

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1296 SCRA (SB 180 (#15, #16 CRA TELECONFERENCE. DRAFT) 296

Title 29 Revisions Suggestions  
Page 4

29.40.170 - (PAA)

- This section doubles the violation misdemeanor from \$500 to \$1000 but solely for the misconduct of selling lots before properly platted and recorded!

Why was the same penalty not afforded to other land use regulatory penalties such as zoning, building?

29.45.010 - (Lee Sharp)

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.

*Include this  
it is recommended*

29.45.040 - (Lee Sharp)

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.

29.45.050 - (Lee Sharp)

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.

*Don't know  
check*

29.45.050 (Peter Hallgren, Sitka)

Figure of \$10,000 refer to taxes or value?

29.45.050 (Department of Community & Regional Affairs)

*Write it  
into law  
after all*  
As a tax on personal property is relatively difficult to administer and collect, and because many municipalities have the option to exclude personal property from taxation under the provisions of AS 29.53.025(c), why not extend the option to all municipalities.

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

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

29.45.210 - (Lee Sharp)

*Out*  
Page 110, line 2. What's going on here? The phrase "of assessment and amount of taxes" has been added to the statute. The words "of assessment" don't change existing law or basic concepts; however, the addition of "and amount of taxes" constitutes a major and rather frightening change. The board of equalization sits solely for the purpose of determining whether property has been correctly assessed, that is, valued, for tax purposes. It does not sit for the purpose of adjusting taxes. In fact, the taxes are not even levied at the time the board of equalization sits. They are levied only after the board has made its adjustments to the assessment role. I don't know what problem it was thought this language would clear up, but I believe it opens a nightmarish can of worms we should avoid.

29.45.250 - (Lee Sharp)

*Is  
this  
dropped  
here?*  
Page 111, line 27. It is refreshing to see an interest rate proposed which more nearly reflects that of the market. However

based on the rise in interest rates which far exceeded what anyone would have predicted several years ago, may I suggest that you give the municipalities a little more flexibility to go either up or down by inserting the phrase "or such other amount as established by the governing body by ordinance or resolution" right after the word "year" in line 27.

29.45.320 (Joyce Rasler, Wrangell City Manager)

Real Property Tax Collections (a) and Sec. 29.45.330 Foreclosure List (a) (1) are in conflict. Wrangell's ordinance provides for enforcement of delinquent real property tax liens, however, not annually. The number of delinquent accounts would not justify annual foreclosure in many municipalities. It is recommended that Sec. 29.45.330 (a) (1) be amended by adding "unless otherwise provided by ordinance" to be consistent and save unnecessary foreclosure proceedings.

29.45.460 (Joyce Rasler)

Disposition and Sale of Foreclosed Property (c): A home rule municipality is not required to hold hearings on an ordinance. This section should be amended to provide for notice to the former record owner prior to introduction of an ordinance.

*Part  
fetched*

29.45.470 - (Lee Sharp)

Page 119, line 13. The eight percent interest which appears in this line is, I believe, a drafting oversight. This interest rate should correspond to the interest rate on delinquent taxes established in 29.45.250 (page 111 at line 27). Either the eight percent should be changed to fifteen percent or it should be replaced by merely referring to the rate of interest for delinquent taxes for the years involved.

29.45.470 (Joyce Rasler)

Repurchase by Record Owner (a): 29.45.250 provides for fifteen percent interest on delinquent taxes. It is inconsistent to charge eight percent following judgement and fifteen percent prior to judgement. In addition, AS 09.30.070 provides for interest on judgements. This subsection also provides for delinquent taxes assessed and levied as though it continued in private ownership. This should include delinquent taxes assessed and levied, plus penalty and interest.

29.45.470 (Peter Hallgren, Sitka)

Page 119 - Relating to foreclosing on property for taxes. Should be a date where the right of the original property owner to repurchase ceases.

29.45.480 (Tam Cook, Legislative Counsel)

Sec. 29.45.480 was omitted from this bill. Under existing law, that provision is AS 29.53.380 (proceeds of tax sale).

29.45.560 (Dept. of Community & Regional Affairs)

P. 120, l 27 - It would seem that the provisions should include 29.45.080, 29.45.240 (P), and 29.45.450.

29.45.650(a) (Lee Sharp, Juneau City Attorney)

While discussing the applicability of AS 29.53.415(a) to home rule municipalities with an attorney for the gas line, he pointed out that in the proposed municipal code (HB 170) the counterpart of that section now includes reference to home rule municipalities. See proposed AS 29.45.650(a).

As I read this proposed section, home rule municipalities would not be able to levy more than a six percent sales tax. The limitation on rate does not currently apply to home rule municipalities but would under the proposed section. Quite frankly, I do not recall the discussion which led to the inclusion of home rule municipalities under this limitation. Advancing years I guess. There is no reference to this subsection in the home rule laundry list in HB 170.

I also note that your commentary on the changes does not mention the addition of this limitation to home rule municipalities. I wonder if you could set me straight on what was intended for this subsection. The same question would apply to the sales tax section on cities.

29.45.650(a) and 29.45.700 (Tam Cook, Legislative Counsel)

Two errors in SB 180 have been brought to my attention by Mr. Gerald L. Sharp, Attorney for the City and Borough of Juneau. During the editing process the phrase "home rule or" was inadvertently added to Sec. 29.45.650(a) (existing AS 29.53.415) and to Sec. 29.45.700 (existing AS 29.53.440, 450), making these sections apparently applicable to home rule as well as general law municipalities. There was no intention on the part of the Title 29 Revision Committee to limit the amount of sales tax which a home rule municipality may levy to 6 percent, and there was no intention to limit the power of a home rule city to levy sales and use taxes. While the list of home rule limitations contained in Sec. 29.10.110 does not include either Sec. 29.45.650 or Sec. 29.53.415 (with the exception of subsection (d), limiting the amount of interest which may be charged on sales taxes), the inclusion of the language "home rule or" in Sec. 29.45.650(a) and Sec. 29.45.700 ought to be deleted so that it is clear that home rule power is not limited by these sections.

*Review  
to take  
a look*

29.45.650 - (Lee Sharp)

Page 122, line 13. I suggest the limitation of fifteen percent on interest be changed to be the rate of interest established by ordinance. If this change is made the last sentence could be deleted. In any event, the last sentence should be deleted so that this section does not act as a limitation on home rule municipalities.

Page 122, lines 20 and 21. This subsection (e) is new, and much needed language; however, I believe that the rank of a lien for sales taxes should be higher than that of a mere judgment. The money collected by the seller belongs to the municipality, and never, at any time was it the property of the person collecting the sales tax. The person collecting the sales tax did not earn the sales tax nor did he obtain the sales tax as a loan from the municipality. He holds sales tax funds collected in trust for the municipality. He is something more than a mere debtor to the municipality. Because of the special relationship and because we are dealing with

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.")

*Include on p. 122  
under (e)*

29.45.660 - (Lee Sharp)

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 rel .

*Agreed  
to as this*

29.45.670 - (Lee Sharp)

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.

29.46.060 (Joyce Rasler, Wrangell)

Assessment Roll: (b) there is apparently language missing from this subsection. Real property is assessed to the record owner as shown in the records of the district recorder, who shall at least monthly provide a copy of each recorded change of ownership. The record owner does not provide the information.

29.60.010 (Dept. of Community and Regional Affairs)

P. 143, 1 8 - Substitute "(0.001)" for "(0.1)" or "(0.10)."

P. 143, 1 9 - Add "per capita" between "the" and "property."

29.60.020 (Dept. of Community and Regional Affairs)

P. 144, 1 11 - Substitute "Census" for "Censis."

OTHER TITLES

TITLE 44

44.07.110(11) (Joe Burch, DNR)

Page 186 - line 1 - should be record.

TITLE 14 (Joyce Rasler, Wrangell)

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.

ADDENDUM

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. 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 Sharley)

"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."

more

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 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.

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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.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM  
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ORIGINAL.

Sen. Gilman 4934

November 30, 1981

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

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

Dear Senator Gilman and Representative O'Connell:

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

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

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

2. With respect to AS 29.47.040 and 29.47.120 and 29.47.200, in my opinion a sufficient and full expression of the nature of a general obligation bond or note is that "the full faith and credit of a municipality are pledged". Note that in the first two mentioned sections variant phrases are used (e.g.,

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

3. AS 29.47.130, line 13, the redundant phrase "negotiable or nonnegotiable" should be eliminated.

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

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

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

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

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

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

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

Very truly yours,

WOHLFORTH & FLINT

By \_\_\_\_\_  
Eric E. Wohlforth

EEW:jr

cc: Mr. Robert Berry  
Assistant to Senator Gilman

. THE PRECEDING DOCUMENT(S) MAY NOT FILM  
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<u>Name</u>	<u>Representing</u>	<u>Phone</u>
Jim D. Clark	Bristol Bay Borough	246-4224
<del>John H. Burdick</del>	" " "	" "
Summit H. Kimball, Jr.	Dept Comm & Reg. Affairs	264-2217
Pat Polano	Dept. Comm: Reg Affairs	
Allan Teschi	Municipality of Anchorage	264 4545
Lee Sharp	City & Borough of Juneau	586-3300
WILLIAM MAILER	AID. REP BYLSMA	279-8932
ROBERT J. WALKER	EXXON	26-x552
Ginny Chitwood	Ala Municipal League	586-1325
Nancy Gross	City of Akutan	279-9245

Senate & House Community and  
Regional Affairs

Committees

Title 29 Revisions

• • • • •

<u>name</u>	<u>representing</u>
James M. Little	City of Fairbanks, Alaska
Serry Wertzburger	Municipality of Anchorage
William H. Paulkin	Barotol Bay Borough
Melissa Herzog	Senator Stuegelowski
Palmer McCarter	C & RA Dept.
Lee Sharp	City & Borough of Juneau
Robert J. Walker	Exxon
WILLIAM MAILER	AIDE, REP. BVL SMA
Dinna Bulford	Aide, Clovis
Nancy Gross	City of Sitka



Official Business

# Alaska State Legislature

## Senate

### Committee on

### Community & Regional Affairs

465-4934  
465-4935

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

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### SENATE AND HOUSE C&RA COMMITTEES TO CONSIDER MUNICIPAL CODE REVISIONS

The Senate and House Community and Regional Affairs Committees have scheduled several joint meetings in Anchorage to mark-up SB 160/HB 170 (Municipal Code revisions). These meetings are open to the public. Because of the considerable amount of public participation which has already been incorporated into this legislation, the committees do not intend to take further general testimony. However, limited public input or expert testimony may be solicited from time to time as the situation warrants.

An agenda which details the place, dates and topics of these meetings is attached.

Questions or comments concerning these meetings may be directed to David Dye, Senate C&RA Committee Aide, at the address above or to Linda Otey, House C&RA Committee Aide, Pouch V, Juneau, Alaska 99811 (Ph: 465-3870).

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

August 6, 1981

SUBJECT: HB 170 - Municipal Code Revision

TO: Representative Patrick M. O'Connell, Chairman  
Community and Regional Affairs Committee

FROM: Tamara Brandt Cook  
Legislative Counsel *TBC*

Two errors in HB 170 have been brought to my attention by Mr. Gerald L. Sharp, Attorney for the City and Borough of Juneau. During the editing process the phrase "home rule or" was inadvertently added to Sec. 29.45.650(a) (existing AS 29.53.415) and to Sec. 29.45.700 (existing AS 29.53.440 450), making those sections apparently applicable to home rule as well as general law municipalities. There was no intention on the part of the Title 29 Revision Committee to limit the amount of sales tax which a home rule municipality may levy to 6 percent, and there was no intention to limit the power of a home rule city to levy sales and use taxes. While the list of home rule limitations contained in Sec. 29.-10.110 does not include either Sec. 29.45.650 or Sec. 29.53.415 (with the exception of subsection (d), limiting the amount of interest which may be charged on sales taxes), the inclusion of the language "home rule or" in Sec. 29.45.650(a) and Sec. 29.-45.700 ought to be deleted so that it is clear that home rule power is not limited by these sections.

In addition, I have discovered a potential area of confusion which was never considered during the revision of Title 29. Currently, AS 29.48.035(10) provides for regulation of "alcoholic beverages as provided by AS 04.15.070". AS 04.-15.070 was repealed in 1980 and replaced with AS 04.21.010 providing for only limited forms of regulation of the use and sale of alcoholic beverages, but, because the reference to the new section was not included in Title 29 it is unclear whether AS 29.48.035(10) grants powers of regulation in addition to those granted under Title 4. Also, AS 29.48.-010(7) grants municipalities the general power to tax, but

Representative Patrick M. O'Connell  
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AS 04.21.010(c) specifically limits the power to tax alcoholic beverages.

A Senate letter of intent indicates that it was the purpose of AS 04.21.010 to limit municipal powers otherwise apparently granted in Title 29:

The purpose of this section is to describe with particularity the regulatory and taxing powers granted municipalities in regard to alcoholic beverages by Title 29 (see AS 29.48.010(7) and AS 29.48.035). Authorization is provided for municipalities to adopt ordinances "necessary to the orderly conduct of the business of selling alcoholic beverages" but the ordinances must be consistent with this title and regulations. Moreover, subsection (b) (sic) limits the circumstances in which taxes may be levied on alcoholic beverages inventories and sales. (1980 Senate Journal Supplement No. 23 adopted as a letter of intent by the Senate in 1980 Senate Journal, page 747)

While HB 170 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.

TBC:jdn

STATUTE	ACTION	NUMBER	ABBREVIATED TITLE	SPONSOR	REQUESTOR	CURRENT STATUS
24.20.445	AMENDED	SB 5	RE/ADMINISTRATIVE REGULATIONS; ED	FAHRENKAMP		VETOED BY GOVERNOR
	REFERENCE	SB 5	RE/ADMINISTRATIVE REGULATIONS; ED	FAHRENKAMP		VETOED BY GOVERNOR
	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA		VETO SUSTAINED
24.20.450	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA		VETO SUSTAINED
24.20.460	ADDED	SB 5	RE/ADMINISTRATIVE REGULATIONS; ED	FAHRENKAMP		VETOED BY GOVERNOR
	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA		VETO SUSTAINED
24.30.130	REFERENCE	EO 49	NO HISTORY KEPT AT THIS TIME			
	REFERENCE	EO 50	NO HISTORY KEPT AT THIS TIME			
	REFERENCE	EO 51	NO HISTORY KEPT AT THIS TIME			
24.99.001	ADDED	SB 5	RE/ADMINISTRATIVE REGULATIONS; ED	FAHRENKAMP		VETOED BY GOVERNOR
	REFERENCE	SB 5	RE/ADMINISTRATIVE REGULATIONS; ED	FAHRENKAMP		VETOED BY GOVERNOR
25.25.010	AMENDED	SB 181	RE/CHILD SUPPORT/CHANGING RULE 77/CIVIL PROCEDURE	RAY		CHAPTER 0096 SLA 81
26.05.070	REFERENCE	SB 54	RE/AK NAT GUARD/NAVAL MILITIA; ED	RULES		CHAPTER 0056 SLA 81
26.05.260	ADDED	SB 54	RE/AK NAT GUARD/NAVAL MILITIA; ED	RULES		CHAPTER 0056 SLA 81
	AMENDED	SB 54	RE/AK NAT GUARD/NAVAL MILITIA; ED	RULES		CHAPTER 0056 SLA 81
	REPEALED	SB 54	RE/AK NAT GUARD/NAVAL MILITIA; ED	RULES		CHAPTER 0056 SLA 81
	REPD&REIN	SB 54	RE/AK NAT GUARD/NAVAL MILITIA; ED	RULES		CHAPTER 0056 SLA 81
26.05.265	AMENDED	SB 54	RE/AK NAT GUARD/NAVAL MILITIA; ED	RULES		CHAPTER 0056 SLA 81
	REFERENCE	SB 54	RE/AK NAT GUARD/NAVAL MILITIA; ED	RULES		CHAPTER 0056 SLA 81
26.05.296	AMENDED	SB 54	RE/AK NAT GUARD/NAVAL MILITIA; ED	RULES		CHAPTER 0056 SLA 81
26.10.070	AMENDED	SB 72	RE/VETERANS AND PUBLIC RECORDS	BRADLEY		CHAPTER 0035 SLA 81
27.09.010	REFERENCE	SB 214	APPROP/DEPT COMB ECON DEV/MINING LOAN FUND; ED	BENNETT		CHAPTER 0072 SLA 81
27.09.020	REPD&REIN	SB 226	RE/MINING LOAN FUND; ED	FAHRENKAMP		CHAPTER 0097 SLA 81
27.09.040	AMENDED	SB 226	RE/MINING LOAN FUND; ED	FAHRENKAMP		CHAPTER 0097 SLA 81
	REFERENCE	SB 226	RE/MINING LOAN FUND; ED	FAHRENKAMP		CHAPTER 0097 SLA 81
27.09.045	ADDED	SB 226	RE/MINING LOAN FUND; ED	FAHRENKAMP		CHAPTER 0097 SLA 81
28.15.241	AMENDED	HB 53	RE/POINT SYSTEM/DRIVING OFFENSES	RULES	GOVERNOR	CHAPTER 0008 SLA 81
29.18.000	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN		CHAPTER 0113 SLA 81
29.18.201	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN		CHAPTER 0113 SLA 81
29.18.202	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN		CHAPTER 0113 SLA 81

<u>STATUTE</u>	<u>ACTION</u>	<u>NUMBER</u>	<u>ABBREVIATED TITLE</u>	<u>SPONSOR</u>	<u>REQUESTOR</u>	<u>CURRENT STATUS</u>
29.18.203	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
29.18.204	AMENDED REFERENCE	HB 31 HB 31	RE/STATE/MUNICIPAL LAND; ED RE/STATE/MUNICIPAL LAND; ED	FREEMAN FREEMAN	CHAPTER 0113 CHAPTER 0113	SLA 81 SLA 81
29.18.205	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
29.18.206	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
29.18.207	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
29.18.208	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
29.18.209	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
29.18.210	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
29.18.211	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
29.18.212	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
29.18.213	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
29.33.150	ADDED AMENDED REFERENCE	HB 31 HB 31 HB 31	RE/STATE/MUNICIPAL LAND; ED RE/STATE/MUNICIPAL LAND; ED RE/STATE/MUNICIPAL LAND; ED	FREEMAN FREEMAN FREEMAN	CHAPTER 0113 CHAPTER 0113 CHAPTER 0113	SLA 81 SLA 81 SLA 81
29.48.020	ADDED ADDED	HB 317 SB 368	RE/EMERGENCY SVCS COMMUNICATIONS RE/LOCAL SERVICE ROADS/TRAILS; ED	MALONE GILMAN	CHAPTER 0107 CHAPTER 0038	SLA 81 SLA 81
29.53.000	REFERENCE	SB 524	RE/TAXES; ED	FINANCE	CHAPTER 0116	SLA 81
29.63.000	REFERENCE	HB 297	APPROPS; ED	RULES	GOVERNOR	CHAPTER 0092 SLA 81
29.68.000	REFERENCE	HB 434	RE/MERGE/AK P-LINE CMSN/AK PUB UTIL CMSN; ED	RULES	GOVERNOR	CHAPTER 0110 SLA 81
29.68.220	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
29.68.230	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
29.68.240	REFERENCE REFERENCE REFERENCE REFERENCE	HB 31 HB 460 SB 86 SB 368	RE/STATE/MUNICIPAL LAND; ED RE/TAXES; ED RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE RE/LOCAL SERVICE ROADS/TRAILS; ED	FREEMAN RESOURCES KERTTULA GILMAN	CHAPTER 0113 CHAPTER 0117 VETO SUSTAINED CHAPTER 0038	SLA 81 SLA 81 SLA 81 SLA 81
29.68.250	REFERENCE REFERENCE	HB 31 HB 460	RE/STATE/MUNICIPAL LAND; ED RE/TAXES; ED	FREEMAN RESOURCES	CHAPTER 0113 CHAPTER 0117	SLA 81 SLA 81

STATUTE	ACTION	NUMBER	ABBREVIATED TITLE	SPONSOR	REQUESTOR	CURRENT STATUS
29.68.250	REFERENCE SB 86	RE/RELOCATION ST CAPITAL/REP & PEENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED		
	REFERENCE SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81		
29.68.260	REFERENCE HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81		
	REFERENCE HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81		
	REFERENCE SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED		
	REFERENCE SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81		
29.68.270	REFERENCE HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81		
	REFERENCE HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81		
	REFERENCE SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED		
	REFERENCE SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81		
29.68.280	REFERENCE HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81		
	REFERENCE HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81		
	REFERENCE SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED		
	REFERENCE SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81		
29.68.290	REFERENCE HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81		
	REFERENCE HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81		
	REFERENCE SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED		
	REFERENCE SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81		
29.68.300	REFERENCE HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81		
	REFERENCE HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81		
	REFERENCE SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED		
	REFERENCE SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81		
29.68.310	REFERENCE HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81		
	REFERENCE SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED		
	REFERENCE SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81		
29.68.320	REFERENCE HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81		
	REFERENCE HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81		
	REFERENCE SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED		
	REFERENCE SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81		
29.68.330	REFERENCE HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81		
	REFERENCE HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81		
	REFERENCE SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED		
	REFERENCE SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81		
29.68.340	REFERENCE HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81		
	REFERENCE HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81		
	REFERENCE SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED		
	REFERENCE SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81		
29.68.350	REFERENCE HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81		

STATUTE	ACTION	NUMBER	ABBREVIATED TITLE	SPONSOR	REQUESTOR	CURRENT STATUS
29.68.350	REFERENCE	HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81	
	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED	
	REFERENCE	SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81	
29.68.360	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81	
	REFERENCE	HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81	
	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED	
	REFERENCE	SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81	
29.68.370	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81	
	REFERENCE	HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81	
	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED	
	REFERENCE	SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81	
29.68.380	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81	
	REFERENCE	HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81	
	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED	
	REFERENCE	SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81	
29.68.390	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81	
	REFERENCE	HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81	
	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED	
	REFERENCE	SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81	
29.68.400	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81	
	REFERENCE	HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81	
	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED	
	REFERENCE	SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81	
29.68.410	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81	
	REFERENCE	HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81	
	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED	
	REFERENCE	SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81	
29.68.420	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81	
	REFERENCE	HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81	
	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED	
	REFERENCE	SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81	
29.68.430	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81	
	REFERENCE	HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81	
	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED	
	REFERENCE	SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81	
29.68.440	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113 SLA 81	
	REFERENCE	HB 460	RE/TAXES; ED	RESOURCES	CHAPTER 0117 SLA 81	
	REFERENCE	SB 86	RE/RELOCATION ST CAPITAL/REP & REENACT FRANK INITIATIVE	KERTTULA	VETO SUSTAINED	
	REFERENCE	SB 368	RE/LOCAL SERVICE ROADS/TRAILS; ED	GILMAN	CHAPTER 0038 SLA 81	

09/02/81

## STATUTE REFERENCES-CURRENT SESSION ONLY

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STATUTE	ACTION	NUMBER	ABBREVIATED TITLE	SPONSOR	REQUESTOR	CURRENT STATUS
29.73.080	ADDED REFERENCE	HB 317 HB 317	RE/EMERGENCY SVCS COMMUNICATIONS RE/EMERGENCY SVCS COMMUNICATIONS	MALONE MALONE	CHAPTER 0107 CHAPTER 0107	SLA 81 SLA 81
29.88.015	REFERENCE	SB 25	RE/ENERGY PROJECTS/PRGMS OF AK POWER AUTH; ED	KERTTULA	CHAPTER 0118	SLA 81
29.88.035	REFERENCE	SB 125	SUPL A'PROP/DEPT C&RA/REVENUE/FIN ASSIST/MUNIS; ED	DANKWORTH	CHAPTER 0006	SLA 81
29.89.030	AMENDED	HB 131	INCREAS. STATE AID-HEALTH FAC & HOSPITALS; ED	HAUGEN	CHAPTER 0103	SLA 81
29.89.050	REFERENCE	SB 125	SUPL APPROP/DEPT C&RA/REVENUE/FIN ASSIST/MUNIS; ED	DANKWORTH	CHAPTER 0006	SLA 81
29.89.080	REFERENCE	SB 125	SUPL AP'ROP/DEPT C&RA/REVENUE/FIN ASSIST/MUNIS; ED	DANKWORTH	CHAPTER 0006	SLA 81
29.90.010	AMENDED	HB 131	INCREASE STATE AID-HEALTH FAC & HOSPITALS; ED	HAUGEN	CHAPTER 0103	SLA 81
29.90.020	AMENDED REFERENCE	HB 131 SB 125	INCREASE STATE AID-HEALTH FAC & HOSPITALS; ED SUPL APPROP/DEPT C&RA/REVENUE/FIN ASSIST/MUNIS; ED	HAUGEN DANKWORTH	CHAPTER 0103 CHAPTER 0006	SLA 81 SLA 81
29.90.030	ADDED	HB 131	INCREASE STATE AID-HEALTH FAC & HOSPITALS; ED	HAUGEN	CHAPTER 0103	SLA 81
<u>29.95.010</u>	REFERENCE	HB 131	INCREASE STATE AID-HEALTH FAC & HOSPITALS; ED	HAUGEN	CHAPTER 0103	SLA 81
31.15.050	AMENDED	HB 434	RE/MERGE/AK P-LINE CMSN/AK PUB UTIL CMSN; ED	RULES	GOVERNOR	CHAPTER 0110 SLA 81
33.15.010	REFERENCE	HB 510	CONTINUE EXISTENCE/STATE BOARD OF PAROLE; ED	CLOCKSIN	CHAPTER 0022	SLA 81
33.15.060	ADDED	HB 510	CONTINUE EXISTENCE/STATE BOARD OF PAROLE; ED	CLOCKSIN	CHAPTER 0022	SLA 81
33.35.010	ADDED REFERENCE	SB 115 SB 115	RE/AGREEMENT ON DETAINERS; ED RE/AGREEMENT ON DETAINERS; ED	RULES RULES	CHAPTER 0039 CHAPTER 0039	SLA 81 SLA 81
33.35.020	ADDED	SB 115	RE/AGREEMENT ON DETAINERS; ED	RULES	CHAPTER 0039	SLA 81
33.35.030	ADDED	SB 115	RE/AGREEMENT ON DETAINERS; ED	RULES	CHAPTER 0039	SLA 81
33.35.040	ADDED	SB 115	RE/AGREEMENT ON DETAINERS; ED	RULES	CHAPTER 0039	SLA 81
34.10.010	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
34.10.020	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
34.10.030	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
34.10.040	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
34.10.050	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81
34.10.060	REFERENCE	HB 31	RE/STATE/MUNICIPAL LAND; ED	FREEMAN	CHAPTER 0113	SLA 81

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Association of Village Council Presidents  
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

May 29, 1981

The Honorable Don Gilman  
Chairman  
Senate Community and Regional Affairs Committee  
Pouch V (MS 31.00)  
Juneau, Alaska 99811

Dear Senator Gilman:

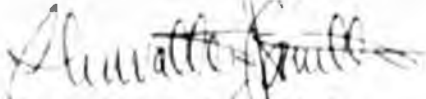
As I responded yesterday, May 28, 1981, to your request as Chairman of your Committee relative to my testimony on behalf of the Association of Village Council Presidents, enclosed please find copy of it.

The teleconference hearings by the joint Committee of the Community and Regional Affairs on HB 170 and SB 180 definitely afforded our organization to establish a preliminary platform on the two potential statutes.

Thank you for your attention, and we will certainly be looking forward to the cooperative endeavors on the previously mentioned bills.

Respectfully,

HAROLD NAPOLEON, PRESIDENT

  
Showalter J. Smith  
Acting Study Coordinator

SJS/sjs

Attachments

efforts. Therefore, we would have developed a better idea of establishing any proposed changes after this catalytic process has been completed

Aside from the above, there are two major issues which the joint Committee needs cognizance on. The first involves the present and fast approaching matter of Outer Continental Shelf development. In our opinion, the coastal Native regions are preparing for the eventual socio-economic, and political impacts of OCS development. Specifically, although our area having authority under the Coastal Management Program is planning for such developments is certainly under-funded and under-authorized to meet the deadlines of OCS development.

Certainly, the State as generally viewed by the general population has a lot of oil and gas royalty money. In order to meet the present crisis of OCS, our area will definitely need many more dollars and the interim authority as an un-organized borough area to face the major issues of OCS. The money is needed for OCS issues alone, and the interim authority is needed for the purpose of planning and zoning areas involving OCS development within the un-organized borough. Further, our area would also need the necessary and the interim authority to work with the oil and gas industry, State, Federal and City governments, and other organizations working with the OCS development.

The second issue involves a necessary attention needed by the joint Committee. The issue entails the possibility of creating a Planning Service Area for the un-organized areas in lieu of regional governments. This possible entity which has been proposed from our region and has been discussed since 1975 would be utilized for one purpose. It would basically unify and influence the construction of facilities and to coordinate land planning and land-use for the benefit of the State and Federal Governments and the region's population.

As any individual is aware of the present activities within this area, there is no unified planning function for and an established system of constructing facilities within this region from the viewpoint of Federal and State Governments. The unification of the two separate governments under some entity would help in consolidating the funding and construction activities within the region. As a result, we hope that the joint Committee will give consideration to this issue during its deliberations on the proposed legislation.

Thank you for your attention and we will certainly be working with you during the future months.

Draft - Senate C&RA Teleconference.

Called to order by Grussendorf. Hold testimony to five minutes.

Please refer to the bill and the number of the citation and the page number.  
Sitka.

Peter Hallgren, City Attorney and represent the City and Borough of Sitka, full-time city attorney for the last six years. Sitka is a home-rule unified municipality. Questions concerning the restrictions on home rule powers. First question - page 46 of the bill Section 29.20.220. Basically has to do with the executive power being vested in a mayor. We don't have much problem with that here since we have a manager form of government. The thing that worries me is that it says the mayor is responsible for additional duties and powers prescribed by this chapter ~~xxxxxxx~~ or by home rule charter. The worry I've got about that is when you go through the rest of the chapter, you come up with the mayor having a veto power, on the next page, page 47, sec. 29.20.270, and I also worry about a few other powers, such as 29.20.240 (c) talking about the mayor not being able to vote on matters. I know these really aren't meant to apply to home rule municipalities, but the way I see the wording in the original section, it bothers me that somebody might come along and claim that the mayor did have the veto. Because it says the additional duties and powers described by this chapter. That's the concern we had.

Gilman: Peter, we're confused on your testimony. The statute that we have does not have everything that you referred to. Could you go back again, and you were referring to 29.20.220 on page 46.

Hallgren: On page 46, that's correct, the first line starts out

"responsible for additional duties and powers prescribed by this chapter" by a home rule charter.

Gilman: Ok, and then you were saying under 29.20.230(c)? Or 29.20.240(c)?

Hallgren: No, I'm sorry, it was 29.20.240(c). and the other one was 29.20.270.

Grussendorf: Yeah, Pete, this is Ben Grussendorf here. In your comments in relation to that section, now remember, Sitka is more or less a hybrid. What we have there in Sitka is a very strong Council with an administrator, not a city manager. Granted there are considerable differences here, but under our charter, of course, the veto does not exist. Of course, the mayor does have a vote just like the other members of the assembly.

I don't know how we can tie that in with existing charters. I'm glad you brought that point up, though. We will take a look at it, Pete, and see what we can figure out there that keep the charters of City and Borough of Sitka and C&B of Juneau, and, of course, it might also affect the situation in Anchorage as well which has unified powers.

Hallgren: Thank you, Ben. The reason I brought this up is it's mentioned on page 30 of the bill under Section 15 as being one of the sections that affect us and stops us from doing anything to the contrary. Our charter notwithstanding. And that's why I want to make sure there is no question with the wording as to whether or not our mayor has a veto. He definitely does not at this point.

Gilman: That was what I was going to ask; in the home rule limitations it does include that power, so we'll make a note of that and do the research. We'll work that out because I don't think there is any intent by the people who put this together to overrule any charter that's in existence.

Hallgren: Ok, thank you. I'll go on to my second matter. I only have three here. The second one is on page 90 of the bill, and it has to do with title to vacated areas. 29.40.150, and again, this is one that is given to the cities, or the way I look at it, imposed on the cities by the earlier provision in the bill under paragraph 31. No, paragraph 34. The way I read this is, it says that if we vacate a street, we basically give the property back to the adjoining area owners without charge. That's not been the practice in Sitka in the past. We have in the original subdivider. We give the property back free to the original subdivider, but if it is sold in the interim, we have always charged fair market value for the vacated portion of the street. One of the reasons Sitka would not like to have to give this property away free is basically it would mean a windfall to the property owners and not the original subdividers. There would be every reason in the world for them to come in and ask for streets to be vacated, since they would be getting property free. What we're seeing here is people who do vacate streets and ending up with lots big enough to subdivide; ending up with two lots in many cases. Giving land away free would also greatly reduce any reason the city assembly had to vacate property. Therefore, we would probably be tempted to keep some rather marginal streets on the books.

Grussendorf: Thank you, Pete. I think you know that's one of the policies I supported there in Sitka, that we would not vacate any streets at less than 50 per cent of the value if it was not one of the original landowners subdivision request. About all we can do right now is take note of that and try to make sure that we do not have that problem. Has this been added to that section now?

Hallgren: It's new under section 29.10.110. They've added that under paragraph 34, so this is a new restriction on home rule municipalities.

The third one is on page 119 of the bill, 29.45.470. This is one that has always been a restriction on home rule municipalities, but I think it's a problem, and we noticed it. It's gone to the Supreme Court in the past. It has to do with foreclosing on property for taxes. The city gets the deed and then there's a one-year redemption period and we have to send out notices saying that if you don't redeem it within the one year, your rights are foreclosed forever. But section 29.45.470 says that basically any time in the future, forty years in the future perhaps, the original property owner or his assigns come in and want to buy the property back, we have to sell it to them. As a practical matter, there should be somewhere along the line, a date where his right ends. I'm not looking for any free land for the cities, but we've seen in Sitka, and I think you'll find elsewhere in the state, is that there are a certain number of old mining claims that have been patented in the 20's and 30's, and even earlier, and have totally lapsed right around World War II, or thereafter, and there have been people who have gone around looking for that property, and then they go to the original owner and buy his interest for next to nothing. And then come in with an assignment, and we are legally obligated to give that property to the person with the assignment. In many cases, it turns out to be basically a free gift. Our tax would go back to the borough til 64, and some property would be given back to the people that only had taxes like \$60 or \$70 total over all the years, even when you add penalties and interest. I think it would be a very good idea that you put in something that repurchase by the record owner be limited to a certain

number of years. Earlier in the bill it talks about the ten-year notice period to the record owner. I would think something like that should also be included in 29.45.470, so that this type of what I consider abuse would not continue to happen. <sup>A few</sup> ~~Two~~ years ago we had a fellow reporting to be come in with a deed from somebody from back east recording a deed to a piece of property out here and we felt that he got it from because the person had no idea what his potential rights were. So I think there should be some sort of 10 or 15 year put in 29.45.470 which totally extinguishes a person's rights. That's not to say that the assembly shouldn't be given discretion in terms of that, but <sup>what</sup> we're seeing are people who are not the original property owners looking for a free gift.

Sturgulewski: I appreciate your comments. Obviously, you have done a lot of review. Overall, what do you think of the revisions?

Hallgren: Overall, I think the revision is very good. Home rule municipalities don't normally get into Title 29 that much. I prefer to stay away from it as much as possible, since I feel that the home rule municipality should be given as much leeway as possible. The state of Alaska certainly doesn't like the Federal government coming in and telling them how to do things, and we're just about as greedy here in our home rule municipalities.

Overall I think it's a very good revision. <sup>I've got</sup> ~~There are~~ one or two minor questions having to do with wording which will just take a minute if you want to go into that.

Gilman: We're going to move on. We're going to Haines, and I'm only going to take one person so that we won't use up all the necessary time. The first person I have signed up is Robert Henderson.

Henderson: This is Robert Henderson, Haines Borough Mayor. I have been asked by the Haines Borough Assembly to to come to this meeting on House Bill 170, Section 29.04.030, page 1, as well as 29.04.050. This has to do with the \_\_\_\_\_ of the third class borough. The feeling is that the third class borough is not a legal form of government because it has no areawide powers for planning and zoning. Yet we find that many rural areas that are contemplating becoming an organized area do not want planning and zoning either. I have on my desk several letters from outlying rural areas today interested in a third class borough because it does not have the powers of planning and zoning. Even in reading newspapers and ads from the south 48 I find that property is valued higher where they have no planning and zoning laws. While it is not required in a third class borough, a third class borough can have planning and zoning if the majority of the voters, the people in the borough, vote for that power and then a service area also votes to take on this power of planning and zoning. One of the things of a third class borough, it is one of the most flexible forms of government where the citizens make their decisions of what they want, what they don't want. Most of our borough now has an organized fire district because they felt the need for those districts. They can also have planning and zoning if they feel they have that need. It seems a shame that no other areas benefit from the effective form of government, no other area has a more workable form of government or more receptive to the needs of the elective. While the Haines Borough will have grandfather rights, it can continue as a third class borough, we feel in reality we will be forced into another form of government. If this bill is passed without the third class borough, then we must operate under pre-existing law, laws that cannot be changed. In effect,

we will be in a straight jacket unable to do anything different. New laws and changing ideas will not be applicable to us. Soon we will be forced to change in order to take advantage of new laws. It would simply be impossible to remain in a static situation (estatic ---???) In conclusion, the Haines Borough has been a third class borough for over ten years. We feel it is one of the best forms of local government yet devised. It is receptive to the wants of the people, It can provide the services of the people via service districts. There is no borough in the state that has worked more smoothly and efficiently than ours. We believe it would be a real disturbance to the people of rural Alaska if they were denied the right to begin their government as a third class borough I thank you.

Gilman: Thank you very much, Mr. Mayor. Any questions from the panel? If not, we'll move to Sand Point, Kim Selby.

Selby: I am only here to observe; I have no comments at this time.

Gilman: Thank you very much, Mr. Selby. We'll move to Fairbanks, and Dwight Foster. Moderator says Foster was for the previous teleconference But that James Kohler would like to talk.

Kohler: Jim Kohler, City Manager of the City of Yakutat. Just wanted to make a couple of general comments. I believe the largest task facing the committee at this point would be to go through the revisions of Title 29 as presented and try to take additional legislation that might be offered, for example the introduction of Senate Bill 544, the streamlined boroughs, to make sure that all of those are considered after a point in time, not contiguous with or preceding, but after a point in time, so they are able to thoroughly digest the revisions of 29 that are being proposed. The reason I suggest that is that the revision itself does a good deal towards achieving the titles and chapters that allows some cohesiveness and flexibility that is going to be destroyed

literally if it starts getting piecemealed too early. So I'm really asking the joint committee to thoroughly digest Title 29 before you start getting into some specific impacts of additional legislation.

The second point that I would like to make is--in view of what has been offered, a few items that are going to be more than sleepers. You have just heard from the representative of Haines, and obviously the total elimination of the third class borough is going to be a difficult item to wrestle with. I'll save some specific comments on that point for later in your progress. The second one that also I think is going to be rather lively is the proposal to tie the State of Alaska, its agencies and the like, as--specific section, on page 92, 29.40.180--it demands state compliance with local subdivision regulations. Again, I'll save some specific comments for later. My impression of your session today is to try to get some overall reactions of your work. Those two, I think, can be earmarked for some further work. At this point in time I guess I would like to sit back, having spent a good deal of time in the drafting, listen to the reactions around the state and maybe reserve comments for later in the day if time allows.

Sturgulewski: Just want to make comment, Mr. Kohler was very faithful attendee in putting in work on the Title 29 revision committee. (rest inaudible).

Gilman: Thank you Senator. We will move along now. Go to Bethel, Showalter Smith.

Smith: My name is Showalter Smith, acting Study Coordinator for the AVCP Regional Government Study. It is certainly my pleasure and honor to testify on House Bill 170 and Senate Bill 180, which are now before the joint House and Senate Community and Regional Affairs Committee. The Association of Village Council Presidents is pleased to see that the state legislature is concerned about <sup>the</sup> ~~the~~ <sup>transparency</sup> ~~the~~ <sup>process</sup>

the need to possibly change the existing statutes within Title 29 by proposing a similar bill for both houses. Our organization will generally support the concept of the proposed legislation with the thought of our organization eventually developing specific recommendations on the potential statutes during the future months. Presently, we foresee that there will need to be changes made on Title 29; however, our organization is presently in the process of developing specific recommendations which will eventually impact the proposed legislation and the existing statutes.

The joint committee may be aware of the Borough Government Feasibility Study which our association is presently sponsoring.

(Just copy his thing or stick it in here.)

Gilman: Do you have that testimony written? If you do, would you send me a copy?

Smith: Certainly will do it.

Sturgulewski: Thank you for your testimony. One of the things that I hope we will seriously take a look at is not included in the present revisions, but one that I think needs consideration. If you could send us a recommendation on the possibility of going from unorganized status to home rule. Right now this legislation provides that either from second or first class, you could go, and it's very possible in a home rule charter to limit very radically the amount of services that you have, and I'd really appreciate some comment on that, not at this time but when you do the other.

Gilman: We will now go to Soldotna, and Marilyn Dimmick.

Marilyn Dimmick: Thank you Mr. Chairman and members of the committee for the opportunity to testify. I am here as - I was a member of the revision commission; I am also Chair of the Legislative Committee

of the Alaska Municipal League this year as well as a member of the Kenai Peninsula Borough Assembly. I originally hoped to see action on the bill earlier in the session, but that was not to be, and as a personal comment, I am hoping that it will pass without extensive revision. The Kenai Peninsula Borough Assembly has no official position on the bill as it has made no effort to come up with a statement, and I have no knowledge of any position concerning the total bill by the administration of the Borough, either. However, the Alaska Municipal League Board of Directors has taken a position and the most important part of that is that they have asked that the bill be passed in total without extracting portions that may receive more interest for passage in separate bills. We did find that there were a few areas which weren't substantially changed, and I think, speaking as a revision committee member, the reason was mainly because we didn't have the time to spend on them, or there was not as much input. One of those, for instance, is service areas; there is only really a classification added. The Municipal League board did recommend that there might be a continuation of or formation of the committee for further work on these areas. I personally feel at least there are items such as deletion of the third class boroughs that are going to arouse a great deal of controversy that I would like to see the bill passed as it is now and certainly the people who are interested in that item can devise legislation that their legislators could submit at a later time, and make their attempt to re-insert the <sup>other</sup> third class borough and come up with some/way of solving their particular regional problem. Other than that, I have no specific testimony at this time, and if I have I will be happy to testify again if you hold other hearings or send it by mail. Thank you very much.

Gilman: Thank you, Marilyn. We now go to Anchorage and Allan Tesche.

Allan Tesche: Thank you, Mr. Chairman. My name is Allan Tesche. I am the deputy Municipal Attorney for the City of Anchorage. As I understand purpose of the the/hearing today is to receive is to receive a sort of general impression about the state on the proposed Title 29 revisions. On behalf of the municipality I would like to simply reiterate some of the comments that were made by Mayor Sullivan in a letter to the Chairman of the Senate and House Committee on April 2, 1981. The municipality is very supportive of the legislation, primarily for three reasons. First, the proposed legislation we believe would add a fair amount of flexibility to the general operation of local government in Alaska; secondly, the legislation would substantially reorganize and simplify existing state statutes that relate to municipal government; in particular, the section on powers and the sections relating to duties and organization of municipal government --while they haven't really changed the law, they have been substantially reorganized so people who have to work with Title 29 can understand the titles a lot better I think this is a very significant advance for the practitioner in the field who have to use Title 29 every day. A third principal feature of the legislation that makes it desirable from our standpoint is the clarification of some areas that directly impact all municipalities including home rule municipalities. I would cite the provisions on initiative, referendum and recall. These areas where clarifications have been made which makes it easier for municipal governments to administer these provisions. In summary, we would like to say we are supportive of the legislation; we recognize that to a large extent, as in the case of Sitka it does not directly apply to Anchorage in a number of areas, but we do think it is a great improvement for local government throughout Alaska. At any of your future hearings, we are certainly willing to come forward again and offer any specific comments we might have at that time. Thank you very much.

Back to Haines

Louis O. Nelson: I represent strictly myself. I have lived in Haines since 1966 and I have followed the government here quite closely; I have worked on some committees at different times, and I agree with Mr. Henderson that this government --third class borough--has worked very efficiently, and is very much to the liking of the local people. WE have had several elections, trying for more government, ~~SAVING~~ to change the government, and it has always been voted down in favor of our third class borough. I am referring specifically to Senate Bill No. 180 and House Bill No. 170. On page 1, section 29.04.03 where it states that no other area of Alaska could become a third class borough, I am definitely opposed to this. We feel here in this area, as I just mentioned, this third class borough works very efficiently, and in small communities like Tok, and other small communities with very few people, would be put under a harness if they were forced into a home rule or a second or first class borough. The next item is page 3, under Transition, (b), 29.04.050 which states that we cannot have any changes in our present borough system. In other words, the law as of now would be permanent. This is just like putting a man or a community into shackles. Because we feel that we want to progress as time goes on, and we should have the right to administer and pass through the Senate and House more laws in favor or changes this community may like. So those are the two items that I am very much interested in, and I know that I speak for a lot of people in the Haines area. I thank you very much for your time.

Gilman: Thank you very much. We now go to Nome, Ivan Widom.

Widom: I want to tell you that I am aware of all the work you have been doing regarding this. I attended one of your meetings in Fairbanks and

I know that you have put a lot of effort into the Title 29 revisions. However, I do have something that I did bring to your attention for quite some time now. I wrote a letter on September 22; I wrote another letter on March 23, explaining one of my major concerns with Title 29, and the use of it out in the field-<sup>as</sup>the attorney for Anchorage said. Many times those of us in the field are not attorneys, and it depends on the city manager or the city clerk or someone who is really not in tune with what's going on legally to interpret what's coming out of Title 29. Specifically, on page 45, art. 3., Borough Executive and Administrator, I'm reading from my letter of March 23. This is Section 29.20.220(a) - Seems to refer only to boroughs. However, there are also references to other municipalities. Then on the next page, 46, under section 29.20.230 there is a reference to first class cities. I wonder how this is going to be interpreted by somebody in a city who is not really familiar with it going through the index, they're going to see Borough Executive and Administrator, they are not going to realize that further on in the paragraph below that there are concerns regarding the city - first and second class cities. Since I have written these letters before, and I am bringing it to your attention again, I was wondering if this is something that I just personally feel is going to be ignored, or is it something you are going to consider in the near future.

Gilman: I think I understand what you are saying. You are saying we are not differentiating enough between the difference of a city that may have a mayor and city manager as opposed to an elected executive as we might know it in a borough. Is that right?

Widom: Yes. If you will look in <sup>borough executives and</sup> Article 3 talks about administrators,

and then further down it talks about first and second class cities. If someone is looking through the Title 29 will not be able to find the first and second class cities because it's not mentioned in the titles.

Gilman: I'm sure that we can clean that up. I do remember getting your letter. We will try to address that. My notes indicate to check that letter. We might work out the language and send it to you for comment.

Widom: OK, thank you. I'll reserve my other comments regarding more specific items for a later date. Thank you for the opportunity to speak to you today.

To Fairbanks, and Michael Walleri.

Walleri: My name is Michael Walleri, and I am with the Tanana Chiefs Council. Again, we understand the intent of this committee hearing is to generally gather general impressions of the Title 29 revisions. Generally, they did a good job of the technical revisions of current state law. We would like to reserve the right to submit at a later time written testimony regarding the possibility of legislation dealing with broader issues involved, which in some cases have been submitted as separate pieces of legislation. We think that municipal code revisions should deal with those broader issues of local government which relate to the unorganized borough and the existence of number of IRA (?) and judicial councils in the rural areas of the state. Specifically, they are concerns that the municipal code revision should incorporate with Senate Bill 34<sup>(Native Village Governments)</sup>, and should deal with that issue, which deals with State of Alaska with recognition of cooperations of the ~~XXXXXX~~ Native government. This is an issue which we have spoken out on several times and we wish again at this time to point out that it is quite common and that in fact most

of the Western states have some sort of mechanism like this and we wish to direct the attention of the committee in its deliberations to the results of the Department of Community and Regional Affairs symposium on the unorganized borough and resulting papers which --some of those papers. There was a recommendation made by the Department consultant to address this issue, and we simply wish to direct the committee's attention to those that worked on it. In general, we also have concern over the existence of a number of bills currently before the legislature and would like to see the legislature deal with the general issue of the unorganized borough in context with the municipal code revisions; specifically, there have been a number of suggestions dealing with the possibility of the creation of service areas in the unorganized borough for planning purposes, for other purposes; Senate Bills 544, 350 and 240 all address these issues.. We would urge the committee to address these issues in the unorganized borough. Lack of government may be good, and it may be bad, but we think these issues should be addressed by the committee. In one particular instance on page 1 of SB 180, we are concerned with the reference to "continuation of land planning powers in the Department of Natural Resources. We would like to again point out the report prepared <sup>for</sup> by the Department of Community and Regional Affairs prepared by Victor Fischer in which he indicated that at the time of the Constitutional Convention that these types of powers would be vested in other organizations and other agencies rather than the Department of Natural Resources. Would like to direct the committee's attention to Mr. Fischer's observations and recommendations. It would probably be more appropriate to vest that power in other state agencies. Whether or not that really should be a state agency; whether those functions should be performed by some local service areas of course is a matter which deserves attention as we have heard from the people from Haines.

Fit will certainly be contained in our written comments directed to the committee. Finally, we would like to applaud the work of the municipal code revision group in the adoption of a rather flexible approach to local planning powers in the adoption of general notions of land use legislation rather than zoning and platting (???) Specifically, those are contained in 29 10.010 and the following sections. This represents a benefit to smaller communities which do not have the resources and capability of supporting large planning staffs and generally allow them to provide for orderly development in the community--think your work in that area should be applauded. Again, I would like to finish by simply saying that the Tanana Chiefs will be submitting written testimony, and look forward to the interim work of the committee in dealing with municipal code revisions.

Gilman: Thank you, Michael. I would ask you that if you have any--you kept referring in your testimony to the fact that you were going to submit some further information dealing with broader issues. I would ask you to send that as soon as possible because that is one of the tasks we are going to work on in the interim, to look at Senate Bills 544 and 350 and 240 and see if we can't pick out from those some direction to go in the unorganized borough; recognizing that that is a heck of a lot easier said than done. So if you have some ideas generated around those three bills, please send them to us as soon as possible.

Sturgulewski: (Inaudible) My notes say she refers to a cover letter. Would like to know his analysis of the bill itself, all the way through. Can't understand her; she has a bad microphone.

Walleri: Well, I guess the best way to respond to that is to say that to the extent that - the home rule This also inaudible.

Our biggest concern was that Title 29 remain flexible, --general view was that the code was intelligible and that it provided ~~xxxxxxxxxxxx~~ much more flexibility to the municipality. Our biggest concern, frankly, is that a number of issues that we view as pressing in rural Alaska have simply not been addressed by this municipal code revision, and those issues are the continual problems on a day to day basis with not only our government but also with the state government and its efforts to implement the development activities of rural areas of the state. To the extent that this failure of the code to address those issues, I guess we both stand to lose a great deal. And that is our primary concern, we wish that the broader issues would actually be addressed--

Gilman: Thank you Mike, we are now going to move on to Bethel.

Nancy Kraning: The City of Bethel has on behalf of the Council and on behalf of the City Manager and Mayor Hobson, (?) would like to recommend that at this time we feel there have been numerous changes in Title 29 and that our only recommendation is that quite possibly C&RA could hold workshops, informative workshops, in the different regions to provide an opportunity for the people in the regions to respond and to address some of the issues on the unorganized borough, and that's our only comment. Thank you.

Gilman: The Commissioner of Community and Regional Affairs is in the audience, and she did hear your remarks. We will go on to Haines--

Louise Homstad: I have lived in Alaska for over thirty years, in Haines for five years. Very interested in the third class borough that we have. Page 3, Transition (B), 29.04.050, HB 170/SB180 where the law would be permanent, and I am not in favor of that at all.

We want to be able to change; as the times change, we should be able to change our laws accordingly to whatever our needs are at that particular time. We don't want to be limited. We want to be able to change our laws. The other is pagel, 29.04.030, we feel that other areas should be able to have a third class borough if they wish. We're very satisfied with this, it's working out very good. We feel that we have freedom and flexibility, and that we'd like to keep it this way because it is of the people, by the people, for the people, which it should be. And we feel real satisfied with that. So we hope we can keep the third class borough. We wouldn't want to have a second or first class. Thank you.

Gilman: Thank you very much. Now go back to Fairbanks.

Richard Navin: Representing the Planning Department of the North Star Borough. Currently, reiterating some of the comments that have already been made; essentially, we have addressed the Chapter 40 addressing planning, platting and land use. We would like to credit the efforts of the committee that drew all of this together and accomplished something that proves, or appears to prove flexible enough to allow communities with great disparity in size to function efficiently without any kind of a synthetic structure for all conditions. Congratulations are in order.

Gilman: Call this teleconference to an end. However, Senator Sturg wants to return to Sitka. Bethe. comes on the line.

Barbara Albert, with Kyok (?), Would like to ask something just for my own clarification. Did either the committee or the re-write committee have the option of dealing with the question of the unorganized borough or not. Was the mandate to deal strictly with existing law?

Gilman: I don't think that they had a mandate that they could not deal with anything outside of existing law, but I think that it was the committee's choice that they dealt primarily with consolidation of some of the confusing areas of Title 29, and tried to put them all into one section, topically, --where you could go to one section and all of the information on tax laws, or all the information on land laws, rather than having to search through all the sections. Would ask Senator Sturgulewski to elaborate on that since she was chairman of that committee.

Sturgulewski: (Hard to hear) We, of course, had a horrendous task, as you can see by the size of the bill, and we made an early decision that we would basically deal with badly needed changes to the Title, and then we would submit a letter to the full legislature of those areas of major concern. The material recalled an earlier session of the legislature, there had been a joint committee. At that time I chaired the Committee of Community and Regional Affairs. Those proposals, although introduced, did not receive legislative action. There is further work being done by the Department of Community and Regional Affairs on the unorganized borough.. So, partially, the choice was to address the very badly needed changes to Title 29, and also the time constraints did not allow to get into those areas. -- We can see changes now relating to the cutoff of Federal funds --those go directly to areas of rural Alaska . ---- I believe the whole issue of structure in the unorganized brough is going to become critical, rest is inaudible---

Back to Sitka, Mr. Hallgren: I just had three quick comments here if Gilman: Nobody has left yet.

Hallgren: On page 62, having to do with powers of initiative and referendum which Allan Tesche mentioned, this new section here I think is one of the real strengths of the bill. I notice that home rule municipalities are follow 29.26.100. But the way it's written, I don't believe it makes home rule municipalities follow all the procedures you've got in there. I don't know if its your intention to ~~propose~~ impose these procedures on home rule municipalities; I think you've got a very good set of procedures. My only question is whether you, in the drafting process, intended to impose them on home rule municipalities or just 29.26.100 itself rather than the rest of the article, be mandatory for home rule.

Gilman: We will check that out with the drafters and notes of the committee to see what the intent was.

Hallgren: Ok, the second thing I've got is on page 77, 29.35.170 My only comment there is I'm wondering if you are wishing to tie in all of 29.45/<sup>as mandatory</sup>in home rule powers, home rule municipalities.

On page 77, since home rule municipalities shall assess and collect property tax subject to As 29.45, and 29.45 covers a huge amount of territory, and I would suggest that for practical purposes so people could understand what's up, that the drafters actually put it in the relevant section unless they do mean to include all of 29.45.

Gilman: Ok, that's a good point. That's precisely what we are trying to look for today.

Hallgren: OK, my final one is on page 99--and this may be a dumb question. 29.45.050 under Optional Exemptions or Exclusions from residential property tax. It says "An exclusion or exemption authorized by this section may not exceed \$10,000 on any one residence." My question is, is, is that \$10,000 ten thousand dollars' worth of taxes or ten thousand dollars' worth of value?

Gilman: That is a good question. That has been caught before.

Ten thousand dollars worth of assessment, ~~xxxxxxx~~. it what it's supposed to be

Hallgren: OK thank you. Those were the only other things I had to say. I'm quite happy with the revisions, and as I said earlier, Sitka greatly prefers to be left alone as much as possible.

Gilman: We've got that message from several communities. Then tries to adjourn the meeting, but Soldotna comes on the line.

Marilyn Dimmick: This will be a "quickly"--since you've had so little testimony, I thought perhaps this might be a good time to mention the one thing that I personally feel there may be a problem with, and specifically this is in Section 29.35.210, number 8, and it allows a borough to exercise a power of that relates to extending grant funds. It shouldn't be in here, or it should be clarified that it is the power that is within the powers they are already exercising.

Gilman: You're referring to page 79, item 8, where it says "a second class borough may by ordinance the following powers in a non-areawide basis" and that's receive and spend grants for public purposes.

And your point is that that public purpose must have been assumed by the methods prescribed in other sections of the bill or given to them by the legislature.

Dimmick: Yessir, that's correct. And I think that just by leaving that out, there could be some confusion and that should be added to clarify it.

Gilman: Thank you. We will now adjourn. Adjourned at 4:13 p.m.

Hearing - September 11, 1981, 2:00 p.m., Conference Room of the  
Legislative Information Office, Anchorage

Meeting called to order at 2:05 by Chairman, Senator Don Gilman.

Members present: Senators Gilman and Sturgulewski; Representatives  
O'Connell, Anderson, Grussendorf, Bylsma, plus staff members  
David Dye, Bob Berry, Linda Otey and Betty Kiefer.

*3 people specified  
(wants  
record to show)*

Gilman: Let the record show that a quorum is present for the  
House Community and Regional Affairs Committee; there is not a quorum  
present for the Senate Community and Regional Affairs Committee; we  
will proceed, however, through the agenda and each chairman, as I  
understand it, will determine how the committee itself will vote or  
make a formal official action on the particular items within the bill.  
The purpose of a joint meeting, we will proceed through this bill  
with both committees so we don't have to reinvent the wheel in terms  
of having people make testimony before the different committees, and  
hopefully then one house or the other will then move the bill quickly  
after the session starts so that we can begin to get it through the  
process. We all know that this has had a great deal of work by  
a blue ribbon committee last year; some of the members are in the  
room; I don't think anybody else was on that committee that's on  
these combined committees other than Senator Sturgulewski who chaired  
it. We have asked twice all the communities to give us comments  
on the bill; there have been numerous comments come in, there have  
been some additional comments come in from the Department of  
Community and Regional Affairs and some other state agencies; we  
have those comments in this packet, and I think the only way to  
proceed is just to go item by item down through the bill.

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You probably will have to decide how to do this (speaking to O'Connell) since you do have a quorum, under the new rules, as I understand it, can, in fact, have a motion to adopt particular language. Is that right, Bill.

Berrier: That's the understanding.

O'Connell: Am I to understand then that the people present here/<sup>today</sup> can take official action in the absence of a quorum on your side?

Gilman: You can. It's a joint meeting but its separate in terms of any action that the House committee wants to take or the <sup>committee</sup> Senate/wants to take.

O'Connell: Mr. Chairman, if there were a quorum from the Senate side here then, would we be voting separately?

Gilman: We would still be voting separately, as I understand the ground rules. The main purpose is - it's the largest bill ever introduced as far as number of pages in the state legislature; we've got an agenda; if we have some problems with that agenda as far as time, different dates and so on, there is nothing that's sacred about it with the exception of the November dates because that is being held in conjunction with the Municipal League conference here, and it is the best place to have comments from the communities. Hopefully, we will be able to wrap up the whole mark-up of this bill no later than December. We would like to get it in November, but thing like <sup>do happen</sup> happened to us today, and we may or may not be able to move that quickly through it. Other than that, Mr. Chairman, do you have any other comments?

O'Connell: No, no really, other than that - What is either your feeling or the feeling of the committee members - Is there going to be an opportunity for the members of the public to still have input into the bill; is it strictly a mark-up type session?



Gilman: Senator Gilman, and the author of the bill, Senator Sturgulewski. Ok, with all that out of the way, let's identify what we have in front of us. Other than the bill, we have for reference the current law in a little better form than the normal procedure, and I understand all the supplements have been incorporated in here through the 1980, not the 1981, legislature. In the back then you will also see in the green, bills that changed Title 29 enacted in the 81 session, so as we go through this bill, we're going to have to keep referencing that to make sure we did not do something last session that is not encompassed in here because essentially what we are going to be doing with this is repealing and re-enacting the entire municipal code. So, it will have to be written back into here, or does it? It does not have to be written back in here, it should be identified.

Dye: There are some sections, some parts of Title 29 which are merely amended; some are repealed and re-enacted. For instance, Chapter 3 is amended; it would keep two or three sections that already exist.

Sturgulewski: Mr. Chairman, just one other piece of information. During the whole process, and it was a very open process, and we had really good input as we went along. I am just wondering, if under your suggestion, does that incorporate both testimony that was given at the teleconference during the session as well as any responses that were received after introduction of the bill?

Gilman: Yes, it does. We went through the - when was that teleconference about the 20th or 25th of May - and all of the comments that came from the different communities who testified at that time were summarized off the tapes by Mrs. Kiefer and then Dave checked the statements as well as the tapes for the technicalities to make sure that we had the right references, so they are included in here as well as the written comments. The only thing, we do have a couple of items that have come

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in since then and they may not be on here, but we will identify them as we go along. I think probably the best method is just to start with 03 and look at the comments in the analysis because that is a very succinct statement of what it does to the context of the bill. So we have a new section added to 29.03.01 - Establishment of the unorganized borough, and 02 - Service Areas, the language is proposed to stay exactly the same as it is in existing law for those two, with a new section, 03, added. And to the best of my recollection, isn't this found somewhere else in state statutes?

Dye: Yes, I believe that's AS 40.15.075 Suggested for cross-referencing purposes only; ~~xxxxxxxx~~ this doesn't change substantive

Gilman: So what would still continue to be in 40.15 or are we repealing that section?

Berrier: Mr. Chairman, this will continue to be in 40.15, assuming-- as you know, there were comments made by the Department of Community and Regional Affairs which would affect both sections, but the sections should stay in both places.

Sturgulewski: For my use and understanding of what's happening here, I should have before me Senate Bill 180. Should I also have the analysis? And the actual existing Title 29?

Gilman: Then in the very back part here, the written Suggestions. And on this particular one, there has been a suggestion from the Department, the only place that we got any comments on, the suggestion that in the wording "division of lands" be changed to the "department of natural resources, division of technical services" - what it's called now, I guess. But that is the only suggestion.

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Berrier: Could I suggest, if you find this acceptable, that it just be "department of natural resources"? And that you not attempt to delineate the division. I don't think you want to organize the departments in this bill.

Gilman: But that's why they want us to change it, obviously.

Berrier: But they suggested "department of natural resources - division of technical services." I don't think I'd put the division in.

Gilman: "Department of natural resources" then.

Dye: Mr. Chairman, I contacted Joseph Birch, who is the Acting Director of the Division of Technical Services, and he also just suggested that we refer to the "Department of Natural Resources" and not the division.

Gilman: So then we would just put the Department of Natural Resources in there.

Gilman: Any comments from the audience?

Sturgulewski: I was just going to ask how you are going to handle that because I know we have expert witnesses here.

Gilman: Before you came in we said as we go through, if there is anyone who wants to make comments -

Sturgulewski: Would you appreciate a motion as we go through? I don't know how you are chairing between -

Gilman: We can't make motions today, Senator, because we don't have a quorum.

Sturgulewski: Well, at least if you and I could concur that we would recommend, I think would be very helpful, so that we don't have to go through the whole thing again, and would accept that there would be agreement.

Gilman: But we cannot actually make a motion.

Sturgulewski: Yes, I understand.

O'Connell: At the same time, I guess this is going to be a little awkward here because it seems to me that this is the first time this has ever been tried under these new rules, at least as far as I have been involved with. And so maybe as far as the House side of it, too, if you people want to effect any of these little changes as we go along, or if you don't, we can certainly have a motion. Might as well be done with it so we don't have to come back through with it. At the same time, if anybody has any other questions; apparently, now is the time to raise them.

Gilman: That's right. And certainly not on just what's here. The context of the existing statute, if you have any questions about existing statutes, Well, that was the gist of why the blue ribbon commission was put together; that bill doesn't lay aside our legislative prerogatives to take a look at that.

Sturuglewski: I was very well aware of that.

O'Connell: So does anybody want to make a motion on the House side to changes line 11, substitute "department of natural resources" for "division of lands."

Anderson: I will so move.

O'Connell: Any objections? So it is so ruled.

Sturgulewski: Mr. Chairman, I would concur with the change merely for the record.

Gilman: I would, too.

Gilman: In the next, Chapter 04, we get into the classification of municipalities, and it is a new chapter it has not occurred within Title 29 before, I don't think. Has it before?

Berrier: Mr. Chairman, on these, instead of attempting to repeal and re-enact new sections, where there occurs basic new material, they

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just created a whole new chapter. That doesn't mean the subject matter.

Gilman: 04 has not ever been assigned before.

Berrier: 04 is a new chapter.

Gilman: This particular chapter, about a page and a half long, is one of the real sticky parts of, at least in the comments we got on the teleconference, - this is one that says essentially removes the third class borough from the statutes with the exception of the existing third class boroughs. It grandfathers third class boroughs, of which we have one, Haines, and does not allow for additional third class boroughs.

Sturgulewski: I think I would like to make a suggestion just for some discussion. This is going to be - We tried in this whole thing not to get into new major areas of policy. And I think this probably comes as close to getting into a new area - it does get into a new area - of major policy. There are a lot of pros and cons, I happen to be one that thinks that the third class borough is not a good borough; that it creates problems and potentials for conflict; that there are many people, and you will see in the testimony, particularly from the Haines area, that like it. As new boroughs are being considered, there are people that would like to look at the third class borough. I know that the Department has done quite a bit of work in developing some statements on it, and others have done it, and I'm just wondering if its an issue of enough substance that because it's new, and lot of these things are going to be new to many of you going through, that since it is rather a major issue, that we would put it on the table either for another meeting or for some additional background meetings so people will have something to chew on. Unless everybody feels comfortable enough to get into it. And I know how I feel on it, but I sure--if I hadn't been exposed alot to the issue, I think I would want to know more.

Gilman: So you're suggesting that rather than us make some kind of crunch today with the language that's here, that we lay it aside for a later time, maybe at the Municipal League meeting--

Sturgulewski: It might even be - maybe it's important enough that there be representative testimony, either from what we had to the Title 29 committee; or a kind of a full presentation of the whole issue either by the local boundary commission, the department could give input. Because if it's not done here, I assure it's going to be done during the legislative session. Certainly, I don't want to tell the House how to do it. but it is a complicated issue. I have pretty strong feelings, but I am sure other people might have feelings just as strongly on the other side.

Gilman: I might add to that that the Senate is working on a bill that may be a combination of three bills that were introduced last year which essentially would allow areas of the unorganized borough to incorporate into a home rule charter, going directly from an unorganized borough to a home rule charter, and you know, the bugs aren't out of that one yet, and I don't want to get it mixed up with this because that's a radical difference of the bill; but at the same time, I'm sure that the questions of whether the assembly is the school board for a borough is something that would be discussed and hashed out in that bill, or at least addressed for discussion. Maybe we would be better off until we get down the line a little farther on this classification of municipalities, because I think it essentially affects the unorganized borough and the third class borough; it doesn't affect the other municipalities at all.

Sturgulewski: Mr. Chairman, one change - Mr. Berrier can correct me if I'm wrong - we've had to go through a crazy hoop to go from first class to home rule. For instance, the North Slope Borough, as I understand

really went first class borough only for the idea that they had to do it in order to get what they really wanted, which was a home rule. I believe - was it here or was it in existing legislation - to go from second class to home rule, I can't remember if I put that in as a bill or - Mr. Berrier?

Berrier: I don't know of another bill - I know the concept of going from second class to home rule is in this bill, in prior law you could not, and as pointed out by Senator Sturgulewski, in the North Slope Borough case, they had every intention of going home rule, but they had to go first class to get in the statutory category that they could, that's my understanding.

Sturgulewski: My only comment, Senator, would be that I think that issue because it's pretty radical to go from unorganized to home rule charter, and I happen to think that's got a lot of merit. I almost see that as a separate piece of legislation.

Gilman: Oh, I agree. But it still gets into this never-never land out there that's called a third class borough. And, of course, all this third class borough does is giving the school boards some taxing authority essentially.

Grussendorf: Mr. Chairman, quite a few years ago Senator Sturgulewski and I were at a meeting in Palmer, and we were arguing this particular question, and I was at that time on the side of keeping third class boroughs as kind of an entree for unorganized boroughs to get into the borough form of government. But as time has passed, my feelings are not quite as strong, and to my knowledge, the only people that seem to think the third class borough is the way to go is the third class borough, which isn't affected by this. Now, I wonder if we couldn't get - I hate to use the term "tacit" - maybe that we like

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this, then when we go to the Municipal League convention, either firm it up or throw it out at that point. But I have no objection to this section. Years ago I did, though.

Sturgulewski: I tell you, age and wisdom go together.

Grussendorf: Just a change in position.

Gilman: That's what Joe Hayes is trying to tell everybody.

Palmer McCarter: The Alaska Municipal League has for the last four or five years had in its legislative policy statement the elimination of the third class borough. Other than testimony that you might have received from individual communities, the League itself, and it is still in the draft policy statement that will be before them in November, and has been, as I mentioned, for the last three or four years, a statement that it would recommend the elimination of the third class borough as a form of government, permitting Haines to continue as a third class borough until such time it --

Gilman: In fairness to the community of Haines, as I read the testimony, and heard it on the teleconference, the major objection that they have to the language in this bill is that there is no recognition at all of the third class borough except for those that are now in existence, and what they're afraid of is as long as is enacted in the future, they will be put in a kind of a bad position where they will not be referring to third class boroughs in future legislation. that is at least one of the major objections that has been raised. Why don't we just agree, if its all right with the committees, that we would leave the language as it is, not make any changes, not make any decisions on it, and defer that to a later date--probably the Municipal League, which is in November. I think you had some concerns about it, Pat, about the language in it.

O'Connell: Well, if we're going to take it up entirely at another time, then I would like to maybe see where we're at on this; ask the members of the House committee if any of them have a strong feeling one way or another. Senator Sturgulewski has suggested, it seems to me if I heard it correctly, that maybe when this piece of legislation is ultimately passed, that this will not even be in it at all.

Sturgulewski: Well, right now what it does is to grandfather Haines under the existing statute, and just by doing that, in a sense, you are taking away the fact that it's there and seem accessible; obviously, it is not as accessible, and yet it doesn't take away any of their current rights. My feeling is that it is one--I guess I was trying to be fair; I feel pretty strongly on the third class borough, I don't like it, I think it's a sham. And it creates a whole lot of problems we're trying to get rid of. But on the other hand, I was trying to be fair and say - You are going to get - I'm sure Bill Ray and so on, people will be getting pressure because Haines is going to want to retain, and people who see it as the minimum of government--and it's not really true in a lot of respects--may feel that that's a good form of government. I was just trying to say since there will be some flack, maybe you ought to take a little further look at it. I'm perfectly willing, and our committee debated this, and we as a matter of fact--I think Jim Kohler was on the committee and worked very hard - Jim, I think we had at least two, and may three, votes on the issue. And it always came with an overwhelming majority to do away with it. I was just trying to be fair. Sometimes, I shouldn't be so fair. Just be arbitrary.

O'Connell: I would just like to ask the members of our own committee, if there are questions on it or strong feelings on it one way or another, shall we take it up now?

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Grussendorf: Mr. Chairman, the Haines third class borough has never really been happy with that. They have tried to look at such things as unification and everything else. I have been invited there several times eight years ago to discuss that, and it seem kind of strange now that they say that's the way to go, but at the same time they still can't do what they want to do in most cases.

Sturgulewski: It's very difficult for the city - they have a terrible problem - Coastal Zone - a whole lot of stuff - coordination problems.

Gilman: Am I then to understand that we're really only talking of section 04.050, which is the only section in here that talks about third class boroughs under "Transition."

O'Connell: I would like to ask a question, just so we aren't putting ourselves in a box as we proceed. There's dozens of references in here back and forth. Are we going to find ourselves hamstrung in trying to do things in other sections of this bill by saying - Well, we can't really address this because we haven't decided what we're going to do.

Sturgulewski: I think what could be done easily is to request Mr. Berrier to just - if you wanted to have it on hand - draft those changes. It's the policy issue, and it can be handled very easily as far as the areas that would need to be brought back in - your motion on the policy issue would really determine <sup>just</sup> ~~which~~ direction the staff should come back with.

Gilman: Then are we going to adopt 04.010 to 040?

O'Connell: Mr. Chairman, it was my understanding that we were just going to set all of 29.04 aside. Is that correct?

Gilman: That's fine with me. But David just pointed out to me that

the scheme as set up here is only to go from second class to first class, or second class to home rule, first class to home rule, does not allow for the first class city to maybe reclassify back to second class city. And the point is that in 1977 Selawik had been organized as a first class city and then wanted to go back to second class status and what they were required to do was dissolve the whole city structure and then reincorporate as a second class city. So they are suggesting that we maybe consider some method there that a first class city could revert to a second class city if uh

Sturqulewski: Mr. Chairman, I would hope that if there is no objection we might take action on the issues in this section other than the third class issue and I would just like to indicate my support for the changes recommended by Community and Regional Affairs. We

Gilman: Well, as usual they haven't said where they wanted to go or what the language is.

Sturqulewski: Couldn't we leave that up to Mr. Berrier to make the appropriate changes?

Gilman: At the same time, we have to come back. I have some questions about that change in policy, though. OK, there was a situation in Selawik, but what about some other smaller first class cities? They may see it to their advantage to revert back to second class - maybe the taxation has run too high - whatever - and if a first class city is issued in debt - my point is if we are going to allow that, then we better ~~examine~~ examine it fairly carefully so that we put ~~then~~ some requirements in it or we put some restrictions in it so that it isn't that easy.

Sturqulewski: Well, Mr. Chairman, I wonder if we could have the process, the whole question you raise of abrogating - I'm sure there

are constraints and a process that has to be followed, isn't there, so that you would protect the interests of the state (asks of Palmer) I think that's what you're talking about, isn't it?

Gilman: Not only the state, but the concept of the political subdivision of the state, where a first class city that has provided the entire ramification of services and has bonded themselves, or one way or another encumbered properties, -- my point is we can't write it into the law that it becomes a very, very quick and easy solution to get out from beneath something.

Berrier: As you pointed out from a technical and a practical standpoint, it seems like that would create a great deal of instability in your first class cities. You would have to be very, very careful to protect against if you decide to do this policy route, no matter how tightly you protected, you've still got an area of instability, but at any event-- the bonded indebtedness is simple. You've got to provide to pay off the bonded indebtedness. Assume it is providing services the second class city cannot provide. What happens with those? That would create a definite instability to have to look at carefully.

Palmer McCarter: Even with new language that would ~~provide~~<sup>permit</sup> a more expedient method by which a first class city could downgrade itself to second class city status, a first class city currently can do that, as was the case of Selawik. It's just that the current option do that is very unwieldy. In either case, that action is something that would be reviewed by the Department and the Local Boundary Commission before it could take place. In the first instance or in the current situation, that process of dissolving your city and then reincorporation is kind of an unwieldy process, whereas if there was some reason and if there some legitimacy, keeping in mind that prior to the creation of the rural education attendance area's educational or something, a lot of

the smaller communities wanted and so therefore they went first class with the creation of the REAA's, and that was the reason Wasilla was downgrading the second class city - they didn't really want to have a city school district, and they preferred that their education be handled by the northwest regional REAA. And it was a situation where no one had objection to the process, it was just that in order to accomplish that under given language of Title 29, then objectively they had to totally dissolve as a city and then go through the process of incorporating as a second class city. It is a policy consideration; I don't share quite the same view of Mr. Berrier, that it would necessarily open up a Pandora's box. There is not a lot of services that a second class city provides that a first class -- either one of them basically provide the same number of services. There are a limits on the size and the way their councils operate. First class city the mayor is elected; second class the mayor is elected from the council. I don't know as that would make the policy considerate. There are taxing limits, but none of the first class cities that I view would attempt to classify as second class. Certainly, in the case of Selawik they didn't levy a property tax when they were a first class city, and they're still not levying a property tax as a second class city. I presume then that some of the other small first class cities in the unorganized borough that are functioning and operating the school function might want to reclassify for the purpose of turning the school operation into the regional education attendance area. So I don't view it as a problem. There would still be the safeguards that the whole process would be reviewed by the Department and the Local Boundary Commission. So there is that safeguard ~~value~~

to the extent the legislature feels that's a safeguard.

Grussendorf: I think this is one thing we have to consider. What are the reasons that would cause a municipality or borough to - I don't know if the proper term is to downgrade - and I think if those reasons are legitimate, I think we have no problem. But I have noticed something that has bothered me, and that is that there isn't an incentive on the part of unorganized areas to organize. And that's come about by our proposed fundings and getting where you don't have to be organized to get all the benefits of an organized area. I think this is something that we are going to have to be a little bit more careful about and inform both legislative bodies to avoid that and try to get those unorganized areas organized. And try to get

Sturkulewski: You're going to bring back those proposals. I couldn't agree with Ben more. We have a matter before Legislative Budget & Audit, and I don't prefer to get into the community at this time, it's not appropriate, but it happens to be one of the areas that we added to our bill where grants have gone out, and we have with grants have that have gone, and it is a racially mixed community, we're getting into a problem where a private contractor has been - ~~as~~ he claims - been driven out of business by the state giving certain equipment and that is being used on private jobs. We are building up, I think, by a our largesse, some really serious conflicts out there, and not really getting down to serve in terms of representative government. I think those pressures are really building and I'd really appreciate those comments. It's going to be a tough one but I think - We have not done anything in this legislation to encourage the development - I mean, we've simplified it, we've made it easier, we've given some flexibility, like going from a second class borough to home rule to allow flexibility,

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but it does not address that serious question--

Gilman: Then are you saying, though, in the context of what we're talking about here moving from first class to second class, or second class to unorganized--

Grussendorf: My question is - What possible reasons would there be for a local government entity to downgrade, go to a different level; is it because we have done something that there is no incentive to keep that, or where they escape certain responsibilities and obligations. I think this is what we have to look at; I don't know what the suggestions are there where they could change their status by petitioning, I suppose, petition of X number of people in that borough in an election.

Gilman: Essentially, it would be built in to the same procedure as reclassification upwards, as I understand it, if it's in the context of this particular---

Sturculewski: Currently, you can declassify.

Grussendorf: I have no objections to declassifying as long as they make sure that other pieces of legislation that we have don't encourage abuse of that to get out of some obligation to the state, or to the maybe even the public in that area.

(End of tape and some is left out)

Tape starts with them talking about dissolution.

Gilman: That's taken care of in another part of the bill.

Berrier: Then you would want something on allowing reclassification-- from first class cities into second class cities, some draft language to look at. We'll have something for your next meeting.

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O'Connell: I have a question myself. Looking again at 29.04.040, are we open to ~~XXXXXX~~ other comments on that particular thing, or is the whole thing going to be put off. My question is, when we get on page 2 about line 10 or so, essentially what's you've done here, is - subsection (b) here sets up "an election on the question of reclassification" can either be initiated by a petition of the people with 15 per cent of the voters asking for it, or the council. Once somebody asks for that, then on line 10, subsection (c) says "The council shall hold at least one public meeting" and they'll evaluate the ability of the city to assume first class status and make its findings public, and then the next section says that once they make it public, they have only thirty days to order an election. My question is, how much time do they have to make it public? I guess the reason I ask the question, and sort of throwing it at the people who have already spent probably hundreds of hours on this - let's assume that the people ask for reclassification through a petition and the council is opposed to it, which is not too hard to imagine that sort of a situation existing somewhere, the council effectively could throttle it by a lack of time constraints on when to bring it to election. Simply by studying it to death for an undetermined amount of time. I just wondered if we should have that particular thing looked at.

Sturqulewski: I'm just wondering, Mr. Chairman, - I understand your point. "The council shall, within 30 days after its findings have been made public, order an election." I'm just trying to see what you're saying that this doesn't do.

Gilman: His reference is to (c). It says they have to hold one public hearing, and then they shall evaluate the ability of the city to assume

first class status and make its findings public, but it doesn't say how soon they have to make the findings public.

Sturqulewski: Yeah, but go to the next issue. Oh, your're feeling that they might never have an election?

Gilman: They might not make a finding.

Berrier: They might not hold a public hearing.

Gilman: Of course, they way this is written, it also assumes that that finding is going to be/a <sup>for</sup> first class city. It says they will order an election after they have released their findings. What if the findings is negative? They don't want to have a first class city.

Grussendorf: They would still have an election, even if their findings were negative. Maybe what the chairman is saying here is that - he's right there. Maybe we should take that out - after findings - take that out of there. Simply after 30 days they gotta do something.

Sturqulewski: You'd have to mandate a time to make those findings after that public hearing.

O'Connell: If I can add a little more confusion to it - I also have some problem even with the suggestion that the council is studying the question and will then make its findings public, which seems to suggest that the process of the council making its evaluations is not a public exercise. Maybe it shouldn't be. I don't know. But I just kind of wanted to ask what the general thought was. Maybe I'm looking for devils that aren't there.

Sturqulewski: I suspect that you can always have - I guess we're going to run into that. There are a whole lot of balances in it that you get from initiative, referendum, protections to the public. What you're doing is to mandate a public hearing, you're mandating for them to do something and make a recommendation on it, and I suppose you should

write that out in a great amount of detail. It seems to me it wouldn't be so hard to work something out, would it Billy, to say that they have to actually make those findings public. I don't know whether we could set a time period where they would have to do that - get the process started. That's what you wanted - to avoid dilatory action, or to avoid no action at all being made.

Gilman: What keeps going through my mind here and is something that is very likely to happen. A second class city council proposes reclassification - proposes an ordinance to reclassify its city to first class status. The way this reads is that they then have to hold one public hearing, and then they have to put it on the ballot, and if that public hearing is 182 per cent against reclassification, it still says they shall put it on the ballot. Right? So you maybe need to---

Sturqulewski: What's the current law?

Berrier: I could comment more or less to Rep. O'Connell's comment. I wonder - I think I see the problems but I think I see them more as theoretical problems since this has been in effect since 1972 and essentially follows the law that was in effect prior to 1972, as I recall, and I think I do. I see no harm in addressing them, but they just haven't occurred, at least not to the knowledge of anyone I know.

Palmer McCarter: I reiterate pretty much what Billy said. That is basically current language; there is no proposed change there. We have for example, right now three first class city proposals that are going to be on the ballot this fall, and in each of those cases there was not a concern. Some took longer to make those findings than others. There might be difficulty in actually pinning a time frame on. You've always got another process of recall and everything else if the council fails. The only situation in recent years that I can recall where

we had a problem where there was not a time frame was when the city of Whittier, for example, voted to adopt the council-manager plan but the council was neqligent for several months to actually implement it by ordinance and, in fact, actually get around to hiring a city manager. And that was corrected in the statutes three or four years ago. But in terms of the reclassification from second to first class city, even though there is no time frame, there is a statute mandating when the council must act, at least in my experience, and I think what Billy was saying, too, that there hasn't seemed to be a problem.

O'Connell: I have a question for Palmer. Who initiated, what's the history, who has been initiating the reclassifications? The councils themselves, or has it been by petition?

McCarter: I don't truthfully recall. I say there are three that are going to be on the ballot - Wasilla, Bethel and Hooper Bay - in this year's Sand Point and years ago--

Gilman: As I recall, I don't know about Hooper Bay, but Bethel and Wasilla were council initiated. I think Sand Point was council initiated.

O'Connell: Without having known what the answer to that question was going to be, the point is I don't think you have to worry about the council bringing it to a ballot if the council initiates it; but if the people are initiating it, you may have to worry about the council bringing it to a ballot.

Sturqulewski: I guess I'd almost worry less with the people, because boy-oh-boy if they've done it and 15 per cent of the people are into that process they'll let it be known.

Gilman: Once there has been a proposal, then it goes on the ballot.

Berrier: Mr. Chairman, if I may add one other point, it would be relatively easy to put in a time period from a drafting standpoint,

but I would think that the determination of what that time period would be would probably need some consideration. In other words, should it be 30 days, 60 days, 90 days? And I haven't any feel for the X days.

O'Connell: I would like to ask another question on that; lines 17 and 18, I really don't understand. If more than one question is to be voted on at the election, each appears separately. If anybody even remembers, and maybe it isn't that important right now, but how can there be more than one question on the ballot to ask whether a city is going to go from second to first class?

Sturqulewski: (and others muttering) Could be council-manager, election at the same time, sales tax, bond issues, there could be several things that would go along that may be triggered by that. IN other words

O'Connell: It just seems a strange place - Title 29 - to address how things are going to be presented on the ballot, I guess.

Sturqulewski: You'll find a number of things very specific about how it appears.

Gilman: We're going to set 04 aside. We're going to come back to third class boroughs and then come back to second class cities, first class down to second class; to me that's sufficient enough to set the whole thing aside because there are only five items in the whole chapter. On to Chapter 05. This is an example of one of the major reasons for this whole Title 29 re-write. It's taking out those references that were carryovers of the Title 7 to Title 29. Where we had the borough law, the city law, boiled together and as a result we often had some thing we did to cities and some things to municipalities and other things to boroughs, and the first section, item 1) - 1 through 5 are essentially changes in terminology.

And there is no change in item (b). In 020, there is no change in (a) other than the fact that it is being renumbered. And then in (b) the term "organized borough" has changed to "home rule or general law." The reason for that is the definition of a borough now is just a general law only. You're either - if you're a borough, you're general law. If you're a municipality, you are unified. Right? As far as the terminology in here.

Berrier: Yessir, I'm fairly sure that's correct.

Dye: I don't think that's correct. I think boroughs refers to general law only, but wherever you want to talk about home rule --- inaudible it adds home rule. Before there was some ambiguity when you used the term borough when you were talking about one or both. Now in this rewrite, wherever you talk about a home rule borough, it says specifically home rule. That's what I was saying.

Gilman: In general, wherever you see the word borough in here alone, it means the general law abides. It has no charter. Home rule borough has a charter. A unified municipality has a charter.

Berrier: Yes, and this consistency in terminology - there are some inconsistencies running through; and you have a much clearer definition of what you are doing with home rule when you use this home rule and general law, or just use the term borough to mean general law, so this changing consistency and terminology, as I understand it, runs through the bill and is one of the good reasons for re-writing something like this, because you've got consistency where you did have at times before confusing terminology.

Gilman: Lee, did you have a comment?

Sharp: I was just going to point out that a municipality is defined to include all organized municipalities. ~~XXXXXX~~ And unified. My

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point is that when you see the word "unified" that has a charter; home rule - charter; home rule city or home rule borough. It specifies that, as I understand it, all the way through here.

Grussendorf: Since we are talking about definitions, what is our definition of "community?"

Sturqulewski: That's a very sensitive question, Mr. Grussendorf.

Grussendorf: I'm looking at the section here, we're on Chapter 05, .020, page 4, line 6, limitation on--

Gilman: A community within the unorganized, a community within a home rule borough -

Sturqulewski: And you want to know what a "community" is?

Grussendorf: Is that what our intent is, not to allow a community to incorporate as a city?

Gilman: If the services can be provided by annexation to an existing city--

Grussendorf: Is that what we want?

Gilman: That's kind of what the Constitution says.

Sturqulewski: That's in current law.

Berrier: It's current law, and I'm fairly sure that we're following the constitutional mandates.

Gilman: That is one of the findings that the Boundary Commission must make, and that's constitutional; they have to make that finding that says if the city, and the same thing is true with the service area,

Grussendorf: But the Boundary Commission will be making that determination. But we do not have a definition of a community.

Gilman: Unless you look over here under definitions, and find it - I haven't looked. Dave, do you know if there is a definition in here of community?

Dave: No, I don't.

Gilman: There's about four pages of definitions, let's look if its there.

Berrier: ----Tape went dead. Unplugged, mistaking for coffee pot.

Gilman: On page 7, I have to ask a question about this. As I understand this, we're talking now about areawide borough powers. And that's in either a first class, or I should say, a general law, borough. Okay, in 05 110, it kind of lays out the incorporation election, and in the petition process, it has said that there has to be 15 per cent of those people residing in the first class ~~borough~~ cities within a borough - this is not within a borough but within a proposed borough - and 15 per cent of the people living in the area outside of those first class cities, and then when it gets down to the incorporation election, it talks about what the local boundary commission has to do, and who is eligible to vote, and then it talks about areawide borough powers included in the incorporation petition are considered to be part of the incorporation question. That would be like education, planning, zoning, etc. "In an election for the incorporation of a second class borough, each nonareawide power"- each nonareawide power - that's different than areawide - "to be exercised is placed separately on the ballot." "Adoption of a nonareawide power requires a majority of the votes cast on the question, and the vote is limited to the voters residing within the proposed borough but outside a city." The question is what about second class cities? And second class cities, if they have not adopted that power, and the borough holds an election on a nonareawide power, and I can give you an example of a port and harbor authority, or a port and harbor power in a nonareawide basis, and there's a second class city within that, then the borough would be deemed to hold the power within that second class city. So, I think we should clarify

that and say "but outside home rule and first class cities."

Now you can take that and go into the Kuskokwim area, they have a myriad of second class cities.

Sturqulewski: OK, so you're saying that's OK. You just want clarification.

Gilman: The way it's written here is that outside "a city" and that would mean that if you held an election in the Kuskokwim for a borough and they wanted to vote on a nonareawide power, say the city of Bethel is first class, the city of Nome is a good example, a first class city, a home rule maybe, but at least says its exercising - now use the port authority - and this is a nonareawide question then who is it going to cover? It's going to cover Elim and Golovin (?) and all of the other - It wouldn't? You're shaking your head?

???? - Nonareawide is that area outside the city.

Berrier: It's outside all cities.

Gilman: Oh, now, if you will look at the existing statute, that's not what ~~xxxx~~ nonareawide means. Nonareawide is specified first class and home rule cities, I'll betcha.

????? - It would have the / <sup>effect of</sup> saving the second class city out, without the authority ---

Gilman: That's right it would leave the effect of the second class city not having to adopt that power individually to exercise the authority.

Berrier: If you look at the definitions on page 169 and 70 -

Gilman: No, I'm talking of existing statutes.

Dve: Page 191 - (Confusing)

~~XXXXXXXX~~Berrier: I thought it was assigned.(???) Much muttering - Only in the area outside the cities - cities - and I'm sure cities must include second class cities. . .

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Gilman: Yeah, Okay.

Dye: That's number (2) - "city" means a general law first or second class city.

Berrier: Okay, the definitions have't changed.

Gilman: Ok, then if that were the case, again going back to an areawide - the Seward Peninsula or the Lower Yukon Kuskokwim - most of those villages are second class cities, right? So those people would be the only ones voting on a nonareawide ballot.

?????: Correctly, on a nonareawide ballot, the only people that would vote say in the Chulista region, would be the people that don't live in either St. Mary's, which is a first class city, or all of the second class cities, of which there are about--

Gilman: Which are most of the people - Res onse: Most of the people, correct.

?????: Becuase each of those cities currently has the authority as second class cities to exercise those powers and could be exercising those powers within the city limits.

Gilman: You don't have the authority necessarily - the ability is there for them to assume the authority. They can assume it.

Berrier: Second class cities have the authority, they don't have to assume it. Second class borough has to assume it, but a second class city has it. You just pass an ordinance doing it if you're a second class city.

Gilman: OK, so I'm corrected. There would be no problem there. as you see it. I'm going to think about that for awhile.

Comments are, on page 2 of the comments section, and I guess it refers to two different sections of the law, 29.35.45) and 29.05.060 -

"Boroughs should be given the authority to establish service areas at the time of incorporation." This says only after incorporation. Where would we write that?

McCarter: Mr. Chairman, the Department comments referred to sections 05.060 and 35.450 and I presume the additional sentence probably would go in 35 - that is a minor policy consideration and the Department doesn't feel strongly one way or another.

Gilman: And you're saying that boroughs - and it should be in here - in the petition process? -

McCarter: It could be part of the petition process; it could also be a part of the whole process, the public hearing, the local boundary commission, determination of what goes on the ballot to permit the vote on service areas.

Gilman: Could it be inserted in (8) and (9)? Under 060? "for a first class borough, a designation of areawide powers to be exercised;" and it could also say areawide -and I did have a question on that, anyway - because a first class borough can exercise a nonareawide power and it does not specify that here. And could it read " why couldn't we boll (8) and (9) together and say "for boroughs, a designation of areawide and nonareawide powers and service areas to be exercised"... That would be the appropriate place.

McCarter: I would think both in 8 and 9,----- the designatio of  
to  
areawide and nonareawide service areas powers/be exercised.

Gilman: For both classifications of the borough. But in the case of -

O'Connell: Why would it have been distinguished in the first place?

Gilman: What do you mean "distinguished"?

O'Connell: Why were number 8 and 9 separate? Why would they even

consideration in the first class borough  
have been left out of ~~the~~ in the first place? (nonareawide powers)  
That's what I was trying to think of?

Berrier: I think I can answer that. The distinction between a first class and a second class borough is that it is the nonareawide powers. Second class boroughs have to assume areawide powers, most of us I think are familiar with that process. The prime distinction with a first class borough is that the nonareawide powers do not have to be approved by a vote; they can be exercised by the assembly by ordinance so they are not matters that go on the ballot, which is the reason for the distinction. As I say, that is the primary distinction between the two classes of boroughs.

Sturqulewski: We did some talking about this, making one class. But we decided that might be a little too radical.

Berrier: I still like having first class boroughs if anybody wants it.

O'Connell: So then, there wouldn't be any reason for it...If it was mandated that nonareawide powers for a first class borough be mentioned at the time of petition, it would be usurping the authority of the assembly of that borough, really.

Berrier: Right, so you should leave that off the ballot. I, incidentally, disagree with the statement that for reference purposes or for information purposes, you should designate them on the ballot. All you're going to do is designate on the ballot what the people who put the thing up hope the assembly is going to do by ordinance in the first class borough. So that the comment that followed this for information purposes of the petition of incorporation of a first class borough should require the designation of nonareawide powers, I would think that that would be a mistake and I think - you might want to add those service areas powers but this, I think, is the way you should handle nonareawide powers of the first class borough. Just simply leave them off because they're