

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 8672

3885 SCRA HB 72 3885 8672

*Peter Good  
Edwin De Vries  
Pat Roden*

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AREA CODE 907  
276-6401

TELECOPIER  
AREA CODE 907  
276-5093

April 15, 1985

The Honorable Steven Rieger  
Representative  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

*APR 18 RECD*

Dear Steve:

On the phone today I stated that CSSB 142 and CSHB 72 had a provision as to municipal revenue bonds which unnecessarily will impede this form of financing. The sections of the Bill are in each case Sec. 29.47. 30(a) which provides as follows:

OTHER MUNICIPAL FINANCING. (a) A municipality may authorize by ordinance or resolution the issuance of negotiable or nonnegotiable revenue bonds to finance any project that serves a public purpose, and the bonds shall be secured and payable from any source except revenues, including tax revenues, of the municipality.

In my opinion the section should read "A municipality may authorize by ordinance or resolution the issuance of negotiable or nonnegotiable revenue bonds to finance any project which serves a public purpose, and the bonds shall be payable from any revenues of the municipality except tax revenues."

The existing language would virtually prohibit any revenue bonds since any receipts of the municipality, from any source, are, in fact, revenues.

Very truly yours,

*Eric E. Wohlforth*

Eric E. Wohlforth

EEW/vkd



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

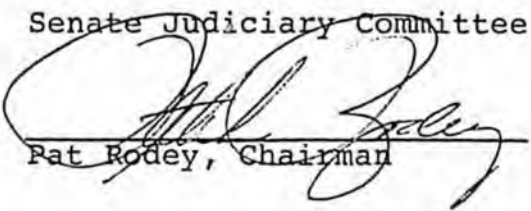
April 30, 1985

Letter of Intent to Accompany Senate Committee Substitute  
for Committee Substitute for House Bill 72 (Judiciary)

It is not the intent of the Legislature through the passage of HB72 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.

It is not the intent of the Legislature in adopting Sec. 29.35.020, which permits a municipality to extend utility service adjacent to its' boundaries, to thereby prevent a municipality from extending utility service to areas that are not contiguous with its' municipal boundaries.

Senate Judiciary Committee

  
Pat Rodey, Chairman

COMMITTEE REPORT  
SENATE

FURTHER: FINANCE

4/22/85

Date 4-30-85

Mr. President

The Committee on JUDICIARY ~~considered~~ CSHB 72 (C&RA) am  
municipal government; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt SCS for CSHB 72 (Judiciary)
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

1 Rick Helford no REC

[Signature] no REC

\_\_\_\_\_

\_\_\_\_\_

[Signature]

Chairman

no rec.

Chairman recommendation

COMMITTEE REPORT  
SENATE

FURTHER: JUDICIARY  
FINANCE

Date April 18, 1985

Mr. President

The Committee on C&RA considered CSHB 72(C&RA) am  
municipal government; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title \_\_\_\_\_
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]  
Chairman

[Signature]  
Chairman recommendation



Official Business

# Alaska State Legislature

## Senate

### Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

April 18, 1985

Letter of Intent to Accompany Committee Substitute for  
CSHB 72 (C&RA) am

It is not the intent of the Legislature through the passage of HB 72 to change the taxing provisions for electric and telephone cooperatives as set forth by AS 10.25. 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 & REGIONAL AFFAIRS

A handwritten signature in cursive script, reading "Edna DeVries".

-----  
Senator Edna DeVries, Chairman

A M E N D M E N T

Offered in the SENATE

By the Community and Regional

TO: CSHB 72(C-BA) am

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."

Page 1, line 9, delete "\* Section 1." and insert "\* Sec. 2."

Renumber following bill sections accordingly.

Page 2, line 4, delete "600" and insert "400"

Page 4, line 2, delete "home rule or"

Page 4, line 4, delete "600" and insert "400"

Page 6, line 13, delete "home rule or"

Page 6, line 21, delete "municipality" and insert "borough"

Page 8, line 14, delete "municipality" and insert "borough"

Page 11, line 3, delete "home rule or"

Page 28, line 28, after "ment." through page 29, line 4:

Delete all material and reletter following subsections accordingly.

Page 29, line 15, delete "unincorporated community or an"

Page 29, line 18, delete "municipality" and insert "borough"

Page 29, lines 20 and 21:

Delete "and at least one model home rule charter for a city"

Page 29, line 21, delete "charters" and insert "charter"

Page 29, line 23, delete "municipality" and insert "borough"

Page 31, line 6, delete "unincorporated community or for an"

Page 31, line 11, delete "unincorporated community or in an"

Page 31, lines 12 and 13, delete "municipality" and insert "borough"

Page 31, lines 13 and 14, delete "municipality" and insert "borough"

Page 32, line 18, delete "municipality" and insert "borough"

Page 32, line 19, delete "unincorporated community or"

Page 55, lines 15 - 19, after "PROHIBITIONS.":

Delete all material and reletter the following subsections accordingly.



# Alaska State Legislature

## House of Representatives

### Committee on Community & Regional Affairs

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

LETTER OF INTENT  
to  
CSHB 72 (C&RA)

It is not the intent of the House Community and Regional Affairs Committee in adopting AS 29.53.045 as the renumbered section 29.45.080 in CSHB 72 (C&RA) to alter the substance or effect of that provision.

Peter Goll  
Chairman

*Peter Goll*

*Reed E. Jeger*

*Max Muensterberg*

*John Kogman*

*John Kogman*

\_\_\_\_\_

\_\_\_\_\_

*Adopted by House #1/6/85*

**STATE OF ALASKA 1985 LEGISLATIVE SESSION**  
**FISCAL NOTE**

Revision Date: 3/15/85

Page 1 of 2

**REQUEST**

Bill/Resolution No.: CSHB 72 (C&RA)  
 Title: An Act Relating to  
Municipal Government  
 Sponsor: Rules/Governor  
 Requestor: Senate C&RA Committee  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Community & Regional Affairs  
 Program Category Affected: \_\_\_\_\_  
Community Development  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Community Assistance Grants  
 Component: Organizational Grants

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		-0-	400.0	350.0		
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	400.0	350.0		
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		-0-	400.0	350.0		
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		-0-	400.0	350.0		

**POSITIONS:**

FULL-TIME		-0-	-0-	-0-		
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

SEE ATTACHED ANALYSIS

Prepared By: Doug Griffin, Deputy Director *Griffin* Phone: 465-4750  
 Division: Municipal & Regional Assistance Date: 3/15/85  
 Approved by Commissioner: *[Signature]* Date: 3/15/85  
 Agency: Community & Regional Affairs

Distribution (by Agency preparing fiscal note): *Super*  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84

MS-72

AN ACT RELATING TO MUNICIPAL GOVERNMENT

CSHB 72 (C&RA) Page 2 of 2

ANALYSIS: This bill commits the State to paying increased levels of transitional assistance to newly incorporated cities and boroughs. However, given the increasingly complex requirements for incorporation, the fact that the bill does not become effective until January 1, 1986 (half way through FY 86), and the ability to request supplemental funding to pay transitional grants after the fact on a reimbursement basis, assumptions have been changed to produce a zero fiscal effect for FY 86. This will prevent money from being tied up to address incorporations which may not occur.

The Legislature does need to acknowledge that the bill does carry possible increased financial obligations, but it is impossible to predict when these added costs will be borne by the State. For this reason, the fiscal note reflects no additional cost for FY 86, but assumptions for future years are included as follows:

Assumptions:       FY 86 - no incorporations  
                      FY 87 - two cities and one borough incorporate  
                      FY 88 - two cities incorporate

Program Summary: The only portion of this bill which will create fiscal impact is Sec. 29.05.180-190 which provides additional transitional assistance through increased organizational grants. The Department is also required to provide additional assistance to newly formed cities and boroughs in setting up a sales tax collection system and tax rolls for property taxation. It is difficult to gauge whether this type of assistance will in fact be requested. If it is requested, additional work will be required of the State Assessor and technical assistance sections of the Division of Municipal and Regional Assistance. Given this uncertainty, possible costs for this type of technical assistance are not reflected in this fiscal note.

Computations:

Grants in FY 86.....	-0-
Grants in FY 87.....	400.0
(2 cities @ \$50,000 per -- first year grant)	
(1 borough @ \$300,000 per -- first year grant)	
Grants in FY 88.....	350.0
(2 cities @ \$50,000 per -- first year grant)	
(2 cities @ \$25,000 per -- second year grant)	
(1 borough @ 200,000 per -- second year grant)	

Economic Impact: The economic impact on State and local governments will be limited.

Impact on Local Governments: This bill is strongly supported by the Alaska Municipal League and most municipalities of the State. Impacts will generally be positive, particularly for newly incorporated municipalities.



Official Business

# Alaska State Legislature

Senate  
Finance Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

## MEMORANDUM

Date: May 6, 1985

To: Members, Senate Finance

From: Senator John Sackett

Subj: Amendments to SCS CSHB-72 (Jud)

1. Page 11, line 14:  
After "city" insert "or adopts a home rule charter"
2. Page 11, line 19:  
Delete "election or the reclassification" and inset ", reclassification, or adoption of a home rule charter"
3. Page 29, after line 9, insert the following new subsection to read:  
"(b) A second class city that exceeds 35 square miles in area 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 3,500 permanent residents."

Reletter the following subsections accordingly.

The effect of the amendments would be to permit the City of Bethel, currently a second class city, to become a home rule charter city should the voters approve such a change in their status.

The 35 square mile and 3,500 population reference ensures that Bethel is the only community which would fall under the provisions of the amendments relating to home rule charter.

The City of Bethel has long requested the change in language so that they can conduct an election and let the voters decide if they want to adopt a home rule charter form of self government.

STATE OF ALASKA  
THE LEGISLATURE

POUCH 7 STATE CAPITOL  
BUREAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

May 10, 1985

SUBJECT: Municipal taxes on alcoholic beverages  
(SCS CSHB 72(Fin))

TO: Senator Edna DeVries

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

You have asked two questions regarding AS 04.21.010(c)(2) as it is amended in SCS CSHB 72(Fin). That subsection reads in pertinent part:

A municipality may not impose taxes on alcoholic beverages except . . . (2) sales taxes on alcoholic beverage sales if sales taxes are imposed on other sales within the municipality . . . (Underlined words are added in the amendment.)

(1) Does this require a municipality to impose a general sales tax before it can impose a sales tax on alcoholic beverages or can it tax only one other item and still tax alcoholic beverages? While the language is not as clear as it could be on this issue, I believe that the better interpretation is that a municipality can tax sales of alcoholic beverages if a tax is imposed on the sale of at least one other item. Under Sec. 29.45.650 of the bill (and under AS 29.53.415 of existing law) a municipality is not required to impose a general sales tax, but rather, may tax "any or all" of the various sources. Therefore, it does not seem reasonable to presume that imposition of a general sales tax is required under AS 04.21.010 in the absence of language specifically requiring that. This interpretation is supported by Article X, Section 1 of the State Constitution providing that "A liberal construction shall be given to the powers of local government units."

(2) Can the rate of sales taxes imposed on alcoholic beverages differ from the rate imposed on other sales? The

Senator Edna DeVries  
May 10, 1985  
Page 2

amendment to AS 04.21.010(c) does not address the question of the rate of taxation at all. Therefore, it must be concluded that a municipality, in imposing a sales tax on alcoholic beverages, would have the same power with regard to setting the rate of taxation that it has in the case of sales taxes on other items. While the use tax rate must equal the sales tax rate (Sec. 29.45.650(b)), there is no specific requirement that the rate of various sales taxes be equal. The rate, however, cannot exceed six percent (Sec. 29.45.650(b)). Once again, this conclusion is supported by Article X, Section 1 of the State Constitution requiring a liberal construction of municipal powers.

TBC:ojb  
J15/006



Official Business

# Alaska State Legislature

## Senate Finance Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

5/7/85  
Sackett  
cc  
JY-

### M E M O R A N D U M

Date: May 6, 1985  
To: Members, Senate Finance  
From: Senator John Sackett  
Subj: Amendments to SCS CSHB-72 (Jud)

*Amend 1 - Sackett*

1. Page 11, line 14:  
After "city" insert "or adopts a home rule charter"
2. Page 11, line 19:  
Delete "election or the reclassification" and inset ", reclassification, or adoption of a home rule charter"
3. Page 29, after line 9, insert the following new subsection to read:  
"(b) A second class city that exceeds 35 square miles in area 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 3,500 permanent residents."

Reletter the following subsections accordingly.

The effect of the amendments would be to permit the City of Bethel, currently a second class city, to become a home rule charter city should the voters approve such a change in their status.

The 35 square mile and 3,500 population reference ensures that Bethel is the only community which would fall under the provisions of the amendments relating to home rule charter.

The City of Bethel has long requested the change in language so that they can conduct an election and let the voters decide if they want to adopt a home rule charter form of self government.

AMENDMENT

#1 Passed  
on Senate Floor

OFFERED IN THE SENATE:

BY: ROBERT E. HALFORD

To: SCS CS

SENATE BILL No. \_\_\_\_\_

HOUSE BILL No. 72 (Fin)

PAGE: 81

LINE: 21

After the word "firearms"  
insert: "within a residence"

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 9, 1985

SUBJECT: Municipal Code Revision (SCS CSHB 72(Jud))  
TO: Senator Arliss Sturgulewski  
FROM: Tamara Brandt Cook *TBC*  
Deputy Director  
Division of Legal Services

You have asked me to compare the Senate Finance Committee Substitute for the municipal code revision bill to the Senate Judiciary Committee Substitute. Only the differences between the two versions are noted.

1. The Judiciary Committee Substitute does not permit second class cities to adopt home rule charters. The Finance Committee Substitute allows those second class cities with at least 3,500 residents that include an area of at least 35 square miles to do so. The changes made to accomplish this are found in the following sections:

Sec. 29.05.180(b), (c) and (d) - organizational grants are made available to second class cities that adopt home rule charters as well as to those that reclassify to first class status;

Sec. 29.10.010(b) - the subsection is added specifically allowing the described second class cities to adopt home rule charters.

2. The provision dealing with franchises and permits is not a home rule limitation under the Judiciary Committee Substitute and has been made a home rule limitation in the Finance Committee Substitute. The changes made to accomplish this are found in the following sections:

Sec. 29.10.200(26) - this paragraph identifying the provision is added to the list of home rule limitations;

Sec. 29.35.060(c) - this subsection is added providing that the section applies to both home rule and general law municipalities.

3. The Judiciary Committee Substitute allows a municipality to provide utility services only to territory adjacent to its boundaries while the Finance Committee Substitute treats utility services just like all other services that a municipality is authorized to provide outside its jurisdiction. The changes made to accomplish this are found in the following section:

Sec. 29.35.020(a) - the words "utility services" are inserted into the list contained in subsection (a) of facilities or services that a municipality may provide outside its boundaries and subsection (c) found in the Judiciary Committee Substitute is entirely eliminated. It allows a municipality that owns or operates a utility to extend service to adjacent areas outside its boundaries.

4. The Judiciary Committee Substitute allows a municipality to exercise eminent domain and declaration of taking in the performance of its functions, while the Finance Committee Substitute allows a municipality to exercise those powers within its boundaries only. The change made to accomplish this is found in Sec. 29.35.030(a) where the phrase "only within its boundaries" is inserted.

5. The Judiciary Committee Substitute does not address the issue, but the Finance Committee Substitute has added a limitation on the ability of a municipality to tax alcoholic beverages. Sales taxes may only be imposed if sales taxes are imposed on other sales within a municipality, except that sales taxes on alcoholic beverages that are in effect on July 1, 1985 may be retained. The change made to accomplish this is found in new bill Section 20 which amends AS 04.21.010(c).

6. The Judiciary Committee Substitute amends AS 42.05.711(1) only by deleting reference to provisions dealing with utilities repealed in the bill and inserting the new reference to the single provision on the subject as renumbered in the bill. The Finance Committee Substitute includes a reference to the provision dealing with franchises and permits (AS 29.35.060), so that a person, utility or cooperative exempt from regulation under AS 42.05.711(a) or

Senator Arliss Sturgulewski  
May 9, 1985  
Page 3

(d) - (k) is not subject to regulation by a municipality under either the provision dealing with utilities or the provision dealing with franchises. The change made to accomplish this is found in bill Section 68 of the Finance Committee Substitute as compared to bill Section 67 of the Judiciary Committee Substitute.

TBC:ojb  
J14/109

Senate Judiciary 4/30/85 - HB 72

Ziegler moved Purpose clause - adopted

Roddy - Reg. of Firearms <sup>unloaded firearms</sup> own or possession in a residence } adopted  
delete "transportation"  
"Morton - Grove" problem

Soll - Discrimination clause

Municipal of "er employment" } passed

Sturgulewski -- "here to support strongly" }  
"came back -- talked to ~~Sturgulewski~~ Joe Sharp"

Amendment - Wohlforth - bonding  
Hutchins - ARECA

Hutchins, page 78 29.48.060 (29.35.070 say this)  
Amend #1 adopted  
#2 adopted

p 77 line 23/24 delete ak Transportation  
COMM.

Tracy p 97-10

2

adopted 4/30/85  
by Senate Judiciary

A M E N D M E N T

Offered in the SENATE

TO: CSHB 72(C&RA) am

Page 34, after line 4 insert the following new paragraph:

"(29) AS 29.35.145 (regulation of firearms):

Renumber the following paragraphs accordingly.

Page 81, after line 7 insert the following new section:

"Sec. 29.35.145. REGULATION OF FIREARMS. (a) A municipality may not restrict the right to own, possess, or transport <sup>unlawful</sup> firearms except by ordinance ratified by the voters.

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

§ 29.23.530

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ch 118 SLA 1972)

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(3)

§ 29.23.540

MUNICIPAL GOVERNMENT

§ 29.23.555

the municipality. Per diem payments or reimbursements for expenses are not compensation under this section. (§ 2 ch 118 SLA 1972; am § 1 ch 43 SLA 1979)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 258 et seq. 62 C.J.S., Municipal Corporations, §§ 522, 541.

Effect of illegality of appointment or compensation, 7 ALR 1682.

Mandamus to compel appropriation for payment of salaries of public officers, 81 ALR 1253.

Actions for compensation by de facto officers, 93 ALR 258; 151 ALR 952.

*OR EMPLOYMENT*

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

NOTES TO DECISIONS

Applied in Acevedo v. City of North Pole, Sup. Ct. Op. No. 2748 (File Nos. 7120, 7251), 672 P.2d 130 (1983).

Sec. 29.23.550. Personnel system. All appointments and promotions of municipal officers and employees are made on the basis of merit. The assembly or council may provide for a personnel system. (§ 2 ch 118 SLA 1972)

Sec. 29.23.555. Conflict of interests. Each home rule and general law municipality shall adopt a conflict-of-interests ordinance which, other provisions of this chapter notwithstanding, includes provision that an officer or employee may not participate in any official action in which the officer or employee has a substantial financial interest. If a home rule or general law municipality fails to adopt such a conflict-of-interests ordinance within 90 days from September 10, 1972, the conflict-of-interests provision of this section is automatically

BY ARECA

AMENDMENT

④

Amend p. 78, lines 1 through 4

after the word "utility" on line 1

Delete "to the extent" and delete all language on lines 2 through 4, and in its place insert the following:

"that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a) or (d)-(k)."

Amend p. 74, line 25

After the word "disposal,"

Delete "utility service,"

⑤

Amend p. 75, after line 7, insert:

*Letter of  
intent*

"(c) A municipality owning or operating utilities may extend service to adjacent areas outside its municipal limits. For that purpose the municipality may acquire, maintain and operate utility facilities together with necessary real property interests in real property outside its limits.

Redesignate existing subsection (c) as subsection (d).

9  
P. 77 L. 23 + 24 AFTER THE WORD "Commission"

Deleted: or by the Alaska Transportation Commission"

(CS FOR HOUSE BILL NO. 72 (C&RA) am) by the Community and Regional Affairs Committee, entitled:

"An Act relating to municipal government;  
and providing for an effective date."

was read the first time and referred to the Community and Regional Affairs Committee, the Judiciary Committee and the Finance Committee.

The Community and Regional Affairs Committee considered (CS FOR) (HOUSE BILL NO. 72 (C&RA) am) (municipal government? rfd) and a majority of the committee recommended do pass with the following amendment:

Page 1, after line 8: Insert new 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."

Page 1, line 9: Delete "Section 1." insert  
"\* Sec. 2."

Renumber following bill sections accordingly.

Page 2, line 4: Delete "600" insert "400"

Page 4, line 2: Delete "home rule or"

Page 4, line 4: Delete "600" insert "400"

Page 6, line 13: Delete "home rule or"

"Letter of Intent

The report was signed by Senator Davies, Chairman and concurred in by Senators Coghlin, Ferguson and Sturgis.

subsections accordingly.

Delete all material and reletter the following Page 55, lines 15-19, after "PROHIBITIONS".

Page 32, line 19: Delete "unincorporated community or"

"borough"

Page 32, line 18: Delete "municipality" insert

HB 72 SENATE JOURNAL - PAGE 874-1 4/22/85

insert "borough"

Page 31, lines 13 and 14: Delete "municipality"

insert "borough"

Page 31, lines 12 and 13: Delete "municipality"

or in an"

Page 31, line 11: Delete "unincorporated community

or for an"

Page 31, line 6: Delete "unincorporated community

"borough"

Page 29, line 23: Delete "municipality" insert

"charter"

Page 29, line 21: Delete "charters" insert

Page 29, lines 20 and 21: Delete "and at least one model home rule charter for a city"

"borough"

Page 29, line 18: Delete "municipality" insert

or an"

Page 29, line 15: Delete "unincorporated community

subsections accordingly.

Page 28, line 28: After "ment," through page 29, line 4: Delete all material and reletter following

Page 11, line 3: Delete "home rule or"

"borough"

Page 8, line 14: Delete "municipality" insert

"borough"

Page 6, line 21: Delete "municipality" insert

It is not the intent of the Legislature through the passage of HB 72 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."

CS FOR HOUSE BILL NO. 72 (C&RA) am was referred to the Judiciary Committee.

HB 72

SENATE JOURNAL - PAGE 1013- 2 5/ 2/85

The Judiciary Committee considered (CS FOR HOUSE BILL NO. 72) ((C&RA) am) (municipal government; efd) and recommended it be replaced with

SENATE CS FOR CS FOR HOUSE BILL NO. 72 (JUD)

Senator Rodey, Chairman and Senators Halford and Faiks signed "no recommendation". Senators Ziegler and Kelly signed "do pass".

"Letter of Intent  
Senate CS for CS for House Bill 72 (Jud)

It is not the intent of the Legislature through the passage of HB 72 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.

It is not the intent of the Legislature in adopting Sec. 29.-35.020, which permits a municipality to extend utility service adjacent to its boundaries, to thereby prevent a municipality from extending utility service to areas that are not contiguous with its municipal boundaries."

CS FOR HOUSE BILL NO. 72 (C&RA) am was referred to the Finance Committee.

The Finance Committee considered (CS FOR HOUSE BILL NO. 72) (C&RA) am (municipal government; afd) and recommended it be replaced with

SENATE CS FOR CS FOR HOUSE BILL NO. 72 (FIN)

Senator Faiks, Co-Chairman and Senators Kerttula, Ferguson and Sackett signed "no recommendation". Senators Paul Fischer and Eliason signed "do pass". Senator Halford signed "do pass unless amended".

CS FOR HOUSE BILL NO. 72 (C&RA) am was referred to the Rules Committee.



Official Business

# Alaska State Legislature

## Senate

### Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

May 16, 1985

Ethel Kayzer  
3209 Denali  
Anchorage, AK 99503

Dear Ms. Kayzer:

I appreciate your letting me know your concerns with the passage of House Bill 72, the rewrite of Title 29, which contains major statute provisions for local government.

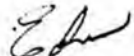
Your concern, that liquor would be much harder to tax, particularly in our larger cities, was also a major concern of mine. I contacted the Legal Services office of the Legislature and asked for an opinion from the attorney who has worked with the Title 29 rewrite over the past 5 years.

I am attaching for your information a copy of Tam Cook's opinion; however I did want you to know that Tam feels that most municipalities, including Anchorage, will not be restricted in their ability to tax liquor sales as a result of the passage of HB 72.

My office during the Legislative interim will be in Palmer; so if I can be of further assistance to you on this issue or any other, please contact me. My office will be at 137 E. Arctic, Suite 102, Palmer; phone 745-3281.

May God bless you.

Sincerely,

  
Edna DeVries  
Senator

atch

ya



Official Business

# Alaska State Legislature

## Senate

### Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

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May God bless you.

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Senator

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ya

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3801

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 10, 1985

SUBJECT: Municipal taxes on alcoholic beverages  
(SCS CSHB 72(Fin))

TO: Senator Edna DeVries

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

You have asked two questions regarding AS 04.21.010(c)(2) as it is amended in SCS CSHB 72(Fin). That subsection reads in pertinent part:

A municipality may not impose taxes on alcoholic beverages except . . . (2) sales taxes on alcoholic beverage sales if sales taxes are imposed on other sales within the municipality . . . (Underlined words are added in the amendment.)

(1) Does this require a municipality to impose a general sales tax before it can impose a sales tax on alcoholic beverages or can it tax only one other item and still tax alcoholic beverages? While the language is not as clear as it could be on this issue, I believe that the better interpretation is that a municipality can tax sales of alcoholic beverages if a tax is imposed on the sale of at least one other item. Under Sec. 29.45.650 of the bill (and under AS 29.53.415 of existing law) a municipality is not required to impose a general sales tax, but rather, may tax "any or all" of the various sources. Therefore, it does not seem reasonable to presume that imposition of a general sales tax is required under AS 04.21.010 in the absence of language specifically requiring that. This interpretation is supported by Article X, Section 1 of the State Constitution providing that "A liberal construction shall be given to the powers of local government units."

(2) Can the rate of sales taxes imposed on alcoholic beverages differ from the rate imposed on other sales? The

Senator Edna DeVries  
May 10, 1985  
Page 2

amendment to AS 04.21.010(c) does not address the question of the rate of taxation at all. Therefore, it must be concluded that a municipality, in imposing a sales tax on alcoholic beverages, would have the same power with regard to setting the rate of taxation that it has in the case of sales taxes on other items. While the use tax rate must equal the sales tax rate (Sec. 29.45.650(b)), there is no specific requirement that the rate of various sales taxes be equal. The rate, however, cannot exceed six percent (Sec. 29.45.650(b)). Once again, this conclusion is supported by Article X, Section 1 of the State Constitution requiring a liberal construction of municipal powers.

TBC:ojb  
J15/006

Offered: 5/8/85  
Referred: Rules

Original sponsor: Rules/Governor

*This is on Floor —*  
*The changes in this from*  
*our bill are shown on the*  
*attached*  
*(Jud) CS*

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

SENATE CS FOR CS FOR HOUSE BILL NO. 72 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

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

7

8

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

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

22

\* Sec. 2. AS 29.03 is amended by adding a new section to read:

23

Sec. 29.03.030. PLATTING AUTHORITY. Subject to AS 40.15.075,

24

the Department of Natural Resources is the platting authority in the  
25 unorganized borough in the area outside all cities.

26

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

27

CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

28

Sec. 29.04.010. HOME RULE. A home rule municipality is a munic-

29

ipal corporation and political subdivision. It is a city or a borough

1 that has adopted a home rule charter, or it is a unified municipality.  
2 A home rule municipality has all legislative powers not prohibited by  
3 law or charter.

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

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

- 9 (1) first class boroughs;
- 10 (2) second class boroughs;
- 11 (3) third class boroughs;
- 12 (4) first class cities;
- 13 (5) second class cities.

14 Sec. 29.04.040. RECLASSIFICATION OF SECOND CLASS CITIES. (a) A  
15 second class city may be reclassified as a first class city by holding  
16 an election on the question, if the department determines from the  
17 best figures available that the population of the city has reached 400  
18 permanent residents.

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

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

24 (2) the council may propose reclassification.

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

29 (d) The council shall, within 30 days after its findings have

All our CRA amendments were included in Senate CS (Fin) 5/7/85 version

Offered: 5/2/85  
Referred: Finance

Amendments by Finance: Pages 11, 29, 189, 34,  
202, 75, 74

Original sponsor: Rules/Governor

Amendments by Judiciary: Pages 81,

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 72 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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14 government to function more effectively. Except as expressly provided, the  
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22 \* Sec. 2. AS 29.03 is amended by adding a new section to read:

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24 the Department of Natural Resources is the platting authority in the  
25 unorganized borough in the area outside all cities.

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27 CHAPTER 04. CLASSIFICATION OF MUNICIPALITIES.

28 Sec. 29.04.010. HOME RULE. A home rule municipality is a  
29 municipal corporation and political subdivision. It is a city or a

1 borough that has adopted a home rule charter, or it is a unified  
2 municipality. A home rule municipality has all legislative powers not  
3 prohibited by law or charter.

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5 municipal corporation and political subdivision and is an unchartered  
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8 ties are of five classes:

- 9 (1) first class boroughs;
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16 an election on the question, if the department determines from the  
17 best figures available that the population of the city has reached 400  
18 permanent residents.

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

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

24 (2) the council may propose reclassification.

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

29 (d) The council shall, within 30 days after its findings have

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

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

6 ARTICLE 3. TRANSITIONAL ASSISTANCE.

7 Sec. 29.05.180. ORGANIZATION GRANTS TO CITIES. (a) To defray  
8 the cost of transition to city government and to provide for interim  
9 government operations, each city incorporated after December 31, 1985  
10 is entitled to an organization grant of \$50,000 for the first full or  
11 partial fiscal year after incorporation.

12 (b) To defray the cost of reclassification, each second class  
13 city in the unorganized borough incorporated before January 1, 1986  
14 that reclassifies as a first class city <sup>or adopts a home rule charter</sup> after December 31, 1985 is  
15 entitled to an organization grant equal to \$50,000 for the first full  
16 or partial fiscal year after reclassification.

17 (c) The department shall disburse an organization grant under  
18 (a) or (b) of this section within 30 days after certification of the  
19 incorporation <sup>reclassification, or adoption of a home rule charter</sup> election of the reclassification election, or as soon  
20 after certification as money is appropriated and available for the  
21 purpose.

22 (d) A city entitled to an organization grant under (a) or (b) of  
23 this section is entitled to a second organization grant of \$25,000.  
24 The department shall disburse the second organization grant within 30  
25 days after the beginning of the city's second fiscal year after incor-  
26 poration or reclassification, or as soon after that time as money is  
27 appropriated and available for the purpose.

28 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHES. (a) For the  
29 purpose of defraying the cost of transition to borough government and

*Amend  
#1  
Sackett*

1 to provide for interim governmental operations, each borough incorpo-  
2 rated after December 31, 1985, is entitled to organization grants as  
3 follows:

4 (1) \$300,000 for the borough's first full or partial fiscal  
5 year;

6 (2) \$200,000 for the borough's second fiscal year; and

7 (3) \$100,000 for the borough's third fiscal year.

8 (b) The department shall disburse the first organization grant  
9 to a borough within 30 days after certification of the incorporation  
10 election favoring incorporation of a borough, or as soon after that as  
11 money is appropriated and available for the purpose. The second grant  
12 shall be disbursed within 30 days after the beginning of the borough's  
13 second fiscal year, or as soon after that as money is appropriated and  
14 available for the purpose. The third grant shall be disbursed within  
15 30 days after the beginning of the borough's third fiscal year, or as  
16 soon after that as money is appropriated and available for the pur-  
17 pose.

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

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

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

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

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

1 assets, and liabilities.

2 Sec. 29.06.530. APPLICATION. AS 29.06.450 - 29.06.530 apply to  
3 home rule and general law municipalities.

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

5 CHAPTER 10. HOME RULE MUNICIPALITIES.

6 ARTICLE 1. CHARTERS.

7 Sec. 29.10.010. MUNICIPAL CHARTER ADOPTION. (a) A general law  
8 borough or first class city may adopt a charter for its own govern-

9 ment. <sup>insert</sup> A 2nd class city that exceeds 35 sq. miles . . . (Bethel amendment)

10 (b) At an election for borough incorporation, an area in the  
11 unorganized borough may adopt a charter for its own government and in-  
12 corporate as a home rule borough.

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

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

20 (e) The proposed charter for an area of the unorganized borough  
21 shall be prepared by the petitioners and filed under AS 29.05.060 with  
22 the petition to incorporate a home rule borough.

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

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

29 (b) A charter may not require an initiative or referendum

Amend  
#1  
Sackett

1 petition to have a number of signatures greater than 25 percent of the  
2 total votes cast in the municipality at the last regular election.

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

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

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

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

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

25 Sec. 29.10.060. PREPARATION OF CHARTER BY CHARTER COMMISSION.  
26 The charter commission shall, within one year, prepare a proposed home  
27 rule charter for an existing municipality. The proposed charter shall  
28 be signed by a majority of the members of the commission and filed in  
29 the office of the municipal clerk. Within 15 days, the clerk shall

- 1 (24) AS 29.35.030 (eminent domain)
- 2 (25) AS 29.35.050 (garbage and solid waste services)
- 3 *Finance* (26) AS 29.35.<sup>060</sup>~~070~~ (*local franchising* ~~public utilities~~)  
*Amend #3*
- 4 (27) AS 29.35.080 (alcoholic beverages)
- 5 *MultiVisions* (28) AS 29.35.120 (post audit)  
*amendment*
- 6 (29) AS 29.35.145 (regulation of firearms)
- 7 (30) AS 29.35.160 (education)
- 8 (31) AS 29.35.170(b) (assessment and collection of taxes)
- 9 (32) AS 29.35.180(b) (land use regulation)
- 10 (33) AS 29.35.250 (cities inside boroughs)
- 11 (34) AS 29.35.260 (cities outside boroughs)
- 12 (35) AS 29.35.340 (acquisition of areawide power)
- 13 (36) AS 29.40.160(a) - (c) (title to vacated areas)
- 14 (37) AS 29.40.200 (subdivisions of state land)
- 15 (38) AS 29.45.010 - 29.45.570 (property taxes)
- 16 (39) AS 29.45.650(c) and (d) (sales and use tax)
- 17 (40) AS 29.46.090 (exemption from special assessment)
- 18 (41) AS 29.47.200(b) (security for bonds)
- 19 (42) AS 29.47.260 (construction)
- 20 (43) AS 29.60.050(a) (limitation on computation and use of
- 21 payment)
- 22 (44) AS 29.60.120(a) and (c) (state aid for health facili-
- 23 ties and hospitals)
- 24 (45) AS 29.65.010 - 29.65.140 (general grant land)
- 25 \* Sec. 7. AS 29 is amended by adding a new chapter to read:
- 26 CHAPTER 20. MUNICIPAL OFFICERS AND EMPLOYEES.
- 27 ARTICLE 1. CONFLICT OF INTEREST AND PUBLIC MEETINGS.
- 28 Sec. 29.20.010. CONFLICT OF INTEREST. (a) Each municipality
- 29 shall adopt a conflict of interest ordinance that provides that

1       supersede existing and prohibit future home rule enactments that  
2       provide otherwise:

- 3               (1) AS 29.05.140 (transition)
- 4               (2) AS 29.06.010 (change of municipal name)
- 5               (3) AS 29.06.040 - 29.06.060 (annexation and detachment)
- 6               (4) AS 29.06.090 - 29.06.170 (merger and consolidation)
- 7               (5) AS 29.06.190 - 29.06.420 (unification of municipali-  
8       ties)
- 9               (6) AS 29.06.450 - 29.06.530 (dissolution)
- 10              (7) AS 29.10.100 - (charter amendment)
- 11              (8) AS 29.20.010 (conflict of interest)
- 12              (9) AS 29.20.020 (meetings public)
- 13              (10) AS 29.20.050 (legislative power)
- 14              (11) AS 29.20.060 - 29.20.120 (assembly composition and  
15       apportionment)
- 16              (12) AS 29.20.140 (qualifications of members of governing  
17       bodies)
- 18              (13) AS 29.20.150 (term of office)
- 19              (14) AS 29.20.220 (executive power)
- 20              (15) AS 29.20.630 (prohibitions)
- 21              (16) AS 29.20.640 (reports)
- 22              (17) AS 29.25.010(a)(10) (municipal exemption on contractor  
23       bond requirements)
- 24              (18) AS 29.25.050 (codification)
- 25              (19) AS 29.25.060 (resolutions)
- 26              (20) AS 29.26.030 (notice of elections)
- 27              (21) AS 29.26.050 (voter qualification)
- 28              (22) AS 29.26.250 - 29.26.360 (recall)
- 29              (23) AS 29.35.020 (extraterritorial jurisdiction)

1 (6) to levy a tax or special assessment, and impose a lien  
2 for its enforcement;

3 (7) to enforce an ordinance and to prescribe a penalty for  
4 violation of an ordinance;

5 (8) to acquire, manage, control, use, and dispose of real  
6 and personal property, whether the property is situated inside or  
7 outside the municipal boundaries; this power includes the power of a  
8 borough to expend, for any purpose authorized by law, money received  
9 from the disposal of land in a service area established under AS 29.-  
10 35.450;

11 (9) to expend money for a community purpose, facility, or  
12 service for the good of the municipality to the extent the municipal-  
13 ity is otherwise authorized by law to exercise the power necessary to  
14 accomplish the purpose or provide the facility or service;

15 (10) to regulate the operation and use of a municipal right-  
16 of-way, facility, or service;

17 (11) to borrow money and issue evidences of indebtedness;

18 (12) to acquire membership in an organization that promotes  
19 legislation for the good of the municipality;

20 (13) to enter into an agreement, including an agreement for  
21 cooperative or joint administration of any function or power with a  
22 municipality, the state, or the United States;

23 (14) to sue and be sued.

24 Sec. 29.35.020. EXTRATERRITORIAL JURISDICTION. (a) To the  
25 extent a municipality is otherwise authorized by law to exercise the  
26 power necessary to provide the facility or service, the municipality  
27 may provide parks, playgrounds, cemeteries, emergency medical ser-  
28 vices, solid and septic waste disposal, <sup>utility services</sup> airports, streets (including  
29 ice roads), trails, transportation facilities, wharves, harbors and

*Amend  
# 7 -  
Sackett*

1 (c) A person appointed under (a) or (b) of this section serves  
2 until a successor is elected and takes office.

3 (d) If an official other than a member of the governing body or  
4 school board is recalled, a successor shall be elected to fill the  
5 unexpired portion of the term. The election shall be held not more  
6 than 60 days after the date the recall election is certified, except  
7 that if a regular election occurs within 75 days after certification  
8 the successor shall be chosen at that election.

9 (e) Nominations for a successor may be filed until seven days  
10 before the last date on which a first notice of the election must be  
11 given. Nominations may not be filed before the certification of the  
12 recall election.

13 Sec. 29.26.360. APPLICATION. AS 29.26.250 - 29.26.360 apply to  
14 home rule and general law municipalities.

15 \* Sec. 10. AS 29 is amended by adding a new chapter to read:

16 CHAPTER 35. MUNICIPAL POWERS AND DUTIES.

17 ARTICLE 1. GENERAL POWERS.

18 Sec. 29.35.010. GENERAL POWERS. All municipalities have the  
19 following general powers, subject to other provisions of law:

20 (1) to establish and prescribe a salary for an elected or  
21 appointed municipal official or employee;

22 (2) to combine two or more appointive or administrative  
23 offices;

24 (3) to establish and prescribe the functions of a municipal  
25 department, office, or agency;

26 (4) to require periodic and special reports from a municipi-  
27 pal department to be submitted through the mayor;

28 (5) to investigate an affair of the municipality and make  
29 inquiries into the conduct of a municipal department;



1 President or governor to be a disaster area may participate in and  
2 provide for housing, urban renewal, and redevelopment in the same  
3 manner as a home rule city. The exercise of these powers by a borough  
4 shall be on a nonareawide basis, except a borough may exercise the  
5 powers transferred to it by a city as provided by AS 29.35.310.

6 (b) Powers granted by this section must be initiated within a  
7 period of not more than five years after the date of declaration of a  
8 natural disaster by the President or governor, but these powers may be  
9 extended for an additional period of not more than three years.

10 Sec. 29.35.050. GARBAGE AND SOLID WASTE SERVICES. (a) A muni-  
11 cipality may by ordinance

12 (1) provide for the establishment, maintenance, and opera-  
13 tion of a system of garbage and solid waste collection and disposal  
14 for the entire municipality, or for districts or portions of it;

15 (2) require all persons in the municipality or district to  
16 use the system and to dispose of their garbage and solid waste as  
17 provided in the ordinance;

18 (3) award contracts for collection and disposal, or provide  
19 for the collection and disposal of garbage and solid waste by muni-  
20 cipal officials and employees;

21 (4) pay for garbage and solid waste collection and disposal  
22 from available money;

23 (5) require property owners or occupants of premises to use  
24 the garbage and solid waste collection and disposal system provided by  
25 the municipality;

26 (6) fix charges against the property owners or occupants of  
27 premises for the collection and disposal; and

28 (7) provide penalties for violations of the ordinances.

29 (b) The governing body of a municipality may not prohibit a

1 (1) "emergency services" means services provided by law  
2 enforcement agencies, fire departments, ambulance services, and other  
3 organizations that are intended to respond to emergency situations of  
4 imminent danger to life or property;

5 (2) "state agency" means a department, division, or office  
6 in the executive branch of state government.

7 Sec. 29.35.140. REGULATION OF TRANSPORTATION CARRIERS. A  
8 municipality may not regulate an activity regarding transportation of  
9 passengers or freight for hire if the regulation conflicts with the  
10 regulation of that activity by the Alaska Transportation Commission as  
11 the regulation existed on April 1, 1983 under former AS 02.05, former  
12 AS 42.07, or former AS 42.10.

13 *Halford's* Sec. 29.35.145. REGULATION OF FIREARMS. (a) A municipality may  
14 *amend* not, except by ordinance ratified by the voters, restrict the right to  
15 own or possess firearms or transport unloaded firearms.

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

18 ARTICLE 2. MANDATORY AREAWIDE POWERS.

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

22 Sec. 29.35.160. EDUCATION. (a) Each borough constitutes a  
23 borough school district and establishes, maintains, and operates a  
24 system of public schools on an areawide basis as provided in AS 14.-  
25 14.060. A military reservation in a borough is not part of the bor-  
26 ough school district until the military mission is terminated or until  
27 inclusion in the borough school district is approved by the Department  
28 of Education. However, operation of the military reservation schools  
29 by the borough school district may be required by the Department of

*Jud  
Amend*

1 Education under AS 14.14.110. If the military mission of a military  
2 reservation terminates or continued management and control by a re-  
3 gional educational attendance area is disapproved by the Department of  
4 Education, operation, management, and control of schools on the mili-  
5 tary reservation transfers to the borough school district in which the  
6 military reservation is located.

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

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

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

15 Sec. 29.35.180. LAND USE REGULATION. (a) A first or second  
16 class borough shall provide for planning, platting, and land use  
17 regulation in accordance with AS 29.40.

18 (b) A home rule borough shall provide for planning, platting,  
19 and land use regulation.

20 ARTICLE 3. ADDITIONAL POWERS.

21 Sec. 29.35.200. FIRST CLASS BOROUGH POWERS. (a) A first class  
22 borough may exercise by ordinance on a nonareawide basis any power not  
23 otherwise prohibited by law.

24 (b) A first class borough may by ordinance exercise the follow-  
25 ing powers on an areawide basis:

26 (1) provide transportation systems;

27 (2) provide water pollution control;

28 (3) provide air pollution control in accordance with

29 AS 46.03.140 - 46.03.230;

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

6 \* Sec. 19. AS 01.10.060 is amended by adding a new paragraph to read:

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

10 \* Sec. 20. AS 05.35.040 is amended to read:  
*Finance Amend # 2 (Clison's amendment on Taxing alcohol)*

11 Sec. 05.35.040. POWER OF MUNICIPALITY. A municipality may own,  
12 maintain and employ a facility constructed under AS 05.35.010 -  
13 05.35.070. The exercise of this power on an areawide basis is at the  
14 option of the borough and is not subject to the restrictions on ac-  
15 quiring additional areawide powers in AS 29.35.300 - 29.35.330  
16 [AS 29.33.250 - 29.33.290].

17 \* Sec. 21. AS 09.45.845 is amended to read:

18 Sec. 09.45.845. VACATING OF STREETS IN WHOLE OR IN PART. The  
19 vacating of streets in whole or in part by the voluntary action of a  
20 municipality, for the purpose of making it possible for the court to  
21 mitigate the hardships suffered by individuals because of the change  
22 in land boundaries caused by the act of God, consisting of an earth-  
23 slide, can be accomplished by the offer of the municipality expressed  
24 in the complaint followed by the court's approval of it in the action  
25 authorized in AS 09.45.800 - 09.45.880, without other formalities.  
26 This provision is a special emergency substitute for the provisions  
27 contained in AS 29.40.120 - 29.40.160 [AS 29.33.200 - 29.33.240].

28 \* Sec. 22. AS 09.55.275 is amended to read:

29 Sec. 09.55.275. REPLAT APPROVAL. No agency of the state or

1 municipality may acquire property located within a municipality exer-  
2 cising the powers conferred by AS 29.35.180 or 29.35.260(c) that  
3 [AS 29.33.150 - 29.33.245 WHICH] results in a boundary change unless  
4 the agency or municipality first obtains from the municipal platting  
5 authority preliminary approval of a replat showing clearly the loca-  
6 tion of the proposed public streets, easements, rights-of-way, and  
7 other taking of private property. Final approval of replat shall be  
8 similarly obtained. However, if a state agency clearly demonstrates  
9 an overriding state interest, a waiver to the approval requirements of  
10 this section may be granted by the governor. The platting authority  
11 shall treat applications for replat made by state or local govern-  
12 mental agencies in the same manner as replat petitions originated by  
13 private landowners.

14 \* Sec. 23. AS 09.65.070(e)(1) is amended to read:

15 (1) "municipality" has the meaning given in AS 01.10.-  
16 060 and [MEANS A HOME RULE BOROUGH OR CITY, A GENERAL LAW BOROUGH OR  
17 CITY OF ANY CLASS, A UNIFIED MUNICIPALITY ESTABLISHED UNDER AS 29.-  
18 68.240 - 29.68.440, OR A MUNICIPALITY ESTABLISHED BY MERGER OR CON-  
19 SOLIDATION UNDER AS 29.68.030 - 29.68.110; THE TERM] includes a public  
20 corporation established by a municipality;

21 \* Sec. 24. AS 14.08.071(b) is amended to read:

22 (b) Except for the first election of regional school members  
23 under (a) of this section, elections [ELECTION] shall be held annually  
24 on the first Tuesday in October. Elections shall be supervised by the  
25 director of elections in the office of the lieutenant governor, but  
26 shall be administered within second class cites as part of the regular  
27 municipal election. The lieutenant governor shall adopt [PROMULGATE]  
28 regulations for the conduct of the election of regional school board  
29 members comparable, as far as practicable, to those prescribed for

*Amend #3 - Finance  
(Multivisions)*

*Delete*

*Insert A person, utility... etc*

1 \* Sec. 67. AS 42.05.711(1) is amended to read:  
2 (1) A person, utility, or cooperative that is exempt from regu-  
3 lation under AS 42.05.711(a) or (d) - (k) is not subject to regulation  
4 by a municipality under AS 29.35.070 [AS 29.48.060 - 29.48.090].

5 \* Sec. 68. AS 43.56.010(b) is amended to read:  
6 (b) A municipality may levy and collect a tax under AS 29.45.080  
7 [AS 29.53.045] at the rate of taxation that applies to other property  
8 taxed by the municipality. The tax shall be levied at a rate no  
9 higher than the rate applicable to other property taxable by the  
10 municipality. No municipality may exempt from taxation property  
11 authorized to be taxed under this chapter. Exemptions shall be lim-  
12 ited to those in AS 29.45.030, 29.45.050, [AS 29.53.020 AND AS 29.53.-  
13 025] and AS 43.56.020.

14 \* Sec. 69. AS 43.56.010(c) is amended to read:  
15 (c) If the total value of assessed property of a municipality  
16 taxing under AS 29.45.080(c) [AS 29.53.045(c)] exceeds the product of  
17 225 percent of the average per capita assessed full and true value of  
18 property in the state (to be determined by the department and reported  
19 to each municipality by January 15 of each year) multiplied by the  
20 number of residents of the taxing municipality, the department shall  
21 designate the portion of the tax base against which the local tax may  
22 be applied. [FOR PURPOSES OF THIS SUBSECTION THE AVERAGE PER CAPITA  
23 ASSESSED FULL AND TRUE VALUE OF PROPERTY IN THE STATE SHALL BE  
24 CALCULATED WITHOUT REGARD TO THE ASSESSED VALUE OF TAXABLE PROPERTY  
25 UNDER AS 43.58.]

26 \* Sec. 70. AS 43.56.010(d) is amended to read:  
27 (d) A tax paid to a municipality under AS 29.45.080 or former  
28 AS 29.53.045 on or before June 30 of the tax year shall be credited  
29 against the tax levied under (a) of this section for that tax year.

1           Sec. 40.15.200. APPLICATION TO STATE AND POLITICAL SUBDIVI-  
2           SIONS. All subdivisions of land made by the state, its agencies,  
3           instrumentalities and political subdivisions are subject to the provi-  
4           sions of this chapter and AS 29.40.070 - 29.40.160 [AS 29.33.150 -  
5           29.33.240], or home rule ordinances or regulations governing subdivi-  
6           sions, and shall comply with ordinances and other local regulations  
7           adopted under this chapter and AS 29.40.070 - 29.40.160 or former  
8           AS 29.33.150 - 29.33.240, or under home rule authority, in the same  
9           manner and to the same extent as subdivisions made by other land-  
10          owners.

11       \* Sec. 65. AS 41.35.180(5) is amended to read:

12               (5) consult with local historical district commissions re-  
13               garding the establishment of historical districts under AS 29.55.010 -  
14               29.55.020 [AS 29.48.108 - 29.48.110] and the approval of project  
15               alterations under AS 45.98.040; recommend, if appropriate, the formu-  
16               lation of additional criteria for the designation of historical dis-  
17               tricts under AS 29.55.020(b) [AS 29.48.110(b)]; approve plans for and  
18               evaluate the suitability of specific structures for purposes of loan  
19               eligibility and continuance under the historical district revolving  
20               loan fund (AS 45.98); and consult with the Department of Commerce and  
21               Economic Development relative to the adoption of regulations for  
22               historical district loans under AS 45.98.

23       \* Sec. 66. AS 41.98.175(d) is amended to read:

24               (d) In (a) of this section "municipalities" includes cities or  
25               organized boroughs of any class and unified municipalities exercising  
26               powers to initiate projects described in AS 41.98.170 and acquire  
27               parks and open space land, as otherwise authorized by law [, AND  
28               INCLUDES BUT IS NOT LIMITED TO UNIFIED MUNICIPALITIES ORGANIZED UNDER  
29               AS 29.68.240 - 29.68.440].