

ALASKA LEGISLATIVE COUNCIL FILED

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HCRA

HB 172

(FILE 5)

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Sec. 29.06.130. "Assembly or council" is changed to "governing body". Material contained in the last sentence under current law is placed into a new subsection (b). (AS 29.68.080)

Sec. 29.06.140. Material currently contained in AS 29.68.090(a) and (b) is combined into (a). The statutory reference in AS 29.-68.090(d) is eliminated as unnecessary. References to "lieutenant governor" are changed to "director of elections". (AS 29.68.090)

Sec. 29.06.150. No substantive change. (AS 29.68.100)

Sec. 29.06.160. No substantive change. (AS 29.68.110)

Sec. 29.06.170. This is a new section providing that the article on merger and consolidation applies to home rule municipalities. These sections are currently applied to home rule municipalities under AS 29.13.100.

Sec. 29.06.190. No substantive change. (AS 29.68.240)

Sec. 29.06.200. No substantive change. (AS 29.68.250)

Sec. 29.06.210. "Unification" is added to make it clear that this is a special type of petition. (b)(1) and (2) are slightly rewritten for clarity. (AS 29.68.260)

Sec. 29.06.220. No substantive change. (AS 29.68.270)

Sec. 29.06.230. New section setting out duties of charter commission. (AS 29.68.350(a))

Sec. 29.06.240. This is rewritten for clarity. Under existing law membership is divided between the area outside cities and the area inside cities. This approach is altered so that membership is divided between the area outside home rule and first class cities and the area inside home rule and first class cities in the borough. (AS 29.68.310)

Sec. 29.06.250. (a) No substantive change. (AS 29.68.280)

(b) No substantive change. (AS 29.68.290(a))

(c) No substantive change. (AS 29.68.290(b))

(d) This is new material providing that a resolution or petition for unification is void if insufficient nominations are received for the charter commission.

Sec. 29.06.260. No substantive change. (AS 29.68.300)

Sec. 29.06.270. (a) The question submitted is whether a charter commission shall be formed, not whether unification shall take place. (AS 29.68.320(a) and (b))

(b) No substantive change. (AS 29.68.320(c))

(c) No substantive change. (AS 29.68.320(d))

Sec. 29.06.280. Reworded to clarify that formation of a charter commission is being considered, not unification. (AS 29.68.330)

Sec. 29.06.290. No substantive change. (AS 29.68.340(a) - (d))

Sec. 29.06.300. No substantive change. (AS 29.68.340(e), 29.68.390(e))

Sec. 29.06.310. No substantive change. (AS 29.68.340(f))

Sec. 29.06.320. The language "at a regular or special borough election called by the borough assembly held within 60 days of the date of publication and posting of the proposed charter as required in sec. 380 of this chapter" is deleted since this appears elsewhere. Parts have been slightly rewritten for clarification and statutory references to other sections in AS 29.68.350(a)(5) and (7) are deleted as unnecessary. AS 29.68.350(b) is deleted as unnecessary. (AS 29.68.350)

Sec. 29.06.330. Some excessive verbage is eliminated. (AS 29.-68.360)

Sec. 29.06.340. No substantive change. (AS 29.68.370)

Sec. 29.06.350. The language "once in at least one newspaper having general circulation distributed within the borough, if there is a newspaper having general circulation distributed in the borough" is eliminated as unnecessary since "published" is defined for the title. (AS 29.68.380)

Sec. 29.06.360. (a) No substantive change. (AS 29.68.635(a), 29.68.390(a))

(b) No substantive change. (AS 29.68.390(b))

(c) No substantive change. (AS 29.68.390(c))

(d) No substantive change. (AS 29.68.390(d))

Sec. 29.06.370. The statutory reference to the article on unification is eliminated as unnecessary. (AS 29.68.400)

Sec. 29.06.380. This section is slightly reworded for clarity.
(AS 29.68.410)

Sec. 29.06.390. This section is slightly reworded for clarity.
(AS 29.68.420)

Sec. 29.06.400. This is reworded for clarity and the statutory reference to the unification article is deleted as unnecessary.
(AS 29.68.430)

Sec. 29.06.410. (2) is changed so that it is clear that a unified municipality has the powers of a home rule borough, since a unified municipality is a home rule unit of government.
(AS 29.68.440)

Sec. 29.06.420. This is a new section making the provisions dealing with unification applicable to home rule municipalities. Although annexation, merger and consolidation, and dissolution are currently home rule limitations, the sections dealing with unification are not applicable to home rule municipalities as limitations under existing law.

Sec. 29.06.450. No changes other than changes in terminology used consistently throughout in this bill. (AS 29.68.500)

Sec. 29.06.460. No changes except for minor rewording for clarity. (AS 29.68.510)

Sec. 29.06.470. No changes, except for minor rewording for clarity. (AS 29.68.520)

Sec. 29.06.480. "Department of Community and Regional Affairs" is altered to "department". (AS 29.68.530, 29.68.540)

Sec. 29.06.490. No changes except for minor rewording for clarity. (AS 29.68.550)

Sec. 29.06.500. (a) No change. (AS 29.68.560)

(b) Provides for an administrative appeal of a Local Boundary Commission decision.

Sec. 29.06.510. Material contained in AS 29.68.570(a) and (b) is consolidated into (a). References to the "lieutenant governor" are changed to the "director of elections", who is now in charge of state elections. (AS 29.68.570)

Sec. 29.06.520. The statutory reference contained in existing law is deleted as unnecessary. (AS 29.68.580)

Sec. 29.06.530. This is a new section providing that the article dealing with dissolution applies to home rule municipalities. AS 29.13.100 makes these sections applicable to home rule municipalities under current law.

CHAPTER 10. HOME RULE MUNICIPALITIES.

Sec. 29.10.010. A city or borough of any class may adopt a home rule charter, but a second class city must have at least 600 residents before it may adopt a charter. This is a significant change from existing law which allows first class boroughs and cities, and second class boroughs to adopt a charter, but does not authorize a second class city to adopt a charter. An unincorporated community with at least 600 residents may adopt a charter and incorporate as a home rule city. An area in the unorganized borough may adopt a charter and incorporate as a home rule borough. A proposed charter for an unincorporated community or area is prepared by the petitioners and filed with the incorporation petition. (AS 29.13.010)

(b) This is new and allows an unincorporated community with at least 600 residents to adopt a charter and incorporate as a home rule city.

(c) This is new and allows an area in the unorganized borough to adopt a charter and incorporate as a home rule borough.

(e) This is new and requires the proposed charter for an unincorporated community or area to be filed with the incorporation petition.

Sec. 29.10.020. This is new and requires the Department of Community and Regional Affairs to prepare model charters to be available to persons interested in filing a petition to incorporate a home rule municipality.

Sec. 29.10.030. No substantive change. (AS 29.13.050)

Sec. 29.10.040. (a) This has been reworded slightly, but contains no significant changes. (AS 29.13.010)

(b) No substantive change. (AS 29.13.020)

(c) This is new material providing that if enough nominations for candidates are not filed no election is held on the question of forming a charter commission.

Sec. 29.10.050. Changed to reflect the fact that a charter commission is elected only in an existing municipality considering the question of home rule. For incorporation of a home rule

municipality, the charter is prepared and filed by the petitioners with the incorporation petition. (AS 29.13.030)

Sec. 29.10.060. The clerk shall have the charter published, which is defined, and shall make copies available. Under existing law the governing body is responsible for publishing a charter. (AS 29.13.040)

Sec. 29.10.070. "Municipal" is deleted as no longer necessary as "voter" is defined. "Regular or special" is deleted since "election" is defined. Adds a provision that a proposed charter for an unincorporated community or area shall be voted on at the incorporation election. (AS 29.13.060)

Sec. 29.10.080. (a) The provision that the charter becomes effective on the date the election is certified has been added. (AS 29.13.070)

(b) This is new and authorizes voters to determine if a combined assembly and school board should be retained when voting on adoption of a home rule charter in a third class borough.

Sec. 29.10.090. (a) No substantive change. (AS 29.13.070(b))

(b) This is new providing that if incorporation of a home rule municipality is rejected, the proposed charter is rejected as well.

Sec. 29.10.100. The provision that a charter may be amended by initiative referendum has been deleted. The charter is amended as provided in the charter itself. (AS 29.13.080)

Sec. 29.10.200. The following paragraphs contain sections which are added to the limitations of home rule powers:

- (5) unification of municipalities;
- (10) legislative power;
- (11) assembly composition and apportionment (only one section on assembly composition and reapportionment, AS 29.-23.021 which is, now sec. 29.60.060, is a limitation under existing law), however, AS 29.20.033 provides that the other section might apply to some home rule municipalities;
- (12) qualifications of members of governing bodies;
- (14) executive power;
- (28) alcoholic beverages;
- (32) assessment and collection of taxes;

- (33) land use regulation;
- (37) title to vacated areas;
- (39) property taxes (this adds sec. 29.45.450 - 500 and sec. 29.45.550 to the limitations listed under existing law);
- (43) construction;
- (47) general grant land;

The following paragraphs under AS 29.13.100 no longer appear as limitations:

- (4) election and term of mayor;
- (8) municipal elections (material now contained in AS 29.-28.010 is not a limitation under this bill; material in AS 29.28.020(b) is expanded so that the notice requirement covers both regular and special elections and the requirement is a limitation under this bill);
- (15) borough building code jurisdiction within cities (the material is deleted from this bill);
- (20) expenditures of borough revenue;
- (25) bond attorneys (the material is deleted from this bill);
- (35) bonded debt for school construction (the material is deleted from this bill);
- (37) zoning of state land for homesite entry (this was repealed in 1979);
- (39) applicability of local platting regulations (the material is deleted from this bill);
- (40) expulsion of borough assemblymen (this material is substantially rewritten and not made binding upon home rule municipalities);
- (41) removal of borough mayor from office (this material is substantially rewritten and not made applicable as a home rule limitation);
- (42) expulsion of city councilmen (this material is substantially rewritten and not made applicable as a home rule limitation);

(43) removal of mayor from office (this material is substantially rewritten and not made applicable as a home rule limitation);

(44) expulsion, removal from office (this material is substantially rewritten and not made applicable as home rule limitation).

CHAPTER 20. MUNICIPAL OFFICERS AND EMPLOYEES.

Sec. 29.20.010. Each municipality must adopt a conflict of interest ordinance. A member of the governing body shall declare a financial interest he has in an official action and ask to be excused. The presiding officer rules on the question and his decision may be overridden. Under existing law an officer or employee is required to disqualify himself from participating in an official action in which he has a substantial financial interest. (AS 29.23.555)

Sec. 29.20.020. "Assembly and council" is altered to "governing body" and the section is divided into subsections for ease of use. (AS 29.23.580)

Sec. 29.20.050. The second sentence is new material, however it does not substantively change existing law since it can be implied that the legislative power of a city is vested in the council. This is made applicable as a home rule limitation. (AS 29.23.010)

Sec. 29.20.060. No substantive change. This is made specifically applicable to home rule municipalities, but is a home rule limitation now under AS 29.13.100(3). (AS 29.23.021)

Sec. 29.20.070. "Borough" is dropped before the word "assembly" when it appears and "assembly" is defined for the title. The statutory reference contained in AS 29.23.023(e)(1) is deleted as unnecessary since "unified municipality" is defined. (AS 29.23.023)

Sec. 29.20.080. "Borough" is deleted as unnecessary when it appears before the word "assembly". In (e) "of the Department of Community and Regional Affairs" is deleted since "commissioner" is defined for the title. Statutory references are altered to reflect new numbering. (AS 29.23.025)

Sec. 29.20.090. "Borough" is deleted as unnecessary when it appears before "assembly". "Of Community and Regional Affairs", appearing several times in the section, is deleted since "commissioner" is defined for the title. Statutory references are altered to reflect renumbering. (AS 29.23.027)

Sec. 29.20.100. "Borough" is deleted where it appears before "assembly". "Of Community and Regional Affairs" is deleted since "commissioner" is defined for the title. Statutory references are altered to reflect new numbering. (AS 29.23.029)

Sec. 29.20.110. Statutory references are altered to reflect new numbering. (AS 29.23.031)

AS 29.20.120. The statutory reference in (1) is deleted since "unified municipality" is defined for the title. Statutory references are revised to reflect new numbering. (AS 29.23.033)

Sec. 29.20.130. No change. (AS 29.23.200(a))

Sec. 29.20.140. This section is substantially rewritten to combine material concerning the qualifications for membership in assemblies with material concerning the qualifications for membership in councils.

(a) Rewritten, but no substantive change. (AS 29.23.050, 29.-23.200(b))

(b) Combines material currently found in different sections. (AS 29.23.050, 29.23.200(b))

(c) This contains new material allowing a municipality to establish district residency requirements for members of the assembly or council. Current law allows an assemblyman elected from one district who becomes a resident of another district to serve only until the next regular election. The subsection allows a municipality to provide otherwise by ordinance. It is also made applicable to city councils. Under existing law a council may be elected by district rather than at-large, but no provision deals with the possibility that a councilman might change his district residency. (AS 29.23.050, 29.23.200(a))

(d) New material prohibiting a municipality from limiting the number of terms or number of consecutive terms a voter may serve on the assembly or council, unless the limit is ratified.

(e) This is applicable to both home rule and general law municipalities. Under current law the qualifications for assemblymen are applicable to home rule and general law municipalities but the qualifications for city councilmen are not. (AS 29.23.050, 29.-23.200)

Sec. 29.20.150. Combines material dealing with the term of office of members of the assembly with material dealing with the term of office of members of the council.

(a) This is substantially rewritten, however, the only substantive change is that members of the council may serve different terms when allowed by charter, as well as by ordinance. (AS 29.23.040(a), 29.23.200(c))

(b) No substantive change. (AS 29.23.040(a), 29.23.200(c))

(c) The material permitting a different date to be prescribed by charter or ordinance is made applicable to city councils. (AS 29.23.040(b), 29.23.200(c))

(d) This is added as a home rule limitation with respect to city councils. (AS 29.23.040(c))

Sec. 29.20.160. Combines material dealing with assemblies and with councils into one section.

(a) The last line dealing with the presiding officer is new material as it applies to the council. (AS 29.23.060(b), 29.23.240)

(b) The material dealing with the calling of a special meeting is substantively changed. Under existing law a special meeting may not be called unless all members receive 24 hours written notice or, if there is an emergency and all absent members waive the notice. As rewritten, a special meeting may be held if a majority of the members receive 24 hours notice and reasonable efforts are made to notify all members. (AS 29.23.060(a), 29.23.210(a))

(c) A member of the governing body disqualified from voting is considered present for purposes of constituting a quorum. A majority of the membership of a council constitutes a quorum, while under existing law four councilmen constitute a quorum. This is not a substantive change, since a first class city has a council of six members and second class city has a council of seven members. Four councilmen are still required for a quorum. (AS 29.23.060(d), 29.23.210(c))

(d) Actions are adopted by a majority of the total membership of the governing body, while under existing law actions are adopted by a majority of votes authorized on the question. All members vote and unless they are required to abstain by law, while under existing law a member may abstain if permitted by the governing body, and must abstain if he has a substantial financial interest in the question. This section is applicable to city councils as well as to assemblies. (AS 29.23.060(d), 29.23.210(c))

(e) Specifically provides that the journal shall be a public record. (AS 29.23.060(c), 29.23.210(b))

(f) Requires a governing body to determine by ordinance its rules and order of business. (AS 29.23.060(c), 29.23.210(b))

Sec 29.20.170. This allows the governing body to prescribe the manner in which a vacancy occurs in any elected office, other than the office of mayor or member of the school board. The governing body is required to declare an elective office vacant under specific conditions, unless a municipality establishes otherwise by ordinance. (AS 29.23.060(c), 29.23.080, 29.23.210(b), 29.23.220, 29.23.570)

Sec. 29.20 180. (a) Requires a vacancy to be filled within 30 days unless a different period is established by ordinance. If less than 30 days remain in a term, a vacancy need not be filled, unless filling the vacancy is necessary to preserve a quorum. The material contained in AS 29.23.080 dealing with filling a vacancy in dual assembly council seats has been deleted. (AS 29.23.080, 29.23.220)

(b) This is new material requiring appointments within seven days if needed to preserve a quorum.

(c) No substantive change. (AS 29.23.080, 29.23.220)

Sec. 29.20.220. This section is substantially rewritten to combine material dealing with the mayor of a city with material dealing with the mayor of a borough.

(a) This is a clear statement that the executive power is vested in a mayor, which is only implied with reference to cities under current law. The mayor of a home rule or unified municipality is elected by the voters, which is not a substantive change. (AS 29.23.200(a) and (c), 29.23.240)

(b) This material currently exists with respect to city mayors but not with respect to borough mayors, although these duties may be implied for borough mayors. The language "and is responsible for additional duties and powers prescribed by this chapter or by home rule charter" is new, but is not a substantive change. (AS 29.23.240)

(c) This section is a limitation on home rule municipalities. Under existing law it is not listed as a limitation.

Sec. 29.20.230. This is substantially rewritten in order to combine material dealing with the election and term of a borough mayor and a city mayor.

(a) No substantive change. (AS 29.23.130(c), 29.23.250(b) and (d))

(b) Allows a second class city to provide by ordinance for a term longer than one year for the office of mayor, as long as the mayor is a member of the council. Existing law provides a one-year term

of office for the mayor of a second class city. (AS 29.23.250(c) and (d))

(c) This is new material providing that the number of terms or number of consecutive terms a mayor may serve may not be limited.

Sec. 29.20.240. Rewritten to combine sections dealing with the mayor of a borough and the mayor of a city.

(a) No substantive change. (AS 29.23.130(b), 29.23.250(a) and (c))

(b) The reference in AS 29.23.250(a) to additional residency requirements prescribed by charter is eliminated. This section is not a limitation on home rule governments, so a home rule municipality may prescribe additional residency requirements by charter without statutory authority. (AS 29.23.130(b), 29.23.250(a))

Sec. 29.20.250. This is rewritten to combine sections dealing with a city and sections dealing with a borough, and to achieve a clear statement of existing law.

(a) No substantive change. (AS 29.23.130(a), 29.23.290)

(b) Authorizes the mayor of a borough with a manager form of government to vote in the case of a tie. The fact that a mayor may take part in discussions is not stated with respect to the mayor of a city under existing law. (AS 29.23.160, 29.23.260)

Sec. 29.20.260. No change, except for minor rewording for clarity. (AS 29.23.150)

Sec. 29.20.270. This is substantially rewritten in order to combine sections dealing with the mayor of a borough and the mayor of a city.

(a) No substantive change. (AS 29.23.270(a))

(b) The material requiring that a veto be overridden within 21 days after the exercise of the veto or during the next regular meeting is new. Current law does not specify a time period during which a veto may be overridden. (AS 29.23.170(a), 29.23.270(a))

(c) A veto does not extend to actions of a city council sitting as a board of equalization or a board of adjustment, nor may the city mayor veto the adoption or repeal of a manager form of government. Current law is silent as to these issues with respect to a city. (AS 29.23.170(a) and (b), 29.23.270)

(d) No change. (AS 29.23.270(b))

Sec. 29.20.280. (a) Under existing law the governing body has the option of declaring the office of mayor vacant when he is convicted of a corrupt practice. (AS 29.23.130(f), 29.23.255, 29.-23.570)

(b) No substantive change. (AS 29.23.180, 29.23.280(a))

(c) No substantive change. (AS 29.23.280(b))

Sec. 29.20.300. The statutory reference to a repealed section is deleted. School board members may be elected by area rather than at-large, if approved by the voters. (AS 29.23.310)

Sec. 29.20.310. No change, except for minor rewording so the usage is consistent throughout the title. (AS 29.23.340)

Sec. 29.20.320. This is new material allowing the governing body to establish boards and commissions. Arguably, this power is implied to exist in current law as part of the ability of a governing body to delegate responsibility. (AS 29.48.010(1))

Sec. 29.20.360. Certain officials shall be appointed by the chief administrator unless otherwise provided by ordinance. Under current law these officials are appointed by the chief administrator or by the governing body as determined by ordinance. Current law provides that appointments by the chief administrator are subject to confirmation, and this section allows a municipality to provide otherwise by ordinance. (AS 29.23.360)

Sec. 29.20.370. No change, except for minor rewording to achieve consistent usage throughout the title. (AS 29.23.370)

Sec. 29.20.380. No change, except for minor rewording in order to achieve consistent usage. (AS 29.23.380)

Sec. 29.20.390. The statutory reference is added to provide notice that, when a central treasury is established for the school board and the municipality, the treasurer is not custodian of the funds. (AS 29.23.390)

Sec. 29.20.400. Slightly reworded for clarity. (AS 29.23.070)

Sec. 29.20.410. Allows the governing body to provide for a classified service and to designate positions which are wholly or partially exempt from the classified service. (AS 29.23.550)

Sec. 29.20.460. No change, except for minor rewording to achieve consistent usage. (AS 29.23.410, 29.23.420)

Sec. 29.20.470. The last line dealing with notice requirements is omitted because notice requirements for elections are now contained in Sec. 29.26.030. At least 20 days notice shall be provided, while under current law 30 days notice is required before an election to adopt a manager plan. (AS 29.23.430)

Sec. 29.20.480. No change, except for minor rewording to achieve consistent usage. (AS 29.23.440)

Sec. 29.20.490. In the second line the word "solely" and the word "executive" have been omitted, so that the manager is to be chosen on the basis of his administrative qualifications. A member of the governing body may not be appointed manager until one year after leaving office unless authorized by more than a majority vote. Under existing law this limitation applies to all elected municipal officials. (AS 29.23.450, 29.23.460)

Sec. 29.20.500. This is substantially rewritten so that material dealing with duties of a city manager and material dealing with duties of a borough manager are combined. A statutory reference to the section concerning appointment of school employees is added for clarification. The requirement that the manager prepare and make available to the public an annual report on municipal affairs is deleted. AS 29.23.140(10)(A) and (C), requiring the borough manager to administer functions of borough employees and to administer public works is deleted because those requirements appear adequately covered by (1) and (5) of this section. (AS 29.23.140, 29.23.290)

Sec. 29.20.510. Rewritten slightly for clarity. (AS 29.23.130(e))

Sec. 29.20.520. After repeal of a manager plan, the governing body has 60 days to reorganize the municipal executive and administrative functions. Under existing law, no time period is provided for reorganization. (AS 29.23.480)

Sec. 29.20.600. No change, except for rewording to achieve uniform usage. (AS 29.23.500)

Sec. 29.20.610. No change, except for minor rewording to achieve uniform usage. (AS 29.23.520)

Sec. 29.20.620. A method of determining salaries shall be provided by ordinance, while under current law the governing body fixes by ordinance the salaries of elected officials. The salary of the mayor may be reduced during his term of office if a manager plan is adopted. An elected official may not receive compensation for additional service to the municipality, unless provided otherwise by ordinance. (AS 29.23.530)

Sec. 29.20.630. Material currently contained in AS 29.23.540(a) is deleted. Subject to requirements contained in the title dealing with education, a school district employee, or state employee may not be denied the right to serve as an elected municipal official. Current law allows a municipality to prohibit the right to serve by charter or ordinance. (AS 29.23.540)

Sec. 29.20.640. No changes, except for rewording for consistency and changes in statutory references to reflect renumbering. (AS 29.23.560)

CHAPTER 25. MUNICIPAL ENACTMENTS.

Sec. 29.25.010. The governing body is no longer required to fix the compensation of members of the assembly or council by ordinance, nor is it required to regulate the rate charged by a public utility by ordinance. (AS 29.48.130)

Sec. 29.25.020. This is substantially reorganized, but contains no substantive changes. (AS 29.48.140, 29.48.150)

Sec. 29.25.030. No change, except for minor word changes in order to achieve maximum clarity. (AS 29.48.160)

Sec. 29.25.040. Requires the governing body to see that the adopted code is made available to the public at no more than cost, while existing law requires the governing body to provide for the adopted code to be sold to the public. (AS 29.48.170)

Sec. 29.25.050. (b) allows the designee of the municipal clerk to prepare a general codification of municipal ordinances and deletes the requirement that the codification be prepared with the assistance of a legal advisor. The rest of the section is unchanged. (AS 29.48.180)

Sec. 29.25.060. This has been made applicable as a home rule limitation. (AS 29.48.185)

Sec. 29.25.070. A penalty not to exceed that imposed for a class B misdemeanor may be imposed for a violation of an ordinance. The maximum fine for a class B misdemeanor is \$1,000 and the maximum sentence of imprisonment is 90 days. Under existing law punishment not to exceed \$500 or imprisonment for 30 days is provided for. A mandatory, nonsuspendable term of imprisonment for 5 days may be imposed for violation of an ordinance. The municipality or aggrieved person may institute a civil action against a person who violates an ordinance, and a civil penalty of up to \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought and, upon a finding of a violation, the superior court shall grant the injunction. Each day that a violation of an ordinance continues is a separate violation.

These penalties are authorized only if copies of the ordinance are made available. (AS 29.48.200)

CHAPTER 26. ELECTIONS.

Sec. 29.26.010. A judge shall be a voter of the precinct for which he is appointed unless no voter is willing to serve. The language "the municipality may not alter voter qualification requirements of this title" is deleted as unnecessary. This is no longer a limitation on home rule municipalities. (AS 29.28.010)

Sec. 29.26.020. The language "subject to other provisions of this title" is added because other sections in the title provide a procedure for the nomination of candidates, for example, see secs. 29.06.250 and 29.10.040. (AS 29.28.015)

Sec. 29.26.030. At least 20 days notice of a regular or special election is required. This applies as a limitation on home rule municipalities, whereas under existing law only the notice requirement for a special election applies. (AS 29.28.020(b))

Sec. 29.26.040. No change, except for minor rewording for clarity. (AS 29.28.020(a))

Sec. 29.26.050. This has been reorganized. To qualify to vote in municipal elections a person must have been registered to vote in state elections for at least 30 days preceding the municipal election. Existing law requires only that the person be registered to vote in state elections without a durational requirement. A municipality may require a person to be registered to vote in the precinct in which he seeks to vote. (AS 29.28.030)

Sec. 29.26.060. The runoff election requirement is limited to the office of mayor, member of the governing body, or school board and the municipality may adopt an ordinance to alter this runoff requirement. A runoff election shall be held three weeks after the date of certification of the original election, rather than within two weeks, and is between the two candidates that received the greatest number of votes for the seat. (AS 29.28.040)

Sec. 29.26.070. This has been rewritten for clarity. A requirement that the governing body authorize the election results to be certified is added in (c). The provision that expulsion of certain officials is final and not subject to judicial review contained in AS 29.28.050(f) is deleted. In this bill there is no provision denying judicial review in cases involving the declaration of vacancy in office. (AS 29.28.050)

Sec. 29.26.100. No substantive change. (AS 29.28.060)

Sec. 29.26.110. This is new material establishing a process for applying for a petition for initiative or referendum. An application is signed by ten voters who sponsor the petition. If the clerk finds that an application is in proper form and that the four listed requirements are met, he shall certify the application. A decision by the clerk on an application for petition is subject to judicial review.

Sec. 29.26.120. Within two weeks after certification of application a petition is prepared by the municipal clerk. Signatures must be obtained within 60, rather than 90 days from the date the petition is first circulated. Spaces are provided for signatures, the printed name of each signer, the date signature is affixed, and the residence and mailing addresses of each signer. Each petition contains a statement that the sponsor circulated the petition, that all signatures were fixed in his presence, and that he believes the signatures to be those of the persons whose names they purport to be. Spaces are provided for indicating the total number of signatures on a petition. If the petition consists of more than one page, each page contains a summary of the matter to be initiated or referred. Copies of the petition are supplied to each sponsor. (AS 29.28.065)

Sec. 29.26.130. Signatures must be secured within 60, rather than 90 days. The clerk shall determine the number of signatures required on a petition and inform each sponsor. The number of signatures required remains identical to the number required under current law, except that no provision is made for signatures only from persons in services areas or outside cities when the matter to be initiated or referred applies only to the service area or area outside cities. Illegible signatures must be rejected by the clerk, whereas under existing law they may be rejected. A signer may withdraw his signature before certification of the petition, whereas under existing law he may only withdraw his signature within 7 days after the petition is filed. (AS 29.28.070)

Sec. 29.26.140. All copies of a petition are filed as a single instrument. An insufficient petition may be supplemented only with signatures obtained within ten days after the date the petition is rejected, while under current law there is no requirement that the signatures be obtained during this period. (AS 29.28.073)

Sec. 29.26.150. No change, except for minor rewording, for consistency. (AS 29.28.075)

Sec. 29.26.160. "On substantially the same matter" has been added so that it is clear that the waiting period for filing a new petition does not apply if the petition sought to be filed deals with a different subject. (AS 29.28.077)

Sec. 29.26.170. Unless the same measure is adopted, the clerk submits a petition seeking an initiative vote to the voters at the next regular election occurring no sooner than 45 days after certification of the petition, or, if no regular election occurs within 75 days, a special election is held. If the governing body adopts the same measure, the petition is void and the subject is not placed before the voters, while under existing law the governing body may not adopt an ordinance or resolution within 10 days from the date of election. If the vote is favorable, the ordinance or resolution becomes effective upon certification of the election unless a different effective date is provided in the ordinance or resolution, while under existing law an ordinance or resolution becomes effective when the election results are declared. There is no provision for the governing body to reject a petition, as there is in current law. (AS 29.28.080)

Sec. 29.26.180. When a petition seeks a referendum vote the clerk shall submit the matter to the voters in the same manner as provided for an initiative election. Under current law the vote is held during the next regular or special election, or within 75 days of filing the petition. If a petition is certified before the effective date of the matter referred, the ordinance or resolution is suspended, while under existing law the suspension occurs if a sufficient petition is filed within 30 days after passage of the ordinance or before the effective date of the ordinance. If the governing body repeals the ordinance or resolution, the petition is void and no election is held. If a majority vote does not favor repeal of the matter referred, it remains in effect, or, if it has been suspended becomes effective upon certification of the election. Existing law is silent as to the effective date of a suspended ordinance in this situation. (AS 29.28.090)

Sec. 29.26.190. If adopted in an initiative election or if adopted after a petition has been filed, an ordinance or resolution may not be repealed or amended within one year. If an ordinance or resolution is repealed in a referendum election, or after a petition has been filed, similar legislation may not be enacted for a period of one year. Existing law provides that the governing body may not act in any way within two years to modify or negate the effect of a successful initiative or referendum and if an ordinance has been repealed after a petition has been filed, the governing body may not enact similar legislation for one year. (AS 29.28.110)

Sec. 29.26.240. This is broadened to include an official appointed to elected office, because when a vacancy occurs an official may, in certain cases, be appointed. He will be subject to recall just as an elected person would be. An official may be recalled when he has served six months of a term for which elected or appointed, while under existing law there is some ambiguity as to the status of an official who is reelected to the same office. (AS 29.28.130)

Sec. 29.26.250. No change. (AS 29.28.140)

Sec. 29.26.260. This is new material establishing a procedure for applying for a recall petition. The application must contain information concerning 10 voters who will sponsor the petition, the address to which correspondence relating to the application may be sent, and a statement in 200 words or less of the grounds of the recall. Additional sponsors may be added.

Sec. 29.26.270. A recall petition is prepared by the clerk. It contains the names of the official sought to be recalled, the grounds for recall, the date the petition is issued by the clerk, notice that the signatures are secured within 60 days after the date the petition is issued (while under existing law a petition must be filed within 60 days after the date of the earliest signature on it), spaces for signatures, printed name, date of each signature, and residence and mailing addresses of each signor, a statement that the sponsor personally circulated the petition, all signatures where fixed in his presence, and he believes the signatures to be those of the persons they purport to be, and space for indicating the number of signatures on the petition. Copies of the petition are provided to each sponsor. (AS 29.28.156)

Sec. 29.26.280. Signatures are secured within 60 days after a recall petition is issued. Signatures not accompanied by a legible residence address are rejected. The clerk determines the number of signatures required and informs each sponsor. If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by a number of voters equal to 25 percent of the number of votes cast for that office. If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of voters residing in the district equal to 25 percent of the number of votes cast in that district for the office. Under existing law signature requirements are identical to the requirements for initiative and referendum. (AS 29.28.150, 29.28.160)

Sec. 29.26.290. Copies of a recall petition are filed as a single instrument. An insufficient petition may be supplemented with additional signatures obtained within ten days after the date on which the petition is rejected, while under existing law there is no requirement that the signatures be obtained during that time period. A petition which does not contain an adequate number of signatures, both valid and invalid signatures, may not be supplemented and this is a new provision not contained in existing law. (AS 29.28.160, 29.28.170)

Sec. 29.26.300. Reworded so that it is clear that the six-month waiting period before a new petition may be obtained applies only to a petition seeking to recall the same official. (AS 29.28.180)

Sec. 29.26.310. No change, except for minor rewording for consistency. (AS 29.28.190)

Sec. 29.26.320. The requirement that an election to recall an official not be held sooner than 45 days after submission of the petition to the governing body is added. The governing body may not appoint to the same office an official who resigns after a petition is filed. (AS 29.28.200)

Sec. 29.26.330. The grounds for recall must be stated in 200 words or less. (AS 29.28.210)

Sec. 29.26.340. The provision that an office becomes vacant upon certification of the election is added. (AS 29.28.230, 29.28.240)

Sec. 29.26.350. When an official is recalled, his office is filled in accordance with the provision dealing with vacancies. If all members of a governing body are recalled the governor appoints three persons and they appoint additional members needed to fill vacancies in accordance with the provisions dealing with vacancies. If all members of the school board are recalled the governor appoints three persons and they appoint additional members to fill remaining vacancies. A person appointed by the governor serves until a successor is elected. After an official is recalled, the clerk conducts an election for a successor. The election is held not more than 60 days from the date the recall election is certified unless a regular election is held within 75 days, in which case the successor is chosen at the regular election. Nominations may be filed until seven days before the last date upon which notice of the election must be published, but they may not be filed until the election is certified. Under existing law the election of successor shall be held at least ten but not more than 45 days from the date of the recall election and there are no provisions dealing with a situation involving the recall of all members of the governing body or school board. (AS 29.28.250)

Sec. 29.26.360. The sections dealing with recall are made applicable as limitations on home rule municipalities, and are currently limitations under AS 29.13.100(9).

CHAPTER 35. MUNICIPAL POWERS AND DUTIES.

Sec. 29.35.010.

- (1) No change. (AS 29.48.010(2))
- (2) No change, except for rewording due to a change in organization. (AS 29.23.510)
- (3) No change. (AS 29.48.010(1))

- (4) Minor rewording. (AS 29.48.010(5))
- (5) Minor rewording. (AS 29.48.010(3))
- (6) "and impose liens for their enforcement" is added. (AS 29.48.010(7))
- (7) No change. (AS 29.48.010(8))
- (8) "for a purpose authorized under this title, federal law, or other law, or in accordance with such law" is deleted as excessive verbage. (AS 29.48.010(9))
- (9) "facility or service" is added. (AS 29.48.010(11))
- (10) This is added as a general power. Under existing law the power may be exercised by a first class borough on a nonareawide basis, so long as the borough seeks to have it transferred from cities or proposes joint city/borough exercise of the power. A first class borough may exercise the power on an areawide basis if it is assumed. A second class borough may exercise the power on an areawide or non-areawide basis if it is assumed. (AS 29.38.010, 29.48.035(a) and (b))
- (11) No change. (AS 29.48.010(12))
- (12) Minor rewording. (AS 29.48.010(10))
- (13) Minor rewording. (AS 29.48.010(4))
- (14) No change. (AS 29.48.010(6))

Sec. 29.35.020. A municipality may not exercise outside of its boundaries a power which it may not exercise within its boundaries. The word "roads" has been changed to "streets" which is defined for the title. The following have been included within the list of facilities which a municipality may provide outside its boundaries: solid and septic waste facilities, transportation facilities, wharves, harbors and other marine facilities. A municipality which provides a facility outside its boundaries may regulate its use to the extent that the jurisdiction in which the facility is located does not regulate it. Existing law provides that a municipality may regulate a facility outside its boundaries, and provides no right for the municipality within which the facility is located to regulate it. (AS 29.48.037)

Sec. 29.35.030. Allows all classes of municipalities to exercise eminent domain and declaration of taking. Under existing law a second class city may not exercise the power without formal approval of the Department of Community and Regional Affairs, and

must exercise the power by ordinance approved by the voters. This is a limitation on home rule municipalities, and is an existing limitation under AS 29.13.100(29). (AS 29.73.020)

Sec. 29.35.040. This becomes applicable when a disaster is declared by the governor as well as by the President. Since (a) allows a municipality within a disaster area to exercise the powers in the same manner as a home rule city, the subsection providing that differences between areawide and nonareawide powers do not apply has been eliminated as redundant. (AS 29.48.270)

Sec. 29.35.050. This is reorganized and minor changes are made to the wording for clarity. The phrase "provide the charges for collection and disposal shall be paid by the property owner or occupants of the premises" is eliminated as implied within the specified ability to fix charges. (AS 29.48.033)

~~Sec. 29.35.060. (a) The language "for the construction, operation and maintenance of bus transportation systems and public utilities" is eliminated, so that franchises and permits may be granted without restrictions as to type of franchise involved. This applies only to an entity not certificated by the Alaska Public Utilities Commission. (AS 29.48.050(a))~~

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(b) Unless a grant of a franchise or permanent permit is made on a competitive basis, the grant of any exclusive right to use a public street or right-of-way for more than five years to a utility or transportation system which is not certificated is valid only if approved by vote. Under existing law no franchise is valid unless it is submitted to the qualified voters for approval. The material dealing with use of streets by utilities contained in AS 29.48.-040(c) is deleted. (AS 29.48.050(b))

~~(c) This is made a home rule limitation and is one under existing law. (AS 29.13.100(17))~~

Sec. 29.35.070. The governing body may regulate a utility except to the extent that it is subject to regulation by the state or otherwise prohibited by law. Under existing law, a municipality may regulate only a municipally owned utility which is not regulated by the state. ~~A municipality must adopt an ordinance that provides procedures for regulating service, rates and charges and that provides procedures necessary to incur due process. This section applies as a home rule limitation, and is an existing limitation under AS 29.13.100(17). (AS 29.48.060, 29.48.070)~~

Sec. 29.35.080. Requires municipal regulation of alcoholic beverages to conform to state requirements and is made a home rule limitation. (AS 29.48.035(a)(10))

Sec. 29.35.090. The governing body is required by ordinance to establish a formal procedure for acquisition and disposal of land. The provisions authorizing a municipality to acquire, hold and dispose of real property are deleted as unnecessary. The provisions dealing with the requirements which must be met in the formal procedure established for disposal of land have been eliminated to provide more flexibility. The provisions dealing with restricting land to agricultural use have been deleted. (AS 29.-48.260)

Sec. 29.35.100. Under existing law, obligations requiring payment of funds from appropriations of later years must be approved by ordinance. This has been eliminated as misleading in that it could be construed to suggest that bonded indebtedness may be acquired, whether or not for a capital project, so long as the indebtedness is approved by ordinance. AS 29.48.190(d) is eliminated as unnecessary. (AS 29.48.190)

Sec. 29.35.110. This is rewritten for clarity. (AS 29.48.210)

Sec. 29.35.120. No change, except for minor rewording to achieve consistent usage throughout the title. (AS 29.48.220)

Sec. 29.35.130. No substantive change. (AS 29.73.080)

Sec. 29.35.150. Statutory references have been added to reflect reorganization. Subsection (b) is applicable as a home rule limitation, and exists as a home rule limitation under AS 29.13.-100(10). (AS 29.33.010, 29.41.010(d))

Sec. 29.35.160. No change, except for minor rewording to achieve consistent usage. This is a home rule limitation, and exists as a limitation under AS 29.13.100(34). (AS 29.33.050)

Sec. 29.35.170. The subsection dealing with collection by a borough of taxes levied by a city is made applicable as a limitation on home rule municipalities. (AS 29.33.030)

Sec. 29.35.180. This is a new statement requiring first and second class boroughs to provide for planning and land use regulation under provisions of Chapter 40 so that this article will contain a complete list of areawide powers. A home rule borough is required to provide for planning, platting, and land use regulation.

Sec. 29.35.200. (a) Allows a first class borough to exercise on a nonareawide basis any power not otherwise prohibited by law. Under existing law a first class borough may exercise on a nonareawide basis any general law municipal power, but before exercising the power, the borough must seek to have it transferred from cities or propose joint city/borough exercise. (AS 29.38.010)

(b) No change. (AS 29.48.030, 29.48.035(b))

(c) Allows a first class borough to exercise on an areawide basis any power not prohibited by law if it has been acquired. Under existing law, a first class borough may acquire additional areawide municipal powers, but only the powers listed in Title 29. The authority to acquire powers which is granted in this bill is broader, since a borough may acquire any power not specifically prohibited by statute whether or not it is identified as a municipal power in Title 29. (AS 29.33.250)

Sec. 29.35.210. (a) Allows a second class borough to exercise certain powers on a nonareawide basis. Under existing law before a nonareawide power may be exercised, the borough must seek to have it transferred from cities or propose joint borough/city exercise of the power, and the requirement is not contained in this bill. (AS 29.38.020)

(1) No change. (AS 29.48.030(a)(12))

(2) No substantive change. (AS 29.48.020(1))

(3) No change. (AS 29.48.020(2), 29.48.035(a)(5) and (b))

(4) Under existing law this power is subject to the section dealing with garbage and solid waste, sec. 29.35.050 of this bill. (AS 29.48.020(5))

(5) Under existing law providing air pollution control is permitted on an areawide basis only. (AS 29.48.035(a)(18) and (b))

(6) No change. (AS 29.48.020(6), 29.48.035(a)(17) and (b))

(7) Minor rewording. (AS 29.48.020(7))

(8) This is new material.

(9) No change. (AS 29.48.020(8))

(10) No change. (AS 29.48.020(9))

Under existing law a second class borough may exercise the following additional nonareawide powers not specified in this bill:

(1) powers approved at incorporation (AS 29.38.020);

(2) regulate snow vehicles, subject to other law (AS 29.48.020(4));

(3) licensing of day care facilities (AS 29.48.035(a)(20) and (b)).

(b)(1) No change. (AS 29.48.030(12))

(2) No change. (AS 29.48.035(a)(5) and (b))

(3) No change. (AS 29.48.035(a)(18) and (b))

(4) No change. (AS 29.48.035(a)(17) and (b))

(5) No change. (AS 29.48.035(a)(20) and (b))

(c) Allows a second class borough to exercise a nonareawide power not otherwise prohibited by law if the exercise of the power is approved by the voters living in the borough area outside the cities. Under existing law a second class borough may acquire additional nonareawide powers upon approval of the voters. However, the powers which may be acquired are limited to those itemized in Title 29, so under this bill broader authority to acquire powers is provided. (AS 29.38.030, 29.38.040, 29.38.050)

(d) Allows a second class borough to exercise an areawide power not otherwise prohibited by law if the exercise of the power is approved by the voters or transferred by the cities in the borough. Under existing law a borough may acquire only the powers authorized in Title 29. (AS 29.33.250)

Sec. 29.35.220. (a) No substantive change. (AS 29.41.010(c))

(b) No substantive change. (AS 29.41.010(a))

(c) No substantive change. (AS 29.41.010(b))

(d) A third class borough may acquire any power not prohibited by law for exercise in a service area. (AS 29.41.010(b))

Sec. 29.35.250. This expands the authority of the city to exercise powers, since under existing law a city may only exercise listed municipal powers. A city may not exercise a power once that power has been exercised on an areawide basis by the borough. Existing law is in conflict as to whether a city may exercise a power being exercised on an areawide basis by the borough. In one section, existing law provides that the city may not do so, while in another section it provides that a city may exercise the power if the borough by ordinance permits exercise of the power by the city or ceases to exercise the power. (AS 29.33.010(b), 29.43.040(b), 29.48.035(b))

Sec. 29.35.260. (a) A city outside a borough may exercise a power not otherwise prohibited by law. Under existing law, a city

is granted only enumerated powers, so this is a broader authorization. (AS 29.43.010)

(b) Minor rewording. (AS 29.43.030)

(c) Requires a home rule city to provide for planning, platting, and land use regulation but it does not have to comply with Chapter 40. General law cities that provide for land use regulation must do so in accordance with Chapter 40. (AS 29.43.040)

(d) This is new making the section applicable as a home rule limitation. Under existing law material contained in (c) is not a limitation on home rule municipalities.

Sec. 29.35.300. Combines material dealing with the acquisition of areawide and nonareawide powers. (AS 29.33.250, 29.41.010)

Sec. 29.35.310. No change, except for minor rewording for consistent usage. (AS 29.33.260)

Sec. 29.35.320. Provides that a petition shall be filed with the borough clerk who certifies whether it contains sufficient signatures. After certification the assembly orders an election to be held within 60 days of the order, while under existing law, the election is held at least 30 days after the order, but not later than the next regular election. (AS 29.33.270, 29.33.280, 29.33.290(a), 29.38.030, 29.38.040, 29.38.050(a), 29.41.010(b))

Sec. 29.35.330. No change, except for minor rewording to achieve consistent usage. (AS 29.33.290(b) and (c), 29.38.050(b) and (c))

Sec. 29.35.340. Reorganized, but no substantive change. (AS 29.33.290(c))

Sec. 29.35.400. No substantive change. (AS 29.48.310)

Sec. 29.35.410. No substantive change. (AS 29.48.320)

Sec. 29.35.420. No substantive change. (AS 29.48.330)

Sec. 29.35.450. (a) Allows a borough to include a city in a service area if the city council agrees by ordinance or if approval is granted by a majority of voters residing in the city and by a majority of voters residing outside the city, but within the service area boundaries. Existing law is silent as to whether a city may be included within a service area. (AS 29.63.090(a))

(b) No change. (AS 29.63.090(d))

Sec. 29.35.460. No substantive change. (AS 29.63.090(c))

Sec. 29.35.470. No substantive change. (AS 29.63.090(b) and (e))

Sec. 29.35.480. No substantive change. (AS 29.63.090(a) and (e))

Sec. 29.35.490. New material has been added to allow owners of real property within a service area to consent in writing to the exercise of a power if no voters reside within the service area. (AS 29.41.010(b), 29.63.090(a) and (e))

(b) No change. (AS 29.41.010(b), 29.68.010(f))

Sec. 29.35.700. This is new and provides a definition of "power".

CHAPTER 40. PLANNING, PLATTING, AND LAND USE REGULATION.

The word "zoning" has been replaced by the phrase "land use regulation" throughout the title in order to confer broader planning powers on municipalities. The term "land use regulation" allows a municipality to use a variety of planning tools which might not necessarily be regarded as falling within traditional "zoning" practices.

Sec. 29.40.010. The assembly may delegate any of its planning responsibilities to a city if the city consents by ordinance. The assembly may, without obtaining the consent of the city, revoke the power delegated. Under existing law, there is no requirement that a city consent to the delegation of planning power. (AS 29.-33.070)

Sec. 29.40.020. Membership on the planning commission shall be apportioned so that the number of members from home rule and first class cities reflects the proportion of borough population residing in those cities. Under existing law membership is apportioned so that the number of members from first class cities reflects the proportion of borough population residing in first class cities, but the population of home rule cities is not taken into account. The planning commission shall prepare measures necessary to implement the comprehensive plan, while under existing law the planning commission is required to prepare a zoning ordinance to implement the plan. Under this bill, the planning commission has authority to utilize methods other than zoning to implement a plan. (AS 29.33.080(a) and (b))

Sec. 29.40.030. This is reorganized and reworded for clarity. After receiving the recommendations of the planning commission, the assembly is required periodically to undertake an overall review of the plan and update it as necessary. Under existing law, the planning commission is required to undertake an overall

review of the plan at least once every two years and present recommendations to the assembly. (AS 29.33.085)

Sec. 29.40.040. (a) This is substantially new material. It requires the assembly to implement a comprehensive plan through zoning regulations, land use permit requirements, or other methods. The material dealing with "contract zoning" has been eliminated. The list of items for which zoning may be used in AS 29.33.090(b) and (c) has been eliminated. The material contained in AS 29.33.090(e), allowing a business licensed by the Alcoholic Beverage Control Board to continue to operate before the adoption of the zoning ordinance, is eliminated. (AS 29.33.090(a))

(b) No substantive change. (AS 29.33.110(c))

Sec. 29.40.050. (a) Requires the assembly to provide for an appeal from the application of a land use regulation. Under existing law, the board of adjustment hears appeals. (AS 29.33.110(b))

(b) Allows the assembly to provide for the appointment of hearing officers or of a board of adjustment to hear appeals. Under existing law, the assembly is the board of adjustment, but may delegate its functions. (AS 29.33.110(a))

Sec. 29.40.060. (a) Allows for an appeal from a decision dealing with land use regulation. Under existing law, appeals are limited to decisions from the board of adjustment. (AS 29.33.130(a) and (b))

(b) An appeal from a land use regulation is an administrative appeal. The provision in AS 29.33.130(c), that an appeal stays enforcement proceeding unless the court issues an enforcement order, has been eliminated. (AS 29.33.130(d) and (e))

Sec. 29.40.070. Material in paragraph (4) dealing with dedication of rights-of-way and easements is added. (AS 29.33.150(a))

Sec. 29.40.080. This is new material requiring the assembly to establish a platting authority. Under existing law, the planning commission acts as platting authority. The material contained in AS 29.33.150(b) dealing with subdivisions of state land, is eliminated. (AS 29.33.150(a))

Sec. 29.40.090. (a) This is new and requires the assembly to establish an abbreviated plat procedure for plats meeting certain requirements.

(b) Authorizes waiver of plat requirements if a subdivision meets requirements for an abbreviated plat and each lot is five acres or larger. (AS 29.33.170)

Sec. 29.40.100. Rewritten for clarity. (AS 29.33.180)

Sec. 29.40.110. This is rewritten for clarity. Material dealing with filing a preliminary subdivision plat contained in AS 29.33.-160(c) has been eliminated. (AS 29.33.160(a) and (b))

Sec. 29.40.120. Allows a plat to be altered upon petition of the state, the borough, a public utility, or the owners of a majority of the land affected. Existing law allows a plat to be altered only upon petition of the owners of a majority of the land or by the platting board. A platted street may be vacated upon petition of the state, the borough, a public utility, or owners of the majority of the land fronting the portion of the street sought to be vacated. Under existing law, only the municipality or owners of the majority of the land fronting the part of the street sought to be vacated may petition to vacate a street. (AS 29.33.200)

Sec. 29.40.130. Requires the platting authority to publish notice of a hearing for a replat petition. "Published" is defined to require publication once in a newspaper of general circulation or posting in three public places. Under existing law, notice is required to be published once a week for two consecutive weeks. (AS 29.33.210)

Sec. 29.40.140. Rewritten for clarity. (AS 29.33.220)

Sec. 29.40.150. Requires a plat to be acknowledged and filed by the recorder with a certificate that taxes have been paid. (AS 29.33.230)

Sec. 29.40.160. Minor rewording. The material in (a) - (c) has been applied as a home rule limitation. None of this section is a limitation under existing law. (AS 29.33.240)

Sec. 29.40.170. Rewritten for clarity. (AS 29.33.245)

Sec. 29.40.180. A person who violates a land use regulation, condition imposed by a platting authority, or a section of law under the chapter dealing with land use regulation is guilty of a class B misdemeanor. (AS 29.33.190)

Sec. 29.40.190. A civil action may be initiated against a person who violates a section of law of the chapter dealing with land use regulation, a subdivision regulation or a term imposed by the platting authority. An action to enjoin may be brought and the superior court shall grant an injunction upon a finding of violation or threatened violation. In addition, a civil penalty not to exceed \$1,000 may be imposed and each day that an unlawful condition continues constitutes a separate violation. Under existing law, a person who transfers land in a subdivision before a plat has been recorded, and a person who records a plat which has not been

approved by the platting board may be punished by a fine of not more than \$500. (AS 29.33.190)

Sec. 29.40.200. Made applicable to home rule municipalities. Under existing law only the material contained in (a) of this section is a home rule limitation under AS 29.13.100(39). (AS 29.33.150(b) - (g))

CHAPTER 45. MUNICIPAL TAXATION.

Sec. 29.45.010. Authorizes a municipality to levy a property tax on real or on personal property. The distinction between areawide and nonareawide property taxes as applied to a unified municipality is eliminated. A property tax may be levied in a service area for functions in the service area. Cross-references to the provisions dealing with the taxing power of cities are added. (AS 29.53.010)

Sec. 29.45.020. No substantive change. (AS 29.73.070(a) and (c))

Sec. 29.45.030. Household furniture is exempt from taxation without regard to the value of the furniture. Property of an auxiliary of a nonbusiness organization is exempt. Under existing law, lots supporting and adjacent to a structure used for religious purposes are exempt from taxation. That exemption is eliminated. Property from which income is derived is exempt if used by nonprofit educational groups for classroom space, or by nonprofit religious, charitable or hospital groups. Under existing law, there is some ambiguity as to whether property, other than property used for classroom space, is exempt. An exemption for real property owned as a permanent place of abode by a resident 65 years of age or over may not be granted except upon written application. Under existing law, there is some ambiguity as to whether any exemption may be granted without a written application. One motor vehicle per household owned by a resident 65 years of age or older is exempt. A provision for implementation of a federal tax exemption is included. (AS 29.53.020)

Sec. 29.45.040. No change, except that "Department of Community and Regional Affairs" is replaced by "department". (AS 29.73.-060)

Sec. 29.45.050. (a) No change, except "regular or special" is deleted since "election" is defined. (AS 29.53.025(a))

(b) Eliminates the requirement that a tax based upon tonnage not exceed \$100 dollars a year for a boat of less than five net tons, and not exceed fifteen dollars a year for a boat of more than five tons. The optional exemption of household furniture over five hundred dollars in value has been eliminated since all household furniture is exempted under this bill. (AS 29.53.025(b))

(c) The reference to "weighted" voting is eliminated. (AS 29.53.025(c))

(d) "Act" has been changed to "chapter". (AS 29.53.025(d))

(e) No substantive change. (AS 29.53.025(e))

(f) Minor rewording. (AS 29.53.025(f))

(g) No change. (AS 29.53.025(g))

Sec. 29.45.060. Provides that a farm use greenhouse be assessed on the basis of value for farm use. "Farm use" includes the use of property for raising ornamental plants. (AS 29.53.035)

Sec. 29.45.070. No substantive change. (AS 29.53.040)

Sec. 29.45.080. No substantive change. (AS 29.53.045)

Sec. 29.45.090. Requires all property upon which a tax is levied to be taxed at the same rate during the year. Reorganized and slightly reworded for clarity. (AS 29.53.050)

Sec. 29.45.100. Statutory references are altered to reflect new numbering. (AS 29.53.055)

Sec. 29.45.110. Statutory reference is altered to reflect new numbering. (AS 29.53.060)

Sec. 29.45.120. "Assembly" is replaced by "governing body". (AS 29.53.070)

Sec. 29.45.130. Allows the assessor to seek a court order to compel production of records, as well as to compel entry. (AS 29.53.080)

Sec. 29.45.140. A person who fails to file a tax statement or makes a false tax statement is guilty of a class B misdemeanor. Under existing law, he is guilty of a misdemeanor punishable by a fine of \$500 or by imprisonment for up to 30 days or both. (AS 29.53.090)

Sec. 29.45.150. "Assembly" is replaced by "governing body" and "borough" is replaced by "municipality". (AS 29.53.095)

Sec. 29.45.160. Minor rewording. (AS 29.53.100)

Sec. 29.45.170. Minor rewording. (AS 29.53.110)

Sec. 29.45.180. Minor rewording for clarity. (AS 29.53.120)

Sec. 29.45.190. Minor rewording for clarity. (AS 29.53.130)

Sec. 29.45.200. (a) Requires an appointed board to be composed of no less than three persons, and eliminates the requirement that the board consist of the number of members of the assembly above the number required for a quorum. Requires the governing body to establish by ordinance the qualifications for board membership. (AS 29.53.135)

(b) Allows the board to alter an assessment only if an appeal is filed as to that particular lot. (AS 29.53.135)

(c) This subsection is new, allowing an appeal directly to the superior court on the issue of whether property is taxable.

Sec. 29.45.210. Provides that if, upon appeal, a valuation is found to be too low, the board may raise the assessment. An appeal to the superior court shall be tried as an administrative appeal, while under existing law an appellant may demand a jury trial. (AS 29.53.140)

Sec. 29.45.220. No change. (AS 29.53.150)

Sec. 29.45.230. Reassessment is permitted when property is affected by a disaster declared by the President, or by the governor. Under existing law, this section applies only when property is affected by a disaster declared by the President. (AS 29.53.-160)

Sec. 29.45.240. Minor rewording. (AS 29.53.170)

Sec. 29.45.250. Allows a penalty not to exceed 20 percent of the tax due to be added to delinquent taxes and interest at the rate of 15 percent a year to accrue upon unpaid taxes. Under existing law, a penalty not to exceed 10 percent may be added, and interest at the rate of eight percent shall accrue. A penalty not to exceed 20 percent of the tax due may be imposed upon the late return of personal property assessment forms. Under existing law, only 10 percent of the tax due may be imposed. If a taxpayer may pay a tax in two installments, penalty and interest on the unpaid installment accrues from the date the installment becomes due. Under existing law, if the taxpayer does not pay the first half when due, the entire tax becomes delinquent. A penalty of eight percent is added on delinquent taxes until the due date fixed for payment of the second half, and after the due date of the payment of the second half, the penalty may be increased to 10 percent. (AS 29.53.180)

Sec. 29.45.290. No substantive change. (AS 29.53.200)

Sec. 29.45.300. Property taxes, together with penalty and interest are a lien upon the property assessed, while under this section of existing law, only real property taxes are mentioned as a lien upon the property assessed. However, under AS 29.53.220 it is clear that unpaid personal property taxes are also a lien. (AS 29.53.210)

Sec. 29.45.310. If property is sold for more money than needed to satisfy the tax, the municipality is required to remit the excess to the former record owner. A claim for the excess filed after six months is barred. Under existing law, there is no provision for remitting the excess to the former record owner. (AS 29.53.220)

Sec. 29.45.320. Reworded slightly, and the statutory reference is altered to reflect new numbering. (AS 29.53.230)

Sec. 29.45.330. Minor rewording. (AS 29.53.240)

Sec. 29.45.340. "Borough" is altered to "municipality". (AS 29.53.250)

Sec. 29.45.350. "Such" is altered to "the". (AS 29.53.260)

Sec. 29.45.360. Minor rewording, and the statutory reference is altered to reflect new numbering. (AS 29.53.270)

Sec. 29.45.370. "Tract" is altered to "lot". (AS 29.53.280)

Sec. 29.45.380. Minor rewording. (AS 29.53.290)

Sec. 29.45.390. Minor rewording and reorganization. (AS 29.-53.300)

Sec. 29.45.400. The material currently contained in AS 29.-53.310(b), allowing a person holding a lien against part of real property included in a judgment and decree of foreclosure to redeem only that part, has been eliminated. (AS 29.53.310)

Sec. 29.45.410. Receipt of redemption money by the municipality releases the judgment obtained through foreclosure. Under existing law, receipt of redemption by the clerk releases all claims of the municipality to the property. (AS 29.53.320)

Sec. 29.45.420. No change. (AS 29.53.330)

Sec. 29.45.430. No substantive change. (AS 29.53.340)

Sec. 29.45.440. Allows the clerk's designee to publish a redemption period expiration notice. Requires the clerk to send a copy of the notice to holders of liens if the assessed value of property

being foreclosed is over \$100,000. Under existing law, notice must be sent if the assessed value is over \$10,000. (AS 29.53.350)

Sec. 29.45.450. Minor rewording. (AS 29.53.360)

Sec. 29.45.460. Allows the designee of the clerk to send a copy of the published notice, while under existing law, the clerk is required to send the copy. (AS 29.53.370)

Sec. 29.45.470. Minor rewording. (AS 29.53.375)

Sec. 29.45.480. No substantive change. (AS 29.53.380)

Sec. 29.45.490. "City or borough" is changed to "municipality". (AS 29.53.385)

Sec. 29.45.500. New material is added to this section so that if, in the absence of suit, it becomes obvious to the governing body that judgment for recovery of taxes would be obtained, the municipality shall refund the amount of taxes plus interest. The governing body is permitted to correct manifest clerical errors at any time. (AS 29.53.390)

Sec. 29.45.550. Minor rewording. (AS 29.43.020)

Sec. 29.45.560. Statutory references are altered to reflect new numbering. All sections under existing law which apply to taxes levied by a city apply under this bill as well. Sec. 29.45.250, dealing with rates of penalty and interest; sec. 29.45.460, dealing with disposition and sale of foreclosed property; sec. 29.45.470, dealing with repurchase by record owner; sec. 29.45.490, dealing with payment of taxes upon public utilization; sec. 29.45.500, dealing with refund of taxes have been added as provisions which a city is subject to. (AS 29.53.400)

Sec. 29.45.570. This is new, applying the provisions dealing with property taxes to home rule municipalities as a limitation.

Sec. 29.45.580. Minor rewording. (AS 29.53.405)

Sec. 29.45.590. No substantive change. (AS 29.53.410)

Sec. 29.45.600. This is new material allowing a petition for second class city incorporation to request that a property tax proposal be placed on the same ballot. The petition may request that incorporation be dependent on passage of the property tax. Under existing law, a petition may combine a request for sales and use tax with a request for incorporation, but no provision exists for combining a request for property tax with a request for incorporation.

Sec. 29.45.650. Interest at the rate of 15 percent, rather than eight percent may be charged on delinquent sales and use taxes, and this is made applicable as a home rule limitation. Material in (e) has been added to allow a lien to be placed on the property to secure the payment of a sales and use tax. (AS 29.53.415)

Sec. 29.45.660. Minor rewording. (AS 29.73.070(b) and (c))

Sec. 29.45.670. The requirement that a sales tax proposition be presented only once a year has been eliminated. Material now in AS 29.53.420(b) is deleted. (AS 29.53.420(a))

Sec. 29.45.700. Allows the borough assembly by ordinance to authorize the city to levy and collect sales and use taxes on sources other than the sources being taxed by the borough. Under existing law, a city within a borough may levy sales and use taxes only upon sources taxed by the borough. The provision that a city outside a borough may levy and collect sales and use taxes in the manner provided for boroughs has been added. (AS 29.53.440, 29.53.450)

Sec. 29.45.710. No substantive change. (AS 29.53.460)

CHAPTER 46. SPECIAL ASSESSMENTS.

Sec. 29.46.010. Minor rewording and the statutory reference is altered to reflect new numbering. (AS 29.63.010)

Sec. 29.46.020. A list of procedures which the governing body may prescribe includes procedures relating to creating special assessment districts, making local improvements, levying and collecting assessments, and financing improvements. Under existing law, the governing body is authorized to prescribe the complete special assessment procedure for local improvements. Statutory references are altered to reflect new numbering. (AS 29.63.015)

Sec. 29.46.030. The heading is altered from "DECISION AND NOTICE" to "CREATION OF DISTRICT". Minor rewording. (AS 29.63.020)

Sec. 29.46.040. Minor rewording. (AS 29.63.025)

Sec. 29.46.050. Objections may be filed any time within 60 days after publication of notice. Under existing law, objections to an improvement plan may be filed not less than 30 nor more than 60 days after publication of notice on a date specified by the governing body. Minor rewording. (AS 29.63.030)

Sec. 29.46.060. Minor rewording for clarity. (AS 29.63.040)

Sec. 29.46.070. Requires a new hearing if the assessment is increased as a result of correcting errors and inequalities in the assessment roll. Objections to the increased assessment are limited to record owners of property on which the assessment was increased. Under existing law, there is no provision for an additional hearing if an assessment is increased as a result of correcting errors. (AS 29.63.050)

Sec. 29.46.080. Minor rewording for clarity, and statutory references are altered to reflect new numbering. (AS 29.63.060)

Sec. 29.46.090. Slightly reorganized, and statutory references are altered to reflect new numbering. The section is applicable as a home rule limitation, and is a limitation now under AS 29.13.-100(36). (AS 29.63.065)

Sec. 29.46.100. Minor reorganization and rewording. (AS 29.63.070)

Sec. 29.46.110. (a) This is new material itemizing the costs which may be included in a special assessment.

(b) 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 issuance of bonds. (AS 29.-63.040(a))

Sec. 29.46.120. Minor rewording and reorganization. (AS 29.63.080)

Sec. 29.46.130. This is new material allowing the governing body to issue notes to secure payment of the costs of a local improvement project. The notes are payable out of special assessments for the improvement and the notes are claims against the assessments.

Sec. 29.46.140. Minor rewording. The last line of AS 29.-63.085(c), providing that interest on the guarantee funds are a cost of the improvement district, is eliminated. (AS 29.63.085)

CHAPTER 47. MUNICIPAL DEBT.

Sec. 29.47.010. Minor rewording. (AS 29.58.010)

Sec. 29.47.020. Minor rewording. (AS 29.58.020)

Sec. 29.47.030. Minor rewording. (AS 29.58.040)

Sec. 29.47.040. Minor rewording. (AS 29.58.050)

Sec. 29.47.080. Minor rewording. (AS 29.58.070)

Sec. 29.47.090. "Assembly or council" is replaced with "governing body". (AS 29.58.080)

Sec. 29.47.100. "Assembly or council" is replaced by "governing body".

Sec. 29.47.110. No substantive change. (AS 29.58.100)

Sec. 29.47.120. Minor rewording. (AS 29.58.110)

Sec. 29.47.130. Minor rewording. (AS 29.58.120)

Sec. 29.47.140. No change. (AS 29.58.130)

Sec. 29.47.180. Minor rewording. (AS 29.58.150)

Sec. 29.47.190. Minor rewording. The reference to a charter is eliminated since this section does not apply as a home rule limitation. (AS 29.58.160)

Sec. 29.47.200. Minor rewording. The last sentence in (b) is added since this subsection applies to home rule municipalities as a limitation. It is currently a limitation under AS 29.13.100(24). (AS 29.58.180)

Sec. 29.47.240. Rewritten for clarity. (AS 29.58.200)

Sec. 29.47.250. Minor rewording. (AS 29.58.205)

Sec. 29.47.260. This is a new section excluding revenue bonds 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.

Sec. 29.47.300. Minor rewording. (AS 29.58.240)

Sec. 29.47.310. No substantive change. (AS 29.58.250)

Sec. 29.47.320. "Assembly or council" is replaced by "governing body". (AS 29.58.260)

Sec. 29.47.330. The statutory reference is altered to reflect new numbering and the fact that sections dealing with payment on bonds are combined into one section. (AS 29.58.270)

Sec. 29.47.340. The requirement that refunding bonds be exchanged at par for bonds being refunded is eliminated, so that refunding bonds may be exchanged at the discretion of the governing body. (AS 29.58.280)

Sec. 29.47.390. This contains new material allowing the issuance of revenue bonds to finance any project and to be secured and payable solely from the revenue and property of the project. The city or borough is not obligated to make payments on the bonds from any other sources. (AS 29.58.200(c))

Sec. 29.47.400. Bonds and notes may be sold in the manner and at the price determined by the municipality. Under existing law, no bonds may be sold at less than par value. (AS 29.58.060, 29.58.140, 29.58.300)

Sec. 29.47.410. Minor rewording. (AS 29.58.170, 29.58.210)

Sec. 29.47.420. Allows the interest rate payable on a bond or note to exceed the usury rate. Under existing law, no bond or note may bear an interest which exceeds the contract usury rate. (AS 29.58.310)

Sec. 29.47.430. No substantive change. (AS 29.58.320)

Sec. 29.47.440. Rewritten for clarity. The statutory reference is altered to reflect new numbering. (AS 29.58.340)

Sec. 29.47.450. This is new material providing that the indebtedness of a service area will remain a debt even though a court subsequently determines that the service area was not validly formed under law.

CHAPTER 55. MUNICIPAL PROGRAMS.

Sec. 29.55.010. "General or home rule" is eliminated since "municipality" includes by definition both a general law and a home rule municipality. (AS 29.48.108)

Sec. 29.55.020. The statutory reference to the preceding section is eliminated as unnecessary. (AS 29.48.110)

CHAPTER 60. STATE PROGRAMS.

Sec. 29.60.010. "Local government services" is replaced by "municipal services". (AS 29.88.010)

Sec. 29.60.020. Material in AS 29.88.015(b) is deleted. Since municipal tax resource equalization is organized as an article, rather than a chapter, the statutory reference is added. (AS 29.88.015)

Sec. 29.60.030. Statutory references are added since this material is no longer located in a separate chapter. (AS 29.88.020)

Sec. 29.60.040. Statutory references are added since this material no longer appears as a separate chapter. (AS 29.88.025)

Sec. 29.60.050. Subsection (a), dealing with limitation on use of payments, is a home rule limitation. Under existing law all of the tax equalization program is a home rule limitation under AS 29.13.-100(46). "Assembly or council" is replaced by "governing body". (AS 29.88.030)

Sec. 29.60.060. Statutory references are added, since this material is no longer contained in a separate chapter. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.88.035)

Sec. 29.60.070. Statutory references are added, since this material is no longer contained in a separate chapter. Statutory references currently contained in this section are altered to reflect new numbering. (AS 29.88.040)

Sec. 29.60.080. Definitions of "department" and "municipality" are eliminated since these are now defined with respect to the entire title. (AS 29.88.045)

Sec. 29.60.100. Statutory references are altered to reflect new numbering. Provision for revenue sharing payable to a "Native village government" is altered to "an unincorporated community". (AS 29.89.010)

Sec. 29.60.110. "Local government" is replaced by "municipality". (AS 29.89.020)

Sec. 29.60.120. Subsections (a) and (c) dealing with distribution and use of money, are home rule limitations. Under existing laws all of the program of aid for miscellaneous services is a limitation under AS 29.13.100(47). (AS 29.89.030)

Sec. 29.60.130. "Borough or city" is replaced by "municipality". (AS 29.89.040)

Sec. 29.60.140. Provides for aid to unincorporated communities rather than to Native village governments. The Department of Community and Regional Affairs shall pay the money to the entity in an unincorporated community most qualified to receive it. No money may be paid to a Native village council unless it waives immunity from suit. If there is no entity in an unincorporated community willing to receive the money, the community receives no entitlement. (AS 29.89.050)

Sec. 29.60.150. The last portion of the section listing possible sources of population data is eliminated. Statutory references are

added, since this material is no longer organized as a separate chapter. (AS 29.89.060)

Sec. 29.60.160. Statutory references are altered to reflect new numbering. Authorizes area cost-of-living differentials to be reflected in payments to volunteer fire departments. (AS 29.89.-070)

Sec. 29.60.170. Statutory references are added, since this material is no longer organized as a separate chapter. The statutory reference currently contained in this section is altered to reflect new numbering. (AS 29.39.080)

Sec. 29.60.180. Statutory references are added, since this material is no longer organized as a separate chapter. (AS 29.89.090)

Sec. 29.60.230. Made applicable as a home rule limitation. (AS 29.90.010, 29.90.030(3))

Sec. 29.60.240. Statutory references are added, since this material is no longer organized as a separate chapter. The statutory reference currently contained in this section is altered to reflect new numbering. (AS 29.90.020)

Sec. 29.60.280. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.95.010)

Sec. 29.60.290. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.95.020)

Sec. 29.60.300. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.95.030)

Sec. 29.60.350. Administration of the municipal assistance fund is transferred from the Department of Revenue to the Department of Community and Regional Affairs. (AS 43.20.016(a))

Sec. 29.60.360. No substantive change. (AS 43.20.016(b))

Sec. 29.60.370. No substantive change. (AS 43.20.016(c) and (d))

Sec. 29.60.800. No substantive change. (AS 29.89.100(2) and (3), 29.90.030(2) and (4))

CHAPTER 65. GENERAL GRANT LAND.

Sec. 29.65.010. No change. (AS 29.18.201)

Sec. 29.65.020. No substantive change. (AS 29.18.202)

Sec. 29.65.030. Minor rewording. (AS 29.18.203)

Sec. 29.65.040. The statutory references currently contained in this section are altered to reflect new numbering. (AS 29.18.204)

Sec. 29.65.050. The statutory references to repealed sections are deleted as unnecessary in (a). The statutory references contained in this section are altered to reflect new numbering. (AS 29.18.-205)

Sec. 29.65.060. Statutory references are altered to reflect new numbering. (AS 29.18.206)

Sec. 29.65.070. No substantive change. (AS 29.18.207)

Sec. 29.65.080. Reworded for clarity. The statutory references contained in this section are altered to reflect new numbering. (AS 29.18.208)

Sec. 29.65.090. "Any" is changed to "a". (AS 29.18.209)

Sec. 29.65.100. The statutory reference contained in this section is altered to reflect new numbering. (AS 29.18.210)

Sec. 29.65.110. The statutory reference contained in this section is altered to reflect new numbering. (AS 29.18.211)

Sec. 29.65.120. Since this material is now organized in a separate chapter, the statutory reference to the sections dealing with general grant land is eliminated. (AS 29.18.212)

Sec. 29.65.130. Since this material is now organized in a separate chapter, the statutory reference is eliminated. The definition of "municipality" is eliminated since that term is now defined for the entire title. (AS 29.18.213)

Sec. 29.65.140. This is a new section indicating that the chapter dealing with general grant land applies to home rule municipalities as well as to general law municipalities. This material is not a home rule limitation under existing law.

CHAPTER 71. GENERAL PROVISIONS.

Sec. 29.71.010. No substantive change. (AS 29.73.030)

Sec. 29.71.020. This is a new section providing that dedication of rights of way or other areas for public use does not require the municipality to maintain, improve, or provide for municipal services in the area dedicated and does not impose any liability on the municipality for the condition of the area dedicated. The section is applicable to home rule municipalities.

Sec. 29.71.030. No substantive change. (AS 29.73.040)

Sec. 29.71.800. The following definitions are added or changed from existing law:

(1) "areawide" is defined to include cities in the borough.
(AS 29.78.010(18))

(2) this is added;

(3) includes home rule as well as general law boroughs;
(AS 29.78.010(1))

(4) includes home rule as well as general law cities;
(AS 29.78.010(2))

(5) this is added;

(7) this is added;

(8) this is added;

(9) "election" includes both regular and special municipal elections, but does not include a state election; (AS 29.78.-010(7))

(10) this is added to refer to either a borough or city legislative entity;

(13) "municipality" includes a home rule or general law borough, city, or unified municipality, while the existing definition includes only general law municipal corporations;
(AS 29.78.010(8))

(14) "nonareawide" includes the area of a borough outside cities in the borough, while under existing law "nonareawide power" is defined; (AS 29.78.010(19))

(15) "owner" or "record owner" means the owner of record shown in the records of the district recorder; (AS 29.-78.010(9))

(20) minor rewording; (AS 29.78.010(14))

(21) this has been added;

(23) subparagraph (A) has been reworded and (B) is new;
(AS 29.78.010(16))

(24) this has been added; and

(25) a person qualified to vote in municipal elections under the applicable statute is a "voter". (AS 29.78.010(17))

The definition of "conditional use" has been eliminated. (AS 29.-78.010(3))

* Sec. 18. A definition of "municipality" is added for all Alaska Statutes.

* Sec. 20. The statutory references are altered to reflect new numbering. References to merger and consolidation are eliminated as unnecessary.

* Sec. 21. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 22. The statutory references are altered to reflect new numbering.

* Sec. 23. Reworded to delete incorrect statutory references.

* Sec. 24. References to third class boroughs have been eliminated. Subsection (b) has been added containing material currently made applicable by the reference to third class boroughs.

* Sec. 25. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 26. The statutory references are altered to reflect new numbering.

* Sec. 27. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 28. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 29. The statutory references are altered to reflect new numbering.

* Sec. 30. The statutory references are altered to reflect new numbering.

* Sec. 31. The statutory references are altered to reflect new numbering.

* Sec. 32. The statutory references are altered to reflect new numbering.

* Sec. 33. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 34. The statutory references are altered to reflect new numbering.

* Sec. 35. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 36. The statutory references are altered to reflect new numbering.

* Sec. 38. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 39. Minor rewording for consistency.

* Sec. 40. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 41. The statutory references are altered to reflect new numbering.

* Sec. 42. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 43. Minor rewording. Incorrect statutory references are deleted.

* Sec. 44. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 45. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 46. The statutory reference is deleted as unnecessary.

* Sec. 47. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 48. The statutory references are deleted as unnecessary.

* Sec. 49. The statutory references are deleted as unnecessary.

* Sec. 50. The statutory reference is altered to reflect new numbering.

* Sec. 51. The statutory references are altered to reflect new numbering. Some references are eliminated as unnecessary. "Former" is added before citations to sections repealed in this bill.

* Sec. 52. The statutory references are altered to reflect new numbering. "Former" is added before citations to sections repealed in this bill.

* Sec. 53. The word "former" is added before the statutory citation because those sections are repealed in this bill.

* Sec. 54. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 55. "Former" is added before citations to sections previously repealed.

* Sec. 56. Minor rewording. The statutory reference is altered to reflect new numbering.

* Sec. 57. Minor rewording. The statutory reference is deleted as unnecessary.

* Sec. 58. Minor rewording. The statutory references are altered to reflect new numbering.

* Sec. 59. The statutory references are altered to reflect new numbering. "Former" is added before citations to sections repealed in this bill.

* Sec. 60. The statutory reference is deleted as unnecessary.

* Sec. 61. The statutory references are altered to reflect new numbering.

* Sec. 62. This is new material that precludes a municipality from regulating utilities exempt from regulation by the Alaska Public Utilities Commission, except for certain municipally owned utilities.

* Sec. 63. The statutory references are altered to reflect new numbering.

* Sec. 64. The statutory references are altered to reflect new numbering.

* Sec. 65. The statutory references are altered to reflect new numbering.

* Sec. 66. The statutory references are altered to reflect new numbering.

* Sec. 67. The statutory references are altered to reflect new numbering.

* Sec. 68. The statutory references are altered to reflect new numbering.

* Sec. 69. Minor rewording. The statutory references are ~~deleted as~~ unnecessary.

* Sec. 70. The statutory references are deleted as unnecessary.

* Sec. 71. Adds new sections dealing with borough feasibility studies. Authorizes the commissioner of community and regional affairs to contract for a study requested by a person residing in the area to be studied. Sets out requirements for the contract and what a study must include.

* Sec. 72. The statutory reference is altered to reflect new numbering.

* Sec. 73. The statutory reference is altered to reflect new numbering.

* Sec. 74. The statutory reference is altered to reflect new numbering.

* Sec. 75. The new statutory reference is inserted and "~~former~~" added before the citation to a section repealed by this bill.

* Sec. 76. The new statutory references are inserted and "~~former~~" added before citations to sections repealed by this bill.

* Sec. 77. The statutory references are altered to reflect new numbering.

* Sec. 78. The statutory reference to a repealed section is ~~deleted~~ and language inserted to take the place of the deleted reference.

* Sec. 79. The statutory references are altered to reflect new numbering.

* Sec. 80. The statutory references are deleted as unnecessary.

* Sec. 81. The statutory references are altered to reflect new numbering.

* Sec. 82. The statutory references are deleted as unnecessary.

* Sec. 83. The statutory references are altered to reflect new numbering.

* Sec. 84. All of Title 29 is repealed except for AS 29.03.010 and AS 29.03.020. Additional provisions are repealed to reconcile this bill with other titles.

* Sec. 85. A right or liability of a municipality in existence on the effective date of this Act is not affected by this Act. Ordinances and regulations in effect on the effective date of this Act remain in effect unless they conflict with a provision of this Act. If an ordinance or regulation conflicts, it remains in effect for 180 days. The terms of elected or appointed municipal officials are not affected by the Act and their terms expire as they would have before the effective date of this Act.

* Sec. 86. The chapter on taxation is retroactive to January 1, 1983, the beginning of the tax year.

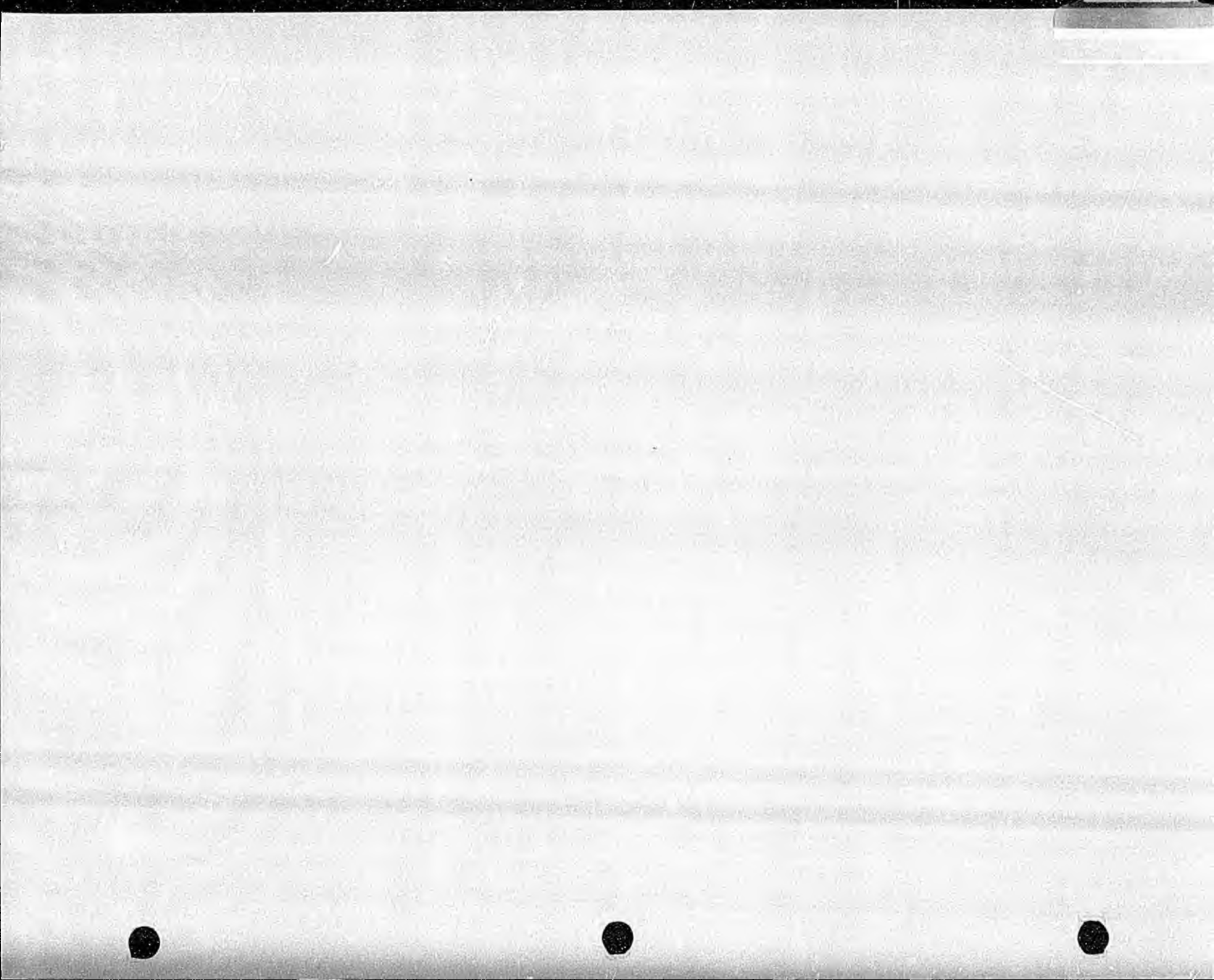
* Sec. 87. An immediate effective date is provided for the retroactive clause and the chapter on taxation.

* Sec. 88. The rest of the Act takes effect July 1, 1983.

In addition to the material already noted as having been deleted from this bill, the following sections have been eliminated entirely:

- AS 29.18.202 (determination of entitlement for cities);
- AS 29.18.220 - 29.18.460 (development cities);
- AS 29.18.510 - 29.18.610 (Capital City Incorporation Act);
- AS 29.23.395 - 29.23.401 (involvement of young people in local government);
- AS 29.23.470 (appointment of temporary or new manager);
- AS 29.28.220 (election procedure);
- AS 29.33.120 (adjustment procedure);
- AS 29.43.100 - 29.43.110 (curfews)
- AS 29.45.480 (proceeds of tax sale);
- AS 29.48.070 (hearing for regulation of utilities rates);
- AS 29.48.080 (right to participate and compel testimony);
- AS 29.48.090 (further proceedings);
- AS 29.48.100 (application);
- AS 29.48.250 (centralized purchasing);
- AS 29.53.030 (mining claims);
- AS 29.58.220 (payment);
- AS 29.58.315 (bond attorneys, bond and financial consultants);
- AS 29.58.345 (bonded indebtedness for school construction);
- AS 29.58.350 (bond guarantee fund).

TBC:ljb



HB 172

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

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

Dear Mr. Speaker:

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

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

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

1. page 8, line 26 -- following "council" the phrase "in a first class city" is added;
2. page 11, line 1 -- between the words "city" and "incorporated," the phrase "in the unorganized borough" is added;
3. page 29, line 8 -- following the first use of "commission," the phrase "of seven elected members" is added;

HB 172

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

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

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

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

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

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

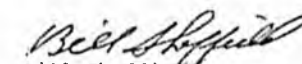
9. page 106, line 8 -- the first sentence of sec. 29.-45.040(b) is amended as follows:

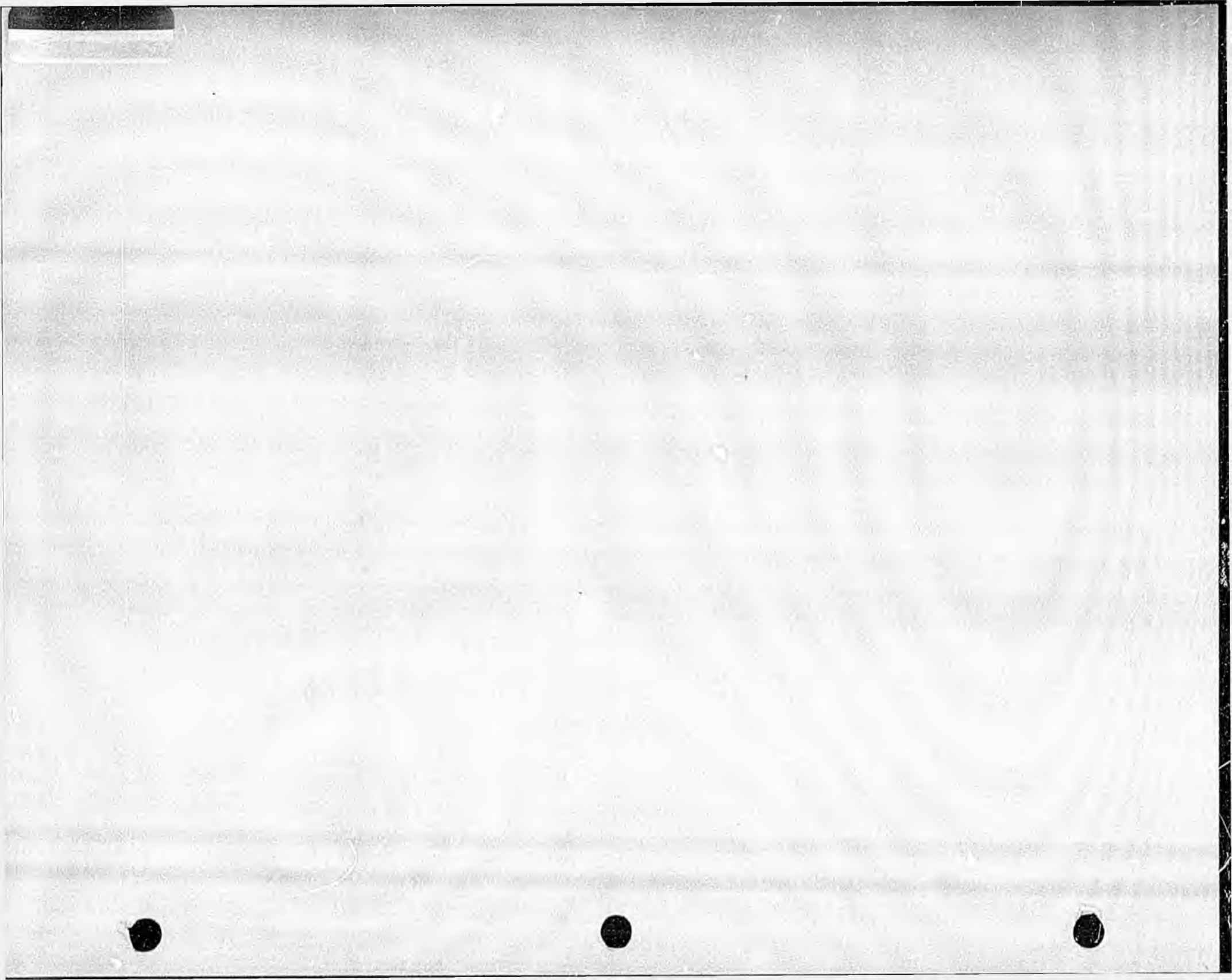
(b) For purposes of determining payments to eligible persons, the department shall calculate at the rate of one percent per mill a property tax equivalent percentage for each municipality that levies a property tax [AT THE RATE OF ONE PERCENT PER MILL].

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

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

Sincerely,


Bill Sheffield
Governor



Alaska State Legislature

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



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

House of Representatives Committee on Community & Regional Affairs

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

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

Page 35, line 5:
Delete "and"

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

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

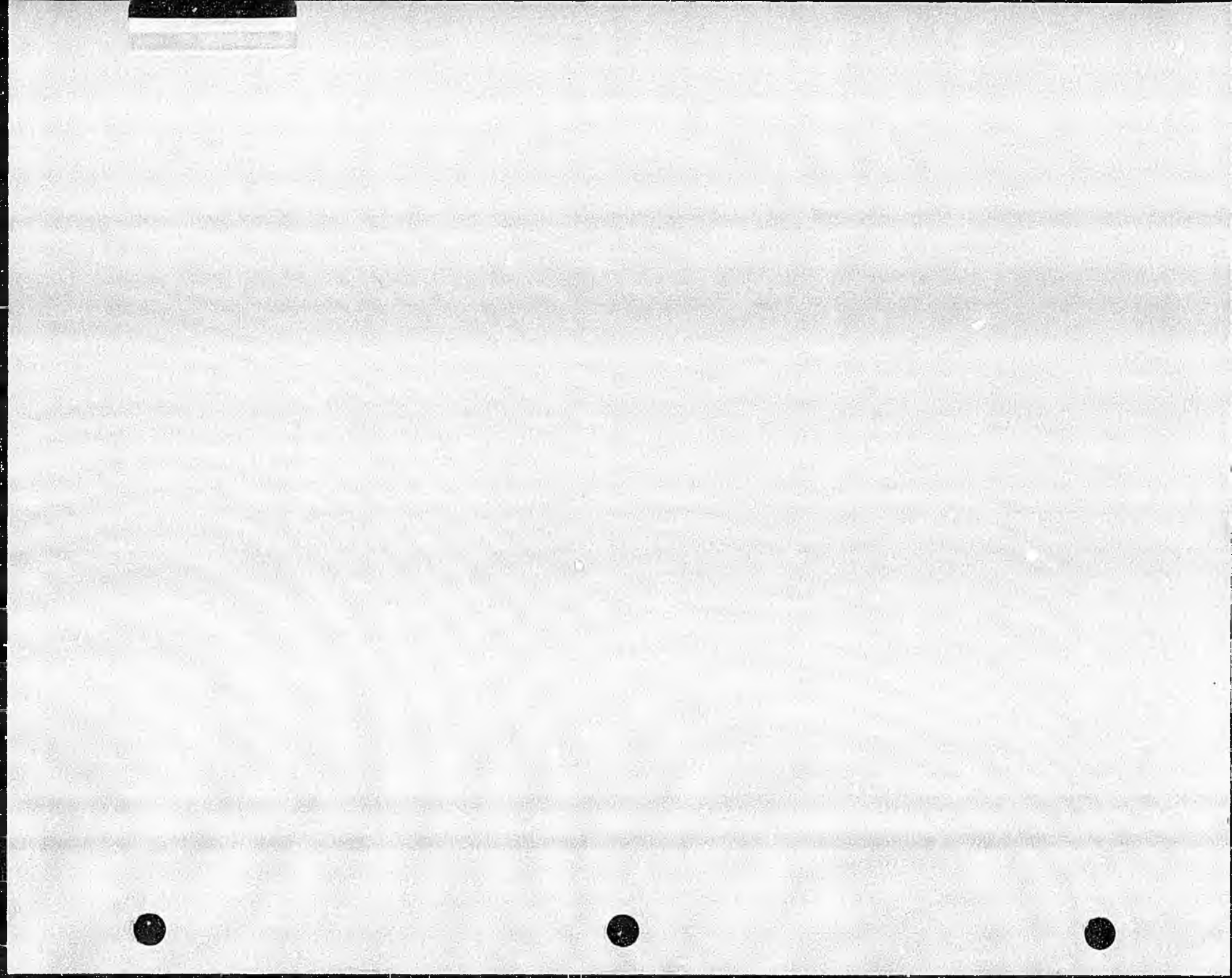
Page 35, after line 8:
Insert "(4) a municipal employee or official, ~~other~~ than a member of the governing body, may not participate in any official action in which the employee or official has a substantial financial interest.

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

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

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

passed



Alaska State Legislature

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Room 104
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Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

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

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

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

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

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

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

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

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

13
172250?
Adopted

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99801
907-465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 24, 1983

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

TO: Representative Barbara Lacher

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

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

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

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

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

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

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

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

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

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

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

Representative Barbara Lacher

Page 3

February 24, 1983

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

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

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

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

Representative Barbara Lacher

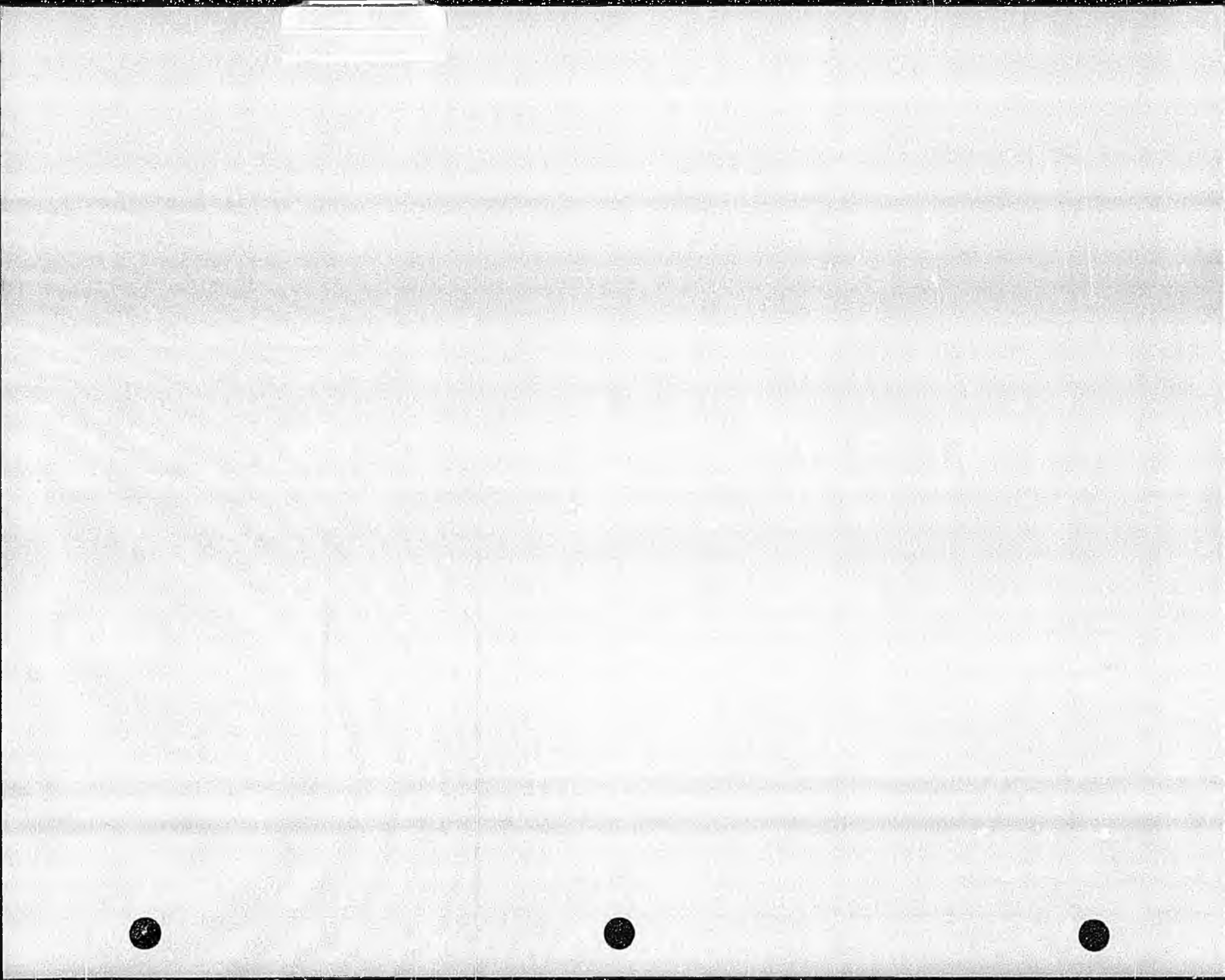
Page 4

February 24, 1983

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

TBC:ljb

SD # 14
~~SD # 23~~



Alaska State Legislature



Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

Barbara Lacher, Chairman
Mae Tischer, Vice-Chairman
Randy Phillips
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House of Representatives Committee on Community & Regional Affairs

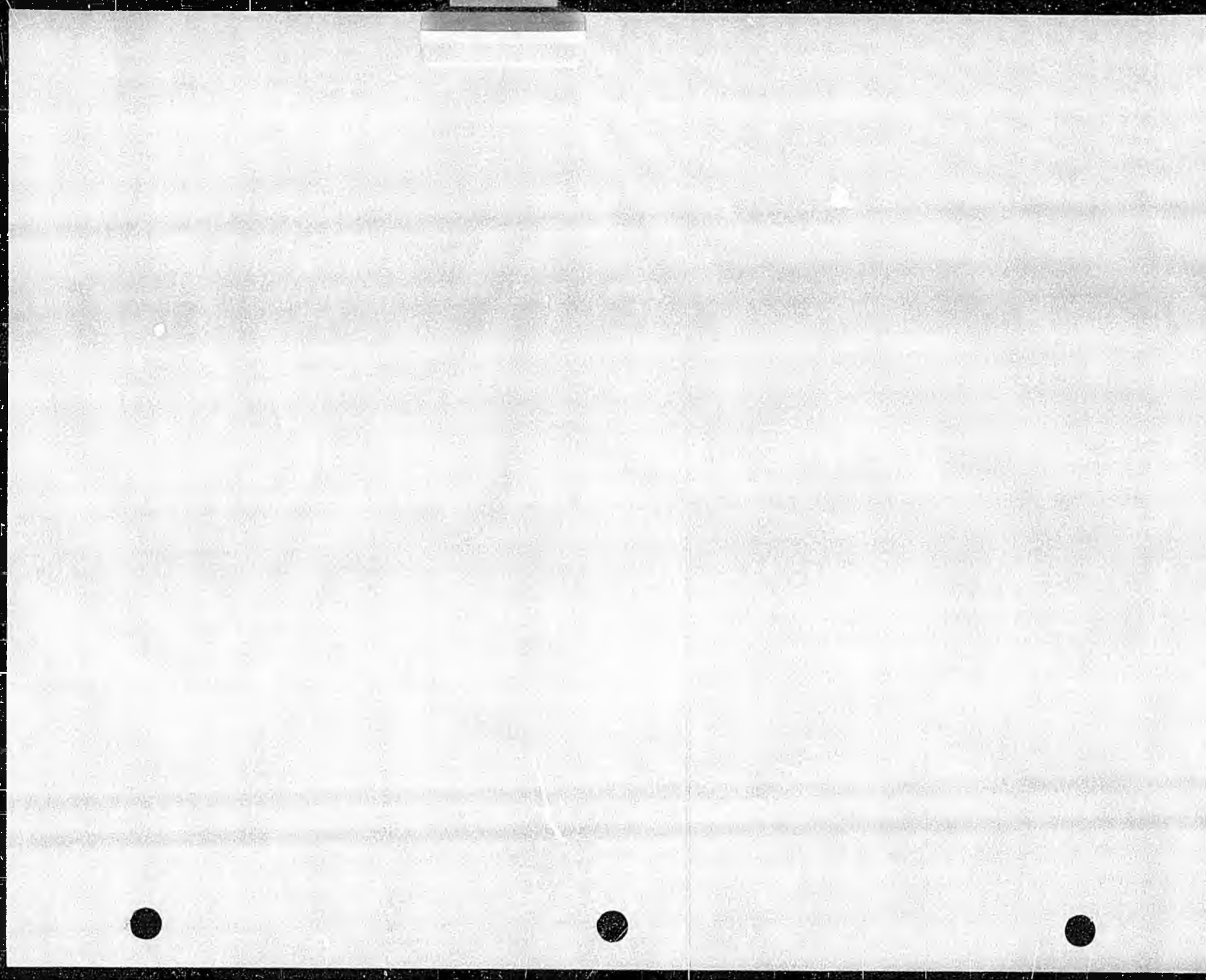
TO: Committee on Community and Regional Affairs
FROM: Staff
DATE: April 25, 1983
RE: House Bill 172 amendment 3

Page 76, lines 19 and 20:

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

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

adopted



Alaska State Legislature



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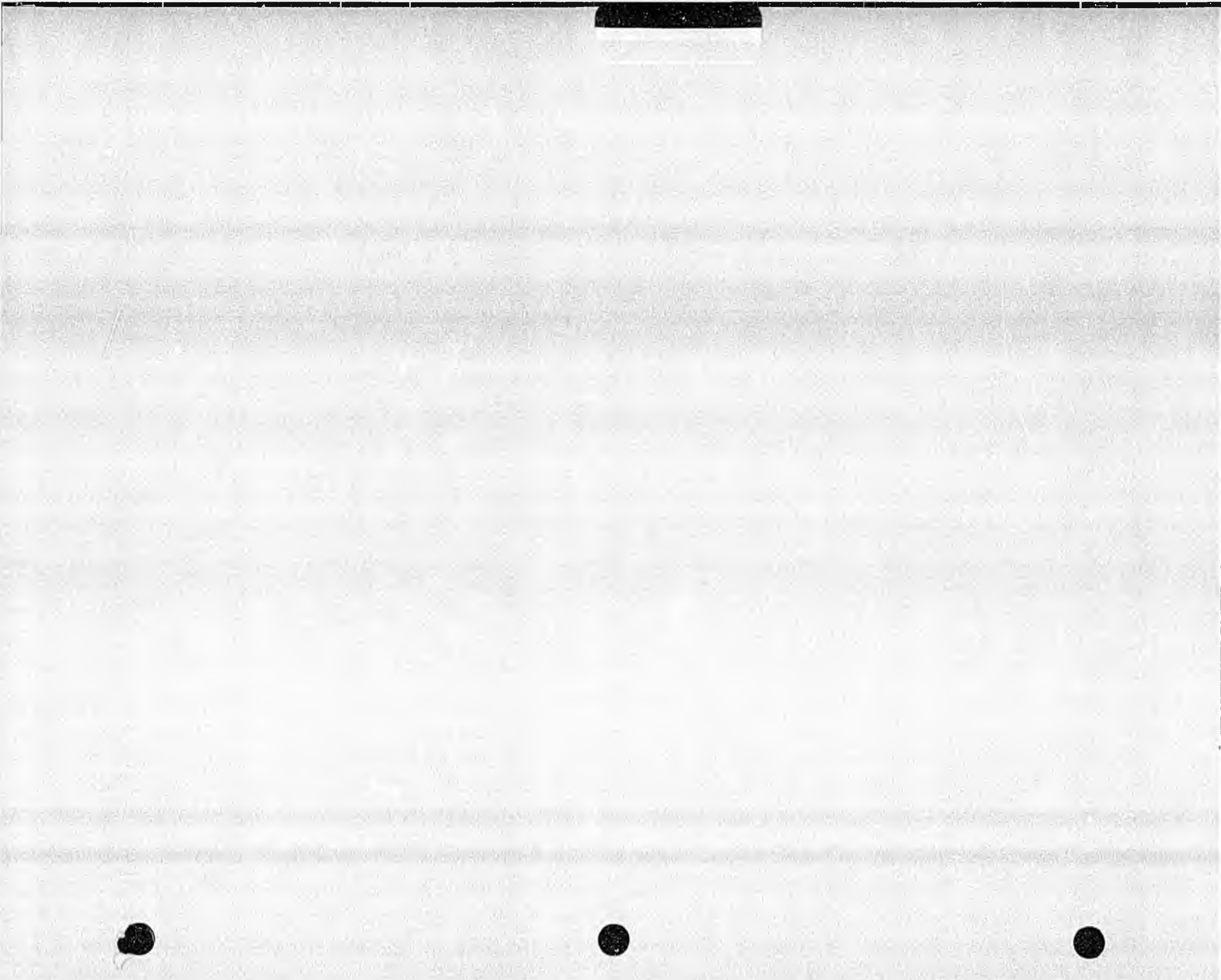
House of Representatives Committee on Community & Regional Affairs

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

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

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

adopted



Alaska State Legislature

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



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

House of Representatives Committee on Community & Regional Affairs

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

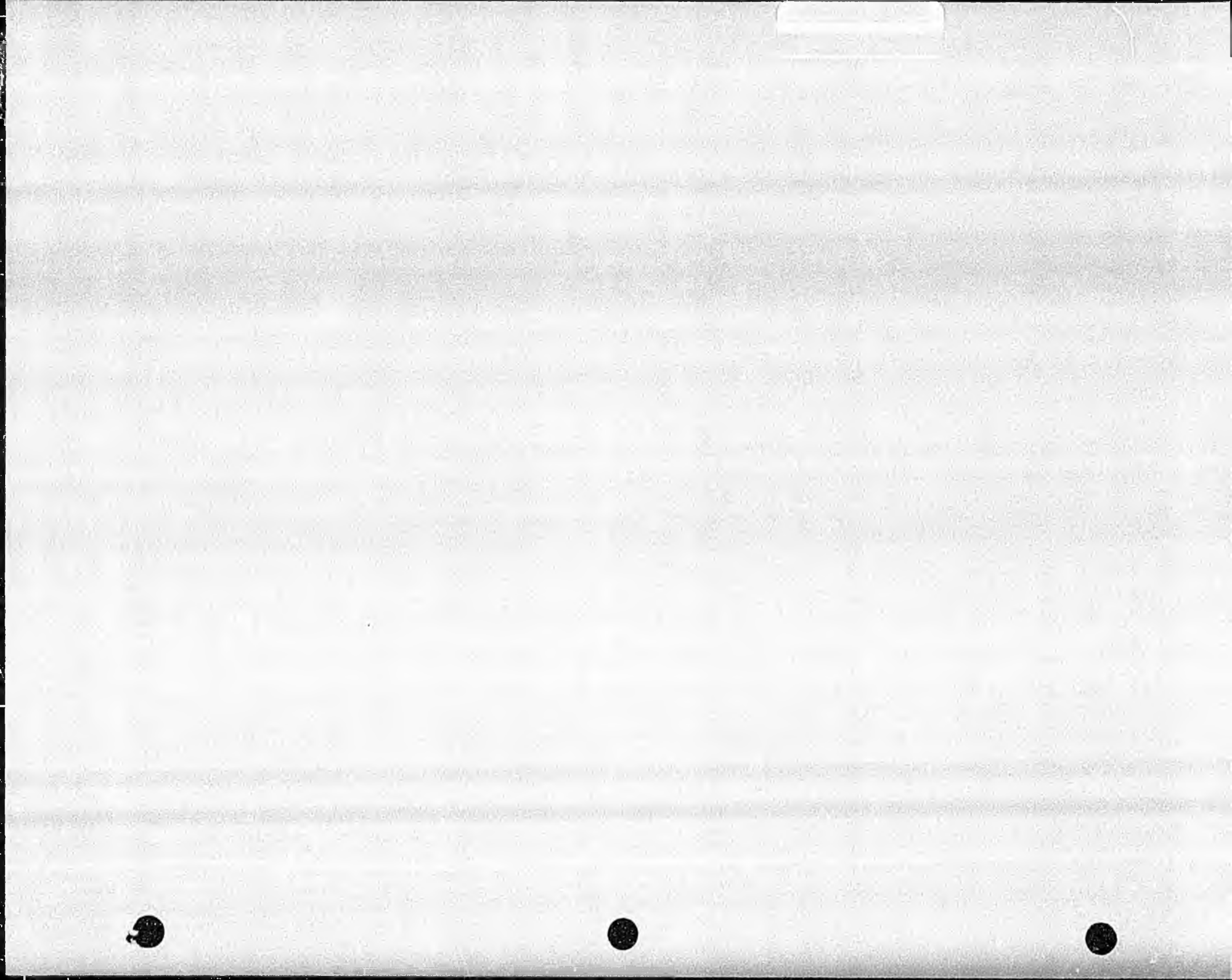
Page 204, lines 7 and 8:
Recommend change to read:

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

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

S. H. H. H. H.

adopted



Alaska State Legislature

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Mike Szymanski



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

House of Representatives Committee on Community & Regional Affairs

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

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

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

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

Failed



Official Business

Alaska State Legislature

Senate

Committee on
Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

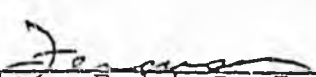
LETTER OF INTENT
TO CSSB 1

February 24, 1983

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

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

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



Senator Frank R. Ferguson
Chairman

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

PROPOSED SENATE AMENDMENT

By Community & Regional Affairs Committee

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: LINE:

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

Page 10, after line 19, insert new section:

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

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

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

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

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

Alter other sections as necessary to conform.

A M E N D M E N T

Offered in the SENATE

By the Community and Regional

TO: CSSB 1 (C&RA)

Affairs Committee

Page 2, after line 25 insert:

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

Page 10, after line 18 insert:

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

Reletter the following subsection accordingly.

Page 34, after line 20 insert:

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

Renumber the following paragraphs accordingly.

Page 85, line 23:

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

Page 86, after line 5 insert:

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

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

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

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

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

Page 186, after line 6 insert:

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

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

Renumber following sections accordingly.

Page 186, after line 29 insert:

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

(1) each home rule and first class city in the unorganized borough is a city school district, except as provided under AS 29.35.270;

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

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

Renumber following sections accordingly.

Page 205, line 20:

Delete "86" and insert "89"

Page 205, line 23:

Delete "86" and insert "89"



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Room 104
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Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

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

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

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

adopted
special assessment level
on farm use.



Alaska State Legislature



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Room 104
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Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

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

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

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

THIRTEENTH ALASKA LEGISLATURE
FIRST SESSION

Cape Fox Corp
in production
7/1/72

HB172 Suggested Amendments - Cape Fox Corporation

Line 15, Page 105

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

Line 18-19, Page 105

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

Line 3, Page 106 - Add New Subsection:

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



Matanuska-Susitna Borough

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

BOROUGH ATTORNEY'S OFFICE

April 6, 1983

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

Dear Barbara:

Subject: HB 172 "DEVELOPED" DEFINITION

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

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

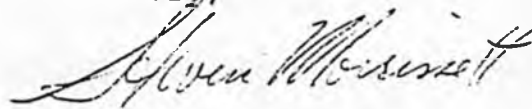
Pursuant to federal law, certain Native lands are not taxable until "developed". The intent of the proposed definition in AS 29.45.030 is to clarify what improvements of land will constitute "development" for tax exemption status.

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

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

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

Sincerely,



Steven H. Morrisett
Borough Attorney

er

cc: Steve VanSant, Borough Assessor



KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

STAN THOMPSON
MAYOR

February 24, 1983

TO: Stan Thompson, Mayor

FROM: Don Thomas, Assessor

SUBJECT: Native Lands, Title 29 Revisions - *see M #1 lines 28 + 29
p. 100-101*

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

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

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

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



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

LAW DEPARTMENT - 586-5242

May 20, 1983

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

FILE: HB 172

SUBJECT: Substitute Utility Language
for Title 29 Revision

Dear Bob:

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

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

(b) A municipality may not regulate a utility

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

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

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

Sincerely,



Gerald L. Sharp
City/Borough Attorney

GLS:jr