

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 16, 2005

1:35 p.m.

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator Bert Stedman
Senator Thomas Wagoner
Senator Johnny Ellis

MEMBERS ABSENT

Senator Albert Kookesh

COMMITTEE CALENDAR

SENATE BILL NO. 112

"An Act imposing a tax on residents of regional educational attendance areas; and providing for an effective date."

MOVED CSSB 112(CRA) OUT OF COMMITTEE

SENATE BILL NO. 102

"An Act relating to district coastal management programs; and providing for an effective date."

MOVED CSSB 102(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 102

SHORT TITLE: COASTAL MANAGEMENT PROGRAMS

SPONSOR(S): SENATOR(S) STEVENS G

02/14/05	(S)	READ THE FIRST TIME - REFERRALS
02/14/05	(S)	CRA, RES
03/14/05	(S)	CRA AT 1:30 PM BELTZ 211
03/14/05	(S)	Heard & Held
03/14/05	(S)	MINUTE(CRA)
03/16/05	(S)	CRA AT 1:30 PM BELTZ 211

BILL: SB 112

SHORT TITLE: TAX ON REAA RESIDENTS

SPONSOR(S): SENATOR(S) BUNDE

02/23/05 (S) READ THE FIRST TIME - REFERRALS
02/23/05 (S) CRA, FIN
03/09/05 (S) CRA AT 1:30 PM BELTZ 211
03/09/05 (S) Heard & Held
03/09/05 (S) MINUTE(CRA)
03/16/05 (S) CRA AT 1:30 PM BELTZ 211

WITNESS REGISTER

Chuck Harlamert
Department of Revenue (DOR)
PO Box 110400
Juneau, AK 99811-0400
POSITION STATEMENT: Explained changes in CSSB 112

Mr. Kalenka
Alaskans for Efficient Government
No address provided
POSITION STATEMENT: Suggested changes to CSSB 112

Randy Bates
Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724
POSITION STATEMENT: Administration representative opposing SB 102

Sandy Harbanuk
Juneau, AK 99801
POSITION STATEMENT: Spoke in support of SB 102

ACTION NARRATIVE

CHAIR GARY STEVENS called the Senate Community and Regional Affairs Standing Committee meeting to order at [1:35:52 PM](#). Present were Senators Stedman, Ellis and Chair Gary Stevens. Senator Wagoner arrived momentarily.

SB 112-TAX ON REAA RESIDENTS

CHAIR GARY STEVENS announced SB 112 to be up for consideration and asked for a motion to adopt the committee substitute (CS).

SENATOR BERT STEDMAN motioned to adopt the \F version CS for SB 112 as the working document. There being no objection, it was so ordered.

CHAIR GARY STEVENS asked Mr. Harlamert to come forward.

[1:36:56 PM](#)

CHUCK HARLAMERT, Department of Revenue (DOR), explained the following changes made in the \F version CS:

- Section 1 is new. Page 1, lines 8-9 puts in place the requirements for a physical address on the permanent fund dividend. The change is necessary to enforce the type of tax that is based on where a person resides in the state.
- Section 2, page 1, line 13 is a technical change to specify that individuals 21 years of age or older on January 1 of the tax year would be subject to the tax.
- Page 2, line 7 changes the date by which the tax must be paid from November 1 of the subsequent calendar year to January 15 of the subsequent calendar year.
- Page 2, line 13 change comports with more traditional withholding practices and requires withholding on employee paychecks and limits the withholding to the lesser of 10 percent of the taxpayer's gross earnings or one-half of the tax per pay period.
- Page 2, lines 17-23 add subsection (c)(1)-(3) to give guidance to employers for withholding. It holds employers harmless for not withholding if the employee demonstrates prior withholding, previous payment, or that the 21-year age threshold isn't met.
- Page 2, line 28 recognizes that an employee might have more tax withheld than is due and that a refund may be claimed from the state.

[1:43:29 PM](#)

SENATOR STEDMAN said he was curious how work derived from natural resource extraction might be handled.

MR. HARLAMERT explained the bill doesn't direct non-employee compensation arrangements and the state would prefer not to impose a withholding requirement where none previously exists. For instance, fishing boat owners don't have a federal

withholding requirement for crewmembers and the state wouldn't want to impose a state tax because it would be more efficient to deal directly with crewmembers.

CHAIR GARY STEVENS restated that it is the individual's responsibility rather than the employer's responsibility.

MR. HARLAMERT said that's correct.

[1:44:59 PM](#)

SENATOR JOHNNY ELLIS asked for a restatement of the age requirement.

MR. HARLAMERT explained the bill taxes any individual living in the specified areas that are 21 years of age or older on the first of the year.

SENATOR ELLIS questioned why age 21 is used rather than age 18.

MR. HARLAMERT said that's the way the bill is written.

SENATOR ELLIS referenced page 2, line 10 and asked if non-monetary compensation would be considered.

MR. HARLAMERT replied that section relates to an individual that has not had the tax withheld by an employer so the individual would pay the tax directly to the state.

SENATOR ELLIS pressed for an explanation of "other compensation" and whether it might include monetary and non-monetary compensation.

MR. HARLAMERT opined it was simply necessary language.

SENATOR ELLIS asked if compensation includes benefit beyond salary.

MR. HARLAMERT said he interprets that to be taxable compensation and not benefits.

CHAIR GARY STEVENS asked if employers could ever be held accountable for an employee's tax obligation.

MR. HARLAMERT replied the normal mechanism in the personal income tax field and the best practice from DOR's standpoint is to impose a withholding requirement on the employer. If the

employer doesn't withhold, then the employer should be held liable. Furthermore, if the employer withholds and then fails to pay the state then the employer should be held personally liable. It's not perfectly clear in SB 112, but that appears to be the intent.

CHAIR GARY STEVENS remarked the employer would have to maintain an accounting system to show that all employees have had the tax withheld, have previously paid the tax, or aren't subject to the tax by virtue of age.

MR. HARLAMERT replied that's essentially true.

[1:50:57 PM](#)

SENATOR CON BUNDE, sponsor, reemphasized the psychological and fiscal issues associated with SB 112. The fiscal issue is that residents of organized, home rule and first class cities make a local contribution for the operation of their schools while residents of the 19 REAAs in the state make no local contribution for schools. The Department of Revenue indicates that the unorganized areas of the state have over \$500 million in earned income yet the schools operate on state funding alone. The proposed contribution amounts to about \$35 per month to support schools. That is not onerous and people of modest means living in organized areas do pay to fund schools. The other issue is philosophical; you value and take better care of the things you help pay for, he asserted.

[1:53:35 PM](#)

SENATOR ELLIS asked why he decided to use age 21 rather than 18.

SENATOR BUNDE said he wanted to make sure that individuals were well out of high school before becoming obligated to pay the tax.

SENATOR ELLIS noted that the bill makes it clear that it's not constitutional to dedicate funds so the money coming from the REAAs wouldn't necessarily go back to the same areas for education funding. Therefore, he questioned whether the sponsor intended for the tax to supplant or supplement existing general fund money that goes for education.

SENATOR BUNDE replied it should not supplant current funds, rather it should add to current funds. Certainly he agrees with

the prohibition regarding dedicating funds, but it is possible to indicate legislative intent and put up a moral fence.

Although the money generated with the proposed tax might not go to the specific district that raised the money, it would add to the general fund support of the basic per student dollar and consequentially be of benefit to the population that raised the money.

SENATOR ELLIS acknowledged that if this were to come to fruition it would be an overall gain for state education. He mentioned that when money is raised for schools in Anchorage it goes directly to Anchorage schools, but money raised in a rural area wouldn't necessarily improve schools in the particular area. There's a difference between local effort going to the local schools and local effort going to the state treasury.

SENATOR BUNDE replied the point is valid, but the REAAs have been state sustained for a number of years and as a consequence have been using money that could have gone to organized areas. He opined it would be a long time before they catch up.

SENATOR ELLIS remarked it should be remembered that most of the natural resources in the state come from rural areas and all residents share those common property resources and the value derived from them.

SENATOR BUNDE replied the resources in the state aren't equally distributed, but according to the constitution, they are held in trust for all Alaskans so the argument is moot.

[1:58:30 PM](#)

CHAIR GARY STEVENS asked for a comment on the argument that rural areas shouldn't have to pay a head tax because the federal government sends PL874 money to pay for education in those areas.

SENATOR BUNDE replied he doesn't consider that a local contribution. Furthermore, Anchorage receives PL874 money and the funds are passed through to the state. Surely rural areas would object if Anchorage were to keep those substantial funds.

CHAIR GARY STEVENS summarized saying that a head tax doesn't jeopardize PL874 funds in any way.

SENATOR BUNDE agreed.

SENATOR STEADMAN questioned whether it's legal to impose a tax according to address.

SENATOR BUNDE replied legislative legal hasn't indicated there is any constitutional problem. The constitution requires people living in organized areas to make a local contribution so this proposal is obviously legal.

SENATOR STEDMAN asked for verification that people living in unorganized areas that have already volunteered to pay tax to support schools wouldn't be subjected to this tax.

SENATOR BUNDE said that's correct; no one would be double taxed.

There were no further questions.

[2:01:58 PM](#)

CHAIR GARY STEVENS asked Senator Bunde if he had summary comments.

SENATOR BUNDE said this is a fairness issue and will provide opportunity for those who would like to make a local contribution, but don't want another layer of government imposed.

SENATOR ELLIS asked if passing this tax would stop the push for mandatory boroughs because that seems to be what Dick Schultz expects.

SENATOR BUNDE suggested Mr. Schultz is correct that passage might dampen the arguments in the political arena, but this Legislature certainly can't bind a future Legislature.

SENATOR ELLIS asked if that means that he would make no guarantee that the drive for mandatory borough formation would stop if this were to pass.

SENATOR BUNDE replied there is no way he could make such a guarantee in good faith.

[2:04:47 PM](#)

CHAIR GARY STEVENS noted the bill had a Finance Committee referral then asked for a motion.

SENATOR STEDMAN motioned to report CSSB 112(CRA) and attached fiscal notes from committee with individual recommendations.

[2:05:20 PM](#)

SENATOR ELLIS objected and said his objection stems from the fact that he wasn't comfortable that the issue had been thoroughly vetted.

[2:05:54 PM](#)

CHAIR GARY STEVENS stated that he inadvertently overlooked someone that wanted to provide testimony.

MR. KALENKA said that although he is the President of Alaska for Efficient Government today he was speaking for himself. It is his practice to advocate against taxes, but he is very much in favor of user taxes. If you use a service, then you assume an obligation to pay for that service. He suggested school children do get a Permanent Fund Dividend, which could be used to pay for educational services.

[2:09:19 PM](#)

CHAIR GARY STEVENS asked Senator Ellis if he maintained his objection to moving SB 112.

SENATOR ELLIS said he did.

CHAIR GARY STEVENS asked for a roll call vote. The motion to move prevailed 3 to 1 with Senators Stedman, Wagoner and Chair Gary Stevens voting yea and Senator Ellis voting nay.

CSSB 112(CRA), \F version, and attached fiscal notes moved from committee with individual recommendations.

[2:10:07 PM](#)

SB 102-COASTAL MANAGEMENT PROGRAMS

CHAIR GARY STEVENS announced SB 102 to be up for consideration. He noted the \F version committee substitute (CS) was before the committee and asked Mr. Letch to come forward.

[2:12:04 PM](#)

DOUG LETCH, staff to Senator Gary Stevens, explained the \F version CS mirrors HB 189 and would base the deadline for district coastal program revisions and annulment of the existing program on federal approval of the state program. The concept is to give coastal districts additional time to develop revised plans so that the public has time to understand and comment on the new program the state and federal government agree upon.

At the end of the previous hearing the Department of Natural Resources asked to be given the opportunity to respond to the committee substitute (CS).

[2:12:45 PM](#)

SENATOR STEDMAN asked for a recap of the status of the various coastal districts and what would happen if the extension were granted.

[2:14:26 PM](#)

RANDY BATES, Deputy Director of Project Planning And Permitting, Department of Natural Resources (DNR), recapped previous testimony. There are 35 established coastal districts and 33 districts currently have approved plans. House Bill 191 required all coastal districts to review and renew their plans then resubmit them according to the implementing regulations of the bill. Of the 33 coastal districts with coastal plans, 27 have plan revision commitments. Of the 27 that have committed to making revised plans, the department knows that 16 districts will put draft plans out for public review by mid April. The remaining 11 districts are expected to have the revised plans out for public review by the end of April.

The department made about \$900,000 available to provide partial help for this effort and part of the grant requirement was that the plans be complete by July 1, 2005. Having the plans out for public review by the end of April would put the 27 districts on track to meet the deadline.

CHAIR GARY STEVENS asked Mr. Bates whether he had any comments on the CS.

MR. BATES replied he had no additional comments on the CS, but the department did provide a new fiscal note to reflect two years additional staff costs. Federal funding runs out in 2006 so the fiscal note reflects costs for both 2007 and 2008.

CHAIR GARY STEVENS noted that the department believes that extending the deadline for one year would result in nearly \$200,000 in additional costs for 2007 and for 2008.

MR. BATES clarified the CS actually extends the deadline for one year beyond Oceans and Coastal Resource Management (OCRM) approval, which moves it into the two year timeframe.

CHAIR GARY STEVENS recalled that everyone that testified during the previous hearing spoke in support of the extension. Districts asking for additional time included: Aleutians West Coastal Resource Service Area (CRSA), Cenaliulriit CRSA, City of Craig, City and Borough of Juneau, Kenai Peninsula Borough, Kodiak Island Borough, Lake and Peninsula Borough, North Slope Borough. Although the districts said they could meet the deadline, everyone agreed that the plans wouldn't be complete; rather they would need additional and substantial revisions.

He questioned the justification for the new fiscal note for an additional \$200,000 per year when the department has recognized that substantial revisions would be needed and those revisions would be funded out of normal staffing.

MR. BATES replied the fiscal note reflects the fact that the one time congressional allocation of Coastal Impact Program money expires 7/1/05. The key staff that will be looking at the mapping requirements and enforcement policies included with the plan revisions are funded out of that pot of money. The department doesn't have the money to carry the staff beyond the deadline.

CHAIR GARY STEVENS asked if the substantial revisions would be funded thru normal staffing.

MR. BATES said he wanted to be clear that submitting the district plan revisions doesn't end the planning process. Districts can continue to refine their coastal plans and the current staff is set up to complete the requirements of House Bill 191 through June 30, 2006. At that point some monies to keep all the current staff on will expire. However, the department does expect to assist two to three districts per year with basic planning requirements and the staffing is adequate to handle those.

[2:23:23 PM](#)

SENATOR ELLIS said he recently heard that the Governor was threatening to do away with the entire coastal zone plan in the state if the federal government didn't capitulate on a number of points that he deemed important. He suggested there must be a better way to resolve differences than a head-to-head confrontation.

MR. BATES replied the state has engaged in negotiations with the granting and approving agency (OCRM) for two years, but "they didn't come to table the way we expected or asked them to so we are in the situation we're in." There is a basic philosophical difference between what Washington D.C. wants in a coastal plan and what the legislation passed in 2001 and the regulations promulgated in implementing the bill. The state wants a streamlined non-redundant program and OCRM is pushing for a program that duplicates existing state and federal law. One of the reasons the Murkowski Administration opposes SB 102 is that if the timeframe is extended, the state is playing into federal hands in terms of federal management of state resources. "If we don't keep OCRM working hard, they're going to find that they can continue to push the state to a program that we simply don't agree with - that is not going to work for Alaska."

[2:26:13 PM](#)

SENATOR ELLIS remarked that's a bad sign for the bill being signed into law.

CHAIR GARY STEVENS agreed.

CHAIR GARY STEVENS announced a brief recess from [2:26:21 PM](#) to [2:27:49 PM](#)

CHAIR GARY STEVENS reconvened the meeting and noted that the bill had both Resource Committee and Finance Committee referrals.

[2:28:03 PM](#)

SANDRA HARBANUK, Juneau resident, said she didn't come prepared to testify, but felt compelled to do so after listening to the previous testimony. She is a former coastal project reviewer with the Division of Governmental Coordination, DNR, and is currently employed as a consultant working on seven of the district coastal plans.

The coastal districts that testified previously didn't point out some of the very major and significant problems associated with rewriting some of the plans. The disagreements with OCRM are not simple and perhaps that's why the districts shied away from pointing them out.

House Bill 191 has it's own set of problems, but the regulations that DNR promulgated are stultifying and don't comply with the standards that are set out in federal law. Districts are constrained with regard to what they can write policies about and the regulations serve as a straitjacket for local participation in the state and federal processes.

She asked the committee to carefully consider the issue because the testimony just given misrepresented what is actually happening.

[2:30:43 PM](#)

CHAIR GARY STEVENS summarized her position is that the local coastal zone management districts are trying to figure out what to do and how to write plans when there is no agreement between federal and state agencies.

MS. HARBANUK said the guidance coming out of DNR has been continually changing; the language is confusing for determining whether an issue has been legitimately and adequately addressed before a policy can be written. In addition there is the problem associated with having to designate areas without knowing what an area might be used for. Overall, the regulations place a stranglehold on what districts can do.

CHAIR GARY STEVENS questioned what communities might accomplish with the additional year.

MS. HARBANOK responded she expects that districts would work on plan parts such as resource inventory and analysis and wait for state and federal agreement. This would allow them time to write good policies that would work for the individual districts. It would also allow time for the public participation process that the districts spoke to during the previous hearing.

There were no further questions or comments.

CHAIR GARY STEVENS asked for a motion.

[2:33:22 PM](#)

SENATOR STEDMAN motioned to report CSSB 102(CRA) and attached fiscal notes from committee with individual recommendations. There being no objection, it was so ordered.

There being no further business to come before the committee, Chair Gary Stevens adjourned the meeting at [2:33:42 PM](#).