

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON ENERGY

April 7, 2010

7:11 a.m.

MEMBERS PRESENT

Representative Bryce Edgmon, Co-Chair
Representative Charisse Millett, Co-Chair
Representative Nancy Dahlstrom
Representative Kyle Johansen
Representative Jay Ramras
Representative Pete Petersen
Representative Chris Tuck

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 182

"An Act establishing the Greater Railbelt Energy and Transmission Corporation and relating to the corporation; relating to transition, financial plan, and reporting requirements regarding planning for the initial business operations of the Greater Railbelt Energy and Transmission Corporation; relating to a report on legislation regarding the Regulatory Commission of Alaska and the Greater Railbelt Energy and Transmission Corporation; authorizing the Alaska Energy Authority to convey the Bradley Lake Hydroelectric Project and the Alaska Intertie to the Greater Railbelt Energy and Transmission Corporation; and providing for an effective date."

- MOVED CSHB 182(ENE) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 182

SHORT TITLE: RAILBELT ENERGY & TRANSMISSION CORP.

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/12/09	(H)	READ THE FIRST TIME - REFERRALS
03/12/09	(H)	ENE, L&C, FIN
03/26/09	(H)	ENE AT 3:00 PM BARNES 124
03/26/09	(H)	Heard & Held
03/26/09	(H)	MINUTE(ENE)

04/09/09 (H) ENE AT 3:00 PM BARNES 124
 04/09/09 (H) Heard & Held
 04/09/09 (H) MINUTE(ENE)
 03/18/10 (H) ENE AT 3:00 PM BARNES 124
 03/18/10 (H) Heard & Held
 03/18/10 (H) MINUTE(ENE)
 03/23/10 (H) ENE AT 3:00 PM BARNES 124
 03/23/10 (H) -- MEETING CANCELED --
 03/25/10 (H) ENE AT 3:00 PM BARNES 124
 03/25/10 (H) Heard & Held
 03/25/10 (H) MINUTE(ENE)
 03/30/10 (H) ENE AT 3:00 PM BARNES 124
 03/30/10 (H) Heard & Held
 03/30/10 (H) MINUTE(ENE)
 03/31/10 (H) ENE AT 5:00 PM BARNES 124
 03/31/10 (H) -- Continued from 03/30/10 Meeting --
 04/01/10 (H) ENE AT 3:00 PM BARNES 124
 04/01/10 (H) Heard & Held
 04/01/10 (H) MINUTE(ENE)
 04/06/10 (H) ENE AT 3:00 PM BARNES 124
 04/06/10 (H) Heard & Held
 04/06/10 (H) MINUTE(ENE)
 04/07/10 (H) ENE AT 7:00 AM BARNES 124

WITNESS REGISTER

RON MILLER, Energy Consultant
 House and Senate Leadership
 Alaska State Legislature
 Anchorage, Alaska

POSITION STATEMENT: Presented a sectional analysis on the Committee Substitute to HB 182, version P.

BRIAN BJORKQUIST, Senior Assistant Attorney General
 Labor and State Affairs Section
 Department of Law (DOL)
 Anchorage, Alaska

POSITION STATEMENT: Answered a question during the hearing on HB 182.

BRUCE TANGEMAN, Chief Financial Officer
 Doyon Utilities (DU)
 Fairbanks, Alaska

POSITION STATEMENT: Testified during the hearing on HB 182.

ACTION NARRATIVE

[7:11:27 AM](#)

CO-CHAIR CHARISSE MILLETT called the House Special Committee on Energy meeting back to order at 7:11 a.m. Present at the call back to order were Representatives Millett, Ramras, Johansen, Petersen, Tuck, Dahlstrom, and Edgmon.

HB 182-RAILBELT ENERGY & TRANSMISSION CORP.

[7:11:55 AM](#)

CO-CHAIR MILLETT referred the committee to a copy of the sectional analysis for HB 182 prepared by Ron Miller and provided in the committee packet.

[7:12:24 AM](#)

RON MILLER, Energy Consultant, House and Senate Leadership, Alaska State Legislature, informed the committee the Committee Substitute (CS) for HB 182 was significantly different than the previous version. The CS provides for the organization of energy and transmission corporations by interconnected public utilities, authorizes the organization of the Greater Railbelt Energy and Transmission Corporation (GRETC), and authorizes the Alaska Energy Authority (AEA) to contract with energy and transmission corporations to operate AEA power projects. Mr. Miller noted that Section 1 becomes effective 1/31/11 under Section 5, and was contingent on four or more interconnected utilities filing letters of intent under Section 4. Furthermore, this section amends AS 42 to add a new chapter that establishes the purposes, powers, and duties of an energy and transmission corporation as follows: acquire, operate, or maintain AEA projects; plan for, recommend, coordinate, and otherwise address power generation and transmission for the electrically interconnected service territories of member utilities. Version P removes the exemption from Alaska Regulatory Commission (RCA), Department of Commerce, Community, & Economic Development, oversight, thus the new corporations are subject to RCA regulation.

[7:15:23 AM](#)

CO-CHAIR MILLETT asked for confirmation that that RCA regulation and oversight was a permanent addition to the bill.

MR. MILLER said correct. Returning to Section 1, he said the section addresses the organization of the energy and

transmission corporations and includes: purposes of the corporation; composition of the board of directors; conduct of board meetings; corporate officers and employees; corporate membership; articles of incorporation and bylaws; general powers of the corporation. Mr. Miller pointed out major changes in version P: the board of directors has been expanded to include seven public directors in response to public testimony; the public member appointed by the governor can be removed by the governor; by a clarifying forthcoming amendment, the directors shall receive no salary. Proposed Sec. 42.50.040 has no major changes except that that any employee of the new corporation may not be hired within two years of leaving state employment.

[7:20:24 AM](#)

CO-CHAIR MILLETT asked whether there was a definition for "state employee" in statute.

MR. MILLER said yes.

[7:20:55 AM](#)

CO-CHAIR EDGMON referred to page 4, line 12, and asked whether a qualifying statement was needed regarding meeting fees, per diem, and travel expenses that the corporation may pay its directors.

MR. MILLER opined that would be a reasonable addition to the language.

CO-CHAIR EDGMON said he will offer an amendment to that effect.

[7:22:21 AM](#)

MR. MILLER continued to page 9, line 10, and explained that general power paragraph (9) addresses the concern that the corporation would compete with private corporations in natural gas storage, other types of fuel storage, pipeline companies, or oil and gas companies. The language, "may not be procured with state funds" clarifies that the new corporation can not buy state leases or build pipelines to compete with existing pipeline companies, or facilitate natural gas storage in competition with the private sector. Page 10, line 24, paragraph (24) addresses the concern that the new corporation's operating standards could keep independent power producers from connecting to the intertie system, and he recited the new language which read:

Develop operating standards approved by the Regulatory Commission of Alaska that are applicable to all public utilities electrically interconnected to the service territory of the corporation.

MR. MILLER then pointed out that the general power to create subsidiary corporations was deleted.

[7:27:33 AM](#)

CO-CHAIR MILLETT referred to page 10, paragraphs 20 and 23, and asked whether they should also be removed as they relate to the general power to create subsidiary corporations.

MR. MILLER explained that the language in paragraphs 20 and 23 allows an energy and transmission corporation to purchase equipment from outside the state or country, and to acquire licenses for that equipment. He then continued to changes on page 11, beginning on line 23, that provide for the energy and transmission corporation to draft integrated resource plans, long-range fuel supply plans, long-range capital improvement plans, and long-range financial management plans. Language was also added to the CS that the abovementioned plans will be made available to the general public. On page 12, line 29, language was changed so that the corporation may use any financing permitted by law to achieve the purposes of the corporation. He noted that language on page 13, line 3, refers to Alaska Industrial Development and Export Authority (AIDEA) revenue bonds, and is identical to that contained in current joint action agency (JAA) statute. However, the corporation's authority regarding debt was amended due to concerns about establishing a precedent of the state underwriting debt for a private non-profit corporation. On page 13, beginning on line 5, the language clarifies that the state is not going to act to impair the debt of the corporation, but will not guarantee repayment of the corporation's debt. Also on page 13, line 20, he said the additional language should read:

Nothing in that section exempted the corporation from payment of taxes, royalties, or assessments of the state applicable to natural gas storage, fuel pipelines, underground fuel resources, or fuel in other natural storage.

[7:34:46 AM](#)

CO-CHAIR MILLETT asked for clarification.

MR. MILLER re-stated the language should read "or fuel in other storage." The exemption also does not apply to a municipal public utility; for example, payment of applicable municipal utilities' service assessments will not be exempted. On page 14, line 6, proposed Sec. 42.50.190 provides for the right of the general public, members, and ratepayers to examine books and records of the corporation. On page 18, line 5, the effective date was changed to December 31, 2010, in order to allow AEA to promulgate regulations. Mr. Miller opined Sec. 4 is very important to the bill because the effective date is contingent on Sec. 3 and Sec. 4; in fact, the bill will not take effect unless four or more of the Railbelt utilities deliver a letter to AEA meeting certain criteria established in regulation by AEA. Furthermore, the membership date was moved to January 31, 2011. On page 18, line 27, language was changed to reflect that Sec. 1, regarding the review of continued RCA oversight, was removed and the effective date was changed to January 31, 2011.

[7:41:42 AM](#)

REPRESENTATIVE TUCK referred to page 4, line 12, and recalled version A limited payments to directors for meeting fees, per diem, and travel expenses. He asked why was this provision was removed.

MR. MILLER assumed the restriction was removed to "allow the corporation to act more like a corporation."

REPRESENTATIVE JOHANSEN pointed out Mr. Miller's commendable work ethic.

[7:43:35 AM](#)

REPRESENTATIVE TUCK returned attention to page 5, lines 21-23 and asked whether an employee of a member utility could serve as chief executive officer.

MR. MILLER said there was no prohibition on that.

[7:44:43 AM](#)

CO-CHAIR EDGMON surmised shareholders of a member utility would not allow an employee to have two jobs.

MR. MILLER agreed that the CEO would become a sole employee of the new corporation. Furthermore, the utilities may have restrictions on previous employees' employment.

[7:45:52 AM](#)

REPRESENTATIVE TUCK asked for the type of member benefits that are referred to on page 6, line 6.

MR. MILLER stated that the benefits are not employment benefits, but are benefits and services that the energy and transmission corporation provides to its utility members.

[7:46:53 AM](#)

REPRESENTATIVE TUCK assumed the benefits could include corporate insurance benefits.

MR. MILLER agreed, adding that the legislature would not want to prevent the corporation from participating in an insurance pool.

[7:47:47 AM](#)

CO-CHAIR MILLETT invited the committee to offer amendments and follow-up comments.

CO-CHAIR EDGMON moved Amendment 1.

REPRESENTATIVE JOHANSEN objected for the purpose of discussion.

CO-CHAIR EDGMON explained Amendment 1 replaces the words "may not receive a" with "shall receive no" on page 4, line 12. He said the purpose is to clarify that directors are unable to receive a salary.

REPRESENTATIVE JOHANSEN removed his objection. There being no further objection, Amendment 1 was adopted.

[7:50:12 AM](#)

CO-CHAIR EDGMON offered Conceptual Amendment 2.

CO-CHAIR MILLETT objected for the purpose of discussion.

CO-CHAIR EDGMON said Conceptual Amendment 2 inserts "reasonable" before "meeting fee" on page 4, line 13.

REPRESENTATIVE MILLETT removed her objection. Hearing no further objection, Conceptual Amendment 2 was adopted.

[7:50:50 AM](#)

REPRESENTATIVE PETERSEN offered Amendment 3.

REPRESENTATIVE JOHANSEN objected.

REPRESENTATIVE PETERSEN said Amendment 3 would allow persons whose only employment with the state is through a military organization, to be employed by the corporation.

[7:52:18 AM](#)

BRIAN BJORKQUIST, Senior Assistant Attorney General, Labor and State Affairs Section, Department of Law (DOL), in response to Co-Chair Millett, said he was unsure whether National Guard members are considered state employees.

[7:53:33 AM](#)

REPRESENTATIVE PETERSEN asked whether there was a definition of "state employee" in statute.

[7:53:40 AM](#)

CO-CHAIR EDGMON suggested that this question could be addressed by the next committee of referral.

[7:54:15 AM](#)

REPRESENTATIVE PETERSEN asked Legislative Legal and Research Services, Legislative Affairs Agency, to provide an answer to his question. He withdrew Amendment 3.

[7:54:32 AM](#)

CO-CHAIR MILLETT informed the committee of an amendment that allows [Doyon Utilities] to form within GRETC. She said the amendment will be forwarded to the House Standing Committee on Labor & Commerce with the bill.

[7:55:43 AM](#)

The committee took an at-ease from 7:55 a.m. to 7:57 a.m.

[7:57:43 AM](#)

BRUCE TANGEMAN, Chief Financial Officer, Doyon Utilities (DU), informed the committee DU was representing the Army. He referred to page 6, lines 9-10, and said after "corporation" the amendment replaces "if approved by a two thirds majority vote of the board" with "upon application for membership." Also on page 6, line 11, after "be" the amendment replaces "a municipal or cooperative" with "an" which will open the membership to any electric utility interested in joining. Further on page 6, line 17, after "(c)" the amendment replaces "an affiliated electric utility" with "any other entity" may become "an affiliate member" and adds after "section," "but shall have no representation on the board of directors in accordance with AS 42." On line 19, after "(d)" the amendment replaces "a" with "any." Continuing to page 7, line 1, Mr. Tangeman advised that after "remain" the amendment adds "(a)n affiliate," and on page 7, line 7, after "board" the amendment adds "as of the effective date of the withdrawal." The amendment also adds the following subsection: (h) Notwithstanding the foregoing provisions, the corporation, by a majority vote of the board, may waive any notice periods in this section. On page 16, line 14, the amendment removes the municipal or cooperative requirement and opens the provision to any electric utility. Finally, on page 17, after line 18, and on page 18, after line 16, the amendment adds a seventh utility, Doyon Utilities, LLC.

[8:01:10 AM](#)

CO-CHAIR EDGMON did not express an opinion on the amendment, but he supported passing the amendment to the next committee "so they can have a larger discussion [that] I think is warranted."

[8:02:02 AM](#)

REPRESENTATIVE DAHLSTROM said she was willing to send the amendment to the next committee, or incorporate a conceptual amendment; however, she opined it was vital to include the Army.

[8:03:00 AM](#)

CO-CHAIR EDGMON pointed out there may be outstanding questions; in fact, including the amendment now would be without a full understanding of the ramifications.

[8:03:28 AM](#)

REPRESENTATIVE DAHLSTROM said she would not make a motion.

[8:03:41 AM](#)

CO-CHAIR MILLETT advised that the next committee will have the amendment on its agenda.

[8:03:54 AM](#)

REPRESENTATIVE TUCK stated he had no opposition to DU participating as "one of the seven, I suppose, but I'm not sure if I'm comfortable with them being one of the four minimum [needed] to require the [formation of the] corporation." Also, he opined the affiliated members should be limited in scope to utilities.

[8:05:05 AM](#)

REPRESENTATIVE DAHLSTROM pointed out that the military and DU have created a utility.

[8:05:17 AM](#)

REPRESENTATIVE TUCK agreed that the military and DU are an electric utility; however, the amendment replaces "affiliated electric utility" with "other entity."

[8:06:15 AM](#)

REPRESENTATIVE JOHANSEN expressed confidence that this issue will be addressed by the next committee. Furthermore, he reminded the committee of its choices on the "individual recommendations" document.

[8:07:09 AM](#)

CO-CHAIR EDGMON noted the presence of the House Labor and Commerce Committee chief of staff.

[8:07:23 AM](#)

REPRESENTATIVE PETERSEN recalled that the committee has not heard comments from the other utilities regarding DU's proposed participation in GRETC.

[8:07:44 AM](#)

CO-CHAIR MILLETT agreed, and expressed her disappointment with the lack of attendance by the utilities at the hearings; in fact, only three have given testimony. She said the committee has not heard from Golden Valley Electric Association, Homer Electric Association Inc., or Anchorage Municipal Light & Power. She questioned whether there is a need for the bill since comments have not been received by three of the affected utilities. Co-Chair Millett welcomed the participation by DU "so we could have the assurances that ... the governor's bill is actually going to do something." She closed public testimony.

[8:10:28 AM](#)

CO-CHAIR EDGMON moved to report the Committee Substitute for HB 182, version P, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 182(ENE) was reported out of the House Special Committee on Energy.

[8:10:51 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Energy meeting was adjourned at 8:10 a.m.