

ALASKA STATE LEGISLATURE
SENATE LABOR & COMMERCE COMMITTEE

February 19, 2002
2:00 p.m.

MEMBERS PRESENT

Senator Ben Stevens, Chair
Senator Alan Austerman
Senator Loren Lemam
Senator John Torgerson
Senator Bettye Davis

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

SENATE BILL NO. 253

"An Act extending the termination date of the Regulatory Commission of Alaska; and providing for an effective date."

MOVED CSSB 253 (L&C) OUT OF COMMITTEE

SENATE BILL NO. 202

"An Act relating to the employment of persons 14 years of age or older and under 21 years of age on licensed premises, including hotels, restaurants, or eating places; relating to possession, control, or consumption of alcoholic beverages by a person under 21 years of age; and relating to hours of work of minors under 16 years of age."

HEARD AND HELD

SENATE BILL NO. 280

"An Act permitting grants to certain regulated public utilities for water quality enhancement projects and water, wastewater, and solid waste systems."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

SB 253 - No previous action to record.

SB 202 - See Labor and Commerce minutes dated 4/28/01.

SB 280 - No previous action to record.

WITNESS REGISTER

Ms. Deborah Grundmann
Staff to Senator Stevens
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on SB 253 and SB 202 for sponsor.

Ms. Nan Thompson, Chairman
Regulatory Commission of Alaska (RCA)
701 West 8th Ave., Suite 300
Anchorage, Alaska 99501

POSITION STATEMENT: Supported SB 253.

Ms. Dana Tindell
Vice President Regulatory Affairs
GCI

POSITION STATEMENT: Supported SB 253.

Mr. Steve Conn, Executive Director
Alaska Public Interest Research Group
P.O. Box 101093
Anchorage AK 99510

POSITION STATEMENT: Supported SB 253.

Ms. Kristi Catlin, Director
Government Relations
AT&T Alascom
210 E. Bluff Dr.
Anchorage AK 99501

POSITION STATEMENT: Supported SB 253.

Mr. John Manley
Staff for Representative Harris
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on SB 280 for sponsor.

Mr. Rick Mastriano, Director
Labor Standards and Safety
Department of Labor & Workforce
Development
PO Box 21149
Juneau, AK 99802-1149

POSITION STATEMENT: Opposed SB 280.

Ms. Wilda Rodman

Staff to Senator Therriault
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on SB 280 for the sponsor.

Mr. Dan Easton, Director
Facility Construction and Operation
Department Environmental Conservation
410 Willoughby, Ste. 303
Juneau AK 99801

POSITION STATEMENT: Neutral position on SB 280.

Mr. Andy Warwick, Chairman
Board of Directors
Fairbanks Sewer and Water
1416 Gillam Way
Fairbanks AK 99701

POSITION STATEMENT: Supported SB 280.

Mr. Bruce Jones, City Manager
Petersberg AK

POSITION STATEMENT: Opposed SB 280.

ACTION NARRATIVE

TAPE 02-5, SIDE A

Number 001

#SB253

SB 253-EXTENDING THE REGULATORY COM. OF ALASKA

CHAIRMAN BEN STEVENS called the Senate Labor & Commerce Committee meeting to order at 2:00 p.m. and announced SB 253 to be up for consideration.

MS. DEBORAH GRUNDMANN, Staff to Senator Stevens, said that SB 253 extends the termination date of the Regulatory Commission of Alaska (RCA) to June 30, 2006. Page 7 of the audit has three recommendations that Nan Thompson, Chair, RCA, would comment on.

MS. NAN THOMPSON, Chair, RCA, supported SB 253. She informed them that this is the agency that was reformed in 1999 by the previous legislature. The APUC was sunset and this is the RCA's first review. She said that they have managed to reduce the case backlog by hundreds of cases since they started. "Most importantly, all the new cases we have received are being processed in a timely manner within deadlines."

The number of substantive decisions issued by the agency has increased dramatically when compared to previous work of the

agency.

We are taking the time to work on the hard cases, build records and make decisions. We have spent a lot of time over the last couple of years designing and implementing the MIS system that the legislature asked us to design and work on two years ago and that should be operational by the end of this month. It should allow us to operate more efficiently internally and allow the public to be better informed.

MS. THOMPSON said they have been very responsive to consumer complaints and she is proud that the auditor recognized that over 80 - 90 percent of the consumer complaints they receive are handled within 30 days. Their appeal record speaks well for the kind of work they have done. Some utilities are not happy with the RCA's decisions, but noted that she listens carefully. She is concerned if they are not being treated fairly and she tried to make adjustments for that, but if it's about results, the question is whether the RCA is accurately and fairly applying the law as written by the Legislature and Congress. Their track record on appeal shows that they have been doing the right thing there, too. Of the agency decisions since 1999, all four of the ones that have gone to court have been upheld.

The auditor had three recommendations and the RCA agrees with all of them and have begun work to implement them.

The first one was at the public advocacy section which was a new section formed under the legislation in 1999 - adopt regulations to define procedures. We agree that there should be regulations. It should be clear to all members of the public and to utilities when they will be appointed and what their role is in those cases. We have asked within the agency that the public advocacy section itself propose regulation and they have given me a deadline of next month in March to propose those. They will be put out to comment to the public and to industry and should be adopted by our agency in full by the end of this year.

I'm hoping that those regulations do a couple of things - to clarify the role of the public advocacy section within our agency - to clarify when they should be appointed a party and when not and to clarify their right to ask to participate in proceedings where they're not appointed by the commissioners and their rights to appeal.

She hoped to have those implemented by the end of this year. Another recommendation identified a large number of uncertificated water and sewer utilities.

Under existing statutes, every utility that serves more than 10 customers should be certificated by the commission and the auditor identified about 130 water and sewer utilities. Many of these are paired in communities. We're really talking about 65 communities that don't presently have certificates.

She could not say why, because a lot of them existed before the RCA existed and they have begun to address the deficiency. She has identified who these utilities are and within her agency they are in the process of revising their application process to tailor one more appropriate for the small systems and rural utilities that comprise most of the 130 utilities. They made the decision to wait until they had the application process revised, which should be later on this spring, to invite all of those presently uncertificated utilities to join.

The other policy issue is whether small systems owned by homeowners associations should be exempt under regulation. We have had a series of cases where privately owned systems owned by homeowners associations - one where ratepayers have direct input into rates because of their participation on a homeowners association board have asked to be exempt. We have granted some of those exemptions by case law. Another issue that we hope to deal with on this is whether or not we should have a regulation exempting that class of utilities to make it easier for utilities in that group going through the process to understand where they'll fit in.

The third recommendation dealt with notice. All changes to the terms and conditions under which a utility offers service has to be put out to public notice and under our statute and regulations, some are issued by the utility and some are issued by the agency. What the auditor identified is that our records for proof of publication were not as complete as they should be. Since we received the recommendation, we have internally remedied that situation already and have raised within the agency's mind the bigger question of what's effective public notice and what changes we might consider in order to make consumers more aware of the changes. Now many of the notices go on our web page and we found that to be a more effective way of

noticing the public than some of the newspaper publications. That third recommendations is pretty much taken care of and we'll continue to try and work on more effective notice in the future.

SENATOR LEMAN said it's his opinion that they make it very easy for small utilities to become certificated. He noted that was one of the auditor's recommendations.

MS. THOMPSON agreed saying that complying with another set of regulations can be burdensome. Many of the utilities that are uncertificated are owned by local government and wouldn't be economically regulated. Their concern in looking at any small utility is whether or not there is some process for input. The ones owned by local government, the citizens have the opportunity to have an impact on rates and they don't need the RCA to review them.

SENATOR LEMAN asked if they were looking for a mechanism to get some public process involved.

MS. THOMPSON replied yes and of the 130 identified, about 50 of those are local government owned. The others are generally small utilities of another sort. If there is an opportunity for input by the ratepayers on rates already, they don't need the RCA looking at the rates as well. They are trying to tailor the application process to reflect that.

CHAIRMAN STEVENS asked when the regulations would be ready for public comment on the water and sewer.

MS. THOMPSON replied that realistically it would happen in May.

CHAIRMAN STEVENS asked if she was working with the 50 municipalities to write the regulations.

MS. THOMPSON replied when they are put out for public comment, those utilities will have an opportunity to comment.

Most of those water systems were built with government funding of one sort or another. So we've worked with DEC and the federal government agencies to help them understand that first those utilities are operating safely now...

CHAIRMAN STEVENS asked if the regulations contain maintenance provisions for the municipality.

MS. THOMPSON replied:

That issue comes up in the context of the requirement that we determine the utility is fit, willing and able to operate the utility. Management capacity, which is what I understand you to be talking about, is one thing we look at carefully. We ask them to show us that they have set up an accounting system that will allow them to collect the money they need to continue to operate, that they have a qualified management team in place - that they have qualified engineers to run the system. Yes we look at those issue in a context of certification.

CHAIRMAN STEVENS asked if "fit, willing and able" has to do more with capacity, not addressing the revenue side. She said that was right. He asked if where additional revenue would come from if it was needed to operate the facility.

2:16 p.m.

MS. THOMPSON replied that was a good question and the legislature would be dealing with it over the next few years in the context of the many new rural water and sewer systems that are being put in. She said that they could use grants and perhaps a different type of management structure that would allow them to achieve efficiencies by combining with other utilities in the region or community.

CHAIRMAN STEVENS said he assumed the 50 utilities are new and asked if there was a way they could start to get information to understand how much they cost to operate once they have been built.

MS. THOMPSON replied that was the kind of information they get in reviewing the certification applications and that is an important thing to look at early on when they are setting up a new utility.

CHAIRMAN STEVENS said that the Denali Commission helps fund the construction of a lot of these facilities and asked if it has an operational component.

MS. THOMPSON replied no. They have some training money, but generally the money from the Denali Commission is for capital grants, not ongoing operations.

MS. DANA TINDELL, Vice President Regulatory Affairs, GCI, said as a regulated utility they interact with the RCA on a daily basis. They were involved in the legislation that constituted the RCA. "I'm pleased to report to you that from our perspective, the Regulatory Commission today is a functional body, as opposed to a dysfunctional body."

As a utility, they are not always pleased with the RCA's decisions, but they are free to appeal. There have been a lot of appeals and prior to this commission there was never an order in which appeal. So, they are much happier with that outcome.

A lot of times the Regulatory Commission is somehow accused of enacting bad law. I've heard that said. I wanted to clarify from our perspective, in many cases, in telecommunications particularly, what the Regulatory Commission is doing is interpreting federal law and carrying it out as required by the federal agency. So, many of the issues that some of the other utilities in telecommunications industry complain about are not really issues that are up for state question. They are proscribed by federal law.

She said that from their perspective it is critical that there be a Regulatory Commission. Without it, it wouldn't be clear where the day-to-day decisions would have to be made, possibly the legislature or the courts. "An expert commission is better able to deal with these issues and is probably more willing than the legislature is."

She said as a veteran of eight two-year sunset reviews, it would be great if they would continue the commission for the four-year term.

SENATOR LEMAN moved to pass SB 253 from committee with individual recommendations with the accompanying \$6 million fiscal note.

CHAIRMAN STEVENS said they would hold the motion for further testimony from people on teleconference.

MR. STEVE CONN, Executive Director, Alaska Public Interest Research Group, said that consumer involvement is critical in the business of utility regulation and he has seen substantial improvement in that area. "To cast a member of staff as public or to cast a position as public or citizen centered is not the same thing as active involvement by consumers."

At meetings he presses for increased outreach and notice of the many things that affect Alaska consumers on a day to day basis in their private and business lives. "All of the advocates who go before the Regulatory Commission benefit from early on and informed consumer involvement."

People in Alaska don't want to see brown outs or ideologically or politically driven Enron-type situations he said. "There is more interest on the part of consumers in utility matters than ever

before. At this juncture I would hope the legislature would allow the bill to pass..."

MS. CRISTI KATLIN, AT&T Alascom, supported SB 253 and asked them to pass it without amendments. "Any efforts to modify or reverse the jurisdiction of rulings of the RCA should be considered separately from the sunset review."

SENATOR LEMAN renewed his motion to move SB 253. There were no objections and it was so ordered.

#

#SB202

SB 202-EMPLOYMENT OF PERSONS UNDER AGE 19

CHIARMAN STEVENS announced SB 202 to be up for consideration.

MS. DEBORAH GRUNDMANN said that SB 202 is a Senate Labor and Commerce bill by request of the former chair of the committee. She said it is a companion to a House bill sponsored by Representative Harris.

MR. JOHN MANLEY, Staff to Representative John Harris, sponsor of companion bill, HB 226, said it was introduced at the request of a constituent in Valdez.

The original intent of the bill was to make it easier for seasonal employers in the tourist business to be able to get kids employed on their staff to help out in the height of the tourist season. If they are under a certain age, they cannot work in a hotel or restaurant where alcohol is served because of the laws of the state. It makes it difficult especially in some of the smaller areas of the state, like Valdez, to obtain kids to employ in the summer time.

This bill's hearing in the House Labor and Commerce committee was not well received, but he understands this hearing was requested by Senator Green. He pointed out section 4 deals with employment of children section of the Labor and Worker's Compensation Title to regulate what time and hours per week minors under the age of 16 could work and changes to conform with federal limits. Section 5 has to do with 14 - 16 years old working at certain sporting events in school supervised work programs. He would like to see both of those sections in a committee substitute.

Another issue is the control of alcohol by person under age and as interpreted by the ABC Board, when they are operating a cash register and ringing out a tab for someone who might have bought a beer with their dinner, this is not allowed.

SENATOR AUSTERMAN asked what the definition of premises was.

MR. MANLEY explained that this problem arose at the Totem Inn that also has a bar. So none of their maids can be minors.

MR. DOUG GRIFFIN, Alcohol and Beverage Control Board, replied that delivery of alcohol by room service would include the hotel rooms as well as the bar and restaurant where alcohol is being served under "licensed premises." "Otherwise you'd run afoul of taking alcoholic beverages off of the licensed premise and you'd occur other problems with Title 4..."

CHAIRMAN STEVENS asked what concerns the House had.

MR. MANLEY replied that their concern was that they were expanding the universe of where teenagers could be in contact with alcohol and they thought that was not good public policy.

MR. RICK MASTRIANO, Director, Labor Standards and Safety, said his concerns were that the department currently has a work permit process for 14 - 16 year olds saying that they are prenotified of the employment of the child, what they're going to be doing, where they're going to be working and how much they're going to be paid and that the parent or legal guardian knows that their child is in fact going to be working.

Under this bill, the department would not be notified for 10 days and in some cases there is no requirement that the department be notified. The department also requires people under the age of 19 to maintain a work permit and this legislation eliminates all of those requirements.

MR. MASTRIANO said if the ABC Board does not consider the rooms part of the licensed premises, they would allow a 14 year old to work in those rooms. If rooms are considered part of a licensed premise where room service could deliver alcohol, they are not allowed.

We like some parts of the bill. We like bringing the bill in line with the federal guidelines for the times that the kids are going to be working - the 14 and 15 year olds, but we do not like the idea that we're not notified of what they're going to be doing or that they have to have a work permit in order to do it. It conflicts with our 43.10.332, which requires the commissioner to approve any of those works for people under the age of 16.

CHAIRMAN STEVENS asked if he had problems with sections 1 and 6, but not 4 or 5.

MR. MASTRIANO replied yes.

MR. GRIFFIN supported Mr. Mastriano's comments. They think the prior notification and exemption is an important part of the law. He said more and more studies have come to light showing a correlation between how soon a young person begins to consume alcohol and having problems with alcohol abuse later in life. He said that they don't have the staff to have oversight of this either.

They allow underage people to operate cash registers and allow them to handle bills with alcohol on them, but they have had problems where the restaurants are cafeteria style including picking up an alcoholic beverage and then paying at the cash register. That is different because that is where the sale is being made.

CHAIRMAN STEVENS said this bill wasn't going to move, but they would work on a committee substitute or a bill that would address the issues in sections 4 and 5.

#

#SB280

SB 280-WATER/SEWER/WASTE GRANTS TO UTILITIES

CHAIRMAN STEVENS announced SB 280 to be up for consideration.

MS. WILDA RODMAN, Staff to Senator Therriault, sponsor of SB 280, explained that it allows privately owned public water and waste water utilities to apply for water and waste water grants under AS 46.03.030 if they are regulated by the Regulatory Commission of Alaska (RCA). The regulation requirement ensures that all the economic benefits of the grants guarantees that the benefits of the grants would be passed on to the ratepayers. Currently, only municipalities can apply for these grants, making it unfair to all. This would allow privately owned utilities to make utility infrastructure improvements without forcing ratepayers to pay the full burden through increased rates.

Additionally, the bill would increase the ability of the utility to expand in areas that are on the peripheral of existing systems thereby providing water and waste water services to families that are currently on wells and septic systems. There was a letter in support from the Fairbanks North Star Borough attesting to the fact that there are at least two areas in Fairbanks that would benefit from being able to have services expanded to their areas.

SENATOR LEMAN said he thought this made sense, but he was concerned about the fiscal note from DEC that adds another position in Construction Facility and Operation from the general fund. He thought they needed to look at that.

MS. RODMAN said that she understood the fiscal note was because the smaller utilities might not be as savvy as the municipal utilities in applying for these grants, so it would take more staff time to prepare them.

SENATOR LEMAN responded that he would like to see something similar to the RCA, that the utilities requesting this pay a fee rather than it just coming out of the general fund.

SENATOR AUSTERMAN said page 2, section 2, talks about prorating and asked if municipalities have the same ratio.

MS. RODMAN said that is the same.

CHAIRMAN STEVENS asked what was the total number of utilities that could be eligible for this.

MS. RODMAN replied according to DEC it would increase by 50 and currently there are 35 municipalities that can apply. Of the 50, 15 are water, about 5 in sewer...[END OF TAPE]

TAPE 6, SIDE B

2:48 p.m.

CHAIRMAN STEVENS asked what size grant they can currently apply for.

MR. DAN EASTON, Director, Facility Construction and Operation, DEC, replied about \$2 million per year. He said their mission is to assist communities in improving sanitation conditions. They do that by providing both grants and low interest loans to communities and this bill deals with one of their grant programs - the Municipal Water, Sewer and Solid Waste Matching Grant Program. They do not have a position on it, since it deals with policy issues, but he had information that he thought would be helpful.

He explained that they make grants to communities for things like replacing water and sewer lines, building new water and sewer lines to serve new areas, building or upgrading sewage treatment plants, building or closing or adding on to landfills and building things like water storage tanks - capital projects.

He said the program is primarily state funded and in FY 03 the budget is \$24 million. He said they are allowed to use some

federal grant funds in some of the smaller communities. Of the \$24 million, \$8.5 million is federal grant funds. The balance is from the state. Currently, only municipalities are eligible to participate in the grant program. In the last 10 years, 36 municipalities have received grants from them. There is a local match requirement that varies from 15 - 50 percent depending on population. Grants are made on a progress reimbursement basis. They do not give the people the money ahead of time. There is a 10 percent holdback until the project is completed including a satisfactory audit and every project is audited. Their two programs are staffed entirely with seven positions: four engineers, a management position, an internal auditor and a program coordinator.

MR. EASTON said there is a sequence every year that they go through distributing applications to municipalities. When the applications are returned, they are ranked in priority by public health and environmental impacts and communities' capacity to operate and maintain the sanitation systems. The list of projects is the basis for the governor's capital budget proposal. Once a fiscal year budget has passed, grant offers are made and accepted and the division administers the grants.

He said the bill would extend eligibility in the program to non-municipal, but RCA regulated, utilities and there are about 50 of those. Thirty-six currently participate in the program. With the exception of Fairbanks, the 50 new non-municipally owned utilities are largely private systems that serve subdivisions and trailer parks. There is a fiscal note for a single engineer position from the general fund, although there could be different ways to come up with the funding. They see an increase in the number of grants managed by their engineers from \$8 million per engineer in FY 98 to \$12 million in FY 03. This is one of their budget performance measures.

SENATOR AUSTERMAN said they were talking about a potential 86 utilities asking for loans under this program. Mr. Easton acknowledged that was correct. He asked if there would be a dwindling amount of money for the individual utilities and that they should be looking at more money for the program.

MR. EASTON replied that there is a pie sharing element to it. On the other hand he pointed out that by virtue of their size the grants to the municipalities would be larger than the ones to subdivisions and trailer parks since the magnitude of their needs would be different.

SENATOR AUSTERMAN asked if the general fund contributed \$15.5 million to the fund. Mr. Easton said that was correct.

CHAIRMAN STEVENS asked what the benefit would be from going

independent.

MR. EASTON replied that most of them don't have a choice to hook up. It's a matter of distance and it's simply being cost prohibitive.

CHAIRMAN STEVENS asked if there was any reaction from the existing 36 grantees of this program to this bill.

MR. EASTON replied that he hadn't heard much so far.

MR. ANDY WARWICK, Board Chairman, Fairbanks Sewer and Water, said they are a privately built company that was formed in 1996 to acquire from the City of Fairbanks its water and waste water utility. The city was participating only minimally mainly because there weren't many grants available. Now, grants for water and sewer projects are increasing in importance.

Because Fairbanks has privatized its utility, we are the only community in the state that is ineligible to participate with the exception of some of the smaller utilities you've been discussing. SB 280 remedies this inequity by allowing privately owned public utilities that are regulated by the RCA to apply for grants under AS 46.03.030 (b). This puts Fairbanks ratepayers right there in the same position as ratepayers in every other community in the state. I want to stress that under RCA regulations all the economic benefits of the grants are passed on to the ratepayers. Our company gets no rate of return on the plant built by the grants and we get no depreciation of the grant included in our rates.

Economic regulation essentially may turn companies economically neutral. However, the benefits to the ratepayers are obvious. SB 280 will reduce the burdens to our ratepayers and improvements we made to our water and waste water system. It will also increase the ability of the utility to expand its water and waste water system to include families and businesses that currently use utilize wells and septic systems. The vast majority of Fairbanks residents are not hooked up to a public utility water and waste water system which in some cases results in sanitary problems that could be resolved by connecting to our utility system.

MR. BRUCE JONES, City Manager, Petersberg, opposed SB 280. I worked with a DEC workgroup on capacity and development, which ended up supporting that part of the public utility have access to loan funds for both the drinking water and waste water.

The bill's sponsor statement said that by not having access to matching grant funds, the privately owned utilities are at a disadvantage. I disagree. There is now way to fairly compare the two. Privately owned utilities operate on profit and loss. Most utilities like Petersberg, if required to operate the same way would be considerably more expensive. The municipalities are lucky to break even. The grant program and the low interest loan program will not be able to respond to infrastructure needs and in most cases cannot account for depreciation. The sponsor goes on to say that the bill would increase the ability of the utility to expand into areas that are on the peripheral of existing systems, thereby providing water and waste water services to families that are currently on well and septic systems. This is a business decision faced by every utility. Every utility wants to sell more service because it increases revenue, but at what cost?

MR. JONES continued saying that if private facilities have access to these funds, there will be even less for the municipal projects. "In my mind, this is not an appropriate use of public funds."

CHAIRMAN STEVENS asked if there were any private utility providers in the City of Petersberg with water and sewer.

MR. JONES replied no.

SENATOR LEMAN asked him if he heard him say that decisions on expansion for utilities shouldn't be made on the basis of whether or not you get grant funds.

MR. JONES replied yes.

SENATOR LEMAN responded that probably every utility in Alaska is making its decisions on whether or not it can get grant funds. He thought Petersberg residents had done that consistently, too. Possibly Mr. Jones was wondering if a publicly owned utility should be allowed to do that and not a privately owned one.

MR. JONES agreed that they all make those decisions.

MR. TIM ROGERS, Legislative Program Coordinator for the Municipality of Anchorage, said he is also the Public Works Subcommittee Chair for the Alaska Municipal League. Their concern is that there are limited source of funds for these grants and further diluting the pot is going to create some concerns and

some problems for municipalities around the state. Their water and waste water utility last year received \$2.75 million in funds for projects working out to a little over 11 percent of the total amount available in the grants. For FY 03 they are up to \$3 million, which works out to 12.8 percent.

We have worked very hard to ratchet up the amount of money that's available for capital projects through this program and we see this dilution as a concern to amount of money that will be available to us for those projects.

MR. ROGERS said there is one very large multi national corporation [Waste Management] that deals in the solid waste services that would also be eligible for this fund and it would be tough for municipalities to compete with a \$12 billion a year organization for these funds.

SENATOR DAVIS said she is concerned that there is only one particular agency that is really interested in this legislation, the group from Fairbanks and the fact that they are private and not public. She thought that something needed to be done about their needs without bringing in the 86 other groups.

CHAIRMAN STEVENS asked if another source of funds existed for utilities and if there were figures on what percentages of monies go to water systems, waste water systems and solid waste.

MR. EASTON said he guessed that most of the funds would go to drinking water and then waste water and then solid waste.

CHAIRMAN STEVENS asked if the \$24 million feeds all of those functions and if there was one dominant area.

MR. EASTON replied that drinking water projects tend to compete better, because they have a bigger public health impact. Of the \$24 million, more drinking water projects get funded.

SENATOR THERRIAULT, sponsor, said:

I didn't anticipate opening this up to any large multi national, that being Waste Management. So if there's a way to easily carve them out of the participation, I would certainly be amenable to that.

With regard to the concern of any municipality being opposed to anyone else being in the pool competing, certainly the residents in the Fairbanks utility were in that pool up until the time that the decision was made to sell the utility. I think the community made a

wise decision in moving in that direction. In fact, I think across the nation, municipalities and constituency groups are considering that - private management versus the public management of water systems. I don't know, though, that having made that decision that the residents in the Fairbanks area are any less deserving of having access to safe water and sewer systems than anyone else in the State of Alaska. So, I think the public policy call we need to make is how do we use limited funds to benefit the overall constituency in the State of Alaska as far as the attainment of safe water and sewer systems.

I don't know that we should penalize communities or restrict or try to deter them from making the decision of whether they want to sell their utility. I can see if any other group is making a pitch for the purchase of a municipal system, privatizing a municipal system, that it would be brought up - well, you do that and you're going to cut off any access to state grant funds. I'm not sure that's the type of system that we want to put in place here. Hopefully, with these grant funds we're able to serve the largest number of the most deserving citizens in the State of Alaska and we do that through a sort of scoring system in the grant process, not necessarily differentiating [between private and municipal systems].

SENATOR AUSTERMAN asked him to comment on Senator Davis' idea about dealing with Fairbanks on its own and leaving the grant program alone.

SENATOR THERRIAULT replied that he would consider those discussions, but they would still be excluding a large number of Alaskans from even being considered for participation. The vast majority of systems are very small. So the impact on the grant funds would be "fairly diminimous." He thought there would be some that wouldn't even be sophisticated enough to apply.

SENATOR AUSTERMAN said that the issue of profiting from state funding needed to be answered.

SENATOR THERRIAULT agreed. He said that was brought up when access to the loan funds was considered. The legislature made a determination that they should serve the citizens of Alaska with access to the loan fund.

By linking it to the regulated utilities, we have tried to make sure that you're not pumping up the profits so

that the dividend on a yearly basis, which is the way the gentleman from Petersburg portrayed it, would be pumping up dividends paid to shareholders every year. With regulated utilities, they would not be able to build into their rate base a return of that capital. It is not capital that they as shareholders brought into the system. So, by having them come under the regulation of the RCA, I don't believe that they are able to reap a benefit that they would then pay a dividend back to the shareholders on a yearly basis.

SENATOR THERRIAULT said he asked the RCA that question and they should have their response in their packets.

SENATOR LEMAN asked if the private utility gets to book that investment as equity.

SENATOR THERRIAULT replied he understands that it would become overall equity, just like it becomes equity of the municipal system, too.

SENATOR LEMAN said he could understand people's concern.

CHAIRMAN STEVENS said they would hold SB 280 for further work to make the parameters "more refined."

SENATOR THERRIAULT agreed.

#

CHAIRMAN STEVENS adjourned the meeting a 3:25 p.m.