

ALASKA STATE LEGISLATURE
SENATE COMMUNITY & REGIONAL AFFAIRS COMMITTEE

April 27, 2001
1:45 p.m.

MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Alan Austerman
Senator Randy Phillips
Senator Georgianna Lincoln

MEMBERS ABSENT

Senator Pete Kelly

COMMITTEE CALENDAR

HOUSE BILL NO. 186

"An Act relating to a municipal enhanced 911 surcharge on wireless telephones."

MOVED HB 186 OUT OF COMMITTEE

SENATE BILL NO. 42

"An Act requiring an annual inflation adjustment of the base student allocation used in the formula for state funding of public education; and providing for an effective date."

MOVED CSSB 42 OUT OF COMMITTEE

SENATE BILL NO. 175

"An Act providing municipalities with the authority to protest or to recommend conditions on the issuance and renewal of charitable gaming permits and requiring the Department of Revenue to deny or condition the license or permit unless the protest or conditions are arbitrary, capricious, or unreasonable, or the conditions conflict with state law."

MOVED SB 175 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

HB 186 - No previous action recorded

SB 42 - No previous action recorded

SB 175 - No previous action recorded

WITNESS REGISTER

Representative Kevin Meyer
Alaska State Capitol, Room 110
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 186

Dan Youmans
Juneau LIO offnet
No address provided
POSITION STATEMENT: Testified on HB 186

Douglas Robinson
Municipality of Anchorage
P.O. Box 196650
Anchorage, AK 99519
POSITION STATEMENT: Testified on HB 186

Theresa Hillhouse
Attorney for the Municipality of Anchorage
P.O. Box 196650
Anchorage, AK 99519
POSITION STATEMENT: Testified on HB 186

Mark Mew
Deputy Chief
Anchorage Police Department
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Anchorage, AK 99507-1599
POSITION STATEMENT: Testified on HB 186

Steve O'Connor
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POSITION STATEMENT: Testified on HB 186

Tim Rogers
Municipality of Anchorage
P.O. Box 96650
Anchorage, AK 99519
POSITION STATEMENT: Testified on HB 186

Mark Johnson
Chief
Department of Health & Social Services
Community Health & Emergency Medical Services
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POSITION STATEMENT: Testified on HB 186

Richard Benavides
Staff for Senator Bettye Davis
Alaska State Capitol, Room 504

Juneau, AK 99801-1182

POSITION STATEMENT: Introduced SB 42

Eddie Jeans

Manager

Department of Education and Early Development

School Finance and Facilities Section

801 W. 10th Street STE 200

Juneau, AK 99801-1984

POSITION STATEMENT: Testified on SB 42

Vernon Marshall

NEA-AK

114 2nd Street

Juneau, AK 99801

POSITION STATEMENT: Testified on SB 42

Senator Kim Elton

Alaska State Capitol, Room 115

Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 175

ACTION NARRATIVE

TAPE 01-14, SIDE A

Number 001

CHAIRMAN JOHN TORGERSON called the Senate Community & Regional Affairs Committee meeting to order at 1:45 p.m. Present were Senators Austerman, Phillips, Lincoln and Chairman Torgerson.

#HB 186

HB 186-911 SURCHARGE ON WIRELESS TELEPHONES

Representative Kevin Meyer, bill sponsor, testified that HB 186 allows municipalities to impose the same surcharge on wireless phones as is currently charged on hard line phones in order to help pay for enhanced 911 services. Wireless or cell phones comprise about 25 percent of the 911 calls made today and the number is rising. The enhanced 911 system provides a visual location and telephone number of the individual making the 911 call. This is particularly helpful for those individuals who are not able to articulate that information.

It provides the technology, equipment and staffing necessary for fast response time and automatic routing to the appropriate emergency response unit.

With wire line phones, Anchorage is currently able to impose an E

911 surcharge of up to 50 cents while all other communities may impose up to a 75 cent monthly charge. This was made possible by an enabling state statute passed in 1994 that covered wire line phones only.

The enhanced 911 surcharge is not unique to Alaska; in fact, many Lower 48 cities have surcharges far in excess of those in Alaska. It is needed to help cover the cost for cities to purchase and maintain equipment and technology to provide adequate emergency services.

This is a priority for Anchorage, Fairbanks and Kenai all of which are anxious to implement enhanced 911 service for wireless phones this summer or fall. The wireless carriers AT&T, ACS and GCI have all been very supportive.

He called attention to the letters of support in committee packets.

Senator Lincoln joined the meeting.

SENATOR AUSTERMAN asked how many wireless phones would be assessed the enhanced fee so he could get an idea of what is currently going on and what the increase would be. He also wanted to know what the total increase has been for 911 calls if 25 percent of those calls are now coming from cell phones. Are there fewer calls coming from wire line phones with the increase in cell phone use? Originally, the enabling state statute passed in 1994 was for wire line phones. He wondered whether the 50 and 75 cent surcharges were still realistic due to the volume of phones and subscribers.

REPRESENTATIVE MEYERS said that was a good question and Mr. Rogers with the Municipality of Anchorage would be able to answer that question. He surmised the original statute was designed to purchase equipment and technology and the support staff to maintain it. With the wireless, new equipment would need to be purchased so the surcharge would go toward those purchases.

DAN YOUMANS testified via teleconference as an AT&T wireless representative in support of HB 186. The combination of cell phones and 911 network has created a new and vital communication system for AT&T customers.

They support a reasonable and equitable surcharge on the customers to help defer the cost of 911 services. With this in mind, they support a 50 cent maximum surcharge for all municipalities. The technology and services for cell phones is very different from wire line phones so they feel the charge should be the same for all areas. Since cell phones are mobile and 911 calls could be made

from any location, all wireless customers should pay the same amount.

Cost recovery would only apply when municipalities are in a position to offer new, enhanced 911 services for wireless phones. In the future, 911 operators will be able to receive the phone number of the wireless caller the location of the cell site that is connecting the call and eventually, the approximate location of the caller. Since the new technologies benefit the general public, they feel that wireless carriers should have some mechanism for recovering their costs. HB 186 says they would be able to recover those costs as specified by the Federal Communication Commission (FCC). The legislation cites the FCC order on this issue.

CHAIRMAN TORGERSON asked, "Your testimony is that the 50 cents is just to pay for the hardware?"

MR. YOUMANS said the 50 cents would pay for needed upgrades and the general cost of serving people who are calling 911 on their cell phones. When new technology and upgrades are needed at the 911 operator level and by the carriers, they have the need to recover those upgrade costs.

SENATOR AUSTERMAN said the bill allows municipalities to assess the surcharge so they may have the enhanced 911 service. He asked whether he heard correctly that they expected to recover their costs for service and what service was that?

MR. YOUMANS said there are two phases of the new services as defined by the FCC. The first phase allows the 911 operator to receive the phone number of the wireless phone caller. It also allows the wireless operators to receive the location of the cell site that is connecting the call. The second phase will give the approximate location of the caller, which is a vital safety tool for the operator.

SENATOR AUSTERMAN asked Mr. Youmans to call his office at (907) 465-2487 so he could have a one to one conversation.

DOUGLAS ROBINSON with the Municipality of Anchorage testified via teleconference that he would be providing statistics, some of which applies to the State of Alaska.

There are currently 30 states with legislation authorizing the collection of wireless 911 surcharges. The charges vary from 35 cents to \$2.00 and that revenue is used to assist financing equipment, software upgrades for the E 911 public safety answering points.

Specific uses for the revenues could be:

- For modifying the existing P-SAP software so the wireless X,Y coordinate location data provided by the wireless carriers can be displayed and tracked by 911 call takers
- Purchase required data interfaces for P-SAP computer aided dispatch system of larger P-SAPs such as in Anchorage and Fairbanks
- Network upgrades between the 911 system and the local exchange carrier

The surcharge is strongly endorsed by the Association of Public Safety Communication Officers (APSCO), National Emergency Number Association (NENA). APSCO has recommended Anchorage as a model city for phase 2 wireless 911 implementation.

THERESA HILLHOUSE, Anchorage Municipal Attorney's Office, was available for questions.

MARK MEW, Deputy Chief of the Anchorage Police Department, testified that about 250,000 calls per year come through their dispatch center and a large portion of those come through the E 911 system.

The system was sized for wire line service. Cell phone use has proliferated and a study conducted four years ago determined that 25 percent of the calls were coming in via cell phone. He believes they are now approaching 50 percent. Due to the large number of cell phone users, a single event will trigger multiple calls.

Wire line users are paying for the 911 service while cell phone users are not.

SENATOR LINCOLN asked how many lines are designated for the E-911 lines and how many would be added if the surcharge is instituted and is the 50 cent surcharge sufficient.

MR. MEW thought the number is eight trunks. About 50 calls will jam the dispatch center and it's not unusual to receive that many calls at once. A consultant would need to determine the number of additional lines to put in. The 50 cent charge does not cover costs now; it merely helps to offset the charges. He anticipates the cell phone surcharge will help but not cover costs completely. Currently, the surcharge covers about half the costs and he does not know the percentage the cell surcharge would cover.

STEVE O'CONNOR testified via teleconference as the Kenai Peninsula 911 Advisory Committee Chairman. They have had an enhanced 911 system since the early 1990s. Since that time cell phone call volume has increased from 5 percent to about 50 percent. They are dealing with the same difficulties as Anchorage with multiple calls for a single incident causing a 911 overload. They currently collect 75 cents per line per month for wire line and recommend the same fees for wireless phones. Fees offset the costs of operation but don't cover them. The borough is budgeting \$350,000 to \$400,000 for Phase 1 and they view the 75 cent surcharge as important. Local government is in the best position to decide what the fee should be.

TIM ROGERS, Legislative Program Coordinator for the Municipality of Anchorage, thought he could answer some of Senator Austerman's questions. Recently, the Anchorage voters approved a bond issue for \$1.5 million to pay for necessary cellular upgrades for the E-911 service. That will cover consultants, hardware and software that will be needed but not operational costs. The current surcharge pays for roughly 40 percent of total operating costs and nothing toward capital costs.

There are estimated to be 200,000 cell phones in Alaska.

SENATOR AUSTERMAN asked how the 200,000 relates to volume.

MR. ROGERS did not know but currently the annual surcharge collected in Anchorage is around \$1 million so an answer could be figured mathematically.

MARK JOHNSON, Chief of Emergency Medical Services for the Department of Health & Social Services, said there might be too many calls coming in from urban areas but calls from outside an urban area from a caller who does not know their location is difficult, time consuming and potentially life threatening.

The rationale for the difference in fees is that smaller communities have fewer phones to collect fees from so a higher surcharge is necessary. If the fee is only 50 cents then some small communities may not be able to afford the upgrades.

SENATOR LINCOLN asked for an explanation of 911 available referred to in his letter.

MR. JOHNSON said there are many Alaskan communities with basic 911 service but there is no information available on who is calling and from where. The enhanced feature provides the telephone number of the caller and the location.

SENATOR LINCOLN asked if the list provided was for wire line or wireless.

MR. JOHNSON said the list provided was for wire line.

SENATOR LINCOLN said fourteen communities that are listed as having 911 capabilities and she sincerely doubts that they have that the ability to dial 911. She named Red Devil and Crooked Creek as examples.

MR. JOHNSON said she might be correct. The data was lifted from a recent McDowell Group study.

SENATOR AUSTERMAN asked for assurance that the option to charge a 75 cent surcharge was currently in the bill.

CHAIRMAN TORGERSON said it mirrored the wire line surcharges.

SENATOR PHILLIPS moved HB 186 and zero fiscal note from committee with individual recommendations. There was no objection.

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#SB 42

SB 42-FOUNDATION FORMULA INCREASE

RICHARD BENAVIDES, staff for Senator Davis, introduced SB 42 for Senator Davis because she was attending a HESS committee meeting. He described it as an issue that has been a priority this year due to the recognition that current levels of funding have not kept up with teaching costs. SB 42 would help alleviate the most unpredictable reason for the erosion by inflation proofing the foundation formula. Inflation has risen about 30 percent in the last 10 years and the legislature has increased the base foundation formula by only five percent. During the same time, the required local contribution has risen about 37 percent.

There are many examples of rising school costs such as fuel or electricity increases and this legislation allows school districts to continue to operate without eliminating positions due to those types of increases.

This action would not bind future legislatures. Each legislature would have the power to determine the appropriate level of funding for each fiscal year.

CHAIRMAN TORGERSON said he had prepared a CS to change the effective date from 2001 to 2002.

SENATOR PHILLIPS moved the CS \J version as the working document.

SENATOR LINCOLN objected for the purpose of asking for an explanation of the difference is between "preceding fiscal year" from page 1, line 7 of the original bill and "preceding calendar year" on page 1, line 7 of the CS \J version. She wondered whether the change is supposed to coincide with the effective date and whether the new language is acceptable with Senator Davis.

MR. BENAVIDES said the language was acceptable with Senator Davis.

SENATOR LINCOLN withdrew her objection.

SENATOR PHILLIPS commented that he thought some school districts are on a calendar year versus a fiscal year.

EDDY JEANS, school finance manager for the Department of Education and Early Development, said the purpose of the language "second preceding calendar year" is because of the timing in which the TPI index comes out. This allows the appropriate increase to be built into the budget for the upcoming year.

Both the department and the administration support the bill. School districts have lost 25 percent of the purchasing power they had 10 years ago. Chairman Torgerson represents a school district that struggles to meet their budget. The municipality contributes to the CAP on an annual basis and yet the school district has increased costs of personnel services through salaries and benefits of over \$1 million per year. This must be absorbed from other programs. The department believes it is time to provide some inflationary adjustment in the foundation formula.

VERNON MARSHALL, executive director of National Education Association (NEA) Alaska, said inflation is a cruel and unavoidable tax. There is no avoiding that inflationary payment and kids have felt that tax in terms of missed educational opportunities. Unless inflation is offset it will be charged against current capacity. At a time when both teaching and learning standards are being improved it is time to stop "the hemorrhage of academic depreciation and the effects of inflation."

Retirement incentive programs (RIP) have been used to offset inflation. Data from the American Federation of Teachers (AFT) clearly shows ground has been lost in terms of employee salary as a percentage of education expenditure. At the same time, in relation to other states ground has also been lost in terms of school operational costs. For the year 1999-2000 they estimate that teachers salaries are approximately \$1,000 to \$1,100 less than they

were in 1998-1999. This could be caused by retiring of experienced teachers at the high end of the scale and hiring teachers lower on the salary scale but the \$1,100 times the approximately 8000 teachers, equals \$8,800,000 that has come out of experience to be put back into the classroom and programs. Part of the cause of that is because inflation is not offset.

He closed in saying that they support the efforts of the committee and will work together but asked for stabilization of the funding for children in the future. It is a wise move for the State of Alaska because schools are thrown into a catch up race when inflation is not offset and the children will never win.

SENATOR LINCOLN asked for explanation of the ranking on a sheet handed to committee members.

MR. MARSHAL said the figures on the far right indicate the percent change during the decade. It's a comparison of the state's percent of the U.S. average over the ten year period.

SENATOR LINCOLN said Alaska was ranked #1 in 1988-1989 and number 6 in 1998-1999.

MR. MARSHAL responded Alaskan teacher's salaries ranked #1 ten years ago. The ranking does not reflect 1999-2000 and 2000-2001 and they believe the RIP has had a significant impact on schools. They believe that the ranking for 1998-1999 is actually 8 rather than the 6th place shown. Using the percentage as a part of the national average our ranking today is 51st.

SENATOR LINCOLN moved CSSB 42 from committee with individual recommendations and accompanying fiscal note. There were no objections.

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#SB 175

SB 175-MUNICIPAL PROTESTS OF GAMING PERMITS

SENATOR ELTON, bill sponsor and Senator from district B, said the bill addressed a problem that has arisen in his community. SB 175 gives municipalities the opportunity to protest or recommend conditions on the issuance or renewal of a gaming permit similar to the way municipalities now protest or ask for conditions on alcoholic beverage control (ABC) licenses.

Under the bill provisions, a municipality or applicant may, after a hearing, make a defense and then protest the permit or ask for conditions. One provision would, under certain circumstances, preclude municipalities from doing that. For example, if the

municipality holds gaming permits, they could hold a hearing and protest a permit for non-payment of taxes. The Department of Revenue would then review the protest by the municipality and if they determine that it is a reasonable protest they could deny the issuance of a permit. They too would have to hold a hearing and go through a process before they could deny the permit thus giving the applicant another chance to present their case.

Without the bill, municipalities may only have a local option election that would allow them to ban all gaming or just pull-tabs or, by ordinance, they may prohibit a vendor or operator from managing a permit. The permit would then go to another vendor or operator.

The situation in Juneau was that three operators did not pay taxes and over a three year period, their tax liability grew to \$627,000 plus \$300,000 in attorney and other costs. There was no way for the municipality to protest the issuance of the permits even though they are issued on a yearly basis. Since the operators have no assets to attach, there is no way of recovering the liability. In doing nothing to the operators who are flaunting the law, the municipality is giving them a competitive advantage over the operators who are paying the taxes.

This sets in place a system to give municipalities control over the operations of the permits. Other situations in which a community might want to have a hearing before protesting a license are fire safety or public nuisance issues.

Side B

This solution is reserved for organized municipalities.

CHAIRMAN TORGERSON commented that public nuisance is in the eye of the beholder and he does not like the idea of a municipality having to define nuisance and then place conditions on the activity. He looks upon the tax as a good policy but the nuisance bothers him. He recommended tightening the definition a bit.

SENATOR ELTON responded arbitrary, capricious and unreasonable are definitions lifted from the ABC statutes and there is precedent behind those issues so new definitions should not be necessary.

CHAIRMAN TORGERSON asked whether anyone from the Department of Revenue was present.

SENATOR ELTON said the Deputy Commissioner showed up for the previous hearing that was canceled and his arrival was anticipated.

CHAIRMAN TORGERSON said he could not get there in time. He asked for the next committee of referral.

SENATORS LINCOLN AND PHILLIPS said it was Labor and Commerce.

CHAIRMAN TORGERSON said he had some problems with the bill but he would entertain a motion to move the bill. He wants to continue to work with Senator Elton to narrow the focus to taxes. He wasn't sure about fire hazard. He thought perhaps they could come up with an amendment to offer.

SENATOR ELTON asked to be advised of which staff member to work with and he would get any information that was needed.

CHAIRMAN TORGERSON indicated his Community and Regional Affairs staff person, Mary Jackson.

SENATOR LINCOLN moved SB 175 from committee with individual recommendations and accompanying fiscal note. There were no objections.

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CHAIRMAN TORGERSON adjourned the meeting at 2:40 p.m.