

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

May 9, 2007

1:27 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 232

"An Act relating to the sale, distribution, and purchase of alcoholic beverages; relating to a state database for records of certain purchases of alcoholic beverages; relating to the relocation of a license to sell alcoholic beverages; relating to procedures for local option elections for control of alcoholic beverages; and providing for an effective date."

- MOVED CSHB 232(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 172

"An Act exempting certain commercial refuse services from regulation under the Public Utilities Regulatory Act and providing for termination of that exemption."

- MOVED HB 172 OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 17

Encouraging Coeur Alaska, Inc., to pursue all legal options to resolve the issues presented in Southeast Alaska Conservation Council v. United States Army Corps of Engineers on behalf of itself and consistent with the state's efforts to enforce its rights as a state over its resources; and requesting the United States Court of Appeals for the Ninth Circuit to adjudicate those matters that come before the court in a fair and impartial

manner so that the state's natural resources can be developed in a timely and lawful manner.

- MOVED HJR 17 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 232

SHORT TITLE: ALCOHOL SALE/PURCHASE/DISTRIBUTION

SPONSOR(s): REPRESENTATIVE(s) MEYER

04/04/07	(H)	READ THE FIRST TIME - REFERRALS
04/04/07	(H)	CRA, JUD, FIN
04/12/07	(H)	CRA AT 8:00 AM BARNES 124
04/12/07	(H)	Heard & Held
04/12/07	(H)	MINUTE(CRA)
04/26/07	(H)	CRA AT 8:00 AM BARNES 124
04/26/07	(H)	Heard & Held
04/26/07	(H)	MINUTE(CRA)
05/02/07	(H)	JUD AT 1:00 PM CAPITOL 120
05/02/07	(H)	<Bill Hearing Canceled>
05/04/07	(H)	JUD AT 1:00 PM CAPITOL 120
05/04/07	(H)	<Bill Hearing Canceled>
05/05/07	(H)	CRA AT 11:00 AM BARNES 124
05/05/07	(H)	Moved CSHB 232(CRA) Out of Committee
05/05/07	(H)	MINUTE(CRA)
05/08/07	(H)	CRA RPT CS(CRA) NT 2DP 3NR 2AM
05/08/07	(H)	DP: CISSNA, FAIRCLOUGH
05/08/07	(H)	NR: DAHLSTROM, LEDOUX, OLSON
05/08/07	(H)	AM: NEUMAN, SALMON
05/09/07	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 172

SHORT TITLE: PUBLIC UTILITY EXEMPTION: REFUSE

SPONSOR(s): LABOR & COMMERCE

03/05/07	(H)	READ THE FIRST TIME - REFERRALS
03/05/07	(H)	L&C, JUD
05/02/07	(H)	L&C AT 3:00 PM CAPITOL 17
05/02/07	(H)	Moved Out of Committee
05/02/07	(H)	MINUTE(L&C)
05/03/07	(H)	L&C RPT 1DP 5NR
05/03/07	(H)	DP: OLSON
05/03/07	(H)	NR: GARDNER, LEDOUX, BUCH, NEUMAN, GATTO
05/03/07	(H)	FIN REFERRAL ADDED AFTER JUD
05/09/07	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HJR 17

SHORT TITLE: KENSINGTON MINE APPEAL

SPONSOR(S): REPRESENTATIVE(S) JOHNSON

04/05/07	(H)	READ THE FIRST TIME - REFERRALS
04/05/07	(H)	RES, JUD
04/30/07	(H)	RES AT 1:00 PM BARNES 124
04/30/07	(H)	Moved CSHJR 17(RES) Out of Committee
04/30/07	(H)	MINUTE(RES)
05/04/07	(H)	RES RPT CS(RES) NT 6DP 2DNP 1NR
05/04/07	(H)	DP: KOHRING, ROSES, WILSON, SEATON, JOHNSON, GATTO
05/04/07	(H)	DNP: EDGMON, GUTTENBERG
05/04/07	(H)	NR: KAWASAKI
05/09/07	(H)	JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

MICHAEL PAWLOWSKI, Staff
to Representative Kevin Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 232 on behalf of the sponsor,
Representative Meyer.

ANNE CARPENETI, Assistant Attorney General
Legal Services Section-Juneau
Criminal Division
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Spoke in support of and answered questions
about HB 232.

KAREN BITZER, Special Assistant
Alaska Rural Justice and Law Enforcement Commission (ARJLEC)
Anchorage, Alaska

POSITION STATEMENT: Spoke in support of HB 232.

ELEANOR WOLFE, Staff
to Representative Kurt Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 172 on behalf of the sponsor,
the House Labor and Commerce Standing Committee, which is
chaired by Representative Olson.

LARRY KELLY, General Manager
University Refuse, LLC
Fairbanks, Alaska

POSITION STATEMENT: Provided supporting testimony and answered questions on HB 172.

RICHARD GAZAWAY, Administrative Law Judge
Common Carrier Section
Regulatory Commission of Alaska (RCA)
Department of Commerce, Community, & Economic Development
(DCCED)
Anchorage, Alaska

POSITION STATEMENT: Provided testimony and answered questions on HB 172.

JAMES KEEN, Chief/Engineering
Regulatory Commission of Alaska (RCA)
Department of Commerce, Community, & Economic Development
(DCCED)
Anchorage, Alaska

POSITION STATEMENT: Provided testimony and answered questions on HB 172.

BOB COX, General Manager
Alaska Waste
Anchorage, Alaska

POSITION STATEMENT: Provided testimony in support of HB 172.

REPRESENTATIVE CRAIG JOHNSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HJR 17.

MARK RORICK, Chair
Juneau Chapter
Sierra Club
San Francisco, California

POSITION STATEMENT: Spoke on behalf of the Sierra Club with regard to HJR 17.

ROB CADMUS, Organizer
Water Quality and Mining
Southeast Alaska Conservation Council (SEACC)
Juneau, Alaska

POSITION STATEMENT: Offered testimony and answered questions on the Kensington mine project with regard to HJR 17.

TOM BRICE, Juneau Business Agent
Laborers Local 942
Juneau, Alaska

POSITION STATEMENT: Spoke in support of HJR 17.

HAYWARD COOLY
Laborers Local 942
Juneau, Alaska

POSITION STATEMENT: Spoke in support of HJR 17.

STEVE BORELL, Executive Director
Alaska Miners Association (AMA)
Anchorage, Alaska

POSITION STATEMENT: Spoke on behalf of the association in support of HJR 17.

EDMUND FOGELS, Acting Deputy Commissioner
Office of the Commissioner, Anchorage Office
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions and gave testimony on HJR 17.

CAMERON LEONARD, Senior Assistant Attorney General
Natural Resources Section
Civil Division (Fairbanks)
Department of Law (DOL)
Fairbanks, Alaska

POSITION STATEMENT: Offered testimony and answered questions on HJR 17.

REPRESENTATIVE ANDREA DOLL
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered testimony on the Kensington mine project during discussion of HJR 17.

ACTION NARRATIVE

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at [1:27:34 PM](#). Representatives Ramras, Dahlstrom, Holmes, and Lynn were present at the call to order. Representatives Coghill, Gruenberg, and Samuels arrived as the meeting was in progress.

HB 232 - ALCOHOL SALE/PURCHASE/DISTRIBUTION

[1:27:59 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 232, "An Act relating to the sale, distribution, and purchase of alcoholic beverages; relating to a state database for records of certain purchases of alcoholic beverages; relating to the relocation of a license to sell alcoholic beverages; relating to procedures for local option elections for control of alcoholic beverages; and providing for an effective date." [Before the committee was CSHB 232(CRA).]

[1:28:22 PM](#)

MICHAEL PAWLOWSKI, Staff to Representative Kevin Meyer, Alaska State Legislature, said on behalf of Representative Meyer, sponsor, that HB 232 contains recommendations from the Alaska Rural Justice and Law Enforcement Commission (ARJLEC) relating to the clean-up of statutes on bootlegging, as well as two other substantive provisions. He spoke first about proposed AS 04.06.095, the creation of a statewide database to track written alcohol orders that would allow licensees to more easily comply with the law, by ensuring the alcohol shipments going to "wet and damp communities" were consistent with the law. He then commented on the creation of an alcohol beverage delivery pilot project, a central hub for the distribution of alcohol. Finally, he relayed that the sponsor had promised the House Community and Regional Affairs Standing Committee to bring up members' concerns regarding proposed AS 04.16.035, "Possession of ingredients for homebrew ...". Mr. Pawlowski said Representative Salmon was concerned the phrase "with the intent to use" would lead to over reaching by law enforcement officials.

CHAIR RAMRAS asked if these named ingredients were viewed as precursors, similar to the perception of ingredients for the manufacture of methamphetamines.

MR. PAWLOWSKI responded that these ingredients' being viewed as precursors is the reason for Representative Salmon's concern.

[1:31:12 PM](#)

ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law (DOL), reported that Deputy Attorney General Craig Tillery, State Co-Chair of ARJLEC, had testified to both bodies of the legislature

in favor of HB 232. She mentioned that the ARJLEC membership voted unanimously for all the provisions of HB 232.

1:31:45 PM

REPRESENTATIVE HOLMES asked for clarification that HB 232 is consistent with the findings of the ARJLEC and that there are no major differences.

MS. CARPENETI responded that HB 232 is consistent with those findings. She commented that in a prior house committee meeting, the ARJLEC membership offered their support of the bill. She also noted that the ARJLEC commissioners have testified of their desire to stem the flow of bootleg alcohol into their communities.

CHAIR RAMRAS expressed his familiarity with the business of small liquor stores sending pallets of alcohol to rural Alaska. He asked if the DOL agreed that Representative Salmon had a legitimate concern that overzealous DPS [Department of Public Safety] officers or Village Public Safety Officers (VPSOs) might suspect these ingredients [sugar, malt, yeast] as homebrew precursors, and request a [search] warrant.

MS. CARPENETI replied that in order to request a search warrant, there must be probable cause that a person has these ingredients with the "specific intent" to make an alcoholic beverage. She pointed out that a "specific intent" crime is particularly difficult to prove and the DOL does not believe that "specific intent" will be used often because of the problems with proof. She said the DOL supported proposed AS 04.16.035 because, as in similar circumstances with precursors for methamphetamine ingredients and burglary tools, it may be useful in certain circumstances.

CHAIR RAMRAS asked if the language [in proposed AS 04.16.035] met with Representative Salmon's satisfaction.

REPRESENTATIVE DAHLSTROM offered her understanding that should Representative Salmon have a preference, he would want [proposed AS 04.16.035] removed. She had relayed to Representative Salmon that all of these ingredients were found in her home, as well. Representative Salmon, she noted, was concerned that people who live in a rural area often need to purchase in bulk. She said she was satisfied, given the wording "with the intent to use", that overreaching by law enforcement would not be an issue.

REPRESENTATIVE HOLMES asked whether a distributor of the ingredients [yeast, sugar, malt] would refuse to ship as a result of the provision.

MS. CARPENETI replied that she did not think so, assuming that it must be common for people in rural areas to order in bulk. She reminded the committee of "the intent to use" clause. She allowed there had not been any untoward prosecution for cold medicine, even though they are a precursor ingredient for methamphetamine production.

REPRESENTATIVE HOLMES asked whether there had been any problem with rural communities receiving cold medicine or other supplies [deemed precursor ingredients] because suppliers would not ship to them.

MS. CARPENETI said she had not heard of any concerns but offered to research the issue further.

REPRESENTATIVE DAHLSTROM said the shippers are interested in selling as much food as possible and if they saw an increase in the sale of these ingredients, they would contact the proper authorities.

[1:37:38 PM](#)

KAREN BITZER, Special Assistant, Alaska Rural Justice and Law Enforcement Commission (ARJLEC), updated the committee on the work of the ARJLEC. She explained that HB 232 contains some of the recommendations from the ARJLEC, which is pleased for the support of these ideas. She relayed that the ARJLEC feels this is an important step to support those communities which have elected to remain dry.

CHAIR RAMRAS conveyed that there is broad committee support for the bill.

CHAIR RAMRAS, after asking if there was any more testimony, closed public testimony on HB 232.

CHAIR RAMRAS moved to adopt Amendment 1, which read [original punctuation provided]:

Page 2, following line 5:

Insert new bill section to read:

"Sec. 2. AS 04.11.010(a) is amended to read:

(a) Except as provided in AS 04.11.020, a person may not knowingly manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage unless under license or permit issued under this title."

Renumber the following bill sections accordingly.

REPRESENTATIVE DAHLSTROM objected for discussion.

CHAIR RAMRAS asked if inserting the word "knowingly" was in response to the concerns of Representative Salmon.

MR. PAWLOWSKI specified that this issue had been brought up after the House Community and Regional Affairs Standing Committee heard the bill. He disclosed that the [sponsor] discovered that judges in different parts of the state are inserting a different "mental state" into their interpretation of the statutes. He stated that the DOL suggested [Amendment 1] to clarify that the "mental state" is supposed to be "knowingly".

The committee took an at-ease from 1:42 p.m. to 1:44 p.m.

[1:44:05 PM](#)

MR. PAWLOWSKI, in response to questions, relayed that Amendment 1 does not address language currently in the bill, and cited AS 04.11.010(a) as a blanket provision, "your kind of premise bootleg statute." The language of proposed Amendment 1 will be inserted [after Section 1] of the bill, where it begins referencing AS 04.11.

CHAIR RAMRAS asked for a legal definition of the word "knowingly".

REPRESENTATIVE HOLMES offered her understanding that existing statute doesn't reference a mental state. She surmised that not all [Alaska] courts are using the same standard, and this is an amendment to make sure they all do.

MR. PAWLOWSKI concurred that this is the intent of Amendment 1.

MS. CARPENETI, in response to a question, relayed that Title 11 provides that every crime which does not have a culpable mental state specifically provided, allow the implied culpable mental state for action to be "knowingly". She explained that a

different standard must be specified, for example, criminally negligent. She indicated that although most judges are interpreting this statute with the mental state of "knowingly", the Bethel area judges are not. The standard of "knowingly" is easier to prove than "intentionally", she remarked and acknowledged that it does not make a lot of difference in this statute, but the difference is critical in other statutes.

REPRESENTATIVE GRUENBERG asked where it discusses mental state in Title 4.

MS. CARPENETI said that Title 4 defines the mental states of "knowingly" and "criminal negligence" but does not define "intentionally".

REPRESENTATIVE GRUENBERG reflected that the standard is not the same in Title 4 as in Title 11. He recalled that a "reckless" element is required if nothing else is defined.

MS. CARPENETI responded that that is not correct.

MR. PAWLOWSKI offered that [AS 11.81.610(b)] provides that when a mental state is not described, the mental state regarding conduct is "knowingly", and the mental state regarding circumstances [or results] is "recklessly". Therefore, since the issue pertains to conduct, the mental state would be "knowingly".

[1:49:33 PM](#)

REPRESENTATIVE GRUENBERG, after reading that statute out loud, offered his understanding that under Title 11, the question of whether someone is under license or permit would be a circumstance; therefore, a prosecutor would not have to show that the seller knew he/she did not have a license. If the person acted "recklessly", that action would be sufficient to prove the crime. He projected that this is key, as someone may be selling and could say they did not know, but in a commercial situation, selling alcohol and acting "recklessly" without a license should be criminal.

MS. CARPENETI responded that "knowingly" modifies manufacture in this regard. She agreed with Representative Gruenberg that "recklessly" would be the culpable mental state, which would be applied whether or not the individual had a license. However, the conduct of manufacturing alcohol would be "knowingly."

REPRESENTATIVE GRUENBERG, in response to a question, surmised that is key to what must be proven by the prosecution. He explained that the individual would have to "knowingly" sell the liquor, but the individual is acting "recklessly" by not checking to see if a license is necessary. He asked if Ms. Carpeneti is certain [of her explanation of the statute, and its application].

MS. CARPENETI responded that she is certain.

REPRESENTATIVE DAHLSTROM removed her objection.

REPRESENTATIVE GRUENBERG offered his belief that HB 232 should be clarified so that the issue concerning an awareness of a current permit would be defined as "recklessly."

MS. CARPENETI expressed satisfaction with the current draft of HB 232.

CHAIR RAMRAS again moved to adopt Amendment 1 [text provided previously]. There being no further objection, Amendment 1 was adopted.

[1:52:53 PM](#)

REPRESENTATIVE DAHLSTROM moved to report CSHB 232(CRA), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 232(JUD) was moved out of committee.

HB 172 - PUBLIC UTILITY EXEMPTION: REFUSE

[1:53:29 PM](#)

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 172, "An Act exempting certain commercial refuse services from regulation under the Public Utilities Regulatory Act and providing for termination of that exemption."

The committee took an at-ease from 1:54 p.m. to 1:57 p.m.

[1:57:16 PM](#)

ELEANOR WOLFE, Staff to Representative Kurt Olson, Alaska State Legislature, said, on behalf of Representative Olson, chair of the House Labor and Commerce Standing Committee, sponsor, that HB 172 was introduced with the idea that competition will remove

the regulatory fees and reduce other fees, should [the commercial refuse industry] be deregulated.

REPRESENTATIVE GRUENBERG reflected that when deregulation occurs or governmental costs are reduced, there is not necessarily a price reduction. He asked if there is anything the committee can do to ensure a price reduction.

MS. WOLFE responded that probably there was not.

2:00:04 PM

LARRY KELLY, General Manager, University Refuse, LLC, said rate deregulation of the commercial portion of the refuse industry is essential to the health and well being of the industry's customer base. He explained that competitive pricing is the essential motivation for a company to maintain a dynamic customer-oriented marketing plan while customer service is the key to success. He offered his belief that HB 172 will decrease the response time between a customer's request for innovative service and its implementation. He said he believes that HB 172 will positively alter the face of the market, level the playing field, and promote a proactive partnership with the customers, rather than the "Hey, I'm just your garbage man" approach. He said he feels deregulation is positive, even if the Regulatory Commission of Alaska (RCA) chooses to continue to charge the regulatory fee, as all the companies would then be required to pay that fee. He suggested that the bill would eliminate the possible manipulation of revenue reporting to avoid regulation, which is possible under current statutes. The RCA would be able to focus on the more important issues of certification, quality control, and research and enforcement of customer complaints. He surmises that the bill would mandate the refuse industry to further its customer skills. He repeated that he supports the deregulation of commercial refuse.

REPRESENTATIVE GRUENBERG asked whether, if the commercial regulation is eliminated, that would remove a line item cost in the billing.

MR. KELLY responded that this is not necessarily the case, as he has not been informed that he may remove that RCA charge from a rate, even though the rate may be deregulated. He said he understands that even with the resulting regulation [after the passage of proposed HB 172] the RCA charge could still exist.

REPRESENTATIVE GRUENBERG asked if this meant there would not be a cost savings to the consumer.

MR. KELLY conveyed that there would be a cost savings if the pricing is competitive and if the market mandates a competitive, flexible approach in order to maintain the customer base. He offered that upon his review of HB 172, it was not explicit that the deregulation concept removed the charge. He said he understood this bill would remove or deregulate the \$300,000 threshold so that all the refuse companies would have to pay the regulatory commission fee. He said he still believes in flexible pricing.

REPRESENTATIVE GRUENBERG asked what the bill does if it doesn't remove the charge.

2:05:11 PM

RICHARD GAZAWAY, Administrative Law Judge, Common Carrier Section, Regulatory Commission of Alaska (RCA), Department of Commerce, Community, & Economic Development (DCCED), said a funding mechanism for the RCA is the right to recover regulatory cost charges (RCCs). He explained that the RCC is a percentage amount imposed on regulated utilities, allowing the RCA to recover the actual cost of service not collected from exempt utilities. The RCC percentage allocation is capped under AS 42.05.254(f), which also states that the RCA shall allow a public utility to recover all payments made to the commission under this statute. He offered his understanding that under proposed HB 172, the commercial refuse companies would not allocate an RCC charge because it would not be a cost imposed by the RCA.

REPRESENTATIVE GRUENBERG expressed his confusion. He said there appear to be several charges. He asked Mr. Gazaway to clarify Section 1 of HB 172, which in part reads "exempt from the provisions of this chapter." He asked whether the utilities would continue to charge consumers the regulatory fee.

MR. GAZAWAY responded that the utilities would be exempt from certain provisions of the chapter. However, the RCC fee is within sections AS 42.05.221-281 and these sections are not exempt. He explained that the RCC fee is a monthly allocation per industry, passed on to the consumer from the utility, and this pass-through charge would no longer be imposed because the utilities would not be paying that flat RCC amount.

REPRESENTATIVE GRUENBERG asked if there will be a reduction, or an elimination of one of the charges.

MR. GAZAWAY replied that it is correct that the commercial refuse customers would not be paying the pass-through RCC charge which they are currently paying, pursuant to AS 42.05.254.

REPRESENTATIVE GRUENBERG asked Mr. Kelly if the University Refuse bill to the customer would reflect elimination of that RCC charge.

MR. KELLY said yes, if that was the regulation.

[2:08:12 PM](#)

REPRESENTATIVE GRUENBERG mentioned that part of his district is served by the [Anchorage Municipal Solid Waste Services], and part is served by Waste Management, a private company. He explained that there are landlords in his district who rent dumpsters which are too small, and when the garbage overflows, this creates a significant problem. He asked whether the RCA or the city zoning department enforces this transgression.

MR. KELLY responded that he did not know.

CHAIR RAMRAS, addressing a question to Mr. Kelly, said he has seen a large turnover of commercial refuse companies during the last three to five years. He asked what the result will be for both the consumer and the commercial refuse companies within the larger municipalities should HB 172 pass.

MR. KELLY replied that under proposed HB 172, when a competitor enters the marketplace with new and innovative costs of service, the currently-operating company will be better able to respond competitively. Currently, the operating company needs to file with the regulatory agencies. This is a long, arduous review process. During the review time, the currently-operating company cannot respond competitively. With the passage of HB 172, the currently-operating company could respond much more quickly.

CHAIR RAMRAS surmised that HB 172 would be good for companies, allowing them to move quickly, and good for consumers, bringing competition into the market.

MR. KELLY concurred.

REPRESENTATIVE GRUENBERG mentioned that he has witnessed, in both the trucking and broadcasting industries, challenges to new permits in an attempt to drive the new applicants out of business. He asked whether this was the practice prior to the establishment of the RCA.

[2:15:44 PM](#)

JAMES KEEN, Chief/Engineering, Regulatory Commission of Alaska (RCA), Department of Commerce, Community, & Economic Development (DCCED), offered that there has been a lot of recent consolidation by commercial refuse utilities. He explained that HB 172 will not change the barrier to entry for new competitors, but will instead allow larger commercial refuse competitors to be more agile. He reported that there have been recent proceedings wherein competitors have applied and the larger existing companies have filed comments in opposition, but the RCA has still allowed more competition. Generally, though, competition has declined in all the major utility markets in Alaska.

CHAIR RAMRAS asked if this were a result of capital costs.

MR. KEEN replied that this is generally a result of buyouts.

CHAIR RAMRAS commented this is a condition of the marketplace. He said he assumed that it was the cost of capital that kept the small competitor out of the marketplace.

REPRESENTATIVE GRUENBERG offered his understanding that Mr. Gazaway is saying that an effect of HB 172 will be to make the larger companies more "agile," yet that agility might make it more difficult for the smaller companies to compete.

MR. GAZAWAY responded that the current process is meant for regulated commercial refuse providers that earn over a specific revenue threshold, and there is a lag period of 30-45 days for approval of a newly proposed rate. He offered his belief that under HB 172, there would not be a rate approval process, so rate changes could be immediate. He also disclosed that currently there are five open proceedings whereby affiliates of Alaska Pacific Environmental Services of Anchorage, LLC, doing business as Alaska Waste, have petitioned for exemption under AS 42.05.711(d), which allows them to request an exemption from some or all portions of AS 42.05.

[2:19:31 PM](#)

BOB COX, General Manager, Alaska Waste, explained that his company is an Alaska-owned refuse company providing services throughout Alaska. He stated that Alaska Waste supports HB 172, as the bill deregulates the provision of commercial refuse services. He noted Alaska Waste began as a two-truck operation, competing against several companies including Waste Management, the largest publicly held refuse management company in the U.S., during a rate deregulated environment for commercial refuse which allowed Alaska Waste to implement strategies to compete effectively against Waste Management.

MR. COX relayed that the RCA chose to implement full rate regulation when Alaska Waste acquired the Waste Management assets. Alaska Waste believes that the rate deregulation environment provides the best options for both the industry and the consumers because it allows for pricing flexibility, innovative solutions, and expansion of the commercial service offerings, thereby creating incentives for different diversion techniques in recycling. He said he believes rate deregulation provides for ease of entry into the market, reduces regulatory requirements as a company grows, and allows for customer determination of service requirements based on different service options provided by competitors in a market place.

MR. COX surmised that HB 172 will eliminate the significant burden on the RCA to police various competitors' compliance, remove commercial refuse from cost-based, rate-making proceedings, eliminate RCA staff time for these proceedings, retain RCA oversight of the commercial refuse industry through continued certification requirements, and retain the RCA investigatory and enforcement options based on customer complaint or petition. He concluded that Alaska Waste believes HB 172 represents good public policy because it will promote competition, eliminate unnecessary regulation, and allow for oversight of the industry to ensure effective and fair competition.

[2:21:49 PM](#)

CHAIR RAMRAS asked how a new company would enter the market and get consumer business.

MR. COX responded that the refuse industry is different than many other regulated utilities. He revealed that although a company could be started with one truck and a few containers, it is the RCA certification process which is cumbersome and time

consuming. He offered his belief that the previous rate deregulated model of the RCA allowed a reduced standard for attaining certification since a company only needed to show they had equipment and insurance to operate. He noted that although buying a truck is not a minimal expense, it is one that pays back fairly quickly. He explained that competing in the garbage business is about providing the best quality of service which entails offering the service package that the customer requires or chooses. He said he believes one of the difficulties with a rate regulated environment is the inability to provide many of the options such as bundling of regulated and non-regulated services. The service level offering is different under a rate regulated environment versus a non-regulated one because under a regulated environment the companies cannot offer as many choices. He said Alaska Waste supports HB 172.

CHAIR RAMRAS asked how the passage of HB 172 would impact Alaska Waste entering a new market.

MR. COX responded that passage of the bill would not accelerate entry, as that is a function of the certification and transfer process. It would, however, create more opportunity within the state.

[2:25:35 PM](#)

REPRESENTATIVE GRUENBERG asked who is responsible for the decision to allocate dumpsters that are too small to service some locations.

MR. COX responded that his company tries to ensure that clients have the correct level of service, but the difficulty is that clients may have to pay more for the service, and clients are attempting to minimize costs. He said Alaska Waste does work with its clients, supplying larger dumpsters, or changing the frequency of pickups, while trying to minimize the extra-cost impact. He offered that Alaska Waste also tries to charge for any extras, giving clients an incentive to change the level of service. He explained that the Municipality of Anchorage (MOA) is responsible for the enforcement of the code and, although the MOA is busy, it has been cooperative with Alaska Waste when citing problem clients. He granted that although Alaska Waste does not have any enforcement ability, it does try to create an economic incentive for its clients.

REPRESENTATIVE DAHLSTROM suggested Representative Gruenberg call his assembly person to address the enforcement issue.

CHAIR RAMRAS, after asking if there was any more testimony, closed public testimony on HB 172.

[2:28:21 PM](#)

REPRESENTATIVE DAHLSTROM moved to report HB 172 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 172 was moved out of committee.

HJR 17 - KENSINGTON MINE APPEAL

[2:28:47 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE JOINT RESOLUTION NO. 17, Encouraging Coeur Alaska, Inc., to pursue all legal options to resolve the issues presented in Southeast Alaska Conservation Council v. United States Army Corps of Engineers on behalf of itself and consistent with the state's efforts to enforce its rights as a state over its resources; and requesting the United States Court of Appeals for the Ninth Circuit to adjudicate those matters that come before the court in a fair and impartial manner so that the state's natural resources can be developed in a timely and lawful manner. [Before the committee was CSHJR 17(RES).]

The committee took an at-ease from 2:28 p.m. to 2:32 p.m.

[2:32:01 PM](#)

REPRESENTATIVE CRAIG JOHNSON, Alaska State Legislature, sponsor, explained that HJR 17 calls upon Coeur Alaska, Inc., to pursue all the legal options up to and including the U.S. Supreme Court. He said that the Kensington Gold Mine went through all the state and federal permitting processes. After a lawsuit was filed, the U.S. District Court for the District of Alaska ruled in favor of the mine, allowing it to proceed, but the 9th Circuit Court of Appeals is in the process of overturning that ruling. He offered his belief that this is not a mining issue, but a resource issue that is being held up in court. He encouraged everyone to protect the state's rights and the permitting process; since Alaska is a resource development state, this resolution encourages the owners of the Kensington mine to pursue the permits, in order to protect the right to develop Alaska's resources.

REPRESENTATIVE JOHNSON said the House Resources Standing Committee removed some of the language in HJR 17 that was not friendly to the 9th Circuit Court of Appeals. He said he is not opposed to revisiting the language relating to the court that was omitted by the House Resources Standing Committee. He felt it was important to send a message that Alaska is a state that will stand up for its rights. He concluded by saying that this is "more about states rights than holes in the ground or anything else." He encouraged Coeur Alaska to pursue all legal options.

REPRESENTATIVE SAMUELS referred to page 2, lines 10-12, of HJR 17, and asked if that was the only [language] that was taken out of CSHJR 17(RES).

REPRESENTATIVE JOHNSON indicated that the language on page 2, lines 18-21, of HJR 17, and the names of the heads of the other states and territories that the 9th Circuit Court of Appeals has jurisdiction over were also removed.

[2:36:31 PM](#)

MARK RORICK, Chair, Juneau Chapter, Sierra Club, said he was not going to argue against HJR 17. However, the Sierra Club is confident with the merits of the [decision by the 9th Circuit Court of Appeals with regard to the Kensington mine] and the Sierra Club is willing to argue those merits in any venue. He offered his belief that the [U. S. Supreme Court] would not accept the [Kensington mine] case, but if the court should, he is confident the Sierra Club's stance would prevail. He commented that he is not aware of any 9th Circuit Court of Appeals environmental decision regarding the Tongass National Forest that has been overturned since his involvement with the Sierra Club. He noted that [the 9th Circuit Court of Appeals] refused to hear a case on coal fired plants, even though the appeal was supported by the coal industry and the Bush Administration.

MR. RORICK offered to examine some of the other Kensington mine issues. First, he addressed the assumption that mine waste disposal in Lower Slate Lake is environmentally sound, or preferable. He offered his belief that having tons of mine waste impounded in a natural drainage above Berners Bay, behind a dam subject to possible failure, in an earthquake zone, is not environmentally acceptable or preferable. He noted that there has been quite a bit of speculation regarding settlement and negotiations [between the plaintiffs and the Kensington mine

owners]; however, to his knowledge, there are not any negotiations presently occurring. He added that suggestions have been presented to petition the 9th Circuit Court of Appeals to delay the decision [regarding the Kensington mine]. He reported that the Sierra Club has no basis to negotiate the allowable use of Lower Slate Lake as a mine waste storage facility. He emphasized that the Sierra Club is willing to have a continuing dialogue regarding other waste disposal methods, and the Sierra Club is assuming that any dialogue would be concurrent with the public process to analyze a new operating plan. He expressed his desire that the proposed disposal plan meet "legal muster" and is "the best possible legal option environmentally."

MR. RORICK continued, addressing the issue of jobs at the Kensington mine. He offered his belief that this issue is a concern for everyone. He said he struggles daily with the possible impact and regularly questions his personal motives. He said he perceives that there is no evidence that Coeur Alaska will walk away from the Kensington mine project as a result of this [court decision]. More than half of the 400 jobs currently offered at the Kensington mine are construction jobs, and mine construction is now 80 percent complete. He said he believed the dry stack method of disposal will most likely create more construction and operating jobs. He summarized, expressing his sincere hope that should Coeur Alaska need to scale back during the new permitting process, this would have minimal impact on the work crew.

[2:42:38 PM](#)

REPRESENTATIVE LYNN asked if both the local and the national chapters of the Sierra Club have taken a position opposite to HJR 17.

MR. RORICK explained that the Sierra Club is a volunteer-run organization and nearly all of these special matters are initiated at the local chapter level. He continued, stating that it would be very unusual for those at the national level to override a local chapter. He emphasized that he is in continual contact with the national organization of the Sierra Club, and there would not be a national override in this case.

REPRESENTATIVE LYNN asked whether the national chapter has commented on HJR 17.

MR. RORICK reiterated that the national chapter is very much aware of the issue. He relayed that he has corresponded with the aide to the executive director of the Sierra Club, as well as Sierra Club representatives in Washington, DC, and they consider it to be an extremely important case, one they are not willing to back away from.

REPRESENTATIVE LYNN asked if funding was raised locally or nationally.

MR. RORICK emphasized that the Sierra Club chapters have very small budgets because the national budget is spread very thin. He explained that budget distribution is based on membership, and he surmised the Juneau chapter budget is less than an average Juneau household income. He offered his belief there is no outside money to prosecute this case.

REPRESENTATIVE SAMUELS asked whether Mr. Rorick is a volunteer or a paid employee of the Sierra Club.

MR. RORICK replied that he is a volunteer.

[2:45:12 PM](#)

[Chair Ramras turned the gavel over to Vice Chair Dahlstrom.]

ROB CADMUS, Organizer, Water Quality and Mining, Southeast Alaska Conservation Council (SEACC), explained that SEACC is a coalition of 17 volunteer citizen conservation groups extending from Yakutat to Ketchikan, whose mission is to protect the extraordinary natural resources of southeast Alaska while ensuring their wise and sustainable use. He pointed out that there are a lot of important issues at stake with the Kensington mine, including jobs and responsible use of Alaska's natural resources. He emphasized that the better people can understand all the issues, the better they can all make wise decisions regarding those issues.

MR. CADMUS reported that SEACC has worked on the Kensington mine issue for more than 20 years, through two full permitting processes. He reviewed some of this history, noting that in 1998, Kensington received a fully permitted plan for a dry stack tailings facility; yet, Coeur Alaska decided not to take that option, and instead redesigned its plan, which is currently being discussed. He noted that SEACC has participated in each step of this permitting process. In 2002, SEACC warned both Coeur Alaska and the permitting agencies that the plan to use

Lower Slate Lake as a tailings facility violated the [federal] Clean Water Act, putting Juneau's clean water at risk, and setting a dangerous precedent for both Alaska and the United States.

MR. CADMUS explained that this lawsuit challenges a permit issued by the United States Army Corps of Engineers (USACE) to allow the daily discharge of about 210,000 gallons of chemically processed mine tailings into a lake. This discharge would kill all the fish and aquatic life in the lake. He reported that prior to the Kensington mine permit, the USACE had never issued a permit allowing the discharge of mine tailings into a U. S. lake, because in 1982, the Environmental Protection Agency (EPA) adopted specific regulations prohibiting such practices for gold mines. The EPA, after a nationwide study, concluded that the discharge of mine tailings into navigable waters is unnecessary, because there are feasible alternatives already being used.

MR. CADMUS noted that the EPA determined that it was environmentally preferable to use a dry lands disposal method for the tailings at the Kensington mine. He offered his belief that Coeur Alaska chose to ignore these EPA determinations, and instead changed their tailings disposal plan, gambling that no one would challenge this new design. He continued, noting that the Kensington mine must now redesign a legal tailings facility that protects the waters of Berners Bay. In 1998, Coeur Alaska had all the necessary permits for a dry stack tailings facility, the same method used at both Greens Creek mine and Pogo mine. He affirmed that SEACC would prefer the dry stack method.

[Vice Chair Dahlstrom returned the gavel to Chair Ramras.]

MR. CADMUS, in summary, stated that the Alaska constitution requires development of the state's natural resources to the benefit of all Alaskans, and there is little or no value to the state and to the country if this is not done correctly at the Kensington mine. He said he believes cutting corners today will only create bigger problems in the future. He reminded the committee that the legacy of mining is not a good one; too many people and too many communities have been devastated by the toxicity of mine waste to take lightly what Coeur Alaska is trying to implement. He encouraged the committee to instead use HJR 17 to meet the Alaska constitutional mandate which states development be done for the benefit of all Alaskans, and this would include the protection of Alaska's clean water. He asked the committee to encourage Coeur Alaska to use all legal

options, including a redesign of its tailings disposal, to fully protect Alaska's clean water.

[2:50:04 PM](#)

REPRESENTATIVE SAMUELS asked whether SEACC would support the mine wholeheartedly if it had a dry stack tailings facility.

MR. CADMUS replied that SEACC is willing to be involved in the planning of a dry stack tailings facility. He noted that SEACC would want to ensure that a dry stack tailings facility was done properly and located in the correct area. He reminded the committee that SEACC did not oppose Coeur's earlier proposal for a dry stack tailings facility.

REPRESENTATIVE SAMUELS voiced his concern that there would also be a lawsuit against the dry stack tailings facility, causing a delay in the development of the Kensington mine. He inquired whether SEACC has broad opposition to this mine.

MR. CADMUS responded that SEACC does not have broad opposition to the mine; the concern is for the protection of clean water. He offered that SEACC is willing to work with Coeur Alaska on options for tailings disposal, especially dry stacking.

REPRESENTATIVE LYNN asked Mr. Cadmus if he or any member of SEACC were a professional mining engineer or geologist.

MR. CADMUS replied that he is a water quality expert, and SEACC does consult with mining geophysicists to obtain expertise.

REPRESENTATIVE GRUENBERG asked if [SEACC] presented expert testimony in the lawsuit with USACE.

MR. CADMUS responded that SEACC staff and hired professional experts presented technical information and expert advice in their briefings throughout the permitting process.

REPRESENTATIVE GRUENBERG asked Mr. Cadmus whether his support of dry tailings disposal and subsequent support of the mine, depends on the final plans.

MR. CADMUS replied this is correct since, in principle, SEACC feels that dry stack tailings in an appropriate location are the "way to go." He again reminded the committee that SEACC did not oppose the dry stack tailings facility in the 1997 plan.

REPRESENTATIVE SAMUELS asked if SEACC opposed anything in the 1997 plan.

MR. CADMUS explained that SEACC did not oppose anything specific with the Kensington mine, the objection was to the environmental analysis regarding the cumulative effect to Berners Bay. He commented that the Juneau Access Project, the Kensington mine, the proposed hydro project, and the proposed ferry terminal were not analyzed together, instead each was analyzed separately.

REPRESENTATIVE SAMUELS asked if litigation was used to slow down these projects.

MR. CADMUS replied that it was not.

REPRESENTATIVE SAMUELS asked Mr. Cadmus to define "water quality expert," and how his expertise differed from the other experts who reviewed the Kensington mine plan.

MR. CADMUS responded that he could not claim an expertise. He relayed that the fundamental issue is that a mine has never before been allowed to dump its waste into a water body of the United States.

[2:56:02 PM](#)

REPRESENTATIVE SAMUELS repeated his earlier request to define "water quality expert," and to explain Mr. Cadmus' qualifications versus those of the USACE water quality expert, who arrived at a different conclusion.

REPRESENTATIVE GRUENBERG objected as Mr. Cadmus never testified he was an expert during the litigation.

MR. CADMUS replied that he earned a masters degree in water body and wetland restoration. He indicated that his contact with other agency water quality experts affirmed his high regard for their expertise, and he felt he had no superior knowledge of the subject.

REPRESENTATIVE SAMUELS remarked that he assumed a conflict existed since USACE issued a permit and SEACC contested the permit, so there must have been legitimate debate.

[2:58:27 PM](#)

TOM BRICE, Juneau Business Agent, Laborers Local 942, offered some history of the Kensington mine. He relayed that Coeur Alaska awarded the construction contract for the Jualin mine site to Alaska Interstate Construction LLC (AIC) in late June, 2005, and by mid July 2005, Laborers Local 942 had employees working at the site. He said that there is an Alaska native shareholders preference in the labor contract with AIC. Since the initial contract, Laborers Local 942 has dispatched more than 60 people to that job, and more than 30 percent of these are Alaska Native. He observed that since the fall of 2005, there has been an ongoing debate about mine tailings. He offered his belief that Coeur Alaska "has gone to the table" to address these concerns, but the proffered agreement was not accepted by the "environmentalist board." He said he perceives that the mine tailings dispute places those mine labor jobs at risk. He conveyed these jobs pay a "living wage" which allow workers to make house and car payments, receive health benefits, and secure a strong retirement to support them when, after 15-20 years of "working construction and their bodies are ready to give up, [they've] got something to fall back on." He asked the committee to remember the impact of this lawsuit on "real working Alaskans ... so they can have the American Dream."

MR. BRICE urged the committee's support of HJR 17.

[3:01:26 PM](#)

HAYWARD COOLY, Laborers Local 942, speaking on behalf of other employees at [Kensington mine], offered his belief that [AIC] pays the highest into retirement, for jobs which will continue for the next 30 years with the passage of HJR 17. He stated that this proposed bill can directly affect the workers and their families, and indirectly affect the lives of "shop owners and real estate agents." He offered his support of HJR 17.

[3:02:37 PM](#)

STEVE BORELL, Executive Director, Alaska Miners Association (AMA), added a few comments to the AMA's letter of support the committee members had in their packets. He offered his belief that Coeur Alaska has been upfront and straightforward with the community and the environmental groups during the more than 20 years of permitting for this project, and has made numerous concessions and changes to its plans to address issues. He also offered his belief that environmental organizations had previously commented against dry stack tailings, yet now the environmental organizations are speaking in favor of this

method. Coeur Alaska did not (indisc.) this method when the price of gold went down, instead Coeur redesigned the project. He said he believes that one of the benefits of the redesign was the use of a "low productive lake" for a tailings impoundment which will ultimately increase the size of the lake and create a better fish habitat.

MR. BORELL, reflecting on the concern for earthquakes in the area, reported that these types of dams are extremely strong and described the dam containment to be consolidated tailings under less than 30 feet of water. He compared the proposed dam to the local dams built for electricity production, noting that these dams have been functioning for more than 100 years. He allowed that Coeur Alaska, in response to concerns of chemical use, had committed to ship bulk concentrate from the mine rather than process on site. He asserted that this change will eliminate 24 "value added processing" jobs locally.

MR. BORELL offered his belief that currently the real issue is that the 9th Circuit Court of Appeals "is out of touch." He charged that almost 90 percent of 9th Circuit Court of Appeals decisions have been overturned by the U.S. Supreme Court. He referred to the decision by the U.S. District Court of Appeals for the District of Alaska, Southeast Alaska Conservation Council v. United States Army Corps of Engineers, in which the judge reviewed the permits, concluding that there was compliance with the law. He expressed his desire that should the U.S. Supreme Court accept an appeal of Southeast Alaska Conservation Council, it would agree with the District Court.

[3:08:45 PM](#)

REPRESENTATIVE LYNN asked for an explanation of dry stack tailings.

MR. BORELL explained that dry stack tailings disposal puts the tailings material through a filter press, squeezes out as much water as possible, about 70 percent, and then places the concentrate into a lined landfill. When the tailings deposit is complete, a capping material is compacted on top of the tailings. He offered his opinion that the net effect to the area would be a significantly smaller and less costly alternative should Kensington mine be allowed to use Lower Slate Lake to deposit the tailings, instead of the dry stack method. He attempted to assure the committee that the tailings are not toxic because there is a very low level of chemical use in the floatation process [which is the process prior to the press

process mentioned above]. He relayed that the water in the tailings impoundment does meet water quality standards, but the issue with Southeast Alaska Conservation Council is whether the tailings can be placed into a wetland. He commented that the USACE and the Environmental Protection Agency (EPA) came to an agreement regarding the initial placement of the tailings such that so long as the water does not run off into a river or the ocean, the USACE would be the regulators. He explained that water does not need to meet the water quality standards until it leaves the impoundment.

REPRESENTATIVE SAMUELS asked for an explanation of the permitting process to help determine why so many different water quality experts came to such different conclusions.

MR. BORELL offered that Mr. Fogels could better describe the process, however, he understood that Coeur Alaska presented a plan, the State of Alaska, the USACE, and the EPA reviewed the plan, then each side voiced concerns, adjusted designs, and adjusted requirements until all the parties agreed that this was a technically do-able process. He surmised that upon the conclusion of this process, all the parties involved with this discussion agreed that Lower Slate Lake was the best alternative.

[3:15:07 PM](#)

EDMUND FOGELS, Acting Deputy Commissioner, Office of the Commissioner, Anchorage Office, Department of Natural Resources (DNR), in response to a question, said he doesn't consider himself to be a water quality expert but rather a mine permitting expert with a BA in Environmental Sciences, and he has worked for DNR on large mine projects for over 12 years, as well as general mining projects and issues for more than 20 years. In response to a request, he explained that because the Kensington mine permitting process was complicated, he will only speak to the last cycle. He explained that this was the third attempt to permit and get the Kensington mine going. He reported that Coeur Alaska first discussed the proposed project with state agencies and received the agencies feedback, including what permits were required. He conveyed that the most important aspect for a large mine project is the federal Environmental Impact Statement (EIS), because the mine would need key permits from the USACE and the EPA. He explained that the EIS is a large, thorough environmental analysis of the potential impacts of the mine, and this EIS took about three and a half years to complete.

MR. FOGELS continued to explain that all the necessary state authorizations and processes could be "piggybacked" onto the EIS process. He summarized that upon completion of the EIS, including the reviews of the geochemistry of the tailings and the water quality results, the experts agreed the project was environmentally sound and the impacts acceptable. The state agencies then used that EIS as the basis for their decision making process. He repeated that the EIS was the key, and offered his belief that this EIS, undertaken by numerous experts, was a very thorough analysis of all the facets of the project, and that the agencies were very comfortable with their analyses that the tailings going into Lower Slate Creek Lake were "relatively benign," that the water quality coming off the lake would "meet clean water standards," and that the lake could be reclaimed in another generation to be at least as productive, if not more so, than it was prior to mining.

[3:20:00 PM](#)

REPRESENTATIVE HOLMES asked if either the state or the attorney general's office had any role in this litigation.

CAMERON LEONARD, Senior Assistant Attorney General, Natural Resources Section, Civil Division (Fairbanks), Department of Law (DOL), responded that the state was not originally named as a defendant, but the state has since intervened as a defendant and has actively defended the federal permits in front of the U.S. District Court and the 9th Circuit Court of Appeals.

REPRESENTATIVE HOLMES commented that each member has in their packet a resolution by the City and Borough of Juneau (CBJ) entitled "A Resolution Urging a Negotiated Settlement of the Kensington Gold Mine Litigation" which is a request by the city for a return to mediation. She asked for a response regarding why the state is encouraging further litigation, as opposed to encouraging mediation. She offered her belief that mediation could result in a faster, cheaper settlement.

MR. LEONARD responded that he was instructed to not take a position on the resolution. He said he was aware of the CBJ resolution, but was not aware that any mediation or settlement discussions were currently taking place.

REPRESENTATIVE ANDREA DOLL, Alaska State Legislature, said that the district as a whole favors the mine, wants to have the employment and economic benefit of the mine, and wants it to be

successful. She emphasized that there is also a tremendous desire to protect Berners Bay and to build the mine in an "environmentally conscious way." She offered her belief that Representative Holmes made a good observation that it would be so advantageous for the parties to come together for mediation. She concluded that she had not taken sides, but that the need is to proceed in an "environmentally conscious" manner.

CHAIR RAMRAS, after asking if there was any further testimony, closed public testimony on HJR 17.

[3:24:18 PM](#)

CHAIR RAMRAS moved to adopt HJR 17 as the working document.

REPRESENTATIVE HOLMES objected, relaying that CSHJR 17(RES) had removed sections of the proposed resolution that did not speak to the underlying intention of the resolution, which is to encourage the mining company to pursue further litigation. She offered her belief that the sections deleted from HJR 17 were inflammatory, did not actually help the resolution, and would be counterproductive if the real intent is to move the mine project forward.

[3:25:59 PM](#)

A roll call vote was taken. Representatives Ramras, Samuels, Dahlstrom, and Lynn voted in favor of adopting HJR 17 as the working document. Representatives Holmes and Gruenberg voted against it. Therefore, HJR 17 was adopted by a vote of 4-2.

[3:26:55 PM](#)

REPRESENTATIVE LYNN moved to report HJR 17 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE HOLMES objected. She explained that it is her belief that there was not a full discussion on encouraging litigation rather than encouraging mediation, and that the discussion was not concluded. She emphasized that she also feels the language of HJR 17 contains unnecessary and inflammatory language which does not speak to the intent.

[3:27:59 PM](#)

A roll call vote was taken. Representatives Ramras, Lynn, Samuels, and Dahlstrom voted in favor of reporting HJR 17 from

committee. Representatives Gruenberg and Holmes voted against it. Therefore, HJR 17 was reported out of the House Judiciary Standing Committee by a vote of 4-2.

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:28 p.m.