

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

March 17, 2003

1:37 p.m.

**MEMBERS PRESENT**

Senator Thomas Wagoner, Chair  
Senator Robin Taylor, Vice Chair  
Senator Gary Stevens  
Senator Georgianna Lincoln  
Senator Kim Elton

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

**SENATE BILL NO. 38**

"An Act relating to construction, plumbing, mechanical, electrical, fire safety, and other safety codes adopted by state agencies and municipalities; and providing for an effective date."

HEARD AND HELD

**SENATE BILL NO. 118**

"An Act relating to the power of boroughs to conduct inspections and enforce standards for food and aquatic farm products; and providing for an effective date."

HEARD AND HELD

**SENATE BILL NO. 136**

"An Act increasing an optional exclusion or exemption from municipal taxation for residential property."

HEARD AND HELD

**PREVIOUS ACTION**

SB 38 - See Community and Regional Affairs minutes dated 2/26/03  
and 3/5/03

SB 118 - No previous action to record.

SB 136 - No previous action to record.

**WITNESS REGISTER**

Senator Gene Therriault  
Alaska State Capitol, Room 111  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Sponsor SB 38

Colin Maynard  
Alaska Professional Design Council  
PO Box 100515  
Anchorage, AK 99501-0515  
**POSITION STATEMENT:** Spoke in opposition to SB 38

Steve Shows  
Construction Inspector  
No address provided  
**POSITION STATEMENT:** Testified on SB 38

Zach Warwick  
Alaska State Capitol, Room 111  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Answered questions on SB 38

Ernesta Ballard  
Commissioner, Department of Environmental Conservation  
410 Willoughby Suite 303  
Juneau, AK 99801-1795  
**POSITION STATEMENT:** Testified on SB 118

Kristin Ryan  
Acting Director, Division of Environmental Health  
555 Cordova Street  
Anchorage, AK 99501  
**POSITION STATEMENT:** Testified on SB 118

Mary Jackson  
Staff to Senator Tom Wagoner  
Alaska State Capitol, Room 427  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Introduced SB 136

Gary Superman  
Kenai Peninsula Borough Assemblyman  
144 North Binkley Street  
Soldotna, AK 99699  
**POSITION STATEMENT:** Testified on SB 136

Steve Van Sant  
State Assessor

Division of Community & Business Development  
550 W. 7<sup>th</sup> Ave Suite 1770  
Anchorage, AK 99501-3510

**POSITION STATEMENT:** Answered questions on SB 136

**ACTION NARRATIVE**

**TAPE 03-7, SIDE A**

**CHAIR THOMAS WAGONER** called the Senate Community and Regional Affairs Standing Committee meeting to order at 1:37 p.m. Present were Senators Taylor, Lincoln, Elton and Chair Wagoner. Senator Gary Stevens arrived momentarily.

The first order of business was SB 38.

#SB 38

**SB 38-ADOPTION OF SAFETY CODES**

CHAIR THOMAS WAGONER asked for a motion to adopt the committee substitute (CS).

SENATOR ROBIN TAYLOR made a motion to adopt Banister 3/17/03 \S version CSSB 38 as the working document.

SENATOR GEORGIANNA LINCOLN asked if the sponsor would speak to the CS.

CHAIR WAGONER confirmed the sponsor would speak to the CS and that there was a question and answer draft in the packets as well.

SENATOR GENE THERRIAULT explained the \S version CS addresses several issues discussed at the previous hearing. For a transition term, the delay period changed from three years to two years. This delay would allow mechanical administrators time to receive proper training when there is a switch from one code to another. Language on page 3, line 29 clarifies that the delay period applies only when there is a switch to a complete new code. There would be no delay for normal code updates.

The larger issue of whether all the codes should be placed under the oversight of one agency is not addressed. He came to no conclusion himself and was aware that the Administration was working with the agencies to come to a resolution.

He remarked the committee could either wait for a decision regarding jurisdiction or they could move the CS out of committee and allow the Labor and Commerce Committee to continue work on the issue.

There were no questions asked of Senator Therriault.

SENATOR WAGONER announced there were several individuals waiting to give testimony and advised all previous testimony was on record.

MR. COLIN MAYNARD, Alaska Professional Design Council representative, testified via teleconference. Although he hadn't seen the second CS, he understands it is similar to the first so the council would oppose adoption. They don't believe the mechanical code belongs in the Department of Labor; rather it belongs with the building and fire codes.

The name change from Uniform Code to International Code by the International Conference of Building Officials (ICBO) has caused much confusion, but they are the same people who have been writing the mechanical code in Alaska for the last forty years and the council sees no reason for a change. The question regarding whether the Department of Public Safety has the legal authority to adopt a mechanical code is curious because they have been doing so for as long as he can remember. The council agrees with the task force approach to address all the codes at one time rather than in this piece meal process.

MR. STEVE SHOWS, a construction inspector, testified he is certified by all uniform and international code writing agencies. He made the following points:

- Both codes have a bias and they are slightly different, but both are good codes
- He agreed with removing the discriminatory language that would not allow the International Codes to be adopted in Alaska.
- International Codes have a public safety, health and welfare bias that is very evident
- National Fire Protection Association (NFPA) favors industry and trade organizations

Because Alaska has a fragmented approach to construction regulation, he advised looking to municipalities where codes are seamless, integrated, work together and people communicate so the building construction industry and the health and safety of

residents is at the forefront. Keep in mind; the purpose is fair and impartial regulation and public safety.

For over 15 years, organizations convinced the Legislature to keep the 1979 plumbing code as the State document regulating that activity and trade. It cost the State 10s of millions of dollars a year to administer the outdated code that financially benefited those who sold and installed expensive materials.

There was no further testimony.

SENATOR LINCOLN asked what position Fairbanks held regarding SB 38.

MR. ZACH WARWICK, staff to Senator Therriault, advised the building officials continue to oppose the legislation.

SENATOR LINCOLN asked for information regarding their main opposition.

MR. WARWICK explained they opposed the time lag and because they have gone through the process to update their codes to the International Codes, SB 38 would require the municipality to do additional work.

SENATOR LINCOLN asked how much time that additional work would require.

MR. WARWICK said it depends on which code the Department of Labor adopts. The links between the International Fire Code and International Building Code would need to be updated to synchronize with the Uniform Code if that code is adopted, but no additional work would be required if the International Code is adopted.

SENATOR LINCOLN asked if the two year delay wouldn't allow for such updates.

MR. WARWICK explained there would be no delay when the Department of Labor initially adopts a particular code. If there were code switches in the future, there would be a delay.

SENATOR LINCOLN remarked NANA/Colt Engineering was also opposed to bill because of the shift from one department to another. She asked if the sponsor had spoken to the firm to address their concerns.

MR. WARWICK reported he spoke with Mr. Moore several times. He added there are opposing views on this issue and probably the only agreement is that the codes could possibly be in one place.

SENATOR LINCOLN referred to the sponsor's statement that jurisdiction hasn't been resolved. She asked the Chair's intention.

CHAIR WAGONER replied he would like the Labor and Commerce Committee to work on that aspect of the legislation. Since the last hearing he has given some thought to putting the codes together under the jurisdiction of the Division of Occupational Licensing.

MR. WARWICK said it is his understanding that division doesn't have the technical knowledge; they deal primarily with training and licensing of the trades. They can authorize a class under a code, but they don't deal with the exact codes. Administration officials have advised him they are arranging for people from the Fire Marshall's office, the Department of Labor and the Governor's office to meet and discuss where the codes should reside. It's difficult to find a third neutral department where the codes could be placed.

SENATOR KIM ELTON asked for clarification that in addition to the building officials the Fairbanks Mayor and City Council continues to oppose the bill.

MR. WARWICK thought the Fairbanks officials that wrote letters in opposition to the legislation were speaking on behalf of the building officials.

SENATOR ELTON noted the committee didn't know what the Administration's position was and there were still substantive questions and issues associated with the legislation. The Alaska Professional Design Council raised a number of questions and he was uncomfortable moving the bill prior to receiving feedback from the Administration and addressing those issues.

SENATOR TAYLOR agreed to the extent that the critical aspect of the legislation is jurisdiction. The critical policy call for the Legislature is to decide where the codes should be housed. Continuity and one stop shopping that Mr. Shows spoke of are critical to the building trades and design professionals. He too expressed a desire to address the jurisdictional question prior to moving the bill. The committee already spent considerable

time on the bill and moving it without addressing jurisdiction would waste that time and effort.

CHAIR WAGONER announced he would hold SB 38 in committee until they heard from the Governor's Office, the Department of Labor and the Fire Marshall's Office.

SENATOR TAYLOR asked the Chair to call for objection or a vote then declare whether the CS was adopted or not.

CHAIR WAGONER apologized and asked whether there was objection to adopting Banister 3/17/03 \S version CSSB 38. There was no objection and it was so ordered. The bill was held in committee.

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#SB 118

**SB 118-BOROUGH INSPECTION: FOOD/AQUATIC FARMS**

CHAIR THOMAS WAGONER asked Commissioner Ernesta Ballard to introduce SB 118.

ERNESTA BALLARD, Department of Environmental Conservation Commissioner, gave the following opening remarks:

SB 118 is the Governor's legislation, which we hope you will approve to allow first and second class boroughs to enforce food safety standards.

The State of Alaska has been ensuring that food is handled correctly since statehood. State law provides the framework and the department's regulations provide the standards that protect public health. We are fortunate that in this area there has been a growing knowledge of food safety handling practices and modern food preparation technology in recent years. And in fact in the last 20 years many food safety programs have implemented new regulatory approaches to take advantage of this new body of information.

Nationally, a mix of local, state, and federal governments perform the needed tasks to ensure the public food supply is protected. In Alaska, state government has been the primary entity working with food service establishments to protect public health. The state has had statutory and regulatory ability to delegate this program to local governments since 1999.

Anchorage takes advantage of this opportunity and conducts food inspections as a home-rule municipality.

We believe it is important to encourage as much local control as possible in the important area of local food safety. State law allows home rule cities and boroughs, and first and second class cities to implement a food safety program that is consistent with their charter and approved by their assembly. This bill provides the same opportunity to first and second class boroughs. Specifically, it allows those boroughs to conduct a food safety program using protective state standards.

The State of Alaska will continue to set protective standards and implement them in areas that have not asked for delegation to provide the service themselves.

This legislation does not require any local government to take on this responsibility. It gives them the opportunity to exercise local control should they choose.

SENATOR ROBIN TAYLOR asked if cities were in any position to test aquatic farm products.

COMMISSIONER BALLARD said a local municipality could take on those powers, but they would have to demonstrate they had a sufficiently funded program and sufficiently skilled personnel. She added, "This is a theoretical delegation, it sets up the opportunity."

SENATOR TAYLOR stated this was a good idea and he would encourage any municipalities that wanted to do this. He asked if Anchorage or any city monitored air pollution.

COMMISSIONER BALLARD replied Anchorage has a fairly extensive capability that is specifically delegated through the department to handle aspects of their air pollution program.

SENATOR TAYLOR asked if the department would be able to delegate or require a city to exercise the powers.

COMMISSIONER BALLARD advised this is not a mandatory program; it is optional and the department will continue to implement a program that is available statewide that will assure that any

place in the state without a locally delegated program has an adequately protected food safety program.

SENATOR LINCOLN asked what the incentive would be for boroughs to assume this responsibility and, in particular, the liability associated with food inspection. She questioned whether the bill was the result of boroughs asking to assume that role.

COMMISSIONER BALLARD advised the incentive comes from the basic civic principle, "that government likes to do for its people, as close to the people as possible." Food safety is one of the oldest government programs in the country. She assured members there would be local governments who would seek the local opportunity to deal directly with their restaurants and people who prepare food. The department would continue to provide a food safety program for cities that don't exercise the option.

She described a double-pronged incentive to explain why the Governor proposed the bill. In the last appropriations bill last year, the Legislature specifically directed the Administration to reorganize their inspection program for the boroughs that were large enough to run their own cost effective program. Nationally, the process of food safety management has moved beyond Alaska's conventional inspection based program. The department believes it's time to work toward offering incentives and program components that work with operator certification and operator management systems to get more responsibility and accountability placed with the operator of the food establishment.

SENATOR LINCOLN questioned how much the department would save if municipalities assumed the authority of inspecting food and farm products and whether the savings might be enough to save the department a position.

COMMISSIONER BALLARD advised the Governor's budget proposes a reduction of six positions and an attendant reduction of more than \$500,000 of program receipts. That anticipates the four largest boroughs assuming program responsibility. The program reduction is specifically a reduction of the inspection program that the department currently provides in those boroughs. It is fully supported by restaurant fees; the restaurants pay the fee and the department provides the inspection service. Presumably, those boroughs would charge a fee and run their own program.

The department has sufficient funds remaining in the Governor's proposed budget to reorganize and implement a protective

statewide program without that component of the program. She advised SB 118 is best viewed as a companion to the proposed budget, which is a reorganization of the current program. It eliminates the components of the program in the four boroughs, but it doesn't eliminate the department's responsibility to set standards that are protective statewide.

SENATOR GARY STEVENS said he had three questions. Although he likes the option, it appears to be a wash. Would the fees that are collected pay for the personnel hired to administer the programs? Would this actually save money for the state? Also is it possible that aquatic farming might include seafood processing as well?

COMMISSIONER BALLARD replied:

- The restaurant fees cover much of the costs but not the entire cost of the program. At the state level the program must determine the framework and standards of the regulatory program for food safety inspection.
- The proposed budget reduction is the actual cost of implementing the inspection program in the four large boroughs. The state budget includes all program receipts. There would be a reduction in those program receipts and a corresponding reduction in the positions and expenditures at the department level.

SENATOR GARY STEVENS interjected he was focusing on the boroughs because he couldn't understand why a borough would ever assume the inspection authority if they didn't collect enough to cover all costs.

COMMISSIONER BALLARD replied the boroughs should answer that question, but she believes many local governments prefer to have a regulatory relationship in public health protection. She thought Anchorage was pleased with their stakeholder program rather than having the state provide the program for them.

She continued:

- When the total state budget is reduced, whether through program receipts or general fund, it is a reduction so this is a reduction in state employment. In theory, when you reduce state employment there is a net beneficial affect in overall cost control.

SENATOR GARY STEVENS restated he was looking for an answer to whether or not the fees a borough might charge restaurants would cover their costs to administer the inspection program. Would a borough that chose the delegation of authority assume no financial burden?

COMMISSIONER BALLARD replied a borough choosing delegation would have to decide how to structure their program, which would have to be as protective as the department's program. There are many ways to achieve protection and inspection is one choice. A borough might choose an operator certification program, a food worker safety card or some other tool to achieve a program. The Division of Environmental Health would review the program selected by the borough to determine whether or not it was protective enough. The borough would select the type and amount of fee to be collected. They could charge a per-visit fee, a license or permit fee, an annual fee or some other scheduled fee. While there are many ways to put a program together, the department's job is to determine whether a borough had designed an acceptably protective program. The borough's job would be to decide how to put their program together so it would work best for them.

SENATOR GARY STEVENS asked what an operator certification program means.

COMMISSIONER BALLARD explained it means that the food service operator might be required to have a personal certification that could be arranged through the department or an independent provider. Nationally, there is improved flexibility in delivering protective programs. The incidence of food borne illness is at least holding its own; it is not going up. There are good ways to protect people by moving accountability closer to the restaurant operator and away from the regulator. "We, and the restaurant operators, and the boroughs and municipalities in this state are ready to move forward into a more contemporary regulatory regime."

In response to the third question, she said the department would continue to maintain responsibility over the seafood processing plants in the state.

SENATOR ELTON asked whether she was aware of any first or second class boroughs that had asked for the delegation of authority.

COMMISSIONER BALLARD admitted she was aware of none.

SENATOR ELTON thought this was introducing cross-jurisdictional issues. He pointed out that owners of food service franchises would find different inspection regimes in different areas of the state, which wouldn't be business friendly.

COMMISSIONER BALLARD declared that is the case in all other states. Alaska is probably the only state that maintains a statewide food safety program. Most states have local health districts that are even smaller units of government than local government. Local health districts are generally organized within counties and the responsibilities under discussion generally accrue to local health districts. For example, a McDonalds might have 30 jurisdictions in the State of Washington.

SENATOR ELTON said, "So it would be intuitive for us to assume that they prefer our system where they only have one jurisdiction."

COMMISSIONER BALLARD wasn't sure that would be a good intuitive judgment. Large national chains probably have their own food management safety system that they operate uniformly at every restaurant in the chain and at a higher standard than any state or health district could hope to achieve. Due to liability, they are their own best protectors.

SENATOR ELTON asked how or whether the department deals with cruise ship or ferry food service.

COMMISSIONER BALLARD advised the department does not deal with cruise ships but they do have jurisdiction over the state ferries.

SENATOR ELTON asked if she envisions each municipality having the responsibility to inspect ferries.

MS. KRISTIN RYAN, Division of Environmental Health Director, responded that the division intends to maintain oversights of operations such as the railroad and ferry system that operate across jurisdictions.

SENATOR ELTON asked whether the department would maintain jurisdiction for school districts, particularly in unincorporated areas, in which a licensed, inspected food provider was required before they could qualify for federal dollars.

MS. RYAN was aware of the restriction that requires a government-licensed entity, which means that a local jurisdiction would qualify.

SENATOR ELTON speculated that due to the permissive nature, some local jurisdictions wouldn't take advantage of the option. Chevak probably wouldn't assume food inspection powers and he wondered whether the department would maintain jurisdiction.

MS. RYAN replied the department would maintain jurisdiction for any area that chose not to assume the authority.

SIDE B  
2:15 pm

CHAIR WAGONER remarked governments work in strange and mysterious ways. He related a story regarding how zoning powers shifted back and forth between the borough and City of Kenai and wondered if this might not develop similarly.

COMMISSIONER BALLARD said she couldn't testify to the stability of borough forms of government, but food safety regulation is evolving and it's time for Alaska to evolve with it. The department intends to develop a statewide program that will be protective statewide regardless of borough activity. It is the state's responsibility to assure that there is a standard of safety available from Barrow to Craig and boroughs could then choose to use the tool or not use the tool. "It's a matter for them to decide what kind of a regulatory program they want in their own communities."

CHAIR WAGONER requested an accounting of the receipts that the department currently collects for inspection services from each borough.

SENATOR TAYLOR remarked it is his understanding that second-class boroughs have limited power for taxing for educational purposes and that is all. Asking them to assume this responsibility may be too much. Although he had no objection to providing communities the opportunity to assume inspection responsibility, he was unsure any would exercise the option. Because of this, he questioned whether the department would accomplish the six person reduction.

COMMISSIONER BALLARD advised Juneau, Kenai, Mat-Su, and Fairbanks are large enough to cost effectively assume the

responsibility. They formed this judgment by counting the establishments; it is the inspections for those boroughs that generate \$513,000 in annual fee income and require six inspectors. They aren't anticipating other boroughs would become involved in a locally run program, but the legislation would allow participation.

SENATOR TAYLOR expressed hope that boroughs would assume that option and concern in regard to the accounting for inspections as they relate to business licenses.

COMMISSIONER BALLARD advised Kristin would explain the Anchorage fee structure and the relationship between a business license and the present program.

MS. RYAN explained the fee structures are separate. Anchorage collects inspection fees from food service businesses and those businesses apply for a business license from the state. That is how she would anticipate it would happen with other boroughs as well. The department would step away from charging and collecting the fees because they would not be providing the service. The borough would have to determine how to establish a fee structure and collection process. As Commissioner Ballard explained, the program could be inspection based or some other form.

SENATOR TAYLOR noted the department would have to track business locations to determine whether they were on the state's inspection list or someone else's. Currently everyone is used to sending their fee to DEC. With the change, fee collection would be based on a geographic designation and some businesses could fall through the crack.

COMMISSIONER BALLARD replied the challenge is real but the department is well capable to handle it because they have extensive and daily and intricate financial relationships with almost every level of government and every community in the state. "While it sounds like a complex challenge, it's part and parcel of what our business is."

SENATOR ELTON asked what would happen if local government opted not to provide inspections because it appears that the state has the option of saying, "We're not going to do it for you." It seems the ultimate goal is to pass the responsibility to local government.

COMMISSIONER BALLARD responded, "There are many forces colliding at one time on the food safety inspection program." In the last appropriations bill the Legislature made it clear they wanted the department to step away from inspections in those four larger boroughs. Because of that directive, the department is revamping the entire program to be sure that without inspections in those four boroughs, the public is still assured of a protective food safety program.

SENATOR ELTON observed the cheaper and easier to inspect restaurants would be taken out thereby leaving the department with the more expensive inspections. He cited a lodge owner in Idaho Inlet who is unhappy because he has to apply for so many permits. If the department has to inspect his food service, it would lose money unless his fees are increased to pay for the inspection.

COMMISSIONER BALLARD said they are not assuming that inspections are the only or even the best way to accomplish food safety. The lodge owner referred to may not have seen an inspector and yet that lodge owner probably has a very remarkable food safety record because he has a very high sense of responsibility to his customers. The department is providing him the tools, through the plan review permit, to help him assure that his kitchen is constructed so he can easily wash and sanitize it, so that he has adequate food preparation separation areas, and that he has three sinks so that when he is using a sink for food preparation, he isn't using it for dishwashing as well. The department is providing him tools and resources and they believe they can extend their relationship to him through the Internet, through the telephone, and through passing on best practices so they do not depend on an inspection to achieve compliance with state standards. The majority of restaurants in the State of Alaska have achieved a remarkable food safety record without an inspection.

SENATOR ELTON remarked that lodge owner probably wasn't going to want to talk to the department any more than he already had. That being said, it seems as though that lodge owner would have it better than Bullwinkles [Juneau restaurant] because Bullwinkles would be inspected. This would be a two-tier system in which the remote person would operate "best business practices" while the restaurant in town would undergo inspections.

COMMISSIONER BALLARD didn't agree she said that. If Juneau does not assume responsibility for a food safety inspection program,

then Bullwinkles would get the same care and attention from the department that the remote lodge owner receives. If Juneau assumes the responsibility, there are many tools to choose from to achieve food safety.

SENATOR ELTON said, "So inspections are not required."

COMMISSIONER BALLARD replied the department is reviewing its food safety program to determine whether inspections should be required and whether they are the best way to achieve food safety protection. Department records indicate most restaurants in the State of Alaska have achieved a good food safety program without ever being inspected. The department has regularly reported through their missions and measures that they have been unable to fulfill departmental goals in realizing inspections. In spite of this, the food safety record is good because of their plan review and restaurant relationships. Most states have moved beyond sole dependence on inspections.

SENATOR ELTON advised he would follow up on his questions later since the bill would be held in committee.

SENATOR LINCOLN asked for the following at the next hearing:

- An accounting of both the income and costs of the inspection program and a list of the first and second class boroughs referred to
- How the department planned to find out which borough would opt in or out and how many staff would be needed to make that determination before the effective date that is less than four months away
- How the fiscal note is zero
- Whether there are fees for the aquatic farm products
- What the liability would be

SENATOR TAYLOR recalled a time when people that lived in the various communities did public health inspections. Once the duty was moved into DEC, small communities were no longer given that service unless someone flew out of Juneau. The fees went up while the service went down. He asked why the state shouldn't return to a similar system.

COMMISSIONER BALLARD admitted the level might not be the same as it was before the transfer of responsibility to DEC, but about 15 of their 35 staff members are located in 20 remote offices to provide inspection and consultation services. Since the transfer to DEC the number of restaurants has increased, more people eat

out, and the state's administrative budget has consistently been reduced. The level of service state agencies used to offer is no longer available because the budget won't allow it.

Years ago the department implemented a risk based prioritization of inspection planning so those establishments that handled the broadest spectrum of food and the most complex preparation were the targets for the most regular inspections. It is responsible of the Executive Branch to reorganize the program. In the meantime, restaurant owners, the Food and Drug Administration, and state governments have figured out better ways to communicate the principles. Mandatory hand washing signs in bathrooms are a good example. This is something that a once yearly inspection would not improve; it must be operator accountability.

2:50 pm

SENATOR TAYLOR asked if DEC staff is cross-trained and would losing the positions impact the overall DEC mission.

COMMISSIONER BALLARD said there has been extensive training in the environmental health department. There used to be a separate food processing and food management groups and they are all cross-trained now.

SENATOR ELTON referred to statutes 17.20.005 through 17.20.075 and announced they include labeling and advertisement of halibut, salmon, and sablefish products, misbranding of halibut, sale and labeling of frozen meat and fish.

MS. RYAN referred to the end of the chapter, 17.20.075, and said it gives the Commissioner the authority to delegate sections or not. She added, "That's an exact copy of the ability we'd already given to first and second class cities... And we also only have the authority in our food code to delegate. We don't have the authority to delegate our seafood processing code at this time. Although if at some point, someone wants to do that we can look at doing that."

SENATOR ELTON asked why they are authorizing it to be done if they don't plan on doing so.

No response was forthcoming and there were no further questions.

CHAIR WAGONER announced the bill would be held in committee.

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#SB 136

**SB 136-RESIDENTIAL PROPERTY TAX EXEMPTION**

CHAIR THOMAS WAGONER announced this was a preliminary hearing and more information regarding SB 136 would be available at the next hearing. He asked Ms. Jackson to introduce the legislation.

MS. MARY JACKSON, staff to Senator Thomas Wagoner, explained the bill increases the existing property tax exemption from \$10,000 to \$50,000. The \$10,000 exemption has been on the books since 1974. She noted the bill has two fiscal notes. The first one from the Department of Commerce and Economic Development is zero. The second is from the Tax Division and is incorrect.

The Tax Division presumes that if up to \$50,000 exemption were provided, the Bristol Bay Borough, the Kenai Peninsula Borough, the Fairbanks North Star Borough, the North Slope Borough, and the City of Valdez would take advantage of the provision, which would reduce revenues to the State of Alaska. The Kenai Borough is the only one that collects a sales tax and they offset their property taxes, in part, because of the \$14 million they collect in sales tax. Kenai residents are actually helping the State of Alaska by paying a sales tax because they aren't reducing the revenues to the state.

SENATOR LINCOLN allowed that she supported property exemptions, but she had two concerns. First, whom would this exemption actually help? Both rich and poor pay sales tax, but just those with enough money to become property owners qualify for the property tax exemption. Renters would not have the opportunity to take advantage of the exemption even though they pay rent and thereby help the property owner pay for property taxes. "The poor are the ones that end up suffering for something like this." Second, she thought increasing the exemption to \$50,000 would force the hand of the other four municipalities.

MS. JACKSON agreed everyone pays sales tax, but in this state there is a rebate program, which provides some offset. With regard to the second concern, she thought the other boroughs would utilize the program, but the Kenai Borough wouldn't object to this being single purpose legislation.

SENATOR ROBIN TAYLOR asked if it was correct that the Kenai Borough had a 6.5 millage rate.

MS. JACKSON told him that was correct.

SENATOR TAYLOR asked for the sales tax rate.

MS. JACKSON advised they pay a five percent sales tax.

CHAIR WAGONER added the borough charges two percent and some areas charge five and one half and six percent tax.

SENATOR TAYLOR announced he is currently paying ten or eleven mills and seven percent sales tax and Wrangell needs every bit of that to operate. He assumed Kenai needs the \$40 million they generate from property taxes and \$14 million from sales taxes to cover their budget. He observed this would simply shift money within the tax frame. The income has to stay at the same level to keep everything running. He asked how the amount of property tax revenue would be affected if all property owners were to receive a \$50,000 exemption.

MS. JACKSON said if property tax were reduced, there would be an increase in sales tax or a decrease in a service that was offered.

SENATOR TAYLOR replied sales tax wouldn't increase because it's generated by the economy, but there would be a decrease in the total taxable base. He advised Kenai Borough could accomplish the same thing by making the local decision to increase the sales tax rate and to drop the mill rate.

MS. JACKSON agreed and said the Kenai Borough has discussed this.

SENATOR TAYLOR said he could guarantee the North Slope Borough would take full advantage of the increased exemption and they would probably exempt all residential properties and nothing on an oilrig. He was unclear what impact this would have on the educational formula that requires a minimum payment of 4 mills.

MS. JACKSON reported that Eddy Jeans from the Department of Education and Early Development said it would have no affect because it is optional.

SENATOR TAYLOR remarked that is because for the North Slope Borough it's an either or situation. It's either 4 mills or 30 percent, whichever is less and for the rest of the state it's a mandated 4 mills.

MS. JACKSON agreed; the corrected fiscal note will reflect that if the exemption increased, Fairbanks would see a \$625,000

revenue decline Kenai revenue would decline by \$700,000, the North Slope by \$133,000 and Valdez by \$475,000. The total projected revenue decline is \$1.9 million and this is the dilemma, but the issue is that the Kenai Peninsula Borough would like to have another option. They provide the sales tax in addition to the property tax. She noted there are additions to the 6.5 mill rate for the service areas.

SENATOR KIM ELTON asked if you could distinguish between vacation property and primary residence.

CHAIR WAGONER informed him they differentiate now and this legislation wouldn't change that.

SENATOR TAYLOR added this is currently done under the senior exemption.

SENATOR ELTON noted the bill says exempt residential property so a borough could make a distinction between owner occupied or not.

MS. JACKSON informed him line 8 says, "for any one residence."

CHAIR WAGONER called for teleconferenced testimony.

TAPE 2  
3:00 pm

MR. GARY SUPERMAN, Kenai Peninsula Borough Assemblyman, said the rationale for pursuing the increase is to provide homeowners some tax relief. The borough finance department projects that the impact to the borough and the state on AS 43.56 [Oil and Gas Property] revenues would be minimal. Property assessments have climbed each year for the last five years and over a two year period should mitigate the exemption. Also, voters defeated a ballot proposition to exempt food from sales tax. Property owners are looking for tax relief and voters want this option to be available on the local level. Stable tax rates are attractive to potential new residents.

SENATOR TAYLOR asked him to think about the earlier discussion. This legislation would just cause a revenue shift because the borough would need the same amount of money each year. The borough would have to increase the mill levy after exempting \$50,000 or increase the sales tax rate if those are the two primary sources of income. If the Legislature allows the increased exemption it would decrease the amount of valuation

the State of Alaska has. This would be a \$1.9 million revenue impact to the state at a time when the Governor has a series of revenue enhancers. He calls those taxes and fees.

He asked Mr. Superman to send a note and give his opinion on how that adjustment would occur.

MR. SUPERMAN agreed he could do so then pointed out the borough gives seniors a total exemption. They have a list of exemptions but it doesn't include a property tax exemption for the working class people. Voters elected to keep the sales tax the way it is, but that doesn't mean they aren't looking for tax relief. If the exemption for the sales tax had been approved, it would have had a \$2 million impact to the borough and the increase from \$10,000 to \$50,000 is about the same. They see a projected loss in taxable assessed valuation of \$310 million and from FY02 to FY03 they see an increase of \$270 million in their tax assessment roles.

There were no further questions for Mr. Superman.

SENATOR GARY STEVENS asked Mr. Van Sant a question regarding the school contribution. He noted it is 4 mills on the valuation of the property. If there is an exemption to property taxes he wondered if that would reduce the valuation and change the amount of money that would go into the foundation formula.

MR. Steve Van Sant, State Assessor, advised moving the exemption from \$10,000 to \$50,000 would have no bearing on the school foundation funding. It would still be 4 mills of full value. If the Kenai Borough elected to increase the exemption, the State Assessor would keep the same full value there is now. The optional exemptions are added back.

There were no further questions.

The bill was held in committee.

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CHAIR WAGONER adjourned the meeting at 3:15 pm.