

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 7, 2018

3:21 p.m.

MEMBERS PRESENT

Representative Sam Kito, Chair
Representative Adam Wool, Vice Chair
Representative Andy Josephson
Representative Louise Stutes
Representative Chris Birch
Representative Gary Knopp
Representative Colleen Sullivan-Leonard

MEMBERS ABSENT

Representative Mike Chenault (alternate)
Representative Bryce Edgmon (alternate)

OTHER LEGISLATORS PRESENT

Representative Justin Parish
Representative Dan Saddler
Representative DeLena Johnson

COMMITTEE CALENDAR

OVERVIEW & UPDATES FROM MUNICIPALITIES

- HEARD

PRESENTATION: AKOSH & WAGE AND HOUR INVESTIGATORS

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

KATHIE WASSERMAN, Executive Director
Alaska Municipal League (AML)

POSITION STATEMENT: Gave a presentation entitled, "Overview & Updates from Municipalities".

CHRIS DIMOND, Representative and Organizer
Pacific Northwest Regional Council of Carpenters (PNRCC)
Juneau, Alaska

POSITION STATEMENT: Gave a presentation on the Alaska Occupational Safety and Health (AKOSH) and Wage and Hour investigators.

REPRESENTATIVE JUSTIN PARISH
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Participated in the discussion on municipalities.

REPRESENTATIVE DELENA JOHNSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Participated in the discussion on municipal government.

ACTION NARRATIVE

[3:21:16 PM](#)

CHAIR SAM KITO called the House Labor and Commerce Standing Committee meeting to order at 3:21 p.m. Representatives Kito, Wool, Birch, Josephson, Knopp, and Sullivan-Leonard were present at the call to order. Representative Stutes arrived as the meeting was in progress. Also present were the following members of the House Community and Regional Affairs Standing Committee: Representative Justin Parish, Representative Dan Saddler, and Representative DeLena Johnson.

Overview & Updates from Municipalities

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CHAIR KITO announced that the first order of business would be a presentation from Kathie Wasserman of the Alaska Municipal League (AML).

CHAIR KITO stated the purpose of the meeting was to begin a discussion about the municipalities and recent shifts in the responsibility between state and local governments. He said he wanted to initiate a conversation about the appropriate level of service by the state and municipalities and the impacts of those

responsibilities. He specified the meeting's discussion would be focused on public safety.

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KATHIE WASSERMAN, Executive Director, presented an overview and updates from municipalities. She expressed appreciation for the involvement of municipalities in the discussion. She described the cost-cutting measures AML had adopted, adding that dues for membership had not increased in 25 years. She outlined the work of AML, which includes lobbying for municipalities on the state and federal levels, the organization of four conferences each year, and local government assistance and the distribution of a publication entitled "Local Government Primer" [included in committee packets]. She said she had found that often legislators do not know how local government operates when crafting legislation that affects municipalities. The League also creates a salary survey showing local government salaries around the state.

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MS. WASSERMAN stated Article 10 of the state constitution establishes local government and stipulates the state will operate with maximum local self-government. She stated AML opposes bills that involve an unfunded mandate or take away local control. She identified the state has 165 municipalities, 19 boroughs, 145 cities, and 1 federal reservation (Metlakatla). A municipality as defined in state law is a city or a borough. She added 97 percent of the state population lives in an organized government (a borough or a city) and 3 percent in unorganized boroughs. She reminded that the legislature is the assembly for all unorganized boroughs.

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CHAIR KITO asked whether that meant legislators were non-dues-paying members.

MS. WASSERMAN answered the legislature had never been billed for dues. She outlined all boroughs have three duties under the state constitution - education, planning and zoning, and land use. She highlighted planning and zoning in the unorganized borough is something the legislature would have to examine very closely should any property tax be proposed, as property in unorganized boroughs has not been assessed. She explained creating the tax would entail sending state assessors out to

assess all the land in unorganized boroughs, making it very difficult.

MS. WASSERMAN said she had been looking at resolutions about federal overreach. She stated she had replaced "federal" in the resolutions with "state", and then with "local", and saw that the objections were similar. She highlighted that often municipalities are informed of legislative action after it occurs, whereas local government could be instrumental in addressing issues that affect municipalities.

MS. WASSERMAN addressed the fiscal plan, stating it is very difficult for municipalities to plan without a budget. She added money to municipalities has dropped from \$141 million shared between 160 municipalities in 1985 to sharing \$30 million with 20 communities on top of the 160 municipalities. Additionally, there were recent cost shifts from the state to municipalities.

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MS. WASSERMAN addressed public safety budget cuts, highlighting the strain from the opioid crisis. She gave the example of Kotzebue, Alaska, where there is no jail because people who were arrested would be transferred to Anchorage, Alaska, and pointed out that the weather had to be good to allow those people to be flown to Anchorage and said crime generally happens in the middle of the night. There had to be somewhere for people to go in the meantime. She addressed adding responsibilities to municipalities such as fingerprinting and background checks. She underlined the FBI does not answer phone calls from municipalities.

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CHAIR KITO asked for some background on the powers of boroughs including the level at which municipalities accept policing powers and to what degree those policing powers are required by the constitution, statute, or the municipality.

MS. WASSERMAN answered not all boroughs have adopted police powers, sometimes the city within the borough has those powers. She added that most small communities don't have police powers, some have village public safety officers (VPSOs) furnished through the state.

CHAIR KITO surmised that when municipalities are forming, they are not required to adopt police powers unless it is in their charter.

MS. WASSERMAN answered that was correct. Police power insurance is very costly and that often prohibits smaller communities from adopting policing powers.

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REPRESENTATIVE KNOPP commented that many municipalities have planning powers but not all have adopted zoning powers. He gave the example of the Kenai [Peninsula] borough, which cannot adopt police powers without a vote of the people.

MS. WASSERMAN added there are many classifications of cities and boroughs and each was different. She said she believed approximately 20 cities in the unorganized borough have sale tax. All but three boroughs have sales taxes. Second-class cities may or may not have sales tax. Some depend almost entirely on community assistance and fees.

CHAIR KITO mentioned one city that operates a liquor store.

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REPRESENTATIVE WOOL indicated a chart in the publication and commented it appears there is only one first-class borough in the state.

MS. WASSERMAN answered there used to be a third-class borough in Haines, Alaska, but there are none now.

REPRESENTATIVE WOOL spoke to the statewide smoking ban and surmised AML would oppose it since it went against local control.

MS. WASSERMAN clarified the board had taken a stand in favor of [the statewide smoking ban] since it was an issue of public health.

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REPRESENTATIVE BIRCH spoke to Anchorage, Alaska, issues on police service areas, stating Seward Highway between Potters Marsh and Portage has been a point of contention as state troopers had historically monitored the area but had stopped.

He asked whether AML supports uniform services across Alaska and whether it had stepped into the discussion on behalf of the municipality of Anchorage.

MS. WASSERMAN stated AML doesn't deal with individual municipalities and advocates for all municipalities. She gave examples of smaller communities with no police presence at all and added the cuts to the Department of Public Safety (DPS) affected the entire state.

CHAIR KITO spoke to the situation in Haines, Alaska, where there was historically a trooper presence in the borough which had been removed due to budget cuts. He underlined that the legislature should understand that cuts to DPS put pressure on local governments, some of which may not have the structure in place to accommodate the added responsibility. He stated it was a statewide issue.

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REPRESENTATIVE JOSEPHSON spoke to the transfer of duties from the state to the municipalities and asked why Alaska did not have a system of government closer to that of the Lower 48.

MS. WASSERMAN stated she had served on the Local Boundary Commission for around 12 or 14 years. She said the intent was to avoid problems that had arisen in the Lower 48 and to provide more local control. She highlighted the many differences between Alaska and the Lower 48, including sheriffs and counties, and pointed out the responsibilities are not the same. She gave some history of how the state was organized at statehood. She expressed her wish that the legislature and the municipalities would craft something that works for all and would allow municipalities to perform duties that the legislature cannot. She said there had not been much room to discuss issues outside Robert's Rules of Order.

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CHAIR KITO commented that the tax base is a consideration. He explained when the state was being formed, model borough boundaries were created in the attempt to move from territory to organized state. Some of the unorganized boroughs were examined recently for a tax base and it was determined that coming up with economic drivers for local government was difficult. In Alaska, rather than highway patrol as in other states, the troopers became police for the state and originally held

investigative powers in smaller communities. He said Alaska is a hybrid with opportunities to craft solutions.

MS. WASSERMAN added the VPSO works for the state, the tribal corporation, and the mayor, but as a state employee is not allowed to carry out municipal law enforcement. She said there were a lot of communities with "just a lid on things," especially remote communities.

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REPRESENTATIVE JUSTIN PARISH, Alaska State Legislature, asked about the magnitude of the cost shifts around public safety.

MS. WASSERMAN said she would have to ask each municipality in order to get that information. She added as the state has less and less money, there was less community help that state departments offer. She added she works with Department of Commerce, Community & Economic Development (DCCED) to put those figures together.

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CHAIR KITO asked whether impacts of cost shifts to municipalities vary by municipality.

MS. WASSERMAN stated there is less state presence in rural communities and the biggest impact is already observable in small communities. She gave an example of the mayor of Diomed being asked whether it was true, as Governor Palin stated, that they could see Russia from there. The mayor had responded, "Yes, we can see Russia. Who's Governor Palin?" She stated the state presence has disappeared from many of the smaller communities.

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REPRESENTATIVE WOOL mentioned Fairbanks, Alaska, and "pockets of government" and asked why some areas of the state had a city and a borough.

MS. WASSERMAN replied she had been in Fairbanks, Alaska, twice for large meetings on the issue. She said the legislature has allowed it to go into the hands of local government. She mentioned that twice in 12 years Fairbanks, Alaska, had not come together to change the structure of its local government.

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REPRESENTATIVE BIRCH pointed to Venitie and Metlakatla and asked about their city status.

MS. WASSERMAN explained Venitie was not a city and AML only represented municipalities.

CHAIR KITO clarified Metlakatla had special status as a reservation and was organized completely under the federal government, whereas Venitie and Arctic Village had requested but not been granted reservation status.

MS. WASSERMAN addressed the issue of jobs and moving money throughout the state. She expressed surprise that municipalities were not included in discussions of jobs. She said she would like the state to recognize municipalities as a financial driver in the state, as municipalities provide jobs in communities where there are no other jobs. Additionally, municipalities move money around the state through taxation.

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REPRESENTATIVE BIRCH asked where Ms. Wasserman saw the state's obligations and role in municipal services such as water and sewer or police powers.

MS. WASSERMAN answered she saw it as an important role, not to provide the services, but for help with deferred maintenance including on water and sewer systems. She stated many communities were discussing raising local taxes and said she thought it was a bit unfair for the state not to raise revenues but find it fine for municipalities to do so.

REPRESENTATIVE BIRCH said typically the expectation was that when a service is voted in, there is a responsibility to pay for it. He said there is around \$60 billion in state financial assets and asked what role those assets would play in supporting municipalities.

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MS. WASSERMAN referenced a letter from the Alaska Conference of Mayors (ACoM), who were "very strong" in putting forth ideas for a fiscal plan involving earnings of the Permanent Fund (PF) and a broad-based tax. She added ACoM was "OK with cuts but at some point, when we can no longer provide a safe community, we need

to stop the cuts and perhaps look at more revenue." She mentioned letters sent to each member of the committee asking for a fiscal plan to budget for the municipalities.

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REPRESENTATIVE PARISH spoke to page 10 of the Local Government Primer, "Issues with Sizable Impacts on Alaska's Municipalities", and mentioned payment in lieu of taxes (PILT) doesn't currently have a funding source, resulting in a \$33 million loss to municipalities. He asked for more information on the historic funding source and the current outlook.

MS. WASSERMAN said PILT is going the direction of timber receipts and Congress has not found a place in which to insert that funding. She added in speaking with United States Senator Lisa Murkowski, the senator had said PILT will probably be inserted into some bill, and PILT would probably take the place of property taxes that municipalities give up for a federal building or federal land. The federal government pays a very small amount on the dollar of what the tax rate would be and can pick their tax rate. She reiterated Senator Murkowski was fairly confident PILT would be funded.

CHAIR KITO stated there are different sources of funding and different beneficiaries of PILT, such as PILT on impacts of military bases, PILT on impacts of ownership of federal land, and Tongass timber receipts.

MS. WASSERMAN clarified that PILT is on all federal land except military bases, which pay through another fund. She added timber receipts were outside of PILT and is no longer in effect.

CHAIR KITO asked for confirmation that timber receipts had been for securing funding for rural schools.

MS. WASSERMAN added it had been used to secure funding for schools and roads in communities within the Tongass and Chugach.

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REPRESENTATIVE SULLIVAN-LEONARD stated when working with [the Division of] Community and Regional Affairs (DCRA), local government specialists were used to work with communities for grant funding and federal matching grants. She asked whether there was still that presence in rural areas.

MS. WASSERMAN answered when state agencies began to be cut heavily, the only funding for DCRA for local government was from the federal government. This had meant local government specialists could only be used for Rural Utility Business Advisor Program (RUBA), whereas historically the specialists had helped with elections and other local government issues. She stated a lot of the calls were coming to AML.

CHAIR KITO clarified RUBA was federally funded and provides training and support to local governments to support their water and wastewater systems.

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REPRESENTATIVE PARISH asked how much money from [timber receipts] had been in an average year.

MS. WASSERMAN answered that Southeast Alaska alone was getting \$76 million, almost 3 times the amount of revenue sharing for the entire state, and it is gone. Chugach was receiving a little over \$2 million. In addition to losing revenue sharing, the state had lost \$80 million, split between about 30 municipalities.

REPRESENTATIVE PARISH asked whether there was any prospect for the funding to return and whether the national delegation was working on the issue.

MS. WASSERMAN answered the state legislature has a resolution; however, the act had been expired for two years. She said she speaks to Senator Murkowski on the issue of timber receipts and that Congressman Don Young had been supportive. She added many states without timber don't feel it is fair to send money to communities to cut wood when no wood was being sold. She said there had been talk of forest management fees, and the state and federal government managing the forests.

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REPRESENTATIVE JOSEPHSON asked how long Southeast communities had received [timber receipts].

MS. WASSERMAN answered it had originally started as stumpage fees. When the timber crash occurred, the education and roads programs left those communities. The federal government gave money to states that lost revenue from timber as compensation - at a 5-year rolling average of the stumpage fees - for losing

the large timber industry. She added there need to be tools in place to compensate for industries in the event timber receipts go away.

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REPRESENTATIVE DELENA JOHNSON, Alaska State Legislature, asked whether there had been any discussion about asking the state of Alaska to pay PILT to communities.

MS. WASSERMAN answered she had never broached the subject.

REPRESENTATIVE JOHNSON remarked that she was currently in a position to do so.

CHAIR KITO added there had been some discussion about a community dividend as an alternative to revenue sharing.

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REPRESENTATIVE PARISH asked Ms. Wasserman what she saw "coming down the pike." He asked whether there were any other sources of federal funding which the state should be advocating to avoid losing, or whether she anticipates other cuts from the federal government to municipalities.

MS. WASSERMAN answered the state should always keep an eye on PILT as it provides money to every municipality in the state. She added sometimes unfunded mandates come down from the federal government. She mentioned a bill to allow ambulance services to receive money through Medicaid. She said she thought it would mean almost \$1 million for Anchorage, Alaska.

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CHAIR KITO said he was interested in further discussion of responsibilities of the state and municipalities, perhaps on the topic of roads and the shift of responsibility.

MS. WASSERMAN spoke to bills affecting municipalities, such as regulations in smaller communities. She gave the example of pesticide regulation in Pelican, Alaska. The regulation required a certified person come take care of a wasp's nest on a public building, meaning the local government would have to fly someone out to Pelican and in shoulder season would have to overnight that person. She underlined there were the limitations of smaller communities to consider.

Presentation: AKOSH & Wage and Hour Investigators

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CHAIR KITO announced that the final order of business would be a presentation on Alaska Occupational Safety and Health (AKOSH) and Wage and Hour Investigators.

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CHRIS DIMOND, Representative and Organizer, Pacific Northwest Regional Council of Carpenters (PNRCC), presented on Alaska Occupational Safety and Health (AKOSH) and Wage and Hour investigators. He mentioned a January 31 letter he had sent to the committee [included in committee packets] and offered concern that wage and hour inspectors were not properly funded.

MR. DIMOND explained part his job as representative of the PNRCC is to ensure men and women working on job sites are working in safe conditions and receiving pay for their work according to Title 36 rules. He stated he had taken information to the Department of Labor and Workforce Development (DWLD), who had responded "we do not have the funding to go after this." He mentioned he did not see the issue so much in Juneau and he said he thought Anchorage, Alaska and Fairbanks, Alaska did not have the same problem as there are 2 wage and hour investigators in Juneau, Alaska, 8 in Anchorage, Alaska, and 3 in Fairbanks, Alaska.

MR. DIMOND stated a lot of state money is being spent on construction projects and some contractors are finding ways to get around prevailed rate and workers are not being paid Title 36 rates. He gave the example of a Craigslist ad from Oregon for work in Alaska at \$20 per hour, and prevailing rate at the time for the work was \$60 per hour. The contractor was paying \$40 less per worker per hour for the job, thereby preventing contractors who "play by Alaska rules" from getting the jobs. That case is still ongoing three years later, for \$100 thousand in back payroll. He stated when an investigator with a case is spending their time in court, their time to go out and investigate other projects is taken up.

MR. DIMOND said he was asking legislators what can be done to protect the state money being invested in capital projects and to ensure workers are not being cheated out of their wages and therefore that money is not being spent in the community.

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REPRESENTATIVE BIRCH stated he had experience monitoring construction projects and surmised what Mr. Dimond had described was "out-and-out fraud."

CHAIR KITO commented he thought there were some gray areas. He said contractors can hire subcontractors who may have different rates.

MR. DIMOND replied to Representative Birch that it was out-and-out fraud and stated Chair Kito was also correct that "there are some independent contractor situations," but legislation had been passed to ensure the terminology was not misused.

REPRESENTATIVE BIRCH spoke to varying rates across different regions for services and for workmanship.

MR. DIMOND stated the work the carpenters do is hard, and they should be compensated accordingly.

CHAIR KITO added the prevailing wage around the state varies in different regions. He opined it is unfair to compare the prevailing wage in Oregon with that in Alaska as the wage for a well-qualified worker who comes to Alaska may be high, but the wages are not being spent locally.

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REPRESENTATIVE SULLIVAN-LEONARD asked whether Mr. Dimond was seeing low bidding on state projects in the request for proposal (RFP) process.

MR. DIMOND answered abnormally low bids were beginning to appear, adding that part of his job is to act as a resource for Department of Labor & Workforce Development (DLWD) and report issues to the department.

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REPRESENTATIVE JOSEPHSON asked whether the request for the legislature was to be aware of the situation and that it needed more enforcement.

MR. DIMOND answered he thinks there is a need for enforcement resources to investigate projects. He added when he was working in the field, he saw DLWD out on a public works job only once.

CHAIR KITO reiterated there was enforcement in more urban centers, but not on remote projects. He surmised some contractors knew that and the fine would be less than they were saving on inappropriate use of labor.

MR. DIMOND said he had heard mention of assessing fines differently. He gave the example of a project in Sitka, Alaska, in which contractors were getting around certified payroll. The paperwork listed 1,200 hours of the 1,500 hours on the project as "paint and prep." He emphasized there is no way that was accurate for a concrete job.

CHAIR KITO asked whether that meant they were being reimbursed at a higher rate as a result.

MR. DIMOND clarified it meant the workers were being paid far beneath the carpenter rate and the savings adds up and gives a huge advantage to contractors when they figure out how to get around certified payroll.

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REPRESENTATIVE WOOL asked Mr. Dimond in what capacity he was carrying out investigations.

MR. DIMOND answered his organization worked to keep a running market survey to see which projects were going on around the state.

CHAIR KITO suggested it was to support PNRCC members.

MR. DIMON answered in the affirmative, adding it supported non-members as well.

REPRESENTATIVE WOOL asked about approaching contractors on a non-union site about payroll.

MR. DIMOND explained contractors do not provide payroll. Anyone can go to DLWD and request certified payroll.

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ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:44 p.m.