

HOUSE FINANCE COMMITTEE
April 11, 2007
1:46 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:46:28 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Harry Crawford
Representative Les Gara
Representative Mike Hawker
Representative Reggie Joule
Representative Mike Kelly
Representative Mary Nelson
Representative Bill Thomas, Jr.

MEMBERS ABSENT

Representative Richard Foster

ALSO PRESENT

Suzanne Cunningham, Staff, Representative Meyer; Norman Cohen, Staff, Representative Max Gruenberg; Representative Max Gruenberg; Eleanor Wolfe, Staff, Representative Kurt Olson; Pat Davidson, Legislative Auditor, Legislative Audit Division, Legislative Affairs Agency; Rob Meyers, Staff, Representative Peggy Wilson; Paula Scavera, Legislative Liaison, Department of Labor and Workforce Development; Representative Anna Fairclough; Curtis McQueen, Director, Corporate Affairs, Eklutna Incorporated; Jim Arneson, Land and Regulatory Manager, Eklutna Incorporated; Pat Gamble, President and CEO, Alaska Railroad Corporation

PRESENT VIA TELECONFERENCE

Mike Black, Director, Community Advocacy, Department of Commerce, Community and Economic Development; Doug North, President, Alaska Pacific University, Harry McDonald, Board of Trustees, Alaska Pacific University; Bob Minz, Alaska Pacific University; Douglas Griffin, Director, Alcoholic Beverage Control Board, Department of Public Safety; Dennis Fenerty, Groh Eggers, LLC; Dan Alex, Chief, Eklutna

SUMMARY

HB 67 "An Act relating to an optional exemption from municipal property taxes on certain residences of law enforcement officers."

CSHB 67 (FIN) was REPORTED out of Committee with a "no recommendation" and with zero fiscal note #1 by the Department of Commerce, Community and Economic Development.

HB 155 "An Act extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

CSHB 155 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a new fiscal note by the Department of Public Safety.

HB 158 "An Act providing for the licensing and regulation of private investigators and private investigator agencies; and providing for an effective date."

HB 158 was scheduled but not heard.

HB 178 "An Act relating to the Governor's Committee on Employment of People with Disabilities; and providing for an effective date."

CSHB 178(HES) was REPORTED out of Committee with a "do pass" recommendation and with a new zero fiscal note by the Department of Labor and Workforce Development.

HB 212 "An Act authorizing the transfer of land from the Alaska Railroad Corporation to Eklutna, Inc.; and providing for an effective date."

HB 212 was heard and HELD in Committee for further consideration.

[1:47:25 PM](#)

HOUSE BILL NO. 67

"An Act relating to an optional exemption from municipal property taxes on certain residences of law enforcement officers."

Vice Chair Stoltze MOVED to ADOPT the work draft for HB 67, labeled 25-LS-0314\F, Cook, 4/10/07. There being NO OBJECTION, it was so ordered.

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SUZANNE CUNNINGHAM, STAFF, REPRESENTATIVE MEYER, explained the three major changes to HB 67 depicted in the new CS. Section 1 provides that property of a private, nonprofit four-year college is also exempt from taxation except for cases when there is a private lessor of the property. This treatment is consistent with the way the University of Alaska is treated.

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Ms. Cunningham explained that Section 2 was added by request and provides for an optional tax exemption for fraternal society orders or associations. Section 3 was worked on by Representative Gruenberg's office and addresses previous concerns raised by Representative Gara.

NORMAN COHEN, STAFF, REPRESENTATIVE MAX GRUENBERG, explained the changes to Section 3. He pointed to a change on page 4, which limits a parcel owned by a law enforcement officer to one exemption. If two or more individuals own the parcel, the exemption depends on the percentage owned by the law enforcement officer. The individuals can decide between themselves how the exemption is distributed. Other changes were made to give municipalities more discretion in how they decide which area is to be tax exempt. Municipalities can also decide which law enforcement officers are eligible for the exemption.

Mr. Cohen referred to page 4, lines 13 and 14, which gives the municipality the ability to place additional criteria when determining which areas to include for the exemption and how large to make them.

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Representative Hawker referred to Section 1 and asked which property tax payers would benefit from the proposed change. Ms. Cunningham listed Alaska Pacific University (APU) and Sheldon Jackson College. Representative Hawker wondered how much monetary relief they would be receiving. Ms. Cunningham explained that under AS 29.45.030 there is a property tax exemption for property used exclusively for nonprofit, religious, charitable, cemetery, hospital, or educational purposes. The new language clarifies that if the property of four-year, private, nonprofit institutions is leased, the lessor is liable for municipal property tax.

Representative Hawker inquired if the taxing authority would have to make up for waived taxes. He wondered if the liability would then fall upon other taxpayers of the community. Ms. Cunningham referred to a section under the mandatory property tax exemption that allows the municipality to seek revenue from the state. Representative Hawker expressed interest in knowing the amount of the

potential lost revenue by allowing Sheldon Jackson and APU to be tax exempt.

Co-Chair Meyer asked if this is a local option.

REPRESENTATIVE MAX GRUENBERG, co-sponsor, reported that Section 1 was not optional.

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Representative Crawford wondered about the impact on Wayland Baptist University in his district. He asked about the effect of this legislation on the property tax cap.

MIKE BLACK, DIRECTOR, COMMUNITY ADVOCACY, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, explained that if a class of property tax is removed, the balance of revenue needing to be generated would be passed on to other taxpayers in Anchorage. He thought that there was no state reimbursement to make up for the loss. He said there would be no effect on the municipal tax cap.

Representative Hawker requested a dollar amount.

Mr. Black related that some university-owned vacant properties would be removed from the tax roll. He could not state a dollar amount.

Representative Hawker wondered about the relationship between vacant property and Alaska Pacific University (APU). Mr. Black reported that the properties are held in title by APU, although they are not attached to the campus.

HARRY MCDONALD, BOARD OF TRUSTEES, ALASKA PACIFIC UNIVERSITY, clarified that no tax has ever been paid on those properties. Representative Hawker asked by what authority APU has been exempt.

DOUG NORTH, PRESIDENT, ALASKA PACIFIC UNIVERSITY, explained the university's 501(c)3 status as a non-profit educational institution from 1959 until 2005.

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BOB MINZ, TRUSTEE, ALASKA PACIFIC UNIVERSITY, added that there is a provision in state law whereby an entity that has never paid tax, is excluded from having to pay.

Representative Hawker asked why this bill is needed. Bob Minz replied that in 2006 the municipal assessor changed the interpretation. Representative Hawker asked what the change in interpretation was. Mr. Minz responded that in 2006 and 2007 the municipality decided that APU property was taxable. Representative Hawker asked how much money was involved.

Mr. Minz replied that the 2006 taxes are in dispute. A clarification of state law would solve the problem.

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Representative Gruenberg inquired if the Mat-Su property was left in trust. Mr. Minz replied said he is not sure which property is being referred to. Representative Gruenberg clarified that he is referring to a homestead that was left to the university. Mr. Minz related that APU only leases that property. Representative Gruenberg concluded it would not be covered by the bill. Mr. Minz said that is correct. Representative Gruenberg questioned about a specific piece of APU property that is being rented out. Mr. Minz replied that in 2007 the tax exemption for the Spine Institute building was withdrawn while the remaining exemptions were continued.

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Co-Chair Chenault asked if University of Alaska (UA) land is involved. Ms. Cunningham said the provisions pertaining to UA lands are untouched by this legislation.

Co-Chair Chenault asked if it would be optional for municipalities to allow exemptions. Ms. Cunningham said that Section 2 of the bill is optional. Co-Chair Chenault referred to a letter from Shane Horan (copy on file) voicing concern about exemptions for UA leasehold interests and fraternal orders.

Co-Chair Chenault declared a conflict of interest stating that he is a member of Moose and Elks clubs.

Co-Chair Chenault voiced concern about pressure on municipalities regarding exemptions. He questioned if the time is right. He pointed out that it would cost the Kenai Borough \$25,000 for the exemptions. He stated concern about exempting properties at a time of budget tightening. He agreed with the police officer exemption.

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Co-Chair Meyer noted that the amendments regarding the fraternal orders were proposed in another committee. Vice Chair Stoltze addressed the appropriateness of those exemptions. He pointed out that fraternal orders often function as community centers. He expressed comfort with the optional exemptions.

Representative Gara pointed out that there are hundreds of good reasons for property tax exemptions. He noted on page 2, line 22, property used exclusively for nonprofit religious, charitable, cemetery, hospital, and educational

purposes are already exempted. He spoke in favor of those exemptions as well as college property exemptions. He questioned the need for Section 2 and wondered why current law is not adequate.

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Mr. North explained the curricular relationship between APU and the Spine Institute, which leases their property. He spoke to the current exemptions for AU and APU. The question is how to level the playing field among the various colleges and universities in the state.

Representative Gara spoke highly of APU, however, he questioned the favoritism of one group of doctors over another regarding taxes.

Mr. McDonald explained how APU operating costs are handled. He clarified that the doctors are not getting the tax break, the university is. Mr. North added that the amount is \$200,000 per year.

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Ms. Cunningham addressed Representative Gara's concern. Page 1 outlines properties that are exempt from property tax. Subparagraph (a) states that the properties are exempt from taxation except that a privately sold contract or other interest in the property is taxable to the extent of the interest. That language was included at the request of the municipal attorney's office so that a lessor would be liable for tax purposes.

Representative Gruenberg added that the Spine Institute is not tax free. He asked what the educational relationship is between APU and the Spine Institute. Mr. North described the internship relationship, curriculum, and adjunct recruitment. He referred to an educational agreement between the Spine Institute and APU (copy on file.)

Representative Gara clarified that the doctors pay municipal business tax and state corporate tax. He concluded that currently the building would be taxed unless the law is changed.

Mr. Minz reported that currently there is a dispute with APU as to whether that property should be taxed.

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Representative Hawker questioned exemptions for fraternal orders and maintained that voters should have a chance to voice an opinion. He stated concern about the assembly changing taxes without the voice of the people. He

suggested language to allow voters to have a say. Vice Chair Stoltze thought that was a reasonable request.

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Representative Gruenberg said he would accept a friendly amendment to that effect. Co-Chair Chenault also agreed.

Representative Hawker clarified that his concern is only with Section 2.

Representative Hawker MOVED to ADOPT Conceptual Amendment #1:

ADD to Section 2.

Incorporate language similar to that found in Sec. 29.45.050(a) A municipality may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at an election.

This would incorporate the concept into the exemption taxation of the property of a fraternal society, order, or association that is exempt from federal taxes.

Vice Chair Stoltze OBJECTED.

Representative Hawker clarified "an election" would allow the municipality to decide which election.

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Representative Gara pointed out that charitable organizations are exempt already. This amendment applies to organizations that wish to exempt non-charitable-use property. He maintained that the issue is not clear.

Vice Chair Stoltze WITHDREW his OBJECTION.

Conceptual Amendment #1 was ADOPTED.

Representative Gruenberg stated a conflict of interest in that he is a member of the Lions' Club.

Co-Chair Meyer noted a zero fiscal note by the Department of Commerce, Community and Economic Development.

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Representative Hawker reported reservations about imposing unfunded mandates on municipalities. He agreed with Representative Gara's concern regarding exemptions for commercial enterprises. He said he would have to vote

against the bill because he is against additional property tax in Anchorage.

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Representative Gara spoke to properties used by religious groups. He objected to Section 2, which would expand that exemption to properties used for profit by religious groups. He stated no support for Section 2 of the bill.

Co-Chair Meyer summarized that that would be true only after voter approval.

Representative Gruenberg thought Section 2 would not cover the shopping center idea because commercial use is not one of the six items listed there. Representative Gara agreed.

[2:36:29 PM](#)

Vice Chair Stoltze MOVED to REPORT CSHB 67 (FIN), as amended, out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 67 (FIN) was REPORTED out of Committee with a "no recommendation" and with zero fiscal note #1 by the Department of Commerce, Community and Economic Development.

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HOUSE BILL NO. 178

"An Act relating to the Governor's Committee on Employment of People with Disabilities; and providing for an effective date."

ROB MEYERS, STAFF, REPRESENTATIVE PEGGY WILSON, explained that the bill is at the request of the Governor's Committee on Employment and Rehabilitation of People with Disabilities. Congress has changed the requirements recently and this bill would change Alaska statute to comply with those requirements. He explained the changes to the bill such as meeting times and the makeup of the council.

Co-Chair Meyer asked about the zero fiscal note from the Department of Labor.

PAULA SCAVERA, LEGISLATIVE LIAISON, DEPARTMENT OF LABOR, reported that the fiscal note was done to show that there was a cost from federal receipts. Federal receipt authority is no longer needed. Co-Chair Meyer requested that the fiscal note be dated. Ms. Scavera said she would see to it.

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Vice Chair Stoltze MOVED to REPORT CSHB 178 (FIN) out of committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 178 (HES) was REPORTED out of Committee with a "do pass" recommendation and with a new zero fiscal note by the Department of Labor and Workforce Development.

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At ease.

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HOUSE BILL NO. 155

"An Act extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

ELEANOR WOLFE, STAFF, REPRESENTATIVE KURT OLSON, related that the bill extends the sunset date of the Alcoholic Beverage Control (ABC) Board for six years at the recommendation of the Legislative Budget and Audit Committee (LB&A).

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DOUGLAS GRIFFIN, DIRECTOR, ALCOHOLIC BEVERAGE CONTROL BOARD, DEPARTMENT OF PUBLIC SAFETY, related the Board's process of complying with LB&A's recommendations. He explained about the process of securing funding for those improvements. He explained the make up and duties of the ABC Board.

Vice Chair Stoltze questioned if there is a plan to increase the size of the board to include rural members. Mr. Griffin noted that there was interest brought out by the transition report to look at broader geographical representation to include at least one rural member. There was also some discussion about expanding the size of the board, which would take further action.

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Representative Hawker spoke to audit items (copy on file.) He felt that items one to three were profound and indicative of weaknesses of paramount importance. He questioned if improvements have been made and recommended a shortened sunset date.

PAT DAVIDSON, LEGISLATIVE AUDITOR, LEGISLATIVE AUDIT DIVISION, LEGISLATIVE AFFAIRS AGENCY, noted that they had not updated the audit. She noted that the recommendation was for a maximum of six years, which is less than the statutory authority for eight years.

Representative Hawker questioned if Ms. Davidson would recommend a six-year period given the seriousness of the concerns. Ms. Davidson noted that there are two alternatives to following up on concerns, one is to shorten the termination date; the other would be for a request to do a follow-up. The six-year recommendation only speaks to whether the board should continue to exist. Representative Hawker ascertained that priority be given to statutory deadline audits.

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In response to a question by Representative Crawford, Ms. Davidson noted that the recommendation addresses six items. Sometimes procedures were in place, but not followed; at other times procedures were not in existence, such as in data base access. There is a process for municipal refunds, but it was not followed.

Representative Joule noted the recent audit date and asked if it would be difficult to see if items were being addressed. He pointed out that there is a new administration and questioned if there could be a conditional six-year extension with a two-year review. Ms. Davidson noted that a lack of segregation of duties in Fairbanks will take some time to address. She felt that most issues could be addressed within a year. She acknowledged that there is a backlog and those with statutory deadlines have priority. She suggested that an audit request would take two years.

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Representative Joule questioned if the ABC Board is short staffed. Ms. Davidson clarified that there are responsibilities that can be reallocated between staff.

Ms. Wolfe explained that they were aware of the issues and were advised that they would be addressed by the current administration.

Mr. Griffin did not know of other legislation to address the audit problems.

In response to a question by Representative Kelly, Ms. Davidson explained that the last audit had eight recommendations, most of which have been implemented. The outstanding issue was security over the database. Ms.

Davidson observed that the same executive director is in charge, but that the Board has just been moved to the Department of Public Safety. She did not know the makeup of the Board.

Representative Kelly continued to express concerns.

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Ms. Davidson explained that the Department of Public Safety and Board had responded separately to the concerns and both indicated support for the recommendations and indicated that they would be addressed.

In response to a question by Vice Chair Stoltze, Ms. Davidson noted that a survey resulted in positive responses regarding law enforcement and community groups' opinion of how well the ABC Board was doing. There was some concern about enforcement activities because there is unequal enforcement across the state. Businesses in Juneau and Fairbanks are inspected within four years, while Kenai only has a 50% chance of inspection.

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Representative Hawker asked about the priority for legislative audits based on who made the request. Ms. Davidson noted that no priority was given regarding individual legislators versus committees.

Representative Kelly commented that even three years would be a long time. He expressed concern with a three-year extension.

Co-Chair Meyer noted that some issues would take a couple of years. Ms. Davidson noted that a three-year extension would occur in 2010, which is when they are required to have an audit. She related the time frame needed.

Representative Kelly suggested that a three-year extension would send a strong signal.

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Representative Hawker MOVED to ADOPT Conceptual Amendment 1:

Change the date on line 5 from June 30, "2013" to "2010."

There being NO OBJECTION, it was so ordered.

Representative Gara asked about the removal of the voting ability of the director. Ms. Davidson explained that recommendation was based on a policy standpoint.

Co-Chair Meyer mentioned that a new fiscal note would be needed.

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Vice Chair Stoltze MOVED to REPORT HB 155. There being NO OBJECTION, it was so ordered.

CSHB 155 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a new fiscal note by the Department of Public Safety.

[3:19:58 PM](#)

HOUSE BILL NO. 212

"An Act authorizing the transfer of land from the Alaska Railroad Corporation to Eklutna, Inc.; and providing for an effective date."

REPRESENTATIVE ANNA FAIRCLOUGH, co-sponsor, introduced the bill. She explained that Eklutna has had a quarry with a stockpile of unusable material for a number of years. This legislation would authorize the Alaska Railroad Corporation (ARRC) to transfer its interest in the 48-acre quarry back to Eklutna, Inc. Issues on the conditional use process have yet to be worked out. She requested support for the bill to "right a wrong".

Vice Chair Stoltze agreed that this issue needs to be resolved.

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CURTIS MCQUEEN, DIRECTOR CORPORATE AFFAIRS, EKLUTNA INCORPORATED, related the history of the Alaska Railroad Corporation's relationship with Eklutna, Inc. He looked forward to resolving the issue.

JIM ARNESON, LAND AND REGULATORY MANAGER, EKLUTNA INCORPORATED, explained how the land management agreement was reached.

Mr. McQueen related support from Mayor Begich as well as many others.

Representative Hawker asked about who will end up owning the \$1 million worth of inventory. Mr. McQueen explained the conditional use process used. He spoke of support from the railroad.

Vice Chair Stoltze described the importance of Eklutna's holdings and their commitment to education.

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PATRICK GAMBLE, PRESIDENT & CEO, ALASKA RAILROAD CORPORATION, related the history of the problems and business issues surrounding the quarry. He shared how he learned of the village's perspective about the issue and the need for a cultural solution. He spoke of his journey to acquaint himself with Eklutna's concerns. He gave an example of the give and take during the process of transfer. He testified in support of HB 212.

Vice Chair Stoltze pointed out that the Commissioner of Commerce is a member of the Board of Directors.

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DENNIS FENERTY, GROH EGGERS, LLC, stated that his firm represents Wells Fargo. He related that Wells Fargo owns adjoining land to the railroad. A spur bisects Wells Fargo's parcel. He wondered if the railroad will be finished with the spur after the rock has been extracted. He stated concern that the bill not take action that would affect the spur.

DAN ALEX, CHIEF, EKLUTNA, offered to answer questions.

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Representative Hawker asked if the \$2 million rock triggers any section 7(i) Alaska Native Claims Settlement Act (ANCSA) consequences for Cook Inlet Region, Incorporated (CIRI). Mr. McQueen reported that they have worked very close with CIRI, which supports the cultural approach. CIRI has worked closely with Eklutna on a river restoration project.

Mr. Arneson thought that in 1998 or 1999 Congress changed the law regarding section 7(i) to exempt gravel from sharing amongst corporations. Representative Hawker wondered if there are any residual consequences for Cook Inlet. Mr. Arneson could not say.

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Co-Chair Chenault suggested that further questions be asked of the organizations involved.

HB 212 was heard and HELD in Committee for further consideration.

ADJOURNMENT

The meeting was adjourned at 3:43 PM.