

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

May 15, 2017

8:12 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)

OTHER LEGISLATIVE MEMBERS PRESENT

Representative Ivy Spohnholz

COMMITTEE CALENDAR

HOUSE BILL NO. 156

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

- MOVED CSHB 156(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

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
03/23/17	(H)	Heard & Held
03/23/17	(H)	MINUTE(CRA)
03/28/17	(H)	CRA AT 8:00 AM BARNES 124
03/28/17	(H)	Heard & Held
03/28/17	(H)	MINUTE(CRA)
04/25/17	(H)	CRA AT 8:00 AM BARNES 124

04/25/17 (H) Heard & Held
04/25/17 (H) MINUTE(CRA)
05/15/17 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

SCOTT BRANDT-ERICHSEN, Attorney
Ketchikan Gateway Borough
Ketchikan, Alaska

POSITION STATEMENT: Offered comment during the hearing on HB 156.

JESSE LOGAN, Staff
Representative Dean Westlake
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained Conceptual Amendment 1 during the hearing on HB 156.

REPRESENTATIVE DAN ORTIZ
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered information during the hearing on HB 156.

DOUG WARD, Director of Shipyard Development
Ketchikan shipyard
Ketchikan, Alaska

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

JOHN SPRINGSTEEN, Executive Director
Alaska Industrial Development and Export Authority (AIDEA)
Anchorage, Alaska

POSITION STATEMENT: Offered feedback related to Conceptual Amendment 1 to HB 156.

ACTION NARRATIVE

[8:12:14 AM](#)

CO-CHAIR ZACH FANSLER called the House Community and Regional Affairs Standing Committee meeting to order at 8:12 a.m. Representatives Talerico, Westlake, Parish, and Fansler were present at the call to order. Representatives Rauscher, Saddler, and Drummond arrived as the meeting was in progress. Also present was Representative Spohnholz.

HB 156-MUNI TAX EXEMPTION: ECON DEVEL PROPERTY

[Contains discussion of HB 148 and SB 100.]

[8:13:10 AM](#)

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

[8:14:07 AM](#)

REPRESENTATIVE PARISH moved to adopt a proposed committee substitute (CS) for HB 156, Version 30-LS0602\U, Wallace/Shutts, 5/13/17, as a working document. [There being no objection, Version U was before the committee.]

[8:14:36 AM](#)

CO-CHAIR PARISH explained that Version U would amend AS 29.45.050(m), as follows: broaden the language of optional municipal property tax exemptions for economic development properties; allow municipalities to provide property tax incentive for a specified period rather than five years at a time; broaden the factors by which a property would qualify for a tax incentive "from having to meet all three factors currently in the statute to any of four significantly broader factors"; protect municipalities that are school districts by setting a floor at the 2.65 mils set out in the education funding formula; grandfathering ordinances in effect before January 1, 2017, which are limited to five years under existing law; and not allowing a municipality to accept economic development property from the tax rate applied for a service area controlled by a board that set its own rates.

[8:16:27 AM](#)

REPRESENTATIVE SADDLER noted that HB 156 had been in the committee's possession for a couple months, and he inquired as to the reason the committee was just now addressing it.

[8:16:43 AM](#)

CO-CHAIR PARISH answered that often language of one bill will be "amended onto bills" that are further along in the legislative

process. He said that is what happened to HB 156, the language of which he indicated was incorporated into SB 100, which is related to municipal ability to set liens. He said HB 156 also was "amended onto" HB 148, which relates to the powers of second-class boroughs to provide emergency services. He indicated that both he and Co-Chair Fansler decided it would be best to "revisit the modified language - the language as amended - for the purpose of public discussion."

REPRESENTATIVE SADDLER asked, "Had this language ever been considered earlier in the session?"

CO-CHAIR PARISH offered his understanding that it had not.

CO-CHAIR FANSLER, in response to the same question, offered his understanding that the answer was no.

CO-CHAIR PARISH amended his original response by saying, "Actually, I believe it was taken up in the House Rules [Standing] Committee."

[8:19:01 AM](#)

CO-CHAIR FANSLER reopened public testimony [which had been closed on 3/28/17].

[8:19:26 AM](#)

SCOTT BRANDT-ERICHSEN, Attorney, Ketchikan Gateway Borough, commented that the exemption that HB 156 addresses is one that the Ketchikan Gateway Borough has used in the past and is a helpful economic development tool.

[8:20:07 AM](#)

The committee took a brief at-ease at 8:20 a.m.

[Between this at-ease and the next, there was a brief period on the record during which Co-Chair Fansler asked Mr. Brandt-Erichsen to state his affiliation for the record.]

[8:21:10 AM](#)

The committee took an at-ease from 8:21 a.m. to 8:22 a.m.

[8:22:38 AM](#)

CO-CHAIR FANSELER ascertained that no one else wished to testify. [Public testimony was not officially closed.]

8:22:58 AM

REPRESENTATIVE WESTLAKE moved to adopt Conceptual Amendment 1 to HB 156, which read as follows:

Page 1, lines 1 - 2:

Delete "a municipal tax exemption or deferral for economic development property"

Insert "municipal property tax exemptions; extending a mandatory exemption from municipal property taxes for certain assets of the Alaska Industrial Development and Export Authority; and providing for an effective date by amending the effective dates of sec. 2, ch. 10, SLA 2010, as amended by sec. 4, ch. 61, SLA 2012, and sec. 2, ch. 71, SLA 2010, as amended by sec. 5, ch. 61, SLA 2012"

Page 1, following line 3:

Insert a new bill section to read:

*** Section 1.** AS 29.45.030(a) is amended to read:

(a) The following property is exempt from general taxation:

(1) municipal property, including property held by a public corporation of a municipality, state property, property of the University of Alaska, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest; however, an interest created by an operating agreement or [A] nonexclusive use agreement between the Alaska Industrial Development and Export Authority and a shipyard operator or a user of an integrated transportation and port facility, if the shipyard or integrated transportation and port facility is owned by the authority and initially placed in service before January 1, 1999, is taxable only to the extent of, and for the value associated with, those specific improvements used for lodging purposes;

(B) notwithstanding any other provision of law, property acquired by an agency, corporation, or other entity of the state through foreclosure or deed

in lieu of foreclosure and retained as an investment of a state entity is taxable; this subparagraph does not apply to federal land granted to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land granted to the university by the state to replace land that had been granted under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the university under AS 14.40.365;

(C) an ownership interest of a municipality in real property located outside the municipality acquired after December 31, 1990, is taxable by another municipality; however, a borough may not tax an interest in real property located in the borough and owned by a city in that borough;

(2) household furniture and personal effects of members of a household;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of an auxiliary of that organization;

(5) money on deposit;

(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section;

(7) real property or an interest in real property that is

(A) exempt from taxation under 43 U.S.C. 1620(d), as amended or under 43 U.S.C. 1636(d), as amended; or

(B) acquired from a municipality in exchange for land that is exempt from taxation under (A) of this paragraph, and is not developed or made subject to a lease;

(8) property of a political subdivision, agency, corporation, or other entity of the United States to the extent required by federal law; except that a private leasehold, contract, or other interest in the property is taxable to the extent of that interest unless the property is located on a military base or installation and the property interest is created under 10 U.S.C. 2871 - 2885 (Military Housing Privatization Initiative), if [PROVIDED THAT] the

leaseholder enters into an agreement to make a payment in lieu of taxes to the political subdivision that has taxing authority;

(9) natural resources in place including coal, ore bodies, mineral deposits, and other proven and unproven deposits of valuable materials laid down by natural processes, unharvested aquatic plants and animals, and timber;

(10) property not exempt under (3) of this subsection that

(A) is owned by a private, nonprofit college or university that is accredited by a regional or national accrediting agency recognized by the Council for Higher Education Accreditation or the United States Department of Education, or both; and

(B) was subject to a private leasehold, contract, or other private interest on January 1, 2010, except that a holder of a private leasehold, contract, or other interest in the property shall be taxed to the extent of that interest."

Page 1, line 4:

Delete "**Section 1**"

Insert "**Sec. 2**"

Page 3, following line 8:

Insert new bill sections to read:

"* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REVISOR'S INSTRUCTION. When implementing secs. 2 and 3, ch. 10, SLA 2010, and sec. 2, ch. 71, SLA 2010, the legislature does not intend to retain the amendments to AS 29.45.030(a)(1) made by sec. 1 of this Act, but does intend to retain the amendment to AS 29.45.030(a)(8) made by sec. 1 of this Act.

* **Sec. 4.** Section 8, ch. 10, SLA 2010, as amended by sec. 4, ch. 61, SLA 2012, is amended to read:

Sec. 8. Section 2, ch. 10, SLA 2010, takes effect November 30, **2027** [2017].

* **Sec. 5.** Section 10, ch. 71, SLA 2010, as amended by sec. 5, ch. 61, SLA 2012, is amended to read:

Sec. 10. Section 2, ch. 71, SLA 2010, takes effect November 30, **2027** [2017]."

REPRESENTATIVE TALERICO objected for the purpose of discussion.

REPRESENTATIVE WESTLAKE pointed out that Conceptual Amendment 1 had been drafted to align with the original bill version. He deferred to his staff for explanation.

[8:23:42 AM](#)

JESSE LOGAN, Staff, Representative Dean Westlake, Alaska State Legislature, explained that Conceptual Amendment 1 would not change any language in the bill; it would add new sections to extend the November 2017 sunset on mandatory property tax exemptions for certain assets owned by the Alaska Industrial Development and Export Authority (AIDEA) to 2027, and it would extend the tax exemption to interest created by operating agreements or nonexclusive use agreements between AIDEA and a shipyard or integrated transportation and port facility that's owned by AIDEA. Mr. Logan stated that the second change is in response to [Resolution No. 2692], from the Ketchikan Gateway Borough, supporting the extension of the tax exemption. He remarked that there had been confusion in the past as to whether [the Ketchikan shipyard] was eligible for the tax exemptions, but Conceptual Amendment 1 would clarify that.

[8:25:57 AM](#)

The committee took a brief at-ease at 8:26 a.m.

[8:26:26 AM](#)

CO-CHAIR FANSLER emphasized that because [Version U] "is currently being rolled into SB 100," it is imperative to clarify that any changes being made in the House Community and Regional Affairs Standing Committee will also need to be presented as amendments during the upcoming House floor session scheduled for 10 a.m.

[8:27:18 AM](#)

REPRESENTATIVE SADDLER requested an at-ease to read the aforementioned letter from the Ketchikan Gateway Borough.

[8:27:22 AM](#)

The committee took an at-ease from 8:27 a.m. to 8:36 a.m.

[8:36:04 AM](#)

REPRESENTATIVE SADDLER directed attention to [the fifth "whereas" paragraph] at the bottom of the first page of the aforementioned resolution, and he asked for an explanation of "the reversionary, private, leasehold interest in the Ketchikan shipyard."

[8:36:53 AM](#)

MR. LOGAN deferred to Mr. Brandt-Erichsen.

[8:37:20 AM](#)

MR. BRANDT-ERICHSEN stated that AIDEA's ownership interest in the property is tax exempt, but with other state tax-exempt property, wherein someone is either leasing or operating the property, there is a possessory interest that can be valued and have a tax levied based upon that value. He concluded, "So, the private possessory interest in the shipyard or in the Delong Mountain [Transportation] Facility is ... the interest that would either be taxable or exempt."

REPRESENTATIVE SADDLER asked for confirmation that AIDEA may provide financing for a shipyard or road system, but the actual lessor will bring its own money and make its own investments; therefore, the property obtained through AIDEA financing is tax exempt, but the property the lessor "brings to it" should be taxable.

MR. BRANDT-ERICHSEN stated that the arrangements are not always situations in which the private entity brings a certain quantity of funds and AIDE provides the financing. He said of the approximately seven AIDEA projects around the state, there are a couple that are direct leases, for example, the FedEx aircraft maintenance hangar in Anchorage. He continued:

AIDEA provided financing, but the tenant - the lessee - has a possessory interest in the lease, and they're operating in their own business interest. ... They may bring ... certain equipment there and AIDEA provided certain financing for construction of ... the hangar, but it's more of a landlord/tenant-type relationship.

MR. BRANDT-ERICHSEN said the situations with the Delong Mountain Transportation Facility and the Ketchikan shipyard are not leases - they are operator agreements - and the operator did not finance the construction of the facility. The money for the

construction of the facility, he noted, was largely AIDEA or federal government or state government money - not private. Notwithstanding that, he stated that there is about \$1 million-worth of equipment that the private operator has brought on site, and that property is taxed. He added, "That privately owned property would not be changed by the amendment language."

REPRESENTATIVE SADDLER summarized that in broad terms: the property obtained through AIDEA is tax exempt, while property or interest that the private lease holder brings to it is not.

MR. BRANDT-ERICHSEN responded that in general that is correct. He said if the private party is the owner of the property or asset, then "that's going to be taxable ... regardless of the proposed language." He said Conceptual Amendment 1 deals with the situation in which AIDEA is the owner of the property; the operator has only the rights to operate it for a defined period of time - no ownership interest.

REPRESENTATIVE SADDLER asked, "So, ... possessory interest is just what you own, right?"

MR. BRANDT-ERICHSEN said the best example is in considering a car rental. A person rents the car; the car company owns the car; the renter pays taxes based on the limited possessory interest - the time renting the vehicle. In this analogy, he explained, the car company would be AIDEA, whose interest is tax exempt, but the person's time using AIDEA's property would be taxable.

REPRESENTATIVE SADDLER concluded that it is possible to tax the possessory interest even though the person being taxed doesn't actually own it.

MR. BRANDT-ERICHSEN answered yes. He said there are factors to determine what the value of the taxable possessory interest is, and that will vary according to the rights the person has, the duration [of possession], and whatever other limitations there may be on the use of the property.

REPRESENTATIVE SADDLER stated:

So, it sounds like if AIDEA has provided financing to allow the (indisc. -- rustling papers) to use property, under ... [Version U], that property would ... not be taxable; and heretofore, the Ketchikan

[Gateway] Borough has assumed that that property was taxable. Is that correct?

MR. BRANDT-ERICHSEN responded no. He explained that the shipyard property in Ketchikan has been operating since the 1980s and, under AIDEA ownership, since 1997. From 1997 to 2011, the Ketchikan Gateway Borough treated the property as 100 percent exempt, that the possessory interest of Alaska Ship and Drydock was exempt from taxation. In 2011, a different assessor determined that even though the property qualified for the same mandatory exemption as the Delong Mountain Facility, it should be treated as an optional exemption. He said there is a separate statute that allows communities to optionally exempt the private leaseholder possessory interest in AIDEA property. He continued as follows:

We ended up having litigation with the state over the issue of whether it was a mandatory or optional exemption, and that case was resolved with the valuation of the property being set lower and the borough reserving the right to renew the case if the exemption ... did not end up being codified in statute when the Delong Mountain Facility exemption gets extended - if in fact it gets extended.

[8:46:21 AM](#)

REPRESENTATIVE SADDLER asked how much possessory interest exists that may be subject to taxation under the aforementioned law suit.

MR. BRANDT-ERICHSEN answered that part of the dispute that the borough had with the State Assessor's Office regarding the shipyard property was related to tax years 2015 and 2016. The state assessor asserted that the shipyard property was worth, in total, approximately \$74 million. Additionally, there was approximately \$1.5 million in property, privately owned by Vigor Industrial LLC ("Vigor"), which was, and still is, treated as taxable. Regarding the \$74 million, he said the borough asserted that the valuation of the possessory interested was a lot less, only about \$20 million. Further, the borough asserted that because the shipyard facility in Ketchikan was "in the same scenario as the Delong Mountain Facility," it was entitled to a mandatory exemption from property taxes. Mr. Brandt-Erichsen said the case was resolved with the valuation of the possessory interest being set for 2015 at approximately \$29 million and for 2017 at about \$27 million. He said as the duration remaining on

the lease becomes less, that value will likely continue to drop, because the period of time will be shorter.

REPRESENTATIVE SADDLER offered his understanding that Mr. Brandt-Erichsen was saying that it will be necessary for the exemption to be clarified in statute in order for the exemption of property taxes to be maintained.

MR. BRANDT-ERICHSEN responded that there are two things going on here: one is extending the mandatory exemption that applies to the Delong Mountain facility and the Ketchikan shipyard facility; two is clarifying the language to avoid another fight with the state over whether the two facilities are both facilities owned by AIDEA, operated under an operating agreement and entitled to that exemption.

[8:49:25 AM](#)

REPRESENTATIVE SADDLER asked for confirmation that the clarification under statute would be so that the property tax exemption will remain - the property is mandatorily exempted.

MR. BRANDT-ERICHSEN answered that is correct.

[8:49:45 AM](#)

REPRESENTATIVE SADDLER asked Mr. Brandt-Erichsen, "When did you first bring this issue to the attention to AIDEA or any member of this committee?"

MR. BRANDT-ERICHSEN answered that the Ketchikan Gateway Borough brought the issue of the treatment of the Delong Mountain Facility versus the Ketchikan shipyard facility to the legislature in 2010. At that time, no action was taken to clarify the language, he said.

REPRESENTATIVE SADDLER asked Mr. Brandt-Erichsen when he first realized it would be impossible to "amend this bill to accomplish your purpose."

MR. BRANDT-ERICHSEN replied, "The borough, in adopting Resolution [No.] 2692 and forwarding it to the legislature, was seeking to have an amendment such as this included in legislation some time during the course of the session." In terms of HB 156 being scheduled, he said he heard about it over the weekend.

REPRESENTATIVE SADDLER remarked that the borough's resolution was signed on February 6, 2017, but Mr. Brandt-Erichsen had heard just this weekend about the legislature's intent to schedule the meeting to "accomplish the goals of this resolution."

MR. BRANDT-ERICHSEN answered that he had been aware of "the language of the amendment to accomplish the goal" for a couple of months, and there is similar language in the borough's resolution. He clarified that what he became aware of just this weekend was "the hearing on HB 156 and the fact that it might be considered in this hearing today." In response to a follow-up question, he said he did not personally have a discussion with any member of the House Community and Regional Affairs Standing Committee regarding the plan to offer an amendment in response to the borough's resolution. He said the borough engages a lobbyist who works in Juneau, and he has had communications with that lobbyist over the last week. He said the lobbyist's name is Ray Matiashowski.

REPRESENTATIVE SADDLER said he would like Mr. Matiashowski available for questioning to discern "the genesis and providence of the resolution and amendment."

[8:53:52 AM](#)

REPRESENTATIVE DAN ORTIZ, Alaska State Legislature, noted that his district includes Ketchikan, Alaska. He said he was aware of the desire of the Ketchikan Gateway Borough and Vigor to gain statutory tax-exempt status "for this particular facility." He said it is an economic opportunity for the entire state. He explained that the facility employs people from around the state who are trained in facilities such as [the Alaska Vocational Technical Center] in Seward. He said the facility itself does much to provide repair and construction needs of the Alaska Marine Highway System (AMHS). He said AIDEA owns the property as it does a mining facility in another part of the state. The logic is, "Why would we be taxing a state-owned facility?" Representative Ortiz said Conceptual Amendment 1 is a "win-win" amendment that recognizes the contributions of the facility in support of Alaska's transportation infrastructure.

[8:56:35 AM](#)

REPRESENTATIVE SADDLER reiterated his concern regarding timing. He asked Representative Ortiz if he knows of anyone who came to any member of the House Community and Regional Affairs Standing

Committee prior to the past weekend to discuss the need for Conceptual Amendment 1.

REPRESENTATIVE ORTIZ said he is not aware of any such attempts. Notwithstanding that, he shared his experience thus far in the legislature has shown that often times "you have to look for ... the best opportunity that presents itself to get the goal accomplished; and it just so happens that that goal seemed to ... become apparent here at the end of this last week." He said that did not mean other opportunities had not been sought. In response to a follow-up question, he said that until [Friday, May 12], he had not been aware that [Conceptual Amendment 1] would be brought forward by the House Community and Regional Affairs Standing Committee. He clarified that he was answering as to the specific amendment to the specific bill.

[8:59:31 AM](#)

CO-CHAIR FANSLER asked Representative Saddler to focus on the substance of the proposed Conceptual Amendment 1. He explained again his understanding that HB 156 was going to be rolled into SB 100. He said that as co-chair of the committee, he felt it proper to vet [HB 156] before the public.

[9:00:06 AM](#)

REPRESENTATIVE SADDLER noted that thus far only Mr. Brandt-Erichsen had testified. He questioned again why "this is coming before us when the committee's had this bill in its hands for two-and-a-half months."

CO-CHAIR FANSLER reiterated that HB 156 is being rolled into SB 100 and he believes it is important to vet the proposed committee substitute in public, which is what is currently being done.

REPRESENTATIVE SADDLER said he looks forward to "members of the public getting that vetting in front of them" rather than hearing only from the attorney for the Ketchikan Gateway Borough.

CO-CHAIR FANSLER stated, "That is why we're having this meeting right now."

[9:01:12 AM](#)

CO-CHAIR PARISH noted there is a slight difference in the language of Conceptual Amendment 1 and the language requested through Resolution No. 2692.

MR. BRANDT-ERICHSEN acknowledged there is a difference, but said the borough views it as substantively the same. He added that the proposed language of Conceptual Amendment 1 may actually be clearer than that proposed in the borough's resolution. In response to a follow-up question, he said the \$29 million was the valuation for 2015; the 2017 valuation of the interest is more in the range of \$25 million.

CO-CHAIR PARISH responded as follows:

It's my understanding that under the language, as amended, the interest created by an operating agreement would be tax exempt - or not taxable except to the extent that it's associated with those specific improvements used for lodging purposes. Would that result in a change in the total interest taxable by the Ketchikan Gateway Borough?

MR. BRANDT-ERICHSEN answered that it would, but he explained that it would not result in a change in revenue to the borough. He said the borough currently has adopted an ordinance allowing for an optional exemption for the value of that property. He added:

And what that means is: For example, for the purposes of the school contributions, the borough still makes those payments. With a mandatory exemption, we would not make those payments. And the value of that amount is approximately \$70,000 a year.

CO-CHAIR PARISH asked for confirmation that there would be "a shift of \$70,000 from ... the city to the state."

MR. BRANDT-ERICHSEN answered yes, from the borough to the state.

CO-CHAIR PARISH added, "Because the exemption would be mandatory instead of optional, as it is presently by ordinance, is that right?"

MR. BRANDT-ERICHSEN answered that is correct.

CO-CHAIR PARISH asked what the effect on the bottom line for Vigor would be.

MR. BRANDT-ERICHSEN differed to Doug Ward, the director of the shipyard. He reviewed that both the [borough] and state assessors had treated the property as if it were mandatorily exempt, up until 2011. Once the state assessor began treating it as optionally exempt and there was a cost penalty associated with it, the Ketchikan Assembly discussed requiring some sort of payment in taxes. He said the operating margin and profitability of the shipyard is such that if it were required to pay payment in lieu of taxes (PILT) in the full amount of the local tax levies, then it could impact the viability of the shipyard.

[9:07:08 AM](#)

DOUG WARD, Director of Shipyard Development, Ketchikan shipyard, noted that he has held his position for the last 25 years; he was previously employed by Alaska Ship and Drydock; he is currently employed by Vigor. In response to Co-Chair Parish's question, he stated that only in the last two years has the Ketchikan shipyard approached marginal profitability. He stressed the importance of profitability, since under its operating agreement, [Vigor] participates in both revenue sharing and profit sharing with AIDEA. The payments to AIDEA go into an AIDEA-held, dedicated repair and replacement fund in order to maintain the state asset, he said, and that ensures the long-term maintenance of the state asset. He said, "Any tax payments that would be related to our possessory interest in the operating agreement would diminish our profitability and impact ... our ability to maintain a competitive position when seeking new ship constructions and ship repair contracts in an open, competitive basis." He added, "The final impact of that could be a reduced volume of production work at the shipyard, with reduced employment and increased competitive disadvantages for future ship repair and ship building contracts."

CO-CHAIR PARISH asked how much money is going to AIDEA and how much is going to the repair and maintenance fund.

MR. WARD answered between [\$50,000 and \$75,000]. He stated it was approximately [\$65,000] last year in combined revenue and profit sharing, and the projection for this year is roughly the same.

[9:11:46 AM](#)

REPRESENTATIVE ORTIZ stated appreciation for the questions brought forward. He said the bottom line is the question of whether Conceptual Amendment 1 is in the best interest of Alaska and the AIDEA-owned facility. He opined that it is. He said the profit margins Vigor works under are narrow. Vigor has been awarded the bid to construct the two new AMHS ferries. It was a competitive bid, and Vigor is on schedule to "perform to the parameters of that particular bid." He emphasized that the profit that Vigor would make for those two ferries is minimal. He said the intent [of Conceptual Amendment 1] is to "create the best possible environment" for Vigor to continue to operate the facility, employ people from around the state, and facilitate marine transportation infrastructure.

[9:14:46 AM](#)

REPRESENTATIVE SADDLER asked Mr. Ward to confirm that if Vigor had to pay property tax to the Ketchikan [Gateway] Borough, it would cost [the shipyard] an additional \$50,000 to 75,000 per year.

MR. WARD answered about \$70,000 a year.

REPRESENTATIVE SADDLER, regarding the shipyard having approached profitability in only the last couple years, asked about startup costs and whether the shipyard is on a trajectory plan towards profitability or operating at a standard level only now occasionally achieving profitability.

MR. WARD answered the former. He added that new contracts are being actively taken, both in new ship fabrication as well as in ship repair. He said the shipyard's customers in ship repair include the U.S. Coast Guard (USCG), the National Oceanic and Atmospheric Administration (NOAA), federal agencies, state agencies, the Alaska Department of Fish & Game (ADF&G), the Alaska Department of Public Safety (DPS), and a large number of publicly owned clients, including the Inner Island Ferry Authority. He said the shipyard is looking to expand its activities in the fish harvesting market, as well as "general heavy manufacturing for manufactured and fabricated metal products being imported to Alaska." He concluded, "So, we're definitely looking forward to expanding the business, expanding our employment, as well as increasing the marine industrial support sector of the state of Alaska."

REPRESENTATIVE SADDLER expressed his support for the creation of manufacturing and seafaring jobs in the coastal communities of

Southeast Alaska. He asked Mr. Ward to confirm that if the property tax exemption were to be made mandatory, then the shipyard might lose \$70,000 a year, but the business would not be killed in a year, because the shipyard could probably "grow enough to accommodate that loss."

MR. WARD replied that he would not conjecture as to what the future could bring. Notwithstanding that, he stated:

The 30-year operating agreement, which we entered into with AIDEA, recognized the competitive difficulties of establishing a viable shipyard enterprise in a remote and isolated location like Ketchikan. When we started this project, our first year under Alaska Ship and Drydock was in 1994; our development plan at that time was to add a small lift to service the local seine fleet. With collapse of the timber industry in the mid-1990s, both the Ketchikan [Gateway] Borough and the State of Alaska came to Alaska Ship and Drydock and asked if we could create a development plan that would ... [ensure] long-time liability of the Ketchikan shipyard. That plan is referred to as the 1999 Shipyard Development Plan, and as far as profitability, the operating agreement recognized that profitability in the early years was going to be difficult, and ... to establish not only a skilled and competitive Alaskan workforce, but [also] to develop all of the required infrastructure for long-term viability, was going to be a long-term proposition. And it was for that reason that the AIDEA operating agreement is for a 30-year term, beginning in 2005.

[9:20:30 AM](#)

REPRESENTATIVE SADDLER asked how the proposed tax exemption would affect transfer of payments from the borough to the state.

MR. WARD answered that the operating agreement refers to the establishment of a repair and replacement fund at a minimum level of approximately \$1.6 million. He said the fund will be managed by AIDEA for long-term maintenance of the (indisc.) asset. He explained that once the fund reaches the minimum required balance, AIDEA has the option of participating in revenue sharing with the municipality, borough, and Ketchikan Public Utilities, "in part for repayment for financial incentive that they have provided locally through the tax exemption and competitive power rates." He said the other option AIDEA has is

to direct the excess funds to participate in revenue sharing to the state general fund. Mr. Ward stated, "Should we have to make payments on our possessory interest, that would reduce revenue streams to the AIDEA R&R funds and potentially reduce funds that can be distributed to either the state general fund or to the municipalities of Ketchikan." In response to Representative Saddler, he suggested further detail could be provided by representatives of AIDEA.

REPRESENTATIVE SADDLER said it sounds like there is "an excess with state finances," which he said he appreciates.

[9:24:20 AM](#)

REPRESENTATIVE RAUSCHER asked if low bidding is a trend.

[9:25:11 AM](#)

REPRESENTATIVE ORTIZ deferred to Mr. Ward, but said in general, because of the "tightness of capital budgets" and overall lack of state revenue, he does not see "a very robust capital budget moving forward from the State of Alaska." As a result, he said he predicts an increasingly tough environment for private industry when finding projects.

[9:26:55 AM](#)

MR. WARD, in response to Representative Rauscher's restatement of the question, reviewed that the Ketchikan shipyard participates in two activities: new ship construction and marine vessel repair, maintenance, and conversion. The new ship construction market is cyclical, and in general the U.S. shipbuilding industry in major regions is heavily affected by federal oil and gas policies that are set, especially in terms of exploration, drilling, and transportation, as well as other national and international forces that drive the demand for ship building. He indicated that those on the commercial side of ship building are "price takers, with respect to competitive bids." In terms of the ship maintenance and conversion, he said, "These vessels represent near-to-market opportunities, in which we can be, to some extent, price makers." He further explained, "Because of our geographic proximity to the vessels that work in Alaska, we're able to enjoy some competitive advantage to that geographic proximity." Mr. Ward said with respect to public vessels and the [Alaska] Marine Highway System in particular, "we have to be competitive in our maintenance

work for any public-owned assets or they go elsewhere for maintenance."

MR. WARD stated that the trend is going to be for continued cyclical demand for both repair and ship fabrication. He reiterated that economic factors affect repair. He continued:

To put this into perspective: Through our public/private partnership, which has been noted nationally as an extremely successful model of public/private partnering, Alaska now has a world-class facility that is probably 90 percent complete of its development plan. We have a young and ... very talented Alaska resident workforce that is, every day, learning new innovations and how to do this work faster, cheaper, and better. So, we are approaching a world class Alaska resident workforce. With those two assets in hand, we look forward to increasing our competitive advantages, decreasing our competitive disadvantages, and growing a marine industrial support sector in the state of Alaska.

REPRESENTATIVE RAUSCHER directed attention to language in Conceptual Amendment 1, [which is found under Section 1, subsection (a), paragraph (1), subparagraph (C)], which read as follows:

(C) an ownership interest of a municipality in real property located outside the municipality acquired after December 31, 1990, is taxable by another municipality; however, a borough may not tax an interest in real property located in the borough and owned by a city in that borough;

REPRESENTATIVE RAUSCHER asked for further clarification regarding that language.

[9:32:37 AM](#)

MR. LOGAN explained that that language is currently in statute; it is not being changed.

REPRESENTATIVE RAUSCHER said he would like to know what it means.

[9:33:02 AM](#)

REPRESENTATIVE WESTLAKE echoed Mr. Logan's previous response that the language already exists in statute; therefore, "we had nothing to do with it." He indicated that initial discussion had been in regard to the sunset clause.

[9:34:10 AM](#)

CO-CHAIR PARISH noted that there were two individuals from AIDEA and one from the Municipality of Anchorage available for questions, and he said he would like to hear from them their opinion of Conceptual Amendment 1.

[9:35:39 AM](#)

JOHN SPRINGSTEEN, Executive Director, Alaska Industrial Development and Export Authority (AIDEA), stated that [Conceptual Amendment 1] would not have a material effect on AIDEA. He offered his view that that Ketchikan shipyard was "an emergency economic redevelopment project (indisc.) the downturn of Ketchikan's timber industry as a result of impacts of federal regulation. He continued:

Just in general, AIDEA's mission is to grow and diversify the economy by financing development to facilitate the creation of jobs and revenue for Alaskans. So, with regard to the Ketchikan shipyard, AIDEA successfully implemented this mission.

MR. SPRINGSTEEN said the [shipyard] project provided significant economic benefit to the community, both directly and indirectly, by providing jobs to a struggling community through "the redevelopment."

[9:36:40 AM](#)

CO-CHAIR PARISH said he is not familiar with the Delong Mountain Transportation Facility, and he inquired, "How analogous is it with the Vigor shipyard?"

MR. SPRINGSTEEN imparted that the Delong Mountain Transportation System is the road we (indisc.) to the Red Dog Mine. He said the benefit of it is the creation of new industry where none had existed prior. He listed the following entities that have benefited, including the State of Alaska, AIDEA, and all on the receiving end of "revenue from the project." He indicated that money circulates through AIDEA and is contributed, in part, back to the state's general fund.

[9:38:07 AM](#)

CO-CHAIR PARISH asked if any language in Conceptual Amendment 1 would impair the ability of a municipality to require PILT.

MR. SPRINGSTEEN deferred to Mr. Brandt-Erichsen.

[9:38:46 AM](#)

MR. BRANDT-ERICHSEN said the amendment would have the Delong Mountain Facility and Ketchikan shipyard facility be treated as fully exempt, similar to the Healthy Clean Coal Project and some other AIDEA projects. In that situation, he said, the municipality could not require PILT; however, the entity operating the facility could voluntarily enter into an agreement for PILT.

CO-CHAIR PARISH asked what leverage a municipality would have available.

MR. BRANDT-ERICHSEN answered that the leverage a municipality might have would vary by the circumstance. For example, in Ketchikan, the benefits currently offered the Ketchikan shipyard are voluntary exemptions from the city and borough property taxes, as well as a reduced utilities rate. He said there are financial benefits that the shipyard would still enjoy, even if the property was mandatorily exempt. In the case of Delong Mountain Facility, there may be any number of measures the Northwest Arctic Borough may consider that would affect the operation of the mine there. They may not be directly related to the imposition of taxes, but they may be regulatory measures that would have other impact on the operating of the mine that could motivate an operator to agree to PILT.

[9:41:01 AM](#)

MR. LOGAN said he thinks Mr. Brandt-Erichsen did a good job in illustrating the complexities within each taxing regime. To Co-Chair Parish, he said the Delong Mountain Facility and Red Dog have been operating through the borough for a number of years, while this exemption has existed.

[9:41:32 AM](#)

REPRESENTATIVE WESTLAKE reminded committee members that the Delong Mountain Facility was started before there was a borough

involved, "and it's worked out well." He said when making these considerations, a balance is important to maintain.

[9:42:15 AM](#)

REPRESENTATIVE SADDLER asked Mr. Springsteen if AIDEA participates with any other shipyards other than the Ketchikan shipyard.

MR. SPRINGSTEEN answered no.

REPRESENTATIVE SADDLER asked Mr. Springsteen if he has any concerns that "this legislation" would be considered special interest legislation if it applies only to one facility.

MR. SPRINGSTEEN offered his understanding that "this mandatory exemption would just bring the Ketchikan shipyard into parity with the Delong Mountain Transportation System.

REPRESENTATIVE SADDLER asked Mr. Springsteen, "Are you sure that this would not violate the special interest ... prohibitions?"

MR. SPRINGSTEEN deferred to Mr. Brandt-Erichsen.

REPRESENTATIVE SADDLER then asked Mr. Springsteen if [Conceptual Amendment 1] would have any impact on the finances of the Delong Mountain Transportation System, the Red Dog Mine, the Northwest Arctic Borough, or the State of Alaska's finances.

MR. SPRINGSTEEN offered his understanding that the only impacts were related to the school funding formula; but "that's out of the purview of AIDEA." In response to a follow-up question, he referred to previous discussion regarding mandatory versus optional exemption for property taxes that would result in a flow of approximately \$60,000 versus what the Ketchikan Gateway Borough would bear. He welcomed correction from the Ketchikan Gateway Borough attorney, since "it's a little out of our purview." In response to a follow-up question from Representative Saddler, he clarified that when he had mentioned school funding, he was referring to both the Northwest Arctic Borough and the Ketchikan Gateway Borough.

REPRESENTATIVE SADDLER asked what the effect would be on the school funding formula.

MR. SPRINGSTEEN deferred to Mr. Brandt-Erichsen.

9:45:53 AM

REPRESENTATIVE WESTLAKE proffered that there has just been a PILT agreement "over there." The borough funding formula has already been "written in and finalized." Regarding the PILT agreement, he said, "They do the payments to the borough, as well as to the borough school district."

9:46:29 AM

REPRESENTATIVE SADDLER said he would like further explanation as to how the school funding formula might be affected.

MR. SPRINGSTEEN offered his understanding that there are \$60,000-\$70,000 being funded by the state versus being funded by the borough.

REPRESENTATIVE SADDLER asked Mr. Springsteen to confirm that he is saying there is no impact on the Northwest [Arctic] Borough School District.

MR. SPRINGSTEEN answered that his understanding is that "it would be the ... status quo for the Northwest Arctic Borough."

REPRESENTATIVE SADDLER asked Mr. Brandt-Erichsen if [Conceptual Amendment 1] would affect funding in the Ketchikan Gateway Borough School District.

MR. BRANDT-ERICHSEN explained that "the 2.65 mils mandatory contribution" would not change the amount of money that the school district receives; it would change who is paying it. He continued:

If the increment that represents 2.65 mils on the value of the possessory interest in either the shipyard or the DeLong Mountain Facility is paid by the state, then the state is paying it; if it's paid by the community, then the community's paying it. With a mandatory exemption, then that amount that ... relates to 2.65 mils is going to come out of ... the state's education contributions. If there is no exemption or it is an optional exemption, the equivalent of 2.65 mils on the value of the possessory interest in either facility would be paid by the local government. And with respect to the Ketchikan shipyard, that 2.65 mils equates to about \$60-\$70,000, at this point in time.

REPRESENTATIVE SADDLER surmised that if Conceptual Amendment 1 made the property tax exemption in the Northwest Arctic Borough for Delong Mountain Facility and in the Ketchikan Gateway Borough, then it would affect school foundation funding; as such it would affect the finances of the state; therefore, he opined a fiscal should be required to ensure the impact on the state's finances would be fully vetted.

CO-CHAIR FANSLER said a fiscal note can be requested; however, he reminded Representative Saddler that a bill would be heard on the House floor today that "has the committee substitute wrapped in it," which is why the committee is having the current hearing. He further explained that [Conceptual Amendment 1], even if adopted, would not be in SB 100, so it would need to be offered on the House floor. He said he would request a fiscal note if Representative Saddler wished, but "really, this amendment will be heard on the floor at 11 o'clock ... regardless."

REPRESENTATIVE SADDLER maintained his request for a fiscal note.

[9:51:12 AM](#)

REPRESENTATIVE ORTIZ asked the committee to consider whether Conceptual Amendment 1 is in the interest of all parties involved. He remarked that when considering the incentives that the state puts forward to the oil and gas industry in particular, "the scale of this arrangement is less than minute in terms of what it might mean to the states" - \$70,000 of added obligation as an incentive to [the Ketchikan shipyard] in support of 160 jobs around the state, as well as economic diversification and development. He said when the state looks for what it can do to facilitate economic opportunity, diversification, and development, "this particular amendment makes darn good sense."

[9:53:10 AM](#)

REPRESENTATIVE TALERICO said he likes to see statewide municipal participation and Title 29 is all about municipalities; however, whenever amendments are discussed that involve Title 29, he gets nervous.

[9:53:57 AM](#)

REPRESENTATIVE WESTLAKE acknowledged the concerns expressed and said there is a domino effect for this type of action. However, he opined that the end result [of Conceptual Amendment 1] would be a local benefit.

[9:54:59 AM](#)

REPRESENTATIVE SADDLER stated concern for the legislative procedure in bringing the amendment at this time. He stated opposition to Conceptual Amendment 1.

CO-CHAIR FANSLER restated the purpose behind today's meeting and emphasized that in no way was it to accommodate hearing Conceptual Amendment 1, which had been brought to his attention yesterday, after the meeting was called on Saturday. He recapped the steps that were taken to bring forward the committee substitute for HB 156, which was then placed within SB 100. He stated his belief in the importance of bringing legislation before the committee, hence the reason for bringing forward the proposed committee substitute, which had not been discussed by the committee prior to today.

CO-CHAIR FANSLER asked, "Is the objection maintained?"

REPRESENTATIVE TALERICO answered, "Yes."

[9:57:35 AM](#)

A roll call vote was taken. Representatives Drummond, Westlake, Parish, and Fansler voted in favor of Conceptual Amendment 1 to HB 156. Representatives Talerico, Rauscher, and Saddler voted against it. Therefore, Conceptual Amendment 1 was adopted by a vote of 4-3.

[9:58:47 AM](#)

REPRESENTATIVE SADDLER again objected to the late hearing and lack of public testimony.

[9:59:28 AM](#)

CO-CHAIR PARISH moved to report CSHB 156, Version 30-LS0602\U, Wallace/Shutts, 5/13/17, as amended, with individual recommendations and attached fiscal notes. There being no objection, CSHB 156(CRA) was reported out of the House Community and Regional Affairs Standing Committee.

10:00:26 AM

The committee took an at-ease from 10:00 a.m. to 10:02 a.m.

10:02:57 AM

CO-CHAIR PARISH, upon the request of Co-Chair Fansler, restated the motion to report CSHB 156(STA) from committee so that it would reflect that it would be accompanied by one existing fiscal note and one fiscal note still to be drafted, at the request of Representative Saddler.

CO-CHAIR FANSLER ascertained that no one objected to the clarified motion; therefore, it was so ordered.

10:03:42 AM

CO-CHAIR PARISH moved that both co-chairs of the House Community and Regional Affairs Standing Committee be delegated the duties and responsibilities in AS 24.08.060(a) during regular and special sessions of the Thirtieth Alaska State Legislature. He stated that this delegation remains in effect until withdrawn by the committee.

REPRESENTATIVE SADDLER objected.

10:04:05 AM

The committee took a brief at-ease at 10:04 a.m.

10:04:40 AM

REPRESENTATIVE SADDLER spoke to his objection. He offered his understanding that such a motion "illegitimately allows the [chair] ... to introduce as a committee bill any legislation that they would like to see introduced as a committee bill, regardless of whether the members of this body agree to it or not." He opined that this violates several citations in Mason's Manual, including that "a committee cannot make an effective or binding vote unless it has a measure before it" and "cannot vote appropriately if it does not know the impact of an amendment." Representative Saddler stated that the import of the motion before the committee is that it would allow the chair to introduce a bill as a committee bill without each member of the committee being able to make a decision regarding the specific bill, knowing the impact of the bill, and "having the option to

vote on that bill." Representative Saddler reiterated his objection.

[10:06:14 AM](#)

REPRESENTATIVE SADDLER called a point of order on the motion.

CO-CHAIR FANSLER ruled that the motion is a proper one to be made and to bring to a vote.

REPRESENTATIVE SADDLER appealed the decision of the chair.

[10:06:29 AM\]](#)

A roll call vote was taken. Representatives Drummond, Westlake, Parish, and Fansler voted in favor of sustaining the ruling of the chair. Representatives Saddler, Talerico, and Rauscher voted against it. Therefore, the ruling of the chair was sustained by a vote of 4-3.

[10:07:22 AM](#)

REPRESENTATIVE SADDLER asked for a written copy of the motion.

[10:07:44 AM](#)

REPRESENTATIVE PARISH stated that the motion to grant the authority under the statute provided is proper and is a step "above and beyond what has been done by previous chairs in the Alaska State Legislature." He said the custom has been for chairs to have the opportunity to introduce committee bills without any formal [motion] as is being made before the committee now.

[10:09:21 AM](#)

REPRESENTATIVE SADDLER remarked that the statute does allow the committee chair to introduce legislation, but said "that is predicated upon the knowledge, assent, and action of the members of the committee." He opined that the motion violates "the spirit of this," if now the law. He reminded members, "What goes around does come around."

[10:10:00 AM](#)

REPRESENTATIVE WESTLAKE called for the question.

[10:10:12 AM](#)

The committee took a brief at-ease at 10:10 a.m.

[10:10:45 AM](#)

CO-CHAIR FANSLER reiterated the motion to delegate to both co-chairs of the House Community and Regional Affairs Standing Committee the duties and responsibilities in AS 24.08.060(a) during regular and special sessions of the Thirtieth Alaska State Legislature and to keep the delegation in effect until withdrawn by the committee.

[10:11:05 AM](#)

A roll call vote was taken. Representatives Drummond, Westlake, Parish, and Fansler voted in favor of the motion. Representatives Rauscher, Saddler, and Talerico voted against it. Therefore, the motion passed by a vote of 4-3.

[10:12:45 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 10:13 a.m.