

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 21, 2001

3:25 p.m.

MEMBERS PRESENT

Representative Lisa Murkowski, Chair
Representative Andrew Halcro, Vice Chair
Representative Kevin Meyer
Representative Pete Kott
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 119

"An Act exempting joint action agencies from regulation by the state or municipalities; relating to the relationship between a joint action agency and the public utilities that form the joint action agency; relating to powers and immunities of a joint action agency; requiring filing of the joint action agency agreement; relating to the financial affairs of a joint action agency; declaring certain joint action agencies to be political subdivisions for certain purposes; relating to liability and indemnification of officers, employees, and agents of joint action agencies; and defining 'agency agreement' as used with reference to joint action agencies."

- MOVED CSHB 119(L&C) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 119

SHORT TITLE:PUBLIC UTILITY JOINT ACTION

SPONSOR(S): REPRESENTATIVE(S)WILSON

Jrn-Date	Jrn-Page		Action
02/09/01	0281	(H)	READ THE FIRST TIME - REFERRALS

02/09/01	0281	(H)	L&C, JUD
02/12/01		(H)	L&C AT 3:15 PM CAPITOL 17
02/12/01		(H)	Heard & Held MINUTE(L&C)
02/14/01	0328	(H)	COSPONSOR REMOVED: MORGAN
02/21/01		(H)	JUD AT 1:00 PM CAPITOL 120
02/21/01		(H)	<Bill Canceled>
02/21/01		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE PEGGY WILSON
 Alaska State Legislature
 Capitol Building, Room 409
 Juneau, Alaska 99801
 POSITION STATEMENT: Sponsor of HB 119.

MIKE SCHRADER, Legal Counsel
 to the Four Dam Pool
 Ater Wynne LLP
 Attorneys at Law
 222 South West Columbia, Suite 1800
 Portland, Oregon 97201-6618
 POSITION STATEMENT: Answered questions on the proposed CS to HB 119.

BRIAN BJORKQUIST, Assistant Attorney General
 Governmental Affairs Section
 Civil Division (Anchorage)
 Department of Law
 1031 West 4th Street, Suite 200
 Anchorage, Alaska 99501-1994
 POSITION STATEMENT: Spoke on the proposed CS to HB 119.

ACTION NARRATIVE

TAPE 01-21, SIDE A
 Number 0001

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:25 p.m. Representatives Kott, Rokeberg, and Hayes joined the meeting as it was in progress. [The minutes for the State Workforce Development overview are found in the 3:40 p.m. cover sheet for the same date.]

HB 119-PUBLIC UTILITY JOINT ACTION AGENCIES

Number 0030

CHAIR MURKOWSKI announced that the committee would hear HOUSE BILL NO. 119, "An Act exempting joint action agencies from regulation by the state or municipalities; relating to the relationship between a joint action agency and the public utilities that form the joint action agency; relating to powers and immunities of a joint action agency; requiring filing of the joint action agency agreement; relating to the financial affairs of a joint action agency; declaring certain joint action agencies to be political subdivisions for certain purposes; relating to liability and indemnification of officers, employees, and agents of joint action agencies; and defining 'agency agreement' as used with reference to joint action agencies."

CHAIR MURKOWSKI mentioned that members should have received a summary from [the law office of] Ater Wynne that details some background information on HB 119, a proposed CS for HB 119, and two new zero fiscal notes.

Number 0123

REPRESENTATIVE PEGGY WILSON, Alaska State Legislature, sponsor of HB 119, said the proposed changes are technical, and she directed questions to Mike Schrader, Legal Counsel to the Four Dam Pool, of Ater Wynne.

Number 0143

REPRESENTATIVE HALCRO made a motion to adopt the proposed CS for HB 119, 22-LS0528/F, as a work draft. There being no objection, the proposed CS for HB 119 was adopted as a work draft.

Number 0180

MIKE SCHRADER, Legal Counsel to the Four Dam Pool, Ater Wynne LLP, said his law firm, the Office of the Attorney General, the Regulatory Commission of Alaska (RCA), and the Alaska Energy Authority (AEA) had numerous conversations and worked through the issues that had been raised. He reported that all of the above mentioned groups are in agreement about the proposed CS to HB 119, which is before the committee today.

Number 0245

MR. SCHRADER said the changes that have been made include: adding language to limit the scope of the eminent domain or condemnation powers within the projects that are being purchased from the state, which is a geographic or territorial limitation; reaching agreement on the tax-exempt status of the joint action agency ("JAA"), with an exception for an electric cooperative tax; and [defining] the scope of the RCA regulatory authority over the JAA.

MR. SCHRADER explained that if the JAA were to engage in retail sales of power, it would be subject to the electric cooperative tax. He said the proposed CS for HB 119 is currently consistent in the treatment of the JAA for regulatory exemption. And the JAA is exempt from RCA regulation as long as any indebtedness incurred to the state in connection with the acquisition of the projects is outstanding. He said at such time that the debt is retired, the JAA becomes subject to regulation by the RCA and will be required to obtain a certificate of public convenience and need under Title 42.

Number 0408

MR. SCHRADER said there was discussion about the limited liability of the JAA, and it was agreed that the language in HB 119 was appropriate, as well as the provisions relating to the "officer and director of liability." Changes were largely editorial and not substantive in nature.

Number 0417

REPRESENTATIVE HALCRO referred to page 3, Section 6 [Version F], and said it looks like that section had been dramatically changed with regard to assuming liability, and how that plays with the JAA. He asked why it was changed so dramatically.

Number 0443

MR. SCHRADER replied that Representative Halcro was referring to the amendment of AS 42.45.310(c), and said:

There was a change. ... We had moved ... [a] provision about the joint action agency having the powers of a public utility. We moved that. That had originally been moved out of section 300 and into 310. So that came out, and 310 remains in place, as it is.

MR. SCHRADER said the reference to AS 09.65.085, which is an immunity of a regulated utility, was removed to be consistent with the fact that the JAA would not be a regulated entity until such time as the exemption from RCA regulation expires. He said there was an inconsistency between what was determined to be an appropriate scope of RCA regulation and this particular immunity statute that was in place.

Number 0521

CHAIR MURKOWSKI said she appreciated the summary of the background of the bill that Mr. Schrader provided to the committee. She said she had [previously] had some concerns and questions about the state's taxation issue and the RCA exemption. She understands that there is no opposition to this, and that the RCA and the Office of the Attorney General are in agreement. She noted that Jim Strandberg, Commissioner, RCA, was present and that [the RCA] had signed off on it.

Number 0598

BRIAN BJORKQUIST, Assistant Attorney General, Governmental Affairs Section, Civil Division (Anchorage), Department of Law, via teleconference, said his primary client agency is AEA. He wanted to add two additional changes to the bill. He said in Section 3, the statutory citation to the JAA has been changed from AS 42.45.300 to AS 42.45.310. He said the significance of the change is that the JAAs formed under AS 42.45.310 are more limited; they are limited to public utilities that form to purchase a power project from the AEA.

Number 0674

MR. BJORKQUIST added that no entity could be formed without the legislature's approval - authorizing the public utilities to form to purchase the power project from AEA.

Number 0696

MR. BJORKQUIST explained that the RCA's exemption from regulation, in addition to what "was provided" by Mr. Schrader, is limited to the power project being purchased by the JAA. He said this means that if the JAA decides to develop another power project, the new power project would be subject to RCA regulation. The exemption provided under the proposed CS to HB 119 is limited to the Four Dam Pool power project being purchased from the AEA.

Number 0745

CHAIR MURKOWSKI said this clears up some of the concerns about this being broadly expanded, and that any two public utilities could join together and have whatever exemptions they might seek.

Number 0771

REPRESENTATIVE CRAWFORD commented that "we" had a number of the same questions that Chair Murkowski had, and "they" spent quite a bit of time with "us" before the last meeting and this morning answering those questions. He said he believes it is a good idea and the committee should pass the legislation.

Number 0796

REPRESENTATIVE HAYES made a motion to move the CS for HB 119, Version 22-LS0528\F, out of committee with individual recommendations and the two attached fiscal notes. There being no objection, CSHB 119(L&C) moved from the House Labor and Commerce Standing Committee.

CHAIR MURKOWSKI called a brief at-ease at 3:40 p.m. in order to prepare for the overview. [The minutes for the State Workforce Development overview are found in the 3:40 p.m. cover sheet for the same date.]