

HOUSE FINANCE COMMITTEE

March 21, 2014

8:36 a.m.

8:36:03 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 8:36 a.m.

MEMBERS PRESENT

Representative Alan Austerman, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Mark Neuman, Vice-Chair
Representative Mia Costello
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Lindsey Holmes
Representative Cathy Munoz
Representative Steve Thompson
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Daniel George, Staff, Representative Bill Stoltze; Brodie Anderson, Staff, Representative Steve Thompson; Representative Eric Feige, Sponsor; Michael Paschall, Staff, Representative Eric Feige; Doug Glenn, Board Member, Commercial Fishing and Agriculture Bank; Lela Klingert, President, Commercial Fishing and Agriculture Bank.

PRESENT VIA TELECONFERENCE

Mr. Fonder, Director, Tax Division, Department of Revenue.

SUMMARY

HB 121 COMMERCIAL FISHING & AGRICULTURE BANK

HB 121 was HEARD and HELD in committee for further consideration.

HB 306 EVAL. INDIRECT EXPENDITURES; TAX CREDITS

HB 306 was HEARD and HELD in committee for further consideration.

#hb306

HOUSE BILL NO. 306

"An Act relating to tax credits and administration of tax credit programs; requiring the Department of Revenue to report indirect expenditures; relating to the duties of state agencies; requiring the legislative finance division to analyze certain indirect expenditures; relating to lapse dates for appropriations for capital projects; repealing certain statutes authorizing indirect expenditures; and providing for an effective date."

8:37:47 AM

Vice-Chair Neuman MOVED to ADOPT the proposed committee substitute for HB 306, Work Draft 28-LS1396\H (Nauman, 3/20/14).

Co-Chair Stoltze OBJECTED for discussion.

DANIEL GEORGE, STAFF, REPRESENTATIVE BILL STOLTZE, explained the changes in the CS. He stated that the technical changes in the bill related to a staggered repeal of some of the tax credits.

Co-Chair Stoltze asked that the word "sunset" be used rather than the word "repeal."

Mr. George looked at page 1, and noted that Representative Reinbold was added as a sponsor. He looked at page 5, and remarked that the previous Section 6 was removed, which was a lapsing of appropriations or allocations for grants to unincorporated communities, if substantial work was not started within five years. He looked at page 6, lines 15 through 30, which were new Sections 8, 9, and 10. He looked at page 7, and the new Section 7. He stated that Section 14 was newly inserted. He remarked that on lines 29 through

31, new contingency language was added. He looked and page 8, and noted the new Sections 19, 20, 21, and 22.

Representative Holmes asked for detail on how the changes in the CS impacted the bill.

BRODIE ANDERSON, STAFF, REPRESENTATIVE STEVE THOMPSON, stated that Section 6 was removed, and Sections 8,9,10, 11, and 12 related to the staggered sunset dates. He explained that Sections 13, 14, 15, and 16 were related to sunset dates for the Wind brindle Scholarship Tax Credit, the Film Tax Credit, the Veteran Employment Tax Credit, the Salmon Utilization Tax Credit, the Education Tax Credit, the Salmon Production Development Tax Credit, and the CDQ Tax Credit. The transition language remained the same. The contingency language was in Section 18. He announced that Sections 19, 19, 20, 21, and 22 were the dates in which the previous sections would go into effect which were 2016, 2018, and 2020.

[8:42:45 AM](#)

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO OBJECTION, the proposed committee substitute was adopted.

Representative Thompson spoke to the bill. The tax credits had been put in many years earlier with good intentions, but the legislature needed to take a hard look at the credits to determine whether the original intent was still effective.

Representative Wilson understood that the part that had been removed related to unorganized areas and grants. She queried the reason behind that removal. Co-Chair Stoltze replied that the section drew attention away from the larger focus of the tax credit issues.

Representative Wilson wanted to make sure the bill didn't do something she did not know.

Representative Thompson relayed that the process was currently well established in the department. He asked about the CDQ tax credit. Mr. Anderson replied that the credit would be extended.

Representative Munoz spoke to the two year cycles in the bill. She wondered if it was a one-time occurrence, once

the cycles were achieved. Mr. Anderson replied that there was the actual true sunset date, the extension, and the review cycle set up through Department of Revenue (DOR) and the Legislative Finance Division (LFD). The review cycle schedule would be every two years and the sunsets would be the specific dates for the tax credits in Title 43. Future legislatures would have to offer legislation to extend the credits. He stated that the tax credits that were specified in the legislation were easily definable with plenty of information.

Representative Munoz asked if the items came up for review under the two year cycle after their initial review. Mr. Anderson replied that those items would be reviewed by DOR and LFD.

[8:48:02 AM](#)

Representative Munoz queried the repeal date of the education tax credit. Mr. Anderson replied that the credit would be reviewed in 2018.

Vice-Chair Neuman pointed to Section 6 and asked if it dealt with reappropriations. Mr. Anderson answered that the section was related to the unexpended balances for the department. It referred to the Capital Appropriations Status Report, which allowed for the ability of the legislature to reappropriate funds.

Co-Chair Stoltze noted that the section allowed the legislature to reappropriate funds or to extend the credits. Mr. Anderson agreed.

Vice-Chair Neuman surmised that Section 6 related to capital appropriations to the departments. Mr. Anderson agreed.

Vice-Chair Neuman asked if the bill contained a definition for "substantial." Mr. Anderson responded that the municipalities had criteria for what was considered substantial.

Vice-Chair Neuman suspected it was the case. He stated that he would work with the sponsor on the item.

Representative Gara asked about the film tax credits in Section 13. He wondered when the credit would repeal. Mr. Anderson replied that the sunset was in 2016.

Representative Costello discussed the bill's 6 fiscal notes.

Co-Chair Stoltze remarked that the fiscal notes would be updated to reflect the CS.

Co-Chair Austerman believed the bill was excellent. He spoke to his initial reservations, but once it was understood and the bill was broken into a timely basis, he was confident in the legislation.

Representative Thompson MOVED to REPORT CSHB 306(FIN) out of committee with individual recommendations and the accompanying fiscal notes.

Representative Gara OBJECTED for discussion.

Representative Munoz asked a question about the DOR fiscal note.

[8:56:08 AM](#)

Mr. George relayed that the office had been in contact with the governor's office requesting updated fiscal notes.

Representative Holmes supported the bill. She was curious about 10 positions in the fiscal notes.

MR. FONDER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE (Via Teleconference), anticipated that the number of positions would decrease substantially in FY 15. He stressed expenditures would not be occurring in FY 15.

Representative Munoz wondered if there would be an increase in the number of positions beyond the years outlined in the fiscal notes. Mr. Fonder replied that it would probably be similar to the out years in the fiscal note that was a total of 3 positions.

Co-Chair Stoltze stressed that the department would not get more money than it needed.

[9:00:13 AM](#)

Representative Gara was working to determine the current sunset date for the film credit program. He was uncomfortable speeding up the sunset date of the film tax credit.

Co-Chair Austerman spoke to his backing of the commercial fishing industry and the need to treat it equally to other industries in the state. He only supported items that worked. He believed that credits would justify themselves when they came up for review in the future. He believed the credits should all be treated equally. He stated it was necessary to review the credits. He did not believe it was right to pick out specific credits.

Representative Costello was uncomfortable reporting the bill out of committee without the updated fiscal notes.

Co-Chair Stoltze would hold the bill.

HB 306 was HEARD and HELD in committee for further consideration.

[9:04:33 AM](#)

AT EASE

[9:08:45 AM](#)

RECONVENED

Co-Chair Stoltze discussed that HB 306 would be heard later with the updated fiscal notes.

#hb121

HOUSE BILL NO. 121

"An Act relating to the examinations, board, loans, records, and lobbying contracts of the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date."

[9:09:41 AM](#)

REPRESENTATIVE ERIC FEIGE, SPONSOR, read a prepared statement pertaining to the bill's purpose:

The Commercial Fishing and Agriculture Bank is a great example of the government starting a project and then

stepping back and allowing the project to succeed in the private sector.

Created 33 years ago, the bank was created by an initial investment of \$32 million from the state. As required by the creating statutes, the bank has repaid the state's investment and is now a private entity owned by its members.

Because the bank was created under specific statutes, it is not regulated the same as other banks and credit unions operating in the state. The specific statutes that created CFAB assure it continues to fulfill its original purpose of assisting the commercial fishing and agricultural industry.

The bank's board of directors desires to improve the operating ability of the bank by requesting several changes in its operating statutes.

HB 121 expands the types of loans the bank can give to commercial tourism and natural resources industries and removes the maximum loan amounts provided to these borrowers. HB 121 also expands the category of borrowers to include non-resident owned businesses that are physically located within Alaska, expands the eligibility of the bank's small loan program, and gives the board the ability to set its own compensation level.

Finally, to provide CFAB with additional resources to capitalize its ability to provide loans to its members, the CFAB board is requesting the Alaska Banking Commission to begin auditing the bank's operations, as is done with other banks in the state. The cost of the audits are borne by the bank and not a cost to the state.

Michael Paschall of my staff will now provide a sectional analysis of the bill followed by a short presentation by bank president Lea Klingert and board member Doug Glenn.

MICHAEL PASCHALL, STAFF, REPRESENTATIVE ERIC FEIGE, read the sectional analysis:

Section 1: This section adjusts the lending power of the bank by eliminating the borrowing limits on certain types of loans. It also removes the residency requirement for certain types of capital loans if the facility is located within the state as well as expands the types of loans that may be given to nonmembers. It also makes loans available for certain tourism operations and for operations dedicated to the development or exploitation of natural resources.

Section 2: It adds commercial agriculture to the current provision allowing loans to nonmembers for commercial fisheries in certain areas.

Section 3: Changes the dollar limitation on loans to nonmembers from \$25,000 to \$50,000.

Section 4: Increases the debt to capital ratio from eight percent to 25 percent.

Section 5: Confirming language containing to bank examinations added in section seven. Also corrects a typographical error in statue.

Co-Chair Stoltze wondered if Section 5 related to credit-worthiness. Mr. Paschall replied in the affirmative. . He continued reading the sectional.

Section 6: Allows the bank to make available a list of those eligible to serve as director to those members eligible to vote.

Section 7: Provides that the Department of Commerce, Community, and Economic Development shall audit the bank at least once every thirty-six months.

Section 8: Repeals AS 44.81.020(f) setting director compensation and AS 44.99.030(a)(2) prohibiting lobbying by the bank.

Co-Chair Stoltze asked about the repealer in Section 8. Mr. Paschall replied that the first repealer repealed the director's compensation, which was set in statute, and allowed the board to set the compensation. The second statute currently prohibited lobbying by the bank.

Co-Chair Stoltze assumed that it was a repealed a limit in compensation. Mr. Paschall replied that it repealed the statute that set the compensation. He continued reading the sections:

Section 9: Delays the audit established in section seven until one year after the effective date of the Act.

Section 10: Makes the Act effective immediate.

9:15:15 AM

DOUG GLENN, BOARD MEMBER, COMMERCIAL FISHING AND AGRICULTURE BANK, spoke to his background. He discussed his business. He explained that CFAB had enabled him to go forward on his business. He had been a member since 2012. He read a statement about CFAB:

CFAB was a result of legislation introduced in the late 1970s for the purpose of providing financing to the commercial fishing and agriculture industry of Alaska. It operates and is the sole subject of AS 44.81. Many basic policies, strategic, or operational changes that most business would enact by simply revising their business plan. It required the support of the Alaska State Legislature and new legislation. CFAB was committed and structured to serve resident individuals and smaller companies in a highly focused and specialized manner. Many of the individuals and business whom CFAB serves would not otherwise have access to loan funds for reasonable, constructive terms.

9:19:06 AM

Representative Thompson asked about the CFAB bylaws. He asked if Mr. Glenn was eligible for a loan while on the board. Mr. Glenn replied in the affirmative.

LELA KLINGERT, PRESIDENT, COMMERCIAL FISHING AND AGRICULTURE BANK, stated that the CFAB board had no active purpose in the lending portion. The board did not participate in credit decisions.

Representative Thompson believed it seemed strange that a board member would be borrowing from the bank.

Co-Chair Stoltze commented on Mr. Glenn's upstanding character.

Representative Guttenberg wondered who made the decision to allow borrowing. Ms. Klingert replied that it was a loan committee, which was comprised of management and loan officers.

Representative Guttenberg queried the decision making authority of the board that was different than the loan committee. Ms. Klingert replied that there were many structures in the credit industry. She stated she provided the financial condition to the board, but was sanitized and not specific to the individuals. The board drafts the credit policy, and the loan committee operates under that policy.

Co-Chair Austerman asked for detail on the CFAB membership. Ms. Klingert responded that in order to become a member or a borrower, one must be a member of CFAB. She stated that a member was required to purchase stock in the co-op to become a member, a borrower, and a stock holder.

Representative Wilson asked for a description of the CFAB mission. Ms. Klingert shared that in 2000 the bank's statute had been revised to allow CFAB to enter into tourism and resource based industry. Primarily, 95 percent of CFAB's loan portfolio was comprised of commercial fishing loans. The remaining 5 percent was split between agriculture and tourism.

Representative Wilson asked again about a mission statement. Ms. Klingert replied that its mission statement was to be the premier lender to the fishing industry.

Representative Wilson noted that the legislation allowed for non-resident borrowers. She wondered if there was a requirement to stay within a certain percentage for a specific industry.

[9:25:50 AM](#)

Ms. Klingert replied that there was nothing as formalized as outlining specific percentages. The economy and basic structure of the bank limited the percentages. She shared that the reason to expand into tourism and resources was

for diversification, primarily due to the consolidation of the commercial fishing industry.

Representative Wilson wondered why the bank could not be its own entity and no longer connected to the state. She wondered why the bank could not go out on its own. Mr. Klingert answered that there were parameters that excluded CFAB from the coop code, the banking code, and other codes. She stressed that CFAB would not survive if it was privatized.

Representative Munoz wondered how the banks rates compared to commercial rates. Ms. Klingert replied that the bank's rates were comparable to other banks.

Representative Munoz asked about CFAB's accountability. Ms. Klingert replied that the bank reported to the legislature. The statute dictated how the bank was structured and the parameters under which it operated.

Co-Chair Austerman communicated that CFAB had been created by the legislature. Over the years the bank had been able to repay the state. The bank was successful. It was included in statute because the legislature had created it. The bank did not ask for money and paid back everything it had been given.

[9:30:59 AM](#)

Representative Guttenberg stated that the bank's success was also the legislature's success. He wondered about the financial health of the bank. Ms. Klingert answered that the bank was healthy and strong; it had \$35 million in loans. She stated that CFAB had not recorded any losses to date in the last 20 years. She had lived and breathed the program for 26 years.

Representative Gara wondered if the bank had concern with a limited pool of funds that it may impact. He wondered if the bill would divert money away from the other items. Ms. Klingert replied that the bank leveraged by borrowing additional money. She believed the bank could get up to \$84 million in loans. She did not feel that the current loan structure would be substantial enough to create the issue. The bank had loaned to tourism and mining since 2000. She stated that the non-resident section of the legislation was

to allow CFAB to lend to people within the state that may not meet the bank's strict residency requirements.

[9:35:11 AM](#)

Representative Gara stated that the program mostly applied to Alaskans. He wondered about the policy of lending non-capped amounts to non-residents. Ms. Klingert replied that there were individuals in the tourism industry that were borrowing from CFAB, but had not received much interest from the mining industry. Many of the tourism companies in the state were not majority owned by Alaskans.

Co-Chair Stoltze noted that he had been contacted by a number of individuals about the legislation who were all commercial fishermen.

Vice-Chair Neuman pointed to Section 2, which stated that the bank may make small loans to qualified borrowers who were not members of the bank. He wondered if it reflected a policy change. Ms. Klingert replied that the section related to serving rural areas of the state, where becoming a member was cost-prohibitive.

Vice-Chair Neuman asked for verification that a person did not have to be a member. Ms. Klingert replied that it was not necessary within that particular section.

Vice-Chair Neuman looked at Section 4, and noted that the total amount of money that may be loaned under the section may not exceed 25 percent of the total capital. He noted that there was a greater than 300 percent increase. He queried the current total capital. Ms. Klingert replied that the total capital the bank could lend was just under \$20 million. Through the legislation, CFAB increased the dollar amount that could be lent to an individual under that section.

Vice-Chair Neuman wondered if the policy was standard for other banks. He thought it sounded high. Ms. Klingert could not speak to other banks.

Co-Chair Stoltze asked if she did not have knowledge of the banking industry or simply preferred not to speak about the other banks.

[9:40:09 AM](#)

Ms. Klingert did not want to speak for other banks.

Co-Chair Stoltze asked about industry standards. Ms. Klingert understood that commercial banks had limits on what they would lend to a specific industry in order to limit risk.

Vice-Chair Neuman did not know why commercial banks would care about the issue as long as they got their money back. He did not believe the commercial banks would allow the proposed amount outlined in legislation. Ms. Klingert answered that banks were required to have a certain amount of capital that they leveraged for loans. She stated CFAB was lending its own money; therefore its requirements were much different. She believed commercial banks split the risk between industries. The bank currently had \$20 million in capital and \$35 million out in loans.

Vice-Chair Neuman pointed to the bill title related to engaging lobbyist services. Ms. Klingert replied that currently the bank was prohibited from hiring a lobbyist.

Co-Chair Stoltze surmised that it had probably occurred when the Alaska Railroad. Ms. Klingert agreed.

Vice-Chair Neuman stressed that CFAB still established under statute that the state entity did not compete with commercial banks. He wondered if the legislation allowed CFAB to hire lobbyist. Ms. Klingert replied in the affirmative.

Vice-Chair Neuman asked if the bill contained the lobbyist information in another location. Co-Chair Stoltze replied that there was a repealer contained in the legislation.

Representative Edgmon looked at Section 7, and queried the difference between an audit and examination.

[9:46:34 AM](#)

Ms. Klingert replied that there was a timeframe that was established based on the staffing of Department of Commerce, Community and Economic Development (DCCED).

Co-Chair Stoltze wondered if the amount of time had been suggested. Ms. Klingert replied in the affirmative.

Representative Edgmon asked if the audit was a term of art in the sponsor statement. Ms. Klingert replied that there was a difference in an audit and an examination. The audit did go through to look at the financial side. She stated that CFAB was audited every year by statute.

Representative Edgmon surmised that the banking examiners would ensure that the expanded CFAB was complying with the statutes. He understood that it would be a high level overview, because the fiscal note had \$5,700 intended for examination. Ms. Klingert agreed.

Representative Costello asked about Section 8 related to the repeal of lobbying prohibition. She wondered about the change to allow for lobbyist.

[9:50:02 AM](#)

Ms. Klingert answered that over the past several years not having a person in Juneau to represent the bank had been challenging. The bank currently staffed under 10 individuals, and believed having a person in Juneau to represent its interests would be beneficial. There were no immediate plans to retain a lobbyist.

Representative Costello wondered if DCEED had the ability to comment on legislation. Ms. Klingert asked for clarification on the question.

Representative Costello stated that the fiscal note was from the Division of Banking and Securities. She wondered if the relationship between CFAB and the state did not provide enough communication through another branch of government. Ms. Klingert replied DCEED may not be the best choice to represent CFAB. She stressed that there was an open communication with DCEED, but did not feel that it was the mission of DCEED to look out for CFAB.

Co-Chair Stoltze felt that CFAB had a bad product to sell. He thought the organization had been trying to package a poor product in the past.

Representative Holmes remarked that the increase from 8 to 25 percent related to how much the bank could lend under a specific type of loan. Ms. Klingert replied in the affirmative.

Representative Holmes was struggling with whether or not CFAB was a private or public entity. She wondered if the expansion in the types of loans was seen as competing with other local banks and how the expansion fit into the existing market.

9:55:10 AM

Ms. Klingert replied that the agency also struggled with the issue. She the bank may compete with banks, but not really a big competitor in commercial banks' world. The bank took much time on its borrowers, which was something that would not be cost effective for a larger bank. She felt that the fact that the bank existed provided lending opportunities to borrowers who would not receive them if it was not there.

Representative Holmes wondered if there had been any discussion from private banks or credit unions related to the bill.

Mr. Paschall relayed that the banking industry did not have a position on the bill. He stated that CFAB was very small compared to business on commercial banks. He stressed that there long list of criteria for its loans. He stated that there was some criteria established by the court, but did not see that any of the changes made the changes. He responded to the lobbying question. He stressed that the entity was located in Anchorage and from time to time it needed to respond to issues. It was currently totally prohibited from hiring any type of lobbyist; therefore, the entity had to send a board member to Juneau to answer questions. He pointed to a statute that required an annual report and audit. The entity was asking to be examined by the banking commission.

Representative Gara believed the bank was a state entity. He noted that 7 of the 9 board members were elected by the members of CFAB. He wondered if the inclusion of non-resident members would receive favorable treatment over the residential projects. Ms. Klingert asked for clarification on the question.

Representative Gara asked if the board members may favor outside-owned businesses. Ms. Klingert replied that she did

not feel that there would be enough non-resident loans made to create that issue.

Representative Gara noted that the board was 7 to 9 members, which was up to the bank.

Co-Chair Stoltze spoke to another repealer related to board compensation. He suspected that there could be unintended consequences, but felt that the issue of favoring non-residents was an issue.

[10:04:22 AM](#)

Representative Costello wondered why CFAB did not just hire legislative liaison. She wondered if the option had been considered or pursued. Ms. Klingert was not familiar with the issue.

Co-Chair Stoltze asked for further information on the issue. Mr. Paschall responded that the issue was related to whether or not CFAB was a state entity.

Vice-Chair Neuman liked the purpose of the bill, particularly the expansion into agriculture industries. He wondered loan structures compared to other banking institutions. He noted large increases in the amount of money available. He discussed concerns that because 7 members of the board were elected by the board and 2 appointed by the governor, so there was an opportunity to disallow Alaskans to the limited amount of money there were an opportunity that the money could all go to outside organizations instead of Alaskan companies. Mr. Paschall believed a change would be possible to make to solve the issue.

Representative Wilson followed up on Vice-Chair Neuman's question. She wanted to verify that the board had no say over who got the loans even if they competed with other businesses in Alaska. She wanted to ensure that the state would not be competing with itself.

[10:10:08 AM](#)

Ms. Klingert replied that the board set the credit policy, but did not dictate who money would go. She stated that the concerns could be addressed by the examiners in order to ensure that it operates within the statute. She felt that

the examination process would provide the legislature with a better understanding of the organization of CFAB.

Representative Wilson replied that there could be two boats fishing for the same thing, but one business office could be in Alaska and the other could be in another state. Both would fit under the provision, but allowed the non-resident entity to become eligible for the credit. She felt that the legislation may put the Alaska business at a disadvantage.

Co-Chair Stoltze spoke in favor of the board.

Representative Wilson stressed that she was attempting to make a point.

Co-Chair Austerman The entity helped balance to ensure that everyone was covered. He did not want to have a conversation about ways to make CFAB a better organization. He did not want to lose sight of the issue.

Co-Chair Stoltze CLOSED public testimony.

Co-Chair Stoltze pointed to general support for the bill. The committee would work to resolve the several issues pointed out by committee members.

Representative Gara spoke about outside tourism. He did not like that commercial fishing guides were from outside of Alaska employed by fishing lodges owned by outside entities. He was concerned about the outside competition.

Co-Chair Stoltze felt that the members concerned had been clearly outlined, and hoped to address many of the addressed issues.

Mr. Paschall appreciated the committee's discussion. The sponsor would work on the issues with finance staff.

HB 121 was HEARD and HELD in committee for further consideration.

ADJOURNMENT
[10:20:37 AM](#)

The meeting was adjourned at 10:20 a.m.