

HOUSE FINANCE COMMITTEE
April 20, 2004
1:49 P.M.

TAPE HFC 04 - 90, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:49 P.M.

MEMBERS PRESENT

Representative John Harris, Co-Chair
Representative Bill Williams, Co-Chair
Representative Kevin Meyer, Vice-Chair
Representative Mike Chenault
Representative Eric Croft
Representative Hugh Fate
Representative Richard Foster
Representative Mike Hawker
Representative Carl Moses
Representative Bill Stoltze

MEMBERS ABSENT

Representative Reggie Joule

ALSO PRESENT

Josh Applebee, Staff, Representative Tom Anderson; Eddy Jeans, Manger, School Finance and Facilities Section, Department of Education and Early Development

PRESENT VIA TELECONFERENCE

Mark Premo, General Manager, Anchorage Waste Water Utility, Anchorage; Mark Johnson, Chair, Regulatory Commission of Alaska (RCA), Anchorage

SUMMARY

HB 425 An Act relating to funding for school districts operating secondary school boarding programs, to funding for school districts from which boarding students come, and to inoperative school districts; and providing for an effective date.

CS HB 425 (EDU) was reported out of Committee with "individual" recommendations and with a new fiscal

note by the Department of Education & Early Development.

HB 515 An Act relating to the regulation of municipal water and sewer utilities not in competition with other water and sewer utilities.

HB 515 was HEARD and HELD in Committee for further consideration.

#HB515

HOUSE BILL NO. 515

An Act relating to the regulation of municipal water and sewer utilities not in competition with other water and sewer utilities.

JOSH APPLEBEE, STAFF, REPRESENTATIVE TOM ANDERSON, stated that HB 515 would exempt Anchorage Waste Water Utility (AWWU) from regulation by the Regulatory Commission of Alaska (RCA). Except for the City of Pelican, no other municipal owned water/wastewater utility is regulated by the RCA.

The Municipality of Anchorage believes that the current RCA regulation process is cumbersome, slow, and non-responsive to local needs. Ratepayers are required to pay for the expensive RCA regulatory process as a surcharge on every bill, whether or not their utility has a case pending. For example, from 1993 until 2003, AWWU never had a rate increase from the RCA or the Alaska Public Utility Commission (APUC), yet ratepayers are projected to pay about \$500 thousand dollars to the RCA to cover the costs of regulation. The greatest costs appear in the form of regulatory delays in obtaining approval for requested changes.

Mr. Applebee continued, the Municipality of Anchorage (MOA) is directly accountable to ratepayers served by the utilities. They are the voters. The Municipality has experienced successfully regulating enterprise activities: The Port of Anchorage, Solid Waster Services and Merrill Field are all financially sound and provide first class customer service and the public is involved in the hearing process. HB 515 would change existing law by adding language to Page 2, Lines 5-8, clarifying that water or sewer utility owned by a political subdivision is not directly competing with another water or sewer utility and exempt from the RCA regulations.

MARK PREMO, (TESTIFIED VIA TELECONFERENCE), GENERAL MANAGER, ANCHORAGE WASTE WATER UTILITY (AWWU), ANCHORAGE, testified in support of HR 515, a bill which would exempt AWWU from economic regulation by the Regulatory Commission of Alaska

(RCA), and place it in the same status as every other municipally owned water/wastewater utility in Alaska, except Pelican.

Mr. Premo provided background history on the issue. He noted that AWWU is two separate utilities, both subject to economic and service area regulations by the RCA. The Water Utility, a former City of Anchorage utility, has been under RCA regulation since inception of the Alaska Public Utilities Commission (APUC) in 1970. The Anchorage Sewer Utility, which was formerly owned by the Greater Anchorage Area Borough, was voluntarily submitted to the APUC for regulation in 1971. An umbrella organization, the AWWU, was formed in 1975, following unification of the Municipality of Anchorage (MOA). In 1991, the Municipality of Anchorage petitioned the then APUC to exempt AWWU and its electric utility from regulation. The Commission was evenly split by a 2-2 vote, whether to exempt the electric utility and AWWU.

Mr. Premo pointed out that the commissioner's opinion who opposed self-regulation, cited competition by the Municipality's electric, telephone and other utilities as their primary reason. No commissioner suggested that competition between the water and wastewater was present. There is no competition amongst them at this time.

He commented why the Municipality of Anchorage wants exemption from RCA:

- Current RCA regulation processes and procedures are slow and expensive.

From 1993 to 2003, AWWU never requested a rate increase, yet AWWU ratepayers have paid approximately \$2.8 million in regulatory assessments to the RCA during that period and are projected to pay \$485 thousand dollars in 2004 to cover the cost of regulation. The figures differ from the RCA because they are actual projected payments in 2004 versus the billings for the State fiscal year as estimated. History shows that local regulation is faster, less structured and more economical.

- Current RCA regulations and procedures are non-responsive to local needs.

The RCA process was designed for private utilities and is not appropriate for municipal utilities. The RCA process is very structured and the Municipality is more responsive to local needs and is directly accountable to the ratepayers.

Mr. Premo urged the Committee's support for HB 515.

MARK JOHNSON, (TESTIFIED VIA TELECONFERENCE), CHAIR, REGULATORY COMMISSION OF ALASKA (RCA), ANCHORAGE, commented that HB 515 would be a fundamental policy call on the part of the Legislature to decide if there is a role for the RCA to play in continued regulation for the AWWU. He voiced his appreciation for the work of the AWWU, which is a well-run utility. The question is regarding the ultimate benefits to the consumers. In 1991, there was a decision by the APUC, which determined not to relinquish jurisdiction over the AWWU. He advised that the benefits consumers have received having RCA in the lead role are significant. There have been few rate increases that the ratepayers have benefited from.

Mr. Johnson reiterated the benefits to the consumers, pointing out that HB 552 would alter that framework and would remove RCA's jurisdiction. The benefits of such a change are not clear. Most significantly, rate changes could be accomplished with the adoption of a Municipal Ordinance. There is no requirement to create a new independent commission to supervise the work in the bill. The situation would not remain the same with the Anchorage Municipal Assembly and they would be able to determine what rates ought to be.

Mr. Johnson thought that changes could be accomplished swiftly. He stated that the RCA is best equipped to provide the needed oversight for the water and sewer utilities and the AWWU. The Municipality is not well suited to deal with some of the inherent problems associated with the legislation. That pertains to the reasonableness for tax payment. Inherently, the municipal government would have a conflict of interest, allocating expenses to the utility while having an interest in receiving revenue distributions from that same utility.

Mr. Johnson concluded that the RCA regulation of the AWWU has been generally beneficial, adding, it would be a policy call for the Legislature to decide about the RCA's involvement. He offered to answer the Committee's questions.

Vice Chair Meyer commented that the RCA must have been doing a good job, as they have successfully upset many different businesses, which is a good thing for a regulatory agency. He inquired why the AWWU was still under the RCA's jurisdiction. Mr. Johnson responded that in the Fairbanks municipality, they use to own their water and sewer utilities. The experience in municipal management of those two utilities was not successful. In Fairbanks, it was determined that the best course of action would be to operate by private ownership, now regulated by the RCA. He noted that the RCA has a good track record in providing useful guidelines for the utilities, insuring that things

are appropriately run. In response to comments by Vice Chair Meyer, Mr. Johnson indicated that he did not consider himself to be an adversary for any specific group but instead looks to protect the consumer's interest.

Vice Chair Meyer asked if there could be a conflict of interest with the Municipality of Anchorage passing off some of their city expenses onto the price of water.

Mr. Johnson said the response to that could become a "heated discussion pretty quickly". To remove the RCA jurisdiction, water and sewer rates would rest with the Anchorage Assembly. He noted that the Assembly over the years has shown an appetite for trying to obtain additional distribution of accumulated surpluses from the municipal utilities. The Assembly is the entity in the middle of the considerations and with whoever is the presiding mayor in office at that time. They are involved in balancing that area's budget. The temptation to increase rates, under the guise of taxes or other fees, would be strong. He reiterated that the temptation is there and with the proposed legislation, there would be no mechanism to control it.

Representative Hawker asked how Mr. Premo would respond to accusations that the bill would allow local government the ability to raise taxes on property owner's utility rates. Mr. Premo noted that outside of Pelican, the same powers exist in all other publicly owned jurisdictions. The current process has many steps involved in rate increases. The first is the economic justification for the financial soundness of the utility. It would be then either approved or disapproved by the administration and then would go to the Assembly for approval. Subsequent to that, it moves to the RCA. The mechanism currently used through the RCA would continue to be the one used in the future, industry standards based upon revenue requirements and cost service studies. The financial model would continue to be the same as currently used. The difference would be that the same individuals that are ratepayers are also the voters in the Municipality of Anchorage. If people were concerned with what a local utility was doing, their voice would be more strongly heard in front of the Municipality Assembly. He thought there would be more control at a local level.

In response to Representative Hawker's query, Mr. Johnson observed that if in fact the authority for rate approval rests with the Anchorage Assembly and that there would be an inherent conflict in providing for the overall fiscal needs of the municipality. By doing that, it removes a significant check by the RCA. He acknowledged that no group of individuals have bad intent; the policy decision for the Legislature will be whether the public interest would be adequately served with the RCA out of the picture.

Representative Hawker asked if there was an inherent conflict with State government regulating without federal oversight. Mr. Johnson appreciated the comparison.

Vice Chair Meyer inquired if the AWWU not being under the RCA umbrella could save ratepayers money. Mr. Premo observed that it was projected in 2004 and that the amount saved by the ratepayers would be around \$485 thousand dollars.

Vice Chair Meyer asked if he could tell his constituents that by voting for this piece of legislation, they would be guaranteed to see a decrease in their water rates. Mr. Premo said yes and that in a revenue required projection, the amount of revenue required to operate the facility could be more than the \$485 thousand dollars. Additionally, the monthly surcharge would be eliminated. There would absolutely be a decrease in water rates as long as they are self-regulated.

Vice Chair Meyer echoed Representative Hawker's concern that once they fall out from under the RCA control, there would be no other watchdog outside of the voters. Vice Chair Meyer noted that he was not comfortable with that idea. Mr. Premo interjected that the question that needs to be asked is what the municipality's intent is to regulate. He pointed out that intent is to form a strong board of governance that would look out for financial soundness, active management and consumer advocacy of the utility.

Representative Stoltze spoke about the role of the RCA in the regulatory process, asking what would be substituted for consumer oversight. Mr. Johnson did not know. Representative Stoltze noted that he was worried about hypothetical situations that could occur. Mr. Johnson could not respond, as the question was too broad. He offered to research the issue.

HB 515 was HELD in Committee for further consideration.

#HB425

HOUSE BILL NO. 425

An Act relating to funding for school districts operating secondary school boarding programs, to funding for school districts from which boarding students come, and to inoperative school districts; and providing for an effective date.

Co-Chair Harris asked if the Department was supportive of the legislation.

EDDY JEANS, MANGER, SCHOOL FINANCE AND FACILITIES SECTION, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, explained that the Department has not received a formal position from the State Board of Education on the bill. The Department does believe that the legislation would provide some needed resources to the schools that are operating the boarding programs. He reminded the Committee that it is a pilot project and if it is not in the best interest for the State after five years, the Department will be before the Legislature to recommend ending the project.

Representative Foster MOVED CS HB 425 (EDU) out of Committee with individual recommendations and with the attached fiscal note. There being NO OBJECTION, it was so ordered.

CS HB 425 (EDU) was reported out of Committee with "individual" recommendations and with a new fiscal note by the Department of Education & Early Development.

#

ADJOURNMENT

The meeting was adjourned at 2:24 P.M.