

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON ENERGY

January 31, 2017

10:21 a.m.

MEMBERS PRESENT

Representative Adam Wool, Chair
Representative Ivy Spohnholz, Vice Chair
Representative Matt Claman
Representative Dean Westlake
Representative DeLena Johnson
Representative Jennifer Johnston
Representative George Rauscher

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 81

"An Act making an entity that is exempt from federal taxation under 26 U.S.C. 501(c)(3), (4), (6), (12), or (19) (Internal Revenue Code) and a federally recognized tribe eligible for a loan from the Alaska energy efficiency revolving loan fund; relating to loans from the Alaska energy efficiency revolving loan fund; and relating to the annual report published by the Alaska Housing Finance Corporation."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 81

SHORT TITLE: AK ENERGY EFFICIENCY LOANS: ELIGIBILITY

SPONSOR(S): REPRESENTATIVE(S) KREISS-TOMKINS

01/25/17	(H)	READ THE FIRST TIME - REFERRALS
01/25/17	(H)	ENE, FIN
01/31/17	(H)	ENE AT 10:15 AM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE JONATHAN KREISS-TOMKINS
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 81 as the sponsor of the bill.

BERETT WILBER, Staff
Representative Jonathan Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during presentation of HB 81 on behalf of the sponsor of the bill, Representative Kreiss-Tomkins.

STACY SCHUBERT, Director
Governmental Affairs & Public Relations
Alaska Housing Finance Corporation
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during discussion of HB 81.

ERIC HAVELOCK, Lending Officer
Alaska Housing Finance Corporation
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during discussion of HB 81.

ACTION NARRATIVE

[10:21:26 AM](#)

CHAIR ADAM WOOL called the House Special Committee on Energy meeting to order at 10:21 a.m. Representatives Wool, Spohnholz, Claman, Johnston, Johnson, Westlake, and Rauscher were present at the call to order.

HB 81-AK ENERGY EFFICIENCY LOANS: ELIGIBILITY

[10:22:01 AM](#)

CHAIR WOOL announced that the only order of business would be HOUSE BILL NO. 81, "An Act making an entity that is exempt from federal taxation under 26 U.S.C. 501(c)(3), (4), (6), (12), or (19) (Internal Revenue Code) and a federally recognized tribe eligible for a loan from the Alaska energy efficiency revolving loan fund; relating to loans from the Alaska energy efficiency

revolving loan fund; and relating to the annual report published by the Alaska Housing Finance Corporation."

[10:22:22 AM](#)

REPRESENTATIVE JONATHAN KREISS-TOMKINS, Alaska State Legislature, explained that this same legislation had, during the 29th Alaska State Legislature, passed all three committees of referral with almost unanimous "do-pass" recommendations. He opined that this was "good, common sense legislation that promotes energy efficiency in Alaska." He summarized the bill, stating that it incorporated an existing program "Alaska Energy Efficiency Revolving Loan Fund" which was authorized under the Alaska Housing Finance Corporation (AHFC). He detailed that this loan fund had been created for the public sector, primarily school districts, municipalities, and state agencies to make energy efficiency investments. He explained that a public entity could identify energy efficiency improvements and borrow money from this revolving loan fund to make those improvements. The marginal savings would then allow for the repayment of the borrowed money. He pointed out that, at the end of the loan term, there was a more energy efficient building and lower energy costs. He declared that proposed HB 81 was based on the belief "that energy efficiency is a good, common sense thing, particularly in Alaska with a climate like ours." The proposed bill acknowledged that, as many non-profit organizations had a need for energy efficiency improvements, it made sense to broaden the eligibility to allow greater access to this financing.

REPRESENTATIVE JOHNSTON asked about the size of the fund.

REPRESENTATIVE KREISS-TOMKINS explained that this was not a "sitting pot of money," but was, instead, a bond authorized program.

[10:25:39 AM](#)

BERETT WILBER, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, in response to Representative Johnston, stated that the program was authorized for up to \$250 million in bonding.

REPRESENTATIVE JOHNSTON asked about any current outstanding loans to the public.

MS. WILBER replied that only one loan had been closed by the program, a loan to the City of Galena, for about \$2.4 million in December, 2016.

REPRESENTATIVE KREISS-TOMKINS reported that the program was currently underused by the entities able to access it. He explained that, for the past decade, there had been "a gravy train of free money, namely legislative grants, so why would anyone borrow money when you can get it for free in the form of grants." He suggested that there would now be more activity, pointing out that less than 1 percent of the available funding had been granted. He elaborated on the intent of the proposed legislation, stating that many non-profit organizations, although focused on programs and missions, did not have large cash reserves. He offered an example of a non-profit organization in Sitka that did not have the cash flow to make the investment in energy efficiency improvements. He stated that this would allow cash poor organizations to "make an existing program do much, much more good than its presently doing."

[10:28:52 AM](#)

CHAIR WOOL, reiterating the premise that the loan would be repaid by savings realized by the improvements, asked if this was determined through an audit, and was this an exact measurement or a best approximation. He asked what would happen if the conditions changed, and the savings were not the same as the original calculation.

REPRESENTATIVE KREISS-TOMKINS clarified that, to qualify for financing, it was necessary to have an audit to approve the details for the energy efficiency improvement.

MS. WILBER expressed her agreement that it was necessary to have an energy audit certified by a third party.

[10:31:14 AM](#)

REPRESENTATIVE WESTLAKE asked if there were any unintended consequences, such as an increase in price due to a shift in electricity use, which could be passed on to the community. He detailed an example of this to a rural program.

REPRESENTATIVE KREISS-TOMKINS cited this as a paradox of power cost equalization, as there was not an incentive for conservation. He suggested that the relative change of energy

consumption within the community would not appreciably change the cost of energy in the community, although he acknowledged that this was a cause and consequence.

CHAIR WOOL stated that some of these discussions would be brought up later during a power cost equalization presentation.

10:34:07 AM

REPRESENTATIVE JOHNSON offered her understanding that the Alaska Energy Efficiency Revolving Loan Fund Program (AEERLP) was originally intended for these buildings housing municipal government and schools to be energy efficient in order to benefit the taxpayers by not having to pay so much in power costs. She asked, if this was to be offered to non-profits and tribal governments, whether all municipal and school buildings had already been addressed. She suggested that there were still schools needing work before this money was made available to other groups.

REPRESENTATIVE KREISS-TOMKINS acknowledged that the loan fund was created for municipalities and school districts, but, with the exception of the City of Galena, it had not been used. He reported that his research had found a universal reluctance to borrow money instead of using grants. He pointed out that language had been added to the proposed bill in the prior legislative session which allowed for the original entities to have priority for access to financing, "if an avalanche of interest." He stated that this should never jeopardize public entities from being financed.

REPRESENTATIVE JOHNSON asked if this could lead to foreclosures in the community.

REPRESENTATIVE KREISS-TOMKINS opined that audits would offer protection against this, as they would demonstrate savings to pay back the loan.

REPRESENTATIVE JOHNSON shared her concern for state financing and possible defaults by private non-profits.

10:39:48 AM

STACY SCHUBERT, Director, Governmental Affairs & Public Relations, Alaska Housing Finance Corporation, Department of Revenue, in response to questions on repayment schedules for

non-profits, asked for clarification as to questions on a specific project.

CHAIR WOOL replied that the question was not for a particular project, and asked whether the savings predicted by the audit for a project would be used for the repayment schedule, and, if there was a change in the prediction, what was the consequence.

10:41:22 AM

ERIC HAVELOCK, Lending Officer, Alaska Housing Finance Corporation, Department of Revenue, explained that the Alaska Housing Finance Corporation (AHFC) had written procedures to follow in the event of a payment default. He stated that AHFC relied on the third party professionals who produced the audits, as well as a review of the data by the departmental internal resources. He expressed confidence that the energy projections were accurate as of the date of the report, which allowed the application to be taken before the board for loan approval. He said that any future changes would be dealt "with as they came up."

REPRESENTATIVE RAUSCHER expressed his understanding of the needs and benefits to realize energy savings, although he questioned the governmental role in the business of loaning money to non-profits. He asked where this determination for the parameters to non-profits would begin and end. He declared that there were risks involved, noting that the costs to improvements would vary.

REPRESENTATIVE KREISS-TOMKINS, in response, declared that there was a "fairly strong precedent in our government and our society for carving out a role for the non-profit community to play; foremost, they don't pay taxes to government." He pointed out that churches and non-profit organizations did not pay taxes to government because they provided "a service to society that government might otherwise be compelled to deliver presumably with less efficiency and greater cost." He suggested that there was a greater good in supporting non-profits. He offered his belief that "small potatoes financing" was going to have large benefits for the non-profits and the communities. He opined that there was a specialization to this type of financing, as it reviewed energy audits and was energy specific, and that AHFC had the necessary background.

REPRESENTATIVE JOHNSTON asked about a limit on the loans. She suggested that there could be co-ordination between the effects on the community and on the revolving loan program.

REPRESENTATIVE KREISS-TOMKINS, in response, acknowledging that a lending limit could have a role, declared that more energy efficiency was better in Alaska, but was not currently happening. He offered his belief that, as the aforementioned behavior was not present, there was "a limited case for us trying to solve a problem that I don't think exists because none of these investments are happening on this energy efficiency." He suggested that parameters might have "the effect of limiting what I think is a pretty unadulterated, and unqualified good, which is not wasting energy and money in Alaska." He acknowledged the origin of the ideological and intellectual objections and allowed that there could be "some sideboards that make sense and I'd be happy to consider those."

REPRESENTATIVE SPOHNHOLZ shared that she had some similar concerns, specifically to retain access for those entities to which the program had been originally intended as there were fewer grants now available. She stated that it was important to meet the core mission, noting that, although the loan fund could be entirely utilized by the original intended recipients, it also opened up an opportunity for the non-profit sector to serve the needs that government did not. She offered an example of grants and funding for services.

[10:50:40 AM](#)

REPRESENTATIVE CLAMAN directed attention to the amendment, labeled 30-LS0353\A.1, Nauman, 1/30/17 [Included in members packets] and asked if this was going to be proposed.

REPRESENTATIVE KREISS-TOMKINS replied, yes, and explained that the background to this amendment was a result of conversations with the Cook Inlet Housing Authority (CIHA).

REPRESENTATIVE CLAMAN asked if CIHA was interested in participating as a regional housing authority. He questioned what would be the response to these new applicants, should the originally intended recipients for the fund have higher priority and utilize all the funds.

REPRESENTATIVE KREISS-TOMKINS expressed his agreement that these newer applicants would be denied in favor of those applicants with higher priority.

REPRESENTATIVE CLAMAN asked if there was a possibility of using up the lending capacity of this loan fund very quickly.

MR. HAVELOCK, in response, explained that the fund was set up as a revolving fund, and loan payments would replenish the fund for future loans.

REPRESENTATIVE CLAMAN asked if there were any issues to lending capacity with a revolving loan fund.

MR. HAVELOCK, in response, said that the AHFC had not experienced the situation of loan funds running out of money.

[10:54:08 AM](#)

REPRESENTATIVE SPOHNHOLZ moved to adopt Amendment A.1, labeled 30-LS0353\A.1, Nauman, 1/30/17, which read:

Page 1, line 2, following "**(Internal Revenue Code)**":
Insert "**, a regional housing authority,**"

Page 2, line 15, following "**tribe,**":
Insert "**a regional housing authority,**"

Page 2, line 20, following "**tribe,**":
Insert "**a regional housing authority,**"

Page 2, line 29, following "**tribe,**":
Insert "**a regional housing authority,**"

Page 3, line 1, following "**tribe,**":
Insert "**regional housing authority,**"

Page 3, line 11, following "**tribe,**":
Insert "**a regional housing authority,**"

Page 3, line 15, following "**tribe,**":
Insert "**a regional housing authority,**"

Page 4, line 1, following "**tribe,**":
Insert "**a regional housing authority,**"

Page 4, line 4, following "**tribe,**":
Insert "**regional housing authority,**"

Page 4, line 8, following "**tribe,**":
Insert "**a regional housing authority,**"

Page 4, line 10, following "tribe,":
Insert "regional housing authority,"

Page 5, line 1, following "tribe":
Insert "means"

Page 5, line 2:
Delete "means"

Page 5, line 5:
Delete "includes"

Page 5, following line 6:
Insert a new paragraph to read:
"(3) "regional housing authority" means a regional housing authority established under AS 18.55.996;"

Renumber the following paragraph accordingly.

CHAIR WOOL objected for discussion.

REPRESENTATIVE SPOHNHOLZ explained that proposed Amendment A.1 explicitly clarified that a regional native housing authority as established in AS 18.55.996 would be able to apply for loans under the new guidelines.

[10:54:41 AM](#)

The committee took a brief at-ease.

[10:55:21 AM](#)

CHAIR WOOL brought the committee back to order. He clarified that there was not a plan to move the proposed bill out of committee today. He asked if there was any more discussion on proposed Amendment A.1.

REPRESENTATIVE RAUSCHER asked if this proposed bill would affect the amount of money available in the future; although testimony had indicated that it had not been affected in the past, this was a piece of legislation for the future.

REPRESENTATIVE CLAMAN said that he had asked about the past experience based on history, as he could not ask a bank to predict the future.

REPRESENTATIVE RAUSCHER asked if there was a way to find how this would affect the availability of future monies.

MR. HAVELOCK, in response, declared that AHFC would support the policy decisions as determined by the legislature. He offered his belief that the proposed bill met some of the original attempts. Regarding any future funding, AHFC had a statutory cap on a debt of \$250 million. He acknowledged that AHFC would be able to accommodate the legislative intent for a priority to the originally identified borrowers.

[10:58:51 AM](#)

CHAIR WOOL removed his objection to Amendment A.1. There being no further objection, it was so ordered.

REPRESENTATIVE WESTLAKE asked how many entities had applied for this loan.

MR. HAVELOCK, in response, reported that there had been about two applications annually under this program, although these loan were not always approved. He stated that only one loan, to the City of Galena, had been approved. He shared that the loan regulations were placed in effect in October, 2010, and the first set of applications were made in 2012.

REPRESENTATIVE JOHNSON opined that municipalities would now begin looking toward these loans as previously there had been grant money available. She expressed her concern that loans would go to any buildings, including private buildings. She asked who had to own the building.

REPRESENTATIVE KREISS-TOMKINS offered his belief that an organization would need to own the building in order to receive any financing for energy efficiency improvements.

REPRESENTATIVE JOHNSON expressed her concern that these loans would go to private buildings. She directed attention to page 5, line 5 of the proposed bill, and read: "includes a subdivision, subsidiary, or business enterprise wholly owned by a federally recognized tribe." She asked if there was any contradiction with page 5, lines 14 - 15, which read: "the recipient of a loan under this section may not be a for-profit enterprise."

REPRESENTATIVE KREISS-TOMKINS directed attention to page 2, line 20 of the proposed bill, which read: "owned by a tax-exempt entity." He elaborated that there should be a worry for the private organizations, including private non-profits, as in the past, state governments had given money to these organizations. He offered his belief that the loan program offered a consistent support to these organizations.

11:05:20 AM

MS. WILBER offered her belief that this concern had been raised during the last session, and that retro fits were not allowed by for profit business enterprises. She allowed that, as state law and federal law sometimes created grey areas regarding tribal entities, Amendment 1 would explicitly allow regional housing authorities to borrow. She opined that, although the language for business enterprise could be removed, lines 14 - 15 on page 5 of the bill were added for clarity.

REPRESENTATIVE CLAMAN, reflecting on the role of for profit tribes, relayed that there were tribes in the Lower 48 that had made quite a lot of money on gambling casinos and hotels on reservation lands. He offered his understanding that a casino could not apply for the energy efficiency loan as it was an entity that was making money on a for profit basis, even though the profits would go to the tribe; however, a tribal community center would be allowed to take out a loan for energy efficiency in its facility. He asked if this was the intent of the language.

REPRESENTATIVE KREISS-TOMKINS expressed his agreement that this did align with his intent and thinking. He declared that, as the intent was not that for-profit business entities participate, he was open to "tweaks to the language to get to that end."

CHAIR WOOL asked if clarification regarding any for profit component within tribal entities could be presented at the next bill hearing.

REPRESENTATIVE KREISS-TOMKINS expressed his agreement to "bring clarity to those questions."

REPRESENTATIVE JOHNSON asked if a legal opinion could be obtained.

CHAIR WOOL expressed his agreement.

REPRESENTATIVE WESTLAKE asked Alaska Housing Finance Corporation if there was a different rate for loans to non-profit or for profit entities.

MR. HAVELOCK reported that the structure of the program did not differentiate between the two entities.

CHAIR WOOL asked about the majority of loans, other than this program, which AHFC processed.

MR. HAVELOCK replied that the majority of the business was financing for residential housing through the tax-exempt first time home buyers program. He reiterated that only one loan had been made through this authority.

CHAIR WOOL declared that, as AHFC was in the business of loaning money to individual homeowners, making a loan to non-profits and tribal entities was in line with this. He pointed out that the fund was underutilized, and that many municipalities could use these energy efficient loans. He noted that the proposed bill had a zero fiscal note from the Department of Revenue, and that there was no impact fiscal.

REPRESENTATIVE KREISS-TOMKINS said that he would follow-up.

[HB 81 was held over]

[11:14:07 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Energy meeting was adjourned at 11:14 a.m.