

SB

63

ALASKA STATE LEGISLATURE



SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Senator Tom Wagoner, Chair

Official Business

Senator Robin Taylor, Vice-Chair
Senator Kim Elton
Senator Georgianna Lincoln
Senator Gary Stevens

State Capitol, Room 427
Juneau, AK 99801-1182
Phone: (907) 465-4989
Fax: (907) 465-4779

DATE: April 29, 2003

FROM: Mary Jackson, Staff
Senate Community and Regional Affairs Committee

RE: Amendment to CS for SB 63 – Version \H

Page 1, Line 1:

Provides for transition for mergers, etc., as requested by the LBC.

Page 1, Line 6:

Amends current statute on reclassification to provide for transition.

Page 2, Line 1:

Amends current statute on incorporation to provide for transition.

Page 2, Line 12:

Corrects numbering by deleting "1" and inserting "3".

Page 2, Line 16;

Inserts a new section to current statutes (Local Boundary Commission) on transitions requirements by the LBC.

Page 2, Line 23

Corrects numbering.

Page 2, Line 25:

Inserts language service provisions by the municipality to annexed areas.

Page 2, Line 30:

Inserts new subsection to AS 29.06.160 (Transition) clarify role of LBC.

Page 3, Line 5:

Amends existing language in AS 29.06.500(a) (Dissolution Decision) by specifying that the LBC can impose transition provisions.

AMENDMENT

#1
Adopted

OFFERED IN THE SENATE

TO: CSSB 63(), Draft Version "H"

1 Page 1, line 1, after "relating to":

2 Insert "transition provisions related to municipal mergers, consolidations,
3 dissolutions, reclassifications, annexations, detachments, and incorporations; and
4 relating to"

5

6 Page 1, following line 3:

7 Insert new bill sections to read:

8 **"* Section. 1.** AS 29.04.040(a) is amended to read:

9 (a) A second class city may be reclassified as a first class city. A first class or
10 home rule city may be reclassified as a second class city. Reclassification is proposed
11 by filing a petition with the department. The department shall investigate the proposal
12 and report its findings to the Local Boundary Commission with its recommendations.
13 The commission shall hold at least one public hearing in the city on the proposal. The
14 commission may amend the petition, [AND] may impose conditions on the
15 reclassification, and may impose any transition requirements that the commission
16 determines to be useful or necessary to accomplish the reclassification. If the
17 commission determines that the reclassification, as amended or conditioned if
18 appropriate, meets applicable standards under the state constitution and commission
19 regulations, meets the standards for incorporation under AS 29.05.011 for the class of
20 city proposed in the reclassification petition, and is in the best interests of the state, it
21 may accept the petition. Otherwise, it shall reject the petition. The commission shall
22 notify the city of its decision. The decision may be appealed under AS 44.62
23 (Administrative Procedure Act).

1 * Sec. 2. AS 29.05.100(a) is amended to read:

2 (a) The Local Boundary Commission may amend the petition, [AND] may
 3 impose conditions on the incorporation, and, in addition to those under
 4 AS 29.05.140, may impose any transition requirements that the commission
 5 determines to be useful or necessary to accomplish the incorporation. If the
 6 commission determines that the incorporation, as amended or conditioned if
 7 appropriate, meets applicable standards under the state constitution and commission
 8 regulations, meets the standards for incorporation under AS 29.05.011 or 29.05.031,
 9 and is in the best interests of the state, it may accept the petition. Otherwise it shall
 10 reject the petition."
 11

12 Page 1, line 4:

13 Delete "Section 1"

14 Insert "Sec. 3"

15

16 Page 1, following line 7:

17 Insert a new bill section to read:

18 "* Sec. 4. AS 29.06.040 is amended by adding a new subsection to read:

19 (e) Subject to AS 29.06.055, the Local Boundary Commission may impose
 20 any transition requirements that the commission determines to be useful or necessary
 21 to accomplish a boundary change."
 22

23 Renumber the following bill section accordingly.

24

25 Page 1, line 12, following "effect.":

26 Insert "However, notwithstanding other provisions of law, the municipality may
 27 provide services in the annexed area that are funded wholly or partially with property taxes
 28 during the period before the municipality may levy property taxes in the annexed area."
 29

30 Page 2, following line 2:

31 Insert new bill sections to read:

1 ** Sec. 6. AS 29.06.160 is amended by adding a new subsection to read:

2 (b) Subject to (a) of this section, the Local Boundary Commission may impose
3 any transition requirements that the commission determines to be useful or necessary
4 to accomplish the merger or consolidation.

5 * Sec. 7. AS 29.06.500(a) is amended to read:

6 (a) The Local Boundary Commission may amend the petition, [AND] may
7 impose conditions for the dissolution, and may impose any transition provisions
8 that the commission determines to be useful or necessary to accomplish the
9 dissolution. If the commission determines that the dissolution, as amended or
10 conditioned if appropriate, meets applicable standards under the state constitution and
11 commission regulations, meets the standards for dissolution under AS 29.06.470, and
12 is in the best interest of the state, it may accept the petition. Otherwise it shall reject
13 the petition."

ALASKA STATE LEGISLATURE



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State Capitol, Room 427
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Phone: (907) 465-4989
Fax: (907) 465-4779

RE: Explain of STA CS for SB 63

1. Title Change to include (per LBC request)
 - a. New language for transition provisions for
 - i. Mergers, consolidations, dissolutions, reclassifications, annexations, detachments, and incorporations
 - b. New language for property tax time frames extended to
 - i. Detached and newly incorporated areas.
2. Added new subsection to extend time restrictions to newly incorporated and detached areas (per LBC request).
3. Added language regarding "transition" authority of LBC for mergers, consolidations, dissolutions, reclassifications, annexations, detachments, and incorporations (per LBC request).
4. Deleted the immediate effective date section – request of sponsor.

SENATE COMMITTEE REPORT

DATE: 2/28/03

FURTHER:

DATE TURNED IN TO OFFICE: 4/30/03

State Affairs Committee considered SENATE BILL NO. 63

SB 63 MUNICIPAL ANNEXATIONS AND DETACHMENTS

"An Act relating to municipal property taxation in annexed and detached areas; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB63 (STA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
<u>DCED</u>	<u>2/25/03</u>		<input checked="" type="checkbox"/>	<u>1</u>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<u>John A. Casper</u>	<input checked="" type="checkbox"/>			
<u>Richard D. Jones</u>			<input checked="" type="checkbox"/>	
CHAIR: <u>[Signature]</u>	<input checked="" type="checkbox"/>			

ALASKA STATE LEGISLATURE



Official Business


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State Capitol, Room 427
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DATE: April 23, 2003

FROM: Mary Jackson, Staff 
Senate Community and Regional Affairs Committee

RE: CS for SB 63 – Version \H

Section 1: This is a new subsection – added at the request of the Local Boundary commission. It extends the same time restrictions for annexed areas in the current bill to newly incorporated areas.

Section 2: This is the same language as in the original bill.

Other: This CS deletes the immediate effective date section in the original bill.

Please note, the Local Boundary Commission also asked for “intent” language. Legal is currently working on that, as a permanent statute, and will present it in the form of an amendment to the CS.

23-LS0489\H
Cook
4/23/03

CS FOR SENATE BILL NO. 63()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal property taxation in annexed, detached, and newly
2 incorporated areas."

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

4 * Section 1. AS 29.05.140 is amended by adding a new subsection to read:

5 (f) Unless the incorporation takes effect on January 1, the newly incorporated
6 municipality may not levy property taxes before January 1 of the year immediately
7 following the year in which the incorporation takes effect.

8 * Sec. 2. AS 29.06 is amended by adding a new section to read:

9 Sec. 29.06.055. Property taxes in annexed or detached areas. (a) Unless
10 the annexation takes effect on January 1, the annexing municipality may not levy
11 property taxes in an annexed area before January 1 of the year immediately following
12 the year in which the annexation takes effect.

13 (b) If an area is detached from a municipality, all property taxes that are levied
14 by that municipality on property in the detached area based on an assessment that

1 occurred before the effective date of the detachment remain valid. AS 29.45.290 -
2 29.45.500 apply to the enforcement of those taxes.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 63
(S) Publish Date: 2/28/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Municipal Annexations and Detachments BRU Community Assist & Econ. Dev. (405)
Component Community & Business Development
Sponsor Senate Community & Regional Affairs
Requester Senate Community & Regional Affairs Component No. 2486

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation has no fiscal impacts to this division.

Prepared by: Gene Kane, Acting Director
Division: Community & Business Development
Approved by: Edgar Blatchford, Commissioner
Agency: Department of Community & Economic Development

Phone 907-269-4578
Date/Time 2/25/03 4:57 PM
Date 2/25/2003

ALASKA STATE LEGISLATURE

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Fax: (907) 465-4779

White Paper on SB 63

April 5, 2003

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Sponsor Statement

SB 63 - MUNICIPAL ANNEXATIONS AND DETACHMENTS

This bill proposes new statutory language to clarify when a municipality may tax an area that was annexed. It also clarifies the question of property taxes in a detached area.

Currently, there is uncertainty with regard to the authority of municipal governments to levy property taxes in newly annexed territory. The Local Boundary Commission has recommended clarification of this for several years.

The issue was raised as an item of concern during the legislative hearings on the City of Homer's Annexation, discussed in 2002 during the 22nd Legislative Session. The annexation was effective in March, but the question of when a tax levy would be applied was uncertain.

If adopted, the bill provides that a tax may not be assessed or levied before January 1 of the year immediately following the annexation. An exception would be if the annexation were effective on January 1.

For detached areas, the bill clarifies that taxes levied on property prior to the date of the detachment remain valid.

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Sectional Analysis

SB 63 - MUNICIPAL ANNEXATIONS AND DETACHMENTS

Section 1: This is a new section to Title 29, specifying that annexed property may not be assessed or property taxes collected before January 1 of the year immediately following the year in which the annexation takes effect.

The exception is in the event that the annexation takes effect on January 1.

Section 2: Provides for an immediate effective date for the legislation.

BACKGROUND INFORMATION TO SB 63

As a background to discussion of SB 63, the minutes of the Joint meeting of Senate & House Community and Regional Affairs Committee of Feb 7, 2002 should be reviewed. The Local Boundary Commission (LBC) presented their 2002 Annual Report to the Legislature at that meeting.

The presentation included the following – verbatim from the minutes of that meeting.

(Continuation of Chair Kevin Waring's presentation.)

Ambiguities in State law

At present, state statutes are unclear about municipal authority to levy property taxes during the period immediately following incorporation, boundary changes, dissolutions or reclassification. Specifically, the pertinent sections of the statutes do not clearly authorize or prohibit municipal governments that incorporate or change boundaries after January 1, but come into being during that calendar year, to assess, levy and collect taxes. The commission believes it would be beneficial to local governments to make the ground rules clear. Those issues are fully addressed on pages 28 and 29 of the annual report and they offer some draft legislation that was developed with the state assessor and some municipal assessors that would resolve this uncertainty

REPRESENTATIVE SCALZI asked what prompted the concern regarding levying property taxes after January 1.

DAN BOCKHURST said Homer provides an example. If approved, the annexation for the City of Homer, it will occur on March 9. There are some who assert that if property assessment value is fixed as of January 1 of each calendar year then that date also establishes a date by which a municipal entity has power to levy property taxes. If the area isn't in the corporate boundaries of the City of Homer on January 1 2002, then the question arises as to whether the City of Homer has the authority to levy property taxes for the period of time between March 9 and the end of the calendar or fiscal year. There is an Attorney General opinion that municipal governments have a duty to levy taxes on property that is annexed after January 1 but in time for the municipal government to place that property on the tax role. In many cases there is dispute and confusion among city and borough governments on this question and some insist that the territory must be within the jurisdiction on January 1 in order for it to be taxable for that period of time. The commission's proposal would provide a mechanism to resolve that ambiguity.

AMBIGUITIES IN STATE LAW (-continued)

MR. WARING added it is easy to see what a fair outcome would be; that whichever government is providing services at the time should be entitled to a comparable share of the revenues. That outcome can be achieved with clarification in the statutes. The alternative is inevitably some litigation of the issue. Statutory clarification is a better resolution.

CO-CHAIRMAN TORGERSON commented he thought the commission already has broad based authority to accomplish this in their order for annexation or detachment. There may be a 45 day legislative review process but that is when the order becomes effective, not the effective date of stipulations that the commission may add to annexation. He said he's not sure they need legislation. Rather, "you just need to step out and do it."

MR. WARING said the legislation statutorily states that the commission has that discretionary authority to place conditions on boundary changes. He agreed they do have broad authority, but they are generally conservative about venturing beyond what they see in statute and regulation. They would feel more comfortable with a statutory statement that the Legislature agrees this is something they should do.

ALLEN TESCHE, LBC representative from the Third Judicial District, said his view of state statutes governing taxation is that they are specific and clear as to the process that should be followed. He too agrees that they would prefer having clear guidance from the Legislature on that issue rather than simply taking a position and waiting to see what the courts decide. Personally, he would rather see the issue addressed as a policy matter at the legislative level.

CO-CHAIRMAN TORGERSON said he disagreed but the question is whether they have the authority to put in the order when taxes would start being collected and when they wouldn't. The LBC isn't arguing whether they have the authority, they just choose not to exercise the authority.

MR. TESCHE said they question whether they have the authority in the first place and that is where the problem starts. He's not comfortable with the proposition that they have the authority.

The Commission again addressed the issue in the 2003 Annual Report. On page 84 of that report, under the section entitled "Ambiguities in State Law Concerning Municipal Property Taxation in Newly Annexed or Detached Areas" conditionally supported draft legislation presented by then Rep. Drew Scalzi. (SB 63 is based on that draft and comments related to LBC stipulations on the draft presented elsewhere.)

Clearly then, the Commission is uncertain with regard to it's authority in this matter.

Public Policy Issues

For the purposes of the Senate Community and Regional Affairs Committee, the issue must be reviewed not only from the premise of what is or is not appropriate functions or duties of the LBC, but also in terms of public policy issues.

The public policy questions regarding this include the following.

1. Annexations/Detachments that involve other taxing jurisdictions.

Using the Homer annexation as an example, an existing road service area was affected.

A service area develops an annual budget based on properties within their tax base. That budget necessarily includes operations affecting the entire service area, not just the properties that are eventually detached. The budget does not specify items like labor costs or equipment costs on a neighborhood or region basis; rather it is for the entire area.

Detaching property from a service area affects the budget because it changes the annual revenues that are anticipated by the service area. Predictability in revenue sources is a critical issue in determining annual budgets for service areas.

2. Annexations that do not involve other taxing jurisdictions.

Annexation of properties that are not involved with a taxing jurisdiction do not have the impacts that are associated with properties that do have a taxing jurisdiction.

For example, City X is authorized to annex areas immediately adjoining it, but City X is located in the unorganized area. The adjoining property involved is not currently being assessed for governmental services by another taxing jurisdiction and thus, there is no conflict with the budgets or services as a result.

3. Taxpayer expectations.

Taxpayers expect property assessments and tax bills in an orderly manner. Like governments, most people budget annually and an immediate increase in their property taxes would be unexpected and potentially pose a hardship.

Identifying a specific date for changes in mill rates establishes a taxing certainty for the affected taxpayer when their property taxes are changed as a result of an annexation or detachment.

This expectation is essentially universal – it would be of import to a property owner that is currently paying a mill rate in a service area as well as a property owner that would begin to pay a mill rate as a result of annexation.

LBC Stipulations on SB 63

As was noted earlier, the 2003 Report to the Legislature included stipulations on the work draft that was provided them for review. (Note that SB 63 is based on the work draft and does not include the stipulations suggested by the LBC.)

The first stipulation was that the draft be modified to address municipal incorporations in a like manner. The second stipulation was that "it be understood that the legislation does not reduce the ability of petitions and/or the Commission to determine appropriate transition measures as outlined in AS 29.05.130-140 and 3 AAC 110.900."

This is puzzling, because they appear to be contradictory stipulations.

AS 29.05.130-140 pertains to integration of special districts and services area (.130) and Transition (.140).

Current language is specific to integration in new municipalities – that is, to new municipal incorporations.

The statutes specify a time specific, as is shown below:

Sec. 29.05.130. Integration of special districts and service areas.

- (a) A service area in a newly incorporated municipality shall be integrated into the municipality within two years after the date of incorporation.

The language in SB 63 provides for a specific time frame – January 1 following the date of the annexation or detachment. Including municipal incorporation in this bill, with these time restrictions, would appear to be contrary to the provisions in 29.05.130.

It is not contrary in the respect that it is done within the two-year timeframe – certainly 9 months is within the 24 month time frame. It is contradictory in that it limits the transition ability of the LBC. It establishes a time specific for the transition time frame of "within two years".

In terms of the public's comfort level, it would probably be welcomed because they would have some definitive assurances of when their tax bills were due.



State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501
Telephone: 907-269-4560 • Fax: 907-269-4539

April 23, 2003

The Honorable Gary Stevens
Chairman, Senate State Affairs Committee
State Capitol, Room 417
Juneau, Alaska 99801-1182

Re: Senate Bill 63

Dear Senator Stevens:

The Local Boundary Commission endorses, in general, legislative efforts to eliminate ambiguities in current law regarding the date upon which property becomes subject to municipal property taxation following a boundary change. With regard to Senate Bill 63, the Commission supports the bill with the following modifications:

1. Provisions should be added to address the date upon which property included in a newly incorporated city or borough government becomes subject to property taxation by that newly incorporated municipal government. The provisions should be similar to those that would apply to newly annexed areas. The ambiguity that now exists in law concerning the authority of a municipality to levy property taxes in a newly annexed area also exists with regard to newly incorporated territory. If incorporation is not dealt with in this legislation, then the ambiguity that Senate Bill 63 was designed to eliminate will still exist in part.
2. Provisions should be included in the bill stating that it is the intent of the legislature that the Act does not affect the ability of petitioners to propose, or the ability of the Commission to determine, appropriate transition measures. For example, if an annexation takes effect in March, the annexing municipality would be unable to levy property taxes in the newly annexed area until January 1 of the following year. Notwithstanding, the annexing municipality should not be barred from extending to the newly annexed area those services that are funded wholly or partially with property taxes.
3. Certain technical amendments to lines 6 and 7 would seem to provide greater clarity and minimize the prospect for misinterpretation. Specifically, the Commission urges the State Affairs Committee to consider adding that the word "annexing" before the word "municipality" on line 6. Additionally, the Commission urges the Committee to consider deleting the words "assess" and "or collect" on lines 6 and 7.

The Honorable Gary Stevens
April 23, 2003
Page Two

By adding the word "annexing" on line 6 as described, it becomes clear that the limitation applies only to the annexing municipality. The Commission is concerned that the limitation might otherwise be interpreted to apply to both borough and city property taxes in the case of an annexation of territory to a city within a borough. In other words, some might assert that a borough would be precluded from levying property taxes within territory that was newly annexed to a city located within that borough even through the property was subject to borough property taxes prior to the city annexation.

Additionally, it seems that the terms "assess" and "collect" should be deleted. Senate Bill 63 is intended to address only the levy of property taxes following boundary changes. Assessing involves the formal setting of the taxable value of property. Some assessment functions will be required in newly annexed areas prior to January 1. As currently written, the legislation might be interpreted as barring a municipal government from exercising assessment functions in newly annexed territory before January 1 of the year following annexation. The term "collect" is unnecessary. If the annexing municipality cannot levy a tax, it cannot collect the tax.

Specific language suggested by the Commission to address the three proposed amendments is attached for consideration by the State Affairs Committee.

Very truly yours,



Darroll Hargraves
Chair

**SPECIFIC AMENDMENTS TO SENATE BILL NO 63
PROPOSED BY THE LOCAL BOUNDARY COMMISSION
TO THE SENATE STATE AFFAIRS COMMITTEE
(April 23, 2003)**

1. To address newly incorporated city and borough governments, the Commission suggests adding the following new section to Senate Bill 63:

1 * Section ____. AS 29.05 is amended by adding a new section to read:
2 **Sec. 29.05.145. Property taxes in newly incorporated**
3 **municipalities.** Unless the incorporation takes effect on January 1, the newly
4 incorporated municipality may not levy property taxes in the incorporated
5 area before January 1 of the year immediately following the year in which the
6 incorporation takes effect.

2. To formally state the intent of the legislature that the Act does not affect the ability of petitioners to propose, or the ability of the Commission to determine, appropriate transition measures, the Commission suggests that the following new section be added to Senate Bill 63.

1 * Section ____. **Declaration of Intent.** It is the intention of the legislature
2 that this Act does not affect the ability of petitioners to propose, or the ability
3 of the Commission to determine, appropriate transition measures relating to
4 municipal incorporation, annexation, or detachment. For example, if an
5 annexation takes effect in March, the annexing municipality would be unable
6 to levy property taxes in the newly annexed area until January 1 of the
7 following year. Notwithstanding, the annexing municipality is not barred by
8 this Act from immediately extending to the newly annexed area those services
9 that are funded wholly or partially with property taxes.

SPECIFIC AMENDMENTS TO SB 63 PROPOSED BY THE LBC
APRIL 23, 2003
PAGE TWO

3. To address technical concerns about the language on lines 6 and 7 of Senate Bill 63, the Commission suggests the following amendments to that the portion of Section 1 of the bill relating to proposed AS 29.06.055(a):

- 1 * **Section 1.** AS 29.06 is amended by adding a new section to read:
- 2 **Sec. 29.06.055. Property taxes in annexed or detached areas. (a)**
- 3 Unless the annexation takes effect on January 1, the annexing municipality
- 4 may not [ASSESS,] levy[, OR COLLECT] property taxes in an annexed area
- 5 before January 1 of the year immediately following the year in which the
- 6 annexation takes effect.

Subject: Griswold SB 63 LBC testimony 4/7/03

Date: Mon, 07 Apr 2003 12:45:20 -0900

From: Mary Griswold <mgrt@xyz.net>

**To: Douglas Letch <Doug_Letch@legis.state.ak.us>, Katrina_Matheny@legis.state.ak.us,
Cameron_Yourkowski@legis.state.ak.us, Mary Jackson <Mary_Jackson@legis.state.ak.us>**

FYI

Local Boundary Commission SB 63 Mary Griswold testimony 4/7/03

Please support SB 63, relating to municipalities' authority to levy real and personal property taxes in the initial period following annexation or detachment. Please support amending SB 63 to include incorporation as recommended by the previous commission at its meeting on December 9, 2002 and referenced on page 84 of its report to the 23rd legislature.

State statutes are unclear with respect to municipal authority to levy property taxes during an initial period following incorporation, annexation, or detachment. The question is whether taxes accrue in full on January 1 when the valuation is set, or by June 15, on the date the levy is determined. To complicate the situation, the Local Boundary Commission is given broad powers to place conditions on boundary changes, but there is no clear authority for it to decide property tax jurisdiction. This is a policy issue and is better resolved through legislation than by the LBC on a case by case basis, or by dragging it through the courts.

Clarifying by statute, in cases of incorporation, annexation and detachment, that property taxes accrue in full each year on January 1 is consistent with existing policies and procedures across the state for assessing property and adding new property to tax rolls. It is a practical approach that will simplify the transition planning process and be less disruptive to the affected governmental units and individual taxpayers.

The best way to promote an orderly, efficient, and economical transfer of responsibilities is to set simple, straightforward ground rules. If everyone involved in a proposed annexation understands that revenue streams will shift on January 1 following an effective date, everyone can plan accordingly. The Administrative Code allows a transition period of up to two years. Municipal budgets can be revised in an orderly manner within normal budget preparation cycles to accommodate shifts in service delivery. New services can be added as tax revenue becomes available. Everyone will work with consistent, predictable expectations.

It is important to note that with many annexations, there is a corresponding simultaneous detachment from another government. Using January 1 as the cutoff date to establish value and jurisdiction provides less disruption to that municipality's budget process and service delivery plans. During a transition period, whichever government is providing services can be appropriately compensated through contract agreements worked out in the transition plan without requiring an untimely change in the taxing jurisdiction. This is a better approach than pro-rating taxes between governments for the remainder of the tax year because many services are provided on an area-wide basis, the cost of which will not decrease proportionately to the territory affected by the simultaneous annexation and detachment.

Taxpayers expect property assessments and tax bills on an orderly schedule. They learn their tax jurisdiction and valuation well in advance of the levy and can plan their personal budgets accordingly. Annual tax adjustments within one government unit are usually small,

whereas annexation usually results in a dramatic increase in property tax liability. It is better to make these adjustments within the existing assessment procedures taxpayers are familiar with, than to surprise them with a big change in the middle of the assessment calendar.

Some people have argued that this approach is unduly conservative and punitive, especially for areas undertaking incorporation because they will be required to immediately provide services for which they have no funding. I am sympathetic, but after analyzing the consequences of trying to accommodate special situations, I realized that the conflicts created by more flexible approaches defeat their purpose. Practical, considerations of implementing a taxing authority require a January 1 date certain, under which flexibility may be exercised to balance service delivery with revenue allocations. Municipalities have latitude to establish their levy date, tax payment schedule, and fiscal cycles within the limits of the statutes. They must also priorities the exercise of their powers and authorities to provide services consistent with their financial and human resources. Municipalities must make policy decisions about the appropriation of funds. Such planning decisions are considered discretionary and are immune from suit. Alaska Statute 09.65.070(d)(2) provides that neither a municipality nor its agents, officers, or employees are liable for failing to exercise a discretionary function, as upheld in the 1998 Alaska Supreme Court case *Adams v City of Tenakee Springs*. In other words, the sense of urgency is often exaggerated. Municipalities are not expected to immediately provide the host of services typically associated with government. This should be made clear to everyone early in the consideration to incorporate or annex territory.

The assessment date is the effective date for property tax liability. Alaska statutes allow up to six months to mail the bills as a practical necessity for sufficient time to create an assessment roll, notify property owners, consider adjustments, conduct board of adjustment hearings, develop annual budgets, certify the roll, set an appropriate levy, and prepare the tax bills. The 1998 Supreme Court case *Kenai Peninsula Borough v Arndt* essentially established that property taxes accrue in full on the assessment date. A property's tax status (including situs) becomes fixed for the full tax year on the date of its assessment. "Tax situs can be based on whether the property in question is taxed by another taxing government." The court recognized the general agreement that post-assessment changes in value, situs, and ownership of taxed property require no changes in tax for the corresponding year. The 1989 opinion of the state attorney general regarding municipal taxation of oil and gas production property in annexed territory concluded that an assessor can assess property and add it to the tax roll any time before its certification. This opinion has not stood the test of the court system and oversteps the legally prescribed January 1 assessment deadline.

If the LBC were allowed to direct municipalities to levy taxes on properties within their jurisdiction as of any date other than January 1, serious conflicts could arise. Municipalities have discretion to choose their own dates to determine the levy and mail the tax bills as long as they meet the legal deadlines. Exactly how close the effective date of an action could crowd the taxing schedule is too open a question to leave unresolved until well into the petition analysis. Realistic revenue projections are necessary early in the process for responsible transition planning. This question could also result in a lengthy delay of an annexation due to court challenges of the LBC's tax jurisdiction decision.

It is commonly understood and accepted that property in annexations and incorporations effective after June 15 will not be taxed until the following year. These municipalities must plan to exercise their powers and responsibilities in a manner to conform to this financial

restriction. If it is clearly established that all actions after January 1 will wait until the following year to levy taxes, everyone will plan accordingly. It is important to note that municipalities have revenue sources other than property taxes. An area deemed appropriate for incorporation or annexation has demonstrated sufficient economic and human resources to support government. Sales taxes could serve as an initial source of funding for government services while a municipality builds a solid financial foundation. The state has at least discussed offering financial incentives to areas of the unorganized borough willing to incorporate. Such payments would help bridge this revenue gap.

If SB 63 is adopted without including incorporation, a risk of multiple taxation arises when an area within a service area of an organized borough incorporates as a city before July 1. If the city levies taxes in the initial year following incorporation while the taxes on the detached area of the borough remain in effect under SB 63, the property owners in the new city will be taxed twice.

Clear guidelines for municipal property taxation will encourage municipalities to be cautious about extending services beyond their boundaries, will promote orderly municipal growth as the need for services increases, and will reduce the stress and contention associated with boundary changes. Please support SB 63 with the proposed amendment so everyone understands the revenue rules before becoming involved in an annexation, detachment, or incorporation procedure.

Thank you.

Mary Griswold
P.O. Box 1417
Homer 99603

Subject: proposed amendment to CSSSB 63

Date: Mon, 28 Apr 2003 08:51:21 -0800

From: Dan Bockhorst <dan_bockhorst@dced.state.ak.us>

To: Mary Jackson <Mary_Jackson@legis.state.ak.us>

CC: Darroll Hargraves <countryridge@gci.net>

Mary: With one minor exception, the proposed amendment to CSSB 63 ("23-LS0489\H2 Cook 4/24/03") looks great to me.

I believe that "annexations, detachments," should be added after "reclassifications," on page 1, line 3 of the proposed amendment. As currently written, the amended title makes no reference to transition provisions related to annexation and detachment, while it makes reference to "transition provisions related to municipal mergers, consolidations, dissolutions, reclassifications, and incorporations ..."

Thanks.

TO: TAM COOK
FROM: MARY JACKSON

IF YOU AGREE, PLEASE
PREPARE AN AMENDMENT
TO THE CS. IT WILL BE
UP IN SEN. STA TOMORROW