

HB

370

<TARGET><BILL>HB 370</BILL><SUBJECT>HB
370</SUBJECT><COMM>SCRA29</COMM></TARGET>

SENATE COMMITTEE REPORT

DATE: 4/8/16

FURTHER: Finance

DATE TURNED IN TO OFFICE: ~~MAR 15 2015~~ APR

Community and Regional Affairs Committee considered CS FOR HOUSE BILL NO. 370(CRA) am

HB 370-MUNICIPAL TAX EXEMPTIONS

"An Act relating to military facility zones; and relating to a municipal tax exemption or deferral for economic development property."

and recommends:

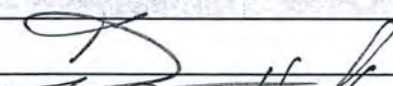
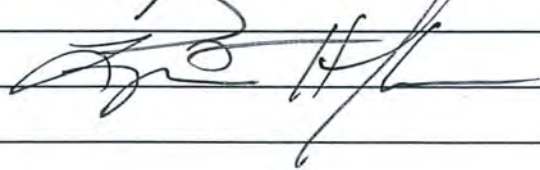
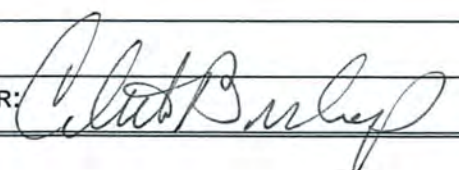
- be replaced with SCS CS HB 370 (CRA) Same Title Technical Title Change
 New Title/SCR No. _____
- adopt previous SCS _____ (_____) Same Title Technical Title Change
 New Title/SCR No. _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
CED			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	DO NOT PASS	NO REC	AMEND
	EGAN	✓			
	HOFFMAN	✓			
CHAIR: 	BISHOP	✓			

29-LS1551\P
Shutts
4/12/16

SENATE CS FOR CS FOR HOUSE BILL NO. 370()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to military facility zones; and relating to a municipal tax exemption or**
2 **deferral for economic development property."**

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

4 *** Section 1.** AS 26.30.020(c) is amended to read:

5 (c) The adjutant general shall consider the following factors before
6 designating an area as a military facility zone:

7 (1) whether the proposed military facility zone designation is
8 consistent with the comprehensive plan of the municipality **or local zoning**
9 **ordinances;**

10 (2) whether it is feasible to develop sites within the proposed zone for
11 purposes of industrial or economic development, residential use, and workforce
12 training or education beneficial to the facility;

13 (3) whether the municipality has targeted the area for revitalization in a
14 plan or ordinance;

1 (4) the relationship between the area and a military facility subject to
2 realignment or closure under 10 U.S.C. 2687, as amended, or a successor statute or the
3 effect of the realignment or closure on the area;

4 (5) the availability, cost, and condition of existing business and
5 educational facilities to support the military facility or facility of a civilian agency;

6 (6) the difference between the median annual income of residents of
7 the area and the median annual income of residents of the state and region, and the
8 number of residents who receive public assistance;

9 (7) the number of residents of the area who receive unemployment,
10 and the ability of the municipality to improve social and economic conditions of the
11 area;

12 (8) the need for financing for small businesses that would improve
13 social and economic conditions in the area;

14 (9) any plans or financial commitments of municipalities to improve
15 the area;

16 (10) any plans or financial commitments of private entities to improve
17 the area;

18 (11) the municipality's participation in economic development
19 activities, including proposals for public or private development;

20 (12) support from community or business organizations in the area;

21 (13) the availability of workforce readiness programs, including
22 workforce recruiting and training support or educational research and curriculum
23 support in the area;

24 (14) the availability or plans for the creation of workforce housing
25 options for residents of the area; and

26 (15) the fiscal effect on the state if the area were to be designated a
27 military facility zone.

28 * **Sec. 2.** AS 29.45.050(m) is amended to read:

29 (m) A municipality may by ordinance partially or totally exempt all or some
30 types of economic development property from taxation for up to **30** [FIVE] years.
31 [THE MUNICIPALITY MAY PROVIDE FOR RENEWAL OF THE EXEMPTION

1 UNDER CONDITIONS ESTABLISHED IN THE ORDINANCE. HOWEVER,
2 UNDER A RENEWAL, A MUNICIPALITY THAT IS A SCHOOL DISTRICT
3 MAY ONLY EXEMPT ALL OR A PORTION OF THE AMOUNT OF TAXES
4 THAT EXCEEDS THE AMOUNT LEVIED ON OTHER PROPERTY FOR THE
5 SCHOOL DISTRICT.] A municipality may by ordinance permit deferral of payment
6 of taxes on all or some types of economic development property for up to 30 [FIVE]
7 years. An exemption or deferral authorized by this subsection may not be applied
8 to reduce the taxes levied in a service area to fund the special services unless the
9 service area board or, if the service area does not have a service area board with
10 at least two sitting members, the assembly, evaluates the potential effects on the
11 special services of the service area and, by a majority vote, applies the exemption
12 or deferral. [THE MUNICIPALITY MAY PROVIDE FOR RENEWAL OF THE
13 DEFERRAL UNDER CONDITIONS ESTABLISHED IN THE ORDINANCE.] A
14 municipality may adopt an ordinance under this subsection only if, before it is
15 adopted, copies of the proposed ordinance made available at a public hearing on it
16 contain written notice that the ordinance, if adopted, may be repealed by the voters
17 through referendum. An ordinance adopted under this subsection must include specific
18 eligibility requirements and require a written application for each exemption or
19 deferral. In this subsection, "economic development property" means real or personal
20 property, including developed property conveyed under 43 U.S.C. 1601 et seq.
21 (Alaska Native Claims Settlement Act), [THAT]

22 (1) that has not been used in the same trade or business in another
23 municipality for at least six months before the application for deferral or
24 exemption is filed; this paragraph does not apply if the property was used in the
25 same trade or business in an area that has been annexed to the municipality
26 within six months before the application for deferral or exemption is filed; this
27 paragraph does not apply to inventories; or

28 (2) to which one or more of the following applies:

29 (A) the property has not previously been taxed as real or
30 personal property by the municipality;

31 (B) the property [(2)] is used in a trade or business in a way

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that

(i) [(A)] creates employment in the municipality;

(ii) [(B)] generates sales outside of the municipality of goods or services produced in the municipality; or

(iii) [(C)] materially reduces the importation of goods or services from outside the municipality;

(C) an exemption or deferral on the property enables a significant capital investment in physical infrastructure that

(i) expands the tax base of the municipality; and

(ii) will generate property tax revenue after the exemption expires [AND

(3) HAS NOT BEEN USED IN THE SAME TRADE OR BUSINESS IN ANOTHER MUNICIPALITY FOR AT LEAST SIX MONTHS BEFORE THE APPLICATION FOR DEFERRAL OR EXEMPTION IS FILED; THIS PARAGRAPH DOES NOT APPLY IF THE PROPERTY WAS USED IN THE SAME TRADE OR BUSINESS IN AN AREA THAT HAS BEEN ANNEXED TO THE MUNICIPALITY WITHIN SIX MONTHS BEFORE THE APPLICATION FOR DEFERRAL OR EXEMPTION IS FILED; THIS PARAGRAPH DOES NOT APPLY TO INVENTORIES].

Representative Cathy Tilton

Alaska State Legislature – House District 12



SPONSOR STATEMENT – CSHB 370 (CRA)

(29-LS1551\E)

"An Act relating to a municipal tax exemption or deferral for economic development property."

AS 29.45.050m authorizes municipalities to exempt or defer all or parts of real and personal property taxes by ordinance for economic development purposes. This bill would remove the time limitation mandated by statute and authorize local governments to determine time periods appropriate for specific projects and according to their own needs and objectives.

The section presently allows a municipality to grant the exemption or deferral for up to five years, with options for renewal, and contains provisions for property eligibility, public notice, hearing and referendum, project goals, preserving mandated school funding tax equivalency, and criteria regarding previous use or taxation in the subject municipality or another municipality.

As the current budget deficit limits the State's ability to invest in economic development initiatives, municipalities will need to rely more on their own means to facilitate those projects. The current initial five year limitation does not provide the longer term certainty necessary for investors to commit to larger and more capital intensive projects.

HB 370 (Municipal Tax Exemptions) amends AS 29.45.050(m) to remove the requirement that a full or partial property tax exemption or deferral for economic development property be limited to five years, with possible renewals. This legislation would authorize a municipality's discretion to establish a full or partial property tax exemption or deferral over a designated period of time without limitation in state law, and to designate a period of time for an exemption or deferral that differs based on the type of economic development property. In addition, AS 29.45.050(m) would be amended to augment the requirements for eligibility for a full or partial property tax exemption or deferral for economic development property by including economic development property that involves a "significant capital investment in physical infrastructure" that expands the tax base of the municipality and that will generate property tax revenue after the exemption expires.

State Capitol Rm. 411
907.465.2199
Rep.Cathy.Tilton@akleg.gov

Representative Cathy Tilton

Alaska State Legislature – House District 12



SUMMARY OF CHANGES – CSHB 370 (CRA)am

(29-LS1551\E.A)

"An Act relating to military facility zones; and relating to a municipal tax exemption or deferral for economic development property."

In the original version of the bill (29-LS1551\A), current statutory language was included pertaining to renewals of exemptions or deferrals in AS 29.45.050. Current statute stipulates that initial exemptions or deferrals for economic development properties may not exceed five (5) years and further allows municipalities to renew those exemptions or deferrals (Page 1, lines 7-13 of the "A" version.)

Because CSHB 370 (CRA)am significantly expands the time limit (20 years), thus allowing municipalities to far greater flexibility; the language pertaining to renewals was removed because it was no longer necessary.

The practical effect of the changes in CSHB 370(CRA)am is that local assemblies/councils will determine, through local ordinance:

- The length of these optional exemptions or deferrals up to 20 years;
- The amount of the value of the property to be exempted (all or partial); and
- The manner in which that exempted or deferred tax revenue will otherwise be paid.

Furthermore, floor amendments made to the bill in the House also allowed municipalities the flexibility to determine if proposed military facility zones (MFZ) are consistent with their comprehensive economic plans through local zoning ordinances.

Lastly, there was amendment adopted that stipulated that assemblies may not exempt or defer property taxes for those levied to fund special services in a service area.

State Capitol Rm. 411
907.465.2199
Rep.Cathy.Tilton@akleg.gov

Current Law

5 year cap with option for renewal.

Education funding (*Required Local Contribution*) may be exempted from new property tax revenue from new project for first 5 years. After that, must be accounted for before the remaining property tax revenue can be exempted or deferred under a renewal.



HB 370

5 year cap removed. Length of property tax credit up to local government.



Education funding (*Required Local Contribution*) must still be funded but it is up to local government to decide what source of revenue to use, not required to use property tax revenue.

Adds new language in statute:

An exemption or deferral on the property enables a significant capital investment in physical infrastructure that expands the tax base of the municipality; and will generate property tax revenue after the exemption expires.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version:	CSHB 370(CRA)
Fiscal Note Number:	1
(H) Publish Date:	4/1/2016

Identifier: HB370-DCCED-DCRA-3-18-16
 Title: MUNICIPAL TAX EXEMPTIONS
 Sponsor: COMMUNITY & REGIONAL AFFAIRS
 Requester: (H) Community and Regional Affairs

Department: Department of Commerce, Community and Economic Development
 Appropriation: Community and Regional Affairs
 Allocation: Community and Regional Affairs
 OMB Component Number: 2879

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2017 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES	FY 2017	FY 2017					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Katherine Eldemar, Director	Phone:	(907)465-3961
Division:	Community and Regional Affairs	Date:	03/18/2016 09:30 AM
Approved By:	Catherine Reardon, Director	Date:	03/18/16
Agency:	Division of Administrative Services, DCCED		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

Analysis

HB 370 would allow municipalities to expand the Optional Exemption under AS 29.45.050(m) for a specified, yet unlimited, period of time. A time period must be specified, but there is no limitation on the number of years that it could encompass.

As an Optional Exemption, the local Assessor would need to track and report the market value of the property and the amount of value exempted under AS 29.45.050(m). Any value exempted would be restored to the Full Value Determination of that community for purposes of calculating the Required Local Contribution for schools.

The Division of Community and Regional Affairs does not anticipate any fiscal impact from this legislation.

April 1, 2015

Representative Cathy Tilton
Chair, Community & Regional Affairs Committee
Alaska State House of Representatives

Re: House Bill 370, an Act Relating to Municipal Tax Exemptions

Mme. Chairwoman,

As President and CEO of the Fairbanks Economic Development Corporation (FEDC), I write to express FEDC's support for House Bill 370, an Act Relating to Municipal Tax Exemptions.

As noted by the sponsor, HB 370, by removing the current statutory limit, grants municipalities greater discretion in setting the time horizons for property tax exemptions or deferrals they and their residents may offer as incentive to economic development properties within their jurisdictions, and the latitude to set differing exemption or deferral timelines for different types of economic development properties.

In these challenging times, as the Legislature contemplates transferring increased levels of responsibility and cost down onto municipal governments and their residents, it is only right that the State should allow Alaska communities enhanced tools, and greater flexibility, to meet these challenges.

FEDC supports HB 370 and, therefore, asks that you move it expeditiously through the remaining legislative process with votes of approval.

Respectfully,



Jim Dodson
President & CEO
Fairbanks Economic Development Corporation



Municipality of Anchorage

Office of Economic Community Development

April 1, 2016

Representative Charisse Millett, Majority Leader
Representative Chris Tuck, Minority Leader
Representative Matt Claman
Representative Harriet Drummond
Representative Les Gara
Representative Mike Hawker
Representative Craig Johnson
Representative Andy Josephson
Representative Gabrielle Ledoux
Representative Bob Lynn
Representative Lance Pruitt
Representative Ivy Spohnholz
Representative Geran Tarr
Representative Liz Vasquez
State Capitol
Juneau AK, 99801

Anchorage Caucus members,

On behalf of the Office of Economic & Community Development for the Municipality of Anchorage, I am writing to you today to encourage your support for CS HB 370 when it is brought to the House floor by Rep. Cathy Tilton.

This important piece of legislation modifies the existing tax abatement tool available to municipalities contained within Alaska Statute 29.45.050 (m) in a way that will make the tool more flexible and responsive to the specific needs of Alaska's individual communities.

Currently, AS 29.45.050 (m) gives municipalities the power to pursue economic development opportunities via tax abatement, which can include either exemption or deferral of all or part of real and personal property taxes. However, the incentives are only available for five years with renewals and the criteria for qualification are overly stringent – so much so, in fact, that there are no known qualifying economic development projects in the 20+ years since this provision was created.

CS HB 370 modifies AS 29.45.050 (m) by removing the five-year limitation on tax abatement-based economic development incentives. With the current budget deficit, the State's ability to invest in economic development initiatives is evaporating and municipalities must rely upon their own means to



Municipality of Anchorage

Office of Economic Community Development

facilitate those projects. The current five-year limitation does not provide the longer term certainty necessary for investors to commit to larger and more capital intensive projects.

CS HB 370 modifies AS 29.45.050 (m) by easing the narrowly focused criteria of the current statute. This will move away from a “one size fits all” approach to economic development incentives and instead allows municipalities the flexibility that they need to craft criteria specific to their local economic development needs.

In addition, CS HB 370 modifies AS 29.45.050 (m) augments the current eligibility criteria by adding economic development property that involves a “significant capital investment in physical infrastructure,” provided the property expands the tax base of the municipality and will generate property tax revenue after the exemption expires.

It is important to note that HB 370 does not change current law regarding abatement of the portion of local property taxes allocated to a school district for the municipal match of education funding. Only after the education requirement is met can property tax revenue be exempted or deferred for economic development.

Thank you for your consideration of this important economic development tool. Feel free to contact me with any questions.

Sincerely,

Christopher M. Schutte, Director
Office of Economic & Community Development
Municipality of Anchorage

CITY OF SEWARD

P.O. Box 167
410 Adams Street
Seward, Alaska 99664-0167



- Main Office (907) 224-4050
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- City Clerk (907) 224-4046
- Community Development (907) 224-4049
- Utilities (907) 224-4050
- Fax (907) 224-4038

28 March 2016

Honorable Representative Cathy Tilton,
Chair, House Community and Regional Affairs Committee

We write to support HB 370, an Act relating to municipal tax exemptions.

As State capital and operating budgets are reduced, local governments will have to find more creative ways to facilitate economic development projects. Tax exemption or deferral, with some restrictions, is a tool currently available to local governments, but is currently limited by statute (AS 29.45.050-m), to an initial five year term.

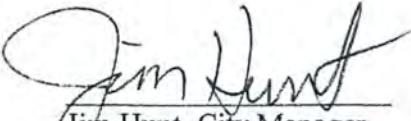
That may have worked well enough for some smaller projects, but today's larger and more capital intensive developments can't find enough certainty in a five year agreement that might not be renewed as part of a viable business plan. We believe that municipalities acting in their own interest would be better served by removing the five year restriction.

This bill removes the five year mandate, and adds protections requiring that the significant capital investment expand the tax base of the municipality and thereby increases tax revenues after the exemption or deferral expires.

The City of Seward has enjoyed tremendous State support in developing the Seward Marine Industrial Center Phase One. As we get nearer to Phase Two and beyond, we recognize that private capital will have to play a bigger role, and believe a broader range of options such as this bill will help us and local governments across the state in finding solutions.

Thank you for your consideration.

Respectfully yours,


Jim Hunt, City Manager

LEGAL SERVICES

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

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

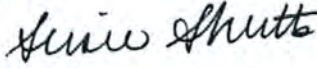
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 19, 2016

SUBJECT: Constitutionality of duration of tax exemption
(CSHB 370(CRA); Work Order No. 29-LS1551\W)

TO: Representative Cathy Tilton
Chair of the House Community and Regional Affairs Committee
Attn: Heath Hilyard

FROM: Susie Shutts 
Legislative Counsel

You requested an opinion on whether a constitutional issue is raised by the amendment of AS 29.45.050(m) by CSHB 370(CRA) to permit a municipality to exempt economic development property from taxation "for a designated period of time" instead of "for up to five years," as the subsection currently reads.

There is no constitutional requirement that the legislature include a set time period when authorizing a municipal tax exemption. Under art. IX, sec. 4, Constitution of the State of Alaska, tax exemptions may be granted by law. And under art. X, sec. 2, Constitution of the State of Alaska, the state may delegate taxing powers to municipalities.

Currently, some of the tax exemptions permitted under AS 29.45.050 do have specific time limitations,¹ while other exemptions under AS 29.45.050 do not.²

SLS:dla
16-304.dla

¹ See, e.g., AS 29.45.050(b)(1)(D), (f), (g), (j), (k), (o), (v), and (w).

² See, e.g., AS 29.45.050(b)(1)(A) - (C) and (E), (b)(2), (e), (h), (i), (l), (n), (p), (q), (r), (s), (t), and (u).



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- Northrim Bank Larry Cooper*
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- Premiera Blue Cross Blue Shield of Alaska Lynn Burt Henderson*
- Professional Growth Systems William Dams*
- Providence Health & Services Alaska Kristina DeBelle*
- Stantec Timothy Age*
- The Wilson Agency, LLC Tom Walsh*
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- Walsh Sheppard Jack Sheppard*
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- Assembly Member, Bill Evans*

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- AIDEA Chris Anderson*
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- Girdwood 2020 Diana Stone Livingston*
- Lynden Dennis Mitchell*
- Municipal Light & Power Mark Johnson*
- Port of Anchorage Steve Ribuffo*
- RIM Architects Larry Cash*
- Solid Waste Services Paul Aikman*
- State of Alaska, DCCED Chris Fialaick*
- Ted Stevens Anchorage International Airport John Parratt*
- University of Alaska Anchorage Dennis Chase*
- University of Alaska Board of Regents Mary Hagley*
- Visit Anchorage Julie Skrupa*

April 6, 2016

House Community & Regional Affairs Committee
State Capitol, Room 124
Juneau AK 99801

Re: Support for HB 370

Dear Representative Tilton,

I am writing on behalf of Anchorage Economic Development Corporation (AEDC) in support of HB 370, an act relating to municipal tax exemptions. The ability of local governments to design their own tax exemption incentives in order to promote targeted growth in their regions is going to be a key tool in the economic development efforts statewide.

Anchorage would benefit from the passage of this legislation by allowing the Municipality to craft tax exemptions that would incentivize the development of land parcels that are currently uneconomic to develop, unlocking new development opportunities and in the long run increasing the Municipality's revenue streams through new properties on the tax roll.

I urge you to support the passage of this bill. Please feel free to contact me should you have any questions about AEDC's support.

Sincerely,

Bill Popp
President & CEO
Anchorage Economic Development Corp.