

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 26, 2020

4:04 p.m.

MEMBERS PRESENT

Representative Ivy Spohnholz, Chair
Representative Louise Stutes
Representative Zack Fields
Representative Sara Hannan
Representative Andi Story
Representative Mel Gillis
Representative Sara Rasmussen

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 166

"An Act relating to electric and telephone cooperatives; and relating to telephone service and related telecommunications services."

- HEARD & HELD

HOUSE BILL NO. 232

"An Act relating to a municipal air quality improvement tax credit; and relating to a municipal energy efficient new construction tax credit."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 166

SHORT TITLE: TELEPHONE COOPERATIVES;TELECOMMUNICATIONS

SPONSOR(S): REPRESENTATIVE(S) TALERICO

05/14/19	(H)	READ THE FIRST TIME - REFERRALS
05/14/19	(H)	L&C
02/26/20	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 232

SHORT TITLE: MUNICIPAL TAX CREDITS

SPONSOR (s) : REPRESENTATIVE (s) HOPKINS

02/03/20	(H)	READ THE FIRST TIME - REFERRALS
02/03/20	(H)	ENE, L&C
02/11/20	(H)	ENE AT 10:15 AM CAPITOL 17
02/11/20	(H)	Heard & Held
02/11/20	(H)	MINUTE (ENE)
02/20/20	(H)	ENE AT 10:15 AM CAPITOL 17
02/20/20	(H)	Moved CSHB 232 (ENE) Out of Committee
02/20/20	(H)	MINUTE (ENE)
02/21/20	(H)	ENE RPT CS (ENE) NT 5DP 1NR
02/21/20	(H)	DP: FIELDS, LINCOLN, SPOHNHOLZ, ZULKOSKY, HOPKINS
02/21/20	(H)	NR: RAUSCHER
02/26/20	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE DAVE TALERICO

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Introduced HB 166, as prime sponsor.

TOM STUDLER, Staff

Representative Dave Talerico

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Provided a sectional analysis of HB 166, on behalf of Representative Talerico, prime sponsor.

RYAN PONDER, Legal & Regulatory Affairs Manager

Matanuska Telephone Association

Juneau, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation, entitled "House Bill 166 Updating the Electronic and Telephone Cooperative Act and Empowering Cooperative Members to Better Manage Their Service Providers," during the hearing on HB 166.

CHRISTINE O'CONNOR, Executive Director

Alaska Telecom Association

Anchorage, Alaska

POSITION STATEMENT: Provided testimony in support of HB 166 and answered questions.

CRYSTAL ENKVIST, Executive Director

Alaska Power Association

Anchorage, Alaska

POSITION STATEMENT: Provided testimony in support of HB 166.

JOHN ANDREW LEMAN, Attorney
Kempel, Huffman and Ellis, PC; and
Counsel, Alaska Power Association
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 166.

REPRESENTATIVE GRIER HOPKINS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 232, as prime sponsor.

BRYCE WARD, Mayor
Fairbanks North Star Borough
Fairbanks, Alaska

POSITION STATEMENT: Provided testimony in support of HB 232.

ACTION NARRATIVE

[4:04:34 PM](#)

CHAIR IVY SPOHNHOLZ called the House Labor and Commerce Standing Committee meeting to order at 4:04 p.m. Representatives Stutes, Fields, Hannan, Story, Gillis, and Spohnholz were present at the call to order. Representative Rasmussen arrived as the meeting was in progress.

HB 166-TELEPHONE COOPERATIVES;TELECOMMUNICATIONS

[4:05:26 PM](#)

CHAIR SPOHNHOLZ announced that the first order of business would be HOUSE BILL NO. 166, "An Act relating to electric and telephone cooperatives; and relating to telephone service and related telecommunications services."

[4:05:34 PM](#)

REPRESENTATIVE DAVE TALERICO, Alaska State Legislature, as prime sponsor, introduced HB 166. He presented the sponsor statement provided in the committee packet, which read as follows [original punctuation provided]:

House bill 166 updates the Electric and Telephone Cooperatives Act to allow Cooperatives the ability to

assimilate twenty-first century technology into their governance process and to update their name to better communicate the services they provide.

HB 166 will allow cooperatives to adopt into their bylaws the options of providing members with electronic notice of membership meetings, conducting annual meetings through teleconference **or similar communications equipment** and counting voting members who attend via teleconference **or similar communications equipment** for the purposes of a quorum. These provisions will allow cooperatives to more thoroughly engage their members and allow members to more readily take an active role regardless of their location, the weather, the cost or any other obstacle that may be a challenge for in person attendance.

Over half a dozen electric and telephone cooperatives have the word "association" in their name due to their creation prior to the statutory requirement to have "cooperative" in their name. HB 166 allows the word "association" in lieu of the word "cooperatives" in the name of the corporation. Additionally, HB 166 allows telephone cooperatives to use the words "telecommunications" or "telecom" in lieu of 'telephone' in the cooperatives name. These simple changes will allow these corporations the flexibility to make changes to their name to one that is a more suitable descriptor of the services they provide.

By supporting these simple and yet effective changes to the Electric and Telephone Cooperatives Act that are proposed in HB 166, we will be affording Alaska's Electric and Telephone Cooperatives throughout Alaska the ability to conduct business in a more practical manner and align their operations with the technologies currently available for them to use.

[4:07:47 PM](#)

REPRESENTATIVE STUTES asked if HB 166 is primarily about name changes.

REPRESENTATIVE TALERICO acknowledged that it is mostly about name changes.

[4:08:57 PM](#)

TOM STUDLER, Staff, Representative Dave Talerico, Alaska State Legislature, on behalf of representative Talerico, prime sponsor, provided a sectional analysis of HB 166, which read in its entirety as follows [original punctuation provided]:

Sec. 1 - AS 10.15.005

Amends this section the purpose for which cooperatives may be organized.

Sec. 2 - AS 10.15.575(a)

Amends this section to limit the use of the term "cooperative" in a business name or title.

Sec. 3 - AS 10.15.585

Amends this section as to the applicability of this chapter

Sec. 4 - AS 10.25.010(a)

Amends this section and describes the powers of a "cooperative".

Sec. 5 - AS 10.25.030(a)

Amends this section to describe what services a telephone or telecommunication service may provide.

Sec. 6 - AS 10.25.040(a)

Amends this section as to the wording of cooperatives that must be included in the title.

Sec. 7 - AS 10.25.080(a)

Amends this section as to membership in a cooperative.

Sec. 8 - AS 10.25.090(a)

Amends this section as to annual meetings of cooperatives.

Sec. 9 - AS 10.25.090(c)

Amends this section concerning annual meetings.

Sec. 10 - AS 10.25.100

Amends this relating to meeting notices.

Sec. 11 - AS 10.25.110(a)

Amends this section addressing quorum requirements.

Sec. 12 - AS 10.25.110

Amended adding a new subsection (c) addressing bylaws and voting.

CHAIR SPOHNHOLZ asked Mr. Studler to address the quorum issue in in Section 11 in greater detail.

MR. STUDLER explained that Section 11 allows members to be present for quorum via teleconference instead of in person.

[4:12:33 PM](#)

MR. STUDLER continued the sectional analysis as follows [original punctuation provided]:

Sec. 13 - AS 10.25.175(a)

Amends this section addressing conduct of voting.

Sec. 14 - AS 10.25.175(c)

Amends this section to what subjects may be discussed in executive session.

Sec. 15 - AS10.25.290(a)

Amends this section to allow conversion from a corporation to a cooperative.

Sec. 16 - AS 10.25.430

Amends this section pertaining to mortgages under 7 U.S.C. 901 - 950bb-2.

Sec. 17 - AS 10.25.460

Amends this section by defining a registered office or agent.

Sec. 18 - AS 10.25.810

Amends this section as to applicability of this chapter for nonprofit cooperatives.

Sec. 19 - AS 10.25.820

Amends this section to extend this chapter to existing nonprofit cooperatives.

Sec. 20 - AS 10.25.840

Amends this section by adding definition of related telecommunication service.

Sec. 21 - AS 10.25.030(b) and AS 10.25.400(e)

Amended to repeal these sections.

CHAIR SPOHNHOLZ asked which sections are being repealed.

MR. STUDLER answered AS 10.25.030(b) and AS 10.25.400(e).

[4:15:43 PM](#)

RYAN PONDER, Legal & Regulatory Affairs Manager, Matanuska Telephone Association, provided a PowerPoint presentation, entitled "House Bill 166 Updating the Electronic and Telephone Cooperative Act and Empowering Cooperative Members to Better Manage Their Service Providers." Mr. Ponder stated that HB 166 updates the cooperative statutes for electric and telephone companies. He paraphrased slide 2, entitled "Telephone Cooperatives in Alaska," which read as follows [original punctuation provided]:

- Since before statehood, Alaskans have joined together to form **electric and telephone cooperatives**. They did this to bring electric and telephone service to areas that other utilities had no interest in serving.
- Today, electric and telephone cooperatives are the **economic backbone** of their communities, providing affordable and reliable power, telecommunications, broadband internet and other **vital technology services** to thousands of their members all across Alaska.

MR. PONDER continued to slide 3, entitled "Why Update," which read as follows [original punctuation provided]:

- Alaska statutes for telephone and electric cooperatives, adopted in 1959, are **outdated**. Decades have passed without needed substantive revisions to reflect changes in law and technology.
- Current statutes place **undue restrictions** on the member-owners of telephone and electric cooperatives regarding how they can operate and manage the cooperative and take advantage of current technology.
- Statutes also are **very limiting** in the types of services that cooperatives can offer, restricting a cooperative's ability to meet its membership needs.

MR. PONDER continued to slide 4, entitled "Proposed Changes," which read as follows [original punctuation provided]:

Broadly speaking, the proposed amendments to the Act

would:

- **Expand** the definition of the services a telephone cooperative can provide to cover all of the telecommunications and information services that cooperative customers expect;
- **Further expand** cooperatives' ability to use electronic means to communicate with their members and conduct cooperative business;
- **Update** the reasons a cooperative's board can conduct an executive session to better reflect disclosure concerns of employment matters and protect cooperatives operating in competitive markets;
- **Improve** the language regarding cooperative registered agents and sales of cooperative assets.

MR. PONDER further noted that the proposed changes include additional services and improved communication methods.

[4:18:49 PM](#)

REPRESENTATIVE FIELDS asked for an explanation of the additional services that would be offered.

MR. PONDER replied internet and broadband.

REPRESENTATIVE FIELDS pointed out that some cooperatives already provide internet service, adding that this change would align the language with the services that are provided. He asked how many cooperatives provide internet service.

MR. PONDER confirmed that.

REPRESENTATIVE FIELDS asked how many telephone cooperatives provide internet among those that are in Alaska.

MR. PONDER deferred the question to Christine O'Connor.

[4:20:17 PM](#)

REPRESENTATIVE HANNAN asked how many electronic cooperatives exist in Alaska.

MR. PONDER answered 17.

REPRESENTATIVE HANNAN asked how many telephone cooperatives.

MR. PONDER replied seven.

[4:20:55 PM](#)

MR. PONDER resumed his presentation on slide 6, entitled "Benefits," which read as follows [original punctuation provided]:

- Adding "or a related telecommunications service" permits telephone cooperatives to offer broadband and other data services that are required by their Members and Federal Regulations through the cooperative rather than a subsidiary, thereby permitting customers to be members of the cooperative.
- Amending AS 10.25.040(a) allows cooperative members to use something other than "telephone" in the cooperative's name, which better reflects the nature of services cooperatives are currently offering.
- Allows all cooperatives to use the word "association" in the name, not just grand-fathered in existing cooperatives

MR. PONDER continued to slide 7, entitled "Benefits," which read as follows [original punctuation provided]:

- Allows members to receive notice of meetings electronically (10.25.100)
- Allows members to attend annual meetings by teleconference (10.25.090)
- Allows teleconferenced attendees to be part of the quorum (10.25.110)
- Allows members who voted by mail or electronic means to be part of the quorum (10.25.110)

[4:22:26 PM](#)

CHAIR SPOHNHOLZ opined that allowing members who vote by mail or electronic means to be part of the quorum seems to undermine the spirit of a quorum, which is to have a majority of members present for the purpose of doing business.

MR. PONDER deferred to Mr. Leman.

CHAIR SPOHNHOLZ said she would like to understand the reasoning behind this change because it could result in people executing good gamesmanship and functionally changing the way things work.

[4:23:42 PM](#)

MR. PONDER resumed his presentation on slide 8, entitled "Benefits," which read:

- Allows discussion of personnel matters in executive session (10.25.175)
- Allows discussion of matters affecting competitive factors in executive session (10.25.175)

MR. PONDER concluded by saying that HB 166 is necessary, primarily because it allows the cooperatives to interact with their owner members in a more technologically advanced way than in the 1950s (slide 9).

MR. PONDER addressed the question of what is being repealed from Section 21. He explained that the definition of "related telecommunications services" is being moved from AS 10.25.030(b) and placed within the definition section of the statutes. Secondly, AS 10.25.400(e) makes all cooperatives subject to the same rules regarding their size and how they sell assets. Basically, he said, repealing this section makes it so there is only one rule for all cooperatives regarding the sale of assets.

[4:26:06 PM](#)

CHRISTINE O'CONNOR, Executive Director, Alaska Telecom Association, explained that the Alaska Telecom Association (ATA) is the statewide association of broadband, landline, and wireless companies that connect Alaskans to the world. She said HB 166 will allow Alaska's telecom cooperatives to operate in a modern way. For example, instead of being able to expand access to all members who can be spread across a vast geographic area, cooperatives are limited by outdated statutes. This bill will allow members of a cooperative the choice to allow teleconferencing - technology that is taken for granted, and ironically, technology that many of these companies are uniquely capable of using. HB 166 also makes other important updates to allow cooperatives to operate more efficiently. She stated that ATA's members unanimously support HB 166.

[4:28:13 PM](#)

REPRESENTATIVE FIELDS asked if cooperatives have the ability to monitor cases where email notices from the ATA are filtered into spam inboxes or other folders. He also asked what steps will be taken to ensure that a text sent is a text received. He said

there have been a lot of changes in the way these systems work, particularly in the context of mass communication. He emphasized his interest in making sure there are guarantees that people are receiving notice.

MS. O'CONNOR explained that these options would need to be voted on by members. The cooperative would then develop policies and procedures to allow for those eventualities. She added that a lot of companies use these technologies, so there would be methods that the company would develop to account for any snafus along the way.

REPRESENTATIVE FIELDS in the interest of transparency, suggested a mandate that would require a report on the percentage of read receipts from electronic notices to ensure that people are seeing them. He asked for guidance on other potential measures to invoke confidence that people are aware of meetings.

MS. O'CONNOR said she would follow up on that.

[4:30:24 PM](#)

REPRESENTATIVE HANNAN inquired as to the dynamic between electric and telephone cooperatives regarding meeting attendance and participation, as well as personnel matters.

MS. O'CONNOR said there are times when it's a struggle to get a quorum of in-person presence. She shared a personal anecdote and offered her belief that expanding the ability to participate through modern technology, like teleconference, should increase participation. She deferred to Mr. Leman to speak to personnel matters.

[4:33:44 PM](#)

CRYSTAL ENKVIST, Executive Director, Alaska Power Association, informed the committee that Alaska Power Association (APA) is the statewide trade association for electric utilities in Alaska whose members provide power to more than half a million Alaskans. She stated that the APA supports HB 166 and urges its swift passage. She explained that HB 166 would modify statutes governing electric and telephone cooperatives to accommodate technological advances and communications. The APA does not foresee any negative impact to their electric utility members from the proposed changes in the bill. Furthermore, Sections 8, 10 and 11, which deal with cooperative annual meetings, would provide more flexibility for cooperative members by allowing

technological means of advertising annual meetings and the option of holding a teleconferenced annual meeting. She offered her belief that these new options for communication could help increase the members' engagement. She reported that the APA is hopeful that HB 166 will pass the legislature this session and become law so that the updates to statute can take effect and benefit cooperative utility members throughout Alaska.

[4:35:32 PM](#)

REPRESENTATIVE FIELDS questioned the ability of the APA's members, should they issue notices electronically by text or email, to report the percentage of opened notices. He directed attention to Section 17 and asked Mr. Leman to explain the need to give a cooperative the ability to have a foreign corporation as an agent.

[4:36:48 PM](#)

JOHN ANDREW LEMAN, Attorney; Kemppe, Huffman and Ellis, PC; Counsel, Alaska Power Association, said the new language in Section 17 mirrors the language regarding registered agents for all other forms of business organization in the state of Alaska. He explained that regardless of whether the registered agent is a person, a domestic Alaskan corporation, or a foreign corporation, they are required to have a physical mailing address in Alaska and a location where notices and process can be served. He added that this brings the AS 10.25 cooperative statute into alignment with modern statutes for other forms of business organization.

REPRESENTATIVE FIELDS questioned whether there was a practical issue that prompted this.

MR. LEMAN confirmed that. He explained that several years ago there were a number of cooperatives in the state using corporations as their registered agents, which is common.

CHAIR SPOHNHOLZ asked Mr. Leman to describe a scenario in which a foreign national would be serving as the registered agent for a cooperative in the state of Alaska.

MR. LEMAN explained that when the state corporate statutes refer to a foreign corporation, they're primarily describing a corporation from another state. He further noted that there are nationwide corporate entities that serve as registered agents for different kinds of Alaskan business entities. He offered

his understanding that in this case, "foreign" refers to outside the state of Alaska.

[4:40:24 P](#)

REPRESENTATIVE HANNAN said she's struggling with the idea of making [cooperatives] parallel to the laws that govern other statutory corporations in Alaska. She questioned why not do away with cooperatives all together if the goal is to have them treated just like any other corporation.

MR. LEMAN disagreed. He said they are not trying to treat electric and telephone cooperatives the same as other forms of corporate organization. He added that there are good reasons, both historical and current, for having a separate section for electric and telephone cooperatives - aside, even, from other types of businesses that might want to organize as a cooperative. He explained that it starts at the federal level, where electric and telephone, as well as other utility cooperatives, are treated differently in the federal tax code from other kinds of cooperatives in recognition of the special role they play in bringing service to areas that, historically, didn't have access to the kind of utility service in other areas of the country.

REPRESENTATIVE HANNAN asked how cooperatives have previously dealt with personnel matters outside of executive session.

MR. LEMAN stated that personnel matters are handled in executive session for many reasons. He said that sometimes he has seen boards struggle with which exception to use to talk about a new contract, negotiate with the general manager, or perform a CEO evaluation - all things that ought to be handled in executive session. What's missing from the statute, he said, is something that can be used to clarify and modernize which exception to indicate for personnel matters.

[4:47:22 PM](#)

MR. LEMAN, responding to a question from Representative Story, said Section 11 and 12 will only affect the meeting of the entire membership of the cooperative members. Section 13 and the amendment to AS 10.25.175 is the section of statute that pertains to open board meetings. He stated that the meeting of the board and the meeting of the membership are two different meetings, each with different rules. He explained that the original version of the cooperative act for electric and

telephone cooperatives did not have a mail-in voting option, which was added later. He said the reality is that most members participate in their cooperative by mail-in ballot and do not attend the annual meeting. Nonetheless, a big part of almost every annual cooperative meeting is giving away door prizes to people who show up to incentivize in-person attendance to make quorum. He said HB 166 would make it easier for those mass membership meetings to get quorum by counting those individuals who choose to participate by mail.

[4:50:16 PM](#)

CHAIR SPOHNHOLZ interjected to announce that HB 166 was held over.

HB 232-MUNICIPAL TAX CREDITS

[4:50:39 PM](#)

CHAIR SPOHNHOLZ announced that the final order of business would be HOUSE BILL NO. 232, "An Act relating to a municipal air quality improvement tax credit; and relating to a municipal energy efficient new construction tax credit."

[4:51:24 PM](#)

REPRESENTATIVE GRIER HOPKINS, Alaska State Legislature, as prime as sponsor, gave a brief introduction to HB 232. The bill, he said, is being presented at the request of Fairbanks North Star Borough. HB 232 allows local governments to offer municipal tax credits to home and business owners who invest in property improvements which result in increased energy efficiency or local air quality. This bill does not mandate any action by municipalities - it offers local governments additional avenues for addressing local challenges and priorities. He explained that the committee substitute (CS) from the previous committee expanded opportunities for the construction to include retrofits, refurbishments, and remodels. Additionally, the CS removed the restriction on the air quality improvements, making it more available to all municipalities within the state. He pointed out that HB 232 is a short bill. Section 1 pertains to the air quality tax credits and Section 2 involves the construction tax credits.

[4:53:20 PM](#)

BRYCE WARD, Mayor, Fairbanks North Star Borough, said that the air quality tax credit and the energy exemption were both identified as priorities for the Fairbanks North Star Borough. The air quality tax credit was originally asked to be a reauthorized section of law that sunset in 2016. It would allow the borough to encourage and incentivize efficiency improvements that would benefit the air quality issue in Fairbanks. He stated that the energy efficiency exemption is similar. It allows the borough to incentivize efficiency and efficient construction. This would allow the municipalities to develop programs that would encourage efficient construction and efficient design of buildings. The concept of how this idea pays for itself is that a higher efficiency building, in theory, is worth more, which encourages higher value and in turn, affects the total (indisc.) value over the life of that building. He noted that each program is optional, which gives local communities the ability to tailor them to their needs.

[4:56:29 PM](#)

CHAIR SPOHNHOLZ announced that HB 232 was held over.

[4:57:26 PM](#)

CHAIR SPOHNHOLZ ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at [4:57] p.m.