

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 19, 2009

3:33 p.m.

MEMBERS PRESENT

Senator Donald Olson, Chair
Senator Joe Thomas, Vice Chair
Senator Linda Menard

MEMBERS ABSENT

Senator Hollis French
Senator Albert Kookesh

COMMITTEE CALENDAR

SENATE BILL NO. 127

"An Act establishing the Southeast State Forest and relating to the Southeast State Forest; and providing for an effective date."

MOVED SB 127 OUT OF COMMITTEE

SENATE BILL NO. 129

"An Act relating to state and municipal building code requirements for fire sprinkler systems in certain residential buildings."

MOVED SB 129 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 127

SHORT TITLE: SOUTHEAST STATE FOREST

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/27/09	(S)	READ THE FIRST TIME - REFERRALS
02/27/09	(S)	CRA, RES
03/12/09	(S)	CRA AT 3:30 PM BELTZ 211
03/12/09	(S)	Heard & Held
03/12/09	(S)	MINUTE(CRA)

BILL: SB 129

SHORT TITLE: RESIDENTIAL SPRINKLER SYSTEMS

SPONSOR(S): SENATOR(S) MENARD

02/27/09	(S)	READ THE FIRST TIME - REFERRALS
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02/27/09 (S) CRA, STA, L&C
03/17/09 (S) CRA AT 3:30 PM BELTZ 211
03/17/09 (S) Heard & Held
03/17/09 (S) MINUTE(CRA)

WITNESS REGISTER

DEAN BROWN, Deputy Director
Division of Forestry
Department of Natural Resources
Anchorage AK
POSITION STATEMENT: Presented SB 127.

MIKE ROVITO, Staff
to Senator Linda Menard
Alaska State Legislature
Juneau AK
POSITION STATEMENT: Presented SB 129.

JEFF TUCKER, Vice President
Alaska Fire Chiefs Association
Fairbanks AK
POSITION STATEMENT: Spoke in opposition to SB 129.

DAVID TYLER, Alaska State Fire Marshal
Division of Fire Protection
Department of Public Safety (DPS)
Anchorage AK
POSITION STATEMENT: Spoke in opposition to SB 129.

MIKE TILLY, Fire Chief
Kenai AK
POSITION STATEMENT: Spoke in opposition to SB 129.

SHELDON WINTERS, Lobbyist
State Farm Insurance
Juneau AK
POSITION STATEMENT: Spoke in opposition to SB 129.

PAUL MICHELSON, Director
Alaska State Homebuilders Association
Anchorage AK
POSITION STATEMENT: Spoke in support of SB 129.

MARTIN SCHWAN, Acting Fire Marshal
City of Anchorage
POSITION STATEMENT: Spoke in opposition to SB 129.

MICHELE WESTIN

Anchorage AK

POSITION STATEMENT: Spoke in opposition to SB 129.

ACTION NARRATIVE

[3:33:18 PM](#)

CHAIR DONALD OLSON called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:33 p.m. Senators Thomas, Menard, and Olson were present at the call to order.

SB 127-SOUTHEAST STATE FOREST

[3:33:47 PM](#)

CHAIR OLSON announced the consideration of SB 127.

DEAN BROWN, Deputy Director, Division of Forestry, Department of Natural Resources, said SB 127 creates a state forest in Southeast Alaska with 20 parcels totaling 25,291 acres. They are general-use lands on Prince of Wales, Kosciusko, Tuxekan, Gravina, Heceta, and Revilla islands as well as one parcel on the mainland. These lands will be open for multiple uses like mining, recreation, and logging. The bill will not affect Wrangell's land selections. The bill will allow the state to invest in long-term intensive forest management, like thinning. There is a supportive resolution from Coffman Cove. The Board of Forestry and the Alaska Miners Association support the bill. It will increase forest productivity and multiple uses and will benefit communities and industry.

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SENATOR THOMAS moved to report SB 127 from committee with individual recommendations and attached fiscal note(s). There being no objection, SB 127 moved out of committee.

[3:37:44 PM](#)

The committee took a brief at-ease.

SB 129-RESIDENTIAL SPRINKLER SYSTEMS

[3:38:45 PM](#)

CHAIR OLSON announced consideration of SB 129.

MIKE ROVITO, Staff to Senator Menard, Alaska State Legislature, said SB 129 responds to a national movement of mandating fire sprinkler systems for one and two-bedroom homes. It does not prohibit Alaskans from putting sprinkler systems in their homes. The systems are expensive -- three to five dollars per square foot. Mandating them is excessive and puts financial burdens on a homebuyer. Changes in residential construction technology have dramatically dropped the number of fatal fires in the United States. Fire separation, draft stopping, emergency escape openings, and many other improvements have made homes more fire safe without undue financial burdens. About 33 percent of residents are on home well systems which will increase their financial burden. There is also the risk of children hitting the sprinkler and setting it off and flooding the home. That will cause water damage and mold. Mold is a serious health risk.

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MR. ROVITO said standard smoke alarms have a proven track record, and a malfunctioning smoke detector won't damage a home.

SENATOR OLSON asked how often sprinklers go off.

MR. ROVITO said he doesn't know, but a child or a ladder can hit it and break the unit. He doesn't know how many times it happens. But it can happen. Smoke detectors are only as good as the batteries that are in them. By mandating sprinklers, "there's nothing to say that a home owner, after paying that cost, isn't just going to turn the valve off to that sprinkler system, thus pretty much negating the system but having that financial burden still."

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JEFF TUCKER, Vice President, Alaska Fire Chiefs Association, Fairbanks, said he spoke on Tuesday, and since then there was a fatal fire in a mobile home in the North Star Borough. There were two exits in the home, but the rear exit was blocked by clutter and the fire blocked the other exit. A residential sprinkler system could've prevented the fire. It is important to consider that there is no national mandate that this be adopted. "This is truly a local option and a local issue." The bill prohibits local jurisdictions from using this tool for improving life safety. The option may have saved that individual.

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CHAIR OLSON asked if he is in favor of putting sprinkler systems into mobile homes.

MR. TUCKER said it is an effective tool in any structure. He doesn't mandate retrofitting sprinklers into older structures. But if there had been a sprinkler system it may have saved this person's life. The smoke detector could alert this person, but he couldn't get out. A sprinkler system is a proactive device that prevents a fire.

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CHAIR OLSON said he is not sure he would want them mandated in mobile homes. He asked about erroneous triggering of the sprinklers.

MR. TUCKER said typically the heads are recessed into the ceiling and not exposed in a residential system. If activations occurred by children playing, it would be a national problem in all the schools. In residential structures there are no exposed heads. The heads are recessed with a metal plate covering them.

[3:47:28 PM](#)

SENATOR MENARD asked if he has a sprinkler system.

MR. TUCKER said he doesn't have one.

SENATOR THOMAS said he repeatedly hears that the government is invasive enough without telling people what to do in personal residences. Information indicated that there was a national move afoot to make sprinklers mandatory in some building codes that would be adopted by municipalities. His main concern is the government as big brother. He is sorry that somebody died. If he had been reasonable enough to put in a sprinkler he would have had smoke alarms and the back exit unblocked.

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MR. TUCKER said the code is a standard that local jurisdictions can choose to adopt. The state doesn't have the power to do that. It is a local option. A jurisdiction with problems such as older fire-prone buildings has the option to protect the residents and their neighbors. It is a local option that fire officials, citizens, and building officials can use as a tool. Blanket-wide requirements for sprinklers will likely not happen, but there may be targeted applications for certain areas. On Tuesday, an example was made for a neighborhood in Anchorage regarding concentrations of buildings, the egress of roads, and sprinkler systems. It is a tool for making prudent decisions on fire and life safety.

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CHAIR OLSON asked about regulations for life and property in the Department of Public Safety (DPS) and the restriction for residential buildings.

DAVID TYLER, Alaska State Fire Marshal, Division of Fire Protection, Department of Public Safety (DPS), Anchorage, said the authority to manage codes is under AS 18.70.080. Paragraph A2 delineates the DPS authority, and it specifically excludes residential dwellings with three or less units. "We cannot adopt codes to cover the safety standards for them."

CHAIR OLSON asked if that is true, in spite of the IRC [International Residential Code] including it.

MR. TYLER said, "We cannot adopt the IRC."

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CHAIR OLSON asked about sprinkler systems mistakenly going off.

MR. TYLER said he has been a fire chief and in service in Alaska since 1991 and saw one sprinkler malfunction. It was in a school where a door was incorrectly installed. The door broke the sprinkler head when it was opened. "I haven't really heard of the problem before."

CHAIR OLSON asked if he ever heard of it happening in a residence, and how often people turn off the sprinklers.

MR. TYLER said he has never known of one going off or being turned off. Smoke alarms make noise and irritate people, so that isn't a good comparison of people turning them off. "People actually forget they're there; they're pretty invisible."

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MIKE TILLY, Fire Chief, Kenai, said he is against SB 129. Kenai is a deferred jurisdiction. There are certain communities that could adopt the residential code, "and I would like that option." The city can adopt certain parts of the code that the state cannot. The city should decide what is best for its community. A year ago there was a malfunctioning alarm, and a fire killed four people in a residential home. A malfunctioning sprinkler will not kill anyone.

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SHELDON WINTERS, Lobbyist, State Farm Insurance, Juneau, said he was sent to the hearing today to address a concern that arose from Tuesday's hearing. He can't speak for the insurance

industry as a whole, but State Farm is the largest insurer of homes in the country and in Alaska. It insures about one third of the homes in the state. State Farm strongly opposes SB 129 and is an adamant supporter of fire sprinkler systems. State Farm, like many other insurers, gives a discount for homes that have sprinklers. It is a 10 percent discount for a full sprinkler system, and it is a 5 percent discount for a partial installation. They do it because of the lifesaving benefits of fire sprinklers.

CHAIR OLSON asked if a single family dwelling can get a 10 percent discount for a full sprinkler system.

MR. WINTERS said yes, for a State Farm policy. There have been other questions raised that he would like to address. If there is a fire and the sprinkler goes off, "of course the water damage associated with that is covered." An accidental and sudden situation that results in the malfunction of the sprinkler is covered. It is not covered as a flood, but it is covered under the homeowner policy. If damage is caused by freezing and the homeowner hasn't taken reasonable steps, that might not be covered. There are always exclusions, but generally water damage is covered. The insurance industry strongly opposes this bill.

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CHAIR OLSON asked how often State Farm has paid a claim from sprinklers going off accidentally.

MR. WINTERS said he can find that out.

CHAIR OLSON asked how claims are paid out for wet sheetrock and carpet, as opposed to actual fire damage claims.

MR. WINTERS said the adjuster would assess that. As an insurance defense lawyer he has dealt with some fire claims, and he believes that it is fairly easy to tell what damage occurred from the sprinkler and what damage had already been there.

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PAUL MICHELSON, Director, Alaska Homebuilders Association, Anchorage, said his association supports the bill. State Farm gives a discount for current systems, so it is a \$50 discount for a \$500 policy, but the sprinkle system costs \$9,000, so that is a 40-year payback. Mr. Winters didn't address mold, and the insurance would pay "the water policy but they will exclude mold issues ... and the potential for you being dropped increases

because of the potential of mold." He is saddened by the man who lost his life in the mobile home fire. Mobile homes would be in the IRC, unless they are built through the HUD program. The vast majority of fires and deaths in Alaska are in mobile homes and substandard housing, but this bill is targeted at new construction. Deaths have been substantially reduced because of the way the houses are now built. Every fire chief told the committee that SB 129 takes away a tool. "We are not taking away their tool." They can still suggest installing a sprinkler to a builder or developer for certain situations. The tool is not being taken away. What is being taken away is that a fire jurisdiction may not mandate that a person install a sprinkler. It is all negotiable. A few people said the IRC is not the code of record. "If you read the IRC, it refers you back to the IBC [International Building Code] and the NFC [National Fire Code]. Both of those codes are codes of record." The NFC and the international codes are competing bodies that battle for finances through sales of literature and knowledge of the code.

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MR. MICHELSON said he believes that the state fire marshal has the authority to enforce the NFC and the IBC. A triplex falls under the IBC. "We are just looking for single one and two family dwellings." If a single family residence has assisted living, child daycare, or the occupancy load has changed to other than a private residential structure, then it should be required to have a sprinkler system per the IBC and the NFC. He is not asking that light commercial or assembly structures "be in a position that they can't or shouldn't be sprinklered." Single-family residences have occupants that are very familiar with structure, egress loads, and egress paths. In a public place they are not familiar "so we should leave that as intact."

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SENATOR THOMAS asked about the bill's reference to a public corporation. He doesn't know what that is, but it doesn't sound like a borough or city. So the bill appears to still allow any city or a service district to take a public vote to see if they want to require [sprinklers]. There is concern in the Interior with houses being built amongst a lot of black spruce, which is a fire hazard. The park service and the Department of Interior are worried about that.

MR. MICHELSON said, "The bill is put in place that no jurisdiction in the state of Alaska can mandate a sprinkler system." The bill doesn't forbid the U.S. Forest Service from negotiating. For example, if a person wanted to build a cabin in

the forest district of Ketchikan and the forest service allows it only if there is a sprinkler system, a person not willing to put in the system can't build the cabin. The bill "is to stop a city, as Ketchikan, to say that every building in the city limits and the borough's outreaches has to have it; that's what we're trying to prevent."

SENATOR THOMAS said the bill refers to a state agency or public corporation, so it doesn't seem to cover boroughs, cities, or groups of individuals that may want to vote to set the standards of a homeowner association.

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MR. MICHELSON said he believes Senator Thomas is correct. If a private homeowner association in Juneau built a subdivision and they wanted sprinklers, they can put it on their plat map that everyone who buys a house in that subdivision must have a sprinkler system.

SENATOR THOMAS asked if the people of Fairbanks could vote to require sprinkler systems. It would not be a mandate but the will of the people.

MR. MICHELSON said that would be precluded, but all legislation can be altered.

[4:09:50 PM](#)

MARTIN SCHWAN, Acting Fire Marshal, City of Anchorage, said he is a certified plans examiner, an adjunct professor at UAA [University of Alaska, Anchorage], and is past president of the local chapter of ICC [International Code Council]. He opposes SB 129. The discussion is not about whether or not sprinklers are a good idea -- they protect property and save lives. Fire fatalities continue. In 2007, there was a home structural fire every 79 seconds with one civilian fatality every 2.5 hours. Clearly, fires continue to occur, and whether a home is new or not has no bearing on fires. The code process has been very successful. This bill should not even be before the Senate. It should be done locally or nationally. The ICC is not for or against sprinklers. The ICC moderates code change; the members of ICC bring forward codes that go through committee and are brought forward or turned down in the final action hearings. He has two volumes with over 2,000 pages of proposed code changes. Does the Senate really want to be involved in code development?

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MR. SCHWAN said now is the time to "nip this in the bud." He sits through all of the code hearings - day after day, 10 to 13 hours per day. The influx of people who vote on code proposals is tremendous. "So for the National Association of Home Builders to cry foul that there was an influx of people who vote on this residential sprinkler proposal - that's the way it works." The bill circumvents the process. "I ask you to respect the process under which codes are developed." At the local level, committees are formed for code adoption who represent public and private sectors. They go through all the code changes and can bring forward amendments. They have the expertise to make local amendments; it shouldn't happen at the legislative level. Consider the precedent the legislature is setting. "Do you really want to be involved in the code process? I really think not. Leave it in the hands of the experts ... the bodies that spend thousands and thousands of hours developing the codes." It doesn't happen in just one month. People are working on the 2012 code, and it will take three years. To expect the Senate to handle it in a week is not fair to the citizens of Alaska. There will be consequences to development. Right now he can require sprinkler systems in developments that exceed 30 units that have a single fire access road. He will not have the ability to give them the option of sprinklers in lieu of putting in the second fire apparatus access road. "And I can tell you, right now the development on the hillside district in Anchorage ... there's a lot of proposed development and they have a lot of terrain features that they're not going to be able to overcome." So people will not be able to develop the area to the extent they could. A tool is being taken away, because he cannot mandate sprinklers in lieu of a second access road.

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MR. SCHWAN said he is not monitoring the pulse of the sprinkler issue. "I am the one who is requiring sprinklers because of the type of the occupancy ... because of the development." He reviews building plans and development from the Knik Bridge down to Portage. One of the tools that he uses is sprinklers in lieu of a secondary access road. He told the committee to consider what it is doing and the precedent it will set.

CHAIR OLSON asked how the bill will affect construction in rural Alaska.

MR. SCHWAN said the state doesn't adopt the IRC. Of the 11 jurisdictions in Alaska only one actually adopts it. Those areas will not be affected by a residential sprinkler proposal in the IRC. The state fire marshal's office adopts the code, and the

deferred jurisdictions then have to adopt those codes and can make their own amendments. They can be more restrictive but not less. Rural Alaska is not going to be affected.

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CHAIR OLSON asked about his comment that fires in new construction are the same as the ones in old buildings.

MR. SCHWAN said absolutely. The number one cause of fires is unattended cooking.

CHAIR OLSON said the data show that most of the fires with fatalities were of old construction without the latest construction materials.

MR. SCHWAN said he is a fire inspector and he doesn't agree. The validity of that argument is that there is some compartmentalization of the fires to the room of origin, but fires are still occurring in new construction.

[4:19:05 PM](#)

SENATOR MENARD asked if he has sprinklers in his home.

MR. SCHWAN said he has a 1200 square-foot home without a sprinkler and would love to put them in. That is a project that he will undertake by 2010. It costs about \$3 per square foot for a 13-D system, but his retrofit will be higher.

MICHELE WESTIN said she is testifying from a personal perspective. She is a member of the fire service and a certified planner, and she was a manager for the city of Anchorage for many years. She suggested finding a middle ground. The issue is becoming polarized. Anchorage is now developing odd and unique areas such as the Anchorage hillside. There are a number of subdivisions similar to Oakland, CA. She suggested that if the bill passes and sprinklers are not able to be placed in these subdivisions there should be strong plat notes on the properties stating that the fire service cannot defend them. It is unfair to homeowners who won't know three to five years after the developers have left that they have a house that cannot be defended by the fire service. Strong plat notes should tell people that they have purchased a property that might not be able to be defended.

[4:23:00 PM](#)

CHAIR OLSON asked if she is for or against SB 129.

MS. WESTIN said she is against it. She would allow local jurisdictions to have the option to require sprinklers for unique and challenging situations. She has a log house, and her water heater caught on fire, so she has looked at putting in a sprinkler system. "Even as a fire service person I shouldn't do my own repairs on my water heater."

SENATOR THOMAS said development in areas where fire departments can't go is a borough planning and real estate question, like disclosing health and safety issues before buying a house. In Fairbanks there are areas that aren't paying for fire service. Sometimes fire fighters won't put out a fire because it isn't within the fire district. It sounds cold, but if they didn't do that, no one would pay. It should be a real estate problem and locally controlled, and safety issues should be disclosed.

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MS. WESTIN said she lived in Fairbanks, and requiring plat notes is very political. It is the same as when people build in avalanche zones. Often jurisdictions are afraid to create a stigma on property by telling the truth to homeowners. She urged a middle ground and to not say "no sprinklers ever."

SENATOR THOMAS asked if the bill does that. The only reference he sees is to a state agency or a public corporation, which sounds like something like the railroad.

MS. WESTIN said she would be concerned if the legislation takes away the ability of municipalities to require sprinklers in unique slope, topography, and fuel load situations.

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SENATOR MENARD moved to report SB 129 from committee with individual recommendations and attached fiscal note(s). There being no objection, the bill moved out of committee.

[4:28:47 PM](#)

The meeting was adjourned at 4:28 p.m.