

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 10, 2004

1:39 p.m.

TAPE (S) 04-7

MEMBERS PRESENT

Senator Bert Stedman, Chair
Senator Gary Stevens
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

Senator Thomas Wagoner, Vice Chair

COMMITTEE CALENDAR

SENATE BILL NO. 335

"An Act relating to enhanced 911 surcharges and to emergency services dispatch systems of municipalities, certain villages, and public corporations established by municipalities."

HEARD AND HELD

SENATE BILL NO. 355

"An Act relating to the protection of land and water from waste disposal; providing for the regulation of waste management; making conforming amendments; and providing for an effective date."

MOVED SB 355 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 335

SHORT TITLE: EMERGENCY SERVICES DISPATCH/911 SURCHARGE

SPONSOR(S): SENATOR(S) SEEKINS

02/16/04	(S)	READ THE FIRST TIME - REFERRALS
02/16/04	(S)	CRA, FIN
03/10/04	(S)	CRA AT 1:30 PM FAHRENKAMP 203

BILL: SB 355

SHORT TITLE: WASTE MANAGEMENT/DISPOSAL

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/27/04	(S)	READ THE FIRST TIME - REFERRALS
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02/27/04 (S) CRA, RES
03/10/04 (S) CRA AT 1:30 PM FAHRENKAMP 203

WITNESS REGISTER

Joe Michel
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced SB 335 for sponsor

Patrick Cole
Representing the Mayor of Fairbanks
800 Cushman Street
Fairbanks, AK 99701
POSITION STATEMENT: Commented on SB 335

Eric Mohrmann
Interior Fire Chiefs Association
Fairbanks, AK 99701
POSITION STATEMENT: Commented on SB 335

Paul Harris
Fairbanks Police Department Representative
800 Cushman Street
Fairbanks, AK 99701
POSITION STATEMENT: Commented on SB 335

Commissioner Ernesta Ballard
Department of Environmental Conservation
410 Willoughby
Juneau, AK 99801-1795
POSITION STATEMENT: Introduced SB 355

Marilyn Crockett
Alaska Oil & Gas Representative
No address provided
POSITION STATEMENT: Testified in support of SB 355

Steve Borell
Alaska Miners Association
No address provided
POSITION STATEMENT: Testified in support of SB 355

Rich Heig
Council of Alaska Producers
No address provided
POSITION STATEMENT: Testified in support of SB 355

ACTION NARRATIVE

TAPE 04-7, SIDE A

CHAIR BERT STEDMAN called the Senate Community and Regional Affairs Standing Committee meeting to order at 1:39 p.m. Present were Senators Gary Stevens, Elton and Chair Stedman. Before turning to the bill calendar, he introduced three students and two young adults who were visiting from Sitka.

SB 335-EMERGENCY SERVICES DISPATCH/911 SURCHARGE

CHAIR BERT STEDMAN announced SB 335 to be up for consideration. He asked Senator Seekins to proceed.

SENATOR RALPH SEEKINS, sponsor, asked his staff member to present the bill.

JOE MICHEL, legislative aide to Senator Seekins, explained that the bill relates to enhanced 911 surcharges. Enhanced 911, or E-911, shows the physical location and name of a caller to emergency service dispatchers. The purpose of SB 335 is to give municipalities more freedom to recover some of the costs of providing E-911 service to their community.

Currently there is a statutory ceiling on the amount a municipality may collect to pay for E-911 services. That amount isn't enough to pay the overhead so municipalities have to recover those costs from the people through increased taxes of some sort. SB 335 amends the statute by raising the surcharge ceiling and by instituting a surcharge for the operation of the E-911 service.

The final change this bill makes occurs on page 3, lines 18-20. It says, "The municipality may only use the emergency services dispatch surcharge for the actual labor and equipment used to provide emergency services dispatch." That addition is to ensure that municipalities recover no more than their operation costs. Also, an annual review of the actual costs is required.

SENATOR GARY STEVENS noted that municipalities with fewer than 100,000 people could charge up to \$2.15 for E-911 services and asked for verification that they wouldn't recover more than the actual costs up to that limit.

MR. MICHEL agreed and reiterated that the goal is to transfer the cost burden from the taxpayers.

CHAIR STEDMAN told of an experience he had recently, in which he was asked to return a missed call to someone in a nearby community. When he made the call, he discovered that the cell number was from the state of Washington. He asked if that caller would be paying the proposed fees or would they be able to avoid them.

MR. MICHEL replied they would avoid the fees. He explained that his cell phone service comes from Fairbanks and if that municipality instituted a fee he would pay that fee regardless of the fact that he was using his phone in Juneau. Furthermore, the difference between phases I and II, E-911 service is that 911 calls from cell phones in Alaska can't currently be triangulated. Unlike a landline, emergency cell phone calls in Alaska don't register a physical location.

SENATOR KIM ELTON noted that this is a per line charge rather than a per household charge and asked whether the sponsor might consider the latter rather than the former. He reasoned that a number of households have separate computer and fax lines that wouldn't be used to make emergency calls. "How did you get to the point where you do it per line rather than per household," he asked.

MR. MICHEL responded by saying that the Fairbanks mayor asked the sponsor to introduce the bill, which is a companion to HB 461. As written, the charge would be per line, but the sponsor is open to the change. "The idea was presented that you could provide evidence that you have a fax line and then you'll be able to take that surcharge off your phone line. So it would be by household. It would be the responsibility of the resident to turn that in to the phone company. Those ideas have been brought forward by different representatives."

SENATOR GARY STEVENS remarked that this bill attempts to recover some of the costs, but there are inequities to consider. Referring to his community, he said the City of Kodiak provides E-911 service to the city and a much larger portion of Kodiak Island that is outside the city.

MR. MICHEL said this bill is trying to address that. Using Fairbanks as an example, he said that this would transfer the burden from those paying property tax to those with phones who therefore have the capability of dialing 911.

SENATOR GARY STEVENS asked if 911 service extends outside the city or borough of Fairbanks.

MR. MICHEL deferred to Mr. Harris, director of police.

SENATOR ELTON assumed that there is no distinction made between a business phone and a residential phone.

MR. MICHEL agreed there is no distinction. "If you can dial 911 from it, the surcharges apply."

SENATOR ELTON wanted to make sure he understood correctly that the surcharge would apply to all lines, but the sponsor would consider change to exclude lines that weren't used for voice calls.

MR. MICHEL said the sponsor would consider change in that area, but currently the surcharge would apply to fax and modem lines.

CHAIR STEDMAN opened public testimony.

PATRICK COLE, representative for the Fairbanks mayor, testified via teleconference to express support for the bill. Fairbanks has been working with both the borough and the City of North Pole in an effort to find ways to control and or recover the cost of dispatch centers.

Referencing an earlier question about service areas, he explained that under current law a dispatch center could serve an area that stretches beyond its own boundaries. Specifically, Kodiak may serve beyond the city boundaries, which would allow them to recover some cost of providing service to the surrounding area.

For at least the last ten years the law has provided for a per line charge. They have discussed the possibility of not charging for more than one line, but "this bill, as written, solves our short term problem," he said. It would enable the municipality to broaden service and take the burden off taxpayers and place it on users.

SENATOR ELTON asked, "If the bill is amended to allow customers to check off and not pay for modem or fax lines, would that make us need to revisit the 85 cents per month surcharge? I mean would you need to go up to 87 cents?"

MR. COLE said he didn't know, but he did know that the number of landlines have declined in the last few years in Fairbanks. "I don't think that allowing a per household [charge] would hurt things terribly, but we really don't know."

SENATOR GARY STEVENS asked if the City of Fairbanks subsidizes their 911 services and if so, how much does it every year.

MR. COLE said they spend about \$1 million a year to run their center. "That includes all our dispatch services. Right now the current surcharge only pays for the software and the equipment."

ERIC MOHRMANN testified via teleconference from Fairbanks to represent the Interior Fire Chiefs Association in support of the bill. His department is one of nine within the borough and this bill would help address their high and escalating costs.

PAUL HARRIS, Fairbanks Police Department director, spoke in support of the bill.

Fairbanks Police Department currently runs a dispatch center and provides services to the Fairbanks Police Department, fire department, and emergency medical services. We've just signed a contract with North Pole and we will be providing those same services to North Pole and we're working on contracts with Delta, Delta Rescue, and Deltana to provide services out there along with the Salcha Rescue.

We support this bill.... We think it will help us a lot in covering the cost of the dispatch center. It will provide funding for the dispatch center as we go together. And even if we don't end up in a regional dispatch center, we would end up in that place like we are now with five different dispatch centers. Each one of those dispatch centers would receive funding for their operation from this bill.

The 911 surcharge is certainly not a new concept. AS 29.35.131 already provides for a surcharge of up to 75 cents on every telephone line and cell phones if enhanced 911 services are offered. In the [Fairbanks] North Star Borough, we haven't charged against the cell phones.

If you're in Fairbanks and you dial 911 on your cell phone, it doesn't make any difference whether you're inside the city limits or outside in the borough

someplace. It all rings into the Fairbanks Police Department dispatch center. So every cell phone 911 [call] that is made rings in. We have an operator that picks it up and answers it, finds out where the problem is and sends it to the right agency.

There was a comment made about what if somebody has a cell phone in Fairbanks and is in Juneau and dials 911. What actually happens is that 911 call is answered at the Juneau 911 center and they would know that it is in the area. They would not know exactly where that phone was located. That's the same thing we deal with in Fairbanks. The 911 rings into us from Delta all the way down to past Nenana.

The surcharged provided in the current law is barely enough just to cover the equipment costs for maintenance and replacement. The proposed amendment provides money necessary for equipment upgrades and replacement up to 85 cents and additional monies to pay for the actual operation of emergency dispatch center up to \$2.15.

I don't believe that in the North Star Borough that we would ever charge the maximum amount that's allowed under this proposed amendment. It's possible some other jurisdictions might do that, but as previously stated, there's language in the bill that causes each municipality to go back and look at it every year so that ... the surcharge then can then be adjusted up or down to cover the actual costs of the dispatch center.

The current surcharge that we have does not pay for the cost of a well-trained dispatcher 24/7 to answer the call. Right now the money that is collected on the surcharge simply pays for you to pick up the telephone, dial 911, it to ring into a dispatch center. That's all that's paid for at this point. There's nothing provided to pay for somebody to actually lean down and pick up the headset and say, "Hello this is the Fairbanks Dispatch Center." That cost is all covered by the local governments.

I think it's also important to recognize that there's nothing in this proposed legislation that requires a municipality to charge the maximum amount. That question has come up several times and it needs to be

made clear that the amount that's put into this is the maximum amount that can be charged, but it's not a requirement that anybody charge that amount.

We feel that now, especially with municipalities having difficult times financially, this amendment allows the opportunity to pay for critical services without going back to the property owners and laying it on the taxpayers. We support this amendment and we encourage you to support it.

SENATOR ELTON thanked Mr. Harris for extending him the courtesy of meeting with him prior to the hearing and apologized for neglecting to ask about the following: Consider a small business owner with a couple of employees. When you consider that they might have a fax line, a modem line, employee lines and a cell phone at work and nearly as many lines at home. I can see the monthly surcharge for this one small businessperson amounting to \$8.50 if they have 10 different lines. In comparison, he said, someone else pays for my work phone and at home I pay for one landline and my cell phone. "And so my bill is \$1.60. I'm one person and that is one person and yet they're supporting this enhanced 911 service and the dispatch call service at a rate 3 to 4 times what I'm paying. And how do you get around that?"

MR. HARRIS replied you have to justify it by saying that any time there is a phone line with voice call capability it's available for a 911 call 24/7 and you're paying for that service. He runs a dispatch center and can easily justify that in his own mind because he knows the kinds and numbers of calls that come in. He understood the concern, but he asked for recognition of the fact that most fax phones have a handset and are therefore available for voice communication. If the bill is amended to exempt phones that aren't meant for voice communication, he didn't know that they would be greatly impacted. The reason he can say that is because of the increased cell phone usage. "Cell phones are getting to be used so much that that's what we need to charge it to."

SENATOR ELTON said you're looking at that from a logical perspective and "the thing is, we sometimes think too much in this building and there are several logical perspectives." One such perspective is that the person who pays a surcharge on 10 lines and the one who pays a surcharge on two lines are equally likely to call 911. From that perspective, one person's access is worth more per month than another's, particularly when it's

more and more likely that both individuals would use their cell phone to place a 911 call.

MR. HARRIS reasoned that the cost of the equipment for those phones to have access doesn't go down if there are two less phones, which is justification for spreading the cost over every phone.

CHAIR STEDMAN asked whether there were any other questions or comments and if not he was ready for a motion.

SENATOR ELTON remarked that a lot of the issues the committee raised could be addressed at the local level where decisions could be made regarding how to assess the charge and which phones would be exempt. Although that has a certain attraction, he asked whether the committee should consider an amendment to exempt certain kinds of lines. The sponsor's staff indicated that they are open to the change. The change wouldn't be dramatic and the phone owner would still have to apply for the exemption.

"I don't know what the rest of the committee feels about an amendment like that, but I think in Finance they'll probably just be looking at the numbers. They're not going to be looking at the policy in general so I'd like to hear from other members of the committee about it."

SENATOR GARY STEVENS agreed that the committee should consider such an amendment and there was time to do so in the CRA Committee.

CHAIR STEDMAN commented that in his previous life he dealt with bringing phone systems into the Municipality of Sitka and the issue of surcharges for multiple lines came up. They decided not to exclude any phones so the cost was spread over all phones. At that time it was an inconsequential expense, but that isn't the case here.

With that, he announced he would hold SB 335 until the next meeting to allow time for an amendment.

SENATOR ELTON suggested that the sponsor has already spent time considering this change and perhaps he would consider working with the Chair's office to draft an amendment.

SB 355-WASTE MANAGEMENT/DISPOSAL

CHAIR BERT STEDMAN announced SB 355 to be up for consideration and asked Commissioner Ballard to come forward.

COMMISSIONER ERNESTA BALLARD, Department of Environmental Conservation (DEC), explained that the bill doesn't change the department's authority; it simply provides new regulatory tools and improves some definitions.

In Administrative Order 202 issued in December 2002, the governor asked the department to review their statutory authorities and current regulatory programs to determine whether improvements could save money and time while achieving the same regulatory effect. SB 355 is the result and is an effort to better protect land and water from waste disposal. The changes have no fiscal impact on DEC.

The bill is risk based and allows DEC to use different tools for different risks "so we are saving the most professional and site-specific staff time for the most impacting activities." For less risky activities, she assured the committee that DEC continues to provide protection.

She said, "I'm proud to point out that the governor has as aggressive a program for environmental protection as he does for resource development and, in fact, he expects excellence in both." DEC's role is clearly defined and they provide most of the environmental protection for the state and they also fulfill the state's obligation under the federal clean air and water acts.

The first change the bill makes is to replace the word "permit" with "prior authorization." Currently DEC has statutory authorization to issue permits to control pollution and this broadens the concept and will allow the use of tools more suited to the different risks that DEC confronts.

COMMISSIONER BALLARD noted that the different tool options are identified on the blue handout. The tools include: individual permits, general permits, permits by rule, plan approvals, and integrated permits.

Individual permits are issued for large higher risk projects and are site specific. They include activities such as large seafood processors, municipal wastewater discharges, refinery discharges, ballast water treatment discharges, large landfills, oil and gas drilling waste disposal and asbestos monofills.

General permits are used for lower risk activities and for a number of similar activities in a geographic area. Examples of such activities include: placer mines, log transfer facilities, storm water discharge, remote camp sewage and solid waste disposal, oil and gas exploration and development and small seafood processors.

Permits by rule are used to authorize low risk activity that has the potential for real impact. They require DEC to establish rules to tell the public the kinds of best management practices they believe are appropriate. This tool also provides enforcement authority without requiring an individual relationship with the entity engaged in the activity. Examples of the activities include: rural landfills, residential domestic wastewater systems that discharge to marine waters, coal bed methane exploration, non-jurisdictional wetland fill, construction dewatering, oil and water separators, small animal confinement operations, construction debris landfills, and wood waste monofills.

Plan approvals are a prior authorization mechanism for a low risk activity. Examples of this type activity include zero-discharge sewage treatment lagoons, zero-discharge temporary storage of oil and gas drilling waste, and zero-discharge temporary storage for some coal bed methane projects.

Integrated waste management permits are for complex facilities and operations that need more than one DEC waste disposal authorization. Mining companies are enthusiastic about these permits. Those likely to use integrated waste management permits include: complex mining operations and major oil and gas development and production projects.

The bill expands DEC's authority to require proof that there will be the financial resources available to clean up a waste pile at the end of the life of a project. Finally, the bill calls for definition changes that are important to DEC. Of particular importance is the clarification of the difference between municipal solid waste and other solid waste. "We have hundreds, literally, of small land fills in rural Alaska that we would like to differentiate from other waste generators so that we could use the new permit by rule powers that we would get through this bill to give them clear guidance about what is required in siting and management of their waste facility."

2:25 pm

CHAIR STEDMAN asked for the record to show that Senator Lincoln joined the meeting. He then asked Commissioner Ballard to expand on the fees and associated costs.

COMMISSIONER BALLARD replied there is no fiscal note. The fees that are currently in place will still pertain and although she isn't projecting any savings, she is hoping the bill will make the department more efficient.

SENATOR GARY STEVENS thanked her for stopping by his office then noted that there is a lot more direct marketing by fishermen who sell fresh or headed and gutted product. He questioned whether such activity would fall under a general permit.

COMMISSIONER BALLARD said that would require a food-processing permit. Furthermore, she said, "As you know, we have been working hard with that industry to try and offer the same risk-based spectrum of permitting opportunities for people processing seafood so that the individual single boat processor can get a permit and have the protection he needs to sell his fish."

SENATOR KIM ELTON referred to the blue sheet and asked what is involved in moving from a general permit to an individual permit or from a permit by rule to a general permit. For example you might start with one application for a residential domestic waste water system that discharges into marine waters, but within five years there might be 30 residences, which could have a large impact on the adjacent marine waters.

SIDE B
2:30 pm

Another example would be one small fish processor operating in a certain area that is eventually joined by a number of small processors all of which may have a larger impact than a single large processor. "Is there movement between the categories and how do you handle that," he asked.

COMMISSIONER BALLARD replied there is movement. She explained that a permit is specific to what comes out the end of the pipe so the permitting regime focuses on the source, the effluent, and the receiving water. And because there are no automatic renewals, DEC reconsiders the circumstances associated with the activity every five years. If the capacity of the receiving water is strained by the discharge then there would be an allocation on a maximum load basis, but you try not to get to that point. As designed, the individual permit tool is used to

keep from stressing the receiving water beyond the accommodation point.

SENATOR ELTON noted that Section 5 changes the public notification requirements. The previous requirement calls for two notices to be published in a newspaper of general circulation and the proposed change is to publish one notice in a local newspaper with general circulation. Referring to the coal bed methane leases that were let in Homer, he pointed out that the public notice was made in the Kenai newspaper. Although the notice fit the definition and letter of the law, the local residents felt aggrieved because the notice wasn't placed in the local Homer paper. He remarked that the language didn't seem as though it would avoid a similar sort of problem. "We have to trust the judgment of somebody who may or may not understand the local dynamics when they're placing the local advertisement," he said.

COMMISSIONER BALLARD said there are several answers to that question. First DEC would like to see more members of the public who are interested in government activities use the Internet. DEC already has the capability to electronically notify large groups of people and they are trying to increase that means of communication and notification.

As part of AO 202 DEC is trying to assure that they do not impose additional administrative procedures requirements on themselves. However, "When we are involved in a difficult communication, we generally tend to over communicate not under communicate." Generally they use the Anchorage paper because it is the one in general circulation and people are often interested in DEC issues regardless of where they live in the state.

Continuing she said, "Let us get back to you on exactly why that language appears there. I believe it is in response to a general request of the governor's that we have a consistent approach across government that at least sets what the floor for communication will be." But she could assure him that DEC looks at the subject of a communication before they decide on a communication plan.

Stressing the importance of using the Internet, she said the DEC web page had been reworded and the broken links fixed. "People can go to our web page, they can click on regulation, they can get pending regulation, it is simple, you can do it anywhere. You can do it from a cabin with a satellite, you can do it with

a modem, you can do it anywhere in the state and I feel more comfortable knowing that you don't have to be able to go to a public meeting or to read a newspaper in order to know what is going on at DEC. We're able to reach a much broader audience electronically than we could ever have dreamed of reaching with a single or two box ads in a newspaper."

SENATOR ELTON said he appreciates the answer and although he's a policy kind of person, he's unlikely to bookmark a regulatory page and generally, he didn't believe that homeowners would either. He was pleased to hear her say that these were minimum standards but minimum standards were met in Homer and that's become a complex and potentially expensive problem for the state. He said he looks forward to further dialog on ways to use common sense to get beyond the minimum.

COMMISSIONER BALLARD responded by telling him that summary fact sheets are on the DEC web page if you don't want to read the regulations. "In this state the challenge of reaching every community is horrendous and I'm very ambitious about electronic communication," she stated conclusively.

SENATOR GEORGIANNA LINCOLN asked how landfills would be monitored out in Bush Alaska.

COMMISSIONER BALLARD replied that isn't the exact subject of the bill, but they have worked hard to provide rural communities with tools they can afford and will use to site and manage their landfills in the safest way. For that program their goal is to issue permits by rule, which would be a set of best practices guidelines and a risk calculator. The latter is a worksheet for siting and management. DEC's activity will be to promulgate the rules and do field inspections. The current regime requires a permit application, which is an individual specific permit under DEC's solid waste program.

There were no further questions asked of Commissioner Ballard.

MARILYN CROCKETT, deputy director of the Alaska Oil and Gas Association testified via teleconference in support of SB 355. "This legislation is an excellent example of DEC continuing to pursue opportunities to streamline its processes while at the same time ensuring that its assigned responsibility of protecting Alaska's environment is carried out."

This bill also gives DEC the authority to administratively extend permits that are due to expire. This is important because

it gives the department additional time it may need to go through the renewal process. It gives the department the flexibility to prioritize its limited permitting resources.

STEVE BORELL, executive director of the Alaska Miners Association testified via teleconference in support of SB 355. They are particularly pleased with the new authority for DEC to administratively extend permits to deal with the occasional times that it isn't possible for DEC to process a permit renewal prior to the expiration of a permit.

RICH HEIG, president of the Counsel of Alaska Procedures and general manager of Greens Creek Mining Company spoke via teleconference in support of SB 355. They appreciate DEC's approach to streamline the permitting process. They concur with the benefits set forth by the commissioner and others who testified.

There were no further questions or comments.

SENATOR GARY STEVENS made a motion to move SB 355 from committee with the zero fiscal note and individual recommendations. There being no objection, it was so ordered.

CHAIR STEDMAN adjourned the meeting at 2:45 pm.