

HB

159

SENATE COMMITTEE REPORT



DATE TURNED INTO OFFICE 3-8-90

4/5/89
Mr. President:

Resources Committee considered SSHB 159

exemption from municipal property taxation for natural resources in place; efd

and recommended

replace with 5 CS SSHB159 (Res)) same title
 or adopt _____ CS _____) new title
 attached amendment(s) and technical title change (HB only)
 _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Curtis S. ...
[Signature]
[Signature]
 ?Chair [Signature]

[Signature]
Chairman signature and recommendation

Committee Backup attached

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act..exemptions..municipal
 property taxation.."
 Sponsor: Rep MacLean
 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						
---------	--	--	--	--	--	--

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)

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 3/9/89
 Approved by Commissioner: [Signature] Date: 4/11/89
 Agency: Community & Regional Affairs

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

HB 159, RELATING TO AN EXEMPTION FROM MUNICIPAL PROPERTY TAXATION FOR NATURAL RESOURCES IN PLACE, EFD.

* The ^{new} CRA version of the bill adds a purpose section which states it is a temporary tax exemption to allow time for a comprehensive study of the issue relating to exempting natural resources in place from municipal taxation.

A new provision of Section 3 of the bill directs the CRA to study and compare the potential resource taxation options to determine from property taxation is the most appropriate treatment of natural resources.

A new provision adds requirements for unincorporated communities and those that will participate in the study. It also grants cities and boroughs to participate in the study and execution of the study.

HB 159

CRA must conduct the study in concert with rather than consult with the department of revenue and the Alaska Municipal League

* The bill had been returned to CRA from Rules on 3/19/96

HB 159

ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean
P.O. Box 290
Barrow, Alaska 99723



Chairman
Community & Regional Affairs
Committee

Vice-Chairman
State Affairs Committee
Bush Caucus

Member Finance Subcommittee
Community & Regional Affairs
Education
Corrections

WHILE IN JUNEAU
Box V
Juneau, Alaska 99811
465-4525
465-4833

HOUSE OF REPRESENTATIVES

MEMORANDUM

Senator Fahrenkamp

TO: SENATOR BETTYE FAHRENKAMP, CHAIRMAN
SENATE RESOURCE COMMITTEE

FROM: REPRESENTATIVE EILEEN P. MACLEAN, CHAIRMAN *Eileen MacLean*
HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

DATE: FEBRUARY 28, 1989

RE: SSHB 159

- District 22
- Ambler
- Anaktuvik Pass
- Atkasuk
- Barrow
- Buckland
- Deering
- Kaktovik
- Kiana
- Kivalina
- Kobuk
- Kotzebue
- Noatak
- Noorvik
- North Slope
- Borough
- Northwest Arctic
- Borough
- Nulqsut
- Point Hope
- Point Lay
- Selawic
- Shungnak
- Wainwright

I WOULD LIKE TO RESPECTFULLY REQUEST THAT SSHB 159 BE SCHEDULED AT YOUR EARLIEST CONVENIENCE. THIS LEGISLATION RECENTLY PASSED THE HOUSE BY 36-2 AND HAS RECEIVED SUPPORT FROM OF ALL AREAS OF THE STATE.

SSHB 159 WAS INTRODUCED AFTER MY OFFICE WAS CONTACTED BY THE STATE ASSESSOR, THE ALASKA ASSOCIATION OF ASSESSING OFFICERS, AND THE ALASKA MUNICIPAL LEAGUE.

CURRENT STATE STATUTE ALLOWS FOR THE INCLUSION OF "IN PLACE NATURAL RESOURCES" IN FULL VALUE ASSESSMENTS AND LOCAL TAX ROLLS. TO DATE NEITHER THE STATE ASSESSOR NOR MUNICIPALITIES HAVE INCLUDED THESE "IN PLACE NATURAL RESOURCES" IN THEIR EVALUATIONS DUE TO THE TECHNICAL DIFFICULTY AND EXPENSE TO DO SO. IN MANY INSTANCES NO ADEQUATE METHOD TO PRECISELY DETERMINE THE VALUE OF THESE RESOURCES EXISTS. A CHANGE IN THE TAXATION POLICY OF THESE RESOURCES WOULD GREATLY UPSET THE STATUS QUO IN MUNICIPAL TAXING PROCEDURES.

SPONSOR SUBSTITUTE FOR HOUSE BILL 159 WOULD STABILIZE EXISTING STATE AND MUNICIPAL TAXING PRACTICES BY EXEMPTING FOR A TWO YEAR PERIOD THE ASSESSMENT OF "IN PLACE NATURAL RESOURCES." DURING THAT TIME THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS WITH CONSULTATION FROM THE DEPARTMENT OF REVENUE AND THE ALASKA MUNICIPAL LEAGUE WOULD CONDUCT A STUDY OF VARIOUS OPTIONS FOR TAXING THESE RESOURCES, INCLUDING BUT NOT LIMITED TO A COMPLETE EXEMPTION.

FOR ADDITIONAL INFORMATION, PLEASE CONTACT ME OR LOUANNE CHRISTIAN OF MY STAFF AT 465-4833. THANK YOU FOR YOUR PROMPT CONSIDERATION OF THIS LEGISLATION.

TABLE OF CONTENTS

SPONSOR SUBSTITUTE FOR HOUSE BILL 159

- ITEM 1: SSHB 159
- ITEM 2: Fiscal Note - Department of Community & Regional Affairs
- ITEM 3: Testimony in Support - Northwest Arctic Borough
- ITEM 4: Memo to Commissioner David Hoffman - State Assessor
- ITEM 5: Attorney General Opinion - "In Place Resources"
- ITEM 6: Supporting Resolution - Alaska Association of Assessing Officers
- ITEM 7: Supporting Resolution - Alaska Municipal League
- ITEM 8: Letter of Support - Arctic Slope Regional Corp.
- ITEM 9: Letter of Support - Matanuska-Susitna Borough Assessor
- ITEM 10: Letter of Support - Municipality of Anchorage
- ITEM 11: Letter of Support - Mayor of Mat-Su Borough
- ITEM 12: Letter from DCRA - State Assessor

NORTHWEST ARCTIC BOROUGH

P.O. BOX 1110

KOTZEBUE, AK 99752

(907) 442-2500 / FAX 442-2930

Statement of Dennis J. Tiepelman, Ass't to the Mayor,
Northwest Arctic Borough before the Senate Community and
Regional Affairs Committee, March 02, 1989

MISTER CHAIRMAN:

The Northwest Arctic Borough would like to go on record as supporting Senate Bill 181, "An act relating to an exemption from municipal property taxation for natural resources in place..."

The bill resolves an immediate issue if it is enacted into law: It will exempt for a period of time a requirement that resources be assessed and taxed of an unknown quantity and value on these same resources (e.g. minerals).

The borough supports the concept that in-place resources be permanently exempt in State law, but we recognize that it should be studied and a report be made reflecting what these issues might be in the way of future legislative recommendations. There are differing opinions.

The borough is part of the Alaska Municipal League which passed a resolution in November, 1988 urging the State legislature to seek legislative remedy for an assessment of minerals in-place, and it is currently required by the Department of Community & Regional Affairs, State Assessors Office.

Knowing that the Department of Revenue, Department of Natural Resources, and the Office of the Governor needs to look at the full implication of exempting minerals-in-place, this Senate Bill 181 establishes a process and allows an exemption to be in place until a final report and legislation is enacted within two (2) years. This should allow ample opportunities for other agency concerns to be addressed.

STATEMENT OF DENNIS J. TIEPELMAN
SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
MARCH 02, 1989
PAGE TWO

Northwest Arctic Borough does not in its current administrative structure maintain an assessor's office which may create a financial liability if no exemption is immediately allowed. We are also acutely aware that the proposed Red Dog mining project in our borough will go into production in about a year, and no one knows its actual resource potential of lead and zinc in terms of realistic dollar amounts.

However, the authority to impose a property tax on improvements at the mine site and the ability to impose a severance tax are much better alternatives than requiring us to place an unknown or arbitrary value on minerals-in-place. These other taxing mechanisms should be considered viable remedies in existence.

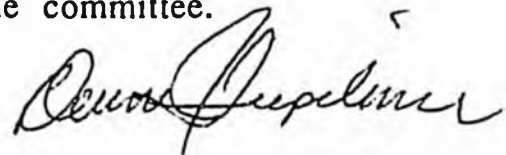
Natural resources as they exist in-place is not very prudent in methods to determine such a value. Large-scale mining as well as the small-time prospector/miner would have difficulty assessing what is the value of minerals before it could ever be developed and extracted for use elsewhere.

Other taxing districts throughout the State have similar problems, and I would urge that an immediate exemption and a prepared report will resolve any questions in due time so that some unforeseen future revenues will not jeopardize the current need for an exemption to be enacted.

The Northwest Arctic Borough is just completing its second year as a "home-rule borough", and there are many other organizational priorities we are working on, including land selections, planning, and financial stability without incurring additional duties of assessing what is taxable or taxing schemes which would now include natural resources in-place.

I would urge speedy deliberations and enactment of legislation that seems to appease every interest group and at the same time does not close the door on changes that might happen in the ensuing two (2) year period.

Thank you for this opportunity to address the committee.



MEMORANDUM

State of Alaska

Community and Regional Affairs

TO: Bob Evans
Legislative Liaison
Office of the Governor


DATE: November 14, 1988

FILE NO: 741X/MWW/JP/1410.2

TELEPHONE NO: 465-4750

THRU: David G. Hoffman
Commissioner

SUBJECT: Proposal To Exempt
Natural Resources
In-Place

FROM:  Michael Worley
State Assessor
Municipal and Regional
Assistance Division

The Director of the Municipal and Regional Assistance Division, Marty Rutherford requested that I prepare a briefing for you regarding issues and questions which might arise when the above subject is discussed at the AML Conference. I believe the municipalities will be supportive of the proposal. I have not heard from one municipal official who is in favor of assessing these resources. The initial reaction to our proposal at the municipal level has been that people who do not understand the facts perceive our proposal to be a denial to local governments of a valuable revenue resource. However, once they do understand the issue, they regard this mandatory taxing arrangement as an untenable requirement under state law which they wish to have removed. If our proposed bill is not introduced by the Governor, I am concerned that their perception will be that the Cowper Administration wants to impose this mandate against the wishes of municipalities. In any event, this proposal is advanced on behalf of municipalities. If they do not want it, we will recommend it be withdrawn.

The issue will probably be discussed at the Policy Section Meeting on taxation and finance on Thursday, the 17th from 9:00 to 11:30 a.m. Among others, Commissioner Hugh Malone, Gary Lewis (Mat-Su Borough Assessor) and I will be on the panel for that meeting.

Attached is a position paper which states briefly the pros and cons of this issue as we see them. Also attached is a copy of our response to concerns and questions posed by State Economist Greg Erickson.

If you have additional questions on this issue, or if we can be further help, please don't hesitate to call on us.

Attachments

November 14, 1988

POSITION PAPER

RE: Proposal to exempt natural resources-in place.

SPONSOR: Rules by Request of the Governor

Effects of the Bill:

This bill would stabilize municipal taxing practices, the State Revenue Sharing Program, and the Education Funding Formula by by statutorily recognizing the current property tax practices of municipalities in the State, and the procedures utilized by the Office of the State Assessor in estimating Full Value Determinations. The assessment practices and procedures currently being used by municipalities and the Office of the State Assessor in regard to in-place natural resource reserves are not consistent with existing state law.

Comments:

Although Alaska law technically requires these in-place natural resource reserves to be included in local tax rolls and in the full value determination for municipalities, they have not been so included because of the technical difficulty and expense of accurately determining the value of such reserves. The treatment of these values has become an issue because of the continuing development, lease or sale of the property conveyed to regional corporations under the Alaska Native Claims Settlement Act (ANCSA). As these ANCSA properties are developed or conveyed to other parties, they enter taxable status. Under ANCSA, the surface and subsurface estates to these properties were conveyed separately to village and regional corporations, respectively. Because municipalities must assess property rights to "the record owner" under AS 29.45.160(b), assessors should value resources separately and assess their value to the proper corporation. Although this issue was triggered by ANCSA, it is not confined to only those properties. The municipal assessor must treat all property in a uniform manner; therefore, the practice of valuing these resources will automatically extend to all properties. Several options have been suggested in responding to these problems. The following is a discussion of these options and our position:

Position Paper
RE: PROPOSAL TO EXEMPT NATURAL RESOURCES IN-PLACE
November 14, 1938
Page Two

Option 1: Do Nothing.

Because of the developments discussed above, doing nothing will not preserve the status quo. It will, in fact, require substantial changes in assessment practices throughout the state, increasing the administrative and fiscal burden on municipalities and the state to determine the values of in-place reserves in municipalities. The addition of these values to municipal tax rolls and full value determinations will have effects at both the local and state level. The values of some resources would be high enough on larger tracts (homesteads, farms, etc.) that the owners would very likely be forced to develop the resources in order to pay property taxes, or face property tax foreclosure. The inclusion of these values in full value determinations will reduce revenue sharing funds to municipalities with additional in-place reserve value and will increase the mandatory local contribution under the education formula to those municipalities. Depending upon the amount of these resource reserves, the fiscal impact to local governments could be substantial.

The positive side to this option is that municipalities would continue to have the capacity to levy against a category of taxable property. In most municipalities, we believe the resource value would not be very high. In some, however, it could be higher than the combined value of all other property located in the jurisdiction.

Option 2: Adopt Legislation Permitting Municipalities to Tax Resources in Place by Local Option.

The advantage to this approach is that the State is not depriving municipalities of new property tax dollars which are currently available to them. At the same time, the requirement for municipalities to tax the resources, whether they want to or not, is removed.

Unfortunately, there are many hidden problems associated with this option. The Full Value Determination includes values for all property which is taxable under state and federal law. Under the local option concept the values of these resources would be required to be included in the Full Value Determination whether municipalities elected to tax them or not. Therefore, we would still have the education funding problem which exists in some resource-rich, revenue-poor municipalities (see attached memo). It has been suggested that perhaps the resource values should be added to full value determinations only if municipalities elected to tax them.

Position Paper

RE: PROPOSAL TO EXEMPT NATURAL RESOURCES IN-PLACE

November 14, 1988

Page Three

This proposal raises a significant policy question in the rationale and equity for allowing such treatment for only this type of optionally exempt property but not for other types such as personal property, motor vehicles, boats, or the first \$10,000 on homes, the value of which is required to be included in their full value determinations whether or not it is taxed. It seems likely that allowing one exception to the rule that optionally exempts property to be included in the full value determination would lead to calls from affected municipal governments for the exclusion of other types of optionally exempt property, based upon the amount of such property within each municipality. If all optionally exempted property values were removed the concept of the full value determination would be dramatically altered in that it would represent only the willingness of municipalities to generate property tax revenues, regardless of their potential to do so. The Department of Education has expressed concern that under the optional exemption concept, local education funding could be dramatically increased or reduced each year through the exercise of the option, thereby causing fiscal instability within school districts.

Option 3: Mandatorily Exempt Resources In-Place from Municipality Levy.

The chief disadvantage of this approach is that municipalities would be unable to tax resources in-place if they desired to do so. Municipalities in Alaska do, however, have the power to levy a severance tax against the extraction or removal of the resources at their option. Therefore, the inability to tax the resources would apply only to those not being developed.

No municipality in Alaska has attempted to assess or even to develop a separate value for resources in-place. Therefore, this option would maintain the status quo in that regard. Similarly, the Office of the State Assessor has never attempted to include a value for these resources in municipal full value determinations. With resources mandatorily exempted under this option, we would no longer be required to do so, thereby maintaining that existing practice as well.

The danger of substantially increasing property taxes on larger tracts of land such as homesteads and farms would be eliminated. With the option of adopting a severance tax, however, municipalities could tax those resources in the event they were developed.

Position Paper

RE: PROPOSAL TO EXEMPT NATURAL RESOURCES IN-PLACE

November 14, 1988

Page Four

In summary, we believe Option 3 provides the most logical way to resolve these problems. It guards against disruption of revenue sharing and education funding activities, and insures the status quo will be maintained in both municipal property taxation and the Full Value Determination.

MEMORANDUM

State of Alaska
Department of Law

TO: Bob Evans, Legislative Liaison
Office of the Governor

DATE: April 26, 1988

FILE NO: 663-88-0410

TEL. NO: 465-3600

SUBJECT: Exemption of "in place"
natural resources

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

You have requested our opinion regarding a draft bill exempting "in place" natural resources from municipal taxation (Our file: 773-88-0061). You have several concerns regarding the effect and necessity of this bill which will be addressed individually below.

1. What is the state's current obligation regarding the assessment of "in place" natural resources in the full-value determination of a borough or municipality?

The standard by which a local assessor must assess property is set out in AS 29.45.110(a), which reads:

The assessor shall assess property at its full and true value as of January 1 of the assessment year, except as provided in this section, AS 29.45.060 and 29.45.230. The full and true value is the estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

Under the above statute, a local assessor must assess all taxable property in accordance with the standard. The determination as to whether "in place" natural resources must be included in the assessment of property and the state's liability for insuring the inclusion of assessment of "in place" natural resources by municipalities is central to your question.

To date, municipalities have not assessed "in place" natural resources. Additionally, the state has not required municipalities to include these resources when determining full and true value of property under AS 29.45.110. There is no case law in Alaska interpreting AS 29.45.110 with respect to assessment requirements of "in place" natural resources nor is there a case

in Alaska holding that it is mandatory for these resources to be included in property assessment. However, it is the opinion of this office that "in place" natural resources may correctly be included in the full value determination of a municipality under AS 29.45.110(a) and that the Alaska Supreme Court would support this opinion.

Looking to other states' court opinions and treatise law, it is generally held that the right to tax is purely of statutory creation, and practically all of the authorities are to the effect that assessors, in valuing property, may take into consideration the fact that property contains undeveloped minerals in such quantity as to enhance the value of the land over its mere surface value. See 2 A.L.R. 1550-1553 and cases cited therein. It has also been held that minerals in place are not rendered nontaxable merely because of lack of legislative method and regulation for determining their value. Greene County v. Lattas Creek Coal Co., 100 N.E. 561 (Ind. 1913); 72 Am.Jur.2d State and Local Taxation § 764.

There is case law supporting the view that assessors are required to value for taxation all real property according to its market value. Under those decisions, value is measured by all the circumstances and advantages that tend to enhance it, of which underlying minerals, if accessible, are most important items, so that they must necessarily be included in the valuation. See, e.g., Logan v. Washington County, 29 Pa. 373, 14 Mor. Min. Rep. 108 (Penn. 1857). Any element of value tending to affect selling price "may" be taken into consideration by the assessor in arriving at a proper valuation for assessment purposes. Washington County v. Marquis, 82 Atl. 756 (Penn. 1912). The decisions of the courts in these two cases appear to have been based upon statutes similar in wording to AS 29.45.110(a).

Of main import, is that none of the authorities we found held for the premise that liability attaches to the state or local taxing entity for failure to include "in place" natural resources in their assessments. The authorities we found were based upon cases where a taxpayer was challenging the authority of the taxing jurisdiction to include the value of "in place" natural resources in the assessment of their property.

Furthermore, we found no cases holding that local or state assessors are required to search out "in place" natural resources in order to include them in the assessment of property. The cases mainly hold that it is correct for assessors to take into consideration all "facts" directly affecting the value. It is our opinion that this general rule concerns facts which affect

the value of the property that are known or prospective; not sought or speculative.

There is authority supporting the view that assessors may take into consideration prospective value of property as well as present value in making assessments and that an added value may be given property for purposes of taxation where there is "sufficient reason" to believe that the property contains mineral deposits in sufficient quantity to give it a value as a prospective mine. However, there is also authority to the effect that not only must property be valued at its present value at the time of the assessment, but that such value cannot be based on a speculative prospective value. See generally 72 Am.Jur.2d State and Local Taxation, §§ 763-764.

In summary, it is our opinion that AS 29.45.110(a) allows for "in place" natural resources to be assessed and included in the full value determination of a municipality. The issue of whether the state is mandated to assess these resources will be included under the next section dealing with any potential state liability for failure to include assessment of "in place" natural resources in the full value determination of a municipality.

2. If "in place" natural resources are not currently exempted from the full value determination, what liability may the state face if the state assessor does not include these in his assessments?

As pointed out above, the state has never required municipalities to assess "in place" natural resources in order to arrive at the full and true value of property in the municipality. The issue is not whether AS 29.45.110(a) can be interpreted to allow for assessment of "in place" natural resources, since we believe that the Alaska Supreme Court would rule that it does. The issue here centers around the state's longstanding application of this statute in not requiring these resources to be assessed and whether the state faces liability for not including "in place" resources in the assessments. In short, we do not believe that the state faces any present liability for failure to require municipalities to assess "in place" natural resources without a specific exemption in the law.

We are assuming that the liability anticipated by your question concerns a situation where one municipality complains that the state should be requiring another municipality to assess its known "in place" natural resources in the full value determination as it affects the distribution of municipal revenue sharing and education funding. However, a municipality's claim

Bob Evans, Legislative Liaison
Office of the Governor
663-88-0410

April 26, 1988
Page #4

of deprivation of due process or equal protection against the state must fail. The Alaska Supreme Court recently ruled that a municipality is not a "person" and therefore may not assert due process or equal protection claims against its creator, the state. Kenai Peninsula Borough v. State, ___ P.2d ___, Op. No. 3277 (Alaska, Mar. 4, 1988).

If the state changes its application of AS 29.45.110-(a), rules of contemporaneous construction generally hold that a reversal in interpretation of a statute by the administering agency will be applied only prospectively. 2A N. Singer, Sutherland Statutory Construction § 49.05, (4th ed. 1984 rev.) (hereafter "Sutherland"). In other words, if the state reverses its interpretation and administration of AS 29.45.100(a) requiring municipalities to assess "in place" natural resources in their determinations of full value, the state's new interpretation most likely will apply only to future years; not retroactively.

We note that there is caselaw in other states supporting the following viewpoint:

the mere failure of public officers charged with the duty to enforce statutory and constitutional provisions in respect to the levy and collection of taxes, or the acquiescence of public officers in conditions that exempted certain property from taxation, should not be permitted to stand in the way of the "correct" administration of the law, or be construed to estop more diligent and efficient public officers when they attempt to perform their duty by bringing in to the revenue proper subjects of taxation that had theretofore been allowed to escape the payment of taxes.

Sutherland § 49.05 (citing Louisville v. Board of Education, 154 S.W. 379, 380-381 (Ky. 1913)).

Based upon the above viewpoint, we believe that the present state assessor has correctly pointed out that "in place" natural resources may be included in municipal assessments, and properly should be included. However, as noted above, it is the opinion of this office that no liability attaches to the state for failure to insist on the assessment of these resources at this time.

3. Is it your opinion that this exemption from municipal resources is necessary?

Bob Evans, Legislative Liaison
Office of the Governor
663-88-0410

April 26, 1988
Page #5

Probably yes, for the main purpose of addressing the issue and clarifying the state's application and interpretation of AS 29.45.110(a). We do not believe any retroactive liability will attach if the state does not immediately provide for this exemption in the law. Additionally, the state may wish to consider whether it wants to make the exemption of "in place" natural resources from municipal taxation mandatory upon the municipalities or whether to allow municipalities the option of providing for the exemption of these resources from taxation.

We hope this addresses your concerns. Please do not hesitate to contact us if you need further assistance on this matter.

MLO/pjg

Introduced by: Alaska Association of
Assessing Officers

Date: November 17, 1988

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE .

RESOLUTION NO. 88 - 2

A RESOLUTION RECOMMENDING TAX EXEMPT STATUS
OF "IN PLACE" RESOURCE RESERVES.

WHEREAS, "current Alaska law requires municipalities which levy a property tax to assess, levy, and collect property taxes on natural resources in place, except oil and gas resources which are mandatorily exempted and

WHEREAS, the Office of the State Assessor is required under current law to include values for those natural resources in place in the Full Value Determination for municipalities across the State and

WHEREAS, currently neither municipalities nor the Office of the State Assessor includes values for those resources on local assessment rolls or in the Full Value Determination, and neither has the staff or fiscal resources to value natural resources in place and

WHEREAS, the inclusion of values for those resources on local property tax rolls or in the Full Value Determination would be likely to have substantial negative tax impacts on farms, ranches, homesteads and other residential property, and substantial negative impacts on municipalities under the State Revenue Sharing and education funding formulas and

WHEREAS, municipalities already have the power to levy severance taxes and sales taxes against those resources at the time they are developed and sold;

NOW, THEREFORE, BE IT RESOLVED THAT THE Alaska Municipal League supports the passage of legislation which would require, under A.S. 29.45.030, the exemption from municipal property taxes of all natural resources in place, together with language which would insure preservation of the power of municipalities to levy severance taxes and sales taxes against the development and sale of those natural resources.

This resolution was passed by the governing body of the


Alaska Association of Assessing Officers on November 15, 1988

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325
FAX 463-5480

217 SECOND STREET, SUITE 200
JUNEAU, ALASKA 99801

TO: Representative Eileen Mclean, Chair
Members of the House Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director 

DATE: March 13, 1989

SUBJECT: Sponsor Substitute for HB 159 - Municipal Property Tax Exemption
for In Place Resources

The Alaska Municipal League supports Sponsor Substitute for HB 159. Recognizing the significance of the issue of municipalities imposing or not imposing a property tax on natural resources in place, the AML membership passed Resolution No. 89 - 21 (attached) at the annual business meeting in November 1988. After further analysis, the AML Board of Directors added the legislative resolution of the concern raised by the Department of Community and Regional Affairs earlier this year to its 1989 legislative priorities outlined in the AML Municipal Platform. SSHB 159 reflects the approach supported by the AML and the AML urges passage by the Legislature.

As outlined in AML Resolution No. 89 - 21, municipalities and the State of Alaska are required by law to include the values of natural resources in place (e.g. minerals, timber etc.) on local assessment rolls and in the full value determination, respectively, for purposes of taxation. Neither does because neither has the staff or fiscal resources to value the resources, and the inclusion of values for those resources would likely have a negative impact on residential property and on municipalities under the state revenue sharing and education funding formulas. Exempting the resources from property tax would recognize the difficulty of taxing natural resources in place and the status quo.

However, given the decline in state aid to municipalities and the increasing demand to provide additional local services with local tax dollars, limiting a potential tax base should be approached with caution. When the issue of taxing in place resources was raised earlier this year, the Department of Community and Regional Affairs stimulated significant discussion and debate around the State, especially among the municipalities and with the Department of Revenue. SSHB 159 calls for a temporary, two-year property tax exemption on natural resources in place to recognize the status quo, and it also calls for a study by the Department of Community and Regional Affairs to compare the potential effects of total exemption, partial exemption, no exemption and optional exemption. In conducting the study, DC&RA will consult with the Department of Revenue and the AML. The approach outlined in SB 159 with a temporary exemption and a study will take care of

AML Testimony on SSHB 159
March 13, 1989
Page 2

the immediate situation and provide for more understanding of the issue, a discussion of alternatives, and the development of a consensus on a long-term or permanent solution.

The July 1, 1991 repeal date in Section 3 would provide adequate time for the study to develop recommended long-term legislative solutions (two years) and for the legislature to act. Assessment roles are determined as of January 1st of each year; therefore, in order for the municipality to add property to the assessment rolls if required by legislation passed in 1991 session and to assess in 1992, the assessors would have to do their work during the summer and fall of 1991 and have the property on the rolls by January 1, 1992. If the 17th Legislature does not act in the First Session to implement the recommendations of the study, it will have to extend the temporary exemption.

Finally, the AML wants to clarify in its testimony that municipalities have the authority under law to place a severance tax on natural resources whether or not natural resources in place are exempt from property tax. This is confirmed in an Alaska Attorney General opinion dated April 29, 1986 to the Commissioner of Community and Regional Affairs.

Again, the AML supports SSHB 159 as a legislative priority of municipalities across the State.

Attachment

Testimony\sb181

Resolution of the Alaska Municipal League

Resolution No. 89-21

**A RESOLUTION RECOMMENDING TAX-EXEMPT STATUS OF
"IN PLACE" RESOURCE RESERVES**

WHEREAS, current Alaska law requires municipalities that levy a property tax to assess, levy, and collect property taxes on natural resources in place, except oil and gas resources, which are mandatorily exempted, and

WHEREAS, the Office of the State Assessor is required under current law to include values for those natural resources in place in the full value determination for municipalities across the State, and

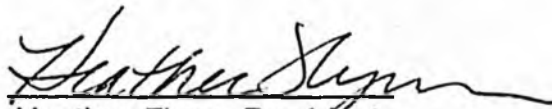
WHEREAS, neither municipalities nor the Office of the State Assessor includes values for those resources on local assessment rolls or in the full value determination, and neither has the staff or fiscal resources to value natural resources in place, and

WHEREAS, the inclusion of values for those resources on local property tax rolls or in the full value determination would be likely to have substantial negative tax impacts on farms, ranches, homesteads, and other residential property, and substantial negative impacts on municipalities under the state revenue sharing and education funding formulas, and


WHEREAS, municipalities already have the power to levy severance taxes and sales taxes against those resources at the time they are developed and sold;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports the passage of legislation that would require, under AS 29.45.030, the exemption from municipal property taxes of all natural resources in place, together with language that would insure preservation of the power of municipalities to levy severance taxes and sales taxes against the development and sale of those natural resources.

Adopted this 18th day of November 1988 in Fairbanks, Alaska.


Heather Flynn, President

ATTEST:


Scott A. Burgess, Executive Director



P.O. BOX 129 BARROW, ALASKA 99723
PHONE (907) 852-8533 OR 852-8633
PANAFAX TELECOPIER (907) 852-5733

February 6, 1989

The Honorable Eileen MacLean
State of Alaska
House of Representatives
Pouch V
Juneau, Alaska 99811

Re: Taxation of In-Place Minerals

Dear Eileen:

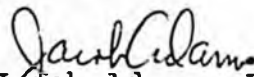
We have reviewed the proposal bill to exempt in-place minerals and natural resources from property taxation. Generally, we would support this provision. Any attempt to tax resources before they are severed would have a negative and deleterious affect on the state and industry. It would not stimulate development to impose such a tax, and it would be extremely difficult to value the resources prior to really knowing what might be produced.

One item that should be added to the list of natural resources is gravel. This is an in place natural resource that does not have significant value unless it can be mined and used. It is also often difficult to realistically determine the value of gravel until the market develops. Amounts in place, quality and costs associated with development are difficult to pre-assess.

Other major natural resources, such as oil and gas, are structured to be taxed on a severance basis, not in place. This approach is appropriate for the natural resources listed in the bill as well. I assume this section would be consistent with AS 43.56, even though it does not reference the oil and gas exemption that already exists; you may wish to have someone check that. Also, the breadth of coverage for all timber as "stumpage" and fish and shell fish "farms" might be considered.

Again, ASRC supports the proposed amendment to AS 29.45.030(a) by adding the exemption for in place natural resources. Further, we would urge the addition of gravel as an example to be clear that is included. If we can provide additional comments, please do not hesitate to contact us.

Sincerely,


Jacob Adams, President
ARCTIC SLOPE REGIONAL CORPORATION

CHAIRMAN OF THE BOARD
Edward E. Hopson, S.

PRESIDENT
Jacob Adams

VICE PRESIDENTS
Oliver Luaviri
Andrew Tooyak, Sr.
Roosevelt Paneak

SECRETARY
Juelle Kelenk

TREASURER
James Stotta

ANCHORAGE OFFICE

313 E STREET, SUITE 5
ANCHORAGE, ALASKA 99501
TELEPHONE: (907) 276-1552
TELECOPIER: (907) 276-4213
TELEX: 090 25168



Matanuska-Susitna Borough

P.O. BOX 1803, PALMER, ALASKA 99645-1608 • PHONE 745-9842

ASSESSMENT DEPARTMENT

March 9, 1989

House Community & Regional
Affairs Committee
P.O. Box BH
Juneau, AK. 99811

Dear Committee Members:

The Matanuska Susitna Borough strongly supports HB159. We are a resource rich borough with very present awareness of the dilemmas regarding resource inventory regarding timber. Let us illustrate what current law requires and why taxation of resources in place should be changed through passage of this bill.

I. Consider your reaction if your assessor came to you and said:

You have 30 trees around your home; that equates to 10 cords of firewood, at \$40.00 a cord. The in place resource value of trees is \$400.00, therefore we are adding \$400.00 to your annual assessment.

Conversely if you cut down trees; the assessor says you have X number of stumps --- therefore your assessment is reduced.

Surprisingly this is a realistic extension of what current Title 29 requires. This is also true of other resources; imagine the case of gravel, gold, coal, peat, etc. Any resource that has potential present or future value, even wild grass which could be harvested for hay.

II. Unexplored resources present a different problem:

For instance, everyone knows coal seams exist in the Susitna River basin but where, how much, or what quality would require extensive drilling and sampling. Whether those seams transverse taxable property in the area is completely unknown or within the Borough's or State's reasonable capacity to identify.

Some exploration has occurred and statements made that the BTU value of those reserves equal BTU value of Prudho Bay Oil. If true, untaxed resource value exceeds total value of the Borough by many times. As the assessor I would be very presumptuous to tax private property based on speculation that someday the highest and best use may be for coal extraction. Accurate exploration information ranks very high on the list of industry secrets as the State found in relation to oil and gas reserves. The State's solution was a severance tax, which is also a better solution for municipalities.

III. Finally, I'll give you the example of Nome:

Alaska Gold Company owns mining claims under subdivisions. What is the value of the gold vs the value of displacing whole subdivisions to obtain it. This illustrates the very complex issue of surface and subsurface estates and decisions required as regards when the highest and best use of one estate supersedes the other. Also, it raises the question of division of property value of the two estates when ownership is divided.

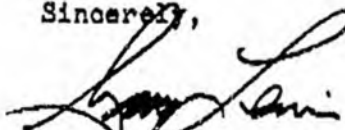
These examples are all preliminary complexities assuming one can determine a value per unit of resource reflecting markets, infrastructure, feasibility and capitalization required. As you can see, it would be prudent for the municipality required to value resources in place to plan on employing foresters, geologists and a bunch of attorneys.

Aside from the almost comical problems of implementing a program of unknown in place resource taxation, the real issue is that of equity of State DCRA Full Value Determination of untaxed or escaped in place resource value. This is the reason this bill is before you. In some cases resource values are known; MSB timber inventory studies, and Wishbone Hill coal reconnaissance, KPB Beluga coal exploration, Juneau gold mines, Nome gold fields, etc., but what resource deposits cannot be estimated nor accurately determined to be escaped property by the State Assessor. And what effect will the addition of some, but not all, resource values have on equitable School Foundation Funding distribution and Revenue Sharing distribution. These are the issues this bill seeks to resolve.

This summarizes the reasons the passage of this bill is supported by unanimous resolution of the Alaska Municipal League, Alaska Association of Assessing Officers and Alaska Association of Municipal Finance Officers.

Please: DO PASS

Sincerely,



Gary A. Lewis
Matanuska-Susitna Borough Assessor
AML Taxation & Finance Comm. Co-Chair

Municipality
of
Anchorage



OFFICE OF THE MAYOR

P.O. BOX 196650
ANCHORAGE, ALASKA 99519-6650
(907) 343-4431

TOM FINK,
MAYOR

March 21, 1989

The Honorable Representative Eileen MacLean
State of Alaska
Pouch V
Juneau, Alaska 99811

Re: House Bill No. 159 - Exemption of Natural Resources in Place

Dear Representative MacLean:

You have asked for the position of the Municipality of Anchorage regarding House Bill No. 159 which exempts from taxation undeveloped natural resources in place.

The Municipality introduced a resolution at the Alaska Municipal League at Fairbanks in November supporting this type of exemption. Although Anchorage is not considered one of the resource rich municipalities in the State, it is our position that failure to provide this exemption could be costly to those which are resource rich. To my knowledge, there is no municipality in the State which assesses and taxes undeveloped resources in place due to the complexity of a system and the expense required to make value determinations.

It is our understanding that if such an exemption is not mandated, the State Assessor's office within Community & Regional Affairs will be forced to make an estimate of the value (at an undetermined cost to the taxpayers of the state) and include that value in the full value determination which his office prepares each year. If that value were included, many municipalities would realize a reduction in revenue sharing and educational assistance.

It is for these reasons that the Municipality of Anchorage supports the passage of House Bill 159.

Sincerely,

Tom Fink
Mayor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

MUNICIPAL & REGIONAL ASSISTANCE DIVISION

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> 949 E. 36th AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 561-8586 | <input type="checkbox"/> P.O. BOX 348
BETHEL, ALASKA 99559-0348
PHONE: (907) 543-3475 | <input type="checkbox"/> P.O. BOX 295
DILLINGHAM, ALASKA 99576-0295
PHONE: (907) 842-5135 | <input type="checkbox"/> 1001 NOBLE ST. SUITE, 430
FAIRBANKS, ALASKA 99701-4948
PHONE: (907) 452-7126 |
| <input type="checkbox"/> P.O. BOX 8H
JUNEAU, ALASKA 99811-2110
PHONE: (907) 465-4750 | <input type="checkbox"/> 710 MILL BAY RD.
KODIAK, ALASKA 99615-6340
PHONE: (907) 486-5736 | <input type="checkbox"/> P.O. BOX 350
KOTZEBUE, ALASKA 99752-0350
PHONE: (907) 442-3696 | <input type="checkbox"/> P.O. BOX 41
NOME, ALASKA 99762-0041
PHONE: (907) 443-5457 |

March 15, 1989

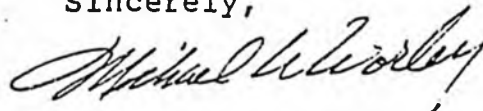
Ken Johnson
Legislative Aide
Representative Sam Cotten's Office
Pouch V
Juneau, AK 99811

Dear Mr. Johnson:

You have asked for the technical position of our office regarding the effects of sponsor substitute for House Bill 159 on the power of the State of Alaska to levy taxes against natural resources in place. The bill clearly states that the temporary tax exemption provided for is from taxation by municipal governments only. The State's authority to levy taxes against these resources is not affected in any way by this legislation.

If you have other questions, or if we can assist you on other matters, please feel free to contact me.

Sincerely,



Michael W. Worley
State Assessor

cc: Representative Eileen MacLean

March 30, 1989

SENATE JOURNAL

p. 978

HB 159

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159 by Representatives MacLean, Cato and Zawacki, entitled:

"An Act relating to an exemption from municipal property taxation for natural resources in place; and providing for an effective date."

was read the first time and referred to the Community and Regional Affairs Committee and the Resources Committee.

April 4, 1989

SENATE JOURNAL

p. 1056

HB 159

Senator Adams, Chair, moved and asked unanimous consent that the Community and Regional Affairs Committee referral be waived on SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159 (An Act relating to an exemption from municipal property taxation for natural resources in place; and providing for an effective date). The Community and Regional Affairs Committee passed SENATE BILL NO. 181 (a similar bill) out of committee, page 642, with a "do pass".

Without objection, SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159 was referred to the Resources Committee.

March 8, 1990

SENATE JOURNAL

p. 2776

HB 159

The Resources Committee considered SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159 (An Act relating to an exemption from municipal property taxation for natural resources in place; and providing for an effective date) and a majority of the committee recommended it be replaced with

SENATE CS FOR SPONSOR SUBSTITUTE FOR HOUSE
BILL NO. 159 (Resources)

and do pass. The report was signed by Senator Fahrenkamp, Chair, and concurred in by Senators Sturgulewski, Eliason, Zharoff and Kerttula.

Zero fiscal note published today from Department of Community and Regional Affairs.

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159 was referred to the Rules Committee.

March 19, 1990

SENATE JOURNAL

p. 2917

HB 159

President Kelly stated SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159 (An Act relating to an exemption from municipal property taxation for natural resources in place; and providing for an effective date) would be re-referred to the Community and Regional Affairs Committee.

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159 was taken from the Rules Committee and re-referred to the Community and Regional Affairs Committee.

April 26, 1990

SENATE JOURNAL

p. 3634

HB 159

The Community and Regional Affairs Committee considered SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159 (An Act relating to an exemption from municipal property taxation for natural resources in place; and providing for an effective date) and recommended it be replaced with

SENATE CS FOR SPONSOR SUBSTITUTE FOR
HOUSE BILL NO. 159 (C&RA)

Senator Szymanski, Chair, signed "no recommendation."
Senators Frank and Adams signed "do pass."

Zero fiscal note published today from Department of Community and Regional Affairs.

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 159 was referred to the Rules Committee.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act..exemptions..municipal
 property taxation.."
 Sponsor: Rep MacLean
 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						
---------	--	--	--	--	--	--

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)

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 3/9/89
 Approved by Commissioner: [Signature] Date: 4/11/89
 Agency: Community & Regional Affairs

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

would continue through 1996. *ny*
 Changes in and salaries)
 have no fiscal impact.
 This fiscal note is appropriate. page 1 of 1

Projections of no fiscal
 impact would continue
 through 1996. *ny*

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act..exemptions..municipal
 ..property taxation.."
 Sponsor: Rep MacLean
 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						
---------	--	--	--	--	--	--

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)

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 3/9/90
 Approved by Commissioner: [Signature] Date: 4/11/89
 Agency: Community & Regional Affairs

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

Changes in SCS 55 HB159 (Res)
 have no fiscal impact.
 This fiscal note is
 appropriate.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act..exemptions..municipal
 property taxation.."
 Sponsor: Rep MacLean
 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						
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)

Jim Plasman

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 3/9/89

Approved by Commissioner: *[Signature]* Date: 3/11/89
 Agency: Community & Regional Affairs

Distribution (by preparer):

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