

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 23, 2017

8:02 a.m.

MEMBERS PRESENT

Representative Zach Fansler, Co-Chair
Representative Justin Parish, Co-Chair
Representative Harriet Drummond
Representative Dean Westlake
Representative George Rauscher
Representative Dan Saddler
Representative David Talerico

MEMBERS ABSENT

Representative DeLena Johnson (alternate)
Representative Jonathan Kreiss-Tomkins (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 166

"An Act establishing a museum construction grant program in the Department of Commerce, Community, and Economic Development."

- MOVED HB 166 OUT OF COMMITTEE

HOUSE BILL NO. 156

"An Act relating to a municipal tax exemption or deferral for economic development property."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 166

SHORT TITLE: MUSEUM CONSTRUCTION GRANT PROGRAM

SPONSOR(S): REPRESENTATIVE(S) PARISH

03/08/17	(H)	READ THE FIRST TIME - REFERRALS
03/08/17	(H)	CRA, FIN
03/21/17	(H)	CRA AT 8:00 AM CAPITOL 106
03/21/17	(H)	Heard & Held
03/21/17	(H)	MINUTE (CRA)
03/23/17	(H)	CRA AT 8:00 AM CAPITOL 106

BILL: HB 156

SHORT TITLE: MUNI TAX EXEMPTION: ECON DEVEL PROPERTY

SPONSOR(S): REPRESENTATIVE(S) TILTON

03/06/17 (H) READ THE FIRST TIME - REFERRALS
03/06/17 (H) CRA
03/23/17 (H) CRA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

LISA WORL
Staff

Representative Justin Parish
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 166, on behalf of Representative Parish, prime sponsor.

KATHERINE ELDEMAR, Director
Division of Community and Regional Affairs (DCRA)
Department of Commerce, Community & Economic Development (DCCED)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 166.

REPRESENTATIVE CATHY TILTON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, introduced HB 156.

HEATH HILYARD, Staff
Representative Cathy Tilton
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: presented HB 156 on behalf of Representative Tilton, prime sponsor.

SUSIE SHUTTS, Attorney
Legislative Legal Counsel
Legislative Legal Services
Legislative Affairs Agency
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 156.

MARTY MCGEE, Section Manager/State Assessor

Municipal and Community Policy and Research Section
Division of Community and Regional Affairs (DCRA)
Department of Commerce, Community & Economic Development (DCCED)
POSITION STATEMENT: Answered questions during the hearing on HB 156.

CHRIS SCHUTTE, Director
Office of Economic and Community Development (OECD)
Municipality of Anchorage
Anchorage, Alaska
POSITION STATEMENT: Answered questions during the hearing on HB 156.

BILL POPP, President/CEO
Anchorage Economic Development Corporation (AEDC)
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 156.

JEFF JUDD, Executive Vice President
Real Estate
Cook Inlet Housing Authority (CIHA)
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 156.

ACTION NARRATIVE

[8:02:21 AM](#)

CO-CHAIR ZACH FANSLER called the House Community and Regional Affairs Standing Committee meeting to order at 8:02 a.m. Representatives Saddler, Westlake, Talerico, Parish, and Fansler were present at the call to order. Representatives Rauscher and Drummond arrived as the meeting was in progress.

HB 166-MUSEUM CONSTRUCTION GRANT PROGRAM

[8:04:05 AM](#)

CO-CHAIR FANSLER announced that the first order of business would be HOUSE BILL NO. 166, "An Act establishing a museum construction grant program in the Department of Commerce, Community, and Economic Development."

[8:04:48 AM](#)

REPRESENTATIVE SADDLER asked whether the bill sponsor had determined how the State Library, Archives & Museum (SLAM) was funded.

8:05:05 AM

LISA WORL, Staff, Representative Justin Parish, Alaska State Legislature, on behalf of Representative Parish, prime sponsor of HB 166, prefaced her response by noting that the SLAM would not be qualified to receive any benefit under HB 166, and she indicated that is because it is also a state library. She said the SLAM was funded through capital project funding, and she suggested that Patience Frederiksen, the director of Libraries, Archives and Museums, could offer more information.

8:06:00 AM

CO-CHAIR PARISH, as prime sponsor of HB 166, questioned how germane the question was to the issue at hand.

REPRESENTATIVE SADDLER explained he would like the information in order to establish what the current funding mechanism is before considering a new one. He then asked how much money, under HB 166, would be available to museums seeking state support to construct new facilities.

CO-CHAIR PARISH answered that initially the amount would be zero, because the amount would be subject to future allocation. He added, "And I do not believe that the bill that Senator Stevens introduced and that I'm carrying on this side ... has dollar amounts in it." In response to Representative Saddler, he confirmed that HB 166 does not have an effect until the legislature appropriates money, and although he knows there are "a host of ... potential museums" that have put in requests, at present the capital budget is constrained and even a request for only 10 percent funding would likely be turned down. He clarified that under HB 166, 50/50 would be the minimum participation from local and non-profit sources, but if he were the Department of Commerce, Community & Economic Development (DCCED), he would favor those able to fund "a higher degree of outside participation."

REPRESENTATIVE SADDLER asked what HB 166 would accomplish if it has no funding attached to it and its sponsor does not plan to amend the state budget to derive funding for it.

CO-CHAIR PARISH answered that HB 166 "opens the door" and provides the option for communities to talk to their legislators to try to convince them that [their museum projects] should be priorities of the state.

[8:10:07 AM](#)

REPRESENTATIVE SADDLER noted that the committee, at a previous hearing, had heard that HB 166 is modeled on a successful library grants program. He asked the sponsor if any information is available showing whether there have been grants issued through that program.

CO-CHAIR PARISH answered yes. He pointed to a handout [included in the committee packet], which shows that 15 libraries, out of the 27 that applied, received grants under AS 37.05.315.

[8:11:33 AM](#)

REPRESENTATIVE RAUSCHER asked for confirmation that under HB 166, applications for grants would sit in a queue, and it would be up to legislators to decide whether to sponsor a bill to support them.

CO-CHAIR PARISH offered his understanding that it would be the prerogative of this or future legislatures to put money in the fund if a cultural institution were to surpass the 50 percent threshold for alternate sources of funding. He said there are a lot of cultural institutions concerned about education for children, tourism opportunities for visitors, the preservation of the state's history, and cultural enrichment that "will be making that argument in coming months and years."

REPRESENTATIVE RAUSCHER asked for clarification that "there's not a pile of money that sits there waiting for the next project to come along."

CO-CHAIR PARISH offered his understanding that that is correct; however, he said conceivably money could be allocated to the fund which would be insufficient to any given project or an insufficient amount could be left over after funding a project. He concluded, "I don't think this will ever become one of those funds that just sits there with a few millions dollars and a low interest rate."

[8:14:25 AM](#)

REPRESENTATIVE SADDLER directed attention back to the handout to which Co-Chair Parish had pointed. He noted that from fiscal year 2011 (FY 11) and FY 16, zero library grants had been awarded under AS 14.56.355.

CO-CHAIR PARISH said that is true; however, he said it is worth noting that the grants to municipalities - public library construction [under AS 37.05.315] has functioned in much the same way. He referred to the last part of sentence at the bottom of the handout, which read as follows [original punctuation provided]:

It is the intent of the legislature that the following Grants to Municipalities (AS 37.05.315) satisfy the highest ranked public library construction projects identified by the Alaska Library Association and received by the Department of Commerce, Community, and Economic Development under the FY2012 Public Library Construction and Major Expansion Matching Grant program (AS 14.56.355).

CO-CHAIR PARISH deferred to DCCED for further clarification.

[8:17:47 AM](#)

KATHERINE ELDEMAR, Director, Division of Community and Regional Affairs (DCRA), Department of Commerce, Community & Economic Development (DCCED), in response to Representative Saddler, confirmed that there has never been funding under [AS 14.56.355].

REPRESENTATIVE SADDLER noted that mid-way down the same page, information read, "1 Awards under AK 14.56.355," and he asked for clarification about the number one.

MS. ELDEMAR answered that is a misprint; it should read zero.

[8:19:35 AM](#)

REPRESENTATIVE SADDLER asked Ms. Eldemar how the SLAM was funded.

MS. ELDEMAR said the SLAM was a \$37.5 million project, and she offered her understanding that it was funded through "the capital project." She explained that her division's computers have been "down" and she is trying to get that information to the committee.

REPRESENTATIVE SADDLER asked if the following is a fair statement:

The state paid much if not all the cost for the ... SLAM building. We are envisioning it creating a program under which the state would offer 50 percent of the funding for future museum construction elsewhere in the state, but there's no funding available to it at this point.

MS. ELDEMAR said she believes that is an accurate statement, but said she could follow up with a written document for the record.

[8:21:02 AM](#)

REPRESENTATIVE DRUMMOND related that SLAM was funded through the Department of Education and Early Development via the capital budget, Senate Bill 119, which passed in 2014. She confirmed the amount of the funding was \$37.5 million, and she said it was for all the House districts, thus it was considered a statewide project. She offered her understanding that the funding may have begun in 2013, but said confirmation of that would require searching another capital budget.

[8:22:21 AM](#)

REPRESENTATIVE RAUSCHER asked if money has ever "just sat in the library fund."

MS. ELDEMAR said the DCRA does not have any funds in its account related to the library statute. In response to Representative Rauscher's question repeated, she stated, "No, in the history of this fund there's been no ... account just waiting there to be spent."

[8:23:54 AM](#)

CO-CHAIR FANSLER ascertained that there was no one wishing to give public testimony; therefore, he [did not reopen public testimony, which was closed on 3/21/17].

[8:24:47 AM](#)

The committee took a brief at-ease at 8:25 a.m.

[8:25:41 AM](#)

REPRESENTATIVE SADDLER directed attention to the previously discussed handout, to the flip side, the first heading of which he noted is titled "FY 11 Library Construction and Major Expansion Matching Grant Program." He asked if any of the projects on this side of the handout are considered museums.

[8:26:18 AM](#)

CO-CHAIR PARISH said he believes all entities listed on the page are libraries, with the exception of [the Sealaska Heritage Institute's Walter Soboleff Building].

REPRESENTATIVE SADDLER asked if there is anything that prevents museums from obtaining state grants through the program set up under AS 37.05.315.

MS. ELDEMAR answered, "There is nothing preventing the legislature from making a grant award under [AS] 37.05.315 absent this bill. If this bill were not passed, it could still go ahead and seek funding underneath AS 37.05."

[8:27:52 AM](#)

REPRESENTATIVE WESTLAKE moved to report HB 166 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 166 was reported out of the House Community and Regional Affairs Standing Committee.

[8:28:27 AM](#)

The committee took an at-ease from 8:28 a.m. to 8:32 a.m.

HB 156-MUNI TAX EXEMPTION: ECON DEVEL PROPERTY

[8:32:13 AM](#)

CO-CHAIR FANSLER announced that the final order of business would be HOUSE BILL NO. 156, "An Act relating to a municipal tax exemption or deferral for economic development property."

[8:32:34 AM](#)

REPRESENTATIVE CATHY TILTON, Alaska State Legislature, as prime sponsor, introduced HB 156. She explained that HB 156 is a reintroduction of House Bill 370, which was sponsored by the House Community and Regional Affairs Standing Committee, on

which she served as chair, in the Twenty-Ninth Alaska State Legislature. She said the bill would provide a nonmonetary tool for municipalities to incentivize new economic development. The proposed legislation would amend current statute [AS 29.45.050(m)] to offer greater flexibility to municipalities to determine their property tax policies. She explained that although the statute has been in place since 1993, it has rarely been used because of its restrictive nature. Representative Tilton said projects that have been created under AS 29.45.050(m) include the Alaska Brewery in Juneau and the MTA Sports Center in Palmer. The rigidity of the current statute makes its use difficult for "larger dollar projects" and "capital incentive-type projects."

[8:34:31 AM](#)

HEATH HILYARD, Staff, Representative Cathy Tilton, Alaska State Legislature, presented HB 156 on behalf of Representative Tilton, prime sponsor. He reiterated the key points given by Representative Tilton in her brief introduction. He explained that the aforementioned restrictive nature of AS 29.45.050(m) is that it allows a municipality only a five-year deferral or exemption and "follow-up, five-year extension." He paraphrased one intent of HB 156, which is described in the sponsor's statement as follows [original punctuation provided]: "The proposed legislation would remove the time limitation mandated by statute and authorize local governments to determine time periods appropriate for specific projects and according to their own needs and objectives."

MR. HILYARD referred to [paragraphs (1), (2), and (3), of AS 29.45.050(m)] which describe "economic development property" as ["real or personal property"] that:

- (1) has not previously been taxed as real or personal property by the municipality;
- (2) is used in a trade or business in a way that
 - (A) creates employment in the municipality;
 - (B) generates sales outside of the municipality of goods or services produced in the municipality; or
 - (C) materially reduces the importation of goods or services from outside the municipality; and
- (3) has not been used in the same trade or business in another municipality for at least six months before the application for deferral or exemption is filed; this paragraph does not apply if the property was used in the same trade or business in

an area that has been annexed to the municipality within six months before the application for deferral or exemption is filed; this paragraph does not apply to inventories.

[8:37:01 AM](#)

MR. HILYARD showed a slide that illustrates that currently a municipality can choose to exempt the entirety of the property tax on an applicable property for five years, but after year five cannot exempt any portion of property assigned for education. The proposed legislation would allow the exemption [to continue beyond five years] for the entirety of the property, and the power to make that decision would be given to the local governments. He clarified that HB 156 would not free municipalities from their obligation to fund education; they would just have to find some other way to pay for it if they chose to allow the exemption.

[8:39:13 AM](#)

CO-CHAIR PARISH anticipated that HB 156 may result in [competition between] municipalities.

MR. HILYARD responded that could be possible, although that was not the case in speaking with the Municipality of Anchorage and the City of Seward last year. He said he does not see any projects of that nature on the horizon. In response to a follow-up question, he said HB 156 would eliminate the initial five-year period and five-year extension; local governments would determine a time certain; and the obligation to fund education would remain. He agreed with Co-Chair Parish that one option to fund education could be to raise taxes on other businesses and property owners in the area.

[8:41:47 AM](#)

REPRESENTATIVE RAUSCHER asked if the State of Alaska micromanages the ability of municipalities to exempt certain properties.

MR. HILYARD noted that there are numerous exemptions and they are listed under AS 29.45.050, subsections (a) through (x). He said subsection (m) is essentially "an investment optional tax exemption rather than a charitable optional tax exemption." He clarified that all the exemptions listed under AS 29.45.050 are optional.

REPRESENTATIVE RAUSCHER said he finds it odd that the state micromanages the business of municipalities to such a degree.

[8:43:08 AM](#)

REPRESENTATIVE SADDLER said he had considered the aforementioned possibility of two municipalities competing, but he said he thinks HB 156 would return more discretion and power to municipalities, and he opined that "government's good that's close to the people."

[8:44:08 AM](#)

REPRESENTATIVE DRUMMOND said she thinks the Matanuska-Susitna (Mat-Su) Borough is the property taxing entity north of Anchorage, and the Cities of Palmer, Wasilla, Houston, et cetera have sales tax in place. She asked, "Since this is an act relating to a municipal tax exemption or deferral, does it only apply to municipalities or ... may boroughs also take advantage of this ... exemption?"

MR. HILYARD offered his understanding that HB 156 would apply to any municipality that levies property taxes, whether city or borough.

[8:46:51 AM](#)

REPRESENTATIVE WESTLAKE said Representative Drummond had asked a good question, and he said he would like to know if boroughs need to be specified in the proposed legislation.

[8:47:18 AM](#)

SUSIE SHUTTS, Attorney, Legislative Legal Counsel, Legislative Legal Services, Legislative Affairs Agency, Alaska State Legislature, responded that under HB 156, the use of the word "municipality" would include cities and boroughs.

[8:48:02 AM](#)

MARTY MCGEE, Section Manager/State Assessor, Municipal and Community Policy and Research Section, Division of Community and Regional Affairs (DCRA), Department of Commerce, Community & Economic Development (DCCED), talked about the change to statute that would be made under HB 156. He said AS 29.45.050 (m) pertains to optional exemptions. He said, "The basic theory on

taxation is that all property is subject to taxation, except that which is excluded or exempted by law." He said optional exemptions are the choice of local governments. He related that the fiscal note provided by his division shows no fiscal impact. He said, "Property exempted under the optional exemptions ... would be added back into the full value determination, but it does effect the school funding format."

[8:50:45 AM](#)

REPRESENTATIVE SADDLER asked if, in general, giving an exemption to one property tax payer shifts the burden of providing public services to other tax payers.

MR. MCGEE answered that's correct.

REPRESENTATIVE SADDLER surmised that the local authority would take that into consideration to ensure that the economic development opportunities outweighed any costs. He asked Mr. McGee to confirm Representative Drummond's previous remark that the City of Palmer and the City of Wasilla are not taxing authorities in the Matanuska-Susitna (Mat-Su) Borough.

MR. MCGEE responded that the taxing authority belongs with the borough; local city governments have the authority to add millage or, in certain cases, exemptions. He said the City of Wasilla currently has no specific millage associated with its operation but has had in the past and could in the future. In response to a comment by Representative Saddler regarding competition between municipalities, he said it is common for competition to happen. For example, he mentioned competition between the airports in Anchorage and Fairbanks, in terms of looking for which airport would offer the best deal on a project.

REPRESENTATIVE SADDLER offered an example to illustrate that in the heat of a bidding competition, those involved in the bidding may lose sight of the fact that they may be foregoing tax for a long time (by offering exemptions).

[8:53:18 AM](#)

CO-CHAIR PARISH asked Mr. McGee for clarification as to where under HB 156 there would be an increased obligation to the state for school funding.

MR. MCGEE explained that if a local government chooses to expand an optional exemption, the value of the property exempted is added back to the full value determination, which is part of the school funding formula. [Mr. McGee offered further comment pertaining to a bill version that was not before the committee.]

[8:54:45 AM](#)

MR. HILYARD, in response to Co-Chair Fansler, clarified that Mr. McGee had been referring to a potential amendment package that was discussed in Representative Westlake's office but would not at this time, and most likely never, be offered. Notwithstanding that, he offered his understanding that he and Mr. McGee were still essentially saying the same thing: HB 156 would not free municipalities from the obligation to fund education; it would simply provide that if a municipality chooses to exempt the portion of property tax that funds education, then it would have to find another way to fund that education obligation.

[8:55:59 AM](#)

MR. MCGEE retracted any comments he had made related to amendments to a version of HB 156 that had not been offered. He stated, "The part ... which is functional is that the school funding millage is now removed, and the local government can exempt that portion of the millage - the tax associated with economic exemption development projects. It still has a fiscal impact, but I can't calculate it in current (indisc.)."

[8:56:51 AM](#)

MR. HILYARD, in response to Co-Chair Parish, said under HB 156 the shipyard would not have the exemption. He offered his understanding that Representative Westlake's amendment package he did not offer would have provided for an exemption for the shipyard, but because there would have been a fiscal implication, "the amendment was not put forward."

MR. MCGEE said in general he agrees with Mr. Hilyard's comments. He said, "If ... all value, including that associated with education, is exempt by local option, then that value's added back in the full value determination and there isn't [a] shift from the borough to the state government. If the exemption is mandatory, then there is a shift from local government obligation to state obligation."

CO-CHAIR PARISH offered his understanding that HB 156 does not include mandatory obligations.

MR. HILYARD confirmed that HB 156 pertains to only optional exemptions.

[8:59:20 AM](#)

REPRESENTATIVE SADDLER asked Mr. Hilyard to clarify the term economic development property.

MR. HILYARD noted that the language in HB 156 relating to economic development property is found on page 2, beginning on line 11, and considers whether the property would be used in a way that would create employment, generate sales, reduce the importation of goods or services from outside the municipality, or ultimately add back to the property tax base at the conclusion of the exemption deferral. He said it is important to remember that the issue is not just about exemption; it is also about deferral. He said the idea is to provide maximum flexibility to municipalities to work with private business partners "to make a package that makes sense." He said municipalities would have to consider that [an exemption or deferral] could "pass back for a time being onto the other existing property tax payers," but the prime sponsor thought it would be better for the local governments to make that decision rather than the state.

REPRESENTATIVE SADDLER asked if there is any formal analysis that over time there would be a net benefit to a community or if that was something that would just be felt organically.

MR. HILYARD responded that the current statute is so narrow that it has not been utilized enough to provide an analysis. Nevertheless, he suggested asking the City & Borough of Juneau if the investment for the Alaskan Brewing Company was a wise decision. In response to a follow-up questions, he said one example of a best case scenario under HB 156 would be a port expansion for the City of Seward. He offered his understanding that a representative from the Municipality of Anchorage was available to testify, and that that municipality could have used this legislation to advance the "Dave & Buster" project. He said the intent of HB 156 is for municipalities to be able to have significant investment infrastructure projects.

[9:03:14 AM](#)

REPRESENTATIVE RAUSCHER asked how [HB 156] would affect the state.

MR. HILYARD deferred to Ms. Shutts or Mr. McGee.

MR. MCGEE said the aforementioned practice of different taxing jurisdictions competing for economic development project historically has not had a good economic result for communities; therefore, it is in the best interest of the state to avoid the potential for competition. He said that is one reason the state makes its tax laws uniform and provides the opportunity for local governments to choose what they will and will not exempt. He said the primary obligation of boroughs has always been the funding of education, so there is concern that the tax base for education be supported.

[9:05:29 AM](#)

REPRESENTATIVE SADDLER directed attention to language on page 2, beginning on line 11, of HB 156, [which describes economic development property as real or personal property] "**that has not been used in the same trade or business in another municipality for at least six months before the application for deferral or exemption is filed**". He questioned the reason for the distinction of six months.

[9:06:08 AM](#)

MR. MCGEE responded that he had administered this exemption in Anchorage for 20 years, and the interpretation of that specific language was problematic, because it is unclear in statute. He said obviously land cannot be moved and it is difficult to move buildings. He continued:

The logic is that if there's an existing industry - you know, facilities, real estate associated with that industry - that a new person coming in, trying to start up in the same industry, with the same type of building doesn't get a tax advantage over the existing tax credits. That's the way it's been interpreted in practice, but the language of the bill is awkward and has been problematic for 20 years that I'm aware of.

REPRESENTATIVE SADDLER said he is trying to envision whether there might be a circumstance under which a developer may expand across the borders of two municipalities and how that might affect the application of this exemption. For example, there

may be a pipeline or railroad that is subject to taxation in one municipality but not another.

[9:07:54 AM](#)

MR. MCGEE said the products pipeline for Tesoro goes from the Kenai Peninsula to the Port of Anchorage. He said it has been handled in a straightforward manner, but there is the potential that the City of Kenai could decide to exempt its portion of the pipeline while Anchorage would tax its portion. He said there have always been issues regarding the valuation of one part of an infrastructure over another. He said Alaska's boroughs are large enough that borders are not issues as is common in the Lower 48.

[9:09:01 AM](#)

MR. HILYARD concurred that the language in statute is awkward. He offered some background information pertaining to its origin. He said the proposed language on page 2, lines 11-16, [which includes the mention of the six-month provision] "would discourage a situation where ... a business might be offered the exemption in one municipality; another municipality could come along six months later and offer an even sweeter property tax exemption and draw that away from the existing original municipality." He said that is conjecture, but he can "see that language envisioning that circumstance."

REPRESENTATIVE SADDLER suggested that if it is existing law, then "if it ain't really broke that bad - don't fix it."

[9:11:36 AM](#)

REPRESENTATIVE SADDLER asked if there were any potential projects to which the Municipality of Anchorage might apply the proposed legislation.

[9:12:29 AM](#)

CHRIS SCHUTTE, Director, Office of Economic and Community Development (OECD), Municipality of Anchorage, called HB 156 an exciting piece of legislation for Anchorage. The proposed bill would modify the optional property tax exemption portion of state statute that would give the Municipality of Anchorage the flexibility in creating some community and economic development incentives that will help it achieve some of its community and economic development goals. Regarding the previous discussion

about creating competition, he said it is entirely possible, though "largely not what we're interested in, in the City of Anchorage." He noted that there were other entities from Anchorage signed up to testify.

MR. SCHUTTE said one area of focus for OECD is to find ways to help projects within the Municipality of Anchorage "get across the finish line." He said there are a number of local businesses that are looking for opportunities for growth. Some of the challenges inherent in developing in Anchorage include a shortage of easily developable land and a need to get creative in redevelopment, also called infield development, in the community.

[9:14:52 AM](#)

MR. SCHUTTE said the proposed legislation would give the City of Anchorage the authority to create local incentives specific to the community's needs, for example, to encourage mixed-use development in-field sites in the city that are difficult to develop or for economic development projects that have a long-term payout for the community but don't quite "pencil out" in the short term. He gave an example of the Odom Beverage Distribution Company - a national company with Alaska roots - that is looking to consolidate to a single location in Anchorage. The company has found land on a former concrete and gravel site, but it is not in good condition. If this legislation had already been enacted, it could have helped the project in the amount of \$4.5 million. Without the legislation, the company had to consider the long-term benefits and costs that could put the project out of reach. Mr. Schutte said another example is the Cook Inlet Housing Corporation in Anchorage, where the cost for housing is high, and the proposed legislation could help the city incentivize certain types of development, such as dense development that builds up instead of out, and thus make better utility of the land that is left and to encourage that outcome through incentives.

MR. SCHUTTE said OECD is excited to see HB 156 supported. He said it is step one of a two-step process; the second step is the work with the local community to truly identify community development goals and objectives and to craft a program and criteria specific to local needs.

[9:17:47 AM](#)

REPRESENTATIVE DRUMMOND questioned how an operation such as the aforementioned Dave & Buster's would have met the requirement of this bill had it passed previously. She offered her understanding that Dave & Buster's is an entertainment place built in a mall.

MR. SCHUTTE responded that one of the most valuable components of the bill is on page 2, beginning on line 27, in subparagraph (C), which read as follows:

(C) an exemption or deferral on
the property enables a significant capital investment
in physical infrastructure that
(i) expands the tax base of
the municipality; and
(ii) will generate property
tax revenue after the exemption expires

MR. SCHUTTE said the language would allow the city to craft incentivizing language that would help properties redevelop or develop by offsetting some of the mandatory physical infrastructure expenses. He offered information regarding Dave & Buster's as follows:

What ended up happening is they ... were not required to do the off-site infrastructure we originally predicted they would need to do, but originally it looked like there was going to need to be some upgrades to both sewer, transportation network - so the road network, et cetera - lots of off-site, public-facing infrastructure needs that unfortunately ... fell to the project itself since it was the trigger for these mandatory upgrades. At the end of the day, it worked out to where Dave & Buster's would not require that, so this particular clause of the bill would not have been triggered. But ... that's how sometimes a redevelopment project or a development project within an existing facility might trigger one of the clauses.

REPRESENTATIVE DRUMMOND noted that Mr. Shutte had mentioned that Odom Beverage Distribution Company had found that road and utility work would have put their consolidation project out of reach. She offered her understanding that the Natural Pantry, which built a store at Thirty-Sixth and A Streets, [in Anchorage], had to build the access road around the U.S. Post Office, even though it was not part of their property. She

asked if the proposed legislation would have helped the Natural Pantry, if it had been in place at that time.

MR. SCHUTTE answered that is correct. He said because of the location of the Natural Pantry, a number of mandatory public infrastructure upgrades were required, the cost of which fell to the project itself. He estimated that the road was \$1.5 million of unanticipated costs, and that is something that could have been absorbed through a property tax abatement or deferral plan that would be allowed under HB 156.

REPRESENTATIVE DRUMMOND questioned whether a retroactivity clause could be added to HB 156 that would help businesses such as [the Natural Pantry] after the fact.

MR. SCHUTTE emphasized his reluctance in trying to establish the criteria for retroactively granting property tax abatement or referrals.

REPRESENTATIVE DRUMMOND said, "Okay, then I don't want to get you in trouble."

[9:21:53 AM](#)

REPRESENTATIVE SADDLER stated his understanding that under HB 156, cities would have the option whether or not to grant exemptions or deferrals. He further expressed his understanding that "there's no specific requirement of a detailed finding that the net financial benefits of a property tax exemption under this bill would ever have to provide a net benefit in terms of tax revenue." He said, "Tax revenue is not the only or even the most important measure of the benefits of a law." He asked Mr. Shutte, "In your purview, are the gaining of jobs - economic activity, giving people something to do, less tangible benefits of this kind of law - might those have a more effective or more beneficial economic development impact than solely the measure of increasing property tax or deferral of property taxes?"

MR. SCHUTTE answered that the power under HB 156 to exempt taxation would fall to local jurisdictions, as would the requirement that they craft their own criteria for measuring success. He said the City of Anchorage has not done this yet, but it would have clearly established criteria as well as metrics for evaluating any proposal for tax abatement or tax deferral so that the city can measure both the long-term impact on the community, as well as the long-term benefit through increased property taxation, jobs, growth in other receipts,

such as personal property tax, businesses that keep inventories, or businesses that would "trigger any one of the other taxes locally." He said he thinks that each jurisdiction would have to do its own due diligence and have its own methodology for evaluating proposals as they are submitted in order to take into account all of the underlying economic benefit.

[9:24:17 AM](#)

BILL POPP, President/CEO, Anchorage Economic Development Corporation (AEDC), testified in support of HB 156. He stated that AEDC believes HB 156 would provide an important tool that has been missing from the tool box in terms of the ability of Anchorage to attract new lines of investment in businesses that currently do not exist in the city. He said he has numerous years of experience with the related state statute; when he was a member of the Kenai Peninsula Borough Assembly in the latter half of the '90s, he sponsored and supported the adoption of an economic development code, in addition to the existing ordinances of Kenai, that mirrors the language [of HB 156], and he offered his understanding that "it has never been used effectively in the history of that ordinance." He posited that that points to the failure of the current statute in its ability to do what was intended. He offered his understanding that the Municipality of Anchorage has had no successful use of the state statute either through its own municipal code.

MR. POPP said when looking at the national landscape of economic development strategies, there is a mixed bag of tricks in terms of incentives throughout the country; however, those communities that are thoughtful in their use of transparent incentives targeted to incur new economic development and create jobs and a new tax base have balanced and successful results. He said successful programs often include full details of a proposed project - including construction and operation costs, dollars invested, jobs created, direct and indirect impact to the community offering the incentive - and they report annually to the government and community during the life of the incentive, in terms of how they are proceeding and how successful they are. He said another element is the inclusion of claw-back provisions in the event that the development does not perform as proposed. Mr. Popp stated that successful business attraction efforts are not lead by incentives; incentives are "a last piece of discussion in the overall dialogue between companies looking for a location [in which] to invest and communities trying to attract that investment."

MR. POPP continued as follows:

Incentives help with the bottom line if the proposed project is challenged by economics. And we believe that this tool is vital in Anchorage's ability to attract new investment to our community, not so much in the existing lines of business, such as retail or restaurants, national chains - things like that, but more in terms of bringing in new lines of business, such as the work we are doing in partnership with the international airport system trying to attract new lines of business that put things on airplanes here in Anchorage. With the incredible asset that we have at the airport of five to six hundred wide-bodied jets a week, an incentive could be very valuable when we're trying to bring in new lines of business that are looking to put things on airplanes and taking advantage of the logistics supply chain that we have here but where our project economics are incredibly challenged by our high cost of doing business, our still relatively tight labor markets, the cost of finding locations and building up those locations to service the business - all of these different factors can come into play when [an] incentive could be the final piece of the puzzle that helps tip the economics of the project into a profitability state, which would then generate the economic activity through the investment and the jobs created.

MR. POPP expressed AEDC's hope that the House Community and Regional Affairs Standing Committee would pass HB 156 forward and that the legislature would ultimately pass the proposed bill to support local municipalities in dealing with the economic challenges of the state and to expand their economies in the future.

[9:29:15 AM](#)

CO-CHAIR PARISH asked what the longest municipal tax exemption duration is that Mr. Popp would anticipate.

MR. POPP answered that the duration is not necessarily the key element, although there needs to be some flexibility in that regard. He said there are some projects of a significant nature that could require 10 to 20 or more years, depending on costs and challenges. Conversely, he said he believes there are many projects that could benefit from just a 3- to 5-year incentive.

He said he thinks the "sweet spot" in terms of length of incentive must be decided through discussions between the community and the entity seeking the incentive, and there needs to be a balancing of the overall economics.

9:30:58 AM

MR. POPP, in response to a request for clarification from Representative Saddler, explained that he had previously meant that both Anchorage and Kenai had a set of municipal ordinances that mirrored state statute but had had no success in "deploying that particular language for an economic development project." He said he is aware of a couple projects that have been done in Anchorage using "the deteriorated property statute and code of ordinance that has been adopted within the municipality," but he said those have been challenging because he opined it was not the right path, although it was the only path available. He said a much cleaner process could have occurred if there had been more effective economic development language in state statute that could then have been mirrored in municipal code of ordinances. In response to a follow-up question, he said if HB 156 passes, he would partner with the Municipality of Anchorage to develop an ordinance if that is the will of the administration and the assembly, and AEDC would be in favor of having the discussion to determine whether or not a code of ordinance could be adopted to "make this tool available." He surmised other communities would do the same.

REPRESENTATIVE SADDLER expressed support for HB 156 as a good thing for the state and its communities, and he thanked Mr. Hilyard and the bill's prime sponsor for bringing it forward.

9:34:08 AM

JEFF JUDD, Executive Vice President, Real Estate, Cook Inlet Housing Authority (CIHA), characterized HB 156 as a valuable tool to municipalities to encourage and fund infrastructure costs associated with economic development opportunities. The proposed legislation would allow local governments to tailor funding mechanism as needed. He said public infrastructure improvements, such as road improvements, water, sewer, storm drainage, are the burden of local jurisdictions, which will fund those improvements eventually. The proposed legislation would allow private developers the opportunity to fund those projects at a lower rate, and the result is that projects could get done

now rather than five or ten years from now when the local government has the funding to complete the projects.

MR. JUDD noted that CIHA has approximately 13 properties in the Spenard neighborhood, in Anchorage, between Spenard and Thirty-Sixth Avenue where there is a redevelopment effort involving housing and retail areas occurring. He said acquiring the properties involved purchase from individual owners, demolishing older properties, and significantly improving public roads and water, sewer, and drain facilities to meet current code. The cost of that upgrade is approximately \$1 million, which can make a project like this unfeasible without some type of public support. Mr. Judd indicated that the effort being pursued would result in "total development outcome of approximately \$20 million on these sites," with a public infrastructure cost of approximately \$1 million, which - short of incentives and other tools that the local government might be able to provide - would likely result in an unfeasible project - at least in the short term. He concluded that HB 156 would provide the opportunity for municipalities to abate the property taxes for a period of time determined by the local government, and this would allow developers to monetize the abated taxes in the form of private debt, which would then fund the public infrastructure.

[9:39:36 AM](#)

REPRESENTATIVE DRUMMOND expressed delight in the progress of CIHA's project, which she said she sees every time she goes home.

[9:40:27 AM](#)

CO-CHAIR PARISH offered his understanding that "this wouldn't be an exemption available if ... you were going into competition with other preexisting businesses." He said it seems like housing is being offered in the Anchorage area, although perhaps not in sufficient quantity. He asked Mr. Judd, "Would you be providing a substitute (indisc.) service housing to ... other businesses in that area?"

MR. JUDD said he does not think so. He said vacancy rates in Anchorage are low. He noted that much of CIHA's housing was built in the '60s, '70s, and '80s and is reaching the end of its useful life in terms of quality, energy efficiency, and affordability. He echoed Mr. Popp's remark that the opportunity for economic development is in large part a function of [having] quality, affordable, diverse housing in a community. In large

part, he said, the homes in Anchorage that have been constructed over the last 20 years are single family homes that are "often times beyond the financial means of ... the workers ... who are going to be working at these economic development facilities." The housing that has been made available is in limited supply based on "limited funding resources ... versus the cost to actually develop those developments." Mr. Judd concluded his response as follows:

I don't view ... the opportunity to utilize this bill perhaps for housing development or mixed use development that includes housing and retail/commercial spaces - I don't really view it as competition to the existing stock, because simply the types of housing ... or mixed use facilities that are likely to be developed are not those that are otherwise being created in Anchorage presently, just simply due to the economics and the unviability of those sorts of housing developments.

CO-CHAIR PARISH repeated for Mr. Judd the question he had asked Mr. Popp regarding adequate length of exemption.

MR. JUDD answered that the answer depends upon the nature and scale of the development. For example, a project requiring three to four acreage and an over \$20 million budget, including extension of utilities and road systems, with a cost of \$1 million toward infrastructure, would likely require a 10- to 15-year abatement of taxes to provide adequate time to repay the debt. Notwithstanding that example, he pointed out that there may be a smaller scale project that would require a longer-term exemption - it would all depend upon the availability of the existing adjacent infrastructure.

[9:45:32 AM](#)

CO-CHAIR FANSLER noted that since public testimony had not been noticed on HB 156, he would open public testimony at the next hearing on HB 156, Tuesday, [March 28, 2017].

[9:45:41 AM](#)

CO-CHAIR PARISH asked if a future assembly or governing authority in a municipality could shorten the duration of an exemption.

MR. MCGEE indicated it may depend upon the original language in the resolution that created the exemption, but said in general the answer is no. He explained, "The decision of the prior body would be binding to future bodies for the duration of the specific (indisc.) set out in the resolution that created the exemption. In response to a follow-up question, he said he is not aware of any small companies applying for or receiving this type of exemption.

[9:47:09 AM](#)

REPRESENTATIVE SADDLER asked for clarification regarding a reference in HB 156 to the Alaska Native Claims Settlement Act (ANCSA).

MR. HILYARD noted that the reference to ANCSA occurs on page 2, line 9, and is part of existing statute. He deferred to Ms. Shutts for further explanation.

[9:47:55 AM](#)

MS. SHUTTS said she was not certain why that particular provision exists in statute, but she offered to find out and let the committee know.

[9:48:21 AM](#)

REPRESENTATIVE TALERICO offered his understanding ANCSA established a 10-year tax exemption for all ANCSA transferred land, from the beginning of the taxable property or business, for the first 10 years, and he surmised the purpose of having that language in statute is to make everyone aware of that exemption.

[9:48:58 AM](#)

CO-CHAIR PARISH pointed to [proposed provisions in Section 1, subsection (m), paragraph (1) and paragraph (2), subparagraphs (A) through (C)], on page 2, lines 11-31, of HB 156, which read:

(1) that has not been used in the same trade or business in another municipality for at least six months before the application for deferral or exemption is filed; this paragraph does not apply if the property was used in the same trade or business in an area that has been annexed to the municipality within six months before the application for deferral

or exemption is filed; this paragraph does not apply to inventories; or

(2) to which one or more of the following applies:

(A) the property has not previously been taxed as real or personal property by the municipality;

(B) the property [2] is used in a trade or business in a way that

(i) [A] creates employment in the municipality;

(ii) [B] generates sales outside of the municipality of goods or services produced in the municipality; or

(iii) [C] materially reduces the importation of goods or services from outside the municipality;

(C) an exemption or deferral on the property enables a significant capital investment in physical infrastructure that

(i) expands the tax base of the municipality; and

(ii) will generate property tax revenue after the exemption expires [AND

CO-CHAIR PARISH asked, "Is that the current interpretation of the bill? Because I see that now we're switching it to a district war clause where any one of the following applies."

MS. SHUTTLES responded that there is currently a subsection (m) in statute that defines economic development properties. She noted that paragraph (1), on lines 11-16, has the same language as found on page 3, lines 1-8 [bracketed to show that it will be deleted]. She highlighted the "or" on page 2, line 16, and she said that one or more of the following subparagraph provisions would, [under HB 156], apply from paragraph (2).

CO-CHAIR PARISH asked how things stand now under current statute.

MS. SHUTTLES answered that subparagraph (C) is all new language, which would, under HB 156, change the requirements currently under statute regarding economic development property. She noted that language on page 2, lines 7-8, names "economic development property" as real or personal property, and that includes developed property, and following that language are the ways in which the term can be defined.

[9:53:15 AM](#)

REPRESENTATIVE TALERICO expressed appreciation for HB 156 and opined that "local government is the best government" because it is closest to the people that are most affected by it. He offered his understanding that Title 29 was established years ago to create a guideline but not to be a static document. Adjustments can be made to suit local governments as they change. He said most local governments are established to the point of having their public process in order and making local, economic decisions. He emphasized his support of the proposed legislation. Representative Talerico pointed to language on page 2, line 27, which read, "an exemption or deferral on the property", and he asked if there was ever any consideration of adding language pertaining to payment in lieu of taxes - "a spot kind of between the deferral and between the exemption that might give a municipality even more flexibility for that?"

[9:55:39 AM](#)

MR. HILYARD answered that payment in lieu of taxes had, as yet, not been part of the consideration; however, he said that does not mean the bill sponsor would be opposed to it - the issue could be open to discussion.

REPRESENTATIVE TALERICO referred to early comment questioning whether there may be a project taxed at different rates by different municipalities, and he stated that the Trans-Alaska Pipeline System fits that description.

[9:57:19 AM](#)

CO-CHAIR PARISH expressed concern that one assembly could bind future assemblies for an indeterminate period of time. He said he could conceive of a situation in which a small town desperate for jobs, would ratify a 99-year exemption for a business. He said being part of the legislature, he views the inability of one legislature to bind future legislatures as a valuable trait. He said he is also concerned that [HB 156] will "tip the playing field in favor of large businesses over small businesses," because the large businesses tend to have good lobbyists. He said he would be happy to work with the bill sponsor to address those concerns.

[9:59:17 AM](#)

REPRESENTATIVE SADDLER noted that contributions of lobbyists are "severely constrained by law in most cases."

[9:59:32 AM](#)

REPRESENTATIVE DRUMMOND said she thinks the committee has heard from numerous communities that [HB 156] is a missing tool in their tool boxes. She noted that the prior bill was introduced at the end of the two-year legislature, late in the session, so it did not go anywhere. She expressed hope that HB 156 would progress, and she stated her support for the proposed bill. She offered her belief that local municipalities have the ability to make economic development decisions, and the public will give its feedback if it thinks a municipality is about to make an error in giving too large an exemption to a project.

[10:00:48 AM](#)

CO-CHAIR FANSLER announced that HB 156 was held over.

[10:01:17 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 10:01 a.m.