

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 17, 2007

3:36 p.m.

MEMBERS PRESENT

Senator Donny Olson, Chair
Senator Albert Kookesh, Vice Chair
Senator Joe Thomas
Senator Thomas Wagoner

MEMBERS ABSENT

Senator Gary Stevens

COMMITTEE CALENDAR

SENATE BILL NO. 3

"An Act relating to the community dividend program; and providing for an effective date."

MOVED SB 3 OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 136

"An Act relating to certain municipal service areas that provide road services."

MOVED SSSB 136 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 3

SHORT TITLE: COMMUNITY DIVIDEND PROGRAM

SPONSOR(S): SENATOR(S) WILKEN

01/16/07	(S)	PREFILE RELEASED 1/5/07
01/16/07	(S)	READ THE FIRST TIME - REFERRALS
01/16/07	(S)	CRA, JUD, FIN
02/13/07	(S)	CRA AT 3:30 PM BELTZ 211
02/13/07	(S)	Heard & Held
02/13/07	(S)	MINUTE(CRA)
04/12/07	(S)	CRA AT 3:30 PM BELTZ 211
04/12/07	(S)	-- MEETING CANCELED --
04/17/07	(S)	CRA AT 3:30 PM BELTZ 211

BILL: SB 136

SHORT TITLE: MUNICIPAL ROAD SERVICE AREAS

SPONSOR(S): SENATOR(S) THOMAS

03/23/07 (S) READ THE FIRST TIME - REFERRALS
03/23/07 (S) CRA, TRA
04/05/07 (S) CRA AT 3:30 PM BELTZ 211
04/05/07 (S) -- MEETING CANCELED --
04/10/07 (S) CRA AT 3:30 PM BELTZ 211
04/10/07 (S) -- MEETING CANCELED --
04/13/07 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
04/13/07 (S) CRA, TRA
04/17/07 (S) CRA AT 3:30 PM BELTZ 211

WITNESS REGISTER

SENATOR GARY WILKEN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 3 as sponsor.

KATHIE WASSERMAN, Executive Director
Alaska Municipal League (AML)
Juneau, Alaska

POSITION STATEMENT: Spoke in favor of SB 3 and SB 136.

MIKE BLACK, Director
Division of Community Advocacy
Department of Commerce, Community & Economic Development

POSITION STATEMENT: Spoke in favor of SB 3.

RENEE BROKER, Attorney
Fairbanks North Star Borough
Fairbanks, Alaska

POSITION STATEMENT: Spoke in favor of SB 136.

ED MAHONEY, Chair
Service District 1
Kodiak, Alaska

POSITION STATEMENT: Spoke against one provision of SB 136.

ACTION NARRATIVE

CHAIR DONNY OLSON called the Senate Community and Regional Affairs Standing Committee meeting to order at [3:36:02 PM](#). Senators Olson, Kookesh, Thomas, and Wagoner were present at the call to order. Senator Stevens was excused.

SB 3-COMMUNITY DIVIDEND PROGRAM

CHAIR OLSON announced SB 3 to be up for consideration.

SENATOR GARY WILKEN, Sponsor of SB 3, said this bill was heard a few months ago, and it is a revenue-sharing bill based on a per-head allocation across Alaska. It would be \$70 per person, but an additional \$30 would be given to municipalities meeting the 4-mill requirement in the foundation formula supporting their schools. The funding source is flexible. If there isn't enough money in the general fund, the funds could come from the CBR [constitutional budget reserve], the Alaska capital income fund, or the permanent fund earnings reserve. He said it will be forward funded by one year to help municipalities plan ahead. "In the bill there is no minimum...because I really didn't know what to put in." He will leave it up to the body. He said this bill will not go anywhere in the Senate, but it is important to get the concept out there. The bill is sustainable, flexible, debatable, and predictable, he stated. He added that he is concerned that a general dip out of the revenue stream is a slippery slope, but revenue sharing is the thing to do. It is healthy to have the discussion every year. The fiscal note is about \$67 million, he told the committee.

[3:40:32 PM](#)

SENATOR WAGONER said the state has an unfunded mandate to every organized area of \$150,000 in real property tax forgiveness for senior citizens. While the fiscal note seems large, "if you figure up that unfunded mandate throughout the State of Alaska just in the municipal areas, I think you will find well over 50 percent of that amount is already required of the local governments in tax forgiveness for senior citizens." A past legislature did that and then took the funding away, he added. "I do believe we should have some revenue sharing. We are taking a lot of responsibility on ourselves paying their PERS/TRS requirements this year, but at the same time, I think this is something really to consider and look at when we look at unfunded mandates of that nature and allocate them into this formula somewhere too."

CHAIR OLSON asked what other solutions he has.

SENATOR WAGONER said the state mandates the tax forgiveness and should pay it. He said that is the simplest solution. There is no bill to do that, and the committee should address it. "Either eliminate the mandate...or fund the mandate you put out there because they are not both fair."

[3:43:02 PM](#)

CHAIR OLSON asked how he came up with the 4-mill standard.

SENATOR WILKEN said the state's foundation formula requires organized communities to come up with four tenths of one percent of their full and true assessed value. It's the law, he said, so he used it. There are some communities that have the ability to pay less than that, "but I don't address that in this legislation." Those doing that are paying for their schools. The \$30 could be claimed to support the schools, he said.

CHAIR OLSON asked how many communities will be left out [not qualify for the extra \$30].

[3:44:10 PM](#)

SENATOR WILKEN said it would be any school district run in unorganized Alaska.

KATHIE WASSERMAN, Executive Director, Alaska Municipal League (AML), said it used to be just the small communities that needed financial help, but now larger communities also need money. While they need help with PERS, revenue-sharing is still needed because that money is what the communities use to provide basic services or property tax relief. The AML has two bills on revenue sharing, but the vehicle doesn't matter at this point. "If we could get the legislature and the administration behind Senator Wilken's bill, we're there." She said the AML prefers the funding mechanism and the base amount in its own bill.

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MS. WASSERMAN said the large communities get the benefit of the per capita funds, and the small ones make their money on the base amount. She recommends a base of \$25,000 for unorganized communities, \$75,000 for cities, and \$250,000 for boroughs.

MIKE BLACK, Director, Division of Community Advocacy, Department of Commerce, Community & Economic Development, said the division supports revenue-sharing. Local governments are the primary deliverers of services to Alaska residents, and they are facing extraordinary costs. The legislature has tried to relieve some of that through the PERS and TRS funding, but there are many communities that have no PERS or TRS obligations but have higher costs anyway. He said forward funding is a good idea, and he supports base funding for the very small communities. This bill is a place to start the conversation, he stated.

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CHAIR OLSON asked about the fiscal note.

MR. BLACK said the fiscal note is a reasonable starting point but is "somewhat higher than what we had originally thought about, but to tell you the truth, it's certainly a very reasonable amount in my opinion."

CHAIR OLSON noted that the fiscal note is significantly more than the governor's proposal and asked Mr. Black's opinion.

MR. BLACK said the amount that was included in the budget was drawn from numbers provided by the previous administration, and it was not a carefully thought-out process. The \$64 million in SB 3 is about \$20 million more but still reasonable because of the costs that local governments are facing, he opined.

[3:51:12 PM](#)

SENATOR WILKEN said the section regarding the 4 mills also includes the 45 percent option. So Unalaska, Valdez, Skagway and the North Slope would also qualify. He reiterated his earlier testimony. "We can afford it and we owe it," he stated.

SENATOR THOMAS asked what he meant by saying "we owe it."

SENATOR WILKEN said Alaska's resources are on state land. Revenue sharing started in 1970, and when things got good in 1980 "we started up with safe communities and added to that." He said, "Things started to throttle itself back...so where we are today is zero." Managing the state's wealth has led the state to the point of helping the communities again. "We owe it because we're the one that manages that wealth." His town will use the money for tax relief, and others might use it for plowing roads.

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CHAIR OLSON asked about feedback from the administration.

SENATOR WILKEN said he has indications that the department is supportive of the concept. It becomes an issue of money. The governor had \$48 million budgeted, and the bill is \$64 million, but that is the process going on for the next few weeks.

CHAIR OLSON said it sounds like the \$48 million was proposed by the last administration.

SENATOR WILKEN said that is the amount from the year before.

SENATOR KOOKESH moved to report SB 3 from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

The committee took an at-ease from [3:56:00 PM](#) to [3:58:37 PM](#).

SSSB 136-MUNICIPAL ROAD SERVICE AREAS

CHAIR OLSON announced SSSB 136 to be up for consideration.

SENATOR THOMAS read the following statement to the committee:

Senate Bill 136 provides boroughs with a means of altering existing road service area boundaries to ensure taxpayer fairness among residents of service areas. A service area is a taxing jurisdiction within a borough that has been established to provide special services such as road maintenance or fire protection. These services are requested and approved by voters residing within a specific area. State law permits borough residents living outside a service area to use service area roads for their sole or legally required access. These residents derive a direct benefit equal to residents within the service area, yet they can refuse to contribute to the costs of construction or maintenance of these roads by voting down any annexation attempt. These state-mandated annexation votes typically fail as individuals are reluctant to join a service area when they can use these maintained roads for free. SB 136 amends state law by allowing a service area to annex property that uses its roads for their sole or legally required access without a vote by the owners of property to be annexed.

A second issue arises where residents of a service area pay into a service area even though they do not utilize the service area roads for access to their property. Service areas, however, are often reluctant to vote to remove property from the service area because it effectively raises taxes on the remaining property owners. SB 136 amends state law by allowing a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.

[4:01:10 PM](#)

CHAIR OLSON asked if there is a problem the bill seeks to solve.

SENATOR THOMAS said there are areas where people have property that is serviced but they are not contributing to it. And others could not get out of a service area even if they were not using the roads. It allows the borough to remove or add those people to the service district. It is about fairness, he said.

SENATOR WAGONER said his borough has no problem with the bill.

SENATOR THOMAS said service districts are self sufficient, so it will have no impact on state money.

SENATOR KOOKESH asked about the use of the word "annex," and if it could mean being annexed into a borough.

SENATOR THOMAS said not a borough, just in or out of a service district. He believes all service districts are in boroughs.

[4:03:57 PM](#)

RENEE BROKER, Attorney, Fairbanks North Star Borough, said SB 136 was unanimously supported by the borough. It allows local governments to address an inequity in the road taxation system. It is not just property owners using the roads for free. Businesses also use the roads. A gravel-hauling business, for example, can tear up roads but the businesses can refuse to contribute to maintenance. She noted that Anchorage is having similar problems. This bill establishes fair standards that local governments can use to determine whether property should be in or out of a road service area, she stated. If the government can put property into a service area, then fairness says property can also be excluded. The legislation doesn't require that any property ultimately be placed in or out of a service area. The decision will only be made by local governments after input from people. This bill preserves the right of the service area to vote on adding any property. It would be the service area, not the assembly, doing the cost-benefit analysis. It is a big step forward in fair taxation.

[4:07:27 PM](#)

SENATOR WAGONER asked about gravel pits in road service areas.

MS. BROKER said some gravel companies use the roads, but if the pit is not in the service area they don't pay anything.

ED MAHONEY, Chair, Service District 1, Kodiak, said he has numerous issues with the bill. Kodiak now exempts property that

doesn't rely on service district roads for access. He said it seems like this is an urban problem. In Kodiak everyone drives on the service district roads. By removing properties it would look like hitting the map with buckshot; "it would punch holes all through it." He said it isn't fair. The service area is an advisory to the assembly, and has no power to annex any parcel; it can only make a recommendation. He asked if the bill refers to new areas or individual lots. The language is not very clear, he stated. If a parcel has a back door access but the easy access is through the borough-maintained road, then the bill is not plugging any loopholes. He said to be cautious. He has been working to get everyone in the service district to pay, so it is ironic that this bill comes up now, he concluded.

[4:10:58 PM](#)

SENATOR THOMAS asked about his concern regarding exemptions.

MR. MAHONEY said Kodiak has an exemption for properties that are in the service district but are accessed from the state road.

SENATOR THOMAS said the bill won't impact that. "If you have a primary access that is not from the service district road, then you are not affected by this."

MR. MAHONEY said he doesn't think it will be affected, given what is on the books. The legality of right or wrong should be considered, he stated.

SENATOR THOMAS said he is only talking about people whose primary or only access is in a service district.

MR. MAHONEY said his problem is exempting parcels. A state road runs through his service district, and if properties are all of a sudden removed, it will have a huge impact.

SENATOR THOMAS said his intent is for people who do not use those service district roads and cannot get out of that district. He would like to read Kodiak's policy.

MR. MAHONEY, in response to Senator Olson, said he is speaking as chair of his service district.

CHAIR OLSON asked what impact it would have to take those parcels out of his service district.

MR. MAHONEY said the parcels are already exempted, and it amounts to \$51,000 this year. It is roughly a third of what is collected. There is a lot of concern that that isn't right.

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SENATOR WAGONER suggested seeing if his borough ordinance conflicts with state law. Senator Thomas is changing statute so that conflict won't occur in Fairbanks.

MR. MAHONEY said Kodiak is probably the only borough with the exemption and is probably out of compliance with state law. The bill will bring Kodiak into compliance. The exemption allowance has been on the books since the late 1990s. It forces others to pay more. Everyone in Kodiak uses the service district roads, whether they are going shopping or cutting across town. He said he is confused on how to rectify it.

[4:17:11 PM](#)

SENATOR THOMAS said that was the situation; people were using roads that they weren't paying for, and that's not fair. Kodiak's exemption seems to be the same as is in the bill for people who are not using such roads and could opt out of the district. Kodiak may have a different process, but it serves the same purpose, he surmised. The problem was that some people didn't want to let the non-users out of the service district because fees would go up for the remaining users.

MR. MAHONEY said he concurs, but in Kodiak, it is not just access but daily runs to church and stores as a shortcut—sometimes six to eight times each day. The dump trucks are tough on the road, and it is unfair to those with the burden of paying for maintenance. Regarding the bill, he is "for number 3 and against number 4."

[4:19:45 PM](#)

KATHIE WASSERMAN, Executive Director, Alaska Municipal League (AML), said AML is supportive. The bill gives boroughs the discretion. The AML supports the entire bill, she stated.

CHAIR OLSON asked what the Department of Transportation and Public Facilities (DOTPF) has said.

SENATOR THOMAS said there has been no comment from it. The bill is an issue of fairness. "If you're using the roads, you pay, if you're not using the roads, you have the opportunity to get out of the service district."

SENATOR KOOKESH moved to report SSSB 136 from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

The meeting was adjourned at [4:23:26 PM](#).