

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 7, 2009

3:37 p.m.

MEMBERS PRESENT

Senator Donald Olson, Chair
Senator Hollis French
Senator Albert Kookesh
Senator Linda Menard

MEMBERS ABSENT

Senator Joe Thomas, Vice Chair

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 10(FIN)

"An Act authorizing a borough to charge a city for costs of collecting certain taxes; relating 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, for certain college property, and for certain residential property; and providing for an effective date."

MOVED SCS CSHB 10(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 10

SHORT TITLE: MUNICIPAL TAXES: COSTS/EXEMPTIONS

SPONSOR(S): REPRESENTATIVE(S) GRUENBERG, CHENAULT, THOMAS, GARA, HARRIS, KAWASAKI

01/20/09	(H)	READ THE FIRST TIME - REFERRALS
01/20/09	(H)	CRA, FIN
01/20/09	(H)	PREFILE RELEASED 1/9/09
02/26/09	(H)	CRA AT 8:00 AM BARNES 124
02/26/09	(H)	Moved CSHB 10(CRA) Out of Committee
02/26/09	(H)	MINUTE(CRA)
02/27/09	(H)	CRA RPT CS(CRA) 2DP 4NR
02/27/09	(H)	DP: CISSNA, HARRIS
02/27/09	(H)	NR: MILLETT, KELLER, HERRON, MUNOZ
03/16/09	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
03/16/09	(H)	Moved CSHB 10(FIN) Out of Committee
03/16/09	(H)	MINUTE(FIN)

03/18/09 (H) AM: CRAWFORD, FAIRCLOUGH
03/18/09 (H) DP: THOMAS, GARA, STOLTZE
03/18/09 (H) NR: AUSTERMAN, KELLY, HAWKER
03/18/09 (H) FIN RPT CS(FIN) 3DP 3NR 2AM
03/27/09 (H) TRANSMITTED TO (S)
03/27/09 (H) VERSION: CSHB 10(FIN)
03/30/09 (S) CRA, FIN
03/30/09 (S) READ THE FIRST TIME - REFERRALS

WITNESS REGISTER

CHRISTINE HESS, Staff
to Representative Reggie Joule
Alaska State Legislature
Juneau AK

POSITION STATEMENT: Presented an amendment to HB 10 dealing with a tax exemption for the Northwest Arctic Borough.

REPRESENTATIVE MAX GRUENBERG
Alaska State Legislature
Juneau AK

POSITION STATEMENT: Presented HB 10.

DOUGLAS NORTH
Alaska Pacific University
Anchorage AK

POSITION STATEMENT: Spoke in support of HB 10.

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

POSITION STATEMENT: Answered questions on HB 10.

SHARON WEDDLETON, Chief Fiscal Officer
Municipality of Anchorage
Anchorage AK

POSITION STATEMENT: Expressed no position on HB 10.

TROY TANKERSLEY, Controller
City of Wasilla
Wasilla AK

POSITION STATEMENT: Spoke in opposition to Section 1 of HB 10.

ACTION NARRATIVE

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CHAIR DONALD OLSON called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:37 p.m. Senators Menard, French, and Olson were present at the call to order. Senator Kookesh arrived soon thereafter.

HB 10-MUNICIPAL TAXES: COSTS/EXEMPTIONS

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CHAIR OLSON announced the consideration of HB 10.

SENATOR MENARD moved to adopt the Senate committee substitute (SCS) to CSHB 10(FIN), labeled 26-LS0063\W, as a working document. There being no objection, Version W was before the committee.

CHRISTINE HESS, Staff to Representative Reggie Joule, Alaska State Legislature, said the SCS continues an exemption for a Northwest Arctic Borough (NWAB) tax. The Red Dog mine is in the NWAB and it is the world's largest zinc mine. The DeLong Mountain transportation system is part of that mine. It includes a 52-mile road and a portside loading facility. The language exempts the road and facility from the fair value determination for the required local share for schools. If the DeLong Mountain terminal was included it would significantly increase the NWAB local contribution. The borough has participated considerably in the development of a modernized school facility program throughout the region, and it has approved about \$76 million in bonded indebtedness - so it is already contributing. The road and portside facility are owned by the Alaska Industrial Development & Export Authority (AIDEA) so it is publicly owned. The SCS extends the exemption until November 2012.

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SENATOR FRENCH said that exemption is an extension of a sunset date in Section 6. He doesn't see any other explicit reference to the Red Dog mine - "all that stuff is just buried in a statute that has a sunset, and we're pushing it from November of this year until November 2012."

MS. HESS said it is more complicated because it has been amended many times.

SENATOR FRENCH asked what the fiscal impact will be.

MS. HESS said, "Arguably there's no fiscal impact" because the exemption has never sunsetted.

SENATOR FRENCH asked the impact if it did.

MS. HESS said she has no idea.

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CHAIR OLSON said if there isn't a payment in lieu of taxes that comes from the mine, "then they'd be looking to the state to make up for those funds."

SENATOR FRENCH surmised that it would be a *machts nichts*.

CHAIR OLSON said there is a wash, to a certain degree.

SENATOR FRENCH asked if this was added to HB 10 recently.

MS. HESS said it is being added here. Senator Olson has a good point. The NWAB enters into a PILT [payment in lieu of taxes] agreement with the mine. If the tax base assessment is changed the borough would have no way to recoup the money, because they don't renegotiate until 2011. It is not a situation where the borough could just ask for increased revenues from the mine, which is the borough's main source of revenue.

SENATOR FRENCH asked why the House didn't add the exemption. It is significant. He has supported this, "but I just want to let the public know what's happening."

MS. HESS said the exemption was originally added to the AIDEA bond bill, but that bill hasn't picked up steam.

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CHAIR OLSON said the sponsor was gracious enough to allow it to be added to HB 10.

REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, said this is old wine in a new cask. The provision was added in this committee and there will be a concurrent resolution for a title change. It will allow the borough to continue the current arrangement, "and it would be just much more expensive for the borough if this thing sunsets with no good benefit." He would have been willing to accept this in the House. The language will likely not burden the bill in the House, although he doesn't know about the Senate Finance Committee. He is happy to see it in the bill, and he hopes it will help the bill. This bill is the same as last year's with two exceptions. The exemption on APU [Alaska Pacific University] used to say "shall", and this committee changed it to "may" to make it an optional exemption.

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REPRESENTATIVE GRUENBERG said Section 1 is new. Representative Chenault added it at the request of the Kenai Peninsula Borough. The borough collects taxes on behalf of the City of Seward. That has required software costs for the borough. This will allow the borough to recoup those expenses - which is only fair. This was offered in the Senate Finance Committee and the bill died there.

REPRESENTATIVE GRUENBERG said there was a provision that was added to the bill in this committee, last year, by Senator Thomas to raise the \$20,000 residential exemption to \$40,000. That was controversial, so it is gone. The rest is the same as last year's bill.

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REPRESENTATIVE GRUENBERG said Section 2 allows a widow or widower of a disabled veteran to continue to receive their tax exemption for their primary residence, unless they remarry. Section 3 allows APU to get a tax exemption for the underlying building that is used as an instructional facility for students. The doctors who are there are adjunct professors. The lease-hold interest is taxable. "We redrafted this provision, page 3, lines 5-12, to include the 'however' clause on line 10, because it was just incorrectly written." It was an incorrect statutory reference. Section 4 allows a tax exemption for fraternal organization buildings that are often used as meeting halls in small communities. Section 5 is the cop-in-the-neighborhood bill. "This is the sixth year we've been looking at this and I hope it will be the last." It encourages police to live in high-crime areas to help control crime. It would be helpful in Nikiski, Mountain View, and other areas. The widow/widower exemption will take place on the next calendar year.

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SENATOR MENARD asked if a fraternal organization denotes something like the Filipino community.

REPRESENTATIVE GRUENBERG said yes, or like the Elks club.

CHAIR OLSON suggested the Freemasons or the Masonic temples.

REPRESENTATIVE GRUENBERG said yes, and it must be ratified by the voters. This has been carefully looked at. Each section of the bill is disconnected but put together for convenience.

SENATOR FRENCH asked if APU is now paying taxes.

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REPRESENTATIVE GRUENBERG said they were not, but the municipal assessor recently assessed it. There is litigation, but a legislative fix is better. It is a collegial solution rather than an adversarial one.

SENATOR FRENCH asked for clarification that the APU had not been paying taxes, then it got hit with taxes, "and you are their white knight."

REPRESENTATIVE GRUENBERG said he hopes so.

CHAIR OLSON asked if Representative Gruenberg is in favor of the \$40,000 exemption from the original bill.

REPRESENTATIVE GRUENBERG said yes. An initiative is circulating in Fairbanks that "goes up to \$100,000." If the legislature doesn't do something about this request for tax relief, "we're going to see a real tough situation, because that initiative will pass and it will throw municipalities into chaos." The legislature should help citizens without busting municipalities.

CHAIR OLSON said the burden of taxation will shift to others.

REPRESENTATIVE GRUENBERG said it will shift to the commercial sphere. "But I'm concerned with this gun over our head; we're going to be faced with a worse solution." It was \$40,000 [in the original bill], but a responsible, defensible step needs to be taken. If the legislature turns its back, the voters will take it out of its hands and cause a very, very serious situation.

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CHAIR OLSON asked what prompted the municipal assessor to assess APU's building.

DOUGLAS NORTH, Alaska Pacific University, Anchorage, said he believes it was when the Anchorage Baptist Temple was complaining that its faculty members were taxed on property, and they pointed at APU as an example. APU prevailed in that case, and APU was not taxed on the residences of the faculty; however, APU has been taxed since then on "this other building." Unless there was a specific exemption granted by the legislature, the municipality would not be able to allow that property to be taxed as a private lease-hold arrangement. The Anchorage assembly is in favor of this legislation that allows APU to be

taxed the same way the University of Alaska is taxed - to have that tax calculated on the basis of private lease hold.

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SENATOR MENARD asked how many acres APU has.

MR. NORTH said there are 178 acres, which includes recreation and academic lands. APU was originally a land grant university and used those lands to generate income. It is one of those, which is a private interest, that is now being taxed at the full value of the building instead of a lease-hold interest rate.

CHAIR OLSON asked how many acres are taxable.

MR. NORTH said, "The only one that's being taxed is approximately 4 acres."

SENATOR MENARD said that is more land than she realized.

MR. NORTH said it used to be more. Over the years the university had to let some acreage go to maintain operations.

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STEVE VAN SANT, State Assessor, Department of Commerce, Community, & Economic Development, Anchorage, said, "We haven't taken a position on the bill; the new amendment kind of surprises us here." He expected it on the AIDEA bill, but he believes "the department has taken a no position on that amendment too; it's just kind of surprising that is came up on this bill, is all."

CHAIR OLSON asked the bill's overall impact to state revenues.

MR. VAN SANT said the exemptions don't have an impact on state coffers since the \$40,000 residential exemption was removed. The only one that relates to what the state takes in is the Red Dog mine amendment, which affects state education funds by about \$400,000. The area is valued at \$200 million.

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SHARON WEDDLETON, Chief Fiscal Officer, Municipality of Anchorage, asked for assurance that the APU language still reads "may by ordinance" rather than "shall by ordinance".

REPRESENTATIVE GRUENBERG said yes.

MS. WEDDLETON said, in that case, Anchorage has no position.

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TROY TANKERSLEY, Controller, City of Wasilla, said the city has concerns with Section 1. Wasilla collects its own sales tax, and the Mat-Su borough has an initiative for a sales tax. The concern is with "a borough charging the cities an administrative fee ... where rates, et cetera, are not deemed within this bill, so basically it gives the ability to charge pretty much whatever they'd like, and that kind of goes into the property tax as well." The Kenai Peninsula Borough undertook a very extensive software enhancement program in 2005 and Mr. Tankersley was the accounting supervisor at that time. Seward did not make the change until recently, so Seward did not impact the Kenai borough in upgrading its software. The borough may have incurred more costs but not because of new capital. For Wasilla and other cities in its borough, he is against Section 1 in HB 10.

REPRESENTATIVE GRUENBERG said he stands corrected. He didn't know about the timing. The intent is that the borough may charge the city for costs that are actually incurred from collecting the tax. It is not to profit the borough but to recoup actual out-of-pocket costs. Presumably there would be an agreement or contract between the two entities.

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MR. TANKERSLEY said Section 1 does not say that. It says that a borough may charge a fee for costs of collecting a tax. That can be any kind of cost -- administrative, personnel, postage -- as it relates to the collection of sales tax in general.

SENATOR MENARD moved to report the Senate CS to CSHB 10(FIN), labeled 26-LS0063\W, from committee with individual recommendations and attached fiscal note(s). There being no objection, SCS CSHB 10(CRA) moved out of committee.

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The meeting was adjourned at 4:10 p.m.