

ALASKA LEGISLATIVE COMMITTEE ON GOVERNMENT
2004

2195 SCRA GENERAL INFORMATION - SB 1 2195

1983-1984

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

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SENATE COMMUNITY AND REGIONAL AFFAIRS

1983-1984

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Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
(907) 586-6526

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

JAN 10 1966

MUNICIPAL GOVERNMENT IN ALASKA

I. Classification: Cities, boroughs, and unified municipalities are all designated as municipalities under Alaska law. They are divided into the following classifications:

A. Home Rule: A home rule municipality is a municipal corporation and political subdivision and is a city of the first class or an organized borough, which has adopted a home rule charter. A unified municipality is a municipality that has adopted a home rule charter consolidating a borough and all the cities within it into one unit of local government. A home rule municipality has all the legislative powers not prohibited by law or charter." (AS 29.08.010)

B. General Law: "A general law municipality is a municipal corporation and political subdivision and is an unchartered borough or city. It has legislative powers conferred by law." (AS 29.08.020.)

1. Cities

a. First Class: A community which has 400 residents and meets certain standards set out in AS 29.18.011 may incorporate as a first class city, following procedures outlined in Title 29.

b. Second Class: A community which meets the criteria for first class except for population may incorporate as a second class city.

2. Boroughs: An area which meets standards set out in AS 29.18.030 may incorporate as a borough, following procedures outlined in Title 29. There are three classes of general law boroughs:

a. First Class

b. Second Class

c. Third Class

II. Organization

A. Legislative Bodies

1. Cities: Councils

2. Boroughs: Assemblies

B.Executives and Administrators: Power is with the mayor, unless the municipality has adopted the manager form of government. Under the manager form, the manager has administrative duties; the mayor, executive.

1.First Class Cities: The mayor of a first class city is elected by the voters, is not a member of the council, may vote only in case of a tie, but may veto council action.

2.Second Class Cities: The mayor of a second class city is selected by and from the council, is a member of the council, may vote, but has no veto powers.

3.Boroughs: The mayor of a borough is elected by the voters, may not vote, but may take part in assembly discussions and may veto assembly actions.

4.Home Rule Municipalities: Provide for organization in their charters which must be approved by the voters.

III.Powers

A.Powers Applicable for All Municipalities: In some cases, state law prescribes the manner in which the power may be exercised.

1.General Powers AS 29.48.010 lists the following:

- a. establish & prescribe function of municipal departments, etc.
- b. establish & prescribe salaries for municipal officials
- c. make investigations into the affairs of the municipality
- d. enter into agreements
- e. require reports to be presented through the executive
- f. sue and be sued
- g. levy taxes and special assessments
- h. enforce ordinances & prescribe penalties for violations
- i. acquire, manage, & dispose of real & personal property
- j. acquire membership in organizations
- k. expend funds for community purposes
- l. borrow money

2.Municipal Facilities & Services AS 29.48.030 authorizes municipalities to exercise powers necessary to provide the

following public facilities & services, (except for transportation, boroughs may exercise these powers only after assuming them in the manner prescribed by Title 29):

- a. streets & sidewalks
- b. sewers & sewage treatment facilities
- c. harbors, wharves, & other marine facilities
- d. watercourse & flood control facilities
- e. health services & hospital facilities
- f. cemeteries
- g. police protection & jail facilities
- h. cold storage plants
- i. telephone systems
- j. light, power, & heat
- k. water
- l. transportation systems
- m. community centers
- n. libraries, performing arts centers, & museums
- o. recreation facilities
- p. airport & aviation facilities
- q. garbage & solid waste collection & disposal
- r. fire protection services & facilities
- s. parking & parking facilities
- t. housing & urban renewal
- u. preservation of historic sites
- v. consumer protection
- w. emergency medical services & facilities

3. Other Powers

- a. extraterritorial jurisdiction (AS 29.48.037)

b. municipal owned utilities (AS 29.48.040)

c. franchises & permits (AS 29.48.050)

B. Areawide Borough Powers (Areawide covers all of the borough, including within city limits)

1. Assessment & Collection of Taxes

2. Education (Third Class Borough Assembly also serves as School Board)

3. Planning, Platting & Zoning (Third class boroughs may exercise this power only on a service area basis.)

4. Additional Areawide Powers - by transfer from a city or by areawide election. (Third class boroughs may not assume additional areawide powers.)

C. Borough Powers in Area Outside Cities

1. Home Rule Borough: any power not prohibited by law or charter in the manner prescribed by charter.

2. First Class Borough: any general law municipal power approved by the assembly.

3. Second Class Borough: any general law municipal power approved by the voters.

4. Third Class Borough: any general law municipal power approved by the voters, but in service areas only.

D. City Powers in the Unorganized Borough: In addition to general municipal powers, home rule and first class cities in the Unorganized Borough have all the Borough powers as well, such as assessment and collection of taxes, education, and planning & zoning. The Unorganized Borough is all of the state that is not located within the boundaries of organized boroughs.

E. Construction of Powers

1. General Construction. "A liberal construction shall be given to powers and functions of boroughs and cities conferred in this title." (AS 29.48.310)

2. Extent of Powers. "Unless otherwise limited by law, boroughs and cities have and may exercise all powers and functions necessarily or fairly implied in or incident to the object or purpose of all powers and functions conferred in this title." (AS 29.48.320)

3. Enumeration of Powers. "Specific examples within an enumerated power or function conferred upon boroughs or cities in this

title are illustrative of the object and not a limitation on or exclusion from the exercise of the power or function."
(AS 29.48.330)

III. Tax Limits (Home Rule and General Law)

A. Property Tax

1. Second Class Cities: may levy property tax only if approved by the voters and not more than 5 mills, except the limit does not apply to millage levied to pay off bonds.
2. All other Municipalities: may levy property tax of not more than 30 mills, except for paying off bonds. There is also a complicated formula in AS 29.53.050 which places an additional limit on the North Slope Borough. Home Rule Municipalities may impose other limits as well.

B. Sales Tax: A municipality may levy a sales tax up to 6%, if approved by the voters.

Committee

CORRESPOND-
ENCE

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

SB 716: The AML Policy Statement endorses several features contained in SB 716:

1. consolidating the administration of programs into a single department,
2. increasing the minimum allocation, and
3. including intent language providing annual adjustments based on population and inflation.

Recommended amendments:

1. page 2, line 17. after "AS 29.88", add "AS 43.20.016". the municipal assistance fund. It is my understanding that this omission was simply a drafting error.
2. page 2, line 17. change "1983" to "1982". By making 1982 the base year, municipalities will not be penalized for applying their extra state assistance to local tax relief.
3. page 3, line 20. expand the list to include other municipal services, such as education, animal control, cemeteries, water and sewer.
4. page 5, line 10. delete subparagraph (b)

SB 797: This bill achieves consolidation of administration. It also provides for maximum local control by not mandating the use of the funds for basic services.

page 3, line 18. the formula should be corrected

$$\frac{A}{T} \times P$$

Future study: An in depth study of the whole issue of state assistance to municipalities is needed. Since the adoption of the municipal assistance fund and the revised revenue sharing program, many of the ground rules have changed. If a bill is adopted this year, it should be considered a short term solution.

Issues that should be considered in developing a new plan should include equity, predictability, and maximum local control.

STATE REVENUE SHARING WITH MUNICIPALITIES

Title 29, Chapter 88. Municipal Tax Resource Equalization

This chapter provides for revenue sharing to municipalities based on the formula - population times millage rate equivalent. Millage rate equivalent is determined by multiplying the sum of the locally generated revenue of the municipality by one-tenth of one percent of the full and true value of assessed property in the municipality. (The former revenue sharing program provided for per capita grants based on services provided, such as police, fire, planning, etc.)

Title 29, Chapter 89. State Aid for Miscellaneous Municipal Purposes

Road Maintenance: Provides \$2,500 a mile for each mile of road, street or highway maintained by the local government and \$1,500 a mile for ice roads (same provision as former program except amounts per mile increased)

Health Facilities and Hospitals: For municipally operated and non-profit hospitals, provides \$1,000 per bed of \$250,000 a hospital with ten beds or more, or \$50,000 a hospital with less than ten beds. This money goes to the hospitals; there is no discretion on the part of the municipality on how the money should be spent. For a municipality operated health facility, provides \$2,000 per bed or \$8,000 per health facility, with the restriction that the money must be used for expenses of health facilities or operation and maintenance of health facilities. (same as former program except amounts increased)

Volunteer Fire Departments in Unorganized Borough: Provides \$10 per capita for population served by a volunteer fire department in the unorganized borough. (former program contained a per capita amount for all fire departments) Since expenses for fire departments in organized municipalities are included in the Chapter 88 formula, this section applies only to departments in the unorganized borough.

Native Village Governments: Provides \$25,000 to each native village government. (new provision)

Title 29, Chapter 90. State Aid for Hospital Construction

Provides \$2,500 a bed for the maximum number of beds provided for in the construction design of the facility or five percent of the total project cost, whichever is greater. State aid continues until the municipality or other hospital sponsor has received an amount which, combined with state matching money for construction of the hospital, equals 25% of the total project cost. Money received for construction may not be used for any other purpose. (emphasis added) (same provision in former program)

Title 29, Chapter 95. Administration of Municipal Financial Assistance Programs

Provides for a \$25,000 minimum entitlement and for cost of living differentials. The Department of Community and Regional Affairs administers the entire revenue sharing program.

Temporary and Special Acts, Chapter 155

Hold Harmless: Provides that for the first five years no municipality may receive less than 125% of what it was entitled to receive under the former program; further provides for proration of payments if appropriation is not sufficient to cover hold harmless provision.

* * * * *

MUNICIPAL ASSISTANCE FUND
(AS 43.20.014)

The Municipal Assistance Fund, administered by the Department of Revenue, distributes money appropriated by the Legislature to municipalities on a per capita basis. There is no cost of living adjustment or payment to unincorporated municipalities. The statute provides that the fund contain an amount "equal to or greater" than 10% of the corporate income tax receipts, subject to Legislative appropriation. Legislative intent is that this money be used for local tax relief. Last year's changes in the oil and gas taxation policy, shifting the emphasis from corporate income to severance, greatly diminished the amount of money generated by the corporate income tax.

The Municipal Assistance Fund was created when the Legislature repealed the Gross Business License Tax. Under that program, municipalities received 60% of revenues generated. Since it was a pre-statehood dedicated sharing, the amount was distributed automatically and not subject to Legislative appropriation.

Prepared by
Alaska Municipal League
February, 1982

REVENUE SHARING/MUNICIPAL ASSISTANCE

Two proposals have been introduced this session to combine the revenue sharing and municipal assistance programs into one. Neither bill makes any changes to the special revenue sharing entitlements for roads, volunteer fire departments, health facilities, hospitals, etc. Following is comparison of the proposals.

	SB716/HB746	SB 797
Municipal Assistance Fund (10% or Greater of Corporate Income Tax)	Repeals	Repeals
Distribution Formula	Current Revenue Sharing Formula	Per Capita Adjusted for Cost of Living
Minimum Entitlement	\$100,000	\$25,000
Unincorporated Communities	Transferred to Rural Development Grants Section	\$25,000 grant
Requirements	Spend 50% on at least 3 basic services	None
Hold Harmless	Open-Ended	5-Years
Future Funding Levels	Intent to Increase With Inflation & Population	No Intent Language
Amount Needed to trigger bill	\$140,851,300*	\$143,100,000*

*The difference between the 2 figures represents the amount currently going to unincorporated communities.

Excerpts from report prepared by the Department of Community and Regional Affairs.

The Department of Community and Regional Affairs has examined state programs to provide financial assistance to localities in Alaska, with particular emphasis on revenue sharing and municipal assistance and finds the following problems:

- Revenue sharing emphasizes tax effort and ability to raise taxes while municipal assistance emphasizes population and tax relief.
- Municipal assistance is linked to the declining corporate income tax collections.

- Localities are growing increasingly dependent on the state for funding of property tax relief and increased service provision at the same time.
- The revenue sharing and municipal assistance programs are administered by two different agencies and have different reporting and accountability requirements.

In order to address these problems, the Department proposes the following program:

- The municipal assistance statute should be repealed and all funds for this purpose should be distributed through the revenue sharing program.
- The minimum entitlement for incorporated entities should be \$100,000. Unincorporated entities should be deleted from the program and treated separately.
- The entire program should be funded at a level no less than the proposed fiscal year 1983 appropriation. This amount should increase each year by the same percentage that the proposed constitutional spending limit allows the state budget to increase.
- The existing Rural Development Assistance Program should be expanded to be a program of assistance to unincorporated communities that requires application on a competitive basis for grants up to \$100,000 for capital projects, operation and maintenance of capital projects and community services.

Excerpts from report of the Special Committee on Property Taxation.

Notwithstanding the considerable attention given to municipal aid programs in recent years, many problems and dissatisfactions continue to exist. The passage of SB 524 during the past legislative session, for example, drastically reduced the source of revenue for the municipal assistance program established under AS 43.20.016. Additionally, the expressed desire of many legislators to reduce or eliminate local taxes through the application of surplus state revenues is contrary to the formula approach for local revenue sharing adopted less than two years ago, which may actually penalize local governments for reductions in locally generated taxes.

If the basic premise underlying a local assistance program is that all citizens should share more or less equally in the benefits of the state's surplus revenues, a simple per capita based distribution formula should be developed which will award a base entitlement to each municipality that is generally equal to that municipality's share of the statewide population. In order to reflect differences in the cost of providing government services, a regional cost-of-living allowance (COLA) should be applied in addition to the base entitlement. Also, recognizing the fact that small municipalities may experience higher per capita costs due to economies of scale, a minimum entitlement should be provided to guarantee that each local government receives a meaningful allowance to be used to provide municipal services.

MUNICIPALITY OF ANCHORAGE
 PROJECTED IMPACTS OF FY1983 MUNICIPAL ASSISTANCE AND STATE REVENUE SHARING
 ON 1983 PROPERTY TAXES

SCENARIO A - FY1983 MUNICIPAL ASSISTANCE AND STATE REVENUE SHARING FUNDING AS
 RECOMMENDED BY HOUSE FINANCE COMMITTEE

	<u>1982</u>	<u>1983</u>	
Expenditures	\$137.0	\$150.7	+10%
Municipal Assistance and State Revenue Sharing	-52.2	-46.0	-12%
Other Non-Tax Revenues	<u>-52.1</u>	<u>-52.1</u>	NC
Property Taxes	\$ 32.7	\$ 52.6	+61%

SCENARIO B - FY1983 MUNICIPAL ASSISTANCE AND STATE REVENUE SHARING INCREASE
 FUNDED AT THE RATE OF INFLATION AND POPULATION GROWTH

	<u>1982</u>	<u>1983</u>	
Expenditures	\$137.0	\$150.7	+10%
Municipal Assistance and State Revenue Sharing	-52.2	-57.4	+10%
Other Non-Tax Revenues	<u>-52.1</u>	<u>-52.1</u>	NC
Property Taxes	\$ 32.7	\$ 41.2	+26%

SCENARIO C - FY1983 MUNICIPAL ASSISTANCE AND STATE REVENUE SHARING REQUIRED TO
 HAVE PROPERTY TAX INCREASE EQUAL TO INFLATION AND POPULATION GROWTH

	<u>1982</u>	<u>1983</u>	
Expenditures	\$137.0	\$150.7	+10%
Municipal Assistance and State Revenue Sharing	-52.2	-62.6	+20%
Other Non-Tax Revenues	<u>-52.1</u>	<u>-52.1</u>	NC
Property Taxes	\$ 32.7	\$ 36.0	+10%

SCENARIO D - FY1983 MUNICIPAL ASSISTANCE AND STATE REVENUE SHARING REQUIRED TO
 MAINTAIN PROPERTY TAX AT FY1982 LEVEL

	<u>1982</u>	<u>1983</u>	
Expenditures	\$137.0	\$150.7	+10%
Municipal Assistance and State Revenue Sharing	-52.2	-65.9	+26%
Other Non-Tax Revenues	<u>-52.1</u>	<u>-52.1</u>	NC
Property Taxes	\$ 32.7	\$ 32.7	NC

- ASSUMPTIONS:
- (1) Inflation Rate 8%
 - Population Growth 2%
 - 10%
 - (2) Expenditures increase at rate of inflation and population growth
 - (3) "Other Non-Tax Revenues" do not change

BRIEF EXPLANATION OF STATE REVENUE SHARING FORMULA FOUND IN AS 29.88

The formula found in AS 29.88 is designed to equalize tax resources among local government taxing unit. The intent is to use state revenue sharing to target aid to municipalities that have raised more local revenues relative to the tax base available in the community.

The formula contained in AS 29.88.010 appears to be simple and straight forward:

$$\text{Entitlement} = P \times R$$

where P = population, and

R = millage rate equivalent, determined by dividing the sum of the locally generated revenue of the taxing unit by one-tenth of one percent (one mill) of the full and true value of assessed property of the taxing unit.

Population in this formula refers to the population of a municipality (or service area) as annually determined by the Department based on the latest figures of the United States Bureau of the Census or other reliable data.

Millage rate equivalent, as explained, is computed as follows:

$$\text{Millage rate equivalent} = \frac{\text{locally generated revenues}}{.001 \times \text{full and true property value}}$$

In effect, this formula takes all locally generated eligible revenue and converts it into the mill rate the municipality would have had to levy to generate the same amount of revenue if property taxation was the only local revenue generator.

Acceptable locally generated revenues are listed in law to include local sales and property taxes; motor vehicle payments; revenue from fees, rentals, penalties, licenses or permits for a municipal service; special assessments; and utility payments in lieu of taxes. The law specifically excludes local taxes used to operate or pay debt service on utilities; revenue from interest; and revenue from the sale and lease of land or equipment. Federal or State grants or entitlements, State shared taxes, and other revenue not specifically listed as an acceptable locally generated revenue are not eligible.

The "entitlement" number produced by the equalization formula is not a dollar amount, but is merely a relative number. A percentage is arrived at by dividing each municipality's "entitlement number" by the sum of all municipal entitlement numbers. This percentage is then multiplied times the entire appropriation available for AS 29.88 to determine each municipality's level of funding under the tax equalization account.

An example demonstrating the entire calculation process is as follows:

The City of Icy Bay, population 1,560 reported the following locally generated revenues for FY 1981 (the prior year's revenues are used): The total amount of approved locally generated revenues are, in this example \$659,235 and the full and true value of assessed property within the City of Icy Bay is, for example, \$24,646,700.

Calculation #1
$$\frac{\text{locally generated revenue}}{\text{one mill X full \& true property value}} = \text{Millage rate equivalent}$$
$$\frac{\$659,235}{.001 \times \$24,647,000} = 26.75$$

Calculation #2
$$\begin{array}{l} \text{Population X millage rate equivalent} = \text{Entitlement (number)} \\ 1,560 \quad \times 26.75 \quad \quad \quad = 41,730 \end{array}$$

Calculation #3
$$\begin{array}{l} \text{Entitlement numbers for all municipalities} = 4,475,800 \\ \frac{\text{Municipal entitlement number}}{\text{Sun of all entitlement numbers}} = \text{Entitlement percentage} \\ \frac{41,730}{4,175,800} = .0093235 \end{array}$$

Calculation #4
$$\begin{array}{l} \text{Amount appropriated to AS 29.88} = \$34,913,800 \\ \text{Chapter 88 funding for Icy Bay} = \text{Amount appropriated X} \\ \text{entitlement percentage for Icy Bay} \end{array}$$

$$\$325,519 = 34,913,800 \times .0093235$$

Assuming there is no need to proration, the City of Icy Bay would receive \$325,519 under the tax equalization account.



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Peggy Mulligan
Senate Secretary

DATE: 15 March 1984

FROM: Senator Frank R. Ferguson *FRF*
Chairman
Community & Regional Affairs
Committee

SUBJ: Committee Meeting

There will be a Senate Community and Regional Affairs Committee meeting Tuesday, March 20, at 3:00 at the Beltz Room: SB 468, Authorizing certain second class cities to adopt home rule charters.

cc: Senator Bennett
Senator Halford
Senator Gilman
Senator Sackett

FRF/ae



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Senator Bennett, Co-Chair
Senate Finance Committee

FROM: Senator Ferguson, Chair *EF*
Senate C & RA Committee

DATE: February 29, 1984

RE: House Bill 537

SCS HB 537 (C&RA) passed out of Senate C & RA yesterday with a further referral to Finance. Senator Eliason has a companion bill, but the house bill came over first. Because HB 537 has no fiscal impact, I recommend that you waive finance referral.

cc: Senator Eliason
Representative Grussendorf



Official Business

Alaska State Legislature

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Peggy Mulligan
Senate Secretary

DATE: 23 February 1984

FROM: Senator Frank R. Ferguson *FRF*
Chairman
Community & Regional Affairs
Committee

SUBJ: Committee Meeting

There will be a Senate Community and Regional Affairs Committee meeting Tuesday, February 28 at 3:00 at the Beltz Room: HB 537, "An Act authorizing municipalities to exempt motor vehicles from taxation".

cc: Senator Bennett
Senator Halford
Senator Gilman
Senator Sackett

FRF/ae



Official Business

Alaska State Legislature

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Peggy Mulligan
Senate Secretary

DATE: 16 February 1984

FROM: Senator Frank R. Ferguson
Chairman
Community & Regional Affairs
Committee

SUBJ: Committee Meeting

FRF

There will be a Senate Community and Regional Affairs Committee meeting Tuesday, February 21 at 3:00 at the Beltz Room: SB 428, Relating to Vital Statistics records, and HB 537, Authorizing municipalities to exempt motor vehicles from taxation.

There will be a Joint Senate and House Community and Regional Affairs Committee meeting Wednesday, February 22, at 3:15 at Room 110, Behrends Building: SJR 41, Disapproving the Local Boundary Commission recommendation for annexation of territory to the City of Hoonah.

cc: Senator Bennett
Senator Halford
Senator Gilman
Senator Sackett

FRF/ae



Official Business

Alaska State Legislature

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Peggy Mulligan
Senate Secretary

DATE: 6 February 1984

FROM: Senator Frank R. Ferguson
Chairman
Senate Community & Regional
Affairs Committee

SUBJ: SJR 34 Meeting

There will be a Joint Senate & House Community and Regional Affairs Committee meeting Tuesday, February 14 at 3:15 p.m. in the Beltz Room: SJR 34, Disapproving the Local Boundary Commission recommendation for annexation of territory to the City of Haines.

cc: Senator Bennett
Senator Halford
Senator Sackett
Senator Gilman

FRF/ae



Official Business

Alaska State Legislature

Senate Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Peggy Mulligan
Senate Secretary

FROM: Senator Ferguson, Chairman
Senate C & RA Committee *RF*

The Senate Community and Regional Affairs Committee will consider the following bills on Tuesday, February 7 at 3:00 p.m. in the Beltz Room: House Bill 162, Senate Bill 376, and Senate Bill 204.

cc: Senator Bennett
Senator Halford
Senator Sackett
Senator Gilman



Official Business

Alaska State Legislature

Senate
Office of the Secretary

JAN 12 RECD
Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Senator Frank Ferguson
Chairman
Community and Regional Affairs Committee

FROM: Peggy Mulligan *PM*
Secretary of the Senate

RE: Governor's Appointment

DATE: January 11, 1984

The President has referred the following Governor's appointee to your Committee for recommendation in accordance with AS 39.05.080.

COMMISSIONER

Emil Notti
Department of Community and Regional Affairs

A copy of Mr. Notti's resume is attached.

RESUME

Emil Reynold Notti
6735 Gray Street
Juneau, AK 99801
Phone: (907) 586-2168

Education

BSEE, Northrop University
Inglewood, California - 1961

Military Service

U.S. Navy 1952-1956 - Honorable Discharge

Honors

Honorary Doctor of Humane Letters Degree from Alaska
Methodist University, 1969
President Emeritus, Alaska Federation of Natives
Nominee - Alaskan of the Year, 1969

Employment

December 1982 to Present: Director, Legislative Re-
lations for Governor Bill Sheffield.
April 1980 - December 1982: Emil Notti & Associates,
Anchorage, Alaska

Job placement for high level professional personnel.
Generate job placements, interview potential candi-
dates, screen for suitability of client, and check
references for clients.

April 1978 - March 1980: President, Doyon, Limited,
Fairbanks.

The President of Doyon, Limited is chief executive
officer for the Corporation. The President is
responsible for the general supervision and control of
the business, property, and affairs of the Corporation.
He reports to the Board of Directors monthly and to the
stockholders annually. The President presides at all
meetings of the stockholders.

1976 to April 1978: Senior Vice President, Doyon,
Limited, Fairbanks.

The Senior Vice President has internal management of
the Company. The Vice President of Finance, Director
of Resources, and Director of Lands report to the
Senior Vice President. He is part of a senior invest-
ment committee He held negotiations for oil and gas and
heavy minerals exploration on millions of acres of
Company land. He has responsibility for dealing with
government bodies - both legislative and
administrative. Operating budgets and planning

Resume
Emil Notti
Page 2

functions are the responsibility of the Senior Vice President. Preparation and presentation of reports to the Board of Directors and to the stockholders at the Annual Meeting of Stockholders are made by the Senior Vice President.

September 1972 to 1976: President, Alaska Native Foundation, Anchorage.

Chief Administrator for the Foundation. Prepares budgets, seeks contracts from State and Federal agencies, coordinates seminars and training activities, chairs Board meetings.

June 1971 to September 1972: Deputy Commissioner, Department of Health & Social Services, State of Alaska.

Full responsibilities for Department in absence of Commissioner. Department had approximately 1400 employees. Worked with Divisions in Department to prepare budget. The Divisions in the Department were Public Health, Mental Health, Administration, Corrections, and Family and Childrens Services. Other programs attached to the Commissioner's office were Office of Alcoholism and Office of Aging.

April 1970 - May 1971: Self-Employed. Electronic Systems, Sitka.

Sales and service of electronic equipment for commercial boats, cars, institutions and homes.

June 1967 - March 1970: President, Alaska Federation of Natives, Anchorage. The Alaska Federation of Natives, Native land claims lobbying. Organizing regional Native organizations.



Official Business

Alaska State Legislature

Senate
Office of the Secretary

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Senator Frank Ferguson
Chairman
Community and Regional Affairs Committee

FROM: Peggy Mulligan
Secretary of the Senate

RE: Governor's Appointment

DATE: January 11, 1984

The President has referred the following Governor's appointee to your Committee for recommendation in accordance with AS 39.05.080.

COMMISSIONER

Emil Notti
Department of Community and Regional Affairs

A copy of Mr. Notti's resume is attached.



Alaska State Legislature
Senate

OFFICIAL BUSINESS

POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811


President Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, Alaska 99811

12 January 1984

Dear Mr. President:

In accordance with AS 39.05.080, the members of the Community and Regional Affairs Committee have considered the appointment of Emil Notti as Commissioner of the Department of Community and Regional Affairs, and no objections have been stated to his confirmation. This does not indicate an intention on the part of any committee member to vote for or against his confirmation.

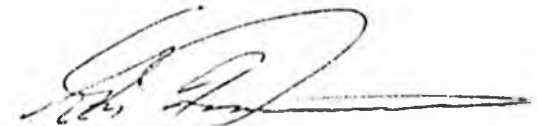
Sincerely,



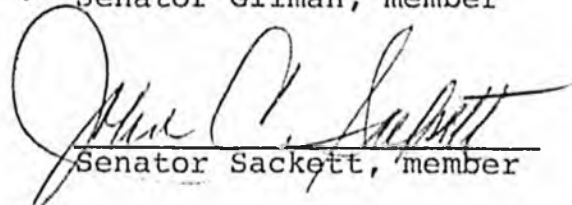
Senator Frank R. Ferguson, Chairman



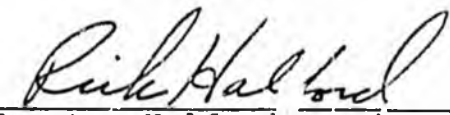
Senator Gilman, member



Senator Bennett, Vice-Chairman



Senator Sackett, member



Senator Halford, member

FRF/ae



Official Business

Alaska State Legislature

Senate

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

President Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, Alaska 99811


May 24, 1983


Dear Mr. President:

The members of the Community and Regional Affairs have considered the appointment of Mark Lewis as Commissioner of the Department of Community and Regional Affairs, and no objections have been stated to his confirmation. This does not indicate an intention on the part of any committee member to vote for or against his confirmation.

Sincerely,


Senator Frank Ferguson, Chairman


Senator Gilman, member


Senator Bennett, Vice-Chairman


Senator Sackett, member


Senator Halford, member



Official Business

Alaska State Legislature

Pouch V
State Capitol
Juneau, Alaska 99811

20 February 1984

Mr. Tom True
P.O. Box 509
Haines, AK 99827

Dear Mr. True:

Thank you for your letter concerning the Haines annexation bill, Senate Joint Resolution 34, and it's sister bill, House Joint Resolution 59.

SJR 34 bill was heard in the Senate Community and Regional Affairs Committee, of which I am chairman, February 14, and passed out of committee.

Thank you for your concern, and if I can be of further assistance, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in cursive script that reads "Frank R. Ferguson".

Frank R. Ferguson
Alaska State Senator

FRF/ae



Official Business

Alaska State Legislature

Pouch V
State Capitol
Juneau, Alaska 99811

20 February 1984

Mr. Gary D. Matthews
P.O. Box 247
Haines, AK 99827

Dear Mr. Matthews:

Thank you for your letter concerning the Haines annexation bill, Senate Joint Resolution 34, and it's sister bill, House Joint Resolution 59.

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Sincerely,

A handwritten signature in cursive script that reads "Frank R. Ferguson".

Frank R. Ferguson
Alaska State Senator

FRF/ae



Official Business

Alaska State Legislature

Pouch V
State Capitol
Juneau, Alaska 99811

20 February 1984

A. W. Jurgeleit & Harriet Jurgeleit
P.O. Box 292
Haines, AK 99827

Dear Mr. & Mrs. Jurgeleit:

Thank you for your letter concerning the Haines annexation bill, Senate Joint Resolution 34, and it's sister bill, House Joint Resclution 59.

SJR 34 bill was heard in the Senate Community and Regional Affairs Committee, of which I am chairman, February 14, and passed out of committee.

Thank you for your concern, and if I can be of further assistance, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in cursive script that reads "Frank R. Ferguson".

Frank R. Ferguson
Alaska State Senator

FRF/ae



Official Business

Alaska State Legislature

Pouch V
State Capitol
Juneau, Alaska 99811

20 February 1984

Mr. & Mrs. Richard Fredricks
P.O. Box 621
Haines, AK 99827

Dear Richard & Susan:

Thank you for your letter concerning the Haines annexation bill, Senate Joint Resolution 34, and it's sister bill, House Joint Resolution 59.

SJR 34 bill was heard in the Senate Community and Regional Affairs Committee, of which I am chairman, February 14, and passed out of committee.

Thank you for your concern, and if I can be of further assistance, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in cursive script that reads "Frank R. Ferguson".

Frank R. Ferguson
Alaska State Senator

FRF/ae



Official Business

Alaska State Legislature

Pouch V
State Capitol
Juneau, Alaska 99811

20 February 1984

Mr. Gary D. Matthews
P.O. Box 247
Haines, AK 99827

Dear Mr. Matthews:

Thank you for your letter concerning the Haines annexation bill, Senate Joint Resolution 34, and its sister bill, House Joint Resolution 59.

SJR 34 bill was heard in the Senate Community and Regional Affairs Committee, of which I am chairman, February 14, and passed out of committee.

Thank you for your concern, and if I can be of further assistance, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in cursive script that reads "Frank R. Ferguson".

Frank R. Ferguson
Alaska State Senator

FRF/ae

FEB 14 1984

A. W. Jurgelait

Box 292

Haines, Alaska 99827

February 10, 1984

Senator Frank Ferguson
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Ferguson:

We have been advised that Senator Richard Eliason and Representative Peter Goll have introduced resolutions opposing the annexation recommendations of the Local Boundary Commission.

We sincerely hope that as a member of the Community and Regional Affairs Committee you will support these resolutions which reflect the views of the majority of the people in this area.

Thank you.

Yours truly,

A. W. Jurgelait
Haines S. Jurgelait

Responded 2-20-84

Tom True
Box 509
Haines, Alaska 99827

Senator Frank Ferguson
Alaska State Legislature
Pouch V
Juneau, Ak. 99811

Dear Senator Ferguson,

You will shortly be considering the resolution submitted by Representative Goll and Senator Eliason opposing the Local Boundary Commission's recommendation for the Haines area. I hope that you will also support the resolution.

The Boundary Commission's recommendation is pernicious and heavy handed. The citizens of the borough have overwhelmingly voted against the annexation and in favor of keeping their 3rd class borough status in the recent past. The Commission completely ignored this fact, and indeed "cooked" their population density figures in order to meet a standard. The unified municipality alternative which is mixed into their recommendation is not only unpopular, but is a form of blackmail designed to make some people in the borough support the lesser of 2 evils.

The abilities and flexibility of the third class borough have never been fully utilized. The borough's educational, cultural, and tax assessment powers, and the optional establishment of service areas are more than adequate for an area with such a small population. I hope you will vote to defeat the annexation/unification proposal of the Local Boundary Commission.

Sincerely,

Tom True

Tom True

Responded 2-20-84

FEB 14 1984

Box 621
Haines
Feb. 9, 1984

Sen. Frank Ferguson, Chair
Community and Regional
Affairs Committee
Juneau, Alaska 99811

Dear Sen. Ferguson

I am writing to state our strong opposition to the proposed plan of annexation presented by the Local Boundary Commission. This is a plan imposed from "the top" totally against the expressed desire of the people of the area concerned.

We are residents of the Haines Borough and wish to make this our permanent residence. Presently we are living on Small Tract Rd.

The Local Boundary Commission's statement calling our area "The Greater Haines Area" is a creation of their imagination. There simply is no such entity and they obviously do not grasp what is the nature of this area. This becomes even more evident when they classify it as urban in character. I don't care how you stretch the word "urban", it simply can not be applied to this area.

The Borough Assembly does have the power now to plan and zone in its territory and also to create service areas. There is no need to belong to the city to do this.

Finally, we question the motivation involved in the extreme pressure to push this annexation. The City Council can not meet its financial obligation of past bills and is simply looking for more to share their bad investments claiming it's for our good that we be annexed.

Thank you for your attention on this matter.

Richard Fredricks
Susan Fredricks

Richard & Susan Fredricks
Haines, Alaska

Responded 2-20-84

FEB 14 1984

February 10, 1984

Box 247
Haines, Alaska 99827

Senator Frank Ferguson

Dear Sir:

I am writing to urge you to vote against the Local Boundary Commission's recommendation to the Legislature for annexation of lands to the City of Haines. Please consider the following points.

When the Local Boundary Commission held public hearings in Haines, an overwhelming majority of the citizens testifying, opposed annexation. This opposition was further emphasized when sixty four percent (64%) of the entire borough (including the City of Haines), voted against annexation on the advisory ballot question in the October 4, 1983 Municipal election. Eighty percent (80%) of the borough residents residing outside the City of Haines voted against annexation in the same election.

The Local Boundary Commission is recommending that the city annex an area about three times the city's present size. This includes far removed areas such as the Haines Cannery and the airport. The city cannot possibly provide services such as water and sewer to many of these areas, however, they would raise taxes from the present 1.6 mills to 7.6 mills. There are already many residents in the present city boundaries who do not receive these services, but still pay the higher tax rate.

The Local Boundary Commission cited the lack of planning and zoning powers by the borough as one of the reasons for the city to annex such a large area. In the October 4, 1983 Municipal Election, the citizens of the Haines Borough voted in favor of planning, platting and zoning by service area, which enables each service area to make its own decisions on these matters, if the people of that area vote to enact such powers. All of the service areas in the proposed annexation currently have fire protection, which was voted on by each service area, and are taxed an additional rate of 1.0 to 2.2 mills, depending on the area.

Most of us who live outside the city made the choice to live beyond the services and higher taxes. I urge you to consider the above concerns and vote AGAINST the Local Boundary Commission's recommendation to the Legislature for annexation of lands to the City of Haines.

Sincerely,

Gary D. Matthews
Gary D. Matthews

responded 2-20-84

MEETINGS

ANNOUNCE-
MENTS



JAN 19 1984

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

MEMORANDUM

TO: All Members of the Alaska State Legislature

FROM: John Shively *JS*
Chief of Staff
Office of the Governor

SUBJECT: U.S. Supreme Court Decision in Calif. v. Watt
(OCS Lease Sale consistency under the Coastal Zone
Management Act)

DATE: January 18, 1984

Attorney General Norm Gorsuch and Assistant Attorney General Laura Davis will be conducting a briefing on the subject case of this memo on Monday, January 23, from 3:15 to 4:00 p.m., in the Governor's Conference Room.

Anyone who is interested in further information regarding the the Calif v. Watt case is invited to attend.

REPRESENTATIVE
ADELHEID HERRMANN
P.O. BOX 63
NAKNEK, ALASKA 99833
(907) 246-4495

While In Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4942, 465-4943

Alaska State Legislature



House of Representatives

VAN 10 RECO

CHAIRMAN
SPECIAL COMMITTEE
ON FISHERIES

MEMBER
TRANSPORTATION
COMMITTEE

DISTRICT 26

ADAK
AKUTAN
ALEKNAGIK
ATKA
BELKOFSKI
CLARK'S POINT
COLD BAY
DILLINGHAM
DUTCH HARBOR
EGEGIK
EKUK
EHWOK
FALSE PASS
IGIUGIG
ILIAMNA
KING COVE
KING SALMON
KOKHANOK
KOLIGANEK
LEVELOCK
MANOKOTAK
NAKNEK
NELSON LAGOON
NEWHALEN
NEW STUYAHOK
NIKOLSKI
NONDALTON
PEDRO BAY
PILOT POINT
PORT ALSWORTH
PORT HEIDEN
PORT MOLLER
PORTAGE CREEK
SAND POINT
SOUTH NAKNEK
SQUAW HARBOR
ST. GEORGE
ST. PAUL
TOGIAK
TWIN HILLS
UGASHIK
UNALASKA

MEMORANDUM

TC: BUSH CAUCUS MEMBERS

FROM: Representative Adelheid Herrmann
Bush Caucus Chair

DATE: January 9, 1984

SUBJECT: AFN Board Meeting 1/12/84

Janie Leask, president of the Alaska Federation of Natives has invited Bush Caucus members to attend a Board meeting here in Juneau, to discuss legislative priorities. She has requested that we attend in order to review the priorities AFN has for the second session, and to inform the Board of the issues we think the Legislature is likely to address. The meeting will be held on January 12, at 3:00 PM in the Sealaska Conference Room.

The AFN is also hosting a reception for all legislators, on Wednesday, January 11 from 6-8 PM in the Baranof Gold Room. I would appreciate your participation at either or both of these events. If you have further questions please contact me or my staff.

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S

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

1/13/83

Date:

Mr. President:

The Committee on G & H has had SENATE BILL NO. 1

An Act relating to municipal government; eff. date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends Do Pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

CHAIRMAN

~~SENATE AMENDMENT~~

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.

SENATE AMENDMENT

By Community & Regional Affairs Committee

To: _____ SENATE BILL No. 1
 To: _____ HOUSE BILL No. _____

PAGE: 33 LINE: 27

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

★ Page 33, line 29, insert:

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

Page 77, after line 3, insert:

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

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

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

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

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

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

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

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

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

Page 77, after line 19, insert:

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

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

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

Page 195, after line 19, insert:

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

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

Renumber following sections accordingly.

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

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

Page 195, after line 19, insert:

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

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

Renumber following sections accordingly.

SENATE AMENDMENT

BY Community & Regional Affairs CommitteeTo: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: 74 LINE: 9

Delete "utility services,"

Page 77, after line 17, insert:

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

Page 77, line 18, delete:

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

STATE OF ALASKA
THE LEGISLATURE

FOLLOW THE STATE CARD,
GENERAL ASSEMBLY
BY MAIL

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 9, 1983

SUBJECT: Public utilities
(Amendment to SB 1)

TO: Senator Frank R. Ferguson
Chairman, Senate Community and
Regional Affairs Committee

FROM: Tamara Brandt Cook
Legislative Counsel

150

Here is an amendment that would incorporate the provision currently contained in AS 29.48.040 into SB 1. You have asked me to look into the effect of this amendment.

The request for this amendment arose as a result of testimony before your committee that the treatment of utility services in SB 1 appeared to negate the effect of the Chugach Electric decision construing the authority of a municipality to provide utility service to areas adjacent to the municipality. Chugach Electric Association appears to have had a lengthy history of difficulties with Anchorage, as there are several cases involving those two parties. However, Chugach Electric Association v. City of Anchorage, 426 P.2d 1001 (Alaska 1967), appears to be the case referred to in the testimony and a copy of it is provided.

That case construed former AS 29.10.135(b) which authorized a municipality to provide utility service to ". . . residents of contiguous and adjacent districts outside the limits of the city . . ." The Court concluded that the city of Anchorage could, under that statute, provide utility service to ". . . adjacent districts, areas, or localities located within a reasonable distance from the limits of the city of Anchorage." Chugach Electric Association, supra, page 1003. The Court also noted that the case arose because of unresolved questions regarding the relationship between certificated utilities and municipally owned and operated utilities.

Senator Frank R. Ferguson
Page 2
February 9, 1983

In 1963 municipal utilities were excluded from regulation by the Alaska Public Utilities Commission, but privately owned utilities were regulated. This created conflicts between municipally owned utilities and those certificated by the Alaska Public Utilities Commission, as both types of utilities attempted to serve the same geographic areas. In 1970, after Chugach Electric Association, supra, was decided, the legislature subjected municipally owned utilities that were in competition with other utilities to regulation. Now both municipally owned and privately owned utilities are granted a monopoly or partial monopoly for service in certain areas. Therefore, it is a question of policy whether the restriction on a municipality's authority to extend services outside its boundaries contained in AS 29.48.040 needs to be continued in view of the fact that the municipality must now receive Alaska Public Utility Commission approval to extend services at all.

AS 29.48.040 and this amendment have the effect of authorizing a municipality to extend utility service only to "adjacent" areas. Under Sec. 29.35.020 of SB 1, without this amendment, a municipality is granted broader power to provide utility services outside its boundaries since it may do so whether or not the area served is adjacent to the municipality.

If I can be of further assistance, please let me know.

TBC:ljb

Enclosure

In light of the foregoing, we affirm the superior court's denial of appellant's Criminal Rule 35(b) motion to vacate the judgment and commitment entered in this case.

Electricity to residents of "contiguous and adjacent districts" outside limits of municipality.

Judgment affirmed.



CHUGACH ELECTRIC ASSOCIATION, Inc., a non-profit electric cooperative corporation, and D. Bailey Calvin, Appellants,

v.

CITY OF ANCHORAGE, a municipal corporation, Municipal Light and Power Department, Robert H. Oldland and Carroll A. Oliver, and Calais Company, Inc., Appellees.

ALASKA PUBLIC SERVICE COMMISSION, State of Alaska, Appellant,

v.

CITY OF ANCHORAGE, a municipal corporation, Municipal Light and Power Department, Robert H. Oldland and Carroll A. Oliver, and Calais Company, Inc., Appellees.

Nos. 705, 706.

Supreme Court of Alaska.

May 1, 1967.

Proceeding by electric utility to enjoin municipality from furnishing electrical energy to subdivision which was located approximately one-fourth mile from city limits and which also was within service area of electric utility. The Superior Court, Third Judicial District, Edward V. Davis, J., denied permanent injunction. The electric utility appealed. The Supreme Court, Rabinowitz, J., held that subdivision was a reasonable distance from municipality and was within statute which provided that any city which operated plant for distribution of electricity may distribute elec-

1. Electricity C-4

Certificate of public convenience and necessity did not grant to electric utility a monopoly to furnish electrical energy throughout the service areas which had been allotted to it. AS 42.05.010-42.05.650.

2. Electricity C-11(5)

Under statute which provided that any city which operates plant for distribution of electricity may distribute electricity to residents of "contiguous and adjacent districts" outside limits of city, quoted phrase referred to contiguous districts and adjacent districts, and not only to those districts which are both contiguous and adjacent. AS 29.10.138.

See publication Words and Phrases for other judicial constructions and definitions.

3. Electricity C-11(5)

Under statute providing that any city which operates plant for distribution of electricity may distribute the electricity to residents of "contiguous and adjacent districts", municipality was authorized to sell and distribute electrical energy to adjacent districts, areas, or localities located within reasonable distance from limits of municipality. AS 29.10.135(b), 29.10.138.

4. Electricity C-11(5)

Subdivision which, at its closest point, was within approximately one-quarter of mile of city limits of municipality was a reasonable distance from municipality and was within statute which authorized municipality's operating plant for distribution of electricity to distribute electricity to residents of "contiguous and adjacent districts" outside limits of municipality. AS 29.10.135(b), 29.10.138.

5. Electricity C-4

The fact that service area designated in electric utility's certificate of public convenience and necessity encompassed sub-

Diges

applicable to the... presented a... related to the cir... at bar. There the... on eleven counts... securities Act. After... single count, the re... dismissed. The pre... was submitted in... nt was guilty of the... dismissed. In up... conviction the court

other counts at the... was not an ad... on the merits, even... the statute of limi... prosecution can occur... charged. The aim... it is to acquire a... with the char... he man before it... lude the unfavor... vorable, data, and... relevant as other... e defendan., par... y related to the... el suggests that... ord' may be con... ed on 'by a court... we see nothing... erion. * * *

tes, 113 U.S. 192 (1902), S.Ct. 733, 9

division which was adjacent to municipality which operated plant for distribution of electricity did not grant electric utility monopoly in regard to furnishing of electrical energy to subdivision. AS 29.10.135(b), 29.10.138, 42.05.010-42.05.650.

6. Electricity Ⓒ4

Where subdivision is adjacent to municipality and subdivision is also within service area designated in electric utility's certificate of public convenience and necessity, utility is not, insulated from competition by municipally owned and operated utilities. AS 29.10.135(b), 29.10.138, 42.05.010-42.05.650.

7. Municipal Corporations Ⓒ884

Extension of municipality's electrical system into subdivision which was adjacent to municipality would not constitute waste, or misuse, of public funds.

William J. Moran, Anchorage, for appellants Chugach Electric Ass'n, Inc. and D. Bailey Calvin.

Warren C. Colver, Atty. Gen., and Andrew E. Hoge, Asst. Atty. Gen., Juneau, for appellant Alaska Public Service Commission.

Stanley Howitt, Asst. City Atty., Anchorage, for appellees City of Anchorage, Municipal Light & Power Department, Carroll A. Oliver and Robert H. Oldland.

Before NESBETT, C. J., and DIMOND and RABINOWITZ, JJ.

1. Appellants also requested mandatory injunctive relief (i.e., removal of the city's transmission facilities from the area in question).
2. Opinion No. 290, 423 P.2d 285 (Alaska 1967).
3. The certificate of public convenience and necessity which was issued to Homer Electric provided for a service area which included portions of the city of Kenai.
4. AS 42.05.010-42.05.650.

RABINOWITZ, Justice.

We are again asked to resolve a dispute between a municipally owned and operated electric utility and a public utility which has been certified pursuant to the provisions of the Alaska Public Service Commission Act.

This consolidated appeal arises from the superior court's denial of a permanent injunction to appellants Chugach and Calvin. In the lower court these parties sought to restrain the city of Anchorage from furnishing electrical energy to Bancroft Subdivision which is located approximately one-quarter of a mile outside Anchorage's city limits.¹

Several questions presented in this appeal have been answered by our recent decision in *Homer Electric Ass'n v. City of Kenai*.² That case involved questions as to the effect of the issuance of a certificate of public convenience and necessity to a public utility by the Alaska Public Service Commission. We held that such a certificate was not an exclusive, or monopoly, grant to furnish electrical energy within the corporate limits of the city of Kenai.³ Our study of the legislative history of the Alaska Public Service Commission Act,⁴ and in particular the 1963 amendments thereto, led us to conclude that municipally owned and operated utilities were intended to be excluded from the act's coverage. We, therefore, held that the delineation of a service area contained in a certificate of public convenience and necessity did not provide the basis for precluding a municipality from competing, within its own corporate limits, with such a certificated utility.⁵

5. We also pointed out that it was not disputed that the city of Kenai possessed the right and authority to own and operate an electrical distribution system. In this regard AS 29.10.135(a) provides:

The council may purchase, construct, or otherwise acquire, establish and operate public wharves, public sewers, public cold storage plants, telephone systems and plants for the use, sale and distribution of light, water, power, heat and telephone service and the collection and treatment of sewage for the residents of the city and the public.

[1] We adhere to our decision in *Homer Electric* and hold that appellant Chugach's certificate of public convenience and necessity does not, in relation to the city of Anchorage's electrical utility system, grant it a monopoly to furnish electrical energy throughout the service areas which have been allotted to it. As we view the issues in this appeal, the primary question raised is whether the city of Anchorage is authorized to furnish electrical power to the geographical area in question which is located outside of Anchorage's corporate limits.

Resolution of this question involves construction of, and determination of the applicability of, the provisions of AS 29.10.135(b). This statute provides:

A municipality which owns or operates plants for the use, sale or distribution of light, power * * * service * * * for the residents of the city may also sell and distribute the light, power * * * service to * * * the residents of contiguous and adjacent districts outside the limits of the city, and for that purpose may construct, purchase or otherwise acquire, own, maintain and operate extensions, pole lines * * * and other neces-

sary apparatus and equipment, together with the real property necessary for them, outside the limits of the city.⁶

[2] The precise controversy in this appeal is over the proper interpretation of the language "contiguous and adjacent districts" and whether or not the geographical area in dispute comes within this phraseology. In *Chugach Electric Ass'n v. City of Anchorage*⁷ the Ninth Circuit had occasion to construe "contiguous and adjacent districts" as used in the statute.⁸ The Ninth Circuit concluded that the disputed phrase refers to contiguous districts and adjacent districts. We think this is its plain meaning. This involves no conversion of the word 'and' to 'or.'

* * * * *
* * * We think the court correctly considered that the word 'districts' meant 'areas' or 'localities.'⁹

[3] We adopt this construction of "contiguous and adjacent districts" and hold that under AS 29.10.135(b) the city of Anchorage is authorized to sell and distribute electrical energy to adjacent districts, areas, or localities located within a reasonable distance from the limits of the city of Anchor-

6. See also AS 29.10.135 which provides: Extraterritorial jurisdiction. For the purpose of installing, acquiring, owning or operating plants for the supply of water, light, heat or power to the city or its people, or for the purpose of constructing and maintaining a sewer system, a city may acquire and own property outside the boundaries of the city and may enact and enforce ordinances to protect the sources of the supply of water for the city from contamination, interruption, interference or injury even though they are situated outside of the boundaries of the city. The council may also enact and enforce ordinances to protect, whether in or out of the city, parks, cemeteries, and playgrounds, and light, heat, power and water plants, and sewers together with dams, flumes, pipelines, electrical transmission lines and other equipment for serving the city or its inhabitants with light, heat, power or water or drainage through sewers, whether owned by the city or not.

7. 214 F.2d 110, 113, 15 Alaska 70 (9th Cir. 1954).

8. AS 29.10.135 was codified at that time as ACLA 1949 § 16-1-3S.

9. The trial court in its opinion in *Chugach Electric Ass'n v. City of Anchorage*, 100 F.Supp. 6, 7-8, 13 Alaska 747 (D. Alaska 1952), had held that "the conjunctive 'and' must be read as 'or.'" In his opinion Judge Folta also wrote that under the statute quoted a municipality is authorized to extend its distribution system into any non-contiguous area within a reasonable distance of its corporate limits, provided that the intervening territory is unsettled and uninhabited or virtually so, but that it was never intended by the use of the term 'adjacent' to permit a municipality to leapfrog a settled area, particularly where, as here, such area is, from all appearances, a part of the metropolitan area, and extend its distribution system into the territory beyond.

Digest

age.¹⁰ This leads us to the question of whether the Bancroft Subdivision is an adjacent district, area, or locality within the intendment of AS 29.10.135(b).¹¹

[4-6] Named appellee Calais Company is the owner and subdivider of the Bancroft Subdivision¹² which, at its closest point, lies within approximately one-quarter of a mile of the southerly limits of the city of Anchorage.¹³ Examination of the record in this case has convinced us that the Bancroft Subdivision is an adjacent district within the definition adopted in *Chugach Electric Ass'n v. City of Anchorage*.¹⁴ We further hold that Bancroft Subdivision lies within a reasonable distance from the city of Anchorage. Therefore, under the provisions of AS 29.10.135(b) the city of Anchorage is empowered to sell and distribute electrical energy to residents of the Bancroft Subdivision. The fact that the service area designated in appellee Chugach's certificate of public convenience and necessity encompasses this subdivision does not, under our holding in *Homer Electric Ass'n v. City of Kenai*,¹⁵ grant it a monopoly in regard to the furnishing of electrical energy to Bancroft Subdivision.

Here, as in *Homer Electric*, the municipally owned and operated electric utility is furnishing service to, and within, an authorized geographical area. In such circumstances the certificated utility is not, under the Alaska Public Service Commission Act, insulated from competition by municipally owned and operated utilities.

[7] Brief reference will be made to two other issues in this appeal. Appellants argue that the superior court erred in failing to hold that the city of Anchorage's extension of its electrical system into Bancroft Subdivision constituted waste, or misuse, of public funds.¹⁶ The record discloses that the trial court's findings of fact and conclusions of law pertaining to this question are amply supported by evidence. We sustain the superior court's determination of this issue. In our opinion there is no merit in appellees' contention that appellants should be barred from any relief in this court because of laches on their part. Appellees' assertions in this regard are not borne out by the record.

In *Homer Electric Ass'n v. City of Kenai*¹⁷ we noted that a satisfactory solu-

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10. Appellees contend that the Alaska legislature was aware of the Ninth Circuit's holding in the *Chugach* case when it enacted the 1963 amendments to the Public Service Commission Act. Appellees argue that if the *Chugach* decision did not express the legislature's intent, the section would have been changed or clarified. See *Reed v. Steamship Yaka*, 373 U.S. 410, 414, 83 S.Ct. 1349, 10 L.Ed.2d 448, 452 (1963), where the Supreme Court said:

But we cannot now consider the wording of the statute alone. We must view it in the light of our prior cases in this area . . . the holdings of which have been left unchanged by Congress.

See 1 Sutherland, *Statutory Construction* § 1735 (3d ed. 1943).

11. In the *Chugach* case referred to above, the area in question, at its closest point, was approximately one and one-half miles from the city limits of Anchorage.

12. *Chugach Electric Ass'n v. Calais Co.*, 410 P.2d 508 (Alaska 1966), also involved this same subdivision.

13. See generally sketch of the area in question contained in the appendix hereto.

14. 214 F.2d 110, 15 Alaska 70 (9th Cir. 1954). We shall not pass upon what appears to be an alternative basis of the trial court's decision, namely, the expanded powers possessed by municipalities through constitutional and statutory provisions providing for home rule cities.

15. Opinion No. 390, 423 P.2d 285 (Alaska 1967).

16. More specifically, the trial court held that:
Construction of the line is neither wasteful nor uneconomic so far as the City is concerned. Furthermore, I find that the contemplated service will be extremely profitable to the City.

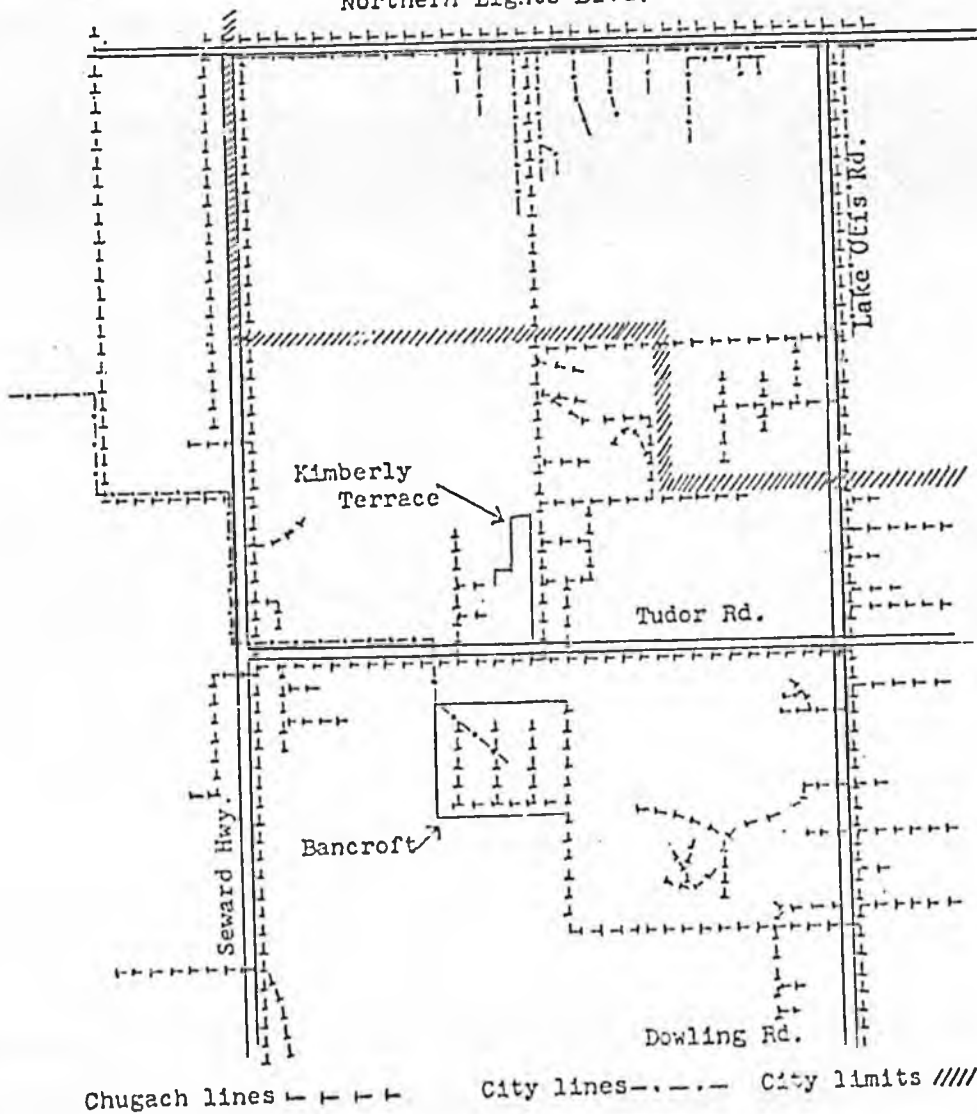
17. 423 P.2d 285, 290 (Alaska 1967).

CHUGACH ELECTRIC ASSOCIATION v. CITY OF ANCHORAGE Alaska 1005

Cite us, Alaska, 426 P.2d 1001

tion to the question presented was dependent upon legislative resolution. This appeal presents yet another facet of the still unresolved questions regarding the relationship between certificated utilities and municipally owned and operated utilities. The judgment entered below is affirmed.

APPENDIX
Northern Lights Blvd.



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SENATE AMENDMENT

By Community & Regional Affairs Committee

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: 11 LINE: 1

Between the words "city" and "incorporated", add "in the unorganized borough"

SENATE AMENDMENT

By Community & Regional Affairs Committee

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: 8 LINE: 26

1. Pg. 8, line 26, after "council" insert:
"of a first class city."
2. Pg. 29, line 8, after "commission" insert:
"of seven elected members"
3. Pg. 29, line 14, after "be" insert:
"prepared by the petitioners and"
4. Pg. 29, line 14, delete:
"incorporation"
5. Pg. 29, line 15, following petition, insert:
"to incorporate a home rule municipality"
6. Pg. 63, line 7:
delete "bill" and replace with "ordinance or resolution"
delete "act" , and replace with "ordinance or resolution"
7. Pg. 63, line 26:
delete "bill" and replace with "ordinance or resolution"
delete "act" , and replace with "ordinance or resolution"
8. Pg. 64, line 15:
delete "bill" and replace with "ordinance or resolution"

9. Pg. 82, line 18:
after "emergency", add "services", and
after "center" add "under AS 29.35.130"
10. 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].
11. Pg. 106, line 9, after "calculate" insert:
"at the rate of one percent per mill"
12. Pg. 106, line 10 and 11, delete:
"at the rate of one percent per mill"
13. Page 182, line 1 -- following "general law", delete:
"first or second class"

SENATE AMENDMENT

BY SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: 161 LINE: 20

Replace "29.60.120" with "29.60.130".

A M E N D M E N T

Offered in the SENATE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

TO: Senate Bill No. 1

Page 160, line 21:

After "purpose." delete all material through page 161, line 10, and insert:

"(b) The Department of Community and Regional Affairs with advice from the Department of Law shall determine whether there is in each unincorporated community an incorporated nonprofit entity or a Native village council that will agree to receive and spend the entitlement. If there is no qualified incorporated nonprofit entity or Native village council in an unincorporated community that is willing to receive money under an entitlement, the entitlement for that unincorporated community may not be paid. If there is more than one qualified entity in an unincorporated community, the Department of Community and Regional Affairs shall select the entity that the department finds most qualified to receive and spend the money.

(c) After selecting an entity under (b) of this section the Department of Community and Regional Affairs shall provide public notice of the selection. The notice shall indicate that the selection is preliminary and other qualified entities may be nominated to receive the entitlement by filing a petition with the department. A petition must be signed by a number of voters of the unincorporated community equal to or greater than 15 percent of those who voted

2/15/83

during the last general election in the community. The department shall provide a sample petition upon request.

(d) If the Department of Community and Regional Affairs receives within 30 days after notice is provided under (b) of this section a sufficient petition nominating an entity other than the entity selected by the department, the department shall hold an election with the assistance of the director of elections to determine which entity shall receive the entitlement. The election shall be held within 90 days after notice is provided under (b) of this section. The department shall provide public notice of the date of the election.

(e) All voters who reside within the boundaries established for the purposes of determining the population of the unincorporated community are qualified to vote in an election held under this section. The name of the entity selected by the Department of Community and Regional Affairs under (b) of this section and the name of each entity nominated under (c) of this section shall be placed on the ballot. The department shall pay the entitlement for that year to the entity receiving the greatest number of votes.

(f) The Department of Community and Regional Affairs may not pay money under an entitlement to a Native village council unless the council waives immunity from suit for claims arising out of activities of the council related to the entitlement. A waiver of immunity from suit under this subsection must be on a form provided by the Department of Law. Neither this subsection nor any action taken under it enlarges or diminishes the governmental authority or jurisdiction of a Native village council."

Reletter the following subsection accordingly.

2/15/83

SENATE AMENDMENT

BY Senate Community & Regional Affairs Committee

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: 62 LINE: 3

After "date.", add:

"The runoff election shall be between the two candidates receiving the greatest number of votes for the seat."

SENATE AMENDMENT

By COMMUNITY & REGIONAL AFFAIRS COMMITTEE

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: 107 LINE: 26

After "borough", delete:

"including but not limited to, excluding personal property from taxation, establishing exemptions, and extending the redemption period"

SENATE AMENDMENT

By COMMUNITY & REGIONAL AFFAIRS COMMITTEE

To: _____ SENATE BILL No. 1

To: _____ HOUSE BILL No. _____

PAGE: 61 LINE: 8

After "(3)", delete "is", and insert "has been"

After "elections", insert "for 30 days immediately preceding the election"

A M E N D M E N T

Offered in the SENATE

By Halford

TO: Senate Bill No. 1

Page 14, line 25:

Delete "." and insert ";"

Page 14, after line 25 insert:

"(4) standards and procedures governing detachment shall be identical to standards and procedures governing annexation, except that procedures governing detachment shall provide for equitable prorated payment of debts acquired by the municipality prior to the detachment."

A M E N D M E N T

Offered in the SENATE

By Halford

TO: Senate Bill No. 1

Page 14, line 25:

Delete "." and insert ";"

Page 14, after line 25 insert:

"(4) within 90 days after receipt of a petition for annexation or detachment the Local Boundary Commission shall make a decision on the petition."

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 1
Title "An Act Relating To Municipal Government"
Requested by Senator Gilman Date 2/1/83

II. FISCAL DETAIL

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

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

See Attached

IV. DATE 1/27/83 PREPARED BY Terry Farley
AGENCY Community & Regional Affairs
Original: Legislative Finance PHONE 465-4730
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/82)
OMB Reviewed by: David Gentry *D. Gentry*

FISCAL NOTE
"An Act Relating to Municipal Government"

Article 3 of the Bill appears to be the only portion that has fiscal impact on this Division. That Article "TRANSITIONAL ASSISTANCE" provides for organizational grants to newly formed and newly reclassified cities. These grants are \$50,000 the first year and \$25,000 the second year.

Additionally, the bill provides for organization grants to newly formed Boroughs in the following amounts:

\$300,000 for the first fiscal year
\$200,000 for the second fiscal year
\$100,000 for the third fiscal year

Finally, it provides for the department to establish an initial sales tax structure and an initial property tax structure.

Assumptions: In estimating the fiscal impact of the bill the following assumptions were made.

1. There would be two incorporations or reclassifications each year. This would produce an FY 84 cost of \$100,000.
2. There will be one Borough Incorporation in 1986. This incorporation would necessitate expenditure of the 3 step organization grant in 1986, 1987, and 1988. Based on this assumption it is also estimated that contractual costs for setting up the two tax systems would be \$350,000 in contractual costs spread over a 2 year period.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT

Section-by-Section Analysis
SB 1

Sec. 29.03.030. This is added to the chapter dealing with the unorganized borough in order to cross-reference the section authorizing the division of lands to act as the platting authority in the unorganized borough.

CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

Sec. 29.04.010. This section is altered to allow a city of any class to adopt a home rule charter, whereas existing law allows only a first class city to adopt a charter. Unified municipalities are included within the definition of home rule municipality. (AS 29.08.010)

Sec. 29.04.020. No change. (AS 29.08.020)

Sec. 29.04.030. No change. (AS 29.08.030)

Sec. 29.04.040. (a) The phrase "as provided in this subsection" is deleted as unnecessary. To reclassify as a first class city, a second class city must have 600 residents, whereas existing law requires only 400 residents for reclassification. (AS 29.08.040(a))

(b) No change. (AS 29.08.040(b))

(c) No change. (AS 29.08.040(c))

(d) Minor rewording, but no substantive change. (AS 29.08.040(d) and (e))

(e) "Department of Community and Regional Affairs" is altered to read "department". This bill adds "department" to the definitions section and uses that term throughout the title in place of "Department of Community and Regional Affairs". (AS 29.08.040(f))

Sec. 29.04.050. This deletes the provision for reclassification of a second class borough to a third class borough. (AS 29.08.040(g))

The material currently dealing with reclassification to third class status is deleted. (AS 29.08.040(h), and (j))

Sec. 29.04.060. (a) Minor rewording, but no substantive change. (AS 29.08.040(g) and (h))

(b) Minor rewording, but no substantive change.
(AS 29.08.040(i))

CHAPTER 05. INCORPORATION.

Sec. 29.05.010. (a) A community that meets certain standards may incorporate as a home rule or first class city, whereas existing law provides for incorporation of a first class city only.
(AS 29.18.011)

(1) A community must have 600 residents to incorporate as a home rule or first class city, whereas existing law requires 400 residents for incorporation as a first class city.
(AS 29.18.011(a)(1))

(2) No change. (AS 29.18.011(a)(2))

(3) The term "local services" is altered to "municipal services". (AS 29.18.011(a)(3))

(4) The term "local government" is altered to "city government". (AS 29.18.011(a)(4))

(5) The term "local government" is altered to "city government". (AS 29.18.011(a)(5))

(b) No change. (AS 29.18.011(b))

Sec. 29.05.020. (a) No change. (AS 29.18.021(a))

(b) The term "organized borough" is altered to "borough", which is defined for the title. (AS 29.18.020(b))

Sec. 29.05.030. (a) This provides for incorporation of a home rule, first class, or second class borough, but not for incorporation of a third class borough. This section contains several technical changes. The term "organized borough" is replaced with "borough" since that is defined. The term "local services" is replaced by "municipal services". The term "local government" is replaced by "borough government" as being more precise since this section deals with the incorporation of boroughs and not cities. (AS 29.18.030)

(b) This is new and provides that an area may not incorporate as a third class borough.

Sec. 29.05.060. "Department of Community and Regional Affairs" is replaced by the word "department" which is defined for the title. The paragraphs are reorganized so that the most general requirements precede the most specific requirements for incorporation. (AS 29.18.050)

(7) Signature requirements apply to home rule and first class cities as a unit and then to the rest of the voters in the area of the proposed borough as another unit. Under existing law only first class cities are treated as a special unit for the purpose of gathering signatures. (AS 29.18.050(10))

(11) Signature requirements for incorporation of a first class city must also be complied with for incorporation of a home rule city. (AS 29.05.060(8))

(13) A new provision for incorporation of a home rule municipality requiring that a proposed home rule charter be filed with the incorporation petition.

Sec. 29.05.070. Minor rewording, but no substantive change. (AS 29.18.060)

Sec. 29.05.080. (a) Combines material currently found in two subsections. Adds requirement that notice of the meeting be published. "Published" is defined for the title. (AS 29.18.070(a) and (c))

(b) No change. (AS 29.18.070(b))

(c) No substantive change. (AS 29.18.080(a))

Sec. 29.05.090. "Department of Community and Regional Affairs" is altered to "department". (AS 29.18.080(b))

Sec. 29.05.100. No substantive change. (AS 29.18.090)

Sec. 29.05.110. This section contains a few minor changes, so that the use of language is consistent throughout the bill. The word "officer" is changed to "official" and that is the term used throughout. Currently, Title 29 uses the terms municipal "officer" and "official" interchangeably. Effective January 1, 1981, the director of elections became responsible for conducting state elections rather than the lieutenant governor and here the responsibility for the election is conferred on the director of elections. (AS 29.18.110)

Sec. 29.05.120. This section is reorganized. Current references to the lieutenant governor are changed to the director of elections. (AS 29.18.120)

(a) Contains material currently found in AS 29.18.120(b).

(b) Contains material currently found in AS 29.18.120(b).

(c) Contains material currently found in AS 29.18.120(b).

- (d) Contains material currently found in AS 29.18.120(c).
- (e) Contains material currently found in AS 29.18.120(d).
- (f) Contains material currently found in AS 29.18.120(e).

Sec. 29.05.130. The phrase "borough assembly or city council" is replaced by the phrase "governing body" which is defined for the title. The last line of the current section is dropped as no longer necessary. The provisions of this section apply to all organized boroughs whether incorporated or organized before or after September 10, 1972. (AS 29.18.130)

Sec. 29.05.140. Minor wording changes are made to improve readability and to insure that terms are used consistently throughout the title. (AS 29.18.140)

(d) Added to indicate that the section applies to home rule and general law municipalities, however, this is not a substantive change because the section currently applies to home rule municipalities under AS 29.13.100.

Sec. 29.05.150. No substantive change. (AS 29.18.150)

Sec. 29.05.180. This section now applies only to organization grants for cities. A new section has been added to the bill to deal with organization grants for boroughs. A newly incorporated city or a second class city that reclassifies shall be entitled to a first year organization grant of \$50,000 and to a second organization grant of \$25,000. Under existing law, a municipality is entitled to receive \$10 for every voter or \$25,000 minimum, and the municipality receives no grant the second year. (AS 29.18.180)

Sec. 29.05.190. This section deals with organization grants to boroughs only and applies to boroughs incorporated after July 1, 1983. A borough shall be entitled to a first year organization grant of \$300,000; a second year grant of \$200,000; and a third year grant of \$100,000. Under existing law a borough receives \$10 for every voter or a minimum \$25,000 grant. (AS 29.18.180)

Sec. 29.05.200. This is new material establishing an organization grant fund. The Department of Community and Regional Affairs is required to prepare a yearly report on the fund to be presented to the Department of Administration.

Sec. 29.05.210. This is new material which requires the Department of Community and Regional Affairs to determine the population of a newly incorporated borough, help the borough establish an initial assessment and collection department if it has adopted a

sales or use tax; and help the borough to determine the initial assessment roll if the borough has adopted a property tax.

CHAPTER 06. ALTERATION OF MUNICIPALITIES.

Sec. 29.06.010. The phrase "qualified voters voting on the question at a regular or special election" is replaced by "voters after an election". Both "voters" and "election" are defined for the title. References to the lieutenant governor are changed to the director of elections. (AS 29.73.050)

(d) This is added and applies the section to home rule municipalities. This is not a substantive change since the section is a home rule limitation under AS 29.13.100.

Sec. 29.06.040. This section contains only minor word changes so that language used in Title 29 which is defined is uniformly used throughout the title. (AS 29.68.010)

Sec. 29.06.050. No substantive change. (AS 29.68.020)

Sec. 29.06.060. This is new material specifically applying all sections dealing with annexation as home rule limitations. The material contained in sec. 29.06.040 of this bill is currently a limitation on home rule municipalities.

Sec. 29.06.090. Adds a provision that a third class borough may not be formed through merger or consolidation. (AS 29.68.030)

Sec. 29.06.100. The word "existing" is added to make it clear that some requirements refer to an existing municipality and some to a proposed municipality. (AS 29.68.040)

Sec. 29.06.110. "Department of Community and Regional Affairs" is changed to "department". (AS 29.68.050, 29.68.060, 29.68.070(a))

Sec. 29.06.120. No substantive change. (AS 29.68.070(b))

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. (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;
- (27) alcoholic beverages;
- (31) assessment and collection of taxes;
- (32) land use regulation;
- (36) title to vacated areas;
- (38) property taxes (this adds sec. 29.45.450 - 500 and sec. 29.45.550 to the limitations listed under existing law);
- (42) construction;
- (46) 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)