

Sectional Analysis for SB 48

Equity in Education Funding Act

An Act relating to the determination of full and true value of taxable municipal property for purposes of calculating funding for education and certain other programs; and relating to incorporation of second class boroughs in the unorganized borough and to annexation of portions of the unorganized borough to boroughs and unified municipalities.

Released: April 10, 2001

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Senate Bill 48 creates a new way for borough incorporation or annexation in areas of the unorganized borough which have the human and financial resources necessary to support organized government. This 5-step process, outlined in **Section 4, pages 3 – 5**, is as followed:

1. The Department of Community and Economic Development (DCED), by November 30 of each year, provides to the Local Boundary Commission (LBC) a list of areas in the unorganized borough that appear to satisfy current standards for borough incorporation or annexation. The LBC must select areas from this list that may warrant incorporation or annexation.
2. By March 31 of the following year, DCED must prepare a petition for borough incorporation or annexation for the areas selected by the Local Boundary Commission. The department will conduct at least one public meeting in each area under consideration. After considering written and oral comments on the proposal, DCED may amend the petition. The original, or if amended, the amended petition is filed with the Local Boundary Commission.
3. The Local Boundary Commission shall hold at least one public hearing in each community with at least 200 residents in or near the area proposed for incorporation or annexation. Hearings may be held by teleconference in communities less than 200. Following the hearings, the LBC may amend the petition and impose conditions on the proposed incorporation or annexation. If the Commission determines that the applicable borough standards are met, and the incorporation or annexation is in the best interest of the state, the LBC may accept the petition. If not, the Commission must reject the petition.
4. Each incorporation or annexation approved by the Commission must be submitted to the Legislature during the first ten days of a regular legislative session as provided under AS 44.33.828. However, the LBC may not submit more than two petitions each year. The Legislature has 45 days to review the proposal. The incorporation or annexation is tacitly approved by the Legislature unless a concurrent resolution rejecting the proposal is adopted within the 45-day review period.

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5. If a proposal for incorporation receives tacit approval from the Legislature, the LBC must notify the Director of Elections. Within 30 days, the director must order an election for borough officials and an election must be held not less than 30 or more than 90 days from the date of the election order. A borough incorporated under this new process may levy sales and use taxes as approved by the LBC.

All existing general laws governing borough incorporation apply to these newly formed boroughs. These laws relate to (1) integration of special districts and services areas – AS 29.05.130; (2) transition – AS 29.05.140; (3) challenge of legality – AS 29.05.150; (4) organization grants – AS 29.05.190; (5) organization grant fund – AS 29.05.200 (6) transitional assistance to boroughs – AS 29.05.210; and (7) land grants – AS 29.65.030.

Other Provisions in Committee Substitute for Senate Bill 48 (CRA)

A provision in **Section 2, page 2**, addresses a current inequity involving areas that may detach from organized government. The required local contribution of a city or borough school district to help pay for local schools is the equivalent of a four-mill tax levy on the full and true property value in the district as of January 1 of the second preceding fiscal year. Under current law, if an area is detached, the four-mill equivalent will, for two years following detachment, be based on property values that are no longer part of the district. Language in Section 2 corrects this unfair provision; the property value in the detached area is simply not counted when determining the required four-mill equivalent.

Section 2 also eliminates another disincentive to borough formation in certain regions of Alaska. In less developed parts of Alaska, property taxes are not necessarily the most practical or preferred means of generating municipal revenue. This is evidenced by the fact that four of the last five organized boroughs formed do not levy property tax.

As mentioned above, the four-mill local contribution requirement for education is based on the value of taxable property within the school district, including the Trans-Alaska Oil Pipeline if the pipeline transverses the municipality. In order for a municipality to collect an equivalent four-mill tax based on the value of the pipeline, the only realistic option for the residents to consider is a property tax. However, there may be situations where residents would prefer another taxing alternative. Senates Bill 48 addresses this concern in **Section 2, page 2**. If a municipality elects not to levy a property tax and decides instead to raise the four-mill equivalent in another fashion, the assessed value of any oil and gas properties within the municipality is excluded from the school district's full and true value of taxable property.

It should be noted that when a municipal government levies property taxes on the Trans-Alaska Oil Pipeline, the proceeds from that tax are deducted from revenues that the State of Alaska would otherwise receive under AS 43.56.010 (*Oil and Gas Property Taxes*). Thus, the State's financial gain from including oil and gas properties in the local required contribution determination is offset by an equal reduction in State taxes levied on oil and gas properties. However, if a new municipal government elects not to levy a property tax, the revenue collected on oil and gas properties is not impacted; there is no reduction to the state treasury.

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Section 5, page 5, repeals the prohibition against the formation of a third class borough and allows an area to incorporate as a third class borough if certain existing standards are met, as outlined in **Section 3, page 3**. A third class borough must provide for an educational system within its boundaries, but the borough does not have planning, platting, or land use powers.

As noted in **Section 6, page 6**, the Department of Community and Economic Development is directed to submit a proposal by November 30, 2001 to the Local Boundary Commission to divide the entire area of the unorganized borough into separate unorganized boroughs. The area's population, geography, economy, and transportation will be considered when forming the proposed unorganized boroughs. The LBC will submit each proposed unorganized borough it approves to the Legislature during the first 10 days of the Second Session of the Twenty-Second Alaska Legislature.

Committee Substitute for Senate Bill 48 (FIN) takes effect immediately.