

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 3, 2008

3:31 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Gary Stevens

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 356(CRA)

"An Act relating to an exemption from municipal property taxes for certain real property that is exempt from levy and collection of real property taxes when conveyed by the federal government to implement the Alaska Native Claims Settlement Act or when conveyed under a land exchange authorized by that Act involving land or an interest in land that is made exempt from local property taxes by that Act; and providing for an effective date."

MOVED CSHB 356(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 356

SHORT TITLE: MUNICIPAL PROPERTY TAX EXEMPTIONS

SPONSOR(S): REPRESENTATIVE(S) STOLTZE

02/06/08	(H)	READ THE FIRST TIME - REFERRALS
02/06/08	(H)	CRA, FIN
02/28/08	(H)	CRA AT 8:00 AM BARNES 124
02/28/08	(H)	Moved CSHB 356(CRA) Out of Committee
02/28/08	(H)	MINUTE(CRA)
02/29/08	(H)	CRA RPT CS(CRA) 4DP
02/29/08	(H)	DP: CISSNA, SALMON, FAIRCLOUGH, LEDOUX
03/12/08	(H)	FIN RPT CS(CRA) 9DP
03/12/08	(H)	DP: HAWKER, CRAWFORD, GARA, NELSON, STOLTZE, THOMAS, KELLY, MEYER, CHENAULT
03/12/08	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
03/12/08	(H)	Moved Out of Committee

03/12/08 (H) MINUTE(FIN)
03/27/08 (H) TRANSMITTED TO (S)
03/27/08 (H) VERSION: CSHB 356(CRA)
03/28/08 (S) READ THE FIRST TIME - REFERRALS
03/28/08 (S) CRA
04/03/08 (S) CRA AT 3:30 PM BELTZ 211

WITNESS REGISTER

REPRESENTATIVE BILL STOLTZE
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HB 356.

JIM ARNESEN, Land Manager
Eklutna Inc.
Eagle River, AK

POSITION STATEMENT: Spoke in support of HB 356.

JACK OMELAK, Staff
to Senator Olson and a member of an ANCSA corporation
Alaska Capitol
Juneau, AK

POSITION STATEMENT: Spoke in support of HB 356.

ACTION NARRATIVE

CHAIR DONALD OLSON called the Senate Community and Regional Affairs Standing Committee meeting to order at [3:31:32 PM](#). Senators Kookesh, Thomas, and Olson were present at the call to order. Senator Wagoner arrived later.

HB 356-MUNICIPAL PROPERTY TAX EXEMPTIONS

CHAIR OLSON announced the consideration of HB 356. [Before the committee was CSHB 356(CRA).]

[3:32:01 PM](#)

REPRESENTATIVE BILL STOLTZE, Alaska State Legislature, said that Eklutna and Eklutna Inc. are in his district and brought an issue to his attention regarding the tax exemption of land that was undeveloped and was traded to a municipality and then became taxable. It was not the intent of the federal government. It dampened their enthusiasm to do some important public-interest land trades. He spoke with members of the Bush Caucus and attorneys from CIRRI (Cook Inlet Region, Incorporated) who made changes to the bill. There is a quirk in the law and it deviates

from the intent of Congress. That is that undeveloped land is being taxed by some municipalities. It is predominantly initiated by the local governmental entity. People in Southeast said there are land trades that didn't occur because of the taxes. He said he talked to people in Senator Olson's region. "It's been a good process for me to learn more about a body of law that I am certainly glad to know more about."

[3:34:27 PM](#)

REPRESENTATIVE STOLTZE said there was a Chugiak State Park access point, which the Legislature appropriated for and the Municipality of Anchorage bonded for to provide for the land trade. There was strong support. The property that Eklutna traded for in another undeveloped area is now taxable. The state assessor moved the effective date back so the bill will "positively affect that trade." The fiscal note shows a positive economic impact, "because some things are going to happen that wouldn't otherwise happen."

[3:35:39 PM](#)

SENATOR THOMAS asked if the bill simply allows what the federal government allows as far as not taxing undeveloped land. So when land is traded with a municipality it will have the same regulation as federal land. If it is developed, that will be different.

REPRESENTATIVE STOLTZE said that's correct.

CHAIR OLSON asked if it makes a difference if the land is within a borough or not.

REPRESENTATIVE STOLTZE said this is municipal tax, so if it is not in a borough it won't apply.

CHAIR OLSON asked about developed versus undeveloped land.

REPRESENTATIVE STOLTZE said there are state and federal definitions of developed land, and they are similar.

CHAIR OLSON asked how often this issue impeded potential past trades.

[3:37:28 PM](#)

REPRESENTATIVE STOLTZE said he doesn't know. He has spoken with people in Eklutna, who are managing their property for the future so they don't have an interest in acquiring more taxable land. He said CIRI has subsurface rights in his area, and a lot

of the legwork was done by their attorneys. There are [land trades] that the shareholders will have less interest in. They are very active members of his community, and they see the public benefit, but after acquiring the tax status so many times, "they have to ask themselves if it's worth [it]."

CHAIR OLSON noted that Senator Wagoner had joined the committee.

[3:38:54 PM](#)

JIM ARNESEN, Land Manager, Eklutna Inc., said this bill cleans up something that is missing in ANCSA (Alaska Native Claims Settlement Act). When Eklutna Inc. trades land with a municipality for undeveloped land, it has to pay taxes on it. As a result the corporation has turned down a land trade with the school district and one with the fire department. "We just want to be able to exchange lands if they're similar - if both lands are undeveloped - then we want to continue that exemption until we do develop it." If Eklutna Inc. receives developed property that produces income, "we don't have a problem paying taxes on that." They don't want to pay taxes on land until they develop it.

[3:41:13 PM](#)

SENATOR THOMAS asked if page 2, line 27, refers to ANCSA.

MR. ARNESEN said that is part of ANCSA, and the 1636(d) is part of ANILCA. This is an amendment to bring things up to date.

[3:42:10 PM](#)

SENATOR WAGONER said he understands why the Native corporations don't pay taxes. He questioned who pays for firefighting costs on Native land.

MR. ARNESEN said he doesn't know but his corporation probably doesn't.

SENATOR WAGONER said someone is going to have to start property tax to get those services. The federal government helps pay for services. The Native corporations have a lot of land, and if services are going to be provided, "somebody's got to be able to tax somebody someday, even on undeveloped property." A private person pays property tax on undeveloped land, so be prepared for it, he said.

SENATOR KOOKESH said that Eklutna Inc. is probably paying taxes on developed land. The Alaska Native corporations pay over \$220 million in taxes already on developed lands. "It's not as if

we're not paying our way on land that we are developing." Every piece of property in Southeast Alaska with a timber sale becomes developed and taxes are owed.

SENATOR WAGONER said, "If it's in a taxable jurisdiction." For the private sector even undeveloped land is charged taxes.

[3:44:30 PM](#)

REPRESENTATIVE STOLTZE said the state is just melding Alaska law with federal intent. If it were litigated, it wouldn't even be a close call. He said to keep the state out of court because Eklutna would have a pretty good case on what the federal intent was. He said he went to schools on land owned by Eklutna Inc.; and it was leased to the district for \$10 per year. That value probably exceeds taxes for fire service.

SENATOR KOOKESH said the public interest that the committee is considering is whether or not we're going to allow the Native corporations to step forward and do exchanges. They are not any more, even though the school district and fire department wants to. There are 440 million acres of Native land in Alaska, "and I'm sure there are going to be people who want exchanges." It would make sense to do this for the public interest, he said.

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REPRESENTATIVE STOLTZE said Eklutna Inc. is the largest private land owner in his district. It will be a major player for access points where people are trespassing now. There will be interest in gaining public access points to fishing streams and hunting and recreation areas. "Right now I'm seeing this becoming an impediment."

CHAIR OLSON asked Mr. Arnesen to comment on whether subsurface rights go with land that's traded.

MR. ARNESEN said CIRI has been reluctant to exchange its subsurface rights unless it gets subsurface rights elsewhere that are valuable. CIRI supports this bill, and there are cases where it would trade those subsurface rights for something else. The transaction that brought about this legislation is that Eklutna is trading 80 acres for 20 acres of municipal land. CIRI did not want to trade 80 acres of subsurface for 20 acres of subsurface, but if it was a like amount of land, it probably would.

[3:48:11 PM](#)

SENATOR KOOKESH said in ANCSA the village corporations got the surface and the regional corporations got the subsurface, so there are two estates and two deals must be made. It's an interesting scenario. "One can go but the other one doesn't have to."

SENATOR THOMAS asked what happens to Native land that is developed and has a municipal building on it.

SENATOR KOOKESH said the tax exemption doesn't stay with the land that is traded - it goes with the new one. "If they trade undeveloped land for undeveloped land, they want to keep their tax exemption, and it goes with the land that the Natives own." The trigger is Native owned Alaska ANCSA lands. Trades were made on Prince of Wales Island. "We [Sealaska Corporation] took undeveloped land and it became tax exempt until we develop it." Native land that became non-Native land immediately loses the tax exemption.

SENATOR THOMAS asked about land that remained Native owned and was leased to the school, for example.

SENATOR KOOKESH said it's once the land is developed regardless of what the development is. "We could put a trail across Sealaska land and if an individual used it for commercial purposes, it is immediately ..."

SENATOR THOMAS interjected to ask, "Even a tax exempt?"

SENATOR KOOKESH said yes; the land all sits on a cliff and as soon as it tips one way or the other, it becomes taxable. No matter what the development is, if someone puts a stake in the ground "you're pretty close to saying that's development."

[3:50:38 PM](#)

JACK OMELAK, Staff to Senator Olson and a member of an ANCSA corporation, said this bill puts Alaska in line with federal intent. ANCSA lands are considered private, but they have an ability to be tax exempt. He spoke with a land manager at the Bering Straits region, the president of the Alaska Village Council, and the director of Alaska Native Studies at the university, and they all agree that this would put state laws closer to federal intent. They all agree that HB 356 would be beneficial.

CHAIR OLSON asked if he is in favor of the bill and if the Native corporations that he contacted are too.

MR. OMELAK said yes, it is a fairly benign bill. There are stipulations with ANCSA lands, but any lands being traded are specialized and must go through their own process so that would take the state out of the equation anyway. The lands that this bill will affect are privately owned and wouldn't necessarily carry any federal restrictions.

[3:53:19 PM](#)

SENATOR WAGONER asked if a Native corporation could develop a portion of a large piece of land and only pay tax on the developed portion.

SENATOR KOOKESH said that is allowed. It goes by something smaller than an acre and it depends on the proposed application. "If it is going to be a baseball or football field, you certainly can't develop just the area that's going to house the locker room. You have to develop and claim the whole thing." And once the land loses the tax exemption, it can never go back so it's really based on the plans for the development. In Southeast Alaska if [Sealaska] plans to cut 50 acres and only cuts one acre, the entire 50 acres becomes tax exempt.

[3:54:47 PM](#)

REPRESENTATIVE STOLTZE said he is not an expert in this area and he appreciates the experts who have helped him along the way.

SENATOR KOOKESH moved to report CSHB 356(CRA) from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

There being no further business to come before the committee, Chair Olson adjourned the meeting at [3:56:16 PM](#).