

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

May 10, 2007

3:36 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 67(FIN) am
"An Act relating to a mandatory exemption from municipal property taxes for certain college property, to a mandatory exemption from municipal property taxes for residences of certain widows or widowers, and to optional exemptions from municipal property taxes for property of certain fraternal organizations and for certain residences of law enforcement officers; and providing for an effective date."

MOVED SCS CSHB 67(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 67

SHORT TITLE: MUNICIPAL PROPERTY TAX EXEMPTIONS

SPONSOR(S): REPRESENTATIVE(S) GRUENBERG, CHENAULT

01/16/07	(H)	PREFILE RELEASED 1/5/07
01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	CRA, FIN
02/06/07	(H)	CRA AT 8:00 AM CAPITOL 124
02/06/07	(H)	Heard & Held
02/06/07	(H)	MINUTE(CRA)
02/20/07	(H)	CRA AT 8:00 AM CAPITOL 124
02/20/07	(H)	Moved CSHB 67(CRA) Out of Committee
02/20/07	(H)	MINUTE(CRA)
02/21/07	(H)	CRA RPT CS(CRA) 7DP
02/21/07	(H)	DP: CISSNA, DAHLSTROM, NEUMAN, OLSON, SALMON, LEDOUX, FAIRCLOUGH

03/06/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/06/07 (H) Heard & Held
 03/06/07 (H) MINUTE(FIN)
 04/10/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/10/07 (H) Scheduled But Not Heard
 04/11/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/11/07 (H) Moved CSHB 67(FIN) Out of Committee
 04/11/07 (H) MINUTE(FIN)
 04/13/07 (H) FIN RPT CS(FIN) NT 1DP 6NR 3AM
 04/13/07 (H) DP: STOLTZE
 04/13/07 (H) NR: GARA, CRAWFORD, NELSON, KELLY,
 JOULE, MEYER
 04/13/07 (H) AM: HAWKER, THOMAS, CHENAULT
 05/02/07 (H) TRANSMITTED TO (S)
 05/02/07 (H) VERSION: CSHB 67(FIN) AM
 05/03/07 (S) READ THE FIRST TIME - REFERRALS
 05/03/07 (S) CRA, FIN
 05/08/07 (S) CRA AT 3:30 PM BELTZ 211
 05/08/07 (S) Heard & Held
 05/08/07 (S) MINUTE(CRA)
 05/10/07 (S) CRA AT 3:30 PM BELTZ 211

WITNESS REGISTER

REPRESENTATIVE MAX GRUENBERG
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented HB 67 as sponsor.

JIM REEVES, Attorney
 Municipality of Anchorage

POSITION STATEMENT: Answered questions on HB 67.

STEVE VAN SANT, State Assessor
 Department of Commerce & Economic Development
 Anchorage, Alaska

POSITION STATEMENT: Answered questions on HB 67.

DOUG NORTH, President
 Alaska Pacific University (APU)
 Anchorage, Alaska

POSITION STATEMENT: Expressed support for a mandatory property tax exemption for property held by APU.

WAYNE HAERER, Property Tax Consultant
 Department of Commerce
 Anchorage, Alaska

POSITION STATEMENT: Answered questions on HB 67.

ACTION NARRATIVE

CHAIR DONNY OLSON called the Senate Community and Regional Affairs Standing Committee meeting to order at [3:36:12 PM](#). Senators Olson, Thomas, Kookesh, Stevens, and Wagoner were present at the call to order.

CSHB 67(FIN) AM-MUNICIPAL PROPERTY TAX EXEMPTIONS

CHAIR OLSON announced the consideration of HB 67. [Before the committee was CSHB 67(FIN) AM.]

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REPRESENTATIVE MAX GRUENBERG, sponsor of HB 67, said this was heard two days ago. The Senate Majority Leader had some questions, but Representative Gruenberg believes that they have been answered.

SENATOR WAGONER reported that property taxes are paid on buildings used for non-educational purposes that are sitting on property owned by a private college in Walla Walla. He said his uncle established an endowment at that college and gave it his very nice home. The home is now used for the college president's home and is not taxed. But the college has to pay property tax on buildings used to house faculty with salaries. The State of Washington is very specific. Housing for a person paid a wage is not tax exempt, he explained. "If it's for a private business that is in business for a profit and a non-educational purpose, they have to pay the property tax even if it's a college facility on the campus." That is fair, he noted. He said he won't be supporting the bill allowing the tax exemption for a private institution "because they are not...a land-grant college; they have nothing to do with land-grant status."

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SENATOR STEVENS said he wanted to hear if the City of Anchorage wants the tax exemption to be mandatory or optional. Maybe it should be approved by the assembly or the voters, he said. He wanted assurance that the borough wouldn't come back and complain that it was given an unfunded mandate.

JIM REEVES, Attorney, Municipality of Anchorage, said Anchorage does not oppose this legislation but would not oppose making the exemption optional either. "We have left it to the property tax

payer of interest to carry the burden of making the case for it."

SENATOR STEVENS asked if the public in Anchorage is willing to pick up those taxes, if the municipality is comfortable with a mandatory exemption for a four-year institution, and if would not be considered an unfunded mandate.

MR. REEVES said he believes it is predicated on the understanding that the possessory interest of the private lessee would be taxable. "We are not taking this property in its entirety out of the tax base."

[3:43:13 PM](#)

SENATOR STEVENS said if Anchorage is happy with a mandatory tax exemption, he will not object.

SENATOR WAGONER said there are other areas that don't have a tax structure, "so we're not just affecting Anchorage; we may affect other parts of the state that also have...it may be a two-year college or a bible college...so we're getting a little ahead of ourselves." He asked about the tax appraisal.

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REPRESENTATIVE GRUENBERG said page 2, line 3, requires that the private leasehold is taxable to the extent of its interest, so the tenant pays municipal property tax.

SENATOR THOMAS moved to adopt Amendment 1 and explained:

We're not deleting law enforcement officers' properties. As that, I think, alludes to in the first, on line 2 of the amendment. We are inserting only residential property on line 5 of page 1. After "officers;" you would insert the wording "residential property" and then it goes on to finish: "and providing for an effective date". That's already there. So we would simply be adding "residential property at that point, right in the middle of line 5, after "officers;".

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CHAIR OLSON said, "So we are deleting the deletion on line 2 of this amendment?"

SENATOR THOMAS said his understanding is that it is not taking out law enforcement officers' property tax. The only other

change that differs from the previous language is that it "now becomes \$40,000 versus the original hundred from what was twenty. So the two changes are: my bill is basically what it amounts to, amended to \$40,000, if this makes it simpler, and its insertion into Representative Gruenberg's House Bill 67 at the appropriate place in the title."

REPRESENTATIVE GRUENBERG said the drafting is correct. It should read: delete "residences of law enforcement officers." So it will read: and for certain "residential property". He said that will include the new amendment plus the law enforcement officers because they are both kinds of residential properties. As usual, he said, Ms. Cook [the drafter] did good work.

[3:49:07 PM](#)

SENATOR THOMAS said line 5 of the title is what is affected. Residential property replaces law enforcement.

REPRESENTATIVE GRUENBERG said residential property is a generic term.

SENATOR THOMAS said his amendment was altered to satisfy concerns about the amount of money and to make it inflation-proofed.

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SENATOR WAGONER said statewide property exemptions would be allowed up to \$40,000.

REPRESENTATIVE GRUENBERG said he and Representative Chenault have no objection to the amendment.

SENATOR STEVENS said if a borough does this, it must be ratified by the voters. It is not mandatory.

SENATOR THOMAS said yes; it is how Senator Stevens wanted it.

Hearing no objection, Amendment 1 passed.

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SENATOR WAGONER said that after looking at Washington State Law, he wants more time with the bill. "I think we're doing something we need to take a lot longer look at than we're doing, so I'm going to be a no vote." He said he likes a lot of the bill including the last amendment and the police officer part. He doesn't mind the exemptions if people vote on it. He said other areas of the state will be affected. "We're allowing them to be

pressured into taking action..." If there is a religious school with grazing land on its campus, it may go to the borough to ask for an exemption because of an agricultural curriculum, he said.

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SENATOR KOOKESH said it has to be a four-year accredited university. There are only three in the state.

SENATOR WAGONER said that doesn't mean it will remain that way.

SENATOR KOOKESH said he has never voted on something that may happen 20 years later. Today there are three four-year colleges. He said he represents half the square mileage of Alaska, and he is fine with the legislation.

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SENATOR WAGONER said Senator Kookesh represents an area where there is very little taxing authority, but Senator Wagoner represents an area where there is taxing authority, and "by allowing this, we're putting an additional burden, however small it might be, on property owners."

CHAIR OLSON said he can identify with those concerns.

SENATOR STEVENS said it is mandatory and takes no vote to forgive the taxes in the communities with four-year colleges, which includes Sheldon Jackson College and Alaska Pacific University (APU), and he asked if it includes Wayland Baptist.

SENATOR STEVENS said he didn't think so.

STEVE VAN SANT, State Assessor, Department of Economic Development, said there are four four-year accredited colleges in Alaska: Alaska Pacific University, University of Alaska, Wayland Baptist University in Anchorage and Fairbanks, and Alaska Christian University in Glen Allen.

[3:57:12 PM](#)

SENATOR STEVENS asked if all are accredited by the Council for Higher Education.

MR. VAN SANT said yes.

SENATOR STEVENS said even though Anchorage is OK with making this mandatory, he wants to give Anchorage, Sitka, and Glen Allen the option. It is a simple thing for a municipality to decide. The committee has not heard from Glennallen or Sitka.

MR. VAN SANT said Glen Allen doesn't have property tax. Sheldon Jackson College uses all of its property for education.

REPRESENTATIVE GRUENBERG said Representative Wilson from Sitka was pleased enough to add her name as a cosponsor.

[4:00:02 PM](#)

SENATOR STEVENS asked if Sheldon Jackson pays taxes now.

MR. VAN SANT said it does not.

SENATOR WAGONER noted that the bill calls for a mandatory exemption from municipal property taxes, but the witness from APU stated that the people that are renting from APU are paying property taxes.

DOUG NORTH, President, Alaska Pacific University, said APU pays the property tax "but there's a provision in the bill that the tenants would be taxable for their lease-hold interest, which is the issue that Mr. Reeves brought up."

SENATOR WAGONER asked, "How could they be responsible if this bill passes for paying the property tax when there's a mandatory exemption from those property taxes in the bill?"

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MR. NORTH said the issue relates to lease-hold interest.

REPRESENTATIVE GRUENBERG said for taxation purposes there is the underlying fee-simple interest, which is the permanent value of the raw land and any improvements on it. There is also a value, for tax purposes, of the lease. A five-year lease has so much value per year, for example. That is a different asset, which is severable for tax purposes, he explained. The tenant pays taxes and is billed separately for the value of that lease-hold interest. The remainder is owned by the university and is tax exempt. Part of a building might be used for education and part might be used for income. The educational part would be tax exempt, but it already is, he said.

[4:03:58 PM](#)

SENATOR WAGONER asked what taxes are on the lease amount other than the sales tax.

REPRESENTATIVE GRUENBERG said the lease is a real property interest that has a value for tax purposes. They receive a

separate bill from the municipality for the value of that year's portion of the lease. "They get their own bill from the municipality, and they value the lease...based on the...value for that particular year's lease." He said it has to be done because the remainder of the property is tax exempt. For a normal office building, the property owner would get one bill for the entire building and it wouldn't be broken out. "Presumably the landlord would add something to the rental value to re-compensate for the tenant's portion." In this case, part of the building is tax exempt, so the tenant gets a separate bill.

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MR. VAN SANT said that is correct for state-exempt property. But property owned by a private entity, such as APU, Nordstrom's, or even a church, where part of the property is used for non-exempt purposes, "that owner gets the value for the non-exempt use. ... This bill places the private ownership of APU in with state property and...directs the assessor to assess that lease-hold interest like he does property that is owned by a state or government entity that's exempt. And that's where the lease-hold calculations come in. They don't come in on any other property except a government-type exemption." Churches, for example, get the tax bill and there is no lease-hold calculation—it's just a percentage, he said. This only addresses leases which are owned by state, federal, or local governments.

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SENATOR STEVENS asked about making the provision optional with approval by the taxing authority.

SENATOR WAGONER said that's about the only way he can support the bill, "because this puts the onus of spreading a tax liability out to more people on the back of the governmental unit that's making that decision, instead of us making that decision and then people pointing the finger at us."

JIM REEVES, Attorney, Municipality of Anchorage, said the municipality takes no position on that.

MR. NORTH said he wants it to be mandatory because he doesn't want the municipality to have to respond to other nonprofit groups for the same request. He wants to be on par with the University of Alaska in Anchorage. He wants it be mandatory "so as not to put the municipality in the middle, which is one of the reasons that we're going to the state in the first place."

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SENATOR THOMAS said he thought that most educational and religious properties are already exempt. This is state property, so the proposed language would have to be moved. He read on page 2 that nonprofit, religious, cemetery, hospital, or educational properties are already exempt from general taxation.

REPRESENTATIVE GRUENBERG said the particular building under discussion was ruled tax exempt under the language on line 25 until a few years ago. But the municipal tax assessor ruled that because a portion was rented out, it didn't fall under the exemption. That is why they have requested this change. The money that the university makes from the building goes to run the university. The doctors at the clinic are adjunct professors at the university, and classes are conducted at the clinic. "It is integrally related to the university," he stated. If the committee decides to make this optional, it would have to be moved with a conceptual amendment to a section that deals with optional exemptions.

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SENATOR STEVENS said, "We're always maybe overly sensitive to the issue of mandatory tax exemption, but it seems to me that the proper place to determine local property taxes is in the local government, not at the state level." He moved that the exemption be optional to the local taxing authority.

SENATOR THOMAS asked if the committee is just acting on the disputed portion of the property: the spine institute. He noted language regarding a four-year college.

SENATOR STEVENS said all of the decisions on tax exemptions should be made by the local government.

CHAIR OLSON noted that there is a conceptual amendment to make any exemption optional and approved by the local authority.

[4:16:00 PM](#)

REPRESENTATIVE GRUENBERG said it is an important bill, but it has acquired various things far beyond "the cop in the neighborhood." He said Anchorage has "one building that everybody has agreed upon—the municipality's OK with it, APU is OK with it. We have a theoretical thing that might, at some future date, cause a problem." Although it could cause a problem, he asked that the bill not be amended to death.

SENATOR WAGONER said he was a major property owner in Kenai and had a building leased for commercial retail, residential and

warehousing. An oil company gave the borough a piece of property 2.5 miles away that was turned over to the Economic Development Corporation and they went immediately into business competing directly with him and "cutting my throat on my prices - Because guess what? I paid an \$8,000 tax bill each year and they paid zero." He noted that it isn't exactly the same situation, but in a way it is. He had no recourse, he added. He said it is good to give control to the local people who are directly affected. He was resentful that the borough was in competition with him, and the borough did not have a mortgage, taxes, or insurance.

[4:19:11 PM](#)

SENATOR KOOKESH said he doesn't support the amendment. He said a college in Glen Allen has no tax base, Sheldon Jackson College is already exempt by the City of Sitka, and Anchorage apparently doesn't care.

SENATOR STEVENS said he appreciates that, but he detects reluctance from "the proposer and others who have spoken to allow the borough assembly to be a part of this process. What is wrong with the elected officials deciding whether they want to be exempt or not?"

SENATOR THOMAS said he doesn't want to undo "all of this." "If you were talking about just the concept of the spine institute that might be a different situation as rented property. So I guess I would oppose the amendment because I see it being too broad and wiping out all of the additional language."

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REPRESENTATIVE GRUENBERG said, "This could be surgery on that particular building." It would have to be divided up in some manner, he noted. This portion of the bill would have to be redrafted very carefully, and he wants the amendment to be reconsidered. He worked very hard on this bill to do what it is doing. He is not saying that Senator Stevens is wrong, but he doesn't know exactly how it would be redrafted. It could be done, he stated, but he wants to be practical.

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SENATOR STEVENS asked about opposition in allowing the local government to make the tax exemption decision.

REPRESENTATIVE GRUENBERG said the legislature has made certain things mandatory; "one of them was higher education with respect to the University of Alaska." The purpose of the amendment is to even the taxation playing field for private and state

universities. If it becomes optional, there will be a range of political arguments advanced by people who don't like any tax exemptions. It will help provide a quality education at private expense without coming to the state for money. It is not easy to get money and this can help APU financially, he said.

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SENATOR WAGONER said he didn't want to bring it up, but two or three years ago the legislature exempted several pieces of property owned by the Anchorage Baptist temple. "We caught nothing but heartburn and headache from the Municipality of Anchorage." Now the municipality is asking for another exemption, he noted. He said it is strange, and he expressed hope for getting the bill redrafted.

MR. REEVES said the question is whether the legislature would choose to give the private college parity of treatment with the public university. If the municipality can be protected "by preserving the municipality's right to tax that possessory interest of the lessee, then we won't interpose an objection to an effort by APU to amend the law." He said the municipality wasn't looking at the distinction between optional and mandatory; it focused on parity of treatment. "If it is optional, so be it, but that wouldn't be parity of treatment."

[4:27:21 PM](#)

SENATOR WAGONER said nothing says there should be parity between public and private universities. Private universities are private for several reasons, one being that they don't want the restrictions of a public university.

SENATOR STEVENS asked if this were optional, is there a chance that the borough assembly will not approve the exemption.

MR. REEVES said he has no prediction.

CHAIR OLSON restated that Conceptual Amendment 2 is that the property tax exemption be optional. A roll call vote was taken. Senators Wagoner, Stevens and Olson voted in favor of Conceptual Amendment 1, and Senators Kookesh and Thomas opposed it; therefore, Conceptual Amendment 1 passed.

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SENATOR WAGONER said he has worked on the "cop-in-the-neighborhood" issue for quite a while, and he offered to help.

REPRESENTATIVE GRUENBERG said he hopes everyone can live with the committee decisions.

SENATOR THOMAS said it was a broad conceptual amendment, and he isn't sure what it does. He asked if anything in the statute will be optional.

[4:30:49 PM](#)

REPRESENTATIVE GRUENBERG said he thought section 1, which is the language at the bottom of page 1, will be put in an appropriate statute that makes it optional. "That is all I thought the committee did."

SENATOR STEVENS said that is his understanding because everything else is already optional. He asked if anything was mandatory in the bill.

REPRESENTATIVE GRUENBERG said Section 2 is mandatory. It is the widow and widower provision.

REPRESENTATIVE GRUENBERG said he is not certain whether anything will have to be changed in Section 5, which is a direction to the revisor.

SENATOR STEVENS asked why the widow/widower provision shouldn't be optional.

[4:32:38 PM](#)

WAYNE HAERER, Property Tax Consultant, Department of Commerce, Anchorage, said Mr. Van Sant told him that by making this legislation optional, it would be more accountable and transparent on a local level.

SENATOR KOOKESH said the four-year college was the only thing that was made optional. He would like to just change the title to reflect that and leave the rest alone.

SENATOR STEVENS said his concern was only for colleges, and "if anybody wants to attack widows or widowers, they can do that, but that's not going to be me."

[4:34:32 PM](#)

SENATOR KOOKESH said the only item changed is that which relates to four-year colleges.

SENATOR WAGONER said he doesn't want to take on widows and widowers, but he said the provision does the same thing.

SENATOR THOMAS asked to clarify that nothing else was impacted.

[4:36:47 PM](#)

REPRESENTATIVE GRUENBERG said the only thing that is being moved from the Stevens Amendment is the bold language.

SENATOR STEVENS moved CS for HB 67, as amended, from committee, with individual recommendations and attached fiscal note(s). There being no objection, SCS CSHB 67(CRA) carried.

The committee adjourned at [4:38:18 PM](#).