

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

April 14, 2010

3:23 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Mark Neuman, Vice Chair  
Representative Mike Chenault  
Representative Bob Lynn  
Representative Tammie Wilson  
Representative Robert L. "Bob" Buch  
Representative Lindsey Holmes

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 234(FIN)

"An Act relating to the voting procedures of the Alcoholic Beverage Control Board; allowing the Alcoholic Beverage Control Board to release information contained in the statewide database of alcohol purchases and shipments to the person who purchased the alcohol or to whom the alcohol was shipped; relating to the access of persons under 21 to premises where alcoholic beverages are sold, served, or consumed; extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

- MOVED HCS CSSB 234(L&C) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 243(FIN)

"An Act relating to geothermal resources; relating to the royalty obligation for geothermal resources; transferring from the Department of Natural Resources to the Alaska Oil and Gas Conservation Commission authority over permitting and inspection of geothermal wells; providing for a regulatory cost charge for geothermal wells; and providing for an effective date."

- MOVED HCS CSSB 243(RES) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 277(RES) AM

"An Act exempting from regulation by the Regulatory Commission of Alaska and by municipalities certain generators of

electricity from renewable energy resources that sell electricity to regulated utilities."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 234

SHORT TITLE: ALCOHOLIC BEVERAGE CONTROL BD

SPONSOR(s): SENATOR(s) MEYER

01/22/10	(S)	READ THE FIRST TIME - REFERRALS
01/22/10	(S)	L&C, FIN
02/25/10	(S)	L&C AT 2:00 PM BELTZ 105 (TSBldg)
02/25/10	(S)	Moved SB 234 Out of Committee
02/25/10	(S)	MINUTE(L&C)
02/26/10	(S)	L&C RPT 4DP 1DNP
02/26/10	(S)	DP: PASKVAN, DAVIS, THOMAS, MEYER
02/26/10	(S)	DNP: BUNDE
03/26/10	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/26/10	(S)	Heard & Held
03/26/10	(S)	MINUTE(FIN)
03/26/10	(S)	FIN AT 1:30 PM SENATE FINANCE 532
03/26/10	(S)	Heard & Held
03/26/10	(S)	MINUTE(FIN)
04/02/10	(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/02/10	(S)	Heard & Held
04/02/10	(S)	MINUTE(FIN)
04/11/10	(S)	FIN RPT CS 4DP 3NR NEW TITLE
04/11/10	(S)	DP: HOFFMAN, STEDMAN, THOMAS, EGAN
04/11/10	(S)	NR: HUGGINS, OLSON, ELLIS
04/11/10	(S)	FIN AT 11:00 AM SENATE FINANCE 532
04/11/10	(S)	Moved CSSB 234(FIN) Out of Committee
04/11/10	(S)	MINUTE(FIN)
04/12/10	(S)	TRANSMITTED TO (H)
04/12/10	(S)	VERSION: CSSB 234(FIN)
04/12/10	(H)	READ THE FIRST TIME - REFERRALS
04/12/10	(H)	L&C, FIN
04/14/10	(H)	L&C AT 3:15 PM BARNES 124

BILL: SB 243

SHORT TITLE: GEOTHERMAL RESOURCE:ROYALTY/PERMIT/FEE

SPONSOR(s): SENATOR(s) MCGUIRE

01/27/10	(S)	READ THE FIRST TIME - REFERRALS
01/27/10	(S)	RES, FIN
02/10/10	(S)	RES AT 3:30 PM BUTROVICH 205

02/10/10 (S) Heard & Held  
 02/10/10 (S) MINUTE(RES)  
 03/11/10 (S) RES AT 3:30 PM BUTROVICH 205  
 03/11/10 (S) Heard & Held  
 03/11/10 (S) MINUTE(RES)  
 03/18/10 (S) RES AT 3:30 PM BUTROVICH 205  
 03/18/10 (S) Moved CSSB 243(RES) Out of Committee  
 03/18/10 (S) MINUTE(RES)  
 03/22/10 (S) RES RPT CS 1DP 3NR NEW TITLE  
 03/22/10 (S) DP: MCGUIRE  
 03/22/10 (S) NR: WIELECHOWSKI, STEVENS, FRENCH  
 03/29/10 (S) FIN AT 9:00 AM SENATE FINANCE 532  
 03/29/10 (S) Heard & Held  
 03/29/10 (S) MINUTE(FIN)  
 04/02/10 (S) FIN RPT CS 6DP 1NR NEW TITLE  
 04/02/10 (S) DP: HOFFMAN, STEDMAN, HUGGINS, THOMAS,  
 EGAN, ELLIS  
 04/02/10 (S) NR: OLSON  
 04/02/10 (S) FIN AT 9:00 AM SENATE FINANCE 532  
 04/02/10 (S) Moved CSSB 243(FIN) Out of Committee  
 04/02/10 (S) MINUTE(FIN)  
 04/05/10 (S) TRANSMITTED TO (H)  
 04/05/10 (S) VERSION: CSSB 243(FIN)  
 04/06/10 (H) READ THE FIRST TIME - REFERRALS  
 04/06/10 (H) RES, L&C, FIN  
 04/09/10 (H) RES AT 1:00 PM BARNES 124  
 04/09/10 (H) Moved HCS CSSB 243(RES) Out of  
 Committee  
 04/09/10 (H) MINUTE(RES)  
 04/11/10 (H) RES RPT HCS(RES) 5DP  
 04/11/10 (H) DP: GUTTENBERG, EDGMON, OLSON, JOHNSON,  
 NEUMAN  
 04/14/10 (H) L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

JOSH APPLEBEE, Staff  
 Senator Kevin Meyer  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** As staff to the Legislative Budget and Audit Committee, presented SB 234.

KONRAD JACKSON, Staff  
 Representative Kurt Olson  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** As staff to the House Labor and Commerce Standing Committee, presented the changes to the bill.

SHIRLEY GIFFORD

Alcoholic Beverage Control Board (ABC Board)

Department of Public Safety (DPS)

Anchorage, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of SB 234.

PAT DAVIDSON

Legislative Auditor

Division of Legislative Audit

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of SB 234.

ADRIENE ACTIVE, Community Liaison

United Way of Anchorage

Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of SB 234.

KIANA ACTIVE, Volunteer

United Way of Anchorage

Eagle River, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 234.

ANNA SAPPAH, Executive Director

Alaska Addiction Professionals Association; Board Member,

Governor's Advisory Board on Alcoholism & Drug Abuse

Anchorage, Alaska

**POSITION STATEMENT:**

ANNE CARPENETI, Assistant Attorney General

Legal Services Section

Criminal Division

Department of Law (DOL)

Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of SB 234.

ELLEN GANLEY, Vice-Chair; Public Member

Alcoholic Beverage Control Board (ABC Board)

Department of Public Safety (DPS)

Fairbanks, Alaska

**POSITION STATEMENT:** Testified during the discussion of SB 234.

LARRY HACKENMILLER, General Manager  
Alaska Cabaret, Hotel, Restaurant, and Retailers Association  
(CHARR)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified during the discussion of SB 234.

LYNN COOK, Public Member  
Alcoholic Beverage Control Board (ABC Board)  
Department of Public Safety (DPS)  
Cordova, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of SB 234.

MIKE PAWLOWSKI, Staff  
Senator Lesil McGuire  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the discussion of SB 243.

CATHY P. FORESTER, Commissioner  
Alaska Oil & Gas Conservation Commission (AOGCC)  
Department of Administration  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 234.

PAUL THOMSEN, Director  
Public Policy and Business Development  
ORMAT Technologies, Inc.  
Reno, Nevada

**POSITION STATEMENT:** Testified in support of SB 243.

KEVIN BANKS, Acting Director  
Central Office  
Division of Oil & Gas  
Department of Natural Resources (DNR)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 243.

#### **ACTION NARRATIVE**

[3:23:28 PM](#)

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:23 p.m. Representatives Olson, Holmes, Neuman, T. Wilson, Buch were present at the call to

order. Representatives Chenault and Lynn arrived as the meeting was in progress.

[3:23:35 PM](#)

**SB 234-ALCOHOLIC BEVERAGE CONTROL BD**

[3:23:43 PM](#)

CHAIR OLSON announced that the first order of business would be CS FOR SENATE BILL NO. 234(FIN), "An Act relating to the voting procedures of the Alcoholic Beverage Control Board; allowing the Alcoholic Beverage Control Board to release information contained in the statewide database of alcohol purchases and shipments to the person who purchased the alcohol or to whom the alcohol was shipped; relating to the access of persons under 21 to premises where alcoholic beverages are sold, served, or consumed; extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

[3:24:29 PM](#)

JOSH APPLEBEE, Staff, Senator Kevin Meyer, Alaska State Legislature, stated that AS 04.06.010 established the Alcoholic Beverage Control Board (ABC Board). The Division of Legislative Budget and Audit described this board is "a work in progress." The division conducted three audits in the past seven years. This is a board that needs additional attention. The auditors recommended a one-year extension, but would like to come back next year with a more comprehensive extension bill. The changes contained in the committee substitute add three additional provisions to the bill. The auditor recommended removing the executive director's authorization to cast a tie-breaking vote. The executive director is not an appointee and the board had recommended that the person not have the ability to vote on policy matters. The second change would allow the subject of the database to have access to the information collected about him/her or any business listed. The third change repeals the provision that removes the use of underage persons in compliance checks. He anticipated hearings would be held during the

legislative interim and a more comprehensive bill would be introduced next year.

[3:27:12 PM](#)

REPRESENTATIVE LYNN asked for clarification on the use of "underage persons" for compliance check.

MR. APPLEBEE explained that the Senate Finance Committee inserted the two provisions that repealed statutory language pertaining to the ABC Board's use of underage persons in undercover operations. The committee did not believe that it was proper to use underage persons to purchase alcohol.

REPRESENTATIVE LYNN related that it is also not proper for law enforcement to lie, but they sometimes must lie during covert operations in order to perform their duties. He asked how compliance checks could occur for selling alcohol to underage persons unless an underage person attempts to buy alcohol.

[3:28:40 PM](#)

REPRESENTATIVE NEUMAN moved to adopt the proposed House committee substitute (CS) for SB 234, labeled 26-LS1350\P, Bullard, 4/13/10, as the work draft. There being no objection, Version P was before the committee.

[3:29:30 PM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, Alaska State Legislature, on behalf of the House Labor and Commerce Standing Committee, explained the changes contained in the proposed House committee substitute (HCS). The HCS deletes Section 4, which read:

AS 04.16.049(f) and 94.16.060 (f) are repealed.

MR. JACKSON explained that by repealing the two statutes the effect will be to allow investigators to use underage persons for investigations of underage purchases of alcohol. In

response to Representative T. Wilson, he referred to page 2, line 25, of the CSSB 234(FIN) for the citation.

[3:31:16 PM](#)

CHAIR OLSON explained that a problem arose when an underage person was asked for identification and the server kept the person's driver license. He recalled that "a scene was made" by the officer in an attempt to obtain the license back. He related his understanding that the matter has been resolved administratively and it was not likely that any additional problems would occur.

[3:31:50 PM](#)

REPRESENTATIVE NEUMAN asked when a business serves alcohol, whether anyone under the age of 21 can be in the establishment.

[3:33:50 PM](#)

SHIRLEY GIFFORD, Alcoholic Beverage Control Board (ABC Board), Department of Public Safety (DPS), answered that allowing underage persons in businesses that serve alcohol is acceptable, so long as the person is with his/her parent since parents have the right to do so, unless the underage person has a health or safety issue. She related that the two statutes that were deleted in Version P. She explained that AS 04.16.049(f) and 94.16.060 (f), provide authority to peace officers since some local agencies conduct compliance check and allow them to employ underage person to assist them. Otherwise, it would be illegal for them to attempt to purchase alcohol, she stated.

[3:35:18 PM](#)

REPRESENTATIVE NEUMAN restated his question, asking whether a person under 21 years of age must be with his/her parent if they are in a business such as a pizza parlor that serves beer or wine.

MS. GIFFORD offered that the ABC Board issues restaurant designation permits and persons under the age of 21 are allowed

in the restaurant. The establishments apply for restaurant permit, submit floor plans and indicate how they plan to operate prior to the ABC approves the permit.

REPRESENTATIVE NEUMAN said it was not clear in the bill and he was only concerned about unintended consequences.

MS. GIFFORD referred to AS 04.16.049 (f), which read:

(f) A person under 21 years of age does not violate this section if the person enters or remains on premises licensed under this title at the request of a peace officer, if the peace officer accompanies, supervises, or otherwise observes the person's entry or remaining on premises, and the purpose for the entry or remaining on premises is to assist in the enforcement of this section.

MS. GIFFORD related that statute addresses the person under 21 years of age that assists a police officer for compliance checks. She stated that AS 04.16.09 and AS 04.16.060 provide more detail about when persons under the age of 21 can be on premises where alcohol is served.

[3:38:09 PM](#)

MS. GIFFORD, in response to Representative Lynn, explained the statutes provide some leeway to allow parents, guardians, and spouses to accompany children. Additionally, the ABC Board has developed a form for use by teachers or chaperones that allow students to eat in restaurants. She stated that after a game, a teacher or coach frequently will take the team to a pizza place. She affirmed the statute does allow for those types of events.

[3:39:24 PM](#)

REPRESENTATIVE T. WILSON asked whether the 11 ABC Board employees are located in areas around the state.

MS. GIFFORD replied yes. She offered that the ABC Board has one investigator assigned in Fairbanks, one in Juneau, and the rest

of the employees reside in Anchorage. In further response to Representative T. Wilson, she stated that before a license is issued an inspection is required. In the event that the ABC Board's staff is not available, an Alaska State Trooper (AST) or local law enforcement person will assist in the inspection.

REPRESENTATIVE T. WILSON referred to the signage on premises for establishments that are interested in a permit to sell alcohol. She asked for clarification on who posts the signage.

MS. GIFFORD responded that the ABC Board counts on the local governing body to assist with compliance. The statutes provide that local police and local governing bodies must help enforce the statutes and regulations. In instances in which the local authorities assist, the ABC Board will refund or return licensing fees to the local body. She characterized the relationship of the ABC Board with local governing bodies as "a very good close working relationship."

[3:41:32 PM](#)

REPRESENTATIVE T. WILSON related her understanding that the Fairbanks North Star Borough has always assumed the Alcoholic Beverage Control Board (ABC) posts notices in Fairbanks.

MS. GIFFORD related that the ABC Board has a good working relationship with the Fairbanks North Star Borough. She asked if Representative T. Wilson was referring to the requirement for a business to post notices in the city hall, the U.S. Post Office, and the location three weeks in advance of acquiring a liquor license.

REPRESENTATIVE T. WILSON agreed. She related an instance that was problematic involving a pizzeria.

MS. GIFFORD offered to look into the specific situation.

[3:42:56 PM](#)

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, explained the Division of

Legislative Audit conducted its audit and recommended the ABC Board be extended for four years, until June 30, 2014. There were some improvements in some of the administrative deficiencies, but some of the issues were not resolved. Therefore, the auditors recommended a shorter timeframe for the sunset review. The auditors acknowledged a new executive director was hired in January 2009 and while most of the improvements had been made, some deficiencies remained. The ABC Board had not yet established a quantifiable and objective enforcement goal. The auditors found a dominance of compliance check activities in the areas where the investigators were located. The geographic location should not be the driver for enforcement, she stated. An enforcement plan should be a well thought out plan, which was one of the auditor's recommendations. She identified some administrative deficiencies the auditors found, including poor recordkeeping and licensing procedures, lack of reconciliation, insufficient training for the data entry staff resulted in errors that "crept in," and the board lacked insufficient procedures to ensure accuracy and completeness of the information recorded in the Board's Restricted Alcohol Purchasers Statewide Data Base.

[3:45:38 PM](#)

MS. DAVIDSON, in response to Representative Buch, agreed that the updated status on the outstanding recommendations for the ABC Board would be available to the legislature at the beginning of the session.

[3:46:20 PM](#)

ADRIENE ACTIVE, Community Liaison, United Way of Anchorage, stated that she is currently working on a Substance Abuse Mental Health Services Administration Grant. She works as a liaison for four partners, including United Way, Southcentral Foundation, Cook Inlet Tribal Council, and the Municipality of Anchorage (MOA) to specifically reduce access and demand and increased resiliency of alcohol use among youth in Anchorage. She oversees recipients, including Volunteers of America, who has implemented an environmental strategy, a grass roots advocacy group in Anchorage to reduce access of alcohol for

minors. She related that she is in the second grant year and part of the strategy is to conduct compliance checks and "shoulder tap" programs since the practice reduces demand and access. She mentioned she is beginning to enter a contract with the ABC Board to increase the number of the compliance checks in Anchorage. She offered her belief that the funding includes \$15,000 for one additional officer outside Anchorage. She related that an important part of the grant is to reduce alcohol use by minors in Anchorage.

[3:49:10 PM](#)

KIANA ACTIVE, Volunteer, United Way of Anchorage, stated that she works on compliance check operations. She advocated for continuing compliance checks since kids can go to restaurants, liquor stores, and bars and buy alcohol. She stated that she is 18 and has been served a Corona at a restaurant, but the wait staff removed it after checking her identification three separate times. She stated that it is important for kids and teens not to have alcohol because it "kills their brain" or impairs their behavior. She said that kids are not ready to drink alcohol.

[3:50:23 PM](#)

ANNA SAPPAH, Executive Director, Alaska Addiction Professionals Association; Board Member, Governor's Advisory Board on Alcoholism & Drug Abuse, stated that she serves as a Beneficiary Member on the Governor's Advisory Board on Alcoholism & Drug Abuse. She stated that she is deeply concerned about discontinuing compliance checks on establishments that sell alcohol, which directly contradicts Alaska's plan to reduce underage drinking.

[3:51:30 PM](#)

ANNE CARPENETTI, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law (DOL), said the Department of Law supports the committee substitute which deletes the two sections. She explained that compliance checks

have made a huge difference in reducing alcohol from being served to minors in the state.

[3:52:05 PM](#)

ELLEN GANLEY, Vice-Chair, Public Member, Alcoholic Beverage Control Board (ABC Board), Department of Public Safety (DPS), stated that the ABC Board opposes the elimination of compliance checks. Compliance checks, which are funded from federal grant monies, have made a huge difference in how alcohol is not served to minors in the state. At the time the compliance checks began the failure rate was significantly higher. In 2009, 787 licensees successfully passed the compliance checks, which represented 87 percent of the checks performed last year. She offered her belief that continued compliance checks and regular enforcement will keep the ABC Board moving towards reaching its goal of 95 percent compliance. The compliance checks are part of a larger statewide effort to prevent underage drinking. The state plan to reduce underage drinking is a joint effort by 12 statewide agencies and associations. In fact, the state plan recommends that compliance checks be increased rather than eliminated. Underage drinking is a problem in all states, although the numbers in Alaska are "turning in an encouraging direction." The Alaska Youth Risk Behavior Survey shows that in 1995, 47.5 of the teens who completed survey had consumed alcohol in the last 30 days. In 2009, that dropped to 33 percent. Alaska leads the nation with the lowest percentage of youth who purchase their own alcohol. She stated that the ABC Board does not think that compliance checks are the only reason for the changes. The changes in key behaviors are the result of many groups working together, she stated. Compliance checks have resulted in alcoholic beverage licensees regularly checking identification and not selling to underage Alaskans. She urged members to not eliminate the ABC Board compliance checks.

[3:55:03 PM](#)

REPRESENTATIVE BUCH asked for her opinion on the section of the bill that removes the ability of the executive director to vote.

MS. GANLEY responded that she did not view this as a problem. She related that in some instances, a situation may arise that could delay the ABC Board's decision, but she believed the board could work around it. She commented that the need for a tie-breaking vote does not often happen.

[3:55:51 PM](#)

LARRY HACKENMILLER, General Manager, Alaska Cabaret, Hotel, Restaurant, and Retailers Association (CHARR), stated that he was unsure of the success rate for the sting operations or the decrease in violations. He explained that one of the most famous impacts is the civil fine imposed on minors who enter premises where alcohol is sold. He offered his belief that civil fines have had the greatest impact on minor consumption in package stores or on-premise location. He referred to the Senate version of the bill, Version E. He related his understanding that during a sting operation, a liquor premise typically has kept the identification card and subsequently sues the minor. He stated that CHARR has increased membership awareness on the importance of checking identification cards. He said he does not understand the need for compliance checks. Normally during a compliance check or a sting, law enforcement identifies a problem area, which is generally based on numerous reports of illegal activity. He reported that Fairbanks does not have any instances, or has few instances, of minors arrested on premises. He stated that the odds are down to ten percent. He stated that licensees are aware of the compliance checks. He said, "This industry basically is not against anything that has to do with keeping underage people from drinking, but if we thought there was a great problem in it our local law enforcement would be on top of it."

[3:58:41 PM](#)

REPRESENTATIVE T. WILSON recalled the incidence rate on sales of alcohol to underage persons. She asked for clarification that the incidence of actual sales to underage persons was one in ten times.

MR. HACKENMILLER related his understanding that the "failure rate" was ten percent. He asked whether the state is interested in making criminals of employees or in reducing minor consuming.

[3:59:28 PM](#)

LYNN COOK, Public Member, Alcoholic Beverage Control Board (ABC Board), Department of Public Safety (DPS), asked the committee not to remove the compliance checks from the statutes. She offered her belief compliance checks have curbed underage drinking and if they are not performed that the statistics for underage drinking would likely increase. She remarked that Alaska has one of the highest rates of substance abuse in the U.S. She urged members to retain the compliance checks for businesses where alcohol is sold.

[4:00:59 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on SB 234.

CHAIR OLSON withdrew his objection.

[4:01:21 PM](#)

REPRESENTATIVE LYNN asked whether someone involved in assisting in an underage sting operation was sued, and if so, if that matter was resolved.

MS. GIFFORD answered she was unsure. She offered her belief that lawsuit Mr. Hackenmiller referenced related to an underage person being fined.

REPRESENTATIVE LYNN wanted to ensure civil liability protection for any person who assists a peace officer.

REPRESENTATIVE HOLMES stated that she read the specific statutory references. She explained that the two subsections that were deleted in Version E of the bill are the sections that protect the underage person who participates in the sting. She

suggested that if the committee adopted Version P, that the youth participating in stings would be protected.

[4:03:16 PM](#)

REPRESENTATIVE NEUMAN moved to report the proposed House committee substitute (CS) for SB 234, labeled 26-LS1350\P, Bullard, 4/13/10, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, the HCS SB 234(L&C) was reported from the House Labor and Commerce Standing Committee.

[4:04:06 PM](#)

The committee took an at-ease from 4:04 p.m. to 4:06 p.m.

[4:06:15 PM](#)

**SB 243-GEOTHERMAL RESOURCE:ROYALTY/PERMIT/FEE**

[4:06:20 PM](#)

CHAIR OLSON announced that the next order of business would be CS FOR SENATE BILL NO. 243(FIN), "An Act relating to geothermal resources; relating to the royalty obligation for geothermal resources; transferring from the Department of Natural Resources to the Alaska Oil and Gas Conservation Commission authority over permitting and inspection of geothermal wells; providing for a regulatory cost charge for geothermal wells; and providing for an effective date."

[Before the committee was HCS CSSB 243(RES).]

[4:06:26 PM](#)

MIKE PAWLOWSKI, Staff, Senator Lesil McGuire, Alaska State Legislature, stated that SB 243 really "opens the door for commercial development of geothermal energy in Alaska and puts that development under a regulatory regime that exists in every other state that is an oil and gas producing region. Under

current law, geothermal resources would pay a 10 to 15 percent royalty rate. When the state originally considered the appropriate rate, the sponsor contemplated the rate should be zero since the product is hot water, is not exported, and any royalty would be passed on to consumers in the form of higher electric rates. However, after working with Department of Natural Resources (DNR), the sponsor agreed that the leasing of land for geothermal resource actually is the equivalent of a "property right" so some form of royalty made sense.

MR. PAWLOWSKI referred to page 1 line 12 and to page 2, line 8, which refers to the proposed royalty rate for geothermal in Alaska on state land of 1.5 percent on the gross value of production, during the first ten years, and 3.5 percent following those ten years. This royalty rate is the same as on federal land, he noted. The goal was to achieve a reasonable rate that comports with the federal land and does not create any real competition. A 10 to 15 percent royalty rate was written 20 to 30 years ago, and was "picking a number out of thin air, not knowing what makes geothermal economic."

MR. PAWLOWSKI explained that the other sections of the bill divide the authority between the Alaska Oil and Gas Conservation Commission (AOGCC) and the Department of Natural Resources (DNR) to regulate geothermal resources. He referred to page 2, lines 9-15, to Section 3 to the commission's authority over geothermal wells, which read: "The commission has jurisdiction under this chapter over geothermal wells to prevent waste, to protect correlative rights, and to ensure public safety." He stated that this language provides the regulation of the drilling, exploration, and actual use of the resource. The DNR would have control over the leasing, the unitization, and land issues that DNR typically performs with oil and gas matters. The geothermal system would be very similar to oil and gas management, he stated. This change should save the state money since DNR does not have in-house expertise to carry out what he characterized as an outdated regulatory system. More importantly, looking at the map that shows state land ownership, under current law DNR has authority over state land but there might be geothermal development that is not on state land. He explained that only the AOGCC can regulate to protect the public safety on all land

outside state lands. That change represents the critical piece to ensure safe development of a renewable energy that actually pays a royalty to the treasury. He paraphrased from the sponsor statement, which read [original punctuation provided]:

Electric power generated from geothermal sources is a clean, sustainable, and environmentally friendly alternative to fossil fuels. It can play a major part in meeting the future energy needs of the railbelt and other regions.

The problem for any company seeking to build a commercial grade geothermal plant in Alaska is high capital costs that run 25-50 percent higher than the Lower-48. Operational costs could run 100 percent higher than the rest of the country.

Senate Bill 243 assists companies in developing geothermal resources discovered in commercial quantities on state land by lifting the 10 to 15 percent royalty payment obligation currently in state statute.

SB 243 is a common sense effort to make geothermal power projects economically viable and produce more affordable and reliable electric power for homes and businesses.

Geothermal electrical generation has been used for decades all over the world and creates "green" jobs. Alaska can now join other states and nations using geothermal sources to create a safe and secure source of electricity.

I urge all my colleagues to support SB 243 and move our state towards a secure energy future.

[4:10:05 PM](#)

REPRESENTATIVE T. WILSON asked whether this bill regulates geothermal resources on private property.

MR. PAWLOWSKI answered that the regulation on private land would be subject to AOGCC. It would not apply to the royalty sections since the state does not own the subsurface rights.

[4:11:06 PM](#)

MR. PAWLOWSKI explained the House Resources Standing Committee made a change that set an important policy provision. He referred to page 7, to proposed Section 17, and the definition of commercial use. He read: "(1) commercial use" means the sale of heat or power to a third party;" which he said does not affect personal ground source heat pumps that people may use for their homes or for small scale geothermal energy use for personal use."

[4:12:02 PM](#)

REPRESENTATIVE HOLMES related that she did not think the change creates any problem, but if somewhere "down the line" the resources are being deleted, the problem could be dealt with at that time. She thought this change represented a reasonable step at this point.

[4:12:42 PM](#)

REPRESENTATIVE T. WILSON asked if she has a business on her property and uses the geothermal resource whether that use would be considered personal use.

MR. PAWLOWSKI answered yes, that since the person would be using the geothermal resource for his/her own use and is not selling the heat or power that the use would not be considered a commercial use of geothermal energy.

[4:14:00 PM](#)

CATHY P. FORESTER, Commissioner, Alaska Oil & Gas Conservation Commission (AOGCC), Department of Administration, stated that the AOGCC strongly supports SB 243. She explained that the bill would transfer from Department of Natural Resources (DNR) to the

AOGCC a function that is more appropriately handled by the AOGCC. She offered her belief that the DNR also supports this transfer.

[4:14:41 PM](#)

PAUL THOMSEN, Director, Public Policy and Business Development, ORMAT Technologies, Inc., stated that ORMAT was delighted to win the leases at Mt. Spur and is excited to develop a large scale commercial geothermal project near Anchorage. This bill will move us forward in developing that project and reducing the royalties to the federal level brings the royalty taxes on par to allow projects to compete with resources in the Lower 48. Additionally, SB 243 will help "pave the way" to develop additional geothermal resources in Alaska. He stated that ORMAT Technologies strongly supports SB 243. He commented on the previous discussion on commercial applications. This bill reduces an existing royalty rate of 10 percent to the federal level. He offered that people would pay a 10 percent royalty if the project is defined as commercial. He indicated that in the event the use is not defined as commercial, the owner could take comfort that he/she will be taken care of with Senator McGuire's amendment that was previously adopted.

[4:16:23 PM](#)

KEVIN BANKS, Acting Director, Central Office, Division of Oil & Gas, Department of Natural Resources (DNR), explained that DNR has been "saddled" with the responsibilities of managing geothermal land. This bill surgically carves out of the DNR statutes the ones that are more appropriate to the AOGCC. The bill does not add any further regulation, but would provide for safety and correlative rights and conservation of the resource. This bill also creates a relationship with the AOGCC and the DNR that is similar to what the DNR shares in oil and gas matters. He offered DNR's support for this bill.

[4:17:46 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on SB 243.

4:18:13 PM

REPRESENTATIVE T. WILSON moved to report the HCS CSSB 243(RES) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 234(RES) was reported from the House Labor and Commerce Standing Committee.

4:19:12 PM

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:19 p.m.