

SB

191

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 4/13/93

FURTHER: JUDICIARY
FINANCE

Date of 5-Day Notice: 4/20/93
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: _____

CRA Committee considered SB 191

"An Act relating to municipal property tax limitations; and providing for an effective date."

and recommends:

replace with _____ CS _____ ()

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

same title
 new title
 technical
title change
(HB only)

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
MRA	2/22/93	0	

Department	Date	Zero	Fiscal

Appropriate No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

John J. ... No Rec
John J. ... NR
Al ... - no rec

Paul E. ...

Chair: Signature and Recommendation

POSITION PAPER: DEPARTMENT OF EDUCATION

Division School Finance/Data Services Bill Number SB 78

Bill Title An act relating to deadlines for action on funding of public education: and providing for an effective date.

Sponsor Senator Suzanne Little

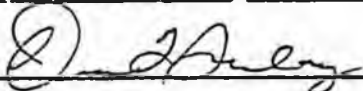
Position Statement: Explain briefly what the bill does, its impacts and Department's position, i.e., a) support, b) do not support, c) neutral or d) oppose.

The Department of Education supports early appropriation of funds in support of K-12 Public School Foundation, Pupil Transportation, Student Lunch, Cigarette Tax, Tuition Students, Boarding Home, Youth in Detention, Schools for the Handicapped and Debt Reimbursement programs. The Department has no objection to the delay from April 1 to April 30 for submittal of the school budget to the borough assembly as amended by section 2 of Senate Bill 78. This delay in submittal to the assembly may reduce the administrative burden associated with the preparation of multiple drafts of operating budgets with unknown revenue amounts.

Early funding does not increase the cost of the programs or change the fiscal impact on the department of administering the programs. Early funding does provide critical financial information to public school districts at a time when districts are making staffing and other educational program decisions for the following school year. Early funding provides an indication of the level of commitment on behalf of the legislature and the administration to support public schools.

APPROVED:

Director Duane Guiley Division School Finance/Data Services

Signature  Date 4/20/93

Commissioner/Deputy Mike Maher

Signature  Date 4/20/93

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: "An Act relating to municipal property tax limitations..." BRU: _____
 Sponsor: Kerttula Component: _____
 Requestor: _____ COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current (FY93) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Ronald Henderson Phone: 465-4708
 Division: Administrative Services Date: 4/22/93
 Approved by Commissioner: [Signature] Date: 4/22/93
 Agency: Community & Regional Affairs

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ROOT = SB0077

BILL = SB 77

BILL ROOT:

SB0077

BILL NUMBER:

SB 77

INTRODUCED:

1/21/87

REFILED:

COMMUNITY & REGIONAL AFFAIRS
AND JUDICIARY

SP = SB

BY JONES

BILL HEADING:

SENATE BILL NO. 77
IN THE LEGISLATURE OF THE STATE OF ALASKA
FIFTEENTH LEGISLATURE - FIRST SESSION
A BILL

TITLE

AN ACT RELATIVE TO CERTAIN MUNICIPAL PROPERTY TAX
PROCEDURES, AND PROVIDING FOR AN EFFECTIVE DATE *

TEXT

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

* SECTION 1. AS 29.45.010 IS AMENDED BY ADDING A NEW SUBSECTION TO
READ:(C) ALL MUNICIPAL BODIES SHALL HAVE PROCEDURES, RESTRICTIONS,
CONDITIONS, FORMULAS, OR OTHER METHODS USED TO ASSESS A PROPERTY TAX
AVAILABLE TO THE PUBLIC ON REQUEST UNDER REASONABLE RULES DURING
REGULAR BUSINESS HOURS.

* SEC 2. AS 29.45.210(B) IS AMENDED TO READ:

(B) THE ASSESSOR [APPELLANTS] BEARS THE BURDEN OF PROOF. THE
ONLY GROUNDS FOR ADJUSTMENT OF ASSESSMENT ARE [PROOF OF] UNEQUAL, EXCES-
SIVE, IMPROPER, OR UNDER VALUATION BASED ON FACTS THAT ARE STATED IN A
VALID WRITTEN APPEAL OR PROVEN AT THE APPEAL HEARING. IF A VALUATION
IS FOUND TO BE TOO LOW, THE BOARD OF EQUALIZATION MAY RAISE THE AS-
SESSMENT.

* SEC. 3. THIS ACT TAKES EFFECT JANUARY 1, 1988.

7587 = END OF DOCUMENT.

A M E N D M E N T

OFFERED IN SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

TO: SB 191

Page 1, line 6:

Insert a new bill section to read:

Sec. 2. AS 29.45.010 is amended by adding new subsection to read:

"(d) All municipal bodies shall make procedures, restrictions, conditions, formulas, or other methods used to assess a property tax available to the public on request under reasonable rules during regular business hours."

Renumber bill sections accordingly.

Page 1, line 13:

Insert a new bill section to read:

Sec.4 AS 29.45.210 (b) is amended to read:

"(b) The Assessor [APPELLANT] bears the burden of proof. The only grounds for adjustment of assessment are [PROOF OF] unequal, excessive, improper, or under valuation based on facts that are stated in a valid written appeal or proven at the appeal hearing. If a valuation is found to be too low, the board of equalization may raise the assessment."

Renumber bill sections accordingly.



Official Business

Alaska State Legislature

Senate

APR 20 1993

Pouch V
State Capitol
Juneau, Alaska 99811

MEMO TO: Sen. Randy Phillips, Chairman, Senate Committee on
Community and Regional Affairs.

FROM: Sen. Jay Kerttula

DATE: April 20, 1993

SUBJECT: Senate Bill 191

As sponsor of Senate Bill 191, I respectfully request that you schedule this bill for a public hearing at your earliest convenience.

The bill will cap property taxes for all Alaskans and, as such, would have a beneficial effect on thousands of state residents, including those on fixed incomes, such as the elderly and the disabled.

Thank you in advance for your timely consideration of this request.

LAW OFFICES OF
CLIFFORD H. SMITH
A PROFESSIONAL CORPORATION
620 DOCK STREET, SUITE 201
KETCHIKAN, ALASKA 99901
(907) 225-9840

CLIFFORD H. SMITH
DENNIS L. McCARTY
RONALD P. HEMBY

Facsimile
(907) 225-6483

April 12, 1993

FAXED

Senator Robin L. Taylor
Attention: Joe Ambrose
State Capitol
Juneau, AK 99801-1182

Dear Senator: ^{Robin}

I have reviewed the proposed language for amending AS 29.45.050. I believe this allows the needed flexibility for local governments to meet and recognize the economic needs of the communities while at the same time protecting our tax base. These amendments allow us the power to encourage reasonable economic development in our communities while at the same time assuring equality in our taxing policies.

I thank you for your rapid response and I strongly encourage adoption of these amendments.

Sincerely yours,

Dennis L. McCarty

Dennis L. McCarty

DLM:jd

Sec. 29.45.010. Property tax. (a) A unified municipality may levy a property tax. A borough may levy

- (1) an areawide property tax for areawide functions;
- (2) a nonareawide property tax for functions limited to the area outside cities;
- (3) a property tax in a service area for functions limited to the service area.

(b) A home rule or first class city may levy a property tax subject to AS 29.45.550 — 29.45.560. A second class city may levy a property tax subject to AS 29.45.590.

(c) If a tax is levied on real property or on personal property, the tax must be assessed, levied, and collected as provided in this chapter. (§ 12 ch 74 SLA 1985)

NOTES TO DECISIONS

Imposition of higher property tax mill rate on oil and gas invalid. — City's imposition of a higher property tax mill rate on oil and gas property than on other property in the city, for the purpose of paying the cost of providing oil spill prevention and response services, was invalid, because the tax violated AS 43.56.010(b), which specifically prohibits a municipal tax rate higher than that which applies to "other property taxable by the municipality." *City of Valdez v. State, Dep't of Community & Regional Affairs*, 793 P.2d 532 (Alaska 1990).

Collateral references. — 71 Am. Jur. 2d, *State and Local Taxation*, § 201 et seq.; 72 Am. Jur. 2d, *State and Local Taxation*, §§ 759-772. 64 C.J.S., *Municipal Corporations*, § 1978 et seq.; 84 C.J.S., *Taxation*, § 57 et seq.

Sec. 29.45.020. Taxpayer notice. (a) If a municipality levies and collects property taxes, the governing body shall provide the following notice:

"NOTICE TO TAXPAYER

For the current fiscal year the (city)(borough) has been allocated the following amount of state aid for school and municipal purposes under the applicable financial assistance Acts:

PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE (AS 14.17)	\$
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT (AS 14.11.100)	\$
MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE (AS 29.60.010 — 29.60.080)	\$
STATE AID FOR MISCELLANEOUS MUNICIPAL SERVICES (AS 29.60.100 — 29.60.180)	\$
TOTAL AID	\$

NOTES TO DECISIONS

Applied in Kenai Peninsula Borough v. Cook Inlet Region, Inc., 807 P.2d 487 (Alaska 1991).

Sec. 29.45.200. Board of equalization. (a) The governing body sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor, or it may delegate this authority to one or more boards appointed by it. An appointed board may be composed of not less than three persons, who shall be members of the governing body; municipal residents, or a combination of members of the governing body and residents. The governing body shall by ordinance establish the qualifications for membership.

(b) The board of equalization is governed in its proceedings by rules adopted by ordinance that are consistent with general rules of administrative procedure. The board may alter an assessment of a lot only pursuant to an appeal filed as to the particular lot.

(c) Notwithstanding other provisions in this section, a determination of the assessor as to whether property is taxable under law may be appealed directly to the superior court. (§ 12 ch 74 SLA 1985)

Opinions of attorney general. — acts as an administrative, not a legislative, body. 1965 Op. Att'y Gen. No. 7, decided under former, similar law.
When the borough assembly functions as a board of equalization or adjustment, it

NOTES TO DECISIONS

Board of equalization is administrative agency within meaning of Appellate Rule 45. — See Winegardner v. Greater Anchorage Area Borough, 534 P.2d 541 (Alaska 1975), decided under former, similar law.

Applied in Kenai Peninsula Borough v. Cook Inlet Region, Inc., 807 P.2d 487 (Alaska 1991).

Sec. 29.45.210. Hearing. (a) If an appellant fails to appear, the board of equalization may proceed with the hearing in the absence of the appellant.

(b) The appellant bears the burden of proof. The only grounds for adjustment of assessment are proof of unequal, excessive, improper, or under valuation based on facts that are stated in a valid written appeal or proven at the appeal hearing. If a valuation is found to be too low, the board of equalization may raise the assessment.

(c) The board of equalization shall certify its actions to the assessor within seven days. Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1.

(d) An appellant or the assessor may appeal a determination of the board of equalization to the superior court as provided by rules of court applicable to appeals from the decisions of administrative agen-

cies. Appeals are heard on the record established at the hearing before the board of equalization. (§ 12 ch 74 SLA 1985)

NOTES TO DECISIONS

Authority of supreme court. — The supreme court may substitute its judgment for that of the board of equalization and that of the superior court in determining the legal question of taxpayer's interest. *Ben Lomond, Inc. v. Fairbanks N. Star Borough Bd. of Equalization*, 760 P.2d 508 (Alaska 1988).

Sec. 29.45.220. Supplementary assessment rolls. The assessor shall include property omitted from the assessment roll on a supplementary roll, using the procedures set out in this chapter for the original roll. (§ 12 ch 74 SLA 1985)

NOTES TO DECISIONS

Erroneous omissions from assessment roll do not invalidate all taxes. — The omission of property from an assessment roll, through error of judgment or of law, will not invalidate all taxes, thus practically putting an end to the operations of government. *Valentine v. City of Juneau*, 36 F.2d 904 (9th Cir. 1929), decided under former, similar law.

Statutory language requiring adherence to "procedures . . . for the original roll" addresses manner in which borough must apprise taxpayer of his tax lia-

bility and procedures for review of assessment rather than time as of which a supplemental assessment roll must be prepared. *Alascom, Inc. v. North Slope Borough*, 659 P.2d 1175 (Alaska 1983), decided under former, similar law.

Escaped property. — A municipality could assess a warehouse addition as escaped property even though it assessed and taxed other improvements on the land for the four tax years in question. *Municipality of Anchorage v. Alaska Distributions Co.*, 725 P.2d 692 (Alaska 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 proce-

CS FOR SENATE BILL NO. 191()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): SENATORS KERTTULA, Halford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to certain municipal property tax procedures, to municipal
 2 property tax limitations, and to optional exemptions from municipal property
 3 taxes; and providing for an effective date."

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

5 * Section 1. AS 29.10.200(41) is amended to read:

6 (41) AS 29.45.010 - 29.45.570, except AS 29.45.090(e) (property taxes)

7 * Sec. 2. AS 29.45.010 is amended by adding a new subsection to read:

8 (d) All municipal bodies shall make procedures, restrictions, conditions,
 9 formulas, or other methods used to assess a property tax available to a member of the
 10 public on request under reasonable rules during regular business hours.

11 * Sec. 3. AS 29.45.050(b) is amended to read:

12 (b) A municipality may by ordinance

13 (1) classify boats and vessels for the purposes of taxation and may
 14 establish the assessed valuation of boats and vessels on the basis of their registered or

1 certificated net tonnage;

2 (2) classify and exempt from taxation

3 (A) the property of an organization not organized for business
4 or profit-making purposes and used exclusively for community purposes if the
5 income derived from rental of that property does not exceed the actual cost to
6 the owner of the use by the renter;

7 (B) historic sites, buildings, and monuments;

8 (C) land of a nonprofit organization used for agricultural
9 purposes if rights to subdivide the land are conveyed to the state and the
10 conveyance includes a covenant restricting use of the land to agricultural
11 purposes only; rights conveyed to the state under this subparagraph may be
12 conveyed by the state only in accordance with AS 38.05.069(c);

13 (3) exempt personal property from taxation;

14 (4) exempt business inventories from taxation;

15 (5) classify as to type and exempt or partially exempt any or all types
16 of motor vehicles from taxation;

17 (6) exempt or partially exempt from taxation mobile home parks
18 and recreational vehicle parks;

19 (7) exempt or partially exempt from taxation parking lots;

20 (8) exempt or partially exempt from taxation real property used for
21 greenbelts;

22 (9) exempt or partially exempt from taxation for a period not to
23 exceed three years that portion of the increase in assessed value of real property
24 attributable to an improvement made to a historical building.

25 * Sec. 4. AS 29.45.090 is amended by adding a new subsection to read:

26 (e) In addition to the limitations under AS 29.45.080 and (a) - (d) of this
27 section, a general law municipality may by ordinance, adopted by the governing body
28 or through the initiative process, impose limitations on the amount of property taxes
29 that may be levied by the municipality. Notwithstanding AS 29.26.190(a), a tax limit
30 ordinance adopted by an initiative may only be repealed by a referendum. A
31 referendum repealing a tax limit ordinance may be adopted at any time.

1 * Sec. 5. AS 29.45.210(b) is amended to read:

2 (b) The assessor [APPELLANT] bears the burden of proof. The only grounds
3 for adjustment of assessment are [PROOF OF] unequal, excessive, improper, or under
4 valuation [BASED ON FACTS THAT ARE STATED IN A VALID WRITTEN
5 APPEAL OR PROVEN AT THE APPEAL HEARING]. If a valuation is found to be
6 too low, the board of equalization may raise the assessment.

7 * Sec. 6. AS 29.45.800 is amended to read:

8 Sec. 29.45.800. APPLICABILITY OF PROPERTY TAX PROVISIONS
9 [AS 29.45.010 - 29.45.560]. AS 29.45.010 - 29.45.560, except AS 29.45.090(e), apply
10 to home rule and general law municipalities. AS 29.45.090(e) applies to general law
11 municipalities.

12 * Sec. 7. This Act takes effect January 1, 1994.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 21, 1993

SUBJECT: Municipal property tax limitations (SB 191)

APR 21 1993

TO: Senator Jay Kerttula

FROM: Tamara Brandt Cook
Director *TBC*

Here is the sectional summary you requested of SB 191.

Sec. 1. Provides that AS 29.45.090(e), added in sec. 2 of the bill, does not apply as a home rule limitation.

Sec. 2. Permits a general law municipality to impose limitations on the amount of property taxes that may be levied. The ordinance may be adopted by the governing body or through the initiative process. If the ordinance is adopted through the initiative process, it may be repealed only by referendum--that is, the governing body may not adopt an ordinance repealing the tax limit. Bear in mind that under AS 29.45.100, any tax limit imposed under the authority of this new subsection will not apply to taxes levied to pay the principal and interest on bonds.

Sec. 3. The general statute on applicability of tax statutes is modified to take into account the fact that the new tax limitation provisions applies to general law municipalities and not to home rule municipalities.

Sec. 2. The effective date is tied to the beginning of the new calendar year.

TBC:pl
93-319.plm