

HB

266



# Alaska State Legislature

House of Representatives  
Community & Regional Affairs

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### HOUSE BILL 266

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## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: "An Act.. liens.. real property to  
 secure payment for services.."  
 Sponsor: Rep Shultz  
 Requestor: \_\_\_\_\_

Agency Affected: Community & Regional Affairs  
 BRU: \_\_\_\_\_  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

CAPITAL						
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REVENUE						
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**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750  
 Division: Municipal & Regional Assistance Date: 4/10/89

Approved by Commissioner: [Signature] Date: 10 APR 89  
 Agency: Community & Regional Affairs

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

420 "L" STREET  
SUITE 100  
ANCHORAGE, ALASKA 99501  
(907) 276-6222

## ALASKA PUBLIC UTILITIES COMMISSION

### COMMENTS ON CSSB 207

April 11, 1989

CSSB 207 authorizes a municipality to create a lien on real property to secure payment for services provided by a municipally-owned utility. The bill further provides that the lien may be enforced in the same manner as a property tax lien.

The public policy issue of what authority should be given to governmental entities, such as municipalities, to collect money from its citizens is appropriately resolved by the Legislature. The Commission would point out, however, that CSSB 207 provides municipalities, in their role as utilities, with significantly greater recourse against consumer/citizens than is generally allowed public utilities by regulatory commissions, courts, and legislatures.

The Commission has adopted specific rules and regulations regarding the billing and collection practices of electric and telephone public utilities, and those rules and regulations are applicable to those municipally-owned utilities which are subject to economic regulation by the Commission. CSSB 207 creates the potential that the billing and collection practices adopted by municipalities for certain utilities will conflict with the regulations established by the Commission.

The problem raised by the City of Nenana which resulted in this legislation was limited to collection of charges for water and sewer service. The Commission notes that payment and collection of rates for sewer and water service has traditionally been handled somewhat differently than for other utilities. For example, landlords generally remain responsible for water and sewer service, while tenants generally obtain and pay for other utility services. In addition, it may not be practical to use discontinuance of service as a means to secure against loss for non-payment. Thus, the Commission believes that it might be preferable if any legislation on this subject were limited to the problem raised by the City of Nenana involving water and sewer service.

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(b) A utility shall inform customers applying for leveled billing as to how the leveled billing estimate was developed; how leveled billing will impact a customer's monthly utility bill; and that the utility may adjust the customer's monthly leveled bill under (c) of this section.

(c) A utility shall adjust a customer's leveled billing annually, or more frequently if the utility's estimate of the customer's usage or cost varies significantly from the customer's actual usage or cost. The utility or the customer may initiate the adjustment for causes including weather and rate changes.

(d) In the case of an overcollection determined at the time of the annual adjustment required by (c) of this section, a termination of service, or a termination of the leveled billing plan, a utility shall immediately refund or credit the excess payment to the customer account, as appropriate.

(e) A utility may not refuse enrollment in leveled billing to a customer whose current bill at the time of enrollment is past due or delinquent if the customer enters into a deferred payment agreement, as described in 3 AAC 52.445. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141  
AS 42.05.151  
AS 42.05.291

**3 AAC 52.445. DEFERRED PAYMENT AGREEMENTS.**

(a) For a residential customer who demonstrates that economic hardship prevents payment in full of a delinquent bill, a utility may not refuse to restore or continue service unless the customer refuses to agree to or comply with a deferred payment plan meeting the requirements of this section.

(b) A deferred payment agreement between a utility and a residential customer must provide that service will continue if the customer meets all of the following conditions:

(1) the customer agrees to pay one-third, or less at the option of the utility, of the outstanding bill at the time the parties enter into the deferred payment agreement;

(2) the customer agrees to pay all future bills for utility service in accordance with the effective billing and collection tariffs of the utility; and

(3) the customer agrees to pay the remaining outstanding balance in installments over a period not to exceed 12 months.

(c) The duration of a deferred payment agreement must be at least three months unless the customer agrees to a shorter period.

(d) A utility may include provisions for deferred payment agreements with non-residential customers in its tariff, or may negotiate them by special contract.

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(e) In determining a reasonable deferred payment schedule, a utility and customer shall consider the following conditions, a list of which must be presented to the customer:

- (1) size of the delinquent account;
- (2) customer's ability to pay;
- (3) customer's payment history;
- (4) length of time the debt has been outstanding;
- (5) circumstances that resulted in the outstanding debt; and
- (6) any other relevant factors related to the circumstances of the customer.

(f) A deferred payment agreement must be in writing and must be signed by the customer and an authorized utility representative. A deferred payment agreement may include a finance charge as specified in the utility's effective tariff, but the charge may not exceed that allowed by AS 45.45.010(a).

(g) A utility shall offer comparable terms and conditions to customers with similar payment problems.

(h) If a customer fails to fulfill the terms of a deferred payment agreement, the utility may disconnect service under 3 AAC 52.450(d). The utility may offer a subsequent deferred payment agreement before disconnecting the customer's service. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141  
AS 42.05.151  
AS 42.05.291

**3 AAC 52.450. DISCONNECTION OF SERVICE.** (a) A utility may disconnect service to a customer without advance written notice under the following conditions:

(1) an immediate hazard exists which threatens the safety or health of the customer or the general population or the utility's personnel or facilities;

(2) the utility has evidence of meter tampering or fraud by the customer; or

(3) a customer has failed to comply with the curtailment procedures imposed by a utility during emergency supply shortages.

(b) A utility may commence disconnection procedures in accordance with the notice requirements of (c) of this section for any of the following reasons:

(1) failure of the customer to pay for utility service within 55 days after initial rendering of the bill unless the customer has entered into a deferred payment agreement;

(2) failure of the customer to meet or maintain the utility's deposit requirements;

(3) knowing and continued failure of the customer to provide the utility with reasonable access to its meter, equipment, or property;

(4) customer breach of a special contract between the utility and customer for utility service; or

(5) necessity of the utility to comply with an order or regulation of any governmental agency with proper jurisdiction.

(c) The following notice requirements apply to service disconnections permissible under (b) of this section:

(1) Except as provided in (2) of this subsection and in (d) of this section, a utility shall, at least 15 days before the scheduled date of disconnection, mail or deliver to the customer a written notice of its intent to disconnect service. A copy of the termination notice must be simultaneously forwarded to any third party designated by the customer on a service application. The notice must contain, at a minimum, the following information:

(A) the name and address of the customer whose service is to be disconnected and the service address, if different;

(B) the date on or after which service will be disconnected unless the customer takes appropriate action;

(C) an explanation of the reason for the proposed disconnection, including, if appropriate, a statement of the amount of the delinquent bill which the customer has failed to pay in accordance with the payment policy of the utility;

(D) if disconnection is premised on payment delinquency,

(i) a statement advising the customer to contact the utility for information regarding deferred payment and other procedures that the utility may offer to avoid disconnection of the customer's service; and

(ii) a list of any governmental or social assistance agencies, of which the utility is aware, that may offer energy assistance to qualified needy customers;

(E) a specific request that if a customer's residence is occupied by a person seriously ill, elderly, handicapped, or dependent on life support systems, the customer should notify the utility immediately of that circumstance for consideration in avoiding disconnection;

(F) a statement advising the customer that the utility's stated reason for the termination of service may be disputed and potentially resolved by contacting the utility at a specific address or telephone number;

(G) a statement that the utility retains the right to terminate service, after allowing a customer who disputes a bill the opportunity for a meeting, if the utility continues to find that the reason for the disconnection is just;

(H) the telephone number and address of the commission and a statement that the customer may file a complaint with the commission under 3 AAC 48.120 or 3 AAC 48.130 if not satisfied

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with the utility's response or resolution of a contested bill or tariff provision; and

(1) the amount of the utility's tarified charges for disconnection and reconnection of service.

(2) If a utility has been informed that a residence is occupied by a person seriously ill, elderly, handicapped, or dependent on life support systems, the utility shall provide the notice required by (1) of this subsection at least 30 days before the scheduled date of disconnection. In any case in which a utility is notified after issuance of a termination notice that a customer's residence is occupied by a person seriously ill, elderly, handicapped, or dependent on life support systems, the utility shall extend the disconnection date by 15 days and notify the customer of the extension.

(3) Not less than three working days prior to disconnection, the utility shall attempt personal contact with the customer either by telephone or by visit of an authorized utility representative to the premises. If by telephone, the utility shall attempt to make contact no less than three times at various periods in the day. A utility shall keep records of all attempted and completed telephone contacts, showing at least the time, the person making the attempt, and the outcome. If by visit to the premises, the utility's authorized representative shall hand-deliver a "Shut-Off Notice" to the customer or, if no personal contact is possible, leave the notice in a prominent place. The "Shut-Off Notice" or completed telephone call must provide the customer with the following information:

(A) the name and address of the customer and the service address, if different;

(B) a concise statement of the reasons for the impending disconnection of service;

(C) the date on or after which service will be disconnected;

(D) the business office telephone number, after-business-hours telephone number if applicable, and the address of the utility where the customer may pay the delinquent bill, enter into a deferred payment agreement, or file a bill dispute complaint; and

(E) the amount of the charges for disconnection and reconnection of service.

(4) If a utility knows that a landlord/tenant relationship exists, the following additional provisions apply:

(A) For individually metered premises where the landlord is the customer and the notice period provided for in (1) — (3) of this subsection has expired, the utility shall notify the tenant in writing of the option of subscribing for service in the tenant's own name. However, the utility may not attempt to recover from the tenant or condition service to the tenant on the payment of any outstanding bills or other charges due from the outstanding account of the landlord. If, however, the tenant has a previously

outstanding balance at the same service address, the utility may condition service to that tenant on terms acceptable to the utility for repayment of the outstanding balance plus a deposit in compliance with the utility's tariff. If the tenant declines to subscribe for individual service, or arrange for payment of the delinquency if applicable, within 10 days after written notice by the utility is mailed or delivered to the tenant, the utility may disconnect service without further notice.

(B) For master-metered premises where the landlord is the customer and the notice period provided for in (1) — (3) of this subsection has expired, the utility shall give individual notice of the pending disconnection to each tenant served through the master meter at least 14 days before disconnection.

(C) If the tenant is the customer and the notice period provided for in (1) — (3) of this subsection has expired, the utility shall notify the landlord in writing of the option of subscribing for the service provided at the tenant's premises. However, the utility may not attempt to recover from the landlord or condition service to the landlord on the payment of any outstanding bills or other charges due from the outstanding account of the tenant. If, however, the landlord has a previously outstanding balance at the same service address, the utility may condition service to that landlord on terms acceptable to the utility for repayment of the outstanding balance plus a deposit in compliance with the utility's tariff. If the landlord declines to subscribe for service, or arrange for payment of the delinquency if applicable, within 10 days after written notice by the utility is mailed to the landlord, then the utility may disconnect service without further notice.

(d) At least three working days before disconnection, a utility shall give written or telephone notice of disconnection, in accordance with (C)(3) of this section to a customer who has failed to comply with a deferred payment agreement.

(e) Within 10 days after the date specified on a "Shut-Off Notice", a utility may, without further notice, disconnect service to a customer between the daily business hours of 8:00 a.m. on Monday to 5:00 p.m. on Thursday. Service may not be disconnected on a Friday or a day preceding a holiday.

(f) A utility may not disconnect service to a customer for any of the following reasons:

(1) delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises;

(2) failure of the customer to pay for services or equipment not regulated by the commission;

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(3) nonpayment of a bill related to another class of service at a different service location;

(4) the customer disputes the amount due on the delinquent account, complies with the utility's tariffed rules on customer bill disputes, and the dispute remains under investigation by the utility or by the commission; however, a customer shall pay any undisputed amount, and the utility may proceed to disconnect service in accordance with this section for failure to pay any undisputed amounts; or

(5) the customer is unable to pay the full delinquent amount due, qualifies under the utility's tariffed eligibility requirements for deferred payment agreements, and is in compliance with a signed, or is in the process of timely negotiating a, deferred payment agreement.

(g) A utility may remove any or all of its property installed on a customer's premises upon disconnection of service.

(h) A utility shall restore service within three working days after correction of the conditions that resulted in the disconnection. Correction includes execution of a deferred payment agreement. If service is restored during a period other than regular working hours at the customer's request, the utility may impose an after-hours charge for reconnection.

(i) Each utility shall maintain a record of each disconnection of service, including the reason for the disconnection. This record must be maintained for two years and must be available for commission inspection. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141  
AS 42.05.151  
AS 42.05.291

**3 AAC 52.455. LINE EXTENSIONS AND SERVICE CONNECTIONS.** (a) A utility's tariff for line extensions and service connections, or, if appropriate, special contracts under 3 AAC 48.390, must include the following:

(1) the amount of the costs, maximum footage, or equipment allowance for a line extension and a service connection, to be provided by the utility at no charge; the utility may specify different allowances for different customer classes;

(2) a requirement, subject to the provisions of (3) and (4) of this subsection and to (c) and (d) of this section, that a customer requesting a line extension or service connection must pay all costs which exceed the amount for which the utility is responsible under (a)(1) of this section;

(3) a statement that the customer is not responsible for the cost of system upgrade that is incidentally the result of the customer's

## Chapter 35. Municipal Powers and Duties.

### Article

1. General Powers (§ 29.35.070)
3. Additional Powers (§ 29.35.210)
8. Hazardous Chemicals, Materials, and Wastes (§§ 29.35.500, 29.35.520, 29.35.530, 29.35.560, 29.35.590)

### Article 1. General Powers.

#### Section

##### 70. Public utilities

**Sec. 29.35.070. Public utilities.** (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a) or (d) — (k).

(b) A municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.

(c) Unless the utility is owned by the municipality, all rates, charges, and regulations established under this section shall be established by ordinance and shall be reasonable and permit a fair return on invested capital.

(d) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

**Editor's notes.** — This section is set out to correct an error in enactment.

### Article 3. Additional Powers.

#### Section

##### 210. Second class borough powers

**Sec. 29.35.210. Second class borough powers.** (a) A second class borough may by ordinance exercise the following powers on a nonareawide basis:

- (1) provide transportation systems;
- (2) regulate the offering for sale, exposure for sale, sale, use, or explosion of fireworks;
- (3) license, impound, and dispose of animals;
- (4) provide garbage, solid waste, and septic waste collection and disposal;
- (5) provide air pollution control in accordance with AS 46.03.140 — 46.03.230;
- (6) provide water pollution control;

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
BUREAU ALASKA 99511  
907 465 3100

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 2, 1989

SUBJECT: Liens for Utility Services  
(Work Order No. 16-0949)

TO: Senator Al Adams

FROM: Tamara Brandt Cook  
Director *TBC*  
Division of Legal Services

You have asked whether a municipality has the power to impose a lien on real property to secure payment for utility services provided by a utility owned by the municipality. A municipality probably does have that power under its general authority to exercise by ordinance any power not prohibited by law. (See AS 29.35.200 - 29.35.220) However, it does not have specific authority to establish liens for these purposes as is granted under AS 29.45.300 for property taxes, AS 29.45.650(e) for sales and use taxes, and AS 29.46.-080(c) for special assessments.

The enclosed draft would provide specific authority for a municipality to provide for liens for these utility services by ordinance. In addition, the enforcement provision now in place for foreclosure of property tax liens is made applicable to utility liens under this draft.

TBC:gc:kb  
WKG7/083

Enclosure

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## ALASKA PUBLIC UTILITIES COMMISSION DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

420 "L" STREET  
SUITE 100  
ANCHORAGE, ALASKA 99501  
(907) 276-6222

April 19, 1989

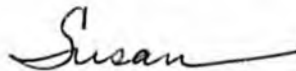
Representative Eileen MacLean  
State of Alaska  
House of Representatives  
P. O. Box V  
Juneau, Alaska 99811

Dear Representative <sup>Eileen</sup> MacLean:

Thank you for the opportunity to participate in the discussion on CSSB 207. Per your request, I am enclosing the pages of the Commission's most recent Annual Report which lists the water and sewer utilities currently operating in the state. The utilities marked with an asterisk (with a few exceptions) are all owned by municipalities and would be subject to the bill which passed your Committee.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely yours,



Susan M. Knowles  
Chairman

Enclosure

CERTIFICATED SEWER (WASTEWATER) UTILITIES

Anchorage Water and Wastewater Utility,  
Municipality of Anchorage d/b/a  
Barrow Utilities and Electric  
Cooperative, Inc.

College Utilities Corp.

\*Copper Valley Construction Company

\*Cordova, City of

\*Craig, City of

\*Dillingham, City of

\*Fairbanks Municipal Utilities System,  
City of Fairbanks d/b/a

\*Galena, City of

\*Haines, City of

\*Homer, City of

\*Hoonah, City of

\*Juneau, City and Borough of

\*Kake, City of

\*Kenai, City of

\*Ketchikan, City of

\*Ketchikan Gateway Borough

\*Kodiak, City of

\*Kotzebue Municipal Utilities,  
City of Kotzebue d/b/a

\*Kenana, City of

\*Nome Joint Utility Systems

\*North Pole Utility, City of  
North Pole d/b/a

\*North Slope Borough Utilities

\*Palmer, City of

\*Petersburg, City of

\*Rangeview Utilities

Salmantof Utilities, Inc.

\*Saxman, City of

\*Seldovia, City of

Settlers Bay Properties, Inc.

\*Seward, City of

\*Sitka, City and Borough of

\*Skagway, City of

\*Soldotna, City of

\*Thorne Bay, City of

\*Unalaska, City of

\*Valdez, City of

\*Wasilla, City of

\*Whittier, City of

\*Wrangell, City of

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\*Not regulated by Alaska Public Utilities Commission as to rates and services.

CERTIFICATED WATER UTILITIES

Alpat Water Utility Company  
Alyeska Utilities, Inc.  
Anchorage Water and Wastewater Utility,  
Municipality of Anchorage d/b/a  
Barrow Utilities and Electric  
Cooperativa, Inc.  
Chugiak Utilities  
Collego Utilities Corp.  
\*Copper Valley Construction Company  
\*Cordova, City of  
\*Craig, City of  
Dawn Development Corporation  
\*Dillingham, City of  
Eagle Utilities, Inc.  
Eklutna Utilities, Inc.  
ERU, Inc.  
\*Fairbanks Municipal Utilities System,  
City of Fairbanks d/b/a  
\*Fort Yukon, City of  
\*Galena, City of  
\*Haines, City of  
\*Homer, City of  
\*Hoonah, City of  
\*Hydaburg, City of  
\*Juneau, City and Borough of  
\*Kake, City of  
\*Kenai, City of  
\*Ketchikan, City of  
\*Klawock, City of  
\*Kodiak, City of  
\*Kotzebue Municipal Utilities,  
City of Kotzebue d/b/a  
Kwik Log Water System,  
Myron Allon Newton d/b/a  
Matanuska Utility Company, Inc.  
McGahan Utilities, Inc.  
\*McGrath, City of  
McMurray Utilities, Inc.  
\*Mountain Point Service Area of the  
Ketchikan Gateway Borough  
\*Nenana, City of  
\*N.I.T. Water Company, Inc.

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\*Not regulated by Alaska Public Utilities Commission as to rates and services.

CERTIFICATED WATER UTILITIES (CONT.)

- \*Nome Joint Utility Systems  
Norfolk Utilities, Inc.
- \*North Pole Utility, City of  
North Pole d/b/a
- \*North Slope Borough  
Omlin Water Utility,  
Paul Omlin d/b/a
- \*Palmer, City of  
Pelican Utility Company
- \*Petersburg, City of  
Potter Creek Water Company
- \*Rangeview Utilities  
Romig Park Improvement Company  
Sandlake Services,  
R. J. & Clara Rhodes d/b/a
- \*Saxman, City of
- \*Seldovia, City of  
Settlers Bay Properties, Inc.
- \*Seward, City of
- \*Sitka, City and Borough of
- \*Skagway, City of
- \*Soldotna, City of  
South Central Utilities, Inc.  
Southeast Utilities Company,  
Robert M. Scott, Evelyn V.  
Scott, Charles J. Schneider  
and Marlene C. Schneider, S & S  
Development Company d/b/a  
Spenard Heights Water System,  
Wayne Cates d/b/a
- \*Thorne Bay, City of
- \*Unalaska, City of
- \*Valdez, City of  
Valley Water Company, Inc.
- \*Wasilla, City of
- \*Whittier, City of
- \*Wrangell, City of
- \*Yakutat, City of

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\*Not regulated by Alaska Public Utilities Commission as to rates and services.



# City of Nenana

State of Alaska

February 14, 1989

Senator John B. Coghill  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, AK 99811

Dear Senator Coghill,

The City has introduced an ordinance which creates a lien against real property if the charges for water and sewer services provided to the property are not paid.

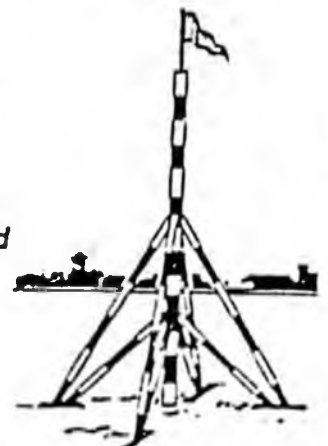
The State supreme court has never decided whether a home rule municipality, such as Nenana, has the authority to create liens without statutory authority. There is no provision in Alaska law which specifically prohibits Nenana from creating these liens, and under the state constitution a home rule municipality can do anything which is not prohibited by law.

The legislature could easily resolve the question as to the City's authority by simply making a small change in Title 29 - specifically 29.35.070. To this end I would suggest the following addition to Section 29.35.070. Public Utilities: [additions underlined, deletions bracketed]

**Sec. 29.35.070. Public Utilities. [a] The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711[a] or [d] - [k].**

**[b] A municipality may provide for a reasonable deposit for meters and service to be given if interest is paid on the deposit.**

**[c] Unless the utility is owned by the municipality, all rates, charges, and regulations established under this section shall be established**



by ordinance and shall be reasonable and permit a fair return on invested capital.

(d) A municipality may provide for the creation, recording, notice, and foreclosure of a lien on real property to secure the payment of charges for water, sewer, electric, and other utilities provided to the property by the municipality, and the interest, penalties, and administration costs in the event of delinquency. When recorded the utility lien has priority over all other liens except (1) liens for property taxes and special assessments; (2) liens that were perfected before the recording of the utility lien for amounts actually advanced before the recording of the utility lien; (3) mechanic's and materialman's liens for which claims of lien under AS 34.35.070 or notices of right of lien under AS 34.35.060 have been recorded before the recording of the utility lien; and (4) sales and use tax liens created under AS 29.45.650 (e).

~~[(d)]~~ (e) This section applies to home rule and general law municipalities.

Subsection (d) which is added above is copied verbatim from the language enacted by the legislature last session to establish the priority of liens for delinquent sales and use taxes. The statute which was copied is AS 29.45.650(e).

Please call should you have any questions, but basically all we are trying to do here is make everyone responsible for their own bills. There are always some utility customers who don't feel obligated to pay, and this effort would help in collecting past due accounts.

Sincerely,



Steve Balnbridge  
City Administrator

cc Representative Richard Shultz

P.O. BOX 55109  
NORTH POLE, ALASKA  
99705



TOP OF THE WORLD  
PHONE: 907-488-2281  
AT YOUR SERVICE

March 21, 1989

The Honorable Senator Jack Coghill  
P. O. Box V  
Juneau, Alaska 99811

Re: SB 207, Municipal Utility Liens

Dear Jack:

Just a short note to let you know that we are in receipt of and support Senate Bill 207. As you are well aware, collection of utility charges has posed a major problem for small municipalities. Often, the only remedy is Small Claims Court. In instances where the delinquent party has left the area, there is little recourse.

The provisions of SB 207 would take tremendous strides toward alleviating this problem. You have the full support of The City of North Pole. Please let us know to whom we may make further contacts to aid in passage.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carleta Lewis', with a long horizontal line extending to the right.

Carleta Lewis  
Mayor, City of North Pole

CL/kl

## NOME JOINT UTILITY SYSTEM

## RESOLUTION 89-09

A RESOLUTION SUPPORTING SENATE BILL NO. 207,  
AN ACT RELATING TO LIENS ON REAL PROPERTY TO SECURE PAYMENT  
FOR SERVICES PROVIDED BY A UTILITY OWNED BY A MUNICIPALITY

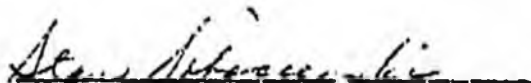
WHEREAS, there is a Senate Bill No. 207 in the Legislature of the State of Alaska Sixteenth Legislature - First Session, and

WHEREAS, this Bill is "An Act relating to liens of real property to secure payment for services provided by a utility owned by a municipality.", and


WHEREAS, the Nome Joint Utility Board would like to go on record as being in support of this Bill,

NOW THEREFORE BE IT RESOLVED that the Nome Joint Utility Board, sitting in Regular Session on March 21, 1989, supports Senate Bill No. 207, An Act Relating to Liens on Real Property to Secure Payment for Services Provided by a Utility Owned by a Municipality.

SIGNED THIS 21 DAY OF MARCH, 1989 AT NOME, ALASKA.

  
Stan Sobocienski, Chairman  
NOME JOINT UTILITY BOARD

ATTEST:

  
Gary Butcher, Secretary  
NOME JOINT UTILITY SYSTEM

## MUNICIPAL REVENUE SHARING PROGRAMS FUNDING COMPARISON, FY86-FY88

<u>Program</u>	<u>FY86</u>	<u>FY87Rev</u>	<u>FY88Gov</u>	<u>FY88Rec</u>
Basic Services (Proration factor)	20,000.0 91.0%	16,332.0 68.9%	13,065.6 55.1%*	24,000.0 100.0%
Hospital Construction (Proration factor)	1,600.0 100.0%	490.0 81.6%	392.0 99.2%	395.0 100.0%
Tax Equalization	38,032.2	31,023.0	24,845.7	29,095.1
Municipal Assistance** (Formula calculation)	81,306.8 45,000.0	65,858.5 44,100.0	52,686.8 37,500.0	37,500.0 37,500.0
(Funding percentage)	180.7%	149.3%	140.5%	100.0%

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\*The basic services proration factor for FY88 is estimated only, and will likely be less when actual distribution is made. Increased health and road services assumed by municipalities will increase the total authorized amount eligible for receipt under this program, and therefore decrease the proration factor. The actual proration factor is estimated to be about 50%.

\*\*The formula calculation for municipal assistance is based on 30% of the previous fiscal year's corporate income tax, as specified in AS 29.60.350(a). The funding percentage is determined by comparing the formula calculated amount with the appropriated amount.

Source: Department of Community and Regional Affairs budget documents and special reports

6.4 %  
Reduction

MUNICIPAL REVENUE SHARING BUDGET INFORMATION

The state provides financial aid to municipalities through programs in the Department of Community and Regional Affairs, in addition to the local public school funding provided through the Department of Education. In C&RA, these programs are found in the Municipal Revenue Sharing budget request unit (BRU).

The Municipal Revenue Sharing BRU consists of two components: Municipal Assistance and Revenue Sharing. Within the revenue sharing component, three separate programs are funded: basic services, tax equalization, and hospital construction.

The hospital construction program has been repealed, and funding is only included to pay off the one municipality (Kenai Peninsula Borough) that was receiving funds under this program at the time of its repeal.

Essentially, then, this BRU is made up of three programs: the Basic Municipal Services program (also known as miscellaneous services), the Tax Equalization Program, and the Municipal Assistance Program.

A proposal has been made to shift funds between the three programs. The attached chart compares funding of the municipal revenue sharing programs from FY86 through the FY88 Governor's budget request, and includes the proposal to transfer funds.

The proposed reallocation of funds is the representation in dollars of a policy shift which is required by the new fiscal realities of the state.

It is difficult to second guess prior legislatures, but the reductions in the three programs over the past two years were apparently taken as an across-the-board cut of all three revenue sharing programs, without a careful analysis of what the base amounts really should be. The purpose of the proposed changes is to readjust the funding among the three programs in order to: 1) reflect necessary base amounts; and 2) recognize that local tax effort should be rewarded.

Basic Services

The Basic Services program is proposed to be funded at 100% for FY88. Although this program also funds unincorporated communities and volunteer fire departments, its main purpose is to fund the basic municipal services of health care and road maintenance. The amounts of support for those basic services are set up in statute (AS 29.60.100-170).

You will note on the attached chart that the amounts received by communities for these basic services have been prorated for the past three years because of insufficient funding of this program. In times of declining revenues, it is bad policy to reduce this program below the base amounts set up in statute. To have a two year drop of almost half the funding for basic services provided by municipalities is not the right message the legislature should be sending. Basic services are basic, and should be fully funded.

In retrospect, it would have probably been more fair for the cuts made over the past two years to have been made in the other two programs of tax relief and tax equalization, and to have kept the floor level amounts set by statute for the basic services provided by this program. The changes proposed would correct the current imbalance and restore the basic services funding to a true base level.

The remainder of the revenue sharing funds would then be divided between the tax equalization program, and the tax relief program (also known as municipal assistance). The question facing the legislature is to decide what policy to implement through the funding of these two programs. To make this decision requires a good understanding of the differences between these two programs, and how the current state fiscal situation affects municipalities.

#### Municipal Assistance

The municipal assistance, or tax relief, program has the main purpose of reducing property taxes. This is stated quite clearly in AS 29.60.370(b). About \$10 Million dollars is distributed in this program under a "base amount" provision. This gives money to cities and boroughs based on amounts received under a 1978 revenue sharing program. The remainder of the funds in this program are distributed entirely by population, with no regard to basic services, local tax effort, or COLA adjustment. Since there is no requirement of any kind for this program, except to fill out the forms, it has the effect of being a "warm body," or "free lunch" program.

#### Tax Equalization

The tax equalization program, on the other hand, is designed to reward local municipalities for their own tax effort. The authority for this program set out in AS 29.60.010 states that the amount received by a taxing unit "is based on the population, relative ability to generate revenue, and local

tax burden of the taxing unit," as determined by a formula. This program takes the approach that the state helps those municipalities that care enough to tax themselves.

This is not a program that favors either urban areas or rural areas. But it does favor areas where people assume the responsibility to tax themselves to pay for local services.

In Fairbanks, for instance, the city council just voted to impose a 3% sales tax. That type of effort would be rewarded under the tax equalization program by an increase in funds received from the state. Areas of the state with a high tax effort in property taxes, such as Juneau, are also rewarded under this program.

#### Current Fiscal Situation of Local Governments

The current fiscal situation of the state and of municipalities is such that many municipalities are being forced to at least consider raising taxes just to provide basic services at even a reduced level from the past year. The recommendation to transfer funds from the tax relief program into the tax equalization program would be a policy recognition by the legislature that we understand the problem of municipalities, and are willing to help them if they are willing to help themselves through self-taxation. It would take money out of the warm-body-free-lunch revenue sharing program, and place money in a revenue sharing program that rewards municipalities for assuming their own tax burden.

This proposal is not meant to pick on any community in particular, but is intended to encourage all communities to share in the tax burden of paying for their own services. If a community finds itself receiving less money under this proposal, it probably should seriously examine its own efforts to generate revenue, to see if they are what they should be under the circumstances now facing the state.

It may be worthwhile for the legislature to consider putting all of the free-lunch revenue sharing money into the tax equalization revenue sharing program in future years. That is a major policy issue that is not addressed by the recommendation.