

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

April 15, 2003  
9:06 a.m.

**MEMBERS PRESENT**

Representative Carl Morgan, Chair  
Representative Tom Anderson  
Representative Ralph Samuels  
Representative Sharon Cissna

**MEMBERS ABSENT**

Representative Kelly Wolf, Vice Chair  
Representative Pete Kott  
Representative Albert Kookesh

**COMMITTEE CALENDAR**

HOUSE BILL NO. 216

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

- MOVED CSHB 216(CRA) OUT OF COMMITTEE

**PREVIOUS ACTION**

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
04/08/03		(H)	CRA AT 8:00 AM CAPITOL 124
04/08/03		(H)	Heard & Held MINUTE(CRA)
04/15/03		(H)	CRA AT 9:00 AM CAPITOL 124

**WITNESS REGISTER**

MARCIA DAVIS, Vice President and General Counsel  
ERA Aviation, Inc.  
Anchorage, Alaska

POSITION STATEMENT: Spoke on the turbine-powered aircraft exemption and proposed language that would specify the borough's authority to collect a fee on fuel delivered or sold at a borough-owned or operated airport.

MARK SMITH

Yukon Fuel Company  
Anchorage, Alaska

POSITION STATEMENT: Expressed hope that [HB 216] will provide AEA the flexibility to offer a higher loan fund amount to those communities that need it.

ALLAN HEESE, Airport Manager  
Juneau International Airport  
Juneau, Alaska

POSITION STATEMENT: Expressed the need to include language that wouldn't preclude the fuel flowage fee some airports charge.

KEVIN RITCHIE, Executive Director  
Alaska Municipal League  
Juneau, Alaska

POSITION STATEMENT: Testified on CSHB 216.

#### **ACTION NARRATIVE**

#### **TAPE 03-15, SIDE A**

Number 0001

**CHAIR CARL MORGAN** called the House Community and Regional Affairs Standing Committee meeting to order at 9:06 a.m. Representatives Morgan, Anderson, Samuels, and Cissna were present at the call to order.

#### HB 216-MUNI TAXATION OF REFINED FUEL PRODUCTS

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

Number 0113

REPRESENTATIVE ANDERSON moved to adopt CSHB 216, Version 23-LS0822\I, Cook, 4/14/03, as the working document. There being no objection, Version I was before the committee.

REPRESENTATIVE ANDERSON, speaking as the sponsor of HB 216, explained that initially HB 216 was written to prohibit any

property tax, sales tax, or other tax on refined fuel products or constituents of fuel products. However, the language has been narrowed considerably, narrowed such that it prohibits the collection of wholesale sales or wholesale transfers of any refined petroleum product. He noted that Representative Samuels has an amendment that he will be offering to prohibit the levy or collection of a sales transfer or use [fee] on fuel used in turbine-powered aircraft.

REPRESENTATIVE ANDERSON highlighted the addition of Section 4 in Version I. Section 4 is designed to increase the maximum amount of loans from the bulk fuel revolving loan fund from the current \$200,000 to \$300,000. This change is necessary due to the rise in fuel prices nationwide and in particular in rural Alaska. Representative Anderson noted his support of the addition of the language in Section 4.

Number 0458

MARCIA DAVIS, Vice President and General Counsel, ERA Aviation, Inc., said that she would speak to the turbine-powered aircraft exemption. She informed the committee that she has spoken with representatives from the Alaska Municipal League (AML) and some municipalities. She related her understanding that the concern is to not entirely cut off municipalities who own and operate airports and have come to depend upon revenue from that source. Ms. Davis stated that ERA isn't opposed to supporting the airports; however, ERA's preference is to do so at the state level. Because Anchorage is the primary hub where almost all of the fueling operations for ERA take place and because of the existing federal law, ERA doesn't see a limitation. As the law is written Anchorage [would only] be able to impose a fuel tax on aviation fuel within its boundaries and use those funds to support the Merrill Field operation, the only legal use of those funds. That isn't fair because there is no nexus between the taxes collected in Anchorage and their support of Merrill Field. She proposed that the solution may lay in what is known as fuel flowage fees, which are necessarily tied to fuel that's delivered or sold on the airport property. Ms. Davis informed the committee that Juneau has a fuel flowage fee as do many other municipalities that own or operate an airport. The fuel flowage fees are used to generate revenue to support the airport that the [municipalities] own or operate. This is done under the federal law. However, when municipalities try to use sales taxes on fuels or other devices not tied to the fuel flowing on their airport, the municipalities are in legal trouble. Ms. Davis suggested including language that would specify the

borough's authority to collect a fee on fuel delivered or sold at a borough-owned or operated airport. Including the aforementioned language would address ERA's concern while leaving municipalities free to collect the costs associated with the fuel flowing at their airports.

Number 0852

MS. DAVIS added that the airline industry is heavily taxed. Currently, just looking at federal taxes and fees, 26 percent of the average \$200 roundtrip ticket is a federal tax and fee. That 26 percent tax doesn't include the state charges, the state fuel tax as well as any landing fees and other charges imposed at the state-owned airports. She said she feels that adding a local tax is dangerous because tourism is a state industry and as such the state is in the best position to monitor it and ensure its economic viability. Therefore, the crux of taxation on commercial aviation fuel should reside with the state. However, Ms. Davis said that [ERA] appreciates the conundrum that municipalities are in when they own or operate an airport within their boundaries and need to pay for those facilities. She reiterated the need to restrict the municipal and borough taxation on aviation fuel to a fuel flowage fee so that there is a logical and geographical nexus between the funds paid and the airport at which those funds are used.

REPRESENTATIVE CISSNA asked if the 26 percent of federal taxes was that high before the terrorist attacks of September 11, 2001, tragedy.

MS. DAVIS answered that the statistics were from 2002 and thus she assumed that it included some of the security changes resulting from the terrorist attacks of September 11, 2001, tragedy.

Number 1095

MARK SMITH, Yukon Fuel Company, announced that he would be speaking to Section 4 of Version I. He informed the committee that Yukon Fuel Company deals with a lot of western villages that use the bulk fuel revolving loan fund. In February 2003, the world fuel prices increased by about \$.60 a gallon over historical prices and prices for the summer of 2002. Mr. Smith expressed concern that the users of the bulk fuel revolving loan fund would experience diminished buying power. Furthermore, there are many new Denali Commission farms coming on and these farms are designed to take 13 months of fuel. This is

beneficial to the community, which can sometimes see efficiency in potential reduction of prices by obtaining a single delivery. Also, some villages are ill-prepared to deal with increased consumption and the additional funds required to support additional infrastructure. As more projects occur in [western Alaska], there is more activity with the Denali Commission. Therefore, the hope is that [this legislation] will provide the Alaska Energy Authority (AEA) the flexibility to offer a higher loan fund amount to those communities that need it. The bulk fuel revolving loan fund is a good program that has experienced good response and repayment. He recalled that there shouldn't be a financial impact due to the \$5 million in additional funds that was included last year. "The fund should be well able to handle this increased limit," he said.

Number 1325

ALLAN HEESE, Airport Manager, Juneau International Airport, informed the committee that although he has spoken with city representatives who have similar concerns regarding HB 216, he can only represent the airport. Mr. Heese pointed out that Juneau International Airport does have a fuel flowage fee and the language in the legislation seems to preclude Juneau International Airport from charging that fuel flowage fee. Therefore, Mr. Heese expressed hope that there would be a change in that area of the legislation. He explained that typically airports have a very complex negotiation process in which they try to develop finances that are equitable across a broad spectrum of air carriers. For instance, Juneau International Airport has air carriers ranging in size from Alaska Airlines to smaller carriers and general aviation. Historically, the fuel flowage fee is a way in which the finances are arranged, and therefore it's a very important part of the airport's financial picture. Mr. Heese acknowledged the concerns that municipalities shouldn't be precluded from using this traditional funding source and expressed the hope that the language would support the aforementioned. He mentioned that he had worked with Representative Samuels who he believes will be offering some language that is acceptable.

Number 1425

KEVIN RITCHIE, Executive Director, Alaska Municipal League (AML), began by thanking Representatives Morgan, Anderson, and Samuels and their staff who engaged in problem-solving. Mr. Ritchie related his belief that the language [to be offered] won't negatively impact municipalities.

REPRESENTATIVE CISSNA asked if the term fuel flowage fee has to be in the language or are there approximations that work.

MR. RITCHIE related his understanding that fuel flowage fee is within the family of sales and transfer taxes.

REPRESENTATIVE SAMUELS remarked that the fuel flowage fee is a specific term. He related his belief that after the amendment, which leaves municipally-owned airports whole, is offered any language necessary to move from the fuel flowage fee to sales tax could be done. He characterized the aforementioned as a semantics issue.

CHAIR MORGAN, upon determining no one else wished to testify, announced that public testimony would be closed.

Number 1631

REPRESENTATIVE SAMUELS moved that the committee adopt Amendment 1, which read as follows:

Page 1, line 14, after "aircraft"  
Insert ", except for fuel that is transferred  
into an aircraft at a municipal or private airport,"

REPRESENTATIVE SAMUELS explained that Amendment 1 would allow the municipally-owned airports to continue with their current [practices]. As the legislation moves to the House Finance Committee, the fuel flowage fee could be reviewed.

CHAIR MORGAN, upon determining there was no objection to Amendment 1, announced that Amendment 1 was adopted. He, then, announced his wish to forward this legislation on to its next committee of referral.

Number 1705

REPRESENTATIVE SAMUELS moved to report CSHB 216, Version 23-LS0822\I, Cook, 4/14/03, as amended out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE CISSNA objected and inquired as to why this committee wouldn't amend the legislation.

REPRESENTATIVE ANDERSON related his belief that the matter [with regard to the fuel flowage fee] had been resolved with the

adoption of Amendment 1. Representative Anderson said he didn't believe the words fuel flowage fee had to be included in the legislation. He interpreted Representative Samuels to be highlighting that the legislation has another committee of referral.

REPRESENTATIVE CISSNA related her belief that each committee should do the work falling under its purview.

REPRESENTATIVE ANDERSON asked Ms. Davis if Amendment 1 would cover the fuel flowage fee issue.

Number 1826

MS. DAVIS noted that the fuel flowage fee is a term of art that's used nationwide. Essentially, fuel flowage is a transfer style tax. She explained that the charge is based upon fuel flowing upon or over the land owned by the entity assessing it. The fuel simply has to be moved. She informed the committee that the fuel flowage fee [for the Juneau International Airport] is described as sales of aviation fuel and aviation fuel delivery services at the airport. The Ted Stevens Anchorage International Airport and the Fairbanks International Airport define fuel flowage fees as charged on all aviation fuel dispensed at the Anchorage and Fairbanks airports, except fuel dispensed as manifested cargo. She said that Amendment 1 basically limits out cargo. She reiterated that the language in Amendment 1 would simply require a transfer of fuel, no sale is required. Therefore, the language would adequately cover the fuel flowage fee.

REPRESENTATIVE SAMUELS informed the committee that currently the fuel flowage fee is part of the package negotiated with the Fairbanks and Anchorage International Airports. Representative Samuels related his belief that Amendment 1 fixes the [fuel flowage fee] problem without going too far. He said that specifying the fuel flowage fee in the legislation would have the unintended consequence of precluding Juneau, Ketchikan, Homer, Kenai, and Merrill Field from their current practice with the fuel flowage fee. Representative Samuels emphasized that there is no desire to stop municipalities from continuing the current practice at the municipally-owned airports, which he believes the amendment achieves. If Amendment 1 doesn't accomplish the aforementioned, then adding or [eliminating] the fuel flowage fee could be done.

REPRESENTATIVE CISSNA commented on the floor amendments that occur because issues haven't been thought through enough. She noted that moving legislation rapidly isn't the way the system was established rather it was set up to painstakingly review matters. Representative Cissna expressed her desire for the committee to put in the time [on issues] when necessary. Representative Cissna withdrew her objection.

Number 2116

CHAIR MORGAN announced that there being no further objection, CSHB 216 as amended, CSHB 216(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 9:36 a.m.