

HOUSE FINANCE COMMITTEE
March 17, 2003
1:50 PM

TAPE HFC 03 - 34, Side A
TAPE HFC 03 - 34, Side B

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:50 PM.

MEMBERS PRESENT

Representative John Harris, Co-Chair
Representative Bill Williams, Co-Chair
Representative Kevin Meyer, Vice-Chair
Representative Mike Chenault
Representative Eric Croft
Representative Mike Hawker
Representative Bill Stoltze
Representative Richard Foster

MEMBERS ABSENT

Representative Reggie Joule
Representative Carl Moses
Representative Jim Whitaker

ALSO PRESENT

Former Senator Sean Parnell, Director, State and Government Relations, ConocoPhillips Alaska, Inc., Jaqueline Tupou, Staff, Senator Lyda Green, Devon Mitchell, Executive Director, Alaska Municipal Bond Bank Authority, Department of Revenue, Elmer Lindstrom, Special Assistant, Department of Health and Social Services.

PRESENT VIA TELECONFERENCE

None

SUMMARY

HB 16 "An Act amending the standards applicable to determining whether, for purposes of the Alaska Stranded Gas Development Act, a proposed new investment constitutes a qualified project, and - repealing the deadline for applications relating to the development of contracts for payments in lieu of taxes and for royalty adjustments that may be submitted for consideration under that Act; and providing for an effective date."

CS HB 16 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with previously published fiscal impact note (CED #1), and a new fiscal impact note by the Department of Revenue.

SB 51 "An Act relating to revenue bonds issued by the Alaska Municipal Bond Bank Authority and the total amount of bonds and notes outstanding of that authority; and providing for an effective date."

SB 51 was REPORTED out of Committee with a "do pass" recommendation and with two previously published zero fiscal notes: REV #1 and DCED #2.

SB 78 "An Act relating to an optional group of persons eligible for medical assistance who require treatment for breast and cervical cancer; relating to cost sharing by those recipients under the medical assistance program; and providing for an effective date."

SB 78 was REPORTED out of Committee with "no recommendation" and with a previously published fiscal impact note: HSS #1.

#hb16

HOUSE BILL NO. 16

"An Act amending the standards applicable to determining whether, for purposes of the Alaska Stranded Gas Development Act, a proposed new investment constitutes a qualified project, and repealing the deadline for applications relating to the development of contracts for payments in lieu of taxes and for royalty adjustments that may be submitted for consideration under that Act; and providing for an effective date."

Co-Chair Williams began discussion on the bill, and introduced the Sponsor. He indicated that discussion had previously occurred on Amendment #2, 23LS0101/Q3, introduced by Representative Whitaker on 10/10/03.

REPRESENTATIVE HUGH FATE, SPONSOR, indicated that, per discussions through Representative Whitaker's staff, Representative Whitaker had conveyed that he had no objection to withdrawing Amendment #2. Representative Fate referred to changes proposed in a subsequent amendment (Amendment #3 -- 23 LS0101/Q.6).

Co-Chair Harris noted that the MOTION to adopt Amendment #2 was still pending.

A roll call vote was taken on the motion to adopt Amendment #2.

IN FAVOR: Croft

OPPOSED: Chenault, Hawker, Meyer, Stoltze, Harris, Williams

Representatives Foster, Moses, Joule and Whitaker were not present for the vote.

The motion FAILED on a vote of 6-1

Co-Chair Harris MOVED to ADOPT Amendment #3:

23-LS0101\Q.6
Chenoweth

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 16(RES)

Page 1, line 8, following "**terms;**":

Insert "**providing a statement of intent for the Act relating to reopening of contracts;**"

Page 1, following line 9:

Insert a new bill section to read:

"* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:
LEGISLATIVE INTENT. It is the intent of the legislature that each contract for payments in lieu of taxes and for royalty adjustments entered into under the Alaska Stranded Gas Development Act contain a provision by which the contract may be reopened by any party to the contract. The subject matter of the reopening may be dealt with through the use of arbitration proceedings agreed on by the parties."

Page 1, line 10:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

Page 2, line 29:

Delete "**15**"

Insert "**10**"

Page 2, line 31:

Delete "25"

Insert "**15** [25]"

Representative Croft OBJECTED.

Representative Fate addressed the amendment. He summarized that it intended to accomplish three things: change the net worth requirement for qualified sponsors from fifteen to ten percent [of the project cost], change the available credit requirement from twenty-five to fifteen percent [of the project cost], and add intent language allowing reopening provisions for payment contracts.

Responding to a question from Representative Croft, Representative Fate stated that the current cost estimate for the project cost was \$9 billion, and explained that changing the net worth requirement would allow the commissioner to qualify more sponsors to participate in the project.

Representative Croft clarified that sponsors previously needed \$1.5 billion to participate. With the amendment a sponsor would need slightly under \$1 billion. Representative Fate confirmed that this was true, adding that the figure might vary depending on how many sponsors the commissioner qualified.

There being no Objection, Amendment #3 was ADOPTED.

Representative Croft MOVED to ADOPT Amendment #4:

AMENDMENT

OFFERED IN THE HOUSE FINANCE COMMITTEE
BY REPRESENTATIVE CROFT

TO: CS HB 16 (RES)

Page 3, line 7, insert:

"**Sec. 4.** AS 43.82.210 is amended to read:

AS 43.82.210. **Contract Terms Relating to Payment in Lieu of One or More Taxes.**

(a) If the commissioner approves an application and proposed project plan under AS 43.82.140 , the commissioner may develop proposed terms for inclusion in a contract under AS 43.82.020 for periodic payment in lieu of one or more of the following taxes that otherwise would be imposed by the state or a municipality on the qualified sponsor or member of a qualified sponsor group as a consequence of participating in an approved qualified project:

- (1) oil and gas production taxes and oil surcharges under AS 43.55;
- (2) oil and gas exploration, production, and pipeline transportation property taxes under AS 43.56;
- (3) [Repealed, Sec. 6 ch 34 SLA 1999].

- (4) Alaska net income tax under AS 43.20;
 - (5) municipal sales and use tax under AS 29.45.650 - 29.45.710;
 - (6) municipal property tax under AS 29.45.010 - 29.45.250 or 29.45.550 - 29.45.600;
 - (7) municipal special assessments under AS 29.46;
 - (8) a comparable tax or levy imposed by the state or a municipality after June 18, 1998;
 - (9) other state or municipal taxes or categories of taxes identified by the commissioner.
- (b) If the commissioner chooses to develop proposed terms under (a) of this section, the commissioner shall, if practicable and consistent with the long-term fiscal interests of the state, develop the terms in a manner that attempts to balance the following principles:
- (1) the terms should, in conjunction with other factors such as cost reduction of the project, cost overrun risk reduction of the project, increased fiscal certainty, and successful marketing, improve the competitiveness of the approved qualified project in relation to other development efforts aimed at supplying the same market;
 - (2) the terms should accommodate the interests of the state, affected municipalities, and the project sponsors under a wide range of economic conditions, potential project structures, and marketing arrangements;
 - (3) the state's and affected municipalities' combined share of the economic rent of the approved qualified project under the contract should be relatively progressive; that is, the state's and affected municipalities' combined annual share of the economic rent of the approved qualified project generally should not increase when there are decreases in project profitability, or decrease when there are increases in project profitability;
 - (4) the state's and affected municipalities' combined share of the economic rent of the approved qualified project under the contract should be relatively lower in the earlier years than in the later years of the approved qualified project;
 - (5) the terms should allow the project sponsors to retain a share of the economic rent of the approved qualified project that is sufficient to compensate the sponsors for risks under a range of economic circumstances;
 - (6) the terms should provide the state and affected municipalities with a significant share of the economic rent of the approved qualified project, when discounted to present value, under favorable price and cost conditions;

(7) the method for calculating the periodic payment in lieu of certain taxes under the contract should be clear and unambiguous; and

(8) while cost calculations for the approved qualified project under the contract should be based on amounts that closely approximate actual costs, agreed-upon formulas reflecting reasonable economic assumptions should be used if possible to promote administrative certainty and efficiency.

(c) Except as provided in (b) of this section, the commissioner's discretion under this section in developing proposed terms for a contract under AS 43.82.020 is not limited to consideration of the economic rent of the approved qualified project.

(d) Nothing in this chapter shall be construed to permit the state to suspend or contract away the power of taxation.

Renumber accordingly.

The amendment is designed to increase certainty by forestalling any argument or court challenges based on the claim that there is some hidden escape hatch to the sovereignty provision of the Alaska Constitution. If the supporters of this legislation believe it really requires a constitutional amendment, then they should go that route, rather than creating all sorts of uncertainty for future legislatures

Co-Chair Williams OBJECTED.

Representative Croft explained that the amendment was intended to support a clear prohibition against signing away the State's power of taxation. He maintained the need to clarify this constitutional mandate.

Co-Chair Williams asked if the intent of the amendment was to restate constitutional mandates. He speculated that this might be cumbersome with other legislation, and disagreed with the need for the amendment.

Representative Croft maintained that rarely did legislation play so close to the constitutional line.

Co-Chair Harris concurred with Co-Chair Williams' question of the need for the amendment. He asked former Senator Parnell to address the question.

SEAN PARNELL, DIRECTOR, STATE AND GOVERNMENT RELATIONS, CONOCOPHILLIPS ALASKA, INC., spoke in opposition to the amendment. He expressed his company's desire for a clean bill. He also noted the need for legislation that contributed to certainty in the negotiation process. He contended that nothing appeared in the legislation that would surrender the powers of taxation. He argued that the legislation merely determines the amount of taxation at the project's inception.

Co-Chair Williams requested that the Department of Law be consulted to address the issue.

RANDY RUARO, STAFF, REPRESENTATIVE WILLIAMS, responding to a question by Co-Chair Williams, observed the difference between designating the amount of tax and the actual power to tax. He maintained that no authority was given away by the legislation.

Representative Croft noted the importance of discussion on this matter, and suggested that industry's objection to the amendment indicated the need for the amendment. He suggested that the goal of fiscal certainty approximated a state agreement never to change tax policy. He cited vague commitments on the part of industry such as "moral obligation". He maintained the imperative not to negotiate away the power of future legislatures to change tax policy.

Co-Chair Williams agreed that clarity was necessary. However, he expressed the desire to show support for those negotiating the project contracts, and to trust that they would adhere to the constitution at all times.

Representative Croft WITHDREW the amendment. He noted that he would submit the amendment to the Attorney General's office to receive further feedback.

Representative Foster MOVED to report HB 16 out of Committee with the accompanying fiscal notes.

There being no OBJECTION, it was so ordered.

CS HB 16 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with previously published fiscal impact note (CED #1), and a new fiscal impact note by the Department of Revenue.

#sb51

SENATE BILL NO. 51

"An Act relating to revenue bonds issued by the Alaska Municipal Bond Bank Authority and the total amount of bonds and notes outstanding of that authority; and providing for an effective date."

DEVON MITCHELL, EXECUTIVE DIRECTOR, ALASKA MUNICIPAL BOND BANK AUTHORITY, DEPARTMENT OF REVENUE, spoke in support of the bill. He summarized that the bill accomplished two things: First, increasing the total borrowing cap of the Alaska Municipal Bond Bank (Bond Bank) from \$300 million to \$500 million. He noted that the cap had been at \$300 million since 1984, when it was increased from \$150 million. The second intension of the bill is to increase the ability to issue revenue bonds in any fiscal year from \$50 million to \$75 million.

Mr. Mitchell discussed the history of the Bond Bank, created in 1975 and funded by the legislature with appropriations over the next ten years totaling \$18.6 million. He explained that the Bond Bank is a conduit borrower, only borrowing funds when a community project is at hand.

Mr. Mitchell stated that currently \$240 million in bonds are outstanding for projects in a variety of communities throughout the state. He noted that the current application load is expected to exceed the \$300 million cap in FY 04, which he explained was the reason for the bill.

Mr. Mitchell also stated that additional revenue bond applications had been received in FY 03 exceeding the \$50 million cap. He noted that Valdez, last community to come to the Bond Bank, would be required to either wait until FY 04 or pursue the more costly process of issuing two series of bonds.

Mr. Mitchell pointed out that the Bond Bank provided savings on financing costs to communities of financing capital projects over the past three fiscal years of between \$3 and \$4 million. He also noted that the Bond Bank provides an annual dividend to the state of Alaska. In FY 2002, a \$1.67 million transfer occurred, which he maintained was a good return on the initial investment.

Representative Croft noted the need to ensure that municipalities were not overburdened with debt. He asked how it was determined if an amount was excessive.

Mr. Mitchell explained that an independent board of directors reviewed municipal applications, as well as a financial advisor who reviewed the financial statements of borrowing municipalities. He noted that recommendations were then made to the Bond Bank who ultimately approved or denied the loan. He pointed out that a borrower could increase the likelihood of approval by getting local support through additional public processes.

In response to a question by Representative Croft, Mr. Mitchell noted that applications were rarely rejected. He explained that the Bond Bank suggested grant opportunities

or other loan programs if a community did not demonstrate sufficient planning on a project, or if they showed insufficient funding to repay the loan. He summarized that this was a collaborative process with municipalities to help them achieve project success.

Responding to a follow up by Representative Croft, Mr. Mitchell stated that no municipalities have defaulted.

Co-Chair Harris asked if the amount [of the cap] was adequate to meet anticipated needs. He pointed out this was the first request for an increase since the 1980's.

Mr. Mitchell confirmed that the cap was adequate since the Bond Bank was a mature program, with a good portion of debt being repaid each fiscal year. He gave the example of the school debt reimbursement program, whereby the State required communities to issue at least ten-year notes, upon which they received state reimbursement of some percentage. He noted that much of the debt was over ten year periods, yielding a gradual financial curve.

Mr. Mitchell suggested that the legislature maintain a good understanding of the moral obligation debt of the state of Alaska. He explained that "moral obligation debt" signified the obligation of the legislature to replenish a reserve fund within the Bond Bank if there were a default. He proposed that the bill was a good step to allow for current borrowing needs, while maintaining control over the Authority.

Representative Foster MOVED to report SB 51 out of Committee with the accompanying fiscal notes.

There being no OBJECTION, it was so ordered.

SB 51 was REPORTED out of Committee with a "do pass" recommendation and with two previously published fiscal notes: REV #1 and DCED #2.

#sb78

SENATE BILL NO. 78

"An Act relating to an optional group of persons eligible for medical assistance who require treatment for breast and cervical cancer; relating to cost sharing by those recipients under the medical assistance program; and providing for an effective date."

JAQUELINE TUPOU, STAFF, SENATOR LYDA GREEN, SPONSOR, spoke in support of the bill. She explained that the bill removes the sunset provision of the 2001 legislation and ensures continued treatment for women who have been participating in the Breast and Cervical Cancer Care program. She also noted

that the bill creates future certainty to those persons who may be diagnosed with these ailments in the future.

Ms. Tupou continued to summarize that the bill gives authority to the Department of Health and Social Services (DHSS) to allow maximum cost sharing as per the federal law. She noted that currently Alaska was imposing the maximum cost sharing. She pointed out that statute contains the word "lesser", and the current legislation states future authority, allowing submission of an amended state program should the federal government raise the level of cost sharing.

Ms. Tupou referred to a handout (copy on file) regarding poverty guidelines pertaining to a specific category of the Medicaid program, allowing for 250 percent of the poverty level. The guideline for a family of three is \$46,950, and for a family of four, \$56,575.

Co-Chair Harris referred to the HESS fiscal note with a cost of \$282 thousand of general funds, to match \$680 of federal funds. He also pointed out that in FY 2009, the cost would be nearly double, projected at \$544 thousand. He asked if the program was optional under Medicaid.

Ms. Tupou contended that the program was not optional. She added that the program was initially a screening program, but that when women were diagnosed, the program was extended to close the loop between diagnosis and treatment. She concluded that the program is currently required through that legislation. She read from Public Law 106-354, enacted by the 106th Congress, speculating that it was predicated upon participation in the diagnosis program. She maintained that because the State participates in the diagnosis portion of the program, the treatment portion is also required.

Co-Chair Harris asked whether the federal government required participation in the diagnosis portion of the program.

ELMER LINDSTROM, SPECIAL ASSISTANT, DEPARTMENT OF HEALTH AND SOCIAL SERVICES spoke in support of the bill. He clarified that the state's participation in the program was optional.

Co-Chair Harris referred to the fiscal note in relation to the DHSS budget and the matching of federal dollars. He asked if the estimate for FY 09 of \$544 thousand was a realistic figure, and what was driving the increase.

Mr. Lindstrom stated that the fiscal note was well within initial projections. He referred to page 2 of the fiscal note, which indicated two reasons for the increase in costs: 1) a five percent annual increase in total recipients and 2) an assumption that expenditures in this category would grow

at a rate of 10 percent per year, similar to the national average growth for Medicaid spending.

Responding to a comment by Co-Chair Harris, Mr. Lindstrom referred to the package of bills introduced last week at the request of the Governor directed at Medicaid cost containment. He also expressed the Governor's enthusiastic support of SB 78.

Representative Croft MOVED to ADOPT Amendment #1:

23-LS0592\A.1
Lauterbach

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 78

Page 1, lines 2 - 3:
Delete "**relating to cost sharing by those recipients under the medical assistance program;**"

Page 1, line 8, through page 2, line 3:
Delete all material.

Renumber the following bill sections accordingly.

Page 2, lines 22 - 28:
Delete all material.

Renumber the following bill section accordingly.

Co-Chair Harris OBJECTED.

Representative Croft explained that the amendment deleted cost sharing language. He noted his discomfort with specific cost sharing language, suggesting that it was not appropriate, and possibly not legally allowable. He maintained that the language sent a "mixed message", as it pertained to only a portion of the population.

Ms. Tupou reiterated that the category was at 250 percent of poverty level, and added that the category contained no asset test. She maintained that the category was therefore a special category.

Representative Stoltze asked about the fiscal impact of the amendment. Mr. Lindstrom stated that the amendment would not impact the current fiscal note.

Ms. Tupou suggested that if in the future the federal government allowed more cost sharing, the amendment might have an impact.

Responding to a question by Co-Chair Williams, Ms. Tupou maintained that the amount of the co-payment was minimal: \$2 for prescription drugs, and a maximum \$200 for hospital stay.

Representative Croft asked if the fiscal note was not impacted by the amendment since it could not be implemented currently.

Mr. Lindstrom observed that the language in SB 78 was similar to that authorizing the Denali Kid Care Program. He pointed out the similarity in that, under current federal law, additional cost sharing provisions were not possible. He noted that, in the case of Denali Kid Care, the state submitted a failed petition to the federal government for the authority to add cost sharing. He confirmed that, in this program, the income eligibility is significantly greater than in typical Medicaid programs.

Mr. Lindstrom also indicated that the legislature might want to reiterate the idea that in the case when income eligibility was relatively high, with federal permission, the State policy might be to increase co-payments.

Co-Chair Williams asked if federal changes were anticipated. Mr. Lindstrom stated that he was unaware of any pending changes, but noted that changes could occur quickly.

Ms. Tupou noted that the bill did give authority to the Department to increase amounts if federal law changes.

Representative Stoltze asked about the Administration's position on the issue.

Mr. Lindstrom stated that they deferred to the legislature.

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Representative Croft suggested that the federal government rejected the Denali Kid Care waiver because it targeted a particular population. He maintained that a cost-sharing request for the proposed program would also be rejected for the same reason. He also summarized that the bill gave the Department of Health and Social Services permission to charge an uncertain amount at an uncertain time to affected persons. He suggested that cost sharing be examined when and if federal guidelines in fact changed. He expressed a preference to send a clear message with the legislation.

A roll call vote was taken on the motion to adopt Amendment #1.

IN FAVOR: Croft, Foster, Williams

OPPOSED: Hawker, Meyer, Stoltze, Chenault, Harris

Representatives Joule, Moses, and Whitaker were not present for the vote.

The motion FAILED on a vote of 3 to 5.

Representative Foster MOVED to report SB 78 out of Committee with the accompanying fiscal note. There being no OBJECTION it was so ordered.

SB 78 was REPORTED out of Committee with "no recommendation" and with a previously published fiscal impact note: HSS #1.
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ADJOURNMENT

The meeting was adjourned at 2:42 PM