

HOUSE FINANCE COMMITTEE  
March 13, 2009  
8:35 a.m.

[8:35:06 AM](#)

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 8:35 a.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair  
Representative Bill Stoltze, Co-Chair  
Representative Bill Thomas Jr., Vice-Chair  
Representative Allan Austerman  
Representative Harry Crawford  
Representative Anna Fairclough  
Representative Richard Foster  
Representative Les Gara  
Representative Reggie Joule  
Representative Mike Kelly  
Representative Woodie Salmon

MEMBERS ABSENT

None

ALSO PRESENT

Karen Lidster, Staff, Representative John Coghill; Alice Edwards, Acting Director, Division of Air Quality, Department of Environmental Conservation; Kate Troll, Executive Director, Alaska Conservation Alliance.

PRESENT VIA TELECONFERENCE

Jim Connor, Air Quality Control, Fairbanks North Star Borough; Nadine Winters, Presiding Officer, Fairbanks North Star Borough Assembly; Steve Van Sant, State Assessor, Department of Commerce, Community and Economic Development.

SUMMARY

HB 121 "An Act relating to a municipal property tax credit for an improvement that aids in improving air quality."

HB 121 was HEARD and HELD in Committee for further consideration.

[8:35:16 AM](#)

#hb121

HOUSE BILL NO. 121

"An Act relating to a municipal property tax credit for an improvement that aids in improving air quality."

8:35:52 AM

KAREN LIDSTER, STAFF, REPRESENTATIVE JOHN COGHILL, read the following statement:

HB 121 is being proposed to be able to provide the municipalities with optional tools to create incentives for individuals to take action that will improve air quality and reduce fuel consumption. Local taxation policy and discretion is governed by Title 29 of Alaska Statute. Tax exemptions and tax credits are only permitted within the authority of this section of state law. The proposed legislation will expand the discretion of municipalities in order to allow by ordinance the creation of programs that will offer tax credits for actions that the local governing body determines will improve air quality. The proposed language requires that eligibility, conditions, and other criteria for the tax credits be established by ordinance. This will create a full range of options for local municipalities to address their air quality issues rather than just through restriction and enforcement.

Portions of the Fairbanks North Star Borough were designated as nonattainment for PM2.5 by the (Environmental Protection Agency) EPA in December 2008. Based on the requirements of the Clear Air Act the state and the borough have three years to develop an attainment plan that is designed to bring air quality into compliance with federal air standards. It is unquestioned that reduction of the amount of fine particulates released into the air by space heating of residences and businesses will be a component of any attainment plan.

The proposed legislation is requested as a first step in that process to allow local municipalities the latitude in developing tax credit programs to address the important public health and community compliance issues that result from poor air quality.

8:38:08 AM

Ms. Lidster cited representatives from the Fairbanks North Star Borough, Air Quality Control, Fairbanks North Star Borough Assembly, and Alaska Environmental Conservation staff available to answer questions.

[8:38:29 AM](#)

ALICE EDWARDS, ACTING DIRECTOR, DIVISION OF AIR QUALITY, DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC) indicated her availability to answer questions relating to air quality issues in Fairbanks.

[8:39:01 AM](#)

Representative Fairclough asked for the number of testing stations in Fairbanks. Ms. Edwards replied that Fairbanks has one primary air monitoring station located downtown and a number of additional monitors, in conjunction with the Department of Environmental Conservation, that have been implemented in the borough over the past few years to monitor air quality.

[8:39:51 AM](#)

Representative Fairclough asked if the violation site was in the downtown area. Ms. Edwards indicated that was correct. Representative Fairclough remarked that she has dealt with nonattainment in the municipality of Anchorage and offered that downtown air quality may be more closely affiliated with cold starts.

[8:40:26 AM](#)

Co-Chair Hawker asked if this bill was point specific for a problem in Fairbanks. Ms. Edwards replied that HB 121 focuses on giving Fairbanks additional tools to address fine particulate matter problems; Juneau also faces this issue. Both communities have a variety of sources that contribute to pollution, but a large part of the problem derives from space heating or other solid fire fuel heating devices.

[8:41:18 AM](#)

JIM CONNOR, AIR QUALITY CONTROL, FAIRBANKS NORTH STAR BOROUGH, testified via teleconference, indicated he was available for questions.

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Representative Fairclough inquired if Mr. Conner would be responsible for putting together the attainment plan. Mr. Conner indicated he would be working closely with the Department of Environmental Conservation and the Environmental Protection Agency Region 10 to develop the attainment plan.

[8:42:29 AM](#)

Representative Fairclough asked if he would be the lead in Fairbanks. Mr. Conner replied that he would.

[8:42:41 AM](#)

Representative Gara asked what portion of the pollutants was generated by automobiles. Mr. Conner replied that the study is continuing on the actual apportionment between sources of pollution, but the belief is that automobiles contribute 5 to 10 percent to the problem; space heating components generate around 25 to 30 percent.

[8:44:01 AM](#)

NADINE WINTERS, PRESIDING OFFICER, FAIRBANKS NORTH STAR BOROUGH ASSEMBLY, testified via teleconference, commented that the borough is in nonattainment for the PM2.5 and the borough was trying to reach attainment while making it as painless as possible for residents and businesses. The bill could be used to provide incentives through property tax credits to change old wood stoves for EPA certified wood stoves; this may reduce particulate matter by 67 percent. The situation represents a health issue for residents and a possible hindrance for future economic development. House Bill 121 provides tools to help the community in terms of economic development, resident health, and to achieve attainment. Ms. Winters urged support for HB 121.

[8:45:30 AM](#)

Representative Salmon requested more information on the types of improvements. Ms. Lidster responded that the options available to the communities are open for their determination on how to best attain the designated air quality. Ms. Winters described wood smoke pollution, a popular method for heating in Fairbanks, as a major contributor to the problem. The purpose of HB 121 is to give tax credits for residents to replace their old wood stoves with EPA certified wood stoves. Tax credits would help people offset the costs.

[8:47:42 AM](#)

Representative Salmon agreed Fairbanks has real problem with cold during the winter; a wood stove in the home helps as electricity frequently goes out during cold weather.

[8:48:32 AM](#)

Representative Fairclough remarked that she was familiar with nonattainment during local service in Anchorage, but she wondered if the inversion affect in Fairbanks prevents attainment no matter what is attempted.

[8:49:10 AM](#)

Ms. Winters remarked that the PM2.5 nonattainment area covers a significant part of the borough, not just in the city. The boundaries extend past Ft. Wainwright to Gold Stream. Representative Fairclough referred to page 1, line 10, "... the credit may be granted for more than one year." She questioned how Fairbanks would implement this. Ms. Winters replied that they are waiting on this legislation before making a final decision, but a consideration is a dollar for dollar tax credit. She suggested that if it cost \$1500 to replace a wood stove for the EPA certified wood stove, then there would be a \$1500 tax credit.

[8:51:05 AM](#)

Representative Fairclough appreciated the challenged in Fairbanks, but she noted that in past two years there had been conversation and publicity about the boroughs ability to tax in different ways. She wondered, in making a local decision to implement an ordinance, if Fairbanks would take the financial responsibility and not have a cost return to the state. Ms. Winters asserted that Fairbanks would accept that responsibility. She indicated Fairbanks operates under a tax cap, and it will be painful in the short run, but it must be done for the health of the residents and future economic development. Representative Fairclough asked if Ms. Winters knew the costs of the replacement stoves. Ms. Winters reported that the EPA certified stove would cost between \$1500 and \$2500.

[8:52:53 AM](#)

Representative Gara questioned why a wood stove over an oil heater. Ms. Winters noted that a cord of wood could be purchased for around \$250 or harvested free in certain public areas. The numbers of homes heating with wood increased as the price of oil increased. Representative Gara asked if the rebate program would also be available for those who go off wood. Ms. Winters indicated that had not been thought through.

[8:54:38 AM](#)

Co-Chair Stoltze asked if the borough has policies promoting information that wood is available in some public areas. Ms. Winters replied there was no policy, but in road accessible borough lands some areas have been opened up for local timber harvest.

[8:55:40 AM](#)

Representative Fairclough asked if there was a state assessor online. Co-Chair Stoltze responded there was not.

[8:55:51 AM](#)

Representative Fairclough remarked that when other cities take tax credits against property taxes the community is adversely affected by student reimbursement calculations, depending on if the state assessor accepts that credit and how it is applied. She referred to a tax credit in Anchorage for religious organizations and how some of these credits adversely impact the student rate. She inquired if that had been considered in this legislation. Ms. Winters remarked that this tax credit will not affect their education funding.

[8:57:25 AM](#)

Co-Chair Stoltze asked if Steve van Sant, the State Assessor, attended the recent Alaska Municipal League event (copy on file). Ms. Winters replied she had not participated in the meeting, therefore she did not know who attended.

[8:57:47 AM](#)

Representative Kelly asked if wood boilers qualify under this bill. Ms. Winters replied it could be investigated, but she not sure how it would be handled. Representative Kelly wanted more clarification if wood boilers would qualify.

[9:00:10 AM](#)

Representative Austerman felt this bill was written so that any community in Alaska who wanted to change their air quality could develop any method they wanted. He asked if that was a correct interpretation.

[9:01:05 AM](#)

Ms. Lidster stated in HB 121, page 1, line 12-13, that "a credit may be granted under this section and to property located in areas that do not meet air quality standards required by federal or state law or regulation." She did not know how far that extended, but it could be researched. Representative Austerman asked if DEC could answer the question.

[9:01:50 AM](#)

Ms. Edwards replied that three communities have air quality problems: Fairbanks, Anchorage, and Juneau. Representative Austerman questioned if this bill was specific to those three communities. Ms. Edwards remarked she could not answer that question. Co-Chair Stoltze asked if any community, other than the Fairbanks North Star Borough, advocated this legislation. Ms. Lister reported she had no contact with any

other community. Representative Austerman asked if DEC could provide this information.

[9:03:10 AM](#)

Ms. Edwards replied she would work with the bill sponsor and the borough to obtain an answer. Representative Austerman asked if DEC sets the standards. Ms. Edwards declared that air quality standards are set by the federal Environmental Protection Agency, and then the state adopts the federal standards. Representative Austerman asked if the standards had been adopted. Ms. Edward replied they are in the process of adopting them.

[9:03:58 AM](#)

Representative Kelly agreed that the PM2.5 problem in Fairbanks is real in the core area, but the EPA extended the area to cover all the way to the base of the Alaska Range where no human lives. He wondered if Fairbanks had been able to get a reduction of this area. Ms. Lister replied she had not been given information that the area had been reduced. Ms. Edwards remarked that the DEC was successful in reducing the original EPA boundary. The boundary does not include the flats south of the river, Eielson Air Force Base, and the training areas to the east, but does include North Pole, Ft. Wainwright, downtown Fairbanks, Gold Stream valley out to Ester, and Fox. Representative Kelly read on page 1, line 5-8, "A municipality may, by ordinance, provide for an air quality improvement tax credit to offset a portion of the property taxes due on property that, during the immediately preceding tax year, has been improved in a way that aids improving the air quality in the municipality." He wondered how this would work to qualify for the tax credit. Ms. Winters replied that whatever year improvements are made, the following year the tax credit would be applicable.

[9:07:43 AM](#)

Representative Kelly remarked that the EPA had cut in half the PM2.5 per cubic liter from 65 to 30 which changed the equation. He indicated his frustration with this decision and questioned the medical impact studies in Fairbanks. Ms. Winters replied there was no study on the medical implications, but she reported receiving many constituent calls in the last year indicating a public perception that air quality is a problem. Representative Kelly remarked that he did not believe the number change made by the EPA made any difference and he strongly believed that the EPA was unreasonably hassling the community.

[9:11:49 AM](#)

Representative Fairclough asked the state assessor, now online, how the credit would be calculated and if there would be an adverse effect on school funding.

STEVE VAN SANT, STATE ASSESSOR, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT testified via teleconference, that this bill goes to the tax side, not the assessment side. If the improvement is exempted from the assessment for full value, the assessor's office will add it back in for school funding. This is a tax credit rather than an assessment exception. There will be times that the credit will probably be different from what an exemption would be because the exemption might not show up on the improvement value. In reality it will not affect the full value since it is on the tax side.

[9:14:27 AM](#)

Representative Austerman read HB 121, page 1, line 10-13, "The ordinance may limit the availability of a credit to some, but not all, types of improvements for which a credit may be granted under this section and to property located in areas that do not meet air quality standards required by federal or state law or regulation." His interpretation indicated that it would be open to all areas. Co-Chair Stoltze asked Ms. Lidster if she needed that much direction and specificity from a state statute or just the ability to grant the tax credit for Fairbanks.

[9:15:44 AM](#)

Ms. Lidster indicated that the legislation was brought forward for communities in nonattainment. She could not say how it would be interpreted beyond that. Representative Austerman believed that the interpretation was open according to his reading of the bill.

[9:16:39 AM](#)

Representative Gara believed this bill could be used for communities that want to offer the tax credit, but not telling communities what they have to do. He observed that there is a movement of individuals in some communities that want to use alternative energy, such as wind or solar. He offered that in helping Fairbanks, tax credits could also be available for other communities should they wish. He thought a questionable part of the sentence on line 12 could have a period inserted after the word "section." This would allow communities to offer the tax credit if they so choose.

[9:18:09 AM](#)

Co-Chair Hawker asked if public testimony was concluded. Co-Chair Stoltze invited Kate Troll to testify.

[9:18:30 AM](#)

KATE TROLL, EXECUTIVE DIRECTOR, ALASKA CONSERVATION ALLIANCE (ACA), declared that the Alaska Conservation Alliance, an umbrella organization of 40 conservation groups, supports the idea of allowing municipalities to create an incentive to help them reach their particulate matter standard of 2.5. The bill is being driven by the needs of Fairbanks to reach the attainment area; Juneau is also in non-attainment. Ms. Troll believed HB 121 enables communities to have one more tool to help meet air quality standards. She acknowledged that if this tax credit option could be extended to other communities to address their needs to reduce fuel consumption or attain air quality challenges, then the ACA supports this effort.

[9:20:36 AM](#)

Representative Foster asked if the conservation group list is updated. Ms. Troll replied that it is updated regularly and is available on the ACA website.

[9:21:08 AM](#)

Co-Chair Stoltze announced public testimony closed.

[9:21:32 AM](#)

Representative Gara observed that all communities should be allowed to decide if they want to grant tax credits to their citizens that want to reduce air pollution. Co-Chair Stoltze noted that the bill would not pass out today as there were so many questions and concerns. Representative Foster indicated his support for this bill.

[9:22:20 AM](#)

Representative Austerman expressed his need to understand the bill more clearly. He believed the bill, as it currently reads, could be interpreted both ways. He agreed with Representative Gara that there were many communities that would like to be more diversified in alternative energy choices.

[9:23:03 AM](#)

Representative Fairclough favored the bill passing from the committee at the appropriate time. She believed the existing language already allows the flexibility that Representative Gara and Representative Austerman suggested. She referred to page 1, line 12-13, "...areas that do not meet air quality standards required by federal or state law or regulation."

She believed that because of the inclusion of "or" the bill already conveys that it includes any community.

[9:23:54 AM](#)

Co-Chair Hawker questioned if there is any limit to the amount of credit granted under the authority requested in this bill.

[9:24:12 AM](#)

Ms. Lidster understood there to be no limit as written. Co-Chair Hawker agreed that is how the bill reads; there is no limit on the amount of credit. Co-Chair Hawker expressed his concern that this bill permits any municipality to allow credits; there is no constraint being applied. He noted that HB 121 was written for the immediate needs of Fairbanks and Juneau. The fact that the credit is unlimited and any action taken by the municipal assembly that would offer credits up to unlimited amount, is going to transfer the property tax obligation from the beneficiaries to the rest of the community. Co-Chair Hawker expressed his hesitancy and concern passing a bill that would empower his assembly to pass credit to special interests groups that would have to be born by all the citizens residing in his district. Co-Chair Hawker noted he understands Representative Kelly's dilemma of not liking this idea, but acknowledged Fairbanks is being backed into the wall by federal regulations.

[9:26:26 AM](#)

Co-Chair Hawker read on page 1, line 9, the "...amount of the credit shall be based on a percentage of the verifiable costs..." He contended that the "shall" makes it a mandatory methodology. He wondered if this inappropriately limits the bill. He ascertained it might be more appropriate for the credit to be on a unit cost option. This would protect the community and other tax payers to whom the tax burden would be transferred. The language is limiting in that there does not appear to be the ability to have a percent of variable costs up to a certain amount.

[9:28:16 AM](#)

Co-Chair Hawker read page 1, line 10-13, "...The Ordinance may limit the availability of a credit to some, but not all, types of improvements for which a credit may be granted under this section and to property located in areas that do not meet air quality standards required by federal or state law or regulation." He believed that the term "may" indicated that it was purely permissive, since it could also be read as "may not" and if so, everything beyond that was irrelevant. The section "...to some, but not all..." gives the government complete latitude. Co-Chair Hawker suggested that

in redrafting this legislation, he wanted to protect his constituents from the transference of tax burdens to special interest groups. The bill needs to be written simpler to protect his community.

[9:30:12 AM](#)

Co-Chair Stoltze agreed with Co-Chair Hawker.

[9:30:21 AM](#)

Representative Foster believed there needs to be a mechanism to reward communities for making air quality changes. He acknowledged that different solutions for alternative energy depend on the location of and variables within the community. Co-Chair Stoltze believed Fairbanks would rather not deal with this issue.

[9:31:34 AM](#)

Representative Kelly commented that tax based erosion and general applicability concerned him. He wanted the bill to stay narrow enough to prevent erosion of the local tax base which results in more municipal revenue sharing pressures. He expressed his fear that the bill could die on the floor if it moved too far away from solving the specific problem. Representative Kelly indicated he had problems opening the bill up beyond its original intent. He also did not want to hear from constituents who believed they were being denied conversions of their stove or have people playing games to get the tax credit. He worried about the bill's application if local officials were empowered to do things with the bill that was never intended.

[9:35:07 AM](#)

Representative Kelly believed his constituents wanted to "fight the calendar" on the EPA ruling until first-gas arrives in Fairbanks. He asked Ms. Winters if it was the intention of the borough to do what they had to do to reach compliance or to "fight the calendar."

[9:35:50 AM](#)

Ms. Winters observed that a report on how to reach attainment in Fairbanks must be reported to the EPA within 3 years. Fairbanks is trying to reach attainment to meet EPA requirements and deal with the health of residents, but not hinder any economic development projects that might bring gas to Fairbanks.

[9:37:36 AM](#)

Representative Kelly believed the borough could generate a great deal of expense over a temporary measure that may look like a joke when the gas pipeline is developed and in general use. He recognized that the borough was being threatened under a timeline and there was no easy solution.

[9:38:34 AM](#)

Co-Chair Stoltze invited all to work with the bill's sponsors to try and get the bill back to the committee as quickly as possible.

HB 121 was HEARD and HELD in Committee for further consideration.

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ADJOURNMENT

The meeting was adjourned at 9:39 AM