

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 5, 2003

1:35 p.m.

MEMBERS PRESENT

Senator Thomas Wagoner, Chair
Senator Robin Taylor, Vice Chair
Senator Gary Stevens
Senator Georgianna Lincoln
Senator Kim Elton

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 38

"An Act relating to construction, plumbing, mechanical, electrical, fire safety, and other safety codes adopted by state agencies and municipalities; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE CONCURRENT RESOLUTION NO. 2(MLV) am
Relating to the extension of the Alaska Railroad to Fort Greely
to serve the anti-ballistic missile launch facility.

MOVED SCS CSHCR 2 (CRA) OUT OF COMMITTEE

PREVIOUS ACTION

SB 38 - See Community and Regional Affairs minutes dated 2/26/03

HCR 2 - See Community and Regional Affairs minutes dated 2/26/03

WITNESS REGISTER

Senator Gene Therriault
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor SB 38

HENRY KIN

VECO Alaska Engineering Advisor
No address provided

POSITION STATEMENT: Testified on SB 38

COLIN MAYNARD
Representative for BP Engineers
No address provided
POSITION STATEMENT: Testified on SB 38

CHRIS MILLER
Chief Mechanical Engineer for Design Alaska
No address provided
POSITION STATEMENT: Testified on SB 38

VERNON BOYLES
No address provided
POSITION STATEMENT: Testified on SB 38

JIM LAITI
Business Agent for Plumbers and Pipe Fitters Local 375
No address provided
POSITION STATEMENT: Supports SB 38

RICHARD RUTLAND
No address provided
POSITION STATEMENT: Supports SB 38

BILL SAGER
Executive Director of the Mechanical Contractors of Fairbanks
No address provided
POSITION STATEMENT: Testified on SB 38

Dennis Michel
President of American Mechanical
No address provided
POSITION STATEMENT: Supports SB 38

Steve Shuttleworth
Building Official with the City of Fairbanks
No address provided
POSITION STATEMENT: Opposes SB 38

Eugene Rutland
Executive Director of the Mechanical Contractors of Alaska
No address provided
POSITION STATEMENT: Supports SB 38

Thomas Marsh
Fairbanks architect with Jantz Associates
No address provided
POSITION STATEMENT: Testified on SB 38

William Bruu
ICBO inspector from in the Mat Su Valley
No address provided
POSITION STATEMENT: Opposes SB 38

Greg Moore
Nana Colt Engineering representative
No address provided
POSITION STATEMENT: Opposes SB 38

Joseph W. Geldhof
Attorney at Law
229 4th St.
Juneau, AK 99801
POSITION STATEMENT: Testified on SB 38

Robert Buch
No address provided
POSITION STATEMENT: Supports SB 38

Mary Jackson
Staff to Senator Wagoner
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced HCR 2

General Pat Gamble
President of the Alaska Railroad Corporation
No address provided
POSITION STATEMENT: Testified on HCR 2

ACTION NARRATIVE

TAPE 03-5-6, SIDE A

CHAIR THOMAS WAGONER called the Senate Community and Regional Affairs Standing Committee meeting to order at 1:35 p.m. Present were Senators Gary Stevens, Taylor, Elton and Chair Wagoner.

The first order of business was SB 38.

#SB 38

SB 38-ADOPTION OF SAFETY CODES

CHAIR WAGONER advised members the committee substitute (CS) \I 2/25/03 Banister version was adopted as the working document during the 2/26/03 meeting. He asked Senator Therriault to come forward.

SENATOR GENE THERRIAULT, bill sponsor, thanked the Chair for giving the public time to review the committee substitute (CS).

He is now better able to understand why the Legislature didn't deal with this complex issue last year. Some of the concerns expressed regarding the CS are due in part to misunderstanding. Following are responses to questions and comments raised in a recent email:

- What is the purpose of moving the mechanical code from the Department of Public Safety to the Department of Labor? Answer: Mechanical codes were grouped with plumbing and electrical codes because those "trade codes" currently require individuals certified to perform certain job functions to undergo continuing training.
- What about a conflict created by created by two different departments under two different statutes adopting two different safety codes? For example, the elevator code versus the sprinkler code. One code prohibits any pipes that convey liquids in elevator shafts while the other code requires shafts to be sprinkled. Answer: This is part of the problem they are dealing with and part of the problem that was created when the Fire Marshal caused us to move the mechanical code to the International in the Department of Public Safety but, a sub category of the

mechanical code is the plumbing Code in the Department of Labor and is under the Uniform Code.

- This bill specifies a proprietary code rather than allowing code officials to determine what is best. Outside groups are telling code officials which code they want, which is rather like the fox guarding the hen house. Answer: This bill does not mandate that the Uniform Code be adopted; it allows the Department of Labor to adopt a mechanical code without specifying which one.
- Page 2 line 31 of the \I version CS references the "Uniform Building Code" as adopted by the Department of Public Safety. This reference is existing statute and is part of the inconsistencies they are trying to clarify. New text is underlined [DELETED TEXT BRACKETED]
- Page 3, line 25. Why delay the effective date for three years after adoption? Code groups usually revise their codes on a three year cycle. When code officials adopt a new code it takes two years to complete and approve. If three additional years are added, this is into another code cycle. Answer: This is a misunderstanding of application. There is only a delay in effective date when switching from one code group to another such as from the Uniform Code book to International Code book. Simply updating a set of currently used codes would require no delay.
- Page 4, line 14. Why is the effective date of the mechanical code not delayed for three years? Answer: Because they propose to take the authority to adopt a code away from the Department of Public and give it to the Department of Labor and DOL would need to be able to adopt a code right away. If they switch to a completely

different set of codes at a later date, there would be a delay, but whatever set they adopt initially could be updated with no delay.

SENATOR ELTON apologized for interrupting the testimony to ask if the three year delay would apply if the code moves to the Department of Labor and the DOL adopts the Uniform Code instead of the International Code.

SENATOR THERRIAULT said, "Not initially, but thereafter if they move to go from one set of codes to another there would be the delay."

SENATOR ELTON asked, "If you have identified a problem with switching back and forth between codes, why don't you address it when you first switch? ...The same problems you're trying to avoid by having a three year delay accrue the first time they're switched also."

SENATOR THERRIAULT replied the switch from the Uniform Code to the International Code caused problems associated with training. The Department of Labor must be able to take quick action to have something in place and yet take care of the initial problem of people not being properly trained and prepared to switch from one code to another.

SENATOR ELTON remarked the Fire Marshal adopted the International Code plan several years ago.

SENATOR THERRIAULT said he did, but the switch was challenged in court and the initial decision is currently under appeal. If

that court case is lost, there may be a return to the Uniform Code.

The preceding were the issues that were brought to his attention. Some were based on misunderstanding the way the bill references existing statutes and proposed new statutes. He hoped the committee would hear from individuals in the business community regarding the steps proposed in the bill or areas that were not anticipated. He asked for support in making the correct policy calls. The fact that The Division of Occupational Licensing recently reported problems with the education requirements, and the ongoing turf battle between the departments of public safety and labor, and the turf wars that exist between the people that write and sell the different codes shouldn't drive the decisions or policies, but it points up the need to adopt a system to address the immediate confusion as well as a system for the future. As a department proposes to move from one set of codes to another, there needs to be time for individuals who use the codes to educate themselves and their workforce.

CHAIR WAGONER asked members if they had questions.

SENATOR ELTON asked if there was a period of time between when the Fire Marshal said he was going to adopt the International Mechanical Code and September 2002.

SENATOR THERRIault said there was some time, but part of the confusion arose because of the feeling that the action was illegal and it was subsequently challenged in court.

SENATOR ELTON asked if there has been some training in the International Code since the Fire Marshal made the decision to switch.

SENATOR THERRIAULT replied some people retrained, but as a result of the court challenge, some did not get the training they should have gotten.

SENATOR ELTON referred to the recommendation from the Alaska Professional Design Council that a public private work group be formed to address the whole system of code adoption and enforcement. He assumed the work group would also determine where each of the codes should be housed. This is a compelling recommendation and he asked whether the sponsor had considered that approach.

SENATOR THERRIAULT replied he did after reading the recommendation, but he isn't ready to form such a group as yet. If legislators can't come to agreement, then a working group might be in order.

SENATOR TAYLOR asked what happens if the court decides the Fire Marshal did not have the authority to switch to the International Code and the Legislature takes no action.

SENATOR THERRIAULT thought codes would return the Uniform Code. That would solve the continuing education problem, but not all the problems would be addressed. For instance, jurisdictional issues would remain.

SENATOR TAYLOR asked whether he had considered simply addressing the jurisdictional problem.

SENATOR THERRIAULT replied that is part of the proposal.

There were no further questions from the committee.

CHAIR WAGONER called the following individuals to testify:

ROBERT BUSH didn't have a copy of the CS and deferred his testimony.

GARY POWELL, State Fire Marshal, advised he was available to answer questions.

HENRY KIN, VECO Alaska Engineering Advisor, emphasized the mechanical code is an integral part of the building code family. The International Building Code, International Fire Code and the International Mechanical Code are well integrated and it is critical they are administered together. It's difficult to do a proper building design when one agency is administering and reviewing two of the three parts while the third part is in a separate agency. The DOL has no means to provide plan review services, which is critical. Construction plans are reviewed for compliance with the applicable codes before construction is started. Typically DOL doesn't enter the picture until it's time for construction extensions. Without knowing whether the initial design has been reviewed and accepted as compliant with the applicable code, a developer could be at risk by starting construction.

He noted continuing education is applicable to everyone. Anyone in business and providing a service would have difficulty maintaining proficiency without continuing education. It's just the cost of doing business.

He recommended forming a task force or work group composed of interested stakeholders.

CHAIR WAGONER asked everyone to limit his or her remarks to three minutes. He then asked Mr. Maynard to proceed.

COLIN MAYNARD, representative for BP Engineers, explained the Fire Marshal's decision to switch to the International Code was not whimsical. The Uniform Building Code and the International Conference of Building Officials (ICBO) no longer exist. They joined with two other building code organizations and formed the International Code Council. These are the same people that have been writing codes for the State of Alaska for the last 50 years. Three years ago the Fire Marshal had no choice but to switch to the International Code because there was no other building code available. That has changed for 2003 and a task force could compare the two separate families.

If the court decides the Fire Marshal acted outside his authority he thought they would return to the 1997 Uniform Building Code, which is no longer published or maintained. This would be an ICBO code.

The plumbing code is not a subset of the mechanical code. They are two separate codes that are somewhat related but the

mechanical code is much more related to the building and fire code than to the plumbing code.

CHRIS MILLER, Chief Mechanical Engineer for Design Alaska, said his firm was reviewing the codes with the State Fire Marshall before the September 2001 adoption and has been working with the new codes for 18 months.

The City of Fairbanks, Anchorage and federal military facilities all adopt different codes and architects and engineers must stay current with each jurisdiction. Because they must submit plans that follow current codes, they attend classes to stay familiar with changes. Code changes tend to be improvements, which is good for clients.

He would like to see all state construction codes adopted under a process similar to the Department of Public Safety. The Department of Labor, which has adopted the electrical and plumbing codes typically don't review or amend those codes; they simply adopt them as is. His firm doesn't have a particular preference for either the Uniform or the International Codes but mixing and matching is difficult and may create gaps that drop issues. He recommended all code adoption forces be housed under one department, but the enforcement, inspection and testing could stay in the departments they are in now.

He opined when changing from one major code group to another, the proposed delay may be warranted.

VERNON BOYLES, 50 year Fairbanks resident, testified he holds mechanical administrator license number 25, which is up for

renewal every two years. To qualify for renewal, he must attend two eight-hour educational classes that pertain to mechanical and plumbing disciplines. In order to receive credit, the Division of Occupational Licensing must approve the classes. He completed two approved courses for his upcoming license renewal only to find out the division now only accepts programs pertaining to International Code requirements. He asked, "How much more time and money must I spend to achieve eligibility?" He urged the committee to adopt SB 38.

JIM LAITI, Business Agent for Plumbers and Pipe Fitters Local 375, testified in support of CSSB 38, which would move the mechanical codes under the authority of the Department of Labor.

RICHARD RUTLAND, a mechanical administrator representing himself, testified in support of CSSB 38. It would allow the department that has the authority for inspection to have the authority for adoption as well.

BILL SAGER, Executive Director of the Mechanical Contractors of Fairbanks, said he submitted an outline to the Division of Occupational Licensing for a continuing education course for both the Uniform Plumbing Code and Uniform Mechanical Code. The courses were completed and certificates issued and now there is some problem honoring the courses. This change is expensive for a great number of individuals. "Simply moving the administration of the Uniform Code to the Department of Labor won't solve all the problems, but it will at least take one department out of the mix and perhaps simplify the process a little bit."

DENNIS MICHEL, President of American Mechanical, reminded members that while legislators, building officials and mechanical administrators are trying to sort this out; the workingman is at the heart of the issue. To have one agency setting a code as it chooses, another that is responsible for licensing and a third that is responsible for examining the work and checking the qualifications of the journeyman is asking for confusion. Because the Department of Labor works with the journeyman on a day-to-day basis, he thought moving the authority into the Department of Labor would be beneficial.

2:15

STEVE SHUTTLEWORTH, Building Official with the City of Fairbanks, advised they would like to go on record reaffirming the city's strong opposition to SB 38. The reasons are outlined in Mayor Thompson's letter dated February 18, 2003. The city is frustrated that mechanical contractors must deal with three and four agencies and feels the situation needs to be resolved. However, SB 38 isn't the solution because it allows "the fox to guard the hen house." The Department of Labor is not the appropriate department to vest the regulation, adoption and implementation of the mechanical code. It makes no sense to postpone the effective date of any code for three years after its adoption as required by Article 14. This puts municipalities six years behind the current code.

They have sent a clear position to two separate administrations. They believe in home rule authority and one family code. SB 38 clearly demonstrates building departments and fire departments have not been contacted to find out how they administer their

program. He urged members to stay away from such special interest legislation.

He added the city has yet to receive a response to their letter of February 18, 2003, which is also a source of frustration.

SENATOR TAYLOR asked whether he had reviewed the committee substitute and whether his comments were directed to that document.

MR. SHUTTLEWORTH replied his comments were directed to the CS and apologized if he hadn't made that clear.

SENATOR GARY STEVENS asked Mr. Shuttleworth to clarify what he meant by special interest legislation.

MR. SHUTTLEWORTH replied there is a strong labor interest in maintaining the International Association of Plumbing and Mechanical Officials (IAPMO) based code, which has been used in Fairbanks. The Uniform Building Code no longer exists; it's now with the ICC, which is basically "a different game plan by default...it's the only one that's out there." When you try to put two codes together that weren't meant to be together it becomes difficult to administer at the local level. This is a labor issue and labor issues shouldn't be used as an economic tool to determine what code is adopted.

EUGENE RUTLAND, Executive Director of the Mechanical Contractors of Alaska, testified in support of SB 38. He represents contractor/business men and he disagrees that this is a labor-based issue. Most mechanical contractors and mechanical

administrators perform work and have licenses for both plumbing and mechanical work. As long as the same family of codes was adopted by the state, the fact that two different departments did the adoption caused no problems. However, two different departments have adopted codes from two different families and problems have already surfaced. Previous testimony indicates there isn't much difference between the code families and someone proficient in one should have no difficulty becoming proficient in the other. The Fire Marshal has said he cannot use the Uniform Mechanical Code in his adoption of the International Building Codes because "it just doesn't work." The codes are similar and can accommodate each other or they don't work together; it can't work both ways.

It makes sense for the Department of Labor to adopt the mechanical code. It's the only department involved in field inspections of mechanical systems and mechanical contractor operations. The argument that the mechanical code is necessary to the Department of Public Safety overlooks the fact that the fuel gas code, which is in the plumbing code, is adopted and administered by the Department of Labor and is certainly a fire concern.

SENATOR STEVENS asked whether passage of SB 38 would made administering the laws more difficult at the local level.

MR. RUTLAND replied he didn't think it would make any difference to municipalities doing plan reviews.

SENATOR TAYLOR referred to testimony indicating there were inherent problems with unions and their involvement with the

Department of Labor and Mr. Rutland testimony that he represents business people. There have been a number of arguments over codes in the last 18 years and he assumes some of the previous comments come from those conflicts. He asked whether there is a code that is favored or disfavored by employers or union members that figures into the current disagreement.

MR. RUTLAND said all the people he represents are mechanical administrators and they would naturally favor the Uniform Codes. By statute they have been trained and licensed under that code and are therefore more comfortable with it.

SENATOR TAYLOR asked if the preference was based on experience and familiarity rather than a union or non-union question.

MR. RUTLAND agreed that was the case.

THOMAS MARSH, a Fairbanks architect with Jantz Associates, said he is also the President of the local ICBO chapter, a group of architects, engineers and builders who are involved in staying educated on current code requirements. They also participate in the adoption of new codes every three years.

He supports the position paper of the Alaska Professional Design Council (APDC) and Mr. Shuttleworth's comments. Item number two of the APDC letter that states a solution is to not move the Mechanical Code to the Department of Labor, but move all adoptions, plan reviews and inspections to a single department. Fairbanks, Anchorage and Juneau have adopted this type of system. Item number three refers to education and the difficulties associated with staying current. The International

Building Code in the International family of codes was the result of efforts to build a national consensus code. The difficulty in adopting from two different code families is that one family references and cross references the other and frequently there are holes not covered by one or the other.

The Fire Marshal's adoption process includes a public hearing process so engineers, architects, contractors, and laborers can give input regarding what changes should be made to the codes. He then cautioned members against accepting a three year delay in the adoption process. The public hearings and the amendment process already provide a delay period.

SENATOR TAYLOR asked which department should have the authority for adoption plan reviews and inspections.

MR. MARSH had no particular recommendation, but he does support forming a task force because no one department, as currently set up, is appropriate.

There was no further teleconference testimony.

CHAIR WAGONER asked Mr. Bruu to come forward to testify.

WILLIAM BRUU, ICBO inspector from in the Mat Su Valley, testified in opposition to SB 38. Specifically he disagreed with Section 4, [page 2] line 30 through page 3, lines 1-4.

As a building inspector, he must be familiar with both Uniform and International Codes because the date of construction determines which code was followed. The difference between the

Uniform Mechanical Code and the International Mechanical Code is almost insignificant. "There are provisions in those two codes that are literally work for word." He must stay current with both of the codes all of the time and as the codes change he must educate himself.

He supports the idea of placing all the building codes and any aspect of the building codes under one agency. When he performs plans review he must apply the codes and the State Fire Marshal and municipalities do the same thing. In its present form, this legislation is an attack on home rule because it tells municipalities they can't adopt a code they may want. About 10 years ago the three original code writing agencies decided to consolidate. They were under pressure from the design and engineering community to put together a code whereby a California designer could design a building using national codes and that same building could be built in Mississippi without a lot of changes. The design and engineering industry in Alaska wants the same thing.

SENATOR ELTON thanked him for clarifying the similarities in language and for addressing the local preemption concerns then pointed out the language on page 3, lines 1-4 concerning the four dwelling units is not the sponsor's language, it's existing law.

SENATOR TAYLOR had the same point with regard to Section 4.

MR. BRUU read Section 4 subparagraph (A) and said it speaks specifically to Alaska Housing and what they finance because it refers to fewer than four dwelling units. Single family homes

are a major part of the industry as far as mechanical systems are concerned. By statute, the State Fire Marshal's jurisdiction is limited to four dwelling units and above.

SENATOR TAYLOR advised him this was existing law.

MR. BRUU replied subparagraph (B) proposes changes and he opposes those changes. He had no suggestions on subparagraph (A).

CHAIR WAGONER asked if there was further testimony.

GREG MOORE, Nana Colt Engineering representative, testified in opposition to SB 38. He has been involved in code adoption while working with the federal government, state government and now with the oil and gas business. Although the language in the bill is a bit unclear, the assumption is that moving the International Mechanical Code from the Department of Public Safety to the Department of Labor will result in the adoption of the Uniform Mechanical Code. When a city or state has model building codes that are in different families there is code segregation, which means the codes "don't talk easily." Currently there is considerable disruption as engineers and design professionals work to interpret the different codes. The difficulties would increase with the proposed change. Some people have said the plumbing code is a subset of the mechanical code, but the mechanical code is a subset of the building code. Design professionals start with the building code then move in and out of the various other codes as the project progresses. Much of the testimony has centered on the difficulties mechanical administrators have because they are regulated by two

different entities. Alaska Statute requires them to follow the Uniform Codes and the superior court ruled the International Code is law. He urged members to address the training issue and not change codes to fix a training problem. Changing authority won't change a training problem. The State Fire Marshal has said his office is more than happy to assist mechanical administrators in training on the International Codes. If there are still problems, change the statute to align with the present code basis, which is the International Code.

The Fire Marshal's office provides plan review services to help planning and engineering firms. If the mechanical code were moved to a different entity, to which office would he as an engineer direct his plans for review? Currently there is no plan review team in the Department of Labor so the electrical and plumbing codes aren't specifically reviewed. If the mechanical code, which is such an integral part of safe building design, is moved as proposed, it too would be in that gray area and would have no plan review. The plan review process provided by the State Fire Marshal is valid.

Currently the International Codes contain 208 cross references between the building code the mechanical code and the fire code. Those 208 references and Appendix L, which deals with the hydrocarbon processing facilities on the North Slope, would require amendment if the legislation passes in its present form.

He said his firm has set aside funds for him to help the committee members in this process.

CHAIR WAGONER asked if there were any questions.

SENATOR ELTON asked Mr. Moore to address the Appendix L issue in writing and provide that information to committee members.

He noted there might be need for a fiscal note if plan review is required of the Mechanical Code.

MR. JOE GELDHOF, Legal Counsel for the Mechanical Contractors of Alaska, stated he would try to clarify the issue and would therefore limit his testimony to what the issue was not about.

This is not about the adoption of a fire code or a building code. It is high-centered on the issue of whether or not the State of Alaska had legal authority to adopt a mechanical code. It is the position of the mechanical contractors that the four places in statute where it says you must use the Uniform Mechanical Code, mean something and short of a legislative enactment that says we're going to ditch that and go to the International Code, or we're going to give some administrative body the ability to adopt whatever mechanical code they desire, there is a legal problem. I would say it is a legitimate issue and there is a very good chance the supreme court will decide whether they are going to say, 'Yeah they're places in there that are just old and... they mean nothing, the administration can do whatever they want.' Or 'No, the right way to do this if you want a new mechanical code is to come back and deal with the Legislature and let them fix it.' Now, the big challenge for you all in any of these things, particularly with the mechanical code is to, if you can see a way of removing yourself from having to listen to the endless testimony from all sides about the arcane nature and whether it is labor or management or good or bad or whether you supported the design professionals who you refer to that tend not to do the work or the municipalities and all that stuff. And, I think there is some real legitimacy in the President's approach to - and I have to say, I wouldn't wish this task on my enemies much less my friendly commissioner of labor. You need to

get the decision on which code will be used in here out of your legislative hands with appropriate guidelines and get it to an administrative body that will do a legitimate, credible job of making it work for everybody in Alaska. That's your task and I - it's all balled up not in this endless fighting between lawyers and constituent groups. But, if I can answer any questions you have I'll try but, the general approach contained in the committee substitute of getting the arcane adoption of any code and especially this one out of your legislative hands and into administrative hands - with guidelines - on how you want this to work is sound and is commendable.

SENATOR TAYLOR asked for verification that he supported the committee substitute.

MR. GELDHOF replied it is a better approach than any that have been presented to date.

SENATOR TAYLOR agreed the ultimate solution has to be one state entity making the decisions on all codes. He asked Mr. Geldhof whether he had specific guidelines to recommend or were they already in the bill.

MR. GELDHOF described the legislation as logical because it reduces the number of agencies that deal with the issue. There is logic in placing the mechanical code provisions with the agency that is dealing with plumbing and electrical, but the real fight is whether it is the Uniform Code or the International Code. Make it work for all the people, not just the lawyers and design professionals.

SENATOR TAYLOR asked whether he intended the guidelines would come from a task force.

MR. GELDHOF advised the members to "use brute force analysis and throw it down and rope it up." Another task force would probably provide additional coverage of what has been heard many times before.

CHAIR WAGONER noted there was one more person to testify on line.

ROBERT BUCH agreed with much of the testimony previously given. "We're addressing an issue that is coming before us nationally and I believe we're on the cutting edge of making the decision. It certainly would behoove all of us to make that decision right the first time." He supported passing CSSB 38.

There was no further testimony.

SENATOR THERRIAULT stated he values the opinions on both sides of the issue. He said,

I have worked with the different fire departments, building officials on different areas, so to have then either love or hate my bill is bothersome to me because I value their opinion.One gentleman said adopting from two codes creates holes. We currently have a system where you've got the mechanical under the International and the plumbing sections under the Uniform. The next gentleman said although he opposes the bill, 'You wouldn't run a railroad this way' with different codes calling for different things and the difficulty getting the codes to cross reference each other.

There's some debate over the three year delay and whether it's justified. That's just a number, I think maybe three years when you're going from one set of codes to a completely different set of

codes, probably three years is too long. I will leave that up to your judgment on what a shorter date that would allow for transition period, what date would make sense.

No need to rush to decide where to put the code, but you can see that having this split in departments has lead to a lot of this year after year agitation that's brought this issue to the Legislature multiple times. One gentleman said this runs counter to the Governor's attempt to do things to help Alaskan businesses. What we heard from a number of mechanical contractors, largely out of Fairbanks, who said the current system is a problem. It's a problem for them as business owners.

Finally, with reference to a request that we consider a task force, I think Mr. Geldhof's comments say that perhaps it's just to the point where the decision maker needs to make a decision. I think we are perhaps at that point. If, as the decision making body, we can't get there, perhaps the default should be a task force of some kind. But, I'm not so sure that, after a length of time, we won't basically have the same issues before us.

SENATOR THERRIAULT advised the bill is not a perfect work product and he looked forward to working closely with the committee to get to a point whereby a policy decision could be made.

He has no preference for either the Uniform Code or the International Code. New language that references a mechanical code on pages 2 and 3 does not specify a particular family while language on page 2, lines 4-5 deletes reference to the specific "Uniform Mechanical Code." He agreed with Mr. Geldhof; legislators should excise themselves from the process of adopting one specific code or another.

SENATOR TAYLOR asked whether the "Uniform Mechanical Code" was a copyrighted document.

SENATOR THERRIAULT thought Mr. Geldhof could better answer the question.

SENATOR TAYLOR noted Mr. Geldhof nodded his head.

SENATOR THERRIAULT then said, "You would think so, but that's not what the court found." The language in Section 4 refers to the "Uniform Building Code" not a uniform building code. The latter could be interpreted to be International but the former could not. He admitted he was perplexed by the lower court decision and that's why he thought the supreme court might reverse the opinion.

SENATOR TAYLOR asked the sponsor whether legislators should get out of the process. He thought they should, but wasn't sure with whom they could place the authority. He wanted to work with the sponsor to resolve that and the delay issue.

TAPE 2 SIDE A

3:10 p.m.

SENATOR ELTON was disappointed no one testified on which code makes the most sense for the people that live in the home or work in the building. This is an important component if legislators make the decision. His second observation was that this administrative hassle could be solved if the Legislature was specifically directed to do so. "We have new commissioners, we have a new Chief Executive and it seems to me that it's a failure of the process that we're at this

point and maybe we ought to give the new people an opportunity to pick up that phone."

SENATOR THERRIAULT said conversations he has had with the commissioners lead him to believe the tension between the departments has continued into the new Administration. The division between the two departments is set in statute. If it makes sense to put it all under one entity, the Legislature would have to make that change.

SENATOR ELTON commented this Governor has not been hesitant to use Executive Orders.

SENATOR LINCOLN thanked the Chair for holding the bill to work out more of the details. There is only one other committee of referral so it makes sense to continue to work on it in this committee.

SENATOR THERRIAULT noted the bill moves to Labor and Commerce next and if it picks up a fiscal note, it would go the Finance Committee.

CHAIR WAGONER held CSSB 38 \I version in committee.

#

#HCR 2

HCR 2-EXTEND ALASKA RAILROAD TO FT. GREELY

CHAIR WAGONER asked Mary Jackson to introduce HCR 2.

MARY JACKSON, staff to Senator Wagoner, advised her explanation was directed to \Q version of HCR 2. The revisions were made at the request of the department and increase the viability of the railroad line by recognizing economic factors other than just the missile base. The first resolution remained the same, the second added the Stryker Brigade, the third was new to reference

the Pogo Mine, the forth was new to recognize the agricultural industry, the fifth was slightly revised, the sixth seventh and eighth were unchanged. The title was changed to reflect the changes and to include Delta Junction.

In response to the Chair's question regarding whether the resolution indicated authorization for the project, the answer is no. Statutes are clear that the railroad must get legislative approval for any extension of their lines. The resolution is straightforward and asks the railroad to look into extending their lines. If they determine it is feasible, they would return to the Legislature for action.

CHAIR WAGONER asked for questions.

SENATOR LINCOLN expressed appreciation for Ms. Jackson's review because she had concerns with the first draft. She noted she had not heard from the railroad regarding the CS, but previous correspondence indicated that additional maintenance and operation expense is a concern. She thought that was still a valid concern.

CHAIR WAGONER asked for a motion to adopt the CS \Q version as the working document.

SENATOR ELTON made a motion to adopt the \Q Utermohle 3/3/03 version as the working document. There being no objection it was so ordered.

SENATOR LINCOLN said she had some question about the railroad support.

MS. JACKSON advised the fiscal note was prepared by the railroad and in it they noted there would be additional costs.

SENATOR LINCOLN interpreted the analysis section to mean the fiscal impact is a concern. She expressed a desire to hear from the railroad.

CHAIR WAGONER said he has spoken with the railroad and because the fiscal note is zero he won't hold the resolution. The only way there would be a fiscal note is if the Governor directs the Legislature to proceed.

When the railroad is spending \$32,000 per mile for operation and maintenance, a line extension of 70 miles would nearly wipe out their annual profit.

GENERAL PAT GAMBLE, President of the Alaska Railroad Corporation, testified the railroad views the resolution as a homework assignment. As Senator Lincoln says, they would begin to study what is feasible and available in the near and long term to be able to generate the revenue that would pay the railroad operation and maintenance. If the Governor signs the resolution, thereby tasking the railroad, they would begin the process. To this point, they have had no in depth discussions with businesses or the military regarding what the revenues might be or how they might develop over time.

The generic route has been surveyed several times, but the next step would be to determine the corridor itself. This is not a right of way issue, it's just determining through which 500 feet

the route would be surveyed. This would allow them to identify the number of bridges and the type of construction that would be needed. With that information they could project the capital costs for the 70 or 80 mile corridor.

The railroad is ready and willing to undertake the task if it comes from the Governor.

SENATOR ELTON directed his attention to the last "WHEREAS" and asked if the language was somewhat misleading because they don't know whether or not the extension is consistent with the long-term goals of the railroad.

GENERAL GAMBLE said the railroad's long-term goals, as stated in their mission statement, are the community and economic development responsibilities. This is consistent with their mission.

There was no further testimony.

CHAIR WAGONER asked for a motion to move the resolution.

SENATOR GARY STEVENS made a motion to move SCS CSHCR 2 (CRA) \Q version from committee with individual recommendations and zero fiscal note.

There being no objection, it was so ordered.

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CHAIR WAGONER adjourned the meeting at 3:30 pm.