

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

February 7, 2011

3:15 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Craig Johnson, Vice Chair  
Representative Dan Saddler  
Representative Paul Seaton  
Representative Steve Thompson  
Representative Lindsey Holmes  
Representative Bob Miller

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 114

"An Act relating to an opt-out charitable giving program offered by an electric or telephone cooperative."

- HEARD & HELD

HOUSE BILL NO. 28

"An Act relating to temporary licenses for certain nonresident professionals."

- MOVED CSHB 28(L&C) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 114

SHORT TITLE: OPT-OUT CHARITABLE GIVING PROGRAM

SPONSOR(S): REPRESENTATIVE(S) THOMPSON

01/21/11	(H)	READ THE FIRST TIME - REFERRALS
01/21/11	(H)	L&C, JUD
02/07/11	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 28

SHORT TITLE: TEMP LICENSES FOR PROFESSIONALS

SPONSOR(S): REPRESENTATIVE(S) THOMAS, HERRON, FEIGE

01/18/11 (H) PREFILE RELEASED 1/7/11  
01/18/11 (H) READ THE FIRST TIME - REFERRALS  
01/18/11 (H) L&C, FIN  
02/07/11 (H) L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

JANE PIERSON, Staff  
Representative Steve Thompson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 114, on behalf of the prime sponsor, Representative Steve Thompson, and answered questions during the discussion of HB 114.

BRIAN NEWTON, President and CEO  
Golden Valley Electric Association (GVEA)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of HB 114.

CLAY KOPLIN, Executive Director  
Cordova Electric Cooperative (CEC)  
Cordova, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of HB 114

JOE GALLAGHER, Public Relations Coordinator  
Homer Electric Association (HEA)  
Homer, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of HB 114.

CLYDE (ED) SNIFFEN, JR., Senior Assistant Attorney General  
Commercial/Fair Business Section  
Civil Division (Anchorage)  
Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of HB 114.

KACI SCHROEDER, Staff  
Representative Bill Thomas, Jr.  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 28, on behalf of a joint-prime sponsor, Representative Bill Thomas, Jr., and answered questions during the discussion of the bill.

MARK SAN SOUCI, Regional Liaison Northwest  
Defense State Liaison Office  
Office of the Deputy Assistance Secretary of Defense  
Deputy Under Secretary of Defense (Military Community and Family Policy)  
U.S. Department of Defense  
Tacoma, Washington

**POSITION STATEMENT:** Testified and answered questions during the discussion of HB 28.

SARA CHAMBERS, Program Coordinator  
Division of Corporations, Business, and Professional Licensing  
Department of Commerce, Community, & Economic Development  
(DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 28.

#### **ACTION NARRATIVE**

[3:15:59 PM](#)

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:15 p.m. Representatives Olson, Holmes, Miller, Johnson, Saddler, and Thompson were present at the call to order. Representative Seaton arrived as the meeting was in progress. Representatives T. Wilson and Fairclough were also in attendance.

#### **HB 114-OPT-OUT CHARITABLE GIVING PROGRAM**

[3:16:05 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 114, "An Act relating to an opt-out charitable giving program offered by an electric or telephone cooperative."

[3:16:07 PM](#)

JANE PIERSON, Staff, Representative Steve Thompson, Alaska State Legislature, on behalf of the prime sponsor, offered that Golden Valley Electric Association (GVEA) brought this matter to Representative Thompson's attention, she stated. This bill proposes an opt-out charitable giving program, noting that more than 250 cooperatives across the U.S. have implemented similar

successful programs. The programs are generally referred to as round up programs because they round up to the next dollar on a utility bill. This bill would allow the cooperative's members the opportunity to participate in a charitable giving program that would round their monthly bill to the next whole dollar amount and use the excess for its program. The amount per customer would not exceed 99 cents a month. He offered his belief that this program would allow participants the opportunity to contribute a small amount of money for charitable use, which can help build strong, local communities.

MS. PIERSON related that this program is consistent with one of the seven cooperative principles, which includes concern for the community. The principle is as follows: "While focusing on member needs, cooperatives work for the sustainable development of their communities through policies accepted by the members." Based on the collective generosity of cooperative members, the small charitable donations ranging from \$.01 to \$.99 can add up quickly. The funds would be collected and subsequently disbursed back into the community to benefit qualified organizations and individuals in the cooperative's service district. Groups and individuals are encouraged to apply and would complete and submit written applications, outlining the level of need and the benefits in receiving the funds. One good thing about this type of program is that it helps to fund the small amounts charitable groups or individuals often need that often go unfunded. She offered a wide variety of examples of funding needs this program could fund: \$2,480 for exam tables for a health clinic, \$2,500 in matching funds for new computers for a library, \$530 for a microscope for an elementary school, \$3,335 to purchase radios for a volunteer ambulance service, \$10,000 for a HAVAC system for a Boy Scout building, \$3,500 to fix a leaky roof for a disabled senior, \$10,000 for a truck for a fire department, and \$10,000 to pay for a matching grant for a recreation center.

MS. PIERSON explained that most electric cooperatives would disperse funds through a separate board established under the tax-exempt Internal Revenue Code Section 501 (c)(3). The board would be comprised of a cross-section of the cooperative's membership, with each voting district having representation. Of the 250 cooperatives with charitable programs established, most have an "opt-out" program rather than an "opt-in" program since data has shown that "opt-out" programs have a significantly higher involvement, typically with 90 percent member participation. She related that under the program, cooperative members would be given an opportunity to opt out of the program

at any time, in writing, by telephone, by using the internet, or by applying in person at the cooperative. Additionally, its members are given the opportunity to claim a full refund of all amounts they paid under the program for up to the three preceding years. This bill would clarify any possible conflicts with AS 45.45.930, which refers to "opt-out" marketing plans. Members also would have a voice in the "opt-out" charitable giving programs as the program requires membership approval, disclosure of the contribution amount on the member's billing, and as previously mentioned, extends full refunds for up to three years of any contributions.

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REPRESENTATIVE MILLER assumed that under this scenario any monies would be collected by GVEA. He asked for the disbursement procedure the cooperative would use in the opt-out charitable program.

MS. PIERSON explained that monies would be collected either quarterly or annually and be dispersed through a separate section "501(c) (3)" entity. The board would review applications and vote on how to apply the collected funds to charities. In further response to Representative Miller, she clarified that the board she was referring to is the board of the separate "501(c)(3)" corporation established for this purpose. She confirmed that a member could receive refunds for up to three years for any charitable donation collected by the cooperative if a member decided to opt-out of the program.

[3:22:06 PM](#)

REPRESENTATIVE JOHNSON referred to the wide variety of disbursements possible, ranging from a pickup truck to a leaky roof for a disabled senior. He asked whether disbursements must be to a private not-for-profit and whether any organization is prohibited from receiving funds such as a political campaign.

MS. PIERSON said she does not believe so, but deferred to Brian Newton, Golden Valley Electric Association for further clarification. She pointed out that a senior citizen with a leaky roof would not be a "501(c)(3)" organization.

[3:23:08 PM](#)

BRIAN NEWTON, President and CEO, Golden Valley Electric Association (GVEA), responded to Representative Johnson's

question by stating that the bylaws prohibit any donations to political campaigns or any religious purposes. Therefore, the donations would primarily be given to people in need or agencies such as a "501(c)(3)'s" that apply for funds. In further response to Representative Johnson, he clarified that the bylaws he was referring to are the separate corporation's bylaws filed with the State of Alaska.

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REPRESENTATIVE JOHNSON asked how difficult it would be to change the corporation entity's bylaws.

MR. NEWTON answered that any proposed bylaw change would need to be approved by the board and by the GVEA board. He remarked that a "501(c)(3)" organization must abide by certain criteria in order to qualify for its tax exempt status. Thus, the IRS guidelines restrict disbursement of the tax exempt corporate funds. In further response to Representative Johnson, Mr. Newton said he was not sure whether the Alaska Center for the Environment held that status.

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REPRESENTATIVE JOHNSON offered his belief that the Alaska Center for the Environment qualifies as a section "501(c)(3)" entity. He asked whether that organization donates to political candidates.

MR. NEWTON answered that he was unsure. He commented that the board must wrestle with a lot of individual questions such as these and will also need to review a number of layers. He said that typically the charitable giving program would identify particular projects based on need that would benefit Interior residents. The opt-out program is not intended for political or religious purposes, he said. He reiterated that the funds would be used to start programs to benefit Interior residents.

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REPRESENTATIVE JOHNSON surmised that a political purpose might be considered as beneficial to Interior residents.

MR. NEWTON offered his belief that a political purpose would not constitute a proper "501 c 3" purpose so a charitable opt-out entity would be prohibited from donating funds used for political purposes. He described the application process,

noting the "501 (c) (3)" board would meet quarterly to review applications and distribute funds. He related the application process is public so people can view the applications submitted. He characterized the process as a very transparent process.

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REPRESENTATIVE JOHNSON asked whether the group could contribute to the "501 (c) (3)" entity and use funds to build transmission facilities if a utility wanted to bond transmission facilities.

MR. NEWTON suggested the Department of Law could better answer what the IRS would allow than he could. He reiterated the "501 (c) (3)" bylaws specifically prohibit any individual member from using funds to pay an electric bill or to fund electrical projects. Therefore, the scenario Representative Johnson described would not fit the proper purpose and would be prohibited, he stated.

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REPRESENTATIVE MILLER asked how funds would be collected and managed and for further clarification of the board structure and process.

MR. NEWTON responded that the bylaws of the "501 (c) (3)" establish the boundaries of board member selection. He described actions the GVEA member advisory committee (MAC) has taken thus far. The MAC published notices in the local newspaper and in its newsletter, soliciting volunteers for the "Goodcents" board and has made recommendations of who should serve on the "Goodcents" board. The GVEA board subsequently approved the "Goodcents" board members. Potential funds will be derived from a "round up" on each participating consumer's electric bill - collected monthly and deposited in a separate fund. The fund balance will be maintained until the "Goodcents" board holds its quarterly board meeting, at which time it would allocate funds to specific projects submitted by application. He recapped that an application must be submitted that includes the potential recipient - the specific person or entity - the timeline, and the details of a proposed project. The "Goodcents" board will subsequently grant or deny the funds and a complete accounting of these funds would be available.

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REPRESENTATIVE MILLER related that he has received a few phone calls and while he did not see anything wrong with the proposed plan, the question arose as to why the funds would not simply be used to lower electric costs for everyone or be used for specific individuals in need.

MR. NEWTON answered that the MAC wrested with this concept, as did the GVEA's Board of Directors (BOD), and both agreed that it would be "self serving" simply to collect funds from those who could afford to pay and apply them to consumers' accounts who cannot afford to pay their bills. Thus, the MAC and GVEA's BOD decided not to do so. He advised that some cooperatives in other states use these types of funds to cover client delinquencies. He reiterated that the MAC's board chose not to take that approach, and in fact, included a prohibition in the "Goodcents" bylaws to prohibit applying the funds to customers' delinquent bills.

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REPRESENTATIVE SEATON said he did not see any requirement that an electric cooperative must establish a "501 (c) (3)" entity in the bill. He related his understanding that under this bill, an electric cooperative could collect up to \$.99 from each customer and use the collected funds for a charitable giving program. He asked whether the GVEA's BOD could decide how to disperse the funds.

MS. PIERSON answered yes, that is correct. She offered that each individual cooperative would set up its own opt-out program, which would be approved by their membership.

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REPRESENTATIVE SADDLER referred to page 3, paragraph 4 of the bill. He asked whether the utility has included provisions to pay interest to members who request a refund.

MS. PIERSON answered that she does not believe so.

MR. NEWTON explained that the opt-out program would hold the collected funds for a relatively short time period. He pointed out that the GVEA's "Goodcents" entity is not set up as a trust or a foundation. He suggested that the few cents collected, on average \$.50 per month per customer, would not amount to interest of even a penny.

REPRESENTATIVE SADDLER disagreed and said he thought the interest would not be insignificant and would amount to more.

MR. NEWTON reiterated his belief that the amount collected for charitable giving per customer would be minimal and would benefit the entire program plus any interest accrued would stay in the fund and be distributed in its entirety.

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REPRESENTATIVE SADDLER asked whether the opt-out funds would provide extra revenue or would serve any other cooperative function.

MR. NEWTON offered that the opt-out fund would not serve any other function and the IRS specifies the allowable uses, which are similar to scientific, educational, and philanthropic purposes.

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CHAIR OLSON stated his intent to hold HB 114 over. He asked members to submit written questions to him, which will be forwarded to the attorney to answer.

[3:34:39 PM](#)

REPRESENTATIVE HOLMES made a motion to adopt Amendment 1, labeled 27-LS0424\A.2, Kane, 2/4/11, which read as follows:

Page 1, line 2, following "**cooperative**":

Insert "**; and allowing for an electric cooperative to assist persons in acquiring and installing weatherization and energy efficiency products and services**"

Page 2, following line 27:

Insert a new bill section to read:

**"\* Sec. 2.** AS 10.25.020 is amended to read:

**Sec. 10.25.020. Powers of electric cooperative.**

An electric cooperative may

(1) generate, manufacture, purchase, acquire, accumulate, and transmit electric energy, and distribute, sell, supply, and dispose of electric energy to its members, to governmental agencies and political subdivisions, and to other persons not exceeding 10 percent of the number of its members;

however, a cooperative that acquires existing electric facilities may continue service to persons, not in excess of 40 percent of the number of its members, who are already receiving service from these facilities without requiring them to become members, and these persons may become members upon the terms as may be prescribed in the bylaws;

(2) assist persons to whom electric energy is or will be supplied by the cooperative in wiring their premises and in acquiring and installing electrical and plumbing appliances, equipment, fixtures, and apparatus, and weatherization and energy efficiency products and services by financing them, and, in connection with these services, wire or have wired the premises, and buy, acquire, lease, sell, distribute, install, and repair electric and plumbing appliances, equipment, fixtures, and apparatus, and weatherization and energy efficiency products and services;

(3) assist persons to whom electric energy is or will be supplied by the cooperative in constructing, equipping, maintaining, and operating electric cold storage or processing plants by financing them or otherwise;

(4) operate a waste heat distribution system;

(5) operate a heating distribution system that was in existence on June 9, 1988;

(6) provide sewer, water, or gas utility service if the cooperative has received a certificate of convenience and necessity under AS 42.05.221 - 42.05.281 from the former Alaska Public Utilities Commission or the Regulatory Commission of Alaska for each type of service provided;

(7) provide direct satellite television programming services; in this paragraph, "direct satellite television programming services" means a video broadcast signal that is received directly from a satellite by an end user."

Renumber the following bill sections accordingly.

CHAIR OLSON objected for the purpose of discussion.

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REPRESENTATIVE HOLMES explained the purpose of proposed Amendment 1. Currently, some electric cooperatives have the ability to loan money to its members. Proposed Amendment 1 would extend the list of services and allow electric cooperatives to loan money for the purpose of weatherization energy efficiency products and services. As it stands now, people often must incur the weatherization expenses for an energy audit, including paying for a second inspection prior to requesting reimbursement for energy audit expenses. This amendment would allow electric cooperatives to loan money to its members for weatherization expenses in the interim. She urged members to adopt proposed Amendment 1.

REPRESENTATIVE SEATON asked for clarification that proposed Amendment 1 would not pertain to the opt-out program, but would add a new section that would pertain to electric cooperatives' ability to lend money.

CHAIR OLSON agreed that is the purpose of Amendment 1.

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REPRESENTATIVE MILLER referred to talking points in members' packets, noting members must vote in favor of the opt-out program. He asked whether this action had been taken yet on the GVEA's "Goodcents" program.

CHAIR OLSON asked to hold that question until the pending amendment was acted upon.

CLAY KOPLIN, Executive Director, Cordova Electric Cooperative (CEC), indicated his comments related to the bill.

JOE GALLAGHER, Public Relations Coordinator, Homer Electric Association (HEA), interjected that HEA has a line of credit program that is a popular program, but HEA cannot currently use its program to finance weatherization project requests. He offered support for proposed Amendment 1, as it would allow HEA to extend those services to its members. He said he anticipated that HEA members would use the services.

CHAIR OLSON removed his objection to proposed Amendment 1. There being no further objection, Amendment 1 was adopted.

[3:39:18 PM](#)

MR. KOPLIN asked to speak in support of HB 114. He explained that what he liked about the opt-out program is this program would allow a democratic choice for members to create a charitable giving program, unlike rate setting or other democratic processes a board would incorporate into the bylaws. Additionally, members also have the ability to opt out if they do not choose to participate. He said he appreciated the cooperatives' ability to be self-governed as private not-for-profit organizations. He surmised that in this challenging environment it will be important to allow cooperative members to use energy and make decisions to meet their needs and benefit local communities.

MR. NEWTON answered an earlier question, noting that GVEA's membership approved the program last spring. He advised that the GVEA also worked with the attorney general's office on language in the bill in hopes to eliminate any ambiguity with the opt-out program provisions. He asked Mr. Sniffen, Alaska Department of Law, to discuss the criteria in HB 114 and the charitable purposes with respect to the proposed opt-out programs.

[3:42:25 PM](#)

CLYDE (ED) SNIFFEN, JR., Senior Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Anchorage), Department of Law (DOL), agreed that he has worked with GVEA on this issue. He provided a brief history, noting that currently under Alaska law, AS 45.45.930 prohibits opt-out marketing plans. Thus, a company cannot tell someone that they will receive something and subsequently charge someone unless he/she has taken affirmative action to decline. He described a specific scenario in which Alaska Communications Systems (ACS) attempted to sell upgraded calling plans to consumers by providing notification on customers' bills that their plans had been upgraded. The ACS also advised its customers they would be charged a fee for the improved plan unless the customers informed ACS that they did not want the plan. He said that ACS's customers held significant opposition to the marketing plan, and the legislature subsequently passed AS 45.45.930, which addressed the issue. He reported that when GVEA initially proposed its opt-out program, questions arose as to whether AS 45.45.930 would prohibit this kind of charitable giving, taking into consideration that the electric or telephone cooperative would not be selling a product or service. Discussions ensued with GVEA with respect to whether the opt-out program would violate the current statutes. The language developed is

intended to make it clear that HB 114, if passed, would not conflict with AS 45.45.930, and the bill includes a specific exemption, in proposed Section 3 of HB 114, that would indicate the statute does not apply to these types of plans. Further, the new language would also be inserted in Title 10, he said.

[3:44:47 PM](#)

MR. SNIFFEN advised that the DOL has reviewed the language in the bill. He offered his belief that while the DOL does not take a position on the bill, HB 114 contains some fairly significant consumer protections. He elaborated on the consumer protection aspects, including that a member cooperative must approve the plan and a three-year roll back refund provision to consumers. Additionally, the amount of money collected from individual customers is small. Further, the billing statements must clearly identify the voluntary contributions and allow consumers to opt out, plus the opt-out provisions are easy for consumers to use. One thing that is not in the bill is a requirement that a cooperative be a "501 (c) (3)" corporation under this bill, he said.

MR. SNIFFEN indicated that while GVEA has chosen for its "Goodcents" program to set up a "501 (c) (3)", which is limited by the Internal Revenue Code regulations in terms of entities that it can donate money, other electric cooperatives may decide not to create a "501 (c) (3)" and could instead give money to a political action committee (PAC) or religious organization or offset delinquent bills from consumers. Nothing in the bill would prevent a change by GVEA or another electric cooperative from to allow contributions to PACs or religious organizations. The committee would need to address that issue if it decides to prohibit that type of activity, he advised.

[3:47:17 PM](#)

REPRESENTATIVE HOLMES referred to "charitable" and asked if any definition exists.

MR. SNIFFEN said he was unsure, but was not aware whether Title 10 contains the definition, noting that charitable is sometimes defined to include qualifying "501 (c)(3) and (c)(4)" entities. He recalled that in other parts of the applicable proposed statutes in the bill, it refers only to "501 (c) (3)" entities.

[3:47:52 PM](#)

REPRESENTATIVE SEATON offered his belief that the bill should not restrict cooperatives to only distribute funds to a "501 (c) (3) or (c) (4)" since the intent is to allow the cooperative to donate funds for charitable purposes. The local community would identify its priorities, he remarked.

CHAIR OLSON clarified that the GVEA has structured its entity to fall under the IRS interpretation of what a "501 (c) (3)" entity can donate its funds to but other cooperatives may not be subject to the IRS restrictions since the cooperatives may decide not to use the "501 (c) (3)" status.

REPRESENTATIVE SEATON asked for clarification about whether the definition of charitable would address that issue.

MR. SNIFFEN advised that HB 114 does not specifically limit donations to a charitable organization since the language indicates the program would be an opt-out charitable giving program. Provisions in HB 114 are a little vague as to whether the funds can be used for a broader range of charitable purposes that include "501 (c) (3)" entities or to other entities such as for donations to disabled individuals, he said. He also offered his belief that the bill, as a whole, seems to indicate the intent is to allow collected funds to be used for a charitable purpose. He reiterated the current language is somewhat vague.

[3:51:35 PM](#)

REPRESENTATIVE HOLMES related her understanding that the discussion pertained to whether an electric cooperative would set up a "501 (c) (3)" entity to manage the money, recognizing that the "501 (c) (3)" entities donations are constrained by federal law. Therefore a "501 (c) (3)" could not donate to a PAC but could donate funds to a boys or girls club, she said. She suggested that issue Representative Seaton referenced it seems to imply that the electric cooperative must donate funds to an entity or organization that is set up as a "501 (c) (3)" entity. She asked for further clarification.

MR. SNIFFEN said that GVEA established a "501 (c) (3)" entity to manage its charitable giving program. Nothing in the bill would require another electrical cooperative, such as HEA to do the same. He agreed that GVEA will be a little restricted as to how it can use funds to implement its program, since it is subject to the IRS code. He reiterated another cooperative could structure its opt-out program in another way that would allow it to donate to a PAC or other organization.

MR. NEWTON agreed that GVEA is set up as a "501 (c) (3)" but the bill does not preclude another structure.

[3:54:00 PM](#)

REPRESENTATIVE JOHNSON asked what kind of disclosure laws would apply to the board, such as whether anything would restrict a board member of a cooperative from fixing his mother's roof with the funds.

MR. SNIFFEN stated that under this program, the bill does not require disclosure, but he offered his belief that GVEA would disclose its recipients. He thought Mr. Newton could elaborate on the process.

CHAIR OLSON pointed out two issues which have been raised: how the bill would affect the GVEA program and how it would affect other cooperatives.

MR. SNIFFEN agreed. He acknowledged that he was not familiar enough with the cooperatives to advise whether any requirement for disclosure would apply. He also said he could not recall any consumer protection provision that would require such disclosure.

MR. NEWTON responded that electric cooperatives are membership owned so GVEA's members can request the information and the cooperative would share the source and distribution of funds. He suggested that if the GVEA funded a new roof for a senior citizen that the GVEA would not specifically identify the person by name since such action would likely deter people from applying for its charitable funding program. However, the causes would be public and GVEA would work to ensure the process is a transparent process. He suggested the committee may wish to structure the bill to add a prohibited list, which would identify purposes not allowed in the opt-out charitable giving programs.

[3:57:30 PM](#)

REPRESENTATIVE JOHNSON asked whether anything similar to the Ethics Act would govern utilities to provide disclosure requirements.

MR. SNIFFEN said he was uncertain. He said he was unaware of any provision although it is possible that some provision in

Title 10 might apply to disclosures by cooperatives. He offered to research this and report back to the committee.

MR. NEWTON remarked that GVEA is a membership owned cooperative with ethics and conflict of interest policies that would also extend to its "501 (c)(3)" board. He indicated that the disclosure provisions are included in its bylaws and policies. He said he was not aware of any state statute requirement that would apply since GVEA is a private entity owned by its members.

REPRESENTATIVE SEATON said he was comfortable with the bill because of the individual opt out provisions that allow members refunds and they would have up to three years to decide whether to opt-out of the program. He said he was reluctant to burden smaller utilities to require them to set up a "501 (c)(3)" entity when its board of directors, which is subject to elections, could reasonably make decisions and determinations on any donations.

CHAIR OLSON offered his belief that some of the issues could also be resolved in the next committee of referral, which is the House Judiciary Standing Committee.

REPRESENTATIVE HOLMES agreed since she also sits on that committee.

[4:00:45 PM](#)

REPRESENTATIVE JOHNSON asked for GVEA's size as compared to Chugach Electric Association (CEA) and the Alaska Electric Light and Power (AEL&P).

MR. SNIFFEN was uncertain. He surmised that the CEA and AEL&P would be in the hundreds of thousands.

REPRESENTATIVE JOHNSON suggested that if it was 100,000 people the average amount would be \$50,000 per month.

MR. NEWTON said he thought GVEA has about 45,000 members, while CEA would be nearly double that size, perhaps 60,000, which would generate about \$30,000 per month.

REPRESENTATIVE JOHNSON recalled an earlier question raised the issue that the potential for the amount collected is not insignificant. He said he thought the total amount collected could range up to \$100,000 per month.

MR. NEWTON asked for clarification on the question.

REPRESENTATIVE JOHNSON related that his calculation on the total amount is based on an average of \$.50 per customer. He asked how the funds would be accounted for in the accounting process.

MR. NEWTON answered that the funds are not the GVEA's or other cooperative's funds. He pointed out that AEL&P is a municipal entity and therefore the proposed bill would not apply to it. He offered that electric cooperatives would be affected but the funds are not owned by the cooperative. Thus, the funds would "sweep" automatically to the not-for-profit organization set up for that purpose, he stated.

[4:03:08 PM](#)

REPRESENTATIVE JOHNSON reiterated that the overall amount in question represents a significant amount of money. He said he likes the bill's overall concept. He expressed concern about where the money might be donated, in particular, with cooperatives that have not yet set up an opt-out program. He said it is possible an electric cooperative could have upwards of \$1 million per year collected and donated. He said he would like to flesh out these concerns.

REPRESENTATIVE SADDLER related he would like some "hard numbers" on the level of participation. He offered his belief that it would be helpful to know how much money could be generated by the electric cooperatives in the state.

REPRESENTATIVE SEATON agreed it would be helpful to have a chart that showed the annual amount that would potentially be collected.

REPRESENTATIVE JOHNSON asked whether GVEA could gauge the participation level for its opt-out program.

MR. NEWTON answered by indicating part of the attorney general's initial concern was over proper notification. He reported the GVEA held discussions with its membership for a six month period. He further reported that 90 percent of its members have chosen to participate in the opt-out program, whereas 10 percent have chosen not to participate. He offered his belief that what GVEA has experienced is typical for cooperatives offering this type of program. He informed members that GVEA expects to collect \$225,000 annually and these funds will be available to redistribute for charitable purposes.

[4:06:21 PM](#)

REPRESENTATIVE THOMPSON related his understanding that the bill would fund things such as providing microscopes to schools. He further thought that one condition of a "501 (c)(3)" entity is that an IRS 1099 form would be issued each time funds are dispersed.

MR. NEWTON answered that is partially correct. He related that GVEA set up a "501 (c) (3)" entity since that structure offers the best advantage to GVEA, with respect to distribution of funds. The GVEA limits its charitable donations to \$10,000 in order to spread the funds to as many good causes as possible. He acknowledged that funds would typically be used for projects that cannot obtain its funds elsewhere, such as from the United Way campaign. He was uncertain about the necessity of the 1099 form, but he pointed out that GVEA has the ability to disperse funds to individuals, just as Love, Inc. currently donates money to an individual to pay an electric bill.

[HB 114, as amended, was held over.]

[4:09:33 PM](#)

The committee took an at-ease from 4:09 p.m. to 4:10 p.m.

**HB 28-TEMP LICENSES FOR PROFESSIONALS**

[4:10:49 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 28 "An Act relating to temporary licenses for certain nonresident professionals."

REPRESENTATIVE JOHNSON moved to adopt 27-LS0192\E, Kirsh, 2/2/11 as the working document. There being no objection, Version E was before the committee.

[4:11:22 PM](#)

KACI SCHROEDER, Staff, Representative Bill Thomas, Jr., Alaska State Legislature, on behalf of Representative Bill Thomas, Jr. a joint-prime sponsor of HB 28, stated this bill is focused on bettering the lives of our military families, which are dominated by frequent deployment, relocations, and single parenthood. Military spouses are some of the most mobile populations in the U.S., with some 14.5 percent of military

spouses crossing state lines each year as compared to 1.1 percent for their civilian counterparts. When deciding whether to stay in the military, service members will often consider their family's well being, with spousal employment as one big factor in the decision-making process. This directly affects the readiness of our armed forces, she said. Military spouses are less likely to be employed and if so, typically earn less than civilian counterparts due to their transient lifestyle. These military families, like others, often depend on two incomes in a family. This bill would help address the transient nature of military spouses by allowing the military and military spouses to obtain temporary licenses when they move to Alaska.

[4:12:54 PM](#)

REPRESENTATIVE HOLMES referred to page 2, line 15, of HB 28, to proposed subsection (c), which states a temporary license is valid for 180 days and could be extended for an additional 180 days. She asked whether the extension is intended to allow one extension or for multiple extensions.

MS. SCHROEDER answered that the intention is for one temporary license extension.

REPRESENTATIVE HOLMES offered her belief the language may need to be clarified.

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REPRESENTATIVE MILLER applauded the goal. He asked whether HB 28 could be expanded to spouses of those classified as civilian personnel working for the U.S. Department of Defense (DOD).

MS. SCHROEDER answered that civilian personnel are not currently included in the bill.

[4:14:30 PM](#)

REPRESENTATIVE MILLER referred to the fee exemption contained in proposed subsection (d) noting the fee exemption for temporary licenses. He inquired as to the amount the state would lose in license fees.

MS. SCHROEDER responded that she was unsure, but the Department of Commerce, Community and Economic Development (DCCED) should be able to answer that question.

MS. SCHROEDER, in response to Representative Saddler, related that subsection (d) would refer to the service member and not the military spouse.

REPRESENTATIVE SADDLER referred to the language in the original bill on page 2, to paragraphs (2), (3), and (4), which basically highlight that a person receiving a temporary license would be considered a person in good standing if not under sanction in another jurisdiction. He asked for the reason that this language is not included in Version E, the proposed committee substitute.

MS. SCHROEDER offered her belief that while the language in the original bill is cleaner, that the license action would still be at the discretion of the specific board and language is probably contained in the regulation or statute that pertains to the specific board.

REPRESENTATIVE SADDLER, related in his experience as deputy director of the Boards & Commissions, some professional groups would like to have seen its temporary professional courtesy licenses extended. He thought that the language in the original bill, just mentioned, would provide protection against someone who had disciplinary action taken in another state from coming to Alaska to practice.

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REPRESENTATIVE MILLER referred to page 2, line 13, to subsection (b), relating that this subsection requires the department to expedite the procedure for temporary licenses. He asked for clarification on the meaning of "expedite."

MS. SCHROEDER answered no, since the Division of Business and Professional Licensing regulates 30 to 40 professions and each profession has different requirements, including a requirement for a background check, which could take longer. She indicated the sponsor's intent was to have the department act quickly as possible.

[4:18:08 PM](#)

MARK SAN SOUCI, Regional Liaison Northwest, Defense State Liaison Office, Office of the Deputy Assistant Secretary of Defense, Deputy Under Secretary of Defense (Military Community and Family Policy), U.S. Department of Defense, stated that Ms. Schroeder captured the essence of the bill. He offered some

data obtained from the Defense Manpower Data Center, including statistics: 59 percent of military members are married, 72 percent of the noncommissioned officers and 73 percent of officers are married, which represents the backbone of the professional armed services, he said. He explained that 70 percent of military spouses want to be able to go to work. In FY 10 in Alaska, 1,012 military people separated from duty and 274 military personnel retired. These personnel either moved back or claimed Alaska as their resident state. Currently, Alaska has 13,229 active duty military spouses and 2,700 military reserve spouses. Additionally, about 53 percent of military spouses are employed, which totals approximately 7,000 military spouses in Alaska who work, although he was unsure of the percentage of those spouses that hold professional licenses. He suggested that HB 28 could help the licensed person coming to Alaska by assisting them to get to work faster, and allow them up to six months to fulfill any requirements that Alaska may deem necessary to comply with professional licensure, including any fees.

MR. SAN SOUCI remarked that Florida, which is one of the best practices states, recently adopted changes so if a family has orders to Florida from Elmendorf AFB, and a spouse has a professional license, the spouse can go on-line, find his/her occupation, pay his/her fee, and be issued a license that allows the spouse to work for six months in Florida. During these six months, the spouse can work to meet Florida's license requirement, he reiterated. He said he appreciated members considering HB 28 and hopes that Alaska will join Florida as one of the "best practices" states by helping military families.

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REPRESENTATIVE SADDLER offered his support for HB 28. He asked which professions would be most affected by this bill.

MR. SAN SOUCI answered that he was unsure. He related that he had skipped over the data rather quickly. He then listed the "highest in demand" professions as reported by the U.S. Department of Labor, including nursing, preschool teachers, real estate, and cosmetology. He also listed the fastest growing occupations as veterinarian technicians, physical therapy assistants, preschool teachers, dental hygienists, and occupational therapy assistants. He surmised that it could take up to a few months for a family to move and satisfy another state's requirements.

REPRESENTATIVE SADDLER commented that some of the professions noted are high skilled, reasonably paid professions. He asked whether this bill would provide any help in the event that a person served in the position for six months that he/she may gain extra points towards licensure in Alaska.

MR. SAN SOUCI offered his belief that the intent of HB 28 is more to help get the person to work more quickly and to allow the person time fulfill the requirements for Alaska's licensure than to provide other advantages.

[4:23:58 PM](#)

SARA CHAMBERS, Program Coordinator, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community, & Economic Development (DCCED), stated she is available to answer any questions.

REPRESENTATIVE HOLMES related her understanding that the DCCED currently has the ability to expedite temporary licenses.

MS. CHAMBERS acknowledged that the DCCED currently has provisions for courtesy licenses, and some statutes for temporary licenses. The element missing that HB 28 proposes to remedy is a special consideration for military spouses and military personnel.

REPRESENTATIVE HOLMES related her understanding this bill would not create any hardships but would make the DCCED's process more standardized for one particular class for professional licenses.

MS. CHAMBERS stated the DCCED has a variety of standards for temporary licenses. She explained that courtesy licenses tend to be for people who wish to enter Alaska on a short term basis such as for a doctor traveling with a college sports team or for a fellowship in Alaska. The courtesy license would apply to someone who may not be pursuing a permanent professional license whereas a temporary license would be someone who is pursuing ongoing permanent license. She related her understanding that the impact this bill would have for military spouses would be to expedite the application. She explained that the military spouse would still meet the same requirements since this bill would not amend or repeal AS 08.01.062 and would retain the department's high standards for licensees. Those requirements may include a background check for someone in the medical field, she said. She assured members that the DCCED would work to figure out the best way to expedite the temporary licenses above

the efficient service the DCCED already strives to provide for applicants and licensees.

4:26:55 PM

REPRESENTATIVE SEATON referred to page 2, lines 25-27, of HB 28, which excludes two professions, which are marine pilots and attorneys. He asked whether other professions should be exempted, and if the background checks for doctors would be done by regulation while two professions are excluded by statute.

MS. CHAMBERS advised that the DCCED has not really vetted the bill to that extent or held discussions with the sponsor on these specific provisions. She surmised that marine pilots and attorneys may need to have familiarity with the state, which is why those professions are not subject to temporary licenses. She related that AS 08.01.062 language specifically requires the department to maintain that "high bar." She stated that her initial assessment is that no other professions would need to be excluded.

REPRESENTATIVE SEATON offered his belief that when a statute lists two professions that it implies that these are the only two exempt from the provisions. He wanted to draw attention to sponsor and the DCCED, since a fixed list has legal implications for those professions not listed.

4:29:20 PM

REPRESENTATIVE SEATON then referred to page 2, lines 18-19 of HB 28, to the language "...on active duty who is a licensee under this title in good standing..." He asked for clarification on whether this refers to someone in Alaska licensed in Alaska, not a person from another state.

MS. CHAMBERS related her understanding that the provision would apply to someone who is a current Alaska licensee, licensed under this title, which would expand to a permanent, professional license, not just a courtesy or temporary license. She stated a current licensee would be granted an exemption and an extension as needed to serve on active duty and for a transition period after that provided the person did not pursue a for profit practice in the private sector. She referred to line 23, and further explained that once a for-profit practice in the private sector was pursued, the person would waive the exemption and would need to maintain current licensure under the permanent license provisions.

4:30:39 PM

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 28.

REPRESENTATIVE JOHNSON made a motion to adopt Conceptual Amendment 1, on page 2, line 16, after "for", delete "another" and then add "one additional." He explained that this would clarify any perceived ambiguity about the additional 180 extension.

There being no objection, Conceptual Amendment 1 was adopted.

4:32:18 PM

REPRESENTATIVE SADDLER made a motion to adopt Conceptual Amendment 2. On page 2, lines 1-11, paragraphs (2), (3), (4), of the original bill should be inserted in Version E, perhaps on page 2, line 11 after ";and" and then renumber the paragraphs.

REPRESENTATIVE HOLMES and Chair Olson objected for the purpose of discussion.

MS. SCHROEDER stated that the sponsor has no objections to Conceptual Amendment 2.

4:33:50 PM

REPRESENTATIVE SEATON referred to page 2, lines 2-4 of HB 28, paragraph (2), which read, "for at least two of the five years preceding the date of the application," stating he was uncertain about the language and any ramifications it may have on military spouses. He related a scenario in which a spouse may practice his/her profession for a year and then his/her spouse serving in the armed forces is transferred to Alaska. In that instance the military spouse would not have at least two years of professional service.

REPRESENTATIVE SADDLER recalled this issue came up during a Board of Nursing matter, as to whether a candidate's experience was recent enough and in the proper area of practice. He further recalled that some deference was given to an applicant who had practiced two of the five preceding years that the candidate's practice would be considered current. He acknowledged some benefit was derived but was unsure of the number of people who would be excluded. He reiterated that the

benefit is candidates would have practiced his/her profession recently.

MS. SCHROEDER, in response to Representative Seaton, said that she may have spoken too soon, that inserting paragraph (2) into Version E may be problematic since an instance could arise in which a spouse is overseas, while his/her spouse is serving overseas for a lengthy period of time and the spouse would not have engaged in the professional practice during that time.

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REPRESENTATIVE SADDLER made a conceptual motion to amend Conceptual Amendment 2, to delete paragraph (2). This would allow further discussion with the sponsor in order to consider how to better amend the language, he stated.

REPRESENTATIVE SADDLER clarified that he made a motion to amend to Conceptual Amendment 2, to delete the language contained in paragraph (2).

CHAIR OLSON objected for purpose of discussion and then removed his objection. There being no further objection, the amendment to Conceptual Amendment 2 was adopted.

CHAIR OLSON removed his objection to Conceptual Amendment 2.

REPRESENTATIVE HOLMES also removed her objection to Conceptual Amendment 2. There being no further objection, Conceptual Amendment 2, as amended, was adopted.

[4:37:57 PM](#)

REPRESENTATIVE JOHNSON moved to report HB 28, labeled 27-LS0192\E, Kirsh, 2/2/11, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 28(L&C) was reported from the House Labor and Commerce Standing Committee.

[4:38:19 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:38 p.m.