

HB

370

<TARGET><BILL>HB 370</BILL><SUBJECT>HB
370</SUBJECT><COMM>SFIN29</COMM></TARGET>

Representative Cathy Tilton

Alaska State Legislature – House District 12



SPONSOR STATEMENT – SCSCSHB 370 (CRA)

(29-LS1551\?)

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

AS 29.45.050(m) 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 for up to 30 years. 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.

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Representative Cathy Tilton

Alaska State Legislature – House District 12



SECTIONAL ANALYSIS – SCSCSHB 370 (CRA)

(29-LS1551\??)

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

Section 1 –

This section amends AS 26.30.020(c) which has the functional effect of allowing the local assemblies to comply with the establishment of "military facility zones" through local zoning ordinances rather than through a potentially more cumbersome process of amending a comprehensive development plan.

Section 2 –

This section amends the AS 29.45.050(m) in two ways.

1. The new language on Page 3, lines 7-12 outlines a process for service areas boards to have a formal role in determining if a deferral or exemption will be extended if it has an effect on the taxes levied in their respective areas for those respective services;
2. The language on Page 4, lines 7-11 adds language clarifying the standards for which an assembly can apply this optional exemption or deferral for economic development property. The language provides that the exemption or deferral enables "significant capital investment in physical infrastructure" that expands the tax base and will generate property tax revenue after the expiration of the exemption.

As a note, the language found on Page 3, lines 22-31 is not new language but existing statutory language that has been moved as a result of drafting conventions. The above referenced language reinserts what was deleted on Page 4, lines 12-19.

Representative Cathy Tilton

Alaska State Legislature – House District 12



SUMMARY OF CHANGES – SCSCSHB 370 (CRA)

(29-LS1551\??)

"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 SCSCSHB 370 (CRA) significantly expands the time limit (30 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 SCSCSHB 370(CRA) is that local assemblies/councils will determine, through local ordinance:

- The length of these optional exemptions or deferrals up to 30 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 by the rest of the tax base.
-

Furthermore, floor amendments made to the bill in the House also allowed municipalities the flexibility to allow the creation military facility zones (MFZ) through local zoning ordinances rather amending a comprehensive development plan.

Lastly, new language provides a formal role for service area boards to approve exemptions or deferrals in the service areas they manage. If no service area board exists then the decision remains solely the discretion of the assembly/council.

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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 *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).

Sec. 29.35.450. Service areas.

(a) A service area to provide special services in a borough or unified municipality may be established, operated, altered, or abolished by ordinance, subject to (c) of this section. Special services include services not provided by the unified municipality or a higher or different level of services. Special services include services not provided by a borough on an areawide or nonareawide basis in the borough or a higher or different level of services than that provided on an areawide or nonareawide basis. A borough may include a city in a service area if

(1) the city agrees by ordinance; or

(2) approval is granted by a majority of voters residing in the city, and by a majority of voters residing inside the boundaries of the proposed service area but outside of the city.

(b) A new service area may not be established if, consistent with the purposes of Alaska Const., art. X, the new service can be provided by an existing service area, by annexation to a city, or by incorporation as a city.

(c) If voters reside within a service area that provides road, fire protection, or parks and recreation services, abolishment of the service area is subject to approval by the majority of the voters residing in the service area who vote on the question. A service area that provides road, fire protection, or parks and recreation services in which voters reside may not be abolished and replaced by a larger service area unless that proposal is approved, separately, by a majority of the voters who vote on the question residing in the existing service area and by a majority of the voters who vote on the question residing in the area proposed to be included within the new service area but outside of the existing service area. A service area that provides road, fire protection, or parks and recreation services in which voters reside may not be altered or combined with another service area unless that proposal is approved, separately, by a majority of the voters who vote on the question and who reside in each of the service areas or in the area outside of service areas that is affected by the proposal. This subsection does not apply

(1) to a proposed change to a service area that provides fire protection services

(A) that would result in increasing the number of parcels of land in the service area or successor service area if the increase is not more than six percent and would add not more than 1,000 residents;

(B) in a second class borough that would result in

(i) decreasing the number of parcels of land in the service area or successor service area if the owner of the property to be removed from the area requests removal and the removal meets criteria adopted by ordinance; or

(ii) increasing or decreasing the number of parcels of land in the service area or successor service area if the parcel is transferred to a service area that provides more accessible fire protection services to the transferred parcel;

(2) in a second class borough to abolishment of a road service area or consolidation of two or more road service areas if

(A) taxes have not been levied in the service area for road maintenance or construction during the last 12 months and there is no balance in any account available to pay for these road services for the service area;

(B) during the last 12 months, the service area board has not met with a quorum present and in accordance with law; or

(C) there are no road maintenance contracts in effect for the service area or the existing road maintenance contracts fail to provide for minimum road standards required by law that are necessary to protect the borough from civil liability;

(3) to require approval by the voters residing in a subdivision or parcel proposed to be added to a road service area if roads maintained by the service area provide the only access to the subdivision or parcel or provide access to the subdivision or parcel that is required by the subdivision plat or by other regulation or ordinance;

(4) to a change in the boundaries of a road service area to exclude a subdivision or parcel that does not rely on the use of roads maintained by the service area for the subdivision's or parcel's only access or for access that is required by the subdivision plat or by other regulation or ordinance;

(5) to a change in the boundaries of a road service area to include or exclude a parcel that is located in more than one service area so that the parcel is only located in one road service area;

(6) to a change in the boundaries of a road service area to include a parcel that is partially located in the road service area if roads maintained by the service area provide the only access to the parcel.

(d) This section applies to a home rule or general law municipality.

Sec. 29.35.460. Service area boards.

The assembly may provide for an appointed or elected board to supervise the furnishing of special services in a service area.

CITY OF SEWARD

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



- Main Office (907) 224-4050
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- 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.

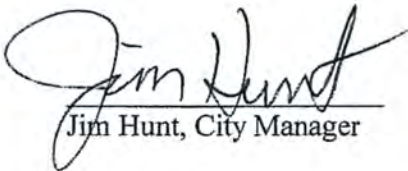
That may have worked well enough for some smaller projects, but today's larger and more capital intensive developments can't find enough certainty in a five year agreement that might not be renewed as part of a viable business plan. We believe that municipalities acting in their own interest would be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

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,

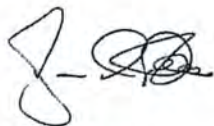
As President and CEO of the Fairbanks Economic Development Corporation (FEDC), I write to express FEDC's support for House Bill 370, an Act Relating to Municipal Tax Exemptions.

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



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Anchorage School District Ed Graff
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State of Alaska, DCCED Chris Hladick
Ted Stevens Anchorage International Airport John Parrott
University of Alaska Anchorage Thomas Case
University of Alaska Board of Regents Mary Hughes
Visit Anchorage Julie Soupe

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.



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

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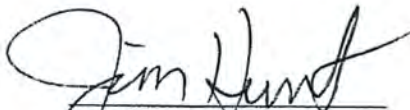
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The City of Seward has enjoyed tremendous State support in developing the Seward Marine Industrial Center Phase One. As we get nearer to Phase Two and beyond, we recognize that private capital will have to play a bigger role, and believe a broader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

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Respectfully yours,


Jim Hunt, City Manager