ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE
April 26, 2021
1:03 p.m.

MEMBERS PRESENT

Representative Josiah Patkotak, Chair
Representative Grier Hopkins, Vice Chair
Representative Zack Fields
Representative Calvin Schrage
Representative Sara Hannan
Representative George Rauscher
Representative Mike Cronk
Representative Ronald Gillham
Representative Tom McKay

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 135
"An Act relating to geothermal resources; relating to the definition of 'geothermal resources'; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 171
"An Act relating to pollutants; relating to perfluoroalkyl and polyfluoroalkyl substances; relating to the duties of the Department of Environmental Conservation; relating to firefighting substances; relating to thermal remediation of perfluoroalkyl and polyfluoroalkyl substance contamination; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 135
SHORT TITLE: GEOTHERMAL RESOURCES
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/10/21 (H) READ THE FIRST TIME - REFERRALS

03/10/21	(H)	RES, FIN
04/22/21	(H)	RES WAIVED PUBLIC HEARING NOTICE, RULE 23(A) UC
04/23/21	(H)	RES AT 10:30 AM BARNES 124
04/23/21	(H)	Heard & Held
04/23/21	(H)	MINUTE(RES)
04/23/21	(H)	RES AT 1:00 PM BARNES 124
04/23/21	(H)	-- MEETING CANCELED --
04/26/21	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 171
SHORT TITLE: PFAS USE & REMEDIATION; FIRE/WATER SAFETY
SPONSOR(s): HANNAN

04/12/21	(H)	READ THE FIRST TIME - REFERRALS
04/12/21	(H)	RES, FIN
04/26/21	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

HAILEY PAINE, Deputy Director
Division of Oil and Gas (DOG)
Department of Natural Resources (DNR)
Anchorage, Alaska
POSITION STATEMENT: Provided information and answered questions during the hearing on HB 135.

STEVE MASTERMAN, Director
Division of Geological and Geophysical Surveys (DGGS)
Department of Natural Resources (DNR)
Fairbanks, Alaska
POSITION STATEMENT: Presented a PowerPoint during the hearing on HB 135.

SEAN CLIFTON, Policy and Program Specialist
Division of Oil and Gas
Department of Natural Resources (DNR)
Anchorage, Alaska
POSITION STATEMENT: Provided information and answered questions during the hearing on HB 135.

JEREMY PRICE, Commissioner/Chair
Alaska Oil and Gas Conservation Commission (AOGCC)
Department of Commerce, Community, and Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Provided information and answered questions during the hearing on HB 135.

Tim Clark, Staff
Representative Sara Hannan
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Provided information and answered questions during the hearing on HB 171 on behalf of Representative Hannan, prime sponsor.

KELLY MCLAUGHLIN, Chair
Gustavus PFAS Action Coalition (GPAC)
Gustavus, Alaska
POSITION STATEMENT: Testified in support of HB 171.

PAMELA MILLER, Executive Director
Alaska Community Action on Toxics (ACAT)
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 171.

JOHN KENNISH
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 171.

KRISTINE BENSON
Juneau, Alaska
POSITION STATEMENT: Testified in support of HB 171.

STEVE RISOTTO, Senior Director
American Chemistry Council
Washington, D.C.
POSITION STATEMENT: Testified in opposition to HB 171.

SARA THOMAS
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 171.

ACTION NARRATIVE

1:03:31 PM

CHAIR JOSIAH PATKOTAK called the House Resources Standing Committee meeting to order at 1:03 p.m. Representatives McKay, Cronk, Hopkins, Rauscher, Hannan, Gillham, and Patkotak were present at the call to order. Representatives Fields and Schrage arrived as the meeting was in progress.

HB 135-GEOTHERMAL RESOURCES

1:04:16 PM

CHAIR PATKOTAK announced that the first order of business would be HOUSE BILL NO. 135, "An Act relating to geothermal resources; relating to the definition of 'geothermal resources'; and providing for an effective date."

1:05:44 PM

The committee took a brief at-ease.

1:06:23 PM

HAILEY PAINE, Deputy Director, Division of Oil and Gas (DOG), Department of Natural Resources (DNR), resumed the PowerPoint presentation [hard copy included in the committee packet], began during the April 23, 2021, meeting of the House Resources Standing Committee, with slide 26, "Examples of Geothermal Systems." She explained that this section of the presentation would highlight the locations in Alaska which could be affected under HB 135. She then deferred to Mr. Masterman to continue the presentation.

1:07:53 PM

STEVE MASTERMAN, Director, Division of Geological and Geophysical Surveys (DGGS), Department of Natural Resources, began his presentation with slide 27, "Mt Spurr," showing a map of the Mt. Spurr volcanic system across Cook Inlet from Anchorage, approximately 35 miles from the power lines that service Anchorage. He said that with a surface temperature of about 40 degrees Celsius, Mt. Spurr is classified as a warm spring, so there will be further exploration in hopes of finding warmer water containing more energy. He noted that GeoAlaska LLC and Raser Power Systems, LLC are exploring the area since Ormat Technologies, Inc. found only dry wells and subsequently moved out . He continued to slide 28, "Pilgrim Hot Springs," showing a map of a geothermal system on the Seward Peninsula with a surface water temperature of 50 degrees Celsius, 92 degrees Celsius at drilling depth of 120 meters, and a suspected temperature of 150 degrees Celsius in the reservoir. He noted the hot spring's proximity to Nome and Graphite Creek, each requiring about six megawatts of power but currently using diesel generated power. He said that if the hot water reservoir

at Pilgrim Hot Springs is found, the energy generation will be in the tens of megawatts, powering both Nome and the Graphite Creek Mine. He pointed out the areas where drilling has already happened and the nearby fault line which could contain more hot water.

1:18:57 PM

REPRESENTATIVE HANNAN referred to slide 24 and asked about the phrase "naturally or artificially in the geothermal system."

MR. MASTERMAN explained that some of the new developments of geothermal energy allow for dry systems; for instance, liquids injected into an area of hot rock could be recovered from the same bore hole, creating a closed-loop system.

1:21:28 PM

SEAN CLIFTON, Policy and Program Specialist, Division of Oil and Gas, Department of Natural Resources, addressed questions remaining from the House Resources Standing Committee meeting on April 23, 2021. He said that geothermal resource production would be the only instance in which a subsurface mineral resource owned by the state would contain an exemption for private use. He clarified that if a landowner were to find gold or oil on the property to which they own the surface rights, they would be required to go through the state for permits and pay royalties on the resource production.

1:22:49 PM

REPRESENTATIVE FIELDS inquired about recent geothermal projects and the associated prices per kilowatt hour.

MR. CLIFTON responded that he doesn't have an answer.

1:23:46 PM

JEREMY PRICE, Commissioner/Chair, Alaska Oil and Gas Conservation Commission (AOGCC), Department of Commerce, Community, and Economic Development (DCCED), said that DNR worked with AOGCC to identify any areas of concern prior to introducing HB 135.

1:24:22 PM

MR. CLIFTON said that, with regards to preferential rights, it's established in AS 38.05.125 that a subsurface owner or lessee must be given reasonable use of the surface for purposes of exploration and production. He explained that if a developer wanted access to private surface property, the developer and surface owner would need to have a private agreement with some form of compensation, such as money or building a road. With geothermal development, he said, free energy could be part of the compensation. He said that private, mutually-beneficial agreements are very common, but if the parties are unable to come to an agreement and the developer can't find other access, DNR may be asked to intervene under AS 38.05.130, with the procedure defined in 11 AAC 86.145.

1:27:17 PM

REPRESENTATIVE HANNAN asked what the surface infrastructure would be once a geothermal site is identified for development.

MR. CLIFTON replied that the geothermal plant would be built as close to the water source as possible, with power lines stretching to the end of the grid.

MR. MASTERMAN explained that there would be a small facility at the well field with a building housing the power turbines and a road or airstrip for access. He said that the facilities would be self-contained, as the only end product is the power that travels along the powerline.

REPRESENTATIVE HANNAN asked Mr. Masterman how he would define "small."

MR. MASTERMAN replied that geothermal systems producing hundreds of megawatts would require a large powerplant, but a system like Chena Hot Springs that produces hundreds of kilowatts would require only "a small warehouse kind of size."

CHAIR PATKOTAK asked about the size of the Pilgrim Hot Springs plant.

MR. MASTERMAN noted that it would be helpful to provide some visual examples of powerplants around the world.

1:33:04 PM

CHAIR PATKOTAK asked Mr. Clifton whether imminent domain would play a role in geothermal development.

MR. CLIFTON replied that imminent domain applies to scenarios within the purview of the Department of Transportation and Public Facilities (DOT&PF) rather than DNR.

CHAIR PATKOTAK noted that Mr. Clifton had earlier asserted that the state would intervene if a developer and surface owner couldn't come to an agreement.

MR. CLIFTON explained that it would be the DNR commissioner mediating a reasonable agreement between the parties rather than the state seizing the land or forcing a sale.

1:35:24 PM

REPRESENTATIVE GILLHAM asked about a possible timeline for a power plant to begin production.

MR. MASTERMAN explained that once a geothermal reservoir is found there would be a period of engineering studies, permitting, and economics to be established and confirmed. He said that five to ten years would be a reasonable timeline for a facility in a remote part of the state.

CHAIR PATKOTAK noted that it would be a privately owned or co-operated facility.

1:37:18 PM

REPRESENTATIVE HANNAN asked what the subsurface rights are under current law.

MS. PAINE responded that currently, if a developer requested a geothermal prospecting permit, the surface owner would have 30 days to apply for their own permit, which would have preference. Under HB 135 the surface owner would not be allowed to apply.

CHAIR PATKOTAK asked why a surface owner would apply.

MS. PAINE replied that the surface owners would most commonly apply for a permit in the hope of reselling the exploration rights to the developer. He clarified that a landowner could still use the subsurface resource for a personal use like a home heat pump.

1:40:18 PM

CHAIR PATKOTAK announced that HB 135 was held over.

HB 171-PFAS USE & REMEDIATION; FIRE/WATER SAFETY

1:40:37 PM

CHAIR PATKOTAK announced that the final order of business would be HOUSE BILL NO. 171, "An Act relating to pollutants; relating to perfluoroalkyl and polyfluoroalkyl substances; relating to the duties of the Department of Environmental Conservation; relating to firefighting substances; relating to thermal remediation of perfluoroalkyl and polyfluoroalkyl substance contamination; and providing for an effective date."

1:41:04 PM

REPRESENTATIVE HANNAN, as prime sponsor, introduced HB 171 and paraphrased the sponsor statement, which read as follows [original punctuation provided]:

> Per- and polyfluoroalkyl substances (PFAS) are a group of chemicals harmful to human health. They are linked to serious health conditions including low birth weight, thyroid disease, and cancer. Low levels of exposure are common because PFAS can be found in products from non-stick cookware to waterproof jackets. But large-scale exposures happen where certain firefighting foams or other compounds containing PFAS seep into drinking water and linger for years.
>
> Alaska's Department of Environmental Conservation declared PFAS hazardous substances several years ago.
>
> House Bill 171:
> • sets health-protective limits on the amount of PFAS in drinking water
> • guarantees Alaskans in areas with high levels of PFAS contamination get clean drinking water and their blood levels checked
> • bans PFAS foams in October of 2021, which is when the Federal Aviation Administration will stop requiring airports to use them
> • prohibits thermal remediation (i.e., burning) of PFAS contamination unless a facility obtains a permit from the Department of Environmental Conservation that ensures the process will not result in the release of

more than a minimal amount of an airborne compound with a carbon-fluorine bond.

The bill carves out an exemption for those producing, transporting, or refining oil and gas until the State Fire Marshal determines effective alternatives exist for the intensity of the fire threats oil & gas operations face.

1:48:34 PM

REPRESENTATIVE HOPKINS asked Representative Hannan to clarify whether HB 171 would prevent the use of PFAS at airports or just stop the testing.

REPRESENTATIVE HANNAN said that the Alaska Department of Transportation & Public Facilities (DOT&PF) has told airports in the state to not test [using PFAS]. While the Federal Aviation Administration (FAA) regulations on PFAS will change in October, she said, PFAS has not been used in annual testing in Alaska's airports "for about a year."

1:49:36 PM

TIM CLARK, Staff, Representative Sara Hannan, Alaska State Legislature, clarified that HB 171 would ban the use of PFAS foams at airports in Alaska, but only after FAA rescinds its requirement, which is scheduled for October 1, 2021. He then detailed the Sectional Summary, which read as follows [original punctuation provided]:

Sec. 1 of the bill creates several new sections in AS 46.03:

Sec. 46.03.340(a): Directs the Department of Environmental Conservation to test drinking water near PFAS spills. Requires the department to make sure anyone with contaminated drinking water gets clean drinking water and at least one voluntary test of their blood to determine PFAS levels.

Sec. 46.03.340(b): Sets health-based maximum levels of contamination in drinking water for seven PFAS chemicals and maintains DEC's authority to set more protective thresholds.

Sec. 46.03.340(c): Requires DEC to make sure a responder exposed to PFAS contamination gets and at least one voluntary test of their blood to determine PFAS levels.

Sec. 46.03.345(a) states that a person who causes a fire that results in the release of PFAS-containing foams is liable for the costs of providing drinking water, drinking water testing, and blood testing under AS 46.03.340 of the bill.

Sec. 46.03.345(b) states that persons who use PFAS-containing substances to extinguish a fire (i.e. fire departments) are not liable for providing drinking water, drinking water testing, blood testing, and cleanup costs. This exemption from liability does not extend to the use of PFAS-containing substances for training or testing purposes.

Sec. 46.03.345(c) states that the liability for these costs is in addition to other liability existing in areas of state law relevant to the release of PFAS substances.

Sec. 46.03.345 (d) provides definitions for "motor vehicle" and "residential building" as they are used in this section.

Sec. 46.03.350(a) exempts oil & gas production, transmission, transportation, and refining businesses from the prohibition from using PFAS-containing firefighting foams unless the state fire marshal publishes notice that an alternative firefighting substance must be used.

Sec. 46.03.350(b) states that if the state fire marshal determines that a safe and effective alternative firefighting substance is available for use by oil & gas businesses, the fire marshal must immediately publish notice that the alternative substance must be used by the industry.

Sec. 46.03.350(c): DEC must take up to 25 gallons per year of PFAS-containing firefighting foam from Alaskans for disposal.

Sec. 46.03.350(d): With the exception of oil & gas businesses, this subsection prohibits the use of PFAS-containing firefighting substances by persons in the state unless the use is required by federal law. (Sec. 5 of the bill provides an effective date for this prohibition of October 4, 2021.)

Sec. 46.03.355 states that a facility cannot thermally remediate (that is, burn away) PFAS contamination unless it has a permit to do so from the Department of Environmental Conservation that is compliant with sections 501 through 507 of the Clean Air Act. To be permitted, the thermal remediation process must not result in the release of more than a minimal amount of an airborne compound with a carbonfluorine bond.

Sec. 46.03.359: Lists the PFAS compounds covered by this bill and maintains DEC's authority to list more.

Sec. 2 of the bill addresses the retroactive applicability of the liability sections of the act in uncodified law.

Sec. 3 adds transition language regarding the adoption of regulations for implementing the act and the effective date of those regulations.

Sec. 4 provides an effective date of October 4th, 2021 to the prohibition on the use of PFAS in section 1 of the bill.

Sec. 5 gives an immediate effective date to sections 2 and 3 of the act.

Sec. 6 provides for an effective date of January 1, 2022, except for those sections of the bill provided an immediate or other effective date.

2:01:45 PM

REPRESENTATIVE FIELDS asked for more details on the cutoff concentrations as enumerated on page 2, lines 12-20, of HB 171.

He also asked for more information on the science of studying PFAS.

REPRESENTATIVE HANNAN noted that one of the invited speakers is a constituent who first brought the issue to her attention.

MR. CLARK responded that he could only speak generally about the science but that it has been unfolding over the past decade. He compared the cutoff concentration of the seven PFAS named in the proposed legislation with the Environmental Protection Agency (EPA) recommendations and stressed that the EPA lists every substance at either a much higher recommended concentration than proposed under HB 171, or with no concentration cutoff recommendations at all.

REPRESENTATIVE FIELDS asked whether the [EPA] regulations are under the Toxic Substances Control Act (TSCA) of 1976.

MR. CLARK said that he doesn't know.

REPRESENTATIVE FIELDS opined that TSCA is widely regarded as a failure, which emphasizes the importance of HB 171.

2:07:53 PM

REPRESENTATIVE RAUSCHER asked whether HB 171 is "homegrown" or modeled after legislation in the Lower 48.

MR. CLARK replied that the proposed legislation is based on the work of Michigan's PFAS Action Response Team Working Group, which was assembled in 2018. He said that the findings of the working group, released in 2019, were subsequently adopted by the Michigan State Legislature.

REPRESENTATIVE RAUSCHER asked whether representatives from the military or oil industry collaborated on drafting the proposed legislation.

REPRESENTATIVE HANNAN explained that state law doesn't allow the legislature to regulate actions taken by federal agencies; however, the military first notified the state of PFAS pollution. She said that Michigan, New Hampshire, Massachusetts, and Minnesota have been working on PFAS pollution stemming from industry; in Alaska, however, PFAS is largely limited to military installations, airports, and petrochemical refining because Alaska doesn't have the industrial manufacturing sector that would be using it. She said that in

the spring of 2018 DOT&PF notified the residents of Gustavus that their water was toxic from PFAS runoff from the airport. She clarified that several pieces of the proposed legislation are "homegrown" because, unlike Alaska, other states have layers of government overseeing municipal organizations like fire departments which, in Alaskan communities, are largely composed of volunteers.

REPRESENTATIVE RAUSCHER followed up to ask about the oil and gas industry involvement.

REPRESENTATIVE HANNAN replied that the oil and gas industry engaged early in the development of the proposed legislation and have been given a "carve out" because, unlike airports with alternative firefighting substances, the oil and gas industry has no feasible substitute for fighting high temperature fires.

REPRESENTATIVE RAUSCHER asked whether any penalties would be address in the proposed legislation.

MR. CLARK explained that penalties would be focused on the cost of remediation such as blood testing, environmental texting, and providing clean water. He said that the administration's recent announcement regarding litigation against PFAS manufacturers indicates the intention for active remediation of the contaminated sites.

REPRESENTATIVE RAUSCHER asked where the liability could lie, if not with the fire departments, or whether every case would be different.

MR. CLARK replied that it would be a challenge for the Department of Environmental Conservation (DEC) to determine liability.

2:17:32 PM

CHAIR PATKOTAK said he would like more information on the EPA recommendations.

2:18:33 PM

REPRESENTATIVE MCKAY asked whether a person who accidentally starts a fire would be held liable. He then asked about the "alternative firefighting substances" referred to on page 2 of the Sectional Analysis.

MR. CLARK said that if an accidental fire led to a PFAS release, a "person" could be defined as a commercial entity. He said liability would be determined according to the degree of negligence on the part of the entity.

REPRESENTATIVE HANNAN clarified that the intent is to hold an arsonist liable, but not a person who has an accidental fire. She said that they don't want to discourage anyone from calling the fire department but that wildfires can be caused by negligence, thereby requiring the use of PFAS and subsequently affecting the water system over a large area.

2:22:20 PM

REPRESENTATIVE MCKAY said that it seems PFAS sites could be candidates for the federal "Superfund" law [officially the Comprehensive Environmental Response, Compensation, and Liability Act of 1980(CERCLA)] program.

MR. CLARK, addressing Representative McKay's earlier question, said that there is not 100 percent consensus on whether alternative firefighting substances are as effective as PFAS, but referred to the March 13, 2020, hearing on HB 240 during the House Resources Standing Committee, in which the Fire Chief of the [Port of Seattle Fire Department] testified that he was highly confident that the new substances are safe and effective alternatives to PFAS. He then addressed Representative McKay's mention of the Superfund program and expressed the belief that many people hope the pollution issues are addressed rigorously at the federal level.

REPRESENTATIVE HANNAN said that FAA and airports have found satisfactory alternative foam compounds; however, the oil and gas industry have not found something that works for their fires. She then discussed the Superfund program and said that, because EPA regulation on the different PFAS is so fragmented, sites in Alaska wouldn't qualify until studies were done on each level of pollution. She said there is speculation that the industrial sites in other states will likely be deemed Superfund sites, but they don't currently meet the criteria.

2:27:17 PM

REPRESENTATIVE FIELDS asked whether there are new technologies that show promise for replacing PFAS in the oil and gas industry.

REPRESENTATIVE HANNAN replied that she doesn't know.

2:28:02 PM

KELLY MCLAUGHLIN, Chair, Gustavus PFAS Action Coalition (GPAC), testified in support of HB 171. She discussed litigation against 3M Company and said that HB 171 would be a temporary solution until national assistance is available. She said that there are some alternative substances used in the oil and gas industry in other countries and that the International Pollutants Elimination Network (IPEN) has a comprehensive report obtainable through either the Alaska Community Action on Toxics (ACAT) or GPAC. She expressed the belief that the oil and gas industry could move to using nontoxic substances in the near future. She explained that while HB 171 uses the Michigan report, because the class of chemicals is large, several other states have used a different approach and regulated use of the fluorine-carbon bond.

MS. MCLAUGHLIN described becoming aware of PFAS in 2018 upon receipt of a letter from DOT&PF informing residents of Gustavus that the school's water and several airport drinking water wells were contaminated. She said that even a small amount of aqueous film forming foam (AFFF) can contaminate soil and water for miles, it doesn't biodegrade or break down, and remediation is difficult. She said that many states are identifying the fluorine-carbon bond and regulating PFAS as a class of that bond. She said that the GPAC has led and collaborated on testing Gustavus residents' blood serum levels, locally-grown plants, livestock, wild foods, and fish and game and is working with the Alaska Department of Fish & Game (ADF&G). She said that testing has found a direct correlation between PFAS levels in water samples and the blood samples of the residents of Gustavus. She expressed concern that she would be knowingly contributing to the ill health of an animal raised on her property in Gustavus.

2:35:19 PM

REPRESENTATIVE RAUSCHER referred to page 2, line 31, through page 3, line 10, of HB 171, which read as follows:

> **Sec. 46.03.345. Liability for drinking water, drinking water testing, and blood testing costs.** (a) A person who causes a fire that results in a release of a firefighting substance containing a perfluoroalkyl substance or polyfluoroalkyl substance is liable for

the costs of providing drinking water, drinking water testing, and blood testing under AS 46.03.340. This subsection does not apply to a release of a firefighting substance to extinguish a fire in a residential building or motor vehicle.

(b) A person who extinguishes a fire by releasing a firefighting substance that contains a perfluoroalkyl substance or polyfluoroalkyl substance is not liable for the costs of providing drinking water, drinking water testing, and blood testing under AS 46.03.340 or site cleanup under this chapter, AS 46.08, AS 46.09, or another state law unless the firefighting substance was released for training or testing purposes.

REPRESENTATIVE RAUSCHER asked what kind of fire would have to be burning in order for PFAS to be deployed.

REPRESENTATIVE HANNAN explained that Gustavus has two "pollution plumes" of PFAS. One is from mandatory FAA annual testing in which the foam was sprayed off the runway and subsequently contaminated the groundwater and wells. The second plume, she said, is from a wildland fire on which the Gustavus volunteer fire department sprayed PFAS foam from a fire truck the department had gotten from the state. Under HB 171, the landowner would not be liable for damages unless it was determined that the he or she was an arsonist; for the plume resulting from the airport testing, cleanup costs would be borne by DOT&PF. Representative Hannan explained that HB 171 would mandate that whoever causes a fire on which PFAS is used is responsible for the costs of pollution cleanup and remediation.

REPRESENTATIVE RAUSCHER asked, "What fire did I start that PFAS had to come and kill?"

REPRESENTATIVE HANNAN reiterated her earlier explanation and added that fire departments in communities across Alaska have inherited equipment from the state which contains PFAS. She said that Gustavus has no centralized water system, so there are no fire hydrants for fire engines to hook up to.

CHAIR PATKOTAK asked whether it's fair to say that PFAS is predominantly used in chemical or fuel fires.

REPRESENTATIVE HANNAN replied that a volunteer fire department probably won't know what's in the fire truck unless it's hooked up to a hydrant.

2:40:46 PM

REPRESENTATIVE SCHRAGE said it seems that PFAS chemicals are being used incidentally rather than in response to any specific type of fire.

2:41:28 PM

MR. CLARK clarified that under HB 171, the liabilities come down to basic, immediate health and wellness concerns of providing drinking water, blood testing, and water testing. He emphasized that language referring to a "person" is focused on industrial entities. It's noted that a residential fire or passenger vehicle fire would be exempt from the liability sections, because those types of fires wouldn't be arising from an industrial incident.

2:43:33 PM

REPRESENTATIVE RAUSCHER asked, "Are we getting rid of the reason for PFAS being in any fire truck other than on a military base, or in the oil field, or at an airport?"

MR. CLARK responded that, in instances where a community's firefighting equipment was found to have PFAS after using it on a fire, the effort would be to remove the PFAS and prepare the truck for conventional firefighting.

2:45:13 PM

REPRESENTATIVE HOPKINS asked whether the language in HB 171 referring to a "person" is using the definition in statute.

MR. CLARK replied, "Yes, that's correct."

REPRESENTATIVE HOPKINS said that it's only until October that the existence of PFAS in firefighting equipment would be a known use, since it will then be banned at airports.

MR. CLARK responded, "Yes."

2:46:17 PM

REPRESENTATIVE GILLHAM asked whether PFAS is only in industrial fire retardant or if it could be in a fire retardant used in homes.

MR. CLARK said that he is unaware of any residence that would keep a PFAS fire extinguisher, and said that it is "overwhelmingly" for industrial use.

2:47:39 PM

REPRESENTATIVE SCHRAGE stated his understanding that PFAS in firefighting is used only for extremely hot fuel fires.

REPRESENTATIVE HANNAN replied, "That's my understanding."

REPRESENTATIVE SCHRAGE asked whether the chemicals will be banned in October, or if the FAA is stopping the requirement that PFAS be used for testing or training purposes.

MR. CLARK said that HB 171 would ban the use of PFAS-containing firefighting foams after October 1, 2021, in all applications within the state except for those within the oil and gas industry, because it's presumed that the decision of the FAA is stipulating that other safe firefighting foam can be used.

REPRESENTATIVE SCHRAGE referred to page 2, lines 6-10, of HB 171, which read as follows:

> (b) A person who extinguishes a fire by releasing a firefighting substance that contains a perfluoroalkyl substance or polyfluoroalkyl substance is not liable for the costs of providing drinking water, drinking water testing, and blood testing under AS 46.03.340 or site cleanup under this chapter, AS 46.08, AS 46.09, or another state law unless the firefighting substance was released for training or testing purposes.

REPRESENTATIVE SCHRAGE asked whether this section would create liability retroactive to past training and testing, and asked whether an explicit exemption for past activities should be added.

MR. CLARK replied that he would need to look into that more carefully. He said that the intention of that subsection is to specifically not hold firefighters liable for doing their best to save lives and property. The testing and drilling language is because the chemicals should not be used unless absolutely

necessary, he explained, and it is possible to train using nontoxic substances.

2:51:54 PM

CHAIR PATKOTAK opened public testimony on HB 171.

2:52:31 PM

PAMELA MILLER, Executive Director, Alaska Community Action on Toxics (ACAT), shared that she was recently appointed to the National Academy of Sciences as a community liaison to develop guidance on PFAS testing and health outcomes. She paraphrased a portion of her written testimony [included in the committee packet] in support of HB 171, which read as follows [original punctuation provided]:

> The health and safety of our water is critical for Alaskans. HB 171 would require greater protections for communities in preventing and addressing PFAS contamination, including setting of enforceable drinking water standards for a number of PFAS as well as requirements for polluters to pay for safe drinking water and blood tests for people affected by PFAS contamination.
>
> In Alaska, the dispersive use of PFAS-based industrial firefighting foams on military bases and airports has contaminated the drinking water of communities from the North Slope to southeast Alaska. PFAS have been found at over 100 individual sites in nearly 30 locations across Alaska. At least ten Alaska communities have PFAS in their drinking water at levels deemed unsafe by the U.S. Environmental Protection Agency (EPA) and it is likely that the number of communities with contaminated water will grow as more sampling is conducted throughout the state.
>
> PFAS are contaminating groundwater and surface waters, fish, wild game, garden produce and backyard chickens in Alaska. Several Alaska lakes are now closed to fishing as a result of PFAS contamination and yet there is no cohesive plan for testing of waters, produce, or fish and wildlife in areas affected by PFAS. The public water supply in Fairbanks and hundreds of private wells in the Fairbanks North Star

> Borough are contaminated with PFAS. In 2019, Golden Heart Utilities in Fairbanks suspended all sales of its compost that has been sold annually for many years to local farmers and gardeners due to PFAS contaminants in the compost stockpiles. Recently, residents near Sand Lake in Anchorage are calling for testing of residential wells and 2 lakes in the vicinity of the former Kulis Air National Guard Base where high levels of PFAS have been found.

MS. MILLER said there are serious health effects of these chemicals at low levels of exposure, and there are safe alternatives. She said she had submitted to the committee some information on alternatives to PFAS. She noted that many other states are "taking action on these chemicals as a class at lower levels than the Michigan standards." She concluded, "So, we would like to see the bill strenghtened but very strongly support it."

2:55:09 PM

JOHN KENNISH testified in support of HB 171. He expressed that it's clear that PFAS will pose a major problem for the future, and that the toxicity of the compounds have only been recently recognized. He stressed the importance of protecting the residents of Alaska, as well as the fish and game harvested by those living a subsistence lifestyle.

2:57:34 PM

KRISTINE BENSON testified in support of HB 171. She said that there are a dozen communities in Alaska with contaminated drinking water and that it's imperative that the legislature step in to set a drinking water standard based on health. She said that the EPA is not protective of health and is moving too slowly in updating water safety standards. She expressed approval that HB 171 would provide for safe disposal for PFAS still in storage.

2:59:05 PM

STEVE RISOTTO, Senior Director, American Chemistry Council, testified in opposition to HB 171. He said HB 171 would create standards for PFAS without going through the regulatory process and asked for consideration of the actions taken at the federal level. He paraphrased a section of his written testimony

[included in the committee packet], which read as follows [original punctuation provided]:

> In seeking to assign responsibility for releases of PFAS near a water supply, the proposal will likely result in significant unintended consequences. Although Section 345 would exempt releases of aqueous film forming foam (AFFF) to extinguish fires in a residence or motor vehicle, it does not exempt the use of AFFF for testing or training by local fire departments. Nor does the proposal exempt publicly owned landfills that may have released PFAS or wastewater treatment plants that have provided biosolids containing PFAS for agriculture. Farmers who have applied those biosolids on their land also are potentially liable under the bill. These activities have been identified as contributing to PFAS levels in groundwater elsewhere in the country. This is particularly relevant given the extremely low levels that have been proposed for some of the substances.

3:01:37 PM

SARA THOMAS testified in support of HB 171. She noted the cancer and thyroid issues posed by ingesting PFAS and characterized the use of PFAS as "the biggest cover-up since big tobacco." She opined that 3M Company, the manufacturer of some PFAS, chose to suppress the toxicity of the chemical, and she urged the committee to "look at accountability."

3:04:13 PM

CHAIR PATKOTAK, after ascertaining that no one else wished to testify, closed public testimony on HB 171.

3:04:31 PM

CHAIR PATKOTAK announced that HB 171 was held over.

3:05:02 PM

ADJOURNMENT

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