



# LAWS OF ALASKA

1980

**Source**

FCCSHB 947

**Chapter No.**

128

**AN ACT**

Relating to borough assemblies and amending the apportionment requirements of charters of unified municipalities; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 30, 1980  
Actual Effective Date: Sections 11, 14 and 15 take effect  
July 1, 1980; sections 1 - 10, 12 and 13 take effect  
January 1, 1981.

AN ACT

Relating to borough assemblies and amending the apportionment requirements of charters of unified municipalities; and providing for an effective date.

\* Section 1. AS 29.13.100(3) is repealed and re-enacted to read:

(3) AS 29.23.021 (borough assembly composition and apportionment), and AS 29.23.040 - 29.23.050 (borough assembly members)

\* Sec. 2. AS 29.18.050(4) is amended to read:

(4) composition and apportionment of the assembly or council [, BUT THE NUMBER OF MEMBERS OF A BOROUGH ASSEMBLY MAY NOT EXCEED 11];

\* Sec. 3. AS 29.23.021(b) is amended to read:

(b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with the requirements of this section [AS 29.23.023] and prescribed by charter or ordinance.

\* Sec. 4. AS 29.23.021 is amended by adding a new subsection to read:

(d) A member of the assembly of a borough may not be elected or appointed by and from the council of a city in the borough.

\* Sec. 5. AS 29.23.023 is repealed and re-enacted to read:

Sec. 29.23.023. COMPOSITION AND FORM OF REPRESENTATION. (a) The

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1 borough assembly shall provide for its composition and for the form of  
2 its representation.

3 (b) Not later than the first regular election which occurs after  
4 the report of a federal decennial census, the assembly shall propose and  
5 submit to the voters of the borough, at that regular election or at a  
6 special election called for the purpose, one or more forms of borough  
7 assembly representation. The forms of representation which the assembly  
8 may submit to the voters are:

9 (1) election of members of the borough assembly at large by  
10 the qualified voters throughout the borough;

11 (2) election of members of the borough assembly by district,  
12 including

13 (A) election at large by the qualified voters throughout  
14 the borough, but with a requirement that a candidate live within an  
15 election district established by the borough for election of  
16 assembly members; or

17 (B) election from election districts established by the  
18 borough for the election of assembly members by the qualified  
19 voters of a district;

20 (3) election of members of the borough assembly both at large  
21 and by district.

22 (c) A form of borough assembly representation which includes  
23 election of borough assembly members under (b)(2) or (b)(3) of this  
24 section shall be submitted to the voters of the borough with a plan of  
25 apportionment as required by AS 29.23.025(a).

26 (d) The borough assembly shall, within 30 days of certification of  
27 the results of the election held on a proposed form of representation  
28 under this section, adopt an ordinance providing for its composition and  
29 the form of assembly representation, and, if applicable, the apportion-

1 ment of assembly seats which corresponds to the proposed form of rep-  
2 resentation which receives the most votes at the election.

3 (e) This section does not apply

4 (1) to a unified municipality incorporated under AS 29.68.-  
5 240 - 29.68.440;

6 (2) to a home rule borough if the borough charter contains  
7 procedures for changing assembly composition and form of representation.

8 \* Sec. 6. AS 29.23.025(a) is repealed and re-enacted to read:

9 (a) Not later than two months after the official report of a  
10 federal decennial census, the borough assembly shall determine and  
11 declare by resolution whether the existing apportionment of the borough  
12 assembly meets the standards of AS 29.23.021. If the borough assembly  
13 submits to the voters a form of representation which includes election  
14 of borough assembly members under AS 29.23.023(b)(2) or (b)(3), the  
15 assembly shall submit with the proposition a proposed plan of apportion-  
16 ment which corresponds to the form of representation proposed. The  
17 assembly shall describe the plan of apportionment in the ballot proposi-  
18 tion, and may present the plan in any manner which it believes accurate-  
19 ly describes the apportionment which is proposed under the form of  
20 representation. If the borough assembly determines that its existing  
21 apportionment meets the standards of AS 29.23.021, the assembly may  
22 include the existing apportionment as a proposed plan of apportionment  
23 of assembly seats which corresponds to a form of representation which is  
24 proposed.

25 \* Sec. 7. AS 29.23.025(b) is repealed and re-enacted to read:

26 (b) The borough assembly shall provide, by ordinance, for a change  
27 in an existing apportionment of the borough assembly whenever it  
28 determines that the apportionment does not meet the standards of  
29 AS 29.23.021. At the same time, the borough assembly may, by ordinance,

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1 change the composition of the assembly.

2 \* Sec. 8. AS 29.23.025(c) is repealed and re-enacted to read:

3 (c) If a petition signed by not less than 50 registered voters who  
4 are residents of the borough requests the borough assembly to determine  
5 whether the existing apportionment meets the standards for apportionment  
6 in AS 29.23.021, and the petition contains evidence that the existing  
7 apportionment does not meet those standards, the assembly may make the  
8 determination requested. The borough assembly shall make a determina-  
9 tion required by this subsection within two months of receipt of a  
10 petition which meets the requirements of this subsection.

11 \* Sec. 9. AS 29.23.025(e) is amended to read:

12 (e) Within six [FOUR] months of a determination by the borough  
13 assembly under (b) or (c) of this section that the current apportionment  
14 does not meet the standards of AS 29.23.021 [AS 29.23.021 - 29.23.025],  
15 the borough assembly shall adopt an ordinance providing for reapportion-  
16 ment, and submit the ordinance to the voters. If, at the end of the  
17 six-month [FOUR-MONTH] time period, an ordinance providing for reap-  
18 portionment has not been approved by the voters, the commissioner of the  
19 Department of Community and Regional Affairs shall provide for the  
20 reapportionment in accordance with the standards of AS 29.23.021 by pre-  
21 paring an order of reapportionment and delivering the order to the  
22 borough mayor [AS 29.23.021 - 29.23.023].

23 \* Sec. 10. AS 29.23 is amended by adding new sections to read:

24 Sec. 29.23.027. APPORTIONMENT APPEALS. (a) A reapportionment  
25 ordinance approved by the voters, or a decision of the borough assembly  
26 that the standards of AS 29.23.021 do not require a change in apportion-  
27 ment, may be appealed to the commissioner of the Department of Community  
28 and Regional Affairs. Fifty registered voters who are residents of the  
29 borough may submit a petition to the commissioner of community and

1 regional affairs requesting the commissioner to determine whether the  
2 proposed reapportionment ordinance approved by the voters meets the  
3 standards of AS 29.23.021, or whether a decision of the borough assembly  
4 that the standards of AS 29.23.021 do not require a change of apportion-  
5 ment is correct. If the petition asks the commissioner of community and  
6 regional affairs to review an ordinance approved by the voters under  
7 AS 29.23.025(e), the petition shall be delivered to the commissioner not  
8 later than 20 days after certification of the election. If the petition  
9 asks the commissioner of community and regional affairs to review a  
10 decision of the borough assembly under AS 29.23.025(c), the petition  
11 shall be delivered to the commissioner within 20 days of the decision of  
12 the borough assembly.

13 (b) The commissioner of community and regional affairs shall  
14 review the petition and may make the determination requested. The  
15 commissioner shall provide copies of his determination to the persons  
16 petitioning for appeal and to borough officials not later than 60 days  
17 after he receives the petition.

18 (c) If the commissioner of community and regional affairs deter-  
19 mines that the proposed reapportionment ordinance approved by the voters  
20 does not meet the standards of AS 29.23.021, or if he determines that  
21 the decision of the borough assembly that the standards of AS 29.23.021  
22 do not require a change of apportionment is not correct, the commissioner  
23 shall, by order, direct the borough assembly to prepare a reapportion-  
24 ment ordinance which meets the standards of AS 29.23.021 and submit the  
25 ordinance to the voters.

26 (d) When the borough assembly has been directed by the commis-  
27 sioner of community and regional affairs to prepare a reapportionment  
28 ordinance under (c) of this section, the borough assembly shall, within  
29 two months of its receipt of the commissioner's order, adopt an ordi-

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1 nance providing for reapportionment. The borough assembly shall submit  
2 an ordinance adopted under this subsection to the voters at a regular  
3 election or special election held within 60 days of the date of adoption  
4 of the reapportionment ordinance.

5 (e) If at the end of the time period provided under (d) of this  
6 section an ordinance providing for reapportionment has not been approved  
7 by the voters, the commissioner of community and regional affairs shall  
8 provide for the reapportionment of the borough assembly in accordance  
9 with the standards of AS 29.23.021 by preparing an order of reapportion-  
10 ment and delivering the order to the borough mayor.

11 Sec. 29.23.029. JUDICIAL REVIEW AND RELIEF. (a) The commissioner  
12 of community and regional affairs may request the superior court to  
13 enforce a reapportionment order issued under AS 29.23.027(e).

14 (b) Each of the following is subject to judicial review:

15 (1) a plan of reapportionment approved by the voters under  
16 AS 29.23.025(a);

17 (2) a determination by the borough assembly under AS 29.23.-  
18 025(c) that the standards of AS 29.23.021 do not require a change in  
19 apportionment;

20 (3) a reapportionment ordinance approved by the voters under  
21 AS 29.23.025(d);

22 (4) a reapportionment order of the commissioner of community  
23 and regional affairs made under AS 29.23.027(c);

24 (5) a reapportionment ordinance approved by the voters under  
25 AS 29.23.027(d); and

26 (6) a reapportionment order of the commissioner of community  
27 and regional affairs made under AS 29.23.027(e).

28 Sec. 29.23.031. EFFECTIVE DATE OF APPORTIONMENT. (a) A change in  
29 assembly apportionment or composition under AS 29.23.025 or 29.23.027 is

1 effective beginning with the first regular election for members of the  
2 assembly which is held more than 60 days after the later of:

3 (1) approval of a reapportionment ordinance by the voters  
4 under AS 29.23.025(a), 29.23.025(e), or 29.23.027(d); or

5 (2) the delivery to the mayor of a reapportionment order of  
6 the commissioner of community and regional affairs under AS 29.23.027(e).

7 (b) The provisions of (a) of this section do not apply to a  
8 borough in which a change in assembly composition or apportionment is  
9 subject to review and approval or determination of nonobjection by the  
10 Attorney General of the United States under the Voting Rights Act of  
11 1965, as amended, (42 U.S.C. 1971 - 1974). A change in assembly com-  
12 position or apportionment subject to review under the Voting Rights Act  
13 of 1965, as amended, is effective beginning with the first regular  
14 election for members of the assembly which is held more than 60 days  
15 after

16 (1) receipt by the borough assembly of approval by the  
17 Attorney General of the United States of the proposed change in the  
18 composition or apportionment of the assembly;

19 (2) receipt by the borough assembly of a statement of non-  
20 objection from the Attorney General of the United States to the proposed  
21 change in the composition or apportionment of the assembly; or

22 (3) the last day on which the Attorney General of the United  
23 States may review a proposed change in the composition or apportionment  
24 of the assembly.

25 Sec. 29.23.033. APPLICABILITY OF APPORTIONMENT PROVISIONS. The  
26 provisions of AS 29.23.025 - 29.23.031 do not apply

27 (1) to a unified municipality incorporated under AS 29.68.-  
28 240 - 29.68.440;

29 (2) to a home rule borough if the borough, by charter,

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1 provides for reapportionment of the borough assembly.

2 \* Sec. 11. AS 29.23.040 is amended to read:

3 Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) Assemblymen are  
4 selected for three-year terms and until their successors are selected  
5 and have qualified, unless different terms not exceeding four years are  
6 prescribed by borough charter or ordinance. Except when otherwise re-  
7 quired by a change of composition or apportionment, if the term of an  
8 assemblyman is changed by charter or ordinance, the term of an assembly-  
9 man holding office at the time the change takes effect is not affected  
10 by that change.

11 (b) The regular term of office begins on the first Monday follow-  
12 ing certification of the election, unless a different date is prescribed  
13 by borough charter or ordinance. [THE CURRENT TERM OF INCUMBENT AS-  
14 SEMBLYMEN MAY NOT BE ALTERED UNDER THIS SECTION.]

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

16 \* Sec. 12. AS 29.68.350(a)(2) is repealed and re-enacted to read:

17 (2) provisions for

18 (A) the establishment of service areas; and

19 (B) the establishment of districts or sections for the  
20 election of members of the legislative body of the unified municipi-  
21 pality, if election of members of the legislative body is not  
22 areawide, and procedures by which to reapportion the election  
23 districts or sections;

24 \* Sec. 13. AS 29.23.025(f) and (g) are repealed.

25 \* Sec. 14. Sections 1 - 10, 12, and 13 of this Act take effect January 1,  
26 1981.

27 \* Sec. 15. Sections 11, 14, and 15 of this Act take effect immediately in  
28 accordance with AS 01.10.070(c).