

SB

158

HFIN

FILE



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

April 26, 2005

Honorable Representative Mike Chenault
House Finance Committee
State Capitol, Room 505
Juneau, Alaska 99801

RE: SB158

Dear Representative Chenault,

Over the last couple of years, municipalities have lost Revenue Sharing, Safe Communities money, Capital Matching Grants, and reimbursement for Senior/Veteran's Property Tax Exemptions. The only current revenue stream available is taxes. Taxes are a local provision; therefore the Alaska Municipal League and the 142 communities we represent, believe that taxing decisions should be left to local communities.

If a community (such as Nome) wishes to tax subcontractors who are not contracted by the state and that decision negatively affects that community, then it should be up to local voters to change those ordinances and/or elect new officials. We believe it should not be up to the State to preempt local taxing authority.

The sponsor of this bill cites the need for taxing consistency. However, local taxing is not consistent throughout the state in property tax, sales tax, bed tax, raw fish tax, or any other tax. Communities impose taxes that meet with the approval of their residents and meet community needs. We are concerned that a desire for consistency will next be targeted towards other forms of local taxation.

The State of Alaska does not pay tax on their property held in any Alaskan community (including Nome). However, Nome and all other communities, provide services equal to those services provided to all other property tax payers such as road maintenance, ambulance and fire. PILT payments are received by the federal government for federal property, but the state has not taken part in PILT payments to communities for state property.

In Senate Finance, a comment was made, with regards to this bill, that it appeared that communities were attempting to "bite the hand that feeds you."

- Incoming "wealth" to the state is no longer shared or "fed" to communities by the state.

- Most DOT airport money is federally funded by FAA (as much as 93%). This money comes to the State to fund projects such as the Nome airport and costs associated.
- The \$20,000 paid by the subcontractor was based on a bill that exceeded \$400,000.
- This bill does NOT prevent escalating costs (as stated in the Fact Sheet). Escalating costs are prevented by a careful bid selection process practiced by the State. Taxes go up or down relative to the cost of the project; they are not arbitrary.

The bill summary states that the bill's intention is to "prohibit the imposition of municipal sales and use tax on a construction contract awarded by the state or a state agency, or on a subcontract awarded in connection with the project funded under the construction contract." This is misleading, as no communities impose a sales or use tax on a construction contract awarded by the state. This issue is ONLY about subcontract workers that have been hired by the contractor.

We thank you for the opportunity to comment on this bill.

Sincerely,

Kathie Wasserman
Alaska Municipal League
Policy and Program Coordinator

cc: Representative Kevin Meyer
Representative Bill Stoltze
Representative Richard Foster
Representative Mike Hawker
Representative Jim Holm
Representative Mike Kelly
Representative Eric Croft
Representative Reggie Joule
Representative Carl Moses

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Mayor
Denise Michols
Manager
Randy Romenesko
Clerk/Treasurer
Leslee Wenzel



Nome Common Council
Stan Andersen
Mary Knodel
Randy Pomeranz
Jon Larson
John Bockman
Mary Bourdon

102 Division St. • P.O. Box 281
Nome, Alaska 99762
(907) 443-8863
Fax (907) 443-5349

Public testimony regarding Senate Bill No. 158 "An act prohibiting the imposition of municipal sales and use taxes on state construction contracts and certain subcontracts; and providing for an effective date."

The City of Nome is opposed to SB 158. The bill is punitive and unfairly restricts local control. The bill diminishes the existing statutory authority of local governments to raise needed revenues through the levy of taxes.

Municipal sales tax codes and exemptions have been refined and tailored to meet individual community needs. A municipality needs control over sales and property tax as they are the principle source of local government revenue. This tax is established by the residents of a community for local needs.

The State has already burdened local communities with unfunded mandates. The mandatory state property tax exemptions, such as the senior citizen/disabled veteran property tax exemption, are not funded by the state according to Alaska Statutes. The State Property Tax Exemption shifts the cost of protecting and serving state facilities to local taxpayers. 40% of all property in Nome is exempted by State Statutes. Yet these properties receive service from our police, ambulance, fire departments. These properties have snow removed and roads repaired by City public works. The tenants of these facilities use the locally taxpayer funded libraries and recreation centers. This lost revenue must be made up by the local community, here in Nome it is through a sales tax.

When a contractor works in a community like Nome on a state or federal job, they utilize municipal services every day. Our ambulance treats and transports their injured workers, our police arrest their law breakers, they drive on city streets and use city facilities - all at no cost as proposed by SB 158. The municipality supports the contractor as it provides their services to the state of Alaska yet it expects to not pay in kind for the services it receives.

Sales tax is only applied in some communities throughout the state. This is a community choice. The "rules of engagement" differ in every community for a myriad of reasons. Contractors and residents doing business and living in a community need to be responsible and perform due diligence when working in the different communities within the state. There is no legal reason for consistent application of sales tax within the state. This is a power invested with a municipality by State Statutes.

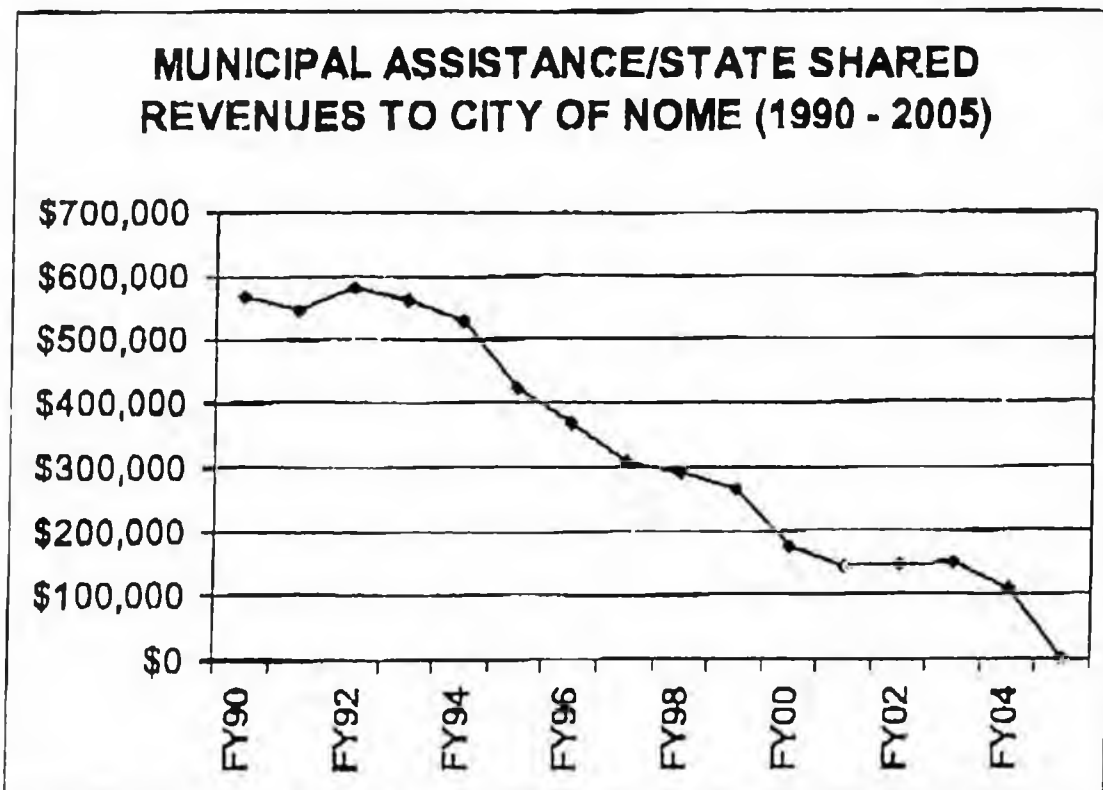
SB 158 Testimony

City of Nome

April 29, 2005

The State of Alaska takes portions of Department of Education grants for overhead, Department of Transportation pass-through grants for administration, imposes fees for landfill, air and water permits. The State continues to take funds from municipalities while cutting state shared revenue/municipal assistance.

Over the past 10 years Nome has seen a reduction of about \$500,000, the equivalent of 2.7 mills to property owners or 1% in sales tax. This revenue source shortfall has to be made up to cover ever rising insurance costs, retirement costs, fuel (gasoline and diesel fuel are at almost \$3.00/gallon) and electricity costs.



Sales tax is a local issue controlled by the locally elected officials to meet the needs of the community. SB 158 takes away local control and further cripples a community's ability to survive in today's economy.

I would like to thank the House Labor & Commerce Committee for taking the time to hear the City of Nome's concerns on a bill that will negatively impact the finances of the City.

Respectfully,
City of Nome

Donise Michels
Mayor

SB 158 Testimony

City of Nome

April 29, 2005

Talking Points

Municipal sales tax codes and exemptions have been refined and tailored to meet individual community needs. A municipality needs control over sales and property tax as they are the principle source of local government revenue. This tax is established by the residents of a community for local needs.

When a contractor works in a community like Nome on a state or federal job, they utilize municipal services every day. Our ambulance treats and transports their injured workers, our police arrest their law breakers, they drive on city streets and use city facilities. The municipality supports the contractor as it provides their services to the state of Alaska yet it expects to not pay in kind for the services it receives. Contractors do not pay property taxes that support the local community.

Sales tax is only applied in some communities throughout the state. This is a community choice. The "rules of engagement" differ in every community for a myriad of reasons. Sales taxes range, in the state, from 0 - 6%; communities have special taxes (bed, alcohol, fish, etc.). There is no legal reason for consistent application of sales tax within the state. This is a power invested with a municipality by State Statutes.

The impact to the State coffers is greatly exaggerated. Airport and highway contracts through AkDOT are primarily funded with Federal money (between 90 - 100% Federal). The majority of work by the State is performed in communities with no tax.

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April 26, 2005

Honorable Representative Tom Anderson
House Labor & Commerce Committee
State Capitol, Room 408
Juneau, Alaska 99801

RE: SB158

Dear Representative Anderson,

Over the last couple of years, municipalities have lost Revenue Sharing, Safe Communities money, Capital Matching Grants, and reimbursement for Senior/Veteran's Property Tax Exemptions. The only current revenue stream available is taxes. Taxes are a local provision; therefore the Alaska Municipal League and the 142 communities we represent, believe that taxing decisions should be left to local communities.

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The bill summary states that the bill's intention is to "prohibit the imposition of municipal sales and use tax on a construction contract awarded by the state or a state agency, or on a subcontract awarded in connection with the project funded under the construction contract." This is misleading, as no communities impose a sales or use tax on a construction contract awarded by the state. This issue is ONLY about subcontract workers that have been hired by the contractor.

We thank you for the opportunity to comment on this bill.

Sincerely,

Kathie Wasserman
Alaska Municipal League
Policy and Program Coordinator

cc: Representative Pete Kott
Representative Gabrielle L. Doux
Representative Bob Lynn
Representative Norm Rokeberg
Representative Harry Crawford
Representative David Guttenberg

ALASKA STATE LEGISLATURE

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Senator_Charlie_Huggins@legis.state.ak.us



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Charlie Huggins Senator

4/3/05

Sponsor Statement

SB 158 – “An Act prohibiting the imposition of municipal sales and use taxes on state construction contracts and certain subcontracts; and providing for an effective date.”

During the course of business in the last couple of years, subcontractors in the construction industry, who work in some areas of the state, have experienced negative financial impact due to the imposition of local sales taxes on state DOT/PF funded projects.

In the case of a construction contract being awarded and a primary contractor doing business with the state, the state is the purchaser of those services and, as such, the legal incidence for the tax falls on the state. Based on the state's sovereign immunity and the fact that the state is immune from taxation no tax is owed.

However, when a subcontract is awarded and a primary contractor hires another contractor to do work for him, the subcontractor is not working directly for the state, but for the original contractor, and in some cases a sales tax has been levied on the value of the subcontract.

In one instance, on a Nome Airport Project, a construction contract was awarded to Quality Asphalt Paving (QAP). QAP and Dimond Electric entered into a subcontract directly in connection with the project funded under the construction contract. Dimond Electric was assessed a sales tax of over \$20,000 on the value of their subcontract. This tax was unexpected and not considered in their bid.

The state cannot afford to have an increase in the cost of construction projects due to the levying of sales taxes on state construction contracts or subcontracts directly awarded in connection with the project funded under the construction contract. While all municipalities do not assess this sales tax the policy needs to be consistent statewide.

SB 158 will prohibit the imposition of municipal sales and use tax on state construction contracts and certain subcontracts and remedy the inequity that exists.

Contact Information – Deborah Grundmann 465-4711

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 158
(S) Publish Date: 4/7/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title MUNI TAX ON STATE CONSTRUCTION RDU Comm Assist & Ec Dev (405)
CONTRACTS Component Community Advocacy
Sponsor Huggins
Requester Community & Regional Affairs Component No. 2703

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 CF						
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 (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation stipulates that boroughs and cities, both home rule and general law, can not impose a sales or use tax on a construction contract awarded by the state or a state agency, or on a subcontract awarded in connection with the project funded under the construction contract.

It would not create a fiscal impact on the operations of the department.

Prepared by: Michael Black, Director Phone 269-4535
Division Community Advocacy Date/Time 4/6/05 10:28 AM
Approved by: Edgar Blatchford, Commissioner Date 4/6/2005
Agency Commerce, Community, and Economic Development

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 5, 2005

SUBJECT: Taxation of construction contracts; sectional summary (SB 158)

TO: Senator Charlie Huggins, Chair
Senate Transportation Committee
Attn: Deborah Grundmann

FROM: Tamara Brandt Cook
Director *TBC*

Sec. 1. Adds to the list of statutes that apply as limitations on home rule municipalities (boroughs and unified municipalities) a reference to the new subsection added in bill sec. 3.

Sec. 2. Adds to the list of statutes that apply as limitation on home rule municipalities (cities) a reference to the new subsection added in bill sec. 4.

Sec. 3. Prevents a borough from levying a sales or use tax on state construction contracts or on subcontracts awarded in connection with the state construction project. (For an example of a definition of public construction see AS 36.95.010(3) in the State Procurement Code.)

Sec. 4. Prevents a city from levying a sales or use tax on state construction contracts or on subcontracts awarded in connection with the state construction project.

Sec. 5. Immediate effective date.

TBC:jad
05-193.jad



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Senator Charlie Huggins
Current Version: SB 158
Contact: Deborah Grundmann, 465-4711

Fact Sheet for: Senate Bill 158

Short Title: MUNI TAX ON STATE CONSTRUCTION CONTRACTS

Summary:

- Prohibits the imposition of municipal sales and use tax on a construction contract awarded by the state or a state agency, or on a subcontract awarded in connection with the project funded under the construction contract.

Benefits:

- Prevents escalating costs for construction contracts and subcontracts that are awarded directly in connection with a project.
- Makes the local tax policy regarding contractors and subcontractors on state construction projects consistent throughout the state.

Background:

- Municipalities in some areas of the state impose a local sales or use tax on projects funded through the State. Because of sovereign immunity, the State owes no taxes, but in some cases a sales tax has been levied on subcontractors who are working for the contractor and not directly for the state. On one Nome airport project, a construction contract was awarded to Quality Asphalt Paving (QAP). QAP subcontracted with Dimond Electric, and Dimond was assessed a sales tax of more than \$20,000, which had not been factored into the bid.



Alaska State Legislature Senate Majority News

Jeff Turner, Senate Majority Press Secretary
Room 413, State Capitol Building
Juneau, AK 99801
Phone: 907.465.3803

Web Site: <http://www.akrepublicans.org>

FOR IMMEDIATE RELEASE: April 8, 2005 CONTACT: Jeff Turner, Press Secretary: 907.465.3803

Sen. Huggins Introduces Legislation to Protect State Funded Construction Projects

SB 158 Blocks Imposition of Local Sales Tax on Construction Jobs

(Juneau) – Sen. Charlie Huggins (R – Rural Mat-Su/Chugiak) is pushing legislation to conserve the state's capital construction budget by shielding subcontractors working on state funded projects from paying local sales taxes.

The legislation was crafted after Sen. Huggins learned that a subcontractor was slapped with a \$20,000 dollar sales tax by a local government for work it performed on the Nome Airport Project.

The subcontractor was hired directly for project's main contractor, not the state, which was used as justification by the local government to impose the sales tax. That tax was not anticipated in the original bid and was eventually paid by the subcontractor.

Most local governments don't charge a sales tax on subcontractors working on state funded construction jobs. "This legislation closes the loophole in state law so that never happens again and it means our scarce capital construction dollars are used for what they were intended for," said Sen. Huggins.

SB 158 will block the imposition of municipal sales and use tax on state construction contracts and certain subcontracts. It has been referred to the Senate Community and Regional Affairs and Finance Committees.

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Fifty Years Serving Alaska



NECA

ALASKA CHAPTER
1953-2003

May 15, 2003

Commissioner Mike Barton
Alaska Dept. of Transportation
and Public Facilities
3152 Channel Dr.
Juneau, AK 99801-7898

Re: City of Nome Sales Tax

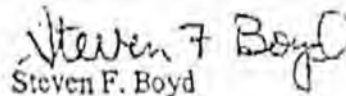
Dear Commissioner Barton:

I am writing to you regarding an issue one of our member contractors is facing in Nome, Alaska as a result of their status as a subcontractor to Quality Asphalt Paving on the Nome Airport R/W 27 Rehabilitation & Obstruction Removal, #AIP 3-02-0199-1201/60905. The City of Nome has taken action to assess and collect a sales tax on the value of the subcontract of Dimond Electric and in fact other subcontractors as well. Dimond Electric has unsuccessfully tried to reason with the City of Nome that not only is this not a retail sale, but the project is owned by the State of Alaska which does not pay sales tax on its purchases. Unfortunately, the City has indicated that they will be filing a lawsuit to collect the tax they have estimated as due and Dimond is faced with an expensive legal defense.

The reason we bring this to your attention is in the hope that your department may be able to investigate this and possibly intervene. If the City of Nome prevails in this action, the State will eventually be facing higher construction costs in every community with a local sales tax as word of this practice spreads. In the instant case, several subcontractors who bid the work as they normally do will suffer unexpected and substantial costs that they will not be able to recover.

If you need further information please feel free to contact me at 907 561-1958 or Dave Lentz with Dimond Electric at 907 344-1121.

Sincerely,
Alaska Chapter, NECA


Steven F. Boyd



November 13, 2004

Senator John Cowdery
Alaska State Senate
716 W. 4th Ste. 500
Anchorage, AK 99501

Dear Senator Cowdery:

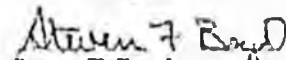
Congratulations on your recent reelection to the State Senate. Our contractor members look forward to another four years of your experience and leadership in the State Senate.

During the course of business in the last two years, subcontractors in the construction industry who work in some rural areas have experienced negative financial impact due to the imposition of local sales taxes on State D.O.T. funded projects. In our efforts to mitigate this impact, our research has shown that while the General Contracting entity is not subject to local sales tax due to their direct relationship with the State D.O.T. (which is exempt from local sales tax), the subcontractors who have a relationship to the General Contractor have been ruled to be subject to the local sales tax. Efforts on the local level, the legal system and pleas to the State D.O.T. have been fruitless. We are therefore requesting a meeting with you to provide you with the information we have and a request to pursue legislative remedy to this inequity.

I would like to suggest a meeting on the morning of November 23rd if possible since one of our out of town members who has done considerable work on this issue will be in town and available. Obviously we realize you probably have a busy schedule and we will work with you and your staff to set something up.

Thank you for your consideration.

Sincerely,
Alaska Chapter, NECA


Steven F. Boyd
Chapter Manager

CC: Scott Bringmann, Alcan Electrical & Engineering
David Lantz, Dimond Electric Co.
Ralph Kibby, Chatham Electric