

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 5, 2015

3:32 p.m.

MEMBERS PRESENT

Senator Click Bishop, Chair
Senator Anna MacKinnon
Senator Dennis Egan

MEMBERS ABSENT

Senator Bert Stedman, Vice Chair
Senator Lyman Hoffman

COMMITTEE CALENDAR

SENATE BILL NO. 19

"An Act relating to road service area boundary changes."

- HEARD & HELD

SENATE BILL NO. 43

"An Act relating to immunity for a fire department and employees or members of a fire department."

- MOVED CSSB 43(CRA) OUT OF COMMITTEE

SENATE BILL NO. 45

"An Act relating to parks and recreation service area boundary changes."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 19

SHORT TITLE: BOUNDARIES OF ROAD SERVICE AREAS

SPONSOR(S): SENATOR(S) COGHILL

01/21/15	(S)	PREFILE RELEASED 1/16/15
01/21/15	(S)	READ THE FIRST TIME - REFERRALS
01/21/15	(S)	CRA
03/05/15	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)

BILL: SB 43

SHORT TITLE: IMMUNITY FOR FIRE DEPT. & MEMBERS

SPONSOR(S): SENATOR(S) COGHILL

02/06/15	(S)	READ THE FIRST TIME - REFERRALS
02/06/15	(S)	CRA, JUD
02/17/15	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
02/17/15	(S)	Heard & Held
02/17/15	(S)	MINUTE(CRA)
03/05/15	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

RYNNIEVA MOSS, Staff
Senator Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Commented on SB 19 for the sponsor.

JORDAN SHILLING, Staff
Senator Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained the changes to SB 43 for the sponsor.

MITCH FLYNN, Chief
Steese Volunteer Fire Department
Fairbanks, Alaska

POSITION STATEMENT: Supported the CS to SB 43.

DOUG SCHRAGE, Chief
University of Alaska Fairbanks (UAF) Fire Department
Fairbanks, Alaska

POSITION STATEMENT: Supported SB 43.

DAVID NEBERT, Chair
Steese Volunteer Fire Department
Fairbanks, Alaska

POSITION STATEMENT: Thanked Senator Coghill for SB 43, but noted a problem with the H version.

SUSAN SHUTTS, Attorney
Legislative Legal Services
Legislative Affairs Agency
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Commented on SB 43.

JILL DOLAN, Attorney
Fairbanks North Star Borough
Fairbanks, Alaska

POSITION STATEMENT: Commented on SB 43.

ACTION NARRATIVE

[3:32:37 PM](#)

CHAIR CLICK BISHOP called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators MacKinnon, Egan, and Chair Bishop.

SB 19-BOUNDARIES OF ROAD SERVICE AREAS

CHAIR BISHOP announced the consideration of SB 19.

[3:34:18 PM](#)

RYNNIEVA MOSS, staff to Senator Coghill, sponsor of SB 19, Alaska State Legislature, Juneau, Alaska, said that SB 19 was requested by the Fairbanks North Star Borough to address boundary issues in service areas. A proposed committee substitute (CS) would change language to more narrowly define the Borough's powers. It basically says if a tax lot parcel is split into two service areas that the Borough Assembly, with a public hearing and a vote, could consolidate that parcel into one service area that would have one tax bill.

She explained that AS 29.35.450(c) addresses boundaries of road service areas and there are now two exceptions to having to hold elections for changing boundaries in service areas. One is in subsection (c)(3) that says a subdivision or parcel for which the only access is a road maintained by an adjacent road service area. The other exclusion is to remove a subdivision or a parcel in an existing road service area that does not rely on the use of road maintenance services for access. She said this bill adds a third exception.

MS. MOSS said there seems to be a disagreement on what (c)(3) actually does and the legislative attorney was going to work with the borough attorney to see if this interpretation is incorrect. If it is, it may have to be changed before next week.

CHAIR BISHOP said he would hold SB 19 for further work.

SENATOR MACKINNON moved to adopt the CS for SB 19, labeled 29-LS0326\W, as the working document.

CHAIR BISHOP objected for discussion purposes and asked for public testimony. Finding none, he closed public testimony.

[3:38:11 PM](#)

CHAIR BISHOP announced that without objection version W is adopted and he would hold SB 19 in committee.

SB 43-IMMUNITY FOR FIRE DEPT. & MEMBERS

[3:38:40 PM](#)

CHAIR BISHOP announced the consideration of SB 43.

[3:38:49 PM](#)

At ease from 3:38 to 3:41 p.m.

[3:41:07 PM](#)

SENATOR MACKINNON moved to adopt CSSB 43 (CRA), labeled 29-LS0325\H, as the working document.

CHAIR BISHOP objected for discussion purposes.

[3:41:40 PM](#)

JORDAN SHILLING, staff to Senator Coghill, Alaska State Legislature, Juneau, Alaska, explained that the original SB 43 extends total immunity to contract fire departments and municipal fire departments and their members. But staff suggested there ought to be an exception, because some actions by fire departments could be intentionally wrong or done with extreme disregard and should not be protected. Legislative Legal Service suggested copying language in another statute dealing with Emergency Medical Services (EMS) immunity from 911 systems. It makes an exception for intentional acts of misconduct and

gross negligence. This language can be found in the committee substitute (CS) on page 1, line 11.

The second change is in section 2 on page 2 that conforms to say the exceptions made in subsection (c) do not apply to the immunities found in subsection (d).

[3:43:15 PM](#)

CHAIR BISHOP removed his objection and version H was before the committee.

[3:43:26 PM](#)

SENATOR MACKINNON said she appreciated incorporating the exception and that all of the fire fighters she knows would not intentionally harm another person, but this is just to protect all sides of the issue: a home owner or some possible interpretation that there was misconduct or gross negligence.

[3:44:34 PM](#)

MITCH FLYNN, Chief, Steese Volunteer Fire Department, Fairbanks, Alaska, supported the CS to SB 43. It reduces liability and exposure to the fire department and its members and ultimately the taxpayer that may end up having to pay out on a claim. It helps reduce insurance premiums, because exposure is reduced. He said he highly supported the new CS.

[3:45:40 PM](#)

DOUG SCHRAGE, Chief, University of Alaska Fairbanks (UAF) Fire Department, Fairbanks, Alaska, supported SB 43. He is a current board member and past president of the Alaska Fire Chief's Association which represents fire and emergency service leaders throughout the State of Alaska. He said the UAF fire department is student-based and provides fire protection to the North Star Borough on a contractual basis. As such, they are not a municipal fire department and would benefit from the immunity that this bill affords. He said they are staffed and equipped to handle one incident at a time and any concern over liability could be a factor in the future of their program.

DAVID NEBERT, Chair, Steese Volunteer Fire Department, Fairbanks, Alaska, thanked Senator Coghill for SB 43, but noted a problem with H version. He asked why lines 5-8 in section 1 are repeated in lines 8-11.

[3:48:58 PM](#)

At ease from 3:48 to 3:51 p.m.

[3:51:05 PM](#)

SENATOR MACKINNON explained that the sentences appear to be identical, but the first sentence refers to an employee or a member of the fire department and the second sentence on lines 8-11 refer to an action against the fire department, itself. She asked Suzan Shutts, Legislative Legal, if "unless the action alleges intentional misconduct or gross negligence" should be included on line 8 after the words "of a fire department."

[3:52:14 PM](#)

SUSAN SHUTTS, Attorney, Legislative Legal Services, Legislative Affairs Agency, Alaska State Legislature, Juneau, Alaska answered that would be a policy decision. As currently drafted, two sentences are drafted there instead of just the first sentence that states the fire department as well as employee and the "intentional misconduct or gross negligence" exception in the second sentence only applies to a suit against a fire department. So, if an intentional misconduct or gross negligence suit were desired to be permitted against an employee, that would need to be added to the first sentence.

MR. SHILLING said he thought Senator Coghill would find that change appropriate.

[3:53:05 PM](#)

At ease from 3:53:05 to 3:53:43 p.m.

[3:53:43 PM](#)

CHAIR BISHOP invited Mr. Nebert to conclude his testimony.

MR. NEBERT said the wording is a bit clumsy but he saw the distinction. He noted his support, because basically it protects those who protect us and it costs nothing.

CHAIR BISHOP, finding no other comments, closed public testimony.

[3:54:45 PM](#)

At ease from 3:54 to 3:56 p.m.

[3:56:07 PM](#)

JILL DOLAN, Attorney, Fairbanks North Star Borough, Fairbanks, Alaska, suggested leaving the full immunity in for employees or members of fire departments, because it is an existing immunity in law for municipal employees. This would just extend it to the contracted fire departments with the municipalities. They would not want to impact that and have personal liability on their

part. Of course, if there was still an act of intentional misconduct or gross negligence by them that could be imputed to the fire department and a suit could be brought against the fire department as drafted. She suggested not putting that additional language at the end of line 8.

SENATOR MACKINNON asked her if a fire fighter intentionally had misconduct or gross negligence is immune right now.

MS. DOLAN answered that they are immune from personal liability; the fire department could still be liable for their conduct if they are in the course and scope of their employment.

[3:57:50 PM](#)

At ease from 3:57 to 3:58 p.m.

[3:58:20 PM](#)

SENATOR MACKINNON moved to report CSSB 43(CRA), version 29-LS0325\H, from committee with individual recommendations and attached zero fiscal note. There were no objections and it was so ordered.

[3:59:00 PM](#)

SENATOR BISHOP, finding being no further business to come before the committee, adjourned the Senate Community and Regional Affairs Standing Committee hearing at 3:59 p.m.