

11404 HOUSE COMMUNITY & REGIONAL AFFAIRS

# Mat-Su Valley Frontiersman

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## Valley property values soar

KRISTEN SEINE/For the Frontiersman

The sign on the door reads like this: "Obscene language or coarse behavior will not be tolerated."

The location? It's not a bar, or a racetrack, or even a sixth-grade classroom. It's the Mat-Su Borough Administration building. Specifically, the assessments office; the place where they determine, in large part, how much you are going to pay in property taxes.

And this week, the sign is well placed, if not always complied with. On Monday, the borough mailed out approximately 69,000 postcards stating the newly appraised value of homes, lots and other properties across the Valley. By 9 a.m. Tuesday, people started showing up at the office to protest that theirs had been valued too high.

"Most people are just a bit grumpy or stubborn," said Kathi Johns, an appraisal technician whose desk, as you walk in the office, is right in the line of fire. Most people, she said, stay within the realm of acceptable behavior.

However, in February, when the final tax payments for 2004 were due, the borough actually had to post a guard outside the finance office. "There is one person who has been denied access to this building," she said.

For many people, especially those whose property is situated in one of the Valley's real estate "hot spots," this year's property valuation came as something of a shock. While overall, the borough's total property valuation rose by about 24 percent, some individual properties doubled and even tripled in value.

Allen Black, borough assessor, said he understands that "there will be some upset people." However, he said what many people do not understand is that his office is required by law to determine and assess values based on what a property is worth on Jan. 1 of that year. Every year. And as more people move to the Valley and land becomes more scarce, it becomes more valuable.

### A hot market

Right now, the Valley real estate market is hot. It's no secret that this is the fastest-growing area in the state — "by a long shot," says Black. "We had about 2,000 newly improved properties this year. That means a building, a house or some improvement on

the lot that it didn't have last year, and that number's up by about 15 percent over the year before."

To put the numbers in perspective, Black said that in 2002, new construction accounted for about \$126 million in property valuation. The next year, it was \$170 million. In 2004, that figure had risen to \$223 million. This year, Black said, it was \$357 million.

And that, Black said, "is huge, in my mind. That is showing an awful lot of growth."

But the new construction only accounted for a little more than a third of the 24-percent increase over last year's valuations. Black said the rest is due to rising real estate prices. There are certain areas of town - around the construction site of the new hospital, for example - where home values have skyrocketed.

Helga Larson, a realtor in the Valley for 21 years and chair of the borough's planning commission, said she has seen home and land prices go up as sales have gone up, and has noticed that property valuations have risen as well. "And I don't see any relief coming," she said. "It's not going to get any better."

"A lot of people are moving here, retired people, and young families who have no other choice as they can't afford anything in Anchorage," she said.

Larson said she remembers that not long ago, you could buy a lot in a subdivision for \$10,000-\$15,000. "Now, it's more around \$35,000 to \$45,000," she said. "Some are even asking \$60,000 to \$80,000."

"It's pretty hot everywhere right now," Larson said. "I haven't seen the real impact of the hospital yet, personally, but I'm sure it's right around the corner. I've been told that a lot of the land in the surrounding areas has been purchased - I don't know by who - but purchased with the intent of probably building doctors' offices, that sort of thing."

Larson said she's been taught that the idea behind value assessments is that "they should be right up there with the market value. However, that isn't always the case. At least not here, not yet I don't think," she said.

Wealth, not cash

As Black explains, "property taxes were originally meant to tax wealth, not income."

In other words, a person might be "wealthy" because their assets are very valuable, and still not have a lot of money in the bank. And while Black said he sympathizes with the plight of those who will have a hard time paying their property taxes now, he said, "We cannot take that into account. Otherwise, I'm put into the position of assessing taxpayers based on their ability to pay, and I can't do that."

Ronald Stocker of Palmer is one of the Valley residents who found himself quite a bit "wealthier" Wednesday after looking at his home's newly assessed value. His home and land increased in value by about 20 percent, but his yearly tax bill - if the mill rate remains unchanged - will be a whopping 22 times higher.

That's because Stocker, a 63-year-old disabled Army veteran, is eligible for the senior citizen/disabled veteran property tax exemption application, which means the first \$150,000 of his home's assessed value is tax-free.

Last year, the value of his home was only a few thousand dollars over that amount. But not this year. "My house went up by about \$30,000," he said.

"I'm on a fixed income," Stocker said. "I am 60-percent disabled. I'm 63 years old. There is no way I'm going to be able to go back to work and make any more money to pay my bills. What are they trying to do, run us out of our homes?"

Stocker lives near North Star Speedway, which is also near the site of the new Mat-Su Regional Medical Center. "The irony here is that a few years ago, an appraiser knocked on my door and said they were lowering my appraised value because of the racetrack and the noise. They lowered it! Well, the racetrack is still here and it is just as noisy as ever. And now, in their great wisdom, the borough has gone and put up a hospital a mile away."

Seventy-year-old Gordon Benedict and his wife, Annie, are also on a fixed income. He said they never took out a loan to build their Wasilla home, but "built it out of our own pocket, back in the early '80s, going a bit at a time, as we could."

The assessed value of the Benedicts' home rose by about \$10,000 - not nearly as high as some others, but high enough to bump up their tax payments by about \$35 a month if mill rates remain unchanged. When you're on a fixed income, Gordon said, \$35 a month is a lot of money.

"Every year it gets harder and harder to keep up (with property taxes)," he said. "It's getting way out of hand. Pretty soon, between the cost of maintenance and repairs and the higher taxes, if it gets much worse, we're going to have to sell the place. We won't be able to afford it."

You can fight City Hall, sometimes

Stocker, for one, said he plans to challenge his valuation.

"This can't be allowed to stand," he said. "They can't be allowed to continue to raise property values and mill rates on us like this." Stocker said he doesn't know if he will be successful in his attempt, but he has to try.

Black points out that Alaska is the only state in the country that gives seniors and disabled veterans a \$150,000 break on valuations. "There's no deal like it." The next-best deal is in Florida, he said, where senior citizens who make less than \$20,000 are not taxed on the first \$50,000 of their assessed values.

And he adds that nationwide, the average amount property tax payers pay is around 2 to 3 percent of the value of their properties. "Here, it's more like one and a half percent," he said.

Black also said the \$150,000 exempted from seniors and disabled veterans is made up

by the rest of the taxpayers in the borough. Last year, he said, non-exempted taxpayers paid about an additional eight percent more in property taxes to make up the difference.

While Black says with a sigh that "it's going to be a long March" as challenges pour into his office, he welcomes tax payers who want to call or come in with any problems or questions they might have regarding their valuations. People have through March 30 to officially protest their valuations, he said.

And Black has advice for those who want to do so. "First," he said, "you should carefully look over how we've described your property and make sure everything is correct. We do make mistakes, no doubt about it. And if we haven't done our job right you don't really have to fight us, we'll be happy to say we blew it and correct the problem."

If everything is correct, the next thing is to come up with evidence, Black said.

"Bring in some paperwork showing the values of homes that have recently sold in your area," he suggested. "Some real estate agents are happy to assist you with that. Show us a concrete reason why your home was valued incorrectly."

Black said usually a few thousand people contest their valuations. In most cases, they talk with someone at the assessor's office and that clears it up. Last year, Black said only about 140 people actually brought their cases before the Board of Equalization. Of those, only a handful won.

It won't be until after the board has heard all appeals that the current valuations are finalized and tax revenues will be determined and sent to the borough Assembly. Once that happens, and once the Assembly has set its budget for the year, Black said, the mill rate will be set for 2005.

"That won't happen until the end of May," Black said. "Then we'll have a better idea of what our taxes are going to be."

#### Valley property values soar

KRISTEN SEINE/For the Frontiersman

#### Budget focus of Assembly conclave with school board

DAWN De BUSK/Frontiersman reporter

#### CBM issues discussed at workshop

DAWN De BUSK/Frontiersman reporter

#### Man convicted of contempt, harassment in Palmer court

KATE GOLDEN/Frontiersman reporter

**Wasilla man charged with sexual abuse of girl**

KATE GOLDEN/Frontiersman reporter

**Red Cross appeals to mayors for donations**

BOB MARTINSON/Frontiersman reporter

**Palmer officials want to use video to tout city**

KATE GOLDEN/Frontiersman reporter

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## Ballooning property values put crunch on seniors in the Valley

TAXES: Officials say they are starting to investigate additional exemption options.

Mat-Su focus

**RINDI WHITE**  
Anchorage Daily News

### Staff

**Property values** are on the rise in the Valley, and some members of the Matanuska-Susitna Borough Assembly are looking for ways to help seniors on fixed incomes who, despite tax exemptions, face growing tax bills. Two Valley seniors in the past two months have asked the Matanuska-Susitna Borough Assembly to reduce their **property** taxes, saying their assessments have increased beyond what they can afford.

It wasn't easy to ask the Assembly to forgive her nearly \$1,240 tax bill, said Wasilla resident Eleanor Riendl, who on Jan. 4 asked for an extreme hardship exemption.

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Van Sant said five municipalities have turned to blanket exemptions in an effort to make **property** taxes more fair, and the Municipality of Anchorage is considering its own blanket exemption program. Van Sant said municipalities around the state have granted hardship and extreme hardship exemptions on a case-by-case basis to address each **property** owner's request. An extreme hardship exemption forgives all **property** taxes owed after the first \$150,000 of assessed **property value**. A hardship exemption caps the amount of **property** tax due at 2 percent of the applicant's income.

Riendl said she completed paperwork verifying her income, and borough assessor Allen Black verified the information before sending it to the Assembly. An extreme-hardship-exemption request is not a well-publicized option, and it's something the Assembly has never been asked to consider

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"I feel very strongly that seniors are a gift to our community," Kvalheim said.

Kvalheim isn't the only Assembly member concerned that growth in the Valley may be leaving seniors behind. Borough Mayor Tim Anderson said Riendl's case opened his eyes to the possibility that the \$150,000 exemption for some seniors may soon not be enough to release them from tax obligations.

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Leapt is more like it. Riendl's assessment went up \$20,800 in 2003 and another \$62,100 in 2004. She qualifies for the senior-citizen tax exemption on the first \$150,000 in assessed **value**, but her nearly \$1,240 tax bill constitutes a large chunk of her income, which comes from Social Security checks alone.

The average Mat-Su **property** owner in 2004 paid about \$2,730 in **property** taxes. Boroughwide, **property** owners pay 11.8 mills, plus about 0.38 mills for local road and fire service area funds. In the cities, the service area funds are replaced by a citywide mill levy: 3 mills in Palmer, 3 mills in Houston and 0.4 of 1 mill in Wasilla.

One option for hard-pressed seniors may be a program used in other states that places a lien on the **property**, allowing seniors to defer tax payments until their land is sold or the **property** owner dies and the taxes are paid by the deceased's estate. Mat-Su Borough assistant manager Marian Romano said borough staff members are evaluating programs elsewhere but that the process is in its early stages.

"We don't want to necessarily reduce the borough's ability to provide services," Romano said. "But we do want to be fair to the residents of our community. We're looking to see what's out there."

Van Sant said that to expand **property**-tax exemptions may be a state-level task that requires

action by the Legislature. He said that the Legislature has discussed deferral programs before, but some aspects seemed problematic. When the matter was discussed in the 1980s, he said, seniors weighed in, saying they'd be reluctant to have a lien placed on their **property** just to avoid paying taxes. And legislators were reluctant to approve a program that could saddle municipalities with unwanted residential **property**.

Depending on how long someone lives, the taxes owed on a **property** could amount to more than the **property** is actually worth, leading the municipality to take a loss or hold on to the **property** for future sale. And, at a time when many municipalities are clamoring for the return of revenue sharing and of funds to offset the state-mandated exemptions, adding a new exemption may prove difficult.

"Anytime they expand those exemptions, they're asking other taxpayers to pay more also," Van Sant said.

Daily News reporter Rindi White can be reached at 1-907-352-6709 or at [white@adn.com](mailto:white@adn.com).

## Value of land continues to rise

**TAXES:** An exemption, if approved in April, could shave off 10 percent.

**ANNE AURAND**  
Anchorage Daily News

### Staff

**Property values** are up all over town, but a proposed **property** tax exemption could save many homeowners from stiff tax bill increases this year. The taxable **value** of homes in Anchorage rose an average of 12.8 percent for 2005, according to Assessor Marty McGee, who discussed **property values** with the Assembly on Friday.

Single-family homes averaged \$241,800 for 2005, an 11 percent change from last year.

Of the residential areas in the Anchorage Bowl, downtown and Mountain View saw the biggest jumps in assessed **values**: an average of 21.5 percent and 17.6 percent respectively.

Historically, these areas have been undervalued, said McGee, so the city focused on getting as much information as possible about sales prices in the area. Assessed **values** are based largely on comparable **property** sales.

Also, inspections have been inadequate over the past decade, said McGee. Fewer appeals, resulting from an overhaul of the appeals process, coupled with additional staff opened up more time for inspecting **properties** and updating valuations, he said.

A proposed **property** tax exemption would shave off 10 percent of the assessed **value**, up to \$20,000, of owner-occupied homes. That could actually lower many people's taxes, said Mayor Mark Begich. The exemption is subject to voter approval in April.

Actual tax bills will be determined after city finance officials calculate the mill rate necessary to support the school and city budgets passed by the Assembly last fall.

Begich passed out a list of Assembly members' **property values** at their meeting Friday. Assemblyman Ken Stout, whose home on 34th Avenue is now worth \$303,600, said with a smile: "I want to know why mine went up more than the mayor's!"

Stout's **property value** rose 19 percent. Begich's home on Colgate Drive, worth \$315,300, went up 10 percent this year but increased 33 percent last year.

"Yours is a very nice home. I'll buy it for this," Begich said, pointing to Stout's assessed **value** and returning the smile.

Said downtown Assemblyman Allan Tesche: "Mr. Mayor, while you're in the mood to buy ..." Tesche's home on G Street is worth \$409,100, 15 percent more than it was assessed at last year.

South Anchorage Assemblywoman Janice Shamberg's home on McDonell Road jumped only 10 percent to \$289,600.

"I'm coming in the slum category," she joked.

When the assessor includes the **value** of new homes built last year, the overall assessed **value** of the city's residential **properties** is \$15.2 billion, a 14 percent jump from 2004 **values**.

Commercial **property values**, including new construction, total \$6.5 billion for 2005, a 16 percent increase from 2004.

Market **values** in Anchorage, over the past four or five years, have caught up with prices in the Lower 48, said Niel Thomas, real estate agent at Coldwell Banker Fortune.

One reason is that more people are moving here from Outside, creating a demand for homes that surpasses the rate of new construction.

The cost of materials has also gone up, Thomas said, which makes new buildings more expensive. That causes other homes, which may be a couple of years old, to increase in price too, he said.

"It's good news for the people who were fortunate enough to buy at the right time," he said. "What we really have to face is how many are going to find it hard to find anything they can afford."

Daily News reporter Anne Aurand can be reached at [aurand@adn.com](mailto:aurand@adn.com) or 257-4591.

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# Palmer Senior Citizens' Center, Inc.

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*"Seniors helping Seniors"*

February 13, 2006

The Honorable Representative Bill Stoltze  
State Capitol, Room 501  
Juneau, AK 99801-1182

**RE: Limiting Annual Increases in Tax-Assessed Value of Real Property – HB 391  
Palmer Senior Citizens Center Capitol Project – HB 430**

Dear Representative Stoltze:

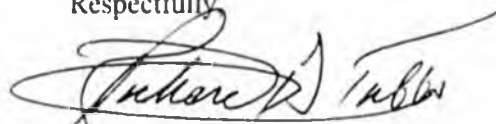
I write on behalf of Palmer Senior Citizens Center, Inc. (PSCC), a non-profit senior service organization, with respect to House Bill 391, which would limit increases in the tax-assessed value of real property to 2% annually. After considering House Bill 391, PSCC has determined that capping annual increases in the tax-assessed value of real property would greatly benefit a large number of older Alaskans.

PSCC has served seniors in the Matanuska-Susitna Borough for over a quarter century. We have witnessed first-hand the unfortunate effects of rising property values on older Alaskans. As assessments soar, seniors are faced with an exceedingly difficult decision – scrape the bottom of the barrel to pay increasingly steep property taxes on homes they have owned and cherished for decades or sell their homes and find somewhere else to live.

Most seniors will do everything in their power to remain in their homes even after they can no longer afford to pay municipal property taxes. Rather than sell their homes, seniors simply cut the amount of money they spend on necessities like food, clothing, medical expenses, heat, and electricity. However, these costs do not magically disappear. They are typically passed on to the State and non-profit service providers like PSCC.

PSCC believes that capping annual increases in the tax-assessed value of real property is important to older Alaskans living on fixed incomes. HB 391 is sensible legislation that will allow seniors to remain in their homes without the need to dramatically reduce their spending on food, clothing, or medicine.

Respectfully,



Richard Tubbs  
Executive Director  
Palmer Senior Citizens Center, Inc.



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Mat-Su focus

**RINDI WHITE**  
Anchorage Daily News

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## Local property values keep on rising

10 PERCENT JUMP: City begins mailing its 2006 appraisal notices.

**PETER PORCO**  
Anchorage Daily News

### Staff

The **value** of all private and business **property** in the city jumped 10 percent in the past year, according to the city's **Property** Appraisal Division, which began mailing its 2006 appraisal notices Friday. The notices function as a heads-up to home and **property** owners, because **property** taxes are based partly on appraised **value**. Taxes generally follow **values** up. Officials, however, say there's no direct link between the change in **value** and the tax rate, which will be set this spring by the Anchorage Assembly.

The increase in assessed **value** varies greatly from **property** to **property** across the city. Some **properties** have fallen in appraised **value**, but the great mass of the city's 93,800 residential and commercial parcels have gained **value**, said municipal assessor Marty McGee.

The total taxable valuation of real **property** in the city has risen this year to \$23.9 billion, from \$21.7 billion the year before.

Some **properties** have appreciated by 20 percent or more -- including one owned by an assemblyman -- but most increases are in the mid-range of 10 percent to 11 percent, McGee said.

Assemblyman Kenneth Stout, who was one of five Assembly members to hear McGee and other officials discuss the latest evaluations at a work session Friday, learned that his own home in East Anchorage has risen in appraised **value** by 18 percent, to nearly \$360,000.

"I'm not real happy with it, of course," Stout said. "It went up considerably last year, so I thought it would level off."

Stout accepted McGee's explanation that higher-quality homes generally saw the largest increases in **value**.

"I can't complain too loudly," he said. "We have a little complex there that has just a few houses in it, and the houses are all fairly good size and well kept."

The division sets a dollar figure for a **property** -- what it considers the fair market **value** -- based on actual sales of similar **properties**, according to McGee.

Appraisers track the sale price of roughly one-third of the city's **properties** sold in a given period, he said. Based on price and characteristics of the **property** sold, they construct a model to predict the **values** of similar **properties**.

"We know what goes on in the marketplace," McGee said. The city believes its appraisals are at 98 percent of the actual market **value**, he added.

Location plays a role in **property values** but not a major one, he said. Some areas of the city are

responding to the market as a whole. The South Addition, for example -- the neighborhood south of the Park Strip -- is booming because lots of people want to live near downtown, McGee said.

"There's a lot going on there, a lot of high-**value** sales, and we reflect that in our valuation," he said.

"The predominant thing going on now," he said, "is people doing remodeling and additions. People are upgrading all over the city. We're more affluent, interest rates are low, they can refinance and add **value** to their houses."

People who live in older, smaller homes that are not changing complain that their **properties** should not be rising on a par with the other homes, according to McGee.

His answer to them is that there's a strong market for homes just like theirs because buyers want to take those smaller homes and remodel them.

Anchorage has relatively few homogeneous neighborhoods, which are likely to be subdivisions built in recent years. Its more typical neighborhood profile is a hodge-podge of housing -- the older homes side by side with larger, newer houses and maybe fixer-uppers on the other side of the street.

"Anchorage has not developed systematically," McGee said. That's why comparing type of **property** rather than relying on location "does a good job in predicting individual **property values**" based on the **property** description.

The much-discussed housing bubble that appears to be leveling off Outside is not much in play in Anchorage, according to McGee. The speculation that leads to "hyper **value**" elsewhere does not hold true here, he said. Anchorage is still riding a general economic rise and few better investments exist here than a house.

"What we're seeing now and expect to see in the next year is a slowdown in the number of sales but not in price."

Stout thought otherwise.

"My personal assessment is that this market will (soon) flatten out," Stout said.

**Property** owners have 30 days from the date of the notice to appeal their evaluation. Both the evaluation and appeal forms are available on the city's Web site ([www.muni.org](http://www.muni.org)).

The city does change appraisals when it learns something about a **property** it did not know before, McGee said.

Meanwhile, the city is again offering exemptions for up to \$20,000 of assessed **value** to qualifying taxpayers -- chiefly, to those who live in their own homes.

Those who applied last year do not have to reapply, the city said.

New homeowners will find information and tax exemption forms on the Web site.

Daily News reporter Peter Porco can be reached at [pporco@adn.com](mailto:pporco@adn.com) or 257-4582.

# Mat-Su Valley Frontiersman

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## Valley property values soar

KRISTEN SEINE/For the Frontiersman

The sign on the door reads like this: "Obscene language or coarse behavior will not be tolerated."

The location? It's not a bar, or a racetrack, or even a sixth-grade classroom. It's the Mat-Su Borough Administration building. Specifically, the assessments office; the place where they determine, in large part, how much you are going to pay in property taxes.

And this week, the sign is well placed, if not always complied with. On Monday, the borough mailed out approximately 69,000 postcards stating the newly appraised value of homes, lots and other properties across the Valley. By 9 a.m. Tuesday, people started showing up at the office to protest that theirs had been valued too high.

"Most people are just a bit grumpy or stubborn," said Kathi Johns, an appraisal technician whose desk, as you walk in the office, is right in the line of fire. Most people, she said, stay within the realm of acceptable behavior.

However, in February, when the final tax payments for 2004 were due, the borough actually had to post a guard outside the finance office. "There is one person who has been denied access to this building," she said.

For many people, especially those whose property is situated in one of the Valley's real estate "hot spots," this year's property valuation came as something of a shock. While overall, the borough's total property valuation rose by about 24 percent, some individual properties doubled and even tripled in value.

Allen Black, borough assessor, said he understands that "there will be some upset people." However, he said what many people do not understand is that his office is required by law to determine and assess values based on what a property is worth on Jan. 1 of that year. Every year. And as more people move to the Valley and land becomes more scarce, it becomes more valuable.

### A hot market

Right now, the Valley real estate market is hot. It's no secret that this is the fastest-growing area in the state "by a long shot," says Black. "We had about 2,000 newly improved properties this year. That means a building, a house or some improvement on

the lot that it didn't have last year, and that number's up by about 15 percent over the year before."

To put the numbers in perspective, Black said that in 2002, new construction accounted for about \$126 million in property valuation. The next year, it was \$170 million. In 2004, that figure had risen to \$223 million. This year, Black said, it was \$357 million.

And that, Black said, "is huge, in my mind. That is showing an awful lot of growth."

But the new construction only accounted for a little more than a third of the 24-percent increase over last year's valuations. Black said the rest is due to rising real estate prices. There are certain areas of town - around the construction site of the new hospital, for example - where home values have skyrocketed.

Helga Larson, a realtor in the Valley for 21 years and chair of the borough's planning commission, said she has seen home and land prices go up as sales have gone up, and has noticed that property valuations have risen as well. "And I don't see any relief coming," she said. "It's not going to get any better."

"A lot of people are moving here, retired people, and young families who have no other choice as they can't afford anything in Anchorage," she said.

Larson said she remembers that not long ago, you could buy a lot in a subdivision for \$10,000-\$15,000. "Now, it's more around \$35,000 to \$45,000," she said. "Some are even asking \$60,000 to \$80,000."

"It's pretty hot everywhere right now," Larson said. "I haven't seen the real impact of the hospital yet, personally, but I'm sure it's right around the corner. I've been told that a lot of the land in the surrounding areas has been purchased - I don't know by who - but purchased with the intent of probably building doctors' offices, that sort of thing."

Larson said she's been taught that the idea behind value assessments is that "they should be right up there with the market value. However, that isn't always the case. At least not here, not yet I don't think," she said.

Wealth, not cash

As Black explains, "property taxes were originally meant to tax wealth, not income."

In other words, a person might be "wealthy" because their assets are very valuable, and still not have a lot of money in the bank. And while Black said he sympathizes with the plight of those who will have a hard time paying their property taxes now, he said, "We cannot take that into account. Otherwise, I'm put into the position of assessing taxpayers based on their ability to pay, and I can't do that."

Ronald Stocker of Palmer is one of the Valley residents who found himself quite a bit "wealthier" Wednesday after looking at his home's newly assessed value. His home and land increased in value by about 20 percent, but his yearly tax bill - if the mill rate remains unchanged - will be a whopping 22 times higher.

That's because Stocker, a 63-year-old disabled Army veteran, is eligible for the senior citizen/disabled veteran property tax exemption application, which means the first \$150,000 of his home's assessed value is tax-free.

Last year, the value of his home was only a few thousand dollars over that amount. But not this year. "My house went up by about \$30,000," he said.

"I'm on a fixed income," Stocker said. "I am 60-percent disabled. I'm 63 years old. There is no way I'm going to be able to go back to work and make any more money to pay my bills. What are they trying to do, run us out of our homes?"

Stocker lives near North Star Speedway, which is also near the site of the new Mat-Su Regional Medical Center. "The irony here is that a few years ago, an appraiser knocked on my door and said they were lowering my appraised value because of the racetrack and the noise. They lowered it! Well, the racetrack is still here and it is just as noisy as ever. And now, in their great wisdom, the borough has gone and put up a hospital a mile away."

Seventy-year-old Gordon Benedict and his wife, Annie, are also on a fixed income. He said they never took out a loan to build their Wasilla home, but "built it out of our own pocket, back in the early '80s, going a bit at a time, as we could."

The assessed value of the Benedicts' home rose by about \$10,000 - not nearly as high as some others, but high enough to bump up their tax payments by about \$35 a month if mill rates remain unchanged. When you're on a fixed income, Gordon said, \$35 a month is a lot of money.

"Every year it gets harder and harder to keep up (with property taxes)," he said. "It's getting way out of hand. Pretty soon, between the cost of maintenance and repairs and the higher taxes, if it gets much worse, we're going to have to sell the place. We won't be able to afford it."

You can fight City Hall, sometimes

Stocker, for one, said he plans to challenge his valuation.

"This can't be allowed to stand," he said. "They can't be allowed to continue to raise property values and mill rates on us like this." Stocker said he doesn't know if he will be successful in his attempt, but he has to try.

Black points out that Alaska is the only state in the country that gives seniors and disabled veterans a \$150,000 break on valuations. "There's no one else like it." The next-best deal is in Florida, he said, where senior citizens who make less than \$20,000 are not taxed on the first \$50,000 of their assessed values.

And he adds that nationwide, the average amount property tax payers pay is around 2 to 3 percent of the value of their properties. "Here, it's more like one and a half percent," he said.

Black also said the \$150,000 exempted from seniors and disabled veterans is made up

by the rest of the taxpayers in the borough. Last year, he said, non-exempted taxpayers paid about an additional eight percent more in property taxes to make up the difference.

While Black says with a sigh that "it's going to be a long March" as challenges pour into his office, he welcomes tax payers who want to call or come in with any problems or questions they might have regarding their valuations. People have through March 30 to officially protest their valuations, he said.

And Black has advice for those who want to do so. "First," he said, "you should carefully look over how we've described your property and make sure everything is correct. We do make mistakes, no doubt about it. And if we haven't done our job right you don't really have to fight us, we'll be happy to say we blew it and correct the problem."

If everything is correct, the next thing is to come up with evidence, Black said.

"Bring in some paperwork showing the values of homes that have recently sold in your area," he suggested. "Some real estate agents are happy to assist you with that. Show us a concrete reason why your home was valued incorrectly."

Black said usually a few thousand people contest their valuations. In most cases, they talk with someone at the assessor's office and that clears it up. Last year, Black said only about 140 people actually brought their cases before the Board of Equalization. Of those, only a handful won.

It won't be until after the board has heard all appeals that the current valuations are finalized and tax revenues will be determined and sent to the borough Assembly. Once that happens, and once the Assembly has set its budget for the year, Black said, the mill rate will be set for 2005.

"That won't happen until the end of May," Black said. "Then we'll have a better idea of what our taxes are going to be."

### **Valley property values soar**

KRISTEN SEINE/For the Frontiersman

### **Budget focus of Assembly conclave with school board**

DAWN De BUSK/Frontiersman reporter

### **CBM issues discussed at workshop**

DAWN De BUSK/Frontiersman reporter

### **Man convicted of contempt, harassment in Palmer court**

KATE GOLDEN/Frontiersman reporter

**Wasilla man charged with sexual abuse of girl**

KATE GOLDEN/Frontiersman reporter

**Red Cross appeals to mayors for donations**

BOB MARTINSON/Frontiersman reporter

**Palmer officials want to use video to tout city**

KATE GOLDEN/Frontiersman reporter

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# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 391  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Limit Annual Increase of Muni Prop Assess RDU Comm Assist & Ec Dev (405)  
 Component Community Advocacy  
 Sponsor Stoltze, Lynn, Dahlstrom, Gardner, Neuman  
 Requester Community and Regional Affairs Component No. 2703

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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						
<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 (FY2006) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill limits the amount by which the assessed value of property may be increased for purposes of municipal property taxation. It would not create a fiscal impact on the operations of the department.

Prepared by: Mike Black, Director  
 Division: Community Advocacy  
 Approved by: William C. Noll, Commissioner  
 Agency: Commerce, Community, and Economic Development

Phone 907.269.4535  
 Date/Time 2/27/06 5:05 PM  
 Date 2/27/06 5:05 PM



DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

Division of Community Advocacy

Frank H. Markowski, Governor  
William C. Nell, Commissioner  
Michael Black, Director

March 23, 2006

The Honorable Representative Bill Stoltz  
State Capitol, Room 501  
Juneau, AK 999801-1182

Representative Stoltz,

Thank you for the opportunity to work with you on HB 391, which limits assessment increases to no more than 2% of the prior years value.

As you are aware, this bill has several far-reaching effects that should be considered carefully before the committee takes any action. I have access to studies which show that while limits such as this appear to provide control of assessment increases, they can actually distort the distribution of the property tax, destroying property tax equity and increasing public confusion and administrative complexity. This bill also does not allow a municipality to "catch-up" to the actual market value when the property is sold for a higher price than the assessment.

There is a large percentage of individuals who share your concern over the increase of assessed values in the state, even by some in my profession.

In my opinion, the answer is not to be found in enacting legislation which has not been thoroughly questioned and all impacts studied. If passed, this bill could severely impact the ability of many municipalities around the state to provide adequate services to their populations.

I offer my services to work with you along with the services of others who have agreed to work on this issue, including members of the Alaska Association of Assessing Officers, Alaska Municipal Attorneys Association and AML. In reviewing our property tax system to see if there is a better way to achieve our goals. Our work will be aimed at determining 1) the exact issues that are believed to need addressing; 2) review any and all alternatives that still maintain equity within the tax system and finally; 3) prepare proposals that can be brought back to the legislature to address these issues. The intent should be that the proposals will address the specific issues outlined that will not have an adverse effect on municipal revenue sources or create inequities.

I realize that time is short and this topic is very important to both property owners and municipalities, however, I believe that working with you and your staff over the interim will be more beneficial in identifying the problems and addressing them specifically than trying to fix this bill without any preparatory study.

Sincerely,

Steve Van Sant  
State Assessor

550 W. 7th Avenue, Suite 1770, Anchorage, Alaska 99501-3510  
Telephone: (907) 269-4501 Fax: (907) 269-4539 Text Telephone: (907) 465-5437  
Email: [questions@commerce.state.ak.us](mailto:questions@commerce.state.ak.us) Website: <http://www.commerce.state.ak.us/dca/>



OFFICE OF THE COMMISSIONER

Frank H. Murkowski, Governor

FAX Transmittal

TO: BILL THOMAS

DATE: 3/23

RE:

FAX NUMBER: X2652

FROM: Sally Saddler

Total # of pages including cover 2

Here is the letter Steve Van Sower sent to Rep. Stoltze. Steve is calling to follow up w/him as well. Steve's premise is that we need to explore a variety of options to address the problem (like homestead exemptions, circuit breakers, tax deferrals, etc). I spoke w/ Kevin Ritarie who is also following up w/ Rep Stoltze. Thanks for the heads up on this! Sally -

P.O. Box 110800, Juneau, Alaska 99811-0800
Telephone: (907) 465-2500 Fax: (907) 465-5442
Email: questions@commerce.state.ak.us Website: http://www.commerce.state.ak.us

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**HB**

**392**



# Alaska State Legislature

Representative Peggy Wilson

House District 2

Putting Alaska's Families First

## MEMORANDUM

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Date: January 31, 2006

To: Representative Kurt Olson and Representative Bill Thomas Co-Chairs  
Community and Regional Affairs

From: Representative Peggy Wilson *PW*

Re: HB 392 – Regional Solid Waste Management Authorities

HB 392 will allow a community or group of communities to create a public corporation to deal with waste management. HB 392 is modeled after the port authority statutes and will authorize the formation of solid waste authorities for waste management.

I request that you schedule HB 392 for a hearing before Community and Regional Affairs Committee as soon as possible. Thank you for your consideration.

# STATE OF ALASKA

DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL

Frank H. Murkowski, Governor

P.O. BOX 110300  
JUNEAU, ALASKA 99811-0300  
PHONE: (907)465-3600  
FAX: (907)465-2075

January 9, 2006

Representative Peggy Wilson  
Alaska State Legislature  
State Capitol, Room 108  
Juneau, Alaska 99801

Re: Comments on Regional Solid Waste  
Authority Legislation

Dear Representative Wilson:

This letter provides additional comments from the Department of Law regarding the proposed regional solid waste authority legislation, based on a joint review by the Departments of Law and Environmental Conservation. We appreciate the efforts that you and Alaska communities and organizations have undertaken to find solutions to challenging waste disposal issues.

The draft bill is crafted similar to other existing statutes, such as Alaska's port authority act. (AS 29.35.600, *et. seq.*) Please see our earlier comments. This comment letter focuses on the environmental regulation of facilities that would be constructed, operated or closed by Authorities established under the bill.

Based on the joint review between DEC and Law, we believe 46.03.100 (including its financial assurance requirements for municipal solid waste disposal facilities), as well as other applicable state and federal laws and regulations governing environmental matters for waste management and disposal facilities, would apply to an Authority's facility. It is our understanding that you and other supporters of the bill share this view, as well. If this is not the case, please advise me as soon as possible, as we would want to discuss this matter in greater detail and provide additional State input.

On a related point, the draft legislation states that the Authority may "regulate land use within the boundaries of the authority." See AS 29.35.820 (15)). This is very broad language, and very likely would lead to conflicts with

Representative Peggy Wilson  
Re: Regional Solid Waste Authority Legislation

January 9, 2006  
Page 2

other state laws or municipal ordinances that may involve land use regulation. Given this potential for conflicts, the legislature should consider whether it would be prudent to more explicitly define the scope of an Authority's power to regulate land use within the boundaries of the authority.

Further, proposed AS 29.35.870(a) states the following: "The real and personal property of an authority and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state." The term "special assessment" is not defined in the legislation and could be interpreted quite broadly. The legislature should consider clarifying language that this term does not include fees charged by regulatory agencies.

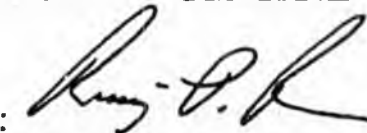
We have one other observation regarding the draft legislation. It currently provides that a liability of the regional waste authority can only be satisfied from the assets or revenue of the authority. "A creditor or other person does not have a right of action against the state or a municipality participating in an authority because of a debt, obligation, or liability of an authority." AS 29.35.850. There is some question as to whether this limitation would protect an individual member of an Authority from potential liability in circumstances where there is a hazardous release to the environment from a facility. See AS 46.03.822. Thus, the legislature should make clear, perhaps through hearing testimony and the legislative history for the bill, whether it intends for this legislation to protect individual members of an authority from recovery actions for such environmental releases. In raising this issue, we have not analyzed how the limitation on liability provision would be treated under federal law.

We hope you find these and our earlier comments helpful. Please do not hesitate to contact me if you need any additional assistance on this important piece of legislation.

Sincerely,

DAVID W. MÁRQUEZ  
ATTORNEY GENERAL

By:



Randall P. Ruaro  
Legislative Liaison to the Attorney General

**CS FOR HOUSE BILL NO. 392( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE WILSON**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act authorizing the establishment of regional solid waste management authorities;**  
2 **relating to withdrawal from a port authority by a municipality; and providing for an**  
3 **effective date."**

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

5 **\* Section 1.** AS 29.35.070(a) is amended to read:

6 (a) The assembly acting for the area outside all cities in the borough and the  
7 council acting for the area in a city may regulate, fix, establish, and change the rates  
8 and charges imposed for a utility service provided to the municipality or its inhabitants  
9 by a utility that is not subject to regulation under AS 42.05 unless that utility is  
10 exempted from regulation under AS 42.05.711(a), (d) - (k), [OR] (o), or (p), or is  
11 exempted under regulations adopted under AS 42.05.810 from complying with all or  
12 part of AS 42.05.141 - 42.05.721.

13 **\* Sec. 2.** AS 29.35.610(b) is amended to read:

14 (b) If an authority ceases to exist, its assets shall be distributed to the

1 municipalities that were participating [PARTICIPATED] in the authority on the day  
2 before the date of dissolution in proportion to the difference between their  
3 contributions to the authority and any outstanding debt or obligation of that  
4 municipality to the authority, provided that any obligation to bondholders then  
5 outstanding shall first be satisfied in full.

6 \* **Sec. 3.** AS 29.35.610 is amended by adding a new subsection to read:

7 (c) A municipality that is participating in an authority with one or more other  
8 municipalities may withdraw from participation without dissolving the authority. The  
9 contributions to the authority made by the withdrawing municipality remain the  
10 property of the authority, and the municipality remains liable for obligations under any  
11 agreement with the authority or other participating municipalities unless the agreement  
12 is changed by the contractual parties. A municipality withdraws from participation in  
13 an authority by repealing the ordinance adopted under AS 29.35.605(a)(2) or (b).

14 \* **Sec. 4.** AS 29.35 is amended by adding new sections to read:

15 **Article 10. Regional Solid Waste Management Authorities.**

16 **Sec. 29.35.800. Purpose of authorities.** The purpose of a regional solid waste  
17 management authority is to provide environmentally sound and cost-effective  
18 management of solid waste, including storage, collection, transportation, separation,  
19 processing, recycling, and disposal, to protect the public health, safety, and welfare;  
20 improve the environment of the state; recover resources and energy; and prevent  
21 pollution.

22 **Sec. 29.35.805. Establishment of regional solid waste management**  
23 **authorities.** (a) A regional solid waste management authority may be created in one of  
24 the following ways:

25 (1) the governing body of a municipality may, by ordinance, create a  
26 regional solid waste management authority as a public corporation of the municipality;

27 (2) the governing bodies of two or more municipalities may, by  
28 substantially identical ordinances adopted by each of the governing bodies, create a  
29 regional solid waste management authority as a public corporation of the  
30 municipalities.

31 (b) One or more municipalities may join an authority established under (a)(1)

1 or (2) of this section upon the adoption of substantially identical ordinances by the  
2 governing bodies of each affected municipality.

3 (c) A regional solid waste management authority created under this section is  
4 a body corporate and politic and an instrumentality of the municipality or  
5 municipalities creating it but has a separate and independent legal existence.

6 (d) Creation of a regional solid waste management authority under  
7 AS 29.35.800 - 29.35.925 is an exercise of a municipality's extraterritorial jurisdiction  
8 under AS 29.35.020.

9 (e) The enabling ordinance by which a regional solid waste management  
10 authority is established must specify the powers, boundaries, and limitations of the  
11 regional solid waste management authority.

12 (f) An ordinance creating a regional solid waste management authority must  
13 be approved by the voters of the municipality or municipalities participating in the  
14 authority for the authority to be established.

15 (g) Nothing in AS 29.35.800 - 29.35.925 prevents a municipality or  
16 municipalities from creating or participating in a public corporation, including a  
17 regional solid waste management authority, in any form or manner not prohibited by  
18 law. However, AS 29.35.800 - 29.35.925 only apply to and may only be used by a  
19 regional solid waste management authority created under this section.

20 **Sec. 29.35.810. Dissolution of a regional solid waste management**  
21 **authority.** (a) The enabling ordinance creating a regional solid waste management  
22 authority must provide for the manner by which a regional solid waste management  
23 authority may be dissolved.

24 (b) If an authority ceases to exist, its assets shall be distributed to each  
25 municipality that was participating in the authority on the day before the date of  
26 dissolution in proportion to the municipality's contribution to the authority less any  
27 outstanding debt or obligation of that municipality to the authority. Any obligation to  
28 bondholders then outstanding shall first be satisfied in full.

29 (c) A municipality that is participating in an authority with one or more other  
30 municipalities may withdraw from participation without dissolving the authority. The  
31 contributions to the authority made by the withdrawing municipality remain the

1 property of the authority, and the municipality remains liable for obligations under any  
 2 agreement with the authority or other participating municipalities unless the agreement  
 3 is changed by the contractual parties. A municipality withdraws from participation in  
 4 an authority by repealing the ordinance adopted under AS 29.35.805(a)(2) or (b).

5 **Sec. 29.35.815. Municipal property.** (a) A municipality may transfer and  
 6 otherwise convey or lease real property and improvements to real property to an  
 7 authority for use by the authority for the purposes set out in the ordinance adopted  
 8 under AS 29.35.805.

9 (b) A municipality may transfer and otherwise assign or lease personal  
 10 property to an authority for use by the authority for the purposes set out in the  
 11 ordinance adopted under AS 29.35.805.

12 **Sec. 29.35.820. Powers.** If provided in the enabling ordinance, an authority  
 13 may

14 (1) sue and be sued;

15 (2) have a seal and alter it;

16 (3) acquire an interest in a project as necessary or appropriate to  
 17 provide financing for the project, whether by purchase, gift, or lease;

18 (4) lease to others a project acquired by the authority on the terms and  
 19 conditions the authority may consider advisable, including, without limitation,  
 20 provisions for purchase or renewal;

21 (5) sell, by installment sale or otherwise, exchange, donate, convey, or  
 22 encumber in any manner by mortgage or by creation of another security interest, real  
 23 or personal property owned by it or in which it has an interest, including a project,  
 24 when, in the judgment of the authority, the action is in furtherance of the authority's  
 25 purposes;

26 (6) accept gifts, grants, or loans, under the terms and conditions  
 27 imposed under the gift, grant, or loan, and enter into contracts, conveyances, or other  
 28 transactions with a federal agency or an agency or instrumentality of the state, a  
 29 municipality, a private organization, or another person;

30 (7) deposit or invest its funds, subject to agreements with bondholders;

31 (8) purchase or insure loans to finance the costs of projects;

- 1 (9) provide for security within the boundaries of the authority;
- 2 (10) enter into loan agreements for one or more projects on the terms  
3 and conditions the authority considers advisable;
- 4 (11) acquire, manage, and operate projects the authority considers  
5 necessary or appropriate to serve the authority's purposes;
- 6 (12) assist private lenders to make loans to finance the costs of projects  
7 through loan commitments, short-term financing, or otherwise;
- 8 (13) charge fees or other forms of remuneration for the use or  
9 possession of projects under the agreements described in this section; other  
10 agreements relating to the projects, covenants, or representations made in bond  
11 documents relating to the projects; or regulations of the authority relating to the  
12 projects;
- 13 (14) exercise the powers of eminent domain and declaration of taking  
14 within its physical boundaries under AS 29.35.030 to acquire land or materials for  
15 authority purposes;
- 16 (15) regulate land use within the boundaries of the authority;
- 17 (16) defend and indemnify a current or former member of the board,  
18 employee, or agent of the authority against all costs, expenses, judgments, and  
19 liabilities, including attorney fees, incurred by or imposed on that person in connection  
20 with a civil or criminal action in which the person is involved because of the person's  
21 affiliation with the authority if the person acted in good faith on behalf of the authority  
22 and within the scope of the person's official duties and powers;
- 23 (17) purchase insurance to protect and hold harmless its employees,  
24 agents, and board members from an action, claim, or proceeding arising out of the  
25 performance of, purported performance of, or failure to perform in good faith, duties  
26 for the authority or arising out of employment with the authority and to hold them  
27 harmless from expenses connected with the defense, settlement, or monetary  
28 judgments from that action, claim, or proceeding; the purchase of insurance is subject  
29 to the discretion of the board; insurance purchased under this paragraph is not  
30 compensation to the insured person; and
- 31 (18) protect its assets, services, and employees by purchasing

1 insurance or providing for certain self-insurance retentions<sup>(b)</sup> an authority shall also  
2 maintain casualty, property, business interruption, marine, boiler and machinery,  
3 pollution liability, and other insurance in amounts reasonably calculated to cover  
4 potential claims against the authority or a municipality for bodily injury, death or  
5 disability, and property damage that arises from or is related to authority operations  
6 and activities.

7 **Sec. 29.35.825. Bonds of a regional solid waste management authority;**  
8 **superior court jurisdiction.** (a) If authorized by the enabling ordinance, an authority  
9 may borrow money and issue bonds on which the principal and interest are payable

10 (1) exclusively from the income and receipts of, or other money  
11 derived from, the project financed with the proceeds of the bonds;

12 (2) exclusively from the income and receipts of, or other money  
13 derived from, designated projects or other sources, whether they are financed, insured,  
14 or guaranteed in whole or in part with the proceeds of the bonds; or

15 (3) from its income and receipts or a designated part or parts of them.

16 (b) All bonds shall be sold at public or private sale in the manner, for the price  
17 or prices, and at the time or times the authority may determine.

18 (c) Before issuing bonds, an authority shall provide for consideration at least  
19 sufficient, in the judgment of the authority, to

20 (1) pay the principal of and interest on the bonds as they become due;

21 (2) create and maintain the reserves for the payment that the authority  
22 considers necessary or desirable; and

23 (3) meet all obligations in connection with the lease or agreement and  
24 all costs necessary to service the bonds, unless the lease or agreement provides that the  
25 obligations are to be met or costs are to be paid by a party other than the authority.

26 (d) Bonds shall be authorized by resolution of the authority and shall be dated  
27 and mature as the resolution may provide, except that a bond may not mature more  
28 than 40 years after the date of its issue. Bonds shall bear interest at the rate or rates, be  
29 in the denominations, be in the form, either coupon or registered, carry the registration  
30 privileges, be executed in the manner, be payable in the medium of payment, at the  
31 place or places, and be subject to the terms of redemption that the resolution or a

1 subsequent resolution may provide.

2 (e) All bonds issued under this section, regardless of form or character, are  
3 negotiable instruments for all the purposes of AS 45.01 - AS 45.08, AS 45.12,  
4 AS 45.14, and AS 45.29 (Uniform Commercial Code).

5 (f) The superior court has jurisdiction to hear and determine suits, actions, or  
6 proceedings relating to an authority, including suits, actions, or proceedings brought to  
7 foreclose or otherwise enforce a mortgage, pledge, assignment, or security interest  
8 brought by or for the benefit or security of a holder of the authority's bonds or by a  
9 trustee for or other representative of the holders.

10 **Sec. 29.35.830. Bonds eligible for investment.** Bonds issued under  
11 AS 29.35.825 are securities in which public officers and public bodies of the state and  
12 its political subdivisions, insurance companies, trust companies, banks, investment  
13 companies, executors, administrators, trustees, and other fiduciaries may properly and  
14 legally invest funds, including capital in their control or belonging to them. The bonds  
15 may be deposited with a state or municipal officer of an agency or political  
16 subdivision of the state for any purpose for which the deposit of bonds of the state is  
17 authorized by law.

18 **Sec. 29.35.835. Validity of pledge.** The pledge of revenue of an authority to  
19 the payment of the principal or interest on bonds or notes of the authority is valid and  
20 binding from the time the pledge is made, and the revenue is immediately subject to  
21 the lien of the pledge without physical delivery or further act. The lien of a pledge is  
22 valid and binding against all parties having claims of any kind against the authority  
23 irrespective of whether those parties have notice of the lien of the pledge.

24 **Sec. 29.35.840. Credit of state or a municipality not pledged.** (a) The state  
25 and municipalities participating in an authority are not liable for the debts of that  
26 authority. Bonds issued under AS 29.35.825 are payable solely from the revenue of  
27 the authority and do not constitute a

28 (1) debt, liability, or obligation of the state or a municipality; or

29 (2) pledge of the faith and credit of the state or a municipality.

30 (b) An authority may not pledge the credit or the taxing power of the state or  
31 its municipalities. A bond issued under AS 29.35.825 must contain on its face a

1 statement that

2 (1) the authority is not obligated to pay it or the interest on it except  
3 from the revenue pledged for it; and

4 (2) the faith and credit of the taxing power of the state or of a political  
5 subdivision of the state is not pledged to the payment of it.

6 **Sec. 29.35.845. Pledges of the state and municipalities.** The state and  
7 municipalities participating in an authority pledge to and agree with the holders of  
8 bonds issued under AS 29.35.825 and with the federal agency, if any, that loans or  
9 contributes funds for a project of the authority that the state and the municipalities  
10 participating in the authority will not limit or alter the rights and powers vested in the  
11 authority by its enabling ordinance or other law so that it is unable to fulfill the terms  
12 of a contract made by it with those holders or that federal agency or in any way impair  
13 the rights and remedies of those holders or that federal agency until the bonds,  
14 together with the interest on them and interest on unpaid installments of interest, and  
15 all costs and expenses in connection with an action or proceeding by or on behalf of  
16 those holders or that federal agency, are fully met and discharged. An authority may  
17 include this pledge and agreement of the state and the municipalities participating in  
18 the authority, to the extent that it refers to holders of bonds of the authority, in a  
19 contract with those holders, and to the extent that it relates to a federal agency, in a  
20 contract with that federal agency.

21 **Sec. 29.35.850. Limitation of liability.** A liability incurred by an authority  
22 shall be satisfied exclusively from the assets or revenue of the authority. A creditor or  
23 other person does not have a right of action against the state or a municipality  
24 participating in an authority because of a debt, obligation, or liability of an authority.

25 **Sec. 29.35.855. Limitation on personal liability.** A board member or  
26 employee of an authority is not subject to personal liability or accountability because  
27 of the execution or issuance of bonds.

28 **Sec. 29.35.860. Fidelity bond.** An authority shall obtain a fidelity bond in an  
29 amount determined by the board for board members and each executive officer  
30 responsible for accounts and finances of that authority. A fidelity bond must be in  
31 effect during the entire tenure in office of the bonded person.

1           **Sec. 29.35.865. No taxing authority.** An authority may not levy an income or  
2 other tax.

3           **Sec. 29.35.870. Exemption from taxation.** (a) An authority exercising the  
4 powers granted by the enabling ordinance under AS 29.35.800 - 29.35.925 is in all  
5 respects for the benefit of the people of the municipalities participating in the authority  
6 and the people of the state in general, for their well-being and prosperity, and for the  
7 improvement of their social and economic condition. The real and personal property of  
8 an authority and its assets, income, and receipts are exempt from all taxes and special  
9 assessments of the state or a political subdivision of the state.

10           (b) Bonds issued by the authority under AS 29.35.825 are issued for an  
11 essential public and governmental purpose; therefore, the bonds, the interest and  
12 income from them, and all fees, charges, funds, revenue, income, and other money  
13 pledged or available to pay or secure the payment of the bonds or interest on them are  
14 exempt from taxation except for inheritance, transfer, and estate taxes.

15           (c) Notwithstanding the provisions of (a) of this section, an authority and the  
16 municipalities participating in the authority may enter into agreements under which  
17 the authority agrees to pay the participating municipalities' payments in lieu of taxes  
18 and special assessments on real and personal property of the authority that is within  
19 the taxing jurisdiction of the municipality.

20           (d) Nothing in this section creates a tax exemption with respect to the interests  
21 of a business enterprise or other person, other than the authority, in property, assets,  
22 income, or receipts, whether or not financed under AS 29.35.800 - 29.35.925.

23           **Sec. 29.35.875. Administration of regional solid waste management**  
24 **authorities; board.** (a) An authority shall be governed by a board of directors, which  
25 shall exercise the powers of the authority. The enabling ordinance establishing the  
26 authority under AS 29.35.805 must specify the number, qualifications, manner of  
27 appointment or election, and terms of members of the board.

28           (b) The board shall appoint a chief executive officer of the authority, who  
29 serves at the pleasure of the board. The board shall fix the compensation of the chief  
30 executive officer.

31           **Sec. 29.35.880. Continuation of collective bargaining agreements;**

1           **application of AS 23.40.070 - 23.40.260.** (a) A collective bargaining agreement for  
2 employees of the state or its political subdivisions who are transferred to an authority  
3 under AS 29.35.800 - 29.35.925 remain in effect for the term of the agreement or one  
4 year, whichever is longer, and are binding on the authority unless the parties agree to  
5 the contrary before the agreement expires. A labor-management negotiation impasse  
6 declared after a transfer of employees under this subsection but before the negotiation  
7 of a new collective bargaining agreement shall be resolved as provided in the  
8 collective bargaining agreement or, if the collective bargaining agreement does not  
9 provide for a resolution, as provided in AS 23.40.070 - 23.40.260.

10           (b) Employees of the state or a political subdivision of the state transferred to  
11 an authority shall retain, for one year following the date of transfer or for the duration  
12 of a collective bargaining agreement transferred under (a) of this section, whichever is  
13 greater, all rights of participation in fringe benefit programs available to the employees  
14 on the day before the transfer, or in substantially equivalent programs.

15           (c) AS 23.40.070 - 23.40.260 apply to employees of an authority established  
16 under AS 29.35.800 - 29.35.925 unless all municipalities participating in the authority  
17 are exempt under sec. 4, ch. 113, SLA 1972.

18           **Sec. 29.35.885. Bylaws and regulations.** (a) A board shall adopt bylaws and  
19 appropriate regulations consistent with the enabling ordinance to carry out its  
20 functions and purposes.

21           (b) A board shall adopt bylaws as soon after the authority is established as  
22 possible and may, from time to time, amend those bylaws. The bylaws may contain  
23 any provision not in conflict with law for managing the business of the authority and  
24 for conducting the affairs of the authority, including provisions relating to

25                   (1) the time, place, and manner of calling, conducting, and giving  
26 notice of meetings of the board and committees of the board, if any;

27                   (2) the compensation of directors, if any;

28                   (3) the appointment and authority of committees of the board, if any;

29                   (4) the appointment, duties, compensation, and tenure of officers,  
30 directors, the chief executive officer, and other employees, if any;

31                   (5) procedures for adopting regulations;

1 (6) procedures for adopting bylaws;

2 (7) procedures for making annual reports and financial statements; and

3 (8) other matters for the conduct of business by the board.

4 **Sec. 29.35.890. Authority subject to public records and open meetings**  
5 **laws.** An authority established under AS 29.35.805 is subject to AS 40.25.110 -  
6 40.25.220 and to AS 44.62.310 and 44.62.312.

7 **Sec. 29.35.895. Annual report.** Within 90 days following the end of the fiscal  
8 year of an authority, the board shall contribute to the mayor and governing body of  
9 each municipality participating in the authority a report describing the operations and  
10 financial condition of the authority during the preceding fiscal year. The report may  
11 include suggestions for legislation relating to the structure, powers, or duties of the  
12 authority or operation of facilities of the authority. The report must itemize the cost of  
13 providing each category of service offered by the authority and the income generated  
14 by each category.

15 **Sec. 29.35.900. Audits.** (a) The board shall have the financial records of an  
16 authority audited annually by an independent certified public accountant.

17 (b) An authority shall make all of its financial records available to an auditor  
18 appointed by a municipality participating in the authority for examination.

19 **Sec. 29.35.905. Remedies.** A holder of bonds or notes or coupons attached to  
20 the bonds issued by an authority under AS 29.35.825, and a trustee under a trust  
21 agreement or resolution authorizing the issuance of the bonds, except as restricted by a  
22 trust agreement or resolution, either at law or in equity, may

23 (1) enforce all rights granted under AS 29.35.800 - 29.35.925, the trust  
24 agreement or resolution, or another contract executed by the authority; and

25 (2) compel the performance of all duties of the authority required by  
26 AS 29.35.800 - 29.35.925 or the trust agreement or resolution.

27 **Sec. 29.35.910. Claims.** In judicial and regulatory proceedings by and against  
28 an authority, an authority and its board members and employees enjoy the same rights,  
29 privileges, and immunities as a municipality and municipal officers.

30 **Sec. 29.35.915. Conflicting laws inapplicable.** If a provision of AS 29.35.800  
31 - 29.35.925 conflicts with another provision of this title, the provision of AS 29.35.800

1 - 29.35.925 prevails.

2 **Sec. 29.35.920. Definitions.** In AS 29.35.800 - 29.35.925, unless the context  
3 otherwise requires,

4 (1) "authority" means a regional solid waste management authority  
5 established under AS 29.35.805;

6 (2) "board" means the board of directors of an authority;

7 (3) "bonds" includes bonds, bond anticipation notes, notes, refunding  
8 bonds, or other forms of indebtedness of the authority;

9 (4) "bylaws" means the guidelines adopted by and amended by the  
10 board from time to time under AS 29.35.300 - 29.35.925;

11 (5) "costs of projects" means all or any part of the aggregate costs  
12 determined by an authority to be necessary to finance the construction or acquisition  
13 of a project, including, without limitation, the cost of acquiring real property; the cost  
14 of constructing buildings and improvements; the cost of financing the project,  
15 including, without limitation, interest charges before, during, or after construction or  
16 acquisition of the project; costs related to determining the feasibility of, planning,  
17 design of, or engineering of the project and, to the extent determined necessary by the  
18 authority, administrative expenses; the costs of machinery or equipment to be used in  
19 the operation or rehabilitation of a solid waste management facility or operation; and  
20 all other costs, charges, fees, and expenses that the authority determines necessary to  
21 finance the construction or acquisition;

22 (6) "land" or "real property" means any interest in real property,  
23 including tidal and submerged land, any right appurtenant to the interest, and, without  
24 limitation, interests less than full title, such as easements, uses, leases, and licenses;

25 (7) "project" means a solid waste management facility, and  
26 administrative facilities, including property necessary for solid waste management;

27 (8) "regulation" means a standard of general application or the  
28 amendment, supplement, revision, or repeal of a standard adopted by an authority to  
29 implement, interpret, or make specific the law enforced or administered by it or to  
30 govern its procedure.

31 **Sec. 29.35.925. Short title.** AS 29.35.800 - 29.35.925 may be cited as the

1 Regional Solid Waste Management Authority Act.

2 \* Sec. 5. AS 42.05.711 is amended by adding a new subsection to read:

3 (p) a regional solid waste management authority established under  
4 AS 29.35.800 - 29.35.925 is exempt from regulation under this chapter, except that a  
5 solid waste management authority is subject to this chapter if it directly competes with  
6 a utility subject to this chapter.

7 \* Sec. 6. AS 44.85.410(3) is amended to read:

8 (3) "municipal bond" means a bond or note or evidence of debt that  
9 constitutes

10 (A) a general obligation bond that is a direct and general  
11 obligation of a political subdivision of the state, all the taxable property within  
12 which is subject to taxation to pay the bond, note, or evidence of debt, and the  
13 interest without limitation, as to rate or amount generally to the extent  
14 permitted by law or to avoid a default as provided for second class cities under  
15 AS 29.45.590;

16 (B) a revenue bond, except a revenue bond for electrical  
17 generation purposes other than diesel-powered generation, issued by a  
18 municipality, a solid waste management authority, or a port authority that  
19 pledges the revenue of a revenue-producing capital improvement and that is  
20 payable solely from the revenue of the revenue-producing capital  
21 improvement;

22 (C) a general obligation bond or revenue bond combined or  
23 additionally secured;

24 (D) a bond of a borough issued as a general obligation of a  
25 service area under AS 29.47.440 or former AS 29.58.340; or

26 (E) an obligation of a municipality secured only by

27 (i) special assessments on benefited property;

28 (ii) tax increments and a letter of credit or equal  
29 security; or

30 (iii) a lease for equipment or building improvements if  
31 the state is not a lessee;

1

\* Sec. 7. Sections 2 and 3 of this Act take effect immediately under AS 01.10.070(c).



DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT  
Office of the Commissioner

*Frank H. Murkowski, Governor*  
*William C. Noll, Commissioner*

## HOUSE COMMUNITY & REGIONAL AFFAIRS

### HB 392

### "An Act authorizing the establishment of regional solid waste management authorities."

Comments on behalf of DCCED & Division of Community Advocacy  
Cindy Roberts – DCCED Liaison to the Denali Commission

The DCCED is very pleased to support HB 392, introduced by Representative Wilson.

Solid waste management issues are not the specific assignment of the Department of Commerce, Community & Economic Development, but are a key element in the commercial, human and environmental health of Alaska's rural communities.

Solid waste management is one of the most under-funded elements in the health infrastructure of our state. Water and sewer projects over the last 15 years have benefited from heightened awareness and priority. In the competition for agency dollars, water and sewer nearly always comes first. Communities are left to their own solutions to deal with packaging, construction debris, and household garbage. Because of the HIGH investment required to establish even a small landfill, there are unpermitted dumps all over the state. Our dumps are as geographically spread as our population. There are few, if any, economies of scale to address this issue.

This legislation is a timely and appropriate first step in the creation of site-specific solutions sponsored and controlled by the affected communities. The authority framework allows communities to join together to acquire the land, the equipment, and the operational manpower to handle waste in fiscally sustainable and environmentally responsible way.

As the State assists its coastal communities to develop economic and physical infrastructure to enhance the fisheries industry, the solid waste issue lurks not quite out-of-sight, but below the radar. These forces connect when a newly-extended runway services a turboprop aircraft taking prime fish to market. The mandated separation of runways and landfills (and the bird traffic that garbage attracts) cannot be accomplished in many locations.

The authority structure can assist communities to bond for the equipment that will eliminate bird and animal issues. Even better, the multi-community authority can help finance cost-share for connecting roads to share a facility between communities, resulting in improved economies of scale and improved operating procedures. In Southeast Alaska and other regions of the state, the authority option will reduce the export of dollars as well as trash. Alaskans can handle the process and retain the jobs that trash disposal represents.

For public health reasons, environmental reasons, and purely commercial reasons, this legislation is a very good idea.

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# ALASKA STATE LEGISLATURE



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REPRESENTATIVE PEGGY WILSON  
HOUSE DISTRICT 2

## SPONSOR STATEMENT

### HB 392

#### "Solid Waste Management Authorities."

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HB 392 will allow a community or group of communities to create a public corporation to deal with waste management. HB 392 is modeled after the port authority statutes and will authorize the formation of solid waste authorities for waste management.

Over the last decade in Southeast Alaska landfills, waste-to-energy plants and incinerators have closed. The cheapest and quickest alternative for any one community has been to ship municipal solid waste (MSW) by barge and rail to super landfills in the continental U.S. Lack of available and suitable land near existing communities and high costs to develop a landfill have prevented any one community from taking on this task itself. HB 392 would allow a group of communities to come together and form an authority for waste management. Working together they will be able to accomplish what one community working alone is unable to do.

Recycling and municipal waste collection is expensive with southeast communities paying between \$77/ton and \$220/ton to ship recyclables to markets and MSW to landfills, while the cost per ton for disposal in Anchorage is only \$40/ton. Presently, communities in Southeast Alaska, excluding Juneau, are shipping 23,000 tons of municipal waste out of state each year. Other Southeast communities have landfills nearing capacity, while many small communities have improper or un-permitted dumps.

Communities cooperating as a single entity can produce a regional solution to deal with the MSW. The authority's regional facility could include a Materials Recovery Facility (recycling) on the front end and a state-of-the-art landfill. Other options may include thermal reduction (waste to energy), space for composting, and space for treating oily soils.

While the compelling reasons to develop this authority are focused around the Southeast Region this bill applies to any municipality or group of governing bodies in Alaska.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 392  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Solid Waste Management Authority RDU Comm Assist & Ec Dev (405)  
 Component Community Advocacy  
 Sponsor Wilson  
 Requester Community & Regional Affairs Component No. 2703

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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--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 (FY2006) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation amends Title 29 to provide for the establishment of regional solid waste management authorities by one or more municipalities. It would not create a fiscal impact on the operations of the department.

Prepared by: Mike Black, Director Phone 907.269.4578  
 Division Community Advocacy Date/Time 2/7/06 5:57 PM  
 Approved by: William C. Noll, Commissioner Date 2/7/2006  
 Agency Commerce, Community, and Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 392  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Dept of Environmental Conservation  
 Title Regional solid waste management authorities RDU Environmental Health  
 Component Solid Waste  
 Sponsor Representative Peggy Wilson  
 Requester House Community and Regional Affairs Component No. 2344

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<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	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

This legislation will have no fiscal impact on DEC.

Prepared by: Kristin Ryan, Director  
 Division: Environmental Health  
 Approved by: Kurt Fredriksson  
 Agency: Department of Environmental Conservation

Phone: (907) 269-7644  
 Date/Time: 2/6/06 4:48 PM  
 Date: 2/7/2006

# 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 30, 2006

**SUBJECT:** Sectional analysis of HB 392 (Work Order No. 24-LS1227\F)

**TO:** Representative Peggy Wilson  
Attn: Becky Rooney

**FROM:** *Donald M. Bullock Jr.*  
Donald M. Bullock Jr.  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Amends AS 29.35.070(a) by adding a reference to AS 42.05.711(p) that would be added by sec. 3 of the bill.

**Section 2.** Amends AS 29.35 by adding article 10, secs. 29.35.800 - 29.35.925, relating to regional solid waste management authorities.

**Sec. 29.35.800.** States the purpose of regional solid waste management authorities.

**Sec. 29.35.805.** Provides that a single municipality or two or more municipalities may create a regional solid waste management authority ("authority") by ordinance or ordinances. Allows a municipality to join an established authority. Provides that an authority is a body corporate and politic and an instrumentality of the municipality or municipalities that created it, but has a separate and independent legal existence from the municipality or municipalities. States that the creation of an authority is an exercise of a municipality's extraterritorial jurisdiction. Requires that the ordinance or ordinances creating the authority must specify the powers, boundaries, and limitations of the authority. Requires that voters in a creating municipality approve the authority. Limits the application of AS 29.35.800 - 29.35.925 to an authority created under this section.

**Sec. 29.35.810.** Requires that an ordinance creating an authority provide for the manner for dissolving an authority. States that the assets of a dissolved authority be distributed to a participating municipality in proportion to a municipality's contribution, less any liability owed to the authority. Distribution may only occur after outstanding bond liability has been satisfied.

Sec. 29.35.815. Authorizes a municipality to transfer real and personal property or leases to the authority.

Sec. 29.35.820. Lists the powers an authority may exercise, provided the powers are included in the enabling ordinance.

Sec. 29.35.825. Provides that an authority created with appropriate powers may issue bonds and borrow money. States that the principal and interest are payable from the revenue received by the authority. Lists requirements for authorizing and selling bonds and planning for the payment of bond debt. Sets jurisdiction in the superior court for issues relating to an authority's obligations.

Sec. 29.35.825. States that an authority's bonds are eligible investments for entities listed.

Sec. 29.35.835. States that the pledge of revenue for the payment of debt is binding from the time the pledge is made and provides for a lien on revenue.

Sec. 29.35.840. States that the state and municipalities participating in an authority are not liable for the debts of an authority and that the debt is payable solely from the authority's revenue.

Sec. 29.35.845. Provides that the state and participating municipalities commit to not interfere with the ability of an authority to meet its debt obligation.

Sec. 29.35.850. Limits the satisfaction of the liability of an authority to the assets or revenue of the authority.

Sec. 29.35.855. Limits the liability of a board member or employee because of the execution or issuance of bonds.

Sec. 29.35.860. Requires an authority to obtain a fidelity bond for board members and executives responsible for accounts and finances.

Sec. 29.35.865. Prohibits an authority from levying any tax.

Sec. 29.35.870. Exempts an authority and its bonds from state and municipal taxes. Provides that an authority and a participating municipality may negotiate for payments in lieu of taxes.

Sec. 29.35.875. Provides for the authority to be administered by a board that shall appoint a chief executive officer.

Sec. 29.35.880. Provides that a collective bargaining agreement for state or municipal employees transferred to the authority shall remain in effect for a fixed period of time and allows the employees to retain certain rights of participation in

fringe benefit programs. Provides that AS 23.40.070 - 23.40.260 apply to the authority's employees unless all participating municipalities are exempt.

Sec. 29.35.885. Requires the board to adopt bylaws and regulations and lists subjects that must be included in the bylaws and regulations.

Sec 29.35.890. States that the authority is subject to public records and open meeting laws.

Sec. 29.35.895. Requires the authority to distribute an annual report to the mayor and governing body of each municipality participating in the authority and lists subjects that may be included in the report.

Sec. 29.35.900. Requires an annual audit by an independent certified public accountant and requires the authority to make its records available to an auditor for a municipality participating in the authority.

Sec. 29.35.905. Provides the authority for a holder of bonds, notes, or coupons, or a trustee to enforce rights their rights and compel performance of the authority's duties.

Sec. 29.35.910. Provides that an authority, its board members, and its employees enjoy the same rights, privileges, and immunities as a municipality and municipal officers in judicial and regulatory proceedings.

Sec. 29.35.915. Provides that the statutes in the legislation prevail if in conflict with other statutes in AS 29.

Sec. 29.35.920. Defines terms used in provisions that would be enacted by sec. 2 of the bill.

Sec. 29.35.925. States the short title for the Act.

Section 3. Amends AS 42.05.711 by adding a new subsection to exempt the authority from regulation by the Regulatory Commission of Alaska unless the authority directly competes with a regulated utility.

Section 4. Amends AS 44.85.410(3) by including a revenue bond issued by the authority within the definition of "municipal bond."

If I may be of further assistance, please advise.

**Testimony of Deputy Commissioner Dan Easton  
House Community and Regional Affairs Committee  
House Bill 392 (authorizing the establishment of regional solid waste  
management authorities)  
February 9, 2006**

Mr. Chairman, I'm Dan Easton, Deputy Commissioner of the Department of Environmental Conservation (DEC).

I appreciate the opportunity to speak in support of HB 392 dealing with regional solid waste management authorities.

In some ways, Alaska's solid waste management situation is unique – a point illustrated by comparing us to the State of Washington.

Washington has a population of over 6 million with all of its municipal solid waste going to 21 regional disposal facilities.

Alaska, with its population of around 640 thousand, has over 200 different disposal facilities (some of which are out of state).

Compared to Washington, we have about one tenth of the population and ten times the number of solid waste disposal sites.

The difference is that Washington, with its transportation infrastructure and ability to move solid waste, has large solid waste facilities that serve all municipalities within a region. Alaska tends to have one disposal facility per community.

From DEC's environmental and human health perspective, we support development of regional solid waste management systems that serve a number of communities over individual systems serving a single community.

Larger solid waste facilities are able to take advantage of economies of scale and are generally better funded, better operated, and less apt to cause environmental or health problems than smaller facilities.

Alaska has the following regional solid waste management systems:

- Anchorage Regional Landfill;
- Matanuska-Susitna Borough Central Landfill (Palmer);
- Kenai Peninsula Borough Central Landfill (Soldotna);
- Fairbanks Northstar Borough Landfill;
- Oxbow Landfill (North Slope Borough - Deadhorse);
- Kodiak Island Borough Landfill;
- Denali Borough Landfill (Healy);
- Copper Basin Sanitation Landfill (Glennallen);
- Bristol Bay Borough Landfill (Naknek); and
- Tok Landfill.

We encourage development of other regional solid waste management systems where they make sense.

By providing communities with the opportunity to band together to form regional solid waste authorities, we hope that HB 392 will foster development of new regional solid waste management systems in Alaska.

We are not experts on many of the Title 29 authorities, legal and financial matters in this bill.

We do, however, support the intended effect of this bill to further development of regional solid waste management systems in Alaska.

We urge your support for HB 392.



# Southeast Conference

P.O. Box 21989 Juneau Alaska 99802-1989 Tel. (907) 463-3445 Fax (907) 463-5670

Nov 9, 2005

Cindy Roberts  
Denali Commission  
510 L Street, Ste 410  
Anchorage, Alaska 99501

**Re: Final Report for Grant #156-05 – Solid Waste Entity Formation (\$19,000)**

Dear Cindy,

With this letter, I am submitting a final work product. I will summarize the work done under this grant.

I am pleased to report that we accomplished more than we intended with this grant. Not only did we research solid waste entities in the Lower-48, review Alaskan statutes and provide templates for all regions of Alaska, but, through a state representative, have helped draft legislation that would create and authorize Solid Waste Management Authorities in Alaska. This legislation is to be introduced in the 2006 Alaska State Legislature.

As of September 30, 2005, we had expended 100% of the grant funds.

Here are some of the highlights during the grant period:

- Work began in mid-2005 with SEC staff and board, its Environment Committee and contractor Ecology and Environment, Inc.
- SEC maintained an active role in this work, with weekly conference calls and updates from the contractor. This information then was relayed to the board and committees.
- The contractor interviewed dozens of representatives from state government, federal government, consulting businesses and solid waste authorities.
- We developed a matrix and white paper to look at entity formation options for Alaska.
- We had an independent attorney review the white paper and matrix.
- We developed a template for communities and regions in Alaska to use.
- We drafted legislation for a Solid Waste Management Authority
- We gave presentations at the SEC annual Meeting on Sept. 26 in Wrangell. Speakers were contractor Dick Smith on the solid waste report; Rollo Pool, on solid waste entities; and Kake Tribal Corp. general manager Duff Mitchell on its waste-to-energy option (plasma arc).
- We met twice with Waste Management, Inc. which operates the landfill in Juneau.

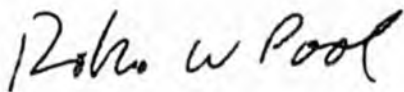
- We gave presentations to the Juneau Rotary Club and to the Juneau Economic Development Council on solid waste, recycling and other issues.

Our solid waste work in the region continues to garner interest by the media. During the life of this grant, we updated reporters in Haines, Sitka, Juneau, Wrangell, Ketchikan, and Petersburg. State and federal officials are engaged in discussion of regional solid waste plans. The governor supports an effort to keep Southeast Alaska communities from shipping these wastes from Alaska.

We are enthused with the work to date and encouraged with the number of communities expressing interest for consideration as a regional site and with the support at state and federal levels. Again, we appreciate the support from the Denali Commission for this grant.

Should you have any questions, please do not hesitate to contact me, by mail, phone or email: [rollo@seconference.org](mailto:rollo@seconference.org).

Sincerely Yours,



Rollo Pool  
Executive Director



# Southeast Conference

P.O. Box 21989 Juneau Alaska 99802-1989 Tel. (907) 463-3445 Fax (907) 463-5670

## Alaska Solid Waste Entity Formation

A Look at Options to Coordinate  
Transfer, Handling and Disposal of Solid Wastes  
In Alaskan Communities



### Contractors

Ecology & Environment, Inc.  
Cedarbrook Consulting

for

### Southeast Conference

P.O. Box 21989  
Juneau, AK 99802  
Telephone: (907) 463-3445  
[www.seconference.org](http://www.seconference.org)

Oct 31, 2005

## TABLE OF CONTENTS

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SITUATION / BACKGROUND .....	2
PROJECT METHODOLOGY .....	3
JOINT GOVERNMENT AGREEMENT.....	3
SOLID WASTE AUTHORITY .....	3
STATUTORY CHANGE.....	4

### APPENDICES

MEMO AND MATRIX ON ENTITIES.....	1
TEMPLATE, JOINT GOVERNMENT AGREEMENT .....	2
OUTLINE, JOINT GOVERNMENT AGREEMENT .....	3
OUTLINE FOR AN AUTHORITY CREATED UNDER A JOINT GOVERNMENT AGREEMENT .....	4
LEGAL REVIEW.....	5
DRAFT STATUTE, SOLID WASTE MANAGEMENT AUTHORITY .....	6

## SUMMARY

### SOLID WASTE ENTITY FORMATION FRAMEWORK

Over the last decade in Southeast Alaska, landfills and waste-to-energy plants and incinerators have closed. The cheapest and quickest alternative for any community has been to ship municipal solid waste (MSW) by barge and rail to super landfills in the Continental US. Lack of available and suitable land near existing communities and high costs to develop a landfill have prevented any community from taking on this task itself.

Southeast Alaska is an isolated area of 70,000 residents living in more than 25 communities scattered over an area comprising 20 million acres – roughly half the size of Washington State. This area is dependent on barge, airline and ferry service to connect it with the contiguous 48 states and British Columbia. Recycling and municipal waste collection is expensive with some communities paying over \$100-200/ton to ship recyclables to markets and MSW to landfills, while the cost per ton for disposal in Anchorage is \$40/ton.

Presently, communities in Southeast Alaska are shipping 23,000 tons of municipal waste each year out of state – some as far as 1,100 miles. Other Southeast communities have landfills nearing capacity, while many small communities have improper or unpermitted dumps.

Southeast Conference feels that its communities, cooperating as a single entity, can produce a regional solution to deal with MSW. The goal is to recycle more, save communities money over current costs, and produce jobs in the region. At a minimum, a regional facility, should it happen, will include recycling (Materials Recovery Facility) on the front end and a state-of-the-art landfill. Other options may include thermal reduction (waste-to-energy) and space for composting and for treating oily soils.

In the last 15 months, SEC has begun work under two Solid Waste grants from the federal government. One is to do a report that looks at solid waste handling options in Southeast Alaska - especially those communities that ship waste to the Lower-48. This report will be done in late November 2005, and it will list options (including a regional landfill and recycling center) and potential sites. Several communities (Petersburg, Wrangell, Thorne Bay, Sitka and Kake) are interested in being considered as a future site.

A second grant from the Denali Commission, which is the subject of this report, has helped determine what kind of legal entity is needed for communities to move and process municipal solid waste and to operate a regional landfill.

Through a grant from the Denali Commission, Southeast Conference hired consultants and a law firm to study regional solid waste handling in other states, to review state statutes and to offer advice on entity formations.

There are two primary legal vehicles to move, process and dispose of solid waste. One is a Joint Government Agreement, for which there is existing statutory authority. Another option, and likely to be more preferable, is a Solid Waste Management Authority. Draft legislation has been prepared for the 2006 Alaska legislature. The legislation would be applicable to other regions or to a group of communities elsewhere in Alaska.

### **SEC STUDY METHODOLOGY**

A Solid Waste Entity Matrix (Attachment #1) was developed by Ecology & Environment, Inc. (E&E) to provide basic information regarding a range of different business operations and management structures including For-Profit Corporation, Nonprofit Corporation, Limited Liability Company, Cooperative Corporation, Partnership, Federation and Commission, Authority and Joint Government Agreement. The two most common entities encountered in E&E's research for solid waste management structures and those most appropriate for Southeast Alaska are the Authority model and, by contract, with a Joint Government Agreement.

Under AS 29.35.010 and Article X and Section 13 of the Alaska Constitution, all municipalities have the power to enter into an agreement, including an agreement for cooperative or joint administration, for any function of power, including management of solid waste. Unincorporated areas do not have this ability, and, therefore, some of the very smallest communities in Southeast Alaska would not be able to enter into Joint Government agreements. However these small communities could contract for services provided by an entity created by a Joint Government Agreement.

### **JOINT GOVERNMENT AGREEMENT**

E&E developed a template for a Joint Government Agreement (Attachment # 2) that would establish a regional solid waste authority. This template provides language for the typical sections found in Joint Government Agreements and identifies those areas needed further development by the participating communities. Additionally this template can easily be modified for use in establishing any type of joint government agreement. In the process of developing the template for a Joint Government Agreement, E&E developed an outline for a Joint Government Agreement (Attachment #3) and an outline for an Authority Created Under a Joint Government Agreement (Attachment #4). Both "outline" documents identify the general elements to be incorporated in a Joint Government Agreement and into an authority and provide another set of criteria to use in establishing a Joint Government Agreement.

### **AUTHORITY**

For the purposes of the discussion, the term "authority" has been used generically to mean an "entity with administrative powers."

The second most common entity formed to manage solid waste is an Authority established in statute. Alaska statutes currently provide for Port Authorities (AS 29.35.600) and Regional Resource Development Authorities (AS 30.13). Both of these authorities are for transportation purposes only and cannot be used for solid waste. There are no solid waste authorities or general authorities that can be used for solid waste issues in Alaska statutes.

E&E found that a solid waste management entity (authority) established via a Joint Government Agreement as a viable method for consideration by SE Conference because a statutorily created Authority is more cumbersome to create.

Southeast Conference retained Baxter Bruce & Sullivan to provide legal review and analysis of the matrix and outline documents prepared by E&E. They did not review the template for a Joint Government Agreement as it had not been completed. Their conclusion is that a statutorily established authority is the most attractive option, unless there is some political opposition to enabling legislation that would allow communities to form solid waste authorities just as they form port authorities.

### **STATUTORY CHANGE**

A statutorily authorized Solid Waste Authority in Alaska will require passage of enabling legislation. One of the uniform features of most statutorily-created Solid Waste Authorities reviewed is that, in each participating community, elected officials and voters approve of its participation.

Using the Port Authority Statute as a model, E&E created a draft solid-waste statute. (Southeast Conference has submitted it to Rep. Peggy Wilson who has sent it to the Alaska Department of Law for review.)

E&E developed a template for a Regional Solid Waste Management Authority modifying the Port Authority statute (AS 29.35.600) by eliminating the requirements for development and plan approval at various points in the process. The Regional Resource Development Authority requires, among other elements, a petition be submitted and approved by the administration, a vote of the people and at least 3 board members be appointed by the governor.

Through the office of Rep. Peggy Wilson (District 2 – Wrangell) and the Legislative Affairs Agency, draft legislation has been created and is attached (attachment # 6).

## MEMORANDUM

**To:** Rollo Pool, Southeast Conference  
**From:** Stephanie Pingree, Ecology & Environment, Inc.  
**CC:** Mary Siroky, Cedarbrook Consulting  
**Date:** June 2, 2005  
**Re:** Solid Waste Regional Entity Project

In response to Southeast Conference's March 2005 request for proposals (RFP) and subsequent conversation with you, Ecology and Environment, Inc. (E & E) has developed the attached matrix outlining regional entities that may be used in dealing with regional solid waste issues in Southeast Alaska. The matrix was developed through reviewing websites of regional solid waste organizations throughout the United States, interviewing executive directors or planners of select solid waste entities, and review of Alaska statutes. This information is intended to provide Southeast Conference with basic information regarding operations and management of different business structures. It does not provide all restrictions or requirements for operations. Although the matrix has had limited review by E & E's legal team, a full review by an attorney and/or accountant should be performed before moving forward with any of the entities outlined in this memorandum or attached matrix.

After review of regional solid waste entity websites provided by Southeast Conference, as well as others identified by E & E, multiple business structures were identified as potentially viable to address Southeast Alaska's regional solid waste needs. These organizations include the following: for-profit corporation, non-profit corporation, limited liability company, cooperative corporation, partnership, authority, joint government agreements, federation, and commission. Each of these entities is discussed below. The two most common entities encountered in E & E's research of solid waste entities include solid waste authorities and joint government agreements. Both structures are discussed in more detail below.

### **For-Profit Corporation**

For-profit corporations are established under Alaska Statutes (AS) 10.06 and can be established for any lawful purpose. A For-Profit Corporation is owned by anyone who owns stock. Votes in the corporation are divided by shares, which could lead to unequal voting between shareholders. In addition, there are obvious tax disadvantages associated with for-profit corporations.

### **Nonprofit Corporation**

Nonprofit corporations are established under AS 10.20 and can be established for any lawful purpose including commercial or industrial purposes. A nonprofit corporation is owned by its members. Management of the corporation is through a Board of Directors elected by its members and voting is usually one vote per member unless otherwise stated in the articles or bylaws. There can be one or more classes of members as set out in the bylaws. Nonprofit corporations, in general, are able to receive grant funds. Municipalities would be able to issue bonds to finance the projects of a nonprofit

corporation but the nonprofit corporation is not likely to be able to issue bonds on its own. This illustrates the main disadvantage of the nonprofit corporation; its abilities are limited in comparison to other entities that are created for purely public purposes.

#### **Limited Liability Company**

Limited Liability Companies (LLC) are established under AS 10.50 and can be established for any lawful purpose. It is owned by members who must own interest in the company. Voting and profit distribution is established through the operating agreement. As with for-profit corporations, there is the potential disadvantage for tax purposes. In addition, LLCs are not generally eligible for grant funding although not specifically excluded.

#### **Cooperative Corporation**

A Cooperative Corporation is established under AS 10.15 and can be established for any lawful purpose except as specified in Alaska law. Solid waste entities are not identified as excluded from cooperative organization. A Board of Directors manages a cooperative and membership is based on ownership of shares of membership stock or payment of a membership fee as set out in the articles. Each member has one vote unless the bylaws authorize voting according to actual, estimated, or potential patronage, or a combination of these approaches.

#### **Partnership**

Limited Partnerships are established under AS 32.11 and Limited Liability Partnerships are established under AS 32.06. Limited partnerships have one or more general partners, who control the business and are liable for debts and obligations of the partnership, and one or more limited partners, who are not as involved and who have limited liability such as a shareholder in a corporation. It is assumed that all members of the solid waste regional organization would like to be actively involved and therefore this option was not further evaluated.

Limited Liability Partnerships are similar to a general partnership except normally a partner does not have personal liability for the negligence of another partner. Professionals, such as accountants and lawyers, generally use this business structure. For both a Limited Liability Partnership and a Limited Partnership, tax liability flows directly through to the owners and the entity itself is not taxed. Because of these restrictions, both types of partnerships were not investigated any further.

#### **Federation and Commission**

Federation and Commission organization and operation are not specifically addressed in Alaska statutes. In addition, examples of either type of organization managing solid waste on a regional basis were not found.

Generally speaking, a federation is a league or union of states, groups or people arranged with a strong central authority within a limited region. However, the members of the federation commonly retain various rights and powers to act independently of the federation. One solid waste federation, Federation of New York Solid Waste

Association, is an umbrella organization for multiple solid waste associations in New York State. It serves as a professional organization and does not own, operate, or manage any solid waste facilities.

A commission is a body of persons acting under lawful authority to perform certain public services. It is commonly used by single jurisdictions to transfer the accomplishment of a specific public function to a new organization. For example, the Federal Commission was established by Congress to regulate interstate and international communications by radio, television, wire, satellite and cable within the United States.

#### Authority

Alaska statutes allow for Port Authorities (AS 29.35.600) and Regional Resource Development Authorities (AS 30.13). Both of these authorities can be established for transportation purposes only. Solid waste authorities or general authorities that can be used for solid waste issues are not specifically addressed in Alaska statutes. It is possible that the "Port Authority" statute could be used as the mechanism to establish an entity responsible for shipping solid waste around Southeast Alaska; AS 29.35.600 states that Port Authorities can be created for "transportation related commerce within the territory of the authority". A Port Authority requires parallel ordinances in each participating community as well as approval by the voters of each community.

Solid Waste Authorities are used extensively throughout the country to address both local and regional solid waste needs. E & E researched regional Solid Waste Authorities throughout the country to identify their management and operation. Below are some examples of how regional solid waste authorities are operating.

The Revised Code of Ohio, Title III, Chapter 343, created solid waste management districts. The Solid Waste Authority of Central Ohio was created under this law. They are one of 52 solid waste districts in the state. The Solid Waste Authority runs the landfill, encourages recycling through education programs, and finds new uses for recyclables but does not pick up the trash curbside. The authority is a government body that answers to a 9 member Board of Trustees. The authority has the power to levy taxes and issue bonds, if needed.

The Coastal Regional Solid Waste Management Authority in North Carolina was formed in 1990 through an agreement between three counties. In 1989, the state legislature adopted General Statutes of North Carolina 153A-22 which authorizes and set forth the process for creating Solid Waste Management Authorities. Each participating county adopted a resolution to form the Coastal Regional Solid Waste Management Authority. The authority's purpose is to provide an environmentally sound, cost effective system of solid waste disposal for the citizens of the three member counties. The organization is a public authority, governed by a 7 member Board of Directors representing the member counties. Seats, and votes, on the board were assigned by population and ensuring that no one county had the majority of the board members. The organization operates four facilities including an administrative office, landfill, and two transfer stations. Participating members are responsible for collection of waste. The organization is

funded through an initial bond that financed all capital and tipping fees for operation and repaying bond.

### Joint Government Agreements

Under AS 29.35.010 and Article X, Section 13 of the Alaska Constitution, all municipalities have the power to enter into an agreement, including an agreement for cooperative or joint administration of any function of power with a municipality, the state, or the United States. This power is not allowed for unincorporated areas, therefore not all communities in Southeast Alaska would be allowed to enter into these agreements without changes to the Alaska statutes or utility service areas of neighboring municipalities.

E & E identified many agencies that operate through some form of a joint government agreement. Examples of how a few of these organizations operate and are managed are discussed below.

The Land of Sky Regional Council in North Carolina was set up by the legislature to address multiple regional issues, one of which is solid waste. It is made up of local government agencies (4 counties and 15 municipalities). A Board of Directors comprised of representatives from each of the government agencies in addition to other representatives, such as community and industry representatives manage the regional council. Each board member is a voting member. The regional council provides recycling, household hazardous waste disposal, and educational activities. Each of the member governments operates their own solid waste activities such as transportation, pick-up, and disposal individually. According to a representative at the organization, the regional council was not able to operate as a regional government due to past experience not being able to cooperate on regional issues and failure to ensure equitable issues among members.

The Bluestem Solid Waste Agency is another example of a regional government agency representing six counties and participating cities in Iowa. The agency operates recycling center, pollution prevention center, etc. and provides assistance to participating members; landfills are publicly owned and not a part of the agency. The agency was developed through legislation that allows for government agencies to join together. A Board of Directors made up of elected officials from participating governments manages the organization. The organization is funded primarily from tipping fees.

The Solid Waste Authority of Salinas is a joint power agency set up by California statutes allowing for local governments to join together addressing common issues in their communities. The organization owns and operates a common landfill and the participating cities are in charge of pick-up and transportation to that landfill. The management of the organization is through a board representing member cities and unincorporated areas. Voting rights are distributed based on the population of the member organization. The organization's operation is funded through grants and tipping charges.

### Conclusion

A solid waste authority or agency formed through specific language addressing solid waste authorities in state statutes or formed through a joint government agreement is the most common type of regional solid waste organization found through our research. Joint government agreements are currently permitted under Alaska statutes and could be used to form a regional solid waste authority or agency in Southeast Alaska. The management, ownership, voting power, and ability to issue bonds could be set out in a memorandum of agreement signed by all participating governments. The formation of a solid waste authority or agency in this manner would require no changes to the current statutes. Changes to Alaska statutes would be required if a solid waste authority was to be set up by the legislature as was done in the Ohio and North Carolina examples above.

Att.

**Solid Waste Entity Matrix**  
**Southeast Conference, June 2005**

	<b>For Profit Corporation</b> AS 10.06 <sup>1</sup> , <i>et seq.</i>	<b>Non-Profit Corporation</b> AS 10.20 <sup>2</sup> , <i>et seq.</i>	<b>Limited Liability Company</b> AS 10.03 <sup>3</sup> , <i>et seq.</i>	<b>Cooperative Corporation</b> AS 10.15 <sup>4</sup> , <i>et seq.</i>	<b>Joint Government Agreements</b> <sup>5</sup>	<b>Authority</b> AS 29.35.600 and AS 30.13.010 <sup>6</sup>
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	<b>For Profit Corporation</b> AS 10.06 <sup>1</sup> , <i>et seq.</i>	<b>Non-Profit Corporation</b> AS 10.20 <sup>2</sup> , <i>et seq.</i>	<b>Limited Liability Company</b> AS 10.50 <sup>3</sup> , <i>et seq.</i>	<b>Cooperative Corporation</b> AS 10.15 <sup>4</sup> , <i>et seq.</i>	<b>Joint Government Agreements</b> <sup>5</sup>	<b>Authority</b> AS 29.35.600 and AS 30.13.010 <sup>6</sup>
<b>Purpose</b>	Any lawful purpose.	Any lawful purpose including commercial or industrial.	Any lawful purpose.	Any lawful purpose, except banking or insurance or the furnishing of electric or telephone service.	For cooperative or joint administration of any function or power of the municipality.	Port Authority – Provide for the development of a port or ports for transportation related commerce within the territory of the authority. It is possible that for just the transportation portion of a regional solid waste authority that this statute could be used.  Regional Resource Development Authority – improvement, establishment, and development of facilities in its district for transportation purposes in connection with natural resource enterprises
<b>Ownership</b>	Anyone who owns stock.	Members.	Members who own interests.		Can be specified in agreement.	Members.
<b>Management</b>	Board of Directors elected by shareholders.	Board of Directors elected by members.	Manager, all members, or Board of Directors as stated in the articles of organization.	Board of Directors	Can be specified in agreement.	Board of Directors appointed or elected as specified in ordinance.

	<b>For Profit Corporation</b> AS 10.06 <sup>1</sup> , <i>et seq.</i>	<b>Non-Profit Corporation</b> AS 10.20 <sup>2</sup> , <i>et seq.</i>	<b>Limited Liability Company</b> AS 10.50 <sup>3</sup> , <i>et seq.</i>	<b>Cooperative Corporation</b> AS 10.15 <sup>4</sup> , <i>et seq.</i>	<b>Joint Government Agreements</b> <sup>5</sup>	<b>Authority</b> AS 29.35.600 and AS 30.13.010 <sup>6</sup>
<b>Membership</b>	Shareholders.	May have one or more classes of members.	Membership gained by acquiring interest.	Based on ownership of a share of membership stock or payment of a membership fee as set forth in the articles.	Borough, and 1 <sup>st</sup> or 2 <sup>nd</sup> class city. Unincorporated areas not eligible.	Participating municipalities/organizations.
<b>When Members Can Join</b>	Anytime.	Anytime.	Anytime.	Anytime.	Can be specified in agreement.	Port Authority – One or more municipalities may join upon adoption of parallel ordinances by governing bodies of each affected municipality.
<b>Voting</b>	Equal vote per share within class; Number of shares based on consideration paid money, other property, or services.  Could lead to unequal voting rights between shareholders.	One vote per member, usually, but can be varied in the articles or bylaws.	As per operating agreement.	Each member has one vote except bylaws may authorize voting according to actual, estimated or potential patronage, or a combination of these plans of voting. Shares of stock may not be given voting power except in specific instances.	Can be specified in agreement.	

	<b>For Profit Corporation</b> AS 10.06 <sup>1</sup> , <i>et seq.</i>	<b>Non-Profit Corporation</b> AS 10.20 <sup>2</sup> , <i>et seq.</i>	<b>Limited Liability Company</b> AS 10.50 <sup>3</sup> , <i>et seq.</i>	<b>Cooperative Corporation</b> AS 10.15 <sup>4</sup> , <i>et seq.</i>	<b>Joint Government Agreements</b> <sup>5</sup>	<b>Authority</b> AS 29.35.600 and AS 30.13.010 <sup>6</sup>
<b>Liability of Owners</b>	Limited Liability of Owners.	Limited Liability of Owners.	Limited Liability of Owners.	Member is not liable for the debts in an amount exceeding the sum remaining unpaid on the member's subscription for shares of the cooperative, and the sum remaining unpaid on the member's membership fee if a fee is required.	Not specified.	Port Authority – Liability incurred shall be satisfied exclusively from the assets and revenue of the authority. Creditor does not have a right of action against the municipality participating in the authority. - Board member or employee of authority is not subject to personal liability or accountability because of execution or issuance of bonds.
<b>Profit Distribution</b>	Based on shares, but there can be different types of shares with different rights.	Not allowed to issue stock or pay dividends to members or officers.	As specified in Operating Agreement.	A cooperative organized with capital stock may pay a dividend on capital stock authorized by its articles if its capital is not impaired and would not be impaired by the payment.	Not specified.	

	<b>For Profit Corporation</b> AS 10.06 <sup>1</sup> , <i>et seq.</i>	<b>Non-Profit Corporation</b> AS 10.20 <sup>2</sup> , <i>et seq.</i>	<b>Limited Liability Company</b> AS 10.50 <sup>3</sup> , <i>et seq.</i>	<b>Cooperative Corporation</b> AS 10.15 <sup>4</sup> , <i>et seq.</i>	<b>Joint Government Agreements</b> <sup>5</sup>	<b>Authority</b> AS 29.35.600 and AS 30.13.010 <sup>6</sup>
<b>Ability to Receive Funds</b>	Less practical.	Can receive grants and loans.	Less practical.	Less practical.	Once formed is could have only those powers of taxation as one or more of the participating governing bodies and only as specifically provided in the agreement proposing creation of the joint government agreement. Is likely to be able to issue bonds.	Port Authority - Can accept grants and loans. If authorized by ordinance, can borrow money and issue bonds.
<b>Requires Federal or State Statute/Regulation Change</b>	No.	No.	No.	No.	No.	Yes.
<b>Legally Mandated Minimum Staffing Requirements</b>	No.	No.	No.	Requires in-state agent.	No.	Board appoints chief executive officer.
<b>Exempt from Federal Income Tax</b>	Not generally.	May qualify but more difficult. Usually 501(c)(3) charitable or 501(c)(4) social welfare exemptions.	Not generally.		Not specified.	

	<b>For Profit Corporation</b> AS 10.06 <sup>1</sup> , <i>et seq.</i>	<b>Non-Profit Corporation</b> AS 10.20 <sup>2</sup> , <i>et seq.</i>	<b>Limited Liability Company</b> AS 10.50 <sup>3</sup> , <i>et seq.</i>	<b>Cooperative Corporation</b> AS 10.15 <sup>4</sup> , <i>et seq.</i>	<b>Joint Government Agreements</b> <sup>5</sup>	<b>Authority</b> AS 29.35.600 and AS 30.13.010 <sup>6</sup>
<b>Exempt from State Income Tax</b>	No.	No, unless operating solely for religious, charitable, etc. purposes.	Not generally.		Not specified.	Yes (AS 29.35.670)
<b>Regulated Time and Cost to Form Entity</b>	\$150 filing of articles fee.	\$50 filing of articles fee.	\$150 filing fee.	Biennial fee of \$100.	No regulated cost. Time needed to draft MOA agreeable to all parties.	Not only requires parallel ordinances but also a vote of the citizens of each participating community which takes time and is costly
<b>Formation</b>	Filing of Articles of Incorporation with the State.	Three or more persons may act as incorporators of a non-profit corporation by signing and filing articles of incorporation.	Filing of Articles of Organization with the State.	Three or more persons may act as incorporators of a cooperative by filing articles.	Formed through appropriate action by ordinance, resolution, or otherwise pursuant to the law of the participating governing bodies.	Port Authority – (1) Municipality creates by ordinance as a public corporation of the municipality, (2) Two or more municipalities create by parallel ordinances adopted by each of the governing bodies as a public corporation of the municipalities.

<sup>1</sup> AS 10.06 – Alaska Corporations Code

<sup>2</sup> AS 10.20 – Alaska Nonprofit Corporation Act

<sup>3</sup> AS 10.50 – Alaska Revised Limited Liability Company Act

<sup>4</sup> AS 10.15 – Alaska Cooperative Corporation Act

<sup>5</sup> AS 29.35.010 and Article X, Section 13 of the Alaska Constitution

<sup>6</sup> AS 29.35.600 – Port Authorities; AS 30.13.010 - Regional Resource Development Authorities

# JOINT GOVERNMENT AGREEMENT TEMPLATE

## INSTRUCTIONS

The Joint Government Agreement Template is designed as a template for the development of a solid waste regional authority. The template can easily be modified for use in the establishment of any type of Joint Government Agreement. Below is a list of sections where template users may consider different options.

- Intent of the Parties- determine if all the issues leading up to the formation of a joint government agreement are captured. For joint government agreements dealing with different issues insure that all the reasons for formation are listed here.
- Membership – consider who is to be a member. A joint government authority can provide services to entities that are not members via contracts.
- Board – determine if board membership results in a one to one ratio of membership on the board. Should board members be members of the participating local government or should local government authorities appoint them?
- Terms of Office – is three years an appropriate term of office? Does this match the terms of office of local government officials? One-year terms of office are common.
- Executive Director – determine if there are additions or deletions to the list of responsibilities for the Executive Director. For joint government agreements dealing with different issues this may differ dramatically.
- Meetings – should the board meet more or less often than quarterly? Determine if travel and per diem costs of board members are to be paid by the authority?

- Powers of an Authority- review the list or responsibilities of the regional solid waste authority and determine if this is complete. For joint governmental agreements dealing with different issues this list will need to be modified.
- Duration of the Agreement – is 15 years long enough? Too long? For joint governmental agreements dealing with different issues the duration of the agreement may be much different.
- Disposition of Authority Assets and Liabilities Upon Termination - if an authority does not have assets this section may not be needed.

# JOINT GOVERNMENT AGREEMENT TEMPLATE

*Italics represent information that may need to be added as a final agreement is drafted as appropriate.*

## 1. DEFINITIONS

- a. "Agreement" means this Joint Government Agreement.
- b. "Contract Date" means the date of this Agreement.
- c. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste any enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
- d. "Landfill" means a disposal facility or part of a disposal facility where waste is placed in or on land, which is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility.
- e. "Party" or "Parties" means the municipalities, cities or local government as the context or usage of the term any require.
- f. "Solid Waste Management" means purposefully, systematic, control of generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.
- g. "State" means the State of Alaska and all of its appropriate administrative, contracting and regulatory departments and offices.
- h. "Unit of Local Government" means a Unified Home Rule Municipalities, Home Rule Borough, 2<sup>nd</sup> Class Borough, 1<sup>st</sup> and 2<sup>nd</sup> class city
- i. Define technical and scientific terms used in the agreement.

## 2. INTENT OF THE PARTIES

- a. The Parties are concerned that relying on shipping solid waste outside of the state reduces the communities control over costs.
- b. The Parties believe that by working together to manage solid waste on a regional basis the cost of solid waste disposal for all communities in Southeast Alaska will be reduced.
- c. Additionally the Parties believe that it is in the best interest of all the communities in Southeast Alaska that there are landfill disposal options available, regionally, to the communities of Southeast Alaska.

### 3. PARTIES/AUTHORITIES

- a. This agreement authorizes the establishment of an authority that will plan for, develop and manage a regional solid waste transportation system and potentially plan, purchase the land for, develop, construct and operate a regional solid waste disposal (landfill) facility.
- b. Each of the Parties (LIST PARTIES HERE)
  - i. CITY AND BOROUGH OF JUNEAU ("Juneau"), a unified home rule municipality;
  - ii. CITY AND BOROUGH OF SITKA ("Sitka"), a unified home rule municipality;
  - iii. CITY OF KAKE ("Kake"), a 1<sup>st</sup> class city; and C
  - iv. CITY OF THORNE BAY ("Thorne Bay"), a 2<sup>nd</sup> class city.

*Add additional communities as necessary*

- c. Each of the Parties to this Agreement is a local government entity functioning within the State of Alaska.
- d. The Parties have the authority to enter in this agreement pursuant to section 29.35.010 (13) of the Alaska Statutes and Article X, section 13 of the Alaska Constitution which states that all municipalities have the power to enter into an agreement, including an agreement for cooperative or joint administration of any function or power with a municipality, the state, or the United States.
- e. Each of the Parties to this Agreement has the power, in addition to other powers which are common to each of them, to undertake and perform: solid waste planning and program management, including collection services and siting; the development, construction, and operation of solid waste facilities, including recovery of recyclable and compostable materials; and the transfer and disposal of solid waste generated within each of the Parties jurisdictional boundaries. *Each of the participating parties will need to check their municipal ordinances to insure they have the powers talked about in this paragraph. The state in Sec 29.35.050 grants a municipality the ability to assume these powers by ordinance but there is the possibility that some communities have not taken on these powers.*

### 4. ESTABLISHMENT OF THE AUTHORITY:

- a. There is established an Authority which shall be a public entity separate from the Parties to this agreement.
- b. The name of the Authority shall be the SOUTHEAST ALASKA REGIONAL SOLID WASTE MANAGEMENT AUTHORITY.
- c. The boundaries of the authority shall encompass the territorial jurisdiction of the members of the authority.

### 5. MEMBERSHIP; BOARD; DELEGATES

- a. Each Party signing on to this agreement shall become a member of the regional solid waste management authority. There after any unit of local government may join the authority by

agreeing to the provisions of this agreement and by being admitted by unanimous vote of the existing members.

- b. All the rights and privileges of membership in a regional solid waste management authority shall be exercised on behalf of the member units of local government by a board composed of delegate to the authority who shall be appointed by and shall serve at the pleasure of the governing boards of their respective units of local government.
- c. A vacancy on the board shall be filled by appointment by the governing board of the unit of local government having the original appointment.

#### **6. MEMBERSHIP**

- a. The authority shall be governed by a Board of Directors composed of a representative from each of the participating communities and two representatives from the City and Borough of Juneau who have a population twice as large as any other participating community.
- b. For the transaction of business, a quorum consists of one greater than half the members.

#### **7. TERMS OF OFFICE, ALTERNATES, OFFICERS**

- a. The term of office of each member of the Authority Board shall be three (3) years and shall not exceed the term of the elective office, which the member holds
- b. Each Party may, in addition to their respective regular appointments, appoint one or more elected officials who will serve as alternate appointees and members of the Authority Board and each such alternate appointee and member shall be empowered to cast votes in the absence of a regular appointee and member or in the event of a disqualification to vote because of conflict of interest. Each alternate appointed shall be a member of the governing of body of the Party making such appointment.
- c. At its first meeting and thereafter at the first meeting of every third year, the Board of Directors shall elect a President, Vice-President, and such officers as the Authority Board find appropriate, to the serve the Authority Board for a term of three (3) years unless sooner terminated at the pleasure of the Authority Board. In the event the officer so elected ceases to be a Director, the resulting vacancy shall be filled at the next regular meeting of the Authority Board held following the occurrence of the vacancy. In the absence or inability of the President to act, the Vice-President shall act as President. The President, or in the absence of the President, the Vice-President, shall preside at and conduct all Authority Board meetings.

#### **8. EXECUTIVE DIRECTOR**

- a. The Authority Board shall select an Executive Director to serve at its pleasure. The Executive Director shall be responsible to the Authority Board for the proper and efficient administration of the Authority as may be placed in the Executive Director's charge, or under the Executive Director's jurisdiction or control, pursuant to the provision of this Agreement, or any ordinance, resolution, or order of the Authority Board. In addition to the powers and duties provided, the Executive Director shall have the power to:
  - i. Plan, organize and direct all Authority activities under the policy direction of the Authority Board.

- ii. Enforce strict compliance with the approved annual budget and approve only expenditures authorized in the approved budget.
- iii. Hire and manage such staff as necessary to carry out the provisions of this agreement;
- iv. Make recommendations to and request of the governing board concerning all the matters, which are to be performed, done or carried out by the Authority Board.
- v. Have charge of, handle or access to any property of the Authority, and shall make an annual inventory of all Authority property.
- vi. Make all books and records of the Authority in the Executive Director's hands open to inspection at all reasonable times by members of the Authority Board or their representatives.

## **9. ORGANIZATION OF THE AUTHORITY**

- a. The governing board of a regional solid waste management authority shall hold an initial organizational meeting at such time and place as agreed upon by its members units of local governments and shall elect a chair and any other officers that the charter may specify of the delegates deem advisable.
- b. The authority shall then adopt by laws for the conduct of its business.

## **10. MEETINGS**

- a. The Authority Board shall meet a minimum of 4 times a calendar year, one of which will be face to face. The Authority Board may provide for allowances for members or alternates to attend meetings.

## **11. CHARTER.**

- a. The charter of a regional solid waste management authority shall:
  - i. Set out the method of determining the financial support that will be given to the authority by each member unit of local government.
  - ii. Establish a method for amending the charter, and for dissolving the authority and liquidation of assets and liabilities.
  - iii. Contain rules for the conduct of the authority business and any other matter pertaining to the organization, powers, and functioning of the authority that the member units of local government deem appropriate.

## **12. POWERS OF AN AUTHORITY.** The charter may confer on the regional solid waste management authority any or all of the following powers:

- a. To apply for, accept, receive, and disburse funds and grants made available to it by the state or any agency thereof, the United States of America or any agency thereof, any unit of local government whether or not a member of the authority, any private or civic agency, and any persons, firms or corporations.

- b. To employ personnel.
- c. To contract with consultants.
- d. To contract with the United States of America or any agency or instrumentality thereof, the state or any agency, instrumentality, political subdivision, or municipality thereof, or any private corporation, partnership, association, or individual, providing for the acquisition, construction, improvement, enlargement, operation or maintenance of any solid waste management facility, or providing for any solid waste management services.
- e. To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties.
- f. To establish suitable offices at such place as it may determine either by the authority alone or through appropriate cost-sharing arrangements with any unit of local government or other persons.
- g. To study, plan, design, construct, operate, acquire, lease, and improve systems and facilities, including systems and facilities for waste reduction, materials recovery, recycling, resource recovery, land filling, transportation, household hazardous waste management, disposal and public education regarding solid waste management in order to provide environmentally sound, cost effective management of solid waste including storage, collection, transporting, separation, processing, recycling, and disposal of solid waste in order to protect the public health, safety, and welfare; to enhance the environment for the people of the state, recover resources and energy which have the potential for further use.
- h. To locate solid waste facilities, including ancillary support facilities as the authority may see fit.
- i. To assume any responsibility for disposal and management of solid waste imposed by law on any member unit of local government.
- j. To operate such facilities together with any person, firm, corporation, the State, any entity of the State, or any unit of local government as appropriate and otherwise permitted;
- k. To set and collect fees and charges as is reasonable to offset operating costs, debt service and capital reserve requirements of the authority.
- l. To apply to the appropriate agencies of the State, the United State of America or any state therefore, and to any other appropriate agency for such permits, licenses, certificates or approvals as may be necessary, to construct, maintain, and operate projects in accordance with such permits licenses, or approvals in the same manner as any other person or operating unit of any other person.
- m. To employ engineers, architects, attorneys, real estate agents, appraisers, financial advisories and such other consultants and employees as may be required in the judgment of the authority, to fix and pay their compensation from funds available to the authority.
- n. To acquire property located within the territorial jurisdiction of any member unit of local government by eminent domain pursuant to authorities granted local governments.