SB

110

HEIN
FILE

GARY WILKEN
SENATOR
Districts 29 & 30
West Fairbanks

Senate Standing Committees
Member: Finance
Member: Health, Education, & Social Services (HESS)
Member: Legislative Budget & Audit
Member: State Affairs

Alaska State Legislature
Senate

During Session
State Capitol Building
Juneau, Alaska 99801-1182
Tel: (907) 451-5501 (in Fbks area)
Tel: (907) 465-3709 (outside Fbks)
Fax: (907) 465-4714
Website: www.garywilken.com
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Interim
1851 Fox Ave
Fairbanks, Alaska 99701
Tel: (907) 451-5501
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House CS for CSSB 110 (JUD)
"An Act relating to liability for the release of hazardous substances involving certain property acquired by a governmental entity; relating to making a determination as to when hazardous substance has occurred; relating to liability of a party other than the party responsible for the initial release of a hazardous substance; and providing for an effective date."

Sponsor Statement

This bill will assist municipalities in performing their statutory duty to enforce liens for delinquent real property taxes. Tax foreclosure is a mandatory process leading to the taking of a tax deed that places the title to a tax delinquent property in the municipality's name. Some properties with delinquent taxes are contaminated. Municipalities are concerned that they may be held liable for pre-existing contamination of foreclosed land with significant environmental remediation costs.

The federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) exempts by definition state and local governments who acquire property through "bankruptcy, foreclosure, tax delinquency, abandonment, or similar means." However, the state law which addresses liability for damage caused by the release of hazardous substances, AS 46.03.822, does not precisely mirror the federal law. SB 110 will amend AS 46.03.822 to ensure that federal and state laws are similar in this respect. The municipality may therefore have title to the contaminated property without involuntary exposure to cleanup.

Changes in the Senate also recognized the need to extend this courtesy to innocent third parties, which are not directly responsible for contaminating the property they have acquired. Subsection (m) clarifies state law to say that a person who acquires a facility without knowledge of prior existing contamination is not liable under AS 46.03.822 so long as they follow due diligence steps to begin operations to contain and clean up the hazardous substance.

ALASKA MUNICIPAL LEAGUE

217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907)586-1325, Fax (907)-463-5480

April 9, 1999

Senator Gary Wilken
State Capitol, Room 510
Juneau, Alaska 99801

Re: SB 110

Dear Senator Wilken:

The Alaska Municipal League supports passage of SB 110, "An act relating to liability involving certain property acquired by a governmental entity; and providing for an effective date."

This bill expands the technical definition of land acquired by a governmental entity to include land acquired by **"bankruptcy, foreclosure, tax delinquency, and abandonment"**. It is consistent with Alaska Municipal League Policy Statement "Utilities and Environment" Section D.2. "Liability for Releases of Hazardous Substances".

While this is in large part a housekeeping bill to expand a definition to similar circumstances, it will be of significant protection to municipalities and taxpayers. Thank you for the opportunity to comment.

Sincerely,

Kevin Ritchie
Executive Director

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: May 14, 1999 FURTHER REFERRALS:

Date of Committee Action: 5/14/99

The FINANCE Committee considered: CSSB 110(RLS) am

CS FOR SENATE BILL NO. 110(RLS) am HAZARDOUS SUBST. RELEASE: GOVT ENTITY

"An Act relating to liability for the release of hazardous substances involving certain property acquired by a governmental entity; relating to making a determination as to when a hazardous substance release has occurred; relating to liability of a party other than the party responsible for the initial release of a hazardous substance; and providing for an effective date."

recommends it be replaced with the following committee substitute HCS CSSB 110(JUD) [X] the same title [ ] a new title

[ ] additional referral to _____ Committee
[ ] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

[ ] fiscal note(s) _____

[X] zero fiscal note(s) DEC

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) _____

[X] Senate zero fiscal note(s) DOT, 4/29/99

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
Therriault	X			
Bunde			✓	
Kohring	X			
Austerman	X			
Davies	X			
Moses	X			
Davis	X			
Williams	X			
	X			
Grussendorf			X	

CHAIR'S SIGNATURE Therriault _____

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HCS CSSB 110 (JUD)

Revision Date/Time (Note if correction) _____
Dept. Affected Environmental Conservation
Title "An Act relating to liability involving certain property acquired by a govemmental entity. . . "
BRU Spill Prevention and Response
Component Contaminated Sites Remediation
Sponsor Senator Wilken
Program
Requester House Judiciary Committee
Component Serial No. 1431

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)						
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS						
Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

SB 110 is a clarification of existing statutes and does not have a fiscal impact on the state.

Prepared by Larry Dietrick
Phone 465-5250
Division Spill Prevention and Response
Date/Time 5/12/99 2:00 PM
Approved by Commissioner Michele Brown
Date 5/12/99
Agency Department of Environmental Conservation

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FISCAL NOTE No. 1

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: SB 110
(S) Publish Date: 4-29-99

Revision Date/Time (Note if correction) _____
Dept. Affected DOT&PF
Title Property Acquired by Govt. Entity
BRU Commissioners Office
Component _____
Sponsor Senator Wilken
Requester (S) JUD
Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by Dennis Poshard, Legislative Liaison
Phone 465-3904
Division Office of the Commissioner
Date/Time 4/12/99 12:27 PM
Approved by Commissioner Joseph L. Perkins
Date _____
Agency Department of Transportation and Public Facilities

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Fairbanks North Star Borough
809 Pioneer Road P.O. Box 71267 Fairbanks, Alaska 99707-1267 907/459-1000

February 24, 1999

Senator Gary Wilken
State Capitol
Juneau, Alaska 99801

Dear Senator ~~Wilken~~ Gary:

The Fairbanks North Star Borough appreciates your consideration of legislation amending AS 46.03.822 to extend liability protection to the Borough in its tax foreclosure process. Without this legislation we are concerned that we may be held liable for pre-existing contamination on foreclosed land with significant environmental remediation costs.

Payment of taxes is the obligation of every property owner, regardless of the condition of their property. If one group of property owners avoids the payment of taxes because of the condition of their property, and no action is taken to collect the taxes due, that "shortfall" is placed on the shoulders of the other taxpayers.

In the Fairbanks North Star Borough, there are fourteen properties with delinquent taxes that may be contaminated, with a total assessed value of almost $1.5 million dollars. Their taxes, penalties and interest due total $503,688.67. Up until this past year, three of these properties contained active, ongoing commercial businesses. Avoidance of their property taxes appeared to give them an unfair competitive edge over their competitors. The borough has been concerned about taking these properties through tax foreclosure because of the risk of liability for any existing contamination. With the additional protection that this bill will provide, the borough will be able to complete the foreclosure process.

Passage of this legislation will allow us to enforce our tax collection obligations uniformly throughout the borough.

Thank you for your support.

Sincerely,

Hank Hove, Mayor

KENAI PENINSULA BOROUGH

144 N. BINKLEY SOLDOTNA, ALASKA 99669-7599
BUSINESS (907) 262-4441 FAX (907)262-1892

MIKE NAVARRE
MAYOR

May 6, 1999

Senator Gary Wilkens
FAX 465-4714

Re: CSSB 110 (RLS)

Dear Senator Wilkens:

The Kenai Peninsula Borough supports the Rules version of SB 110. This bill would save municipalities and taxpayers from incurring significant expenses and losing revenues associated with contaminated properties subject to tax foreclosure. It also would allow us to equally administer the statutory taxing authority among all our citizens.

Sincerely,

Mike Navarre

Mike Navarre
Mayor

MUNICIPALITY OF ANCHORAGE

MEMORANDUM

Real Estate Services

DATE: May 7, 1999

TO: Senator Wilkens

FROM: Gladys Wilson, Manager, Real Estate Services

RE: SB 110: AN ACT RELATING TO LIABILITY INVOLVING CERTAIN PROPERTY ACQUIRED BY A GOVERNMENTAL ENTITY AND PROVIDING FOR AN EFFECTIVE DATE.

We support this legislation.