

TWENTY-THIRD
ALASKA STATE LEGISLATURE
JOINT COMMITTEE ON LEGISLATIVE BUDGET AND AUDIT
January 9, 2005
1:05 p.m.

MEMBERS PRESENT

Representative Ralph Samuels, Chair
Representative Mike Chenault
Representative Mike Hawker
Representative Vic Kohring
Representative Reggie Joule, alternate

Senator Gene Therriault, Vice Chair
Senator Ben Stevens
Senator Lyman Hoffman

MEMBERS ABSENT

Representative Beth Kerttula

Senator Con Bunde
Senator Gary Wilken
Senator Lyda Green, alternate

OTHER LEGISLATORS PRESENT

Representative John Coghill
Representative-elect Jay Ramras

COMMITTEE CALENDAR

APPROVAL OF MINUTES
REVISED PROGRAM - LEGISLATIVE (RPLs)
EXECUTIVE SESSION
CONSIDERATION OF AUDITS
OTHER COMMITTEE BUSINESS

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

DAN SPENSER, Director
Division of Administrative Services

Department of Public Safety (DPS)
Juneau, Alaska
POSITION STATEMENT: Explained RPL 12-5-0164.

BONNIE ROBSON, Consultant
for Joint Committee on Legislative Budget and Audit
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Provided information regarding the Wood
Mackenzie Study, and responded to questions.

ACTION NARRATIVE

CHAIR RALPH SAMUELS called the Joint Committee on Legislative Budget and Audit meeting to order at 1:05:00 PM. Representatives Samuels, Chenault, Hawker, and Kohring and Senators Therriault, Hoffman, and B. Stevens were present at the call to order. Representative Joule arrived as the meeting was in progress. Representative Coghill and Representative-elect Ramras were also in attendance.

APPROVAL OF MINUTES

SENATOR THERRIAULT made a motion to approve the minutes of December 6, 2004. There being no objection, the minutes were approved.

REVISED PROGRAM - LEGISLATIVE (RPLs)

SENATOR THERRIAULT made a motion for the approval of the following RPL: 12-5-0164 - DNA (deoxyribonucleic acid) Evidence for Sexual Assault Cases.

CHAIR SAMUELS objected for the purpose of discussion.

DAN SPENSER, Director, Division of Administrative Services, Department of Public Safety (DPS), explained that the RPL is for \$75,000, which would be used in conjunction with a federal grant for the purpose of dealing with sexual assault cases. Specifically, the monies from the RPL would fund a DNA expert in the DPS's Scientific Crime Detection Laboratory so that the Anchorage Police Department (APD) can address its large backlog. He mentioned that there were 11 "hits" in fiscal year (FY) 2004, one of which pertained to an unsolved 1992 Anchorage homicide, and added that the DPS anticipates seeing more such results if the RPL is approved.

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REPRESENTATIVE HAWKER offered his understanding that currently, the DPS has insufficient statutory authority to accept this money.

MR. SPENSER confirmed that point.

CHAIR SAMUELS removed his objection. There being no further objections, the RPL was approved.

EXECUTIVE SESSION

[1:06:49 PM](#)

SENATOR THERRIAULT made a motion to move to executive session for the purpose of discussing confidential audit reports under AS 24.20.301. There being no objection, the committee went into executive session at 1:06 p.m.

[1:43:08 PM](#)

CHAIR SAMUELS brought the committee back to order at 1:43 p.m.

CONSIDERATION OF AUDITS

SENATOR THERRIAULT made a motion for the audits to be released to the public: Employment Opportunities for Women Engineers; Alaska's Sunset Process and Selected Investigative Issues; Board of Public Accountancy; Board of Registration for Architects, Engineers, and Land Surveyors; Board of Barbers and Hairdressers; Board of Social Work Examiners; Board of Professional Counselors; Board of Marital and Family Therapy; Board of Psychologists and Psychological Associate Examiners; Board of Veterinary Examiners; Suicide Prevention Council, and Alaska Seismic Hazards Safety Commission. There being no objection, the audits were released.

OTHER COMMITTEE BUSINESS

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SENATOR THERRIAULT made a motion that the committee authorize the Chair to amend the committee's contract with the consultant Bonnie Robson to an amount not to exceed \$475,000 and extend the termination date of the contract to December 31, 2005, with no other changes to the contract.

CHAIR SAMUELS indicated that the reason for funding Ms. Robson's contract in this fashion is because it is not yet known how fast things will move or what specifically will be needed.

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REPRESENTATIVE HAWKER asked whether the amount is entirely for personal services or whether it also includes Ms. Robson's out of pocket costs and sub-consultant services.

CHAIR SAMUELS said it would include expenses too.

CHAIR SAMUELS, after ascertaining that there were no objections, announced that the motion carried.

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CHAIR SAMUELS raised the issue of the Wood Mackenzie study, which compares "government takes" in the oil and gas industry in various parts of the world and the cost of doing business. The legislature has received that report and is now trying to disseminate the information contained therein; however, because the report is confidential, procedures to ensure that confidentiality must be established before distribution to members can begin. He asked Ms. Robson to comment.

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BONNIE ROBSON, Consultant, Joint Committee on Legislative Budget and Audit, Alaska State Legislature, first explained that the Wood Mackenzie study, titled "Global Oil and Gas Risks and Rewards 2004," is a multi-client study; this means that the legislature alone did not procure the study. Instead, it was made available through a number of entities agreeing to purchase that study in advance of Wood Mackenzie performing the study. The State of Alaska paid close to \$50,000, as did a number of other entities such as Alaska Oil and Gas Association (AOGA); Anadarko Petroleum Corporation ("Anadarko"); "British Petroleum"; ConocoPhillips Alaska, Inc.

MS. ROBSON mentioned that the 2004 study was preceded by a 2002 study. She said that 2004 study looks at the costs, revenues, and profitability of 66 different oil and gas producing regions, and it ranks the regions, one against another, on a number of different counts. Alaska, for example, is ranked against the other regions in roughly 153 different ways, among them oil

alone; gas alone; or oil and gas combined. The study looks at four different field sizes both for oil and for gas, and looks at low-, mid-, and high-price scenarios. It examines multiple measures of profitability, such as the rate of return and net present value. It looks at the calculations before and after government take, with government take covering royalties and taxes and the like. It examines differences between the profitability and cost, both for existing investors in the state and for new investors.

MS. ROBSON mentioned that the study was procured through the Joint Committee on Legislative Budget and Audit, and so Chair Samuels's signature is on both the purchase agreement and the confidentiality agreement. The access authorized by Wood Mackenzie is for the State of Alaska, specifically for legislators and legislative committees only - allowing the study to be released to legislative staff could be discussed later. Additionally, a mechanism could be developed whereby administration personnel working on oil and gas issues could have access to the study.

MS. ROBSON said that currently the report is being reviewed with regard to its implications for gas pipeline matters, and there will be a recommendation forthcoming regarding retaining additional economic expertise to review and evaluate for both oil and gas matters. The additional expertise may also be used to address questions with regard to whether the costs used in the report for Alaska are appropriate; and, if such costs can be questioned, is there a systematic bias within the report for or against Alaska; and if costs need correction, how would Alaska's rankings be changed; and are the field sizes used in the report appropriate for Alaska field sizes; and are the high-, mid-, and low-price scenarios appropriate in light of today's price projections.

CHAIR SAMUELS asked a question about the 2002 study.

MS. ROBSON said that the 2002 study used a single price which was a \$19.50 "Brent (ph) oil price," which is generally valued a little bit more than "ANS and S (ph)." That was the mid-price projection. However, given the level of prices in the past couple of years, it's not surprising that that would no longer be the mid-price projection; currently the mid-price projection is higher, but because the report is confidential, the exact number used can't be disclosed at this point.

MS. ROBSON said that some of the other aspects of the report to consider are whether there are other regions that should be included in the comparative analysis; most of the other regions used in the report are not other U.S. states. Therefore, a comparison between Alaska and Texas or Oklahoma can't currently be done with this report. Also, additional expertise might be wanted for the purpose of seeing whether factors such as Alaska's stable physical environment is reflected in the numbers. She said that after some level of analysis is undertaken, it would then become appropriate to decide whether Wood Mackenzie should be consulted about the potential release of some of the information contained in the report; such a release would allow a more complete public discussion to occur regarding the implications of the report. She mentioned that it will be up to the legislature to decide what to do with the information and whether additional studies should be undertaken.

MS. ROBSON, turning to the issue of the confidentiality requirements, said that Wood Mackenzie has its own set of standard terms and conditions. She mentioned a handout in members' packets, and said that it contains six documents, one of which is five pages long and is titled "Wood Mackenzie's Multi-Client Report Terms and Conditions." Among the conditions is a prohibition on disclosure of the contents of the report, and liability - to Wood Mackenzie - for disclosure of some or all of the contents of the report. Therefore, if information contained in the report gets out and is sourced back to the legislature, because of the report's acquisition via the Joint Committee on Legislative Budget and Audit, there is potential liability should Wood Mackenzie choose to pursue it; that could result in an award of damages against the state and, at a minimum, Wood Mackenzie would seek compensation for loss of its ability to sell this report and certain other reports - such as future price projections - to other potential subscribers.

MS. ROBSON mentioned that the Joint Committee on Legislative Budget and Audit is responsible for the dissemination and use of the report even if other committees choose to use it. She said that "we" are in the process of developing procedures for access to the report, and invited members of the committee, and others listening in, to provide input about whether the tentative procedures are appropriate regarding both the use of the study and to guard against inadvertent or inappropriate disclosure. She turned attention to the one-page agreement form in the packet that uses some of the specific language in the aforementioned five-page document; this is to ensure that when signing the form, people pay particular attention to both the

limitations on disclosure and to the imposition of personal liability on anyone who is found to be responsible for inappropriate disclosure.

MS. ROBSON remarked that when one is making a report available to 60 publicly-elected officials, as well as others, there is the potential for inadvertent or inappropriate disclosure, so the goal in outlining the specifics regarding disclosure and liability in the one-page agreement form is to minimize that risk. She reiterated the possible consequences of having [inadvertent or inappropriate] disclosure linked back to legislature, and mentioned that if Wood Mackenzie pursues the legislature for damages, then the legislature can in turn pursue the individual legislator responsible for the disclosure; such should impress upon individual legislators the importance of confidentiality in handling the report.

MS. ROBSON went on say that in order for a legislator to gain access to the report, that individual will be required to read the aforementioned standard terms and conditions document, and sign the aforementioned one-page agreement. The report will then be available in the Terry Miller Building, Room 220, and legislators should call beforehand to arrange to see the report, and must sign in before being given access. That report can then be read at that location, and notes can be taken but copies cannot be made. And with regard to any notes that are taken, the protocol will be that those notes will be copied, placed in a sealed envelope in the legislator's presence, and then placed in a locked file cabinet; any such envelopes will only be opened in the event that Wood Mackenzie claims that the legislature breached confidentiality.

MS. ROBSON said it will be the legislator's responsibility to keep any notes he/she makes from the report completely confidential; he/she must label the notes as confidential, keep them with a copy of the standard terms and conditions, and keep them under lock and key. Although such procedures may seem draconian, they are comparable in nature to the procedures that the administration routinely employs, in both the Division of Oil & Gas and in the Department of Revenue (DOR) to guard confidential materials related to oil and gas issues. In fact, currently there is statutory criminal liability for state personnel that violate the confidentiality of such material, though there is nothing similar in statute yet with regard to individual legislators who may violate the confidentiality of the Wood Mackenzie study. Instead, the procedures being established provide for personal, financial civil liability in

the event that a disclosure is traced back to an individual legislator.

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SENATOR B. STEVENS asked whether, if there is a breach of confidentiality, the state would be obligated to pay damages.

MS. ROBSON indicated that it would be, but first Wood Mackenzie must learn of the breach and decide to pursue the state for damages. She mentioned that the court of dispute is England, and that this stipulation is a non-negotiable condition of Wood Mackenzie's.

SENATOR B. STEVENS asked whether Wood Mackenzie has ever been successful in claiming a breach of confidentiality with regard to this or similar studies.

MS. ROBSON said not to her knowledge, but acknowledged that she has not yet investigated that point.

SENATOR B. STEVENS said he'd like to know whether such has ever occurred.

REPRESENTATIVE HAWKER asked who else has arranged for acquisition of the same report.

MS. ROBSON indicated that she does not have a complete list of subscribers.

[2:02:11 PM](#)

REPRESENTATIVE HAWKER surmised, then, that the legislature might not necessarily be responsible for a breach of confidentiality; a leak could come from some other source.

MS. ROBSON concurred and reiterated that in order for Wood Mackenzie to pursue the legislature for damages, it must first find that the leak can be traced back to the legislature.

REPRESENTATIVE HAWKER asked whether, under the terms and conditions, it would be possible for him to discuss his review of the report with Representative Samuels, for example.

MS. ROBSON said that once a legislator has signed the confidentiality agreement and has accessed the information, he/she may discuss that information with others who have signed

the same confidentiality agreement; thus, if various subscribers have signed the same agreement, they may discuss the information amongst themselves. It is, however, up to the individual legislator/subscriber to verify whether another person/entity has signed the same agreement.

REPRESENTATIVE HAWKER surmised that such leeway could be beneficial.

CHAIR SAMUELS indicated that it would be good to know whether the legislature can discuss the information contained in the report with other governmental entities and industry players.

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MS. ROBSON mentioned the last handout on members' packets, and noted that the information contained therein is based on the aforementioned 2002 study and has not been vetted.

REPRESENTATIVE HAWKER asked whether Wood Mackenzie is intending to release more recent comparable information.

MS. ROBSON said yes, but indicated that the legislature has not yet sought authorization for the release of that information, though an industry entity might have.

SENATOR THERRIAULT asked Ms. Robson if she has an idea of when she'll have a recommendation with regard to which additional consultants might be needed.

MS. ROBSON said yes, particularly with regard to an economic expert, adding that other experts could be arranged for as needed.

ADJOURNMENT

[2:11:30 PM](#)

There being no further business before the committee, the Joint Committee on Legislative Budget and Audit meeting was adjourned at 2:11 p.m.