

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

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SYNOPSIS OF CHAPTERS

The following is a brief synopsis of the chapters in Title 29 as written in HB172.

CHAPTER 4 deals with the classification of municipalities.

Municipalities are divided into two classes, Home Rule and General Law. Home Rule Municipalities have all legislative powers not prohibited by law. General law municipalities have specific powers conferred by law. There are five classes of general law municipalities. Chapter 4 also delineates the process for reclassification of a municipality.

CHAPTER 5 deals with incorporation.

Article I sets forth the requirements necessary for incorporation; minimum number of people, adequate size, and adequate financial resources.

Article II sets forth the procedures necessary to become incorporated, providing for a service area to integrate into the new municipality within two years of incorporation. A legal challenge to the formation of a municipality must occur within six months after the date of incorporation.

Article III establishes transitional assistance, setting forth the amounts that a new or reclassifying municipality receives as a grant to help defray costs. It establishes an Organizational Grant Fund in the Department of Community and Regional Affairs and requires the Department to provide organizational assistance to the municipality in developing its tax structure.

CHAPTER 6 deals with the alteration of municipalities.

Article I provides for name changes to a municipality.

Article II establishes the procedures for annexation and detachment.

Article III establishes the procedures for merger and consolidation.

Article IV relates to unification of municipalities, establishment of

Charter Commission procedures for proposal of a home rule charter and voter approval. It defines election of members, organization and procedures of the commission and other necessary provisions. The powers of a unified municipality are those powers not prohibited by law and given to a home rule borough.

Article V establishes the method of dissolution.

CHAPTER 10 defines the organization and powers of home rule municipalities.

Article I provides for the establishment of a new charter and requires the Department of Community and Regional Affairs to prepare a model charter for the charter commission to use. A provision in the charter for initiative and referendum procedures is also required. Article 1 sets forth the events which follow rejection of the charter by the voters.

Article II sets forth the limitations placed on home rule municipalities. This article provides that the Home Rule municipalities abide by the itemized sections of Title 29.

CHAPTER 20 sets the guidelines for municipal officers and employees.

Article I requires the municipality to adopt a conflict of interest ordinance which requires that all meetings of municipal bodies be public in adherence with AS 44.62.310 and that the public be provided with the opportunity to be heard.

Article II establishes the governing bodies. The legislative authority in a borough will be vested in the assembly. The legislative authority of a city will be in the council. It requires equal representation as set by the Constitution of the United States. It establishes the forms of representation to be proposed to the voters. The procedures for recomposition and reapportionment are established along with composition requirements. There are some restrictions as to the qualifications the municipality places on the members. The minimum procedures of the governing bodies are 1 meeting per month, 24 hour notice for

special meetings, a quorum being a majority of the total membership and the requirement of all members voting.

Article III establishes that the municipal executive is the Mayor. If the municipality has not established a city manager type of government, the mayor is also the manager of the city. This section provides the right of veto to the mayor with certain exceptions. Qualifications for office, election procedures, absences and vacancies are provided.

Article IV regulates boards and commissions with provisions for school boards and utility boards and allowance of other boards and commissions necessary to the operation of the local government.

Article V which covers other officials and employees, provides that the municipal clerk, attorney, treasurer, and police chief are appointed by the chief executive with approval by the governing body, unless by ordinance another system of selection is designated. This article provides for the duties of the offices, and allows a municipality to develop departments and a personnel classification system.

Article VI covers the adoption and use of a manager plan of government, including the procedures for election of a plan, appointment of a manager, and the powers and duties of the manager.

Article VII contains miscellaneous provisions. It establishes that before taking office, all municipal officials will in writing affirm an oath of office. It requires bonding and certain reports.

CHAPTER 25 covers municipal enactments.

Certain actions must be done by ordinance, including dealing with departments, issues dealing with or requiring a fine or other penalty, issues dealing with taxes, other major business type dealings, etc. The ordinance procedure to be followed includes public notice five days in advance, a public hearing, official action being taken and written copies being available to the public. Upon finding that a fact supported emergency exists, ordinances can be adopted to meet the emergency. The ordinance, which can be passed at its introductory meeting, must be passed by three quarters of the governing body or

by all members present. Copies of the emergency ordinance must be made available to the public. An emergency ordinance, effective for a period of 60 days, may not be used to levy taxes, extend a franchise or to regulate rates charged by a public utility. A municipality must establish a code of regulations and must codify each ordinance passed. Resolutions must be placed on permanent file. Penalties for a violation of municipal ordinances may not be greater than those imposed for a Class B misdemeanor. Actions may be brought by the municipality or by an aggrieved person. Penalties, authorized under Chapter 26, may not be imposed if copies of the ordinance are not made available at cost or less to the public.

CHAPTER 26 deals with elections.

Article I deals with regular and special elections providing for administration of the elections, the nomination process, 20 days notice of an election and voter qualification. A person can hold more than one office, but may not hold simultaneously the seat of borough mayor and assembly member or of city mayor and city council. Unless otherwise provided for by ordinance in a first class city, a runoff election is required for the office of mayor or member of governing body or school board if a candidate does not receive over 40% of the total votes cast. A run off election is required for an "at large" seat if no candidate receives a number of votes greater than 40% of the total votes cast, divided by the number of seats to be filled. An election must be contested before or during the first canvas of the ballots. Court action must be initiated within 10 days, or the election results are conclusive and valid.

Article II provides for initiatives and referendums. 10 voters of a municipality may file an initiative or referendum petition application with the municipal clerk. The clerk shall certify the application if it does not conflict with AS 29.26.100, includes a single subject, is a legislative matter and is enforceable as a matter of law. Within two weeks after certification, the municipal clerk must prepare a petition containing a summary of the ordinance or resolution, the complete

version sought by the sponsors and other administrative information. Petition signatures are to be collected in pen or indelible pencil within 60 days after the clerk issues the petition. In municipalities of 7500 people or less, a petition must be signed by a number equal to 25% of the voters who voted in the last regular election. A number equal to 15% of the votes cast, in a city with 7500 people or more, must be collected. The petition will be submitted as a single instrument and the municipal clerk has ten days to certify the sufficiency of the petition or identify the areas which are insufficient. If the petition is rejected, the sponsors have 10 days to file additional signatures. Then, the clerk has another 10 days to certify the petition. If the petition is again rejected, it is filed as a public record. A protest of a rejection must be filed within 7 days to the mayor and brought before the governing body at the next regular meeting. Failure of a petition does not preclude a new petition, but a petition on similar material may not be filed for six months. The initiative vote must be held at the next regular election or at a special election, not before 45 days or later than 75 days after certification. An ordinance or resolution may not be changed, repealed, or enacted within one year of the effective date of an initiative.

Article III addresses the procedure for recall of an elected official who has held office for at least 120 days. The application for a recall petition will be filed with the municipal clerk and shall contain the signatures and addresses of 10 municipal voters, the address that all correspondence will be sent to and the statement of reasons for recall in 200 words or less. If the petition application is determined to meet the requirements of AS 29.26.260, the clerk will prepare a recall petition with the name of the person to be recalled, the reasons for recall as stated in the original petition application and other administrative information. The signature requirements are identical to Article II except that the petition must contain a number of signatures equal to 35% of the number of people who voted for that office. The sufficiency of the petition must be determined by the clerk within 10 days. If there are more than 180 days before the end of said term and the total of valid and invalid signatures is equal to or greater

than the required number, the sponsors have an additional ten days to gather the necessary additional signatures. Article II sets the new recall time limits, election time limits, the recall ballot form and how successors will be selected to vacant offices.

CHAPTER 35 deals with municipal powers and duties.

Article I sets forth the general powers of a municipality. All municipalities have the power to provide for operation of its departments and facilities. Those powers include setting salaries of the elected and appointed officials. General provisions provide for the ability to tax, enforce ordinances, prescribe penalties, deal in real and personal property, expend funds for public purpose, regulate municipal rights-of-way, facilities or services, borrow money, acquire certain memberships, enter into agreements with other governmental agencies and sue or be sued. In certain instances, a municipality is allowed to have extraterritorial jurisdiction over certain facilities or services. Municipalities can exercise eminent domain, use emergency disaster powers, provide garbage and solid waste services and require use thereof. A city may not prohibit a person with a valid Alaska Public Utilities permit from continuing that service. Before providing the same services, a city must purchase the permit and equipment of a carrier. Article I provides for franchises and permits, limited public utility regulation, control over alcoholic beverages, rules for land transactions, budget and capital programs, expenditure of borough revenues, establishment and operation of emergency services communication centers. An annual independent audit of each municipality's finances is required.

Article II sets forth mandatory areawide powers. Each borough constitutes a school district. A school district will be established, maintained and operated in all areas, except military reservations. All boroughs shall assess and collect all taxes levied within its boundaries. The borough must return all city taxes collected to the city. First and second class boroughs must provide for platting, planning

and land use regulation in accordance with AS 29.40. Home rule boroughs are required to provide for planning, platting and land use regulation.

Article III establishes additional powers, giving a first class borough power to establish on a non-area wide basis all powers not prohibited by law. First class boroughs are given the ability to establish certain areawide powers including the provision of transportation systems, water pollution control, air pollution control, licensing of day care centers and the licensing, impoundment, and disposal of animals. Second class boroughs are given the power to exercise certain areawide powers and any non-areawide power not prohibited by law that is approved by a majority of the voters living in the borough. Third class boroughs are restricted to areawide powers of tax assessment and collection and education. Other powers can be exercised within service areas only.

Article IV establishes city powers. A city, within a borough, may exercise any power not otherwise prohibited by law. No city may exercise a power being exercised by the local borough. Home rule and first class cities, in a third class borough, may be required to exercise land use planning and regulation. Cities, outside a borough, may exercise a power not prohibited by law. A home rule or first class city, outside a borough, is a school district and shall provide for land use regulation and planning.

Article V allows acquisition of additional powers. Powers are transferred by a city to a borough or by areawide election. A number of voters filing a petition or the assembly proposing the acquisition of the power initiates official action. Within 30 days, the assembly must have one public hearing and evaluate the ability of the borough to exercise that power. Within 60 days after the borough's findings, an election must be ordered. The election process is detailed, with the specific requirement that the city and outside areas be tallied separately. Both groups must vote favorably. The power will be assumed within 30 days of a favorable election. The specific effects of acquiring an areawide power are detailed.

Article VI shows the construction of powers. A liberal construction

shall be given to all powers and functions given by Title 29. Also, unless limited by law, all powers necessary for the implementation of powers and functions conferred in Title 29 may be exercised.

Article VII allows for the establishment of service area controlled by ordinance. A city can be included in an areawide service area if the city passes an ordinance to that effect or if both city and non-city voters approve in an election. The controlling board may be elected or appointed. The levying of taxes and issuance of bonds is allowed but must be approved by the assembly. Article VI states what powers may be established in different classes of boroughs. Owners of real property may consent, in writing, to establishment of a service area in a place where no voters reside.

Article VIII is the miscellaneous provision defining "power" as the provision of a public facility and service, or the exercise of a regulatory power.

CHAPTER 40 provides for the functions of planning, platting and land use regulation for any first or second class borough.

The borough may transfer any of its powers to a city, but can unilaterally revoke the transfer. A planning commission must be established with the duties of preparing a proposed comprehensive plan and measures necessary to implement the comprehensive plan once it is established. The commission must be apportioned to reflect the population living in first class and home rule cities. The makeup of the comprehensive plan is outlined with the requirement of periodic overall review included. In accordance with the comprehensive plan, the assembly is required to adopt or amend provisions governing the use and occupancy of land. By ordinance, the assembly must provide for the appeal of an administrative decision, but are allowed to decide who will handle the appeal and how it will be handled. Chapter 40 requires an appeal of the second decision to be directed to the superior court which will handle an administrative appeal based on the record established by the first reviewer. By ordinance, the assembly must adopt platting regulations and a platting authority must be established

to administer subdivision regulations and other prescribed duties. An abbreviated plat procedure must be established for a plat that meets certain requirements. A waiver of platting requirements is required if the abbreviated plat requirements are met and only lots five acres or larger. The platting procedure is established with a specific time frame of 60 days being used. A recorded plat may not be altered, except on petition from the state, the borough, a public utility or the owners of a majority of the land affected. A notice of hearing with certain required information must be posted and a platting authority hearing held before a decision can be made. Addressed is the requirement of recording, handling of the title of vacated areas and the delegation of authority by the platting commission. A person who violates a land use regulation or requirement is guilty of a Class B misdemeanor. A civil action can be brought against a person who violates a section of the land use chapter. An injunction must be given by the superior court when a violation or a threatened violation occurs. Subdivisions of state land can not be required to meet capital requirements of a platting authority.

CHAPTER 45 authorizes municipal taxation.

Article I allows a unified municipality to levy a property tax. Boroughs are allowed to levy a property tax for services provided. The municipality must publish a notice to taxpayers explaining the amount of State municipal assistance programs received. Article I also deals with 7 classes of exemptions. All household furniture of the head of a household is now exempt. The new title will allow property of an auxiliary of a nonbusiness organization to be exempt. Lots adjacent to a structure used for religious purposes are no longer exempt. The exemption for 65 years or older persons' residences must be applied for in writing no later than January 31 unless a delayed date of March 31 has been adopted by ordinance. The governing body may waive the time required for a good cause. The State of Alaska will reimburse the municipalities for revenues lost by these exemptions. The law requires property tax equivalency payments to renters 65

years or older. The section dealing with 43 U.S.C. 1620(d) was changed by SB 260 (S.D. #4). A municipality may provide some optional exemptions, including the allowance of an exemption of property taxes for a residence with a \$10,000 maximum amount. Other exemptions, exclusions, and classifications may be given if certain requirements are met. The requirement which did not allow taxation based on tonnage of a vessel to exceed prescribed amounts has been eliminated. Farm or agricultural use land shall be assessed on the full value of farm use (see Amendment #7). Exemption of greenhouses has been deleted. Taxes must be paid for the preceding 7 years if the land is sold or converted to uses incompatible with agriculture. Mobile homes established to a location will be classified as real property. An oil and gas production tax will be levied by one of two methods in A.S. 29.45.080. Taxes are limited to a maximum of \$1500 per year per person within the municipality or the product of 225% of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. There are no limitations on taxes to pay the principal and interest on bonds. Assessments will be made at full and true value. Inventories may be valued as of January 1 or by the average monthly method of assessment. Each person having ownership or interest in property may be required to submit a prescribed form to the assessor. The assessor has the right to do an on premises independent investigation and may require a person to answer questions under oath. It is a class B misdemeanor to take actions with the intent of tax evasion. Re-evaluations made by the tax assessor will be done in accordance with a resolution or other directive of the municipality in a systematic manner. The assessor must annually prepare an assessment role with the description of all taxable property, assessed value of said property and the name and addresses of all property owners. The assessor is required to provide each owner a notice of assessed value of the property, the dates taxes are due, delinquent, subject to penalty and interest and the dates when the board of equalization will sit. The assessor may make corrections with the land owner having 30

days to appeal the amended assessment to the board. Article I provides for the makeup and operation of the board of equalization. A municipality may readjust assessments on property when a disaster zone is declared by the President of the United States or by the Governor of the State of Alaska. The tax levy and rate must be set by ordinance. The annual rate of levy must be determined before June 15. A penalty not to exceed 20 % of the tax due may be added, interest not to exceed 15 % per year shall accrue until the date the amounts are paid in full. A tax liability is a personal liability. A property tax lien is paramount to all other liens.

Article II provides for the enforcement of tax liens. The certified assessment and tax roles are valid and binding. The municipality may collect the tax in a personal action. The procedure for distraint and sale of property must be made by ordinance. A demand of payment to the property owner and the sale of the property by auction are required to make a sale legal and valid. If the property sold is insufficient to satisfy the debt, other personal property may be seized up to the amount of the debt. Excess funds from a sale of seized property must be paid to the former owner of record upon receipt of a proper claim within six months of the date of sale. Article II establishes that all real property tax liens shall be enforced by annual foreclosure. The procedures of foreclosure are given with the information necessary for administration of the process. The subjects covered in the rest of Article II are the foreclosure list, clearing delinquencies, list to lienholder, general foreclosure, answer and objection, judgment, transfer and appeal, redemption period, effect, additional liens, possession during the redemption period, expiration, deed to borough or city, disposition and sale of foreclosed property, repurchase by record owner, proceeds of tax sale, payment of taxes upon public utilization, and refund of taxes. These sections have had a few changes. A person with a lien on part of a piece of property can no longer redeem that part without redeeming the total property. The receipt of the redemption payment releases the judgement held by the municipality. It does not release all claims of the municipality against the property. The clerk is allowed to delegate the

publication of the redemption period expiration notice and the notice of hearing. The clerk would have been required to send a copy of the notice to holders of liens if the property was valued over \$100,000. Committee Amendment #4 lowers the dollar amount to a \$20,000 value. The last change is the allowance of a municipality to refund taxes that in the municipality's judgement would be required to be refunded by a court upon litigation. The governing body is permitted to correct manifest clerical errors.

Article III delineates the cities property taxing power. Home rule and first class cities, outside a borough, may levy taxes as provided by AS 29.45.010 - 29.45.500. Home rule and first class cities, within boroughs, may levy a property tax as provided by statute in section 560. Differential tax zones are allowed to pay for services not generally provided in the city. A second class city may levy property taxes, with a maximum limit of $\frac{1}{2}$ of 1% of the property's assessed value, except when the taxes are used to repay bonded indebtedness. A ballot proposition to establish a second class city can include the proposition of a stated property tax. The petition may have the binding request that incorporation be dependent on the passage of a property tax proposition.

Article IV provides for borough sales and use tax. A borough may levy and collect a sales tax not exceeding 6% on sales, rents and services within the borough. If the borough levies a sales tax, it may also levy a use tax equal to the sales tax. The use tax will be levied only on buyers. The interest rate on delinquent amounts of sales or use tax may not exceed 15%. A notice of a sales and use tax must be given before the municipality can receive municipal assistance and revenue sharing. A sales or use tax, or an increase in either, must be approved by a majority of the voters.

Article V provides for city sales and use tax. The city may tax on all sources taxed by the borough and can also tax other sources authorized by the borough assembly. A sales and use tax may be incorporated in a petition for a second class city. If a petition asks for incorporation dependent on passage of a sales and use tax and the tax fails, the incorporation also fails.

CHAPTER 46 sets forth special assessments.

An assessment proposal, to the governing body, may be made by a petition from the owners having $\frac{1}{2}$ of the property in value. An assessment proposal, also, may be made by the governing body. The procedure will be set by the municipality following certain requirements stated in Chapter 46. Objections must be filed within 60 days of publication of notice. If 50% or more of the owners of record object in writing during the period set, the improvement can not proceed until the objections are reduced to less than 50%. If, after the hearing and errors and inequities in the assessment roll are done, the assessment must be increased, a new hearing must be held. The procedures for payments, exemptions and the effect of liens is delineated. The State of Alaska will reimburse a municipality for any revenue lost due to Section 80, Chapter 46. The allowable costs of a special assessment district are outlined. The total amount of the assessment roll may not exceed actual costs, but actual costs may include reasonable estimates of the costs incurred in connection with issuances of bonds. An objection and appeal can only be made by an owner who objected in writing to the proposed district within 30 days of the confirmation date of the assessment roll. A municipality may provide, by resolution or ordinance, for the issuance of notes for interim financing. Special assessment bonds may be authorized, by ordinance or resolution, to pay all or part of the cost of an improvement. A guarantee fund must be established in an amount adequate to cover a deficiency in meeting payments of principal and interest before the issuance of special improvement bonds.

CHAPTER 47 deals with municipal debt.

Article I deals with revenue anticipation notes. Any municipality may borrow money to meet appropriations in anticipation of receiving the necessary funds, with the requirement that the note be paid by the end of the next fiscal year. Notes must be authorized by ordinance and resolution under the terms described. Notes in anticipation of State or Federal grants may be made under the described method.

The payment of anticipation notes is from revenues and shall be secured by a pledge of the full faith and credit of the municipality issuing them.

Article II allows bond anticipation notes. A municipality can issue bond anticipation notes if the general obligation bonds have been authorized by ordinance and approved by the voter or if revenue bonds have been authorized by ordinance. Notes for amounts borrowed can not exceed one year. The notes are payable from proceeds of bond sales or from issuance of new notes. The total amount of notes outstanding may not exceed the amount of bonds authorized. The proceeds of the notes may only be used for the purposes of the bonds authorized.

Article III regulates general obligation bonds. General obligation bonds may be issued to raise revenue for capital projects. An election must be held to approve a bond authorization ordinance. A public notice shall be issued 20 days before the election. The notice will include the current general obligation bonded indebtedness, the cost of the debt service, and the total assessed value of property in the municipality. The full faith and credit of the municipality is pledged for the payment of principal and interest.

Article IV regulates revenue bonds. Revenue bonds may be issued to raise revenue for a public enterprise or public corporation. Revenue bonds can be used to finance the purchase of residential mortgage loans. No elections are required and revenue bonds are excluded from the application of the prohibition against a political subdivision of the state making a subscription to the capital stock of a corporation, lending its credit for the use of a corporation, or borrowing money for the use of a corporation.

Article V authorizes the refunding of bonds, both general obligation and revenue bonds by ordinance or resolution. All or part of the bonds can be redeemed with no requirement of an election.

Article VI contains miscellaneous provisions. A municipality may authorize revenue bonds for any project which meets a public need. The payment of these bonds may only be from bond revenue, and the city does not pledge its faith and credit. The municipality sets the terms

and conditions by ordinance and can set the interest rate without limitation to AS 45.45.010. Borough indebtedness is on an areawide basis for areawide functions and on a non-areawide basis for non-areawide services.

CHAPTER 55 provides for municipal programs.

The governing body of a municipality may establish a local historical district or designate the planning commission or itself as the historical district commission. A historical district shall be of a reasonably compact area containing two or more structures important in state or national history, and related by physical proximity or historical association. The establishment of a historical district under this section shall be consistent with any applicable comprehensive plan for the municipality.

CHAPTER 60 establishes state programs.

Article I is a continuation of the municipal tax resource equalization. The equalization entitlement computed for a taxing unit is based on population, the units ability to generate revenue and the amount of taxes paid. A formula of the entitlement = $P \times R$ where P = population and R = the millage rate equivalent. The population must be determined annually by the latest figures of the United States Bureau of Census or equally reliable figures. The determination of the millage rate must be initially made by the department, with the final determination no later than December 15. The millage rate is determined according to factors established in article 1. The payments may not be made until the required reports of the estimated revenue and financial report are submitted. A limitation on the computation and use of payments, the administrative authority and necessary definitions are also included in this article.

Article II provides state aid for miscellaneous purposes. State aid for roads is set at \$2500 per mile of road properly maintained by the municipality and \$1500 per mile for designated ice roads. State aid for health facilities and hospitals is set at \$50,000 for facilities with less

than 10 beds and \$250,000 for 10 beds or more. State aid to volunteer fire departments registered with the state fire marshal serving in an unorganized area will receive an amount equal to \$10 per person served. State aid to unincorporated communities is set at \$25,000 per year. A cost of living differential will be reflected in payments to the above Article II programs. The miscellaneous services account is established to carry out the provisions of A.S. 29.60.100 - 29.60.180 and the authority for the necessary regulations given.

Article III providing state aid for hospital and health facility construction was repealed and changed by SB-85 (S.D.18) (see Amendment #10).

Article IV sets administration of state aid programs. Each year the amounts determined by the legislature will be allocated to the accounts established in Chapter 60. The qualifications for minimum payments are set forth along with the procedure for handling proration of payments.

Article V establishes the municipal assistance fund. The legislature may appropriate an amount equal to or greater than 30 percent of the income tax revenue. The money must be distributed to the municipalities on an annual basis with a base amount being the amount the municipality or a like municipality received in FY78. Any amount above the base will be distributed on population. Population will be determined by the Commissioner of the Department of Community Regional Affairs. The intent of municipal assistance above the base amount is to reduce the tax burden of the municipal taxpayer. Article V provides the general provisions. The definition of a health facility and of a hospital are given.

CHAPTER 65 deals with the general land grants.

It has not been changed from the current Title 29. The determination of the entitlement of municipalities is given. A city is entitled to 10% of the maximum total vacant, unappropriated land. The requirements, procedures and actions necessary to obtain a land grant from the State of Alaska, or from school, university, or mental health land, and/or to

receive payments for land deficiency are in this Chapter. This Chapter authorizes land exchanges in the public interest. A municipality must decide if they will continue litigation of claims under former AS 29.18.190 and 29.18.200 or obtain the benefits given by this Chapter. The Commissioner of the Department of Natural Resources may adopt the necessary regulations.

CHAPTER 71 establishes the general provisions of Title 29.

A municipality may not be divested of title to real property by adverse possession. Dedication of streets, rights-of-way, easements or other public use areas does not require the city to maintain, improve, or provide services and does not impose a liability. A municipality may not be taxed by the State unless expressly provided for by law. The necessary terms are defined as to general context. No agency may acquire property which will change municipal boundaries unless the platting authority approves a replat. Elections shall be held on the first Tuesday in October. The elections shall be supervised by the Director of Elections in the Lt. Governor's office. The Lt. Governor shall adopt regulations for the conduct of elections of the regional school board members as comparable to the election of other school board members as possible. The rural school boards are subject to recall and the director of the division of elections shall perform the duties of municipal clerk. A single body can act as both the assembly and school board if certain conditions are met. A bond is required before an officer responsible for a school districts money can take office. The Department of Community and Regional Affairs will prepare a determination of the full value of taxable real and personal property in each district by October 1. There are also many sections which are reworded to conform to the new numbering of HB172.

Article XII establishes the ability of the Commissioner of the Department of Community and Regional Affairs to contract for a feasibility study of establishing boroughs in the unorganized borough. It requires that an appropriation be made for that purpose and that a request come from an individual living in the area to be studied. How to request the study, the boundary requirements and how contracts will be handled is delineated.

AMENDMENTS

The following is a list that presents a brief explanation of the amendments that were discussed and that received approval from the House Committee on Community and Regional Affairs during the 1983 legislative session. The following amendments 1 through 10, cover the concerns brought out from the proposals previously conducted by the Hammond Administration as well as progressively bringing further clarity and flexibility to Title 29.

AMENDMENT #1 - clarifies the participation of a municipal employee or official in instances where the employee or official has substantial financial interest that may constitute a conflict of interest. Other items on the amendment are grammatical changes and general house keeping changes to further clarify the language (S.D.#9). *passed*

AMENDMENT #2 - removes the requirement of determining the "sufficiency of grounds" for a recall election. It replaces "providing legal grounds" with "providing reasons for" and amends the percentage amount of signatures required to constitute a recall election from 25% to 35% (S.D.#10). *dnp*

AMENDMENT #3 - defines the intent of eminent domain process. As written, the statement may have not met the intent of allowing municipalities to exercise the right of eminent domain to acquire specific certificates or properties (S.D.#11). *passed*

AMENDMENT #4 - lowers the minimum value of property to be foreclosed upon without notification to the owner by certified mail to \$20,000.00 from the proposed limit of \$100,000.00 (S.D.#12). Presently, property of any value must be notified. *passed*

AMENDMENT #5 - specifies the date that Chapter 45 of Title 29 as written in House Bill 172 will go into effect. The amendment will avoid the possibility of a split tax year and will provide lead time for municipal planning and department assistance for mandated state and federal programs (S.D.#13). *passed*

AMENDMENT #6 - This amendment did not receive committee approval (S.D. #14).

dnp

AMENDMENT #7 - deletes "greenhouses" from being considered under a special lower assessment for property taxes on farm use land. The special taxing provisions for farm use land is designed to help farmers resist pressures to sub-divide their land (S.D.#15).

passed

AMENDMENT #8 - deals with required tax exemptions which contain new language that defines "developed" for the implementation of a required federal tax program. This concern was addressed and resolved in Senate Bill 260 (S.D.#16).

dnp

AMENDMENT #9 - relates to the Alaska Public Utilities Commission. The net effect of the amendment is to prohibit municipalities from regulating utilities unless the type of regulation proposed or the particular utility is not subject to regulation by the Alaska Public Utilities Commission (S.D.#17). Please review HB274 (S.D.#5) which dealt with this issue.

dnp.

PROPOSED AMENDMENTS FOR CONSIDERATION DURING 1984 SESSION

AMENDMENT #10 - Legal Services is preparing this amendment, by request of the Chairman, to be considered by the Committee on Community and Regional Affairs during the 1984 legislative session. It will encompass all legislation that was signed into law during the 1983 session that pertains to Title 29. This action is necessary in order to reflect changes made to Title 29 that are not now incorporated in the revision bill.

passed

Three separate pieces of legislation became law. SB85 relates to the certificate of need program and construction funding for health facilities (S.D.#18).

Senate Bill 260 which provides for the definition of "developed" as it relates to lands that are exempt from taxation as stated by federal law (S.D.#4). House Bill 274 would exempt a utility which furnishes cable television from the provisions of the Alaska Public Utilities Commission Act (AS 42.05.010 thru AS 42.05.721) with the exception of provisions requiring a certificate of public convenience and necessity (AS 42.05.221 thru AS 42.05.281), unless 25 percent of the subscribers petition the commission for regulation (S.D.#5).

AMENDMENT #11 - "special hospitals" to be included in definition of health facilities - AS 29.60.800(2), page 169, line 3 of House Bill 172. That section as currently drafted discriminates against special hospitals by excluding them from hospital revenue sharing. Since these facilities are required to be built to acute hospital standards and function as an acute facility with a specialty license, language to resolve this discrepancy may read as follows:

passed

AS 29.60.800(2),

"hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general or special hospital; the term excludes a facility operated or wholly supported by the state of the federal government (S.D.#19).

The following amendment is the differences between House Bill 172 and CS Senate Bill 1 at present. If adopted, both bills would be in line.

AMENDMENT #12 - page 33, after line 28, insert new line (26) 29.3-5.060 (franchise and permits) and renumber following paragraphs accordingly.

page 77, after line 6, add a new subsection - (c) this section applies to home rule and general law municipalities.

page 77, line 9, after "regulate" delete [,] and add a utility service and"

page 77, line 12 after "is" delete [not] and after AS 42.05, delete [and] and add "or"

page 77, line 14 delete [(2)...law.] and add (2) municipal regulation is prohibited by AS 42.05.711 (k) or other law.

page 77, line 17-20, delete subsection (c) and add a new subsection (c) A municipality that owns or operates a utility may extend service to adjacent areas outside its municipal boundaries. For that purpose, the municipality may acquire, maintain, and operate utility facilities together with necessary interests in real property outside its municipal boundaries.

page 77, lines 21-22, delete subsection (d) and add a new subsection (d) Unless a utility is owned by the municipality that is regulating it, all rates, charges, and regulations shall be established by the municipality in accordance with an ordinance that provides procedures for regulating service and establishing and changing rates and charges. The ordinance shall provide for procedures necessary to guarantee due process, including notice and hearing requirements. Rates and charges established under this section shall be reasonable and permit a fair return on invested capital.

page 77, Sec. 29.35.070, add new subsection (e) A dispute involving a utility certificated under AS 42.05 as to the reasonableness of the fees or the terms, conditions, or exceptions to a permit to use municipal streets shall be decided under AS 42.05.251.

page 77, Sec. 29.35.070, add a new subsection (f) In case of a conflict between the provisions of this section and AS 42.05 or concerning an action taken under this section or AS 42.05 involving the regulation of service or the rates or charges of a utility certificated under AS 42.05, the provisions of AS 42.05.641 apply.

page 77, Sec. 29.35.070, add a new subsection (g) This section applies to home rule and general law municipalities.

page 195, line 22, add Sec. 62. AS 42.05.711 is amended by adding a new subsection (k) A public utility that is exempt or partially exempt under this section from the provisions of AS 42.05.010 - 42.05.721 may not be regulated by a municipality. This subsection does not apply to a public utility exempt under (b) of this section.

Renumber the following sections accordingly.

page 107, line 29, after "borough" delete [including...period;]

page 61, line 10, after "(3) delete [is] and add "has been
after "elections" add for at least 30 days immediately
preceding the municipal election; and

page 14, lines 17-26, after "action." add The standards and procedures established under this subsection that apply to detachment shall be the same as the standards and procedures that apply to annexation, except that the standards and procedures that apply to detachment must include provisions for equitable prorated payment of debts acquired by the municipality before the detachment.

page 14, line 19 after (1) add, subject to (2) and (3) of this subsection,

page 14, line 23 after "annexed" delete [by ordinance ...approval] and add or detached by ordinance without an election;

page 14, line 24 after "annexed" add or detached

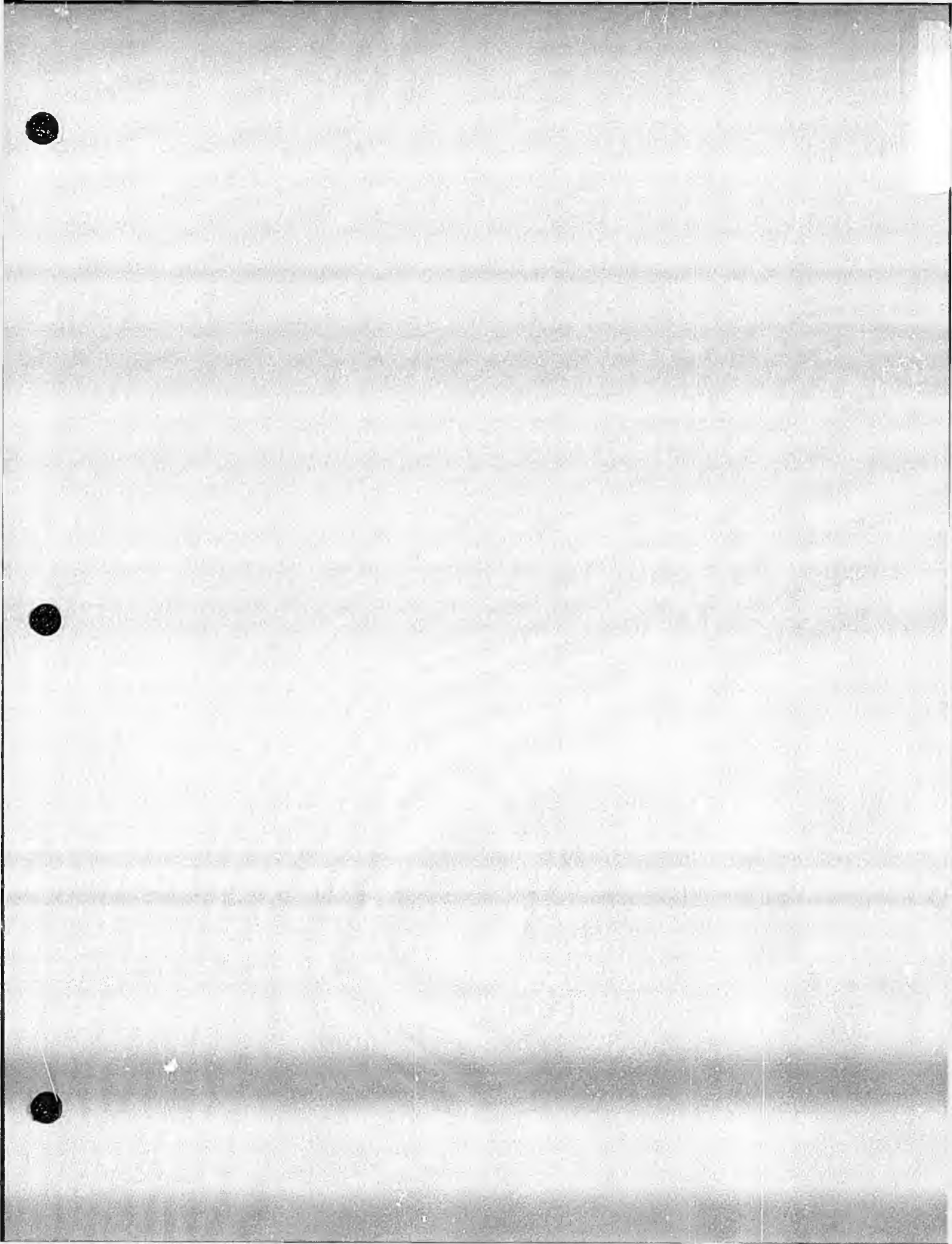
page 14, after subsection (3) add a new subsection (4) within 90 days after receipt of a petition for annexation or detachment, the Local Boundary Commission shall make a decision on the petition. (S.D.#20)

AMENDMENT #13 - Change effective dates to present year.

END

passed

AMENDMENT #14 - DNP



February 16, 1981

Monday

No. 10



Official Business

Alaska State Legislature
Senate

SB
180

MEMORANDUM

12 February 1981

TO: Representative Hugh Malone
Chairman, Legislative Council

FROM: Senator Arliss Sturgulewski
Chairman, Title 29 Revision Policy Advisory Group

As chair of the Title 29 Policy Advisory Group, I am pleased to submit a bill revising Title 29 of the Alaska statutes. This revision of the municipal government statutes was mandated last year by SCR 66 "Directing the Alaska Legislative Council to revise AS 29 (Municipal Government)". Under this resolution, a thirteen member Policy Advisory Group was appointed to oversee the revision process. In addition to four legislative members; Senator Bob Mulcahy, Representative Charles Parr, Representative Margaret Branson, and myself, nine members represented various levels of local government and geographic areas of the state.

This proposed bill represents a tremendous volume of work completed within a limited time frame. However, the revision of Title 29 has been thoroughly and carefully considered in spite of this time constraint. This is due in large measure to the real concern about local government shared by all members of the Policy Advisory Group. Excellent assistance was provided by a Technical Group composed of two Advisory Group members, municipal attorneys, and a city clerk. This Technical Group was formed to assist the legislative legal staff and the Advisory Group in interpreting provisions of the law and in revising specific statutes. Policy decisions were made by the Policy Advisory Group.

Since the first organizational meeting in August 1980, three complete redrafts of Title 29 have been prepared and reviewed. The legislative Legal Services staff, under the direction of Billy Berrier, is due special recognition for the tremendous amount of staff work provided to the Policy Advisory Group, especially Ms. Tamara Brandt Cook, who was responsible for the successive drafts of Title 29.

SB
180

Public testimony was received during the monthly meetings of the Policy Advisory Group from representatives of local government, Native organizations and state agencies. Numerous presentations were made to interested organizations, including a work session at the Alaska Federation of Natives annual meeting, participation at the annual Alaska Municipal League conference and numerous presentations to various interest groups.

A complete report of all changes proposed in Title 29, as well as an explanation of those sections that were deleted from the final bill, has been prepared. This section-by-section analysis will be submitted to respective Senate and House committees of first referral.

The Policy Advisory Group voted unanimously to recommend this bill to the Legislature for passage. While, overall, the committee is satisfied with this bill, it necessarily represents compromises on issues of local government structure by all members of the group. The Policy Advisory Group provided for the submission of minority reports with the Title 29 bill. One minority report was received, and is being submitted with the proposed bill.

The Policy Advisory Group, in its initial meetings, developed two basic guidelines for its revision of Title 29. These can be characterized as the simplification of the title's organization and the achievement of maximum flexibility in the structure and functioning of local government. Simplification of the organization of Title 29 will make it easier for everyone involved with, or interested in municipal government to understand the state's municipal code. Simplification included clarification of the range of local governmental powers and how these powers can be assumed.

Flexibility in carrying out local administrative and procedural responsibilities meant reducing unnecessary statutory directives on local actions. The Policy Advisory Group recommended the deletion of a number of technical requirements on how local governments were to undertake day-to-day functions. These provisions included requirements for specifying a particular date for council and assembly meetings, the form of local ordinances, specific election dates and procedures, and so on.

However, in meeting the public's desire for more flexibility in the functioning of local government, the Policy Advisory Group was well aware that they were in effect eliminating a model for governmental activities that could be used by newly formed municipalities. Although it does not appear in the proposed revision of Title 29, the Policy Advisory Group found that more technical assistance in defining local government's structure and procedure will be required by local governments once the revision of Title 29 is adopted. To this end, the committee recommends that the capability of the Department of Community and Regional Affairs to provide expanded technical assistance be evaluated and matched to the future demand for the Department's services.

The mandate given the Policy Advisory Group was to prepare a revision of Title 29 for submission to the Legislature. With the submission of this bill, the Policy Advisory Group has fulfilled their mandate. However, there were a number of major policy issues brought before the Policy Advisory Group that could not be addressed within the scope of the revision of Title 29. I would like to outline some of these major issues which the Policy Advisory Group feels will merit further consideration by the Legislature.

The major policy issue beyond the scope of the Title 29 revision was the widespread demand for more local control, both over local matters and over state and federal programs affecting communities. The public brought a variety of proposals before the Policy Advisory Group, from demands for more local direction of state programs, to the granting of municipal rights and powers to Native governments; to the desire for self-governing regional organizations that would be something other than boroughs or unified municipalities. Major policy issues relating to these proposals include the constitutional and statutory basis of such self-governing organizations; questions of representation that must meet federal Supreme Court mandates; and problems of designing mechanisms that will enable the diverse range of local governments to effectively influence state and federal programs.

In testimony before the Policy Advisory Group, two state agencies proposed that local governments consider taking over those agency programs that were primarily local in nature. While responding to the desire for more local control over their programs, neither agency had a clear idea of the cost or manpower requirements such decentralization would place on local governments. As a result, it was not possible to determine whether the total costs of these programs would increase with decentralization, when staff and program costs would be duplicated among several local governments. An important question to be answered by the Legislature, is how much the state is willing to pay to meet the demands for local control. Local governments will need support to carry out statutory mandates. Is the Legislature willing to provide more support to local governments than it presently provides state agencies?

A common problem faced by rural residents is the multiplication of agencies and organizations formed to respond to state and federal program requirements. There was a general call for coordinating and streamlining requirements that now result, in some cases, in up to 10 local boards and organizations. These may include a city council, IRA council, village corporation board and subcommittees, membership in various non-profit organizations (formed to provide health services, state and federal contract construction services, BIA funded social services, regional housing authorities, and so on) and regional Coastal Resource Service Areas and Regional Education Attendance Areas and so on.

Comments on the "pros" and "cons" of the service area concept and its use were brought to the Policy Advisory Group. Some rural residents expressed a strong feeling that the creation of separate single-purpose service areas led to a fragmenting of local control. Others felt that service areas would be the best vehicle for additional public services in the unorganized borough. In any event, the creation of additional single-purpose service areas, to be superimposed on the existing system of RIAs, Coastal Resources Service Areas and Aquaculture Districts, needs to be given serious thought. This is especially true in light of the constitutional intent of a simplified system of local government. Or, put in another way, should the Legislature create a multi-layered type of governmental system in the unorganized borough that is considered undesirable within an organized city or borough?

In short there is a widespread and growing concern in all areas of the state about the nature and structure of local government. The proposed revision of Title 29 addresses many of the difficulties of organized local governments, and will hopefully make it easier for areas to incorporate and function as municipalities. In addition to this revision the legislature will be faced with a number of questions on the very substance and purpose of local government and local self-determination that go far beyond the recommended revision of Title 29. In order to answer these public concerns, the Legislature will have to be prepared to reassess the constitutional and philosophical foundations of local government in Alaska.

I see the revision of Title 29 as the first step in this reevaluation of the structure and function of local government in our state. When our constitution was adopted in 1956, its provisions for local government were the most advanced in the nation. As with the update of the municipal code in 1972, the present effort to revise Title 29 reflects a continuing commitment to developing a healthy, flexible, and most functional system of local government possible to meet Alaska's needs.

In closing, I would like to request that this memorandum be made a part of the Journal Supplement upon submission of this bill.

Attachments:

- Minority Report
- Policy Group Members List
- Technical Group Members List

CHARLIE PARR
ALASKA LEGISLATURE

S. R. Box 30399
Fairbanks, Alaska 99701
456-5029

Pouch V
Juneau, Alaska 99811
465-4908

January 21, 1981

Senator Arliss Sturgulewski
Chairman
Title 29 Revision Commission
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski:

As we discussed during the Title 29 Revision Commission meeting of January 17-18, 1981, I wish to submit a minority report.

In general, I agree with the direction taken, and in some instances do not consider issues of sufficient import to justify taking written exception. I think it speaks well for the Commission that mine will probably be the only minority report, and that I can confine myself to two issues.

It was a pleasure to work with you.

Sincerely,


Charles H. Parr

TITLE 29 REVISION COMMISSION

Minority Report

At the first meeting of the Commission I laid out what appeared to me to be two general directions in which work should proceed:

- 1 - The garage mechanic, housewife, or other average citizen, when elected to the city council or borough assembly, should be able to read the Code and understand it.
- 2 - After ensuring that the Code contained provisions which would guarantee democratic rights common to all citizens of the State, we should "take the strings off" the municipalities as much as possible.

In my view, the Commission's work went a long way toward reaching this first goal. Although the Code is still somewhat confusing, it is much improved in organization and a number of passages with convoluted syntax have been removed.

I do not agree with the Commission's recommendation for abolition of the third class borough. No one has, in my judgment, presented compelling arguments for depriving citizens of this local government alternative. The third class borough at the present time offers a form of local government which is less demanding than that of the first and second class borough, and yet it has powers other than education. It may exercise these powers on a service area basis.

Apparently the crux of the matter is the fact that the third class borough is not required to exercise planning and zoning functions and this is anathema to the professional planners in our midst. I can find no other justification for their opposition.

The second point on which I wish to disassociate myself from the Commission's majority recommendations is that of State compliance with local subdivision regulation. It is common knowledge that the present administration, by its refusal to release land into private ownership, held down the safety valve on the steam boiler and caused the Beirne initiative explosion. We were rescued from the (probably) devastating effects of the initiative by the Supreme Court ruling that it was an appropriation and therefore unconstitutional. In an attempt to release some pressure from the "boiler", the Legislature has established the land disposal program and is insistent that sufficient land be made available to prevent a future such initiative which might meet constitutional tests.

If the State must meet subdivision requirements, several things will happen:

- 1 - The land disposal program will be delayed as necessary roads, and perhaps other improvements, must be constructed and pass municipal inspection before the land can be disposed of.
- 2 - The cost of improvements will be high and the State will be faced with a large subsidy for each parcel disposed of. If this large subsidy is not to be made, the parcels of land will be priced out of reach of many of the persons who would like to have them (especially young couples getting started).
- 3 - Subdivision standards vary from place to place. The State will be, in effect, favoring those municipalities which have higher subdivision standards. This could well lead to municipalities upgrading their standards in order to receive more from the State.

The whole issue of what the State should do in land disposal will be before the Legislature this year and a number of major policy decisions need to be made. I do not consider it appropriate to make such decisions in what was intended to be a non-policy revision of Title 29.


Charles H. Parr

TITLE 29 REVISION POLICY ADVISORY GROUP

Senator Arliss Sturgulewski
Chairman

Senator Bob Mulcahy

Representative Charles Parr

Representative Margaret Branson

Ted Berns
Attorney, Municipality of Anchorage

Terry Cook
City Council, City of Alakanuk

Marilyn Dimmick
Borough Assembly, Kenai Peninsula Borough

James Kohler
City Manager, City of Yakutat

Ronald Larson,
Mayor, Matanuska-Susitna Borough

Gene Moore
City Manager, City of Kotzebue

Jonathan Solomon
Mayor, City of Fort Yukon

Donna Sherby
City Clerk, City of Cordova

Russell Walker
Attorney, City and Borough of Ketchikan

TITLE 29 REVISION TECHNICAL ADVISORY GROUP

Ted Berns
Attorney, Municipality of Anchorage

Russell Walker
Attorney, City and Borough of Ketchikan

Ailan Tesche
Attorney, Matanuska-Susitna Borough

Richard Garnett, III
Attorney, Kodiak Borough

John Messenger
Bond Counsel, Preston, Thorgrimson, Ellis, Holman &
Fletcher

Jim Nordale
Attorney, Fairbanks North Star Borough

Gerald Lee Sharp
Attorney, City and Borough of Juneau

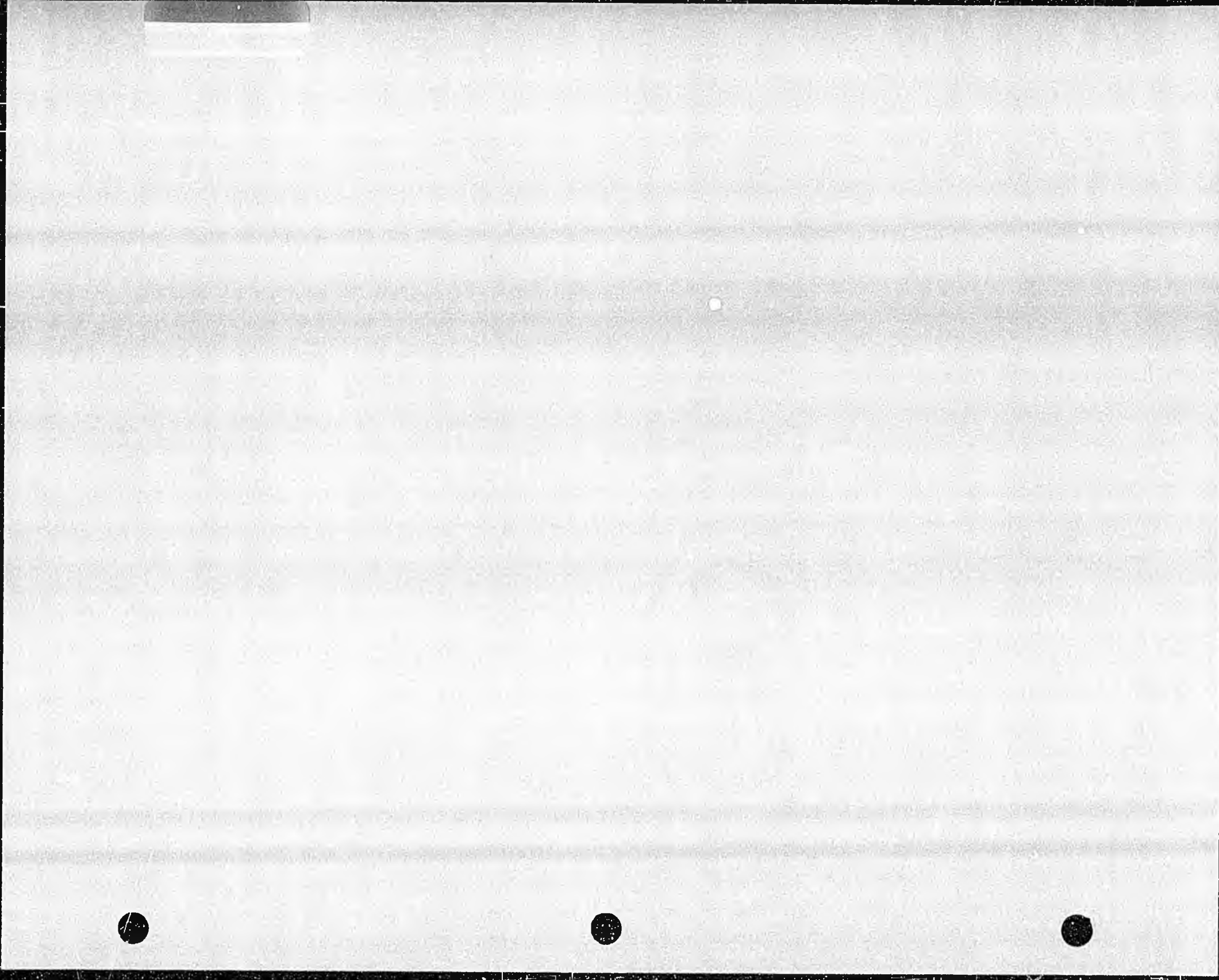
JoAnne Shanley
City Clerk, City of Seward

TITLE 29 REVISION EX-OFFICIO MEMBERS

Ginny Chitwood
Executive Director, Alaska Municipal League

Palmer McGarther
Director, Division of Local Government Assistance
Department of Community and Regional Affairs

Phil Smith
Director, RuralCAP



SB 535 (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(e) 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 companionos -- 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 (e) 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 535 (Jud) am II 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 II, 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.)

am certainly in no position to secondly 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 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 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 your 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

	Page
CCS SB 42 G.O. bonds for water, sewer, and solid waste	1741-43
HCS CSSB 180 (Jud) am House Municipal government	1788-92
2d HCS SB 205 (Fin) G.O. bonds for transportation facilities	1741-43
HCS CSSB 252 (Fin) am House Grants for water supply, sewer & solid waste	1759-60
HCS CSSB 327 (Fin) am House Parole of offenders	1760-61

CCS SB 365 G.O. bonds for education facilities	1741-43
CCS SB 831 Insurance	1745-46
SB 834 am House Guide Licensing & Control Board	1768
CS SB 835 (Fin) am House National Petroleum Reserve	1769
CCS SB 876 G.O. bonds for U of A	1741-43
CCS SB 887 G.O. bonds correctional & court facilities	1741-43
CCS HB 339 Adoption of administrative regulations	1772
SCS CSHB 844 (Hess) am Senate Financing of health facility improvements	1739

REDUCED BILLS

CS SB 746 (Fin) am House Special and supplemental appropriations	1773-76
SCS HB 148 (Fin) Operating & capital expenses of the state government	1748-56
HB 348 am Senate Avalanche warning system	1766-67
SCS CSHB 643 (Fin) re-engrossed Repealing, amending, extending lapse dates appropriations	1776-80

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

Peggy Mulligan
Peggy Mulligan
Secretary of the Senate
July 1982



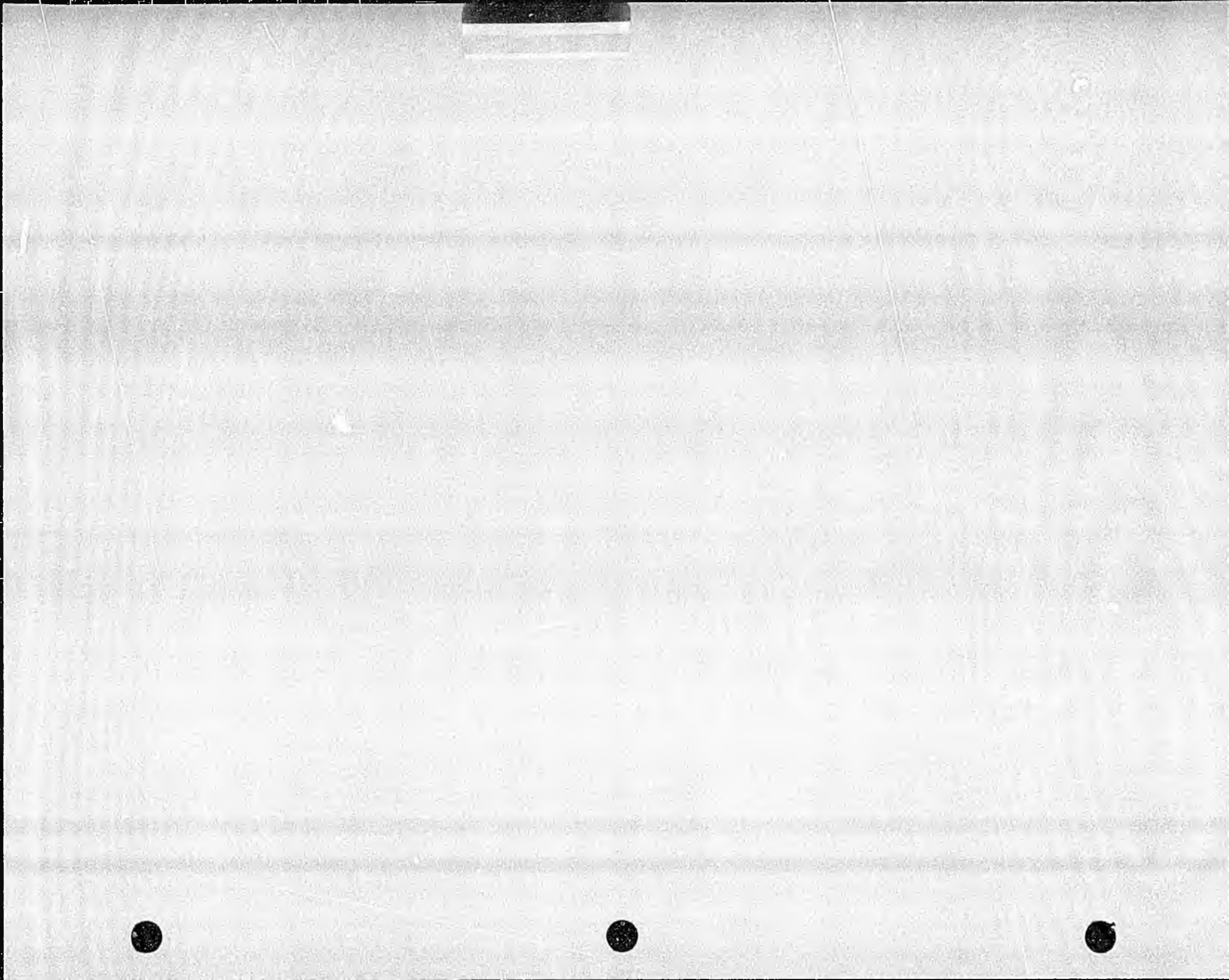
Offered: 4/11/83
Referred: Rules

Original sponsors: Lacher and Larson

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 42 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA -
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the determination of population
7 for purposes of calculating amounts of state aid; and
8 providing for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 29.88.015 is amended to read:
11 Sec. 29.88.015. DETERMINATION OF POPULATION. (a) For purposes
12 of AS 29.88, the population of a taxing unit shall be determined
13 annually by the latest figures of the United States Bureau of the
14 Census or by another method of determining the actual [OTHER] popu-
15 lation based on current criteria of the United States Bureau of the
16 Census that [DATA WHICH], in the judgment of the department, is
17 equally reliable.
18 (b) The population of the taxing unit includes all persons who
19 usually reside within the taxing unit and the population of any mili-
20 tary reservation that [WHICH] is a part of the taxing unit. No person
21 may be included in the population of more than one taxing unit.
22 * Sec. 2. AS 29.89.060 is amended to read:
23 Sec. 29.89.060. POPULATION DETERMINATION. (a) For purposes of
24 AS 29.89, population shall be determined by the latest figures of the
25 United States Bureau of the Census or other reliable population data,
26 including current criteria of the United States Bureau of the Census,
27 [BUT NOT LIMITED TO] public school enrollment figures, public utility
28 connection, registered voters or certified employment payrolls.
29 * Sec. 3. AS 29.89.060 is amended by adding a new subsection to read:

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

7 * Sec. 4. This Act takes effect July 1, 1983.



6

Chapter 97

(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.

(1) If property or an interest in property that is determined not to be exempt under (a)(9) of this section reverts to an undeveloped state, or if the lease is terminated, the exemption shall be granted, subject to the provisions of (a)(9) and (k) of this section.

* Sec. 3. This Act takes effect January 1, 1984.



LAWS OF ALASKA

1983

Source

SB 260 am H

Chapter No.

97

AN ACT

Relating to exemption from municipal property taxation of certain property exempt from taxation under federal law; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 11

Permitted to Become Law Without Signature
Actual Effective Date: January 1, 1984

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AN ACT

Relating to exemption from municipal property taxation of certain property exempt from taxation under federal law; and providing for an effective date.

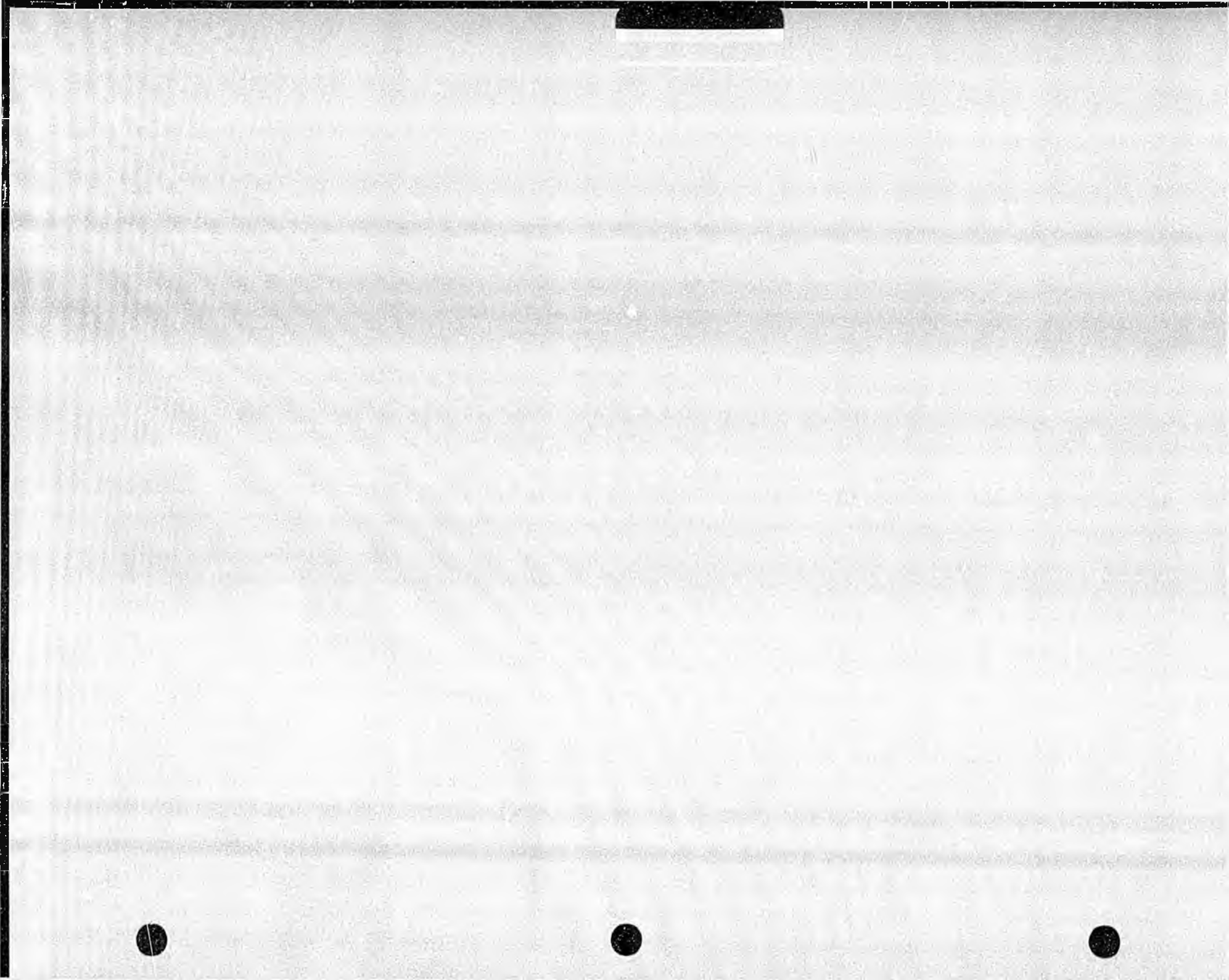
* Section 1. AS 29.53.020(a) is amended by adding a new paragraph to read:

(9) real property or an interest in real property that is exempt from taxation under 43 U.S.C. 1620(d), as amended.

* Sec. 2. AS 29.53.020 is amended by adding new subsections to read:

(k) For the purpose of determining property exempt under (n)(9) of this section, the following definitions apply to terms used in 43 U.S.C. 1620(d) unless superseded by applicable federal law:

(1) "developed" means a purposeful modification of the property from its original state that effectuates a condition of gainful and productive present use without further substantial 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 condition described in this paragraph, 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;



7

Chapter 30

AN ACT

Relating to the regulation of public utilities; and providing for an effective date.

* Section 1. AS 42.05.711 is amended by adding new subsections to read:

(k) A utility which furnishes cable television service is exempt from the provisions of this chapter other than AS 42.05.221 - 42.05.281 unless 25 percent of the subscribers petition the commission for regulation.

(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 29.48.060 - 29.48.090.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).



LAWS OF ALASKA

1983

Source

HB 274

Chapter No.

30

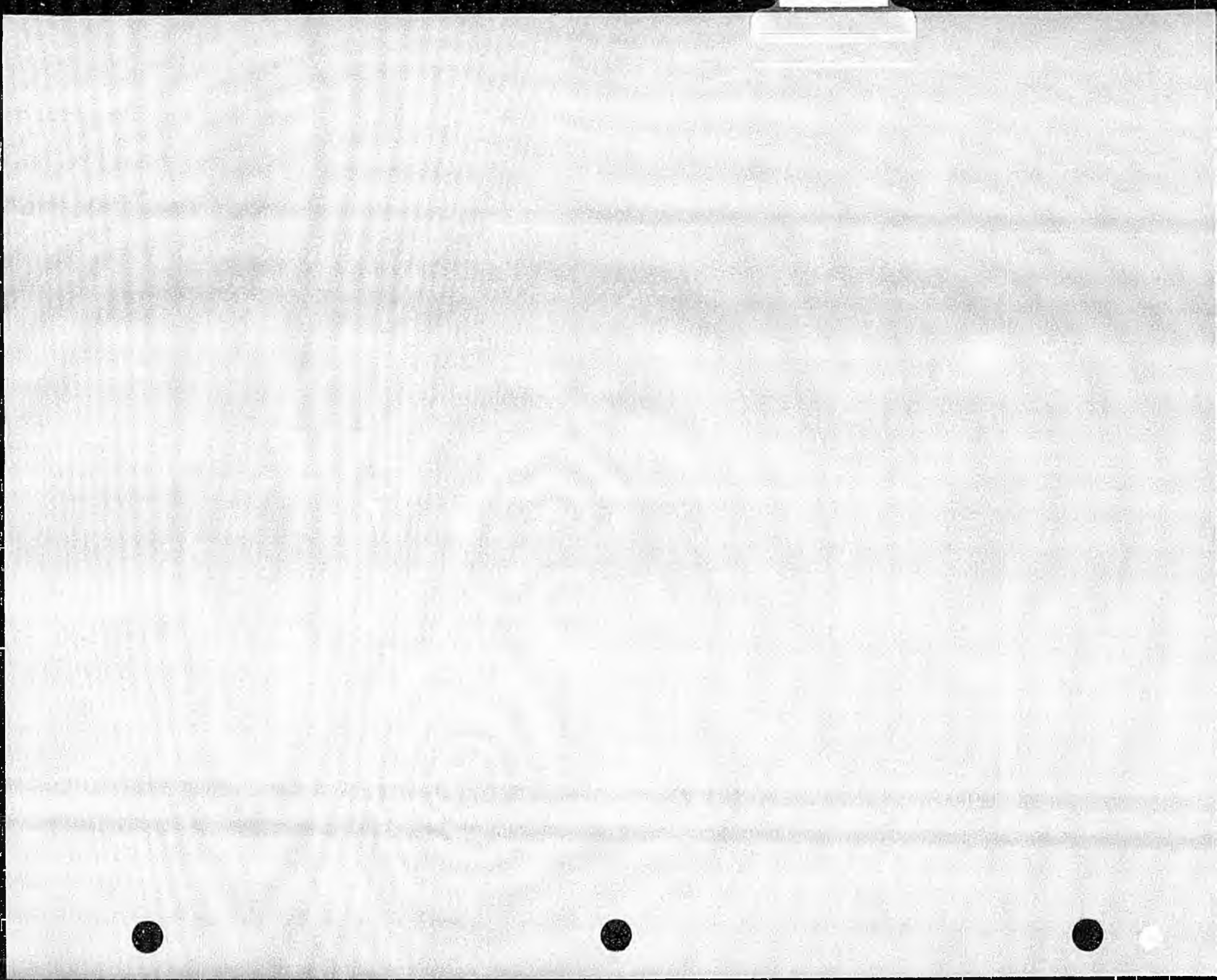
AN ACT

Relating to the regulation of public utilities; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9.

Approved by the Governor: June 29, 1983
Actual Effective Date: June 30, 1983



Introduced: 2/7/83
Referred: Community & Regional
Affairs and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 172

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

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

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

14 CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

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

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

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

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

1 Sec. 29.04.040. RECLASSIFICATION OF SECOND CLASS CITIES. (a) A
2 second class city may be reclassified as a first class city by holding
3 an election on the question, if the department determines from the
4 best figures available that the population of the city has reached 600
5 permanent residents.

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

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

11 (2) the council may propose reclassification.

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

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

22 (e) The council shall certify the election results to the de-
23 partment. If the majority of votes cast is favorable, the city shall
24 be considered reclassified to first class status 30 days after certi-
25 fication of the election results.

26 Sec. 29.04.050. RECLASSIFICATION OF SECOND CLASS BOROUGHS. A
27 second class borough may reclassify as a first class borough in the
28 manner provided by AS 29.35.320 - 29.35.330 for the addition of an
29 areawide power by a first or second class borough, except the petition

1 or proposal requests reclassification instead of requesting addition
2 of a power.

3 Sec. 29.04.060. RECLASSIFICATION OF THIRD CLASS BOROUGHES. (a)
4 A third class borough may reclassify as a first or second class bor-
5 ough in the manner provided by AS 29.35.320 - 29.35.330 for the addi-
6 tion of an areawide power by a first or second class borough, except
7 the petition or proposal requests reclassification instead of request-
8 ing addition of a power. At the time of voting on reclassification of
9 a third class borough to first or second class status, voters shall
10 vote also on whether the borough shall on reclassification retain a
11 combined assembly and school board or elect a separate assembly and
12 board as otherwise provided for first and second class boroughs.

13 (b) If a combined assembly and school board are approved at the
14 reclassification election, the assembly serving at the time of the
15 election continues to serve as the assembly and board on voter ap-
16 proval of reclassification and until terms of assembly members expire
17 as provided before reclassification. If a separate assembly and
18 school board are approved at the reclassification election, a school
19 board shall be elected in conformity with AS 14.12.030 - 14.12.100 at
20 the next regular election, if it occurs within 90 days of the date of
21 the reclassification election, or otherwise at a special election
22 within 90 days of the date of the reclassification election. Expira-
23 tion dates of terms of school board members elected at a special
24 election must coincide with the date of the regular election. Until a
25 board is elected and qualified, the assembly continues to serve as the
26 board.

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

28 CHAPTER 05. INCORPORATION.

29 ARTICLE 1. REQUIREMENTS.

1 Sec. 29.05.010. INCORPORATION OF A CITY. (a) A community that
2 meets the following standards may incorporate as a home rule or first
3 class city:

4 (1) the community has 600 or more permanent residents;

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

7 (3) the economy of the community includes the human and
8 financial resources necessary to provide municipal services; in con-
9 sidering the economy of the community, the Local Boundary Commission
10 shall consider property values, economic base, personal income, re-
11 source and commercial development, anticipated functions, and the
12 expenses and income of the proposed city, including the ability of the
13 community to generate local revenue;

14 (4) the population of the community is stable enough to
15 support city government;

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

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

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

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

27 Sec. 29.05.030. INCORPORATION OF A BOROUGH. (a) An area that
28 meets the following standards may incorporate as a home rule, first
29 class, or second class borough:

1 (1) the population of the area is interrelated and inte-
2 grated as to its social, cultural, and economic activities, and is
3 large and stable enough to support borough government;

4 (2) the boundaries of the proposed borough conform gener-
5 ally to natural geography and include all areas necessary for full
6 development of municipal services;

7 (3) the economy of the area includes the human and finan-
8 cial resources capable of providing municipal services; evaluation of
9 an area's economy includes land use, property values, total economic
10 base, total personal income, resource and commercial development,
11 anticipated functions, expenses, and income of the proposed borough;

12 (4) land, water, and air transportation facilities allow
13 the communication and exchange necessary for the development of inte-
14 grated borough government.

15 (b) An area may not incorporate as a third class borough.

16 ARTICLE 2. PROCEDURE.

17 Sec. 29.05.060. PETITION. Municipal incorporation is proposed
18 by filing a petition with the department. The petition shall include
19 the following information about the proposed municipality:

20 (1) class;

21 (2) name;

22 (3) boundaries;

23 (4) maps, documents, and other information required by the
24 department;

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

26 (6) a proposed operating budget for the municipality pro-
27 jecting sources of income and items of expenditure through the first
28 full fiscal year of operation;

29 (7) for a borough, based on the number who voted in the

1 respective areas in the last general election, the signature and
2 resident address of 15 percent of the voters in

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

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

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

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

11 (10) for a first or second class city, a designation of the
12 powers to be exercised;

13 (11) for a home rule or first class city, based on the
14 number who voted in the area in the last general election, the signa-
15 tures and resident address of 50 voters in the proposed city or of 15
16 percent of the voters in the proposed city, whichever is greater;

17 (12) for a second class city, based on the number who voted
18 in the area in the last general election, the signature and resident
19 address of 25 voters in the proposed city or of 15 percent of the
20 voters in the proposed city, whichever is greater;

21 (13) for a home rule municipality, a proposed home rule
22 charter.

23 Sec. 29.05.070. REVIEW. The department shall review an incorpo-
24 ration petition for content and signatures and shall return a defi-
25 cient petition for correction and completion.

26 Sec. 29.05.080. INVESTIGATION. (a) If an incorporation peti-
27 tion contains the required information and signatures, the department
28 shall investigate the proposal and shall hold at least one public
29 informational meeting in the area proposed for incorporation. The

1 department shall publish notice of the meeting.

2 (b) The department may combine incorporation petitions from the
3 same general area.

4 (c) The department shall report its findings to the Local Bound-
5 ary Commission with its recommendations regarding the incorporation.

6 Sec. 29.05.090. HEARING. The Local Boundary Commission shall
7 hold at least one public hearing in the area proposed to be incorpo-
8 rated for the purpose of receiving testimony and evidence on the
9 proposal.

10 Sec. 29.05.100. DECISION. (a) If the Local Boundary Commission
11 determines that a proposed municipality fails to meet the standards
12 for incorporation, it shall reject the petition. If the commission
13 determines that the proposed municipality meets the standards, it
14 shall accept the petition. If the commission determines that the
15 proposed boundaries can be altered to meet the standards, it may alter
16 the boundaries and accept the petition.

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

19 Sec. 29.05.110. INCORPORATION ELECTION. (a) The Local Boundary
20 Commission shall immediately notify the director of elections of its
21 acceptance of an incorporation petition. Within 30 days after notifi-
22 cation, the director of elections shall order an election in the pro-
23 posed municipality to determine whether the voters desire incorpora-
24 tion and, if so, to elect the initial municipal officials. If incor-
25 poration is rejected, no officials are elected. The election must be
26 held not less than 30 or more than 90 days after the date of the
27 election order. The election order must specify the dates during
28 which nomination petitions for election of initial officials may be
29 filed.

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

4 (c) Areawide borough powers included in an incorporation peti-
5 tion are considered to be part of the incorporation question. In an
6 election for the incorporation of a second class borough, each non-
7 areawide power to be exercised is placed separately on the ballot.
8 Adoption of a nonareawide power requires a majority of the votes cast
9 on the question, and the vote is limited to the voters residing in the
10 proposed borough but outside all cities in the proposed borough.

11 (d) A home rule charter included in an incorporation petition
12 under AS 29.05.060(13) is considered to be part of the incorporation
13 question. The home rule charter is adopted if the voters approve in-
14 corporation of the municipality.

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

18 Sec. 29.05.120. ELECTION OF INITIAL OFFICIALS. (a) Nominations
19 for initial municipal officials are made by petition. The petition
20 shall be in the form prescribed by the director of elections and shall
21 include the name and address of the nominee and a statement of the
22 nominee that the nominee is qualified under the provisions of this
23 title for the office that is sought. A person may file for and occupy
24 more than one office, but may not serve simultaneously as

25 (1) borough mayor and as a member of the assembly; or

26 (2) city mayor and as a member of the council in a first
27 class city.

28 (b) Except for a proposed second class city, petitions to nomi-
29 nate initial officials must include the signature and resident address

1 of 50 voters in the area of the proposed municipality, or that area of
2 the proposed municipality from which the officials are to be elected
3 under the composition and apportionment set out in the accepted incor-
4 poration petition.

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

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

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

13 (f) The initial elected members of the governing body shall
14 determine by lot the length of their terms of office so that a propor-
15 tionate number of terms expire each year, resulting in staggered terms
16 of office for members subsequently elected.

17 Sec. 29.05.130. INTEGRATION OF SPECIAL DISTRICTS AND SERVICE
18 AREAS. (a) A service area in a newly incorporated municipality shall
19 be integrated into the municipality within two years after the date of
20 incorporation. On integration the municipality succeeds to all the
21 rights, powers, duties, assets and liabilities of the service area.
22 On integration all property in the service area subject to taxation to
23 pay the principal and interest on bonds at the time of integration
24 remains subject to taxation for that purpose.

25 (b) After integration, the municipality may exercise in a former
26 service area all of the rights and powers exercised by the service
27 area at the time of integration, and, as successor to the service
28 area, may levy and collect special charges, taxes, or assessments to
29 amortize bonded indebtedness incurred by the service area or by a

1 municipality in which the service area was formerly located.

2 Sec. 29.05.140. TRANSITION. (a) The powers and duties exer-
3 cised by cities and service areas that are succeeded to by a newly
4 incorporated municipality continue to be exercised by the cities and
5 service areas until the new municipality assumes the powers and func-
6 tions, which may not exceed two years after the date of incorporation.
7 Ordinances, rules, resolutions, procedures, and orders in effect
8 before the transfer remain in effect until superseded by the action of
9 the new municipality.

10 (b) Before the assumption, the new municipality shall give
11 written notice of its assumption of the rights, powers, duties, as-
12 sets, and liabilities under this section and AS 29.05.130 to the city
13 or service area concerned. Municipal officials shall consult with the
14 officials of the city or service area concerned and arrange an orderly
15 transfer.

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

19 (d) This section applies to home rule and general law municipal-
20 ities.

21 Sec. 29.05.150. CHALLENGE OF LEGALITY. A person may not chal-
22 lenge the formation of a municipality except within six months after
23 the date of its incorporation.

24 ARTICLE 3. TRANSITIONAL ASSISTANCE.

25 Sec. 29.05.180. ORGANIZATION GRANTS TO CITIES. (a) To defray
26 the cost of transition to city government and to provide for interim
27 government operations, each city incorporated after July 1, 1983 is
28 entitled to an organization grant of \$50,000 for the first full or
29 partial fiscal year after incorporation.

1 (b) To defray the cost of reclassification, each second class
2 city in the unorganized borough incorporated before July 1, 1983 that
3 reclassifies as a home rule or first class city after July 1, 1983 is
4 entitled to an organization grant equal to \$50,000 for the first full
5 or partial fiscal year after reclassification.

6 (c) A city entitled to an organization grant under (a) or (b) of
7 this section is entitled to a second organization grant of \$25,000.
8 The Department of Community and Regional Affairs shall disburse the
9 second organization grant within 30 days after the beginning of the
10 city's second fiscal year after incorporation or reclassification, or
11 as soon after that time as money is appropriated and available for the
12 purpose.

13 (d) The Department of Community and Regional Affairs shall
14 disburse an organization grant under (a) and (b) of this section
15 within 30 days after certification of the incorporation election or
16 the reclassification election, or as soon after certification as money
17 is appropriated and available for the purpose.

18 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHES. (a) For the
19 purpose of defraying the cost of transition to borough government and
20 to provide for interim governmental operations, each borough incorpo-
21 rated after July 1, 1983, is entitled to organization grants as fol-
22 lows:

23 (1) \$300,000 for the borough's first full or partial fiscal
24 year;

25 (2) \$200,000 for the borough's second fiscal year; and

26 (3) \$100,000 for the borough's third fiscal year.

27 (b) The department shall disburse the first organization grant
28 to a borough within 30 days after certification of the incorporation
29 election favoring incorporation of a borough, or as soon after that as

1 money is appropriated and available for the purpose. The second grant
2 shall be disbursed within 30 days after the beginning of the borough's
3 second fiscal year, or as soon after that as money is appropriated and
4 available for the purpose. The third grant shall be disbursed within
5 30 days after the beginning of the borough's third fiscal year, or as
6 soon after that as money is appropriated and available for the pur-
7 pose.

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

10 Sec. 29.05.200. ORGANIZATION GRANT FUND. (a) The organization
11 grant fund is established in the department. An appropriation made to
12 the fund shall be used for organization grants to municipalities that
13 qualify under AS 29.05.180 or 29.05.190.

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

16 (1) each municipality expected to qualify to receive an
17 organization grant during the next fiscal year;

18 (2) the amount of money needed to cover all organization
19 grants expected to be awarded during the next fiscal year.

20 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGHES. (a)
21 Within 30 days after the date of incorporation of a borough incorpo-
22 rated after July 1, 1983, the department shall determine the popula-
23 tion of the borough.

24 (b) The department shall provide assistance to each borough in-
25 corporated after July 1, 1983, in

26 (1) establishing the initial sales and use tax assessment
27 and collection department if the borough has adopted a sales or use
28 tax;

29 (2) determining the initial property tax assessment roll if

1 the borough has adopted a property tax, including contracting for
2 appraisals of property needed to complete the initial assessment.

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

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

6 CHAPTER 06. ALTERATION OF MUNICIPALITIES.

7 ARTICLE 1. CHANGE OF NAME.

8 Sec. 29.06.010. CHANGE OF MUNICIPAL NAME. (a) The governing
9 body of a municipality may change the official municipal name by
10 adopting an ordinance for the purpose and filing the ordinance with
11 the office of the lieutenant governor. Upon receipt of an ordinance
12 ratified by the voters, the lieutenant governor shall issue an order
13 to the municipality changing its existing name. The name change shall
14 become effective on a date fixed in the order and occurring within 45
15 days after receipt of the ordinance. A copy of the order shall be
16 transmitted to the department.

17 (b) If an ordinance adopted under (a) of this section that
18 results in a change of the municipal name is subsequently repealed,
19 the lieutenant governor shall issue an order reinstating the former
20 name within 45 days after the date of the order, unless a different
21 name is adopted as provided in (a) of this section.

22 (c) When a municipal name change takes effect by means of an
23 order issued under (a) or (b) of this section, a civil or criminal
24 suit, application, petition, hearing or other proceeding to which the
25 municipality is a party and that is pending at or brought after the
26 date the name change takes effect shall proceed in the municipal name
27 as changed by the order.

28 (d) This section applies to home rule and general law municipal-
29 ities.

1 ARTICLE 2. ANNEXATION AND DETACHMENT.

2 Sec. 29.06.040. LOCAL BOUNDARY COMMISSION. (a) The Local
3 Boundary Commission may consider any proposed municipal boundary
4 change. It may reject the proposed change, accept the proposed
5 change, or alter the boundaries and accept the proposal as altered. A
6 Local Boundary Commission decision under this subsection may be ap-
7 pealed under the Administrative Procedure Act (AS 44.62).

8 (b) The Local Boundary Commission may present a proposed muni-
9 cipal boundary change to the legislature during the first 10 days of a
10 regular session. The change becomes effective 45 days after presenta-
11 tion or at the end of the session, whichever is earlier, unless dis-
12 approved by a resolution concurred in by a majority of the members of
13 each house.

14 (c) In addition to the regulations governing annexation by local
15 action adopted under AS 44.47.567, the Local Boundary Commission shall
16 establish procedures for annexation and detachment of territory by
17 municipalities by local action. The procedures established under this
18 subsection include a provision that

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

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

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

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

1 Sec. 29.06.050. ANNEXATION OF MILITARY RESERVATIONS. A military
2 reservation may be annexed to a municipality in the same manner as
3 prescribed for other territory under AS 29.06.040. If a city in a
4 borough annexes a military reservation under this section, the area
5 encompassing the military reservation automatically is annexed to the
6 borough in which the city is located.

7 Sec. 29.06.060. APPLICATION. AS 29.06.040 - 29.06.060 apply to
8 home rule and general law municipalities.

9 ARTICLE 3. MERGER AND CONSOLIDATION.

10 Sec. 29.06.090. MERGER AND CONSOLIDATION. (a) Two or more
11 municipalities may merge or consolidate to form a single municipality,
12 except a third class borough may not be formed through merger or
13 consolidation.

14 (b) Two methods may be used to initiate merger or consolidation
15 of municipalities:

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

18 (2) the local option method specified in AS 29.06.100 -
19 29.06.160.

20 Sec. 29.06.100. PETITION. (a) Residents of two or more muni-
21 cipalities may file a merger or consolidation petition with the depart-
22 ment. The petition must be signed by a number of voters of each
23 existing municipality equal to at least 25 percent of the number of
24 votes cast in each municipality's last regular election.

25 (b) The petition includes

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

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

28 (3) the proposed composition and apportionment of the
29 governing body;

1 (4) maps, documents, and other information that shows that
2 the proposed municipality meets the standards for municipal incorpora-
3 tion.

4 Sec. 29.06.110. REVIEW. (a) The department shall review a
5 merger or consolidation petition for content and signatures and shall
6 return a deficient petition for correction or completion.

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

9 (c) The department shall report its findings to the Local Bound-
10 ary Commission with its recommendations regarding the merger or con-
11 solidation.

12 Sec. 29.06.120. HEARING. After receipt of the report by the
13 department on a merger or consolidation petition, the Local Boundary
14 Commission shall hold at least one public hearing in each of the
15 existing municipalities included in the petition, unless officials of
16 the municipalities agree to a single hearing.

17 Sec. 29.06.130. DECISION. (a) If the Local Boundary Commission
18 determines that the proposed municipality fails to meet the standards
19 for incorporation, it shall reject the merger or consolidation peti-
20 tion. If the commission determines that the proposed municipality
21 meets these standards, it shall accept the petition. If the commis-
22 sion determines that the proposed boundaries or the composition and
23 apportionment of the governing body can be altered to meet the stan-
24 dards, it may alter the proposal and accept the petition.

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

27 Sec. 29.06.140. ELECTION. (a) The Local Boundary Commission
28 shall immediately notify the director of elections of its acceptance
29 of a merger or consolidation petition. Within 30 days after

1 notification, the director of elections shall order an election in the
2 area to be included in the new municipality to determine whether the
3 voters desire merger or consolidation. The election must be held not
4 less than 30 or more than 90 days after the election order. A voter
5 who is a resident of the area to be included in the proposed muni-
6 cipality may vote.

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

10 (c) The director of elections shall certify the election re-
11 sults. If merger or consolidation is approved, the director of elec-
12 tions shall, within 10 days, set a date for election of officials of
13 the new municipality. The election date must be not less than 60 or
14 more than 90 days after the election order and it is the effective
15 date for the merger or consolidation.

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

19 (b) When two or more municipalities consolidate, the newly
20 incorporated municipality succeeds to the rights, powers, duties,
21 assets, and liabilities of the consolidated municipalities.

22 Sec. 29.06.160. TRANSITION. After merger or consolidation, the
23 ordinances, resolutions, regulations, procedures, and orders of the
24 former municipalities remain in force in their respective territories
25 until superseded by the action of the new municipality.

26 Sec. 29.06.170. APPLICATION. AS 29.06.090 - 29.06.170 apply to
27 home rule and general law municipalities.

28 ARTICLE 4. UNIFICATION OF MUNICIPALITIES.

29 Sec. 29.06.190. UNIFICATION OF MUNICIPALITIES AUTHORIZED. A

1 borough and all cities in the borough may unite to form a single unit
2 of home rule government by complying with AS 29.06.190 - 29.06.410.

3 Sec. 29.06.200. UNIFICATION PROPOSED. (a) Formation of a
4 charter commission to prepare a unification charter shall be proposed
5 by resolution of the assembly or by petition. A resolution to propose
6 formation of a charter commission may be adopted not more often than
7 once every 12 months.

8 (b) An assembly, a council, or a person living in the area
9 proposed for unification may initiate a unification petition.

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

12 "PETITION FOR ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICA-
13 TION CHARTER. We, the undersigned, qualified voters of the borough do
14 hereby petition that the following proposition be placed before the
15 voters as provided by law: 'Shall a charter commission be formed (and
16 charter commission members be elected as elsewhere provided on this
17 ballot) to prepare, adopt and submit to the voters for their approval
18 or rejection a proposed charter uniting the borough and all cities
19 within it as a single unit of home rule government having the powers,
20 duties and functions of a unified municipality as authorized by law?

21 Yes [] No []'

22 Inside First Outside First

23 Class or Class or

24 Signature Address Home Rule City [] Home Rule City []"

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

26 (1) the number of voters residing outside all home rule and
27 first class cities in the borough equal to 25 percent of the votes
28 cast in that area in the last regular borough election; and

29 (2) the number of voters residing in home rule or first

1 class cities in the borough equal to 25 percent of the votes cast in
2 all home rule and first class cities in the borough in the last regu-
3 lar borough election.

4 Sec. 29.06.220. REVIEW OF PETITION. The assembly shall review a
5 unification petition within 15 days to determine whether it complies
6 with AS 29.06.210. If the petition does not meet the designated re-
7 quirements, it shall be immediately returned to the person who ini-
8 tiated the petition with a statement indicating which requirements
9 have not been satisfied.

10 Sec. 29.06.230. DUTIES OF CHARTER COMMISSION. The charter
11 commission shall prepare, adopt, and submit to the voters for approval
12 or rejection a proposed home rule charter for the area to be unified.

13 Sec. 29.06.240. COMPOSITION OF CHARTER COMMISSION. The charter
14 commission shall consist of 11 voters, three of whom are residents
15 elected at large from the borough and eight of whom, proportionate to
16 the population as determined by the department, are

17 (1) residents of and elected from the area outside all home
18 rule and first class cities in the borough; or,

19 (2) residents of and elected from home rule or first class
20 cities in the borough.

21 Sec. 29.06.250. CHARTER COMMISSION NOMINATIONS. (a) If the
22 assembly determines that a unification petition meets the requirements
23 of AS 29.06.210, or the assembly by its resolution proposes an elec-
24 tion on formation of a charter commission, the assembly shall issue a
25 call for the nomination of commission candidates, specifying the
26 filing deadline and the procedure for making nominations.

27 (b) Charter commission candidates shall be nominated by petition
28 signed by at least 50 voters of the area from which the candidate
29 seeks election, or by a number of voters from that area equal to at

1 least 10 percent of the number of votes cast from that area in the
2 last regular borough election, whichever is less.

3 (c) Nomination petitions shall be filed with the borough clerk
4 at least 30 days after notice of the call for nominations has been
5 given and on or before a date fixed by the assembly.

6 (d) If at least one nomination of a qualified charter commission
7 candidate for each available seat is not filed, the unification peti-
8 tion or resolution to propose formation of a charter commission is
9 void and no election on the question shall be held.

10 Sec. 29.06.260. QUALIFICATIONS OF CANDIDATES. A person is eli-
11 gible to be nominated as a candidate for the charter commission if
12 that person was a voter of the area from which election is sought for
13 at least one year immediately preceding the date the nomination peti-
14 tion is filed.

15 Sec. 29.06.270. ELECTION OF CHARTER COMMISSION. (a) After
16 receipt of a valid unification petition or adoption of an assembly
17 resolution to propose formation of a charter commission, the assembly
18 shall submit to the voters the question of whether a charter commis-
19 sion shall be formed to prepare a proposed unification charter. The
20 vote shall be held at the next regular borough election scheduled at
21 least 90 days after receipt of the petition or adoption of the resolu-
22 tion. The ballot shall be worded exactly as in AS 29.06.210(a).

23 (b) The election of charter commission members shall take place
24 at the same time as the election on the question of formation of the
25 commission.

26 (c) All costs incurred in conducting an election under AS 29.-
27 06.190 - 29.06.410 shall be paid by the borough.

28 Sec. 29.06.280. REQUIREMENTS FOR APPROVAL OF FORMATION AND
29 ELECTION OF CHARTER COMMISSION. (a) The votes on the question of

1 formation of a charter commission shall be tabulated in two separate
2 classifications. One classification consists of all votes cast in
3 first class and home rule cities in the borough. The other classifi-
4 cation consists of all votes cast in the remaining area of the bor-
5 ough. In order for formation of a charter commission to be approved,
6 a majority of the votes in each classification must favor formation of
7 the commission.

8 (b) If formation of a charter commission is approved, the candi-
9 dates who received the highest number of votes from their respective
10 areas shall serve as members of the commission.

11 Sec. 29.06.290. CHARTER COMMISSION ORGANIZATION AND PROCEDURE.

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

15 (b) A majority of the total membership of the charter commission
16 constitutes a quorum. A decision of the commission is not valid or
17 binding unless approved by the number of members necessary to consti-
18 tute a quorum.

19 (c) The charter commission may elect other officials from among
20 its membership, adopt rules governing its procedures that are consis-
21 tent with AS 29.06.190 - 29.06.410 and hire and discharge employees.

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

25 Sec. 29.06.300. VACANCIES. (a) Vacancies on the charter com-
26 mission shall be filled by a majority vote of the commission, except
27 the assembly shall appoint members to fill vacancies if, after a
28 proposed charter is rejected by the voters, more than one-half of the
29 members resign.

1 (b) A person who fills a vacancy on the charter commission must
2 be a voter of the same area as the person succeeded and must have been
3 a voter of that area for at least one year immediately preceding the
4 date the vacancy is filled.

5 Sec. 29.06.310. PER DIEM. The assembly may grant a per diem
6 allowance to members of the charter commission and may reimburse the
7 members for travel expenses incurred in carrying out the duties pre-
8 scribed by AS 29.06.190 - 29.06.410. Costs, fees, and other expenses
9 incurred by the commission are a debt of the borough and shall be paid
10 upon proper verification.

11 Sec. 29.06.320. CHARTER PROVISIONS. The charter shall include

12 (1) provision for

13 (A) adjustment of existing bonded indebtedness and
14 other obligations in a manner that will assure a fair and equit-
15 able burden of taxation for debt service, subject to AS 29.06.-
16 380;

17 (B) the establishment of service areas;

18 (C) if election of members of the governing body is
19 not areawide, the establishment of districts for the election of
20 members of the governing body of the proposed unified municipal-
21 ity and procedures by which to reapportion the election dis-
22 tricts;

23 (D) reapportionment of districts if they are estab-
24 lished;

25 (E) nonpartisan government, and the selection, organi-
26 zation, authority, and responsibilities of the governing body and
27 its executive and administrator;

28 (F) the transfer or other disposition of property and
29 other rights, claims, assets, and franchises of the

- 1 municipalities to be unified under the charter;
- 2 (G) exercise of the rights of initiative and referen-
- 3 dum;
- 4 (2) a method of amending the charter;
- 5 (3) the date on which the charter, if approved at the
- 6 charter election, is effective;
- 7 (4) designation of the proposed unified municipality's
- 8 official name;
- 9 (5) other charter provisions that may be included in a home
- 10 rule charter.

11 Sec. 29.06.330. PUBLIC HEARINGS. Both before and after drafting

12 the proposed home rule charter, the charter commission shall hold a

13 public hearing in each area represented on the assembly. Other public

14 hearings may be held by the commission as it considers necessary.

15 Sec. 29.06.340. FILING OF PROPOSED CHARTER. Upon the adoption

16 of a proposed home rule charter by the charter commission, the charter

17 shall be signed by at least a majority of the total membership of the

18 commission and shall be filed with the borough clerk. A copy of the

19 charter with signatures affixed shall also be filed with the clerk of

20 each city in the borough.

21 Sec. 29.06.350. PUBLICATION AND POSTING OF PROPOSED CHARTER.

22 Within 10 days after filing the proposed home rule charter, the bor-

23 ough clerk shall have it published. In addition, the clerk shall have

24 a copy of the proposed charter posted in at least three public places

25 in each city and each unincorporated community in the borough. Copies

26 of the proposed charter shall be made available by the assembly to the

27 public at both the office of the borough clerk and the office of the

28 clerk of each city in the borough. The clerk shall have notice of the

29 publication, posting, and availability of the proposed charter

1 published.

2 Sec. 29.06.360. ELECTION ON CHARTER. (a) The proposed home
3 rule charter adopted by the charter commission shall be submitted to
4 the voters at a borough election held within 60 days of the date of
5 publication and posting of the proposed charter. The borough clerk
6 shall prepare the ballots for use in the election and shall give
7 notice of the election by radio and television in a manner intended to
8 apprise the entire borough population of the election. The election
9 shall be conducted under procedures applicable to regular elections.

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

12 (c) If a majority of the votes in the area of the borough out-
13 side all home rule or first class cities, and a majority of the votes
14 in all home rule and first class cities in the borough are cast in
15 favor of the proposed charter, the charter is ratified. If the char-
16 ter is ratified, election results shall be certified to the commission
17 and two copies of the charter shall be filed with

- 18 (1) the lieutenant governor;
19 (2) the commissioner of the department;
20 (3) the district recorder for the area of the borough;
21 (4) the clerk of the borough;
22 (5) the clerk of each city in the borough.

23 (d) If a proposed charter is rejected, the charter commission
24 shall prepare, adopt, and submit another proposed charter to the
25 voters at a borough election held within one year after the date of
26 the first charter election. If the second proposed charter is also
27 rejected, the charter commission shall be dissolved and the question
28 of unification shall be treated as if it had never been proposed or
29 approved.

1 Sec. 29.06.370. EFFECT OF THE CHARTER AFTER RATIFICATION. Upon
2 ratification, the home rule charter of a unified municipality operates
3 to dissolve all municipalities in the area unified in accordance with
4 the charter.

5 Sec. 29.06.380. ASSETS AND LIABILITIES. A unified municipality
6 shall succeed to all the assets and liabilities of the municipalities
7 it unified. A bonded indebtedness or other debt incurred before
8 unification remains the tax obligation of the area that contracted the
9 debt, except that by ordinance the tax obligation may be assumed by a
10 larger area if the governing body determines that the asset for which
11 the bonded indebtedness or other debt was incurred benefited the
12 larger area before unification, or benefits the larger area after
13 unification. However, bonded indebtedness or other debt for sewage
14 collection systems, water distribution systems, and streets, even if
15 determined to be benefiting a larger area than that which incurred the
16 debt, remains the tax obligation of the area that incurred the debt.

17 Sec. 29.06.390. TRANSITION. Within two years after ratification
18 of the home rule charter, the unified municipality shall revise,
19 repeal, or reaffirm all municipal ordinances, resolutions, and orders
20 in effect in the area of the unified municipality on the date of
21 unification. Each ordinance, resolution, regulation, or order in
22 effect on the date of unification remains in effect until superseded
23 by action of the unified municipality.

24 Sec. 29.06.400. RIGHT TO STATE AND FEDERAL AID. All provisions
25 of law authorizing aid from the state or federal government to a
26 former municipality that was in the area of a unified municipality
27 remain in effect after unification.

28 Sec. 29.06.410. POWERS OF A UNIFIED MUNICIPALITY. A municipal-
29 ity unified under AS 29.06.190 - 29.06.410 has all powers

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

2 (2) granted to a home rule borough.

3 Sec. 29.06.420. APPLICATION. AS 29.06.190 - 29.06.420 apply to
4 home rule and general law municipalities.

5 ARTICLE 5. DISSOLUTION.

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

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

10 (2) the local option method specified in AS 29.06.460 -
11 29.06.510.

12 (b) The department shall investigate a municipality that it con-
13 siders to be inactive and shall report to the Local Boundary Commis-
14 sion on the status of the municipality. The commission may submit its
15 recommendation to the legislature that the municipality be dissolved
16 in the manner provided for submission of boundary changes in art. X,
17 sec. 12 of the state constitution.

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

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

26 (b) The petition must include

27 (1) the name of the municipality;

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

1 Sec. 29.06.470. STANDARDS. (a) Except as provided in (b) of
2 this section, residents of a municipality may petition for dissolution
3 when the municipality is free of debt, or, if in debt, each of its
4 creditors is satisfied with a method of repayment and

5 (1) it no longer meets the minimum standards prescribed for
6 incorporation by AS 29.05, or former AS 29.18.030 if it is a third
7 class borough; or

8 (2) the municipality ceases to use each of its mandatory
9 powers.

10 (b) Residents of a city in a borough may petition for dissolu-
11 tion of the city if the borough consents to assume the city's rights,
12 powers, duties, assets, and liabilities. The consent must be ratified
13 by a majority of borough voters voting on the question.

14 Sec. 29.06.480. REVIEW. (a) The department shall review a dis-
15 solution petition for content and signatures, and shall return a defi-
16 cient petition for correction or completion.

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

19 Sec. 29.06.490. REPORT AND HEARING. (a) The department shall
20 report its findings to the Local Boundary Commission with its recom-
21 mendation regarding the dissolution of a municipality .

22 (b) The Local Boundary Commission shall hold at least one public
23 hearing in the municipality proposed to be dissolved.

24 Sec. 29.06.500. DECISION. (a) If the Local Boundary Commission
25 determines that a municipality fails to meet the standards for disso-
26 lution, it shall reject the petition. If the commission determines
27 that the municipality meets the standards, it shall accept the peti-
28 tion.

29 (b) A Local Boundary Commission decision under this section may

1 be appealed under the Administrative Procedure Act (AS 44.62).

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

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

13 (c) The director of elections shall certify the election re-
14 sults. If dissolution is approved, the director of elections shall
15 declare that the municipality is dissolved effective on the date of
16 certification.

17 Sec. 29.06.520. SUCCESSION. The government succeeding to a dis-
18 solved municipality succeeds to all its rights, powers, duties, as-
19 sets, and liabilities.

20 Sec. 29.06.530. APPLICATION. AS 29.06.450 - 29.06.530 apply to
21 home rule and general law municipalities.

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

23 CHAPTER 10. HOME RULE MUNICIPALITIES.

24 ARTICLE 1. CHARTERS.

25 Sec. 29.10.010. MUNICIPAL CHARTER ADOPTION. (a) A general law
26 borough or first class city may adopt a charter for its own govern-
27 ment. A second class city may adopt a charter for its own government
28 if the department determines from the best figures available that the
29 population of the city is at least 600 permanent residents.

1 (b) At an election to incorporate as a city, an unincorporated
2 community with at least 600 permanent residents may adopt a charter
3 for its own government and incorporate as a home rule municipality.

4 (c) At an election for borough incorporation, an area in the
5 unorganized borough may adopt a charter for its own government and in-
6 corporate as a home rule municipality.

7 (d) A home rule municipality may adopt a new charter.

8 (e) A proposed charter for an existing municipality is prepared
9 by a charter commission of seven elected members. A charter commis-
10 sion election is called by filing a petition with the governing body
11 or by resolution of the governing body. The petition shall be signed
12 by a number of voters equal to 15 percent of the votes cast in the
13 last regular election in the municipality.

14 (f) The proposed charter for an unincorporated community or an
15 area of the unorganized borough shall be prepared by the petitioners
16 and filed with the petition to incorporate a home rule municipality
17 filed under AS 29.05.060.

18 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at
19 least one model home rule charter for a borough and at least one model
20 home rule charter for a city. The model charters shall be made avail-
21 able to persons interested in filing a petition to incorporate a home
22 rule municipality under AS 29.05.060.

23 Sec. 29.10.030. INITIATIVE AND REFERENDUM. (a) A home rule
24 charter shall provide procedures for initiative and referendum.

25 (b) A charter may not require an initiative or referendum peti-
26 tion to have a number of signatures greater than 25 percent of the
27 total votes cast in the municipality at the last regular election.

28 (c) A charter may not permit the initiative and referendum to be
29 used for a purpose prohibited by art. XI, sec. 7 of the state

1 constitution.

2 Sec. 29.10.040. CHARTER COMMISSION CANDIDATES. (a) A candidate
3 for a charter commission shall be a voter of an existing municipality
4 for three years immediately preceding the charter commission election.

5 (b) A charter commission candidate is nominated by a petition
6 signed by at least 50 voters or the number of voters equal to 10
7 percent of the number of votes cast in the municipality during the
8 last regular election, whichever is less. A nomination petition shall
9 be filed with the municipal clerk on or before a date fixed by the
10 governing body.

11 (c) If at least seven nominations for qualified charter commis-
12 sion candidates are not filed, the petition or resolution calling for
13 a charter commission is void and no election on the question may be
14 held.

15 Sec. 29.10.050. CHARTER COMMISSION ELECTION. At a charter com-
16 mission election the voters of an existing municipality shall consider
17 the question "Shall a charter commission be elected to prepare a pro-
18 posed charter?" and shall elect the members of the commission. If the
19 question is approved, the seven candidates receiving the highest
20 number of votes shall immediately organize as a charter commission.

21 Sec. 29.10.060. PREPARATION OF CHARTER BY CHARTER COMMISSION.
22 The charter commission shall, within one year, prepare a proposed home
23 rule charter for an existing municipality. The proposed charter shall
24 be signed by a majority of the members of the commission and filed in
25 the office of the municipal clerk. Within 15 days, the clerk shall
26 have the proposed charter published and make copies available. The
27 commission shall give published notice of and hold at least one public
28 hearing on the proposed charter before the signing and filing of the
29 charter.

1 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule char-
2 ter for an existing municipality shall be submitted to the voters at
3 an election held not less than 30 days or more than 90 days after the
4 proposed charter is published. The proposed home rule charter for an
5 unincorporated community or area in the unorganized borough shall be
6 submitted to the voters at an incorporation election held under
7 AS 29.05.110.

8 Sec. 29.10.080. CHARTER ADOPTION. (a) If a majority of those
9 voting in an existing municipality favor the proposed charter or if a
10 majority of those voting in an unincorporated area in the unorganized
11 borough favor incorporation of a home rule municipality, the proposed
12 charter becomes the organic law of the municipality effective on the
13 date the election is certified. Thereafter, a court shall take judi-
14 cial notice of the charter. The new home rule municipality shall file
15 the indicated number of copies of the charter with

- 16 (1) the lieutenant governor -- two copies;
17 (2) the department -- two copies;
18 (3) the district recorder -- one copy;
19 (4) the municipal clerk -- one copy.

20 (b) At the time of voting on the proposed charter in a third
21 class borough, voters shall vote also on whether the borough shall on
22 adoption of the charter retain a combined assembly and school board or
23 elect a separate assembly and board as otherwise provided for home
24 rule boroughs. If a combined assembly and school board are approved
25 at the charter election, the assembly serving at the time of the
26 election continues to serve as the assembly and board on voter ap-
27 proval of the charter and until terms of assembly members expire as
28 provided before adoption of the charter. If a separate board and
29 assembly are approved at the charter election, a school board shall be

1 elected in conformity with AS 14.12.030 - 14.12.100 at the next regu-
2 lar election, if it occurs within 90 days of the date of the charter
3 election, or otherwise at a special election within 90 days of the
4 date of the charter election. Expiration dates of terms of school
5 board members elected at a special election must coincide with the
6 date of the regular election. Until a board is elected and qualified,
7 the assembly continues to serve as the board.

8 Sec. 29.10.090. CHARTER REJECTION. (a) If a proposed charter
9 for an existing municipality is rejected, the charter commission shall
10 prepare another proposed charter to be submitted to the voters at an
11 election to be held within one year after the date of the first char-
12 ter election. If the second proposed charter is also rejected, the
13 charter commission shall be dissolved and the question of adoption of
14 a charter shall be treated as if it had never been proposed or ap-
15 proved.

16 (b) If incorporation of a home rule municipality is rejected by
17 the voters in an unincorporated community or area in the unorganized
18 borough, the proposed charter is rejected.

19 Sec. 29.10.100 CHARTER AMENDMENT. (a) A home rule charter may
20 be amended as provided in the charter except that no amendment is
21 effective unless ratified by the voters.

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

23 ARTICLE 2. HOME RULE LIMITATIONS.

24 Sec. 29.10.200. LIMITATION OF HOME RULE POWERS. Only the fol-
25 lowing provisions of this title apply to home rule municipalities as
26 prohibitions on acting otherwise than as provided. These provisions
27 supersede existing and prohibit future home rule enactments that
28 provide otherwise:

29 (1) AS 29.05.140 (transition)

- 1 (2) AS 29.06.010 (change of municipal name)
- 2 (3) AS 29.06.040 - 29.06.060 (annexation and detachment)
- 3 (4) AS 29.06.090 - 29.06.170 (merger and consolidation)
- 4 (5) AS 29.06.190 - 29.06.420 (unification of municipali-
- 5 ties)
- 6 (6) AS 29.06.450 - 29.06.530 (dissolution)
- 7 (7) AS 29.10.100 (charter amendment)
- 8 (8) AS 29.20.010 (conflict of interest)
- 9 (9) AS 29.20.020 (meetings public)
- 10 (10) AS 29.20.050 (legislative power)
- 11 (11) AS 29.20.060 - 29.20.120 (assembly composition and
- 12 apportionment)
- 13 (12) AS 29.20.140 (qualifications of members of governing
- 14 bodies)
- 15 (13) AS 29.20.150 (term of office)
- 16 (14) AS 29.20.220 (executive power)
- 17 (15) AS 29.20.630 (prohibitions)
- 18 (16) AS 29.20.640 (reports)
- 19 (17) AS 29.25.010(a)(10) (municipal exemption on contractor
- 20 bond requirements)
- 21 (18) AS 29.25.050 (codification)
- 22 (19) AS 29.25.060 (resolutions)
- 23 (20) AS 29.26.030 (notice of elections)
- 24 (21) AS 29.26.050 (voter qualification)
- 25 (22) AS 29.26.240 - 29.26.360 (recall)
- 26 (23) AS 29.35.020 (extraterritorial jurisdiction)
- 27 (24) AS 29.35.030 (eminent domain)
- 28 (25) AS 29.35.050 (garbage and solid waste services)
- 29 (26) AS 29.35.070 (public utilities)

- 1 (27) AS 29.35.080 (alcoholic beverages)
2 (28) AS 29.35.120 (post audit)
3 (29) AS 29.35.150(b) (effect of areawide exercise of
4 borough powers)
5 (30) AS 29.35.160 (education)
6 (31) AS 29.35.170(b) (assessment and collection of taxes)
7 (32) AS 29.35.180(b) (land use regulation)
8 (33) AS 29.35.250 (cities inside boroughs)
9 (34) AS 29.35.260 (cities outside boroughs)
10 (35) AS 29.35.340 (acquisition of areawide power)
11 (36) AS 29.40.160(a) - (c) (title to vacated areas)
12 (37) AS 29.40.200 (subdivisions of state land)
13 (38) AS 29.45.010 - 29.45.570 (property taxes)
14 (39) AS 29.45.650(c) and (d) (sales and use tax)
15 (40) AS 29.46.090 (exemption from special assessment)
16 (41) AS 29.47.200(b) (security for bonds)
17 (42) AS 29.47.260 (construction)
18 (43) AS 29.60.050(a) (limitation on computation and use of
19 payment)
20 (44) AS 29.60.120(a) and (c) (state aid for health facili-
21 ties and hospitals)
22 (45) AS 29.60.230 (state aid for hospital and health facil-
23 ity construction)
24 (46) AS 29.65.010 - 29.65.140 (general grant land)

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

26 CHAPTER 20. MUNICIPAL OFFICERS AND EMPLOYEES.

27 ARTICLE 1. CONFLICT OF INTEREST AND PUBLIC MEETINGS.

28 Sec. 29.20.010. CONFLICT OF INTEREST. (a) Each municipality

29 shall adopt a conflict of interest ordinance that provides that

1 (1) a member of the governing body shall declare a substan-
2 tial financial interest the member has in an official action and ask
3 to be excused from a vote on the matter;

4 (2) the presiding officer shall rule on a request to be
5 excused from a vote; and

6 (3) the decision of the presiding officer on a request to
7 be excused from a vote may be overridden by the majority vote of the
8 governing body.

9 (b) This section applies to home rule and general law municipal-
10 ities.

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

15 (b) This section applies to home rule and general law municipal-
16 ities.

17 ARTICLE 2. GOVERNING BODIES.

18 Sec. 29.20.050. LEGISLATIVE POWER. (a) The legislative power
19 of a borough is vested in the assembly. The legislative power of a
20 city is vested in the council.

21 (b) This section applies to home rule and general law municipal-
22 ities.

23 Sec. 29.20.060. ASSEMBLY COMPOSITION AND APPORTIONMENT. (a)
24 Assembly composition and apportionment shall be consistent with the
25 equal representation standards of the Constitution of the United
26 States.

27 (b) The assembly of a newly incorporated borough is, after
28 incorporation and until the adoption of an ordinance providing for a
29 change in composition or apportionment, composed of the number of

1 members and apportioned as set out in the incorporation petition
2 approved by the voters. If the borough is already incorporated, the
3 assembly shall be composed and apportioned in a manner that is consis-
4 tent with the requirements of this section and prescribed by charter
5 or ordinance.

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

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

9 (e) This section applies to home rule and general law municipal-
10 ities.

11 Sec. 29.20.070. ASSEMBLY COMPOSITION AND FORM OF REPRESENTATION.

12 (a) The assembly shall provide for its composition and for the form
13 of its representation.

14 (b) Not later than the first regular election that occurs after
15 the report of a federal decennial census, the assembly shall propose
16 and submit to the voters of the borough, at that regular election or
17 at a special election called for the purpose, one or more forms of
18 assembly representation. The forms of representation that the assem-
19 bly may submit to the voters are:

20 (1) election of members of the assembly at large by the
21 voters throughout the borough;

22 (2) election of members of the assembly by district, in-
23 cluding

24 (A) election at large by the voters throughout the
25 borough, but with a requirement that a candidate live in an
26 election district established by the borough for election of
27 assembly members; or

28 (B) election from election districts established by
29 the borough for the election of assembly members by the voters of

1 a district;

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

4 (c) A form of assembly representation that includes election of
5 assembly members under (b)(2) or (b)(3) of this section shall be sub-
6 mitted to the voters of the borough with a plan of apportionment as
7 required by AS 29.20.080.

8 (d) The assembly shall, within 30 days after certification of
9 the results of the election held under this section, adopt an ordi-
10 nance providing for

11 (1) composition of the assembly;

12 (2) the form of assembly representation that received the
13 most votes; and

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

17 (e) This section does not apply to a

18 (1) unified municipality;

19 (2) home rule borough if the home rule charter contains
20 procedures for changing assembly composition and form of representa-
21 tion.

22 Sec. 29.20.080. ASSEMBLY RECOMPOSITION AND REAPPORTIONMENT. (u)
23 Not later than two months after the official report of a federal de-
24 cennial census, the assembly shall determine and declare by resolution
25 whether the existing apportionment of the assembly meets the standards
26 of AS 29.20.060. If the assembly submits to the voters a form of
27 representation that includes election of assembly members under
28 AS 29.20.070(b)(2) or (b)(3) the assembly shall submit with the propo-
29 sition a proposed plan of apportionment that corresponds to the form

1 of representation proposed. The assembly shall describe the plan of
2 apportionment in the ballot proposition, and may present the plan in
3 any manner that it believes accurately describes the apportionment
4 that is proposed under the form of representation. If the assembly
5 determines that its existing apportionment meets the standards of
6 AS 29.20.060, the assembly may include the existing apportionment as a
7 proposed plan of apportionment of assembly seats that corresponds to a
8 form of representation that is proposed.

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

14 (c) If a petition signed by not less than 50 voters requests the
15 assembly to determine whether the existing apportionment meets the
16 standards for apportionment in AS 29.20.060, and the petition contains
17 evidence that the existing apportionment does not meet those stan-
18 dards, the assembly may make the determination requested. The assem-
19 bly shall make a determination required by this subsection within two
20 months of receipt of a petition that meets the requirements of this
21 subsection.

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

26 (e) Within six months after a determination by the assembly
27 under (b) or (c) of this section that the current apportionment does
28 not meet the standards of AS 29.20.060 the assembly shall adopt an
29 ordinance providing for reapportionment and submit the ordinance to

1 the voters. If, at the end of the six-month time period, an ordinance
2 providing for reapportionment has not been approved by the voters, the
3 commissioner shall provide for the reapportionment in accordance with
4 the standards of AS 29.20.060 by preparing an order of reapportionment
5 and delivering the order to the borough mayor.

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

21 (b) The commissioner shall review the petition and may make the
22 determination requested. The commissioner shall provide copies of the
23 determination to the persons petitioning for appeal and to borough
24 officials not later than 60 days after the commissioner receives the
25 petition.

26 (c) If the commissioner determines that the proposed reappor-
27 tionment ordinance approved by the voters does not meet the standards
28 of AS 29.20.060, or if the commissioner determines that the decision
29 of the assembly that the standards of AS 29.20.060 do not require a

1 change of apportionment is not correct, the commissioner shall, by
2 order, direct the assembly to prepare a reapportionment ordinance that
3 meets the standards of AS 29.20.060 and submit the ordinance to the
4 voters.

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

12 (e) If at the end of the time period provided under (d) of this
13 section an ordinance providing for reapportionment has not been ap-
14 proved by the voters, the commissioner shall provide for the reappor-
15 tionment of the assembly in accordance with the standards of AS 29.-
16 20.060 by preparing an order of reapportionment and delivering the
17 order to the borough mayor.

18 Sec. 29.20.100. JUDICIAL REVIEW AND RELIEF. (a) The commis-
19 sioner may request the superior court to enforce a reapportionment
20 order issued under AS 29.20.090(e).

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

22 (1) a plan of reapportionment approved by the voters under
23 AS 29.20.080(a);

24 (2) a determination by the assembly under AS 29.20.080 that
25 the standards of AS 29.20.060 do not require a change in apportion-
26 ment;

27 (3) a reapportionment ordinance approved by the voters
28 under AS 29.20.080(d);

29 (4) a reapportionment order of the commissioner made under