

Submitted by: Assembly Members Clementson
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Prepared by: Department of Law
For reading: February 24, 1998

ANCHORAGE, ALASKA

AR NO. 98-55

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY OPPOSING SENATE BILL No. 208 AND ITS COMPANION HOUSE BILL No. 365 WHICH PROPOSE TO SEVERELY RESTRICT THE AUTHORITY OF HOME RULE AND OTHER MUNICIPALITIES OVER THE CREATION, ALTERATION AND ABOLITION OF LOCAL, MUNICIPAL SERVICE AREAS.

WHEREAS Alaska Statutes 29.35.450 governing service areas in general law boroughs does not presently apply to home rule boroughs and unified municipalities as a prohibition on home rule boroughs and unified municipalities acting otherwise; and

WHEREAS, Senate Bill No. 208 and House Bill No. 365 amend Alaska Statutes 29.35.450 to severely restrict the creation, alteration, abolition and consolidation of service areas by general law municipalities and makes those restrictions apply to home rule boroughs and unified municipalities by providing that:

- (1) Abolition of an existing service area and its replacement by a larger service area is subject to approval, separately by both
 - a) a majority of voters in the existing service area; and
 - b) a majority of those in the proposed new service area outside the existing service area; and
- (2) And alteration or combining of service areas in which voters reside is subject to approval, separately, by both a majority of those in *each* of the service areas or in a the existing service area and the proposed service area *affected* by the proposal; and
- (3) That existing service areas could not be abolished except with a concurrent vote of those outside the service area; and

WHEREAS, Article X., §1 of the Alaska Constitution provides for maximum local self-government for both home rule and general law municipalities; and

WHEREAS, Article X., §11 grants home rule municipalities all legislative powers not prohibited by law or charter; and

WHEREAS, Article X, § 11 of the Alaska's Constitution allows municipal governments to take on home rule status broader than those of any other state, it being the intent of the

1 constitutional delegates that the legislature should have authority to deny local exercise of specific
2 powers only when necessary for a greater state interest and that the legislature would not act to
3 limit home rule powers except under such special circumstances; and
4

5 WHEREAS Senate Bill No. 208 and House Bill No. 365 substantially diminish local self-
6 government, especially in home rule boroughs and unified municipalities, by unnecessarily and
7 severely restricting the manner in which municipal service areas may be created, altered, abolished
8 and consolidated; and
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10 WHEREAS, the Alaska constitutional convention clearly intended that jurisdiction over
11 service areas in organized boroughs and unified municipalities was to be vested in the assembly
12 to assure a unified supervision of all municipal functions; and
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14 WHEREAS Senate Bill No. 208 and House Bill No. 365 restrict the ability of local
15 governing bodies to abolish, combine, or otherwise alter certain service areas which, in turn,
16 restricts the local government's ability to comply with the constitution; and
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18 WHEREAS, Article X, §1 of the Alaska Constitution also provides for a minimum number
19 of local taxing units and this provision has been interpreted by the Alaska Supreme Court and other
20 Alaska Constitution scholars to mean, in part, that the constitution calls for a minimum number
21 of local government units, including service areas; and
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23 WHEREAS, Art. X, § 5 of the Alaska Constitution prohibits the creation of new service
24 areas in home rule and general law governments if the new service can be provided by an existing
25 service area consistent with the constitutional requirement for maximum local self-government and
26 minimum numbers of local government units and Senate Bill No. 208 and House Bill No. 365
27 would restrict the local governing body's ability to conform to this constitutional provision; and
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29 WHEREAS, basic government services benefitting municipalities as a whole are in some
30 instances provided by service areas until providing those services areawide is warranted; and
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32 WHEREAS, Senate Bill 208 and House Bill 365 will permit a minority of voters outside
33 a service area to *permanently* block extending service area services areawide or beyond the
34 presently existing service areas; and
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36 WHEREAS, the effect of Senate Bill 208 and House Bill 365 will be to permanently
37 prohibit home rule boroughs and unified municipalities, but not home rule cities, from levying
38 property taxes to finance government services or capital improvements areawide or in expanded

service areas without a vote of a minority of voters residing outside of service areas regardless of whether that minority receives the benefit of such services; now therefore,

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1: That the Assembly of the Municipality of Anchorage hereby strongly opposes the passage of Senate Bill No. 208 and its companion House Bill No. 365 and all measures similar thereto which in any way impair or impede the local, municipal control of service areas, especially in home rule boroughs and unified municipalities.

Section 2. This resolution shall become effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this ____ day of _____, 1998.

Chair of the Assembly

ATTEST

Municipal Clerk