

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING MSB 3.04.075 AND ENACTING MSB 3.04.076 TO ESTABLISH A NEW TAX CAP.

AGENDA OF: March 20, 2018

ASSEMBLY ACTION:

OR18-015 Public Hearing held
Amended, Adopted w/ Assembly members
McKee & Kowalke opposed @ 4/17/18 RM

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER:

| Route To: | Department/Individual | Initials | Remarks |
|-----------|-----------------------|----------|-----------------------|
| | Originator | NS | at Assembly direction |
| | Finance Director | Q | |
| | Borough Attorney | NS | |
| | Borough Clerk | JRM | 3/12/18 |

ATTACHMENT(S): Fiscal Note: YES ☒ NO ☐
Ordinance Serial No. 18-015 (2 pp)
Section to be Repealed 3.04.075 (1pp)

SUMMARY STATEMENT: Possible Amendment (1pp)

In the fall of 2017, at the specific direction of the Borough Assembly, the Borough Manager convened a "Task Force" to review the issue of a sales tax within the Matanuska-Susitna Borough. A report by the Sales Tax Task Force was provided to the Borough Assembly in December 2017.

In accordance with "Phase One" of the recommendations, the Borough Mayor requested that the Borough Manager, Finance Director and Attorney meet with Assemblymembers Kowalke and Leonard for the purposes of reviewing and recommending changes to the Borough's "tax cap" and school funding ordinances.

MSB 3.04.075 is the current ordinance governing tax levy limitation - a/k/a "revenue cap" or "tax cap." As noted by the Sales Tax Task Force report, there are three concerns with the existing revenue cap. First, the revenue cap is antiquated and not effective because of the changes in State funding availability.

Second, annual funding from the State is not accounted for in the revenue cap. Third, the revenue cap does not allow non-property tax growth to meet operational needs. The proposed ordinance here addresses these issues to the extent they can be addressed in light of the fact that State funding to the general Borough government is decreasing.

The proposal here sets a maximum mill levy cap on both the areawide and non-areawide real property levy. This levy may not be exceeded unless voters approve bond issues, or the State of Alaska fails to provide matching funds for bonds. Moreover, if the Borough Assembly levies taxes under the allowable limit this new ordinance would not prohibit the Assembly from adding tax for the bonds at a later time. Any time voters are asked to approve bonds, voters are informed of the potential tax consequences.

In the past, when voters approved over \$200 million in school bonds, the amounts needed to pay these bonds were not added to the overall mill rate. Instead, these amounts were rolled into the existing mill rate and amounts which would have been available for general government operations and schools were instead used to pay bonds. Under the current tax cap, the ability to add the levy to pay for bonds is lost if the mill levy is not added right away. The proposed ordinance would remedy this situation by allowing a levy to pay future bonds to be added at any time. Past bonded indebtedness cannot be added on top of the proposed cap.

Also, 2 years ago, the State of Alaska failed to provide over \$5 million in matching funds for its promised portion of school building debt. The proposed ordinance would allow the Assembly to raise the mill rate if such an event happens again. The Matanuska-Susitna Borough must pay its bonds back. In fact, AS 29.45.100 specifically provides that "Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation. . ."

Aside from voter approved mill rates for bonds, the proposed ordinance sets maximum rates which cannot be exceeded. The overall dollar amounts available for appropriation will rise or fall as corresponding property values rise or fall. Moreover, any rate of growth in future years will be dependent upon the overall growth of the Matanuska-Susitna Borough.

Because of the varying nature and substantial local control over service area mill rates, service area mill rates are not included in this ordinance. The process of budgetary advice by the local board of supervisors reflects the local and varied nature of service area finances. Service areas have varying degrees of mill rates because of differences in service level demands, tax base, local character, and history of the individual service areas. Local

board members are interested and engaged community members who gather public input and recommend tax rates which reflect those local concerns. When setting mill rates in the various service areas, the Assembly defers to the Boards of Supervisors' recommendations.

Just as there is not a "one size fits all" mill rate levy in service areas, there is also no "one size fits all" as to a potential tax cap for the service areas. However, it is noted that any deviation from a Board-recommended mill rate for a service area would garner a large public discussion, and ample justification for deviating from the recommendations of the board would be part of that discussion. For these reasons, there is no attempt at instituting a tax cap for service areas at this time.

Over the next few fiscal years, the Assembly can evaluate whether a tax cap for service areas is appropriate. In the meantime, should a Board of Supervisors feel a tax cap is warranted for their service area, the Board can pass a resolution and work with administration, finance, and legal staff to craft something which works for that particular service area and request the Assembly implement it.

The proposed ordinance will expire on July 1, 2023. A fixed tax cap over the next 5 years will be beneficial to our business owners, property owners, and our economy. A set cap of 10.5 mills removes uncertainty for investors, businesses, and homeowners in their tax planning. Also, a set tax cap may promote investment into our community because the maximum property tax is well known.

RECOMMENDATION OF ADMINISTRATION: Adoption of legislation.

MATANUSKA-SUSITNA BOROUGH
FISCAL NOTE

Agenda Date: March 20, 2018

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING MSB 3.04.075 AND ENACTING MSB 3.04.076 TO ESTABLISH A NEW TAX CAP.

ORIGINATOR: Nicholas Spiropoulos

| | |
|--|---|
| FISCAL ACTION (TO BE COMPLETED BY FINANCE) | FISCAL IMPACT <input checked="" type="radio"/> YES <input type="radio"/> NO |
| AMOUNT REQUESTED * | FUNDING SOURCE <i>Tax levy on real property</i> |
| FROM ACCOUNT # | PROJECT # |
| TO ACCOUNT: <i>100/200.000.000.3XX.XXX</i> | PROJECT # |
| VERIFIED BY: <i>Barbara Squemph</i> | CERTIFIED BY: |
| DATE: <i>3/7/18</i> | DATE: |

EXPENDITURES/REVENUES:

(Thousands of Dollars)

| OPERATING | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 | FY2023 |
|--------------------|--------|--------|--------|--------|--------|--------|
| Personnel Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land/Structures | | | | | | |
| Grants, Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | | | | | | |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|---------|--|---|--|--|--|--|
| REVENUE | | * | | | | |
|---------|--|---|--|--|--|--|

FUNDING:

(Thousands of Dollars)

| | | | | | | |
|---------------------|--|---|--|--|--|--|
| General Fund | | * | | | | |
| State/Federal Funds | | | | | | |
| Other <i>NAW</i> | | * | | | | |
| TOTAL | | * | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-Time | | | | | | |
| Part-Time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary) * Amount is dependent on tax base for each year

PREPARED BY: _____ PHONE: _____
 DEPARTMENT: *Chugach* DATE: _____
 APPROVED BY: _____ DATE: *3/7/18*

I am concerned about implementation of new taxes outside of this new tax cap. I am also concerned about raising the rate of taxation for existing taxes outside this tax cap. I am proposing an amendment that, unless approved by the voters, any new tax or the increase in the rate of taxation of an existing tax will result in a lower cap. In essence, strengthening the cap and the control over future revenue growth by the Borough. Since the ordinance currently only addresses property taxes, this amendment would apply to potential new taxes such as things such as gravel tax, timber tax, refined fuel tax, plastic bag tax, etc. It would also apply if the rates of any other existing taxes are changed without voter approval such as tobacco tax, motor vehicle tax, marijuana tax, and bed tax.

For example, if the value of an areawide mill is \$9.2 million and tobacco tax rate were raised by the Assembly to gain an additional \$2.3 million, then the areawide tax cap would need to be lowered by 0.25 mills.

Therefore, I move to amend Ordinance Serial No. 18-015 to insert a new section to insert a new section (E) to read as follows:

(E) Unless approved by voters, any new areawide or non-areawide tax or increase in the rate of an existing tax not addressed in sections (A) through (D) above shall result in a proportional reduction in the maximum mill rate based upon the then existing value of a mill.

I also move to amend Informational Memorandum No. 18-031 to attach this written amendment so that the intent of the amendment is part of the record.

Possible amendment

*OR 18-015
IM 18-031*

Assemblymember Leonard

At the last meeting, former Assemblymember Jim Colver addressed concern over the service area mill rates. While the Informational Memorandum notes all of the public process that goes into setting those mill rates, perhaps more is needed.

I am proposing an amendment that the increase in a service area mill rate cannot exceed 2 percent per year. Exceptions may be made by the Assembly in cases of need or where a service area board of supervisors recommends the increase. Even where a service area board requests the increase, however, the final decision rests with the assembly. The powers of taxation cannot be delegated or contracted away.

Therefore, I move to amend Ordinance Serial No. 18-015 to insert a new section to insert a new section (F) to read as follows:

(F) Service area mill rates may not be increased by more than 2 percent over the prior year's rate. Exceptions may be made by the assembly in cases of need or where a ~~board of~~ board of supervisors for the service area requests a higher rate.

I also move to amend Informational Memorandum No. 18-031 to attach this written amendment so that the intent of the amendment is part of the record.

*passed
G.M. opposed*

SECTION TO BE REPEALED:

3.04.075 TAX LEVY LIMITATION. SHARE

(A) Except as provided in this section, the total amount of borough tax that can be levied during a fiscal year shall not exceed the total amount approved by the assembly for the preceding year by more than a percentage defined by adding the percentage increase in the Federal Urban Consumer Price Index for Anchorage from the preceding fiscal year plus the average percentage growth or loss in the Matanuska-Susitna Borough population over the preceding five fiscal years as determined by the Alaska State Department of Community and Economic Development.

(B) The limitations set forth in subsection (A) of this section do not apply to the following:

- (1) taxes on new construction or property improvements which occur during the current fiscal year;
- (2) taxes required to fund additional services mandated by voter approved ballot issues;
- (3) special taxes authorized by voter approved ballot issues;
- (4) taxes required to fund the costs of judgments entered against the borough or to pay principal or interest on bonds including revenue bonds; and
- (5) additional taxes collected in service areas under mill rates specifically approved by service area residents.

(C) Any tax increases which result from the exceptions set forth in subsection (B) of this section shall be added to the base amount used in subsection (A) of this section for the calculations of the subsequent year tax increase.

(Ord. 05-130, § 2, 2005)

*1m 18-031
OR 18-015*