

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON OIL AND GAS

April 10, 2001

5:30 p.m.

MEMBERS PRESENT

Representative Scott Ogan, Chair (via teleconference)
Representative Hugh Fate, Vice Chair
Representative Fred Dyson
Representative Mike Chenault
Representative Vic Kohring
Representative Gretchen Guess
Representative Reggie Joule

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 164

"An Act prohibiting leases under the Right-of-Way Leasing Act on state land in or adjacent to the Beaufort Sea; and providing for an effective date."

- MOVED HCS SB 164(O&G) OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 76

"An Act relating to the Alaska Right-of-Way Leasing Act; and providing for an effective date."

- MOVED SSSB 76 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 156(RES)

"An Act amending the Alaska Land Act to clarify the requirement of a single written best interest finding required for the sale, lease, or other disposal of state land or resources or an interest in them, and relating to certain disposals involving multiphased development; and providing for an effective date."

- MOVED CSSB 156(RES) OUT OF COMMITTEE

SENATE BILL NO. 143

"An Act authorizing the Department of Natural Resources to enter into agreements with a person or persons desiring to own an oil

or natural gas pipeline proposed to be located on state land for the purposes of providing for payment of the reasonable costs incurred in preparing for activities before receipt of an application under the Alaska Right-of-Way Leasing Act and for activities relating to the processing of an application under that Act; and providing for an effective date."

- MOVED SB 143 OUT OF COMMITTEE

PREVIOUS ACTION

BILL: SB 164

SHORT TITLE:NO GAS PIPELINE OVER BEAUFORT SEA

SPONSOR(S): SENATOR(S) TORGERSON

Jrn-Date	Jrn-Page		Action
03/23/01	0786	(S)	READ THE FIRST TIME - REFERRALS
03/23/01	0787	(S)	RES
03/28/01		(S)	RES AT 3:30 PM BUTROVICH 205
03/28/01		(S)	Moved Out of Committee MINUTE(RES)
03/29/01	0856	(S)	RES RPT 7DP
03/29/01	0856	(S)	DP: TORGERSON, TAYLOR, HALFORD, PEARCE,
03/29/01	0856	(S)	KELLY, LINCOLN, ELTON
03/29/01	0856	(S)	FN1: ZERO(DNR)
03/30/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/02/01	0903	(S)	RULES TO CALENDAR 4/2/01
04/02/01	0906	(S)	READ THE SECOND TIME
04/02/01	0906	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/02/01	0906	(S)	READ THE THIRD TIME SB 164
04/02/01	0907	(S)	PASSED Y18 N- A1 E1
04/02/01	0907	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/02/01	0908	(S)	TRANSMITTED TO (H)
04/02/01	0908	(S)	VERSION: SB 164
04/03/01	0821	(H)	READ THE FIRST TIME - REFERRALS
04/03/01	0821	(H)	O&G, RES
04/03/01	0831	(H)	CROSS SPONSOR(S): CROFT, WHITAKER
04/10/01		(H)	O&G AT 5:00 PM CAPITOL 124

BILL: SB 76

SHORT TITLE:RIGHT-OF-WAY LEASING ACT: TERM & RENEWAL
SPONSOR(S): SENATOR(S) THERRIAULT

Jrn-Date	Jrn-Page		Action
02/07/01	0301	(S)	READ THE FIRST TIME - REFERRALS
02/07/01	0301	(S)	RES
03/29/01	0859	(S)	SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
03/29/01	0859	(S)	RES
04/02/01		(S)	RES AT 3:30 PM BUTROVICH 205
04/02/01		(S)	Moved Out of Committee MINUTE(RES)
04/03/01	0919	(S)	RES RPT 3DP 2NR
04/03/01	0919	(S)	DP: TORGERSON, PEARCE, HALFORD;
04/03/01	0919	(S)	NR: LINCOLN, ELTON
04/03/01	0919	(S)	FN1: INDETERMINATE(DNR)
04/04/01	0932	(S)	RULES TO CALENDAR 4/4/01
04/04/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/04/01	0943	(S)	READ THE SECOND TIME
04/04/01	0943	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/04/01	0943	(S)	READ THE THIRD TIME SSSB 76
04/04/01	0943	(S)	PASSED Y19 N- E1
04/04/01	0943	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/04/01	0946	(S)	TRANSMITTED TO (H)
04/04/01	0946	(S)	VERSION: SSSB 76
04/05/01	0852	(H)	READ THE FIRST TIME - REFERRALS
04/05/01	0852	(H)	O&G, RES
04/05/01	0870	(H)	CROSS SPONSOR(S): HARRIS
04/10/01		(H)	O&G AT 5:00 PM CAPITOL 124

BILL: SB 156

SHORT TITLE:BEST INTEREST FINDING UNDER AK LAND ACT
SPONSOR(S): RESOURCES

Jrn-Date	Jrn-Page		Action
03/21/01	0756	(S)	READ THE FIRST TIME - REFERRALS
03/21/01	0756	(S)	RES
03/28/01		(S)	RES AT 3:30 PM BUTROVICH 205
03/28/01		(S)	Moved CS(RES) Out of Committee

			MINUTE(RES)
03/29/01	0855	(S)	RES RPT CS 5DP 2NR SAME TITLE
03/29/01	0855	(S)	DP: TORGERSON, TAYLOR, HALFORD, PEARCE, KELLY; NR: LINCOLN, ELTON
03/29/01	0855	(S)	FN1: ZERO(DNR)
03/30/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/02/01	0903	(S)	RULES TO CALENDAR 4/2/01
04/02/01	0905	(S)	READ THE SECOND TIME
04/02/01	0905	(S)	RES CS ADOPTED UNAN CONSENT
04/02/01	0905	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/02/01	0905	(S)	READ THE THIRD TIME CSSB 156(RES)
04/02/01	0906	(S)	PASSED Y14 N4 A1 E1
04/02/01	0906	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/02/01	0906	(S)	ELLIS NOTICE OF RECONSIDERATION
04/03/01	0922	(S)	RECONSIDERATION NOT TAKEN UP
04/03/01	0923	(S)	TRANSMITTED TO (H)
04/03/01	0923	(S)	VERSION: CSSB 156(RES)
04/04/01	0836	(H)	READ THE FIRST TIME - REFERRALS
04/04/01	0836	(H)	O&G, RES
04/10/01		(H)	O&G AT 5:00 PM CAPITOL 124

BILL: SB 143

SHORT TITLE:RIGHT-OF-WAY LEASING ACT:APPLICATION COST
SPONSOR(S): RESOURCES

Jrn-Date	Jrn-Page		Action
03/14/01	0659	(S)	READ THE FIRST TIME - REFERRALS
03/14/01	0659	(S)	RES, FIN
03/19/01		(S)	RES AT 3:30 PM BUTROVICH 205
03/19/01		(S)	Moved Out of Committee MINUTE(RES)
03/20/01	0733	(S)	RES RPT 4DP 1NR
03/20/01	0733	(S)	DP: TORGERSON, TAYLOR, PEARCE, KELLY; NR: ELTON
03/20/01	0733	(S)	FN1: INDETERMINATE(DNR)
03/28/01	0837	(S)	FIN RPT 6DP 2NR
03/28/01	0837	(S)	DP: DONLEY, KELLY, GREEN, AUSTERMAN,

03/28/01	0837	(S)	WILKEN, LEMAN; NR: HOFFMAN, OLSON
03/28/01	0838	(S)	FN1: INDETERMINATE(DNR)
03/28/01		(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/28/01		(S)	Moved Out of Committee MINUTE(FIN)
03/30/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/02/01	0902	(S)	RULES TO CALENDAR 4/2/01
04/02/01	0904	(S)	READ THE SECOND TIME
04/02/01	0904	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/02/01	0904	(S)	READ THE THIRD TIME SB 143
04/02/01	0904	(S)	PASSED Y18 N- A1 E1
04/02/01	0905	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/02/01	0908	(S)	TRANSMITTED TO (H)
04/02/01	0908	(S)	VERSION: SB 143
04/03/01	0820	(H)	READ THE FIRST TIME - REFERRALS
04/03/01	0820	(H)	O&G, RES, FIN
04/10/01		(H)	O&G AT 5:00 PM CAPITOL 124

WITNESS REGISTER

SENATOR JOHN TORGERSON
Alaska State Legislature
Capitol Building, Room 427
Juneau, Alaska 99801

POSITION STATEMENT: Testified as the sponsor of SB 164; as chairman of the Senate Resources Standing Committee, presented the sponsor statement for SB 143 and answered questions.

MICHAEL J. HURLEY, Government Relations
North American Natural Gas Pipeline Group
601 West 5th Avenue, Suite 500
Anchorage, Alaska 99501

POSITION STATEMENT: Testified in opposition to SB 164 because it limits routing options; answered questions.

WILDA RODMAN, Staff
to Senator Gene Therriault
Alaska State Legislature
Capitol Building, Room 121
Juneau, Alaska 99801

POSITION STATEMENT: Presented SSSB 76 on behalf of Senator Therriault, sponsor.

WILLIAM G. BRITT, JR., Pipeline Coordinator
Office of the Commissioner
Department of Natural Resources (DNR)
411 West Fourth Avenue, Second Floor
Anchorage, Alaska 99501-2343

POSITION STATEMENT: Testified in support of SSSB 76; testified on SB 143 that clarification of the DNR's authority is beneficial, but expressed concern about the sunset clause in Section 2.

STEVEN JONES, Manager
Trans-Alaska Pipeline System (TAPS) Right-of-Way Renewal
Alyeska Pipeline Service Company
1835 South Bragaw Street
Anchorage, Alaska 99512

POSITION STATEMENT: Testified in support of SSSB 76.

SENATOR DRUE PEARCE
Alaska State Legislature
Capitol Building, Room 119
Juneau, Alaska 99801

POSITION STATEMENT: As vice chair of the Senate Resources Standing Committee, presented the sponsor statement for CSSB 156(RES) and clarified the intent of page 2, lines 21-26.

CAROL CARROLL, Director
Division of Support Services
Department of Natural Resources (DNR)
400 Willoughby Avenue, Fifth Floor
Juneau, Alaska 99801-1724

POSITION STATEMENT: Testified on behalf of the DNR and the administration in support of CSSB 156(RES).

JUDY BRADY, Executive Director
Alaska Oil and Gas Association
121 West Fireweed Lane
Anchorage, Alaska 99503

POSITION STATEMENT: Testified in support of CSSB 156(RES); asked about intent on page 5, lines 21-26.

ACTION NARRATIVE

TAPE 01-27, SIDE A
Number 0001

VICE CHAIR HUGH FATE called the House Special Committee on Oil and Gas meeting to order at 5:30 p.m. Members present at the call to order were Representatives Fate, Dyson, Chenault, and Joule. Representatives Guess, Ogan (via teleconference), and Kohring joined the meeting as it was in progress.

SB 164 - NO GAS PIPELINE OVER BEAUFORT SEA

[Contains discussion relating to HB 83]

Number 0100

VICE CHAIR FATE announced the first order of business, SENATE BILL NO. 164, "An Act prohibiting leases under the Right-of-Way Leasing Act on state land in or adjacent to the Beaufort Sea; and providing for an effective date."

Number 0120

VICE CHAIR FATE requested a motion to adopt the proposed committee substitute (CS), Version J [22-LS0809\J, Chenoweth, 4/5/01], as a work draft. [Representative Chenault subsequently said "yes," which was taken as a motion; no objection was stated, and Version J was treated as adopted.]

VICE CHAIR FATE explained that on page 2 of Version J, language was added on lines 17-25. However, an amendment was needed on page 3, lines 7-11, subparagraph (B), to remove language regarding capacity that doesn't fit in the bill in this particular area.

[Adopted as a work draft at the 4/2/01 hearing on HB 83 was a proposed CS, Version L; the original HB 83 had been gutted and had language from SB 164 put into it, and Version L retained the employment language and language dealing with pipeline capacity. Senator Torgerson, sponsor of SB 164, had testified at the 4/2/01 hearing on HB 83, indicating he had no problem with the employment wording, but felt the pipeline capacity language did not fit in the bill. Therefore, when SB 164 was to be heard by the House Special Committee on Oil and Gas, a new proposed CS ordered by the committee was to include the employment language from Version L of HB 83, but not the capacity language; however, the resulting proposed CS for SB 164, Version J, mistakenly included the capacity language.]

Number 0400

SENATOR JOHN TORGERSON, Alaska State Legislature, came forward to testify as sponsor of SB 164. He explained that the thrust of SB 164 is to eliminate the "over-the-top" [gas pipeline] route, rather than to talk about [pipeline] capacities. The bill talks about eliminating a choice by making the legislative finding that [the "over-the-top" route] isn't in the best interests of the state because it wouldn't include value-added uses, for example. Referring members to subparagraph (A) [page 3], Senator Torgerson emphasized that the capacity question just doesn't fit within the context of the bill.

Number 0545

REPRESENTATIVE DYSON moved to adopt a conceptual amendment to Version J, page 3, "taking out (A) on line 4, and ... everything from line 7 through line 12." There being no objection, conceptual Amendment 1 was adopted.

[A motion to move the bill from committee was made, but was withdrawn in order to hear testimony.]

Number 0709

MICHAEL J. HURLEY, Government Relations, North American Natural Gas Pipeline Group, came forward to testify, noting that committee members had his written testimony. He emphasized the group's opposition to the bill, saying it is inappropriate at this point to be taking options off the table.

Number 0796

REPRESENTATIVE CHENAULT asked whether looking at alternative routes is a requirement of the FERC [Federal Energy Regulatory Commission] or something that the group has decided to do on its own.

MR. HURLEY specified that a section in the U.S. regulations, 18 C.F.R. 380.12, sets out the requirements for an application to the FERC. Section 12 of 18 C.F.R 380 outlines one of the appendices required for a filing, which includes an alternative analysis and specifies that it must look at alternative costs, environmental impacts, and so forth.

Number 0934

REPRESENTATIVE OGAN said right now there is no pipeline; therefore, [the legislature] is choosing a preferred route. He added that Congress already has chosen a route. He suggested that the policy call is similar to whether the State of Alaska wants to invest in "fast ferries" or a road out of Juneau. It isn't prohibiting something that already exists, he said, but is making a policy call regarding the route.

MR. HURLEY restated his belief that it is premature for anyone to make those kinds of determinations before having the information.

VICE CHAIR FATE asked whether there were questions of William Britt, Jr., Pipeline Coordinator, Department of Natural Resources, who was on teleconference; none were offered.

Number 1168

REPRESENTATIVE DYSON made a motion to move HCS for SB 164, version 22-LS0809\J, Chenoweth, 4/5/01, as amended, out of committee with individual recommendations and the zero fiscal note. There being no objection, HCS SB 164(O&G) was moved out of the House Special Committee on Oil and Gas.

SB 76 - RIGHT-OF-WAY LEASING ACT

VICE CHAIR FATE announced the next order of business, SPONSOR SUBSTITUTE FOR SENATE BILL NO. 76, "An Act relating to the Alaska Right-of-Way Leasing Act; and providing for an effective date."

Number 1258

WILDA RODMAN, Staff to Senator Gene Therriault, Alaska State Legislature, presented SSSB 76 on behalf of Senator Therriault, sponsor, explaining the changes it makes to the 1972 Alaska Right-of-Way Leasing Act. In Section 1, it increases the maximum term of right-of-way lease renewals from the current 10 years to 30 years; this changes the length of terms for renewals only, not the length of the original lease terms. Therefore, the renewal process for pipelines with leases that expire in 2004, including the Trans-Alaska Pipeline System (TAPS), will proceed uninterrupted.

MS. RODMAN reported that Section 2 places in statute a provision allowing for the extension of leases under their existing terms if the lessee has applied for renewal but the terms of the lease

are still under negotiation on the date of expiration. She explained that the language proposed in AS 38.35.110 states that the lease will be continued until the commissioner issues a final determination on renewal.

MS. RODMAN noted that Section 3 requires lessees under new and renewed right-of-way leases to reimburse the state for costs associated with monitoring the operation, maintenance, and termination of pipelines. Under current statute, they reimburse for costs associated with the monitoring of construction. This adds operation, maintenance, and termination, which Ms. Rodman said she understands to be the status quo, written into individual leases and contracts currently; therefore, this just puts into statute what is already being done.

Number 1385

MS. RODMAN explained that Section 4 amends the definition of "state land" for purposes of the Alaska Right-of-Way Leasing Act. She said in talking to Bill Britt, state pipeline coordinator for the Department of Natural Resources (DNR), this is more a preventive measure than to address a current situation. She said as Mr. Britt explains it, if the state were to purchase a highway easement across private property under the current terms of the Act, prospective pipeline owners would have to apply for a lease under the Act. However, the DNR doesn't have authority for a Department of Transportation and Public Facilities easement. Therefore, this restricts the definition of "state land" to say that pipeline owners only have to apply for a right-of-way permit over lands in which the state has sufficient interest to grant the right-of-way lease.

MS. RODMAN turned attention to Section 5, noting that it allows for existing pipeline leases to be amended, upon request, to incorporate the new provision for renewal periods of up to 30 years; she reiterated that this applies to the renewal period only.

Number 1529

WILLIAM G. BRITT, JR., Pipeline Coordinator, Office of the Commissioner, Department of Natural Resources, responded via teleconference to a question by Representative Dyson. He said the bill is a good idea. He also indicated the DNR has worked with Senator Therriault's office as well as with the TAPS owners to craft language that they all support.

Number 1580

STEVEN JONES, Manager, Trans-Alaska Pipeline System (TAPS) Right-of-Way Renewal, Alyeska Pipeline Service Company, came forward to testify on SSSB 76. Voicing support for the bill, Mr. Jones concurred with Mr. Britt's comment that this represents a joint effort to work out language on what are basically some administrative changes to the Alaska Right-of-Way Leasing Act.

VICE CHAIR FATE asked whether there were any questions; none were offered.

Number 1611

REPRESENTATIVE DYSON made a motion to move SSSB 76 from committee [with individual recommendations and an indeterminate fiscal note]. There being no objection, SSSB 76 was moved out of the House Special Committee on Oil and Gas.

SB 156 - BEST INTEREST FINDING UNDER AK LAND ACT

TAPE 01-28, SIDE A

Number 0047

VICE CHAIR FATE announced the next order of business, CS FOR SENATE BILL NO. 156(RES), "An Act amending the Alaska Land Act to clarify the requirement of a single written best interest finding required for the sale, lease, or other disposal of state land or resources or an interest in them, and relating to certain disposals involving multiphased development; and providing for an effective date."

Number 0081

SENATOR DRUE PEARCE, Alaska State Legislature, presented the sponsor statement for SB 156, noting that the bill was introduced by the Senate Resources Standing Committee [of which she is vice chair]. She explained that the bill amends the Alaska Land Act to clarify the requirement that the Department of Natural Resources (DNR) prepare a single written best interest finding for multiphase development projects.

SENATOR PEARCE provided some history. In 1994, the legislature passed SB 308 in reaction to a series of decisions by the Alaska Supreme Court concerning what the court characterized as DNR's "phasing" of its review of various mining and oil and gas

projects; that bill explicitly allowed project phasing and precisely defined the scope of the best interest finding determination. At the time, the legislature was aware that the post-disposal phases - exploration, development, and transportation - would be subjected to numerous federal, state, and local laws, as well as regulations, policies, and ordinances; would be reviewed by numerous agencies; and would be subject to public review and comment.

SENATOR PEARCE explained that while the legislature did intend that there would be a detailed review of the project at any later phase, the legislature did not intend that the DNR would have to issue another best interest finding as part of that review. However, the Alaska Supreme Court recently declared that the DNR is obliged, at each phase of development, to issue an entire best interest finding relating to that phase before the proposed development may proceed.

SENATOR PEARCE told members [CSSB 156(RES)] is intended to make it clear that, first, no other best interest finding is required after the disposal phase; second, the best interest finding shall be based upon known information or information made available to the director, even if all potential cumulative impacts of the project are not known; and, third, public notice and the opportunity to comment shall be provided at each phase of an oil and gas project. The intent is that the phases subject to this notice are exploration, development, and transportation. She noted that the Division of Oil & Gas (DNR) had testified before the Senate Resources Standing Committee that the administration is in support of the bill.

Number 0336

SENATOR PEARCE pointed out that beyond the time required to develop a best interest finding at every phase of a project, the best interest finding also could be costly. A typical best interest finding for a lease disposal, for example, costs the Division of Oil & Gas approximately \$75,000; this doesn't include costs for other agencies such as the Department of Environmental Conservation (DEC) or the Alaska Department of Fish & Game (ADF&G).

SENATOR PEARCE said although the division has never issued a best interest finding for an exploration well, it estimates a minimum cost of \$50,000; with approximately 15 wells planned for the 2000-2001 drilling season on state land, the division would have spent an extra \$750,000 if required to do a best interest

finding for each well. Although the division hasn't estimated the cost for doing a best interest finding for the development phase, it would likely be at least as expensive as for an exploration well.

SENATOR PEARCE informed members that present to answer questions was Patrick Coughlin, special counsel to the Senate Resources Standing Committee, who had experience working with the division when SB 308 was passed. She noted that Jim Eason, former Division of Oil & Gas director, had worked on SB 308, as had Ken Boyd, director of the division at the time, who had brought the problem [to the attention of the Senate Resources Standing Committee] last fall before he left the division.

Number 0583

CAROL CARROLL, Director, Division of Support Services, Department of Natural Resources, came forward on behalf of the DNR. She advised the committee that the administration supports this bill and agrees there should be only one best interest finding, at the disposal phase when doing a disposal. She noted that the DNR does a preliminary best [interest] findings and gives the public many opportunities to participate before the findings and the disposal are finalized.

MS. CARROLL pointed out that the bill provides that in order to phase oil and gas activities, post-disposal phases also must be subject to public notice and participation. Furthermore, the DNR believes [the bill] requires the Division of Oil & Gas to promulgate regulations in order to provide to the public both notice and the means to participate. Ms. Carroll noted that online to answer technical questions was Bill Van Dyke from the Division of Oil & Gas.

Number 0720

REPRESENTATIVE OGAN asked why the zero fiscal note [from the DNR] doesn't reflect a cost savings.

MS. CARROLL answered that it reflects what the DNR is doing now, which is what is stated in the bill. She explained that as a result of the court case in the year 2000, the department had not yet started doing best interest findings for each phase of development; therefore, there is no fiscal impact.

Number 0848

JUDY BRADY, Executive Director, Alaska Oil and Gas Association (AOGA), testified via teleconference in support of the bill, noting that AOGA had testified on the Senate side as well. She characterized this as an important step forward to make clear what the legislature has always intended regarding the best interest findings.

MS. BRADY said AOGA continues to struggle with the language on page 5, lines 21-26, however. She expressed the need to assure the public and to ensure there are public notice and comment allowed for major changes regarding major phases of oil and gas development. She expressed her understanding that under that language, if there is an oil and gas project outside of coastal zones, the DNR will [promulgate] regulations so that those phases that normally would be noticed under the Alaska Coastal Management Plan (ACMP) program will be noticed instead by DNR.

MS. BRADY continued, offering that [AOGA's] experience with language involving public notice and regulations in the past has been that if there is any possible way to misconstrue the language, someone will do so. She said [AOGA] is trying to work now with the offices of Senator Pearce and Senator Torgerson [chair of the Senate Resources Standing Committee] to ensure that everyone's understanding is clearly reflected in the language [of the bill]. She indicated those efforts are continuing.

Number 1054

SENATOR PEARCE suggested there is no need to change the language, but said her own intent, as the bill is passed on the House floor, is to read into the record the intent just stated by Ms. Brady, along with "the best interest findings intentions" that she herself had stated. She clarified that the intent of the paragraph [page 5, lines 21-26] is to make sure that there is public notice; it will either be given pursuant to the coastal zone management program or pursuant to the regulations adopted by the department [DNR], but will not impose additional work under the coastal zone management program.

SENATOR PEARCE reiterated the intent of streamlining the process, as was intended with [SB] 308 in 1994. In response to Vice Chair Fate, she specified that she wouldn't provide a letter of intent but would just provide a statement on the House floor when the bill passed.

Number 1157

REPRESENTATIVE OGAN asked whether it would be appropriate to add language to the "purpose" section of the bill, to provide clarification.

SENATOR PEARCE said no. She explained that the language had been worked in every direction possible, and the more words there were, the more confusion would exist and the more words there would be for a third party to try to decide what [the legislature] intended. She reiterated her preference of stating on the House floor what the bill does and doesn't do.

MS. BRADY, in response to Representative Ogan, said she thinks Senator Pearce's reading the intent into the record would go a long way towards clarifying it to the court, any other party, and the agencies. She agreed with Senator Pearce that "we have been struggling with language and so far have not come up with any brilliant solutions." In further response, she highlighted the dilemma: Alaska has a dual set of regulations, through the ACMP process and the agencies as well; in fact, on the North Slope, local borough regulations are also overriding. There is almost no way to make that clear in the statute itself.

REPRESENTATIVE OGAN suggested perhaps the committee should discuss the supreme court's "clear statement doctrine" rulings and look at perhaps incorporating language into some bills that give the administration the ability to interpret regulations.

Number 1521

SENATOR PEARCE stated that there is a very clear interest on the part of the Senate Resources Standing Committee to make sure there is public notice; part of the reason the committee had struggled over this paragraph [on page 5] was to make it clear that there is to be proper public notice, but not to have it fall under two different regulatory regimes - the coastal zone management program and the areas outside of that, both of which the [statutory] language must fit when regulations are promulgated. Therefore, the intent is to have public notice be pursuant to one or the other, and not to impose any additional work under the coastal zone management program.

Number 1583

REPRESENTATIVE OGAN recalled that the Cook Inlet areawide lease sale went through perhaps the most extensive public process in the state's history, after which the governor created the

"stakeholders' group" and opened it up to another process that was, in some people's minds, outside the scope of the statutes and regulations. Noting that the department has testified in favor of this bill, he asked whether the bill would affect something like the additional public process in that instance.

SENATOR PEARCE responded that she herself was "one of the most vocal detractors" of that stakeholders' process, not because she didn't think it was useful to have people get together to talk through the questions and concerns, but because she believes there was no statutory authority to incorporate the recommendations from that process into regulations, for example. If one good thing came out of the stakeholders' process, she said it was a clear understanding by some concerned people that even if SB 308 was being implemented, there would still be the right to public comment at every step.

SENATOR PEARCE explained that when there is a lease sale, the successful company brings a proposal for an exploration well, after which there is another opportunity for public comment during the permitting process. Under CSSB 156(RES), there would not be another best interest finding, but would be public comment. She stated her belief that members of the stakeholders' group who represented the commercial fisheries in Cook Inlet, in particular, had felt more comfortable with the areawide lease sale after realizing they would have the opportunity for public comment at every step. Noting that it was the "environmental community" opposing the lease sale, she suggested it is important to have the language in the bill that talks about the public process "because that's how we've helped other users reach a comfort level."

Number 1798

REPRESENTATIVE OGAN asked whether Senator Pearce believes the bill will help to mitigate future "stakeholder-group-type scenarios."

SENATOR PEARCE replied, "We do not have any power over whether or not the third floor decides to pull together another stakeholder group; as a matter of fact, I would say that the pipeline council that they put together is somewhat the same."

VICE CHAIR FATE asked whether there was further testimony or discussion; none was offered.

Number 1851

REPRESENTATIVE DYSON made a motion to move CSSB 156(RES) out of committee with individual recommendations and the attached zero fiscal note. There being no objection, CSSB 156(RES) was moved out of the House Special Committee on Oil and Gas.

SB 143 - RIGHT-OF-WAY LEASING ACT:APPLICATION COST

Number 1890

VICE CHAIR FATE announced the final order of business, SENATE BILL NO. 143, "An Act authorizing the Department of Natural Resources to enter into agreements with a person or persons desiring to own an oil or natural gas pipeline proposed to be located on state land for the purposes of providing for payment of the reasonable costs incurred in preparing for activities before receipt of an application under the Alaska Right-of-Way Leasing Act and for activities relating to the processing of an application under that Act; and providing for an effective date."

Number 1930

SENATOR JOHN TORGERSON, Alaska State Legislature, came forward as the chairman of the Senate Resources Standing Committee, sponsor of SB 143. He explained that under current Alaska law, the state cannot start charging for applications costs on right-of-way leasing for pipelines until after an application is actually filed. Therefore, SB 143 says the department can enter into a memorandum of understanding with pipeline owners or producers during the preapplication period, for example, to put a pipeline in and then collect the costs of the assessments until the application is filed.

SENATOR TORGERSON informed members that this is in response to the \$10 million fiscal note from the governor's office for pipeline work that [the governor] wants to do this next year. He characterized it as a "pay-as-you-go" bill, noting that its sunset date of December 31, 2003, could be extended easily, if so desired; he cautioned, however, against having these pipeline agreements come before [the legislature] "forever."

Number 2050

WILLIAM G. BRITT, JR., Pipeline Coordinator, Office of the Commissioner, Department of Natural Resources (DNR), testified via teleconference, explaining that the DNR fairly routinely

enters into agreements for reimbursement of preapplication costs. He noted that he is in the process of working with both the producers and Foothills [Pipe Lines Ltd.] to craft such agreements for the gas pipeline. Acknowledging that there is some disagreement over whether the DNR has existing authority to do so, he said clarifying the existence of that authority is certainly beneficial.

MR. BRITT expressed concern, however, that the sunset clause in Section 2 has the potential of precluding [the DNR] from doing what it has routinely done, and what appears to be good policy for the state, after December 31, 2003. He agreed with Senator Torgerson that [the sunset date] is not difficult to undo, but said the existing standard operating procedure within the DNR's Pipeline Coordinator's office of seeking reimbursement prior to an application - as well as the rest of the bill, which indicates the DNR has the ability to do so - appears to be good public policy that should not expire on that date.

Number 2141

REPRESENTATIVE OGAN responded, saying it seems the idea of the sunset date is to set a timeline for this particular proposed project to come to fruition. He brought attention to the large amount of gas available in the Lower 48. He said perhaps having a deadline expresses the legislature's intent to expedite [the pipeline]; the longer [Alaska] waits, the more gas wells will be drilled [elsewhere] and the less likely it is that the project will be built.

REPRESENTATIVE OGAN also suggested the same argument could be used regarding this project that has been used about an LNG [liquefied natural gas] project, since this [proposed gas] pipeline would be more than 2,000 miles long, into a market that already has a lot of gas that is closer and cheaper to develop. He said time is of the essence, which is the message that he believes the sunset date sends.

SENATOR TORGERSON replied that it is part of it; he believes, however, that if the department is charging people for preapplication costs, it is currently against the law. He noted that Foothills [Pipe Lines Ltd.] has an application in, even if it is an old one. He stated:

I know [they] entered into an agreement with Alyeska on renewal of that pipeline, but you could argue that there's been enough correspondence, although not

necessarily an application in writing, ... to certainly say that that was the intent, to go forward with that I think we all know they're not going to pick that pipeline up and leave in three years when their renewal is up. But the law clearly states that you cannot start charging until ... an application is filed. ...

I'm not here to pick on what they have done in the past, but as far as the gas line is concerned, ... and the amount of money that's being asked for us to spend upfront on this gas line, I believe the producers should pay for it. Anything that's reimbursable ... within regular business terms that we have done in the past, they should pony up the money as they go along. And that's what the intent of this bill is.

And in any event, a lot of this stuff is after the application is filed; there's a "look-back" period where you can ... charge the money that you've already spent on a preapplication, but it'd only be on one route. Now, we can all assume that we have one route, but we also know there's looking at other routes; and I certainly hope that they don't pick one in particular, but there are ... other routes that they're looking at, ... and I don't know if we're going to spend the money on it or not. But, in any event, if we do, we ought to get paid back, or paid in advance, and this bill calls for that.

VICE CHAIR FATE thanked Senator Torgerson and asked whether there was further testimony; none was offered.

Number 2359

REPRESENTATIVE JOULE made a motion to move SB 143 out of committee with individual recommendations and attached fiscal notes. There being no objection, SB 143 was moved out of the House Special Committee on Oil and Gas.

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Oil and Gas meeting was adjourned at 6:27 p.m.