

HOUSE FINANCE COMMITTEE

April 6, 2017

9:04 a.m.

9:04:08 AM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 9:04 a.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Les Gara, Vice-Chair
Representative Jason Grenn
Representative David Guttenberg
Representative Scott Kawasaki
Representative Dan Ortiz
Representative Lance Pruitt
Representative Steve Thompson
Representative Cathy Tilton
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Representative Sam Kito, Sponsor; Deborah Kelly, Director, Division of Labor Standards and Safety, Department of Labor and Workforce Development; Ed Sniffen, Attorney, Department of Law.

SUMMARY

HB 114 BOILER/PRESSURE VESSEL INSPECTION REPORTS

HB 114 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (LWF).

HB 120 DEPT OF LAW: ADVOCACY BEFORE FERC

HB 120 was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (LAW).

HB 121 OCC. HEALTH AND SAFETY CIVIL PENALTIES

HB 121 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (LWF).

#hb114

HOUSE BILL NO. 114

"An Act relating to boiler and unfired pressure vessel inspection reports and fees."

9:05:11 AM

REPRESENTATIVE SAM KITO, SPONSOR, introduced the legislation. The bill included proposed changes to the boiler/pressure vessel inspection reports program. He detailed that there were a limited but fair number of reports that were currently submitted manually. The department [Department of Labor and Workforce Development] was required to take the information and reenter it into a database. The goal of the department was to take the manual reports and recover costs at \$10 per report that had to be filed; however, there was an electronic filing option that did not have the \$10 additional fee. He furthered that if all of the reports were filed electronically, there would be no additional revenue, but there would be less expense for the department because it would no longer have to manually enter all of the reports. The bill would improve timeliness of reports so individuals would receive their inspection certificate quicker and would no longer have to wait 30 days. The bill provided a cleanup and aimed at moving the inspection report process into the electronic age.

9:07:47 AM

Representative Thompson asked for verification there were 3,200 manual reports submitted.

Representative Kito answered there were 3,200 individual boiler and pressure vessel reports that were filed by a company manually.

Representative Wilson asked if there would be individuals who could not submit electronically.

DEBORAH KELLY, DIRECTOR, DIVISION OF LABOR STANDARDS AND SAFETY, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, replied the 3,200 reports that were not filed electronically was generally due to the fact that one or two companies did not want to use the online program. She detailed the process used software that required a usage fee. She explained that one company nationwide had decided it would rather rely on the department for its data entry.

Representative Wilson asked for the cost of the system. Ms. Kelly specified that under the system the company had to negotiate with the manufacturer based on company size and the department had been unable to obtain an estimate.

Representative Wilson wanted to know the burden that could be placed on the users. Ms. Kelly replied that the department had unable to obtain the information, which was the reason it had gone with a very reasonable fee for its data entry - it was willing to offer the service to companies it had.

Vice-Chair Gara asked for verification that the bill gave companies the option to file the reports manually. He surmised a company could file manually for \$10 per report or save the money by filing electronically.

Representative Kito answered in the affirmative. There was an option for a company that did not want to use the electronic program. The department was merely trying to acknowledge it had a cost associated with entering the data.

[9:11:49 AM](#)

Co-Chair Foster OPENED and CLOSED public testimony.

Co-Chair Seaton reviewed the fiscal note 1 for the Department of Labor and Workforce Development. The department estimated the bill would result in an additional \$32,000 in revenue to the building safety account. [Note: Co-Chair Seaton referred to the fiscal note as zero; however, the note was technically a fiscal impact note due

to the potential generation of \$32,000 per year for the state.]

Representative Wilson remarked that the \$32,000 would be generated only if people chose not to file electronically. Otherwise the fiscal note could be zero. She added she was not sure \$10 would cover the whole fee.

Co-Chair Seaton MOVED to REPORT HB 114 out of committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, HB 114 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (LWF).

[9:14:31 AM](#)

AT EASE

[9:16:21 AM](#)

RECONVENED

#hb121

HOUSE BILL NO. 121

"An Act relating to occupational safety and health enforcement penalties; and providing for an effective date."

[9:16:26 AM](#)

REPRESENTATIVE SAM KITO, SPONSOR, explained the bill that would make changes to the state's occupational safety and health regulations in order to comply with federal law. Federal law recently increased the minimum penalties needing to be assessed. He detailed that because Alaska was a designated jurisdiction, meaning it had its own responsibility for its occupational safety and health program, it was necessary for the state to update its program in order to comply with federal law. The bill would allow the department to continue to adopt regulations as federal law changed in order to ensure the state was meeting the minimum standard. He relayed that the burden on companies was not increased due to the increase in standard. He elaborated there were existing penalty requirements. When penalties were assessed generally the state assessed about 10 percent of the allowable penalty,

but the minimum standards were necessary. Without the minimum standards and without compliance with federal law, the state ran the risk of losing its designation for the jurisdiction and the program could go back to the federal government. He explained that going back to the federal government would mean that State of Alaska employees would no longer be covered under workers' compensation and the Alaska program had some specific Alaska components for occupational safety and health, which would be lost by going to the federal program.

9:19:08 AM

Representative Wilson noted there had been a question and answer sheet that was not included in members' packets. She read a question that had been asked in the House Judiciary Committee: How much would the state save if Alaska's occupational safety and health jurisdiction was returned to federal Occupational Safety and Health Administration (OSHA)? She noted that the answer had been \$619,000; however, penalty revenue would go to the federal treasury instead of the state General Fund totaling \$1,031,000, which would result in a net loss to the state of \$412,000. She was in favor of keeping programs under state jurisdiction, but she was concerned about keeping a program because the state could collect penalties on businesses. She appreciated the email the committee had received with more explanation. She wondered if people were breaking the laws. She asked where the \$1 million came from.

DEBORAH KELLY, DIRECTOR, DIVISION OF LABOR STANDARDS AND SAFETY, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, referred to the fiscal note from the department. Currently the department collected approximately \$600,000 in penalties per fiscal year. With the approximately 78 percent increase, the department estimated the collection amount would increase by about \$435,000 per year, for a total of about \$1 million in penalties. The penalties were not optional - they were either collected by the state or eventually the federal takeover would come in and collect the penalties. The \$619,000 was the savings in state funds from the elimination of the positions and the travel and other associated costs for the enforcement program. When the savings were subtracted from the loss of the penalty amount it resulted in \$412,000. She spoke to collecting penalties on businesses in Alaska. She relayed that most businesses tried to do the right thing. The department

conducted a significant number of inspections every year. She relayed the department was out in the community, across industries, seeing businesses every day. Many times when violations were found, the penalties were reduced sometimes down to zero based on small business size or good faith efforts on the part of the company. She relayed that the department was not generally seeing numerous violations, which was the reason it collected less than 10 percent of the maximum allowable penalties in the course of a year.

Representative Wilson wondered if the \$596,000 was an average or the figure from the preceding year. She observed the figure did not capture the increase. She hoped things were improving as the department was working to educate businesses.

9:23:02 AM

Ms. Kelly replied that the \$596,000 was the amount from FY 16. The numbers fluctuated from year-to-year, but not so significantly for the department to calculate an average. The department was targeting its consultation efforts to try to reduce the number of violations and hopefully penalties.

Vice-Chair Gara understood that under federal law the penalties had to be adjusted for inflation; however, they had not been adjusted for inflation since 1990, which resulted in the penalty change.

Ms. Kelly answered in the affirmative.

Vice-Chair Gara agreed that most businesses did the right thing. In the past he had represented an individual who had been killed due to an unsafe work environment and another individual who had almost been killed due to an unsafe work environment.

Representative Guttenberg asked for verification that the bill would allow the department to make adjustments based on the federal specifications without requiring additional legislative action in the future. He spoke to giving an agency authority that was legislative authority and asked if it was an issue with the topic at hand.

Ms. Kelly replied that the department would be allowed to make adjustments in accordance with federal penalty

amounts. In order to address that the department was being given regulatory authority, the bill included language that the department would be limited to the corresponding federal penalty amounts for each violation type. The department was not being given the authority to decide what penalty amount it wanted - it could not go above and beyond the corresponding federal penalty.

9:25:53 AM

Representative Guttenberg remarked that Ms. Kelly had identified the \$596,000 as fairly standard. He asked the department whether it had looked at the number of OSHA inspectors it had, how many penalties there had been, and whether the number of penalties had changed with the number of employees the department had doing the work. He knew that the department had lost numerous employees over the years and that General Fund dollars had become tighter.

Ms. Kelly responded she would have to follow up with the numbers. There had been some small personnel changes over the years, but it had been relatively steady.

Representative Tilton referred to the inspections done by the department. She asked if the \$596,000 was an accumulation of mostly small fines or larger ones.

Ms. Kelly answered she would have to follow up to answer the question in an exact sense. There were many small penalties assessed over the course of a year. The department did roughly 400 enforcement inspections annually and each one of the inspections may or may not result in a penalty. Penalties were generally small, the exception came when a particularly egregious violator was identified such as the trench collapse that had been in the news a couple of years earlier. She detailed that there had been an attempt to dig a young man out with heavy equipment, which had resulted in a substantial penalty.

Co-Chair Foster OPENED and CLOSED public testimony.

Vice-Chair Gara addressed the one fiscal note from the Department of Labor and Workforce Development. It was anticipated increase of \$217,500 in FY 18 and \$435,000 annually thereafter in penalty revenue to the state.

Representative Wilson clarified that the revenue would occur only if the penalties were fined. She explained that the figure in the fiscal note was an estimate only. She surmised the amount was unknown and hoped the department would not be writing numerous citations because things were going well in the business community.

Co-Chair Seaton MOVED to REPORT HB 121 out of committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, HB 121 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (LWF).

[9:30:49 AM](#)

AT EASE

[9:32:35 AM](#)

RECONVENED

#hb120

HOUSE BILL NO. 120

"An Act relating to the Department of Law public advocacy function to participate in matters that come before the Federal Energy Regulatory Commission."

[9:32:43 AM](#)

ED SNIFFEN, ATTORNEY, DEPARTMENT OF LAW (DOL), shared that he supervised the Regulatory Affairs and Public Advocacy (RAPA) section within the department. He explained that the bill aimed at allowing DOL the flexibility to spend money it received from a regulatory cost charge (RCC) for matters currently done in front of the Federal Energy Regulatory Commission (FERC). All of the utilities and pipelines in Alaska were regulated. The Regulatory Commission of Alaska (RCA) received filings from pipelines and utility companies to adjust their rates frequently and the RCA was charged with ensuring the rates were fair and reasonable. To pay for the regulation, the RCA imposed a regulatory cost charge on all utilities. He noted it appeared as a small charge on users' utility bills. The cost went to pay for the function of the RCA to provide its administrative regulation of utilities. The DOL also received a portion - RAPA also appeared before the RCA to protect consumers. The

agency operated to protect individual consumers' interest in their rates. For example, when a company (e.g. Enstar, Chugach, or Juneau Electric) wanted to raise its rates, DOL went to the Public Utility Commission to ensure the rates were fair and reasonable. The department was able to use money from the regulatory cost charge to pay for its services. He provided a PowerPoint presentation titled "HB120: Regulatory Cost Charge for FERC Matters." dated April 6, 2017 (copy on file). He addressed slide 2:

The RCC is a fee assessed on public utilities and pipelines that are regulated by the Regulatory Commission of Alaska (RCA).

It is created by AS 42.05.254 and AS 42.06.286.

Mr. Sniffen briefly discussed slides 3 through 5. He elaborated that charges assessed by the RCA were generally passed on to customers - those were the customers who received a benefit of the regulation. Each year the RCA assessed the RCCs to utilities and pipelines based on the amount of work required by each industry sector. It meant that if in a particular year there was much time spent doing electric utility regulation, the electric utilities would pay a little more of the regulatory cost charge and if the following year more in gas regulation was conducted, gas utilities may pay a little more of that cost charge. The money paid for the work of the RCA and DOL to perform the functions and to ensure the rates were just and reasonable.

Mr. Sniffen turned to slide 6 and relayed that the legislature had established a cap of 0.87 percent on RCCs, which was split between the RCA and RAPA sections of DOL. The RCA could not exceed 0.70 percent of the adjusted gross revenue of all of the utilities and pipelines in Alaska and RAPA could not exceed 0.17 percent of the amount. He addressed slide 7, which included a pie chart of RAPA's 2017 budget. The statutory cap in 2017 had been \$2.374 million and its budget submitted to the RCA had been \$2.3 million. He detailed that approximately 7 percent of the total had been used for work related to pipelines and 93 percent had been used for work conducted on utilities. He explained that the bill would not alter or grow the pie represented on slide 7. The department was asking the legislature to allow DOL to include matters it was currently doing before FERC. He detailed that over the last

couple of years DOL had tried to control its costs a little more and it was bringing work in-house on FERC matters that had been traditionally done by outside council. The department had reduced its outside council fees by very significant amounts and it was trying to build expertise and do the work in-house; therefore, RAPA was spending more of its time on matters coming before FERC for Trans-Alaska Pipeline System (TAPS) pipeline tariff work. As the department saw its work in the area growing, it had found an opportunity to amend the statute to allow it to recover from the RCC, work it was currently doing before FERC. Currently, RAPA could only recover money from the fund for work that came before the RCA.

[9:38:23 AM](#)

Mr. Sniffen explained the way the cases usually worked. For example, when pipeline carriers filed a tariff increase they were required to file it with FERC and the RCA because there was an interstate and intrastate jurisdictional component. An interstate tariff paid for the cost of shipping oil outside of Alaska and an intrastate tariff pertained to instate shippers taking oil from the pipeline. Generally the RCA would let the department litigate an issue in front of FERC and when it was done the RCA would generally adopt whatever results happened in the FERC proceedings. The FERC work directly benefited work the department would otherwise have to do before the RCA. Instead the work was done in front of FERC in Washington D.C. - the results of the efforts flowed through to the RCA and intrastate shippers. He explained it may make referred to the pie chart on slide 7 and noted that the change may make the pipeline wedge of the chart a bit bigger; it would result in a decrease in the utility RCC because the pie was only so big.

[9:40:10 AM](#)

Representative Grenn asked if the bill would help decrease outside counsel costs. Mr. Sniffen replied in the affirmative. For example, DOL had paid its outside council FERC attorneys something like \$90 million over the last 30 years. He recognized it was a substantial amount of money, but it had returned a multitude of results and the state had saved billions of dollars because of that. The department was taking the multi-million dollar annual contracts was scaling them back substantially by doing the

work in-house. The bill would enable the department to pay for some of that work as well. He detailed that the outside council contract the previous year had gone from over \$1 million to about \$350,000. The department was trying to economize where possible.

Representative Guttenberg referred to Mr. Sniffen's testimony that the pie was not getting any larger. He noted that the cap was statutory. He asked what would happen if major pipeline work was going on in the state. He remarked there would be a "little advance on all of that stuff." He asked if DOL would come back and ask for an adjustment.

Mr. Sniffen answered in the affirmative. The department would seek some General Fund sources if additional money was required.

Representative Guttenberg thought the additional work would be paid for by receipt supported services that DOL could charge to someone else. Alternatively, he asked if the department would only be doing the state's position.

Mr. Sniffen responded that the department represented the state on matters before FERC because the results of its work there also effected the production taxes and royalties paid by the state. In the past the department had used one-time increment budgetary sources to pay for outside council to help with the work. However, if something went wrong and the department had to litigate to save the state revenue, the department would probably ask for the funds in a one-time appropriation.

[9:42:38 AM](#)

Representative Guttenberg spoke to the "all utilities" portion of the pie chart on slide 7. He asked if the reference included water, sewer, power, telephone, and other. Mr. Sniffen replied in the affirmative.

Representative Guttenberg remarked that he had been having discussions about the issue of broadband with the department for some time. The issue pertained to some positions the RCA had with the FCC [Federal Communications Commission]. He had been told that broadband work was not under RCA's domain. He remarked that they had done some things and he wondered if they would fall under incidental costs. He asked if incidental costs were a category -

relating to things that did not result in major cases and were not time consuming.

Mr. Sniffen believed Representative Guttenberg was correct. However, he corrected that he would not specify the issue as outside the domain of the RCA - he believed there was jurisdiction there. He expounded that RAPA was focused more on rate making cases and advocating for consumers who had to pay a tariff. The telecom items pertained more to licensing and other things that the RCA had some overlapping jurisdiction in. He detailed that RAPA did not really intersect with the issue. He agreed that the issue was one of the lesser things that arose that did not take much of the agency's attention. He was not aware of any matter before the FCC that RAPA had been involved with.

[9:44:46 AM](#)

Representative Guttenberg noted he would show Mr. Sniffen the documents. He was trying to determine who had jurisdiction over broadband rates. He wondered if it was a utility or in a public utility or not. He wondered if it was not regulated at all. He asked who looked after the public's interest in terms of charges and other related items. He noted the issue could be discussed later.

Vice-Chair Gara referred to slide 7. He had a concern about the bill and asked Mr. Sniffen to discuss the consumer function at the RCA. He added an aside that he and Mr. Sniffen had first met on opposite sides of a [legal] case - he believed the state was lucky to have Mr. Sniffen working at the Attorney General's Office. He discussed that under the former Murkowski Administration, the consumer function, where the state had represented consumers on whether a rate increase was proper, had fallen under the RCA. There had been complaints and the consumer function had been moved to the Attorney General's Office. He asked for the accuracy of his statements.

Mr. Sniffen believed the explanation was fair.

Vice-Chair Gara stated there had always been a consumer function because of the existence of monopolies or close to monopolies; it was necessary to have regulation to ensure the price increases were reviewed by someone. He asked if his statements were fair.

Mr. Sniffen answered in the affirmative.

Vice-Chair Gara wanted consumers to have a voice in rate setting. He was concerned that the public's voice on utility rate increases may underrepresented if the pie [on slide 7] did not grow and more in-house work was done related to FERC. He detailed that the department was not overloaded with staff.

Mr. Sniffen responded that the question was fair. The department had added staff to the RAPA section to deal with pipeline matters - the position was largely paid out of DOL's budget. He stated that because the pipeline experience was going to grow and potentially tap into more of the RCC - the cap could grow a little - he did not see it as affecting the department's ability to effectively represent consumers as zealously as it always had. Currently, the department did not really know what would happen from year-to-year in terms of who would file a rate case. The agency was currently doing a couple of big cases involving ML&P and Enstar that was taking much of its time. The agency was also doing a bit of pipeline work, but it had slowed down. The agency was currently directing its energy to the utility cases. In other years there may be more pipeline work and less utility work. He detailed that RAPA did not control when tariff filings were made - the department responded to the filings when they came in and always responded when the commission asked it to. The bill would give flexibility in the years where there were fewer utility cases and more pipeline work to adjust its revenue sources to compensate the agency for work done in both sectors a bit more evenly. If there was a year like the present where RAPA did not have numerous utility filings and it did not spend much of its budget, the funding would lapse. If in the same year, there was significant pipeline work, RAPA would be unable to recover the lapsed money because it did not have the authority to do so.

[9:50:05 AM](#)

Vice-Chair Gara surmised that the department would be doing the same amount of work and the bill would give it more flexibility to access the fees coming in. He noted that at present RAPA was using general funds to pay for some of the pipeline work. He believed that in a lower utility cost consumer protection year and a higher pipeline cost year, the bill would give the agency flexibility to access the

funds. He believed the amount of money would be roughly the same but sometimes the general funds would go to the utility attorneys and sometimes it would go to the pipeline attorneys.

Mr. Sniffen replied that the department would always be doing the utility work as contemplated by statute. Anything the agency did before the RCA could be billed to RCC; if the agency ran out of RCC funds and had remaining utility work, it would still have to do the work. In that case, the agency would most likely request supplemental funding. The funds had been adequate to cover all of the agency's needs thus far, but in a year with more pipeline work and a full plate of utility work, the work would get done one way or another. The question would be who would pay for the work - the agency would most likely need to seek additional funding.

Representative Kawasaki asked about a recent time when the consumer protection unit [RAPA] and the RCA had disagreed on a case. Mr. Sniffen responded that he did not have an example on hand, but would follow up.

Representative Kawasaki spoke to the process of RCA members being submitted by the governor and approved by the legislature and individuals within the department were generally career individuals. He was interested in cases when the department had a disagreement with RCA rulings. He wondered what happened in that case when the department was essentially fighting with itself.

[9:53:10 AM](#)

Mr. Sniffen clarified that DOL had a consumer protection unit that was different from RAPA. The agency disagreed with the RCA frequently on a variety of matters. The agency advocated before the commission on certain costs that should or should not be included in rates (e.g. bonuses for utility representatives and other). When RAPA argued against something and the commission ruled in favor, it became commission precedent and RAPA would decide whether it was worth appealing. The agency had recently appealed a matter when RCA had ruled against involving rate case expense. He detailed that one of the odd things about the process was the utilities got to roll all of their litigation fees and money spent to bring a case on any issue into their cost. The utilities had no incentive to

not litigate aggressively on every issue because all of the costs were rolled into rates. The agency had stood up against the concept in a recent pipeline case and had communicated the decision seemed odd, especially in a case where there had been a finding of imprudence or something. He relayed the case was currently in appeal in the Alaska Superior Court. There had been tensions between the RCA and RAPA; RAPA tried to act independently on behalf of the public interest.

Representative Guttenberg spoke about a Petro Star Inc. case and Quality Bank issue. He stated that the company had not won the case, but received another hearing over the justification for the formula. The courts had ruled the state did not have standing, which he found concerning. He elaborated that the state represented the citizens and there could be quite a bit of money in terms of rate paying. He believed Petro Star paid around \$25 million annually into the Quality Bank. He stated that a significant change would impact consumers. He asked if there was a difference between the state's position and the public's position related to the outcome of the case.

Mr. Sniffen was not entirely familiar with the case. He added that he shared Representative Guttenberg's understanding of the situation. He thought whether the way the Quality Bank worked impacted the state to the extent that it should have standing to participate in the case versus whether or not it was arguing for transportation costs in the pipeline, were two separate issues. He was happy to have a conversation about the issue.

Representative Guttenberg commented that he believed it was appropriate for the state to build the expertise in-house.

[9:56:55 AM](#)

Mr. Sniffen concluded the presentation with slides 8 through 12. He relayed that the bill would not increase the cap, but it would give flexibility for the department to arrange its caseload depending on the cases received in a given year. Slide 9 addressed how the bill would impact consumers, based on some questions from the House Judiciary Committee about how pipeline shippers who would actually pay ultimately for the increased pipeline charge. He stated it was a small amount in the greater scheme of things for the shippers. For example, adding \$100,000 to the pipeline

RCC for the last two quarters of 2016 would increase the surcharge by 0.041 percent. He furthered that on a \$10,000 billing there would be an additional \$4.10 to the shipper.

Mr. Sniffen turned to slide 10 and relayed that the department was trying to save money by bringing the FERC work in-house. Slide 12 conveyed that the bill would not impact AKLNG. He moved to slide 12 and relayed there was a check on RCC spending. He detailed that RCCs to fund RAPA could not exceed the cap without the legislature's permission. Second, RAPA was required to submit its budget annually to the RCA. The process was public where any interested party could comment.

[9:59:12 AM](#)

Vice-Chair Gara referred to a question raised by Mr. Sniffen that he found slightly concerning. He guessed he could see the argument for a utility to pass costs to consumers from a rate setting case it had won; however, he did not understand how a utility could pass along costs accrued from challenging a rate setting and losing the case. He asked if RAPA made the distinction in its litigation. He did not want to make the bill heavier, but he was concerned about the issue.

Mr. Sniffen answered that he understood the concern. He stated that he and Vice-Chair Gara were of the same mind and the courts were not. The issue was a frustration of RAPA's. He explained the precedent seemed to be that if the challenge was legitimate and reasonable, regardless of whether there was a win or loss, the utility could recover the costs.

Vice-Chair Gara surmised the impact seemed to be whether RAPA could use the extra \$40,000 [slide 7 indicated that RAPA's budget was currently \$40,690 under the cap]. He was most concerned about the issue raised by Mr. Sniffen, which he wondered about addressing in the legislation. He surmised the governor probably did not have a position and the department was probably not allowed to have a position. He agreed with Mr. Sniffen's statements about what he believed was fair and what was not.

Mr. Sniffen would be happy to discuss the issue later - perhaps in some other legislation.

Representative Guttenberg discussed that when boroughs sued the state and industry over the TAPS valuation issue, the costs incurred by boroughs went back to its citizens and the costs incurred by the pipeline (i.e. Alyeska) went into the rate making of the state's royalty and severance. He asked for the accuracy of his statements.

[10:02:15 AM](#)

Mr. Sniffen asked for clarification on the question.

Representative Guttenberg clarified that the state did an evaluation of the pipeline, which was litigated annually in court. When the borough was involved in a litigation the citizens paid for the costs. When Alyeska was involved in a litigation he surmised the cost was passed on to the state. He asked if his assessment was accurate.

Mr. Sniffen responded that he was not certain. He shared that the cost Alyeska got to include in its rates was set by rate making principles. He believed Alyeska was able to include in its costs the cost to defend the value of the pipeline against a tax increase or property tax valuation proceeding.

Representative Guttenberg asked to see a breakdown of the information based on whether a company won or lost a case. Mr. Sniffen agreed.

Co-Chair Seaton spoke to a problem he anticipated in the RCA. He remarked there seemed to be very high executive compensation in some of the coops and although there was a board, it was heavily influenced by executives. It seemed there was a potential situation where there were small coops with disproportionate executive compensation bonuses. He was trying to determine if there was potential to set the maximum amount of executive compensation at the governor's salary plus retirement bonus or to use some mechanism to tie compensation amounts to some other manager in Alaska. He continued that most of the executives were managing people, they were not tradespeople. He had received numerous complaints from people in coops who had no method of controlling the issue. He asked if the issue could be addressed.

[10:05:35 AM](#)

Mr. Sniffen answered that executive compensation was something RAPA struggled with when it reviewed rate cases from the coops. The current standard was whether or not the compensation was just and reasonable. He shared that RAPA did scrutinize those things to make sure someone was not over compensated, which could inflate rates to the point they became unjust or unreasonable. A way to maybe address limiting that could be through commission regulations. There may be other statutory fixes that he would have to think about. He shared the concern and would be happy to work on the issue.

Co-Chair Seaton stated that another idea that had come forward was that tax exempt coops would lose their tax exempt status if they paid executives over a certain amount. He stated that it would be in control of the board to make sure they did not exceed the just and reasonable levels. He wondered if the idea had been considered.

Mr. Sniffen replied that the idea had not been considered, but it could be. He thought it may be a way to incentivize the smaller coops to ensure their executive compensation was fair.

Co-Chair Seaton asked for Mr. Sniffen to follow up with the committee.

Co-Chair Foster OPENED and CLOSED public testimony.

[10:08:24 AM](#)

AT EASE

[10:17:07 AM](#)

RECONVENED

[Representative Pruitt joined the meeting]

Co-Chair Foster believed some committee members were interested in moving the bill forward and others were interested in understanding it more. He relayed that the bill still needed to go to the House floor and it was towards the end of session, so he suggested moving the bill forward.

Vice-Chair Gara addressed the one zero fiscal note from the RAPA section of DOL. The department did not anticipate it would incur any extra cost.

Representative Wilson remarked that the bill had only been received the previous evening. She was not very familiar with the subject matter. She communicated she would object to reporting the bill from committee at present, not based on its content, but because she needed more information.

Co-Chair Foster understood the issue. He was trying to weigh all of the issues and hoped Mr. Sniffen would reach out to committee members who may have some issues with the bill. In the interest of time he relayed the decision to move the bill would be put to a vote.

Representative Pruitt understood a bit of the bill and probably supported the bill, but he would support his colleague in her concerns. He wanted to ensure his colleague had an opportunity to have some of her questions answered. He understood they were under a tight schedule, however, there were some questions.

Vice-Chair Gara remarked that he had spoken with Mr. Sniffen, who had relayed he would have time to spend with members if they did not understand the bill. He understood the concerns, but he believed the bill should move forward.

Vice-Chair Gara MOVED to REPORT HB 120 out of committee with individual recommendations and the accompanying fiscal note.

Representative Wilson OBJECTED. She stated that the [companion] bill was in the Senate Judiciary Committee and still had to go through the Senate Finance Committee; therefore, she did not believe passing HB 120 was a rush. She added that now that she understood what the new rules were - that legislation would come before the committee and be passed out in one meeting - she planned to do things differently.

A roll call vote was taken on the motion.

IN FAVOR: Gara, Grenn, Guttenberg, Kawasaki, Thompson, Seaton, Foster

OPPOSED: Tilton, Wilson, Pruitt

Representative Ortiz was absent from the vote.

The MOTION PASSED (7/3).

There being NO further OBJECTION, HB 120 was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (LAW).

Co-Chair Foster addressed the schedule for the following meeting.

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ADJOURNMENT

10:23:27 AM

The meeting was adjourned at 10:23 a.m.