

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 22, 2007

8:02 a.m.

MEMBERS PRESENT

Representative Anna Fairclough, Co-Chair
Representative Gabrielle LeDoux, Co-Chair
Representative Nancy Dahlstrom
Representative Mark Neuman
Representative Kurt Olson
Representative Sharon Cissna
Representative Woodie Salmon

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 185

"An Act relating to certain municipal service areas that provide road services."

- HEARD AND HELD

HOUSE BILL NO. 152

"An Act establishing a renewable energy fund and describing its uses and purposes."

- MOVED CSHB 152(CRA) OUT OF COMMITTEE

HOUSE BILL NO. 202

"An Act relating to the community revenue sharing program; and providing for an effective date."

- MOVED HB 202 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 185

SHORT TITLE: MUNICIPAL ROAD SERVICE AREAS

SPONSOR(s): REPRESENTATIVE(s) COGHILL

03/12/07	(H)	READ THE FIRST TIME - REFERRALS
03/12/07	(H)	CRA, TRA

03/22/07 (H) CRA AT 8:00 AM BARNES 124

BILL: HB 152

SHORT TITLE: ESTABLISHING A RENEWABLE ENERGY FUND

SPONSOR(S): REPRESENTATIVE(S) HARRIS

02/26/07 (H) READ THE FIRST TIME - REFERRALS
02/26/07 (H) CRA, FIN
03/06/07 (H) CRA AT 8:00 AM BARNES 124
03/06/07 (H) Heard & Held
03/06/07 (H) MINUTE(CRA)
03/20/07 (H) CRA AT 8:00 AM BARNES 124
03/20/07 (H) Heard & Held
03/20/07 (H) MINUTE(CRA)
03/22/07 (H) CRA AT 8:00 AM BARNES 124

BILL: HB 202

SHORT TITLE: COMMUNITY REVENUE SHARING

SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS

03/14/07 (H) READ THE FIRST TIME - REFERRALS
03/14/07 (H) CRA, FIN
03/20/07 (H) CRA AT 8:00 AM BARNES 124
03/20/07 (H) Heard & Held
03/20/07 (H) MINUTE(CRA)
03/22/07 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

CAROL BEECHER, Legislative Intern
to Representative John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 185 on behalf of the sponsor,
Representative Coghill.

RENE BROKER, Attorney
Fairbanks North Star Borough
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 185.

RANDY FRANK, Member
Fairbanks North Star Borough Assembly
Fairbanks North Star Borough
Fairbanks, Alaska

POSITION STATEMENT: During hearing of HB 185, answered
questions.

MIKE BLACK, Director
Division of Community Advocacy
Department of Commerce, Community, & Economic Development
Anchorage, Alaska
POSITION STATEMENT: During hearing of HB 185, answered questions.

SANDRA WILSON
Fairbanks, Alaska
POSITION STATEMENT: Testified in opposition to HB 185.

TAMMIE WILSON
North Pole, Alaska
POSITION STATEMENT: Testified in opposition to HB 185.

LUKE HOPKINS, Presiding Officer
Fairbanks North Star Borough Assembly
Fairbanks North Star Borough
Fairbanks, Alaska
POSITION STATEMENT: During hearing of HB 185, highlighted the public processes available for comment.

RYNNIEVA MOSS, Staff
to Representative John Coghill
Alaska State Legislature
Fairbanks, Alaska
POSITION STATEMENT: During hearing of HB 185, answered questions.

JENNIFER YUHAS, Special Assistant
to the Mayor
Fairbanks North Star Borough
Fairbanks, Alaska
POSITION STATEMENT: Testified in support of HB 185.

CHARISSE MILLET, Staff
to Representative John Harris
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Spoke on behalf of the sponsor of HB 152, Representative Harris.

REPRESENTATIVE PAUL SEATON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained his suggested amendment, Conceptual Amendment 1, to HB 202.

ACTION NARRATIVE

CO-CHAIR ANNA FAIRCLOUGH called the House Community and Regional Affairs Standing Committee meeting to order at [8:02:13 AM](#). Representatives Fairclough, LeDoux, and Dahlstrom were present at the call to order. Representatives Olson, Cissna, and Salmon arrived as the meeting was in progress.

HB 185-MUNICIPAL ROAD SERVICE AREAS

[8:02:48 AM](#)

CO-CHAIR FAIRCLOUGH announced that the first order of business would be HOUSE BILL NO. 185, "An Act relating to certain municipal service areas that provide road services."

[8:02:58 AM](#)

CAROL BEECHER, Legislative Intern to Representative John Coghill, Alaska State Legislature, provided the following statement:

The bill before you today, House Bill 185, provides boroughs with a means of altering existing road service area boundaries to ensure taxpayer fairness among residents of service areas. A service area is a taxing jurisdiction within a borough that has been established to provide special services, such as road maintenance or fire protection. These services are requested and approved by voters residing within a specific area. State law permits borough residents living outside a service area to use service area roads for their sole or legally required access. These residents derive a direct benefit equal to residents within the service area yet they can refuse to contribute to the cost of construction or maintenance of these roads by voting down any annexation attempt. These state mandated annexation votes typically fail as individuals are reluctant to join a service area when they can instead use these maintained roads for free. HB 185 amends state law by allowing a service area to annex property that uses

its roads for their sole or legally required access without a separate vote of the property to be annexed.

A second issue arises where residents of a service area are required to pay into a service area even though they do not utilize the service roads for access to their property. Service areas, however, are often reluctant to vote to remove property from the service area because it effectively raises taxes on the remaining property owners. HB 185 amends state law by allowing a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.

8:05:20 AM

REPRESENTATIVE DAHLSTROM commented that she likes the intent of HB 185 and hopes it moves from committee today.

8:06:07 AM

RENE BROKER, Attorney, Fairbanks North Star Borough, related support for HB 185. She pointed out that road service areas are formed on the central principle of taxpayer fairness such that those who receive the special services provided by a road service area pay for the cost of those special services. However, under current law in Fairbanks it has inadvertently resulted in two substantial deviations from the aforementioned principle. Firstly, under current law neighboring property can use service area roads for access to their homes and businesses while not paying anything to construct or maintain the road. The aforementioned becomes particularly egregious and difficult when the free use differs substantially from the service areas own use in number or type. For example, a gravel hauling business that significantly degrades the roads. Secondly, citizens sometimes have to pay to maintain roads that they no longer use. She explained that occasionally development around an existing service area changes the use pattern. However, under the current system, despite the change in use a citizen in such a situation would have to continue to pay taxes to the service area. Both inequities can be fixed only if taxpayers are willing to vote against their own financial interest. Therefore, the Fairbanks North Star Borough strongly supports HB 185 because it permits municipalities to remedy both problems by altering service area boundaries but only to the extent

necessary to ensure compliance with the underlying principle that those who receive the special services pay the cost.

8:08:48 AM

REPRESENTATIVE NEUMAN referred to page 2, lines 19-23, which excludes a vote by the people residing in the subdivision proposed to be added to a road service area if the road service area roads are the only access to the subdivision. He asked if the people in an existing service area are able to vote on an annexation.

MS. BROKER replied yes, adding that the people in the existing service area don't want to have additional property foisted on them. The people of the road service area need to determine whether requiring people who use [the roads maintained by the road service area] for free makes sense because it may not always be a good financial decision for the existing road service area to take on that additional obligation of the added property.

REPRESENTATIVE NEUMAN posed a situation in which one travels from subdivision A to get to subdivision B, the new subdivision, the residents of subdivision A would get to vote on that.

MS. BROKER replied yes, because those in subdivision A are providing the roads and are impacted by the traffic. Furthermore, subdivision A should be able to vote on the annexation of subdivision B because were subdivision B to be annexed, subdivision A would have to pay for the roads within subdivision B.

8:10:47 AM

CO-CHAIR LEDOUX related her discomfort because it seems that there will be those who will be grouped in a service area who won't be able to vote on the matter. She asked if a road service area could be gated and charge for its use. She recalled that there's a community in Kodiak that wanted the borough to construct a bridge. Since the borough wasn't interested, the community constructed the bridge with a gate and charged for its use. Therefore, she questioned whether there are ways to address this matter.

MS. BROKER pointed out that service areas are part of the borough and thus [the roads in service areas] are publicly dedicated roads for which taxpayer money within the service area

goes to pay for the road. However, it's a different scenario if it's a private road. Ms. Broker stated that publicly dedicated roads can't be gated or blocked and only allow certain people to travel on them.

CO-CHAIR LEDOUX inquired as to why a person who spends the night in the road service area would not have to pay for the road service area.

MS. BROKER said that [getting to people in the aforementioned situation] would require monitoring and invasiveness that [the borough] isn't willing to do. "What we're trying to do is establish a rule that says if ... you ... by location of your property use that road in the same exact manner, for access to your property, as the people in the service area, then you should be put on the same basis as the people in the service area in terms of payment."

CO-CHAIR LEDOUX suggested that perhaps the problem is the road service area itself in that if these are public roads with public use, perhaps everyone in the borough should have to pay for them.

[8:14:37 AM](#)

REPRESENTATIVE NEUMAN returned to his earlier example with subdivision A and subdivision B and asked if a vote taken by the people in subdivision A is an advisory vote or a binding vote.

MS. BROKER answered that it's a binding vote. The borough assembly can't add the property without the approval of subdivision A road service area.

[8:16:06 AM](#)

CO-CHAIR LEDOUX inquired as to how road service areas come to exist in the first place.

MS. BROKER explained that road service areas begin with a citizens' petition that goes to the assembly. Upon approval from the assembly, there's an election. The problem is that as communities develop, subdivisions and properties develop around an existing road service area that was formed 20 years ago.

[8:17:21 AM](#)

RANDY FRANK, Member, Fairbanks North Star Borough Assembly, echoed Ms. Broker's testimony that this legislation is about fairness. He, too, opined that this situation has arisen since Fairbanks doesn't have road powers. He related his belief that road service areas are a great system that needs a bit of tweaking in order to make the situation fair.

[8:18:20 AM](#)

MS. BROKER, in response to Representative Olson, informed the committee that in Fairbanks there are about 107 road service areas.

[8:19:03 AM](#)

REPRESENTATIVE NEUMAN asked if HB 185 will impact organized areas that are looking to combine road service areas.

[8:19:23 AM](#)

MIKE BLACK, Director, Division of Community Advocacy, Department of Commerce, Community, & Economic Development (DCCED), said that if an assembly or council was trying to combine a service area it would require a vote. He said that he wasn't sure that this [legislation] would have a substantial impact on most communities.

[8:19:45 AM](#)

REPRESENTATIVE NEUMAN noted that the Mat-Su Borough is reviewing combining some road service areas in order to gain efficiencies and [economies of scales]. He asked if anything in HB 185 would impact the [road service areas in the Mat-Su Borough].

MR. BLACK related his understanding that Section 1 [paragraph] (2) would apply in the Mat-Su Borough. He questioned whether the vote would be required in the Mat-Su Borough. If a vote was required in the Mat-Su Borough, it would impact their ability to combine the road service areas.

[8:21:16 AM](#)

SANDRA WILSON informed the committee that currently she lives on a private road and a subdivision has been constructed in front of her property. One vote was held regarding forming a road service area, which was voted down basically because those on the private road voted against it. She related that most likely

the road service area will take another vote to create their own road service area. If HB 185 passes, the subdivision would be allowed to form a road service area and once doing so force those on the private road to become part of it because it would be the only access for the residents of the private road. She noted that when the subdivision was constructed, "they pushed through our road that we used to have and there's now currently a house sitting on it." Therefore, the subdivision has blocked the other access out for those on the private road. Ms. Wilson concluded by relating her opposition to HB 185.

[8:22:29 AM](#)

REPRESENTATIVE CISSNA pointed out that the committee packet includes an amendment that would seem to address the aforementioned situation.

CO-CHAIR FAIRCLOUGH mentioned that the amendment is requested by the sponsor.

[8:23:10 AM](#)

TAMMIE WILSON testified in opposition to HB 185. She informed the committee that sometimes subdivisions are built in front of areas with existing roads, which forces them to be included [in a road service area] without a vote. The aforementioned seems to provide road powers to the borough, to which she was opposed. Furthermore, those who don't want to be included but are forced to be part of a road service area can adversely impact the road service area. For instance, such individuals could force a dissolution vote or attempt to decrease the mill rate such that the roads can't be serviced. She then highlighted that in the Fairbanks area there are many public and private roads. The private roads are those that were constructed in the 1950s or 1960s but were never dedicated. She related that in her own situation if the road service area [in the subdivision in front of her property] was established, the front section would be maintained while the remaining private portions of the road wouldn't. However, residents on the private road would be required to pay the same amount [as those in the subdivision]. Such situations are occurring throughout the borough. With regard to fairness, she emphasized that such would mean that everyone [paying into a road service area] would have their roads maintained no matter the designation of the road. She expressed concern with regard to taking away an individual's ability to vote as it can cause more problems. Therefore, she urged the committee to vote against HB 185.

8:25:00 AM

MS. TAMMIE WILSON, in response to Representative Dahlstrom, clarified that Sandra Wilson is her daughter. However, she emphasized that others are facing similar situations as she and her daughter. In further response to Representative Dahlstrom, Ms. Tammie Wilson explained that the private road was constructed in the 1950s. She informed the committee that her deed specifies that the private road is her access in and out. After living on the property and maintaining the road for a few years, one day she came to find that her access was cut off and a new road was built. She said that she basically had no say on the aforementioned. The access now available is through a subdivision, which is a public maintained road. If that subdivision chose to become a road service area, the area could choose to take a vote and leave those on the private road out of the initial vote and later force those on the private road to be included in the road service area. She opined that it's not fair that an area could vote to become a road service area and then add extra roads later.

8:27:24 AM

REPRESENTATIVE DAHLSTROM surmised that Ms. Tammie Wilson is also discussing quality of lifestyle.

MS. TAMMIE WILSON clarified that her concern is that there are individuals who have lived on roads that they have maintained for 20-40 years. However, because there is so much construction in the [Fairbanks area] large plots of land are purchased and change access. Ms. Tammie Wilson reiterated that she has to go through a subdivision to access her property. She then reiterated her concern that [those in the subdivision] will force those on the private road into something without a vote. This results in a financial obligation that's based on the value of the home. In order to reach fairness of road service, there should be a straight fee rather than basing it on the value of the home. She opined that there are many problems with road service areas.

REPRESENTATIVE DAHLSTROM asked whether those on the private road had any conversations regarding the possible purchase of the parcel that's now a subdivision.

MS. TAMMIE WILSON answered that the option wasn't available because the builder wants to build houses on the six river lots.

In response to Co-Chair Fairclough, she specified that her house sits on five acres.

[8:29:46 AM](#)

CO-CHAIR LEDOUX, recalling that Ms. Tammie Wilson's deed originally provided for access, questioned how the private road wasn't given access when the subdivision was built.

MS. TAMMIE WILSON related that she has been trying to find out how the borough, through its platting division, was able to give permission to the builder to cut off access to the private road. However, she said that she hasn't been able to get an answer.

[8:30:39 AM](#)

REPRESENTATIVE NEUMAN asked if under HB 185 Ms. Tammie Wilson could be annexed into the road service area.

MS. BROKER related her understanding that Ms. Tammie Wilson lives off a private road, and thus she couldn't be annexed in to the road service area because Ms. Tammie Wilson would have to have public road access to her property as a legal standard for being placed in a road service area. Ms. Broker informed the committee that private roads that haven't been publicly dedicated aren't included in road service areas because taxpayer money can't be spent on private roads.

[8:31:31 AM](#)

CO-CHAIR LEDOUX related her understanding that Ms. Tammie Wilson had access to her property through a private road and the borough seemed to say that she will continue to have access, except that it will be through a different road. However, someone is planning on paying for and maintaining the different road.

MS. BROKER highlighted that the borough doesn't extinguish private road rights, which Ms. Tammie Wilson could've enforced in law. Ms. Broker explained that the borough approved a subdivision/subdivider who constructed publicly dedicated roads by the borough. The aforementioned is all the borough did and the borough didn't extinguish any private right, she opined.

[8:33:32 AM](#)

LUKE HOPKINS, Presiding Officer, Fairbanks North Star Borough Assembly, pointed out that during the aforementioned situations there are a number of opportunities for comment during the public process, including during road service areas meetings.

[8:34:35 AM](#)

CO-CHAIR FAIRCLOUGH surmised that Ms. Tammie Wilson feels that she's been left out of part of the process.

MR. HOPKINS commented that Ms. Tammie Wilson can come forward and testify and has. He related his understanding that Ms. Tammie Wilson's situation is regarding a private road and a publicly dedicated road that now ties into a public road on the other side of the subdivision that was platted. Mr. Hopkins opined that the portion of the road Ms. Tammie Wilson had used could "still be there" if she and other property owners wanted to take it up with the current land owners.

CO-CHAIR FAIRCLOUGH asked if there's a notification process for what's proposed today such that the impacted property owners and service area occupants would be notified.

MR. HOPKINS replied yes. Depending upon the action, there is public notice, notice at the service district level, and assembly level discussions prior to any action.

[8:36:13 AM](#)

CO-CHAIR LEDOUX posed a situation in which a road service district is formed by a group who wants its formation and who then annex in an area in which residents didn't want it. She further posed that the annexation may be based on the argument that those in the area being annexed into the road service area are benefiting from it.

MR. HOPKINS explained that when a service district formed, it comes before the assembly after going through a public process. Once the service district is formed, the individuals in the area are allowed to vote. There is a public process during which any individual is allowed to comment. With regard to a platting issue for a subdivision prior to the formation of a road service district, such an issue goes to the platting board for which there is public notice and comment. Ultimately, the assembly takes final action after the election. Therefore, the public has ample opportunity to comment, he opined.

CO-CHAIR LEDOUX pointed out that only those within a certain discrete area would be allowed to vote on the formation of a road service area. Therefore, one could form the road service district around those wanting it and not include those likely to vote against the road service area, and then want to annex them afterward. However, only those in the initial geographic area of the road service area could vote.

MR. HOPKINS noted his agreement that such could occur, but he again reiterated that there are many opportunities to review and act upon any misjudgments.

[8:39:56 AM](#)

REPRESENTATIVE OLSON suggested exploring the possibility of consolidated road service areas.

[8:40:36 AM](#)

REPRESENTATIVE NEUMAN posed a situation in which a subdivision is built in an existing road service area. He asked if those on the road connecting the new subdivision would be allowed to vote whether those in the new subdivision can use [the roads] in the existing road service area.

MR. BLACK said that he would need more time to review such a situation.

MS. BROKER pointed out that if property is developed within a road service area, no vote is required.

[8:41:49 AM](#)

RYNNIEVA MOSS, Staff to Representative John Coghill, Alaska State Legislature, explained that if a subdivision is already within an existing road service area, then that property is already being taxed a mill rate for road services.

REPRESENTATIVE NEUMAN related his assumption that there would be an increase in road service area taxes in order to maintain the additional roads, although there may only be a few new [residents of the subdivision].

MS. MOSS explained that a road service area has a certain amount of road miles. She likened a road service area to a subdivision because it's platted and has boundaries. Those within the road service area's boundaries are taxed a mill rate to provide funds

to maintain roads. The only concern with regard to adding property to a road service area would be the expense of maintaining the new roads in the road service area. Ms. Moss said that she didn't foresee a large increase in the mill rate to the existing road service area if only adding six homes. Ms. Moss specified that it really depends upon the road miles being annexed into the road service area.

[8:44:01 AM](#)

REPRESENTATIVE CISSNA associated herself with Representative Olson's comments.

[8:45:00 AM](#)

REPRESENTATIVE OLSON asked if there are some small service areas [in the Fairbanks area].

MS. MOSS said that could be the case, although she said she isn't familiar with all the road service areas in the borough.

MS. BROKER confirmed that there are some small road service areas. She recalled that there is a road service area that's a quarter-mile long.

[8:45:56 AM](#)

MS. MOSS related that the Fairbanks North Star Borough has made a large effort to deal with its road service areas over the last couple of years.

[8:46:43 AM](#)

JENNIFER YUHAS, Special Assistant to the Mayor, Fairbanks North Star Borough, related support for HB 185 on behalf of the mayor of the Fairbanks North Star Borough.

[8:47:01 AM](#)

CO-CHAIR FAIRCLOUGH, upon determining no one else wished to testify, closed the public hearing.

[8:47:47 AM](#)

MR. FRANK explained that road service areas came into existence in the 1970s due to the borough's lack of road powers. The road service areas used the government as a vehicle to collect taxes

and oversee the maintenance and building of roads within subdivisions. The aforementioned worked well until there were hundreds of road service areas. He noted that it's difficult for people to agree on like conditions for roads. The problem is further exacerbated by the fact that for one road service area to join another, a vote is required. He pointed out that some are reluctant to join road service areas and don't really see a benefit to doing so. Currently, there are a handful of contractors who perform the maintenance on these roads. Often these contractors [provide service to a geographic] cluster of road service areas in order to provide cheaper service. Therefore, combining of road service areas to achieve a cheaper per mile cost is already occurring, without the government being involved. A few years ago, a road service area committee was established to discuss the problems in the road service areas as well as problems boroughwide. The legislation before the committee today passed through that process. In fact, HB 185 was unanimously passed by the road service area committee as well as the assembly.

[8:50:56 AM](#)

REPRESENTATIVE CISSNA commented on the difficulties of growing communities. She questioned whether [DCCED] might have ideas to develop good statewide legislation. She opined that it's horrible to envision the Mat-Su Valley with this situation.

[8:52:21 AM](#)

CO-CHAIR FAIRCLOUGH related that her request for feedback from the Municipality of Anchorage as well as local road service areas resulted in the following two questions on which she would like Ms. Broker to comment. The first question is that the primary issue raised in HB 185 is whether the new clause on page 2, line 19, is constitutional. She explained that Anchorage has a charter amendment requiring a vote of both service areas. Therefore, she wasn't sure whether the language could be permissive because it creates a possible conflict in Anchorage's charter, which may be the case in other areas of the state as well. The second question is in regard to other communities that may have other charter amendments requiring votes in and out of service areas.

REPRESENTATIVE OLSON related that he would have the Kenai Peninsula Borough's road service manager review the impact this legislation will have on other portions of the state.

8:54:02 AM

REPRESENTATIVE DAHLSTROM commented that the Chugiak-Eagle River road board has been run quite efficiently, and thus she said they would be able to answer any questions.

8:54:40 AM

CO-CHAIR FAIRCLOUGH related that HB 185 has been [reviewed] by the [Chugiak-Eagle River] road board and there doesn't seem to be a conflict. However, the city as a whole is reviewing the legislation in relation to its charter.

8:55:17 AM

CO-CHAIR LEDOUX stated that she is somewhat sympathetic to those being forced into a road service area without having the ability to vote on it.

CO-CHAIR FAIRCLOUGH reminded the committee that the sponsor has provided the committee with an amendment. She asked if the committee wanted to take up the amendment now or when the legislation is taken up at its next hearing.

8:55:54 AM

REPRESENTATIVE NEUMAN related that he didn't want to take up the amendment until he has had an opportunity to speak with some of his constituents.

8:56:10 AM

REPRESENTATIVE CISSNA suggested that it may be appropriate to have the sponsor speak to the amendment in order to provide the committee with an explanation.

8:58:00 AM

REPRESENTATIVE DAHLSTROM moved that the committee adopt Amendment 1, which read [original punctuation provided]:

Page 2, lines 19-27

(3) to require approval by the voters residing in a property~~subdivision~~ proposed to be added to a road service area if roads maintained by the service area provide the only access to the property~~subdivision~~ or

provide access to the property~~subdivision~~ that is required by the subdivision plat or by other regulation or ordinance;"

(4) to change in the boundaries of a road service area to exclude a property~~subdivision~~ that does not rely on the use of roads maintained by the service area for the property's~~subdivision's~~ only access or for access to the property that is required by the subdivision plat or by other regulation or ordinance.

REPRESENTATIVE NEUMAN objected.

[8:58:14 AM](#)

MS. BEECHER explained that the purpose of the amendment is to address a situation in which there is a rock pit from which rock is being hauled through a subdivision. "So, it would not only be then a subdivision that would have to pay into your road service if that's what they were using as their exclusive use, but also property," she further explained.

[8:58:57 AM](#)

REPRESENTATIVE DAHLSTROM withdrew her motion to adopt Amendment 1.

REPRESENTATIVE DAHLSTROM moved to adopt CSHB 185, Version 25-LS0687\E, Cook, 3/21/07, as the working document. There being no objection, Version E was before the committee.

REPRESENTATIVE DAHLSTROM then moved that the committee adopt Amendment 1 [text provided previously].

REPRESENTATIVE NEUMAN objected for discussion purposes.

[8:59:48 AM](#)

MS. BEECHER explained that Amendment 1 addresses a situation in which a property, such as a rock pit, uses a road service area as its access to the rock pit. She further explained, "Since a subdivision is specific to an area that is building residential areas, this would also include those kinds of situations where they would then have to pay for a road service area that they were accessing and using."

CO-CHAIR LEDOUX inquired as to how Amendment 1 differs from Version E.

MS. BEECHER answered that Amendment 1 provides a broader statement than the narrow definition of a subdivision and thus includes property. In further response to Co-Chair LeDoux, Ms. Beecher said that she was merely using a rock pit as an example of something that wouldn't qualify as a subdivision, but would use a road service area as its direct access. Furthermore, such use would wear the roads and the rock pit wouldn't have to pay for that use or maintenance because it wouldn't qualify as a subdivision.

[9:01:42 AM](#)

REPRESENTATIVE DAHLSTROM withdrew Amendment 1. There being no objection, it was so ordered.

[9:01:53 AM](#)

CO-CHAIR FAIRCLOUGH announced that HB 185 would be held over.

HB 152-ESTABLISHING A RENEWABLE ENERGY FUND

[9:02:03 AM](#)

CO-CHAIR FAIRCLOUGH announced that the next order of business would be HOUSE BILL NO. 152, "An Act establishing a renewable energy fund and describing its uses and purposes." Co-Chair Fairclough reminded the committee that before it is Version V.

The committee took a brief at-ease.

[9:04:36 AM](#)

CHARISSE MILLET, Staff to Representative John Harris, Alaska State Legislature, speaking on behalf of the sponsor, Representative Harris, clarified that nuclear power isn't covered under HB 152.

[9:05:02 AM](#)

REPRESENTATIVE NEUMAN asked if the feasibility studies could be covered.

MS. MILLET answered that the sponsor is reviewing whether that's a possibility.

9:05:33 AM

REPRESENTATIVE DAHLSTROM moved to report CSHB 152, Version 25-LS0413\V, Kane, 3/20/07, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 152(CRA) was reported from the House Community and Regional Affairs Standing Committee.

The committee took an at-ease from 9:06 a.m. to 9:08 a.m.

HB 202-COMMUNITY REVENUE SHARING

9:09:00 AM

CO-CHAIR FAIRCLOUGH announced that the final order of business would be HOUSE BILL NO. 202, "An Act relating to the community revenue sharing program; and providing for an effective date."

9:09:24 AM

CO-CHAIR LEDOUX moved, for discussion purposes, that the committee adopt Conceptual Amendment 1, labeled 25-LS0489\K.2, Cook, 3/21/07, which read:

Page 1, lines 1 - 2:

Delete all material and insert:

"An Act relating to the community dividend income program, to the community dividend income account, and to transfers of money from the earnings reserve to the community dividend income account; and providing for an effective date."

Page 1, line 4, through page 4, line 2:

Delete all material and insert:

*** Section 1.** AS 29.60 is amended by adding new sections to read:

Article 11. Community Dividend Income Program.

Sec. 29.60.850. Amount of community dividend income payments. (a) Each fiscal year, the department shall distribute the amount appropriated under AS 37.13.147(b) from the community dividend income account for the community dividend income program as community dividend income payments under this section. The basic community dividend income payment for a fiscal year equals

(1) \$250,000 for a borough or unified municipality;

(2) \$75,000 for a reserve eligible under AS 29.60.860(a) or a city;

(3) \$25,000 for an unincorporated community in a borough or unified municipality eligible under AS 29.60.860; and

(4) \$25,000 for an unincorporated community in the unorganized borough eligible under AS 29.60.860(a).

(b) If the amount appropriated for a fiscal year under AS 37.13.147(b) from the community dividend income account

(1) exceeds \$60,000,000, but is not more than \$70,000,000, each payment

(A) under (a)(1) of this section is increased by \$50,000;

(B) under (a)(2) of this section is increased by \$15,000; and

(C) under (a)(3) of this section is increased by \$5,000;

(2) exceeds \$70,000,000, each payment under (a)(1) - (3) of this section is further increased by the amounts specified in (1)(A) - (C) of this subsection for each increment of at least \$10,000,000 in excess of \$70,000,000.

(c) If the amount appropriated for a fiscal year is not sufficient to fully fund all the basic community dividend income payments under (a) of this section, the amount paid to each recipient shall be reduced on a pro rata basis so that the entire amount appropriated is distributed.

Sec. 29.60.860. Unincorporated community eligibility. (a) The department, with advice from the Department of Law, shall determine whether there is, in each reserve or unincorporated community, an incorporated nonprofit entity or a Native village council that will agree to receive and spend the community revenue sharing payment for the benefit of the reserve or unincorporated community. The department may make the payment for an unincorporated community located in a borough or unified municipality only to the municipality as provided in (b) of this section. If there is more than one qualified entity in a reserve or unincorporated community located in the unorganized borough, the department shall pay the dividend to the entity that the department finds most

qualified to receive and spend the money. The department may not make a payment for a reserve or an unincorporated community unless the incorporated nonprofit entity or Native village council waives immunity from suit for claims arising out of activities of the corporation or council related to the payment. A waiver of immunity from suit under this subsection must be on a form provided by the Department of Law. If there is not a qualified incorporated nonprofit entity or Native village council in a reserve or unincorporated community that is willing to receive and spend the community revenue sharing payment for the benefit of the reserve or unincorporated community, that reserve or unincorporated community is not eligible for the payment, and the payment may not be made.

(b) The department may make a community revenue sharing payment on behalf of an unincorporated community in a borough or unified municipality only to the municipality for payment by the municipality to an incorporated nonprofit entity or Native village council that has been approved by the assembly. The department must have written evidence of the assembly approval. The assembly may only approve an incorporated nonprofit entity or Native village council that provides at least three of the following services within the unincorporated community that are generally available to all residents of the unincorporated community:

- (1) fire protection;
- (2) emergency medical;
- (3) water and sewer;
- (4) solid waste management;
- (5) public road or ice road maintenance;
- (6) public health;
- (7) search and rescue.

Sec. 29.60.879. Definitions. In AS 29.60.850 - 29.60.879,

(1) "reserve" means a place that is organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. 1618(a) and is continued in existence under that subsection;

(2) "unincorporated community" means a place that is not incorporated as a city, is not a reserve, and in which 25 or more persons reside as a social unit.

* **Sec. 2.** AS 37.13.140 is amended to read:

Sec. 37.13.140. Income. Net income of the fund includes income of the earnings reserve account established under AS 37.13.145, **but does not include income of the community dividend income account established under AS 37.13.147.** Net income of the fund shall be computed annually as of the last day of the fiscal year in accordance with generally accepted accounting principles, excluding any unrealized gains or losses. Income available for distribution equals 21 percent of the net income of the fund for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the fund for the fiscal year just ended plus the balance in the earnings reserve account described in AS 37.13.145.

* **Sec. 3.** AS 37.13 is amended by adding a new section to read:

Sec. 37.13.147. Community dividend income account. (a) The community dividend income account is established as a separate account in the fund. Money in the account shall be invested in investments authorized under AS 37.13.120 and the income shall be retained in the fund.

(b) The corporation shall calculate and request an appropriation for each fiscal year from the community dividend income account of an amount that equals five percent of the year-end market values of the account, averaged over the preceding three fiscal years. The amount requested may be appropriated from the account to the Department of Commerce, Community, and Economic Development for community dividend income payments under AS 29.60.850 - 29.60.879, or money may be appropriated in any amount for any public purpose. Nothing in this subsection creates a dedicated fund.

* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. (a) After the transfers under AS 37.13.145(b) and (c), on July 1, 2007, the Alaska Permanent Fund Corporation shall transfer \$1,000,000,000 from the earnings reserve account to the community dividend income account (AS 37.13.147) established in sec. 3 of this Act.

(b) Notwithstanding AS 37.13.147(b), the Alaska Permanent Fund Corporation may not request an appropriation from the community dividend income account for fiscal year 2008. The amount the corporation requests for fiscal year 2009 equals the year-end market value of the account for fiscal year

2008. The amount the corporation requests for fiscal year 2010 equals the year-end market value of the account averaged over the preceding two fiscal years.

* **Sec. 5.** This Act takes effect July 1, 2007."

CO-CHAIR LEDOUX related that she has offered Representative Seaton, sponsor of Conceptual Amendment 1, the ability to discuss Conceptual Amendment 1. However, she announced that she doesn't support Amendment 1.

[9:10:46 AM](#)

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, related that he is very supportive of revenue sharing and community dividends. However, he expressed concern that the mechanism for funding is problematic since Legislative Finance is predicting that the state will be in a deficit situation next year and in a deficit situation in the state's cash account through 2017 when the gasline is anticipated. He opined that it's unlikely that the legislature will divert approximately 6 percent of its total revenue stream. Therefore, Conceptual Amendment 1 provides a different revenue stream to fund the community dividend program. The idea is to utilize the Amerada Hess fund, which is within the permanent fund but can't be used for personal dividends. The notion is to add more money to the Amerada Hess fund that could be "streamed out" on a 5 percent of market value (POMV), "which the House passed by two-thirds to put it on a constitutional amendment several years ago, but that was to do the entire permanent fund. This amendment simply looks at the Amerada Hess fund as well as some additional funds. However, there was some resistance to utilizing Amerada Hess funds because some members feel that revenue stream is necessary for capital expenditures. This [amendment] takes money from the earnings reserve and leaves it there, while establishing a new account within the permanent fund to generate revenue with a spin off of 5 POMV to fund the community dividend program. Representative Seaton said this is important because the governor has included \$48 million in her budget, but it hasn't been included in the House's budget.

[9:14:06 AM](#)

REPRESENTATIVE NEUMAN surmised that Representative Seaton's proposal would still take money from the earnings reserve of the permanent fund dividend.

REPRESENTATIVE SEATON noted his agreement that all previous programs said that money would be taken from the earnings reserve to be placed in the general fund. However, Conceptual Amendment 1 doesn't do that as it merely establishes an account within the earnings reserve from which money generated from that account could be utilized by the legislature. The aforementioned would be decided by the legislature each year, although it wouldn't remove a significant amount of money to be placed in the general fund. Representative Seaton pointed out that his proposal would remain in the permanent fund and be managed by the permanent fund, but the 5 POMV structure would be used on the account. In further response to Representative Neuman, Representative Seaton clarified that his proposal doesn't take \$1 billion out of the earnings reserve but rather establishes an account within the earnings reserve of the permanent fund from which spin off funds would be calculated and could be appropriated by the legislature. "This deposit does not remove money from the earnings reserve, it simply establishes another account similar to Amerada Hess within the permanent fund," he clarified.

[9:16:45 AM](#)

CO-CHAIR LEDOUX surmised that this proposed account does impact the permanent fund dividend.

REPRESENTATIVE SEATON replied yes, and noted that he has a spreadsheet from the Permanent Fund Corporation relating the impact. He offered to review it for the committee.

[9:17:09 AM](#)

REPRESENTATIVE DAHLSTROM recalled that the governor has made statements pertaining to funding for various municipal issues while being clear on her position with regard to the permanent fund dividend. Therefore, Representative Dahlstrom said that she doubted that the legislature would receive the governor's support for [the proposal embodied in Conceptual Amendment 1]. Although there are various feelings and interpretations regarding Amerada Hess, the previous legislature found it to be a revenue stream. However, she opined that creating what's proposed in Conceptual Amendment 1 is troubling and probably won't be supported by this administration. Furthermore, Representative Dahlstrom said that she can't support Conceptual Amendment 1 because of her commitment to not spend permanent fund money without a vote of the people.

[9:19:08 AM](#)

REPRESENTATIVE CISSNA recalled the years in which the legislature has been reviewing how to finance state government in the face of deficits. For a number of years, endowments were considered. She asked if that's essentially what Conceptual Amendment 1 proposes in that it takes the increases in value of a percentage of funds [within the permanent fund]. She related her understanding that the corpus of the account wouldn't be touched.

REPRESENTATIVE SEATON said Representative Cissna is basically correct. In the past, the [legislature] reviewed taking the entire permanent fund and creating a POMV endowment, which would've utilized a portion of the principle and that would've required voter [approval]. However, the earnings are available to the legislature for appropriation and by statute the legislature appropriates up to 50 percent of the earnings, averaged over five years, to pay for the permanent fund dividend. The legislature hasn't utilized the earnings, although there have been times when it has taken the earnings and re-deposited that into the principle. Conceptual Amendment 1 doesn't propose any of those and doesn't eliminate a future legislature's option because it can always remove the account or appropriate the account. Generally, when the legislature establishes a program that spins off money, it reappropriates the funds if the program is working well. Representative Seaton pointed out that this [proposed] fund isn't sweepable. He characterized this proposal as the most protected manner in which to have something without having a dedicated fund, which is prohibited by Alaska's constitution.

REPRESENTATIVE CISSNA related her experience that the legislature has continually declined to put monies aside for revenue sharing. She asked in what way this would be an improvement over other revenue sharing suggestions.

REPRESENTATIVE SEATON opined that he didn't believe most legislators would set aside 6 percent of the state's revenue stream when facing predictions of 10 years of deficit spending. Under the proposal embodied in Conceptual Amendment 1 money can be appropriated by the legislature, but it doesn't take the deposit out of the permanent fund and thus continues to be managed by the Permanent Fund Corporation.

[9:24:01 AM](#)

CO-CHAIR FAIRCLOUGH observed that there is a great divide on this issue and the funding stream. She asked if the committee is interested in hearing a point-by-point review of the amendment.

REPRESENTATIVE NEUMAN said that he can't support Conceptual Amendment 1 without voter approval.

REPRESENTATIVE DAHLSTROM related that she doesn't believe it would be worth the committee's time to review Conceptual Amendment 1. She reiterated that she can't support the amendment.

[9:24:55 AM](#)

CO-CHAIR LEDOUX withdrew Conceptual Amendment 1. There being no objection, it was so ordered.

REPRESENTATIVE SEATON thanked the committee for allowing him to bring the proposal forward. He then drew attention to page 1, line 22 through page 2, line 8, [of Conceptual Amendment 1] and noted the lack of indexing the base community allotments to increase funding.

[9:26:25 AM](#)

REPRESENTATIVE CISSNA opined that revenue sharing just has to happen. Although touching the general fund never seems to fly, she hoped that people will remember that there are other alternatives.

[9:27:20 AM](#)

REPRESENTATIVE NEUMAN related his belief that considerable amounts from the general fund have been spent on revenue sharing programs throughout the state. He specified that such funds have come through discretionary funds and capital funds.

[9:28:35 AM](#)

CO-CHAIR LEDOUX moved to report HB 202 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE OLSON objected, noting that the legislation has the following two problems: the funding source and the fiscal note. Representative Olson related his support for revenue sharing, but opined that HB 202 isn't the appropriate vehicle.

He mentioned that he had provided an amendment to the sponsor that would've had a \$32-\$34 million fiscal note, but that he wouldn't offer it.

[9:29:52 AM](#)

REPRESENTATIVE CISSNA asked if Representative Olson is thinking of introducing legislation on this matter.

REPRESENTATIVE OLSON answered, "Not at this time, no." In further response to Representative Cissna, Representative Olson indicated that he wouldn't offer his alternative as an amendment on the House floor, but offered to provide it to Representative Cissna.

[9:30:16 AM](#)

REPRESENTATIVE DAHLSTROM related her understanding that the House Finance Committee is reviewing other avenues [to fund revenue sharing].

[9:30:40 AM](#)

REPRESENTATIVE NEUMAN said that he will allow HB 202 to pass from the House Community and Regional Affairs Standing Committee for discussion in the House Finance Committee, although he doesn't totally agree with the funding sources and amounts.

CO-CHAIR LEDOUX related her understanding that the House Finance Committee is studying the issue of revenue sharing and a vehicle is necessary. The funding source and percentage, she opined, will be left to the House Finance Committee.

[9:31:45 AM](#)

REPRESENTATIVE OLSON commented that he won't be offering his amendment or alternative legislation because he doesn't have the time to do it correctly.

[9:32:07 AM](#)

CO-CHAIR FAIRCLOUGH related her understanding that [the House Finance Committee members] are looking for a vehicle for revenue sharing, but it doesn't mean that it will be from the operational side of the budget. As pointed out earlier, it's difficult to find a dedicated revenue stream when 80 percent or more of the state's budget is based on oil prices and declining

oil production. She mentioned her great empathy for the desire to create a stabilized stream and will support HB 202 moving forward. However, she noted her agreement with Representative Olson regarding the percentage. She highlighted that 2 percent is much more in line with the revenue sharing brought forward by the House Finance Committee in a previous year.

[9:34:10 AM](#)

CO-CHAIR LEDOUX said that the 6 percent sends a strong message and the House Finance Committee can do what it will based on the financial information it has.

[9:34:31 AM](#)

REPRESENTATIVE SALMON related his support for HB 202.

[9:34:54 AM](#)

REPRESENTATIVE DAHLSTROM noted her agreement with Co-Chair Fairclough as the intent of HB 202 is worthy, although she anticipated changes in the House Finance Committee.

REPRESENTATIVE OLSON maintained his objection.

[9:35:24 AM](#)

A roll call vote was taken. Representatives Dahlstrom, Neuman, Cissna, Salmon, LeDoux, and Fairclough voted in favor of reporting HB 202 from committee. Representative Olson voted against it. Therefore, HB 202 was reported out of the House Community and Regional Affairs Standing Committee by a vote of 6-1.

[9:35:58 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at [9:36:04 AM](#).