

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

February 2, 2006

8:06 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Carl Gatto, Vice Chair
Representative Bob Lynn
Representative Jay Ramras
Representative Berta Gardner
Representative Max Gruenberg

MEMBERS ABSENT

Representative Jim Elkins

COMMITTEE CALENDAR

OVERVIEW OF DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION
OF WATER, VILLAGE SAFEWATER PROGRAM

- HEARD AND HELD

HOUSE BILL NO. 238

"An Act relating to contribution rates for employers and members in the defined benefit plans of the teachers' retirement system and the public employees' retirement system and to the ad-hoc post-retirement pension adjustment in the teachers' retirement system; requiring insurance plans provided to members of the teachers' retirement system, the judicial retirement system, the public employees' retirement system, and the former elected public officials retirement system to provide a list of preferred drugs; relating to defined contribution plans for members of the teachers' retirement system and the public employees' retirement system; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 238

SHORT TITLE: PUBLIC EMPLOYEE/TEACHER RETIREMENT

SPONSOR(S): STATE AFFAIRS

| | | |
|----------|-----|---------------------------------|
| 03/30/05 | (H) | READ THE FIRST TIME - REFERRALS |
| 03/30/05 | (H) | STA, FIN |
| 03/31/05 | (H) | STA AT 8:00 AM CAPITOL 106 |
| 03/31/05 | (H) | Heard & Held |
| 03/31/05 | (H) | MINUTE(STA) |
| 04/02/05 | (H) | STA AT 10:00 AM CAPITOL 106 |
| 04/02/05 | (H) | Heard & Held |
| 04/02/05 | (H) | MINUTE(STA) |
| 04/05/05 | (H) | STA AT 8:00 AM CAPITOL 106 |
| 04/05/05 | (H) | Heard & Held |
| 04/05/05 | (H) | MINUTE(STA) |
| 04/07/05 | (H) | STA AT 8:00 AM CAPITOL 106 |
| 04/07/05 | (H) | Scheduled But Not Heard |
| 04/09/05 | (H) | STA AT 9:30 AM CAPITOL 106 |
| 04/09/05 | (H) | Heard & Held |
| 04/09/05 | (H) | MINUTE(STA) |
| 04/12/05 | (H) | STA AT 8:00 AM CAPITOL 106 |
| 04/12/05 | (H) | Heard & Held |
| 04/12/05 | (H) | MINUTE(STA) |
| 04/14/05 | (H) | STA AT 8:00 AM CAPITOL 106 |
| 04/14/05 | (H) | Heard & Held |
| 04/14/05 | (H) | MINUTE(STA) |
| 04/16/05 | (H) | STA AT 9:30 AM CAPITOL 106 |
| 04/16/05 | (H) | Heard & Held |
| 04/16/05 | (H) | MINUTE(STA) |
| 04/19/05 | (H) | STA AT 8:00 AM CAPITOL 106 |
| 04/19/05 | (H) | Scheduled But Not Heard |
| 04/20/05 | (H) | STA AT 8:00 AM CAPITOL 106 |
| 04/20/05 | (H) | Scheduled But Not Heard |
| 04/21/05 | (H) | STA AT 8:00 AM CAPITOL 106 |
| 04/21/05 | (H) | <Bill Hearing Canceled> |
| 02/02/06 | (H) | STA AT 8:00 AM CAPITOL 106 |

WITNESS REGISTER

LYNN TOMICH KENT, Director
 Division of Water
 Department of Environmental Conservation
 Anchorage, Alaska

POSITION STATEMENT: Introduced fellow presenters during the Department of Environmental Conservation, Division of Water, Village Safe Water program overview.

BILL GRIFFITH, Program Manager
 Facility Programs
 Division of Water
 Department of Environmental Conservation

Anchorage, Alaska

POSITION STATEMENT: Presented the overview of the Village Safe Water program.

SCOTT RUBY, Community Development Section Chief

Division of Community Advocacy

Department of Commerce

Community, & Economic Development (DCCED)

Anchorage, Alaska

POSITION STATEMENT: Explained how the Rural Utility Business Advisor (RUBA) program works in relation to the Village Safe Water program.

JIM McCRACKEN, President

Lowell Point Community Council

Lowell Point, Alaska

POSITION STATEMENT: Provided comment during the overview of the Village Safe Water program.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House State Affairs Standing Committee meeting to order at [8:06:34 AM](#). Representatives Gatto, Lynn, Ramras, Gardner, and Seaton were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

OVERVIEW(S): DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF WATER, VILLAGE SAFEWATER PROGRAM

[8:07:39 AM](#)

CHAIR SEATON announced that the first order of business was the overview of the Department of Environmental Conservation, Division of Water, Village Safe Water program.

[8:07:41 AM](#)

LYNN TOMICH KENT, Director, Division of Water, Department of Environmental Conservation, introduced fellow presenters.

[8:09:36 AM](#)

BILL GRIFFITH, Program Manager, Facility Programs, Division of Water, Department of Environmental Conservation, presented the overview of the Village Safe Water program. He said the program was created by the legislature in 1970, at which time less than

10 percent of rural Alaskan homes had running water and flush toilets. Today 77 percent of rural homes have those facilities, thanks in part to the program. He stated that the division runs its program, working closely with rural communities, federal agencies, and the Alaska Native Health Consortium to help communities in planning, designing, and constructing water and sewer systems. In the past decade alone, he reported, the percentage of rural households with basic sanitation services has increased by over 30 percent. During that time, over 200 Alaska communities have received funding for water, sewer, and solid waste facility improvements.

[8:11:45 AM](#)

MR. GRIFFITH said the Village Safe Water program carries out three primary functions: funding allocation, grant administration, and project oversight. Regarding funding allocation, he noted that for the past several years, funding for the program has comprised of 75 percent federal funding from the United States Environmental Protection Agency (U.S. EPA) and the United States Department of Agriculture (USDA) rural development program, and 25 percent from state capital funding. Communities apply annually to the program for grants for sanitation projects. Those applications are scored based on the project's ability to address critical health needs, as well as the community's demonstrated capacity to operate and maintain facilities. The highest-ranking projects are recommended for funding under the state capital budget.

MR. GRIFFITH, regarding grant administration, said once projects are included in the state capital budget, federal funding is secured through federal grant applications. The next step is to work with communities to develop grant agreements, including project scope of work, cost estimates, and grant funding conditions. Construction is only approved once communities have met agreed upon performance criteria, he said, and have demonstrated the capacity to operate and manage sanitation facilities. Mr. Griffith said although local capacity requirements may occasionally delay construction, they are an important element of a comprehensive, statewide sanitation plan.

[8:13:23 AM](#)

MR. GRIFFITH, regarding project oversight, said the program provides technical and financial support to Alaska's smallest communities to design and construct water and sewer systems. Community officials are worked with to ensure that planning and

results are appropriate, facilities are properly constructed, and grant funds are used effectively. He said, "In some cases, funding is awarded by [the Village Safe Water program] through the Indian health service to the Alaska Native Tribal Health Consortium, who in turn assist communities in designing and constructing sanitation projects."

[8:14:07 AM](#)

MR. GRIFFITH provided a look at some of the direction received from the legislature, governor, and federal funding agencies regarding how to improve the program. He said last year the legislature, through legislative intent language, directed DEC to do the following: establish a process for sustainable projects at reasonable costs; exercise final decision authority regarding project costs and types of systems to be constructed; develop a project accounting system to provide up to date information to engineers and managers; encourage development of local ordinances for collecting sufficient user fees to pay for sustained operation of facilities; and work with the regulatory commission of Alaska to encourage local management of facilities in compliance with commission standards.

MR. GRIFFITH said also in 2005, the governor's administrative order on sustainability requires that state funded facilities include the following components: supporting necessary costs; keeping capital costs low through system simplification and infrastructure standardization; and having a business plan for every operation. Additionally, all state programs must include the following considerations in their funding processes, according to administrative order: local responsibility for infrastructure sustainability; access to existing services and facilities; renovation prioritized over new construction; infrastructure sized to meet needs; affordability of lifecycle costs; and appropriate technology to control unit costs. He noted that the committee was provided with both a copy of the legislative letter of intent and the administrative order.

[8:20:17 AM](#)

MR. GRIFFITH said during the funding allocation process, a variety of local capacity indicators are used to prioritize funding requests, including: primary and backup water plant operator certification; trained utility managers; adequate collection rates; and operation at full regulatory compliance. Later in the process, he said, local capacity requirements are used as construction funding grant conditions, including:

completion of an approved business plan; assessment by the Remote Utility Business Advisor program in the Department of Commerce, Community, & Economic Development (DCCED); meeting all essential capacity indicators; full compliance with all operation-related water treatment regulations; and trained and certified sewer system operators. Mr. Griffith stated that although none of the local capacity indicators and conditions are new, historically their use was inconsistent until 2005.

MR. GRIFFITH said in addition to capital cost control, the process of developing, reviewing, and approving community master plans is also used for incorporating other sustainability considerations, including: access to existing facilities, renovation prioritized over new construction, and infrastructure sized to meet the needs of the community. He said existing plans may be revisited in order to address significant deficiencies associated with these considerations.

[8:22:52 AM](#)

MR. GRIFFITH said another priority for the Village Safe Water program over the past two years has been project accounting system improvements. New accounting staff provides increased internal controls for the program. State and federal funds - previously advanced to project bank accounts - are now left in the state and federal treasury until expenses are incurred. Accurate real-time expenditure and obligation information is now available to engineers and management. New project accounting structure allows expenses to be tracked. Additionally, he noted, the program no longer maintains a separate administrative account for engineering, management, and travel expenses related to project oversight; these expenses must now be charged against the federal grant and the project they benefit. All project-related costs are charged directly against the project, with a consistent scope-level accounting system that provides real-time expenditure and obligation information to engineers and managers.

[8:24:26 AM](#)

MR. GRIFFITH reported that a third area of focus and change is in the area of funding allocation and grant administration improvements, including clarity and consistency of prioritization criteria on sanitation facility improvement applications, as well as of funding conditions that are applied to all construction related grants. He said current completed and approved sanitation master plans include the scope of all

funding applications and new grant offers. He noted another improvement is that detailed project cost estimates are now provided and reviewed at the time of funding application and grant agreements. These project costs are then tracked throughout the project and used as a basis from financial reporting to federal funding agencies, he said.

[8:25:35 AM](#)

MR. GRIFFITH stated that federal appropriations since fiscal year 2005 (FY 05) have included two new requirements associated with the allocation of rural sanitation funding: a set aside for rural regional hub communities and the establishment of a three-year priority list. He offered to provide an overview of these requirements and the changes that have been made to meet them.

[8:25:56 AM](#)

CHAIR SEATON asked Mr. Griffith if he is saying that the division is not proceeding with projects that have already been approved and funded because of a new prioritization.

[8:26:21 AM](#)

MR. GRIFFITH answered no. He clarified that the division has changed some of the prioritization criteria and waiting factors over the last couple of years, but it has continued to prioritize projects as it always has.

[8:27:48 AM](#)

MR. GRIFFITH, in response to a question from Representative Gatto, confirmed that the division is not looking to reach a 100 percent goal "when the definition is every single rural household" [having indoor facilities]. He said the division's goal is to cover all "serviceable homes," which he explained means those within established communities, not isolated by distance or barriers.

[8:28:06 AM](#)

REPRESENTATIVE GATTO asked if the households have to pay for any of the sustainability.

[8:29:04 AM](#)

MR. GRIFFITH answered yes. He said all operation and maintenance costs for these facilities have to be locally provided by individual users. Sufficient user fees must be collected to pay for continued operation and maintenance. In response to a follow-up remark by Representative Gatto, he said it is similar to electric and telephone utilities; however, unlike those other power supplies, there is no local subsidy available for the operation and maintenance of water and sewer systems.

[8:30:14 AM](#)

MR. GRIFFITH, in response to a question from Representative Gatto, said the water source and its containment is extremely variable depending upon the community. He said some factors that are considered are the location of permafrost and types of soils.

[8:30:46 AM](#)

CHAIR SEATON, regarding the sustainability guidelines, particularly in regard to consistent review, said his jurisdiction has dealt with the issue of "Lowell Point." He said it appears that the department does not have a standardized form or survey. He asked, "How are you meeting this consistent criteria if you don't have some kind of a standardized survey form?"

[8:31:39 AM](#)

MR. GRIFFITH said he thinks the form to which Chair Seaton is referring is one to establish both household occupancy and water and sewer needs. He said Lowell Point is somewhat unique in that the pattern of occupancy is variable in the community from house to house. He explained that the vast majority of rural communities that the division works with don't contain vacant or seasonal houses. He said the division develops different kinds of surveys and questionnaires to help establish the type of occupancy patterns in a community.

[8:33:17 AM](#)

MR. GRIFFITH, in response to a question from Chair Seaton, said the program covers populations of 25 minimum to 600 maximum for an unincorporated community. He added that there is no upper population limit for a second-class city.

CHAIR SEATON asked if Mr. Griffith could explain why - after adopting and funding a project for a community that meets the minimum population requirement - the division would decide to hold the money and not proceed with the project that was funded until it establishes another group of surveys and spends a lot more money on additional study.

MR. GRIFFITH answered as follows:

Yes, particularly when you're talking about a community with [a] small number of homes, like Lowell Point - somewhere around 30 ... year-round occupied homes. ... Five or ten homes one way or the other can make a big difference in what kind of facility is going to best meet the water and sewer needs of that community in the most economical fashion. So, that's why it's important to establish whether that number is 20, or 25, or 35, or 40, because it not only makes a difference in what kind of system will work best from a technical perspective, but as I mentioned we also look at capital costs - which means the cost per home. So, a few homes make a big difference in the cost per home when the community is small.

[8:36:06 AM](#)

MR. GRIFFITH, in response to a question from Chair Seaton, said the division reviews the sanitation master plan if it hasn't had recent review, and will continue to do that to ensure that conditions haven't changed, the information is clear and consistent, and - most importantly - that capital costs control is exercised through the review of the plans. He noted that in general, the division finds most of the plans that have been developed and the plans that are being developed now have that kind of consideration already and there is no need to go back and amend them.

[8:37:07 AM](#)

CHAIR SEATON indicated that it is uncommon to ask for funding for a project that will then be redesigned.

[8:38:02 AM](#)

MR. GRIFFITH said the division has established capital cost control and other previously mentioned sustainability factors as a primary part of reviewing every sanitation facility master

plan. With that focus, he opined, the quality of the plans is much better. Some of the old plans did not have that focus and the division thinks it has an obligation to return to review those plans to ensure that those facilities will be sustainable.

[8:38:31 AM](#)

CHAIR SEATON asked Mr. Griffith if the division thinks it has the authority to make changes to projects that have already had money allocated, without legislative approval.

[8:39:04 AM](#)

MR. GRIFFITH answered, "Not in some cases; it depends on what the funding was appropriated for and what the potential changes are."

[8:39:52 AM](#)

MR. GRIFFITH, in response to a remark by Representative Gardner regarding a handout that shows that one family in three still does not have access to a sanitary means of sewage disposal or an adequate supply of safe drinking water, said his initial reaction is that it should be updated to say one family in four.

[8:40:03 AM](#)

REPRESENTATIVE GARDNER asked Mr. Griffith to speak about failure rates.

[8:40:35 AM](#)

MR. GRIFFITH said the program goes back 30 years and in the early days there were more catastrophic failures, mostly due to materials available at the time. Because of the improved local capacity of communities, there have been no catastrophic failures in at least 10 years. Occasionally there are projects that may not be operated as efficiently as they could be. Through the application process, grant conditions, and working with other programs, he said he believes those concerns are being addressed as well.

[8:41:56 AM](#)

REPRESENTATIVE GARDNER asked what the mechanism is by which the division is able to identify when things are falling apart.

[8:42:12 AM](#)

MR. GRIFFITH said one mechanism is the Rural Utility Business Advisory program, which uses a comprehensive list of indicators to assess how well a utility is functioning. The division also relies on other indicators, such as certified, trained operators and utility managers and compliance of water regulations. He also mentioned the Remote Maintenance Worker program, where someone travels out to the communities several times a year and reports back to the division. In response to a question from Chair Seaton, he said most of the remote maintenance workers work through regional grantees, but there are also three who work directly for the state. Each remote maintenance worker, he said, works with about 8-10 communities.

[CHAIR SEATON handed the gavel to Vice Chair Gatto.]

[8:43:43 AM](#)

REPRESENTATIVE GRUENBERG directed attention to a copy of a legislative audit conducted November 19, 2003, [included in the committee packet], and he asked if that is the most current audit.

[8:44:24 AM](#)

MR. GRIFFITH said that's the latest special legislative audit. He explained that there is an annual audit done, as well. In response to a question from Representative Gruenberg, he said there are a number of letters available that are updates to changes that have taken place as a result of that audit [included in the committee packet]. He indicated that the updates were made in April, June, and September of 2004, and April of 2005.

[8:45:31 AM](#)

REPRESENTATIVE GRUENBERG asked if it is still the recommendation of the legislative auditor that the program be transferred to the Department of Transportation & Public Facilities (DOT&PF).

[8:45:54 AM](#)

MR. GRIFFITH said one of the division's letters was in response to that recommendation, but there has been no follow-up on that issue.

[8:46:02 AM](#)

REPRESENTATIVE GRUENBERG responded that "that seems to be at the heart of their recommendation," and he expressed concern regarding both the content of the correspondence and the differences of opinion that the division has compared to that of the legislative auditors, "both sides apparently somewhat calling the other side's competency into question." He asked, "Are you still resisting their recommendation to transfer your program?"

[8:47:14 AM](#)

MR. GRIFFITH responded as follows:

For the large part we've implemented the recommendations of the audit, but that significant suggestion in the audit is one that the department responded to and has not in any way followed through with as a recommendation.

[8:47:38 AM](#)

REPRESENTATIVE GRUENBERG said he doesn't recall ever hearing of an agency calling the competency of [the legislative auditors] into question. He asked Mr. Griffith if the department still thinks they were not competent.

[8:48:00 AM](#)

MS. KENT said what she is attempting to explain is that the concerns of the auditors, which might have driven their recommendation to shift the program from one department to another, have been addressed by the department; therefore, the department thinks that the recommendation is not necessary anymore.

[8:48:34 AM](#)

REPRESENTATIVE GRUENBERG restated his question. He said the tone of the program's responses called into question the competency of the [auditors], and he said he wants to know if the department still thinks its comments were valid and, if so, why. He said he is concerned when there is question as to the competency of the people the legislature employs.

[8:49:23 AM](#)

VICE CHAIR GATTO suggested Ms. Kent may want some time in which to formulate an answer.

[8:49:51 AM](#)

MS. KENT concurred.

[8:50:07 AM](#)

VICE CHAIR GATTO asked how Ms. Kent's position, life, or organization would be changed if those audits were implemented.

[8:50:16 AM](#)

MS. KENT said the program would very likely look like the program that is currently being implementing.

[8:50:43 AM](#)

VICE CHAIR GATTO surmised that DOT&PF would most likely expect "your group to remain together, continue your work, and probably have a different person overseeing." He asked if there would be more significant changes.

MS. KENT said she doesn't think so, because of all the changes that have been made thus far in response to the governor's administrative order, the legislative intent language, and the audit suggestions.

[8:51:16 AM](#)

REPRESENTATIVE GRUENBERG mentioned language on pages 19 and 44 of the aforementioned audit handout which is in regard to a possible lack of statutory authority for communities to participate in programs. He asked, "Do you feel that there should be some statutory changes?"

[VICE CHAIR GATTO returned the gavel to Chair Seaton.]

[8:52:35 AM](#)

MR. GRIFFITH said the division looked at the statute related to the Village Safe Water program and determined that statutory changes are not necessary.

[8:53:31 AM](#)

REPRESENTATIVE GRUENBERG read from [the first paragraph of] page 19 of the handout as follows:

Village Safe Water procedures do not encourage a community to monitor a manager's ongoing compensation.

REPRESENTATIVE GRUENBERG referred to part of footnote 37 on the bottom of page 19, which read:

The community usually contributes none of its own money to the project.

REPRESENTATIVE GRUENBERG noted that the division's response to footnote 37 [is in the second paragraph on page 44 of the handout] and read:

Communities are prohibited by statute from contributing to the cost of construction.

REPRESENTATIVE GRUENBERG asked, "Is that good public policy, or do you believe that should be changed?"

[8:53:46 AM](#)

MR. GRIFFITH asked Representative Gruenberg to clarify if his question is about whether or not the division believes there should be a match requirement for the small communities as there is for larger cities.

[8:54:22 AM](#)

REPRESENTATIVE GRUENBERG answered yes.

[8:54:27 AM](#)

MS. KENT suggested that that's within the purview of legislature to decide such a policy question as to whether or not the smaller communities should provide matching grant funds to projects that the division conducts. She said she assumes the legislature would consider how small a cash flow is available in the smaller communities if it were to make such a decision.

[8:55:02 AM](#)

REPRESENTATIVE GRUENBERG expressed difficulty in getting a handle on this issue. He concluded, "But I am, I must say, to

some extent troubled by the content and the tone, and I don't say that very often."

8:55:36 AM

REPRESENTATIVE GATTO directed attention to page 19 of [the audit handout to which Representative Gruenberg referred], which shows a recommendation to address excessive wages for on-site managers. That recommendation is that the managers be paid a salary, rather than an hourly wage. He noted that the justification for that recommendation is on page 20, which shows ["Exhibit 5"], an example for [the highest-paid] on-site manager. Representative Gatto noted that, with all the additional job perks, this manager received \$355,000. He said that is an unbelievable amount of money, "unless this person is so extraordinary."

8:57:40 AM

MR. GRIFFITH said that got the division's attention, too, and resulted in several policy changes in the form of field directives, limiting the number of hours that a construction superintendent can work on the job. It also addressed issues of nepotism and working on multiple jobs. He indicated that those changes are detailed in the aforementioned letters. In response to a question from Chair Seaton, he said those on-site managers are still paid hourly "and we are following those field directives"

8:58:46 AM

REPRESENTATIVE GRUENBERG said he is concerned by the example that Representative Gatto highlighted, but he is more concerned about how this was allowed to happen. He said he wants to know what basic managerial changes are being made to prevent this from occurring.

MS. KENT said she would be happy to follow up on that in writing.

8:59:51 AM

CHAIR SEATON said a consistent theme is that DEC engineers were having to act outside of their area of expertise in drawing up contracts. He referred to a letter to Jim Clark from Ernesta Ballard, dated April 26, 2004, which read, "We are in the process of reclassifying a position to add contracting support."

He asked, "Is there contracting officer support now, and are contracts done by contracting officers or by the DEC engineers?"

[9:00:31 AM](#)

MR. GRIFFITH said a procurement specialist has been added to the staff, and contracts and procurement do go through that individual. He added, "We've also addressed that issue through standardizing a number of our contracts for professional services." In response to a follow-up question from Chair Seaton, he confirmed that that means DEC engineers are no longer drawing up the contracts.

[9:01:04 AM](#)

REPRESENTATIVE GATTO noted that the employee from the example actually earned the money in 2002 and Mr. Griffith said that that got the division's attention. Based on that information, he said he wonders why the pay is still at hourly and no change has been made to date.

[9:01:31 AM](#)

MR. GRIFFITH explained that there were a number of causes of the high compensation rate, the most significant of which was excessive hours. He stated his belief that there are issues about what types of employees can be paid for hourly and what kinds of workers can be paid by salary, and he stated his understanding that hourly pay is called for by labor law for this type of construction job. He added, "But that's something that I may want to confirm."

[9:02:23 AM](#)

MR. GRIFFITH, in response to a question from Chair Seaton, said the term "on-site manager" is used for construction superintendents. In response to a follow-up question from Chair Seaton, he said the division does not have any employees who are construction superintendents. Construction oversight on-site is provided either by local hire or through a contract for construction management services, depending on the size of the project.

[9:03:26 AM](#)

CHAIR SEATON asked if there are currently any requirements related to technical competence or degrees.

[9:03:41 AM](#)

MR. GRIFFITH answered that in the case of the local hire of a construction superintendent, the division has minimum requirements that must be met. In response to a follow-up question from Chair Seaton, he said "minimum" refers to experience.

[9:04:14 AM](#)

REPRESENTATIVE GARDNER directed attention to page 21 of the audit handout, which shows that the employee in question billed the state for 110 hours per week for 10 weeks, which she calculated is more than 15 hours a day, 7 days a week, for 10 weeks. She asked if anyone actually believes that that employee worked that amount of time and if he/she is still employed.

[9:04:38 AM](#)

MR. GRIFFITH said there are now limits that were not in place at the time, which limit a superintendent's hours during construction periods to 72 hours a week and 40 hours a week during nonconstruction periods. He stated that the limit is cumulative and applies whether the superintendent is managing one or more projects. That requirement was not in place at the time the superintendent from the example worked; however, he said the division found no reason to consider that information to be fraudulent. That particular superintendent works well with one of the communities on the Kenai Peninsula and has continued to work on the project, but is now subject to the new requirements. As long as an individual meets the requirements and doesn't violate any laws or labor requirements, the decision to hire him/her is up to the community.

[9:06:33 AM](#)

CHAIR SEATON asked if the time sheets with notes of what is being worked on are currently a requirement of all the Village Safe Water program's projects.

[9:07:02 AM](#)

MR. GRIFFITH answered yes.

[9:07:27 AM](#)

MR. GRIFFITH, in response to a question from Representative Gatto, confirmed that the locally hired superintendents are paid by DEC. He offered further details.

[9:07:53 AM](#)

REPRESENTATIVE GATTO stated:

I'm surprised at that, but I'm more surprised at this: When the manager did not commute, DEC rented him a two-story, three-bedroom, sauna-equipped, home office at one end of the road. The rental was renovated, painted, and furnished for him at DEC's expense, including two televisions, VCRs, and a \$2,700 computer system.

Somebody's making out pretty well here, and I'm terribly concerned that if indeed we just pay the money because that's the way the time sheets come in, and don't have control over who gets hired and -- well you know where I'm going with this. This seems like an out-of-control operation.

[9:08:49 AM](#)

CHAIR SEATON said he thinks the committee would be better served by getting some additional information from DEC. He said, "We were all troubled by the audit and ... I'm glad that DEC was troubled by the audit, as well."

[9:09:36 AM](#)

SCOTT RUBY, Community Development Section Chief, Division of Community Advocacy, Department of Commerce, Community, & Economic Development (DCCED), told the committee that he oversees not only the Rural Utility Business Advisor (RUBA) program within the department, but also the Local Government Assistance program, which provides "much the same sort of assistance to communities on issues other than sanitation." He directed attention to a handout in the committee packet, entitled, "Rural Utility Business Advisor (RUBA) program," which he said provides a brief overview of the program. He noted that the program was started in 1990. He stated the reason for the program's involvement and work with DEC was because there were some problems with facilities failing or struggling to survive, because rates were not set, money was not being collected, and ordinances were not passed.

MR. RUBY indicated that RUBA was provided funds through DEC in order to work with communities that were slated to receive [sanitation systems]. Over the years, he said, RUBA varied how it measured capacity and "identified what those critical indicators were." The latest version of capacity indicators was developed in 2004. He related that those categories are shown on the last two pages of a three-page handout in the committee packet entitled, "History of Rural Utility Business Advisor (RUBA) program History of Use and Development of Capacity Indicators," and those indicators are: utility, accounting systems, payroll tax, personnel system, organizational management, and operational. Each of those indicators is broken down into "sustainable" and "essential." The essential indicators are the ones that DEC has decided to focus on through special grant conditions that a community must meet in order for construction to happen, he said. He said RUBA staff completes a management audit, gives it to the community, and offers to work with the community to assist them in correcting any deficiencies. Mr. Ruby said there are other agencies that also have staff that can help the communities correct the deficiencies. Once the community has implemented the necessary changes, it requests that RUBA conduct another assessment, or "re-audit."

[9:13:51 AM](#)

CHAIR SEATON asked if the audits are done only on communities that have a Village Safe Water program project, "or is this on the community before the grant is granted?"

[9:14:10 AM](#)

MR. RUBY replied that any community can request an audit be done, but RUBA does not have the authority to conduct an audit without a community's request for one. He said RUBA's priority would be to those communities who have current grants.

[9:15:33 AM](#)

MR. RUBY, in response to an observation made by Chair Seaton, said some of the indicators do not apply to a community. For example, a community may be in the process of getting grant and has not yet hired any employees, and therefore they would not have worker's compensation insurance for that purpose. Rather than marking "yes," which would mean the community meets the indicator of having workman's compensation insurance, RUBA uses

"N/A," which Mr. Ruby explained is the same as yes, in that it would not hold up a project.

9:17:10 AM

REPRESENTATIVE GATTO referred to the previously mentioned handout entitled, "Rural Utility Business Advisor (RUBA) program." He read one of the items regarding RUBA's approach to assisting communities: "Assess progress and adjust work plan if necessary." He questioned whether that was really happening.

9:18:09 AM

MR. RUBY said RUBA's work plan is based upon the deficiencies in the capacity assessment, and it prioritizes the essential indicators. He said:

Once you get past the essential indicators, a lot of times you're trying to decide ... whether or not it's better to ... adopt ... personnel procedures or to revise the ordinance. We negotiate with the community a work plan ... which they want to implement.

... Frequently, ... what we have is high turnover in the communities. ... It may be that they've had clerk turnover and we need to retrain their bookkeeper to make sure that their accounting system is kept up to date, rather than working on the personnel policies.

... Our work plans try to be ... two to three months out for what we're going to currently work on [for] the community, but it's a negotiated work plan for what the community's able and willing to work on at that time.

9:19:15 AM

CHAIR SEATON asked if RUBA has the ability to hold up a project if it does not like it, even if the community is following the original work plan.

9:19:51 AM

MR. RUBY answered no. He said the work plan is basically set by the community.

9:21:02 AM

CHAIR SEATON noted that the House Resources Standing Committee was supposed to hear this overview but is all tied up with oil and gas issues, which is why the House State Affairs Standing Committee is hearing it. He said one of the reasons that the legislature is investigating this issue is because of a project in Lowell Point in Seward that has been on hold for quite awhile even though it was approved and funded. He explained that although this is not a bill hearing, he would like to invite certain public figures in Seward to offer their point of view.

[9:22:01 AM](#)

JIM MCCRACKEN, President, Lowell Point Community Council, stated, "We were hoping for some standardization from one community to another, but after listening to some of the discussions this morning, we can see why there's some complications." He noted that Lowell Point is the beneficiary of a grant and has been involved for six years on a work project with the Village Safe Water program.

[9:26:21 AM](#)

CHAIR SEATON said he finds it problematic that an at-length engineering study was completed, the Village Safe Water program said it wanted certain things amended, the engineers made those amendments, further study was done, the governor nominated the program, the legislature approved the program, and now he is hearing the administration saying it doesn't like the program anymore, because it doesn't meet necessary criteria. He asked if that is what is being said.

[9:27:10 AM](#)

MR. GRIFFITH responded:

That is what we're saying; we're taking responsibility for the fact that that project plan didn't get a good review, didn't get a good look at alternatives the way that we believe we should have reviewed it, and we didn't take a close enough look at the capital costs in the most economical way to provide for the public health needs in that community. And we're going back and trying to revisit that issue with the community. We could have done a better job at the time.

[9:27:46 AM](#)

MR. GRIFFITH, in response to a question from Representative Gatto, said Lowell Point is located approximately 2 miles south of Seward Alaska on the road system. In response to a follow-up question from Representative Gatto, he said \$90,000 is the approximate amount per home for sewer collection pipe "mains" and service lines. He said that would not include any of the associated piped water system. The total project need is approximately \$6,135,000 - about \$200,000 per home for pipes - which he said is high compared to what is spent in most communities. He said, "In most communities we're developing water sources, water treatment, sewage disposal, [and] sewage treatment. In Lowell Point and the Seward area, a lot of those facilities are already constructed."

[9:28:45 AM](#)

REPRESENTATIVE GATTO asked what Mr. Griffith thinks the public's perception would be about the cost of \$200,000 per home for water and sewer.

[9:29:24 AM](#)

MR. GRIFFITH said he thinks the concern about the cost per home for water and sewer facilities in rural communities is a legitimate one. He said he thinks it's the responsibility of the department to oversee those capital costs and ensure that each project has a thorough review to prevent spending more money than necessary. He concluded, "That's part of what we're trying to do in revisiting the master plan for Lowell Point."

CHAIR SEATON proffered, "And you should know that the master plan does not include water; it's a sewer plan that we funded."

MR. GRIFFITH clarified that the master plan to which he is referring was developed in 2000. The application submitted in 2003 was for only the sewer portion of that master plan.

[9:30:18 AM](#)

REPRESENTATIVE GARDNER asked if there is any contribution from the local property owners to the project.

[9:30:37 AM](#)

MR. GRIFFITH answered no.

[9:30:40 AM](#)

CHAIR SEATON told Representative Gardner, "Village safe waters are either federal pass-through money or state money. ... It's not like you're going into a home and putting in an individual system - this is the sewer main, et cetera."

[9:31:04 AM](#)

REPRESENTATIVE LYNN said he has been to Lowell Point. He asked if the occupancy of the homes is year-round, adding that he thinks he knows the answer.

[9:31:46 AM](#)

MR. GRIFFITH said there are a number of homes in addition to the 30 being talked about, and there is a variety of occupancy patterns in those homes. He estimated that 30 of the homes are occupied continuously "in one way or the other." He said there are slope workers, fishermen, teachers who rent a house during the school year and live there in summer, people who operate bed & breakfasts, and vacationers.

CHAIR SEATON added that there is a homesteader living there, and there is also a volunteer fire station - "more than just homes."

The committee took an at-ease from [9:33:23 AM](#) to [9:38:41 AM](#).

HB 238-PUBLIC EMPLOYEE/TEACHER RETIREMENT

CHAIR SEATON announced that the last order of business was HOUSE BILL NO. 238, "An Act relating to contribution rates for employers and members in the defined benefit plans of the teachers' retirement system and the public employees' retirement system and to the ad-hoc post-retirement pension adjustment in the teachers' retirement system; requiring insurance plans provided to members of the teachers' retirement system, the judicial retirement system, the public employees' retirement system, and the former elected public officials retirement system to provide a list of preferred drugs; relating to defined contribution plans for members of the teachers' retirement system and the public employees' retirement system; and providing for an effective date."

[9:38:53 AM](#)

REPRESENTATIVE GATTO moved to adopt the committee substitute (CS) for HB 238, Version 24-LS0761\R, Wayne, 1/31/06, as a work draft. There being no objection, Version R was before the committee.

[9:40:15 AM](#)

CHAIR SEATON stated that the purpose of bringing back HB 238 is to address helping employer costs. He directed attention to a PowerPoint presentation, the hardcopy for which is in the committee packet and is [10 pages front and back]. On page one of the PowerPoint, it shows definitions of relevant terms as follows [original punctuation provided]:

Blended employer past service cost rate: refers to the average past service cost rate of all non-State non-school district PERS employee

Past service cost: refers to the annual lump sum payment made towards the PERS system unfunded liability.

Past Service Cost Rate: means the annual payment as a percentage of total wage base of employee salary required to pay the past service cost as an amortized contribution in percentage over a stipulated number of years.

Unfunded Liability: refers to amount that would need to be paid into the PERS system to cover all of its liabilities.

CHAIR SEATON, regarding the blended rate, said, "If you paid the full normal costs and all of your assumptions were correct, you would fully collect and you would pay for all the benefits that would have accrued to that employee."

[9:42:27 AM](#)

CHAIR SEATON directed attention to the first "slide" on page 2 of the PowerPoint presentation, which read as follows [original punctuation provided]:

What is the Past Service Offset Account? (PSCOA)

The PSCOA is a mechanism to help municipalities pay their unfunded liability over 25 years. The payments

are based on a municipality's number or Tier IV employees and contributions are limited to the average experience of the system

CHAIR SEATON reminded the committee that the rate has always been calculated based on the entire wage base of the employer; therefore, if an employer has 25 employees, it doesn't matter if they are Tier I, II, III, or IV. He directed attention to a hypothetical situation of how the PSCOA is calculated, beginning on page 3 of the PowerPoint. Using "City X" as an example, the page shows that if City X has 25 employees, 20 of whom are Tiers I, II, and III defined benefit (DB) employees and 5 of whom are Tier IV defined contribution (DC) employees, the PSCOA will pay the past service cost (PSC) for those new Tier IV employees who technically do not have a past service cost associated with them.

CHAIR SEATON moved on to [page 4 of the PowerPoint] which shows the following in the top slide [original punctuation provided]:

**Assumptions about City X
2005**

Past Service Cost Rate of City X: 30%

Average Past Service Cost Rate: 20%

Average Salary for City X: \$40,000

City's X's Wage Base: \$1 million

The PSCOA will pay on behalf of the 5 DC employees:
(average salary * average employer PSC rate) * number
of DC employees = PSCOA assistance

(\$40,000 * .2) * 5 = \$40,000

[9:46:02 AM](#)

REPRESENTATIVE GARDNER stated her understanding of the benefit of having a DC program is that it is freestanding, meaning each employee's costs and benefits are independent of anything that went before.

CHAIR SEATON said Representative Gardner is exactly correct.

REPRESENTATIVE GARDNER asked, "So, why is there a past service cost for the new tier employees?"

[9:46:19 AM](#)

CHAIR SEATON explained that there actually is not; however, the employer has to make a certain amount of payment into the system to pay the debt. Even though the new employee did not have a past service cost, the employer still owes the debt, and the way it's most easily calculated is by looking at the employer's wage base.

[9:47:22 AM](#)

REPRESENTATIVE GARDNER responded that in some respect this is an artificial construct; it's a bookkeeping decision.

[9:47:35 AM](#)

CHAIR SEATON confirmed that is correct.

[9:47:38 AM](#)

REPRESENTATIVE GARDNER asked, "If I am a small public employer and ... I need to hire somebody, am I better off to hire somebody under the new tier or to hire somebody who already is in a tier and comes to me from some other state agency?"

[9:48:00 AM](#)

CHAIR SEATON reiterated that the debt is a fixed amount that the employer would have to pay. In response to Representative Gardner's restatement of her question, he confirmed that the employer would be better off hiring someone new, rather than someone who is in the old DB system. He said he is waiting on a legal opinion to find out whether an employer can legally make that determination.

[9:49:23 AM](#)

REPRESENTATIVE GARDNER asked, "If we were to assume that this is a great plan and it would be very effective, why would we limit it to nonstate and nonschool district employers; why not include everybody?"

[9:49:40 AM](#)

CHAIR SEATON said the school district and state agencies basically have no funding other than from the legislature. He said, "This is a mechanism to try to get to those nonstate funded."

REPRESENTATIVE GARDNER said, "So, we're setting up a mechanism for indirectly funding those obligations that are not directly ours, but we're accepting them as ours and setting up a funding mechanism. But we still could do the same for all the different pots. We're just saying, 'This gets paid out of this pot and this gets paid out of this pot.'"

CHAIR SEATON responded, "We could, and we might want to have different funding mechanisms for the others, because it gives us more flexibility, because we're paying those bills anyway." In response to a comment made by Representative Gardner, he said, "Under this mechanism we would help pay, and we're creating a mechanism to help the municipalities."

[9:51:21 AM](#)

CHAIR SEATON continued with the PowerPoint, bringing focus to the second slide on page 4, which read as follows [original punctuation provided]:

The PSCOA payment reduces City X's PSC contribution from \$300,000 to \$260,000 , or their PSC rate from 30% to 26%

CHAIR SEATON reviewed that another bill dealing with pension obligation bonds (POBs), offered a scenario in which the POB could lower the [past service cost] by 2.6 percent. The scenario shown on page 4 of the PowerPoint, he noted, would lower the past service cost by 4 percent.

CHAIR SEATON directed attention to page 5 of the PowerPoint, which shows City X at "20 years out," to show how much of the employers' past service cost the PSCOA would pay in the future. [The first slide on page 6 shows that City X has 30 employees, three of which are DB and 27 of which are DC.] The second slide on page 6 read as follows [original punctuation provided]:

**Assumptions about City X
2025**

Past Service Cost Rate of City X: 30%

Average Past Service Cost Rate: 20%

Average Salary for City X: \$40,000

City's X's Wage Base: \$1.2 million

The PSCOA will pay on behalf of the 27 DC employees:
(average salary * blended employer PSC rate) * number
of DC employees = PSCOA assistance

(\$40,000 * .2) * 27 = \$216,000

CHAIR SEATON noted that [the first slide on page 7] shows that the PSCOA payment reduces City X's past service cost contribution from [\$360,000 to \$144,000], or the past service cost rate from 30 percent to 12 percent. Chair Seaton referred to [the second slide on page 7], which read as follows [original punctuation provided]:

Why not a greater reduction in PSC payments for City X?

City X is only receiving aid for the average PSC rate (20%) when there [sic] actual rate is 30%

If city X had the same PSC rate as the system (20%) the PSCOA would pay 18% of the city's PSC for the twentieth year, the city left to make up the difference of \$24,000

CHAIR SEATON explained that is the example of City X, "we're only funding to the average past service cost rate for all employees." He said cities make choices. He said there are cities that sell off a section of a business and retain that money within the city's account. Chair Seaton said the most glaring example is Fairbanks, which sold off a utility and put \$100 million in an account, but kept the past service cost liability. He said, "So, what we're saying is we're not going to go in and absorb, from the state level, those voluntary changes that you make. So, we'll only come up to the average."

[9:57:05 AM](#)

CHAIR SEATON noted that the [first slide on page 8] shows a graph correlating with the employer's 30 percent past service cost rate, with the average being 20 percent, a scenario in which the employer would pay about 12 percent with PSCOA

assistance. The same slide shows the employer having the same past service cost rate as the system average of 20 percent. With the PSCOA, that scenario would mean that the employer would pay only 2 percent.

CHAIR SEATON cited [the second slide on page 8], which read as follows [original punctuation provided]:

PSCOA payments will increase over time until by the end of the amortization period the PSCOA is paying almost all of the past service cost payment for that year

CHAIR SEATON drew attention to [the first slide on page 9], which he noted contains a graph showing the PSCOA contributions as percent of total past service cost. The graph, he noted, begins in 2005 at about 8 percent and goes to almost 100 percent [by 2027]. The next slide on page 9 read as follows:

System Impact of PSCOA

Unfunded liability of PERS non-State non-school district: **679 million**

What the PSCOA will pay over 25 years: **299 million**

CHAIR SEATON suggested a better way to look at this is that "we would pay 44 percent of the amount due for employers" [which is shown on the final slide on page 10]. He said, "To make this function, it would be a little less than \$300 million in present dollars that would have to go into the present dollar offset account to create this funding mechanism."

[9:59:03 AM](#)

CHAIR SEATON directed attention to the sponsor statement, which he indicated will clarify some of the information. He referenced a two-page graph entitled, "Payment to Unfunded Liability per Tier - Actual Dollar Value." He said the graph offers a look at a five-year breakdown of communities for Tiers I, II, III, and IV, and totals.

CHAIR SEATON asked the committee to remember that this plan would set up a long-term mechanism; it's not an instant shot to reduce the employers' contribution amounts today. He said:

We've heard a lot of complaints, but in reality, the contribution rates for municipalities haven't gone up at all, because we made a 5 percent contribution last year. There's 5 percent, plus the other 5 percent. ... At least in the governor's budget, there's a proposal to pay the 10 percent for this year. ... What's going to happen over time though, is if we take a long-term look, we want to make sure that on the further end of things that cities aren't constrained so that they can't offer their services that we want all communities to offer.

[10:01:08 AM](#)

CHAIR SEATON, in response to a question from Representative Gardner, reminded everyone that the bill that dealt with pension obligation bonds had passed out of the House State Affairs Standing Committee and is currently in the House Finance Committee. He explained he had offered that example to show another plan with quite a different effect.

CHAIR SEATON announced that HB 238 was heard and held.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [10:01:59 AM](#).