

ALASKA STATE LEGISLATURE
SENATE RESOURCES COMMITTEE

March 19, 2001
3:40 pm

MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Drue Pearce, Vice Chair
Senator Rick Halford
Senator Pete Kelly
Senator Robin Taylor
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

SENATE BILL NO. 136

"An Act relating to resource development and to grants for the purpose of promoting resource development from appropriations of a portion of the revenue derived from the extraction of certain state natural resources."

MOVED SB 136 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 COMMITTEE ACTION

SB 136 - No previous action to record.

SB 143 - No previous action to record.

WITNESS REGISTER

SENATE RES COMMITTEE

-1-

March 19, 2001

Mr. Pat Carter
Staff to Senator Pearce
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on SB 136 for sponsor.

Ms. Sue Schrader
Alaska Conservation Alliance
Alaska Conservation Voters
P.O. Box 22151
Juneau AK 99801

POSITION STATEMENT: Opposed SB 136.

Mr. Steve Conn, Executive Director
Alaska Public Interest Research Group
Anchorage AK

POSITION STATEMENT: Opposed SB 136.

Ms. Pam LaBolle, President
Alaska State Chamber of Commerce
Anchorage AK

POSITION STATEMENT: Supported SB 136.

Mr. Rudolph Vetter
No address provided
Fairbanks AK

POSITION STATEMENT: Supported SB 136.

Ms. Carol Carroll, Director
Division of Administrative Services
Department of Natural Resources
400 Willoughby, #500
Juneau AK 99811

POSITION STATEMENT: Neutral position on SB 136.

Mr. Darwin Peterson
Staff to Senator Torgerson
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on SB 143 for sponsor.

Mr. Patrick Coughlin
Special Assistant to the Resources Committee
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on SB 143.

Mr. Bill Britt, Pipeline Coordinator
Department of Natural Resources

550 West 7th Ave. Suite 1400
Anchorage AK 99501

POSITION STATEMENT: Commented on SB 143.

ACTION NARRATIVE

TAPE 01-22, SIDE A

Number 001

#SB136

SB 136-RESOURCE DEVELOPMENT: BD./GRANTS/FUND

CHAIRMAN JOHN TORGERSON called the Senate Resources Committee meeting to order at 3:40 p.m. and announced SB 136 to be up for consideration.

MR. PAT CARTER, staff to Senator Pearce, sponsor of SB 136, said that Alaska is unique in that it is an owner state and its resources are held in trust to benefit all Alaskans. He said:

When it comes to resource extraction, we currently rely on our business partners, industry, to promote that resource extraction. The problem with that is that our partners can go, and sometimes do go, elsewhere to conduct their business and we do not have that option. So if we begin with the premise that Alaska's economy is going to be reliant upon resource extraction for the foreseeable future, it seems that it would be a wise investment to financially support and promote such activities.

Recent studies have shown that our resource extraction industry, as well as our tourism industry have played a significant role in our workforce and, therefore, our economy. However, the vast majority of economic impacts from the tourism industry are seasonal and are generally low paying jobs. These studies show that a diversified economy is necessary to sustain a healthy economy. A majority of the environmental community does not agree with that concept as they continue to oppose nearly all development of our resources while offering no economic alternative. We need to strike a balance between development and protection of the environment and avoid the extreme positions of locking up everything. We feel the best way to protect Alaska's environment is through a strong and diversified economy. We invest in our tourism and seafood industry as well as opening the coastal plain of ANWR to responsible development in order to benefit

our economy. We believe that it would also be a wise and prudent investment to invest in our diversified mineral resources like timber, as well as oil and gas development. By creating the Resource Development Board, we will further our constitutional mandate of developing our resources by making them available for maximum use in an environmentally responsible manner.

SENATOR ELTON said the preliminary figures he has received indicate the fund would be capitalized with about 99.6 percent from the oil and gas industry, .4 percent from the mineral industry and nothing from the timber industry. He asked if that sounded right.

MR. CARTER responded that that sounded very close.

SENATOR ELTON said his first reaction is that, "It's not in my nature to support something in which we are going to go out and try to increase the amount of business, but we increase the amount of business and we're still not going to get anything from it. It seems to me somewhat unfair to tap the oil and gas industry exclusively for funding of this effort and yet some of the benefits are going to be reaped by industries that aren't going to be kicking anything in."

SENATOR ELTON asked why it is being funded by only one industry if other industries have designated seats.

MR. CARTER said they had discussed the possibility of money being distributed according to industry, but it's almost contrary to the intent of the legislation, which is in order to have a healthy economy, we may need to have a diversified economy. He added, "We hear from the oil and gas industry continually that they get tired of being the sole source of funding for government."

MR. CARTER said he thought the timber industry, for instance, has suffered greatly from misinformation and it has changed the way it does business so that it is more environmentally sensitive. He stated, "I think it's important to get that message out."

SENATOR ELTON said he thought it would be equally easy to point to problems in the fishing industry: the steller sea lion issues and transboundary issues. He asked why the resource industry of fishing wasn't included.

MR. CARTER responded that they considered fishing, tourism and other industries, but the legislature established ASMI for seafood marketing and a tourism marketing council and an agriculture board.

SENATOR ELTON said, "I understand that we have an ASMI that is

receiving no general fund dollars for any of its promotions and the money that it receives now is raised from a tax on salmon harvesters; it's raised on a tax on land based processors and on ocean based processors. The money is laundered through the general fund, but in fact, the money being used for promotions is coming from the industry, which is significantly different from this. I think they would probably appreciate the opportunity to tap into general fund dollars like they used to be able to."

CHAIRMAN TORGERSON commented that they may not have a member on the board, but that doesn't preclude them from receiving a grant.

SENATOR ELTON said he realized that, but if he wanted to include the fishing industry, the .25 percent collected from fishing industry fees would raise about 17 times what timber and minerals would raise. It would be advantageous to include the fishing industry.

MR. CARTER responded that no effort was made to exclude a particular industry, but they felt it was redundant. There are also taxes generated through the oil and gas industry through severance taxes, royalties and lease sales.

SENATOR ELTON responded that the distinction is, "The marketing and education effort are being paid for directly by the harvesters and directly by the offshore processors and the onshore processors with taxes that disappear if the salmon harvesters don't want to pay it any more or if half of the processors vote and say the program doesn't work and to take their money out."

MR. CARTER asked if it was because they are not forced to do it.

SENATOR ELTON replied that the processor tax is established by a vote of 50 percent plus 1 of the processors and the harvester tax is established by the legislature and renewed every three years.

SENATOR PEARCE asked if he wanted the fishing industry added to the bill and to take additional taxes from them.

SENATOR ELTON answered that he was asking that, but he didn't see it as taking additional money from them. He thought if they applied the same formula to the fishing industry, it would not increase taxes, it would divert one quarter of one percent of the taxes they are already paying.

SENATOR PEARCE asked which taxes.

SENATOR ELTON said it would be everything from the landing tax to

the raw fish tax to the marine fuel tax and others.

MR. CARTER asked if Senator Elton wanted ASMI money (about \$6.9 million) to be diverted.

SENATOR ELTON responded that he thought the harvester assessment raises between \$2 million and \$2.4 million each year depending on the value of the product landed. The assessment on the processors raises about \$3 million to \$4 million. He is not suggesting that. "That is an assessment that has the word 'may' as this bill does. I'm looking at the revenues that are similar to the revenues that you're looking at from the other resource industries that are paid, for example landing tax, raw fish tax, marine fuel taxes, the other assessments that are on the industry. Not the assessments that are voluntary assessments and are renewed periodically."

CHAIRMAN TORGERSON asked if he thought the fishing industry should have a seat on the board.

SENATOR ELTON said he thought they should. The difficulty would be that unlike some of the other resource extraction industries, there is no central statewide association. The group that would recommend three names might be more difficult to identify.

Number 1000

SENATOR TAYLOR asked if this would pose an additional assessment on fishermen.

SENATOR ELTON responded that his understanding of this bill is that it creates no new money; it diverts a quarter of a percent of the existing monies that are coming in from the other resource industries. He thought if they did it to the fishing industry, it would just divert a quarter of a percent from the revenues that are already coming in.

MS. SUE SCHRADER, Alaska Conservation Alliance and Alaska Conservation Voters, said:

Conservationists throughout the state are committed, have been committed and will continue to be committed to maintaining a healthy economy for the benefits that it provides all Alaskans. We do believe strongly that the state can enjoy a healthy economy without sacrificing our clean air, our clean water, our salmon habitat and our wild lands. We also believe that resource development industries can prosper and can meet their shareholder's expectations while complying fully with state and federal laws that protect the environment.

The concept of using general funds for grants to non-profits that are going to be promoting for-profit industries, many of which are huge international corporations that employ significant numbers of non-residents is rather nonsensical. We believe most Alaskans will not endorse this idea of taking state revenues that could go to improving education, social services, filling pot holes on the roads, or any other number of significant needs and using these monies to do the promotion and advertising work the resource industry can clearly do for themselves.

MS. SCHRADER said they are also concerned with the makeup of the board because a representative from a conservation group is not on it. She noted:

The mining industry in Alaska has been reported in an Anchorage Daily News article of being valued at \$1.12 billion in 1999. At the same time from a Department of Labor report, we see that 30.7 percent of their workforce in Alaska are non-resident. We really don't think Alaskan families should be asked to pay this industry's advertising bill. We urge you to oppose this legislation.

SENATOR PEARCE asked why she thought the bill pays for advertising and said, "That's not what the bill does."

MS. SCHRADER answered the sponsor statement speaks about what the grants would be used for: promotion, education, advertising and other items. Language in the bill relates to what the grants would be used for on page 3, line 20: "conducting market research, advertising, promotion and education."

SENATOR PEARCE clarified that wasn't meant to be advertising for a company, but for general sales of that resource. She asked why she thought any board needed a specific person appointed by an environmental organization in order to have people who care about protecting the environment on it.

MS. SCHRADER replied that many of the environmental organizations in the state have staff who have expertise in a variety of areas and they have shown in the past they can be very important contributors to task forces and boards they have sat on.

SENATOR TAYLOR asked what her group's annual budget was.

MS. SCHRADER said she doesn't deal with the budget, but she could get him that information.

MR. STEVE CONN, Executive Director, Alaska Public Interest Research Group, said that development in Alaska is already at the highest levels at the time and said, "The bill strikes me as fighting the last war."

MR. CONN said that President Bush and our congressional delegation provide a constant drum beat of promotion of development in Alaska. The bill creates what might be termed as a "slush fund" for industry to substitute Alaska state money that we need for our basic services for their own money. Also, freeing up industry money poses the question of what industry is doing with it. He just heard that Exxon, after promising \$10 million over 80 years to the National Fish and Wildlife Foundation received its first corporate award for commitment to the environment. "If one is cynical, one would suggest that Exxon went out and bought itself a conservation award just a day short of the 12th anniversary of the Exxon Valdez spill to try to cover up the fact that [indisc] it has not yet paid the \$5 billion to Alaskan. One has to consider the ripple effect of such an endeavor as proposed in this bill. I think the industries are deep pockets and if they want to promote Alaska development, they are more than well positioned to do so."

MR. RUDOLPH VETTER, Fairbanks resident, asked if SB 136 would promote his mining operation.

CHAIRMAN TORGERSON said he didn't think so. The bill pertains to non-profits that are doing resource development. They are eligible for grants, but they have to go before the board that will make the decision of who gets what.

MR. VETTER supported SB 136.

MS. PAM LABOLLE, President, Alaska State Chamber of Commerce, supported SB 136. She said, "The people of Alaska rely on the development and marketing of the state's resources to drive the economic engine of the state and we think SB 136 is a responsible step towards assuring that there's a future of resource development."

SENATOR ELTON said he saw a fundamental difference between money coming from any source, whether it's from organizations outside the state or business organizations being used for an educational purpose and a bill like this, which provides that only general fund dollars are being used. "I am wondering why we would want to constrain ourselves in this bill to exclude some industry, like the tourism industry or the fishing industry, if, in fact, we're not using private dollars, but instead we're using public dollars that are out of the general fund."

MS. LABOLLE responded that the other industries are not excluded from having grants to promote those industries and there is no one

doing this for the industries named in the bill at this point.

Number 1700

MS. CAROL CARROLL, Department of Natural Resources, said they had reviewed the bill and provided the committee with fiscal impact information and would be happy to answer questions about that. They do believe the legislature has discretion to use funds for policies such as this. "The Department, if this legislation passes, will do everything we can to assist it..."

SENATOR ELTON said he assumed the board would be subject to the Executive Budget Act.

MS. CARROLL answered yes.

SENATOR ELTON asked her to explain the opportunities and constraints that may happen when a board has to operate through it.

MS. CARROLL explained that there would have to be public notice, some kind of review of the grant and they have to follow all of the stipulations to make sure that money is handled correctly.

SENATOR ELTON asked if the review process entailed a board review or whether they used state employees.

MS. CARROLL responded that her perception is that state employees would provide some assistance to the board, but wouldn't be making the decisions on which grants would be awarded.

SENATOR ELTON said that one of the things that isn't on the fiscal note is any kind of an administrative charge.

MS. CARROLL responded that that charge is built in and is an 8.1 percent indirect charge.

SENATOR ELTON asked how they handled contracts if money is carried forward into the next year.

MS. CARROLL responded, "I believe that if a contract is a valid contract at the end of one year, that the money until the contract is complete continues with the obligation."

SENATOR TAYLOR asked if in the fiscal note DNR assumes the three funds, the Permanent Fund, the School Fund and Constitutional Budget Reserve Fund, would receive their full share of revenues from the general fund.

MS. CARROLL answered yes.

SENATOR TAYLOR asked where the administration stands on this bill.

MS. CARROLL said that they are neutral and think it's a policy call of the legislature.

SENATOR TAYLOR moved SB 136 from committee with individual recommendations.

SENATOR ELTON objected and said that there were some fundamental questions that needed to be answered and he also had a problem, because he didn't think they were fixing something that was broken. He is already comfortable with the process that happens through the legislature when they do specific grants for discrete projects. He said, "The fundamental difference here is that we're using state general fund dollars to do it and it's not new state general fund dollars. They are state general fund dollars that we're diverting from other purposes."

TAPE 01-22, SIDE B

SENATOR PEARCE said that generic marketing is being done in other areas, like the Tourism and Marketing Council, but it seems that,

If we don't continue to educate Alaskans on how you do it right - how you can be both environmentalist and conservationist and at the same time, believe in developing our resources in a proper manner - we're not going to have any revenue that's going to pay for schools or for any other services in the state. We can't expect the multinational companies that do business in Alaska, who have opportunities in other parts of the world to do that education process and that marketing process for us. We should be out on the world stage advertising our oil and gas lease sales when they happen. DNR hasn't had the money to do that for years. So we sit here and complain that we don't have other companies coming to Alaska to partake in lease sales, but we don't have the money in the department to help market those lease sales to try and get new people to come to Alaska so we will have more competition in the state for the resources. I see this as a logical extension..

SENATOR PEARCE concluded by saying, "We are an owner state and we're never going to get away from that. It's our resource and if we want it to be developed, then we are going to have to do part of that marketing."

Number 2300

SENATOR TAYLOR said he wouldn't be able to support this in another state where they didn't have ownership of the resource, because he

thought it would be inappropriate. "I think we have a trust obligation, part of the public trust, that we have to be good managers and good stewards of our resources. You can't be good stewards of a resource if you don't have the money to manage it, protect it, enhance it unless you do some marketing of that resource."

SENATOR ELTON asked if this was the appropriate way of doing it. He used the example of Arctic Power and the role the legislature played in the merger last year in terms of its doing what needs to be done. He asked them to think of alternative structures for doing this.

CHAIRMAN TORGERSON called for a roll call vote. SENATOR ELTON voted nay; SENATORS TAYLOR, KELLY, PEARCE AND CHAIRMAN TORGERSON voted yea; and SB 136 moved out of committee with the accompanying fiscal note.

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#SB143

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

CHAIRMAN TORGERSON announced SB 143 to be up for consideration.

MR. DARWIN PETERSON, staff to Senator Torgerson, told members:

One of the legislature's priorities is commercialization of North Slope gas. Any sponsor of a pipeline project will have to obtain a right-of-way across state lands. this bill would authorize the state to be reimbursed for work performed by the State Pipeline Coordinator's Office [SPCO] in preparing to receive and process an application for a right-of-way lease. It also clarified that an applicant must reimburse the SPCO for costs incurred in processing an application whether or not the application is granted.

AS 38.35.140 provides that lessee shall reimburse the state for all reasonable costs incurred in processing an application filed for a right-of-way lease. Although the SPCO has entered into an agreement with a lessee seeking renewal of a lease to reimburse the state for costs incurred before receipt of the renewal application, legislative legal services has questioned whether this is authorized under existing law and whether the state can be reimbursed for costs incurred before the receipt of an application. The SPCO anticipates that it will be asked to perform substantial work by prospective gas pipeline lessees this year in anticipation of filing applications later this year or early next year. Much of the cost of

this work would clearly be reimbursable to the state if the prospective lessee actually had a pending application. It is important to insure that the state is reimbursed for the significant cost that it will incur in performing work in anticipation and furtherance of the application process.

Additionally, the SPCO, in the past, has required a prospective lessee to reimburse the state for costs incurred in processing [an] application even if the application has not been granted. This bill would conform the law to existing practice between the SPCO and prospective lessees to make clear that the state must be reimbursed for the costs of processing an application whether or not the lease is ultimately granted. Prospective lessees cannot expect the state to pay for services requested by them on routes that ultimately are not selected or on applications that may ultimately be withdrawn, suspended, or otherwise not granted.

SENATOR ELTON said, "I think this is a great idea." He asked Mr. Coughlin how much it cost for the pre-application process.

MR. PATRICK COUGHLIN, Special Assistant to the Resources Committee, answered that this hasn't ever happened in this large of an amount before. Mr. Britt's fiscal note indicates they expect to need \$4 million through the first half of the fiscal year. His best estimate is that at least 50 percent would otherwise be reimbursable.

SENATOR PEARCE said she noticed on page 1, line 9, the word "reasonable" is already in statute and asked what a reasonable cost would be versus one that the state would not expect to have reimbursed.

MR. COUGHLIN said he was just reading the fiscal note and that his understanding based on a conversation with Mr. Britt is that 100 percent of this current budget is based on program receipts which are based on agreements that his office negotiates with lessees to cover the cost of running that office.

SENATOR PEARCE asked if these were written agreements.

MR. COUGHLIN answered yes and their purpose is to detail the scope of work between the Pipeline Office and the prospective lessee or an applicant, in the case of this bill, so it is clear to the SPCO what is being asked of them and how they are going to be compensated.

CHAIRMAN TORGERSON asked Mr. Britt why he estimates he can only

collect 50 percent of the application fees.

MR. BRITT, Pipeline Coordinator, answered:

In normal circumstances, my office is entirely funded through program receipts. The difference here is procuring the amount of starting up a gas pipeline office that didn't previously exist and coordinating with our Canadian and federal counterparts. In the normal course of things, we would be working on a specific application with a specific project proponent and 100 percent of our costs would go to that project proponent...This is unprecedented. We have a number of project proponents and allocative costs between as many as nine separate potential gas pipeline project proponents for costs that are likely to be applicable. Whichever route comes in is going to prove to be challenging, I expect. I really won't know what percentage of the total costs will be reimbursable until I have completed negotiations with a suite of those project proponents.

CHAIRMAN TORGERSON said he appreciated that explanation, but he knows that the fiscal note says 50 percent is all they are going to get back and that is incorrect. He stated, "If it was me, I'd have a long discussion with you in Finance [Committee] about what the other 50 percent was going to be for before I'd approve the fiscal note."

MR. BRITT responded that he expects to negotiate aggressively. He thought 50 percent was a low-end estimate.

CHAIRMAN TORGERSON said he didn't think they would have a project by 2003 and he wouldn't vote for a large appropriation for setting this office up.

MR. BRITT responded that his challenge at this point is simply having enough resources to interact with the proponents. "They are making more requests of my office than I have people and money to support at this point. Rather than being ahead of the curve, we are actually behind, at this point."

CHAIRMAN TORGERSON said he understood that, but the intent of this bill is that, "You should respond to them, but they should pay you for it. Not us go out and make trips to Canada or wherever else you're talking about going. The Canadians - you should take something off their sheet. They're way ahead of you anyway...We couldn't have that much overhead cost until we actually have a project."

SENATOR TAYLOR moved to pass SB 143 from committee with the

accompanying fiscal note and individual recommendations. There were no objections and it was so ordered.

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CHAIRMAN TORGERSON adjourned the meeting at 4:45 pm.