

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 22, 2004

3:30 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Carl Gatto, Vice Chair
Representative Nancy Dahlstrom
Representative Bob Lynn
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 379

"An Act establishing an office of citizenship assistance in the Department of Labor and Workforce Development."

- MOVED HB 379 OUT OF COMMITTEE

SENATE BILL NO. 291

"An Act extending the transition period for activities involving unstamped cigarettes; and providing for an effective date."

- MOVED SB 291 OUT OF COMMITTEE

HOUSE BILL NO. 449

"An Act relating to the contracting and financing authority of the Alaska Industrial Development and Export Authority; authorizing the authority to issue bonds in a principal amount not to exceed \$76,000,000 to finance the acquisition, design, construction, inventory, and operation of natural gas, propane air, or manufactured gas public utility facilities; and providing for an effective date."

- MOVED CSHB 449(EDT) OUT OF COMMITTEE

HOUSE BILL NO. 453

"An Act exempting from regulation under the Alaska Public Utilities Regulatory Act wholesale agreements for the sale of

power by joint action agencies and contracts related to those agreements, and joint action agencies composed of public utilities of political subdivisions and utilities organized under the Electric and Telephone Cooperative Act."

- MOVED CSHB 453(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 490

"An Act relating to the release of employment security records, to the admissibility of determinations and decisions regarding unemployment compensation benefits, and to contributions, interest, penalties, and payments under the Alaska Employment Security Act; providing that property under the Alaska Employment Security Act is not subject to the Uniform Unclaimed Property Act; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 379

SHORT TITLE: OFFICE OF CITIZENSHIP ASSISTANCE

SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

01/20/04	(H)	READ THE FIRST TIME - REFERRALS
01/20/04	(H)	L&C, FIN
03/05/04	(H)	L&C AT 3:15 PM CAPITOL 17
03/05/04	(H)	-- Meeting Canceled --
03/19/04	(H)	L&C AT 3:15 PM CAPITOL 17
03/19/04	(H)	Scheduled But Not Heard
03/22/04	(H)	L&C AT 3:15 PM CAPITOL 17

BILL: SB 291

SHORT TITLE: UNSTAMPED CIGARETTES

SPONSOR(S): LABOR & COMMERCE

02/04/04	(S)	READ THE FIRST TIME - REFERRALS
02/04/04	(S)	L&C, FIN
02/10/04	(S)	L&C AT 1:30 PM BELTZ 211
02/10/04	(S)	Moved SB 291 Out of Committee
02/10/04	(S)	MINUTE(L&C)
02/11/04	(S)	L&C RPT 3DP
02/11/04	(S)	DP: BUNDE, FRENCH, STEVENS G
02/23/04	(S)	FIN RPT 4DP
02/23/04	(S)	DP: GREEN, WILKEN, BUNDE, STEVENS B
02/23/04	(S)	FIN AT 10:00 AM SENATE FINANCE 532
02/23/04	(S)	Moved SB 291 Out of Committee

02/23/04 (S) MINUTE(FIN)
03/03/04 (S) TRANSMITTED TO (H)
03/03/04 (S) VERSION: SB 291
03/04/04 (H) READ THE FIRST TIME - REFERRALS
03/04/04 (H) L&C, FIN
03/22/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 449

SHORT TITLE: AIDEA BONDS FOR GAS PUBLIC UTILITIES

SPONSOR(S): REPRESENTATIVE(S) HARRIS BY REQUEST

02/09/04 (H) READ THE FIRST TIME - REFERRALS
02/09/04 (H) EDT, L&C, FIN
02/26/04 (H) EDT AT 5:15 PM CAPITOL 120
02/26/04 (H) -- Meeting Canceled --
03/02/04 (H) EDT AT 10:00 AM CAPITOL 120
03/02/04 (H) <Bill Hearing Canceled>
03/09/04 (H) EDT AT 10:00 AM CAPITOL 120
03/09/04 (H) -- Meeting Canceled --
03/16/04 (H) EDT AT 5:15 PM CAPITOL 120
03/16/04 (H) Moved CSHB 449(EDT) Out of Committee
03/16/04 (H) MINUTE(EDT)
03/18/04 (H) EDT RPT CS(EDT) 5DP 1NR
03/18/04 (H) DP: KOHRING, MCGUIRE, KOTT, CISSNA,
03/18/04 (H) HEINZE; NR: DAHLSTROM
03/22/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 453

SHORT TITLE: JOINT ACTION AGENCIES

SPONSOR(S): REPRESENTATIVE(S) HEINZE

02/16/04 (H) READ THE FIRST TIME - REFERRALS
02/16/04 (H) L&C, FIN
02/27/04 (H) L&C AT 3:15 PM CAPITOL 17
02/27/04 (H) Heard & Held
02/27/04 (H) MINUTE(L&C)
03/05/04 (H) L&C AT 3:15 PM CAPITOL 17
03/05/04 (H) -- Meeting Canceled --
03/19/04 (H) L&C AT 3:15 PM CAPITOL 17
03/19/04 (H) Heard & Held
03/19/04 (H) MINUTE(L&C)
03/22/04 (H) L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE BRUCE WEYHRAUCH
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 379.

RAFAEL CASTANOS, Advisor

Filipino Community of Alaska

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 379.

CHRISTINA SUMINGUIT

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 379 and agreed with the testimony of Mr. Castanos.

CONSESA CABRIGAS

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 379.

ANDREE McLEOD

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 379.

SENATOR CON BUNDE

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented SB 291 on behalf of the Senate Labor and Commerce Committee, which he chairs.

MIKE ELERDING, Owner

Northern Sales Company of Alaska

Ketchikan, Alaska

POSITION STATEMENT: Testified in support of SB 291.

JOHANNA BALES, Excise Audit Manager

Tax Division

Department of Revenue

Anchorage, Alaska

POSITION STATEMENT: Stated that her division had received approximately 100 phone calls in support of SB 291.

PETER FELLMAN, Staff

to Representative John Harris

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor of HB 449, Representative Harris.

PAUL RUSANOWSKI, Vice President

Alaska Intrastate Gas Company (AIGC)
Anchorage, Alaska

POSITION STATEMENT: Presented HB 449, which was sponsored by Representative Harris at AIGC's request.

DON ETHERIDGE, Lobbyist

for Alaska State AFL-CIO [American Federation of Labor and Congress of Industrial Organizations]
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 449.

BOB LOESCHER, Member

Tlingit & Haida Community Council
Juneau, Alaska

POSITION STATEMENT: During hearing on HB 449, spoke to the need for the AIGC gas project in several coastal communities.

JAMES A. McMILLAN, Deputy Director of Credit

Alaska Industrial Development and Export Authority (AIDEA)
Anchorage, Alaska

POSITION STATEMENT: Testified that he believed HB 449 was unnecessary and clarified financing options for AIGC's project.

PHILIP SHEALY, City Manager

City of Seward
Seward, Alaska

POSITION STATEMENT: Testified in support of HB 449.

REPRESENTATIVE CHERYLL HEINZE

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 453.

ACTION NARRATIVE

TAPE 04-31, SIDE A

Number 0001

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at 3:30 p.m. Representatives Anderson, Gatto, Dahlstrom, Lynn, Rokeberg, Crawford, and Guttenberg were present at the call to order.

HB 379-OFFICE OF CITIZENSHIP ASSISTANCE

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 379, "An Act establishing an office of

citizenship assistance in the Department of Labor and Workforce Development."

Number 0091

REPRESENTATIVE BRUCE WEYHRAUCH, Alaska State Legislature, sponsor, explained that HB 379 would establish an office of citizenship assistance in the Department of Labor & Workforce Development. He noted that this bill was introduced in another session by then-Senator Pete Kelly from Fairbanks. There are over 3,000 legal aliens in Juneau, many from the Philippines and Tonga, who have a great impact on the economy. Representative Weyhrauch said these immigrants work hard and come to this country to fulfill the American dream of working in freedom, without government intervention, to put food on the table.

REPRESENTATIVE WEYHRAUCH related that as he got to know many of his immigrant constituents, he was profoundly impressed by their desire to work. He noted the unfortunate burdens of government paperwork and bureaucracy, however, and how it is especially difficult for people who were oppressed in their country of origin to turn to government here, since they fear getting in trouble, tend not to be adversarial, or are unfamiliar with the process. By establishing an office of citizenship assistance, he said, he hopes to expand the productivity of legal aliens.

REPRESENTATIVE WEYHRAUCH asked the committee to address the policy issues, saying it is his intent to fund a position within the Department of Labor & Workforce Development so that assistance and direction in job-related matters would be available to legal aliens. This position would also provide policy assistance and direction to the commissioner, or his or her designee, to point out policy impediments for workers and make suggestions to streamline the system. He predicted this would increase employment and business opportunities for legal aliens.

Number 0398

REPRESENTATIVE GATTO asked how this bill affects illegal aliens who are currently working here, noting that the sponsor statement referred to naturalized citizens and citizen candidates.

REPRESENTATIVE WEYHRAUCH surmised that until an alien is declared illegal, he/she is legal. This proposed office would

not aid anyone to skirt the system; it would serve those requesting help.

REPRESENTATIVE GATTO expanded his question, saying that it came from knowing that many aliens come to Juneau by way of the cruise ships, aliens who aren't interested in becoming citizens. He wondered what would happen if one of them asked for assistance in getting a job at this proposed office.

REPRESENTATIVE WEYHRAUCH explained that the office is intended to help people who have some legal status within the system. It is not an office of advocacy to get individuals their legal status. It would exist to assist with employment and filling out forms, and to make referrals to other agencies.

Number 0562

REPRESENTATIVE LYNN remarked that the only thing wrong with this bill is that he didn't think of it. He strongly favors the concept of helping legal aliens, he said, and pointed out that most Alaskans or their families were aliens at one time. He stated his opposition to illegal immigration, but said he supports helping to create productive citizens of the United States. He asked if Representative Weyhrauch had considered faith-based help for legal aliens.

REPRESENTATIVE WEYHRAUCH replied no, but he'd thought the idea could be presented to the lieutenant governor's office, which is championing that initiative. He added that he sees this as an executive branch policy area "coming down," rather than a legislative policy "going up."

REPRESENTATIVE ROKEBERG asked if the State of Alaska should be spending money to provide assistance to nonresidents.

REPRESENTATIVE WEYHRAUCH said he thought it depended on what stage the person was at in the process of becoming a resident and whether the person was trying to be a wage-earning member in the state's workforce.

Number 0664

REPRESENTATIVE ROKEBERG remarked that the legislature in the past spent considerable time ensuring that Alaskans received employment opportunities. He asked if the bill could be modified to say services would only be provided to legal resident aliens of Alaska.

REPRESENTATIVE WEYHRAUCH replied that he thought it only took 30 days to become a legal resident of the state. He surmised that this change to the bill could be made, but said he didn't think it would have much impact due to the short amount of time involved in becoming a resident.

REPRESENTATIVE CRAWFORD remarked that he thought HB 379 was a fine idea and that he appreciated the reference in the bill to labor unions. He read from the bill, which stated in part:

1) provide employment information and referrals to services for legal aliens, including employment services, such as job placement services, and information about how labor unions, administrative agencies, and court actions may be used to deal with claims or charges of job discrimination, illegal termination of employment, sexual harassment, and unsafe working conditions

REPRESENTATIVE CRAWFORD pointed out that this could mean only going to the union after a problem has occurred, when people should also be directed to unions for employment.

REPRESENTATIVE WEYHRAUCH agreed and added that when English is someone's second language or there is no cultural knowledge of unions, he hopes word of mouth will direct people to the proposed office, which will list employment opportunities including unions, job service offices, and want ads. He added that often workers require an interpreter to navigate the system, and they could likely get this help in the office of citizenship assistance if the commissioner crafted the position description with this provision.

Number 0939

REPRESENTATIVE CRAWFORD recounted his own experience with becoming an ironworker, "a real step up in my life."

REPRESENTATIVE WEYHRAUCH shared his experience of joining a union but never being hired.

REPRESENTATIVE DAHLSTROM asked if the commissioner of the Department of Labor & Workforce Development would determine the [pay] range and step for this position.

REPRESENTATIVE WEYHRAUCH replied that this hadn't been decided, and that the range and step were not defined in the bill.

CHAIR ANDERSON noted that the fiscal note, page 2, requested the position as an Employment Security Analyst II, Range 17.

REPRESENTATIVE WEYHRAUCH replied, "That was the department's analysis. I kept it undefined in the bill."

Number 1034

REPRESENTATIVE GUTTENBERG asked what happens to legal aliens who are discharged from employment. Do they automatically become illegal, he asked.

REPRESENTATIVE WEYHRAUCH replied that it depends on their status with [the Immigration and Naturalization Service (INS)], often determined on a case-by-case basis.

REPRESENTATIVE GUTTENBERG mentioned giving these people opportunities, saying they want to be "mainstreamed," to have jobs, and to participate in the community and be a constructive part of society. He expressed the desire to give them a place and opportunity to feel comfortable dealing with the government and knowing that this place exists to redress [problems].

REPRESENTATIVE ROKEBERG asked if legal aliens could be residents of Alaska.

REPRESENTATIVE WEYHRAUCH said he thought so.

REPRESENTATIVE ROKEBERG asked if permanent fund dividends are paid to resident legal aliens of Alaska.

[There was no definitive answer.]

Number 1140

RAFAEL CASTANOS, Advisor, Filipino Community of Alaska, testified in support of HB 379. He said he had discussed this bill with then-Senator Kelly in 2001; unfortunately, it got "bogged down" because of funding. Mr. Castanos spoke of the immigration issues facing the Filipino community, since there is no immigration office in Juneau, even though it's the capital. For example, he'd been approached by immigrants when the government had directed that they be fingerprinted in Ketchikan or Anchorage. New immigrants earn \$7 or \$8 an hour and cannot

afford to travel to Ketchikan or Anchorage. Although he'd tried to advocate for them, some flew to Ketchikan or Anchorage to comply with the requirement. However, after two months they again received letters from immigration saying, "We cannot see your fingerprints." He pointed out that the travel money paid out to comply was nonrefundable.

MR. CASTANOS said Filipinos are shy by nature and wouldn't contact their legislators about these problems. Immigration forms are complicated; if an immigrant approaches an immigration official to get assistance in filling out a form to petition for entry of a relative into this country, he said, the official will not help but directs the immigrant to contact an immigration lawyer, which costs a prohibitive \$5,000 to \$6,000.

MR. CASTANOS reported that he'd done research looking for a comparable organization but, surprisingly, found none. He sees Alaska serving as a model for a citizenship-assistance office that would help immigrants navigate the legal system and solve problems on their way to becoming citizens. He noted that the idea for the original bill was supported by Catholic Social Services of Anchorage, which advocates for illegal aliens. He explained that he wanted the bill to focus on the larger immigrant population of legal aliens. He felt the Filipino community would be doing the state a favor by helping the government solve immigration problems.

Number 1437

CHRISTINA SUMINGUIT testified that she supported HB 379 and agreed with the testimony of Mr. Castanos.

Number 1477

CONSESA CABRIGAS testified in support of HB 379 and related that she is a recent immigrant, having arrived in Juneau last December, and is very happy to be here.

Number 1515

ANDREE McLEOD, Anchorage, testified against HB 379. She explained that part of the American dream is interfacing with government, and it is problematic. There are already agencies in existence that deal with problems, such as the Human Rights Commission, the INS, and the Office of the Ombudsman. She opined that the policy embodied in HB 379 was discriminatory, based on national origin. She applauded the intent of

recognizing the rich history of immigration in Alaska, but did not feel that this should be done at public expense.

MS. McLEOD further stated that it is the responsibility of the sponsor to bridge the transition for individual immigrants. She said immigrants must not and should not be treated as victims of circumstance. She remarked, "They've already shown a strong sense of responsibility by taking the steps necessary to leave their homeland. And it's that responsibility that needs to be encouraged, instead of enabling a system allowing people to make excuses." Ms. McLeod suggested that this is a federal problem and that scarce state resources shouldn't be spent on this issue. She concluded by sharing that her family immigrated to this country, had a sponsor who was an uncle, and never felt like victims.

Number 1655

CHAIR ANDERSON, upon determining that no one else wished to testify, closed public testimony.

Number 1620

REPRESENTATIVE LYNN moved to report HB 379 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE ROKEBERG objected. He said if the state can find \$112,000 for employment opportunities, it might be better spent in rural Alaska, where there are hard-core unemployment problems. He commented that there was merit to the bill, but he was unsure whether the state could afford it.

REPRESENTATIVE ROKEBERG removed his objection.

CHAIR ANDERSON expressed support and noted his plan to cosponsor HB 379, since he knows of immigrant constituents in his East Anchorage district.

Number 1665

CHAIR ANDERSON, hearing no other objection, announced that HB 379 was reported from the House Labor and Commerce Standing Committee.

SB 291-UNSTAMPED CIGARETTES

CHAIR ANDERSON announced that the next order of business would be SENATE BILL NO. 291, "An Act extending the transition period for activities involving unstamped cigarettes; and providing for an effective date."

Number 1698

SENATOR CON BUNDE, Alaska State Legislature, presented SB 291 on behalf of the Senate Labor and Commerce Committee, sponsor, which he chairs. He testified:

This is probably a good illustration why we have a legislature and we don't put all our laws in the constitution, because things change that are unforeseen. ... Way back when we passed the cigarette tax, ... it turned out there was a bit of a gray market that was established and, in order to help us enforce our Alaska law on cigarette taxes, we needed to establish a stamping procedure so that cigarettes sold in Alaska were stamped.

We passed this bill last year with your help, and then unforeseen circumstances arose. And that is, the tobacco manufacturers, cigarette manufacturers, used to have a very liberal return policy. Apparently, any unsold stock could have been returned for a full credit. For whatever reason, they chose not to do that any longer.

We had ... a reasonable deadline in the bill, which was by March 31 all unstamped cigarettes should have been sold. It turns out that [retailers] are not able to sell their ... arrearage, if you will, or their stock, and they won't be able to return them to the manufacturer. And it certainly wasn't the intent of this legislation to cause a loss for those retailers.

So what we've done in this bill is extend to June 30th the deadline for selling unstamped cigarettes in Alaska. This certainly should be ample time for retailers to dispose of all their previously purchased cigarettes that were unstamped. And then, after that, we can move forward with the new law that requires stamps ... and enforcement of Alaska's tax laws.

Number 1850

MIKE ELERDING, Owner, Northern Sales Company of Alaska, a wholesale distributor operating in Southeast Alaska that primarily sells tobacco products, testified as follows:

We support the passage of Senate Bill 291. ... Last year the passage of Senate Bill 168 required all cigarettes imported into the state to possess a tobacco stamp on each carton of cigarettes. The effective date of ... Senate Bill 168 was January 1st [2004], and there was a 90-day transition period, as Senator Bunde pointed out, through March 31, to phase in the conversion from stamped to unstamped inventory. ... Effective March 31st, it's going to be illegal for retailers ... or anyone to possess unstamped cigarettes. But, unfortunately, there are still a lot of unstamped inventory ... at retail, which ... creates a problem.

As Senator Bunde said, the primary reason the initial 90 days didn't go through was because of a change that the manufacturers implemented after we'd already passed Senate Bill 168. So, without ... the legislature's action, we're going to have a number of retailers in the state who ... find themselves in possession of illegal cigarettes that would be subject to seizure ... and, as a result, they could suffer a severe financial loss from this. The easy and correct way to fix this would be to extend the date from March 31 to June 30, as Senator Bunde has done ... in Senate Bill 291.

Number 1933

JOHANNA BALES, Excise Audit Manager, Tax Division, Department of Revenue, noted that she is the program manager for the cigarette and tobacco products tax. Ms. Bales reported that her division had received approximately 100 phone calls from retail businesses due to their concerns over the change in the [cigarette] manufacturers' policy and the resulting possible loss of revenue to their businesses. She said, "In a way, I'm testifying for those 100 retailers across the state who called us ... and are hoping for the passage of this legislation."

REPRESENTATIVE CRAWFORD asked what would happen if this bill doesn't pass by March 31, 2004.

MS. BALES replied that she would be meeting with the governor's office [March 23, 2004] to discuss this issue, and believes it would be possible to suspend enforcement, in this instance, until her division is certain it is carrying out the intent of the law.

SENATOR BUNDE commented that absent clear legislative intent, the law would require that the unstamped tobacco products purchased before the law went into effect would have to be confiscated.

REPRESENTATIVE ROKEBERG reassured Senator Bunde that the House Rules Standing Committee [which he chairs] would expedite calendaring for SB 291.

Number 2038

REPRESENTATIVE ROKEBERG moved to report SB 291 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SB 291 was reported from the House Labor and Commerce Standing Committee.

HB 449-AIDEA BONDS FOR GAS PUBLIC UTILITIES

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 449, "An Act relating to the contracting and financing authority of the Alaska Industrial Development and Export Authority; authorizing the authority to issue bonds in a principal amount not to exceed \$76,000,000 to finance the acquisition, design, construction, inventory, and operation of natural gas, propane air, or manufactured gas public utility facilities; and providing for an effective date." [Before the committee was CSHB 449(EDT).]

Number 2074

PETER FELLMAN, Staff to Representative John Harris, Alaska State Legislature, introduced HB 449, which was sponsored by Representative Harris by request of the Alaska Intrastate Gas Company (AIGC). He noted that the bill's presentation would be made by a representative from that company.

Number 2100

PAUL RUSANOWSKI, Senior Vice President for Operations, Alaska Intrastate Gas Company, presented HB 449 as follows:

The bill addresses a requirement under AS 44.88.095(g) in which the legislature must approve a project over \$10 million in costs before AIDEA [Alaska Industrial Development and Export Authority] can consider the program under the development finance program. This project in its entirety encompasses 17 communities and would cost in excess of \$100 million. AIDEA considered each of the communities as part of the total project. So whether the cost for a community is less than \$10 million or not, the project itself dictates their ability to consider the community under the development finance program.

What we seek with this legislation is an opportunity to broaden the financial opportunities for communities so that, individually, they might be able to work with both Alaska Intrastate Gas Company and AIDEA to be considered under the development finance program for financing utility infrastructure in that community, if that represents the most favorable approach to developing utility services in that community.

At the present time, Alaska Intrastate Gas Company has reached agreement with AIDEA to proceed with conduit financing for initiating the project. So this is not a program that would be considered by Alaska Intrastate Gas Company right now. And we are presently working with a financial institution to seek a bond placement this summer to initiate the project.

The bill also provides a sunset date for the bonding authority so that it would not continue in perpetuity, but it would terminate within a few years after passage. The project itself would result in employment of excess of 200 people throughout Southeast Alaska, [and] generate more than 50 permanent jobs in these communities.

Number 2202

REPRESENTATIVE ROKEBERG asked for clarification on the agreement between AIGC and AIDEA regarding conduit revenue bonds.

MR. RUSANOWSKI replied that it is a verbal agreement; they are working on a bond placement that would utilize conduit financing.

REPRESENTATIVE ROKEBERG referred to a letter dated February 18, 2004, sent to Representative Harris from Ron Miller, executive director of AIDEA, noting that the letter says legislative authorization is not necessary in order to use the conduit revenue bond program. He asked for clarification on the purpose of the bill.

MR. RUSANOWSKI explained that this was correct, but said his company wasn't seeking authorization for itself at this time for this program. The purpose of this bill is to provide for the availability of the conduit revenue bond program to communities as development occurs. If communities choose to access natural gas, they could be considered by AIDEA to secure future financing for the project. He said the initial conduit financing will cover Juneau, Ketchikan, and Sitka. In the future, he thought there might be better financial opportunities for communities to consider. He said these communities, because they'd be part of a larger project, wouldn't be able to participate in the development finance program for any potential financing.

Number 2279

REPRESENTATIVE ROKEBERG asked if those communities could then use the conduit taxable bond program through AIDEA and if HB 449 was authorizing them to do so.

MR. RUSANOWSKI replied:

What you'd be authorizing is for this project to be considered under the development finance program if it meets the investment criteria and feasibility, et cetera, that AIDEA would require. However, the project will be initiated without the use of this program, or consideration from this program, through conduit financing. ... If [communities] chose that they would like to proceed this way, where the financing mechanism through this program was more favorable than what we could provide outside of this program, then it might be of interest to the community to utilize it in conjunction with ourselves.

Number 2319

CHAIR ANDERSON reversed the question, asking, "If the bill doesn't pass, what can't these communities receive?"

MR. RUSANOWSKI responded that the adverse effect is the elimination of one potential mechanism for financing infrastructure within the community that might be more favorable to the community in reducing the cost of the service.

Number 2353

DON ETHERIDGE, Lobbyist for Alaska State AFL-CIO [American Federation of Labor and Congress of Industrial Organizations] and local laborers, testified that the local laborers hope to be part of this project and support HB 449, since it will help outlying communities join the project because the bill provides "a more expedient and cheaper way of doing things."

TAPE 04-31, SIDE B

Number 2350

MR. ETHERIDGE concluded by explaining that the AFL-CIO is in support of the jobs this project will create, both temporary and permanent.

Number 2333

BOB LOESCHER, Member, Tlingit & Haida Community Council, noted that he was formerly with the AIDEA board of directors and was former chief executive officer for Sealaska Corporation. He said he currently represents a number of entities in coastal communities that are interested in this project. Speaking to the need for the project, he explained about the rising cost of diesel fuel, which powers electrical generators in Southeast communities at a cost of about 33 cents a kilowatt-hour. He said although the bill is constructed with a focus on Ketchikan, Sitka, and Juneau, a number of communities - Hoonah, in particular - could then apply for pipelines. He stated:

We could reduce the cost of ... fuels 50 percent from diesel fuel, and that would help our economic development tremendously and also help the people who reside in this community ... because they are paying anywhere from \$1.40 to \$1.80 a gallon for diesel fuel right now. ... It could go to \$2 or \$3 dollars this summer just for gasoline; parallel price for diesel fuel goes up similarly, so we could be looking at anywhere from \$2 to \$3.50 per gallon in coastal communities for diesel fuel. ...

This project for Southeast Alaska would access Canadian propane-air right now, and as Alaska gas line sources develop over the next 20 years, we could access Alaska gas and bring it to our region. So ... the people I represent strongly endorse this bill.

MR. LOESCHER said he thought there might be further amendments on HB 449. He related that when he was on the AIDEA board, any project that exceeded \$10 million required legislative oversight because large projects affect the amount of bonds sold and other bond capacity in the state. He said he approved of this legislative oversight.

Number 2191

REPRESENTATIVE GUTTENBERG asked where the number \$76 million came from on page 2 of the bill.

MR. LOESCHER replied that he wasn't familiar with current details of the project, but in the past there was a \$70-million estimate for the Sitka, Ketchikan, and Juneau portion of the project. He added that he thought the number could have increased because of additional communities being added on to the project list.

Number 2162

JAMES A. McMILLAN, Deputy Director of Credit, Alaska Industrial Development and Export Authority, said he wasn't going to testify for or against the AIGC project; rather, he wanted to testify to his belief that HB 449 isn't necessary. It authorizes AIDEA to issue bonds not to exceed \$76 million for financing this project under the authority's development finance program, which he said is commonly referred to as its "own and operate" program.

MR. McMILLAN cited the Red Dog project as an example of a project that received financial assistance under the development finance program, where the authority actually owns the road and operates it through a third-party agreement with Teck Cominco [Limited]. The Federal Express maintenance hangar in Anchorage is another example where the authority owns the project and operates it through a third-party agreement with FedEx.

MR. McMILLAN explained that normally AIDEA looks at the development finance program for financial assistance for those projects where ownership of the assets will bring a benefit to

the project. This most commonly occurs when government ownership is required in order to qualify for tax-exempt bonds that lower the cost of financing. He said AIDEA has been acquainted with this project for about five years, and had indicated to AIGC on many occasions - at least twice in writing - that this project doesn't fit within the development finance program. He said AIDEA's ownership of the assets under that program brings no additional benefit to the project and, in fact, may bring additional hurdles of time and costs to go through the required approval process.

MR. McMILLAN explained that AIDEA also determined this project doesn't qualify for tax-exempt financing; therefore, there is no necessity for [AIDEA], a public corporation, to own the asset. Mr. McMillan disagreed with Mr. Rusanowski's testimony, which he interpreted to be that this authorization is needed not necessarily because of Juneau, Sitka, and Ketchikan, but because of the additional communities, and that the authority would look at this as the total cost of the project and not the financing for one of the smaller communities. Mr. McMillan said the statute requires approval of issuance of bonds under the development finance program if the face amount of the issuance of the bonds issued by the authority exceeds \$10 million. He said it really has no relationship to the total project cost.

Number 2011

MR. McMILLAN responded to Mr. Rusanowski's statement that there is an agreement with AIDEA to issue conduit bonds for the initial portion of this project as follows:

I want to clarify that we have indicated to [AIGC] that the conduit revenue bond program, issuance of taxable bond, appears to be the program that fits best for the type of financing of the project that they are undertaking. But that requires, first of all, an underwriter or someone to purchase the bond, and due diligence and an underwriting analysis. We really haven't concluded any of ... those points to move forward and have an agreement on issuance of conduit bond.

REPRESENTATIVE ROKEBERG posed a situation in which AIGC found an underwriter, did due diligence, and was prepared to provide financing. In such a situation would it only have to apply to AIDEA for the conduit financing, he asked.

MR. McMILLAN replied that if AIGC could find an underwriter and someone to purchase the bonds, then AIDEA would give consideration to financial assistance under the conduit revenue bonds. He clarified that conduit revenue bonds, when issued by the authority, put the authority at risk; potentially, its name and ability are identified with these bonds. Its ability to enter into the market again could be adversely affected if there were a default on those bonds. While finding someone to purchase the bonds is an important first step, AIDEA also wants to do its own due diligence and analysis to make sure there is a reasonable expectation of success for the payment of these bonds.

Number 1909

REPRESENTATIVE ROKEBERG asked what kind of savings and how many basis points AIGC could expect to save in financing because of AIDEA's conduit revenue bond program.

MR. McMILLAN explained that this is a taxable-bond issue. The rule of thumb is that if the project qualifies as tax-exempt and if AIDEA issues tax-exempt bonds, then the savings could be up to 200 basis points or 2 percent. If the project is financed with taxable bonds, the only thing AIDEA brings to the table is its periodic entrance into the market, which would give the project increased exposure to potential investors. He said in the case of taxable bonds, there is no benefit from AIDEA in terms of savings on the coupon on the bonds.

REPRESENTATIVE ROKEBERG offered his understanding that Mr. McMillan was saying AIDEA might take on additional risk, with a potential default, and not be able to save any money in terms of the marketability of the bonds themselves.

MR. McMILLAN clarified that the ability to actually market those bonds is an enhancement that AIDEA brings to the table, since people are familiar with AIDEA and the projects it supports and sponsors. In terms of savings on the interest rate, he said bondholders can only look to the revenues generated from the project and cannot look to AIDEA.

REPRESENTATIVE ROKEBERG asked if there was a way, under the Internal Revenue Service (IRS) taxing authority and Industrial Development Bonds (IDB), for AIDEA to issue financing for some of AIGC's project on a tax-exempt basis to help the project proceed.

MR. McMILLAN responded that the rule of thumb for issuance of utility bonds is that the borrower must be the utility in the community, and must have been the utility in the community, providing that specific service, as of January 1, 1997. The conditional certificate issued by the Regulatory Commission of Alaska (RCA) is, in fact, to AIGC and not the communities. He said it is apparent that AIGC was not in business as of January 1, 1997, providing the service to these communities.

REPRESENTATIVE ROKEBERG asked if Alaska still has some IDB bonding authority that is limited by the U.S. Code.

Number 1727

MR. McMILLAN explained that Mr. Loescher had made reference to that issue, called volume cap, which dictates the amount of tax-exempt bonds a state may issue. He said AIDEA is one of the issuers of tax-exempt bonds. He believes the limit for Alaska this year is \$250 million. "They" vie for this volume cap on tax-exempt bonds along with other organizations such as Alaska Housing [Finance Corporation], the [Alaska] Student Loan Corporation, and others.

Number 1677

PHILIP SHEALY, City Manager, City of Seward, testified that he is in support of HB 449, and that Representative Kohring had added Seward as the 18th certificated community. Mr. Shealy said Seward had previously worked with ENSTAR [Natural Gas Company] to provide gas service to the community. However, ENSTAR's certificate was revoked and consequently the service ended. [Breakup occurred in audio transmission.]

CHAIR ANDERSON, upon determining no one else wished to testify, closed public testimony.

Number 1561

REPRESENTATIVE GATTO moved to report CSHB 449(EDT) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 449(EDT) was reported from the House Labor and Commerce Standing Committee.

HB 453-JOINT ACTION AGENCIES

Number 1528

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 453, "An Act exempting from regulation under the Alaska Public Utilities Regulatory Act wholesale agreements for the sale of power by joint action agencies and contracts related to those agreements, and joint action agencies composed of public utilities of political subdivisions and utilities organized under the Electric and Telephone Cooperative Act."

CHAIR ANDERSON noted that there was public testimony at the previous hearing [3/19/04], and he closed public testimony.

Number 1519

REPRESENTATIVE CHERYLL HEINZE, Alaska State Legislature, sponsor of HB 453, offered closing comments. She began by noting that Homer Electric Association, Inc. ("Homer Electric") had said it wasn't included in the process. However, she pointed out a resolution signed by the Alaska Power Association (APA) board of directors of which Homer Electric is a member. The resolution, which is included in the committee packet, supports the authorization of a joint action agency (JAA). Asserting that everyone was part of the process, she remarked, "I have been diligent in talking to everyone to make sure we try to put forward a good piece ... of legislation." She continued:

It seems like things have gotten just a little bit muddled, so I want to clarify the intent of House Bill 453. It does not form a JAA. A joint action agency was put in Alaska Statute in 2001. The JAA allows utilities to form a partnership to build generation and transmission facilities. House Bill 453 offers a tool to ensure that the JAA formed by the Railbelt utilities has access to the lowest interest rates ... for borrowed capital to finance [the] high cost of infrastructure projects like replacement, operation, [and] maintenance of our aging Railbelt electrical system, which I think all of you know, from the first time I was here and I had the big map, ... is a problem to the entire state of Alaska.

When utilities borrow money, the cost of that money is passed to the ratepayers - all the ratepayers in the Railbelt. Last week we heard Chris Pihl testify that regulatory uncertainty causes higher rates on borrowed capital. And that's very, very important. That is basically the reason for this bill. Miss Pihl has helped finance over \$8 billion worth of public utility

projects such as this project before us. ... The international rating agency reported that regulatory environment creates uncertainty, thereby raising interest rates to Railbelt borrowers. ... The higher rate will trickle down.

All that HB 453 does is allow that certainty by exempting wholesale agreements by the JAA from rate regulation. With lowered interest rates, the Railbelt utilities will be paying the lowest possible price for their wholesale purchase of electricity, and the savings trickle down from Fairbanks to Homer. As an example, the Four Dam Pool JAA has a proven record of providing low-cost, affordable power to its members. House Bill 453 will give the same benefits to the ratepayers in the Railbelt. I've worked diligently on this bill.

CHAIR ANDERSON asked Representative Heinze if there were any amendments she wished a member of the committee to propose.

REPRESENTATIVE HEINZE replied yes.

Number 1340

REPRESENTATIVE GATTO moved to adopt Amendment 1, labeled 23-LS1601\A.1, Craver, 3/2/04, which read:

Page 1, line 2, following "**agencies**":

Insert "**to public utilities that are parties to the agency agreement, including certain electric cooperatives,**"

Page 2, line 8, following "**utilities**":

Insert "**or electric cooperatives, each of whom is a party to the agency agreement**"

CHAIR ANDERSON objected for purposes of discussion.

The committee took an at-ease from 4:29 p.m. to 4:32 p.m.

REPRESENTATIVE GATTO explained that although he'd been a vocal opponent of the bill, he and Representative Heinze had talked, and he believes he could support it with these amendments. He said Amendment 1 would allow any utility not a member of the JAA to remain regulated both with regard to the amount it charges and the amount it would pay. He further clarified that as long

as a [utility] doesn't join the JAA, it maintains its regulation under the RCA.

CHAIR ANDERSON asked if it was Representative Gatto's presumption that parties such as NEA [Naknek Electric Association, Inc.] and Homer Electric in Seward, which were initially averse to HB 453, would now support this [if Amendment 1 were adopted].

REPRESENTATIVE GATTO replied, "I don't presume."

Number 1259

REPRESENTATIVE CRAWFORD asked if, for example, a power agreement were sold from Chugach [Electric] to MEA [Matanuska Electric Association], it would still be regulated; however, if Chugach Electric were to sell power to ML&P [Municipal Light and Power], this agreement wouldn't be regulated because [ML&P] would be part of the JAA.

REPRESENTATIVE GATTO affirmed the foregoing.

REPRESENTATIVE ROKEBERG asked if this is an opt-out provision or is automatic.

REPRESENTATIVE GATTO replied that it is automatic. He said, "Until you join the JAA, you're not a member and you simply remain subject to the RCA."

REPRESENTATIVE ROKEBERG added that the net effect is that an entity could be receiving wholesale power from the JAA, but that portion of the contract or the agreement between [parties] would still be subject to the RCA oversight and regulation.

REPRESENTATIVE GATTO affirmed that.

Number 1195

CHAIR ANDERSON removed his objection. He announced that Amendment 1 was adopted.

Number 1184

REPRESENTATIVE GATTO moved to adopt Amendment 2, which read [original formatting and punctuation provided]:

To page #3 Line 1

After "this chapter"

Insert "as specified in AS 42.05.431"

CHAIR ANDERSON objected for purposes of discussion.

REPRESENTATIVE GATTO explained that Amendment 2 refers to the power of the commission to fix rates, and is proposed for reasons of clarity.

REPRESENTATIVE HEINZE remarked, "I think Representative Gatto is making this bill even better. This way, it covers all the parties and, I think, puts to rest any feelings that maybe they somehow might not be an equal party or whatever."

REPRESENTATIVE ROKEBERG asked whether it makes a good bill better or a bad bill worse.

CHAIR ANDERSON replied, "I think a good bill better."

Number 1097

CHAIR ANDERSON removed his objection. Hearing no further objection, he announced that Amendment 2 was adopted.

Number 1080

REPRESENTATIVE GATTO referred to notes he'd made on the bill itself, inserting "relating to" on page 1, line 1, where it says "exempting from". He asked whether that had been considered as a conceptual amendment.

REPRESENTATIVE ROKEBERG observed that such a change would greatly widen the title.

CHAIR ANDERSON recommended against that change.

REPRESENTATIVE GATTO agreed.

Number 1033

CHAIR ANDERSON moved to report HB 453, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 453(L&C) was reported from the House Labor and Commerce Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:54 p.m.