ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 8672

3893 SCRA HB 327 - HB 518

262

2/17

# COMMITTEE REPORT

## HOUSE

(7)

4/26/85

FURTHER: Rules

Date: ____________

The Committee on JUDICIARY has had HB 327

"An Act relating to the disclosure of information."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for HB 327 (JUD) [ ] same tit [✓] new titl

and recommends ____________

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the ____________ Committee

MEMBERS SIGNING DO PASS

[signatures]

Robin L. Taylor

MEMBERS HAVING OTHER RECOMMENDATIONS:

[signature] no rec

[signature]

CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date: ____________

**REQUEST**

Bill/Resolution No.: HB 327

Title: "An Act relating to the disclosure of information."

Sponsor: Rep. Koponen

Requestor: House State Affairs

Date of Request: April 19, 1985

**FISCAL DETAIL**

Agency Affected: Law

Program Category Affected: General Government Admin. of Justice

BRU, Program or Subprogram(s) Affected: Legal Services, Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|---|---|---|---|---|---|---|
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 SUPPLIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS | | | | | | |
| 800 MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|---|---|---|---|---|---|---|
| GENERAL FUND | -0- | -0- | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

| | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 |
|---|---|---|---|---|---|---|
| FULL-TIME | -0- | -0- | -0- | -0- | -0- | -0- |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: Attach a separate page if necessary

Enactment of this bill will probably result in some additional legal work on the part of Department of Law staff. It does not appear that any increase in workload will be significant enough to warrant fiscal note costs. However, when considered in conjunction with other similar measures, bills of this nature divert the department's existing resource from other more pressing assignments because of their cummulative effect.

Prepared By: Richard I. Pegues, Director — Phone: 465-3672

Division: Administrative Services — Date: April 19, 1985

Approved by Commissioner: Norman C. Gorsuch — Date: April 19, 1985

Agency: Department of Law

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

HB 327

CSHB 327(JUD) MOTION

| | | |
|---|---|---|
| Yeas: | 33 | Adams, Cato, Clocksin, Cotten, Davis, Duncan, Fuller, Goll, Gruenberg, Grussendorf, Hanley, Herrmann, Hurley, Jenkins, Koponen, Larson, Martin, Miller,M.M., Navarre, Pearce, Pettyjohn, Phillips, Pignalberi, Pourchot, Rieger, Ringstad, Shultz, Sund, Szymanski, Taylor, Thompson, Uehling, Wallis |
| Nays: | 3 | Frank, Furnace, Marrou |
| Excused: | 4 | Binkley, Boucher, Collins, Miller,M.W. |
| Absent: | 0 | |

And so, CSHB 327(Jud) was adopted.

CSHB 327(Jud)

Amendment No. 1 by Clocksin:

Page 2, line 3:

Insert a new subsection (c) and reletter accordingly:

"(c) This section and AS 23.10.510 do not apply if the report made under subsections (a)(1) or (a)(3) of this section discloses information which is legally required to be confidential."

Representative Clocksin moved and asked unanimous consent that Amendment No. 1 be adopted. There being no objection, it was so ordered.

CSHB 327(Jud)am

Amendment No. 2 by Marrou:

Page 1, lines 17-20:

Delete:

"(A) a violation of state, federal, or municipal law, regulation or ordinance; or

(B) a substantial and specific danger to public health or safety;"

Representative Marrou moved and asked unanimous consent that Amendment No. 2 be adopted.



CSHB 327(Jud)am

Representative M.M. Miller objected.

The question being: "Shall Amendment No. 2 be adopted?" The roll was taken with the following result:

CSHB 327(JUD)AM AM2

| | | |
|---|---|---|
| Yeas: | 10 | Frank, Furnace, Hanley, Jenkins, Marrou, Martin, Pearce, Pettyjohn, Ringstad, Shultz |
| Nays: | 24 | Cato, Clocksin, Cotten, Duncan, Fuller, Goll, Gruenberg, Grussendorf, Herrmann, Hurley, Koponen, Larson, Miller,M.M., Navarre, Phillips, Pignalberi, Pourchot, Rieger, Sund, Szymanski, Taylor, Thompson, Uehling, Wallis |
| Excused: | 4 | Binkley, Boucher, Collins, Miller,M.W. |
| Absent: | 2 | Adams, Davis |

And so, Amendment No. 2 was not adopted.

Representative Clocksin moved and asked unanimous consent that CSHB 327(Jud)am be considered engrossed, advanced to third reading and placed on final passage.

Representative Clocksin withdrew his motion.

Amendment No. 3 by Pettyjohn:

Page 1:

Line 16, before "believing", insert "reasonably"

Line 26, before "believing", insert "reasonably"

Representative Pettyjohn moved and asked unanimous consent that Amendment No. 3 be adopted. There being no objection, it was so ordered.

Representative Clocksin moved and asked unanimous consent that CSHB 327(Jud)am be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 327(Jud)am was read the third time.

CSHB 327(Jud)am

The question being: "Shall CSHB 327(Jud)am pass the House?" The roll was taken with the following result:

CSHB 327(JUD)AM

Yeas: 32 Adams, Cato, Clocksin, Cotten, Davis, Duncan, Frank, Fuller, Goll, Gruenberg, Grussendorf, Hanley, Herrmann, Hurley, Jenkins, Koponen, Larson, Miller,M.M., Navarre, Pearce, Pettyjohn, Phillips, Pignalberi, Pourchot, Rieger, Ringstad, Sund, Szymanski, Taylor, Thompson, Uehling, Wallis

Nays: 4 Furnace, Marrou, Martin, Shultz

Excused: 4 Binkley, Boucher, Collins, Miller,M.W.

Absent: 0

And so, CSHB 327(Jud)am passed the House.

Representative Furnace gave notice of reconsideration of his vote on CSHB 327(Jud)am.

SECOND READING OF HOUSE RESOLUTIONS

HJR 51

HOUSE JOINT RESOLUTION NO. 51 (relating to Coast Guard user fees) was read the second time with the State Affairs Committee report (page 2125).

Representative Clocksin moved and asked unanimous consent that HJR 51 be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

HJR 51 was read the third time.

The question being: "Shall HJR 51 pass the House?" The roll was taken with the following result:

§ 39.50.200

10, Alaska Consti-

ition of Justice (AS

5);
ard (AS 18.60.057);

9.35.030);
2.05.010);
§ 14.40.120);
Advisory Board (AS

1.25.035);
2.07.011);
05);
Education (AS

S 44.85.020);

6.010 — 18.26.900);
on (AS 31.05.005 —

AS 18.56.010 —

nd their alternates

the Alaska Perma-

1.51.010);
Assault (18.66.010);
S 44.83.030); and
2.010). (Initiative
am § 3 ch 79 SLA
A 1976; am § 2 ch
158 SLA 1978; am
3 ch 75 SLA 1979;
am § 8 ch 18 SLA



1980; am §§ 39 — 43 ch 94 SLA 1980; am § 5 ch 148 SLA 1980; am E.O. No. 44 § 2 (1980); am § 1 ch 54 SLA 1981; am § 2 ch 101 SLA 1981; am § 5 ch 106 SLA 1981; am § 20 ch 110 SLA 1981; am § 86 ch 59 SLA 1982; am § 107 ch 6 SLA 1984; am § 1 ch 52 SLA 1984)

**Revisor's notes.** — This section was reorganized in 1984 to place the defined terms in alphabetical order.

**Effect of amendments.** — The first 1980 amendment repealed a former subparagraph to present paragraph (b), which read: "Alaska Salary Commission (AS 39.23)."

The second 1980 amendment inserted "court of appeals" following "a judge to the" near the middle of subparagraph (2) of paragraph (a).

The third 1980 amendment added subparagraph (42) in present paragraph (b).

The fourth 1980 amendment, in present paragraph (b), repealed former paragraphs, which read: "Board of Fish and Game (AS 16.05.220)," "State Section of Joint Federal-State Land Use Planning Commission (AS 41.40.020)," "Board of Directors, State-Operated Schools (AS 14.08.030)," and "Alaska Salary Commission (AS 39.23)," respectively, substituted "Workers'" for "Workmen's" in subparagraph (31), and added subparagraphs (40) and (41).

The fifth 1980 amendment added subparagraph (43) in present paragraph (b).

Section 2, Executive Order No. 44 (1980) substituted "(AS 44.27.040)" for "(AS 44.19.900)" at the end of subparagraph (2) of present paragraph (b).

The first 1981 amendment added paragraph (45) in subsection (b).

The second 1981 amendment added paragraph (44) of subsection (b).

The third 1981 amendment repealed paragraph (22) of subsection (b) which read "Alaska Pipeline Commission (AS 42.06.020)."

The 1982 amendment repealed paragraphs (14), (27), and (28) of subsection (b).

The first 1984 amendment added paragraphs (46) and (47) to subsection (b).

The second 1984 amendment inserted "the fiscal analyst of the legislative finance division, the legislative auditor of the legislative audit division, the executive director of the Legislative Affairs Agency and the directors of the divisions within the Legislative Affairs Agency" in paragraph (8).

NOTES TO DECISIONS

**Purpose of the Conflict of Interest** law is to bring to light all conflicts — actual and potential. Falcon v. Alaska Pub. Offices Comm'n, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

**Patient of a physician is a client for medical services and falls within the scope of this chapter.** Falcon v. Alaska Pub. Offices Comm'n, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

**And source of income.** — The Conflict of Interest law encompasses a physician's individual patients as sources of income. Falcon v. Alaska Pub. Offices Comm'n, Sup. Ct. Op. No. 1512 (File No. 3220), 570 P.2d 469 (1977).

## Chapter 51. Miscellaneous Provisions.

Section
20. Obstruction of access to public information
30. Nepotism prohibited

*Sec. 39.51.010. Misuse of confidential information. [Repealed, § 21 ch 166 SLA 1978. For current law see AS 11.56.860.]*

**Sec. 39.51.020. Obstruction of access to public information.** (a) A public employee may not be dismissed, demoted, suspended, laid off or otherwise made subject to any disciplinary action for communicating

matters of public record or information under AS 09.25.110 and 09.25.120.

(b) As used in this section, "public employee" means any employee receiving compensation for services provided to the state (including the University of Alaska) or any political subdivision of the state.

(c) A violation of this section is a misdemeanor. (§ 1 ch 151 SLA 1977)

NOTES TO DECISIONS

**Applied** in Carter v. Alaska Pub. Employees Ass'n, Sup. Ct. Op. No. 2657 (File No. 6586), 663 P.2d 916 (1983).

**Quoted** in City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

**Sec. 39.51.030. Nepotism prohibited.** It is unlawful for a person who is the spouse of or is related by blood within and including the second degree of kindred to the executive head of a principal state department or agency to be employed in that department or agency. (§ 1 ch 98 SLA 1959)

**Revisor's notes.** — Formerly AS 39.10.010. Renumbered in 1984.

**Collateral references.** — 63 Am. Jur. 2d, Public Officers and Employees, § 97.

67 C.J.S., Officers, § 23.

Geo Fiscal note & analysis
H Supplement No. 86

Offered: 2/17/86
For Today's Calendar

Original sponsors: Koponen, Thompson, Marrou and Jenkins

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 327 (Judiciary) am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to protection for public employees."

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

8 * Section 1. AS 39.51 is amended by adding new sections to read:

9 ARTICLE 2. PROTECTION FOR PUBLIC EMPLOYEES.

10 Sec. 39.51.100. EMPLOYEES PROTECTED. (a) A public employer may
11 not discharge, threaten, or otherwise discriminate against an employee
12 regarding the employee's compensation, terms, conditions, location, or
13 privileges of employment because

14 (1) the employee or a person acting on behalf of the
15 employee reports to a public body or is about to report to a public
16 body, reasonably believing the report to be true;

17 (A) a violation of a state, federal, or municipal law,
18 regulation or ordinance; or

19 (B) a substantial and specific danger to public health
20 or safety;

21 (2) the employee is requested by a public body to partici-
22 pate in a court action or in an investigation, hearing, or inquiry
23 held by that public body; or

24 (3) the employee, or a person acting on behalf of the
25 employee, reports to a public body or is about to report to a public
26 body, reasonably believing the report to be true, mismanagement, a
27 gross waste of funds, or an abuse of authority.

28 (b) This section does not require an employer to compensate an
29 employee for participation in an investigation, hearing, or inquiry

H

held by a public body.

(c) This section and AS 39.51.110 do not apply if the report made under subsections (a)(1) or (a)(3) of this section discloses information which is legally required to be confidential.

(d) A person who alleges a violation of this section may bring a civil action for appropriate injunctive relief, actual damages, or both, within 90 days after the occurrence of the alleged violation.

(e) The person must show by clear and convincing evidence that the employer violated (a) of this section.

(f) The provisions of AS 39.51.100 - 39.51.120 do not diminish or impair the rights of a person under a collective bargaining agreement.

(g) An employer shall post notices and use other appropriate means to inform employees of their protections and obligations under AS 39.51.100 - 39.51.120.

Sec. 39.51.110. RELIEF AND PENALTIES. (a) The court may order an employer to reinstate the employee, pay the employee back wages, reinstate fringe benefits and seniority rights, and pay actual damages.

(b) A public body may not disqualify a person who alleges a violation of AS 39.51.100 - 39.51.120 from eligibility to

(1) bid on contracts with the public body;

(2) receive land under a law of the state or an ordinance of the municipality;

(3) receive another right or benefit to which the person is entitled.

(c) A person who violates AS 39.51.100 - 39.51.120 is liable for a civil fine of not more than $10,000.

(d) A person who attempts to prevent another person from making



COMMITTEE COPY

a report or participating in a matter under AS 39.51.100(a) with intent to impede or prevent a public inquiry on the matter is liable for a civil fine of not more than $10,000.

Sec. 39.51.120. DEFINITIONS. In AS 39.51.100 - 39.51.120,

(1) "employee" or "public employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied for a public employer;

(2) "employer" or "public employer" includes the state, a public or quasi-public corporation or authority established by law, the University of Alaska, a municipality, a political subdivision of the state, and the Alaska Railroad;

(3) "public body" includes a federal, state, or municipal officer or agency.

COMMITTEE COPY

Revision Date : 1/30/86

**REQUEST**

Bill/Resolution No. : CSHB 327 (Jud)
Title : "An Act relating to disclosure of information..."

Sponsor : Repr. Kooonen
Requestor : House Judiciary Committee
Date of Request : January 30, 1986

**FISCAL DETAIL**

Agency Affected : Department of Law
BRU : Legal Services, Prosecution

Components : Legal Services Operations, ALL - Prosecution

EXPENDITURES/REVENUES : (Thousands of Dollars)

| OPERATING | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 |
|---|---|---|---|---|---|---|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING : (Thousands of Dollars)

| | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 |
|---|---|---|---|---|---|---|
| GENERAL FUND | | -0- | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS :

| | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 |
|---|---|---|---|---|---|---|
| FULL-TIME | | -0- | -0- | -0- | -0- | -0- |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : Attach a separate page if necessary

-Please see attached analysis.-

Prepared by : Richard I. Pegues, Director — Phone : 465-3672
Division : Administrative Services Division — Date : 1/30/86

Approved by Commissioner : Harold M. Brown, Attorney General — Date : 1/30/86
Agency : Department of Law

Distribution (by Agency preparing fiscal note) :
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



10/25/85

Enactment of this bill will probably result in some additional legal work on the part of Department of Law staff. It does not appear that any increase in workload will be significant enough to warrant fiscal note costs. However, when considered in conjunction with other similar measures, bills of this nature divert the department's existing resource from other more pressing assignments because of their cumulative effect.

To the extent that misdemeanor charges may be brought against a public employee for allegedly violating proposed Sec. 39.51.040, it is doubtful that a conviction could ever be obtained. The term cooperate, as it is used in the section, is sufficiently vague that it is unlikely criminal intent could ever be established.

# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

10/31/89
Date

02-519 (REV 8/78)

HB
380

January 27, 1986

TO: Members, House of Representatives

FROM: Mike Szymanski

RE: HB 380

HB 380 deals with the concerns AWWU is addressing in the proposed tariff change outlined in this article. However, it establishes the protection in statute and thus will apply throughout the state.

# City's water utility proposes solution to PILA controversy

By DAVID POSTMAN
Daily News reporter

The Anchorage Water and Wastewater Utility says it has a solution to a complicated and controversial method of requiring property owners to pay for water lines they may not want.

City officials said their proposal will take the sting out of payments in lieu of assessments, or PILAs.

But a spokesman for a group of homeowners suing the city over the payments said the proposal addresses only one part of the problem.

Under the PILA system, property owners are charged a portion of the cost of water lines installed past their property to residential developments. Developers pay for the lines, then AWWU bills property owners who could hook up to them.

Residents then have five years from the time they hook up to complete payment, and the money — plus interest — goes back to the developer.

In many cases, property owners who have not connected to a water line say they did not know the payments were adding up — with substantial interest — until they attempted to sell or refinance their homes.

There are about 3,700 properties in Anchorage affected by PILAs.

According to Brian Crewdson, AWWU's manager of engineering and customer service, the city' proposal would make several major changes, including:

• Doing away with all interest payments, with developers being reimbursed only for the actual cost of installing a line.

• Holding a public hearing at the Anchorage Assembly to determine which property owners want to hook into a line.

• Notifying all affected property owners prior to installation of a new line.

The plan is similar to that now used for sewer lines.

The proposal would have to be approved by the assembly and the Alaska Public Utilities Commission before becoming law. The measure will be submitted to the assembly in March or April.

"The biggest impact is the interest issue," Crewdson said. "The water is available if someone wants it, but there's not this big monster growing out there."

Crewdson said it is also important that homeowners would be notified.

Because of the lawsuit now in Anchorage Superior Court, Crewdson would not discuss possible remedies for people who have already hooked to a line and made paymen[ts]

"They've just looked at [one] facet of the problem," s[aid] Ron Fieger, one of the prop[er]ty owners involved in the s[uit] against the city and spok[es]man for Citizens Agai[nst] PILA.

Fieger said the propo[sal] does nothing about one of [the] major problems with PILA[s:] that a property owner co[uld] be forced to pay for a wat[er] line he may never want.

See Page C-3, WAT

Continued from Page C-1

"I think first of all they need to ask people if they want a water line put in. They didn't address that situation whatsoever," Fieger said.

That's the heart of the suit Fieger and other property owners filed in October. They claim the PILA system is illegal because it violates the rights of property owners to take part in the decision to install water and sewer lines. The suit also contends PILAs rob property owners of the vale of their on-site water system.

"The Constitution says that before there are any public improvements, you get to vote on it and 50 percent of the property owners have to improve it before it goes," said property owners' attorney Michael Robbins.

"A public hearing before the assembly? That's a farce."

Crewdson said water lines are installed if a private developer requests one for a new subdivision or if a homeowner asks for city water service. The utility also installs lines to increase fire fighting capabilities and to put in backup lines in case of an earthquake or other disaster.

Official Business

# Alaska State Legislature

## Senate

## Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman
Members:
Senator Ferguson, Vice Chairman
Senator Coghill
Senator Sturgulewski
Senator V. Fischer

Pouch V
Juneau, Alaska 99811

C&RA Committee Meeting -- February 27, 1986

CSHB 380 (C&RA) am

An Act relating to public utility water and sewer service extensions

Work Session -- SB 356

An Act relating to election campaign financing, efd

---

SB 380 makes provisions for the protection of property owners from:

1) payment of charges for utility connections prior to their proper notification

2) payment of interest charges accrued prior to connection or before service is available and adequate notice given

Material attached relevent to this legislation:

a) Muni of Anc AWWU info on definition of Payment in Lieu of Assessment (PILA)
b) Memo from MOA Mayor on PILA assessments
c) Memo from MOA AWWU Permit supervisor on status of PILA charges
d) Memo from MOA Ombudsman on suggested remedy for PILA problems
e) Memo from MOA AWWU General Manager on Recommendations for Changes to the PILA Process

# Alaska State Legislature

## Senate

## Committee on Community and Regional Affairs

2/27/86

Edna,

Senator Coghill will not be at today's meeting.

Representative Szymanski's bill -- HB 380 -- is supported by Senator Faiks. The bill relates specifically to the Municipality of Anchorage.

The Municipality of Anchorage has been notified of the bill --- the only testimony I know of on the bill is Representative Szymanski.

Avrum Gross and Susan Burke (if she feels up to it - she has been sick) will be at the committee ~~hearing~~ as of 3:45p for the work session on SB 356.

the additional information that has been supplied to the committee on SB 356 since Tuesday is:

AFL-CIO revised testimony from Dixie Hudish.....

Info on which regulations were repealed or deleted by the APOC in Jan '86; and info on the new regulations promulgated in Jan 1986

Ltr from Hal Brown

# Alaska State Legislature

*House of Representatives*

Representative Mike Szymanski

Finance Committee
Oil and Gas Committee

11920 Johns Road
Anchorage, Alaska 99515
Phone (907) 349-3373

While in Session:
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4978/4979

February 26, 1986

TO: SENATOR EDNA DeVRIES, CHAIRMAN, SENATE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

FROM: REPRESENTATIVE MIKE SZYMANSKI

RE: CS FOR HB 380(C&RA)am - AN ACT RELATING TO PUBLIC WATER AND SEWER SERVICE EXTENSIONS

HB 380 establishes protection for property owners from 1) the imposition of charges for utility connections without their knowledge and 2) the accrual of interest before utility connections are made or, when the project has been approved by a majority vote, before the service is available and adequate notice has been given. Current state law does not require utilities to notify property owners of debt incurred when a new line abuts their property, although most utilities do so as a courtesy.

The need for this law has been demonstrated in the Anchorage area, where a small utility failed to notify property owners of their obligations as a result of extension of a water line that benefitted a new development nearby. In this case, individuals' charges (known as PILAs, or Payments in Lieu of Assessment) were very large and and interest had been accruing (at a rate of 15.6%) for over two years before property owners were notified. Interest continues to accrue on the outstanding principal. Property owners choosing to connect to the utility line must pay the outstanding charges; even if they do not, existing PILAs have a severe negative effect on the value of their property since banking procedures require that all outstanding liabilities be paid prior to any refinancing or transfer/sale of property.

<u>Section 1</u> requires that when water or sewer service becomes available as the result of a utility line extension, utilities notify property owners of the charges and interest that will be due when a property owner chooses to obtain the utility service. The bill requires that such notification be according to the procedure set forth in the Alaska Rules of Civil Procedure.

(over)

In addition, Section 1 prohibits the utility from charging any interest on the fee to connect to the water or sewer line before the line is available for service. When a utility line extension has been approved by a majority vote of property owners in the affected area, the utility may start charging interest 30 days after the notice of fee and interest has been sent to the property owners. If the line extension was not the result of a vote (e.g., if it was undertaken by a private developer), the utility can charge interest on the connection fee only after the individual property owner obtains the utility service.

Subsection (g) states that if the utility fails to notify a property owner as required, the utility may not assess charges against the owners for the extension of the line or interest until the date the property is connected to the extension.

Section 2 of the bill specifies that all utilities are subject to the provisions of the bill, i.e., AS 42.05.381 (e) and (f), as well as to AS 42.05.221 - 42.05.281 (sections previously enacted) although they may be exempt from other regulation under Chapter 42.

a

For clarity the following definition is given for Payment-in-Lieu-of Assessment (PILA).

A MONETARY CHARGE COLLECTABLE FROM AFFECTED PROPERTIES AS A "FAIR-SHARE" CONTRIBUTION FOR WATER LINES INSTALLED.

The present PILA program became effective on January 1, 1972 and to date currently includes approximately 3,700 properties. The total amount of PILA charges outstanding to date is approximately $14,182,000 (includes applicable interest) of which approximately $8,820,000 (or 62%) represents municipal monies that were used to install water lines. The balance ($5,362,000) represents developer monies that were used to install water lines.

A PILA is a charge that is not collectable until such time as the affected property owner requests and/or connects to water service. An affected property is one that is served by:

1. Developer installed water lines that are not owned by that developer

-- OR --

2. Municipal installed lines that are not within a Water Improvement District (W.I.D.)

Should you wish to know if your property is one of the 3,700 PILA properties or have any other questions regarding water/sewer, please feel free to contact the Assessments Section, Anchorage Water & Wastewater Utility, 3000 Arctic Blvd., or call 786-5522, or 786-5551. For your convenience please have available your property description (lot, block, subdivision) and/or your property tax identification number.

Should you wish not to speak (testify) at this public meeting, written comments are welcome. You may bring or send your comments to:

Anchorage Water & Wastewater Utility
3000 Arctic Boulevard
Anchorage, Alaska 99503
ATTN: Skip Edinger, Assessments Supervisor

# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

No. AIM 141-85

Meeting Date: July 23, 1985

From: Mayor

Subject: RESPONSE TO THERESA HOGAN'S APPEARANCE REQUEST

In response to an appearance by Theresa Hogan before the Assembly regarding a water payment-in-lieu-of-assessment against her lot in Kingsberry Subdivision, the Anchorage Water & Wastewater Utility feels that the financial institution with which Ms. Hogan is dealing is being unreasonable. The Utility cannot support or understand the requirement that her property be connected to the Municipal system when she is presently receiving satisfactory water service from a community water system built to Municipal specifications and approved by the State of Alaska Department of Environmental Conservation.

If Ms. Hogan ultimately connects to the Municipal water system, she will be charged a payment-in-lieu-of-assessment (PILA). A payment-in-lieu-of-assessment (PILA) is her share of the Municipal water main construction costs, including interest at the AWWU bond rate. The Municipality does not require properties to connect to Municipal water systems; therefore, payment of PILA's is not mandatory until connection is desired.

The Municipal water main which benefits Ms. Hogan's property was cons ructed by a private developer. The Municipality is bound by contract to reimburse the developer if Ms. Hogan's property connects to the subject main.

Currently, there is no notification procedure for the impending construction of facilities by private developers which result in PILA's. The Utility is presently examining the possibility of including a statement in the notices of replat, which must occur in many cases prior to construction, issued by the Planning Department to property owners in the surrounding area. A possible example is:

> "The approval of the referenced plat/replat could possibly result in a financial impact upon properties which may be provided with water/wastewater service for which the construction may be required as a condition of this plat/replat."

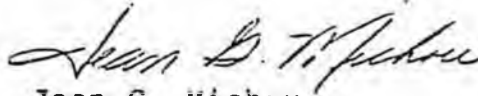
Prior to 1975, there were no notification procedures whatsoever, and property owners were unaware of the PILA charge until they requested water service. At that time, AWWU initiated notification to 2200 affected properties. In addition, AWWU began including specific principal and interest figures in notifications sent to newly affected properties. This process continues to be used. To date there are roughly 1700 properties with outstanding PILA's, for a total estimated outstanding amount, including interest to date, of approximately $2.7 million.

The issue of interest on private developer generated PILA's has undergone extensive analysis by the Utility, Municipal Ombudsman, and Representative Mike Szymanski. Representative Szymanski has introduced HB 380, which the Utility supports, to legalize statewide generally the procedures AWWU currently uses regarding notification and interest changes.

To address Ms. Hogan's suggestion of dedicating a "negative easement", AWWU is soliciting an opinion from the Municipal Attorney's Office. AWWU's initial reaction is that it is not a workable solution. The Utility has no authority to prevent a property owner from crossing an easement line; our authority by virtue of the plumbing code is in preventing a property owner from crossing more that one lot line to obtain service.

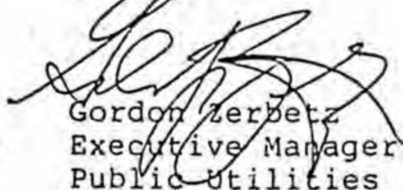
The Utility requested the Planning Department's opinion of a proposal to dedicate a 1-foot or wider strip of land along the lot line fronting the AWWU main as a greenbelt lot. The Planning Department responded that, as long as such a proposal is not for the purpose of restricting right-of-way access, the only obvious obstacles remaining are meeting lot square footage requirements and convincing Property Management to accept the green belt area.

Prepared by:



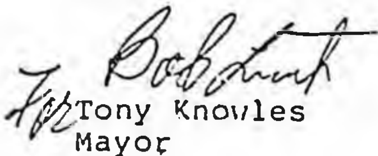
Jean G. Michou
General Manager
Anchorage Water & Wastewater Utility

Concur:



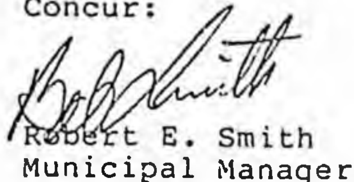
Gordon Zerbetz
Executive Manager
Public Utilities

Respectfully Submitted:



Tony Knowles
Mayor

Concur:



Robert E. Smith
Municipal Manager

MUNICIPALITY OF ANCHORAGE

MEMORANDUM

---

DATE: October 22, 1985

TO: Manager, Engineering/Customer Service, AWWU

THRU: Manager, Customer Service, AWWU

FROM: Assessment/Permit Supervisor, AWWU

SUBJECT: Payments-in-lieu-of-Assessments (PILA)

The following is a breakdown of what the Assessment Section found in regards to those water assessments known as Payments-in-lieu-of-Assessments (PILA's). Please keep in mind that because of the lack of time, very little research was done on this project. However, we feel that we are approximately 90 to 95% correct.

1. For those projects/agreements that have turned in their certified costs and as-builts, and for which the "per lot" amounts are known and collectable:

| | | |
|---|---|---|
| Total properties | = | (3,190) |
| Total principal | = | $ 8,415,137.36 |
| Total interest* | = | 3,378,826.73 |
| Total | = | $11,793,964.09 |

2. For those projects/agreements that have not turned in their certified costs and/or as-builts, we have estimated at an average per square foot rate of $0.10 to $0.80 depending on year of construction:

| | | |
|---|---|---|
| Estimated properties | = | (165) |
| Estimated principal | = | $985,427.59 |
| Estimated interest** | = | 0 |
| Total | = | $985,427.59 |

3. For those projects/agreements that we have just received but the water lines have not been constructed:

| | | |
|---|---|---|
| Estimated properties | = | (65) |
| Estimated principal | = | $130,000.00 |
| Estimated interest** | = | 0 |
| Total | = | $130,000.00 |

4. For those projects/agreements not yet signed but, are expected to be signed by December 31, 1985:

| | | |
|---|---|---|
| Estimated properties | = | (50) |
| Estimated principal | = | $130,000.00 |
| Estimated interest** | = | 0 |
| Total | = | $130,000.00 |

5. For those projects known as C.I.P.'s that have not been computed into assessments (PILA's):

| | | |
|---|---|---|
| Estimated properties | = | (230) |
| Estimated principal | = | $1,142,893.68 |
| Estimated interest** | = | 0 |
| Total | = | $1,142,893.68 |

6. Totals of Items 1 through 5 above:

| | | |
|---|---|---|
| Estimated properties | = | (3,700) |
| Estimated principal | = | $10,803,458.63 |
| Estimated interest | = | 3,378,836.73 |
| Total | = | $14,182,285.36 |

Also, of the $14,182,285.36 total, a break-down was made to determine what portion was developer installed (agreement/ reimbursable) and what portion was C.I.P. (AWWU and CAU installed) with the following results:

A. For those projects known as C.I.P.'s that have been found but not computed into assessments (PILA's). Item 5 above:

| | | |
|---|---|---|
| Estimated properties | = | (230) |
| Estimated principal | = | $1,142,893.68 |
| Estimated interest** | = | 0 |
| Total | = | $1,142,893.68 |

B. For that portion of Item 1 above that is considered as C.I.P. for which the per lot amounts are known:

| | | |
|---|---|---|
| Total properties | = | (2,728) |
| Total principal | = | $5,288,728.46 |
| Total interest* | = | 2,388,273.04 |
| Total | = | $7,677,001.50 |

C. Totals of Items A and B above:

| | | |
|---|---|---|
| Estimated properties | = | (2,958) |
| Estimated principal | = | $6,431,622.14 |
| Estimated interest | = | 2,388,273.04 |
| Total | = | $8,819,895.18 |

==============================================================

SYNOPSIS:

Of the total estimated/known PILA charges of $14,182,285.36, approximately 62% or $8,819,895.18, is Municipal C.I.P. project money.

Of the total estimated/known properties of 3,700, approximately 80% or 2,958 properties, would be paying C.I.P. charges.

Of the total estimated/known interest charges of $3,378,826.73, approximately 71% or $2,388,273.04, is Municipal C.I.P.

* Interest computed to January 1, 1986.

** No interest computed as date cannot be set until costs are computed and established as PILA's.

For clarity the following definition is given for Payment-in-Lieu-of-Assessment (PILA).

A PILA is a charge that is not levied nor collectable until such time as water service is requested. This includes not only those properties fronting a developer installed water line (and not owned by a developer) but also Municipal installed systems that are not Water Improvement Districts (W.I.D.s).

PILA rates are determined by spreading the certified cost of the project into the total affected area served. Then those properties not owned by the developer/Municipality are subtracted. This causes a pro-rata share of the cost to be spread between the "developer" properties and those properties known as "PILA" properties.

SKIP EDINGER
Assessment/Permits Supervisor
Anchorage Water & Wastewater Utility

SE:kw

# Municipality of Anchorage

MEMORANDUM

DATE: December 5, 1985

TO: AWWU Advisory Committee

FROM: Michael Mills, Ombudsman

SUBJECT: Payment-In-Lieu-of-Assessment (PILA)

BACKGROUND

During the fall of 1984, I began receiving complaints about the Payment-In-Lieu-of-Assessment (PILA) process. A review of past cases revealed complaints were also received prior to 1984. Some of the previous complaints about PILA's and their interest charges were resolved by a temporary waiver of the interest fees.

Considerable time has been spent by this office, AWWU, financial institutions, affected citizens, state legislative staff, and a number of Assembly Members researching this issue in hope of identifying ways to improve the current process. Also included when discussing this subject should be the PTE, or Permission-To-Enter. This is the method in which AWWU utilizes to privately finance sewer extensions. Much like the PILA process where a private party may initiate the service extension, PTE's differ primarily in the manner in which actual connection charges are calculated. Rather than an interest charge, PTE's are based on a variable construction cost which will not escalate as do the interest charges.

The investigation by this office has not identified any specific violations of municipal laws or AWWU tariffs pertaining to either PILA or PTE utility extensions.

The Ombudsman's Office is of the opinion, however, that the PILA method of extending service is unreasonable and unfair as it currently exists. Therefore, this office has continued an investigation of the complaints pursuant to the jurisdiction granted by AMC 2.60.110.C.2 in order to promote a higher standard equity in the provision of water and wastewater services.

PRIMARY ISSUE

At the heart of the issue is the question of whether or not property owners should be granted the opportunity to voice their objection or support for a waterline extension for which they may benefit from and will ultimately pay for.

Under the current system these property owners receive no notification that these utility extensions are being planned and will be constructed at their expense. The property owners receive their first notification after the line is constructed and they are notified of what their cost

for the service will be. Homeowners are subjected to the PILA and hook-up charges which can reach into the ten to twenty thousand dollar range, despite the fact that they have already undertaken the expense of installing municipally approved on-site systems. Such an expense can easily cause a homeowner to lose all equity in their home, make it financially prohibitive to sell, or force one into foreclosure in order to move.

The Utility relies on the APUC approved tariffs, and their own interpretation of the tariffs, for the continuation of the PILA and PTE methods of extending service. These methods have been a valuable means of extending such services without the use of bonds or other public monies. Services provided under PILA's and PTE's have unquestionably improved the health and well-being of the general community. What is in question is not the value of these services but rather the process by which they are accomplished.

Improvement Districts and Special Assessment Districts also provide a means by which service can be extended. Both of the processes set forth specific notification procedures and districts are formed only with the consent of the majority of those being assessed. There is quite an inconsistency between the consent process and the PILA method which requires no consent or notification for the improvement. This occurred as a result of the code authorizing allocation of costs according to tariffs. I have been unable to find any similar improvement methods in municipal code which authorize similar improvements at the cost of the property owners without their notification and/or consent.

PILA COMMITTEE

As a result of complaints filed with this office and several appearance requests before the Assembly, a committee was formed to review the issue and prepare recommendations to the Assembly. At the Utility's request, the PILA committee disbanded to make way for the AWWU Advisory Commission to hold meetings and obtain public input. The PILA Committee had identified most of the issues but had been waiting for AWWU to obtain answers from the Legal Department to the most difficult questions regarding the options available to those under existing PILA's. This question has since been brought before the courts.

I encourage the Advisory Commission to pick-up where the PILA Committee left off. That is, to gather the remaining answers to questions related to the PILA and the PTE processes, gather public input, and present options and/or recommendations for amending the tariffs to the Assembly for their action.

RELATED ISSUES/ARGUMENTS

The utility will point out that the municipality does not require these property owners to connect to the service. I believe this argument to be mute. The financial institutions, who for practical purposes are considered an essential part of owning a home, are unable to ignore charges pending for connection to water or sewer service. Since the municipality (Health and Human Services) may at any time require connection to the service and subsequent payment of the charges or "assessment", the financial institutions are obligated to include these expenses in their transaction and require connection. To further demonstrate that the connection requirement is largely in the hands of the municipality, please note the ordinance planned to come before the Assembly early in 1986 that may require connection to available public sewer.

During discussions at the PILA committee meetings several people mentioned the platting process as a means to notify property owners of a potential PILA. Complaints focused on short plats where no notification is required yet PILA's resulted.

I do not believe the platting process is the forum that citizens should be afforded the opportunity to preclude the construction of a utility service. First off, the plat notification boundary would not coincide with the 500 foot plat notification boundary. Secondly, the Platting Authority is empowered to determine what conditions are necessary to permit a subdivision rather than debate and decide what method of financing should be used to construct a particular service. One could question the Platting Authority's power to deny a developer the option of utilizing a method of financing a utility service which is in accordance with an APUC approved tariff. Finally, the developer would not be restricted from constructing the service under the PILA method regardless of a denial of the subdivision by the Platting Authority.

SUMMARY - RECOMMENDATION

The AWWU Advisory Commission can serve an important function by providing the Municipal Assembly a consolidated summary of public input and recommendations for revising the current PILA (and if necessary, PTE) method(s) of extending AWWU's services.

After considering a wide variety of possible amendments to the PILA process, the Ombudsman's Office makes the following two recommendations:

1. Amend the AWWU tariff to be consistent with the draft language of HB 380 submitted by Representative Mike Szymanski. This amendment would postpone interest charges from accruing on a PILA until such time as the homeowner actually connects to the service. This would significantly lessen the PILA burden particularly for those who are planning to live in their homes for a longer period and are not in immediate need of public water.

2. Amend the AWWU tariff, possibly through an amendment to the Municipal Code, to require approval by the Municipal Assembly of any new PILA water extensions after public notification and hearing. Language for this amendment can be based on State procedures for special assessments (Sec. 29.63.015). This procedure would; require public hearings, provide public notice through publication and mailings, and provide a protest provision requiring three-fourths assembly approval to approve a PILA in which over 50% of those bearing the cost of the improvement have protested. This amendment would allow public input and influence over the decision to construct the water extension, yet would give the Municipal Assembly the ultimate authority to determine whether the service is in the public's best interest.

I have not been able to fully review the PTE process in enough detail to make recommendations at this time. Thank you for the opportunity to comment on this subject.

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MUNICIPALITY OF ANCHORAGE

MEMORANDUM

DATE: January 16, 1986

TO: Mayor

FROM: Jean G. Michou - General Manager, AWWU

SUBJECT: Recommendations for Changing the Payment-In-Lieu of Assessment (PILA) Process

In response to growing concerns about AWWU assessment processes, the Utility reviewed its rules and regulations, Ordinances, and Tariffs. We concur with the attached AWWU Advisory Commission's recommendation and recommend that the payment-in-lieu of assessment (PILA) process for water be changed to match the permission-to-enter assessment (PTE) process for wastewater.

Major process changes will be as follows:

°PILA assessments will be submitted to the Assembly for public hearing and approval by Resolution, as is done in PTE, instead of by individual agreements between the AWWU and each affected property owner;

°All bordering property owners will be notified, prior to construction, that new water and/or wastewater lines are being installed;

°AWWU will meet with the affected property owners to answer questions and to resolve problems before assessment rolls are submitted to the Assembly for approval, as is done in PTE;

°Developers will be reimbursed the principal amount only; no interest will accrue to the developer, as is done in PTE;

°PILA assessments will not be subject to interest accrual, as is done in PTE; bordering property owners who choose to make time payments, beginning at the time of application for service, will pay a finance charge to cover AWWU's related administration costs;

°The time payment period for PILA assessments will be extended from 5 years to 20 years (or at least the length of bond financing of the project), as is done in PTE;

°The developer's administrative fee to be paid to AWWU will include AWWU's costs for functioning as a collection agent in their behalf.

These process changes require amendments to Municipal Ordinances and the Water and Wastewater Utility Tariffs. We intend to submit this package to the Assembly for public hearing during April 1986. After Assembly approval, the changes to the Tariffs will be submitted to the APUC for their approval in early May.

JEAN G. MICHOU
General Manager
Anchorage Water & Wastewater Utility

Concur:

BOB SMITH
Municipal Manager

Approval:

TONY KNOWLES
Mayor

Attachments

tsel/lm27

# Alaska State Legislature

CO-CHAIRMAN
FINANCE COMMITTEE

907-465-3740

JAN FAIKS
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

## Senate

February 18, 1986

FEB 19 RECD

MEMORANDUM

TO: Senator Edna DeVries, Chairman
Senate Community and Regional Affairs Committee

FROM: Senator Jan Faiks

SUBJECT: Scheduling of Senate Bill 332 and House Bill 380

Until further notice, please do not schedule for hearing Senate Bill 332, an Act eliminating municipal immunity from liability in certain actions involving private property.

However, I would appreciate your scheduling House Bill 380, an Act relating to public utility water and sewer service extensions. Representative Szymanski and I have worked together on this bill, and it addresses a problem which faces many of my constituents.

Thank you.

OUT OF SESSION
1024 WEST SIXTH AVENUE, SUITE 302 ANCHORAGE, ALASKA 99501 907-274-6611

# Alaska State Legislature

*House of Representatives*

Representative Mike Szymanski


Finance Committee
Oil and Gas Committee

11920 Johns Road
Anchorage, Alaska 99515
Phone (907) 349-3373

While in Session:
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4978/4979


FEB 14 REC'D

February 14, 1986

TO: Senator Ed a DeVries, Chairman, Senate Committee on Community and Regional Affairs

FROM: Representative Mike Szymanski

RE: HB 380 - An Act relating to public utility water and sewer extensions

HB 380, which requires that a property owner be notified of PILA (payment in lieu of assessment) charges and interest due when a water or sever line is first extended to his property, has been referred to your committee. I would appreciate your scheduling it for a hearing at the earliest possible opportunity.

Enclosed is a short description of the bill I distributed to members of the House. If I can provide more information on the measure, please feel free to contact me or Chrystal Smith on my staff.

I look forward to hearing from you about when your committee will be considering this bill.

Encl.

MS/css

# COMMITTEE REPORT

## SENATE

FURTHER: Finance

1/30/86

Date Feb 27 '86

Mr. President

The Committee on C&RA considered CSHB 380 (C&RA) am
relating to public utility water and sewer service extensions.

and (a majority of the committee) ~~(the committee)~~ reports it back with the following recommendations:

[X] do pass

[ ] do pass with attached amendment(s)

[ ] replace with/or adopt CS for ____
[ ] new title
[ ] same title and recommends ____

[ ] and attached a "LETTER OF INTENT" [ ] NEW FISCAL NOTE

[ ] reports it back without recommendation

[ ] recommends referral to ____ Committee

| MEMBERS SIGNING DO PASS | MEMBERS HAVING OTHER RECOMMENDATIONS |
|---|---|
| Ferguson | |
| V. Fischer | |
| Arliss Sturgulewski | |

Edna DeVries
Chairman

Do Pass
Chairman recommendation

# Alaska State Legislature

*House of Representatives*

Representative Mike Szymanski

Finance Committee
Oil and Gas Committee

January 27, 1986

TO: MEMBERS, HOUSE OF REPRESENTATIVES

FROM: REPRESENTATIVE MIKE SZYMANSKI

RE: HB 380 - AN ACT RELATING TO PUBLIC WATER AND SEWER SERVICE EXTENSIONS

HB 380 establishes protection for property owners from 1) the imposition of charges for utility connections without their knowledge and 2) the accrual of interest before utility connections are made. Current state law does not require utilities to notify property owners of debt incurred when a new line abuts their property, although most utilities do so as a courtesy.

The need for this law has been demonstrated in the Anchorage area, where a small utility failed to notify property owners of their obligations as a result of extension of a water line that benefitted a new development nearby. In this case, individuals' charges (known as PILAs, or Payments in Lieu of Assessment) were very large and interest had been accruing (at a rate of 15.6%) for over two years before property owners were notified. Interest continues to accrue on the outstanding principal. Property owners choosing to connect to the utility line must pay the outstanding charges; even if they do not, existing PILAs have a severe negative effect on the value of their property since banking procedures require that all outstanding liabilities be paid prior to any refinancing or transfer/sale of property.

<u>Section 1</u> requires that when water or sewer service becomes available as the result of a utility line extension, utilities notify property owners of the charges and interest that will be due when a property owner chooses to obtain the utility service. The bill requires that such notification shall be by certified mail, return receipt requested.

In addition, <u>Section 1</u> prohibits the utility from charging any interest on the fee to connect to the water or sewer line before the line is available for service. When a utility line extension has been approved by a majority vote of property

(over)

owners in the affected area, the utility may start charging interest 30 days after the notice of fee and interest has been sent to the property owners. If the line extension was not the result of a vote (e.g., if it was undertaken by a private developer), the utility can charge interest on the connection fee only after the individual property owner obtains the utility service.

Section 2 of the bill specifies that all utilities are subject to the provisions of this bill, AS 42.05.381(e) and (f), (as well as to AS 42.05.221 - 42.05.281, sections previously enacted) although they may be exempt from other regulation under Chapter 42.

# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

Signature of Camera Operator

Date

02-519 (REV 5/78)

HB
476

# STATE OF ALASKA
# THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

## LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY


May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

S CRA 5-1-86 3:36pm

# COMMITTEE REPORT

# SENATE

FURTHER: JUDICIARY

4/22/86

Date 5/1/86

Mr. President

The Committee on C&RA considered CSHB 476(Jud) relating to automobile insurance premiums.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

[X] do pass

[ ] do pass with attached amendment(s)

[ ] replace with/or adopt CS for

[ ] new title

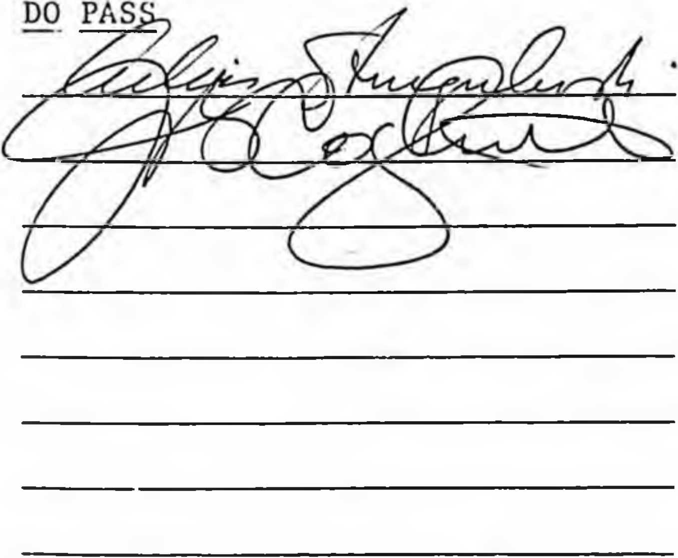
[X] same title and recommends

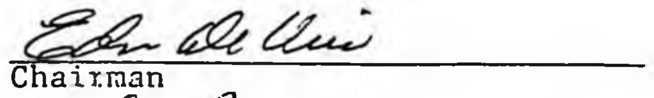
[ ] and attached a "LETTER OF INTENT" [ ] NEW FISCAL NOTE

[ ] reports it back without recommendation

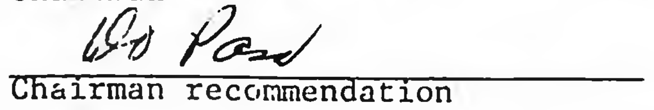
[ ] recommends referral to ______ Committee

| MEMBERS SIGNING DO PASS | MEMBERS HAVING OTHER RECOMMENDATIONS |
|---|---|





Chairman



Chairman recommendation

Official Business

# Alaska State Legislature

## Senate

## Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman
Members:
Senator Ferguson, Vice Chairman
Senator Coghill
Senator Sturgulewski
Senator V. Fischer

Pouch V
Juneau, Alaska 99811

COMMITTEE MEETING -- May 1, 1986

CS HB 476 (Jud) -- An Act relating to automobile insurance premiums

CS HB 647 (Fin) am -- Requirements; warning placards, municipal reporting, hazardous materials and waste
CONT'D FROM 4/29/86

---

Materials attached:

Ltr from Michael Lessmeier to Sen. DeVries dtd 4-23-86 on HB 476.

Fiscal note and position paper from Div. of Insurance on HB 476.

Work draft Committee Substitute for HB 647 (C&RA) dated 4-30-86 prepared by Senator Coghill's subcommittee.

Offered: 4/4/86
Referred: Rules

Original sponsor: M.M.Miller
by request

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 476 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to automobile insurance premiums."

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

8 * Section 1. AS 21.36.420(d) is amended to read:

9 (d) An insurer that increases the premium or adds a surcharge to

10 an automobile insurance policy shall give written notice of the in-

11 crease or surcharge at least 15 days before it takes effect, stating

12 the reason for the change and the right of appeal under AS 21.39.090.

13 This subsection does not apply to a

14 (1) premium increase resulting from a change requested by

15 an insured, if the insured is notified at the time the request is made

16 that the amount of the insured's premium will change as a result of

17 the requested policy change; or

18 (2) rate approved by the director if the insurer gives

19 written notice of a premium increase to the insured at least 15 days

20 before the renewal date of the affected policy.

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FRED B. ARVIDSON
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P.O. BOX 767
VALDEZ, ALASKA 99686
TELEPHONE (907) 835-2988

APR 23 1986

April 23, 1986

Senator Edna B. DeVries
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: House Bill 476

Dear Senator DeVries:

I am writing to you on behalf of State Farm Insurance Company and Allstate Insurance Company regarding House Bill 476, which was passed by the House today, April 18, 1986. This bill deals with premium increases in automobile insurance policies, and was introduced at our request to correct an ambiguity in AS 21.36.420, which was added by the legislature in 1984 via House Bill 16. We enclose herewith a copy of AS 21.36.420 for your information.

The ambiguity House Bill 476 was designed to correct is contained in subsection (d) of AS 21.36.420:

> An insurer that increases the premium or adds a surcharge to an automobile insurance policy shall give written notice of the increase or surcharge at least 15 days before it takes effect, stating the reason for the change and the right of appeal under AS 21.39.090.

If this subsection is read literally, it could be interpreted to require an insurer to send an insured a statement of reasons for change in premium and a statement of the notice of right to appeal every time a premium is

increased, regardless of the reason for the premium increase. Such a requirement would significantly affect the practical consequences of the way we presently do business. For example, when a general rate increase is approved by the Division of Insurance, our insureds receive at least fifteen days notice of this increase, and a brief explanation of the reasons for the increase. To present an insured with a statement telling them that they have a statutory right to appeal a premium increase already approved by the Division of Insurance is illusory, because the Department has already approved the increase. It in fact would be illegal for us to charge anything but the approved rate. To suggest by means of a notice that our insured has a right of appeal not only is misleading, but could generate wasteful litigation and/or administrative hearings.

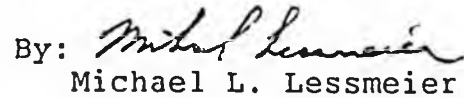
The more practical problems we face are where our insured calls and tells us that he has either added a youthful driver to his policy or purchased a new car. If we follow the literal dictates of the present statute, we simply would not be able to accept coverage in either instance until at least fifteen days after the request was made in order to assure that our insured has been informed of his proper statutory right of notice and appeal. The same would be true of where our insured moves to a higher rated area. We would not be able to accept coverage unless our insured is able to contact us early enough so we can provide the fifteen day notice of increase and right of appeal. We do not believe that anyone intended AS 21.36.420 to have this effect, and we believe House Bill 476 would correct this ambiguity and thus urge its passage.

The present version of House Bill 476 requires written notice of the increase stating the reason for the change and the right of appeal in all instances except to: (1) a premium increase resulting from a change requested by an insured if the insured is notified at the time of the request that his or her premium will change or (2) a rate increase approved by the Director if the insurer gives written notice to the insured of the rate increase at least fifteen days before the expiration date of the affected policy, which is when the increase would of course take effect. We do not believe these changes would affect in any way the original intent which prompted the enactment of AS 21.36.420. On the contrary, HB 476 would correct a negative effect not intended by the original legislation.

We do hope this ambiguity can be corrected this session and we will be happy to provide any assistance or further information you might desire. Thank you.

Sincerely,

HUGHES THORSNESS GANTZ
POWELL & BRUNDIN

By: 
Michael L. Lessmeier

Enclosures
MLL/mh

cc: Members of the Senate Community and Regional Affairs Committee

# STATE OF ALASKA 1936 LEGISLATIVE SESSION
# FISCAL NOTE

Revision Date: ______

**REQUEST**

Bill/Resolution No.: HB 476
Title: Automobile Insurance Premium

Sponsor: M. M. Miller
Requestor: John L. George
Date of Request: February 19, 1986

**FISCAL DETAIL**

Agency Affected: Division of Insurance
BRU: ______

Components: ______

**EXPENDITURES / REVENUES : (Thousands of Dollars)**

| OPERATING | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 |
|---|---|---|---|---|---|---|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |

**FUNDING: (Thousands of dollars)**

| | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 |
|---|---|---|---|---|---|---|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

**POSITIONS:**

| | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 |
|---|---|---|---|---|---|---|
| FULL-TIME | -0- | -0- | -0- | -0- | -0- | -0- |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

**ANALYSIS:** Attach a separate page if necessary.

Prepared by: John L. George, Director
Division: Division of Insurance
Phone: 465-2515
Date: February 19, 1986

Approved by Commissioner: [signature]
Agency: Commerce and Economic Development
Date: February 19, 1986

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

page ____ of ____

10/25/85

3386m2

Department of Commerce & Economic Development / POSITION PAPER

CSHB 476: "An Act relating to automobile insurance premiums."

The department is in favor of this legislation. This proposal is intended to correct a deficiency in Ch 62 SLA 1984. The sponsor of that bill was attempting to provide an appeal mechanism for persons aggrieved by automobile insurance rate increases resulting from surcharges for an accident or violation appearing on that person's driving record, and which is alleged to be inappropriate.

Alaska Statute 21.36.420(d) was structured to require a notice of all premium increases by an insurer. The notice gives a reason for the increase and the right to an appeal under AS 21.39.090. It is not clear whether a notice of reason and notice of right to appeal is required on increases resulting from other than a change in the individual driving record. Such increases are subject to rate review and approval by the State before use and we believe that a right to appeal on top of the review process would be unduly wasteful of state resources.

This bill would clarify the requirement for notice by specifying the circumstances in which the notice is necessary and the scope of notice required. It does provide recourse for surcharges or increases that are not appropriate because a person was not convicted of a violation or at fault in an accident. We do not object to the notice of premium increase on approved rate filings because it is a fair thing to do. It does generate additional cost for the insurer which will ultimately be passed along to the consumer. It is, however, a reasonable and fair requirement.

Loren H. Lounsbury, Commissioner
Department of Commerce & Economic Development

Date: 3/3/86

John L. George, Director of Insurance

Date: 3/3/86

RECEIVED MAR 4 10 30 AM '86 ALASKA DEPT. OF COMMERCE & ECONOMIC DEVELOPMENT

1t0252K

Offered: 4/4/86
Referred: Rules

Original sponsor: M.M.Miller
by request

IN THE HOUSE BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 476 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to automobile insurance premiums."

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

* Section 1. AS 21.36.420(d) is amended to read:

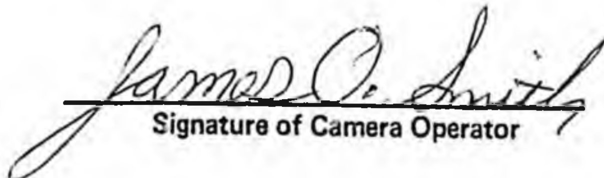
(d) An insurer that increases the premium or adds a surcharge to an automobile insurance policy shall give written notice of the increase or surcharge at least 15 days before it takes effect, stating the reason for the change and the right of appeal under AS 21.39.090. This subsection does not apply to a

(1) premium increase resulting from a change requested by an insured, if the insured is notified at the time the request is made that the amount of the insured's premium will change as a result of the requested policy change; or

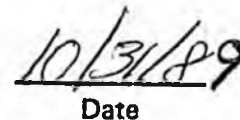
(2) rate approved by the director if the insurer gives written notice of a premium increase to the insured at least 15 days before the renewal date of the affected policy.

# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.




Signature of Camera Operator




Date

02-519 (REV 8/78)

HB
518

Offered: 3/21/86
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE — BY THE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 518 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certain municipal property tax
7 exemptions or deferments; and providing for an effec-
8 tive date."

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

10 * Section 1. AS 29.45.030(a) is amended to read:

11 (a) The following property is exempt from general taxation:

12 (1) municipal, state, or federally owned property, except
13 that a private leasehold, contract, or other interest in the property
14 is taxable to the extent of the interest;

15 (2) household furniture <u>and personal effects of members of</u>
16 <u>a</u> [OF THE HEAD OF A FAMILY OR] household;

17 (3) property used exclusively for nonprofit religious,
18 charitable, cemetery, hospital, or educational purposes;

19 (4) property of a nonbusiness organization or its auxiliary
20 composed entirely of persons with 90 days or more of active service in
21 the armed forces of the United States whose conditions of service and
22 separation were other than dishonorable;

23 (5) money on deposit;

24 (6) the real property of certain residents of the state to
25 the extent and subject to the conditions provided in (e) of this sec-
26 tion;

27 (7) real property or an interest in real property that is
28 exempt from taxation under 43 U.S.C. 1620(d), as amended.

29 * Sec. 2. AS 29.45.060(b) is amended to read:

1 (b) An owner of farm use land must, to secure the assessment
2 under this section, apply to the assessor before May 15 of each year
3 in which the assessment is desired. The application <u>must</u> [SHALL] be
4 made upon forms prescribed by the state assessor for the use of the
5 local assessor, and <u>must</u> [SHALL] include information that may rea-
6 sonably be required to determine the entitlement of the applicant. If
7 the land is leased for farm use purposes, the applicant shall furnish
8 to the assessor a copy of the lease bearing the signatures of both
9 lessee and lessor along with the completed application. The applicant
10 shall furnish the assessor a copy of the lease covering the period for
11 which the <u>deferment</u> [EXEMPTION] is requested.
12 * Sec. 3. AS 29.45.060(c) is amended to read:
13 (c) In this section "farm use" means the use of land for profit
14 for raising and harvesting crops, for the feeding, breeding, and man-
15 agement of livestock, for dairying, or another agricultural use, or
16 any combination of these. To be farm use land, the owner or lessee
17 must be actively engaged in farming the land, and derive at least 10
18 percent of yearly gross income from the land. This section does not
19 apply to land for which the owner has granted, and has outstanding, a
20 lease or option to buy the surface rights. A property owner wishing
21 to file for farm use classification having no history of farm-related
22 income may submit a declaration of intent at the time of filing the
23 application with the assessor setting out the intended use of the land
24 and the anticipated percentage of income. An applicant using this
25 procedure shall file with the assessor before February 1 of the fol-
26 lowing year a notarized statement of the percentage of gross income
27 attributable to the land. Failure to make the filing required in this
28 subsection forfeits <u>entitlement to the deferment</u> [THE EXEMPTION].
29 * Sec. 4. This Act takes effect July 1, 1986.

Introduced: 1/27/86
Referred: Community & Regional
Affairs and Finance

1 IN THE HOUSE — BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 518

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal property taxation; and
7 providing for an effective date."

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

9 * Section 1. AS 29.45.030(a) is amended to read:

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11 (1) municipal, state, or federally owned property, except
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13 is taxable to the extent of the interest;

14 (2) household furniture and personal effects of members of
15 a [OF THE HEAD OF A FAMILY OR] household;

16 (3) property used exclusively for nonprofit religious,
17 charitable, cemetery, hospital, or educational purposes;

18 (4) property of a nonbusiness organization or its auxiliary
19 composed entirely of persons with 90 days or more of active service in
20 the armed forces of the United States whose conditions of service and
21 separation were other than dishonorable;

22 (5) money on deposit;

23 (6) the real property of certain residents of the state to
24 the extent and subject to the conditions provided in (e) of this sec-
25 tion;

26 (7) real property or an interest in real property that is
27 exempt from taxation under 43 U.S.C. 1620(d), as amended.

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4 local assessor, and must [SHALL] include information that may rea-
5 sonably be required to determine the entitlement of the applicant. If
6 the land is leased for farm use purposes, the applicant shall furnish
7 to the assessor a copy of the lease bearing the signatures of both
8 lessee and lessor along with the completed application. The applicant
9 shall furnish the assessor a copy of the lease covering the period for
10 which the deferment [EXEMPTION] is requested.
11 * Sec. 3. AS 29.45.060(c) is amended to read:
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13 for raising and harvesting crops, for the feeding, breeding, and man-
14 agement of livestock, for dairying, or another agricultural use, or
15 any combination of these. To be farm use land, the owner or lessee
16 must be actively engaged in farming the land, and derive at least 10
17 percent of yearly gross income from the land. This section does not
18 apply to land for which the owner has granted, and has outstanding, a
19 lease or option to buy the surface rights. A property owner wishing
20 to file for farm use classification having no history of farm-related
21 income may submit a declaration of intent at the time of filing the
22 application with the assessor setting out the intended use of the land
23 and the anticipated percentage of income. An applicant using this
24 procedure shall file with the assessor before February 1 of the fol-
25 lowing year a notarized statement of the percentage of gross income
26 attributable to the land. Failure to make the filing required in this
27 subsection forfeits entitlement to the deferment [THE EXEMPTION].
28 * Sec. 4. This Act takes effect July 1, 1986.

Official Business

# Alaska State Legislature

## Community & Regional Affairs Committee

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

May 7, 1986

TO: Edna

FROM: Trudie

SUBJ: CSHB 518 (C&RA) am
An Act relating to certain municipal property tax exemptions, deferments, and procedures: efd

Received phone call from Mike Scott, Sen. Ferguson's Office on this bill -- was inquiring when bil ould be scheduled in Senate C&RA.

I told him that you had said it was not your intention to schedule this bill, and the companion bill SB113 was in House Rules and you were working with House members to amend it when it came to the House Floor.

Mike said that under current law, due to a glitch in Title 29 which passed last year, a municipal tax assessor can include personal affects in a property owner's property tax assessment. THEREFORE, he said thatCSHB 518 (C&RA) am, Sec. 2(a)(2) must become law in ORDER TO CORRECT this problem. He said they don't care about the other sections of the bill, one way or the other.

KTKN DAILY NEWS 5/6/86

Editorial

# Pro-people bill

Property taxpayers should keep track of CSHB518 in the final days of the Legislature, which is scheduled to adjourn Monday. If the bill doesn't pass this session, there should be a strong push for its introduction and passage next year.

Committee Substitute for House Bill 518 is described as a housekeeping tax measure which does a lot of little things. But one amendm[illegible] the bill does a lot for local taxpayers. That amendment p[illegible] the burden of proof on the tax assessor in proving the value of the property in the event a taxpayer appeals his assessment. Under current law, unhappy taxpayers are often required to hire independent assessors and lawyers to prove a property assessment is too high.

Supporters of the amendment call it pro-people. Rep. Marco Pignalberi, R-Anchorage, said, "I'm going to get more satisfaction out of pushing the green button on this one than perhaps any other vote we've taken this year."

The amendment was authored by Rep. Roger Jenkins, R-Anchorage. And therein lies the problem. The amendment is sponsored by minority members of the House, meaning that it could be easily lost in the last-minute push for adjournment.

One majority member of the House, Rep. Pat [illegible]ourchot, D-Anchorage, has reservations about the amendr[illegible]nt. He's afraid that assessors' offices would be flooded with appeals if the measure becomes law.

For us, that's all the more reason to pass the law. If property assessments are that out of whack, if assessing departments have so little public confidence, it's time for assessors to justify their actions.

CSHB518 passed the House Monday with the amendment. It'll come up for a reconsideration vote before it goes to the Senate. If the Senate doesn't act on it, then it dies.

The Senate should act. If it doesn't, the taxpayers should react by demanding action next year. The best way to do that is to ask the candidates on their stand in upcoming elections.

Judie

PUBLIC OPINION MESSAGE

TO: SENATOR EDNA B. DE VRIES

FROM: DENNIS FINEGAN
P.O. BOX 3221
KETCHIKAN, ALASKA 99901
225-4993

BILL NO: HB 518

SUBJECT: MUNIC. PROPERTY TAX; DEFERMENTS/EXEMPTIONS

MESSAGE:

ASSESSMENT PERSONNEL AT VIRTUALLY EVERY VALUATION APPEAL GO INTO THE HEARING WITH INFORMATION SUPPORTING THE ASSESSED VALUE AND HOW THAT VALUE WAS DERIVED. MY CONCERN IS THAT HB 518 RELEASES THE PROPERTY OWNER FROM ANY RESPONSIBILITY TO SUPPORT THEIR APPEAL. PLEASE CONSIDER THE IMPACT OF HB 518.

DATE: 05/06/86 TIME: 18:23:22 SENT BY: KETCHIKAN LIO

6151
225-6150
415

XEROX TELECOPIER 495; 6- 2-86; 2:47 ; 9077450886→ 9074653700;# 1
XEROX TELECOPIER 495; 6- 2-86; 2:48 ; 9077450886→ 9074653700;# 2

1054

# Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-9687
BOROUGH ATTORNEY'S OFFICE

MAY 08 1986
Sen DeVries Ofc

May 8, 1986

Senator Edna DeVries
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Mr. Scott Burgess, Director
Alaska Municipal League
103 Municipal Way
Juneau, Alaska 99801

SUBJECT: HB 518, Amendment to AS 29.45.010

Representative Jenkins has proposed an amendment to existing AS 29.45.210. That statute presently places the burden of proof in appeals to the municipal board of equalization on the appellant. The operative language of that statute provides: "The appellant bears the burden of proof." The Jenkins amendment substantially modifies the traditional allocation of the burden of proof to the taxpayer and places it upon the municipal assessor.

A Board of Equalization is a quasi-judicial administrative entity and may be likened to a court deciding a dispute between two parties. In traditional court proceedings the moving party (the party requesting action) bears the burden of establishing all material facts supporting entitlement to the requested action. The same rules applies and must continue to apply to Board of Equalization appeals. The purpose of placing the burden of proof on the appellant is fundamental. First, the party appealing is in the best position to assemble material facts and evidence to present to the board in support of his or her position. Second, allocating the burden of proof to the assessor requires the assessor to prove the assessment is not unequal, excessive, improper, or under valued. This means the assessor must prove a negative, a requirement generally disfavored in the law.

The Alaska Supreme Court recently ruled that an applicant for a liquor license bears the burden of proving that a municipal protest of the issuance of such a license is reasonable. The court held:

2054



> "Ordinarily the party seeking a change in the status quo has the burden of proof...
>
> An applicant. . . must sustain the burden of proving every material fact necessary to entitle him to the privilege he seeks."

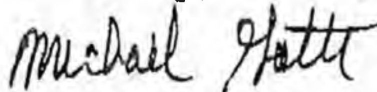
State ABC Board v. Decker, 700 P.2d 483 (Alaska 1985).

In addition Representative Pourchot's substitute amendment, deleting the burden of proof language from the statute must not be incorporated in the bill.

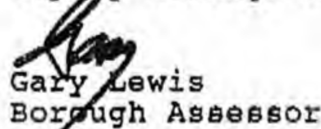
In the absence of language clearly allocating the burden of proof in equalization appeals the parties before the board will be unsure who bears the burden of proof. In addition the deletion of language previously contained in a statute presents the opportunity for taxpayers to argue the intent of the legislature in deleting the burden of proof language is to place the burden on the assessor.

For the foregoing reasons the amendments to AS 29.45.210 proposed by Representatives Jenkins and Pourchot must not be incorporated in HB 518.

Sincerely,



Michael Gatti
Deputy Borough Attorney



Gary Lewis
Borough Assessor

MG:jr

3054

# ALASKA ASSOCIATION OF ASSESSING OFFICERS
## POSITION STATEMENT

FROM: Alaska Association of Assessing Officers

TO: AML - Scott Burgess
Senator Edna DeVries

SUBJECT: HB518 Amendment to AS 29.45.030 and AS29.45.060

The Alaska Association of Assessing Officers has no objection to original HB518. The personal property exemption application for household furniture and personal property owned by others than the head of a household in order to clarify language related to the scope of the exemption is supported. Likewise we support proper definition of the Farm Use Assessment program as a deferment of rather than exemption of property tax.

SUBJECT: HB518 SECOND AMENDMENT

The Jenkins Amendment to HB518 passed by the House on May 2, 1986 substantially altera existing AS29.45.210(b) by reallocating the burden of proof to require the assessor to prove a valuation of property is proper. The reallocation of the burden of proof, as proposed by Rep. Jenkins, deviates from accepted principles of assessment and equalization as well as the commonly recognized legal principle that the appellant in a Board of Equalization proceeding is the party objecting to the assessment who should bear the burden of proof.

Definition of the Burden of Proof provides the Board of Equalization basis to find fact on frivolous and unfounded appeals and sets administrative procedure clearly in the mind of all participants. Without this appellant rule, boards would be inundated with emotional, ability to pay, and percent increase based pleas for which they are neither equipped or prepared to reach equitable decision. A completely one sided argument due to Assessor preparedness vs an ill prepared property owner would be indeed overwhelming, even in cases where the property owner has valid proof at his disposal.

In the hearing process the Assessor is not affected one way or another. The Assessor is obligated professionally and by ordinance to present a defense of value based on reason, judgement, equity, and uniformity supported by evidence. These obligations are taken very seriously in maintaining fairness to all property owners regardless of uninformed conceptions of our profession.

SUBJECT: HB518 THIRD AMENDMENT

The provisions of the Amendment providing public access to Assessment methods, records or means we believe is currently law per AS09.25.110 and 120, Inspection and Copies of Public Records.

With the exception of confidential personal property location and particulars, age verification records of Senior Citizens, income verification of Farm Use Applicants, and information provided with request of confidence, there is no record or document related to the assessment of property not available for public inspection at reasonable hours.

SUBJECT: "OURCHOT SUBSTITUTE AMENDMENT

The Association may not object to the substitution removing entirely the first sentence of AS29.45.210(b) with assurance that all parties can agree to the compro[illegible]se. However, there are compelling legal considerations contained in accom[illegible]ying POM from Michael Gatti, Deputy Borough Attorney and Gary Lewis on behalf of the Matanuska-Susitna Borough.

At th[illegible] point our members are reluctant to gamble on the passage of HB518 in its current amended form and ~~[illegible]~~ therefore request that this bill as amended be allowed to die in committee.

Gary Lewis
President

Edna

TELECON RECORD

DATE: 5/8/86

CALL PLACED BY: ta

PHONE NUMBER: Office

CALL RECEIVED BY: Haley Lewis

PHONE NUMBER: 745-4638

SUBJECT: HB 578

NOTES: Discussed whether he + other assessors would agree to bill with Jenkins amendments removed.

He said he did not want to say he would not support a compromise, But he didn't think assessors would agree to bill with amendments beforestated removed.

He is sending a POM to Juneau as soon as he can get over to Wasilla LIO.

(ta/8-85)

amendment insert [ ] ✓ deletion

Offered: 3/21/86
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE — BY THE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 518 (C&RA) am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certain municipal property tax [or deferments]

7 exemptions, deferments, and procedures; and providing

8 for an effective date."

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

10 * Section 1. AS 29.45.010 is amended by adding a new subsection to

11 read:

12 (d) All municipal bodies shall make procedures, restrictions,

13 conditions, formulas, or other methods used to assess a property tax

14 available to the public on request under reasonable rules during

15 regular business hours.

16 * Sec. 2. AS 29.45.030(a) is amended to read:

17 (a) The following property is exempt from general taxation:

18 (1) municipal, state, or federally owned property, except

19 that a private leasehold, contract, or other interest in the property

20 is taxable to the extent of the interest;

21 (2) household furniture and personal effects of members of

22 a [OF THE HEAD OF A FAMILY OR] household;

23 (3) property used exclusively for nonprofit religious,

24 charitable, cemetery, hospital, or educational purposes;

25 (4) property of a nonbusiness organization or its auxiliary

26 composed entirely of persons with 90 days or more of active service in

27 the armed forces of the United States whose conditions of service and

28 separation were other than dishonorable;

29 (5) money on deposit;

1 (6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section;

4 (7) real property or an interest in real property that is exempt from taxation under 43 U.S.C. 1620(d), as amended.

6 * Sec. 3. AS 29.45.060(b) is amended to read:

7 (b) An owner of farm use land must, to secure the assessment under this section, apply to the assessor before May 15 of each year in which the assessment is desired. The application <u>must</u> [SHALL] be made upon forms prescribed by the state assessor for the use of the local assessor, and <u>must</u> [SHALL] include information that may reasonably be required to determine the entitlement of the applicant. If the land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the <u>deferment</u> [EXEMPTION] is requested.

18 * Sec. 4. AS 29.45.060(c) is amended to read:

19 (c) In this section "farm use" means the use of land for profit for raising and harvesting crops, for the feeding, breeding, and management of livestock, for dairying, or another agricultural use, or any combination of these. To be farm use land, the owner or lessee must be actively engaged in farming the land, and derive at least 10 percent of yearly gross income from the land. This section does not apply to land for which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land

1 and the anticipated percentage of income. An applicant using this
2 procedure shall file with the assessor before February 1 of the fol-
3 lowing year a notarized statement of the percentage of gross income
4 attributable to the ˉ ınd. Failure to make the filing required in this
5 subsection forfeits <u>entitlement to the deferment</u> [THE EXEMPTION].

6 * Sec 5. AS 29.45.210(b) is amended to read:

7 (b) The <u>assessor</u> [APPELLANT] bears the burden of proof. The
8 only grounds for adjustment of assessment are proof of unequal,
9 excessive, improper, or under valuation based on facts that are stated
10 in a valid written appeal or proven at the appeal hearing. If a
11 valuation is found to be too low, the board of equalization may raise
12 the assessment.

13 * Sec. 6. This Act takes effect July 1, 1986.

BILL SHEFFIELD, GOVERNOR

**DEPT. OF COMMUNITY & REGIONAL AFFAIRS**

OFFICE OF THE COMMISSIONER

☐ POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

☐ 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1C73

May 7, 1986

POSITION PAPER

RE: CSHB 518 (C&RA) am

SPONSOR: Rules Committee by request of the Governor

Program Effects of Bill

Section one provides for full disclosure of assessment procedures and formulas.

Section two corrects certain wording which was contained in the Title 29 rewrite. Prior to the adoption of the rewrite, household furniture and personal effects across the State were exempted through the operation of two statutes. The first [AS 29.53.020(a)(2)] was required by law, and exempted the first $500 of household furniture. The second [AS 29.53.025(b)(2)(A)] was an optional exemption which allowed municipalities to exempt the remaining value of the furniture and all the personal effects (jewelry, tools, clothing, etc.) of the householder. Every taxing municipality in Alaska had adopted that optional exemption.

At the request of assessors across the State, the technical and policy groups of the Title 29 rewrite agreed to combine the two exemptions and make all household furniture and personal effects mandatorily exempt under AS 29.45.030(a)(2). Apparently, the "personal effects" language was inadvertently left out of the rewrite. As a result of that oversight, the current language in law requires municipalities to levy property taxes against all personal effects of the members of a household.

Sections three and four of the bill corrects certain references to the agricultural land use program. Current law refers to the tax benefit as an "exemption". This section changes that reference to the term "deferment", which better describes the operation of the program.

Section five amends that body of laws that sets procedures for assessment appeals to the Board of Equalization. The amendment places the burden of proof on the municipal assessor rather than the appellant for these appeals.

Comments

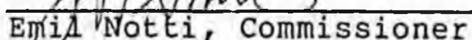
The Department reluctantly supports passage of HB 518 as it is currently written. Section five of the bill was added as an amendment on the floor of the House of Representatives and is strongly opposed by taxing municipality's across the state.

As we read the amendments it creates an internal contradiction in subsection (b) by placing the burden of proof on the assessor in the first sentence and requiring the appellant to prove the assessor's value incorrect in the second sentence. We believe the amendment would mislead the appellant to believe he could appeal the assessors value without preparing a case. That is clearly not the intent of the second sentence under subsection (b).

In addition, the department does not believe it is possible to conduct an administrative appeal without some obligations on the part of the appellant to submit proof of his position. In fact, the appellant is normally eager to present evidence in support of his position. For these reasons the department supports statutory language which would require both the assessor and the appellant to submit proof of their respective positions to the Board of Equalization.

We believe an alternative amendment to section five would be to delete the first sentence of subsection (b) in its entirety. By deletion of that sentence neither the assessor nor the appellant would be required by law to bear the burden of proof. The appellant would be required to present a condensing case to the Board of Equalization under the language remaining in subsection (b). The assessor would be required to present a written justification of his assessed value under AS 29.45.190(d).

The deparment believes section one of the bill must be adopted into law this year. If it is not, municipalities across the state will be required to place household personal effects on their assessment rolls beginning January 1, 1987. For that reason, we consider the passage of HB 518 a top priority. Although we prefer the alternative amendment to section five suggested above, we are willing to accept the language which currently exists under that section if the committee believes it should become law.



Emil Notti, Commissioner

# Alaska State Legislature

BOX V
JUNEAU, ALASKA 99811
(907) 465-4453/4530

2201 ROOSEVELT DRIVE
ANCHORAGE, ALASKA 99503
(907) 248-4234

MEMBER
HOUSE RESOURCES COMMITTEE
MEMBER
HOUSE STATE AFFAIRS COMMITTEE

## Representative Roger Jenkins

DISTRICT 11

May 7, 1986

MAY 07 1986

MEMORANDUM

TO: Senator Edna De Vries, Chairman
Senate Community & Regional Affairs

FROM: Representative Roger Jenkins

SUBJECT: Amendments to HB 518 - An act relating to certain municipal property tax exemptions, deferments or procedures

I prepared two amendments on this bill which are pro-people which opens up the tax appeal procedures currently in widespread use by governmental taxing assessors. The two amendments passed the House on May 5, 1986, - 25 yeas & 15 Nays. The bill was brought up on reconsideration and an amendment was offered which set aside the thrust of the burdon of proof amendment. This amendment was defeated May 5, 1986, 22 nays - 18 yeas.

Attached are copies of assessment appeal forms that are used by the Kenai Peninsula Borough and the Municipality of Anchorage. Current law requires the homeowner to prove that the taxing agent is wrong. My first amendment takes aim at whether or not it should be the duty or burden of property taxpayers to prove that an assessment is wrong or whether the assessing agent should be able prove that the assessment is correct. Assessors have at their disposal a bank of data on property values, however they do not have to prove or substantiate the assessment values on appeal before the board of equalization. Taxpayers have to prove their case the assessor does not. It seems that the shoe is on the wrong foot. It is a very small percentage of taxpayers that appeal tax assessments and most do not appeal frivolously.

The second amendment that I am offering today has to do with making procedures, formulas or other methods used to assess property tax available to the public on request during regular business hours. This will open up the process and provide better governmental accountability to the public they represent.

I urge each of you to support HB 518 as amended.

Enclosures

# Alaska State Legislature

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MEMBER
HOUSE RESOURCES COMMITTEE
MEMBER
HOUSE STATE AFFAIRS COMMITTEE

## Representative Roger Jenkins

DISTRICT 11

May 5, 1986

MEMORANDUM

TO: Members of the House

FROM: Representative Roger Jenkins *Roger Jenkins*

SUBJECT: Amendments to HB 518 - An act relating to certain municipal property tax exemptions or deferments

I have prepared two amendments on this bill which are pro-people and will open up the tax appeal procedures currently in widespread use by governmental taxing assessors.

Attached are copies of assessment appeal forms that are used by the Kenai Peninsula Borough and the Municipality of Anchorage. Current law requires the homeowner to prove that the taxing agent is wrong. My first amendment takes aim at whether or not it should be the duty or burden of property taxpayers to prove that an assessment is wrong or whether the assessing agent should be able prove that the assessment is correct. Assessors have at their disposal a bank of data on property values, however they do not have to prove or substantiate the assessment values on appeal before the board of equalization. Taxpayers have to prove their case the assessor does not. It seems that the shoe is on the wrong foot. It is a very small percentage of taxpayers that appeal tax assessments and most do not appeal frivolously.

The second amendment that I am offering today has to do with making procedures, formulas or other methods used to assess property tax available to the public on request during regular business hours. This will open up the process and provide better governmental accountability to the public they represent.

I urge each of you to support the two amendments and would welcome co-sponsors.

Enclosures

# AMENDMENT

OFFERED IN THE HOUSE: BY: JENKINS & Uehling & Taylor

TO: CS (C&RA) HOUSE BILL No. 518

SENATE BILL No. ______

PAGE: ______ LINE: ______

Page 1, line 7 after "exemptions" delete "or deferments" and insert", deferments, and procedures"

Page 1, after line 9, insert a new bill section to read:
"* Section 1 AS 29.45.010 is amended by adding a new subsection to read:

(d) All municipal bodies shall make procedures, restrictions, conditions, formulas, or other methods used to assess a property tax available to the public on request under reasonable rules during regular business hours."

Page 1, line 10:

Delete "* Section 1." and insert "*Sec. 2."

Renumber the following bill section accordingly.

**Sec. 29.45.010. Property tax.** (a) A unified municipality may levy a property tax. A borough may levy

(1) an areawide property tax for areawide functions;

(2) a nonareawide property tax for functions limited to the area outside cities;

(3) a property tax in a service area for functions limited to the service area.

(b) A home rule or first class city may levy a property tax subject to AS 29.45.550 — 29.45.560. A second class city may levy a property tax subject to AS 29.45.590.

(c) If a tax is levied on real property or on personal property, the tax must be assessed, levied, and collected as provided in this chapter. (§ 12 ch 74 SLA 1985)

**Sec. 29.45.020. Taxpayer notice.** (a) If a municipality levies and collects property taxes, the governing body shall provide the following notice:

"NOTICE TO TAXPAYER

For the current fiscal year the (city)(borough) has been allocated the following amount of state aid for school and municipal purposes under the applicable financial assistance Acts:

| | |
|---|---|
| PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE (AS 14.17) | $ |
| STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT (AS 14.11.100) | $ |
| MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE (AS 29.60.101 — 29.60.080) | $ |
| STATE AID FOR MISCELLANEOUS MUNICIPAL SERVICES (AS 29.60.100 — 29.60.180) | $ |
| TOTAL AID | $ |

The millage equivalent of this state aid, based on the dollar value of a mill in the municipality during the current assessment year and for the preceding assessment year, is:

| | MILLAGE EQUIVALENT | |
|---|---|---|
| | PREVIOUS YEAR | THIS YEAR |
| PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE | ....MILLS | ....MILLS |
| STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT | ....MILLS | ....MILLS |
| MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE | ....MILLS | ....MILLS |
| STATE AID FOR MISCELLANEOUS MUNICIPAL SERVICES | ....MILLS | ....MILLS |
| TOTAL MILLAGE EQUIVALENT | ....MILLS | ....MILLS" |

# A M E N D M E N T

OFFERED IN THE HOUSE: BY: JENKINS & Uehling & Taylor

TO: CS (C&RA) HOUSE BILL NO. 518

SENATE BILL NO. ____

PAGE: ____ LINE: ____

Page 1, line 7 after "exemptions" delete "or deferments" and insert", deferments, and procedures"

Page 2, after line 28, insert a new bill section to read:

"* Sec. 4. AS 29.45.210 (b) is amended to read:

(b) The assessor [APPELLANT] bears the burden of proof. The only grounds for adjustment of assessment are proof of unequal, excessive, improper, or under valuation based on facts that are stated in a valid written appeal or proven at the appeal hearing. If a valuation is found to be too low, the board of equalization may raise the assessment."

Renumber the following bill section accordingly.

(c) Notwithstanding other provisions in this section, a determination of the assessor as to whether property is taxable under law may be appealed directly to the superior court. (§ 12 ch 74 SLA 1985)

**Sec. 29.45.210. Hearing.** (a) If an appellant fails to appear, the board of equalization may proceed with the hearing in the absence of the appellant.

(b) The appellant bears the burden of proof. The only grounds for adjustment of assessment are proof of unequal, excessive, improper, or under valuation based on facts that are stated in a valid written appeal or proven at the appeal hearing. If a valuation is found to be too low, the board of equalization may raise the assessment.

(c) The board of equalization shall certify its actions to the assessor within seven days. Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1.

(d) An appellant or the assessor may appeal a determination of the board of equalization to the superior court as provided by rules of court applicable to appeals from the decisions of administrative agencies. Appeals are heard on the record established at the hearing before the board of equalization. (§ 12 ch 74 SLA 1985)

**Sec. 29.45.220. Supplementary assessment rolls.** The assessor shall include property omitted from the assessment roll on a supplementary roll, using the procedures set out in this chapter for the original roll. (§ 12 ch 74 SLA 1985)

**Sec. 29.45.230. Tax adjustments on property affected by a natural disaster.** (a) The municipality may provide for assessment or reassessment and reduction of taxes for property destroyed, damaged, or otherwise reduced in value as a result of a natural disaster.

(b) An assessment or reassessment under this section may be made by the assessor only upon the receipt of a sworn statement of the taxpayer that losses exceed $1,000. A reduction of taxes may be made only on losses in excess of $1,000 for the remainder of the year following the disaster. On reassessment, the municipality shall recompute this tax and refund taxes that have already been paid.

(c) The municipality shall give notice of assessment or reassessment under this section and shall hold an equalization hearing as provided in this chapter, except that a notice of appeal must be filed with the board of equalization within 10 days after notice of assessment or reassessment is given to the person appealing. Otherwise, the right of appeal ceases unless the board finds that the taxpayer is unable to comply.

THE BOARD OF EQUALIZATION AND THE ASSESSOR NEED SPECIFIC INFORMATION AS TO WHY THE VALUE IS EXCESSIVE IN ORDER TO PROPERLY EVALUATE THE MERITS OF YOUR APPEAL. FAILURE TO DO SO MAY JEOPARDIZE THE OUTCOME OF THE APPEAL.

IF YOUR APPEAL IS REFERRED ON TO THE BOARD OF EQUALIZATION, THE BURDEN OF PROOF TO PROVE THAT THE ASSESSOR'S VALUE IS EXCESSIVE RESTS WITH THE APPELLANT WHO MUST CONVINCE THE BOARD BY CLEAR AND CONVINCING EVIDENCE THAT THE APPRAISAL WAS UNEQUAL, EXCESSIVE OR IMPROPER.

THE BOARD OF EQUALIZATION CONSISTS OF THE KENAI PENINSULA BOROUGH ASSEMBLY. IT IS WITHIN THEIR POWER TO RAISE APPRAISED VALUE AS WELL AS TO LOWER IT. BEAR IN MIND THAT THEY ARE CONCERNED ONLY WITH FACTS CONCERNING VALUE, NOT THE AMOUNT OF INCREASES OR THE TAXES YOU PAY.

WHAT CAN YOU DO TO BETTER PRESENT YOUR CASE?

1. Submit any recent appraisals on your property.
2. Confirm sales and listings in your area.
3. Photograph the physical items under protest.
4. Secure engineer estimates when protesting physical land features such as wetland, poor sub-soils, no access, etc.
5. Secure a written opinion of value from a realtor or appraiser.
6. Submit two (2) years of complete property income data.

PLEASE COMPLETE ALL AREAS ON THIS FORM AND BE SURE TO SIGN IT AND PROVIDE AN ADDRESS AND PHONE NUMBER.

THE FOLLOWING IS TAKEN FROM THE KENAI PENINSULA BOROUGH RESOLUTION 80-34 CONCERNING THE HEARING PROCEDURES OF THE BOARD OF EQUALIZATION:

"GUIDELINES AND PROCEDURE FOR PROCEEDINGS OF THE BOARD OF EQUALIZATION:

NO APPEAL MAY BE HEARD IN WHICH THE APPELLANT HAS NOT COMPLIED WITH THE BOROUGH CODE OF ORDINANCES.

ANY MATERIALS OR TRUE COPIES OF EVIDENCE SUBMITTED BY EITHER PARTY TO THE BOARD OF EQUALIZATION SHALL BE PROVIDED TO THE OPPOSING PARTY.

THE ASSESSOR OR HIS DESIGNEE IS CALLED BY THE PRESIDING OFFICER TO IDENTIFY THE SUBJECT PROPERTY, SUBMIT CERTAIN KNOWN FACTS TO FAMILIARIZE THE BOARD WITH THE SUBJECT PROPERTY, AND PRESENT HIS DEFENSE OF THE ASSESSED VALUE. IF THE ASSESSOR HAS A RECOMMENDATION TO CHANGE THE EXISTING VALUE, HE MAY PRESENT THE SAME AT ANY TIME DURING THE HEARING.

AT THE CONCLUSION OF THE ASSESSOR'S CASE, THE APPELLANT SHALL PRESENT ITS CASE. THE APPELLANT MAY BE REPRESENTED BY COUNSEL, AGENT OR OTHER REPRESENTATIVE. TO OVERTURN AN ASSESSMENT, THE APPELLANT MUST PRODUCE SUFFICIENT PROOF WHICH SHOWS THAT THE VALUATION APPEALED FROM IS UNEQUAL, EXCESSIVE OR OTHERWISE IMPROPER.

AT THE CONCLUSION OF THE APPELLANT'S CASE, THE ASSESSOR MAY PRESENT REBUTTAL EVIDENCE.

IF THE ASSESSOR PRESENTS ANY REBUTTAL EVIDENCE, THE APPELLANT MAY REBUT THAT EVIDENCE.

BOTH THE ASSESSOR AND THE APPELLANT MAY ASK QUESTIONS BUT MUST DO SO THROUGH THE PRESIDING OFFICER OR HEARING OFFICER.

WHEN THE APPELLANT AND THE ASSESSOR HAVE COMPLETED THEIR PRESENTATIONS, THE PRESIDING OFFICER OR THE HEARING OFFICER SHALL CLOSE THE HEARING AND NO FURTHER EVIDENCE SHALL BE OFFERED OR CONSIDERED. THE BOARD SHALL THEN DELIBERATE AND DECIDE THE APPEAL OR IT MAY DEFER DECISION UNTIL A TIME NOT LATER THAN ONE DAY FOLLOWING THE LAST DAY SCHEDULED FOR HEARING APPEALS."

KENAI PENINSULA BOROUGH
ASSESSING DEPARTMENT
P. O. BOX 850
Soldotna, AK 99669

APPLICATION FOR REVIEW OF REAL PROPERTY APPRAISAL
(Application must be filed by April 30, 1986)

Please print or type answers to all questions!
Please see instructions on reverse side before completing appeal!

DATE ______________ ACCOUNT NUMBER ______________

OWNER ______________

LEGAL: Lot ______ Block ______ Subdivision ______________

Address of Property ______________

APPRAISED VALUE IS . . . . . . LAND $__________ BLDG $__________

APPRAISED VALUE SHOULD BE . . LAND $__________ BLDG $__________

HOW MUCH WAS PAID FOR THE PROPERTY? . . . . . . . . . . . . . . $__________

DATE PROPERTY PURCHASED (Year)______ HAVE YOU OFFERED PROPERTY FOR SALE? ______

IF SO, HOW MUCH DID YOU ASK? $______ WHEN __________ MO______ YEAR

THE REVIEW APPRAISER AND BOARD OF EQUALIZATION NEED TO KNOW WHY YOU FEEL YOUR PROPERTY IS APPRAISED AT MORE THAN ITS FAIR MARKET VALE. PLEASE EXPLAIN YOUR REASONS AND OFFER SALES AND/OR LISTINGS OF PROPERTY SIMILAR TO YOURS. ______________

(If additional space is required, please attach extra sheets to this form)

DID YOU TALK WITH A STAFF APPRAISER CONCERNING THIS APPEAL AT THE TIME OF FILING ______________

| Signature of Person Filing Appeal, if other than Property Owner | Appellant's Signature |
|---|---|
| Address | Address |
| City State Zip | City State Zip |
| Home Phone No. Business Phone No. | Home Phone No. Business Phone No. |

STATE LAW REQUIRES THAT PROPERTY BE ASSESSED AT ITS FULL AND TRUE VALUE WHICH IS THE ESTIMATED PRICE THE PROPERTY WOULD BRING IN AN OPEN MARKET TRANSACTION, UNDER THE THEN PREVAILING MARKET CONDITIONS.

PLEASE RETURN FORM TO: KENAI PENINSULA BOROUGH
P. O. BOX 850

THE BOARD OF EQUALIZATION AND THE ASSESSOR NEED SPECIFIC INFORMATION AS TO WHY THE VALUE IS EXCESSIVE IN ORDER TO PROPERLY EVALUATE THE MERITS OF YOUR APPEAL. FAILURE TO DO SO MAY JEOPARDIZE THE OUTCOME OF THE APPEAL.

IF YOUR APPEAL IS REFERED ON TO THE BOARD OF EQUALIZATION, THE BURDEN OF PROOF TO PROVE THAT THE ASSESSOR'S VALUE IS EXCESSIVE RESTS WITH THE APPELLANT, WHO MUST CONVINCE THE BOARD BY CLEAR AND CONVINCING EVIDENCE THAT THE APPRAISAL WAS UNEQUAL, EXCESSIVE, OR IMPROPER.

THE BOARD OF EQUALIZATION CONSISTS OF KNOWLEDGEABLE PEOPLE IN REAL ESTATE SUCH AS FEE APPRAISERS, REALTORS, DEVELOPERS, PROPERTY MANAGERS, ETC. IT IS WITHIN THEIR POWER TO RAISE APPRAISED VALUE AS WELL AS TO LOWER IT. BEAR IN MIND THAT THEY ARE CONCERNED ONLY WITH **FACTS CONCERNING VALUE** NOT THE AMOUNT OF INCREASES OR THE TAXES YOU PAY.

**WHAT CAN YOU DO TO BETTER PRESENT YOUR CASE?**

1. SUBMIT ANY RECENT APPRAISALS ON YOUR PROPERTY.
2. CONFIRM SALES AND LISTINGS IN YOUR AREA.
3. PHOTOGRAPH THE PHYSICAL ITEMS UNDER PROTEST.
4. SECURE ENGINEER ESTIMATES WHEN PROTESTING PHYSICAL LAND FEATURES SUCH AS WET LAND, POOR SUB-SOILS, NO ACCESS, ETC.
5. SECURE A WRITTEN OPINION OF VALUE FROM A REALTOR OR APPRAISER.
6. SUBMIT 2 YEARS OF COMPLETE PROPERTY INCOME DATA.

PLEASE COMPLETE ALL AREAS ON THIS FORM AND BE SURE TO SIGN IT AND PROVIDE AN ADDRESS AND PHONE NUMBER.

THE FOLLOWING IS TAKEN FROM THE MUNICIPAL ORDINANCE CONCERNING THE HEARING PROCEDURES OF THE BOARD OF EQUALIZATION.

**HEARINGS, PROCEDURES**

COUNSEL. ALL PARTIES MAY BE REPRESENTED BY COUNSEL DURING HEARINGS BEFORE THE BOARD IN THE COURSE OF ITS PROCEEDINGS.

RULES OF EVIDENCE. THE BOARD SHALL NOT BE RESTRICTED BY THE FORMAL RULES OF EVIDENCE IRRELEVANT TO THE ISSUES APPEALED. HEARSAY EVIDENCE MAY BE CONSIDERED PROVIDED THERE ARE ADEQUATE GUARANTEES OF ITS TRUSTWORTHINESS AND THAT IT IS MORE PROBATIVE ON THE POINT FOR WHICH IT IS OFFERED THAN ANY OTHER EVIDENCE WHICH THE PROPONENT CAN PROCURE BY REASONABLE EFFORTS.

ORDER OF PRESENTATION. THE APPELLANT SHALL PRESENT HIS ARGUMENT FIRST AND MAY BE QUESTIONED OR EXAMINED BY THE BOARD OR THE ASSESSOR. FOLLOWING THE APPELLANT, THE ASSESSOR SHALL PRESENT THE MUNICIPALITY'S ARGUMENT AND MUST SUBMIT TO THE EXAMINATION AND QUESTIONS BY THE APPELLANT. THE APPELLANT MAY, AT THE DISCRETION OF THE CHAIRMAN, MAKE REBUTTAL PRESENTATIONS DIRECTED SOLELY TO THE ISSUES RAISED BY THE ASSESSOR. THE MUNICIPAL ATTORNEY MAY QUESTION THE APPELLANT OR THE ASSESSOR ON MATTERS RELATING TO THE APPEAL.

WITNESSES AND EXHIBITS. THE APPELLANT AND THE MUNICIPALITY MAY OFFER THE ORAL TESTIMONY OF WITNESSES DURING THE HEARING, PROVIDED, HOWEVER, WHERE EITHER THE APPELLANT OR THE ASSESSOR SEEKS TO INTRODUCE AN AFFIDAVIT IN LIEU OF ORAL TESTIMONY, SUCH AFIDAVIT SHALL BE SUBMITTED TO THE OPPOSING SIDE NO LATER THAN 72 HOURS BEFORE THE HEARING. ALL TESTIMONY BEFORE THE BOARD SHALL BE UNDER OATH. DOCUMENTARY EVIDENCE AND EXHIBITS MAY BE PRESENTED BY BOTH PARTIES DURING THE HEARING.

DECISIONS. AT THE CONCLUSION OF THE HEARING THE BOARD SHALL DETERMINE WHETHER THE ASSESSMENT IS PROPER. THE ONLY GROUNDS FOR ADJUSTMENET ARE PROOF OF UNEQUAL, EXCESSIVE OR IMPROPER VALUATION BASED ON FACTS STATED IN THE WRITTEN APPEAL OR PROVED AT THE HEARING. THE BOARD SHALL ISSUE FINDINGS OF FACT AND CONCLUSIONS OF LAW CLEARLY STATING THE GROUNDS UPON WHICH THE BOARD RELIED IN REACHING ITS DECISION.

FURTHER APPEALS. ANY APPEAL FROM A DECISION OF THE BOARD SHALL BE MADE TO THE SUPERIOR COURT. NO APPEAL FROM THE BOARD TO THE SUPERIOR COURT MAY BE TAKEN UNLESS THE ACTION IS FILED AND THE MUNICIPAL ATTORNEY IS SERVED WITH NOTICE OF SUCH APPEAL WITHIN 30 DAYS FOLLOWING THE BOARD'S DECISION. (AO 49-75 am AO 78-69).

THE FOLLOWING INFORMATION IS TAKEN FROM ALASKA STATUTES TITLE 29 CHAPTER 53.

FULL AND TRUE VALUE IS THE ESTIMATED PRICE WHICH THE PROPERTY WOULD BRING IN AN OPEN MARKET AND UNDER THE THEN PREVAILING MARKET CONDITIONS IN A SALE BETWEEN A WILLING SELLER AND A WILLING BUYER, BOTH CONVERSANT WITH THE PROPERTY AND THE PREVAILING GENERAL PRICE LEVELS.

IF AN APPELLANT FAILS TO APPEAR, THE BOARD OF EQUALIZATION MAY PROCEED WITH THE HEARING IN HIS ABSENCE.

IDENT NO. ______________

MUNICIPALITY OF ANCHORAGE
FINANCE DEPARTMENT
PROPERTY APPRAISAL DIVISION

# APPLICATION FOR REVIEW OF REAL PROPERTY APPRAISAL

(APPLICATION MUST BE FILED BY ______________________________

PLEASE PRINT OR TYPE ANSWERS TO ALL QUESTIONS!
PLEASE SEE INSTRUCTIONS ON REVERSE SIDE BEFORE COMPLETING APPEAL!

DATE ______________________________ ACCOUNT NUMBER ____________________

OWNER ________________________________________________________________

LEGAL: LOT __________ BLOCK ________ SUBDIVISION ______________________________

ADDRESS OF PROPERTY ______________________________ __________

APPRAISED VALUE IS....................LAND $ __________________ BLDG $ __________________

APPRAISED VALUE SHOULD BE .........LAND $ __________________ BLDG $ __________________

HOW MUCH WAS PAID FOR THE PROPERTY? ............... ............................. $ __________________

DATE PROPERTY PURCHASED (Year) __________ HAVE YOU OFFERED THE PROPERTY FOR SALE ________

IF SO HOW MUCH DID YOU ASK? $ __________ WHEN __________ MO __________ YEAR

THE REVIEW APPRAISER AND BOARD OF EQUALIZATION NEED TO KNOW WHY YOU FEEL THAT YOUR PROPERTY IS APPRAISED AT MORE THAN ITS FAIR MARKET VALUE. PLEASE EXPLAIN YOUR REASONS AND OFFER SALES AND OR LISTINGS OF PROPERTY SIMILAR TO YOURS. ______________________________

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(IF ADDITIONAL SPACE IS REQUIRED, PLEASE ATTACH EXTRA SHEETS TO THIS FORM.)

DID YOU TALK WITH A STAFF APPRAISER CONCERNING THIS APPEAL AT THE TIME OF FILING. __________

| SIGNATURE OF PERSON FILING APPEAL IF OTHER THAN PROPERTY OWNER | APPELLANT'S SIGNATURE |
| --- | --- |
| ADDRESS | ADDRESS |
| CITY STATE ZIP | CITY STATE ZIP |
| HOME PHONE NO BUSINESS PHONE NO | HOME PHONE NO BUSINESS PHONE NO |

STATE LAW REQUIRES THAT PROPERTY BE ASSESSED AT ITS FULL AND TRUE VALUE WHICH IS THE ESTIMATED PRICE THE PROPERTY WOULD BRING IN AN OPEN MARKET TRANSACTION, UNDER THE THEN PREVAILING MARKET CONDITIONS.

PLEASE RETURN FORM TO:

MUNICIPALITY OF ANCHORAGE
PROPERTY APPRAISAL DIVISION
630 WEST 6TH AVENUE
POUCH 6-650
ANCHORAGE, ALASKA 99502

FOR ASSESSOR'S USE ONLY

CASE NO __________

# How to use this form

A. This form requires you to identify your property and yourself (or your agent) and state and sign your proposed valuation. No changes to your inventory or valuation can be made without your first filing such a written request. You may attach other documents to help the assessor more accurately determine value. You must file this form not later than the final date for filing indicated on your notice of value. "Otherwise, the right of appeal ceases unless the Board of Equalization finds that the taxpayer was unable to comply." (AS 29.45.190.b)

Completion of this form ensures a written decision from the assessor's office, and ensures your right to appeal to the Board of Equalization if you are not satisfied with the assessor's decision.

B. The Assessor's Office will review your appeal, and mail to you, by certified mail, copy 2 of this form with the Assessor's Decision written in Block 4.

C. Upon receipt of Assessor's Decision, please complete Block 5. This block provides you with the option of either accepting the Assessor's Decision or continuing your appeal on to the Board of Equalization. *Please return the form, in the envelope provided, within 30 days.*

D. If the form is not returned within 30 days, your rights to appeal will be terminated in accordance with Alaska Statutes.

E. The Municipal Clerk's office will inform you of the time and place when your appeal will be heard by the Board of Equalization.

ALASKA LAW STATES:

A. *"THE APPELLANT BEARS THE BURDEN OF PROOF.* The only grounds for adjustment of assessment are proof of unequal, excessive, improper, or under valuation based on facts that are stated in a valid written appeal or proven at the appeal hearing. If a valuation is found to be too low, the board of equalization may raise the assessment." (AS 29.45.210b)

B. "The assessor shall assess property at its full and true value as of January 1 of the assessment year.... The full and true value is the estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with the prevailing general price levels." (AS 29.45.110a)

C. "If an appellant fails to appear, the Board of Equalization may proceed with the hearing in the absence of the appellant." (AS 29.45.210a)

D. An appellant or the assessor may appeal a determination of the Board of Equalization to the superior court. Appeals are heard on the record established at the hearing before the Board of Equalization. Appeals to the superior court must be filed within 30 days following the Board's decision. (AS 29.45.210d and AMC 12.05.050G)

ANCHORAGE MUNICIPAL CODE:

The code requires payment of taxes on the dates shown on the tax bills. You must pay the tax billed even though an appeal is still outstanding. When the appeal is decided, if there is a change in assessed value you will receive a refund or a supplementary bill for the difference in taxes. (AMC 12.05.050)

# ADMINISTRATIVE REVIEW AND APPEAL FORM

Complete the form down to the heavy line. Remove the bottom copy for your records and deliver the form to 632 W. 6th, 4th Floor, or mail to: Municipal Clerk, Box 196650, Anchorage, Ak 99519-6650, no later than the Appeal must be filed by date indicated on your *Notice of Value*. If you deliver them in person the bottom copy will be time-date stamped for you. The assessor's office will review your appeal and mail you a copy of the decision , certified letter. Upon receipt please complete block 5 and return the copy to the Municipal Clerk in the envelope provided.

Appeal # ______

**Please see back of form for further guidelines.**

1) I request a review of the value shown in item 2 below for assessor's Book ______ Page ______ Lot ______
Property address (or legal description, mile, etc.): ______
Owner's name (as listed on valuation roll) ______
Owner's Mailing address: ______
Day phone: ______ Evening phone ______

| 2) | Land | Bldg. | Total |
|---|---|---|---|
| Assessor's Value (from Notice of Value) | | | |
| Owner's estimate of value | | | |

Owner's reason for estimate of value (including inventory corrections, sales of comparable properties, and property income statements, if appropriate). ______

See attached ☐

3) I hereby affirm that the foregoing information is true and correct and I have read and understand the guidelines on the back.

Signature of owner or authorized agent ______ Date signed ______ Print name (if different from item #1) ______

Address (if different from item #1 above) ______ Phones (if different from item #1 above) ______

Shaded area for assessor's use only

| 4) Assessor's Decision | | Land | Bldg. | Total |
|---|---|---|---|---|
| | From | | | |
| | To | | | |

Assessor's reason for decision ______

See attached ☐

Date received ______ Decision made by ______ Date ______ Approved by ______ Date ______ Date mailed ______

5) **Appellant's Response:** If the copy of this form received via certified mail is not returned within 30 days, your rights to appeal will be terminated in accordance with Alaska Statutes.

☐ I ACCEPT the Assessor's decision in Block 4 above and hereby withdraw my appeal.

☐ I DO NOT ACCEPT the Assessor's decision and desire to have my appeal presented to the Board of Equalization.

Signature of owner or authorized agent ______ Date signed ______ Print name ______

| | Land | Bldg. | Total |
|---|---|---|---|
| Board of Equalization's Decision | | | |

Date received ______ Date Heard ______ Certified (Chairman or Clerk of Board) ______ Date ______ Date mailed ______

AMENDMENT #4

OFFERED IN THE HOUSE: BY: Pourchot

TO: CS (CR&A) am HOUSE BILL NO. 518

SENATE BILL NO. ________

PAGE: 2 LINE: after line 28

Delete the first sentence in new section 4 of the bill to read:

(b) [The assessor [APPELLANT] bears the burden of proof.] The only grounds for adjustment of assessment are proof of unequal, excessive, improper, or under valuation based on facts that are stated in a valid written appeal or proven at the appeal hearing. If a valuation is found to be too low, the board of equalization may raise the assessment.

Rationale

This amendment seeks to strike a balance of proof between assessors and taxpayers. It removes the overt burden of proof in the existing statute on the appellant thereby emphasizing the existing responsibility in statute (AS 29.45.190(d)) of the assessor to bring forth all relevant information in support of his assessment to the board of equalization.

At the same time it preserves the existing language in the balance of AS 29.45.210(b) above setting out guidelines for assessment adjustments which was nullified by the original amendment. This change will avoid numerous frivolous appeals which would otherwise be expected resulting in significant time delays and costs in the appeals process.

30 days before the equalization hearings. If the address is not known to the assessor, the notice may be addressed to the person at the post office nearest the property. Notice is effective on the date of mailing. (§ 12 ch 74 SLA 1985)

**Sec. 29.45.180. Corrections.** (a) A person receiving an assessment notice shall advise the assessor of errors or omissions in the assessment of the person's property. The assessor may correct errors or omissions in the roll before the board of equalization hearing.

(b) If errors found in the preparation of the assessment roll are adjusted, the assessor shall mail a corrected notice allowing 30 days for appeal to the board of equalization. (§ 12 ch 74 SLA 1985)

**Sec. 29.45.190. Appeal.** (a) A person whose name appears on the assessment roll or the agent or assigns of that person may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the taxpayer's satisfaction.

(b) The appellant shall, within 30 days after the date of mailing of notice of assessment, submit to the assessor a written appeal specifying grounds in the form that the board of equalization may require. Otherwise, the right of appeal ceases unless the board of equalization finds that the taxpayer was unable to comply.

(c) The assessor shall notify an appellant by mail of the time and place of hearing.

(d) The assessor shall prepare for use by the board of equalization a summary of assessment data relating to each assessment that is appealed.

(e) A city in a borough may appeal an assessment to the borough board of equalization in the same manner as a taxpayer. Within five days after receipt of the appeal, the assessor shall notify the person whose property assessment is being appealed by the city. (§ 12 ch 74 SLA 1985)

**Sec. 29.45.200. Board of equalization.** (a) The governing body sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor, or it may delegate this authority to one or more boards appointed by it. An appointed board may be composed of not less than three persons, who may be members of the governing body, municipal residents, or a combination of members of the governing body and residents. The governing body shall by ordinance establish the qualifications for membership.

(b) The board of equalization is governed in its proceedings by rules adopted by ordinance that are consistent with general rules of administrative procedure. The board may alter an assessment of a lot only pursuant to an appeal filed as to the particular lot.

PUBLIC OPINION MESSAGE

TO: SENATOR EDNA B. DE VRIES

FROM: MARY FROHNE
9921 HILLSIDE DRIVE
ANCHORAGE 99516
346-1895

BILL NO: HB 518

SUBJECT: MUNIC. PROPERTY TAX; DEFERMENTS/EXEMPTIONS

MESSAGE:

SECTION 5 (B) - IT'S ABOUT TIME THE ASSESSORS BORE THE BURDEN OF PROOF. SOMETIMES IT IS HARD TO GET OUT OF THEM THEIR COMPARABLES AND THEIR ADJUSTMENT OF COMPARABLES TO YOUR PROPERTY. IT IS MUCH TOO EXPENSIVE FOR AN ORDINARY HOMEOWNER TO GET HIS PROPERTY APPRAISED IN ORDER TO REBUT OVER-VALUATION. WITH THE ASSESSOR BEARING THE BURDEN I FEEL HE WOULD HAVE TO SHOW THESE FORMULAS TO THE INDIVIDUAL TAXPAYER.

DATE: 05/07/86 TIME: 14:07:15 SENT BY: ANCHORAGE LIO

COPIES TO: SENATE MEMBERS

Judie