

**ALASKA STATE LEGISLATURE**  
**SENATE LABOR AND COMMERCE STANDING COMMITTEE**

March 2, 2010

1:36 p.m.

**MEMBERS PRESENT**

Senator Joe Paskvan, Chair  
Senator Bettye Davis  
Senator Kevin Meyer

**MEMBERS ABSENT**

Senator Joe Thomas, Vice Chair  
Senator Con Bunde

**COMMITTEE CALENDAR**

SENATE BILL NO. 117

"An Act requiring the Department of Revenue to set the minimum price for cigarettes for sale by wholesalers and retailers; and prohibiting a wholesaler or retailer from selling at wholesale or retail cigarettes at a lower price than the price set by the Department of Revenue."

- MOVED CSSB 117(L&C) OUT OF COMMITTEE

SENATE BILL NO. 279

"An Act relating to regulation of residential mortgage lending, including the licensing of mortgage lenders, mortgage brokers, and mortgage loan originators, and compliance with certain federal laws relating to residential mortgage lending; and providing for an effective date."

- MOVED SB 279 OUT OF COMMITTEE

SENATE BILL NO. 258

"An Act prohibiting health care insurers that provide dental care coverage from setting a minimum age for receiving dental care coverage, allowing those insurers to set a maximum age for receiving dental care coverage as a dependent, and prohibiting those insurers from setting fees that a dentist may charge for dental services not covered under the insurer's policy."

- HEARD AND HELD

SENATE BILL NO. 129

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

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 117

SHORT TITLE: PRICE OF CIGARETTES

SPONSOR(s): SENATOR(s) MCGUIRE

02/20/09 (S) READ THE FIRST TIME - REFERRALS  
02/20/09 (S) L&C, FIN  
02/09/10 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)  
02/09/10 (S) Heard & Held  
02/09/10 (S) MINUTE(L&C)

BILL: SB 279

SHORT TITLE: MORTGAGE LENDING

SPONSOR(s): SENATOR(s) PASKVAN

02/15/10 (S) READ THE FIRST TIME - REFERRALS  
02/15/10 (S) L&C, FIN  
02/25/10 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)  
02/25/10 (S) <Bill Hearing Canceled>  
03/02/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 258

SHORT TITLE: DENTAL CARE INSURANCE

SPONSOR(s): SENATOR(s) HUGGINS

02/05/10 (S) READ THE FIRST TIME - REFERRALS  
02/05/10 (S) HSS, L&C  
02/15/10 (S) HSS AT 1:30 PM BUTROVICH 205  
02/15/10 (S) Moved SB 258 Out of Committee  
02/15/10 (S) MINUTE(HSS)  
02/17/10 (S) HSS RPT 3DP 1NR  
02/17/10 (S) DP: DAVIS, ELLIS, THOMAS  
02/17/10 (S) NR: PASKVAN  
03/02/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 129

SHORT TITLE: RESIDENTIAL SPRINKLER SYSTEMS

SPONSOR(s): SENATOR(s) MENARD

02/27/09 (S) READ THE FIRST TIME - REFERRALS

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)
03/19/09	(S)	CRA AT 3:30 PM BELTZ 211
03/19/09	(S)	Moved SB 129 Out of Committee
03/19/09	(S)	MINUTE(CRA)
03/20/09	(S)	CRA RPT 1DP 2NR
03/20/09	(S)	DP: MENARD
03/20/09	(S)	NR: OLSON, THOMAS
03/24/09	(S)	STA AT 9:00 AM BELTZ 211
03/24/09	(S)	Moved SB 129 Out of Committee
03/24/09	(S)	MINUTE(STA)
03/25/09	(S)	STA RPT 1DP 2NR 2AM
03/25/09	(S)	DP: MENARD
03/25/09	(S)	NR: MEYER, KOOKESH
03/25/09	(S)	AM: FRENCH, PASKVAN
03/02/10	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

ESTHER CHA

Staff to Senator McGuire  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Commented on SB 117 for the sponsor.

MIKE ELERDING, representing himself  
Ketchikan, AK

**POSITION STATEMENT:** Supported SB 117.

LORIE HOVANEK, Director

Division of Banking and Securities

Department of Commerce, Community & Economic Development (DCCED)

**POSITION STATEMENT:** Answered questions on SB 279.

SHARON LONG

Staff to Senator Huggins  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Presented SB 258 for the sponsor.

JACK MCRAE, Sr. Vice President

Premera-Blue Cross-Blue Shield of Alaska

**POSITION STATEMENT:** Opposed SB 258.

DAVID LOGAN, DDS

Alaska Dental Society  
Juneau, AK  
**POSITION STATEMENT:** Supported SB 258.

CHRIS HENRY  
Alaska Dental Society  
Fairbanks, AK  
**POSITION STATEMENT:** Supported SB 258.

LINDA HALL, Director  
Division of Insurance  
Department of Commerce, Community and Economic Development  
(DCCED)  
**POSITION STATEMENT:** Available to answer questions on SB 258.

SENATOR LINDA MENARD  
Alaska State Legislature  
Juneau, AK  
**POSITION STATEMENT:** Sponsor of SB 129.

JEFF TUCKER, President  
Alaska Fire Chiefs Association  
Fairbanks, AK  
**POSITION STATEMENT:** Opposed SB 129.

WALLY SMITH, President  
Alaska State Homebuilders Association  
**POSITION STATEMENT:** Supported SB 129.

DAVE MILLER, President  
Interior Alaska Homebuilders Association  
Fairbanks, AK  
**POSITION STATEMENT:** Supported SB 129.

ERIC MOHRMANN, Fire Chief  
Capital City Fire/Rescue  
Juneau, AK  
**POSITION STATEMENT:** Opposed SB 129.

JAMES HILL, Fire Chief  
Ketchikan, AK  
**POSITION STATEMENT:** Opposed SB 129.

DAVID SQUIRES, Fire Chief  
City of Seward  
Seward, AK  
**POSITION STATEMENT:** Opposed SB 129.

JEFF FEID, Loss Mitigation Administrator  
State Farm Insurance  
**POSITION STATEMENT:** Opposed SB 129 and its CS.

MICHAEL REVITO  
Staff to Senator Menard  
Alaska State Legislature  
Juneau, AK  
**POSITION STATEMENT:** Commented on SB 129 and its CS.

#### **ACTION NARRATIVE**

[1:36:24 PM](#)

**CHAIR JOE PASKVAN** called the Senate Labor and Commerce Standing Committee meeting to order at 1:36 p.m. Present at the call to order were Senators Davis, Meyer, and Paskvan. Senators Thomas and Bunde were excused.

#### **SB 117-PRICE OF CIGARETTES**

[1:37:42 PM](#)

**CHAIR PASKVAN** announced SB 117 to be up for consideration. He noted that Senator Bunde had submitted a letter in support of SB 117. He moved to bring CSSB 117(), version E, before the committee. There were no objections and it was so ordered.

**ESTHER CHA**, staff to Senator McGuire, sponsor of SB 117, related that the department said the committee substitute (CS) lowers the percentage that was in the original bill and a few off-brand cigarettes may experience a decrease in their current pricing; however, the majority of brands will experience an increase.

**SENATOR MEYER** said the last time this bill was heard they were led to believe it would raise the price of cigarettes and he was curious why the American Lung Society and the American Cancer Society weren't supporting it. He thought it might be because even though some of the major brands would probably go up in price the off brands for the most part will go down. The fact that this bill prevents businesses from selling tobacco as loss leaders is good.

[1:42:05 PM](#)

**MIKE ELERDING**, representing himself, Ketchikan, said he would answer questions. He said he has supported the concept of regulating the price of tobacco products since 2004 and he

offered to provide historical context for how they had gotten to where they are now if anyone wanted it.

CHAIR PASKVAN, finding no further questions, closed public testimony.

SENATOR MEYER moved to report CSSB 117(), version E, from committee with individual recommendations and attached zero fiscal note. There were no objections and it was so ordered.

[1:44:08 PM](#)

CHAIR PASKVAN announced an at ease at 1:44.

[1:45:28 PM](#)

CHAIR PASKVAN called the meeting back to order at 1:45.

### **SB 279-MORTGAGE LENDING**

[1:45:51 PM](#)

CHAIR PASKVAN announced SB 279 to be up for consideration. He related that this committee had been working with the administration for over one year and this bill is now good for Alaska.

LORIE HOVANEK, Director, Division of Banking and Securities, Department of Commerce, Community & Economic Development (DCCED), said her division administers the Alaska Mortgage Lending Regulation Act. She said the abuses in mortgage lending and securities led to much of the financial crises the US is now experiencing. To address some of these problems, both state and federal regulators came up with regulatory reform and a new system to license both mortgage loan originators and mortgage lenders and brokers. In 2003, the state regulators, through the Conference of State Banks Supervisors and the American Association of Residential Mortgage Regulators (ARMOR), began developing a uniform licensing registry similar to what had been done by state agencies in the securities and investment advisor industries.

She said this regulatory system for mortgage loan originator licensing is known as the Nationwide Mortgage Licensing System and Registry; it was launched in 2008 and since then nearly every state is a participant. This system increases consumer protection, enhances state regulators' ability to supervise, and streamlines the licensing process.

MS. HOVANEC continued that in 2008 the federal SAFE Act was passed which requires states to license mortgage loan originators through this nationwide registry. It also requires states to amend their mortgage lending laws to meet certain minimum standards, which they can exceed if they want to. Alaska began licensing mortgage loan originators through this registry on August 1, 2009 and is, therefore, in compliance with the first part of the federal law. SB 279 will bring Alaska into compliance with the second part of the SAFE Act by amending its statutes to meet the federal minimum standards.

She said the objectives of these amendments are to increase accountability in education and tracking of mortgage lending professions to reduce fraud in the residential mortgage loan origination process and to provide consumers with free and easily accessible information through the national database.

She explained that if Alaska does not comply with these minimum federal licensing requirements through passage of SB 279, the SAFE Act requires that the US Department of Housing and Urban Development begin enforcing the standards. The effective date of this bill is July 1, 2010 - also to meet the state's extension deadline.

[1:50:55 PM](#)

MS. HOVANEC said she would next address some of the major changes to Alaska's law. Technical changes included changing "originator" to "mortgage loan originator" wherever it was used.

MS. HOVANEC said the first substantive change was to section 9 on page 6, line 8, where license renewal was changed from biennial to annual on the calendar year, December 31.

[1:53:34 PM](#)

She said section 85 on page 41, line 20, repealed AS 06.60.017 that exempts small mortgage lenders from licensing, because the SAFE Act does not allow exemptions of this sort. She said references to the "small mortgage lender" exemption were deleted throughout.

[1:55:08 PM](#)

MS. HOVANEC said the SAFE Act requires that fingerprint cards for criminal background checks be sent to the registry as well as the Department of Public Safety (DPS). Under current statutes fingerprint cards must be submitted just to the Department of Public Safety (DPS).

Section 11 on page 6, line 23, says permit fees are to be set in regulation for flexibility. Currently they are set in statute. They anticipate potentially decreasing the fee for mortgage loan originators so that originators and companies are paying similar renewal fees rather than originators paying a larger fee.

Section 12 on page 6, line 28, requires 20 hours of pre-licensing education as per the SAFE Act; three hours in federal statutes and regulations to mortgage origination, fraud prevention, consumer protection, three hours in ethics and two hours related to lending standards for non-traditional mortgage products and the additional hours to be of the licensee's choosing. Current law has no education requirements.

Section 18 on page 10, line 21, authorizes the division to issue a provisional license if the fingerprint card processing is excessively delayed but all other requirements for licensing have been met. This is to prevent holding up commerce when it appears a person is qualified.

In section 22 on page 12, line 21, the references to paper were eliminated. Because the national database is accessible to consumers on the Internet, they will be going paperless.

Section 29 on page 14, line 9, is a new section permitting branch office registration, something the national database requires, and the department wants the ability to track all the branches that mortgage lenders and originators are opening.

Section 35 on page 15, line 25, modifies Alaska's continuing education requirements from 24 hours every 2 years to 8 hours annually.

SENATOR MEYER asked if the US Department of Housing and Urban Development would take over without action on this bill.

MR. HOVANEC replied yes, but they don't really take over. They would set up their own licensing system in addition to the state's system. So industry would be required to comply with two regulatory schemes.

SENATOR DAVIS asked if the state would be a penalized if it didn't meet the deadline.

MS. HOVANEC replied not to her knowledge.

[2:02:06 PM](#)

CHAIR PASKVAN said they had been working on this for a whole year and he is comfortable with language in the bill, but he has been close to it for a while.

MS. HOVANEC explained that the fiscal note adds \$65,000/year for a new occupational licensing position and \$3,000 for materials required for the position. The amount of work being generated by participation in the national registry is more than their one occupational licensing person is able to handle, because they also handle their money service business regulations. Travel would increase by \$20,000/yr. They have approximately 72 out-of-state lenders and are able to do some examinations of them through a joint exam with the states in which the primary location of the lender is located, but they are expected to participate in a certain number of exams - as part of this joint protocol they have joined. This budget would allow them to participate in approximately three to four exams per year depending on where they are located. It also adds a membership fee to the National Mortgage Regulatory Association and funding for the division to "upfront" the state background fee which is about \$50-150/yr.

They expect that revenue will increase substantially due to expansion of the definition of "licensee" to include the loan modification and servicing companies as well as changing from a biennial renewal to an annual renewal.

CHAIR PASKVAN explained that the expenditures for fiscal year (FY) 2011 are about \$131,000, but the income would be about \$384,000. So it has a positive impact on the state's treasury.

MS. HOVANEC agreed.

SENATOR DAVIS said that she appreciated Ms. Hovanec's review and that she saved her a lot of work by visiting the office.

[2:06:07 PM](#)

CHAIR PASKVAN closed public testimony.

SENATOR MEYER moved to report SB 279 from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

[2:08:29 PM](#)

At ease

[2:11:16 PM](#)

CHAIR PASKVAN called the meeting back to order at 2:11.

**SB 258-DENTAL CARE INSURANCE**

[2:11:45 PM](#)

CHAIR PASKVAN announced SB 258 to be up for consideration.

SHARON LONG, staff to Senator Huggins, sponsor of SB 258, said it was at the request of the Alaska Dental Society. It prohibits insurance companies from establishing age limitations on young children receiving dental care. Currently a fear is emerging, as evidenced by 20 other states introducing this legislation, that insurers are moving towards restricting children four years and older from dental care coverage.

She said that establishing a minimum age requirement leaves a significant segment of our population already identified as at risk without dental insurance. It does allow a company to set a maximum age for a person to receive coverage for dental care as a dependent child.

MS. LONG said that even though this restriction not covering those under four is currently in effect in only one state, Maine, the fear is not unfounded. A non-covered services clause was inserted in provider contracts first in the northeast, and within one short year it had spread south and west to finally include all states - bringing her to the next provision of SB 258: It will prohibit insurance companies from fee capping non-covered services in Alaska. That is the current practice of insurance companies - dictating what a dentist can charge for services the insured does not even cover in a plan.

She said that Senator Huggins became aware of trends surrounding coverage restrictions and age limitations elsewhere and introduced this bill in order to start the discussion and get ahead of the issues before they became a problem here. Understanding that insurance can raise complex issues among stakeholders, not the least of which includes federal restraint of trade restrictions and waivers, Senator Huggins asked for some experts to be available for the committee this afternoon.

MS. LONG said that Senator Paskvan had raised a question about mutuality of obligations under contract and Dennis Bailey from Legal Services was on line and that Linda Hall, Director, Division of Insurance, was available, as was Pat Shier, Director, Division of Retirement and Benefits.

[2:16:20 PM](#)

CHAIR PASKVAN announced public testimony.

[2:16:32 PM](#)

JACK MCRAE, Sr. Vice President, Premera-Blue Cross-Blue Shield of Alaska, said SB 258 raises several major constitutional and public policy issues. It would require health insurers who provide coverage to change their contracts with dentists by modifying basic terms. The key language regarding the proposed change is found on page 2, lines 3 and 4 where it raises constitutional issues as Article 1, Section 15, of the Alaska Constitution states:

No law impairing the obligation of contracts and no law making any irrevocable grants of special privilege or immunities shall be passed.

Although Alaska courts have interpreted this language to permit passing laws which have changed future contracts, Mr. McRae said, it would appear that these provisions in legislation run contrary to the public policy intent.

In addition, Mr. McRae said, language in SB 258 raises a related and serious public policy question of whether it is in the state's interest to pass legislation that basically changes health insurance contracts which benefit one select group of health care providers. As an alternative, he suggested an amendment that would avoid the constitutional problem that SB 258 raises and still respond to the concerns that the dentists have raised.

He added that Premera-Blue Cross-Blue Shield of Alaska doesn't have age restrictions in any of their dental contracts in Alaska and haven't for a long period of time.

CHAIR PASKVAN asked if they do not have age restrictions within their contracts now, how he could raise an impairment of contract issue.

MR. MCRAE answered the issue that is of most concern for them is when they have a contract with, for example, a benefit that pays a maximum of \$2500 year for crowns. As their contracts are presently written, once the cap is reached the dentist would still have to give the discounted rate which had been agreed to in the contract to the member. This would move them in the direction of giving the dentist the ability, once a contract limit is reached, to charge whatever he wanted to. Other items

outside of the contract, such as teeth whitening, have no restrictions on what can be charged. They would want the provider to still allow the discounted rate to their enrollee once the cap is reached.

[2:20:35 PM](#)

CHAIR PASKVAN said he didn't understand the argument he was advancing within the impairment of contract context.

MR. MCRAE stated that the amendment would say "offers but cannot require a provision in the contract that would allow discounted fees for non-covered services." That would allow for dentists to still give the discounted rate to the Alaskan dental plan enrollee once the cap had been reached. Without that, dentists could charge whatever they want.

CHAIR PASKVAN asked if that would be for both covered and non-covered services.

MR. MCRAE answered yes, but generally speaking, it would be more in the direction of covered services. Their main concern is that the enrollee could still get the discounted rate once the cap is reached, because that is where most of the expensive dental charges are.

CHAIR PASKVAN asked if he recognized the ability of the legislature to adopt public policy that prohibits private parties from going beyond the boundaries established in that public policy.

MR. MCRAE answered that he did recognize that.

CHAIR PASKVAN asked if the state would or wouldn't be sued for impairment of contract.

MR. MCRAE responded, "No, I don't believe we would sue the legislature for impairment of contract, Mr. Chairman."

CHAIR PASKVAN commented, "I was just wondering why it was raised then."

[2:22:55 PM](#)

DAVID LOGAN, DDS, Alaska Dental Society, said he is a Juneau dentist. He said that SB 258 seeks to correct a couple of things that are negatively impacting consumers. It sets fee limits on services that dental insurance plans do not pay a benefit for and it prohibits setting minimum age requirements for dependents

to receive dental benefits. The protection for consumers by prohibiting an age restriction is obvious he said, and Alaska still leads the nation in baby bottle tooth decay.

They are also interested in preserving the progress that has been made in conjunction with the dental board over the last few years insuring that medical providers can receive reimbursement for dental benefits for delivering dental services during well baby checks for applying fluoride. Frequently children are seen at that age by medical providers but have yet to see dental providers. Unfortunately for young children who have severe cavities at those ages, rehabilitation can cost a lot as well as be difficult. Sometimes the ability of the parents to receive coverage under dental managed care plans can be a deciding factor in the decision to seek care or not.

MR. LOGAN explained that the act of setting the fees on non-covered services is a fairly recent change and started a couple of years ago, sweeping quickly across the nation. One state, Rhode Island, prohibits it, and that is one of the initial states that started the practice. The net effect on the remaining states has been for dentists to reexamine their participation in these plans both for a service that they're not providing the benefit for and the economic impact on their practices. The effect is that dentists drop out of these plans and then consumers have fewer providers to choose from. Many are being forced to leave their dental home if they want to receive full, costly or even partial use of their dental benefits. He said the overall affect is reduced access, and this impact would sadly be borne disproportionately in rural communities with fewer providers to choose from.

He said the basic question of fairness needs to be asked. If the insurance companies are interested in helping dental consumers receive dental care and lowering overall dental costs, the dentists' preference would be that the insurance companies provide the benefit; then at least they are in it together.

MR. LOGAN said his concern has been that as the insurance companies are taking this approach, they are requiring dentists to make a sacrifice that is at no cost to themselves, but they enjoy the benefit of marketing the savings. He said dentists are sensitive to the cost of health care, but they are also unfortunately unable to deal with insurance companies on a level playing field as they are exempt from anti-trust laws while dentists are not. The best a small trade group of dentists can

do is approach these matters legislatively, because they don't have the ability to negotiate with the insurers.

CHAIR PASKVAN said he was trying to figure out if a policy provided a covered service for teeth cleaning once a year and someone wanted it a second time because they were very health conscious, what the dentists' ability would be to charge a different rate for the second teeth cleaning as compared to the charge that might have been allowed under the first cleaning.

MR. LOGAN replied that some fee differential would likely be involved. Under managed care plans, the dentist submits a fee schedule to the dental insurance company and he agrees to charge a lesser amount for services that are covered by the insurance company, but on services that aren't covered he agrees to abide by their normal fee schedule.

[2:29:13 PM](#)

CHAIR PASKVAN asked what a person would be charged for his second teeth cleaning if the first one was insured and set at \$80 (\$50 paid by insurance and \$30 paid by the insured), but the second one wasn't covered.

MR. LOGAN answered the dentist would probably charge his normal fee of \$100.

CHAIR PASKVAN asked if he perceived the national movement was trying to restrict him in charging his office rate for non covered services.

MR. LOGAN answered that was his understanding.

[2:31:59 PM](#)

CHRIS HENRY, Alaska Dental Society, said he is an orthodontist in Fairbanks, Alaska. He explained that one of the concerns is about the fairness of the plan and likened a dental practice to a hotel business that signed up for a program to reduce their hotel rates so that tourists would come in, but they also provide meals. They are hoping to bring more patrons into their hotel. Then they find out that plan they signed up for limited them on what they could charge for the meal that was not part of the plan. He said dental practices need to be profitable enough to support staff and provide for their benefits such as medical insurance and retirement plans. He said it goes back to what it takes to run a small business whether it is dentistry or any other kind of medicine.

[2:35:34 PM](#)

LINDA HALL, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), said she was available to answer questions on SB 258.

CHAIR PASKVAN "suspended" public testimony.

MS. LONG remarked that the bill's sponsor did not view the amendment favorably and urged finding common ground with regard to the contracts.

[2:36:58 PM](#)

SB 258 was heard and held.

[2:37:27 PM](#)

CHAIR PASKVAN announced an at ease.

[2:41:29 PM](#)

CHAIR PASKVAN called the meeting back to order at 2:41.

### **SB 129-RESIDENTIAL SPRINKLER SYSTEMS**

[2:41:45 PM](#)

CHAIR PASKVAN announced SB 129 to be up for consideration. He said a lot of work was done on this bill in the past year. He moved to bring CSSB 129(), version M, before the committee. There were no objections and it was so ordered.

[2:42:58 PM](#)

SENATOR LINDA MENARD, sponsor of SB 129, said the committee substitute (CS) was a result of listening to the pros and cons of this issue while adhering to what she believed needs to happen. She said the CS is a compromise. She said that she is not opposed to sprinkler systems being required in homes, but she does believe that requiring residents to install sprinkler systems in the building code needs a more robust hearing.

SENATOR MENARD said the CS removes all references to the state, state agencies, and state corporations, because Alaska has no statewide building code. The CS retains local control while setting in statute an elongated public process. Along with preparing a cost benefit analysis, this bill calls for local governments to post notice at least 30 days before their first public hearing, schedule at least three public hearings on a proposed ordinance or amendment to be held within a 60-day period and not consider the proposed ordinance or amendment for

adoption sooner than 60 days after conclusion of the first public meeting.

It is no surprise that the firefighters would be against this bill. Respectfully, she said, it is their job to do all they can to protect the life and property of Alaskans, but she argued that the CS retains local control and gives local decision makers the option of mandating sprinklers.

SENATOR MENARD argued that those opposed to the bill would say this bill puts an unfunded mandate on cities and municipalities, but the unfunded mandate is really being put on homeowners. Plus a local government can choose to spend as little or as much as it wants to on the required cost benefit analysis.

SENATOR MENARD said the cost benefit analysis language in this bill is very broad simply requiring local governments to prepare a cost benefit analysis as to how expensive or inexpensive a proposal may be.

[2:46:11 PM](#)

She said the reason for the expanded public process is that adopting a code requiring fire sprinkler systems for one to two family dwellings is not a "run-of-the-mill" code item. It is an expensive system that has proven impacts on the cost of a home. It is especially costly for those on well systems, which almost a third of Alaskans are on. Anchorage Mayor Sullivan said he thinks the extra public process is appropriate for fire sprinklers in one or two family dwellings because installing them in Alaska's cold climate is complex.

SENATOR MENARD said she didn't dispute the potential life and property savings quality of sprinkler system and realized there are situations where mandating sprinklers in a new home would seem to make sense, but her point with the CS was that the public who will be the one to pay for the system will have ample time for testimony, discussion and education if the issue arises. She said SB 129 has a zero fiscal note.

[2:49:04 PM](#)

JEFF TUCKER, President, Alaska Fire Chiefs Association, Fairbanks, said a public process is already in place that has worked well for all public code procedures. There is no need for a special process for just one issue.

[2:51:18 PM](#)

WALLY SMITH, President, Alaska State Homebuilders Association, deferred his testimony to the Interior Alaska Building Association.

[2:52:00 PM](#)

DAVE MILLER, President, Interior Alaska Homebuilders Association, Fairbanks, said this bill is a reasonable and intelligent compromise that provides time for local building officials, legislators and voters to consider the consequences of mandating sprinklers in single family homes in Alaska. He encouraged the committee to pass SB 129.

SENATOR MEYER asked what it costs to install a sprinkler system in an average size house.

MR. MILLER answered anywhere from \$2-8 square foot.

SENATOR MEYER took the middle, \$5, and said an average house is 1500-2000 square feet; so this would add substantial cost on to a new home and the builder would just pass it on to the consumer.

MR. MILLER responded that consumers right now are having a hard time buying homes without having an additional \$7500 added to their cost. Appraisers aren't even "getting value" for that, so consumers would have to pay for this cost out of pocket.

Also, he said, it's almost impossible to say how much a real functioning system in homes with well systems would cost to install. Their job as builders is to provide safe and affordable housing for Alaskans and mandating sprinklers would put a large number of people where they couldn't afford to build a home. The Homebuilders encourage life safety things like smoke detectors that are a better value for homebuyers.

SENATOR MEYER asked if sprinklers are susceptible to freezing up in the winter.

MR. MILLER replied that it would depend on the type of system, but water systems are susceptible to freezing in Alaska and Minnesota. He had even read a report that said some insurance companies were not providing a discount for having a sprinkler system because of some water loss issues with systems going off. Maintenance of these systems is another issue.

SENATOR MEYER asked how often sprinkler systems need to be maintained.

MR. MILLER replied that most would recommend an annual inspection.

2:59:43 PM

ERIC MOHRMANN, Fire Chief, Capital City Fire Rescue, Juneau, said the City and Borough of Juneau (CBJ), like 17 other jurisdictions across the state of Alaska, is a deferred jurisdiction. This means that the State Fire Marshall's Office has looked at their code adoption process and their capabilities and has decided that they not only meet the minimum enforcement requirements of the state fire and building codes, but that they exceed them. He said the local jurisdictions had spent quite a bit of money to provide citizens with good quality code plan review, enforcement and adoption.

3:01:25 PM

He explained that the City and Borough of Juneau has a rigorous process for adopting codes; the Assembly appoints a five-person committee to review the codes in detail, line-by-line, over a two-and-a-half year period. In Juneau's case, this committee consists of an architect, an electrical engineer, a civil engineer, a mechanical engineer and a contractor. They meet regularly in public meetings which are publicized over a two-and-a-half year period and look at the building, fire and residential codes (the one in question here). They make amendments and modifications to those codes to meet the local jurisdictional needs. By law, they are not allowed to make a code requirement or a code change that is less stringent than the state's, but they are allowed to have ones that are more stringent. After numerous public meetings, which are publicized and open to the public, their recommendations are turned over to the Assembly Public Works Committee. This committee reviews the recommendations in detail in publicized open public meetings and then forms a recommendation that is forwarded on to the full Assembly. The full Assembly, in public open publicized meetings, presents these recommendations through two public hearings which span one month.

He said the state of Alaska does not enforce nor has it adopted the 2009 International Residential Code, the code that has specifications for residential sprinklers for one and two-family dwellings. The state doesn't even address it. Only local deferred jurisdictions and home rule communities can look at this code and decide on their own whether they are going to adopt the provisions or not. He said that the City and Borough of Juneau had adopted the International Residential Code for

2003 and modified the 2006 version that requires sprinklers in one and two-family dwellings, because that would not be appropriate at this time.

MR. MOHRMANN explained that when the 2009 codes comes up for review, the committee, the Assembly Committee, the Assembly, and the public can all have their say and decide whether they want that option or not.

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MR. MOHRMANN said this bill addresses one issue only - residential sprinklers - and emphasized:

There is no more effective way to protect our citizens from fire than one and two-family residential sprinklers. Seventy-eight percent of fires occur in one and two-family dwellings. Eighty percent of the civilian fire deaths, 84 percent of the civilian fire injuries occur in one and two-family dwellings. Where should we be addressing our fire resources to solving the problem? It seems to make sense to me.

But regardless of that, he said, the code review committees look at a variety of things - how many toilets a building has to have, how many egress windows, electrical ground fault interrupter circuits, and smoke detectors - thousands of items. They all have financial impacts, so why single out this one item to go through a different process?

MR. MOHRMANN stated that right now a triplex or four-plex within Juneau is required by the code to have a sprinkler system, but the State of Alaska has not made that requirement until one has more than 16 residential units.

MR. MOHRMANN said that it was mentioned that sprinklers will not work off of a well, but he has installed three residential sprinkler systems in his own homes, one by contractor and two by himself. His cost was \$1200-\$1500 per system, and two of them were off of wells and they do work. You need a water tank and an electric pump. "It's not rocket science." They didn't freeze up and these were all done in Fairbanks. These systems were given breaks by insurance companies; he said state law says you get a 2 percent reduction in your local taxes if you have a residential sprinkler system installed. It won't pay for the whole thing, but it helps, and insurance companies recognize the value. The history behind residential sprinkler systems is that they have been phenomenally effective, he concluded, and they

cost about 3 percent of new construction using the excessive estimate of \$5 sq. ft. Bottom line, though, these systems are very effective at saving lives

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SENATOR MEYER asked if the sprinkler heads are sensitive to kids throwing balls, for instance.

CHIEF MOHRMANN replied that he had three kids in each one of his houses with the same type of heads, but the ball never hit them. Mechanically they are very reliable and don't have a record of having many accidental activations from getting struck by something. Statistics show that sprinkler head spontaneously fail less than one in a million.

SENATOR MEYER asked what annual maintenance is required.

MR. MOHRMANN answered that an NFPA 13-R system, which is designed for triplexes and larger and commercial applications, requires an annual inspection in the form of a report that is turned into the local fire department. The fire code does not apply in the case of one and two-family dwellings, but the International Residential Code does. He didn't believe it had a requirement for annual inspections.

SENATOR MEYER remarked that he is not required to have his furnace checked annually, but he wants to do it. He would probably want to do that with a sprinkler system.

MR. MOHRMANN answered yes; most residential systems (wet systems) are filled with water all the time. They are very simple. It will come off the meter, have an indicating valve, a little backflow preventer valve, and a pressure gauge. You check to see if the valve is open and if it has pressure. That's about it. The fire department is more than happy to answer questions about them.

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SENATOR DAVIS asked if he was speaking to the CS or the original bill.

MR. MOHRMANN responded that he was trying to demonstrate that the established local process is already very vigorous and is used for thousands and thousands of other items; injecting this requirement for one and two-family dwellings is excessive and not necessary. He opposed the CS for the same reason - because what it requires is already being done.

SENATOR DAVIS asked why he opposed the bill since it didn't mandate sprinkler systems.

MR. MOHRMANN answered that a triplex is regulated under the International Building Code; a one and two-family dwelling is regulated under the International Residential Code. Both of those are scrutinized under the local code adoption process for that deferred jurisdiction. It is already a very rigorous process, and the reason for his opposition to the CS is that it injects additional steps that are unnecessary.

SENATOR DAVIS asked if something could be changed in the bill that would allow him to support it.

MR. MOHRMANN replied, "To be honest with you, at this point, there is already under - I believe it's AS 29.25 - specific directions in regards to how meetings are supposed to be held...and code adoption falls within that." The local jurisdictions have to follow those by law, so that makes the CS superfluous. It's merely an effort to make adopting residential sprinklers more onerous, he concluded.

CHAIR PASKVAN said he was particularly focused on whether the percentage of structure fires and the percentage of civilian fire deaths occurring in residential structures were in triplexes or more as compared to duplexes or less.

MR. MOHRMANN responded that this information came directly from the National Fire Protection Association and he would be happy to provide copies of that document to the committee. It was in reference to one and two-family dwellings.

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JAMES HILL, Fire Chief, Ketchikan, Alaska, said the Ketchikan Fire Department and the City of Ketchikan both strongly opposed SB 129 because everyone knows the benefits of having a residential sprinkler system. He said back in the 60s and early 70s, 15,000 people a year were killed in fires; today it's less than 4,000. The codes were changed because people died. The most recently deferred jurisdictions in Alaska all have different fire and building code issues to deal with. He asked that the legislature leave fire and building code enforcement issues on a local level and not have state mandates that impede their ability to protect their communities.

MR. HILL said that Ketchikan already has the Ketchikan Municipal Code that goes through the same process that Juneau does. Their process provides them the ability to work with people on issues that have been around since Ketchikan was formed. To take that away to have some kind of leverage with contractors, homeowners and professionals is wrong, he emphatically stated. For example, a local single family dwelling in Ketchikan sits atop a 26-percent grade that for all practical purposes he could not protect - at least with a fire truck to the front door. He also wasn't able to provide emergency medical services without having to walk there. It's in a "dandy spot" with probably the best view in town and was approved a couple of years ago. Now someone wants to build a neighboring house in the same vicinity, and he now has some leverage with those folks to have a standpipe put in between the homes instead of requiring a sprinkler system to go in the second house. It is a fixed fire system that would allow him to provide effective fire protection for both of the homes.

CHAIR PASKVAN said he believed the CS is a local option bill, and he asked him what portion of the procedure is not appropriate.

MR. HILL replied that he didn't believe it was inappropriate; it's just already being done on a local level and communities have different fire and building code issues to deal with.

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CHAIR PASKVAN asked him to provide the statistics from 1970 that he referenced to the committee.

MR. HILL responded that wouldn't be a problem.

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DAVID SQUIRES, Fire Chief, Seward, Alaska, read a letter signed by the city manager opposing SB 129. It said as written SB 129 would infringe upon their rights as a home rule city and would limit the rights of their citizens to consider ways to reduce the cost of government.

MR. SQUIRES said SB 129 would limit the ability of the municipality to consider options when planning forest fire protection. It also increases their administrative workload by increasing the number of public hearings for ordinance adoption. This bill does not consider what process each deferred jurisdiction already has in place for adopting building, fire or mechanical codes. This bill would severely impact the community

of Seward because of existing ordinances concerning improvements for construction where they have used a sprinkler requirement as a way to reduce costs to developers.

If this bill is passed, Mr. Squires said, it would drive up the cost for fire protection in Seward because of the need to require vehicles or a vehicle that would have the ability to truck in water, supplies and the cost of a building to house those vehicles.

MR. SQUIRES pointed out that the state fire marshal indicated this bill would have no fiscal impact on the department, and that is true because the State of Alaska does not regulate this issue, but having certain items in place prior to adoption of an ordinance on sprinklers for residential structures would put an enormous financial impact on their community.

He thanked Senator Menard for allowing time for the public process, but as a deferred jurisdiction that passes building, fire, mechanical, electrical codes and more, he said Seward already has that process in order and he had not received one complaint from any of the contractors or residents that have built houses within the City of Seward that their timelines for adopting new codes or making additions to codes is too short. He would like to hear if the proponents of this bill think they are not getting a fair hearing at any of the deferred jurisdictions, so they could fix those items.

MR. SQUIRES commented on Mayor Sullivan's letter where he said this could be done on a case-by-case basis - this bill does not allow case-by-case; it would be a blanket ordinance. It would not be good for two houses that have different requirements 2000 feet apart; it could lead to a fairly large lawsuit.

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JEFF FEID, Loss Mitigation Administrator, State Farm Insurance, opposed SB 129 as well as the CS. He said the total lives in cost of residential fires is enormous, and on behalf of their policy holders, State Farm must take all reasonable steps to reduce the 3000 national yearly deaths caused by them. It's beyond dispute that when properly installed, sprinklers save lives, protect property, and reduce the risk to firefighters.

He said that State Farm provides premium discount for homes protected with fire sprinkler systems meeting nationally recognized standards. They have considered many studies that show the benefits of having fire sprinklers. One example is in

Scottsdale, Arizona, that has had an ordinance for over 20 years. In the first 15 years the ordinance was in place, they had 598 home fires. Of those fires, 49 were in single family homes with sprinkler systems and no deaths occurred. In the homes that had fires without sprinkler systems, 13 people perished. Likewise, another 13 people who would have likely died without sprinklers were saved.

The average fire loss for sprinklered incidents in Scottsdale is \$2,166 in property damage compared to \$45,000 for unsprinklered incidents. Significantly reduced water damage was also found because fires were suppressed with 341 gallons of water per fire in those homes with sprinkler systems versus the unsprinklered homes that used almost 3,000 gallons per home.

MR. FEID related that the average cost to install a system in Scottsdale was 80 cents sq. ft. and the National Fire Protection Research Foundation has shown on a national average installation cost of \$1.61 sq. ft. He noted that part of the Foundation project included participation from the National Association of Homebuilders as well as State Farm.

CHAIR PASKVAN asked him to submit the data he relied upon.

SENATOR MENARD reiterated that she is not against sprinkler systems, but she is for a more public process and opportunity.

MICHAEL REVITO, aide to Senator Menard, additionally commented that a lot of speakers didn't address the actual CS which was about having a more robust public process. Some of the folks who spoke said a public process was already in place, and while that is true, statute says that local governments are required to notice only five days before public hearings begin. Since all the previous speakers seemed to support involving the public as much as possible, giving the public even more time to educate themselves and come forth with their opinions seemed reasonable.

SB 129 was held in committee.

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CHAIR PASKVAN thanked everyone for their testimony and adjourned the meeting at 3:33 p.m.