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SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3.8.89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

FINANCE

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 3.14.89

2/3/89

Mr. President:

C&RA

Committee considered

SB 160

prohibiting municipal sales tax on rents payable for occupation of
certain publicly-financed housing projects; efd

and recommended:

[] replace with CS _____ [] same title

[] attached amendment(s) and

[] new title

[] _____ letter of intent adopted

[] do pass

[] do not pass

[✓] no recommendation

[] individual recommendations

[] further referral to _____

FISCAL NOTE(S) attached [X] zero

[] fiscal impact

[] appropriation no FN attached

[] Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]

[Signature] No Rec.

[Signature] - no rec
Chairman signature and recommendation

[✓] Committee backup attached

Alaska State Legislature

Al Adams
District L

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3707

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3245

111 C Street
Anchorage, Alaska 99503
(907) 561-7622



Official Business

TO: Community and Regional Affairs Committee Members

FROM: Senator Al Adams, Chair ^{APA}
Community and Regional Affairs Committee

RE: Senate Bill 160

DATE: March 7, 1989

Senate Bill 160 was introduced on February 3, 1989 at the request of the Association of Alaska State Housing Authorities. Despite its apparent complexity, it is a rather straight forward piece of legislation. In essence, as the title implies, it creates a municipal tax exemption on rents payable for the occupation of housing that has been or is being subsidized by the federal government if exemption is required by federal law or by agreement as a condition of the subsidy.

There are precedents for such an exemption. In 1987, the legislature provided that a city may not levy and collect a sales tax on purchases of certificates under the Food Stamp Act, or food instruments, food vouchers or other types of certificated under the Food Program for Women, Infants and Children.

Just last year we passed legislation permitting, but not requiring, municipalities to exempt taxation interests in real property if the property has been developed, improved or acquired with federal low-income housing funds and is owned or managed as low income housing by the Alaska State Building Authority or a regional housing authority.

As far as I know, no municipality is currently levying or collecting a municipal sales tax on rents payable for the occupation of publicly-financed housing projects; however, the Association has brought to my attention the fact that some municipal attorneys have counselled their clients to levy and collect such taxes because existing state law does not prohibit them from doing so.

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March 7, 1989

Community and Regional Affairs Committee

SB 160

This legislation would not only provide municipal attorneys with clear statutory authority for such an exemption, thereby clearing any confusion that may exist now, but would prevent future conflicts between the state's political subdivisions from arising. This measure reflects a cost-benefit decision that municipalities have apparently already made. As you may know, some rents in publicly-financed housing projects are as small as \$2 per month and the administrative cost connected with the collection of these sales taxes probably outweighs the benefits that might flow from collection. So, they simply forego the revenue. I believe the state should sanction this decision of its subdivisions.

Finally, I am not aware of any opposition to this legislation from any municipalities or the Alaska Municipal League. The state Department of Community and Regional Affairs has not as yet developed a position on the proposed legislation.

Thank you for your consideration.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act prohibiting municipal sales tax on rents..housing projects.."
 Sponsor: Adams
 Requestor: _____

Agency Affected: Community & Regional Affairs
 BRU: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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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)

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

Phone: 465-4750
 Date: 2/20/89

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

Date: 2-20-89

Distribution (by preparer) :

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

for the four tax years in question. Municipality of Anchorage v. Alaska Distribs. Co., Sup. Ct. Op. No. 3115 (File No. S-1047), P.2d (1986).

Sec. 29.45.230. Tax adjustments on property affected by a natural disaster. (a) The municipality may provide for assessment or reassessment and reduction of taxes for property destroyed, damaged, or otherwise reduced in value as a result of a natural disaster.

(b) An assessment or reassessment under this section may be made by the assessor only upon the receipt of a sworn statement of the taxpayer that losses exceed \$1,000. A reduction of taxes may be made only on losses in excess of \$1,000 for the remainder of the year following the disaster. On reassessment, the municipality shall recompute this tax and refund taxes that have already been paid.

(c) The municipality shall give notice of assessment or reassessment under this section and shall hold an equalization hearing as provided in this chapter, except that a notice of appeal must be filed with the board of equalization within 10 days after notice of assessment or reassessment is given to the person appealing. Otherwise, the right of appeal ceases unless the board finds that the taxpayer is unable to comply.

(d) In enacting an ordinance or resolution authorized by this section the municipality may, consistent with this section, prescribe procedures, restrictions, and conditions of assessing or reassessing property and of remitting, refunding, or forgiving taxes.

(e) In this section "disaster" means a major disaster declared by the President of the United States under federal law or a disaster declared by the governor under AS 26.23.010 — 26.23.110. (§ 12 ch 74 SLA 1985; am § 50 ch 14 SLA 1987)

Effect of amendments. — The 1987 amendment deleted "the provisions of 42 U.S.C. sec. 1855 — 1855g (Federal Disaster Act of 1950), or other" preceding "federal law" in subsection (e).

Article 4. Borough Sales and Use Tax.

Section 650. Sales and use tax

Sec. 29.45.650. Sales and use tax. (a) Except as provided in (f) of this section, a borough may levy and collect a sales tax not exceeding six percent on sales, rents, and on services provided in the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

(b) A borough tax on the store in the borough. use tax shall t

(c) A person ough tax collec on which a use tax only to the sales tax paid : This subsection whether inside

(d) If the ase due, the rate (delinquent tax full. This subse ties.

(e) A borough a lien on real or use tax, and th event of delinq over all other assessments; (2 sales tax lien t the sales tax l claims of lien t 34.35.064 have lien. This subse ties.

(f) A borough made with (1) issued under 7 instruments, fo U.S.C. 1786 (S and Children). municipalities. § 1 ch 20 SLA

Effect of amer amendment in the section (f) inserte and inserted the l (2) food instrume The 1988 amend 1988, in subsecti

Article 5. City Sales and Use Tax.

Section

700. Power of levy

Sec. 29.45.700. Power of levy. (a) A city in a borough that levies and collects areawide sales and use taxes may levy sales and use taxes on all sources taxed by the borough in the manner provided for boroughs. Except as provided in (d) of this section, the assembly may by ordinance authorize a city to levy and collect sales and use taxes on other sources.

(b) A city in a borough that does not levy and collect sales and use taxes for areawide borough functions may levy and collect sales and use taxes in the manner provided for boroughs.

(c) A city outside a borough may levy and collect sales and use taxes in the manner provided for boroughs

(d) A city that levies and collects sales and use taxes under (a) of this section may not levy and collect a sales tax on a purchase made with (1) food coupons, food stamps, or other types of certificates issued under 7 U.S.C. 2011 — 2025 (Food Stamp Act); or (2) food instruments, food vouchers, or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children). This subsection applies to home rule and general law municipalities. (§ 12 ch 74 SLA 1985; am § 5 ch 38 SLA 1986; am §§ 51, 52 ch 14 SLA 1987; am § 2 ch 20 SLA 1987)

Effect of amendments. — The first 1987 amendment in subsection (a) substituted "Except as provided in (d) of this section, the" for "The" at the beginning of the second sentence and at the end of the subsection deleted "except purchases made with food coupons, food stamps, or other type of certificate issued under 7 U.S.C. 2011 — 2025 (Food Stamp Act). This subsection applies to home rule and general law municipalities"; and added subsection (d).

The second 1987 amendment in the first

sentence of subsection (d) inserted the designation "(1)" and inserted the language beginning "or (2) food instruments."

Editor's notes. — The 1987 amendment to (a) and the first 1987 amendment that added (d) are retroactive to October 1, 1986 under § 53, ch. 20, SLA 1987.

Legislative history reports. — For an analysis of the amendments to this section made by §§ 51 and 52, ch. 14, SLA 1987, see 1987 House Journal Supplement No. 11, May 17, 1987, p. 7.

Chapter 47. Municipal Debt.

Article

6. Miscellaneous Provisions (§ 29.47.460)

Section

460. Debt f
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Sec. 2:
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Sec. 29.10.090. Charter rejection. (a) If a proposed charter for an existing municipality is rejected, the charter commission shall prepare another proposed charter to be submitted to the voters at an election to be held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of adoption of a charter shall be treated as if it had never been proposed or approved.

(b) If incorporation of a home rule borough is rejected by the voters in an area in the unorganized borough, the proposed charter is rejected. (§ 6 ch 74 SLA 1985)

Sec. 29.10.100. Charter amendment. (a) A home rule charter may be amended as provided in the charter, except that no amendment is effective unless ratified by the voters.

(b) This section applies to home rule municipalities. (§ 6 ch 74 SLA 1985)

Article 2. Home Rule Limitations.

Section

200. Limitation of home rule powers

Sec. 29.10.200. Limitation of home rule powers. Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. These provisions supersede existing and prohibit future home rule enactments that provide otherwise:

- (1) AS 29.05.140 (transition)
- (2) AS 29.06.010 (change of municipal name)
- (3) AS 29.06.040 — 29.06.060 (annexation and detachment)
- (4) AS 29.06.090 — 29.06.170 (merger and consolidation)
- (5) AS 29.06.190 — 29.06.420 (unification of municipalities)
- (6) AS 29.06.450 — 29.06.530 (dissolution)
- (7) AS 29.10.100 (charter amendment)
- (8) AS 29.20.010 (conflict of interest)
- (9) AS 29.20.020 (meetings public)
- (10) AS 29.20.050 (legislative power)
- (11) AS 29.20.060 — 29.20.120 (assembly composition and apportionment)
- (12) AS 29.20.140 (qualifications of members of governing bodies)
- (13) AS 29.20.150 (term of office)
- (14) AS 29.20.220 (executive power)
- (15) AS 29.20.270(e) (ordinance veto by mayor).
- (16) AS 29.20.630 (prohibitions)
- (17) AS 29.20.640 (reports)

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§ 29.10.200

MUNICIPAL GOVERNMENT

§ 29.10.200

- (18) AS 29.25.010(a)(10) (municipal exemption on contractor bond requirements)
- (19) AS 29.25.050 (codification)
- (20) AS 29.25.060 (resolutions)
- (21) AS 29.26.030 (notice of elections)
- (22) AS 29.26.050 (voter qualification)
- (23) AS 29.26.250 — 29.26.360 (recall)
- (24) AS 29.35.020 (extraterritorial jurisdiction)
- (25) AS 29.35.030 (eminent domain)
- (26) AS 29.35.050 (garbage and solid waste services)
- (27) AS 29.35.060 (franchises and permits)
- (28) AS 29.35.070 (public utilities)
- (29) AS 29.35.080 (alcoholic beverages)
- (30) AS 29.35.120 (post audit)
- (31) AS 29.35.145 (regulation of firearms)
- (32) AS 29.35.160 (education)
- (33) AS 29.35.170(b) (assessment and collection of taxes)
- (34) AS 29.35.180(b) (land use regulation)
- (35) AS 29.35.250 (cities inside boroughs)
- (36) AS 29.35.260 (cities outside boroughs)
- (37) AS 29.35.340 (acquisition of areawide power)
- (38) AS 29.35.500 — 29.35.590 (hazardous materials and wastes)
- (39) AS 29.40.160(a) — (c) (title to vacated areas)
- (40) AS 29.40.200 (subdivisions of state land)
- (41) AS 29.45.010 — 29.45.570 (property taxes)
- (42) AS 29.45.650(c), (d), and (f) (sales and use tax)
- (43) AS 29.45.700(a) (power of levy)
- (44) AS 29.47.200(b) (security for bonds)
- (45) AS 29.47.260 (construction)
- (46) AS 29.60.050(a) (limitation on computation and use of payment)
- (47) AS 29.60.120(a) and (c) (state aid for health facilities and hospitals)
- (48) AS 29.65 (general grant land) (§ 6 ch 74 SLA 1985; am §§ 1, 2 ch 38 SLA 1986; am § 6 ch 70 SLA 1986; am § 12 ch 80 SLA 1986; am § 3 ch 108 SLA 1986)

Revisor's notes. — Reorganized in 1986 to maintain the referenced provisions in numerical order.

Effect of amendments. — The first 1986 amendment substituted ", (d), and (f)" for "and (d)" in paragraph (42) and added paragraph (43).

The second 1986 amendment, effective

January 1, 1987, repealed former paragraph (41), which read: "AS 29.46.090 (exemption from special assessment)."

The third 1986 amendment added paragraph (15).

The fourth 1986 amendment, effective January 1, 1987, added paragraph (38).

COOPERATION AGREEMENT

THIS AGREEMENT made this ____ DAY of _____, 19 ____

BY AND BETWEEN Tlingit-Haida Regional Housing Authority herein called the "Authority".

AND City of _____, herein called the "City".

WITNESSETH:

In consideration of the mutual covenants hereinafter set forth, the parties hereto do agree as follows:

1. Whenever used in this agreement:
 - (a) The term "Project" shall mean any low-rent housing hereinafter developed or acquired by the Authority with financial assistance of the United States of America acting through the Secretary of Housing and Urban Development (herein called the "Government"); excluding, however, and low-rent housing project covered by any contract for loans and annual contributions entered into between the Authority and the Government, or its predecessor agencies, prior to the date of this Agreement;
 - (b) The term "Taxing Body" shall mean the State or any political subdivision or taxing unit thereof in which a Project is situated and which would have authority to assess or levy real or personal property taxes or to certify such taxes to a taxing body or public officer to be levied for its use and benefit with respect to a Project if it were not exempt from taxation;
 - (c) The term "Shelter Rent" shall mean the total of all charges to all tenants of a Project for dwelling rents and nondwelling rents (excluding all other income of such Project), less the cost to the Authority of all dwelling and nondwelling utilities;
2. The Authority shall endeavor to secure a contract with the Government for loans and annual contributions covering one or more Projects consisting of approximately ____ units. The Authority shall plan, develop or acquire and administer the Project which shall be located within the corporate limits of the City. The obligations of the parties hereto shall apply to each such Project and the City shall have no contractual responsibility with respect to the Project other than as expressly provided in this Agreement.
3. (a) Under the Constitution and laws of the State of Alaska, the Project is exempt from all real and personal property taxes and special assessments levied or imposed by any Taxing Body. So long as either (i) the Project is owned by a public body or governmental agency and is used for low rent housing purposes, or (ii) any contract between the Authority and the Government for loans or annual contributions, or both, in connection with such Project remains in force and effect, or (iii) any bonds issued in connection with such Project or any monies due to the Government in connection with such Project remain unpaid, whichever period is the longest, the City agrees that it

Cooperation Agreement

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will not levy or impose any real or personal property taxes or special assessment upon such Project or upon the Authority with respect thereto. During such period, the Authority shall make annual payments (herein called "Payments in Lieu of Taxes") in lieu of such taxes and special assessments and in payment for the public services and facilities furnished from time to time without other cost or charge for or with respect to such Project.

- (h) Each such annual Payment in Lieu of Taxes shall be made after the end of the fiscal year established for such Project, and shall be in an amount equal either (i) ten percent (10%) of the Shelter Rent charged by the Authority in respect to such Project during such fiscal year or (ii) the amount permitted to be paid by applicable State law in effect on the date such payment is made, whichever amount is the lower.
 - (c) No payment for any year shall be made to the City in excess of the amount of the real property taxes which would have been paid to the City for such year if the Project were not exempt from taxation.
 - d) Upon failure of the Authority to make any Payment in lieu of Taxes, no lien against any Project or assets of the Authority shall attach, nor shall any interest penalties accrue or attach on account thereof.
4. During the period commencing with the date of the acquisition of any part of the site or sites of any Project and continuing so long as either (i) such Project is owned by a public body or governmental agency and is used for low-rent housing purposes, or (ii) any contract between the Authority and the Government for loans or annual contributions, or both, in connection with such Project remains in force and effect, (iii) any bonds issued in connection with such Project or any monies due to the Government in connection with such Project remain unpaid, whichever period is the longest, the City, without cost or charge to the Authority or the tenants of such project (other than the Payments in Lieu of Taxes), shall:
- (a) Furnish or cause to be furnished to the Authority and the tenants of such Project public services and facilities of the same extent as are furnished from time to time without cost or charge to other dwelling and inhabitants in the City;
 - (b) Notwithstanding the date of acquisition the City shall vacate such streets, roads, and alleys within the area of such Projects as may be necessary in the development thereof, and convey without charge to the Authority, such interest as the City may have in such vacated areas; and insofar as the City is lawfully able to do so without cost or expense to the Authority or to the City, cause to be removed from such vacated areas, insofar as it may be necessary, all public or private utility lines and equipment;
 - (c) Insofar the City may lawfully do so, (i) grant such deviation from the building code as are reasonable and necessary to promote economy and efficiency in the development and administration of such Project, and at the same time, safeguard health and safety; and (ii) make such changes in any zoning of the site and surrounding territory of such Project as are reasonable and necessary surrounding territory;

Cooperation Agreement

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- (d) Accept grants of easements necessary for the development of such Project; and
 - (e) Cooperation with the Authority by such other lawful action or ways as the City and the Authority may find necessary in connection with the development and administration of such Project.
5. In respect to any Project, the City further agrees that within a reasonable time after receipt of a written request therefor from the Authority:
- (a) It will accept the dedication of all interior streets, roads alleys, and adjacent sidewalks within the area of such Project, together with all storm and sanitary sewer mains in such dedicated areas, after the Authority or its Developer has completed the grading, improvements, paving and installation thereof, in accordance with specification acceptable to the City;
 - (b) It will accept necessary dedications of land for, and will grade, improve, pave and provide sidewalks for, all streets bounding such Project or necessary to provide adequate access thereto (in consideration whereof the Authority or its Developer shall pay to the City such amounts as would be assessed against the Project sites for such work if such site were privately owned); and
 - (c) It will provide, or cause to be provided, water mains and storm and sanitary sewer mains, leading to such Project and serving the bounding streets thereof (in consideration whereof the Authority or its Developer shall pay to the City such amounts as would be assessed against the Project site for such work if such site were privately owned).
6. If by reason of the City's failure or refusal to furnish or cause to be furnished any public services or facilities which it has agreed hereunder to furnish or cause to be furnished to the Authority or to the tenants of any Project, the Authority incurs any expense to obtain such services or facilities, then the Authority may deduct the amount of such expenses from any Payment in Lieu of Taxes due or to become due to the City in respect to any Project or any other low-rent housing projects owned or operated by the Authority.
7. The City agrees to exempt the tenants of the Project and the Authority from the payment of sales taxes in conjunction with rents.
8. No Cooperation Agreement heretofore entered into between the City and the Authority shall be construed to apply to any Project covered by this Agreement.
9. No member of the governing body of the City or any other public official of the City who exercises any responsibilities or functions with respect to any Project during his tenure or for one year thereafter shall have any interest, direct or indirect, in any project or any property included or planned to be included in any Project, or any contracts in connection with such Projects or property. If any such governing body member or such other public official of the City involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, he shall immediately disclose such interest to the Authority.

10. So long as any contract between the Authority and the Government for loans (including preliminary loans) or annual contributions, or both, in connection with any Project remains in force and effect, or so long as any bonds issued in connection with any project, or any monies due the Government in connection with any Project remain unpaid, this Agreement shall not be abrogated, changed, or modified without the consent of the Government. The privileges and obligations of the City hereunder shall remain in full force and effect with respect to each Project so long as the beneficial title to such Project is held by the Authority or by any other public body or governmental agency, including the Government, authorized by law to engage in the development or administration of low-rent housing projects. If at any time, the beneficial title to, or possession of, any Project is held by such other public body or governmental agency, including the Government, the provisions hereto shall inure to the benefit of and may be enforced by, such other public body or governmental agency, including the Government.

IN WITNESS WHEREOF, the City and the Authority have respectively signed this Agreement and caused their seals or be affixed and attested as of the day and year first above written.

CITY OF _____

BY: _____, Mayor
City of _____

SEAL

ATTEST:

_____, City Clerk

TLINGIT-HAIDA REGIONAL
HOUSING AUTHORITY

BY: _____
Matthew Fred, Chairman

SEAL

ATTEST:

Joseph G. Wilson, Assistant Secretary