

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 19, 2003

3:16 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Bob Lynn, Vice Chair
Representative Nancy Dahlstrom
Representative Norman Rokeberg
Representative David Guttenberg

MEMBERS ABSENT

Representative Carl Gatto
Representative Harry Crawford

COMMITTEE CALENDAR

HOUSE BILL NO. 111

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

- HEARD AND HELD; ASSIGNED TO SUBCOMMITTEE

HOUSE BILL NO. 119

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

- MOVED CSHB 119(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 120

"An Act excluding service contracts from regulation as insurance; and providing for an effective date."

- MOVED CSHB 120(L&C) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 111

SHORT TITLE: EXTEND REGULATORY COMMISSION OF ALASKA

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
02/19/03	0250	(H)	READ THE FIRST TIME -

REFERRALS			
02/19/03	0250	(H)	L&C, FIN
02/19/03	0250	(H)	FN1: (CED)
02/19/03	0250	(H)	GOVERNOR'S TRANSMITTAL LETTER
02/19/03	0250	(H)	REFERRED TO LABOR & COMMERCE
03/10/03		(H)	L&C AT 3:15 PM CAPITOL 17
03/10/03		(H)	Heard & Held
			MINUTE(L&C)
03/17/03		(H)	L&C AT 3:15 PM CAPITOL 17
03/17/03		(H)	<Bill Hearing Postponed to 3/19>
03/19/03		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 119

SHORT TITLE:WATER/SEWER/WASTE GRANTS TO UTILITIES

SPONSOR(S): REPRESENTATIVE(S)COGHILL

Jrn-Date	Jrn-Page		Action
02/24/03	0286	(H)	READ THE FIRST TIME - REFERRALS
02/24/03	0286	(H)	L&C, FIN
02/24/03	0286	(H)	REFERRED TO LABOR & COMMERCE
03/19/03		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 120

SHORT TITLE:SERVICE CONTRACT SALES ARE NOT INSURANCE

SPONSOR(S): REPRESENTATIVE(S)COGHILL

Jrn-Date	Jrn-Page		Action
02/24/03	0286	(H)	READ THE FIRST TIME - REFERRALS
02/24/03	0286	(H)	L&C
03/05/03		(H)	L&C AT 3:15 PM CAPITOL 17
03/05/03		(H)	Heard & Held
			MINUTE(L&C)
03/12/03		(H)	L&C AT 4:00 PM CAPITOL 17
03/12/03		(H)	Heard & Held
			MINUTE(L&C)
03/19/03		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

DAVE HARBOUR, Chair
Regulatory Commission of Alaska (RCA)
Anchorage, Alaska

POSITION STATEMENT: Spoke about his new position as chair of the RCA during the HB 111 hearing and answered questions on HB 119.

REPRESENTATIVE JOHN COGHILL

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the sponsor, testified on HB 119 and HB 120.

DAVID LEONE, Special Assistant

Mayor's Office
Fairbanks North Star Borough
Fairbanks, Alaska

POSITION STATEMENT: Spoke in support of HB 119, explaining how service areas in a second-class borough turn to private utilities for help in operating wastewater services.

KARA MORIARITY, President and CEO
Greater Fairbanks Chamber of Commerce
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 119 and encouraged broadening it beyond water and waste water utilities to all privately-owned utilities.

ANDY WARWICK, Chairman of the Board
Fairbanks Sewer and Water
Fairbanks, Alaska

POSITION STATEMENT: Supported HB 119, explaining that the utility's ratepayers benefit from the company's access to state grants.

JIM STRANDBERG, Commissioner
Regulatory Commission of Alaska (RCA)
Anchorage, Alaska

POSITION STATEMENT: Lauded HB 119's concept of giving more utilities access to grant money to build infrastructure but cautioned against pressuring the RCA to regulate small utilities.

DAN EASTON, Director
Facility Construction and Operation
Department of Environmental Conservation (DEC)
Juneau, Alaska

POSITION STATEMENT: During the hearing on HB 119, answered questions about DEC's method of classifying small water systems.

RYNNIEVA MOSS, Staff
to Representative John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on HB 120.

ACTION NARRATIVE

TAPE 03-23, SIDE A

Number 0001

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at 3:16 p.m. Representatives Anderson, Lynn, Dahlstrom, and Guttenberg were present at the call to order. Representative Rokeberg arrived as the meeting was in progress.

HB 111-EXTEND REGULATORY COMMISSION OF ALASKA

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 111, "An Act extending the termination date of the Regulatory Commission of Alaska; and providing for an effective date."

CHAIRMAN ANDERSON informed the committee that he was assigning HB 111 to a subcommittee consisting of himself and Representatives Dahlstrom and Guttenberg. He announced that the subcommittee would meet next Thursday, March 27, 2003. He requested that interested parties provide a one-page position statement identifying their suggested changes.

Number 0152

DAVE HARBOUR, Chair, Regulatory Commission of Alaska (RCA), thanked the committee for its role in the confirmation process. He discussed the circumstances under which he took the position as chair of the RCA. He commented on the RCA's dedicated staff of specialists. Mr. Harbour related that he feels a special sense of mission from the legislature and governor because one appointed him and the other confirmed him. He pointed out that after some 2,000 orders since the RCA was created in 1999, only about 15 major appeals have occurred. Virtually all of those appeals have been sustained by the court system, with the exception of one which was turned back for a procedural reason. Mr. Harbour emphasized the importance of RCA's communication with the legislature, the administration, as well as the regulated community. He encouraged dialogue about improving the

processes effecting the public interest and maximizing the RCA's efficiencies.

CHAIR ANDERSON reiterated that HB 111 will be held and heard in subcommittee next week.

HB 119-WATER/SEWER/WASTE GRANTS TO UTILITIES

Number 502

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 119, "An Act permitting grants to certain regulated public utilities for water quality enhancement projects and water supply and wastewater systems."

Number 0538

REPRESENTATIVE JACK COGHILL, Alaska State Legislature, sponsor of HB 119, noted that Section 3 is the heart of the bill.

Number 0528

REPRESENTATIVE GUTTENBERG moved to adopt committee substitute (CS) HB 119, Version 23-LS0617\D, Craver, 3/12/03, as the working document. There being no objection, Version D was before the committee.

REPRESENTATIVE COGHILL testified that this legislation will give certain groups that provide water and sewer services the ability to access matching grants, regardless of whether they are publicly or privately owned. However, these groups do need to fall under the jurisdiction of the Regulatory Commission of Alaska (RCA). He said this provision is found on page 2, lines 15-18, in Section 3, which reads: "(i) A public water and sewer utility is eligible for a grant for projects described in (b)(1) - (3) of this section if its rates are regulated by the Regulatory Commission of Alaska under AS 42.05."

REPRESENTATIVE COGHILL explained that HB 119 attempts to provide equity. A privately owned utility in Fairbanks was originally publicly owned; when the company made the transition, it no longer qualified for state matching grants. He noted that private utilities serve the same customers as public utilities and have the same needs. A key question is whether [such financial assistance] increases the profit for the private utility or whether it helps the ratepayers. He said this bill allows the utility to expand or do maintenance without passing

the cost onto the customers. For example, a municipal utility can use grant money to expand, and the ratepayers receive the benefit [of the expansion without a corresponding rate increase]. He said under HB 119, the grant would not enlarge the asset base of the for-profit utility. The RCA would not calculate the grant in adjusting the company's rate. He added that there may other smaller [privately-owned] companies that provide similar services, for example, village safe water contracts.

Number 0811

DAVID LEONE, Special Assistant, Mayor's Office, Fairbanks North Star Borough, testified that this second-class borough has limited powers to provide water and wastewater facilities. These utilities can be provided through citizen-approved service areas, of which there are two in the borough. Neither of those service areas can afford the cost of providing quality utility functions, nor can they afford major necessary improvements. This has resulted in some health and safety issues that must be addressed, he said. There is one service area in particular that has already raised its property taxes to the maximum allowable mill rate in order to improve the wastewater process. The citizens turned to a privately held water and wastewater corporation to provide some support. He admitted that unfortunately, as the borough tries to privatize some of the services, inequities in state statute [come to light], in this case, privately owned utilities not being able to obtain state grants. These grants allow public utilities to improve the existing infrastructure without placing the burden on the ratepayer. Under this bill, the grants would cover improvements that are currently "transparent" to the consumer, that is, the cost is now passed through to the consumer. Under HB 119, the company's dollar value would not be increased by the improvements, a factor prevented by the RCA. Mr. Leone concluded that the borough supports the passage of HB 119.

Number 0968

KARA MORIARITY, President and CEO, Greater Fairbanks Chamber of Commerce, stated that the chamber passed a resolution of support for HB 119. She explained that the chamber supports this legislation because publicly owned utilities have access to state grant funds for infrastructure development while privately owned utilities do not. In this regard, privately owned utilities and their ratepayers are penalized because it costs more to develop their infrastructure. If a privately held

utility was eligible for a grant, according to the RCA, the investors in the private utility would not profit from the use of those grants; the financial gain would have to be passed on to the rate payers as a cost-saving measure.

Number 1058

MS. MORIARITY explained that almost all the utilities in the Fairbanks area are privately owned or owned by a cooperative. Fairbanks no longer has any municipally- or government-owned utilities. The chamber board members indicated that they would like to see HB 119 expanded to allow all privately-owned utilities regulated by the RCA to apply for grants, not just water and wastewater utilities. She mentioned that a small, privately owned Natural Gas Company faces an enormous hurdle in expanding its lines in to more areas in Fairbanks. She said it has been a huge challenge and investment for that company to build its infrastructure.

MS. MORIARITY noted that giving both privately- and publicly-owned utilities the same access for grants for infrastructure development would promote economic development, allowing expansion to customers that are not currently connected to a utility system. She said that there are lots in the borough that are only 10 to 15 minutes from downtown that are not connected to the water system. She concluded that the chamber supports the bill and encourages broadening it to allow all privately owned utilities regulated by the RCA to have access to state grants.

Number 1182

ANDY WARWICK, Chairman of the Board, Fairbanks Sewer and Water, explained that this company was formed in 1996 to acquire the City of Fairbanks' water and wastewater utility. At that time, the city was participating only minimally in grant funding because there was not much funding available. Now grants for water and sewer projects appear to be increasing in importance. Because Fairbanks has privatized its utilities, it is the only community in the state that is ineligible to participate. He noted that HB 119 remedies this inequity by allowing privately owned utilities that are regulated by the RCA to apply for grants under AS 46.03.030(b) [Environmental Conservation]. This puts Fairbanks ratepayers in the same position as ratepayers in every other city in the state. He stressed that under RCA regulation, all the economic benefits of these grants are passed onto the ratepayers; the utilities get no rate of return on the

plant, or any depreciation expense, nor can the rates be increased. Economic regulation [by the RCA] essentially makes his company economically neutral under this bill, and the benefits to the ratepayer are obvious. He said that HB 119 will reduce the burden to ratepayers for improvements made to water and wastewater systems. It will also increase the ability of the utility to expand its water and wastewater systems to include families and businesses that currently use well and septic systems.

Number 1282

MR. WARWICK commented that the vast majority of Fairbanks residents are not hooked up to public water, which results in sanitary problems that could be resolved by connecting them to the utility system.

REPRESENTATIVE ROKEBERG noted that the current statute that covers municipalities puts a cap of 50 percent on eligible costs for a municipality and, if HB 119 passes, utility service for populations over 5,000 people. He asked if the 50 percent cap is a problem.

MR. WARWICK explained that he wants his utility and his ratepayers to be treated the same as other communities. The change wouldn't benefit or penalize the utility; it's held neutral. There are benefits to a utility of having happy ratepayers, for example, when the utility goes before the RCA for a rate increase.

Number 1395

JIM STRANDBERG, Commissioner, Regulatory Commission of Alaska, described how the RCA regulates small water and sewer systems in the state. He said he agreed with Mr. Warwick that grant funds in Alaska are particularly important to reduce the cost of services to the ratepayers, especially in such capital-intensive utilities as water and sewer systems. He acknowledged that in Fairbanks, capital needs are particularly high for large network systems, given the permafrost conditions and high operating costs.

MR. STRANDBERG noted that in HB 119, any utility that is rate-regulated by the RCA would be eligible to apply for a grant. As a result, many of the small utilities which the RCA does not currently regulate would come to RCA [in order to qualify for these grants]. A legislative audit recommended over a year ago

that the RCA determine which classes of small water and sewer systems it will regulate. He said the RCA has held citizen advisory meetings and taken extensive public comment; it has developed regulations for these systems and will soon accept public comment on the regulations.

MR. STRANDBERG explained that the public sentiment is that the RCA should not regulate the rates of many of the smaller utilities but find another way to assure ratepayers that they are being treated fairly. He said many people have recommended that certain classes of utilities be exempted totally from RCA regulation. Another type of reduced regulation would allow utilities to register with the RCA and agree to comply with a model tariff. In a third class, the RCA would rate-regulate the larger utilities, although no break has been set between these levels yet. He said it's likely that the actual universe of rate-regulated water and sewer utilities may not be very large.

MR. STRANDBERG noted, however, if the RCA elected to rate regulate all the utilities, the statistics are daunting. There are 400 water systems and 250 sewer systems which qualify as utilities under the statute. If the RCA chose to rate-regulate all of those, the RCA would be faced with regulating an additional 237 water utilities and 136 sewer utilities. He said that the RCA prepared an indeterminate fiscal note on HB 119 because staff doesn't know how many utilities will be rate-regulated [under the proposed regulations]. He summarized that RCA lauds the bill with its goal of increasing access to grant money to build infrastructure. However, he cautioned legislators to anticipate the impact on the RCA as it attempts to lighten its regulatory load among smaller utilities.

Number 1655

REPRESENTATIVE GUTTENBERG asked whether a large number of private utilities might come forward seeking these water and sewer grants.

MR. STRANDBERG replied that depends on the ease of application for the grant funds; that will reveal how many utilities approach the RCA to be regulated. If the money is easy to get, he suggested that the RCA could be deluged.

REPRESENTATIVE GUTTENBERG asked for the definition of a public utility.

Number 1735

MR. STRANDBERG replied that the RCA statute defines public utility in AS 42.05.990 (4)(c) as including every corporation, whether public, cooperative or otherwise, company, individual, or association of individuals, that owns, operates, manages, or controls any plant, pipeline or system furnishing, water, steam, or sewer service to the public for compensation. The public is a group of 10 or more customers. He said that public utility is well defined, and the definition is fairly inclusive.

REPRESENTATIVE GUTTENBERG noted the language on page 2, lines 9-14, in which a utility serving more than 5,000 people under certain circumstances receives a grant of 60 percent of the eligible costs. He asked whether this 60 percent figure is high enough.

MR. STRANDBERG replied that the dynamic of grant funding in Fairbanks is different than in rural communities. With the matching fund requirement, it will be highly variable whether the utilities can raise the necessary match. He commented that it's more likely that larger communities will seek this funding.

Number 1846

REPRESENTATIVE ROKEBERG asked about the total number of certificated water systems under the RCA.

MR. STRANDBERG replied that there are 400 water systems and 250 sewer systems that qualify as a utility.

REPRESENTATIVE ROKEBERG noted that the Department of Environmental Conservation [DEC] categorizes the water systems by size. He asked if the RCA uses similar categories.

MR. STRANDBERG replied that the two agencies' categories share some similarities. The RCA statute refers to 10 or more customers being a utility, whereas DEC regulations refer to 15 or more customers. The vast majority of DEC water systems are Class A.

REPRESENTATIVE ROKEBERG said he's seeking a solution to Mr. Strandberg's concerns about a "gold rush on his shop." He explained that he is trying to clarify whether the RCA regulates all three levels of DEC utilities.

MR. STRANDBERG replied that the RCA and DEC categories are very different systems, but he said that he couldn't remember the exact DEC classes.

Number 1983

REPRESENTATIVE ROKEBERG confirmed that the RCA statutory authority is over utilities serving 10 or more people. He asked if RCA has any other criteria for which utilities it regulates.

MR. STRANDBERG responded that DEC tends to focus on the [health] risk of the water quality and the number of customers. He noted that RCA qualifications tend to deal with ratepayers' financial concerns, such as whether they are represented by a local government unit so they don't need rate regulation. Also, the RCA classifications recognize that regulating very small utilities doesn't help the ratepayer because of its expense.

REPRESENTATIVE ROKEBERG asked which classes RCA regulates.

MR. STRANDBERG replied that the RCA is in the process of putting those classes together, drafting the regulations now in response to extensive public comment.

Number 2068

REPRESENTATIVE ROKEBERG asked whether the RCA currently rate-regulates the 400 water systems.

MR. STRANDBERG replied that currently, the RCA regulates all water utilities that are not municipal systems. He confirmed that all 400 water systems are currently rate-regulated by the RCA.

REPRESENTATIVE COGHILL asked whether there are unregulated municipal utilities.

MR. STRANDBERG replied that there are approximately 100 municipally owned water and 70 municipally owned sewer utilities that are not regulated by the RCA.

REPRESENTATIVE COGHILL stated that he may have inadvertently excluded municipal utilities from having access to these matching grants. The bill states on page 2, lines 16-17, that public utilities must be regulated by the RCA in order to be eligible for these matching grants.

Number 2145

MR. STRANDBERG referred to the language on page 1, lines [13-14], subsection (e), "A grant under this section to a municipality or public utility eligible under (i) of this section..." He said he interprets this as [including municipal utilities not regulated by the RCA].

REPRESENTATIVE COGHILL thanked him for that clarification.

REPRESENTATIVE ROKEBERG said he appreciates the RCA following the legislative audit recommendation to remove small water utilities from RCA regulation. He asked if the committee limited the eligible rate-regulated water and sewer utilities in HB 119 to those currently regulated by the RCA, would that help [protect the RCA from being overwhelmed by requests to be regulated]?

MR. STRANDBERG responded that it would depend on the availability of funds and on whether other funds could be used to meet the matching requirement.

REPRESENTATIVE ROKEBERG asked whether there are additional water and sewer utilities, beyond the 400 water and 250 sewer utilities, that would ask to be regulated [in order to qualify for these grants].

CHAIR ANDERSON asked if the committee needs to change something in the bill to cover this other group.

MR. STRANDBERG responded that HB 119 currently makes any utility that is rate-regulated by the RCA eligible [to apply for a grant]. He said there are currently 21 economically regulated water utilities in the state now. Those would be eligible [for grants under HB 119] if the RCA implemented its [draft] regulations.

Number 2299

REPRESENTATIVE ROKEBERG said he assumes that because RCA has the authority to rate-regulate all 400 water utilities, the utilities would qualify for grants under this bill. He reiterated that RCA has the authority to regulate those small water utilities serving 10 or more people.

MR. STRANDBERG agreed and said that if the utilities are economically regulated, they need to file a tariff with the RCA.

REPRESENTATIVE ROKEBERG asked if there are systems that are not economically regulated now.

Number 2334

MR. STRANDBERG said that a significant number of the water and sewer utilities are not regulated because they have never approached the RCA.

REPRESENTATIVE ROKEBERG asked how many water utilities are currently regulated by RCA.

MR. STRANDBERG replied that the RCA currently regulates 21 water utilities.

REPRESENTATIVE ROKEBERG confirmed that only those utilities that have approached the RCA and asked for economic regulation are currently certified as economically regulated now.

TAPE 03-23, SIDE B

Number 2357

REPRESENTATIVE ROKEBERG asked whether these other [400 water and 250 sewer] utilities have filed no tariffs with the RCA.

MR. STRANDBERG stated that is correct. He said the reason for the legislative audit [recommendation] is that many small organizations in small communities have never approached the RCA. He added that it has been a significant question of how the RCA should regulate [these utilities] to protect the public safety.

Number 2336

CHAIR ANDERSON asked the sponsor if he would like to look at these technical questions and bring the bill back to committee for consideration at the next meeting.

REPRESENTATIVE COGHILL replied that the technical question is [how many utilities RCA regulates now and how many will it regulate in the future]. He said there is no technical question about how the bill works. The bill has a referral to the House Finance Standing Committee, and that committee could [review the number of utilities that would be eligible]. He said he would like to see the bill move [today] if this committee supports the policy [of grants to privately-held utilities].

REPRESENTATIVE ROKEBERG said he remains concerned about who is really going to be eligible [to apply for these grants]. He said he thought he could amend the bill to limit it to those who are currently regulated [by the RCA] but he's not sure what that would mean. The RCA trying to meet the recommendation of the Legislative Budget and Audit Committee by limiting the number of small utilities that it regulates seems to work at cross purposes to HB 119, he said.

Number 2263

REPRESENTATIVE COGHILL said this bill would allow [utilities to apply for grants] based on how they are certified under the RCA's tier system.

REPRESENTATIVE ROKEBERG commented that if the bill included only those 21 water systems currently regulated [by the RCA], many small water systems wouldn't qualify under HB 119.

Number 2248

DAVE HARBOUR, Chair, Regulatory Commission of Alaska), described the problem of timing. A legislative audit recommended that the RCA limit the regulation of small utilities so that regulation costs could be minimized and public safety maintained. Yet, he pointed out, HB 119 presents an opportunity for improvements to many small utilities without cost to their ratepayers. He said Representative Rokeberg is on point. If the sponsor and the committee passes HB 119 on to the finance committee, the RCA would supply information [to answer these questions], even though the RCA is still developing its regulations. RCA staff anticipated having those regulations completed by summer.

COMMISSIONER HARBOUR noted that the [challenge] is to write the definition [of rate-regulated utilities] so that those who want to take advantage of grants may do so and so that there's the appropriate reporting [to the RCA] of the grant money. He also noted the committee's goal to include those utilities that wish minimal regulation. That's the language the RCA and the sponsor will have to work on, he said

Number 2172

REPRESENTATIVE ROKEBERG explained that the real problem here is defining which utilities qualify. He noted that HB 119 uses the DEC statute to define utilities because it has an existing

system in place. That might narrow the scope a bit, he said, but the question becomes a policy issue--to what degree does the legislature want to limit utilities [from applying for grant funds]. For example, in urban Anchorage, there are 3,000 people on well water; [their water systems will be impacted] by the 2006 target date in the federal Clean Water Act, which changes the standards for arsenic. He said he hopes these small private water systems would qualify for these grants. But there is a problem with the unintended impact of the RCA's new direction [of reducing the number of utilities it regulates].

Number 2084

REPRESENTATIVE COGHILL agreed.

REPRESENTATIVE ROKEBERG noted that HB 119 is placed under the DEC title, so perhaps the bill should focus on DEC's definition of small utilities.

COMMISSIONER HARBOUR agreed with this idea.

REPRESENTATIVE COGHILL said he is willing to have the bill held in committee while that idea is explored.

Number 2063

CHAIR ANDERSON said the bill can be brought back before the committee as soon as the sponsor is ready.

REPRESENTATIVE GUTTENBERG suggested that any changes in the bill's language should avoid conflicts [with the RCA's statute].

Number 2033

DAN EASTON, Director, Facility Construction and Operation, Department of Environmental Conservation, in response to Representative Rokeberg, explained how DEC categorizes the smaller water systems. He said the different classes of drinking water systems are subject to different regulatory requirements. These classes don't have anything to do with DEC's grant program. The Class A water system serves 25 residents or more per day; the Class B serves 25 nonresidents, for example, in a restaurant; a Class C system serves less than 25 people. There is no alignment between RCA and DEC classifications because of the different purposes of these schemes.

REPRESENTATIVE ROKEBERG asked how many systems fall in each category.

MR. EASTON replied that there are approximately 650 water systems in the Class A. In commenting on the difference in numbers between the two agencies, he said RCA is interested in water systems that charge a rate for the water, whereas DEC is interested in all drinking water systems.

Number 1973

REPRESENTATIVE COGHILL confirmed that a hotel complex's water system was an example of a system that didn't charge for its water.

REPRESENTATIVE ROKEBERG said the information on the DEC classifications does not help [the committee resolve the problem]. He said there's only so much grant money available. He pondered whether the sponsor could design some kind of criteria rather than using economic regulation [by RCA]. The criteria of a regulated rate is not sufficient because it is too broad.

REPRESENTATIVE COGHILL said he wanted to make the criteria broad so there would be some competition at the grant level. He said that grant awards will be based on both the ability to match [grant moneys] and the ability to perform. He said he realized that there would be different classes of regulated groups [competing]. He said he does not believe he is going crosswise with the RCA but is willing to hold the bill over for that discussion.

Number 1864

REPRESENTATIVE ROKEBERG said the fix is to amend this bill to qualify those who are rate-regulated or who qualify for rate regulation as a "date certain;" that would not affect the outcome of the pending RCA regulations. That way, RCA wouldn't get a rush of people into their office; those utilities already qualify under the current definitions. By using a "date certain," the legislature avoids the problem of unintended consequences of this bill.

REPRESENTATIVE COGHILL responded that then there would be a tiered qualification that was broad until RCA regulations were finalized, and he said he did not like that option. He said he'd rather leave [the field of potential applicants] broad; he

does not anticipate a rush [for grants], given the economic condition of Alaska.

Number 1802

REPRESENTATIVE ROKEBERG confirmed that the number of interested applicants [among utilities] would be self-limiting, [determined by whether] the utility wanted to be regulated by the RCA. He said this would force small utilities into rate-regulation [by the RCA].

REPRESENTATIVE COGHILL said that would be part of the market-driven approach for any community that would apply for a grant. He said he was willing to discuss this further with the RCA, which could be done in the next committee of referral.

REPRESENTATIVE GUTTENBERG asked Mr. Easton about the 60 percent match for systems that incorporate resource recovery [per the language on page 2, lines 13-14]. He asked if there would be any benefit to having this 60 percent rate higher.

Number 1724

MR. EASTON noted that this language is an old provision that applies to solid waste projects and allows for the state to pay 60 percent instead of 50 percent of a project's cost as a way to entice solid waste systems to do recycling. Privately owned solid waste processing systems would not qualify for grants under this bill. In Section 3, page 2, lines 15-18, the reference to projects described under (b)(1)-(3) does not include solid waste processing.

REPRESENTATIVE ROKEBERG asked if the sponsor's goal is to make [the field] as broad as possible and let the competitive grant process winnow out [a large number of applicants]. But he encouraged Representative Coghill to consider RCA's offer to see how to avoid a "run on the bank."

Number 1645

REPRESENTATIVE ROKEBERG moved to report CSHB 119, Version 23-LS0617\D, Craver, 3/12/03, from committee with individual recommendations and the accompanying indeterminate fiscal notes. There being no objection, CSHB 119(L&C) was reported from the House Labor and Commerce Standing Committee.

HB 120-SERVICE CONTRACT SALES ARE NOT INSURANCE

Number 1613

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 120, "An Act excluding service contracts from regulation as insurance; and providing for an effective date."

Number 1598

REPRESENTATIVE ROKEBERG moved that the committee adopt the proposed committee substitute (CS) to HB 120, Version 23-LS0537\I, Ford, 3/19/03, as the working document. There being no objection, Version I was before the committee.

REPRESENTATIVE ROKEBERG related that [Version I addresses] all the committee's questions. Furthermore, the legislation has a zero fiscal note that was prepared by the committee.

REPRESENTATIVE LYNN related his understanding that this legislation protects any licensed realtor providing a home warranty in the state.

REPRESENTATIVE JOHN COGHILL, Alaska State Legislature, as the sponsor of HB 120, deferred to officials from the administration.

REPRESENTATIVE ROKEBERG pointed out that [Version I] clearly does what Representative Lynn understood, which is why [the language on page 2, lines 23-25] is included. Furthermore, underwriters would still pay the premium tax under Section 1 language.

Number 1484

RYNNIEVA MOSS, Staff to Representative John Coghill, Alaska State Legislature, said she concurred with Representative Lynn's understanding that a realtor could sell a home warranty and not have to have a license to sell insurance.

REPRESENTATIVE COGHILL pointed out that Section 2, [paragraph (h)(2), page 2, lines 23-25] attempts to clarify that.

REPRESENTATIVE ROKEBERG said, "My understanding is on home warranty underwriting, that [subparagraph (e)(1)(C) in Section 1, page 2, lines 5-8] is controlling, ... notwithstanding [subparagraph (e)(2)(E)] below, 'where a home warranty, except

as described in (1)(C) of this subsection,' is excluded as found in (1)(C) above."

REPRESENTATIVE COGHILL deferred to the representative of the administration. He noted the need on page 2, line 13 to delete "or" because it isn't necessary.

REPRESENTATIVE ROKEBERG pointed out that home warranties are not excluded [from oversight by the Division of Insurance] per the language on page 2, line 17. Therefore, [companies that underwrite] home warranties still pay the premium tax, except if the [home warranty] is a component part of a home under [subparagraph (e)(1)(C) in Section 1]. Representative Rokeberg clarified that the home warranty is not excluded from payment of premium tax because it is an underwritten item. But [paragraph (h)(2)] of Section 2 excludes the [seller of the warranty] from being licensed in order to sell [the home warranty]. He said for the record that he wanted to show that some service contracts could cover component parts without intending to be home warranties. So, a [company underwriting] a home warranty would still pay a premium tax, but a [company offering a service contract] on a washer and dryer component part would not [pay a premium tax].

CHAIR ANDERSON noted that the sponsor seems to concur with Representative Rokeberg's comments.

Number 1316

REPRESENTATIVE GUTTENBERG inquired as to why Chair Anderson had written the fiscal note.

REPRESENTATIVE ROKEBERG explained that statute specifies that if the department doesn't provide a fiscal note, then a committee of referral can do so.

Number 1291

REPRESENTATIVE ROKEBERG moved to report CSHB 120 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE ROKEBERG withdrew the aforementioned motion and moved that the committee adopt Conceptual Amendment 1 as follows: page 2, line 13, after "serviced;" delete "or". There being no objection, Conceptual Amendment 1 was adopted.

Number 1247

REPRESENTATIVE ROKEBERG moved to report the CS for HB 120, Version 23-LS0537\I, Ford, 3/19/03, as amended, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 120(L&C) was reported from the House Labor and Commerce Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:30 p.m.