

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

May 6, 2022

9:01 a.m.

MEMBERS PRESENT

Representative Zack Fields, Co-Chair
Representative Ivy Spohnholz, Co-Chair
Representative Calvin Schrage
Representative Liz Snyder (via teleconference)
Representative David Nelson
Representative James Kaufman (via teleconference)
Representative Ken McCarty (via teleconference)

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 190 (FIN)

"An Act extending the termination date of the Regulatory Commission of Alaska; relating to Regulatory Commission of Alaska regulations regarding refuse utilities; relating to the powers and duties of the legislative audit division; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 301

"An Act relating to the establishment of a renewable portfolio standard for regulated electric utilities; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 190

SHORT TITLE: REGULATORY COMMISSION AK/REFUSE UTILITIES

SPONSOR(S): SENATOR(S) MYERS

02/15/22	(S)	READ THE FIRST TIME - REFERRALS
02/15/22	(S)	L&C, FIN
02/28/22	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/28/22	(S)	Heard & Held

02/28/22 (S) MINUTE(L&C)
 03/14/22 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 03/14/22 (S) Moved CSSB 190(L&C) Out of Committee
 03/14/22 (S) MINUTE(L&C)
 03/15/22 (S) L&C RPT CS 5DP SAME TITLE
 03/15/22 (S) DP: COSTELLO, GRAY-JACKSON, STEVENS,
 MICCICHE, REVAK
 03/21/22 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/21/22 (S) Heard & Held
 03/21/22 (S) MINUTE(FIN)
 03/23/22 (S) FIN AT 1:00 PM SENATE FINANCE 532
 03/23/22 (S) Heard & Held
 03/23/22 (S) MINUTE(FIN)
 03/28/22 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/28/22 (S) -- MEETING CANCELED --
 03/30/22 (S) FIN RPT CS 3NR 3DP NEW TITLE
 03/30/22 (S) DP: BISHOP, HOFFMAN, WIELECHOWSKI
 03/30/22 (S) NR: STEDMAN, WILSON, OLSON
 03/30/22 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/30/22 (S) Moved CSSB 190(FIN) Out of Committee
 03/30/22 (S) MINUTE(FIN)
 04/08/22 (S) TRANSMITTED TO (H)
 04/08/22 (S) VERSION: CSSB 190(FIN)
 04/09/22 (H) READ THE FIRST TIME - REFERRALS
 04/09/22 (H) L&C, FIN
 04/25/22 (H) L&C AT 3:15 PM BARNES 124
 04/25/22 (H) <Bill Hearing Postponed to 4/27/22>
 04/27/22 (H) L&C AT 3:15 PM BARNES 124
 04/27/22 (H) Heard & Held
 04/27/22 (H) MINUTE(L&C)
 04/29/22 (H) L&C AT 9:00 AM BARNES 124
 04/29/22 (H) <Bill Hearing Canceled>
 05/02/22 (H) FIN AT 1:30 PM ADAMS 519
 05/02/22 (H) Scheduled but Not Heard
 05/02/22 (H) L&C AT 3:15 PM BARNES 124
 05/02/22 (H) Heard & Held
 05/02/22 (H) MINUTE(L&C)
 05/04/22 (H) L&C AT 3:15 PM BARNES 124
 05/04/22 (H) Heard & Held
 05/04/22 (H) MINUTE(L&C)
 05/06/22 (H) L&C AT 9:00 AM BARNES 124

BILL: HB 301

SHORT TITLE: UTILITIES: RENEWABLE PORTFOLIO STANDARD

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/04/22 (H) READ THE FIRST TIME - REFERRALS

02/04/22	(H)	ENE, L&C, FIN
03/08/22	(H)	ENE AT 10:15 AM BARNES 124
03/08/22	(H)	Heard & Held
03/08/22	(H)	MINUTE(ENE)
03/10/22	(H)	ENE AT 10:15 AM BARNES 124
03/10/22	(H)	Heard & Held
03/10/22	(H)	MINUTE(ENE)
03/15/22	(H)	ENE AT 10:15 AM BARNES 124
03/15/22	(H)	Heard & Held
03/15/22	(H)	MINUTE(ENE)
03/17/22	(H)	ENE AT 10:15 AM BARNES 124
03/17/22	(H)	Heard & Held
03/17/22	(H)	MINUTE(ENE)
03/22/22	(H)	ENE AT 10:15 AM BARNES 124
03/22/22	(H)	-- MEETING CANCELED --
03/24/22	(H)	ENE AT 10:15 AM BARNES 124
03/24/22	(H)	-- MEETING CANCELED --
04/26/22	(H)	ENE AT 10:15 AM BARNES 124
04/26/22	(H)	Heard & Held
04/26/22	(H)	MINUTE(ENE)
04/28/22	(H)	ENE AT 10:15 AM BARNES 124
04/28/22	(H)	Moved CSHB 301(ENE) Out of Committee
04/28/22	(H)	MINUTE(ENE)
04/29/22	(H)	ENE RPT CS(ENE) NEW TITLE 3DP 1NR 2AM
04/29/22	(H)	DP: TUCK, FIELDS, SCHRAGE
04/29/22	(H)	NR: CLAMAN
04/29/22	(H)	AM: KAUFMAN, RAUSCHER
05/02/22	(H)	L&C AT 3:15 PM BARNES 124
05/02/22	(H)	Heard & Held
05/02/22	(H)	MINUTE(L&C)
05/06/22	(H)	L&C AT 9:00 AM BARNES 124

WITNESS REGISTER

ROBERT "BOB" PICKETT, Chair
 Regulatory Commission of Alaska (RCA)
 Wasilla, Alaska

POSITION STATEMENT: Answered questions during the hearing on
 CSSB 190(FIN).

STUART GOERING, Senior Assistant Attorney General
 Commercial, Fair Business and Child Support Section
 Civil Division (Anchorage)
 Department of Law
 Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on
 CSSB 190(FIN).

SENATOR ROBERT MYERS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, answered questions during the hearing on CSSB 190(FIN).

RYAN JOHNSTON, Staff
Representative Calvin Schrage
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing on HB 301, explained Amendment 2 on behalf of Representative Schrage, sponsor of the amendment.

JULIE ESTEY, Director
External Affairs & Strategic Initiatives
Matanuska Electric Association
Palmer, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 301.

CHRIS ROSE, Executive Director
Renewable Energy Alaska Project (REAP)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 301.

ACTION NARRATIVE

[9:01:45 AM](#)

CO-CHAIR ZACK FIELDS called the House Labor and Commerce Standing Committee meeting to order at 9:01 a.m. Representatives Snyder (via teleconference), Nelson, Schrage, Spohnholz, and Fields were present at the call to order. Representatives Kaufman (via teleconference) and McCarty (via teleconference) arrived as the meeting was in progress.

SB 190-REGULATORY COMMISSION AK/REFUSE UTILITIES

[9:02:01 AM](#)

CO-CHAIR FIELDS announced that the first order of business would be CS FOR SENATE BILL NO. 190(FIN), "An Act extending the termination date of the Regulatory Commission of Alaska;

relating to Regulatory Commission of Alaska regulations regarding refuse utilities; relating to the powers and duties of the legislative audit division; and providing for an effective date."

CO-CHAIR FIELDS reminded members that on 5/4/22 the committee rescinded action on Amendment 1 to CSSB 190(FIN).

[9:02:09 AM](#)

CO-CHAIR FIELDS moved to adopt Amendment 1 to CSSB 190(FIN), labeled 32-LS1525\W.2, Radford/Ambrose, 4/28/22, which read:

Page 1, line 3, following "**division;**":

Insert "**relating to the privatization of refuse utilities;**"

Page 2, following line 8:

Insert a new bill section to read:

"* **Sec. 3.** AS 42.05.641 is amended by adding a new subsection to read:

(b) A municipality that seeks to privatize a municipal refuse utility that is subject to the provisions of this chapter shall submit a proposal to the commission for review. The commission may approve the proposal if the commission finds that privatization will not result in higher rates for consumers and that privatization is in the public interest. A privatization proposal must include

(1) a business plan that lists the prospective vendors;

(2) the projected cost of private operation compared to continued municipal operation for a ten-year period;

(3) disclosure of any potential conflicts of interest on the part of municipal officials; and

(4) proposed methods

(A) for periodically evaluating the utility's performance to avoid diminished service quality, interruption, or stoppage of work by the contractor;

(B) to encourage competition and productivity;

(C) for monitoring a contract in order to detect any contractor defaults, monitor penalties, and prepare for contract renewals or renegotiations and inflation; and

(D) to address municipal employee displacement."

Renumber the following bill sections accordingly.

[9:02:15 AM](#)

REPRESENTATIVE NELSON objected to Amendment 1.

[9:02:23 AM](#)

The committee took a brief at-ease.

[9:02:36 AM](#)

CO-CHAIR FIELDS related that a memorandum from Legislative Legal Services [dated 5/4/22 by Anna Ambrose, Legislative Counsel] states that no legal problems are seen with Amendment 1. So, he continued, there is disagreement between the executive and legislative branches. He said he also spoke to Mr. Robert Pickett, chairman of the Regulatory Commission of Alaska (RCA).

[9:02:52 AM](#)

REPRESENTATIVE NELSON asked whether Co-Chair Fields had talked with the RCA.

CO-CHAIR FIELDS replied that he spoke with Mr. Pickett and there is disagreement between Department of Law lawyers about whether the RCA should be required to do the legwork of looking at a potential privatization impact on consumers. He invited Mr. Pickett to address that conversation.

[9:03:30 AM](#)

ROBERT "BOB" PICKETT, Chairman, Regulatory Commission of Alaska (RCA), deferred to Mr. Stuart Goering to address the high-level points of concern about the lack of definitions, particularly for privatization.

[9:04:13 AM](#)

STUART GOERING, Senior Assistant Attorney General, Commercial, Fair Business and Child Support Section, Civil Division (Anchorage), Department of Law, responded that the information which he sent to Co-Chair Fields does not address any policy matters or whether the underlying concept of Amendment 1 is a

good or bad idea. He said his concern, and that of the Department of Law, is that Amendment 1 as currently written contains several ambiguities, and ambiguities create issues with both implementation and enforcement. He offered [for the department] to work with Co-Chair Fields to identify exactly the problem the co-chair is trying to resolve.

MR. GOERING continued his response. He said the primary issue centers around the meaning of "privatize". He stated that if privatization means that the municipality is selling its certificate of refuse utility to a private entity, then existing law already requires that that transaction be approved in advance by the RCA as a certificate transfer, and therefore it's not clear whether this would add a great deal to that existing process. If privatize refers to a municipality choosing to use contractors to perform some of its utility function, he said, then that's an internal management matter and currently no municipal refuse utilities are economically regulated so they are exempt from any RCA oversight over their internal management. Under current law the RCA has no ability to say anything about that, he continued, and under the amount of information that is currently available to the RCA that would be something completely new. So, Mr. Goering advised, it needs to be clear what privatize means because if it means selling the utility outright, then that requires a certificate transfer; if it does not, then it would mean it is a change in the RCA's oversight of an exempt utility's management function. He requested Co-Chair Fields to describe what is meant by privatized in this context.

[9:07:04 AM](#)

CO-CHAIR FIELDS stated that it would cover either. He said that in the first case where RCA already has some authority, it would outline exactly the review of the financials to make sure consumers are protected. In the latter case of a contracted-out arrangement, he said it would be doing that same review for consumers. He reiterated that Legislative Legal Services did not see legal issues with the amendment, and he therefore surmises it is a disagreement among lawyers.

MR. GOERING responded that the only specific comment [in the Legislative Legal Services memorandum] was related to the constitutionality of the amendment. He said he doesn't disagree that on the whole there are no constitutional issues, but one potential constitutional issue is with the amendment's provision relating to higher rates. In the outright sale of a utility, he

explained, the purchasing private entity that is receiving the certificate is constitutionally entitled to receive statutory rates and those rates may be higher than the rates that the municipality was charging. Although the transfer of a municipal refuse utility hasn't been seen, he continued, there have historically been several transfers of municipal utilities of other types. One was the recent sale of municipal light and power to Chugach Electric Association (CEA) by the Municipality of Anchorage, another was the sale of the water and sewer utilities in Fairbanks to a private entity that has operated them for about 20 years now. Pretty much across the board, Mr. Goering stated, the rates do go up when the private entity gets ownership because the rates that were being charged by the municipality were either obsolete or deliberately subsidized to keep rates low. So, he said, the private entity must raise rates to be able to get a compensatory rate and be able to operate the utility on financially sound footing. The constitutional issue comes in, he asserted, with the requirement that the privatization proposal cannot result in higher rates than if the municipality had continued to operate. Legislative Legal Services did not address this, he posited, perhaps because the agency was not aware of the consequences of that, given the short amount of time the agency had. That's where the actual constitutional issue lies, he added, not in the overall concept. Mr. Goering stated that several things could be done to remove the ambiguities in the amendment so that if it the amendment eventually becomes law it will be clearly implemented and clearly enforceable and doesn't run afoul of the aforementioned constitutional issue.

[9:10:40 AM](#)

CO-CHAIR FIELDS stated he is hesitant to hold up the bill any longer and doesn't think the amendment is unclear but requested Mr. Goering's specific recommendations for changing Amendment 1.

MR. GOERING responded that AS 42.05 has no definition of privatized, so the first place to start is to define that term so it's clear that it does cover both the situations discussed. Second, he said, "subject to the provisions of this chapter" [page 1, line 8, Amendment 1] is ambiguous because all the municipal refuse utilities currently are exempt from regulation, so they are subject only to very, very narrow provisions of the chapter; this would apply to those utilities so it would be better to make that clearer. There are a couple different formulations, he continued, statutes that apply by their terms in AS 42.05 notwithstanding an exemption from AS 42.05 either in

whole or in part, but he recommends that some of that language at least be considered for inclusion so that it's clear that this does apply to an exempt municipal refuse utility. Third, Mr. Goering advised, would be to clarify that the goal of avoiding higher rates is not intended to override normal rate making principles which provide that a certificated private business can have approved rates that compensate the business for its capital investment.

CO-CHAIR FIELDS, regarding Mr. Goering's third recommendation, maintained that the RCA is capable of looking at a municipal cost structure versus a private cost structure for proposed rates and determining which one is higher. The RCA can back out the subsidies, he said, and do an apples-to-apples comparison.

[9:13:01 AM](#)

REPRESENTATIVE NELSON asked whether it is realistic that the RCA would have the power to utilize Amendment 1 if it were to pass.

MR. GOERING answered that from his perspective, if ambiguities were removed it would make it more possible for the RCA to do. He noted that exempt utilities do not pay regulatory cost charges, a mechanism that funds the RCA, and as a result the RCA would be essentially without the resources to do the work as far as an exempt utility is concerned. An appropriation of funds specifically for that purpose might be required, he said, but that would be a fiscal matter better directed to Mr. Pickett.

MR. PICKETT responded that it would depend on the nature and size of the municipal utility being talked about. For larger ones it would be possible to tease out the imputed subsidies, he stated, for some of the smaller ones with the lack of accounting systems and other things it could be nearly impossible. So, he continued, it would span the gamut depending on who is making application for this privatization.

[9:14:57 AM](#)

REPRESENTATIVE KAUFMAN, given the testimony against Amendment 1, asked whether the intent of the amendment is to make it exceedingly difficult or impossible to privatize.

CO-CHAIR FIELDS replied that the intent is to run a model on which is likely to have a better cost impact on consumers and make it available to local government officials and consumers as they decide whether to move forward. He concurred with Mr.

Pickett that sometimes there will be perfectly clear information and sometimes ambiguity. But, he said, it's better to have some information than no information when making such a decision. The modeling would not take all that long, he asserted, and the RCA does complex modeling all the time.

REPRESENTATIVE KAUFMAN posited that if there were ambiguity it would mean that [the RCA] would not be able to proceed.

CO-CHAIR FIELDS answered that [the RCA] could advise consumers and local policymakers based on the information that is had as to an estimate of what the rates would be under either of the two options of governance. He said it is normal in modeling to acknowledge what degree of uncertainty exists based on the underlying data.

REPRESENTATIVE KAUFMAN asked whether the intent is that they could still proceed if there is ambiguity.

CO-CHAIR FIELDS replied yes, absolutely, the local policymakers will have a little more information and can make a judgement based on the information presented by the RCA.

[9:17:12 AM](#)

REPRESENTATIVE MCCARTY offered his understanding that there is already in statute some things in this amendment, yet some ambiguity of the amendment and the delay to get that ambiguity cleaned up may mean there is not time to get the bill through the session. He suggested that pieces of the ambiguity could be worked through next session and maybe the bill should be moved this session to resolve those issues of the intent of the bill.

CO-CHAIR FIELDS responded that Mr. Goering said the RCA does have some review under a sale but does not have review under contracting out the services. In either the case, he continued, the additional clarity around the modeling of cost impacts on consumers has some value, so he is inclined to do the amendment and move the bill. He said he is happy to do clarification later if needed.

[9:18:39 AM](#)

REPRESENTATIVE NELSON requested the prime sponsor's opinion on Amendment 1.

[9:18:53 AM](#)

SENATOR ROBERT MYERS, Alaska State Legislature, prime sponsor of the bill, answered that the more discussion he has had with the RCA, along with the memorandum from the Department of Law, the more concerned he is about Amendment 1. The ambiguity portions are part of it, he said, the Department of Law has pointed out that as written one portion of the amendment may be effectively unenforceable. There are some significant problems here, he submitted, this is a significant policy change. This is about potentially effectively having the RCA start to regulate municipal utilities in some ways, he said, which the RCA doesn't do currently. There is the issue of figuring out what defines creating a higher rate, he continued. For example, regarding subsidy, if a consumer's utility rate goes up but their property tax rate goes down, overall does that result in a lower charge to the consumer? Senator Myers stated that this is enough of a significant policy change that he prefers to see it in a separate bill to be debated on its own merits rather than attaching it to what started out as a simple board extension.

[9:20:31 AM](#)

CO-CHAIR FIELDS asked Co-Chair Spohnholz whether she prefers to clarify the amendment and take it up again next week, which he would be happy to do.

CO-CHAIR SPOHNHOLZ replied that she would like to go slow to ensure it is being done right. She offered her appreciation for the intent of consumer protection and said it is important to think about the impact to individual ratepayers when considering privatization of utilities. Sometimes promises about lower rates and increased services from privatization don't pan out, she continued, and the RCA is expert in this kind of work. She said she would feel comfortable advancing Amendment 1 as an important part of consumer protections if there is clarification of the ambiguities.

[9:21:44 AM](#)

CO-CHAIR FIELDS emphasized that there is no intent to have the RCA regulate municipal refuse utilities in the way the RCA regulates electric generating cooperatives and companies. He said it is simply to have a consumer protection review at a time of proposed governance change that would result in privatization of either ownership or contracted services. It is a new policy, he allowed, but it is limited in scope. He stated that the committee would work on the definition of privatization and

bring the amendment back next week. He apologized to the bill sponsor for the delay.

[9:22:26 AM](#)

CO-CHAIR FIELDS announced that CSSB 190(FIN) was held over.

HB 301-UTILITIES: RENEWABLE PORTFOLIO STANDARD

[9:22:35 AM](#)

CO-CHAIR FIELDS announced that the final order of business would be HOUSE BILL NO. 301, "An Act relating to the establishment of a renewable portfolio standard for regulated electric utilities; and providing for an effective date." [Before the committee was CSHB 301(ENE).]

[9:22:58 AM](#)

REPRESENTATIVE SCHRAGE moved to adopt Amendment 1 to CSHB 301(ENE), labeled 32-GH2546\W.1, Klein, 5/3/22, which read:

Page 7, line 23:
Delete "alternative"
Insert "clean"

[9:23:02 AM](#)

CO-CHAIR FIELDS objected for purposes of discussion.

[9:23:04 AM](#)

REPRESENTATIVE SCHRAGE explained Amendment 1 would change the term "alternative" to "clean". Responding to Co-Chair Fields, he confirmed that Amendment 1 is a technical cleanup because the term "alternative" was missed when the draft came over from the House Special Committee on Energy.

[9:23:22 AM](#)

REPRESENTATIVE NELSON inquired about the definition of "clean".

REPRESENTATIVE SCHRAGE responded that "clean" is defined under the definition section [within Section 6 of CSHB 301(ENE)] where all the sources of energy generation are listed.

CO-CHAIR FIELDS added that the House Special Committee on Energy believed that "clean" was a better term and this straggling term of "alternative" was missed in the cleanup of the bill. He further noted that under the amendment by Representative Tuck in that committee, the term "clean" included nuclear as well as traditional energy generation.

[9:24:14 AM](#)

CO-CHAIR FIELDS removed his objection. There being no further objection, Amendment 1 to CSHB 301(ENE) was adopted.

[9:24:22 AM](#)

REPRESENTATIVE SCHRAGE moved to adopt Amendment 2 to CSHB 301(ENE), labeled 32-GH2546\W.2, Klein, 5/3/22, which read:

Page 8, line 28:
Delete "clean"
Insert "renewable"

Page 8, line 30:
Delete the first occurrence of "clean"
Insert "renewable"

Page 8, line 31:
Delete the first occurrence of "clean"
Insert "renewable"

Page 9, line 1:
Delete the first occurrence of "clean"
Insert "renewable"

[9:24:25 AM](#)

CO-CHAIR FIELDS objected for purposes of discussion.

[9:24:26 AM](#)

REPRESENTATIVE SCHRAGE explained that Amendment 2 is further cleanup in that it deletes "clean" and inserts "renewable" in [four] occurrences. He requested Mr. Ryan Johnston to explain Amendment 2 in more detail.

[9:24:47 AM](#)

RYAN JOHNSTON, Staff, Representative Calvin Schrage, Alaska State Legislature, on behalf of Representative Schrage, sponsor of Amendment 2, explained that in the House Special Committee on Energy an amendment by Representative Tuck changed "alternative", but then a conceptual amendment changed back to "clean". When that was done on the fly, he continued, "it left 'clean' in every area, but it has 'clean' and 'clean energy' in those places, so we don't need four cleans, so changing it back to 'renewable'." Also, he noted, that section of the bill does not fall within the new clean energy statute, it falls within the existing Alaska Energy Authority (AEA) statute, and because AEA is still using its definitions of renewable and clean, it makes the most sense to continue using "renewable" and "clean" for the Alaska Energy authority.

[9:25:49 AM](#)

REPRESENTATIVE MCCARTY asked whether removing "clean" would also remove alternative ways of producing energy or securing the intent that polluting types of things not be made.

CO-CHAIR FIELDS responded no.

REPRESENTATIVE MCCARTY, regarding the use of renewable language only, inquired about the utility systems that are producing energy through, say, natural gas and scrubbing to not pollute the environment.

CO-CHAIR FIELDS replied that Amendment 2 is a technical cleanup because there are underlying AEA statutes that address renewable energy, and that is all Amendment 2 cleans up. Under the bill, he said, the clean energy standard is inclusive of nuclear and what most people would consider renewable, including hydropower, wind, tidal, and solar. Natural gas is not considered clean energy because of its greenhouse impact, he explained.

MR. JOHNSTON drew attention to page 8 of the bill, [lines 28-29], which state, "identifying progress developing clean and clean energy resources". In Amendment 2, he clarified, only [the first "clean"] would be replaced so that those lines would state, "identifying progress developing renewable and clean energy resources".

[9:28:32 AM](#)

REPRESENTATIVE KAUFMAN suggested that a conceptual amendment may be needed because in the language on line 28 removing "clean" there is an "and".

MR. JOHNSTON answered that the amendment would delete "clean" and insert "renewable" so the language [on lines 28-29] would read, "developing renewable and clean energy".

[9:29:13 AM](#)

REPRESENTATIVE MCCARTY asked whether the ability to scrub is acknowledged.

CO-CHAIR FIELDS replied that that will be addressed in the next amendment.

[9:30:00 AM](#)

CO-CHAIR FIELDS removed his objection to Amendment 2. There being no further objection, Amendment 2 was adopted.

[9:30:11 AM](#)

CO-CHAIR FIELDS explained that he will be offering Amendment 3, which is an idea that came out of discussion in the House Special Committee on Energy where Representative Kaufman suggested that there should be a process to potentially change what falls within the definition of clean energy resources. He said he thinks one pending technological change that could play out is carbon capturing sequestration, whether from gas or from coal. Under Amendment 3, he said, AEA would report back to the legislature and the legislature would have the authority to change the definition of clean energy resources; AEA is being asked to advise the legislature on it because AEA is the expert.

[9:31:19 AM](#)

CO-CHAIR FIELDS moved to adopt Amendment [3] to CSHB 301(ENE), labeled 32-GH2546\W.3, Klein, 5/4/22, which read:

Page 7, following line 20:

Insert a new section to read:

"Sec. 42.05.925. Additional renewable energy resources. Not less than once every five years, the commission shall request a report from the Alaska Energy Authority reviewing clean energy technologies, and determine whether an available technology is an

approved renewable energy resource for purposes of complying with the clean energy standard."

Page 7, line 21:

Delete "**Sec. 42.05.925**"

Insert "**Sec. 42.05.930**"

Delete "AS 42.05.900 - 42.05.925"

Insert "AS 42.05.900 - 42.05.930"

Page 8, line 4:

Delete "or"

Page 8, line 5, following "nuclear;":

Insert "or

(F) a resource that the commission approves under AS 42.05.925;"

[9:31:41 AM](#)

REPRESENTATIVE KAUFMAN objected to Amendment 3.

[9:31:52 AM](#)

REPRESENTATIVE MCCARTY thanked the maker of the amendment. He said it needs to be recognized that technology evolves in many different realms, even in operations that are using natural gas, a classic example being the growing of vegetables in the Chena Hot Springs hot house.

[9:32:46 AM](#)

REPRESENTATIVE KAUFMAN removed his objection to Amendment 3 and thanked Co-Chair Fields for the concept in the amendment. There being no further objection, Amendment 3 was adopted.

CO-CHAIR FIELDS thanked Representative Kaufman for the idea for Amendment 3.

[9:33:03 AM](#)

CO-CHAIR FIELDS moved to adopt Amendment 4 to CSHB 301(ENE), labeled 32-GH2546\W.4, Dunmire/Klein, 5/3/22, which read:

Page 3, line 27:

Delete "2030"

Insert "2027"

Page 8, line 11:

Delete "each 10-year period"

Insert "the period before December 31, 2027, the period between December 31, 2027, and December 31, 2040, or the period between December 31, 2040 and December 31, 2050, as"

[9:33:06 AM](#)

CO-CHAIR SPOHNHOLZ objected for purposes of explanation.

[9:33:08 AM](#)

CO-CHAIR FIELDS explained Amendment 4 would move up by three years the first deadline for the Clean Energy Standard. One reason for that, he related, was the discussion by stakeholders around potential ramp down of Cook Inlet gas production, which motivated him to ramp up renewable energy generation and to more quickly diversify Alaska's energy sources to provide consumers with protection and options. Another factor in proposing to move 2030 to 2027, he stated, is that under the bill the energy generation doesn't have to be installed and operating by the target date. A two-year time horizon goes beyond the target date so a project could be approved in 2027 and deployed in 2029, he continued, and given that it made sense to move the date to 2027. Many projects deployed under this bill will be operational in 2029, he added.

[9:34:20 AM](#)

REPRESENTATIVE NELSON asked whether the AEA has been contacted as to whether moving down three years is a realistic goal.

CO-CHAIR FIELDS replied that he hasn't talked to AEA but has shared this with the utilities. He said Amendment 3 was also based on suggestion from previous testifiers. He noted that the bill as introduced by the Dunleavy Administration had 2025 as the first target, so 2027 meets in the middle. He invited Ms. Julie Estey to speak to the dates.

[9:35:13 AM](#)

JULIE ESTEY, Director, External Affairs & Strategic Initiatives, Matanuska Electric Association (MEA), responded that the utilities have been consistent in wanting this first deadline to offer some additional flexibility from the initial governor's bill in recognition of regular project timelines that could

cause further delays. She said [the utilities] would prefer that it remain 2030 in recognition of project timelines. In working with renewable energy developers and developing projects, she continued, [the utilities must go through] permitting and land acquisition, and one current power producer is running into increased costs of solar panels and financing due to the global unrest. In consideration of the realities of making this happen, [the utilities] would prefer that it remain at 2030.

[9:36:32 AM](#)

CO-CHAIR SPOHNHOLZ drew attention to subsection (d) on page 4 of the bill, beginning on line 20, which states "if the capacity will begin providing the clean electrical energy to the load-serving entity not later than (1) two years after the end of the compliance period". She said she interprets that to mean that amending the year to 2027 for the first goal would result in not having anything online [until] 2029. She asked whether Mr. Chris Rose has the same reading or any concerns about the [proposed date change].

[9:37:33 AM](#)

CHRIS ROSE, Executive Director, Renewable Energy Alaska Project (REAP), answered that that is the way he would read it. The original bill had 2025, he said, and he has concerns with moving it to 2030. The Railbelt utilities are currently at about 20 percent, he stated, so it would be moving from 20 percent to 25 percent by 2027. He further noted that the original bill's requirement of 30 percent has been moved down to 25 percent, so the amount of electricity that must be renewable by 2027 has already been reduced by 5 percent. As pointed out by Co-Chair Fields, he continued, moving to 2027 would require that the projects be in service and delivering electricity by 2029, which is seven years away. He said there are many small projects that the utilities could be undertaking right now that would move toward that, plus there is waiver language in the bill that would allow the utilities to make a case to the RCA if they felt there was something that really prevented them from getting to the 25 percent by 2027. He said REAP supports Amendment 3 to move it to 2027.

[9:39:00 AM](#)

CO-CHAIR SPOHNHOLZ requested Mr. Rose to talk about the waiver language and how he thinks that that provides utilities the flexibility they need.

MR. ROSE replied that there are multiple elements to the waiver language that the utilities could bring to the RCA to say they tried to do this but couldn't for these reasons. Some of those reasons could be the ones that Ms. Estey brought up, such as problems with supply chains or transmission. He said the new electric reliability organization (ERO) will hopefully be certificated by this fall and will begin doing its first integrated resource plan sometime next year. That plan, he specified, will develop lots of alternative portfolios that will eventually be approved by the RCA. Wind and solar projects can be built in two years or less, he advised. If the requirement was to go this direction in 2025 there is four years, he said, two years until 2027 and then an additional two years under the provisions of the bill to get it built and the project done. Emphasis on moving this direction needs to continue, he stressed, particularly given the availability of Cook Inlet gas. He said REAP supports this important amendment.

[9:41:03 AM](#)

REPRESENTATIVE KAUFMAN stated he finds merit in the arguments of potential difficulty and that current supply chain issues will only get worse, as will inflation. Given global and US issues with respect to the economy, inflation, and stagnation, he said he believes [the legislature] must tread carefully. He added that he doesn't see anything wrong with the utilities leading the target knowing that requirements are coming, but not having to go through the processes described. He said he will therefore object to Amendment 3 although he appreciates some of the arguments for it.

REPRESENTATIVE MCCARTY concurred with Representative Kaufman. He said while flying over the Port of Seattle he saw a diminished number of cargo containers in the port, and he has heard that China is reducing [its exports]. The goal is admirable, he said, but the timeline is too quick, so he agrees with keeping it at 2030, plus the goal is not being diminished.

[9:43:12 AM](#)

REPRESENTATIVE KAUFMAN requested Ms. Estey's thoughts on this subject.

MS. ESTEY offered a correction. She specified that by [the utilities'] current calculations the Railbelt is around 15.3 percent renewable, so it would be a jump of 10 percent, which is significant. She stated that the high capital-intensive utility industry has a long lead time for developing a project. While she hears Mr. Rose's point about going to the RCA with the reasons [the utilities] can't meet this goal, she said the preference is to set goals that are achievable. In establishing this big policy, she argued, one of the worst things that could happen would be to set it up for the utilities not to make that first goal. Setting it to 2030 gives a longer line of sight and takes in the realities of permitting, interconnection, and transmission which take substantial time. For example, she continued, MEA has now been going through a transmission line process for a couple years and is looking at potential legal challenges, so there are just significant realities. She pointed out that under the bill's provisions the RCA will have two years after the bill's passage to promulgate regulations, meaning the regulations wouldn't be out until 2024 if the bill is passed in 2022. As to the integrated resource plan, she noted that it will be a year at best before all the pieces are in place to start the integrated resource planning and then another year or two after that. [The utilities] want the timelines to be realistic and achievable, Ms. Estey stated. The utilities are not trying to push back, she stressed, the utilities are saying this isn't realistic.

[9:46:10 AM](#)

CO-CHAIR FIELDS stated he is tired of the utilities moving the goalposts as he didn't hear any concerns yesterday when he told Ms. Estey about this deadline. He said he previously heard support from the utilities for compromising, and 2027 and 25 percent is a compromise. This is moving way slower on renewable energy than almost any other set of utilities in the US has moved, he asserted. Keeping it at 2030 is 10 years before requiring a single kilowatt hour from renewable energy from flowing into the grid which, he argued, is indefensible. The governor put out a fairly aggressive target, he continued, and he has worked in good faith to advance compromise.

[9:47:11 AM](#)

A roll call vote was taken. Representatives Schrage, Snyder, Fields, and Spohnholz voted in favor of Amendment 4. Representatives Kaufman, McCarty, and Nelson voted against it.

Therefore, Amendment 4 to CSHB 301(ENE) was adopted by the House Labor and Commerce Standing Committee by a vote of 4-3.

[9:47:59 AM](#)

The committee took an at-ease from 9:47 a.m. to 9:48 p.m.

[9:48:23 AM](#)

CO-CHAIR FIELDS moved to adopt Amendment 5 to CSHB 301(ENE), labeled 32-GH2546\W.5, Klein, 5/4/22, which read:

Page 7, line 25, following "is":

Insert "generated from capacity built on or after July 1, 2022, that generates electrical energy"

[9:48:26 AM](#)

CO-CHAIR SPOHNHOLZ objected for purposes of explanation.

[9:48:27 AM](#)

CO-CHAIR FIELDS spoke to Amendment 5. He said the original bill introduced by the administration had no renewable energy credits. Renewable energy credits, he explained, provide utilities with additional flexibility in terms of meeting the goal because a rural community off the Railbelt could build renewable energy generation where maybe the net savings to consumers is greater and sell renewable energy credits to Railbelt utilities. He related that in discussion in the House Special Committee on Energy it wasn't clear when projects had to be online to qualify for these renewable energy credits. Also heard, he noted, was concern from utilities about requiring re-litigation of the Bradley Lake Agreement, so in the interest of not re-litigating the Bradley Lake Agreement and tariff issues, Amendment 5 clarifies that renewable energy credits under this bill would be for generation built on or after 7/1/2022. He said this gives additional flexibility for utilities and gives rural Alaska stake in the success of the bill.

[9:49:39 AM](#)

REPRESENTATIVE NELSON offered his understanding that the credits would be available to any company that has developed energy from 7/1/22 onward.

CO-CHAIR FIELDS replied yes, Amendment 5 is for projects going forward, it clarifies that this is new generation. It would be pointless to write a renewable portfolio standard (RPS) that would count all the existing hydropower in Southeast Alaska, he explained. But, he said, if communities in Southeast Alaska or Western Alaska want to build additional renewable capacity and count that toward the RPS goal for the Railbelt under this bill, then it is a win-win.

REPRESENTATIVE NELSON inquired about the kind of projects that energy producers might have online soon and whether they could utilize this credit almost immediately.

CO-CHAIR FIELDS answered that several projects listed in the AEA portfolio are funded under the Renewable Energy Fund, what is called a waterfall, so it is the prioritized projects. He invited Mr. Rose to detail some of the potential near-term projects in rural Alaska that could qualify for renewable energy credits under Amendment 5.

[9:51:03 AM](#)

MR. ROSE responded that the Renewable Energy Fund Advisory Committee recently approved \$14.9 million for projects. He said he doesn't have a list of those projects, but some were construction projects, of which many were feasibility on cost and studies. He related that more than \$600 million worth of projects have moved forward since the Renewable Energy Fund was developed in 2008. About 85 construction projects have been developed through that fund, he continued, through both state appropriations and matching funds from federal and local entities. Many communities are working on projects right now, he stated, because the technology continues to evolve and because the very high electric rates in rural Alaska are probably going to be much higher given oil prices. So, he added, here is incredible incentive for those communities to reduce their dependence on imported diesel for generation. Mr. Rose said REAP believes there is going to be continued movement on renewable energy across rural Alaska. He said he cannot speak to future potential increases in hydroelectric generation in Southeast Alaska, but it is a possibility.

[9:52:39 AM](#)

REPRESENTATIVE NELSON asked whether the credits in Amendment 5 would fall on a project that is halfway built or would not be producing electricity for a couple years for a rural community.

MR. ROSE replied that he doesn't have the language in front of him, but he thinks that that is an important point. He suggested it could be clarified that projects that were under construction as of July 2022 could be eligible because it is possible that some projects are currently underway.

CO-CHAIR FIELDS stated that his intent is new projects, not projects that are 98 percent completed.

[9:53:38 AM](#)

REPRESENTATIVE KAUFMAN asked whether Co-Chair Fields believes the language in Amendment 5 is clear relative to his intent.

CO-CHAIR FIELDS answered that he thinks it is but will check with Legislative Legal Services and if it isn't sufficiently clear it can be cleaned up with an amendment on the floor.

REPRESENTATIVE KAUFMAN noted that he is okay with that.

[9:54:13 AM](#)

CO-CHAIR SPOHNHOLZ removed her objection to Amendment 5. There being no further objection, Amendment 5 was adopted.

[9:54:24 AM](#)

CO-CHAIR FIELDS moved to adopt Amendment 6 to CSHB 301(ENE), labeled 32-GH2546\W.6, Klein, 5/6/22, which read:

Page 4, line 17:
Delete "fine"
Insert "penalty"

Page 6, line 5:
Delete "**fine**"
Insert "**penalty**"

Page 6, line 7:
Delete "fine"
Insert "penalty"

Page 6, line 8, following "standard":
Insert "that must be invested by the load-serving entity in clean energy generation"

Page 6, line 9:
Delete "fine"
Insert "penalty"

Page 7, line 2:
Delete "fine"
Insert "penalty"

Page 7, line 5:
Delete "fine"
Insert "penalty"

Page 7, line 9:
Delete "fine paid"
Insert "penalty incurred"

Page 7, line 12:
Delete "payment of the fine"
Insert "imposition of the penalty"

Page 7, following line 15:
Insert a new subsection to read:
"(f) To satisfy a penalty imposed under this section, a load-serving entity shall invest an amount equal to the penalty in clean energy generation for the benefit of the entity's customers."

[9:54:25 AM](#)

CO-CHAIR SPOHNHOLZ objected for purposes of explanation.

[9:54:26 AM](#)

CO-CHAIR FIELDS explained that Amendment 6 is a suggestion from the utilities that fines under the bill would be collected from ratepayers because most utilities are cooperatives so there is no other source of money. Additionally, he said, Amendment 6 cleans up the fine structure so that rather than having the fine flow through the utility, then to the RCA, and back to the utility, the fines would be changed to a penalty year. The amendment, he continued, clarifies that any penalties under the bill would be collected by the utility and reinvested in clean energy generation to help meet the bill's intent. Amendment 6 does not change the amount of the fine, he related. He further pointed out that the RCA's updated fiscal note is lower, in part in recognition of Amendment 6 where the RCA will not be collecting money. He stated that if there are any fines

implemented in this bill, consumers will be curious as to why they are being fined, what the fine is going toward, and as a consumer he would want to see that his cooperative, if fined, would be reinvesting his dollars into renewable energy generation. It is not a fine for the sake of a fine, he stressed, it is a fine or penalty for the sake of meeting the goals in this bill.

[9:56:04 AM](#)

REPRESENTATIVE NELSON, regarding the last section of Amendment 6, asked whether the amendment sponsor would be open to having the fine rebated back to the customer originally.

CO-CHAIR FIELDS replied that he thinks if that were done there would be no meaningful penalty for utilities failing to meet the requirements of the bill.

CO-CHAIR SPOHNHOLZ interjected to indicate it might actually be an incentive.

CO-CHAIR FIELDS continued his response with "unless we want to have a personal penalty for the board members," but said he doesn't want "to go there." He said he would prefer a fair structure of having reasonable contents that will meet the goals of the bill that don't personally penalize the people who work for the utilities.

[9:57:01 AM](#)

CO-CHAIR SPOHNHOLZ removed her objection to Amendment 6. There being no further objection, Amendment 6 was adopted.

[9:57:10 AM](#)

CO-CHAIR FIELDS moved to adopt Amendment 7 to CSHB 301(ENE), labeled 32-GH2546\W.7, Klein, 5/4/22, which read:

Page 2, line 1, following the first occurrence of "energy":

Insert "generated from capacity constructed on or after July 1, 2022,"

[9:57:11 AM](#)

CO-CHAIR SPOHNHOLZ objected for purposes of explanation.

[9:57:12 AM](#)

CO-CHAIR FIELDS noted that Amendment 7 accompanies Amendment 5. He said a request from the utilities was to have a consistent tariff up and down the Railbelt for dispatch of renewable energy but that it be structured in a way that doesn't re-litigate the Bradley Lake Agreement. The virtue of a flat tariff throughout the Railbelt, he explained, is that even if renewable energy generation is deployed in, say, Seward, that energy should be able to be dispatched up to Chugach Electric Association, or Matanuska Electric Association, or Golden Valley Electric Association without pancaking tariffs that disincentivize the production and dispatch of such energy. He noted that in terms of the structure of the drafting it took two amendments to do that - Amendment 5 and Amendment 7.

[9:58:14 AM](#)

CO-CHAIR SPOHNHOLZ removed her objection to Amendment 7. There being no further objection, Amendment 7 was adopted.

[9:58:23 AM](#)

The committee took an at-ease from 9:58 a.m. to 10:22 a.m.

[10:22:18 AM](#)

CO-CHAIR FIELDS announced that CSHB 301(ENE) was held over.

[10:22:36 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 10:22 p.m.