

**ALASKA STATE LEGISLATURE
SENATE RAILBELT ELECTRIC SYSTEM**

February 19, 2020
9:05 a.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Elvi Gray-Jackson
Senator Cathy Giessel

MEMBERS ABSENT

Senator Peter Micciche
Senator Mike Shower

COMMITTEE CALENDAR

SENATE BILL NO. 123

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

- HEARD & HELD

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

WITNESS REGISTER

RENA MILLER, Staff
Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reviewed the changes from Version E to Version G of SB 123.

DEAN THOMPSON, Legal Counsel
Municipal Light and Power
Anchorage, Alaska

POSITION STATEMENT: Suggested an amendment to SB 123, Version G.

ANTONY SCOTT, Commissioner
Regulatory Commission of Alaska
Anchorage, Alaska

POSITION STATEMENT: Answered questions and provided information related to SB 123, Version G.

NOAH KLEIN, Legal Counsel
Legislative Legal Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: As drafter, answered questions related to SB 123, Version G.

ACTION NARRATIVE

[9:05:14 AM](#)

CHAIR JOHN COGHILL called the Senate Special Committee on Railbelt Electric System meeting to order at 9:05 a.m. Present at the call to order were Senators Giessel, Gray-Jackson, and Chair Coghill.

SB 123-ELECTRIC RELIABILITY ORGANIZATIONS

[9:05:41 AM](#)

CHAIR COGHILL announced the consideration of SENATE BILL NO. 123, "An Act relating to the regulation of electric utilities and electric reliability organizations; and providing for an effective date."

He advised that he had intended to adopt and move the proposed committee substitute (CS) after Ms. Miller reviewed the changes that were proposed during the previous meeting, but questions about transmission have come up that need to be answered before the bill can move.

CHAIR COGHILL asked Ms. Miller to discuss the changes from Version E to Version G of SB 123.

[9:07:16 AM](#)

RENA MILLER, Staff, Senator Giessel, Alaska State Legislature, Juneau, Alaska, advised that she is on loan to this committee for the purposes of SB 123.

CHAIR COGHILL solicited a motion to adopt the work draft committee substitute (CS) for SB 123, Version G.

[9:07:48 AM](#)

SENATOR GIESSEL moved to adopt the committee substitute (CS) for SB 123, work order 31-LS0959\G, as the working document.

CHAIR COGHILL objected for an explanation of changes.

[9:08:19 AM](#)

RENA MILLER, reviewed the following changes between Version E and Version G of SB 123:

Page 1, line 4: Amends title to remove reference to project preapproval for 'public utilities interconnected with interconnected bulk electric systems' and replaces with project preapproval for 'certain interconnected large energy facilities'.

This better reflects the heading of that section of the bill.

Page 2, line 1: Changes 'electric utilities' to 'load-serving entities'.

Page 2, line 8: Conforming change related to restructuring [that occurred in the previous version of the bill].

Page 2, line 12: Switches sections (d) and (e). Prefaces new (d) with 'Notwithstanding the requirements in (e)'.

Page 3, line 7: Changes 'an integrated resource plan' to 'integrated resource plans'.

Page 3, line 19: Removes 'developing reliability standards and' so that the provisions cited must be part of all ERO duties.

Page 5, line 19: Expanded section heading from 'Rules' to 'Electric reliability organization rules; approval.' Legislative Legal made this change for conformity to the section.

Page 6, line 3: Changed 'provisions' to 'standards' to conform with style [in that subsection].

Page 6, lines 24, 25: Removed 'of an interconnected electric energy transmission network' to avoid redundancy. At Legislative Legal's advice, maintained first reference within subsection (b).

Page 7, lines 9, 13: Added 'all' before 'customers' to reflect the intent that integrated resource planning address the needs of all customers on a network [within the Railbelt].

Page 7, line 19: Removed requirement for RCA to hold a hearing to approve an integrated resource plan petition.

The requirement to hold a hearing to modify an IRP remains.

Page 7, line 20: Removed reference to rejecting a petition.

Page 7, lines 23-25: Added ability for RCA to reject a petition, but only for form and filing.

Page 8, line 7: Changed 'the' public utility to 'a' public utility

Page 8, line 27-28: Moved 'in a cost-effective manner' within the provision so it modifies the needs of an entity and not the facility served by the facility.

Page 9, line 5: Corrected error in previous version; hydro projects licensed by FERC before Sept. 30, 2016, are exempt from the requirement for pre-approval

[9:12:36 AM](#)

CHAIR COGHILL removed his objection and Version G was adopted.

[9:13:01 AM](#)

At ease

[9:14:36 AM](#)

CHAIR COGHILL reconvened the meeting and asked Mr. Thompson to provide his testimony.

[9:15:08 AM](#)

DEAN THOMPSON, Legal Counsel, Municipal Light and Power (ML&P), Anchorage, Alaska, stated that he has litigated issues in the Alaska Railbelt since 1990 and was testifying today to preserve the status quo ante of the longstanding exemption under AS 42.05.431(c) that exempts from commission review or approval issues dealing with the Bradley Lake hydroelectric project. He said he didn't believe anything in SB 123 could credibly challenge that exemption but because of the time and money ML&P has spent litigating over the scope of the Bradley Lake agreement and the Bradley Lake exemption, he was proposing a one sentence addition at the end of Section 1 of SB 123:

Sec. 42.05.795. Interpretation. Nothing in AS 42.05.760 - AS 42.05.790 shall be construed to conflict with a wholesale agreement, or related contracts, that are exempt from commission review or approval under AS 42.05.431(c), or with any amendments to such wholesale agreement or related contracts.

MR. THOMPSON concluded his comments reiterating that ML&P supports SB 123 but does not want it to upset the existing

exemption for Bradley Lake that has been in place since the mid-1980s. Responding to a question, he confirmed that he sent the suggested language to Ms. Miller.

CHAIR COGHILL asked if the Bradley Lake exemption is currently under litigation.

MR. THOMPSON answered yes; one case regarding the interpretation of the Bradley Lake agreement is before the Alaska Superior Court. He reiterated that ML&P does not want to block SB 123 but requests an amendment or a clear statement on the record that the legislature does not intend to change the status quo ante regarding litigation.

[9:21:22 AM](#)

CHAIR COGHILL asked if he agrees that [adopting the proposed amendment] would codify one side of the litigation.

MR. THOMPSON answered no but it would clarify that nothing in SB 123 intends to change the status quo ante.

CHAIR COGHILL offered his understanding that the exemption is based on the timing of a bond payment.

MR. THOMPSON replied that is part of it.

[9:22:28 AM](#)

At ease

[9:22:50 AM](#)

CHAIR COGHILL reconvened the meeting and asked Mr. Scott to offer the RCA's perspective.

[9:23:45 AM](#)

ANTONY SCOTT, Commissioner Regulatory Commission of Alaska (RCA), Anchorage, Alaska, stated that he was not speaking for the commission as a whole, but his perspective was that SB 123 does not affect any Bradley Lake exemptions from RCA review or approval of any of their contracts or amendments to any of their contracts.

CHAIR COGHILL asked if there is any directive in the bill

MR. SCOTT answered no; it's that the Bradley Lake exemptions, which were put in place in the 1980s, are not addressed by SB 123. He mentioned the question of project preapproval if Bradley Lake were to do a new project that required the issuance of new

debt before the existing exemptions expire, and offered his opinion that it would in no way be a review or approval of any contract. He reiterated his view saying that he struggles to see how SB 123 could be construed as affecting RCA authority over any contract or contract amendment associated with the Bradley Lake agreements.

[9:27:35 AM](#)

CHAIR COGHILL asked if this is something the RCA has ruled on and is in litigation.

MR. SCOTT answered no; the issues in litigation have nothing to do with the bill.

[9:28:22 AM](#)

CHAIR COGHILL asked the bill drafter if he'd seen the language ML&P proposed and come to a conclusion.

[9:28:42 AM](#)

NOAH KLEIN, Legal Counsel, Legislative Legal Services, Legislative Affairs Agency, Juneau, Alaska, replied he had not seen the language and therefore had not come to a definitive conclusion, but he did not think that anything in the bill would affect the exemption under AS 42.05.431(c).

CHAIR COGHILL said the remaining questions he had center on the Bradley Lake exemption, the timing, the authority, and whether SB 123 does and/or should impact the exemption.

[9:30:38 AM](#)

MS. MILLER said she believes that Homer Electric wants to comment but they may not be available today due to travel between Anchorage and Kenai.

CHAIR COGHILL said he would reach out to get their perspective.

[9:31:31 AM](#)

SENATOR GRAY-JACKSON asked Mr. Scott if he would object if the language Mr. Thompson proposed were included in the bill.

[9:32:04 AM](#)

MR. SCOTT replied he would like to confer with ML&P before answering; first, he hadn't seen the language and second, he wasn't sure what primary concern the language was meant to address.

SENATOR GRAY-JACKSON offered her understanding that ML&P wants assurance in black and white.

CHAIR COGHILL said he'd make sure that all concerned have a copy of the proposed language.

[9:33:56 AM](#)

CHAIR COGHILL held SB 123 in committee for future consideration.

[9:34:23 AM](#)

There being no further business to come before the committee, Chair Coghill adjourned the Senate Special Committee on Railbelt Electric System meeting at 9:34.