

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY ESTABLISHING A TAX ON CERTAIN NATURAL RESOURCES WHENEVER THE NATURAL RESOURCE IS SEVERED AND REMOVED FROM PROPERTY WITHIN THE BOUNDARIES OF ROAD SERVICE AREAS WITHIN THE MATANUSKA-SUSITNA BOROUGH AND PROVIDING FOR PENALTIES FOR FAILURE TO PAY TAXES DUE BY ADOPTING MSB 3.55, ROAD SERVICE AREA NATURAL RESOURCE SEVERANCE TAX.




AGENDA OF: October 18, 2016

ASSEMBLY ACTION:

OR 17-025 Defeated w/o objection @
5/16/17 RM (Public hearing held)

MANAGER RECOMMENDATION: Adoption of legislation.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER:

Route To:	Department/Individual	Initials	Remarks
	Originator	NS	for D. Mayfield
	Finance Director		
	Borough Attorney	NS	
	Borough Clerk		10/10/16 

ATTACHMENT (S): Fiscal Note: YES ☒ NO ☐
Ordinance Serial No. 17-025 (16 pp)

SUMMARY STATEMENT: The attached legislation is brought forward at the request of Assemblymember Mayfield to adopt a severance tax on certain natural resources severed in the Matanuska-Susitna Borough. Additionally, the proposed ordinance provides for penalties for failure to pay those taxes.

The Borough Assembly acknowledges that taxes must have a public purpose, but also notes that the programs they fund need not specially benefit every taxpayer who is required to contribute his share. For example, childless couples pay taxes that fund schools, and incorporeal corporations pay taxes that fund hospitals. A tax bill is not a ledger to be balanced by the receipt of special benefits; it is a means of distributing the burden of the cost of government. With these principles in mind,

the exact benefit to each severer does not need to be shown. However, the Assembly has determined that natural resource severances do add an extra burden sought to be offset here.

A severance tax is a tax levied on the production or severance of natural resources taken from land or water bottoms. This tax is to be levied within Road Service Areas ("RSA") only and will be a source of supplementary revenue to those RSA funds. If a severance occurs outside an RSA, it is not subject to the tax. The severance of natural resources and resulting transport for use both inside and outside the Borough puts an extra strain on the infrastructure and roads of the Matanuska-Susitna Borough. Transport often involves heavy, frequent loads, and the larger operations create extra traffic. While some transport occurs via rail or ship, the RSAs nonetheless maintain roads to the site by which equipment and personnel are brought for the purpose of engaging in severance activities.

With this rationale in mind, the ordinance here only applies when a natural resource is both "severed" and "removed." "Sever" means to separate from its original or existing state, no matter how slight. "Remove" means to physically transport across any property line or across the limits of the Borough. The operation of this ordinance is intended to be such that the severance tax is a one-time taxable event. Once a material has been taxed under this ordinance, later movement across several lots or crossing several jurisdictional lines does not make the taxable event re-occur. To accomplish this, "remove" is further defined as the "first time" of physical transport across a boundary line.

Requiring "removal" across a property line will ensure that personal use material, materials on site which are used for that site's development, and materials severed and stockpiled for use at a later date are not subject to taxation. Only when (and if) material is transported off its original site will the severance tax take effect. This ordinance does not require a sale or transfer of ownership to trigger taxation.

In addition, the situs of the tax is the location of the resource in its natural state. This is specified in the ordinance so that there is no confusion as to where tax revenue is directed. For example, if a site is within one RSA but abuts another RSA which contains its access road, confusion could occur. The ordinance specifies that the situs for purposes of the taxable event is the location of the resource before it is severed.

The natural resources to be taxed under this ordinance include earth materials such as sand, gravel, lime, soil, peat, moss, sphagnum, stone, pumice, cinders, and clay. Other natural deposits such as coal, ore and precious metals as well as all forms of timber and forest products such as wood and turpentine are not taxed under this ordinance at this time. The Assembly believes that industries other than earth materials are not well developed in the Borough at this time, yet have potential for development. Omission from taxation at this time is a form of economic development incentive. Should the timber, coal or precious metal industries develop and mature in the Borough, the Assembly may enact a severance tax as to those activities when it deems it proper to do so.

In contrast, the material extraction industry is well developed. There are over 10 Interim Materials Districts and approximately 25 existing Conditional Use and Administrative Permits for earth materials extraction. There are also approximately 50 Pre-Existing legal Nonconforming status (or "grandfather rights") as to material extraction sites including some of the Borough's largest sites.

A very conservative estimate is that at least 3 million yards of material are currently severed from lands within the borough on an annual basis. Actual quantities could be in the 5-6 million yard range, or perhaps more.

This ordinance will generate revenues for the Road Service Areas responsible for operation and maintenance of roads. Many RSAs are in a constant budget struggle and this source of additional revenue will relieve some of the real property tax burden for property owners in the various RSAs.

It is anticipated that the Finance Department will need to hire one (1) full time employee to administer, collect and account for severance taxes into the various Road Service Areas. It is anticipated that the taxes generated will more than offset this added administrative expense.

Recommendation of Administration: Adoption of the legislation.

MATANUSKA-SUSITNA BOROUGH FISCAL NOTE

Agenda Date: October 18, 2016

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ORIGINATOR: NS for D. Mayfield

FISCAL ACTION (TO BE COMPLETED BY FINANCE)	FISCAL IMPACT <u>YES</u> NO
AMOUNT REQUESTED XXX <i>Revenue amounts for severance cannot be determined at this time.</i>	FUNDING SOURCE
FROM ACCOUNT #	PROJECT #
TO ACCOUNT: 2XX.XXX.XXX.3XX.XXX	PROJECT #
VERIFIED BY: <i>Chapman Pickett</i>	CERTIFIED BY:
DATE: <i>10/7/16</i>	DATE:

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021
Personnel Services		<i>25</i>	<i>99</i>	XXX		<i>1</i>
Travel						
Contractual						
Supplies						
Equipment						
Land/Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING		<i>25</i>	<i>99</i>			

CAPITAL						
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REVENUE		XXX				
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FUNDING:

(Thousands of Dollars)

General Fund						
State/Federal Funds						
Other <i>RSAs</i>		XXX				
TOTAL						

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

XXX: Total Tax Revenues cannot be determined at this time since it is collected by RSAs. Additionally, one FTE for an severance tax position has been added to administer the taxation & collection.

DEPARTMENT:

DATE:

APPROVED BY:

DATE:

*Im17-041
BR17-025*

Assemblymember Mayfield Amendment #1

This amendment will remove the additional revenue generated by this ordinance from the Borough's "tax cap."

Along with this amendment, I move to amend the Informational Memorandum by adding this printed copy of the amendment to the IM so the legislative history is clear.

I move to amend Ordinance Serial No. 16-128 as follows:

On page 14 of the ordinance (page 69 of the packet) to insert a new section MSB 3.55.105 Exemption to read:

MSB 3.55.105 Exemption. Taxes levied and collected by this ordinance shall be exempt from the Tax Levy Limitation under MSB 3.04.075.

*Note: the reviser of ordinances will also insert this new section into the table of contents for the ordinance found on pages 1 and 2 of the ordinance (pages 55 and 56 of the packet).

Assemblymember Mayfield Amendment #2

This amendment will delay the effective date of the ordinance to make sure the finance department and the industry has time to prepare for its implementation.

Along with this amendment, I move to amend the Informational Memorandum by adding this printed copy of the amendment to the IM so the legislative history is clear.

I move to amend Ordinance Serial No. 16-128 as follows:

On page 16 of the ordinance (page 70 of the packet) to amend Section 3 Effective Date, by striking [April 1, 2017] and inserting May 1, 2017 in its place.

Assemblymember Sykes

These amendments will change the proposed Natural Resource Severance Tax from a Road Service Tax to an Areawide tax. There are several things to be amended, but it is moved as one motion.

Along with these amendments, I move to amend the Informational Memorandum by adding this printed copy of the amendments to the IM so the legislative history is clear.

I move to amend Ordinance Serial No. 16-128 as follows:

1) To strike the words "Road Service Area" in the title of the ordinance and title of MSB Chapter 3.55.

2) On page 2 and 3 of the ordinance (pages 56-57 of the packet) to strike all of 3.55.005 and replace it with:

3.55.005 Applicability

This ordinance applies to all areas within the Matanuska-Susitna Borough.

3) On page 3 and 4 of the ordinance (pages 57-58 of the packet) to amend MSB 3.55.010(A) as follows:

(A) There is hereby levied an excise tax denominated as a severance tax upon the severer of certain natural resources which are severed and removed from property within [THE SERVICE AREAS TO WHICH THIS ORDINANCE APPLIES] the Matanuska-Susitna Borough.

4) On page 14 and 15 of the ordinance (pages 68-69 of the packet) to amend MSB 3.55.100 as follows

3.55.100 Collection and Use of Revenue

A top priority for use of the revenue derived from this tax is life, health, and safety matters. [RELATED TO TRANSPORTATION PROJECTS. REVENUES COLLECTED UNDER THIS CHAPTER MAY BE ONLY BE USED WITHIN THE SERVICE AREA FROM WHICH THEY ARE COLLECTED. REVENUES COLLECTED UNDER THIS CHAPTER SHALL BE ONLY BE USED TO PAY FOR SERVICE AREA FUNCTIONS.] At the discretion of the Borough Assembly, the Assembly may appropriate revenues collected under this chapter for any lawful purpose.