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# Audit: No misuse of Juneau's head taxes

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JUNEAU EMPIRE



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In this May 2015 photo, cruise ships are shown in downtown Juneau. A report released by the State of Alaska last week found no issues with how Juneau spent its cruise ship passenger fees, more commonly known as "head taxes." The cruise ship industry is suing the City and Borough of Juneau for how it has used those funds.

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Digging in for what will likely be a costly legal battle with the cruise industry over the alleged misuse of head taxes, many city officials see a recent legislative audit of the Commercial Passenger Vessel Program as a godsend. But the audit isn't the relief that they think it is, according to the president of the Cruise Lines International Association's Alaska affiliate.

The audit, released last week, examined whether port communities receiving a portion of the cruise ship head taxes collected by the state have spent that money in compliance with state and federal laws. It found that Juneau hasn't misused any of the roughly \$34 million it has received from the CPV program since it began in 2007.

"We had no problems with how Juneau spent their state CPV taxes," said legislative auditor Kris Curtis.

City Manager Rorie Watt said he feels good about the audit and hopes the Legislature does, too. In the short term, he hopes that state lawmakers, satisfied with the audit's findings, will appropriate the \$4.6 million in CPV funds that the city is asking for this fiscal year to fund its downtown Panamax dock project.

Assembly member Jesse Kiehl said that the audit, which is "about as clean as a nine,"

year audit can come," will be of use to the city as it defends its use of head tax money against CLIA Alaska, which sued the city earlier this month.

"It really indicates that we're following the rules that the industry signed off on when they settled their suit with the state," Kiehl said, referring to a 2009 lawsuit in which the Alaska Cruise Association — which has since become CLIA Alaska — sued the Alaska Department of Revenue over the CPV tax. The ACA settled with the state the following year, and as a result the state head tax of \$46 was lowered to \$34.50, which it remains.

The settlement also expanded the number of port communities receiving a portion of those taxes and allowed cities that levy their own municipal head tax to be eligible for state CPV money.

City Attorney Amy Mead declined to discuss the legal implications of the audit, saying only that the city is currently working with outside counsel to draft an answer to CLIA Alaska's complaint.

According to CLIA Alaska President John Binkley, the audit and his association's lawsuit "are not connected at all." CLIA Alaska's lawsuit against Juneau pertains only to how the city spends the municipal head taxes that it collects in addition to the CPV tax money it receives from the state.



Each passenger who arrives in Juneau on a cruise ship pays a head tax of \$8 to the city in addition to the \$34.50 they pay to the state. It's how Juneau has used its city-specific head tax money that CLIA Alaska takes issue with, Binkley said. And the legislative audit only examined how communities had spent state head tax funds.

"I don't think the audit has any bearing on our litigation at all," he said, adding that the audit was more of an accounting review than a legal review.

"It really doesn't address the legal issues. I would be more interested in it if there had been a review by the Department of Law opining on the legality of these expenditures than auditors opining on these expenditures."

The audit did examine whether communities were spending state head tax money in accordance with federal and state law, and found that Skagway had misused about \$114,000 used to purchase playground equipment.

Auditors checked to make sure communities were using head tax funds to "improve port and harbor facilities and other services to properly provide for vessel visits and to enhance the safety and efficiency of interstate and foreign commerce," Curtis said.

Though she wouldn't comment on the lawsuit, she said that the same criteria would have to be applied to any legal analysis of the use of municipal head taxes.

"We're all using the same yard stick, so to speak, to measure the legality of how communities are spending their funds," she said. "The law is the law."



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