

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

April 7, 2011

2:01 p.m.

MEMBERS PRESENT

Senator Dennis Egan, Chair
Senator Joe Paskvan, Vice Chair
Senator Linda Menard
Senator Bettye Davis
Senator Cathy Giessel

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 103

"An Act amending the medical examination requirements for firefighters entitled to a presumption of compensability for a disability resulting from certain diseases."

- MOVED CSSB 103(L&C) OUT OF COMMITTEE

SENATE BILL NO. 115

"An Act defining portable electronics insurance and authorizing the director of insurance to issue a limited producer license to a person that sells portable electronics insurance."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 24(FIN)

"An Act extending the termination date of the Regulatory Commission of Alaska; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 130(L&C)

"An Act relating to municipal building code requirements for fire sprinkler systems in certain residential buildings."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 103

SHORT TITLE: WORKERS' COMPENSATION FOR FIREFIGHTERS

SPONSOR(s): JUDICIARY

03/16/11 (S) READ THE FIRST TIME - REFERRALS
03/16/11 (S) L&C, FIN
04/05/11 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)
04/05/11 (S) Heard & Held
04/05/11 (S) MINUTE(L&C)

BILL: SB 115

SHORT TITLE: PORTABLE ELECTRONICS INSURANCE

SPONSOR(s): LABOR & COMMERCE

03/25/11 (S) READ THE FIRST TIME - REFERRALS
03/25/11 (S) L&C, FIN
04/07/11 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)

BILL: HB 24

SHORT TITLE: EXTEND REGULATORY COMM. OF ALASKA SUNSET

SPONSOR(s): OLSON

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
03/16/11 (H) L&C AT 3:15 PM BARNES 124
03/16/11 (H) Moved CSHB 24(L&C) Out of Committee
03/16/11 (H) MINUTE(L&C)
03/18/11 (H) L&C RPT CS(L&C) 7DP
03/18/11 (H) DP: CHENAULT, THOMPSON, SADDLER,
JOHNSON, HOLMES, MILLER, OLSON
03/22/11 (H) FIN AT 1:30 PM HOUSE FINANCE 519
03/22/11 (H) Moved CSHB 24(FIN) Out of Committee
03/22/11 (H) MINUTE(FIN)
03/23/11 (H) FIN RPT CS(FIN) 8DP 2NR
03/23/11 (H) DP: FAIRCLOUGH, T.WILSON, JOULE,
COSTELLO, EDGMON, DOOGAN, STOLTZE,
THOMAS
03/23/11 (H) NR: GUTTENBERG, GARA
03/28/11 (H) TRANSMITTED TO (S)
03/28/11 (H) VERSION: CSHB 24(FIN)
03/30/11 (S) READ THE FIRST TIME - REFERRALS
03/30/11 (S) L&C, FIN
04/07/11 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)

BILL: HB 130

SHORT TITLE: RESIDENTIAL SPRINKLER SYSTEMS

SPONSOR(s): LABOR & COMMERCE

01/28/11 (H) READ THE FIRST TIME - REFERRALS
01/28/11 (H) CRA, L&C
02/08/11 (H) CRA AT 8:00 AM BARNES 124
02/08/11 (H) Moved Out of Committee
02/08/11 (H) MINUTE(CRA)
02/09/11 (H) CRA RPT 6DP
02/09/11 (H) DP: AUSTERMAN, CISSNA, DICK, FOSTER,
GARDNER, MUNOZ
02/14/11 (H) L&C AT 3:15 PM BARNES 124
02/14/11 (H) Moved CSHB 130(L&C) Out of Committee
02/14/11 (H) MINUTE(L&C)
02/16/11 (H) L&C RPT CS(L&C) NT 7DP
02/16/11 (H) DP: THOMPSON, SADDLER, JOHNSON, HOLMES,
SEATON, MILLER, OLSON
03/11/11 (H) TRANSMITTED TO (S)
03/11/11 (H) VERSION: CSHB 130(L&C)
03/14/11 (S) READ THE FIRST TIME - REFERRALS
03/14/11 (S) CRA, L&C
03/22/11 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
03/22/11 (S) Scheduled But Not Heard
03/29/11 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
03/29/11 (S) Moved CSHB 130(L&C) Out of Committee
03/29/11 (S) MINUTE(CRA)
03/30/11 (S) CRA RPT 3DP 1NR
03/30/11 (S) DP: KOOKESH, MENARD, WAGONER
03/30/11 (S) NR: OLSON
04/07/11 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

CINDI SMITH
Staff to Senator French
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Offered to answer questions on SB 130 for the sponsor.

DANA OWEN
Staff to Senator Egan
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented SB 115 on behalf of the Labor and Commerce Committee.

STEVEN MCDANIEL

Asurian Corporation
POSITION STATEMENT: Supported SB 115.

LINDA HALL, Director
Division of Insurance
Department of Commerce, Community and Economic Development
(DCCED)
Juneau, AK
POSITION STATEMENT: Supported SB 115.

REPRESENTATIVE OLSON
Alaska State Legislature
Juneau, AK
POSITION STATEMENT: Sponsor of HB 24 and HB 130.

PAT DAVIDSON, Legislative Auditor
Division of Legislative Audit
Legislative Affairs Agency
Alaska State Legislature
Juneau, AK
POSITION STATEMENT: Explained provisions in HB 24.

PAT LUBY, Advocacy Director
AARP Alaska
Anchorage, AK
POSITION STATEMENT: Strongly supported HB 24.

KRISTIN WINTERS, Director
Regulatory Affairs
Golden Heart Utilities and College Utilities Corporation
Fairbanks, AK
POSITION STATEMENT: Commented on HB 24.

BOB PICKETT, Chairman
Regulatory Commission of Alaska (RCA)
Anchorage, AK
POSITION STATEMENT: Gave a brief overview of the commission and said he supported only the extension provision in HB 24.

PAUL MICHELSON
Alaska State Home Building Association
Anchorage, AK
POSITION STATEMENT: Supported HB 130.

ACTION NARRATIVE

[2:01:03 PM](#)

CHAIR DENNIS EGAN called the Senate Labor and Commerce Standing Committee meeting to order at 2:01 p.m. Present at the call to order were Senators Paskvan, Menard, Giessel, and Egan.

SB 103-WORKERS' COMPENSATION FOR FIREFIGHTERS

[2:01:55 PM](#)

CHAIR EGAN announced SB 103, sponsored by the Senate Judiciary Committee, to be up for consideration [CSSB 103(L&C), version 27-LS0595\M, was before the committee]. He objected for questions.

[2:02:09 PM](#)

CINDI SMITH, staff to Senator French, said she would be happy to answer any questions.

[2:02:34 PM](#)

SENATOR DAVIS joined the committee.

CHAIR EGAN, finding no questions, withdrew his objection.

SENATOR PASKVAN moved to report CSSB 103(L&C), version M, from committee with individual recommendations and attached fiscal note. There were no objections and it was so ordered.

[2:03:58 PM](#)

At ease from 2:03:58 PM to 2:04:59 PM.

SB 115-PORTABLE ELECTRONICS INSURANCE

[2:04:59 PM](#)

CHAIR EGAN announced SB 115 to be up for consideration.

SENATOR PASKVAN moved to bring CSSB 115(L&C), labeled 27-LS0609\I, sponsored by the Senate Labor and Commerce Committee, before the committee for purposes of discussion.

CHAIR EGAN objected.

[2:06:29 PM](#)

DANA OWEN, staff to Senator Egan, said the draft before them is an attempt to bring some order into what is "sort of a frontier market" for a new kind of insurance for loss or damage to equipment like cell phones and iPads. He said with expansion of these kinds of machines in our lives, the market has been explored by a number of companies. The committee had been approached by Asurian, one of the major marketers of this kind

of product, in an effort to stabilize this market and to bring some kind of order to it so that both the consumer has more faith in the product and the people offering it will know that their products are both trusted and sought out. That is the purpose of the bill.

He said Section 1 establishes that portable electronics insurance is not a service contract. Section 2 adds an applicant for a license under AS 21.27.150(a)(8); that applies to the electronics limited producer license. It adds that to the list of persons to whom AS 21.27.060(d) which requires the successful applicant for license to sell insurance, to pass an examination. It means that the person selling insurance under these circumstances doesn't need to passing an examination.

Section 3 adds a vendor that sells or offers portable electronics insurance to the list of persons to whom the director of the Division of Insurance may issue a license, in this case, a portable electronics limited producer license. This section also allows an employee or authorized representative of the licensee to transact portable electronic insurance at each site that the licensee does business. Additionally, under this section, an employee or representative of a licensee need not themselves be licensed provided certain criteria are met.

Section 4 establishes the conditions under which portable electronics insurance may be sold and defines the term "portable electronics insurance" and "vendor" for the purposes of this section of statute.

At ease from 2:09:11 PM to 2:09:38 PM.

[2:09:38 PM](#)

STEVEN MCDANIEL, Asurian Corporation, said are the leading provider of this mobile device protection in the country and supported SB 115. He said Asurian has been working with states across the country to implement a framework for how this product is offered to consumers and they feel SB 115 is a good balance between consumer protections. It requires disclosures and specifically requires refunds to be provided to consumers at any time when they cancel with pro-rated refunds to be paid. It also requires training of employees that are offering it. The gist of the framework is that it creates a license that is done at the wireless carrier level. So, the AT&Ts of the world will be licensed to offer the product in their stores. It is consistent with the national trend because 12 - 14 states currently have a

law similar to this and bills are pending in over 20 other states.

SENATOR PASKVAN asked what types of disclosures he would be offering the consumer in Alaska.

MR. MCDANIEL replied one of the disclosures is that it may provide duplicate coverage, that you can cancel at any time and the refund requirement, the premium to be paid, the benefits that are offered under the coverage and any sorts of exclusions that would apply to coverage under the policy.

SENATOR PASKVAN asked since he said this is a growing trend nationally, are there greater disclosure requirements under other state statutory schemes than under Alaska's and if so, what is it that other jurisdictions have wanted to impose.

MR. MCDANIEL replied that this is model language that is consistent with the disclosures that are being required in the other states.

SENATOR GIESSEL asked if this legislation fixes a problem and what it would be.

MR. MCDANIEL replied that this legislation is to create regulatory certainty around how the product is offered to ensure that "fly-by-nighters" stay out of this market and that consumers know when they purchase a product that at the end of the day when they make a claim that someone is there to pay it.

SENATOR GIESSEL asked if there have been problems.

MR. MCDANIEL replied there have been no complaints, but it's not clear how these products should be regulated. It is an approach that creates an even playing field so that people who come into the field know the playing rules.

SENATOR GIESSEL asked to have Ms. Hall come forward.

CHAIR EGAN replied certainly.

SENATOR PASKVAN said he still had questions and asked Mr. McDaniel if he sells his products to all telecommunication companies. Who is the market and how do they market their product?

MR. MCDANIEL replied Asurian has relationships with all the major wireless carriers: AT&T, Verizon and T-Mobile. Their product is a master policy that is issued to the wireless carrier and the consumer can choose to enroll under that master policy. The point of sale is at the wireless carrier.

SENATOR PASKVAN asked if all telecommunication companies in Alaska are unified in working through Asurian.

MR. MCDANIEL answered that ACS and AT&T are both clients of Asurian's.

CHAIR EGAN asked if there have been problems in other markets.

MR. MCDANIEL answered no, but this legislation is to assure that the fly-by-night companies that are pushing them out know that it's a regulated product.

SENATOR MENARD asked if it's fair to say Asurian is the largest in the world.

MR. MCDANIEL replied yes.

SENATOR MENARD asked if he felt that regulation of this insurance would somehow lessen the cost of the device.

MR. MCDANIEL replied he didn't think it lessened the cost of the device, since it is set by the wireless carrier and pretty heavily subsidized in the carrier's contract.

[2:16:35 PM](#)

SENATOR DAVIS said this bill was introduced by this committee, and asked the chair why he thought it was needed.

CHAIR EGAN replied that carriers in the state were concerned about people entering the market and trying to sell insurance from different cell phone providers that aren't affiliated and the cell phone market is rapidly expanding.

SENATOR PASKVAN asked if this would create monopolistic capacities for Asurian.

MR. MCDANIEL replied no; they have worked through language with their biggest competitor to create certainty about how the product is offered. The bill doesn't provide any financial obstacles; it just ensures that consumers are made aware of what they are buying.

SENATOR PASKVAN asked if the contracts Asurian enters into with the companies are exclusive or can others in the industry also enter into contracts with them.

MR. MCDANIEL replied when a contract is in place he didn't think that another provider could be offered in a given state. He didn't know the exactly if it's state by state or national.

SENATOR GIESSEL said she didn't see this is exclusively for cell phones; it says "portable electronic devices."

MR. MCDONEIL replied that is right, but the product started with cell phones.

SENATOR MENARD asked if the cost is under \$10.

MR. MCDANIEL replied on average it's from \$4 to \$7.

SENATOR PASKVAN asked if premium sharing is part of the contractual relationship.

MR. MCDANIEL replied that the premium passes through to the insurance company that is underwriting the program.

SENATOR PASKVAN asked if the contractual relationship has any premium sharing components.

MR. MCDANIEL replied no.

[2:21:09 PM](#)

SENATOR GIESSEL asked Ms. Hall if she supported SB 115.

LINDA HALL, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), replied she supports the bill. She said she worked with staff and Mr. McDaniel on it and changed language to better fit into Alaska's regulatory scheme. The bill's two major parts outline some consumer protections; one is in AS 21.27, the licensing chapter. She explained that this licensing pattern kind of replicates what they do with rental cars where you have an overall vender who gets a license called a limited lines license, but each counter person then works under that license rather than having to go through a continual stream of licensees. So, this vendor becomes responsible for the behavior of those counter agents.

She said under SB 115 the vendor would have a license with her department but the people working under that would not be required to have a license while they are transacting business; it's an incidental to a different product that they are selling. But they do have training requirements; they require a register of all employees working under a license so if she gets a complaint they know where to go.

MS. HALL said also that Alaska's Trade Practices Act is under AS 21.36 and this is where fraud and misrepresentation are found. It outlines what has to be disclosed in writing to the consumer when they enroll in the product. She thinks it's important to know the premium, what the product covers, how a claim would be handled, and things like that.

CHAIR EGAN thanked her for testifying and finding no further comments, he held SB 115 for another meeting.

HB 24-EXTEND REGULATORY COMM. OF ALASKA SUNSET

2:24:58 PM

CHAIR EGAN announced HB 24 to be up for consideration [CSHB 24(FIN) was before the committee].

REPRESENTATIVE OLSON, sponsor of HB 24, said it is a sunset extension of the Regulatory Commission of Alaska (RCA). The audit came in with an eight-year extension, but the House Finance Committee cut it back to four years primarily because there were a few outstanding recommendations. Chairman Pickett of the RCA has committed to having those finished next year, but the upcoming FERC TAPS balancing meetings are at the top of his agenda for the next two and a half months.

SENATOR PASKVAN asked if the House compressed the period of time before a decision is rendered or were other issues added in.

REPRESENTATIVE OLSON replied that a bill in his committee addressed timeline issues, but the RCA unfortunately has an open docket on that particular utility that has been an ongoing concern for eight or ten years and he didn't think it would be appropriate for him to hear the bill until after that docket is closed out.

He added that two years ago, both he and Representative Seaton had net metering bills with slightly different spins before the RCA. Within a day of the RCA opening up a docket on net metering

they pulled the bills, but fortunately all the issues were addressed.

SENATOR PASKVAN said he was trying to figure out the interim period of time in the 400-plus day process where the Division of Regulatory Affairs and Public Advocacy (RAPA), Department of Law (DOL), participates.

REPRESENTATIVE OLSON responded that he was trying to keep a clean sunset bill.

[2:29:23 PM](#)

SENATOR DAVIS said she wanted to hear about the audit.

[2:29:51 PM](#)

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Legislative Affairs Agency, related that they conducted a sunset review and because the RCA fulfills a public policy need and serves Alaskans they recommended that the termination date be extended to June 30, 2019. The prior audit recommended that RCA develop regulations that would enhance the transparency, accountability and the efficiency of its decision-making processes. RCA had partially implemented this recommendation, but the portion it is still working on is related to developing the regulations to establish standards for certain aspects of the discovery process.

In making their eight-year extension recommendation, Ms. Davis pointed out that there is a new audit requirement associated with the annual reports of the RCA; in particular Legislative Audit needs to audit those annual reports every two years. Included in those annual reports is whether or not the RCA has met the statutory timelines. This is an opportunity to give the legislature assurance about whether RCA is meeting its statutory timeline obligations as well as how they are progressing on their goals as set up in the Missions and Measures. This is a way to communicate on a more continual basis with the legislature with regard to the RCAs activities, which is why they made the eight-year extension recommendation.

SENATOR DAVIS asked if she still stands by her 2019 date rather the 2015 date.

MS. DAVIDSON replied that the audit recommended 2019, but it's always up to the legislature to find its own comfort level in the extension periods.

SENATOR DAVIS said she wanted to hear from the sponsor about why they decided on a 2015 extension.

SENATOR GIESSEL asked if Legislative Audit has the authority to institute the audit of annual reports every two years.

MS. DAVIDSON replied that a bill passed about three years ago put language in statute for audits of the RCAs annual report to be done every two years.

[2:33:19 PM](#)

REPRESENTATIVE OLSON said he preferred an eight-year extension, but the House Finance Committee was more comfortable with four years.

[2:34:28 PM](#)

PAT LUBY, Advocacy Director, AARP Alaska, strongly supported HB 24. He said that Alaska needs a regulatory authority that is independent, fully funded and adequately staffed. The RCA is the only organization in our state that protects residential and consumer ratepayers. It's empowered to initiate investigations, enforce laws and regulations, and his experience with it has been very positive. They have gone out of their way to have public hearings in local areas so that the rate paying public will not have to travel to attend a hearing that deals with their own utilities. The RCA is the only game in town when it comes to utility oversight.

SENATOR GIESSEL said when the AARP's letter of support was written it was for a two-year extension and she wanted to know if he supported the four-year extension.

MR. LUBY replied that they were actually supportive of the eight years.

[2:36:03 PM](#)

KRISTIN WINTERS, Director, Regulatory Affairs, Golden Heart Utilities and College Utilities Corporation, stated that along with their administrative services company, Utility Services of Alaska, they serve more than 8500 accounts and a population of more than 50,000 in the greater Fairbanks area. They have been making these comments many times in past meetings and letters. They understand that change can be slow, but in the meantime the absence of change is costly. She said they had filed rate cases almost annually beginning with test year 1999, again in 2000 with incremental increases approved in 2003 and 2004. They have filed for test years 2004, 2005, 2006, and 2008 and are required

to file again for test year 2010. The cost drivers behind their filings have not changed; they still have increasing operating costs, increasing infrastructure investment needs and their customer base is not growing. Their neighbor in Anchorage, AWWU, has testified to the RCA of their need to file rate cases almost annually, as well, for the very same reasons.

She said they have experienced first-hand the consequences of regulatory lag resulting from excessively long statutory periods to resolve rate case filings and they firmly believe that a reasonable time line for resolution of a rate case is nine months and that the current process simply expands to fill the available time.

MS. WINTERS said the rate setting process in Alaska is outdated and has not evolved to reflect the changing nature of the utility industry or the rapidly changing economy. According to the National Association of Water Companies, Alaska's 15-month statutory timeline in a rate setting filing is the longest in the nation, and it can be extended as well. Twenty-seven other states are required to conclude their rate cases in nine months or less. The length of the entire process is leading utilities to file "pancaked" rate cases because one case is not resolved before rapidly escalating costs require a second rate adjustment. This lag means that the commission has not decided the disputed issues before the utility files its next rate case. Thus, in subsequent rate filing, in order to preserve all rights, the utility includes the disputed issues which then lead to inefficiencies and increased costs as the parties continue to debate these undecided issues.

All of this has resulted in rate case costs skyrocketing into the millions of dollars. For example, circumstance required that GHU and CUC file a rate case proceeding with the RCA in October 2005 using a required historic test year of 2004. The statutory timeline of 15 months then started. A final decision was issued on January 8, 2007 and the resulting approved rates were based on 2004 costs which no longer reflected current 2007 conditions. Because of the extreme lag, the utility filed for additional relief in the meantime in June 2006, which included many of the disputed undecided issues from the previous case.

[2:40:35 PM](#)

She said the excessive length of time to issue an order determining rates has many negative impacts including increased costs to the utility and ultimately the rate payer and the

restriction of capital investments to stimulate utility growth within a community.

MS. WINTERS urged them to support reducing the statutory timeline for the RCA to issue a final order for a tariff filing that changes the utilities revenue requirement or rate design from 450 to 270 days. The commission has stated that the goal of cost-base rate making is not to cover past costs, but to predict the rates necessary to yield revenue adequate to cover the utilities' costs and to provide the opportunity to earn a reasonable return on investment during the future period when rates will likely be in effect (from Docket U-05-4344, Order 15). Rapidly rising costs and the need for infrastructure investment coupled with a statutory timeline of 15 months precludes the commission from meeting the above stated goal.

MS. WINTERS summarized that this issue is not new and she has brought it forward many times over the last six years. During the 2007 legislative session, the RCA chair provided testimony on HB 209 stating that the RCA considered the issue of reducing the regulatory lag to be very important and that the RCA fully intends to move forward on the docket to shorten the timelines as the public utilities and public advocate recommends. But , it is now 2011 and the statutory timeline has not been considered and the issue of regulatory lag has not been resolved. The continued health of the state's utilities balanced with providing protection to the ratepayer demands that this issue be addressed.

[2:42:41 PM](#)

SENATOR DAVIS asked if another bill in the House is addressing this issue.

MS. WINTERS replied yes, but according to Representative Olson, he does not see forwarding that bill at this time to be appropriate.

SENATOR DAVIS said she knew one was over there and the Senate doesn't have one like it.

MS. WINTERS replied there is one in the House but they are trying this avenue on the Senate side.

SENATOR DAVIS said she thinks this issue is valid and should be addressed, but she wasn't sure it needed to be in this bill, because it is just an extension.

MS. WINTERS responded that the purpose of a sunset review is so issues can be aired and it is in the public's interest and that of their ratepayers to reduce the costs.

SENATOR DAVIS said she appreciates the fact that she is here putting the issue before them.

[2:45:20 PM](#)

SENATOR PASKVAN asked her to explain the "interim step."

MS. WINTERS replied that the current statutory timeline is now 450 days. The commission typically takes the first 45 days to review the filing before them and make a determination whether or not they are going to approve the filing, reject it or suspend it for further investigation. If they suspend it for further investigation, interveners (if any) are then asked to come forward. Typically the Regulatory Affairs Public Advocacy Group in the Attorney General's Office comes forward and intervenes in the docket. They are the ones, then, that do the full review of the filing before the commission. This is where a majority of the time is taken. A discovery process is followed; they can ask discovery questions to which the utility has 10 days to reply. Then they file their testimony and make recommendations. The commission then reserves the last 90 days of the hearing process to review all of the evidence before them and make their decision. So, by reducing the timeline from 450 days to 270, the commission would still have the first 45 days for review and the last 90 days for review of the evidence. However, the time in the middle would be shortened; this is where costs can escalate, because as a quasi-judicial process, they hire attorneys, they carry the burden of proof, they hire expert witnesses; RAPA hires witnesses as well.

[2:48:27 PM](#)

BOB PICKETT, Chairman, Regulatory Commission of Alaska (RCA), gave a brief overview of the commission saying he would address previous comments after that. He said they are a five-member commission, an independent agency in the Department of Commerce, Community and Economic Development (DCCED). All of the commissioners are appointed for a six-year term by the governor and confirmed by the legislature. They regulate utilities and pipeline companies in the state under AS 42.05, the Utilities Act, and AS 42.06, the Pipeline Act. they also have other responsibilities, for example, relating to the Power Cost Equalization Program (PCE) with the Alaska Energy Authority and with a wide range of enterprises from electric utilities, natural gas distribution, water/sewer companies, a variety of

telecommunications. It's fair to say at this point that they have as many challenges as the APUC or the RCA has ever had.

Some of the major issues before them are looking at \$1.5 billion in capital investment by utilities in the Railbelt, alone. Those decisions are being made as they sit here; some have already been made. Over the next 36 months the rate making environment will be shaped for probably the next 20-30 years, he said, and that will have a direct impact on ratepayers pocketbooks, the health of the utilities and many of the issues Ms. Winters identified. This applies to a variety of other utilities, too.

MR. PICKETT said of all the things before them, the TAPS rate case is "front and center." There are 12 rate cases currently with strategic reconfiguration. In 2003 the commission worked out an MOU with the Federal Energy Regulatory Commission (FERC) with the idea they would coordinate and consolidate their proceedings to avoid duplicative expense for the pipeline carriers to the greatest extent possible. hearings in Washington D.C. and Anchorage happen this fall and will be quite important to the future of the TAPS.

He said he didn't disagree with many of the things Ms. Winters said. He was appointed to the commission in January of 2008, but he has become familiar with some of the later rate cases. He is restricted with certain things he can say about a remand from the Superior Court so he can't get into those details. He couldn't say that he supports or opposes a reduction of the statutory deadline from 450 to 270 days or to 280 as some states have, but he could say that it's important to "unpack" and identify the reasons for these frustrations and delays.

MR. PICKETT said obviously the RCA is not the only player and doesn't have total control under the current statutes over all the moving pieces. They are called to be the final judge and to balance the interests and contrary to what some folks think, it's not always the lowest rates that they think about. They are very concerned with healthy utilities along with just and reasonable rates; the public has to have confidence in the process. They are currently involved with discovery regulations and that's a very interesting process they will be reporting to the legislature on.

He said from a regulatory paradigm standpoint, the commission can do some things and it has started an inquiry to look at how other states handle some of the things that have been litigated

in the past few years to get to where litigation is the last thing to use. Mediation works in many cases.

Things can change, Mr. Pickett said. When he first came on the commission, there was an extended period of time where no gas supply agreements were approved and that was after very expensive litigation. But over the past couple of years, even in the tariff period, they have been able to approve five contracts.

MR. PICKETT said he strongly supported HB 24 and would be happy to answer questions.

[2:54:28 PM](#)

SENATOR MENARD said she was still trying to understand what Ms. Winters said about the 90 days being the most difficult time and asked him to argue the point that Alaska has the longest wait for resolution in the nation.

MR. PICKET replied that that 450 days appears to be the longest time for resolution in the nation.

SENATOR MENARD said everyone knows that government tends to move slow and that the RCA had recently lost some long term employees and realizes that it is reasonable for him to ask for more people.

MR. PICKET responded that he thinks they have to look at the regulatory process as a system; there is a 45 day period at the front end that they are in total control over, then there is the 90-day period reserved for adjudication and writing a "sound order," but the period in-between would take cooperation of all the parties and identification of how they are approaching the public interest - because at the end of the day, the public has to have confidence in this process.

SENATOR GIESSEL said she appreciates the work the RCA does in protecting the public and yet at the same time an expedient regulatory process also protects the public. So she sees that some balance needs to be achieved. Perhaps his task is too large and maybe he needs more staff - something they should look at - with the purpose of protecting the public.

MR. PICKETT responded that staffing is part of it. An RCA task force several years ago addressed some of the staffing issues. Unfortunately, those recommendations weren't fully addressed, but with a new commissioner and deputy commissioner at the

Department of Administration (DOA) he saw some positive movement and he hoped that would continue. But sometimes it's not just throwing more people at it; it's stepping back and asking if what they are doing actually makes sense. In litigation lawyers strongly influence how the process unfolds and in some cases it is absolutely necessary. It probably isn't appropriate in all cases, and he thought they needed to figure out how those things get sorted out through a rule making process. One of the commissioners was sent to California last fall to see how they approach water and sewer utilities and how they can be settled through arbitration.

[2:59:54 PM](#)

SENATOR GIESSEL said she thought California may be the worst place to go.

MR. PICKETT said he understood her apprehension and had similar thoughts, but California has some processes for smaller water utilities that make some sense.

SENATOR PASKVAN said it seems to him that it's the 315-day interim, RAPA's portion, of the 450 day process that is the problem and asked what communications have transpired between him and the Department of Law (DOL) over the years on how to improve the process from their end.

MR. PICKETT answered that the communication at front end with RAPA is typically they are invited to participate in certain dockets of critical public importance. But in a sense if it goes to suspension, they just become another party in the eyes of the commission. So, they aren't really communicating. RAPA is critical and also has staffing constraints.

SENATOR PASKVAN made an "attorney comment." The RCA is the final decider, but it seems like the 315-day RAPA process is where the due process component of the entire procedure is played out. The question is how much due process is appropriate. If the process is working better elsewhere, that is where Alaska should find a better way to do that portion of the process.

MR. PICKETT agreed with that, but added that it starts with the statutes and the regulations that the commission promulgates to implement those statutes and RAPA has to stay within those boundaries. It would behoove them "to sort of step back and look." Last fall they had a series of public meetings with different industry groups trying to identify specific regulatory or statutory conflicts. A couple of areas came up, but it was a

little disappointing because people were used to a certain way of doing things.

SENATOR MENARD said that it's to the detriment of people who are suffering because the time isn't shortened and that could be done legislatively.

[3:05:14 PM](#)

MR. PICKETT said he thought the sunset is an appropriate time to discuss these issues.

SENATOR MENARD asked if he supported bill.

MR. PICKETT answered that he supported the part that extends the commission.

CHAIR EGAN asked if he supported the extension to 2019 if that happened.

MR. PICKETT replied yes.

CHAIR EGAN said he would hold HB 24 and take it up again at a later date.

HB 130-RESIDENTIAL SPRINKLER SYSTEMS

[3:08:02 PM](#)

CHAIR EGAN announced HB 130 [CSHB 130(L&C), 27-LS0332\B] to be up for consideration.

REPRESENTATIVE OLSON, sponsor of HB 130, explained that this measure died in both the House and Senate with exactly the same verbiage last session. He acknowledged that the heavy work on this bill wasn't done by him but by one of the members of his committee and one in the House that were able to work out a reasonable agreement amongst the State Realtors Association, the State Fire Chiefs Association and the Homebuilders Association. It establishes a noticing requirement on any municipality that switches over to mandating sprinklers in one and two-family dwellings. The intent of the law is to get the community to be aware of any changes to the building code. He said the "heavy lifting" on this bill took the entire session last year for a final agreement, but it is extremely non-controversial this year.

[3:10:39 PM](#)

PAUL MICHELSON, Alaska State Home Building Association, said they support HB 130. He said that 42 other states have passed similar legislation and three others are in the process.

CHAIR EGAN closed public testimony and said HB 130 would be held for another meeting.

[3:12:14 PM](#)

Finding no further business to come before the committee, Chair Egan adjourned the meeting at 3:12 p.m.