

ALASKA STATE LEGISLATURE
SENATE RESOURCES COMMITTEE

April 23, 2001
3:55 p.m.

MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Rick Halford
Senator Robin Taylor
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

Senator Drue Pearce, Vice Chair
Senator Pete Kelly

COMMITTEE CALENDAR

HOUSE BILL NO. 61

"An Act authorizing the commissioner of fish and game to award grants for habitat restoration or enhancement projects; and providing for an effective date."

MOVED SCSHB 61 (RES) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 19

Urging the United States Congress to pass legislation to fund the acquisition of high-resolution digital orthoimagery and digital elevation data for the entire state of Alaska.

MOVED HJR 19 OUT OF COMMITTEE

CS FOR HOUSE CONCURRENT RESOLUTION NO. 8(RES)

Expressing the legislature's opposition to the proposed "northern" or "over-the-top" route for a natural gas pipeline to transport North Slope natural gas reserves to the domestic North American market, and expressing the legislature's support of commercialization of North Slope natural gas for the maximum benefit of the people of the state.

MOVED SCS HCR 8(RES) OUT OF COMMITTEE

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 SCS HB 153(RES) OUT OF COMMITTEE

SENATE BILL NO. 115

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

MOVED SB 115 OUT OF COMMITTEE

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."

MOVED CS SSHB 111(JUD) am OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

HB 61 - No previous action to record.

HJR 19 - No previous action to record.

HCR 8 - No previous action to record.

SB 153 - See Resources minutes dated 3/30/01, 4/11/01 and 4/20/01.

SB 115 - See Resources minutes dated 4/20/01

HB 111 - See Resources minutes dated 4/20/01.

WITNESS REGISTER

Mr. Ken Taylor, Director
Division of Habitat and Restoration
Department of Fish & Game
PO Box 25526
Juneau, AK 99802-5226

POSITION STATEMENT: Supported HB 61.

Mr. Dale Bondurant
31864 Moonshine Dr.
Soldotna AK 99669

POSITION STATEMENT: Supported HB 61.

Ms. Judy Jordan
Staff to Representative Drew Scalzi
Alaska State Capitol

Juneau AK 99811

POSITION STATEMENT: Commented on HJR 19.

Representative John Whitaker
Alaska State Capitol
Juneau AK 99811

POSITION STATEMENT: Sponsor of HCR 8.

Mr. Jerry McCutcheon
P.O. Box 101838
Anchorage AK 99510

POSITION STATEMENT: Commented on HCR 8.

Mr. John Barnett
No address provided

POSITION STATEMENT: Supported SCSHCR 8.

Ms. Annette Kreitzer
Staff to Senator Lemam
Alaska State Capitol
Juneau AK 99811

POSITION STATEMENT: Answered questions on SCSHCR 8.

Ms. Rynnieva Moss
Staff to Representative Coghill
Alaska State Capitol
Juneau AK 99811

POSITION STATEMENT: Commented on HB 111.

ACTION NARRATIVE

TAPE 01-32, SIDE A

Number 001
#HB61

HB 61-HABITAT RESTORATION/ENHANCEMENT GRANTS

CHAIRMAN JOHN TORGERSON called the Senate Resources Committee meeting to order at 3:55 pm and announced HB 61 to be up for consideration.

MR. KEN TAYLOR, Director, Division of Habitat and Restoration, Alaska Department of Fish and Game (ADF&G), said that HB 61 authorizes the commissioner of ADF&G granting authority for federal receipts. The receipts are limited to those that are not federal aid funds currently received under Pitman-Robertson, Dingle-Johnson or the Wallop-Breaux Programs. He explained:

In 1995, the department received a CIP from the legislature for enhancement grants on the Kenai River.

However, we had no granting authority to implement that directly. Because of our lack of granting authority, we had to go to a federal agency, partner with them, funnel the money through the federal agency - that took 11 percent of the total gross - and then award the grants from the federal agency to the individuals. We conducted 170 cross-share programs on the Kenai River for habitat restoration with these funds. By passing this bill, that will essentially eliminate the middleman. They won't take their 11 percent, and we'll be able to deal with this much more effectively administratively.

Currently, there is a strong national emphasis on habitat restoration for salmon in the Pacific Northwest and I believe that the funding available for these activities is going to increase substantially over the next several years and we would like the opportunity to be able to partner with Alaskans on salmon restoration activities on private lands where it's needed.

CHAIRMAN TORGERSON asked if bill is subject to the legislature's power to appropriate funds.

MR. TAYLOR answered, "Absolutely, every dollar that comes to the department is appropriated through the legislature."

SENATOR TAYLOR asked where the funds come from.

MR. TAYLOR answered that the first set of funds came from EVOS criminal settlement funds (SB 183 in 1995), which will be exhausted by the end of this fiscal year. He said ADF&G has asked Congress for an appropriation for the Kenai Peninsula in the FY02 budget.

SENATOR TAYLOR asked if they are Carol Light (ph) funds.

MR. TAYLOR answered that they aren't. They have funds appropriated by the Legislature for Southeast sustainable salmon research monitoring and restoration and a portion of those funds may be available for these types of restoration projects.

SENATOR TAYLOR asked if they are salmon treaty funds.

MR. TAYLOR said they are not. He explained that he is talking about \$14 million that was received by the state in the federal FY00 budget and an additional \$10 million in the FY01 budget. Some of the funds are associated with the Treaty, but they are not referred to as treaty funds.

He said \$14 million was appropriated in the FY00 budget for salmon restoration, rehabilitation, monitoring, enhancement and related

activities for Cape Suckling to Dixon Entrance. Those funds were not directly part of the Treaty negotiations, but they were an add-on to the National Marine Fisheries Service (NMFS) budget. The actual treaty funds come in the Northern Boundary Fund and the Southern Fund. The Northern Boundary Fund is being set up as a trust. He didn't know the details of it. Neither one of those funds are what he is talking about for the Kenai. He has asked for separate appropriations from Congress for the Kenai. He mentioned the Southeast salmon funds because they were appropriated for research, monitoring and restoration and there may be some opportunity to use some of those funds for restoration activities in Southeast. If that's the case, the granting authority that is provided in this bill would allow them to partner with private individuals or corporations.

Number 500

SENATOR HALFORD said when they considered this issue last year, they put in an amendment that added "access" to the list of reasons for the use of the fund. They also added a provision that required the concurrence of the appropriate authority: the Board of Fisheries or Game. Mr. Taylor said that because there are so many grants, it would be too cumbersome to put them through the board process. However, he believes it's important that the Board set the direction for ADF&G since the Board is closer to a lot of the input.

SENATOR HALFORD suggested two amendments:

On page 1, line 7 add "access" to "habitat restoration or enhancement";

On page 1, line 8, following "projects" insert:

"The award of a grant under this section is subject to the review/approval by the Board of Fisheries or the Board of Game, whichever is appropriate."

MR. TAYLOR responded that ADF&G has no problem with the first amendment (to include access). ADF&G already has a very active access defense program within the Habitat Division. He has never found a funding source that would provide access grants, although he is still looking. It's the only program in his division that is fully funded with ADF&G funds.

He remarked that last year the Board officially adopted a sustainable salmon fisheries policy with provisions for consideration of habitat. Prior to every Board meeting, the board asks ADF&G to identify salmon stocks of concern. His division then goes through a procedure of identifying the habitat concerns and corrective actions that can be taken, if any, for any stock listed.

The Board has a Habitat Committee that he interacts with on a regular basis. He didn't think it was necessary to amend the bill to require ADF&G to address the Boards, since the division is already doing that, although he didn't think the suggested language would cause any undue complications.

SENATOR HALFORD moved to adopt Amendment 1, which reads:

On page 1, line 7, add ", access" after "restoration"

On line 8, add "The award of grant programs authorized under this section are subject to approval by the Board of Fisheries or the Board of Game, whichever is appropriate" after "projects".

SENATOR ELTON objected for the purpose of a question. He asked if Amendment 1 meant that the Board should give authority to the commissioner to proceed with a program in which he can give grants, but it does not give the [Board] the authority to review every grant.

SENATOR HALFORD said that is correct. He expected that there would be an annual grant program and there would be one approval that would cover the one program that the Administration presented.

SENATOR ELTON asked if he meant a list of grantees.

SENATOR HALFORD said he assumed it would be a list that goes beyond what they have federal support for.

MR. TAYLOR explained that once ADF&G has the funding available, it advertises the program to the public and then looks at grant proposals as they come in, evaluating them through a very rigorous set of criteria. Those that qualify are funded.

SENATOR HALFORD said he assumed the approval would have to come when they make the initial presentation.

Number 1000

SENATOR ELTON asked Mr. Taylor if his division works on a year-by-year basis or proposal basis when awarding grants.

MR. TAYLOR answered that it's done on an on-going basis. Once funding is available, the division figures out where the priorities are. Then it puts out a proposal to the public and people proposals throughout the year.

SENATOR ELTON asked if they don't bundle now, but under the process envisioned in this bill, they would have to bundle so they could get funds from either the Board of Fisheries or the Board of Game.

MR. TAYLOR answered that he envisioned:

If we are dealing with the Kenai Peninsula and we say that there's a stretch on the Kenai River that's a priority and there's the Upper Anchor River where we're having difficulty with ATV crossings and we need to put in some bridges and we have a couple of other priorities - these are the types of things we would like to address. We would take the information to the Board of Fisheries or the Board of Game and say this is what we're planning on doing for habitat restoration on the Kenai that should interest your user groups. In fact, this is what we do now. The only part about the wording in this amendment that concerns me is board approval. The way the board processes have worked in the past is that regulations have often been set up where the board authorizes the department to do something, like conduct wolf control in a given area. It doesn't mandate... That's the structure that's used. There hasn't been, in any of the statutes we've passed so far, any fiscal oversight in what the department does. There's been that separation of powers between the board and the legislature. The legislature has maintained fiscal authority and the board has set policy direction.

SENATOR ELTON asked if the \$14 million in federal funding would be available for grants under this change.

MR. TAYLOR replied that the \$14 million was authorized for a number of different types of expenditures, one of which was restoration. He didn't know how much of it would be available for grants or for restoration. He just mentioned it as another potential source.

SENATOR ELTON asked if the process now for that \$14 million is to have stakeholder review of how those dollars are being used and this bill would provide another level of review.

MR. TAYLOR replied that the division normally gets a lot of reviews on how it uses the money, but his point is that the board would get to review whether it's mandated in statute or not.

SENATOR TAYLOR moved to amend Amendment 1 as follows:

After "grant programs under this section are subject to approval" insert "annually" before "subject".

SENATOR LINCOLN objected to the word "annually". She heard Mr. Taylor say the boards don't do an annual review; a review is done as the grants come in or as they put together a review of a given area. It seems that this amendment would tie the hands of ADF&G to

do anything until it gets all the grants together and then, once a year or annually, it goes to one of the boards for approval.

MR. TAYLOR said his understanding of the way this amendment is worded is that the grant program authorized under this section would be reviewed annually. So, they are looking at the overall program. The individual grants wouldn't be reviewed. The problem that might be a little difficult for the boards is that they both generally deal with the state on a cyclic basis.

CHAIRMAN TORGERSON said that the boards have dealt with issues all over the place and there are also things they do every year.

MR. TAYLOR admitted that was correct.

SENATOR HALFORD said he didn't object to "annually" and he didn't think it hurt the bill either way. He thought they could say, "at least annually".

SENATOR HALFORD read the proposed amendment: "The award of grant programs authorized under this section are at least annually subject to approval by the Board of Fisheries or the Board of Game, whichever is appropriate."

He explained that way "annually" does not become a limitation, but it still requires something to be done every year.

SENATOR TAYLOR moved to modify his amendment to add "at least annually".

SENATOR ELTON asked if the amendment now means that, "The board would look back at the grants from the previous year and say they did a good job - keep doing it the way you've been doing it because we're talking about grant programs, not individual grants. So they review the department's administration of the previous year and then give the nod or here's where we think you were off track. Don't do that again."

CHAIRMAN TORGERSON said he thought Mr. Taylor was saying that the division would come in with a project, for instance a bridge across a river, a project that could be accomplished four or five different ways. That would be the program. The actual grant to accomplish it would not come before the board.

SENATOR HALFORD said that the federal government does existing programs because ADF&G doesn't have the authority to do them. He commented, "So we're fixing that portion with any of these versions, but I don't think the review by the board is intended to be retrospective. I think it's intended to be prospective."

MR. TAYLOR explained that ADF&G has traditionally received these

funds through a multi-year CIP. When it gets the authorization in the federal budget, it comes to the legislature and asks for a CIP for five or six years. He said ADF&G would tell the board what it did with the previous years' funds and what its priorities are for the coming year. ADF&G would take the board's input on priorities and, if there is some other focus it should have, get it at this time.

CHAIRMAN TORGERSON asked if that is what ADF&G does now.

MR. TAYLOR replied it is.

CHAIRMAN TORGERSON asked Senator Lincoln if she maintained her objection. She said no and he announced that the amendment to Amendment 1 was adopted.

CHAIRMAN TORGERSON asked if there was any discussion on the amended amendment.

SENATOR ELTON said he could see the value of it, but didn't know if it anticipates a problem they might not have. He was concerned that the only people who want to serve on certain boards have to be crazy to do it because, "It's the amount of time they have to put into it; they make no friends doing it; they only make enemies and so what we're doing is creating a situation in which we're saying 'You do a lot. Now do more.'"

CHAIRMAN TORGERSON asked for a roll call. SENATORS TAYLOR, HALFORD, LINCOLN, AND TORGERSON voted yea; SENATOR ELTON voted nay. Amendment 1 as amended was adopted by a vote of four to one.

MR. DALE BONDURANT stated support for HB 61. [The remainder of his testimony was indisc.]

SENATOR TAYLOR moved to pass SCSHB 61(RES) from committee with individual recommendations. There were no objections and it was so ordered.

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#HJR19

HJR 19-DIGITAL ORTHOIMAGERY AND ELEVATION DATA

CHAIRMAN TORGERSON announced HJR 19 to be up for consideration.

MS. JUDY JORDAN, staff to Representative Scalzi, sponsor, said HJR 19 encourages Congress to provide funding to digitally map much of Alaska. This new mapping technique has numerous benefits. Ms. Jordan explained that orthoimagery and digital mapping combine image characteristics of aerial photography with the geometric qualities of the map. Such maps would greatly enhance the processes used by decision makers that pertain to the state's land transfer

programs, resource assessment, exploration and development, rural airport access, fire suppression and community economic and infrastructure development. Today, she said, decision makers often rely on inaccurate and outdated maps. Some maps were produced as much as 40 - 50 years ago. Federally funded orthoimagery mapping is already being made available to other states and, to date, Alaska has been left out of that effort. It is her understanding that the U.S. Geological Survey has included a \$6 million initiative in its FY02 budget for Alaska. Other Department of Interior agencies may supplement that request. Obtaining this type of mapping for Alaska is very expensive and is currently projected to cost in the neighborhood of more than \$100 million.

She said that digital orthoimagery is the goal of the Alaska Geographic Data Committee. They have collected over 50 endorsements from corporate, state, Native and federal entities within the state for the geological survey initiative.

SENATOR TAYLOR moved to pass HJR 19 from committee with individual recommendations. There were no objections and it was so ordered.
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#HCR8

HCR 8-NORTH SLOPE NATURAL GAS PIPELINE ROUTING

CHAIRMAN TORGERSON announced HCR 8 to be up for consideration.

REPRESENTATIVE WHITAKER, sponsor of HCR 8, said the resolution is straightforward and does not compete with SB 162. It states clearly that the legislature opposes an over-the-top route and that it will do all within its power to encourage natural gas commercialization in a manner consistent with our maximum area constitutional mandate.

CHAIRMAN TORGERSON proposed that on page 2, line 6, deleting the phrase: "including particularly the financing proposal of the Alaska Gasline Port Authority, a public authority established by Alaska municipalities for the promotion of transportation-related commerce,". Referring to the language on page 2, lines 26 and 31, he said he could not sign off on something that said he would use every power within his constitutional authority to facilitate commercialization. That could include incentives and other things, a broad based statement.

REPRESENTATIVE WHITAKER said he supported removing the language on page 2, lines 6 - 8. He told members that language was added by the House Oil and Gas Committee and he didn't think it was appropriate. Regarding Chairman Torgerson's second concern on lines 26 and 31, Representative Whitaker suggested inserting "reasonable" in front of "power".

SENATOR TAYLOR moved to adopt Amendment 1:

On page 2, line 6, delete "including particularly the financing proposal of the Alaska Gasline Port Authority, a public authority established by Alaska municipalities for the promotion of transportation-related commerce,"

On page 2, lines 26 and 31, insert "reasonable" before "power".

There were no objections and it was so ordered.

MR. JERRY MCCUTCHEON commented on HCR 8.

SENATOR TAYLOR moved to pass SCS HCR 8(RES) from committee with individual recommendations. There were no objections and it was so ordered.

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#SB153

SB 153-UNDERGROUND STORAGE TANK LOAN FUND

CHAIRMAN TORGERSON announced SB 153 to be up for consideration. He said that the committee substitute (CS) says that if a company is large enough to be covered under EPA regulations, it would not be eligible for a loan.

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MR. JOHN BARNETT, a contractor providing support services to the Board of Storage Tank Assistance, supported the committee substitute and the section that refers to self-insurance. This would eliminate companies that would still remain eligible for a loan from the state, such as Chevron, Tesoro and Williams.

CHAIRMAN TORGERSON said that it eliminates anyone with net assets over \$10 million.

SENATOR TAYLOR asked if it eliminates municipalities.

MR. BARNETT said that municipalities are specifically mentioned in section 16 and it does not apply.

SENATOR ELTON asked, regarding language on page 8, lines 30 - 31, why they are requiring a form to be developed through the regulatory process. He was concerned that might take awhile.

MS. ANNETTE KREITZER, staff to Senator Leman, sponsor, responded that they have already gone through the financial responsibility process through regulation and she didn't think it would be that difficult for them to go through it one more time.

MR. BARNETT explained that two years ago, Senator Torgerson developed a net worth filter for the grant applicant in SB 128 and it was available to the public by August 1. He said they could get this out fairly quickly.

MS. KREITZER said creating the form by regulation is federal language and the committee doesn't have to require that to be done.

CHAIRMAN TORGERSON asked Mr. Barnett what he thought about creating the form in regulation.

MR. BARNETT said he thought the [Board of Storage Tank Assistance] could review that issue before the bill got to the Finance Committee, but he didn't see any problem with it.

SENATOR TAYLOR moved to adopt committee substitute Cook 4/23/01 as the working document. There were no objections and it was so ordered.

SENATOR TAYLOR moved to pass CSSB 153(RES) from committee with individual recommendations. There were no objections and it was so ordered.

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#SB115

SB 115-EXTEND BD. OF STORAGE TANK ASSISTANCE

CHAIRMAN TORGERSON announced SB 115 to be up for consideration.

SENATOR TAYLOR moved to pass SB 115 from committee with individual recommendations. There were no objections and it was so ordered.

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#HB111

HB 111-CIVIL LIABILITY AND LIVESTOCK

CHAIRMAN TORGERSON announced HB 111 to be up for consideration.

MS. RYNNIEVA MOSS, staff to Representative Coghill, sponsor, said this bill is the product of several meetings with 4-H members of Fairbanks that expanded statewide. The 4-H Club was looking for a piece of legislation to prevent frivolous lawsuits that have occurred in livestock activities, both at the Palmer Fair and the Tanana Valley Fair.

SENATOR TAYLOR moved to pass HB 111 from committee with individual recommendations. There were no objections and it was so ordered.

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There being no further business to come before the committee,

CHAIRMAN TORGERSON adjourned the meeting at 4:50 p.m.