

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

April 2, 2002  
8:10 a.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Representative Andrew Halcro  
Representative Gretchen Guess

**COMMITTEE CALENDAR**

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."

- MOVED CSHB 455(CRA) OUT OF COMMITTEE

**PREVIOUS ACTION**

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
03/28/02		(H)	Heard & Held
03/28/02		(H)	MINUTE(CRA)
04/02/02		(H)	CRA AT 8:00 AM CAPITOL

**WITNESS REGISTER**

JOHN TOBIN  
(No address provided)

POSITION STATEMENT: Urged passage of HB 455.

RON ILLINGWORTH

(No address provided)

POSITION STATEMENT: Testified that HB 455 would simplify the process.

ROBERT WELLS, Director

Division of Agriculture

Department of Natural Resources

1800 Glenn Highway, Suite 12

Palmer, Alaska 99645-6736

POSITION STATEMENT: Testified on HB 455.

PETE FELLMAN, Staff

to Representative John Harris

Alaska State Legislature

Capitol Building, Room 513

Juneau, Alaska 99801

POSITION STATEMENT: Answered questions on behalf of the sponsor of HB 455.

STUART DAVIES

1606 Roosevelt

Fairbanks, Alaska 99709

POSITION STATEMENT: Urged passage of HB 455.

STEVE VAN SANT, State Assessor

Division of Community and Business Development

Department of Community & Economic Development

550 W 7th Avenue, Suite 1770

Anchorage, Alaska 99501-3510

POSITION STATEMENT: Answered questions.

#### **ACTION NARRATIVE**

TAPE 02-20, SIDE A

Number 0001

CO-CHAIR CARL MORGAN called the House Community and Regional Affairs Standing Committee meeting to order at 8:10 a.m. Representatives Morgan, Meyer, Scalzi, and Kerttula were present at the call to order. Representative Murkowski arrived as the meeting was in progress.

HB 455-MUNICIPAL TAXATION OF AGRICULTURAL LAND

CO-CHAIR MORGAN announced that the only 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 0074

JOHN TOBIN testified via teleconference and informed the committee that he owns 40 acres of restricted agricultural land off of Eielson Road. He requested that the committee help with the passage of HB 455. He informed the committee that his land assessment from the Fairbanks North Star Borough has increased by almost five-fold in the last two years, which makes it [impossible] to be self-sufficient. [This is the case for many farmers on Eielson Road.] Mr. Tobin urged the committee to pass HB 455.

Number 0317

RON ILLINGWORTH testified via teleconference and informed the committee that he is also a farm owner on the Eielson Road project. He pointed out that the state established an agricultural project and restricted land so that it can only be used for agricultural purposes. He explained that he had to put a certain percentage of the land, which was established by the Division of Agriculture, into production. In his case, over 50 percent of the land had to be placed into production. That land had to be available for agricultural use and continues to have agricultural covenants. Therefore, he questioned why that land should be taxed as if it could be used in some other manner. He also questioned why separate applications for an agricultural exclusion must be made on forms designed to give an agricultural exemption to people who don't live on land with state agricultural covenants. Mr. Illingworth concluded by saying that HB 455 would simplify the process and eliminate unnecessary applications for individuals who already own agricultural land. Furthermore, it would allow for a tax base that reflects the only use allowed for [restricted agricultural land].

Number 0572

ROBERT WELLS, Director, Division of Agriculture, Department of Natural Resources, acknowledged that the division has heard many of the same concerns already expressed to the committee this morning. He noted that he has been working with the sponsor to make the process simpler, while recognizing that those lands with an agricultural covenant or restriction are in fact

restricted to that. There was never the intention for this to fall under the application system that is being addressed with this legislation. He mentioned that the division has also worked with the state assessors because the process needs to work for them as well. He acknowledged that the division is aware that in some cases, the application process isn't being utilized properly by some. Therefore, the division wants to work with the legislature and the assessors to close any of the loopholes. Mr. Wells related that HB 455 simply lets people know that once restricted agricultural land is purchased those lands have clearing requirements. However, these folks shouldn't have to go through the annual application process with the borough.

Number 0744

REPRESENTATIVE KERTTULA posed a situation in which land with an [agricultural] covenant is sold. She asked if "they" would have to pay seven years in back taxes to the state. She requested that Mr. Wells explain the covenants.

MR. WELLS answered that once the land is designated as agriculturally restricted, that restriction remains with the land. Therefore, if the land were sold it would still remain subject to the agricultural covenant. Mr. Wells explained that selling land and paying back taxes to the borough only relates to fee simple land that doesn't have an agricultural restriction. As long as the land owners were farming, they would have been applying on an annual basis. However, once the farming was discontinued, the land owner could be subject to back taxes from the municipal government. Mr. Wells didn't see a case where that would come in to play with agricultural restricted land sold by the state.

Number 0875

REPRESENTATIVE KERTTULA recalled legislation sponsored by Senator Green, legislation that allowed a less restrictive sale and division of the land.

PETE FELLMAN, Staff to Representative John Harris, Alaska State Legislature, explained that there are three different types of land. First, there is fee simple land that is voluntarily being used for agriculture. Second, there is land restricted by the state for use only for agriculture. Third, there is also land, land with an agricultural covenant, for which a patent has been applied and received under SB 109 by Senator Green. Under the

latter type of land the agricultural covenant stays with the land. That covenant allows for division of the land into parcels no less than 40 acres.

REPRESENTATIVE KERTTULA turned to the land with the agricultural covenant that can be divided. She asked if that would fall under the ambit of SB 109.

MR. FELLMAN reiterated that the land addressed in SB 109 can't be divided into parcels less than 40 acres. Still, the land has an agricultural restriction. On the other hand, fee simple land with no agricultural covenant or restriction still requires that paperwork be filled out to show that [the owner] is making income from farming that fee simple land. If one were to sell their land after making [and receiving] an application for this exemption and they could show [income] from farming, then the [owner] would have to pay the back taxes.

REPRESENTATIVE KERTTULA asked if the [agricultural] covenant would remain with the land that under SB 109 can be divided.

MR. FELLMAN replied yes. In further response to Representative Kerttula, Mr. Fellman answered that originally all the [agricultural] land [identified by the state] only allowed one building site and the land couldn't be divided to a parcel less than what was originally received.

REPRESENTATIVE KERTTULA related her understanding then that under HB 455 the [owner of the] third type of land doesn't have to go back to the assessor.

Number 1123

STUART DAVIES testified via teleconference. He began by informing the committee that he farms and owns 160 acres in the Fairbanks North Star Borough. Mr. Davies explained that he purchased the farm in 2000 knowing it had a agricultural covenant restricting the use of this land for agricultural purposes. He pointed out that his borough taxes have increased 273 percent in 2000 and 94 percent in 2002, which amounts to the current assessed value being \$400 per acre. The borough assessor says that such an assessment is comparable to the sale of other land in the borough. However, the borough doesn't acknowledge the differences between fee simple title property and agricultural restricted land. Furthermore, the assessor is requesting that he apply for a farm use exemption in order to receive a reduced assessment, which Mr. Davies viewed as

redundant per the agricultural restriction placed on the land by the state. Mr. Davies pointed out that currently he doesn't meet the income qualifications of this exemption, which states that he must earn 10 percent of his gross income [from farming] in order to qualify. The amended language in AS 29.45.060 will correct these inequities and require land restricted by the state to be assessed on its potential for farm use.

MR. DAVIES related his belief that the state's intent when it created agricultural restricted land was to develop and promote agriculture in the state. By amending AS 29.45.060 to include land restricted for agricultural use, the committee will send a strong message that farming is viable in Alaska as an economic entity. Mr. Davies urged passage of HB 455 because it will enable him to make future plans for improvements on his farm.

MR. DAVIES turned to the third type of land that has been discussed. He specified that he didn't believe there is a third type of land, but rather SB 109 simply allowed owners of agricultural restricted land to subdivide up to four times with the parcels being no less than 40 acres.

CO-CHAIR MORGAN closed public testimony.

Number 1377

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

Page 1, line 1:  
Delete "**farm or**"  
Insert "**certain**"

Page, 2, line 5:  
Delete "for farm use in accordance with this section"  
Insert "based upon that restricted use"

There being no objection, Amendment 1 was adopted.

Number 1416

STEVE VAN SANT, State Assessor, Division of Community and Business Development, Department of Community & Economic Development (DCED), explained that currently Alaska doesn't value farm land based on its potential production, which some states do. In Alaska, assessors utilize the market sales of

these [agricultural restricted] lands in order to establish these values. The [assessor's office] views these restricted properties as a different animal than some of the different agricultural land. The farm land for which the owner applies for and receives the deferment under AS 29.45.060 is land that is required to be farmed such that income is derived from it. He posed an example in which the farm land is selling or valued around \$400 an acre, while the restricted lands are selling around \$500-\$600 an acre. Mr. Van Sant related his belief that the land can be subdivided and home sites placed on each subdivided parcel. The proposed amendment lets everyone know that the assessable value of these lands based on those restricted values will be different than those under AS 29.45.060, to some extent. Once these lands are farmed, the values will probably come in line with the other values [for farm land].

Number 1591

REPRESENTATIVE MURKOWSKI inquired as to how HB 455 will work. She recalled the testimony regarding significantly increased assessments. She asked if the assessment is based on the restricted use [of the land], would the restricted use be taken into account such that the assessment would be revised for the past several years.

MR. VAN SANT replied no. He explained that the assessments that he has heard seem to be in the ballpark of what the farm land is selling for and thus he wouldn't see any need for revision.

REPRESENTATIVE KERTTULA posed a situation in which a person purchases a restricted use land, then the assessor will value the property based on the restrictions. Therefore, the valuations wouldn't change. [Under HB 455,] the owner wouldn't have to come in and file with the assessor's office.

MR. VAN SANT agreed with Representative Kerttula's understanding.

Number 1716

REPRESENTATIVE KERTTULA asked if there is a Mat-Su Borough case regarding the 10 percent income requirement for fee simple land.

MR. VAN SANT answered that any participant of this program under AS 29.45.060 will have to derive 10 percent of their income from the farming of the land in order to participate in the program.

REPRESENTATIVE KERTTULA posed a situation in which a person farms the land for 60 years, but doesn't farm it the 61st year. She inquired as to how the land would be valued on the 61st year.

MR. VAN SANT specified that as long as the use hasn't changed, the owner wouldn't have to repay the past seven years. What matters is what they do after that. If the owner doesn't apply for the [exemption] and the land is fee simple, then the land value would likely return to the full value of the possible uses of the property. Therefore, the value could dramatically increase.

Number 1829

CO-CHAIR MEYER pointed out that cities often grow up around existing farm land and thus the farm land would be more valuable for development versus for farming. He related his understanding that the status of the farm land can be changed, but the assessed back taxes would have to be paid.

MR. FELLMAN reiterated that if the land has an agricultural restriction, it doesn't change. However, when the land is paid off and a patent is received, the [owner], under SB 109, can obtain an agricultural patent with a covenant. The covenant, and its requirements, never change. Mr. Fellman explained that the [owner of] fee simple land that is being farmed can use the application process. If this fee simple land becomes surrounded by a city and the land isn't restricted, that land could be divided and sold - depending upon the circumstances in the borough. However, that [land owner] would be responsible for seven years of back taxes on that fee simple land.

MR. FELLMAN, in further response to Co-Chair Meyer, explained that SB 109 made changes such that agricultural restricted land remains agricultural land with a covenant. With SB 109, there would be agricultural restricted land with a title/patent that could be taken to the bank in order to obtain a loan based on the equity [in the land]. Still, there have been very few banks that have been willing to lend on land that has been restricted as agricultural land. Moreover, although the land may be appraised at a certain value, if the land owner can't borrow against that appraised value, what good is it, he asked.

Number 2079

MR. VAN SANT explained that AS 29.45.060, the farm use deferment program, is designed specifically to address those farms that are situated on the borders of cities where there is pressure to sell land so that it can be developed into subdivisions. Those farms will remain at the farm value, and if those farms don't produce much more, then the chances are that the values won't increase. Under the agricultural restricted property, if there is a situation in which land is scarce, then those parcels may go up in value because there is no requirement to farm those parcels. He noted that there is a clearing requirement. However, he specified that the agricultural restricted property would never rise to the value of the fee simple land because the property can't be divided smaller than 40 acre parcels. He, too, noted that the owner of the fee simple land would be required to pay seven years back taxes whereas the value of the agricultural restricted land would be whatever the market dictates.

CO-CHAIR MEYER inquired as to the difficulty in moving from state restricted land to covenanted land.

MR. FELLMAN pointed out that the owner would have to pay off the land first. When one applies for a patent, the owner also fills out paperwork for the agricultural covenant. Therefore, the land would have an agricultural covenant. He noted that some people have paid off their land, but haven't applied for the patented agricultural land.

Number 2196

CO-CHAIR MEYER asked whether the farm land is assessed with different values based on whether there is irrigation or not.

MR. VAN SANT said that the market drives [the value]. Obviously, if a farm has more amenities, then one would probably pay more for that property. The irrigation would come into play with regard to the improvement value, which is added later. Therefore, an assessor/appraiser reviews similar property in the area to drive the value. In further response to Co-Chair Meyer, Mr. Van Sant explained that all property in the borough is assessed every year.

Number 2260

REPRESENTATIVE MURKOWSKI related her impression that HB 455 could keep in check the rising assessments on agricultural [restricted] land. However, Mr. Van Sant said that isn't

necessarily the case. Still, the letters of endorsement express the need to pass HB 455 because of the increased assessments and the need to keep that in check.

MR. FELLMAN explained that by removing the requirement to apply every year, the hope is to open the door so that those owning land can go to the borough and have their land evaluated. There is no attempt to set a tax rate. This attempts to clarify that the land has an agricultural restriction and thus doesn't have to make this application each year in order to decide that the land has an agricultural restriction. Therefore, the farmers will be involved in the process and have their land appraised such that it [recognizes] the agricultural restriction.

REPRESENTATIVE KERTTULA remarked that [HB 455] seems to be a good start. She reported that she may have a conflict of interest due to her parents' land that is situated on a municipality's boundary. Representative Kerttula expressed the need to review the assessments and determine whether the next step should be taken [in order to address rising assessments].

MR. FELLMAN mentioned that he and Mr. Van Sant have spoken and have invited anyone interested to become involved in the process in order to lay out some clear guidelines in this state. As a whole, the nation has a variety of policies regarding taxation of agricultural land.

CO-CHAIR MORGAN noted that Amendment 1 had been adopted.

Number 2462

CO-CHAIR MEYER moved to report HB 455 as amended out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 455(CRA) was reported from the House Community and Regional Affairs Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:46 a.m.