

S B

308

DATE: 4/7/90

FURTHER: Finance

DATE TURNED INTO OFFICE: 4/12/90

Labor & Commerce

Committee considered

SB 308

"An Act relating to taxation of certain state property by municipalities; and providing for an effective date."

and recommended:

- replace with _____ CS _____
- or adopt _____ CS SB 308 (C+EA)
- attached amendment(s)
- _____ letter of intent adopted

- same title
- new title
- technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) Dept of Comm 4/6/90

zero fiscal note(s) _____

Governor's bill w/fiscal note

SIGNING DO PASS:

Jan Fair

John Bodery

OTHER RECOMMENDATIONS:

Chair: Signature and Recommendation

Alaska State Legislature

3111 C Street, Suite 150
Anchorage, Alaska 99503
(907) 561-2038



During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4993

Senator Drue Pearce
District G

MEMORANDUM

TO: Dick Eliason, Chairman
Senate Labor & Commerce Committee

FROM: Drue Pearce *Drue Pearce*

RE: SB 308

DATE: April 6, 1990

Please schedule a hearing as soon as possible for SB 308 which concerns the taxation of state and federal properties by municipalities. This Bill makes taxable real property acquired by state or federal government agencies through foreclosure or deed in lieu of foreclosure and retained for investment purposes.

The legislation was requested by the Alaska Municipal League because millions of dollars of assessed values are being removed from assessment rolls across the state by certain governmental agencies which have foreclosed on property in which they have a security interest. Some state agencies have been exempted from taxation while others have been required to pay them. Inequities are also created because exempt properties bear no tax burden but receive the same services they did while in private ownership.

The Bill corrects this situation and extends to federal properties similarly held and not otherwise exempt from taxation by federal law.

This legislation is obviously important to the municipalities and for this reason I am requesting that you expedite its scheduling so we can have passage by this legislature.

DP:pc

Alaska State Legislature

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Anchorage, Alaska 99503
(907) 561-2038



During Session:
P.O. Box V
Juneau, Alaska 99811
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Senator Drue Pearce
District G

MEMORANDUM

TO: Dick Eliason, Chairman
Senate Labor & Commerce Committee

FROM: Drue Pearce

RE: SB 308

DATE: April 11, 1990

SB 308 relates to the taxation of state and federal properties by municipalities. The Bill makes taxable real property acquired by state or federal governmental agencies through foreclosure or deed in lieu of foreclosure and retained for investment purposes.

Under current state law some agencies of the State are treated differently from others in regards to local property taxes on properties obtained through default or foreclosure. Alaska Housing Finance Corporation (AHFC) pays local property taxes realizing that local services contribute to the value of its property. However, the Public Employees Retirement System (PERS), the Teachers Retirement System (TRS), and the Alaska Industrial Development and Export Authority (AIDEA), which hold the majority of foreclosed property in the State and also receive municipal services, do not pay taxes on properties they have obtained through foreclosure because local property tax exemptions have been provided by statute. Certain federal agencies have also claimed they are exempted by state law because of the general nature of present statutory language.

This legislation was requested by the Alaska Municipal League in order to recover the millions of dollars in assessed values being removed from assessment rolls across the state by these exemptions. The Bill also corrects exemption inequities and equalizes the tax burden for properties receiving the same services they did while in private ownership. SB 308 extends to federal properties similarly held and not otherwise exempt from taxation by federal law.

Passage of this legislation is supported by the Municipality of Anchorage and the Alaska Association of Assessing Officers.

DP:pc

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
 Title: An Act relating to taxation of BRU: Alaska Industrial Development &
 certain state property by municipalities Export Authority
 Sponsor: Pearce Components: _____
 Requestor: Senate C&RA

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	400.0	400.0	400.0	400.0	400.0	400.0
TOTAL OPERATING	400.0	400.0	400.0	400.0	400.0	400.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	400.0	400.0	400.0	400.0	400.0	400.0
TOTAL	400.0	400.0	400.0	400.0	400.0	400.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) No fiscal impact for FY 90.

SEE ATTACHED

Prepared by: Bertram L. Wagnon, Executive Director Phone: (907) 561-8051
 Division: Alaska Industrial Development & Export Authority Date: 4/6/90

Approved by Commissioner: Larry Merculieff Date: 4/6/90
 Agency: Department of Commerce & Economic Development

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

LW/dg16692D/040690a

**ANALYSIS
CSSB 308 (C&RA)**

The tax on \$27 million of defaulted loans at an average of 15 mills would equate to approximately \$400,000. Over the years, property acquired through foreclosures should decrease while the value of property will increase. No property owned by the authority under its development program is included (DeLong Mountain) as CSSB 308 (C&RA) would not put them on the tax rolls.

<u>LOCAL GOVERNMENT</u>	<u>NUMBER OF PROPERTIES</u>	<u>ASSESSED VALUE</u>	<u>AIDEA PAYMENT (Excluding Bank Owned Portion)</u>
Municipality of Anchorage	39	\$17,434,400	\$292,001
Fairbanks North Star Borough	6	2,088,620	32,392
Kenai Peninsula Borough	5	2,602,900	27,418
Matanuska-Susitna Borough	7	2,148,800	26,592
City & Borough of Juneau	2	565,000	6,905
City & Borough of Sitka	1	825,730	3,606
City of Valdez	1	817,400	12,220
North Slope Borough	<u>1</u>	<u>482,900</u>	<u>8,871</u>
Total	<u>62</u>	<u>\$26,965,750</u>	<u>\$410,005</u>

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act relating to taxation of
 certain state property by municipalities
 Sponsor: Pearce
 Requestor: Senate C & RA

Dept. of Commerce
 Agency Affected: & Economic Development
 BRU: AK Industrial Development and
 Export Authority
 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	1,000.0	1,000.0	1,100.0	1,200.0	1,200.0	1,200.0
TOTAL OPERATING	1,000.0	1,000.0	1,100.0	1,200.0	1,200.0	1,200.0

CAPITAL	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96

REVENUE	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96

FUNDING (Thousands of Dollars)

GENERAL FUND	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
FEDERAL FUNDS						
OTHER	1,000.0	1,000.0	1,100.0	1,200.0	1,200.0	1,200.0
TOTAL	1,000.0	1,000.0	1,100.0	1,200.0	1,200.0	1,200.0

POSITIONS:

FULL-TIME	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) No fiscal impact for FY 90.
 The tax on \$27 million of defaulted loans at an average of 15 mills would equate to approximately \$400,000. The DeLong Mtns. Transportation Project at \$150 million at 4 mills would equate to approximately \$600,000. Over the years, property acquired thru foreclosure should decrease while development projects (Red Dog, Dutch Harbor, et.al.) should increase.

Prepared by: Bertram L. Wagon, AIDEA Phone: (907) 561-8050
 Division: A I D E A Date: _____

Approved by Commissioner: _____ Date: 25/1/90
 Agency: Commerce and Economic Development

- Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)



Matanuska-Susitna Borough

P.O. BOX 1808, PALMER, ALASKA 99345-1808 • PHONE 745-9842

ASSESSMENT DEPARTMENT

January 23, 1990

Senator Druce Pearce
State of Alaska
Senate Office Building
Juneau, AK. 99811

Dear Senator Pearce:

I am sorry that your bill SB303 has become so confused and sincerely wish we could have had discussion earlier. I introduced the issue to the Alaska Association of Assessing Officers and, on their behalf, to the Legislative Committee of AML in 1987. My awareness came as a result of a very close friend who defaulted on a mortgage secured by TRS and has since lived in his former home on a month to month rental with no liability for taxes as the property belong to the Department of Revenue, an exempt agency. Further research requested through DCRA revealed a number of residential and commercial properties in various municipalities and rented to occupants, yet exempt from taxes. Inquiries to obtain copies of lease agreements were unsuccessful as these month to month arrangements are not described in documents nor precisely known by DOR as they are negotiated by agencies and renters change on a month to month basis.

This is the reason PERFS, TRS and AIDA were mentioned in AML Policy as examples compared to HUD and AHFC which do pay for maintenance of public services through local property tax, presuming that failure to provide services would harm future value of surplus properties.

Since that time (1988) it has come to light that there are a number of State and Federal investment entities which pledge public faith and funds to secure various mortgage instruments subject to foreclosure, or deed in lieu of foreclosure reversion to the entity. The list has grown to include: Farm Home Administration, SRA, various Federal Retirement Funds, PERFS, TRS, AIDA, Agricultural Revolving Loan Fund, Permanent Fund, and the unique one I have dealt with, the U.S. Coast Guard Widows Retirement Fund. The list is very extensive considering that any federal or state fiduciaries of funds could hold mortgage or security interest in property in the state that could be subject of foreclosure or deed in lieu of foreclosure.

HAD loans

With this background it is probably more direct to first review what was not intended originally:

It was not intended that a state or federal agency be taxed on fact that it has "invested" in a mortgage instrument. The agency should be no more responsible for taxes levied on the property than any other mortgagor (bank). The mortgagor is the owner of record and is specified in Title 29 as the recipient of tax notices and bills. Failure of the mortgagor to settle lien for taxes results in foreclosure by the municipality. At that time the mortgagor may act to preserve their security interest but in doing

so they assume responsibility to satisfy present and future liens assessed during their possession.

It was not intended that property of the state or federal government be taxed by virtue of security interest holding any more than a bank.

What was intended is that where a state or federal agency invests in mortgages or other security interest in property and only when foreclosure or deed in lieu of foreclosure occurs, the agency (mortgagor) be required to assume responsibility to pay for public services which contribute to the future resale value of the property (i.e. fire protection, police, utilities, schools, etc.) for only that period they are in possession in attempt to resale. Federal law recognizes this responsibility (HUD) and State Statute recognizes this in case of AHFC.

Hopefully, this frames the larger policy issues your bill addresses:

1. Should state agencies benefit from exemption from tax act available to other mortgage investors or property managers.
2. Should exemption from taxes be permitted where it impacts municipal services which, in turn, affect the future value of foreclosed properties.
3. Should different state agencies be treated differently as regards property taxation.
4. Should certain federal agencies be permitted to claim federal exemption even where USC is permissive to local taxation but for lack of specific mention in Alaska statute.

The amendments submitted 2/15/90 were prepared in conjunction with ALE, via State Assessor, and Mr. Gatti, MSE Attorney, to address issues greater than just PERE, TRS and AIDA. the following is a brief analysis:

AS29.34.030 (B) (1)

A. This is current statute which provides that an assigned interest in public property is taxable to the recipient of interest. In these cases the state retains full title to the property but creates a determinable possessory interest assigned to a private party. The possessory interest is regularly taxed where there are determinable terms and conditions of assignment. This is not the case with property managed by the Department of Revenue as previously discussed.

B. This section specifies the only two conditions in which property owned by a state or federal agency may become liable for property tax, foreclosure and deed in lieu of foreclosure. It does not permit taxation in cases of relinquishment of rights or default on contracts where there is no deed of trust. Aside from concern about Red Dog Mine Road, this specific omission is to preclude taxation of property subject of state land disposal programs. These lands are expected to return to the public domain when private interest expires. Generally deeds of trust are not recorded by Department of Revenue for these transactions.

Finally addressed is the situation wherein a state or federal agency may elect to use and occupy surplus property for administrative purposes. This is an option normally reserved in federal code and in statutes of other states.

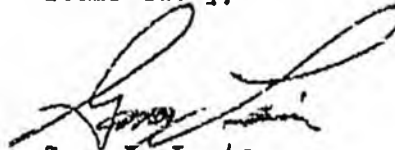
C. This section is specific to federal property and is taken from statutes of the State of Oregon. It is the enabling language which unequivocally permits taxation of federal property where waiver of sovereign immunity is contained in federal code.

AS29.45.295

This section adds penalty, interest and collection cost recovery in cases of delinquent payment of taxes similar to subject of bill SB307. Because of inclusion of federal property it substitutes "appropriate court" rather than "superior court" as proper proceeding. Note also that AS29.45.490 deals w/ payment of taxes upon public utilization, between municipalities. This is not part of the foreclosure process as prescribed by Title 29 nor would it be prudent that other municipalities are not granted what they are due in actions regarding state and federal property.

It is my hope that this local view is helpful to you. I very much look forward to a work session suggested by Senator Szymanski. Meanwhile, however, if there are questions that I might answer, please feel free to contact me.

Yours truly,



Gary A. Lewis
Borough Assessor

ys



FEB 2 1990

Office of the City Clerk
832-5441
Incorporated November 17, 1921

City of Nenana

P.O. Box 70
Nenana, AK 99760
FAX 832-5503

State of Alaska

February 18, 1990

Senator Drue Pearce
Alaska State Legislature
Pouch V, (Mail Stop 3100)
Juneau, AK 99811

Dear Senator Pearce,

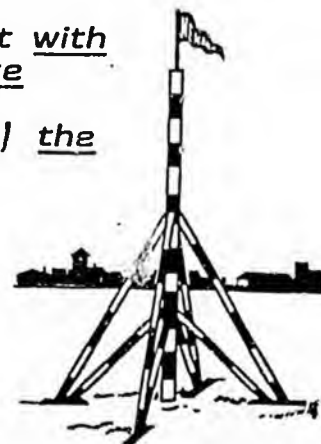
The shared revenue/municipal assistance program is in need of a massive infusion of funding. The City of Nenana is in a position of having to discontinue one or more basic services as we are launched into a "death spiral."

Contributing factors to this death spiral include:

- 1) A 53 % decrease in shared revenue/ municipal assistance revenues from FY 86 to FY 90
- 2) A 50% decrease in the per mile funding of road maintenance money. The current funding level for municipal road maintenance is approximately \$1200 per mile, while the maintenance of State roads is funded at \$12,000 per mile!
- 3) State Statutes dictate that Municipalities exempt the property of senior citizens from the local tax roles, and then the State elects to reimburse municipalities for only 33% of this lost revenue.

4) HUD housing, which is currently assessed at over 3 million in Nenana, pays taxes at a rate with amounts to 10% of the total taxes due (payment in lieu of taxes) Sec 8 Housing

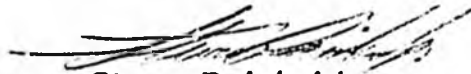
The City of Nenana is doing its best to generate local revenue (with a 9 mil tax rate and a 3% sales tax), but with the simultaneous decrease in assessed values and state funded programs (such as shared revenue, municipal assistance, and senior citizen exemption reimbursement) the future looks bleak.



Senator Pearce, February 18, 1990
Page 2

*I am sure that other municipalities are in this same position.
We need your help!*

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Bainbridge", with a horizontal line drawn through it.

**Steve Bainbridge
City Administrator**

ALASKA ASSOCIATION OF ASSESSING OFFICERS

February 23, 1990

Senate Community and Regional Affairs Committee
Senators Symanski, Frank, Pearce, Porchot and Adams
Mail Stop 2100
Juneau, Alaska 99811

RE: Alaska Association of Assessing Officers Position on
SB 308 - Taxation of Certain State Agencies

Dear Senators:

The purpose of this letter is to clarify to the Committee why the Alaska Association of Assessing Officers and several municipalities have taken a supportive position on SB 308. We do believe, however, that the bill as introduced, does not accurately reflect the intent of our Association or the AAO Policy Statement and should be amended. We will offer an amendment in this letter.

This legislation was requested due to the fact that there are millions of dollars of assessed values being removed from assessment rolls across the State by certain government agencies which have foreclosed on property in which they have a security interest. Some of the State agencies are exempted by the statutes which created the agency, while others, like Alaska Housing Finance Corporation, are required to pay taxes.

There are three agencies which constitute the majority of the property described above: Alaska Industrial Development and Export Authority (AIDEA), Public Employees Retirement System (PERS), and the Teachers Retirement System (TRS). These agencies participate in the financing of commercial properties and when a foreclosure occurs, the agencies are listed on the documents as owner and consequently, are automatically exempted.

In many cases, the properties are leased and the agencies collect the rents. The rents obtained by the agency should approximate market rents, which will have a built in factor for taxes. If the agency rents at below market rents, they have an unfair advantage over the private sector in that they are not responsible for payment of property taxes. This creates an inequity not only for the private sector which competes with the agencies, but also shifts the tax burden away from these properties while they receive the same services they did while in private ownership.

We realize that not all properties owned by these agencies may be rented or if so, may not command a positive cash flow, however, they are

competing with the private sector, receiving comparable services and yet still maintain a distinct advantage over comparable property within the same jurisdiction.

We have recently encountered a situation whereby certain federal agencies, which are taxable pursuant to federal law, insist that they are exempted by our own state statutes. AS 29.45.030(a)(1) states:

"29.45.030. Required exemptions. (a) The following property is exempt from general taxation:

- (1) municipal, state, or federally owned property, except that a private leasehold, contract, or other interest in the property is taxable to the extent of the interest."

This language seems to exempt all federal property regardless of any permissive taxing language which may be contained in federal law. We believe that by changing the current statute to allow for taxation of these properties, if permissive federal law exists, this problem will be solved. Currently, several large federal agencies, such as FDIC, FSLIC, HUD and VA, pay municipalities taxes for property which they have taken title to under a foreclosure proceeding. Farmers Home Administration has chosen not to make tax payments, citing as part of their argument, AS 29.45.030(a)(1).

Therefore, we request that the committee recommend passage of SB 308 with the following amendments:

Page 1

Line 6 - For an Act entitled: "An Act relating to taxation of certain state and federal properties by municipalities; and providing for an effective date."

Page 1

Line 11 - Except as provided in AS 29.45.030(a)(1),

Page 1

Line 23 - AS 29.45.030(a) is amended to read:

(a) The following property is exempt from general taxation:
except that
(1) municipal, state, or federally owned property,

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest;

(B) property held by state entities as a result of foreclosure or accepted through a deed in lieu of foreclosure and not used for administrative purposes by an exempt entity shall be taxable to the extent provided in other provisions of law.

(C) property of the United States, its agencies, or instrumentalities is exempt from taxation only to the extent that taxation thereof is forbidden by federal law.

Page 2

Line 22 - Sec. 29.45.295 Collection of Delinquent Taxes on Certain State and Federal Property.

(a) Property taxable under AS 29.45.030 (a) (1) (B) and (C) is exempt from provisions of AS 29.45.300 through 29.45.480.

(b) A municipality may bring action in the superior court to compel payment of property taxes, including penalties, collection costs, and interest due from a state or federal agency if the agency is delinquent in payment after the date that the taxes are due.

Page 3

Line 5 - Except as provided in AS 29.45.030(a) (1)

Page 3

Line 18 - Except as provided in AS 29.45.030(a) (1)

We would like to express our appreciation to each member of this Committee for the dedication shown in attempting to cure the inequities found in our tax laws. We remain available to you for questions and hope that you will take advantage of the vast amount of information and expertise which exist within our Association.

Sincerely,

ALASKA ASSOCIATION OF ASSESSING OFFICERS

Mickey Keller
President

Steve Van Sant
Vice President