

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

April 24, 2001

8:13 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Andrew Halcro

COMMITTEE CALENDAR

HOUSE BILL NO. 217

"An Act relating to municipal property assessment and taxation;
and providing for an effective date."

- HEARD AND HELD; ASSIGNED TO SUBCOMMITTEE

PREVIOUS ACTION

BILL: HB 217

SHORT TITLE:MUNICIPAL PROPERTY ASSESSMENT AND TAX

SPONSOR(S): REPRESENTATIVE(S) KOHRING

Jrn-Date	Jrn-Page		Action
03/27/01	0742	(H)	READ THE FIRST TIME - REFERRALS
03/27/01	0742	(H)	CRA, JUD
03/27/01	0742	(H)	REFERRED TO CRA
04/19/01		(H)	CRA AT 8:00 AM CAPITOL 124
04/19/01		(H)	Heard & Held MINUTE(CRA)
04/24/01		(H)	CRA AT 8:00 AM CAPITOL 124

WITNESS REGISTER

KEVIN RITCHIE, Executive Director
Alaska Municipal League

217 Second Street
Juneau, Alaska 99801
POSITION STATEMENT: Testified on HB 217.

GARY LEWIS, a retired assessor
Box 2006
Wrangell, Alaska 99929
POSITION STATEMENT: Testified on HB 217.

UWE KALENKA
PO Box 92824
Anchorage, Alaska 99509
POSITION STATEMENT: Testified on HB 217.

ELIZABETH BARR
Alaska Property Owners Association
3301 Sherrie Street
Anchorage, Alaska 99504
POSITION STATEMENT: Testified on her firm belief in local control.

DAN DICKINSON, Director
Tax Division
Department of Revenue
550 West 7th, Number 500
Anchorage, Alaska 99501
POSITION STATEMENT: Testified that HB 217 would eliminate a current safeguard in relation to taxation.

KEN JACOBUS
425 G Street, Number 920
Anchorage, Alaska 99501
POSITION STATEMENT: Testified that HB 217 should be enacted.

ACTION NARRATIVE

TAPE 01-23, SIDE A
Number 0001

CO-CHAIR CARL MORGAN called the House Community and Regional Affairs Standing Committee meeting to order at 8:13 a.m. Representatives Morgan, Meyer, Scalzi, and Murkowski were present at the call to order. Representatives Guess and Kerttula arrived as the meeting was in progress.

HB 217-MUNICIPAL PROPERTY ASSESSMENT AND TAX

CO-CHAIR MORGAN announced that the only order of business before the committee would be HOUSE BILL NO. 217, "An Act relating to municipal property assessment and taxation; and providing for an effective date."

Number 0088

KEVIN RITCHIE, Executive Director, Alaska Municipal League (AML), informed the committee that AML did have a meeting with its Revenue and Finance Subcommittee yesterday. Mr. Ritchie explained that [HB 217] allows municipalities to do part of what was rejected by 70 percent of Alaskans in the tax cap initiative. Therefore, from a policy standpoint there is reason to believe that the public may not think [HB 217] is a good idea. [This legislation] would allow unlimited local discretion for local governments to shift property tax burdens from one taxpayer to another. Mr. Ritchie remarked, "We don't really have a policy reason to ask for this broad of discretion. ... And also I believe that this initiative is also in the Lieutenant Governor's office, is something that would be voted on statewide."

MR. RITCHIE announced that AML does support SB 4 and HB 6, which updates an optional legislatively granted property tax exemption that allowed municipalities the ability to exempt to \$10,000 of assessed value on residential property. Both SB 4 and HB 6 attempt to update the value of that exemption, which AML believes would be a good tool to allow some minor adjustments in property tax burdens. He noted that the Fairbanks North Star Borough was considering using this [updated exemption] as part of its local long-range financial plan. Therefore, there could be some positive impacts with this [updated exemption] in terms of creating a more balanced taxation system in municipalities.

Number 0320

MR. RITCHIE, in response to Representative Murkowski, said that SB 4 is in the Senate Rules Committee; however, he didn't believe that HB 6 has had a hearing.

CO-CHAIR MORGAN asked if there were any questions for Steve Van Sant, State Assessor, Division of Community and Business Development, Department of Community & Economic Development or Gary Lewis, a retired assessor.

Number 482

REPRESENTATIVE MURKOWSKI inquired as to Mr. Lewis' opinion regarding the disparate impacts of HB 217.

GARY LEWIS, a retired assessor, testified via teleconference. He began by pointing out that Alaska has had a very uniform tax system since statehood. This legislation provides the opportunity to charge different rates of tax for different classes of property. There is the question of equity in regard to the value of property and how it is taxed other than the market value. Furthermore, Mr. Lewis noted that HB 217 invites special interest groups to influence and shift the burden of taxes from one group to another group, which is very detrimental in regard to fairness.

Number 0622

UWE KALENKA testified via teleconference. Mr. Kalenka thanked Representative Kohring for his foresight in recognizing that the tax cap failed last year, "namely, [because it is a] local issue." He explained that it quickly became apparent with the tax cap initiative that every community felt that it should have the right to establish their own criteria for taxation. Although Mr. Kalenka felt that was correct, the current state law didn't allow such and thus the tax cap initiative was statewide. Therefore, he surmised that the failure of the tax cap initiative highlights that local communities should be able to assess taxes as they see fit.

MR. KALENKA turned to comments made at the April 19, 2001, hearing on HB 217. He recalled the concern that there would be a potential loss in revenue to the state [with the passage of HB 217]. To that, Mr. Kalenka pointed out that the potential loss in revenue to the state already exists with the municipalities that have the right to assess up to 20 mills on the oil production, transportation, and storage facilities. Therefore, there will be no change there. He also recalled concern regarding the oil companies, who are governed separately under a different statute. However, he pointed out that the concern could be addressed by exempting oil production, transportation, and storage facilities from HB 217. Mr. Kalenka addressed SB 4 and HB 6, which he identified as band aids to the present problem. The primary issue is that local communities desire local control.

Number 0838

ELIZABETH BARR, Alaska Property Owners Association, testified via teleconference. She noted her firm belief in local control, which HB 217 attempts. As a private property owner, Ms. Barr said that she would prefer taxes to be based on the true value of property rather than having increasing taxes every year.

Number 0910

DAN DICKINSON, Director, Tax Division, Department of Revenue, testified via teleconference. Mr. Dickinson informed the committee that he would clarify some of his remarks made at the April 19, 2001, hearing on this complex issue. In regard to remarks that Alaska has a "cookie-cutter" system of taxation, Mr. Dickinson pointed out that there are already four or five limits in various statutes.

MR. DICKINSON pointed out that the state assesses oil and gas properties at 20 mills. Therefore, when Valdez had a mill rate of 18, the state would collect about 2 mills on the oil and gas property located in the Borough of Valdez and Valdez would collect the remainder. However, in a hypothetical situation, if Valdez had a mill rate of 25, the state would collect no taxes on the property located in Valdez since their tax stops at 20 mills. He highlighted the importance of realizing who Valdez is taxing, which would be the following pipelines: Exxon Mobile, BP, Amerada Hess, Phillips, and Union. Those taxpayers have additional property in the rest of the Trans-Alaska Pipeline System (TAPS). Furthermore, the state gathers most of its tax from oil and property tax from those portions of TAPS that pass through unincorporated areas. Therefore, the state collects the full 20 mills on the portion of the pipeline that runs through a huge unincorporated area. If Exxon Mobile, BP, and Amerada pipeline are allowed a credit for what they paid in Valdez, that credit will eat into what the state collects in the unincorporated areas.

Number 1104

REPRESENTATIVE KERTTULA requested that Mr. Dickinson explain why this would go into the unincorporated areas.

MR. DICKINSON referred to AS 43.56.010(d) and 15AAC56.050 that says that a taxpayer is allowed a credit for taxes paid to a municipality. He said, "We've never had to face this issue head on." As a non-lawyer reading the statute, a pipeline provides [the department] with what it owes, 20 mills on their pipeline, and what they've paid to the municipality. [The department]

doesn't ask how much the pipeline owes for the piece of the pipeline in Valdez and how much the pipeline paid to Valdez and net those two out. [The department] simply looks at the total assessed valuation of Exxon pipeline, which is about 20 percent of TAPS. [The department] also looks at the number of dollars that have been paid by Exxon pipeline, which would be 25 mills in Valdez using this example. Those dollars simply become a credit.

REPRESENTATIVE KERTTULA related her understanding that if it were 100 mills, it would come out as a credit.

MR. DICKINSON remarked that it would take a great deal less than 100 mills to reach zero. He explained that once the total dollars a pipeline pays to the municipalities along the pipeline reaches the total amount of the pipeline's assessment of 20 mills, they are no longer paying any money to the state. He posed a situation in which the aforementioned would occur at 50 mills after which the companies would start to pay more. However, until that point the companies would be indifferent and the money would come out of state revenues.

REPRESENTATIVE KERTTULA related her understanding that when [the pipeline] goes above 20 mills that would be viewed as a credit against whatever the pipeline would pay elsewhere.

MR. DICKINSON replied yes. He explained, "The credit that a pipeline company receives, for example.... You look at the pipeline property, which in this case generally happens to be TAPS, and ... the amount they pay to Valdez are simply credited against what they're going to be charged at 20 mills for that same property." Nothing in statute or regulation specifically says that [each area is treated separately].

Number 1320

REPRESENTATIVE KERTTULA surmised then that if a pipeline goes above 20 mills by an extra 5 percent, then that would be a credit and the state still loses.

MR. DICKINSON agreed. He recalled that the language in the statute says that "you" are allowed a credit for a tax paid to a municipality. The regulations say that "you" are allowed a credit for any tax paid to any municipality.

Number 1360

MR. DICKINSON continued with his testimony and pointed out that AS 29.45.080 includes a built-in cap, which is 225 percent of the per capita valuation. Mr. Dickinson informed the committee that the supreme court recently ruled on a different aspect of this and in its ruling it went out of the way to comment that there was no plain language reading of that particular clause because the language itself is so confusing. That language would cap Valdez at about 26 mills; that is Valdez' operating budget that is capped at 26 mills. However, there is no limitation on the property taxes that can be imposed from bonded indebtedness. Theoretically, that could be 100 percent or higher. This could happen under the current law. However, under the current law the community, of Valdez if that example is continued, would have to vote on that mill obligation before that community could tax at a [mill rate higher than 20 mills] and take away state revenues. Mr. Dickinson understood HB 217 to take away that safeguard. Therefore, the Municipality of Valdez could decide not to tax residential or commercial property and only tax AS 43.56 property and ocean-borne tankers that use their port. Under that scenario, the people of Valdez would continue to vote on every bond issue. However, they wouldn't be placing the tax on themselves because they could be exempt from that tax under HB 217. In such a case, the people that would pay the tax would be those who essentially couldn't vote on it. Therefore, Mr. Dickinson felt it safe to predict that there would be a threat to state revenues due to HB 217 removing the aforementioned safeguard. Currently, AS 43.56 property is about three-quarters of the tax base in Valdez and residential and commercial property constitute the remaining quarter of Valdez' tax base. He explained, "It is a simple mathematical way to figure out how you simply exempt a quarter of the current tax base, up the mill rate, the voters would not be paying for that increase, the voters from Valdez would be voting on it. Instead ... folks all over the state of Alaska who would have diminished revenue would be paying for that change." Mr. Dickinson expressed the importance in realizing that there are already various different caps and limits in place. He believes that currently Valdez has very little bonded indebtedness; however, he believes that the above outlined scenario could happen to Valdez under HB 217.

Number 1598

KEN JACOBUS testified via teleconference. He emphasized the importance of local control. He also related his belief that Republicans support local control versus state control and state control versus federal control. "Government should be brought

down to the people rather than imposed from some place else," he said.

MR. JACOBUS informed the committee that he is a former attorney for the City of Valdez. During his time as the city attorney, Valdez followed the interpretation that the city could not tax pipeline property in excess of 20 mills and expect to charge it back to the oil companies. He felt that was clear from AS 43.56.030 and thus it is already governed by the state laws of taxation. Therefore, Mr. Jacobus didn't believe there was a threat to state revenue. He pointed out that Valdez could implement a mill rate up to 20 and the state wouldn't receive money from the pipeline property located within Valdez, but Valdez couldn't implement a mill rate higher than 20 mills and charge it back against the rest of the pipeline. That was the view of Valdez during his time as the city attorney. Although he didn't believe that would be problematic, he pointed out that an amendment could easily be made to address Mr. Dickinson's concerns. Mr. Jacobus said that HB 217 should be enacted and people shouldn't be forced to do this by an initiative.

CO-CHAIR MORGAN asked if there was anyone else who wished to testify. There being no one, he closed the public testimony. He reminded the committee that last week a possible amendment was mentioned.

Number 1738

CO-CHAIR MEYER informed the committee that he had followed up with Representative Kohring who agreed that there is some concern with the current language in HB 217 and thus he indicated that he would be supportive of an amendment or amendments. Co-Chair Meyer also informed the committee that he spoke with Bob Bell and Mr. Bell emphasized the importance of local control. However, Co-Chair Meyer noted the temptation to shift the tax burden from the residents and place it on Wal-Mart, Kmart, et cetera. Although Mr. Bell felt that assembly elections could curtail such actions, Co-Chair Meyer felt that was easier said than done. Co-Chair Meyer reiterated that Representative Kohring is amenable to waiting on HB 217 in order to create a good bill.

CO-CHAIR MORGAN informed the committee that he had spoken with Representative Kohring and Representative Kohring had agreed to place HB 217 into a subcommittee. Therefore, Co-Chair Morgan appointed the following members to a subcommittee:

Representative Halcro, Chair; Representatives Scalzi and Kerttula.

The committee took a brief at-ease from 8:37 a.m. to 8:39 a.m.

CO-CHAIR MORGAN announced that no one was present from the Department of Community & Economic Development and thus the scheduled overview was canceled.

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:39 a.m.