

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

April 28, 2006  
10:20 a.m.

**MEMBERS PRESENT**

Senator Ralph Seekins, Chair  
Senator Charlie Huggins, Vice Chair  
Senator Gene Therriault  
Senator Hollis French  
Senator Gretchen Guess

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 169

"An Act relating to release of information in individual workers' compensation records for commercial purposes."

MOVED CSSB 169(JUD) OUT OF COMMITTEE

SENATE BILL NO. 307

"An Act relating to a fee provided for in the rental agreement for late payment of rent under the Uniform Residential Landlord and Tenant Act."

MOVED CSSB 307(JUD) OUT OF COMMITTEE

SENATE BILL NO. 316

"An Act amending the Alaska Stranded Gas Development Act to eliminate the opportunity for judicial review of the findings and determination of the commissioner of revenue on which are based legislative review for a proposed contract for payments in lieu of taxes and for the other purposes described in that Act; and providing for an effective date."

MOVED CSSB 316(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 414(RLS) am

"An Act relating to the interception of the private communications of a minor."

SCHEDULED BUT NOT HEARD

CS FOR HOUSE BILL NO. 190(FIN)

"An Act relating to the purchase of alcoholic beverages and to access to licensed premises; relating to civil liability for

certain persons accessing licensed premises; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole and relating to fees for the marked license; and requiring the surrender and cancellation of driver's licenses under certain circumstances."

SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 169

SHORT TITLE: WORKERS' COMPENSATION RECORDS

SPONSOR(s): SENATOR(s) THERRIAULT

04/11/05	(S)	READ THE FIRST TIME - REFERRALS
04/11/05	(S)	L&C
04/19/05	(S)	L&C AT 1:30 PM BELTZ 211
04/19/05	(S)	Moved CSSB 169(L&C) Out of Committee
04/19/05	(S)	MINUTE(L&C)
04/20/05	(S)	L&C RPT CS 4DP NEW TITLE
04/20/05	(S)	DP: BUNDE, DAVIS, ELLIS, STEVENS B

BILL: SB 307

SHORT TITLE: LANDLORD REMEDIES; LATE FEE

SPONSOR(s): LABOR & COMMERCE

02/23/06	(S)	READ THE FIRST TIME - REFERRALS
02/23/06	(S)	L&C, JUD
03/09/06	(S)	L&C AT 1:30 PM BELTZ 211
03/09/06	(S)	Heard & Held
03/09/06	(S)	MINUTE(L&C)
03/16/06	(S)	L&C AT 1:30 PM BELTZ 211
03/16/06	(S)	Scheduled But Not Heard
03/28/06	(S)	L&C AT 1:30 PM BELTZ 211
03/28/06	(S)	Heard & Held
03/28/06	(S)	MINUTE(L&C)
03/30/06	(S)	L&C AT 1:30 PM BELTZ 211
03/30/06	(S)	Moved SB 307 Out of Committee
03/30/06	(S)	MINUTE(L&C)
03/31/06	(S)	L&C RPT 2DP 1NR 2AM
03/31/06	(S)	DP: BUNDE, STEVENS B
03/31/06	(S)	NR: DAVIS
03/31/06	(S)	AM: ELLIS, SEEKINS
04/19/06	(S)	JUD AT 8:30 AM BUTROVICH 205
04/19/06	(S)	Heard & Held
04/19/06	(S)	MINUTE(JUD)
04/25/06	(S)	JUD AT 8:30 AM BUTROVICH 205
04/25/06	(S)	Heard & Held

04/25/06 (S) MINUTE(JUD)  
04/27/06 (S) JUD AT 8:30 AM BUTROVICH 205  
04/27/06 (S) Heard & Held  
04/27/06 (S) MINUTE(JUD)  
04/28/06 (S) JUD AT 9:30 AM BUTROVICH 205

BILL: SB 316

SHORT TITLE: COURT REVIEW OF STRANDED GAS DECISION

SPONSOR(s): JUDICIARY

04/13/06 (S) READ THE FIRST TIME - REFERRALS  
04/13/06 (S) JUD  
04/19/06 (S) JUD AT 8:30 AM BUTROVICH 205  
04/19/06 (S) Heard & Held  
04/19/06 (S) MINUTE(JUD)  
04/20/06 (S) JUD AT 8:30 AM BUTROVICH 205  
04/20/06 (S) Heard & Held  
04/20/06 (S) MINUTE(JUD)  
04/21/06 (S) JUD AT 9:30 AM BUTROVICH 205  
04/21/06 (S) Heard & Held  
04/21/06 (S) MINUTE(JUD)  
04/22/06 (S) JUD AT 9:30 AM BUTROVICH 205  
04/22/06 (S) -- Continued from 04/20/06 --  
04/25/06 (S) JUD AT 8:30 AM BUTROVICH 205  
04/25/06 (S) Heard & Held  
04/25/06 (S) MINUTE(JUD)  
04/26/06 (S) JUD AT 8:30 AM BUTROVICH 205  
04/26/06 (S) Heard & Held  
04/26/06 (S) MINUTE(JUD)  
04/27/06 (S) JUD AT 8:30 AM BUTROVICH 205  
04/27/06 (S) Heard & Held  
04/27/06 (S) MINUTE(JUD)  
04/28/06 (S) JUD AT 9:30 AM BUTROVICH 205

**WITNESS REGISTER**

Heather Brakes, Legislative Aide  
Staff to Senator Gene Therriault  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Introduced SB 169

Paul Lisankie, Director  
Division of Worker's Compensation  
Department of Labor & Workforce Development  
PO Box 21149  
Juneau, AK 99802-1149

**POSITION STATEMENT:** Responded to questions regarding SB 169

Kris Norosz, Government Relations  
Icicle Seafoods  
4019 21<sup>st</sup> Ave W  
Seattle, Wa 98199

**POSITION STATEMENT:** Testified in support of SB 169

Jack Chenoweth, Attorney  
Legal and Research Services Division  
Legislative Affairs Agency  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Answered questions regarding SB 316

Kevin Jardell, Legislative Director  
Staff to Governor Frank Murkowski  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions regarding SB 316

Larry Ostrovsky, Chief Assistant Attorney General  
Oil and Gas Section  
Department of Law  
PO Box 110300  
Juneau, AK 99811-0300

**POSITION STATEMENT:** Answered questions regarding SB 316

Jane Alberts, Legislative Aide  
Staff to Senator Con Bunde  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Introduced SB 307

Robert Maier  
Alaska Manufactured Housing Association  
No address provided

**POSITION STATEMENT:** Testified in support of SB 307

#### **ACTION NARRATIVE**

**CHAIR RALPH SEEKINS** called the Senate Judiciary Standing Committee meeting to order at [10:20:06 AM](#). Present were Senators Gene Therriault, Hollis French, and Chair Ralph Seekins.

CHAIR SEEKINS recessed the meeting to the call of the chair at [10:20:45 AM](#).

CHAIR SEEKINS reconvened the meeting at [12:46:21 PM](#). Present were Senators Gretchen Guess, Charlie Huggins, and Gene Therriault. Senator Hollis French will join the meeting shortly.

**SB 169-WORKERS' COMPENSATION RECORDS**

[12:46:21 PM](#)

CHAIR RALPH SEEKINS announced SB 169 to be up for consideration.

SENATOR GENE THERRIAULT announced that committee aide Heather Brakes would explain the basic issues of the bill.

SENATOR HOLLIS FRENCH joined the meeting.

HEATHER BRAKES, Staff to Senator Therriault, explained that SB 169 would amend the workers' compensation statutes to clarify that the Division of Workers' Compensation may not release personal information for commercial purposes. The Department of Law has suggested additional language that is not in the bill as of yet but the sponsor is putting that together. The additional language would direct the Department of Labor and Workforce Development to keep the records of injured workers secure.

[12:50:37 PM](#)

PAUL LISANKIE, Director, Division of Workers' Compensation, Department of Labor and Workforce Development (DOLWD), testified that SB 169 was a provision that was in SB 130 and passed last year but was necessary legislation today due to a lawsuit that received its opinion two weeks ago [*O'Bryan Baun Cohen Kuebler versus Paul F. Lisankie, Director of Division of Workers' Compensation, Department of Labor and Workforce Development, State of Alaska, John Does 1-10, Employees of the State of Alaska*].

MR. LISANKIE explained that the bill would exempt release of certain individual information of injured workers that the DOLWD requires them to file as part of getting their benefits. Over the years the DOLWD has seen requests for lists of every person who has filed for workers' compensation in the State of Alaska.

[12:52:59 PM](#)

Information can be used for good or ill depending on the intent, he said. The Department originally suggested the statute use the phrase "for commercial purposes" so that the worker wouldn't be prevented an avenue of help in defending their claim. The court opposes that language and so the Department has an amendment for the committee to consider.

[12:56:16 PM](#)

SENATOR FRENCH asked whether the proposed amendment would prohibit release of names of employees that work for the state.

MR. LISANKIE said he believed that since it's linked to the employee file maintained by the Division of Workers' Compensation that it would be limited and not that broad. He understood that any medical record housed at the DOLWD that contained personal information would not be subject to public inspection except as laid out in paragraphs (1-2).

CHAIR SEEKINS asked Mr. Lisankie whether he discussed the amendment with the DOL and whether it addressed the ambiguity in the statute.

MR. LISANKIE said it would erase the ambiguity relating to the phrase "commercial purposes."

[1:00:24 PM](#)

KRIS NOROSZ, Representative for Icicle Seafoods, testified in support of the bill.

SENATOR THERRIAULT moved Amendment 1. Hearing no objections, Amendment 1 was adopted.

SENATOR GRETCHEN GUESS moved CSSB 169(JUD) out of committee with individual recommendations and attached fiscal notes. Hearing no objections, the motion carried.

### **SB 316-COURT REVIEW OF STRANDED GAS DECISION**

[1:09:27 PM](#)

CHAIR RALPH SEEKINS announced SB 316 to be up for consideration.

SENATOR CHARLIE HUGGINS moved version L as the working document before the committee. Hearing no objections version CS was adopted.

CHAIR SEEKINS walked through the changes to each section. Section 1 assures that the documents are a public record after the commissioner of the Department of Revenue (DOR) gives public notice. Section 2 affects AS 43.82.400 and says if the commissioner develops a contract s/he should make preliminary findings and a determination that the proposed contract meet the long-term fiscal interest of the state and whether it meets the requirements and purposes of the Chapter. Section 3 states that

30 days after close of public comment period the commissioner shall prepare a summary.

[1:13:11 PM](#)

Section 4 affects AS 43.82.430(b) and is amended to read that after the commissioner makes his determination he submits the contract to the governor.

SENATOR HOLLIS FRENCH asked the reason for the change to that section.

CHAIR SEEKINS responded it was more definite that the commissioner first had to find that it was in the long-term best interest. He could not submit the contract until that provision was met.

[1:15:05 PM](#)

CHAIR SEEKINS Section 5:  
Legislative authorization. (a) The governor may transmit a contract developed under this chapter to the legislature together with a request for authorization to execute the contract. He continued reading the entire section.

[1:17:34 PM](#)

SENATOR GENE THERRIault noted that Section 5 was permissive on the part of the governor.

CHAIR SEEKINS agreed and said it is not required.

SENATOR FRENCH commented that subsection (d) maintains the legislative involvement.

Section 6, Judicial Review, is amended to emphasize that a person may not bring a challenge until the contract is executed.

[1:19:36 PM](#)

Section 7 and 8 are effective dates and clean up, he said.

SENATOR FRENCH said Section 7 might be superfluous because the bill is maintaining the DOR as the "legal flagpole to the world."

CHAIR SEEKINS said Section 7 just eliminates the agency decisions.

SENATOR FRENCH restated his point. Now that the bill keeps the final findings and determination of the commissioner as the

thing that is challengeable, keeping subsection (c) in harmonizes with the judicial review.

CHAIR SEEKINS announced a brief at ease at [1:23:11 PM](#).

[1:32:15 PM](#)

CHAIR SEEKINS asked the drafter of the bill to testify.

SENATOR FRENCH asked Mr. Chenoweth whether Section 7 belongs in the bill.

JACK CHENOWETH, Attorney, Legal Services, said in 1998 the determination that the final findings would be an final agency action was included to indicate that is the point at which an administrative adjudication may be commenced. The Legislature added the requirement of legislative review. When that was added, the final findings and determination language became extraneous because the legislature's roll was postponed. That was the reason that the administration was interested in eliminating subsection (c) since the legislature had post review responsibility.

MR. CHENOWETH said, "If you agree with the administration's view of this then I think you probably do want to take out 430(c) because you are still allowing for judicial review of a final findings and determination."

[1:36:04 PM](#)

SENATOR FRENCH said he agreed with the administration about moving the timing of the challenge but stated he is very protective and concerned about restricting any rights that the public has to bringing a challenge to the contract. He also expressed concern over a separation of powers challenge brought eventually to the legislature's authority to execute. He said he wants to take a "belt and suspenders" approach so as to keep all the rights in existence.

[1:37:58 PM](#)

MR. CHENOWETH responded the committee should make sure that in leaving the authority in the law for someone to challenge the final findings and determination, that they do so without making it dependant on an action of the Legislature authorizing execution of the contract.

SENATOR FRENCH asked him to explain the reason that is important if it is only a matter of timing.

MR. CHENOWETH explained it has been a historical position from the DOL that the Legislature has no roll in the determination of what contracts should be executed. It was surprising that the Knowles administration was willing to accept legislative action to authorize the contract. His review of the dialogue indicated that the commissioner of the DOR was comfortable with the legislative authorization back in 1998 because the administration realized that providing for payments in lieu of tax [the principle element of the SGDA] was breaking new ground in law.

In setting that out, the administration would be intruding upon authority generally given to the Legislature to determine what the tax policy of the state would be and how to spend the money. Consequently the commissioner felt it was best to have the Legislature aboard.

[1:42:04 PM](#)

SENATOR FRENCH said he is left wondering what to do with the bill to maintain every possible legal challenge, as it exists under the current law.

MR. CHENOWETH said leave 120 days to bring an action. That 120 days may be tied to execution of the contract but that execution may or may not be on the basis of a legislative authorization given by law.

SENATOR FRENCH said it sounds like that what needs to be done is to have a buffer of time granted to the Legislature when they are making their decision.

MR. CHENOWETH responded:

If the concern is the separation of powers-generated objection to the Legislature having a role in all of this, then the final findings and determination would be the step preceding the governor's execution of the contract. If that is the case you have a law in place that says the judicial review should occur within some period of time from execution of the contract without making any reference to the legal authority for that execution.

[1:44:27 PM](#)

CHAIR SEEKINS asked who would have the standings to bring a constitutional challenge regarding separation of powers.

MR. CHENOWETH advised that there would be a wide variety of potential claimants would have standing to proceed.

CHAIR SEEKINS said, "But if the governor doesn't challenge it, he is the other branch of government whose powers have now been violated by the requirement for legislative authorization to execute the contract. Can John Q. Public bring that action?"

MR. CHENOWETH asked, "Who would be the defendant?"

CHAIR SEEKINS said, "I guess it would have to be the Legislature."

MR. CHENOWETH said the Legislature can't get sued, even by the governor. The person who raises the question of right and wrong could be the Legislature or anyone else.

[1:46:13 PM](#)

CHAIR SEEKINS asked whether the requirement that the Legislature execute the contract diminishes the powers of the governor granted under the Constitution.

MR. CHENOWETH responded that it is a good argument and it seems like something the Legislature has the right to do.

CHAIR SEEKINS said every portion of a law is severable and if this portion of the law [43.82.435] was challenged in court and found to be unconstitutional, that action would have to have commenced within 120 days of the contract.

MR. CHENOWETH agreed.

[1:48:08 PM](#)

MR. CHENOWETH said the administration's argument is that the responsibility for negotiation and execution of contracts is wholly an administrative function under the separation of powers and should be retained in the executive branch. That is the starting point of the argument they would make if they were to change to go forward without the benefit of legislative input.

SENATOR THERRIAULT said that is the only time the constitutional issue rears its head: if the Legislature gives approval and the governor then signs the contract.

[1:50:31 PM](#)

CHAIR SEEKINS asked Mr. Chenoweth whether they need to specify in statute that it is the decision that is appealable.

MR. CHENOWETH said yes but there is a question of placement with relationship to the legislative review of the contract. He said he shared the committee's concern that in the event the Legislature refuses to approve the contract that the governor would execute it anyway.

CHAIR SEEKINS suggested to avoid that perhaps they should state in statute that if for some reason the legislative authorization is found not to be affected that these findings and determinations are then final agency decisions and independently reviewable.

MR. CHENOWETH said, "Oh. Well. That is a way to do it."

SENATOR THERRIAULT asked whether it should to be so complicated. He suggested the committee make sure they preserve the right of the public to challenge and then "drag it to the end."

[1:57:14 PM](#)

CHAIR SEEKINS asked Larry Ostrovsky to comment.

LARRY OSTROVSKY, Chief Assistant Attorney General, Department of Law (DOL), said Mr. Chenoweth has more experience than he but he speculated that the committee was on the right track.

SENATOR FRENCH said the question of "what the nature of the challenge would be" is still unanswered given that the Legislature has substituted its judgment for the judgment of the commissioner in granting authority to execute the contract. He said it is important to maintain the commissioner's final findings and determination as the place where a person would mount a challenge because he didn't think there was a challengeable part to the final finding of the Legislature.

[2:00:22 PM](#)

CHAIR SEEKINS asked Mr. Ostrovsky whether the committee should change 43.82.440 to the final agency decisions and leave subsection (c) in.

MR. OSTROVSKY responded that would not make any substantive difference but said he'd be curious to hear what Mr. Chenoweth would say.

MR. CHENOWETH commented that he was comfortable with what the committee wants to do.

CHAIR SEEKINS said their primary objective is to put any challenge at the end of the process and to clearly define what happens if the process "goes kablooey."

SENATOR THERRIAULT clarified that the committee intended to leave subsection (c) in and change the language in section 6 to make reference to the final decision.

[2:03:09 PM](#)

SENATOR THERRIAULT moved Amendment 1. On page 4 modify the new language on lines 6-7 to say "the final agency decisions under 430(c)." Hearing no objections, Amendment 1 was adopted.

SENATOR THERRIAULT moved Amendment 2.

24-LS1842\I.1  
Chenoweth

## A M E N D M E N T 2

OFFERED IN THE SENATE BY SENATOR THERRIAULT  
TO: CSSB 316( ), Draft Version "I"

Page 1, line 6, following "**enforceability**":

Insert "**extending to 90 days the period during which the public and members of the legislature may comment on a proposed contract under that Act;**"

Page 2, following line 12:

Insert a new bill section to read:

"\* **Sec. 2.** AS 43.82.410 is amended to read:

**Sec. 43.82.410. Notice and comment regarding the contract.** The commissioner shall

(1) give reasonable public notice of the preliminary findings and determination made under AS 43.82.400;

(2) make copies of the proposed contract, the commissioner's preliminary findings and determination, and, to the extent the information is not required to be kept confidential under AS 43.82.310, the supporting financial, technical, and market data, including the work papers, analyses, and recommendations of any independent contractors used under AS 43.82.240 available to the public and to

(A) the presiding officer of each house of the legislature;

(B) the chairs of the finance and resources committees of the legislature; and

(C) the chairs of the special committees on oil and gas, if any, of the legislature;

(3) offer to appear before the Legislative Budget and Audit Committee to provide the committee a review of the commissioner's preliminary findings and determination, the proposed contract, and the supporting financial, technical, and market data; if the Legislative Budget and Audit Committee accepts the commissioner's offer, the committee shall give notice of the committee's meeting to the public and all members of the legislature; if the financial, technical, and market data that is to be provided must be kept confidential under AS 43.82.310, the commissioner may not release the confidential information during a public portion of a committee meeting; and

(4) establish a period of at least 90 [ 30] days for the public and members of the legislature to comment on the proposed contract and the preliminary findings and determination made under AS 43.82.400."

Renumber the following bill sections accordingly.

Hearing no objections, Amendment 2 was adopted.

[2:08:41 PM](#)

CHAIR SEEKINS noted that Senator Therriault's amendment was in reference to a CS that no longer exists. He clarified that this would amend section 4 to extend the public comment period to 90 days. It appears that the administration is allowed to establish when that time frame begins. He asked Kevin Jardell whether the intent was to start the public comment period the moment that the contract was released.

KEVIN JARDELL, Legislative Director for Governor Frank Murkowski testified that the intent was the public process to begin the day the contract was released. A website would be launched that would accept public comment and would provide for a period of ongoing dissemination. The governor intends to hold the public comment period for as long as the process takes to gather thorough input from the public.

[2:13:48 PM](#)

CHAIR SEEKINS asked how the administration plans to decide when the public comment window ends.

MR. JARDELL replied the administration would not know until the process develops but they are allowed to extend the public comment period. The governor would halt the public comment period when it reaches the point that all the points have been made.

CHAIR SEEKINS asked what happens if the governor doesn't get the Legislature a contract after the close of the public comment period.

MR. JARDELL said he did not know.

SENATOR THERRIAULT speculated there would be an ongoing process responding to public comment as they come in. It is likely that there will be a turnaround a few days directly after the close of the comment period.

SENATOR GRETCHEN GUESS said the way the statute reads is that the things to be done within that 30 days are the findings and determinations, not the submitting of the contract.

[2:16:44 PM](#)

CHAIR SEEKINS said the way that subsection (b) reads since amended states that the commissioner submits the contract to the governor within 30 days.

SENATOR GUESS disagreed but said it didn't matter.

[2:19:25 PM](#)

SENATOR GUESS said, "We all hope we see a contract this year but life is unpredictable and so we are creating a statute that needs to go beyond us [the 24<sup>th</sup> Legislature]."

CHAIR SEEKINS announced a brief recess at [2:22:24 PM](#).

[2:40:07 PM](#)

CHAIR SEEKINS explained to the committee that Senator Therriault's conceptual amendment needed re-crafting.

SENATOR THERRIAULT explained his amendment should be altered to denote a 90-day comment period.

SENATOR FRENCH spoke in favor of the amendment. He said the PPT bill was introduced 68 days ago and could drag out through the end of session, indicating how long it sometimes takes to work through a law this substantial.

CHAIR SEEKINS clarified that Amendment 2 would specify a 90-day comment period. He moved to amend Amendment 2 to read 60 days. He explained that in effect, the comment period would end up with the equivalent of 90 days.

[2:45:03 PM](#)

MR. JARDELL commented on the amendment to Amendment 2. The public process is critically important and so the administration supports the 60-day period.

SENATOR GUESS clarified that when it comes back to the Legislature in special session, they can take public comment but they can't change the contract. The ability to provide feedback to the administration disappears and so it is a different type of public contract. She said she was more comfortable with the 90-day public comment period.

SENATOR HUGGINS and SENATOR THERRIAULT spoke in favor of the amendment to Amendment 2.

CHAIR SEEKINS asked Mr. Jardell whether the administration would hold regularly scheduled public hearings during the process.

[2:49:02 PM](#)

MR. JARDELL said yes. It would be a series of meetings both in communities and also using telecommunications.

CHAIR SEEKINS said, "After the public hearing process is done, will it take you 60-days to get through the public hearing process?"

MR. JARDELL hesitated to comment but speculated a 45-day period would suffice to hit all the communities and do the entire public process.

Hearing no further objections to the amendment to Amendment 2, the committee adopted it unanimously. The committee adopted Amendment 2 unanimously as well.

[2:52:26 PM](#)

CHAIR SEEKINS noted that Mr. Ostrovsky requested to comment on page 3, lines 24-25.

MR. OSTROVSKY suggested that the committee consider adding language to line 25 to add "to the extent a record or information is not required to be kept confidential under AS 43.82.310, the material described in (1) of this subsection."

[2:54:14 PM](#)

SENATOR GUESS asked the practical application of the suggestion.

SENATOR HUGGINS moved Amendment 3. Page 3, line 25 add "to the extent a record or information is not required to be kept confidential under AS 43.82.310, the material described in (1) of this subsection."

SENATOR FRENCH objected and commented 43.82.310 has six subsections and it looks like subsection (f) differs from the others. He asked Mr. Ostrovsky to comment.

CHAIR SEEKINS said as he understood 310(f), it was amended to say that everything that is not proprietary becomes public information.

MR. CHENOWETH agreed.

[2:57:52 PM](#)

Hearing no further objections, Amendment 3 was adopted.

SENATOR THERRIAULT asked Mr. Chenoweth whether there was any impairment of contract argument due to timing since the committee moved the public comment period to the end of the process.

MR. CHENOWETH responded the right to the contract argument would be during the period of time that overlaps the 120 days in which the appeals may be brought. There is a potential for impairment but it would have to be action taken upon the contract that is executed. He advised the committee that was an area of concern.

[3:02:09 PM](#)

SENATOR THERRIAULT asked for an amendment suggestion.

MR. CHENOWETH suggested the committee tie the concept outside of 43.82.435.

SENATOR THERRIAULT restated his concern. He said, "If we move that public comment period to the end, what language do we need just to make sure that they in fact can exercise..."

CHAIR SEEKINS moved Amendment 4. Conceptually speaking, add language on page 4, end of line 9 stating, "under this chapter."

MR. CHENOWETH added that the committee would want to tie that sentence to the contract.

[3:06:51 PM](#)

Hearing no objections, Amendment 4 was adopted.

SENATOR GUESS expressed concern that the governor could execute a contract that the Legislature did not approve and that did not meet the requirements of the Chapter. She asked whether there was anything that would void the contract and give the Legislature or anyone else the ability to take it to court because it didn't line up to the statute. She said this goes back to her point that the final findings and determination are whether or not the proposed contract and amendment meet the requirements of the Chapter.

CHAIR SEEKINS speculated that in that event, the very contract would not meet the requirements under the law and would have to be signed as a standard DNR contract.

MR. CHENOWETH said he has a different vision of the contract. He said his vision of the contract would be one that covers the things that are identified in the law, such as paying in lieu of tax, timing and taking of royalty and local hire.

[3:12:34 PM](#)

SENATOR GUESS said as the statute reads now, the final finding is only whether or not the contract does comply with state law, not that it has to comply.

MR. CHENOWETH said that is why we have the enforceability provision. It must serve the purpose of arguing a challenge.

[3:14:43 PM](#)

SENATOR GUESS said the enforceability clause under judicial review goes back to 435 and if that gets thrown out in court on separation of powers, then where are we with ensuring that a contract actually meet the requirements of the statute.

MR. CHENOWETH responded if the legislative rolls falls out it is still a question of whether the final findings are supportable.

SENATOR HUGGINS moved Amendment 5. Page 4, line 10, remove AS 43.82.435 and insert "this chapter."

[3:19:20 PM](#)

MR. CHENOWETH said he wanted clarification for the record that the committee is doing this because of an ongoing concern that the legislative authorization of 435 might be held not valid. He said it establishes a good argument for the Legislature's roll in the contract.

CHAIR SEEKINS asked Mr. Ostrovsky to comment.

MR. OSTROVSKY said, "No comment."

CHAIR SEEKINS recessed the meeting to the call of the chair at [3:24:56 PM](#).

[6:00:00 PM](#)

CHAIR SEEKINS reconvened the meeting and asked for discussion.

SENATOR THERRIAULT moved to adopt version S as the working document before the committee. Hearing no objections, the motion carried.

SENATOR GUESS moved Amendment 1. Page 1, line 9, insert the words "at least" between the words "to 60." Hearing no objections, Amendment 1 was adopted.

SENATOR GUESS moved Amendment 2. Page 5, beginning of line 6, insert "(a)". Hearing no objections, Amendment 2 was adopted.

SENATOR HUGGINS moved CSSB 316(JUD) from committee with individual recommendations and attached fiscal notes. Hearing no objection, the motion carried.

**SB 307-LANDLORD REMEDIES; LATE FEE**

[6:07:16 PM](#)

CHAIR RALPH SEEKINS announced SB 307 to be up for consideration.

JANE ALBERTS, Staff to Senator Con Bunde introduced the bill and informed the committee of a committee substitute (CS).

SENATOR GENE THERRIAULT moved version F as the working document before the committee. Hearing no objections, the motion carried.

MS. ALBERTS said the CS contains new language, which makes it possible for the landlord to issue a single notice or two separate notices for failure to pay rent and failure to pay rent fees. The judge would consider each aspect of the dispute during

one hearing. The CS does allow the tenant three more days to pay the rent and the sponsor supports that.

[6:09:09 PM](#)

ROBERT MAIER, Alaska Manufactured Housing Association, testified that version F gets the bill back to the original intent, which is simplicity. He expressed support for the bill.

MS. ALBERTS advised that Ed Sniffen was online earlier in the day and was prepared to testify in support of the bill.

SENATOR HOLLIS FRENCH opined the bill was a compromise between the two ideas of a speedy hearing and the one hearing.

CHAIR SEEKINS closed public testimony.

SENATOR THERRIAULT moved CSSB 307(JUD) from committee with individual recommendations and attached fiscal notes. Hearing no objections the motion carried.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at [6:14:13 PM](#).