

**ALASKA STATE LEGISLATURE**  
**HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

February 7, 2017

8:00 a.m.

**MEMBERS PRESENT**

Representative Zach Fansler, Co-Chair  
Representative Justin Parish, Co-Chair  
Representative Harriet Drummond  
Representative Dean Westlake  
Representative George Rauscher  
Representative Dan Saddler  
Representative David Talerico

**MEMBERS ABSENT**

Representative DeLena Johnson (alternate)  
Representative Jonathan Kreiss-Tomkins (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 80

"An Act adopting the Municipal Property Assessed Clean Energy Act; authorizing municipalities to establish programs to impose assessments for energy improvements in regions designated by municipalities; imposing fees; and providing for an effective date."

- MOVED CSHB 80(ENE) OUT OF COMMITTEE

HOUSE BILL NO. 85

"An Act relating to the general grant land entitlement for the Petersburg Borough; and providing for an effective date."

- MOVED HB 85 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 80

SHORT TITLE: MUNI ENERGY IMPROVEMNT: ASSESSMNTS/BONDS

SPONSOR(S): REPRESENTATIVE(S) WOOL

01/25/17	(H)	READ THE FIRST TIME - REFERRALS
01/25/17	(H)	ENE, CRA
01/26/17	(H)	ENE AT 11:00 AM CAPITOL 17
01/26/17	(H)	Heard & Held

01/26/17 (H) MINUTE (ENE)  
02/02/17 (H) ENE AT 11:00 AM CAPITOL 17  
02/02/17 (H) Moved CSHB 80(ENE) Out of Committee  
02/02/17 (H) MINUTE (ENE)  
02/03/17 (H) ENE RPT CS(ENE) 5DP 2NR  
02/03/17 (H) DP: JOHNSTON, WESTLAKE, SPOHNHOLZ,  
CLAMAN, WOOL  
02/03/17 (H) NR: RAUSCHER, JOHNSON  
02/07/17 (H) CRA AT 8:00 AM BARNES 124

BILL: HB 85

SHORT TITLE: MUNICIPAL LAND SELECTIONS: PETERSBURG

SPONSOR(s): REPRESENTATIVE(s) KREISS-TOMKINS

01/27/17 (H) READ THE FIRST TIME - REFERRALS  
01/27/17 (H) CRA, FIN  
02/07/17 (H) CRA AT 8:00 AM BARNES 124

**WITNESS REGISTER**

REPRESENTATIVE ADAM WOOL  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 80, as prime sponsor.

SEAN SKALING, Assistant Executive Director/Energy Policy  
Director  
Alaska Energy Authority (AEA)  
Department of Commerce, Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Gave a PowerPoint presentation, titled  
"Commercial Property Assessed Clean Energy (C-PACE)," during the  
hearing on HB 80.

GENE THERRIAULT, Energy Policy Assistant  
Alaska Energy Authority /Alaska Industrial Development and  
Export Authority (AEA/AIDEA)  
Department of Commerce, Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Offered information and answered questions  
during the hearing on HB 80.

BRITTANY SMART, Special Assistant  
Mayor's Office  
Fairbanks North Star Borough  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 80.

JONATHAN KREISS-TOMKINS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, introduced HB 85.

BARETT WILBER, Staff  
Representative Jonathan Kreiss-Tomkins  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 85 on behalf of Representative Kreiss-Tomkins, prime sponsor.

MARTY PARSONS, Deputy Director  
Central Office  
Division of Mining, Land and Water  
Department of Natural Resources (DNR)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 85.

MARK JENSEN, Mayor  
City & Borough of Petersburg

**POSITION STATEMENT:** testified in support of HB 85.

LIZ CABRERA, Director  
Community Development  
Petersburg City & Borough  
Petersburg, Alaska

**POSITION STATEMENT:** Testified in support of HB 85.

#### **ACTION NARRATIVE**

[8:00:28 AM](#)

**CO-CHAIR JUSTIN PARISH** called the House Community and Regional Affairs Standing Committee meeting to order at 8:00 a.m. Representatives Drummond, Talerico, Westlake, Fansler, and Parish were present at the call to order. Representatives Rauscher and Saddler arrived as the meeting was in progress.

#### **HB 80-MUNI ENERGY IMPROVEMNT:ASSESSMNTS/BONDS**

[8:01:19 AM](#)

**CO-CHAIR PARISH** announced that the first order of business would be HOUSE BILL NO. 80, "An Act adopting the Municipal Property

Assessed Clean Energy Act; authorizing municipalities to establish programs to impose assessments for energy improvements in regions designated by municipalities; imposing fees; and providing for an effective date." [Before the committee was CSHB 80(ENE).]

[8:01:42 AM](#)

CO-CHAIR FANSLER moved to adopt CSHB 80(ENE) [as clarification that the committee would work from CSHB 80(ENE) rather than the original bill version]. No objection was stated.

[8:02:16 AM](#)

REPRESENTATIVE ADAM WOOL, Alaska State Legislature, presented HB 80, as prime sponsor. He noted there are two related acronyms: commercial property assessed clean energy (C-PACE) and property assessed clean energy (PACE). He stated that under HB 80, individuals who own commercial property would be allowed to get a loan to improve the energy efficiency of a building or to make the exhaust cleaner. The funding could then be paid back through an assessed property tax. The borough or municipality in which the building is located would also have to agree to this funding mechanism. By allowing the building owner to pay back the interest over a longer period of time, the interest on the payments would be lower, he indicated; therefore, there would be a low default rate. Representative Wool noted that if the building is sold, then the loan would stay with the building. He said this factor would incentivize people to make improvements, "even if they don't plan on being at this location indefinitely." He summarized that the proposed legislation would incentivize low interest loans to improve energy efficiency in commercial buildings, using a borough or municipality with a tax system already in place as a way to pay back the loans. He said the proposed provision under HB 80 would be voluntary; HB 80 would put the mechanism in place that is currently in place in 33 other states.

[8:04:59 AM](#)

REPRESENTATIVE TALERICO asked for confirmation that the program would be voluntary for municipalities.

REPRESENTATIVE WOOL confirmed that is correct. He added that [HB 80] is supported by the Alaska Municipal League (AML) and several boroughs.

[8:05:27 AM](#)

CO-CHAIR PARISH offered his understanding that a previous iteration of this legislation had passed the House.

REPRESENTATIVE WOOL confirmed that in 2016, [during the Twenty-Ninth Alaska State Legislature], similar legislation had passed the House with a vote of 38-0 but did not get through the Senate. He indicated that HB 80 included the addition of language regarding clean energy.

[8:06:12 AM](#)

SEAN SKALING, Assistant Executive Director/Energy Policy Director, Alaska Energy Authority (AEA), Department of Commerce, Community & Economic Development (DCCED), gave a PowerPoint presentation, titled "Commercial Property Assessed Clean Energy (C-PACE)." He directed attention to slide 2, which he said shows that C-PACE is a tool to take down barriers to commercial property owners in financing energy improvements to their buildings. He said, "The key is it's a voluntary repayment on the property tax bill." He directed attention to slide 3 and said he would walk the committee through a scenario of how the program would work for a particular building. He noted that Gene Therriault had wished to impart information prior to the PowerPoint.

[8:07:50 AM](#)

GENE THERRIAULT, Energy Policy Assistant, Alaska Energy Authority/Alaska Industrial Development and Export Authority (AEA/AIDEA), Department of Commerce, Community & Economic Development (DCCED), indicated that the proposed repayment mechanism could give municipalities and utilities better access to funding sources. He relayed that in the past he served on a national board of energy officials across the nation, where he researched programs and funding sources other states used in relation to energy efficiency. He said he discovered a couple loan programs offered by the Rural Utility Service (RUS) - a subset of the United States Department of Agriculture and Rural Development (USDA). The first program is called the Energy Efficiency and Conservation Loan Program (EECLP), which he said gets about \$250 million annually that is available nationwide for areas of the population that are RUS eligible. Those funds are underutilized, and RUS is interested in working with states to get more of those funds deployed. He said he checked the RUS Internet homepage in January 2017 to find out the current

interest rate. He stated that under the EECLP program, for a municipality or utility that wants to access these funds and loan money out to a consumer for a 10-year period of time, the current interest rate is 2.07 percent, which he said is a relatively low-cost capital that can be accessed from RUS via a municipality or utility and made available to an end consumer. The municipality or utility could then add to that cost in order to cover administrative costs.

[8:10:49 AM](#)

MR. THERRIAULT indicated that within EECLP regulation is an expressed interest in finding the means of helping to ensure that the default rates on the loans are low. He said the PACE mechanism is one that helps to lower the default rate, because the repayment is being done through an existing relationship between the borough or city and the property owner. Each year, if the municipality levies a property tax, it sends a bill to the commercial property owner, who in turns pays the taxes and any assessments on the property. The way the PACE mechanism works is that the property owner is deciding to pay back the loan through a voluntary assessment that appears on the tax bill. The local government has all the collection powers that it has to collect its general taxes and any assessments to make sure the PACE loan repayment gets made. He said because of the strength of that repayment mechanism, the default rates on PACE loans nationwide are relatively low at less than 1 percent, which means they are low-risk. He added, "And that is what helps you get access to the low-cost capital."

MR. THERRIAULT stated that in the regulations for EECLP there is specific reference to an "on-bill repayment mechanism" or other financial recruitment mechanisms as may be approved by RUS. He said when AEA began to look at what it would need to do to implement PACE in the state of Alaska, it corresponded with RUS and got a letter in response saying [RUS] understood the PACE mechanism deployed in many other states as one that would lower the rates of default and be "attractive to access the EECLP funds."

[8:13:02 AM](#)

MR. THERRIAULT stated that the second program is called the Rural Energy Savings Program (RESP). It is one that was on the federal books for quite a while but did not receive federal funding until 2016, when the total amount available was about \$50 million nationwide. He indicated that there are attractive

components to the RESP fund. For example, for the borrowing entity - a utility or municipality working with a utility - the interest rate that comes with these funds is zero. The borrowing entity can then add on up to a 3 percent interest rate to cover the local administrative cost. He said the regulations for RESP also speak to mechanisms that ensure that default rates on the loans are low. He indicated the use of "on bill" financing is allowed, as long as the requirement does not prohibit the use of any additional repayment mechanism that has been demonstrated to have appropriate risk mitigation features. He said the PACE mechanism helps to reduce the rates of default.

MR. THERRIAULT said, "If the state of Alaska actually puts the PACE mechanism into place, it doesn't guarantee that utilities will have access to it, but these pools of money - when you look into the regulations - specifically point out that they're looking for mechanisms that help to lower the rate of default; and that PACE mechanism is one such mechanism." He stated that he wanted the committee to be aware that there are some potential non-general fund (GF) sources of money that may be accessed with certain mechanisms in place.

[8:15:41 AM](#)

REPRESENTATIVE SADDLER asked Mr. Therriault to clarify his working relationship with AIDEA and AEA.

MR. THERRIAULT answered that he is a temporary employee with AIDEA, but because of the sister relationship between AIDEA and AEA, he is able to work on issues for both entities.

[8:16:35 AM](#)

MR. SKALING returned to the PowerPoint presentation, to slide 3, titled "C-PACE Scenario." The slide shows a commercial building that went through AEA's commercial energy audit program some years ago. He described a typical example: there is a building with high energy bills, which is hurting the profitability of the business housed therein; the building owner is interested in becoming more energy efficient; and the owner hires an energy auditor, whose audit shows line by line what can be done to make the building more efficient, possibly including the use of renewable energy sources. He said in general the improvement recommendations related to PACE are ones that "can pay for themselves over their lifetime, at least." An audit may show a possible savings of 30 percent annually, with an average six-year pay-back period. The improvement will last between 8 to

20-plus years. Mr. Skaling said the building owner would then go to a bank for a loan, and the bank may offer a four-year payback term with an interest rate that the building owner may not like. Another factor in the scenario is that the building owner has been thinking about selling his/her building in a couple years and moving to a larger space. He said ultimately the hypothesized building owner decides not to go forward with the energy improvement, because the bank term and six-year payback period are not in alignment with each other; therefore, on day one, when the owner starts saving 30 percent, he/she will be paying back more than the energy savings, when he/she wants to start reaping the energy savings. Also, because of the possible move, the building owner is not sure he/she will get back the value from the building. The building will be more appealing because of the energy improvements, but other factors are in play, such as what the market is like and whether a new buyer will recognize the value of those improvements. He said it may be years before these cost effective improvements are implemented. Mr. Skaling summarized, "So, the main sticking points here are that short loan term and that they might be moving soon and they might not make their money back. So, PACE addresses those two things in particular, and they also impact the interest rate."

[8:20:15 AM](#)

MR. SKALING directed attention to slide 4, titled "How C-PACE Works." He said PACE is a voluntary program that has built in protections. For example, if a building owner decides to use the program, the bank that holds the lien on the building has to approve the loan. He related that 79 percent of the respondents that went through the commercial energy audit program several years ago reported that the main reason for not moving forward with the improvements was because of a lack of financing. He said there were approximately 180 commercial energy audits conducted, and quite a bit of work did result from them. He emphasized that banks and other lending institutions are now more comfortable with [loans relating to] energy savings, because there is a structure in place: a real energy audit will be conducted; there will be real energy savings; so there is less risk, which helps the banks spread out the terms to a longer period of time. He further explained that because [a building owner] pays back the loan voluntarily on his/her tax assessment, "the payment sticks with the building." He explained, "So, if you do move out of the building, the benefits that you've built into the building stay with the building, and the payments for those stay in the building." He offered a

scenario describing the takeover of payments from the exiting building owner to the incoming one.

[8:22:52 AM](#)

REPRESENTATIVE SADDLER asked what qualifications or standards may exist in relation to the auditors.

MR. SKALING answered that typically there are standards applied. He said Alaska has used energy raters at various levels; for commercial buildings, the state typically specifies [the American Society of Heating, Refrigerating and Air-Conditioning Engineers] (ASHRAE) Level II, which comes with a set of requirements. In response to follow-up questions from Representative Saddler, he said there is a pool of qualified auditors in the state, and he surmised they may have more work if the proposed legislation is passed. He estimated there may be 5 to 10 [auditors] for the entire state.

[8:25:15 AM](#)

MR. SKALING returned to the PowerPoint presentation, to slides 5 and 6, titled "C-PACE Eligible Improvements." Slide 5 lists items eligible for energy efficiency improvements, including heating, air conditioning, lights, pumps, controls, and "anything that will end up saving money" by modernizing buildings to more current standards. He said AEA has discovered that energy efficiency improvements are "some of the lowest hanging fruit" and "most available improvements that can be made," thus, there is a lot of opportunity in terms of both heating and electric energy efficiency. Slide 6 lists alternative energy improvements that could be made under C-PACE: air-source heat pumps; solar, if economical; biomass, such as wood heat; and fuel switching to improve efficiency and air quality.

[8:26:48 AM](#)

CO-CHAIR FANSLER asked if "wind and any other winterization projects" would be included as eligible energy improvements.

MR. SKALING answered, "Yes and no." He indicated that in terms of weather efficiency, [eligible improvements] would include air sealing and traditional insulation, such as for windows and doors. He said "wind" could be eligible, but he said it is not AEA's experience that "wind, on a building scale, which would have to be attached to the building, would be economical." He

added, "You'd typically want to have a larger scale wind, and in a windy place - not necessarily just wherever the building is situated - so, it's conceivable, although highly, highly unlikely, I would say, because of the economics."

[8:27:53 AM](#)

REPRESENTATIVE SADDLER asked if fuel switching may include folks in the Interior switching from heating oil to natural gas as a fuel source.

MR. SKALING responded that's correct, particularly where there is either air quality improvement or cost savings or reduction in fuel use - "any of those are written into the bill as potentially qualifying." In response to follow-up questions, he said the energy auditors typically will itemize each action they could envision for the building in question, including the cost of the measure, the energy savings, the dollar savings, and even the air emission savings, which he said is not difficult to calculate once the fuel savings is known.

REPRESENTATIVE SADDLER referred to the phrase "operating as intended" [found on page 8, line 3, of CSHB 80(ENE)], and he asked, "Does that include achieving the projected emission reduction?"

MR. SKALING offered his understanding that it is the intent of that language to ensure that measures are installed that actually achieve that which is intended in the original energy audit that recommended them.

[8:29:47 AM](#)

MR. SKALING directed attention to slide 7, titled "Cash Flow from Energy Improvements." He noted that the green portion of the graph on slide 7 shows the [post-improvement energy] cost - both electric and heat. He said at a certain point in time there is a drop in that cost, which reflects where the energy efficiency and other improvements were made, and that represents an approximate, average 30 percent decline seen with commercial energy audits. He continued, "And now, since this loan has PACE legislation, the financial institutions are able to offer a longer loan repayment period, such that the loan repayment is less than the energy cost savings; so, ... the building owner is cash flow positive from day one, when the energy efficiency improvements are made." He said that is one of the keys to the proposed legislation.

[8:30:51 AM](#)

REPRESENTATIVE RAUSCHER asked if it is the intent of the energy auditor to help design or just approve the type of energy that would be used to achieve the desired savings.

MR. SKALING answered that a typical energy audit will include a recommendation of the type of replacement energy equipment to use and a range of savings that could be achieved by the building owner. If the building owner chose to install equipment that is less efficient, a follow-up audit would detect that and update the cost savings. He said municipalities would be able to set their own programs, and "this sets the ... guidelines and the process so that an energy audit does have to happen." He mentioned the comfort level of the bank and indicated that [that comfort level] results from the specifics of what [energy efficient measures will be made].

REPRESENTATIVE RAUSCHER said he was trying to understand the 30 percent and how the assurances are made that "the loan is worth their time" and "the program is worth ... what we're trying to accomplish here."

[8:33:44 AM](#)

REPRESENTATIVE SADDLER asked for confirmation that under HB 80 the property owner would be responsible for paying for the audit; there is no intent to "fold in the cost of that audit into the financing."

MR. SKALING answered that the financing - "any of the fees associated with doing this work" - may be folded into that loan.

[8:34:22 AM](#)

MR. SKALING continued to slide 8, titled "PACE: How Loan is Repaid." He directed attention to the box in the middle of the flow chart that represents the property owner. He said the property owner gets the loan from the investor and pays back the loan through a voluntary assessment on the property tax, which is paid to the city or local government, which then pays back the investor. This method provides extra assurance to the investors that the investment will be paid back and the default rates will be lower than typical default rates.

MR. SKALING turned to slide 9, titled "33 States Enabled PACE." He said the slide shows which states have enabled PACE legislation. He commented on the rapid development of the program. He said the program in Alaska is modeled after that in Texas, a state with over one dozen communities running PACE programs.

[8:35:54 AM](#)

REPRESENTATIVE RAUSCHER asked whether statistics are available showing a success rate of the program or any [failures].

MR. SKALING answered that there are statistics, and the main one of which he is aware is the default rate of less than 1 percent, which he described as "one of the greatest successes of the program overall." He deferred to Mr. Therriault for further statistics.

[8:36:57 AM](#)

MR. THERRIAULT offered that "PACE Nation" would have examples of the various buildings that have been upgraded under its program and the savings that were achieved. He echoed that the default rate is low, specifically for the C-PACE programs. He noted that C-PACE did not get started until 2008 and did not gain momentum until the last four to five years; therefore, the information pertaining to success rates is relatively new.

[8:37:57 AM](#)

MR. SKALING, in response to a follow-up question from Representative Rauscher, related that public, residential, and commercial buildings that utilize the PACE program all tend to gravitate to a 30 percent savings.

[8:39:11 AM](#)

MR. SKALING returned to the PowerPoint presentation, to slide 10, titled "Time to Add Alaska to the Map." He said the slide simply purports that it is time to add Alaska to the map, because there is no cost to the state and the program is voluntary. He directed attention to slide 11, titled, "C-PACE is a Win-Win-Win." He said property owners would pay lower utility bills; their properties would be improved; and their work environment could result in increased productivity from employees. Lenders would be making new loans, with less risk and a consistent, statewide process. Contractors and vendors

would be busier, as they are hired to make the improvements, and there would be more local hire, with contractors keeping up with new technology and advancements in energy efficiency. He added that there would also be other benefits, including to tenants of the buildings, to communities, and to the quality of air.

MR. SKALING drew attention to slide 12, titled "Easy Win for Alaska." He reminded committee members that similar legislation had been fully vetted during a previous legislature and had gained strong support. Further, he reiterated that the program would be voluntary, with no cost to the state, and would help local economies. He explained that rather than spending money on fuel "that quickly leaves the community," hiring people locally would save money in the long term, and "that money from that business can be circulating in the community for much longer."

[8:41:25 AM](#)

REPRESENTATIVE SADDLER asked for clarification regarding the flow chart on slide 8.

MR. SKALING responded that the ECLA and REST programs would provide the capital typically to the city or local government for those entities to "re-loan as a pool." He said it is conceivable that investors could use that money, too, depending on the rules of the program; however, the money would have to go to an eligible borrower, which he said he does not think could include a commercial lending institution. In response to a follow-up question, he said another option could be for a local government to amass its own pool of money through bonding or through "this federal source," and then the relationship essentially would be between the property owner and the city, which would be both lending the money and receiving money back through taxed bills. The other investment option, he said, would be "any sort of financial institution that's separate from the [municipality]." He concluded, "A [municipality] may also use an investor or some sort of financial institution to manage that cash; these are all things that the ... city and investors could figure out as the ... money pool became available."

[8:43:40 AM](#)

REPRESENTATIVE RAUSCHER asked for the definition of a home rule municipality.

MR. THERRIAULT answered it is one that is given the power to establish its own rules. In response to a follow-up question, he said, "In the front part of the bill here, I think we're giving this power to first -- well, home rule boroughs, first- and second-class." He suggested there were other members of the committee who could offer more details.

[8:44:32 AM](#)

REPRESENTATIVE TALERICO proffered that a home rule borough can do anything that is not prohibited by law under Alaska statute.

[8:44:51 AM](#)

REPRESENTATIVE WESTLAKE said, "The implications for at least one municipality are good and the implications for the state are even better should this come through."

[8:45:25 AM](#)

CO-CHAIR PARISH opened public testimony on HB 80.

[8:45:53 AM](#)

BRITTANY SMART, Special Assistant, Mayor's Office, Fairbanks North Star Borough, testified in support of HB 80. She said while the Mayor's Office understands that the proposed financing measure can be used by commercial entities to provide energy efficiency to their facilities, it is most interested in the implications of HB 80 in improving natural gas conversions and air quality.

[8:46:52 AM](#)

CO-CHAIR PARISH, after ascertaining that there was no one else who wished to testify, closed public testimony on HB 80.

[8:47:15 AM](#)

The committee took an at-ease from 8:47 a.m. to 8:50 a.m.

[8:50:15 AM](#)

REPRESENTATIVE TALERICO augmented his prior remark concerning home rule authority by offering his understanding that the proposed legislation would add a tool in the Title 29 tool box that would apply to first- and second-class boroughs; it would

add to the existing taxing and planning authority "the ability to participate in these programs." He said he is not an expert, but was a home rule mayor for ten years; therefore, he indicated he is not as familiar with first- and second-class borough systems.

[8:51:40 AM](#)

REPRESENTATIVE SADDLER said he understands the goal is "making sure a municipality cannot hold somebody hostage by not issuing a permit, license, or other authorization" if [that individual] "has not chosen to take part in this process." Notwithstanding that, he said the aforementioned language on page 10, lines 7-13, of CSHB 80(ENE) "sounds like it's making a specific reference to a person entering a written contract." He asked for clarification for the record that the language is specifying that a municipality could not "make issuance of any permit contingent on any person participating in the program." He added, "It's not just a written contract aspect; it's participate in the PACE program at all."

[8:52:32 AM](#)

REPRESENTATIVE WOOL offered that his understanding of lines 7-13, on page 7, is that a person could not be compelled to enter a written contract. In response to a follow-up comment by Representative Saddler, Representative Wool confirmed, "It's voluntary on both ends."

[8:54:05 AM](#)

CO-CHAIR FANSLER moved to report CSHB 80(ENE) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 80(ENE) was reported out of the House Community and Regional Affairs Standing Committee.

[8:54:32 AM](#)

The committee took an at-ease from 8:54 a.m. to 9:01 a.m.

[9:01:34 AM](#)

CO-CHAIR PARISH noted that CSHB 80(ENE) had been reported out of committee with an attached zero fiscal note.

**HB 85-MUNICIPAL LAND SELECTIONS: PETERSBURG**

[Contains discussion of SB 28]

[9:01:57 AM](#)

CO-CHAIR PARISH announced that the final order of business would be HOUSE BILL NO. 85, "An Act relating to the general grant land entitlement for the Petersburg Borough; and providing for an effective date."

REPRESENTATIVE RAUSCHER began a motion at the chair's request to bring HB 85 before the committee; [however, the motion was subsequently deemed unnecessary].

[9:02:25 AM](#)

The committee took an at-ease from 9:02 a.m. to 9:03 a.m.

[9:03:19 AM](#)

CO-CHAIR PARISH [confirmed that before the committee was HB 85].

[9:03:38 AM](#)

JONATHAN KREISS-TOMKINS, Alaska State Legislature, as prime sponsor, introduced HB 85. He stated that HB 85 has a companion bill in the Senate. He noted that as part of the process that made Petersburg a borough, it was allowed to select land. Because of idiosyncrasies with the land base from which the borough is allowed to select, there is a minimal amount of acreage available. He explained that HB 85 would recalibrate the acreage to the historic norm that newly formed boroughs in the past in Alaska have been able to select. Representative Kreiss-Tomkins noted that he and Representative Talerico had held a conversation about the issue the day before and learned a lot about the process. He deferred to his staff to present the bill in more detail.

[9:05:46 AM](#)

BARETT WILBER, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, presented HB 85 on behalf of Representative Kreiss-Tomkins, prime sponsor. She conveyed the information from the sponsor's statement, which read as follows [original punctuation provided]:

HB 85 would allow the Petersburg Borough to select 14,666 acres of land as part of their land entitlement for incorporating into a borough.

The City of Petersburg dissolved in 2013 to become the Petersburg Borough. Under AS 29.65.050, the Borough is entitled to claim a land grant from the state: a percentage of the vacant, unappropriated, unreserved land (as calculated by the Alaska Department of Natural Resources), minus land which belonged to the old city and State land conveyed to the University of Alaska, Alaska Mental Health Trust, Southeast State Forest, and private ownership.

This leaves Petersburg with only 1,438.53 acres, or .08% of their actual Borough land area, which is well below the average of other municipalities and is insufficient to meet the borough's development, economic, cultural, and resource needs.

Boroughs in Alaska typically request additional land from the legislature by amending AS 29.65.010 on a case by case basis, providing a specific date and amount of land for a newly incorporated municipality. Fourteen such land grants have been given to boroughs across the state since 1990.

Petersburg calculated the average amount of land granted through legislation to new boroughs in proportion to their size: on average, they've received .79% of their total land base from the state. This bill would give Petersburg a reasonable and proportionate amount based on their size: 14,666 acres.

MS. WILBUR noted that new boroughs have gone through this process 14 times wherein they have edited land entitlement grants through statute, and that is what Petersburg is attempting to do right now.

[9:07:27 AM](#)

REPRESENTATIVE SADDLER asked the bill sponsor to cite the statute that pertains to the awarding of land to a newly formed borough.

9:07:35 AM

REPRESENTATIVE KREISS-TOMKINS deferred to Ms. Wilbur or the Department of Natural Resources.

9:08:27 AM

MARTY PARSONS, Deputy Director, Central Office, Division of Mining, Land and Water, Department of Natural Resources (DNR), told Representative Saddler that the particular statute he sought is AS 29.65.030, which established that 10 percent of vacant, unappropriated, unreserved land be available to a newly formed municipality or borough to select to create its land entitlement.

9:09:02 AM

REPRESENTATIVE SADDLER, regarding "historic norms" and the use of term "traditionally," asked if those standards appear in statute or "any place else" or is just "a post-facto construction."

REPRESENTATIVE KREISS-TOMKINS mentioned past legislation of former Representative Peggy Wilson from Wrangell, Alaska, which he offered his understanding calibrated the 7.8 percentage of land that a borough or municipality could select. He expressed that limiting a small percentage of land to boroughs may be taking away the incentive of local governments to create, because "they wouldn't have a land base from which to work and offer the local control that helps them function."

REPRESENTATIVE SADDLER asked if - since there have been 14 formed municipalities or boroughs that considered it necessary to get an additional land selection - the bill sponsor had ever considered changing the formula to avoid the problem of having the formulaic allocation of land be di minimus.

REPRESENTATIVE KREISS-TOMKINS answered that he generally finds an appeal to changing a system to make it more functional rather than addressing a series of stopgap solutions; at the same time he indicated he may proceed cautiously. He suggested perhaps "that could be pursued in parallel." He stated that he was giving his best effort to accelerate the Petersburg issue, but did not think it should be exclusive of a more holistic solution. He expressed willingness to confer with the members of the committee toward that end.

REPRESENTATIVE SADDLER indicated there was a request from the Nikiski Borough in the works, as well as "other things."

[9:12:57 AM](#)

REPRESENTATIVE SADDLER asked what the Borough of Petersburg would do with land that would help support its economy.

[9:13:26 AM](#)

REPRESENTATIVE KREISS-TOMKINS deferred to representatives of the Borough of Petersburg. Notwithstanding that, he proffered that the community has a keen interest in developing value-added industry with seafood and marine services. He said there is a high cost of living, partly because of a limited land base, which makes it difficult to develop new housing.

[9:14:44 AM](#)

REPRESENTATIVE RAUSCHER asked, "This went through Boundary Commission, right?"

REPRESENTATIVE KREISS-TOMKINS offered his belief that the formation of the Petersburg Borough did go through the local boundary commission.

[9:15:03 AM](#)

CO-CHAIR PARISH opened public testimony on HB 85.

[9:15:21 AM](#)

MARK JENSEN, Mayor, related that the Petersburg Borough Assembly had passed Resolution 2017-02, included in the committee packet, which supports HB 85 and its companion bill, SB 28. He confirmed that the residents of Petersburg had gone through the local boundary commission process to form a borough in 2013. He said the borough is asking for the legislature's support to help Petersburg acquire up to 14,666 extra acres within its boundaries.

[9:16:51 AM](#)

REPRESENTATIVE SADDLER offered his understanding that about 96 percent of the land encompassed by the borough's boundaries is [Tongass] National Forest land.

MAYOR JENSEN confirmed that is correct.

REPRESENTATIVE SADDLER stated that in general the large area of the Tongass National Forest puts a cap on private development throughout Southeast Alaska. He asked Mayor Jensen, "So, to further push the point, if there were a little bit less national forest in your borough areas, would that open up land for development that could benefit the people of the Petersburg region?"

MAYOR JENSEN answered that he imagines so.

[9:18:32 AM](#)

LIZ CABRERA, Director, Community Development, Petersburg City & Borough, read her written testimony, which read as follows [original punctuation provided, with some formatting changes]:

HB 85 increases the general land entitlement of Alaska's newest borough, Petersburg, to be comparable to the land entitlement received by all other boroughs in the state. An amount equal to approximately .79% of a borough's land mass, which in Petersburg's case is 14,666 acres. For those of you who are unfamiliar with our community, the Petersburg Borough is located in central Southeast Alaska and encompasses an area of 3,800 square miles of land and sea. The borough's population center is located on the northern tip of Mitkof Island, which is home to a diverse and prolific commercial fishing fleet and three major seafood processing facilities.

In 2013, the residents of Petersburg voted to form a borough - for a number of reasons, including having a greater say on land use decisions in our surrounding area, having an opportunity to increase our municipal land base, and many also felt it was important for all area residents to support our school system through local taxes. About 12 months after borough formation, Petersburg received a general land grant entitlement certification from the state indicating we were entitled to 1,896 acres under AS 29.65.010. However, this amount was reduced by the 457.47 acres already received by the City of Petersburg, even though certain tracts of the City's 457.47 acres is restricted from development and only available for public, charitable, or recreational use. After

deducting the 457.47 acres, the Borough's land entitlement was 1,438.53 acres. An area roughly 1/3rd the size of the Anchorage International Airport.

In making this calculation, DNR uses a statutory formula - a municipality is entitled to 10% of VUU land within its boundaries. The lands available for selection are designated as VUU or "vacant, unappropriated and unreserved" land by the State of Alaska. These lands are either "unclassified" or classified as "agricultural, grazing, materials, public recreation, settlement, and resource management" but for the most part no development has occurred on any of the VUU lands.

You may wonder why we received such a small land entitlement to begin with. The majority of land within the borough, over 96%, is managed by the federal government as the Tongass National Forest. Of the non-federal lands within the borough, 1.73% is owned by the Goldbelt Corporation, 1.34% by the State of Alaska, and .4% by the Alaska Mental Health Trust and University of Alaska. Only .3% is in private ownership and a mere .04% is owned by the municipality. When DNR applied the land entitlement formula to the Petersburg Borough, only a very small amount of land remained in VUU status.

As we began to evaluate our potential selection, we realized that our entitlement wasn't adequate for what we were hoping to accomplish and many other boroughs also received small land entitlements initially and then were able to increase these through the legislature. You'll note in HB 85 that Petersburg is listed as the 16th borough, so 15 boroughs out of 18 boroughs have received an increase in their entitlement through the legislature. The most recent example was in 2010 when both Wrangell and Haines received additional acreage.

[9:22:45 AM](#)

MS. CABRERA continued reading from her written testimony, the remainder of which read as follows [original punctuation provided, with some formatting changes]:

Why is this important to Petersburg specifically? As I mentioned previously, just over 96% of our land base is federally managed and of our non-federal lands the major landholder are Goldbelt Corporation and the State of Alaska. In short, while the borough itself is relatively large, the majority of land is not and will never be included in the local tax base and most is not available to generate economic return for our residents or the state.

The Petersburg Borough would like the opportunity to move some these lands into private ownership and add them to our tax base as residential or commercial developments. We would like the opportunity to secure new sources of rock for construction and maintenance of our roads and other projects. And, we'd like the opportunity to use some of our land to address the requirements of the Army Corps of Engineers compensatory mitigation rule, which effects nearly every new development project within the borough, by establishing a community wetlands mitigation bank. This would directly benefit residents by expediting the process of obtaining a wetlands permit for new development projects, including projects as small as single-family residences. 1,400 acres simply does not provide sufficient developable land to support these goals.

In our discussions with the Department of Natural Resources, they explained that the agency generally does not voice support for this type of legislation, but neither does the agency oppose Petersburg's request. We provided a general outline of the lands we would select under HB 85 and DNR did not express any concerns about these potential selections.

Lastly, the members of this committee know better than most that these are difficult times. In our own small way, we, in Petersburg, want to be part of the solution, not a casualty of crisis. An increased land base is a key component to the long-term sustainability of our municipality.

[9:24:51 AM](#)

REPRESENTATIVE SADDLER asked what the characteristics of land Petersburg hopes to acquire are and how the extra land will help the community.

MS. CABRERA related that the Department of Natural Resources (DNR) had already provided a "pool" of land that would be acceptable, and it ranges from muskeg in the middle of an island with no road access or utilities, to the top of a mountain, and to some waterfront property. She explained the land selected by DNR is not contiguous. She indicated that the Petersburg Borough put together an ad hoc land selection committee, which included residents, some of which are licensed land surveyors. The committee set criteria by which it then figured out which lands would be suited for what purposes. She said, for example, some land is suitable for settlement, while some has a rock quarry on it that would be useful, because Petersburg is almost out of its rock source. She said the committee is trying to identify where it might have an entire watershed on which it could create a "wetlands mitigation bank." She added that hopefully that would be land for which there is no other use.

[9:27:24 AM](#)

REPRESENTATIVE WESTLAKE asked, "How much acreage does the state have down there for granting your wish?" He asserted that Alaskans absolutely believe in home rule and creating their own destinies. He queried, "By everything said and done, will we [emphasis on 'we'] have land (indisc.) state of Alaska?"

MS. CABRERA responded that while she does not know the entire amount the state has, she does know that there are 18,000 acres in vacant, unappropriated, and unreserved (VUU) status. She said that leaves out a large acreage in the center of Petersburg's main population area, which includes the airport and any developed facilities. She explained, "So, all of the things that the state has used for a state function have already been developed and set aside. And so, all we're looking at is a portion of that land that they haven't used anything for." She said she could get the numbers for the committee.

[9:28:56 AM](#)

REPRESENTATIVE TALERICO asked if it would be a fair assessment to describe Petersburg as a community with a desire and drive to be self-sufficient.

MS. CABRERA answered yes.

9:29:31 AM

CO-CHAIR PARISH, after ascertaining that there was no one else who wished to testify, closed public testimony on HB 85.

9:29:59 AM

REPRESENTATIVE SADDLER said the state apparently has a system in which the formula under statute does not give sufficient land to local boroughs, thus there is an ad hoc selection process by modifying AS 29.65.030. He asked Mr. Parsons, "After all the adjustments are made, what have we come up with? About what percentage of the VUU land do boroughs actually have now - obviously with an eye towards looking at possibly modifying the formula to reflect the ... end state?"

9:30:52 AM

MR. PARSONS answered that AS 29.65.010 provides a list of communities and boroughs in the state that have received entitlement. He said it is important to remember that 12 of those are under that statute as part of an historic memorialization of pre-1978 land selections, and those were "approximately 10 percent of the VUU land within the borough." He indicated that the Aleutians East Borough reduced its entitlement, because it did not feel comfortable managing the vast amount of VUU land. Mr. Parsons noted that recently the City & Borough of Wrangell and the City & Borough of Haines requested an additional entitlement above and beyond the 10 percent VUU land, but primarily the amount is calculated under AS 29.65.030, which is 10 percent of the VUU land within the borough.

REPRESENTATIVE SADDLER asked for confirmation that Mr. Parsons was saying that historical boundaries are 10 percent, but Wrangell and Haines - and now Petersburg - have requested more.

MR. PARSONS confirmed that 10 percent is the historical average. He added, "Regardless of how many acres are contained within the boundaries of the borough, it's only those state lands that are considered VUU that are used in the calculation."

REPRESENTATIVE SADDLER ventured that Petersburg is a special case because of the preponderance of land that is locked up in the Tongass National Forest.

MR. PARSONS advised that Haines received an additional amount [of land] to bring its land to 21 percent of the VUU land within its borough; Wrangell negotiated for 42 percent of the VUU land within its borough. He stated that the Wrangell Borough also contains a large percentage of the Tongass National Forest.

[9:33:53 AM](#)

REPRESENTATIVE RAUSCHER asked if passage of HB 85 would open the door for "past municipalities to ask for a little more."

[9:34:16 AM](#)

CO-CHAIR PARISH directed Representative Rauscher's question to Mr. Parsons and offered his understanding that Representative Rauscher was asking if the proposed legislation would open the door for municipalities that had already been granted land allotments to ask for more.

[9:34:26 AM](#)

MR. PARSONS answered that although he could not predict what would happen, when Wrangell asked for more land, Haines followed suit; therefore, "it would not be outside the realm of possibility that other boroughs would ... decide that they would like to increase their entitlement through this process."

[9:35:27 AM](#)

REPRESENTATIVE KREISS-TOMKINS suggested that some history and precedent might inform the question. He offered his understanding that in the past when boroughs were formed, they got their allotment and tried to "take care of it then and there," and he is not aware of previously formed boroughs coming back many years after the fact asking for more. He advised that the Petersburg Borough just formed, so this is all part of the borough creation process. He ventured that the Denali Borough had a similar proportion of land during its process; therefore, it may ask for more, "because in proportional terms, it's all quite equitable."

[9:36:35 AM](#)

REPRESENTATIVE TALERICO added that the Denali Borough, with just under 2,000 residents, was given a land grant of 44,000 acres. He continued as follows:

I think probably the real difficulty would be the borough approaching the state and passing the red-face test to ask for ... more land. The limit here, I think, in Petersburg, is all about their economic development, being sufficient. ... If you look at the grants that most of the other municipalities have been given, it's been reasonably substantial piece[s] of land. ... I know that the Denali Borough was certainly aware of when the formation of the Wrangell and Haines [Boroughs] came about, but I don't remember any discussions of approaching the state to try and acquire more.

REPRESENTATIVE TALERICO quipped that his borough over-selected in hopes that the state would not notice, but the state stuck to its "original acreage." He said he thinks most of the organized boroughs have a substantial land grant now. He added, "I don't believe all of the selections have even been done with the larger municipalities; I think several of them still have land to select."

[9:38:08 AM](#)

REPRESENTATIVE SADDLER asked the bill sponsor what drove the Petersburg formation from the City of Petersburg to the City & Borough of Petersburg.

REPRESENTATIVE KREISS-TOMKINS answered that there had been a spirited discussion in Petersburg. He noted there were areas on Mitkof Island that were receiving various municipal services but were not part of the City of Petersburg. The current request from Petersburg is an attempt to create a more coherent means by which to deliver local services, including fire and school. He said there may have been other motivation, as well. He said he thinks the local boundary commission process was both engaging and complex, and there were interactions with the City & Borough of Juneau related to jurisdiction.

REPRESENTATIVE SADDLER asked if the additional acreage being requested under HB 85 would be sufficient for the City & Borough of Petersburg to adequately provide fire, road, and educational services.

REPRESENTATIVE KREISS-TOMKINS answered yes. He commented that many communities are acknowledging there could be less state support in the coming years and are moving toward increased self-sufficiency.

REPRESENTATIVE SADDLER offered that he did not know whether state educational support had, in fact, been reduced in Petersburg.

REPRESENTATIVE KREISS-TOMKINS responded that he believed that statement is accurate.

[9:41:45 AM](#)

REPRESENTATIVE SADDLER asked whether DNR had ever considered changing the formula under which land is made available, such as increasing the percentage of VUU land, to avoid the "circle back to pick up some spare acres."

[9:42:10 AM](#)

MR. PARSONS answered that because the formula is in statute, it would take legislative amendment of statute to modify the percentage of VUU land from which boroughs can select.

REPRESENTATIVE SADDLER said that is true, but pointed out that the governor does request bills from time to time.

[9:42:40 AM](#)

CO-CHAIR PARISH noted that the proposed legislation had another committee of referral, the House Finance Committee.

[9:42:59 AM](#)

CO-CHAIR FANSLER moved to report HB 85 out of committee with individual recommendations and the accompanying fiscal notes.

[9:43:25 AM](#)

REPRESENTATIVE SADDLER objected for purposes of discussion. He indicated there had been prior discussion about moving bills out of committee after only a single hearing, and at that time [one of the committee co-chairs] had said that if a bill had been heard by a previous committee, then "that might mitigate towards ... passing out a bill after just one hearing." He offered his understanding that the House Community and Regional Affairs Standing Committee was the first committee of referral for HB 85, and he questioned, "Is that consistent with your policy?"

[9:43:50 AM](#)

CO-CHAIR PARISH answered, "The policy, as clarified by my co-chair, is going to be pretty case by case. In such cases as the bill only has one committee of referral, then I think it's very reasonable to hold it over for at least two hearings. In the event that it has additional committees of referral and there'll be additional occasion for public testimony, I see no reason to hold it over."

[9:44:18 AM](#)

REPRESENTATIVE SADDLER removed his objection. There being no further objection, HB 85 was reported out of the House Community and Regional Affairs Standing Committee.

[9:44:35 AM](#)

The committee took an at-ease from 9:44 a.m. to 9:47 a.m.

[9:47:21 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:47 a.m.