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FILE

HOUSE COMMITTEE REPORT

(11)
Date Referred: May 2, 1990

FURTHER REFERRALS:

Date of Committee Action: 5/4/90

The FINANCE Committee considered:

SB 505

SENATE BILL NO. 505

MUNICIPAL SALES TAXES

"An Act relating to sales taxes levied by general law municipalities."

RECOMMENDATIONS:

- be replaced with _____ the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:
(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) 3/16/90 / C&RA
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING: (Check approp. column)

[Signature] Hoffman

[Signature] Larson

[Signature] Swackhammer

[Signature] Brown

[Signature] Koponen

	Do Not Pass	No Rec	Amend
<u>[Signature]</u> Phillip's		✓	
<u>[Signature]</u> Riegler		X	

[Signature] Larson
Chairman's Signature

[Signature] Hoffman

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to sales taxes levied by general law municipalities."
Sponsor: Senate C&RA
Requestor: _____

Agency Affected: Community & Regional Affairs
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

There is no fiscal effect for FY 90.

Prepared by: Jim Plasman, Deputy Director
Division: Municipal & Regional Assistance

Phone: 465-4750

Date: 3/12/90

Approved by Commissioner: [Signature]
Agency: Community & Regional Affairs

Date: 3-12-90

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

BY THE C&RA COMMITTEE

1 IN THE SENATE

2

SENATE BILL NO. 505

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE · SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to sales taxes levied by general law
7 municipalities."

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

9 * Section 1. AS 29.45.650(a) is amended to read:

10 (a) Except as provided in AS 04.21.010(c) and in (f) [AND (g)]
11 of this section, a borough may levy and collect a sales tax [NOT
12 EXCEEDING SIX PERCENT] on sales, rents, and on services provided in
13 the borough. The sales tax may apply to any or all of these sources.
14 Exemptions may be granted by ordinance.

15 * Sec. 2. AS 29.45.650(g) is repealed.

Alaska
MUNICIPAL
League

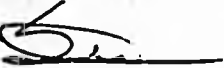
TELEPHONE
(907) 586-1325
FAX 463-5480

217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

March 13, 1990

MEMORANDUM

TO: Senator Mike Szymanski, Chair
Members, Senate Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director 

SUBJECT: SB 505 - Municipal sales tax

The Alaska Municipal League supports SB 505 repealing of the limits on sales tax rates contained in Title 29 and allowing local voters to set the limits according to the public need and acceptance of taxation methods.

Because voters must approve a sales tax before it is levied, there should be no statutory limit on the rate of sales tax a municipality may impose. If the voters in a municipality desire to tax themselves at a rate higher than the 6 percent currently authorized by statute (AS 29.45.650(a)) for general law municipalities, they should be permitted to do so. Sales tax represents a significant revenue source for 89 municipalities in Alaska and accounted for \$60,559,971 in municipal revenues in 1988 (compared to \$281,960,341 in property tax revenues collected by only 25 municipalities in Alaska).

I have attached a sheet listing municipalities whose sales and use taxes approach the limit for general law municipalities.

Attachment

sab2:sb505.sales

MUNICIPALITIES WITH 5% OR GREATER GENERAL SALES OR USE TAX

Municipality	Percentage of Sales Tax	Percentage of Other Tax	Type
City and Borough of Juneau	4	7	Hotel/Motel
City of Anderson		6	Heating fuel, phone, electricity, TV
City of Bethel	5		
City of Craig	4	6	Liquor
City of Dillingham	5		
City of Fairbanks		8	Liquor; Hotel/Motel
City of Galena	3	6	Liquor
City of Haines	5		
City of Kake	5		
City of Kenai	5		
City of Kodiak	5	5	Hotel/Motel
City of Petersburg	6	3	Hotel/Motel
City of Skagway	4	6	Hotel/Motel
City of Tenakee Springs	1	6	Hotel/Motel
City of Wrangell	6		
Haines Borough	5		
Matanuska-Susitna Borough		5	Hotel/Motel
Municipality of Anchorage		8	Hotel/Motel
North Slope Borough	6		

Source: *Alaska Municipal Officials Directory 1990*, Alaska Municipal League, Alaska Department of Community and Regional Affairs, 2/8/90.

k7/salestax

CITY OF SKAGWAY
RESOLUTION 90-6R

A RESOLUTION SUPPORTING SENATE BILL 505 IN THE LEGISLATURE OF THE STATE OF ALASKA SIXTEENTH LEGISLATURE - SECOND SESSION.

Whereas, SB 505 seeks to equalize taxing abilities for all communities within the state, and

Whereas, the City of Skagway recognizes that the hotel/motel bed tax is considered a sales tax under Sec. 29.45.650, and

Whereas, Sec. 29.45.650 requires that sales tax not exceed 6%, and

Whereas, SB 505 seeks to remove the 6% restriction so that a Borough or City may increase its hotel/motel bed tax upon approval of voters.

NOW, THEREFORE, BE IT RESOLVED that the City of Skagway supports approval of Senate Bill 505 during the Second Session of the Alaska Sixteenth Legislature.

PASSED AND APPROVED THIS 5th DAY OF APRIL, 1990.


Stan Seimer, Mayor

ATTEST:


Lorene S. Gordon, City Clerk

Drafted by: Tourism Director Fuqua
Introduced by: Councilman McBride

STEVE COWPER, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

April 13, 1990

POSITION PAPER

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 38TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

RE: Senate Bill 505

SPONSOR: Community and Regional Affairs Committee

Program Effects of Bill

The major effect of this bill is to remove the existing six percent limit on sales tax rates for general law municipalities. It would also make explicit reference in Title 29 to the existing Title 4 limitation on sales taxes on alcoholic beverages. Section 2 of the bill would repeal AS 29.60.650(g) which is no longer necessary because of the repeal of the sales tax limitation in Section 1 of the bill.

Comments

The department supports passage of this bill as an expansion of municipal powers and enhancement of local governments' ability to raise revenues locally. Home rule municipalities under current law are not subject to the six percent sales tax limit. This bill provides similar treatment to general law municipalities. Any proposed increase in sales tax rates must be approved by the voters in a general law municipality under AS 29.45.670, providing a safeguard against the imposition of unreasonably high sales tax rates.

While this will provide additional flexibility to municipalities to raise revenues locally, it is not a total answer to local governmental financial problems. Particularly in smaller cities, there is simply not enough sales activity to raise significant revenues even at relatively high rates of taxation.

David G. Hoffman DC, DCRA
for David G. Hoffman, Commissioner

MEMORANDUM

State of Alaska

Department of Law

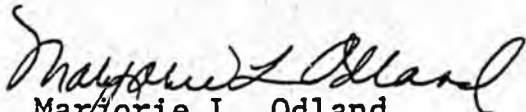
TO: Marty Rutherford, Director
Div. of Municipal & Regional Asst.
Dept. of Community &
Regional Affairs

DATE: March 1, 1988

FILE NO.: 663-87-0491

TEL. NO.: 465-3600

SUBJECT: Sales tax limitations
when borough, and city
within borough, both levy
taxes

FROM: 
Marjorie L. Odland
Assistant Attorney General
Governmental Affairs-Juneau

You have asked our opinion regarding several specific municipal sales tax questions stemming from an interpretation of the statutory sales and use tax provisions, AS 29.45.650 and 29.45.700. Each of the questions you have asked will be addressed individually below.

1. Does the six percent sales tax limitation on boroughs under AS 29.45.650(a) apply to cities as well?

The answer is yes. AS 29.45.700 states that a city, which is empowered to levy and collect sales and use taxes, may do so "in the manner provided for boroughs." AS 29.45.650 specifies the "manner" in which boroughs may levy and collect such taxes. This "manner" includes the setting of the maximum percentage (six percent) that can be levied and collected on sales, rents and services. It also includes the maximum interest rate that can be imposed on delinquent taxes, the method of creating, recording, and notice of a lien on property to secure payment, and requirements for imposing a use tax (e.g., use tax rate must equal sales tax rate and can only be imposed on buyers).

2. Does the six percent sales tax limitation apply to the combined tax rate for cities within boroughs or may each entity separately tax up to a rate of six percent for a potential total of twelve percent?

The applicable tax statutes do not readily provide the answer to this question. Neither AS 29.45.650 nor 29.45.700 specify a "maximum" percentage of sales tax when both a borough and a city are imposing a sales tax on the same sale. However, taken literally, a city within a borough that levies and collects area-wide sales and use taxes may do the same as the borough and a 12 percent sales tax (combined) appears to be allowed by law. This interpretation is consistent with the constitutional requirement that municipal powers are to be broadly construed. Alaska Const. art. X, § 1. Unfortunately, there is no Alaska case law on point to assist us in interpreting these statutes. And, we were unable

Marty Rutherford, Director
DCRA -- Munic. & Reg. Asst. Div.
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to find any legislative history on the sales and use tax statutes to provide us with any helpful insight on this particular matter. However, according to one legal treatise, it is generally held that tax laws are to be interpreted to avoid any possibility of double taxation, in any form, including taxes levied by distinct sovereignties upon the same tax basis, especially where the intention of the legislature is not clear in respect to the matter. 68 Am. Jur. 2d Sales and Use Taxes § 178 (1973).

In conclusion, a literal reading of AS 29.45.650 and 29.45.700 allows for a maximum 12 percent sales and use tax when both the borough and city within the borough levy taxes on the same sources. However, we believe that the intention of the legislature is not altogether clear on this issue and needs clarification before we can render a definitive answer.

3. Assuming a city within a borough has the power to levy a sales tax which would make the combined tax rate in excess of six percent, would the borough be able to only collect up to the six percent limit under AS 29.45.645(a)?

No. Under AS 29.35.170(b), the borough "shall" collect taxes levied by a city and must return those taxes it collects to the city, in full. See 1987 Inf. Op. Att'y General (663-88-0178; Nov. 13). The borough, of course, also collects its own sales and use taxes under AS 29.45.645(a). Therefore, assuming that a total nine percent sales tax is levied on sales in a city within a borough, with six percent imposed by the borough and three percent imposed by the city, the borough collects the entire nine percent sales tax under its authority to collect taxes on behalf of the city and gives the city its three percent and retains six percent for itself. AS 29.35.170(b).

In your memorandum, you expressed concern that there may be a conflict of tax "collection" powers between a city within a borough and the borough when the city levies sales taxes on sources not taxed by the borough. AS 29.45.700(a) allows a city within a borough to "levy" sales and use taxes on all sources taxed by the borough, but does not allow the city to collect those taxes. Those sales and use taxes are collected by the borough on behalf of the city. But, as you have pointed out in your opinion request, AS 29.45.700(a) allows cities within boroughs to levy and collect sales and use taxes "on other sources," which the borough does not tax. However, AS 29.45.700(a) also states that a city is only allowed to levy and collect these taxes if the borough assembly authorizes the city to do so by ordinance. Therefore, no conflict exists between AS 29.35.170(b) and AS 29.45.700(a), because a city within a borough can only

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DCRA -- Munic. & Reg. Asst. Div.
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levy and collect its own sales and use taxes if the taxes are:
(1) levied on sources not taxed by the borough; and (2) the borough assembly authorizes the city to levy and collect the tax on those sources. Since the borough does not tax these "other sources," it has been given the power to delegate its tax levy and collection power to the city under AS 29.45.700(a) for this limited purpose.

We hope this addresses your questions. I apologize for the lateness in answering this opinion request.

MLO/pjg

cc: Mike Worley, State Assessor
DCRA - Juneau