

ALASKA LEGISLATURE COMMITTEE FILES 1905-1900 00/2

3864 SCRA SB 142 (FILE 4) 740

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1 municipality that is incorporated after July 1, 1978, the commissioner
2 shall determine the entitlement of each municipality eligible to
3 receive general grant land under (a) of this section and certify the
4 entitlement to the municipality.

5 ~~Sec.~~ ^{4(c)} 29.65.040. STATUS OF ENTITLEMENTS. (a) After July 1,
6 1978, general grant land entitlements provided in ~~AS 29.65.010~~ and ^{former AS 29.18.201}
7 ~~29.65.020~~ ^{former 29.18.202} are vested property rights that must be fulfilled as pro-
8 vided in AS 29.65.050 or 29.65.080.

9 (b) General grant land entitlements provided by AS 29.65.030 are
10 property rights that vest on the date of incorporation of the munici-
11 pality. The entitlement must be fulfilled as provided in AS 29.65.-
12 050.

13 (c) Land may be selected or nominated for selection by a munici-
14 pality to satisfy a general grant land entitlement under former
15 AS 29.18.201 and 29.18.202 at any time before October 1, 1980. How-
16 ever, if a municipal selection or nomination or a part of a municipal
17 selection or nomination is rejected by the commissioner, the munici-
18 pality may, not later than 90 days after receipt of the rejection,
19 select additional state land as necessary to satisfy its entitlement.

20 (d) Land may be selected by a municipality to satisfy a general
21 grant land entitlement under AS 29.65.030 at any time within one year
22 after the commissioner certifies the entitlement to the municipality.

23 (e) The time limitations imposed by (c) and (d) of this section
24 for exercising a vested general grant land entitlement do not apply to

25 (1) the portion of an entitlement that cannot be satisfied
26 by that date because of a shortage of land suitable for residential,
27 commercial, and industrial purposes that is vacant, unappropriated,
28 unreserved land;

29 (2) payments for land deficiency under AS 29.65.080;

1 commissioner is rejected by the board, the commissioner shall meet
2 with the board as often as necessary to determine the type and amount
3 of equal value replacement land that would be required to obtain the
4 board's concurrence, and shall propose the replacement land for
5 consideration by the board. The replacement land shall thereafter be
6 managed for the purposes for which the land selected by the
7 municipality was acquired by the Territory and State of Alaska.

8 (e) The notice provisions of AS 38.05.345 apply to the designa-
9 tion of other general grant land as school or mental health land in
10 replacement of land selected under this section. The provisions of
11 AS 38.50 do not apply to such designations under this section.

12 (f) For purposes of determining the per capita entitlement under
13 (a) of this section, the population of a municipality shall be the
14 population determined by the commissioner under former AS 43.18.010
15 for the program year beginning July 1, 1978, for a municipality whose
16 entitlement ^{was} ~~is~~ determined under AS ~~29.65.010.~~ **former AS 29.18.201 OR 29.18.202**

17 Sec. 29.65.070. SELECTION AND CONVEYANCE PROCEDURE. (a) If
18 land selected by a municipality is unsurveyed at the time of approval,
19 the commissioner shall survey, or may approve the municipality's
20 survey of, the exterior boundaries of an approved selection without
21 interior subdivision, and shall issue patent in terms of the exterior
22 boundary survey. The cost of the survey shall be borne by the munic-
23 ipality. If land selected by a municipality has been surveyed at the
24 time of its selection, the boundaries shall conform to the public land
25 subdivisions established by the approved survey.

26 (b) The commissioner may approve municipal selections of land
27 that have been tentatively approved or patented to the state by the
28 federal government but may not issue patent to a municipality until
29 the land has first been patented to the state. After approval of a

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STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

HCR-A #3

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

#3

MEMORANDUM

February 20, 1985

SUBJECT: Municipal Code Revision
(HB 72)

TO: Representative Peter Goll
Chair, Community and Regional
Affairs Committee

FROM: Tamara Brandt Cook
Deputy Director *TBC*
Division of Legal Services

Here is the amendment that you requested which incorporates legislation passed in 1984 that is also dealt with in HB 72. The changes are derived from section 38, chapter 6 SLA 1984; section 1, chapter 56 SLA 1984; sections 78 - 84 and 88, chapter 156 SLA 1984; and section 2, chapter 167 SLA 1984. Some items in the amendment return changes in HB 72 to language in existing law in order to conform with the above mentioned legislation passed in 1984 that left those portions of existing law intact. Since the Division of Lands has been eliminated and duties of the director of the division have been assigned to the director of lands, this amendment changes the definition of "director" used in sections dealing with general grant land entitlements to conform with this reorganization.

The section dealing with regulation of transportation carriers, section 29.35.140, was added by Initiative Number 83-02 effective February 28, 1985. It is altered only to delete a citation that no longer makes sense because chapter 35 on municipal powers is rewritten in HB 72. Please note that this section is not a home rule limitation under the initiative, nor under this amendment, although it appears that it may have been intended to bind home rule municipalities as well as general law municipalities.

Changes made under chapter 152 SLA 1984 to AS 29.33.150 are reflected in section 29.40.200 of HB 72. However, the 1984 legislation removed all references to "capital improvements"

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from the section without deleting the definition. The definition is deleted in this amendment. The changes relating to disabled veterans in AS 29.53.020, 20.73.060, and 29.73.062 made in chapter 40 SLA 1984 have already been incorporated into HB 72. The change relating to the tax exemption for motor vehicles in AS 29.53.025 made in chapter 27 SLA 1984 has already been incorporated into section 29.45.050 of HB 72. The change relating to taxation records and errors in taxation procedures in AS 29.53.103 and 29.53.105 have already been incorporated into HB 72 as sections 29.45.103 and 29.45.105.

Lastly, several of the items in this amendment alter or delete citations to statutes that have been renumbered or repealed.

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Offered in the HOUSE

By The Community and

TO: HB 72

Regional Affairs Committee

✓ Page 79, after line 1, add a new section to read:

"Sec. 29.35.140. REGULATION OF TRANSPORTATION CARRIERS. A municipality may not regulate an activity regarding transportation of passengers or freight for hire if the regulation conflicts with the regulation of that activity by the Alaska Transportation Commission as the regulation existed April 1, 1983 under former AS 02.05, former AS 42.07, or former AS .10."

Page 97, lines 27 - 29:

Delete all material and reletter the following subsection

Page 112, line 20:

Delete "For"

Page 112, lines 21 - 23

Delete all material

Page 114, line 5:

After "data." delete all material

Page 114, lines 6 - 8:

Delete all material

Page 172, line 21:

Delete "commissioner" and insert "director"

Page 173, line 1:

Delete "commissioner" and insert "director"

Page 173, line 17:

Delete "commissioner" and insert "director"

Page 173, line 22:

Delete "commissioner" and insert "director"

Page 174, line 14:

Delete "commissioner" and insert "director"

Page 174, line 19:

Delete "commissioner" and insert "director"

Page 174, line 23:

Delete "commissioner" and insert "director"

Page 175, line 2:

Delete "commissioner" and insert "director"

Page 175, line 6:

Delete "commissioner" and insert "director"

Page 175, line 20:

After "school" insert ", university"

Page 175, line 26:

Delete "commissioner" and insert "director"

Page 176, line 1:

Delete "commissioner" and insert "director" in both places

Page 176, line 8:

Delete "AS 38.05.345" and insert "AS 38.05.945"

Page 176, line 9:

After "school" insert ", university"

Page 176, line 19:

Delete "commissioner" and insert "director"

Page 176, line 26:

Delete "commissioner" and insert "director"

Page 177, line 1:

Delete "commissioner" and insert "director"

Page 177, line 3:

Delete "commissioner" and insert "director"

Page 177, line 5:

Delete "commissioner" and insert "director"

Page 180, lines 3 and 4:

Delete "commissioner" and insert "director"

Page 180, line 9:

Delete "AS 38.05.345" and insert "AS 38.05.945"

Page 180, line 19:

Delete "AS 38.05.315" and insert "AS 38.05.810"

Page 180, line 24:

Delete "commissioner" and insert "director"

Page 180, line 27:

Delete "commissioner" and insert "director"

Page 180, line 28:

Delete "AS 38.05.315" and insert "AS 38.05.810"

Page 181, line 1:

Delete "AS 38.05.315" and insert "AS 38.05.810"

Page 182, line 1:

After "commissioner" insert "of natural resources"

Page 182, line 9:

Delete "commissioner" and insert "director"

Page 182, lines 9 and 10:

Delete "commissioner of natural resources, or the commissioner's designee" and insert "director of lands, Department of Natural Resources"

Page 182, line 18:

Delete "Department of Natural Resources" and insert "director"

Page 182, line 23:

After "issued" insert "by the director"

Page 183, after line 6, insert:

"(9) 'university land' has the meaning given in AS 38.05.-365;"

Renumber the following paragraph accordingly

Page 186, after line 24, insert a new bill section to read:

"* Sec. 20. AS 09.45.845 is amended to read:

Sec. 09.45.845. VACATING OF STREETS IN WHOLE OR IN PART. The

vacating, of streets in whole or in part by the voluntary action of a municipality, for the purpose of making it possible for the court to mitigate the hardships suffered by individuals because of the change in land boundaries caused by the act of God, consisting of an earth-slide, can be accomplished by the offer of the municipality expressed in the complaint followed by the court's approval of it in the action authorized in AS 09.45.800 - 09.45.880, without other formalities. This provision is a special emergency substitute for the provisions contained in AS 29.40.120 - 29.40.160 [AS 29.33.200 - 29.33.240]."

Renumber the following bill sections accordingly

Page 192, after line 21, insert the following new bill sections:

"* Sec. 45. AS 19.30.260 is amended to read:

Sec. 19.30.260. PURPOSE. The purpose of AS 19.30.260 - 19.30.320 is to facilitate funding for the upgrading, reconstruction, rehabilitation, or paving of existing subdivision roads within a road maintenance service area established under AS 29.35.450 [AS 29.63] or under a home rule charter.

* Sec. 46. AS 19.30.280(a) is amended to read:

(a) After establishing a road maintenance service area under AS 29.35.450 [AS 29.63], or under a home rule charter, a municipality may apply to the department for a grant as money is available for road improvements, subject to regulations adopted by the department to carry out the provisions of AS 19.30.260 - 19.30.320. The department shall require a municipality to submit a five-year plan for the up-

grading, reconstructing, rehabilitating, or paving of maintenance service area roads for approval before October 1 of each fiscal year."

Renumber the following bill sections accordingly

Page 199, lines 7 - 10:

Delete "For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58." and insert "[FOR PURPOSES OF THIS SUBSECTION THE AVERAGE PER CAPITA ASSESSED FULL AND TRUE VALUE OF PROPERTY IN THE STATE SHALL BE CALCULATED WITHOUT REGARD TO THE ASSESSED VALUE OF TAXABLE PROPERTY UNDER AS 43.58.]"

Page 206, line 8:

Delete "AS 28.35.260(a)(10)" and insert "AS 28.40.100(a)(10)"

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1 in the executive branch of state government.

→ Sec 29.35.140

ARTICLE 2. MANDATORY AREAWIDE POWERS.

3 Sec. 29.35.150. SCOPE OF AREAWIDE POWERS. A borough shall
4 exercise the powers as specified and in the manner specified in
5 AS 29.35.150 -- 29.35.180 on an areawide basis.

6 Sec. 29.35.160. EDUCATION. (a) Each borough constitutes a
7 borough school district and establishes, maintains, and operates a
8 system of public schools on an areawide basis as provided in AS 14.-
9 14.060. A military reservation in a borough is not part of the bor-
10 ough school district until the military mission is terminated or until
11 inclusion in the borough school district is approved by the Department
12 of Education. However, operation of the military reservation schools
13 by the borough school district may be required by the Department of
14 Education under AS 14.14.110. If the military mission of a military
15 reservation terminates or continued management and control by a re-
16 gional educational attendance area is disapproved by the Department of
17 Education, operation, management, and control of schools on the mili-
18 tary reservation transfers to the borough school district in which the
19 military reservation is located.

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

22 Sec. 29.35.170. ASSESSMENT AND COLLECTION OF TAXES. (a) A
23 borough shall assess and collect property, sales, and use taxes that
24 are levied in its boundaries, subject to AS 29.45.

25 (b) Taxes levied by a city shall be collected by a borough and
26 returned in full to the levying city. This subsection applies to home
27 rule and general law municipalities.

28 Sec. 29.35.180. LAND USE REGULATION. (a) A first or second
29 class borough shall provide for planning, platting, and land use

1 violation or threatened violation, the superior court shall grant the
2 injunction.

3 (b) Each day that an unlawful act or condition continues consti-
4 tutes a separate violation.

5 Sec. 29.40.200. SUBDIVISIONS OF STATE LAND. (a) The subdivi-
6 sion requirements adopted under this chapter apply to a subdivision
7 plat of undeveloped state land for disposal under AS 38.05 or AS 38.08
8 filed with the platting authority. Subdivision ordinances and regula-
9 tions adopted after the platting authority is notified by the commis-
10 sioner of natural resources of a proposed sale of subdivided state
11 land under AS 38.05 or AS 38.08 do not apply to the state land in the
12 proposed sale.

13 (b) The platting authority shall approve and sign a subdivision
14 plat of state land within 60 days after its receipt from the commis-
15 sioner of natural resources unless the platting authority

16 (1) determines that the plat does not comply with subdivi-
17 sion requirements; and

18 (2) notifies the commissioner of each determination of non-
19 compliance within the 60-day period established in this subsection.

20 (c) The commissioner of natural resources may withdraw the subdivi-
21 sion plat and amend it in response to the determination of non-
22 compliance by the platting authority under (b) of this section. The
23 platting authority shall respond within 30 days to the amendment or
24 response from the commissioner of natural resources.

25 (d) Nothing in this section relieves the Department of Natural
26 Resources of its obligation to provide legal access to a subdivision.

27 (e) As used in this section, "capital improvements" includes but
28 is not limited to access roads, other physical improvements, and their
29 design and engineering

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1 classified as personal property by ordinance. This section does not
2 apply to house trailers and mobile homes that are unoccupied and held
3 for sale by persons engaged in the business of selling mobile homes.

4 Sec. 29.45.080. TAX ON OIL AND GAS PRODUCTION AND PIPELINE PROP-
5 ERTY. (a) A municipality may levy and collect taxes on property
6 taxable under AS 43.56 only by using one of the methods set out in (b)
7 or (c) of this section.

8 (b) A municipality may levy and collect a tax on the full and
9 true value of property taxable under this chapter and under AS 43.56
10 as valued by the Department of Revenue at a rate not to exceed that
11 which produces an amount of revenue from the total municipal property
12 tax equivalent to \$1,500 a year for each person residing in its bound-
13 aries.

14 (c) A municipality may levy and collect a tax on the full and
15 true value of that portion of property taxable under this chapter and
16 under AS 43.56 as assessed by the Department of Revenue which value,
17 when combined with the value of property otherwise taxable by the
18 municipality, does not exceed the product of 225 percent of the aver-
19 age per capita assessed full and true value of property in the state
20 multiplied by the number of residents of the taxing municipality. For
21 purposes of this subsection, the average per capita assessed full and
22 true value of property in the state shall be calculated without regard
23 to the assessed value of taxable property under AS 43.58.

24 (d) By February 1 of each assessment year a taxing municipality
25 must inform the Department of Revenue which method of taxation the
26 municipality will use.

27 (e) For purposes of this section, population shall be determined
28 by the commissioner based on the latest statistics of the United
29 States Bureau of the Census or on other reliable population data, and

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1 taxing municipality.

2 (d) For the purpose of (b) and (c) of this section, population
3 shall be determined by the commissioner based on the latest statistics
4 of the United States Bureau of the Census or on other reliable popula-
5 tion data. ~~For purposes of (b) and (c) of this section, the average~~
6 ~~per capita assessed full and true value of property in the state shall~~
7 ~~be calculated without regard to the assessed value of taxable property~~
8 ~~under AS 43.58.~~

9 Sec. 29.45.100. NO LIMITATIONS ON TAXES TO PAY BONDS. The
10 limitations provided for in AS 29.45.080 -- 29.45.090 do not apply to
11 taxes levied or pledged to pay or secure the payment of the principal
12 and interest on bonds. Taxes to pay or secure the payment of princi-
13 pal and interest on bonds may be levied without limitation as to rate
14 or amount, regardless of whether the bonds are in default or in danger
15 of default.

16 Sec. 29.45.103. TAXATION RECORDS. (a) Municipal records deal-
17 ing with assessment, valuation or taxation may be inspected by the
18 State Assessor or the assessor's designee.

19 (b) If a municipality's assessment and valuation has been done
20 by a private contractor, records concerning the municipality's valua-
21 tion and assessment shall be made available to the State Assessor or
22 the assessor's designee on request.

23 Sec. 29.45.105. ERRORS IN TAXATION PROCEDURES. (a) If a
24 municipality receives a notice from the State Assessor that major
25 errors have been found in its assessment, valuation or taxation proce-
26 dures, the municipality shall correct its procedures before the begin-
27 ning of the next fiscal year or file an appeal under (b) of this
28 section.

29 (b) A municipality may appeal a notice from the State Assessor

1 the municipalities in this section is the amount set out opposite
2 each:

- 3 (1) Municipality of Anchorage -- 44,893 acres;
- 4 (2) City and Borough of Juneau -- 19,584 acres;
- 5 (3) City and Borough of Sitka -- 10,500 acres;
- 6 (4) Bristol Bay Borough -- 2,898 acres;
- 7 (5) Fairbanks North Star Borough -- 112,000 acres;
- 8 (6) Haines Borough -- 2,800 acres;
- 9 (7) Kenai Peninsula Borough -- 155,780 acres;
- 10 (8) Ketchikan Gateway Borough -- 11,593 acres;
- 11 (9) Kodiak Island Borough -- 56,500 acres;
- 12 (10) Matanuska-Susitna Borough -- 355,210 acres;
- 13 (11) North Slope Borough -- 89,850 acres.

14 → "(b)" Sec. 29.65.020. DETERMINATION OF ENTITLEMENT FOR CITIES. "a)"

15 general grant land entitlement of a city formerly eligible to receive
16 general grant land under the provisions of former AS 29.18.190 and
17 29.18.200 is 10 percent of the maximum total acreage of vacant, unap-
18 propriated, unreserved land in the boundaries of each city at any time
19 between the initial date of eligibility under former AS 29.18.190 and
20 29.18.200 and July 1, 1978. Within six months after July 1, 1978, the
21 Commissioner shall determine the entitlement for each city eligible to
22 receive general grant land under ~~this section~~ **FORMER AS 29.18.202** and certify that en-
23 titlement to the city.

24 → "(b)" Sec. 29.65.030. DETERMINATION OF ENTITLEMENT FOR NEWLY INCOR-
25 PORATED MUNICIPALITIES. (a) The general grant land entitlement of a
26 municipality incorporated after July 1, 1978, is 10 percent of the
27 total acreage of vacant, unappropriated, unreserved land within the
28 boundaries of the municipality on the date of its incorporation.

29 (b) Within six months after the date of incorporation of a

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1 municipality that is incorporated after July 1, 1978, the ~~commissioner~~
2 shall determine the entitlement of each municipality eligible to
3 receive general grant land under (a) of this section and certify the
4 entitlement to the municipality.

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5 ~~Sec.~~ ^(c) 29.65.040. STATUS OF ENTITLEMENTS. (a) After July 1,
6 1978, general grant land entitlements provided in ~~AS 29.65.010~~ and ~~AS 29.65.020~~
7 ~~29.65.020~~ ^{former 9.18.202} e vested property rights that must be fulfilled as pro-
8 vided in AS 29.65.050 or 29.65.080.

9 (b) General grant land entitlements provided by AS 29.65.030 are
10 property rights that vest on the date of incorporation of the munici-
11 pality. The entitlement must be fulfilled as provided in AS 29.65.-
12 050.

13 (c) Land may be selected or nominated for selection by a munici-
14 pality to satisfy a general grant land entitlement under former
15 AS 29.18.201 and 29.18.202 at any time before October 1, 1980. How-
16 ever, if a municipal selection or nomination or a part of a municipal
17 selection or nomination is rejected by the ~~commissioner~~ ^{DIRECTOR}, the munici-
18 pality may, not later than 90 days after receipt of the rejection,
19 select additional state land as necessary to satisfy its entitlement.

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20 (d) Land may be selected by a municipality to satisfy a general
21 grant land entitlement under AS 29.65.030 at any time within one year
22 after the ~~commissioner~~ ^{DIRECTOR} certifies the entitlement to the municipality.

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23 (e) The time limitations imposed by (c) and (d) of this section
24 for exercising a vested general grant land entitlement do not apply to

25 (1) the portion of an entitlement that cannot be satisfied
26 by that date because of a shortage of land suitable for residential,
27 commercial, and industrial purposes that is vacant, unappropriated,
28 unreserved land;

29 (2) payments for land deficiency under AS 29.65.080;

1 (3) the portion of an entitlement that cannot be satisfied
2 because the land selected by a municipality has been selected by a
3 party entitled to select land owned by the United States or the state;
4 or

5 (4) the portion of an entitlement that cannot be satisfied
6 because the land nominated for selection by the municipality is not
7 tentatively approved for patent to the state.

8 Sec. 29.65.050. FULFILLMENT OF LAND ENTITLEMENTS. (a) The
9 acreage of each municipality's land selections for which patent has
10 been issued before July 1, 1978, shall be credited toward fulfillment
11 of the entitlement of that municipality.

12 (b) All approved selections under former AS 29.18.190 and 29.-
13 18.200 for which patent has not been issued to a municipality on
14 July 1, 1978, shall be reviewed by the ^{DIRECTOR} ~~commissioner~~ within nine months
15 after July 1, 1978. Any approved selection of land that was vacant,
16 unappropriated, or unreserved on the date of selection is valid as of
17 the date of the approval under former AS 29.18.190 and 29.18.200, and
18 a patent shall be issued to the municipality within three months after
19 approval by the ^{DIRECTOR} ~~commissioner~~ of a plat of survey. The acreage shall
20 be credited toward fulfillment of the municipality's entitlement. A
21 municipality is not entitled to receive ~~patent under~~ this chapter to
22 more than its entitlement determined under AS ~~29.65.010~~ -- 29.65.030.
23 Any prior approval by the ^{DIRECTOR} ~~commissioner~~ of municipal selections for
24 land that was not vacant, unappropriated, or unreserved on the date of
25 selection shall be rescinded, and patent may not be issued except when
26 disposal to a third party by sale or lease has occurred. Transfers of
27 land to municipalities under this chapter are subject to AS 38.05.321.
28 Classification actions as reflected on the land status records of the
29 Department of Natural Resources are determinative of land

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1 classification status for purposes of this chapter.
 2 (c) The ~~commissioner~~^{DIRECTOR} shall approve each selection for patent
 3 within nine months of its selection by a municipality, and a patent
 4 shall be issued to the municipality for land selected in satisfaction
 5 of a general grant land entitlement vested under AS 29.65.010
 6 29.65.030 within three months after approval by the ~~commissioner~~^{DIRECTOR} of a
 7 plat of survey.

8 Sec. 29.65.060. SCHOOL AND MENTAL HEALTH LAND. (a) If an
 9 entitlement determined under AS 29.65.010 or 29.65.020 results in a
 10 per capita entitlement for the municipality of less than one and
 11 one-half acre, the municipality may select vacant school or mental
 12 health land in the municipality in partial fulfillment of its land
 13 entitlement under this chapter. School or mental health land may be
 14 selected notwithstanding the fact that this land is not unappropriated
 15 and unreserved within the meaning of this chapter and under former
 16 AS 29.18.190 and 29.18.200, but each selection of school or mental
 17 health land by a municipality must be vacant, unappropriated, or
 18 unreserved land as defined in this chapter, except that it need not be
 19 general grant land.

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20 (b) The acreage of school^{university} or mental health land, if any, in a
 21 municipality may not be included in the determination of entitlement
 22 under AS 29.65.010 or 29.65.020.

23 (c) Land conveyed under this section will be credited against a
 24 municipality's remaining land entitlement under this chapter.

25 (d) Within six months after approval of a municipal selection of
 26 school or mental health land, the ~~commissioner~~^{DIRECTOR} shall identify state
 27 general grant land of approximately equal value to the land requested
 28 by the municipality and shall propose the replacement land for the
 29 concurrence of the appropriate board. If a proposal by the

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1 commissioner is rejected by the board, the ^{DIRECTOR}~~commissioner~~ shall meet
2 with the board as often as necessary to determine the type and amount
3 of equal value replacement land that would be required to obtain the
4 board's concurrence, and shall propose the replacement land for
5 consideration by the board. The replacement land shall thereafter be
6 managed for the purposes for which the land selected by the
7 municipality was acquired by the Territory and State of Alaska.

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8 (e) The notice provisions of ^{AS 38.05.945}~~AS 38.05.345~~ apply to the designa-
9 tion of other general grant land as school^{UNIVERSITY} or mental health land in
10 replacement of land selected under this section. The provisions of
11 AS 38.50 do not apply to such designations under this section.

12 (f) For purposes of determining the per capita entitlement under
13 (a) of this section, the population of a municipality shall be the
14 population determined by the commissioner under former AS 43.18.010
15 for the program year beginning July 1, 1978, for a municipality whose
16 entitlement ^{was}~~is~~ determined under AS ^{former AS 29.18.201 OR 29.18.202}~~29.65.010~~.

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17 Sec. 29.65.070. SELECTION AND CONVEYANCE PROCEDURE. (a) If
18 land selected by a municipality is unsurveyed at the time of approval,
19 the ^{DIRECTOR}~~commissioner~~ shall survey, or may approve the municipality's
20 survey of, the exterior boundaries of an approved selection without
21 interior subdivision, and shall issue patent in terms of the exterior
22 boundary survey. The cost of the survey shall be borne by the munici-
23 pality. If land selected by a municipality has been surveyed at the
24 time of its selection, the boundaries shall conform to the public land
25 subdivisions established by the approved survey.

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26 (b) The ^{DIRECTOR}~~commissioner~~ may approve municipal selections of land
27 that have been tentatively approved or patented to the state by the
28 federal government but may not issue patent to a municipality until
29 the land has first been patented to the state. After approval of a

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DIRECTOR

1 selection by the ~~commissioner~~, but before patent to a municipality,
2 the municipality may execute conditional leases and make conditional
3 sales only with the consent of the ~~commissioner~~. ^{DIRECTOR} Conditional sales
4 and conditional leases made before July 1, 1978, do not require the
5 consent of the ~~commissioner~~. ^{DIRECTOR}

6 (c) Nothing in this chapter affects a valid existing claim,
7 location, or entry under the laws of the state or the United States
8 whether for homestead, mineral, right-of-way, or other purposes.
9 Nothing in this chapter affects the rights of an owner, claimant,
10 locater, or entryman to the full use and enjoyment of the land so
11 occupied.

12 Sec. 29.65.080. PAYMENT FOR LAND DEFICIE CY. (a) The Alaska
13 municipal land account is established in the general fund for the
14 following purposes:

15 (1) providing payment to the boroughs and unified muni-
16 cipalities designated in AS 29.65.010 for a deficiency of land phys-
17 ically suitable for residential, commercial, or industrial purposes;
18 or

19 (2) providing payment to the boroughs and unified muni-
20 cipalities designated in AS 29.65.010 for certain general grant lands
21 selected by the state and conveyed to a Native corporation under the
22 provisions of the Alaska Native Claims Settlement Act.

23 (b) A municipality shall receive payment for its land deficiency
24 from the municipal land account. A municipality is eligible to re-
25 ceive payment for land deficiency if, after July 1, 1980, the amount
26 of land selected by a municipality that is physically suitable for
27 residential, commercial, or industrial purposes amounts to less than
28 one-third acre per capita. Any entitlement under AS 29.65.010 that is
29 less than one-third acre per capita will, for the purposes of this

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1 furnish a notice with the tax statement describing the effect on
2 property tax levies of payments received under this section.

3 Sec. 29.65.090. AUTHORIZATION FOR LAND EXCHANGES. The ^{DIRECTOR} ~~commissioner~~
4 ~~higher~~, and a municipality are authorized to exchange land or inter-
5 ests in land when it is in the public interest. Land or interests in
6 land exchanged under this section must be of approximately equal
7 value, including the nonmonetary value of public benefits. Exchange
8 procedures shall comply with applicable law and municipal ordinances.
9 The notice and review provisions of AS ^{38.05.945} ~~38.05.345~~ apply to exchanges of
10 land under this section. The provisions of AS 38.50 do not apply to
11 exchanges of land under this section.

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12 Sec. 29.65.100. PUBLIC PURPOSE AND EXPANSION NEEDS. (a) Con-
13 sistent with the best interests of the state, if a municipality does
14 not contain and cannot reasonably acquire sufficient nonfederal land
15 within its boundaries to meet its legitimate needs for public or
16 private settlement or development, it shall be the policy of the state
17 to select federal land reasonably necessary to meet the needs of the
18 municipality and to make the land selected available to the municipal-
19 ity under AS ^{38.05.810} ~~38.05.315~~ or (b) of this section.

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20 (b) The state may contract with a municipality to act as its
21 agent in an auction of state land under applicable statutes. When a
22 municipality acts as the agent of the state in an auction, the munici-
23 pality may retain from the proceeds of the auction the capital and
24 other expenses that the ^{DIRECTOR} ~~commissioner~~ determines to be necessary and
25 reasonable.

26 (c) Nothing in this chapter limits or impairs the authority of
27 the ^{DIRECTOR} ~~commissioner~~ to transfer land to municipalities, without limit or
28 consideration, for public purposes in accordance with AS ^{38.05.810} ~~38.05.315~~.
29 If there is a remaining entitlement of the municipality, land

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38.05.810

1 transferred under AS ~~38.05.315~~ shall be credited toward fulfillment of
2 the entitlement.

3 Sec. 29.65.110. ELECTION OF BENEFITS. (a) A municipality that
4 on July 1, 1978, is engaged in litigation, or that becomes engaged in
5 litigation, regarding a claim to state land under former AS 29.18.190
6 and 29.18.200 shall elect either to obtain the benefits provided in
7 this chapter or to pursue the litigation and waive any claim to en-
8 titlement under this chapter. An election shall be made by filing a
9 motion for dismissal with prejudice in the court in which the litiga-
10 tion is pending. If the claim involves a municipality identified in
11 AS 29.65.010, the municipality shall file its motion for dismissal
12 within 60 days after July 1, 1978. If a claim involves a city eligi-
13 ble to receive an entitlement under AS 29.65.020 the city shall file
14 its motion for dismissal within 60 days after receiving the certifi-
15 cate of entitlement provided by the commissioner under AS 29.65.020.
16 Failure of the municipality to file a motion for dismissal during the
17 time period provided in this subsection is considered a waiver of
18 entitlement under this chapter.

19 (b) A municipality that was eligible to file land selections
20 under former AS 29.18.190 and 29.18.200 and that does not enter into
21 litigation over a claim to rights under those sections before the
22 expiration of the time period within which it could make an election
23 under (a) of this section is considered to have elected to receive
24 benefits under this chapter and to have waived any claim that might
25 have been raised under former AS 29.18.190 and 29.18.200.

26 (c) The provisions of this chapter do not affect the rights of a
27 party to litigation regarding the former AS 29.18.190, 29.18.200 or
28 29.18.420 maintained by a municipality that has elected not to obtain
29 the benefits provided by this chapter.

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of Natural Resources

1 Sec. 29.65.120. ADMINISTRATION. The commissioner may adopt
2 regulations in accordance with the Administrative Procedure Act
3 (AS 44.62) necessary to carry out the purposes of this chapter.

4 Sec. 29.65.130. DEFINITIONS. In this chapter, unless the con-
5 text otherwise requires,

6 (1) "approved selection" means a municipal land selection
7 that has been approved in writing by the director for transfer by
8 patent to a municipality;

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9 (2) ^{DIRECTOR} ~~commissioner~~ means the commissioner of natural re-
10 sources, or the commissioner's designee; ^{Director of Lands, Dept Nat. Resources}

11 (3) "general grant land" (A) means land patented or tenta-
12 tively approved to the state from the United States under sec. 6(a) or
13 (b) of the Alaska Statehood Act, and (B) does not include university
14 land;

15 (4) "mental health land" means land granted under Title II,
16 sec. 202 of P.L. 84--930, as amended before or after July 1, 1978;

HCRA#3

17 (5) "municipal land selection" means a request by a munici-
18 pality, filed in writing with the ^{DIRECTOR} Department of Natural Resources
19 under authority of former AS 29.18.190 and 29.18.200 or under this
20 chapter for vacant, unappropriated, unreserved general grant land
21 within its municipal boundaries in partial fulfillment of its munici-
22 pal entitlement;


HCRA#3

23 (6) "patent" means a document, issued ^{by The Director} to a municipality for
24 a previously approved selection, that conveys and quitclaims all the
25 right, title, and interest of the state without reservation or condi-
26 tion except as may be required by law;

27 (7) "remaining entitlement" means the general grant land
28 entitlement determined in accordance with this chapter, reduced by the
29 total acreage of approved selections, including both patented and

1 unpatented parcels;

2 (8) "school land" means those rectangular sections 16 and
3 36 within each township surveyed on or before January 3, 1959, and
4 confirmed and transferred to the State of Alaska upon its admission
5 under sec. 6(k), Alaska Statehood Act, 72 Stat. 339, and any other
6 land designated solely for school revenues;

7  university land
(9) "vacant, unappropriated, unreserved land" means general
8 grant land as defined in (3) of this section, excluding minerals as
9 required by sec. 6(i) of the Alaska Statehood Act, that

10 (A) has not been set aside by statute for one or more
11 particular uses or purposes;

12 (B) has not been approved for patent to a municipality
13 under this chapter or former AS 29.18.190 and 29.18.200; or

14 (C) is unclassified or, if classified under AS 38.05.-
15 300, is classified for agricultural, grazing, commercial, indus-
16 trial, private recreational, residential, utility, or open-to-
17 entry purposes, or is classified in accordance with an agreement
18 between a municipality and the state providing for state manage-
19 ment of land of the municipality.

20 Sec. 29.65.140. APPLICATION. This chapter applies to home rule
21 and general law municipalities.

22 * Sec. 17. AS 29 is amended by adding a new chapter to read:

23 CHAPTER 71. GENERAL PROVISIONS.

24 Sec. 29.71.010. ADVERSE POSSESSION. A municipality may not be
25 divested of title to real property by adverse possession.

26 Sec. 29.71.020. DEDICATION OF MUNICIPAL PROPERTY. Dedication of
27 streets, rights-of-way, easements or other areas for public use may
28 not be construed to require the municipality to maintain, improve or
29 provide for municipal services in the area dedicated and the

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1 development, includes resubdivision, and relates to the process
2 of subdividing or to the land subdivided;

3 (B) does not include cadastral plats, cadastral con-
4 trol plats, open-to-entry plats, or remote parcel plats created
5 by or on behalf of the state regardless of whether these plats
6 include easements or other public dedications;

7 (24) "unified municipality" means a municipality unified in
8 accordance with AS 29.06.190 -- 29.06.410;

9 (25) "voter" means a United States citizen who is qualified
10 to vote in state elections, has been a resident of the municipality
11 for 30 days immediately preceding the election, is registered to vote
12 in state elections, and is not disqualified under art. V of the state
13 constitution.

14 * Sec. 18. AS 01.10.060 is amended by adding a new paragraph to read:

15 (15) "municipality" means a political subdivision incor-
16 porated under the laws of the state that is a home rule or general law
17 city, a home rule or general law borough, or a unified municipality.

18 * Sec. 19. AS 05.35.040 is amended to read:

19 Sec. 05.35.040. POWER OF MUNICIPALITY. A municipality may own,
20 maintain and employ a facility constructed under AS 05.35.010 --
21 05.35.070. The exercise of this power on an areawide basis is at the
22 option of the borough and is not subject to the restrictions on ac-
23 quiring additional areawide powers in AS 29.35.300 -- 29.35.330
24 [AS 29.33.250 -- 29.33.290].

25 * Sec. 20. AS 09.55.275 is amended to read:

26 Sec. 09.55.275. REPLAT APPROVAL. No agency of the state or
27 municipality may acquire property located within a municipality exer-
28 cising the powers conferred by AS 29.35.180 or 29.35.260(c) that
29 [AS 29.33.150 -- 29.33.245 WHICH] results in a boundary change unless

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NEW SECTION amending AS 09.45.845

1 * Sec. 39. AS 16.20.038(g) is amended to read:
2 (g) The establishment of a refuge under this section does not
3 impair or alter existing rights of a municipality [BOROUGH OR CITY] to
4 state land selected [SELECT STATE LAND] under former AS 29.18.190 --
5 29.18.200.

6 * Sec. 40. AS 18.26.250(2) is amended to read:
7 (2) municipality [MUNICIPAL CORPORATION OR POLITICAL SUB-
8 DIVISION OF THE STATE AS THE TERMS ARE USED IN AS 29];

9 * Sec. 41. AS 18.80.290(d) is amended to read:
10 (d) The governing [LEGISLATIVE] body of a general law or home
11 rule municipality has the authority under AS 29.20.320 [AS 29.48.035]
12 to grant to local commissions powers and duties similar to those
13 exercised by the Alaska Human Rights Commission under the provisions
14 of this chapter [ACT].

15 * Sec. 42. AS 19.30.241(2) is amended to read:
16 (2) "home rule city" means a city as defined in AS 29.04.-
17 010 [AS 29.08.010];

18 * Sec. 43. AS 19.30.241(3) is amended to read:
19 (3) "local government" means an organized borough of any
20 class, a unified municipality [ORGANIZED UNDER AS 29.68.240 -- 29.68.-
21 440], a home rule city, or a first class city [OF THE FIRST CLASS];

22 *NEW SECTIONS amending AS 19.30.260, AS 19.30.280(a)*

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23 * Sec. 44. AS 26.23.230(5) is amended to read:
24 (5) "political subdivision" means a home rule or general
25 law borough or city [, WHETHER HOME RULE OR OTHERWISE,] including a
26 unified municipality [MUNICIPALITIES UNIFIED UNDER AS 29.68.240 --
27 29.68.440], an unincorporated village, or other unit of local govern-
28 ment;

29 * Sec. 45. AS 28.15.051(d) is amended to read:
(d) The department may issue a special driver's permit to a

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1 taxing under AS 29.45.080(c) [AS 29.53.045(c)] exceeds the product of
2 225 percent of the average per capita assessed full and true value of
3 property in the state (to be determined by the department and reported
4 to each municipality by January 15 of each year) multiplied by the
5 number of residents of the taxing municipality, the department shall
6 designate the portion of the tax base against which the local tax may
7 be applied. For purposes of this subsection the average per capita
8 assessed full and true value of property in the state shall be calcu-
9 lated without regard to the assessed value of taxable property under
10 ~~AS 43.58.~~

→ Insert For purposes of this subsection . . .

11 * Sec. 66. AS 43.56.010(d) is amended to read:

12 (d) A tax paid to a municipality under AS 29.45.080 or former
13 AS 29.53.045 on or before June 30 of the tax year shall be credited
14 against the tax levied under (a) of this section for that tax year.
15 If, however, a tax is not paid to a municipality until after June 30
16 of the taxable year, the department upon application shall refund to
17 the taxpayer the amount of tax paid to the municipality under AS 29.-
18 45.080 or former AS 29.53.045. The credit or refund of taxes paid to
19 a municipality may not exceed the total amount of tax levied by the
20 department upon the taxpayer for the tax year, under (a) of this
21 section.

22 * Sec. 67. AS 43.56.060(a) is amended to read:

23 (a) The department shall assess property for the tax levied
24 under AS 43.56.010(b) and AS 29.45.080 [AS 29.53.045] on property used
25 or committed by contract or other agreement for use for the pipeline
26 transportation of gas or unrefined oil or for the production of gas or
27 unrefined oil at its full and true value as of January 1 of the as-
28 sessment year.

29 * Sec. 68. AS 43.75.130(1) is amended to read:

1 these powers have been delegated may waive or modify any regulation or
2 standard established by the department under the authority of AS 47.-
3 35.010 -- 47.35.080 as it applies to nurseries or the application of
4 any such regulation or standard as it applies to a particular day care
5 licensee but must notify the department of any waiver.

6 * Sec. 83. The following laws are repealed: AS 04.11.400(c); AS 04.-
7 21.080(b)(11); AS 14.56.065(b), 14.56.180(3); AS 15.13.130(6); AS 18.55.-
8 950(10); AS 19.20.015(f); AS 24.55.330(3); ~~AS 28.35.260(a)(10)~~ AS 29.08;
9 AS 29.13; AS 29.18; AS 29.23; AS 29.28; AS 29.33; AS 29.38; AS 29.41;
10 AS 29.43; AS 29.48; AS 29.53; AS 29.58; AS 29.63; AS 29.68; AS 29.73;
11 AS 29.78; AS 29.88; AS 29.89; AS 29.95; AS 30.15.070(3); AS 30.30.170(2);
12 AS 35.15.120(3); AS 42.06.630(6); AS 43.20.016; AS 43.56.210(8); AS 44.-
13 07.360(8); AS 44.33.417(6); AS 44.47.310(5); and AS 44.85.410(4).

14 * Sec. 84. A right or liability of a municipality existing on
15 January 1, 1986, is not affected by the enactment of this Act. Ordinances
16 and regulations in effect on January 1, 1986, remain in effect unless they
17 conflict with provisions of this Act. Ordinances and regulations in effect
18 on January 1, 1986, that conflict with provisions of this Act remain in
19 effect for 180 days after January 1986. The terms of elected or appointed
20 municipal officials in office on January 1986, are not affected by this
21 Act, and their terms expire as provided before January 1, 1986.

22 * Sec. 85. This Act takes effect January 1, 1986.

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STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

HCRA#4
COPY

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM

February 22, 1985

#4

SUBJECT: Municipal Code Revision
(HB 72)

TO: Representative Peter Goll
Chairman, Community and
Regional Affairs Committee

FROM: Tamara Brandt Cook
Deputy Director
Division of Legal Services

Here is the amendment you requested that would change chapter 10 of HB 72 by incorporating the language as it appeared in CSHB 172(Fin) from last session. Chapter 10 of HB 72 now mirrors existing law. It permits only first class cities and first and second class boroughs to adopt home rule charters.

Under CSHB 172(Fin) the authority to adopt home rule charters was expanded to include second class cities with populations of at least 600 and third class boroughs. An unincorporated area was also permitted to directly incorporate as a home rule borough or, if an area contained at least 600 residents, it could become a home rule city. Changes from existing law were incorporated into chapter 10 to deal with the mechanics of adopting a charter in an unincorporated area and the material in the chapter was substantially reorganized. This amendment reflects all of these changes and, if adopted, would entirely replace chapter 10 of HB 72.

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A M E N D M E N T

Goll

Offered in the HOUSE

By THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

To: HB 72

Page 28 line 25 through page 31, line 4:

Delete all material and insert the following new sections:

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

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

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

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

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

(f) The proposed charter ... an unincorporated community or an

area of the unorganized borough shall be prepared by the petitioners and filed under AS 29.05.060 with the petition to incorporate a home rule municipality.

Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at least one model home rule charter for a borough and at least one model home rule charter for a city. The model charters shall be made available to persons interested in filing a petition to incorporate a home rule municipality under AS 29.05.060.

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

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

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

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

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

(c) If at least seven nominations for qualified charter

commission candidates are not filed, the petition or resolution calling for a charter commission is void and no election on the question may be held.

Sec. 29.10.050. CHARTER COMMISSION ELECTION. At a charter commission election the voters of an existing municipality shall consider the question "Shall a charter commission be elected to prepare a proposed charter?" and shall elect the members of the commission. If the question is approved, the seven candidates receiving the highest number of votes shall immediately organize as a charter commission.

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

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

Sec. 29.10.080. CHARTER ADOPTION. (a) If a majority of those

voting in an existing municipality favor the proposed charter or if a majority of those voting in an unincorporated community or in an area in the unorganized borough favor incorporation of a home rule municipality, the proposed charter becomes the organic law of the municipality effective on the date the election is certified. Thereafter, a court shall take judicial notice of the charter. The new home rule municipality shall file the indicated number of copies of the charter with

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

(b) At the time of voting on the proposed charter in a third class borough, voters shall vote also on whether the borough shall, on adoption of the charter, retain a combined assembly and school board or elect a separate assembly and board as otherwise provided for home rule boroughs. If a combined assembly and school board are approved at the charter election, the assembly serving at the time of the election continues to serve as the assembly and board on voter approval of the charter and until terms of assembly members expire as provided before adoption of the charter. If a separate board and assembly are approved at the charter election, a school board shall be elected in conformity with AS 14.12.030 - 14.12.100 at the next regular election, if it occurs within 90 days of the date of the charter election, or otherwise at a special election within 90 days of the date of the charter election. Expiration dates of terms of school

board members elected at a special election must coincide with the date of the regular election. Until a board is elected and qualified, the assembly continues to serve as the board.

Sec. 29.10.090. CHARTER REJECTION. (a) If a proposed charter for an existing municipality is rejected, the charter commission shall prepare another proposed charter to be submitted to the voters at an election to be held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of adoption of a charter shall be treated as if it had never been proposed or approved.

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

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

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

Page 31, line 6:

Delete "29.10.100" and insert "29.10.200"

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

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

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

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

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

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

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

23 CHAPTER 10. HOME RULE MUNICIPALITIES.

24 ARTICLE 1. CHARTERS.

25 Sec. 29.10.010. MUNICIPAL CHARTER ADOPTION. A first class
26 municipality or second class borough may adopt a charter for its own
27 government. A home rule municipality may amend its charter or adopt a
28 new one. A charter is framed by a charter commission of seven members
29 chosen by the municipal voters at a regular or special election.

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HCRA # 4

1 candidate for the commission shall be a qualified voter of the municipi-
2 pality and a resident of the municipality for three years immediately
3 preceding the election. A charter commission election is called by
4 filing a petition with the borough assembly or the city council, or by
5 resolution of the borough assembly or city council. The petition
6 shall be signed by a number of municipal voters equal to 15 percent of
7 the votes cast in the last regular election of the municipality.

8 Sec. 29.10.020. NOMINATION. Charter commission candidates are
9 nominated by petitions signed by 50 voters or the number of qualified
10 municipal voters equal to 10 percent of the number of votes cast in
11 the last regular election, whichever is less.

12 Sec. 29.10.030. ELECTION. At the charter commission election
13 the voters shall consider the question "Shall a charter commission be
14 elected to frame a proposed new charter?" and shall select the members
15 of the commission. If the question is approved, the seven candidates
16 receiving the highest number of votes shall immediately organize as a
17 charter commission.

18 Sec. 29.10.040. PREPARATION OF CHARTER. The charter commission
19 shall, within one year, prepare a municipal charter. The proposed
20 charter shall be signed by a majority of the charter commissioners and
21 filed in the office of the municipal clerk. Within 15 days, the
22 borough assembly or city council shall have the charter published once
23 in a newspaper of general circulation if distributed within the
24 municipality. The clerk shall post copies of the proposed charter in
25 at least three public places and make copies available at the office
26 of the clerk. The commission shall give published notice of and hold
27 at least one public hearing on the proposed charter before the signing
28 and filing of the charter.

29 Sec. 29.10.050. INITIATIVE AND REFERENDUM. (a) Municipal

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HCRA #4

1 charters shall provide the procedures for the initiative and referen-
2 dum.

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

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

9 Sec. 29.10.060. CHARTER ELECTION. The charter shall be submit-
10 ted to the municipal voters at a regular or special election held not
11 less than 30 days nor more than 90 days from the publication of the
12 charter.

13 Sec. 29.10.070. CHARTER ADOPTION. (a) If a majority of those
14 voting on the question favor the proposed charter, it becomes the
15 organic law of the municipality. Thereafter, the court shall take
16 judicial notice of the charter. The municipality shall file the
17 indicated number of copies of the charter with the

- 18 (1) lieutenant governor -- two copies;
- 19 (2) Department of Community and Regional Affairs -- two
20 copies;
- 21 (3) district recorder -- one copy;
- 22 (4) municipal clerk -- one copy.

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

HCRA #5

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 485-3800

LEGISLATIVE AFFAIRS AGENCY

#5

MEMORANDUM

February 25, 1985

SUBJECT: Municipal Code Revision (HB 72)

TO: Representative Peter Goll
Chairman, Community and
Regional Affairs Committee

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

Here is the amendment that your requested incorporating language submitted by the Department of Community and Regional Affairs. I have redrafted the language so that it meets requirements of style and replaced a reference to regulations with a reference to the statute that provides authority for the adoption of the regulations. Specific regulations are not referred to in statutes because they can be changed by the executive branch. Enacting a statute that depends upon regulations would amount to a delegation of the power to legislate to the executive branch of government. Please review this amendment carefully to determine if it reflects your intended changes.

You have asked what the effect of this amendment would be. It alters the definition of "health facility" in the section dealing with grants to those facilities. Under the amendment, these facilities would include those that are approved under regulations adopted by the Department of Community and Regional Affairs, and specifically would include domestic violence or sexual assault shelters and alcohol or drug abuse facilities. Existing law demands that the facility be licensed when that is required by the state, and this language is deleted. The definition under existing law is broad enough so that it might include the facilities specifically identified under the amendment, although the amendment makes that more clear. The amendment also specifically allows the department to designate any facility as a health facility by regulation, if it meets the other requirements that are unchanged under this amendment.

TBC:ojb
J12/013

A M E N D M E N T

5

Offered in the HOUSE

TO: HB 72

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

Page 161, lines 1 and 2:

Delete "whether licensed or unlicensed,"

Page 161, lines 17 and 18:

Delete ", when required, by the state under AS 18.20.010 - 18.20.130"
and insert "or certified by the state or approved under regulations
adopted by the department"

Page 161, line 23:

Delete "or"

After "center" insert ", domestic violence or sexual assault shelter
qualified to receive a grant or contract under AS 18.66, or alcohol or drug
abuse facility that meets standards established under AS 47.37"

1 design of the health facility, or \$8,000 per health facility, ~~whether~~
2 ~~licensed or unlicensed~~, as the municipality determines.

3 (b) A hospital may not receive payment under both (a)(1) and
4 (a)(2) of this section.

5 (c) Money received by a municipality under (a)(3) of this sec-
6 tion shall be used for expenses of health services or operation and
7 maintenance of health facilities as the municipality determines.

8 (d) Before money may be distributed under this section, the com-
9 missioner of health and social services shall certify to the commis-
10 sioner of community and regional affairs that any accumulation of
11 assets by nonprofit corporations or other recipients under this sec-
12 tion is dedicated irrevocably to a public purpose.

13 (e) Subsections (a) and (c) of this section apply to home rule
14 and general law municipalities.

15 (f) In this section

16 (1) "health facility"

17 (A) means a facility that is licensed, *OR certified by the state*
18 *by the state under AS 18.20.010 -- 18.20.130* and that is owned or *or approved*
19 operated or both by a municipality or by a nonprofit corporation *under*
20 or other nonprofit sponsor; *Regulation*
adopted by
the dept.

21 (B) includes a public health center, maternity home,
22 community mental health center, facility for the mentally or
23 physically handicapped, nursing home, ~~or~~ convalescent center; *A domestic*

24 (C) excludes a facility operated or wholly supported *violence..*
25 by the state or the federal government;

26 (2) "hospital" means a licensed hospital determined by the
27 Department of Health and Social Services to be a general or special
28 hospital; the term excludes a facility operated or wholly supported by
29 the state or the federal government.

HCRA #5

HCRA #5

HCRA #5

A M E N D M E N T

Offered in the HOUSE

TO: HB 72

Page 53, line 26, after "PROHIBITIONS." insert:

"(a) A person may not be in any way favored or discriminated against with respect to municipal employment because of the person's race, color, sex, creed, national origin or, unless otherwise contrary to law, because of the person's political opinions or affiliations."

Reletter following subsections accordingly.

Page 53, line 29:

Delete "section" and insert "subsection"

1 or otherwise to appoint officials and employees in accordance with
2 law.

3 Sec. 29.20.520. REPEAL OF MANAGER PLAN. A municipality may
4 repeal a manager plan in the same manner used for its adoption.
5 Within 60 days after repeal of a manager plan, the governing body
6 shall enact provisions for the reorganization of the municipal execu-
7 tive and administrative functions.

8 ARTICLE 7. MISCELLANEOUS PROVISIONS.

9 Sec. 29.20.600. OATHS OF OFFICE. Before taking office a munici-
10 pal official shall affirm in writing that the duties of the office
11 will be honestly, faithfully, and impartially performed by the offi-
12 cial. The oath is filed with the municipal clerk.

13 Sec. 29.20.610. BONDING. The manager and the other municipal
14 officials or employees that the governing body may designate shall
15 give bond in the amount and with the surety prescribed by the govern-
16 ing body. Premiums on bonds are paid by the municipality.

17 Sec. 29.20.620. COMPENSATION FOR ELECTED OFFICIALS. The govern-
18 ing body shall by ordinance provide a method of determining the sal-
19 aries of elected officials. The salary of the mayor may not be re-
20 duced during the term of office of the mayor, unless during the term a
21 manager plan is adopted. An elected official may not receive com-
22 pensation for service to the municipality in addition to the salary
23 received as an elected official, unless otherwise provided by ordi-
24 nance. Per diem payments or reimbursements for expenses are not
25 compensation under this section.

26 Sec. 29.20.630. PROHIBITIONS. *“(a) a person may not be in any way . . .*
27 *^* (a) subject to AS 14.14.140, a
28 state employee or school district employee may not be denied the right
29 to serve as an elected municipal official because of employment by the
state or a school district. For purposes of this *subsection* *set for* a school

HCRA
#6

A M E N D M E N T

#7

Offered in the HOUSE

TO: HB 72

Page 58, line 13:

Delete "those imposed for a class B misdemeanor" and insert "a fine of \$1,000 and imprisonment for 90 days"

Page 96, line 18:

Delete "A person convicted of violating" and insert "For the violation of"

Page 96, line 21:

Delete "is guilty of a class B misdemeanor" and insert ", a municipality may by ordinance prescribe penalties not to exceed a fine of \$1,000 and imprisonment for 90 days"

Page 116, line 29:

Delete "A person who knowingly fails" and insert "For knowingly failing"

Page 117, line 1:

After "file a" insert "tax"

Delete "who"

Delete "makes" and insert "making"

Page 117, line 4:

Delete "is guilty of a class B misdemeanor" and insert ", a municipality may by ordinance prescribe penalties not to exceed a fine of \$1,000 or imprisonment for 90 days"

1 conduct or behavior and that is included, or to be included, in a code
2 of ordinances or other complete system of law enacted and kept current
3 at reasonable intervals.

4 (d) This section applies to home rule and general law municipi-
5 palities.

6 Sec. 29.25.060. RESOLUTIONS. (a) The governing body shall
7 provide for the maintenance of a permanent file of resolutions that
8 have been adopted.

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

11 Sec. 29.25.070. PENALTIES. (a) For the violation of an ordi-
12 nance, a municipality may by ordinance prescribe penalties not to
13 exceed those imposed for a class B misdemeanor *a fine of \$1000 and imprisonment for 90 days*

14 (b) The municipality or an aggrieved person may institute a
15 civil action against a person who violates an ordinance. In addition
16 to injunctive and compensatory relief, a civil penalty not to exceed
17 \$1,000 may be imposed for each violation. An action to enjoin a
18 violation may be brought notwithstanding the availability of any other
19 remedy. On application for injunctive relief and a finding of a
20 violation or a threatened violation, the superior court shall grant
21 the injunction. Each day that a violation of an ordinance continues
22 constitutes a separate violation.

23 (c) The penalties authorized under this section may be imposed
24 only if copies of the ordinance are made available for distribution to
25 the public at no more than cost.

26 * Sec. 8. AS 29 is amended by adding a new chapter to read:

27 CHAPTER 26. ELECTIONS.

28 ARTICLE 1. REGULAR AND SPECIAL ELECTIONS.

29 Sec. 29.26.010. ADMINISTRATION. The governing body shall

HCR#7

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1 in (a) of this section but remains in the city.

2 Sec. 29.40.170. DELEGATIONS. The planning commission and the
3 platting authority may, as authorized by ordinance, delegate powers to
4 hear and decide cases under this chapter, including, but not limited
5 to, delegations to

6 (1) one or more members of the planning commission or plat-
7 ting authority;

8 (2) other boards or commissions;

9 (3) a hearing officer designated by the planning commission
10 or platting authority.

11 Sec. 29.40.180. VIOLATIONS. It is unlawful for the owner of
12 land located in a subdivision to transfer, sell, offer to sell, or
13 enter into a contract to sell land in a subdivision before a plat of
14 the subdivision has been prepared, approved, and filed in accordance
15 with this chapter. It is unlawful for a person to file a plat or
16 other document depicting subdivided land in a public recorder's office
17 unless the plat or document has been approved by the platting author-
18 ity. ~~A person convicted of violating~~ ^{For the violation of} a provision of this chapter, a
19 subdivision regulation adopted under this chapter, or a term, condi-
20 tion, or limitation imposed by a platting authority in the exercise of
21 its powers under this chapter ~~is guilty of a class B misdemeanor.~~ ^{A municipality}

22 Sec. 29.40.190. REMEDIES. (a) The municipality or an aggrieved ^{may by ordinance}
23 person may institute a civil action against a person who violates a ^{prescribe...}
24 provision of this chapter, a subdivision regulation adopted under this
25 chapter, or a term, condition, or limitation imposed by a platting
26 authority. In addition to other relief, a civil penalty not to exceed
27 \$1,000 may be imposed for each violation. An action to enjoin a
28 violation may be brought notwithstanding the availability of any other
29 remedy. Upon application for injunctive relief and a finding of a

HCRA
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1 than the value existing on January 1 of the tax year, and for reduc-
2 tion and refund of taxes. In enacting an ordinance authorized by this
3 section, the municipality may prescribe procedures, restrictions, and
4 conditions of assessing or reassessing business inventories and of
5 remitting or refunding taxes.

6 Sec. 29.45.120. RETURNS. (a) The municipality may require each
7 person having ownership or control of or an interest in property to
8 submit a return in the form prescribed by the assessor, based on prop-
9 erty values existing on January 1, except as otherwise provided in
10 this chapter.

11 (b) The assessor may, by written notice, require a person to
12 provide additional information within 30 days.

13 Sec. 29.45.130. INDEPENDENT INVESTIGATION. (a) The assessor is
14 not bound to accept a return as correct. The assessor may make an
15 independent investigation of property returned or of taxable property
16 on which no return has been filed. In either case, the assessor may
17 make the assessor's own valuation of the taxable property and this
18 valuation is prima facie evidence of the value of the property.

19 (b) For investigation, the assessor or the assessor's agent may
20 enter a premise during reasonable hours and may examine property on
21 the premise. The assessor or the assessor's agent may examine all
22 property records involved. A person shall, on request, furnish to the
23 assessor or the assessor's agent every facility and assistance for the
24 investigation. The assessor may seek a court order to compel entry
25 and production of records needed for assessment purposes.

26 (c) An assessor may examine a person on oath. On request, the
27 person shall submit to examination at a reasonable time and place
28 selected by the assessor.

29 Sec. 29.45.140. VIOLATIONS. *FOR knowingly failing*
A person who knowingly fails to

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HCRA
#7

1 file ^{Tax} statement required by ordinance or ~~who~~ knowingly ^{making} ~~makes~~ a false
2 affidavit to a statement required by a tax ordinance relative to the
3 amount, location, kind or value of property subject to taxation with
4 intent to evade the taxation, ~~is guilty of a class B misdemeanor~~ ^{A municipality}
5 Sec. 29.45.150. REEVALUATION. A systematic reevaluation of ^{may by}
6 taxable real and personal property undertaken by the assessor, whether ^{ordinance}
7 of specific areas in which real property is located or of specific ^{prescribe.}
8 classes of real or personal property to be assessed, shall be made
9 only in accordance with a resolution or other act of the municipality
10 directing a systematic reevaluation of all taxable property in the
11 municipality over the shortest period of time practicable, as fixed in
12 the resolution or act.

13 Sec. 29.45.160. ASSESSMENT ROLL. (a) The assessor shall pre-
14 pare an annual assessment roll. The roll shall contain

- 15 (1) a description of all taxable property;
- 16 (2) the assessed value of all taxable property;
- 17 (3) the names and addresses of persons with property sub-
18 ject to assessment and taxation.

19 (b) The assessor may list real property by any description that
20 may be made certain. Real property is assessed to the record owner.
21 The district recorder shall at least monthly provide the assessor a
22 copy of each recorded change of ownership showing the name and mailing
23 address of the owner and the name and mailing address of the person
24 recording the change of ownership. Other persons having an interest
25 in the property may be listed on the assessment records with the
26 owner. The person in whose name property is listed as owner is conclu-
27 sively presumed to be the legal record owner. If the property owner
28 is unknown, the property may be assessed to "unknown owner". An
29 assessment is not invalidated by a mistake, omission, or error in the

HCRA #8

Cook

A M E N D M E N T

#8

Offered in the HOUSE

TO: HB 72

Page 62, line 23: delete "60" insert "90"

Page 63, line 12:

Delete "60" and insert "90"

1 correspondence relating to the petition may be sent. An application
2 shall be signed by at least 10 voters who will sponsor the petition.
3 An additional sponsor may be added at any time before the petition is
4 filed by submitting the name of the sponsor to the clerk. Within two
5 weeks the clerk shall certify the application if the clerk finds that
6 it is in proper form and, for an initiative petition, that the matter

7 (1) is not restricted by AS 29.26.100;

8 (2) includes only a single subject;

9 (3) relates to a legislative rather than to an administra-
10 tive matter; and

11 (4) would be enforceable as a matter of law.

12 (b) A decision by the clerk on an application for petition is
13 subject to judicial review.

14 Sec. 29.26.120. CONTENTS OF PETITION. (a) Within two weeks
15 after certification of an application for an initiative or referendum
16 petition, a petition shall be prepared by the municipal clerk. Each
17 copy of the petition shall contain

18 (1) a summary of the ordinance or resolution to be initi-
19 ated or the ordinance or resolution to be referred;

20 (2) the complete ordinance or resolution sought to be ini-
21 tiated or referred as submitted by the sponsors;

22 (3) the date on which the petition is issued by the clerk;

23 *HCRA#8* (4) notice that signatures must be secured within ~~10~~⁹⁰ days
24 after the date the petition is issued;

25 (5) spaces for each signature, the printed name of each
26 signer, the date each signature is affixed, and the residence and
27 mailing addresses of each signer;

28 (6) a statement, with space for the sponsor's sworn signa-
29 ture and date of signing, that the sponsor personally circulated the

1 petition, that all signatures were affixed in the presence of the
2 sponsor, and that the sponsor believes the signatures to be those of
3 the persons whose names they purport to be; and

4 (7) space for indicating the total number of signatures on
5 the petition.

6 (b) If a petition consists of more than one page, each page
7 shall contain the summary of the ordinance or resolution to be initi-
8 ated or the ordinance or resolution to be referred.

9 (c) Copies of the petition shall be provided to each sponsor by
10 the clerk.

11 Sec. 29.26.130. SIGNATURE REQUIREMENTS. (a) The signatures on
12 an initiative or referendum petition shall be secured within ~~60~~⁹⁰ days
13 after the clerk issues the petition. The statement provided under
14 AS 29.26.120(a)(6) shall be signed and dated by the sponsor. Signa-
15 tures shall be in ink or indelible pencil.

16 (b) The clerk shall determine the number of signatures required
17 on a petition and inform each sponsor. A petition shall be signed by
18 a number of voters based on the number of votes cast at the last
19 regular election held before the date the petition was issued equal to

20 (1) 25 percent of the votes cast if a municipality has
21 fewer than 7,500 persons; or

22 (2) 15 percent of the votes cast if a municipality has
23 7,500 persons or more.

24 (c) Illegible signatures shall be rejected by the clerk unless
25 accompanied by a legible printed name. Signatures not accompanied by
26 a legible residence address shall be rejected.

27 (d) A petition signer may withdraw the signer's signature on
28 written application to the clerk before certification of the petition.

29 Sec. 29.26.140. SUFFICIENCY OF PETITION. (a) All copies of an

HCRA
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HGRA #9

A M E N D M E N T

#9

Offered in the HOUSE

TO: HB 72

Page 64, line 9:

Delete "within 10 days" and insert "before the 11th day"

Page 69, line 3:

Delete "within 10 days" and insert "before the 11th day"

1 initiative or referendum petition shall be assembled and filed as a
2 single instrument. Within 10 days after the date the petition is
3 filed, the municipal clerk shall

4 (1) certify on the petition whether it is sufficient; and

5 (2) if the petition is insufficient, identify the insuffi-
6 ciency and notify the sponsors at the address provided under AS 29.-
7 26.110(a) by certified mail.

8 (b) A petition that is insufficient may be supplemented with
9 additional signatures obtained and filed *within 10 days* after the date
10 on which the petition is rejected. *before the 11th day*

11 (c) A petition that is insufficient shall be rejected and filed
12 as a public record unless it is supplemented under (b) of this sec-
13 tion. Within 10 days after a supplementary filing the clerk shall
14 recertify the petition. If it is still insufficient, the petition is
15 rejected and filed as a public record.

16 Sec. 29.26.150. PROTEST. If the municipal clerk certifies an
17 initiative or referendum petition is insufficient, a signer of the
18 petition may file a protest with the mayor within seven days after the
19 certification. The mayor shall present the protest at the next regu-
20 lar meeting of the governing body. The governing body shall hear and
21 decide the protest.

22 Sec. 29.26.160. NEW PETITION. Failure to secure sufficient
23 signatures does not preclude the filing of a new initiative or refer-
24 endum petition. However, a new petition on substantially the same
25 matter may not be filed sooner than six months after a petition is
26 rejected as insufficient.

27 Sec. 29.26.170. INITIATIVE ELECTION. (a) Unless substantially
28 the same measure is adopted, when a petition seeks an initiative vote
29 the clerk shall submit the matter to the voters at the next regular

HCRA
#9

HCRA
#9

1 AS 29.26.260(a)(2) by certified mail.

2 (b) A petition that is insufficient may be supplemented with
3 additional signatures obtained and filed ~~within 10 days~~ after the date
4 on which the petition is rejected if *before the 11th day*.

5 (1) the petition contains an adequate number of signatures,
6 counting both valid and invalid signatures; and

7 (2) the supplementary petition is filed more than 180 days
8 before the end of the term of office of the official sought to be re-
9 called.

10 (c) A petition that is insufficient shall be rejected and filed
11 as a public record unless it is supplemented under (b) of this sec-
12 tion. Within 10 days after the supplementary filing the clerk shall
13 recertify the petition. If it is still insufficient, the petition is
14 rejected and filed as a public record.

15 Sec. 29.26.300. NEW RECALL PETITION APPLICATION. A new applica-
16 tion for a petition to recall the same official may not be filed
17 sooner than six months after a petition is rejected as insufficient.

18 Sec. 29.26.310. SUBMISSION. If a recall petition is sufficient,
19 the clerk shall submit it to the governing body at the next regular
20 meeting or at a special meeting held before the next regular meeting.

21 Sec. 29.26.320. ELECTION. (a) If a regular election occurs
22 within 75 days but not sooner than 45 days after submission of the
23 petition to the governing body, the governing body shall submit the
24 recall at that election.

25 (b) If no regular election occurs within 75 days, the governing
26 body shall hold a special election on the recall question within 75
27 days but not sooner than 45 days after a petition is submitted to the
28 governing body.

29 (c) If a vacancy occurs in the office after a sufficient recall

A M E N D M E N T

Offered in the HOUSE
TO: HB 72

Page 66, line 5:

Delete "An" and insert "The effect of an"

Page 66, line 6:

Delete "repealed or amended" and insert "modified or negated"

Delete "one year" and insert "two years"

Page 66, line 13:

Delete "one year", insert "two years"

HERA

10

1 (d) If a majority vote favors the repeal of the matter referred,
2 it is repealed. Otherwise, the matter referred remains in effect or,
3 if it has been suspended, becomes effective on certification of the
4 election.

The effect of an

5 Sec. 29.26.190. EFFECT. (a) ~~An~~ ordinance or resolution may not
6 be ~~repealed or amended~~ *modified or negated* within ~~one year~~ *Two years* after its effective date if
7 adopted in an initiative election or if adopted after a petition that
8 contains substantially the same measure has been filed.

9 (b) If an ordinance or resolution is repealed in a referendum
10 election or by the governing body after a petition that contains sub-
11 stantially the same measure has been filed, substantially similar
12 legislation may not be enacted by the governing body for a period of
13 ~~one year.~~ *Two years.*

14 (c) If an initiative or referendum measure fails to receive
15 voter approval, a new petition application for substantially the same
16 measure may not be filed sooner than six months after the election
17 results are certified.

18 ARTICLE 3. RECALL.

19 Sec. 29.26.240. RECALL. An official who is elected or appointed
20 to an elective municipal office may be recalled by the voters after
21 the official has served the first 120 days of the term for which
22 elected or appointed.

23 Sec. 29.26.250. GROUNDS FOR RECALL. Grounds for recall are
24 misconduct in office, incompetence, or failure to perform prescribed
25 duties.

26 Sec. 29.26.260. APPLICATION FOR RECALL PETITION. (a) An appli-
27 cation for a recall petition shall be filed with the municipal clerk
28 and shall contain

29 (1) the signatures and residence addresses of at least 10

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A M E N D M E N T

11

Offered in the HOUSE

TO: HB 72

Page 73, line 18, after "AS 09.55.250 - 09.55.460." insert:

"In the case of a second class city, the exercise of the power of eminent domain or declaration of taking must be by ordinance that is submitted to the voters at the next general election or at a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance."

1 services, solid and septic waste disposal, utility services, airports,
2 streets (including ice roads), trails, transportation facilities,
3 wharves, harbors and other marine facilities outside its boundaries
4 and may regulate their use and operation to the extent that the juris-
5 diction in which they are located does not regulate them. A regu-
6 lation adopted under this section must state that it applies outside
7 the municipality.

8 (b) A municipality may adopt an ordinance to protect its water
9 supply and watershed, and may enforce the ordinance outside its bound-
10 aries. Before this power may be exercised inside the boundaries of
11 another municipality, the approval of the other municipality must be
12 given by ordinance.

13 (c) This section applies to home rule and general law municipal-
14 ities.

15 Sec. 29.35.030. EMINENT DOMAIN. (a) A municipality may exer-
16 cise the powers of eminent domain and declaration of taking in the
17 performance of a power or function of the municipality under the
18 procedures set out in AS 09.55.250 -- 09.55.460.

HCRA #11

19 *In the case of a second class city . . .*
(b) This section applies to home rule and general law municipal-
20 ities.

21 Sec. 29.35.040. EMERGENCY DISASTER POWERS. (a) A municipality
22 that is wholly or partially in an area that is declared by the Presi-
23 dent or governor to be a disaster area may participate in and provide
24 for housing, urban renewal, and redevelopment in the same manner as a
25 home rule city. The exercise of these powers by a borough shall be on
26 a nonareawide basis, except a borough may exercise the powers trans-
27 ferred to it by a city as provided by AS 29.35.310.

28 (b) Powers granted by this section must be initiated within a
29 period of not more than five years after the date of declaration of a

HCRA #12

Cook.

12

A M E N D M E N T

Offered in the HOUSE

TO: HB 72

Page 127, line 8:

Delete "\$20,000" and insert "\$10,000"

HCRA
#12

1 the municipality. The notice appears once a week for four consecutive
2 weeks in a newspaper of general circulation distributed in the muni-
3 cipality. If there is no newspaper of general circulation distributed
4 in the municipality, the notice is posted in three public places for
5 at least four consecutive weeks. The clerk shall send a copy of the
6 notice by certified mail to each record owner of property against
7 which a judgment of foreclosure has been taken and, if the assessed
8 value of the property is more than ~~\$20,000~~ ^{\$10,000} to all holders of mort-
9 gages or other liens of record on the property. The notice shall be
10 mailed within five days after the first publication. The mailing
11 shall be sufficient if mailed to the property owner and to the holder
12 of a mortgage or recorded lien at the last address of record.

13 (b) The right of redemption expires 30 days after the date of
14 the first notice publication.

15 (c) Costs incurred in the determination of holders of mortgages
16 and other liens of record and costs of notice publication incurred by
17 a municipality under (a) of this section are a lien on the property
18 and may be recovered by the municipality.

19 Sec. 29.45.450. DEED TO BOROUGH OR CITY. (a) Unredeemed prop-
20 erty in the area of the borough outside all cities is deeded to the
21 borough by the clerk of the court. Unredeemed property in a city is
22 deeded to the city subject to the payment by the city of unpaid bor-
23 ough taxes and costs of foreclosure levied against the property before
24 foreclosure. The deed shall be recorded in the recording district in
25 which the property is located.

26 (b) Conveyance gives the municipality clear title, except for
27 prior recorded tax liens of the United States and the state.

28 (c) If unredeemed property lies in a city and if the city has no
29 immediate public use for the property but the borough does have an

3/12/85 --- Review of action taken by Committee on
SB 142

Twelve amendments as passed by House C&RA were reviewed
3/11 in special meeting. Action taken was as follows:

Amendment #1 -- adopted

Amendment #2 -- adopted

Amendment #3 -- adopted

Amendment #4 -- adopted -- then amended to allow home rule
if 400 residents (as opposed to 600)

Amendment #5 -- adopted

Amendment #6 -- Not adopted -- contains anti discrimination
clause wording

Amendments #7 through 12 -- adopted

Discussion on fiscal note ---

agreed that it could be withdrawn if it became a key factor
in passing the bill

Discussion on proposed amendment #1A -- balance of authority
between state and local authorities as to land use

Considered amendment drafted by Tam Cook ----

made wording changes in Cook draft --

new draft amendment attached as Atch #1

Letter of intent requested on proposed changes offered by
Alaska Rural Electric Cooperative Assn

letter of intent attached as Atch #2

Requested memo from Revisor of Statutes as to disposition
of "purpose" clauses upon codification of statutes

Memo attached as Atch #3

3/11/85 1:50P

Cook

Attch #1

A M E N D M E N T #1A

Offered in the SENATE

TO: SB 142

By the Community and Regional

Affairs Committee

Page 1, after line 8, insert a new bill section to read:

"* Section 1. PURPOSE. The legislature finds that the municipal code contains many provisions that have created problems for municipalities that must function under AS 29 and that the title is poorly organized and difficult for people to use. Therefore, it is the purpose of the legislature to revise and reorganize the municipal code to permit local government to function more effectively. Except as expressly provided, the legislature does not intend by this Act to alter or affect in any way the relationship or balance of authority between the state and home rule or general law municipalities with respect to the timing or manner of resource development under AS 31, AS 38, or other provisions of law. Except as expressly provided, the legislature does not intend by this Act to increase or reduce the authority of state agencies to carry out their functions under other titles."

Renumber following bill sections accordingly.

Atech #2

3/12/85

Re: Alaska Rural Electric Cooperative Association
proposed amendments to SB 142

Items 1 (page 100 of bill) and 2 (page 75 of bill)

D R A F T

LETTER OF INTENT TO ACCOMPANY SB 142

It is not the intent of the Legislature through the passage of SB 142 to change the taxing provisions for electric and telephone cooperatives as set forth by AS 10.25-540-560; nor is it the intent of the Legislature to change present statute provisions covering public utility access to municipal rights of way as set forth by AS 42.05.251.

Senate Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

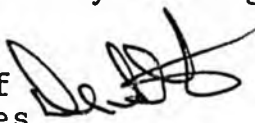
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 13, 1985

SUBJECT: Purpose clause for SB 142

TO: Senator Edna DeVries
Chair, Senate Community and Regional Affairs

FROM: David R. Dierdorff 
Revisor of Statutes

I have reviewed the purpose clause proposed as an amendment to SB 142, the municipal code revision.

Should the legislature enact this bill, or another version of it, with the purpose clause included, you can be assured that the clause would be set out in an editor's note following the title analysis for AS 29 (page 1 of the pamphlet). It is my understanding that your committee wants a note to remain in AS for at least 10 years. My instructions to the Michie Company would include a request that the note be considered "permanent" and that it not be deleted until at least 1995, and thereafter only at the express direction of the revisor.

DRD:csh
c3/041

Atch #3

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

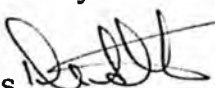
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM -

March 12, 1985

SUBJECT: References in AS to Purpose

TO: Senator Edna DeVries
Chair, Senate Community and Regional Affairs

FROM: David R. Dierdorff 
Revisor of Statutes

When the legislature enacts a "purpose clause" as a part of an Act, our procedures after adjournment include instructing the statute publisher to include at least a cross-reference to the purpose clause at appropriate locations in the Alaska Statutes. In many cases, the entire clause is set out in an editor's note in the statutes. Treatment of a purpose clause depends on the circumstances, but it is our policy to always make it possible for a user of the statutes to find the clause in the Temporary and Special Acts (binders 10-12 of AS) if it is not set out in a note.

Generally, the appropriate place for a note is immediately following the appropriate unit of AS. That may be a title, chapter or article analysis, or an individual section or sections.

When doing our editorial work in connection with the replacement of AS title pamphlets we always check for the continued utility of all notes in AS and also make an effort to add notes that may add to the utility of the publication.

If I may be of further assistance, please advise.

DRD:csh
c3/040

J-

Cook Amend #1A

A M E N D M E N T

Offered in the SENATE

By the Community and Regional

TO: SB 142

Affairs Committee

Page 1, after line 8, insert a new bill section to read:

"* Section 1. PURPOSE. The legislature finds that the municipal code contains many provisions that have created problems for municipalities that must function under AS 29 and that the title is poorly organized and difficult for people to use. Therefore, it is the purpose of the legislature to revise and reorganize the municipal code, ^{to permit local government to function more effectively.} ~~so that the procedural requirements in the code are more efficient and so that the code is easier for municipalities and their citizens to use.~~ ^{Except as expressly provided} The legislature does not intend ^{by} ~~in~~ this Act to alter or affect in any way the relationship or balance of authority between the state and home rule or general law municipalities with respect to the timing or manner of resource development under AS 31, AS 38, or other provisions of law. Except as expressly provided, the legislature does not intend ^{by} ~~in~~ this Act to increase or ^{reduce} ~~limit~~ the authority of state agencies to carry out their functions under other titles."

Renumber following bill sections accordingly.

Plummer

Sec. 29.40.210. ACTIVITIES AUTHORIZED BY STATE OR FEDERAL AGENCIES. (a) Ordinances, regulations or permit decisions adopted or promulgated under AS 29.35.180 or AS 29.40. may not preclude or otherwise impede a resource exploration or development activity or project conducted pursuant to a lease, license, permit or other authorization issued by a state or federal regulatory agency or department having jurisdiction over the activity or project.

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

MUNICIPAL CODE REVISIONS

Testimony by

R. H. WEAVER
Area Manager (Alaska Operations)
EXXON COMPANY, U.S.A.

BEFORE THE
SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
JUNEAU, ALASKA
MARCH 7, 1985

MUNICIPAL CODE REVISIONS

Testimony by R. H. Weaver

THANK YOU FOR THIS OPPORTUNITY TO ADDRESS YOU CONCERNING REVISION AND RECODIFICATION OF TITLE 29 OF THE ALASKA STATUES. EXXON JOINS WITH THE MUNICIPAL GOVERNMENTS OF THIS STATE IN URGING YOU TO ADOPT LEGISLATION WHICH WOULD REVISE THE MUNICIPAL CODE. WE BELIEVE THAT THIS LEGISLATION IS OVERDUE AND WOULD ACHIEVE THE BASIC RESTRUCTURING THAT THE MUNICIPALITIES DESIRE.

AT THE SAME TIME, AS A MAJOR HOLDER OF STATE OIL AND GAS LEASES, EXXON IS ACUTELY AWARE OF A POTENTIAL CONFLICT WHICH MAY ARISE FROM THIS PROPOSED LEGISLATION: A CONFLICT OVER THE RIGHT TO DEVELOP AND MANAGE THE NATURAL RESOURCES OF THIS STATE.

THE ALASKA STATEHOOD ACT, THE CONSTITUTION OF THE STATE OF ALASKA AND THE ALASKA LANDS ACT ALL REQUIRE THAT THE NATURAL RESOURCES OF THIS STATE BE FULLY AND RESPONSIBLY DEVELOPED ON

A MULTIPLE-USE BASIS. UNDER THE STATEHOOD ACT, THE STATE OF ALASKA HAS ACQUIRED OR IS SELECTING ONE AND ONE QUARTER MILLION ACRES OF LAND IN ADDITION TO OTHER LANDS PREVIOUSLY GRANTED TO THE STATE, AS WELL AS TIDELANDS AND LANDS UNDERLYING NAVIGABLE WATERS. INHERENT IN THIS OWNERSHIP IS THE RIGHT AND ABILITY TO CONTROL THE USE, DISPOSITION AND DEVELOPMENT OF THOSE LANDS.

CHAPTER 40 OF THIS LEGISLATION GRANTS MUNICIPALITIES BROAD POWERS TO PLAN, PLAT AND REGULATE LAND USE WITHIN THEIR BOUNDARIES. OUR CONCERN IS THAT THIS CHAPTER MAY PROVIDE THE BASIS FOR AN ARGUMENT THAT THIS LEGISLATURE INTENDED TO RELINQUISH CONTROL OVER STATE LANDS AND TO DELEGATE TO MUNICIPALITIES THE AUTHORITY TO MAKE ULTIMATE DECISIONS ABOUT DEVELOPMENT OF STATE LANDS. WE BELIEVE THAT IT IS NOT IN THE BEST INTEREST OF THE PEOPLE OF THE STATE FOR THE STATE TO RELINQUISH ITS PRIMACY OVER THE DEVELOPMENT OF RESOURCES ON STATE OWNED LAND

AND WE ASK YOU TO MAKE CLEAR THAT YOUR INTENT IS TO RETAIN CONTROL, BY INSERTING IN CHAPTER 40, THE FOLLOWING LANGUAGE:

"SEC. 29.40.210. REGULATION OF USE OF STATE LAND. MUNICIPAL LAND USE REGULATIONS AND COMPREHENSIVE PLANS SHALL APPLY TO STATE LANDS IN AN ADVISORY SENSE, ONLY, AND SHALL NOT BE HELD TO RESTRICT OR DIMINISH THE RIGHT OF THE STATE TO MAKE ALL FINAL DECISIONS REGARDING DEVELOPMENT OF STATE LANDS UNDER AS 38.05 IN ACCORDANCE WITH APPLICABLE STATE LAW."

WE BELIEVE THAT THIS ADDITION IS NECESSARY TO AVOID FUTURE PROBLEMS OF MUNICIPALITIES ATTEMPTING TO SUBSTITUTE THEIR JUDGMENT ON RESOURCE DEVELOPMENT ISSUES FOR THAT OF THE STATE.

DESPITE THE FACT THAT THE OIL AND GAS INDUSTRY IS ALREADY SUBJECT TO EXTENSIVE REGULATION BY NUMEROUS STATE AND FEDERAL AGENCIES, EXXON HAS BEEN CONTINUALLY FACED WITH ATTEMPTS BY THE LOCAL GOVERNMENTS TO UTILIZE ITS COMPREHENSIVE PLANNING AUTHORITY TO OVERRIDE OR LIMIT DECISIONS BY THE STATE TO ALLOW EXPLORATION AND DEVELOPMENT OF STATE LAND.

EXXON IS A SUBSTANTIAL OWNER OF TWO PROJECTS WHICH ARE PROCEEDING TOWARD NEAR TERM STARTUP: THE ENDICOTT DEVELOPMENT IN DUCK ISLAND UNIT AND THE LISBURNE DEVELOPMENT IN PRUDHOE BAY UNIT. BOTH PROJECTS HAVE EXPERIENCED ACTION BY THE NORTH SLOPE BOROUGH TO USE THE WATER QUALITY AND HABITAT PROTECTION PROVISIONS OF THE BOROUGH LAND MANAGEMENT REGULATIONS TO FORBID OR DICTATE THE STIPULATIONS FOR DEVELOPMENTS WHICH HAD ALREADY BEEN REVIEWED AND APPROVED BY THE ALASKA DEPARTMENTS OF FISH AND GAME, ENVIRONMENTAL CONSERVATION, AND NATURAL RESOURCES. ALTHOUGH A RESOLUTION WITH THE BOROUGH WAS REACHED IN EACH CASE, IT IS OUR VIEW THAT RESOLUTION OF THE ISSUES SURROUNDING THESE TWO DEVELOPMENTS WAS POSSIBLE BECAUSE THE BOROUGH REALIZED THAT THERE WERE ECONOMIC BENEFITS TO THE BOROUGH FROM ADDITIONAL DEVELOPMENT AND THAT THE STATE DID HAVE THE ULTIMATE DECISION AUTHORITY. WE BELIEVE THAT THE IMPACT OF PASSAGE OF THE PRESENT BILL ON FUTURE DEVELOPMENTS, BOTH MAJOR AND MARGINAL, COULD BE TO SEVERELY RESTRICT THE STATES ABILITY TO DEVELOP THE RESOURCES

PROVIDED IT UNDER THE STATEHOOD ACT. THIS WOULD HAVE A VERY NEGATIVE EFFECT ON THE STATE RESOURCES AS WELL AS FUTURE EMPLOYMENT OPPORTUNITIES.

LET ME REASSURE YOU THAT EXXON RECOGNIZES THE IMPORTANCE OF LOCAL GOVERNMENT INPUT TO DECISIONS RELATED TO THE DEVELOPMENT OF RESOURCES IN THIS AREA. THE PURPOSE OF OUR BEING HERE AND THE FOCUS OF OUR REMARKS IS TO REAFFIRM THE NEED FOR THE STATE TO RETAIN THE ULTIMATE DECISION MAKING AUTHORITY RELATIVE TO THE LANDS WHICH IT HAS ACQUIRED.

IT IS OUR BELIEF THAT THE STATE HAS DONE ALL THAT IT REASONABLY SHOULD DO TO ADDRESS LOCAL CONCERNS ABOUT DEVELOPMENT. REGULATORY PROCEDURES EXIST FOR LOCAL COASTAL DISTRICTS WITH APPROVED COASTAL PLANS TO RAISE THEIR CONCERNS OVER COASTAL DEVELOPMENT ALL THE WAY TO THE CABINET LEVEL FOR RESOLUTION. LOCAL COMMENTS ARE SOUGHT AND ADDRESSED BY STATE AGENCIES EVEN WHERE NO COASTAL MANAGEMENT DECISION IS INVOLVED. THE CONTINUATION OF THESE

PROCEDURES ASSURE LOCAL INVOLVEMENT IN RESOURCE DECISIONS WHILE RETAINING THE ULTIMATE AUTHORITY WITH THE STATE.

I URGE YOU TO AVOID DELEGATING TO LOCAL GOVERNMENTS THE ULTIMATE CONTROL OF THE NATURE, TIMING, OR EXTENT OF DEVELOPMENT OF STATE RESOURCES. I BELIEVE THAT THIS RESULT CAN BE ACHIEVED BY INSERTION OF THE LANGUAGE WHICH I HAVE SUGGESTED.

I'LL BE HAPPY TO ADDRESS ANY QUESTIONS YOU MAY HAVE.

TMD:CAS/949

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

COPY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM

March 14, 1985

SUBJECT: Municipal Code Revision
(CSSB 142 (C&RA))

TO: Senator Edna DeVries
Chair, Community & Regional Affairs Committee

FROM: Tamara Brandt Cook
Deputy Director
Division of Legal Services

Here is the committee substitute that you requested. It incorporates all changes adopted by the House Community and Regional Affairs Committee in the house version of the municipal code revision with the exception of the change to Section 29.20.630. This committee substitute includes the purpose clause adopted by your committee and changes the population requirement for incorporation of a first class or home rule city from 600 to 400 residents. In addition, I have made two technical changes. Section 29.45.030(1) contains a citation to AS 19.70.081 which I have corrected to read AS 18.70.081. This cross-reference appears in existing law, and there is, in fact, no AS 19.70.081. Some changes were made in Section 29.45.080 in earlier versions of the municipal code revision bill to clarify that language. Mary Nordale, Commissioner of the Department of Revenue, has indicated to me that these changes create practical problems for the department in implementing its responsibilities under other provisions of law. Since no substantive change has ever been intended to be made to this section and since the attempt at clarifying the language has apparently failed, I have, as a drafting matter and with the permission of Yvonne Alford, conformed this section to the language that appears in existing law.

Please contact me if I can be of further assistance.

TBC:csh
c3/049



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Rec'd 1:15 p.m.
3/5/85

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

MEMORANDUM

DATE: March 4, 1985

TO: Senator Edna DeVries
Chair
Senate Committee on Community and Regional Affairs

FROM: Representative Peter Goll *Peter Goll*
Chair
House Committee on Community and Regional Affairs

SUBJECT: Amendments to House Bill 72

All amendments are either technical changes recommended by the Division of Legal Services (1, 2, 3) or retain existing law and practice.

Specifically:

Am # 1 passed on 2-25-85
Am # 2 passed on 2-25-85
Am # 3 passed on 2-25-85
Am # 4 passed on 2-25-85
Am # 5 passed on 2-25-85
Am # 6 passed on 3-04-85
Am # 7 passed on 3-04-85
Am # 8 passed on 3-04-85
Am # 9 passed on 3-04-85
Am # 10 passed on 3-04-85
Am # 11 passed on 3-04-85
Am # 12 passed on 3-04-85

History: Amendments number 1 through 5 were developed in cooperation with the Department of Community and Regional Affairs and all members of the committee, and passed during the first hearing on the bill.

During the second meeting, Rep. Andra Marou introduced 15 amendments. Of these 7 were replaced with language acceptable to other members of the committee, and were passed. Rep Marou's remaining eight amendments failed.

All amendments are referenced as follows:

Amendments 1 through 5 were passed as submitted.

Rep. Marou's amendments were presented as follows:

CRA Am #	Marou's Am #	Action	Status
-	1	vote,	failed
6	2	replaced with new language,	passed
7	3	replaced with new language,	passed
8	4	replaced with similar language,	passed
9	5	replaced with new language,	passed
10	6	replaced with new language,	passed
11	7	replaced with new language,	passed
-	8	vote,	failed
-	9	vote,	failed
-	10	replaced with CRA am #7,	no action
-	11	vote,	failed
12	12	replaced with similar language,	passed
-	13	vote,	failed
-	14	vote,	failed
-	15	vote,	failed
-	16	replaced with CRA am #7	no action

HB 72
Amendment # 2

Delete:

Page 53; Lines 26-29

Page 54; Lines 1-3

Sec 29.20.630

Insert old AS 29.23.540

PROHIBITIONS.

(a) A person may not be appointed to or removed from municipal office or in any way favored or discriminated against with respect to a municipal position because of the person's race, color, sex, creed, national origin or, unless otherwise contrary to law, because of the person's political opinions or affiliations.

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

(c) A state employee or school district employee may not be denied the right to serve as an elected municipal official because of employment by the state or a school district unless specifically prohibited by charter or ordinance of a municipality, adopted at a special or general election. However, a school district employee may not serve on a school district board in the school district where employed. Provisions of this section do not apply to term of office in effect on August 24, 1976.

(d) For purposes of this section a school district employee is not a municipal employee.

HISTORY (Sec. 2 ch 118 SLA 1972; am sec. 1 ch 93 SLA 1976)

Justification:

It is widely held by many people that working for the state or the school district while holding a local public office may be a conflict of interest. Municipalities should have the authority to prevent the possible situation of public employees holding both elected office and public employment simultaneously.

3/11/85

Sturgen - Moved amend #1

✓ Fischer - unanimous consent - p

Sturgen - Moved amend #2

passed unanimous consent - p

Sturgen - #3 - asked unanimous consent - p

Cook - COM vs. director

Dir, Div of Lands, - position removed
- then reorganization - now there is a
director again

Fischer - moved amend #4

Goll can go from 2nd class city or 3rd class town
to Home Rule

Scott Burgess - Alaska Muni League
supports this amendment because
it was the result of the orig.
study -