

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10176 HOUSE COMMUNITY & REGIONAL AFFAIRS



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*William J. Carter*

Signature of Camera Operator

*10/14/2003*

Date

**HB**

**6**

# Alaska State Legislature

Legislative Committees:  
House Finance Committee

Legislative Budget Subcommittees:  
University of Alaska  
Department of Natural Resources  
Department of Environmental Conservation

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While in Session  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4457  
FAX (907) 465-3519

## Representative John Davies District 29

Date April 8, 2002

To: Representative Carl Morgan, Co-Chair  
Representative Kevin Meyer, Co-Chair  
House Community and Regional Affairs Committee



From: Representative John Davies

Re: Bill Scheduling-House Bill 6 "An act relating to optional exemptions from municipal taxes on residential property."

I am requesting that HB 6 "An act relating to optional exemptions from municipal taxes on residential property" be heard in the House Community and Regional Affairs Committee at the earliest possible date.

HB 6 allows a municipality the option to increase the residential property tax exemption from its current level of \$10,000 to \$40,000 with voter approval. This is an exemption that applies only to homes that are primary residence.

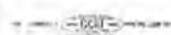
The bill also allows a municipality with approved by the voters, the ability to add an additional \$10,000 to those giving their time as volunteer fire fighters or providing volunteer emergency medical services.

Recognizing the burden placed on the residential property owner, this bill grants greater relief from property tax.

HB 6 recognizes the commitment to the community by volunteer fire fighters and those providing emergency medical services by allowing municipalities the ability to increase their property tax exemption another \$10,000.

HB 6 is entirely optional at the local government level

Thank you for your consideration.



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Juneau, Alaska 99801-1102  
(907) 465-4457  
FAX (907) 465-3519

Representative John Davies  
District 29

## Sponsor Statement

### House Bill 6

“An act relating to optional exemptions from municipal taxes on residential property.”

HB 6 allows a municipality the option to increase the residential property tax exemption from its current level of \$10,000 to \$40,000 with voter approval. This is an exemption that applies only to homes that are primary residence.

Section 1 raises the limit from \$10,000 to \$40,000

Section 2 allows a municipality with approved by the voters, the ability to add an additional \$10,000 to the amount granted in sec 1 to those giving their time as volunteer fire fighters or providing volunteer emergency medical services.

Recognizing the burden placed on the residential property owner, this bill grants greater relief from property tax.

HB 6 recognizes the commitment to the community by volunteer fire fighters and those providing emergency medical services by allowing municipalities the ability to increase their property tax exemption another \$10,000.

HB 6 is entirely optional at the local government level



## Find a mortgage. On your terms.

Wednesday, January 10, 2001

GO

Article last updated:

Wednesday, January 10, 2001 3:12 PM MST

### Bill would ease tax burden for homeowners

By SEAN COCKERHAM  
News-Miner Juneau Bureau

JUNEAU--The impact of last year's failed property taxpayer revolt is being felt in the halls of the state Capitol.

Two Interior lawmakers, with support from members of the Fairbanks North Star Borough Assembly, have introduced legislation that would allow local communities the choice of increasing the household property tax exemption.

Under the current exemption, \$10,000 is shaved off the tax assessments of homeowners living in the Fairbanks borough and in a handful of other Alaska municipalities that choose to do so.

So if a Fairbanks family lives in a house assessed at \$150,000, it can pay borough taxes as though the house is worth \$140,000.

That \$10,000 is the most that can be exempted under current state law. But Sen. Gene Therriault, R-North Pole, and Rep. John Davies, D-Fairbanks, have filed bills that would allow local ordinances to increase the exemption up to \$50,000.

"It's a maximum," Davies said. "And it's totally optional."

A group of Fairbanks North Star Borough Assembly members and the executive director of the Alaska Municipal League have said that increasing the exemption cap would give local governments room to examine how they bring in revenue.

"If the Legislature allows us that flexibility, it is one more arrow in our quiver," said Karen Parr, presiding officer of the Fairbanks assembly.

But that does not mean the borough would exercise the option and increase the household exemption, Parr said. Borough staff is studying just how much the move would drain the coffers, she said.

"Obviously those tax dollars have to be made up somehow," Parr said, noting that borough residents are not clamoring for cuts in services.

Parr said some level of sales tax would be the most likely option for replacing the lost property tax revenue, but that would require a boroughwide vote and raise thorny issues such as what goods to exempt



from the sales tax.

The borough mayor, and some assembly members, have said they want to consider alternative revenue sources in the wake of the debate over last year's failed statewide initiative to limit local property taxes to 1 percent of a home's assessed value.

An ordinance to revive the borough's revenue task force is expected to go before assembly members soon.

Raising the household exemption would not hurt the borough's bottom line as much as simply lowering the tax rate, since the largest borough taxpayers are commercial properties.

Davies' bill would put the maximum exemption at \$40,000 for most households, with an additional \$10,000 possible for those who volunteer as firefighters or emergency personnel.

Therriault's proposal would make an across-the-board exemption cap of \$50,000. Both lawmakers said their numbers are flexible.

Davies said the \$10,000 maximum exemption became law in the early 1970s and that he is figuring out just how much inflation has risen since then. He also said he is researching whether local governments could raise the exemption themselves or would also need the approval of voters.

Therriault said he is waiting to hear from the local governments regarding just how much they want the maximum exemption to be. "It's a local call," he said.

Therriault said he does not believe that property owners bear the entire local tax burden in the Fairbanks borough and that they pass some of the cost on to renters. But he wants local governments to have the option to diversify their tax base.

Davies, a former borough assembly member, believes it may be a good idea for the Fairbanks borough to institute a modest sales tax and increase the household property tax exemption.

"It would spread the burden a little bit," he said. "I think it would be a little more fair."

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# LEGAL SERVICES

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

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

## MEMORANDUM

April 12, 2002

**SUBJECT:** Municipal exemption from taxes on residential property; sectional summary (HB 6)

**TO:** Representative John Davies

**FROM:** Tamara Brandt Cook  
Director

This bill changes an existing optional municipal tax exemption that is available for all residential property. It adds another optional municipal tax exemption for certain municipal volunteers.

**Sec. 1.** Increases the maximum amount of the existing optional municipal tax exemption for residential property from \$10,000 to \$40,000.

**Sec. 2.** Adds a new optional tax exemption for the residences of volunteers who provide fire fighting services or emergency medical services. The exemption must be approved by the municipal voters and may not exceed \$10,000.

TBC:med  
02-374.med

HB-6  
Summary Cost Sheet

Using 10,000 exemption x average mill rate of 18.176

Chena Goldstream Volunteer Fire = 29 eligible volunteers	\$5,272 loss in tax collections
Ester Volunteer Fire Department = 14 eligible volunteers	\$2,545 loss in tax collections
North Star Volunteer Fire Department = 32 eligible volunteers	\$5,817 loss in tax collections
Salcha Rescue 11 eligible volunteers	\$1,999 loss in tax collections
Steele Volunteer Fire Department = 29 eligible volunteers	\$5,272 loss in tax collections
University Fire 7 eligible volunteers commissioners	\$1,272 loss in tax collections
City of North Pole 11 eligible volunteers	\$1,999 loss in tax collections
Two Rivers Rescue 7 eligible volunteers	\$1,272 loss in tax collections

.....  
Based on 18.176 mill rate average.

8 departments = 140 eligible volunteers out of 257 volunteers for proposed 10k deduction.

Total estimated impact on the FNSB collections =	\$25,452.
Estimated 10% increase in volunteerism =	\$ 2,545.
<hr/>	
Total estimated cost of HB-6	\$27,997

Benefit to volunteer within community = \$181.80

Cost per replacing volunteers with paid Firefighter/medic = 45,000 +42% benefits = \$63,900

HB-6  
Worksheet

Mill Rate

North Star Fire Service Area = 16.702  
University Fire Service Area (with light district) = 19.65

Average Mill Rate based off high/low = 18.176

Values and members – using North Star Fire Service Area actual and average mill rate.

3,230,020 Total value of volunteer properties at North Star

32 people own property / 10 additional members related to same property = 57%

31 people rent = 43%

Total members 73

32 eligible members X 10,000 exemption = \$320,000

BEFORE 10k vol exemption	AFTER 10 k exemption
3,230,020	\$2,910,020

Chena Goldstream Volunteer Fire

50 number of total volunteers minus 43% average who are not eligible = 21

29 x 181.8 = \$5,272

Ester Volunteer Fire Department

25 number of total volunteers minus 43% average who are not eligible = 11

14 x 181.8 = \$2,545

Salcha Rescue

20 number of total volunteers minus 43% average who are not eligible = 9

11 x 181.8 = \$1,999

Steese Volunteer Fire Department

50 number of total volunteers minus 43% average who are not eligible = 21

29 x 181.8 = \$5,272

University Fire

7 eligible x \$181.8 average = \$1,272

City of North Pole Fire Department

20 number of total volunteers minus 43% average who are not eligible = 9

11 x 181.8 average = \$1,999

Two Rivers Rescue

12 number of total volunteers minus 43% average who are not eligible = 5

7 x 181.8 average = \$1,272

*Estimated Revenue Loss  
Due to Increased Allowance for  
Residential Exemption*

Municipality	Residential Exempt \$ @ \$10K (Actual-Reported)	Residential Exempt \$ @ \$50K (Estimated)	Local Assessed Value-Excluding Residential Exemption	Boro/City Wide Mill Rate (TY 2000)	Revenue Generated
Fairbanks North Star Borough	\$ 128,624,767	\$ 644,123,835	\$ 3,857,010,224	15.343	\$ 59,178,108
Kenai Peninsula Borough	\$ 92,514,500	\$ 462,572,500	\$ 3,503,198,694	7.600	\$ 26,624,310
North Slope Borough	\$ 1,900,500	\$ 9,502,500	\$ 10,821,684,071	18.500	\$ 200,201,155
City of Valdez	\$ 8,500,775	\$ 42,503,875	\$ 919,309,050	20.000	\$ 18,386,181
<b>Totals</b>	<b>\$ 231,740,542</b>	<b>\$ 1,158,702,710</b>	<b>\$ 19,101,202,039</b>		<b>\$ 304,389,754</b>
	Local Assessed Less New \$50K Exemption Increase	New Mill Rate Necessary to Raise Same Revenues	Value of AS 43.56 Property	Revenue Generated from AS 43.56 with "old mill rate"	Revenue Necessary for New Exemption from AS 43.56 Property
Fairbanks North Star Borough	\$ 3,341,711,156	17.7089	\$ 258,225,360	\$ 3,961,952	\$ 4,572,893
Kenai Peninsula Borough	\$ 3,133,140,694	8.4976	\$ 461,506,410	\$ 3,507,449	\$ 3,921,717
North Slope Borough	\$ 10,814,082,071	18.5130	\$ 10,553,757,880	\$ 195,244,521	\$ 195,381,772
City of Valdez	\$ 885,305,950	20.7682	\$ 623,410,970	\$ 12,468,219	\$ 12,947,103
<b>Totals</b>	<b>\$ 18,174,239,871</b>		<b>\$ 11,896,900,620</b>	<b>\$ 215,182,141</b>	<b>\$ 216,823,485</b>
			Estimated increased cost to state		\$ 1,641,344

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

*Estimated Revenue Loss  
Due to Increased Allowance for  
Residential Exemption*

Municipality	Residential Exempt \$ @ \$10K (Actual-Reported)	Residential Exempt \$ @ \$50K (Estimated)	Local Assessed Value-Excluding Residential Exemption	Boro/City Wide Mill Rate (TY 2000)	Revenue Generated
Fairbanks North Star Borough	\$ 128,824,767	\$ 644,123,835	\$ 3,857,010,224	15.343	\$ 59,178,108
Kenai Peninsula Borough	\$ 92,514,500	\$ 462,572,500	\$ 3,503,198,694	7.600	\$ 26,624,310
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<b>Totals</b>	<b>\$ 231,740,542</b>	<b>\$ 1,158,702,710</b>	<b>\$ 19,101,202,039</b>		<b>\$ 304,389,754</b>
	<b>Local Assessed Less New \$50K Exemption Increase</b>	<b>New Mill Rate Necessary to Raise Same Revenues</b>	<b>Value of AS 43.56 Property</b>	<b>Revenue Generated from: AS 43.56 with "old mill rate"</b>	<b>Revenue Necessary for New Exemption from AS 43.56 Property</b>
Fairbanks North Star Borough	\$ 3,341,711,156	17.7089	\$ 258,225,350	\$ 3,961,952	\$ 4,572,893
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<b>Totals</b>	<b>\$ 18,174,239,871</b>		<b>\$ 11,896,900,620</b>	<b>\$ 215,182,141</b>	<b>\$ 216,823,485</b>
			<b>Estimated increased cost to state</b>		<b>\$ 1,641,344</b>

Office of the State Assessor  
Steve Van Sant  
(907) 269-4605



Eric Mohrmann  
Fire Chief

# CHENA-GOLDSTREAM FIRE & RESCUE

P.O. Box 80487, Fairbanks, Alaska 99708  
Business: (907) 479-5672 FAX: (907) 479-5858  
Emergency: 911



David Rohwer  
President

January 19, 2001

Representative John Davies  
State Capitol Rm. 422  
State of Alaska  
Juneau, Alaska. 99801-1182

Re: House Bill No. 6

Dear Representative Davies:

Chena-Goldstream Fire & Rescue is a primarily volunteer fire and ambulance service providing protection to the resident of Goldstream Valley, Chena Ridge/Chena Pump and portions of the Rosie Creek areas. We also provide ambulance service to Ester and to the south boundary of the borough. The largest portion of our funding comes from a self-imposed tax of 1.7 mils established by the residents of our fire service district. This is one of the lowest rates in any of the fire service districts.

The property in our district is primarily residential in nature and most parcels are eligible for the current \$10,000.00 residential exemption. There are 1,364 such exempted parcels leaving a total \$274,873,096.00 taxable valuation in the district. Should the exemption proposed in your House Bill #6 pass, and be adopted by the Fairbanks North Star Borough, it would reduce our income by 15% making it very difficult to provide the level of service we now provide. On a separate note, I would like to thank you for proposing a \$10,000.00 exemption for volunteer firefighter and EMS personnel. This certainly demonstrates that you have a respect for the men and women who risk their lives and expend their time and resources to help their neighbors.

Our district is rapidly growing placing more demands on the volunteers and small staff we now have. State and federal mandates are making it more and more expensive to provide the service needed. A substantial reduction in the budget would cause us to seek an increase in the mil rate for fire protection to pay to the equipment and supplies needed to provide a safe and effective service.

I personally believe that this large an impact on the municipalities would spur similar mil rate increases in order to pay for schools and other governmental functions thereby defeating the intent of the bill. I respectfully request that you consider the impact your bill could potentially have on our small department and other such departments trying to provide the citizens the best service possible for a very small cost.

Sincerely,

David Rohwer  
President, Board of Directors

Cc: Mayor Rhonda Boyles

## Department of Revenue Fiscal Note Explanation for HB 6

*April 12, 2002 - Page 2 of 2*

This legislation would allow some municipalities to increase -- by a vote of the public -- the residential property tax exemption from the current \$10,000 per residence to \$40,000 per residence. This legislation also would allow municipalities to exempt from taxation up to \$10,000 in assessed valuation of real property for each owner and occupant of a residence who serves as a volunteer firefighter or emergency medical services volunteer.

This legislation could reduce state oil and gas property tax revenues if municipalities increase their residential property assessment exemption and then increase their overall mill rate to make up for the lost revenue rather than implement alternative taxes or reduce their spending.

Under AS 43.56, the state imposes a 20-mill tax on oil and gas property in the state. If the municipality in which the oil and gas property is located also has a property tax, the taxpayer is allowed a credit for any local taxes before paying the state tax. For example, assume oil and gas property valued at \$1 million is located in a borough with a 15-mill tax rate. The taxpayer would pay \$15,000 to the locality. When it files its state taxes it has an obligation of \$20,000 (the 20-mill rate), offset by a tax credit of \$15,000, so it would send a check for \$5,000 to the state. Therefore, if the mill rates increase because of this legislation in localities that have extensive oil and gas production property, oil and gas taxpayers will pay more to the localities and less to the state.

The projected \$1,650,000 annual cost to the state of this legislation assumes that all of the localities (with significant oil and gas properties) that already grant the \$10,000 residential exemption would increase it to \$40,000, and provide for the firefighter and emergency medical service volunteer exemption. The estimate also assumes that the municipalities would want to replace all of the revenues they would lose from the increased exemption. The \$1,650,000 cost also assumes that the municipalities would use an increased mill rate to replace the lost revenues -- thereby reducing state oil and gas property tax collections.

The \$1,650,000 estimate is a maximum. It exceeds prior fiscal notes for a similar bill, SB 4, for two reasons. First, this bill allows for the exemption to apply to both areawide and service area property tax levies. In order to account for this, the entire Nikiski service area levy was used in determining the effect on the Kenai property tax assessment. Second, the exclusion that tied eligibility for the increased residential exemption to bonded debt, which is included in SB 4, is not included in this bill, which necessitated that the effect on the North Slope Borough property assessment also be included in the calculation.

It should be noted that using reasonable assumptions as to the number of eligible firefighters and emergency medical service volunteers, it was concluded that the fiscal effect to state revenues of this specific provision in the legislation would be negligible.

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## Representative John Davies District 29

### Sponsor Statement HB 6

#### **"An Act relating to optional exemptions from municipal taxes on residential property"**

HB 6 allows a municipality the option to increase the residential property tax exemption from its current level of \$10,000 to \$40,000 with voter approval. This is an exemption that applies only to homes that are primary residence.

This bill also allows a municipality, with approval of the voters, the ability to add an additional \$10,000 to those who give their time as volunteer fire fighters or as volunteer emergency medical technicians.

Finally, recognizing the burden placed on the residential property owner, this bill grants greater relief from property tax and is entirely optional to local governments.



# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 6  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title Municipal Property Tax Exemptions BRU Revenue Operations  
 Component Tax Division  
 Sponsor Representative Davies  
 Requester Community & Regional Affairs Component No. 2476

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>(1,650.0)</b>	<b>(1,650.0)</b>	<b>(1,650.0)</b>	<b>(1,650.0)</b>	<b>(1,650.0)</b>	<b>(1,650.0)</b>
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**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

See Page 2 for analysis.

Prepared by: Dan Dickinson, Director Phone 269-1033  
 Division Tax Division Date/Time 4/13/02 11:44 AM  
 Approved by: Larry Persily, Deputy Commissioner Date 4/13/2002  
 Agency Department of Revenue

**HB**

**13**



Tony Knowles, Governor

**Office of the Commissioner**

P.O. Box 110800, Juneau, AK 99811-0800

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January 29, 2001

The Honorable Lisa Murkowski  
Member  
House Community & Regional Affairs Committee  
Alaska Legislature

RE: SSHB 13

Dear Representative Murkowski:

During the House C&RA Committee's January 25th hearing on SSHB 13, you raised the question whether this agency believes that aspects of SSHB 13 are "unconstitutional." We are aware that there appear to be conflicting views on that matter. According to Representative Bunde, Tamara Cook has indicated that there are no constitutional impediments to HB 13. However, the State Attorney General's office indicated that a similar bill last year (HB 133) had provisions that were contrary to the concept of borough government under Article X, Sections 1, 3, 4, 5, and 11 of Alaska's Constitution -- particularly as those provisions applied to home rule borough government. Those concerns are reflected in Governor Knowles' veto message of May 19, 2000 regarding HB 133.

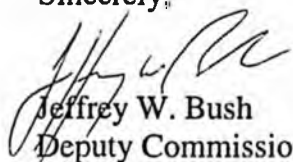
Notwithstanding the apparent differing legal opinions on this matter, we believe that the founders who wrote Alaska's constitutional provisions on local government clearly intended that the Legislature should impose no home rule limitation, except where the Legislature could clearly demonstrate that there is overriding state interest involved. It is noteworthy that the matters addressed by SSHB 13 have been left exclusively to local governments since State laws setting up the framework for the creation, alteration, and abolition of service area were first enacted forty years ago. We fail to discern what has changed over the past forty years to now create an overriding state interest in such matters.

Of even greater concern is the fact that SSHB 13 would limit all of Alaska's home rule boroughs, while it would continue to allow self-determination in such matters by most of Alaska's general law boroughs. Limiting home rule boroughs while exempting most general law boroughs is contrary to the principles of home rule in Alaska.

We have prepared the attached brief discussion of the nature of home rule government in Alaska for your further consideration. We also note that Victor Fischer, who served as a member of the Committee on Local Government at Alaska's Constitutional Convention, will be in Juneau on January 31 and February 1. You may wish to contact Mr. Fischer to discuss this matter with him directly. It may also be possible to arrange for Mr. Fischer to address the House C&RA Committee on this matter at its meeting on February 1.

If you have any further questions regarding this matter, please let me know.

Sincerely,

  
Jeffrey W. Bush  
Deputy Commissioner

cc: The Honorable Kevin Meyer, Co-Chairman, House C&RA Committee  
The Honorable Carl Morgan, Co-Chairman, House C&RA Committee  
Tamara Cook, Director, Legislative Legal and Research Services  
Marjorie Vandor, Assistant Attorney General





Ronald Cease, Director of Alaska's Local Affairs Agency from 1962 – 1966, emphasized that the provisions in Alaska's Constitution concerning municipal home rule were the strongest of any state in the nation.

Maximum local self-government is to be exercised under home rule charters which first class cities and boroughs may secure. The home rule provisions of the Alaska Constitution are broader than those of any other state, for "a home rule borough or city may exercise all legislative powers not prohibited by law or charter."<sup>6</sup> This means that the legislative body of a home rule city or boroughs has any powers that is constitutionally available to the state legislature. (emphasis original)

(Ronald Clayton Cease, *Areawide Local Government in the State of Alaska – The Genesis, Establishment, and Organization of Borough Government*, pages 18-19 [1964]).

Mr. Cease addressed the State's interest in home rule municipalities as follows:

The home rule provisions, however, do not place any substantive home rule power beyond general legislative control. "Home rule should not mean the state's withdrawal from all obligations within the local area,"<sup>7</sup> for Article X anticipates state concern with local problems. As one member of the Committee stated: "In Alaska it is particularly important that we provide a local government system that will have the maximum amount of flexibility, with a maximum amount of home rule, and at the same time with the maximum amount of state interest and participation in local affairs."<sup>8</sup>

The state has the power to establish and classify boroughs and cities, to prescribe powers of non-charter governments, to withhold authority from home rule boroughs and cities, and to exercise, review and control functions. Moreover, the state's interest in local government is recognized by the constitutional provisions for the creation of a boundary commission and a local government agency.

(Ibid. pages 20 – 21.)

Presently, there are 135 sections of State law that contain provisions regarding home rule municipal governments. Many of those are express limitations on municipal home rule authority. The 135 sections include provisions found in Alaska Statutes Title 9 (Code of Civil Procedure), Title 14 (Education, Libraries, and Museums), Title 15 (Elections), Title 18 (Health, Safety, and Housing), Title 19 (Highways and Ferries), Title 21 (Insurance), Title 23 (Labor and Workers' Compensation), Title 29 (Municipal Government), Title 30 (Navigation, Harbors, and Shipping), Title 37 (Public Finance), Title 38 (Public Land), Title 39 (Public Officers and Employees), Title 40 (Public Records and Recorders), Title 41 (Public Resources), Title 42 (Public Utilities and Carriers), Title 43 (Revenue and

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<sup>6</sup> Art. X, sec. 11.

<sup>7</sup> *Minutes of the Committee on Local Government* No. 18.

<sup>8</sup> *Proceedings*, p. 2617.

Taxation), Title 44 (State Government), Title 45 (Trade and Commerce) and Title 46 (Water, Air, Energy, and Environmental Conservation).

A number of the 135 individual sections noted in the preceding paragraph impose express limitations on home rule municipalities with regard to a multitude of specific sections of State law. For example, AS 29.45.800, provides that "AS 29.45.010 – 29.45.560 apply to home rule and general law municipalities." Thus, AS 29.45.800 alone imposes limitations on home rule municipalities contained in 56 separate sections of the statutes.

The limitations on home rule municipalities continues to grow. For example, since AS 29 underwent comprehensive revisions in 1985, sixteen additional home rule limitations have been added to AS 29.

Concern over the erosion of constitutional intent regarding home rule municipal authority led to the veto House Bill 133 adopted by the 2000 Legislature. The Governor noted in his veto message:

. . . for the first time since statehood, the rights of Alaska's home rule municipalities in forming, altering, and abolishing service areas are limited by statute.

This bill also raises serious constitutional concerns by imposing limitations on home rule boroughs and unified municipalities. Home rule municipalities have a constitutional grant of authority that gives them liberal control over matters purely of local concern. How service areas are established and governed has historically been dealt with in home rule charters as part of the organic law of a particular home rule municipality. And where a home rule municipality is concerned with a matter of purely local concern, the charter and not a legislative act is looked to in order to determine whether a particular power has been conferred upon the municipality. It would be incongruous to recognize the constitution provision that a home rule municipality "may exercise all legislative powers not prohibited by law or by charter", and then to say that the power of a home rule city is measured by a legislative act." *Lien v. City of Ketchikan*, 383 P.2d 721, 723 (Alaska 1963).

(Letters from Governor Tony Knowles to Senate President Drue Pearce and House Speaker Brian Porter, May 19, 2000.)



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907)586-1325, Fax (907)-463-5480

January 23, 2001

Representative Kevin Meyer, Chair  
Representative Carl Morgan, Chair  
Community and Regional Affairs Committee  
State Capitol  
Juneau, AK 99811

Dear Representative Meyer & Morgan:

We are writing in opposition to HB 13, relating to municipal service areas and providing for voter approval of the formation, alteration, or abolishment of certain service areas. The 2001 AML Policy Statement adopted by the entire membership of the Alaska Municipal League, states:

## **Part II. Local Government Powers**

### **A. Local Autonomy**

**5. State Mandated Vote on Service Area Consolidation and Alteration:** The League strongly opposes any legislation to mandate fragmented service area votes in home rule, first class and second class boroughs. The Constitution mandates that municipal governments are "local government," not service areas. Mandating autonomy to service areas violates the intent of the Alaska Constitution by fragmenting local governments, eliminates a statutory home rule power, and may significantly increase costs and lower efficiency for taxpayers as a whole.

**The Alaska Constitution states in Article X Section 2, "All local government powers shall be vested in cities and boroughs." It is important to make the distinction between municipalities and service areas. Municipalities are units of local government, while service areas are not. Passage of HB 13 would allow a minority of the population in a borough or unified municipality to veto an action that may be in the best interest of the people of the municipality as a whole.**

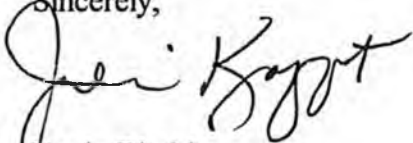
The framers of the Constitution addressed the issue of service areas as a dynamic local government process. The Local Government Committee's objective was to avoid having "a lot of separate little districts set up...handling only one problem..."; (P.2715 Proceedings). Instead, services were to be provided, wherever possible, by other jurisdictions capable of doing so.

Our concerns are:

- ◆ HB 13 does not appear to meet the intent of the Alaska Constitution.
- ◆ A small portion of residents may preclude an action that benefits the community as a whole.
- ◆ At this point in time, it is not appropriate to change the ground rules for existing service areas. An Assembly might not have created service areas if they knew the power to alter them would be removed.
- ◆ There will be substantial local costs in creating a new form of election that includes both residents and property owners, and holding service area elections.

In summary, this is a decision best left to local voters in each municipality and their elected officials.

Sincerely,



Kevin Ritchie  
Executive Director

cc. Members of Community & Regional Affairs Committee  
Representative Con Bunde  
AML Board of Directors/ Legislative Committee Chairs  
Education and Local Government Subcommittee



Tony Knowles, Governor

## Department of Community and Economic Development

### Office of the Commissioner

P.O. Box 110800, Juneau, AK 99811-0800

Telephone: (907) 465-2500 • Fax: (907) 465-5442 • TDD: (907) 465-5437

Email: [questions@dced.state.ak.us](mailto:questions@dced.state.ak.us) • Website: [www.dced.state.ak.us/](http://www.dced.state.ak.us/)

### Position Statement

#### Sponsor Substitute For House Bill No. 13

**“An Act relating to municipal service areas and providing for voter approval of the formation, alteration, or abolishment of certain service areas.”**

SSHB 13 would require approval by voters in certain service areas for the abolition, alteration, or consolidation of those service areas. The service areas to which the provisions would apply consist of road and fire protection service areas, except such service areas within second class boroughs with fewer than 60,000 residents. Additionally, the provisions would not apply to a change to a fire service area that increases the number of parcels of land in the service area by more than six percent. The bill also allows for the creation of differential tax zones in service areas.

The Knowles administration opposes SSHB 13 for the following four principal reasons:

- 1) It is difficult to discern the legitimate basis for substantial distinctions made in the bill. In particular:
  - a) The bill creates distinctions between classes of boroughs – most second class boroughs would be exempt from the provisions of the bill, but all other classes of boroughs would be subject to the bill's provisions. For example, the second class Ketchikan borough would be exempt from the bill's provisions. However, in a few months, voters in Ketchikan may approve a pending petition for municipal consolidation that would render the Ketchikan borough subject to the bill because it would change the borough classification. The administration questions whether differences in classification is a suitable basis to apply or exempt a borough from the bill.
  - b) The bill makes distinctions on the basis of population –second class boroughs with populations below 60,000 are exempt, while second class boroughs with populations of 60,000 or above are not exempt. Utilizing population thresholds does not appear to be a reasonable basis for applying or exempting a borough from the provisions of the bill. It does not appear that the use of population is a legitimate distinction for exempting boroughs from the provisions in the bill.

- c) The bill makes distinctions between types of service areas – it applies to road and fire protection service areas, but exempts all other service areas. Service areas can be created for any municipal service. Road and fire protection service areas are not unique in terms of local interest regarding their abolition, alteration, or consolidation. In fact, some of the more intense local debates over borough service areas have involved matters other than roads and fire protection. These are local matters, best addressed at the local level.
- 2) The bill imposes limits on home rule boroughs. Alaska's Constitution contains the strongest home rule provisions of any state in the nation. The State of Alaska should impose limitations on home rule municipal governments only in instances where there is clearly an overriding State interest. Historically, judgments concerning service areas in an organized borough have been left to organized boroughs – both home rule and general law. The administration is not aware of any circumstances that constitute an overriding state interest in such local matters.
- 3) Not only does the bill propose home rule limitations where there has been no clear State interest shown over the past 40 years, it does so in a manner that is incongruous in terms of the distinctions between home rule and general law governments. The bill limits the powers of home rule boroughs while exempting certain general law governments. The notion that the State would take away the rights of all eight home rule boroughs in Alaska to make basic determinations about certain service areas, yet allow three-quarters of Alaska's general law borough governments to make those same determinations, is inconsistent with the principles of home rule government. We are aware of no instance where the State imposes a limitation on the powers of a home rule government, yet allows self-determination on the same issue by a general law government. If the State has an overriding interest to impose restrictions on home rule borough, there is no reason why it should not also impose such restrictions on all general law boroughs.
- 4) The Knowles administration also shares concerns raised by the Alaska Municipal League regarding such legislation. The League's 2001 policy statement (page 12) opposes legislation of this type because, in effect, it grants a measure of autonomy to affected service areas. The League notes that this violates the intent of the Alaska Constitution by fragmenting local governments, eliminates a statutory home rule power, and may significantly increase costs and lower efficiency for taxpayers as a whole.

In summary, the Knowles administration opposes SSHB 13 because it creates distinctions between boroughs on the basis of characteristics that are irrelevant to the issues of the abolition, alteration, or consolidation of service areas. We see no overriding State interest to warrant the imposition of home rule limitations

regarding the abolition, alteration, or consolidation of service areas, and it is incongruous to limit home rule boroughs in that regard while giving self-determination to certain general law boroughs. Lastly, SSHB 13 can lead to fragmented and inefficient service delivery.

P.O. Box 81109  
Fairbanks, AK 99708-1109  
(907) 479-4394

January 19, 2001

Rep. Con Bunde  
Alaska State House of Representatives  
Juneau, AK

Dear Rep. Bunde,

I have been on the Viewpointe Service Area Commission since 1981, and chairman since 1983. Also, since 1982, I have been employed driving a heating oil delivery truck throughout many of the service areas and the neighborhoods not in service areas around the Fairbanks North Star Borough. Road improvements brought about by service areas greatly enhance safe driving and make living outside the city of Fairbanks much more enjoyable than prior to their existence. Usually service area roads are in as good or better condition than the roads in downtown Fairbanks, especially during winters with heavy snow.

I strongly support HB13 that you have filed for the 2001 session of the Alaska State Legislature. The changes in Alaska State Law provided by this bill will alleviate some serious problems experienced when new neighborhoods join existing service areas. After reading the bill it looks very similar, if not identical, to a bill filed by you last year (2000), HB 133. I wrote a letter in support of that bill also. I hope the Governor will see fit to sign the bill this year.

Presently the Fairbanks North Star Borough does not want to add to the high number of existing service areas. New neighborhoods that want to better maintain or improve their roads by using the Borough as a vehicle to collect taxes for these improvements are forced to join existing service areas. The process we have now is very unfair and undemocratic, since only the residents of the area that is seeking to join an existing service area are allowed to vote on the issue. The residents of the existing service area are given no voice in the process. In the past this process has resulted in well run and financially sound service areas being forced to absorb another neighborhood sometimes not contiguous and always with roads that are in poor condition, needing many dollars to upgrade to meet Borough standards. In all these cases, tax money from the existing service areas has gone to the new areas for road improvements because there cannot be two levels of road conditions within a single service area. Sometimes property taxes had to be raised in the older part of the service area along with the new part to cover the road improvement costs of the new part. The existing process naturally creates ill feelings and tension between the residents of the old and the new parts of the newly merged service area, often putting the commissioners, who are just trying to do their jobs, in the middle.

America does have a history of wealth redistribution, especially in the last eight years, to make the country supposedly a better place, but the wealthy residents of our country have always been allowed a vote in the process. As it is now in the State of Alaska, the residents of the existing service area have no vote and could very likely see their tax dollars go to improving roads that they do not even drive on. The residents of existing service areas, who have been left out of the voting process, often angrily turned to the FNS Borough Assembly to stop the whole the process. When the existing service area residents were successful, the new neighborhood was left with no efficient way to collect funds to improve their roads and make them safer to drive on.

House Bill 13 provides a solution for this unjust situation. Not only does it allow both the residents of the new and existing parts of a combined service area to vote on the merger; it allows for differing levels of taxation within the newly formed service area. Two levels of taxation would allow the new part of the service area to temporarily have a higher tax assessment to defray the costs of improvements needed to upgrade the roads in the new part of the service area. This seems to me to be a fair and reasonable solution to what is now a very unfair and unreasonable process.

In 1999, Fairbanks North Star Borough Mayor Hank Hove introduced a plan that would set up a loan fund to allow newer parts of merging service areas to borrow from it to speed up their improvement schedule, if HB133 was passed and signed into law in 2000. Since we now have a new Mayor, Rhonda Boyles, and new leadership on the Assembly, I do not know if this loan fund will still be available. I thought it was a great idea, and will be urging the new Assembly and Mayor Boyles to bring this idea forward again if HB13 becomes law. Some of us commissioners met with Mayor Boyles about this service area problem before she was elected, and since Ms. Boyles is a former commissioner herself, she was very receptive to our suggestions for a solution.

Sincerely,

Randy Frank  
Chairman  
Viewpointe Service Area

Cc: Governor Tony Knowles  
Sen. Gary Wilken  
Sen. Pete Kelly  
Sen. Gene Therriault  
Rep. John Davies  
Rep. Hugh Fate  
Rep. Eldon Mulder  
Rep. Lisa Murkowski  
FNSB Mayor Rhonda Boyles



**Subject: [Fwd: Legislative Update - Upcoming Public Meetings]**  
**Date: Mon, 22 Jan 2001 08:37:39 -0900**  
**From: Representative Con Bunde <Representative\_Con\_Bunde@legis.state.ak.us>**  
**Organization: Alaska State Legislature**  
**To: Patti Swenson <Patti\_Swenson@legis.state.ak.us>**

From:  
"plotsaas" <plotsaas@alaska.net>

plotsaas wrote:

Dear MR. BUNDE, Thanks for your input on the local road service area concern. I support the concept of retaining local control, over the past 20 years our contractor has provided very good and timely service. I might suggest to the Municipal League that they consider other areas of Anchorage to be allowed to establish their own areas of control. The result may be a more responsive and efficient service. Michael Singaas

Road Service Areas

**Subject: Road Service Areas**  
**Date: Mon, 22 Jan 2001 06:15:18 -0900**  
**From: "James E. Spohn" <boondox@gci.net>**  
**To: Patti\_Swenson@legis.state.ak.us**

Rep Con Bunde

I support your SSHB13. Please use my support for this legislation to assist in the passage of this bill.

James E. Spohn  
Chairman  
Moose Creek Service Area  
3417 Baker Road  
North Pole, AK 99705-6930  
907-377-2354=wk #  
907-488-2384= Hm #

HB 13

**Subject: HB 13**  
**Date: Sun, 21 Jan 2001 18:56:26 -0900**  
**From: "Stephen Routh" <srouth@rcflegal.com>**  
**To: <Patti\_Swenson@legis.state.ak.us>**

Patti-I am chairman of the Rockhill LRSA Board of Supervisors, and write in support of Con's bill, HB 13. I think people living within an LRSA should be entitled to vote on matters concerning the abolishment or alteration of their service areas.

Stephen Routh  
907-222-4333

# Alaska State Legislature

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Representative\_Con\_Bunde@legis.state.ak.us

## REPRESENTATIVE CON BUNDE

District 18

VICE-CHAIR: HOUSE FINANCE COMMITTEE  
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

### Sectional Analysis SSHB 133

**“An Act relating to municipal service areas and providing for voter approval of the formation, alteration, or abolishment of certain service areas.”**

**Sec. 1.** This adds AS 29.35.450 to the list of statutes that apply as limitations on the power to home rule municipalities. The result of this is to require home rule municipalities to adhere to AS 29.10.450, which now applies only to general law municipalities.

**Sec. 2.** This addresses service areas in unified municipalities and contains a cross-reference to subsection (c), added in this draft. There are three unified municipalities in the state: Anchorage, Juneau, and Sitka.

**Sec. 3.** This adds subsection (c) to AS 29.10.450 which requires, before a service area is expanded, a separate vote to be held in the area of the existing service area and in the area proposed to be added. A separate vote is also required when a service area is altered or combined with another service area. Before the service area change may occur it must be approved in each of the areas that votes separately on the question. This section does not apply when a fire service area is increased in size by no more than 6% or to a second class borough with a population that is under 60,000.

**Sec. 4.** Adds a new subsection to AS 29.35.470, which is not a home rule limitation. This allows borough assemblies to set up differential tax zones in service areas, so that different rates of taxes may be levied in different portions of a service area. Under existing law, only cities set up differential tax zones.

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## REPRESENTATIVE CON BUNDE

District 18

VICE-CHAIR: HOUSE FINANCE COMMITTEE  
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

## SPONSOR STATEMENT

### SSHB 13

" An Act relating to municipal service areas and providing for voter approval of the formation, alteration, or abolishment of certain service areas."

Alaska's Constitution provides for maximum local self-government (Art. X sec. 1) and for the creation, alteration, or abolishment of service areas subject to the provisions of law (Art. X sec. 5).

AS 29.35.450 codifies these Constitutional provisions and establishes the mechanism by which service areas are created, altered, and abolished.

Alaska has approximately 200 service areas; in these areas the local residents use private contractors for necessary services and assess themselves to pay for a desired level of service.

HB 133 amends, AS 29.35.450 to support local control by clearly identifying whom should vote on the abolishment and alteration of a service area under three scenarios:

- 1. Abolishment of a service area.**  
Subject to approval by the majority of the voters residing in the service area.
- 2. Abolishment and replacement of a service area.**  
Must be approved separately by a majority of voters inside an existing service area and by a majority of the voters residing in the proposed service area BUT OUTSIDE the existing service area.
- 3. Alteration of service area or combining it with another service area.**  
Must be approved, separately, by a majority of the voters who vote on the question and who reside in each of the service areas or in a proposed service area affected by the proposal.

This proposed legislation would settle a long time debate about who is entitled to vote during the creation, alteration or abolishment of a service area. This legislation has support throughout service areas in Alaska and I urge the favorable consideration of this committee.

# Alaska State Legislature

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## REPRESENTATIVE CON BUNDE District 18

VICE-CHAIR: HOUSE FINANCE COMMITTEE  
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

## MEMORANDUM

DATE: January 17, 2001

TO: Representative Kevin Meyer  
Co-Chairman, House Community and Regional Affairs Committee

FROM: Representative Con Bunde  
Vice-Chair, House Finance Committee

RE: SSHB 133

The purpose of this memo is to respectfully request a committee hearing for SSHB 133, "An Act relating to municipal service areas and providing for voter approval of the formation, alteration, or abolishment of certain service areas".

Some backup information supporting this legislation is included with this memo. More information will be made available to the committee as it becomes available to the sponsor. If you need any further information or have any questions, please call Patti at ext. 6824.

Thank you for your cooperation with the scheduling of this bill.



# **Municipal Policy Statement and Resolutions**



**Year 2001**

## LOCAL GOVERNMENT POWERS

*The goal is to preserve the greatest degree and number of local government options and prerogatives so that municipal government can be highly responsive to unique local circumstances and the mandate of the Alaska Constitution "to provide for maximum local self-government."*

### A. LOCAL AUTONOMY

1. **Effective and Independent Local Government:** The League supports legislative and regulatory action that promotes more effective and independent local government in all cities, and organized and unorganized boroughs.

2. **Lobbying:** The League supports the continued exemption of municipal officials and employees from the lobbying reporting requirements under the lobbying sections of Title 24, the Legislative Code (AS 24.45).

3. **Anti-Trust Laws:** The League supports legislation at both the state and federal levels placing municipalities in an equal position with state governments with respect to federal anti-trust laws.

4. **Public Records:** The League supports open access to public records but requests legislation ensuring that local governments are free to adopt, through ordinance or resolution, their own policies and procedures concerning local public records.

5. **State Mandated Vote on Service Area Consolidation and Alteration:** The League strongly opposes any legislation to mandate fragmented service area votes in home rule, first class and second class bor-

oughs. The Constitution mandates that municipal governments are "local government," not service areas. Mandating autonomy to service areas violates the intent of the Alaska Constitution by fragmenting local governments, eliminates a statutory home rule power, and may significantly increase costs and lower efficiency for taxpayers as a whole.

6. **Local Construction:** The League supports amendments to Title 36, the Public Contracts Code, to permit local governments to establish their own notice, reporting, local hire, and prevailing wage requirements and methods for local construction.

7. **Plumbing and Electrical Codes:** The League supports the expeditious updating of state safety codes to eliminate the conflict between state and local plumbing and electrical codes.

8. **Delegation of Powers:** The League supports an amendment to Title 29 to permit a borough to delegate to a city the authority to exercise a part of an areawide power, providing the city accepts the delegated power.

### B. ELECTIONS AND REAPPORTIONMENT

1. **Amendment to National Voter Registration Act (Motor Voter):** The League supports efforts by the Division of Elections



# Alaska State Legislature

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## HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

---

Representative Carl Morgan  
Co-Chairman  
Committee Aide, Bill Lawrence  
(907) 465-3882

Representative Kevin Meyer  
Co-Chairman  
Committee Aide, Lorali Meier  
(907) 465-6588

### MEMORANDUM

**DATE:** January 30, 2001

**TO:** Representative Brian Porter, Speaker of the House

**FROM:** Representative Kevin Meyer, Co-Chairman *KM*  
Representative Carl Morgan, Co-Chairman *Carl Morgan*

**RE:** Judiciary Referral for SSHB13

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Last Thursday, January 25, 2001, the House Community and Regional Affairs Committee heard testimony on a number of legal questions raised by the Department of Community and Economic Development, the Alaska Municipal League, the Municipality of Anchorage, the Matanuska-Susitna Borough, and members of our committee. It was the desire of the committee to hear responses from Legislative Legal Services on to the raised legal questions.

In today's hearing of the House Community and Regional Affairs Committee, our members unanimously recommended a House Judiciary Committee referral for Sponsor Substitute House Bill 13. The recommendation resulted from opposing legal opinions submitted by Legislative Legal Services, and the Department of Community and Economic Development.

SSHB13 was moved from HC&RA with individual recommendations, attached fiscal notes, and the recommendation to the Speaker of the House for a House Judiciary Committee referral.

Please see the attached legal memorandums for detail on the legal questions, as well as the committee report.

Attachments.



# LEGAL SERVICES

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

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

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

## MEMORANDUM

January 26, 2001

**SUBJECT:** Constitutional prohibition against local or special legislation (SSHB 13)

**TO:** Representative Con Bunde  
Attn: Patti Swenson

**FROM:** Tamara Brandt Cook  
Director *TBC*

You ask for an explanation of the constitutional prohibition against local and special legislation in connection with SSHB 13. Bill section 3 adds a new voting requirement that applies before certain changes may be made to service area boundaries if the service area provides road or fire protection services. Furthermore, the new voting requirement does not apply to a second class borough with a population that is under 60,000 although it applies to other boroughs. While bill section 3 is limited in application, the limitations are worded in general terms and do not have the effect of confining the new provision to only one or very few service areas or boroughs. Therefore, I do not think the bill would be held to violate the constitutional prohibition against local and special legislation contained in Art. II, sec. 19 of the state constitution. That section states in relevant part:

The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination.

The test employed by the Alaska Supreme Court to determine whether an act violates the prohibition against local or special acts is substantially the same as that applied under nonsuspect class equal protection analysis. Upon examining the legislative goals and the means used to advance them, the court determines whether the legislation bears a fair and substantial relationship to a legitimate state purpose. State v. Lewis, 559 P.2d 630, 643 (Alaska 1977), cert. denied, 432 US 901, 53 L.Ed.2d 1073 (1977). To satisfy the "fair and substantial relationship" standard, the classification established by the legislation must be tailored to the purpose of the legislation. The classification must be neither overinclusive nor underinclusive. Isakson v. Rickey, 550 P.2d 350, 362 (Alaska 1976). If the "fair and substantial relationship" standard is met, the bill will not be invalidated because of incidental local or private advantages. Lewis, 559 P.2d at 643.

In Lewis, the court agreed that legislation of statewide significance need not have an effect in all parts of the state; legislation does not become "local" merely because it

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

# LEGAL SERVICES

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STATE OF ALASKA

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## MEMORANDUM

January 26, 2001

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(SSHB 13)

**TO:** Representative Con Bunde  
Attn: Patti Swenson

**FROM:** Tamara Brandt Cook  
Director *TBC*

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In Lewis, the court agreed that legislation of statewide significance need not have an effect in all parts of the state; legislation does not become "local" merely because it

Representative Con Bunde

January 26, 2001

Page 2

operates only on a limited number of geographical areas rather than on a statewide geographical basis. The Lewis case involved the Cook Inlet land exchange and the court accepted the premise that the land exchange, while only affecting land in Southcentral Alaska, required legislation to be accomplished and was of common interest to the whole state. The court relied heavily on the record developed by the legislature in support of the need for the land exchange and the decision to resolve serious issues surrounding Alaska Native land selections under the Alaska Native Claim Settlement Act through legislation authorizing the Cook Inlet land exchange.

In a case where a violation of sec. 19 was found, the court said that legislation establishing the Eagle River Borough was special and peculiar to the locality where the borough was established. Since there was nothing in the nature of the Eagle River-Chugiak area that justified a departure from the general law scheme for the establishment of boroughs, the statute violated sec. 19. Abrams v. State, 534 P.2d 91 (Alaska 1975).

Recently the court upheld an act modifying oil and gas leases on the Northstar field because "the Act's exclusive focus on the Northstar leases reflects their unique nature, and because the Act fairly and substantially relates to legitimate state purposes." Baxley v. State, 958 P.2d 422 at 431 (Alaska 1998)

TBC:lmb  
01-029.lmb

# LEGAL SERVICES

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STATE OF ALASKA

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

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

## MEMORANDUM

January 26, 2001

**SUBJECT:** Differential Tax Zones (SSHB 13)

**TO:** Representative Con Bunde  
Attn: Patti Swenson

**FROM:** Tamara Brandt Cook  
Director *TBC*

Bill section 4 of SSHB 13 adds a new provision that states: "The assembly may by ordinance establish, alter, and abolish differential tax zones within a service area to provide and levy property taxes for a different level of services than that provided generally in the service area." You ask if differential tax zones are unconstitutional. While it is possible, that under certain facts, a particular differential tax zone may be problematical, I am aware of no constitutional problem that generally arises in connection with differential tax zones. (Op. Att'y Gen, December 8, 1986, pointing out in connection with a differential tax zone the requirement of a rational relationship between the benefits conferred and the additional costs imposed on the taxpayer)

The language in the bill is almost identical to a provision that has existed for many years: AS 29.45.580 allowing cities to establish differential tax zones. That provision became the subject of litigation when the City of Valdez imposed a tax on oil and gas property that was higher than the tax imposed on other property and claimed it could do so by treating the oil and gas property as a differential tax zone. The court concluded that Valdez could not impose higher taxes on oil and gas property, because another provision, AS 43.56.010(d), specifically prohibits a municipal tax rate on oil and gas property that is higher than that on other property. Because AS 43.56.010(d) is specific to oil and gas property whereas AS 29.45.580 is generally applicable to all property, the court decided that AS 43.56.010(d) controlled. While the precise issue of the constitutionality of differential tax zones was not addressed, the court took a close look at AS 29.45.580 and made no suggestion that the statute suffers from constitutional infirmity. (City of Valdez v. State, Dept. of Community and Regional Affairs, 793 F.2d 532 (Alaska 1990))

Assuming that a city may be authorized to establish differential tax zones without creating a constitutional problem, then it would seem that the legislature could permit a differential tax zone to be established in a service area as well. Note that the assembly has explicit constitutional authority to impose a tax in a service area and that the tax revenue must be used "to finance the special services." (Art. X, sec. 5, Constitution of

Representative Con Bunde

January 26, 2001

Page 2

the State of Alaska) Any tax levied in a differential tax zone would, I believe, be subject to this provision and have to be used for the special services in that tax zone.

TBC:lmb  
01-027.lmb

# LEGAL SERVICES

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

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

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

## MEMORANDUM

January 25, 2001

**SUBJECT:** Municipal service areas; Art. X, sec. 5 of the State Constitution (SSHB 13)

**TO:** Representative Con Bunde  
Attn: Patti Swenson

**FROM:** Tamara Brandt Cook  
Director TBC

SSHB 13 provides for voter approval of formation of or certain changes to municipal service areas. You ask whether the requirement of voter approval with respect to service areas runs afoul of Art. X, sec. 5 of the state constitution. The provision of concern is "Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter.

The extent of the constitutional power granted to the assembly and the degree that the power may be limited by law or charter under this provision has not been squarely addressed by the Supreme Court. However, a recent case suggests that the power of the assembly may be limited by a charter provision imposing a requirement of voter approval. Area G Home and Landowners Organization, Inc. (HALO) v. Anchorage, 927 P.2d 728 (Alaska 1996) U.S. cert. denied 137 L.Ed 2 821, 117 S.C. 1694). That case involved the application of a charter provision requiring voter approval of certain changes to service areas. The court held that the charter provision permitting expansion of a service area upon approval of a majority of those voting within the area affected permitted the municipality to expand its police service area by abolishing its old service area and creating a new service area that included a region that had previously voted against expansion, without giving residents of that included region a separate vote on the expansion. In reaching its decision the court considered both the charter and Art. X, sec. 5. While the application of a voter approval requirement in the charter was the focus of the case, the court never suggested that the requirement of voter approval itself was prohibited under Art. X, sec. 5.

Recall the language of Art. X, sec. 5 making the power of an assembly over service areas "subject to the provisions of law or charter." If, as the court appears to have decided, a charter can impose a requirement of voter approval in these situations, then it appears under the language of the constitution that the law may also impose a such a requirement, as will be done if HB 13 is enacted. While the precise question was not decided, based

Representative Con Bunde  
January 25, 2001  
Page 2

on the reasoning in the HALO case, I do not think that a court would find HB 13 unconstitutional under Art. X, sec. 5.

TBC:glc  
01-059.glc

# FISCAL NOTE

**STATE OF ALASKA  
2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SSHB 13  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 1/25/2001 1:20PM Dept. Affected: DCED  
 Title: SERVICE AREAS: VOTER APPROVAL/ TAX BRU: Com. Asst.& Econ. Dev.  
ZONES Component: Community and  
 Sponsor: Representative Bunde Business Development  
 Requester: House CRA Committee Component Number: 2486

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

This legislation provides for voter approval of the formation, alteration, or abolishment of certain municipal service areas. This legislation would have no fiscal impact on the department.

Prepared by: Pat Poland, Director Phone 907-269-4580  
 Division: DCED, Community & Business Development Date/Time 1/25/2001 1:20PM  
 Approved by: Commissioner Deborah B. Sedwick Date 1/25/2001  
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SSHB 13  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 1/22/01 10:45AM Dept. Affected: DCED  
 Title: SERVICE AREAS: VOTER APPROVAL/TAX BRU: Comm Asst & Econ Dev  
ZONES Component: Comm & Bus Devel  
 Sponsor: BUNDE, Kohring, Dyson, Halcro, Fate, Coghill  
 Requester: House CRA Committee Component Number: 2486

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation provides for voter approval of the formation, alteration, or abolishment of certain municipal service areas. This legislation would have no fiscal impact on the department.

Prepared by: Pat Poland, Director Phone 907-269-4580  
 Division: DCED, Community & Business Development Date/Time 1/22/2001 10:45AM  
 Approved by: Commissioner, Deborah B. Sedwick Date 1/22/2001  
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

**HB**

**18**

Alaska State Legislature  
House of Representatives  
Minority Leader



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(phone) 1-907-269-0130  
(fax) 1-907-269-0132

Representative Ethan Berkowitz  
District 13

Date: April 3, 2001

To: Representative Carl Morgan, House C&RA Committee Co-Chair  
Representative Kevin Meyer, House C&RA Committee Co-Chair

From: Ethan Berkowitz *EAB*

Re: HB 18 hearing

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House Bill 18 (short title "Renters Tax Equivalency Payment Appropriation") has received a referral to the House Community & Regional Affairs Committee. Copies of the sponsor statement and the bill are attached. Please schedule the bill for a hearing.

Recommended testifiers include:

- Gerald Dorsher, Past State Commander of the Veterans of Foreign Wars (907-364-3346, bgdorsher@netscape.net);
- Steve Van Sant, State Assessor (907-269-4605, steve\_vansant@dced.state.ak.us); and
- Jane Demmert, Executive Director for the Commission on Aging (907-465-4879, jane\_demmert@admin.state.ak.us).

I look forward to working with you and your staff on HB 18. Please contact my aide, Patrick Flynn, or me if you have questions. Thank you in advance for your consideration.

Alaska State Legislature  
House of Representatives  
Minority Leader



Alaska State Capitol  
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Representative Ethan Berkowitz  
District 13

**House Bill 18**

**“An Act making an appropriation to the Department of Community and Economic Development for renters’ tax equivalency payments; and providing for an effective date.”**

**Sponsor Statement**

The Renter’s Equivalency Rebate Program (usually referred to as: “Renter’s Rebate”) was established in 1976 to aid low-income seniors with housing costs. In 1985, disabled veterans were added to the program. Renter’s Rebate typically provided a small housing stipend averaging \$277 a year to individuals who are elderly and/or disabled with incomes in the neighborhood of \$1,000 per month. Specifically 993 seniors and 112 disabled veterans benefited from this program in Fiscal Year 1999.

Since 1991, funding for the program dropped from roughly \$820,000 to \$300,000 before the program was eliminated in Fiscal Year 2000. Adjusting for inflation and population growth, fully funding the Renter’s Rebate program would have required \$1,133,000 in Fiscal Year 2000. House Bill 18 would restore the program at a modest level of support— just \$300,000.

Some have suggested that all Alaskans should share the pain of budget cuts. Failure to pass this legislation means that seniors and disabled veterans – people who have served our country and communities – will continue assuming all the pain of budget cuts.

I would appreciate your support of this legislation.

## House COMMUNITY & REGIONAL AFFAIRS Minute



HB 215 - APPROP: RENTERS' EQUIV REBATE PROGRAM

CO-CHAIRMAN HALCRO announced that the first order of business would be HOUSE BILL NO. 215, "An Act making an appropriation to the Department of Community and Regional Affairs for renters' tax equivalency payments; and providing for an effective date."

Number 0050

PATRICK FLYNN, Legislative Assistant for Representative Berkowitz, Alaska State Legislature, explained that HB 215 would simply appropriate \$300,000 in order to fund the renters' equivalency rebate program at the same level as funded in the fiscal year (FY) 99. If this program was fully funded, it would cost the state over \$1 million. Mr. Flynn informed the committee that the funding for this program has been zeroed out in the FY 2000 budget. He noted that the committee should have a letter from the Disabled American Veterans which states its support for this program. Mr. Flynn recalled that the committee had recently heard legislation that would make the senior and disabled veteran property tax exemption an option for municipalities. Within HB 215, there is no local option. Once the renters' rebate program is eliminated in the state budget, the program is eliminated for good. This program impacts people who live from month to month and from check to check. Therefore, the modest sum of \$277 per year makes a big difference for these people.

REPRESENTATIVE MURKOWSKI inquired as to how many people take advantage of the seniors renters' rebate versus the disabled veterans renters' rebate.

MR. FLYNN said that he did not have those specific numbers. However, Mr. Flynn believed that the program has roughly 1,200 participants in total. In further response to Representative Murkowski, Mr. Flynn informed the committee that a disabled veteran must be 50 percent disabled or more in order to qualify for this program.

REPRESENTATIVE MURKOWSKI asked if a \$300,000 appropriation would reach the same number of those eligible for the program on a reduced basis or are some eliminated.

MR. FLYNN stated that there would be a reduction in the benefit level rather than the number of benefit participants.

Number 0403

STEVE VAN SANT, State Assessor, Department of Community & Regional Affairs, testified via teleconference from Anchorage. He noted that he was present for informational purposes as his office handles the administration of the renters' rebate program.

REPRESENTATIVE MURKOWSKI inquired as to the breakdown of numbers regarding how many participants are seniors and how many are disabled veterans participating in the renters' rebate program.

MR. VAN SANT informed the committee that in 1998, there were 993 seniors and 112 disabled veterans.

REPRESENTATIVE MURKOWSKI asked what would a senior's income have to be in order to qualify for the renters' rebate program.

MR. VAN SANT clarified that the renters' rebate program is not needs based. This program is similar to the senior citizens' property tax exemption program. In order to qualify for the renters' rebate program, a senior citizen must be 65 years of age or older and rent their home in a municipality that levies taxes. For a disabled veteran, that individual must have a 50 percent service-connected disability and live in a municipality that levies taxes in order to qualify for the renters' rebate program.

CO-CHAIRMAN HALCRO inquired as to the number of applicants for this program over the years since the funding has decreased.

MR. VAN SANT informed the committee of the number of participants in the program in the following years: 1992 - 1,032; 1993 - 1,207; 1994 - 1,233; 1995 - 1,048; 1996 - 1,092; 1997 - 1,111; 1998 - 1,105. Typically, the applications are sent to all previous filers, municipalities, Legislative Information Offices, senior centers, and to the assessor's offices throughout the state.

CO-CHAIRMAN HALCRO asked if there is a geographic breakdown as to where these folks are located.

MR. VAN SANT said that he did not have that information broken down percentage wise. He informed the committee that out of the \$300,000 approximately over half is given to Anchorage. Almost every community that has property taxes has participants in this program.

Number 0728

GERALD DORSCHER, Appointed Legislative Officer, Veterans of Foreign Wars, informed the committee that the renters' rebate program was established in 1976. He requested the committee's support for HB 215. Veterans are the backbone of America and Alaska. The freedoms everyone enjoys were protected by the veterans. Seniors work to build our communities and our state. Mr. Dorscher emphasized that budget cuts should not be placed on the backs of disabled veterans and senior citizens. He noted that the program has dwindled from \$820,000 in 1991 to \$300,000 in 1998. As mentioned earlier, the current year's budget zeros out the renters' rebate program completely. Mr. Dorscher stressed that senior citizens and disabled veterans serve and continue to serve the country and their communities and are assets to the state.

CO-CHAIRMAN HARRIS said that \$277 per person per year for an individual on a \$1,000 budget would not seem to make a huge difference. He asked if there are other programs similar to this which would help subsidize the cost of living for seniors and disabled veterans.

MR. DORSCHER deferred to Mr. Van Sant.

CO-CHAIRMAN HARRIS asked if there are other programs available.

MR. DORSCHER stated, "Not in the veterans .... programs that are available."

Number 1058

JANE DEMMERT, Executive Director, Alaska Commission on Aging, said that this is a difficult year for the legislature, Alaskans and

particularly difficult for older Alaskans and disabled veterans. When the constellation of legislation and the budget is reviewed, the impact on almost all of the dimensions of economic stability becomes apparent. These are dimensions with which older Alaskans have planned their retirement. Although the renters' rebate program is small, the program is significant for those who depend upon the program. These are Alaskans for whom the program can make a difference as to whether there is a roof over their head or not.

MS. DEMMERT explained that all Alaskans, but older Alaskans and disabled veterans in particular, are facing the following: the property tax exemption legislation for seniors and disabled veterans, the renters' rebate program, legislation prorating benefits, municipal assistance reductions, and cuts to the Alaska Housing Finance Corporation budget. The Commission on Aging would request the committee seriously consider HB 215 as well as the interplay between the aforementioned legislation. Ms. Demmert recommended that the larger picture be reviewed in order to create a humanely developed approach to the budgets for the future.

REPRESENTATIVE MURKOWSKI agreed that the constellation or mix of all this legislation is very significant. With regards to HB 215, it is a drop in the bucket. Representative Murkowski said that Ms. Demmert's point of the impact of all this legislation is well taken.

There being no one else to testify, the public testimony on HB 215 was closed.

CO-CHAIRMAN HARRIS asked if HB 215 is the appropriate vehicle to place the renters' rebate program funding back in the budget. He indicated that this seems to be a slow way in which to return the funding for this program in the budget.

Number 1470

REPRESENTATIVE BERKOWITZ, Sponsor of HB 215, Alaska State Legislature, agreed that this is a slow way to return funds to the budget, but when an item has been zeroed in both bodies that item is gone. Therefore, there needs to be another vehicle to keep the program alive for further consideration. Representative Berkowitz noted that he had offered amendments on the House floor during the budget debate in order to encourage the retention of this program. He believed that this is a self-selective low income group since these folks are renters on a fixed income. This legislation was the only vehicle that Representative Berkowitz could think of to help.

CO-CHAIRMAN HARRIS inquired as to the parameters of the program.

REPRESENTATIVE BERKOWITZ said that he did not know the exact parameters of the program. Most of these individuals are living on small fixed incomes of approximately \$1,000 per month. Although there are some taking advantage of this program who do not need to do so, substantial numbers of people are depending on this program. Representative Berkowitz said that he would be willing to contemplate means testing, but it would probably be a cumbersome bureaucracy given the small sums involved. In further response to Co-Chairman Harris, Representative Berkowitz agreed that funding the program at \$300,000 was chosen because that was the funding level last year.

CO-CHAIRMAN HALCRO reiterated the earlier question regarding whether there are similar federal programs available should this money not be restored to the budget.

REPRESENTATIVE BERKOWITZ said that he would continue his search for alternative funding sources which he seemed to think should exist.

Number 1643

REPRESENTATIVE DYSON moved to report HB 215 out of committee with individual recommendations. There being no objection, it was so ordered.

---

Bill Root:  Display Bill Root

BASIS HAS BEEN RE-PROGRAMMED THIS YEAR



TO REPORT PROBLEMS WITH BASIS INQUIRY

[Return to Basis Main Menu \(21 Legislature\)](#)

[Return to Legislature Home Page](#)

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 18  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 04/09/01 4:05p.m. Dept. Affected: DCED  
 Title: Renters' tax equivalency payment appropriation BRU: Comm.Asst & Econ.Dev  
 Component: Community and Business Development  
 Sponsor: Representative Berkowitz Component Number: 2486  
 Requester: House CRA

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This is a simple appropriation of \$300,000 from the general fund to the Department to partially fund the "Property Tax Equivalency" program commonly referred to as the "Renters Rebate" program. This is the companion program of the "senior citizens/disabled veterans property tax exemption" program and is aimed at renters.

This program has not been funded since FY99 when a little over 1,100 individuals participated in it. The \$300K amount to be appropriated is approximately 27% full funding. The renters rebate program has been handled in this office in the past and no new personnel will be required due to this appropriation.

Prepared by: Pat Poland, Director Phone 907-269-4580  
 Division: Community and Business Development Date/Time 04/09/01 4:05p.m.  
 Approved by: Commissioner Deborah B. Sedwick Date 4/9/2001  
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

**HB**

**20**

Alaska State Legislature  
Representative Carl E. Moses



**SESSION**  
State Capitol Building  
Juneau, Alaska 99801-1182  
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Phone: (907) 581-2275  
Fax: (907) 581-4949

Member  
House Finance Committee

MEMORANDUM

DATE: March 10, 2001

TO: Rp. Carl Morgan and Rp. Kevin Meyer, Co-Chairmen  
House Community & Regional Affairs Committee

FROM: Rp. Carl E. Moses  
House District 40 *CEM*

SUBJ: Request for Hearing - HB 20

I would like to request a committee hearing on HB 20, the bill to institute a municipal dividend program. As you know, funding for Municipal Assistance and Revenue Sharing has been reduced over the past several years, leaving the state's municipalities without a predictable, reliable source of assistance.

At its core, HB 20 would reestablish the Public Safety Foundation Program, providing assistance for specified basic municipal services. It would repeal Municipal Assistance and Revenue Sharing. It would be funded from surplus earnings of the Permanent Fund's earnings reserve, after inflation-proofing and the payment of individual dividends, at a rate of \$150 per dividend recipient. It would draw approximately \$72 million from the earnings reserve account. It would free up approximately \$45 million in General Fund money. There is a broad support base for this measure.

A committee hearing at your earliest convenience will make a positive contribution to the public discussion regarding a long-range fiscal plan. If there are any questions, please contact me, or Tim Benintendi of my office. Thank you.

# Alaska State Legislature

Representative Carl E. Moses



Member  
House Finance Committee

**SESSION**  
State Capitol Building  
Juneau, Alaska 99801-1182  
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## SPONSOR STATEMENT / SECTIONAL ANALYSIS

### HB 20 - Municipal Dividend Program

The establishment of a Municipal Dividend program would provide Alaskan municipalities with a predictable and reliable source of income with which to address basic community needs. Currently, full funding for essential services is going unmet, in part, due to declining state municipal assistance and revenue sharing General Fund allocations. Increases in local property taxes are not always the answer, especially in many communities where there is insufficient tax base to draw upon.

HB 20 would repeal the current municipal assistance and revenue sharing programs, thus allowing for a General Fund cut of approximately \$50 million. It would fund defined basic services from the surplus earnings of the Permanent Fund at a rate of \$150 per dividend recipient, only after inflation-proofing and only after payment of individual dividends. This plan would provide approximately \$72 million to municipalities in the next fiscal year (FY02), a very modest draw from the surplus earnings. It clearly defines the uses to which funding may be applied, and provides minimum amounts for small municipalities (\$45,000) and unincorporated communities (\$10,000).

It does not require a constitutional amendment, nor does it require a vote of the public. Approval of this Municipal Dividend plan is fully within the authority of the legislature. Within HB 20, annual legislative powers of appropriation remain intact. The bill's impact on an individual dividend check is slight over time, with estimates by the Permanent Fund Corporation at less than \$100 per year for the next ten years (see PFC chart). Measure this against the value of adequate local police, fire, EMT, health care, and road maintenance services of benefit to individual residents over the same time period.

Given our inability to substantially cut the state operating budget, and given our unwillingness to raise new revenues, we need to look at using surplus earnings of the Permanent Fund in some effective way because of the above two political realities. The Municipal Dividend program responds to the continued reduction in state funding to municipalities, and would be an effective counter to the popularity of a local tax cap solution. It is effective, reliable, and controllable. HB 20 is a plausible component of a long-range fiscal plan.

ADAK • AKUTAN • AMCHITKA • ATKA • ATTU • BELKOFSKI • CHERNOFSKI • CHIGNIK • CHIGNIK LAGOON • CHIGNIK LAKE • COLD BAY  
DUTCH HARBOR • EGEKIK • FALSE PASS • IGIUGIG • ILIAMNA • IVANOF BAY • KING COVE • KING SALMON • KOKHANOK • KOKHANOK BAY • LEVELOCK  
NAKNEK • NELSON LAGOON • NEWHALEN • NIKOLSKI • NONDALTON • PEDRO BAY • PERRYVILLE • PILOT POINT • PORT ALSWORTH • PORT HEIDEN  
PORT MOLLER • SAND POINT • SHEMA • SQUAW HARBOR • SOUTH NAKNEK • ST. GEORGE ISLAND • ST. PAUL ISLAND • UGASHIK • UNALASKA • UNGA

**BILL SECTION 1:** Sets out findings which provide guidelines for the bill, including identifying the basic services of police, fire, EMT, health and road maintenance, recognizing the Public Safety Foundation Program, recognizing municipal accountability, and protecting the integrity of the Permanent Fund's inflation-proofing and individual dividend payment program.

**BILL SECTION 2:** Defines those fire-fighting and EMT organizations eligible to receive payments under new section AS 29.60.730 (in Bill Section 7).

**BILL SECTION 3:** Adds the Public Safety Foundation Program to those programs that apply to Home Rule communities.

**BILL SECTION 4:** Adds the Public Safety Foundation Program to the compliance language necessary for municipalities to receive program funds.

**BILL SECTION 5:** Adds the Public Safety Foundation Program to the list of programs through which funds are allocated to a municipality, that a municipality must report to its taxpayers.

**BILL SECTION 6:** Declares that compliance with AS 29.45.660(b) is necessary for receipt of funds under the Public Safety Foundation Program.

**BILL SECTION 7:** The heart of the bill. Reestablishes the Public Safety Foundation Program; establishes the Municipal Dividend Fund in the Department of Community and Economic Development; **retains legislative powers of annual appropriation;** sets out the qualifications of municipalities for eligibility and minimum municipal entitlements (\$45,000); creates the road maintenance entitlement (\$2,000/mile) and per capita supplement (\$10/head); sets out the formula for the fire and emergency medical services entitlement (\$20/head for fire **AND** \$20/head for EMT); allows for public education on fire and safety matters of up to 55% of the fire/EMT entitlement; establishes the entitlement for police protection services (\$20/head); creates the hospital and health services entitlement for municipalities which provide these services; establishes the minimum entitlement for unincorporated communities (\$10,000); and provides for payments for VPSO services (\$15/head).

**BILL SECTION 8:** Adds minimum entitlement provisions of AS 29.60.690 (in Bill Section 7), to the unincorporated community capital matching grant fund program.

**BILL SECTION 9:** Amends the Municipal Capital Project Matching Grant Program by adding the Public Safety Foundation Program as a source of the local share funding for municipalities.

**BILL SECTION 10:** Amends the Municipal Capital Project Matching Grant Program by adding the Public Safety Foundation Program as a source of the local share funding for unincorporated communities.

**BILL SECTION 11:** Adds new subsection to AS 37.13.145 to provide for the transfer of funds from the earnings reserve account to the new Municipal Dividend Fund, calculated and limited to \$150 per each individual PFD distributed the previous year. This happens after AS 37.13.145 (b), the set-aside for individual dividend payments, and (c), the set-aside for inflation-proofing.

**BILL SECTION 12:** Technical provision which prorates payments under the road maintenance entitlement, for circumstances where a municipality may receive other funds for road maintenance upon roads it may not own, but for which it may have maintenance responsibility.

**BILL SECTION 13:** Repeals currently-established Revenue Sharing and Safe Communities programs.

**BILL SECTION 14:** Continues eligibility of unincorporated communities to receive state aid for FY 02 once the program conversion takes place.

**BILL SECTION 15:** Revisor's technical note.

**BILL SECTION 16:** Establishes an effective date of June 30, 2001.

HB 20 / Rp. Carl E. Moses (staff: tim benintendi / 6591) 3-15-01

## HB 20 - Municipal Dividend

- ◆ **Major step toward a long-range fiscal plan**  
Would mesh well with a variety of plan components or alternative plans
- ◆ **Frees up approximately \$50 million in General Funds**  
By shifting the funding source away from GF, many corresponding programs could be reduced to avoid duplicating services.
- ◆ **Repeals Municipal Assistance / Revenue Sharing programs**  
Eliminates one of the most contentious annual funding debates
- ◆ **Retains legislative powers of appropriation**  
Annual review opportunity of specific allocations to police, education, and fire services, plus EMS, roads, and health facilities.
- ◆ **Enhances community security**  
Improves public safety services, including community EMS, Police, and Fire.
- ◆ **Puts more money in the pockets of Alaskans**  
Provides \$150 per capita per year which could offset local property taxes by providing essential local services. The long-term impact on the PFD is negligible.
- ◆ **Helps avoid subjecting the Permanent Fund to IRS taxation**  
Strengthens the Permanent Funds' "public purpose" objective by directly supporting local education and public safety.

## Municipal Dividend - House Bill 20

**What is a municipal dividend?** A responsible approach to get more money into local communities by transferring a measured amount of funding from the excess earnings of the Permanent Fund equal to \$150 per PFD recipient to a Public Safety Foundation account. Those funds would then be distributed to cities and boroughs to pay for police, fire, emergency medical services, road maintenance and capital improvements. Inflation-proofing of the Permanent Fund and payment of individual PFD checks would be accomplished before the calculation and distribution of the Municipal Dividend.

The legislation repeals Revenue Sharing and Municipal Assistance, thus potentially saving the General Fund approximately \$50 million. This would allow the state legislature to:

1. Make responsible GF reductions;
2. Divert saved GF funds to other priorities if desired;
3. Help municipalities provide specific, essential, local government services while returning local prioritizing and decision-making to communities;
4. Allow for reducing commensurate, state-provided services.

### **Who should support a municipal dividend?**

1. Those developing a long-range fiscal plan
2. Local taxpayers
3. Rural communities
4. Public Safety and Public Health organizations
5. Road Service Area boards and members
6. Schools, PTA's, School Boards

### **How does the municipal dividend program work?**

*The formula:*  $HB\ 20 = \$150 \times \text{the number of PFD recipients (after inflation-proofing and individual PFD checks are paid)}$  deposited into the Public Safety Foundation Fund.

Distribution from the Public Safety Foundation Fund to Alaska's cities and boroughs according to the following schedule:

- \$20 per person served for police protection
- \$20 per person served for fire protection
- \$20 per person served for emergency medical services
- \$167 per bed in hospital facilities or \$360 per bed in health facilities
- \$2000 per road mile plus \$10 per capita for use volume
- \$45,000 minimum entitlement for the smallest communities
- \$10,000 minimum for an unincorporated community for public purposes
- \$7.5 million (approximately) for the statewide VPSO program



## Analysis of HB 20 Alaska Permanent Fund Corporation

Based on December 2000 APFC Financial Projections  
(\$ in millions)

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	TOTALS
<b>Payout per HB 20</b>	<b>1,252</b>	<b>1,257</b>	<b>1,212</b>	<b>1,184</b>	<b>1,200</b>	<b>1,286</b>	<b>1,342</b>	<b>1,402</b>	<b>1,464</b>	<b>1,529</b>	<b>1,595</b>	<b>14,723</b>
Municipal Dividend (\$150 per person)	88	89	90	91	92	93	94	95	96	97	98	1,026
Distribution for PFD Fund	1,164	1,168	1,122	1,093	1,108	1,192	1,248	1,307	1,368	1,431	1,496	13,697
<b>Payout Status Quo (all PFD Fund)</b>	<b>1,164</b>	<b>1,168</b>	<b>1,124</b>	<b>1,097</b>	<b>1,116</b>	<b>1,205</b>	<b>1,265</b>	<b>1,329</b>	<b>1,396</b>	<b>1,464</b>	<b>1,535</b>	<b>13,862</b>
<b>Difference in annual payout. (HB 20 - Status Quo)</b>	<b>88</b>	<b>89</b>	<b>88</b>	<b>87</b>	<b>84</b>	<b>81</b>	<b>77</b>	<b>73</b>	<b>69</b>	<b>64</b>	<b>60</b>	<b>860</b>
Retain for Inflation - HB 20	687	695	727	759	792	825	858	893	928	964	1001	9,128
Retain for Inflation - Status Quo	687	695	727	759	792	825	858	893	928	964	1,001	9,128
AK Permanent Fund value in 2011 - HB 20											<b>41,118</b>	
Principal											31,796	
Earnings Reserve											9,322	
AK Permanent Fund value in 2011 - Status Quo											<b>42,476</b>	
Principal											31,796	
Earnings Reserve											10,680	
<b>Per Person Dividend HB 20</b>	<b>\$1,930.00</b>	<b>\$1,910.00</b>	<b>\$1,810.00</b>	<b>\$1,740.00</b>	<b>\$1,750.00</b>	<b>\$1,870.00</b>	<b>\$1,930.00</b>	<b>\$2,000.00</b>	<b>\$2,080.00</b>	<b>\$2,150.00</b>	<b>\$2,230.00</b>	<b>\$21,400.00</b>
<b>Per Person Dividend Status Quo</b>	<b>\$1,930.00</b>	<b>\$1,910.00</b>	<b>\$1,820.00</b>	<b>\$1,750.00</b>	<b>\$1,760.00</b>	<b>\$1,890.00</b>	<b>\$1,960.00</b>	<b>\$2,040.00</b>	<b>\$2,120.00</b>	<b>\$2,200.00</b>	<b>\$2,280.00</b>	<b>\$21,660.00</b>

These projections represent only our best estimate of the median case rate of return; actual annual performance will vary with market volatility.  
Distributions shown for the Dividend Fund and the Municipal Dividend are calculated and booked as payable at fiscal year end and actually paid out the following fiscal year.  
Slight differences due to rounding.

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	TOTALS
<b>Payout per HB 20</b>	<b>1,281</b>	<b>1,286</b>	<b>1,242</b>	<b>1,213</b>	<b>1,229</b>	<b>1,313</b>	<b>1,369</b>	<b>1,428</b>	<b>1,489</b>	<b>1,551</b>	<b>1,616</b>	<b>15,017</b>
Municipal Dividend (\$200 per person)	118	119	120	122	123	124	126	127	128	130	131	1,368
Distribution for PFD Fund	1,164	1,167	1,121	1,092	1,106	1,189	1,243	1,301	1,360	1,421	1,485	13,649
<b>Per Person Dividend HB 20</b>	<b>1,930</b>	<b>1,910</b>	<b>1,810</b>	<b>1,740</b>	<b>1,750</b>	<b>1,860</b>	<b>1,930</b>	<b>1,990</b>	<b>2,060</b>	<b>2,140</b>	<b>2,210</b>	<b>21,330</b>
<b>Payout per HB 20</b>	<b>1,311</b>	<b>1,316</b>	<b>1,271</b>	<b>1,242</b>	<b>1,257</b>	<b>1,341</b>	<b>1,396</b>	<b>1,453</b>	<b>1,513</b>	<b>1,574</b>	<b>1,637</b>	<b>15,311</b>
Municipal Dividend (\$250 per person)	147	149	150	152	154	155	157	159	161	162	164	1,710
Distribution for PFD Fund	1,164	1,167	1,121	1,090	1,104	1,186	1,239	1,294	1,352	1,412	1,473	13,602
<b>Per Person Dividend HB 20</b>	<b>\$1,930</b>	<b>\$1,910</b>	<b>\$1,810</b>	<b>\$1,740</b>	<b>\$1,740</b>	<b>\$1,860</b>	<b>\$1,920</b>	<b>\$1,980</b>	<b>\$2,050</b>	<b>\$2,120</b>	<b>\$2,190</b>	<b>21,250</b>

# 4 proposals could fill fiscal gap

Four proposals before the Legislature deal with the fiscal gap. Each has merit; yet all will likely fall flat if they attempt to stand on their own. They are:

1) The governor's proposal that should the Constitutional Budget Reserve be reduced to \$1.5 billion a state income tax is triggered;

2) Rep. Bill Hudson's proposal that when that reserve falls to \$1.5 billion some Permanent Fund earnings could be used for state spending;

3) Sen. Gary Wilken's bill to compel greater equity in taxing property for education, and

4) Rep. Carl Moses' proposal for "community dividends" as suggested by former Gov. Walter Hirkel.

To curry support I believe the governor's income tax must be flexible. It should only generate enough revenue to replenish the amount the Budget Reserve has been drawn down beneath \$1.5 billion. Also, for those who say they don't mind losing dividends but resent being taxed to assure dividends for "the great unwashed," perhaps it should cost no Alaskan more than that year's dividend check.

Hudson's proposal realistically and (in light of vehement voter opposition to use of dividend dollars for state spending) courageously recognizes that if the Constitutional Budget Reserve is exhausted, prospective dividend dollars will be the *only* dollars available to balance the books.

Unfortunately, most Alaskans seem unaware of this and oppose imposition of sufficient taxes to span that fiscal gap before dividends plunge into it. While most legislators know this to be true, few wish to jeopardize re-election by directly confronting the issue.

Current circumstances provide an ideal opportunity to do so *indirectly*. Oil prices are up; the budget gap at the moment is not yawning, and prospects of a gas pipeline and increased oil production spark a rosy glow on our economic horizon. What better time to put in place a plan that may never have to be implemented, but will ensure that if required it will be as painless as possible?

Wilken's bill will run into opposition from those in the unorganized borough who fear it will force them into organized

JAY  
HAMMOND

COMMENT



boroughs. The bill's premise is that if Alaskans in organized boroughs must fund some educational costs through local property taxes, those in unorganized boroughs who now receive free educational services also should pick up part of the bill.

While the equity argument is apparent, achieving it by forcing property taxes on those now exempt would as well incur other administrative and legal costs.

Moreover, property values in much of the unorganized borough are so low assessment and collection costs might exceed tax money gleaned. Of course, since the Legislature by law sits as the Unorganized Borough Assembly it *could* already impose an unorganized borough property tax. For some 30 years it has declined doing so, fearing the political flak attending such action.

The governor's income tax proposal coupled with Hudson's bill to protect dividends and Sen. Wilken's to more fairly fund education could provide three solid legs for a chair upon which Alaskans could sit back and quit fretting about fiscal gaps, unfair or excessive taxation and devastation of dividends. However, that chair will not likely stand without one more leg.

Moses' Community Dividend could provide it: A per capita dividend would be dispersed to all communities to be used as they saw fit. An appropriate source of funding could be the amount of Permanent Fund earnings that Hudson's bill would break loose. If no more than 10 percent of the fund's earnings reserve were dispersed in community dividends this could amount to hundreds of millions annually without reducing the existing *personal* dividend by one dollar.

Those four "legs" would undergird such a chair and place it on firm fiscal

ground. In the process, runaway spending would be constrained; excessive taxation prevented; dividends *increased* and greater, more equitable funding for education obtained with no additional expense whatsoever to those who wish to remain in a property tax-free unorganized borough.

It's how: Pass legislation providing that should the Constitutional Budget Reserve be reduced to less than \$1.5 billion an income or other statewide tax would be imposed at the level required to bring the reserve back up to \$1.5 billion. At the same time a portion of the Permanent Fund's Earning's Reserve not required for inflation-proofing or to fund individual dividends would be dispersed in a "community dividend" on a per-capita basis.

For greater equity in education funding, communities not currently property taxed for educational purposes could have their community dividends reduced by an amount equal to the average statewide per capita property tax gathered in organized boroughs for education. An even simpler means might be to have the state retain the community dividends of each school-age child residing within the unorganized borough as "tuition."

If I've learned anything after more than 20 years of bobbing and weaving within the political arena, it is that a light jab is far more easily absorbed than an uppercut. All Alaskans are now crowded into a ring where, unless we engage in some aggressive fancy footwork and accept that light jab, dividends will be decked, our tax brackets bloodied and essential state programs pummeled.

Of course, no plan of attack is any good unless the alternative's worse. Be assured nothing will prompt politicians to do anything more than shuffle their feet and backpedal, awaiting that inevitable uppercut until voters understand that unless they prompt legislators to confront and fend off an assailant which each round will get bigger and stronger, those who wish to retain dividends might as well throw in the towel.

■ Jay Hammond was governor of Alaska from 1975 to 1983.

ADN, WED. 3-7-01

# Dividend plan could solve state money woes

By REP. CARL MOSES

The current state budget situation presents us with yet another chance to collectively review in detail the structure of our governmental financing customs and hopefully make some needed and beneficial changes.

Because we do not forward-fund our state budget, that is, basing next year's expenditures on this year's revenues, I see no alternative but to make substantial changes in the way we currently plan expenditures, given current low oil prices and the likelihood of continued declining production.



Moses

If we accept the fact that there is a genuine budget shortfall this year of approximately \$1.2 billion (with likely more of the same in the foreseeable future), and if we acknowledge the fact that there exist several possible recommendations to solve the problem, then we can focus on solutions.

No potential solution or combination of remedies identified to date will suit everyone. However, it is incumbent upon interested parties to participate in the public discussion and ultimate legislative action to keep Alaska on a sound, fair and practical fiscal path into the new millennium.

Recognizing a budget shortfall and yet little public enthusiasm for taxes or changes in the Permanent Fund structure, but also rec-



ognizing the difficulty in making large and substantial cuts to the state operating budget, what are we to do?

There is at least one idea with merit that has not received its due attention in the debate over the past few years, and that idea is the concept of a Municipal Dividend program. It is a proposal that can address as many or as few of the budget problems as may be desired. The key characteristics of this program are equity and fiscal responsibility, because it confines itself to passing from the state to local government units, responsibility and funding for services we in the Legislature continually hear are not being adequately met by the state.

If you are familiar with the individual Permanent Fund Dividend program, then you have an idea of how the Municipal Dividend program would work. Based upon strict criteria and local population figures, undistributed earnings from the Alaska Permanent Fund would be available for appropriation to Alaska municipalities, large and small, after providing for inflation-proofing the fund and for calculating individual Permanent Fund dividends.

There ultimately would be some impact on the size of the individual dividend. But any plan advanced to address our budget shortfall will cost individuals in one way or another.

That's why I emphasize that the time is upon us to make responsible, major changes in the way we devise our annual budget.

The focus of the idea is to provide municipalities funds with which to perform basic governmental services, some of which have been unfortunately reduced or eliminated in recent years by state government. Anyone who ever grumbled about the poor condition of local streets, lack of maintenance for schools or inadequate recreational facilities, for example, should embrace this plan as a way to address such problems with the focus of local prioritizing. Even the cynics who would frown upon the idea of giving more money to local politicians would not have to look twice to see the potential benefits of this plan for their cities and towns.

Another value of the Municipal Dividend program, and one addressing the immediate state fiscal shortfall, would be the reduction or elimination of some programs within the state operating budget funded with general fund dollars. Shifting responsibility away from state to local government, and shifting funding away from the general fund to the Permanent Fund's undistributed earnings, would reduce the fiscal gap and enhance local government objectives.

In the continual debate over what purpose to finally put earnings of the Alaska Permanent Fund to work, this proposal could give the fund a concrete objective, that of helping provide basic services to citizens of the state, through their local government.

I doubt there is a municipality in this state that would refuse a more stable and pre-

dictable stream of income such as the proposed Municipal Dividend program would provide.

The common perception of the fund was for it to eventually offset the decline of revenue from our oil resources. That time has certainly arrived. In addition, it is well known that the Internal Revenue Service will eventually look to tax the Permanent Fund directly if no clear public purpose is officially determined for the fund. With the individual PFD already being federally taxed via personal income taxes, this Municipal Dividend proposal could likely thwart any such proposal for taxation of the earnings of the fund.

Concerning the current fiscal challenge before us, a Municipal Dividend program could be part of a solution that may include some operating budget cuts, some new or increased taxation or a combination of both. It does offer the chance to reduce general fund spending, and provide a more reliable way of funding many essential local government operations in a time when assistance to local governments has been haphazardly diminished.

It will not adversely impact the economy and can be managed in such a way as to avoid dramatic infusions of funding into local governments. I believe the time has come to simultaneously address several statewide fiscal issues in great need of being brought to finality, with a plan which could be a positive component of a long-range fiscal policy.

Rep. Carl Moses, D-Anchorage, serves on the House Finance Committee.

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 20  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 03/12/2001 10:55a.m. Dept. Affected: DCED  
 Title: Aid to Municipalities and others BRU: Comm. Asst & Econ. Dev.  
 Component: Community & Business Development  
 Sponsor: Representative Moses  
 Requester: House Community & Regional Affairs Component Number: 2486

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007

CHANGE IN REVENUES ( )	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
	0.0	0.0	0.0	0.0	0.0	0.0

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill has no fiscal impact on this department.

Prepared by: Pat Poland, Director Phone (907) 269-4580  
 Division: Community and Business Development Date/Time 03/16/2001 10:50a.m.  
 Approved by: Commissioner Deborah B. Sedwick Date 3/16/2001  
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

**HB**

**24**

# Alaska State Legislature

## Representative Jim Whitaker

**Session**  
Capitol Building, Room 411  
Juneau, Alaska 99801  
Phone: (907) 465-3004  
Fax: (907) 465-2070



**Interim**  
119 N. Cushman St., Suite 213  
Fairbanks, AK 99701  
Phone: (907) 452-1088  
Fax: (907) 452-1146

### Memorandum

**To:** Representatives Morgan and Meyer  
**From:** Representative Whitaker  
**Re:** Request for Hearing - HB24 & HB118  
**Date:** 2/9/01

---

House Bills 24 and <sup>118</sup>~~188~~ have been referred to the Committee on Community and Regional Affairs, I respectfully request a hearing of both these bills.

A hearing at your meeting of Feb. 22 would be appreciated, as my schedule will not allow an earlier date.

# Alaska State Legislature

## Representative Jim Whitaker

**Session**  
Capitol Building, Room 411  
Juneau, Alaska 99801  
Phone: (907) 465-3004  
Fax: (907) 465-2070



**Interim**  
119 N. Cushman St., Suite 213  
Fairbanks, AK 99701  
Phone: (907) 452-1088  
Fax: (907) 452-1146

### Memorandum

**To:** Representatives Morgan and Meyer, Co-Chairs House CRA  
**From:** Lori Backes, Aide to Rep. Whitaker  
**Re:** CSHB24  
**Date:** 2/9/01

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At it's hearing of February 8, 2001, the Committee on Economic Development, Trade and Tourism adopted an amendment to HB24, changing the title and section 1 to the current, more restrictive language.

This will restrict application of the provision to the use of borough revenues from a sales tax levied upon room rentals.

**HOUSE BILL NO. 24**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

**BY REPRESENTATIVE WHITAKER**

**Introduced: 1/8/01**

**Referred:**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to use of certain borough revenues for a tourism marketing  
2 campaign."

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

4 \* Section 1. AS 29.35.110 is amended by adding a new subsection to read:

5 (b) Use of borough revenues for a tourism marketing campaign is not subject  
6 to (a) of this section.

ALASKA STATE LEGISLATURE  
HOUSE COMMUNITY AND REGIONAL AFFAIRS  
STANDING COMMITTEE

February 22, 2001

8:04 a.m.

**MEMBERS PRESENT**

Representative Kevin Meyer, Co-Chair  
Representative Carl Morgan, Co-Chair  
Representative Andrew Halcro  
Representative Drew Scalzi  
Representative Lisa Murkowski  
Representative Gretchen Guess  
Representative Beth Kerttula

**MEMBERS ABSENT**

All members present.

**COMMITTEE CALENDAR**

✓ HOUSE BILL NO. 24

"An Act relating to use of certain borough revenues for a tourism marketing campaign."

- MOVED CSHB 24(EDT) OUT OF COMMITTEE

HOUSE BILL NO. 118

"An Act relating to a mandatory exemption from municipal taxes on certain residences; and providing for an effective date."

- MOVED HB 118 OUT OF COMMITTEE

**PREVIOUS ACTION**

BILL: HB 24

SHORT TITLE: BOROUGH REVENUES FOR TOURISM

SPONSOR(S): REPRESENTATIVE(S) WHITAKER

Jrn-Date	Jrn-Page		Action
01/08/01	0030	(F)	PREFILE RELEASED 12/29/00
01/08/01	0030	(H)	READ THE FIRST TIME - REFERRALS
01/08/01	0030	(H)	EDT, CRA
02/08/01		(H)	EDT AT 5:00 PM CAPITOL 124

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: C SHB 24(EDT)  
(H) Publish Date: 2/12/01

Revision Date/Time (Note if correction): 2/05/2001 4:05p.m. Dept. Affected: DCED  
Title: BOROUGH REVENUES FOR TOURISM BRU: Comm Asst&Econ.Dev  
MARKETING Component: Community &  
Sponsor: Representative Whitaker Business Development  
Requester: House Special Committee EDTT Component Number: 2486

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 RSS						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation provides for the expenditure of borough revenues for tourism marketing. This legislation would have no fiscal impact on the department.

Prepared by: Pat Poland Phone 269-4580  
Division: Community and Business Development Date/Time 2/05/2001 4:05p.m.  
Approved by: Commissioner Deborah B. Sedwick Date 2/5/2001  
Agency: Department of Community & Economic Development

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## COMMITTEE COPY

# Alaska State Legislature

Representative Jim Whitaker  
House of Representatives  
District 31



**Session**  
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## SPONSOR STATEMENT

### **HB24 Borough Revenues for Tourism Marketing**

Since the 1970's, the visitor industry in communities throughout Alaska has relied on local destination marketing organizations to compete in an increasingly competitive worldwide marketplace.

The funding source for these organizations is typically local visitor industry taxes enacted with the intent that the revenues collected, fund the destination marketing efforts of the community in which such taxes are collected.

A provision in the Alaska State Municipal Code, Title 29 creates a situation wherein certain visitor industry tax collections cannot be used to fund local destination marketing efforts. This has the potential to affect eleven of Alaska's organized boroughs, even in those cases where the funding of destination marketing efforts is the express intent for which a visitor industry tax is collected.

HB24 amends Title 29 of Alaska Statutes allowing, at local option, the use of borough revenues for an on-going tourism marketing effort.

# Alaska State Legislature

## Representative Jim Whitaker

**Session**  
Capitol Building, Room 411  
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### Memorandum

**To:** Bill Lawrence and Lorali Meier, Committee Aides, CRA

**From:** Lori Backes

**Re:** HB 24, list of interested parties

**Date:** 2/9/01

---

Parties expressing an interest in the passage of HB24 include:

Brett Carlson - Northern Alaska Tour Company, 474-8600  
Matt Atkinson - Northern Alaska Tour Company, 474-8600  
Deb Hickok - Fairbanks Convention and Visitor's Bureau, 456-5774  
Frank Rose - Alaska Tourism Industry Association, 474-8555 (Ak. Lodging Management)  
Debbie Tillsworth - Alaska Tourism Industry Association, 479-6673 (Riverboat Discovery)

## ***Issue Statement***

### **Alaska Visitor Industry Small Business Empowerment**

#### **Successful Passage Of HB 24 Will:**

***Ensure*** that the visitor industry continues to serve as an important economic engine that offers Alaskan communities exciting opportunities to diversify and expand their economic base, and enhance their quality of life.

***Allow*** small visitor industry businesses to share in the benefits of visitor industry growth and compete in an increasingly competitive travel marketplace by providing them the ability to pool their resources to market their communities as a destination to potential Alaska travelers.

***Provide*** Alaskan communities with the ability to contribute their proportionate share towards the funding of statewide efforts to market Alaska as a destination to the rest of the world.

#### **Executive Summary**

Since the 1970's, small visitor industry businesses in communities throughout the state of Alaska have relied on their local destination marketing organizations [Convention & Visitors Bureaus and/or Chambers of Commerce] to help them compete in an increasingly competitive worldwide travel marketplace.

The funding source for local destination marketing organizations is typically local visitor industry taxes enacted with the intent that the taxes collected be used to fund the destination marketing efforts of the community or region in which the visitor industry taxes are collected.

An anomaly in the Alaska State Municipal Code [Title 29 of the Alaska Statutes] has the potential to create a situation in eleven of Alaska's organized boroughs where visitor industry tax collections cannot legally be used to fund local destination marketing efforts, even in those cases where the funding of destination marketing efforts is the express intent for which a visitor industry tax is collected.

HB 24 amends Title 29 of the Alaska Statutes to provide for a local option within a borough to use tax collections to fund a tourism marketing campaign.

## The Mind-Numbing Details:

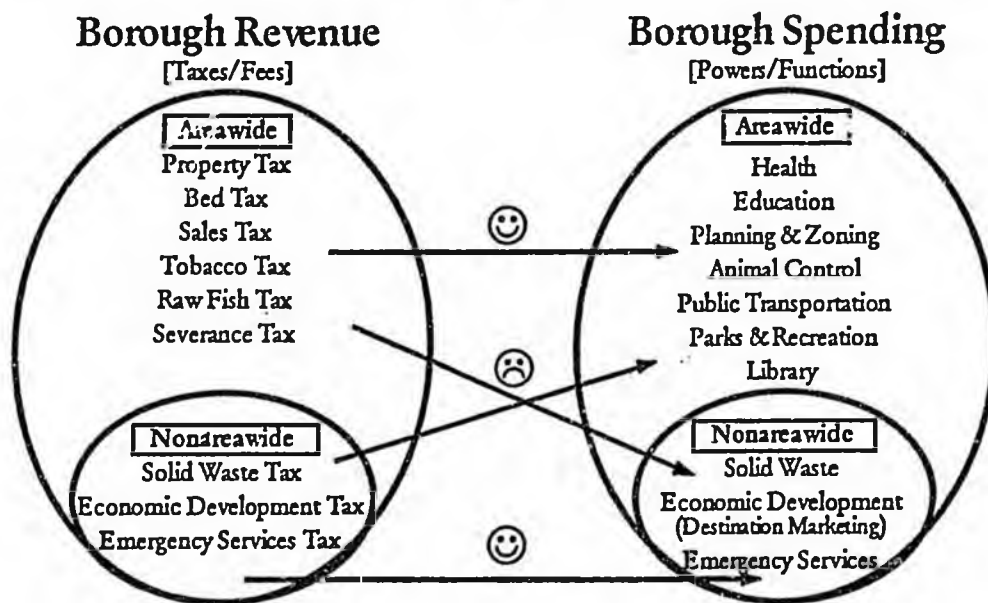
**Fact:** Sixteen organized boroughs and unified home rule municipalities exist in Alaska. Of these, six are second class boroughs containing incorporated cities within their boundaries, resulting in a division of powers between borough and city governments.

**Fact:** Second class boroughs are authorized to expend money for a community purpose or service to the extent the borough is authorized to exercise the power to accomplish the purpose. [Alaska Statutes, Section 29.35.010(9)]

**Fact:** "Borough revenues received through taxes collected on an areawide basis by the borough may be expended on general administrative costs and on areawide functions only. Borough revenues received through taxes collected on a nonareawide basis may be expended on general administrative costs and functions that render service only to the area outside all cities in the borough." [Alaska Statutes, Section 29.35.110]

**Fact:** Second class boroughs are authorized to exercise the power to provide for economic development on a nonareawide basis. [Alaska Statutes, Section 29.35.210(a)(8)]

**The Dilemma:** The four facts outlined above result in a situation where a visitor industry tax [typically a bed tax] logically collected by a second class borough on an areawide basis cannot be used for the taxes' intended areawide purpose, the funding of destination marketing. [see figure below]



**The Solution:** The challenge outlined above is solved to the benefit of small visitor industry businesses and Alaskan communities by amending AS 29.35.110 to add a new subsection to read: "(b) Use of borough revenues for a tourism marketing campaign is not subject to (a) of this section."