

Newly Elected Officials

2023 Schedule of Activities

Wednesday, November 29 – Newly Elected Officials Training

VIRTUAL

- 9:00 am **Budgets and Government Accounting**
 Max Mertz, Mertz & Associates
 Katie Stachow, Altman Rogers
- 10:30 am **Break**
- 11:00 am **Lobbying Effectively**
 Heather Brakes, Lobby Alaska
- Noon **Break for lunch**
- 1:00 pm **Ethics and Conflict of Interest**
 Matt Mead, Landye, Bennett, Blumstein, LLP
- 2:30 pm **Break**
- 3:00 pm **Introduction to Title 29 or Title 29 for Experts**
 Melody Nibeck, Alaska Municipal League
 Bill Falsey, Huth Reynolds LLP
- 4:30 pm **Adjourn**

Monday, December 4 – Newly Elected Officials Training

BALLROOM B

- 8:00 am **Breakfast**
- 8:30 am **Welcome and Introductions**
- 9:00 am **Open Meetings Act**
 Jill Dolan, Fairbanks North Star Borough
- 10:30 am **Quasi-Judicial Role and Ex-Parte Contact**
 Max Holmquist, JDOLAW
- Noon **Lunch – Introduction to Alaska Municipal League**
 Nils Andreassen, Executive Director
- 1:00 pm **Roles and Responsibilities of Municipal Officials**
 Robert Palmer, City & Borough of Juneau
 Beth McEwen, MMC, City & Borough of Juneau
 Holly Wells, Birch Horton Bittner & Cherot
- 2:30 pm **Parliamentary Procedure**
 Sheri Pierce, City of Valdez
- 4:30 pm **Adjourn**
- 5:30 pm **ACoM – President’s Legislative Reception**
 Invited - First-time Attendees, Newly Elected Officials, Mayors + Legislators

K'ENAKATNU

Budget and Government Accounting

Max Mertz, Mertz & Associates

Max has been a CPA for over 30 years with 28 of those in Alaska. During his career, he has served clients in a variety of industries - both public and nonpublic companies - including significant work in government, healthcare, financial institutions, not-for-profit, fisheries and airlines. Max is a past member of the Alaska Board of Public Accountancy and was chair for five years. He is a member of both the AICPA and Alaska Society of CPA's as well as numerous other professional organizations.

Katie Stachow, Altman Rogers

Mrs. Stachow is a licensed CPA by the State of Alaska (Certificate #2762) and is a member of the American Institute of Certified Public Accountants (AICPA) as well as the Alaska Society of CPAs. Mrs. Stachow joined Altman, Rogers & Co. in June 2009. Mrs. Stachow has a BA Degree in Professional Accountancy and Public Administration. She graduated from Carroll College in May 2009. Mrs. Stachow volunteers locally with organizations supporting individuals with intellectual disabilities and serves on the finance council for a local non-profit corporation. In addition to community service, Mrs. Stachow specializes in consulting clients on efficient and effective internal control policies and procedures. She also has significant experience serving both governmental and not-for profit organizations throughout the state of Alaska. Mrs. Stachow has a certification by the AICPA as an Advanced Single Audit Certificate for Federal Single Audits under the Uniform Guidance and is proficient in the requirements of the State of Alaska Single Audit. Mrs. Stachow volunteers with local organizations supporting individuals with physical and intellectual disabilities and young Alaskan families.

2023 AML Newly Elected
Officials Training
Governmental Fund Accounting and Budgeting


*Altman, Rogers
& Co.* CERTIFIED
PUBLIC
ACCOUNTANTS

MERTZ
CPA & Advisor

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1

Today is about Buckets!




2

2

TODAY'S TOPICS:



- > Budgeting Basics
- > Fund Accounting
- > Buckets make it simple



3

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"Budgeting" is old hat!

This will be nothing new to you. It will only be more formalized, and there will be more than one budget to deal with.


Trust me, relax about the budgets!!!

4

BUDGET PIECES : (An Accountant's Approach)

Income Statement's Pieces


1. We guess what the total revenues & expenses will be over the next year.



+

Balance Sheet's Pieces

2. We guess what the changes will be to our assets & liabilities (cash, receivables, equipment, capital projects, liabilities, debt, and our equity (fund balance)).



=

"THE BUDGET"

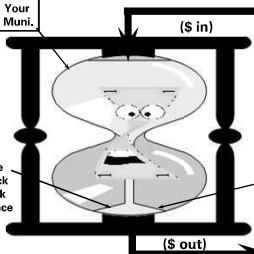
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Budget Questions We Can Ask Using An *Income Statement*:

- 1) We need to spend how much money (expenses), & on what?
- 2) We need how much money (revenues), & from where?

Your Muni.

Like Check Book Balance



(\$ in)

Measured Over Time (An Operating Cycle) Usually One Year.

(\$ left, maybe?)

Results of Operations/Fund Balance

(\$ out)

REVENUES:

- \$ Sales Tax
- \$ Property Tax
- \$ Grants
- \$ User Fees
- \$ Fund Balance
- \$ Etc...

EXPENSES:

- \$ Labor
- \$ Labor Burden
- \$ Debt Service
- \$ Operating Expenses
- \$ General & Admin

Reflects what we want (proforma or a budget), or, has happened (the actual activity) during a/the year.

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THE BUDGET DOCUMENT: Your Friend

SOME TECHNICAL DEFINITIONS:

A budget is a plan of financial operations which provides a basis for the planning, controlling and evaluating of governmental activities.

A budget establishes the critical link between a government's policies and programs and its fiscal capacity.

Budgets are created to establish a basis for measuring future performance, to resolve competing demands, and to identify changes in revenue or spending policies needed to guarantee both short-term and long-term fiscal health.

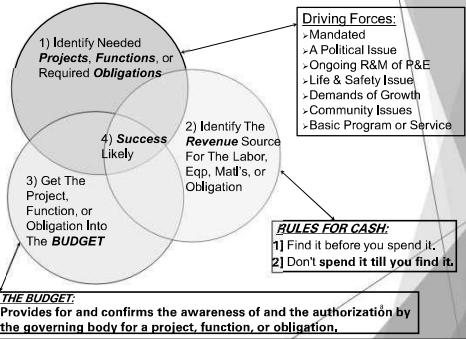
But, budgets involve uncertainty. Budgets, remember, are prospective; they consist of more or less cautious estimates of future revenue streams and spending demands.

No budget, however meticulously developed, can predict the future perfectly. They are going to be wrong, and, they might need adjusting.
DON'T BE SURPRISED, rather, EMBRACE BUDGET AMENDMENTS!!!!!!

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ESSENCE OF BUDGETING

Less Formal/
Non Accounting Approach



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THE REAL OBVIOUS BASICS



9

Governments and Business – They're Different



What controls the strings & drives private enterprise operations and decisions is not the same set of strings that controls & drives municipal operations and municipal decisions!

Private enterprise experience can help you, and/or, hurt you. It depends on how you try and apply it!

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PRIVATE ENTERPRISE



We find a product or service to sell to generate revenues. We work to keep our expenses as low as possible so that when the reporting period is over our revenues are greater than expenses. We "want a profit" to use for our own purposes and therefore we seek to "generate revenues".

- 1) Profit is the motive.
- 2) Method is to provide a good or service to "generate the revenues".
- 3) The evil that goes along with generating the revenues are the expenses.

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MUNICIPAL GOVERNMENTS

A municipal government is charged (often mandated) with providing a program or service (law requires, voters want). In order to do so, it "must collect" revenues.

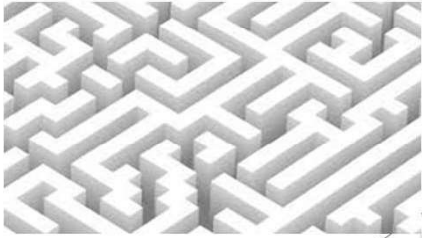
- 1) Providing the program or service is the motive. Profit isn't the motive.
- 2) Generally, we determine what the necessary program costs are, then "collect the revenues" to cover the costs.
- 3) The evil that goes along with providing the program or service is collecting the revenues to pay for it.

First comes the law, the power to appropriate (the authority to expend for a given purpose) then comes the need to collect the revenues necessary to cover the appropriation!

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YOU CAN EASILY GET LOST IN GOVERNMENT
FUND ACCOUNTING!



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TO REALLY UNDERSTAND BUDGETING, & FUND
ACCOUNTING, WE NEED TO TALK
ABOUT THE CROOKS!



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CORRUPTION LEADS TO FUND ACCOUNTING!



Financial corruption in governments in early 20th century
Most resources were from taxes - like today
Public said "Enough" and revolted. Demanded better accounting and
financial reporting practices
Improvements included segregation of financial resources to ensure
funds were spent as intended – BUCKETS
Efficient and effective management systems allow buckets to be
maintained in FUNDS in the accounting system.

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FUND ACCOUNTING: REQUIRED/DEFINED!



For accounting purposes, a state or local government is *not* treated as a single, integral entity. Instead, a government is viewed as a collection of smaller, separate accounting entities known as "funds." Funds are not cash in governmental accounting!

GASB's Codification, Section 1300, defines a fund as:

A fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities (fund balances) or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions or limitations.

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BUCKET CHOICES!

3 Categories/11 Types:

1) Five Governmental Fund Types (Have a "fund balance"):

- 1) General fund (1 only per govt)
 - 2) Special revenue funds
 - 3) Debt service funds
 - 4) Capital projects funds
 - 5) Permanent funds
- (Referred to as "expendable.") Typically used to account for most of a government's operations.

2) Two Proprietary Fund Types (Typically operated like private businesses (Have "Net Assets")):

- 1) Enterprise funds
- 2) Internal service funds

3) Four Fiduciary Fund Types:

- 1) Pension, Investment, and Private-purpose trust funds
- 2) Agency funds

Note: The type of activity reported in a fund, its goal or measurement focus will determine the fund type to use.

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Fund Balances

FINANCIAL STATEMENTS
BALANCE SHEETS - GOVERNMENTAL FUNDS
June 30, 2019

General Fund	
ASSETS	
Cash and cash equivalents	\$ 1,734,837
Investments	10,215,748
Receivables	602,723
Due from other funds	113,843
Due from component units	19,452
Prepaid expenses	540
Total Assets	\$ 12,737,203
LIABILITIES, DEFERRED INFLOW OF RESOURCES AND FUND BALANCES	
Liabilities	
Accounts payable	\$ 200,763
Accrued interest	248,653
Due to other funds	8,808,524
Unpaid bond principal	177,861
Total Liabilities	7,435,801
Deferred inflows of resources	
Unearned advance revenue - property taxes	96,436
Unearned advance revenue - bond sales	96,436
Total Deferred Inflow of Resources	192,872
Fund Balances	
Non-spendable	79,872
Restricted	1,790,284
Assigned	262,219
Unassigned	2,004,828
Total Fund Balances	\$ 3,037,003
Total Liabilities, Deferred Inflow of Resources and Fund Balances	\$ 12,737,203

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BACK TO PRIVATE ENTERPRISES

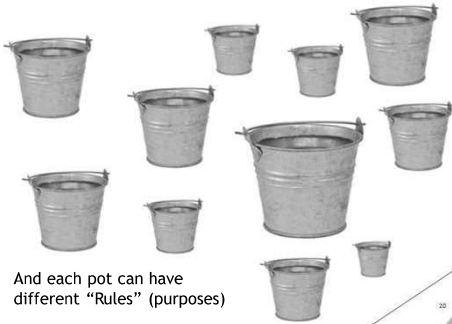


HAVE (Generally) ONE BUCKET WITH:
1 each: Balance Sheet
1 each: Income Statement
1 each: Equity Section
1 each: Check Book
1 each: Set of Accounting Rules
1 each: Owner that makes decisions

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MOST MUNICIPAL GOVERNMENTS



And each pot can have different "Rules" (purposes)

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REMEMBER THE CHOICES!

3 Categories/11 Types:

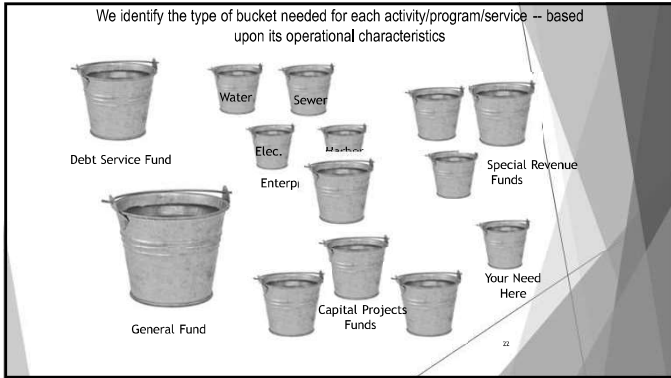
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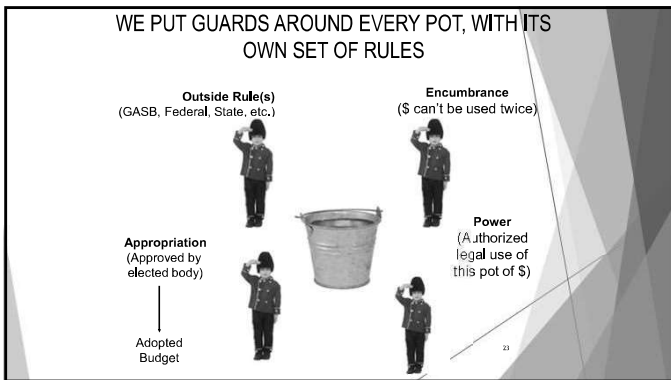
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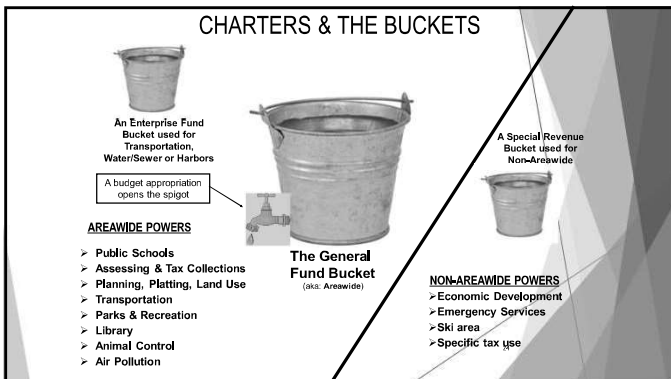
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THE ANSWER:

Revenues
In

With Fund Accounting &
A System of Controls

Why?
To Prevent
Bad Behavior

Really,
it's about:
"Accountability"

Expenditures/appropriations out via "adopted" budgets!

And: we
budget
one bucket
at a time!

\$

31

31

?????
?????

Call or e-mail us anytime
max@mertzcpa.com; 907-957-7131
katies@altrogco.com; 907-274-2992

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Lobbying Effectively

Heather Brakes

Partner, Legislative Consultants, LLC

Lobbyist and Government Relations Consultant

Heather is a partner with Legislative Consultants representing client interests before both the Legislature and Executive Branch. Legislative Consultants is one of the premier lobbying firms in Alaska with over 60 years of experience representing numerous clients including healthcare, natural resources, tourism, investment banking, telecommunications, Alaska trade associations, municipalities, and school districts.

Prior to joining the firm Heather served five Governors, Democrat, Independent, and Republican – most recently served 5 years as the Legislative Director, a member of the Senior Executive Team, and Cabinet member of Governor Sean Parnell. In past roles she worked as Chief of Staff in the Alaska State Senate and aide to various committees including the Legislative Budget and Audit Committee.

Newly Elected Officials

Reviewing the Fundamentals of Elected Office:

Lobbying Effectively





Alaska Municipal League
December 2023
Heather Brakes
AML Lobbyist

1

Lobbying Effectively:

LOBBYING

- Definition: **"Influencing legislative or administrative action"** means to communicate directly for the purpose of introducing, promoting, advocating, supporting, modifying, opposing or delaying any legislative or administrative action.
- Definition: **"Communicating directly"** means to speak with a legislator, legislative employee, or public official.
- Lobbying is part of your job
- You are allowed to lobby

Newly Elected Officials December 2023



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Lobbying Effectively:

LOBBYING

- Local Government Legislative Priorities / Resolutions
- AML can help

Sec. 24.05.141. Exemptions.
(a) This chapter does not apply to:
(1) an individual;
(2) an elected or appointed state or municipal public officer or an employee of the state or a municipality acting in an official capacity or within the scope of employment.

Newly Elected Officials December 2023

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Lobbying Effectively: LOBBYING

- Lobbyists are regulated by Alaska Public Offices Commission (APOC)
- Questions:
 - Call Juneau Office 907-465-4864
 - <https://doa.alaska.gov/apoc/>



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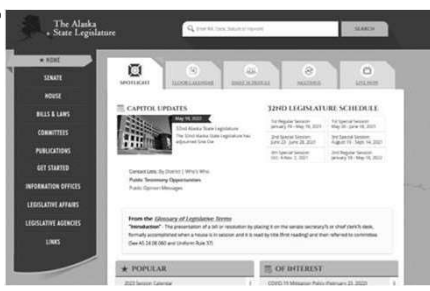
Lobbying Effectively: RESOURCES

- AML: legislative tracker, weekly calendar, website
- The Alaska State Legislative Website: BASIS (Bill Action and Status Information System) www.akleg.gov
- Office of Management & Budget
- Legislative Finance Division
- Community & Regional Affairs (DCRA)
- Publications:
 - Alaska Legislative Directory
 - Directory of State Officials
 - A Layman's Guide to the Budget Process
 - The Legislative Process in Alaska
 - Steps in Passage of a Bill



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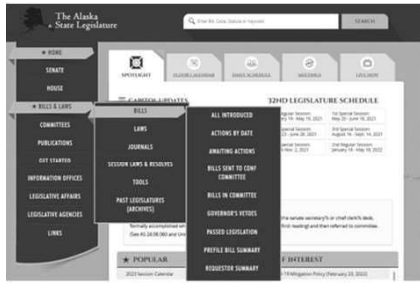
Lobbying Effectively: RESOURCES



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Lobbying Effectively: RESOURCES



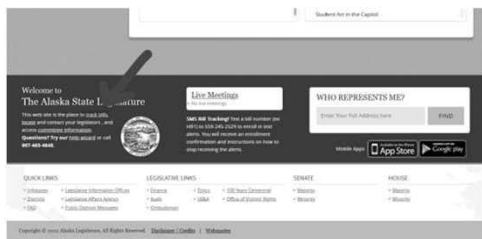
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Lobbying Effectively: RESOURCES



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Lobbying Effectively: RESOURCES



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Lobbying Effectively: RESOURCES



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Lobbying Effectively: RESOURCES



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Lobbying Effectively: RESOURCES



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Lobbying Effectively: RESOURCES

Governor's Proposed Operating Budget
This Budget Book reflects the Governor's Proposed Budget. When available, the Components on the right are subdivisions of the Results Delivery Unit on the left.

(Full Budget Book)

RESULTS DELIVERY UNIT	COMPONENT	STAFFING CHART
Department of Commerce, Community, and Economic Development		
Executive Administration and Development	Commissioner's Office	Chair
	Administrative Services	Chair
Marketing and Securities	Marketing and Securities	Chair
Community and Regional Affairs	Community and Regional Affairs	Chair
	Senior Alaska	Chair
Revenue Sharing	Payment in Lieu of Taxes (PILT)	
	Corporate Income Tax	
	National Forest Receipts	
	Fisheries Taxes	
Corporations, Business and Professional Licensure	Corporations, Business and Professional Licensure	Chair
Economic Development	Economic Development	

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Lobbying Effectively: RESOURCES

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Lobbying Effectively: PEOPLE

- People: Legislators and staff
- Do you know your legislator?
 - The importance of local government officials
 - Meet with them before January session
- Get to know staff
- Executive Branch
 - Need support of Governor and agencies
 - Aim to get into the Governor's Budget
 - Separate budget process in Summer and Fall



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Lobbying Effectively: ORGANIZATION & PROCESS

- Each House organized by Majority and Minority
 - **Senate 2023** (20 Members: 17 Majority, 3 Minority)
 - **House 2023** – (40 Members: 22 Republican, 13 Democratic, 5 Independent)... evenly split ideologically
- Majority Organization Holds Power:
 - Leadership & Committee Chairs
 - Set Agenda
 - Size of budget
 - Which bills pass
 - Governor
 - Bills sponsored by Majority members move



Newly Elected Officials
December 2023

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Lobbying Effectively: ORGANIZATION & PROCESS

- SENATE Majority Caucus**
- Elvi Gray-Jackson
 - Matt Claman
- 8 Republicans**
- Bert Stedman – Co.Ch. Fin.
 - Gary Stevens – Sen. Pres.
 - Jesse Bjorkman
 - Cathy Giessel – Maj. Leader
 - James Kaufman
 - Kelly Merrick
 - David Wilson
 - Click Bishop – Maj. Whip
- 9 Democrats**
- Jesse Kiehl
- Minority (3 Republicans)**
- Shelley Hughes
 - Robb Myers
 - Mike Shower



Newly Elected Officials
December 2023

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Lobbying Effectively: ORGANIZATION & PROCESS

- HOUSE ORGANIZATION**
- MAJORITY -- 23**
- Justin Ruffridge
 - Dan Saddler
 - Laddie Shaw
 - Will Stapp
 - Jesse Sumner
 - Cathy Tilton
 - Sarah Vance
 - Stanley Wright
 - Frank Tomaszewski
- MINORITY -- 16**
- Jennie Armstrong
 - Ashley Carrick
 - Maxine Dibert
 - Zack Fields
- MINORITY OF 1**
- David Eastman (R)
- MAJORITY -- 23**
- Andrew Gray
 - Cliff Groh
 - Sara Hannan
 - Andy Josephson
 - Donna Mears
 - Genevieve Mina
 - Andi Story
 - Louise Stutes (R)
 - Alyse Galvin (I)
 - Rebecca Himschoot (I)
 - Dan Ortiz (I)
 - Calvin Schrage (I)



Newly Elected Officials
December 2023

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Lobbying Effectively: ORGANIZATION & PROCESS

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Newly Elected Officials
December 2023

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Lobbying Effectively: PROCESS: COMMITTEES

- Committees are an essential part of the legislative process:
 - Oversight, gather testimony, consider appointees, amend/advance/hold bills
- Committee hearings include introduction and sponsor statement, and invited and public testimony.
- Bills can be amended in committee and on the Floor.
- Standing Committees:
FIN, EDU, HSS, JUD, L&C, CRA, RES, STA, etc.



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December 2023

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Lobbying Effectively: PROCESS: BUDGET



Photo: Senate Finance Committee Room
(AP: Becky Bohrer)



Newly Elected Officials
December 2023

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Lobbying Effectively: **LOCAL / STATE INTERSECTIONS**

- Education: Construction & Major Maintenance; Base Student Allocation (BSA)
- School Bond Debt Reimbursement
- Community Assistance
- Power Cost Equalization (PCE)
- Public Safety: Troopers, VPSOs, Community Jails
- Infrastructure: Roads, Ports, Harbors, Energy



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Lobbying Effectively: **ADVOCACY DO's DON'Ts TIPS**

- Call ahead for appointments
- Consistent messaging
- Prepare 5-minute explanation of request
- Local process and support
- Agency support helpful
- Leave written backup at office
- Work with and know importance of staff
- Know who you are talking to (leadership, party, committee membership)



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Lobbying Effectively: **ADVOCACY DON'Ts**

- Don't: Blow past staff
- Don't: Send conflicting messages
- Don't: Roll your eyes in committee
- Don't: "Educate"
- Don't: Ambush
- ...other Don't's from the audience?



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Lobbying Effectively: **ALASKA MUNICIPAL LEAGUE**

- AML is here to help
- Legislative Committee – get involved
- Your visits to Juneau
- Statewide Issues
- Share – the more we know...
the better



Newly Elected Officials
December 2023


Ethics and Conflict of Interest

Matt Mead, Landye Bennett Blumstein

A Partner at Landye Bennett Blumstein, Mr. Mead guides clients through the challenges of business, government, and litigation in Alaska. He has a general civil litigation and general counsel practice, representing clients on various commercial, land, and corporate matters.

Municipal Responsibility 101
Ethics & Conflicts of Interest

November 2023
Matt Mead
Landy Bennett Blumstein LLP





Disclosure & Transparency



4

So now you're a public official.. Now What?

- Held to a higher standard of public trust and integrity
- Lead by example
- You're spending the public's money
- You're here to represent the public's best interest; not your own
- What have I gotten myself into...!??

5

Hold each other accountable!

- You are responsible for holding your fellow public officials accountable.



6

Or the voters may do it for you...

7

Ethical Obligations are Driven by Two Primary Sources

- STATE LAW
 - Title 29 – Conflicts of Interest and Public Meetings
 - AS 29.20.010 – Conflicts of Interest
 - AS 29.20.600 – Oaths of Office
- MUNICIPAL CODE
 - Example: City Code Chapter 2.36, Code of Ethics
 - City Code 2.36.060, General standards of Ethical Conduct
 - City Code 2.36.070-090, Conflict of Interest provisions

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AS 29.20.600 - Oaths of Office

- “Before taking office a municipal official shall affirm in writing that the duties of the office will be honestly, faithfully, and impartially performed by the official.”



9

AS 29.20.010 - Conflicts of Interest

- (a) Each municipality shall adopt a conflict of interest ordinance that provides that
 - (1) **a member of the governing body shall declare a substantial financial interest the member has in an official action and ask to be excused from a vote on the matter;**
 - (2) the presiding officer shall rule on a request by a member of the governing body to be excused from a vote;
 - (3) the decision of the presiding officer may be overridden by the majority vote of the governing body; and
 - (4) a municipal employee or official, other than a member of the governing body, may not participate in an official action in which the employee or official has a substantial financial interest.

10

Alaska Supreme Court Weighs In:

- Under common law, “the focus... [is] on the **relationship between the public official's financial interest and the possible result of the official's action**, regardless of the official's intent.”

Griswold v. City of Homer, 925 P.2d 1015, 1026 (Alaska 1996).

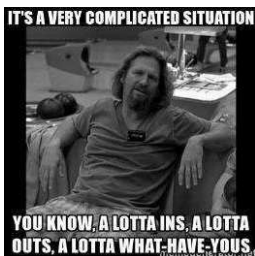
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Know and Follow Your Municipal Code.

- Hold yourself to a higher standard.
- Your constituents' perception of an ethics violation or a conflict of interest can be as damaging as the existence of an actual ethics violation or conflict of interest.

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DO I HAVE A CONFLICT OF INTEREST??





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If you think you may have a conflict, say something!

- The worst thing you can do is to do nothing.
- Talk to staff, mayor, attorney, or someone in advance to determine whether a conflict exists.
- Despite advice you may receive from other sources, your municipal governing body retains authority to determine whether a conflict exists.

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Figuring Out If You Have a Conflict of Interest.

- Do you have competing interests?
 - Personal?
 - Familial?
 - Financial?
- Do you feel conflicted?



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What if I Have a Conflict? - Step 1

- **Put it on the record.**

“Madame Chair, members of the Council, I believe I have a conflict of interest in the Council’s consideration of Resolution 2019-34 because my brother is the owner of the company being considered for the road maintenance contract.”



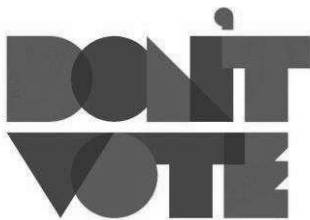
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What if I Have a Conflict? - Step 2

- **Do not** participate in the matter being considered.
- **Do not** influence the discussion.
- **Do not** attempt to directly or indirectly influence the municipal body or an individual’s consideration of the matter.

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What if I Have a Conflict? - Step 3



No, really. **DO NOT** vote on any matter where you have a conflict.

Conflict of Interest: Voting.

City Code 2.36.090

- A. **The mayor** shall declare to the council any substantial financial interest he has in an official action.
- B. **A member of the council or other city board or commission** shall declare any substantial financial interest the member or a member of their immediate family has in an official action and ask to be excused from a vote on the matter.

COI: Voting (cont).

- C. **The presiding officer** shall rule on a request by a member of a city body to be excused from a vote.
- D. **The decision of the presiding officer** on a request by a member of a city body to be excused from a vote **may be overridden by the majority vote of the body's membership.**

Conflicts of Interest: Additional Provision Options



Can your municipality have its cake AND eat it, too?

COI: Additional Provision Options (cont.)

- Your municipality can define what “substantial financial interest” means.
- **City Code 2.36.030:** “Substantial financial interest” means **a financial interest that is of a magnitude that it would be the primary reason for a person’s act to benefit himself or herself or a member of his or her immediate family.** A substantial financial interest does not include a financial interest of a type that is generally possessed by the public or by a large class of persons to which the public official belongs.

COI: Additional Provision Options (cont.)

- “Substantial Financial Interest” means “a direct or in direct pecuniary or material benefit, privilege, interest, or contractual relationship accruing as a result of the City’s consideration of a matter.”
- Define “financial interest.”

COI: Additional Provision Options (cont.)

- Consider defining “financial interest” to include **any** pecuniary interest:
 - a. Of a member of an official’s immediate family or employer.
 - b. In an entity in which an official or a member of the official’s immediate family has an ownership interest, or is a director, officer, or employee.

25

COI: Additional Provision Options (cont.)

A determination that a public official has a substantial financial interest in a matter shall be considered on a case-by-case basis evaluating these factors:

- a. Whether the financial interest is a substantial part of the matter under consideration.
- b. Whether the financial interest directly and substantially varies with the outcome of the matter under consideration.
- c. Whether the financial interest is monetarily significant.
- d. Whether the financial interest is beyond the type typically possessed by the public at large or a large class of persons to which the city officer belongs.

26

COI: Additional Provision Options (cont.)

- Substantial financial interest does not include:
- a. A financial interest of such limited magnitude that it would not influence an average, reasonable person.
- b. A financial interest in which the outcome of a decision would have only an insignificant or conjectural effect.
- c. A financial interest which is obtained through a competitive process.

27

COI: Additional Provision Options (cont.)

- Should the conflicted city council member get to **participate** in discussions?
- Should the conflicted city council member get to remain seated with the other members **during the discussion**?

28

Conflict of Interest: DUAL OFFICES?

- Generally, dual-office holding is prohibited by basic principles of municipal law.
- **EXAMPLE:** A City of North Pole charter provision prohibiting dual-office holding, and requiring the removal of a city employee (police officer) when that employee was elected to the city council, was valid and constitutional.
-*Acevedo v. City of North Pole*, 672 P.2d 130 (Alaska 1983).
- **CHECK YOUR CODE** to see if it prohibits you from holding dual offices.

29

Conflict of Interest: NEPOTISM?



30

COI: Nepotism (cont.)

- Nepotism is generally defined as an official granting favors to family members, specifically jobs.
 - **Example:** a Mayor hires their child to be the Mayor's Chief of Staff, and hires their spouse to be the Director of Government Affairs.
- Alaska law prohibits legislators and executive branch employees from engaging in nepotism.
 - AS 24.60.090; AS 39.90.020
 - What about your municipal code???

31

COI: Nepotism (cont.)

- Nepotism or the appearance thereof can be a tricky issue in Alaska.
 - Alaska law doesn't directly address the issue of nepotism in municipal government.
 - Many of our Alaskan municipal communities are small, rural, and isolated.
 - Our work may require us to work alongside immediate and distant family members in order to complete our official duties.
- **CHECK YOUR MUNICIPAL CODE** to see if it addresses nepotism.

32

Conflict of Interest: Commercial Activity.



33

COI: Commercial Activity (cont.)

- City Code Example 2.36.070. Public officials should not:**
- A. Use city property or equipment for non-city purposes, unless that use is available to the general public on the same terms;
 - B. Use city property, equipment, or staff to conduct campaign activity unless that use is available to the general public on the same terms;
 - C. Use information within the public official's knowledge or purview to advance the personal interest of the public official or the official's immediate family;
 - D. Accept any form of gift, loan or gratuity in exchange for the performance of the public official's duties;



35

COI: Commercial Activity (cont.)

- E. Engage in business with the city, or be a party to the purchase of goods or services for the use of the city from any person or organization in which the public official or a member of the official's immediate family has a substantial financial interest, unless the financial interest is first disclosed, and the transaction or purchase is approved in advance by the city council or secured through competitive bidding;
- F. Take any action to influence the city's solicitation of any bid or proposal from a person or organization in which the public official or a member of the official's immediate family has a substantial financial interest;

36

COI: Commercial Activity (cont.)

- H. Represent, advise or assist a person or organization for pay or other benefit to the public official in any matter involving the public official's public duty.

37

Brecksville councilman under Ohio ethics investigation on police station contract

- Brecksville City Councilman Jack Petsche is now facing an Ohio ethics investigation after his company, USA Roofing, was awarded and performed on a \$150,000 roofing contract on the city's new police station.
- Petsche did not adequately disclose to city leaders that his company was awarded the contract and may now face criminal charges for potentially violating state ethics law and the city charter.




38

The Washington Post

D.C. lawmaker Jack Evans fined \$20,000 in ethics case involving outside work

- D.C. Council member Jack Evans has been fined \$20,000 by the city's ethics agency for using government resources and touting his influence as an elected official while soliciting employment from local law firms.
- Evans's contact with the law firms violated rules that prohibit the use of government resources for personal reasons and using the prestige of office for private gain.



39

THE WALL STREET JOURNAL

Bronx Councilman King Faces Second Ethics Investigation

Andy King under scrutiny for allegedly misusing funds, involving wife in council activity; claims follow earlier sexual-harassment violation

- King accused of:
- Misusing City funds and letting wife work on council business.
- Sexual harassment.
- Previously disciplined for similar behavior.





41

COI: Gifts, Loans, and Travel (cont.)

City Code 2.38.080.

- A. Public officials of the city shall not request or receive a gift, loan or trip, personally or for the official's immediate family members, if:
 - 1. That gift, loan or trip would tend to influence the public official in the discharge of his or her official duties; or
 - 2. The public official may be involved in any official action directly affecting the donor or lender.

42

COI: Gifts, Loans and travel (cont.)


- Travel, subject to the following restrictions:
 - a. All travel accepted must be for furtherance of a valid public purpose, and
 - b. All travel accepted must be approved in advance by the mayor in consultation respectively with the city council.

43

Unique Ethics Issues Triggered by Travel

- Whenever and wherever you travel, you are a representative of your community and of your municipal government.
- Travel should not be treated like a vacation.
- Do not extend your trip at the municipality's expense.
- If your municipal code permits you to consume alcohol while traveling, consume responsibly!

44



**CITY OF WASILLA
SAMPLE BALLOT
SPECIAL ELECTION - FEBRUARY 7, 2012**

● Completely fill in the oval next to your choice.

GROUNDS FOR RECALL, AS STATED ON RECALL PETITION	STATEMENT BY THE OFFICIAL NAMED ON THE RECALL PETITION: STEVE MENARD
<p>"City Council Member Steve Menard traveled to Sitka, Alaska, in his official capacity as Council Member, for the purpose of attending a meeting with the Alaska Municipal League. Menard, without good cause, failed to carry out his official duties. Menard remained overnight at the Westmark Hotel and while intoxicated he inflicted substantial damage to his hotel room and directed the hotel to bill the City of Wasilla for the damage. The damage included upholstery on two beds and a chair, watering on the carpet and setting fire to a mattress.</p> <p>The Wasilla City Council convened on August 22, 2011 and debated what action it should take regarding Menard. The Council voted to: 1) sanction Menard by prohibiting him from traveling on City business for the remainder of his term, which expires in 2013; and 2) required him to make full restitution to the City for the \$1,000 cost of his transportation, and the \$300 the City paid for damage to the hotel room.</p> <p>The Council's action of sanctioning Menard and requiring him to make full restitution for all cost and sufficient restitution to find Menard committed misconduct in Office."</p>	<p>"I am truly sorry for my actions and all that occurred in the Sitka hotel incident. It should be known that my lack of resignation is not a sign of expected forgiveness but rather gives measure to my continued desire to help create and form this growing community.</p> <p>All seem to have noticed the headlines on this event, but perhaps what hasn't been noticed is this. My attendance at every council meeting has included coming promptly, arriving, sleeping until the second drop, excuse myself from voting when appropriate and voting on all other issues. Perhaps what hasn't been noticed is my personal time invested at Borough and State meetings because I understand the impact of these decisions on our community. Perhaps what hasn't been noticed is my commitment and response to individual's concerns and seeking a balance between them and the City's overall needs.</p> <p>I work hard to carry out my official duties and strive to make amends when I fall short. I would appreciate your vote to complete my term.</p> <p>In closing, thank you to my family and friends for their unwavering support and the confidence it has given me to see this process through to the end."</p>

Shall Steve Menard be recalled from the office of Council Member?

YES
 NO

45

Permissible Travel or Ethics Violation?

Wonkblog

Treasury secretary's wife boasts of travel on government plane, touts Hermes and Valentino fashion

By Damian Paletta
August 21, 2017



Louise Linton, wife of Treasury Secretary Steven Mnuchin, has made a few headlines during her time in the national spotlight. (Video: Elyse)

46

ANCHORAGE DAILY NEWS

Politics

North Slope Borough funded basketball camp for mayors grandkids, records show

Author: Nathaniel Herz
 Updated: September 28, 2016
 Published: July 23, 2015

The North Slope Borough paid \$8,400 to fly five of Mayor Charlotte Brower's grandchildren from Barrow to a basketball camp in California last August, according to borough documents.

The documents, contained in a response to an Alaska Dispatch News records request, show Brower's signature approving the use of borough funds for three of her grandchildren's fees and flights for the trip to the camp in Santa Barbara.

The records also detail tens of thousands of

Permissible
Travel
and/or Gifts,
or Ethics
Violation?

47

ANCHORAGE DAILY NEWS

Politics

North Slope Borough mayor's office dispensed over \$800K in gifts, violated donation policy

Author: Nathaniel Herz
 Updated: September 28, 2016
 Published: August 15, 2015

North Slope Borough Mayor Charlotte Brower's office has dispensed more than \$800,000 in gifts of public funds to local organizations, sports teams and individuals since she took office in 2011, according to borough documents.

The documents cover only one borough account from which donations were made. Still, they include more than \$100,000 for private club basketball teams not associated with popular public high school sports. One \$10,000 contribution went to a team that served food at

Permissible
Gifts or
Ethics
Violation?

Questions?

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Introduction to Title 29

Melody Nibeck, Alaska Municipal League

Melody Nibeck is a program coordinator with the Alaska Municipal League (AML) and part of the newly formed Alaska Water Infrastructure Financial Navigation Center. Prior to joining AML, she worked for the State of Alaska as a local government specialist both in the field and part of the management team supervising staff and overseeing programs. Melody has a combined total of 15 years' experience working with communities on local governance, policy, planning, and project management. Prior to joining the state, Melody worked as an energy manager partnering with both tribes and municipalities on implementing alternative energy and energy efficiency projects and educating local leaders on energy policy. She has a profound respect for the local elected and appointed officials after years of providing advice and assistance on a variety of issues including those unique to Alaskan communities such as dog mushing ordinances. Melody lives in Anchorage with her son and daughter and a very smart (albeit jumpy) puppy after almost 20 years of living in a Bush hub community.

Title 29 for Experts

Bill Falsey, Huth Reynolds LLP

Bill Falsey is Senior Counsel at Huth Reynolds LLP. In addition to his experience as a litigator and appellate attorney in private practice, Mr. Falsey worked in the Municipality of Anchorage as a Municipal Attorney and later as a Municipal Manager. He was responsible for managing and overseeing nine departments, three utilities, two enterprises, and four offices. As attorney, he was responsible for providing legal services to the whole of Anchorage's municipal government.

In his private legal practice, he has represented clients before various federal courts and agencies, the Alaska Superior Court, the Alaska Supreme Court, the Alaska Public Offices Commission, and in several administrative forums.



ALASKA MUNICIPAL LEAGUE

Introduction to Alaska Statute Title 29 "Municipal Government"


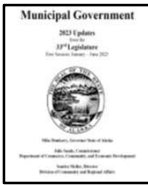
Melody Nibeck
Program Coordinator

1

Agenda Today

- What is Title 29.
- How to Navigate Title 29.
- Understanding Relationship of Title 29 and Your Code of Ordinances.
- Cautions.

2

- Article X "The Constitution of the State of Alaska"
 - Ratified by the people April 24, 1956
 - Local Government Committee
 - Framework for Local Government
 - Gives Powers to Municipalities: Boroughs and Cities
 - "Maximum Local Control"
 - Division of Community and Regional Affairs
- Alaska Statutes (AS)
 - Laws Enacted by the Alaska State Legislature
 - Consists of 47 Titles
- Alaska Statute Title 29 covers municipal governments
 - Close relationship to your Code of Ordinances.
 - Along with Many other Statutes

What is a Title 29?

3

What is a Citation?


AS 29.04.045 (a)
 AS = Alaska Statute
 29 = Title
 04 = Chapter
 .045 = Section
 (a) = Subsection

Question: Does your Code of Ordinances use the same citation format?

4

How to Navigate Title 29

- DCRA Publication of Title 29
 - Division Publications (alaska.gov)
- Table of Contents
- Subject Index
- Header




<https://www.commerce.alaska.gov/web/dcra/DivisionPublications.aspx>

5

Chapters of Title 29

- Chapter 03 The Unorganized Borough
- Chapter 04 Classification of Municipalities
- Chapter 05 Incorporation
- Chapter 06 Alteration of Municipalities
- Chapter 13 Home Rule Municipalities
- Chapter 20 Municipal Officers & Employees
- Chapter 25 Municipal Enactment
- Chapter 26 Elections
- Chapter 35 Municipal Powers and Duties
- Chapter 40 Planning, Platting, and Land Use Regulations
- Chapter 45 Municipal Taxation
- Chapter 46 Special Assessments
- Chapter 47 Municipal Debt
- Chapter 55 Municipal Programs
- Chapter 60 State Programs
- Chapter 65 General Grant Land
- Chapter 71 General Provisions



6

Close Relationship to Your Code of Ordinances – Title 29 to Code

• Examples:

Sec. 29.26.040. Date of regular election.
The date of a regular election is the first Tuesday of October annually, **unless a different date or interval of years is provided by ordinance.** (§ 9 ch 74 SLA 1985)

Sec. 29.20.360. Appointment of officials.
Unless otherwise provided by ordinance, the municipal clerk, attorney, treasurer, and police chief are appointed by the chief administrator. **Unless otherwise provided by ordinance,** an official described in this section serves at the pleasure of the appointing authority and, if appointed by the chief administrator, must be confirmed by the governing body. (§ 7 ch 74 SLA 1985)

7

Close Relationship to Your Code of Ordinances – Code to Title 29

• Examples:

3.10.010 Administration authority.
The city council shall prescribe the general rules for conducting municipal elections in accordance with AS 29.26. (Ord. 86-9 § 1, 1986.)

2.08.010 Meetings—Public participation.
Meetings of all municipal bodies shall be public as provided in AS 44.62.310 and AS 44.62.312. The council or other municipal body shall provide reasonable opportunity for the public to be heard at regular and special meetings. (Ord. 77-5 § 2 (part), 1977; Ord. 84-8, 1984; Ord. 86-8 § 1, 1986.)

8

Example of Older Format


Section 2. City limits and history.
The boundaries of the City are: From a point bearing due North 2.8 miles from Corner No. 1 of U.S.S. 3772, which is the point of beginning; thence West 3.0 miles; thence South 5.8 miles; thence East 4.75 miles; thence North 5.8 miles; thence West 1.75 miles to point of beginning and containing 17,632 acres.

Please work on updating!

9

Cautions

- The Term "Municipality"
 - Borough
 - City



10


Cautions

- The Terms "Home Rule" and "General Law"

Sec. 29.04.020. General law.
A general law municipality is a municipal corporation and political subdivision and is an unchartered borough or city. It has legislative powers conferred by law. (§ 3 ch 74 SLA 1985)

Sec. 29.04.010. Home rule.
A home rule municipality is a municipal corporation and political subdivision. It is a city or a borough that has adopted a home rule charter, or it is a unified municipality. A home rule municipality has all legislative powers not prohibited by law or charter. (§ 3 ch 74 SLA 1985)

"This section applies to home rule and general law municipalities."




11

Cautions

- Know Your Classification


Boroughs	Cities
Unified Home Rule (4)	Home Rule (11)
Non-unified Home Rule (7)	First Class (18)
First Class (1)	Second Class (116)
Second Class (7)	
Unorganized (1)	



12

Cautions

- The Term “Manager”
 - Manager Plan Form of Government, Manager-Council
 - Opposite is “Strong Mayor”




(1) an ordinance may be introduced by a member or committee of the governing body, or by the mayor or manager.

13

Cautions


- The Term “May”
 - Permissive
- The Term “Shall”
 - Not Permissive



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

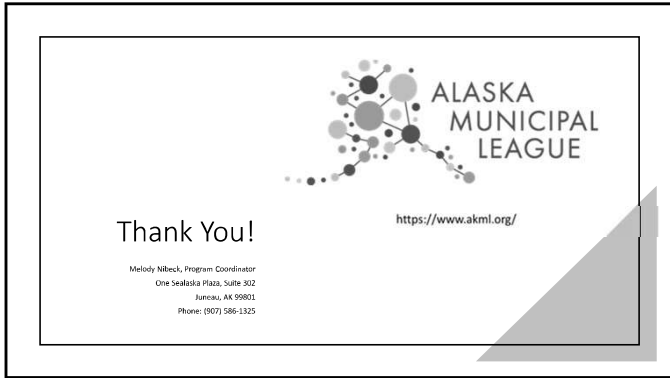
14

The Biggest Caution!



VERSION!


15




Title 29
... and Beyond

**Alaska Statutes: Title 29
Municipal Government**

2022 Updates
from the
32nd Legislature
Second Session: January - June 2022



Presentation to
Newly Elected Leaders
At the 2023 Annual Coreference
of the



ALASKA
MUNICIPAL
LEAGUE

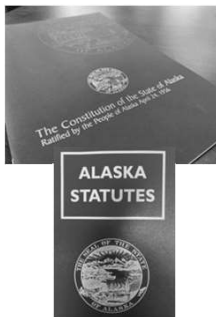
William D. Falsey, Senior Counsel
wfalsey@huthreynolds.com
November 2023

Huth
Reynolds

1

Where are the rules that apply to local government in Alaska?


- Article X of the Alaska Constitution
- Title 29
Municipal Government



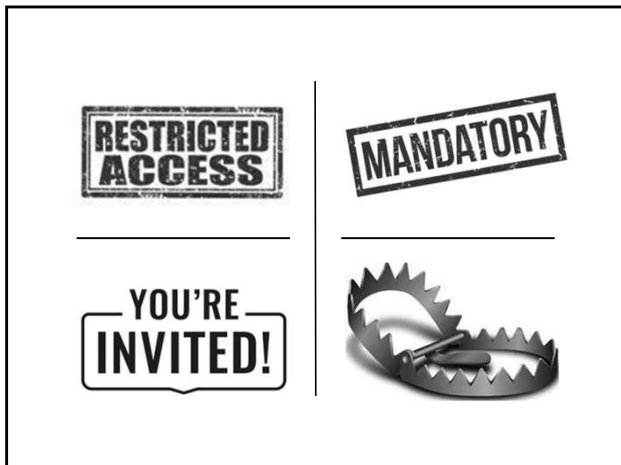
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... but wait – there's more!


- How many times does "political subdivision" appear *outside* of title 29?
400+ times
- How many times does "municipality" appear *outside* of title 29?
970+ times



3



4



1998: Harassing liens

→ SB 195

(9) "lien" means



(C) a common law lien on property

(i) only if the lien was consented to by the owner of the property affected; or

(ii) if not consented to by the owner of the property affected as provided in (i) of this subparagraph, only when the lien is accompanied by a specific order authorizing the recording or filing of the lien issued by a court of competent jurisdiction recognized under state or federal law, which order shall be recorded or filed with the lien; [] or

MR. CLIFF JOHN GRON, Municipality of Anchorage, strongly supported this bill. He explained there have been 43 false liens filed against municipal officials in Anchorage. These filings are getting to be more common. He explained some of the financing problems one can run into with liens filed on their properties.

5

THE SUPREME COURT OF THE STATE OF ALASKA

CEDRIC CUTLER,)
Appellant,) Supreme Court No. S-14215
v.) Superior Court No. 3KO-10-00062 CI
KODIAK ISLAND BOROUGH,)
Appellee.) **OPINION**
No. 6738 - December 21, 2012

I. INTRODUCTION

Boroughs are statutorily authorized to provide and charge residents for garbage-collection services. The primary issue in this appeal is whether boroughs also have the implied or incidental authority to record a real property lien to secure payment of garbage-collection fees. We conclude they do not have that authority.

Public policy dictates the same conclusion. In another context where a municipality recorded a lien without express statutory authority, we stated that "[p]ublic policy would be thwarted" if each municipality were allowed to develop a number of different lien systems and noted that "the determination of lien priorities would be unduly complicated."¹⁶ We further explained that the lien-recording issue "should be addressed by specific legislation rather than by municipal, or judicial, fiat."¹⁷ This holds true in the present context as well—if the Borough believes lien-recording powers are necessary to secure payment for garbage services, it should ask the legislature to provide authority for such powers.

6

SENATE BILL NO. 100

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY SENATOR EGAN BY REQUEST
 REPRESENTATIVES Spohnholz, Green

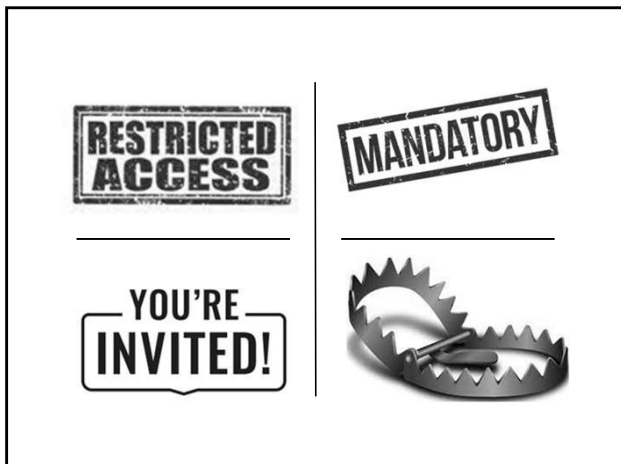
Introduced: 3/29/17
 Referred: Judiciary

A BILL
 FOR AN ACT ENTITLED

"An Act relating to municipal liens."

(17) to provide by ordinance for the creation, recording, and notice of a lien on real or personal property to secure payment of past due utility fees, costs incurred by the municipality in the abatement of an unsafe or dangerous building, and other fees and charges provided for by ordinance;

7



8

RESTRICTED ACCESS *Things Local Government May Not Do (or only w/Restrictions)*

Finance
 • Borrowing (Alaska Const. art. IX)

9

The Constitution of the State of Alaska

§ 9. Local Debts

No debt shall be contracted by any political subdivision of the State, unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question.

§ 10. Interim Borrowing

The State and its political subdivisions may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year, but all debt so contracted shall be paid before the end of the next fiscal year.

10

§ 11. Exceptions

The restrictions on contracting debt do not apply to debt incurred through the issuance of revenue bonds by a public enterprise or public corporation of the State or a political subdivision, when the only security is the revenues of the enterprise or corporation. The restrictions do not apply to indebtedness to be paid from special assessments on the benefited property, nor do they apply to refunding indebtedness of the State or its political subdivisions.

Home > Statutes & Court Rules > Alaska Statutes & Court Rules > Title 29. Municipal Government

Chapter 47. Municipal Debt

Includes current version of Alaska statutes, constitution & court rules. Browse Table of Contents below or search all

Effective Date:

Effective date versioning not available for certain content such as court rules and Federal Sentencing Guidelines

Select all content | No items selected | Clear Selection

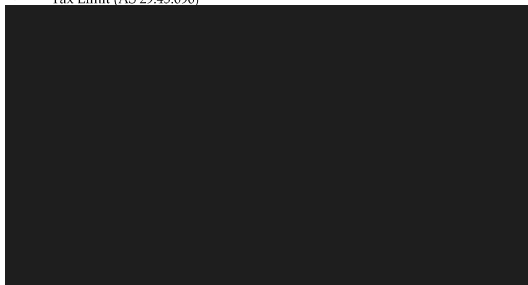
- Article 1. Revenue Anticipation Notes
- Article 2. Bond Anticipation Notes
- Article 3. General Obligation Bonds
- Article 4. Revenue Bonds
- Article 5. Refunding Bonds
- Article 6. Miscellaneous Provisions

11



Things Local Government May Not Do (or only w/Restrictions)

- Finance
- Borrowing (Alaska Const. art. IX)
- Taxation (AS 29.45)
- Tax Limit (AS 29.45.090)



12

Title 29. Municipal Government (Refs & Annos)
 Chapter 45. Municipal Taxation
 Article 1. Municipal Property Tax

§ 29.45.090. Tax limitation

(a) A municipality may not, during a year, levy an ad valorem tax for any purpose in excess of three percent of the assessed value of property in the municipality. All property on which an ad valorem tax is levied shall be taxed at the same rate during the year.

(b) A municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may not levy taxes

(1) that will result in tax revenues from all sources exceeding \$1,500 a year for each person residing within the municipal boundaries; or **225% to 300%**

(2) on value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of the percentage determined in (e) of this section of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality.

13

After considering the language of the statute, its legislative history and underlying policies, we conclude that **AS 29.45.090 is inapplicable to sales taxes.**

Keane v. Loc. Boundary Comm'n, 893 P.2d 1239, 1247 (Alaska 1995)

§ 29.45.100. No limitations on taxes to pay bonds

The limitations provided for in AS 29.45.080 - 29.45.090 do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount, regardless of whether the bonds are in default or in danger of default.

14

RESTRICTED ACCESS *Things Local Government May Not Do (or only w/Restrictions)*

Finance

- Borrowing (Alaska Const. art. IX)
- Taxation (AS 29.45)
- Tax Limit (AS 29.45.090)
- Net Income Tax (AS 43.20.290)
- Certain Alcohol Taxes (AS 04.21.010)


Exercise of Other Powers

- Eminent domain (AS 29.35.030; AS 34.17.010 (conservation easements))
- Regulate Utilities (AS 42.05.641)
- Participate in Games of Chance (AS 05.15.180)
- Apply certain Pesticides (AS 46.03.330)

Policy areas

- Traffic laws (AS 28.01.010)
- Abandoned vehicles (AS 28.11)
- Derelict vessels (AS 30.30.055)
- Criminal Laws (AS 29.25.070)
- Insurance (AS 21.03.060)
- Health care transparency (AS 18.23.400)
- Name Geographic Features (AS 41.35.350)
- Guns and Knives (AS 29.35.144)
- Massage Therapists (AS 29.35.147)
- Pawn Brokers (AS 08.76.460)
- TNCs (Uber, Lyft) (AS 29.35.148)


15



§ 29.35.148. Regulation of transportation network companies or drivers

(a) The authority to regulate transportation network companies and transportation network company drivers is reserved to the state, and, except as specifically provided by statute, a municipality may not enact or enforce an ordinance regulating transportation network companies or transportation network company drivers.

16



*Things Local Government
May Not Do (or only
w/Restrictions)*

Why?

State interest?

Uniformity?

Legislature Knows Better?

Finance


- Borrowing (Alaska Const. art. IX)
- Taxation (AS 29.45)
- Tax Limit (AS 29.43.090)
- Net Income Tax (AS 43.20.290)
- Certain Alcohol Taxes (AS 04.21.010)

Exercise of Other Powers



- Eminent domain (AS 29.35.030; AS 34.17.010 (conservation easements))
- Regulate Utilities (AS 42.05.641)
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- Pesticides (AS 46.03.330)

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17

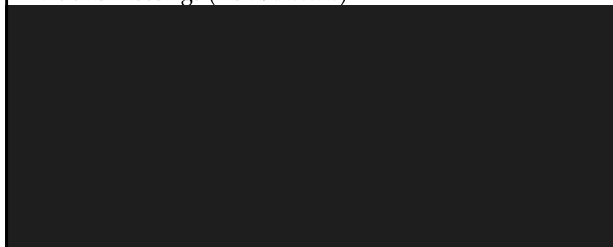
YOU'RE INVITED!



18

MANDATORY *Things Local Government Must Do*

- School District; Required Local Contrib. (AS 14.12.100)
- Open Meetings (AS 44.62.310; AS 29.20.020)
- Public Meetings (AS 29.20.020)



19

Title 44. State Government

- Chapter 62. Administrative Procedure Act (Refs & Annos)
- Article 6. Open Meetings of Governmental Bodies

§ 44.62.310. Government meetings public

Currentness

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.

20

Title 29. Municipal Government (Refs & Annos)

- Chapter 20. Municipal Officers and Employees
- Article 1. Conflict of Interest and Public Meetings

AS § 29.20.020

§ 29.20.020. Meetings public

Currentness


(a) Meetings of all municipal bodies shall be public as provided in AS 44.62.310. The governing body shall provide reasonable opportunity for the public to be heard at regular and special meetings.

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

21

MANDATORY *Things Local Government Must Do*

- School District; Required Local Contrib. (AS 14.12.100)
- Open Meetings (AS 44.62.310; AS 29.20.020)
- Public Meetings (AS 29.20.020)
- Conflict of interest (AS 29.20.010)
- Prohibit Discrimination (AS 29.20.630)
- Public contracting; "Little Davis Bacon" (AS 36.05.010)



22

§ 36.05.010. Wage rates on public construction

A contractor or subcontractor who performs work on a public construction contract in the state shall pay not less than the current prevailing rate of wages for work of a similar nature in the region in which the work is done. The current prevailing rate of wages is that contained in the latest determination of prevailing rate of wages issued by the Department of Labor and Workforce Development at least 10 days before the final date for submission of bids for the contract. The rate shall remain in effect for the life of the contract or for 24 calendar months, whichever is shorter. At the end of the initial 24-month period, if new wage determinations have been issued by the department, the latest wage determination shall become effective for the next 24-month period or until the contract is completed, whichever occurs first. This process shall be repeated until the contract is completed.


This chapter applies only to a public construction contract that exceeds \$25,000.

(3) "public construction" or "public works" means the on-site field surveying, erection, rehabilitation, alteration, extension or repair, including painting or redecorating of buildings, highways, or other improvements to real property under contract for the state, a political subdivision of the state, or a regional school board.

23

MANDATORY *Things Local Government Must Do*

- School District; Required Local Contrib. (AS 14.12.100)
- Open Meetings (AS 44.62.310; AS 29.20.020)
- Public Meetings (AS 29.20.020)
- Conflict of interest (AS 29.20.010)
- Prohibit Discrimination (AS 29.20.630)
- Public contracting; "Little Davis Bacon" (AS 36.05.010)
- Public Official Financial Disclosure (AS 39.50.020)



24

Title 39. Public Officers and Employees

Chapter 50. Public Official Financial Disclosure

§ 39.50.020. Report of financial and business interests

(b) A public official or former public official other than an elected or appointed municipal officer shall file the statement with the Alaska Public Offices Commission. Candidates for the office of governor and lieutenant governor and, if the candidate is not subject to AS 24.60, the legislature shall file the statement under AS 15.25.030. Municipal officers, former municipal officers, and candidates for elective municipal office shall file with the municipal clerk or other municipal official designated to receive their filing for office. All statements required to be filed under this chapter are public records.

(8) "municipal officer" includes a borough or city mayor, borough assemblyman, city councilman, school board member, elected utility board member, city or borough manager, members of a city or borough planning or zoning commission within a home rule or general law city or borough, or a unified municipality;

25

Horizontal lines for notes or comments.



Things Local Government Must Do

- School District; Required Local Contrib. (AS 14.12.100)
- Open Meetings (AS 44.62.310; AS 29.20.020)
- Public Meetings (AS 29.20.020)
- Conflict of interest (AS 29.20.010)
- Prohibit Discrimination (AS 29.20.630)
- Public contracting; "Little Davis Bacon" (AS 36.05.010)
- Public Official Financial Disclosure (AS 39.50.020)
- Recall (AS 29.26.250)

26

Horizontal lines for notes or comments.

§ 29.26.250. Grounds for recall

Grounds for recall are misconduct in office, incompetence, or failure to perform prescribed duties

§ 15.45.510. Grounds for recall

The grounds for recall are (1) lack of fitness, (2) incompetence, (3) neglect of duties, or (4) corruption.

27

Horizontal lines for notes or comments.

THE SUPREME COURT OF THE STATE OF ALASKA

STATE OF ALASKA, OFFICE OF LIEUTENANT GOVERNOR, DIVISION OF ELECTIONS and DIRECTOR GAIL FENUMAI, in an official capacity, Appellants, v. <u>RECALL DUNLEAVY,</u> Appellee.	Supreme Court No. S-17706 Superior Court No. 3AN-19-10903 CI <u>OPINION</u> No. 7542 - July 16, 2021
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The court correctly notes that the constitutional framers rejected leaving the scope of the voter’s right to recall to the voters themselves.⁹ The framers instead left the task of determining the grounds for recall to the legislature,¹⁰ and the legislature adopted by statute the four grounds discussed in the main opinion.¹¹ We have previously observed, and do so again today, that the four statutory grounds can be ambiguous and that “more carefully drawn statutes” could “decrease the need for judicial involvement.”¹² We have also explained that “[t]he political nature of the recall makes the legislative process, rather than judicial statutory interpretation, the preferable means of striking the balances necessary to give effect to the Constitutional command that elected officers shall be subject to recall.”¹³ Truer words cannot be spoken.

28

I urge every legislator to carefully consider the court’s opinion today. The opinion opens the door to standardless recall petitions. The court repeatedly says that Alaska courts are to apply the “prima facie” standard to recall petition allegations and, accepting the allegations as true, if any logical connection can be made between an allegation and a statutory ground for recall, the petition must be found to be legally sufficient.¹⁴ I urge the legislature to, at the least, provide specific statutory definitions for the recall grounds to decrease the opportunity for judicial involvement in what is best done by the legislature — that is, legislating. This is not a partisan issue. The greatly expanded access to recall created by the court’s decision today can and will be used not to actually seek to recall an elected official for cause, but instead to seek to recall an elected official because of disagreements over policy. And in Alaska, disagreement over policy or political philosophy is not a proper subject for recall.

¹¹⁸ We do not disagree with the dissent’s exhortation that the legislature reconsider the statutory recall framework and allowable statutory grounds for recall.

29

MANDATORY

Things Local Government Must Do

- School District; Required Local Contrib. (AS 14.12.100)
- Open Meetings (AS 44.62.310; AS 29.20.020)
- Public Meetings (AS 29.20.020)
- Conflict of interest (AS 29.20.010)
- Prohibit Discrimination (AS 29.20.630)
- Public contracting; “Little Davis Bacon” (AS 36.05.010)
- Public Official Financial Disclosure (AS 39.50.020)
- Recall (AS 29.26.250)
- Employees to Access Personnel Records (AS 23.10.430)
- Intrastate Mutual Aid (AS 26.33.500)
- Tax Exemption: Non-Profit and Housing (Art. IX, 4; AS 29.45.030)

30

The Constitution of the State of Alaska

Article IX – Finance and Taxation

§ 4. Exemptions

The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for non-profit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation. Other exemptions of like or different kind may be granted by general law. All valid existing exemptions shall be retained until otherwise provided by law.

31

§ 29.45.030. Required exemptions

(a) The following property is exempt from general taxation:

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(b) In (a) of this section, "property used exclusively for religious purposes" includes the following property owned by a religious organization:

(1) the residence of an educator in a private religious or parochial school or a bishop, pastor, priest, rabbi, minister, or religious order of a recognized religious organization; for purposes of this paragraph, "minister" means an individual who is

(A) ordained, commissioned, or licensed as a minister according to standards of the religious organization for its ministers; and

(B) employed by the religious organization to carry out a ministry of that religious organization;

(2) a structure, its furniture, and its fixtures used solely for public worship, charitable purposes, religious administrative offices, religious education, or a nonprofit hospital;

(3) lots required by local ordinance for parking near a structure defined in (2) of this subsection.

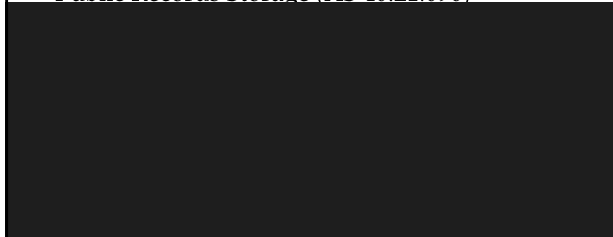
32



33

YOU'RE INVITED! *Things Local Government May Do*

- Sue for Antitrust violations (AS 45.50.576)
- Apply for a Foreign Trade Zone (AS 45.77.020)
- Approve Nuclear Facilities (AS 18.45.025)
- Public Records Storage (AS 40.21.090)



34

Title 40. Public Records and Recorders
 Chapter 21. Management and Preservation of Public Records
 Article 1. Public Records

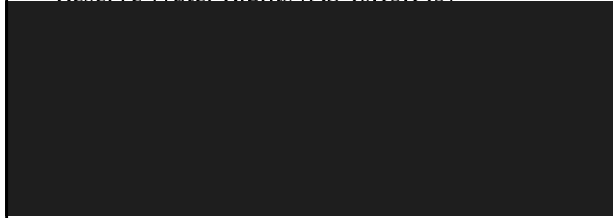
§ 40.21.090. Transfer of public records of political subdivision to department

The governing body of a political subdivision of the state may authorize the transfer to the department of records that have legal, administrative, or historical value but that are not required for the transaction of current business. The official of the political subdivision having custody of the records shall prepare a list describing the records transferred in sufficient detail to identify them. Copies of the list shall be filed with the department and with the public corporation or political subdivision transferring the records. The department shall acknowledge receipt of the list. Listed records approved by the department for transfer may be transferred to a records center designated by the department. The records center shall transfer any permanent records to the archives. Records transferred remain the property of the political subdivision. The department is the legal custodian of records in its possession.

35

YOU'RE INVITED! *Things Local Government May Do*

- Sue for Antitrust violations (AS 45.50.576)
- Apply for a Foreign Trade Zone (AS 45.77.020)
- Approve Nuclear Facilities (AS 18.45.025)
- Public Records Storage (AS 40.21.090)
- Reserve Water Rights (AS 46.15.145)



36

§ 46.15.145. Reservation of water

(a) The state, an agency or a political subdivision of the state, an agency of the United States, or a person may apply to the commissioner to reserve sufficient water to maintain a specified instream flow or level of water at a specified point on a stream or body of water, or in a specified part of a stream, throughout a year or for specified times, for

- (1) protection of fish and wildlife habitat, migration, and propagation;
- (2) recreation and park purposes;
- (3) navigation and transportation purposes; and
- (4) sanitary and water quality purposes.

37

YOU'RE INVITED!

Things Local Government May Do

- Sue for Antitrust violations (AS 45.50.576)
- Apply for a Foreign Trade Zone (AS 45.77.020)
- Approve Nuclear Facilities (AS 18.45.025)
- Public Records Storage (AS 40.21.090)
- Reserve Water Rights (AS 46.15.145)
- Cooperative Management of Lands and Recreational Rivers (AS 38.05.027; AS 41.23.480)

38

Title 38. Public Land

Chapter 05. Alaska Land Act

§ 38.05.027. Cooperative resource management or development agreements

(a) Consistent with the authority of the commissioner under law, the commissioner, after determining that the agreement is in the best interests of the public and the state, may enter into cooperative resource management or development agreements with the federal government, a state agency, a village or municipality, or a person. Specific guidelines to protect the state and public interest shall be established, if necessary, by the commissioner before entering into an agreement under this section.

Title 41. Public Resources

Chapter 23. Multiple Use Management of Public Resources

Article 2. Recreation Rivers

§ 41.23.480. Cooperative management agreements

(a) The commissioner may enter into a cooperative management agreement for the management of land and water described in AS 41.23.500 or of other adjacent land and water with a federal agency, a municipality, another agency of the state, or a private landowner.

(b) The commissioner may transfer the management of a specific site within a recreation river corridor described in AS 41.23.500 to a state agency, a municipality, or a private entity to carry out a program authorized by law or to enhance the objectives of the management plan adopted under AS 41.23.440.

39

YOU'RE INVITED! *Things Local Government May Do*

- Sue for Antitrust violations (AS 45.50.576)
- Apply for a Foreign Trade Zone (AS 45.77.020)
- Approve Nuclear Facilities (AS 18.45.025)
- Public Records Storage (AS 40.21.090)
- Reserve Water Rights (AS 46.15.145)
- Cooperative Management of Lands and Recreational Rivers (AS 38.05.027; AS 41.23.480)
- Protest or Condition Alcohol License (AS 04.11.380)

40

Title 4. Alcoholic Beverages
 Chapter 11. Licensing
 Article 6. Procedures for Public Influence

§ 04.11.480. Protest

(a) A local governing body may protest the issuance, renewal, relocation, or transfer to another person of a license, issuance, renewal, or transfer to another person of a license with one or more endorsements, or issuance of an endorsement by sending the board and the applicant a protest and the reasons for the protest within 60 days of the date of the notice of filing of the application. A protest received after the 60-day period may not be accepted by the board, and in no event may a protest cause the board to reconsider an approved renewal, relocation, or transfer. The local governing body may protest the continued operation of a license or endorsement during the second year of the biennial license period by sending the board and the licensee a protest and the reasons for the protest by January 31 of the second year of the license. The procedures for action on a protest of continued operation of a license or endorsement are the same as the procedures for action on a protest of a renewal application. The board shall consider a protest and testimony received at a hearing conducted under AS 04.11.510(b)(2) or (4) when it considers the application or continued operation, and the protest and the record of the hearing conducted under AS 04.11.510(b)(2) or (4) shall be kept as part of the board's permanent record of its review. If an application or continued operation is protested, the board shall deny the application or continued operation unless the board finds that the protest is arbitrary, capricious, or unreasonable.

41

(c) A local governing body may recommend that a license be issued, renewed, relocated, or transferred with conditions. The board shall consider recommended conditions and testimony received at a hearing conducted under AS 04.11.510(b)(2) or (4) when it considers the application or continued operation, and the recommended conditions and the record of the hearing conducted under AS 04.11.510(b)(2) or (4) shall be kept as part of the board's permanent record of its review. If the local governing body recommends conditions, the board shall impose the recommended conditions unless the board finds that the recommended conditions are arbitrary, capricious, or unreasonable. If a condition recommended by a local governing body is imposed on a licensee, the local governing body shall assume responsibility for monitoring compliance with the condition, except as otherwise provided by the board.

(d) In addition to the right to protest under (a) of this section, a local governing body may notify the board that the local governing body has determined that a licensee has violated a provision of this title or a condition imposed on the licensee by the board. Unless the board finds that the local governing body's determination is arbitrary, capricious, or unreasonable, the board shall prepare the determination as an accusation against the licensee under AS 44.62.360 and conduct proceedings to resolve the matter as described under AS 04.11.510(c).

42

YOU'RE INVITED! *Things Local Government May Do*

- Sue for Antitrust violations (AS 45.50.576)
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- Public Records Storage (AS 40.21.090)
- Reserve Water Rights (AS 46.15.145)
- Cooperative Management of Lands and Recreational Rivers (AS 38.05.027; AS 41.23.480)
- Protest or Condition Alcohol License (AS 04.11.380)
- Influence Ballot Measures (AS 15.13.145)
- Opt-out of APOC (AS 15.13.030)

43

Title 15. Elections (Refs & Annos)
 Chapter 13. State Election Campaigns (Refs & Annos)

§ 15.13.145. Money of the state and its political subdivisions

(a) Except as provided in (b) and (c) of this section, each of the following may not use money held by the entity to influence the outcome of the election of a candidate to a state or municipal office:


- (1) the state, its agencies, and its corporations;
- (2) the University of Alaska and its Board of Regents;
- (3) municipalities, school districts, and regional educational attendance areas, or another political subdivision of the state; and
- (4) an officer or employee of an entity identified in (1)-(3) of this subsection.

(b) Money held by an entity identified in (a)(1)-(3) of this section may be used to influence the outcome of an election concerning a ballot proposition or question, but only if the funds have been specifically appropriated for that purpose by a state law or a municipal ordinance.

44

West's Alaska Statutes Annotated
 Title 15. Elections (Refs & Annos)
 Chapter 13. State Election Campaigns (Refs & Annos)

§ 15.13.010. Applicability

 Alaska Department of Administration
ALASKA PUBLIC OFFICES COMMISSION

(a) This chapter applies

- (1) in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking judicial retention;
- (2) to every candidate for election to a municipal office in a municipality with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Commerce, Community, and Economic Development unless the municipality has exempted itself from the provisions of this chapter; a municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by AS 29.71.000(21), or a special municipality-wide election called for that purpose, votes to exempt elected municipal officers from the requirements of this chapter; the question of exemption from the requirements of this chapter may be submitted by the governing body by ordinance or by initiative election.

45

YOU'RE INVITED!

Things Local Government May Do

- Sue for Antitrust violations (AS 45.50.576)
- Apply for a Foreign Trade Zone (AS 45.77.020)
- Approve Nuclear Facilities (AS 18.45.025)
- Public Records Storage (AS 40.21.090)
- Reserve Water Rights (AS 46.15.145)
- Cooperative Management of Lands and Recreational Rivers (AS 38.05.027; AS 41.23.480)
- Protest or Condition Alcohol License (AS 04.11.380)
- Influence Ballot Measures (AS 15.13.145)
- Opt-out of APOC (AS 15.13.030)
- Optional Tax Exemptions/Credits (AS 29.45.020; AS 29.45.046-.049)

46

§ 29.45.050. Optional exemptions and exclusions

(f) A municipality may by ordinance exempt from taxation all or part of the increase in assessed value of improvements to real property if an increase in assessed value is directly attributable to alteration of the natural features of the land, or new maintenance, repair, or renovation of an existing structure, and if the alteration, maintenance, repair, or renovation, when completed, enhances the exterior appearance or aesthetic quality of the land or structure. An exemption may not be allowed under this subsection for the construction of an improvement to a structure if the principal purpose of the improvement is to increase the amount of space for occupancy or nonresidential use in the structure or for the alteration of land as a consequence of construction activity. An exemption provided in this subsection may continue for up to four years from the date the improvement is completed, or from the date of approval for the exemption by the local assessor, whichever is later.

(g) A municipality may by ordinance exempt from taxation all or part of the increase in assessed value of improvements to a single-family dwelling if the principal purpose of the improvement is to increase the amount of space for occupancy. An exemption provided in this subsection may continue for up to two years from the date the improvement is completed, or from the date of approval of an application for the exemption by the local assessor, whichever is later.

47

§ 29.45.050. Optional exemptions and exclusions

(b) A municipality may by ordinance

(1) classify and exempt from taxation

(E) a residential renewable energy system that is used to develop means of energy production using energy sources other than fossil or nuclear fuel, including windmills and water and solar energy devices located in the municipality;

§ 29.45.049. Energy efficient construction tax credit

A municipality may by ordinance provide for a single or multiple year energy efficient construction tax credit to offset a portion of the property taxes due on real property improvements made during the immediately preceding tax year before the municipality's initial approval of the tax credit, including energy efficient new construction, refurbishments, remodels, and renovations. The municipality shall establish eligibility criteria for the credit in the ordinance adopted under this section.

48

§ 29.45.046. River habitat protection tax credit

(a) Unless prohibited by municipal charter, a municipality may by ordinance provide for a river habitat protection credit to be applied to offset a portion of the property taxes due on land, or an interest in land taxable under this chapter, upon which an improvement has been constructed that aids in

(1) protecting a river from degradation of fish habitat due to public or private use; or

(2) restoring riparian fish habitat along or in a river that has been damaged by land use practices.

§ 29.45.047. Air quality improvement tax credit

A municipality may by ordinance provide for a single or multiple year air quality improvement tax credit to offset a portion of the property taxes due on real property improvements made during the immediately preceding tax year before the municipality's initial approval of the tax credit, including new construction, refurbishments, remodels, and renovations that aid in improving the air quality in the municipality. The municipality shall establish eligibility criteria for the credit in the ordinance adopted under this section.

49

(m) A municipality may by ordinance partially or totally exempt all or some types of economic development property from taxation for a designated period. Except as otherwise provided by an ordinance enacted by the municipality before January 1, 2017, a municipality that is a school district may only exempt all or a portion of the amount of taxes that exceeds the amount levied on other property for the school district's required local contribution under AS 14.17.410(b)(2). A municipality may by ordinance permit deferral of payment of taxes on all or some types of economic development property for a designated period. A municipality may apply an exemption or deferral under this subsection to taxes levied for special services in a service area that is supervised by an elected service area board under AS 29.35.460 unless the elected service area board objects to the exemption or deferral by resolution adopted not later than 60 days after the effective date of the municipal ordinance enacting the tax exemption or deferral. A municipality may adopt an ordinance under this subsection only if, before it is adopted, copies of the proposed ordinance made available at a public hearing on it contain written notice that the ordinance, if adopted, may be repealed by the voters through referendum. An ordinance adopted under this subsection must include specific eligibility requirements and require a written application for each exemption or deferral.

(9) "economic development" means an action intended to result in an outcome that causes an increase in, or avoids a decrease of, economic activity, gross domestic product, or the tax base.

50

YOU'RE INVITED!


Things Local Government May Do

- Sue for Antitrust violations (AS 45.50.576)
- Apply for a Foreign Trade Zone (AS 45.77.020)
- Approve Nuclear Facilities (AS 18.45.025)
- Public Records Storage (AS 40.21.090)
- Reserve Water Rights (AS 46.15.145)
- Cooperative Management of Lands and Recreational Rivers (AS 38.05.027; AS 41.23.480)
- Protest or Condition Alcohol License (AS 04.11.380)
- Influence Ballot Measures (AS 15.13.145)
- Opt-out of APOC (AS 15.13.030)
- Optional Tax Exemptions (AS 29.45.020; AS 29.45.049)
- C-PACE (AS 29.55 art. 2)


51



52




Tricks?



- PERS Post-2008

4 * Sec. 19, AS 39.35 is amended by adding a new section to read:
 5 **Sec. 39.35.625. Termination costs.** (a) Notwithstanding AS 39.35.255, an
 6 employer that terminates participation of a department, group, or other classification
 7 of employees in the plan under AS 39.35.615 or that terminates participation in the
 8 plan under AS 39.35.620 shall pay to the plan each payroll period until the past service
 9 liability of the plan is extinguished an amount calculated by applying the current past
 10 service contribution rate adopted by the board to the greater of total base salaries paid
 11 (1) during the payroll period to employees in positions for which
 12 coverage has been terminated;
 13 (2) at the time of termination to employees in positions for which
 14 coverage has been terminated; or
 15 (3) during the corresponding payroll period for the fiscal year ending
 16 June 30, 2008, to employees in positions for which coverage has been terminated.

53



Tricks?

- PERS Post-2008
- 8% Interest on Tax Refunds (AS 29.45.500)

54

**Alaska Municipal League
Resolution #2020-17**

Supporting Amendments to AS 29.45.500 to Require Municipalities to Pay Reasonable Interest on Tax Refunds.

WHEREAS, Alaska Statute 29.45.500 requires municipalities to pay interest on certain taxes it refunds to taxpayers, including taxes refunded after "a remittance by a taxpayer through error"; and

WHEREAS, the statute presently requires municipalities to pay interest fixed at 8%; and

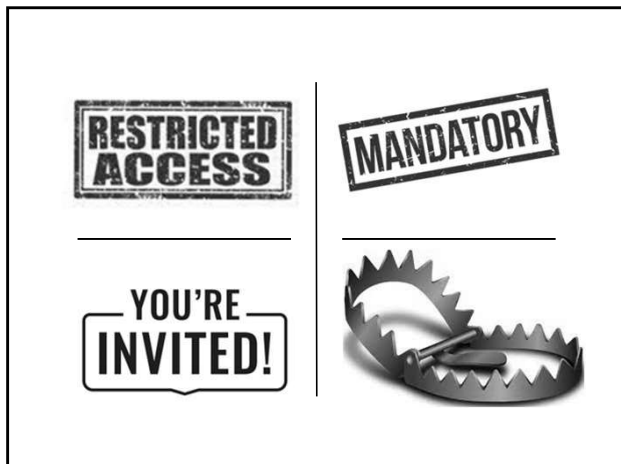
WHEREAS, 8% is not presently a market interest rate, and is grossly excessive to fairly compensate taxpayers for the lost time-value of money; and

WHEREAS, in recognition of the fact that market interest rates fluctuate, the Alaska State Legislature has in other circumstances, such as for pre-judgment interest awarded in lawsuits under AS 09.30.070, tied interest rates to the "12th Federal Reserve District discount rate in effect on January 2 of the year"; and


WHEREAS, interest required to be paid by municipalities to taxpayers should likewise be tied to a market index; and

WHEREAS, municipalities should not be required to pay non-market interest rates when refunding taxes it receives from taxpayers due to an error of the taxpayer (and not of the municipality).

55



56

Thank you!	
<p>William D. Falsey Senior Counsel wfalsey@huthreynolds.com</p>	<p>Huth Reynolds ^L_L_P</p>

57

- Others
- “Slum Clearance” /Urban Renewal Projects with AHFC (AS 18.55.720)
 - Joint Insurance (AS 21.76.010(a))
 - Preference for AK Recycled products (AS 29.71.050)
 - Contract requirements where state funds used (AS 36.90.200)
 - Bond Bank (AS 44.85)
