

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2171 HCRA HB 172 (FILE 3) - (FILE 4) 2171

H B

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3

Alaska State Legislature

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski



Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs
FROM: Staff
DATE: April 25, 1983
RE: House Bill 172 amendment 1

Pass

Page 35, line 4:
After "request" insert "by a member of the governing body"

Page 35, line 5:
Delete "and"

Page 35, line 6:
After "request" insert "by a member of the governing body"

Page 35, line 8:
Delete "." insert ";

Page 35, after line 8:
Insert "(4) a municipal employee or official, other than a member of the governing body, may not participate in any official action in which the employee or official has a substantial financial interest.

(b) If a municipality fails to adopt a conflict of interest ordinance within 180 days after July 1, 1983, the conflict of interest provision of this section is automatically applicable to and binding upon that municipality."

Page 35, line 9:
Delete "(b)" and insert "(c)"

Page 163, line 24:
Delete "allocable" insert "allocatable"

local control vs State good

Alaska State Legislature

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House of Representatives Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs
FROM: Staff
DATE: April 25, 1983
RE: House Bill 172 amendment 2

Phillips
BB

The following changes are proposed by Ginny Chitwood, Alaska Municipal League.

Page 68, lines 5-7:
Delete section 29.26.250.

Page 68, line 15:
Delete "grounds of", insert "reasons for".

Page 68, line 24:
Delete "grounds" insert "reasons".

Page 69, lines 20,24:
Delete "25", insert "35".

Page 71, line 18:
Delete "grounds of" insert "reasons for".

Reasons
BZ

Explanation: The issue of determining the sufficiency of grounds for a recall election was discussed by the committee. It appeared that a consensus was reached to eliminate the requirement for providing legal grounds to conduct a recall election and to increase signatory requirements for the petitioners.

*Vote of confidence
State Signatories*

M. Szymanski
Randy Phillips
Barbara Lacher

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1983

SUBJECT: Recall of municipal officials
(Work Order No. 13-0837)

TO: Representative Barbara Lacher

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

You have asked what the responsibility of the clerk is in reviewing recall petitions for sufficiency.

What a recall petition must contain and the method of determining the sufficiency of a petition depends on the specific statute involved and these types of laws vary from state to state. Some statutes require only a general statement of the grounds for recall and an official may be recalled for purely political reasons. However, other statutes require grounds for recall that are more than simple disagreement with matters of policy and the grounds stated must actually constitute misfeasance, malfeasance or nonfeasance in office. McQuillan, Municipal Corporations, vol. 4, sec. 12.251b: Noel v. Oakland County Clerk, 284 N.W.2d 761 (Michigan 1979); Bent v. Ballantyne, 368 S.2d 351 (Florida 1979); Tolar v. Johns, 147 S.2d 196 (Florida 1962); Jacobsen v. Nagel, 96 N.W.2d 569 (Minnesota 1959).

Where petitioners are required to state only general grounds, the recall petition need not state the cause for removal with the same particularity as where the requirement is that reasons for removal be stated clearly. The purpose of a general statement of grounds is to furnish information to electors upon which a political and not a legal issue may be raised. Under statutes providing that a statement of grounds for recall is for the information of the electors, the question of the sufficiency of those grounds is also for the electors, but under provisions authorizing recall for malfeasance or similar language, the sufficiency of the grounds provided is a legal question. 63 Am. Jur.2d, Public

Officers and Employees, sec. 245; Pybus v. Smith, 141 P. 203 (Washington 1914).

Statutory provisions as to recall are to be liberally construed in favor of the electorate's right to exercise recall. Hazelwood v. Saul, 619 P.2d 199 (Colorado 1980). Under this principle and in the absence of statutory language limiting the recall to specific, indicated reasons, the adequacy of grounds stated in a petition is treated as a political matter and courts refuse to enjoin recall petitions on complaints that charges are insufficient. However, where recall is limited to specified grounds of malfeasance or similar language it is generally held that

. . . petitions are inadequate when they indicate only disagreement on matters of policy or political criticism. Antieau, Municipal Corporation Law, sec. 22.200, pages 22-304 - 22-305.

The officer designated to ascertain the sufficiency of a petition in a particular statute may be required to determine legal sufficiency rather than matters of form only. Unless an appeal is specifically provided for, the officer's determination as to sufficiency of a recall petition is final and subject only to judicial correction if the determination is capricious, arbitrary, or plainly erroneous as a matter of law. McQuillan, supra., vol. 4, sec. 12.251(d); Hold v. Trantham, 575 S.W.2d 83 (Texas 1979).

Article XI, section 8 of the Constitution of the State of Alaska provides:

All elected public officials, in the State, except judicial officers, are subject to recall by the voters of the State or political subdivision from which elected. Procedure and grounds for recall shall be prescribed by the legislature. (Emphasis added)

In carrying out this constitutional responsibility the legislature has provided under AS 29.28.140 that misconduct in office, incompetence, and failure to perform prescribed duties are the grounds for recall. In addition, under AS 29.28.150(a)(3), a petition for recall must contain ". . . a statement of the grounds of the recall stated with particularity as to specific instances". (Emphasis added)

The municipal clerk is required to review the petition
". . . for content and signatures . . ." under AS 29.28.160.

These statutory provisions dealing with recall have not been judicially construed by the Supreme Court in this state, so it cannot be determined with certainty whether the clerk is required to review the petition for signatures and form only or whether the clerk must determine as a legal matter whether the specific instances set out in a petition, if true, constitute misconduct in office, incompetence or failure to perform prescribed duties. Under the principles set out previously in this memorandum it appears that the clerk is required to determine whether the specific instances set out support a claim of misconduct in office, incompetence or failure to perform prescribed duties because AS 29.28.150 demands more than just a general statement of the grounds for recall and does not specifically indicate that the stated grounds are for the information of the voters only.

Under both versions of the bill revising Title 29, SB 1 and HB 172, the grounds for recall remain unchanged although the procedure for recall has been substantially changed. Nevertheless, an applicant for a recall petition under Sec. 29.26.260(a)(3) is still required to set out the grounds ". . . with particularity". The clerk must prepare a recall petition only if the clerk determines that the application for the petition meets the requirements of AS 29.26.260, including the requirement that grounds be ". . . stated with particularity" (Sec. 29.26.280). After a petition is filed the clerk must again determine whether the petition is sufficient and, if insufficient, ". . . identify the insufficiency and notify the sponsors. . ." (Sec. 29.-26.290). It seems clear that since the clerk must identify the insufficiency, a determination of sufficiency is not limited to review of signatures, even though (b) and (c) of the section only provide for correcting a petition insufficient for lack of signatures. It appears under these sections that the clerk would still be required to determine whether the grounds stated, if true, actually constitute misconduct in office, incompetence, or failure to perform prescribed duties.

I believe that this interpretation conforms to the intent of the policy committee that produced the original version of a Title 29 revision bill. There was considerable discussion of the recall provisions by that committee and at one point

Representative Barbara Lacher

Page 4

February 24, 1983

the committee considered requiring only a general statement of reasons for recall and allowing recall to proceed upon purely political grounds. It was even suggested that grounds for recall be eliminated entirely. That approach was specifically rejected by the committee. Consequently, I would recommend that HB 172 be amended to clearly reflect the fact that the clerk is to review a recall petition for form and signatures only, and not to determine whether grounds stated actually constitute misconduct in office, incompetence, or failure to perform prescribed duties, if that is the result intended by the legislature.

TBC:ljb

Alaska State Legislature

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Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

Lee Sharp

TO: Committee on Community and Regional Affairs
FROM: Staff
DATE: April 25, 1983
RE: House Bill 172 amendment 3

Page 76, lines 19 and 20:

Delete "determine fair market value" insert "acquire the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected".

Explanation: The right of eminent domain is not used to determine fair market value. The determination of fair market value is a step in the process of exercising eminent domain. As written, the statement may not meet the intent of allowing municipalities to exercise the right of eminent domain to acquire certificates or property.

James H. ...

good

Alaska State Legislature

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House of Representatives Committee on Community & Regional Affairs

good

TO: Committee on Community and Regional Affairs
FROM: Staff
DATE: April 25, 1983
RE: House Bill 172 amendment 4

Page 126, line 3:
Delete "\$100,000.00" insert "\$20,000.00".

Explanation: During Committee review of House Bill 172, there appeared to be a consensus of the committee that the minimum value of property to be foreclosed upon without notification to the owner by certified mail is too high (\$100,000.00).

good

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House of Representatives Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs
FROM: Staff
DATE: April 25, 1983
RE: House Bill 172 amendment 5

Page 204, lines 7 and 8:
Recommend change to read:

Sec. 85. AS 29.45 "as enacted in Sec. 11 of this Act is effective on January 1 of the year following enactment.

Explanation: HB 172 may be enacted into law in 1983 or 1984, depending on legislative action. The amendment will avoid the possibility of a "split" tax year and will provide time for municipal planning purposes.

OK

Alaska State Legislature

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Room 104
State Capitol
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Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs
FROM: Staff
DATE: April 25, 1983
RE: House Bill 172 amendment 6

The attached letter of intent and proposed language for implementation was prepared during hearings of SB 1, comparison legislation to HB 172.

Present law requires first class and home rule cities in the unorganized borough to accept the responsibility for delivery of Educational services. It is perceived that the requirement to be responsible for educational services may be a deterrent to certain cities or areas to organizing or upgrading to first class or home rule status. The opposition for a city to assume the educational powers could come either from an existing REAA or the city.

The proposed change to HB 172 would resolve the issue of the assumption of education powers by vote of the residents in the city and in the REAA.

MO
OK

~~CORRECTION~~

~~CORRECTION~~

Alaska State Legislature

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House of Representatives Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs
FROM: Staff
DATE: April 25, 1983
RE: House Bill 172 amendment 6

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The proposed change to HB 172 would resolve the issue of the assumption of education powers by vote of the residents in the city and in the REAA.

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[Handwritten signature]



Official Business

Alaska State Legislature

Senate Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

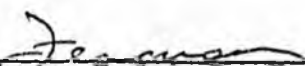
LETTER OF INTENT TO CSSB 1

February 24, 1983

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

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

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



Senator Frank R. Ferguson
Chairman

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

PROPOSED SENATE AMENDMENT

By Community & Regional Affairs Committee

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: LINE:

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

Page 10, after line 19, insert new section:

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

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

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

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

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

Alter other sections as necessary to conform.

A M E N D M E N T

Offered in the SENATE
TO: CSSB 1 (C&RA)

By the Community and Regional
Affairs Committee

Page 2, after line 25 insert:

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

Page 10, after line 18 insert:

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

Reletter the following subsection accordingly.

Page 34, after line 20 insert:

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

Renumber the following paragraphs accordingly.

Page 85, line 23:

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

Page 86, after line 5 insert:

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

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

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

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

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

Page 186, after line 6 insert:

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

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

Renumber following sections accordingly.

Page 186, after line 29 insert:

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

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

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

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

Renumber following sections accordingly.

Page 205, line 20:

Delete "86" and insert "89"

Page 205, line 23:

Delete "86" and insert "89"

Alaska State Legislature

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House of Representatives Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs
FROM: Staff
DATE: April 25, 1983
RE: House Bill 172 amendment 7

During Committee review of HB 172 there was discussion but no apparent consensus concerning the exemption of greenhouses from assessment at full valuation for taxation purposes (Page 109, line 22).

The existing law does not give special treatment for greenhouses. The intent of providing special tax treatment for farm lands (not including barns, houses, sheds, etc.) was to assist the farmer in resisting the pressures of urban growth rather than being forced to subdivide farm land because of inflated land values. The effect of the new language is to provide a special tax treatment for greenhouses, including commercial greenhouses raising ornamental flowers.

*Passed
Deletion*

Take out greenhouses

Alaska State Legislature

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Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs
FROM: Staff
DATE: April 25, 1983
RE: House Bill 172 amendment 8

Sec. 29.45.030 dealing with required tax exemptions contains new language that defines "developed" for the implementation of a required federal tax exemption (Page 105, line 10). The new definitions are supported by Alaska Native Corporations and are opposed by municipalities. Similar definitions were added as last minute floor amendments during legislative action on the municipal code revision in 1982 which were, in large part, responsible for the subsequent Governor's veto.

In that the purpose of HB 172 is to administratively revise Title 29 into a usable document and not to make substantive or controversial changes, staff recommends that all new materials pertaining to the federal tax exemption, including references to reverting to an undeveloped state, be deleted from HB 172 and that the issue be addressed in separate legislation.

*Delete materials line 10, page 105
to line 7, page 106*

*Materials in
SB 260*

THIRTEENTH ALASKA LEGISLATURE
FIRST SESSION

copy of 4 part
in packets

HB172 Suggested Amendments - Cape Fox Corporation

Line 15, Page 105

① (m) (1) ... gainful and [or] productive present use...

Line 18-19, Page 105

② (m) (1) ... process even though income may be derived from related incidental timber harvesting, utility usage, or similar activities.

Line 3, Page 106 - Add New Subsection:

③ (m) (4) "Gainful" means a condition resulting in net taxable income or when revenue derived from an activity taking place over the tax year of the property owner exceeds the expenses and deductions related to the activity.



Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-4801

BOROUGH ATTORNEY'S OFFICE

April 6, 1983

The Honorable Barbara Lacher
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Barbara:

Subject: HB 172 "DEVELOPED" DEFINITION

The present version of HB 172 provides for a tax exemption as required by 43 U.S.C. 16.20(d) for certain Native lands. This exemption provides a definition of "developed" for implementing the federal law. I recommend that this matter be treated in a separate bill rather than in HB 172 or SB 1, the parallel bills intended as housekeeping measures to revamp Title 29.

During the last legislative session certain amendments were made to the Title 29 bill on the House floor which caused a great deal of controversy. In re-introducing the Title 29 in the present legislature, all of these amendments were removed except for the provisions for implementing the tax exemptions under 43 U.S.C. 16.20(d). This amendment was incorporated in AS 29.45.030 of the bill.

Pursuant to federal law, certain Native lands are not taxable until "developed". The intent of the proposed definition in AS 29.45.030 is to clarify what improvements of land will constitute "development" for tax exemption status.

I believe that the intent of this section is to assure that lands will not be taxed simply because an access road is constructed to the property or improvements are placed on the property in anticipation of future development. However, the language is sufficiently ambiguous to permit the interpretation that even a regular, residential or commercial subdivision development would not be taxable until the lots were sold. Once land is subdivided, roads are constructed and other improvements are put in place, the available lots become the sale inventory of the real estate developer. An exemption from taxation of these lots would give the exempted developer an unfair advantage over other developers with which it was in competition.

Because this provision is not in existing Title 29 and because there is potential controversy involved, I recommend that

file Bill
WPK

it not be included in HB 172, a housekeeping bill. As a separate bill, I believe that the Borough would support a definition between a taxable subdivision development and tax exempt lands which have been surveyed and have constructed roads.

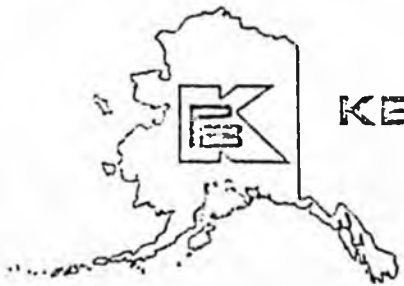
Sincerely,

A handwritten signature in cursive script, appearing to read "Steven Morrisett".

Steven H. Morrisett
Borough Attorney

er

cc: Steve VanSant, Borough Assessor



KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

STAN THOMPSON
MAYOR

February 24, 1983

TO: Stan Thompson, Mayor

FROM: Don Thomas, Assessor

SUBJECT: Native Lands, Title 29 Revisions - sec M #1 *lines 28 + 29*
140 100-101

By the definition included in the work draft of Title 29 the Kenai Peninsula Borough would loose approximately 13.9 Million in assessed valuation. This would equal about \$41,727 based on a 3 mill average.

This would also put the Native lands in a better position to develop and compete in the open market, if they wished. They could do all the preliminary work, such as roads, utilities, survey, and hold the property for the highest return, and still not pay taxes. *- this would only apply to protest. - would probably be longer in other cases -*
We currently have 13.9 million in assessed value that the different regions have been paying taxes on. We have had them on the tax rolls for 4 or 5 years and they paid their taxes without paying under protest.

cancel at the Borough

Cook Inlet	7,281,205
Ninilchik	924,950
Seldovia Native	2,882,300
Slamatoff	589,500
English Bay	2,708,800
Port Graham	1,068,000
<hr/>	
Total	15,454,755

*Also when 20 years are up + Native Lands
we would be ~~on~~ ^{the} on the tax rolls - they they
would be exempt at a tremendous loss to
the Borough - until sold*

Alaska State Legislature



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House of Representatives Committee on Community & Regional Affairs

MEMORANDUM

To: Committee On Community and Regional Affairs
From: Staff
Re: HB 172, proposed utilities amendment. (-#9)

The attached amendment to HB 172 has been requested by Mr. Dave Hutchins, representing the Alaska Rural Electric Cooperative Association.

The controversy over the proposed amendment is based on the authority of municipalities, or lack of authority, to regulate utilities that are not subject to regulation by the Alaska Public Utilities Commission under AS 42.05.

A summary of the controversial portions of the three options presented to the committee is as follows:

1. Present Statues:

- a. Municipalities cannot regulate or grant franchises to any utility that is regulated by the Alaska Public Utilities Commission (APUC) under AS 42.05.
- b. APUC approval is required for a municipality to extend a municipal utility's service area.

The present laws are silent on the authority--or lack of authority-- of municipalities to regulate non-municipal owned utilities that are not regulated under AS 42.05. Since a General Law municipality has only the powers granted by law, it would probably be upheld that a General Law municipality does not have the authority to regulate a non-municipal owned utility that is not regulated by APUC.

2. HB 172 Provides:

- a. Municipalities may grant franchises and regulate utilities to the extent they are not subject to regulation by APUC under AS 42.05, or not otherwise prohibited by law.
- b. Municipal owned utility services may be extended outside of the municipal boundaries (subject to approval by APUC).

3. Amendment requested by utilities:
 - a. Whenever a utility is exempted from regulation by APUC or subject to regulation under AS 42.05, a municipality may not regulate the utility.
 - b. A municipality may only extend utility services to an area adjacent to the municipal boundaries. This provision would prevent a municipal utility from providing utility services to an area that is not adjacent to the municipal boundaries.

The utilities that are, or may be, exempted from APUC regulation and as such are the utilities that are at the center of this issue are identified in AS 42.05.711 (copy attached).

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

Page 33, after line 28, insert:

"(26) AS 29.35.060 (franchise and permits)"
Renumber following paragraphs accordingly.

Page 33, after line 29, insert:

"(28) AS 29.35.075 (disputes and conflicts with state
certificated utilities)"
Renumber following paragraphs accordingly.

Page 74, line 12, delete:

"utility services,"

Page 77, after line 6 add a new subsection to read:

"(c) This section applies to home rule and general
law municipalities."

Page 77, lines 7 through 22, delete present language and
replace it with the following:

"Sec. 29.35.070. PUBLIC UTILITIES. (a) The
assembly for the area outside all cities in the borough
and the council acting for the area in a city may
regulate a utility service and fix, establish, and
change the rates and charges imposed for a utility
service provided to the municipality or its inhabitants
by a utility except to the extent

(1) the utility is subject to regulation under AS
42.05; or

(2) municipal regulation is prohibited by AS
42.05.71i(k) or other law.

(b) A municipality may provide for a reasonable
deposit for meters and service to be given if interest
is paid on the deposit.

(c) A municipality that owns or operates a utility
may extend service to adjacent areas outside its
municipal boundaries. For that purpose the
municipality may acquire, maintain, and operate utility
facilities together with necessary interests in real
property outside its municipal boundaries.

(d) Unless a utility is owned by the municipality
that is regulating it, all rates, charges, and
regulations shall be established by the municipality in
accordance with an ordinance that provides procedures
for regulating service and establishing and changing

rates and charges. The ordinance shall provide for procedures necessary to guarantee due process, including notice and hearing requirements. Rates and charges established under this section shall be reasonable and permit a fair return on invested capital.

(e) A dispute involving a utility certificated under AS 42.05 as to the reasonableness of the fees for or the terms, conditions, or exceptions to a permit to use municipal streets shall be decided under AS 42.05.251.

(f) In case of a conflict between the provisions of this section and AS 42.05 or concerning an action taken under this section or AS 42.05 involving the regulation of service or the rates or charges of a utility certificated under AS 42.05, the provisions of AS 42.05.641 apply.

(g) This section applies to home rule and general law municipalities."

Page 195, after line 22, add a new section to read:

"* Sec. 62. AS 42.05.711 is amended by adding a new subsection to read:

(k) A public utility that is exempt or partially exempt under (d) through (j) of this section from the provisions of AS 42.05.010 - 42.05.721 may not be regulated by a municipality."

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
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Chugach Elec. Ass'n, Sup. Ct. Op. No. 1636 (File Nos. 2969, 2993), 580 P.2d 687 (1978); B-C Cable Co. v. City of Juneau, Sup. Ct. Op. No. 2112 (File No. 4587), 613 P.2d 616 (1980).

Sec. 42.05.711. Exemptions. (a) The provisions of AS 42.05.010 — 42.05.721 do not apply to a person who furnishes water, gas or petroleum or petroleum products by tank, wagon, or similar conveyance, unless the person is thereby supplying water, gas, petroleum or petroleum products to a public utility in which he has an "affiliated interest."

(b) Public utilities owned and operated by a political subdivision of the state and none of whose utilities is in competition with any other utility, are exempt from the provisions of AS 42.05.010 — 42.05.721, other than the provisions of AS 42.05.221 — 42.05.281, unless the owner and operator elects to be subject to all provisions of AS 42.05.010 — 42.05.721.

(c) The ownership in whole or part, of the corporate stock of a public utility does not make the owner a public utility.

(d) The commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of AS 42.05.010 — 42.05.721.

(e) Notwithstanding any other provisions of AS 42.05.010 — 42.05.721, any electric or telephone utility that does not gross \$50,000 annually is exempt from regulation under AS 42.05.010 — 42.05.721 unless 25 percent of the subscribers petition the commission for regulation.

(f) Notwithstanding any other provisions of AS 42.05.010 — 42.05.721, an electric or telephone utility that does not gross \$325,000 annually may elect to be exempt from the provisions of AS 42.05.010 — 42.05.721 other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(g) A utility, other than a telephone or electric utility, that does not gross \$100,000 annually may elect to be exempt from the provisions of AS 42.05.010 — 42.05.721 other than AS 42.05.221 — 42.05.281 under the procedure described in AS 42.05.712.

(h) A cooperative organized under AS 10.25.010 — 10.25.650 may elect to be exempt from the provisions of AS 42.05.010 — 42.05.721, other than AS 42.05.221 — 42.05.281, under the procedure described in AS 42.05.712.

(i) A utility which furnishes collection and disposal service of garbage, refuse, trash, or other waste material and has annual gross revenues of \$200,000 or less is exempt from the provisions of this chapter, other than the certification provisions of AS 42.05.221 — 42.05.281,

unless 25 percent of the subscribers or subscribers representing 25 percent of the gross revenue of the utility petition the commission for regulation.

(j) The provisions of this chapter do not apply to sales, exchanges or gifts of energy to an electric utility certificated under AS 42.05.010 — 42.05.721 when the energy which is the subject of the sale, exchange or gift is waste heat, electricity, or other energy which is surplus or the by-product of an industrial process. In an area in which no electric utility is certificated for service, energy provided by sale, exchange or gift may be provided to any utility which is certificated for service to that area. A contract for the sale, exchange or gift of energy exempt under this subsection does not make the supplier a public utility, and does not transfer the responsibility to provide utility services from a certificated utility to any other person. (§ 6 ch 113 SLA 1970; am § 3 ch 76 SLA 1973; am § 8 ch 83 SLA 1980; am §§ 7-9 ch 136 SLA 1980; am § 89 ch 59 SLA 1982)

Revisor's notes. — As enacted by chs. 83 and 136, SLA 1980, present subsections (j) and (i) were designated as subsections (f) and (j), respectively, but were redesignated by the revisor of statutes pursuant to AS 01.05.031(b). Former subsection (i) of this section was transferred as § 13, ch. 136, SLA 1980 to the 1980 Temporary and Special Acts and Resolutions by the revisor of statutes pursuant to AS 01.05.031(b).

Effect of amendments. — The first 1980 amendment added subsection (j).

The second 1980 amendment deleted "excepting the furnishing of collection and disposal service of garbage, refuse, trash or other waste material" following "none of whose utilities" near the beginning of subsection (b), deleted the former second sentence in subsection (b), which read: "Notwithstanding any other provisions of this chapter, municipalities providing collection and disposal service of garbage, refuse, trash or other waste material within their corporate boundaries are not subject to regulation by the Alaska Public Utilities Commission unless the municipality elects to be subject to the provisions of this chapter," substituted "\$50,000" for "\$25,000" following "does not gross" near the middle of subsection (e), substituted "under this chapter" for "hereunder" following "exempt from regulation" near the middle of subsection (e), and added subsections (f) through (i).

The 1982 amendment, effective May 28, 1982, deleted "on June 30, 1980" preceding

"a utility" and inserted "annual" preceding "gross revenue" in subsection (i).

Editor's notes. — Section 13, ch. 136, SLA 1980, as revised by the revisor of statutes, provides: "Cable television systems are exempt from the provisions of AS 42.05 [AS 42.05.010 — 42.05.721], other than the provisions of AS 42.05.221 — 42.05.281, until July 1, 1983. This exemption does not apply in cities or villages which have a population of less than 3,500 people and which are not located on a state road or marine highway. The effects of the exemption of cable television systems from rate regulation by the Alaska Public Utilities Commission provided in this section shall be reviewed by the legislature before July 1, 1983. If the legislature fails to extend the exemption before July 1, 1983, this section is repealed on that date and cable television systems lose their exempt status on that date and become subject to regulation by the Alaska Public Utilities Commission."

Opinions of attorney general. — An electrical utility owned and operated by a regional electrical authority would continue to qualify for the broad exemption from this chapter, available to political subdivisions under subsection (b) of this section on the regional electrical authority had completed its proposed organization as a nonprofit corporation pursuant to AS 10.20.005 et seq. June 7, 1976, Op. Att'y Gen.

(a) The assembly acting for the area outside cities and the council acting for the area within a city may grant franchises, including exclusive franchise privileges, for the construction, operation and maintenance of bus transportation systems and public utilities not regulated under AS 42.05 and may permit them the use of streets and other public places under regulations prescribed by ordinance.

(b) No franchise is valid until it has been submitted to the qualified voters of the city or borough area outside cities in which it applies, and at least 55 per cent of the votes cast are in favor of the franchise. At least 30 days notice of a franchise referendum election shall be given in the same manner as is provided for notice of regular municipal elections, and the notice shall specify the purpose of the election. The ordinance granting a franchise shall provide for its submission for ratification to the qualified voters of the city or borough area outside cities at either a regular or special election, and the result of the election shall be canvassed publicly by the council or assembly and spread upon the records of the minutes and the result declared and certified in the same manner as in a regular election.

(c) Public utilities regulated under AS 42.05 have the right to use the streets and other public places, upon payment of a reasonable permit fee and on reasonable terms and conditions and with reasonable exceptions the assembly or council requires. A dispute as to whether fees, terms, conditions, or exceptions are

reasonable shall be decided by the Alaska Public Utilities Commission.

Sec. 29.48.060. PUBLIC UTILITIES RATES.

The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a municipally owned utility not regulated under AS 42.05.010 - 42.05.721 and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest is paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital.

APPROVED
Date: 3-6-84

Requested by: Assemblywoman Maser
Prepared by: Municipal Clerk
For Reading: March 6, 1984

ANCHORAGE, ALASKA

AR NO. 84-65 (Amended)

MAR 21 '84

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY URGING THE STATE LEGISLATURE AND THE GOVERNOR TO PROCEED EXPEDITIOUSLY WITH THE PASSAGE OF TITLE 29 REWRITE.

WHEREAS, the current Title 29, last revised in 1972, is a hodgepodge of 13 years worth of amendments, and

WHEREAS, it is very difficult for the average citizen to read and understand, and

WHEREAS, recognizing the problem, the legislature adopted SCR 66 in 1980, directing the rewrite of Title 29, and

WHEREAS, a broadly representative policy committee, with the assistance of a technical committee, prepared a revised code after an exhaustive series of meetings, hearings, and public presentations, and

WHEREAS, SB 180, the original bill, was passed by the legislature in the 1982 session but because of controversial floor amendments, Governor Hammond vetoed the bill, and

WHEREAS, HB 172, the rewrite of Title 29, is a number one priority of the Alaska Municipal League.

BE IT, THEREFORE, RESOLVED, the Anchorage Municipal Assembly hereby requests the State Legislature and the Governor to proceed expeditiously with the passage of HB 172.

PASSED and APPROVED this 6th day of March, 1984.



Chairman

ATTEST:


Municipal Clerk



**City of
Ketchikan**

334 Front Street
Ketchikan, Alaska 99901
907-225-3111

March 19, 1984

Representative Mike Miller
Chairman, House Community & Regional Affairs Committee
House of Representatives
Pouch V (MS3100)
Juneau, Alaska 99811

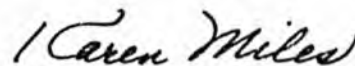
Dear Representative Miller:

Enclosed is a copy of City of Ketchikan Resolution No. 1371 passed by the City Council March 15, 1984.

The Council supports the reorganization of Title 29 and urges the State Legislature to pass House Bill 172 (CSHB 172).

Your consideration of this resolution is appreciated.

Sincerely,



Karen Miles
City Clerk

KM/kms

Enc. 1

MAR 22 '84

CITY OF KETCHIKAN, ALASKA

RESOLUTION NO. 1371

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KETCHIKAN, ALASKA, SUPPORTING THE REORGANIZATION OF TITLE 29 FOR CLARITY AND FLEXIBILITY AND URGING PASSAGE OF HOUSE BILL 172 (CSHB 172), AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in 1980 the Legislature adopted SCR 66 which directed that Title 29 be reviewed and rewritten to provide clarity and readability; and

WHEREAS, a broadly representative policy committee representing rural and urban communities, with the assistance of a technical committee, prepared a revised code after an exhaustive series of meetings, hearing, and public presentations; and

WHEREAS, Title 29 as clarified was introduced as HB 170 and SB 180 in 1981; and

WHEREAS, more hearings were held during the First and Second Session of the Twelfth Alaska State Legislature and hearings were also held in the interim between sessions; and

WHEREAS, SB 180 passed the Legislature during the Second Session; and

WHEREAS, because of controversial floor amendments, the City of Ketchikan joined other local governments urging Governor Hammond to veto the bill; and

WHEREAS, Title 29 as clarified was again introduced as SB 1 and HB 172 during the First Session of the Thirteenth Alaska legislature; and

WHEREAS, both bills are basically a reorganization and rewording of Title 29 to enhance its clarity and flexibility; and

WHEREAS, the Council of the City of Ketchikan strongly feels that this clarification is in the best interests of all local governments in Alaska and that the content and intent of the bill is not controversial; and

WHEREAS, the City Council appreciates the hours of time and effort expended on this bill by Alaskans who harbor a great concern for the well-being of Alaska Local Government and believes those hours should not have been expended in vain.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Ketchikan, Alaska as follows:

Section 1: The Council of the City of Ketchikan supports the reorganization of Title 29 for clarity and flexibility and urges the State Legislature to pass House Bill 172 (CSHB 172).

Section 2: The City Council supports this bill in its basic form and requests other proposals which would constitute major policy revisions or innovations in the function of local government be considered in separate legislation.

Section 3: The Council further requests that all committees expeditiously consider House Bill 172 (CSHB 712) to assure action prior to adjournment of the Thirteenth Alaska Legislature.

Section 4: The City Clerk is hereby directed to send copies of this resolution to Representative McBride, Representative Wendte, Senator Ziegler, the House Community and Regional Affairs Committee, the House Judiciary Committee, and the House Rules Committee, the Senate Community and Regional Affairs Committee, the Senate Judiciary Committee, the Senate Finance Committee, the Senate Rules Committee, and the Alaska Municipal League.

Section 5: This resolution shall be effective immediately upon passage and approval.

PASSED AND APPROVED THIS 15 day of March, 1984.

Edward W. Zastrow
Edward W. Zastrow Mayor

ATTEST:

Karen M. Sund
Karen M. Sund, Deputy Clerk

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

February 27, 1984

POSITION PAPER

RE: HB 172
SPONSOR: Rules by Request of the Governor

PROGRAM EFFECTS:

HB 172 is a bill that reorganizes and clarifies Title 29 of the Alaska Statutes, which is the Municipal Code.

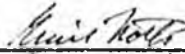
COMMENTS:

HB 172 is the product of the work of the Community and Regional Affairs Committees of both Houses of the Legislature, the Alaska Municipal League, many of the League's affiliate organizations, and the Department of Community and Regional Affairs.

This bill clarifies the Municipal Code, better organizes it, and eliminates ambiguities and conflicts from existing law.

The Department supports passage of this legislation, as well as considers it one of its highest priorities.

APPROVED:



Emil Notti, Commissioner

- POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700
- 225 CORDOVA STREET - BLDG B
ANCHORAGE, ALASKA 99501
PHONE: (907) 264-2294

HB 172 SUMMARY

HB 172 is a comprehensive bill to clean up the language and reorganize the contents of Title 29, the State Municipal Code. Its primary purpose is to make necessary language and format changes to Title 29 to achieve a more clearly organized, simplified and more readily useable set of statutes. Although the bill is lengthy, for the most part it involves moving existing provisions of Title 29 from one part of the code to another or making changes in wording to clarify current law.

The Department of Community and Regional Affairs has worked extensively over the past five years to achieve passage of the legislation. Because of years of patchwork amendments to Title 29, there now exists a confusing and often controversial mass of state law dealing with municipalities. Most of the changes in the bill are necessary for this reason and are supported by the department. They are also supported by the Alaska Municipal League and, except for some disagreement with certain isolated specific language, by all local governments.

The following analysis summarizes some of the major changes to Title 29 which are included in the bill and how these changes will make program administration easier for the Department of Community and Regional Affairs.

ORGANIZATION AND FORMAT OF TITLE 29

One of the most difficult problems of working with the current law is that it is not always easy to ascertain with any degree of certainty whether a particular statute applies to all classes of municipalities or whether certain classes are governed by language found elsewhere in Title 29. HB 172 resolves this problem by organizing most sections by class of municipality, making it much easier to refer to specific sections and determine which classes of municipalities are affected.

In addition, language within the revisions has been modified so that the terms of reference to municipalities, governing boards, etc., are held constant. The term "municipality" refers to all local governments with a subsequent distinction drawn between "home rule" and "general law." This consistency now makes it possible, by checking general references alone, to ascertain whether or not a particular class and type of municipality is affected by specific statutes.

These changes in the organization of the statutes and the use of consistent and more precise terminology mark these revisions to Title 29 as a great improvement over existing statutes.

2/3/84
from - Finance
Worley + Miller
Worley - C+RA
Dept.

CHANGES TO THE EXISTING LAW

Aside from effecting a better organization of the contents of Title 29 and improved terminology, HB 172 also proposes some important improvements to the current body of municipal law.

Certain powers and responsibilities are clarified in HB 172, particularly in the areas of extraterritoriality and land disposal. Other portions of the bill create new flexibility for local communities, particularly in the areas of reclassification, home rule and zoning. Some changes are of great benefit to the department in its administration of programs, such as revenue sharing for unincorporated communities. These are all worthwhile changes that argue in favor of the bill.

Municipal Incorporation and Reclassification

- HB 172 provides for second class municipalities to reclassify directly to home rule governments. Existing statutes restrict this reclassification to municipalities of the first class.

Extraterritorial Powers

- Extraterritorial power for all municipalities has been expanded to allow for the operation of additional facilities outside of municipal boundaries, including solid and septic waste facilities, wharfs, harbors and other marine facilities.
- A municipality which provides a facility outside its boundaries may regulate its use to the extent that the jurisdiction in which the facility is located does not regulate it. Under existing statutes, no right to regulate was provided for the municipality within which the facility was located.

Eminent Domain

- The exercise of eminent domain and declaration of taking is extended to second class cities. Under current law, second class cities must first receive the approval of the Department of Community and Regional Affairs before they can exercise this power in a specific instance.

Land Disposal

- Municipal land disposal provisions have been simplified, requiring only that the local governing body establish a set of formal procedures by ordinance.

Planning and Zoning

- Zoning laws have been broadened to allow for "land use regulations," thus providing a wider range of options for local governments to implement their local plans and programs.

All of these modifications must be viewed as important, positive and long sought after improvements to Title 29.

Revenue Sharing

- HB 172 would combine the state's two most important programs of shared revenues with municipalities -- State Revenue Sharing and Municipal Assistance. The effects of this consolidation would include simplified program administration, a streamlined application procedure, and predictability of funding.
- Cleans up an existing provision of Title 29 which makes revenue sharing funds available to "Alaska Native Village" governments, which an Attorney General's opinion ruled was unconstitutional. HB 172 would resolve this problem by making revenue sharing available to all unincorporated communities in the unorganized borough, not just those with Native village governments.

Incorporation and Transition Grants

- Raises the organization grant paid by the state to newly formed cities from \$10 per voter to a \$50,000 in the first year and \$25,000 in the second year. Boroughs would be eligible to receive a grant of \$300,000 in the first year, \$200,000 in the second, and \$100,000 in the third year following incorporation. Boroughs now receive \$25,000 on incorporation or \$10 per voter, whichever is higher. The increased organizational grants will make it much easier for communities or regions of the state to organize as municipalities.

Municipal Property Taxation

In the sections which deal with local property taxation, the bill clarifies several points which are confusing under current law. In addition, it allows municipalities more flexibility in the area of assessment policy.

In the past, property taxes were required to be levied equally against both real and personal property. HB 172 allows municipalities to exempt property in either category if it wishes to do so, an option which has been badly needed in some communities.

In addition, the Office of the State Assessor responds to numerous questions each year which are caused by the inferior organization of assessment and taxation laws under the current Title 29. The improved arrangement of these laws in HB 172 will be helpful in reducing the number of inquiries that the office currently addresses.

Second Class Borough Powers

Mandatory Powers

1. Assessment and collection of taxes. AS 29.33.030.
2. Education. AS 29.33.050.
3. Planning, platting, and zoning. AS 29.33.070-245.

Optional Areawide Powers (by ordinance, without a vote of the people)

1. Transportation systems. AS 29.48.030(b).
2. Licensing, impounding, and disposal of animals. AS 29.48.035(a)(5).
3. Water pollution control. AS 29.48.035(a)(17).
4. Air pollution control. AS 29.48.035(a)(18).
5. Licensing of day care facilities. AS 29.48.035(a)(20).

Optional Non-areawide Powers (by ordinance, without a vote of the people)

1. Fireworks. AS 29.48.020(1).
2. Animal control. AS 29.48.020(2) & AS 29.48.035(a)(5).
3. Licensing & operation of motor vehicles & operators. AS 29.48.020(3) & Title 28.
4. Snow vehicles. AS 29.48.020(4) & AS 05.30.070.
5. Garbage & solid waste collection and disposal. AS 29.48.020(5).
6. Water pollution control. AS 29.48.020(6) & AS 29.48.035(a)(17).
7. Housing rehabilitation for energy conservation. AS 29.48.020(7).
8. Local service roads & trails. AS 29.48.020(8).
9. Emergency communications centers. AS 29.48.020(9).
10. Transportation systems. AS 29.030(b).
11. Licensing of day care facilities. AS 29.48.035(a)(20).

Changes in HB 172

1. Economic development. New nonareawide power authorized in HB 172.
2. Air pollution control. In current law, authorized just areawide; in HB 172, both areawide and nonareawide.
3. Day care facilities. In current law, authorized both areawide and nonareawide; HB 172, just nonareawide.
4. Snow vehicles. HB 172 deletes reference, but power remains the same because of authority in Title 5.
5. Motor vehicles. HB 172 deletes reference; grant of power remains in Title 28, but not as clearly as in current Title 29.

Existing Title 29

- Chapter 29.03 Unorganized Borough
- Chapter 29.08 Classification of Municipalities
 - Reclassification 29.08.040
- Chapter 29.13 Home rule municipalities
 - Charter procedures
 - List of Title 29 sections which apply to home rule
- Chapter 29.18 Incorporation of municipalities
- Chapter 29.23 Officers and employees
 - Reapportionment 29.23.021-.033
 - Assembly and city council
 - Mayor
 - Borough and city administrator
 - Other officers, municipal clerk 29.23.360-.390
 - Boards and commissions 29.23.401
 - Manager plan 29.23.410-.480
 - Oaths of office 29.23.500
 - Discrimination 29.23.540
 - Conflict of interests 29.23.555
 - Vacancies in office 29.23.570
 - Public meetings 29.23.580
- Chapter 29.28 Elections
 - Election contests 29.28.050
 - Initiative and referendum
 - Recall
- Chapter 29.33 Areawide borough powers
- Chapter 29.38 Nonareawide borough powers
- Chapter 29.41 Third class boroughs (Haines only)
- Chapter 29.43 Cities outside boroughs powers
- Chapter 29.48 Additional powers of municipalities
 - City powers
 - Procedures for boroughs to acquire other powers
 - Acts required to be by ordinance, 29.48.130
 - Ordinance procedures 29.48.140-.180
 - Budget 29.48.190
 - Maximum criminal penalties 29.48.200
 - Sale of public land 29.48.260
- Chapter 29.53 Assessment and taxation
 - Tax exemptions
 - Assessment, board of equalization
 - Tax foreclosure and sales

City proprty tax 29.53.400
Sales tax 29.53.414-.460

Chapter 29.58 Municipal debt
General obligation bonds
Revenue bonds

Chapter 29.63 Special Assessments and service areas
Local improvement districts - city or borough
Service areas - local exercise of borough powers

Chapter 29.68 Boundaries
Annexation
Detachment
Unification

Chapters 29.73 and 29.78 Miscellaneous
Condemnation (eminent domain)
Municipal name change
Definitions

Chapter 29.88 Municipal tax resource equalization entitlement

Chapter 29.84 State aid
Revenue sharing

Proposed Title 29

- Chapter 29.03 Unorganized borough
- Chapter 29.04 Classification of municipalities
 - Reclassification 29.04.040-.060
- Chapter 29.05 Incorporation
- Chapter 29.06 Boundaries
 - Name change
 - Annexation and detachment
 - Unification
- Chapter 29.10 Home rule
 - Charter procedures
 - List of limitations on powers
- Chapter 29.20 Officers and employees
 - Conflict of interest 29.10.010
 - Public meetings 29.20.020
 - Reapportionment
 - Assembly and city council
 - Vacancies 29.20.170, .180, .280
 - Administrator
 - Mayor
 - Boards and commissions
 - Other officers
 - Manager plan 29.20.470-.520
 - Oaths of office 29.20.600
- Chapter 29.25 Ordinances
 - Acts required to be by ordinance 29.25.010
 - Ordinance procedures 29.25.020-.050
 - Maximum criminal penalties 29.25.070
- Chapter 29.26 Elections
 - Procedures
 - Contest 29.26.070
 - Initiative and referendum 29.26.100-.190
 - Recall 29.26.240-.360
- Chapter 29.35 Municipal powers
 - General powers 29.35.010
 - Borough areawide powers 29.35.150-.180
 - First class borough 29.35.200
 - Second class borough 29.35.210
 - Third class borough (Haines only) 29.35.220
 - Cities inside boroughs 29.35.250
 - Cities outside boroughs 29.35.260
 - Additional powers procedures 29.35.300-.340
 - Service areas 29.35.450-.490

Chapter 29.40 Planning and platting

Chapter 29.45 Taxation

Tax exemptions 29.45.030-.050
Assessment, board of equalization
Tax foreclosures and sales
City property tax 29.45.550-.600
Sales tax 29.45.650-.710

Chapter 29.46 Special assessments
Local improvement districts

Chapter 29.47 Municipal debt
General obligation bonds
Revenue bonds

Chapter 29.55 Municipal programs
Historical preservation 29.55.010-.020

Chapter 29.60 State programs
Municipal tax residence equalization entitlements
29.60.010-.080
Revenue sharing 29.60.100-.180
Municipal assistance 29.60.350-.360

Chapter 29.60 Land grant
Land selections

Chapter 29.71 Miscellaneous
Definitions

TITLE 29 FACT SHEET

SUMMARY OF HB 172/SB 1 - TITLE 29 (MUNICIPAL CODE)

HB 172 and SB 1 are comprehensive bills that reorganize and clarify Title 29 (Municipal Code), but do not substantially change that part of the state statutes that direct the operation of local government in Alaska.

History: The current Title 29, last revised in 1972, is a hodgepodge of 13 years worth of amendments. It is very difficult for the average citizen to read and understand.

Recognizing the problem, the Legislature adopted SCR 66 in 1980, directing the rewrite of Title 29. A broadly representative policy committee, with the assistance of a technical committee, prepared a revised code after an exhaustive series of meetings, hearings, and public presentations.

HB 170 and SB 180 were introduced in 1981. More hearings were held during the 1981 legislative session, during the interim, and continuing through the 1982 session. SB 180 passed the legislature, but because of controversial floor amendments, Governor Hammond vetoed the bill.

In 1983, SB 1 was introduced by Senators Sturgulewski and Gilman; HB 172, by Governor Sheffield. Both bills are basically the same as the bill that had passed the previous year minus the controversial amendments. More committee work was done in both the House and Senate on the 204 page bill.

Changes: For the most part, these bills reorganize and reword Title 29 for clarity and flexibility. Policy changes of any substance are very few. The main changes are:

Third Class Boroughs: The existing third class borough, Haines Borough, continues in existence, but there is no provision for incorporating new third class boroughs in the future.

Home Rule Status: Second class cities and unincorporated areas are authorized to adopt home rule charters, which must be ratified by a vote of the people.

Municipal Powers: A general grant of municipal powers is given to municipalities, instead of a long list of enumerated powers. The difference is more semantic than actual, since the list includes almost every conceivable municipal power. There is no change in the manner in which boroughs acquire powers.

Organizational Grants/Feasibility Studies: The organizational grants are increased and expanded, depending on the category of local government. Studies for the feasibility of local government are authorized.

Incorporation Requirements: The minimum number of people required for incorporation as either a first class or home rule city is increased from 400 to 600.

Ordinance Violation: Penalties for ordinance violations are increased from a maximum \$500 and 30-days to class B misdemeanor penalties, which are a maximum of \$1000 and 90-days.

Extraterritorial Jurisdiction: Solid and septic waste disposal, utility services, wharves, harbors, and other marine services are added to the list of powers that may be exercised outside the boundaries of the municipality, if the municipality has the authority to exercise the power inside its boundaries.

Economic Development: Allow economic development as a non-area-wide power for second class

boroughs, without requiring a vote of the people to exercise it.

Franchise: Requires a vote on franchises of more than 5 years; current law requires a vote on all franchises.

Eminent Domain: Removes the requirement that second class cities get permission from the Department of Community and Regional Affairs and the voters before exercising the power of eminent domain.

Planning, Platting, and Land Use: Updates the language, changing "zoning" to "land use".

Run-Off Elections: Allows run-off election procedures and requirements to be changed by ordinance.

Personal Property: Allows exemption of personal property from taxation.

Taxation of Boats: Removes the \$5 and \$15 property tax limit on boats if assessed on the basis of net tonnage.

Penalties and Interest: Increases the maximum penalty on delinquent property and sales tax from 10% to 20% and interest from 8% to 15%.

Revenue Bonds: Authorizes revenue bonds to be payable solely from the revenue and property of the project.

Municipal Assistance Fund: Moves the administration of the Municipal Assistance Fund from the Department of Revenue to the Department of Community & Regional Affairs.

Municipal Property Disposal: Requires municipalities to adopt formal procedures by ordinance; current law sets out procedures including requiring an election on the disposal of any property valued at more than \$25,000.

The substantive differences between SE 1 and HB 172 are:

Hospital Definition: Proposed CSHB 172 (CRA) adds "special" hospitals to the definition section for revenue sharing eligibility.

Farm Use Greenhouses: Senate CRA amendment to SB 1 provides for the assessing of farm use greenhouses on the basis of full and true value for farm use.

Annexation and Detachment: Senate CRA amendment to SB 1 adds detachment language to the annexation sections and establishes a time deadline for Local Boundary Commission action.

Education Powers: Senate CRA recommends amending the powers section to provide for a double majority vote before a second class city or an unincorporated area in an REAA can assume the education power when incorporating as a first class or home rule city. The vote would be both in the proposed incorporating area and the rest of the REAA.

CITY OF KODIAK
RESOLUTION NUMBER 12-84

A RESOLUTION SUPPORTING HCS CS SENATE BILL 67* REGARDING RELOCATION OF
UTILITY FACILITIES

WHEREAS, the City of Kodiak owns rights-of-way upon which utility
facilities are located; and

WHEREAS, occasionally such utility facilities must be relocated during
the construction of road or highway projects; and

WHEREAS, this substituted version of Senate Bill 67* would allow the
cost of relocating such utility facilities to be governed by the terms of a
franchise, permit, or agreement or the lack of such agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak,
Alaska, that passage of HCS CS Senate Bill 67* be and is hereby supported.

BE IT FURTHER RESOLVED that copies of this resolution be sent to:

The Honorable Robert Mulcahy, Alaska State Senator
The Honorable Fred Zharoff, Alaska State Representative

PASSED AND APPROVED this 23RD day of FEBRUARY, 1984.

CITY OF KODIAK


MAYOR

ATTEST:


CITY CLERK

*NOTE: This resolution refers to the Community and Regional Affairs Committee
substitute.

CITY OF KODIAK
RESOLUTION NUMBER 11-84

A RESOLUTION SUPPORTING SENATE BILL 1 AND HOUSE BILL 172 WHICH REVISE AND REORGANIZE ALASKA STATUTE TITLE 29

WHEREAS, Alaska Statute Title 29 is that portion of state law which governs municipal government within the State of Alaska; and

WHEREAS, Title 29 has been in need of revision and reorganization for many years; and

WHEREAS, Senate Bill 1 and House Bill 172 were filed during the first session of the Thirteenth Legislature; and

WHEREAS, either one of these bills would accomplish the needed revision and reorganization; and

WHEREAS, the bills do not contain any of the provisions which were criticized by Governor Hammond in his July 15, 1982, veto; and

WHEREAS, the bills make many noncontroversial improvements that are long overdue and necessary for the smooth working of municipal government in our state,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the Alaska State Legislature is urged to pass Senate Bill 1 and/or House Bill 172 during this second session of the Thirteenth Legislature.


BE IT FURTHER RESOLVED that the Legislature refrain from making any controversial amendments to these bills.

AND, BE IT FURTHER RESOLVED that copies of this resolution be sent to:

The Honorable Robert Mulcahy, Alaska State Senator
The Honorable Fred Zharoff, Alaska Representative
The Honorable Bill Ray, Chairman of the Senate Judiciary Committee
The Honorable Mike W. Miller, Chairman of the House Community and Regional Affairs Committee

PASSED AND APPROVED this 23RD day of FEBRUARY, 1984.

CITY OF KODIAK


MAYOR

ATTEST:


CITY CLERK

Kodiak



Kodiak Island Borough

P.O. BOX 1246
KODIAK, ALASKA 99615-1246
PHONE (907) 486-5736

March 7, 1984

MAR 14 '84

The Honorable Mike W. Miller
Chairman House Community & Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Miller:

Please be advised that the Kodiak Island Borough Assembly at their regular meeting held March 1, 1984 unanimously adopted Resolution No. 84-20-R supporting Senate Bill 1 and/or House Bill 172 revising and reorganizing Alaska Statutes Title 29.

It is our belief that Title 29 has been in need of revision and re-organization for many years and that the bill makes many non-controversial improvements that are long overdue and necessary for the smooth working of municipal government in our state. We would therefore urge you to support Senate Bill 1 and/or House Bill 172 during the Second Session of the Thirteenth Legislature and work to encourage the legislature to refrain from making any controversial amendments to these bills.

If you have any further questions regarding this matter, please contact me at your convenience.

Sincerely,

KODIAK ISLAND BOROUGH

Jerome M. Selby, Mayor
Kodiak Island Borough

Enclosure: Res. No. 84-20-R

mdd

KODIAK ISLAND BOROUGH
RESOLUTION NO. 84-20-R

A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY SUPPORTING
SENATE BILL 1 AND HOUSE BILL 172 WHICH REVISE AND REORGANIZE ALASKA STATUTES
TITLE 29.

WHEREAS, Alaska Statutes Title 29 is that portion of State Law which
governs municipal government within the State of Alaska, and

WHEREAS, Title 29 has been in need of revision and reorganization
for many years, and

WHEREAS, Senate Bill 1 and House Bill 172 were filed during the
First Session of the 13th Legislature, and

WHEREAS, either one of these bills would accomplish the needed
revision and reorganization, and

WHEREAS, the bills do not contain any of the provisions which were
criticized by Governor Hammond in his July 15, 1982 veto, and

WHEREAS, the bills make many non-controversial improvements that are
long overdue and necessary for the smooth working of municipal government in
our state.

NOW, THEREFORE, BE IT RESOLVED by the Kodiak Island Borough Assembly
that the Alaska State Legislature's urge to pass Senate Bill 1 and/or House
Bill 172 during the Second Session of the Thirteenth Legislature.

BE IT FURTHER RESOLVED that the Legislature refrain from making
controversial amendments to these bills.

AND BE IT FURTHER RESOLVED that copies of this resolution be sent to:

- The Honorable Bob Mulcahy, State Senate
- The Honorable Fred F. Zharoff, House of Representatives
- The Honorable Bill Ray, Chairman, Senate Judiciary Committee
- The Honorable Mike W. Miller, Chairman, House Community
and Regional Affairs Committee
- The Alaska Municipal League

PASSED AND APPROVED this 1st day of March, 1984.

KODIAK ISLAND BOROUGH

By Jerome A. Selby
Borough Mayor

ATTEST:

By Shirley Miller, CMC
Borough Clerk



Official Business

Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811

Agenda for May 10th Community and Regional Affairs

- 1). Call to order.
- 2). Roll Call.
- 3). The first item of business will be HB 172:
An Act relating to municipal government.
- 4). Witnesses presentation/testimony.
- 5). The second item of business will be HB 396:
An Act relating to financial statements.
- 6). Witnesses presentation/testimony.
- 7). The third item of business will be HB 377:
An Act relating to Alaska Industrial Development Authority.
- 8). Witnesses presentation/testimony.
- 9). The fourth item of business will be SB 151: (if time permits)
An Act relating to Resource Development Authorities.
- 10). Witnesses presentation/testimony.
- 11). Closing.
- 12). Adjournment.

carry over

* Please note that the committee will be receiving statewide testimony via the teleconference network on May 16th, Monday, at 3:15 p.m. in the Butrovich Room. Item of discussion will be House Bill 377 and Senate Bill 151.

Alaska State Legislature

Representative Milo Fritz
District 5
P.O. Box 158
Anchor Point, Alaska 99556
(907) 235-8366



While In Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4833

House of Representatives

MILO FRITZ

MEMORANDUM

TO: Representative Mike W. Miller
Chairman, House C & RA Committee

FROM: Representative Milo H. Fritz
Interim Chairman, House C & RA Committee *MHF*

DATE: January 17, 1984

SUBJ: HB 172 Amendments

During the interim, my staff and I have studied HB 172 and its effects and implications. I have changes and alternatives to suggest that the Committee consider. These ideas come from my review of this legislation during the first session and an analysis of the Interim Report on HB 172. I will briefly outline my reasoning for each change in the hope that my ideas will be of assistance to you and the committee.

I believe that current amendments #2 and #7 will not have the effect which is desired, and that the legislation should be left as currently written in HB 172. Amendment #2 eliminates the "legal grounds" for a recall election. Although this would remove the legal problem of determining the sufficiency of grounds, it leaves totally open the right to pursue a recall. If any group has an inclination to start a recall, they state "a reason" and start collecting signatures. It would indeed be difficult to gather the amount of signatures necessary to have a recall election. However, the group will have received much media attention, the person who they are trying to recall has had his/her image tarnished, and the whole political process put into a state of turmoil. This is not even considering the mental anguish caused by this action.

I do not want to see any group have the ability to singularly influence the destiny of a city or borough by the use of a threat of recalling one or more members of the governing body. If we do not have the "grounds" of a "recall", we will be allowing the recall system to be used for purely political/personal interest purposes.

Amendment #7 would eliminate the exemption of greenhouses from assessment at full valuation for tax purposes. The argument against this exemption was that "the purpose of the exemption was to allow farms to continue in spite of otherwise inflated land prices, and the corresponding taxes. I believe that the greenhouses in our state also need this help. If a greenhouse is to be successful, it must have the ability to get its produce to market, which is the urban population centers. The law is written so that a highly prosperous greenhouse, will be taxed at a high "true value of farm use", thereby seeing that equitable taxes are paid. This exemption will allow our fledgling greenhouse industry a chance to grow.

Amendments #8 and #9 should be withdrawn from consideration. The 13th Legislature, as a whole and with concurrence of the Governor, has dealt with these issues by the passage of SB 260 and HB 274, respectively. This decision should be incorporated into the Committee Substitute as recommended by amendment #10.

Amendment #11 was requested by the Alaska State Hospital Association and should be judged on its merits. Their claim of discrimination against a "special" hospital seems to be valid.

Amendment #12 was placed in the Interim Report because it is a part of the information, and is an alternative. However, I strongly urge the rejection of this amendment. The differences between the two bills, were caused in a large part, by the rejection of proposed amendment #6 during the first session. I believe the Senate may change their bill or accept our version if it passes first. The proper time to discuss any remaining differences will be in Conference Committee.

Amendment #13 is a matter of housekeeping.

In addition to the Municipal Code revision, the report to the 13th State Legislature examining court decisions and opinions of the Attorney General construing Alaska Statutes revealed a problem with the local preference law. AS 04.11.502 states that one or "several questions" can be placed before the voters. The preceding paragraphs which have been updated specifically state that only one question can be placed before the voters at a time. Correcting this oversight will only take a short amendment removing the words "or several questions" from A.S. 04.011.502 (a) and (b). This action was suggested on page 78 of the report.

Alaska State Legislature



Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

January 20, 1984

Ginny Chitwood
Executive Director
Alaska Municipal League
105 Municipal Way
Suite 301
Juneau, Alaska 99801

Dear Ginny,

Thank you for providing my office with the League's policy statements and resolutions. It should provide another valuable source of input as the Legislature debates many issues this session. While I may not personally agree with all the statements or requests in the policy, I certainly welcome the League's input in the discussion process.

Just touching on a few issues, I feel the Legislature supports acquisition of the Alaska Railroad. Senator Kerttula and I have introduced legislation to operate the railroad, and I would be interested in your input.

I think we may be able to see passage of Title 29 revisions this session. Certainly we are making an effort in the House to accomplish this and, I have spoken several times on the need to upgrade and, possibly, expand the marine highway system.

In general, your policy statement appears to reflect interests throughout the state.

Thanks again, and please feel free to contact my office if you would like to discuss any of the issues in further depth.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Joe".

Joe L. Hayes
SPEAKER OF THE HOUSE

JLH:jkd

SENATE AMENDMENT

Suggested
by Liberty
HB 274

By Community & Regional Affairs Committee

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: ~~33~~ LINE: ~~28~~

Insert "(26) 29.35.060 (franchise and permits)". Renumber following paragraphs accordingly.

* Page 33, line 29, insert:

ok "(28) 29.35.075 (disputes and conflicts with state certificated utilities)"

Page 77, after line 3, insert:

"(c) This section applies to home rule and general law municipalities."

Page 77, line 4-19, delete Section 29.35.070 and insert:

"Sec. 29.35.070. PUBLIC UTILITIES. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate the service, and may fix, establish, and change the rates and the charges imposed for a utility service provided to the municipality or its inhabitants by a utility except to the extent

42.05; or (1) the utility is subject to regulation under AS

(2) municipal regulation is prohibited by AS 42.05.711(k) or otherwise specifically prohibited by law.

(b) The municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.

(c) Unless the utility is owned by the municipality that is regulating it, all rates, charges and regulations established under this section shall be established as provided by an ordinance of the municipality establishing

1/1/50

the procedures for regulating service and procedures for establishing and changing the rates and charges of the utility. The ordinance shall provide for notice, hearing and other procedures necessary to guarantee due process. The rates and charges established shall be reasonable and shall permit a fair return on invested capital.

(d) This section applies to home rule and general law municipalities.

Page 77, after line 19, insert:

"Sec. 29.35.075. DISPUTES AND CONFLICTS WITH STATE CERTIFICATED UTILITIES. (a) A dispute as to the reasonableness of the fees for or the terms, conditions, or exceptions to a permit for a utility certificated under AS 42.05 to use municipal streets, alleys or other public ways of the municipality shall be decided under AS 42.05.251.

and (b) In case of a conflict between the provisions of AS 29.35.070 or AS 42.05 or an action taken under either as to the regulation of service, rates or charges of a utility, the provisions of AS 42.05.641 apply.

* (c) This section applies to home rule and general law municipalities.

Page 195, after line 19, insert:

"*Sec. 62. AS 42.05.711 is amended by adding a new subsection to read:

(k) Except for municipally owned and operated utilities subject to (b) of this section, municipalities may not regulate utility services, including but not limited to rates, terms and conditions of services, provided by a person, utility or cooperative that is exempt from regulation under AS 42.05.711."

Re-number following sections accordingly.

SENATE AMENDMENT

By Community & Regional Affairs Committee

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: 74 LINE: 9

troub

Delete "utility services,"

Page 77, after line 17, insert:

"(d) A municipality that owns or operates a utility may extend service to adjacent areas outside its municipal boundaries. For that purpose the municipality may acquire, maintain and operate utility facilities together with necessary interests in real property outside its municipal boundaries."

Page 77, line 18, delete:

"(d)" and insert "(e)"

*Service Area Cert.
from APUC.*

Kallas Severo

1. Not a taxpayer
H. R. Amendment
production to specific

Fed bet poor drafted
Does State have authority to defers Fed law.

Roger Land go Salt Corp

1. Tucker ✓
2. Claxton ✓
3. Phillip

his is mad at me.



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA
155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

LAW DEPARTMENT - 586-5242

May 20, 1983

Bob Harris
House Community & Regional
Affairs Committee
Pouch V
Juneau, Alaska 99811

FILE: HB 172

SUBJECT: Substitute Utility Language
for Title 29 Revision

Dear Bob:

If the House Community and Regional Affairs Committee would like to consider alternative language to that which has been proposed for the utilities section of the Title 29 revision, may I suggest the following. This language, I believe, accommodates the interests of the municipalities and of the utilities. It would exempt from municipal regulation those utilities, including co-ops, which have elected to exempt themselves from APUC regulation by a vote of the subscribers or members. It would also exempt from municipal regulation those small electric, telephone and garbage utilities which are presently exempt from APUC regulation but which may come under APUC regulation if 25% of the subscribers petition the commission for regulation. In addition, it would exempt from municipal regulation those utilities which the APUC itself exempts upon a finding of no legitimate public interest in regulation if the commission also finds that the utility should also be exempt from municipal regulation. If cable TV is given an exemption from APUC regulation, and the legislature believes that it should also be exempt from municipal regulation, a simple amendment to the following language making reference to the statute exempting cable TV would extend the exemption to municipal regulation of cable TV also. The substitute language would be as follows:

page 77, line 7 AS 29.35.070 PUBLIC UTILITIES. (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate the service and may fix, establish and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility except as provided in (b).

(b) A municipality may not regulate a utility

(1) to the extent it is ^{what} subject to regulation under AS 42.05; or

Re: HB 172 Substitute Language
May 20, 1983
Page Two

- (2) exempt from Alaska Public Utility Commission regulation under AS 42.05.711(d) if the commission finds that no legitimate public interest will be served by regulation by the commission or a municipality; or
 - (3) exempt from Alaska Public Utility Commission regulation under AS 42.05.711(e), (f), (g), (h) or (i); or
 - (4) specifically exempted by law from municipal regulation.
- (c) The municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.
- (d) Unless the utility is owned by the regulating municipality, all rates, charges and regulations established under this section shall be established as provided by an ordinance of the municipality which sets forth the procedures for regulating service and establishing and changing the rates and charges of the utility. The ordinance shall provide for notice, hearing and other procedures necessary to guarantee the utility due process. The rates and charges established shall be reasonable and shall permit a fair return on invested capital.
- (e) This section applies to home rule and general law municipalities.

Sincerely,



Gerald L. Sharp
City/Borough Attorney

GLS:jr

PROPOSED AMENDMENT TO

HB 172

Page 33, after line 28, insert:

"(26) AS 29.35.060 (franchise and permits)"
Renumber following paragraphs accordingly.

Page 33, after line 29, insert:

"(28) AS 29.35.075 (disputes and conflicts with state
certificated utilities)"
Renumber following paragraphs accordingly.

Page 74, line 12, delete:

"utility services,"

Page 77, after line 6 add a new subsection to read:

"(c) This section applies to home rule and general
law municipalities."

Page 77, lines 7 through 22, delete present language and
replace it with the following:

"Sec. 29.35.070. PUBLIC UTILITIES. (a) The
assembly for the area outside all cities in the borough
and the council acting for the area in a city may
regulate a utility service and fix, establish, and
change the rates and charges imposed for a utility
service provided to the municipality or its inhabitants
by a utility except to the extent

(1) the utility is subject to regulation under AS
42.05; or

(2) municipal regulation is prohibited by AS
42.05.711(k) or other law.

(b) A municipality may provide for a reasonable
deposit for meters and service to be given if interest
is paid on the deposit.

(c) A municipality that owns or operates a utility
may extend service to adjacent areas outside its
municipal boundaries. For that purpose the
municipality may acquire, maintain, and operate utility
facilities together with necessary interests in real
property outside its municipal boundaries.

(d) Unless a utility is owned by the municipality
that is regulating it, all rates, charges, and
regulations shall be established by the municipality in
accordance with an ordinance that provides procedures
for regulating service and establishing and changing

rates and charges. The ordinance shall provide for procedures necessary to guarantee due process, including notice and hearing requirements. Rates and charges established under this section shall be reasonable and permit a fair return on invested capital.

(e) A dispute involving a utility certificated under AS 42.05 as to the reasonableness of the fees for or the terms, conditions, or exceptions to a permit to use municipal streets shall be decided under AS 42.05.251.

(f) In case of a conflict between the provisions of this section and AS 42.05 or concerning an action taken under this section or AS 42.05 involving the regulation of service or the rates or charges of a utility certificated under AS 42.05, the provisions of AS 42.05.641 apply.

(g) This section applies to home rule and general law municipalities."

Page 195, after line 22, add a new section to read:

"* Sec. 62. AS 42.05.711 is amended by adding a new subsection to read:

(k) A public utility that is exempt or partially exempt under (d) through (j) of this section from the provisions of AS 42.05.010 - 42.05.721 may not be regulated by a municipality."

HOUSE PRIORITY BILL STATUS 5/30/83

BILL #	ABBREVIATED TITLE	CURRENT STATUS	DATE
HB 6	RE: DRIVING A MOTOR VEHICLE	IN (S) JUDICIARY	5/19/83
HB 7	RE: MOTOR VEHICLES; ED	IN (S) LABOR & COM	5/23/83
HB 8	RE: JUDICIAL RETENTION ELECTIONS; ED	IN (S) RULES	5/25/83
HB 10	RE: IMITATION CONTROLLED SUBSTANCES	IN (S) JUDICIARY	5/26/83
HB 17	ADVISORY VOTE/DRINKING AGE TO 21	IN (S) JUDICIARY	5/18/83
HB 33	SPEC APPROP/DOTPF/CRIME LAB IN ANCHORAGE; E	IN (S) RULES	5/26/83
HB 42	RE: POPULATION/CALCULATE STATE AID; ED	IN (S) FINANCE	5/25/83
HB 58	RE: COUNSELING/TREATMENT REQ'D BY COURT/COR	IN (S) HESS	4/27/83
HB 67	RE: USE/PUBLIC MONEY/PMT/NON-RESIDENTS	IN (S) LABOR & COM	5/13/83
HB 79	REPEAL DISQUALIFICATION/JUDGE/CHG RULE 10&2	IN (S) JUDICIARY	5/17/83
HB 89	REPEAL TAX CREDIT/POLITICAL CONTRIBUTIONS;	IN (S) FINANCE	5/27/83
HB 109	RE: PERSONS 16 OR 17/CHARGED/FELONIES/WAIVE	IN (S) HESS	5/03/83
HB 126	LIMIT LIABILITY/AIRCRAFT OWNERS/INJURY/PASS	IN (S) LABOR & COM	5/19/83
HB 128	RAISE PENALTIES/CHILD PROSTITUTION; ED	IN (S) JUDICIARY	5/20/83
HB 130	RE: HOMESTEADS; ED	IN (S) RESOURCES	4/26/83
HB 165	RE: PUBLIC OFFICES CMSN	IN (S) FINANCE	5/20/83
HB 202	INCREASE LIQUOR TAX; ED	IN (S) RULES	5/19/83
HB 210	RE: PAYMENT FOR PURCHASES BY THE STATE; ED	IN (S) LABOR & COM	5/18/83
HB 214	RE: NUMBER OF SUPERIOR COURT JUDGES; ED	IN (S) FINANCE	5/17/83
HB 243	RE: DAY CARE/DISABLED CHILDREN	IN (S) FINANCE	5/26/83
HB 251	RE: STATE SUPPORT FOR EDUCATION; ED	IN (S) RULES	5/19/83
HB 258	ESTAB SPECIAL INVESTMENT TAX CREDIT; ED	IN (S) STATE AFFAI	5/23/83
HB 270	RE: CHILD PORNOGRAPHY	IN (S) JUDICIARY	5/26/83
HB 294	ESTAB AK TOLL BRIDGE AND CAUSEWAY AUTHORITY	IN (S) TRANSPORTAT	5/19/83
HB 295	SPEC APPROP/KNIK ARM CROSSING/AK TOLL BRIDG	IN (S) TRANSPORTAT	5/19/83
HB 302	RE: STATE HOUSING LOANS; ED	IN (S) LABOR & COM	5/23/83
HB 306	RE: BURIAL ALLOWANCES FOR VETERANS	IN (S) STATE AFFAI	5/12/83
HB 311	RE: WORKERS' COMPENSATION; ED	IN (S) FINANCE	5/23/83
HB 312	RE: HARMING A POLICE DOG; ED	IN (S) RULES	5/17/83
HB 314	SPEC APPROP/LAA/JOINT OIL & GAS CMTE; ED	IN (S) RULES	5/06/83
HB 323	RE: RESIDENCY AND RESIDENCY REQUIREMENTS; E	POSTPND 5/30/83(H)	5/27/83
HB 345	RE: VICTIM'S RIGHTS IN SENTENCING FELONS	IN (H) RULES	5/26/83
HB 375	RE: ACCESS/CERTAIN CRIMINAL JUSTICE INFORMA	IN (S) FINANCE	5/27/83
HB 381	RE: WHOLESALE PRICES FOR SALMON; ED	IN (S) FINANCE	5/25/83
HB 409	RE: PRIMARY & GENERAL ELECTIONS	FAILED (H)	5/23/83
HJR 2	AM AK CONSTITUTION/LENGTH OF SESSION	IN (S) JUDICIARY	5/25/83
HJR 5	AM AK CONST/RE:ANNUL REGULATIONS/LEGISLATUR	IN (S) RULES	5/17/83
HJR 7	AM AK CONSTITUTION/RE: ELECTIONS/ATTY GENER	IN (S) JUDICIARY	5/27/83
HCR 2	RE: TRAVEL/SNR CITIZENS/VESSELS/AK MARINE H	IN (S) RULES	5/19/83

SENATE PRIORITY BILL STATUS 5/30/83

BILL #	ABBREVIATED TITLE	CURRENT STATUS	DATE
SB 7	APPROP/DOTPF/LOCAL SERVICE ROADS/TRAILS; ED	IN (H) FINANCE	4/26/83
SB 18	SPEC APPROP/CAPITAL PROJECTS/ELEMENTARY/SEC	IN (H) FINANCE	5/09/83
SB 19	SPEC APPROP/POST SEC EDUCATION/CAPITAL PROJ	IN (H) FINANCE	5/03/83
SB 40	SPEC APPROP/APPROP TRANSFER/SETTLEMENT/AK/U	IN (H) RULES	5/20/83
SB 41	RE:TRANSFER U OF AK LAND/DEPT/NAT RES TO U	IN (H) RULES	5/20/83
SB 51	ESTAB SHUYAK ISLAND STATE PARK; ED	IN (H) RESOURCES	4/12/83
SB 53	AUTHORIZE MUNIS/EXEMPT INVENTORIES/TAX; ED	IN (H) RULES	5/25/83
SB 55	RE: COLLECTIVE BARGAINING; ED	IN (S) FINANCE	3/03/83
SB 63	RE: AK COMMISSION/STATUS OF WOMEN; ED	IN (H) RULES	5/18/83
SB 93	ESTAB ENDOWMENT/PHYSICAL SCIENCES/UNIV OF A	IN (H) HESS	5/21/83
SB 97	SUPPL APPROP/DEPT/HEALTH & SS/BETHEL SOCIAL	IN (H) RULES	5/25/83
SB 98	SUPPL APPROP/MUNIS/UNICORPORATED COMMUNITIE	IN (H) FINANCE	4/15/83
SB 105	AM APPROP/CH 90 SLA 1981/AK POWER AUTH/SNET	IN (H) RULES	5/26/83
SB 108	ESTAB FAIRBANKS STATE FOREST/MANAGEMENT PRO	IN (H) FINANCE	5/27/83
SB 120	RE: SOIL AND WATER CONSERVATION; ED	IN (H) RESOURCES	5/21/83
SB 124	AM AK AGRICULTURAL LOAN ACT (AS 03.10); ED	IN (H) RULES	5/26/83
SB 128	ESTAB MARINE PARK UNITS/AK STATE PARKS SYST	IN (H) FINANCE	5/12/83
SB 132	ESTAB AK ADMINISTRATIVE JOURNAL; ED	IN (H) STATE AFFAI	5/12/83
SB 136	RE: OPERATION/STATIONARY FISHING GEAR; ED	IN (H) RULES	5/18/83
SB 137	REQUIRE/LOBBY/REGULATION (AS 24.45); ED	IN (S) RULES	5/17/83
SB 151	RE: REGIONAL RESOURCE DEVELOPMENT AUTHORITI	IN (H) FINANCE	5/27/83
S3 152	RE: DIV/BUDGET & MGMT/DPDP/COASTAL MGMT; ED	IN (H) RULES	3/28/83
SB 168	RE: AK POWER AUTHORITY; ED	IN (S) RULES	5/26/83
SB 169	ESTAB AK GRAIN RESERVE/LOAN FUND; ED	RET (S) RULES	5/25/83
SB 174	RE: EMPLOYMENT PREFERENCES/STATE RESIDENTS;	IN (H) LABOR & COM	5/26/83
SB 194	RE: KUSKOKWIM ICE CLASSIC	IN (H) RULES	5/20/83
SB 203	RE: ASSESS OIL TRANSPORTATION FACILITIES; E	IN (S) FINANCE	3/24/83
SB 215	AK PERMANENT FUND INCOME PAY LONGEVITY BONU	IN (H) FINANCE	5/27/83
SB 216	RE: MINING LEASE LOCATIONS/CLASSIFICATION/S	IN (H) RULES	5/26/83
SB 229	SPEC APPROP/UNIVERSITY/AK/CAPITAL PROJECTS;	IN (H) FINANCE	5/05/83
SB 230	RE: PERMANENT FUND DIVIDEND DISTRIBUTION PR	IN (H) RULES	5/20/83
SB 256	SPEC APPROP/PURCHASE SHELDON JACKSON MUSEUM	IN (H) FINANCE	5/21/83
SB 257	RE: STANDARDS OF CONDUCT/LEGISLATORS; ED	IN (H) JUDICIARY	5/25/83
SB 265	RE: PERMITS/GAMES OF CHANCE/CONTESTS OF SKI	IN (H) STATE AFFAI	5/26/86
SJR 1	RE:PROPOSAL/CONGRESS/EQUAL RIGHTS AMENDMENT	IN (H) RULES	5/20/83
SJR 3	AM AK CONSTITUTION RE AGRICULTURAL RIGHTS/S	RET (S) RULES	5/11/83
HB 181	RE: REGULATION/PSYCHOLOGICAL ASSOCIATE EXAM	IN (S) RULES	5/04/83
SB 150	APPROP/DEPT/ENVIRON CONSERV/DEPT/ED/WATER &	IN (H) FINANCE	4/20/83
SB 158	REAPPROPRIATIONS/APPROPRIATION ADJUSTMENTS;	IN (S) FINANCE	4/29/83

*** **

Alaska State Legislature

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski



Room 104
State Capitol
Juneau, Alaska 99811
Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

MEMORANDUM

TO: Committee on Community and Regional Affairs

From: Staff

Date: May 20, 1983

Re: Amendments to HB 172

The Committee has completed action on proposed amendments One through eight; except that representatives of the Cape Fox Corporation were offered an opportunity to prepare new language for amendment No. 8.

Amendment No. 8 deals with a definition of developed lands for tax exempt status. A revised definition has been prepared for Committee review.

Amendment No.9 has been requested by representatives of the Alaska Rural Electric Cooperative Association. A staff summary has been prepared in an attempt to clarify the basis of the issue.

Following Committee decision on the above proposed amendments, staff will request a Committee Substitute HB 172 that will incorporate all approved amendments.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POLICE DEPARTMENT
1100 W. ALASKA ST.
ANCHORAGE, ALASKA 99501

MEMORANDUM

March 3, 1983

SUBJECT: Impact of land use regulation on development
of energy resources (Work Order No. 13-0881)

TO: Representative Barbara Lacher
Chairman, House Community and
Regional Affairs Committee

FROM: Tamara Brandt Cook
Legislative Counsel *TBC*

You have asked whether the changes in HB 172 to the provisions dealing with land use regulation discourage development of energy resources as compared to existing laws that authorize land use regulation by municipalities.

Under AS 29.33.090, a municipality is required to regulate the use of land in accordance with a comprehensive plan through zoning by districts. The zoning regulations must be uniform for each type of building or area within a particular district, but the regulations may differ between the various districts. In addition, a municipality is authorized to rezone property to a less restricted use if the owner of the property agrees to place restrictions on the use of the land beyond those restrictions imposed under the general zoning requirements. Subsection (b) of that section contains a list of the types of restrictions that may be imposed through zoning. While paragraphs (2) - (6) deal with very specific restrictions relating to buildings, paragraph (1) grants broad authority to restrict "land use". It should be noted that the list is by way of example of various zoning restrictions and does not limit the types of restrictions that a municipality may impose through zoning. However, under this section a municipality is authorized to regulate land use only through zoning and may not use other land use techniques.

In contrast to existing law, under sec. 29.40.040 of HB 172, a municipality may implement the comprehensive plan through zoning, land use permit requirements, or any other method of

land use regulation. To the extent that greater flexibility is authorized in the implementation of a comprehensive plan, HB 172 makes it more practical for a municipality to adopt measures that may have the effect of discouraging the development of energy resources. Nevertheless, under both HB 172 and under existing law a municipality has the general authority to regulate land use regardless of whether this regulation places burdens on the development of energy resources and thereby discourages that development. In addition, the change in HB 172 that allows municipalities to use other techniques in addition to zoning impacts only general law municipalities, since under existing law home rule municipalities are not limited to the use of zoning in regulating land use.

In considering whether the changes in HB 172 may discourage development of energy resources it is necessary to determine whether the power to regulate land use has been significantly expanded under this bill with respect to each class of municipality. Under secs. 29.10.200(32), 29.35.180(b), 29.35.250(c), and 29.35.260(c) of HB 172, a home rule borough and home rule city in the organized borough or in the third class borough must provide for land use regulation, but a home rule municipality is not bound by the general provisions dealing with land use regulation set out in Title 29. Under existing law, although some provisions appear contradictory, most home rule municipalities are not required to provide land use regulation, nor are they restricted from providing land use regulation. A home rule municipality that does regulate land is not required to comply with provisions contained in Title 29 dealing with land use regulation except for provisions dealing with zoning and platting of state land (AS 29.13.100(37) and (39)). The general requirement that boroughs provide for planning, platting and zoning contained in AS 29.33.070 is not a home rule limitation. Under AS 29.43.040 home rule cities in third class boroughs and outside boroughs are required to provide for planning, platting and zoning ". . . as provided for boroughs". This is a home rule limitation under AS 29.13.100(12). Since, under AS 29.43.010, powers incorporated by reference to laws governing boroughs apply to home rule cities outside boroughs only if applicable to home rule boroughs and home rule boroughs are not required to provide for planning, platting and zoning, the net result is that only home rule cities in third class boroughs are required to provide land use regulation.

In summary, under HB 172, home rule boroughs and home rule cities in the third class borough or in the unorganized borough must provide land use regulation, but need not comply with provisions dealing with land use regulation contained in Title 29. Under existing law, only home rule cities in the third class borough are required to provide land use regulation, but home rule boroughs and home rule cities in the unorganized borough are not prohibited from providing land use regulation. No home rule municipality must comply with provisions contained in Title 29 dealing with land use regulation, with the minor exception of the provisions dealing with state land. The changes in HB 172 do not appear to confer broader authority upon home rule municipalities than they now have in the area of land use regulation, and consequently should not present any special discouragement to the development of energy resources in home rule municipalities.

HB 172 does not appear to expand the authority of the various classes of general law municipalities to provide land use regulation. As in existing law, these must comply with specific provisions regarding land use regulation contained in Title 29. Under AS 29.33.070, first and second class boroughs must provide for planning, platting and zoning. Under secs. 29.35.180(a) and 29.40.010 of HB 172 first and second class boroughs must provide for land use regulation. AS 29.41.010(b) allows third class boroughs to exercise the power of planning, platting and zoning in service areas. Secs. 29.35.220 and 29.35.300(b) of HB 172 provide for exercise of the power of land use regulation by third class boroughs in service areas. AS 29.43.040 authorizes first class cities and second class cities in the unorganized borough or in the third class borough to provide for planning, platting and zoning. Secs. 29.35.250 and 29.35.260 of HB 172 grant the same authority to regulate land use to these cities. HB 172 does not grant the power to regulate land use to any general law municipality that does not have that power under existing law, so, in that respect, does not present additional impediments to development of energy resources.

TBC:ljb
9/039

Alaska State Legislature

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clocksin
Jack McBride
Mike Szymanski



Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

AGNEDA FOR APRIL 25, 1983

- 1). Call to order.
- 2). Roll Call.
- 3). The first item of business will be HB 172.
"An Act relating to municipal government and providing for an effective date."
- 4). Witnesses presentation/testimony.
- 5). The second item of business will be CSSB 317.
"An Act relating to state revenue sharing and municipal assistance programs; establishing a program of aid for unincorporated communities and providing for an effective date."
- 6). Witnesses presentation/testimony.
- 7). Closing.
- 8). Adjournment.



Official Business

Alaska State Legislature

House of Representatives

REVISED

Agenda for Week of May 9th to May 13th

Pouch V
State Capitol
Juneau, Alaska 99811

Monday, May 9th
3:15 p.m.

Butrovich Rm.
M-W-F

- CS SB 151 "An Act relating to Regional Resource Development Authorities; and providing for an effective date."
- CS HB 377 "An Act Financing regional transportation facilities by the Alaska Industrial Development Authority; and providing for an effective date."
- CS SB 67 "An Act relating to the relocation of utility facilities incident to the construction of road or highway projects by a municipality; and providing for an effective date."

Tuesday, May 10th

3:15 p.m. -- ~~RM-102~~ HOUSE SUBCOMMITTEE

- HB 172 "An Act relating to municipal government and providing for an effective date."
- ** HB 396 "An Act relating to certain audit and financial statement requirements."

Wednesday, May 11th

3:15 p.m.

- ** HB 328 "An Act relating to subdivisions of state lands."
- ** HB 330 "An Act relating to construction of streets in subdivisions."

Friday, May 13th

3:15 p.m.

- SB 53 "An Act authorizing municipalities to exempt business inventories from taxation; and providing for an effective date."

Bills in Committee.....

Alaska State Legislature



Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
Milo Fritz
Don Clecksin
Jack McBride
Mike Szymanski

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

HOUSE C & R A COMMITTEE AGENDA

March 17, 1983

1. Call to Order
2. Roll Call
3. Today's Agenda - HB 172
4. Closing
5. Adjournment



HB 172

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 7, 1983

The Honorable Joe L. Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill revising the municipal code (AS 29). By our using the data base prepared by the Legislative Affairs Agency, this bill is identical to the bill introduced this session as Senate Bill No. 1, except for the correction of a typographical error (page 35, line 5 -- "overridden"), the justification of the right-hand margin on several pages, and 11 rather technical changes that are described below. The bill was modeled on the bill approved last session by the House Finance Committee as HCS CSSB 180 (Fin). A detailed section-by-section analysis of SB 1 is being prepared by the Legislative Affairs Agency.

The bill does not contain any of the provisions which were criticized by Governor Hammond in his July 15, 1982 veto message for HCS CSSB 180 (Jud) am H. See 1982 Senate Journal, pages 1788 -- 1792. This bill makes many non-controversial improvements to our municipal code and I urge its prompt consideration and passage. It is my hope that the AS 29 issues on which last year's amendments created such a controversy will be addressed by separate legislation so that this needed code revision is not once again delayed.

For your convenience in comparing SB 1 and this bill, here is a list of the 11 changes from SB 1 which are contained in this bill (with page and line numbers referring to SB 1):

1. page 8, line 26 -- following "council" the phrase "in a first class city" is added;

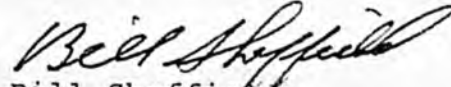
2. page 11, line 1 -- between the words "city" and "incorporated," the phrase "in the unorganized borough" is added;
3. page 29, line 8 -- following the first use of "commission," the phrase "of seven elected members" is added;
4. page 29, lines 14 and 15 -- following "shall be" on line 14, the phrase "prepared by the petitioners and" is added and the word "incorporation" is deleted; following "petition" on line 15, the phrase "to incorporate a home rule municipality" is added;
5. page 62, line 3 -- a sentence to read "The runoff election shall be between the two candidates receiving the greatest number of votes for the seat." is added to sec. 29.26.060(c);
6. page 63, lines 7 and 26, and page 64, line 15 -- replace the words "bill" and "Act" with the phrase "ordinance or resolution";
7. page 82, line 18 -- following "emergency," the word "services" is added, and following "center," the phrase "under AS 29.35.130" is added;
8. page 85, lines 4 and 5 -- subsection (c) is amended as follows:

(c) A third class borough acquires an additional power to exercise in a service area in accordance with AS 29.35.490(b) and (c) [AREAS BY HOLDING AN ELECTION ON THE QUESTION IN WHICH EACH PERSON WHO IS A VOTER OF THE BOROUGH MAY VOTE].
9. page 106, line 8 -- the first sentence of sec. 29.-45.040(b) is amended as follows:

(b) For purposes of determining payments to eligible persons, the department shall calculate at the rate of one percent per mill a property tax equivalent percentage for each municipality that levies a property tax [AT THE RATE OF ONE PERCENT PER MILL].
10. page 161, line 20 -- "29.60.120" is replaced with "29.60.130;"

11. page 182, line 1 -- following "general law," the phrase "first or second class" is deleted.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 172
Title "An Act Relating To Municipal Government"
Requested by Committee by request of Governor Date

II. FISCAL DETAIL

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	100.0	150.0	625.0		

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	0	100.0	150.0	625.0		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 1/27/83 PREPARED BY Terry Farley

AGENCY Community & Regional Affairs
PHONE 465-4730

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

HB 172

was read the first time and referred to the Community & Regional Affairs and the Judiciary Committees.

HB 172 was accompanied by a fiscal note which appears in House Journal Supplement No. 4, and the following letter:

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill revising the municipal code (AS 29). By our using the data base prepared by the Legislative Affairs Agency, this bill is identical to the bill introduced this session as Senate Bill No. 1, except for the correction of a typographical error (page 35, line 5 -- "overridden"), the justification of the right-hand-margin on several pages, and 11 rather technical changes that are described below. The bill was modeled on the bill approved last session by the House Finance Committee as HCS CSSB 180 (Fin). A detailed section-by-section analysis of SB 1 is being prepared by the Legislative Affairs Agency.

The bill does not contain any of the provisions which were criticized by Governor Hammond in his July 15, 1982 veto message for HCS CSSB 180 (Jud) am H. See 1982 Senate Journal, pages 1788 -- 1792. This bill makes many non-controversial improvements to our municipal code and I urge its prompt consideration and passage. It is my hope that the AS 29 issues on which last year's amendments created such a controversy will be addressed by separate legislation so that this needed code revision is not once again delayed.

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HB 172

4. page 29, lines 14 and 15 -- following "shall be" on line 14, the phrase "prepared by the petitioners and" is added and the word "incorporation" is deleted; following "petition" on line 15, the phrase "to incorporate a home rule municipality" is added;

5. page 62, line 3 -- a sentence to read "The runoff election shall be between the two candidates receiving the greatest number of votes for the seat." is added to sec. 29.26.060(c);

6. page 63, lines 7 and 26, and page 64, line 15 -- replace the words "bill" and "Act" with the phrase "ordinance or resolution";

7. page 82, line 18 -- following "emergency," the word "services" is added, and following "center," the phrase "under AS 29.35.130" is added;

8. page 85, lines 4 and 5 -- subsection (c) is amended as follows:

(c) A third class borough acquires an additional power to exercise in a service area in accordance with AS 29.35.490(b) and (c) (AREAS BY HOLDING AN ELECTION ON THE QUESTION IN WHICH EACH PERSON WHO IS A VOTER OF THE BOROUGH MAY VOTE).

9. page 106, line 8 -- the first sentence of sec. 29.-45.040(b) is amended as follows:

(b) For purposes of determining payments to eligible persons, the department shall calculate at the rate of one percent per mill a property tax equivalent percentage for each municipality that levies a property tax [AT THE RATE OF ONE PERCENT PER MILL].

10. page 161, line 20 -- "29.60.120" is replaced with "29.60.130;"

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Sincerely,

Bill Sheffield
Bill Sheffield
Governor

HB 172

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HB 172

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Sincerely,

Bill Sheffield
Bill Sheffield
Governor

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Municipalities have the following general powers, subject to other provisions of law:

- (1) to establish and prescribe the functions of municipal departments, offices or agencies;
- (2) to establish and prescribe salaries for the elected and appointed municipal officers and employees;
- (3) to make investigations of the affairs of the municipality and make inquiries into the conduct of a municipal department;
- (4) to enter into agreements, including those for cooperative or joint administration of any functions or powers with a local government, with the state, or with the United States;
- (5) to require periodic and special reports from a municipal department to be submitted through the municipal executive;
- (6) to sue and be sued;
- (7) to levy taxes and special assessments;
- (8) to enforce ordinances and to prescribe penalties for violations;
- (9) to acquire, manage, control, use and dispose of real and personal property for a purpose authorized under AS 29.03.010 - 29.95.030, federal law, or other law, or in accordance with such law, and irrespective of whether or not the property is situated within or outside the municipal boundaries; this power includes the power of a second class borough to expend, for any purpose