

SENATE FINANCE COMMITTEE
April 25, 2022
9:04 a.m.

9:04:05 AM

CALL TO ORDER

Co-Chair Bishop called the Senate Finance Committee meeting to order at 9:04 a.m.

MEMBERS PRESENT

Senator Click Bishop, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Lyman Hoffman
Senator Donny Olson
Senator Natasha von Imhof
Senator David Wilson

MEMBERS ABSENT

Senator Bill Wielechowski

ALSO PRESENT

Erin Shine, Staff, Senator Click Bishop; Leslie Isaacs, Administrative Service Director, Department of Administration, Office of Management and Budget, Office of the Governor; Tiffany Larson, Director, Spill Prevention and Response, Department of Environmental Conservation; Randall Bates, Director, Division of Habitat, Department of Fish and Game; Christina Carpenter, Director, Environmental Health, Department of Environmental Conservation; Jason Olds, Air Quality Division, Department of Environmental Conservation; John Binder, Deputy Commissioner, Department of Transportation and Public Facilities; Representative Chris Tuck, Sponsor; Doug Wooliver, Deputy Administrative Director, Alaska Court System; Michael Mason, Staff, Representative Tuck.

PRESENT VIA TELECONFERENCE

James Stinson, Director, Office of Public Advocacy, Department of Administration.

SUMMARY

SB 121 PFAS USE & REMEDIATION; FIRE/WATER SAFETY

SB 121 was HEARD and HELD in committee for further consideration.

HB 102 STATE INSUR. CATASTROPHE RESERVE ACCT.

SCS HB 102(FIN) was REPORTED out of committee with four "do pass" recommendations and with two "no recommendation" recommendations, and with one new fiscal impact note from the Department of Administration.

HB 155 COURT SYSTEM PROVIDE VISITORS & EXPERTS

HB 155 was HEARD and HELD in committee for further consideration.

#hb102

HOUSE BILL NO. 102

"An Act relating to the state insurance catastrophe reserve account; and providing for an effective date."

[9:04:38 AM](#)

Co-Chair Bishop relayed that it was the second hearing for HB 102.

Co-Chair Stedman MOVED to ADOPT proposed committee substitute for HB 102, Work Draft 32-GH1689\B (Marx, 4/22/22).

Co-Chair Bishop OBJECTED for discussion.

[9:05:09 AM](#)

ERIN SHINE, STAFF, SENATOR CLICK BISHOP, explained that the only alteration proposed in the committee substitute (CS) was the change of the effective date from June 30, 2021 to June 30, 2022.

[9:06:01 AM](#)

AT EASE

[9:06:18 AM](#)

RECONVENED

LESLIE ISAACS, ADMINISTRATIVE SERVICE DIRECTOR, DEPARTMENT OF ADMINISTRATION, OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR, explained that HB 102 would adjust the upper limit of the catastrophic reserve account fund from \$5 million to \$50 million. He noted that the bill would allow the legislature to self-insure the property, which had been previously discussed. He added that there had been a question about the involvement of the Federal Emergency Management Agency (FEMA) in a previous hearing and reported that there needed to be either a state or federal disaster declaration in order for FEMA to be involved.

Co-Chair Bishop affirmed that the question had been asked in the prior week and thanked Mr. Issacs for the clarification.

Co-Chair Bishop presented the fiscal impact note from the Department of Administration (DOA) with OMB component 71 and control code RwdhS. He relayed there seemed to be a \$3 million savings in FY 23 and FY 24, a \$5 million savings in FY 25, and a \$6 million savings in FY 26 through FY 28.

[9:08:01 AM](#)

Co-Chair Stedman MOVED to REPORT SCS HB 102(FIN) out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SCS HB 102(FIN) was REPORTED out of committee with four "do pass" recommendations and with two "no recommendation" recommendations, and with one new fiscal impact note from the Department of Administration.

[9:08:22 AM](#)

AT EASE

[9:10:15 AM](#)

RECONVENED

#sb121

SENATE BILL NO. 121

"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."

[9:10:16 AM](#)

Co-Chair Bishop relayed that it was the third hearing for SB 121. The intention of the committee was to hear comments from the Department of Environmental Conservation (DEC) and cover the fiscal notes for the bill.

Co-Chair Bishop asked for confirmation that there was currently no mechanism by which DEC could accept, handle, or expose any amount of perfluoroalkyl and polyfluoroalkyl substances (PFAS).

[9:11:39 AM](#)

TIFFANY LARSON, DIRECTOR, SPILL PREVENTION AND RESPONSE, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, confirmed that there was no currently established infrastructure.

Co-Chair Bishop presented a hypothetical scenario in which DEC obtained funding for the Resource Conservation and Recovery Act (RCRA) or for Section 404 of the Clean Water Act (CWA). He asked if DEC would be able to accept PFAS if it received RCRA funding as well as a Subpart C designation [under federal Title 40, Subpart C: Characteristics of Hazardous Waste].

[9:12:53 AM](#)

AT EASE

[9:13:14 AM](#)

RECONVENED

RANDALL BATES, DIRECTOR, DIVISION OF HABITAT, DEPARTMENT OF FISH AND GAME, expressed that he would like to defer the question about RCRA.

CHRISTINA CARPENTER, DIRECTOR, ENVIRONMENTAL HEALTH, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, asked for Co-Chair Bishop to repeat his question.

Co-Chair Bishop repeated his question.

Ms. Carpenter replied that she would like to provide a thorough response to the committee at a later date. She explained that RCRA ensured that hazardous waste was disposed of properly. There was no current infrastructure to accept Aqueous Film-Forming Foam Concentrates (AFFF) if it contained PFAS.

[9:16:06 AM](#)

Co-Chair Bishop asked Ms. Carpenter to research the matter to provide an accurate response to his question. He suggested that if the department was given the RCRA designation, it would have the means to travel around the state to catalogue the contaminated sites.

Co-Chair Bishop asked Ms. Larson about the difference between the Environment Protection Agency's (EPA) Title I and Title V air permits. He understood that the state currently operated under Title V.

Ms. Larson responded that both permits were currently issued. The bill intended to implement the permitting activity into a Title V process, which took about a year and half longer than a Title I process. She relayed that DEC believed the permitting process was better suited under Title I as it was less time intensive but included the same level of oversight as Title V.

Co-Chair Bishop understood that emissions were the same under Title I and Title V.

Ms. Larson answered in the affirmative.

Senator Wilson referenced the fiscal note from DEC with control code YoiXA, which indicated a need for three additional positions to provide PFAS oversight. He asked how the department would absorb the costs of the new positions in outgoing years, especially considering other positions had been cut in the previous year.

Ms. Larson relayed that given the language in the bill, the department would require a total of four additional positions in perpetuity for as long as the statute existed.

She thought the legislature held the authority to ensure that the new positions would be funded.

Senator Wilson shared his concern about funding sources and thought there were no other funding options apart from unrestricted general funds (UGF).

Co-Chair Bishop believed there was a bill in the other body that would help. He indicated that the committee would discuss later in the meeting the Infrastructure Investment and Jobs Act (IIJA) money as it pertained to PFAS.

[9:20:48 AM](#)

Co-Chair Stedman noted that there was a request for an addition of 233 state employees in the current budget submission. He thought it seemed that the state was exposing itself to a substantial increase in personnel in a single budget cycle. He was concerned about adding more positions in order to oversee PFAS and thought there had to be a better solution.

Co-Chair Bishop emphasized that everyone wanted clean drinking water. He referenced discussion around the EPA and asked when the agency would be releasing more information and guidance.

Ms. Larson cited that EPA had released its strategic roadmap in October of 2021 on how it planned to address the variety of PFAS compounds. There were many benchmarks that EPA hoped to achieve within the next four to five years. The agency expected to release a proposed rule regarding PFAS in the National Primary Drinking Water Regulations (NPDWR). Sometime in the next few months, a regulated community was expecting to see the results of its research and peer review process and the results would determine whether the methodologies were sound. She noted that the current limits were 70 parts per trillion for a lifetime health advisory, and she had been told that the limits were expected to go down by an order of magnitude to seven parts per trillion or less. She relayed that the approval was expected to be released in August of 2022.

[9:24:04 AM](#)

Co-Chair Bishop thought that Ms. Larson's prediction on the order of magnitude reduction was accurate considering that

IIJA would designate \$5 billion specifically to PFAS and other emerging contaminants over the next five years.

Co-Chair Bishop asked who would be covering the fiscal notes.

Mr. Bates responded that the fiscal notes would be presented by the governing divisions.

Co-Chair Bishop suggested beginning with the fiscal note that involved the air quality permit.

[9:25:14 AM](#)

JASON OLDS, AIR QUALITY DIVISION, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, addressed a new fiscal impact note from DEC with the OMB component number 2061 and control code of iVDzt. The fiscal impact note totaled \$80,000 to pay for contractual support and three new peer review positions to develop a threshold limit for PFAS. The bill referenced a minimal amount for air quality emissions, and the fiscal note established a threshold under special procedures that would allow DEC to obtain contractual support and peer reviews. He noted that DEC was typically disincentivized from developing procedures that were more stringent than EPA.

Co-Chair Bishop understood that the difference between Title I and Title V was the time involved in the process, and that the emissions would remain the same. He asked if he was accurate.

Ms. Larson deferred the question to Mr. Olds.

Mr. Olds responded that Co-Chair Bishop was correct. There were a separate set of administrative procedures, but the inherent monitoring or emissions associated with a given permit did not necessarily change. He clarified that Title I was a state-only process, whereas Title V included specific rules crafted for the permit process under federal regulations.

Co-Chair Bishop asked for confirmation that if the process was to be unchanged and remain under Title V, the department would need \$80,000.

Mr. Olds relayed that the \$80,000 figure was to establish the minimal threshold value in the bill. There currently was no emission limit, and in order to craft the limit the department would have to go through special procedures to develop the threshold value and would need contractual support.

Co-Chair Bishop asked if the \$80,000 was simply intended to get the department up to speed. He understood that after the contractual procedures had been completed, then the pricing of the permit could begin.

Mr. Olds answered affirmatively.

9:28:27 AM

AT EASE

9:30:38 AM

RECONVENED

Ms. Carpenter addressed a new fiscal impact by DEC with OMB component 3202 and control code QaKQo. The Drinking Water Program within the Division of Environmental Health (DEH) under DEC would provide technical and engineering assistance to the Division of Spill Prevention and Response (SPAR) in their efforts to ensure drinking water was safe. She relayed that DEC would require two additional positions to adhere to the requirements of the bill. One of the new employees would be responsible for providing technical and compliance assistance to owners and operators of contaminated public drinking water systems and to SPAR. The second requested employee would be responsible for approving proposed treatments for contaminated drinking water systems. The fiscal note requested the funds for the two positions to help with the work.

Co-Chair Bishop asked if Mr. Bates was aware of the IIJA funds. He assumed that DEC would be working with all responsible parties to help individuals who had contaminated drinking water. He understood that DEC would work collaboratively with other entities to apply for IIJA funds in an effort to receive as much money as possible.

Mr. Bates wanted to give a brief overview of the State Revolving Fund (SRF) program, which was a low interest loan for communities in Alaska. He elaborated that it was a capitalization grant from EPA for drinking water and clean

water funds and was a revolving fund and would grow year after year. The program had been extremely useful in Alaska and successful nationally as well. The eligible entities included municipalities as well as private non-profit utilities that were rate-regulated by the Regulatory Commission of Alaska (RCA). The IIJA funds for SRF would be distributed through existing programs and processes within the SRF program. He reported that \$7.54 million per year would be distributed to the state through IIJA for five years. The funds would be used to address emerging contaminants with a specific focus on PFAS in drinking water systems. He assured the committee that the funds were fully subsidized and were considered grants rather than loans because there was no matching requirement.

[9:35:26 AM](#)

Ms. Larson addressed a new fiscal impact note by DEC with OMB component 3094 and control code YoiXA. The fiscal note was the largest of the notes by DEC and requested four additional SPAR employees who would be conducting the majority of the oversight and monitoring work described in the bill. The majority of the requested \$6.3 million would fund the sampling and provisioning of drinking water in communities where PFAS contamination was suspected. A small portion of the fiscal note also requested funds for administrative oversight and the associated costs.

Senator Wilson asked if the department could add receipt authority to offset some of the costs.

Ms. Larson explained that the department had an obligation to cost recover under statute. However, the entity that polluted the system with PFAS contaminants was usually the party that was required to pay the costs. The state would pay the majority of up-front costs due to the manner in which the bill was written, but it could collect the funds from the polluting entity after contamination had been proven.

Co-Chair Bishop thought the bill would also require the state to dispose of up to 25 gallons annually of PFAS contaminated substances for persons domiciled in Alaska.

Ms. Larson answered affirmatively.

Co-Chair Bishop thought the matter was similar to his earlier question regarding RCRA.

[9:37:37 AM](#)

Mr. Bates addressed a zero fiscal impact note by DEC with OMB component 3204 and control code OhSKs. He noted that the establishment of concentration limits for PFAS in drinking water as proposed by the bill appeared to act as a maximum contaminant level (MCL). The establishment of MCL might require monitoring and discharge limits for all dischargers where PFAS compounds were reasonably likely to be present. If regulations were necessary, DEC would absorb the costs in the normal course of business as it reviewed permits.

Co-Chair Bishop asked for an example of a wastewater facility that would be required to conduct monitoring. He asked if all municipal wastewater systems, seafood processing centers, and similar facilities would be required to conduct monitoring, or would it be applicable only to facilities in communities with known PFAS contaminants.

Mr. Bates stated that the bill would apply to the facilities in which DEC reasonably expected to find PFAS contaminants.

[9:39:36 AM](#)

JOHN BINDER, DEPUTY COMMISSIONER, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, addressed a new indeterminate fiscal impact note for the Department of Transportation and Public Facilities (DOT) with OMB component 530 and control code bUckf. The note would not require operating funds, but DOT projected that it would require about \$18 million of capital funds. He explained that the state had already identified approximately 30 airports in the state that were suspected of PFAS contamination due to the presence of AFFF, which was a substance used by airport crash rescue personnel. He reported that DOT had conducted PFAS testing at 10 of the suspected airports. The fiscal note assumed that the 10 airports that had been tested would need to be tested again since one of the compounds in the bill [hexafluoropropylene oxide dimer acid] had not been included in past tests. The results would drive whether a site needed to be

characterized as contaminated and provided with new water processes. The department averaged out the costs that had been incurred in the past based on the tests that had been conducted to arrive at the predicted \$18 million cost. However, the note was indeterminate because there was no way to know how many sites would need further action. It was possible that several of the suspected airports would not require additional action.

Senator Hoffman referenced an Alaska map which showed the locations of PFAS contaminated sites (copy on file). He asked if DOT had the same map.

Mr. Binder responded that he was not familiar with the map. He offered to provide a list of the 30 airports suspected of PFAS contamination.

Senator Hoffman would appreciate the information.

Senator Wilson wanted to verify that the estimated cost was \$18 million.

Co-Chair Bishop answered "Yes."

[9:43:52 AM](#)

Co-Chair Stedman referenced Senator Hoffman's request for a list of contaminated sites and thought it would helpful if the top 10 sites were highlighted.

Mr. Binder emphasized that DOT recognized that PFAS was undesirable at any of the state's airports. The contaminated airport sites were prioritized based on which sites were closest to communities and drinking water systems.

Co-Chair Stedman asked for a list of the top 10 most contaminated airports.

Mr. Binder agreed to provide the list immediately following the meeting.

[9:45:25 AM](#)

AT EASE

[9:46:15 AM](#)

RECONVENED

Co-Chair Bishop asked for both DEC and DOT to provide a list of the contaminated sites ranked in order of severity.

SB 121 was HEARD and HELD in committee for further consideration.

#hb155

HOUSE BILL NO. 155

"An Act relating to court-appointed visitors and experts; relating to the powers and duties of the office of public advocacy; relating to the powers and duties of the Alaska Court System; and providing for an effective date."

[9:46:56 AM](#)

Co-Chair Bishop relayed that it was the first hearing of HB 155. It was the intent of the committee to hear the introduction of the bill, the sectional analysis, and any invited and public testimony.

Co-Chair Stedman asked that all presenters and testifiers who came before the committee were attired in adherence with the formal dress code. He stated there were some exceptions, such as an individual who had a broken arm.

Co-Chair Bishop noted that there were spare ties available for those in need.

[9:48:19 AM](#)

REPRESENTATIVE CHRIS TUCK, SPONSOR, relayed that HB 155 attempted to fix a flaw in the state that was negatively impacting the Alaska Court System's (ACS) visitor program. He explained that the program was created to act as an investigative arm of the court in certain protective probate proceedings such as guardianships and conservatorships. Since 1984, the court visitor program has been administered by the Office of Public Advocacy (OPA). Unfortunately, there was no legislative history that clarified why a judicial branch program was placed under the direction of an executive branch office. The bill was developed in collaboration with OPA and the court system and both entities had endorsed the bill. He reported that state law gave OPA the responsibility to provide court

visitors in guardianship proceedings and involuntary medication proceedings. The executive branch paid for the court visitors because it was the branch under which OPA fell. The court system independently contracted with and directly paid for court visitors in conservatorship proceedings. He explained that OPA was only responsible for providing court visitors in guardianship proceedings. The current structure of the program was both inefficient and confusing. The bill would solve the inefficiency by moving the court visitor program from OPA to the court system.

Representative Tuck explained that court visitors were neutral parties with specialized training who conducted independent investigations into whether guardianships or conservatorships were necessary. Guardianships were enacted for individuals who were unable to care for their own wellbeing due to incapacity or disability, while conservatorships were used to manage the financial and personal affairs of an impaired person or minor. The court visitors also participated in investigations to determine whether a potentially impaired individual was able to give their informed consent.

[9:51:57 AM](#)

Senator von Imhof asked if the committee would consider the fiscal note [by the Alaska Judiciary System with OMB component 768 and control code EGgOL] during the current meeting.

Co-Chair Bishop responded that he intended to hear the bill and set it aside, but she was welcome to address the fiscal note.

Senator von Imhof asked why moving the program would cost \$960,000 according to the fiscal note. She wondered why a new full-time position was proposed as well.

Representative Tuck responded that the proposed new employee would be responsible for the training and oversight of court visitors. He noted that the program had been underfunded for a while and the move presented an opportunity to bring it back up to a more appropriate funding level. He suggested that Mr. Doug Wooliver from the court system address the question as well.

[9:53:13 AM](#)

DOUG WOOLIVER, DEPUTY ADMINISTRATIVE DIRECTOR, ALASKA COURT SYSTEM, echoed the sponsor's assertion that the bill was developed in collaboration with OPA. The reason there was a difference in the fiscal note was because OPA had never provided training for court visitors in the past and the courts would like to improve the program. The employee would provide oversight, training, and scheduling for the court visitors. He thought the tasks should have been happening already and hoped the program would improve when moved to the court system.

Co-Chair Stedman noted that around \$100,000 of the cost of the shift was due to the repositioning of the duties to the courts. He asked if the courts could function without the addition of the \$100,000 spread.

Mr. Wooliver responded that the courts could function without the funds, but the program would retain all of the deficiencies that it currently had. It was important to improve the program if the court system were to take it over, which would require additional funds.

Senator Olson shared the same concern as Senator von Imhof. He asked if the improvements to the program would be worth the \$960,000 in the fiscal note.

Mr. Wooliver noted that most of the cost simply reflected a transfer of funds from OPA to the court system. The only increase was the roughly \$100,000 for the new position.

Senator Olson noted that the amount would be recurring every year.

Mr. Wooliver responded in the affirmative, however the funds would originate from OPA's budget. He explained that OPA's budget would show a decrement due to the transfer of funds.

[9:56:48 AM](#)

MICHAEL MASON, STAFF, REPRESENTATIVE TUCK, read from the sectional analysis (copy on file):

Section 1 - Repeals and reenacts AS 13.26.226 (d) to read: The Alaska Court System shall provide visitors and experts in guardianship proceedings under AS

13.26.291. The Alaska Court System may contract for services of court-appointed visitors and experts.

Section 2 - Amends AS 13.26.291 (a) to stipulate that the Alaska Court System shall bear the costs of the visitors and experts appointed under AS 13.26.226 (c).

Section 3 - Amends AS 44.21.410 (a) to remove paragraph 2 and renumber the remaining paragraph.

Section 4 - Amends AS.21.420 (c) to remove language allowing the Commissioner of Administration to contract for services for court visitors and experts to perform the duties set out in AS 44.21.410.

Section 5 - Amends AS 44.21.440 (b) to remove a reference to court visitors from language prohibiting the Office of Public Advocacy from using improper pressure to influence the professional judgment of a person paid by the office.

Section 6 - Amends AS.30.839 (d) to remove language allowing the court to direct the Office of Public Advocacy to provide a court visitor to investigate whether a patient can give or withhold informed consent in psychotropic medication proceedings during involuntary commitments.

Section 7 - Amends 47.30.839 to add a new subsection to read: (j) The Alaska Court System shall provide visitors in proceedings under this section. The Alaska Court System may contract for services of court-appointed visitors.

Section 8 - Amends the uncodified law of the State of Alaska to add transition language stipulating that the act applies to guardianship proceedings under AS 13.26.291 and proceedings under AS.30.839 commenced on or after the effective date of the act. The section further amends the uncodified law of the State of Alaska to ensure that the Office of Public Advocacy shall provide for the services of visitors in proceedings under AS 47.30.839 before the effective date of the act.

Section 9 - Provides an effective date of July 1, 2022.

[9:59:26 AM](#)

Senator Wilson wondered if it would be better for the new employee to belong to an entity other than the court system as the employee would be asking the court to make decisions on an individual's wellbeing.

Representative Tuck relayed that the position would be contracted out and there was already a neutral third party involved in the process. The bill would make the process more efficient and less confusing by placing it under the proper branch. He relayed that the courts were the parties that made the decisions in the end. It was unclear why the program had been designated to OPA and it had been identified as a problem for a long time.

Senator Wilson was concerned that the court would be paying someone to agree or disagree with the court's judgements. He thought a separation seemed wise.

Representative Tuck responded that the decisions were not made after the investigation was complete. He invited his staff to comment.

Mr. Mason suggested that Mr. James Stinson from OPA comment on Senator Wilson's concern.

[10:01:36 AM](#)

JAMES STINSON, DIRECTOR, OFFICE OF PUBLIC ADVOCACY, DEPARTMENT OF ADMINISTRATION (via teleconference), responded that currently, the court system directly appointed and paid for court visitors in conservatorship cases. He explained that OPA paid for the same services with the same contractors in guardianship cases. He thought that the public had the misconception that OPA was running a monopoly on the proceedings and had undue influence because OPA also supplied the attorneys for the cases. The reality was that all court visitors, regardless of case type, were under the judicial rules of conduct per case law. The court visitors reported to the judiciary branch and acted as an investigative arm of the court. He relayed that OPA's only real responsibility was to provide payment to the court visitors if the case at hand was a guardianship case.

10:03:22 AM

Co-Chair Bishop OPENED public testimony.

Co-Chair Bishop CLOSED public testimony.

HB 155 was HEARD and HELD in committee for further consideration.

Co-Chair Bishop discussed the agenda for the afternoon.

#

ADJOURNMENT

10:04:06 AM

The meeting was adjourned at 10:04 a.m.