

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

April 8, 2003
8:07 a.m.

MEMBERS PRESENT

Representative Carl Morgan, Chair
Representative Kelly Wolf, Vice Chair
Representative Pete Kott
Representative Tom Anderson
Representative Ralph Samuels
Representative Sharon Cissna
Representative Albert Kookesh

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 209

"An Act relating to municipal property tax adjustments for property affected by a disaster."

- MOVED CSHB 209(CRA) OUT OF COMMITTEE

HOUSE BILL NO. 216

"An Act relating to municipal taxation of refined fuel products."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 209

SHORT TITLE:MUNI.TAX: PROPERTY AFFECTED BY DISASTER

SPONSOR(S): REPRESENTATIVE(S)CHENAULT

Jrn-Date	Jrn-Page		Action
03/24/03	0617	(H)	READ THE FIRST TIME - REFERRALS
03/24/03	0617	(H)	CRA, FIN
04/07/03	0831	(H)	COSPONSOR(S): WOLF
04/08/03		(H)	CRA AT 8:00 AM CAPITOL 124

BILL: HB 216

SHORT TITLE: MUNI TAXATION OF REFINED FUEL PRODUCTS

SPONSOR(S): LABOR & COMMERCE

Jrn-Date	Jrn-Page		Action
03/26/03	0641	(H)	READ THE FIRST TIME - REFERRALS
03/26/03	0641	(H)	CRA, FIN
03/26/03	0641	(H)	REFERRED TO CRA
04/08/03		(H)	CRA AT 8:00 AM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE MIKE CHENAULT

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 209.

KEVIN RITCHIE, Executive Director

Alaska Municipal League

Juneau, Alaska

POSITION STATEMENT: Testified in support of the concept embodied in HB 209 and expressed concern that the intent of HB 216 isn't accomplished very well with the current legislation.

DAN BOCKHORST, Local Boundary Commission

Division of Community and Business Development

Department of Community & Economic Development

Anchorage, Alaska

POSITION STATEMENT: Noted that DCED hasn't taken a position on HB 209.

ED OBERTS, Mayor's Assistant

Kenai Peninsula Borough Mayor's Office

Soldotna, Alaska

POSITION STATEMENT: Testified on HB 209.

JEFF COOK, Vice President

External Affairs

Williams Alaska Petroleum, Inc.

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 216.

JIM BOLTZ, Chief Operating Officer

Petro Star, Inc.

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 216.

ACTION NARRATIVE

TAPE 03-13, SIDE A

Number 0001

CHAIR CARL MORGAN called the House Community and Regional Affairs Standing Committee meeting to order at 8:07 a.m. Representatives Morgan, Wolf, Kott, Anderson, and Cissna were present at the call to order. Representatives Samuels and Kookesh arrived as the meeting was in progress.

HB 209-MUNI.TAX: PROPERTY AFFECTED BY DISASTER

CHAIR MORGAN announced that the first order of business would be HOUSE BILL NO. 209, "An Act relating to municipal property tax adjustments for property affected by a disaster."

Number 0130

REPRESENTATIVE MIKE CHENAULT, Alaska State Legislature, testified as the sponsor. He explained that the intent of HB 209 is to give boroughs the opportunity to provide tax breaks to owners in the event of casualty loss such as from a fire in the home. Representative Chenault said:

HB 209 will allow municipalities to provide a tax reduction for properties destroyed, damaged or otherwise reduced in value as a result of a disaster. A municipality can adopt, by ordinance, criteria for assessment or reassessment of the property values.

What this legislation is intended to do is to broaden the municipalities' authority to define "disaster" to include for example, a fire or flood that occurs within a home. It repeals Section 29.45.230(e). In this section "disaster" means a major disaster declared by the President of the United States under federal law or a disaster declared by the governor. Currently, there are other states: Arizona, California, Idaho, Mississippi, Pennsylvania, and South Dakota ... that currently provide pro-ration of taxes for casualty loss. Other states are currently considering similar legislation.

Number 0315

REPRESENTATIVE CISSNA inquired as to why this hasn't been done before.

REPRESENTATIVE CHENAULT said that he didn't know. He noted that he has been approached by [the Kenai Peninsula Borough]. Representative Chenault posed a situation in which an individual's taxes are due on the first of January and that individual's house burns on the fifth of January. Under HB 209, the borough could opt to pro-rate the individual's taxes based upon the number of months the house was livable. This is currently not allowed under state law and thus HB 209 would place this power in the hands of the borough where he indicated it should be.

REPRESENTATIVE ANDERSON inquired as to the current process with regard to a disaster.

REPRESENTATIVE CHENAULT reiterated that a disaster has to be declared by the President of the United States or the governor. He was not aware of any process by which boroughs could take into consideration an event [such as a fire] and declare it as a disaster. In response to Chair Morgan, Representative Chenault confirmed that HB 209 also includes municipalities.

Number 0561

KEVIN RITCHIE, Executive Director, Alaska Municipal League (AML), said that AML likes bills such as HB 209 because of its optional nature. Therefore, AML supports the concept embodied in HB 209, he said.

REPRESENTATIVE KOTT specified that HB 209 broadens the opportunities for municipalities and boroughs to declare property taxed at a reduced level based on the category of disaster, not natural disaster, as construed by municipalities or boroughs.

MR. RITCHIE agreed.

REPRESENTATIVE CISSNA restated her earlier question with regard to why this hasn't been done before.

MR. RITCHIE answered that he didn't know, although he noted that HB 209 provides the municipalities a broader hand to make decisions with regard to timing and standards for what constitutes a disaster.

Number 0691

REPRESENTATIVE KOTT asked if there could be a situation in which a homeowner has to pay taxes on real property that is no longer real, such as a house that burned and for which there is no value.

MR. RITCHIE said that he couldn't answer the question, although he offered his belief that it would be a matter of timing in the tax year.

Number 0832

DAN BOCKHORST, Local Boundary Commission, Division of Community and Business Development, Department of Community & Economic Development (DCED), answered Chair Morgan by saying that the department hasn't taken a position on the legislation.

Number 0848

ED OBERTS, Mayor's Assistant, Kenai Peninsula Borough Mayor's Office, informed the committee [that the borough] would like to have the flexibility to address smaller situations in which a single house or a few houses burn or are destroyed [after the assessed value and taxes have been determined by the local area government]. Under current statutes, [boroughs and municipalities] establish assessed values and taxes January 1st, but the billing occurs in the fall. Therefore, an individual who lost his/her house in the spring could receive a bill based on the assessed value of the house before its demise, although the house wouldn't have any value at that point. If the individual doesn't have insurance, the individual can't afford to rebuild a livable structure very quickly. Individuals in such situations come to the mayor and plea their case, although the mayor has no authority to grant an exception. This legislation attempts to provide flexibility to establish criteria in order to address the aforementioned situations.

REPRESENTATIVE KOTT directed attention to Section 2 of HB 209 and asked whether the requirement that the boroughs establish criteria for the reduction of taxes would cause any difficulty for the boroughs and municipalities. He also inquired as to the extent such would be accomplished.

Number 1003

MR. OBERTS remarked that the committee might want to consider changing the "shall" to "may" in Section 2.

REPRESENTATIVE WOLF inquired as to the sponsor's thoughts with regard to the suggestion to change "shall" to "may."

REPRESENTATIVE CHENAULT said that he believes boroughs and municipalities should be given all the options, without forcing a change. Therefore, he said he didn't have any "major heartburn" with such a change.

CHAIR MORGAN closed public testimony.

Number 1132

REPRESENTATIVE KOTT moved that the committee adopt Amendment 1, which read:

Page 1, line 10,
Delete "shall"
Insert "may"

REPRESENTATIVE KOTT explained that this change would provide the municipalities and boroughs with the greatest level of flexibility. He said, "I'm not really too keen on mandating something on an entity that is already suffering financially and we're adding one more layer of government."

There being no objection, Amendment 1 was adopted.

Number 1205

REPRESENTATIVE KOTT moved to report HB 209 as amended out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 209(CRA) was reported from the House Community and Regional Affairs Standing Committee.

HB 216-MUNI TAXATION OF REFINED FUEL PRODUCTS

CHAIR MORGAN announced that the final order of business would be HOUSE BILL NO. 216, "An Act relating to municipal taxation of refined fuel products."

Number 1260

REPRESENTATIVE ANDERSON, spoke on behalf of the House Labor and Commerce Standing Committee, the sponsor of HB 216. Representative Anderson explained that HB 216 clarifies local taxing authority for refined fuels sold both inside and outside of a local jurisdiction. Furthermore, HB 216 clarifies the local jurisdiction's right to tax any fuel consumed within its governmental boundaries, although local jurisdictions don't have taxing authority for value-added products refined for shipment and sale outside the local boundaries. He highlighted that clarification is also necessary in order to limit the number of entities that can tax fuel. Representative Anderson said that the clarification contained in HB 216 will benefit local governments. In noting the uncertainty in state law with regard to the authority to tax fuel, Representative Anderson referred to former Alaska Attorney General Avrum Gross's May 29, 2002, opinion for the Fairbanks North Star Borough. He urged the committee's support for HB 216 and concluded by noting that Representative Samuels may offer an amendment worthy of consideration so long as the amendment doesn't take away a federal mandate.

Number 1514

JEFF COOK, Vice President, External Affairs, Williams Alaska Petroleum, Inc., provided the following testimony:

Williams operates Alaska's largest refinery at North Pole near Fairbanks. In addition, Williams owns products and terminals in Fairbanks [International] Airport and at the Port of Anchorage. We operate 29 convenience stores in seven Alaska ... communities throughout Alaska. And we also own a 3 percent interest in the Trans-Alaska Pipeline. Since our refinery at North Pole came on-line just over 25 years ago, we have purchased a total of \$300 million barrels of crude oil from the State of Alaska royalty crude. Paying the state approximately \$5 billion dollars for that crude. Our refinery and the other refineries in Alaska have been a real value-added success story in Alaska's economy.

I am here to support HB 216 and the sponsor statement. And the comments by Representative Anderson provide an excellent summary of the reasons this bill should be supported. On June 25th of last year a special election was held for the Fairbanks North Star Borough to determine if a two cent per gallon transfer tax

should be enacted. That would offset property tax under the revenue cap that the borough had in place. Fortunately, the tax proposal failed by a vote of 62 percent "No" to 38 percent "Yes," but that process in the election did bring to the forefront a potential taxing problem that could be devastating to Alaska refiners; one that discourages future value-added investments in the Alaska refining business. Had that tax passed, Williams Alaska and our neighbor refinery Petro Star owned by Arctic Slope Regional Corporation would have had to pay out in excess of \$20 million per year, though we think there were a lot of exemptions, especially on the jet fuel. And we simply wouldn't have paid the tax and let the borough establish that we did in fact owe it. That added cost could not be passed on to the majority of our consumers as they have alternative sources of supply. Williams refines about 70,000 barrels a day of product and about 60 percent of that product is jet fuel with over 90 percent of that product shipped by rail for use not only at the Anchorage Airport but barged to coastal communities and river communities in Alaska for use at their airports as well as other home heating fuel products: gasoline and diesel for generation is also exported by barge.

MR. COOK continued:

The air passenger and air cargo business in particular are very competitive. The air carriers will not pay a penny more for a gallon of fuel than is necessary. The recent decision by Air France to pull out of Fairbanks to use longer range aircraft and now be able to fly over Russian airspace points out the vulnerability of the air traffic business in Alaska. That pull out from Fairbanks [International Airport] has a significant economic impact. It would be unwise to burden air carriers in a very competitive market with anymore taxes that they would not be able to absorb. I might also add that we have a growing market in the export of a product that we call naphtha, which is a gasoline blend stock. And our trading partner (indisc.) recently built an ice-class vessel ... so that they can take that product in and out year round from the Port of Anchorage; and that's a significant economic benefit that would be, certainly, in jeopardy if we pile taxes on. An

additional point that was brought up is our concern that there are as many as eight taxing jurisdictions between our North Pole refinery and the Port of Anchorage where we ship our fuel. Actually, three of those are in Fairbanks since we have the City of North Pole, City of Fairbanks, and the Fairbanks North Star Borough. If all of these entities did tax fuel exported from Fairbanks we would ... simply be driven out of business; we couldn't be competitive. It is in the best interest of the State of Alaska and the consumers of Alaska to have an equal tax on refined products exported out of any refining community. This is important for the preservation of jobs and economic impact from the Alaska refineries, and also to encourage those refineries to do future expansions.

Alaska refiners, right now, are faced with millions of dollars of new investment by the end of 2006 to meet federally mandated clean fuel requirements. Such investment would be certainly discouraged and difficult to do if we had these additional taxes on our product. There is also something unfair in having taxpayers from other parts of Alaska pay the cost for local government, say in Fairbanks. The Fairbanks property owners would've received property tax relief and consumers of gasoline, heating fuel, and other products in the state would potentially pay higher prices for those products. We really couldn't pass it on, in most cases, to the airlines. In that competitive business ... the market might end up in a higher price on consumer products other than airlines. And those people in Fairbanks should be able to see the inequity of this also. If you wanted to carry this type of taxation to its extreme, the Port of Anchorage, which is owned by the municipality, could decide they want to tax every pound of freight going north as sort of a payback for a fuel tax that their consumers might have to pay based on a tax out of Fairbanks. I don't think this is a trend we want to see starting in Alaska. And as noted prior to the vote in Fairbanks last June, the former attorney general Avrum Gross did render an opinion to the Fairbanks North Star Borough at the request of the Assembly and he concluded, as noted, there was no certainty on that taxing authority. We feel that passage of House Bill 216 will be good for Alaska refiners, local governments, and consumers. It will

clarify taxing authority, create a level playing field for refiners throughout the state and avoid costly litigation and court challenges in the future. So, ... I would urge, both on behalf of myself and my company you to pass House Bill 216.

Number 1866

REPRESENTATIVE KOOKESH asked if Williams Petroleum Alaska, Inc., pays some sort of tax in Fairbanks already.

MR. COOK answered that the company pays property tax and ranks the second highest in assessed value in the Fairbanks North Star Borough. Williams Petroleum Alaska, Inc., pays in excess of \$3 million. In response to Representative Kookesh, Mr. Cook explained that the only taxing done now is within the City of North Pole. There are no fuel taxes levied by the other governments.

REPRESENTATIVE ANDERSON inquired as to what other companies would be impacted by [HB 216].

MR. COOK responded that potentially all of the refiners would be impacted by this legislation. He identified the Petro Star refinery and Tesoro in Nikiski.

CHAIR MORGAN asked if Mr. Cook's earlier comment regarding clean fuel was in reference to ultra-low sulfur fuel.

MR. COOK replied yes. In further response to Chair Morgan, Mr. Cook explained that Williams Petroleum Alaska, Inc., will upgrade its refinery for gasoline. He noted that Williams Petroleum Alaska, Inc., refines about 6,000 barrels of gasoline a day and Tesoro refines about 11,000 barrels. For diesel, Mr. Cook pointed out that low sulfur diesel is initially applying to highway diesel. Only 5 percent of the diesel consumed in Alaska is highway diesel. Williams Petroleum Alaska, Inc., can't justify the extreme expense, \$120-\$140 million for 800 barrels a day out of the 6,300 barrels a day of diesel, [for changing the facilities to produce ultra-low sulfur diesel].

Number 2030

JIM BOLTZ, Chief Operating Officer, Petro Star, Inc., informed the committee that Petro Star is a wholly owned subsidiary of Arctic Slope Regional Corporation, and operates two small refineries in Alaska. The refinery at North Pole has crude

capacity of \$16,000 barrels per day and the larger refinery at Valdez has a capacity of \$50,000 barrels per day. Additionally, Petro Star owns and operates fuel distributorships and product terminals in Fairbanks, Valdez, Kodiak, and Dutch Harbor along with 11 convenience stores and a lubricants division. Mr. Boltz pointed out that Petro Star is a small player that has grown substantially since it was founded in 1984.

MR. BOLTZ announced support of HB 216. Clarification that local governments have the right to tax any fuel consumed within their governmental boundaries but don't have taxing authority for value-added products refined for sale outside local boundaries is necessary. Mr. Boltz related Petro Star's concern that it stay competitive in all the markets. Therefore, clarification to limit the number of entities that can tax fuel in each market is extremely important. This is important to Petro Star as well as to consumers. He highlighted that Petro Star along with other Alaska refiners face millions of dollars of new investment in the next few years in order to meet the federally mandated ultra-clean fuel standards. Mr. Boltz emphasized that it's in the best interest of all residents of Alaska to make these investments and continue to provide high quality fuels to meet our future needs. Passage of HB 216 will be good for Alaska, he said, and thus he urged the committee's support.

Number 2173

KEVIN RITCHIE, Executive Director, Alaska Municipal League (AML), expressed concern that the current language of the legislation doesn't really accomplish the intent in a good manner. He drew attention to page 1, line 12, which is a general prohibition against taxation against any fuel products inside or outside the borough, including heating fuel and motor oil. On page 1, line 14, the language specifies that the municipality "may impose a sales or transfer tax on motor fuel that is not transported for sale or distribution outside that municipality." Therefore, municipalities would only be allowed to tax fuel at the pump under a sales tax. This overly broad prohibition would have a massive negative impact on municipal revenue. Even if the aforementioned language is flip flopped, one still needs to be cautious with regard to the wording about municipalities. For example, if there was a heating oil distributor in Soldotna that transported fuel to a customer outside of Soldotna that would potentially become a nontaxable transaction. However, now the borough collects a tax the city has on sales. Therefore, there are lots of down-stream impacts. Mr. Ritchie drew attention to AS 29.45.650 which addresses the

problem of duplicate taxation. He offered to work with whomever to develop a solution that doesn't have unintended impacts.

Number 2377

REPRESENTATIVE CISSNA inquired as to the correction Mr. Ritchie would suggest.

MR. RITCHIE said that he wasn't sure. He reiterated that he would work with the state in order to develop a solution that doesn't negatively impact municipalities. However, the legislature has already determined that it isn't fair for [multiple] municipalities to tax the same thing and thus the existing statutory structure may offer a solution. He related his understanding that such is the intent of HB 216.

Number 2453

REPRESENTATIVE ANDERSON informed the committee that Tamara Cook, Executive Director, Legislative Legal and Research Services, has indicated that [the language] is inextricably connected to the intent of the legislation. He inquired as to an example of where the language would create a problem.

MR. RITCHIE pointed out that page 1, lines 12-13, specify that "a municipality may not impose a property, sales, or other tax on refined fuel products or constituents of refined fuel products." That language is a broad blanket saying that refined fuel products can't be taxed, including home heating fuel, motor oil, et cetera. He related his belief that there is no definition for refined fuel product. The legislation only allows municipalities to charge a sales/transfer tax on motor fuel, which he identified as gas or diesel that isn't transported for sale or distribution outside the municipality. Therefore, municipal taxation would be narrowed and a whole host of revenue that municipalities utilize would be eliminated.

REPRESENTATIVE CISSNA asked if redefining it with specifics would work.

REPRESENTATIVE ANDERSON said perhaps and expressed his discomfort with making alterations without legal counsel.

REPRESENTATIVE SAMUELS remarked that he didn't have a problem with the intent of the legislation. He noted his conflict of interest due to his employment by an airline. Representative Samuels informed the committee that there are federal statutes

that determine how [the taxes] can be spent. He explained that if the municipality taxes jet fuel at the state-owned Anchorage International Airport, where the bulk of it is sold, the taxes can only be spent at a municipally owned airport. Therefore, passengers living in Fairbanks and flying [into] Fairbanks would pay for Merrill Field because it's a municipal airport. There are very few municipally owned airports. Representative Samuels noted that he has drafted an amendment to address this. The amendment is on page 1, line 14, "exclude fuel use for aviation."

REPRESENTATIVE ANDERSON requested that HB 216 be held over so that he could work with the interested parties to develop a committee substitute.

CHAIR MORGAN agreed and thus HB 216 was held.

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:50 a.m.