

**ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS
STANDING COMMITTEE**

March 15, 2001
8:10 a.m.

MEMBERS PRESENT

Representative Kevin Meyer, Co-Chair
Representative Carl Morgan, Co-Chair
Representative Andrew Halcro
Representative Drew Scalzi
Representative Lisa Murkowski
Representative Gretchen Guess
Representative Beth Kerttula

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 156

"An Act relating to municipal debt for development and redevelopment projects."

- MOVED HB 156 OUT OF COMMITTEE

HOUSE BILL NO. 135

"An Act relating to municipal fees for certain police protection services."

- HEARD AND HELD

HOUSE BILL NO. 145

"An Act making a civil remedy available to the state or a municipality against persons who make false claims for, or certain misrepresentations regarding, state or municipal money or other property; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 156

SHORT TITLE: MUNICIPAL DEBT FOR DEVELOPMENT PROJECTS

SPONSOR(S): REPRESENTATIVE(S) MCGUIRE

| Jrn-Date | Jrn-Page | | Action |
|----------|----------|-----|------------------------------------|
| 02/28/01 | 0462 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/28/01 | 0462 | (H) | CRA |
| 03/15/01 | | (H) | CRA AT 8:00 AM CAPITOL 124 |

BILL: HB 135

SHORT TITLE:MUNICIPAL FEES: POLICE & FIRE SERVICES
 SPONSOR(S): REPRESENTATIVE(S)GUESS

| Jrn-Date | Jrn-Page | | Action |
|----------|----------|-----|--|
| 02/21/01 | 0386 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/21/01 | 0386 | (H) | CRA |
| 02/21/01 | 0387 | (H) | REFERRED TO COMMUNITY & REGIONAL AFFAIR |
| 03/15/01 | | (H) | CRA AT 8:00 AM CAPITOL 124 |

WITNESS REGISTER

REPRESENTATIVE LESIL McGUIRE

Alaska State Legislature
 Capitol Building, Room 418
 Juneau, Alaska 99801

POSITION STATEMENT: Testified as the sponsor of HB 156.

TOM KLINKNER, Attorney

Birch, Horton, Bittner, and Cherot
 1127 West 7th Avenue
 Anchorage, Alaska 99501-3399

POSITION STATEMENT: Offered information on HB 156.

ANNA FAIRCLOUGH, Member

Anchorage Assembly
 PO Box 771112
 Eagle River, Alaska

POSITION STATEMENT: As a member of the Anchorage Assembly, she supported HB 156.

ALAN TESCHE, Member

Anchorage Assembly
 1032 G St
 Anchorage, Alaska 99501

POSITION STATEMENT: Urged support of HB 156.

LIEUTENANT RAY MILLER

Fairbanks Police Department
656 7th Ave.
Fairbanks, Alaska 99701
POSITION STATEMENT: Testified in support of HB 135.

DICK TREMAINE, Member
Anchorage Assembly
(No address provided.)
POSITION STATEMENT: Testified on HB 135.

JIM BALDWIN, Assistant Attorney General
Governmental Affairs Section
Civil Division(Juneau)
Department of Law
PO Box 110300
Juneau, Alaska 99811-0300
POSITION STATEMENT: Answered questions regarding HB 135.

ACTION NARRATIVE

TAPE 01-12, SIDE A
Number 0001

CO-CHAIR KEVIN MEYER called the House Community and Regional Affairs Standing Committee meeting to order at 8:10 a.m. Representatives Meyer, Halcro, Scalzi, Murkowski, and Guess were present at the call to order. Representatives Morgan and Kerttula arrived as the meeting was in progress. The committee took two brief at-eases due to technical difficulties.

HB 156-MUNICIPAL DEBT FOR DEVELOPMENT PROJECTS

CO-CHAIR MEYER announced that the first order of business would be HOUSE BILL NO. 156, "An Act relating to municipal debt for development and redevelopment projects."

Number 0190

REPRESENTATIVE LESIL MCGUIRE, Alaska State Legislature, testified as the sponsor of HB 156. She explained that "Title 29 authorizes municipalities to create redevelopment agencies for the purpose of developing and redeveloping land." This specific statute encourages development and redevelopment. She related her understanding that this statute has been dormant for a number of years, which is, in part, due to the "cloud" in the current language. The problematic language is the following: "but only if additional security in the form of a letter of

credit or equal security is also pledged". She noted that Mr. Klinkner, an attorney who specializes in bonds, is online.

REPRESENTATIVE McGUIRE informed the committee that the bond underwriters already go through a process that determines what security is required with respect to the issuance of bonds. The [type of security required] is largely determined by the market at that time. She pointed out that a letter would not be required in every case. Therefore, HB 156 would remove the "cloud" from the language and place the power [in regard to security] in the hands of the bond underwriters. She noted that the concept of tax increment financing is used in many other states. She informed the committee that her sponsor statement and letters of support are included in the packet.

Number 0513

REPRESENTATIVE KERTTULA related her understanding that this would only happen in certain areas.

REPRESENTATIVE McGUIRE replied yes and clarified that it is a local control mechanism.

REPRESENTATIVE KERTTULA also related her understanding that this has always been allowed, although additional security was required.

REPRESENTATIVE McGUIRE replied yes.

REPRESENTATIVE KERTTULA asked if there is any danger in not requiring the additional security.

REPRESENTATIVE McGUIRE noted that she had asked that question. She related her understanding that the process of bond underwriting must occur before the issuance of any bond. Therefore, the bond underwriters will review the method of security that is in place. She said that requiring 100 percent "securitization" is not reasonable and is not required or done in most cases. She pointed out, "The sideboards are there through the process and through the market."

Number 0653

REPRESENTATIVE HALCRO mentioned that two years ago the legislature passed investment tax credits for municipalities that redevelop dilapidated properties. He inquired as to how HB 156 would work with that investment tax credit. He also asked

if there was any possibility that the two would come into conflict.

REPRESENTATIVE McGUIRE said that she was not familiar with the specifics of that bill and statute. She related her belief that the concepts are separate; however, she could envision a situation that would result in overlap. Representative McGuire indicated that one [tax increment] deals with the initial tax implications while the other deals with the later tax implications.

REPRESENTATIVE SCALZI read the language from Section 1(b) regarding the definition of "tax increment." He posed a situation in which the property value decreased and the increment would go down. He was unsure how a negative [amount] could be attributed to a payment.

REPRESENTATIVE McGUIRE deferred to Mr. Klinkner. However, she pointed out that typically this would refer to development and redevelopment, which increases the value of the property.

Number 0891

REPRESENTATIVE MURKOWSKI referred to the sponsor statement, which says, "Removing the existing language will remove a potential cloud on the tax increment bond issue." However, Representative Murkowski said she believes that keeping the language in doesn't cloud the issue but rather adds an, essentially, unnecessary requirement because an appropriate form of security already has to be established.

REPRESENTATIVE McGUIRE said that she had a conversation with Mike Scott, General Manager, Municipal Light & Power, who remarked that this language has placed a cloud on financing. This language is unclear to bond underwriters and seems to require 100 percent "securitization." She agreed that Representative Murkowski is correct in that [HB 156] removes an unnecessary and somewhat arbitrary requirement. Representative McGuire informed the committee that there have been attempts to use this language for its intended purpose, but the current language is problematic. Furthermore, Mr. Scott has told her that the language is clear and thus [the bond underwriters] can't just make the decision.

REPRESENTATIVE MURKOWSKI reiterated that the current statutory language is very clear.

REPRESENTATIVE McGUIRE mentioned that she believes there have been attempts to interpret the language otherwise. This legislation attempts to broaden this and place the power in the hands [of the bond underwriters].

Number 1160

TOM KLINKNER, Attorney, Birch, Horton, Bittner, and Cherot, testified via teleconference. He informed the committee that he has been working with the Anchorage Downtown Partnership and the Municipality of Anchorage on various means of financing downtown development projects. During that process this statute came to his attention. He also informed the committee that he was involved in the drafting of [AS 29] some 10 or 15 years ago. Originally, the statute was designed to provide a state block that would mesh with a federal tax code provision that allows the issuance of tax exempt bonds for redevelopment projects. These projects are mainly projects that are governmentally owned.

MR. KLINKNER turned to the earlier question regarding this legislation's relationship with the tax relief for rehabilitating properties. Mr. Klinkner said that although the two are separate, they are complimentary. He explained that the tax credit/relief is aimed at privately-owned property while this statute is aimed at financing governmentally-owned property that would support private development.

MR. KLINKNER agreed with Representative McGuire's explanation. He said:

The amendment proposed here is to delete language in the statute that adds a requirement above and beyond what is required, simply for the issuance of the bonds or to meet the federal tax exemption criteria. It has two ... adverse effects. One is: it imposes, arbitrarily, and in each case the requirement for additional security, which may not be necessary in the judgment of the market in a particular financing. And second, because of the reference to "or equal security" in the statute it imposes an ambiguity as to what constitutes equal security and if the letter of credit isn't desirable what alternatives would be permitted to meet the statutory requirements.

MR. KLINKNER related his belief that the deletion of this language would leave the decisions to the bond marketplace, which is the appropriate place for these decisions to be made.

Number 1375

REPRESENTATIVE MURKOWSKI asked if Mr. Klinkner believes the current language has prevented the use of tax increment financing.

MR. KLINKNER replied, "I believe it has." However, he noted that it isn't the only factor determining whether the tax increment financing will work in a specific case. The language is an additional hurdle, which he believes has discouraged use of the statute.

Number 1438

MR. KLINKNER, in response to Representative Halcro, said that this [tax increment] would not be available to private investors. The way that the remainder of the statute is structured as well as the way the federal tax exemption provision is structured limits the use [of the tax increment] to publicly-owned property or projects.

REPRESENTATIVE HALCRO said, "I'm not quite sure how this ... process is going to play out if it is a publicly funded or if it's a public undertaking, a government undertaking, that's going to support private development." He requested an example of a project for which this would apply.

MR. KLINKNER specified that this would apply to new or improved infrastructure that would make an area more attractive for private development. He identified the construction of a public building or facility, such as a convention center, that would encourage private development. He explained that the area that would potentially be subject to the increment would be determined by the local governing body when the financing is approved. Therefore, a line would be drawn around an area, including the publicly-owned property that may be financed with the bonds as well as the surrounding privately-owned property that would increase in value as a result of the public investment. He said, "That's where the increment would come from."

REPRESENTATIVE McGUIRE thanked Mr. Klinkner for his time.

Number 1620

ANNA FAIRCLOUGH, Member, Anchorage Assembly, informed the committee that she is a representative of the Legislative Body of the Anchorage Assembly. As an assembly member, she noted her [constituent's] support of HB 156. The assembly has not taken a specific position on HB 156, although she was confident that the assembly could pass a specific bill of support. Ms. Fairclough related her appreciation of having the opportunity to have local control and creative financing. This [legislation] is a tool that will allow the Municipality of Anchorage to work well for redevelopment of particular areas in the city. She noted that she does serve on the Convention Center Task Force. In conclusion, Ms. Fairclough said she would appreciate the committee's support of HB 156.

REPRESENTATIVE HALCRO recalled that after the passage of the investment tax credit there was debate regarding how to apply some of these tax credits. He mentioned the Mark Marlowe project. He recalled there being a question as to whether [the Mark Marlowe project] was a good use of tax dollars and whether this would shift the tax burden to other taxpayers. Representative Halcro asked if a similar argument could happen with the use of this [tax increment] program.

MS. FAIRCLOUGH related her understanding of the Anchorage Convention Center and those involved. She said "they" would use the hotel tax to provide the payment dollars to subsidize the project. Ms. Fairclough emphasized, "We are trying in every way possible, with all tools possible, to have it a zero personal property tax effect in the City of Anchorage." For the record, Ms. Fairclough noted that she was in opposition to the Marlowe project going forward because she wanted to [ensure] that the assembly establish how it would [specify] and apply the law fairly to everyone.

REPRESENTATIVE MURKOWSKI reiterated her understanding that this is not a new tool, but rather [the bill] is making it more workable for the municipality.

MS. FAIRCLOUGH answered in the affirmative. With this [bill], the convention center will not have to address a larger hurdle.

Number 1901

ALAN TESCHE, Member, Anchorage Assembly, testified via teleconference. Mr. Tesche, from the perspective of the

district he represents, concurred with Ms. Fairclough's [remarks]. He noted his agreement with Mr. Klinkner that HB 156 would remove a potential obstacle to the use of this financing. He said he believes that the passage of HB 156 will allow this type of financing to be more attractive in the private marketplace. Mr. Tesche pointed out that even with the passage of HB 156, the private bond market will determine the specific terms and conditions regarding how particular projects will be financed through the issuance of these bonds. Therefore, this is in the interest of the public.

MR. TESCHE addressed how [HB 156] would work. In downtown Anchorage there are, in his view, a number of properties that are underdeveloped. For example, there are a number of properties around the McKay Building that could be used for much more intensive commercial and residential use. Although such projects require intensive private capital, they also require additional public improvements such as parking garages. Therefore, enactment of HB 156, which would make tax increment financing easier for public projects, would ease the way for public/private partnerships. Mr. Tesche remarked that this is exciting for him in that [HB 156] provides a more attractive financing tool that would benefit communities throughout the state. He informed the committee that the use of tax increment financing is supported by the Anchorage Downtown Partnership, the Legislative Program of the [Anchorage] Municipal Assembly, the Alaska Municipal League, the Anchorage Economic Development Corporation, and Municipal Light & Power. In conclusion, Mr. Tesche urged the committee to support HB 156.

Number 2159

REPRESENTATIVE MURKOWSKI remarked that the legislature should do all possible to encourage good financing mechanisms. Furthermore, when obstacles are discovered, the legislature should fix the problem so that it can be used as originally intended. She commented that HB 156 seems to facilitate the use of a good tool and thus she supported Representative McGuire's efforts.

REPRESENTATIVE HALCRO associated his comments with those of Representative Murkowski. Representative Halcro noted his support of [HB 156].

REPRESENTATIVE MCGUIRE commented that this [legislation allows] local communities and state government to work together. Representative McGuire thanked those involved in this matter.

CO-CHAIR MEYER said that in his experience with the assembly, this [bill] will help with the convention center and other public projects.

Number 2315

REPRESENTATIVE MURKOWSKI moved to report HB 156 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HB 156 was reported from the House Community and Regional Affairs Standing Committee.

The committee took a brief at-ease from 9:48 a.m. to 9:50 a.m.

HB 135-MUNICIPAL FEES: POLICE & FIRE SERVICES

Number 2238

CO-CHAIR MEYER announced that the next order of business would be HOUSE BILL NO. 135, "An Act relating to municipal fees for certain police protection services." He noted that he and Representative Guess are co-sponsors of HB 135.

REPRESENTATIVE GUESS, testifying as a co-sponsor of HB 135, explained that HB 135 allows municipalities to access fees for excessive use of police services for residential property owners. For example, the municipality could decide that there could be ten free police visits a month, but that the eleventh visit would result in a charge. This is aimed at some of the troubled properties who aren't being responsible. This legislation would allow a lien on the property, if the municipality so chooses. The municipality would define excessive and the process. The legislation does exclude domestic violence calls from being charged.

Number 2443

REPRESENTATIVE MURKOWSKI moved to adopt CSHB 135, Version LS0421\F, Cook, 3/9/01, as the working document before the committee. There being no objection, CSHB 135, Version F, was before the committee.

REPRESENTATIVE MURKOWSKI related her understanding that this legislation would leave the determination of reasonable fines and how that is assessed to the individual municipality.

REPRESENTATIVE GUESS agreed with that understanding. She said, "All it does is give them a tool; they can choose to use it or not use it, it's not mandated."

REPRESENTATIVE SCALZI asked if this is necessary. He also asked whether this can [already] be done by ordinance or code.

REPRESENTATIVE GUESS answered that currently, it is questionable whether the municipality can do this. However, this legislation makes it clear with guidelines.

CO-CHAIR MEYER remarked that he believes the municipality probably already has the power to do this, but this legislation makes it clear.

REPRESENTATIVE GUESS interjected that [currently] the municipality doesn't have the power to impose a lien, which would be allowed under this legislation.

Number 2562

REPRESENTATIVE KERTTULA expressed concern for those property owners who are in the process of the eviction of a tenant. She suggested that the legislation include a sideboard that when a fee is imposed, a municipality must take into account if an owner is in the process of eviction.

REPRESENTATIVE GUESS noted that [she and Co-Chair Meyer] had spoken with Tam Cook, Director, Legal and Research Services Division, Legislative Affairs Agency, Alaska State Legislature, who thought such was somewhat difficult. Representative Guess reiterated that the idea is to provide the municipality with a tool to work with their communities and residential owners in order to create a system. She indicated that if the committee desired such an exemption that it could be worked on, although Ms. Cook recommended leaving that to the municipality.

REPRESENTATIVE KERTTULA suggested inserting on page 1, line 7, after "property" the following language: "and shall take into account what attempts are being [made]". She clarified that it would not be required as an exemption but rather such attempts would have to be taken into account.

CO-CHAIR MEYER said that he would make note of that and [the committee could discuss it] after the testimony.

Number 2679

REPRESENTATIVE MURKOWSKI highlighted that this legislation only applies to owners of residential real property. Therefore, she inquired as to how this would work in the commercial world.

REPRESENTATIVE GUESS answered that this [legislation] would not cover the commercial entities. She noted that there was discussion on that matter, which identified one of the problems as incentives. In some situations that happen in bars, one would not want to create a disincentive for the bar to call the police. Representative Guess said, "We just didn't know how it would work in this situation. So, we decided to just focus it on the residential property." However, if the committee thinks that it is important to [include commercial property], then it could be considered.

REPRESENTATIVE MURKOWSKI expressed curiosity as to whether any of the communities across the state try to impose "an emergency response charge on a commercial establishment, recognizing that they're contributing to some problems." Representative Murkowski agreed that [the legislation] shouldn't discourage establishments from calling; however, there are some that aren't being responsible neighbors.

CO-CHAIR MEYER related his belief that assembly members would testify that they do have ways of dealing with problem bars. He also related his belief that this legislation will help deal with the absentee landlord situation.

REPRESENTATIVE GUESS expressed the hope that a reporting system will be established so that an absentee landlord would know what is going on at their property.

Number 2810

REPRESENTATIVE HALCRO informed the committee that three years ago he served on the Mayor's Budget Advisory Committee and sat on a subcommittee that reviewed alternative revenue for the city. He said, "This subject came up." At that time, the concern from the [Mayor's Budget Advisory Committee] was that the lower income areas typically receive the majority of police protection. Therefore, the question was: "Is it fair to punish those folks in low income areas because they call?" Representative Halcro also informed the committee that he has been charged for his home alarm having false alarms. Therefore, he asked if the city already has the ability to do this.

REPRESENTATIVE GUESS reiterated that this [subject] was not very clear and thus this legislation would make it clear in statute.

CO-CHAIR MEYER said that Representative Halcro's question would be answered through testimony.

REPRESENTATIVE KERTTULA asked if this legislation would cover the state, such as the Alaska Housing Finance Corporation (AHFC) and low income housing. She related her belief that it seems that this legislation would cover those.

CO-CHAIR MEYER said that he didn't know, but indicated that Mr. Tesche may know.

REPRESENTATIVE GUESS responded by saying that she would guess that those entities, AHFC and low income housing, would be covered by this legislation because they are a residential property owner.

Number 2951

LIEUTENANT RAY MILLER testified via teleconference. He noted his support of this bill. He pointed out that the City of Fairbanks has some ordinances [the nuisance property ordinance] that somewhat (indisc.) this issue. (Indisc.). He informed the committee that in a 13-month period, the Fairbanks Police responded to one residence 70 times, of which 12 responses dealt with drug use and at least two shootings. Over that 13-month period, officers spent more than 80 man-hours there.

TAPE 01-12, SIDE B

LIEUTENANT MILLER continued, "... a number of incidences at the same address to contact a property owner and explain to them that there's a problem with their location and offer them the opportunity to work with us to try to solve the problem there. We've been able to use that in a couple of instances very effectively to shut down business properties or cleanup the property." He noted that the ordinance does have safeguards regarding the minimum number of times [the police department responds] before people are contacted. He pointed out that the ordinance is designed to obtain the cooperation of the landowner. However, the ordinance doesn't allow the police department to recover its associated costs.

LIEUTENANT MILLER mentioned that Fairbanks does have an emergency response ordinance for Driving While Intoxicated (DWI)

cases from which the costs can be recovered. He explained that if [the police department] has an emergency response associated with a DWI arrest, then the person arrested receives a bill for the police department's time, ambulance time, fire truck [time], or any emergency response that was generated. If that person fails to pay the bill, their permanent fund dividend (PFD) is attached, which is an effective tool. Furthermore, the process is rather seamless because an individual officer merely has to report the amount of emergency response time that is then [compiled] and reported to the city attorney who takes care of all the billing.

REPRESENTATIVE MURKOWSKI inquired as to what would happen if the individual causing the problem is the tenant rather than the owner of the property. She asked if any notice that the tenant is causing problems is given to the owner.

LIEUTENANT MILLER clarified that there are two distinct ordinances. One ordinance is the response for DWI. The other ordinance is the nuisance property ordinance that doesn't have a cost recovery mechanism, although it does allow civil action against a property owner. That process begins with a letter, which enumerates the problem, to the property owner.

REPRESENTATIVE MURKOWSKI said that she assumed the tenant is also notified.

LIEUTENANT MILLER related his belief that the [nuisance property] ordinance is specifically directed at the property owner.

REPRESENTATIVE HALCRO inquired as to who would set the fine structure.

LIEUTENANT MILLER explained that with the DWI ordinance, the cost is determined by the cost assessed by the departments. In further response to Representative Halcro, Lieutenant Miller said that cost recovery associated with the DWI ordinance has been successful due to the ability to attach the PFD if the individual doesn't pay. He noted that at the time of arrest the individual receives notification that he or she will receive a bill for the services.

Number 2756

REPRESENTATIVE SCALZI surmised that the [police] department would make a recommendation to the assembly regarding the number of calls that would cause a fine to be implemented.

LIEUTENANT MILLER mentioned that the Fairbanks nuisance ordinance was modeled after the Portland [, Oregon] nuisance ordinance. He said that [the Fairbanks ordinance says that responding] three times in six months would result in written notification to the individual.

Number 2692

ALAN TESCHE, Member, Anchorage Assembly, testified via teleconference. Mr. Tesche remarked that this subject matter is not something he is proud of because he has some of these [nuisance properties] in his district. However, he agreed that something should be done about it. Mr. Tesche praised the sponsors of HB 135 as the bipartisan cooperation is refreshing.

MR. TESCHE turned to the need for this ordinance. In regard to whether municipalities can already do this now, Mr. Tesche said, "The short answer to that is a definite maybe." Under the current law, it is unclear how far municipalities can go, especially if the desire is to make some of these charges, first and foremost, liens with respect to municipal taxes. The bill would make it clear that [a nuisance property ordinance] is authorized by the legislature.

MR. TESCHE then turned to the question of the problem that HB 135 attempts to fix. He explained a typical situation that occurred about 100 yards from his home. In this case, an absentee landlord, a bank, owned a condominium that was being rented to an individual with a disability and a drug problem. This individual was basically running a crack house out of his apartment. Only after about a year of considerable effort was the landlord, the bank, convinced to take action under the Landlord Tenant [Act] laws. Mr. Tesche emphasized that what was lacking was a clear statute or ordinance that could illustrate to the bank that an excessive amount of police activity had occurred at this property. With such a statute, that problem could have probably been solved a year in advance. Mr. Tesche pointed out that often the tenant won't do anything in response to the neighbors who are often afraid of the tenant. Furthermore, the landlord's typical response is that he or she didn't know what was going on and if the landlord did know what was going on, they often point to the complexity of Alaska's

landlord tenant law. Therefore, he believes a remedy would result in a different situation.

MR. TESCHE turned to the question as to whether this legislation is a revenue-generating measure. He emphasized that he hoped it is not a revenue-generating measure because he didn't believe it was appropriate to use law enforcement to raise revenue. In regard to whether this would apply to the state, Mr. Tesche said that it would apply to the state if the state owned residential property, although there could be a specific exemption in the local ordinance. He related his belief that the concern that this could be unfairly applied to the state could be addressed in the local ordinance.

Number 2450

MR. TESCHE addressed the question regarding why this [legislation] shouldn't apply to commercial properties. Mr. Tesche said, "I would like to see how this thing works by addressing the most serious part of the problem and that is the local neighborhood crack house that is operated out of a residence in a residential neighborhood." Certainly, some of the larger commercial establishments [have had numerous calls for service]. For example, Chilkoot's had 800 calls for service last year, each of which probably cost, in response costs, the Anchorage Police Department (APD) \$100-\$200. Therefore, Chilkoot's occupies a substantial amount of APD's \$30 million a year budget. Nonetheless, Mr. Tesche agreed with the earlier comment that imposing a charge on Chilkoot's through a commercial ordinance would deter that establishment from calling the police. Therefore, Mr. Tesche expressed his preference to address the problem that exists in residential neighborhoods first, although this could perhaps speak to commercial properties later.

Number 2372

MR. TESCHE continued by addressing the question regarding whether this would be fair to landowners who have rights as well. Property owners have rights to not be forced to pay excessive fees for local services that they [already] pay for through their real property taxes. Mr. Tesche related his belief that "yes" [this legislation would be fair to landowners]. He said he believes that the legislature can trust local governments, assemblies, and city councils that choose to pass an ordinance, as authorized by HB 135, to do so in a manner that is fair to both neighborhoods and property owners. He

reminded the committee that local ordinances are approved after public notice and public hearing. He remarked, "Our constituents are a lot closer to us, at a local level, than they are to Juneau, in terms of their access to us and their ability to make sure that we don't stray far from responsible legislation."

MR. TESCHE noted that he would probably be involved in drafting a local ordinance in Anchorage. He specified that there are two critical features that must be included in order to make the local ordinance work. First, there must be "actual notice to the landlord." Actual notice should be used so that the landlord knew that something is occurring on their property. Second, the ordinance must show that the landlord failed to take reasonable corrective action because there is no desire to penalize the landlord who is cooperating. In conclusion, Mr. Tesche encouraged the legislature to leave the specifics of these ordinances to the local governing bodies.

Number 2206

CO-CHAIR MORGAN related his view that this bill will deal with "houses of ill repute," drug dealers, and troublemakers. However, what would happen in the case of a nosey neighbor who would call. He asked if this would effect the resident or the nosey neighbor.

REPRESENTATIVE GUESS informed the committee that she had a nosey neighbor call animal control on her because the neighbor felt that Representative Guess was abusing her Bassett Hounds because they were thin. Representative Guess remarked that hopefully this legislation will start communication as it did in her case. However, this is something that the local community would have to resolve in their ordinance.

MR. TESCHE pointed out that the nosey neighbor situation often arises in regard to noise violations and animals. He encouraged caution in drafting the ordinance so that it would address the more serious situations, such as drugs, alcohol, and vice crimes. Again, he reiterated the need to trust the local governing body to balance these considerations.

Number 2024

REPRESENTATIVE SCALZI suggested that if local governing bodies are going to be trusted, then this option could also apply to

commercial establishments. He emphasized that this is an option for local governing bodies.

REPRESENTATIVE GUESS stated that she was willing to discuss that. However, the purpose of the bill was to provide a tool [to address the problems with residential properties with the thought that] perhaps the commercial establishments could be addressed later. Representative Guess remarked that she wasn't sure that this legislation would get through if commercial establishments were added.

CO-CHAIR MEYER agreed with Representative Guess that the addition of commercial establishments would hurt the potential passage of this legislation. He reiterated the aforementioned need to try this first with residential properties.

Number 1886

REPRESENTATIVE MURKOWSKI agreed that the definition of "excessive" and the calculation of the fines should be left to the local governing body as they draft the ordinance. However, she expressed concern that the rights of the property owner should be respected. She pointed out that the legislation "allows for a lien on the property and this lien is paramount to all other liens except the municipal lien." Therefore, there is the potential for this to be significant to the property owner and thus Representative Murkowski emphasized the need to ensure that actual notice is provided. She said that she wasn't comfortable with allowing the individual local governing bodies the discretion in deciding how the actual notice is provided to the property owner. Therefore, she expressed the need for the legislation to include language stating that actual notice has to be provided to the property owner before imposing such a lien. The current language does not specify that the owner of the property receives the actual notice.

MR. TESCHE reiterated that no local ordinance will work without actual notice and thus he didn't have any objection to using language to that effect in the legislation. He expressed concern with that language going further, such that it would define the number of days of notice and the efforts that landlords would be permitted to take without being charged. Dealing with those specifics would result in the committee drafting the ordinance, which he didn't believe should be done at the state legislative level.

REPRESENTATIVE MURKOWSKI agreed. The committee could deal with the notice provision, but what constitutes excessive needs to be addressed at the local level.

Number 1597

REPRESENTATIVE KERTTULA agreed with placing the actual notice requirement directly in the statute. She wasn't sure where the notice would start, [would notice occur] when there is police contact or when action is taken [the fee is levied]. Representative Kerttula expressed the need for the following language to be included in the legislation, "The fee may not be imposed if the owner has taken reasonable actions to correct the problem." She suggested making it an exception or clearly state in statute that the municipality must consider whether the property owner is taking action before the municipality takes action. Otherwise, she felt that there would be legal problems later.

MR. TESCHE echoed his earlier comments that Representative Kerttula's suggestions verge on the actual drafting of the ordinance. He said that there could be problems with Representative Kerttula's suggested language because there could be problems "because ... the argument is going to be, 'Well, as per the statute, did the owner take reasonable action and what did this committee today mean when they wrote that into the statute?'" He predicted that such would be litigated by the people running the crack houses. Mr. Tesche said that if the committee wants to attach new requirements into HB 135, he suggested the following language: "fees may not be charged or imposed under this statute if owners take prompt, reasonable corrective measures as defined by local ordinance." That language would establish the principle that Representative Kerttula is advancing and refer to the local ordinance where reasonable would be defined.

Number 1349

DICK TREMAINE, Member, Anchorage Assembly, remarked that he is encouraged to see this bipartisan effort with more local control. As a landlord, Mr. Tremaine said that he believes this is a good idea. With regard to the possibility of the abuse of power, he pointed out that it is good to consider that [and realize] that there can always be an abuse of power.

CO-CHAIR MEYER remarked that this is a problem throughout the City of Anchorage and the entire state.

Number 1159

REPRESENTATIVE KERTTULA commented on the amorphousness of the "reasonable actions to correct" language. She inquired as to the option of [requiring] the municipality to consider whether the [property] owner is in the process of eviction or there could be an exemption. Representative Kerttula clarified that her major concern was in regard to a [property owner] already being in the process of eviction.

MR. TESCHE said that he would be comfortable with general language that says "reasonable corrective action as defined by a municipality." He noted that he is trying to keep this from getting into the Landlord Tenant Act and thus he would opt for the general language.

REPRESENTATIVE KERTTULA agreed that seems reasonable.

Number 0989

REPRESENTATIVE HALCRO moved that the committee adopt the following amendment, Amendment 1:

Page 1, line 14

Insert new subsection (b):

"A fee under (a) of this section may not be levied unless a certified letter noticing the owner of violation of the local ordinance has been issued and the owner has had a reasonable time to respond as defined by the ordinance."

REPRESENTATIVE MURKOWSKI inquired as to whether Representative Halcro meant a reasonable time to respond or a reasonable time to take corrective action.

REPRESENTATIVE HALCRO agreed that the [property] owner should be given time to respond [and] take corrective action.

REPRESENTATIVE MURKOWSKI posed a situation in which an absent landlord receives [the municipality's] response and says that it's his property and he can do with it what he wants. She asked, "Are we now off the hook?" She surmised that the point [of this legislation] is to get the [property owner] to take corrective action.

CO-CHAIR MORGAN interjected his suggestion that the notice be certified so the [property] owner would have to sign for the notice.

REPRESENTATIVE KERTTULA pointed out that most court notice does not require certified notice.

Number 0771

JIM BALDWIN, Assistant Attorney General, Governmental Affairs Section, Civil Division(Juneau), Department of Law, said that there have been some difficulties in requiring some certified notices. Therefore, it may not be appropriate for the bill to specify how the notice is given. Mr. Baldwin concurred with Mr. Tesche's comments that this could be worked out at another level. He pointed out that postal standards and procedures change more easily than the law. Therefore, Mr. Baldwin recommended that the legislation be fairly general and allow flexibility in regard to how the notice is received.

MR. TESCHE concurred and indicated that if there is language specifying that there has to be certified notice, then the landlord would avoid accepting any certified mail. That action would create an absolute defense to any action. Mr. Tesche reiterated his support of specifying actual notice in the legislation and leaving the specific definition of the notice to local governing bodies.

REPRESENTATIVE MURKOWSKI agreed with Mr. Tesche that actual notice is appropriate.

Number 0571

REPRESENTATIVE GUESS suggested the following language [to be inserted on page 1, line 14]: "The ordinance shall require actual notice to residential owners of police contacts and possible fees." She also suggested inserting the following language: "The ordinance shall include consideration of prompt reasonable corrective action as defined by the municipality."

REPRESENTATIVE HALCRO withdrew his amendment, Amendment 1.

REPRESENTATIVE SCALZI asked if this notification was the notification that goes out prior to a citation or after the first citation. He asked, "What does the notification actually mean?"

REPRESENTATIVE GUESS reiterated that the notification would be left up to the municipalities and would be about police contacts and the possible fees that would be assessed.

REPRESENTATIVE SCALZI announced that he wouldn't support Representative Guess' amendment because he trusted the municipalities to make that decision.

Number 0333

REPRESENTATIVE GUESS moved that the committee adopt her aforementioned amendment, now Amendment 1.

REPRESENTATIVE SCALZI objected. He referred to Representative Guess' proposed language that would require actual notice. He said, "I don't know what exactly that means. To me, its subject to interpretation by the local municipality as to when the contacts must take place, how they should take place; is there going to be a general notification to all property owners?" He commented on its vagueness. He expressed the need to leave this to the local governing body.

REPRESENTATIVE KERTTULA disagreed.

REPRESENTATIVE HALCRO said he understands Representative Scalzi's concerns. This [amendment] sets forth some minimum parameters for reasonable notification and allows them to correct the measure.

REPRESENTATIVE KERTTULA mentioned that her husband sits on the Assembly for the City & Borough of Juneau. She agreed with Representative Halcro that this set the minimum sideboard.

REPRESENTATIVE MURKOWSKI hoped that this is a conceptual amendment so that the drafter can finesse the language.

REPRESENTATIVE GUESS agreed that the amendment is conceptual.

A roll call vote was taken. Representatives Murkowski, Guess, Kerttula, Halcro, Morgan, and Meyer voted for the amendment. Representative Scalzi voted against the amendment. Therefore, the amendment was adopted by a vote of 6-1.

TAPE 01-13, SIDE A

REPRESENTATIVE GUESS announced that she would take this conceptual amendment to the drafters and provide the committee

with an actual amendment when HB 135 is taken up again. She recommended that anyone having concerns contact her so that it could be worked out.

CO-CHAIR MEYER announced that HB 135 would be taken up next Tuesday along with HB 145 and HB 20.

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:55 a.m.