

**ALASKA STATE LEGISLATURE**  
**SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

March 26, 2013

3:32 p.m.

**MEMBERS PRESENT**

Senator Peter Micciche, Chair  
Senator Cathy Giessel, Vice Chair  
Senator Dennis Egan  
Senator Lyman Hoffman

**MEMBERS ABSENT**

Senator Click Bishop

**COMMITTEE CALENDAR**

SENATE BILL NO. 73

"An Act authorizing municipalities to exempt from tax, by ordinance approved by the voters in the municipality, the real property that is the primary residence of a resident who is the widow or widower of a person who was killed while in the military service of the United States; and providing for an effective date."

- MOVED CSSB 73(CRA) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 73

SHORT TITLE: PROPERTY TAX EXEMPTION/MILITARY WIDOW(ER)

SPONSOR(S): SENATOR(S) MEYER

03/11/13	(S)	READ THE FIRST TIME - REFERRALS
03/11/13	(S)	CRA, STA
03/19/13	(S)	CRA AT 3:30 PM BUTROVICH 205
03/19/13	(S)	-- Meeting Postponed to 3/26/13 --
03/26/13	(S)	CRA AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

EDRA MORLEDGE, staff to Senator Meyer  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented the CS to SB 73 for the sponsor.

JEFFREY MITTMAN, Executive Director  
American Civil Liberties Union (ACLU) of Anchorage  
Anchorage, Alaska

**POSITION STATEMENT:** Referred them to an ACLU letter on the original SB 73 saying it applied to the CS as well.

#### **ACTION NARRATIVE**

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**CHAIR PETER MICCICHE** called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators Hoffman, Egan, Giessel, and Chair Micciche.

#### **SB 73-PROPERTY TAX EXEMPTION/MILITARY WIDOW(ER)**

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CHAIR MICCICHE announced SB 73 to be up for consideration.

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SENATOR GIESSEL moved to adopt CSSB 73(CRA), version 28-LS0631\U, as the working document. There were no objections, and it was so ordered.

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EDRA MORLEDGE, staff to Senator Meyer, Alaska State Legislature, provided an overview of version U. She explained that the bill evolved because a constituent, Theresa Dayton, who lost her own husband in the U.S. military service, worked very hard with the Municipality of Anchorage to pass an ordinance that would allow for the exemption on the first \$150,000 of municipal property taxes for a primary residence belonging to U.S. military service members' surviving spouses. That was Proposition 7, which passed with overwhelming support last April. However, a caveat to that ordinance was that it can't take effect until the legislature amends AS 29.45.030(e). SB 73 attempts to amend that statute so that the ordinance can take effect and so that other municipalities can choose to do the same with the will of their voters.

She said this measure is intended to support the families of our service members who died while serving their country and help them stay in the State of Alaska where they have established their lives and where their surviving families choose to stay.

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MS. MORLEDGE said the CS removes the limit of 60 years of age or older, which was language mistakenly added from other legislation. They did not intend to put the limit in the bill, because it is aimed at younger families who are generally serving and giving their lives.

Second, since the bill was originally introduced there was some question as to what "dying in the line of duty or while a service member" meant. So, they used language from another section to tighten it up.

Finally, Ms. Morledge said, while it is assumed that people know what a widow or widower is, clarifying language that is already in the municipalities' ordinance was added.

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CHAIR MICCICHE noted this bill has the "may" language that is imperative to municipalities.

SENATOR EGAN remarked that meant it is not an unfunded mandate like they have now.

CHAIR MICCICHE said that was right.

MS. MORLEDGE pointed out that specific language was on page 1, lines 10-13.

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SENATOR EGAN said that is why it's a zero fiscal note - because it's not costing the state treasury anything, but it could cost the municipality.

MS. MORLEDGE responded that was correct.

SENATOR HOFFMAN said they removed the 60-year requirement, but line 12 says: "to a widow or widower under age 60" and he wanted to know if that meant when they reach the age of 60 they will have to pay the tax.

MS. MORLEDGE answered that is already existing language that applies in section (2) which is found earlier in the paragraph and applies to a widow or widower of a disabled veteran. It doesn't include their folks.

CHAIR MICCICHE noted that this measure exempts widows or widowers of any age if the municipality chooses to do so through a popular vote.

CHAIR MICCICHE opened public testimony.

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JEFFREY MITTMAN, Executive Director, American Civil Liberties Union (ACLU) of Alaska, said their written comment on the original bill applies to the CS as well. Briefly, he wanted to draw the committee's attention to a 2007 Alaska Supreme Court decision, *ACLU v. State of Alaska*, which ruled because the Alaska Constitution forbids same sex couples from being married, there is no way for same sex couples to obtain benefits which the state chooses to provide to spouses. So, the Supreme Court analyzed this differential treatment and said not on just heightened or even intermediate scrutiny, but under the most basic level of constitutional review, that it is unconstitutional to treat same sex couples differently than opposite sex couples. This was not an opinion with regard to same sex marriage or discrimination in employment or housing. It was simply recognition of the mandate to treat individuals fairly and equally under the law.

Under that ruling it is clearly mandatory that when the State of Alaska provides a benefit to married couples they must make that benefit available to same sex couples as well. In recognition of this fact, Mr. Mittman said, a Senate committee in the 2006 legislature amended a similar piece of legislation that provided leave for veterans and others. So, he asked that in addition to the constitutional requirement that mandates a change, to ask the State of Alaska which has a fine tradition of recognizing and honoring the services and sacrifices of our military personnel, to make a simple but important statement: if you fight for your country, if you're willing to die for your country and protect the freedoms and liberties we ascribe to and believe in as Americans, we in the State of Alaska will honor your service. Everyone can agree that a service member who gives his or her life in service to their country deserves to be treated with dignity and respect. He concluded by asking them to include: this benefit is available to same-sex domestic partners as it is to married spouses.

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SENATOR GIESSEL moved to report CSSB 73, version U, from committee to the next committee of referral with individual recommendations and attached zero fiscal notes. There were no objections, and it was so ordered.

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There being no further business to come before the Community Regional Affairs Committee, Chair Micciche adjourned the meeting at 3:46 p.m.