

SB

280

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/20/02

FURTHER:

REPORTED OUT
 APR 10 2002
 SENATE FINANCE

DATE TURNED IN TO OFFICE: 10 April 2002

Finance Committee considered **SENATE BILL NO. 280**
SB 280 WATER/SEWER/WASTE GRANTS TO UTILITIES

"An Act permitting grants to certain regulated public utilities for water quality enhancement projects and water, wastewater, and solid waste systems."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS SB 280 (RES)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DEC (Senate Finance)	4/10/02		✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Alan Curtis</i>			✓	
<i>Tom Hahn</i>			✓	
<i>Bob Wolcott</i>			✓	
<i>Loren D. Simon</i>	✓			
<i>Gregg Allen</i>	✓			
<i>Joseph ...</i>			✓	
COCHAIR:				
COCHAIR: <i>[Signature]</i>			✓	

APR 10 2002

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS SB 280 (RES)
(S) Publish Date: _____

Revision Date/Time (Note if correction): 4/10/2002 Dept. Affected: Environmental Conservation
Title: Water/Sewer/Waste Grants to Utilities

Sponsor: Therriault BRU: Facility Construction and Operation
Requester: Senate Finance Committee Component: Facility Construction and Operation
Component Number: 637

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous*						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008

CHANGE IN REVENUES ()	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
	0.0	0.0	0.0	0.0	0.0	0.0

FUNC SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: SENATE FINANCE COMMITTEE

Phone 465-2327

Author: /s/ Pate Kelly
Senator Pate Kelly

Date 4/10/2002

Alaska State Legislature

SENATOR
GENE THERRIAULT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
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While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
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Senate

Senate District: Q

CS SB 280(RES) "An Act permitting grants to certain regulated public utilities for water quality enhancement projects and water supply and wastewater systems."

Sponsor: Senator Gene Therriault

Sponsor Statement

Under current law, privately owned public water and wastewater utilities are not eligible to participate in grants made under AS 46.03.030(b), "water quality enhancement, water supply, sewage and solid waste facilities grants." This places the ratepayers of privately owned utilities at a disadvantage when compared to the ratepayers of municipally owned utilities.

CS SB 280(RES) provides for the inclusion of privately owned water and wastewater utilities in the State's water and wastewater grant program if its rates are regulated by the Regulatory Commission of Alaska. The Senate Resources Committee version removes criteria inserted in the Senate Labor & Commerce Committee that the utility serve "as the primary utility for a municipality."

Regulation by the RCA insures that all of the economic benefits of the grants are passed on to the ratepayers. The Legislature passed a similar measure in 2000, HB 304, which provided for participation by regulated, privately owned water and wastewater utilities in the State's low interest revolving loan fund.

As is currently the case with municipally owned utilities, the bill would allow privately owned utilities to make utility infrastructure improvements without forcing ratepayers to pay the full burden through increased rates. Additionally, the bill would increase the ability of the utility to expand into areas that are on the peripheral of existing systems, thereby providing water and wastewater services to families that are currently on wells and septic systems.

CS SB 280 (RES) makes grants available to public water and sewer utilities for water and wastewater projects only. Grants for solid waste processing, disposal or resource recovery systems would remain available only to municipalities.

CS SB 280(RES), "An Act permitting grants to certain regulated public utilities for water quality enhancement projects and water supply and wastewater systems."

Sectional Analysis

Section 1

AS 46.03.030(b)

Allows a public utility as defined in section (i) of the bill, in addition to municipalities, to receive water quality enhancement, water supply and sewage facilities grants through the Department of Environmental Conservation. Grants can be used for water quality enhancement projects; a public water supply, treatment or discharge system; or a wastewater collection, treatment or discharge system.

Section 2

AS 46.03.030(e)

Maintains the current match ratio of:

- 85% of eligible costs for a municipality with a population of 1,000 persons or less;
- 70% of eligible costs for a municipality with a population of 1,001 to 5,000 ;
- 50% of eligible costs for a municipality with a population greater than 5,000

Section 3

AS 46.03.030(i)

Defines a utility that is eligible for a grant under 46.03.030(b)(1)-(3) as a public water and sewer utility whose rates are regulated by the Regulatory Commission of Alaska under 42.05. Removes the criteria inserted in CSSB 280 (L&C) that the utility serve "as the primary utility for a municipality."

ALASKA STATE LEGISLATURE

SENATOR

Gene Therriault

119 N. Cushman Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
FAX (907) 488-4271



While in Juneau

State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
FAX (907) 465-3884

Senate
Senate District Q

February 14, 2002

G. Nanette Thompson
701 W. 8th Ave, Suite 300
Anchorage, AK 99501

Dear Nan:

Attached is a copy of Senate Bill 280, which I introduced February 6, 2002. The bill will allow privately owned public utilities that are regulated by the Regulatory Commission of Alaska to apply for grants under AS 46.03.030(b).

It is my understanding from discussions with the owners of privately owned utilities in Fairbanks that the stipulation requiring utilities be regulated by the Regulatory Commission of Alaska in order to be eligible for a grant, will ensure that the benefits of the grant are passed on to ratepayers. I would like to request an opinion from your office as to whether that statement is correct. Stated another way, would regulated utilities get any depreciation or rate of return on grant funds expended under this bill?

SB 280 is scheduled for its first hearing Tuesday, February 19, 2002. If at all possible, I would appreciate a response prior to that time so that I can provide the committee with the information.

Sincerely,

Gene Therriault
Senator, District Q

STATE OF ALASKA

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA

TONY KNOWLES, GOVERNOR

701 WEST EIGHTH AVENUE, SUITE 300
ANCHORAGE, ALASKA 99501-3469
PHONE: (907) 276-6222
FAX: (907) 276-0160
TTY: (907) 276-4533

February 15, 2002

The Honorable Gene Therriault
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Re: SB 280, "An Act permitting grants to certain regulated public utilities for water quality enhancement projects and water, wastewater, and solid waste systems."

Dear Senator Therriault:

This is in response to the questions raised in your February 15, 2002 regarding regulated public utilities. In that letter, you ask whether requiring utilities to be regulated by the Regulatory Commission of Alaska in order to be eligible for a grant will ensure that the benefits of the grant are passed on to ratepayers.

All public utilities that serve 10 or more customers for compensation must be certificated by the RCA. All certificated utilities are subject to a public convenience and necessity determination and a fit, willing and able requirement before they can operate as a public utility. Certificated public utilities are subject to economic regulation (rate review) by the RCA if they are privately owned or do not otherwise meet the exemption criteria in AS 42.05.711. The Commission regulates pipelines and utilities to assure reasonable and just rates to the consumer with fair rates of return to the utilities.

Ensuring that the benefits of the grant are passed on to ratepayers will primarily be the responsibility of the agency administering the grant. For an economically regulated utility, the Commission would have the opportunity to assess the benefits of the project through the rate review process, after the project is completed and in use.

Letter to Senator Therriault
February 15, 2002
Page 2 of 2

You also ask whether regulated utilities get any depreciation or rate of return on grant funds. The answer is no. In traditional ratemaking, depreciation allows the utility to recover the funds it invested to purchase plant that is used and useful in delivering service. Consumers compensate utilities through rates for the costs incurred by a utility to deliver service. Grant-funded plant acquisitions are not allowed in rates because they do not represent an investment by the utility. To require ratepayers to reimburse a utility for grant monies and allow the utilities to earn a return on an investment they have not made would result in higher utility rates for the ratepayer.

I hope the above provides the information you seek. If you have any questions, please call me at (907) 263-2112. I will be in Juneau next Tuesday and Wednesday, and will be available at the hearing to answer any additional questions.

Sincerely,

REGULATORY COMMISSION OF ALASKA


G. Nanette Thompson, Chair



Fairbanks North Star Borough

Office of the Mayor

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1300

Fax 907/459-1102

Email mayor@co.fairbanks.ak.us

February 19, 2002

The Honorable Senator Gene Theriault
119 N. Cushman, Suite 101
Fairbanks, AK 99701

Dear Senator Theriault:

I am writing you to give my support to Senate Bill 280, which would allow privately owned, public utilities to receive water and wastewater grants through the Department of Environmental Conservation.

The Fairbanks North Star Borough is a second-class Borough and, as such, has limited powers in providing for water and wastewater utilities. These utilities can only be provided through citizen approved service areas.

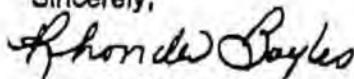
Two out of the 117 service areas within the Borough have elected to provide some level of water and wastewater utility. Neither service area can afford the cost of providing quality utility functions nor can they afford major, necessary improvements. This has resulted in health and safety issues that must be addressed. One service area in particular, Ballaine Lake, has already raised their property taxes to the maximum mill rate allowed by statute. In order to improve their current wastewater process, they must turn to a privately owned, public utility company.

The Fairbanks North Star Borough government has acquired funding to assist these two service areas, however, this assistance takes time. Had the local public utility companies been in a place to provide this assistance, improvements could have been expedited.

Senate Bill 280 would help privately owned, public water and wastewater utility companies to improve the existing infrastructure without placing the entire burden on the ratepayer. In our Borough, expansion of services as a result of SB 280 would allow improvements to areas with marginal, current systems, or no systems at all, such as Badger Road and Farmers Loop.

Please add my support to this critical legislation. The Fairbanks North Star Borough Assembly and I will be submitting a resolution in support of SB 280 within the next two weeks.

Sincerely,


Rhonda Boyles, Mayor



February 13, 2002

Senator Ben Stevens
Chair, Senate Labor and Commerce Committee
Sent by fax: 907-465-3884

RE: SB 280

Fairbanks Sewer & Water, Inc. (FSW) was formed in 1996 to acquire Golden Heart Utilities, Inc. from the City of Fairbanks when the City divested itself of its utilities. Simultaneously, FSW acquired College Utilities Corporation, which owns and operates the water and wastewater system on the west side of Fairbanks. FSW is the parent of both Golden Heart Utilities and College Utilities, which serve a combined 8,500 customers.

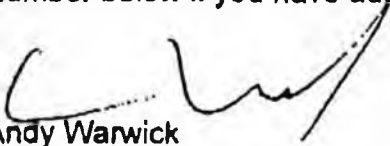
In 2000 we asked the Legislature to allow our water and wastewater utilities to participate in the State's low interest revolving loan fund, which the Legislature accomplished through HB304. Because utilities must be regulated by the Regulatory Commission of Alaska as a condition of participation, all of the benefits of the program are passed on to the ratepayers through lower rates.

Currently Fairbanks is the only community in the State that cannot participate in the State's water and wastewater grant program under AS 46.03.030(b), as under current law, privately owned, public water and wastewater utilities are not eligible. SB280 remedies this inequity in the same manner as HB304 mentioned above. Fairbanks was eligible to participate when the utility was owned by the City of Fairbanks. SB280 provides the same benefits to the Fairbanks ratepayers that they enjoyed under City ownership by including privately owned water and wastewater utilities in the State's water and wastewater grant program if the utilities are regulated by the Regulatory Commission of Alaska. Regulation insures that all of the economic benefits of the grants are passed on to the ratepayers.

SB280 will:

1. Reduce the burden to our ratepayers of critical improvements to our water and wastewater systems. Like all utilities in Alaska, improvements are necessary for the continued reliability of the system.
2. Increase the ability of the utility to expand its water and wastewater system to include families and businesses that utilize wells and septic systems. The vast majority of Fairbanks residents are not hooked up to a public water and wastewater system. In some cases this causes sanitary problems that could be avoided by our utility system.
3. Provide benefits to our ratepayers that other ratepayers in Alaska enjoy.

Thank you for the opportunity to comment on this bill. I can be reached at the telephone number below if you have additional questions.



Andy Warwick
Chair of Board of Directors
Fairbanks Sewer & Water, Inc.
907-456-1566

Introduced by: Mayor Thompson
Date: February 25, 2002

RESOLUTION NO. 3976

**A RESOLUTION OF THE CITY OF FAIRBANKS IN SUPPORT OF
SENATE BILL 280, AND SETTING AN EFFECTIVE DATE**

WHEREAS, Senate Bill 280 would amend current law to permit state grants to regulated private utilities for water quality enhancement and supply, as well as sewage and solid waste facilities; and

WHEREAS, regulation by the Regulatory Commission of Alaska ("RCA") insures that all of the economic benefits of the grants are passed on to the rate paying public; and

WHEREAS, currently Fairbanks is the only community that can not participate in this grant program due to the divestiture of the Municipal Utilities System.

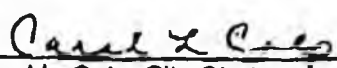
NOW, THEREFORE, BE IT RESOLVED that the City Council supports Senate Bill 280, and urges its adoption by the legislature of the State of Alaska.

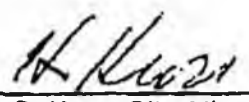
Passed and Approved this 25th day of Feb, 2002.


STEVE M. THOMPSON, MAYOR

AYES:
NAYS:
ABSTAIN:
ABSENT:
ADOPTED: February 25, 2002
ATTEST:

APPROVED AS TO FORM


Carol L. Cole, City Clerk


Herbert P. Kuss, City Attorney

STATE OF ALASKA

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA

TONY KNOWLES, GOVERNOR

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FAX: (907) 276-0160
TTY: (907) 276-4533

April 8, 2002

The Honorable Senator Gene Therriault
Alaska State Senate
State Capitol (MS 3100)
Juneau, Alaska 99801-1182
Faxed to 907-465-3884 (attention Wilda Rodman)

Re: SB 280

Dear Senator Therriault:

You asked whether the owners of a utility that received grant funding under this proposed legislation would receive a profit based on those grant funds if the utility was ever sold. The brief answer is no, for the two reasons explained below.

First, any grant funds received by a utility are considered contributed capital and, with limited exception, a regulated utility is not permitted to recover contributed capital from its customers. The utility is also, with the same limited exceptions, not permitted to count the contributed capital as a portion of its investment in establishing the amount of return on its investment it may recover from its customers. AS 42.05.471(b). Utilities must account for contributed capital in a manner in which it is clearly identified or excluded from the utility's rate base under the uniform system of accounts prescribed by regulations. Utilities with annual revenues in excess of \$100,000 are also required to maintain continuing property records that reflect this treatment. AS 42.05.461.

Second, market value for a utility, similar to unregulated enterprises, is generally established using the net present value of expected future cash flows the purchasing entity will receive. The cost of purchasing a utility in excess of the net book value of the selling utility's assets (an acquisition adjustment) usually constrains market value. The new owner of a utility should know that they will not automatically be allowed to recover the acquisition adjustment from its customers through rates and will set the price accordingly.

Senator Therriault

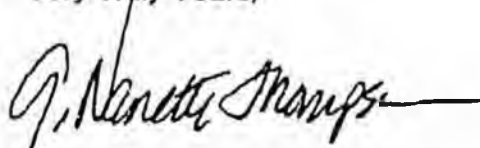
April 8, 2002
Page 2

Either the stock or assets of a utility can be sold, and depending on the nature of the transaction, the prescribed uniform system of accounts will require the book value of the seller's plant to be carried forward by the purchaser rather than revaluing the assets to market value. At the time of the utility's next overall rate review, the RCA is directed by statute to establish the ratebase for the new owner using the lower of the purchase price or the value on the selling utilities' books. The book value represents the remaining value of the plant after the depreciation already paid by the utilities' customers has been deducted and the purchase price represents the market value of the utility. The statute requires rate base to be set at that value if lower so that the customers of the new utility are not paying for plant value the utility did not acquire.

The RCA has allowed acquisition adjustments to be recovered from ratepayers by the utility when the new owner provides evidence of public interest, like lower rates as the result of the acquisition. The RCA carefully scrutinizes proposed acquisition adjustments that utilities seek to recover through rates. The RCA's role is not to determine the purchase price in a utility sale, that is left to the parties. Rather, we regulate the amount of the purchase price that the utility will be allowed to recover from its ratepayers.

I hope this information is helpful to you. Please contact me if you need any further information.

Very Truly Yours,



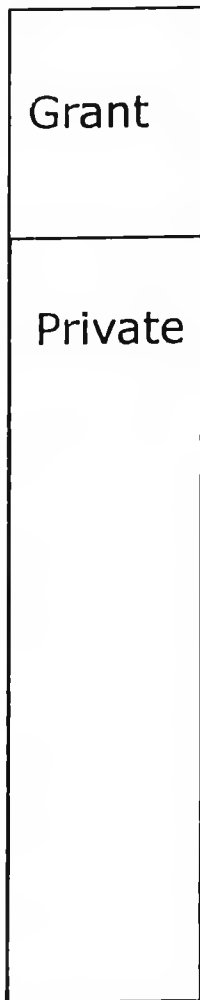
G. Nanette Thompson
Chair

GNT:dea

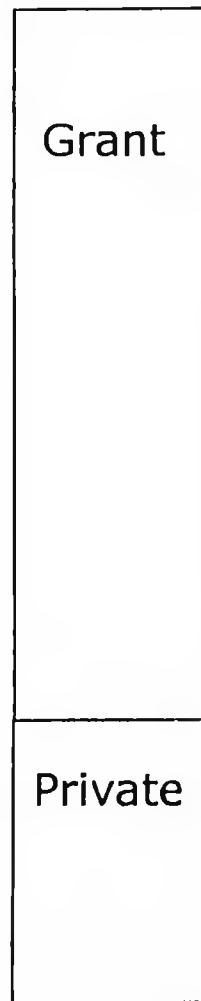
\$10 Million



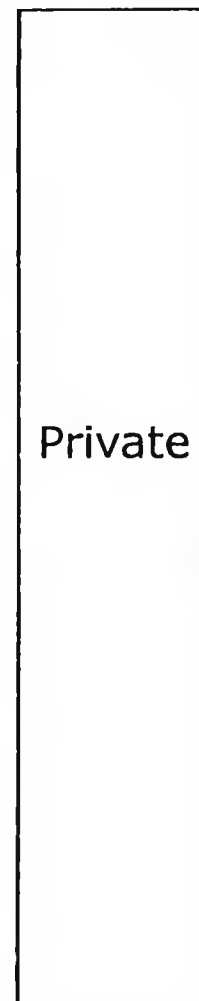
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2



3



SB 280-WATER/SEWER/WASTE GRANTS TO UTILITIES
SENATE FINANCE COMMITTEE

SIGN-IN

NAME: Don Easton Subject/Bill No: SB 280
Co./Dept./Title: AK Dept. of Env. Conservation Phone: 465-5135
Address: 410 Willoughby Ave, Juneau Zip: 99801
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

SB 280-WATER/SEWER/WASTE GRANTS TO UTILITIES
SENATE FINANCE COMMITTEE

SIGN-IN

✓ NAME: Dan Easton Subject/Bill No: CSSB-280
Co./Dept./Title: Dept. of Env. Conservation Phone: 465-5135
Address: 410 Willoughby, Tunoon, AK Zip: 99801

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
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Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

