

HOUSE FINANCE COMMITTEE

April 12, 2014

8:05 a.m.

8:05:06 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 8:05 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

Don Etheridge, Alaska AFL-CIO, Juneau; Barbara Huff Tuckness, Director, Teamsters Local 959; Larry DeVilbiss, Mayor, Mat-Su Borough; Lisa Weissler, Self, Juneau.

PRESENT VIA TELECONFERENCE

Luke Hopkins, Mayor, Fairbanks North Star Borough; Rich Seifert, Self, Fairbanks; Merrick Pierce, Member, Alaska Gasline Port Authority Board; Don Leistikow, Self, Fairbanks; Lynn Willis, Self, Eagle River; Rachel Petro, President and CEO, Alaska Chamber of Commerce, Anchorage; Brother Tom Patmor, Self, Clam Gulch; Amy Nibert, ABC of Alaska, Anchorage.

SUMMARY

CSSB 138(FIN) am

GAS PIPELINE; AGDC; OIL & GAS PROD. TAX

CSSB 138(FIN) am was HEARD and HELD in committee for further consideration.

#sb138

CS FOR SENATE BILL NO. 138(FIN) am

"An Act relating to the purposes, powers, and duties of the Alaska Gasline Development Corporation; relating to an in-state natural gas pipeline, an Alaska liquefied natural gas project, and associated funds; requiring state agencies and other entities to expedite reviews and actions related to natural gas pipelines and projects; relating to the authorities and duties of the commissioner of natural resources relating to a North Slope natural gas project, oil and gas and gas only leases, and royalty gas and other gas received by the state including gas received as payment for the production tax on gas; relating to the tax on oil and gas production, on oil production, and on gas production; relating to the duties of the commissioner of revenue relating to a North Slope natural gas project and gas received as payment for tax; relating to confidential information and public record status of information provided to or in the custody of the Department of Natural Resources and the Department of Revenue; relating to apportionment factors of the Alaska Net Income Tax Act; amending the definition of gross value at the 'point of production' for gas for purposes of the oil and gas production tax; clarifying that the exploration incentive credit, the oil or gas producer education credit, and the film production tax credit may not be taken against the gas production tax paid in gas; relating to the oil or gas producer education credit; requesting the governor to establish an interim advisory board to advise the governor on municipal involvement in a North Slope natural gas project; relating to the development of a plan by the Alaska Energy Authority for developing infrastructure to deliver affordable energy to areas of the state that will not have direct access to a North Slope natural gas pipeline and a recommendation of a funding source for energy infrastructure development; establishing the Alaska affordable energy

fund; requiring the commissioner of revenue to develop a plan and suggest legislation for municipalities, regional corporations, and residents of the state to acquire ownership interests in a North Slope natural gas pipeline project; making conforming amendments; and providing for an effective date."

8:05:15 AM

Co-Chair Stoltze discussed that the committee would hear public testimony during the meeting.

^PUBLIC TESTIMONY

8:06:34 AM

LUKE HOPKINS, MAYOR, FAIRBANKS NORTH STAR BOROUGH (via teleconference), discussed a group of mayors wanting amendments to the bill. He spoke in support of an amendment related to the anticipated future PILT [payment in lieu of taxes] agreement and how it pertained to existing oil and gas taxes. He thanked the House Resources Committee for its work on the amendment. He asked the House Finance Committee to retain the language that was important for municipalities to maintain the property tax revenue stream. He referred to letters provided to the legislature from various mayors across the state. He asked the committee look at the municipal advisory group (similar to the Stranded Gas Act advisory group) that worked to present a multitude of resolutions, positions, and actions. He believed Representative Steve Thompson had chaired the group. He relayed that the governor had met with a group of mayors to discuss action under an administrative order proposed by the group. He acknowledged that procedures outlining how the committee would arrive at decisions needed to be established. He asked the committee to maintain the structure. He thanked the committee for its time.

Co-Chair Stoltze asked about the bill sections Mayor Hopkins was speaking to. Mayor Hopkins responded that he did not have the section in front of him. Co-Chair Stoltze asked Mayor Hopkins to send the committee an email with the section information.

Representative Thompson appreciated Mayor Hopkins' testimony.

8:12:15 AM

RICH SEIFERT, SELF, FAIRBANKS (via teleconference), spoke against the legislation. He relayed that he served on the Fairbanks North Star Borough Budget Advisory Committee. He believed the bill represented another giveaway to oil companies that oil producers would eventually bankrupt the state. He spoke to the complexity of the bill and the intent to revisit leases and the existing tax structure. He did not understand why it was currently happening. He stated that everyone was complaining that the industry did not have fiscal certainty. He opined that the bill eliminated any fiscal certainty for the state and its communities. He referred to the constitutional incentive to provide the best return to the state through the development of its resources. He questioned the legality of the bill related to the constitutional mandate due to the drastic tax adjustment and the open-ended adjustment of future taxes. He questioned the establishment of the board on pages 58 and 59 of the legislation. He noted that one of the duties pertained to the state's tax structure on rates of oil and gas produced south and north of 68 degrees latitude. He urged the committee to closely examine the bill for its legality and to consider the dire consequences that could occur with its passage; it was not a legacy he would want his name attached to.

8:15:23 AM

MERRICK PIERCE, MEMBER, ALASKA GASLINE PORT AUTHORITY BOARD (via teleconference), testified in opposition to the bill. He asked the committee to consider whether the Parnell Administration was displaying basic competence. He relayed that under the current administration the air quality problem in Fairbanks had worsened, the Air Force had tried to pull out for the second time, the refineries wanted to shut down, and the construction of new homes in the area was down significantly. He stated that Fairbanks was currently an "economic basket case." He referred to the "boondoggle" paint job at the governor's mansion; the governor had picked the much more expensive contractor to do the job and the contractor had later been fined by the Environmental Protection Agency. He wondered how the governor could be trusted with the complexity of the legislation. He stated that realistically Alaska would deplete the Statutory Budget Reserve and Constitutional

Budget Reserve in approximately five years. He stressed that it was critically important for the state to have a new source of revenue from the gas pipeline; otherwise the state's economy would collapse due to the magnitude of the multi-billion dollar deficits with only one source of revenue from the oil pipeline. He stated that the governor had never articulated the Hartwick's Rule fundamental principle resource economics. The rule pertained to investing in infrastructure to bring in new revenue to offset declines in revenue from finite revenue resources. He asserted that it was up to the legislature to come up with an accurate solution. He believed the governor was out of line in his thinking that the state should allow transnational corporations with LNG projects that compete with Alaska to determine when, if, and where the state got a project. He used a business analogy with the governor as the CEO. He believed the governor's plan under SB 138 would allow the competition to decide when and if the state would get a project.

Mr. Pierce outlined steps he believed were critical for the legislature to take. First, he asserted that the state had to be in control of the project timing, which meant it needed to be a majority equity owner of at least 51 percent. Second, the state should not produce its own gasline. He spoke to fraudulent tariffs related to Trans-Alaska Pipeline System (TAPS) and keeping competition off the North Slope. Third, he believed the legislature needed to meet with the customers related to the timing and ownership interests. He stressed that failure would occur if the customers were ignored. He elaborated that customers wanted gas in 2019 and the governor's plan called for gas in 2022. He opined that the timeframe almost guaranteed customers would go to Canada. He recommended that the legislature conduct hearings to understand "how badly Parnell has mismanaged AGIA" [Alaska Gasline Inducement Act]. He questioned what the state owed for the \$300 million that was spent. He wondered why the governor had not met with companies wanting to advance the pipeline. He stated that ExxonMobil had never been responsive. He stressed the importance of understanding the issue prior to moving forward with legislation. He believed it was insanity to give away oil or tax property tax. He referred to a Wood MacKenzie analysis showing that if properly built, the gas pipeline would bring in \$400 billion in new revenue over the first 30 years of operation. However, he was concerned about language in the bill that property

taxes would increase because the TAPS pipeline would not be valued at fair value. He emphasized the importance of hearing from the markets on the timing, ownership models, btu [British Thermal Unit] content of the gas, and to understand the competition. He provided various examples of competing LNG projects. He advised hearing from others who had successfully built gasline projects. He stated that it was not difficult to build a gas transmission pipeline; there were 305,000 miles of gas pipelines across the U.S. He provided an example of a pipeline success story. He thanked the committee for its time.

8:21:05 AM

DON LEISTIKOW, SELF, FAIRBANKS (via teleconference), spoke in opposition to the bill. He had grown increasingly concerned over the past couple of decades. He stated that the past couple of years had been difficult to understand the administration's position on several oil and gas related bills. He was concerned about the financial aspects of SB 138. He detailed that it was difficult to see any controls on the conditions that he believed would be a blank check to oil companies and gas producers. He had heard testimony pertaining to the reasons for SB 21 [oil and gas taxation passed in 2013]. He stated that SB 138 was offering all of the remaining items that had not been given away under SB 21. He spoke from the perspective of a nonpartisan voter. He could not understand why the bill was gift wrapped in the current way. He believed specifics of the legislation were opaque. He did not believe the approach was helpful to the citizens of Fairbanks or Alaska. He wanted the legislature to take a more serious look at the bill to remove the blank check aspect. He believed the bill should be shelved.

8:23:55 AM

LYNN WILLIS, SELF, EAGLE RIVER (via teleconference), was concerned about a reliable and affordable supply of gas. He reminded the committee that Dan Fauske with the Alaska Gasline Development Corporation (AGDC) had stated that once the cost of the Alaska Stand Alone Pipeline (ASAP) exceeded the cost of importing LNG he would consider himself to be on a fool's errand. He stated the legislature should not pass the bill if it did not understand the legislation. He questioned what mechanism would be available to deal with contract offers if the opportunity to evoke clear

legislative intent was closed. He believed the legislature had probably hired the best consultants to evaluate the proposal, but he thought the same could be said for AGIA. He spoke to the loss of over \$300 million under AGIA plus an additional \$130 million owed by the state. He spoke to expenditures on the Cook Inlet supply contracts through 2018. He discussed costs spent on the AGDC ASAP, which he believed may be abandoned for the Alaska LNG project. He noted that AGIA was continuing to restrict volume on AGDC ASAP. He reasoned that the state would not consolidate its natural gas demands in the Railbelt region if it pursued trucking LNG into Fairbanks. He believed the state would be competing with its own Cook Inlet gas producers. He stressed that state funds were being used to pay for three pipeline projects simultaneously (i.e. AGIA, ASAP, and Alaska LNG). He questioned why the legislature was not asking how long ago the AGIA project to Alberta had become uneconomical. He wondered who was conducting and reviewing depletion studies that may support release of North Slope gas to ensure maximum oil production while allowing the project. He believed the legislation may become law before all of the questions were answered. He advised the committee that the legislature should be cautious in deliberations due to the state's deficit. He reminded the committee that the state was a sovereign and not an investment bank. He referred to prior testimony by Dr. Scott Goldsmith, Institute of Social and Economic Research, University of Alaska Anchorage. He relayed that Mr. Goldsmith had indicated to the Senate Finance Committee that the state was drawing down its cash reserves at the rate of \$7 million per day. The state needed to learn as much as possible prior to passing legislation.

[8:27:34 AM](#)

RACHEL PETRO, PRESIDENT AND CEO, ALASKA CHAMBER OF COMMERCE, ANCHORAGE (via teleconference), discussed the chamber membership. She stated that the announcement in January [2014] on the Heads of Agreement (HOA) between Alaska businesses and the state was welcome news. The chamber believed that the best way for Alaskans to develop their gas resources was to have the state participate as a business partner in an Alaska gas project. The chamber supported the principles in the HOA and SB 138 including state participation in an Alaska gas project, the state taking a percentage gas share of royalties and gas production tax, participation in the project at the same

percentage of the gas share, and establishing a clear process to move a project forward. She spoke to identifying the necessary tools to confidentially develop the various project enabling arrangements and contracts. The chamber believed in the establishment of a public process that would provide for legislative oversight, review, and approval. She did not see any deal killers in the recent CS. The chamber appreciated all of the vetting on the bill. The chamber wanted to see continued vetting and to keep the alignment between business partners and momentum moving forward toward access to Alaska's gas.

Co-Chair Stoltze remarked on chamber support.

[8:30:14 AM](#)

DON ETHERIDGE, ALASKA AFL-CIO, JUNEAU, spoke in support of the legislation and the letter of intent that was traveling with the bill. The group believed the bill represented the best option to determine whether the state's gasline was a workable deal. The group was in favor of the local hire and training provisions included in the letter of intent. He reasoned that when money was spent on construction, the workers would bring money back into the state. He stated that Alaskan workers would spend the money in Alaska. The group supported the first step of the project. He noted that the legislature would have another opportunity to withdraw from the project.

Co-Chair Stoltze wondered if the Mr. Etheridge believed the state was settling on the deal. Mr. Etheridge replied that the state had the best deal at present with the people at the table. He had faith in the administration and believed it was on top of the situation.

Co-Chair Stoltze noted that Angela Rodell, Commissioner, Department of Revenue, Joe Balash, Commissioner, Department of Natural Resources, and Michael Pawlowski, Deputy Commissioner, Strategic Finance, Department of Revenue were all present in the committee room.

[8:33:12 AM](#)

BROTHER TOM PATMOR, SELF, CLAM GULCH (via teleconference), was maddened when oil companies or their contractors got away with things while the government had its back turned. He noted that whenever legislators traveled to visit the

North Slope their itineraries were planned ahead of time by oil companies; government officials were shown only what the companies wanted them to see. He had witnessed an explosion on a gas pad and an x-ray truck burned to the ground. He noted that the occurrences were newsworthy, but they were not reported. He relayed that the state fire marshal had no record of the two events. He spoke to the lack of security around the buildings at Alyeska. He believed ExxonMobil had promised 23 times that it would take action at Point Thomson before it did anything. He remarked that the committee would be horrified by some of the things he had seen during his 25 years of work on the North Slope. He had personally been involved in the killing of many bears around Prudhoe Bay. He was bothered by the practice and was willing to testify to the occurrences under oath. He suggested that the mafia in Las Vegas may be a better partner than an oil company. He did not believe oil companies could be trusted.

Representative Guttenberg thanked Mr. Patmor for his testimony.

[8:36:18 AM](#)

AMY NIBERT, PRESIDENT and CEO, ABC OF ALASKA, ANCHORAGE (via teleconference), spoke in support of the legislation. The organization represented over 150 contractors in Alaska.

[8:36:57 AM](#)

BARBARA HUFF TUCKNESS, DIRECTOR, TEAMSTERS LOCAL 959, relayed that the group had over 1,000 members working on the North Slope. She stressed that if SB 21 had not passed the prior year that some of the employees would not have jobs on the North Slope. She hoped that everyone continued to look at Alaska's future. She believed the state had a future. She represented the working people of Alaska. She supported the letter of intent accompanying the bill, but she did not know if people had seen it. She stressed the importance of vocational training. She relayed that there had been over 25,000 Teamsters working on the last pipeline; the workers had not all come from Alaska. The group was working hard to train Alaskan workers. She stated that oil companies were making contributions to help ensure that the state had trained workers. She believed there would be around three project labor agreements. She stated

that if the state was going to put money into pipeline construction, the legislature needed to make sure there was control over the costs. She noted that it was a "company thing" and not a "union thing." She stated that the best thing companies could do would be to ensure project labor agreements were in place. She believed the project labor agreements would benefit Alaska. She was concerned that there was nothing about Alaskan workers in the bill. She wondered who would represent the unrepresented people. The Teamsters tried to make sure the unorganized workers were protected. She asked the committee to do something about Alaskan-hire. She believed members would support it. The Teamsters had a good relationship with the producers. She relayed that her boss met with industry representatives every couple of weeks to discuss different jobs. There was a significant amount of work coming on line in the upcoming summer. She acknowledged that SB 21 had impacted the state's budget, but it was a positive move. She pointed to the importance of long-term planning. She emphasized that the state needed a seat at the table during negotiation. She stressed the large scale of the project and believed it was the largest in the nation if not, in the world.

[8:42:25 AM](#)

Co-Chair Stoltze thanked Ms. Huff Tuckness for her leadership running elections with the Teamsters' membership. He appreciated her stand for workers.

Representative Gara wondered how a project labor agreement would increase the chances of Alaska hire.

Ms. Huff Tuckness replied that negotiations with unions occurred through project labor agreements. Applicable unions included the Teamsters, pipe fitters, operating engineers, and laborers local in Fairbanks. Through the negotiations with subcontractors the unions were allowed to bring existing employees through the Teamsters' different hiring halls. She noted that the pipeline training offices were large. She remarked that much of the financial assistance had come from the House Finance Committee. She relayed that the project labor agreement brought everyone together; the organization's hiring provisions included an Alaska resident requirement. She believed the commitment to hiring Alaskans based on qualifications was important.

[8:45:20 AM](#)

Representative Holmes thanked Ms. Huff Tuckness for her work. She referred to the letter of intent and asked for further detail on items Ms. Huff Tuckness would like included in the legislation.

Ms. Huff Tuckness responded that there was nothing in the current bill related to the hire of Alaskan workers. She stressed that training was needed and should be going to Alaskans. She relayed that under Article 11 in the Heads of Agreement, the letter of intent language had been taken out. She read letter of intent language:

It is the intent of the Alaska State Legislature that the Alaska LNG project honor the commitments, as copied below, made in "Article 11: Alaska Hire and Content", agreed to in the Heads of Agreement by and among the administration of the State of Alaska, Alaska Gasline Development Corporation, TransCanada Alaska Development Inc., ExxonMobil Alaska Production Inc., ConocoPhillips, Alaska Inc., and BP Exploration (Alaska) Inc. through construction of the project.

For the Alaska LNG Project, the Alaska LNG Parties will, within the constraints of law:

- a. Employ Alaska residents and contract with Alaska businesses to the extent they are qualified, available, ready, willing and cost competitive;

Ms. Huff Tuckness stressed that the Teamsters believed item a. was extremely important for Alaskan businesses. The organization had many employers that worked with the industry as subs on the slope. She continued to read the letter of intent:

- b. Use, as far as practicable, job centers and associated services operated by the State Department of Labor and Workforce Development;
- c. Participate with the State Department of Labor and Workforce Development to update the training plan for an LNG export project including main operations;
- d. Advertise for available positions locally and use, as far as practicable, Alaska job service organizations to notify the Alaska public; and

- e. Work with the State Department of Labor and Workforce Development and other organizations to provide training.

11.2 Prior to construction, the Alaska LNG Parties commit to negotiate in good faith project labor agreements for the Alaska LNG Project.

Ms. Huff Tuckness relayed that she had been unable to locate the letter of intent traveling with the legislation. The organization was supportive of the letter of intent, but she believed Alaskan workers deserved to have language included in the bill. She stressed the large size of the project; she believed the Alaskan workforce would be proud to be a part of the project.

[8:49:33 AM](#)

LARRY DEVILBISS, MAYOR, MAT-SU BOROUGH, expressed support for the project. He observed that the project had gone through many changes in the process. He spoke to the borough's primary concern. He had met with a project manager who had indicated 98 percent completion on right-of-way, but could not disclose any of the information. The borough believed that Cook Inlet was the logical location; it also believed that using Port MacKenzie as a terminus location would save significant money. He believed the decision had been made. Additionally, he believed the borough should stay out of the economics. The project manager had relayed that there had been more difficulty getting across the Big Susitna River than Cook Inlet. He was concerned that if the pipeline route traveled down the west side of the Big Susitna River, it would have a major impact on the gas value to Mat-Su. He had not been able to determine who was representing the state's interest in the specific project phase (i.e. alignment and other). He asked the committee to look into and be aware of the issue. The borough was the second largest municipality in the state and was headed towards becoming the largest. He stated that if the gas was further away from Mat-Su markets it would minimize the value of an anchor tenant at its own port. He gave the committee kudos for helping the project along.

Co-Chair Stoltze noted that department staff were available to meet with Mayor Devilbiss during his visit.

[8:53:17 AM](#)

LISA WEISSLER, SELF, JUNEAU, spoke against the legislation. She was a former oil and gas attorney; she had worked on AGIA and had been a legislative staffer. She provided further detail about her professional background. She referred to a committee hearing in which Co-Chair Stoltze asked if the project was a good deal for the state. She believed the answer was no. She opined that the state was making commitments too soon, with too little project information, which could result in greater risk and fewer rewards to the state. She asserted that the state could lose billions of dollars in upfront investment costs if the pipeline was not built. She believed the producers were the ones getting a good deal. She pointed to the Heads of Agreement and relayed that producers would get 100 percent ownership and control of their portion of the project with very few obligations to the state. Additionally, the state would share upfront costs in risks and would give up its right to switch between royalty in-kind and royalty in-value. She elaborated that the producers would decide whether conditions to move forward were acceptable and when to request for the state to take its production tax as gas. She continued that the cost of gas infrastructure was deductible from the state's oil tax; according to the Heads of Agreement the state gas tax would be structured to allow producers to book the gas reserves. She discussed that the state would pay the transportation marketing costs for the state royalty and tax gas. She noted that the state could potentially be paying the producers to market its gas (currently the producers provided the service under their existing leases).

Ms. Weissler communicated that the state would have a minority vote on management decisions and producers would control gas production. She shared that the property tax for communities would be based on through-put rather than property value. Additionally, there was no regulation of the pipeline tariff, no requirement to provide instate gas, no requirement to pay for expansions, and no requirement to provide pipeline access to third-party producers. Most significantly, the project would be the end of AGIA and the assurance that there would be a pipeline with favorable terms for the state; she noted that producers had never liked the requirement. She stressed that the issues she had listed were only the beginning. She referred to prior testimony from producers that they wanted the flexibility to negotiate new oil tax; they had stated that SB 21 had

been a good start. She had heard consultants state that the legislation only set the groundwork and that changes could be made. She referred to a document from the departments that outlined agreements that would be negotiated with the passage of SB 138. She remarked the contracts and agreements were piecemeal; some required legislative approval, while others did not. She pointed to the precedent agreement where the shippers and pipeline owners were free to negotiate how shipping would occur (i.e. who would bear risks, cost overruns, what occurred in the event of a pipeline shutdown, and other). She observed that the Memorandum of Understanding already stated that the state would pay if production stopped; the precedent agreement would be negotiated during the upcoming summer and would not be back before the legislature for approval.

Ms. Weissler underscored that the bill did not just lay the groundwork; it provided authority to move forward on some very significant agreements that would be difficult to get out of. She opined that the bill needed to clarify which contracts were subject to legislative approval and when. She asked that the legislation include a best interest finding and determination requirement. Additionally, she believed the bill should define the contracts. She asked that the administration put out a best interest finding and determination that explained why the project was in the state's best interest and factors used to determine the conclusion. She stated that the best interest finding had been used for the Stranded Gas fiscal contract and AGIA. The most recent version of the bill included a requirement for the proposed contract to be put out 90 days prior to its delivery to the legislature. She did not believe the provision was sufficient. She stated that there needed to be something more concrete for the public to look at. She believed it was reasonable and that it was the public's right. She had written a proposed amendment modeled after the Stranded Gas Development Act. She stated that the bottom line was that the bill was not a good deal for the state. She believed the bill set the state down a path that would come back to haunt it. She urged the committee to vote against the legislation.

[9:00:55 AM](#)

Representative Wilson asked for the testimony in writing. Ms. Weissler agreed.

9:02:04 AM

AT EASE

9:35:15 AM

RECONVENED

Co-Chair Stoltze asked if there was anyone signed up to testify.

9:35:40 AM

AT EASE

11:00:57 AM

RECONVENED

Co-Chair Stoltze asked if there was anyone signed up to testify.

Co-Chair Stoltze CLOSED public testimony.

CSSB 138(FIN) am was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

11:02:07 AM

The meeting was adjourned at 11:02 a.m.