

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

March 28, 2002  
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 Beth Kerttula

**MEMBERS ABSENT**

Representative Gretchen Guess

**COMMITTEE CALENDAR**

SENATE BILL NO. 337

"An Act relating to eligibility for an exemption from municipal property taxes for certain seniors and disabled veterans."

- MOVED HCS SB 337(CRA) OUT OF COMMITTEE

HOUSE BILL NO. 455

"An Act relating to the assessment of farm or agricultural land for purposes of municipal taxation; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS ACTION**

BILL: SB 337

SHORT TITLE: ELIGIBILITY FOR MUNICIPAL TAX EXEMPTION

SPONSOR(S): FINANCE

Jrn-Date	Jrn-Page		Action
02/20/02	2263	(S)	READ THE FIRST TIME - REFERRALS
02/20/02	2263	(S)	FIN
02/28/02		(S)	FIN AT 9:00 AM SENATE FINANCE 532
02/28/02		(S)	Moved Out of Committee MINUTE(FIN)

03/01/02	2340	(S)	FIN RPT 7DP 2NR
03/01/02	2340	(S)	DP: DONLEY, KELLY, GREEN, AUSTERMAN,
03/01/02	2340	(S)	WILKEN, LEMAN, WARD; NR: HOFFMAN, OLSON
03/01/02	2341	(S)	FN1: ZERO(CED)
03/04/02		(S)	RLS AT 10:30 AM FAHRENKAMP 203
03/04/02		(S)	MINUTE(RLS)
03/04/02	2365	(S)	RULES TO CALENDAR 3/4/02
03/04/02	2367	(S)	READ THE SECOND TIME
03/04/02	2367	(S)	ADVANCED TO THIRD READING UNAN CONSENT
03/04/02	2367	(S)	READ THE THIRD TIME SB 337
03/04/02	2367	(S)	PASSED Y17 N3
03/04/02	2367	(S)	ELTON NOTICE OF RECONSIDERATION
03/06/02	2393	(S)	RECONSIDERATION NOT TAKEN UP
03/06/02	2394	(S)	TRANSMITTED TO (H)
03/06/02	2394	(S)	VERSION: SB 337
03/15/02	2538	(H)	READ THE FIRST TIME - REFERRALS
03/15/02	2538	(H)	CRA
03/28/02		(H)	CRA AT 8:00 AM CAPITOL 124

BILL: HB 455

SHORT TITLE: MUNICIPAL TAXATION OF AGRICULTURAL LAND

SPONSOR(S): REPRESENTATIVE(S) HARRIS

Jrn-Date	Jrn-Page		Action
02/19/02	2310	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2310	(H)	CRA
03/28/02		(H)	CRA AT 8:00 AM CAPITOL 124

**WITNESS REGISTER**

MARILYN WILSON, Staff  
to Senator Dave Donley  
Alaska State Legislature  
Capitol Building, Room 506  
Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the sponsor of SB 337.

STEVE VAN SANT, State Assessor  
Division of Community and Business Development

Department of Community & Economic Development (DCED)  
550 W 7th Avenue, Suite 1770  
Anchorage, Alaska 99501-3510  
POSITION STATEMENT: Testified on SB 337 and HB 455.

TIM ROGERS, Legislative Program Coordinator  
Municipality of Anchorage  
PO Box 196650  
Anchorage, Alaska 99519  
POSITION STATEMENT: Testified on SB 337.

KEVIN RITCHIE, Executive Director  
Alaska Municipal League  
217 Second Street  
Juneau, Alaska 99801  
POSITION STATEMENT: Testified on SB 337.

PETE FELLMAN, Staff  
to Representative John Harris  
Alaska State Legislature  
Capitol Building, Room 513  
Juneau, Alaska 99801  
POSITION STATEMENT: Testified on behalf of the sponsor of HB  
455.

**ACTION NARRATIVE**

TAPE 02-19, 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 Morgan, Meyer, Halcro, and Murkowski were  
present at the call to order. Representatives Scalzi and  
Kerttula arrived as the meeting was in progress.

SB 337-ELIGIBILITY FOR MUNICIPAL TAX EXEMPTION

CO-CHAIR MEYER announced that the first order of business would  
be SENATE BILL NO. 337, "An Act relating to eligibility for an  
exemption from municipal property taxes for certain seniors and  
disabled veterans."

Number 0109

MARILYN WILSON, Staff to Senator Dave Donley, Alaska State  
Legislature, testified on behalf of the sponsor of SB 337, the

Senate Finance Committee. Ms. Wilson provided the following testimony:

Senate Bill 337 allows local governments to apply the same eligibility requirements as the Permanent Fund Dividend program to the senior citizen and disabled veteran property tax exemption program. This would give local governments more flexibility for determining who receives an exemption under the program. Originally, the cost of the program to local governments in lost property taxes was reimbursed by the state. Currently, the state provides no such compensation and this has put a tremendous financial burden on local government. The original intent of the property tax exemption was to encourage seniors and disabled veterans to remain in Alaska. Limiting its applicability to only those who really live here is common sense and good public policy.

Number 0203

REPRESENTATIVE MURKOWSKI inquired as to how many this would impact, of those taking advantage of this exemption.

MS. WILSON answered that she didn't know, but noted that [SB 337] would help [obtain that data].

CO-CHAIR MEYER related his understanding that this has been a priority for the Municipality of Anchorage for some time.

REPRESENTATIVE KERTTULA inquired as to why one would think there is a problem.

MS. WILSON deferred to the Alaska Municipal League.

REPRESENTATIVE KERTTULA remarked that she wasn't sure as to the size of this problem or "if this is even the group we should be starting with."

MS. WILSON pointed out that SB 337 merely provides an option.

REPRESENTATIVE HALCRO inquired as to whether the sponsor considered making this [exemption] a purely local option.

MS. WILSON reiterated that it is a local option.

REPRESENTATIVE KERTTULA related her understanding that currently the state law [requires] the exemption, while SB 337 would create a program that allows the local government the option to do more.

REPRESENTATIVE HALCRO clarified that he was referring to a pure local option in regard to whether [the local government] wants to extend the program or not.

Number 0512

STEVE VAN SANT, State Assessor, Division of Community and Business Development, Department of Community & Economic Development (DCED), testified via teleconference. Mr. Van Sant echoed Ms. Wilson's earlier answer that there really isn't any knowledge as to how many this will impact. He explained that in order to obtain a permanent fund dividend (PFD) one has to live in the state for a certain amount of time. Under the senior citizen exemption, as long as the senior citizen or disabled veteran purchases their property and lives in it prior to the first day of January, those people would be eligible for the exemption. Therefore, [SB 337] would change that in some cases.

REPRESENTATIVE MURKOWSKI inquired as to how the timing on this would work. Assessments arrive in February and the PFD application is due on April 1st. Therefore, if SB 337 is enacted, she wondered whether the timing would work.

MR. VAN SANT said that he hadn't given any thought to that. However, he noted that there would be a problem due to the delay of the PFD. Typically, the Assessor's office looks at what occurred in the past. That is, is the individual [in the house] prior to January 1. Therefore, if the language referred to the prior year rather than the same year, that would be resolved.

REPRESENTATIVE MURKOWSKI pointed out that the individual would have to be present in the prior year in order to meet the PFD eligibility requirements. Representative Murkowski said Mr. Van Sant's suggestion for language referring to the prior year may resolve the problem.

Number 0733

MS. WILSON informed the committee that she spoke with Tamara Cook, Director, Legal and Research Services Division, Legislative Affairs Agency, in regard to this matter. Ms. Cook's response is: "If eligibility is not determined before

property taxes are due to the municipality, the property owner must pay taxes on time. And when the eligibility process is completed and the owner is determined eligible for exemption, the municipality must refund the already paid taxes." Therefore, this would cover the overlap between the due date of the property taxes and the eligibility for exemption process.

REPRESENTATIVE MURKOWSKI agreed that the aforementioned rebate would be one option, although it would require the senior citizen or disabled veteran to come up with the payment. However, she pointed out that having the exemption based on the eligibility for the prior year would be another option.

Number 0849

REPRESENTATIVE HALCRO pointed out that whenever this issue is discussed with local communities the local communities say that if [the legislature] isn't going to fund it, then the local communities should be provided the ability to either eliminate the [exemption] or customize it for the community's needs. This bill stops short of that. Representative Halcro inquired as to whether there has been discussion of making this exemption purely a local option.

MR. VAN SANT acknowledged that there has been discussion of that in the past, although that discussion hasn't lead anywhere. This [exemption program] is a \$30 million a year program that hasn't been funded for the last several years. This legislation provides another tool for a municipality to use in determining eligibility.

Number 0973

TIM ROGERS, Legislative Program Coordinator, Municipality of Anchorage, testified via teleconference. Mr. Rogers informed the committee that the genesis of [SB 337] came from a 1997 position paper written by the Anchorage Senior Citizens Advisory Commission. At the time, the commission recognized that there was a loophole that people were taking advantage of, and therefore they recommended closing it out. The commission pointed out that a number of other programs, such as the longevity program, had more stringent residency requirements. Therefore, the commission recommended that the property tax exemption do the same.

MR. ROGERS informed the committee that currently the [Municipality of Anchorage] exempts about \$18.2 million a year

in senior citizen and disabled veteran exemptions. In comparison, the [Municipality of Anchorage] receives \$10.4 million in safe communities and revenue sharing. Clearly, the amount the municipality is exempting for senior citizens far outweighs the amount of funding received from the state for the safe communities and revenue sharing program.

MR. ROGERS turned to an earlier question regarding the magnitude of this issue. A cross-check of the PFD records and the senior citizen exemptions pointed out that approximately 5 percent of those applying for the senior citizen exemption haven't applied for the PFD. Although that doesn't mean that all [of that 5 percent] would be ineligible with the passage of SB 337, it doesn't mean that a fair amount of people are taking advantage of the loophole. Mr. Rogers pointed out that SB 337 will simplify the application process. Furthermore, the retroactivity mentioned by Representative Murkowski would probably be a good amendment, he said.

Number 1149

REPRESENTATIVE SCALZI inquired as to how an individual's primary place of residence is determined with senior exemptions. He noted the problem the Kenai Peninsula has with second homes.

MR. VAN SANT informed the committee that several years ago the Alaska Association of Assessing Officers drafted a standard for the senior citizen exemption. Although this is a voluntary standard, some municipalities have adopted it in code. The Kenai Peninsula Borough has adopted that standard in code. Mr. Van Sant explained that the standard says that in order for a location to be a primary residence, that individual has to live at the location for 185 days a year. He noted that Anchorage hasn't adopted the standard.

Number 1260

REPRESENTATIVE MURKOWSKI recalled that Mr. Rogers mentioned that with the passage of SB 337 the application process would be easier because the PFD application would merely have to be referenced. However, the [bill] also provides that an individual [would receive the exemption] if the individual would have been eligible for the dividend had that individual applied. Therefore, there seems to be an additional step because steps have to be taken to confirm that an individual who didn't apply would've qualified under the eligibility statutes.

MR. ROGERS reiterated that [only] 5 percent of the people haven't applied for a PFD. Although it may be a little more complex for the 5 percent, it will be a very simple process for the majority of people who apply. In further response to Representative Murkowski, Mr. Rogers agreed that there would be an additional way for an individual to apply for the exemption had that individual not applied for the PFD.

MR. VAN SANT highlighted the fact that recently the legislature passed a bill that allows municipalities to accept one application, the initial application, and thus the yearly application isn't required. In response to Representative Murkowski, Mr. Van Sant confirmed that the aforementioned legislation has passed both bodies. In fact, the Fairbanks North Star Borough has already adopted it.

Number 1444

KEVIN RITCHIE, Executive Director, Alaska Municipal League (AML), informed the committee that AML's Revenue Finance Committee has reviewed [SB 337] and feels that it's fair. Mr. Ritchie acknowledged that [SB 337] allows a local option, which is appropriate. Furthermore, he agreed with Mr. Rogers' comments regarding the overall administrative ease that [SB 337] brings.

REPRESENTATIVE KERTTULA restated her earlier question regarding the indications that this is really a problem.

MR. RITCHIE clarified that he wouldn't call this a problem. However, [SB 337] seems to make sense and is a fair eligibility requirement.

REPRESENTATIVE KERTTULA commented that she wasn't sure that the elderly is the appropriate group to do this with due to their travels in and out of the state. She asked if such was considered.

MR. RITCHIE pointed out that this would be discussed on the local level. Again, [SB 337] would merely grant municipalities a tool to discuss this issue. The provision in SB 337 which allows [the exemption] to those who have applied for a PFD or those who would've been eligible for the PFD allows flexibility.

CO-CHAIR MEYER recalled from Mr. Rogers' testimony that the senior organizations want SB 337.

Number 1603

REPRESENTATIVE MURKOWSKI related that she has heard talk that some individuals bring their elderly up from the [Lower 48] and thus abuse the exemption requirement. She asked if there is evidence that such abuse is occurring; and if so, has that been an instigator for this legislation.

MR. RITCHIE answered that he didn't know how pervasive the problem is, and thus deferred to Mr. Van Sant for specific numbers.

MR. ROGERS acknowledged that he has heard the same rumors. However, resources to do investigation of these aren't available nor is there the intention [to investigate these]. Occasionally, upon a citizen's complaint, an investigation will occur. However, there isn't much that can be done when kids live with their elderly parents under whose name the house is registered.

MR. VAN SANT said that statewide there are several hundred [situations in which the children of an elderly parent live with the elderly parent]. The position of the Assessor's office is that there is nothing in the law that prohibits parents from having their children living with them. Therefore, the exemption is allowed.

Number 1754

REPRESENTATIVE MURKOWSKI related her belief that concern would arise if one owns a house for 15 years, and suddenly the individual brings their elderly parents to town and changes the title to the elderly parents' name and then applies for the exemption.

MR. VAN SANT related his belief that most assessors find that the numbers of those instances are very small. Although the statutes include language allowing the assessor to investigate and take action, proving [the aforementioned abuse] is difficult.

Number 1819

CO-CHAIR MORGAN returned to the issue of a second home. He asked if the aforementioned 185-day requirement refers to 185 days in the state or 185 in residency.

MR. VAN SANT explained that the standard requires that the individual live on the property for 185 days a year in order to maintain that property as the primary place of residence.

CO-CHAIR MORGAN surmised then that technically, [a senior citizen] can be exempted from both residences.

MR. VAN SANT pointed out that 185 days is just over half a year. Therefore, if one could count the days exactly, which can't be done, the individual would have to live in one residence for 185 days. Therefore, the individual couldn't [obtain the exemption] for both residences.

MR. ROGERS, in response to Co-Chair Morgan, explained that eligibility for the PFD allows one to be out-of-state for 90 days or 180 days under certain circumstances. He noted that there are specific exemptions such as military service that allow an individual to receive a PFD even when out of state for an entire year.

Number 1949

CO-CHAIR MEYER noted that the committee packet includes a resolution from the Anchorage Assembly in support of SB 337. He inquired as to the driving force behind SB 337.

MR. ROGERS answered that the following three different forces are involved. First, [SB 337] is a belated action in response to the Senior Citizens Advisory Commission position paper. Second, SB 337 closes a small loophole in residency requirements. Third, [SB 337] provides another tool to simplify the process for senior citizens.

Number 2032

REPRESENTATIVE KERTTULA related her understanding that currently, one has to be at a residence for 185 days in order to obtain the exemption. If this is changed to require PFD eligibility, then there is the possibility that with the specific allowances of the PFD an individual could obtain this property tax exemption without being in the state.

MR. ROGERS agreed with Representative Kerttula's scenario. He pointed out that in Anchorage the eligibility requirement [for the property tax exemption] is 30 days a year.

MR. VAN SANT reiterated that the Alaska State Assessor's Association standard is a voluntary standard. In further response to Representative Kerttula, Mr. Van Sant recalled that only two communities have adopted this voluntary standard.

REPRESENTATIVE MURKOWSKI restated her earlier question in regard to how an individual would be able to claim the exemption. She explained that the assessments are based on ownership as of January 1 of that year, while the residency requirement for the PFD application is for the prior year. Earlier the rebate option was discussed. However, discussion has resulted in the suggestion that SB 337 could be based on eligibility for the prior year. Representative Murkowski inquired as to Senator Donley's preference.

Number 2204

SENATOR DAVE DONLEY, Alaska State Legislature, announced that he would like to provide local governments the option to do either. Therefore, he had no objection to amending the bill to refer to the prior year for eligibility.

Number 2294

REPRESENTATIVE MURKOWSKI moved that the committee adopt Amendment 1, which reads as follows:

Page 1, line 7, after "or"  
Insert "the prior year"

REPRESENTATIVE SCALZI recalled that there have been senior citizens who have inadvertently not filed, which resulted in filing a rebate for five years worth of [exemptions]. Therefore, allowing the [prior year] would be helpful to municipalities.

REPRESENTATIVE HALCRO commented that SB 337 is a good bill. However, this issue will continue to return to the legislature until the legislature takes a position in regard to whether it will fund the program, repeal the program, or give it to the local communities.

CO-CHAIR MEYER announced that Amendment 1 was adopted.

Number 2449

REPRESENTATIVE MCGUIRE moved to report SB 337 as amended out of committee with individual recommendations and the accompanying

zero fiscal note. There being no objection, HCS SB 337(CRA) was reported from the House Community and Regional Affairs Standing Committee.

The committee took a brief at-ease from 8:48 a.m. to 8:50 a.m.

HB 455-MUNICIPAL TAXATION OF AGRICULTURAL LAND

CO-CHAIR MORGAN announced that the final order of business would be HOUSE BILL NO. 455, "An Act relating to the assessment of farm or agricultural land for purposes of municipal taxation; and providing for an effective date."

Number 2518

PETE FELLMAN, Staff to Representative John Harris, Alaska State Legislature, testified on behalf of the sponsor of HB 455. Mr. Fellman informed the committee that in other states agricultural land is clearly tax exempt land. Furthermore, in most cases, the buildings on agricultural land are tax exempt as well. Other states have recognized that the ability to make a living on land is subject to how much the land can produce, which Alaska must recognize as well. In Alaska, agricultural land is restricted to agricultural use. However, that already restricted land hasn't received any tax exemptions.

MR. FELLMAN explained that in the current statute [for agricultural restricted land], 10 percent of the income is required to come from agriculture in order to qualify for the land to be evaluated on a yearly basis. Therefore, the problem is how to make that 10 percent when this land is in trees and thus requires clearing, which could cost upwards of \$30,000 in one year. Mr. Fellman questioned how one can show a 10 percent income when performing any of the clearing [requirements] for agricultural land that isn't yet farmable. The current statute requires that each year [an agricultural restricted land owner] must apply for their property to be evaluated. However, this land is already restricted for agricultural use and thus why would the evaluation process be necessary each year. Therefore, HB 455 would remove the requirement for the annual application for evaluation.

MR. FELLMAN recognized concerns with the possibility of someone purchasing [agricultural restricted land] that has a large house on it and the land is leased out. Mr. Fellman specified that HB 455 isn't requiring anything nor does it exempt buildings. The legislation merely allows the farmer to approach the borough

with what he/she makes on the land and request that the tax rate be adjusted within the borough.

Number 2770

CHAIR MURKOWSKI asked whether there is a difference between farm use land and agricultural use land.

MR. FELLMAN explained that prior to SB 109, agricultural [restricted] land was allowed to have one building site and the land couldn't be divided. After SB 109, the land can be divided to a specified level and a fee simple title can be acquired, although the agricultural covenant would remain. If one were to pay their land off and obtain the title to the land, then the owner could have a fee simple title with an agricultural covenant. He pointed out that most of the [agricultural] land in Alaska hasn't been paid off and thus falls under the old agricultural restrictions.

REPRESENTATIVE MURKOWSKI surmised then that the difference between farm use land and agricultural use land is related to ownership of the land.

MR. FELLMAN clarified that it is related to the varying degree of the restriction the land is under.

Number 1873

REPRESENTATIVE SCALZI informed the committee that [in his district] there was an individual who wanted his land classified as agricultural land. Upon the assessor's review of the land, the land had a small strawberry patch although the owner wanted a large forested parcel exempted as an agricultural lease. Therefore, the 10 percent requirement was established in order to ensure that the agricultural leases are agricultural leases.

MR. FELLMAN said that it would depend upon whether the land was restricted to agricultural use or whether it was fee simple land. If the land was fee simple land without an agricultural restriction, then the borough ...

TAPE 02-19, SIDE B

MR. FELLMAN continued by expressing the need to allow people the chance to develop [agricultural restricted land]. Mr. Fellman said that these decisions could be left in the hands of the

borough assembly or tax assessors, which is what is desired with HB 455.

REPRESENTATIVE SCALZI pointed out then that is why the yearly assessment would be necessary, in order to ensure that the land is being used for agricultural purposes.

MR. FELLMAN informed the committee that agricultural restricted land in Alaska has a five year clearing requirement, and one must show production.

CO-CHAIR MEYER posed a situation in which he owned 80 acres in Palmer that he put cows on after clearing the land for pasture. As Palmer grows around that farm and the land values rise around that farm, then the [borough] would be losing the revenue it could've obtained through the taxes. Could the farmer, after five years [or so] reclassify the land and develop the land as a subdivision, he asked.

MR. FELLMAN answered no because the land is restricted agricultural land. Mr. Fellman pointed out that the increase in land values around the farm doesn't increase the farmer's ability to make a living on the land. If the land is classified as restricted agricultural land, then it can't be changed. Statute changes would be required in order to eliminate the agricultural restriction.

CO-CHAIR MORGAN announced that HB 455 would be held.

#### **ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:05 p.m.