

HOUSE BILL NO. 59

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/13/19

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act repealing the credit for municipal payments against the state levy of tax on oil**
2 **and gas exploration, production, and pipeline transportation property; repealing the**
3 **levy of tax by a municipality on oil and gas exploration, production, and pipeline**
4 **transportation property; and providing for an effective date."**

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

6 * **Section 1.** AS 14.17.510(a) is amended to read:

7 (a) To determine the amount of required local contribution under
8 AS 14.17.410(b)(2) and to aid the department and the legislature in planning, the
9 Department of Commerce, Community, and Economic Development, in consultation
10 with the assessor for each district in a city or borough, shall determine the full and true
11 value of the taxable real and personal property in each district in a city or borough. If
12 there is no local assessor or current local assessment for a city or borough school
13 district, then the Department of Commerce, Community, and Economic Development
14 shall make the determination of full and true value guided by AS 29.45.110 and based

on a determination of full and true value made by the state assessor at least every two years using the best information available, including on-site inspections made by the state assessor in each of those districts at least once every four years. For purposes of this subsection, the full and true value of taxable real and personal property in any area detached shall be excluded from the determination of the full and true value of the municipality from which the property was detached for the two years immediately preceding the effective date of the detachment. Also, in making the determination for a municipality that is a school district, or for a city that is within a borough school district, the assessed value of property taxable under AS 43.56 shall be excluded [IF A TAX IS NOT LEVIED UNDER AS 29.45.080 BY THE MUNICIPALITY THAT IS THE SCHOOL DISTRICT]. The determination of full and true value shall be made by October 1 and sent by certified mail, return receipt requested, on or before that date to the president of the school board in each city or borough school district. Duplicate copies shall be sent to the commissioner. The governing body of a city or borough that is a school district may obtain judicial review of the determination. The superior court may modify the determination of the Department of Commerce, Community, and Economic Development only upon a finding of abuse of discretion or upon a finding that there is no substantial evidence to support the determination.

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

(a) The following property is exempt from general taxation **by a municipality:**

(1) municipal property, including property held by a public corporation of a municipality, state property, property of the University of Alaska, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest; however, an interest created by an operating agreement or nonexclusive use agreement between the Alaska Industrial Development and Export Authority and a user of a shipyard or an integrated transportation and port facility, if the shipyard or integrated transportation and port facility is owned by the authority and initially placed in

1 service before January 1, 1999, is taxable only to the extent of, and for the
2 value associated with, those specific improvements used for lodging purposes;

3 (B) notwithstanding any other provision of law, property
4 acquired by an agency, corporation, or other entity of the state through
5 foreclosure or deed in lieu of foreclosure and retained as an investment of a
6 state entity is taxable; this subparagraph does not apply to federal land granted
7 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land
8 granted to the university by the state to replace land that had been granted
9 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the
10 university under AS 14.40.365;

11 (C) an ownership interest of a municipality in real property
12 located outside the municipality acquired after December 31, 1990, is taxable
13 by another municipality; however, a borough may not tax an interest in real
14 property located in the borough and owned by a city in that borough;

15 (2) household furniture and personal effects of members of a
16 household;

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

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

23 (5) money on deposit;

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

26 (7) real property or an interest in real property that is

27 (A) exempt from taxation under 43 U.S.C. 1620(d), as
28 amended or under 43 U.S.C. 1636(d), as amended; or

29 (B) acquired from a municipality in exchange for land that is
30 exempt from taxation under (A) of this paragraph, and is not developed or
31 made subject to a lease;

(8) property of a political subdivision, agency, corporation, or other entity of the United States to the extent required by federal law; except that a private leasehold, contract, or other interest in the property is taxable to the extent of that interest unless the property is located on a military base or installation and the property interest is created under 10 U.S.C. 2871 - 2885 (Military Housing Privatization Initiative), if the leaseholder enters into an agreement to make a payment in lieu of taxes to the political subdivision that has taxing authority;

(9) natural resources in place including coal, ore bodies, mineral deposits, and other proven and unproven deposits of valuable materials laid down by natural processes, unharvested aquatic plants and animals, and timber;

(10) property not exempt under (3) of this subsection that

(A) is owned by a private, nonprofit college or university that is accredited by a regional or national accrediting agency recognized by the Council for Higher Education Accreditation or the United States Department of Education, or both; and

(B) was subject to a private leasehold, contract, or other private interest on January 1, 2010, except that a holder of a private leasehold, contract, or other interest in the property shall be taxed to the extent of that interest;

(11) taxable property taxable under AS 43.56 and property exempt from taxation under AS 43.56.020.

* **Sec. 3.** AS 29.45.030(a), as amended by sec. 3, ch. 10, SLA 2010, is amended to read:

(a) The following property is exempt from general taxation **by a municipality:**

(1) municipal property, including property held by a public corporation of a municipality, state property, property of the University of Alaska, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest;

(B) notwithstanding any other provision of law, property

1 acquired by an agency, corporation, or other entity of the state through
 2 foreclosure or deed in lieu of foreclosure and retained as an investment of a
 3 state entity is taxable; this subparagraph does not apply to federal land granted
 4 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land
 5 granted to the university by the state to replace land that had been granted
 6 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the
 7 university under AS 14.40.365;

8 (C) an ownership interest of a municipality in real property
 9 located outside the municipality acquired after December 31, 1990, is taxable
 10 by another municipality; however, a borough may not tax an interest in real
 11 property located in the borough and owned by a city in that borough;

12 (2) household furniture and personal effects of members of a
 13 household;

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

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

20 (5) money on deposit;

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

23 (7) real property or an interest in real property that is

24 (A) exempt from taxation under 43 U.S.C. 1620(d), as
 25 amended **or under 43 U.S.C. 1636(d), as amended; or**

26 **(B) acquired from a municipality in exchange for land that**
 27 **is exempt from taxation under (A) of this paragraph, and is not developed**
 28 **or made subject to a lease;**

29 (8) property of a political subdivision, agency, corporation, or other
 30 entity of the United States to the extent required by federal law; except that a private
 31 leasehold, contract, or other interest in the property is taxable to the extent of that

1 interest unless the property is located on a military base or installation and the
 2 property interest is created under 10 U.S.C. 2871 - 2885 (Military Housing
 3 Privatization Initiative), if [PROVIDED THAT] the leaseholder enters into an
 4 agreement to make a payment in lieu of taxes to the political subdivision that has
 5 taxing authority;

6 (9) natural resources in place including coal, ore bodies, mineral
 7 deposits, and other proven and unproven deposits of valuable materials laid down by
 8 natural processes, unharvested aquatic plants and animals, and timber;

9 (10) property not exempt under (3) of this subsection that is owned by
 10 a private, nonprofit college or university that is accredited by a regional or national
 11 accrediting agency recognized by the Council for Higher Education Accreditation or
 12 the United States Department of Education, or both, except that a private leasehold,
 13 contract, or other interest in the property is taxable to the extent of the private interest;
 14 and

15 (11) taxable property taxable under AS 43.56 and property exempt
 16 from taxation under AS 43.56.020.

17 * Sec. 4. AS 29.45.030(a), as amended by sec. 2, ch. 64, SLA 2018, is amended to read:

18 (a) The following property is exempt from general taxation by a
 19 municipality:

20 (1) municipal property, including property held by a public corporation
 21 of a municipality, state property, property of the University of Alaska, or land that is
 22 in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-
 23 830, 70 Stat. 709, except that

24 (A) a private leasehold, contract, or other interest in the
 25 property is taxable to the extent of the interest;

26 (B) notwithstanding any other provision of law, property
 27 acquired by an agency, corporation, or other entity of the state through
 28 foreclosure or deed in lieu of foreclosure and retained as an investment of a
 29 state entity is taxable; this subparagraph does not apply to federal land granted
 30 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land
 31 granted to the university by the state to replace land that had been granted

1 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the
2 university under AS 14.40.365;

3 (C) an ownership interest of a municipality in real property
4 located outside the municipality acquired after December 31, 1990, is taxable
5 by another municipality; however, a borough may not tax an interest in real
6 property located in the borough and owned by a city in that borough;

7 (2) household furniture and personal effects of members of a
8 household;

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

11 (4) property of a nonbusiness organization composed entirely of
12 persons with 90 days or more of active service in the armed forces of the United States
13 whose conditions of service and separation were other than dishonorable, or the
14 property of an auxiliary of that organization;

15 (5) money on deposit;

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

18 (7) real property or an interest in real property that is

19 (A) exempt from taxation under 43 U.S.C. 1620(d), as
20 amended or under 43 U.S.C. 1636(d), as amended; or

21 (B) acquired from a municipality in exchange for land that is
22 exempt from taxation under (A) of this paragraph, and is not developed or
23 made subject to a lease;

24 (8) property of a political subdivision, agency, corporation, or other
25 entity of the United States to the extent required by federal law; except that a private
26 leasehold, contract, or other interest in the property is taxable to the extent of that
27 interest unless the property is located on a military base or installation and the
28 property interest is created under 10 U.S.C. 2871 - 2885 (Military Housing
29 Privatization Initiative), if the leaseholder enters into an agreement to make a payment
30 in lieu of taxes to the political subdivision that has taxing authority;

31 (9) natural resources in place including coal, ore bodies, mineral

deposits, and other proven and unproven deposits of valuable materials laid down by natural processes, unharvested aquatic plants and animals, and timber;

(10) property not exempt under (3) of this subsection that

(A) is owned by a private, nonprofit college or university that is accredited by a regional or national accrediting agency recognized by the Council for Higher Education Accreditation or the United States Department of Education, or both; and

(B) was subject to a private leasehold, contract, or other private interest on January 1, 2010, except that a holder of a private leasehold, contract, or other interest in the property shall be taxed to the extent of that interest;

(11) taxable property taxable under AS 43.56 and property exempt from taxation under AS 43.56.020.

* **Sec. 5.** AS 29.45.560 is amended to read:

Sec. 29.45.560. Cities inside boroughs. Home rule and first class cities inside boroughs may levy a property tax. A property tax, if levied, is subject to AS 29.45.010 - 29.45.050, [29.45.090 - 29.45.100,] 29.45.250, 29.45.400 - 29.45.440 and 29.45.460 - 29.45.500. The council shall by June 15 of each year present to the assembly a statement of the city's rate of levy unless a different date is agreed upon by the borough and city.

* **Sec. 6.** AS 31.25.260(a) is amended to read:

(a) The exercise of the powers granted by this chapter is, in all respects, for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions, and the corporation is not required to pay a tax or assessment on any property owned by the corporation under the provisions of this chapter or on the income from it, including state taxes levied or authorized under AS 43.56.010(a) [AND MUNICIPAL TAXES UNDER AS 43.56.010(b)] as provided in AS 43.56.020.

* **Sec. 7.** AS 43.56.020(a) is amended to read:

(a) The following are exempt from local taxes levied or authorized under **AS 29.45** [AS 43.56.010(b)]:

(1) property rights attached to or inherent in the right to explore for or produce oil or gas;

(2) oil or gas leases or properties, whether producing or not;

(3) oil or gas in place;

(4) oil or gas produced or extracted in the state;

(5) the value of intangible drilling expenses and exploration expenses;

(6) an interest in property described in AS 43.55.017(a).

* **Sec. 8.** AS 43.56.020(d) is amended to read:

(d) Taxable property of a natural gas pipeline project owned or financed by the Alaska Gasline Development Corporation or a joint venture, partnership, or other entity that includes the Alaska Gasline Development Corporation is exempt from state taxes levied or authorized under AS 43.56.010(a) [AND MUNICIPAL TAXES LEVIED OR AUTHORIZED UNDER AS 43.56.010(b)] before the commencement of commercial operations of that natural gas pipeline project. In this subsection, “commencement of commercial operations” means the first flow of natural gas in the project that generates revenue to the owners of the natural gas pipeline project.

* **Sec. 9.** AS 43.56.030 is amended to read:

Sec. 43.56.030. In place of other taxes. Except for those taxes imposed under AS 43.55, the taxes levied or authorized under AS 43.56.010(a) [AS 43.56.010(b)] are in place of

(1) all [OTHER] ad valorem taxes or other taxes imposed by a municipality on property subject to tax under this chapter or exempted from taxation by AS 43.56.020; and

(2) all [OTHER] taxes imposed by a municipality on or with respect to the property subject to tax under this chapter or exempted from taxation by AS 43.56.020, including, but not limited to,

(A) taxes on the retail sale or use of the property except for the retail sales tax on the first \$1,000 of each sale;

(B) taxes on the sale or use of gas or unrefined oil;

(C) taxes on the sale or use of services used in or associated with the property or in its maintenance or operation except for the sales tax on

1 the first \$1,000 of each sale;

2 (D) taxes on or measured by gross or net income from the
3 property, including income from the exploration for, production of, or pipeline
4 transportation of gas or unrefined oil or property; and

5 (E) any license, excise, fee, charge or other tax on or pertaining
6 to the property or services.

7 * **Sec. 10.** AS 43.56.110 is amended to read:

8 **Sec. 43.56.110. Appeal to the department.** (a) An owner of taxable property
9 [OR A MUNICIPALITY] receiving an assessment notice may object to the
10 assessment by advising the department in writing of the objections to the assessment
11 within 20 days of the effective date of the notice.

12 (b) The department shall provide by regulation for notices of appeals to
13 interested persons [AND MUNICIPALITIES].

14 (c) Following an objection the department may adjust the assessment and the
15 assessment roll. An adjustment based on an objection from an owner of taxable
16 property [OR A MUNICIPALITY] shall be made within 30 days of the effective date
17 of the notice of assessment.

18 * **Sec. 11.** AS 43.56.120 is amended to read:

19 **Sec. 43.56.120. Appeal to the board.** (a) After a ruling by the department on
20 an appeal made under AS 43.56.110, the owner [OR A MUNICIPALITY] may further
21 appeal to the board. The appeal must be filed in writing within 50 days of the effective
22 date of the notice of assessment.

23 (b) The board shall provide by regulation for notices of appeals to interested
24 persons [AND MUNICIPALITIES].

25 * **Sec. 12.** AS 43.56.130(c) is amended to read:

26 (c) The board shall provide by regulation for notices of hearings to interested
27 persons [AND MUNICIPALITIES].

28 * **Sec. 13.** AS 43.56.130(i) is amended to read:

29 (i) An owner [OR MUNICIPALITY] may appeal **the board's action** to the
30 superior court **as provided by the rules of court applicable to appeals from final**
31 **decisions of administrative agencies** [FOR, AND IS ENTITLED TO, TRIAL DE

1 NOVO OF THE BOARD'S ACTION].

2 * **Sec. 14.** AS 29.45.080, 29.45.090, 29.45.100; AS 43.56.010(b), 43.56.010(c),
3 43.56.010(d), 43.56.060(a), 43.56.060(g), and 43.56.100(b) are repealed.

4 * **Sec. 15.** The uncoded law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITION: LOCAL CONTRIBUTION FOR PUBLIC SCHOOL FUNDING
7 FOR FISCAL YEARS 2020 AND 2021. The assessed value of property taxable under
8 AS 43.56 shall be removed from the full and true value of taxable real and personal property
9 in a district as of January 1 of the second preceding fiscal year for the required local
10 contribution and additional local contribution described in AS 14.17.410(b)(2) and (c)(1) for
11 the purposes of public school funding under AS 14.17.410 for fiscal years 2020 and 2021.

12 * **Sec. 16.** The uncoded law of the State of Alaska is amended by adding a new section to
13 read:

14 TRANSITION: LEVY, REFUND, LIMITATIONS, AND APPEALS FOR ANNUAL
15 TAX FOR 2019. (a) Notwithstanding the amendment to AS 29.45.030(a) by sec. 2 of this
16 Act, the amendment to AS 31.25.260(a) by sec. 6 of this Act, the amendment to
17 AS 43.56.020(a) by sec. 7 of this Act, the amendment to AS 43.56.020(d) by sec. 8 of this
18 Act, the amendment to AS 43.56.030 by sec. 9 of this Act, and the repeals of AS 29.45.080,
19 AS 43.56.010(b), 43.56.060(a), 43.56.060(g), and 43.56.100(b) by sec. 14 of this Act,
20 effective July 1, 2019, by sec. 22 of this Act, a municipality may levy, collect, and enforce a
21 tax under AS 29.45.080 and AS 43.56.010(b) for the annual tax in 2019 as those statutes and
22 other applicable statutes amended or repealed by this Act read the day before the effective
23 date of secs. 2, 6, 7 - 9, and 14 of this Act.

24 (b) Notwithstanding the repeal of AS 43.56.010(d) by sec. 14 of this Act, effective
25 July 1, 2019, by sec. 22 of this Act, for the annual tax in 2019, a taxpayer may apply to the
26 Department of Revenue for a refund under AS 43.56.010(d) as that statute read the day before
27 the repeal of AS 43.56.010(d) by sec. 14 of this Act for a tax not paid to a municipality until
28 after June 30, 2019.

29 (c) Notwithstanding the amendment to AS 29.45.560 by sec. 5 of this Act and the
30 repeals of AS 29.45.080, 29.45.090, 29.45.100, and AS 43.56.010(c) by sec. 14 of this Act,
31 effective July 1, 2019, by sec. 22 of this Act, for the annual tax in 2019, the limitations in

AS 43.56.010(c) and AS 29.45.080 continue to apply as those statutes and other applicable statutes amended or repealed by this Act read the day before the effective date of secs. 5 and 14 of this Act.

(d) Notwithstanding the amendment to AS 43.56.110 by sec. 10 of this Act, the amendment to AS 43.56.120 by sec. 11 of this Act, the amendment to AS 43.56.130(c) by sec. 12 of this Act, and the amendment to AS 43.56.130(i) by sec. 13 of this Act, effective July 1, 2019, by sec. 22 of this Act, for the annual tax in 2019, a municipality may appeal an assessment for 2019 as provided under AS 43.56.110, 43.56.120, 43.56.130(c), and 43.56.130(i) as those statutes read the day before the effective date of secs. 10 - 13 of this Act.

(e) This Act applies to oil and gas exploration, production, and pipeline transportation property assessed after December 31, 2019.

* **Sec. 17.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Revenue may adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

* **Sec. 18.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any contrary provision of AS 44.62.240, if the Department of Revenue expressly designates in a regulation that the regulation applies retroactively, a regulation adopted by the Department of Revenue to implement, interpret, make specific, or otherwise carry out this Act may apply retroactively to the effective date of the law implemented by the regulation.

* **Sec. 19.** Section 17 of this Act takes effect immediately under AS 01.10.070(c).

* **Sec. 20.** Section 4 of this Act takes effect on the effective date of sec. 2, ch. 64, SLA 2018.

* **Sec. 21.** Section 3 of this Act takes effect on the effective date of sec. 3, ch. 10, SLA 2010.

* **Sec. 22.** Except as provided in secs. 19 - 21 of this Act, this Act takes effect July 1, 2019.