Order Number 12-0079)

TO: Representative Jim Duncan

FROM: Thomas A. Sofo
Legislative Counsel

You have asked for an explanation of the scope of section 1 of Chapter 136, SLA 1980 as it pertains to the ability of municipalities to regulate public utilities. I have attached a copy of Chapter 136, SLA 1980 and the several other documents to which this memo will refer.

A review of section 1 of Chapter 136, SLA 1980 (FCCS SB 577) indicates that it amended AS 29.48.060. Prior to that amendment AS 29.48.060 generally allowed municipalities to set rates for all utilities providing services to municipalities or their inhabitants which otherwise were not regulated under AS 42.05 (the Alaska Public Utilities Commission Act). The amendment removed the broad language which seemingly covered all utility operations that did not come under AS 42.05, both public and private, and substituted "municipally owned utility" to describe the class of utility which a municipality may subject to economic regulation. As a result, it appears that municipalities may regulate only those utilities which it owns and are not otherwise regulated under AS 42.05.

Some background to this particular section will be helpful in understanding some of the arguments which are likely to be raised. The original version of SB 577 amended AS 29.-48.060 in section 6 of that bill. At that time the amendments were mainly directed at adding a subsection (b) and an additional sentence to the end of the former language which became subsection (a). At that point in time there was no particular attempt to expand or constrict the scope of municipal regulation. Shortly thereafter SB 577 am contained revised language for

section 6 and added the words "or exempt under AS 42.-05.711(e) - (h)" to the phrase "not regulated under AS 42.05". The apparent purpose behind the amendment at that time was to make it clear that those utilities which were deregulated by virtue of amendments contained later in the bill (that is, those sections amending AS 42.05.711(e) - (h)) were not to become subject to regulation under AS 29.48.060. The bill at this stage required that a utility not be regulated under AS 42.05 or not specifically exempt from regulation under AS 42.05.711(e) - (h). At one point, in response to a question concerning the ambiguity of this language, it was suggested that the word "not" be inserted between the words "or" and "exempt" so that it would be clearer that municipal regulations would be allowed only if a utility was not regulated under AS 42.05 and not exempt by AS 42.05.711(e) - (h). Nevertheless, the later versions of SB 577 no longer included the specific exemption from municipal regulation of those utilities which were otherwise deregulated from APUC regulation by later sections of the bill. In fact, what surfaced was the present language which is contained in Chapter 136, SLA 1980. As described above, it took a slightly different approach to municipal regulation by constricting the class of utilities which a municipality may regulate without any reference to those utilities which were exempted from APUC regulation by the same bill. Now, the municipal code (AS 29) only allows municipalities to regulate utilities which they themselves own and are not otherwise subject to regulation by the APUC. You should be aware that AS 29.48.050 still permits municipalities to regulate the granting of franchises and permits to all public utilities not presently regulated under AS 42.05. AS 29.48.060 is addressed only to the topic of economic or rate regulation. In this area the legislature has seen fit to limit the scope of municipal regulation to those utilities owned by the municipality and not regulated under AS 42.05. It is arguable that such self-regulation is in fact no regulation whatsoever and could have been accomplished by merely repealing AS 29.48.060.

If you have any further questions regarding the present status of municipal regulation of utilities, please do not hesitate to contact me.

TAS:ljb

Enclosures

Law Offices of
Kemppel, Huffman & Ginder
255 E. Fireweed Lane, Suite 200
Anchorage, Alaska 99503

Roger R. Kemppel
Richard R. Huffman
Peter C. Ginder
Ronald L. Baird
Diane F. Vallentine
Lisa B. Nelson

Telephone
(907) 277-1604
(907) 276-1605

June 10, 1982

The Honorable Jay S. Hammond
Governor
State of Alaska
Pouch "A"
Juneau, Alaska 99811

Re: Veto of HCS CSSB 180(Jud)

Dear Governor Hammond:

The Alaska Rural Electric Cooperative Association, on behalf of its members, urges you to veto HCS CSSB 180(Jud).

The Alaska Rural Electric Cooperative Association, Inc. ("ARECA") is the statewide organization of Alaskan non-profit electric cooperatives, including:

Alaska-Village Electric Cooperative, Inc.
Copper Valley Electric Association, Inc.
Cordova Electric Cooperative, Inc.
Glacier Highway Electric Association, Inc.
Golden Valley Electric Association, Inc.
Homer Electric Association, Inc.
Kodiak Electric Association, Inc.
Kotzebue Electric Association, Inc.
Matanuska Electric Association, Inc.
Naknek Electric Association, Inc.
Nushagak Electric Association, Inc.
Tlingit/Haida Regional Electric Authority
Unalakleet Valley Electric Cooperative, Inc.
Alaska Electric Light & Power Company
City of Fairbanks Municipal Utilities System
Nome Joint Utility System
Thomas Bay Power Commission
Metlakatla Power & Light

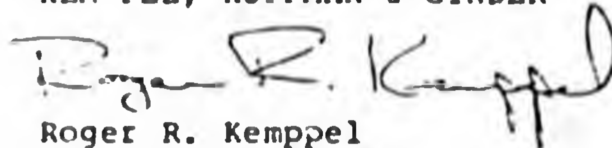
ARECA specifically objects to the inclusion within HCS CSSB 180(Jud) of proposed Alaska Statute §29.35.070, Public Utilities. The effect of that section, if enacted, would be to remove from non-profit electric cooperative members who have chosen to do so, the power to regulate their own affairs. In 1980, AS 42.05, the "Alaska Public Utilities Commission Act," was amended to allow the members of electric cooperatives to vote on the question of whether they wished to continue to be regulated by the Alaska Public Utilities Commission (APUC) or whether they wished to regulate their own affairs. (AS 42.05.712) To date, four deregulation elections have been held under that statutory section, and the members of three cooperatives (Glacier Highway Electric Association, Cordova Electric Cooperative and Cordova Telephone Cooperative, and Naknek Electric Association) have opted out of regulation, while the members of one cooperative (Matanuska Electric Association) have opted to remain under the authority of the APUC.

The enactment of AS 29.35.070, Public Utilities, found at page 71 of HCS CSSB 180(Jud), would essentially negate this election process by requiring that all cooperatives not regulated by the APUC would be automatically regulated by the relevant home-rule or general law municipality. The members of ARECA believe that the Legislature should be forced to give more thought to the legal and policy considerations of this drastic regulatory change. At the very least, the Legislature should consider this legislation in light of its interaction with the electric cooperative deregulation election procedures set out in AS 42.05.712.

Again, we urge you to veto HCS CSSB 180(Jud).

Sincerely,

KEMPPEL, HUFFMAN & GINDER



Roger R. Kemppel
General Counsel for
Alaska Rural Electric
Cooperative Association, Inc.

RRK:la

Alaska State Legislature

Senate

Committee on Community & Regional Affairs

Official Business

465-4934
465-4935

Pouch V
State Capitol
Juneau, Alaska 99811

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

May 19, 1982

MEMORANDUM

To: Senator Don Gilman
Chairman, Senate Community
& Regional Affairs Committee

From: McKie Campbell
Staff
Senate Community & Regional
Affairs Committee

Subject: Differences between House and Senate Versions of SB 180

HCS CSSB 180 (Fin) is currently in House Rules awaiting floor action. There has been a C&RA substitute, a Judiciary substitute and two Finance Committee substitutes for SB 180 since it passed the Senate. Thirty-three changes have been made in these four House committee substitutes. I believe some further change will take place on the House floor.

Though the large majority of House changes are beneficial and noncontroversial, there are some changes which might prevent the Senate from concurring with the House version of the bill. This would necessitate a conference committee. Some of the sticking points are merely disagreements about wording that will have to be resolved. There are at least two House changes, however, that would result in major policy changes with large financial impacts and if not resolved would kill SB 180 for this session.

Below I have identified those differences which may cause the conference committee some difficulty:

1. 29.35.060 - Franchises and Permits.
The House added language stating a municipality may grant a franchise "to a person, corporation, organization, or utility not certificated by the Alaska Public

Utilities Commission." The intent is to indicate that municipalities cannot interfere with APUC certificated utilities, but the wording is ambiguous.

2. 29.45.030 - Exemption of Forest Lands from Municipal Taxation.
This was a proposed amendment to SB 802 in both Senate C&RA and Senate Finance Committees. Both committees rejected the proposal and I believe it very doubtful that the Senate would concur in its inclusion in this bill.

3. 29.45.050 - Boat Tax.
The Senate version retains existing language which limits municipalities, that classify boats by tonnage, to no more than $5 for up to 5 tons or $15 over 5 tons. House language would allow municipalities to classify by tonnage but would not limit the amount they could tax.

4. 29.45.080, 29.45.090, 29.60.020, 29.60,130, 29.60.150 - Determination of Population.
Senate language calls for the Commissioner of C&RA to determine population based on the latest data of the U.S. Census or other reliable data. House language states population shall include all permament residents and military personnel or employees of military reservations and all persons working at isolated job sites in the community. Adoption of the House language would lead to a double counting of population in some areas and a redistribution of municipal assistance and revenue sharing funds. Also, under this language, there would be a cost to the state of over $13 million from redistribution of oil and gas pipeline revenue. Because of the large negative financial impact on both the state and other municipalities, I am very doubtful that the Senate would accept this language. A quick count indicates that most senators would prefer to see SB 180 die this session than to enact this population language into law.

5. 29.45.250 - Rates of Penalty and Interest.
Senate language calls for a penalty of 10% and interest of 8% on delinquent taxes. House language calls for penalties of 20% and 15% interest. This seems an area for easy compromise.

6. 29.60.100, 29.60.140 - State Aid to Unincorporated Communities.
   I expect the Senate to concur with the thrust of the House amendment but some of the language needs to be worked on.

7. 29.71.040(23) - Definition of Subdivision.
   I expect the House to concur with the Senate version if someone from DNR can be present to explain how this meshes with existing law.

DRAFT MUNICIPAL POWERS PROVISIONS FOR AS 29

September 21, 1982

Sec. 29.XX.XXX. General construction. A liberal construction shall be given to all powers and functions of municipalities conferred in this title.

Sec. 29.XX.XXX. Extent of powers. Unless otherwise limited by law, municipalities have and may exercise all powers and functions necessarily or fairly implied in or incident to the object or purpose of all powers and functions conferred in this title.

Sec. 29.XX.XXX. Enumeration of powers. Specific examples within an enumerated power or function conferred upon municipalities in this title are illustrative of the object and not a limitation on or exclusion from the exercise of the power or function.

Sec. 29.XX.XXX. Municipal facilities and services. A municipality may exercise the powers necessary to provide the following public facilities and services.

1) Public health and safety; including but not limited to police, jail, fire protection, flood control, emergency medical, health, and hospital.

2) Transportation; including but not limited to airports, aviation facilities, buses, streets, sidewalks, parking facilities, harbors, wharves and other marine facilities.

3) Utilities; including but not limited to sewer, water, electrical, telephone and solid waste.

4) Cultural and civic; including but not limited to libraries, community centers, museums, visual and performing arts, recreation and cemeteries.

5) Other powers and functions affecting the general health, safety, well-being and welfare of its inhabitants, including but not limited to consumer protection; housing and urban renewal, rehabilitation and development; preservation, maintenance and protection of historic sites, buildings and monuments; cold storage; bulk fuel storage; day care and senior citizen centers.

Dept of C&RA 9/5/82

RECONSIDERATION OF A TITLE 29 REWRITE

It is anticipated that legislation will be reintroduced to totally revise Title 29. The "base document" being used for this new rewrite is House CS for Senate CS 180 (Finance). The following is a summary of some of the features included in the current effort and the deletions and additions that will substantially revise HCS for SCS 180 (Finance). The "KEEP" column summarizes the major elements contained in HCS for SCS 180 (Finance) with which many people are not aware.

KEEP

-Increased organizational grants. Provides $600,000 over three years to newly formed boroughs and $75,000 over two years for newly incorporated cities. Does not apply to consolidations and unifications.

-Direct home rule city formation. Second class cities or unincorporated communities with a resident population of at least 600 may adopt a charter and go directly to home rule status.

-Use of abbreviated plats. Local governing bodies shall establish an abbreviated plat procedure that may be used in certain instances.

Robin Forten Citizens Advisory Committee - Ch by Billy Fr[illegible] Dudley Jones

-"ANCSA language" defining certain terms. For purposes of local tax exemptions as they apply to ANCSA lands the terms "developed", "exploration", and "lease" are defined. These definitions are the result of exhaustive negotiations between Native corporations, State officials, and the Legislature.

-Feasibility studies for proposed boroughs. A program of financial assistance to study the feasibility of forming boroughs in the unorganized borough is established.

-Boat taxation may be based on tonnage.

-Senior citizen tax exemption corrections. The motor vehicle tax exemption program for senior citizens is corrected and clarified.

DELETE

-Exemption of forest land as defined in AS 41.17.950(6) for purposes of property taxation is removed. This provision would devastate the tax base of most of the organized boroughs by providing a mandatory exemption for all "forested" undeveloped land.

-The language expanding the definition of population to include persons working in "isolated job sites" is eliminated. Other confusing language regarding population is also dropped. The existing population language is left mostly intact.

-The elimination of one word--"contract" will expand the applicability of the waiver of immunity required before the State can enter into a contractual relationship with Native governing bodies. Therefore, this word will be eliminated in the new bill.

-Language restoring municipal rate-making authority over all public utility rates to the extent not regulated under AS 42.05 has been dropped. The Alaska Public Utilities Commission objected to this language as it runs contrary to a 1980 law "sunsetting" the regulation of certain utilities. Language that is presently in Title 29 will replace the deleted utilities language.

-Gun control restrictions are deleted.

ADDITIONS

-Most of the additions to HCS for SCS 180 (Finance) are minor words and phrases added in several places to reinforce and further clarify the original intent of the bill drafters, sponsors, and supporters.

Amendments raised opposition to municipal bill

by Bill White
Times Writer

Juneau — A proposed exhaustive rewrite of the state's laws governing cities and boroughs appeared destined to become law until one week before the legislative session ended on June 3.

The 187-page bill had taken four years to write and just about everybody involved expressed the opinion that it was a fine work of craftsmanship.

Then, on May 24, the measure got to the House floor where about two dozen amendments, mostly advanced by special interests, awaited it. And after many of them were adopted, the bill became the most controversial measure to emerge from this year's session.

Now, one week before the governor must veto the bill or make it law, the proposal has dozens of opponents and only four vocal friends.

No one is predicting what the governor will do. But Lee McAnerney, head of Community and Regional Affairs and the sole state official backing the bill, said, "with all the recommendations, I would not be surprised if he vetoes it."

A list of those against the bill reads like a who's who of cities, state agencies, civic and professional groups: The mayor, Assembly and chief of police of Anchorage separately have urged Gov. Jay Hammond to veto it.

So has the Anchorage Chamber of Commerce; the state chamber; the municipal league; the Alaska municipal attorneys association; the state's assessors and financial officers associations; the state's departments of Revenue and Labor; the cities of Kenai, North Pole, Fairbanks, Palmer and Wasilla; the Kenai, Matanuska-Susitna, North Star and Sitka boroughs; the Alaska Public Utilities Commission; state Reps. Pat Carney, D-Wasilla, Rick Halford, R-Chugiak, and Pat O'Connell, R-Soldotna; and state Sens. Arliss Sturgulewski, R-Anchorage, and Don Gilman, R-Kenai.

They object to a half-dozen amendments included in the bill under fierce pressure from lobbyists as the session ended. Chief among these amendments are ones that let temporary workers be counted in a local government's population, exempt some forested lands from taxation and bar municipalities from enacting gun control laws.

Some opponents also object to the way the bill passed.

The most blistering indictment came from the state Department of Revenue. In a memo to the governor, the department said "the basic bill was not objectionable, but certain amendments made to it on the floor of the House are.

"In addition, the way the political process has the appearance — if not the substance — of having been abused by powerful special interest lobbyists in the securing of those amendments is questionable.

"The amendment on municipal population determinations will reduce state receipts . . . by $18,688,707 this year alone . . . the prime beneficiary of this will be the North Slope Borough. This amendment, the one exempting undeveloped forest lands from municipal property taxes, and other amendments are widely perceived as special interest amendments that were 'logrolled' onto the bill.

"The underlying bill, which is good, can be reintroduced in the Legislature next year, but a veto will be widely seen as a strong moral position, striking a blow against the closed-door wheeling and dealing which the public has come to seek as the hallmark of this past session."

Anchorage Mayor Tony Knowles also urged Hammond's veto.

The population amendment will cost the city $720,000 a year, he said. The forested lands section could cut the city's real property tax base by up to $1.5 billion. And the anti-gun control amendment "severely restricts local autonomy with respect to regulation of public safety."

The bill's backers, of course, look at the bill more favorably.

The North Slope Borough's lobbyist, Lew Dischner, said the population section corrects an injustice. The borough's population fell from 8,065 in 1979 to 4,610 the next year after the U.S. census was taken. The borough has the burden of providing services for these temporary workers that wouldn't be counted, he said. A higher count would give the borough a higher share of revenue sharing money, which is doled out according to population.

But other cities argue any increased share for the borough means less for them.

Sealaska Corp. and Cook Inlet Region Inc. back the forested lands section. Byron Mallott, Sealaska chairman, said the section makes for wiser use, development, regeneration and management of privately held timbered land. It would benefit the state's economy, employment, fish and wildlife management, coastal zone resource management and environment protection, he told Hammond.

But local governments say the section could be interpreted broadly to exclude almost any backyard, and this would invite costly lawsuits to clarify the section.

(Continued from page A-1)

were drafting on state functions. The office played no role whatsoever in achieving passage of the bill."

After passage, he prepared "a rough draft of a memo which would help (McAnerney) convey her thoughts on the entire bill — including amendments with which this office had no connection — to the governor."

McAnerney, too, denied impropriety in her dealings with Gross.

"I had my mind made up when I went to him, exactly what I wanted," she said. She said she needed advice on correct legal phrasing of her memo. But her departmental deputies opposed the bill, so she went to Gross, an old friend who was informed about the bill, she said.

"There was no influence on his part," she said. "I went to him simply because the people who would help me on that were totally negative in their thinking . . . I didn't think he would try to convince me. He's a very honorable person and I know that from when he was attorney general."

Parts of Gross' draft were later changed after she discussed them with her staff, she said.

In her memo, McAnerney said the bill is too important to let die because of a couple of defects. The flaws can be corrected later by regulation or new legislation, she told the governor.

The exhaustive municipal code rewrite was four years in the making.

But a handful of amendments — including the one Gross wrote — put on the bill as this year's session ended have triggered an avalanche of letters to the governor requesting his veto.

Dozens of cities, state agencies, civic and professional groups oppose the bill. Backing it are the borough, McAnerney and Sealaska Corp., which wrote another last-minute amendment to exempt some forested land from taxation.

Sealaska, the Juneau-based native re[illegible] corporation, owns thou[illegible] of timber in Southe[illegible].

The language Gross drafted corrects what the borough considers an injustice. The borough saw its population drop from about 8,000 in 1979 to about 4,600 the next year when the U.S. census didn't count temporary workers at Prudhoe Bay.

That reduction caused the borough to lose millions of dollars the federal and state governments share on the basis of population. Other cities worry they will lose money if the North Slope Borough's pop[illegible]tion jumps by 4,000. About 3,000 of those temporary workers also live in Anchorage.

Lawmakers attached Gross' language to the bill late in the legislative session, reportedly under intense pressure from lobbyists Lew Dischner and Kim Hutchinson, who were hired by the North Slope Borough.

Gross said he registered as a lobbyist to show his actions have been aboveboard, not t[illegible] comply with any law.

"The bill is controversial, and I do not wish to even raise an inference that this office is hiding anything that we are required to disclose by law."

Gross asked that APOC "try to clarify for the future the role of an attorney who, through the initial role of draftsman, is drawn at a later time into the decision making process."

AUCTION

SUNDAY, JULY 11th, 1982
BEGINNING . . 00 A.M.

SB
180
#15

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 permissive 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

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 "Manadatory 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.

This section taken out

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 then 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.

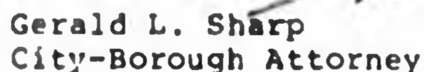
Page 99, line 27. I believe that the need for the clause "excluding personal property from taxation" should be deleted as it gives rise to the implication that personal property could not otherwise be exempted by a borough. While this may be the case under the present Title 29, it appears that this has 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.

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

TITLE 29 - MUNICIPAL CODE REVISIONS

SUGGESTIONS FOR ADDITIONS OR CHANGES TO

Ch. 25 - Municipal Enactments
Ch. 26 - Elections
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

29.25.010(a)(4) (Department of Community & Regional Affairs)

Why should supplemental or transfer appropriations be excluded?

29.25.060 (JoAnne Shanley)

"Relates to resolutions and states the section is applicable to Home Rule municipalities. However, this section is not cited under Sec. 29.10.110, 'Limitation of Home Rule Powers.'"

29.26.050 (JoAnne Shanley)

"This section has been amended by the addition of a requirement that a person be registered to vote in the precinct (or service area?!) in which he seeks to vote. However, the section still does not address residency in a district, precinct or service area. The AAMC in November drafted language which was forwarded to the Policy Advisory Committee which would have required an elector to be registered and a resident of the State, district, municipality, service area and/or precinct in which he seeks to vote.

"Without more specific language, clerks feel that there is a legal conflict with not counting questioned ballots of persons who are registered but who have moved to another area and not filed a change of address card.

"In small communities where voter turn-out is small, elections close, and everyone knows where everyone else lives, this is an important issue."

29.26.060 (JoAnne Shanley)

"I found the language in this section regarding majority election extremely cumbersome."

29.26.100 (Peter Hallgren)

This section reserves the powers of referendum and initiative to the residents of a municipality and is a limitation on home rule municipalities. Immediately following are a number of sections (Sec. 29.26.110 et seq.) which give the statutory procedures for referenda and initiatives. It is unclear whether these procedures are also limitations on home rule power to act otherwise.

29.26.120 (Tam Cook, Legislative Counsel)

This section "was inadvertently included in this bill. It is a section currently in Title 29 which conflicts with the changes made in the initiative and referendum process by this bill."

29.26.130 (JoAnne Shanley)

"Relates to the contents of an initiative or referendum petition. The AAMC is concerned with this section and urges clarifying language to establish that the petitioners are responsible for drafting the issues and the clerk only is responsible for supplying the petition format.

"Suggested language:

> "(1) 'a summary of the bill to be initiated or the act to be referred, as submitted by the sponsor/s and reviewed and approved by the city attorney if applicable (to insure that the summary as submitted is not unclear or misleading)
>
> "'(2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsor/s.'"

29.26.140 (JoAnne Shanley)

"Regarding signature requirements on petitions (b) states 'The clerk shall determine the number of signatures required on a petition and inform each sponsor.'

"The AAMC discussed this section and some concern was voiced that in larger municipalities there might be an overwhelming number of 'sponsors' which might pose a

problem when trying to contact all of them and coordinate the petition process. A suggestion was made that a maximum of 3-5 people be designated 'spokesmen' or 'coordinators' and the clerk, by contacting these individuals, would meet the requirements of law."

29.26.150 (JoAnne Shanley)

"Addresses the sufficiency of a petition. It states that 'Within 10 days after the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.'

"This section neglects to establish the time frame and means by which the clerk shall notify the sponsors of the sufficiency or insufficiency of the petition.

"Should also be clarified regarding the 'date on which the petition is rejected.' Is this the date the petitions are notified by certified mail?"

29.26.200 (JoAnne Shanley)

"Provides that an ordinance/resolution which was subject of a successful initiative election may not be repealed within one year BUT MAY BE AMENDED. Is there some way to place some controls on the amendment procedure whereby those amendments could not have the effect of creating 'lame duck,' ineffectual legislation?"

29.26.280 (JoAnne Shanley)

"See comments under 29.26.140 regarding number of sponsors.

"(b), last sentence

"I would support the addition of the word 'registered' because it takes the burden of proof off the clerk to prove that someone is residing in an area although the voter registration list indicates that he is registered in another area.

> "'If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of the voters registered and residing within the district (or service area) equal to 35 percent of the number of votes cast in the district (or service area) for that office at the last regular election held before the issuance of the petition.'"

29.26.290 (JoAnne Shanley)

"See comments under 29.26.150 regarding a method whereby the clerk notifies the petitioners of the sufficiency or insufficiency of a petition."

29.26.310 (JoAnne Shanley)

"The word 'immediate' poses some problems. Does this mean the calling of a special meeting? What about substituting wording such as 'at the next regularly-scheduled meeting.'??"

29.26.350(c) (Department of Community & Regional Affairs)

Add "Appointments to fill vacancies are for the unexpired term."

mole

29.35.200, .210, .250, .260, .170 (Tam Cook)

While SB 180 no longer contains a specific grant of power to regulate the use and sale of alcoholic beverages, that power may be implied to exist as a power "not otherwise prohibited by Alaska statute" because AS 04.21.010 is a grant rather than a limitation of regulatory power. If it is the intention of the committee that municipalities regulate in this area only pursuant to AS 04.21.010, a cross-reference to that section would be appropriate to include in Sec. 29.35.200, Sec. 29.35.210, Sec. 29.35.250 and Sec. 29.35.260. A cross-reference should also be included in Sec. 29.35.170 so that it is clear that the power to tax is subject to the limitation imposed under AS 04.21.010(c). I also note that AS 04.21.010 specifically applies to unified municipalities, and, presumably, to other home rule municipalities as a limitation on the power to regulate and to tax in this area. (AS 04.21.080(11)) It might be helpful to users of Title 29 if reference to this limitation were to appear there as well as in Title 4.

29.35.210(a) (Tam Cook)

A paragraph was omitted from Sec. 29.35.210(a): "(9) tax, spend and regulate for the purpose of promoting economic development." A second class borough would be authorized to exercise this power on a nonareawide basis. No similar provision currently exists in Title 29.

29.35.250, .260 (Dept. of Community and Regional Affairs)

This provision seems to give general law cities a power which is equivalent to the authority to adopt and modify a home rule charter by ordinance. As the State Constitution provides that the adoption and modification of a charter shall be by referendum, the propriety of these sections is questioned. Additionally, the subject provisions would allow a second class city in the unorganized borough to exercise the power of education.

29.35.260(c) (Tam Cook)

Incorrectly refers to AS 29.35.180, when it should refer to AS 29.35.190.

29.40.010 (Leo Rhode, Mayor of Homer)

(HB 170 or SB 180) has language which greatly improves the latitude in which this exchange may transpire i.e., "the City must first consent by ordinance to the delegation." Currently Title 29 allows no prerequisite affirmation by the City.

29.40.140 (Joe Burch, Div. of Technical Services, Dept. of Natural Resources)

Line 16: "recorded" should be changed to "filed."

29.40.150 (Richard Hallgren)

Vacating a street - returning the property to the original owner. If the property has been sold in the interim, they charge fair market value rather than giving property away free. Refers back to Sec. 29.10.110 - paragraph (34).

29.40.170 (Joe Burch)

Line 6: "recorded" should be changed to "filed "

Line 8: "record" should be changed to "file."

29.40.180 (Jim Kohler, City Manager of Yakutat)

State compliance with local subdivision regulations. Item that is going to be more than a sleeper, as well as elimination of third class boroughs.

29.35.020 (JoAnne Shanley, Seward City Clerk)

Regarding the control of watersheds outside a municipality's boundaries:

"Before this power may be exercised wit[illegible]e boundaries of another municipality, the approval of t[illegible]er municipality must be given by ordinance."

A request had been made that some wording should be added similar to "such approval cannot be unreasonably withheld"; or, better still, "such approval cannot be withheld unless the other municipality is attempting to control the watershed."

A case in point is Homer. The city is trying to protect its watersheds located outside the city limits but within the boundaries of the Kenai Peninsula Borough. The Borough has refused to allow Homer to proceed with their plans but also refuses to take any action to protect the watershed.

29.35.170 ([illegible]chard Hallgren, Sitka Borough Mayor)

Page 77 - 29.35.170 - wishing to tie in all of this as mandatory in home rule municipalities. As it relates to 29.45.

29.35.190 and 29.10.110 (Dept. of Community & Regional Affairs)

It would seem an oversight that unified municipalities, home rule boroughs and home rule cities in the unorganized borough are not subject to such provisions. If the apparent oversight is remedied, 29.40.150(c) should be stricken and a new section 29.40.190 should be added stating that AS 29.40.010 - 29.40.190 apply to home rule and general law municipalities.

SUGGESTIONS FOR ADDITIONS OR CHANGES TO
CHAPTERS 03 through 26

29.03.030 (Department of Community & Regional Affairs)

P1, L11 - Substitute "department of natural resources, division of technical services" for "division of lands."

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.

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.

29.04.030 (R.E. Henderson, Haines Borough Mayor)

"No provisions have been made for a third class borough. We have operated a successful third class borough for many years and have had no serious problems. The main objection to the third class borough seems to be its lack of planning and zoning powers, which in fact can be done via service areas. However, in the last election, the residents of the Borough voted down setting up powers of zoning and planning within proposed service areas. This question may appear on the ballot again this year. Several other areas in the state have recently contacted us for our bylaws and seem interested in this form of government. I do not believe with the support that has been shown the third class borough it should be abolished."

29.04.040 (Department of Community & Regional Affairs)

It would seem appropriate to provide the option for a first class city to reclassify as a second class city. In 1977 to accomplish this end, the first class city Selawik was required to dissolve and then incorporate as a second class city.

29.04.050 (R.E. Henderson)

"While the language allows for us to continue to be a third class borough, the overall effect of this section will be to force us into another classification of borough status, even

if that is not what we wish to do. We would be forced to govern ourselves by the laws enacted prior to this act, preventing any future revisions that might be necessary to meet changing needs. I suspect that appropriations would also be held up because we were not a recognized borough. I see nothing but problems in the future."

29.04.050, 29.10.010 (Department of Community & Regional Affairs)

As the authority to adopt a home rule charter would be extended to second class cities and boroughs, it may be appropriate to also include third class boroughs.

29.05.060, 29.35.450 (Department of Community & Regional Affairs)

Boroughs should be given the authority to establish service areas at the time of incorporation.

29.05.060(8) (Department of Community & Regional Affairs)

For information purposes, the petition for the incorporation of first class boroughs should require the designation of nonareawide powers.

29.05.080 (Department of Community & Regional Affairs)

The action taken by the Department in this regard is truly (and properly) an informational meeting rather than a public hearing. It is suggested that the term be amended accordingly.

29.06 (Article 2) (Department of Community & Regional Affairs)

29.06 (Article 2), 29.10.110(3) - To be consistent with the term most commonly used and contained in the AAC, it is suggested that the word "detachment" be substituted for the word "exclusion."

Provisions similar to Sec. 29.05.100 should be added, thus ending the question of the Local Boundary Commission's authority to alter boundaries from those presented in petitions for annexations and detachments. It would also provide for a formal process for appeal. The additional section would require the "29.06.060" citation in 29.10.110(3) to be renumbered.

29.06.040 (R.E. Henderson)

"I do not believe that any municipality should annex any outlying area without the expressed approval of the public. Provisions are made where voters must approve a proposed annexation or exclusion, but there also seems the avenue

whereby a municipality can recommend an annexation to a Boundary Commission that if presented to and not disapproved by the legislature is effected without any input of public opinion. Such a procedure would violate the democratic process."

29.06.040 (Department of Community and Regional Affairs)

P13, L6 - Substitute "AS 44.47.567" for"AS 44.19.260."

29.06.210 (Okey Chandler, Kodiak)

This section "requires that petition to put unification of municipal governments before the voters be signed by 25% of the voters in the most recent election. That number is excessively high. Other provisions of law limits question to once a year. Urge you amend above section to require 100 signatures."

29.06.210 (Department of Community & Regional Affairs)

, L11 - Precede the sentence with the following, "If the petition is initiated by the residents of the territory proposed for unification..."

29.06.260 (Department of Community & Regional Affairs)

P19, L3-5 - Substitute "charter commission shall be formed" for "home rule or general law borough and all cities within it shall unite to form a single unit of home rule government."

29.06.320 (Department of Community & Regional Affairs)

Elimination of the phrase "by radio and television" would provide discretion that may be needed in certain cases.

29.06.330 (Department of Community & Regional Affairs)

Should provide for certification of election results to the Commissioner in order that a certificate of reclassification may be issued.

29.06.470 (Department of Community & Regional Affairs)

Provisions similar to 29.05.100 (b) should be added to provide a formal appeal procedure.

29.10.110 (Joyce Rasler, Wrangell City Manager)

"Those sections in Title 14, Education, which pertain to home-rule municipalities should be enumerated in home-rule limitations under Sec. 29.10.110, or a chapter dealing with those sections in Title 14 should be added to Title 29."

29.10.110 (Department of Community & Regional Affairs)

P29, L25 - Substitute "29.10.110" for "29.10.115."

P30, between L11-12 - Add "AS 29.25.060 (resolutions)".

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

29.10.110(9), 29.20.020 (Department of Community & Regional Affairs)

Transpose "meetings public" to "public meetings."

29.20.010 (Joyce Rasler)

"Provides that a home-rule municipality shall adopt a Conflict of Interest ordinance. HB 170 and SB 180 prescribe the manner to rule on the question of a conflict of interest. This is imposing a further restriction on home-rule municipalities. The manner of ruling on the question should be determined on the local level by ordinance. Wrangell currently has a Conflict of Interest ordinance which provides the manner of ruling on the question."

29.20.070 (Department of Community & Regional Affairs)

The provision requires that the borough must submit only one plan of representation to the voters. Thus, it fails to insure that the voters will be given a choice. Further, there is no true provision for voter approval (e.g., a borough could submit only one plan which might get 100 favorable votes and 5,000 unfavorable votes. 29.20.070(a) would nonetheless require the adoption of the plan).

29.20.140 (Joyce Rasler)

"Imposes further restrictions on home-rule municipalities. The qualified voters in a home-rule municipality should continue to determine the qualifications of members of the City Council, including age. The analysis of SB 180 states no substantive change was made to (a). It is clear that imposing an age of 18 for qualifications is a substantive change when some home-rule municipalities have provided for age in their Charter."

29.20.160 (R.E. Henderson)

"It seems inappropriate to disallow the mayor of a borough to be the presiding officer, unless a manager form of government is used. And, then at the same time to continue the mayor of a city as the presiding officer. I believe the Borough Mayor should also be the presiding officer. The mayor has no vote (except in the case of a tie in some cases) and the only way he can keep some control over the Assembly is by being its presiding officer. The mayor is often placed in the position of bearing the brunt of the public's criticism for Assembly decisions and should be able in the capacity of the presiding officer to exert some influence."

29.20.160(b) (JoAnne Shanley, Seward City Clerk)

"This is proposed to be a Home Rule Limitation in the new rewrite. In previous Title 29 this issue was addressed at Sec. 29.23.210 and was not a Home Rule Limitation.

"My specific objection is at the second sentence which reads 'A special meeting may be held at the call of the presiding officer or at least one-third of the members...'

"I know of no compelling reason why the State Statutes should specify these requirements for Home Rule municipalities at this time. The City of Seward, for example, has instituted other notice requirements and these requirements have been working well for years."

29.20.170 (JoAnne Shanley)

"Regarding the declaration by the governing body of a vacancy--

"(8) states a position may be declared vacant if the person 'no longer physically resides in the city or borough and the governing body by two-thirds vote declares the seat vacant.'

"I'm of the opinion that if the person in fact no longer resides in the area (and, therefore, he would be ineligible to run for office) he should be ineligible to hold office without consideration of the governing body. What would happen if the governing body, even knowing he lived outside the legal area, wished the individual to remain in service?

"Is there some way to more specifically determine 'residency' and, after a specified period of non-residency, that the position automatically be declared vacant?

"A similar argument can be made concerning (7) under the same section.

"Another consideration is that Sec. 29.20.280 addresses the mayorial position and different provisions for declaring a vacancy for non-residency are established. Is there a reason for this?"

29.20.220 (JoAnne Shanley)

"Article 3 heading preceding this section is entitled 'Borough Executive and Administrator'

"This title is a misnomer since this article also deals with the cities."

29.20.230(c) (JoAnne Shanley)

"Addresses the term of mayor and states 'The governing body may not limit the number of terms a mayor may serve.'

"I think an addition should be made to clarify this statement, taking it one step further by:

> "'The governing body may not limit the number of terms a mayor may serve but such limitation may be established by ordinance upon ratification by two-thirds vote of the electors.' (The suggested language is just to indicate my intent.)"

29.20.220-230 (Ivan Widom, Nome City Manager)

"Section 29.20.220(a) seems to refer to Boroughs. However, there are also references to 'other municipalities.' Then, on the next page, (46), under Sec. 29.20.230 there's a reference to 'first class city.' Since Article 3 only refers to 'Borough Executive & Administrator' then why does it include references to first and second class cities?"

29.20.220(b) (Peter Hallgren, Sitka Borough Attorney)

The last clause of this subsection may imply that certain other powers, such as the mayoral veto (Sec. 29.20.270) or the prohibition on the mayor voting on matters before the governing body (Sec. 29.20.250(c)) are limitations on home rule municipalities. Is this the intention of the drafters?

29.20.640 (Joyce Rasler)

"(a) (5) A summary of the optional property tax exemptions should be submitted to the department. Requiring each municipality to estimate the revenues lost by operation of the exemptions would tend to have inequitable information submitted to the department. The State Assessor's office is better qualified to determine a fair and impartial estimate of lost revenues, which would be consistent throughout the state. Although this is not a new requirement, this section is difficult to operate in municipalities without full-time staff assessors."

29.20.640 (Department of Community & Regional Affairs)

255, L16 - Substitute "programs" for "chapters."

29.25.010(a)(4) (Department of Community & Regional Affairs)

Why should supplemental or transfer appropriations be excluded?

29.25.060 (JoAnne Shanley)

"Relates to resolutions and states the section is applicable to Home Rule municipalities. However, this section is not cited under Sec. 29.10.110, 'Limitation of Home Rule Powers.'"

29.26.050 (JoAnne Shanley)

"This section has been amended by the addition of a requirement that a person be registered to vote in the precince (or service area?!) in which he seeks to vote. However, the section still does not address residency in a district, precinct or service area. The AAMC in November drafted language which was forwarded to the Policy Advisory Committee which would have required an elector to be registered and a resident of the State, district, municipality, service area and/or precinct in which he seeks to vote.

"Without more specific language, clerks feel that there is a legal conflict with not counting questioned ballots of persons who are registered but who have moved to another area and not filed a change of address card.

"In small communities where voter turn-out is small, elections close, and everyone knows where everyone else lives, this is an important issue."

29.26.060 (JoAnne Shanley)

"I found the language in this section regarding majority election extremely cumbersome."

29.26.100 (Peter Hallgren)

This section reserves the powers of referendum and initiative to the residents of a municipality and is a limitation on home rule municipalities. Immediately following are a number of sections (Sec. 29.26.110 et seq.) which give the statutory procedures for referenda and initiatives. It is unclear whether these procedures are also limitations on home rule power to act otherwise.

29.26.120 (Tam Cook, Legislative Counsel)

This section "was inadvertently included in this bill. It is a section currently in Title 29 which conflicts with the changes made in the initiative and referendum process by this bill."

29.26.130 (JoAnne Shanley)

"Relates to the contents of an initiative or referendum petition. The AAMC is concerned with this section and urges clarifying language to establish that the petitioners are responsible for drafting the issues and the clerk only is responsible for supplying the petition format.

"Suggested language:

> "(1) 'a summery of the bill to be initiated or the act to be referred, as submitted by the sponsor/s and reviewed and approved by the city attorney if applicable (to insure that the summary as submitted is not unclear or misleading)
>
> "'(2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsor/s.'"

29.26.140 (JoAnne Shanley)

"Regarding signature requirements on petitions (b) states 'The clerk shall determine the number of signatures required on a petition and inform each sponsor.'

"The AAMC discussed this section and some concern was voiced that in larger municipalities there might be an overwhelming number of 'sponsors' which might pose a

problem when trying to contact all of them and coordinate the petition process. A suggestion was made that a maximum of 3-5 people be designated 'spokesmen' or 'coordinators' and the clerk, by contacting these individuals, would meet the requirements of law."

29.26.150 (JoAnne Shanley)

"Addresses the sufficiency of a petition. It states that 'Within 10 days after the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.'

"This section neglects to establish the time frame and means by which the clerk shall notify the sponsors of the sufficiency or insufficiency of the petition.

"Should also be clarified regarding the 'date on which the petition is rejected.' Is this the date the petitions are notified by certified mail?"

29.26.200 (JoAnne Shanley)

"Provides that an ordinance/resolution which was subject of a successful initiative election may not be repealed within one year BUT MAY BE AMENDED. Is there some way to place some controls on the amendment procedure whereby those amendments could not have the effect of creating 'lame duck,' ineffectual legislation?"

29.26.280 (JoAnne Shanley)

"See comments under 29.26.140 regarding number of sponsors.

"(b), last sentence

"I would support the addition of the word 'registered' because it takes the burden of proof off the clerk to prove that someone is residing in an area although the voter registration list indicates that he is registered in another area.

> "' If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of the voters registered and residing within the district (or service area) equal to 35 percent of the number of votes cast in the district (or service area) for that office at the last regular election held before the issuance of the petition.'"

29.26.290 (JoAnne Shanley)

"See comments under 29.26.150 regarding a method whereby the clerk notifies the petitioners of the sufficiency or insufficiency of a petition."

29.26.310 (JoAnne Shanley)

"The word 'immediate' poses some problems. Does this mean the calling of a special meeting? What about substituting wording such as 'at the next regularly-scheduled meeting.'??"

29.26.350(c) (Department of Community & Regional Affairs)

Add "Appointments to fill vacancies are for the unexpired term."

TITLE 29 - MUNICIPAL CODE REVISIONS

SUGGESTIONS FOR ADDITIONS OR CHANGES TO

Ch. 25 - Municipal Enactments
Ch. 26 - Elections
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

29.25.010(a)(4) (Department of Community & Regional Affairs)

Why should supplemental or transfer appropriations be excluded?

29.25.060 (JoAnne Shanley)

"Relates to resolutions and states the section is applicable to Home Rule municipalities. However, this section is not cited under Sec. 29.10.110, 'Limitation of Home Rule Powers.'"

29.26.050 (JoAnne Shanley)

"This section has been amended by the addition of a requirement that a person be registered to vote in the precinct (or service area?!) in which he seeks to vote. However, the section still does not address residency in a district, precinct or service area. The AAMC in November drafted language which was forwarded to the Policy Advisory Committee which would have required an elector to be registered and a resident of the State, district, municipality, service area and/or precinct in which he seeks to vote.

"Without more specific language, clerks feel that there is a legal conflict with not counting questioned ballots of persons who are registered but who have moved to another area and not filed a change of address card.

"In small communities where voter turn-out is small, elections close, and everyone knows where everyone else lives, this is an important issue."

29.26.060 (JoAnne Shanley)

"I found the language in this section regarding majority election extremely cumbersome."

29.26.100 (Peter Hallgren)

This section reserves the powers of referendum and initiative to the residents of a municipality and is a limitation on home rule municipalities. Immediately following are a number of sections (Sec. 29.26.110 et seq.) which give the statutory procedures for referenda and initiatives. It is unclear whether these procedures are also limitations on home rule power to act otherwise.

29.26.120 (Tam Cook, Legislative Counsel)

deleted

This section "was inadvertently included in this bill. It is a section currently in Title 29 which conflicts with the changes made in the initiative and referendum process by this bill."

29.26.130 (JoAnne Shanley)

"Relates to the contents of an initiative or referendum petition. The AAMC is concerned with this section and urges clarifying language to establish that the petitioners are responsible for drafting the issues and the clerk only is responsible for supplying the petition format.

"Suggested language:

> "(1) 'a summary of the bill to be initiated or the act to be referred, as submitted by the sponsor/s and reviewed and approved by the city attorney if applicable (to insure that the summary as submitted is not unclear or misleading)
>
> "'(2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsor/s.'"

29.26.140 (JoAnne Shanley)

"Regarding signature requirements on petitions (b) states 'The clerk shall determine the number of signatures required on a petition and inform each sponsor.'

"The AAMC discussed this section and some concern was voiced that in larger municipalities there might be an overwhelming number of 'sponsors' which might pose a

problem when trying to contact all of them and coordinate the petition process. A suggestion was made that a maximum of 3-5 people be designated 'spokesmen' or 'coordinators' and the clerk, by contacting these individuals, would meet the requirements of law."

29.26.150 (JoAnne Shanley)

"Addresses the sufficiency of a petition. It states that 'Within 10 days after the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.'

"This section neglects to establish the time frame and means by which the clerk shall notify the sponsors of the sufficiency or insufficiency of the petition.

"Should also be clarified regarding the 'date on which the petition is rejected.' Is this the date the petitions are notified by certified mail?"

29.26.200 (JoAnne Shanley)

"Provides that an ordinance/resolution which was subject of a successful initiative election may not be repealed within one year BUT MAY BE AMENDED. Is there some way to place some controls on the amendment procedure whereby those amendments could not have the effect of creating 'lame duck,' ineffectual legislation?"

29.26.280 (JoAnne Shanley)

"See comments under 29.26.140 regarding number of sponsors.

"(b), last sentence

"I would support the addition of the word 'registered' because it takes the burden of proof off the clerk to prove that someone is residing in an area although the voter registration list indicates that he is registered in another area.

> "' If a petition seeks to recall a official who represents a district, the petition shall be signed by a number of the voters registered and residing within the district (or service area) equal to 35 percent of the number of votes cast in the district (or service area) for that office at the last regular election held before the issuance of the petition.'"

29.26.290 (JoAnne Shanley)

"See comments under 29.26.150 regarding a method whereby the clerk notifies the petitioners of the sufficiency or insufficiency of a petition."

29.26.310 (JoAnne Shanley)

"The word 'immediate' poses some problems. Does this mean the calling of a special meeting? What about substituting wording such as 'at the next regularly-scheduled meeting.'??"

29.26.350(c) (Department of Community & Regional Affairs)

Add "Appointments to fill vacancies are for the unexpired term."

moLE

29.35.200, .210, .250, .260, .170 (Tam Cook)

While SB 180 no longer contains a specific grant of power to regulate the use and sale of alcoholic beverages, that power may be implied to exist as a power "not otherwise prohibited by Alaska statute" because AS 04.21.010 is a grant rather than a limitation of regulatory power. If it is the intention of the committee that municipalities regulate in this area only pursuant to AS 04.21.010, a cross-reference to that section would be appropriate to include in Sec. 29.35.200, Sec. 29.35.210, Sec. 29.35.250 and Sec. 29.35.260. A cross-reference should also be included in Sec. 29.35.170 so that it is clear that the power to tax is subject to the limitation imposed under AS 04.21.010(c). I also note that AS 04.21.010 specifically applies to unified municipalities, and, presumably, to other home rule municipalities as a limitation on the power to regulate and to tax in this area. (AS 04.21.080(11)) It might be helpful to users of Title 29 if reference to this limitation were to appear there as well as in Title 4.

29.35.210(a) (Tam Cook)

A paragraph was omitted from Sec. 29.35.210(a): "(9) tax spend and regulate for the purpose of promoting economic development." A second class borough would be authorized to exercise this power on a nonareawide basis. No similar provision currently exists in Title 29.

29.35.250, .260 (Dept. of Community and Regional Affairs)

This provision seems to give general law cities a power which is equivalent to the authority to adopt and modify a home rule charter by ordinance. As the State Constitution provides that the adoption and modification of a charter shall be by referendum, the propriety of these sections is questioned. Additionally, the subject provisions would allow a second class city in the unorganized borough to exercise the power of education.

29.35.260(c) (Tam Cook)

Incorrectly refers to AS 29.35.180, wh. it should refer to AS 29.35.190.

29.40.010 (Leo Rhode, Mayor of Homer)

(HB 170 or SB 180) has language which greatly improves the latitude in which this exchange may transpire i.e., "the City must first consent by ordinance to the delegation." Currently Title 29 allows no prerequisite affirmation by the City.

29.40.140 (Joe Burch, Div. of Technical Services, Dept. of Natural Resources)

Line 16: "recorded" should be changed to "filed."

29.40.150 (Richard Hallgren)

Vacating a street - returning the property to the original owner. If the property has been sold in the interim, they charge fair market value rather than giving property away free. Refers back to Sec. 29.10.110 - paragraph (34).

29.40.170 (Joe Burch)

Line 6: "recorded" should be changed to "filed."

Line 8: "record" should be changed to "file."

29.40.180 (Jim Kohler, City Manager of Yakutat)

State compliance with local subdivision regulations. Item that is going to be more than a sleeper, as well as elimination of third class boroughs.

29.35.020 (JoAnne Shanley, Seward City Clerk)

Regarding the control of watersheds outside a municipality's boundaries:

"Before this power may be exercised within the boundaries of another municipality, the approval of the other municipality must be given by ordinance."

A request had been made that some wording should be added similar to "such approval cannot be unreasonably withheld"; or, better still, "such approval cannot be withheld unless the other municipality is attempting to control the watershed."

A case in point is Homer. The city is trying to protect its watersheds located outside the city limits but within the boundaries of the Kenai Peninsula Borough. The Borough has refused to allow Homer to proceed with their plans but also refuses to take any action to protect the watershed.

29.35.170 (Richard Hallgren, Sitka Borough Mayor)

Page 77 - 29.35.170 - wishing to tie in all of this as mandatory in home rule municipalities. As it relates to 29.45.

29.35.190 and 29.10.110 (Dept. of Community & Regional Affairs)

It would seem an oversight that unified municipalities, home rule boroughs and home rule cities in the unorganized borough are not subject to such provisions. If the apparent oversight is remedied, 29.40.150(c) should be stricken and a new section 29.40.190 should be added stating that AS 29.40.010 - 29.40.190 apply to home rule and general law municipalities.

TITLE 29 - MUNICIPAL CODE REVISIONS

SUGGESTIONS FOR ADDITIONS OR CHANGES TO

Ch. 40 - Planning, Platting, and Land Use Regulations

Ch. 45 - MUNICIPAL TAXATION
Ch. 46 - SPECIAL ASSESSMENTS
Ch. 47 - MUNICIPAL DEBT
Ch. 55 - MUNICIPAL PROGRAMS
Ch. 60 - STATE PROGRAMS
Ch. 65 - GENERAL LAND GRANT
Ch. 71 - GENERAL PROVISIONS

29.40.040 - (Planning Association of Alaska)

(1) Under the section by section analysis, 29.40.040 states that AS 29.33.090(e) allowing a business licensed by the ABC board before the adoption of the zoning ordinance to continue to operate, has been eliminated.

In this sole instance, it appears zoning grandfather rights are being denied to one specific type of business by administrative state law decision. Does that not violate equal protection under the law? Are there funds to purchase the non-conforming business or are we talking adverse condemnation?

(2) 29.40.040 - eliminated "contract zoning." What was the problem or rationale behind this change? Is contract zoning subject to abuse? Did it seem to eliminate or circumvent comprehensive planning or create "spot zoning"?

29.40.040 - (Lee Sharp, Juneau City Attorney)

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.

29.04.050 - (Exxon)

This section should be amended to provide for a right of appeal of all decisions on a request for a variance.

29.40.060 - (Exxon)

We support the proposed provision in subsection (a) providing for the right of appeal on all decisions dealing with land use regulation.

But we also urge that a provision in the existing law be retained and expanded.

We suggest the addition of the following:

Objections no vehicle - action

(c) An appeal under (a) and (b) of this section shall stay enforcement proceedings unless the court issues an enforcement order based on a sworn certificate of imminent peril to human life or property made by an administrative body.

29.40.100 - (Lee Sharp)

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.

29.40.100 (PAA)

State the assembly may provide for an administrative official to review and approve short plats (NO PLATTING BOARD ACTION STATED OR IMPLIED.)

However, the next section - 29.40.110 - states recorded plats cannot be altered except by platting authority.

The intent of allowing an administrative official to, under certain circumstances, act as a platting authority either needs to be included in the definition of platting authority or amended under 110 to provide for that exemption.

29.40.120 - (Exxon)

This section should be amended to state with specificity as to what information the notice shall contain, when it is to be published, and the earliest date after publication on which the hearing may be held. Publication by notice in a newspaper should require that the notice appear at least on two occasions not more than one week apart.

29.40.120 - (PAA)

Discusses re-plat petition and requires notice to applicants as well as affected property owners not signing petition.

Define affected?

(a) only those within actual limits of change?
(b) within (300 foot) radius of external boundary of change?
NEEDS TO BE CLARIFIED

29.40.140 (Joe Burch, Div. of Technical Services, Dept. of Natural Resources)

Line 16: "recorded" should be changed to "filed."

29.40.150 (Peter Hallgren)

Vacating a street - returning the property to the original owern. If the property has been sold in the interim, they charge fair market value rather than giving property away free. Refers back to Sec. 29.10.110 - Para. (34)

29.40.150 - (Lee Sharp)

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.

29.40.170 - (Exxon)

The following language should be deleted from subsection (b):

> "An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction."

These provisions are new to the statute and constitute a radical change in the established use of injunctive relief. Injunctive relief should be available only where no other remedy is available and its issuance should be within the sound discretion of the court.

29.40.170 - (Joe Burch)

Line 6: "recorded" should be changed to "filed."

Line 8: "record" should be changed to "file."

29.40.180 (Jim Kohler, City Manager of Yakutat)

State compliance with local subdivision regulations. Item that is going to be more than a sleeper, as well as elimination of third class boroughs.