

**ALASKA STATE LEGISLATURE**  
**SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

March 12, 2015

3:30 p.m.

**MEMBERS PRESENT**

Senator Click Bishop, Chair  
Senator Bert Stedman, Vice Chair  
Senator Lyman Hoffman  
Senator Dennis Egan

**MEMBERS ABSENT**

Senator Anna MacKinnon

**COMMITTEE CALENDAR**

SENATE BILL NO. 19

"An Act relating to road service area boundary changes."

- MOVED CSSB 19(CRA) OUT OF COMMITTEE

SENATE BILL NO. 56

"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: SB 19

SHORT TITLE: BOUNDARIES OF ROAD SERVICE AREAS

SPONSOR(s): SENATOR(s) COGHILL

01/21/15	(S)	PREFILE RELEASED 1/16/15
01/21/15	(S)	READ THE FIRST TIME - REFERRALS
01/21/15	(S)	CRA
03/05/15	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
03/05/15	(S)	Heard & Held
03/05/15	(S)	MINUTE(CRA)
03/12/15	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)

BILL: SB 56

SHORT TITLE: MUNI ENERGY IMPROVEMNT ASSESSMNTS/BONDS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/18/15 (S) READ THE FIRST TIME - REFERRALS  
02/18/15 (S) CRA, FIN  
03/12/15 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

RENNIEVA MOSS, Staff  
Senator John Coghill  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Reviewed an amendment to SB 19.

MICHAEL BREDLIE, Rural Services Manager  
Fairbanks North Star Borough,  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of SB 19.

GENE THERRIAULT, Director  
Energy Policy and Outreach  
Anchorage, Alaska

**POSITION STATEMENT:** Alaska Energy Authority (AEA), introduced SB 56.

EMILY FORD, Manager  
Energy Policy and Outreach  
Alaska Energy Authority (AEA)  
Anchorage, Alaska

**POSITION STATEMENT:** Discussed PACE financing and its benefits.

LUKE HOPKINS, Mayor  
North Star Borough  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of SB 56.

**ACTION NARRATIVE**

3:30:32 PM

**CHAIR CLICK BISHOP** called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Stedman, Egan, and Chair Bishop.

**SB 19-BOUNDARIES OF ROAD SERVICE AREAS**

[3:31:46 PM](#)

CHAIR BISHOP announced the consideration of SB 19 and noted that version W was adopted last week.

RENNIEVA MOSS, Staff, Senator John Coghill, advised that the difference of opinion she mentioned during the last hearing about the meaning of AS 29.35.450(c)(3) is clarified in proposed Amendment 1.

SENATOR STEDMAN moved Amendment 1, labeled 29-LS0326\W.1.

29-LS0326\W.1  
Shuts  
3/10/15

**AMENDMENT 1**

OFFERED IN THE SENATE

TO: CSSB 19 ( ), Draft Version "W"

Page 3, line 8, following "area":

Insert ";

**(6) to a change in the boundaries of a road service area to include a parcel that is partially located in the road service area if roads maintained by the service area provide the only access to the parcel"**

CHAIR BISHOP objected for discussion purposes.

MS. MOSS explained that the bill now does two things. First, if a parcel is in two separate service areas, the borough assembly can vote to place both sections of the parcel in one service area. Second, if a parcel is in a road service area and the homeowner has to use the roads in the service area to access that parcel, the borough assembly can put the entire parcel into the service area. She noted that the owner of a \$20,000 parcel with a 1.89 millage rate would pay an additional \$38 in taxes.

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SENATOR HOFFMAN joined the committee

CHAIR BISHOP removed his objection and found no further objection so Amendment 1 was adopted. He opened public testimony.

[3:35:11 PM](#)

MICHAEL BREDLIE, Rural Services Manager, Fairbanks North Star Borough, testified in support of SB 19. He explained that the borough has 105 road service areas with dozens of parcels that are either partially in a road service area or in two separate road service areas. Efforts to place a parcel in one road service area under the existing statute have been unsuccessful because no one from the service area turned out for the election. This legislation will allow the borough to change the boundaries without borough approval.

SENATOR STEDMAN moved to report CSSB 19, [29-LS0326\W] as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR BISHOP announced that without objection CSSB 19(CRA) was reported from the Senate Community and Regional Affairs Standing Committee.

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At ease

**SB 56-MUNI ENERGY IMPROVEMNT ASSESSMNTS/BONDS**

[3:39:32 PM](#)

CHAIR BISHOP reconvened the meeting and announced the consideration of SB 56.

GENE THERRIAULT, Director, Energy Policy and Outreach, Alaska Energy Authority (AEA), provided some background for SB 56. He explained that in 2010 the legislature set a goal of increasing statewide energy efficiency 15 percent by 2020, and AEA operates a number of programs that work toward that goal. One is the commercial facility energy audit program. Through that program, about 150 audits have been performed and the few building owners that have used the information have achieved a 30 percent reduction in their energy use. At this point AEA is trying to figure out why more owners aren't following through with the improvements suggested in the audit.

MR. THERRIAULT said that when he became interested in property assess clean energy (PACE) financing for commercial and residential properties he learned that initial attempts at this

type of financing ran into difficulties with the federal secondary loan market. They opposed including residential properties out of concern that the bank loan would become secondary to the PACE financing. There appears to be no opposition to commercial properties and 31 or 32 states across the country are beginning to take advantage of commercial Pace financing to do energy efficiency upgrades.

MR. THERRIault discussed the importance of providing a level of uniformity in the statutes to empower local governments to initiate PACE financing. This will make it easier for lenders to figure out how to move forward and help the state achieve the goals intended by PACE financing. He noted that SB 56 is modeled on Texas legislation that provides protections for banks.

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EMILY FORD, Manager, Energy Policy and Outreach, Alaska Energy Authority (AEA), discussed PACE financing and its benefits. These programs allow property owners to finance qualifying energy efficiency improvements through a voluntary assessment on their property tax bill. Participation is a local option for municipalities and commercial property owners and mortgage holder consent is required before applications can be approved. Improvements can include lighting upgrades, renewable energy, conversion to natural gas, high-efficiency boilers, and additional energy efficiency improvements. The repayment obligation transfers with the sale of the property.

She explained that energy efficiency upgrades are financed with capital secured by a primary lien on the property, lower-interest capital, and favorable repayment terms that can be raised from the private sector. With a longer repayment periods, the building owner can realize immediate savings while repaying the debt. Traditional lending sources can be used and in Alaska it provides consistency with the state energy goals.

Thirty one states have authorized PACE programs after their state legislature provided the authority for local governments to establish and operate the program. Municipalities can create the program and select the financing models and there are many national resources available to both governments and consumers including the U.S. Department of Energy, PaceNow.org, and C-Pace.com.

MS. FORD explained that there are three potential PACE models. In the local-government driven model either the property assessment office or a PACE office is used to interface with

commercial property owners and potential lenders. Municipal bond financing is available for improvement efforts. In the private-sector driven model there is a third-party administrator under contract with the local government and private financing is emphasized. In the hybrid model all potential funding sources are available for use including bonds, revolving loan funds, and private capital. Smaller governments can contract with communities or regional organizations to administer the program.

MS. FORD discussed the provisions in SB 56. It is authorizing legislation for the 24 local governments that collect property taxes to choose to create a PACE program and allow commercial property owners to opt in.

She provided a sectional analysis for SB 56.

Section 1 amends Title 29 by adding a new chapter 49: Municipal Property Assessed Clean Energy Act.

AS 29.49.020 would allow property tax assessments to be added for financing of qualified projects on real property. The improvements may not be made to vacant lots or property undergoing development at the time of the assessment. The financing may not be used to purchase temporary products or anything not permanently fixed to real property.

AS 29.49.030 would require a written contract between the local government and owner of record of the real property.

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CHAIR BISHOP asked if a business that manufactures modular homes for a North Slope camp could qualify for financing under section .020.

MR. THERRIault replied the manufacturing facility itself could take advantage of the financing, but not the product they manufacture.

MS. FORD continued the sectional analysis.

AS 29.49.040 says that a local government may enter into a contract with a property owner to impose an assessment. Financing can be provided by the municipality or a third-party. If third-party financing is used, the municipality, third-party financier and real property owner must enter into a contract. The assessment may cover some costs for the commercial property

owner, including permit and lenders fees, administration, and project development and engineering costs.

AS 29.49.050 states that the municipality's governing body may designate one or more areas within the municipality's jurisdiction as a PACE-eligible region.

AS 29.49.060 defines the procedure to create the program. If the municipality chooses to create a PACE program the governing body first must adopt a resolution of intent that: 1) shows that providing the PACE program serves a valid public purpose; 2) includes a statement the municipality intends to make PACE available to property owners; 3) includes a description of qualified projects; 4) describes the boundaries of the region; 5) describes the available financing for qualified projects; 6) describes the municipal debt servicing procedures if third-party financing is used 7) describes how the public can access the program report required by AS 29.29.070; and 8) identifies public contacts regarding the collection of the proposed contractual assessments. Second, the governing body must hold a public hearing with the opportunity for public comment. Finally, the governing body must adopt a resolution establishing the program, including terms consistent with the publicly-available program report required by AS 29.49.070.

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The program can only be amended by resolution. The municipality may hire and set compensation for an administrator, staff, or contract for professional services and impose fees to offset the costs of administering the program.

AS 29.49.070 requires a publicly-available program report that is available online and at municipal offices that includes: 1) a map of the program region boundaries; 2) a form contract between the municipality and the property owner that specifies the terms of the assessment and any financing; 3) if appropriate a form contract between the municipalities and the third-party financier regarding the servicing of the debt through assessments; 4) a description of qualified projects; 5) a plan for ensuring sufficient capital; 6) bonds information if appropriate about the maximum aggregate annual dollar amount for financing, a method for ranking requests from property owners, and a method for determining the interest rate and maximum amount of an assessment; and 7) a method for ensuring the repayment period does not exceed the useful life of the qualified project; 8) a description of the application process and eligibility requirements; 9) a method for ensuring qualified applicants can

demonstrate financial ability to fulfill financial obligations and verify the applicant is the legal owner of the property, is current on mortgage and property taxes and is not insolvent or in bankruptcy; 10) an explanation of the assessment and collection process; 11) an explanation of the lender notice requirement provided by AS 29.40.080; 12) an explanation of the review requirement provided by AS 29.49.090; 12) a description of the marketing and education services to be provided; 14) a description of quality assurance and antifraud measures; 15) collection procedures; and 16) a requirement for an appropriate ratio between the assessment and property value.

AS 29.49.080 requires notice to a mortgage holder.

AS 29.49.090 requires a third-party baseline energy audit and projected energy savings. Once the project is complete, the municipality shall obtain third-party verification that the project was properly completed and operating as intended.

AS 29.49.100 allows direct acquisition by the owner.

AS 29.49.110 states that the contractual assessment must be noticed and filed in the real property records.

AS 29.49.210 states that contractual assessments and any interest or penalties are primary liens on the property. The exceptions are municipal tax liens and special assessments. These liens stay with the land and are not eliminated by foreclosure. Penalties and interest may be added to delinquent installments and municipalities may recover costs and expenses to collect a delinquent installment.

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AS 29.49.130 allows municipalities to contract with another governing body of another taxing unit to perform assessments collections. This is important for small communities that may not have the capacity to implement a PACE program.

AS 29.49.140 allows municipalities to issue bonds. They may not be general obligations bonds and must be secured by one or more of the following: payments of the contractual assessments; municipal reserves; municipal bond insurance; and any other funds lawfully available for purposes consistent with this chapter.

AS 29.49.150 allows for joint implementation. A combination of municipalities may join to implement the program or contract with a third party.

AS 29.49.160 discusses prohibited acts. Permits, licenses and authorizations cannot be made contingent on a commercial building entering a PACE program.

AS 29.49.900 adds definitions.

AS 29.49.995 adds the short title.

Section 2 establishes an immediate effective date.

CHAIR BISHOP stated he would hold SB 56 in committee.

[3:56:12 PM](#)

SENATOR EGAN asked Mr. Therriault if this legislation addresses the concerns that financial institutions have voiced.

MR. THERRIAULT advised that separating the residential and commercial components has allowed the commercial PACE financing to move forward. Concerns about residential PACE financing was the basis of the Fanny Mae and Freddie Mac lawsuits in a number of states and jurisdictions because they didn't want their residential loan to become secondary to the PACE financing. Most states addressed the problem by separating the two and moving forward with the commercial component. That has made lenders more comfortable, particularly if there's the requirement that the mortgage holder give their consent before the property owner can participate in the program.

He noted that he began working with the banking association last fall letting them know AEA was considering the concept and that it would likely be patterned after the Texas model. He opined that the banks will be watching to see that the protection stays in the legislation.

SENATOR HOFFMAN asked how the program will be implemented when there's a zero fiscal note.

MR. THERRIAULT explained that the implementation and operation of the program is a local option and the municipalities are allowed to charge fees to cover the costs.

MS. FORD highlighted that the costs of the audit and third-party review do not have to be borne by the municipality.

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LUKE HOPKINS, Mayor, Fairbanks North Star Borough, Fairbanks, Alaska, noted that he submitted written testimony in support of SB 56. He stated that the option of having the owners of commercial properties use PACE financing for energy improvements and conversions is well worthwhile and the process is well laid out.

CHAIR BISHOP closed public testimony.

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At ease

[4:04:21 PM](#)

MR. THERRIAULT highlighted that this would apply to any municipality that has property tax powers. He noted that it has special meaning for Fairbanks because the hope there is to convert as much of the community as possible from fuel oil to natural gas. That qualifies as an energy efficient step and is a tool that would be applicable statewide.

CHAIR BISHOP held SB 56 in committee for further consideration.

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There being no further business to come before the committee, Chair Bishop adjourned the Senate Community and Regional Affairs Standing Committee meeting at 4:06 p.m.