

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

March 11, 2008

8:08 a.m.

**MEMBERS PRESENT**

Representative Bob Roses, Vice Chair  
Representative John Coghill  
Representative Kyle Johansen  
Representative Craig Johnson  
Representative Andrea Doll  
Representative Max Gruenberg

**MEMBERS ABSENT**

Representative Bob Lynn, Chair

**COMMITTEE CALENDAR**

HOUSE BILL NO. 406

"An Act relating to a requirement for competitive bidding on contracts for the preparation of election ballots."

- HEARD AND HELD

HOUSE BILL NO. 396

"An Act relating to and increasing the amount of the 2008 permanent fund dividend; and providing for an effective date."

- MOVED HB 396 OUT OF COMMITTEE

SENATE BILL NO. 253

"An Act relating to the appointment of members of the Board of Game; and providing for an effective date."

- MOVED SB 253 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 406

SHORT TITLE: CONTRACTS FOR PREPARATION OF BALLOTS

SPONSOR(s): REPRESENTATIVE(s) FAIRCLOUGH

02/19/08	(H)	READ THE FIRST TIME - REFERRALS
02/19/08	(H)	STA, FIN
03/04/08	(H)	STA AT 8:00 AM CAPITOL 106

03/04/08 (H) Scheduled But Not Heard  
03/06/08 (H) STA AT 8:00 AM CAPITOL 106  
03/06/08 (H) Heard & Held  
03/06/08 (H) MINUTE(STA)  
03/11/08 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 396

SHORT TITLE: INCREASE 2008 PERM. FUND DIVIDEND  
SPONSOR(S): REPRESENTATIVE(S) THOMAS

02/19/08 (H) READ THE FIRST TIME - REFERRALS  
02/19/08 (H) STA, FIN  
03/06/08 (H) STA AT 8:00 AM CAPITOL 106  
03/06/08 (H) Scheduled But Not Heard  
03/11/08 (H) STA AT 8:00 AM CAPITOL 106

BILL: SB 253

SHORT TITLE: MEMBERS OF THE BOARD OF GAME  
SPONSOR(S): SENATOR(S) HUGGINS

01/28/08 (S) READ THE FIRST TIME - REFERRALS  
01/28/08 (S) RES  
02/16/08 (S) RES AT 11:00 AM BUTROVICH 205  
02/16/08 (S) Scheduled But Not Heard  
02/18/08 (S) RES AT 3:30 PM BUTROVICH 205  
02/18/08 (S) Moved SB 253 Out of Committee  
02/18/08 (S) MINUTE(RES)  
02/19/08 (S) RES RPT 6DP 1NR  
02/19/08 (S) DP: HUGGINS, GREEN, MCGUIRE, STEVENS,  
WAGONER, STEDMAN  
02/19/08 (S) NR: WIELECHOWSKI  
02/27/08 (S) TRANSMITTED TO (H)  
02/27/08 (S) VERSION: SB 253  
02/29/08 (H) READ THE FIRST TIME - REFERRALS  
02/29/08 (H) STA, RES  
03/05/08 (H) RES AT 2:00 PM BARNES 124  
03/05/08 (H) -- MEETING CANCELED --  
03/11/08 (H) STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

KEVIN FRALEY, General Manager  
Print Works;  
Owner Print Works Super Software, Inc.  
Homer, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 406.

PATRICK FOSTER, A.T. Publishing and Printing  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 406.

GAIL FENUMIAI, Director  
Central Office  
Division of Elections  
Office of the Lieutenant Governor

**POSITION STATEMENT:** Answered questions during the hearing on HB 406.

VERN JONES, Chief Procurement Officer  
Central Office  
Division of General Services  
Department of Administration

**POSITION STATEMENT:** Answered questions during the hearing on HB 406.

REPRESENTATIVE ANNA FAIRCLOUGH  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, made a request during the hearing on HB 406.

REPRESENTATIVE BILL THOMAS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 396 as prime sponsor.

TIM JOYCE, Mayor  
City of Cordova  
Cordova, Alaska

**POSITION STATEMENT:** Testified on behalf of the City of Cordova in support of HB 396.

PAUL D. KENDALL  
Anchorage, Alaska

**POSITION STATEMENT:** Testified on behalf of himself during the hearing on HB 396.

JERRY BURNETT, Director  
Administrative Services Division  
Department of Revenue  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 396.

ELLIE FITZJARRALD, Director  
Division of Public Assistance  
Department of Health and Social Services  
Juneau, Alaska

**POSITION STATEMENT:** Responded to questions during the hearing on HB 396.

JODY SIMPSON, Staff  
Senator Charlie Huggins,  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 253 on behalf of Senator Huggins, prime sponsor.

#### **ACTION NARRATIVE**

**VICE CHAIR BOB ROSES** called the House State Affairs Standing Committee meeting to order at [8:08:09 AM](#). Representatives Coghill, Johnson, Gruenberg, Doll, and Roses were present at the call to order. Representative Johansen arrived as the meeting was in progress.

#### HB 406-COMPETITIVE BIDDING FOR BALLOT PREP

[8:08:53 AM](#)

VICE CHAIR ROSES announced that the first order of business was HOUSE BILL NO. 406, "An Act relating to a requirement for competitive bidding on contracts for the preparation of election ballots."

[Before the committee as a work draft was the proposed committee substitute (CS) for HB 406, Version 25-LS1487\C, Bullard, 2/28/08.]

[8:11:53 AM](#)

VICE CHAIR ROSES reopened public testimony [closed on 3/6/08].

[8:12:56 AM](#)

KEVIN FRALEY, General Manager, Print Works; Owner Print Works Super Software, Inc., stated that he has printed the state's ballots for the last three to four election cycles. He referred to his written testimony [in the committee packet] and clarified that he is not accusing anyone of impropriety. He stated, "I

don't have any kind of evidence to push an agenda like that. I want to stand on my own record and my own quality and ... my own passion for doing a good job with the election process."

MR. FRALEY said he feels that he is under attack, but recognizes that that may be unfounded. He emphasized that his biggest concern "is that we are talking about two vendors." He said the company that did certifications no longer offers them. He said the State of Alaska is going to have to come up with some kind of certification process [printing ballots] "is not just putting ink on paper." Mr. Fraley said there are many printers in the state that have the ability to do the job; however, there needs to be a process in place that keeps the printer under check to make sure that these ballots are printed properly and that accountability is taken into consideration. He offered an example to describe the intensity of the accountability required when printing ballots, noting that one ballot picked up and set down accidentally in another pile can mean someone voting on a ballot intended for another precinct.

[8:16:17 AM](#)

VICE CHAIR ROSES closed public testimony. He announced that he would allow the committee to ask questions of Mr. Fraley, Mr. Noblin, and Mr. Foster - the latter two having testified during the 3/6/08 hearing on HB 406.

[8:16:38 AM](#)

REPRESENTATIVE GRUENBERG observed that in the committee packet is one substantive letter, dated 3/3/08, from Mr. Fraley, and a rebuttal letter from Mr. Foster, dated 3/7/08. He asked if those two letters "are the main documents."

[8:17:20 AM](#)

MR. FRALEY confirmed that his letter expresses "his main argument and concern in opposition to HB 406."

[8:17:32 AM](#)

PATRICK FOSTER, A.T. Publishing and Printing, stated that he chose the format of a letter in which to address some of the points in Mr. Fraley's letter.

[8:17:53 AM](#)

REPRESENTATIVE GRUENBERG said Mr. Fraley's main concern, as expressed today, is in regard to the importance of quality. He questioned if the consideration in choosing printers would be limited only to cost if HB 406 were to pass, or if quality and security would also be considerations.

8:18:30 AM

GAIL FENUMIAI, Director, Central Office, Division of Elections, Office of the Lieutenant Governor, responded that the bill, as written, would result in a bid that would be awarded strictly based upon lowest cost.

REPRESENTATIVE GRUENBERG asked if that is the normal basis upon which the state considers bids.

MS. FENUMIAI offered her understanding that there are a variety of bidding processes, including an invitation to bid and request for proposals (RFPs), both of which she said she believes allow other factors of consideration to be made.

REPRESENTATIVE GRUENBERG asked, "But you believe this one does not?"

MS. FENUMIAI replied that that's her understanding. In response to a follow-up question from Representative Gruenberg, she said she has not ascertained a legal opinion from the assistant attorney general regarding this matter; however, she said the division has consulted with Vern Jones, the chief procurement officer for the state, who she said "offered testimony to that effect at the last committee hearing."

8:20:02 AM

VERN JONES, Chief Procurement Officer, Central Office, Division of General Services, Department of Administration, stated that when the department uses the term, "bids," it means a situation in which it offers specifications, and the responsible bidder that meets those specifications and responds with the lowest price is the winner. He said typically when the department wants to evaluate quality and other factors in addition to price, it uses either competitive sealed proposals or RFPs. He concluded, "My reading of this is that it does say competitive bids, and to us that means low bids award."

8:20:51 AM

REPRESENTATIVE GRUENBERG directed attention to page 4, line 6, of Version C, which specifies "the lowest responsible and responsive bidder". He asked Mr. Jones if, after reviewing that language, his answer remains the same or changes.

MR. JONES responded that he would maintain his answer.

REPRESENTATIVE GRUENBERG asked what language Mr. Jones would suggest to ensure that the division could consider the [printer's] ability to perform in a satisfactory manner, rather than choosing a printer based solely on cost.

MR. JONES suggested that the words "competitive bids", on page 2, line 2, of Version M, could be changed to "competition".

VICE CHAIR ROSES offered his understanding that Representative Johnson had discussed possible language to address this issue at the last hearing of HB 406, and an amendment would be forthcoming.

[8:22:48 AM](#)

REPRESENTATIVE JOHNSON asked Mr. Jones, "If we were to bring you under the procurement code, would that allow you to do the RFP and ... stretch it that way, or would we need to put in this bill that it would be by RFP?"

MR. JONES answered, "That would certainly allow us to do RFPs and proposals if this were subject to the procurement code. It would be a choice at that point." In response to a follow-up question from Representative Johnson, he explained that subjecting the service to the procurement code would open up a number of possibilities. He expounded:

It could be done via bid, where ... the division would specify as they needed and award based on lowest price. They could offer a request for proposals, in which they could set a number of criteria for quality and experience and qualifications and certification and so on, in addition to price. The procurement code ... also has alternate procurement types in there: single source, emergency, limited competition .... There are small procurements; if any of these jobs were to be under \$50,000, it could be done under small procurements, which would be essentially getting quotes or informal proposals.

8:24:42 AM

REPRESENTATIVE JOHNSON said he wants to "open it up to competitive bidding," but also wants a timing that will ensure quality. He asked if inserting language to the title regarding having bids every five years and adding a new section that would bring the process in the procurement code would still allow for a sole source contract under the procurement code.

MR. JONES responded:

I'm not sure what changing the title would be. Subjecting the service to the procurement code could potentially result in an alternate procurement situation, depending on the circumstances. If clearly the intent was spelled out somewhere that it would be competed, I'm sure that the division would follow that direction.

8:26:11 AM

REPRESENTATIVE GRUENBERG said the suggestions for amending the bill, made by Representative Johnson, are complex, and he would like to see a written amendment.

REPRESENTATIVE JOHNSON suggested making the changes conceptually.

8:27:28 AM

REPRESENTATIVE ANNA FAIRCLOUGH, Alaska State Legislature, as prime sponsor of HB 406, expressed her wish that the committee hold the bill and hear it at its next meeting to give her time to work on the bill language with an attorney. She explained that she had contacted the Division of Elections, as well as the Office of the Lieutenant Governor, and was told explicitly "that they needed to be left out of the procurement code, and that's why this is written how it is." She said she would be happy to ensure "that we're under competitive bid and under the procurement code," and she thinks it is appropriate to have a five-year contract period, "with a possible renewal period for good conduct." Representative Fairclough said the bill would create AS 15.15.031, which would ensure that an Alaska printer gets the job, and she would want to secure that guarantee should the entire Section 15.15.031 be deleted from the bill.

REPRESENTATIVE FAIRCLOUGH said she spoke at length with Mr. Fraley, who raises some valid points. However, she stated, "His company competes in Anchorage already for the same vote." She said she respects that Mr. Fraley is protecting an asset that he has developed, but it is possible to compete for bids with the State of Alaska. Representative Fairclough said she understands that Mr. Fraley has done an exceptional job in responding to the State of Alaska in all aspects of his performance, and she respects that and applauds it; however, she stated her belief that "that same expectation should be set for all who would want to enter into this process and understand that accountability."

REPRESENTATIVE FAIRCLOUGH asked the committee members to let her know any other concerns they may have before she talks to "procurement," so that she can meet those expectations.

REPRESENTATIVE ROSES said he would hear HB 406 another day to give Representative Fairclough the time she requested. He asked committee members to continue with their line of questioning.

[8:30:15 AM](#)

REPRESENTATIVE COGHILL suggested that there may be issues of timing under the procurement code. He mentioned process issues that "may be more complex than you can do under this." He suggested an RFP in relation to Section 15.15.031. He said, "It would be more directive, and then kind of takes the [Office of the] Lieutenant Governor ... out of the hot seat with regard to having to make choices." He said bidding [for ballot printing] is probably quite different than any other bidding issues in the state because of the timing involved.

[8:31:03 AM](#)

REPRESENTATIVE DOLL said she is interested in finding out what the additional costs in doing an RFP might be, including the time to put together the RFP and the additional staff that may be needed.

[8:32:31 AM](#)

MR. JONES responded to a question from Representative Johansen as follows:

If this were subject to the procurement code, single source procurement requests over \$50,000 go to the chief procurement officer, so I would be making that

decision. However, I believe that the situation that's gone on before, if it were subject to the procurement code, could not stand. I don't know any basis to be able to make a determination under the procurement code that this qualifies as a single source procurement. I think obviously the only reason that it's been able to be awarded the way it is, is because it's not been subject to the procurement code. So, I don't see a basis sitting here for making a ... single source award for a service like this when there are numerous companies capable of performing.

REPRESENTATIVE JOHANSEN asked for clarification that Mr. Jones meant that "you couldn't just simply decide that this company was going to get it, because of the rules of the procurement code."

MR. JONES said the decision would be that of the chief procurement officer, but it would have to be supported by factual evidence that documents and proves that the competitive sealed bidding or proposal process is not practical and award to a single, individual firm is in the state's best interests. He stated, "And, at least from what I've seen, I doubt that I'd be able to make those two determinations ... to satisfy the statute."

[8:34:44 AM](#)

REPRESENTATIVE GRUENBERG directed attention to the second to last paragraph of the second page of a letter in the committee packet, written by Mr. Fraley, [dated 3/3/08], which read:

The bottom line is that there are two certified printers in the state of Alaska to print AccuVote ballots. Premier Election Solutions is no longer certifying any new vendors for ballot printing. Passage of HB 406 will remove control from the Division of Elections for the sake of one vendor.

REPRESENTATIVE GRUENBERG then directed attention to a corresponding rebuttal from Mr. Foster, [dated 3/7/08 and included in the committee packet], which read as follows [original punctuation provided]:

*This means only that Diebold no longer is taking \$5000 from Alaskan printing companies wanting to print ballots. Now, all companies can participate in the*

*process, not just two of us. There is available an email statement from Premier Elections Solutions that they are out of the business of certifying, but are willing to work with individual state's desiring some form of printing certification. They recognize the printing of ballots requires much more than simple ink on paper.*

REPRESENTATIVE GRUENBERG explained that he had read the excerpts as clarification for Mr. Fraley, and he asked Mr. Fraley if Mr. Foster is correct.

MR. FRALEY said although the question is a difficult one to answer, he would have to "lean towards 'no.'" He said he spoke with Premier Elections Solutions yesterday "to clarify that statement." He continued:

They did specifically work with the State of California to develop a certification process for printers in California. They would be willing, if the state was to pay a contract to Premier Elections Solutions, to develop some sort of certification process for printers in the state of Alaska.

My argument is that in order for this bill to be useable in the way it's written, that process would have to be sorted out so that there is some kind of a certification system and a [qualifying] on a yearly or every-five-years basis. ... Until more printers are certified, we are still talking about two printers.

REPRESENTATIVE GRUENBERG asked Mr. Foster if he would like to respond.

[8:38:52 AM](#)

MR. FOSTER noted he had spoken with Michael Lindroos of Premier Elections Solutions. He said the company provides ballot readers for "20-some states," and California is the only state with which the company worked on an agreement. He stated, "I do believe that Mr. Fraley's right that some ... form of certification is required, because not just any printer can do the ballots. But I do know that it's a simple process to be worked out." He said it may involve a contract or working with Diebold; however, he said Diebold does not sound too interested in certifying individual printers.

8:40:16 AM

MR. FOSTER, in response to a question from Representative Johnson, said some states print their state ballots at a county level. Some counties have the authority to single source their printing, while some "go to competitive bid." But by and large, he stated, a vast majority of states do have a competitive bidding process.

REPRESENTATIVE DOLL asked if Diebold is the sole source for purchasing voting machines.

8:41:20 AM

MS. FENUMIAI said Diebold is the only provider of the AccuVote optical scan voting machine used by the State of Alaska.

REPRESENTATIVE DOLL asked what role Diebold plays in certification.

MS. FENUMIAI said she is not familiar with the certification process for printers. She indicated that the software, hardware, and firmware that is used in the Diebold machines are certified at a federal level.

VICE CHAIR ROSES proffered, "And that's for the machines themselves, but not the printing of the ballots; those are two separate issues."

MS. FENUMIAI answered that's correct.

8:42:44 AM

REPRESENTATIVE FAIRCLOUGH, in response to a request for clarification from Representative Gruenberg, said that after speaking with Mr. Fraley, she learned that the State of Alaska was sold hardware and told at the time of the purchase that "Diebold at the time, now Premier Elections [Solutions]" would provide a certification process for the machines and for the printers in the state of Alaska. However, since the transaction was made, the company has shut down its certification process for the state's printers. She stated her intention to call the company to find out if the state will now have to "pick up a certification process as an expense." Representative Fairclough opined that just because the state was sold "a past bill of goods that is inappropriate," that does not mean there should be no competition in the process.

REPRESENTATIVE FAIRCLOUGH said she is not advocating for Mr. Fraley to lose his bid or for the other certified printer in the state to get the bid; what she is saying is that there should be competition. She stated her belief that the sole reason for [selecting a printer] should not be based on the lowest bid. She said she believes in quality assurance, but does not agree that the state should now stay with one person because that's the only person who qualified under a certification process that is no longer available. She said she has discussed the matter with Mr. Fraley extensively and thinks his company has done a remarkable job; however, "when one person only has a product to sell, it can become expensive over time." Representative Fairclough said Mr. Fraley has convinced her that during the course of time in which he has printed ballots for the State of Alaska, he has not increased his bid.

REPRESENTATIVE FAIRCLOUGH stated that without certification available to other printers, the State of Alaska could be "at a disadvantage in receiving a fair price for the citizens of Alaska." She said she does not mean her remarks to be disparaging. She remarked that [Mr. Fraley] has spoken well to "all of the issues that are there," but she does not "buy into fear factor when it comes to capitalism." She said she wants Alaska to get a fair return for its money. She related that Mr. Fraley had told her his belief is that "there was liability with that certification process," and she said she does not want to expose the state to that liability. She said she would research for the facts related to this matter.

[8:46:31 AM](#)

MR. FRALEY confirmed that a representative of Premier Elections [Solutions] told him yesterday that the reason the company stopped its certification process was because of liability. He said the problem specifically was that printers were lowering their standards and "they were becoming frustrated with the need to recertify because of the quality standards that were being ignored." He said one area of certification relates to a requirement to meet certain ink and registration specifications. He explained that means that an image must be printed in a certain location on the ballot on the front and back, because both sides are scanned simultaneously and the image has to line up perfectly. Another area of certification is the cutting of the ballots. The quality of the ballot and the machinery is what is certified.

8:48:14 AM

REPRESENTATIVE FAIRCLOUGH, in response to a remark by Representative Johnson, concurred that the attorney general should be involved if Alaska does not have support for a system in which it has invested.

8:48:42 AM

REPRESENTATIVE GRUENBERG said he thinks this problem is solvable, and he hopes the committee will allow Representative Fairclough to proceed as she has suggested rather than offering the conceptual amendment previously discussed by Representative Johnson [but not offered].

REPRESENTATIVE JOHNSON said he would not move to adopt an amendment today in deference to the bill sponsor.

VICE CHAIR ROSES announced that HB 406 was heard and held.

HB 396-INCREASE 2008 PERM. FUND DIVIDEND

8:49:53 AM

VICE CHAIR ROSES announced that the next order of business was HOUSE BILL NO. 396, "An Act relating to and increasing the amount of the 2008 permanent fund dividend; and providing for an effective date."

8:50:49 AM

REPRESENTATIVE BILL THOMAS, Alaska State Legislature, presented HB 396 as prime sponsor. He paraphrased the first paragraph of the sponsor statement, which read as follows:

The high cost of fuel is affecting everyone, and it is hitting Alaska particularly hard. Our state contributes a significant amount of natural resources to the nation, yet we still pay some of the highest prices for fuel. Soaring fuel costs translate into high prices for groceries, building materials, and all other goods. Families are being forced to chose between putting gas in their vehicles or food in their mouths. If these kinds of hardships continue without relief, it will force many families to leave the state for a lower cost of living.

REPRESENTATIVE THOMAS noted as a point of reference that the cost of electricity in Haines ranges from 22 to 58 cents per kilowatt, while the cost is 8.5 cents in Juneau and 8 cents in Anchorage and Wrangell. He pointed out that there is a handout in the committee packet showing the cost of gas around the state.

[8:52:58 AM](#)

REPRESENTATIVE THOMAS said the proposed bill would treat everyone, rich or poor, equally, [by increasing the amount of the 2008 permanent fund dividend (PFD) check by \$500 per recipient]. He said the price of oil is currently \$107 dollars a barrel, and at 700,000 barrels, massive amounts of money are going into the state's coffers, up to \$3.6 billion in savings. Some of that savings should be shared with the people of Alaska, he opined.

REPRESENTATIVE THOMAS said the Alaska's Clear and Equitable Share (ACES) bill read, "It is the intent of the legislature that the legislature will responsibly invest the amount received after December 31, 2007, as a result of this enactment of this Act that exceeds the amount that would have been received." He said the language in that bill lists intended appropriations, including "statewide energy needs of Alaskans to assist with grave, rising energy costs." He stated, "I have not seen a bill around that addresses that equally to everybody."

[8:55:53 AM](#)

TIM JOYCE, Mayor, City of Cordova, testified in support of HB 396. He echoed the bill sponsor's statement that energy costs are becoming a major expense for families in Alaska today, far outstripping inflation in the state. He listed the following prices in Cordova: propane, \$4.10 a gallon; fuel oil for home heating, as of 3/7/08, \$4.38 a gallon; stove oil used in certain furnaces for home heating, \$4.49 a gallon; gasoline, \$4.43 a gallon; and Mr. Joyce's own electric bill for one month, \$218 for 667 kilowatts of energy. He said it is difficult to make compensation for the price of energy when it rises so rapidly.

[8:58:31 AM](#)

VICE CHAIR ROSES noted that the next person to testify, Paul D. Kendall, had sent numerous pages of information to the committee by facsimile, and he asked Mr. Kendall to focus on his position regarding the PFD and "what that \$500 would look like."

8:59:06 AM

PAUL D. KENDALL, stated that he is concerned that the legislature and the general public is not aware of what is happening behind the scenes with "some of these companies." He spoke of a full-page advertisement placed by BP to build the first hydrogen power station in Scotland, which would serve 250,000 homes, and he said there is no reason that that could not be built in Alaska. He emphasized the importance of ensuring that future generations will be aware of and involved in state of the art [energy sources].

MR. KENDALL said, as stated in his letter [dated 3/10/08], that he would favor the money [proposed through HB 396], but indicated that he would like to see it spent in "some smart way." He listed some examples, such as: the Susitna Dam Project, Tom Staudenmiers' all-Alaskan owned "Grid Network Consolidation proposal," weatherization and conservation outlays, and rural energy subsidies. He stated, "When you look at all of these things combined, energy is so large I just don't see how you cannot address this in some [Alaska Gasline Inducement Act] (AGIA)-type hearing, where everybody comes on board as quickly as possible. I think time is of the essence here."

9:01:10 AM

MR. KENDALL said the projected number of PFD checks for 2007 is 604,149, and, multiplied by \$500 each, the total cost would be approximately \$300 million. Continued for a three-year period, the amount would be about a billion dollars. He said most people don't realize that out of an entire energy bill, only 11-15 percent is applied to distribution costs, while 65-80 percent of it goes to the feed stock provider, which Mr. Kendall posited "provides no incentive for them to be taken into account or for the political leaders to plan for the energy which I think has to have a new direction."

MR. KENDALL said [the proposed legislation] is well-intended, but indicated that he has another suggestion. He stated that a properly functioning free enterprise system is supposed to adjust itself by natural market means in the commercial, institutional, industrial, and military application. He explained his concern is that there is no way for a single family home to absorb those costs. He talked about the factors that negatively affect society.

MR. KENDALL suggested that the state could use the aforementioned \$300 million to "put in enough megawatts" to serve somewhere in the area of 150,000 homes with electricity for 25 years. He asked that the committee carefully weigh how it chooses to spend its funds. Mr. Kendall said he would like to see a discussion take place comparable to that which occurred during consideration of AGIA, where "everybody is sworn in and testifies." He emphasized the importance of dealing with the issue of energy.

Mr. KENDALL said if the legislature does decide to pass HB 369 and "disperse the \$500," he would like to see check-off boxes at the bottom [of the PFD application] asking everyone if he/she would like to give that money to another cause, and, if so, how much? He indicated that he would give his \$500 toward the purchase of one of many energy products. If 1,000 PFD applicants did the same, he said, that would be a half million dollars. He outlined other details of his vision to create a people's co-op of some type, allow remote villagers to apply for a [wind] turban, and apply the energy only to the single family home, which Mr. Kendall characterized as "the foundation of all of our society." He continued:

It's the home and the rental. Everything that you have, ladies and gentleman - everything - comes from those two structures; they are the foundations of all society. And before you can get to that, you have to have the air, ... water, and energy. So, the energy is, in essence, a fundamental erosion of that which begets you everything else. Those oil companies cannot sell the oil, without having a society which represents thousands of communities like ours. It is on that on which they bring these huge increases, so you have to stop that assault right now.

MR. KENDALL offered to send more information to the committee pertaining to alternative energy sources. He concluded, "If you address this issue, you, ladies and gentlemen, will portend the next structure of the next society which is going to come one way or another."

[9:06:41 AM](#)

REPRESENTATIVE THOMAS related that there is an energy bill currently before the Senate Finance Committee, which proposes the renewable energy that Mr. Kendall is promoting.

9:07:36 AM

VICE CHAIR ROSES closed public testimony.

9:07:51 AM

REPRESENTATIVE THOMAS reminded the committee that HB 396 is a one-year, one-time bill. He said, "Hopefully we'll find a permanent solution that will treat everybody equitably." In response to a question from Representative Coghill, he confirmed that it is not his intention to create an additional dividend every year.

REPRESENTATIVE COGHILL warned there is always a danger in offering something like this once, then finding it difficult not to do it again.

9:09:10 AM

REPRESENTATIVE GRUENBERG pointed out a typographical error - an incomplete sentence - in the analysis portion of the fiscal note prepared by the Permanent Fund Dividend Division, dated 3/3/08.

9:09:59 AM

JERRY BURNETT, Director, Administrative Services Division, Department of Revenue, in response to Representative Coghill, said the department believes that the appropriation required for HB 396 would be \$305 million.

REPRESENTATIVE COGHILL asked Mr. Burnett how much the permanent fund earned and what is now available for appropriation from those earnings.

MR. BURNETT responded:

I don't have the exact numbers with me. [The] last financial statement I looked at ... was ... somewhere around the \$4 billion range there. The realized earnings, which [are] what the dividend is calculated on, were - from ... July 1, 2007, through January 31, 2008 - about \$2.2 billion.

REPRESENTATIVE COGHILL explained that he is trying to figure out the annual earnings compared to the amount available for appropriation - "what that \$300 million-plus is going to leave

as a whole there." He mentioned inflation-proofing and the PFD, and he asked Mr. Burnett to help him understand "in big chunks, what that looks like."

MR. BURNETT replied that "in big chunks," regular dividends are approximately \$1 billion this year, based on likely calculations; realized earnings are, year-to-date, in excess of \$2 billion; and the earnings reserve is in the neighborhood of \$4 billion. He added, "So, I don't think this has any effect; it should not create a concern at this point." He explained, "Even though market earnings are down, realized earnings are not down, necessarily, ... and that's where you get your earnings reserve and your ability to pay dividends."

REPRESENTATIVE COGHILL said, "Normally, we are depositing money into the fund on a consistent basis for inflation proofing." He offered his understanding that "normally that's short of a billion dollars."

MR. BURNETT said he does not know what the amount will be this year, but it will be based upon inflation and will probably be in excess of \$1 billion.

[9:12:43 AM](#)

REPRESENTATIVE JOHNSON said he knows there is a calculation by which the PFD is figured out, and he asked how the \$305 million appropriation would affect future dividends.

MR. BURNETT responded that what the future earnings will be is unknown, but paying a larger dividend this year would have an effect on all future dividends. The effect to each dividend would be in the \$10-\$20 range, he estimated.

[9:14:10 AM](#)

VICE CHAIR ROSES asked Mr. Burnett to confirm that a one-time increase in the amount of the PFD, if sourced from surplus money deposited once to the permanent fund in the amount of \$305 million, would have no effect on future dividends.

MR. BURNETT confirmed that's correct.

[9:15:25 AM](#)

REPRESENTATIVE COGHILL referred to [the analysis section of the fiscal note prepared by Ellie Fitzjarrald, Director, Public Assistance, dated 3/3/08], which read as follows:

This legislation increases the 2008 Permanent Fund Dividend by \$500 in recognition of the recent increase in energy costs. The additional \$500 payment will be funded by transfers from the earnings reserve account to the dividend fund.

The Food Stamp, Social Security Supplemental Income (SSI), and Adult Public Assistance (APA) programs count the Permanent Fund Dividend (PFD) as income in determining whether a person or household qualifies for benefits. PFD money that is not spent and is kept after the month of receipt is also considered an available asset (cash on hand or money in the bank) for program applicants.

REPRESENTATIVE COGHILL asked, "Are all of those in the hold harmless, or only part of them?"

ELLIE FITZJARRALD, Director, Division of Public Assistance, Department of Health and Social Services, responded as follows:

People who receive Adult Public Assistance and [Social Security Supplemental Income] (SSI) are also held harmless, but the permanent fund dividends have been high enough in the last few years that all of their benefits are hold harmless. So, this additional \$500 payment, the one time for this fiscal year, would not add additional hold harmless expenditures to them, because ... the PFDs are high enough that they're already put on the hold harmless program.

REPRESENTATIVE COGHILL said the cost is picked up by the state "for the hold harmless." He asked, "So, what would be the anticipated level under this condition?"

MS. FITZ explained as follows:

What happens is that their benefits that are currently general fund are replaced with the hold harmless benefit that is paid for with the ... earnings of the permanent fund; so, it's that special appropriation in statute. ... So, there is no additional general fund cost or savings, if that's what you're asking.

REPRESENTATIVE COGHILL responded:

But there is a cost to the permanent fund earnings, and so, help me understand what that is. Because we're going to give them \$500, and what is the underside of that? Because we're going to make up the social service benefits with permanent fund earnings money. And so, what I'm trying to see is \$500, plus what?

MS. FITZJARRALD stated:

Our annual permanent fund hold harmless expenditures are about \$12 million for all programs. The reason this fiscal note only ... adds costs for the Food Stamp program is because the ... majority of expenditures are on the Adult Public Assistance and people who are receiving Social Security Supplemental [Income] Benefits .... That hold harmless benefit that they get is already in that \$12 million that we have budgeted for hold harmless. This one-time payment isn't going to add a new hold harmless expenditure for them; we're already replacing their benefit. ... The maximum income a person on SSI can have is \$640, and then when you add the Adult Public Assistance of about \$300 - some receive a little more, some a little less - it's about \$962 a month, the maximum amount of income somebody on APA can have. So, since the PFDs have been lots higher than \$962 a month, we're replacing their benefit already. So, this bill does not affect those expenditures at all, because we're already giving them a hold harmless benefit, because their PFDs are high enough that we have to replace it entirely now.

REPRESENTATIVE COGHILL offered his understanding that the aforementioned \$12 million is what it takes to pay the federal government back. He estimated that would equal approximately \$3-\$4 off of each Alaskan's PFD check.

MS. FITZJARRALD suggested that Mr. Burnett could answer questions regarding the amount of each PFD that goes towards the payment of the hold harmless expenditures. She related that those expenditures have significantly reduced the caseload for the "temporary assistance families."

[9:20:22 AM](#)

REPRESENTATIVE DOLL said she does not favor a discretionary fund. She stated that she would rather see the money go to those who really need it rather than across the board.

[9:21:22 AM](#)

REPRESENTATIVE COGHILL said the need is there; people on fixed incomes are enduring huge pressure these days. Some people may misuse the proposed \$500 boost to their PFD check, but those in duress would not, he predicted. He commented that handing out money to everyone could increase the money coming back into communities; however, he stated that it is true that a shot in the arm makes people think things are better than they actually are. He stated, "At this point, with all the bills in play in this legislature, I think this is one solution that needs to move forward."

[9:23:59 AM](#)

REPRESENTATIVE GRUENBERG said both previous speakers have expressed some of his concerns. He noted that during a community council meeting in his district, several people asked about the bill, and he thinks the idea of getting an extra \$500 is a popular one. However, he stated, "Cracking open the egg is hard once the egg is cracked."

[9:25:20 AM](#)

REPRESENTATIVE JOHANSEN echoed the sentiment of Representatives Coghill and Gruenberg that "once this gets out" there is the possibility that the legislature could lose control over the appropriation. He said he thinks there are other programs through which the legislature can appropriate money to help those in need. Furthermore, the money could be used to support "facilities that will take care of the cost of energy permanently." He said he would not hold up the bill, but he expressed concern about writing checks to people 50 years down the road for those who cannot afford energy, when the problem could have been addressed now.

[9:27:20 AM](#)

REPRESENTATIVE JOHNSON concurred with Representative Coghill that the bill should pass out of committee to "be part of the discussion" and "part of the mix"; however, he expressed concern

that voting raises for citizens is "just the first step to the downfall of democracy."

[9:28:14 AM](#)

REPRESENTATIVE COGHILL said there are several things he thinks the committee needs to keep in mind: First, a big chunk of the state's money comes from the oil industry, and the permanent fund has been a success story of how to turn a nonrenewable source into a renewable one. Next, he said the amount of money going to the needy of Alaska through Welfare and health care has "crested \$2 billion" since he has served in the legislature. The number of the recipients of that money "fall[s] short of 200,000." He said there could be an argument that by giving the people of Alaska an extra \$500 each, the legislature could be "subsidizing the things that we want to stop." Also, he said paying out \$500 could open a discussion of whether or not the earnings of the permanent fund should "ever only be used for personal income uses." He warned that there could be federal problems on taxation. Last, he said the legislature is significantly "matching" a low-income heating assistance program from the federal government, which is a huge benefit.

REPRESENTATIVE COGHILL clarified that he had said the bill should go forward to put pressure on the legislature to determine if it will take care of those with the greatest need first. He said this issue needs to propel the discussion of "hydro issues," because if hydro power can be delivered to greater portions of Alaska, everybody in the state will benefit. He said the legislature has tried to "equalize out some of those things through several state programs," but must invest in lower-cost energy in the state. He reiterated that although giving \$500 would be like giving a man a fish instead of teaching him to fish, it would be a shame for the legislature to sit on \$4 million and make no investment. He said he would like to see discussion of HB 396 push forward the discussion of the previously mentioned alternative energy bill currently in the Senate Finance Committee.

[9:32:34 AM](#)

REPRESENTATIVE COGHILL moved to report HB 396 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 396 was reported out of the House State Affairs Standing Committee.

SB 253-MEMBERS OF THE BOARD OF GAME

[9:32:47 AM](#)

VICE CHAIR ROSES announced that the last order of business was SENATE BILL NO. 253, "An Act relating to the appointment of members of the Board of Game; and providing for an effective date."

[9:33:09 AM](#)

JODY SIMPSON, Staff, Senator Charlie Huggins, Alaska State Legislature, introduced SB 253 on behalf of Senator Huggins, prime sponsor. She said the bill, if enacted, would change the expiration date for the terms for members of the Alaska Board of Game from March 1 to June 30. She said the statute change will accomplish the following: prevent problems that arise from the short time frame for newly appointed board members to prepare for the large regulatory board meetings that occur near the beginning of March, annually; reduce confusion among the public regarding which board member to contact on issues; clarify a time by which appointments to the board should be made; and bring the terms in line with those of the Alaska Board of Fisheries.

MS. SIMPSON said the proposed change will also void problems resulting from having two or three of the seven board members serve in an unconfirmed status during the March meeting each year. She stated, "Few members are aware their March meeting voting record will be examined during their legislative confirmation hearing, and there can be undue scrutiny on a single vote instead of a voting record in overall qualifications." She stated that the proposed adjustment in the term expiration date recognizes the importance of the Alaska Board of Game and the complexity of the issues that come before it.

[9:35:42 AM](#)

REPRESENTATIVE GRUENBERG moved to report SB 253 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SB 253 was reported out of the House State Affairs Standing Committee.

[9:36:14 AM](#)

VICE CHAIR ROSES announced the upcoming committee calendar.

REPRESENTATIVE JOHANSEN announced an upcoming meeting for the subcommittee addressing bill's related to conflict of interest.

**ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [9:37:38 AM](#).