

ALASKA STATE LEGISLATURE
SENATE RESOURCES COMMITTEE

April 20, 2001
4:03 p.m.

MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Pete Kelly
Senator Robin Taylor
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

Senator Drue Pearce, Vice Chair
Senator Rick Halford

COMMITTEE CALENDAR

SENATE BILL NO. 153

"An Act replacing the storage tank assistance fund with the underground storage tank revolving loan fund and relating to that revolving loan fund; repealing the tank cleanup program and the tank upgrading and closure program; and providing for an effective date."

MOVED CSSB 153(RES) OUT OF COMMITTEE

SENATE BILL NO. 115

"An Act extending the termination date of the Board of Storage Tank Assistance."

HEARD AND HELD

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 111(JUD) am

"An Act relating to civil liability for injuries or death resulting from livestock activities."

HEARD AND HELD

PREVIOUS SENATE COMMITTEE ACTION

SB 153 - See Resources minutes dated 3/30/01 and 4/11/01.

SB 115 - No previous action to record.

HB 111 - No previous action to record.

WITNESS REGISTER

Ms. Annette Kreitzer
Staff to Senator Loren Leman
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on SB 153.

Mr. John Barnett
No address provided

POSITION STATEMENT: Commented on SB 153.

Mr. John Cook
P.O. Box 49
Sterling AK 99672

POSITION STATEMENT: Supported SB 153 and SB 115.

Mr. Gary Weber, President
Wasilla Chevron
P.O. Box 871216
Wasilla AK

POSITION STATEMENT: Supported SB 153 and SB 115.

Ms. Lillian Kelly
Kelly's Tire
269 Illinois St.
Fairbanks AK 99701

POSITION STATEMENT: Supported SB 153.

Ms. Heather Brakes
Staff to Senator Therriault
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on SB 115.

Ms. Pat Davidson
Division of Legislative Audit
Department of Administration
PO Box 110200
Juneau AK 99811-0200

POSITION STATEMENT: Comment on SB 115.

Representative John Coghill
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Sponsor of HB 111.

Ms. Katie Schollenberg, President
Trail Blazers 4-H Club

25701 Sterling Hwy.
Anchor Pt. AK 99556

POSITION STATEMENT: Supported HB 111

Ms. Darcy Davies

4-H

1606 Roosevelt St.
Fairbanks AK 99709

POSITION STATEMENT: Supported HB 111.

Melissa Levenson

4-H

P.O. Box 1284
Kodiak AK 99615

POSITION STATEMENT: Supported HB 111.

Ms. Angel Short

4-H

3446 Sitkinak Dr.
Kodiak AK 99615

POSITION STATEMENT: Supported HB 111.

Ms. Sarah Pennington

9109 Claridge Place

Anchorage AK 99507

POSITION STATEMENT: Supported HB 111.

Ms. Karen Creelman

4-H Leader

104 Center St #100
Kodiak AK 99615

POSITION STATEMENT: Supported HB 111.

Mr. Tony Nakazawa

P.O. Box 81710

Fairbanks AK 99708

POSITION STATEMENT: Supported HB 111.

ACTION NARRATIVE

TAPE 01-31, SIDE A

Number 001

CHAIRMAN JOHN TORGERSON called the Senate Resources Committee meeting to order at 4:03 p.m.

SENATOR KELLY moved to pass the names of the Board of Game appointees discussed at the April 18 hearing, Mr. Ben Grussendorf, Dr. Julie Maier, and Mr. William Dennerlein, to the full Senate. There were no objections and it was so ordered.

#SB153

SB 153-UNDERGROUND STORAGE TANK LOAN FUND

CHAIRMAN TORGERSON announced SB 153 to be up for consideration.

MS. ANNETTE KREITZER, staff to Senator Leman, sponsor of the measure, told members that a proposed committee substitute (CS) had been prepared. She explained that the intent of SB 153 is to terminate the upgrade closure underground storage tank grant program as of June 30, 2001 and to create a revolving loan fund. The committee substitute changes the termination date of the upgrade closure and cleanup grant program to June 30, 2004 and creates a revolving loan program for underground storage tank cleanups.

CHAIRMAN TORGERSON recommended that members adopt the CS as he didn't think the legislature should terminate the grant program so soon after fixing it last year. He said he doesn't have any objections to changing it to a revolving loan fund. He thought the committee needs to discuss whether the state should have a subsidized loan program for some of the recipients who are large corporations with billions of dollars in assets or whether to put in another filter that only allows subsidized loans for the "mom and pop" operations and medium sized corporations. He suggested, "One of the tests that has been suggested is to use the EPA rules for self insurance, that anyone who is eligible for self insurance, which we think, is \$10 million in net assets, would not be eligible for a subsidized loan."

He said he does not want to shut the door on large corporations that want to use the loan program and suggested offering a commercial rate for them.

SENATOR TAYLOR asked what the full cost of the program was.

MS. KREITZER answered that it is about \$40 million in total.

MR. JOHN BARNETT said he is a private contractor who provides support services to the Board of Storage Tank Assistance and that he supports the CS. He noted, "We have about 47 grantees who went through the filtering system in SB 128 a couple of years ago and they are in the middle of their cleanup or just starting their cleanup this season. We feel we can get them all wrapped up by 2004." He said the board also supports a filtering system for the loan program as the larger companies could drain the loan capital fairly quickly.

SENATOR ELTON asked why the state would create a loan fund for underground fuel tanks. He noted that someone brought to his attention that if a "mom and pop" operation has an above ground tank that spills in an earthquake, they wouldn't be eligible for this program.

CHAIRMAN TORGERSON said they aren't eligible now either.

SENATOR ELTON agreed and added that if they are going to create a new loan program, they should look into the fiscal impact of expanding it to other people in a similar situation.

CHAIRMAN TORGERSON asked how above ground tanks are dealt with now.

MR. BARNETT responded that no programs exist for above ground tanks. Basically, if an owner has a heating fuel tank and the fuel has spilled, the owner is liable to clean it up. He stated, "I'm sure many of you are aware of home sales that have been delayed because of contamination. Basically, if an owner has a heating fuel tank and it spills, they are obligated 100 percent to clean it up. It's usually not too much of a problem unless it hits ground water."

MS. KREITZER added that the purpose of this bill is to reduce the state's involvement, but that she would be glad to get information for him on the issue.

CHAIRMAN TORGERSON asked if the federal program still exists.

MR. BARNETT explained that the federal program has very stiff penalties and is basically designed to affect commercial facilities. He said there is no real threat from the federal level for residential tanks at this point in time.

CHAIRMAN TORGERSON took public testimony.

MR. JOHN COOK, a resident of Sterling, told members, "If it wasn't for the 220 Board, I wouldn't be in existence today." He didn't know how a person could afford to pay a loan if he or she could barely afford to pay rent. He said the oil companies control the price of gas and, in his case, the oil company put in their tanks and pumps and maintained them, but "as soon as they got word about underground spills, they sold all their stations and bailed out."

He said the "mom and pop operations" can't survive without the grant program. He said DEC raided his place in 1990 and took out 3,000 cubic yards [of soil] - five times more than necessary. Then they put \$35,000 worth of useless fence around his place and put a

lien on his property. It destroyed his life. He warned that they have to keep DEC in check.

MR. GARY WEBER, President, Alaska Underground Tank Owners and Operators Association, supported CSSB 153. He said their 47 members had releases prior to 1989. They have been on the waiting list for the last 10 years and have worked their way up to where it's their turn to start cleaning up. Thirteen of them are starting their investigation and the rest of them are in the process of cleaning. He thought they could have it done by 2004 if the grant fund is adequately funded. He said they were supposed to have liability insurance in place as of two or three years ago.

MS. LILLIAN KELLY, Kelly's Tire, said for the first 20 years, her business sold gasoline using the available technology. In 1989 they came under the Clean Water Act and have been working with the state for 11 years. She said that small businesses simply cannot afford the price of cleanup or and do not have the ability to pay off loans up to \$1 million. She asked them to leave the grant in place until at least until 2004.

CHAIRMAN TORGERSON said they would set the bill aside and work on the committee substitute over the weekend.

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#SB115

SB 115-EXTEND BD. OF STORAGE TANK ASSISTANCE

CHAIRMAN TORGERSON announced SB 115 to be up for consideration.

MS. HEATHER BRAKES, staff to Senator Therriault, said that SB 115 amends Title 44 to extend this particular board an additional two years from June 30, 2001 to June 30, 2003. She said a Legislative Audit Report found that the board should be reestablished as it plays an integral role in addressing complaints throughout the state with federal regulations related to specifications for underground storage tanks (UST). Such complaints are important in promoting public health in that [awareness of problems] protects underground drinking water supplies from pollution and provides funding necessary to remediate pollution brought on by the leaking tanks. The independent board has been instrumental in mediating disputes between the DEC and UST owners and operators. The board has enhanced cooperation, which promotes compliance with regulations related to the tanks. The Division of Legislative Budget and Audit recommended extending the board to 2003. The audit made no findings or recommendations about the board's operations.

MS. PAT DAVIDSON, Legislative Auditor, joined the committee.

CHAIRMAN TORGERSON complimented her on doing a good job and said the committee is dealing with another bill that sunsets the grant program on June 30, 2004. He said that both boards last for one year after they are confirmed so they would both coincide, but he asked if this one should be extended for the sake of consistency.

MS. DAVIDSON replied that the statutory responsibilities of that program are what drove her to choose 2003 as the termination date of the grant program. She thought the board could help develop the regulations for the revolving loan fund and get those going. It depends on whether the Legislature wants to give the board an extra year to get the revolving loan up and running smoothly.

MR. JOHN BARNETT said he thought that Legislative Audit would start another process to evaluate the situation in 2003. At this time he is satisfied with 2003.

MR. WEBER said that the Alaska Underground Tank Owners and Operators Association supports SB 115 and 2003.

MR. COOK said he thought 2004 made a lot more sense.

CHAIRMAN TORGERSON said they had lost a quorum and set the bill aside.

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#HB111

HB 111-CIVIL LIABILITY AND LIVESTOCK

CHAIRMAN TORGERSON announced HB 111 to be up for consideration.

REPRESENTATIVE JOHN COGHILL, sponsor, said the intent of HB 111 is to encourage livestock activity and to provide limited civil liability for some of the inherent risks involved in having livestock. It references the wrongful death statute, exempting this particular section, and defines the exemption for gross negligence and intentional misconduct. The primary intent of the bill is to give some relief to those who work around fairs and the like, who do not want to get sued for negligence by someone who was bit while petting their animal or some similar situation. He said this bill was put together by some 4-H students in Fairbanks and was brought to him as part of a 4-H project.

MS. KATIE SCHOLLENBERG, President, Trail Blazers 4-H Club, stated support for the bill.

MS. DARCY DAVIES said she is involved in a therapeutic riding

program and is a coach for a Special Olympics equestrian program in Fairbanks. She said this bill would eliminate liability if their animals hurt someone. She said the Special Olympics program has a lot of problems finding enough horses for participants and sometimes has to turn people away. They would have enough horses if this bill passed, because people would be willing to lend them out if they were protected from liability. She related how her horse accidentally broke the hand of a child who was petting it by accidentally catching the child's hand in the halter.

MS. MELISSA LEVENSON, Kodiak resident, said she wants to start a cow riding business during the summer and people would be more willing to come out and ride with this assurance.

MS. ANGELA SHORT, Kodiak resident, stated support for HB 111.

MS. SARAH PENNINGTON said she strongly supports this bill. She said the benefit [of horseback riding] to children who don't have the use of their legs and can associate with animals is "so awesome." A rider communicates with horses in a way the rider can't communicate with people. This bill would encourage that relationship to happen more frequently. She said she would like to give lessons, but can't because the liability is too great and this bill would help that.

MS. KAREN CREELMAN, Kodiak 4-H Leader, stated support for HB 111. She works with younger children and said they learn a lot of things like public speaking, horse anatomy, contest judging and things like that. She would feel a lot more secure if this bill passed.

MS. ROBYN DAVIES, Fairbanks 4-H Leader, said the model of 4-H is to learn by doing and she has been involved in this project from the start. She thought promoting this bill would be a good way for the teams to learn about government. She stated, "It has been an incredibly excellent experience for everyone involved." Ms. Davies told members she had 27 public opinion messages in support of this issue.

SENATOR TAYLOR asked for the names of the lawyers who wrote the bill for them.

MS. DAVIES answered that Ralph Seekins first brought this up at a meeting. He took language from an Oklahoma State statute and gave it to a University of Alaska lawyer, Jano Parrish, to use as a model.

Number 2000

MR. TONY TAKAZAWA said he is a 4-H leader and concerned parent. He

suggested adding "economic, educational and personal benefits" to HB 111 on line 2. He told members, "The aspect of HB 111 I want to bring to your attention is the 4-H rule of working by doing. Where youth has been able to participate in hands-on land and natural resource related educational activities, such as horse clubs, it has been shown that students of all ability levels have improved their performance and gained a better understanding and appreciation for science. Further, these students have gained increased knowledge and understanding of relevant concepts, content, and processes."

He read an article to committee members about how diseases are transmitted to people from animals and how soon the real world will be learned only through books or films as people become afraid of the liability of associating with animals. He thought HB 111 would be a good way to fight this kind of fear.

SENATOR TAYLOR asked how many people had died in the article he read.

MR. NAKAZAWA responded that 56 people were sick, but it didn't say anyone had died. He stated, "This is just one example of the restrictions that are coming on the industry even for a simple educational petting zoo. It's ridiculous."

SENATOR TAYLOR asked if the article indicated whether any of the people brought suit.

MR. NAKAZAWA said no.

CHAIRMAN TORGERSON thanked everyone for their testimony and said they would hold the bills, since he didn't have a quorum. He adjourned the meeting at 4:50 p.m.

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