

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS
STANDING COMMITTEE

February 19, 2002
8:09 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Andrew Halcro
Representative Drew Scalzi

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 289

"An Act relating to the effective date of a municipal manager plan that has been adopted and to the effective date of the repeal of a municipal manager plan, and relating to a special election for mayor when municipal manager plans are adopted or repealed."

- MOVED SSHB 289 OUT OF COMMITTEE

HOUSE BILL NO. 358

"An Act relating to an optional exemption from municipal property taxes for certain land from which timber is harvested and for certain improvements used in or necessary to the harvest of timber."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 289

SHORT TITLE: MUNICIPAL MANAGER PLAN

SPONSOR(S): REPRESENTATIVE(S) STEVENS

Jrn-Date	Jrn-Page		Action
01/14/02	1950	(H)	PREFILE RELEASED 1/4/02

01/14/02	1950	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1950	(H)	CRA
02/05/02		(H)	CRA AT 8:00 AM CAPITOL 124
02/05/02		(H)	-- Meeting Canceled --
02/13/02	2232	(H)	SPONSOR SUBSTITUTE INTRODUCED
02/13/02	2232	(H)	READ THE FIRST TIME - REFERRALS
02/13/02	2232	(H)	CRA
02/13/02	2232	(H)	REFERRED TO CRA
02/19/02		(H)	CRA RPT RECD AWAIT TRANSMITTAL NXT
02/19/02		(H)	CRA AT 8:00 AM CAPITOL 124

BILL: HB 358

SHORT TITLE: EXEMPTION FROM PROPERTY TAX: TIMBER
 SPONSOR(S): REPRESENTATIVE(S) CHENAULT

Jrn-Date	Jrn-Page		Action
01/25/02	2067	(H)	READ THE FIRST TIME - REFERRALS
01/25/02	2067	(H)	CRA
01/25/02	2067	(H)	REFERRED TO CRA
02/19/02		(H)	CRA AT 8:00 AM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE GARY STEVENS

Alaska State Legislature
 Capitol Building, Room
 Juneau, Alaska 99801

POSITION STATEMENT: Testified as the sponsor of SSHB 289.

PAT CARLSON, Manager
 Kodiak Island Borough

POSITION STATEMENT: Testified in support of SSHB 289.

KEVIN RITCHIE, Executive Director

Alaska Municipal League (AML)
 217 Second Street
 Juneau, Alaska 99801

POSITION STATEMENT: Testified that AML has no formal position on SSHB 289.

REPRESENTATIVE MIKE CHENAULT

Alaska State Legislature

Capitol Building, Room
Juneau, Alaska 99801
POSITION STATEMENT: Testified as the sponsor of HB 358.

JEFF JAHNKE, State Forester
Division of Forestry
Department of Natural Resources
550 West 7th Avenue, Suite 1450
Anchorage, Alaska 99501-3566
POSITION STATEMENT: Testified in support of HB 358.

ED OBERTS, Assistant to the Mayor
Kenai Peninsula Borough
144 N Binkley
Soldotna, Alaska 99669
POSITION STATEMENT: Testified in support of HB 358.

BLAINE GILMAN, Attorney
Gilman & Associates
150 North Willow Street, Suite 33
Kenai, Alaska 99611
POSITION STATEMENT: Representing Salamatof Native Association,
Inc., testified in support of HB 358.

TIM NAVARRE, President
Kenai Peninsula Borough Assembly
144 North Binkley Street
Soldotna, Alaska 99669
POSITION STATEMENT: Noted the [Kenai Peninsula Borough
Assembly's] support of HB 358.

ACTION NARRATIVE

TAPE 02-6, SIDE A
Number 0001

CO-CHAIR KEVIN MEYER called the House Community and Regional Affairs Standing Committee meeting to order at 8:09 a.m. Representatives Morgan, Meyer, Guess, and Kerttula were present at the call to order. Representative Murkowski arrived as the meeting was in progress. [Minutes pertaining to that presentation can be found under the minutes for 9:30 a.m. of the same date.]

HB 289-MUNICIPAL MANAGER PLAN

CO-CHAIR MEYER announced that the first order of business before the committee would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 289, "An Act relating to the effective date of a municipal manager plan that has been adopted and to the effective date of the repeal of a municipal manager plan, and relating to a special election for mayor when municipal manager plans are adopted or repealed."

Number 0120

REPRESENTATIVE GARY STEVENS, Alaska State Legislature, testifying as the sponsor of SSHB 289, began by posing a situation in which the voters don't know to what position they are electing candidates and candidates don't know for which position they are running. He said that such a situation [can] occur when municipal government changes from a manager to mayoral form of government or vice versa. In such a situation, at the same time the voters are choosing to change the type of government, the voters are also electing the mayor. Representative Stevens explained that a mayoral type of government is often referred to as a strong mayor and that person is responsible for the administration of the government. In many cases, a mayoral position is paid a salary. The manager form of government is one in which the person is responsible for the administration of the government, and in this case the mayor would be in a ceremonial position to run the meetings. In the manager form of government, the mayor's position wouldn't be a full-time job.

REPRESENTATIVE STEVENS returned to the aforementioned situation in which there is an election to decide to change from one form of government to another at the same time there is a mayoral election. In such a situation, the voter wouldn't know for which position the person is running. Furthermore, the candidate wouldn't know whether he/she is going to be a ceremonial head of government or have a full-time job. Therefore, a great deal of confusion is created, which this bill would eliminate. He noted that there is always the option of having a special election. This bill provides that the person elected in a position would stay in that position for a year in order to allow a year for the community to make the change. Representative Stevens noted that at first it was thought [that the form of government] would remain [unchanged] until the mayor left office. However, mayoral terms are often three years and thus the aforementioned thought would force the community to have the old form of government for three years. Representative

Stevens felt that the one-year transition presented in SSHB 289 is a better approach.

REPRESENTATIVE STEVENS reiterated that SSHB 289 attempts to simplify these situations and allow voters to know for what position they're filling. Furthermore, SSHB 289 clears up the situation for the candidate in regard to what position he/she is running for.

Number 0631

REPRESENTATIVE GUESS remarked that she wasn't convinced that the system proposed in SSHB 289 is simpler. She pointed out that in a situation in which the [form of government] is changed and a mayor is elected at the same time, the [candidate doesn't know for which position he/she is running] because he/she doesn't know whether the position is changing. Furthermore, even if [the form of government] changes, under SSHB 289 there would be a one-year lag and thus [a candidate] is being asked to run for a position that will change function in the middle of the [three year] term. In the other situation, a mayor is in place and the [form of government] is changed. Therefore, that mayor would've been elected under different circumstances. This proposed legislation seems confusing.

REPRESENTATIVE STEVENS returned to the confusion created for the candidates in these situations.

Number 0850

REPRESENTATIVE GUESS returned to the situation in which the form of government and the [mayor] were being voted on at the same time. In such a situation, it's confusing now. The bill would change it so that if the form of government did change, the change wouldn't occur for a year. Therefore, the candidate would have a year to adjust his/her life or resign and have a special election. She indicated her understanding that [the form of government] would still change.

REPRESENTATIVE STEVENS agreed that the [form of government] would still change. He felt that the year transition would provide [a candidate] a year to adjust his/her life. He informed the committee that an attorney [from Legislative Legal and Research Services] suggested that whoever is elected would continue his/her term of office. However, that results in a three-year lag before the change [in the form of government] occurs. Representative Stevens related his belief that when

people vote [to change the form of government] that should happen in as reasonable time as possible. He reiterated that at any time there can be a special election to determine the form of government. He echoed his belief that [SSHB 289] is advantageous due to the one-year grace period.

Number 1054

CO-CHAIR MEYER inquired as to how often these situations occur.

REPRESENTATIVE STEVENS answered that such a situation could occur any time there is a vote to change the form of government. In regard to how often such situations actually occur, Representative Stevens couldn't answer. In these situations, the voter isn't sure what position the election is for, and the candidate isn't sure to what position he/she will be elected.

REPRESENTATIVE KERTTULA remarked, "But doesn't everybody know that that's a possibility when they run." She asked whether the vote always happens at the same time or could there be a special election [to change the form of government].

REPRESENTATIVE STEVENS replied that there could be a special election, which he indicated to be a preferable situation. However, he noted that there is a cost to a special election. This bill provides another option with the one-year lag.

REPRESENTATIVE KERTTULA inquired as to how many times this has happened. She also inquired as to whether this bill would be retroactive.

REPRESENTATIVE STEVENS said that he couldn't specify how many times these situations occur. He answered that [SSHB 289] wouldn't be retroactive. In further response to Representative Kerttula, Representative Stevens affirmed that [SSHB 289] is prospective.

Number 1323

PAT CARLSON, Manager, Kodiak Island Borough, testified via teleconference in support of SSHB 289. Mr. Carlson recalled a situation in Kodiak in which the form of government was on the ballot at the same time the mayor was up for reelection. There was a significant amount of confusion for the voters, as well as the candidates. He related his belief that the votes of many voters were impacted in relation to their belief of the form of government [a particular candidate] embodied.

MR. CARLSON informed the committee that when Kodiak had a special election for a change of government, the Kodiak Borough Assembly [decided to have a transition of] one-year. Although that was determined to be illegal given the current statutes, it was the appropriate approach. Mr. Carlson concluded by reiterating his support of SSHB 289.

Number 1474

REPRESENTATIVE GUESS agreed that [SSHB 289] provides a smoother way; however, she questioned whether it's really a less confusing situation.

MR. CARLSON explained that under the current statute, the change in the form of government is in the assembly's control after the vote takes place. Therefore, the one-year window provides the opportunity to structure the government appropriately and ensure a smooth transition.

Number 1596

KEVIN RITCHIE, Executive Director, Alaska Municipal League (AML), informed the committee that although AML hasn't taken a formal position on SSHB 289, the issue being addressed is real. If one year into a three-year term there is a petition to change the form of government without addressing a transition, the mayor may be forced to quit his/her job and the voters may not elect that person to be the full-time mayor. Mr. Ritchie felt that a one-year transition is a good idea, which could also be addressed in a petition. However, he wasn't sure how this proposal would be addressed in a petition.

MR. RITCHIE, in response to Representative Murkowski, clarified that AML hasn't gotten to SSHB 289 yet. The local government subcommittee is meeting today and will discuss SSHB 289.

CO-CHAIR MEYER commented that the bill makes sense. He referred to page 2, lines 5-9, and asked if the logistics work while providing a smooth transition during a change in the form of government.

REPRESENTATIVE STEVENS indicated agreement.

Number 1837

REPRESENTATIVE GUESS moved to report SSHB 289 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, SSHB 289 was reported from the House Community and Regional Affairs Standing Committee.

The committee took an at-ease from 8:35 a.m. to 8:36 a.m.

HB 358-EXEMPTION FROM PROPERTY TAX: TIMBER

CO-CHAIR MORGAN announced that the next order of business would be HOUSE BILL NO. 358, "An Act relating to an optional exemption from municipal property taxes for certain land from which timber is harvested and for certain improvements used in or necessary to the harvest of timber."

Number 1902

REPRESENTATIVE MIKE CHENAULT, Alaska State Legislature, testified as the sponsor of HB 358. Representative Chenault informed the committee that the Kenai Peninsula Borough encompasses 9.9 million acres of which approximately 2.2 million acres is forested. Of those 2.2 million acres of forested land, 1.1 million acres is infested with the spruce bark beetle. [The infested areas] have been identified as a fire threat with limited accessibility for fire fighting resources as well as inadequate evacuation sites. Representative Chenault also informed the committee that in 1998 the Kenai Peninsula Borough was concerned for the people with property on the peninsula and thus the Spruce Bark Beetle Mediation Program was formed. The program is currently in the process of cutting trees that are dead and [pose] a high to moderate fire risk. He noted that the borough intends to work cooperatively with the private property owners, and therefore the borough has looked for incentives [to encourage] the property owners to remove the infested timber. One incentive is to exempt property taxes caused by the removal of the infested timber.

REPRESENTATIVE CHENAULT continued by informing the committee that in 2001 the Kenai Peninsula Borough proposed an ordinance granting the aforementioned tax exemption. However, the borough's legal department determined that the borough didn't have such authority without amending Alaska statutes. The Alaska State Constitution provides that "all exemptions be provided by law". He explained that the phrase "by law" in the constitution is limited and refers to the legislature. On January 8, 2002, the Kenai Peninsula Borough asked, through a resolution, the legislature to enact legislation allowing

boroughs to exempt from taxation land subject to timber salvage. Therefore, [HB 358] is before the committee today.

REPRESENTATIVE GUESS stated for the record that she owns property in Kenai that is infested by the spruce bark beetle.

REPRESENTATIVE CHENAULT pointed out that the committee packet should include a photo that illustrates the areas infested by the spruce bark beetle.

Number 2131

REPRESENTATIVE KERTTULA related her interpretation that HB 358 seems to allow municipalities to totally exempt land from property taxes. Therefore, she asked whether Representative Chenault would consider changing the language to only refer to a partial exemption because there would seem to always be some property value left.

REPRESENTATIVE CHENAULT agreed with Representative Kerttula that the gist of the HB 358 is to [exempt taxation relative to the improvements].

REPRESENTATIVE KERTTULA acknowledged that [the exemption] would still be up to the municipalities, which probably won't provide a total exemption. However, on page 1, line 6, the deletion of "or totally exempt" would be an easy change.

REPRESENTATIVE MURKOWSKI questioned whether that would also apply to page 1, line 11.

REPRESENTATIVE KERTTULA turned to page 1, line 11, and specified that the improvements could be totally exempt because those could all be new. Therefore, she suggested that line 11 could remain.

Number 2247

CO-CHAIR MEYER referred to page 1, line 7, and inquired as to how a tree's risk of infestation is determined.

REPRESENTATIVE CHENAULT answered that [the language] would provide the municipality the leeway to review infestation and grant the exemption if the municipality deems it appropriate. In further response to Co-Chair Meyer, Representative Chenault assumed [that the determination] is done through the borough.

Number 2348

JEFF JAHNKE, State Forester, Division of Forestry, Department of Natural Resources (DNR), testified via teleconference in support of HB 358. Over the past ten years, the spruce bark beetle has infested almost 3 million acres of land on the Kenai Peninsula, Anchorage bowl, and the Copper River Basin. This legislation removes a disincentive for harvesting spruce threatened and killed by this epidemic and others to come. Harvesting continues to be important following a spruce bark beetle infestation because [harvesting] reduces the wildfire hazard caused by dead and dying trees; encourages reforestation; and recovers the remaining value. Unfortunately, there is not much financial value left in these [infested spruce] trees. Therefore, [the department] supports HB 358 and any effort that might encourage the harvest of infested trees.

CO-CHAIR MEYER reiterated his question regarding how one determines which trees are potentially at risk of being infected by insects.

MR. JAHNKE explained that DNR, in conjunction with the U.S. Forest Service state and private organizations, [have] entomologists [who] perform annual aerial surveys in order to identify emerging [infestations] and map current infestations. This information is used as a common database, and the spruce bark beetle database feeds into many efforts to determine what to do.

Number 2504

ED OBERTS, Assistant to the Mayor, Kenai Peninsula Borough, testified via teleconference. He informed the committee that [the borough mayor's office] is in support of HB 358. One of the key issues [related to the spruce bark beetle infestation] is the fire risk. He noted that the [borough] has received approximately \$11 million to address [the spruce bark beetle infestation] and thus there is a lot of satellite imagery and mapping that identifies where the [infested] trees have been removed. Additionally, [the borough] recently received a grant from NASA in order to specifically target satellite imagery and identify the areas in the process of being infected by the spruce bark beetle. Mr. Oberts encouraged the adoption of an exemption, especially in regard to larger tracts of land where a firebreak could be created. However, he announced that [the borough] would suggest an effective date of January 1, 2001, in order to allow retroactive tax exemptions for the 2001 tax year.

REPRESENTATIVE MURKOWSKI pointed out that no effective date is specified on HB 358 and thus it would be effective 90 days from the governor's signature.

MR. OBERTS, in response to Representative Murkowski, confirmed that [the borough] is requesting that HB 358 be written such that it [the tax exemption] could be retroactive to January 1, 2001. Regardless of that request, [the borough] is supportive of the bill as written.

Number 2640

REPRESENTATIVE KERTTULA inquired as to whether Mr. Oberts envisioned a total property tax exemption.

MR. OBERTS related his understanding that the intent of HB 358 is to allow an exemption on the improvements to the property, which is probably sufficient. However, he acknowledged that there could be some exemption for the value of the property. He pointed out that these are salvage operations that are marginally profitable. Even the chip value of the spruce bark beetle infested tree may not be economical to sell. Therefore, [the borough] is looking for incentives for the landowners to clear their property.

Number 2727

BLAINE GILMAN, Attorney, Gilman & Associates, testified via teleconference representing Salamatof Native Association, Inc. Mr. Gilman noted Salamatof Native Association's support of HB 358. He explained that the "total exemption" language is necessary because under the Alaska National Interest Lands Conservation Act (ANILCA) if a Native corporation decides to take timber on its property, the property becomes developed property and thus becomes taxable. He related one of his clients' reluctance to remove [infested] timber because the property, which is thousands of acres, could become taxable. Mr. Gilman concluded by encouraging the committee to forward HB 358.

REPRESENTATIVE KERTTULA related her understanding that under ANILCA the land isn't taxable under a municipal property tax. Therefore, if timber [is taken], the property would fall under the municipal property tax.

MR. GILMAN agreed with Representative Kerttula's understanding.

Number 2815

TIM NAVARRE, President, Kenai Peninsula Borough Assembly, testified via teleconference. He pointed out that the committee packet should include a resolution in support of HB 358. He informed the committee that U.S. Senator Ted Stevens has provided funding for both reforestation and salvage along the rights-of-way as well as for large parcels. Mr. Navarre echoed Mr. Oberts' suggestion to make the effective date January 1, 2001. Some areas that have already been cleared will face a taxable situation if this legislation isn't retroactive to January 1, 2001. Mr. Navarre said he would hate to penalize those people who partnered with the borough early on in addressing the spruce bark beetle problem.

REPRESENTATIVE MURKOWSKI inquired as to how spruce bark beetles travel because the map in the packet illustrates that these beetles have managed to migrate across the inlet.

Number 2957

REPRESENTATIVE KERTTULA referred to an article in the March [2001] edition of the Alaska Magazine. The article discusses the belief that the spruce bark beetle [infestation] is due to a climate change. Before the spruce bark beetle can fly, the temperature must be 60 degrees Fahrenheit. Representative Kerttula seemed to believe that being next door to an infested lot would be a high risk. She noted that there are some other problems in Southeast Alaska.

REPRESENTATIVE MURKOWSKI inquired as to how the spruce bark beetles travel across the inlet.

REPRESENTATIVE KERTTULA said she imagined that the beetles are there already and thus if the climate heats up, there will be problems.

REPRESENTATIVE CHENAULT referred to a map included in the committee packet. The map illustrates that the infestation is across Cook Inlet, in the Copper Valley, as well as around Haines. Although Representative Chenault felt that the spruce bark beetle moves via flight, he did believe that the beetle moves in other ways such as salvage firewood sales.

TAPE 02-6, SIDE B

MR. JAHNKE agreed with Representative Kerttula's comments regarding how the spruce bark beetle moves. These beetles are very small and move with the wind. A significant number of beetles can be blown a fair distance. Additionally, the host has to be such that the spruce bark beetle can be effective in killing the trees and the beetle growing in numbers.

Number 2988

CO-CHAIR MEYER noted that the spruce bark beetle is a problem in Anchorage as well. Therefore, he supported HB 358. He asked if there is any way to kill the spruce bark beetle before it spreads throughout the state. He also asked if the Kenai Peninsula is receiving any federal [funds] to spray and stop the migration or increase of the beetles.

REPRESENTATIVE CHENAULT answered that the Kenai Peninsula has received some federal funds. He related his belief that there are some chemicals that can be used if the infestation is caught early on. However, he said that the infestation on the Kenai Peninsula is such that spray won't help.

CO-CHAIR MEYER noted his understanding that there is some concern regarding the chemical that is used.

MR. JAHNKE pointed out that the spruce bark beetle lives most of its life underneath the bark of the tree or in the ground, and therefore it's difficult to spray and kill the beetle. He noted that there are some sprays that can be applied to the trunks of trees that haven't yet been infested and thus prevent the beetle from infesting the tree. "Spraying to kill the beetle itself and lower populations really isn't effective," he specified.

Number 2897

CO-CHAIR MEYER inquired as to the best course of prevention against the spruce bark beetle.

MR. JAHNKE said that most believe that maintaining a healthy forest, and not allowing forests to develop in stands that are susceptible to the beetle is the best prevention. Stands susceptible to the beetle are those that are overcrowded with large numbers of spruce and old [spruce].

REPRESENTATIVE MURKOWSKI asked if a really long, cold, hard winter would kill the spruce bark beetle.

MR. JAHNKE answered that he believes there are certain weather conditions that can cause the populations to decline. Mr. Jahnke explained that spruce bark beetles are an endemic insect, exist all the time. Therefore, the combination of the right place to live and the appropriate weather causes an explosion to the point of infestation. Although a really cold winter would have some impact, it would only be a limited impact because the beetles in the duff.

Number 2807

CO-CHAIR MEYER noted that he some of these [spruce bark beetles] in his backyard. Co-Chair Meyer inquired as to whether Alaska is behind in regard to forest management practices that would attempt to beat the spread of the spruce bark beetle [infestation].

MR. JAHNKE remarked that Co-Chair Meyer's question is very complex. He informed the committee that the infestation is declining significantly, which he mainly attributed to the lack of host spruce in the stands necessary to maintain the infestation. He acknowledged that there are some natural reasons why spruce has developed the way it has in the Kenai Peninsula, the Anchorage bowl, and the Taku River. Personally, Mr. Jahnke said he felt it would've been difficult for a treatment to prevent the infestation.

CO-CHAIR MORGAN, hearing no further public questions, closed the public testimony.

Number 2701

REPRESENTATIVE KERTTULA [moved] that HB 358 be amended to be retroactive to January 1, 2001. She noted that it is a conceptual amendment. [There being no objection, the conceptual amendment [Amendment 1] was adopted].

REPRESENTATIVE MURKOWSKI pointed out that the language indicates that a municipality would've had to adopt an ordinance already in place by January 1, 2001, to take advantage of the proposed retroactive [effective date]. She asked if any municipality has [adopted such an ordinance].

REPRESENTATIVE KERTTULA suggested [adding language] allowing municipalities to enact ordinances that would retroactively grant [the property tax exemption]. She moved the aforementioned as a conceptual amendment, although she commented

that the committee might want to see this change [before reporting the bill out of committee].

Number 2563

REPRESENTATIVE KERTTULA moved to adopt the aforementioned amendment to conceptual Amendment 1. There being no objection, the amendment to Amendment 1 was adopted.

CO-CHAIR MORGAN announced that HB 358 would be held in order to review the language after the amendments are incorporated.

ADJOURNMENT

The House Community and Regional Affairs Standing Committee meeting took a brief at-ease at 9:11 a.m. in order to prepare for the presentation from the Alaska Native Health Board. [Minutes pertaining to that presentation can be found under the minutes for 9:30 a.m. of the same date.]