

**ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS
STANDING COMMITTEE**

April 3, 2001
8:08 a.m.

MEMBERS PRESENT

Representative Kevin Meyer, Co-Chair
Representative Carl Morgan, Co-Chair
Representative Andrew Halcro
Representative Drew Scalzi
Representative Lisa Murkowski
Representative Gretchen Guess
Representative Beth Kerttula

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 78(CRA)
"An Act relating to municipal regulation of radio antennas."

- MOVED CSSB 78(CRA) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: SB 78

SHORT TITLE:MUNICIPAL REGULATION OF RADIO ANTENNAS

SPONSOR(S): SENATOR(S) TAYLOR BY REQUEST

Jrn-Date	Jrn-Page		Action
02/08/01	0309	(S)	READ THE FIRST TIME - REFERRALS
02/08/01	0309	(S)	CRA
02/20/01	0439	(S)	COSPONSOR(S): AUSTERMAN
03/07/01		(S)	CRA AT 1:30 PM FAHRENKAMP 203
03/07/01		(S)	Heard & Held
03/07/01		(S)	MINUTE(CRA)
03/14/01		(S)	CRA AT 1:30 PM FAHRENKAMP 203
03/14/01		(S)	Moved CS(CRA) Out of Committee MINUTE(CRA)
03/15/01	0673	(S)	CRA RPT CS 3DP SAME TITLE
03/15/01	0673	(S)	DP: TORGERSON, PHILLIPS, AUSTERMAN

03/15/01	0673	(S)	FN1: ZERO(CED)
03/19/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
03/19/01		(S)	MINUTE(RLS)
03/20/01	0734	(S)	RULES TO CALENDAR 3/20/01
03/20/01	0736	(S)	READ THE SECOND TIME
03/20/01	0736	(S)	CRA CS ADOPTED UNAN CONSENT
03/20/01	0736	(S)	ADVANCED TO THIRD READING UNAN CONSENT
03/20/01	0736	(S)	READ THE THIRD TIME CSSB 78(CRA)
03/20/01	0736	(S)	PASSED Y20 N-
03/20/01	0740	(S)	TRANSMITTED TO (H)
03/20/01	0740	(S)	VERSION: CSSB 78(CRA)
03/22/01	0677	(H)	READ THE FIRST TIME - REFERRALS
03/22/01	0677	(H)	CRA
04/03/01		(H)	CRA AT 8:00 AM CAPITOL 124

WITNESS REGISTER

DARRELL THOMAS, Staff
to Senator Taylor
Alaska State Legislature
Capitol Building, Room 30
Juneau, Alaska 99801
POSITION STATEMENT: Deferred to Mr. Squires.

DAN SQUIRES, amateur radio operator
5993 North Street
Juneau, Alaska
POSITION STATEMENT: Explained the need for SB 78.

LARRY KENT PETTY, Section Manager
American Radio Relay League
21440 Falling Water Circle
Eagle River, Alaska 99577
POSITION STATEMENT: Explained the need for SB 78.

JIM WILEY, Chairman
Alaska Volunteer Examiner Group
8023 E 11th Court
Anchorage, Alaska 99504

GARY PARKER, amateur radio operator
(No address provided.)
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 78.

SENATOR ROBIN TAYLOR
Alaska State Legislature
Capitol Building, Room 30
Juneau, Alaska 99801

POSITION STATEMENT: Testified as sponsor of SB 78.

ACTION NARRATIVE

TAPE 01-16, SIDE A
Number 0001

CO-CHAIR KEVIN MEYER called the House Community and Regional Affairs Standing Committee meeting to order at 8:08 a.m. All members were present at the call to order.

SB 78-MUNICIPAL REGULATION OF RADIO ANTENNAS

CO-CHAIR MEYER announced that the only order of business before the committee would be CS FOR SENATE BILL NO. 78(CRA), "An Act relating to municipal regulation of radio antennas."

Number 0060

DARRELL THOMAS, Staff to Senator Taylor, Alaska State Legislature, informed the committee that Dan Squires helped put this legislation together and thus he deferred to Mr. Squires.

Number 0161

DAN SQUIRES, amateur radio operator, informed the committee that this bill is a combination of federal administrative law and case law. In 1985 the federal government said that amateur radio, because of its public service aspect, should be exempt. Therefore, the federal government created a limited preemption for amateur radio. The Federal Communication Commission (FCC) said that local governments could regulate [so long as] they accommodated amateur radio. Mr. Squires noted the confusion local governments have had with this federal provision, which becomes to a problem every five years or so when the local governments rewrite their zoning and planning laws. Therefore, the request is for the legislature to place this federal preemption in state statute so that it is closer to the people and municipalities. In other states once this federal preemption has been put in place, many of the problems amateur radio operators have with municipalities are eliminated. He

informed the committee that there are ten other states that have adopted the federal preemption.

Number 0384

MR. SQUIRES remarked that part of Alaska's heritage involves amateur radio. For example, in the 1964 earthquake amateur radio was the only communication out of the state. Furthermore, amateur radio operators helped keep Governor Egan informed of what was happening in Northern Alaska. Mr. Squires also remarked on the fragility of the telecommunications infrastructure. For instance, during the Oklahoma City bombing cellular phones and all communications became useless. He also mentioned that in Juneau all cellular phone use is lost if one particular line is lost. Mr. Squires reiterated the public service aspect of amateur radios, which saves lives. In conclusion, Mr. Squires informed the committee that this legislation is sponsored by the American Radio Relay League.

Number 0580

REPRESENTATIVE KERTTULA thanked Mr. Squires for his work. She pointed out that this is basically the City & Borough of Juneau's practice.

MR. SQUIRES said that this law is more conservative than any of the current ordinances in Alaska. This legislation serves as a guide for the ordinance and says that [a municipality] can't go under it.

Number 0661

LARRY KENT PETTY, Section Manager, American Radio Relay League, informed the committee that this bill was requested because there are technical requirements that have to met in order for effective amateur radio communication to occur. Specific heights [of radio antennas] are necessary for amateur radios to communicate on the frequencies that are used for statewide emergency communications, which are practiced on a daily basis.

REPRESENTATIVE MURKOWSKI referred to subsection (b) that in part says, "A municipality may not restrict the number of support structures for an amateur radio antenna." She asked if subsection (b) meant that there may be the need for more support structures in areas with seismic issues.

MR. PETTY answered, "I don't believe that's necessarily the case." He related his belief that the bill addresses the fact that a number of amateur radio operators have a number of towers and support structures to support their various communication antennas. With regard to seismic issues, Mr. Petty said that this bill doesn't attempt to state that amateur radio operators aren't required to meet uniform building codes or safety requirements.

Number 0913

REPRESENTATIVE HALCRO asked if an amateur radio operator seeking to erect an antenna has to go through an application process or a conditional use permit process with the zoning board.

MR. PETTY replied that such would be based on municipal requirements; [the antenna] would have to be built in accordance with local requirements. Mr. Petty noted that the antenna heights are being limited to what is stated in the bill.

REPRESENTATIVE HALCRO inquired as to whether amateur radio operators wishing to erect antennas on their property are having problems in the Municipality of Anchorage.

MR. PETTY replied no and explained that over the last 20 years the [amateur radio community] has had to put forth quite an effort to deal with ordinance changes that were being proposed. Typically, when an ordinance is changed all antennas are grouped into a large mass, including amateur antennas. Therefore, the amateur radio community has to put forth quite an effort to point out the FCC preemption.

REPRESENTATIVE HALCRO asked if Mr. Petty and the amateur radio community were involved with the local discussion regarding cell sites and the antennas erected by wireless companies.

Number 1084

JIM WILEY, Chairman, Alaska Volunteer Examiner Group, testified via teleconference. He explained that this group examines individuals who want to get a license and they determine whether the individual can do so. Mr. Wiley informed the committee that amateur radio operators will occasionally erect multiple towers on their property, simply because of the variety of frequencies and modes that amateur radio operators are allowed to use. With regard to commercial antenna structures, rarely do amateur antenna supports support commercial structures. Occasionally,

the opposite occurs as an amateur radio antenna may find its way onto a commercial structure. Mr. Wiley said, "As a general rule, commercial antennas such as cell phones and that sort of thing are not mounted on amateur structures." He pointed out that the Anchorage ordinance specifically states that one of the things that allows amateur antennas to be exempt from other regulations in the City of Anchorage is that there will be no commercial antennas mounted on amateur structures, unless the amateur structure goes through the same permitting process required for an equivalent size commercial structure.

MR. WILEY echoed earlier testimony that amateur radio operators spend a considerable amount of time and money in training to provide emergency communications. Therefore, the purpose of this bill is to ensure access to an effective antenna.

Number 1330

GARY PARKER, amateur radio operator, noted his support of this. He informed the committee that he is a former Washington resident. The community in Washington that he lived in was putting in a new cell tower, which was located near a high school. Being located near the high school created much emotion. In the end the city passed an ordinance that said no antenna structure could be over 30 feet tall, without differentiating between whether the antenna was for commercial or amateur radio. That created problems because the amateur radio operators provided a lot of emergency communications for the local fire department as well as for the city. Such a law as the one proposed here avoids the multiple hours that would be spent in trying to get the local ordinance changed to exempt the amateur radio antennas per the federal statutes.

REPRESENTATIVE HALCRO asked if the Alaska Municipal League (AML) has taken a position on this.

Number 1445

SENATOR ROBIN TAYLOR, Alaska State Legislature, testified as the sponsor of SB 78. Although AML hasn't taken a position on this, he was not aware of any opposition to this.

REPRESENTATIVE KERTTULA informed the committee that she checked the Federal Aviation Administration (FAA) regulations and this bill is more restrictive than the FAA regulations. Therefore, she felt that the federal law was preemptive.

Number 1520

REPRESENTATIVE HALCRO moved to report CSSB 78(CRA) out of committee with individual recommendations and the accompanying ZERO fiscal note. There being no objection, CSSB 78(CRA) was reported from the House Community and Regional Affairs Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:29 a.m.