

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

March 11, 2020

1:04 p.m.

**MEMBERS PRESENT**

Representative John Lincoln, Co-Chair  
Representative Geran Tarr, Co-Chair  
Representative Grier Hopkins, Vice Chair  
Representative Sara Hannan  
Representative Chris Tuck  
Representative Ivy Spohnholz  
Representative Dave Talerico  
Representative George Rauscher

**MEMBERS ABSENT**

Representative Sara Rasmussen

**COMMITTEE CALENDAR**

CS FOR SENATE BILL NO. 123(RBE)

"An Act relating to the creation and regulation of electric reliability organizations; relating to participation of electric utilities in electric reliability organizations; relating to duties of electric reliability organizations; providing for integrated resource planning; requiring project preapproval for certain interconnected large energy facilities; and providing for an effective date."

- MOVED CSSB 123(RBE) OUT OF COMMITTEE

HOUSE BILL NO. 138

"An Act requiring the designation of state water as outstanding national resource water to occur in statute; relating to management of outstanding national resource water by the Department of Environmental Conservation; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 151

"An Act relating to the regulation of electric utilities and electric reliability organizations; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 123

SHORT TITLE: ELECTRIC RELIABILITY ORGANIZATIONS

SPONSOR(S): RAILBELT ELECTRIC SYSTEM

05/14/19	(S)	READ THE FIRST TIME - REFERRALS
05/14/19	(S)	RBE, FIN
01/24/20	(S)	RBE AT 3:30 PM BUTROVICH 205
01/24/20	(S)	Heard & Held
01/24/20	(S)	MINUTE(RBE)
01/27/20	(S)	RBE AT 3:30 PM SENATE FINANCE 532
01/27/20	(S)	Heard & Held
01/27/20	(S)	MINUTE(RBE)
01/29/20	(S)	RBE AT 3:30 PM SENATE FINANCE 532
01/29/20	(S)	Heard & Held
01/29/20	(S)	MINUTE(RBE)
01/31/20	(S)	RBE AT 3:30 PM BUTROVICH 205
01/31/20	(S)	Heard & Held
01/31/20	(S)	MINUTE(RBE)
02/03/20	(S)	RBE AT 3:30 PM BUTROVICH 205
02/03/20	(S)	Heard & Held
02/03/20	(S)	MINUTE(RBE)
02/06/20	(S)	RBE AT 1:30 PM BUTROVICH 205
02/06/20	(S)	-- MEETING CANCELED --
02/12/20	(S)	RBE AT 9:00 AM FAHRENKAMP 203
02/12/20	(S)	Heard & Held
02/12/20	(S)	MINUTE(RBE)
02/14/20	(S)	RBE AT 9:00 AM BELTZ 105 (TSBldg)
02/14/20	(S)	Heard & Held
02/14/20	(S)	MINUTE(RBE)
02/17/20	(S)	RBE AT 9:00 AM BUTROVICH 205
02/17/20	(S)	Heard & Held
02/17/20	(S)	MINUTE(RBE)
02/19/20	(S)	RBE AT 9:00 AM BUTROVICH 205
02/19/20	(S)	Heard & Held
02/19/20	(S)	MINUTE(RBE)
02/24/20	(S)	RBE AT 9:00 AM BUTROVICH 205
02/24/20	(S)	Moved CSSB 123(RBE) Out of Committee
02/24/20	(S)	MINUTE(RBE)
02/26/20	(S)	RBE RPT CS 2DP 1NR NEW TITLE
02/26/20	(S)	LETTER OF INTENT WITH RBE REPORT
02/26/20	(S)	DP: COGHILL, GRAY-JACKSON
02/26/20	(S)	NR: MICCICHE
02/26/20	(S)	RBE AT 9:00 AM BUTROVICH 205

02/26/20 (S) -- MEETING CANCELED --  
03/03/20 (S) FIN AT 9:00 AM SENATE FINANCE 532  
03/03/20 (S) Heard & Held  
03/03/20 (S) MINUTE(FIN)  
03/09/20 (S) FIN RPT CS(RBE) 4DP 2NR  
03/09/20 (S) DP: VON IMHOF, HOFFMAN, WIELECHOWSKI,  
BISHOP  
03/09/20 (S) NR: STEDMAN, OLSON  
03/09/20 (S) FIN AT 9:00 AM SENATE FINANCE 532  
03/09/20 (S) Moved CSSB 123(RBE) Out of Committee  
03/09/20 (S) MINUTE(FIN)  
03/10/20 (S) TRANSMITTED TO (H)  
03/10/20 (S) VERSION: CSSB 123(RBE)  
03/11/20 (H) RES AT 1:00 PM BARNES 124

BILL: HB 138

SHORT TITLE: NATIONAL RESOURCE WATER DESIGNATION

SPONSOR(s) : KOPP

04/17/19 (H) READ THE FIRST TIME - REFERRALS  
04/17/19 (H) RES, FIN  
04/29/19 (H) RES AT 1:00 PM BARNES 124  
04/29/19 (H) Heard & Held  
04/29/19 (H) MINUTE(RES)  
05/03/19 (H) RES AT 1:00 PM BARNES 124  
05/03/19 (H) Heard & Held  
05/03/19 (H) MINUTE(RES)  
02/10/20 (H) RES AT 1:00 PM BARNES 124  
02/10/20 (H) Heard & Held  
02/10/20 (H) MINUTE(RES)  
02/14/20 (H) RES AT 1:00 PM BARNES 124  
02/14/20 (H) Heard & Held  
02/14/20 (H) MINUTE(RES)  
02/17/20 (H) RES AT 1:00 PM BARNES 124  
02/17/20 (H) Heard & Held  
02/17/20 (H) MINUTE(RES)  
02/24/20 (H) RES AT 1:00 PM BARNES 124  
02/24/20 (H) Heard & Held  
02/24/20 (H) MINUTE(RES)  
03/06/20 (H) RES AT 1:00 PM BARNES 124  
03/06/20 (H) <Bill Hearing Canceled>  
03/09/20 (H) RES AT 1:00 PM BARNES 124  
03/09/20 (H) Heard & Held  
03/09/20 (H) MINUTE(RES)  
03/11/20 (H) RES AT 1:00 PM BARNES 124

**WITNESS REGISTER**

EMMA POKON, Deputy Commissioner  
Office of the Commissioner  
Department of Environmental Conservation  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing of HB 138.

REPRESENTATIVE CHUCK KOPP  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Speaking as the sponsor of HB 138, answered questions during the hearing of the bill.

TREVER FULTON, Staff  
Representative Chuck Kopp  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** On behalf of Representative Kopp, sponsor of HB 138, answered a question during the hearing of the bill.

MARIE MARX, Attorney  
Legislative Legal Counsel  
Legislative Legal Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing of HB 138.

#### **ACTION NARRATIVE**

[1:04:11 PM](#)

**CO-CHAIR GERAN TARR** called the House Resources Standing Committee meeting to order at 1:04 p.m. Representatives Tuck, Hannan, Talerico, Hopkins, Lincoln, and Tarr were present at the call to order. Representatives Rauscher and Spohnholz arrived as the meeting was in progress.

#### **SB 123-ELECTRIC RELIABILITY ORGANIZATIONS**

[1:05:00 PM](#)

CO-CHAIR TARR announced the first order of business would be CS FOR SENATE BILL NO. 123(RBE), "An Act relating to the creation and regulation of electric reliability organizations; relating to participation of electric utilities in electric reliability

organizations; relating to duties of electric reliability organizations; providing for integrated resource planning; requiring project preapproval for certain interconnected large energy facilities; and providing for an effective date."

[Before the committee was CSSB 123(RBE), read on the House floor and referred to the House Resources Standing Committee on 3/11/20.]

CO-CHAIR TARR advised [CSSB 123(RBE)] and HB 151 are companion bills and because the committee heard HB 151 [on 3/4/20 and 3/6/20], it can advance [CSSB 123(RBE)] without further public testimony or five-day public notice.

REPRESENTATIVE HOPKINS expressed appreciation for the work of the House Special Committee on Energy and the House Resources Standing Committee on the bill.

[1:07:27 PM](#)

REPRESENTATIVE TALERICO said the legislation would be beneficial to residents in the Railbelt, and beyond, as the electrical grid becomes interconnected. The utilities have been cooperative, and he expressed strong support for the bill.

REPRESENTATIVE SPOHNHOLZ recalled the state has encouraged the utilities to reduce cost and improve security reliability; passage of the bill and creation of electric reliability organizations (EROs) reflect significant progress in this regard. However, she noted her concern about the lack of direction for economic dispatch, which was not included in the bill because some utilities cannot provide the lowest cost energy. Representative Spohnholz stressed, over the long term, Alaska needs to achieve economic dispatch to save ratepayers' money, to save energy to address the challenge of climate change, and to utilize renewable energy.

CO-CHAIR TARR pointed out the challenge of economic dispatch can be attributed to cost recovery needed by some utilities to pay for generation infrastructure.

[1:14:11 PM](#)

REPRESENTATIVE HOPKINS moved to report CSSB 123(RBE) out of committee with individual recommendations, the attached zero fiscal note, and letter of intent. There being no objection,

CSSB 123(RBE) was reported out of the House Resources Standing Committee.

The committee took an at-ease from 1:14 p.m. to 1:17 p.m.

**HB 138-NATIONAL RESOURCE WATER DESIGNATION**

[1:17:32 PM](#)

CO-CHAIR TARR announced the final order of business would be HOUSE BILL NO. 138, "An Act requiring the designation of state water as outstanding national resource water to occur in statute; relating to management of outstanding national resource water by the Department of Environmental Conservation; and providing for an effective date."

[Before the committee was the committee substitute for HB 138, Version K, adopted as a working document during the bill hearing on 2/10/20.]

CO-CHAIR TARR reviewed amendments adopted at the bill hearing on 3/9/20, and forthcoming amendments.

[1:20:57 PM](#)

CO-CHAIR TARR moved to adopt [Amendment 8, K.24, labeled 31-LS0811\K.24, Marx, 3/5/20, identified on the audio recording as Amendment 14], which read:

Page 2, line 31, through page 3, line 6:

Delete all material and insert:

"(C) a general description of  
    (i) what makes the  
water an outstanding national resource  
water, including a general description  
of the recreational or ecological value  
that makes the water exceptional;  
    (ii) the existing  
water quality and any technical data on  
which the description is based;  
    (iii) any nonpoint  
source activity to be conducted in the  
foreseeable future that may affect  
water quality;"

Reletter the following subparagraphs accordingly.

REPRESENTATIVE RAUSCHER objected for discussion purposes.

CO-CHAIR TARR directed attention to Version K, on page 2, beginning on line 26. She pointed out the items necessary for nomination include subparagraph (C) an explanation; subparagraph (D) a description; subparagraph (E) a discussion; subparagraph (F) an analysis. For clarity, the amendment instead provides for a general description of the same items listed in subparagraphs (C), (D), (E), and (F).

REPRESENTATIVE RAUSCHER recalled he raised a question at the bill hearing on 3/9/20 related to [Amendment 8, K.24, subparagraph (C), sub-subparagraphs (i) and (ii)], that remains unanswered. He restated his question as follows:

If during the designation of a Tier 3 waterbody, you have a baseline number, let's say its 3, and an added resource extraction or whatever ... company comes in and it takes water out of that source, that body source, and by the time it replaces the water that it's used is it actually cleaner. So, has the baseline changed to the cleaner water that is now added to the water source or is the original baseline, which would be a lower mark, the mark we adhere to for going forward from then on ...?

[1:25:38 PM](#)

EMMA POKON, Deputy Commissioner, Office of the Commissioner, Department of Environmental Conservation (DEC), was unsure. Federal law says the water quality shall be maintained and protected, so it is unclear whether water quality that has been improved could be degraded from that point. In further response to Representative Rauscher, she said she was inclined to say that once the water has become cleaner, any activity that would degrade the water from the cleaner level would be disallowed.

REPRESENTATIVE RAUSCHER asked Representative Tarr how Ms. Pokon's response relates to the amendment.

CO-CHAIR TARR said the language in the amendment is included in the bill to describe the items that are required to complete a nomination. Her intent for the amendment is to use "a general description" because Version K uses explanation, description, discussion, and analysis, which is confusing for citizen nominators. She asked Representative Kopp to further discuss sub-subparagraphs (i) and (ii).

1:28:48 PM

REPRESENTATIVE CHUCK KOPP, Alaska State Legislature, speaking as the sponsor of HB 138, confirmed (i) and (ii) would be in the bill regardless, because (i) and (ii) describe what would be required in the nomination packet; he said he had no objection to [Amendment 8, K.24].

REPRESENTATIVE SPOHNHOLZ pointed out the amendment refers to nonpoint source activity, which would be inconsistent with a previously adopted amendment.

1:32:05 PM

REPRESENTATIVE SPOHNHOLZ moved to adopt Conceptual Amendment 1 to [Amendment 8, K.24] to remove "nonpoint source" from line 9.

REPRESENTATIVE TUCK objected for discussion purposes.

CO-CHAIR TARR reminded the committee "nonpoint source" was removed from Version K by a previous amendment, so the bill would [address source and nonpoint source activities].

[There followed discussion to clarify the conceptual amendment.]

1:35:40 PM

REPRESENTATIVE TUCK removed his objection.

[Although not stated on the record, the committee treated Conceptual Amendment 1 to [Amendment 8, K.24], as adopted.

REPRESENTATIVE HOPKINS stated small scale mining permits may require mining operations to discharge water that is cleaner after mining operations. Under the aforementioned circumstances, he questioned whether the [improved] water quality downstream from the mine would become the new standard, and whether the improved water quality would be considered a change to a Tier 3 waterway.

MS. POKON said if an entity is operating with water designated Tier 3, their activity would not be prohibited by the designation; if the entity is improving water quality, DEC would not force them to continue operations if the cessation of operations would result in lower water quality; however, the

cleaner water does not create space for another entity to begin or increase discharge.

REPRESENTATIVE HOPKINS asked whether a mine operation - that seeks to begin operations on a Tier 3 waterbody, and is granted a permit that requires cleaner water to be discharged - would be allowed.

MS. POKON said DEC's evaluation on a Tier 3 water is whether the activity would degrade the water quality, if not, the activity would not be prohibited.

REPRESENTATIVE HOPKINS surmised "degrading," not "changing" the water quality is the operative term.

MS. POKON said yes.

REPRESENTATIVE HOPKINS asked for clarification of this issue "at the federal level."

MS. POKON was unsure whether the aforementioned terms are specific or clear in EPA regulations.

REPRESENTATIVE RAUSCHER said some of the terms used are clouded by one's perception.

[1:40:15 PM](#)

CO-CHAIR TARR asked for clarification on two questions: an activity can be permitted upriver of a Tier 3 waterbody as long as the activity does not degrade water quality in the Tier 3 designated area; within a Tier 3 water, if there were a permitted activity that ceased operations, DEC would not permit a new activity to take the place of the previous activity.

MS. POKON advised an upstream activity that does not affect the water quality in the Tier 3 waters, if that can be shown to be the case .... If there were a potential to lower water quality, proper permitting of the upstream activity would be questioned by DEC. Also, DEC regulation 18 ACC 70.016(d) is the provision for lower water quality if temporary and limited.

CO-CHAIR TARR restated the second question.

MS. POKON pointed out states have interpreted federal Tier 3 provisions differently; some states have designated Tier 3 waterbodies for their recreational or ecological qualities,

notwithstanding that water quality standards were not met. She advised a "tradeoff" of one source of discharge for another would not be allowed under the strict interpretation of regulations, and a new activity likely would not be allowed. In further response to Representative Rauscher, she said allowable activities for the same operator would depend on the provisions of its permit; if there is a change in operations that would result in a negative impact on water quality, DEC would review the permit authorization.

[1:48:00 PM](#)

REPRESENTATIVE TUCK urged for a written response to his previous question as to whether the "baseline" is an exact number or a description of the water quality at a certain point, or whether the baseline can change under some conditions. For example, if the water quality improves, whether DEC would return to the baseline. He inquired as to whether DEC standards relate to degrading water quality or changing the character of the water quality.

[1:49:43 PM](#)

REPRESENTATIVE KOPP pointed out the determination of what constitutes a Tier 3 waterbody is not a provision of HB 138; he acknowledged the value of the questions, but noted the bill would only establish the process of a Tier 3 nomination.

MS. POKON offered to provide written responses in addition to stating that when DEC reviews permitting from a water quality perspective, DEC looks at whether a quality standard is met and if there is capacity for a waterbody to accept additional discharges without violating water quality standards. Tier 3 differs in that there cannot be any degradation to the water quality, which is not set to a water quality standard or a numeric value; DEC issues permits depending upon the circumstances, such as degradation due to nonpoint source activity, and a baseline is not necessarily applicable.

CO-CHAIR TARR asked for a clarification of degrading water quality as compared to changing the character of water.

MS. POKON advised DEC establishes water quality standards to protect water quality for a variety of uses, including recreational use, or for fish; an acceptable level of pollutant load may depend upon the use of the water. Changing the character of the water may also depend on use and would have to

be evaluated carefully if DEC were asked to authorize an activity.

[1:55:28 PM](#)

CO-CHAIR TARR surmised when DEC is evaluating a nomination it would review water quality, water character, and the degradation of water quality.

MS. POKON said the Clean Water Act directs DEC to maintain and protect water quality, thus an activity that would degrade water quality, except in a temporary or limited term, would be a challenge for DEC to authorize. In further response to Co-Chair Tarr, she said DEC regulations specify "the lowering of water quality."

REPRESENTATIVE TUCK recalled previous testimony from [Randy Bates, director, Division of Water, DEC], who stated there could not be any additional improvements to Tier 3 water quality, and asked for a written response to this and other questions about EPA regulations.

MS. POKON said DEC would provide responses in writing and directed the committee's attention to regulation 18 ACC 70.016(d).

REPRESENTATIVE HANNAN asked whether DEC is currently using the regulation titled 18 AAC 70.017 Tier 3 Outstanding Resource Water [document not provided]. She read from the document and said the described Tier 3 Outstanding Resource Water designation process has not been completed, followed, or exercised. She asked whether this regulation is being applied, when it was promulgated and adopted, and if said waters have been treated as Tier 3 waters. Further, to the sponsor of HB 138, she questioned why this regulation was excluded from the bill.

[2:00:28 PM](#)

MS. POKON said 18 ACC 70.017 was proposed in 2014 but was not included in the final regulations that were adopted; DEC currently has adopted regulations on rules for how to manage a Tier 3 water after designation, and because the current designation process directs a nomination through the legislative process, no Tier 3 waters have been designated in Alaska, thus DEC has not had an occasion to implement the regulations. In response to Co-Chair Tarr, she said the regulations on how to manage Tier 3 water are within 18 ACC 70.016.

[2:02:50 PM](#)

TREVER FULTON, staff, Representative Chuck Kopp, on behalf of Representative Kopp, sponsor of HB 138, confirmed the regulation referenced by Representative Hannan was never adopted.

REPRESENTATIVE RAUSCHER asked for confirmation that there are Tier 3 waterbodies in the Lower 48 that don't meet "the standards."

MS. POKON said in the Lower 48, states have designated Tier 3 waterbodies that don't meet the state's water quality standards, but have exceptional ecological or recreational significance.

REPRESENTATIVE TUCK suggested cleaning up legacy wells may affect their possible recreational significance as a tar pit.

REPRESENTATIVE RAUSCHER removed his objection and there being no further objection [Amendment 8, K.24], as amended, was adopted.

[2:08:43 PM](#)

REPRESENTATIVE HANNAN moved to adopt [Amendment 9, K.14, labeled 31-LS0811\K.14, Marx, 2/21/20, identified on the audio recording as Amendment 6], which read [original punctuation provided]:

Page 3, lines 11 - 17:

Delete all material and insert:

"(2) by an affirmative vote of a majority of the members of the commission,

(A) make a finding, within 60 days after receipt of a nomination, of whether the nomination complies with the requirements under (1) of this subsection;

(B) decide, within one year after finding a nomination is in compliance, whether to recommend the designation of the nominated water as outstanding national resource water;"

Page 3, lines 22 - 23:

Delete "the commission has determined meets"

Insert "found by the commission to meet"

Page 4, lines 3 - 7:

Delete all material and insert:

"(f) If the commission finds under (e)(2)(A) of this section that a nomination is not compliant, the commission shall provide written notice of the finding to the resident who submitted the nomination. The notice must specify the reason for the finding and describe how the resident may correct the nomination to comply with the requirements under (e)(1) of this section. The resident may correct and resubmit the nomination to the commission.

(g) Before deciding whether to recommend a designation of a nominated water as outstanding national resource water, the commission shall provide an opportunity for public notice and comment on the nomination. A member who votes against a recommendation approved by the commission may provide a written summary of the member's dissenting opinion."

Reletter the following subsections accordingly.

Page 4, line 8:

Delete "(e) or (f)"

Insert "(e)"

CO-CHAIR TARR objected for discussion purposes.

REPRESENTATIVE HANNAN explained the amendment would set a 60-day time limit for the commission to make a finding as to whether a Tier 3 water nomination complies with nomination requirements and, if a nomination is found not compliant, the commission would be required to provide the nominator written notice of the finding, describe the reason for the finding, and specify how the nomination could be made compliant. The nominator can correct and resubmit the nomination to the commission.

[2:09:43 PM](#)

The committee took an at-ease from 2:09 p.m. to 2:12 p.m.

REPRESENTATIVE HANNAN directed attention to [Amendment 9, K.14] and said subparagraph (B), found on [page 1, lines 8-10], and subsection (g), found on [page 2, lines 1-5], have been achieved by a previously adopted amendment.

REPRESENTATIVE SPOHNHOLZ said redundancy between the previously adopted amendment and [Amendment 9, K.14] is not a problem and supported the element in the amendment that requires the commission to make a finding and respond to the nominator.

REPRESENTATIVE RAUSCHER directed attention to line 21 and questioned why the commission would have to describe how to correct the nomination.

[2:15:03 PM](#)

REPRESENTATIVE HANNAN suggested the commission would request additional descriptions of the items it needs to make its determination, and gave an example.

REPRESENTATIVE RAUSCHER proposed adding the words "if possible" preceding "describe."

REPRESENTATIVE HANNAN pointed out "may," on line 21, releases the commission from responsibility to provide the correction, and [sub-subparagraph (f)] requires only that the commission inform the nominator of why the nomination does not comply.

[There followed a short discussion of a possible conceptual amendment.]

REPRESENTATIVE RAUSCHER moved to adopt Conceptual Amendment 1 to [Amendment 9, K.14] on line 21, to insert "if possible" before the word "describe".

REPRESENTATIVE HANNAN objected.

[2:20:23 PM](#)

MARIE MARX, attorney, Legislative Legal Counsel, Legislative Legal Services, Legislative Affairs Agency, explained the amendment provides that if the commission finds a nomination not compliant it must report what is missing from the nomination and how the nomination can be fixed; the language, "the notice must specify the reason for the finding," is meant to provide the nominator an idea of what can be done. The language, "describe how the resident may correct ..." is related to the finding. For example, if a nominator is missing a specific description, the notice would specify the description needed. She said "if possible" is not language typically seen in statute and opined the notice does not need to be a detailed description of what is missing.

REPRESENTATIVE HANNAN, on the advice of Legislative Legal Services, maintained her objection.

REPRESENTATIVE TUCK said he would not support the conceptual amendment.

CO-CHAIR TARR interpreted Representative Rauscher's concern to be that a correction of the nomination application could lead to a successful Tier 3 water determination and surmised that is not the intent of the amendment.

MS. MARX pointed out the difference between a recommendation and a nomination: a recommendation is the final decision by the commission on whether to forward a nomination of a waterbody to the governor and the legislature; the amendment addresses whether a nomination is complete so it may be evaluated by the commission. If a nomination is missing information, the commission must inform the nominator, but the notice does not constitute a recommendation.

[2:26:25 PM](#)

REPRESENTATIVE TALERICO observed any finding by the commission would reveal compliance or not compliant with the requirements of a nomination.

MS. MARX, in response to Co-Chair Tarr, acknowledged the amendment adds additional requirements as to what the commission must do in response to a nomination.

REPRESENTATIVE KOPP agreed with Representative Tuck that the requirements for a nomination are general; in regard to [the amendment on page 1, lines 5-7], he opined a 60-day limit is insufficient for the committee to make a finding, and urged the committee to consider a 90- to 120-day limit.

CO-CHAIR TARR asked Ms. Pokon to advise on the department's capacity to respond to requests from the commission for data and other information within a 60-day window.

MS. POKON was unsure of the volume or accessibility of data that may be requested and said 60 days seems reasonable.

REPRESENTATIVE RAUSCHER withdrew Conceptual Amendment 1 to [Amendment 9, K.14].

[2:32:46 PM](#)

REPRESENTATIVE TALERICO moved to adopt Conceptual Amendment 2, which read:

Page 1, beginning at line 20 [in part]:

The notice must specify the reason for the finding and allow the nominator to resubmit the nomination to the commission.

CO-CHAIR TARR objected for discussion purposes.

REPRESENTATIVE TALERICO explained subparagraph (f) fully describes: nomination, not compliant, the finding, and providing notification of not compliant. Therefore, Conceptual Amendment 2 more simply accomplishes the intent of [lines 21-23, in part].

REPRESENTATIVE TUCK objected. He concluded the conceptual amendment shortens the language of the amendment.

CO-CHAIR TARR noted, for consistency in the language of the bill, the use of resident instead of nominator.

[2:37:52 PM](#)

The committee took a brief at-ease.

CO-CHAIR TARR said in the final version of the bill resident would be replaced with qualified nominator, so Legislative Legal Services will be asked to make conforming changes where necessary.

REPRESENTATIVE TUCK asked whether Conceptual Amendment 2 removes that the commission would describe how the resident may correct the nomination.

REPRESENTATIVE TALERICO pointed out [on page 1, beginning on line 18] the amendment reads, "if the commission finds under (e)(2)(A) of this section, that a nomination is not compliant, the commission shall provide written notice of the finding to the resident who submitted the nomination." He opined the written notice of the finding would address the notice of not compliant.

REPRESENTATIVE TUCK agreed the finding would include a description of not compliant with the minimum requirements;

however, he asked if the conceptual amendment removes how the resident may correct the nomination.

REPRESENTATIVE TALERICO said no. The intent is to allow the nominator to resubmit the nomination.

REPRESENTATIVE TUCK explained how the conceptual amendment would eliminate - by intent or by accident - that the commission describe how the resident may correct the nomination.

REPRESENTATIVE TALERICO said the finding of not compliant would provide the direction needed to correct the nomination.

REPRESENTATIVE TUCK maintained his objection.

[2:42:16 PM](#)

CO-CHAIR TARR said one may be satisfied that the written notice of the finding would provide why the nomination is incomplete and thereby would suffice for how the resident may correct the nomination.

REPRESENTATIVE TUCK, following the aforementioned reasoning, suggested there is no need for the part of the sentence, "the notice must specify the reason ..."

REPRESENTATIVE TALERICO said "The notice must specify the reason" is key to the descriptive nature of what is, or is not, compliant.

REPRESENTATIVE TUCK removed his objection.

MS. MARX, in response to Representative Hannan and Co-Chair Tarr, opined the conceptual amendment would change the requirements in the amendment; subparagraph (f) requires that the commission provide written notice of its finding, but does not specify that the reason for the finding would be included. The second sentence provides that the reason is specified and how the nomination may be corrected and resubmitted. The policy choices are: provide the resident notice of the finding that the nomination is not complete; provide notice and reasons for the finding; provide a notice, describe the reasons for the finding, and how to complete the nomination; whether the resident can correct the nomination and resubmit; whether the resident submits a new nomination.

[2:46:48 PM](#)

REPRESENTATIVE HANNAN objected to the conceptual amendment.

REPRESENTATIVE TALERICO cautioned against the possibility that the commission would be required to actually craft the nomination instead of only explaining the reasons for its finding; he expressed confidence nominators would easily respond to the finding of not compliant and correct the nomination. He said he would accept the addition of "correct and" resubmit.

REPRESENTATIVE RAUSCHER expressed opposition to a situation in which the commission would be doing the work for the nominator.

REPRESENTATIVE TUCK expressed his opposition to the conceptual amendment because it would change the intent of [Amendment 9, K.14].

CO-CHAIR TARR expressed her opposition to the conceptual amendment because the use of "may" addresses circumstances in which the commission would "handhold" the nominator.

[2:52:05 PM](#)

A roll call vote was taken. Representatives Rauscher and Talerico voted in favor of Conceptual Amendment 2 to [Amendment 9, K.14]. Representatives Tuck, Hannan, Hopkins, Spohnholz, Lincoln, and Tarr voted against it. Therefore, [Conceptual Amendment 2] failed by a vote of 2-6.

[2:52:58 PM](#)

CO-CHAIR LINCOLN observed the commission would be reviewing nominations, some of which may be incomplete, and gave an example of how the commission's difficult and important work may suffer from possible delays. He moved to adopt Conceptual Amendment 3, which read:

Page 1, line 5:

Delete 60 and replace with 120

CO-CHAIR TARR objected for discussion purposes.

REPRESENTATIVE TUCK urged the committee to compare the commission's workload and timeline to other commissions, such as the Regulatory Commission of Alaska (RCA), and to seek a balance between the commission's workload and timeline.

REPRESENTATIVE KOPP advised RCA is a fulltime commission that works year-around with a fulltime staff and cannot be compared to a volunteer advisory commission.

[2:56:15 PM](#)

MS. MARX was unsure of the timelines that are directed for other commissions; furthermore, the advisory commission is unique in its nomination and recommendation process.

REPRESENTATIVE RAUSCHER recalled there are five nominations awaiting vetting by the commission and expressed his support for Conceptual Amendment 3.

REPRESENTATIVE SPOHNHOLZ questioned the extent of the commission's staff support.

[2:58:38 PM](#)

CO-CHAIR LINCOLN stated the bill currently requires the commission to meet and vote on whether a nomination is compliant and, within one year, decide whether to make a recommendation. He pointed out the timeline that is set would determine how frequently the commission meets.

CO-CHAIR TARR, speaking from her personal experience, said boards and commissions have practical logistics issues.

REPRESENTATIVE HANNAN, speaking as sponsor of the amendment, said the advisory commission may not have adequate staffing for quarterly meetings and agreed to the change to 120 days made by Conceptual Amendment 3.

[3:01:02 PM](#)

CO-CHAIR TARR removed her objection and there being no further objection, Conceptual Amendment 3 was adopted.

REPRESENTATIVE TUCK moved to adopt Conceptual Amendment 4, which read:

Page 1, line 6:

following "nomination," add:

and 90 days for any corrected nomination that has been resubmitted,

REPRESENTATIVE TUCK said the intent of the conceptual amendment is that a corrected nomination that has been resubmitted would not have to be subject to a 120-day process.

CO-CHAIR TARR objected for discussion purposes.

MS. MARX advised as long as the committee grants Legislative Legal Services authority to make technical and conforming changes, the conceptual amendment would be incorporated in the final draft.

[3:03:18 PM](#)

CO-CHAIR TARR removed her objection and there being no further objection, Conceptual Amendment 4 to [Amendment 9, K.14] was adopted.

[3:03:52 PM](#)

CO-CHAIR TARR removed her objection to [Amendment 9, K.14] and there being no further objection, [Amendment 9, K.14, as amended], was adopted.

[3:04:36 PM](#)

[HB 138 was held over.]

[3:04:50 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:05 p.m.