

Comments on the SB100 Draft Version Provided to the MAGP Board for the May 22, 2015 Meeting

“Comments on the latest version of SB 100:

1. Overall there have been significant improvements made.
2. Having the PILT addressed for construction phase is good.
 - a. The issue of “impacts” during construction may need to be better defined or some parameters established.
3. There are a lot of questions on how best to implement the legislation and the MAGPRB role. Can this issue be added to the agenda for this week’s call or to the next meeting agenda. We need to better define critical tasks that the board has not addressed.”

Bob Bartholomew, City & Borough of Juneau

“I am responding to your request for comments regarding the updated draft SB100 language on behalf of the North Slope Borough. The Borough is concerned that the new language is not at all clear that there has to be an agreement between the taxpayers and the municipalities. Rather, the language in 43.56.060 states that the commissioner “may” not “must” negotiate with natural gas transportation project owners, municipalities and other property taxing entities on an alternative payment structure. Additionally, the language does not indicate a mechanism for negotiation. The Borough believes that any negotiation should be undertaken by a fairly structured board with adequate representation from impacted municipalities. Even more troubling is that an agreement negotiated by the commissioner is “not effective unless the legislature authorizes the governor to execute the agreement.” The Borough does not support this requirement. Finally, the Borough believes any payment-in-lieu of tax methodology should be codified in statute.”

Mayor’s Office, North Slope Borough

“The MAGP Board function of providing recommendations for changes to tax statute, as articulated in SB 138, should be guided by the Heads Of Agreement. Under the Project Enabling Terms of the HOA (Section 9.3.1), clear direction is provided toward a Payment In Lieu of Taxes system based upon gas throughput.

In reviewing the new version of SB 100 it appears that the newly added Section 2 (h) provides a mechanism for such a payment system. I applaud Commissioner Hoffbeck for responding to the concerns voiced regarding the first SB 100 version, and its’ lack of any PILT language. Concerns remain regarding the high hurdle placed upon the implementation of this PILT system. As this is the primary system articulated in the HOA, it does not seem reasonable to place additional burdens on its usage. Section 2 (h)(3) requires such a payment, which was negotiated by the commissioner and approved by the municipality and the project sponsors, to be approved by both the legislature and the governor. As this legislative session demonstrated, even the most basic functions can be fraught with pitfalls. So, let’s please consider those additional high hurdles.

Overall, I am pleased with the new language and am disappointed I will miss the teleconference, for I would surely be better informed. If minutes could be taken, I would appreciate it.”

Clay Walker, Denali Borough



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MIKE NAVARRE
BOROUGH MAYOR

May 18, 2015

Randy Hoffbeck, Commissioner
Alaska Department of Revenue
PO Box 110400
Juneau, AK 99811

Dear Commissioner Hoffbeck,

Thank you for the opportunity to review the redraft of Senate Bill 100, governing the assessment of property taxes on a North Slope natural gas project. This latest version provides a solid framework toward achieving the stable, predictable fiscal structure required for tens of billions of dollars of private investment in the Alaska LNG project. I believe the revisions to SB100 bring it closer to a workable solution for property taxes on the project, both during the years of construction and decades of operations.

Specifically, I support the provisions in AS 43.56.060(h) that direct the Revenue commissioner to negotiate agreements between the project owners, state and municipalities for payments in lieu of taxes on the assessed valuations, further directing that the agreements shall not take effect unless approved by the legislature. This maintains the traditional balance of negotiation by the executive branch and consent by the legislative branch.

A second improvement in this latest draft is the provision in AS 43.56.210(5)(B) that defines taxable property for the purposes of the negotiated agreements as property used “primarily” for the project, rather than the original version of the bill that required “exclusive” use for inclusion in the negotiated payments in lieu of taxes. It will take some additional work, likely in regulation, to further define “primarily,” but I believe this will allow a reasonable accommodation of project components that might have a secondary or ancillary use in addition to their primary purpose in the gas project.

Regulations are also probably the right place to deal with defining — adding clarity — to the term “actual or estimated impacts of construction activity” from AS 43.56.060(h)(1). Municipalities, and the state, will need more direction in determining what impacts (expenses) caused by project construction activity will qualify for payments.

Although previous discussions between the state, municipalities and project sponsors envisioned an impact fund to collect, retain and distribute payments in lieu of taxes to the state and municipalities during construction, the revised draft of SB100 makes no mention of any such fund or mechanism for municipal access to an impact account. I would like to hear more about how you propose the impact aid would work during construction, including funding into the

account and evaluating and disbursing claims to the municipalities on the account. As the legislation vests all of the control over the impact payments in lieu of taxes with the executive and legislative branches, I am sure you understand our concern for municipal input into how the impact aid is managed.

I also see the possibility in the legislation that each of the three major components of the project—the gas treatment plant, the pipeline, and the liquefaction plant and marine terminal — could potentially have its own separate calculation and separate negotiated agreement for payments in lieu of taxes during construction and operation. It makes sense to handle it that way, since each component is essentially a project unto itself, processing or moving the gas stream under different conditions and economics, perhaps with different ownership structures, using different real property.

My last comment deals with the overall government take from a North Slope natural gas project. Certainly, in the globally competitive environment for liquefied natural gas project investments, an Alaska project — any project, for that matter — needs a predictable, durable tax and royalty structure. And while the Alaska project sponsors will look at the total government take from royalty, production tax, corporate income tax and property tax, the affected municipalities along the project route are going to focus on property tax. It would help the municipalities to see a model showing the total government take in Alaska so that we can better understand how property taxes, or negotiated payments in lieu of taxes, fit into the overall picture. I expect that a dollar in one category is going to mean a dollar that may not be available in another column of the government take. If we can see how the payments in lieu of property taxes fit into the overall total, we can better understand the municipal share, and how it might affect the rest of the government take that goes into the state general fund for all Alaskans to share.

A model that would allow some movement or options, showing how one column affects the other and the project's total government take would be helpful for the municipal advisory group's consideration of the property tax issue.

Sincerely,



Mike Navarre

Mayor

Kenai Peninsula Borough