

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

March 13, 2009

3:35 p.m.

MEMBERS PRESENT

Senator Lesil McGuire, Co-Chair
Senator Bill Wielechowski, Co-Chair
Senator Bert Stedman
Senator Gary Stevens
Senator Thomas Wagoner

MEMBERS ABSENT

Senator Charlie Huggins, Vice Chair
Senator Hollis French

COMMITTEE CALENDAR

SENATE BILL NO. 121

"An Act relating to energy efficiency for public facilities with the intent of reducing state operating costs."

MOVED CSSB 121(RES) OUT OF COMMITTEE

SENATE BILL NO. 31

"An Act relating to a geothermal electricity production tax credit under the Alaska Net Income Tax Act."

MOVED CSSB 31(RES) OUT OF COMMITTEE

SENATE BILL NO. 58

"An Act establishing February 2 of each year as Marmot Day; and providing for an effective date."

MOVED SB 58 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 121

SHORT TITLE: ENERGY EFFICIENCY BLDGS/PUBLIC WORKS

SPONSOR(s): RESOURCES

02/20/09	(S)	READ THE FIRST TIME - REFERRALS
02/20/09	(S)	RES, FIN
03/09/09	(S)	RES AT 3:30 PM BUTROVICH 205
03/09/09	(S)	Heard & Held
03/09/09	(S)	MINUTE(RES)

BILL: SB 31

SHORT TITLE: GEOTHERMAL ELEC. PROD. TAX CREDIT

SPONSOR(s): SENATOR(s) MCGUIRE

01/21/09 (S) PREFILE RELEASED 1/9/09
01/21/09 (S) READ THE FIRST TIME - REFERRALS
01/21/09 (S) ENE, RES, FIN
02/12/09 (S) ENE AT 11:00 AM BUTROVICH 205
02/12/09 (S) Heard & Held
02/12/09 (S) MINUTE(ENE)
02/27/09 (S) ENE AT 11:00 AM BELTZ 211
02/27/09 (S) Moved CSSB 31(ENE) Out of Committee
02/27/09 (S) MINUTE(ENE)
03/02/09 (S) ENE RPT CS 1DP 2AM NEW TITLE
03/02/09 (S) DP: MCGUIRE
03/02/09 (S) AM: WIELECHOWSKI, STEDMAN
03/09/09 (S) RES AT 3:30 PM BUTROVICH 205
03/09/09 (S) Heard & Held
03/09/09 (S) MINUTE(RES)

BILL: SB 58

SHORT TITLE: MARMOT DAY

SPONSOR(s): SENATOR(s) MENARD

01/21/09 (S) PREFILE RELEASED 1/16/09
01/21/09 (S) READ THE FIRST TIME - REFERRALS
01/21/09 (S) STA, RES
03/03/09 (S) STA RPT 4DP
03/03/09 (S) DP: MEYER, FRENCH, KOOKESH, PASKVAN
03/03/09 (S) STA AT 9:00 AM BELTZ 211
03/03/09 (S) Moved SB 58 Out of Committee
03/03/09 (S) MINUTE(STA)
03/13/09 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

SHELLY MORGAN

Staff to Senator Wielechowski

Alaska State Legislature

Juneau, AK

POSITION STATEMENT: Commented on SB 121 for the sponsor.

MERRA KOHLER, President/CEO

Alaska Village Electric Cooperative (AVEC)

POSITION STATEMENT: Supported SB 31.

TREVOR FULTON
Staff to Senator McGuire
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on SB 31 for the sponsor.

CHRIS ROSE
No stated affiliation

POSITION STATEMENT: Supported an immediate effective date and suggested middle ground between 5 and 10 cents on SB 31.

DAN STICKEL, Petroleum Economist
Department of Revenue

POSITION STATEMENT: Available to answer fiscal note questions on SB 31.

TOM LAKOSH
No stated affiliation

POSITION STATEMENT: Supported SB 31, but suggested a number of changes.

DOMINIC LEE, CEO
Little Susitna Engineering and Construction Company

POSITION STATEMENT: Supported SB 31, but had suggestions for changes.

DEBBIE PRAYTOR
Staff to Senator Menard
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on SB 58 for the sponsor.

MARILYN LANE
Staff to Senator Menard
State Capital Bldg.
Juneau, AK

POSITION STATEMENT: Available for comments on SB 58.

ACTION NARRATIVE

[3:35:23 PM](#)

CO-CHAIR BILL WIELECHOWSKI called the Senate Resources Standing Committee meeting to order at 3:53 p.m. Present at the call to order were Senators Stevens, Stedman, McGuire, and Wielechowski.

SB 121-ENERGY EFFICIENCY BLDGS/PUBLIC WORKS

CO-CHAIR WIELECHOWSKI announced SB 121 to be up for consideration.

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CO-CHAIR MCGUIRE moved to adopt work draft CSSB 121(RES), labeled 26-LS0586\W. There was no objection and version W was before the committee.

[3:36:36 PM](#)

SHELLY MORGAN, staff to Senator Wielechowski, explained that SB 121 will reduce the cost of operating state facilities by reducing the amount of energy consumed by them over the next 15 years. It enables the state to lead by example in the arena of energy efficiency and better position Alaska to receive federal stimulus funding for the state Energy Program grants. By prioritizing energy retro-fit projects and using performance contracts, the state can begin saving energy right away.

She pointed out that performance contracts require no upfront payments from the state. Performance contractors perform energy audits for facilities and make whatever construction changes are needed for the energy retro-fit. They are paid solely through the energy savings the state accrues over time.

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SENATOR WAGONER joined the committee.

[3:38:02 PM](#)

MS. MORGAN said that these guaranteed savings are paid to the energy service company for the retro-fit and within 15 years or less cost savings from efficiency upgrades go directly to the state - saving public funds.

She said the Department of Transportation and Public Facilities' (DOTPF) first performance contract of only eight buildings resulted in a savings of \$365,991 based on 2006/07 rates, which would be \$557,096 based on 2008 rates. Within the first year the savings from just these eight buildings could essentially cover the annual staffing and travel requirements found in the DOTPF fiscal note. If the state executed just 25 similar contracts, it could save over \$13 million based on 2008 rates in the first year.

Two fiscal notes from DOTPF are for doing the work with performance contracting - \$363.600; the other shows the cost to the state without performance contracting - over \$17 million.

She said it is their intent that the committee adopt the fiscal note based on doing performance contracting.

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MS. MORGAN went on to explain the six changes made to version P dated 3/9/09 that are now found in version W. All the changes were based on feedback from experts and committee members at the March 9 hearing; all changes have been approved by the DOTPF and the Alaska Energy Authority.

The first change is that the database be updated annually rather than every 10 years. This can be done simply by having individual building managers update data based on their utility bills. Basically the individual responsible for paying the utility bill for a facility could easily enter the utility data into a spread sheet and once each year that data could be rolled up into the rather than paying a DOTPF staff person to spend hours compiling data on every facility.

The second change is that all facilities, not just heated facilities, will be retrofitted and eligible for performance contract retro-fit projects.

Third, the performance contracts may also include renewable energy projects. "Alternative energy" was replaced with "renewable energy" to better fit with the intent of this bill. When determining the best energy efficiency measures for each facility, the performance contractor may determine that it is appropriate for a facility to generate its own energy using renewable sources.

The fourth change is that the reference to the International Energy Conservation Code (IECC) was removed. The bill now states that facilities will be made to meet or exceed the most recently published edition of the Illuminating Engineering Society of North America (IESNA) standard 90.1 of the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE). She explained that ASHRAE is more typically used for commercial facilities and does a much better job of addressing Alaska's climate conditions while still meeting the same basic guidelines found in the IECC. The IECC identifies only three climate zones which are insufficient for the entire state of Alaska.

MS. MORGAN said that fifth, the decision to postpone a retrofit due to lack of cost-effectiveness was modified to add a provision that this decision may be based in part on wither or

not the department would be able to meet a return on investment within 15 years after project completion.

The sixth change is that the energy use index language found in Sec. 44.83.955, was adjusted to better define the energy use index and the database. The Alaska Energy Authority shall establish an energy index to measure energy consumption, and the database they prepare will be made up of energy use index data for each facility.

She explained that these changes do not alter content, but just provides clarity through definition.

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SENATOR STEDMAN remarked that the Railbelt Energy Fund language allows buildings and facilities for energy conservation that are state owned to be retrofitted, and asked how often the state has used it and how that ties into the bill.

MS. MORGAN answered that starting in 2004 the DOTPF has done two performance contracts totaling 16 buildings. Now there is no way of prioritizing the retrofit. This bill not only allows for and encourages the performance contracting, but establishes an energy use database so that they can identify which buildings are consuming the most energy so that the retrofit projects can start with the most energy consuming first.

SENATOR STEDMAN added that the Railbelt Energy Fund allows access to those funds for retrofitting state owned buildings and facilities for energy conservation and it appears that the Railbelt has most of the major state buildings. He was wondering if that fund was every used for that purpose and how that policy affected this bill.

CO-CHAIR WIELECHOWSKI said the capital in Juneau and any public facilities outside of the Railbelt would not be included in the Railbelt Energy Fund. This bill creates an energy use index, which allows the state to prioritize what will be retrofitted first.

He thought it better public policy and cheaper for the state to undertake performance based contracting, because it doesn't cost anything. The money you would save in paying for utilities would pay for the upgrades.

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CO-CHAIR MCGUIRE moved to pass CSSB 121(RES), version W, from committee with individual recommendations and attached fiscal note(s). There was no objection and it was so ordered.

SB 31-GEOTHERMAL ELEC. PROD. TAX CREDIT

[3:48:02 PM](#)

CO-CHAIR WIELECHOWSKI announced SB 31 to be up for consideration.

CO-CHAIR MCGUIRE, sponsor of SB 31, moved to adopt CS for SB 31, labeled 26-LS0217\D, as the working document. There was no objection and version D was before the committee.

CO-CHAIR MCGUIRE explained that version D is a result of testimony from the last meeting. The amount of the production tax credit to a graduation system that ties the tax credit to the retail cost of power for a community in Sec. 2(a) was changed to equal 15 percent of the retail electricity rate for a given community. The tax credit is a minimum of 2.1 and a maximum of 5 cents per kWh. She explained that the change ties the amount of the production tax credit to the cost of power rather than the power plant capacities or community populations. It has the advantages of a tiered system without the arbitrary thresholds. The original bill had a flat rate of 2.1 cents per kWh irrespective of the utility rate in any given community and population.

Sec. 2(a)(2) was removed; it allowed power producers to claim the tax credit if they used the electricity they produced for their own commercial purposes.

CO-CHAIR MCGUIRE said the intent of the bill is to encourage the production and distribution of electricity to communities that need it the most. This ensures that the power being incentivized by the tax credit makes it onto the grid and into the homes of Alaskans and it addresses the industry concern of power producers claiming the tax credit by simply selling the electricity to themselves in a cyclical fashion.

Sec. 2(b) changes the number of years the credit could be claimed from 4 to 5 years. The concern was that 10 years would add up to massive subsidies; 4 to 5 years was a middle ground. They don't have a figure for the amount of the subsidy, because they don't know what kind of energy production will be incentivized.

Sec. 2(g) caps the aggregate amount of tax credit plus state grants at 10 percent of the capital cost of a given project can be claimed. This prevents over-subsidization of projects that are eligible for both the production tax credit (PTC) and the Renewable Energy Fund grants.

Sec. 2(k)(2) changes the definition of "energy producer" so that independent power producers are not required to obtain a Certificate of Public Convenience and Necessity from the RCA. Senator Huggins' concern was that they would be limiting the eligibility of projects to power plants with the production capacity of 100 kWh or more.

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Sec. 2(k)(3) changes all occurrences of "alternative energy" to "renewable energy". This is moving toward a more federal definition of renewables and they want to be sure that the PTC program reflects the change to renewable energy.

All sections moved the tax credit language from AS 43.98, which is revenue, taxation and miscellaneous provisions to AS 43.20, which is revenue and taxation, but under the Alaska Net Income Tax. This was recommended by the Tax Division because it ensures that the credit is applicable only against the corporate income tax and not any other state taxes that might accrue.

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MERRA KOHLER, President/CEO, Alaska Village Electric Cooperative (AVEC), said they are a non-profit electric utility that serves 53 villages. They are also proud to take the lead in the state to develop renewable energy projects to serve their small communities. They now have wind projects serving seven communities. Two more are going on line this year and two or three more again next year. She supported the intent of this bill. She pointed out that their most difficult project in the last couple of years has been a 300 kW project, which consists of three 100 kW machines. They have achieved as high as a 25-30 percent penetration of renewable energy into their conventional systems. A project that is 300 kW in size in a remote rural village costs approximately \$4 million - including the control equipment that is needed to interface with the diesel system.

She said a 5 cent kWh production tax credit over a five-year period would translate into a total credit of \$197,000, a modest percentage of the total cost of the project. So, she urged them to keep a 10 cent kWh limit. Otherwise, a lot fewer large

projects would consume a much larger chunk of the production tax credit.

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She also said an immediate effective date would be very beneficial because of two AVEC projects that will go on line this year including a small hydro project in Southeast Alaska.

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SENATOR STEVENS asked if the January 1 effective date would delay the starting date for the projects.

MS. KOHLER replied that she didn't think so, but if delaying a project for three would net another \$200,000, they might be inclined to put it off. They could absorb operating costs from the system for another three or four years.

CO-CHAIR WIELECHOWSKI said he has concluded that "the 2 cents is pretty generous; the 5 cents is extremely generous; the 10 cents was a lot." He and Mr. Fulton tried to figure out what the subsidy would be for 1 mgW hydro plant and they came up with a half million dollars a year in tax credit.

TREVOR FULTON, staff to Senator McGuire, added that it depends on the size of the project, but it could amount to several millions of dollars.

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CHRIS ROSE supported Ms. Kohler's comments on SB 31. He supported an immediate effective date and suggested middle ground between 5 and 10 cents.

DAN STICKEL, Petroleum Economist, Department of Revenue, was available to answer fiscal note questions.

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TOM LAKOSH thanked them for adopting the 15 percent that he recommended. However, he said they made a miscalculation in how it would be applied and that would cause them to reconsider the 5-cent and 5-year limit.

He explained that what happens when you have a 15 percent of the retail rate subsidy is that as soon as the renewable energy comes on line, it lowers the rate at which the utility is charging for its per kilowatt. So, the rate falls precipitously immediately. So the second year when the retail rate is recalculated, the subsidy goes way down, because they are now

taking 15 percent of a much cheaper cost. So this isn't as large a subsidy as they assume. He advised:

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In order to give enough incentive to move to the renewable resource, you need to have this heavily front loaded so that because as soon as they produce cheap energy, their subsidy essentially goes away.

The same situation happens with the five-year recovery period. Because the utility cost is recalculated every year, the subsidy goes way down as soon as it comes on line. This is a real problem, and he suggested upping the limit on capital costs to a maximum total subsidy of 20 percent, because it's extremely expensive to develop these projects in rural communities. If they get the subsidy upfront, companies will be competing with each other to fully replace the diesel so they can get the full 10 cents the first year.

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DOMINIC LEE, CEO, Little Susitna Engineering and Construction Company, said two kinds of people want to use the tax credit. The non profits want to sell the credit to somebody else, but the private for profit companies would like to keep it to reduce their tax. His private for profit project organization would like the state to give them longer term, like 10 years, but at half the rate - 2.5 cents.

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Another concern, he said, is their project has funding available right now, but they will lose the \$2.8 billion from their Asian investor if they can't find money for the \$10 million AEA feasibility study.

CO-CHAIR WIELECHOWSKI closed public testimony.

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SENATOR STEVENS asked how many households 100 kW serves.

MR. ROSE replied roughly 100 households.

SENATOR STEVENS said he was concerned that the subsidy only applies to projects placed into service on or after January 1, 2010. The Kodiak Electrical Association has been planning a wind project for five years and this summer installed the concrete foundations for three wind mills on Pillar Mountain and will install the towers next year. This effective date would make

them miss the opportunity to receive a tax credit by three months. The credit for Kodiak would amount to \$1.2 million. He said their goal is not to retard the use of wind power, and it would make sense to change the effective date to July 1.

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SENATOR STEVENS moved to change the effective date to July 1, 2009 on page 2, lines 14 and 16. There were no objections and it was so ordered.

[4:18:19 PM](#)

CO-CHAIR MCGUIRE moved to report CS for SB 31, version D as amended, from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 31(RES) moved from committee.

SB 58-MARMOT DAY

[4:18:57 PM](#)

CO-CHAIR WIELECHOWSKI announced SB 58 to be up for consideration.

DEBBIE PRAYTOR, staff to Senator Menard, sponsor of SB 58, introduced herself.

MARILYN LANE, staff to Senator Menard, also introduced herself.

MS. PRAYTOR said that SB 58 establishes February 2 of each year as Marmot Day and creates a localized Alaska version of Groundhog Day. Other states also have incarnations of "the famous groundhog." It can be celebrated by special events at the Alaska Zoo to school celebrations with an educational angle.

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CO-CHAIR MCGUIRE moved to report SB 58 from committee with individual recommendations and attached fiscal note(s). There was no objection and it was so ordered.

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There being no further business to come before the committee, Co-chair Wielechowski adjourned the meeting at 4:22 p.m.