



LAWS OF ALASKA

1974

Source

CSHB 853 am S

Chapter No.

145

AN ACT

Relating to municipal incorporation and dissolution; and providing for an effective date.

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

* Section 1. LEGISLATIVE FINDING. The legislature finds that the incorporation of an organized borough provided for in secs. 1 - 9 of this Act accords with standards governing borough incorporation under art. X, sec. 3 of the state constitution and that this Act further conforms to the requirements of art. II, sec. 19 of the state constitution governing local acts.

* Sec. 2. INCORPORATION (a) At the first statewide election occurring after the effective date of this Act, the lieutenant governor shall hold a special election within the area designated in sec. 3 of this Act at which the qualified voters of the area vote upon the following proposition:

"Shall the Eagle River-Chugiak area be incorporated as a second class organized borough? Yes [] No []"

(b) If the question receives the affirmative vote of a majority of qualified voters voting on the question, the area designated in sec. 3 of this Act, on the date of certification of election results by the lieutenant governor, is incorporated as an organized borough of the second class having all the applicable rights, powers, privileges and duties provided under AS 29, and otherwise by the general laws of the state and this Act, including but not limited to entitlement from the date of incorporation to transitional assistance and state revenue sharing in accordance with this Act, AS 29.18.180 - 29.18.200 and AS 43.18.

(c) If the question voted on at the election provided for in (a) of this section fails to receive the affirmative vote of a majority of the qualified voters voting on the question, at the following statewide election the lieutenant governor shall hold a

special election within the area designated in sec. 3 of this Act at which the qualified voters of the area vote upon the following proposition:

"Shall the Eagle River-Chugiak area be incorporated as a second class city? Yes [] No []"

(d) If the question receives the affirmative vote of a majority of the qualified voters voting on the question, the area designated in sec. 3 of this Act is incorporated as a second class city having all the applicable rights, powers, privileges and duties conferred under AS 29, and otherwise by the general laws of the state, for a second class city, including but not limited to entitlement from the date of incorporation to transitional assistance and state revenue sharing as provided under AS 29.18.180 - 29.18.200 and AS 43.18.

(e) Before the election provided for in (a) or (c) of this section, and upon due notice, the local boundary commission shall hold at least one public hearing for informational purposes in the area proposed to be incorporated. It may make studies relating to the incorporation it considers appropriate.

(f) The lieutenant governor shall provide for and supervise the elections provided for in this section in the general manner prescribed by the Alaska Election Code (AS 15.05 - 15.60). The state shall pay all election costs under this section.

* Sec. 3. BOUNDARIES. The boundaries of the area designated for incorporation under the provisions of sec. 2 of this Act are as follows: All that land included on the effective date of this Act in the Greater Anchorage Area Borough and lying northerly of the following line: commencing in Knik Arm on the west boundary of the Greater Anchorage Area Borough and on the south boundary of section 17, T14N, R3W, SM; thence east along the south boundary of sections 17, 16, 15, 14 and 13, T14N, R3W, SM; thence east along the south boundary of sections 18, 17, and 16, T14N, R2W, SM; thence south between sections 21 and 22, thence east along the south boundary of sections 22, 23, and 24, T14N, R2W, SM; thence southeasterly to the southwest protracted corner of section 1, T12N, R1W, SM; thence southeasterly to the southwest protracted corner of section 34, T12N, R2E, SM; thence east along the south boundaries of townships 12N, ranges 2E, 3E, 4E and 5E to the east boundary of the Greater Anchorage Area Borough.

* Sec. 4. BOUNDARY ADJUSTMENTS. Within six months of incorporation of the municipality as provided in sec. 2 of this Act, the local boundary commission shall hold public hearings within the area incorporated to determine the necessity for boundary adjustments and shall submit its recommendations if any to the legislature in the manner required by law.

* Sec. 5. EFFECT OF ACT. Incorporation of an organized borough of the second class under secs. 1 - 9 of this Act divides the area designated in sec. 3 of this Act from the Greater Anchorage Area Borough. Incorporation of a second class city under secs. 1 - 9 of this Act constitutes the city as a second class city within the Greater Anchorage Area Borough.

* Sec. 6. INITIAL ELECTION OF OFFICERS. (a) If incorporation of an organized borough or city takes effect as provided in secs. 1 - 9 of this Act, the lieutenant governor shall provide

for the first election of officers of the municipal governing body, in substantial compliance with the provisions of AS 29.18.120 and this section. Members of the initial municipal governing body are elected and serve terms in accordance with AS 29.18.120 and this section.

(b) The initial assembly of a borough incorporated as provided in this Act shall be comprised of seven members who shall be elected according to an apportionment consistent with the equal representation standards of the Constitution of the United States and set by the local boundary commission after due notice and hearing in the area incorporated. Assembly composition and apportionment as established in this section may be changed, and shall otherwise be governed, as provided in AS 29.23.020.

(c) If incorporation under secs. 1 - 9 of this Act is as a borough, at the election called to choose the initial assembly under (a) of this section the school board of the borough shall also be elected. The board shall be comprised of five members elected for terms as provided in AS 14.12.050, except that the terms of the initial school board members shall be measured for the purpose of compliance with AS 14.12.050 as if election were on the date one year preceding the next regular borough election date, as set by law or otherwise designated by the assembly, preceding the election of the board. School board composition under this section may be changed as provided in AS 14.12.050.

* Sec. 7. NAME AND GOVERNING SEAT OF MUNICIPALITY. The initial municipal governing body of a municipality incorporated as provided in this Act shall select the name and governing seat of the municipality.

* Sec. 8. BOROUGH POWERS. In addition to exercising the areawide powers required to be exercised within the borough by law, the second class organized borough incorporated under provisions of this Act shall have and may exercise areawide or otherwise the powers necessary to provide the following facilities and services within the borough, other provisions of law governing acquisition of borough powers notwithstanding: health services, sewers, dog control, transportation systems, libraries, and other powers and functions being exercised on the effective date of this Act by the Greater Anchorage Area Borough within the area incorporated under provisions of this Act, whether exercised by the Greater Anchorage Area Borough is on an areawide basis or otherwise. Other powers and functions may be acquired and exercised by the borough incorporated under provisions of this Act as provided by law.

* Sec. 9. SUCCESSION AND TRANSITION. (a) Upon incorporation of a municipality under provisions of this Act, the municipality incorporated succeeds to the rights, powers, privileges, duties and functions which are by law applicable to it as a municipality and which are being exercised by the Greater Anchorage Area Borough on the effective date of this Act within the area incorporated. The municipality succeeds also to the assets and liabilities of the Greater Anchorage Area Borough, whether real or intangible, and including but not limited to bonded or other indebtedness, respecting the area incorporated as to a power or function succeeded to by the municipality, upon final determination of allocation of assets and liabilities between the Greater Anchorage Area Borough and the municipality incorporated

as provided in (b) of this section.

(b) Upon incorporation of a borough or city as provided in this Act, the local boundary commission, after due notice and hearing to parties concerned, shall prepare an order providing for an equitable allocation between the Greater Anchorage Area Borough and the municipality incorporated of assets and liabilities, whether real or intangible, and including but not limited to bonded or other indebtedness, respecting the area incorporated as to a power or function succeeded to by the municipality. The commission decision may be appealed under the Administrative Procedure Act (AS 44.62). A final determination under this section is binding on the municipalities. Not less than all property within the area incorporated under provisions of this Act remains subject to taxation to amortize bonded or other indebtedness affecting the area incorporated and existing at the time of incorporation. The assembly of a borough incorporated under provisions of this Act is authorized to levy and collect special charges, taxes, or assessments to amortize the indebtedness.

(c) The provisions of this Act or other law notwithstanding, a power or function which is being exercised on the effective date of this Act by the Greater Anchorage Area Borough within an area incorporated under this Act and which is succeeded to by the borough or city incorporated shall continue to be exercised by the Greater Anchorage Area Borough until the borough or city incorporated under this Act assumes the power or function, which shall not be later than the close of the fiscal year of the Greater Anchorage Area Borough during which incorporation occurs. However, in the case of incorporation of a borough under provisions of this Act, the Greater Anchorage Area Borough shall continue to assess and collect borough taxes levied within the municipality for the borough fiscal year in which incorporation occurs until the close of that year, and thereafter as necessary to enforce collection of the taxes, and shall also collect, or receive, other revenues pertaining to the area incorporated for that fiscal year; the taxes and other revenues collected or received shall be remitted as promptly as possible, consistent with this subsection, to the new municipality on a basis fairly reflecting the division of powers and functions during transition between the Greater Anchorage Area Borough and the municipality. The local boundary commission shall by order determine the allocation of tax and other revenues under this subsection. The commission decision may be appealed under the Administrative Procedure Act (AS 44.62). A final determination under this subsection is binding on the municipalities.

(d) Ordinances, rules, resolutions, procedures and orders in effect before the transfer of powers and functions under this section remain in effect until superseded by action of the governing body of the new municipality. The provisions of this Act or other law notwithstanding, Greater Anchorage Area Borough assembly or school board members who are residents of the area which is incorporated as a borough under provisions of this Act continue to serve in office until completion of the transition under (c) of this section, and thereafter their seats on the assembly or school board shall be filled as otherwise provided by law for the filling of a vacancy.

(e) Written notice of intention to assume powers and functions by the new municipality under this section shall be

given the Greater Anchorage Area Borough, and officials of the respective municipalities shall arrange for an orderly transfer.

(f) After incorporation of a municipality under provisions of this Act, the Greater Anchorage Area Borough may not authorize new bonded indebtedness or transfer assets with respect to the area incorporated without consent of the governing body of the new municipality.

(g) Applications, petitions, hearings, litigation, and other official proceedings relating to an area incorporated under provisions of this Act and not completed at the time of incorporation continue in effect and may be continued and completed as appropriate under this Act before or in the name of the new municipality.

(h) Records, ledgers, files, documents, and other papers held by the Greater Anchorage Area Borough and pertaining to the area incorporated under provisions of this Act shall upon request of the governing body of the municipality incorporated be transferred or otherwise furnished the new municipality. Officials of the Greater Anchorage Area Borough shall assist the officials of the new municipality in collecting and reviewing information to be transferred or otherwise furnished under this section.

* Sec. 10. DISSOLUTION OF LOST RIVER. The development city of Lost River, as provided for in ch. 110, SLA 1972, is dissolved.

* Sec. 11. EFFECTIVE DATE. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.