

SENATE FINANCE COMMITTEE
April 16, 2016
3:10 p.m.

[3:10:40 PM](#)

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 3:10 p.m.

MEMBERS PRESENT

Senator Anna MacKinnon, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Peter Micciche, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Lyman Hoffman
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

Gene Therriault, Deputy Director, Statewide Energy Policy Development, Alaska Energy Authority, Department of Commerce, Community and Economic Development; Jim Shine, Special Assistant to the Commissioner, Department of Natural Resources; Erin Shine, Staff, Senator Anna MacKinnon; Senator Cathy Giessel, Sponsor; Laura Stidolph, Staff, Representative Kurt Olson; Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit; Janey Hovenden, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development; Representative Cathy Tilton, Sponsor.

PRESENT VIA TELECONFERENCE

Dr. Jeff Gonnason, Alaska Optometry, Kenai; Butch Moore, Self, Big Lake; Seth Beausang, Assistant Attorney General, Anchorage; Bernard Chastain, Deputy Director, Alaska

Wildlife Troopers, Anchorage; Tom Brookover, Sport Fish Division Director, Anchorage.

SUMMARY

SB 55 OPTOMETRY & OPTOMETRISTS

CSSB 55(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (CED).

HB 41 SPORT FISHING SERVICES

SCS CSHB 41 was REPORTED out of committee with "no recommendation" and with one new fiscal impact note from the Department of Fish and Game.

HB 118 MUNI ENERGY IMPROVEMNT ASSESSMNTS/BONDS

CSHB 118(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new zero fiscal note from Department of Commerce, Community and Economic Development.

HB 373 APPROVAL OF SALE OF ROYALTY OIL TO TESORO

HB 373 was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from Department of Natural Resources.

HB 290 EXTENDING THE REAL ESTATE COMMISSION

HB 290 was HEARD and HELD in committee for further consideration.

Co-Chair MacKinnon discussed the agenda for the meeting. She communicated that there would be a meeting the following day at 8:00am for a presentation // Additional topics for the meeting would include //

#hb118

CS FOR HOUSE BILL NO. 118(FIN)

"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."

3:12:37 PM

Co-Chair MacKinnon noted that the companion bill to HB 118 was SB 56.

3:13:14 PM

AT EASE

3:14:02 PM

RECONVENED

3:14:20 PM

GENE THERRIAULT, DEPUTY DIRECTOR, STATEWIDE ENERGY POLICY DEVELOPMENT, ALASKA ENERGY AUTHORITY, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, shared that the committee had adopted the Committee Substitute (cs) for SB 56 on March 14th. He furthered that when the house had decided to adopt and move identical language in HB 118. He said that Section 5 in the current bill version would establish a new program that would allow local governments that levied property tax to work with business communities, local lenders, and potential outside funding sources to loan money for energy improvements to commercial properties. He felt that the strength of this mechanism would be that the repayment of the loans would be done through a voluntary assessment, agreed to by the property owner, added to the yearly tax bill. He stated that the extra assessment would result in low default rates for businesses that used the mechanism. He said that the low default rate would result in low-cost capital because the lending would be low-risk. He continued that Sections 1 through 4 had been added to the bill as clarifying language pertaining to the listing of programs for first and second class boroughs in statute. He said that Section 5 laid out the process that local governments would need to navigate in order to initiate the program at the local level. He relayed that local governments would need to pass a resolution that conveyed to the business community a plan for initiating the process, provide detail of the source of funding that would be used, provide detail of the contractual language that would be used, hold public hearings, and go through the regular local process of introducing an ordinance. He stated that the program was

voluntary for local government to use, and is subsequently voluntary for individual property owners to use. He relayed that there were protections built into the bill so that improvements would not be made to properties that did not make economic sense. He said that the bill would require an energy audit that would suggest which improvements would make sense for the property, and once those improvements were done a follow-up audit would need to be performed to show that improvements had been done correctly. He stated that the process was similar to the process that had already been in place for the Alaska Housing Finance Corporation (AHFC) energy rebate program. He related that the bill contained protections related to commercial property mortgages; before PACE financing could be approved, permission from the local lender allowing the PACE financing would be required because the PACE financing would become a superior lien on the property.

[3:18:09 PM](#)

Mr. Therriault furthered that the local government could not use general obligation bonds to come up with the pool of money, and protections had been included that would keep local government from taking coercive action to force a commercial property owner to use the program. He believed that the bill would help the state and local government to work with business communities to gain federal funds at low interest rates.

[3:19:29 PM](#)

Vice-Chair Micciche discussed zero fiscal note attached to the bill.

[3:20:26 PM](#)

Vice-Chair Micciche MOVED to report CSHB 118(FIN) out of Committee with individual recommendations and the accompanying fiscal note.

CSHB 118(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new zero fiscal note from Department of Commerce, Community and Economic Development.

[3:21:09 PM](#)

AT EASE

[3:22:46 PM](#)

RECONVENED

#hb373

HOUSE BILL NO. 373

"An Act approving and ratifying the sale of royalty oil by the State of Alaska to Tesoro Corporation and Tesoro Refining and Marketing Company LLC; and providing for an effective date."

[3:22:51 PM](#)

Vice-Chair Micciche spoke to the fiscal note attached to the bill.

Co-Chair MacKinnon noted the analysis on the second page of the fiscal note:

This bill provides legislative approval of a contract negotiated between the State of Alaska and Tesoro Refining and Marketing Company, LLC for the sale of the state's royalty oil for a term of five years.

There will be no fiscal impact to the operating expenditures. During the course of the contract the proposed sale will provide the State with a minimum estimate of \$45.2 million in revenue in addition to what would have been obtained if the State of Alaska elected to receive its royalties in value. This estimate is based upon the March 2016 Revenue Forecast oil value.

[3:24:36 PM](#)

JIM SHINE, SPECIAL ASSISTANT TO THE COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, detailed that the fiscal note had been revised as the result of committee comments during the initial presentation. He stated that the price of oil was difficult to project, but that the fiscal note reflected the projected benefit that the state would receive, over royalty in value, over the next 5 years of approximately \$8 million to \$9 million per year. He shared that the contract would be for the sale of 20 thousand to 25 thousand barrels of royalty oil to Tesoro, per day, beginning August 1, 2016. He said that the figures represented the difference between royalties in kind (RIK)

and royalty in value (RIV). He relayed that the net back formula for RIV included a marine transportation reduction of approximately \$3.50, a RIK situation would have a static \$1.95 per barrel deduction as a location differential. He explained that the delta between the \$1.95 and the \$3.50 was reflected as a benefit in the fiscal note, and would increase from FY 17 to FY 22. He directed attention to page 11 of the "Best Interest Finding" (copy on file), which showed a projected increase in marine transportation costs over the next five years.

[3:26:32 PM](#)

Vice-Chair Micciche MOVED to report HB 373 out of Committee with individual recommendations and the accompanying fiscal note.

HB 373 was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from Department of Natural Resources.

[3:26:59 PM](#)

AT EASE

[3:28:29 PM](#)

RECONVENED

#sb55

SENATE BILL NO. 55

"An Act relating to the practice of optometry."

[3:28:33 PM](#)

Vice-Chair Micciche MOVED to ADOPT proposed committee substitute for SB 55(FIN), Work Draft 29-LS0524\G (Bruce, 4/13/16).

Co-Chair MacKinnon OBJECTED for the purpose of discussion.

[3:28:58 PM](#)

ERIN SHINE, STAFF, SENATOR ANNA MACKINNON, explained that the cs incorporated the amendments adopted by the committee during the April 15, 2016 meeting:

Page 1, line 12:

Delete "by agreement with the State Medical Board,"

Co-Chair MacKinnon REMOVED her OBJECTION. There being NO OBJECTION, it was so ordered.

[3:29:35 PM](#)

Vice-Chair Micciche discussed the fiscal note attached to the legislation:

CSSB 55(L&C) expands the practice of optometrists to include additional prescriptive authority, with the prescription of controlled substances limited to a seven-day supply. It authorizes the board to establish in regulation licensee continuing education standards, prescriptive standards, and the scope of practice to perform ophthalmic surgery and noninvasive procedures.

If the bill passes the division will require \$2.5 to cover legal costs to amend regulations, printing, and postage in the first year.

Professional licensing programs within the Division of Corporations, Business and Professional Licensing are funded by Receipt Supported Services, fund source 1156 Rcpt Svcs (DGF). Licensing fees for each occupation are set per AS 08.01.065 so the total amount of revenue collected approximately equals the occupation's actual regulatory costs.

[3:30:54 PM](#)

SENATOR CATHY GIESSEL, SPONSOR, stated that she was satisfied with the committee substitute. She relayed that the bill would update the statutes governing the practice of optometry in the state, and would authorize the board to continue regulating the practice of optometry in the state.

[3:31:39 PM](#)

Co-Chair Kelly spoke to public testimony that had referenced an optometry school in Washington State.

Senator Giessel clarified that an eye surgeon had testified that he had been denied acceptance to a school of optometry in Washington State. She said that there is not now, nor

had there ever been a school of optometry in Washington State or in Washington D.C.

Co-Chair MacKinnon stated that the public hearing had closed on April 14, 2016.

[3:32:34 PM](#)

Vice-Chair Micciche wondered whether the changes in the current bill version allowed for optometrists to perform surgery.

[3:33:56 PM](#)

DR. JEFF GONNASON, ALASKA OPTOMETRY, KENAI (via teleconference), explained that under the new definition optometrists scope of practice would be determined and authorized by the board. He said that the old definition allowed for minor surgeries to be performed, but nothing invasive. He stated that under the legislation the board would be able to determine the scope of practice, while still protecting the public. He asserted that legislators were not equipped to make decisions on the details of medical procedures, which was why regulatory boards existed.

[3:36:28 PM](#)

Vice-Chair Micciche referred to the limitation of practice in the bill, and wondered whether it was similar to the same provision in dentistry.

Dr. Gonnason agreed with the comparison. He noted that Section 5 of the bill stated that no licensee could perform an act beyond their level of training and qualification. He reiterated that the board existed to protect the public.

[3:37:27 PM](#)

Senator Olson referred to Page 2, line 18 of the bill:

*** Sec. 4.** AS 08.72.272 is amended by adding new subsections to read:

(e) A licensee may not perform an injection in the ocular globe of the eye that is a derivative of clostridium botulinum.

Senator Olson expressed concern that the language could be interpreted to read that licensees were allowed to give injections into the ocular globe as long as it was not clostridium botulinum.

Dr. Gonnason responded that no one injected clostridium botulinum into the eye; it simply was not done. He thought that the language had been written into the document because of the fear that botox injections were being administered, which was not the case. He added that the provision would not need to be in statute, the board would put it in regulation. He stated that optometrists did not administer injections into the eye. He explained that due to increasing demand, ophthalmologists would eventually need assistance for injecting drugs for macular degeneration, and were currently training nurses to perform the procedure.

[3:39:31 PM](#)

Senator Olson wanted assurances that optometrists did not inject anything into the globe of the eye.

Dr. Gonnason replied in the affirmative.

[3:39:48 PM](#)

Vice-Chair Micciche MOVED to report CSSB 55(FIN) out of Committee with individual recommendations and the accompanying fiscal note.

CSSB 55(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (CED).

[3:40:18 PM](#)

AT EASE

[3:42:09 PM](#)

RECONVENED

#hb41

CS FOR HOUSE BILL NO. 41(FIN) am

"An Act relating to sport fishing services, sport fishing operators, and sport fishing guides; and providing for an effective date."

[3:42:18 PM](#)

Senator Olson spoke to Amendment 2:

Page 5, line 11:
Delete "or"

Page 5, line 14, following "guide":
Insert "; or
(C) services provided by a person licensed under AS 08.54 that are incidental to big game hunting, guiding, and outfitting services

[3:43:15 PM](#)

Co-Chair MacKinnon MAINTAINED her OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Olson, Bishop, Dunleavy, Hoffman, Kelly.
OPPOSED: Micciche, MacKinnon.

The motion passed (5/2), Amendment 2 was ADOPTED.

HB 41 was HEARD and HELD in committee for further consideration.

[3:44:12 PM](#)

#hb290
HOUSE BILL NO. 290

"An Act extending the termination date of the Real Estate Commission; and providing for an effective date."

[3:44:19 PM](#)

LAURA STIDOLPH, STAFF, REPRESENTATIVE KURT OLSON, explained that the legislation would extend the termination date of the Real Estate Commission to June 28, 2018. She stated that each year the Division of Legislative Audit reviewed boards and commissions in order to determine whether they should be reestablished per A.S.24.44. The division reviewed the activities of the commission in order to determine whether there was a demonstrated need for the commissions continued existence, and whether it had been

operating in an effective manner. She stated that the review of the audit offered the opinion that the board was serving the public interest by effectively by licensing real estate broker, associate brokers, and sales people. She noted that the division had offered two recommendations:

1. The commission's chair and the Department of Commerce, Community, and Economic Development, Division of Administrative Services director should work together to procure a master errors and omissions insurance policy for real estate licensees.

2. The Division of Corporations, Business and Professional Licensing's chief investigator should take action to ensure cases are actively investigated and completed timely.

Ms. Stidolph concluded that the commission served an important role by improving operations and industry practices by modifying and adopting regulations. She added that because the commission's ability to obtain Errors and Omissions (E&O) insurance was key to the decision to extend the board, the sponsor felt that the commission should only be extended for two years. She said that the E&O insurance was a significant statutory duty to protect the public that was not being met, and was a problem that had not been solved in 9 years and required further scrutiny by the legislature.

[3:46:08 PM](#)

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, related that the division had issued a 6 year recommendation for extension under the condition that the commission obtain the E&O insurance by January 2016. She said that if the commission were unable to do so, the division recommended a 4 year extension. She elaborated on the two previously mentioned audit recommendations.

[3:48:32 PM](#)

Senator Dunleavy wondered whether there the commission should be monitored by the Department of Commerce, Community and Economic Development.

Ms. Curtis explained that investigations would still occur regardless of which entity monitored the commission.

[3:49:16 PM](#)

Co-Chair MacKinnon OPENED public testimony.

[3:49:43 PM](#)

BUTCH MOORE, SELF, BIG LAKE (via teleconference), spoke to a complaint that he had filed with the commission in 2014. He said that the real estate violations had cost him over \$250,000. He relayed his personal story and expressed frustration with the commission.

[3:52:50 PM](#)

Co-Chair MacKinnon queried whether Mr. Moore was in favor of the bill or in opposition.

Mr. Moore did not think the real estate commission needed to be funded. He believed that there was no point in funding the commission if it could not do the job of protecting the public.

[3:54:10 PM](#)

Co-Chair MacKinnon CLOSED public testimony.

[3:54:40 PM](#)

JANEY HOVENDEN, DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, expressed appreciation for Ms. Curtis' comments and the work of the division. She spoke to the recommendations made by the division of budget and audit. She asserted that the department had endeavored to retain and E&O policy, but had faced challenges at every stage of the process. She relayed that in November 2015, the department had put out information soliciting for bids for the master policy, but there had been no bidders. She said that the department had received feedback that the premiums set in regulation were too low, and that there had not been enough information provided about the risk pool; there were not enough people with E&O insurance to be able to evaluate the risk. She said that the commission was researching additional

information that could assist in regulation to address concerns and would soon be putting out another invitation to bid (ITB). She spoke to the problem of files lingering for extended periods of time, and said that solutions were being instituted to deal with the gaps in investigative cases. She noted that the board was operating in the black and had recently experienced a reduction in fees due to a large surplus. She concluded that the commission was necessary for guiding the profession, and the division, in the regulation of the profession. She said that whether or not the board was in existence, the licensing requirements were in statute and people were still required to be licensed and were best served by the board.

HB 290 was HEARD and HELD in committee for further consideration.

#hb41

CS FOR HOUSE BILL NO. 41(FIN) am

"An Act relating to sport fishing services, sport fishing operators, and sport fishing guides; and providing for an effective date."

[3:58:02 PM](#)

SETH BEAUSANG, ASSISTANT ATTORNEY GENERAL, ANCHORAGE (via teleconference), clarified that Amendment 2 would exempt incidental fishing from the definition of "sport fishing guide services."

[3:59:33 PM](#)

Co-Chair MacKinnon asked whether law enforcement would be able to enforce the language adopted in the amendment.

BERNARD CHASTAIN, DEPUTY DIRECTOR, ALASKA WILDLIFE TROOPERS, ANCHORAGE (via teleconference), thought that the term "incidental" was ambiguous would be difficult to enforce. He said that the troopers would not have an ability to determine how much fishing or hunting had actually occurred prior.

[4:00:21 PM](#)

TOM BROOKOVER, SPORT FISH DIVISION DIRECTOR, ANCHORAGE (via teleconference), echoed the comments of Mr. Chastain.

4:00:42 PM

REPRESENTATIVE CATHY TILTON, SPONSOR, expressed that the amendment applied only to salt water fishing. She said that that under the revised bill the division of sport fish would register all vessels used in guided sport fishing trips, issue identifying decals for the vessels, and license all sport fish operators and guides. She said that reporting was no longer required by the bill; sport fishing operators and guides were currently required to fulfil reporting requirements in addition to operator and guide registration, and vessel registration requirements by regulation. She continued to offer information on registration and logbook activity.

Co-Chair MacKinnon asked whether Representative Tilton supported Amendment 2.

Representative Tilton replied that she would prefer that the amendment would not be added to the legislation.

4:02:04 PM

AT EASE

4:02:42 PM

RECONVENED

Co-Chair Kelly MOVED to rescind the adoption of Amendment 2. There being NO OBJECTION, it was so ordered.

4:03:06 PM

Vice-Chair Micciche discussed the fiscal note attached to the legislation. He noted that there would be an updated fiscal note forthcoming that reflecte4d the removal of fresh water fishing from the bill.

Co-Chair MacKinnon thought personal services would be reduced by approximately 50 percent.

Vice-Chair Micciche MOVED to report SCS CSHB 41(FIN) out of Committee with individual recommendations and the accompanying fiscal note.

SCS CSHB 41 was REPORTED out of committee with "no recommendation" and with one new fiscal impact note from the Department of Fish and Game.

4:04:39 PM

AT EASE

4:05:29 PM

RECONVENED

Co-Chair MacKinnon discussed housekeeping.

4:06:03 PM

RECESSED

4:06:24 PM

RECONVENED

#

ADJOURNMENT

4:06:38 PM

The meeting was adjourned at 4:06 p.m.