

Chapter 35. Municipal Powers and Duties

Article

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Article 1. General Powers.

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Sec. 29.35.010. General powers.

All municipalities have the following general powers, subject to other provisions of law:

- (1) to establish and prescribe a salary for an elected or appointed municipal official or employee;
- (2) to combine two or more appointive or administrative offices;
- (3) to establish and prescribe the functions of a municipal department, office, or agency;
- (4) to require periodic and special reports from a municipal department to be submitted through the mayor;
- (5) to investigate an affair of the municipality and make inquiries into the conduct of a municipal department;
- (6) to levy a tax or special assessment, and impose a lien for its enforcement;
- (7) to enforce an ordinance and to prescribe a penalty for violation of an ordinance;

(8) to acquire, manage, control, use, and dispose of real and personal property, whether the property is situated inside or outside the municipal boundaries; this power includes the power of a borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area established under AS 29.35.450;

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

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

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

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

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

(14) to sue and be sued.

(15) provide facilities or services for the confinement and care of prisoners and enter into agreements with the state, another municipality, or any person relating to the confinement and care of prisoners. (§ 10 ch 74 SLA 1985; am § 2 ch 15 SLA 1998)

Effect of amendments. – The 1998 amendment, effective April 25, 1998, added paragraph (15).

Sec. 29.35.015. Investment pools.

A municipality may invest money in investment pools for public entities as authorized under AS 37.23 only if that municipality has obtained the consent of its governing body through an ordinance authorizing the participation. (§ 2 ch 66 SLA 1992)

Sec. 29.35.020. Extraterritorial jurisdiction.

(a) To the extent a municipality is otherwise authorized by law to exercise the power necessary to provide the facility or service, the municipality may provide facilities for the confinement and care of prisoners, parks, playgrounds, cemeteries, emergency medical services, solid and septic waste disposal, utility services, airports, streets (including ice roads), trails, transportation facilities, wharves, harbors and other marine facilities outside its boundaries and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them. A regulation adopted under this section must state that it applies outside the municipality.

(b) A municipality may adopt an ordinance to exercise a power authorized by this subsection and may enforce the ordinance outside its boundaries. Before a power authorized by this subsection may be exercised inside the boundaries of another municipality, the approval of the other municipality must be given by ordinance, and before a power authorized by this subsection may be exercised inside a village, as that term is defined by AS 46.08.900, the approval of the village must be given by resolution.

A municipality intending to exercise its authority under this subsection shall act by ordinance, and may adopt an ordinance under this subsection to

(1) protect its water supply and watershed; or
(2) contain, clean up, or prevent the release or threatened release of oil or a hazardous substance that may pose an imminent or substantial threat to persons, property, or natural resources within the municipality's boundaries; however, this paragraph does not authorize a municipality to enforce an ordinance outside its boundaries to regulate exploration, development, production, or transportation of oil, gas, or minerals in a manner inconsistent with the state's management of those resources, and enforcement of the ordinance must be consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210; in this paragraph, "natural resources" has the meaning given in AS 46.03.826.

(c) A municipality may enter into agreements with the United States Coast Guard, the United States Environmental Protection Agency, and other persons relating to development and enforcement of vessel traffic control and monitoring systems for oil barges and tank vessels carrying oil operating in or near the waters of the state.

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

(e) In this section, "village"

(1) means the area within a five-mile radius of the village post office or, if there is no post office, another site designated by the commissioner;

(2) does not include an area described in (1) of this subsection that is within a city or another village. (§ 10 ch 74 SLA 1985; am § 1 ch 191 SLA 1990; am §§ 2, 3 ch 83 SLA 1991; am § 3 ch 15 SLA 1998)

Revisor's notes. — Subsection (c) was formerly subsection (d) and subsection (d) was formerly subsection (c). Relettered in 1991.

Effect of amendments. —The 1998 amendment, effective April 25, 1998, inserted "facilities for the confinement and care of prisoners" in the first sentence in subsection (a). The 1991 amendment, effective June 28, 1991, rewrote subsection (b) and added subsection (e). The 1990 amendment, effective June 27, 1990, added subsection (c).

Sec. 29.35.030. Eminent domain.

(a) Except as provided in (c) of this section, a municipality may, only within its boundaries, exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the municipality under the procedures set out in AS 09.55.250 - 09.55.460. In the case of a second class city, the exercise of the power of eminent domain or declaration of taking must be by ordinance that is submitted to the voters at the next general election or at a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

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

(c) The power of eminent domain may not be exercised to acquire private property from a private person for the purpose of transferring title to the property to another private person for economic development, except as provided by AS 09.55.240(d)(1) - (6), and may not be exercised for purposes expressed in AS 09.55.240(e).

(d) In this section,

- (1) "economic development" has the meaning given in AS 09.55.240;
 - (2) "private person" has the meaning given in AS 09.55.240.
- (§ 10 ch 74 SLA 1985; §§ 4, 5, 6 ch 84 SLA 2006)

Effect of amendments. —The 2006 amendment, effective October 3, 2006, Amended subsection (a) to insert "Except as provided in (c) of this section, added a new subsection (c) to prohibit eminent domain taking of private property for economic development with exceptions, added a new subsection (d) defining economic development and private person.

Editor's Note —The uncodified law of the State of Alaska is amended by adding a new section to read: APPLICABILITY. This Act applies only to condemnation actions filed on or after the effective date of this Act.

Sec. 29.35.040. Emergency disaster powers.

(a) A municipality that is wholly or partially in an area that is declared by the President or governor to be a disaster area may participate in and provide for housing, urban renewal, and redevelopment in the same manner as a home rule city. The exercise of these powers by a borough shall be on a nonareawide basis, except a borough may exercise the powers transferred to it by a city as provided by AS 29.35.310.

(b) Powers granted by this section must be initiated within a period of not more than five years after the date of declaration of a natural disaster by the President or governor, but these powers may be extended for an additional period of not more than three years. (§ 10 ch 74 SLA 1985)

Sec. 29.35.050. Garbage and solid waste services.

(a) Notwithstanding AS 29.35.200 — 29.35.220, a municipality may by ordinance

(1) provide for the establishment, maintenance, and operation of a system of garbage and solid waste collection and disposal for the entire municipality, or for districts or portions of it;

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

(3) award contracts for collection and disposal, or provide for the collection and disposal of garbage and solid waste by municipal officials and employees;

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

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

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

(7) provide penalties for violations of the ordinances.

(b) The governing body of a municipality may not prohibit a person holding a valid certificate from the former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska from continuing to collect and dispose of garbage, refuse, trash, or other waste material, or provide other related services in an area in the municipality if the certificate authorizes the collection and disposal of garbage, refuse, trash, or other waste

material and providing of other services in the area, and the certificate was originally issued before the municipality provided similar services. Except as provided in (c) of this section, a municipality may not provide for a garbage, refuse, trash, or other waste material collection and disposal service in an area to the extent it lies in an area granted to a garbage, refuse, trash, or other waste material carrier by a certificate issued by the former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska to the carrier until it has purchased the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected, at fair market value. A municipality may exercise the right of eminent domain to acquire the certificate, equipment, and facilities of the carrier, or that portion of the certificate that would be affected.

(c) A municipality may establish an intermediate transfer site for the collection and disposal of garbage, refuse, trash, or other waste material without purchasing the certificate, equipment, or facilities of a waste material carrier certificated by the former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska. The municipality may, without compensating a certificated waste carrier operating in the area, provide for or contract with a certificated or noncertificated entity to provide for the collection and disposal of waste material left at the intermediate transfer site.

(d) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985; am §§ 1, 2 ch 176 SLA 1990; am § 38 ch 21 SLA 1991; am § 30 ch 25 SLA 1999)

Revisor's notes. — Subsection (c) was enacted as subsection (d) and relettered in 1990, at which time former subsection (c) was relettered as subsection (d).

Effect of amendments. — The 1999 amendment, effective July 1, 1999, replaced “by the Alaska Public Utilities Commission” with “by the former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska” in two places in subsection (b) and once in (c). The 1991 amendment, effective June 11, 1991, inserted "Notwithstanding AS 29.35.200 — 29.35.220, a" at the beginning of subsection (a). The 1990 amendment, effective June 22, 1990, in subsection (b), inserted "or other" before "waste material" in the first sentence, added the exception at the beginning of the second sentence, and made a punctuation change in the third sentence; and added present subsection (c).

Editor's notes. — Section 4, ch 176, SLA 1990 provides that the amendments made to this section by §§ 1 and 2, ch 176, SLA 1990 do not apply to a municipality with a population of less than 50,000 until July 1, 1991.

Sec. 29.35.055. Local air quality control program.

A municipality may establish a local air quality control program as provided in AS 46.14.400 only if the municipality has obtained the consent of its governing body through an ordinance authorizing the participation. This section applies to home rule and general law municipalities. (§ 6 ch 74 SLA 1993)

Sec. 29.35.060. Franchises and permits.

(a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may grant franchises, including exclusive franchise privileges, to a person, corporation, organization, or utility not certificated by the former

Alaska Public Utilities Commission or by the Regulatory Commission of Alaska and may permit the use of streets and other public places by the franchise holder under regulations prescribed by ordinance.

(b) Unless the grant is made on a competitive basis, the grant of an exclusive right to use a public street or right-of-way for more than five years to a utility or a transportation system not certificated by the former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska shall be valid only if approved by a majority of the voters at an election.

(c) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985; am § 30 ch 25 SLA 1999)

Effect of amendments. — The 1999 amendment, effective July 1, 1999, replaced “by the Alaska Public Utilities Commission” with “by the former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska” in subsection (a) and (b).

Sec. 29.35.070. Public utilities.

(a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a), (d) - (k), (o), or (p) or is exempted under regulations adopted under AS 42.05.810 from complying with all or part of AS 42.05.141 - 42.05.721.

(b) A municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.

(c) Unless the utility is owned by the municipality, all rates, charges, and regulations established under this section shall be established by ordinance and shall be reasonable and permit a fair return on invested capital.

(d) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985; am § 3 ch 93 SLA 1990; am § 1 ch 4 SLA 2001; am § 1 ch 26 SLA 2006)

Revisor’s notes. – In 1999, in subsection (a) “AS 42.05.141” was substituted for “AS 42.05.010” to reflect the 1999 repeal of former AS 42.05.010 – 42.05.131.

Effect of amendments. — The 2006 amendment, effective August 9, 2006, inserted "or (p)" near the end of subsection (a). The 2001 amendment, effective June 25, 2001, inserted "or (o)" near the end of subsection (a). The 1990 amendment, effective June 7, 1990, added the language beginning "or is exempted" at the end of subsection (a).

Sec. 29.35.080. Alcoholic beverages.

(a) A municipality may regulate the possession, barter, sale, importation, and consumption of alcoholic beverages under AS 04.11.480 — 04.11.509 and AS 04.21.010.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985; am § 17 ch 80 SLA 1986; am § 66 ch 101 SLA 1995)

Effect of amendments. — The 1995 amendment, effective July 1, 1995, made a section reference substitution and a minor stylistic change in subsection (a).

Sec. 29.35.085. Curfew.

(a) A municipality may, by ordinance, provide for a curfew for persons under 18 years of age for whom the disabilities of minority have not been removed for general purposes under AS 09.55.590 and who have not arrived at the age of majority under AS 25.20.020.

(b) Notwithstanding AS 29.25.070(a), for a violation of this section, the court may impose a fine of not more than \$250.

(c) The community work provisions of AS 47.12.030(b)(6) apply to punishment for a minor's conviction of a violation of a curfew ordinance for which a penalty is provided under AS 29.25.070(a). (§ 7 ch 59 SLA 1996; am § 1 ch 72 SLA 1997)

Effect of amendments. — The 1997 amendment, effective September 9, 1997, added subsections (b) and (c).

Sec. 29.35.090. Municipal property.

The governing body shall by ordinance establish a formal procedure for acquisition and disposal of land and interests in land by the municipality.

(b) Notwithstanding AS 29.40.160 or other provisions of law, a municipality may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932. This subsection applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985; am § 3 ch 94 SLA 1999)

Effect of amendments. — The 1999 amendment, effective July 10, 1999 added subsection (b).

Sec. 29.35.100. Budget and capital program.

(a) The governing body shall establish the manner for the preparation and submission of the budget and capital program. After a public hearing, the governing body may approve the budget with or without amendments, and shall appropriate the money required for the approved budget.

(b) The governing body may make supplemental and emergency appropriations. Payment may not be authorized or made and an obligation may not be incurred except in accordance with appropriations. (§ 10 ch 74 SLA 1985)

Sec. 29.35.110. Expenditure of borough revenues.

(a) Borough revenues received through taxes collected on an areawide basis by the borough may be expended on general administrative costs and on areawide functions only. Borough revenues received through taxes collected on a nonareawide basis may be expended on general administrative costs and functions that render service only to the area outside all cities in the borough.

(b) Use of borough revenues from a sales tax levied upon room rentals for a tourism marketing campaign is not subject to (a) of this section.

(c) Notwithstanding (a) of this section, a borough that has entered into an agreement with a city located in the borough to cooperatively or jointly provide for economic development may use borough revenue from taxes, whether collected on an

areawide or nonareawide basis, to carry out the terms of the agreement. (§ 10 ch 74 SLA 1985; am § 1 ch 14 SLA 2001; am § 1 ch 005 SLA 2004)

Effect of amendments. — The 2004 amendment, effective June 3, 2004 added subsection (c). The 2001 amendment, effective April 24, 2001, added subsection (b).

Sec. 29.35.120. Post audit.

(a) The governing body shall provide for an annual independent audit of the accounts and financial transactions of the municipality or, in the case of a second class city, an audit or statement of annual income and expenditures. To make the audit the governing body shall designate a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the municipality. Copies of the audit shall be available to the public upon request.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Sec. 29.35.125. Fees for police protection services.

(a) A municipality may by ordinance impose a fee on the owner of residential property, including multi-family housing, if a member of the municipal police department goes to the property an excessive number of times during a calendar year in response to a call for assistance, a complaint, an emergency, or a potential emergency. The number of responses considered to be excessive and the amount of the fee shall be set out in the ordinance that establishes the fee. The fee may not exceed the actual cost to the municipality for the excessive responses. A fee may not be imposed under this subsection for responses to calls that involve potential child neglect, potential domestic violence, as defined in AS 18.66.990, or potential stalking under AS 11.41.260 or 11.41.270.

(b) An ordinance enacted under this section shall require actual notice to the property owner of police contacts and a warning that failure to take appropriate corrective action may result in the imposition of a fee. The ordinance must also define "appropriate corrective action" to include written notice to quit under AS 09.45.100 - 09.45.110 in appropriate situations as well as other types of corrective action, and provide that the property owner is not liable for the fee if that action is promptly taken.

(c) A municipality may provide that a fee imposed under (a) of this section is a lien on the property to which the municipal police have been called an excessive number of times and may provide for the recording and notice of the lien. When recorded, a lien under this subsection has priority over all other liens except

- (1) liens for property taxes, special assessments, and sales and use taxes;
- (2) liens that were perfected before the recording of the lien under this

subsection; and

(3) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien under this subsection.

(d) This section applies to home rule and general law municipalities. (§ 2 ch 111 SLA 2002)

Sec. 29.35.130. Emergency services communications centers.

(a) A municipality may establish an emergency services communications center with one or more other municipalities and one or more state, federal, or private agencies that provide emergency service communications to the same geographic area. An emergency services communications center established under this section may be organized and operated as a public nonprofit corporation under AS 10.20.

(b) An emergency services communications center under this section may be governed by a board of directors. A member of a board of directors of an emergency services communications center serves without compensation but is entitled to per diem and travel expenses. If an emergency services communications center is organized as a nonprofit corporation, a member of its board of directors may not be employed by the nonprofit corporation.

(c) An emergency services communications center may assess the feasibility and desirability of providing emergency services communications for the geographic area in which it is located through one central office. An emergency services communications center may

- (1) combine or coordinate the existing emergency services communications programs of the participating municipalities and agencies.
- (2) operate a dispatch center to receive all requests for emergency services and dispatch those services;
- (3) study the need for improvement in the timely delivery of emergency services to residents of the participating municipalities;
- (4) hold public hearings to obtain information concerning the timely delivery of emergency services;
- (5) apply for and accept federal, state, municipal, and private money, property, or assistance for use in providing the timely delivery of emergency services;
- (6) enter into contracts to carry out the provisions of this section;
- (7) employ personnel necessary to carry out the provisions of this section.

(d) In this section

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

(2) "state agency" means a department, division, or office in the executive branch of state government. (§ 10 ch 74 SLA 1985)

Sec. 29.35.131. 911 Surcharge.

(a) A municipality may, by resolution or ordinance, elect to provide an enhanced 911 system at public safety answering points and may purchase or lease the enhanced 911 equipment or service required to establish or maintain an enhanced 911 system at public safety answering points from a local exchange telephone company or other qualified vendor. The municipality may impose an enhanced 911 surcharge within the enhanced 911 service area. An enhanced 911 surcharge may not exceed \$2 per month for each wireless telephone number and \$2 per month for each local exchange access line for wireline telephones. The maximum surcharge amount of \$2 provided for in this subsection may be increased above that level if the surcharge amount is approved by the

voters of the enhanced 911 service area. The amount of surcharge imposed for each wireless telephone number must equal the amount imposed for each local exchange access line for a wireline telephone. An enhanced 911 service area may be all of a city, all of a unified municipality, or all or part of the area within a borough and may include the extraterritorial jurisdiction of a municipality in accordance with AS 29.35.020. The governing body of a municipality shall review an enhanced 911 surcharge annually to determine whether the current level of the surcharge is adequate, excessive, or insufficient to meet anticipated enhanced 911 system needs. When a municipality imposes an enhanced 911 surcharge or the amount of the surcharge is changed, the municipality shall notify in writing the telephone customers subject to the surcharge and provide an explanation of what the surcharge will be used for.

(b) A local exchange telephone company providing service in a municipality that has imposed an enhanced 911 surcharge shall bill each month and collect the surcharge from customers in the enhanced 911 service area. A wireless telephone company that provides telephone service to wireless telephone customers with billing addresses within the enhanced 911 service area shall impose an enhanced 911 surcharge each month and collect the surcharge from customers in the enhanced 911 service area. A local exchange telephone customer may not be subject to more than one enhanced 911 surcharge on a local exchange access line for a wireline telephone. A wireless telephone customer may not be subject to more than one enhanced 911 surcharge for each wireless telephone number. A customer that has more than 100 local exchange access lines from a local exchange telephone company in the municipality is liable for the enhanced 911 surcharge only on 100 local exchange access lines.

(c) A local exchange telephone company or wireless telephone company shall include the appropriate enhanced 911 surcharge, stated separately and included in the total amount owed, in the bills delivered to its customers. The Regulatory Commission of Alaska may not consider the enhanced 911 surcharge as revenue of the telephone company and has no jurisdiction over an enhanced 911 system. A customer is liable for payment of the enhanced 911 surcharge in the amounts billed by the telephone company until the amounts have been paid to the telephone company.

(d) A local exchange telephone company or wireless telephone company that has collected the enhanced 911 surcharge shall remit the amounts collected to the municipality no later than 60 days after the end of the month in which the amount was collected. From each remittance made in a timely manner under this subsection, the telephone company is entitled to deduct and retain the greater of one percent of the collected amount or \$150 as the cost of administration for collecting the enhanced 911 surcharge. In addition, a wireless telephone company is entitled to full recovery of the recurring and nonrecurring costs associated with implementation and operation of Phase I E911 service as allowed under Federal Communications Commission proceedings entitled "Revision of the Commission's Rules to Ensure Compatibility with Enhanced 9-1-1 Emergency Calling Systems" (CC Docket No. 94 - 102; RM - 8143).

(e) A local exchange telephone company or wireless telephone company is not obligated to take legal action to enforce collection of the enhanced 911 surcharge. However, if a telephone company is attempting to collect an unpaid debt from a customer, the telephone company shall also attempt to collect any unpaid enhanced 911 surcharge that the customer owes. If a customer pays a portion of a bill that includes an

enhanced 911 surcharge, the amount paid shall be prorated between the telephone company and the enhanced 911 surcharge. The telephone company shall annually provide the municipality with a list of the amounts due for the nonpayment of enhanced 911 surcharges, together with the names and addresses of those customers who carry a balance that can be determined by the telephone company to be for the nonpayment of the enhanced 911 surcharges. The telephone company is not liable for uncollected amounts.

(f) The municipality may, at its own expense, require an annual audit of a local exchange telephone company's or wireless telephone company's books and records concerning the collection and remittance of the enhanced 911 surcharge.

(g) A village, as defined in AS 09.65.070(e), or a public corporation established by a municipality has the powers granted to a municipality under this section.

(h) *[Repealed § 6 ch 55 SLA 2005]*

(i) A municipality may only use the enhanced 911 surcharge revenue for those costs of the enhanced 911 system that are authorized in this subsection. The surcharge revenue may not be used for any capital or operational costs for emergency responses that occur after the call is dispatched to the emergency responder. The surcharge revenue may not be used for constructing buildings, leasing buildings, maintaining buildings, or renovating buildings, except for the modification of an existing building to the extent that is necessary to maintain the security and environmental integrity of the public safety answering point and equipment rooms. The surcharge revenue may be used for the following costs to the extent the costs are directly attributable to the establishment, maintenance, and operation of an enhanced 911 system:

(1) the acquisition, implementation, and maintenance of public safety answering point equipment and 911 service features;

(2) the acquisition, installation, and maintenance of other equipment, including call answering equipment, call transfer equipment, automatic number identification controllers and displays, automatic location identification controllers and displays, station instruments, 911 telecommunications systems, teleprinters, logging recorders, instant playback recorders, telephone devices for the deaf, public safety answering point backup power systems, consoles, automatic call distributors, and hardware and software interfaces for computer-aided dispatch systems;

(3) the salaries and associated expenses for 911 call takers for that portion of time spent taking and transferring 911 calls;

(4) training costs for public safety answering point call takers in the proper methods and techniques used in taking and transferring 911 calls;

(5) expenses required to develop and maintain all information necessary to properly inform call takers as to location address, type of emergency, and other information directly relevant to the 911 call-taking and transferring function, including automatic location identification and automatic number identification databases.

(j) If a city in an enhanced 911 service area established by a borough incurs costs described under (i) of this section for the enhanced 911 system, before the borough may use revenue from an enhanced 911 surcharge, the borough and city must execute an agreement addressing the duties and responsibilities of each for the enhanced 911 system and establishing priorities for the use of the surcharge revenue. If the Department of Public Safety also provides services as part of the enhanced 911 system or uses the

enhanced 911 system in that enhanced 911 service area, the department must be a party to the agreement.

(k) For purposes of (i) of this section, "call taker" means a person employed in a primary or secondary answering point whose duties include the initial answering of 911 or enhanced 911 calls and routing the calls to the agency or dispatch center responsible for dispatching appropriate emergency services and a person in a primary or secondary answering point whose duties include receiving a 911 or enhanced 911 call either directly or routed from another answering point and dispatching appropriate emergency services in response to the call; the term "call taker" is synonymous with the term "dispatcher" in that it is inclusive of the functions of both answering the 911 or enhanced 911 calls and dispatching emergency services in response to the calls. (§ 4 ch 57 SLA 1993; am § 1 ch 8 SLA 1995; am § 30 ch 25 SLA 1999; am §§ 1—6 ch 82 SLA 2001; am §§ 2,3,6 ch 55 SLA 2005)

Effect of amendments. — The 2005 amendment, effective September 22, 2005, rewrote subsection (a) to establish process by resolution or ordinance to elect to provide enhanced 911 service, establish a maximum surcharge and provision for a higher amount upon voter approval, repealed subsection (h), and added subsections i – j imposing limits on what surcharge money can be used for. The 2001 amendment, effective October 1, 2001, rewrote subsections (a)-(f) to include changes relating to enhanced 911 surcharges. The 1999 amendment, effective July 1, 1999, substituted "Regulatory Commission of Alaska" for "Alaska Public Utilities Commission" in subsection (c). § 1, ch. 8, SLA 1995, effective July 19, 1995, repealed the sunset of the enhanced 911 emergency reporting systems.

Sec. 29.35.133. Immunity for 911 systems.

(a) The establishment, funding, use, operation, or maintenance of enhanced 911 systems and all activities associated with those actions are specifically found to be within the ambit of AS 09.50.250(1) and AS 09.65.070(d)(6). Except for intentional acts of misconduct or gross negligence, a service supplier, local exchange telephone company, or wireless telephone company and their employees and agents are also immune from tort liability that might otherwise be incurred in the course of installing, training, maintaining, or providing enhanced 911 systems or transmitting or receiving calls on the system.

(b) An individual, telephone company, or employee of a telephone company who operates or maintains an emergency 911 service is not liable for civil damages in a tort action as a result of an act, omission, failure of service, or incorrect information done or given in good faith.

(c) In this section, "service supplier" means a person that provides or offers to provide telecommunications equipment or services necessary for the establishment, maintenance, or operation of an enhanced 911 system. (§ 4 ch 57 SLA 1993; am § 7 ch 82 SLA 2001)

Effect of amendments. — The 2001 amendment, effective October 1, 2001, substituted "wireless telephone company" for "mobile telephone company, including a cellular service company" in the second sentence in subsection (a).

Sec. 29.35.134. Multi-line telephone systems.

A municipality may by ordinance elect to require an enhanced 911 system from a multi-line telephone system. A multi-line telephone system operator must arrange to update the automatic location identification database with an appropriate master street address guide, valid address, and callback number for each multi-line telephone system telephone, so that the location information specifies the emergency response location of the caller. A multi-line telephone system operator is considered to be in compliance with this section when the multi-line telephone system complies with enhanced 911 generally accepted industry standards as defined by the Regulatory Commission of Alaska. For purposes of this section,

(1) "callback number" means a number used by the public safety answering point to re-contact the location from which a 911 call is placed; the number may or may not be the number of the station used to originate the 911 call;

(2) "emergency response location" means the location to which a 911 emergency response team may be dispatched that is specific enough to provide a reasonable opportunity for the emergency response team to quickly locate a caller anywhere within it;

(3) "master street address guide" means a database of formatted street names, numerical addresses or address ranges, and other parameters defining valid locations and emergency services zones, and their associated emergency services numbers, that enables the proper routing and response to 911 calls;

(4) "multi-line telephone system" means a system made up of common control units, telephone sets, and control hardware and software, including network and premises based systems such as Centrex and PBX, Hybrid, and Key Telephone Systems, as classified by the Federal Communications Commission under Part 68 Requirements, and including systems owned or leased by governmental agencies or nonprofit entities, as well as for profit entities;

(5) "multi-line telephone system operator" means an entity that owns, leases, or rents from a third party, and operates a multi-line telephone system through which a caller may place a 911 call through a public switched network. (§ 4 ch 55 SLA 2005)

Effective dates. — § 4 ch 55 SLA 2005 is effective September 22, 2005.

Sec. 29.35.135. Waiver of privacy by local exchange telephone company subscribers.

Local exchange telephone company subscribers waive the privacy afforded by unlisted or unpublished telephone numbers to the extent that the name and address associated with the telephone number may be furnished to the enhanced 911 system for call routing or for automatic retrieval of location information in response to a call initiated to the system. (§ 4 ch 57 SLA 1993)

Sec. 29.35.137. Definitions.

In AS 29.35.131 — 29.35.137,

(1) "enhanced 911 equipment" means the equipment dedicated to the operation of, or use in, the establishment, operation, or maintenance of an enhanced 911 system,

including customer premises equipment, automatic number identification or automatic location identification controllers and display units, printers, cathode ray tubes, recorders, software, and other essential communication equipment required by the system;

(2) "enhanced 911 service area" means the area within a municipality's jurisdiction that has been designated to receive enhanced 911 service; the designation of an area to receive an enhanced 911 system under AS 29.35.131(a) does not designate the area as a "service area" for purposes of art. X, sec. 5, Constitution of the State of Alaska;

(3) "enhanced 911 system" means a telephone system consisting of network, database, and enhanced 911 equipment that uses the single three digit number, 911, for reporting a police, fire, medical, or other emergency situation, and that enables the users of a public telephone system to reach a public safety answering point to report emergencies by dialing 911; an enhanced 911 system includes the personnel required to acquire, install, operate, and maintain the system and its facilities and to dispatch the calls generated by the system;

(4) "local exchange access line" means a telephone line that connects a local exchange service customer to the local exchange telephone company switching office and has the capability of reaching local public safety agencies, but does not include a line used by a carrier to provide interexchange services;

(5) "local exchange service" means the transmission of two-way interactive switched voice communications furnished by a local exchange telephone company within a local exchange area, including access to enhanced 911 systems; in this paragraph, "local exchange area" means a geographic area encompassing one or more political subdivisions as described in maps, tariffs, or rate schedules filed with the Regulatory Commission of Alaska, where local exchange rates apply;

(6) "local exchange telephone company" means a telephone utility certificated under AS 42.05 to provide local exchange service;

(7) "municipality" has the meaning given in AS 29.71.800 and includes a public corporation established by a municipality and a village as that term is defined in AS 09.65.070(e);

(8) "public safety answering point" means a 24-hour local jurisdiction communications facility that receives 911 service calls and directly dispatches emergency response services or that relays calls to the appropriate public or private safety agency;

(9) "wireless telephone" means a telephone that is not a wireline telephone and includes cellular and mobile telephones; each wireless telephone number is considered to be a separate wireless telephone;

(10) "wireless telephone company" means a telephone utility that provides telephone service for wireless telephone customers who receive monthly or periodic bills sent to an address within a designated enhanced 911 service area;

(11) "wireline telephone" means a telephone that uses a local exchange access line. (§ 4 ch 57 SLA 1993; am § 1 ch 8 SLA 1995; am §§ 2, 30 ch 25 SLA 1999; am §§ 8 — 10 ch 82 SLA 2001)

Revisor's notes. — Reorganized in 2001 to maintain alphabetical order.

Effect of amendments. — The 2001 amendment, effective October 1, 2001, deleted "'911 service area' or" from the beginning of paragraph (2); in paragraph (3), deleted "or 'system' " preceding "means" and added "and its facilities and to dispatch the calls generated by the system" at the end; and added paragraphs (9), (10) and (11). The 1999 amendment,

effective July 1, 1999, replaced words in paragraph (6) with “AS 42.05” and substituted “Regulatory Commission of Alaska” for “Alaska Public Utilities Commission” in paragraph (5). § 1, ch. 8, SLA 1995, effective July 19, 1995, repealed the sunset of the enhanced 911 emergency reporting systems.

Sec. 29.35.138. Application.

AS 29.35.131 – 29.35.137 apply to home rule and general law municipalities. (§ 5 ch 55 SLA 2005)

Effective dates. — § 5 ch 55 SLA 2005 is effective September 22, 2005.

Sec. 29.35.140. Regulation of transportation carriers.

A municipality may not regulate an activity regarding transportation of passengers or freight for hire if the regulation conflicts with the regulation of that activity by the Alaska Transportation Commission as the regulation existed on April 1, 1983 under former AS 02.05, former AS 42.07, or former AS 42.10. (§ 10 ch 74 SLA 1985)

Sec. 29.35.141. Regulation of radio antennas.

(a) A municipality that regulates the placement, screening, or height of radio antennas must reasonably accommodate amateur radio antennas. A municipality may require reasonable and customary engineering practices to be followed in the erection of amateur radio antennas. A municipality may impose only the minimum requirements relating to amateur radio antennas that are necessary to accomplish the legitimate purposes intended to be served by the requirements.

(b) A municipality may not restrict the number of support structures for an amateur radio antenna. Based on the most recently published United States census, a municipal restriction on amateur radio antenna height may not be lower than

(1) 200 feet above ground level as permitted by the Federal Communications Commission in an area with a population density of 120 or less per square mile;

(2) 75 feet above ground level in an area with a population density of more than 120 per square mile for an antenna on a lot that is smaller than one acre; or

(3) 140 feet above ground level in an area with a population density of more than 120 per square mile for an antenna on a lot that is one acre or larger.

(c) Subject to (a) and (b) of this section, a municipality may, by ordinance, impose requirements to meet clearly defined objectives relating to screening, placement, aesthetic, and health and safety factors with respect to the erection, maintenance, and operation of amateur radio antennas.

(d) An ordinance regulating or restricting radio antennas adopted under this section may not apply to a radio antenna that was erected before the effective date of this Act.

(e) This section applies to home rule and general law municipalities. (§ 2 ch 19 SLA 2001)

Effective dates. — Section 2, ch 19, SLA 2001, which enacted this section, took effect on July 26, 2001.

Sec. 29.35.145. Regulation of firearms.

(a) The authority to regulate firearms is reserved to the state, and, except as specifically provided by statute, a municipality may not enact or enforce an ordinance regulating the possession, ownership, sale, transfer, use, carrying, transportation, licensing, taxation, or registration of firearms

(b) Municipalities may enact and enforce ordinances

(1) that are identical to state law and that have the same penalty as provided for by state law;

(2) restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that people, domestic animals, or property will be jeopardized; ordinances enacted or enforced under this paragraph may not abridge the right of the individual guaranteed by art. I, sec. 19, Constitution of the State of Alaska, to bear arms in defense of self or others;

(3) restricting the areas in their respective jurisdictions in which firearms may be sold; a business selling firearms may not be treated more restrictively than other businesses located within the same zone; and

(4) prohibiting the possession of firearms in the restricted access area of municipal government buildings; the municipal assembly shall post notice of the prohibition against possession of firearms at each entrance to the restricted access area.

(c) The prohibition on taxation in (a) of this section does not include imposition of a sales tax that is levied on all products sold within a municipality.

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

(e) In this section,

(1) "firearms" includes firearms, or any other element relating to firearms or parts thereof including ammunition and reloading components;

(2) "restricted access area" means the area beyond a secure point where visitors are screened and does not include common areas of ingress and egress open to the general public. (§ 10 ch 74 SLA 1985; §§ 2&3 Chap 82 SLA 05)

Revisor's notes. — Subsection (b) was enacted as subsection (c), subsection (c) was enacted as subsection (e), subsection (d) was formerly subsection (b), and subsection (e) was enacted as subsection (d). Re-lettered in 2005.

Effect of amendments. — The 2005 amendment, effective October 19, 2005, repealed and reenacted subsection (a) to reserve to the state the authority to regulate firearms and added new subsections authorizing municipalities to enact ordinances identical to state law, to enact ordinances restricting discharge, sales, and possession with certain limitations, and added definitions. Subsections were misnumbered originally (c) [now(b)], (d) [now (e)], and (e) [now (c)].

Article 2. Mandatory Areawide Powers.

Section

- | | |
|-------------------------------|---|
| 150. Scope of areawide powers | 170. Assessment and collection of taxes |
| 160. Education | 180. Land use regulation |

Sec. 29.35.150. Scope of areawide powers.

A borough shall exercise the powers as specified and in the manner specified in AS 29.35.150 - 29.35.180 on an areawide basis. (§ 10 ch 74 SLA 1985)

Sec. 29.35.160. Education.

(a) Each borough constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis as provided in AS 14.14.060. A military reservation in a borough is not part of the borough school district until the military mission is terminated or until inclusion in the borough school district is approved by the Department of Education. However, operation of the military reservation schools by the borough school district may be required by the Department of Education under AS 14.14.110. If the military mission of a military reservation terminates or continued management and control by a regional educational attendance area is disapproved by the Department of Education, operation, management, and control of schools on the military reservation transfers to the borough school district in which the military reservation is located.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Sec. 29.35.170. Assessment and collection of taxes.

(a) A borough shall assess and collect property, sales, and use taxes that are levied in its boundaries, subject to AS 29.45.

(b) Taxes levied by a city shall be collected by a borough and returned in full to the levying city. This subsection applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Sec. 29.35.180. Land use regulation.

(a) A first or second class borough shall provide for planning, platting, and land use regulation in accordance with AS 29.40.

(b) A home rule borough shall provide for planning, platting, and land use regulation. (§ 10 ch 74 SLA 1985)

Article 3. Additional Powers.

Section

200. First class borough powers

220. Third class borough powers

210. Second class borough powers

Sec. 29.35.200. First class borough powers.

(a) A first class borough may exercise by ordinance on a nonareawide basis any power not otherwise prohibited by law.

(b) A first class borough may by ordinance exercise the following powers on an areawide basis:

- (1) provide transportation systems;
- (2) provide water pollution control;
- (3) provide air pollution control in accordance with AS 46.14.400;
- (4) license day care facilities;
- (5) license, impound, and dispose of animals.

(c) In addition to powers conferred by (b) of this section, a first class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300.

(d) A first class borough that exercises power necessary to contain, clean up, or prevent a release or threatened release of oil or a hazardous substance, and exercise a power granted to a municipality under AS 46.04, AS 46.08, or AS 46.09 shall exercise its authority in a manner that is consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210. (§ 10 ch 74 SLA 1985; am § 4 ch 83 SLA 1991; am § 7 ch 74 SLA 1993)

Effect of amendments. — The 1993 amendment, effective June 26, 1993, made a section reference substitution in paragraph (b)(3). The 1991 amendment, effective June 28, 1991, added subsection (d).

Sec. 29.35.210. Second class borough powers.

(a) A second class borough may by ordinance exercise the following powers on a nonareawide basis:

- (1) provide transportation systems;
- (2) regulate the offering for sale, exposure for sale, sale, use, or explosion of fireworks;
- (3) license, impound, and dispose of animals;
- (4) subject to AS 29.35.050, provide garbage, solid waste, and septic waste collection and disposal;
- (5) provide air pollution control under AS 46.14.400;
- (6) provide water pollution control;
- (7) participate in federal or state loan programs for housing rehabilitation and improvement for energy conservation;
- (8) provide for economic development;

(9) provide for the acquisition and construction of local service roads and trails under AS 19.30.111 — 19.30.251;

(10) establish an emergency services communication center under AS 29.35.130;

(11) subject to AS 28.01.010, regulate the licensing and operation of motor vehicles and operators;

(12) engage in activities authorized under AS 29.47.460;

(13) contain, clean up, or prevent a release or threatened release of oil or a hazardous substance, and exercise a power granted to a municipality under AS 46.04, AS 46.08, or AS 46.09; the borough shall exercise its authority under this paragraph in a manner that is consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210.

(b) A second class borough may by ordinance exercise the following powers on an areawide basis:

(1) provide transportation systems;

(2) license, impound, and dispose of animals;

(3) provide air pollution control under AS 46.14.400;

(4) provide water pollution control;

(5) license day care facilities.

(c) In addition to powers conferred by (a) of this section, a second class borough may, on a nonareawide basis, exercise a power not otherwise prohibited by law if the exercise of the power has been approved at an election by a majority of voters living in the borough but outside all cities in the borough.

(d) In addition to powers conferred by (b) of this section, a second class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300. (§ 10 ch 74 SLA 1985; am § 1 ch 118 SLA 1988; am § 39 ch 21 SLA 191; am § 5 ch 83 SLA 1991; am §§ 8, 9 ch 74 SLA 1993)

Effect of amendments. — The 1993 amendment, effective June 26, 1993, made section reference substitutions in paragraphs (a)(5) and (b)(3). The second 1991 amendment, effective June 28, 1991, added paragraph (a)(13).

The first 1991 amendment, effective June 11, 1991, in paragraph (a)(4), added "subject to AS 29.35.050," at the beginning. The 1988 amendment, effective June 8, 1988, inserted paragraph (a)(12).

Sec. 29.35.220. Third class borough powers.

(a) A third class borough may borrow money and issue negotiable or nonnegotiable bonds or other evidences of indebtedness as provided by AS 29.47.

(b) Areawide exercise of a power by a third class borough other than education and tax assessment and collection is not authorized.

(c) A third class borough may acquire the power to provide for planning, platting, and land use regulation as provided in AS 29.40 for first and second class boroughs, except the power may only be exercised within a service area.

(d) A third class borough may acquire any power not otherwise prohibited by law, except the power may only be exercised within a service area.

(e) A third class borough may by ordinance exercise power necessary to contain, clean up, or prevent a release or threatened release of oil or a hazardous substance, and exercise a power granted to a municipality under AS 46.04, AS 46.08, or AS 46.09, but the power authorized by this subsection may be exercised only on a nonareawide basis. The borough shall exercise its authority under this subsection in a manner that is consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210. (§ 10 ch 74 SLA 1985; am § 6 ch 83 SLA 1991)

Effect of amendments. — The 1991 amendment, effective June 28, 1991, added subsection (e).

Article 4. City Powers.

Section

- 250. Cities inside boroughs
- 260. Cities outside boroughs

Sec. 29.35.250. Cities inside boroughs.

(a) A city inside a borough may exercise any power not otherwise prohibited by law.

(b) On adoption of a borough ordinance to provide for areawide exercise of a power, no city may exercise the power unless the borough ordinance provides otherwise or the borough by ordinance ceases to exercise the power.

(c) A home rule city in a third class borough shall provide for planning, platting, and land use regulation as provided by AS 29.35.180(b) for home rule boroughs. A first class city in a third class borough shall provide for planning, platting, and land use regulation as provided by AS 29.35.180(a) for first and second class boroughs. A second class city in a third class borough may provide for planning, platting, and land use regulation as provided by AS 29.35.180(a) for first and second class boroughs.

(d) This section applies to home rule and general law cities. (§ 10 ch 74 SLA 1985)

Sec. 29.35.260. Cities outside boroughs.

(a) A city outside a borough may exercise a power not otherwise prohibited by law. A provision that is incorporated by reference to laws governing boroughs applies to home rule cities outside boroughs only if the provision is made applicable to home rule boroughs.

(b) A home rule or first class city outside a borough is a city school district and shall establish, operate, and maintain a system of public schools as provided by AS 29.35.160 for boroughs. A second class city outside a borough is not a school district and may not establish a system of public schools.

(c) A home rule city outside a borough shall provide for planning, platting, and land use regulation as provided by AS 29.35.180(b) for home rule boroughs. A first class city outside a borough shall, and a second class city outside a borough may, provide for

planning, platting, and land use regulation as provided by AS 29.35.180(a) for first and second class boroughs.

(d) This section applies to home rule and general law cities. (§ 10 ch 74 SLA 1985)

Article 5. Acquisition of Additional Powers.

Section

300. Additional powers	330. Election
310. Transfer by city	340. Effect of acquiring an areawide power
320. Initiation of acquisition of power	350. Definition

Sec. 29.35.300. Additional powers.

(a) A first class borough acquires an additional areawide power by transfer of the power by a city or by holding an areawide election on the question.

(b) A second class borough acquires an additional power by transfer of the power by a city or by holding an election on the question. For acquisition of an areawide power, the election shall be held areawide. For acquisition of a nonareawide power, the election shall be held nonareawide.

(c) A third class borough acquires an additional power to exercise in a service area by forming a service area in accordance with AS 29.35.490(b) or (c). (§ 10 ch 74 SLA 1985)

Sec. 29.35.310. Transfer by city.

(a) A city in a first or second class borough may transfer to the borough in which it is located any of its powers or functions, subject to the approval of the assembly.

(b) A first or second class borough shall exercise all powers transferred to it by a city. (§ 10 ch 74 SLA 1985)

Sec. 29.35.320. Initiation of acquisition of power.

(a) An election on the question of adding an areawide power in a first class borough or of adding an areawide or nonareawide power in a second class borough may be initiated in two ways:

(1) a number of voters equal to 15 percent of the number of votes cast at the preceding regular election in the area, either areawide or nonareawide, in which the election is to be held may file a petition with the borough clerk; or

(2) the assembly may propose the acquisition of the power.

(b) An election on the question of adding a power in a third class borough for exercise in a service area may be initiated in two ways:

(1) a number of voters equal to 15 percent of the number of votes cast at the preceding regular election in a proposed service area in which the power is sought to be exercised may file a petition with the assembly; or

(2) the assembly may propose the acquisition of the power.

(c) The borough clerk shall certify whether a petition filed under (a) or (b) of this section contains the required number of signatures.

(d) Within 30 days after a petition is certified as containing the required number of signatures or the assembly proposes the acquisition of a power, at least one public hearing shall be held in the borough on the question. The assembly shall then evaluate the ability of the borough to exercise the power and make its findings public. Within 60 days after its findings have been made public, the assembly shall order an election on the question. (§ 10 ch 74 SLA 1985)

Sec. 29.35.330. Election.

(a) If more than one power is proposed for acquisition under AS 29.35.320, each shall appear separately on the ballot.

(b) If a power is proposed for exercise by a third class borough in a service area, only voters residing in the proposed service area may vote.

(c) A vote on the question of adding an areawide power in a first or second class borough shall be tabulated in two separate classifications. One shall consist of all votes cast in all cities located in the borough. The other shall consist of all votes cast in the borough area outside all cities. If the majority of the votes cast in each classification is favorable, the borough shall assume the added power within 30 days after certification of the election results.

(d) If a majority of the votes cast on the question of adding a nonareawide power in a second class borough or a power to be exercised in a service area in a third class borough is favorable, the borough shall assume the added power within 30 days after certification of the election results.

(e) The borough mayor shall certify the election results to the department. (§ 10 ch 74 SLA 1985)

Sec. 29.35.340. Effect of acquiring an areawide power.

(a) On acquisition of an areawide power the first or second class borough succeeds to all of the rights, powers, and duties of any city or service area with respect to that power. The borough succeeds to claims, franchises, and other contractual obligations, liability for bonded and all other indebtedness, and to all of the right, title, and interest in the real and personal property held by a city or service area for the exercise of the power.

(b) The assembly may levy and collect special charges, taxes, or assessments including interest for the purpose of amortizing bonded indebtedness previously incurred by a city or service area for exercising an areawide power acquired by the borough. When a city or service area had previously incurred bonded indebtedness, all property that was in the city or service area at the time the bonds were issued remains subject to taxation to pay the principal of and interest on the bonds.

(c) On acquisition of an additional areawide power the first or second class borough, in consultation with the city or service area personnel, shall arrange for an orderly and equitable transfer of rights, assets, liabilities, powers, duties, and other matters related to acquisition of the areawide powers.

(d) This section applies to home rule and general law cities. (§ 10 ch 74 SLA 1985)

Sec. 29.35.350. Definition.

In AS 29.35.200 - 29.35.350, "power" means the provision of a public facility or service, or the exercise of a regulatory power. (§ 10 ch 74 SLA 1985)

Article 6. Construction of Powers.

Section

400. General construction
410. Extent of powers

420. Enumeration of powers

Sec. 29.35.400. General construction.

A liberal construction shall be given to all powers and functions of a municipality conferred in this title. (§ 10 ch 74 SLA 1985)

Sec. 29.35.410. Extent of powers.

Unless otherwise limited by law, a municipality has and may exercise all powers and functions necessarily or fairly implied in or incident to the purpose of all powers and functions conferred in this title. (§ 10 ch 74 SLA 1985)

Sec. 29.35.420. Enumeration of powers.

Specific examples in an enumerated power or function conferred upon a municipality in this title is illustrative of the object and not a limitation on or exclusion from the exercise of the power or function. (§ 10 ch 74 SLA 1985)

Article 7. Service Areas.

Section

450. Service areas
460. Service area boards
470. Financing

480. Service areas in first class boroughs
490. Service areas in second and third class boroughs

Sec. 29.35.450. Service areas.

(a) A service area to provide special services in a borough or unified municipality may be established, operated, altered, or abolished by ordinance, subject to (c) of this section. Special services include services not provided by the unified municipality or a higher or different level of services. Special services include services not provided by a borough on an areawide or nonareawide basis in the borough or a higher or different level of services than that provided on an areawide or nonareawide basis. A borough may include a city in a service area if

(1) the city agrees by ordinance; or

(2) approval is granted by a majority of voters residing in the city, and by a majority of voters residing inside the boundaries of the proposed service area but outside of the city.

(b) A new service area may not be established if, consistent with the purposes of art. X of the state constitution, the new service can be provided by an existing service area, by annexation to a city, or by incorporation as a city.

(c) If voters reside within a service area that provides road, fire protection, or parks and recreation services, abolishment of the service area is subject to approval by the majority of the voters residing in the service area who vote on the question. A service area that provides road, fire protection, or parks and recreation services in which voters reside may not be abolished and replaced by a larger service area unless that proposal is approved, separately, by a majority of the voters who vote on the question residing in the existing service area and by a majority of the voters who vote on the question residing in the area proposed to be included within the new service area but outside of the existing service area. A service area that provides road, fire protection, or parks and recreation services in which voters reside may not be altered or combined with another service area unless that proposal is approved, separately, by a majority of the voters who vote on the question and who reside in each of the service areas or in the area outside of service areas that is affected by the proposal. This subsection does not apply

(1) to a proposed change to a service area that provides fire protection services that would result in increasing the number of parcels of land in the service area or successor service area if the increase is not more than six percent and would add not more than 1,000 residents.

(2) in a second class borough to abolishment of a road service area or consolidation of two or more road service areas if

(A) taxes have not been levied in the service area for road maintenance or construction during the last 12 months and there is no balance in any account available to pay for these road services for the service area;

(B) during the last 12 months, the service area board has not met with a quorum present and in accordance with law; or

(C) there are no road maintenance contracts in effect for the service area or the existing road maintenance contracts fail to provide for minimum road standards required by law that are necessary to protect the borough from civil liability;

(3) to require approval by the voters residing in a subdivision or parcel proposed to be added to a road service area if roads maintained by the service area provide the only access to the subdivision or parcel or provide access to the subdivision or parcel that is required by the subdivision plat or by other regulation or ordinance;

(4) to a change in the boundaries of a road service area to exclude a subdivision or parcel that does not rely on the use of roads maintained by the service area for the subdivision's or parcel's only access or for access that is required by the subdivision plat or by other regulation or ordinance.

(d) This section applies to a home rule or general law municipality.

(§ 10 ch 74 SLA 1985; am §§ 2, 3 ch 31 SLA 2001; §§ 1, 2 ch 29 SLA 2005; am § 1 ch 21 SLA 2007)

Effect of amendments. — The 2007 amendment, effective September 4, 2007, made stylistic changes to Section 1(c) by indenting and labeling items (1) and (2) which formerly ran within the text and added new subsections (3) and (4). Further, under (c)(2), items formerly identified as (1), (2), (3) are now labeled (A), (B), and (C).

The 2005 amendment, effective May 27, 2005, made stylistic changes and amended subsection (c) to provide for consolidating or abolishing certain road service areas in certain second class boroughs; and providing for an effective date. The 2001 amendment, effective August 22, 2001, made substantial changes to subsection (a) and added subsections (c) and (d).

Sec. 29.35.460. Service area boards.

The assembly may provide for an appointed or elected board to supervise the furnishing of special services in a service area. (§ 10 ch 74 SLA 1985)

Sec. 29.35.470. Financing.

(a) The assembly may levy or authorize the levying of taxes, charges, or assessments in a service area to finance the special services. If the assembly authorizes the levying of taxes, charges, or assessments, the rate of taxation and the issuance of bonds are subject to assembly approval.

(b) The assembly may by ordinance establish, alter, and abolish differential tax zones within a service area to provide and levy property taxes for a different level of services than that provided generally in the service area. Taxes levied within a differential tax zone that exceed the amount that would have otherwise been levied may only be used for the services provided in that zone. (§ 10 ch 74 SLA 1985; am § 4 ch 31 SLA 2001)

Effect of amendments. — The 2001 amendment, effective August 22, 2001, added subsection (b).

Sec. 29.35.480. Service areas in first class boroughs.

In a first class borough, the assembly may exercise in a service area any power granted a first class city by law. The assembly may exercise in a service area any nonareawide power that may be exercised by a first class borough. (§ 10 ch 74 SLA 1985)

Sec. 29.35.490. Service areas in second and third class boroughs.

(a) A second class borough may exercise in a service area any power granted a first class city by law or a nonareawide power that may be exercised by a first class borough if

(1) the exercise of the power is approved by a majority of the voters residing in the service area; or

(2) all owners of real property in the service area consent in writing to the exercise of the power if no voters reside in the service area.

(b) If the exercise of the power is approved by a majority of the voters residing in the service area, a third class borough may exercise in a service area any power not otherwise prohibited by law.

(c) A second or third class borough may establish a service area that includes only vacant, unappropriated, and unreserved land owned by the borough. A second or third class borough may establish a service area, with the concurrence of the commissioner of natural resources, that includes only vacant, unappropriated, and unreserved land owned by the state and classified for disposal to individuals. By ordinance a second or third class borough may provide the services in a service area established under this subsection necessary to develop state or municipal land as required by the planning, platting, and land use regulations of the borough. (§ 10 ch 74 SLA 1985)

Article 8. Hazardous Chemicals, Materials, and Wastes

Section

500. Reporting	540. Public access to information
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Sec. 29.35.500. Reporting.

(a) If a municipality establishes a program for the reporting of hazardous chemicals, hazardous materials, and hazardous wastes, then the municipality shall require a business or a government agency that handles hazardous chemicals, hazardous materials, or hazardous wastes to submit to a designated person or office of the municipality, on a form approved by the Alaska State Emergency Response Commission, an inventory of the hazardous chemicals, hazardous materials, and hazardous wastes the business or government agency handles. Notwithstanding other provisions of this title, a municipality that establishes a program for the reporting of hazardous chemicals, hazardous materials, and hazardous wastes may not

(1) use a form other than the one required under this section or use a form in addition to the one required under this section;

(2) require a business or government agency to submit an inventory of hazardous chemicals, hazardous materials, and hazardous wastes unless the business or government agency is required to do so by the Alaska State Emergency Response Commission;

(3) require reporting under this section of a substance not listed in (c) of this section unless it is added by the commission under (c) of this section;

(4) require reporting under this section of a substance that is in smaller quantities than provided under (c) of this section unless the reporting of smaller quantities is approved by the commission under (c) of this section.

(b) An inventory required under this section must include

(1) the name and address of a facility, and of the owner and operator of the facility, at which the hazardous chemicals, hazardous materials, or hazardous wastes are handled;

(2) the names and telephone numbers of persons connected with the facility who are to be contacted in an emergency;

(3) the chemical name or other descriptive information about each hazardous chemical, hazardous material, or hazardous waste handled;

(4) the location and maximum estimated quantity of the hazardous chemicals, hazardous materials, and hazardous wastes handled in a single day;

(5) with respect to a transshipment facility; instead of the information required under (3) and (4) of this subsection, the following information:

(A) a list of the classes of hazardous chemicals, hazardous materials, and hazardous wastes handled;

(B) a site layout and floor plan showing the usual locations of the hazardous chemicals, hazardous materials, and hazardous wastes handled at the facility; and

(C) the method of marking or warning used for hazardous chemicals, hazardous materials, and hazardous wastes at the facility.

(c) Unless the Alaska State Emergency Response Commission or a municipality, after public hearing, removes a substance listed in this subsection from the reporting requirements within its jurisdiction, or unless the commission, after public hearing, adds a substance to the reporting requirements of this subsection or requires the reporting of smaller quantities of the substances listed in this subsection, either on a statewide basis or for reporting within particular municipalities, the following quantities of hazardous chemicals, hazardous materials, and hazardous wastes shall be reported in an inventory required under this section:

(1) any quantity of a hazardous material of the hazard class identified in federal placarding regulations as

(A) Poison Gas Hazard Division No. 2.3 and Poisons 6.1;

(B) Explosives 1.1;

(C) Explosives 1.2 and 1.3, excluding smokeless gunpowder, black powder, and ammunition;

(D) Flammable solid Divisions 4.1, 4.2, and 4.3; or

(E) Radioactive Hazard Class 7;

(2) a hazardous chemical, or a hazardous material other than one described in (1) of this subsection, if handled in a single day in an amount equal to or greater than 10,000 pounds;

(3) extremely hazardous substances in a quantity equal to or more than 500 pounds or the threshold planning quantity, whichever is less; and

(4) compressed gasses equal to or more than 1,000 cubic feet at standard temperature and pressure.

(d) A business or government agency required to submit an inventory under this section shall submit the first inventory within 90 days after the municipality's reporting requirements take effect or within 30 days after beginning to engage in the handling of hazardous chemicals, hazardous materials, or hazardous wastes. Thereafter, the business or government agency shall submit an inventory annually. With respect to transshipments, the first inventory shall be an estimate of transshipments by the business or government agency during the next 12 months. Subsequent annual inventories shall reflect actual transshipments during the previous 12 months.

(e) A municipality that establishes a program for the reporting of hazardous chemicals, hazardous materials, or hazardous wastes shall also require a business or

government agency that handles hazardous chemicals, hazardous materials, or hazardous wastes to report

(1) significant change in the general location of hazardous chemicals, hazardous materials, or hazardous wastes by telephone or other means adequate to convey the information within 24 hours, and in writing within 10 working days, after moving the chemicals, materials, or wastes;

(2) names and other descriptive information of additional hazardous chemicals, hazardous materials, or hazardous wastes being handled since the last inventory or report if they meet the criteria for reporting under (c) of this section, by telephone or other means adequate to convey the information within 24 hours, and in writing within 10 working days, after making the additions;

(3) with respect to a transshipment facility, instead of the information required under (1) and (2) of this subsection, the following:

(A) an additional class of hazardous chemicals, hazardous materials, or hazardous wastes handled at the facility, or a change in the method of marking or warning used for hazardous chemicals, hazardous materials, or hazardous wastes at the facility, within 30 days after the addition or change; and

(B) a change to the site layout or floor plan submitted under (b)(5)(B) of this section, by telephone or other means adequate to convey the information within 24 hours, and in writing within 30 days after the change.

(f) A municipality that establishes a program for the reporting of hazardous chemicals or hazardous materials may require a business or government agency that handles hazardous chemicals or hazardous materials to submit a federal Occupational Safety and Health Administration (OSHA) Material Safety Data Sheet or equivalent information for each of the chemicals and materials handled.

(g) The requirements of this section may be imposed by a municipality on a business or government agency that handles hazardous chemicals, hazardous materials, or hazardous wastes outside of the boundaries of the municipality if a fire or other emergency involving the chemicals, materials, or wastes would be

(1) likely to adversely affect persons or property in the municipality; or

(2) responded to by emergency response personnel whose service area includes all or a part of the municipality. (§ 4 ch 108 SLA 1986; am §§ 5 - 11 ch 143 SLA 1988; am §§ 5, 6 ch 71 SLA 1997)

Effect of amendments. — The 1997 amendment, effective September 9, 1997, rewrote subsections (a) and (c). The 1988 amendment, in subsection (a), inserted "hazardous chemicals" throughout the subsection, substituted "approved" for "provided," and made a series of minor punctuation changes; repealed and reenacted subsection (b), which formerly related to the same subject matter; in subsection (c), inserted "hazardous chemicals" in the introductory language and "of a hazardous material" in paragraph (2), substituted present paragraph (3) for former paragraph (3), relating to the same subject matter, deleted "and" at the end of paragraph (4) and "another" at the beginning of paragraph (5), added paragraphs (6) and (7), and made a minor punctuation change in the introductory language; repealed and reenacted subsections (d) and (e), which formerly related to the same subject matter; in subsection (f), inserted "hazardous chemicals or" twice, and substituted "(OSHA) Material Safety Data Sheet or" for "(OSHA) form 20 (Material Safety Data Sheet) or" and "chemicals and materials" for "materials or wastes"; and, in the introductory language of subsection (g), inserted "hazardous chemicals" near the beginning and "chemicals" near the end, and made a series of minor punctuation changes.

Sec. 29.35.510. Inspections; penalties.

A municipality may conduct inspections, and establish and impose penalties, necessary to ensure compliance with reporting requirements adopted under AS 29.35.500. (§ 4 ch 108 SLA 1986; am § 7 ch 71 SLA 1997)

Effect of amendments. — The 1997 amendment, effective September 9, 1997, deleted “and placarding requirements adopted under AS 18.70.310” from the end.

Sec. 29.35.520. Fees.

A municipality may impose appropriate fees to fully or partially compensate for the cost of processing reports and administering inspections under AS 29.35.500 - 29.35.510. (§ 4 ch 108 SLA 1986; am § 12 ch 143 SLA 1988; am § 8 ch 71 SLA 1997)

Effect of amendments. — The 1997 amendment, effective September 9, 1997, deleted “and the cost of providing placards under AS 18.70.310. The municipality may establish a fee schedule different from the schedule established by the Department of Public Safety under AS 18.70.310” from the end. The 1988 amendment added the second sentence and added “and the cost of providing placards under AS 18.70.310” at the end of the first sentence. The 1997 amendment removed words at the end of the first sentence and removed the second sentence.

Sec. 29.35.530. Duties of municipalities; powers of other agencies.

(a) The municipality, at the request of a business or government agency required to submit an inventory under AS 29.35.500, shall provide

- (1) a descriptive summary of the hazardous chemicals, hazardous materials, and hazardous wastes that are required to be included in an inventory; and
- (2) inventory forms approved by the Alaska State Emergency Response Commission.

(b) *[Repealed, § 15 ch 71 SLA 1997.]*

(c) The division of fire prevention, the Department of Environmental Conservation, the Department of Health and Social Services, or the Department of Labor may

- (1) request copies of inventories submitted under AS 29.35.500; and
- (2) provide educational materials related to hazardous chemicals, hazardous materials, and hazardous wastes. (§ 4 ch 108 SLA 1986; am § 13 ch 143 SLA 1988; am §§ 9, 15 ch 71 SLA 1997)

Effect of amendments. — The 1997 amendment, effective September 9, 1997, rewrote subsection (a) and repealed subsection (b). The 1988 amendment inserted “hazardous chemicals” in subsections (a)(1), (b), and (c)(2), and made a series of minor punctuation changes throughout those same subsections.

Sec. 29.35.540. Public access to information.

Information detained by a municipality under AS 29.35.500, 29.35.510, and 29.35.530 shall be made readily available to the public for inspection and copying. (§ 4 ch 108 SLA 1986)

Sec. 29.35.550. Application.

AS 29.35.500 - 29.35.590 apply to home rule and general law municipalities. (§ 4 ch 108 SLA 1986)

Sec. 29.35.560. Municipal liability.

The establishment by a municipality of a program for the reporting of hazardous chemicals, hazardous materials, and hazardous wastes does not increase the liability that may otherwise be imposed on the municipality for damages resulting from hazardous chemicals, hazardous materials, or hazardous waste. (§ 4 ch 108 SLA 1986; am § 14 ch 143 SLA 1988)

Effect of amendments. — The 1988 amendment inserted "hazardous chemicals" twice and made a series of minor punctuation changes.

Sec. 29.35.590. Definitions.

In AS 29.35.500 - 29.35.590

(1) "acute hazardous waste" means a waste listed by the administrator or the Environmental Protection Agency in accordance with the criteria in 40 C.F.R. 261.11(a)(2);

(2) *[Repealed § 15 ch 71 SLA 1997.]*

(3) "extremely hazardous substance" means a substance listed in 40 C.F.R. Part 355, Appendix A and B;

(4) "handles" includes disposes of, generates, processes, stores, treats, transships, and uses hazardous chemicals, materials, or wastes, but does not include the handling of hazardous chemicals, hazardous materials, or hazardous wastes while they are in transit and before they reach the final destination indicated on the shipping paper accompanying the shipment, except while they are at a transshipment facility; in this paragraph, "shipping paper" has the meaning given in 49 C.F.R. 171.8;

(5) "hazard class" means the class of a hazardous material defined in 49 C.F.R. 173;

(6) "hazardous chemical" has the meaning given in 29 C.F.R. 1910.1200(c) except that it does not include

(A) a food, food additive, color additive, drug, or cosmetic regulated by the federal Food and Drug Administration;

(B) a substance present as a solid in a manufactured item to the extent exposure to the substance does not occur under normal conditions of use;

(C) a substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public;

(D) a substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual; or

(E) a substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer;

(7) "hazardous material" means a material or substance, as defined in 49 C.F.R. 171.8, and any other substance determined by the Alaska State Emergency Response Commission in regulations to pose a significant health and safety hazard; "hazardous material" does not include food, drugs, alcoholic beverages, cosmetics, tobacco, or tobacco products intended for personal consumption;

(8) "hazardous waste" means

(A) a hazardous waste as defined in AS 46.03.900;

(B) a hazardous waste as identified by the Environmental Protection Agency under 40 C.F.R. 261; and

(C) any other hazardous waste defined by the Alaska State Emergency Response Commission in regulations;

(9) "quantity" means the total amount of a material or waste handled at a time and includes the aggregate of a material or waste that is divided among multiple containers;

(10) "threshold planning quantity" means the quantity listed in the column "threshold planning quantity" for a substance listed in 40 C.F.R. Part 355, Appendix A and B;

(11) "transshipment facility" means a building, dock, yard or other structure or area at which hazardous chemicals, hazardous materials, or hazardous wastes are held, or transferred from one vehicle, vessel, or container to another, for the purpose of reshipment within seven days after arriving at the facility, if regularly holding or transferring within that period of time is the principal business of the facility. (§ 4 ch 108 SLA 1986; am §§ 15, 16 ch 143 SLA 1988; am §§ 10, 11, 12 ch 71 SLA 1997)

Effect of amendments. — The 1997 amendment, effective September 9, 1997, repealed paragraph (2); rewrote paragraph (6); in paragraph (7), substituted "Alaska State Emergency Response Commission in regulations" for "Division of Fire Prevention, or by a municipality for purposes of its own reporting program,"; and rewrote paragraph (8). The 1988 amendment inserted paragraph (3); in paragraph (4), substituted "transships, and uses hazardous chemicals, materials" for "and uses hazardous materials," inserted "hazardous chemicals" following "handling of" and "except while they are at a transshipment facility," and made a series of minor punctuation changes; inserted paragraph (6); and added paragraphs (10) and (11).

Article 9. Port Authorities.

Section

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Sec. 29.35.600. Purpose of authorities.

The purpose of a port authority is to provide for the development of a port or ports for transportation related commerce within the territory of the authority. (§ 2 ch 97 SLA 1992)

Sec. 29.35.605. Establishment of port authorities.

(a) A port authority may be created by one of the following means:

(1) the governing body of a municipality may create by ordinance a port authority as a public corporation of the municipality;

(2) the governing bodies of two or more municipalities may create by parallel ordinances adopted by each of the governing bodies a port authority as a public corporation of the municipalities.

(b) One or more municipalities may join an authority established under (a)(1) or (2) of this section upon the adoption of parallel ordinances by the governing bodies of each affected municipality.

(c) A port authority created under this section is a body corporate and politic and an instrumentality of the municipality or municipalities creating it but having a separate and independent legal existence.

(d) Creation of a port authority under AS 29.35.600 - 29.35.730 is an exercise of a municipality's transportation system powers.

(e) The enabling ordinance by which a port authority is established must specify the powers, boundaries, and limitations of the port authority.

(f) An ordinance creating a port authority shall require approval by the voters of the municipality or municipalities participating in the authority in order for the authority to be established.

(g) Nothing in AS 29.35.600 - 29.35.725 prevents a municipality or municipalities from creating or participating in a public corporation, including a port authority, in any form or manner not prohibited by law. However, the provisions of AS 29.35.600 - 29.35.725 only apply to and may only be utilized by a port authority created under this section. (§ 2 ch 97 SLA 1992)

Sec. 29.35.610. Dissolution of a port authority.

(a) The enabling ordinance by which a port authority is created must provide for the manner by which a port authority may be dissolved.

(b) If an authority ceases to exist, its assets shall be distributed to the municipalities that participated in the authority in proportion to the difference between their contributions to the authority and any outstanding debt or obligation of that municipality to the authority, provided that any obligation to bondholders then outstanding shall first be satisfied in full. (§ 2 ch 97 SLA 1992)

Sec. 29.35.615. Municipal property.

(a) A municipality may transfer and otherwise convey or lease real property, and any improvements to it, to an authority for use by the authority for the purposes set out in the ordinance adopted under AS 29.35.605.

(b) A municipality may transfer and otherwise assign or lease personal property to an authority for use by the authority for the purposes set out in the ordinance adopted under AS 29.35.605. (§ 2 ch 97 SLA 1992)

Sec. 29.35.620. Powers.

If provided in the enabling ordinance, an authority may

- (1) sue and be sued;
- (2) have a seal and alter it at pleasure;
- (3) acquire an interest in a project as necessary or appropriate to provide financing for the project, whether by purchase, gift, or lease;
- (4) lease to others a project acquired by it and upon the terms and conditions the authority may consider advisable, including, without limitation, provisions for purchase or renewal;
- (5) sell, by installment sale or otherwise, exchange, donate, convey, or encumber in any manner by mortgage or by creation of another security interest, real or personal property owned by it, or in which it has an interest, including a project, when, in the judgment of the authority, the action is in furtherance of the authority's purposes;
- (6) accept gifts, grants, or loans, under the terms and conditions imposed under the gift, grant, or loan, and enter into contracts, conveyances or other transactions with a federal agency or an agency or instrumentality of the state, a municipality, private organization, or other person;
- (7) deposit or invest its funds, subject to agreements with bondholders;
- (8) purchase or insure loans to finance the costs of projects;
- (9) provide for security within the boundaries of the authority;

(10) enter into loan agreements with respect to one or more projects upon the terms and conditions the authority considers advisable;

(11) acquire, manage, and operate projects as the authority considers necessary or appropriate to serve the authority's purposes;

(12) assist private lenders to make loans to finance the costs of projects through loan commitments, short-term financing, or otherwise;

(13) charge fees or other forms of remuneration for the use or possession of projects in accordance with the agreements described in this section, other agreements relating to the projects, covenants, or representations made in bond documents relating to the projects, or regulations of the authority relating to the projects;

(14) exercise the powers of eminent domain and declaration of taking within its physical boundaries under AS 29.35.030 to acquire land or materials for authority purposes;

(15) regulate land use within the boundaries of the authority;

(16) defend and indemnify a current or former member of the board, employee, or agent of the authority against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with civil or criminal action in which the person is involved as a result of the person's affiliation with the authority if the person acted in good faith on behalf of the authority and within the scope of the person's official duties and powers;

(17) purchase insurance to protect and hold harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance, purported performance, or failure to perform in good faith, of duties for, or employment with the authority and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance is subject to the discretion of the board; insurance purchased under this paragraph may not be considered compensation to the insured person; and

(18) protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions; an authority may also maintain casualty, property, business interruption, marine, boiler and machinery, pollution liability, and other insurance in amounts reasonably calculated to cover potential claims against the authority or a municipality for bodily injury, death or disability, and property damage that may arise from or be related to authority operations and activities. (§ 2 ch 97 SLA 1992)

Sec. 29.35.625. Bonds of a port authority; superior court jurisdiction.

(a) If authorized by the enabling ordinance, an authority may borrow money and may issue bonds on which the principal and interest are payable

(1) exclusively from the income and receipts of, or other money derived from, the project financed with the proceeds of the bonds;

(2) exclusively from the income and receipts of, or other money derived from, designated projects or other sources whether or not they are financed, insured, or guaranteed in whole or in part with the proceeds of the bonds; or

(3) from its income and receipts generally or a designated part or parts of them.

(b) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time or times that the authority may determine.

(c) Before issuing bonds, an authority shall provide for consideration at least sufficient, in the judgment of the authority, to pay the principal and interest on the bonds as they become due and to create and maintain the reserves for the payment that the authority considers necessary or desirable and meet all obligations in connection with the lease or agreement and all costs necessary to service the bonds, unless the lease or agreement provides that the obligations are to be met or costs are to be paid by a party other than the authority.

(d) Bonds shall be authorized by resolution of the authority, be dated, and shall mature as the resolution may provide, except that a bond may not mature more than 40 years from the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption that the resolution or a subsequent resolution may provide.

(e) All bonds issued under this section, regardless of form or character, are negotiable instruments for all of the purposes of AS 45.01 — AS 45.09, AS 45.12, and AS 45.14 (Uniform Commercial Code).

(f) The superior court has jurisdiction to hear and determine suits, actions, or proceedings relating to an authority, including suits, actions, or proceedings brought to foreclose or otherwise enforce a mortgage, pledge, assignment, or security interest brought by or for the benefit or security of a holder of the authority's bonds or by a trustee for or other representative of the holders. (§ 2 ch 97 SLA 1992)

Sec. 29.35.630. Bonds eligible for investment.

Bonds issued under AS 29.35.625 are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banks, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. The bonds may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose that the deposit of bonds of the state is authorized by law. (§ 2 ch 97 SLA 1992)

Sec. 29.35.635. Validity of pledge.

The pledge of revenue of an authority to the payment of the principal or interest on bonds or notes of the authority is valid and binding from the time the pledge is made, and the revenue is immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the authority irrespective of whether those parties have notice of the lien of the pledge. (§ 2 ch 97 SLA 1992)

Sec. 29.35.640. Credit of state or a municipality not pledged.

(a) The state and municipalities participating in an authority are not liable for the debts of that authority. Bonds issued under AS 29.35.625 are payable solely from the revenue of the authority and do not constitute a

(1) debt, liability, or obligation of the state or a municipality; or

(2) pledge of the faith and credit of the state or a municipality.

(b) An authority may not pledge the credit or the taxing power of the state or its municipalities. A bond issued under AS 29.35.625 must contain on its face a statement that

(1) the authority is not obligated to pay it or the interest on it except from the revenue pledged for it; and

(2) the faith and credit of the taxing power of the state or of a political subdivision of the state is not pledged to the payment of it. (§ 2 ch 97 SLA 1992)

Sec. 29.35.645. Pledges of the state and municipalities.

The state and municipalities participating in the authority pledge to and agree with the holders of bonds issued under AS 29.35.625 and with the federal agency, if any, that loans or contributes funds in respect to a project of the authority, that the state and the municipalities participating in the authority will not limit or alter the rights and powers vested in the authority by its enabling ordinance or other law so that it is unable to fulfill the terms of a contract made by the authority with those holders or that federal agency, or in any way impair the rights and remedies of those holders or that federal agency until the bonds, together with the interest on them and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of those holders or that federal agency, are fully met and discharged. An authority is authorized to include this pledge and agreement of the state and the municipalities participating in the authority, insofar as it refers to holders of bonds of the authority, in a contract with those holders, and insofar as it relates to a federal agency, in a contract with that federal agency. (§ 2 ch 97 SLA 1992)

Sec. 29.35.650. Limitation of liability.

A liability incurred by an authority shall be satisfied exclusively from the assets or revenue of the authority. A creditor or other person does not have a right of action against the state or a municipality participating in an authority because of a debt, obligation, or liability of an authority. (§ 2 ch 97 SLA 1992)

Sec. 29.35.655. Limitation on personal liability.

A board member or employee of an authority is not subject to personal liability or accountability because of the execution or issuance of bonds. (§ 2 ch 97 SLA 1992)

Sec. 29.35.660. Fidelity bond.

An authority shall obtain a fidelity bond in an amount determined by the board for board members and each executive officer responsible for accounts and finances of that authority. A fidelity bond must be in effect during the entire tenure in office of the bonded person. (§ 2 ch 97 SLA 1992)

Sec. 29.35.665. No taxing authority.

An authority may not levy an income or other tax. (§ 2 ch 97 SLA 1992)

Sec. 29.35.670. Exemption from taxation.

(a) An authority exercising the powers granted by the enabling ordinance under AS 29.35.600 - 29.35.730 is in all respects for the benefit of the people of the municipalities participating in the authority and the people of the state in general, for their well-being and prosperity, and for the improvement of their social and economic condition. The real and personal property of an authority and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds issued by the authority under AS 29.35.625 are issued for an essential public and governmental purpose; therefore, the bonds, interest and income from them, and all fees, charges, funds, revenue, income, and other money pledged or available to pay or secure the payment of the bonds or interest on them are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) Notwithstanding the provisions of (a) of this section, an authority and the municipalities participating in the authority may enter into agreements under which the authority agrees to pay the participating municipalities' payments in lieu of taxes and special assessments on real and personal property of the authority that is within the taxing jurisdiction of the municipality.

(d) Nothing in this section creates a tax exemption with respect to the interests of a business enterprise or other person, other than the authority, in property, assets, income, or receipts, whether or not financed under AS 29.35.600 - 29.35.730. (§ 2 ch 97 SLA 1992)

Sec. 29.35.675. Development plan.

In the enabling ordinance establishing the authority under AS 29.35.605 the authority shall be

(1) required to submit a development plan to the governing body of the municipality or municipalities participating in the authority; and

(2) prohibited from undertaking the construction or acquisition of a project unless the project appears in a development plan submitted to and approved by the governing body of the municipality or municipalities participating in the authority. (§ 2 ch 97 SLA 1992)

Sec. 29.35.680. Administration of port authorities; board.

(a) An authority shall be governed by a board of directors, which shall exercise the powers of the authority. The enabling ordinance establishing the authority under AS 29.35.605 must specify the number, qualifications, manner of appointment or election, and terms of members of the board.

(b) The board shall appoint a chief executive officer of the authority who serves at the pleasure of the board. The board shall fix the compensation of the chief executive officer. (§ 2 ch 97 SLA 1992)

Sec. 29.35.685. Continuation of collective bargaining agreements; application of AS 23.40.070 - 23.40.260.

(a) A collective bargaining agreement for employees of the state or its political subdivisions who are transferred to an authority under AS 29.35.600 - 29.35.730 shall remain in effect for the term of the agreement or for a period of one year, whichever is longer, and shall be binding on the authority unless the parties agree to the contrary before the expiration of the agreement. A labor-management negotiation impasse declared after a transfer of employees under this subsection but before the negotiation of a new collective bargaining agreement shall be resolved as provided in the collective bargaining agreement, except that if the collective bargaining agreement does not provide for a resolution, then as provided in AS 23.40.070 - 23.40.260.

(b) Employees of the state or a political subdivision of the state transferred to an authority shall retain, for a period of one year following the date of transfer or for the duration of a collective bargaining agreement transferred under (a) of this section, whichever is greater, all rights of participation in fringe benefit programs available to the employees on the day before the transfer, or in programs substantially equivalent.

(c) AS 23.40.070 - 23.40.260 apply to employees of an authority established under AS 29.35.600 - 29.35.730 unless all municipalities participating in the authority are exempt under § 4, ch. 113, SLA 1972. (§ 2 ch 97 SLA 1992)

Sec. 29.35.690. Bylaws and regulations.

(a) A board shall adopt bylaws and appropriate regulations consistent with the enabling ordinance to carry out its functions and purposes.

(b) A board shall adopt bylaws as soon after the establishment of the authority as possible and may from time to time, amend those bylaws. The bylaws may contain any provision not in conflict with law for the management of the business of the authority and for the conduct of the affairs of the authority, including

- (1) the time, place, and manner of calling, conducting, and giving notice of meetings of the board and committees of the board, if any;
- (2) the compensation of directors, if any;
- (3) the appointment and authority of committees of the board, if any;
- (4) the appointment, duties, compensation, and tenure of officers, directors, chief executive officer, and other employees, if any;
- (5) procedures for adopting regulations;
- (6) procedures for adopting bylaws;

(7) procedures for making annual reports and financial statements; and
(8) other matters for the conduct of business by the board. (§ 2 ch 97 SLA 1992)

Sec. 29.35.695. Authority subject to public records and open meetings laws.

An authority established under AS 29.35.605 is subject to AS 09.25.110 - 09.25.220 and to AS 44.62.310 - 44.62.312. (§ 2 ch 97 SLA 1992)

Sec. 29.35.700. Annual report.

Within 90 days following the end of the fiscal year of an authority, the board shall distribute to the mayor and governing body of each municipality participating in the authority a report describing the operations and financial condition of the authority during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers, or duties of the authority or operation of facilities of the authority. The report must itemize the cost of providing each category of service offered by the authority and the income generated by each category. (§ 2 ch 97 SLA 1992)

Sec. 29.35.705. Audits.

(a) The board shall have the financial records of an authority audited annually by an independent certified public accountant.

(b) An authority shall make all of its financial records available to an auditor appointed by a municipality participating in the authority for examination. (§ 2 ch 97 SLA 1992)

Sec. 29.35.710. Remedies.

A holder of bonds or notes or coupons attached to the bonds issued by an authority under AS 29.35.625, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under AS 29.35.600 - 29.35.730, the trust agreement or resolution, or another contract executed by the authority; and

(2) compel the performance of all duties of the authority required by AS 29.35.600 — 29.35.730 or the trust agreement or resolution. (§ 2 ch 97 SLA 1992)

Sec. 29.35.715. Claims.

For the purpose of judicial and regulatory proceedings by and against an authority, an authority and its board members and employees enjoy the same rights, privileges, and immunities as a municipality and municipal officers. (§ 2 ch 97 SLA 1992)

Sec. 29.35.720. Conflicting laws inapplicable.

If provisions of AS 29.35.600 — 29.35.730 conflict with other provisions of this title, the provisions of AS 29.35.600 — 29.35.730 prevail. (§ 2 ch 97 SLA 1992)

Sec. 29.35.722. Ownership or operation of certain state facilities prohibited.

The state may not, without the approval of the legislature,

(1) convey or transfer the Alaska marine highway system, the Anchorage or Fairbanks international airports, or any other state asset, except undeveloped state land as provided in AS 38.05.810 or surplused property, to an authority; or

(2) enter into an agreement with an authority under which the authority would operate the Alaska marine highway system, the Anchorage or Fairbanks international airports, or any other state facility, system, or function that employs one or more employees. (§ 2 ch 97 SLA 1992)

Sec. 29.35.725. Definitions.

In AS 29.35.600 - 29.35.730, unless the context otherwise requires,

(1) "authority" means a port authority established under AS 29.35.605;

(2) "board" means the board of directors of an authority;

(3) "bonds" includes bonds, bond anticipation notes, notes, refunding bonds, or other forms of indebtedness of the authority;

(4) "bylaws" or "bylaws of the authority" means the guidelines adopted by and amended by the board from time to time in accordance with AS 29.35.600 - 29.35.730;

(5) "port" means a facility of transportation related commerce located within the state;

(6) "project" means a port, dock, and administrative facilities, including property necessary in connection with the operation of a port;

(7) "project cost" or "cost of a project" means all or any part of the aggregate costs determined by an authority to be necessary to finance the construction or acquisition of a project, including without limitation to the cost of acquiring real property, the cost of constructing buildings and improvements, the cost of financing the project, including, without limitation, interest charges before, during, or after construction or acquisition of the project, costs related to the determination of the feasibility, planning, design, or engineering of the project and, to the extent determined necessary by the authority, administrative expenses, the cost of machinery or equipment to be used in the operation or rehabilitation of a port, and all other costs, charges, fees, and expenses that may be determined by the authority to be necessary to finance the construction or acquisition;

(8) "real property" or "land" means any interest in real property, including tidal and submerged land, and any right appurtenant to the interest, and without limitation, interests less than full title such as easements, uses, leases, and licenses;

(9) "regulation" means a standard of general application or the amendment, supplement, revision, or repeal of a standard adopted by an authority to

implement, interpret, or make specific the law enforced or administered by it or to govern its procedure. (§ 2 ch 97 SLA 1992)

Sec. 29.35.730. Short title.

AS 29.35.600 - 29.35.730 may be referred to as the Municipal Port Authority Act. (§ 2 ch 97 SLA 1992)

Article 10. Regional Solid Waste Management Authorities.

Section

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Sec. 29.35.800. Purpose of authorities.

The purpose of a regional solid waste management authority is to provide environmentally sound and cost-effective management of solid waste, including storage, collection, transportation, separation, processing, recycling, and disposal, to protect the public health, safety, and welfare; improve the environment of the state; recover resources and energy; and prevent pollution.

Sec. 29.35.805. Establishment of regional solid waste management authorities.

(a) A regional solid waste management authority may be created in one of the following ways:

- (1) the governing body of a municipality may, by ordinance, create a regional solid waste management authority as a public corporation of the municipality;
- (2) the governing bodies of two or more municipalities may, by substantially identical ordinances adopted by each of the governing bodies, create a regional solid waste management authority as a public corporation of the municipalities.

(b) One or more municipalities may join an authority established under (a)(1) or (2) of this section upon the adoption of substantially identical ordinances by the governing bodies of each affected municipality.

(c) A regional solid waste management authority created under this section is a body corporate and politic and an instrumentality of the municipality or municipalities creating it but has a separate and independent legal existence.

(d) Creation of a regional solid waste management authority under AS 29.35.800 - 29.35.925 is an exercise of a municipality's extraterritorial jurisdiction under AS 29.35.020.

(e) The enabling ordinance by which a regional solid waste management authority is established must specify the powers, boundaries, and limitations of the regional solid waste management authority.

(f) An ordinance creating a regional solid waste management authority must be approved by the voters of the municipality or municipalities participating in the authority for the authority to be established.

(g) Nothing in AS 29.35.800 - 29.35.925 prevents a municipality or municipalities from creating or participating in a public corporation, including a regional solid waste management authority, in any form or manner not prohibited by law. However, AS 29.35.800 - 29.35.925 only apply to and may only be used by a regional solid waste management authority created under this section.

Sec. 29.35.810. Dissolution of a regional solid waste management authority.

(a) The enabling ordinance creating a regional solid waste management authority must provide for the manner by which a regional solid waste management authority may be dissolved.

(b) If an authority ceases to exist, its assets shall be distributed to each municipality that was participating in the authority on the day before the date of dissolution in proportion to the municipality's contribution to the authority less any outstanding debt or obligation of that municipality to the authority. Any obligation to bondholders then outstanding shall first be satisfied in full.

(c) A municipality that is participating in an authority with one or more other municipalities may withdraw from participation without dissolving the authority. The contributions to the authority made by the withdrawing municipality remain the property of the authority, and the municipality remains liable for obligations under any agreement with the authority or other participating municipalities unless the agreement is changed by the contractual parties. A municipality withdraws from participation in an authority by repealing the ordinance adopted under AS 29.35.805(a)(2) or (b).

Sec. 29.35.815. Municipal property.

(a) A municipality may transfer and otherwise convey or lease real property and improvements to real property to an authority for use by the authority for the purposes set out in the ordinance adopted under AS 29.35.805.

(b) A municipality may transfer and otherwise assign or lease personal property to an authority for use by the authority for the purposes set out in the ordinance adopted under AS 29.35.805.

Sec. 29.35.820. Powers and duties.

- (a) If provided in the enabling ordinance, an authority may
- (1) sue and be sued;
 - (2) have a seal and alter it;
 - (3) acquire an interest in a project as necessary or appropriate to provide financing for the project, whether by purchase, gift, or lease;
 - (4) lease to others a project acquired by the authority on the terms and conditions the authority may consider advisable, including, without limitation, provisions for purchase or renewal;
 - (5) sell, by installment sale or otherwise, exchange, donate, convey, or encumber in any manner by mortgage or by creation of another security interest, real or personal property owned by it or in which it has an interest, including a project, when, in the judgment of the authority, the action is in furtherance of the authority's purposes;
 - (6) accept gifts, grants, or loans, under the terms and conditions imposed under the gift, grant, or loan, and enter into contracts, conveyances, or other transactions with a federal agency or an agency or instrumentality of the state, a municipality, a private organization, or another person;
 - (7) deposit or invest its funds, subject to agreements with bondholders;
 - (8) purchase or insure loans to finance the costs of projects;
 - (9) provide for security within the boundaries of the authority;
 - (10) enter into loan agreements for one or more projects on the terms and conditions the authority considers advisable;
 - (11) acquire, manage, and operate projects the authority considers necessary or appropriate to serve the authority's purposes;
 - (12) assist private lenders to make loans to finance the costs of projects through loan commitments, short-term financing, or otherwise;
 - (13) charge fees or other forms of remuneration for the use or possession of projects under the agreements described in this subsection; other agreements relating to the projects, covenants, or representations made in bond documents relating to the projects; or regulations of the authority relating to the projects;
 - (14) exercise the powers of eminent domain and declaration of taking within its physical boundaries under AS 29.35.030 to acquire land or materials for authority purposes; the powers of eminent domain shall be no greater than those enjoyed by the state under AS 09.55 and shall only be utilized upon prior approval by the governor;
 - (15) regulate land use within the boundaries of the authority;
 - (16) defend and indemnify a current or former member of the board employee, or agent of the authority against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed on that person in connection with a civil or criminal action in which the person is involved because of the person's affiliation with

the authority if the person acted in good faith on behalf of the authority and within the scope of the person's official duties and powers;

(17) purchase insurance to protect and hold harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance of, purported performance of, or failure to perform in good faith, duties for the authority or arising out of employment with the authority and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance is subject to the discretion of the board; insurance purchased under this paragraph is not compensation to the insured person; and

(18) protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions.

(b) An authority shall maintain casualty, property, business interruption, marine, boiler and machinery, pollution liability, and other insurance in amounts reasonably calculated to cover potential claims against the authority or a municipality for bodily injury, death or disability, and property damage that arise from or are related to authority operations and activities.

Sec. 29.35.825. Bonds of a regional solid waste management authority; superior court jurisdiction.

(a) If authorized by the enabling ordinance, an authority may borrow money and issue bonds on which the principal and interest are payable

(1) exclusively from the income and receipts of, or other money derived from, the project financed with the proceeds of the bonds; exclusively from the income and receipts of, or other money derived from, designated projects or other sources, whether they are financed, insured, or guaranteed in whole or in part with the proceeds of the bonds; or

2) exclusively from the income and receipts of, or other money derived from, designated projects or other sources, whether they are financed, insured, or guaranteed in whole or in part with the proceeds of the bonds; or

(3) from its income and receipts or a designated part or parts of them.

(b) All bonds shall be sold at public or private sale in the manner, for the price or prices, and at the time or times the authority may determine.

(c) Before issuing bonds, an authority shall provide for consideration at least sufficient, in the judgment of the authority, to

(1) pay the principal of and interest on the bonds as they become due;

(2) create and maintain the reserves for the payment that the authority considers necessary or desirable; and

(3) meet all obligations in connection with the lease or agreement and all costs necessary to service the bonds, unless the lease or agreement provides that the obligations are to be met or costs are to be paid by a party other than the authority.

(d) Bonds shall be authorized by resolution of the authority and shall be dated and mature as the resolution may provide, except that a bond may not mature more than 40 years after the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration

privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption that the resolution or a subsequent resolution may provide.

(e) All bonds issued under this section, regardless of form or character, are negotiable instruments for all the purposes of AS 45.01 - AS 45.08, AS 45.12, AS 45.14, and AS 45.29 (Uniform Commercial Code).

(f) The superior court has jurisdiction to hear and determine suits, actions, or proceedings relating to an authority, including suits, actions, or proceedings brought to foreclose or otherwise enforce a mortgage, pledge, assignment, or security interest brought by or for the benefit or security of a holder of the authority's bonds or by a trustee for or other representative of the holders.

Sec. 29.35.830. Bonds eligible for investment.

Bonds issued under AS 29.35.825 are securities in which public officers and public bodies of the state and its political subdivisions, insurance companies, trust companies, banks, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. The bonds may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds of the state is authorized by law.

Sec. 29.35.835. Validity of pledge.

The pledge of revenue of an authority to the payment of the principal of or interest on bonds or notes of the authority is valid and binding from the time the pledge is made, and the revenue is immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the authority irrespective of whether those parties have notice of the lien of the pledge.

Sec. 29.35.840. Credit of state or a municipality not pledged.

(a) The state and municipalities participating in an authority are not liable for the debts of that authority. Bonds issued under AS 29.35.825 are payable solely from the revenue of the authority and do not constitute a

- (1) debt, liability, or obligation of the state or a municipality; or
- (2) pledge of the faith and credit of the state or a municipality.

(b) An authority may not pledge the credit or the taxing power of the state or its municipalities. A bond issued under AS 29.35.825 must contain on its face a statement that

- (1) the authority is not obligated to pay it or the interest on it except from the revenue pledged for it; and
- (2) the faith and credit of the taxing power of the state or of a political subdivision of the state is not pledged to the payment of it.

Sec. 29.35.845. Pledges of the state and municipalities.

The state and municipalities participating in an authority pledge to and agree with the holders of bonds issued under AS 29.35.825 and with the federal agency, if any, that loans or contributes funds for a project of the authority that the state and the municipalities participating in the authority will not limit or alter the rights and powers vested in the authority by its enabling ordinance or other law so that it is unable to fulfill the terms of a contract made by it with those holders or that federal agency or in any way impair the rights and remedies of those holders or that federal agency until the bonds, together with the interest on them and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of those holders or that federal agency, are fully met and discharged. An authority may include this pledge and agreement of the state and the municipalities participating in the authority, to the extent that it refers to holders of bonds of the authority, in a contract with those holders, and to the extent that it relates to a federal agency, in a contract with that federal agency.

Sec. 29.35.850. Limitation of liability.

A liability incurred by an authority shall be satisfied exclusively from the assets or revenue of the authority. A creditor or other person does not have a right of action against the state or a municipality participating in an authority because of a debt, obligation, or liability of an authority.

Sec. 29.35.855. Limitation on personal liability.

A board member or employee of an authority is not subject to personal liability or accountability because of the execution or issuance of bonds.

Sec. 29.35.860. Fidelity bond.

\ An authority shall obtain a fidelity bond in an amount determined by the board for board members and each executive officer responsible for accounts and finances of that authority. A fidelity bond must be in effect during the entire tenure in office of the bonded person.

Sec. 29.35.865. No taxing authority.

An authority may not levy an income or other tax.

Sec. 29.35.870. Exemption from taxation.

(a) An authority exercising the powers granted by the enabling ordinance under AS 29.35.800 - 29.35.925 is in all respects for the benefit of the people of the municipalities participating in the authority and the people of the state in general, for their well-being and prosperity, and for the improvement of their social and economic condition. The real and personal property of an authority and its assets, income, and

receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds issued by the authority under AS 29.35.825 are issued for an essential public and governmental purpose; therefore, the bonds, the interest and income from them, and all fees, charges, funds, revenue, income, and other money pledged or available to pay or secure the payment of the bonds or interest on them are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) Notwithstanding the provisions of (a) of this section, an authority and the municipalities participating in the authority may enter into agreements under which the authority agrees to pay the participating municipalities' payments in lieu of taxes and special assessments on real and personal property of the authority that is within the taxing jurisdiction of the municipality.

(d) Nothing in this section creates a tax exemption with respect to the interests of a business enterprise or other person, other than the authority, in property, assets, income, or receipts, whether or not financed under AS 29.35.800 - 29.35.925.

Sec. 29.35.875. Administration of regional solid waste management authorities; board.

(a) An authority shall be governed by a board of directors, which shall exercise the powers of the authority. The enabling ordinance establishing the authority under AS 29.35.805 must specify the number, qualifications, manner of appointment or election, and terms of members of the board.

(b) The board shall appoint a chief executive officer of the authority, who serves at the pleasure of the board. The board shall fix the compensation of the chief executive officer.

Sec. 29.35.880. Continuation of collective bargaining agreements; application of AS 23.40.070 - 23.40.260.

(a) A collective bargaining agreement for employees of the state or its political subdivisions who are transferred to an authority under AS 29.35.800 - 29.35.925 remain in effect for the term of the agreement or one year, whichever is longer, and are binding on the authority unless the parties agree to the contrary before the agreement expires. A labor-management negotiation impasse declared after a transfer of employees under this subsection but before the negotiation of a new collective bargaining agreement shall be resolved as provided in the collective bargaining agreement or, if the collective bargaining agreement does not provide for a resolution, as provided in AS 23.40.070 - 23.40.260.

(b) Employees of the state or a political subdivision of the state transferred to an authority shall retain, for one year following the date of transfer or for the duration of a collective bargaining agreement transferred under (a) of this section, whichever is greater, all rights of participation in fringe benefit programs available to the employees on the day before the transfer, or in substantially equivalent programs.

(c) AS 23.40.070 - 23.40.260 apply to employees of an authority established under AS 29.35.800 - 29.35.925 unless all municipalities participating in the authority are exempt under sec. 4, ch. 113, SLA 1972.

Sec. 29.35.885. Bylaws and regulations.

(a) A board shall adopt bylaws and appropriate regulations consistent with the enabling ordinance to carry out its functions and purposes.

(b) A board shall adopt bylaws as soon after the authority is established as possible and may, from time to time, amend those bylaws. The bylaws may contain any provision not in conflict with law for managing the business of the authority and for conducting the affairs of the authority, including provisions relating to

- (1) the time, place, and manner of calling, conducting, and giving notice of meetings of the board and committees of the board, if any;
- (2) the compensation of directors, if any;
- (3) the appointment and authority of committees of the board, if any;
- (4) the appointment, duties, compensation, and tenure of officers, directors, the chief executive officer, and other employees, if any;
- (5) procedures for adopting regulations;
- (6) procedures for adopting bylaws;
- (7) procedures for making annual reports and financial statements; and
- (8) other matters for the conduct of business by the board.

Sec. 29.35.890. Authority subject to public records and open meetings laws.

An authority established under AS 29.35.805 is subject to AS 40.25.110 - 40.25.220 and to AS 44.62.310 and 44.62.312.

Sec. 29.35.895. Annual report.

Within 90 days following the end of the fiscal year of an authority, the board shall distribute to the mayor and governing body of each municipality participating in the authority a report describing the operations and financial condition of the authority during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers, or duties of the authority or operation of facilities of the authority. The report must itemize the cost of providing each category of service offered by the authority and the income generated by each category.

Sec. 29.35.900. Audits.

(a) The board shall have the financial records of an authority audited annually by an independent certified public accountant.

(b) An authority shall make all of its financial records available to an auditor appointed by a municipality participating in the authority for examination.

Sec. 29.35.905. Remedies.

A holder of bonds or notes or coupons attached to the bonds issued by an authority under AS 29.35.825, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under AS 29.35.800 - 29.35.925, the trust agreement or resolution, or another contract executed by the authority; and

(2) compel the performance of all duties of the authority required by AS 29.35.800 - 29.35.925 or the trust agreement or resolution.

Sec. 29.35.910. Claims.

In judicial and regulatory proceedings by and against an authority, an authority and its board members and employees enjoy the same rights, privileges, and immunities as a municipality and municipal officers.

Sec. 29.35.915. Conflicting laws inapplicable.

If a provision of AS 29.35.800 - 29.35.925 conflicts with another provision of this title, the provision of AS 29.35.800 - 29.35.925 prevails.

Sec. 29.35.920. Definitions.

In AS 29.35.800 - 29.35.925, unless the context otherwise requires,

(1) "authority" means a regional solid waste management authority established under AS 29.35.805;

(2) "board" means the board of directors of an authority;

(3) "bonds" includes bonds, bond anticipation notes, notes, refunding bonds, or other forms of indebtedness of the authority;

(4) "bylaws" means the guidelines adopted by and amended by the board from time to time under AS 29.35.800 - 29.35.925;

(5) "costs of projects" means all or any part of the aggregate costs determined by an authority to be necessary to finance the construction or acquisition of a project, including, without limitation, the cost of acquiring real property; the cost of constructing buildings and improvements; the cost of financing the project, including, without limitation, interest charges before, during, or after construction or acquisition of the project; costs related to determining the feasibility of, planning, design of, or engineering of the project and, to the extent determined necessary by the authority, administrative expenses; the costs of machinery or equipment to be used in the operation or rehabilitation of a solid waste management facility or operation; and all other costs, charges, fees, and expenses that the authority determines necessary to finance the construction or acquisition;

(6) "land" or "real property" means any interest in real property, including tidal and submerged land, any right appurtenant to the interest, and, without limitation, interests less than full title, such as easements, uses, leases, and licenses;

(7) "project" means a solid waste management facility, and administrative facilities, including property necessary for solid waste management;

(8) "regulation" means a standard of general application or the amendment, supplement, revision, or repeal of a standard adopted by an authority to implement, interpret, or make specific the law enforced or administered by it or to govern its procedure.

Sec. 29.35.925. Short title.

AS 29.35.800 - 29.35.925 may be cited as the Regional Solid Waste Management Authority Act (§ 2 ch 26 SLA 2006)