

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

February 25, 2021

3:31 p.m.

MEMBERS PRESENT

Senator Shelley Hughes, Chair
Senator David Wilson
Senator Elvi Gray-Jackson

MEMBERS ABSENT

Senator Robert Myers, Vice Chair
Senator Lyman Hoffman

COMMITTEE CALENDAR

SENATE BILL NO. 15

"An Act relating to the Open Meetings Act; and establishing a civil penalty for violations of the open meeting requirements by members of governmental bodies."

- HEARD & HELD

SENATE BILL NO. 17

"An Act relating to the retrofitting of certain public facilities and community facilities; relating to the performance of energy audits on schools and community facilities; relating to the duties of the Alaska Energy Authority and the Alaska Housing Finance Corporation; creating a rapid economic recovery office in the Alaska Industrial Development and Export Authority; and relating to the state energy policy and energy source reporting by state agencies."

- HEARD & HELD

SENATE BILL NO. 13

"An Act relating to oil and gas exploration, production, and pipeline transportation property taxes; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 15

SHORT TITLE: OPEN MEETINGS ACT; PENALTY

SPONSOR(s): SENATOR(s) COSTELLO

01/22/21 (S) PREFILE RELEASED 1/8/21
01/22/21 (S) READ THE FIRST TIME - REFERRALS
01/22/21 (S) CRA, JUD
02/25/21 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)

BILL: SB 17

SHORT TITLE: ENERGY EFFICIENCY & POLICY: PUB. BLDGS

SPONSOR(s): SENATOR(s) BEGICH

01/22/21 (S) PREFILE RELEASED 1/8/21
01/22/21 (S) READ THE FIRST TIME - REFERRALS
01/22/21 (S) CRA, L&C, FIN
02/25/21 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)

BILL: SB 13

SHORT TITLE: OIL AND GAS PROPERTY TAX

SPONSOR(s): SENATOR(s) BEGICH

01/22/21 (S) PREFILE RELEASED 1/8/21
01/22/21 (S) READ THE FIRST TIME - REFERRALS
01/22/21 (S) CRA, RES, FIN
02/25/21 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

MELODIE WILTERDINK, Staff
Senator Mia Costello
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 15 on behalf of the sponsor.

HEATHER HEBDON, Executive Director
Alaska Public Offices Commission
Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding SB 15.

SARA CHAMBERS, Director
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community, and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding SB 15.

SENATOR TOM BEGICH
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of SB 17.

CONNOR OWENS, Staff
Senator Tom Begich
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Provided a sectional analysis for SB 17.

MARK DAVIS, Director
Division of Facilities Services
Department of Transportation and Public Facilities
Anchorage, Alaska
POSITION STATEMENT: Answered questions regarding SB 17.

CHRISTOPHER HODGIN, Senior Project Manager
Division of Facilities Services
Department of Transportation and Public Facilities
Anchorage, Alaska
POSITION STATEMENT: Answered questions regarding SB 17.

LOKI TOBIN, Staff
Senator Tom Begich
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Answered questions regarding SB 17.

DR. SYDNEY LIENEMANN, Climate Advisor
Natural Resources Council
City of Albuquerque
Albuquerque, New Mexico
POSITION STATEMENT: Provided information and recommendations for SB 17.

AMBER MCDONOUGH, Account Executive
Energy and Performance Services
Siemens Industry, Inc.
Anchorage, Alaska
POSITION STATEMENT: Provided information and recommendations for SB 17.

ALAN WEITZNER, CEO/Executive Director
Alaska Industrial Development and Export Authority
Anchorage, Alaska

POSITION STATEMENT: During the hearing on SB 17, requested follow up information from Siemens about the structure of bundling in the bill that might impact AIDEA.

CURTIS THAYER, Executive Director
Alaska Energy Authority
Anchorage, Alaska

POSITION STATEMENT: Commented on SB 17.

SENATOR TOM BEGICH, Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 13.

NILS ANDREASSEN, Executive Director
Alaska Municipal League
Juneau, Alaska

POSITION STATEMENT: Testified that AML does not have a position on SB 13.

MERCEDES COLBERT, Staff
Senator Tom Begich
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided the sectional analysis for SB 13.

ACTION NARRATIVE

[3:31:17 PM](#)

CHAIR SHELLEY HUGHES called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:31 p.m. Present at the call to order were Senators Wilson, Gray-Jackson, and Chair Hughes.

SB 15-OPEN MEETINGS ACT; PENALTY

[3:31:54 PM](#)

CHAIR HUGHES announced the consideration of SENATE BILL NO. 15 "An Act relating to the Open Meetings Act; and establishing a civil penalty for violations of the open meeting requirements by members of governmental bodies."

She asked Melodie Wilterdink to introduce the bill.

[3:33:31 PM](#)

MELODIE WILTERDINK, Staff, Senator Mia Costello, Alaska State Legislature, Juneau, Alaska, introduced SB 15 on behalf of the

sponsor, with a PowerPoint that is embodied in the sponsor statement:

The Open Meetings Act requires that all meetings of an Alaska governmental body of a public entity be open to the public, unless exempt by statute (the Legislature and Judiciary are exempt). Despite the challenges of public gathering brought on by COVID-19, it is essential that elected officials continue to abide by the Open Meetings Act and hold meetings that are available to the public. During the summer of 2020, residents of Anchorage tried repeatedly to attend and testify at assembly meetings in person, but to no avail. The Assembly capped attendance at 15 people, preventing anyone but members, staff, and the press from attending.

Senate Bill 15 would establish a civil penalty of up to \$1,000 for elected or appointed members of governmental bodies who violate the Open Meetings Act. The purpose of Senate Bill 15 is to encourage the continuation of open public meetings, despite current and future challenges.

In 1965, the late Senator Ted Stevens - then Representative Stevens - introduced House Bill 170, "An Act requiring that the meetings of agencies of the state and its subdivisions be open to the public with certain exceptions," which we now know as the Open Meetings Act. His original bill included a fine of up to \$1,000 for elected officials who violated the Act.

She noted that many other states attach various penalties to violations of the Open Meetings Act. She directed attention to the comments on slide 4 from Anchorage residents when they felt the Anchorage Assembly was quelling their opportunity to speak. The slide read as follow:

The Assembly used COVID as their excuse to bar the public from the meeting. In my opinion, a fine might discourage them from a repeat. - Mary Barr, resident of District K

I personally don't understand how the Anchorage Assembly can unilaterally decide how the money is spent without the input from the people that they are

appointed to represent. - Rose Hubbard, resident of District H

It was extremely frustrating that we were not allowed to go in ... It was a quick and easy way of shutting us out, not having to listen to us. - Christine Hill, resident of District L

[3:35:47 PM](#)

SENATOR WILSON asked if the bill changes the Open Meetings Act to apply to legislators.

MS. WILTERDINK answered no; the legislature is held to the Uniform Rules. To change whether legislators receive fines for violating similar rules in the Uniform Rules would require a separate piece of legislation or a resolution.

SENATOR GRAY-JACKSON referenced the first quote and said she knows most of the assembly members and does not believe they used COVID-19 as an excuse.

CHAIR HUGHES asked Ms. Wilterdink if she looked back at any of the conversations when Representative Stevens had the Open Meetings Act before the legislature and why he removed the penalty from the initial bill.

MS. WILTERDINK answered she was not sure because not all the committee meeting notes were unavailable.

CHAIR HUGHES asked her if she had data from other states on the number of Open Meetings Act violations and correlating penalties from mild to severe.

MS. WILTERDINK answered no, but she would follow up with the information.

CHAIR HUGHES asked her if there was a mechanism to collect the penalties indicated in the legislation.

MS. WILTERDINK answered yes. She explained the plan is to have the Alaska Public Offices Commission (APOC) collect the penalties.

CHAIR HUGHES asked Heather Hebdon with APOC what it would entail for APOC to collect the penalties.

[3:38:59 PM](#)

HEATHER HEBDON, Executive Director, Alaska Public Offices Commission, Department of Administration, Anchorage, Alaska, stated as far as collecting the penalty, the legislation is not clear how APOC would determine a violation occurred. They do not have a mechanism to identify a violation or to determine how a violation would be presented to APOC. APOC not only does not regulate the Open Meetings Act, but it is subject to the Open Meetings Act so the legislation presents a question of whether there would be a conflict of interest in regulating the law.

CHAIR HUGHES stated the committee might have some things to work through, but APOC first needs a mechanism. Secondly, the legislature would have to give APOC the authority to deal with the Open Meetings Act since the commission does not have the prescribed duties at this point. She asked if those were the two items she identified.

[3:40:42 PM](#)

MS. HEBDON answered yes.

CHAIR HUGHES asked Ms. Wilterdink if she and the sponsor had considered an amendment or committee substitute to address those points.

MS. WILTERDINK answered yes; the sponsor has an amendment that would designate APOC for fine collections. She said her understanding is APOC would follow a similar process to the public complaint process where somebody brings a complaint about an elected official and then it goes through the APOC process where the commission does an investigation on both sides followed by a recommendation and then a hearing.

SENATOR WILSON asked if APOC would work out the regulatory language and process for fee collection should SB 15 pass.

[3:42:02 PM](#)

MS. HEBDON answered APOC currently does not have the statutory authority to determine a violation of the Open Meetings Act. Without statutory authority, she did not know if the regulatory process would be sufficient.

SENATOR WILSON asked if the commission would go through the regulatory process to collect fines if the committee were to amend the bill to give APOC the statutory authority.

MS. HEBDON replied she could not speak to an amendment she had not seen, but if APOC had the statutory authority it would make

sense to then go through the regulatory process to iron out details. She added APOC expects this would have a significant fiscal impact on the commission.

CHAIR HUGHES asked if that was due to a tremendous number of violations. She said she thinks people would be on their toes and violations would not be very frequent if SB 15 passed.

She asked her if SB 15 would be a lot of work for APOC, not just the development of the regulations, but also because of the large number of incidents the commission would receive in a year.

[3:43:47 PM](#)

MS. HEBDON answered because APOC does not currently have the regulatory authority, the commission does not have any foundational knowledge as to how many violations might occur. Because of the definition of a governmental body, the legislation would have far-reaching impacts all the way down to local community councils. Given the size of the agency and what the commission is currently responsible for, it is unrealistic to think they could competently regulate this. She reiterated it is unclear how these violations would be identified.

CHAIR HUGHES said she had not thought about the legislation reaching down to the community council level, because that means it would apply to hundreds if not thousands.

She asked Sara Chambers if she knew how many state and local officials are in the state.

[3:45:26 PM](#)

SARA CHAMBERS, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community, and Economic Development, Juneau, Alaska, replied she did not know but she would refer the question to the director of the Division of Community and Regional Affairs.

MS. CHAMBERS noted she was responsible for the 21 licensing boards.

CHAIR HUGHES asked how the bill would apply to the licensing boards.

MS. CHAMBERS answered the division has 21 boards that manage all governing functions for half of the licensing programs. Since the boards fall under the definition that is in the law as a

public official, they would be subject to a fine. The department's concern is that board members are volunteers and finding enough volunteers to meet certain criteria is already difficult. The bill would be another deterrent and risk that volunteers would take when they consider whether to serve the state.

SENATOR GRAY-JACKSON noted that by charter the Municipality of Anchorage Assembly is responsible for the 38 community councils it established. She suggested making the Anchorage Assembly responsible for identifying and fining those community councils for violations of the Open Meetings Act.

[3:47:35 PM](#)

CHAIR HUGHES asked Ms. Chambers if boards and commission are subject to the Open Meetings Act.

MS. CHAMBERS answered yes.

CHAIR HUGHES commented on the informal nature of community council meetings and asked Ms. Wilterdink if the sponsor intended the legislation to go to the community council level.

MS. WILTERDINK answered yes, the sponsor intended the bill to cover everybody covered by the Open Meetings Act. The exceptions are the legislature and the judiciary.

CHAIR HUGHES asked Ms. Wilterdink to provide the sectional analysis for SB 15.

[3:49:00 PM](#)

MS. WILTERDINK read the sectional analysis for SB 15:

Section 1

AS 44.62.310(h), page 1, lines 4-6, is amended to define the terms "knowingly" and "public official." Under this section, "knowingly" has the meaning given in AS 11.81.900(a)(2), "public official" has the meaning given in AS 39.50.200(a)(9).

Section 2

Page 1, lines 7-10, is amended to add a civil penalty of up to \$1,000 for elected or appointed members of a governmental body who knowingly attend a meeting that violates the Open Meetings Act.

Section 3

Page 1, lines 11-14, and page 2, line 1, it provides that the penalties added by this bill apply to offenses occurring on or after the effective date of this Act.

3:50:13 PM

CHAIR HUGHES asked how the two statutory references define the terms "knowingly" and "public officials."

MS. WILTERDINK answered her general understanding is that that "public official" effectively is everybody who is not in the legislature and not in the judiciary. The definition of "knowingly" is as follows:

A person acts knowingly with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists.

When knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist.

A person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated, acts knowingly with respect to that conduct or circumstance.

3:52:03 PM

SENATOR GRAY-JACKSON noted that the Municipality of Anchorage has its own ethics code and commission to address violations of the Open Meetings Act. She asked how that works with this bill.

MS. WILTERDINK answered she would look into it and follow up with the answer.

SENATOR GRAY-JACKSON added that the Municipality of Anchorage also has a reprimand in code for violations, and how that works with the bill should also be investigated.

CHAIR HUGHES opined that was important information to have on the record. She offered her understanding that some municipal officials raised this concern with the sponsor. She asked if they filed a complaint through the Municipality of Anchorage.

MS. WILTERDINK replied she had not seen complaints to that effect. She has seen some concerns about the bill that she was happy to share with the committee.

[3:54:35 PM](#)

CHAIR HUGHES held SB 15 in committee.

SB 17-ENERGY EFFICIENCY & POLICY: PUB. BLDGS

[3:54:59 PM](#)

CHAIR HUGHES announced the consideration of SENATE BILL NO. 17 "An Act relating to the retrofitting of certain public facilities and community facilities; relating to the performance of energy audits on schools and community facilities; relating to the duties of the Alaska Energy Authority and the Alaska Housing Finance Corporation; creating a rapid economic recovery office in the Alaska Industrial Development and Export Authority; and relating to the state energy policy and energy source reporting by state agencies."

[3:56:55 PM](#)

SENATOR TOM BEGICH, Alaska State Legislature, Juneau, Alaska, sponsor of SB 17, explained the bill is about energy efficiency and policy of public buildings.

He said the committee members already know the first invited testifier, Dr. Sydney Lienemann. She has a PhD in chemical physics and has spent the last decade working at the intersection of energy, science, and policy. She was the legislative assistant for clean energy for U.S. Senator Mark Begich and then led the Artic Energy Diplomacy Program at the U.S. State Department, focusing on distributed energy and affordability.

SENATOR BEGICH detailed Dr. Lienemann left her position with the U.S. State Department to serve as his chief of staff for two-and-a-half years and helped develop this legislation in a prior legislature. She currently is the climate advisor to the City of Albuquerque where she is overseeing an energy service performance contract across 50 facilities and over 2 million square feet of police stations, libraries, pools, community centers, and office space. He noted that SB 17 refers to something similar.

SENATOR BEGICH said the second invited testifier, Amber McDonough, is an account executive for energy and environmental

solutions for Siemens Energy. She has a degree in chemical engineering from the University of Alaska Fairbanks and is a certified professional engineer.

He added both Dr. Lienemann and Ms. McDonough will testify specifically to the nature of the (energy service company) ESCO portion of the bill.

[3:59:02 PM](#)

SENATOR BEGICH explained SB 17 is responding to a lot of needs in the state and in many ways is an economic recovery bill and a bill that continues policy made by the legislature in prior years.

He said the State of Alaska is responsible for \$600 million in energy costs associated with close to 5,000 state-owned public facilities. With significant economic headwinds visible on the horizon, reducing the state's energy costs through sound investments and clean energy not only makes good fiscal sense, but it also fulfills the legislative promise of bringing renewable energy to Alaskan communities.

He remarked everyone's own families recognize the impact of storage, energy facilities, and alternative energies; all of us are looking for those alternatives including Alaska's partners in the oil and gas industry and others who have been diversifying the very field.

He detailed in 2010, the Alaska State Legislature passed House Bill 306 which established the goal of obtaining 50 percent of the state's energy from renewable energy by 2025. With some of the highest costs of energy in the nation, increasing the share of renewable electricity and heat will save the state money and help insulate costs from volatility and fuel pricing.

SENATOR BEGICH said he has from time to time talked about energy costs, school districts in particular. The Matanuska-Susitna School District's annual energy cost is around \$5 million, which is the same as the cost for the Lower Kuskokwim School District that has a significantly smaller population. SB 17 potentially would help reduce those costs, he said.

SENATOR BEGICH detailed in 2010, the Alaska Sustainable Energy Act also set forth a goal of retrofitting 25 percent of the state's buildings over 10,000 square feet for energy efficiency by 2020, but successfully achieved that goal by 2014 through public and private partnerships described in the SB 17.

He said building on the success of the Alaska Sustainable Energy Act, SB 17 extends the energy efficiency retrofit program to schools and community centers which are eligible for the Power Cost Equalization (PCE) program. This creates incentives to reform retrofits for buildings that receive State support for their energy bills, which will save money for the state, school districts and communities. However, single retrofit projects, which is a lot of the rural project, may not be attractive or profitable to private retrofit enterprises that were interested in the earlier bill.

[4:02:00 PM](#)

SENATOR BEGICH explained SB 17 also directs the Alaska Industrial Development and Export Authority (AIDEA) to establish a rapid economic recovery office to facilitate state energy policy and encourage private investment through a process of grouping a number of ESCOs. This new office will review energy audits to identify, and bundle retrofit and other clean energy projects for marketing and engagement with the Department of Transportation and Public Facilities (DOT&PF) for contracting with private investors. This will ensure the benefits of the state's energy policy, clean energy, and energy retrofitting to proliferate into rural communities, rather than just reaching the goal through one large Railbelt project.

He summarized SB 17 will provide rapid economic recovery by bringing in new investment to support an Alaska-based clean energy industry and reduce the challenges and barriers that may prevent private companies from investing in Alaska's infrastructure development.

CHAIR HUGHES requested a sectional analysis for SB 17.

SENATOR BEGICH referenced a supporting document for SB 17 from DOT&PF. The department continually updates its energy efficiency program and they have gone beyond the 25 percent and have a remarkable story that they hopefully will share with the committee.

[4:04:17 PM](#)

CONNOR OWENS, Staff, Senator Tom Begich, Alaska State Legislature, Juneau, Alaska, provided a sectional analysis for SB 17:

Section 1

Establishes legislative intent to outfit public buildings, facilities, and schools with new energy upgrades to ultimately reduce net energy costs by 2026.

Section 2

Amends AS 18.56 by adding a section AS 18.56.865 which authorizes the Alaska Energy Authority (AEA) to conduct energy audits of public facilities upon requests.

Section 3

Amends AS 42.45.110 by adding a new subsection which permits owners of public facilities that use power cost equalization under subsection (b) of this statute to allow AEA, the Alaska Housing Finance Corporation, or DOT&PF to perform energy audits and retrofits.

Section 4

Amends AS 44.42.065(a) by adding public school buildings to the list of community facilities that DOT&PF must perform energy audits for every seven years.

Section 5

Amends AS 44.42.065(c) by including the definition of public school as defined by AS 14.25.220. This definition does not include charter schools as defined by AS 14.03.290.

[4:06:57 PM](#)

Section 6

Amends AS 44.42.065 by adding a new subsection which authorizes DOT&PF to coordinate with AEA to conduct energy audits by request.

Section 7

Amends the date under AS 44.42.067(a) to which DOT&PF shall retrofit at least 25 percent of all public facilities to no later than January 1, 2026.

Section 8

Amends AS 44.42.067(e) to include education facilities in addition to government and public use facilities within the definition of public facilities. This section also the square foot requirement from 10,000

square feet to 5,000 square feet for public use facilities.

Section 9

Adds a new section under AS 44.83, AS 44.83.088 which directs AIDEA to coordinate with DOT&PF for energy audits on public facilities that use power cost equalization as defined by AS 44.45.110(b). This section also directs AEA to perform these audits at least once every seven years and allows AEA to work with entities that own public facilities to identify sources of funding for audits or retrofits.

Section 10

Amends AS 44.88 by inserting a new section, AS 44.88.179, which directs AIDEA to establish a rapid economic recovery office to facilitate State energy policy and encourage private investment. This section also directs this new office of rapid economic recovery to review energy audits, identify energy retrofit projects to be bundled, market these bundled projects, and engage with DOT&PF to contract with private investors.

Section 11

Adds a new subsection under AS 44.99.115, which establishes a state energy policy target date of 2026 to have at least 50 percent of total energy used by the state coming from clean energy sources and authorizes AEA to request periodic updates from State facilities on the estimated percent of total energy used obtained from clean energy sources. For the purpose of this legislation, this section also includes definitions of what is classified as clean energy. This section also includes the previously used definitions of power cost equalization and State funded public facilities which includes public school buildings but excludes charter schools.

[4:10:40 PM](#)

SENATOR GRAY-JACKSON asked if public facilities and buildings refer to all public facilities throughout the state, not just those the state owns.

SENATOR BEGICH answered public buildings are state public buildings. Currently the law has the retrofitting occurring for state public buildings that are 10,000 square feet or greater;

this would lower that threshold to 5,000 square feet and then expand it to include public school buildings.

SENATOR GRAY-JACKSON asked him to confirm the bill only applies to state facilities and not to, for example, to the Municipality of Anchorage buildings.

SENATOR BEGICH explained the intent of the bill is for state and school district buildings, not municipality buildings. The bill does include buildings that qualify for the PCE program. If a building qualified under PCE, it would qualify under SB 17.

SENATOR WILSON asked why the bill does not include charter schools.

[4:12:30 PM](#)

SENATOR BEGICH offered his understanding that no charter school meets the size threshold of 5,000 square foot and some are in private buildings. He deferred further response to DOT&PF or other individuals might have more details about the reason for excluding charter schools.

CHAIR HUGHES asked Mark Davis with DOT&PF to answer Senator Wilson's question.

[4:13:33 PM](#)

MARK DAVIS, Director, Division of Facilities Services, Department of Transportation and Public Facilities, Anchorage, Alaska, deferred the question to Christopher Hodgins.

[4:13:54 PM](#)

CHRISTOPHER HODGINS, Senior Project Manager, Division of Facilities Services, Department of Transportation and Public Facilities, Anchorage, Alaska, said he believes the focus is on the public facilities and schools that receive a majority of their funding from the state and charter schools do not receive much in the way of state funds.

SENATOR BEGICH suggested either Dr. Lienemann or Ms. Tobin answer the question.

[4:15:23 PM](#)

LOKI TOBIN, Staff, Senator Tom Begich, Alaska State Legislature, Juneau, Alaska, explained the statute referenced in the sectional analysis defines public schools as those "that are supported by public funds," which includes a publicly funded charter school. SB 17 simply clarifies that a charter school

that uses or receives support from private funds is not included in the definition of a public facility.

CHAIR HUGHES asked if some charter schools in the state are solely funded through private funds while others receive public funds.

MS. TOBIN answered that is correct.

CHAIR HUGHES asked her to provide a list of the charter schools and how they are funded.

SENATOR WILSON asked if the bill excludes all charter schools or just the privately funded charter schools.

MS. TOBIN replied she will ask Legal Services to clarify. The bill is intended to only exclude charter schools that use or are supported by private funds.

SENATOR WILSON expressed concern that in communities that have base power costs, adding schools may help the energy costs for the school but it may increase costs for individual ratepayers to cover the cost of decreased utilization.

[4:18:10 PM](#)

SENATOR BEGICH answered the bundling capacity shares the risk, but that is a possibility. Should costs increase for some communities, some other level of intervention would be necessary for those communities. He added that if the bill were to start moving, his office would get further clarification from DOT&PF and the other entities. He acknowledged it was a good question.

CHAIR HUGHES asked if most of the buildings that qualified for the retrofit under the 2010 bill were in urban areas along the Railbelt.

SENATOR BEGICH answered virtually all the structures were on the Railbelt. He deferred to Mr. Hodgin to provide details.

[4:20:27 PM](#)

MR. HODGIN stated retrofit projects were executed in over 75 facilities since the legislation passed in 2010. Many were along the Railbelt, but rural retrofits were done in St. Mary's, Nome, and Bethel, as well as locations in Ketchikan, Sitka, and Juneau.

MR. HODGIN noted the annual energy savings from the completed retrofit projects is greater than \$4.1 million. That represents an investment of about \$40 million in projects and that investment is from state, federal, and financed funds. The payback is about 10 years, so some of the projects have already started completion of their financing terms and have realized some of the savings.

CHAIR HUGHES asked how much the state contributed of the \$40 million investment.

MR. HODGIN answered he would follow up with the information.

[4:22:29 PM](#)

SENATOR BEGICH said the largest state expense in the ESCO process is staff going out to conduct the audits and supervise the program. When the audit is complete, the private businesses pay themselves back for their retrofitting investment with the energy savings from the energy so there is no state outlay for that.

CHAIR HUGHES asked him to explain the intent language at the bottom of page 1 and top of page 2 that states:

...by 2026, enter into energy service performance contracts valued at \$100,000,000 to retrofit public facilities... while avoiding an upfront cost to the state,...

She asked how this will work with little upfront cost to the state.

SENATOR BEGICH suggested the committee hear from Dr. Lienemann and Ms. McDonough.

[4:24:46 PM](#)

CHAIR HUGHES moved to invited testimony on SB 17.

[4:24:57 PM](#)

SYDNEY LIENEMANN, PhD, Climate Advisor representing self, Albuquerque, New Mexico stated she has worked most of her career looking at ways to improve the affordability and accessibility of clean energy including energy efficiency. Her career started with writing grants to study wind energy potential in Southwest Alaska. She eventually left Alaska to earn her PhD in chemical physics where she studied how to make materials for next generation solar energy. Afterwards, she worked in the U.S.

Senate and led the U.S. Department of State's Arctic Energy Diplomacy program which focused on Alaska rural energy expertise with the rest of the circumpolar north. Thereafter she worked for the Alaska State Legislature as the chief of staff for Senator Begich and currently is the climate advisor to the City of Albuquerque, New Mexico.

DR. LIENEMANN said that when she and Senator Begich's office first worked on the legislation, the first step was outlining the problem they wanted to solve. Energy efficiency is harder to finance off the Railbelt because things are smaller, and communities are more spread out. After the [American Recovery and Reinvestment Act of 2009], DOT&PF did an incredible job retrofitting buildings 10,000 square feet or greater using performance contract financing which has saved the state over \$4 million in the last 10 years.

DR. LIENEMANN explained the problem is that there are not a lot of buildings over 10,000 square feet in rural Alaska. The challenge is how to make sure models, like performance contracting where there are no upfront costs to the state, are available to rural Alaska when there are not the economies of scale that downtown Anchorage or Juneau have. Solving the problem will only happen through significant stakeholder engagement to understand the unique challenges. And to Senator Wilson's point, fit them without raising the cost of energy for everyone else.

[4:27:13 PM](#)

DR. LIENEMANN stated New Mexico has some interesting similarities to Alaska's rural-urban divide. Like Alaska, most of New Mexico's large buildings are within two or three major population centers, and ensuring rural communities have access to programs designed to lower energy costs is a huge problem. To address these challenges, the New Mexico State Legislature created two programs over the last 30 years that resulted in a thriving energy efficient economy statewide. New Mexico now has the largest job growth in the energy efficiencies sector in the country. She opined that is largely because of the two programs that are in place.

DR. LIENEMANN detailed the first program was the creation of the New Mexico Finance Authority (NMFA) and the public project revolving loan fund used to finance many rural energy efficiency projects around the state. To incentivize low-income communities in particular, New Mexico offers low or no interest loans for areas with median income below the state average.

DR. LIENEMANN explained NMFA coordinates the financing of state and local infrastructure and building projects to include public schools. It looks for opportunities to build economies of scale by coordinating between government entities. For example, if a rural school requires major maintenance, NMFA will identify other scheduled upgrades in that community and combine the financing to help with the logistics of the project. This is bundling multiple projects in one area or across the state to take advantage of the tax-exempt bond market for financing. Since 1992, NMFA has made over 1,800 loans totaling about \$40 billion.

[4:28:55 PM](#)

DR. LIENEMANN said the second thing the New Mexico State Legislature established is the Public Facility Energy Efficiency and Water Conservation program. This created a framework for state and local governments and school districts to use energy service performance contracting to finance sustainability related upgrades. This is energy efficiency and renewable energy. For New Mexico it is always water savings and water reclamation projects.

She detailed New Mexico created template contracts and price agreements with contractors to allow local governments to avoid long request for proposal (RFP) processes and get projects scoped, financed, and completed a lot faster. Since that program started about 20 years ago, the program has resulted in close to \$100 million in energy efficiency projects in public facilities including schools, municipal buildings, and museums.

DR. LIENEMANN noted the City of Albuquerque just completed scoping and selected a contractor for its own energy service performance contract. Like many other government entities, the City of Albuquerque does not have the financing to pay for upgrades up front. They are financing their projects over 12 to 15 years, guaranteed by the energy savings. This is for more than 50 buildings, over 2 million square feet. She said she does not believe the program would have been possible without the framework, paperwork, and legal templates available through New Mexico's state program.

DR. LIENEMANN offered her belief New Mexico's success in energy efficiencies stems from the combination of a financing entity able to combine public and private funding, and bundling small projects to take advantage of economies of scale. New Mexico also has the office she serves in that resulted from energy

service performance contracting legislation that identifies potential projects and offers best practices and legal document templates. That has made it easier for local governments and school district employees to get energy efficiency projects up and going.

DR. LIENEMANN said she thinks the bill before the committee accomplishes the two goals she previously noted and provides a framework that will encourage energy efficiency across Alaska.

SENATOR BEGICH asked her to address Chair Hughes' question on how the savings occur from the energy efficiency projects.

DR. LIENEMANN explained energy costs are going to go down as a result of the energy efficiency upgrades, and energy cost savings are quantifiable. The state can use the energy cost savings to guarantee a loan to do the energy efficiency upgrades. If a project takes 10 years to payoff a loan, the state will realize the full energy savings. The office the legislation proposes would help to find private or public financing. The state would not ever see a cost increase, there is no upfront cost, and even the facilities' monthly bill would go down. The state would have the best of both worlds with no big bill due at the completion of energy efficiency upgrades, and the project payoffs occur over a time while energy bills go down.

[4:34:00 PM](#)

CHAIR HUGHES asked her to confirm the state would realize the savings after paying off the loan.

DR. LIENEMANN explained the usual structure of loans would allow the state to immediately realize half of the cost savings by splitting the difference between cost savings and paying off the loan. Once the program pays off the loans, typically in 10-15 years, the state realizes the full savings from an energy efficient building.

[4:35:22 PM](#)

AMBER MCDONOUGH, Account Executive, Energy and Performance Services, Siemens Industry, Inc., Anchorage, Alaska, stated she has been developing energy performance contracting work for Siemens as an ESCO in Alaska for over 12 years. During that time, Siemens has implemented approximately \$50 million in energy savings performance contracting work.

She explained, in its simplest form, an energy savings performance contract allows facility owners to implement improvements by capturing wasted energy and operational dollars to pay for infrastructure improvements over time. Under a performance contract, an ESCO designs, develops, and constructs energy projects and guarantees the savings results over time. Energy savings performance contracts are budget neutral with very little out of pocket expense for facility owners. The ESCO typically does not take out a loan to pay for the improvements directly, but instead helps owners procure financing directly from third-party lenders to ensure the lowest possible interest rates.

MS. MCDONOUGH detailed a typical energy performance contract involves development in four phases: preliminary assessment, investment grade audit, project construction, and then a performance assurance period or savings guarantee period. The State of Alaska requires a three-year minimum savings guarantee, but it considers projects as cost effective if the net project pays for itself over a 15-year term. Savings accrue for the customer as soon as construction starts, during the repayment period, and then after the repayment period in 10 years or 15 years, the savings go directly to the customer for the life of the equipment upgrades.

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MS. MCDONOUGH said the design of SB 17 seems to encourage more energy performance contracting throughout the state, especially for rural communities and educational institutions. However, even for performance contracting projects that make enormous technical and economic sense, she has found that project financing for smaller clients without reliable revenue streams is a challenge.

She noted earlier in February she requested a credit check for the City of Galena, population 500, for approximately \$1 million to \$2 million to complete a funding gap for a proposed microgrid project. She said the lender told her the loan was too risky and too much money for too small of a community, so she was unable to approach the city with an alternative financing solution.

MS. MCDONOUGH said regarding SB 17, she has a few comments and recommendations regarding the bundling of projects, the types of audits used, and the retrofit targets set by the bill.

CHAIR HUGHES asked for the suggestions.

[4:38:50 PM](#)

MS. MCDONOUGH said regarding bundling projects, SB 17 seems to direct AIDEA to establish a rapid economic recovery office to facilitate the review of energy audits, identify energy retrofit projects for bundling, market the bundled projects, and engage with private investors.

She said she assumes AIDEA would use the state to provide energy audits, estimate the amount of construction funding needed, and then work to identify a third-party financier to provide financing for the total amount of the bundle projects.

MS. MCDONOUGH said the legislation could help by leveraging the good credit of the State of Alaska to allow the financier to contractually deal with the State as the sole entity. This reduces the risk of the overall loan and hopefully provides a competitive interest rate to the state.

MS. MCDONOUGH said the biggest problem she sees with securing private investors for rural communities, and especially rural education area schools, is their lack of tax base and revenue that would guarantee the ability to repay debt on their own. An agreement between the State of Alaska and the financier would be a big help for bundling projects.

She noted she has run into challenges when trying to vet financing for single owners with a lot of tenants, such as the Dimond Shopping Mall and the Ted Stevens Anchorage International Airport. These places have a single owner with a lot of independent tenants who need to agree on the improvements before project approval and financing.

MS. MCDONOUGH said she sees the project bundling proposed by SB 17 as an example of a single owner with multiple tenants where the state asks lenders to provide one loan for multiple projects with different owners. Bundling consideration for SB 17 should include how the state will downflow individual loan agreements to each of the project owners within the bundle, and how it will manage the accounting and repayment of the loans by individual project owners that flow back to the primary lender.

MS. MCDONOUGH said when she considered solutions to the project bundling questions, she inquired if the state has considered using the Alaska Housing Finance Corporation's (AHFC) existing Alaska Energy Efficiency Revolving Loan Fund to issue energy performance contracting loans. One example of this is that AHFC has been previously willing to consider loans to rural education

areas at predetermined interest rates based on the term of the loans rather than the credit ratings of the individual borrower.

[4:42:08 PM](#)

SENATOR BEGICH asked her to clarify that the bill does not adequately specify the nature of how bundling would occur.

MS. MCDONOUGH answered correct. She said if she were a financier, she would see the current version of the bill as bundling of projects but still having to potentially write individual loan contracts for each of the projects, which is undesirable.

SENATOR BEGICH asked if she would be interested in providing the language to help clarify that in the bill to meet the particular goal she suggested.

MS. MCDONOUGH answered yes, Siemens has financial managers that would be willing to assist in drafting language that would be more attractive to financiers.

CHAIR HUGHES asked if she had any additional comments.

[4:43:26 PM](#)

MS. MCDONOUGH replied she had a few comments on the audits. The legislation focuses on enabling AEA and DOT&PF to coordinate efforts to provide energy audits to rural schools. However, the bill does not define the level of detail required for the energy audits the state will be performing. For example, the state should define the type of audits performed via either a feasibility study American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Level One energy audit; a more detailed ASHRAE Level Two energy audit; or a hybrid style investment grade audit used by ESCOs to develop performance contracts.

She suggested the state confine its audits to preliminary feasibility studies (qualifier audits) that are inexpensive and quick to perform. They could confirm potential savings opportunities for each facility to warrant the expense of an ESCO investment grade audit. If the state justifies a performance contracting opportunity, an ESCO would still need to do its own independent investment grade audits if it is going to guarantee project savings. This allows ESCOs to validate and agree to the estimated savings and construction costs generated by the state delivered audits. There will still be that expense to the state even if it does a more detailed audit in advance.

CHAIR HUGHES asked what the acronym ESCO stands for.

MS. MCDONOUGH replied it stands for energy service company. These types of companies develop and deliver performance contracting services, deliver and distribute energy systems, provide power purchase agreements for solar and wind, and offer renewable energy solutions.

[4:45:20 PM](#)

MS. MCDONOUGH said her last suggestion relates to energy retrofit targets in Section 7. The target says that the state will retrofit approximately 25 percent of all public facilities no later than January 1, 2026. She said her impression is DOT&PF has already achieved the target and she would suggest a more aggressive target like 50 percent of all facilities by January 1, 2026.

CHAIR HUGHES asked the sponsor if he has identified the number of buildings that the 5,000 square foot target covers.

SENATOR BEGICH deferred the question to Ms. Tobin or DOT&PF.

MR. HODGIN answered his preliminary numbers, not including school buildings, show 503 state facilities are 5,000 square feet or greater, and the goal is to get to the 25 percent target of that number.

[4:47:44 PM](#)

CHAIR HUGHES asked him to confirm that 503 buildings is everything that is 5,000 square feet or greater and not retrofitted.

MR. HODGIN replied DOT&PF has executed approximately 75 facilities with 18 remaining in state facilities in the broad portfolio of 503 that are 5,000 square feet or greater.

CHAIR HUGHES asked the sponsor if the definition of "clean energy" includes natural gas.

SENATOR BEGICH answered he believes the definition includes natural gas.

MS. TOBIN answered she does not know the specific definition of "natural gas," but the definition of clean energy includes low emission, non-toxic biomass from solid, liquid, or organic fuel. Also, the definition includes digester gas. She said she is not

entirely sure of the specific definition of "natural gas" located on page 4, lines 19-23.

CHAIR HUGHES stated that is important to know.

CHAIR HUGHES asked Mr. Weitzner and Mr. Thayer to comment on the legislation.

[4:50:04 PM](#)

ALAN WEITZNER, CEO/Executive Director, Alaska Industrial Development and Export Authority (AIDEA), Anchorage, Alaska, stated AIDEA has had a preliminary discussion with the sponsor and would like follow up on some things. He expressed interest in getting more definition and detail about the Siemens testimony to better understand the structure of the bundling in the bill that would possibly impact AIDEA.

[4:50:57 PM](#)

CURTIS THAYER, Executive Director, Alaska Energy Authority (AEA), Anchorage, Alaska, stated AEA has also been working with the sponsor to clarify parts of the bill.

He said only residential homes up to 550 kilowatts and community buildings are power cost equalization (PCE) qualified. Schools, government buildings, and commercial facilities do not qualify for or receive PCE. If a community building is not a government facility, then PCE qualifies for that building but not for schools.

MR. TYAYER stated AEA looks forward to continuing to work with Senator Begich to clarify AEA's role and providing some of the information that the bill has indicated to make SB 17 a success.

CHAIR HUGHES thanked Mr. Thayer for addressing which buildings are PCE qualified.

[4:52:12 PM](#)

CHAIR HUGHES held SB 17 in committee.

SB 13-OIL AND GAS PROPERTY TAX

[4:52:33 PM](#)

CHAIR HUGHES announced the consideration of SENATE BILL NO. 13 "An Act relating to oil and gas exploration, production, and pipeline transportation property taxes; and providing for an effective date."

[4:53:12 PM](#)

SENATOR TOM BEGICH, Alaska State Legislature, Juneau, Alaska, sponsor of SB 13, stated he received a letter from the Alaska Oil and Gas Association (AOGA) opposing the bill. He said there is something in AOGA's letter that he wants to draw the committee's attention to. The letter described the bill as a 50 percent tax increase.

SENATOR BEGICH explained SB 13 is an oil and gas property tax bill that would add one percent to the existing oil and gas property tax assessment. A 50-percent increase sounds massive but the increase is one percent.

He explained SB 13 emerged from discussions with the oil and gas industry over the last three years. He noted hearing repeatedly that building taxes on the volatility of oil and gas prices is not a good planning process. He noted he crafted the bill in 2020 and reintroduced the legislation in 2021 with a number of qualifications.

SENATOR BEGICH said what SB 13 proposes to do is increase the mill rate from 20 mills to 30 mills and make that additional mill rate available to the State of Alaska. SB 13 would designate the funds in three ways. First, 50 percent would go to the Capital Income Fund to help pay down deferred maintenance backlog. Second, 25 percent would go to the Higher Education Investment Fund to further endow the merit-based Alaska performance scholarships and the other items of education necessities drawn from that fund. Third, 25 percent would go to municipalities to reimburse the Senior Citizen and Disabled Veteran Property Tax Exemptions that the legislature has not reimbursed since 1997. The funds will provide something of a community dividend.

He said SB 13 creates a predictable source because the industry understands its depreciation values, so the tax is a predictable source for their planning processes.

SENATOR BEGICH noted the President of the Senate has indicated that there needs to be an all-in approach to how the legislature addresses its efforts and he has consistently said that includes the industry, which is what the bill does. It fills one element of that all-in approach.

CHAIR HUGHES announced invited testimony on SB 13.

[4:56:52 PM](#)

NILS ANDREASSEN, Executive Director, Alaska Municipal League, Juneau, Alaska, said AML has not taken a position on SB 13, but he will provide a summary of municipal impacts.

MR. ANDREASSEN said of the 165 local governments that AML serves, 24 have a property tax and this includes all boroughs except the Aleutians East Borough, Denali Borough, Northwest Arctic Borough, and Lake and Peninsula Borough. Those rely on fish taxes, bed tax, and a payment in lieu of tax formula. Nine of the 15 home rule and first class cities within the Unorganized Borough have a property tax as well.

He noted the 24 local governments with a property tax all have required minimum contributions to their municipal school districts. This is a state mandate for all boroughs and home rule and first class cities outside the organized borough.

MR. ANDREASSEN said 7 of those 24 local governments also have their property tax applied to oil and gas property within their jurisdiction. The total assessed value of this property is about \$25.9 billion. The 7 local governments then apply their property tax. The state take is the difference between the local governments' mill rate set out in statute which is currently at 20 mills. Oil and gas property extends into the Unorganized Borough (valued at approximately \$3.1 billion) and the state's take on that is 100 percent or the full 20 mills.

He noted the local property tax has applied since 1997 but the mill rate has fallen for local governments an average of 1.6375 mills by jurisdiction. That means the state's take has actually increased over that same period, and overall property taxes have stayed stable, so the decrease is meaningful for property owners.

[4:59:45 PM](#)

MR. ANDREASSEN said extending the state's current tax of this property to a higher level does not negatively impact the rates of local governments, as long as there is no further tax change or amendment that extends down to change current local tax rates or preempts their rightful ability to collect the property tax within municipal boundaries, or negatively impact investment decisions by property owners.

MR. ANDREASSEN noted there are strong arguments for maintaining the property tax as it applies to oil and gas property within municipal boundaries. This includes the ability for those local governments to pay for school bond debt, to construct and

maintain schools on behalf of the state, to continue to pay into the state managed pension system. to contribute to the state's obligation to provide a system of public education, and to choose investments in road, port and harbor maintenance, police departments, emergency medical services (EMS), search and rescue, and health.

MR. ANDREASSEN explained AML has a longstanding position that the state should fulfill its statutory responsibilities by appropriating the funds necessary to reimburse for the state's mandatory property tax exemptions. Local governments have seen applications for the state exemption increase by 20,000 since 2010. The value of that exemption has increase by \$45 million in that same timeframe. The important takeaway is it does not mean there is less tax or less tax needed overall, only that it is other taxpayers in that jurisdiction that make up the difference for each local government to continue to meet the demands of residents.

MR. ANDREASSEN said he hopes his comments provide a more complete picture of how local governments currently apply the property tax, and the potential impacts from the bill on local governments.

[5:02:13 PM](#)

SENATOR GRAY-JACKSON said she appreciates the bill forward, particularly that it provides revenue for the unfunded mandate in terms of the Senior Citizens and Disabled Veteran Property Taxes. It has been a priority for the Municipality of Anchorage and other communities to receive relief.

CHAIR HUGHES asked Ms. Colbert to provide a sectional analysis for SB 13.

[5:03:12 PM](#)

MERCEDES COLBERT, Staff, Senator Begich, Alaska State Legislature, Juneau, Alaska, provided the following sectional analysis for SB 13:

Section 1

Amends AS 43.56.010(a) to include a new subsection (2) that increases the maximum mill rate an additional 10 mills. This only applies to taxable property as defined under AS 43.56.210.

Section 2

Amends AS 43.56.010(d) with conforming language. This clarifies the municipal property tax under (a)(1) of the bill can only be credited to the taxpayer.

Section 3

The estimated balance of the taxes collected under Section 1 of this bill may be appropriated by the legislature as follows:

1. 50 percent to the Alaska Capital Income Fund;
2. 25 percent to reimburse municipalities for real property tax revenue lost due to the Senior Citizen/Disabled Veteran Property Tax Exemption provided under AS 29.45.090(g); and
3. 25 percent to the Alaska Higher Education Investment Fund.

Section 4

Establishes an effective date of January 1, 2022.

5:05:01 PM

CHAIR HUGHES encouraged the members to review the fiscal notes for SB 13, the second page of which provides a recap and positions on possible needs to carry out the bill.

CHAIR HUGHES held SB 13 in committee.

5:06:01 PM

There being no further business to come before the committee, Chair Hughes adjourned the Senate Community and Regional Affairs Standing Committee meeting at 5:06 p.m.