



And the city can't charge property tax because there is no private property, Murran explained. As in most rural villages, the land is owned by the village Native corporation or the federal government, which provides a small payment in lieu of taxes, or PILT.

During better times, the Yukon River village of Ruby built up a city savings account, said Mayor Donald Honea Sr., "but we've almost completely wiped the thing out now."

Ruby has reduced employee hours and city services, and now there's little left to cut, Honea said. It can no longer afford a public safety officer and may have to turn off the streetlights. Volunteers staff city hall, and the teen center remains closed unless an adult offers to open it for a night or two.

"We can't hire people to do a lot of the work we had before, like plowing snow," he said. "This year if we get a heavy snow, we have the guy do it when he can." Because the roads aren't getting plowed, Honea is nervous about house fires. "You'd have a hard time getting to the houses," he said.

The city has no sales tax, and just 200 residents to pay it if the council decides a tax would help.

"Like all the small villages, there's no employment and there's no revenue coming in, so it's pretty hard," Honea said. Commercial salmon fishing has been poor for years, and firefighting wages have declined. "The only thing is the (Permanent Fund) dividend, and a lot of people use it to catch up with their light bills."

But Ruby isn't throwing in the towel, Honea said.

"We'll continue to exist. We've existed before when times were tough. We're just going to have to cut what we had before," he said, perhaps returning to the kind of village it was before streetlights and running water.

They're also at a crossroads in small villages like Ouzinkie, White Mountain, Koyuk and Kiana, municipal officials there said. Losing the state grants will force crucial decisions that affect their communities' survival, they said.

"Insurance -- that's the scary thing. It's pretty well mandated," said city administrator Judy Willis of Coffman Cove, a former logging camp in Southeast. "Do you run the risk of not having insurance?"

Small communities are in a tough spot, acknowledged Mike Black, community development chief for the Department of Community and Economic Development. State and federal agencies that have poured millions of dollars into water plants or health clinics want those facilities insured, he said.

"But when you're the mayor or council, you're going to have to make decisions based on what you think your residents will support," Black said. "Insurance is one of those costs that doesn't immediately provide the local residents a demonstrated product. It's not like buying another policeman."

Many small communities operate their own water, sewer or electric utilities, and customers pay for the plant operations. But state municipal grants often paid for the clerks who did the billing.

"That's what pays my salary," said Dorothy Barr, city administrator in White Mountain, a village near Nome. She also writes grants, which have provided

services to White Mountain residents, such as a part-time librarian.

Her village voted down an increase to the 1 percent sales tax, and utility rates are as high as they can go, Barr said. She and other city employees have cut their hours.

"Right now we're looking at taxing pull-tabs and bingo winnings," she said. "We have to try to find different revenues."

State officials empathize with the ailing villages, but have little to offer except advice, said Rolfzen, with the state. Cities that can't afford to operate have few choices, he said. They can formally dissolve their municipal government, as several villages did as a statement of Native sovereignty in the 1980s or simply close the doors and stop functioning.

With the loss of municipal grants, Rolfzen said, "We might see a little of both, or a lot of both."

But some communities, including Mekoryuk, are considering a third option -- retaining the city government, but turning over the administration to the local tribe.

It may offer the best of both worlds, said Hultman Kiokun, administrator of the Native Village of Mekoryuk. The city can levy a sales tax -- it's 2 percent now -- and apply for grants available only to incorporated cities, while the tribe can tap federal resources.

"Having two governments in one small village, there's a lot of funds being wasted. We can eliminate those, and use that money for where it's needed most in the village," Kiokun said. "We need to make the best use of what little is coming to our village."

Mekoryuk's city and tribe are still negotiating, Kiokun said. The tribe doesn't want city liabilities to drag it down, he said, and may consider dropping money-losing services like cable television.

Nevertheless, the potential merger makes him more optimistic about Mekoryuk's future.

"It's got to change," Kiokun said. "The leaders have to understand that unless we make this change we're going to be stuck with the past, and possibly lose the services we have now."

Mekoryuk Mayor King agrees that a merger is likely, but isn't happy about it. He blames the village's poor financial condition on the "goody do-gooders" who brought water and sewer and other services to rural Alaska.

"These people bring these good things, but don't throw in operating and maintenance costs," King said. "There's no way the municipalities can survive if they cut revenue sharing off. If we raise funds like other little villages, with (bingo and pull-tab) gaming, we'll just exploit ourselves and make our community poorer and poorer."

Kiana and Koyukuk are also considering city/tribe mergers, and more villages could follow now that municipal funding is gone, said Anthony Caole, a former Quinhagak city and tribal administrator who is now an Anchorage consultant.

The merger "is not an ideal arrangement," Caole said. It will create an unwieldy council of 10 to 14 members working in a gray area that is both city and tribe.

"The ideal would be one form of government," he said. "It's just that nobody knows what that looks like."

And a merger is not for every community, he said. Some tribes may be reluctant to merge with their local municipality. Cities bring little to the bargaining table except sales tax powers, and many tribes are already overwhelmed with work, he said.

In addition, the future of tribal funding is uncertain. Sen. Ted Stevens has said it is increasingly difficult to secure funding for Alaska's 229 federally recognized tribes and has proposed they consider some form of consolidation.

In the meantime, the mergers may be the best option for foundering municipal governments, Caole said, though he doesn't see why it's necessary.

"I just can't imagine the state not providing resources to keep their sister governments alive," he said.

State officials are sympathetic to the plight of Mekoryuk, Ouzinkie and other small municipalities. But like the state, they'll have to find their own ways of balancing local needs and revenues, said Edgar Blatchford, commissioner of community and economic development. If that means dissolving their government because they can't afford it, "that's their decision," he said.

The Murkowski administration believes rural communities' fate lies with basic economics, Blatchford said. "If there's an economic base that local people can seize, there's hope for the future."

But where the only income is state and federal grants, the future looks bleak, Blatchford said.

"Sad to say," he said, "these are very challenging times for Alaska."

Daily News reporter Joel Gay can be reached at jgay@adn.com or at 257-4310.

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Ten small Alaska communities drop city insurance

JUNEAU (AP) — Ten small Alaska communities have discontinued their municipal insurance because of declining assistance from the state and rising insurance and fuel costs.

Another dozen could follow within the next few months, said Kevin Smith, executive director of the Alaska Municipal League Joint Insurance Association.

Smith would not release the names of the communities affected, but the league confirmed that Juneau is not one of the 10 cities.

The league's insurance program covers workers' compensation, natural disasters, third-party injury liability and other costs for about 134 Alaska cities, boroughs and school districts.

Gov. Frank Murkowski vetoed \$22 million in municipal revenue sharing last year that had helped many communities pay insurance costs. Combined with the rising costs of fuel, the cuts have made it impossible for some cities to continue paying.

"In the past when they could count on a municipal assistance and revenue-sharing check, we'd carry them until the state checks were cut," Smith said. "They can't pledge zero, so I can't carry them. We carried them as long as we could and finally had to pull the plug."

In an effort to offset the cuts, Murkowski sent \$15 million to cities that same year in one-time federal money from President Bush's Jobs and Growth Tax Relief Act, with minimum payments of \$40,000 going to smaller communities.

This year Murkowski is asking the Legislature to approve \$6.8 million in aid for about 125 small, rural communities.

The program would provide \$25,000 for communities with fewer than 100 residents, \$50,000 for those with 100 to 500 residents and \$75,000 for those with 500 to 1,200 residents. The program is intended to offset rising fuel costs.

But it is unlikely that the revenue-sharing program will be reinstated this year as it existed before the cuts, said Becky Hultberg, a Murkowski spokeswoman.

"Things are still open," she said. "We are still considering alternatives. The state this year will have some very important priorities, education being one of them. It is unlikely that insurance for cities would rise to that level. But the governor has recognized the needs of some of the smaller communities due to the disproportionately high cost of fuel and is making an effort to address those needs."

The municipal league has made the reinstatement of some form of revenue sharing for cities its top priority this legislative session, which begins in January, according to program and policy coordinator Kathie Wasserman.

Insurance costs have increased substantially, according to Mike Black, director of the state's Division of Community Advocacy.

Communities without insurance would have to appeal to the Legislature, Alaska's congressional delegation or some other state or federal agency for assistance, according to Black. He said he has advised communities with municipal employees to maintain their workers' compensation insurance policies because injured workers can sue the city, resulting in large court settlements.

"It's required under state law that an employer have workers' compensation insurance," he said. "We tell them that's something you have to retain."

Wednesday, December 01, 2004

Fairbanks Daily News-Miner

10 Alaska communities forgo insurance

Friday, December 03, 2004 - Staff and Wire Reports

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Somewhat ironically, the city of Fairbanks just started purchasing insurance through the municipal league in July as a means of saving money.

The city was self-insured previously and was able to save money by purchasing insurance as part of the larger group, said Fairbanks Mayor Steve Thompson. "By going together in a pool with more people you can keep rates down," he said. He said the news that some communities might be dropping out and making the pool smaller is troubling.

"That's kind of a bother," he said.

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Thompson said Fairbanks received notice that its workers' compensation coverage through the AML would increase by 12 percent effective July 2005. The AML requires six-months' notice for dropping out of its program. The mayor did send a letter of tentative notice to the AML Thursday, he said, but he emphasized that the letter is standard procedure to allow the city to shop for other carriers and the city has no intention of going without coverage.

"It is only responsible for us to continually do that," he said. "It's no different that any responsible business would do to continually make sure they're saving as much money as possible."

The Fairbanks North Star Borough is self-insured and does not use the AML program.

Gov. Frank Murkowski vetoed \$22 million in municipal revenue sharing last year that had helped many communities pay insurance costs. Combined with the rising costs of fuel, the cuts have made it impossible for some cities to continue paying.

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West News

Ten Small Alaska Communities Drop City Insurance

December 8, 2004

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Kevin Smith

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Sent: Monday, December 20, 2004 3:59 PM
Subject: homer news



Editorial



Insurance woes taking toll on Alaska

By John Crowder
Homer Tribune

Alaska is not the only state of the union facing rising health insurance costs, but here in the far north we rank among the most uninsured in the nation. While we are only a microcosm of a much larger problem, it is clear that health care and insurance racketeers are pushing Alaska into the red.

Hikes in long-term care and Medicaid and prescription drugs

are also on the rise, according to a recent study sponsored by the Pew Charitable trust. The study showed that 22 percent of adult Alaskans are without health insurance. Although Alaska's Denali Kid Care program covers a significant number of children under 18 – boosting our national ranking to 35th – close to a fourth of our population is using the Medicaid system.

Insurance gouging is meanwhile taking a tremendous toll on local Alaska governments, and the state's decision to bail out our school system from rising costs likely kept them from deficit spending. Ten small communities in our state have recently discontinued municipal insurance plans because of rising costs and lack of state assistance. Many more are expected to do the same in the near future, according to reports from Alaska Municipal League. This type of insurance covers everything from natural disasters to workers' comp. Such a trend is opening communities up to enormous liability.

Homer is having its own budgetary problems. But will more state revenue sharing be the key to bailing communities out of this insurance bind? I believe the problem demands a more comprehensive overhaul at the

federal level.

The ramifications of these hikes are that insurance companies are allowed to cause rampant reductions in every other area of government spending, to make up the difference. The state's Health and Social Services budget has skyrocketed, causing infiltration into other departmental budgets. The city of Homer's Public Employee Retirement System and workers' comp levels are going through the roof, a large reason for the city's need to cut other areas of spending and boost fees in various departments. But where is the accountability for insurers and health care providers? That is the question that people are asking nationwide. While health care was a major focus in the recent election, one must concede that each political party has its hands in the pie. It appears that antitrust violations will simply continue as long as special interest partisan politics flourish.

Obviously, mere criticism will not do any good. And granted, there are a number of virtual epidemics that play into the problem, from the spread of HIV/AIDS to America's obesity rate and aging populous. In Alaska, health care providers also face tremendous travel costs in many cases. Perhaps there is more complexity to the situation than a few big wigs sitting in a smoky penthouse trying to concoct ways to gouge the commoner. Yet, neither can we deny the big money lobbying that keeps America uninsured.

Unfortunately, it will probably take even more individuals and corporate entities pulling out of the insurance grid altogether before regulators are willing to affect any meaningful change.

Meanwhile, what do we do? Splint our own broken bones and cross our fingers that nobody sues the pants off the city for slipping on the sidewalk?

Well, perhaps it's not that bad. We must acknowledge, with all its flaws, that at least we have a health care system that functions. There are plenty of countries that would gladly pay out the nose just to have a hospital available in every community. On that note, Homer and the rest of America is truly blessed to have the health providers that it does. Until there is change on the horizon, Alaskans will just continue to do the best with what they have.

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ALASKA

10 towns can't pay insurance

DECEMBER 6, 2004

■ **BROKE:** Without state aid to pay premium, small cities risk disaster.

By JOEL GAY
Anchorage Daily News

Nearly a dozen rural communities are flirting with financial disaster after failing to pay their insurance bills and dropping out of a statewide pool of self-insured cities, boroughs and school districts.

The 10 small cities are no longer carrying workers' compensation, snowplow insurance or basic liability coverage, in large part because the state has eliminated the grants they once relied on to pay such expenses, said Kevin Smith, executive director of the Alaska Municipal League Joint Insurance Association.

Now uninsured, they could be fined for failing to meet legal requirements. They also run the risk of bankruptcy if slapped with a big lawsuit, Smith said.

INSURANCE: If town is sued, state may take hit

Continued from B-1

much to collect from a bankrupt city, Smith said.

"He can be the proud owner of an old waste-water treatment plant," he said.

It's also possible that a person could turn to the state, if a city were bankrupt, Smith said.

"You might decide the deeper pocket is to go after the state," since every city is a political subdivision of the state government, he said.

That's untested legal ground in Alaska, he added.

The cities that lost their insurance could get it back, Smith said, but it will take work. Not only must they make up the last four months, but they'll have to pay ahead several months.

They could get help if the Alaska Legislature approves a Murkowski proposal to give communities another one-time grant, with the smallest receiving \$25,000.

Several small cities that last year had feared the loss of state aid said Friday that they are still financially solvent, though it has required extreme measures.

"We're still floating," and keeping up with insurance payments, said Larsen King, mayor of the Nunivak Island village of Mekoryuk.

But to save money, the city has merged with the local tribe, he said. The arrangement allows the city to tap state aid whenever it can but share the cost of administering the city's government with the tribe.

To the north, the village of Kiana did the same thing, said Dolores Tuckfield, deputy director of Kiana Traditional Council. In a move driven largely by the loss of revenue sharing, the city contracted with the council to administer city services, she said.

"It's been a lot of work" to establish the new system, which began July 1, Tuckfield said. But

so far, it's working well, she said, and the city has stayed ahead of its insurance bills.

The Southeast logging village of Coffman Cove is also meeting its financial obligations, though not without some sacrifices, said city administrator Judy Willis.

"Our (insurance) payments aren't always on time," she said. "But we haven't got a cancellation notice yet. I think they're being generous."

Insurance is a major expense in the city of 165, Willis said. Even after paring away nonessential costs, it was still more than \$20,000 a year, she said.

Coffman Cove has survived the loss of state revenue sharing so far, Willis said. But there's not much more the community can cut or raise without help from the Alaska Legislature. Willis wants to allow second-class cities such as hers to levy a flat property tax — say, \$100 an acre. Current law prohibits property

taxes unless they're based on an assessment.

"If we had enough money to have everything assessed, we wouldn't need the tax," she said.

Otherwise, communities such as hers will have to rely on bake sales and raffles to raise money for expenses such as insurance and salaries, Willis said. She was going to a fund raiser Friday night for local sports teams. "Next week it's the fire department," she said.

Alaska's cities and boroughs received state aid for years. Some of the grants were specifically for public safety or construction. Others could be used for anything, including heating oil, city hall salaries and expenses such as insurance.

The three main sources of municipal aid dwindled over many years but finally expired when Gov. Frank Murkowski vetoed the last of them in 2003. Murkowski later used a federal grant to give municipalities a one-time check, which for the smallest communities was \$40,000.

Most cities absorbed the loss by cutting services, raising taxes and fees, or both. In small communities with fewer resources, the cuts meant reducing or shutting down popular services, such as snowplowing, teen centers and street lights.

But 10 communities, which Smith would not name, started falling behind on their monthly payments to the statewide insurance pool. This month, their insurance was canceled, he said.

The pool has "been carrying them for four months," Smith said. "I couldn't do it any longer." And another dozen or so communities are close to losing their insurance, as well, he said.

Cities are required to carry workers' compensation, and most provide it for their volunteer firefighters and emergency medical personnel, Smith said. Asked what the uninsured cities are doing now, he said, "panicking."

The Alaska Department of Labor could fine the cities for failing to insure their workers, Smith said. That would just drive the cities further into debt, he said.

If a worker got hurt or a visitor slipped on city property and successfully sued, there wouldn't be

See Page B-3, INSURANCE

Daily News reporter Joel Gay can be reached at...



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Tenakee eyes solutions to its fiscal crisis

Loss of revenue sharing means trouble for dozen small towns

It's not news to residents that Tenakee Springs has had some financial problems. But Shelly Wilson, mayor of the town of 150 people, said she was frightened when she realized how serious the problems are.

When Gov. Frank Murkowski stopped sharing revenues with local governments in 2004, Tenakee Springs lost \$40,000 a year. It is facing a \$25,000 deficit. The city is applying for a \$50,000 loan.

The Tenakee Springs City Council has proposed selling some city land to increase revenues and expects to put the issue on the ballot within the next two months. Council members also contemplated increasing the sales tax from 1 percent to 2 percent.

For the first time, the city might impose a property tax.

"These are some short-term solutions," Wilson said. "We look forward to receiving some funding from the state."

The Chichagof Island town is not alone.

According to the Alaska Municipal League, 14 small towns have contacted the state about formal dissolution or entered into an agreement with a tribe to resume city responsibilities - or simply have not held local elections. Twenty towns have had their insurance canceled for lack of payment.

An Alaska Municipal League report said the crises result from massive state cuts to cities at a time of skyrocketing local costs and economic downturn. In 2004, Alaska became one of a handful of states that eliminated its local government revenues-sharing programs.

"All the communities face the same problems," said Kevin Ritchie, executive director of Alaska Municipal League. "But the smallest communities, which have the smallest tax bases, have the biggest problems."

Becky Hultberg, spokeswoman for the governor, said Murkowski stopped the local government revenue-sharing program because he doesn't believe it is the state's responsibility to give block grants to local governments.

But Hultberg said when local governments experience the difficulties such as the rise of the fuel and the increase of the public employment retirement system, the state has a role in giving the community some temporary help.

In this session, Murkowski proposed giving \$6.5 million to towns with populations of fewer than 1,200 to help them deal with the rise in fuel prices. Towns with populations between 100 and 600, such as Tenakee Springs, can receive \$50,000. The governor also proposed to offer \$37.5 million for cities and \$77 million for school districts in the next two years to help them pay for the public employment retirement system.

"This is not ongoing funding. This is only temporary help," Hultberg stressed.

And that is exactly the problem, Ritchie said.

"Cities are part of the government," Ritchie said. "The Legislature is responsible for all the state to have some public services. Revenue-sharing is the most efficient way."

Wilson said she hopes the Alaska Legislature would approve the small city fuel assistance program as soon as possible.

"I will just pray we can hold that long," Wilson said. "I know it is just a one-time deal, though."

• I-Chun Che can be reached at ichun.che@juneauempire.com.

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State needs to share the windfall with cities

Some states would be envious of Alaska even in our worst budget times, but once again financial fortune has smiled on this state and the result will be hundreds of millions of unexpected dollars into its lap.

Revenue from record-high oil prices likely will close the state's \$360 million budget gap and send an additional \$500 million to its general fund. This rare stroke of luck isn't going to last forever and state leaders therefore need to make sure the extra income isn't squandered.

Education is at the top of the list of items that need greater funding. Juneau is not the only city in the state in which teachers struggle with classrooms of more than 30 students. Key to improving education in this state is reducing class size by increasing the state's allocation to schools. Gov. Frank Murkowski already has called for a \$126 million increase in spending for K-12 education over the next two years. The Alaska Legislature needs to follow up on that and make sure that some of this fleeting wealth brings improvements in classrooms across the state.

The Murkowski administration also is looking at putting money back into social-service programs, many of which have been trimmed in recent years. The governor is proposing \$6 million for children's services, \$1.5 million for juvenile justice and \$7.1 million for preventing drug and alcohol abuse. These are all wise investments and could save the state money down the road, particularly in the criminal justice system.

With its financial windfall, the state needs to make sure that it avoids two things: using the money for pet capital projects and leaving cities to strug-

gle on their own.

Too many schools and other public buildings are in need of maintenance that has been delayed because of tight budgets in recent years. These need to be brought up to par before money is frittered away on new capital projects, which will in time need maintenance of their own.

Most importantly, though, Alaska's legislators cannot leave cities out in the cold financially. Lawmakers have failed to take real action to solve the state's long-term budget problems. Too worried about their own political careers, legislators haven't made the tough decisions that are needed on broad-based taxes, increasing revenue from the oil industry or other measures that would bring long-term financial stability. What lawmakers have done is shift the burden to cities by slashing their state funding.

As revenue sharing with cities has been cut, local governments statewide have had to increase property taxes by 33 percent and at least 30 rural communities have had to cut essential services, such as road maintenance or public safety, according to the Alaska Conference of Mayors. Ten small towns have had to drop their municipal insurance program, which covers workers' compensation, natural disasters and other costs.

With the unexpected oil revenues, the state needs to share the wealth and restore funds to its Municipal Revenue Sharing program. Many of Alaska's small cities are desperate for a financial boost because of belt-tightening in recent years, and it's only fair that this windfall of cash should be used to bring them some relief.

January, 2005
Local Government Issue Paper
Alaska's Small Cities in Crisis



In 2003, there were 94 cities with annual local government operating budgets under \$300,000 per year, and averaging \$164,000, to provide public services for an entire community (according to State figures, DCED). From **2003 to 2005, those 94 cities** (out of a total of 146 cities in Alaska) **lost an average of approximately 42% of the revenue required to provide basic public services.** The crises are due to massive State cuts to cities at a time of skyrocketing local costs and economic downturns. In 2004, Alaska became one of only a handful of states that eliminated its local government revenue sharing programs. Most small rural cities operate in a cost effective manner with many part-time or volunteer positions. However, most of Alaska's small rural communities have very little local tax base due to cash poor subsistence economies.

2003 Average Operating Budget for two thirds of AK Cities	\$164,000
<u>Examples of Approximate 2003-04 Cuts/cost increases:</u>	-\$69,000)
2003 State Cuts to Revenue Sharing/Match Grants	-\$10,000)
2004 State Eliminates Revenue Sharing	-\$40,000)
Fuel/electricity/goods rise due to oil prices	-\$7,000)
Community insurance increases	-\$6,000)
State mandated increases (PERS)	-\$4,000)
New state inspection fees, service transfers, etc.	-\$2,000)

Growing Impacts of Loss of Revenue Sharing, etc.

It is difficult to know the status of small rural communities. Few that fail have the administrative capacity to take steps to formally dissolve. They simply layoff their employees, cease being able to hold elections, cancel insurance for community facilities, stop providing services, etc. In some cases tribes or other organizations take over key government services.

The following cities have either been unresponsive to contacts by the State, entered into an agreement with a tribe to assume city responsibilities, or contacted the State regarding formal dissolution: **Akhiok, Ambler, Chevak, Holy Cross, Hughes, Kiana, Kivalina, Koyukuk, Napaskiak, Nikolai, Platinum, Russian Mission, Scammon Bay.** Additionally, **15 cities** have had their insurance canceled for lack of payment to date, but the names of the cities cannot be released by the carrier. **That is 5 more canceled since the issue was reported in the news media early December, 2004.**

While it is too early to say that these cities have ceased operations, they are unquestionably in peril. While these are a quarter of Alaska's small cities, it appears that many more cities are also in serious decline. For example, according to the AML Joint Insurance Association that covers a large number of small cities, approximately 33 more cities are on month-to-month payment plans.

General Rural Alaska Conditions

- Extremely High Costs** e.g. Gas at \$5.15 a gallon
- Extremely High Unemployment** e.g. Unemployment at 50% or more
- Virtually No Property Tax Base** e.g. All of Ambler is assessed at \$3.5 million (i.e. low values and much non-taxable land.)
- Low revenue from sales tax** e.g. Despite the fact more cities have sales tax and many are raising it, it won't save them. Each 1% of sales tax in Ambler nets \$7500/year.
- Very Strong Stable Communities** Most rural communities have existed from hundreds to thousands of years.

Impacts of the loss of State support

- State impacts of loss of insurance** It appears that the State is the logical "deep pocket" for losses of uninsured cities in the Legislature's Unorganized Borough. One loss could exceed the cost of a revenue sharing program.
- Statewide economic impacts** Rural residents are moving to urban areas in accelerating numbers while urban jobs serving rural Alaska are declining. Currently an estimate^d one out of five urban jobs directly or indirectly serve other regions in Alaska. Rural communities attract a large amount of federal and foundation resources that cycle through urban economies.

Statistics to date

Per State DCCED,

- 9 cities no longer functioning
- 17 cities in deep debt
- 39 cities have terminated key local services this year (e.g. police, road/utility/facility maintenance)

Per AML Joint Insurance Association:

- 10 cities insurance canceled
- 33 cities on month to month payment plans due an inability to pay

Conclusion

Alaska faces the loss of half its city governments. Unlike an occasional western U.S. boom town that becomes a ghost town, this represents a growing widespread loss of historically stable and culturally rich communities.

MAR 02 2005

From
Fax
L10

File
HB 133

Written Testimony HB 133

This hearing is about borough organization but it is about annexation only. This is the only issue I would like to address is the aggregate vote regulation.

I would like to thank the members of the Community and Regional Affairs Committee for acting in a timely manner in holding this public hearing on HB 133.

Mr. Coghill and Mr. Harris have realized the un-fairness in the Aggregate vote section of the Local Boundary Commission regulations. Recent statements made by Mr. Jim Whitaker, Mayor of Fairbanks North Star Borough, that he use the Aggregate vote section as a method to annex a relatively low populated area, in order to generate \$8-9 million in real estate taxes mainly from the oil, gas, and mining industries while showing complete disregard for the actual residents of this area, is truly un-fair. This aggregate vote method truly represents fraud by allowing a densely populated borough to annex any low populated area deemed as a "target".

The population of any target area must be allowed to vote if they wish to be annexed: to vote yes or no and that vote must count and must not only be part of an aggregate vote which greatly out numbers the area to be annexed.

The current "aggregate vote" regulation of the Local Boundary Commission is quite similar to pre-war Germany's annexation of Czechoslovakia and Poland, i.e.: we want that territory, so we'll just take it!

We're supposed to have a government "of the governed", not a government that dictates to the governed. Let those in an area proposed to be annexed; vote yes or no to be annexed or not!

The aggregate vote method is not fair, moral or right.
Please vote yes on HB 133.

Bob Kallio
PO Box 73731
Fairbanks, AK 99707

This hearing is not about Borough Organization But
It is about Annexation Only This is the only Issue

X Start

would like to thank the members of the
Community and Regional Affairs^{Committee} for acting
in a timely manner in holding this public
hearing on AB 133[#]. ^{the only issue I wish to address is the}
Aggreate Vote Regulation

Mr Coghill and Mr Harris have realized
the un-fairness in the Aggreate Vote section
of the local Boundary Commission Regulations
Recent statements made by Mr Jim Whitacre
Mayor of Fairbanks Northstar Borough that he
would use the Aggreate Vote section as a
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area, in order to generate \$8-9 million
in new real estate taxes, mainly from
the oil, gas and mining industries while
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of this area, is truly un-fair.

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We have a government "of the governed"
not a government ~~to~~ ^{that} dictate to the governed.

Let those in an area preposed to be
Annexed; Vote Yes or No to be Annexed
or Not!

The Aggreate Vote method is not fair,
~~unusual~~ ^{un-right}

Please vote yes on HB 133[#]

Bob Kaller

Box 73731

FBKS AK 99707

~~Retention vs Aggreate Vote~~

1 of 1 DOCUMENT

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF ALASKA

File No. 366-084-85

1984 Alas. AG LEXIS 166; 1984-2 Op. (Inf.) Atty Gen. Alas. 361

November 9, 1984

TYPE: INFORMAL OPINION

SYLLABUS:

[*1]

SUBJECT: Federal Voting Rights Act of 1965

REQUESTBY:

Hon. Emil Notti, Commissioner
Department of Community and Regional Affairs

OPINIONBY:

Norman C. Gorsuch, Attorney General; Virginia B. Ragle, Assistant Attorney General, Governmental Affairs-
Juneau

OPINION:

MEMORANDUM

You have requested advice concerning the federal Voting Rights Act of 1965. n1 You have stated that this advice is needed in connection with the department's provision of assistance to the Local Boundary Commission and local governments.

n1 Pub. L. 89-110, August 6, 1965, 79 Stat. 437, as amended by the Voting Rights Act Amendments of 1970, Pub. L. 91-285, June 22, 1970, 84 Stat. 315, as amended by the Voting Rights Act Amendments of 1975, Pub. L. 94-73, August 6, 1975, 89 Stat. 400, as amended by the Voting Rights Act Amendments of 1982, Pub. L. 97-205, June 29, 1982, 96 Stat. 131, codified as 42 U.S.C. § 1973, et seq.

1. Federal Voting Rights Act of 1965

The State of Alaska and all of its political subdivisions are subject to the "preclearance" requirements of the federal Voting Rights Act. n2 Under that requirement, no change of voting qualification, prerequisite, standard, practice, or procedure may be enforced [*2] by the state or political subdivision until the change has been precleared. Two methods of preclearance are set out in the Act. First, the state or political subdivision can preclear the change by instituting in the U.S. District Court for the District of Columbia an action for declaratory judgment that the change does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority. Until the judgment is entered, the change may not be enforced.

1984 Alas. AG LEXIS 166, *; 1984-2 Op. (Inf.) Atty Gen. Alas. 361

n2 Section 5 of the Voting Rights Act, codified at 42 U.S.C. § 1973c.

The second and more commonly-used method of preclearance is to submit the change to the U.S. Attorney General. If the Attorney General affirmatively states that the change is not objectionable or interposes no objection within 60 days after the submission (or within 60 days after submission of any additional information requested by the Attorney General), the state or political subdivision may enforce the change. Under either method, it is the burden of the state or of the political subdivision to initiate and support the preclearance action or submission.

2. [*3] Changes that Must be Precleared

The U.S. Supreme Court has recognized that the preclearance provisions of section 5 of the Voting Rights Act were intended by Congress to "reach any state enactment which altered the election law of a covered State in even a minor way." *Allen v. State Board of Elections*, 393 U.S. 544 (1968). Changes that require preclearance include reapportionment plans, relocation of polling places, a change making an elective office appointive, change in candidate filing deadlines, change in the number of signatures required for petitions or the amount of information that petitioners must provide, changes in qualifications for candidacy, and a change from district to at-large voting. This is not an exhaustive list.

Most significant to the boundary commission is the fact that the Supreme Court has held:

Changing boundary lines by annexations which enlarges the city's number of eligible voters also constitutes the change of a "standard, practice, or procedure with respect to voting."

Perkins v. Matthews, 400 U.S. 379, 388 (1970). The Court reasoned that revision of boundaries affects voting in two ways:

(1) by including certain voters within the [*4] city and leaving others outside, it determines who may vote in a municipal election and who may not;

(2) it dilutes the weight of the votes of the voters to whom the franchise was limited before the annexation, and "the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise."

Id. (citing *Reynolds v. Sims*, 377 U.S. 533, 555 (1964)).

Since boundary changes are changes that require preclearance before they may be enforced, the boundary commission should include consideration of compliance with the Voting Rights Act in the standards and procedures it is required to develop under AS 44.47.567. Although it is the burden of the political subdivision to initiate an action or submission to preclear the change, the Local Boundary Commission should require that the annexation not be given effect until preclearance is obtained. n3

n3 This is so notwithstanding the provisions of article X, section 12, of the Alaska Constitution and AS 44.47.583 that boundary changes are effective 45 days after presentation to the legislature unless disapproved by resolution, because provisions of the federal Voting Rights Act supercede contrary provisions of state law. U.S. Const. art. IV, cl. 2.

[*5]

The boundary commission and a municipality that proposes an annexation should first determine whether the boundary change has an objectively verifiable legitimate purpose under state law. *City of Richmond, Virginia v. United States*, 422 U.S. 358 (1975). We understand that this determination is already included in the boundary commission's consideration of an annexation proposal. If the proposal is discriminatory in purpose, it is invalid.

If the boundary change has a legitimate purpose, it must be considered whether the change has a discriminatory effect. The boundary commission and municipality should determine whether there is a history of racial bloc voting in the municipality. If there is, an annexation that results in a reduction in the percentage of minority voters in the

1984 Alas. AG LEXIS 166, *; 1984-2 Op. (Inf.) Atty Gen. Alas. 361

municipality may have a discriminatory effect. The proposal may only be acceptable if the municipality adopts an apportionment system that fairly reflects the strength of the minority community as it exists after the annexation. At-large elections of city council members may be unacceptable, since Alaska law requires runoff elections if no candidate receives more than 40 percent of the vote for [*6] a given office. AS 29.28.040; City of Port Arthur v. United States, U.S. , 74 L.Ed.2d 334 (1982). Council members should be elected by districts or by a combination of district and at-large seats that assures that minority voters will not be underrepresented on the council.

3. Preclearance Submission Requirements

The procedure that should be followed by a municipality in submitting a change for preclearance is set out in regulations adopted by the U.S. Department of Justice, 28 C.F.R. part 51, subparts B and C. A copy of those regulations is attached.

4. Incorporation

We have found no case law that establishes that the incorporation of municipalities in the unorganized borough constitutes a change in voting qualification procedure, standard or practice that must be precleared before enforcement. If incorporation does constitute such a change, it would be the state's burden to preclear the change, since the proposed municipality would not yet be a political subdivision capable of submitting the change. Considerations of the Local Boundary Commission would be similar to those for annexation proposals. We are requesting written advice from the U.S. [*7] Department of Justice on this matter. Until that advice is received, we recommend that the Local Boundary Commission consider incorporation proposals as if the preclearance provisions do apply. The department should consider the requirements of 28 C.F.R. part 51 and be prepared to make a preclearance submission to the U.S. Department of Justice.

Please let us know if you need further advice.

HB

157

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSS HB 157
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue 04
 Title Elec/Phone Coop & Other Entities RDU Tax and Treasury
 Component Tax
 Sponsor Rep. Anderson, Thomas
 Requester (H) CRA Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	*	*	*	*	*	*
-------------------------------	---	---	---	---	---	---

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2005) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

* See page 2

Prepared by: Chuck Harlamert Phone 465-2320
 Division: Tax Division Date/Time 4/5/05 4:34 PM
 Approved by: Tom Boutin, Deputy Commissioner Date 4/5/2005
 Agency: Revenue

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSS HB 157

ANALYSIS CONTINUATION

We are unable to estimate the revenue impact, if any, of the bill.

AS 10.25.540(b) exempts telephone and electric cooperatives from all state taxes other than the cooperative tax under AS 10.25.550 or .555. We do not believe that this exclusion is intended to avoid requirements for collection or remittance of taxes on their members or other customers.

New section AS 10.25.020(8) specifies that cooperatives may own, in whole or in part, LLCs or corporations organized for any lawful purpose. Revenue does not have the expertise to opine whether the bill clarifies existing law or establishes new rights for the cooperatives. To the extent that the activities of these LLCs or corporations are attributed to the cooperative and not taxed as a separate entity, the cooperatives' tax exemption will shelter the LLC/Corporate activity from state taxation. The activity thus sheltered from tax would be limited to the portion of the LLC/Corporation's activity that is attributed to a cooperative.

Excise, ad valorem, and property taxes are imposed at the entity level and are not attributed to the owners of the entity. The LLC or corporation will pay any applicable motor fuel tax, property tax, local sales tax, or other non-income taxes. Therefore, the arrangement allowed under the bill will not avoid these taxes.

In contrast, income taxes are commonly attributed to the owner of the operating entity instead of the entity itself. An LLC that is either a single member LLC (owned wholly by the cooperative) or a multi-member LLC that elects to be treated as a partnership for tax purposes, the income of the LLC will be attributed to the owners. The LLC's activity will not be subject to corporate income taxes to the extent that the income is allocated to a cooperative. Thus, the income of a single member LLC owned by a cooperative, and the cooperatives' share of the income of a multi-member LLC electing partnership treatment, will be sheltered from state corporate net income tax.

This same "loophole", that of sheltering income through attribution to an exempt entity, is used by the majority of businesses operating in the state. Every S-corporation and every partnership or LLC electing partnership treatment and having individual partners/members achieves the same result under Alaska law.

New section AS 10.25.020(9) authorizes cooperatives to sell fuel that is not needed to generate electric energy. We believe that the state tax exemption for cooperatives does not extend to excuse cooperatives from collection and reporting requirements applicable to dealers of motor fuel. Cooperatives could experience financial hardship if they fail to collect tax on sales of taxable fuel and are later forced to pay the uncollected tax along with any interest owing. We recommend that the committee consider adding language to clarify the cooperatives' obligation to collect and remit motor fuel tax as a dealer under AS 43.40.010.

24-LS0562\L
Craver
3/31/05

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 157()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES ANDERSON, Thomas

A BILL

FOR AN ACT ENTITLED

1 **"An Act clarifying the powers of electric cooperatives to become members of or own**
2 **stock in other entities, and permitting electric cooperatives to sell fuel not needed to**
3 **generate electric energy."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 10.25.020 is amended to read:

6 **Sec. 10.25.020. Powers of electric cooperative.** An electric cooperative may

7 (1) generate, manufacture, purchase, acquire, accumulate, and transmit
8 electric energy, and distribute, sell, supply, and dispose of electric energy to its
9 members, to governmental agencies and political subdivisions, and to other persons
10 not exceeding 10 percent of the number of its members; however, a cooperative that
11 acquires existing electric facilities may continue service to persons, not in excess of 40
12 percent of the number of its members, who are already receiving service from these
13 facilities without requiring them to become members, and these persons may become
14 members upon the terms as may be prescribed in the bylaws;

1 (2) assist persons to whom electric energy is or will be supplied by the
2 cooperative in wiring their premises and in acquiring and installing electrical and
3 plumbing appliances, equipment, fixtures, and apparatus by financing them, and, in
4 connection with these service, wire or have wired the premises, and buy, acquire,
5 lease, sell, distribute, install, and repair electric and plumbing appliances, equipment,
6 fixtures, and apparatus;

7 (3) assist persons to whom electric energy is or will be supplied by the
8 cooperative in constructing, equipping, maintaining, and operating electric cold
9 storage or processing plants by financing them or otherwise;

10 (4) operate a waste heat distribution system;

11 (5) operate a heating distribution system that was in existence on
12 June 9, 1988;

13 (6) provide sewer, water, or gas utility service if the cooperative has
14 received a certificate of convenience and necessity under AS 42.05.221 - 42.05.281
15 from the former Alaska Public Utilities Commission or the Regulatory Commission of
16 Alaska for each type of service provided;

17 (7) provide direct satellite television programming services; in this
18 paragraph, "direct satellite television programming services" means a video broadcast
19 signal that is received directly from a satellite by an end user;

20 (8) become a member of other limited liability companies or
21 corporations organized for any lawful purpose, or own stock in them;

22 (9) sell fuel not needed to generate electric energy.

24-LS0562\Y
Craver
3/24/05

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 157()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES ANDERSON, Thomas

A BILL

FOR AN ACT ENTITLED

1 **"An Act permitting electric cooperatives to sell excess fuel not needed to generate**
2 **electric energy."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 10.25.020 is amended to read:

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3 connection with these services, wire or have wired the premises, and buy, acquire,
4 lease, sell, distribute, install, and repair electric and plumbing appliances, equipment,
5 fixtures, and apparatus;

6 (3) assist persons to whom electric energy is or will be supplied by the
7 cooperative in constructing, equipping, maintaining, and operating electric cold
8 storage or processing plants by financing them or otherwise;

9 (4) operate a waste heat distribution system;

10 (5) operate a heating distribution system that was in existence on
11 June 9, 1988;

12 (6) provide sewer, water, or gas utility service if the cooperative has
13 received a certificate of convenience and necessity under AS 42.05.221 - 42.05.281
14 from the former Alaska Public Utilities Commission or the Regulatory Commission of
15 Alaska for each type of service provided;

16 (7) provide direct satellite television programming services; in this
17 paragraph, "direct satellite television programming services" means a video broadcast
18 signal that is received directly from a satellite by an end user;

19 (8) sell excess fuel not needed to generate electric energy if that
20 fuel was originally purchased for planned electric energy generation.



Denali Commission
510 L Street, Suite 410
Anchorage, AK 99501

907.271.1414 *tel*
907.271.1415 *fax*
888.480.4321 *toll free*

Private Enterprise Policy

April 30, 2003

1. Objective

The purpose of this policy is to establish guidelines for infrastructure projects where private enterprise is involved.

2. General Policy

Economic development is a part of the mission of the Denali Commission. However, economic development is primarily a function of private enterprise. A fundamental prerequisite of economic development is basic sustainable public infrastructure such as transportation, sanitation facilities, energy and healthcare. Another important consideration is that for private enterprise to function efficiently a market large enough to support competition is necessary. When the necessary prerequisites are in place for the market to function efficiently, private enterprise tends to drive costs down and quality of service up.

However, in the small/isolated communities of Alaska, the market does not function efficiently or does not function at all. Frequently the needed public infrastructure is not in place and the market size is insufficient to support the competition necessary to encourage efficient market dynamics. This fact does not lessen the need for basic services like health care, light, heat and sanitation. The challenge is to harness the forces of private enterprise where they exist to provide needed services at an affordable price. Where private enterprise is inadequate or non-existent to achieve this purpose, consideration must be given to providing these services through other means.

3. General Provisions

The Denali Commission will embrace and support, in appropriate ways, private enterprise where it is functioning or can function efficiently and adequately to meet the needs of all members of the local community. The Commission will not support the replacement of or new structures for a publicly funded service to compete with services delivered by private enterprise as long as those services are:

1. Accessible to all members of a community including temporary members;
2. Reasonably priced when compared to comparable communities;
3. Predictably available and sustainable for the long term.

All proposals for new or upgraded infrastructure facilities to be funded with Denali Commission funds shall be evaluated on the basis of public benefits resulting from the project. A proposal for funding may be approved where the facility is or will be owned, operated, and/or maintained by private entities only if there is found to be a direct and substantial public benefit from the project.

Facilities funded in whole or in part by the Denali Commission may not be sold, leased, sub-leased, or interest otherwise assigned without the express approval of the Denali Commission or its successor agency. In any event, the facility shall continue to provide the originally intended public benefit until such time as that public need no longer exists or until the serviceable life of the facility has expired.

Funding decisions must take into account existing private enterprise in the community. Funding should not generally be used to create new or additional competition with existing private enterprise in the community. However in cases where an unregulated monopolistic or other wise inefficient condition exist in which current services are not available at fair and reasonable rates the Commission, after appropriate consultation, may consider funding projects that would contribute to more competitive rates.

4. Provisions Specific to Health Care

The Denali Commission seeks to support health care facilities in a manner which improves access to quality, affordable health services, be it by a private entity or a publicly funded one. The Denali Commission does not seek to create or enhance competition in an inefficient market. In this scenario, an inefficient market is one that cannot support two mutually exclusive health care providers. Given the economic fragility of rural health care systems, Denali Commission funding for health care facilities will be deployed in a manner which encourages a cooperative and collaborative arrangement for the health benefit of the community in question, and improves the sustainability of the overall care delivery system for that population. Denali Commission health facility funding supports systems that ensure access to care for everyone regardless of ability to pay. It is expected that a system that is exclusively private in rural Alaska will not be able to meet that criteria. Thus, some integration of public and private provider entities will likely be required in areas where any private provider system currently exists.

5. Provisions Specific to Bulk Fuel Storage

The developer of any bulk fuel storage consolidation project funded in whole or in part by Denali Commission funds will consult with all retail fuel suppliers within a community in the course of developing the project's conceptual design to ensure that their interests are understood and, to the extent feasible, dealt with in the course of conceptual design.

The existing market share balance among retail fuel suppliers within a community may be significantly altered as a result of a Denali Commission funding only if all of the affected retail fuel suppliers currently operating in the community agree to it or if such alteration is deemed necessary to facilitate competitive conditions in the community. For each type of fuel, the existing market share for a retail fuel supplier is defined as that supplier's existing in-service storage capacity as a percentage of the total gallons of existing in-service storage capacity for all retail fuel suppliers in the community.

Where multiple retail fuel suppliers are involved in a project, comparable levels of investment in project costs (based on market share) will be sought from each participating retail fuel supplier in the community, whether public or private.

Denali Commission funds may be used to upgrade or replace fuel storage facilities owned by private sector retail fuel suppliers if there is determined to be significant public benefit. However, to ensure that long term project benefits flow through to the public, such new or improved fuel storage and dispensing facilities will generally be owned by a local government entity which may lease the facilities to the private sector fuel supplier at a nominal cost or contract with the private sector fuel supplier for facility operation. The term of such lease or contract will be for the life of the assets, and is not transferable as an asset of the leaseholder without express written approval of the Denali Commission or its successor agency.

5. Implementation

Denali Commission partners will have full responsibility for implementing this policy. The Denali Commission will monitor to ensure satisfactory implementation. This policy may be modified or waived only by agreement of the Denali Commission Chief of Staff if it is determine that modification or waiver is in the public interest.

6. Appeals Process

Any decisions of the Chief of Staff may appealed to first to the Federal Co-chair and if deemed necessary to the full Commission.

Issued by:



Date:

May 29, 2003

ALASKA STATE HOUSE OF REPRESENTATIVES

Alaska State Capitol
Juneau, Alaska 99801
Room 432



Phone (907)-465-4939
Fax# (907)-465-2418

Representative Tom Anderson

FACSIMILE

To: Mark Hickey Fax: 586-2263

From: The Office of Rep. Anderson Date: 3/22/05

Re: HB 157 White Paper Pages: 4

CC: Pat Carter and Ray Gillespie

Urgent For Review Please Comment Please Reply Please Recycle

Notes:

Sorry this took so long. If you need anything else please let me know.

- Jon

HOUSE BILL NO. 157 BACKGROUND
MARCH 2005

I. Introduction.

House Bill No. 157, "An Act clarifying the powers of electric or telephone cooperatives to become members of or own stock in other entities," proposes to amend AS 10.25.010(a) to read:

Sec. 10.25.010. Powers of electric or telephone cooperative; prohibited action. (a) Except as provided in (b) of this section, an electric or telephone cooperative may

...

(9) become a member of other cooperatives, limited liability companies, or corporations organized for any lawful purpose, or own stock in them;

....

The purpose and function of this amendment are to (1) clarify the existing power of an electric or telephone to become a member of, or own stock in, other legal entities, and (2) expressly include limited liability companies (which did not exist in Alaska until 1994) as a type of legal entity in which a cooperative can become a member.

II. Background.

A. Current powers of electric and telephone cooperatives.

As it currently exists, the Alaska Electric and Telephone Cooperative Act (AS 10.25) grants electric and telephone cooperatives broad powers to conduct various activities. For example, AS 10.25.010 provides 14 various general powers of electric and telephone cooperatives. In addition to traditional powers closely related to the provision of electric and telephone utility services, those powers include the power to:

(9) become a member of other cooperatives or corporations or own stock in them; [and]

...

(14) do and perform any other act and thing, and have and exercise any other power which may be necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is organized.

AS 10.25.010(a).

In addition, AS 10.25.630 provides:

This chapter is complete in itself and is controlling. The provisions of any other law of the state relating to the organization of a corporation, except as provided in this chapter, do not apply to a cooperative organized under this chapter. The enumeration of an object, purpose, power, manner, method or thing does not exclude like or similar objects, purposes, powers, manners, methods or things.

B. The current power to become members of, or own stock in, other legal entities.

As stated above, by statute, Alaska electric and telephone cooperatives, themselves, have the power to engage in a broad range of activities. In addition, through AS 10.25.010(a)(9), as it is currently written, electric and telephone cooperatives can also form subsidiary corporations or cooperatives either through becoming a member of other cooperatives or corporations or by owning stock in them. Ownership in a cooperative, and often in a non-profit corporation, occurs through "membership" in that entity. Ownership in a for-profit corporation occurs through ownership of "stock" in the corporation.

The power to become a member of, or own stock in, another cooperative or corporation allows a cooperative to own all or a portion of another legal entity that conducts activities separate from the cooperative's utility operations. Examples of this could include a cooperative purchasing stock in a publicly traded corporation for investment purposes, or owning all of the stock or membership interest of another corporation that performs services in which the cooperative is interested or has operational experience and expertise. For example, cooperatives often have wholly-owned subsidiary corporations that provide educational services and scholarships to members of the cooperative. In addition, some cooperatives form subsidiary corporations that separately provide other types of services, including Internet and miscellaneous contracting services.

III. The proposed amendment in HB 157 clarifies the power to become a member of, or own stock in, other legal entities "organized for any lawful purpose."

Again, AS 10.25.010(a)(9) already provides the power for an electric or telephone cooperative to "become a member of other cooperatives or corporations or own stock in them." The statute does not limit this power in any way, but there are no published Alaska court decisions that have addressed this power. In other states, however, courts have recently addressed challenges to the power of electric cooperatives to own stock in for-profit subsidiaries. Typically, the issue has arisen when an electric cooperative owns stock in a subsidiary corporation that sells propane gas to the cooperative's members. In those cases, competing propane distributors have challenged the cooperative's power to own a subsidiary corporation whose activities extend beyond the narrow activity of providing electric energy.

In recent decisions, courts in Alabama, Colorado, and Kentucky have held that an electric cooperative has the power to own a subsidiary corporation that provides propane gas service. However, courts in Georgia, Mississippi, and Texas have held that electric cooperatives cannot own subsidiary corporations that provide services not associated the provision of electric energy. Although the specific language of the particular cooperative statutes that were interpreted in those

cases vary in different ways from the language of the Alaska co-op statute, those cases could be cited in the future to help interpret cooperative powers in Alaska.

Given these recent conflicting court decisions from other states, there is a concern that AS 10.25.010(a)(9) could be misinterpreted in the future to inflict an unintended and uncreated

**HOUSE BILL NO. 157 BACKGROUND
MARCH 2005**

I. Introduction.

House Bill No. 157, "An Act clarifying the powers of electric or telephone cooperatives to become members of or own stock in other entities," proposes to amend AS 10.25.010(a) to read:

Sec. 10.25.010. Powers of electric or telephone cooperative; prohibited action. (a) Except as provided in (b) of this section, an electric or telephone cooperative may

...

(9) become a member of other cooperatives, limited liability companies, or corporations organized for any lawful purpose, or own stock in them;

....

The purpose and function of this amendment are to (1) clarify the existing power of an electric or telephone to become a member of, or own stock in, other legal entities, and (2) expressly include limited liability companies (which did not exist in Alaska until 1994) as a type of legal entity in which a cooperative can become a member.

II. Background.

A. Current powers of electric and telephone cooperatives.

As it currently exists, the Alaska Electric and Telephone Cooperative Act (AS 10.25) grants electric and telephone cooperatives broad powers to conduct various activities. For example, AS 10.25.010 provides 14 various general powers of electric and telephone cooperatives. In addition to traditional powers closely related to the provision of electric and telephone utility services, those powers include the power to:

(9) become a member of other cooperatives or corporations or own stock in them: [and]

...

(14) do and perform any other act and thing, and have and exercise any other power which may be necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is organized.

AS 10.25.010(a).

In addition, AS 10.25.630 provides:

This chapter is complete in itself and is controlling. The provisions of any other law of the state relating to the organization of a corporation, except as provided in this chapter, do not apply to a cooperative organized under this chapter. The enumeration of an object, purpose, power, manner, method or thing does not exclude like or similar objects, purposes, powers, manners, methods or things.

B. The current power to become members of, or own stock in, other legal entities.

As stated above, by statute, Alaska electric and telephone cooperatives, themselves, have the power to engage in a broad range of activities. In addition, through AS 10.25.010(a)(9), as it is currently written, electric and telephone cooperatives can also form subsidiary corporations or cooperatives either through becoming a member of other cooperatives or corporations or by owning stock in them. Ownership in a cooperative, and often in a non-profit corporation, occurs through "membership" in that entity. Ownership in a for-profit corporation occurs through ownership of "stock" in the corporation.

The power to become a member of, or own stock in, another cooperative or corporation allows a cooperative to own all or a portion of another legal entity that conducts activities separate from the cooperative's utility operations. Examples of this could include a cooperative purchasing stock in a publicly traded corporation for investment purposes, or owning all of the stock or membership interest of another corporation that performs services in which the cooperative is interested or has operational experience and expertise. For example, cooperatives often have wholly-owned subsidiary corporations that provide educational services and scholarships to members of the cooperative. In addition, some cooperatives form subsidiary corporations that separately provide other types of services, including Internet and miscellaneous contracting services.

III. The proposed amendment in HB 157 clarifies the power to become a member of, or own stock in, other legal entities "organized for any lawful purpose."

Again, AS 10.25.010(a)(9) already provides the power for an electric or telephone cooperative to "become a member of other cooperatives or corporations or own stock in them." The statute does not limit this power in any way, but there are no published Alaska court decisions that have addressed this power. In other states, however, courts have recently addressed challenges to the power of electric cooperatives to own stock in for-profit subsidiaries. Typically, the issue has arisen when an electric cooperative owns stock in a subsidiary corporation that sells propane gas to the cooperative's members. In those cases, competing propane distributors have challenged the cooperative's power to own a subsidiary corporation whose activities extend beyond the narrow activity of providing electric energy.

In recent decisions, courts in Alabama, Colorado, and Kentucky have held that an electric cooperative has the power to own a subsidiary corporation that provides propane gas service. However, courts in Georgia, Mississippi, and Texas have held that electric cooperatives cannot own subsidiary corporations that provide services not associated with the provision of electric energy. Although the specific language of the particular cooperative statutes that were interpreted in those

cases vary in different ways from the language of the Alaska co-op statute, those cases could be cited in the future to help interpret cooperative powers in Alaska.

Given these recent conflicting court decisions from other states, there is a concern that AS 10.25.010(a)(9) could be misinterpreted in the future to infer an unintended and unstated limitation on the power of a cooperative to become a member of, or own stock in, other legal entities. That is, a litigant might attempt to argue that the statute should be interpreted to limit a cooperative's power to own a subsidiary to allow only ownership of entities that provide traditional electric or telephone utility services. Although there is no such limitation in AS 10.25.010(a)(9) as it currently exists, the uncertainty created by the conflicting court decisions makes it prudent to clarify that AS 10.25.010(a)(9) imposes no such limitation.

HB 157 proposes to clarify AS 10.25.010(a)(9) by adding the clause "organized for any lawful purpose." As amended, AS 10.25.010(a)(9) would provide that an electric or telephone cooperative may "become a member of other cooperatives, limited liability companies, or corporations organized for any lawful purpose, or own stock in them;". The addition of "organized for any lawful purpose" will clarify that the power of a cooperative to own an interest in another entity is not limited to only those entities that provide electric or telephone utility services.

This amendment simply preserves and clarifies the status quo with respect to cooperatives as they provide diversified services with meaningful benefits to their members. Particularly in rural areas of Alaska, co-op subsidiaries can fulfill important needs that are not directly associated with the provision of traditional electric or telephone utility service and that are, in many cases, requested by local residents.

For example, in some rural areas, cost-effective and environmentally sound bulk fuel storage, facilities maintenance, and delivery are lacking. This is an activity in which rural electric cooperatives have experience and expertise. Through membership or ownership interests in subsidiary entities, electric cooperatives may be able to provide those types of services more safely and at a lower cost than would otherwise occur.

The other change to AS 10.25.010(a)(9) proposed in HB 157 is the addition of "limited liability companies" as a legal entity in which a cooperative may become a member. Limited liability companies (LLCs) are a relatively new type of member-owned legal entity. They were first recognized in Alaska in 1994 and are codified in the Alaska Revised Limited Liability Company Act, AS 10.50. LLCs did not exist when AS 10.25.010(a)(9) was adopted. However, LLCs are increasingly becoming preferred over corporations and cooperatives for many types of non-profit and for-profit organizations, including subsidiaries. Even though LLCs are not prohibited by the current statute, the addition of "limited liability companies" in HB 157 clarifies this by expressly including LLCs as a type of legal entity in which an electric or telephone cooperative may become a member.

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Bristol Bay Borough

March 25, 2005

Legislators:

The Bristol Bay Borough supports House Bill No. 157, expanding the powers given to electric or telephone cooperatives. We feel it is important to provide as many avenues as possible to reduce costs in rural Alaska. It will be impossible for rural Alaska to reduce costs if we are forced to do business with the limited existing companies presently providing services.

House Bill No.157 will afford an opportunity for electric or telephone cooperatives to work together to reduce costs, that until now remained fixed or on the increase.

THE BRISTOL BAY BOROUGH SUPPORTS HOUSE BILL 157 AND URGES THE ALASKA STATE LEGISLATURE TO PASS THIS ACT.

Thank you,

A handwritten signature in cursive script, appearing to read "Fred W. Pike".

Fred W. Pike, BBB mgr.



ALASKA POWER ASSOCIATION R E S O L U T I O N

1.6) A Resolution Supporting Legislative Action to Clarify the Cooperative's Ability to become the Full-Service Energy Provider in the Communities that they Serve

Alaska's electric cooperatives are increasingly receiving requests from their members asking the cooperative to become the full-service energy supplier in the community, supplying not only electric energy but also home heating oil and other forms of energy. Recent court cases in other states (notably, Georgia, Texas, and Mississippi) have called into question the ability of Alaska's electric cooperatives to form subsidiaries to respond to these member needs.

Alaska Power Association urges legislative action that would confirm Alaska's electric cooperatives' ability to meet this need by amending AS 10.25.010(a), Powers of electric or telephone cooperative, to include a new subsection to read:

(15) Become a member of or own stock in a corporation, limited liability company or subsidiary, organized for a lawful purpose or purposes for which a corporation or company may be organized.

Approved 12/04 by Alaska Power Association Board of Directors

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Eleanor Wolfe

From: Chuck Harlamert [chuck_harlamert@revenue.state.ak.us]
Sent: Tuesday, March 29, 2005 5:07 PM
To: Eleanor Wolfe
Cc: Jerry Burnett
Subject: HB 157 Comments

Eleanor,

AS 10.25.540(b) exempts cooperatives from state taxes other than the cooperative tax under AS 10.25.550 or .555.

HB 157 enables cooperatives to own, in whole or in part, LLCs or corporations organized for any lawful purpose. To the extent that the activities of these LLCs or corporations are attributed to the cooperative(s) and not taxed as a separate entity, the cooperatives' tax exemption will shelter the LLC/Corporate activity from taxation. The activity thus sheltered from tax would be limited to the portion of the LLC/Corporation's activity that is attributed to a cooperative.

Excise, ad valorem, and property taxes are imposed at the entity level and are not attributed to the owners of the entity. The LLC or corporation will pay any applicable motor fuel tax, property tax, sales tax, or other non-income taxes. Therefore, the arrangement allowed under the bill will not avoid tax, but may expose to taxation the activities or property previously under the cooperatives' exemption.

By contrast, income taxes are commonly attributed to the owners of the operating entity instead of the entity itself. Under the bill, if the LLC is either a single member LLC (owned wholly by the cooperative) or a multi-member LLC that elects to be treated as a partnership for tax purposes, the income of the LLC will be attributed to the owner(s) and taxed (or not in the case of a cooperative) at the owner's level. Thus, the income of a single member LLC owned by a cooperative, and the cooperatives' share of the income of a multi-member LLC electing partnership treatment, will be sheltered from state corporate net income tax.

This "loophole" is, at least in theory, bad tax policy. However, this same loophole of sheltering income through attribution to an exempt entity is used by the majority of businesses operating in the state. Every S-corporation and partnership with individual partners achieves the same result under current law. It is probably not fair to say that the bill generates unfair competition or tax disparity between the cooperative and other businesses that compete with the LLCs authorized under the bill.

If you want to prevent this sheltering you can:

- 1) Restrict the activities of the LLC to those consistent with the cooperatives' purpose. The net effect would be to allow the cooperatives to partner up among themselves or with private business. This would not prevent sheltering, but would not expand it beyond its current reach. It is possible that income and loss allocations between taxable members and non-taxable cooperative members could be structured to shelter income under this option.
- 2) Restrict LLC membership to cooperatives. This would allow cooperatives to team up. It may enable cooperatives to conduct activities that they are not authorized to conduct under existing law. Indirect sheltering would result to the extent that the activity displaced taxable activity conducted by others.
- 3) Restrict LLC membership to cooperatives and restrict LLC activities to those consistent with the cooperatives' purpose. This would avoid any potential for income sheltering could not, in fairness, be said to displace taxable activity conducted by others by virtue of advantageous taxation.

Let me know if you have any questions. I will plan on being available for questions Thursday morning.

Chuck

3/30/2005

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Truth-in-Billing and Billing Format)	CC Docket No. 98-170
)	
National Association of State Utility Consumer)	CG Docket No. 04-208
Advocates' Petition for Declaratory Ruling)	
Regarding Truth-in-Billing)	
)	
)	

**SECOND REPORT AND ORDER, DECLARATORY RULING, AND
SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

Adopted: March 10, 2005

Released: March 18, 2005

By the Commission: Chairman Powell and Commissioner Abernathy issuing separate statements;
Commissioners Copps and Adelstein approving in part, dissenting in part, and issuing separate statements.

Comment Date: 30 days after publication in the Federal Register.

Reply Comment Date: 60 days after publication in the Federal Register.

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I. INTRODUCTION

1. In this item, we address a Petition for Declaratory Ruling filed by the National Association of State Utility Consumer Advocates (NASUCA) seeking to prohibit telecommunications carriers from imposing any separate line item or surcharge on a customers' bill that was not mandated or authorized by federal, state or local law.¹ In light of the significant consumer concerns with the billing practices of wireless and other interstate providers raised in this proceeding and outstanding issues from the 1999 *Truth-in-Billing Order and Further Notice*,² we also take this opportunity to reiterate certain aspects of our existing rules and policies affecting billing for telephone service. Specifically, we: 1) remove the existing exemption for Commercial Mobile Radio Service (CMRS) carriers from 47 C.F.R. § 64.2401(b) – requiring that billing descriptions be brief, clear, non-misleading and in plain language; 2) reiterate that non-misleading line items are permissible under our rules; 3) reiterate that it is misleading to represent discretionary line item charges in any manner that suggests such line items are taxes or charges required by the government; 4) clarify that the burden rests upon the carrier to demonstrate that any line item that purports to recover a specific governmental or regulatory program fee conforms to the amount authorized by the government to be collected; and 5) clarify that state regulations requiring or prohibiting the use of line items for CMRS constitute rate regulation and are preempted under section 332(c)(3)(A).

2. In addition, in a Further Notice of Proposed Rulemaking, we propose and seek comment on certain measures to facilitate the ability of telephone consumers to make informed choices among competitive telecommunications service offerings. In particular, we: 1) tentatively conclude that where carriers choose to list charges in separate line items on their customers' bills, government mandated charges must be placed in a section of the bill separate from all other charges; 2) seek comment on the distinction between government "mandated" and other charges; 3) seek comment on whether it is unreasonable to combine federal regulatory charges into a single line item; and 4) tentatively conclude that carriers must disclose the full rate, including any non-mandated line items and a reasonable estimate of government mandated surcharges, to the consumer at the point of sale, and that such disclosure must occur *before* the customer signs any contract for the carrier's services. In an effort to address the potential for balkanized state regulation of CMRS and other interstate carrier billing practices, we also

¹ Petition for Declaratory Ruling, filed by National Association of State Utility Consumer Advocates' (March 30, 2004) (NASUCA Petition). NASUCA is an association of 44 consumer advocates designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts.

² *Truth-in-Billing and Billing Format*, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, 14 FCC Rcd 7492 (1999) (*Truth-in-Billing Order and/or Further Notice*).

authorized fees." NASUCA argues that allowing the inclusion of line items that are not mandated or authorized by the government violates the Truth-in-Billing principles and rules, the *USF Contribution Order*, and both sections 201(b) and 202 of the Act.

B. Discussion

1. NASUCA Petition

23. We deny NASUCA's request for a Declaratory Ruling prohibiting telecommunications carriers from imposing any line items or charges that have not been authorized or mandated by the government. There is no general prohibition against the use of line items on telephone bills under our rules or the Act. As NASUCA has acknowledged, nothing in the *Truth-in-Billing Order* prohibits carriers from using non-misleading line items.⁵⁹ To the contrary, the *USF Contribution Order* states that while carriers cannot include administrative costs under the umbrella of regulatory charges, they may recover such costs through their rates or "other line items."⁶⁰ The truth-in-billing rules require that charges contained on telephone bills be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered.⁶¹ If carriers choose to offer descriptions of various charges in the form of line items, however, there is nothing in the existing Truth-in-Billing requirements to prevent them from doing so.⁶² Nor do we believe there is any basis to conclude that such a practice is "unreasonable" under section 201(b). As several commenters have noted, the provision of accurate and non-misleading information on a telephone bill may be useful information to the consumer in better understanding the charges associated with their service and making informed cost comparisons between carriers.⁶³ In sum, we reiterate that carriers are not prohibited *per se* under our existing Truth-in-Billing rules or the Act from including non-misleading line items on telephone bills.⁶⁴

⁵⁹ See generally *Truth-in-Billing Order*, 14 FCC Rcd 7492; see also NASUCA Petition at 8, and n.16. See also AT&T Comment at 5 (no Commission order or rule that prohibits impositions of line-item charges).

⁶⁰ See *USF Contribution Order*, 17 FCC Rcd at 24979, para. 55. See also Sprint Comments at 6 (citing the *USF Contribution Order* and E911 proceeding); USTA Comments at 4 (the only unresolved matter is how to standardize line items); Verizon Comments at 3-5 (the Commission has expressly authorized the recovery of specific line item surcharges in Commission proceedings such as the *USF Contribution Order*, and proceeding regarding Local Number Portability fees); BellSouth Comments at 5 (NASUCA has failed to show a controversy or uncertainty).

⁶¹ 47 C.F.R. § 64.2401(b).

⁶² See Sprint Comments at 15 and AT&T Comments at 10, 13 (the Commission left it up to the carriers to decide how to meet Truth-in-Billing requirements).

⁶³ See, e.g., CTIA Comments at 3; Global Crossing Comments at 2; Verizon Wireless Comments at 14.

⁶⁴ We note that this finding does not alter the role of any other specific prohibition or restriction on the use of line items. For example, this Commission has prohibited line items for interstate Telephone Relay Service (TRS) costs. See *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking, 8 FCC Rcd 1802, 1806, para. 22 (1993). See also Report and Order and Request for Comments, 6 FCC Rcd 4657, 4664, para. 34; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order, 19 (continued....)

1. Billing of Government Mandated and Non-Mandated Charges

38. In the *Truth-in-Billing Order*, the Commission required carriers that list charges in separate line items to identify certain of such line item charges through standard industry-wide labels and to provide full, clear and non-misleading descriptions of the nature of the charges.¹⁰⁹ The Commission sought comment on the specific labels that carriers should adopt, while tentatively concluding that such labels will, without unduly burdening carriers, identify adequately the charges and provide consumers with a basis for comparison among carriers.¹¹⁰ In addition, while declining to formulate standardized descriptions for billed services, the Commission encouraged carriers to develop uniform terminology for such descriptions.¹¹¹ The Commission also encouraged industry and consumer groups to consider further whether some categorization of charges would be advisable.¹¹²

39. Nearly six years after adoption of the *Truth-in-Billing Order*, the record reflects that consumers still experience a tremendous amount of confusion regarding their bills,¹¹³ which inhibits their ability to compare carriers' service and price offerings, in contravention of the pro-competitive framework of the 1996 Act. To help alleviate this situation, consistent with our prior finding,¹¹⁴ as well as the recommendations of commenters such as the Ohio PUC,¹¹⁵ we tentatively conclude that where carriers choose to list charges in separate line items on their customers' bills, government mandated charges must be placed in a section of the bill separate from all other charges. We also solicit comment on how we should define the distinction between mandated and non-mandated charges for truth-in-billing purposes.

a. Distinction Between Mandated and Non-Mandated

40. We solicit comment on how we should define the distinction between mandated and non-mandated charges for truth-in-billing purposes. Should we define government "mandated" charges as amounts that a carrier is *required* to collect directly from customers, and remit to federal, state or local governments? Under this definition, some examples of mandated charges would include state and local

¹⁰⁹ See *Truth-in-Billing Order and Further Notice*, 14 FCC Rcd at 7522-23, 7525-26, paras. 50, 55.

¹¹⁰ See *id.* at 7537, para. 71. We will address these issues in the order that we adopt in response to this *Truth-in-Billing Second Further Notice*. Given that it has been over five and a half years since the comment cycle on the *Truth-in-Billing Further Notice* closed, we encourage commenters to refresh the record on these issues.

¹¹¹ See *Truth-in-Billing Order*, 14 FCC Rcd at 7518-19, para. 43.

¹¹² See *id.* at 7526, para. 55. The Commission provided as an example one method that carriers may use to provide clear descriptions of services rendered would be to identify a section of the telephone bill as "long distance service," followed by an itemized description of calls. See *id.* at 7517-18, para. 41.

¹¹³ See *supra* paras. 16 and 24; but see *Verizon Wireless Jan. 25 Ex Parte* at 6 n.27 (asserting that the record in this proceeding "contains no credible evidence that CMRS providers fail to provide consumers with clear and non-misleading information they need to make informed choices").

¹¹⁴ See *supra* para. 27.

¹¹⁵ See generally, e.g., Ohio PUC Comments at 2.

taxes, federal excise taxes on communication services,¹¹⁶ and some state E911 fees. Non-mandated charges then could be defined as comprised of government authorized but discretionary fees, which a carrier must remit pursuant to regulatory action but over which the carrier has discretion whether and how to pass on the charge to the consumer. Under this definition, some examples of non-mandated, government authorized but discretionary charges would include state Telecommunications Relay Service¹¹⁷ and universal service charges.¹¹⁸ Another form of non-mandated charges also would include administrative fees and other purely discretionary charges.¹¹⁹ We believe that these definitions would be consistent with the settlement agreements between Attorneys General from 32 states and Verizon Wireless, Cingular Wireless, and Sprint PCS,¹²⁰ and with our precedents. For instance, discussing the universal service charge in the *Truth-in-Billing Order*, the Commission stated:

[W]e would not consider a description of that charge as being "mandated" by the Commission or the federal government to be accurate. Instead, it is the carriers' business decision whether, how, and how much of such costs they choose to recover directly from consumers through separately identifiable charges. Accordingly, to state or imply that the carrier has no choice regarding whether or not such a charge must be included on the bill . . . would be misleading.¹²¹

Similarly, after discussing carrier imposition of line items for charges such as access charge recovery and universal service, the Commission expressed concern that consumers may be confused about the nature of these charges, because the "names associated with these charges as well as accompanying descriptions (or entire lack thereof) may convince consumers that all of these fees are federally mandated."¹²²

¹¹⁶ See 26 U.S.C. § 4251.

¹¹⁷ See *supra* note 64.

¹¹⁸ Government authorized but discretionary charges only could include those costs that are directly related to the specific governmental program or action that the line item purports to recover. See *supra* para. 26.

¹¹⁹ Though carriers may recover such costs, we emphasize that carriers may not include such costs in the line item purporting to recover costs directly related to the specific underlying governmental program or action. For example, while carriers may recover administrative and other costs related to collection of universal service charges from end users, carriers may not include such costs as part of a line item for "regulatory fees or universal service charges." See *supra* para. 28.

¹²⁰ See, e.g., Verizon AVC at 14, para. 36(a), stating that on consumers' bills, carriers will separate "taxes, fees, and other charges that [carriers are] required to collect directly from Consumers and remit to federal, state, or local governments . . . from . . . all other discretionary charges (including, but not limited to, Universal Service Fund fees)."

¹²¹ *Truth-in-Billing Order*, 14 FCC Rcd at 7527, para. 56 (citations omitted). The Commission further noted that its view was consistent with the then-recent decision of the Federal-State Joint Board on Universal Service recommending that the Commission "'prohibit carriers from depicting [universal service] charges as . . . mandated by the Commission or the federal government by terms or placement on the bill.'" *Id.* (citations omitted).

¹²² *Id.* at 7524-25, para. 53.

**SEPARATE STATEMENT OF
COMMISSIONER MICHAEL J. COPPS,
APPROVING IN PART, DISSENTING IN PART**

Re: *Truth-in-Billing and Billing Format; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing, Order, Declaratory Ruling and Second Further Notice of Proposed Rulemaking (CC Docket No. 98-170, CG Docket No. 04-208)*

My starting point here is that competitive communications markets function best when consumers have access to accurate and meaningful information. When end users have the facts—and have access to those facts in an understandable format—they can make informed choices. Too often, we know, that's not the case. Most phone bills make my point. It's baffling how complicated they are. The explosion of new services and the line items and fees accompanying them have made it more difficult than ever for consumers to compare rates and shop around. You need an accountant or a lawyer—preferably both—to root out what you're being charged for and why.

This is what led NASUCA last year to file a Petition for Declaratory Ruling. NASUCA asked the Commission to prohibit carriers from imposing line items unless the charges are mandated by government action. This is perhaps not the cure for all of our billing ills. It could actually have the unintended effect of inhibiting national wireless one-rate plans. Nevertheless, this petition was the ideal vehicle for the Commission to initiate a fresh dialogue on how to make bills more honest, readable and easy to understand.

I don't believe we are taking advantage of this opportunity. We take one step forward by applying basic truth-in-billing to wireless services. That's good. Then, amazingly, given the language we hear today on how pro-consumer this Order is, the majority proceeds to put the kibosh on state consumer protection efforts. Now I support the decision to require that wireless carrier billing descriptions be brief, clear and non-misleading. But I must dissent to the majority's decision to preempt state efforts to curb line item abuses or to require that such charges be explained.

The majority says preemption is compelled by the law. This is an incredibly cramped interpretation that ignores the plain meaning of the statute. Congress specifically prohibited states from regulating wireless "rates" but reserved for states the ability to regulate "other terms and conditions." State efforts to curtail or require line item explanations are *not* exercises in ratemaking. The legislative history bears me out. It describes the "other terms and conditions" reserved for the states as "such matters as customer billing information and practices." The majority blows breezily by the will of Congress in pursuit of its fixation—or at least its present curious flirtation—with federal preemption.

The majority says that preemption does not preclude state laws of general applicability. Commenters here tell us that state laws as diverse as the Texas Deceptive Trade Practices Act and the Vermont Universal Service Fund Collection Statute may be preempted. Tennessee may find that its billing mechanism to support enhanced 911 services is suddenly suspect. The record suggests that the fate of Washington State's 911 funding system may be similarly uncertain. Indiana's effort to curb line item abuses through that state's Utility Receipts Act may be cut short, and Maine's initiative to make wireless service pricing more transparent is now in question. Many other states may lose authority over consumer billing complaints. It will take some time for states to survey the debris from this erosion of cooperative federalism. And there may be further wreckage on the horizon, because in the Notice of

Proposed Rulemaking accompanying today's Order, the majority tentatively concludes that it should preempt *all* state laws involving billing clarity that are more extensive than our minimal federal requirements. As I understand it, this could even apply to wireline as well as to wireless bills.

The majority says that with the states preempted, the Commission will not hesitate to enforce its truth-in-billing requirements. But to date all the Commission has done is hesitate. In the six years since adoption of our truth-in-billing requirements, I cannot find a single Notice of Apparent Liability concerning the kind of misleading billing we are talking about today—the only ones I find involve *slamming*. Yet in the last year alone, the Commission received over 29,000 non-slamming consumer complaints about phone bills.

So we are very likely doing more harm than good here. Lots of people agree with me. Nearly 14,000 consumers have written the Commission urging us not to take this kind of action. Their concerns are echoed in the comments of the AARP, Consumers Union, the National Consumer Law Center, the Massachusetts Union of Public Housing Tenants, the National Consumers League, the Governor of Maine, the Maine Department of Attorney General, the Massachusetts Office of the Attorney General, the Utility Reform Network, the Utility Consumers Action Network, the Vermont Public Service Board, the Minnesota Department of Commerce, the Office of the People's Counsel for the District of Columbia, the Indiana Utility Regulatory Commission, the Office of the Attorney General of Texas, the Tennessee Emergency Communications Board, the Iowa Utilities Board, the New Jersey Division of the Ratepayer Advocate, the National Association of State Utility Commissioners and others. Yet we forge ahead, bypassing the opportunity NASUCA gave us to rein in incomprehensible bills. I'm afraid consumers will remember that when they called this Commission for help understanding their phone bills, we hung up.

HB

160

ALASKA STATE LEGISLATURE

Vice Chair:
House Finance Committee

Chair:
House Finance Subcommittees for,
Department of Public Safety
Department of Law



Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-4958
Fax: (907) 465-4928

Interim:
PO Box 464
Chugiak, AK 99567

BILL STOLTZE

State Representative

Representative_Bill_Stoltze@legis.state.ak.us

House Bill 160

Public Funds & Ballot Props/Candidates

"An Act limiting the use of money of the state and its political subdivisions to affect an election."

Under the current statutes, public money can be used to influence the outcome of an election concerning a ballot proposition or question. Residents of the state and municipalities within the state do not have a say in whether or not their government should use public funds to sway the outcome of a vote.

HB 160 will prevent the state and local governments from using public funds to influence the outcome of a ballot proposition.

The provisions of HB 160:

- Prevents the State of Alaska, the University of Alaska, municipalities, school districts, and other political subdivisions of the state from using public funds to influence the outcome of a ballot proposition.
- Limits the Division of Elections and municipal election officials to only: disseminate information about the time and place of an election and to hold an election, and provide the public with the information already in statute for election pamphlets (AS 15.58.020).

I ask for your consideration and support of HB 160 to pass this modest piece of campaign finance reform.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

24-LS0586F
Kurtz
4/6/05

CS FOR HOUSE BILL NO. 160()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES STOLTZE, Neuman

A BILL

FOR AN ACT ENTITLED

1 **"An Act limiting the use of money of the state and its political subdivisions to affect an**
2 **election."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 15.13.145(a) is amended to read:

5 (a) Except as provided in (b) and (c) of this section, each of the following may
6 not use money held by the entity to influence the outcome of the election of a
7 candidate to a state or municipal office or the outcome of an election concerning a
8 state ballot proposition:

- 9 (1) the state, its agencies, and its corporations;
- 10 (2) the University of Alaska and its Board of Regents;
- 11 (3) municipalities, school districts, and regional educational attendance
- 12 areas, or another political subdivision of the state; and
- 13 (4) an officer or employee of an entity identified in (1) - (3) of this
- 14 subsection.

1 * **Sec. 2.** AS 15.13.145(b) is amended to read:

2 (b) Money held by an entity identified in (a)(1) - (3) of this section may be
3 used to disseminate information about the time and place of an election
4 [INFLUENCE THE OUTCOME OF AN ELECTION CONCERNING A BALLOT
5 PROPOSITION OR QUESTION, BUT ONLY IF THE FUNDS HAVE BEEN
6 SPECIFICALLY APPROPRIATED FOR THAT PURPOSE BY A STATE LAW OR
7 A MUNICIPAL ORDINANCE].

8 * **Sec. 3.** AS 15.13.145(c) is amended to read:

9 (c) Money held by the division of elections or a municipal election official
10 [AN ENTITY IDENTIFIED IN (a)(1) - (3) OF THIS SECTION] may be used

11 (1) to disseminate information about the time and place of an election
12 and to hold an election;

13 (2) to provide the public with the information described in
14 AS 15.58.020 [NONPARTISAN INFORMATION ABOUT A BALLOT
15 PROPOSITION OR QUESTION OR ABOUT ALL THE CANDIDATES SEEKING
16 ELECTION TO A PARTICULAR PUBLIC OFFICE].

17 * **Sec. 4.** AS 15.13.145(d) is repealed.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 160
 () Publish Date: 2/18/2005

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act limiting the use of money of RDU AK Public Offices Commission
the state and its political.... Component AK Public Offices Commission
 Sponsor Stolze
 Requester House Community & Regional Affairs Component No. 70

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This measure will prohibit the state and its political subdivisions from expending funds in support of or opposition to ballot questions. Current law prohibits the expenditure of public money to support or oppose a candidate, but permits the state and its political subdivisions to expend money in support of or opposition to a ballot question, if the funds are specifically appropriated for that purpose. Municipalities and school districts will be most affected by this change. This bill will have no fiscal impact.

Prepared by: Brooke Miles, Director Phone 907-276-4176
 Division Alaska Public Offices Commission Date/Time 3/14/05 1:45 PM
 Approved by: Mike Tibbles, Deputy Commissioner Date 3/14/2005
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB160
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title "An Act limiting the use of money of RDU Elections
the state and its political subdivisions..." Component Elections
 Sponsor Representative Stoltze
 Requester H(C&RA) Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This legislation has no fiscal impact on the division.

Prepared by: Laura Glaiser, Director Phone 465-4611
 Division: Division of Elections Date/Time 3/7/05 11:55 AM
 Approved by: Laura A. Glaiser, Director Date 3/7/2005
 Agency: Office of the Lt. Governor, Division of Elections

HB

176



Alaska State Legislature

Please enter into the record my testimony to the House Community and Regional Affairs
committee name

Committee on HB 176
bill # / subject

, dated Thursday, April 7, 2005
public hearing date

I am fervently opposed to Daylight Savings Time in Alaska as well as the rest of the country. I have never seen a need for DST, especially in Alaska where we are blessed with 24 hours of daylight during the summer months and less than 6 hours of daylight during the winter. In both cases, trying to "save" an hour here or there proves useless and only becomes an inconvenience to the public, trying to adjust their biological clocks to accommodate this needless bi-annual ritual.

Signed: Ruth M. Ranson
Testifier

Representing (optional)

PO Box 522 Sterling AK 99672
Address

907-260-5952
Phone number



Alaska State Legislature

Please enter into the record my testimony to the House Community and Regional Affairs
committee name

Committee on HB 176, dated Thursday, April 7, 2005
bill # / subject public hearing date

I am passionately opposed to daylight savings time for the reasons listed below:

1. Because the Yukon Time Zone was removed, Alaskans are already one hour ahead of sun time. When we are on daylight savings time, our clocks are two hours off the natural rhythm of the light/dark cycle.
2. Studies have shown that more auto accidents occur during daylight savings time months, and more sickness occurs, as a result of the body's defenses being diminished by disrupted sleep patterns.
3. I have never been given an explanation for DST that justifies the inconvenience and hardship of manipulating our clocks.
4. There is not a realistic connection between our society and the world into which DST was introduced.
5. Technology makes communication between time zones seamless.
6. DST is a hardship on families with small children who need regular bedtimes, but are forced to fit into a schedule that doesn't match their internal clock.
7. Everyone I know is adamantly opposed to DST. It is a practice imposed by government regulation that is not supported by the general public.

Signed: Teresa M. Danielson
Testifier

A handwritten signature in black ink that reads "Teresa M. Danielson".

PO Box 1322, Sterling, AK 99672
Address

907 282-7761
Phone number



Alaska State Legislature

Please enter into the record my testimony to the House Community & Regional Affairs
committee name

Committee on HB 176 (Eliminate DST), dated Thursday, April 7
bill # / subject public hearing date

I urge the defeat of this bill. Daylight Savings Time is as logical for Alaska as it is for the continental US. DST was established to accomplish the following purposes: 1) To save energy by lessening our need for artificial lighting; 2) To allow more people to travel during daylight hours, thus improving safety; and 3) To lower crime rates since most crime takes place during dusk and dark hours.

All these reasons apply in Alaska. Here on the Kenai Peninsula, were we to eliminate DST, during the longest days of the year the sun would rise around 3:00 am and set around 10:30 pm. Most people's waking habits are a poor fit for this schedule. That "extra" hour of light is much more useful, and saves more energy, if it falls in the late evening when people are up and about rather than the wee hours of the morning when most people are asleep (or trying to sleep... having the sun blaze in the window even earlier than it already does surely won't help).

Folks who are less law-abiding than we might desire them to be are also more likely to be out and about in the late evening than in the early morning. Giving them fewer hours of evening dusk and dark by which to hide to hide their activities is a benefit to society.

As a bicyclist, kayaker and hiker, I appreciate having long evenings so I can have more hours to experience our all-too-brief Alaskan summers. I'm at work during the day; having daylight until 10:00 pm or 11:00 pm greatly enhances my ability to actually enjoy this glorious state in which I live.

Summer is also the time when our youngest drivers are behind the wheel the most, often unsupervised, often with a group of teenagers. They tend to be out late into the evening and they often are overconfident in their driving abilities. They have not had the time or experience necessary to become truly safe drivers. Why compound the problem with added darkness? We lose too many of our young people to summertime evening car accidents. Reducing the amount of light available to these young drivers will add to the toll.

Finally, there is the important issue of our ability to communicate with the rest of the country. If we abandon DST, each fall and spring we will be struggling to remember what time it is in the rest of the country. This makes for difficulties in both personal and business relations when time-sensitive communications fall through because we forgot that although Chicago was three hours ahead of Alaska time last week, this week it's four hours ahead.

As it is, if I need to call someone working in an office in Virginia, I have to call before noon if I want to catch them before they leave for the day. They can't call me until after lunch their time because I am not yet in the office. I can only call family in the Midwest on weekends. Separating us by yet another hour for half the year will only add to these difficulties.

And of course there's that wonderful Sunday each fall when we all get an "extra" hour in our day to spend however we wish. It may be just an hour a year, but what a wonderful gift it is!

For all these reasons, I urge the defeat of the bill to repeal Daylight Savings Time in Alaska. The benefits we reap are far to great to give up just because a few people don't like getting up one hour earlier one day a year.

Signed:

Janet Gager (Janet Gager)
Testifier

Representing (optional)

115 Leibrock Circle, Soldotna, AK 99669

Address

(907) 252-1388

Phone number



ALASKA STATE LEGISLATURE
REPRESENTATIVE WOODIE SALMON

Memorandum

Date: March 30, 2005

To: Representative Kurt Olson
Co-Chair, House Community & Regional Affairs Committee

From: Representative Woodie Salmon

A circular stamp containing a handwritten signature, likely of Representative Woodie Salmon.

Re: Hearing Request

I respectfully request you to schedule a hearing on HB 176 at your earliest possible convenience.

HB 176 is a bill to exempt Alaska from daylight saving time. Attached please find the required back-up information on this bill.

Please feel free to contact Moira Smith at 465-4527 if you have any questions or require any additional information.

Thank you.



ALASKA STATE LEGISLATURE
REPRESENTATIVE WOODIE SALMON

SPONSOR STATEMENT

**HB 176: An act exempting the state and its political subdivisions
from daylight saving time**

House Bill 176, an act to exempt the state from daylight saving time, will rid Alaskans of a frustrating and pointless biannual obligation and will help to prevent the disruption of Alaskans' circadian rhythms.

Daylight saving time is a frustrating and pointless biannual disturbance of Alaskans' lives. Each April and October, Alaskans must go through the tedious chore of changing all timepieces in their homes and offices in order to conform to the time change. If this time change were particularly helpful to Alaskans, this expenditure of time and effort might be worth the energy involved. However, daylight saving time serves no purpose for the vast majority of Alaskans. The original rationale for daylight saving time was to maximize daylight; given the northern latitudes in which Alaskans live and the resulting darkness that persists in most of Alaska from late fall to early spring, daylight saving time is a senseless interference in Alaskans' lives.

Furthermore, cognitive and human environmental researchers have shown that there is an objectively verifiable disruption to humans' circadian rhythms when they adjust to daylight saving time in the fall and again when they adjust to standard time in the spring. The human body's clock is governed by "circadian rhythms" that oversee daily patterns of sleeping and waking activities including alertness and tiredness, as well as virtually every other human biological function. Circadian rhythms are part of our hardwired physiology, and cannot be easily reset like the hands of a clock.

Several other U.S. states and territories have chosen exemption from daylight saving time. These include Hawaii, American Samoa, Guam, Puerto Rico, the Virgin Islands, most of the Eastern Time Zone portion of the State of Indiana, and the state of Arizona (not the Navajo Indian Reservation, which does observe daylight saving time.) Alaska will certainly not be alone in choosing to exempt itself from observance of daylight saving time.

I respectfully urge your support for House Bill 176.



ALASKA STATE LEGISLATURE
REPRESENTATIVE WOODIE SALMON

SECTIONAL ANALYSIS

An act exempting the state and its political subdivisions from daylight saving time

Section One exempts the state from adherence to the federal law establishing daylight saving time.

Johns Hopkins Focus: See the Light

The amount and timing of daylight can have a major impact on everyday life.

We are, all of us, slaves to the daylight. Sunlight is, after all, the "spark of life," without which there would be no plant growth, no photosynthesis, no oxygen. On a more personal level, light causes normal physiological fluctuations that can affect the way we feel, think and sleep. Depending on personal sensitivity and the extent of light changes, the effects can range from mild fatigue to severe depression.

Getting into the rhythm

What keeps us tied to the light is a cleverly balanced internal clock, known as circadian rhythm, that synchronizes a variety of physiological systems including heart rate, body temperature and, most importantly, sleep cycles. The clock is set by light; it can be reset by changes in the timing or duration of light exposure.

"Most of us don't think twice about our circadian rhythms," says David N. Neubauer, M.D., assistant professor of psychiatry and behavioral sciences at the Johns Hopkins University School of Medicine and associate director of the Sleep Disorders Center. "We take for granted that we become tired and sleepy at night, awake and alert during the day. We notice the effects only if our internal clock is 'out of sync.' For example, in my sleep disorders research, I see people with circadian rhythm disorders who cannot follow a normal sleep-wake cycle. Instead, they experience 'delayed sleep phase syndrome' or 'advanced sleep phase syndrome'; in other words, they're night owls and early birds." Night owls may be unable to fall asleep until 3 or 4 a.m. — and then they sleep too late. Early birds fall asleep easily but often awaken during those wee hours.

Most people notice the effects of circadian rhythms when they gain or lose time or during seasonal changes in light. Even small changes can cause dramatic symptoms in some people. Many travelers have experienced the lethargy, sleep disruption, difficulty concentrating and general "fuzziness" that occur with jet lag. Depending on the individual, those symptoms can persist for up to a week. And although one hour seems almost inconsequential, the semiannual change to and from daylight-saving time is enough to nudge some people into the same set of symptoms. Studies have found an increased rate of driving accidents the day after the spring time shift — more than may be explained by the simple loss of an hour's sleep.

According to Dr. Neubauer, no one knows exactly how light produces such strong effects. One theory is that light affects production of the hormone melatonin, which in turn influences the sleep-wake cycle. We know that melatonin levels vary throughout a 24-hour period, with large amounts produced at night and nearly none during the day. If you turn on a bright light in the middle of the night, when melatonin production is usually highest, that production temporarily stops.

Scientists are currently studying the use of melatonin supplements to correct circadian rhythm disorders. "In the meantime," Dr. Neubauer warns, "don't take the hormone without first consulting a doctor. Taken at the wrong time or in high doses, melatonin can cause sleepiness, sleep disturbance and impaired work or driving performance — and it may actually shift circadian rhythms in the wrong direction." Moreover, since the Food and Drug Administration doesn't regulate melatonin and

other "dietary supplements" for safety and efficacy, there are no standards for purity or dosages.

Why so SAD?

It's not unusual to be tuned to the seasonal shift in daybreak. Many people tend to sleep slightly later in the wintertime, when it's dark in the morning, and wake up somewhat earlier in the summertime, when dawn comes early. People with Seasonal Affective Disorder, however, have a much stronger, sometimes overwhelming response to that seasonal fluctuation in daylight.

"SAD sufferers regularly experience mood changes that emerge in the autumn, peak in the winter, then vanish in the spring," says Dr. Neubauer. "Along with being tired and depressed, people with SAD also tend to overeat and oversleep in winter, almost as if their bodies were preparing for hibernation. Most sufferers never seek help for the disorder or receive treatment."

Studies have shown that the prevalence of SAD varies with latitude. The farther north you go, the more likely you are to have the disorder. If northerners with SAD travel south in winter when they are depressed, they usually feel back to normal within three or four days. When they return home, their symptoms also return in a few days.

In the early 1980s, researchers discovered that simulating summer daylight — with extra light exposure in the early morning and late evening — often eased symptoms of SAD. Today, the best treatment for SAD is phototherapy, also called bright-light therapy.

Resetting the clock

For people with SAD, says Dr. Neubauer, 30 minutes to two hours of treatment with bright light is as effective as anti-depressant drugs. For jet lag, time changes and circadian rhythm disorders, the internal clock can be reset in either direction — shifted forward or backward, depending upon when light is used. Morning light is best for jump-starting the day for those who need to advance their internal clock, while evening light lengthens the day, delaying the internal clock.

Phototherapy requires high-intensity light boxes designed to provide 2,500 to 10,000 lux (a unit of illumination) at a distance of one to two feet. Banks of fluorescent bulbs provide intense but diffused light without ultraviolet radiation. You can find light box manufacturers listed on the Web site of the Society for Light Treatment and Biological Rhythms (www.sltr.org). Be sure to talk to your doctor about your symptoms before attempting any self-treatment on your own

Other bright ideas

For people who just want to smooth out their sleep-wake cycle and who don't have a serious circadian rhythm problem, Dr. Neubauer suggests these simple measures to manipulate exposure to light:

- If you get up in the middle of the night, avoid turning on bright lights. Light suppresses melatonin production and may make it more difficult to fall back to sleep. Put dimmer switches or nightlights in bathrooms and hallways.
- If you have trouble arising in the morning, maximize the amount of light in your bedroom as soon as you wake up.
- If you wake up too early in the morning, minimize the amount of dawn light. Wear a sleep mask or put blackout curtains on your windows. When you awake, keep lights dim to help gradually shift your usual pattern.
- Get plenty of sleep during the days and weeks before traveling across time zones, or when daylight-saving time begins (the first Sunday in April) and ends (the last Sunday in October). Starting fully rested will ease the transition.
- When traveling, get into the day/night cycle of the time zone you're going to as quickly as possible after you arrive. Don't hide in dark museums or hotel rooms upon arrival at your destination — stay out in the daylight.

Updated March 2004

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(UPDATED MARCH 2005)

ABOLISH DAYLIGHT SAVING TIME IN ALASKA

**SUPPORT ALASKA HOUSE BILL (HB) 176
AND SENATE BILL (SB) 120
"ELIMINATE DAYLIGHT SAVING TIME"
INTRODUCED IN FEBRUARY 2005**

**BY LEGISLATION OR BY CITIZEN INITIATIVE,
ALASKANS CAN REPEAL DAYLIGHT SAVING
TIME IN ALASKA**

THE LAW: "Under the Uniform Time Act, moving an area on or off DST (Daylight Saving Time) is accomplished through legal action at the state level." (Daylight Saving Time, Heidi G. Yacker, Congressional Reference Division, Congressional Research Service, Library of Congress, No. 98-99C, Feb. 1998. <http://webexhibits.org/daylightsaving/congressionalResearchService.html>)

A MAJORITY OF ALASKANS FAVOR REPEAL.



**A STATEWIDE POLL CONDUCTED BY DITTMAN
RESEARCH IN APRIL 2004 SHOWS THAT 58% OF
ALASKANS FAVOR REPEAL OF DAYLIGHT**

SAVING TIME (see appendix for poll data)

DAYLIGHT SAVING TIME IMPACTS ON EVERY ALASKAN TWICE A YEAR AND ITS CONTINUED USE IS WORTHY OF A FULL DEBATE AND VOTE BY THE ENTIRE STATE LEGISLATURE



Legislation has again been introduced to end the use of Daylight Saving Time in Alaska. House Bill 176 and SB 120 (both titled "ELIMINATE DAYLIGHT SAVING TIME") were introduced in February 2005. This is the third attempt in six years to rid Alaskans of this public nuisance. Only public pressure will assure success. Past efforts have been stymied by House Legislative Committee Chairmen who either refused to hold hearings, or refused to allow the bill to advance. Legislation to repeal Daylight Saving Time was introduced in 1999 (House Bill 4) and 2002 (House Bill 409). Both bills died in committee. (1999 Bill History) (2002 Bill History).

A simple telephone call, letter, Public Opinion Message (POM) or email will let the Alaska State Government know how you feel. Contact your State Representative, Senator, and the Office of the Governor and ask them to support HB 176 and SB 120 (ELIMINATE DAYLIGHT SAVING TIME) the current legislation to repeal Daylight Saving Time in Alaska. The Division of Election publishes a list of Alaska's elected officials . During the Legislative Session (January - May) you may call your Legislative Information Office for help to contact a politician.

AN ARGUMENT TO REPEAL DAYLIGHT SAVING TIME IN ALASKA

"THAT GOVERNMENT IS BEST WHICH GOVERNS LEAST"

(THOMAS PAINE)

FIRST, WE HAVE DONE ENOUGH TIME ZONE CHANGING AND DAYLIGHT SAVING TIME MAKES A BAD SITUATION EVEN WORSE:



Prior to 1983 the great state of Alaska spanned four time zones. The continental United States spans four time zones. Use of four time zones allowed the noon hour to coincide with the highest position of the Sun in the sky across Alaska.

In 1983, the Bering, Yukon, and Alaska Time Zones were combined into a single time zone and our politicians forced all Alaskans (except for those in the far western Aleutians) to share a time zone with the Capital in Juneau. Prior to 1983, using four time zones allowed "sun time" and "clock time" to be synchronized. "Political Time" was created in 1983.

"Political Time" has no regard for the position of the sun in the sky.

To create "Political time", clocks were permanently advanced in the time zones west of Juneau. Advancing clocks is using Daylight Saving Time. In 1983 Alaska went on permanent Daylight Saving Time.

But forcing all of us into a common time zone did not satisfy a few special interests. Even though we have already changed time zones to please these people, we are still required to change our clocks (and every other time keeping device we own) twice yearly.

From April to October Alaska is actually on double Daylight Saving Time in Alaska. The situation is so bizarre that during periods when Daylight Saving Time is in use, the Sun is highest in the Sky at 2:00 PM in Anchorage and 3:00 PM in Nome. An interesting discussion of this subject is in Ned Rozell's Alaska Science Forum Article #1278 "Alaskans Double Their Daylight Savings".

SECOND, ALASKA'S ECONOMY IS NOT HELPED BY DAYLIGHT SAVING TIME:

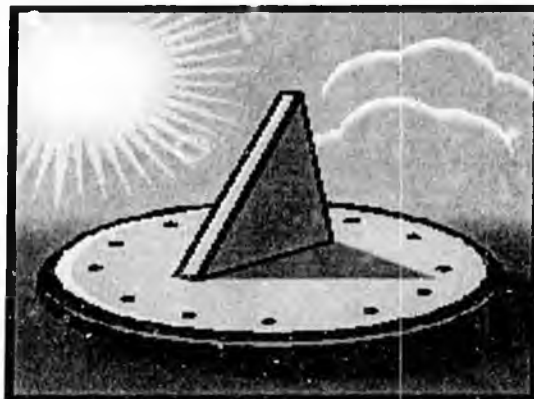


Did the 1983 time zone change in Alaska, and did our subsequent use of Daylight Saving Time, result in any measurable positive economic benefit to Alaska? If our economy benefits from using Daylight Saving Time then we must have by now gained a significant advantage over economies of Hawaii and Arizona; the territories of Puerto Rico, Virgin Islands, and American Samoa; the Canadian Province of Saskatchewan; and the Nations of China and Japan. None of these locations, among many others, use Daylight Saving Time. In

fact, Alaska can exploit its time zone differences to provide services during what would be non business hours in other locations.

The "it benefits commerce" rationale for keeping Daylight Saving Time is in fact a canard used by a few people who want every Alaskan to support their lifestyle. Business hours cannot be the same everywhere unless we all move into the same time zone. Maybe in the past, when business communications were limited to the rotary dial office telephone and the western union telegram, being close to Seattle time or New York time was helpful. However, now we have e-mail, faxes, pagers, voice mail, internet contact, and cell phones which allow you to reach any person or business location at any time of the day.

THIRD, WE ARE PEOPLE WHO LIVE IN THE "LAND OF THE MIDNIGHT SUN":



According to the US Naval Observatory, the Sun rose in Anchorage on April 3, 2004 at 6:14 AM and set at 7:52 PM. The next day, a Sunday morning, saw the return of Daylight Saving Time, and the time of daylight and sunset was instantly an hour different than it was on

Saturday, April 3rd. On Sunday those who forget to "spring forward" were an hour late for church, missed airplane flights, and were late for any other function if they showed up on Sunday using the previous day's time. Of course, by advancing our clocks we didn't really gain a thing, and the length of the day on Sunday April 4th was really only 6 minutes longer than it was the day before.

On June 21, 2004 (the longest day of the year), in Anchorage, the sun rose at 4:20AM and set at 11:42PM for a total of 19 Hours 22 Minutes of daylight, with not a second of daylight added by use of Daylight Saving Time.

This clock changing is seen as "progress" to some. To please the minority, every Alaskan has to go through the clock changing drill twice a year. Our biological clocks which control our rhythms of sleep, hunger and other life patterns will have once more been assaulted by state sponsored jet lag. Overall public safety and job performance is impacted by sleep deprivation. With regard to public safety, delaying sunset also delays sunrise the next morning. What benefit you may gain by more light in the evening may be lost in the extended darkness of the next morning.

This summer of 2004 saw several days of record breaking high temperatures in Alaska. The heat of the day lasted long into the evening partly because Daylight Saving Time has caused the sun to be at its highest in the mid afternoon. In Anchorage, when you arrived home from work at 5:00 PM Alaska Daylight Saving Time you were arriving at 3:00 PM "sun time" and the heat of the day was just beginning to subside.

Some contend that Daylight Saving Time provides daylight for

recreation. This may be true in the lower 48 where day length is about the same year round. That certainly shouldn't be a concern in the "land of the midnight sun". One of the greatest natural resources we have are our long summer days that nature provides, and in this case, nature does not need the assistance of the Alaska State Legislature. At the time of year when we began Daylight Saving Time, we are gaining approximately 6 minutes of real daylight each day. If you want an extra hour of daylight in April, wait 10 days.

FORTH, THERE ARE NO ENERGY SAVINGS FOR ALASKANS BY USING DAYLIGHT SAVING TIME:



If the sun is shining you won't need to turn on the lights and you save energy. Saving energy is the official government reason for using Daylight Saving Time. Time zones may have been adopted for the benefit of commerce, but Daylight Saving time was enacted to save energy. As far as the Federal Government is concerned, Daylight Saving Time was adopted to save energy, not to benefit commerce, not to insure that Alaska is no more than one hour from Seattle, and not to

allow you to play sports late in the evening.

I contacted ENSTAR Natural Gas Company, Matanuska Electric Association, and the Regulatory Commission of Alaska, asking if use of Daylight Saving Time had any impact on energy consumption. None of these agencies has any historical data relating to energy saving and the use of Daylight Saving Time. The consensus was that because of our rapidly changing length of day, Daylight Saving Time can have little impact on energy consumption. Temperature and extended periods of darkness impact energy useage - fiddling with the clock does not. Has any government agency or business in Alaska praised the use of Daylight Saving Time for saving energy?

LASTLY, THE MAJORITY OF ALASKANS ARE NOT ALONE IN THEIR DESIRE TO END THE USE OF DAYLIGHT SAVING TIME.



Alaska is not the only place where Daylight Saving Time causes problems for its Citizens. This web site has been linked to a web site in Australia <http://www.lightofday.primetap.com/Index.html> where the use of Daylight Saving Time is being contested. Many of the same issues that cause contention in Alaska cause similar contention in Australia, Mexico and other locations. Daylight Saving Time is not the great

benefactor that some would like you to believe and its continued use needs to be justified.

DAYLIGHT SAVING TIME IS A WASTE OF TIME
FOR ALASKANS.
CONTACT YOUR LEGISLATOR
REPEAL DAYLIGHT SAVING TIME IN ALASKA
NOW!
THANK YOU.

LYNN WILLIS, EAGLE RIVER

APPENDIX
THE DITTMAN RESEARCH POLL DATA

THE SURVEY QUESTION: In early April, Alaska switched to Daylight Saving Time. In October, we will adjust our clocks and switch back again. What is your opinion about that- do you support Alaska switching to Daylight Saving Time for the summer and then switching back in the fall, or should we leave our clocks the same throughout the year?
n=550

	UNSURE	SWITCH CLOCKS	KEEP SAME ALL YEAR	BASE
TOTAL	5%	37%	58%	100%

LOCATION	UNSURE	SWITCH CLOCKS	KEEP SAME ALL YEAR	BASE
RURAL	0%	30%	70%	11.1%
CENTRAL	7%	37%	56%	13.9%
SOUTH-CENTRAL	8%	26%	67%	23.0%
ANCHORAGE	4%	41%	55%	39.9%
SOUTHEAST	5%	55%	40%	12.1%

TIME IN	UNSURE	SWITCH	KEEP SAME	BASE
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ALASKA		CLOCKS	ALL YEAR	
0-4 YEARS	0%	26%	74%	2.4%
5-9 YEARS	9%	46%	45%	5.0%
10-14 YEARS	9%	46%	45%	4.5%
15+ YEARS	5%	37%	59%	88.0%

AGE	UNSURE	SWITCH CLOCKS	KEEP SAME ALL YEAR	BASE
18-29 YEARS	4%	63%	33%	6.4%
30-44 YEARS	4%	42%	54%	22.3%
45-59 YEARS	5%	34%	61%	50.4%
60 PLUS	7%	32%	60%	20.9%

REGISTRATION	UNSURE	SWITCH CLOCKS	KEEP SAME ALL YEAR	BASE
DEMOCRAT	7%	40%	52%	15.0%
REPUBLICAN	4%	37%	60%	25.6%
NON-PARTISAN	5%	38%	57%	51.8%
OTHER	9%	24%	67%	7.6%

GENDER	UNSURE	SWITCH CLOCKS	KEEP SAME ALL YEAR	BASE
MALE	7%	35%	58%	52.5%
FEMALE	3%	40%	57%	47.8%

EMPLOYER	UNSURE	SWITCH CLOCKS	KEEP SAME ALL YEAR	BASE
FEDERAL	7%	25%	68%	7.5%
STATE	2%	36%	62%	9.7%
LOCAL	1%	41%	58%	11.2%
PRIVATE	5%	39%	56%	45%
NOT IN WORKFORCE	9%	36%	56%	26.6%