

HOUSE FINANCE COMMITTEE
April 3, 2009
1:36 p.m.

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CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 1:36 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Bill Thomas, Jr., Vice-Chair
Representative Allan Austerman
Representative Harry Crawford
Representative Anna Fairclough
Representative Richard Foster
Representative Les Gara
Representative Reggie Joule
Representative Mike Kelly

MEMBERS ABSENT

Representative Woodie Salmon

ALSO PRESENT

Representative Kathy Munoz, Sponsor; Deven Mitchell, Executive Director, Alaska Municipal Bond Bank Authority, Department of Revenue; Wayne Jensen, Jensen, Yorba, & Lott, Inc., Juneau; Remond Henderson, Deputy Director, Division of General Services, Department of Administration; Ben Mulligan, Staff, Co-Chair Bill Stoltze; Karen Lidster, Staff, Representative John Coghill; Representative Beth Kerttula

PRESENT VIA TELECONFERENCE

Jeff Jessee, Chief Executive Officer, Alaska Mental Health Trust Authority

SUMMARY

HB 161 "An Act relating to the Alaska Mental Health Trust Authority Support Office Building; authorizing the issuance of certificates of participation for construction of the building and authorizing the use of up to \$25,000,000 from the mental health trust fund for construction of the building; approving leases of all or part of the building by

the Department of Administration; and providing for an effective date."

CSHB 161 (FIN) was heard and HELD in Committee for further consideration.

HB 121 "An Act relating to a municipal property tax credit for an improvement that aids in improving air quality."

CSHB 121 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with zero fiscal note #1 by the Department of Commerce, Community and Economic Development.

[1:36:32 PM](#)

#hb161

HOUSE BILL NO. 161

"An Act relating to the Alaska Mental Health Trust Authority Support Office Building; authorizing the issuance of certificates of participation for construction of the building and authorizing the use of up to \$25,000,000 from the mental health trust fund for construction of the building; approving leases of all or part of the building by the Department of Administration; and providing for an effective date."

REPRESENTATIVE KATHY MUNOZ, SPONSOR, requested that Deven Mitchell present information on Certificates of Participation (COP's).

DEVEN MITCHELL, EXECUTIVE DIRECTOR, ALASKA MUNICIPAL BOND BANK AUTHORITY, DEPARTMENT OF REVENUE, described how the Alaska Mental Health Trust (AMHTA) assets currently invested in the Permanent Fund would be used in combination with state COP's in a favorable partnership to fund a new office facility on land the Trust owns in Juneau. The state would provide a title interest lease to a trustee bank for the COP's. He described the way the lease would be divided into blocks that are equivalent to \$5,000 bonds which are sold to individual investors. It is a "subject to appropriation" commitment. He continued to discuss the pricing of the bonds.

Mr. Mitchell related that the expectation is that the bonds would receive an AA rating. Currently, the interest rate on general obligation bonds is 4.04 percent. He discussed market conditions.

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Co-Chair Stoltze asked which of the Mat-Su projects were sold. Mr. Mitchell reported that there was a cash flow issue. For the bonds sold in 2003 for transportation projects, about 7 percent was spent. The project would eventually be fully funded.

Mr. Mitchell commented further about the COP's and talked positively about the partnership. He said it was a good opportunity for the state to meet its mission to provide adequate space for state employees and an opportunity for the AMHTA to meet its mission. Use of the state's credit for a portion of the funding would benefit the transaction.

Co-Chair Hawker voiced appreciation for the high level of liquidity. He asked Mr. Mitchell, as the state debt manager, if he was comfortable with this legislation. Mr. Mitchell agreed that it was a policy decision as to how the project might be funded, and said there would be no detriment to the state's credit rating by the use of the COP's.

Mr. Mitchell commented on COP's, the rating reports, and the low debt burden of the state. He talked about percentage of unrestricted revenue. A large portion of revenue is not derived from the state. The revised forecast for FY 10 at \$56 per barrel would be just over 5 percent as a percentage of unrestricted revenue for state supported debt service. He gave examples.

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Co-Chair Hawker summarized that the debt increment would not be detrimental to the state and the state would not suffer in its credit rating. Mr. Mitchell agreed.

Co-Chair Hawker inquired if there was a better mechanism or way to structure this proposal than a 50/50 debt equity using COP's. Mr. Mitchell replied that the only way to get a lower interest rate would be to sell general obligation bonds. For state supported financing, COP's are best because they are understood by those outside of Alaska. He used the Mat-Su Borough as an example of outsiders being unfamiliar with the area's bonds.

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Co-Chair Hawker asked what the difference between general obligation bonding and COP debt was. Mr. Mitchell explained that general obligation bonds cannot be issued in this instance because it would require a statewide election.

Co-Chair Hawker stated that the advantage of going with COP's is the timing. Mr. Mitchell agreed.

Co-Chair Hawker pointed out that it is presumed that the public would have the option to weigh in on general obligation bonds. He wondered of the use of COP's circumvents that process. Mr. Mitchell related that a Supreme Court ruling allows for COP financing. He discussed the disadvantages of using general obligation bonds.

Co-Chair Hawker wondered if using COP's is a way of getting around needing the entire state's approval of a local project. Mr. Mitchell said that was correct.

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Co-Chair Hawker asked if this process is circumventing the people's right to have a say as to where the state makes capital investments. Representative Munoz emphasized that this process is addressing a need. She used the prison as an example, which allowed the state to move prisoners back to Alaska. She listed the benefits of this project: it is a top priority of the AMHTA, it provides a long-term revenue stream for the beneficiaries of the Trust, and it meets the critical space needs in Juneau.

Co-Chair Hawker concluded that the legislature has to make a call in the public's interest.

Co-Chair Hawker asked Mr. Mitchell what "the price to be paid" was. Mr. Mitchell explained that in today's market, a subject to appropriation credit, versus a general obligation credit, would be in the range of 25 to 50 basis points, depending on the day. That is going to change from market to market. He questioned if this issue should come to a vote. It is in the interest of the state to accomplish that project rather than create a large capital budget of projects that might not be "on the same plane" as the project that is being proposed.

Co-Chair Hawker called it strategic and surgical. He pointed out that "25 to 50 basis points" is a quarter to a half percent difference in the rate the state would be paying on the debt. Mr. Mitchell agreed. Co-Chair Hawker asked what a good rate might be. Mr. Mitchell offered to do the math.

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Co-Chair Hawker related that the mechanics of the bill are rigid due to the 50/50 ratio of debt to equity. He inquired if there would be an advantage in the market if there was more flexibility. He gave a hypothetical example of 75 percent debt equity. Mr. Mitchell agreed that flexibility is always an advantage. He thought the real benefit was that there was an equity position in the project. There is

a commitment to provide equity in the legislation, which allows creditors to feel more comfortable.

Co-Chair Hawker asked if there was anything else that would enhance the bargaining position when approaching the markets. Mr. Mitchell thought that additional flexibility in the amount, rather than in the participation levels, might be an advantage. If there is a cost override, flexibility would be built in.

Co-Chair Hawker thought that might be looked at. He wondered how significant that issue might be. Mr. Mitchell thought it was unlikely that the flexibility would be more attractive to the market. Co-Chair Hawker pointed out that if it doesn't work, it would be another year before it could be taken up again.

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Mr. Mitchell emphasized it is the "market of the day" that is more important. Co-Chair Hawker shared that he had found his own comfort zone. He noted that this amount is not large on Wall Street.

Co-Chair Stoltze thought there might be more awareness recently regarding Mat-Su issues.

Representative Kelly brought up the prison issue and asked for a response about prison debt financing timing. Mr. Mitchell thought the legislative discussion on the project did not change the timing of the financing.

Co-Chair Stoltze did not like COP's and thought that they should be used infrequently.

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Co-Chair Hawker said it appears that the construction cost on the project would be about \$300 per square foot. Typical commercial grade costs are generally \$500 - \$600 per square foot. He concluded that it was a mid-grade building. He wondered if it was under-designed.

Representative Munoz agreed that the square footage estimate was about \$315. However, it does not include the price of land, which was donated.

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WAYNE JENSEN, JENSEN, YORBA, & LOTT, INC., JUNEAU, explained that the cost estimates, done by a professional cost estimating firm in Anchorage, were based on the conceptual design, the site development costs, and comparisons of similar projects built in the state. The wide range of

costs depends on many factors. His company gave criteria based on space standards, size of building, and date of construction, and the estimating firm came up with a reasonable cost estimate. The Trust came up with "soft costs" or development costs. He concluded that the costs are reasonable and construction costs are favorable right now.

Co-Chair Hawker agreed with the timing.

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Co-Chair Hawker asked what the state is getting for its money. He requested a life quality comparison.

Mr. Jensen reported that he researched "class of space" because of a previously-asked question. He found it to be an ill-defined term because it tends to depend on a comparison with other projects in the community, the age of the buildings, the tenant, and the finish materials, as well as use of space. This building follows the Alaska Space Standards, which are not generous. The building is efficient and functional, with not a lot of wasted space.

Mr. Jensen explained that the building would be made of structural steel, have a good life expectancy, be energy efficient, have good internal environmental conditions, and have life-safety systems. It would be long-term, requiring little maintenance, and be energy efficient. It would be functionally efficient, as well.

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Co-Chair Hawker summarized that class designations are a function of the real estate industry. Mr. Jensen agreed.

Co-Chair Hawker termed the building low on the opulent scale. Mr. Jensen agreed. Co-Chair Hawker asked if the building was designed for flexibility. Mr. Jensen reported that was a high priority and was reflected in the state's space standards.

Co-Chair Hawker asked if the project was over or under-designed and if it would fit into the community's portfolio. Mr. Jensen thought it would fit into the city's and the state's portfolios. Design codes have changed and the building will have modern features not found in current office buildings.

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Co-Chair Hawker noted that the proposal was quite rigid. He asked Mr. Jensen how high his cost overrun anxiety was. Mr.

Jensen reported that there are contingencies built into the project: time, budget, and space requirements.

Representative Crawford recalled pictures of early Juneau when all the buildings had pitched roofs. After WW II the trend was for flat roofs that leaked. He wondered what the roof would be like on the new building.

Mr. Jensen thought it would be a low, sloped roof with a membrane. He shared the difficulties of having a sloped roof on such a large building. A large consideration is the snow/rain damage potential. Those factors will all be considered.

Representative Crawford suggested designing a building with sloped roofs.

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Co-Chair Hawker addressed the "lease or buy" question. He discussed square foot modeling which, for this building, is \$4.07 per square foot. He wondered about alternatives such as leased space elsewhere in the state or in the community.

Representative Munoz reported that the most recent estimate was \$3.50 per square foot and would probably be less than that. For all state-leased facilities, the market rate does not take into account the investments Alaska must make to come up to code. She noted that extensive examples of this were included in the estimate. She mentioned the Frontier Building in Anchorage, which leases for about \$3 per square foot. The state had to invest about \$1 million to bring the facility up to standards.

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Co-Chair Stoltze requested information about the fiscal notes.

Mr. Mitchell reported that the fiscal note from the Department of Revenue contains an appropriation required for debt service and cost of issuance for FY 10 for \$1,001,500 and debt service in FY 11 through the balance of the fiscal note for \$1,866,000 per year based on a 20-year certificate of participation being issued at a rate of 5.5 percent.

Co-Chair Stoltze reported on the Department of Administration fiscal note. Mr. Mitchell noted that there would be two separate leases. He discussed the possibility of deferring the fiscal impact in FY 10.

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Co-Chair Hawker noted a third fiscal note from the Department of Natural Resources. He thought the RDU leases on the Department of Administration's fiscal note made sense. It is \$1.3 million out of general funds for contractual services (paying the rent) beginning in FY 2013. He commented that the Department of Revenue's fiscal note expenditure is debt service in the out years and questioned the source of funds. He wondered if they were general funds. Mr. Mitchell reported that they were general funds subject to appropriation. He did not want the funds to "float through another agency".

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Co-Chair Hawker addressed the Department of Natural Resources (AMHTA) fiscal note to support debt service. He asked for further clarification.

AT-EASE: [2:31:17 PM](#)

RECONVENED: [2:40:18 PM](#)

JEFF JESSEE, CHIEF EXECUTIVE OFFICER, ALASKA MENTAL HEALTH TRUST AUTHORITY, offered to answer questions.

Co-Chair Hawker asked if Mr. Jessee could address the fiscal notes. Mr. Jessee reported on his understanding that the Department of Natural Resources fiscal note funded the actual operations and maintenance costs of the building. Co-Chair Hawker related that the fiscal note shows a change of revenues of \$5.7 million per year for the Mental Health Lands Administration beginning in FY 2013. He pointed out that the Department of Administration leases, the tenant, is spending only \$1.3 million.

Mr. Jessee could not answer the question without viewing the fiscal notes.

Co-Chair Hawker explained that it shows MHTAAR paying a contractual expense of \$1.5 million to the general fund to pay the debt service. His concern was that the Department of Administration is only paying \$1.3 million.

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REMOND HENDERSON, DEPUTY DIRECTOR, DIVISION OF GENERAL SERVICES, DEPARTMENT OF ADMINISTRATION, reported that rent funds will also be received from the leasing of commercial space, which may account for the difference. Co-Chair Hawker needed assurance in the matter. Mr. Henderson clarified that the amount that the Department of Administration would be paying in FY 13 is \$5.4 million; in FY 14 it is \$5.424; in FY 15, \$5.450; in FY 16, \$5.476. He thought the money beyond the \$5.4 million amount would be

from commercial leases. Co-Chair Hawker wondered why that was not reflected in the cover sheet.

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Mr. Mitchell explained that the amount reflected in the cover sheet is the difference between what would be paid under the status quo versus moving into the new building.

Co-Chair Hawker asked if \$300,000 was the anticipated amount of commercial rent revenue.

Mr. Jessee did not know if that was the anticipated commercial space revenue.

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Representative Munoz recalled that it was anticipated rental revenue. She also recalled \$20,000 per year in property tax. She suggested having confirmation from Mr. Noah.

Co-Chair Hawker suggested setting the bill aside until the fiscal notes are cleared up. Co-Chair Stoltze agreed.

Co-Chair Hawker requested further information about the interrelationship of the fiscal notes.

HB 161 was heard and HELD in Committee for further consideration.

[2:48:51 PM](#)

#hb121

HOUSE BILL NO. 121

"An Act relating to a municipal property tax credit for an improvement that aids in improving air quality."

Vice-Chair Thomas MOVED to ADOPT CSHB 121, labeled 26-LS0540\P, Cook, 4/2/09.

Co-Chair Hawker OBJECTED.

BEN MULLIGAN, STAFF, CO-CHAIR BILL STOLTZE, explained three changes in the new CS. The first change is on page 1, lines 5-7, and stipulates that the air quality improvement tax credit only applies to a municipality that has air quality issues with fine particles that are less than or equal to 2.5 micrometers. The second change is that language was removed that set guidelines for how the municipality should award the tax credits. The third change occurs on line 13, and adds a sunset clause on January 1, 2016.

Co-Chair Hawker agreed with the second change, taking out guidelines because it gives municipalities wide latitude to make their own determination as to how they might want to structure such a program. He requested more information about the repeal.

Mr. Mulligan related that it is a pilot project. If it works, the legislature can extend or modify it.

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Co-Chair Hawker spoke to the first change, which responded to his and Representative Stoltz's concern that the bill was designed to target Fairbanks and Juneau, not Anchorage. The broadness of the language also included Anchorage. The intent of the bill was to benefit only the two communities. The change would make Anchorage ineligible for this legislation.

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Co-Chair Hawker WITHDREW his OBJECTION to adopting CSSB 121. There being NO OBJECTION, CSSB 121 was adopted.

Representative Gara maintained that the bill gives the municipalities an option, not a mandate. It is giving only those municipalities that are violating federal air quality standards the ability to give a tax break at their discretion to folks who use energy efficient heating. He thought that should be a local decision. The amendment says that any community that wants to give their taxpayers an incentive to use energy efficient heating could. It does not impose a mandate, it gives discretion to municipalities, and it is a policy statement. He did not see it having a high cost.

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Representative Kelly reported that Fairbanks is in a bind regarding the 2.5 air quality standard. He was concerned that the amendment would open the bill to further protest and would kill it. He was not opposed to the discussion. He gave examples of his support of energy-saving devices and his concern when the borough shuts them down. The bill is important because it helps people convert to modern devices. The bill also helps Fairbanks address pollution issues.

Co-Chair Hawker echoed Representative Kelly's concerns. The bill is very specific and addresses a specific problem. He feared the unknown of the amendment.

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Representative Gara MOVED to ADOPT Amendment 1:

Page 1, line 5, following "municipality":
Delete "that includes within its boundaries an area that fails to meet federal or state air quality standards for fine particles that are less than or equal to 2.5 micrometers in diameter"

Co-Chair Hawker OBJECTED.

Representative Gara didn't see a problem letting a community decide to write its local tax code. He maintained it was not a mandate.

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Vice-Chair Thomas gave examples from Haines showing that it already has the ability to write its local tax code. He did not think the amendment was necessary.

Representative Crawford wondered if Fairbanks already had the option to correct the problem. He thought local control was good.

Co-Chair Hawker agreed with Representative Gara's wanting to provide discretion to local communities. He viewed it as a creation of different classes of taxpayers. He did not trust the municipalities to fairly reallocate tax zones.

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Representative Gara reported that he discovered that some communities do not have this discretion.

Co-Chair Hawker stated that the bill was brought forth by communities that saw a need.

Representative Kelly reported that Fairbanks does have a problem. He gave as an example the Senior Exemption on property tax. He maintained that the bill was necessary.

Representative Crawford asked how Haines could grant an exemption from the sales tax. Representative Kelly said the bill is relative to property tax, not to sales tax and the exemption must be approved by the state.

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Representative Crawford suggested rebating the sales tax. Representative Kelly said they do not have a sales tax.

Co-Chair Hawker MAINTAINED his objection.

A roll call vote was taken on the motion.

IN FAVOR: Crawford, Gara

OPPOSED: Thomas, Austerman, Fairclough, Joule, Kelly,
Hawker

The MOTION FAILED (2-6).

[3:14:11 PM](#)

Representative Kelly MOVED to ADOPT Conceptual Amendment 2, to change 2.5 "micrometers" to "microns" on line 7.

Co-Chair Hawker OBJECTED.

Representative Kelly noted the change was on page 1, line 7.

Co-Chair Hawker MAINTAINED his objection.

KAREN LIDSTER, STAFF, REPRESENTATIVE JOHN COGHILL, quoted the Department of Environmental Conservation and maintained that the correct term is "micrometers". Co-Chair Hawker asked if the sponsor prefers the bill to reflect the language of the federal EPA designation. Ms. Lidster said yes.

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Representative Kelly argued that it should say microns. He suggested holding the bill and asking the Department of Environmental Conservation for an opinion, although he preferred to move the bill.

Representative Kelly WITHDREW Conceptual Amendment 2.

[3:19:13 PM](#)

Representative Kelly MOVED to REPORT CSHB 121 (FIN) with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, it was so ordered.

CSHB 121 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with zero fiscal note #1 by the Department of Commerce, Community and Economic Development.

#

ADJOURNMENT

The meeting was adjourned at 3:19 PM.