

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 29, 2016

8:04 a.m.

MEMBERS PRESENT

Representative Bob Lynn, Chair
Representative Wes Keller, Vice Chair
Representative Louise Stutes
Representative David Talerico
Representative Liz Vazquez
Representative Jonathan Kreiss-Tomkins
Representative Ivy Spohnholz

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 368

"An Act relating to the preparation, electronic distribution, and posting of reports by state agencies; limiting the number of special assistants in the executive branch; changing the amount of the required employee contribution to health care premiums for certain state employees; establishing an award for state employees who report or suggest certain efficiencies; relating to retirement incentives for members of the defined benefit plan of the Teachers' Retirement System of Alaska and the defined benefit plan of the Public Employees' Retirement System of Alaska; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 24

"An Act relating to the procurement of architectural, engineering, or land surveying services under state-funded contracts."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 368

SHORT TITLE: RIP PUBLIC EMPLOYEES & TEACHERS/E-REPORTS

SPONSOR(S): REPRESENTATIVE(S) HUGHES

02/24/16 (H) READ THE FIRST TIME - REFERRALS
02/24/16 (H) STA, L&C, FIN
03/29/16 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 24

SHORT TITLE: PROF. SERVICES IN STATE-FUNDED CONTRACTS
SPONSOR(S): REPRESENTATIVE(S) KITO

01/21/15 (H) PREFILE RELEASED 1/9/15
01/21/15 (H) READ THE FIRST TIME - REFERRALS
01/21/15 (H) STA, L&C
02/11/16 (H) STA AT 8:00 AM CAPITOL 106
02/11/16 (H) -- MEETING CANCELED --
03/29/16 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE SHELLEY HUGHES
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 368, as prime sponsor.

GINGER BLAISDELL, Staff
Representative Shelley Hughes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented proposed committee substitute (CS) for HB 368, Version 29-LS1476\W, Wayne, 2/25/16, on behalf of Representative Hughes, prime sponsor.

KATE SHEEHAN, Director
Division of Personnel & Labor Relations
Department of Health and Social Service (DHSS)
Juneau, Alaska

POSITION STATEMENT: Answered questions on HB 368.

KATHY LEA, Chief Pension Officer
Division of Retirement and Benefits (DRB)
Department of Administration (DOA)
Juneau, Alaska

POSITION STATEMENT: Answered questions on HB 368.

REPRESENTATIVE SAM KITO
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 24, as prime sponsor.

DALE NELSON

Alaska Professional Design Council (APDC)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 24.

CATHERINE FRITZ, Architect

Alaska Professional Design Council (APDC)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 24.

ACTION NARRATIVE

[8:04:56 AM](#)

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at 8:04 a.m. Representatives Vazquez, Kreiss-Tomkins, Talerico, Stutes, Keller, and Lynn were present at the call to order. Representative Spohnholz arrived as the meeting was in progress.

HB 368-RIP PUBLIC EMPLOYEES & TEACHERS/E-REPORTS

[8:05:33 AM](#)

CHAIR LYNN announced that the first order of business would be HOUSE BILL NO. 368, "An Act relating to the preparation, electronic distribution, and posting of reports by state agencies; limiting the number of special assistants in the executive branch; changing the amount of the required employee contribution to health care premiums for certain state employees; establishing an award for state employees who report or suggest certain efficiencies; relating to retirement incentives for members of the defined benefit plan of the Teachers' Retirement System of Alaska and the defined benefit plan of the Public Employees' Retirement System of Alaska; and providing for an effective date."

[8:06:14 AM](#)

CHAIR LYNN, in response to Representative Keller, indicated that the committee would be considering [proposed committee substitute (CS) for HB 368, Version 29-LS1476\W, Wayne, 2/25/16].

[8:06:27 AM](#)

REPRESENTATIVE SHELLEY HUGHES, Alaska State Legislature, presented HB 368, as prime sponsor. She relayed that the proposed legislation was drafted in response to the state's budgetary concerns. She went on to say that HB 368 would give the state administration additional management tools focused on human resources, to bring down cost. She cited the three principals of management - time, resources, and scope - and relayed that a great project is completed on or before the allowed time, on or under budget, and meets or exceeds the required scope. Representative Hughes related these principles to state government by saying that "scope" represents the size of state government, "time" refers to the limited time for addressing the state's challenges before essential services would need to be shut down, and "resources" are state government's human resources. She said that for this legislation, she and her staff considered a retirement incentive program (RIP), a restriction on upper management positions, statutory healthcare contributions shared by employees, furlough options, the personal services line item, efficiency incentives, and paper reduction.

[8:11:35 AM](#)

GINGER BLAISDELL, Staff, Representative Shelley Hughes, Alaska State Legislature, presented a proposed committee substitute (CS) for HB 368, Version 29-LS1476\W, Wayne, 2/25/16, on behalf of Representative Hughes, prime sponsor. She explained that under Version W, two additional provisions would be added to HB 368 - one related to furlough and one to transfers into or out of the personal services line item in the budget.

[8:12:24 AM](#)

REPRESENTATIVE KELLER moved to adopt the proposed committee substitute (CS) for HB 368, Version 29-LS1476\W, Wayne, 2/25/16, as a work draft.

REPRESENTATIVE STUTES objected for purpose of discussion.

MS. BLAISDELL referred to the section analysis in the committee packet, which highlights the seven areas of proposed statutory changes to provide new management tools to the administration for saving money or managing employees differently. She said that the first area of proposed change is "Paper Reduction" and would be for the purpose of cost savings. She stated that the [federal] Paperwork Reduction Act requires that state agencies provide statutorily required reports electronically and five

paper copies to the library distribution center. She specified that the changes are in Section 2, Section 3, Section 15, and Section 16. She offered that there is a memo from Legislative Legal and Research Services stating that the paper reduction section of HB 368 would probably not be acceptable under the Single Subject Rule.

[8:14:04 AM](#)

MS. BLAISDELL said that the second area of proposed change, "State Employee Furlough," would be a mandatory furlough for 10 days or 80 hours, but that the number of days or hours is subject to the committee's recommendation.

REPRESENTATIVE HUGHES commented that the legislature might want to adjust the proposed ten-day furlough to a five-day furlough for exempt employees.

MS. BLAISDELL claimed state statute allows that only employees who fall under the State Personnel Act (SPA), most of whom are exempt and partially exempt (PX), may be required to take furlough days. She said that Section 4 of HB 368 would exclude furlough as being subject to collective bargaining, so that as union contracts are renegotiated, the prohibition for furlough would not be part of the contracts. She went on to say that Section 8 includes new furlough language to the compensation allowance and leave section and lists exceptions for specific employee groups.

[8:15:47 AM](#)

MS. BLAISDELL referred to the third area of proposed change, "Personal Services Line Item," in Sections 5 and 6 of HB 368, and explained that the objects of expenditure in the personal services line item in a budget include personal services, travel, contractual and professional services, commodities, grants, and miscellaneous. She maintained that the overall cost for personal services for the State of Alaska in the operating budget alone, after excluding formula programs, is slightly more than 50 percent of expenditures. She said that the Office of Management & Budget (OMB) reported that \$29 million was moved out of personal services to other lines items in its last fiscal year report. She maintained that this represents funding that the legislature provided for personal services, to pay employees, but used for other purposes.

[8:18:01 AM](#)

REPRESENTATIVE HUGHES commented that an example of how this occurs is when a funded position is left open after an employee leaves and the money for salary is used elsewhere. She stated that the proposed legislation would not allow this to happen.

MS. BLAISDELL mentioned that restricting transfers into or out of the personal services line item would also ensure that when the legislature asks for an unallocated reduction in personal services, that reduction would actually occur in the personal services line item. She further stated that the new state accounting system, Integrated Resource Information System (IRIS), will track the personal services line item by fund source beginning in November, eliminating any issue with trying to redistribute the correct funding for each position. She added that if there is an issue with tracking specific fund sources for positions, the Legislative Budget & Audit Committee could probably resolve the issue upon requests from departments to reallocate fund sources, with the exception of general funds.

[8:19:57 AM](#)

MS. BLAISDELL said that the next area of proposed change is "Reduce the number of Special Assistants." She referred to Sections 9, 10, and 11 in HB 368 and relayed that the proposed legislation would limit the number of special assistants for state departments to one.

CHAIR LYNN asked if that would be across the board.

MS. BLAISDELL replied yes. She stated that the next area addressed in HB 368 is "Efficiency Incentive Program." She offered that currently there is no incentive for an employee to propose an outstanding way to save money, save time, or make the process better. She referred to Sections 12 and 14, which would allow the governor to establish an efficiency program in which a state employee could be rewarded for coming up with a great idea. She added that the incentives would vary.

CHAIR LYNN relayed that the U.S. Air Force had a similar program which proved successful.

MS. BLAISDELL related that some agencies have found a way to recognize outstanding employees, but the proposed legislation would give specific recognition.

[8:23:03 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked Ms. Blaisdell which agencies recognized outstanding employees.

MS. BLAISDELL responded that the Department of Transportation & Public Facilities (DOT&PF) purchases Carhartt jackets for employees as recognition for outstanding recommendations for improvements to business or for savings.

[8:23:28 AM](#)

MS. BLAISDELL went on to state that the next area of proposed change is "Health Care Contribution," found in Section 13 of HB 368. Employees covered under the State Personnel Act, exempt and PX employees, would be required to pay 20 percent of their healthcare coverage, and the state would cover the remaining 80 percent. She added that this change would not involve bargaining unit contracts.

[8:24:09 AM](#)

MS. BLAISDELL said that Section 17 of HB 368 discusses the last area of proposed statutory change, which is the Retirement Incentive Program (RIP). She mentioned that already there has been a great deal of interest from employees regarding a possible RIP. She stated that a RIP is a management tool that could be offered to incentivize employees, who are within three years of their normal retirement date, to retire early. She added that the RIP is not a mandatory offering. She went on to say that in the event of an employee taking advantage of a RIP, management has the option of leaving the position vacant or filling it with an employee entering at a lower step - in either case, saving the state money. The RIP would require an agency to offer a specific window of opportunity during which its qualified employees could apply for a RIP.

[8:25:32 AM](#)

MS. BLAISDELL continued by saying that an employee who is within three years of his/her normal retirement date could apply to the commissioner of the agency between July and September. Those individual employee applications would be sent to an actuary to determine the savings, if any, the state would achieve by approving early retirement. The actuary would look at birthdate, retirement date, range and step, and intent of the department - whether it is going to fill it, leave it vacant, or

delete the position - to decide whether the state will save money.

[8:26:40 AM](#)

CHAIR LYNN asked if the sponsor has experienced any informal support or opposition to the RIP program.

MS. BLAISDELL replied that the sponsor has not heard from any groups for or against a RIP but has had a number of employees, who possibly qualify, show an interest in applying for early retirement.

MS. BLAISDELL went on to say that the commissioner would decide whether the position would be filled immediately, deleted, left vacant, or reclassified. She said that if the employee is approved for the RIP, he/she would have a specific period of time in which to retire or the application process would have to begin again. She added that typically that period would be the 60 days after the actuary's report.

[8:28:01 AM](#)

CHAIR LYNN requested if there would be a bonus for that employee for retiring early.

MS. BLAISDELL responded that no bonus was provided in the proposed legislation. She offered that the employee would receive his/her pension based on time earned without any additional years and would receive healthcare coverage.

CHAIR LYNN mentioned that some organizations offer a small bonus incentive for early retirement.

MS. BLAISDELL answered that she was not aware of any employer who offers a bonus incentive. In response to Chair Lynn, she said she would check into that possibility.

MS. BLAISDELL relayed that the State of Alaska has offered three retirement incentive programs - one in the 1980s, one in 1996, and House Bill 329 from the Twenty-Third Alaska State Legislature, which didn't pass. She said that Legislative Budget and Audit did perform an audit in conjunction with the 1996 RIP but only looked at two specific employee groups. The University of Alaska identified 784 employees who would have been eligible to retire early, of which only 377 participated. She added that not everyone wants to leave state service early.

The University of Alaska reported \$17.8 million in savings resulting from the 377 early retirees. The actual savings were unknown because 140 of them returned to work as part-time employees. She offered that there is potential for savings.

MS. BLAISDELL related that the second group, included in the audit, was the Information Technology Group (ITG), now called Enterprise Technology Services (ETS), within the Department of Administration (DOA). There were 27 employees eligible for the RIP program at ITG, 14 elected to retire early, and ITG reported a savings of \$1.2 million. She declared that none of the 14 came back as part-time employees. She added that ITG chose to leave the positions vacant for the remainder of the year, before rehiring.

[8:31:39 AM](#)

MS. BLAISDELL said that the State of Alaska Workforce Profile Fiscal Year 2015, an annual report published by the Division of Personnel, reported that there are a total of 15,576 active employees in the state's retirement system. Of those, 1,960 have less than one year to retire, and 1,502 are between one and five years of retirement, together comprising 22 percent of current employees.

[8:33:17 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked for a history of employee furlough programs in the past as background and baseline reference to understand the effect of the proposed legislation.

MS. BLAISDELL responded that the only furlough program, of which she was aware, occurred to employees governed by the State Personnel Act - exempt and PX employees. She said that she knew of one agency that did ask their members to take a furlough, and they took two days last fall. She stated that the State Personnel Act includes the Department of Law (DOL), commissioners' office staff, directors, the legislature, the court system, and the university. She added that for these employees to be furloughed, each of these agencies would have to initiate their own furlough. She said that almost all other employees of the state are covered by collective bargaining and would not be eligible for furlough unless their bargaining contract stated that they could be.

[8:35:09 AM](#)

REPRESENTATIVE KREISS-TOMKINS noted that some departments have more than one deputy commissioner, defined as a special assistant in HB 368, and expressed his concern for large departments with complex responsibilities needing a high level of management. He cited the Department of Natural Resources (DNR), tasked with executing the Alaska LNG Project, and the effect of taking away the ability to have a high level person working with the commissioner on a project of that complexity. He asked which agencies would be affected by the proposed statutory language and if the sponsor had contacted them, and he suggested approaching the reduction of special assistants through the budget process.

MS. BLAISDELL responded that agencies now have deputy commissioners and assistant commissioners who also act as directors in some divisions. She claimed that almost every department has two or more deputy commissioners and possibly some assistants. There is a wide variety. She conceded that they all have important roles but asserted that the sponsor's constituency has advocated for a reduction in upper management positions. Since these positions are created in statute, the proposed legislation would be needed to change the statutory requirement in order to reduce upper level management.

MS. BLAISDELL, in response to the second part of the question, stated that the legislature appropriates funds, not positions, and although the legislature could reduce the budget by a specific amount and request that it be applied to the elimination of a specific position control number (PCN), in the end, the agency is free to decide to keep the position and apply the reduction elsewhere.

[8:38:11 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked if reductions in the allocation for a commissioner's office budget are not specific enough for that purpose.

MS. BLAISDELL answered that a budget reduction is monetary only and does not require an agency to remove a position.

REPRESENTATIVE KREISS-TOMKINS mentioned that in his experience on the DNR finance subcommittee, a reduction allocated to the commissioner's office budget, although not specific to a PCN, could be targeted, but he conceded that ultimately it was the commissioner's decision where to make the budget cut.

REPRESENTATIVE KREISS-TOMKINS referred to page 5, lines 30-31, and noted that current statute limits to two the number of special assistants in the commissioner's office of a principle department of the executive branch. He referred to Ms. Blaisdell's statement that some departments have more than two assistants and asked if that had been addressed.

MS. BLAISDELL replied that she had been referring to deputy and assistant commissioners and did not know of any department with more than two special assistants.

[8:40:10 AM](#)

REPRESENTATIVE KELLER asked if Ms. Blaisdell had a definition for special assistant.

MS. BLAISDELL said that Section 9, which would amend AS 39.25.120, discusses all of the positions that are included in the partially exempt service but doesn't include a definition of special assistant. She added that special assistant is a specific job class code and includes special assistant to the commissioner I and II, reflecting two different salary ranges. She reasoned that a department could choose to have only one special assistant.

[8:41:56 AM](#)

REPRESENTATIVE KELLER asked to flag page 3, line 29, to bring to the sponsor's attention the terminology "leave" when talking about a furlough - his understanding being that leave implies "with pay." He asked for clarification of page 2, line 9, which would change the number of copies of a state publication required for the publication distribution center from four to five.

MS. BLAISDELL answered that the change from four to five copies was proposed in response to the fact that no other printed copies would be available to the public, and the publication distribution center considered five copies to be more adequate.

[8:43:10 AM](#)

CHAIR LYNN asked if DNR, which represents the state's primary income, and the Department of Public Safety (DPS), which is charged with the public's safety, are included in the reduction of the number of deputy commissioners.

MS. BLAISDELL responded yes, the reduction would include the two mentioned departments, but added that both have a variety of directors under them who would be in contact with the commissioner and deputy commissioner.

CHAIR LYNN opined that considering the projects that Alaska is pursuing, such as the gas pipeline, the departments might be better off with an assigned amount of money allowing the commissioner or governor to decide how to best manage it and who they need to hire, rather than micromanaging.

[8:45:15 AM](#)

REPRESENTATIVE SPOHNHOLZ asked for the rationale for the proposed limit on special assistants to the commissioner besides constituent concern for bloated upper management. She noted ample research on best management practices and questioned the rationale for such a very specific number in the proposed legislation. She questioned whether, in light of some of the extensive projects that the state asks the commissioners and their teams to accomplish, HB 368 would not be impeding their efforts.

MS. BLAISDELL responded that concerns from constituents and other legislators prompted the proposed limit on special assistants as one tool to reduce upper management in state government.

[8:47:38 AM](#)

REPRESENTATIVE KREISS-TOMKINS referred to Section 14, which would amend AS 44.19.018, and noted the "may versus shall" discrepancy in the language. He mentioned that subsection (a) read, "The governor may award...a pin..." and subsection (b) read, "The governor shall make arrangements for the pin..."

REPRESENTATIVE KREISS-TOMKINS referred to the proposed health care contribution change, Section 13, page 7, line 31, and asked what cost shifting would result as far as savings to the state and what an employee would be paying per month if required to contribute [20 percent] of health care coverage costs.

MS. BLAISDELL responded to the question on the governor's efficiency incentive program by saying that the governor "shall implement a program" but would have the option of awarding a pin, a merit increase, or cash award.

MS. BLAISDELL, in response to Representative Kreiss-Tompkins' second question on the cost implication for changing the contribution basis of the healthcare cost, deferred to the representatives from the Department of Administration to answer that question, but conceded that these representatives may not have had the opportunity to fully vet the fiscal impact, which explained the absence of a fiscal note.

[8:50:14 AM](#)

REPRESENTATIVE VAZQUEZ referred to the fiscal note, OMB component number 58 dated 3/25/16, and asked for the amount of related expenditures or savings.

MS. BLAISDELL deferred the question to the DOA representative.

REPRESENTATIVE KELLER declared that there was a representative from the Division of Personnel Labor & Relations (DPL&R), Kate Sheehan, to testify.

REPRESENTATIVE VAZQUEZ asked Ms. Blaisdell if the sponsor and her staff have identified, in dollar terms, how much the proposed legislation could potentially save the state.

MS. BLAISDELL responded no, that they had not identified an actual dollar savings. She offered that based on historical information, the retirement incentive program could possibly save the State of Alaska a significant amount. She went on to say that a RIP could give any public entity - school districts, municipalities, the state, and the university - the option to make that offering. She stated that a significant caveat is that not every person who might be eligible for a RIP may want to retire. She added that some divisions may not want to offer a RIP even if it is available. She cited the example of a school district that after spending \$100,000 to recruit a school superintendent, might not want that superintendent to RIP because of the expense of replacement. She suggested that the actuaries could take that into consideration. She reiterated that the actuaries would be able to calculate a potential cost savings for a particular RIP candidate. She mentioned that the 1996 audit suggests potential savings for the State of Alaska.

[8:53:02 AM](#)

REPRESENTATIVE VAZQUEZ asked if those drafting the RIP portion of HB 368 considered prohibiting departments or divisions from issuing contracts to individuals who RIP.

MS. BLAISDELL said that the terminology "retire rehire" refers to the scenario Representative Vazquez described. She said an employee who works for the state under contract provides his/her own healthcare, taxes, and administrative overhead. She offered that such an arrangement could offer cost savings to the state. She added that the state could rehire an individual for a limited time period - for training or seasonal work - which could be beneficial to the state. She said that when an employee retires and is then rehired for the same position, there could be a morale issue in regard to another employee who might have wanted to apply for or be promoted into the position but would not have that opportunity. She claimed that including both the personal services line item change and the RIP in HB 368 would make it difficult to replace employees with someone under contractual services, because money could not be shifted from personal services to contractual.

REPRESENTATIVE VAZQUEZ added that the morale issue includes the resentment of employees over what is considered as "double-dipping." She said that the same issues also exist in regard to rehiring the RIP retirees for part-time employment as well as on contract.

[8:56:20 AM](#)

REPRESENTATIVE VAZQUEZ opined that the section in HB 368 limiting the number of special assistants to the commissioner could work with smaller departments but would not be feasible for the larger departments, for example, the Department of Health and Social Services (DHSS) with over 3,000 employees.

[8:57:32 AM](#)

REPRESENTATIVE VAZQUEZ referred to the fiscal note on HB 368 and asked for the costs and savings in regard to the proposed legislation.

[8:57:54 AM](#)

KATE SHEEHAN, Director, Division of Personnel & Labor Relations, Department of Health and Social Service (DHSS), stated that the fiscal note represents the cost of an extra merit step or pay increase for five employees awarded by the governor each year under the proposed legislation.

REPRESENTATIVE VAZQUEZ stated that the fiscal note refers to one feature of HB 368, and asked why the other features of HB 368 were not considered in the fiscal note.

MS. SHEEHAN responded that her understanding was that OMB was working on a fiscal note for the other sections. In response to Representative Vazquez, she confirmed she was referring to the fiscal note included in the committee packet, labeled OMB component number 58, dated 3/25/16, which solely represents the five employees who could get the extra merit step.

[8:58:56 AM](#)

REPRESENTATIVE KELLER asked if the proposed reduction of the state's share of the cost of healthcare for employees had been analyzed or if it is forthcoming in the additional OMB analysis.

MS. SHEEHAN responded that the proposed change in healthcare contribution in HB 368 had not been analyzed by the Division of Personnel and stated that she does not know if it is part of the OMB analysis.

[9:00:07 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked what 80 percent of an employee's healthcare [coverage costs] would be and what fiscal savings could be expected from the proposed statutory change.

[9:00:30 AM](#)

KATHY LEA, Chief Pension Officer, Division of Retirement and Benefits (DRB), Department of Administration (DOA), responded that the Division of Retirement and Benefits is developing the fiscal notes for HB 368, including an actuarial fiscal note for the RIP and an analysis on the healthcare costs and savings, and both will be available early next week.

REPRESENTATIVE KREISS-TOMKINS asked if Ms. Lea could provide him with an estimate of 80 percent of healthcare cost for a state employee.

MS. LEA responded that her expertise was in pensions, so she did not readily have that information.

REPRESENTATIVE KREISS-TOMKINS asked who could give him the information on healthcare cost.

MS. LEA responded that Michele Michaud, the chief health official, would have that information.

REPRESENTATIVE KELLER offered that the language in HB 368 reflects that the commissioner would have to provide projections for the cost of healthcare and then calculate 80 percent of that amount.

MS. BLAISDELL cited the last bargaining unit contract, which shows that the state pays between \$1,300 and \$1,400 per person for healthcare. She added that under the proposed legislation, [80 percent of that amount would be the state's portion and 20 percent the employee portion]. She mentioned that there are more expensive healthcare plan options.

[9:03:01 AM](#)

CHAIR LYNN asked Ms. Blaisdell to give the committee members a broad review of the sponsor's expectations in regard to HB 368.

REPRESENTATIVE KELLER referred to page 11, lines 15-18, [under Section 44.99.250. Electronic distribution and posting], and related that at times, legislative committees would want firsthand reports. He suggested an amendment to add "except upon request of a standing committee of the legislature."

[9:04:16 AM](#)

REPRESENTATIVE SPOHNHOLZ requested that the cost that would be shifted to retirement cost, as a result of a RIP, be calculated and included in the total cost implication.

[9:04:53 AM](#)

CHAIR LYNN opined that HB 368 is a good bill, yet would be difficult to pass because it covers so many different areas. He asked what the sponsor's plan was for the proposed legislation over the interim.

MS. BLAISDELL responded that the reason HB 368 was drafted with "so many moving parts" was because the areas of the proposed legislation were related in that they would provide cost savings to the state, would require statutory change, and could not be accomplished solely through the appropriation process. She stated that HB 368 was brought forward to start the conversation on the parts of the proposed legislation. She conceded that areas of HB 368 might more appropriately fit into other

legislation or stand-alone legislation, but she offered that they are related in that they are all statutory changes that would provide the state administration more management tools to save money.

[HB 368 was held over.]

[9:06:45 AM](#)

The committee took an at-ease from 9:07 a.m. to 9:09 a.m.

HB 24-PROF. SERVICES IN STATE-FUNDED CONTRACTS

[9:09:29 AM](#)

CHAIR LYNN announced that the final order of business would be HOUSE BILL NO. 24, "An Act relating to the procurement of architectural, engineering, or land surveying services under state-funded contracts."

[9:09:49 AM](#)

REPRESENTATIVE SAM KITO, Alaska State Legislature, presented HB 24, as prime sponsor. He stated that HB 24 would require a municipality that receives state funding for a construction project to utilize Qualifications-Based Selection (QBS) in selecting a design professional for the design component of the project.

CHAIR LYNN asked Representative Kito to define Qualification-Based Selection.

REPRESENTATIVE KITO responded that there are already quite a few municipalities that require Qualifications-Based Selection. He explained that Qualifications-Based Selection of a design professional means that when hiring an architect, an engineer, a lands surveyor, or a landscape architect, the contracting person must issue a request for proposal (RFP) based on the individual's or firm's qualifications, as opposed to the price of the services. He explained that one of the key components driving QBS is the Brooks Act [Selection of Architects and Engineers statute, a U.S. federal law passed in 1972] requiring that federal procurement for design professionals utilize Qualifications-Based Selection. He said that the State of Alaska has a "mini" Brooks Act requiring state-funded projects use Qualifications-Based Selection, which is already being used

with Department of Transportation & Public Facilities (DOT&PF) construction projects in the state.

CHAIR LYNN asked for clarification that Qualifications-Based Selection refers to the consideration of professional qualifications for procurement as opposed to price only.

REPRESENTATIVE KITO responded that HB 24 requires that qualifications be the selection factor for design services for projects that are funded by the State of Alaska. He gave himself as an example: As a civil engineer whose expertise is in coastal and transportation engineering, if he were to submit a proposal for a building foundation, even though he is technically qualified to do the work, his skills and experience would not make him the most efficient. He went on to say that HB 24 would require that if the state provides money to a municipality for a capital project, the contracting person must look at the qualifications of the individuals that are proposing the design of the project.

[9:13:58 AM](#)

CHAIR LYNN asked, "Would not the RFP specify the requirement for qualification in a certain type of construction, as well as price?"

REPRESENTATIVE KITO responded, "Not necessarily, although it does happen at times." He said that an owner, with a construction budget of \$100 million for a project, budgets for the design, which is typically four to eight percent of the cost of the project. He said that design costs could be higher if the project is a very complex structure. He went on to say that after selection of the designer with the best qualifications, the owner then starts negotiating the price. If the designer comes back asking for a design cost that is 20 percent of the cost of the project, then the owner has to reassess. Representative Kito maintained that the owner still has complete control over the design cost of the project. He said the design cost could range as high as ten or 12 percent depending on the complexity of the project.

[9:15:57 AM](#)

CHAIR LYNN mentioned that he remembered Representative Kito discussing this concept with him before Representative Kito became a representative.

REPRESENTATIVE KITO agreed that he has worked actively with a group called the Alaska Professional Design Council through which various design entities collaborate and lobby to the legislature on various issues that are important to them.

[9:16:40 AM](#)

REPRESENTATIVE KELLER asked if HB 24 was a risk management tool and, if so, what risk would be managed.

REPRESENTATIVE KITO voiced his belief that the proposed legislation would offer a management tool for municipalities in their attempt to spend public money most efficiently in the face of a declining budget. He added that the proposed legislation would ensure that appropriate qualified professionals are being utilized for projects paid for with public funds, therefore decreasing the overall construction cost of a project.

REPRESENTATIVE KELLER repeated Representative Kito's claim that the proposed legislation was not so much a risk management tool as a tool to promote efficiency. He asked what the efficiency would be and mentioned specifically the effect HB 24 might have on nonprofits that receive state money but operate on a limited budget.

REPRESENTATIVE KITO stated his expectation that an entity soliciting for the design of a project funded by state money would select the most qualified architect, who is accustomed to working on smaller commercial buildings and can be more efficient than another who doesn't have that experience. He said that HB 24 would also be a risk management tool in that an appropriately qualified designer poses less risk for that project to go over budget or to be constructed incorrectly.

[9:20:07 AM](#)

REPRESENTATIVE KELLER opined that if procurement is in the position to define qualifications, then the scope of qualified professionals becomes narrower. He stated that he appreciated the concern for qualified professionals but wondered if the competition would be diminished.

REPRESENTATIVE KITO stated his belief that competition would not be diminished under HB 24. He opined that most engineers, architects, and land surveyors are accustomed to competing for work, and competition creates a healthy environment for the profession. He added that HB 24 would keep professionals

engaged in their field, resulting in greater efficiency in their design work. He added that in the engineering profession, of which he is familiar, a new engineer is mentored by a more experienced engineer to gain experience and, ultimately, brings that experience to his/her proposals.

9:23:15 AM

REPRESENTATIVE TALERICO referred to page 2, line 18-21, which he claimed would use price as an added factor in awarding bids, and read as follows:

In order for the contracting person to include price as a factor in selection, a majority of the persons involved by the contracting person in evaluation of the proposals shall be registered in the state to perform architectural, engineering, or land surveying services.

REPRESENTATIVE TALERICO stated his concern for school districts and municipalities in rural locations, where the selection process is generally done by committee or city council. He opined that he is not sure how many professionals would be available to serve on a selection committee, making it difficult to select based on qualifications.

9:25:32 AM

REPRESENTATIVE KITO gave a two-part answer to Representative Talerico's question. He explained that cost selection can be used for services that are repetitive in nature, like structural inspections or surveys, and the language in HB 24 follows language from the Department of Transportation & Public Facilities (DOT&PF) procurement regulations, which require the appropriate design professional on the selection team.

REPRESENTATIVE KITO cited the example of school construction in the second part of his answer to Representative Talerico. He said that there is current law requiring school districts utilize Qualification-Based Selection, and the appropriate professionals are invited to participate in the selection process. He added that typically schools are not looking for a cost-type procurement where they are soliciting for a repetitive service, but they would be using QBS. The statutes and regulations also provide that for schools wanting to do an alternative procurement - that is, design-build, construction-manger, general contractor, or some combination of design and

construction together - the department can engage with the school district to make sure the technical aspects of that procurement are being done appropriately.

[9:27:59 AM](#)

REPRESENTATIVE VAZQUEZ asked what this bill tries to prevent that is a current problem.

REPRESENTATIVE KITO stated that the concern that prompted him to introduce the bill is the concern that any state money put into public projects would serve the purpose of the project as efficiently and inexpensively as possible and avoid design and construction failures.

[9:29:18 AM](#)

REPRESENTATIVE VAZQUEZ referred to AS 36.90.110, in Section 1 of HB 24, and the existing statute AS 36.90.100, which mentions landscaping, and asked why landscaping architectural services are omitted from HB 24.

REPRESENTATIVE KITO responded that he didn't know why except that state-funded projects for municipalities were typically not landscaping projects but building and infrastructure projects.

[9:30:39 AM](#)

REPRESENTATIVE VAZQUEZ asked Representative Kito to define landscape architectural services.

REPRESENTATIVE KITO explained that landscape architects are individuals who work on the grounds around facilities and open spaces within infrastructure projects. He added that landscape projects include vegetation and retaining walls.

[9:31:36 AM](#)

REPRESENTATIVE VAZQUEZ reiterated that the proposed legislation omits landscape architectural services and asked if there was a reason or if that was an oversight.

REPRESENTATIVE KITO said he was not sure if it was omitted but claimed that there are very few grants from the State of Alaska awarded specifically for landscaping.

REPRESENTATIVE VAZQUEZ opined that landscaping architectural services would be an important inclusion.

REPRESENTATIVE KITO agreed and related his experience as a new engineer trying to find landscaping components for the embankment of a roadway and to determine which types of vegetation were best suited based on a variety of variables. He maintained that landscape architects typically work for other design professionals within larger projects and would not be the primary applicant for a project.

REPRESENTATIVE VAZQUEZ asked if it made sense to add landscape architecture to the proposed legislation.

REPRESENTATIVE KITO agreed to consider doing that.

[9:34:14 AM](#)

REPRESENTATIVE VAZQUEZ said that the concept [of HB 24] appears valid but asked how "sideboards" could be incorporated so that one doesn't get carried away and not look at the price tag.

REPRESENTATIVE KITO stated the most important consideration is understanding the budget starting out and trying to contain it. He maintained that it is important to budget the amount of money available to complete the design and to pay attention to the work so that the budget is not exceeded. He added that if the budget is exceeded, then it is important to know why. He claimed that project management includes paying attention to the overall process to keep costs down.

REPRESENTATIVE VAZQUEZ reiterated that she liked the concept of HB 24 but was uneasy with the lack of sideboards assuring that the price tag is not disregarded.

[9:36:06 AM](#)

REPRESENTATIVE STUTES asked Representative Kito to expound on the mentoring programs offered by architectural firms.

REPRESENTATIVE KITO responded that he could speak specifically to his profession. He said a graduate with a civil engineering degree does not have the ability to "hang out a shingle." He relayed that in order to become licensed in Alaska as a professional engineer, a person would need to demonstrate to the licensing board that he/she has had four years of increasing levels of responsible charge under a licensed engineer.

[9:37:56 AM](#)

REPRESENTATIVE KELLER referred to page 2, line 30, and mentioned that HB 24 discusses contracting with regional education attendance areas (REAA) and asked if REAAs offer contracts.

REPRESENTATIVE KITO responded yes, on a regular basis. He stated that from his experience working with the Department of Education & Early Development (DEED), the REAAs, or school districts, will hire an architect or engineer to do specific school projects. He added that the REAA board would review the proposals and hire the architect or engineer for the project.

[9:38:51 AM](#)

DALE NELSON, Alaska Professional Design Council (APDC), testified in support of HB 24. He relayed that he is a registered professional civil engineer and has practiced in Alaska since 1967. He declared that he represents the Alaska Professional Design Council, as chair of the Legislative Liaison Committee, and is testifying in support of HB 24. He said APDC is a nonprofit organization, started in the 1970s, and includes a number of member organizations representing many licensed engineers. He noted APDC has been very involved with communities, the University of Alaska, and with the Science, Technology, Engineering and Mathematics (STEM) teaching program in schools.

MR. NELSON asserted that HB 24 is needed. He said that APDC works with communities who are responding to pricing-first RFPs and assists with the selection process. He emphasized that QBS has real value. He cited the four supporting principles of the American Public Works Association (APWA) are to: lower overall cost, promote technical innovation and quality, benefit small firms, and satisfy project owners. He stated that the main advantage of QBS is that it promotes a collaborative spirit between the design professional and the client in maximizing the quality, value, cost-effectiveness, and usefulness of the final product. He maintained that the mandate for managers is to be good stewards of the funding provided to the communities for development. He stated that as a registered professional engineer, his oath is to support the health, safety, and welfare of the public. He asked for the committee's support of HB 24.

[9:44:25 AM](#)

CHAIR LYNN asked why, if Mr. Nelson and the APDC have been promoting the concept behind HB 24 for several years, it has never passed.

MR. NELSON responded that education is needed and ongoing and, as in the present hearing in the House State Affairs Standing Committee, APDC strives to promote understanding of the requirements of the state procurement code and what QBS would accomplish.

[9:45:28 AM](#)

REPRESENTATIVE KELLER asked if APDC has standard designs that can be used across the state, citing the reuse of previously approved designs in the Matanuska-Susitna School District as an example, and if reusing designs is in the scope and mission of APDC to cut costs.

[9:46:21 AM](#)

MS. NELSON replied no, that APDC's scope does not include that level of involvement in design recommendations. He stated that APDC's role is in understanding the process and value of looking for a qualified designer. He said that for a school district, the designer would be an architect, as the lead, and would have the support of structural, civil, mechanical, electrical, and landscaping architects. He added that once the qualified architect is identified, he/she collaborates with the school district to define the scope, and together they work toward the objective.

[9:47:36 AM](#)

REPRESENTATIVE SPOHNHOLZ asked and received clarification on the four criteria by which the APDC supports the QBS process.

[9:48:19 AM](#)

CATHERINE FRITZ, Architect, Alaska Professional Design Council, testified in support of HB 24. She relayed that she was a practicing architect in Juneau who began working in the architectural field in 1983 and has been licensed since 1990. She reiterated Representative Kito's claim about the time it takes to become a licensed design professional. She made reference to her letter in the committee packet. She pointed out that there is an existing statute on Qualified-Based Selection, and the proposed legislation is similar to that

statute but would ensure that the provisions already practiced in the state are carried down to the municipal levels and local units who use state funds. She contested that implementing HB 24 is an issue of fairness in procurement. She related that the goal of any government procurement process is to have extensive competition that is open, fair, rigorous, and appropriate for the project, and she opined that this should be true at all levels of government.

MS. FRITZ said that she has recently been working on projects for the Federal Aviation Administration (FAA) and stated that the FAA, along with most federal agencies, requires QBS for selecting design teams. She said that HB 24 would close a loophole. She maintained that design is not like construction but is more a service than a commodity. She offered that if a project is clearly defined, then a price can be appropriately associated with the project. She claimed that a pricing-first selection process attracts a bid without a scope, so that a facility, built using the cheapest bid, will reflect less time spent with the design team, less opportunity for innovation, and less consideration for efficiency in ongoing maintenance.

MS. FRITZ asserted that the Quality-Based Selection process offers an opportunity for collaboration between the owner and the design team. She said that after identifying the qualifications that are important for a project and selecting the best design team for the project, an owner can negotiate a price with the design team. She maintained that if the owner and design team cannot decide on a price, then the owner can use the second choice team. She added that a contract for services would not be written until the negotiation is complete. She described QBS as a two-step process, resulting in clear expectations, collaboration, relationship building, and a design team that understands the owner's personal goals.

[HB 24 was held over.]

[9:56:26 AM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:56 a.m.