

MINUTES
SENATE FINANCE COMMITTEE
June 08, 2001
10:30 AM

TAPES

SFC-01 1stSS #1, Side A

CALL TO ORDER

Co-Chair Pete Kelly convened the meeting at approximately 10:30 AM.

PRESENT

Senator Dave Donley, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Jerry Ward, Vice Chair
Senator Gary Wilken
Senator Alan Austerman
Senator Lyman Hoffman
Senator Donald Olson
Senator Loren Leman

Also Attending: RANDY RAY, US Cruise Ship Association; MICHELLE BROWN, Commissioner, Department of Environmental Conservation.

SUMMARY INFORMATION

HB 260-COMMER.PASSENGER VESSEL REGULATION & FEES

The Committee heard from an industry representative and the Department of Environmental Conservation. A committee substitute was adopted. Four amendments were considered, two were adopted and another was amended and adopted. The bill moved from Committee.

#HB260

SENATE CS FOR CS FOR HOUSE BILL NO. 260(TRA)
"An Act relating to marine passenger vessels; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Donley moved to adopt SCS CS HB 260 22-LS0948\X, as a working draft.

Senator Ward objected.

A roll call was taken on the motion.

IN FAVOR: Senator Wilken, Senator Austerman, Senator Hoffman, Senator Leman, Senator Olson, Co-Chair Donley and Co-Chair Kelly

OPPOSED: Senator Ward

ABSENT: Senator Green

The motion PASSED (7-1-1)

The committee substitute was ADOPTED as a working draft.

RANDY RAY, United States Cruise Ship Association, testified in Juneau about the 16 "US flagged, US owned" smaller cruise ships and the number of cruises occurring and planned in the summer months.

Mr. Ray spoke to difficulties that were not addressed in the original version of the bill, saying "it kicks 80-percent of our fleet out of the state in three years." He said a solution had been found but that it couldn't be incorporated into the bill while it was in the House of Representatives due to time constraints.

Mr. Ray explained the original version of the bill stipulates ships could not discharge in port, which would put the small cruise ships "out of business." He asserted that the small ships do not have the holding capacity to store gray water or black water. He pointed out that the marine sanitation systems on the smaller ships are different in that they operate continuously. He stated that the small ships would be better able to meet standards set by the state if they are allowed to operate 24 hours a day, including while in port.

Mr. Ray then informed that although new technologies exist for marine sanitation devices in treatment of gray water, they are not designed to accommodate the smaller ships. He proposed a delayed implementation deadline of three years so that a manufacturer could be secured to design and manufacture a suitable system.

Mr. Ray pointed out that the committee substitute incorporates the Association's suggestions.

Mr. Ray thanked the legislature for addressing the cruise ship wastewater issue noting the worldwide awareness of these efforts.

He remarked, "You are setting the template for the rest of the planet." He attested that representatives from Hawaii, California, Washington, British Columbia and New Brunswick have requested copies of the committee substitute for their own review.

Senator Wilken referenced the United States Cruise Ship Association Company Membership and Vessels handout [copy on file] noting the range of accommodations from 36 guests to 163 guests. He asked if any of the listed ships currently meet the criteria proposed in this legislation.

Mr. Ray answered no.

Senator Wilken next asked if the ships would be compliant in the three years allocated in the bill.

Mr. Ray responded it is "highly questionable" and that the Association may come before the legislature at that time to request a further exemption.

Senator Wilken requested the legislature be kept apprised of the progress of the conversions.

Mr. Ray replied that the bill provides for the monitoring of the conversion progress. As a result, he stated that it would become known whether the criteria could be met.

Senator Ward spoke to his objection to the adoption of the committee substitute. He told of earlier versions of the bill that included the Alaska Marine Highway System, but noted that this committee substitute, Version "X", exempts the state ferries from the discharge requirements. While he agreed that the cost of retrofitting the ferries would be high, he disagreed that government vessels should be treated any differently than privately owned ships.

Co-Chair Kelly stated that although he did not disagree with Senator Ward's concerns, the reason for this legislation and the special legislative session was political. Co-Chair Kelly opined, "The unfortunate thing is that we're here doing legislation that has absolutely no need to be done after Senator Murkowski's federal bill."

Co-Chair Kelly agreed many changes could be made to the bill, but stressed the intent to adopt it quickly and therefore avoid larger expenditures in the special session. He stated, "There are a lot of things that can happen when you start playing politics with the State of Alaska as this Administration has done. It could cost the

people of Alaska; it could cost the fishing industry of Alaska. Right now, the unfortunate thing is that because of Senator Murkowski's bill, the waters of Alaska are clean. But unfortunately the spokesman for Alaska has become - the commissioner of DEC [Department of Environmental Conservation] who is telling the world our waters are messed up. The governor is telling the world 'our waters are messed up' and they're not because of Senator Murkowski's bill."

Co-Chair Kelly asserted that the efforts involved in this legislation are costing the tourism industry "a lot of money to go through this shenanigan." He stated that this process is also costing the people of Alaska money due to "tourism dollars that are not coming because of this."

Co-Chair Kelly said the Marine Highway System should be included in the wastewater discharge requirements but stressed it would cost \$10 million to bring the vessels in compliance. He opined the "governor of this state has cost the people enough in this charade."

Senator Leman thanked the co-chair for his comments and responded to Senator Ward's comments clarifying that the House version did not impose the same requirements on the ferry system as it did for the cruise ships. He acknowledged the hypocrisy in exempting state vessels. He stated, "It turns out the large vessels are willing to accept this burden and the state, basically is not."

Senator Ward was unclear which versions of the bill included the state ferry system in the compliance requirements.

Co-Chair Kelly understood that while the ferries were included, a waiver was provisioned.

Senator Austerman requested the department speak to the matter.

MICHELLE BROWN, Commissioner, Department of Environmental Conservation, testified that the Alaska Marine Highway System is covered in the current committee substitute, and was covered in the committee substitute passed by the House of Representatives. She said, "The question is how many of them are covered." She answered saying the Senate Transportation committee substitute covered the ferries as "large passenger vessels" and the current committee substitute provides for "five ferries and they will all fit in the small vessel category." She pointed out that the ferries would also pay a fee under the small vessel schedule, "so they are complying with the rules consistent with vessels of similar size."

Senator Ward asked how the Marine Highway System vessels were covered in the House of Representative's version of the bill and whether they were all covered.

Ms. Brown affirmed that all vessels carrying 50 or more passengers with overnight accommodations were covered in the House version.

Senator Ward wanted to know if the state ferries were "less covered" in the current committee substitute.

Ms. Brown responded the coverage is the same.

Senator Ward asked if the \$7.5 million fiscal note attached to the House version would be reduced under the current committee substitute.

Ms. Brown replied the amount would be "considerably smaller."

Senator Ward asked why it was less if the coverage were the same.

Ms. Brown answered that the fiscal note would be smaller for this version than for the Senate Transportation committee substitute, which includes more than the five ferries covered at a greater expense.

AT EASE 10:46 AM / 10:47 AM

Ms. Brown corrected her earlier statements noting that in the current committee substitute the state ferries are exempted.

Senator Ward stated that he did not intend to delay the process. However, he stressed that the House version held the state ferries to the same standards as the private vessels and this version does not. He emphasized that he understood that the money required to comply would have to come from other state services, such as education.

Senator Leman corrected his earlier statements regarding the inclusion of the Marine Highway System in the current committee substitute.

Co-Chair Donley asked how long the witness has been commissioner of the Department of Environmental Conservation.

Ms. Brown answered six years.

Co-Chair Donley asked if during her tenure she had ever requested that the Administration introduce legislation to address this

issue.

Ms. Brown had not.

Co-Chair Donley commented that the matter was not a crisis until Senator Murkowski passed federal legislation. Co-Chair Donley stated that an agreement with the industry "would adequately deal with this" until the next regular legislative session. He commented, "Of course you haven't bothered to do anything about this for the first six years."

Ms. Brown responded that the industry has not been regulated and that the discharge practices were not known until recently. She also noted the dramatic growth in cruise ship activity during her six years as commissioner. She stated that the department had begun working with the industry approximately one and one half years ago to find out how much waste is discharged and the impacts. She said, "We were all very surprised at what we found out in terms of the quality and the amount of wastewater."

Ms. Brown addressed the matter of why the special legislative session was necessary saying the Administration had "hoped it would be dealt with in regular session." She suggested that the industry, in addition to the state would like the issue "put to rest." She stressed the urgency of assessing the discharge practices and preventing problems.

Ms. Brown stated that the federal law is "a very good first step", but cited testimony given by the representatives of the US Coast Guard to the Senate Transportation Committee that the law is incomplete. She said HB 260 would be complementary.

Co-Chair Donley asked the effective date of the bill and whether it is immediate.

Ms. Brown replied that the date has always been July 1, 2001.

Co-Chair Donley commented that this special session is "political grandstanding" and unnecessarily although he did support the legislation.

Co-Chair Kelly asked the soonest date regulations could be in place to implement the legislation.

Ms. Brown answered regulations would be drafted during the summer and fall of 2001 and would be in place by the next tourist season. She noted that until the regulations were in place, independent sampling could be collected and new equipment could be tested.

Co-Chair Kelly stressed that none of the regulations could be implemented until the following cruise ship season.

Ms. Brown countered that some portions of the legislation could be implemented beginning on the effective date. She warned that if the legislation were not adopted this year, another year could be lost in the process.

Co-Chair Kelly remarked that the data collection activities could happen under the federal Murkowski law. He expressed, "Just for the press people in here, if the waters of Alaska needed to be saved, it was Senator Murkowski who did it." He stressed that the provisions of this legislation could not be implemented until the next season.

Co-Chair Kelly pointed out that until legislation is implemented, the FY 02 budget includes language to allow the industry pay for the costs of monitoring and testing under the Memorandum of Understanding between the industry and the state. Therefore, he concluded that the legislation could have been passed during the next regular legislative session.

Co-Chair Kelly reiterated, "There simply was no reason for this special session" and that legislation could not be implemented during the current cruise ship season. He made the following statement. "...Which leads us to ask the question, 'Why are we here?' I don't want an answer from you [Ms. Brown]. I would hope the governor would answer that. But I've heard the governor accuse us of things and I've heard the third floor and Jim Ayers accuse us of things over the years that have been absolutely pathetic. The demagoguery that has come out of the third floor has been inappropriate and has been a pitch that has never been in any Administration that I'm aware of. So I'm going to throw a little back at you. I'll tell you why we're here. We're here because Senator Murkowski cleaned up the cruise ship problem and Governor Knowles didn't get credit for it. So we came back here so he could get credit for it. And now we, as senators, realizing the absurdity of this special session, are just trying to get it through as quickly as possible so it costs the people of Alaska as little as possible and frankly, commissioner, so you'll be quiet because you're costing the cruise ship industry and the small operators and the gift shops a lot of money with your rhetoric in the press all over the country about a problem that was taken care of by Senator Murkowski."

Amendment #1: This amendment inserts "marine" before "waters" in Section 6 of the committee substitute on page 15, line 31 and page

16, lines 4 and 7. The amended language reads as follows.

TRANSITION: INITIAL IMPLEMENTATION OF FEES. (a) For a commercial passenger vessel voyage occurring on or after July 1, 2001, and before the effective date of regulations adopted by the department under AS 46.03.480, enacted by sec. 1 of this Act, providing for payment of the environmental compliance fee, the environmental compliance fee required by AS 46.03.480, enacted by sec. 1 of this Act, for each voyage during which the commercial vessel is scheduled to operate in marine waters of this state, is due and payable to the department on or before July 31 of the calendar year in which the voyage is scheduled to occur. An additional amount owed under this subsection because of an unscheduled voyage, or a refund request under this subsection because of a cancelled voyage, shall be submitted to the department within 30 days after the vessel's last voyage in marine waters of the state in that calendar year.

Senator Lemman moved for adoption and explained this is a technical change to conform to the definition section of the legislation.

The amendment was ADOPTED without objection.

Amendment #2: This amendment replaces "shall" with "may" on page 4, line 27 and page 5, line 10 in Sec. AS 46.03.463. Prohibited discharges; limitations on discharges. The amended language in the committee substitute reads, "Upon submission by the owner or operator of a small commercial passenger vessel of a plan for interim protective measures, the department may extend the time for compliance of that vessel with this subsection." and "Upon submission by the owner or operator of a small commercial passenger vessel of a plan for interim protective measures, the department may extend the time for compliance of that vessel with this subsection."

Senator Lemman corrected the affected line number on page 5 from line 8 as it appears on the written amendment and moved for adoption. He stated the amendment provides discretion in the review of the plan for interim protective measures. He explained that if an incomplete plan were submitted, the department would not have to extend the deadline, but could require a complete plan before granting approval.

Without objection the amendment was AMENDED and ADOPTED.

Amendment #3: This amendment deletes "operational" following "department's" in the committee substitute on page 10, lines 9 and 11 in Sec. 46.03.482. Commercial passenger vessel environmental

compliance fund. The amended language reads as follows.

(c) The legislature may make appropriations from the fund to the department to pay for the department's costs necessary to prepare reports that assess the information received by the department for the cruise ship seasons of 2000, 2001, 2002, and 2003 and for the department's costs necessary to carry out activities under AS 46.03.460 - 46.03.490 related to commercial passenger vessels.

Senator Olson moved for adoption.

Co-Chair Kelly objected.

Senator Olson requested the commissioner address the amendment.

Ms. Brown detailed that deleting "operational" avoids confusion of which costs could and could not be covered. She stated that the Senate Finance Department of Environmental Conservation budget subcommittee would then address those costs that could be covered. She explained that the removal of "operational" would make the language consistent with other statutes that use special funds.

Co-Chair Kelly maintained his objection because of the capital costs involved.

A roll call was taken on the motion.

IN FAVOR: Senator Austerman, Senator Hoffman, Senator Lemman and Senator Olson

OPPOSED: Senator Ward, Senator Wilken, Co-Chair Donley and Co-Chair Kelly

ABSENT: Senator Green

The motion FAILED (4-4-1)

The amendment FAILED to be adopted.

AT EASE 10:59 AM / 10:59 AM

Amendment #4: This technical amendment pertaining to Amendment #2 acknowledges "shall" is also included on page 5, line 7 and is also to be changed to "may". The amended language reads, "Upon submission by the owner or operator of a large commercial passenger vessel of a plan for interim protective measures, the department may extend the time for compliance of that vessel with this subsection for a period of time that ends not later than January 1,

2003."

Senator Leman moved for adoption.

Without objection the amendment was ADOPTED.

Senator Ward offered a motion to move SCS CS HB 260 22-LS0948\X as adopted from Committee.

AT EASE 11:00 AM / 11:04 AM

Co-Chair Donley amended the motion include a forthcoming Department of Environmental Conservation fiscal note that reflects the changes that appear in the amended committee substitute. He pointed out the current Department of Transportation and Public Facilities fiscal note is no longer necessary.

There was no objection and the motion was AMENDED.

The bill MOVED from Committee without objection.

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ADJOURNMENT

Co-Chair Pete Kelly adjourned the meeting at 11:05 AM.