

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

February 10, 2005

8:10 a.m.

MEMBERS PRESENT

Representative Kurt Olson, Co-Chair (via teleconference)
Representative Bill Thomas, Co-Chair
Representative Pete Kott
Representative Gabrielle LeDoux
Representative Mark Neuman
Representative Sharon Cissna
Representative Woodie Salmon

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 14

"An Act relating to municipal initiative and referendum elections."

- MOVED SB 14 OUT OF COMMITTEE

HOUSE BILL NO. 108

"An Act relating to the regulation of water and sewer utilities of political subdivisions that are not in competition with other water and sewer utilities."

- MOVED HB 108 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 14

SHORT TITLE: MUNICIPAL ELECTIONS

SPONSOR(S): SENATOR(S) STEVENS G

01/11/05	(S)	PREFILE RELEASED 12/30/04
01/11/05	(S)	READ THE FIRST TIME - REFERRALS
01/11/05	(S)	CRA
01/26/05	(S)	CRA AT 1:30 PM FAHRENKAMP 203
01/26/05	(S)	Heard & Held
01/26/05	(S)	MINUTE(CRA)
01/31/05	(S)	CRA AT 1:30 PM BELTZ 211

01/31/05 (S) Moved SB 14 Out of Committee
01/31/05 (S) MINUTE(CRA)
02/02/05 (S) CRA RPT 5DP
02/02/05 (S) DP: STEVENS G, WAGONER, KOOKESH,
STEDMAN, ELLIS
02/02/05 (S) TRANSMITTED TO (H)
02/02/05 (S) VERSION: SB 14
02/04/05 (H) READ THE FIRST TIME - REFERRALS
02/04/05 (H) CRA, STA
02/10/05 (H) CRA AT 8:00 AM CAPITOL 124

BILL: HB 108

SHORT TITLE: WATER & SEWER UTILITIES OF POLIT. SUBDIV.

SPONSOR(S): LABOR & COMMERCE

01/26/05 (H) READ THE FIRST TIME - REFERRALS
01/26/05 (H) CRA, L&C
02/10/05 (H) CRA AT 8:00 AM CAPITOL 124

WITNESS REGISTER

SENATOR GARY STEVENS
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented SB 14.

KATHIE WASSERMAN
Alaska Municipal League (AML)
Juneau, Alaska
POSITION STATEMENT: Testified in support of SB 14 and during
hearing on HB 108, related that local government is the most
responsive government.

LINDA MURPHY, Clerk
Kenai Peninsula Borough
Soldotna, Alaska
POSITION STATEMENT: Testified on SB 14.

MONA LISA DREXLER, Clerk
Fairbanks North Star Borough
Fairbanks, Alaska
POSITION STATEMENT: Testified in support of SB 14.

JOSH APPLEBEE, Staff
to Representative Tom Anderson;
House Labor and Commerce Standing Committee
Alaska State Legislature,

Juneau, Alaska

POSITION STATEMENT: Presented HB 108.

MARK PREMO, General Manager

Anchorage Water and Wastewater Utility (AWWU)

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 108.

KATE GIARD, Chairman

Regulatory Commission of Alaska (RCA)

Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 108, stated that it's premature for AWWU to leave RCA regulation.

ACTION NARRATIVE

CO-CHAIR BILL THOMAS called the House Community and Regional Affairs Standing Committee meeting to order at [8:10:25 AM](#). Representatives LeDoux, Neuman, Salmon, Olson (via teleconference), and Thomas were present at the call to order. Representatives Kott and Cissna arrived as the meeting was in progress.

SB 14-MUNICIPAL ELECTIONS

[8:10:43 AM](#)

CO-CHAIR THOMAS announced that the first order of business would be SENATE BILL NO. 14, "An Act relating to municipal initiative and referendum elections."

[8:10:54 AM](#)

SENATOR GARY STEVENS, Alaska State Legislature, sponsor, related that SB 14 really came from the municipal clerks' association. He explained that when there are initiatives or referendums, [municipalities] must hold an election within 75 days. However, sometimes these initiatives or referendums aren't time sensitive and don't require immediate action. Furthermore, special elections often have poor voter turnout as compared to that of a regular election. This legislation would provide the municipalities the option to decide whether an issue is important enough to hold a special election. He informed the committee that the Fairbanks North Star Borough had 46 petitions in a four-month period, although only one led to a special election. He related that one special election cost the

Fairbanks North Star Borough \$60,000. This legislation merely places the matter [of whether to hold a special election] in the hands of the locals.

[8:13:20 AM](#)

REPRESENTATIVE NEUMAN stated his support for SB 14. He opined that on occasion special elections are used in a way to pass legislation that perhaps the entire general populous wouldn't support. The aforementioned happens when special interest groups make sure that their members go out and vote. Representative Neuman said he wasn't sure that represented the good of all the people.

[8:14:11 AM](#)

REPRESENTATIVE SALMON inquired as to the amount of savings this legislation would afford.

REPRESENTATIVE GARY STEVENS pointed out that the savings would depend upon the amount of initiatives and referendums that each municipality may have. He clarified that this legislation wouldn't save the state money, although it would save local communities money.

[8:14:49 AM](#)

KATHIE WASSERMAN, Alaska Municipal League (AML), related AML's support for SB 14. Ms. Wasserman said that the city clerks certainly know better than anyone what is occurring [in their area]. Furthermore, any suggestions from the city clerks is usually based on hard facts rather than politics. This [legislation] would save the communities money while allowing for good public process.

[8:15:34 AM](#)

LINDA MURPHY, Clerk, Kenai Peninsula Borough, highlighted that SB 14 doesn't apply to home rule communities. The cost savings, she related, depends upon the size of the city or borough. She informed the committee that a boroughwide special election in the Kenai Peninsula Borough would cost approximately \$50,000. She pointed out that [municipalities] don't budget for special elections, and therefore special elections require a special appropriation for the governing body. Ms. Murphy also highlighted that SB 14 is essentially the same legislation that sailed through the House last year.

8:17:22 AM

MONA LISA DREXLER, Clerk, Fairbanks North Star Borough, urged the committee to pass SB 14.

8:18:32 AM

CO-CHAIR THOMAS, upon determining no one else wished to testify, closed public testimony.

8:18:44 AM

REPRESENTATIVE NEUMAN moved to report SB 14 out of committee [with individual recommendations and the accompanying fiscal notes]. There being no objection, it was so ordered.

HB 108-WATER & SEWER UTILITIES OF POLIT. SUBDIV.

CO-CHAIR THOMAS announced that the final order of business would be HOUSE BILL NO. 108, "An Act relating to the regulation of water and sewer utilities of political subdivisions that are not in competition with other water and sewer utilities."

8:20:04 AM

JOSH APPLEBEE, Staff to Representative Tom Anderson; House Labor and Commerce Standing Committee, Alaska State Legislature, introduced HB 108 on behalf of the House Labor and Commerce Standing Committee, which Representative Anderson chairs. Mr. Applebee paraphrased from the following written sponsor statement [original punctuation provided]:

House Bill 108 would exempt Anchorage Waste Water Utility 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. (Pelican requested regulation of its water utility by the RCA).

The Municipality of Anchorage [MOA] believes the current RCA regulation processes are cumbersome, slow, expensive, 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 [Anchorage Water

and Wastewater Utility] never had a rate increase from the RCA or the APUC, yet ratepayers have paid a regulatory assessment to the RCA as part of every bill. In 2004 AWWU ratepayers are projected to pay about \$500,000 to the RCA to cover the costs of regulation. The greatest costs appear in the form of regulatory delay in obtaining approval of a requested change.

The MOA is directly accountable to ratepayers served by the utilities - they are voters. The Municipality has experience successfully regulating enterprise activities. The Port of Anchorage, Solid Waste Services and Merrill Field are all financially sound and provide first class customer service. Municipal public hearings are held on any proposed rate increase and the public is very involved in the hearing process.

HB 108 changes existing law by adding lines 5 thru 8 on Page 2. This language states that a water or sewer utility owned by a political subdivision not directly competing with another water or sewer utility is exempt from RCA regulation.

I would ask for your support on HB 108.

[8:22:52 AM](#)

REPRESENTATIVE NEUMAN asked if AWWU receives funding from the Department of Commerce, Community, & Economic Development (DCCED). If AWWU does receive funding from DCCED, would AWWU lose that funding [were HB 108 to pass], he asked. If the aforementioned is the case, would it cause any rate increase, he also asked.

MR. APPLEBEE deferred to the general manager of AWWU.

[8:23:40 AM](#)

REPRESENTATIVE SALMON inquired as to how Anchorage came to be under the RCA.

MR. APPLEBEE deferred to the general manager of AWWU.

[8:24:19 AM](#)

MARK PREMO, General Manager, Anchorage Water and Wastewater Utility (AWWU), testified in support of HB 108. He explained:

This bill would exempt AWWU from economic regulation by the Regulatory Commission of Alaska and place it in the same status as every other municipally owned water, wastewater utility in Alaska, except one: Pelican. First, some background: AWWU is two separate utilities, both subject to economic and service area regulations by the Regulatory Commission of Alaska. The water utility, a former City of Anchorage utility, has been under RCA regulation since inception of the APUC [Alaska Public Utilities Commission - predecessor to RCA] 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, AWWU, was formed in 1975 following the unification of the Municipality of Anchorage. The Municipality of Anchorage in 1991 petitioned the then-APUC to exempt AWWU and its electric utility from regulation. The commission split evenly by a 2:2 vote on the question of exempting the electric utility and AWWU at that time. The opinion by the commissioners opposing self-regulation cited competition by the municipality's electrical utility and telephone utility with other utilities as the primary reason why AWWU should remain regulated by the state. No commissioner suggested then, or has suggested since that competition between water and wastewater was present, nor is there any competition today. On April 28, 2004, the House of Representatives approved House Bill 515, approximately in a 3:1 margin. This bill would've exempted AWWU from economic regulation by the RCA. Time ran out and the Senate did not act on the bill last year.

[8:27:01 AM](#)

Why does the Municipality of Anchorage desire exemption from RCA? One, the current RCA regulation process and procedures are expensive. From 1993-2003 AWWU filed only minor housekeeping and procedural matters with the RCA and never requested an increase in rates. Yet, during that same period of time, AWWU ratepayers paid approximately \$2.8 million in

regulatory assessments to the RCA during this period as part of every monthly bill. In fact, in 2004 AWWU paid for \$445,000 to cover the cost of regulation and we estimate that will be \$550,000 in 2005. However, the greater cost to AWWU and its customers is in the form of the cost for preparing and filing and regulatory lag. AWWU filed for the initial part of a two-phase rate increase in a refundable interim rate in January 2004 with the expectation that by year-end 2004, the RCA would rule on both phases of this request. The public hearing has been delayed and rescheduled by the RCA, and is now set for June 2005, 15 months later. This large delay substantially increases the jeopardy for the AWWU ratepayers and AWWU in the event that a portion of the requested rates have to be refunded. In addition, due to the extreme amount of discovery questions in the case - over 530 in all - this case has also become extremely expensive to the utility. History and present events show that local regulation is faster, less structured, and more economical.

Two, current RCA regulations and procedures are nonresponsive to local needs. The RCA was designed for public utilities and is not entirely appropriate for municipal utilities. The RCA is very structured. The municipality is more responsive to local needs and is directly accountable to the ratepayers who were served by the utilities. These customers are also municipal voters. Public hearings are held by the municipality on all rate matters. I ask for the committee's support of HB 108. Self-regulation has worked effectively across the nation and other Alaskan communities and in Anchorage. Anchorage has regulated its own public utilities for many more years than have state regulators. The Municipality of Anchorage has a proven track record of [effectively] regulating the Port of Anchorage, Merrill Field, and Solid Waste Services. All are financially strong, highly reputable enterprises that provide excellent customer services. Rate changes have been infrequent. AWWU has provided its customers with excellent service, low stable rates, and sound finances. In 2004 AWWU filed for its first rate increase since 1992. For more than a decade, AWWU ratepayers have benefited. We have reduced positions and expense by leveraging technology and improving business processes while, at the same

time, increasing spending on system repairs and rehabilitation. This has all been done without the direction and or assistance for value-added from the RCA. Over the years the mayor and the assembly have made sound decisions in their oversight of AWWU and other municipally owned utilities. The Municipality of Anchorage supports the establishment of a strong, independent authority to oversee and regulate AWWU in lieu of the RCA. The ratemaking process will be very similar to standard industry practices. In fact, the development of revenue requirements and cost of services to meet the additional cost causer/cost payer regulatory approach.

8:31:03 AM

In conclusion, with the passage of HB 108, municipal regulation of AWWU will balance consumer protection with financial soundness. And AWWU will continue to operate on a sound business basis. This bill only makes a minor adjustment to the existing statute to facilitate the proper self-regulation of AWWU and is identical to the House Bill 515 which passed the House last session. The RCA would still continue to regulate AWWU water and wastewater services. And in closing, in answer to one of the questions that was asked by a Representative earlier, AWWU does not receive any operational funds from any department of the state. The only funds that AWWU receives are an occasional direct appropriation or a 50:50 matching grant program for capital expenditures through the **ADEC** program.

8:32:22 AM

KATE GIARD, Chairman, Regulatory Commission of Alaska (RCA), informed the committee that until last year she was the Chief Fiscal Officer (CFO) for MOA. She recalled that during her time as the CFO for MOA, she, too, raised the issues [brought forth by Mr. Premo]. As the chair of the RCA, she said that she has reviewed what Mr. Premo taught her regarding value added because Mr. Premo and the Assembly of MOA have improved AWWU without a great deal of RCA intervention. Ms. Giard related that when she originally reviewed this matter, coming fresh from the municipality, she suggested letting AWWU function out from under the RCA. However, she suggested that the RCA functions for AWWU in a similar fashion as the state's ownership of Alaska Housing

Finance Corporation (AHFC). Regulations stand between [the state and AHFC] to ensure [AHFC] is a healthy entity. The RCA is in the same position between the ratepayers of AWWU and MOA. Ms. Giard agreed that the RCA is slow, but stressed that "you" wouldn't want it to be a speedy process. She emphasized that she is pleased that the RCA is slow and that it has been 15 months since a rate case increasing the rate by \$108 a year came before it. She characterized the \$108 rate increase as huge because it's a \$6 million increase in property taxes that the city passed through to AWWU. The ratepayers want the RCA to take 15 months to review such a case. She highlighted that now the attorney general is going to review the rate case and determine whether it's appropriate for the city to pass through its costs to the utility. Ms. Giard informed the committee that approximately 40 percent of AWWU's costs are from general government in the form of property taxes or costs for which it has already received approval to shift.

MS. GIARD said she understood why AWWU wants control. In fact, she said that AWWU should have control. She highlighted that comments [from AWWU] on this matter last year indicated that [AWWU] would create a system similar to that of the RCA. However, she questioned what system or ordinance the [Anchorage Assembly] has created. She also questioned what has been done to show the state that [the proposed system] would result in a cheaper and better method of regulation than that of the RCA. Ms. Giard asked, "Why, when they put forward a 20 percent rate increase, did they tell you last year: 'If you let us come out of RCA jurisdiction, our rates will go down.'" Although Ms. Giard said that she didn't believe it's wrong for the city to want to manage its own utility, she did believe it to be a bit premature this year. Therefore, she suggested letting the rate case go forward and if AWWU continues to operate as it has in the past, there won't be another rate case for 15 years. Therefore, the city won't have to implement processes similar to the RCA. Ms. Giard emphasized the need for there to be a plan that specifies the benefit to the ratepayers, which hasn't been done.

[8:40:40 AM](#)

REPRESENTATIVE LEDOUX inquired as to how other utilities in other cities have been functioning without the RCA.

MS. GIARD agreed that it's unfair that AWWU is being regulated and others aren't. However, she reiterated the need for the city to put in place a plan because there are costs that don't

go to AWWU because of the RCA. The aforementioned protection would be removed with this legislation.

8:41:56 AM

REPRESENTATIVE LEDOUX asked if there have been any problems in the utilities that aren't regulated by the RCA.

MS. GIARD said that AWWU is unlike other utilities. She emphasized that with or without RCA regulation, AWWU will continue to provide good services. However, the temptation will be that the cost of government may inappropriately shift to the ratepayers, which are not homogenous with the taxpayers. Before removing the protection [the RCA provides], she suggested that [the legislature should] require a plan. She questioned whether there has been a public hearing on this matter.

8:43:48 AM

REPRESENTATIVE NEUMAN asked if Mr. Premo had a response to how the rates will change [if AWWU comes out from under RCA regulation].

8:44:20 AM

MR. PREMO thanked Ms. Giard for indicating that AWWU is a good utility because that its the primary purpose. Regarding the cost of regulations and how to protect ratepayers from the potential raid of utility funds or the potential increase of utility rates in order to meet the needs of general government is a concern everyone shares. With a self-regulated utility, the intent for ratemaking purposes would be to continue to use the same ratemaking principles as AWWU uses before the RCA; these are industry standard principles. Simply stated, the cost causer is the cost payer. He suggested that having a group of people appointed by the governor, confirmed by the legislature, and an arm's length from locally elected officials making decisions regarding how local money is spent, isn't as strong as an administration and a locally elected commission to oversee the utility. The closer to local government, the more responsive the entity is to the needs of the local people and the more accountable the entity. Mr. Premo informed the committee that [MOA] has an advisory commission recommended by the mayor and appointed by the assembly. That advisory commission reviews the operations of AWWU. In fact, there was a recent public meeting with the advisory commission for which the agenda included self-regulation in the formation an authority.

Mr. Premo agreed with Ms. Giard that there needs to be checks and balances, which will be in the form of an authority.

[8:47:46 AM](#)

REPRESENTATIVE NEUMAN inquired as to the status of the plan promised last year.

MR. PREMO surmised that Representative Neuman is referring to the authority, which would be the governing model of the utility. He stressed that there is a plan and the advisory commission is working on it. In fact, MOA intends to have the authority operational prior to year-end. The details of the authority do need to address all of the concerns of the RCA.

[8:49:11 AM](#)

REPRESENTATIVE NEUMAN surmised then that [the MOA] plans to have something in place by the time this legislation moves through the process.

MR. PREMO confirmed that [MOA] does plan to go through a public process and establish [an authority] by ordinance prior to year-end, in time for the fiscal year '06 budget cycle. However, he didn't believe the plan could come together before the legislation passes through the House or Senate.

[8:50:14 AM](#)

KATHIE WASSERMAN, Alaska Municipal League, informed the committee that up until six months ago she was the mayor and administrator of the City of Pelican. The City of Pelican became regulated because of circumstances that seemed to leave no other choice. The paperwork [under RCA regulation] was "unbelievable" and slow. She opined that most municipalities have checks and balances in place through ordinances and public hearings, which allow the municipality to establish fair rates. Ms. Wasserman further opined that AML holds firm that local government is the best and most responsive government. Therefore, she spoke in favor of MOA having "its own regulatory form." She also questioned how many other utility entities within Alaska have been required to put forth a plan, as is being recommended by the RCA.

[8:52:27 AM](#)

CO-CHAIR THOMAS, upon determining no one else wished to testify, closed public testimony.

[8:52:37 AM](#)

REPRESENTATIVE CISSNA related that those in MOA don't quietly watch when the municipal government does things it doesn't like. Representative Cissna opined that the voters in MOA deserve the right to be the gatekeepers [of AWWU].

[8:53:34 AM](#)

REPRESENTATIVE SALMON asked if Pelican wants to be under RCA regulation.

CO-CHAIR THOMAS recalled that Kake Tribal purchased the cold storage that held the water in Pelican, which was when the City of Pelican shifted to RCA regulation.

REPRESENTATIVE SALMON restated his question.

CO-CHAIR THOMAS surmised from Ms. Wasserman's body language that the City of Pelican doesn't like being under RCA regulation.

[8:54:40 AM](#)

REPRESENTATIVE SALMON asked if the legislation should be amended such that the City of Pelican wouldn't be under RCA regulation either.

CO-CHAIR THOMAS opined that if the City of Pelican wanted to leave RCA regulation, it would come forward.

[8:55:10 AM](#)

MS. WASSERMAN clarified that she isn't speaking for the City of Pelican, but related that in order to take over the water [holding facilities] the city had no choice but to be under RCA regulations.

[8:55:50 AM](#)

REPRESENTATIVE NEUMAN moved to report HB 108 out of committee [with individual recommendations and the accompanying fiscal notes]. There being no objection, HB 108 was reported from the House Community and Regional Affairs Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at [8:56:07 AM](#).