

ALASKA STATE LEGISLATURE

SENATE RULES COMMITTEE

May 2, 2002

10:41 a.m.

MEMBERS PRESENT

Senator Randy Phillips, Chair
Senator John Cowdery, Vice Chair
Senator Rick Halford
Senator Gene Therriault
Senator Johnny Ellis

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

SENATE BILL NO. 191

"An Act relating to insurance pooling by members of an airline employers association."

APPROVED FOR CALENDARING

SENATE CONCURRENT RESOLUTION NO. 33

Relating to Ovarian Cancer Awareness Month.

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 160(JUD)

"An Act requiring the reporting of induced terminations of pregnancies."

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 206(RLS)

"An Act relating to a vessel-based commercial fisheries limited entry system for the Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."

HEARD AND HELD

HOUSE BILL NO. 262

"An Act relating to accounting for and appropriations of receipts from fees collected by the Department of Labor and Workforce Development for certain inspections and for certain plumbing and electrical worker certificates of fitness; establishing a building safety account; and providing for an effective date."

HEARD AND HELD

SENATE CONCURRENT RESOLUTION NO. 36

Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, concerning House Bill No. 262, relating to accounting for and appropriations of receipts from fees collected by the Department of Labor and Workforce Development for certain inspections and for certain plumbing and electrical worker certificates of fitness, establishing a building safety account, and providing for an effective date.

SCHEDULED BUT NOT HEARD

CS FOR HOUSE BILL NO. 352(HES) am

"An Act extending the dates for assignment of performance designations of public schools and the dates for reports and monitoring based on those designations; and providing for an effective date."

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 455(CRA)

"An Act relating to the assessment of certain agricultural land for purposes of municipal taxation; and providing for an effective date."

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 508(RLS)

"An Act relating to results of testing for paralytic shellfish poisoning and to participation of the Department of Environmental Conservation in the development of operating plans of qualified regional dive fishery development associations."

APPROVED FOR CALENDARING

CS FOR HOUSE JOINT RESOLUTION NO. 47(RLS)

Urging the United States Environmental Protection Agency and the Alaska Department of Environmental Conservation to provide maximum possible flexibility in application of ultra low sulfur diesel fuel requirements to Alaska.

APPROVED FOR CALENDARING

HOUSE CONCURRENT RESOLUTION NO. 23

Proposing amendments to Uniform Rule 20 of the Alaska State Legislature; and providing for an effective date for the amendments.

HEARD AND HELD

PREVIOUS SENATE COMMITTEE ACTION

SB 191 - See Labor and Commerce minutes dated 4/17/01

4/24/01 and 5/1/01, Judiciary minutes dated 5/4/01 and 5/5/01.

SCR 33 - No previous action to record.

SCR 36 - See Rules minutes dated 4/30/02.

HB 160 - See HESS minutes dated 4/15/02 and Finance Report dated 5/1/02.

HB 206 - See Resources minutes dated 3/20/02, 4/17/02 and 4/24/02 and Judiciary minutes dated 4/29/02.

HB 262 - See Labor and Commerce minutes dated 3/21/02, State Affairs minutes dated 4/2/02, Finance Report dated 4/18/02 and Rules minutes dated 4/29/02 and 4/30/02.

HB 352 - See HESS minutes dated 4/24/02.

HB 455 - See CRA minutes dated 4/17/02 and Resources minutes dated 4/24/02.

HB 508 - See Resources minutes dated 4/29/02.

HJR 47 - See Resources minutes dated 4/29/02.

HCR 23 - See Rules minutes dated 5/01/02.

WITNESS REGISTER

Ms. Amy Erickson
Staff to Representative Murkowski
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Objected to both committee substitutes to HB 262

Dr. Mark Leal
Department of Education &
Early Development
801 W 10th St.
Juneau, AK 99801-1894

POSITION STATEMENT: Answered questions HB 352

Mr. John Manley
Staff to Representative Harris
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Answered questions on HB 455

Ms. Mary McDowell

Commercial Fisheries Entry Commission
8800 Glacier Highway
Juneau, AK 99801

POSITION STATEMENT: Explained the provisions of HB 206

ACTION NARRATIVE

TAPE 02-11, SIDE A

Number 001

CHAIRMAN RANDY PHILLIPS called the Senate Rules Committee meeting to order at 10:41 a.m. Senators Cowdery, Halford and Phillips were present.

#SB 191

SENATOR COWDERY moved to calendar at the Chairman's discretion **SB 191-JOINT AVIATION INSURANCE ARRANGEMENTS** with its zero fiscal note.

CHAIRMAN PHILLIPS noted that with no objection, the motion carried.

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#SCR 33

SENATOR HALFORD moved to calendar at the Chairman's discretion **SCR 33-OVARIAN CANCER AWARENESS MONTH** with its zero fiscal note.

CHAIRMAN PHILLIPS noted that with no objection, the motion carried.

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#HB 160

SENATOR HALFORD moved to calendar at the Chairman's discretion **HB 160-REPORTING OF ABORTIONS** with any accompanying fiscal notes and asked for unanimous consent.

CHAIRMAN PHILLIPS announced that Senator Therriault was present. He then noted that with no objection, the motion carried.

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CHAIRMAN PHILLIPS announced that HB 206 would be put at the bottom of today's calendar.

#HB 262

CHAIRMAN PHILLIPS asked to hear from Representative Murkowski's staff about her wishes in regard to **HB 262-BUILDING SAFETY ACCOUNT**.

MS. AMY ERICKSON, staff to Representative Murkowski, informed members that Representative Murkowski maintains her objection to either proposed committee substitute.

SENATOR THERRIAULT asked if Representative Murkowski has talked to the co-chairs of the House Finance Committee.

MS. ERICKSON said she has and, in fact, they caucused about this very issue last night.

CHAIRMAN PHILLIPS said he would hold HB 262 and SCR 36 in committee.

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#HB 352

CHAIRMAN PHILLIPS announced the committee would hear **HB 352-SCHOOL PERFORMANCE REPORTS** and asked a representative of the Governor's Office to present the bill.

SENATOR HALFORD asked why the Department of Education and Early Development (DOEED) wants to extend the implementation date of the school designator program.

DR. MARK LEAL, DOEED, said that DOEED is requesting an extension of implementation of the school designators for two reasons. First, DOEED wants to be able to calculate growth. The designator committee that has been working on this issue for two years wanted to be sure to include measures of both status and growth. Second, the federal "No Child Left Behind Act," was passed last December and requires DOEED to seek further direction from the U. S. Department of Education to make sure that Alaska's system will align with the requirements of that act.

SENATOR THERRIAULT asked if the delayed date will align the school designators date with the exit exam date.

DR. LEAL agreed and said the 2004 date aligns it with the high stakes portion of the exit exam.

SENATOR THERRIAULT asked if the House bill and Senate bills were aligned in the Senate HESS Committee.

DR. LEAL say they were and that many of the items discussed are items that will now be handled through regulation.

SENATOR HALFORD noted the original bill contained a two-year extension but the House HESS Committee decreased it to one year.

He asked if the two-year extension was reinstated with a floor amendment.

DR. LEAL explained that the House adopted an amendment on the floor to reinstate the original 2004 date.

SENATOR HALFORD asked if this bill was heard by the Senate HESS Committee and whether committee members objected to the 2004 date.

DR. LEAL said it was heard by the Senate HESS Committee and that no one objected to the 2004 date.

SENATOR THERRIAULT moved to calendar at the Chairman's discretion CSHB 352(HES)am and its accompanying fiscal note.

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#HB 455

CHAIRMAN PHILLIPS announced the committee would take up **HB 455- MUNICIPAL TAXATION OF AGRICULTURAL LAND.**

MR. JOHN MANLEY, staff to Representative Harris, explained to members that HB 455 accomplishes two things. Right now, agricultural land is assessed at the full and true value for fee simple land. As land sells in the vicinity of agricultural-restricted land, values go up because it is subdivided. Agricultural restricted land cannot be used for any other use. HB 455 exempts state restricted agricultural lands from an existing requirement that the owner apply each year for an assessment and that the assessment be for the full and true value of the restricted use only.

SENATOR HALFORD pointed out the bill has a zero fiscal note and does what he assumes the state would do anyway.

SENATOR HALFORD moved to calendar at the Chairman's discretion HB 455 with the accompanying fiscal note.

CHAIRMAN PHILLIPS noted that with no objection, the motion carried.

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#HB 508

The committee took up **HB 508-DIVE FISHERY ASSOCIATIONS/PSP REPORTS.**

SENATOR HALFORD moved to calendar at the Chairman's discretion HB 508 with its accompanying fiscal note.

CHAIRMAN PHILLIPS noted that with no objection, the motion carried.

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#HJR 47

SENATOR HALFORD moved to calendar at the Chairman's discretion **HJR 47-LOW SULFUR DIESEL FUEL REQUIREMENTS** with its accompanying zero fiscal note.

CHAIRMAN PHILLIPS noted that with no objection, the motion carried.

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#HCR 23

CHAIRMAN PHILLIPS announced that **HCR 23-LEGISLATIVE COMMITTEES:SPLIT HOUSE HESS** was before the committee and unless a member makes a motion to pass it from committee, he will hold it.

SENATOR THERRIAULT informed members that Representative Bunde's staff provided him with a 2-page memo describing the measure and that he has not had a chance to read it.

CHAIRMAN PHILLIPS announced that HCR 23 would be held in committee.

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#HB 206

CHAIRMAN PHILLIPS announced the committee would take up **HB 206-LIMITED ENTRY FOR COMM. FISHERIES** and asked for an explanation of the measure.

MS. MARY MCDOWELL, Commercial Fisheries Entry Commission (CFEC), told members that HB 206 is the result of a 1996 legislative directive to place a moratorium on vessels in the Korean hair crab fishery. The legislature directed the CFEC to work with the Department of Law (DOL) to draft legislation that would create a vessel-based limited entry program that could be used in fisheries that can't be affected under the current program. Those fisheries do not have the characteristics of the fisheries normally limited by the state. The vessels are not owner operated, they are large and use multiple skippers. CFEC was originally directed by the legislature to draft legislation that is generic and would create an alternative program that could be used for fisheries with those characteristics. However, when the bill was heard in the House Resources Committee, it was considered to be very controversial. People were concerned about diverging from the current program and creating a generic tool

for future fisheries. At that point, the House Resources Committee narrowed the scope of the legislation to say the only fisheries this new tool could be applied to are the Korean hair crab fishery and the weathervane scallop fishery, the two large boat fisheries that the state is immediately faced with having to limit. The legislature imposed vessel based moratoria in both of those fisheries. HB 206 will provide CFEC with a tool to deal with those fisheries before they return to open access at the expiration of the moratoria. The hair crab moratorium expires in July of 2003 so CFEC needs legislation to pass this session to have this tool available.

SENATOR HALFORD asked why it must pass this session.

MS. MCDOWELL explained that in order to enact a limitation in a fishery, CFEC will have to propose a limitation system and put it out in the form of a regulatory proposal and provide for a 60 day public notice period. If HB 206 doesn't pass until next session, CFEC will not have time to do that before the moratorium is lifted.

SENATOR HALFORD asked when the season for Bering Sea hair crab begins.

MS. MCDOWELL said it begins in November.

SENATOR HALFORD maintained that CFEC would have time to develop regulations before the season.

MS. MCDOWELL said that part of the problem is that once the moratorium expires, people are eligible to apply for an interim use permit for the calendar year before CFEC restricts who is eligible. CFEC has been involved in lawsuits about the effective date in the past so it feels it is up against a deadline.

CHAIRMAN PHILLIPS suggested holding the bill for 24 hours.

SENATOR HALFORD said that both sides of this conflict have a legitimate argument. The legislature directed CFEC to place a vessel-based - not individual based - moratoria on those fisheries. He said this is the one place in the system where some kind of a business ownership permit is being created, rather than an individual permit. The point he has argued is that he does not want to create any new permits with any value. He is not unwilling to create new permits, but if those permits are transferable for value, the state has created an artificial value that comes down on the fishery. He noted there are very few hair crab or scallop vessels, but this method will set a precedent.

Senator Halford said he thought Representative Scalzi planned to talk to Ms. McDowell about another permutation and asked if she spoke to him recently.

MS. MCDOWELL said he talked to her several days ago about the possibility of coming up with a method of non-transferability. She said she explained to him that CFEC would have to come up with a new method of transferring new permits whereby permits would have to revert to CFEC and be redistributed through a lottery or some similar method. She noted that would be risky for the current program because permits would leave the hands of Alaskans. She pointed out that 30 to 40 percent of all permits now change hands by gift rather than sale because they change hands within families. That would be less applicable to vessel permits.

SENATOR HALFORD asked if you could get them out with no notice in February in the community closest to where the permit is fished.

MS. MCDOWELL said that interstate commerce issues come into play.

SENATOR HALFORD maintained that it is difficult to come up with a method that avoids a value in the permits and that he is not against the particular fishery.

MS. MCDOWELL acknowledged that this issue has had many, many hearings.

CHAIRMAN PHILLIPS noted the purpose of this hearing is to schedule.

SENATOR THERRIAULT said he has a concern similar to Senator Halford's in that he has always been bothered by the value that is placed on the right to take the collective resource.

CHAIRMAN PHILLIPS noted he will hold HB 206 in committee for 24 hours.

SENATOR HALFORD said he believes there is a better method but it will require a lot of work and no one is better qualified to figure out that method than CFEC. He said the legislature has discussed this question over and over and now the moratoria are going to run out. He indicated that it may be difficult to come up with a process other than a cash transfer but it is not impossible. As a matter of policy, it would be the right direction to go in. He said he does not want to participate in creating new permits for value because that debt load represents half of the load the fisheries are dealing with today.

SENATOR THERRIAULT asked if the moratoria can be extended.

MS. MCDOWELL said this one has been extended already and that CFEC will run into another constitutional problem if it continues to extend it. The moratorium has created an exclusive class so that those people are locked in with no opportunity to exchange permits. Extending the moratorium indefinitely is problematic as well.

SENATOR TAYLOR indicated that he has been working on this issue for about four years and said that part of the frustration is that the legislature suppressed this question with each of the moratoriums and in fact gave direction to the CFEC. He said he agrees with Senator Halford on the value issue but he would hate to see this very small and unique fishery remain closed because no answer has been found yet.

SENATOR HALFORD said the issue raises two questions: one is in regard to the fact that the permits are not individually owned, which was mandated by the legislature; the other is transferability.

MS. MCDOWELL pointed out that because the bill has been dramatically narrowed, it creates a less sweeping policy call than it might have been if it was a generic bill.

CHAIRMAN PHILLIPS announced that he would hold the bill until the next meeting. He then adjourned the meeting at 11:04 a.m.