

HOUSE FINANCE COMMITTEE
February 3, 2005
1:41 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:41:13 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Eric Croft
Representative Richard Foster
Representative Mike Hawker
Representative Jim Holm
Representative Mike Kelly
Representative Carl Moses

MEMBERS ABSENT

Representative Reggie Joule
Representative Bruce Weyhrauch

ALSO PRESENT

Tom Wright, Staff, Representative John Harris; Dan Easton, Director, Division of Water, Department of Environmental Conservation; Ben Brown, Legislative Liaison, Department of Environmental Conservation

PRESENT VIA TELECONFERENCE

Steve Thompson, Mayor, City of Fairbanks; Kara Moriarty, CEO Fairbanks Chamber of Commerce; Jim Strandberg, Regulatory Commission of Alaska; Patrick Cole, Chief of Staff, City of Fairbanks; George Gordon, Utility Services of Alaska; Charlie Walker, CEO, Fairbanks Economic Development Corporation

SUMMARY

HB 46 "An Act permitting grants to certain regulated public utilities for water quality enhancement projects and water supply and wastewater systems."

HB 46 was heard and HELD in Committee for further consideration.

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#hb46

HOUSE BILL NO. 46

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

TOM WRIGHT, STAFF, REPRESENTATIVE JOHN HARRIS, spoke on behalf of the sponsor in support of HB 46. He explained that the bill was introduced by request to expand eligibility for municipal water, sewer, and solid waste matching grants, which are administered by the Department of Environmental Conservation (DEC), to include privately owned water and sewer utilities. The bill also requires these utilities to be regulated by the Regulatory Commission of Alaska (RCA). He offered to answer questions.

Vice-Chair Stoltze referred to a controversial bill last year concerning the removal of Regulatory Commission of Alaska control for Anchorage. He asked Mr. Wright if there is any intent to advance this bill and for his opinion on it. Mr. Wright replied that there has been no discussion on it and he said he does not believe there is any intent to resurrect it. Vice-Chair Stoltze noted that he would not be in support of such a bill.

Mr. Wright related that the Senate has adopted SB 32, a companion bill to HB 46. SB 32 includes an amendment that the Committee would like to consider in this bill. He indicated that the language, "utilities owned and operated by a political subdivision of the state that is a municipality" is acceptable to the sponsor as a proposed amendment to HB 46.

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STEVE THOMPSON, MAYOR, CITY OF FAIRBANKS, spoke in favor of HB 46, noting that on January 31, 2005, the city council passed Resolution 4149 in favor of the bill. He related that Fairbanks is currently having difficulty encouraging economic development. He emphasized that the law needs to be changed because, as a progressive community, Fairbanks is being penalized for privatizing utilities. He termed it unfair that other communities served by a public utility receive an advantage because grant funds are available to them. He emphasized that HB 46 would level the playing field and encourage economic development. He pointed out that in 2002, Fairbanks supported SB 280, as shown by the passage of Resolution 3976. Fairbanks has been in favor of utility grants going to privately held businesses for several years.

In response to a question by Co-Chair Meyer, Mr. Thompson clarified that the Fairbanks utilities were sold in 1997. Co-Chair Meyer asked if Mr. Thompson knew there would no

longer be access to grant funds when the utilities were sold. Mr. Thompson related that the sale happened before he became involved in politics, but at the time it was felt that citizens would be better served by a privately held utility. He said he did not know about the discussions concerning grant availability. Co-Chair Meyer noted that at the time of privatization, that was a risk that was taken.

Vice-Chair Stoltze pointed out that in order to be eligible for grants, the rates would have to be regulated by RCA. He asked if Mr. Thompson believes that Fairbanks wants RCA oversight and regulation to continue. Mr. Thompson replied that he believes that would be necessary with grants coming in.

Co-Chair Meyer observed that if HB 46 passes, there would be more utilities competing for the same pot of money. Mr. Thompson replied that he would hope that the pot would get larger, the playing field would become more level, and the ratepayers would benefit.

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Vice-Chair Stoltze related that the selling of utilities in Anchorage was very contentious. He asked Mr. Thompson to share some history of the Fairbanks process when the proposal was made to privatize. Mr. Thompson recalled that the proposal was approved the "first time out" even though it was controversial. In response to a question as to who owned the private utilities in Fairbanks, Mr. Thompson replied, "Golden Hard Utilities, all-Fairbanks owned."

PATRICK COLE, CHIEF OF STAFF, CITY OF FAIRBANKS, continued to discuss the history of the utility sale. The city of Fairbanks entered the utility business only after a fire in the 1940s, which caused the failure of private firms. Throughout the 70s and 80s, the city council wondered if the city should be involved in the utility business. In 1995 a group willing to purchase the utilities approached the city and the council agreed that the city would be better served by a private owner. The sale closed in 1997 after vigorous debate for over a year. He stated his belief that the sale served the public well, the money obtained was put into a permanent fund which the city still has, and it has been a win-win situation for the community.

Vice-Chair Stoltze asked for information about grants as they related to Fairbanks. Mr. Thompson replied that the city qualified for them and they served the public well by enabling new sewer and water lines to be extended to new areas. He opined that current residents could still benefit from a grants program. Vice-Chair Stoltze asked if top dollar was received. Mr. Thompson related that the council had a number of goals: there would be no rate increases for

three years, current employees would be retained, and all utilities would be sold as a unit. Some of those conditions may have meant that the top dollar was not achieved. He emphasized that top dollar was not the only goal.

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Co-Chair Meyer asked if, at the time of the sale, the city was aware that they would be losing the ability to use the grant program. Mr. Thompson replied that they were aware of it, and that for a long time the council has wanted the program to be amended to allow for grants.

Representative Holm said he did not remember the discussion as being the city not wanting to participate as grant receiver. He pointed out that it was done for the purpose of making the utility solvent during an extremely difficult time. The idea was that the City of Fairbanks would do better if it were not involved in the utility business, he added.

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KARA MORIARTY, CEO, FAIRBANKS CHAMBER OF COMMERCE, spoke in support of HB 46. She stressed that all utilities should be on the same playing field and eligible for state grant funds. Currently, the only utilities that are eligible for these grants are publicly owned utilities and the grants are primarily used for infrastructure development and upgrades. She emphasized that based on the regulations set by RCA, the shareholders of privately owned utilities cannot generate a return on investments or receive depreciation expense credits for any grant funds they receive. She related that all utilities in Fairbanks are owned either privately or by a cooperative, which puts the residents at a disadvantage compared to other Alaska residents. She stressed high costs for new businesses due to lack of infrastructure, and suggested that being able to have access to grants would level the playing field. She urged the committee to look at HB 46 as a fairness issue.

Vice-Chair Stoltze asked if all utilities should be treated equally. Ms. Moriarty replied that they should all be treated equally, regardless of their ownership, and be able to apply for grants, especially if they are a privately held utility because the rate payers benefit. Vice-Chair Stoltze pointed out that if they can expand their utilities it would affect their bottom line.

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JIM STRANDBERG, COMMISSIONER, REGULATORY COMMISSION OF ALASKA, in response to a question from Representative Croft, replied that he is familiar with the letter about cost

recovery from RCA (copy on file.) Representative Croft voiced a concern about the possibility of state money from a grant being transferred to a private entity if a utility were sold. He stated his belief that if RCA retains jurisdiction, that would be unlikely to happen. He asked if it would be contributed capital, unlikely to end up being a private benefit to the new buyer. Mr. Strandberg replied that a sale agreement of a regulated public utility is a commercial agreement, which is separate from any rate decision but linked in the following manner: a buyer can purchase a utility for any amount, but rates will be based on the book value of the utility, less accumulated depreciation and less any grant funds. He explained the process of determining the rate base when a utility is sold. Representative Croft asked if a grant could end up as a state grant to a private entity if there were a proposal to take a utility out of RCA jurisdiction or regulation. Mr. Strandberg agreed that it is a possibility.

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DAN EASTON, DIRECTOR, DIVISION OF WATER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION responded to a question from Co-Chair Chenault about Fiscal Note DEC #2, which totals \$132.2 thousand. He explained that the fund source is in CIP receipts rather than in program receipts because it makes the most sense and is the simplest method. As in other grant programs, a separate allocation for the amount of what it costs to run a program for a year is in the capital budget, along with all of the different projects that the program would fund in the fiscal year. If the capital budget passes, then money is transferred into the department's operating budget, which shows the CIP receipts.

Co-Chair Chenault used, as an example, an oil industry program that is tied into a fee or cost which helps pay for the program, and asked why a utility program wouldn't be the same. Mr. Easton replied that fees are not typically charged for programs where funding is provided, instead, the cost is taken off the top first. Co-Chair Chenault commented that once a program is started, it costs the state and contributes to the budget deficit. He emphasized a need to be frugal and suggested that there be a buy-in from municipalities. Mr. Easton opined that it is not a large program. Co-Chair Chenault argued that \$132,000 is a large amount of money.

Co-Chair Meyer inquired if another person is needed to review 8 or 9 more grants. Mr. Easton replied that it is slightly more complex than that. He explained that currently, there are 7 to 12 million-dollar grants, and there would be a potential shift from making a small number of large grants to a larger number of smaller grants, as

well as expanding to new clients, which requires more help from the department.

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Representative Holm asked if another full-time employee is necessary if only one grant per month is being done. Mr. Easton responded that the workload could potentially double. He stressed that the fiscal note was approached very frugally. Representative Holm said he is confused because the fiscal note is for \$132 thousand and yet only \$83 thousand is shown for personal services. He asked where the other \$50 thousand is going. Mr. Easton replied about \$30 thousand is for support costs such as computers, copy machines and overhead, and \$20,000 is for contractual money to purchase audits.

Representative Hawker expressed a belief that the committee is justified in amending the fiscal note to a zero fiscal note. Co-Chair Meyer agreed that this is the direction the bill is headed, and he announced that it would be held over.

Vice-Chair Stoltze suggested taking a comprehensive view.

Representative Holm asked where the pot of money will come from and how large the grants are. Mr. Easton replied, primarily from state funds and some federal grant funds. He related that the amount has varied: \$9.4 million in 2004, \$6.4 in 2005, and \$11 million proposed for 2006. Mr. Wright noted that the figures are available in the handout, "Municipal Water, Sewerage and Solid Waste Matching Grants Program Description" (copy on file.)

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Representative Kelly explained that the focus of the program is to benefit the consumer of a large state with relatively little infrastructure. He related that RCA is aware of how to handle grants and how to make sure that they directly benefit the consumer. He stressed that an existing municipality fully qualified today for these funds is just as likely to make a sale to someone who could then advantage this in the future, or might if they were deregulated. He pointed out that the benefit would go to the consumer and stated his support for the bill.

Representative Hawker commented that a premier example of public funds being used to support private interests might very well be the permanent fund.

Representative Holm responded that it could be argued that government-owned utilities are thereby competing unfairly with privately owned utilities.

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CHARLIE WALKER, CEO, FAIRBANKS ECONOMIC DEVELOPMENT CORPORATION, encouraged support of the bill.

Co-Chair Meyer closed public testimony and noted that the bill would be held over.

Representative Croft noted that after listening to the testimony he changed proposed Amendment 1 to read: "Any grant to a public utility that is not a municipality must be repaid with interest from the date the grant was issued if the public utility ceases to be regulated by the RCA within five years of receipt of the grant."

Co-Chair Meyer replied that Amendment 1, as well as the amendment from SB 32, would be incorporated into a new CS for the next meeting.

Mr. Wright reread the proposed amendment from SB 32 for the committee to think about.

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ADJOURNMENT

The meeting was adjourned at 2:39 PM