

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 28, 2015

10:07 a.m.

MEMBERS PRESENT

Representative Cathy Tilton, Chair
Representative Paul Seaton, Vice Chair
Representative Shelley Hughes
Representative Benjamin Nageak
Representative Harriet Drummond

MEMBERS ABSENT

Representative Lora Reinbold
Representative Dan Ortiz

COMMITTEE CALENDAR

HOUSE BILL NO. 149

"An Act relating to an amendment of the articles of incorporation of certain Native corporations to establish a lower quorum requirement for shareholder meetings."

- MOVED HB 149 OUT OF COMMITTEE

HOUSE BILL NO. 118

"An Act adopting the Municipal Property Assessed Clean Energy Act; authorizing municipalities to establish programs to impose assessments for energy improvements in regions designated by municipalities; imposing fees; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 149

SHORT TITLE: NATIVE CORP. ART. AMENDMENTS

SPONSOR(S): REPRESENTATIVE(S) PRUITT

03/18/15	(H)	READ THE FIRST TIME - REFERRALS
03/18/15	(H)	CRA
03/26/15	(H)	CRA AT 8:00 AM BARNES 124
03/26/15	(H)	Heard & Held
03/26/15	(H)	MINUTE(CRA)

03/28/15 (H) CRA AT 10:00 AM BARNES 124

BILL: HB 118

SHORT TITLE: MUNI ENERGY IMPROVEMNT ASSESSMNTS/BONDS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/18/15 (H) READ THE FIRST TIME - REFERRALS
02/18/15 (H) ENE, CRA, FIN
03/05/15 (H) ENE AT 10:15 AM CAPITOL 106
03/05/15 (H) Heard & Held
03/05/15 (H) MINUTE(ENE)
03/17/15 (H) ENE AT 10:15 AM CAPITOL 17
03/17/15 (H) Heard & Held
03/17/15 (H) MINUTE(ENE)
03/24/15 (H) CRA AT 8:00 AM BARNES 124
03/24/15 (H) <Pending Referral>
03/24/15 (H) ENE AT 10:15 AM CAPITOL 17
03/24/15 (H) Moved CSHB 118(ENE) Out of Committee
03/24/15 (H) MINUTE(ENE)
03/25/15 (H) ENE RPT CS(ENE) 7DP
03/25/15 (H) DP: CLAMAN, TALERICO, TILTON, NAGEAK,
WOOL, VAZQUEZ, COLVER
03/26/15 (H) CRA AT 8:00 AM BARNES 124
03/26/15 (H) Heard & Held
03/26/15 (H) MINUTE(CRA)
03/28/15 (H) CRA AT 10:00 AM BARNES 124

WITNESS REGISTER

REPRESENTATIVE LANCE PRUITT

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as sponsor of HB 149.

HEATH HILYARD, Staff

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Reviewed the changes embodied in CSHB 118, Version H.

GENE THERRIAULT, Deputy Director

Energy Policy

Alaska Energy Authority (AEA)

Department of Commerce, Community & Economic Development (DCCED)

Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 118, answered questions.

ACTION NARRATIVE

[10:07:08 AM](#)

CHAIR CATHY TILTON called the House Community and Regional Affairs Standing Committee meeting to order at 10:07 a.m. Representatives Nageak, Drummond, Hughes, and Tilton were present at the call to order. Representative Seaton arrived as the meeting was in progress.

HB 149-NATIVE CORP. ART. AMENDMENTS

[10:07:28 AM](#)

CHAIR TILTON announced that the first order of business would be HOUSE BILL NO. 149, "An Act relating to an amendment of the articles of incorporation of certain Native corporations to establish a lower quorum requirement for shareholder meetings."

[10:07:59 AM](#)

REPRESENTATIVE LANCE PRUITT, Alaska State Legislature, speaking as the sponsor of HB 149, clarified that the requirement being made is that when corporations change their articles of incorporation related to changing the quorum, the majority of the quorum, which would be 50 percent plus one of the shareholders, would have to vote in the affirmative. The aforementioned is different than the requirements for those corporations formed after 1989, which have an affirmative vote of 50 percent plus one of the shareholders. In the case of Doyon, Limited, he recalled its quorum numbers were 56 percent, and thus almost all of the quorum would need to vote in the affirmative. He then turned to the suggestion from the prior hearing that other corporations established prior to 1989, outside of Alaska Native corporations, should also be included in HB 149. He opined that it's appropriate to continue to focus on the Alaska Native corporations [established prior to 1989].

[10:11:21 AM](#)

REPRESENTATIVE HUGHES thanked the sponsor for his efforts, and noted her agreement that Alaska is in a unique situation. She then inquired as to the age at which youth are eligible to become a shareholder.

REPRESENTATIVE PRUITT answered that the corporations that have specified an age [at which youth can become a shareholder] have specified age 18.

[10:11:59 AM](#)

REPRESENTATIVE HUGHES surmised then that [Alaska Native corporations established prior to 1989] are really in a different category in terms of the influx of youth [becoming shareholders], particularly in contrast to corporations formed prior to 1989. She said she understood the need for HB 149 and supported moving it forward.

[10:13:15 AM](#)

REPRESENTATIVE SEATON expressed the desire for the spreadsheet to be equalized as the legislation moves forward.

[10:14:01 AM](#)

CHAIR TILTON, noting that public testimony had been closed at the prior hearing, re-opened public testimony. Upon determining, no one wished to testify, closed public testimony.

[10:16:02 AM](#)

REPRESENTATIVE SEATON remarked that HB 149 embodies a good change.

[10:16:17 AM](#)

REPRESENTATIVE SEATON moved to report HB 149 out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, HB 149 was reported from the House Community and Regional Affairs Standing Committee.

The committee took an at ease from 10:17 a.m. to 10:22 a.m.

HB 118-MUNI ENERGY IMPROVEMNT ASSESSMNTS/BONDS

[10:22:24 AM](#)

CHAIR TILTON announced that the final order of business would be HOUSE BILL NO. 118, "An Act adopting the Municipal Property Assessed Clean Energy Act; authorizing municipalities to establish programs to impose assessments for energy improvements in regions designated by municipalities; imposing fees; and

providing for an effective date." [Before the committee is CSHB 118(ENE).]

[10:22:49 AM](#)

REPRESENTATIVE SEATON moved to adopt CSHB 118, Version 29-GH1021\H, Shutts, 3/25/15, as the working document. There being no objection, Version H was adopted.

[10:23:12 AM](#)

HEATH HILYARD, Staff, Alaska State Legislature, explained that although Version H is substantively similar [to CSHB 118(ENE)], Version H does address Title 29 questions that were brought forth in a March 21, 2015, Legislative Legal Services memorandum. He pointed out that the language in CSHB 118(ENE) regarding extraterritorial jurisdiction and public hearing requirements were removed as Ms. Shutts believes those two references are unnecessary under the provisions of Title 29. Although Representative Vazquez had asked in her memorandum [to Legislative Legal Services] questions regarding applicability and general law municipalities, no changes were made with regard to general law municipalities because the drafter felt they were unnecessary given the provisions of AS 29.35.210(c) and (d). The only changes to CSHB 118(ENE) were deletions to language on page 3, lines 15-17, which refers to the extraterritorial jurisdiction, and on page 4, lines 20-21, which refers to public hearings.

[10:25:17 AM](#)

GENE THERRIAULT, Deputy Director, Energy Policy, Alaska Energy Authority (AEA), Department of Commerce, Community & Economic Development (DCCED), noted that he was aware of the Legislative Legal Services memorandum and agreed with the fix embodied in Version H. With regard to the deletion of the extraterritorial powers of the borough language on page 3, lines 15-17, of CSHB 118(ENE), Mr. Therriault agreed that boroughs should discuss areas outside of its jurisdiction.

[10:26:48 AM](#)

The committee took a brief at ease.

[10:27:46 AM](#)

MR. THERRIAULT explained that the deletion of the language on page 3, lines 15-17, of CSHB 118(ENE) makes it clear that for purposes of implementing the Property Assessed Clean Energy (PACE) program a local government can't apply it to anything outside of its jurisdictional territory. The second deletion on page 4, lines 20-21, of CSHB 118(ENE) removes language requiring a description of each of the programs included and additional public comment and process prior to any changes. The aforementioned was removed as the drafters felt it was extra language because when a municipality initiates a PACE program through an ordinance process, another ordinance process is required to change that ordinance. The aforementioned would require a first, second, and third reading, he explained.

[10:30:02 AM](#)

MR. THERRIAULT provided the committee with a letter from AEA dated March 27, 2015, which responds to a number of questions brought forth in the previous House Community and Regional Affairs Standing Committee meeting.

[10:30:31 AM](#)

The committee took an at ease from 10:30 a.m. to 10:36 a.m.

[10:36:56 AM](#)

REPRESENTATIVE SEATON noted his appreciation of the agency speaking with the Alaska Housing Finance Corporation (AHFC) as it holds many of the properties in Alaska, but pointed out that AHFC isn't sure how the people who hold their bonds would respond. He related that he is comfortable leaving the legislation to only address commercial buildings, but mentioned that AHFC may find another financing opportunity in the future.

[10:38:22 AM](#)

REPRESENTATIVE DRUMMOND acknowledged the analysis for mixed use properties illustrates it's a national challenge, and thus she opined that there is no reason for Alaska to address something for a relatively small number of buildings in the state.

[10:38:57 AM](#)

REPRESENTATIVE HUGHES continued to express concern that the legislation allows for municipalities to create winners and losers [based on where the boundaries are established]. She

then related her understanding that in Alaska boroughs assess and collect property taxes, and thus if a borough wanted to implement a PACE program but a city within the borough did not, a commercial entity within the city wouldn't need to work with the city but rather would just work with the borough. Representative Hughes said she felt it was acceptable for a smaller government within a larger local government to have the option to opt out. However, she said she didn't believe the larger local government should be able to section out areas [within the larger area] but rather the larger local government should offer the program to the entire area. Representative Hughes reiterated concern with providing a mechanism in which [winners and losers could be created by the location of the boundaries]. Furthermore, she opined that it's not fair to the private sector. Moreover, she said she couldn't grasp a good reason to [provide the PACE program] in this way. Perhaps Texas counties and cities have property tax assessment and collection powers. She then suggested exploring the option of opting-out at the local level.

[10:43:30 AM](#)

CHAIR TILTON announced that HB 149 would be set aside to address concerns. She then noted that the committee packet includes a letter from the Alaska Municipal League (AML) that states AML's support for HB 149.

[10:44:16 AM](#)

MR. THERRIAULT mentioned that he will continue to work with Representative Hughes, but expressed the need to speak with Kathie Wasserman, Executive Director, AML, regarding why the legislation was crafted to provide such local government control with the boundaries.

[10:44:53 AM](#)

REPRESENTATIVE SEATON related he shares Representative Hughes' concern. He then directed attention to page 8, line 23, which allows municipalities wanting to do a pilot project the ability to use "reserves established by the municipality from grants, bonds, or net proceeds or other lawfully available funds". A pilot project couldn't proceed if every commercial building in the borough can qualify for the proposed [PACE financing] rather something would have to be established, he said.

[10:46:06 AM](#)

REPRESENTATIVE HUGHES questioned whether Representative Seaton is referring to a situation in which a borough with reserves that were collected areawide could use those reserves for the PACE program, although a city within the borough may be left out of the program.

REPRESENTATIVE SEATON explained that the reserves to which the legislation is referring does not necessarily refer to tax reserves. In fact, the language specifies that bonds or notes issued for [PACE financing] can't be a general obligation bond, and thus has to be funding that is in reserves from lawful purposes. If a municipality wanted to utilize PACE financing without committing everything, they couldn't use the reserves function because the municipality would commit every area of the entire borough. Representative Seaton said he wasn't sure why the option is listed as an opportunity, but said he could see the need to start small. He clarified that he wanted it to be a discussion as to whether it's an issue or not.

[10:48:46 AM](#)

REPRESENTATIVE NAGEAK recalled his time as an assemblyman and mayor when he looked at reserves to make transfers or changes. He then noted that using reserves require public meetings.

[10:49:44 AM](#)

REPRESENTATIVE HUGHES surmised that the language "lawfully available funds" on page 8, line 24, provides assurance that funds intended for an entire municipality aren't being used for only one region [within the municipality].

[10:50:55 AM](#)

REPRESENTATIVE NAGEAK assured everyone that regions [within a municipality not included in the PACE financing] would be up in arms.

[10:51:09 AM](#)

MR. THERRIAULT agreed that [the bonds or notes] have to be legally available. Furthermore, the local governments do have specific limitations on those funds generated region-wide and how they can be spent. As Representative Seaton indicated, a municipality with grant language allowing grant funds to be used for a pilot project would be available; however those funds

weren't generated on an areawide basis. In fact, last year AEA on behalf of the Fairbanks North Star Borough applied for a U.S. Department of Energy grant that would've come through AEA, the money was going to the Fairbanks North Star Borough to be the pilot program and flesh out how the program would work. If the grant had been awarded and the pilot program established, the nuances of structuring an ordinance to initiate PACE and bring in the commercial businesses and lenders would have provided an example. However, the grant was not obtained.

[10:52:55 AM](#)

CHAIR TILTON announced that HB 118 would be held over.

[10:53:16 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 10:53 a.m.