

SENATE FINANCE COMMITTEE
February 26, 2018
9:02 a.m.

9:02:38 AM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:02 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Click Bishop, Vice-Chair
Senator Peter Micciche
Senator Donny Olson
Senator Gary Stevens
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

Lori Wing-Heier, Director, Division of Insurance, Department of Commerce, Community and Economic Development; John Ptacin, Chief Assistant Attorney General, Regulatory Affairs and Public Advocacy, Department of Law.

SUMMARY

HB 120 DEPT OF LAW: ADVOCACY BEFORE FERC

HB 120 was HEARD and HELD in committee for further consideration.

HB 195 INSURER'S USE OF CREDIT HISTORY/SCORES

HB 195 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.

#hb195

HOUSE BILL NO. 195

"An Act relating to insurer actions based on credit history and insurance scores at insurance policy renewal; and providing for insurer consideration of consumer requests for exceptions of credit history or insurance scores."

9:03:29 AM

Co-Chair MacKinnon directed attention to HB 195. She relayed that the bill had been heard in committee on the previous Wednesday and heard public testimony.

LORI WING-HEIER, DIRECTOR, DIVISION OF INSURANCE, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, stated that HB 195 amended credit scoring, which was currently allowed in the state on new business for personal lines for auto and homeowners. She stated that it did not impact life insurance, health insurance, or commercial lines. The bills allowed credit scoring to be used on the renewal and new business. It allowed for the insurer to provide to the consumer with written notice, when credit scoring was used, and whether an adverse action was found that would be detrimental to the consumer. At that point, the insurer must tell the consumer that there was a right for an appeal. The appeal would go for extraordinary life circumstances, which were spelled out in the bill. The consumer would appeal to the insurance company first, and the second appeal would come to the Division of Insurance for adjudication.

Senator Olson wondered why the amendment was not included in the original credit score bill.

Ms. Wing-Heier replied that the bill allowed for the insurance company to be the final adjudicator of the appeal. It did not allow extraordinary circumstances to include the provision related to a prudent person. The governor did not feel that the consumer protections were broad enough, so he vetoed the bill, and reintroduced it in 2017. She did not know why the drafters did not include the broader protections in 2016.

9:06:25 AM

Co-Chair MacKinnon referenced a question from public testimony on February 21, 2017 that concerned the definition of a "new applicant." She wanted to ensure that all applicants could use their credit score to help reduce their premium.

Ms. Wing-Heier replied that the Division of Insurance would not mandate that insurance companies use credit scoring. Rather, if the company elected to use credit scoring, they would use it on new business and renewal. She remarked that Geico did not currently use credit scoring.

Co-Chair MacKinnon asserted that the renewal would be included.

Ms. Wing-Heier answered in the affirmative.

Senator Stevens wondered whether there was proof that a person with a low credit rating was more likely to have accidents.

Ms. Wing-Heier replied that the statistics from the National Association of Insurance Commissioners (NAIC) and other organizations showed a correlation to credit period, and the actions an individual would take, such as maintaining their house, good health, and driving record. The credit score would become a part of the insurance score.

Co-Chair MacKinnon asked Ms. Wing-Heier to discuss the issue of families with no credit.

Ms. Wing-Heier stated that if an individual had no credit, the individual would not be penalized.

Senator Olson had a hard time drawing a distinction between not being put into a higher category.

Ms. Wing-Heier stated that if the insurers could not determine a credit score, an individual would not be in a preferred program.

Co-Chair MacKinnon relayed that the original bill had passed with overwhelming support before it was vetoed by the governor.

Vice-Chair Bishop discussed FN1 from the Department of Commerce, Community and Economic Development. He relayed that the committee had covered the fiscal note.

Vice-Chair Bishop MOVED to report HB 195 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 195 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.

[9:12:39 AM](#)

AT EASE

[9:17:38 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."

[9:17:38 AM](#)

Co-Chair MacKinnon directed attention to Tlingit Culture, Language, and Literacy (TCLL) Program from Harborview Elementary School in attendance in the audience.

JOHN PTACIN, CHIEF ASSISTANT ATTORNEY GENERAL, REGULATORY AFFAIRS AND PUBLIC ADVOCACY, DEPARTMENT OF LAW, relayed that the bill would allow the Department of Law (LAW) to recover costs related to cases in the Federal Energy Regulatory Commission (FERC).

Mr. Ptacin discussed the presentation "HB 120: REGULATORY COST CHARGE FOR FERC MATTERS" (copy on file).

Mr. Ptacin looked at slide 2, "What is the regulatory cost charge (RCC)?":

- 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 (for utilities) and AS 42.06.286 (for pipelines).

Mr. Ptacin turned to slide 3, "Who Pays RCCs?":

- Utilities and pipelines that are regulated by the RCA pay RCCs, including:
 - over 125 public utilities and about 20 common carrier pipelines with in-state deliveries.

Those utilities and pipelines may pass the charge onto customers that benefit from RCA regulation.

Each year, the RCA assesses RCCs to utilities and pipelines based on the amount of work required for each industry sector.

Co-Chair Hoffman asked about the annual revenues.

Mr. Ptacin showed slide 4, "What does the RCC pay for?":

The money collected in the RCC provides funding for:

- the Regulatory Commission of Alaska (RCA), which is responsible for the economic regulation of public utilities and intrastate common carrier pipelines in Alaska, and
- the Regulatory Affairs and Public Advocacy (RAPA) section in the Department of Law, which is charged with advocating for the public interest in matters related to the economic regulation of public utilities and pipelines.

[9:21:22 AM](#)

Mr. Ptacin reviewed slide 5, "What does the RCC pay for?":

Just and reasonable rates for utility and pipeline customers.

Senator von Imhof referenced slide 5, and asked if there were any utilities in the state that were not regulated by the Regulatory Commission of Alaska (Regulatory Commission of Alaska).

Mr. Ptacin relayed that it was possible for utilities to petition the Regulatory Commission of Alaska, and have a vote to not be regulated at a point. He stated that Nome Joint Utility System decided against regulation.

Senator von Imhof wondered whether the unregulated companies had publicly available financials.

Mr. Ptacin was not aware if the financial information of unregulated utilities was available.

Co-Chair MacKinnon informed that there were multiple utilities that were not regulated. She thought there was a statewide issue. She discussed differing utility costs and aging infrastructure. She had been working on reducing energy costs over the previous interim, and had experienced a challenge obtaining information. As the state invested in energy efficiency, it had not been able to gain cost savings because of fixed costs and a small population base.

Senator von Imhof referenced legislation to extend the bonding authority for the Fairbanks Interior Gas Project. She stated that there had been a hearing after the purchase of the Fairbanks Natural Gas Company for \$54 million. She stated that it was an unregulated utility at the time, but had since received applied regulation.

[9:25:17 AM](#)

Mr. Ptacin discussed slide 6, "How Much Is It?":

- Total RCCs cannot exceed 0.87 percent of the adjusted gross revenue (revenue derived from operations in Alaska) of the regulated utilities and pipelines.
- Statute allocates that 0.87 percent between the RCA and RAPA.
 - RCCs funding the RCA cannot exceed 0.70 percent
 - RCCs funding RAPA cannot exceed 0.17 percent

Co-Chair MacKinnon asked if the RCC funded the Regulatory Commission of Alaska.

Mr. Ptacin answered in the affirmative.

Co-Chair MacKinnon wondered whether the rate was explicit in state statute.

Mr. Ptacin answered in the affirmative.

Co-Chair MacKinnon wondered whether it was as explicit as how the funding was separated.

Mr. Ptacin answered in the affirmative.

Senator Stevens wondered whether the 0.87 percent paid for all the expenses of the Regulatory Commission of Alaska.

Mr. Ptacin replied in the affirmative.

Mr. Ptacin referenced slide 7, "RAPA's 2017 Budget":

- 0.17 percent Statutory Cap = \$2,374,390
- RAPA's 2017 Budget = \$2,333,700
- Budget is \$40,690 under the cap

Mr. Ptacin moved to slide 8, "What would HB 120 change?":

This bill does NOT:

- Change the 0.17 percent RCC cap.
- Create new authority for the Attorney General to participate in matters before FERC.

This bill will:

- Allow some costs incurred by the department in matters before FERC (TAPS pipeline tariffs) in the pipeline RCC.

This bill might:

- Increase the amount of RCC allocated to pipelines.

- Because the size of the "pie" is not changing, an increase in the pipeline RCC would reduce the RCC paid by utilities.

Vice-Chair Bishop noted that the scenario used the pipeline tariffs as an example. He stressed that the bill did not provide additional funding. He wondered whether the arguments were based on the existing budget.

Mr. Ptacin explained that the deficit that was not collected from the RCC came out of general funds.

[9:30:39 AM](#)

Mr. Ptacin spoke to slide 9, "How would HB 120 impact consumers?":

- Pipelines can pass the RCC onto customers for in-state shipments.
- This increase would not be significant because the cost is spread across all regulated pipelines and each unit of oil or gas shipped.
- For example, adding \$100,000 to the pipeline RCC for the last two quarters of 2017 would increase the pipeline RCC surcharge by about 0.048 percent, i.e., a \$10,000 billing to a pipeline customer would increase by \$4.84.
- The \$4.84 surcharge helps ensure the \$10,000 bill is "just and reasonable."

Mr. Ptacin showed slide 10, "Why now?":

- For over 30 years, outside counsel has represented the state on FERC pipeline matters.
- To reduce costs, Law is developing the necessary expertise and bringing more of this work in-house.
- In the process of budgeting for this increased in-house workload and searching for budget efficiencies, it came to our attention that the RCC may be an appropriate funding source.

9:34:03 AM

Co-Chair Hoffman referenced slide 10, and asked how much the state had spent on outside counsel. He queried the numbers related to reduced costs associated with switching to inhouse counsel.

Mr. Ptacin agreed to provide detailed information. He furthered that he had been involved in Trans-Alaska Pipeline System (TAPS) tariff litigation from 2009 to 2015. He remarked that the litigation of those cases in 2009 to 2010, the state spent \$16 million. The competitors spent \$55 million. He felt that a bringing similar cases to LAW would not yield the same cost. He stated that in the year 2016, as a result of the TAPS tariff litigation, LAW went to the DC Court of Appeals. He stated that typically outside counsel would have been hired, but instead the work was done inhouse for under \$25,000.

Senator Micciche queried the role of the department to interfere with FERC determinations.

Mr. Ptacin stated that there were a series of feeder pipelines that fed into TAPS, and provided they had interstate shipping, there must be an interstate and intrastate rate.

Senator Micciche asked if any of the work had been for the AKLNG projects.

Mr. Ptacin was not aware of any work the department would do on the AKLNG projects.

Vice-Chair Bishop suggested that there could be crossover into hydro-projects with FERC.

Mr. Ptacin stated that there were FERC processes. He thought it was possible at some point there could be FERC rate issues associated with a hydro-electric projects.

Senator Stevens wondered whether the state would still use outside counsel.

Mr. Ptacin answered in the affirmative, and reiterated that the department would still retain outside counsel.

Senator von Imhof wondered whether there was an impending need to go before FERC. She asked if there were high priority or outstanding issues. She wondered whether the bill was a "blanket" need.

Mr. Ptacin stated there was no impending necessity for the bill, however the division was very busy. It had entered into an agreement with TAPS that included a variable tariff. The division had to annually negotiate a fair and reasonable rate.

[9:41:23 AM](#)

Co-Chair MacKinnon referenced slide 7, and asked if it showed that the state was collecting money that was going unspent.

Mr. Ptacin answered in the negative.

Co-Chair MacKinnon wondered whether there was the ability to collect through a 0.17 percent statutory cap, \$2.37 million. She remarked that the budget was \$2.333 million, which represented \$43,690 under the cap. She stressed that there could be a higher charge, because there was the ability for increased collection.

Mr. Ptacin answered in the affirmative.

Co-Chair MacKinnon wondered whether the state could charge additional resources to the funding stream.

Mr. Ptacin answered in the affirmative.

Senator Micciche asked for more detail as to the increased pipeline cost as listed on slide 8.

Mr. Ptacin relayed that under current state law, there was two ways in which the division dealt with those costs. He stated that the bill would ensure that RCC charges could be assessed. The cap for the pipelines was only 0.17 percent of any adjusted revenues.

[9:46:00 AM](#)

Co-Chair MacKinnon referenced the proposed statute to change in the bill. She stated that the bill was about whether it was in the public's interest for LAW to engage

on behalf of Alaska in this process. She stated that LAW was asking to recover fees.

Senator Micciche wondered whether there would be a cost shift from utilities.

Mr. Ptacin stated there would be no cost shift from utilities to the state, but it arguably could go the other direction. The department was asking (to the extent that it did pipeline work) that it could collect for the work.

Senator Micciche thought the last sentence on slide 8 was confusing.

Mr. Ptacin agreed that the sentence was strangely written.

[9:50:56 AM](#)

Senator von Imhof asked if there had been a time when Mr. Ptacin testified before FERC on a planning stage of a pipeline. She wondered if there was a future pipeline in the works.

Mr. Ptacin stated that his section would not involve until a pipeline company went before FERC with a proposed rate.

Co-Chair MacKinnon wondered whether LAW had the authority to enter into conversations with FERC without the proposed legislation.

Mr. Ptacin stated that when his section was before FERC, it was usually for a protest.

Co-Chair MacKinnon thought the bill expanded the department's authority to engage with FERC.

Mr. Ptacin stated that it was not his understanding that the bill language had to do with a funding mechanism for the RCC.

Co-Chair MacKinnon asked Mr. Ptacin to confer with the attorney general to determine the impact of the bill.

Mr. Ptacin agreed to provide the information.

[9:54:06 AM](#)

Vice-Chair Bishop surmised that intervention at FERC could only occur on current production pipeline.

Mr. Ptacin agreed.

Vice-Chair Bishop surmised that the bill needed a general fund funding mechanism.

Mr. Ptacin agreed.

Co-Chair MacKinnon noted that the title stated that it was to participate as an advocate.

Vice-Chair Bishop agreed. He noted that there could be a title change.

Senator Micciche remarked that the state had full standing to intervene in any FERC matter that occurred within the jurisdiction of the state. He saw the bill as a funding mechanism. He wondered whether in certain cases, LAW would bill for work on FERC under pipelines. He stated that it would not reduce the utility RCC, but may increase the pipeline RCC.

Mr. Ptacin answered in the affirmative. He stated that the section had no intention of charging a utility for work that was not related to that particular utility.

[9:56:40 AM](#)

Mr. Ptacin looked at slide 11, "Is there a check on RCC spending?":

External limits on RAPA's RCC spending include:

1. Statutory 0.17 percent cap on RCCs for RAPA.
2. RCA review of RAPA's certified costs in a public docket where any interested party can comment.

Co-Chair MacKinnon asked for Mr. Ptacin to provide a summary of the cost of outside council for the past XX years.

Mr. Ptacin agreed to provide the information.

Co-Chair MacKinnon wondered what happened to those receipts.

Mr. Ptacin responded that it was money that was not collected.

Co-Chair MacKinnon surmised that the money was not collected over a period of time.

Mr. Ptacin stated that the RCC looked at the previous year's billings and adjusted revenues to determine the year's maximum charge.

Senator Stevens appreciated the question about costs of outside counsel that was spent by competitors.

Mr. Ptacin agreed to provide that information.

Senator Micciche stated that many of the energy firms had strong expertise. He wondered whether the prep work would be done inhouse in order to reduce costs.

Mr. Ptacin answered in the affirmative.

Co-Chair MacKinnon OPENED public testimony.

Co-Chair MacKinnon CLOSED public testimony.

Vice-Chair Bishop discussed a new zero fiscal note from Department of Law, OMB component 2764.

Senator Micciche thought the fiscal note was a bit unusual, as it provided additional authority. He thought there was likely a differential from what was currently collected.

Co-Chair MacKinnon discussed committee business.

HB 120 was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

10:02:25 AM

The meeting was adjourned at 10:02 a.m.