ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2173 HCRA HB 172 (FILE 4) - (FILE 5) 2173

Under Uniform Rule (43)(b), engrossment has been waived and certified amendments are attached.

Original sponsor: Rules/Legislative Council

Offered: 5/5/82
Referred: Finance

IN THE SENATE BY THE JUDICIARY COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 180 (Judiciary) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to municipal government,

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

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

Sec. 29.03.030. PLATTING AUTHORITY. Subject to AS 40.15.075, the Department of Natural Resources is the platting authority in the unorganized borough in the area outside all cities.

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

CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

Sec. 29.04.010. HOME RULE. A home rule municipality is a municipal corporation and political subdivision. It is a city or a borough that has adopted a home rule charter, or it is a unified municipality. A home rule municipality has all legislative powers not prohibited by law or charter.

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

Sec. 29.04.030. CLASSES OF GENERAL LAW. General law municipalities are of five classes:

(1) first class boroughs;

(2) second class boroughs;

(3) third class boroughs;

(4) first class cities;

(5) second class cities.

CERTIFIED AMENDMENTS

HOUSE CS FOR CS FOR SENATE BILL NO. 180 (Judiciary)

PAGE: 149 LINE: 22
through page 150 line 6
Delete Sec. 29.60.140 and replace with the following

AMENDMENT NO. 3

Sec. 29.60.140. STATE AID TO UNINCORPORATED COMMUNITIES. (a) The Department of Community and Regional Affairs shall pay an entitlement of $25,000 each fiscal year to each unincorporated community to be used for a public purpose. The Department of Community and Regional Affairs with advice from the Department of Law shall determine whether there is in each unincorporated community an incorporated nonprofit entity or a Native village council that will agree to receive and spend the entitlement. If there is more than one qualified entity in an unincorporated community, the Department of Community and Regional Affairs shall pay the money under the entitlement to the entity that the department finds most qualified to receive and spend the money. The Department of Community and Regional Affairs may not pay money under an entitlement to a Native village council unless the council waives immunity from suit for contract claims arising out of activities of the council related to the entitlement. A waiver of immunity from suit under this subsection must be on a form provided by the Department of Law. Neither this subsection nor any action taken under it enlarges or diminishes the governmental authority or jurisdiction of a Native village council. If there is no qualified incorporated nonprofit entity or Native village council in an unincorporated community that is willing to receive money under an entitlement, the entitlement for that unincorporated community may not be paid.

(b) In this section "unincorporated community" means a place in the unorganized borough that is not incorporated as a city and in which 25 or more persons reside as a social unit.

AMENDMENT TO AMENDMENT No. 3

Line 4: After "community" insert "to be used for a public purpose."

Line 14: Delete "contract"

AMENDMENT No. 5

OFFERED IN THE HOUSE: BY: _____

TO: HCS CSSB 180 (Jud) HOUSE BILL No. _____

SENATE BILL No. _____

PAGE:s 31, 73, 94, 187 LINE:s As marked

Page 31, Line 3

Add a new paragraph to read:

(46) AS 29.35.120 (regulation of firearms prohibited)

Page 73, Line 7

Add a new section to read:

Sec. 29.35.120. REGULATION OF FIREARMS PROHIBITED. (a) A municipality may not regulate the ownership and possession of firearms.

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

Page 94, Line 8

Add a new paragraph to read:

(7) firearms.

Page 187, line 17

Insert a new section to read:

Sec. 83. The tax exemption provided in AS 29.45.030(a)(7) of this Act begins January 1, 1983.

Renumber following section

AMENDMENT NO. 6

Page 55, Line 4: Delete "a municipality" and add "the legislative body of a municipality"

AMENDMENT NO. 7

Page 59, Lines 6 and 24: Delete "60" add "90"

PAGE: 169 LINE: 25 and after 28

AMENDMENT NO. 8

On line 25: After "(23)" add "(A)"

After line 28 add: "(B) Does not include cadastral plats, cadastral control plats, open-to-entry plats, or remote parcel plats created by or on behalf of the State regardless of whether these plats include easements or other public dedications."

AMENDMENT NO. 9

Page 97, Line 22: Delete "$10,000" and insert "$25,000"

AMENDMENT NO. 10

page 103, line 4 through line 8. Delete text after "shall" through "year".

Insert:

"include permanent residents and military personnel or employees of a military reservation located in the municipality. Population shall also include all persons working at isolated job sites in a municipality. The commissioner of community and regional affairs shall determine the number of persons working at isolated sites from information supplied by employers which shows the number of persons employed on the sites as of July 1 of each year, notwithstanding the place of permanent residence of those employees".

page 104, delete lines 3 through 7.

Insert.

"include permanent residents and military personnel or employees of a military reservation located in the municipality. Population shall also include all persons working at isolated job sites in a municipality. The commissioner of community and regional affairs shall determine the number of persons working at isolated sites from information supplied by employers which shows the number of persons employed on the sites as of July 1 of each year, notwithstanding the place of permanent residence of those employees".

page 143, line 3, delete text after "shall" through line 6 "reliable".

Insert:

"include permanent residents and military personnel or employees of a military reservation located in the taxing unit. Population shall also include all persons working at isolated job sites

in a taxing unit. The commissioner of community and regional affairs shall determine the number of persons working at isolated sites from information supplied by employers which shows the number of persons employed on the sites as of July 1 of each year, notwithstanding the place of permanent residence of those employees".

page 149, line 15, insert following "marshal".:

"For purposes of this subsection, population shall include permanent residents and military personnel or employees of a military reservation served by the fire department. Population shall also include all persons working at isolated job sites served by the fire department. The state fire marshall shall determine the number of persons working at isolated sites from information supplied by employers which shows the number of persons employed on the sites as of July 1 of each year, notwithstanding the place of permanent residence of those employees".

AMENDMENT NO. 11

Page 97, Lines 24 - 26: Delete paragraph (1) and add new (1)

(1) classify boats and vessels for the purpose of taxation and may establish the assessed valuation of boats and vessels on the basis of their registered or documented net tonnage; a tax based upon a tonnage valuation shall not exceed $25 a year for a boat or vessel of less than five net tons and shall not exceed $75 a year for a boat or vessel of more than five net tons;

AMENDMENT NO. 12

Page 100, Lone 18: After the word "tax" delete "at the current mill levy"

AMENDMENT NO. 13

Page 58, Lines 21 & 22 are amended to read as follows: (3) relates to a legislative or administrative matter; and

AMENDMENT NO. 16

Page 86, Line 13: Delete paragraph (1) and renumber following paragraphs.

page 94, line 7. After subsection (6), insert new subsection (7):

(7) forest land as defined in AS 41.17.950(6).

page 94, line 8, insert new subsection:

(8) real property or interests in real property that are exempt from taxation under 43 U.S.C. 1620(d), as amended, as more fully provided in (k) and (l) of this section.

page 96, line 22, add new subsections:

(k) The tax exemption required by 43 U.S.C. 1620(d), as amended, shall be implemented according to the following conditions and interpretations.

(1) "developed" means a purposeful modification of the property from its original state that effectuates a condition of gainful or productive present use without further substantiation modification, surveying, construction of roads, providing utilities or other similar actions normally considered to be component parts of the development process, but which do not create the above conditions, do not constitute a developed state within the meaning of this paragraph; developed property, in order to remove the exemption, must be developed for purposes other than exploration, and be limited to the smallest practicable tract of the property actually used in the developed state;

(2) "exploration" means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources,

(3) "lease" means a grant of primary possession entered into for gainful purposes with a determinable fee remaining in the hands of the grantor; with respect to a lease that conveys rights of exploration and development, this exemption shall continue with respect to that portion of the leased tract that is used solely for the purpose of exploration.

(l) If the property or interest in the property reverts to an undeveloped state, or if the lease is terminated, the exemption shall be reinstated, subject to the provisions of (k) of this section.

page 187, add new sections:

Sec. 83. AS 29.45.030(a)(8), (k) and (l) as enacted in sec. 11 of this Act are retroactive to December 31, 1980.

Sec. 84. AS 29.45.030(a)(8), (k) and (l) as enacted in sec. 11 of this Act and sec. 83 of this Act take effect immediately in accordance with AS 01.10.070(c).

Sec. 85. Except for AS 29.45.030(a)(8), (k) and (l) as enacted in sec. 11 of this Act, and sec. 83 of this Act, this Act takes effect July 1, 1982.

Page 187, line 17, delete sec. 83.

CITY OF BETHEL

P.O. Box 388 • Bethel, Alaska 99559

543-2297—Area Code 907

MAR 28 1983

March 10, 1983

Rep. Bette Cato
State Capitol
Pouch V.
Juneau, Alaska 99811

Dear Representative Cato:

As presented in the enclosed Resolution #398, the City of Bethel has gone on record fully supporting the adoption of legislation revising and reorganizing Title 29 of the Alaska Statutes.

A great deal of work has gone into this most important piece of legislation; but more importantly, the communities of Alaska need Title 29 revised. Not only does this piece of legislation make the municipal code more understandable, but it also grants to local governments greater flexibility in handling local problems. Bethel's difficulty in moving Home Rule status demonstrates the need for such flexibility in the municipal code statute. At the present time Bethel is a second class city. The community has considered the option of becoming a first class city and assuming the administration of the Bethel school system. However, Bethel is reluctant to do so because first class status is more restrictive than Home Rule. But Bethel is precluded from going directly to the more favorable Home Rule status under the present Title 29 provisions. The flexibility given to local governments under the proposed Title 29 revisions would save Bethel the unneeded expense and time delay now required by Title 29 to achieve its goal of Home Rule.

The City of Bethel requests your full support for the Title 29 revision now before the Legislature in the form of SB 1.

Thank you.

Sincerely,

Lyman Hoffman
City Manager

LH:skj

RESOLUTION #398

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BETHEL, ALASKA, FULLY SUPPORTING THE ADOPTION OF LEGISLATION REVISING AND REORGANIZING THE MUNICIPAL CODE AS PRESENT IN THE FORM OF SENATE BILL NO. 1.

WHEREAS, the existing Alaska Statute, Title 29, Municipal Government, has been amended numerous times; and

WHEREAS, the revision of the Municipal Government Statute was mandated in 1980 by SCR66 "Directing the Alaska Legislative Council to revise AS 29 (Municipal Government)"; and

WHEREAS, a thirteen (13) member Policy Advisory Group was appointed from the Legislature and various levels of local government to draft a revision of AS 29; and

WHEREAS, the present Senate Bill No. 1 revision represents a simplification of the title's organization and provides for maximum flexibility in the structure and functioning of local government; and

WHEREAS, several drafts and much work at numerous meetings have resulted in this revision; and

WHEREAS, communities across the State of Alaska are awaiting the adoption of this most important piece of legislation,

NOW THEREFORE BE IT RESOLVED that the City Council of Bethel, Alaska, fully supports the adoption of legislation revising and reorganizing the Municipal Code as present in the form of Senate Bill No. 1.

PASSED AND APPROVED THIS 28th DAY OF February, 1983.

John Guinn, Mayor

ATTEST:

Wayne J. Maiers, City Clerk

LAWS OF ALASKA

1983

Source: HCS CSSB 152(2d Rls) am H

Chapter No.: 63

AN ACT

Relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning and the latter's office of coastal management into one office; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 13

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 14, 1983
Actual Effective Date: Sections 1 - 13, 15 - 26 and AS 37.07.120(7), added by Section 14, take effect July 15, 1983; and AS 37.07.120(8), added by Section 14, takes effect January 1, 1984

AN ACT

Relating to the budget of the state and bills related to the budget and merging the division of budget and management, the division of policy development and planning, and the latter's office of coastal management into one office; and providing for an effective date.

* Section 1. PURPOSE AND INTENT. (a) It is the purpose of this Act, in the best interests of efficient administration and state planning, to merge the division of budget and management, the division of policy development and planning, and the latter's office of coastal management, including both capital and operating expenditures, into one office.

(b) It is the intent of the legislature that the powers conferred by this Act be exercised by the executive branch and its agencies, divisions, and departments in cooperation with the legislature and its committees.

* Sec. 2. AS 24.20.231(4) is amended to read:

(4) cooperate with the office of management and budget [DIVISION OF BUDGET AND MANAGEMENT] in establishing a comprehensive system for state budgeting and financial management as set out in the Executive Budget Act (AS 37.07);

* Sec. 3. AS 24.30.035 is amended to read:

Sec. 24.30.035. FISCAL NOTES ON BILLS. (a) Before a bill or resolution, except an appropriation bill, is reported from the committee of first referral, there shall be attached to the bill a fiscal

note containing an estimate of the amount of the appropriation increase or decrease which would result from enactment of the bill for the current [ENSUING] fiscal year and five [AT LEAST TWO] succeeding fiscal years or, if the bill has no fiscal impact, a statement to that effect shall be attached. The fiscal note or statement shall be prepared in conformity with the requirements of this section by the department or departments affected and may be reviewed by the office of management and budget. The fiscal note or statement shall be delivered to the committee requesting it within five days of the request or within two days if the request is made after the 90th day of a regular session, or during a special session of the legislature. If the bill is presented by the governor for introduction in accordance with AS 24.30.060(b) and the uniform rules of the legislature, the fiscal note or statement shall be attached to the bill before the bill is introduced. An amendment or a substitute bill proposed by a committee of referral that changes the fiscal impact of a bill shall be explained in a revised fiscal note or statement attached to the bill.

* Sec. 4. AS 24.30.035 is amended by adding new subsections to read:

(b) In addition to the fiscal note required by this section, the sponsor of a bill or resolution may prepare a fiscal note in conformity with the requirements of this section and submit it to the committee of first referral or the finance committee. A committee may prepare an additional fiscal note in conformity with the requirements of this section.

(c) A fiscal note for a bill or resolution must contain the following information:

(1) the fiscal impact on existing programs;

(2) the fiscal impact of new programs or activities;

(3) a line item detail of the fiscal impact;

(4) the source of funds expected to be utilized by general fund source, federal fund source, or other identified source;

(5) the number of new positions which may be required, identified as full-time, part-time, or temporary;

(6) an analysis of how the figures in the fiscal note were derived;

(7) additional information necessary to explain the fiscal note;

(8) a fiscal impact projection for the current fiscal year and for the succeeding five fiscal years; and

(9) formal information consisting of

(A) the bill or resolution number,

(B) the name of the prime sponsors,

(C) the date the fiscal note was prepared,

(D) the name of the committee requesting the fiscal note,

(E) the name and phone number of the person who prepared the fiscal note, and

(F) the budget request unit, program, or subprogram affected.

(d) The original of a fiscal note shall be submitted to the Division of Legislative Finance and copies shall be sent to the prime sponsor, the committee requesting the fiscal note, and the office of management and budget.

* Sec. 5. AS 37.07.040 is amended to read:

Sec. 37.07.040. OFFICE OF MANAGEMENT AND BUDGET [DIVISION OF BUDGET AND MANAGEMENT]. The Alaska office of management and budget [BUDGET AND MANAGEMENT DIVISION] shall

(1) assist the governor in the preparation and explanation of the proposed comprehensive program and financial plan, including the coordination and analysis of state agency goals and objectives, plans, and budget requests;

(2) prepare for submission to the governor an annually updated six-year capital improvements program and the proposed capital improvements budget for the coming fiscal year, the latter to include individual project justification with documentation of estimated project cost;

(3) develop procedures to produce the information needed for effective policy decision making, including procedures to provide for the dissemination of information about plans, programs, and budget requests to be included in the annual budget and opportunity for public review and comment during the period of budget preparation;

(4) assist state agencies in their statement of goals and objectives, preparation of plans, budget requests, and reporting of program performance; all documents forwarded by the office [DIVISION] to a state agency containing instructions for the preparation of program plans and budget requests and the reporting of program performance are public information after the date they are forwarded;

(5) administer its responsibilities under the program execution provisions of this chapter so that the policy decisions and budget determinations of the governor and the legislature are implemented;

(6) provide the legislative finance division with the budget information it may request;

(7) provide the legislative finance division with an advance copy of the governor's budget workbooks by the first Monday in January of each year, except that following a gubernatorial election

year the advance copy shall be provided by the second Monday in January.

* Sec. 6. AS 37.07.040 is amended by adding a new paragraph to read:

(8) prepare the proposed capital improvements budget for the coming fiscal year evaluating both state and local requests from the standpoint of need, equity, and priorities of the jurisdiction; other factors such as project amounts, population, local financial match, federal funds being used for local match, municipality or unincorporated community acceptance of the facility and all associated costs of the facility may be considered.

* Sec. 7. AS 37.07.070(1) is amended to read:

(1) Requests by the governor for supplemental appropriations for state agency operating and capital budgets for the current fiscal year may be introduced by the rules committee only through the 30th [45TH] legislative day.

* Sec. 8. AS 37.07.070(2) is amended to read:

(2) Requests by the governor for budget amendments to state agency budgets for the budget fiscal year may be received and reviewed by the finance committees only through the 60th [75TH] legislative day.

* Sec. 9. AS 37.07.080(b) is amended to read:

(b) Each state agency shall prepare an annual plan for the operation of each of its assigned programs except for programs that are exempted from this requirement by the office [DIVISION]. The operations plan shall be prepared in the form and content and be transmitted on the date prescribed by the office [DIVISION].

* Sec. 10. AS 37.07.080(c) is amended to read:

(c) The office [DIVISION] shall

(1) review each operations plan to determine that it is

consistent with the policy decisions of the governor and appropriations by the legislature, that it reflects proper planning and efficient management methods, that appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year;

(2) approve the operations plan if satisfied that it meets the requirements under (1) of this subsection; otherwise, the office [DIVISION] shall require revision of the operations plan in whole or in part. [;

(3) REPEALED.]

* Sec. 11. AS 37.07.080(e) is amended to read:

(e) Transfers or changes between objects of expenditures or between allocations may be made by the head of a state agency upon approval of the office [DIVISION]. No transfers may be made between appropriations except as provided in an act making the transfers between appropriations.

* Sec. 12. AS 37.07.080(f) is amended to read:

(f) The office [DIVISION] shall report quarterly to the governor and the legislature on the operations of each state agency, relating actual accomplishments to those planned and modifying, if necessary, the operations plan of any agency for the balance of the fiscal year.

* Sec. 13. AS 37.07.100 is amended to read:

Sec. 37.07.100. PROPOSED SUPPLEMENTAL OR SPECIAL [DEFICIENCY] APPROPRIATIONS. The governor from time to time may transmit to the legislature proposed supplemental or special [DEFICIENCY] appropriations in accordance with AS 37.07.070 which in the governor's [HIS] judgment are necessary [ON ACCOUNT OF LAWS ENACTED AFTER THE TRANSMISSION OF THE BUDGET, OR ARE OTHERWISE IN THE PUBLIC INTEREST]. However, if the governor finds that an emergency situation

necessitates the proposal of supplemental or special appropriations, the governor may transmit them to the legislature at any time. The governor [HE] shall accompany each proposal with a statement of the reasons for it, including the reasons for its omission from the budget.

* Sec. 14. AS 37.07.120 is amended by adding new paragraphs to read:

(7) "office" means the Alaska office of management and budget established in the Office of the Governor by AS 44.19.141;

(8) "capital projects" and "capital improvements" mean an allocation or appropriation item for an asset with an anticipated life exceeding one year and a cost exceeding $25,000 and include land acquisition, construction, structural improvement, engineering and design for the project, and equipment and repair costs.

* Sec. 15. AS 44.19.141 is amended to read:

ARTICLE 12. OFFICE OF MANAGEMENT AND BUDGET [DIVISION OF POLICY DEVELOPMENT AND PLANNING].

Sec. 44.19.141. ALASKA OFFICE OF MANAGEMENT AND BUDGET [DIVISION OF POLICY DEVELOPMENT AND PLANNING]. There is in the Office of the Governor the Alaska office of management and budget [DIVISION OF POLICY DEVELOPMENT AND PLANNING].

* Sec. 16. AS 44.19.142 is amended to read:

Sec. 44.19.142. DIRECTOR. The office of management and budget [DIVISION OF POLICY DEVELOPMENT AND PLANNING] is administered by a director who is appointed by, and serves at the pleasure of, the governor.

* Sec. 17. AS 44.19.143 is amended to read:

Sec. 44.19.143. PERSONNEL. The director shall employ such personnel as may be necessary to carry out the provisions of AS 44.19.-141 - 44.19.152 and the relevant provisions of AS 37.07.

* Sec. 18. AS 44.19.144(a) is amended to read:

(a) The director shall

(1) supervise and administer the activities of the office [DIVISION];

(2) advise the governor on matters of comprehensive state planning;

(3) make an annual report to the governor of the activities of the office [DIVISION].

* Sec. 19. AS 44.19.144(b)(3) is amended to read:

(3) on behalf of the state, accept and expend any gifts or grants made to the state with the approval of the governor where such gifts or grants were made for the purposes of furthering the objectives of the office [DIVISION].

* Sec. 20. AS 44.19.145 is amended to read:

Sec. 44.19.145. FUNCTIONS AND DUTIES OF THE OFFICE [DIVISION]. (a) The office [DIVISION] shall

(1) provide technical assistance to the governor and the legislature in identifying long range goals and objectives for the state and its political subdivisions;

(2) prepare and maintain a state comprehensive development plan;

(3) provide information and assistance to state agencies to aid in governmental coordination and unity in the preparation of agency plans and programs;

(4) review planning within state government as may be necessary for receipt of federal, state or other funds;

[(5) REPEALED.]

(5) [(6)] participate with other countries, provinces, states or subdivisions of them [THEREOF] in international or

interstate planning, and assist Alaska's local governments, governmental conferences and councils, in planning and coordinating their activities;

[(7) REPEALED.]

(6) [(8)] encourage educational and research programs that further state planning and development, and provide administrative and technical services for them;

(7) [(9)] publish such statistical information or other documentary material as will further the provisions and intent of AS 44.19.141 - 44.19.152;

(8) [(10)] assist the governor and the Department of Community and Regional Affairs in coordinating the activities of state agencies which have an impact on the solution of local and regional development problems;

(9) [(11)] serve as a clearinghouse for information, data, and other materials which may be helpful or necessary to federal, state or local governmental agencies in discharging their respective responsibilities or in obtaining federal or state financial or technical assistance;

(10) [(12)] review all proposals for the location of capital improvements by any state agency and advise and make recommendations concerning location of these capital improvements;

(11) render, on behalf of the state, all federal consistency determinations and certifications authorized by sec. 307 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. sec. 1456, and a conclusive state consistency determination when a project requires two or more state or federal permits, leases, or authorizations.

(b) The office [DIVISION] shall, in carrying out its functions, consult with local, regional, state and federal officials, private

groups and individuals, and with officials[,] of other countries, provinces and states, and may hold public hearings to obtain information for the purpose of carrying out the provisions of AS 44.19.141 - 44.19.152.

(c) The governor may establish coordinating or advisory planning groups.

(d) The office [DIVISION] shall

(1) coordinate its services and activities with those of other state departments and agencies to the fullest extent possible to avoid duplication;

(2) prepare an integrated annual report on the long-range development program of the state and submit it to the governor for incorporation into the governor's [HIS] report to the legislature;

(3) cooperate with the University of Alaska and other appropriate public and private institutions in research and investigations.

* Sec. 21. AS 44.19.152 is amended to read:

Sec. 44.19.152. DEFINITIONS. In AS 44.19.141 - 44.19.152,

[(1) "DIVISION" MEANS THE DIVISION OF POLICY DEVELOPMENT AND PLANNING;]

(1) [(2)] "director" means the director of the office of management and budget; [DIVISION OF POLICY DEVELOPMENT AND PLANNING]

(2) "office" means the Alaska office of management and budget.

* Sec. 22. AS 44.19.155(a)(2)(A) is amended to read:

(A) the director of the office of management and budget [DIVISION OF POLICY DEVELOPMENT AND PLANNING];

* Sec. 23. AS 44.19.155(d) is amended to read:

(d) Each member of the council shall select one person to serve

as a permanent alternate at meetings of the council. If a member of the council is unable to attend, the member [HE] shall advise the alternate who may attend and act in the place of the member. The alternate for a public member appointed after July 9, 1978 under (a)(1) of this section shall, at the time of the alternate's [HIS] designation and throughout the period of [HIS] service as a permanent alternate, be the mayor or member of the assembly or council of a municipality within the region from which the permanent member is appointed. The alternate for the director of the office of management and budget, serving under (a)(2)(A) of this section, shall be the director's designee within that office. The alternate for a designated member serving under (a)(2)(B) - (G) of this section shall be a deputy commissioner of the department or the director of a division in the department. The names of alternates shall be filed with the council.

* Sec. 24. AS 44.19.162 is amended to read:

Sec. 44.19.162. COUNCIL STAFF. The council shall use [UTILIZE] the staff of the office of coastal management within the office of management and budget [DIVISION OF POLICY DEVELOPMENT AND PLANNING] in discharging its powers and duties. The coordinator of the office of coastal management, under the direction of the council co-chair who is selected from among the members designated in AS 44.19.155(a)(2), [, WITH THE CONCURRENCE OF THE COUNCIL], may contract with or employ personnel or consultants the coordinator [HE] considers necessary to carry out the powers and duties of the council.

* Sec. 25. AS 44.83.030(2) is amended to read:

(2) the director of the office of [DIVISION OF BUDGET AND] management and budget, or the director's designee within that office, and three commissioners of principal executive departments appointed

by the governor.

* Sec. 26. AS 37.07.120(2) is repealed.

* Sec. 27. TRANSITION. All litigation, hearings, investigations and other proceedings pending under a law amended or repealed by this Act, or in connection with functions transferred by this Act, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Act. Certificates, orders, and regulations issued or adopted under authority of a law amended or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts, rights, liabilities, and obligations created by or under a law amended or repealed by this Act, and in effect on the effective date of this Act, remain in effect notwithstanding this Act's taking effect. Records, equipment, and other property of agencies of the state whose functions are transferred under this Act shall be transferred commensurate with the provisions of this Act.

* Sec. 28. NAME CHANGE. To be consistent with the changes made by this Act, wherever in the Alaska Statutes and in regulations adopted under those statutes "division of budget and management" and "division of policy development and planning," and other terms identifying those divisions, are used, they must be read as referring to the office of management and budget. Similarly, references to the directors of those divisions must be read as references to the director of the office of management and budget. Under AS 01.05.031, the revisor of statutes shall implement this section in the statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall implement this section in the administrative regulations.

* Sec. 29. AS 37.07.120(8), added by sec. 14 of this Act, takes effect January 1, 1984.

* Sec. 30. AS 37.07.120(7), added by sec. 14 of this Act, and secs. 1 - 13 and 15 - 26 of this Act take effect immediately in accordance with AS 01.10.070(c).

LOCAL PROPERTY TAXATION AND STATE AID COMPARISION

	1976		1977		1978		1979		1980		1981		1982		1983	
	STATE AID	MILL RATE	STATE AID	MILL RATE	STATE AID	MILL RATE	STATE AID	MILL RATE	STATE AID	MILL RATE	STATE AID	MILL RATE	STATE AID	MILL RATE	STATE AID	MILL RATE
Municipality of Anchorage	9,973,789	19.20	13,210,366	20.44	9,355,534	17.18	14,141,699	16.45	19,663,539	13.79	46,485,807	12.06	61,549,976	8.30	51,831,884	7.18
C & B of Juneau	917,619	16.55	1,039,261	15.36	766,240	18.13	1,158,953	16.23	1,350,054	12.95	7,023,730	12.83	7,688,717	7.74	6,352,174	11.87
City of Kenai Pen. Boro	607,386	21.95	734,986	21.20	817,802	20.20	569,342	18.10	657,221	15.00	2,476,869	12.80	4,642,796	4.70	6,443,568	3.93
Mat-su Borough	207,816	18.00	353,367	13.00	386,792	15.50	375,990	7.30	673,470	12.20	3,600,633	13.40	5,315,961	10.70	5,592,696	8.90
City of Cordova	199,537	17.00	239,375	18.50	154,255	22.00	238,542	18.00	278,912	15.00	863,394	15.00	1,210,093	1.00	870,592	1.00
City of Fairbanks	1,940,217	18.00	2,568,994	16.30	2,318,201	14.10	2,683,884	15.70	3,947,253	15.68	9,110,285	13.70	10,428,375	6.00	8,498,822	6.90
City of Ketchikan	391,249	17.30	441,304	21.40	414,494	17.30	553,244	15.10	705,689	16.00	2,721,655	15.10	3,242,381	4.90	2,710,967	5.80
City of King Cove	29,200	10.00	28,028	10.00	19,491	10.00	31,163	8.40	37,461	12.00	129,940	0	189,220	0	228,140	0
City of Nome	207,966	17.90	241,095	17.90	606,348	17.90	395,223	17.90	337,537	15.00	855,564	15.00	1,391,301	9.00	1,179,215	7.00
City of Petersburg	187,619	18.00	209,153	12.00	128,447	14.00	232,865	12.00	272,307	14.00	896,853	12.00	1,343,549	3.00	1,208,447	2.00

1) State Aid includes Revenue Sharing and Municipal Assistance.

1) In some cases tax reductions do not appear until the following fiscal year due to "late" appropriation of funding.

Check out SB 37

Proposed Amendment.

~~Sec 29.91.050 Populatio~~

In order to make this legislation consistent with previous legislation pertaining to population determination passed by this committee, the following ~~Amend~~ changes to HB 312 is proposed.

~~Sec~~. page 7, line 21

~~Sec. 29.91.050 Population determination.~~

Sec. 29.91.050 POPULATION DETERMINATION. (a) For purposes of this chapter, population shall be determined by the latest figures of the United ~~States~~ Bureau of the Census or by another method of determining the actual population based on current criteria of the United States Bureau of the Census that is equally reliable.

(b.) The population of an area for which a population determination is made under this section includes all persons who usually reside within the area and the population of any military reservation that is a part of the area. A person may not be included in the population of more than one area for which a population determination is made under this section.

29.88.010

~~29.88.030~~ 29.88.020

~~29.89.040~~ " 88.030

29.90.010, 020 " 88.040

~~[illegible]~~ " 88.045(4)

" 89.010

" 89.030(a)(1) 29.89.030(a)(3)

29.91.050 " 89.040

89.050

" 89.060

" 89.070

" 89.090

89.100(2)(c)

AS 29.95.010 ——→ 29.95.020 (a) and (b)

AS 43.20.016

To: Committee on Community and Regional Affairs

From: Staff

Re: Amendments to HB 172

Date:

On May 20, 1983, the Committee considered amendment no. 8 (definition of developer) and no. 10 (utilities).

A decision on amendment no. 1 was deferred pending receipt of [illegible] [illegible] prepared by the [illegible] [illegible] Commission [illegible] the [illegible] [illegible] is prepared for Committee [illegible].

No decision was reached regarding an amendment

No. 9 requested by the representatives of utility companies. (Refer to staff memorandum dated .) A proposed compromise is addressed ~~in the~~ ~~to~~ a staff memorandum dated ________.

1 Feb -

Lee Sharp - talking on utilities charge to T. 29
- background - to keep municipalities from regulating
cable tv, T. 29 made it so municipalities could
not regulate utilities. (1980)
Now intent is to exempt cable tv from municipal regulations.

Clark King Executive Director AK. Cable tv assoc. industry

Senator Gilman - asked Lewis about Gov's bill.
Lewis - has 6 "minor" technical changes from SB-1.
Gilman SB-1 Concern, steps (Charter Commission) for
going from unorganized Borough to Home Rule.
- Gilman wants to have Gov provision 'changes'
before they get into how many assembly.

Gov is scheduling to indicate his support.

Ferguson - Question on 2nd class city going Home Rule
and then becoming a school district, how do
they take over from REAA?

P. 46
P 9 Line 12 } power to extend terms of office

	29.04	Classification of municipalities
	05	Incorporation
	06	alteration of municipalities
1	10	Home Rule municipalities
	20	Municipal officers and Employees
	25	municipal Enactments
1	26	Elections
	35	General powers
2	40	Planning, Platting and Land use Regulation
	45	Municipal Taxation
3	46	Special assessments
1	47	Revenue anticipation notes
	55	municipal Programs
4	60	State payments (See Sullivan's amendment)
	65	General Grant Law
5	71	General Provisions

Need copy of US SS HB 42

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

July 15, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. President:

Under Article II, Sec. 15, of the Alaska Constitution, I have vetoed HCS CSSB 180(Jud) am H, relating to municipal government.

I regret having to take this action for several reasons. Certainly, the bill contains many meritorious revisions and improvements to the municipal code. These were the product of an arduous undertaking accomplished after three years of unprecedented cooperation among legislators, state and local government officials and staff. Further, there are some concepts contained within questionably designed and inadequately considered amendments which I believe should be addressed responsibly by the next Legislature. While perhaps none of these amendments is individually sufficiently flawed to warrant a veto of the entire measure, a combination of them creates significant problems that have incurred greater collective public opposition than has almost any other legislative action in my entire political experience. It's for these reasons that I have regretfully concluded that it is simply not in the best public interest to permit this bill to become law.

For example, the amendment redefining "population" and permitting the counting of workers at "isolated job sites" appropriately recognizes that the influx of seasonal employees can significantly impact local services for which there is now no readjustment provided under revenue sharing statutes. However, I am advised by counsel that the manner in which this matter is handled in SB 180 seriously jeopardizes the resolution reached by the state with the U.S. Census Bureau and could incur substantial losses in federal funding to both state and local governments. While I believe some redistribution of state funds is warranted to assist communities most impacted by seasonal and temporary influxes of population, (whether they be "isolated" communities or otherwise), I am concerned with the potential

inequity created by this amendment. The vagueness of the term "isolated job site," I am advised, could result in endless litigation no matter what clarifying efforts might be made through regulation. This questionable feature, coupled with prospective revenue losses to the state treasury ascribed to it by the Department of Revenue in their request for veto, are but two of several causes for concern.

I as well favor the basic policy decision of the Legislature that forest values above ground, (just as mineral values beneath it), should be accorded different status for purposes of municipal taxation. However, the provision exempting forest lands from municipal property taxation contains a definition by reference that poses substantial problems of interpretation and impact according to all concerned state agencies. I am advised by the Department of Law, for example, that the definition problem alone would probably induce costly and unnecessary litigation.

Perhaps more importantly, bond counsel advises that the bill would gravely impede local government general obligation bond programs in progress and significantly harm the credit ratings of virtually all Alaska communities. This feature is perhaps the most damaging potentially of all the questionable features contained in SB 180 and, in the view of most financial consultants, would alone warrant veto. I am certainly in no position to second guess and override them in this conclusion. They assert the resulting adverse effect of this feature is likely to be a decline in market value of outstanding issues and an increase in the costs for new financing. Potential impact on the state's bond bank is, of course, of equal concern.

Additionally, the Department of Natural Resources has expressed major concerns over the manner in which this amendment might apply, despite their agreement with the avowed basic philosophical intent of the amendment's sponsors. They point to the Oregon forest value taxing policies as a far preferable approach to meet that objective. Accordingly, I have directed that legislation be drafted which would more appropriately address this matter.

Another problem rests in the attempt to clarify statutory references regarding tax exemptions of undeveloped Alaska Native Claims Settlement Act lands. Agencies have raised unanswered questions as to whether the language is indeed clarified. Moreover, a retroactivity feature of this provision casts serious "public purpose" doubts upon the legality of the proposed solution.

The amendment prohibiting local governments from passing ordinances relating to firearms has been violently objected to by some law enforcement people. It causes me concern as well because of my reluctance to permit state government to impede the ability of local communities to govern in a manner deemed by themselves most responsive to their unique needs.

Objected to by many others requesting veto is the further intrusion into the conduct of local government business represented by amendment 13. This would expand the initiative and referendum process to include local administrative matters. Those requesting veto assert that actions of the governing body elected by the public should be subject of initiative and referendum; but that ongoing daily administrative matters should be subjected to the usual review and oversight inherent in the concept of a governing body of elected officials held accountable for actions of those whom they employ. For state government to impose its will in such matters upon local governments without far more public debate than was accorded this amendment, appears to me to be yet another undue incursion of "Big Brother" into local matters.

Another section affects a major change in public utility regulatory philosophy, and reverses the direction chosen with deregulation in 1980. In urging veto a multitude of agencies and utilities pled for further public hearings and agency consideration before so drastic a change be contemplated. Again, if this alone were the measure's greatest flaw, I perhaps would not have vetoed it. However, in conjunction with a multitude of other alleged defects and public confidence eroding features, it adds one more reason for my action.

A final problem is one related to language, not concept. This provision allows municipalities to use the group insurance concept for the purpose of pooling their workers compensation liabilities and claims handling. The language appears to mandate board adoption of regulations permitting a municipal employer group to recede under any circumstances. It seems only prudent that qualifications be stipulated so that municipalities requesting approval for group self insurance status are subject to the same regulatory criteria as any other self-insured employer.

The subject legislation has produced more controversy and debate than any other to emerge from the 12th Legislature. Because I find some issues addressed in the amendments, as well as the municipal code revisions, to be desirable, I am taking specific steps to encourage the 13th Legislature to address these issues. Accordingly, I have directed that

legislation be drafted which would accomplish the municipal code revisions effective prior to the floor amendments. This would address the problem areas in a manner both acceptable to me and, I believe, to most legislators.

I have also directed that legislation be prepared to address the forest lands and taxation issues in a more acceptable manner to accommodate the appropriate intent of these amendments' sponsors.

I have also directed legislation be prepared to address the workers compensation provisions allowing local governments to use the group self-insurance concept for the purpose of pooling their workers compensation liabilities and claim handling.

Further, I'm directing the Department of Community and Regional Affairs to draft regulations on the provision of state assistance to local governments in a manner which compensates more equitably those communities impacted by seasonal, temporary and isolated workers. Minimally, I would hope that in the short term we could at least "hold harmless" the North Slope Borough, which otherwise stands to lose about $2 million in revenues from the amount they received last year. All other municipalities would receive, I'm told, increases. Accordingly, I would hope that all other municipalities, which rose in violent protest over the prospects of revenue losses to themselves were SB 180 to become law, would be equally concerned about revenue losses incurred by other municipalities through this measure's veto.

I do not intend to submit legislation re-regulating public utilities at the municipal level unless some valid arguments can be presented for this change.

The legislative package presented to the 13th Legislature will, of course, be that of the future governor. Therefore, I cannot guarantee that all these proposals will come before the House and Senate. However, several key legislators who are likely to return assure me of their dedication toward address of these matters.

Despite the bill's problems, I was at first inclined to go along with policy decisions rendered by the Legislature in their passage of 180. After all, by so doing I could assure these issues would be addressed next session if as serious as opponents were contending. However, a growing crescendo of public opposition, virtually unanimous staff and agency veto recommendations, plus pleas from some legislators who now wish to do penance for having voted for the measure, cause me to conclude that while a veto does a disservice to

the legitimate concerns of some communities and interests, permitting the bill to become law could incur even more disservice to all others. Finally, as one of two senators who will assuredly return next session, let me urge you, Mr. President, to place this crucial issue high upon your agenda.

Sincerely,

Jay S. Hammond
Governor

Alaska State Legislature

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

RE: HOUSE BILL 172, AMENDMENT #9 (UTILITIES)

The following language has been proposed by Lee Sharp as compromise language between that contained in HB 172 and the changes requested by the utility representatives.

The compromise is primarily in allowing for the Alaska Public Utilities Commission to rule that a municipality should not regulate a utility because of no legitimate public interest in regulation. This appears to be a mid-point position between the two extreme positions of whether a municipality may, or a municipality may not, regulate a utility not regulated by A.P.U.C.

The utility representatives request to cross reference the overiding authority of A.P.U.C. and AS 42.05 has been deleted.

The request of the utility representatives to specifically limit the extension of a municipal utilities service to areas adjacent to the municipal boundaries have been deleted.

Page 77, line 7-22 delete section 29.35.070 and insert:
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 subject to regulation under AS 42.05; or
(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.

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:

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 subject to regulation under AS 42.05; or

(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

Alaska State Legislature

Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives
Committee on Community & Regional Affairs

Conversation with Doug Griffin re: FN HB 172 - February 18

dThe fiscal note which is presently in the packets is outdated in form but not in content and does not contain the department assumptions which Doug Griffin should be bringing to meeting today.

The increase and the money is due to an increase in organizational grants.

New boroughs will go from 25.0 to 600.0 over three years and it is assumed that there will not be a new borough formation in the first two years.

2nd class to 1st class will go from 25.0 to 75.0 and this is paid out over 2 year period. Assumption that in the first year there will be 2 city incorporations for 100.0 and in the 2nd year, 1 city will incorporate for 50.0 and the two from the first year will get the 100.0.

The big jump from 25.0 - 600.0 is as an incentive to new borough formation.

All the money comes under the grants.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

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 nome 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

MEMORANDUM State of Alaska

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF TECHNICAL SERVICES

TO: The Files

DATE: September 10, 1981

FILE NO: 1150

TELEPHONE NO: 276-2653

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

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

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

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

Page 90 - line 16 filed.

Page 92 - line 6 filed
line 8 file

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

Page 186 - line 1 - should be record.

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

MEMORANDUM

Re: Proposed Municipal Code Revisions;
Planning, Platting and Zoning Authority
of Local Governments

A. SUMMARY.

There are no significant differences between SB 180 as it passed the House and the October 1982 redraft with regards to the planning, platting and zoning authority of municipal governments. As with Senate Bill 180, the October 1982 redraft would greatly expand the land use planning authority of municipalities. The use or misuse of this authority could lead to arbitrary or unreasonable exclusion or restriction of natural resource development, particularly on state or fee lands.

Amendatory language to limit this authority may be proposed to either Title 29 or Title 38.

B. HISTORY OF SB 180

As the culmination of approximately 3 years of work by a special joint committee, Senate Bill 180, which completely rewrote the municipal code of Title 29, was adopted by the House on May 26, 1982. The Governor vetoed the bill on July 15, 1982. The veto message issued by the Governor (published in the Senate Journal on July 22, 1982

at 1788-1792 (copy attached)) set forth seven reasons for the veto, none of which relate to the land use planning chapter of the bill.

Bills vetoed after the adjournment after the last regular session of the legislature can be reconsidered only in a special session of that same legislature. Alaska Constitution Art. II, Sec. 16; AS 24.30.100. Therefore, Senate Bill 180 cannot now be reconsidered and is dead. In October of 1982, the Department of Community and Regional Affairs produced a rewrite of Senate Bill 180. The redraft is substantially the same as the bill which passed the legislature, but several of the last minute house amendments have been deleted, apparently in response to the Governor's veto message.

With regard to the planning, platting and zoning authority of municipalities, there are only three differences between the October 1982 redraft and SB 180 as it passed the legislature, all of which are minor. They are as follows:

1. On page 87, lines 9 and 14, the word "comprehensive" has been added to clarify the term "planned" as used in those sections.

2. On page 89, line 27, subpart 1 of AS 29.40.090(a) has been reinstated, after elimination by a house amendment to SB 180. This subpart requires that the abbreviated plat procedure apply only to subdivisions

containing four lots or less.

3. On page 89 at line 2, the October 1982 redraft has deleted a sentence at the end of AS 29.40.060(b) as it appeared in SB 180 which read as follows: "A proceeding under this section has preference over all other civil actions and proceedings."

C. THE PROBLEM.

The bill provides virtually unlimited planning, platting and zoning powers to home rule municipalities, and greatly expands the powers given to other municipalities. An elucidation of this matter is given in the attached memorandum which discusses the same provisions in House Bill 170 and Senate Bill 180.

Such a sweeping grant of power to the municipalities, particularly to the North Slope Borough, would allow the municipalities to severely inhibit the development of natural resources, particularly oil and gas. An attempt to do this has already been made in the North Slope Borough's proposed zoning ordinance. In fact, the North Slope Borough has adopted an interim zoning ordinance which requires oil and gas facilities to be permitted by the Borough.

The problem is not perceived to be quite as severe on Federal lands, in view of a Ninth Circuit Court of Appeals decision which holds that municipal governments may

not impede the development of natural resources on land owned by the federal government. Ventura County v. Gulf Oil Corporation, 601 F.2d 1080 (9th Cir. 1979), aff'd per curiam, 100 S.Ct. 1593 (1980). However, state and fee land may be at the mercy of municipalities. See the attached memorandum.

D. PROPOSED SOLUTIONS.

The intent of Chapter 40 of the proposed municipal code revision is to increase the authority of local governments with regard to planning, platting and zoning within their respective jurisdictions. Planning, platting and zoning are tools used by local governments to regulate the growth of the urban environment. Unfortunately, in Alaska, municipal government has been expanded to cover vast regions of open and unoccupied space. Zoning was never intended to be a method by which use of the non-urban environment could be regulated.

However, with the North Slope Borough interim zoning ordinance, and proposed final zoning ordinance, it is clear that zoning will be used at least by that municipality to the maximum extent possible to restrict and exclude resource development in open spaces.

The objective of any amendment to the October 1982 municipal code revision, therefore, should be to limit municipal power in planning, platting and zoning with

respect to the development of natural resources in the non-urban environment. Such activities are fully regulated by federal and state agency, and an additional layer of local control will add significantly to the time and expense involved in developing natural resources, with a de minimus contribution to environmental quality.

Article 10, Sec. 1 of the Alaska Constitution provides that: "A home rule borough or city may exercise all legislative powers not prohibited by law or by charter." Although this constitutional provision applies expressly only to home rule municipalities, it appears that the Alaska Supreme Court applies the same test for state preemption to both home rule and general law municipalities. Liberati v. Bristol Bay Borough, 584 P.2d 1115 (Alaska 1978). The test set forth in the Liberati case requires either an express legislative direction or a direct conflict with a statute such that the municipal ordinance under consideration substantially interferes with the effective functioning of a

state statute or regulation or its underlying purpose. 584 P.2 at 1121-1122.*

The most logical way to accomplish an express prohibition would be the insertion of appropriate language in Title 29, Chapter 40 as proposed by the October 1982 revision of the municipal code.

In the alternative, the only other logical place in the Alaska Statutes to put such an amendment would be Title 38, relating to natural resources. A limitation could be placed in the Alaska Lands Act, AS 38.05, but logically that limitation could only relate to development of natural resources on state land. A limitation could also be placed in the miscellaneous chapter of Title 38, AS 38.95, and, in such a context, could perhaps include fee lands as well as state lands.

We have developed five alternatives, three of which would amend AS 29.40 as proposed by the October 1982 municipal code revision, and two of which would amend Title 38, one in the Alaska Lands Act, and the other under the miscellaneous provisions of AS 38.95.

---

* An excellent discussion of home rule authority in Alaska is contained in Sharp, "Home Rule in Alaska: A Clash Between the Constitution and the Court," 3 UCLA-Alaska Law Review 1-54 (1978).

1. Alternative One: This alternative would add a new section to AS 29.40 as proposed in the October 1982 redraft. The limitation would be worded in terms of activities authorized by state or federal agencies. The idea would be that for such activities, no local review of the activity is required in order to insure environmental safety, and therefore none should be undertaken by the local government.

> Sec. 29.40.210. ACTIVITIES AUTHORIZED BY STATE OR FEDERAL AGENCIES. (a) Ordinances, regulations or permit decisions adopted or promulgated under AS 29.35.180 or AS 29.40 may not preclude or otherwise impede an activity or project conducted pursuant to a lease, license, permit or other authorization issued by a state or federal regulatory agency or department having jurisdiction over the activity or project.
>
> (b) The provisions of this section apply to home rule and general home rule and general law municipalities.

2. Alternative 2: This alternative would track the language contained in the Alaska Coastal Zone Management Act which prohibits arbitrary or unreasonable restriction or exclusion of uses of state concern by district coastal management programs. Cf. AS 46.40.060(a) and AS 46.40.210(6).

Sec. 29.40.210. USES OF STATE CONCERN. (a) Ordinance, regulations and permit decisions adopted or promulgated under AS 29.35.180 or AS 29.40 may not arbitrarily or unreasonably restrict uses of state concern as defined in subsection (b) of this section.

(b) "Uses of state concern" means those land and water uses which would significantly affect long term public interest. These uses include:

(1) Uses of national interest, including the use of resources for the siting of ports and major facilities which contribute to meeting the national energy needs, construction and maintenance of navigational facilities

and systems, resource development of fedral land, and national defense and related security facilities;

(2) Uses of more than local concern, including those land and water uses which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single municipality;

(3) The siting of major energy facilities, activities pursuant to a state oil and gas lease, or large scale industrial or commercial development activities which are dependent on a particular location in a municipality and which, because of their magnitude or the magnitude of their effect on the economy of the state or the surrounding area, are reasonably likely to present issues of more than local significance;

(4) Facilities serving statewide or inter-regional transportation and communication needs; and

(5) Uses in areas established as state parks or recreational areas under

AS 41.20.010-41.20.505 where a state game refuge is, game sanctuaries or critical habitat areas under AS 16.20.010-16.20.312.

(c) The provisions of this section apply to home rule and general law municipalities.

3. Alternative 3: This alternative would recognize the traditional role of zoning as a method of regulating the development of the urban environment, and would limit the use of planning, platting and zoning powers by municipalities to such urban environments. This alternative strikes a reasonable balance between the legitimate authority of local governments to regulate the location and operation of urban facilities, and at the same time prohibit the use of land use planning tools by local governments outside the urban environment.

Sec. 29.40.210. PLANNING, PLATTING AND ZONING POWERS LIMITED TO URBAN AREAS. (a) Planning, platting and zoning powers granted pursuant to AS 29.35.180 and AS 29.40 may be exercised only within five miles of the outer boundary of a permanent community or settlement.

NO
Borough could not control any activities outside of cities

(b) "Permanent community or settlement" means a settlement of at least 50 persons who reside within one mile of each other on a year round basis.

(c) "Outer boundary" means the maximum area encompassed by drawing a series of straight lines between the individual permanent buildings of the settlement.

(d) The provisions of this section apply to home rule and general law municipalities.

4. Alternative 4. This alternative would be placed in the general provisions article of the Alaska Lands Act, AS 38.05.350-.370. Since it would be contained in the Alaska Lands Act, it would apply only to land owned by the state or the university system. Article 12 of the Alaska Lands Act is a logical location for this provision, since the opening section, AS 38.05.350, states the policy of the State of Alaska with regard to its resources: "It is the policy of the state to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." The proposed provision would read as follows:

Sec. 38.05.352. MUNICIPAL REGULATION OF ACTIVITIES ON STATE LAND. (a) Planning, platting or zoning ordinances adopted or issued by municipal governments may not preclude or otherwise impede an activity or project conducted on state land or university land pursuant to a lease, license, permit or other authorization issued by a state or federal regulatory agency or department having jurisiction over the activity or project.

(b) The provisions of this section apply to home rule and general law municipalities.

5. Alternative 5: This alternative would be contained in the miscellaneous provisions chapter of Title 38, AS 38.95. Such a location in theory would permit the section to apply to all land, not merely state or university lands. The proposed section would read as follows:

Sec. 38.95.020. MUNICIPAL REGULATION RESOURCE DEVELOPMENT. (a) Planning, platting or zoning ordinances and decisions adopted or issued by

or otherwise impede an activity or project conducted pursuant to a lease, license, permit or other authorization issued by a state or federal regulatory agency or department having jurisdiction over the activity or project.

(b) The provisions of this section apply to home rule and general law municipalities.

E. CONCLUSION.

The use of zoning powers to regulate the development of natural resources in non-urban environments constitutes a serious threat to the oil and gas industry in Alaska. The problem is exacerbated by the existence of a home rule borough which has approximately 5,000 permanent residents and yet occupies the entire North Slope of Alaska, and which utilizes, to a maximum extent possible, the broad authority granted home rule governments by the Alaska Constitution to restrict resource development within its boundaries.

AS 29.40 as proposed by the October 1982 municipal code revision would compound this problem by giving unlimited planning, platting and zoning authority to home rule governments, and by greatly expanding the land use planning authority of other municipalities. This chapter would

validate an otherwise questionable North Slope Borough zoning ordinance, and result in yet another layer of regulatory bureaucracy with little benefit to the public interest.

For these reasons, it is imperative that modifications be made to the October 1982 redraft, or amendments be made to Title 38 in order to protect oil and gas interests. Five alternatives are proposed in this memorandum.

SB 515 (Cont.)

changing court rules. However, even if a two-thirds vote was necessary, the Senate's vote to concur in the House amendments was not affected by the subsequent failure to adopt the rule changes. The vote to concur passed by the required 11 votes, and that vote was to adopt the identical bill that had passed the House. Under Rule 39(c) the failure of the Senate to take a separate vote on the rule change simply meant only that secs. 43 and 44 (and potentially their respective companios -- 18 and 40) are now "void and without effect."

the issue that is presented is very similar to one which has arisen when one house votes to concur in amendments made by the other house, but then fails to adopt, for example, an immediate effective date included in the bill by a two-thirds vote as required by Rule 39(f). The procedure specified in Rule 39 (c) pertaining to votes on court rule changes is virtually identical to the language in Rule 39 (f) pertaining to votes on special effective date clauses. There is ample authority in support of the rule that a failure to adopt a special effective date by a two-thirds vote after concurring in a bill by a majority vote means that the bill has been adopted with an ordinary 90-day effective date. This authority rests on a construction of the effective date as not being a material factor influencing the favorable vote. This rule should apply by analogy to the failure of the Senate to vote separately on the rule change provisions in this bill. Consequently, I have concluded that HCS CSSB 515 (Jud) am H has been adopted by the legislature but without the effect of changing the court rules cited in sec. 43 and 44.

Sincerely,

/s/Jay S. Hammond
Jay S. Hammond
Governor

SB 180 VETOED

July 15, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under Article II, Sec. 15, of the Alaska Constitution, I have vetoed HCS CSSB 180 (Jud) am H, relating to municipal government.

SB 180 (Cont.)

I regret having to take this action for several reasons. Certainly, the bill contains many meritorious revisions and improvements to the municipal code. These were the product of an arduous undertaking accomplished after three years of unprecedented cooperation among legislators, state and local government officials and staff. Further, there are some concepts contained within questionably designed and inadequately considered amendments which I believe should be addressed responsibly by the next Legislature. While perhaps none of these amendments is individually sufficiently flawed to warrant a veto of the entire measure, a combination of them creates significant problems that have incurred greater collective public opposition than has almost any other legislative action in my entire political experience. It's for these reasons that I have regretfully concluded that it is simply not in the best public interest to permit this bill to become law.

For example, the amendment redefining "population" and permitting the counting of workers at "isolated job sites" appropriately recognizes that the influx of seasonal employees can significantly impact local services for which there is now no readjustment provided under revenue sharing statutes. However, I am advised by counsel that the manner in which this matter is handled in SB 180 seriously jeopardizes the resolution reached by the state with the U.S. Census Bureau and could incur substantial losses in federal funding to both state and local governments. While I believe some redistribution of state funds is warranted to assist communities most impacted by seasonal and temporary influxes of population, (whether they be "isolated" communities or otherwise), I am concerned with the potential inequity created by this amendment. The vagueness of the term "isolated job site," I am advised, could result in endless litigation no matter what clarifying efforts might be made through regulation. This questionable feature, coupled with prospective revenue losses to the state treasury ascribed to it by the Department of Revenue in their request for veto, are but two of several causes for concern.

I as well favor the basic policy decision of the Legislature that forest values above ground, (just as mineral values beneath it), should be accorded different status for purposes of municipal taxation. However, the provision exempting forest lands from municipal property taxation contains a definition by reference that poses substantial problems of interpretation and impact according to all concerned state agencies. I am advised by the Department of Law, for example, that the definition problem alone would probably induce costly and unnecessary litigation.

Perhaps more importantly, bond counsel advises that the bill would gravely impede local government general obligation bond programs in progress and significantly harm the credit ratings of virtually all Alaska communities. This feature is perhaps the most damaging potentially of all the questionable features contained in SB 180 and, in the view of most financial consultants, would alone warrant veto. I

SB 180 (Cont.)

are certainly in no position to second guess and override them in this conclusion. They assert the resulting adverse effect of this feature is likely to be a decline in market value of outstanding issues and an increase in the costs for new financing. Potential impact on the state's bond bank is, of course, of equal concern.

Additionally, the Department of Natural Resources has expressed major concerns over the manner in which this amendment might apply, despite their agreement with the avowed basic philosophical intent of the amendment's sponsors. They point to the Oregon forest value taxing policies as a far preferable approach to meet that objective. Accordingly, I have directed that legislation be drafted which would more appropriately address this matter.

Another problem rests in the attempt to clarify statutory references regarding tax exemptions of undeveloped Alaska Native Claims Settlement Act lands. Agencies have raised unanswered questions as to whether the language is indeed clarified. Moreover, a retroactivity feature of this provision casts serious "public purpose" doubts upon the legality of the proposed solution.

The amendment prohibiting local governments from passing ordinances relating to firearms has been violently objected to by some law enforcement people. It causes me concern as well because of my reluctance to permit state government to impede the ability of local communities to govern in a manner deemed by themselves most responsive to their unique needs.

Objected to by many others requesting veto is the further intrusion into the conduct of local government business represented by amendment 13. This would expand the initiative and referendum process to include local administrative matters. Those requesting veto assert that actions of the governing body elected by the public should be subject of initiative and referendum; but that ongoing daily administrative matters should be subjected to the usual review and oversight inherent in the concept of a governing body of elected officials held accountable for actions of those whom they employ. For state government to impose its will in such matters upon local governments without far more public debate than was accorded this amendment, appears to me to be yet another undue incursion of "Big Brother" into local matters.

Another section affects a major change in public utility regulatory philosophy, and reverses the direction chosen with deregulation in 1980. In urging veto a multitude of agencies and utilities pled for further public hearings and agency consideration before so drastic a change be contemplated. Again, if this alone were the measure's greatest flaw, I perhaps would not have vetoed it. However, in conjunction with a multitude of other alleged defects and public confidence eroding features, it adds one more reason for my action.

SB 180 (Cont.)

A final problem is one related to language, not concept. This provision allows municipalities to use the group insurance concept for the purpose of pooling their workers compensation liabilities and claims handling. The language appears to mandate board adoption of regulations permitting a municipal employer group to recede under any circumstances. It seems only prudent that qualifications be stipulated so that municipalities requesting approval for group self insurance status are subject to the same regulatory criteria as any other self-insured employer.

The subject legislation has produced more controversy and debate than any other to emerge from the 12th Legislature. Because I find some issues addressed in the amendments, as well as the municipal code revisions, to be desirable, I am taking specific steps to encourage the 13th Legislature to address these issues. Accordingly, I have directed that legislation be drafted which would accomplish the municipal code revisions effective prior to the floor amendments. This would address the problem areas in a manner both acceptable to me and, I believe, to most legislators.

I have also directed that legislation be prepared to address the forest lands and taxation issues in a more acceptable manner to accommodate the appropriate intent of these amendments' sponsors.

I have also directed legislation be prepared to address the workers compensation provisions allowing local governments to use the group self-insurance concept for the purpose of pooling their workers compensation liabilities and claim handling.

Further, I'm directing the Department of Community and Regional Affairs to draft regulations on the provisions of state assistance to local governments in a manner which compensates more equitably those communities impacted by seasonal, temporary and isolated workers. Minimally, I would hope that in the short term we could at least "hold harmless" the North Slope Borough, which otherwise stands to lose about $2 million in revenues from the amount they received last year. All other municipalities would receive, I'm told, increases. Accordingly, I would hope tht all other municipalities, which rose in violent protest over the prospects of revenue losses to themselves were SB 180 to become law, would be equally concerned about revenue losses ocurred by other municipalities through this measure's veto.

I do not intend to submit legislation re-regulating public utilities at the municipal level unless some valid arguments can be presented for this change.

The legislative package presented to the 13th Legislature will, of course, be that of the future governor. Therefore, I cannot guarantee that all these proposals will come before the House and Senate. However, several key legislators who are likely to return assure me of their dedication towards

SB 180 (Cont)

address of these matters.

Despite the bill's problems, I was at first inclined to go along with policy decisions rendered by the legislature in their passage of 180. After all, by so doing I could assure these issues would be addressed next session if as serious as opponents were contending. However, a growing crescendo of public opposition, virtually unanimous staff and agency veto recommendations, plus pleas from some legislators who now wish to do penance for having voted for the measure, cause me to conclude that while a veto does a disservice to the legitimate concerns of some communities and interests, permitting the bill to become law could incur even more disservice to all others. Finally, as one of two senators who will assuredly return next session, let me urge you, Mr. President, to place this crucial issue high upon you agenda.

Sincerely,

/s/ Jay S. Hammond
Jay S. Hammond
Governor

Message of July 21 was received July 22 stating the Governor has signed the following bill and transmitted the engrossed and enrolled copies to the Lieutenant Governor's Office for permanent filing:

HB 156

SENATE CS FOR CS FOR HOUSE BILL NO. 156 (Fin) am Senate
Relating to public contracts; and providing for an effective date.

Chapter 144, SLA 1982

INDEX OF VETOED AND REDUCED BILLS RECEIVED AFTER ADJOURNMENT:

BILLS VETOED BY THE GOVERNOR

REDUCED BILLS

This final supplement of the Senate Journal completes the record of legislation for the Second Session of the Twelfth State Legislature.

Peggy Mullligan
Secretary of the Senate
July 1982

DETAILED ANALYSIS OF LAND USE REGULATION BY MUNICIPALITIES UNDER CSSB 180 (C & RA) AND CSHB 170 (C & RA)

A. Current law.

Land use regulation by municipal governments is currently governed by A.S. 29.33.070-.245. A.S. 29.33.070 requires all boroughs to provide for planning, platting and zoning on a "area-wide basis." A.S. 29.43.040 grants the same power to home rule and first and second class cities located outside organized boroughs.

A.S. 29.33.080 and .085 require the assembly to adopt a "comprehensive plan" containing policy statements, goals, standards and maps. A.S. 29.33.090 requires the municipal assembly to regulate land use "by districts or contract zoning." It requires land use regulations to be uniform for each class of use in each district. Contract zoning is defined as allowing a "zoning reclassification" to a less restricted use where the owner agrees to place restrictions on the use of the land beyond the zoning requirements generally attaching to the new classification. This section also states the purposes for which zoning ordinances may be adopted. The stated purposes clearly envision zoning in an urban environment.

The current law applies to all local governments, and therefore limits the power of home rule boroughs. The current

law has no provision authorizing the regulation of land use by the adoption of a permit system. Additionally, the current law does not allow cities located in third class boroughs to provide for planning, platting and zoning.

B. Land use regulation under CSSB 180 and CSHB 170.

Under CSSB 180 and CSHB 170, land use regulation by local governments would be governed by A.S. 29.40.010-.200.

A.S. 29.35.190(b) requires a home rule borough to provide for planning, platting and zoning. No limitations are imposed upon that power, nor are any guidelines set forth limiting the exercise of that power.

A.S. 29.35.180(a) requires first and second class boroughs to provide for planning, platting and zoning pursuant to A.S. 29.40. A.S. 29.40.010 also requires first and second class boroughs to provide for planning, platting and zoning.

A.S. 29.35.220 and .300(b) would allow a third class borough to acquire the power to provide for planning, platting and zoning within a service area by the adoption of a referendum to that effect.

A.S. 29.35.250(b) requires a home rule or first class city within a third class borough to provide for planning, platting and zoning under A.S. 29.40, and allows a second class city located within a third class borough to so provide.

A.S. 29.35.260(c) requires home rule and first class cities outside a borough and permits a second class city outside a borough to provide for planning, platting and zoning under A.S. 29.40.

These provisions apparently impose no limitation on the planning, platting and zoning authorities of home rule boroughs. It appears that A.S. 29.40 does not apply to the exercise of those powers by home rule boroughs. A.S. 29.35.180(b); compare A.S. 29.35.180(a).

Article X, Section 11 of the Alaska Constitution provides: "A home rule borough or city may exercise all legislative powers not prohibited by law or by charter."

Given this provision and the apparent lack of any explicit limitations on the zoning authorities of home rule boroughs, home rule boroughs would have greatly expanded zoning authority under the bill. As the Supreme Court has stated:

> A municipal ordinance is not necessarily invalid in Alaska because it is inconsistent or in conflict with a state statute. The question rests on whether the exercise of authority has been prohibited to municipalities. The prohibition must be either by express terms or by implication such as where the statute and ordinance are so substantially irreconcilable that one cannot be given its substantive effect if the other is accorded the weight of law.

Jefferson v. State, 527 P.2d 37, 43 (footnotes omitted, emphasis added).

This position was reiterated by the Supreme Court in Liberati v. Bristol Bay Borough, 584 P.2d 1115 (Alaska 1978).

> Merely because the State has enacted legislation concerning a particular subject does not mean that all municipal power to act on the same subject is lost. We have consistently rejected application of any such concept in our cases dealing with home rule municipalities. We do so now with respect to general law municipalities because our constitution requires that their powers be liberally construed as well. We believe that an appropriate accomodation can be made between the State and general law municipalities by a rule which determines pre-emption to exist, in the absence of an express legislative direction or a direct conflict with a statute, only where an ordinance substantially interferes with the effective functioning of a state statute or regulation or its underlying purpose.

584 P.2d at 1121-1122 (footnotes omitted, emphasis added).

It appears that the Alaska Supreme Court is applying the same test for state pre-emption to both home rule and general law municipalities. In summary, in order for a local ordinance to be determined invalid pursuant to Article X, Section 11 of the Alaska Constitution, there must be a prohibition by state statute, express or implied, or the ordinance must substantially interfere with the effective functioning of the state statute or regulation or its underlying purpose.

Under CSSB 189 and CSHB 170, there would be no explicit prohibition of any zoning ordinance adopted by a home rule municipality.

Federal lands may be unaffected by the zoning ordinances adopted by home rule boroughs in any event. See Ventura County v. Gulf Oil Corp., 601 F.2d 1080 (9th Cir. 1979), affirmed per curiam 100 S. Ct. 1593 (1980).

Private land may be totally at the mercy of local zoning ordinances except insofar as inverse codemnation can be claimed and proved. It could be argued that, as applied to land granted to the natives by the Alaska Native Land Claims Settlement Act, zoning ordinances which prohibit development are inconsistent with the purposes of that act and therefore invalid. There is no precedent for such an argument and the success of such a position is questionable.

Any argument opposing the restriction of energy development on state lands by a local zoning ordinance adopted by a home rule borough would have to rely on the claimed inconsistency of the ordinance with the state's right to develop its natural resources. In that regard, determination of whether there is a limit to the home rule borough's authority to adopt ordinances prohibiting or restricting the development of energy sources requires a two-fold inquiry:

1. Are there Alaskan constitutional and statutory provisions which seek to implement a statewide policy with reference to the subject matter of the ordinances?

2. Do the proposed borough ordinances impede implementation of that policy?

While control of natural resources of the State of Alaska is specifically retained by state government pursuant to Article VIII of the Alaska Constitution, it is by no means certain that a court would rule that a local zoning ordinance which impedes or prohibits development of oil and gas in certain specific locations would be struck down as unconstitutional or unauthorized. In any event, the adoption of the current provisions concerning home rule regulationof land use as stated in CSSB 180 and CSHB 170 would insure extensive constitutional litigation to resolve these questions.

The question is further complicated by the fact that A.S. 29.40.040(a)(2) in the two bills would specifically authorize the use of a permitting system to regulate land use. This section places far greater authority in local government than the current law does. It is conceivable that an ordinance could be adopted which would prohibit all uses unless a land use permit is obtained from the local government involved. This would allow local governments to assess energy development projects on a case by case basis thus adding another layer to the regulation of energy development in general.

It should be noted that this permit procedure would be available to any local government that possesses or obtains planning, platting or zoning authority under A.S. 29.35 and A.S. 29.40 as proposed in CSSB 180 and CSHB 170.

A few suggested changes to SB 1.

page 8, line 26. AS 29.05.120(a)(2) ELECTION OF INITIAL OFFICERS. Add "of a first class city." to the end of the subsection to avoid conflict with law regarding 2nd class cities and current practice with many home rule municipalities.

Page 28. CHARTERS. Consider changing the procedure for going directly from unincorporated status to home rule to a two-step process similar to the unification process: (1) start with a vote on the question and at the same time elect a charter commission, (2) vote on the charter, with provision for one charter rewrite if the first one fails.

page 29, line 8. AS 29.10.010 (e) MUNICIPAL CHARTER ADOPTION. for clarification, add "of seven elected members" after "charter commission".

Page 29, line 14. AS 29.10.010 (f) MUNICIPAL CHARTER ADOPTION. if the procedure for going directly from unincorporated to home rule is not changed to provide for an elected charter commission, then this section should be clarified by adding "prepared by the petitioners and" before the word, "filed" in the middle of line 14.

Page 36, starting on line 9 and continuing through page 39, line 3. Replace AS 29.20.070 ASSEMBLY COMPOSITION AND FORM OF REPRESENTATION and AS 29.20.080 ASSEMBLY RECOMPOSITION AND REAPPORTIONMENT with the attached proposed amendments, which substantially simplify the language and clarify the process, without changing the basic intent.

page 45, line 25. AS 29.20.220 EXECUTIVE POWER. Delete the second sentence which is an undue infringement on home rule powers, and delete the third sentence, the contents of which are covered in AS 29.20.230 ELECTION AND TERM OF MAYOR.

page 63, line 26. INITIATIVE AND REFERENDUM. AS 29.26.120 (a)(1) change "bill" and "act" to "ordinance and resolution" to conform language to municipal enactments.

page 64, line 15. AS 29.26.120 (b). same changes as page 63.

Ginny Chitwood
586-1325
February 1, 1983

4/7/82
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Proposed Amendment to SB 1 standing on p. 36, line 9

IN THE SENATE TY AND RS COMMITTEE

COMMITTEE SUBSTI

IN THE LEGISLAT

TWELFTH LEGIS

For an Act entitled: "An Act relating to assembly composition, form of representation and apportionment."

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

* Section 1. AS 29.~~23.023~~ 20.070 and AS 29.~~23.025~~ 20.080 are repealed.

* Section 2. AS 29.~~23.023~~ 20.070 is re-enacted to read:

Sec. 29.~~23.023~~ 20.070. Assembly composition, form of representation and apportionment.

(a) The borough assembly shall provide for its composition and for the form of its representation consistent with the standards of AS 29.~~23.021~~ 20.060.

(b) [Before the] Not later than first regular election [that occurs] after the report of a Federal decennial census, the assembly shall [adopt] propose and submit to the voters of the borough, at that regular or special election called for the purpose, one or more forms of assembly representation providing a form of assembly representation and a corresponding plan of apportionment. The forms of representation which the assembly may [adopt] submit to the voters are listed in subsection (f) of this section.

(c) If a petition signed by not less than 50 registered voters who are residents of the borough requests the assembly to determine whether the existing apportionment meets the standards for apportionment in AS 29.~~23.021~~ 20.060, and the petition contains evidence that the existing apportionment does not meet those standards, the assembly shall consider the question and make a determination within two months of the receipt of the petition.

(d) The assembly may consider at any time whether its apportionment meets the standards of AS 29.~~23.021~~ 20.060. Whenever an assembly determines that its apportionment does not meet the standards of AS 29.~~23.021~~ 20.060, the assembly shall, within six months provide by ordinance for a change in the existing appor-

tionment and may, by ordinance, change the composition of the assembly.

(e) An ordinance adopted by the assembly under (b) or (d) of this section shall be submitted to the voters for approval at the first regular election following its adoption. In order for the ordinance to be approved, it must receive the approval of a majority of votes cast on this question.

(f) The forms of representation an assembly may adopt are:

(1) election of members of the borough assembly at large by the ~~qualified~~ voters throughout the borough;

(2) election of members of the borough assembly by district, including

(A) election at large by the ~~qualified~~ voters throughout the borough, but with a requirement that a candidate live within an election district established by the borough for election of assembly members; or

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

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

(g) If an assembly's apportionment does not meet the standards of AS 29.~~23.021~~ 20.060 and it fails to adopt an ordinance for reapportionment and have the ordinance approved by the voters as specified under (b) or (d) of this section, the commissioner of the Department of Community and Regional Affairs shall provide for the reapportionment in accordance with the standards of AS 29.~~23.021~~ 20.060 by preparing an order of reapportionment and delivering the order to the borough mayor.

(h) Subsections (e) and (f) of this section do not apply

(1) to a unified municipality ~~incorporated under~~

#3
Cook

AMENDMENT #10

Offered in the HOUSE

TO: HB 172

BY THE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Page 102, line 8:

Delete "interests" and insert "an interest".

Delete "are" and insert "is".

Page 102, line 9:

Delete ", as more" and insert a period.

Page 102, line 10:

Delete all material.

Page 105, lines 10 - 12:

Delete all material and insert:

"(m) For the purpose of determining property exempt under (a)(7) of this section, the following definitions apply to terms used in 43 U.S.C. 1620(d) unless superseded by applicable federal law:"

Page 105, line 15:

Delete "or" and insert "and"

Page 162, lines 25 - 29:

Delete all material.

Page 163:

Delete all material.

Page 164, lines 1 - 14:

Delete all material.

Page 164, line 15:

Delete "4" and insert "3".

Page 164, line 18:

Delete "AS 29.60.240" and insert "former AS 29.90.020".

Page 164, line 26:

Delete "AS 29.60.240" and insert "former AS 29.90.020".

Page 164, lines 27 and 28:

Delete "AS 29.60.230 - 29.60.240" and insert "former AS 29.90".

Page 166, after line 22, insert:

"ARTICLE 4. COMMUNITY FACILITIES GRANTS.

Sec. 29.60.320. CIVIC, CONVENTION AND COMMUNITY RECREATION CENTERS. (a) Within the limits of legislative appropriations for the purpose, the state shall make matching grants to local governments or their nonprofit designees equal to 50 percent of the estimated reasonable costs of land acquisition, planning, and construction of municipal civic, convention and community recreation centers and 50 percent

of the cost of feasibility studies relating to these facilities, in accordance with the provisions of this section.

(b) Grants for only one study and one project may be awarded to a local government under this section. Applications for grants shall be made in a form prescribed by the commissioner. A grant shall be allotted according to an agreement made between the commissioner on behalf of the state and the local government receiving the grant. The agreement may include any provision agreed upon by the parties and shall include in substance the following provisions:

(1) estimates of reasonable costs of a study or project as approved by the commissioner after consultation with the Department of Public Works;

(2) a schedule of grant disbursements, if, as determined by the commissioner, a grant is to be disbursed other than in one sum;

(3) agreement by the local government to

(A) proceed with and complete the proposed study or project expeditiously;

(B) not discontinue operation or dispose of all or part of a project for which it receives a grant without the approval of the commissioner;

(C) apply for, and make reasonable efforts to secure, federal assistance that may be available for the study or project, subject to any conditions the commissioner may require in order to maximize the amounts of that assistance received or to be received for all projects in the state;

(D) provide for payment of the local government's

share of the cost of the study or project;

(4) agreement by the local government that, if federal assistance for a study or project becomes available to the local government that was not included in the calculation of the amount of a grant authorized and disbursed under this section, the value of the federal assistance shall be ascertained and subtracted from the total value of the project and the balance shall be equally divided between the state and local government;

(5) provision for alteration or modification of an approved study or project and for remedies in case of failure to perform the agreement between the parties or noncompliance with regulations promulgated by the commissioner under this section;

(6) provision for alteration or modification of an existing facility that would have qualified under this section as a civic, convention or community recreation center at the time of initial construction if this section had been in effect and provision for remedies in case of failure to perform the agreement between the parties or noncompliance with regulations promulgated by the commissioner under this section.

(c) If funds appropriated by the legislature to provide grants under this section are not adequate to satisfy amounts required by approved grant applications, funds shall be allocated on the basis of priority established by the Department of Economic Development by regulations promulgated to carry out the provisions of this section.

(d) This section does not require that a local government receiving a grant for a feasibility study under this section must

proceed with construction of a project, notwithstanding the project is determined to be feasible.

(e) The commissioner shall require in the negotiations and agreements with the local government that continued maintenance of the facility is the responsibility of the local government and the local government must show the feasibility of this before authorization of state funds.

(f) The commissioner shall provide an annual report to the legislature with respect to grants made under this section.

(g) The commissioner may adopt regulations to carry out the purpose of this section.

(h) In this section

(1) "commissioner" means the commissioner of economic development;

(2) "local government" means a city of any class or a borough having power to implement the studies or projects for which grants are authorized in this section;

(3) "costs of construction" includes, in addition to costs directly related to the project, the sum total of all costs of financing and carrying out the project; these include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with the project; an allocable portion of the administrative

and operating expenses of the grantee; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary; it does not include the cost of feasibility studies."

Page 193, after line 15, insert:

"* Sec. 55. AS 38.09.080 is amended to read:

Sec. 38.09.080. LAND WITHIN MUNICIPALITIES. (a) If a municipality has filed a selection of state lands under AS 29.65 and former AS 29.18.210 - 29.18.213 with the commissioner, the state lands selected may not be designated for homestead entry, if the commissioner determines that land selected by a municipality is not available for patent to the municipality under AS 29.65 and former AS 29.18.210 - 29.18.213, the state land is available for designation by the commissioner for homestead entry under AS 38.09.010.

(b) The disposal of homestead entry land is subject to local platting, recording, or subdivision requirements established under AS 29.40 [AS 29.33] and AS 40.15."

Renumber the following sections accordingly.

Page 195, after line 22, insert:

"* Sec. 63. AS 42.05.711(1) is amended to read:

(l) A person, utility, or cooperative that is exempt from regulation under AS 42.05.711(a) or (d) - (k) is not subject to regulation by a municipality under AS 29.35.070 [AS 29.48.060 - 29.48.090]."

Renumber the following sections accordingly.

Page 204, line 8:

Delete "1983" and insert "1984".

Page 204, line 12:

Delete "1983" and insert "1984".

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

M E M O R A N D U M

October 12, 1983

SUBJECT: Title 29 revision
(HB 172)

TO: Representative Milo Fritz

FROM: Tamara Brandt Cook
Legislative Counsel

Here is the amendment that you requested which incorporates laws passed during the First Session of the Thirteenth Legislature into HB 172. The changes in this amendment come from Chapters 30, 95, 97, and 103, SLA 1983. AS 43.18.300 was renumbered by the revisor of statutes as 29.89.110, so that material is included in this amendment. This amendment also alters the effective dates of HB 172 to reflect the passage of one year since its introduction.

For your information, there were several other laws passed that impact the Title 29 revision bill, but that did not create a need for amendment of that bill. Chapter 44, SLA 1983 amends both existing law and the revision bill (assuming it is passed by the Thirteenth Legislature) and no change needs to be made to HB 172 to reflect that fact. Chapter 67, SLA 1983 deletes a definition of resident that is in existing law, but that was already deleted from HB 172. Sec. 4, Chapter 91, SLA 1983 contains a reference to AS 29.18.201 - 29.18.213 which is renumbered in HB 172. However, under that chapter, implementing action takes place prior to July 1, 1984, the new effective date of HB 172 under this amendment, so no further change is needed to HB 172.

Please let me know if you would like these amendments incorporated into a CSHB 172 (C&RA) along with any other changes desired by the House Community and Regional Affairs Committee.

TBC:ljb

Enclosure
29/024

TABLE OF CONTENTS

Official Business

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

ACKNOWLEDGEMENTS

REPRESENTATIVE MILO H. FRITZ, M.D.
Chairman, House Community & Regional Affairs Interim Committee

would like to gratefully acknowledge the following people who helped make this report possible.

COMMUNITY AND REGIONAL AFFAIRS COMMITTEE STAFF:

Shirley Dreas, Committee Assistant
Eve Fox, Committee Interim Secretary
Dave Schade, Committee Interim Assistant

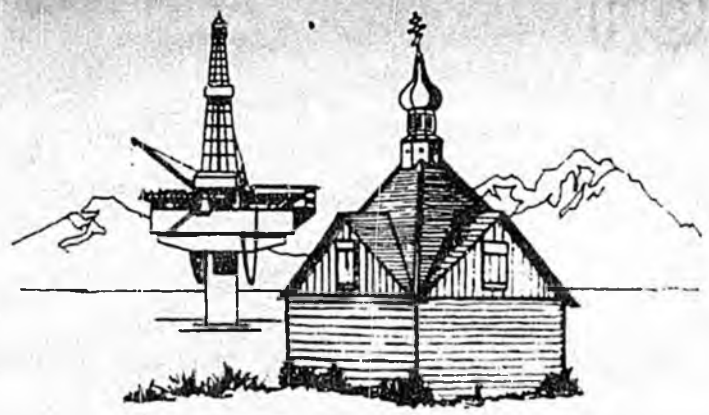
Special thanks also for the technical advice of:

Joe Brewer, Counsel to House Judiciary Committee

Ginny Chitwood, Alaska Municipal League

Tamara Cook, Legislative Legal Department

Bob Harris, Director, City of Wasilla



CITY OF KENAI

"Oil Capital of Alaska"

(907) 283—4060

John Wise
CITY COUNCILMAN

CITY OF KENAI
P.O. BOX 605 KENAI, ALASKA 99611

February 3, 1984

Honorable Mike Miller
Chairman, House Committee & Regional Affairs Committee
Alaska State House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Miller:

I regret that I was unable to visit with you this last week when the Legislative Committee of the Alaska Municipal League met in Juneau.

As I am sure you are aware, the League strongly supports HB-172, the codification of Title 29. As noted in the enclosed letter to Representative Fritz, the compilation that he has had done clearly identifies the need for the codification from both the Legislature and municipality point of view.

We both need one "sheet of music," one organized document to enable us all to better do our job for the people of the State as a whole and our individual municipalities in particular.

I for one would like to see some additional revision to Title 29, but those items are in no way as important as codification with the revisions as currently agreed upon.

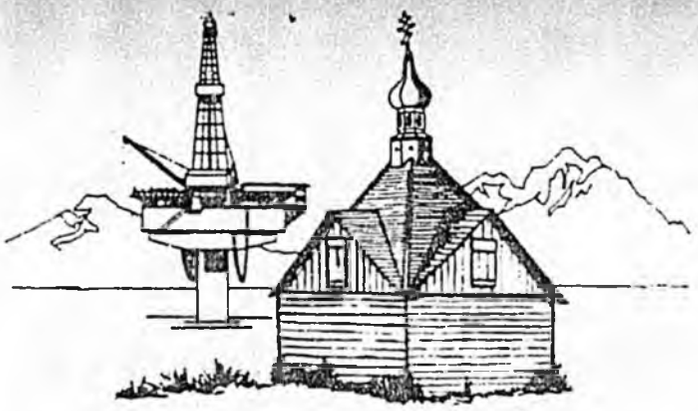
On behalf of the Municipal League, we request your support in moving HB-172 toward enactment.

Sincerely,

John E. Wise
Member, Kenai City Council
Member, Legislative Committee, Alaska Municipal League

JW:jw

cc: Scott Burgess, Executive Director
Alaska Municipal League



CITY OF KENAI

"Oil Capital of Alaska"

P. O. BOX 580 KENAI, ALASKA 99611
TELEPHONE 283 - 7535

February 3, 1984

Honorable Milo Fritz, M.D.
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Fritz:

The Municipal League Legislative Committee, in accordance with policy established by the League Board of Directors, is encouraging passage of HB-172 - Codification of Title 29. The committee had planned to do a compilation of events to date on that bill. We then discovered that your office had, in fact, done just that.Your compilation is an excellent piece of work - you and your staff are to be congratulated.

It is quite clear, now more than ever before, that we all need the codification to be enacted this session. Inasmuch as Title 29 is indeed a living document as you and your colleagues update it more than once each session, a codification would be invaluable.

The Municipal League strongly endorses the proposed codification as too many of us simply cannot keep up with the currently disjointed, contradictory language of Title 29 as it now exists.

Again we applaud your efforts and ask for your continued support.

Sincerely,

John E. Wise
Member, Kenai City Council
Member, Alaska Municipal League Legislative Committee

JW:jw

cc: Rep. Mike Miller - Chairman, House Community & Regional Affairs
Emil Notti - Commissioner, Community & Regional Affairs
Scott Burgess - Executive Director
Alaska Municipal League

HB
172
#5

TABLE OF CONTENTS

Official Business

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

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REPRESENTATIVE MILO H. FRITZ, M.D.
Chairman, House Community & Regional Affairs Interim Committee

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COMMUNITY AND REGIONAL AFFAIRS COMMITTEE STAFF:

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Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

January 23, 1984

2nd Session
13th Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Fellow Legislators:

During the First Session of the Thirteenth Alaska State Legislature, the House Community and Regional Affairs Committee held extensive hearings on HB172, the Municipal Code revision. Eight amendments have received Committee approval. Some other amendments have been proposed to the Committee for consideration early in the Second Session.

HB172 has many complex issues within its scope. The House Community and Regional Affairs Interim Committee has prepared a report covering this legislation and its history. The main purpose of this report is to give a concise overview of the bill and its issues.

The previous veto by Gov. Hammond of similar legislation was brought about by the addition of many well intentioned, but problematical amendments from the Floor. The current bill, HB172, does not contain any of those amendments. Many people believe that HB172 makes major alterations to Title 29. In fact, the major revisions to Title 29 have been passed thru separate legislation in the 1st Session of the 13th Legislature. At this time, HB172 is an editing and clarifying bill to aid the municipalities of the State in accurately interpreting Title 29.

It is the Committee's desire to give each legislator adequate time to suggest any changes during the Committee process. This report features the progression of the bill and the proposals to be considered by the Committee. Any other ideas, comments and suggestions should be directed to the Community and Regional Affairs Committee as soon as conveniently possible. It is the feeling of the Interim House Community and Regional Affairs Committee Chairman that any other major amendments should be dealt with in separate legislation.

The House Community and Regional Affairs staff has devoted much time to the preparation of this report. I hope it is beneficial to you.

Sincerely,

Milo H. Fritz

Representative Milo H. Fritz, M.D.
Interim Chairman
House Community and Regional Affairs Committee

Official Business

Alaska State Legislature

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Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

TITLE 29

HISTORY

When our constitution was adopted in 1956, its provisions for local government were the most advanced in the nation. Title 29 of the Alaska Statutes, "Municipal Government" is the codification of session laws pertaining to Municipalities and sets forth the authority and responsibilities of local governments. Title 29 is divided into chapters dealing with local government's functions and services.

Although updated in 1972, it was not until the beginning of 1980 that Senate Concurrent Resolution 66 authorized the Alaska legislature to revise the municipal government statute. A Policy Advisory Group, composed of municipal officials, 2 Senators, 2 Representatives and assisted by a Technical Group of municipal attorneys and a city clerk, was formed to assist in interpreting provisions of the law and in revising specific statutes. Policy decisions were finalized by the Policy Advisory Group. The Group developed two basic guidelines, the simplification of the title's organization and the achievement of maximum flexibility in the structure and functioning requirements of local government.

Simplifying Title 29 meant clarifying how those powers were to be assumed and administered. In addition, to meet the desire for more flexibility in carrying out day-to-day administrative and procedural responsibilities, the Group found that less technical assistance in defining local government's structure and procedure would be required by local governments once the revision is adopted. Furthermore, it was recommended that the capability of the Department of Community and Regional Affairs be expanded to provide technical assistance to match the future demand for the Department's services.

The public, in testimony, asked for a variety of proposals; demanding more local direction of state programs, the granting of municipal rights and powers to Native governments along with the desire for self-governing regional organizations. State agencies proposed that local governments consider taking over "local" agency programs. Local governments were concerned with two things: the increasing or decreasing costs due to decentralization; and, if those programs could be responsibly administered.

Rural residents of Alaska were concerned over the multiplication of agencies and organizations formed to respond to state and federal program requirements. These may include a city council, Indian Reorganization Act Council, village corporation board and subcommittees, membership in various non-profit organizations (formed to provide health services, regional housing authorities) and regional Coastal Resource Service Areas and Regional Education Attendance Areas, etc. Some rural residents felt that the creation of separate single-purpose service areas led to a fragmenting of local control. Others believed that service areas would be the best vehicle for additional public services in the unorganized borough.

The Group proposed revisions for Title 29 addressing many of the difficulties of administering mandated state and federal programs. The third draft of a proposed revision of Title 29 was approved and submitted to the Legislature for consideration (S.D.#1).

During the 12th Legislature, SB180 and HB170 provided revisions and improvements to the municipal code. These changes were accomplished with overwhelming cooperation among legislators, state and local government officials and staff. The bills received numerous committee hearings, addressing the major concerns expressed by the public and state agencies. Major amendments, made on the Floor of the House during the hectic final hours of the Session, caused Governor Jay Hammond to veto the bill (S.D.#2).

A list of the reasons Gov. Hammond used to support his veto follows. Asterisks (*) will refer you to the method in which the concerns are presently being handled, either through separate legislation or through HB172 amendments. Material within parenthesis (S.D.#) will refer you to support documents.

1). An amendment redefining "population" permitted the counting of workers at isolated areas to recognize seasonal employees. The results would significantly impact local services (S.D.#1).

HB42*, presently under consideration by the Senate Finance Committee, relates to the determination of population for purposes of calculating amounts of state aid (S.D.#3). The language states that no person may be included in the population count of more than one taxing unit. The population of a taxing unit, including any military reservation that is part of the taxing unit, shall be determined annually by the latest figures of the U. S. Census Bureau. Gov. Hammond requested the Department of Community and Regional Affairs to draft regulations for state assistance to local governments compensating more equitably those communities impacted by seasonal, temporary and isolated workers (S.D.#2).

2). Under a proposed definition of "developed", a provision exempting forest lands from municipal property taxation contains a definition of developed by reference to Federal law that posed substantial problems of interpretation and impact. The Department of Law advised that the definition of "developed" would probably induce costly and unnecessary litigation.

Bond Council advised Gov. Hammond that the bill could impede local government General Obligation bond programs in progress and significantly harm the credit ratings of virtually all Alaskan communities (S.D.#2).

This concern was addressed in separate legislation, SB260* (S.D.#4), Chapter 97, 1983 Session Laws, see proposed amendment #10.

3). One section affected a major change in public utility regulatory philosophy, reversing the direction chosen with deregulation in 1980. Gov. Hammond questioned re-regulating public utilities at the municipal level unless arguments are raised to change them. Further, he recommended that this concern be addressed in a separate piece of legislation (S.D.#2).

This concern was addressed in separate legislation, HB274*, Chapter 30, 1983 Session Laws, see proposed amendment #10 (S.D.#5).

Although, there were other concerns Gov. Hammond listed, the three above were the most important. SB1 (S.D.#8) was prefiled in the Senate. Later, Governor Sheffield introduced HB172 (S.D.#6) thru the Rules Committee to parallel the Senate bill (S.D.#7).