

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON ENERGY**

March 8, 2011

3:11 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Lance Pruitt, Co-Chair
Representative Bob Lynn
Representative Kurt Olson
Representative Dan Saddler
Representative Pete Petersen
Representative Chris Tuck

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 103

"An Act relating to the procurement of supplies, services, professional services, and construction for the Alaska Energy Authority; establishing the Alaska Railbelt energy fund and relating to the fund; relating to and repealing the Railbelt energy fund; relating to the quorum of the board of the Alaska Energy Authority; relating to the powers of the Alaska Energy Authority regarding employees and the transfer of certain employees of the Alaska Industrial Development Export Authority to the Alaska Energy Authority; relating to acquiring or constructing certain projects by the Alaska Energy Authority; relating to the definition of 'feasibility study' in the Alaska Energy Authority Act; and providing for an effective date."

- MOVED CSHB 103(ENE) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 103

SHORT TITLE: POWER PROJECT; ALASKA ENERGY AUTHORITY

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/18/11	(H)	READ THE FIRST TIME - REFERRALS
01/18/11	(H)	ENE, FIN
02/15/11	(H)	ENE AT 3:00 PM BARNES 124
02/15/11	(H)	Heard & Held

02/15/11 (H) MINUTE(ENE)
02/17/11 (H) ENE AT 3:00 PM BARNES 124
02/17/11 (H) Heard & Held
02/17/11 (H) MINUTE(ENE)
02/22/11 (H) ENE AT 3:00 PM BARNES 124
02/22/11 (H) Heard & Held
02/22/11 (H) MINUTE(ENE)
02/24/11 (H) ENE AT 3:00 PM BARNES 124
02/24/11 (H) Heard & Held
02/24/11 (H) MINUTE(ENE)
03/01/11 (H) ENE AT 3:00 PM BARNES 124
03/01/11 (H) Heard & Held
03/01/11 (H) MINUTE(ENE)
03/08/11 (H) ENE AT 3:00 PM BARNES 124

WITNESS REGISTER

BECKY LONG

Talkeetna, Alaska

POSITION STATEMENT: Testified in opposition to HB 103.

PAUL D. KENDALL

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 103.

BILL NOLL, Spokesperson

Alaska Ratepayers Inc.

Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 103.

GENE THERRIAULT, Vice President of Resource Development

Golden Valley Electric Association (GVEA)

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 103.

SARA FISHER-GOAD, Executive Director

Alaska Energy Authority (AEA)

Department of Commerce, Community & Economic Development (DCCED)

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 103.

BRIAN BJORKQUIST, Senior Assistant Attorney General

Labor and State Affairs Section

Civil Division (Anchorage)

Department of Law

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 103.

DON SMITH
Anchorage, Alaska

POSITION STATEMENT: Answered a question during the hearing on HB 103.

ACTION NARRATIVE

[3:11:50 PM](#)

CO-CHAIR LANCE PRUITT called the House Special Committee on Energy meeting to order at 3:11 p.m. Representatives Pruitt, Foster, Tuck, Petersen, Saddler, Olson, and Lynn were present at the call to order.

HB 103-POWER PROJECT; ALASKA ENERGY AUTHORITY
[Contains discussion of HB 119]

[3:12:49 PM](#)

CO-CHAIR PRUITT announced that the only order of business would be HOUSE BILL NO. 103, "An Act relating to the procurement of supplies, services, professional services, and construction for the Alaska Energy Authority; establishing the Alaska Railbelt energy fund and relating to the fund; relating to and repealing the Railbelt energy fund; relating to the quorum of the board of the Alaska Energy Authority; relating to the powers of the Alaska Energy Authority regarding employees and the transfer of certain employees of the Alaska Industrial Development Export Authority to the Alaska Energy Authority; relating to acquiring or constructing certain projects by the Alaska Energy Authority; relating to the definition of 'feasibility study' in the Alaska Energy Authority Act; and providing for an effective date.

[3:13:07 PM](#)

CO-CHAIR PRUITT said additional public testimony on HB 103 would be taken.

[3:13:39 PM](#)

BECKY LONG, Talkeetna, Alaska, provided a synopsis from the public viewpoint of the Alaska Energy Authority (AEA), Department of Commerce, Community & Economic Development (DCCED), meetings on the Railbelt large hydroelectric (hydro)

project. She informed the committee she attended the open house presentations in Talkeetna, Palmer, and Anchorage, and has secondhand information from the meeting in Fairbanks. Ms. Long stated that there is high interest in the project from members of the public; in fact, approximately 150 people attended in Fairbanks, approximately 150 people attended in Talkeetna, approximately 80 people attended in Palmer, and approximately 120 people attended in Anchorage. The public submitted written questions after the presentations because there was no opportunity for public comment at the meetings. There were 43 questions asked in Fairbanks, 42 questions asked in Anchorage, 43 questions asked in Palmer, and 101 questions asked in Talkeetna. The most commonly asked question was: "Why the Susitna Dam is the only alternative being offered to fulfill the 50 percent renewable mandate, and why isn't the Alaska Energy Authority (AEA) pursuing energy efficiency, solar, and wind in future plans?" Ms. Long noted that public members often referred to the Alaska Conservation Alliance Railbelt Electricity Efficiency Landscape (REEL) in Alaska Roadmap study, which showed that a 50 percent improvement in Railbelt electrical efficiency could generate an increase of up to \$947 million in economic output, \$290 million in wages, \$53 million in business income, 9,350 jobs, and up to a 425-megawatt reduction in electrical demand. The second-most-asked question pertained to all of the financial implications of the project, and the state's return on this investment. For example, there were concerns about whether other important renewable energy projects would be neglected if the state makes such a large financial commitment to one project. Ms. Long pointed out that the governor's budget this year included \$65 million for the Susitna hydro project, and only \$41.5 million for all other renewable energy projects. The third-most-asked question regarded the public process. Representatives from AEA stated that it would not have the authority to pursue Susitna without the passage of HB 103, and that there would be more opportunities for public comment during the Federal Energy Regulatory Commission (FERC) licensing process. However, residents expressed concern that the state process, through the legislature and AEA, has occurred without adequate public comment. She said, "Why has there been no public process on the state level approving Susitna, and yes, there is a huge federal public process on down the line, but the momentum is now to commit significant state resources to this megaproject." Other questions asked were about fisheries, seismic, sedimentation, dam configuration, wildlife, climate change, access, threats to human safety, studies from the '80s, and hydrology. Ms. Long acknowledged that there are gaps in data, and that AEA is

studying the gaps; however, AEA and its consultants cannot answer questions about dam failure, and how long it would take floodwaters to reach Trapper Creek and Talkeetna. Other specific needs are studies on reservoir-induced seismicity, genetic studies, sedimentation, spring migration of caribou, economic impact studies on Talkeetna, archeological studies, and effects on spring ice flows. In conclusion, she expressed her opposition to the dam, and opined AEA and its consultants are putting a positive spin on the fisheries, seismic, hydrology, and environmental impact data that is known. In fact, members of the public have their own knowledge and experience about river-altering projects, and it is known "that there are always unforeseen consequences beyond what the scientists can predict, and we have to live with the consequences, nothing alters a river as totally as a dam."

[3:20:11 PM](#)

REPRESENTATIVE TUCK understood Ms. Long's objections to the Susitna dam and asked whether she was opposed to all aspects of the bill.

[3:20:43 PM](#)

MS. LONG has heard that the concepts are good, but opposition to HB 103 is the only way to communicate her concerns to the legislature about moving forward with the Susitna dam.

[3:21:19 PM](#)

REPRESENTATIVE SADDLER asked whether there was any part of the project or the bill that Ms. Long could support.

[3:21:39 PM](#)

MS. LONG said no.

[3:21:42 PM](#)

PAUL D. KENDALL, expressed his disappointment with the public meeting on the Susitna dam at the Dena'ina Civic Center in Anchorage. He opined the Susitna dam could be a project that all in Alaska could support; however, although "top notch players and prominent members of the community" were present at the meeting, he did not hear an intelligent discussion of the project, but questions were taken from cards passed out to participants. Mr. Kendall considered this type of process and

focus group corrupted and debilitating to a strong and cohesive community. He pointed out the meeting could have been lively and engaging, and could have provided lots of detail so the community could understand what AEA is. Mr. Kendall stated his opposition to the dam because it is isolated, and will not generate power for 11 years; in fact, in 11 years there will be a new shift in the generation, distribution, ownership, and design of energy. Any consideration of the dam must be based on a preponderance of intelligent and heartfelt discussion with all Alaskans. This project represents another failure of Alaska to look at all of its communities as a package. Mr. Kendall indicated he would provide the committee with additional written testimony.

[3:28:56 PM](#)

BILL NOLL, Spokesperson, Alaska Ratepayers Inc., noted his experience with public processes and pointed out that at subsequent meetings held by AEA and its consultants, there will be lots of opportunity for discussion and the interchange of ideas. Also, he understood that the scope of the proposed Watana project includes a transmission line out to the main transmission line on the Parks Highway.

[3:30:25 PM](#)

GENE THERRIAULT, Vice President of Resource Development, Golden Valley Electric Association (GVEA), stated GVEA supports the passage of HB 103. He referred to his previous testimony regarding GVEA's concern about the language in the section of the original bill that deals with AEA subsidiary corporations operating power projects. This concern is partially mitigated by the wording of AS 44.83.396, which requires AEA to enter into contracts with a utility purchasing power from an AEA project, for the operation of the project. In addition, existing law mandates a process to select an operator when there is more than one wholesale customer. Mr. Therriault advised that during deliberations on the bill, GVEA wants to ensure that this section of law will apply to AEA subsidiary corporations, especially since the bill will apply to a number of other projects, and not just the Susitna dam.

[3:33:10 PM](#)

REPRESENTATIVE SADDLER asked for more information on GVEA's concerns.

[3:33:24 PM](#)

MR. THERRIAULT explained that AS 44.83.396 instructs AEA on projects that it owns, to enter into contracts so that utilities that purchase power end up operating the plant. For example, Homer Electric Association (HEA) operates the Bradley Lake Hydroelectric Project (Bradley Lake Hydro). This bill will empower AEA to create subsidiary corporations, and GVEA wants to ensure that the existing language will also apply to projects that are owned by AEA subsidiary corporations.

[3:34:45 PM](#)

CO-CHAIR PRUITT closed public testimony. He then asked Ms. Fisher-Goad to address the issue raised by Mr. Therriault.

[3:35:39 PM](#)

SARA FISHER-GOAD, Executive Director, Alaska Energy Authority (AEA), Department of Commerce, Community & Economic Development (DCCED), deferred the question to Mr. Bjorkquist.

[3:36:30 PM](#)

BRIAN BJORKQUIST, Senior Assistant Attorney General, Labor and State Affairs Section, Civil Division (Anchorage), Department of Law, said Section 11, page 3, lines 13-17, of the bill, are designed to address the question from GVEA. Section 11 adds a new subsection to AS 44.83.396 with the intent that if a project is within a subsidiary, then the subsidiary must comply with AS 44.83.396, and if a project is within AEA, AEA must comply with AS 44.83.396. He restated that AS 44.83.396 is the section that deals with AEA contracting with utilities for the operation of the project.

[3:37:57 PM](#)

CO-CHAIR PRUITT surmised any loophole would be closed by Section 11.

MR. BJORKQUIST said yes.

[3:38:12 PM](#)

CO-CHAIR FOSTER moved Amendment 1, labeled 27-GH1822\A.7, Kane, 3/7/11, which read:

Page 4, line 22:

Delete "construction,"

[3:38:32 PM](#)

REPRESENTATIVE SADDLER objected for discussion purposes.

CO-CHAIR PRUITT stated the amendment removes the extra word "construction" on page 4, line 22, of the bill.

MS. FISHER-GOAD had no objection to the amendment.

[3:39:19 PM](#)

REPRESENTATIVE SADDLER removed his objection. There being no further objection to the adoption of Amendment 1, it was so ordered.

[3:39:32 PM](#)

CO-CHAIR FOSTER moved Amendment 2, labeled 27-GH1822\A.8, Kane, 3/7/11, which read:

Page 3, line 4:

Delete "authority may use"
Insert "legislature may appropriate"

[3:39:43 PM](#)

REPRESENTATIVE SADDLER objected for discussion purposes.

CO-CHAIR FOSTER explained the purpose of the amendment was to authorize the legislature to appropriate money from the newly created Alaska Railbelt Energy Fund as a way to assure legislative powers of appropriation.

[3:40:12 PM](#)

MS. FISHER-GOAD said AEA has no objection to the amendment, as its intent is to make the proposed legislation consistent with the existing Railbelt Energy Fund which requires legislative appropriation.

REPRESENTATIVE SADDLER asked whether a "legislative oversight appropriation" is required at every expenditure, or for a one-time study.

[3:41:21 PM](#)

MR. BJORKQUIST advised it is a matter of legislative prerogative; for example, the legislature could make one large appropriation to AEA out of the fund for multiple tasks - similar to appropriations from the general fund - choosing to make broad appropriations for many tasks, or it could make narrow appropriations for limited tasks.

[3:42:21 PM](#)

REPRESENTATIVE SADDLER withdrew his objection. There being no further objections to adopting Amendment 2, it was so ordered.

[3:42:36 PM](#)

REPRESENTATIVE TUCK moved to adopt Amendment 3, labeled 27-GH1822\A.4, Kane, 3/4/11, which read:

Page 1, lines 1 - 2:

Delete "**relating to the procurement of supplies, services, professional services, and construction for the Alaska Energy Authority;**"

Page 1, line 11, through page 2, line 13:

Delete all material.

Page 2, line 14:

Delete "**Sec. 2**"

Insert "**Section 1**"

Renumber the following bill sections accordingly.

Page 7, line 8:

Delete "Section 13"

Insert "Section 12"

Page 7, line 10:

Delete "sec. 4"

Insert "sec. 3"

Page 7, line 14:

Delete "sec. 16"

Insert "sec. 15"

[3:42:47 PM](#)

REPRESENTATIVE SADDLER objected for discussion purposes.

[3:42:55 PM](#)

REPRESENTATIVE TUCK explained Amendment 3 would require AEA to use the state's normal procurement procedures. The agency reasoned that it needs its own procurement code because "others do it," and because AEA does not want to go through the administration for the appeal process. He said he was unsure of how the current procurement code hinders a project. Representative Tuck pointed out that the contractors bidding on the Susitna dam are the same ones that bid on other projects, and the state procurement code is a proven method to ensure that experts are at work. In addition, it is fair, proven, and demonstrates good business practices by its appeal process. Finally, he cautioned against creating a new bureaucracy, "When really [it] hasn't been demonstrated what's wrong with the one that we have."

REPRESENTATIVE LYNN agreed. His experience is that the state has a tried and true procurement code.

[3:45:29 PM](#)

REPRESENTATIVE SADDLER observed this is the largest construction project undertaken by the state. He asked whether there are cost savings or advantages to using a "differently sculpted, more finely crafted procurement process" for a large project.

REPRESENTATIVE TUCK advised that the state has handled all sizes of projects well with its current procurement code because it is streamlined. Much work was done to centralize the process through the Department of Administration (DOA) in order to maximize the purchasing power of the state. Furthermore, the state procurement code is innovative and includes new methods for overseeing projects.

[3:47:03 PM](#)

REPRESENTATIVE SADDLER restated the importance of cost savings.

[3:47:09 PM](#)

REPRESENTATIVE TUCK recalled his experience serving on the Anchorage School Board during a time without proper oversight, and called attention to problems with construction of the improvements to the Port of Anchorage. Referring to an audit of AEA in 2008, he pointed out that at that time AEA was not following federal and state procurement codes, or best practices within the industry.

REPRESENTATIVE SADDLER asked whether recommendations from the audit have been implemented.

[3:48:43 PM](#)

MS. FISHER-GOAD responded that AEA wants this section included in the proposed legislation in order to consolidate its procurement practices under one set of regulations. There is some confusion when this provision is discussed along with the Susitna project, because a large project requires a specific procurement plan, whether AEA is operating under AS 36.30 or its own rules. Ms. Fisher-Goad opined there is nothing wrong with the existing code, but to procure on behalf of communities, those procurements are outside of the procurement code. She clarified that AEA's intent is to establish a set of rules that covers all of its projects, and to have an appeal process to AEA's board of directors, rather than to DOA or the Department of Transportation & Public Facilities (DOTPF) commissioner. She acknowledged that her agency needs to further explain the issues with the procurement code and that the provision does not relate to the Susitna project specifically, but with routine tasks. Ms. Fisher-Goad said AEA does not have a problem with the amendment.

REPRESENTATIVE SADDLER surmised that if Amendment 3 passed, the state procurement code would apply.

[3:50:51 PM](#)

MS. FISHER-GOAD indicated that AEA would use the code where appropriate, and continue to follow its other rules with respect to procurements it does on behalf of communities that are not subject to AS 36.30.

REPRESENTATIVE OLSON asked whether this amendment would mean the use of the same procurement code that was used on the private Goose Creek Correctional Center in the Matanuska-Susitna (Mat-Su) Valley.

[3:51:35 PM](#)

REPRESENTATIVE TUCK assumed the same procurement code was used; however, he opined one of the problems with that project came from the oversight authority given to the Mat-Su Borough by the state. The location of the jail was moved, creating a need for support staff services and water facilities not related to problems with the procurement code.

REPRESENTATIVE SADDLER withdrew his objection.

CO-CHAIR PRUITT reopened public testimony.

[3:52:54 PM](#)

REPRESENTATIVE TUCK asked for information on the lack of oversight over procurement methods by the Anchorage School District.

DON SMITH, Anchorage, Alaska, said he was not familiar with this issue.

[3:55:17 PM](#)

CO-CHAIR PRUITT, after ascertaining that there was no further objection to adopting Amendment 3, indicated it was so ordered.

[3:55:24 PM](#)

REPRESENTATIVE PETERSEN moved to adopt Amendment 4, labeled 27-GH1822\A.3, Kane, 3/4/11, which read:

Page 1, line 5:

Delete "**regarding employees and**"
Insert "**and to**"

Page 5, line 25, following "projects":

Insert "**;**
(20) to carry out and be guided by the state energy policy described in AS 44.99.115"

[3:55:39 PM](#)

REPRESENTATIVE SADDLER objected for discussion purposes.

[3:55:45 PM](#)

REPRESENTATIVE PETERSEN recalled the past successful efforts to pass meaningful legislation establishing the goals of the state's energy policy. The proposed legislation does not mention the requirements to meet the state's energy policy and he urged that AEA be tasked with following the framework created by the legislature.

[3:57:01 PM](#)

REPRESENTATIVE SADDLER read the goals from the state's energy policy as follows: to promote energy efficiency and conservation; to promote development of renewable and nonrenewable energy resources; to promote economic development through cost-effective, long-term sources of energy for communities statewide. He opined HB 103 accomplishes those goals, without binding a specific project to all of the goals, and said he did not support the amendment.

REPRESENTATIVE PETERSEN pointed out HB 103 is not specific to one project, but gives AEA the authority to create subsidiaries and to manage numerous projects, and he said he felt it was important to set in statute the goals set by the legislature.

[3:58:36 PM](#)

REPRESENTATIVE OLSON agreed with Representative Saddler that the amendment is unnecessary.

REPRESENTATIVE TUCK observed that AEA is going to be its own corporation, and stated that there is value in reminding AEA that its purpose is to follow the state energy policy.

REPRESENTATIVE SADDLER assured the committee HB 103 "does in fact, carry through the intent of that policy."

REPRESENTATIVE PETERSEN recalled the state's energy policy was written by legislators and by stakeholders from throughout the state who worked very hard. He said it is a good idea to explicitly state in the bill the guidelines set by the legislature.

MS. FISHER-GOAD agreed that a good statewide policy is now established and codified in law. As a matter of fact, this amendment is not necessary because all state agencies are expected to follow statewide policy through their programs; furthermore, language in the statewide policy includes items that do not pertain to AEA programs, such as references to

transportation, heating programs, and permitting and regulatory processes. She assured the committee that AEA follows the state energy policy and pointed out that HB 103 seeks to re-establish powers taken away in 1993.

[4:02:48 PM](#)

REPRESENTATIVE PETERSEN withdrew Amendment 4.

REPRESENTATIVE SADDLER withdrew his objection.

[4:03:42 PM](#)

REPRESENTATIVE PETERSEN moved to adopt Amendment 5, 27-GH1822\A.5, Kane, 3/7/11, which read:

Page 2, line 23:
Delete "and other staff"

Page 3, line 22:
Delete "and employees of the authority are"
Insert "of the authority is"

Page 7, line 3, following "EMPLOYEES.":
Insert "(a)"

Page 7, following line 7:
Insert a new subsection to read:

"(b) Notwithstanding any other provision of law, staff members of the Alaska Industrial Development and Export Authority who will be transferred as staff to the Alaska Energy Authority and who are employed as of the effective date of this section

(1) shall immediately be appointed to the classified service upon their transfer;

(2) may not have a reduction in pay

(A) solely because of the assignment described in this subsection; or

(B) if the employee is assigned to a position in the classified service that is classified at a lower rate of pay than that received when the position was assigned to the exempt service;

(3) shall retain the step status previously held immediately before the transfer and shall be entitled to receive any merit or cost-of-living salary increases they would receive had they not been transferred."

4:03:55 PM

REPRESENTATIVE SADDLER objected for discussion purposes.

4:04:00 PM

REPRESENTATIVE PETERSEN explained that Amendment 5 establishes that AEA employees, with the exception of the executive director, would be considered classified employees, and not exempt employees. Language in the bill infers that some exempt, higher-level appointees would be exempt from civil service protections afforded to other employees if they were transferred between AEA and the Alaska Industrial Development & Export Authority (AIDEA), DCCED. He opined after such a transfer, employees may find themselves "performing the same duties, but being considered exempt employees." This amendment would protect the employees and protect the state from possible action taken by an employee.

4:05:24 PM

REPRESENTATIVE TUCK observed some employees are "more technical than they are going to be political," and consistency should be maintained during changes in administrations in order to pass on institutional knowledge. He asked for clarification of the purpose of the amendment.

4:06:25 PM

REPRESENTATIVE PETERSEN read from the amendment the following:

Notwithstanding any other provision of law, staff members of the Alaska Industrial Development and Export Authority who are transferred, who will be transferred as staff to the Alaska Energy Authority and who are employed as of the effective date of this section, shall immediately be appointed to the classified service [upon] their transfer and may not have a reduction in pay solely because of the assignment described in the subsection.

REPRESENTATIVE PETERSEN restated the purpose of the amendment is to protect employees and the state.

4:07:33 PM

REPRESENTATIVE OLSON asked whether this was a Senate amendment.

REPRESENTATIVE PETERSEN responded that he wrote this amendment, although it may be similar.

4:08:13 PM

MS. FISHER-GOAD stated that AEA does not support Amendment 5 because AIDEA employees who manage and staff AEA programs are exempt employees, as has been the case since 1993, and also since 1999, when Division of Energy programs were incorporated back into AEA, and AIDEA hired Division of Energy employees into exempt service. At this time, AEA seeks to have employees in order to provide AEA staff to work on its programs, and to provide "truth in budgeting;" for example, there is over \$5 million in interagency receipts reflected in AIDEA's budget as funds transferred from AEA to pay for the staff who work on AEA programs. The intent of this provision of the legislation is to maintain the status quo, thus the folks who were AIDEA employees prior to the effective date of the bill would maintain their current status as exempt employees. Regarding the concern about turnover, she indicated that neither AEA nor AIDEA have an "election cycle" process, and there is little turnover within the agencies. Also, Ms. Fisher-Goad pointed out that the amendment would create three tiers of employees: AIDEA exempt employees; AEA current hold-harmless employees; potential new AEA employees who may be paid less under a classified system. Furthermore, paragraph (3) of the amendment requires that employees retain a step status previously held immediately before the transfer, and shall be entitled to receive any merit or cost-of-living salary increases they would receive had they not been transferred. She opined a classified employee held to his or her previous exempt status would not get a benefit negotiated for them, and this would eliminate a union's ability to negotiate benefits.

4:13:00 PM

MS. FISHER-GOAD advised that exempt employees benefit from federal and state laws regarding discrimination, are covered by the Whistleblower Protection Act of 1989, and are covered by the Public Employees Relations Act of 1947 (PERA), which provides for collective bargaining.

REPRESENTATIVE TUCK referred to Ms. Fisher-Goad's statement that AEA would not be able to pay new employees "higher," and asked whether it is AEA's desire "to recruit qualified people, and being able to get them at a range that you can retain and keep them."

[4:14:00 PM](#)

MS. FISHER-GOAD responded that during a classification process, an employee going from an exempt to a classified status usually is put at a lower range. This amendment would keep an existing employee paid at the same level, but a new AEA employee would be paid at a lower range. If there were a negotiated benefit to a classified employee, the language in paragraph (3) would hold the employee to his or her previous exempt status. Also, AEA would be the only agency to have this classification of employee.

[4:15:45 PM](#)

A roll call vote was taken. Representatives Petersen and Tuck voted in favor of Amendment 5. Representatives Lynn, Olson, Saddler, Foster, and Pruitt voted against it. Therefore, Amendment 5 failed by a vote of 2-5.

[4:16:54 PM](#)

REPRESENTATIVE PETERSEN moved to adopt Amendment 6, labeled 27-GH1822\A.6, Kane, 3/7/11, which read:

Page 1, line 4:

Following "**quorum**":

Insert "**and membership**"

Following "**Authority**":

Insert "**establishing an Alaska Energy Authority Advisory Board**;"

Page 3, following line 9:

Insert a new bill section to read:

"* **Sec. 5.** AS 44.83.030 is amended to read:

Sec. 44.83.030. Membership of the authority. The directors of the Alaska Energy Authority are the members of the Alaska Industrial Development and Export Authority **and two members of the advisory board elected under AS 44.83.055.**"

Renumber the following bill sections to read.

Page 3, following line 23:

Insert a new bill section to read:

"* **Sec. 8.** AS 44.83 is amended by adding a new section to article 1 to read:

Sec. 44.83.055. Alaska Energy Authority Advisory Board. (a) The Alaska Energy Authority Advisory Board is established and is made up of seven members appointed by the directors of the authority. The advisory board members shall serve staggered three-year terms and may be removed by the directors of the authority for cause. The advisory board shall consist of three public members and four other members qualified as follows:

(1) one member with expertise in operation of power plants serving urban areas of the state;

(2) one member with expertise in providing energy to rural areas of the state;

(3) one member with expertise in energy efficiency improvements;

(4) one member with expertise in consumer and ratepayer advocacy.

(b) Each year, the advisory board shall elect two of its members to serve as voting members of the board of directors of the authority under AS 44.83.030.

(c) The advisory board shall advise the board of directors and executive director of the authority on how to fulfill most efficiently and effectively the corporate purpose of the authority in the best interest of the residents of the state.

(d) The advisory board may create subcommittees to consider specific projects and programs and may appoint persons not serving on the advisory board to serve on a subcommittee.

(e) The members of the advisory board serve without compensation but shall receive the same travel pay and per diem as provided by law for members of boards and commissions under AS 39.20.180."

Renumber the following bill sections accordingly.

Page 6, following line 26:

Insert a new bill section to read:

* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INITIAL APPOINTMENTS AND TERMS. Notwithstanding AS 44.83.055(a), as enacted by sec. 8 of this Act, the terms of the first members of the Alaska Energy Authority Advisory Board are as follows:

(1) three members shall be appointed for a three-year term;

(2) three members shall be appointed for a two-year term; and

(3) one member shall be appointed for a one-year term."

Renumber the following bill sections accordingly.

Page 7, line 8:

Delete "Section 13"

Insert "Section 15"

Page 7, line 14:

Delete "sec. 16"

Insert "sec. 19"

[4:17:04 PM](#)

REPRESENTATIVE SADDLER objected for discussion purposes.

[4:17:07 PM](#)

REPRESENTATIVE PETERSEN said the amendment relates to an AEA advisory board. It is important to consider the additional authority and powers that are being granted to AEA by HB 103. He opined AEA should have an advisory board of seven members, two of whom are also on the AIDEA board, in order to provide expertise and public members' advice to AEA so that better decisions will be made.

REPRESENTATIVE LYNN asked about the estimated cost.

REPRESENTATIVE PETERSEN said he was unsure.

[4:19:23 PM](#)

MS. FISHER-GOAD provided background on the AIDEA board and the AEA board. The AIDEA board consists of five public members and two commissioners; in fact, those same people make up the AEA board, but they convene as separate boards. Board members are paid travel and per diem when seated to review AEA work, but when seated as the AIDEA board working on AIDEA business, public

members are paid \$100 per day. She turned to Amendment 6, and said the amendment provides the advisory board more protection from removal than is afforded the AIDEA board; in addition, the two AEA advisory board members on the AIDEA board may appoint themselves while sitting on the AIDEA board. Ms. Fisher-Goad concluded that the amendment would be difficult to implement. Furthermore, she pointed out that AEA has two statutory advisory committees that consult on the Renewable Energy Fund and the Emerging Energy Technology Fund, and AEA has instituted several planning processes and regional energy plans that include working groups and public processes that, with its board of directors, guide the policies and the direction of AEA.

[4:23:19 PM](#)

REPRESENTATIVE PETERSEN was unsure about a board that gavels back and forth for different purposes. Along with granting additional powers, he opined this is a good time to separate the boards.

REPRESENTATIVE TUCK expressed his concern about HB 119 that will allow AIDEA to have subsidiaries. He questioned the best structure for the relationship between AIDEA and AEA, and surmised that "AEA does want their own autonomy and wants to be out of underneath the guise of AIDEA, although they are going to have some shared employees and also have the ... same facilities." He asked for confirmation that AEA wants to have the same board as AIDEA.

[4:26:35 PM](#)

MS. FISHER-GOAD clarified that she was not expressing a position, but noting that the statutory structure provides for the AIDEA board members to also be the AEA board members.

REPRESENTATIVE TUCK remarked:

HB 103 is making it so that AEA has their own powers, don't we want them to fully have their own powers? I'm not sure, and if not, then maybe the structure is still ... about having the structure with AIDEA as a subsidiary"

REPRESENTATIVE TUCK then asked whether it is a beneficial structure for AEA to "keep that umbilical cord there ... and still have some autonomy, and then still be able to have those relationships with the employees and the facilities and

everything else." He asked for further clarification on AEA's ultimate goal.

[4:28:49 PM](#)

MS. FISHER-GOAD acknowledged Representative Tuck's valid questions; however, Amendment 6 intends to do something else. She recalled that last year the legislature addressed whether AIDEA and AEA should have separate boards, separate people, and separate requirements for members; although the board was expanded, and the issue was discussed, no changes were made. She restated that Amendment 6 does not create a separate board, but an advisory board of members not appointed by the governor.

[4:30:55 PM](#)

REPRESENTATIVE SADDLER suggested that the amendment makes the issue muddier, rather than clearer. He observed that there is sufficient communication between the two boards, AEA is functioning for its current programs and processes, and the advisory board adds confusion and "open[s] the back door to a lot of people involved in the process." He said he did not support the amendment.

[4:32:04 PM](#)

REPRESENTATIVE OLSON confirmed that it is commonplace for boroughs and cities to have their governing bodies reconvene with a different purpose, such as to hear tax disputes and property valuations. He said precedence has been set in the state.

REPRESENTATIVE LYNN agreed.

REPRESENTATIVE TUCK related his experience serving on many advisory committees and agreed that they are not uncommon. He asked whether other state corporations have advisory committees.

MS. FISHER-GOAD clarified that AEA's advisory committees consult, but do not take the place of a board. She opined Amendment 6 does not create an advisory board to consult or to develop a program. Advisory boards have been useful, especially with the Emerging Energy Technology Fund.

[4:35:37 PM](#)

MR. BJORKQUIST stated he was not aware of any other public corporation that has advisory committees; however, his experience with this issue is limited.

REPRESENTATIVE TUCK asked for more details on how Amendment 6 is different from existing advisory committees or boards.

[4:36:45 PM](#)

MS. FISHER-GOAD further explained that Amendment 6 provides advisory board members with more protection than members of the AEA board of directors because directors serve at the pleasure of the governor, and directors would be appointing advisory board members who could only be removed for cause. Also, two advisory board members, appointed as members of the AEA board of directors, could help select advisory board members - themselves - and would serve until dismissed for cause. She referred to the Renewable Energy Fund advisory committee and stressed that the statute which established this advisory committee directs AEA "to essentially develop this program in consultation with the advisory committee - it's not having an advisory committee direct them - it's having them ... help through a collaborative process develop a program." Ms. Fisher-Goad reiterated this is the difference, and mentioned several other examples.

[4:39:19 PM](#)

REPRESENTATIVE SADDLER related his experience, and said he did not recall another publicly-based advisory committee. Furthermore, governor appointees provide adequate public input.

REPRESENTATIVE PETERSEN offered a conceptual amendment to Amendment 6 that the members would be appointed and removed by the governor.

[4:40:28 PM](#)

MS. FISHER-GOAD countered that with the AEA board of directors and an advisory board there would be 11 members appointed by the governor to provide oversight and assistance. She said, "I think that would be an additional layer of a board that would be somewhat confusing."

REPRESENTATIVE PETERSEN restated the intent of the amendment is to address the changes in the purview of AEA in that it will be managing projects and getting financing. At this time, AIDEA forms agreements with financing institutions for the financing

of projects, and now AEA would be managing its own projects. He expressed his belief that if AIDEA and AEA continue to share the same board there may be conflicts in certain situations. He cautioned against "creating a new AEA ... with [HB] 103, we're giving it new powers, but we're allowing it to be run by the same AIDEA board."

REPRESENTATIVE LYNN asked whether Amendment 6 makes HB 103 a better bill and will advance the Watana dam.

[4:43:58 PM](#)

REPRESENTATIVE PETERSEN reminded the committee that the Watana dam is not specific to HB 103. The bill gives AEA the authority to manage projects big and small, which is a change from AEA's present task of giving grants for energy projects.

CO-CHAIR FOSTER understood Representative Petersen's concerns; however, he said his preference was to separate this debate from HB 103.

[4:46:18 PM](#)

REPRESENTATIVE SADDLER maintained his objection.

REPRESENTATIVE PETERSEN offered to make further changes to the amendment, or to reintroduce the issue as a separate bill.

[4:47:04 PM](#)

MS. FISHER-GOAD encouraged Representative Petersen, or the committee, to consider this question as a separate piece of legislation.

[4:47:43 PM](#)

REPRESENTATIVE PETERSEN withdrew Amendment 6.

[4:48:34 PM](#)

MS. FISHER-GOAD, in concluding remarks, pointed out that the public process by AEA on the Susitna project so far is not part of the FERC licensing process; however, pursuing a FERC license for the Watana project will include significant public meetings. The format of the previously held meetings was intended to allow for a presentation on why AEA prefers the Susitna project over the Chakachamna Hydroelectric Project, and not a debate process.

Other formats have advantages and disadvantages, such as preventing a speaker from monopolizing the discussion. Ms. Fisher-Goad assured the committee that AEA and its consultants are working to answer questions; in fact, all written letters of concern will be addressed. She restated that there will be ample time for additional public meetings in a variety of formats.

4:52:30 PM

REPRESENTATIVE TUCK expressed his belief that it is appropriate during this discussion to also to look at HB 119, which allows AIDEA to create subsidiaries; for example, if AEA becomes a subsidiary of AIDEA, whether AEA would gain powers and more bonding. He asked Ms. Fisher-Goad whether AEA would be restricted in any way if it became a subsidiary of AIDEA.

4:54:00 PM

MS. FISHER-GOAD pointed out that AEA and AIDEA have ties, but it is not a "parent-child relationship." She deferred to Mr. Bjorkquist.

4:54:59 PM

MR. BJORKQUIST advised HB 119 would give AIDEA the ability to form a subsidiary corporation only for the purposes of a "development finance project." Such a project would be one that AIDEA owns and operates, for example, the Delong Mountain Transportation System (DMTS) connected to the Red Dog Mine. House Bill 119 allows AIDEA to develop a similar project within a subsidiary corporation, rather than owning the project as an AIDEA asset. This legislation could not be used to make AEA into a subsidiary corporation, because it would not be a development finance project. Mr. Bjorkquist said he has represented both corporations for 14 years and has observed that the board members understand "what they're doing when they're sitting for the respective corporations, they do not blur their roles with respect to one corporation when they're meeting as a different corporation." The statutory mission of AIDEA is on economic development and finance, and AEA has a focus on energy. Furthermore, the commissioners seated on the boards fulfill the statutory duties of the relevant corporation. He assured the committee that there is a distinction between the two corporations; in fact, in Alaska many public corporations have commissioners on their boards of directors.

4:58:30 PM

REPRESENTATIVE PETERSEN expressed his support for renewable energy projects that will help the state reach its goal of 50 percent renewable by 2025.

4:59:47 PM

CO-CHAIR FOSTER moved to report HB 103, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 103(ENE) was reported from House Special Committee on Energy.

5:00:41 PM

CO-CHAIR PRUITT said this bill is a vital aspect to fulfill the state's energy policy.

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Energy meeting was adjourned at 5:00 p.m.