



Introduced: 4/15/83  
Referred: Community and Regional  
Affairs and Finance

BY THE COMMUNITY AND  
REGIONAL AFFAIRS COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 260

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to exemption from municipal property  
7 taxation of certain property exempt from taxation  
8 under federal law; and providing for an effective  
9 date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 \* Section 1. AS 29.53.020(a) is amended by adding a new paragraph to  
12 read:

13 (9) real property or an interest in real property that is  
14 exempt from taxation under 43 U.S.C. 1620(d), as amended.

15 \* Sec. 2. AS 29.53.020 is amended by adding new subsections to read:

16 (k) For the purpose of determining property exempt under (a)(9)  
17 of this section, the following definitions apply to terms used in  
18 43 U.S.C. 1620(d) unless superseded by applicable federal law:

19 (1) "developed" means a purposeful modification of the  
20 property from its original state that effectuates a condition of  
21 gainful or productive present use without further substantial modi-  
22 fication; surveying, construction of roads, providing utilities or  
23 other similar actions normally considered to be component parts of the  
24 development process, but which do not create the condition described  
25 in this paragraph, do not constitute a developed state within the  
26 meaning of this paragraph; developed property, in order to remove the  
27 exemption, must be developed for purposes other than exploration, and  
28 be limited to the smallest practicable tract of the property actually  
29 used in the developed state;

1           (2) "exploration" means the examination and investigation  
2 of undeveloped land to determine the existence of subsurface nonrenew-  
3 able resources;

4           (3) "lease" means a grant of primary possession entered  
5 into for gainful purposes with a determinable fee remaining in the  
6 hands of the grantor; with respect to a lease that conveys rights of  
7 exploration and development, this exemption shall continue with re-  
8 spect to that portion of the leased tract that is used solely for the  
9 purpose of exploration.

10          (1) If property or an interest in property that is determined  
11 not to be exempt under (a)(9) of this section reverts to an undevel-  
12 oped state, or if the lease is terminated, the exemption shall be  
13 granted, subject to the provisions of (a)(9) and (k) of this section.

14 \* Sec. 3. This Act takes effect January 1, 1984.

THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 260  
 Title Relating to municipal property tax exemption  
 Requested by House Finance Committee Date 6/23/83

II. FISCAL DETAIL

Agency Affected \_\_\_\_\_  
 Program Category Affected \_\_\_\_\_

BRU, Program, Or Subprogram(s) Affected \_\_\_\_\_

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		0				

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No funding is necessary to implement this legislation.

IV. DATE 6/23/83 PREPARED BY Al Adams, Chair *APA*

AGENCY House Finance Committee

Original: Legislative Finance PHONE 465-3706

cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

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**DEPT. OF COMMUNITY & REGIONAL AFFAIRS**

OFFICE OF THE COMMISSIONER

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4700

April 29, 1983

POSITION PAPER

RE: SB 260

SPONSOR: Senate Community & Regional Affairs

Program Effects of Bill:

Theoretically, there should be no program effects from the passage of this legislation. Since this bill is simply a clarification of 43 U.S.C. 1601,1620(d), any impact felt would necessarily be the result of the original federal language.

History:

In December 1971, Congress adopted the Alaska Native Claims Settlement Act (ANCSA). In December of 1980, the Alaska National Interest Lands Conservation Act (ANILCA) was passed into federal law amending certain sections of ANCSA.

Section 21(d) of the amended act provided for a property tax moratorium on ANCSA lands for a period of twenty years, subject to certain provisions within the act. That section reads as follows:

TAX MORATORIUM EXTENSION

Sec. 904. Subsection (d) of Section 21 of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1620(d)), is amended to read:

"(d)(1) Real property interests conveyed, pursuant to this Act, to a Native individual, Native Group, Village or Regional Corporation or corporation established pursuant to section 14 (h)(3) which are not developed or leased to third parties or which are used solely for the purposes of exploration shall be exempt from State and local real property taxes for a period of twenty years from the vesting of title pursuant to the Alaska National Interest Lands Conservation Act or the date of issuance of an interim conveyance or patent, whichever is earlier, of those interests to such individual, group, or corporation: Provided, That municipal taxes, local real property taxes, or local assessments may be imposed upon any portion of such interest within the jurisdiction of any governmental unit under the laws of the State which

is leased or developed for purposes other than exploration for so long as such portion is leased or being developed: Provided further, That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds derived from such property interest shall be taxable to the same extent as such revenues and proceed are taxable when received by a non-Native individual or corporation.

"(2) Any real property interest, not developed or leased to third parties, acquired by a Native individual, Native Group, Village or Regional Corporation, or corporation established pursuant to section 14(h)(3) in exchange for real property interests which are exempt from taxation pursuant to paragraph (1) of this subsection shall be deemed to be a property interest conveyed pursuant to this Act and shall be exempt from taxation as if conveyed pursuant to this Act, when such an exchange is made with the Federal Government, the State government, a municipal government, or another Native Corporation, or, if neither party to the exchange receives a cash value greater than 25 per centum of the value of the land exchanged, a private party. In the event that a Native Corporation simultaneously exchanges two or more tracts of land having different periods of tax exemption pursuant to subsection (d), the periods of tax exemption for the exchanged lands received by such Native Corporation shall be determined (A) by calculating the percentage that the acreage of each tract given up bears to the total acreage given up, and (B) by applying such percentages and the related periods of tax exemption to the acreage received in exchange."

A conspicuous lack of definitions for key terms along with certain ambiguities in Sec. 21(d) have caused some interpretation problems for parties impacted by the legislation. ANCSA Corporations have complained of unequal treatment from one taxing jurisdiction to the next, and local assessors have voiced their frustration in attempting to interpret and apply the language. The situation is further complicated by the fact that there is almost no legislative history available for guidance on that section.

Comments:

The language in SB 260 is intended to provide some clarification of the section and to furnish a means for the proper implementation of the moratorium. It has been drafted in an effort to more closely define those terms which have caused problems or created concerns, and in an attempt to provide some equity of application of Sec. 21 (d) statewide.

The Department is in full support of the adoption of language which would accomplish those goals. Unfortunately, the language in the bill has not been completely satisfactory to parties on either side of the issue.

*Fischer* { We have been informed by the Alaska Association of Assessing Officers that, at the present time, meetings on this subject between their association and ANCSA community are ongoing. They also informed us that they have reason to be optimistic on the two groups reaching an agreement on language which would resolve their differences on SB 260.

Considering these recent developments, the Department believes it premature to voice concerns or assume an official position at this time. If the Committee desires departmental commentary on any revised language the two groups might develop, we would be pleased to respond.

  
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Mark Lewis, Commissioner

SB-260

STATEMENT

OF

COOK INLET REGION, INC.

MAY 3, 1983

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The Alaska Native Claims Settlement Act, 43 U.S.C. §1620(d), as amended (ANCSA), provides a tax exemption for real property and interests conveyed to individuals and native corporations pursuant to the Act. The exemption exists for twenty years from the date of statutory vesting of title or interim conveyance or patent, whichever is earlier, and is terminated during the period the property is "developed" or "leased to third parties" for purposes other than exploration. While the legislative history of ANCSA provides only limited guidance as to the correct definition of these terms, it is clear that the federal statute must be given the broadest reasonable interpretation in favor of the tax-exempt status. Federal courts, including the United States Supreme Court, have held that federal statutes affecting native lands are to be construed strictly in favor of the native land-holder. This policy has been uniformly followed, particularly with respect to tax exemptions for native lands.

In the absence of an explicit tax exemption under state law, each borough assessor has been forced to reach an independent determination of the meaning of the tax exemption provided under ANCSA. The opportunities for inconsistency have already resulted in substantially different interpretations of the statute among the boroughs. These inconsistent interpretations, moreover, threaten to impose a costly and unnecessary litigation burden on both the boroughs and the native corporations. The present bill, which is identical to a provision which passed both the Senate and House last year, is the product of a carefully and earnestly worked-out compromise of positions. It will resolve the most troublesome problem, that of a standard definition of the terms "developed" and "leased to third parties," by providing a uniform tax exemption under state law which is as broad as that provided by the federal statute. This will insure uniformity of application among the boroughs and bring state law into line with the federal exemption.

A number of issues regarding this bill which were raised and answered during the last legislature probably deserve a renewed response for the Committee this year:

1. Is the language sufficiently definite? Like all legislation, the language in the bill is the result of a compromise of positions on both sides. Nonetheless, the language in the

present bill was drafted and fine-tuned last year to be as specific as possible. It provides very substantial guidance and is light-years ahead of the present situation, in which inconsistent and variable standards prevail within the same State depending on the views of particular local assessors. CIRI believes that the present compromise language fairly implements the federal statute without allowing the opportunity for abuse of the exemption by any party.

2. Does the exemption provide an improper economic advantage to the native land-owner? The answer clearly is "no." Congress, in resolving the mixture of State, native, federal and private land claims in ANCSA, established a clear rule that ANCSA lands should temporarily be spared the burden of taxation in the form of a "holding cost" until such time as the lands were sold, leased or otherwise capable of generating an income flow (until, for example, there existed a rentable commercial or residential structure, or an operating enterprise, on the lands capable of producing an income stream).

3. How does the bill apply to subdivisions? This cannot be answered categorically because there are widely differing subdivision standards among the boroughs. However, the bill does clarify that when a subdivision lot is sold or leased, or when a building is completed on the lot, the lot is then subject to taxation.

A purely "paper" subdivision, for example, clearly would not be deemed "developed" under the terms of the bill. This reflects the philosophy of the bill that the land be physically altered so as to be capable of productive present use (e.g., by a dwelling or a factory) before it is taxable. The mere fact the land is available for sale, in a subdivided form or not, does not make it "developed."

CIRI appreciates the opportunity to testify before the Committee today and wishes to thank all of its members for their attention to a matter which is of substantial importance throughout the State. In summary, CIRI supports passage of this bill because:

1. It embodies and implements the most basic principle underlying interpretation of ANCSA §21(d) -- that the tax exemption should be construed in favor of the native land-holder, and
2. By providing broad definitions of the terms "lease" and "developed," it automatically will resolve the vast majority of present tax exemption issues and will avoid inconsistency and a costly and unnecessary litigation burden on both the boroughs and the native land owners.