

HOUSE FINANCE COMMITTEE
May 03, 2003
9:10 A.M.

TAPE HFC 03 - 74, Side A
TAPE HFC 03 - 74, Side B
TAPE HFC 03 - 75, Side A

CALL TO ORDER

Co-Chair Harris called the House Finance Committee meeting to order at 9:10 A.M.

MEMBERS PRESENT

Representative John Harris, Co-Chair
Representative Kevin Meyer, Vice-Chair
Representative Eric Croft
Representative Richard Foster
Representative Mike Hawker
Representative Reggie Joule
Representative Carl Moses
Representative Bill Stoltze
Representative Jim Whitaker

MEMBERS ABSENT

Representative Bill Williams, Co-Chair
Representative Mike Chenault

ALSO PRESENT

Representative Beth Kerttula; Representative David Guttenberg; Tim Barry, Staff, Representative Bill Williams; Bill Jeffress, Director, Office of Project Management and Permitting, Department of Natural Resources

PRESENT VIA TELECONFERENCE

Aves Thompson, Director, Measurement Standards and Commercial Vehicle Enforcement, Department of Transportation & Public Facilities, Anchorage; Marty Rutherford, Consultant, Department of Natural Resources, Anchorage; Pat Galvin, Petroleum, Division of Oil and Gas, Department of Natural Resources, Anchorage; Faye Sullivan, Regulatory Affairs Coordinator, Unocal Alaska, Anchorage; Larry Houle, General Manger, Alaska Support Industry Alliance, Anchorage; Chuck Degnan, Board Member, Bering Straits Coastal Resource Service Area, Unakleet; John Oscar, Coastal Management Program, Bering Sea; Judy Brady, Executive Director, Alaska Oil and Gas Advisory Council (AOGAC), Anchorage; Larry Houle, General Manger, Alaska Support Industry Alliance, Anchorage; Faye Sullivan, Regulatory Affairs Coordinator, Unocal Alaska, Anchorage; Bob Shavelson, Executive Director,

Cook Inlet Keeper Non Profit Organization, Cook Inlet; Nancy Wainwright, Attorney, Anchorage

SUMMARY

HB 191 An Act relating to the Alaska coastal management program and to policies and procedures for consistency reviews and the rendering of consistency determinations under that program; relating to the functions of coastal resource service areas; creating an Alaska Coastal Program Evaluation Council; eliminating the Alaska Coastal Policy Council; annulling certain regulations relating to the Alaska coastal management program; relating to actions based on private nuisance; relating to zoning within a third class borough covered by the Alaska coastal management program; and providing for effective dates.

CS HB 191 (FIN) was reported out of Committee with a "no recommendation" and with a zero fiscal note #1 by the Department of Fish and Game, zero fiscal note #2 by the Department of Environmental Conservation and a new zero note by the Department of Natural Resources.

HB 280 An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money, and to out-of-service orders concerning commercial motor vehicles; amending Rule 43.1, Alaska Rules of Administration; and providing for an effective date.

CS HB 280 (FIN) was reported out of Committee with a "do pass" recommendation and with fiscal note #1 by the Department of Administration.

#HB280

HOUSE BILL NO. 280

An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money, and to out-of-service orders concerning commercial motor vehicles; amending Rule 43.1, Alaska Rules of Administration; and providing for an effective date.

AVES THOMPSON, (TESTIFIED VIA TELECONFERENCE), DIRECTOR, MEASUREMENT STANDARDS AND COMMERCIAL VEHICLE ENFORCEMENT, DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES, ANCHORAGE, stated that HB 280 would transfer certain authority to regulate commercial motor vehicles from the Department of Public Safety to the Department of Transportation and Public

Facilities. The change is needed to avoid losing federal highway money. The bill would also directly amend Rule 43.1 of the Alaska Rules of Administration.

Under current law, the authority to adopt regulations regarding commercial motor vehicles is divided amongst:

- Department of Administration for licensing of drivers of commercial motor vehicles;
- Department of Transportation & Public Facilities for matters relating to commercial motor vehicle inspections; and
- Department of Public Safety for all matters relating to commercial motor vehicles.

Under HB 280, the authority to adopt regulations necessary to avoid loss or withholding of federal highway money would be vested in the Department of Transportation & Public Facilities except for matters that relate to licensing of drivers for commercial motor vehicles.

Mr. Thompson continued, the bill would correct an oversight that occurred when implementing Executive Orders (EO) 98 and 99 in 1997. EO 98 transferred the responsibility for commercial motor vehicle safety inspections from the Department of Public Safety to the Department of Transportation & Public Facilities. EO 99 transferred most functions related to motor vehicles found in Title 28 from Department of Public Safety to the Department of Administration. After the issuance of EO's 98 and 99, the Department of Public Safety retained the authority to adopt regulations related to commercial motor vehicles, except for safety inspections and driver licensing. HB 280 would transfer the remaining regulation authority in Department of Public Safety relating to commercial motor vehicles to the Department of Transportation & Public Facilities. The Department needs the authority to adopt those regulations to avoid the loss or withholding of federal funding.

He added that the Federal Motor Carrier Safety Administration regulations provide that a State becomes ineligible for basic program or incentive funds under the Motor Carrier Safety Assistance Program for failure to adopt any new regulation or amendment to the Federal Motor Carrier Safety Regulations (FMCSR) or the Hazardous Materials Regulations (HMR) within three years of the effective date. Since the State's adoption of federal regulations pertaining to Division of Motor Vehicles (DMV) operations, driver/vehicle safety standards and hazardous materials transport has not been updated since 1995; Alaska is out of compliance.

Alaska will receive \$685.5 thousand dollars in basic program

and incentive funds in FY03. Loss of those funds through failure to pass the legislation and the subsequent failure to adopt the current regulations would virtually eliminate the commercial vehicle safety enforcement effort in Alaska.

The Alaska Trucking Association (ATA), Teamsters Local 959 and the Associated General Contractors of Alaska support the bill provisions correcting the regulation adoption authority problems and supporting the language in existing statute. The Departments of Public Safety and Administration also support the legislation.

Co-Chair Harris asked if the Teamster's support the bill. Mr. Thompson replied that they do and he noted that he did not object to Amendment #1.

Representative Croft MOVED to ADOPT Amendment #1. (Copy on File). He stated that the amendment would provide a title change on Page 1, Line 3, inserting language "moves authority for commercial motor vehicle regulation from the Department of Public Safety to the Department of Transportation & Public Facilities". There being NO OBJECTION, Amendment #1 was adopted.

Representative Croft inquired why a fix could not have been accomplished through an Executive Order rather than a statutory change. Mr. Thompson explained that was an oversight.

Representative Foster MOVED to report CS HB 280 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS HB 280 (FIN) was reported out of Committee with a "do pass" recommendation and with fiscal note #1 by the Department of Administration.

#HB191

HOUSE BILL NO. 191

An Act relating to the Alaska coastal management program and to policies and procedures for consistency reviews and the rendering of consistency determinations under that program; relating to the functions of coastal resource service areas; creating an Alaska Coastal Program Evaluation Council; eliminating the Alaska Coastal Policy Council; annulling certain regulations relating to the Alaska coastal management program; relating to actions based on private nuisance; relating to zoning within a third class borough covered by the Alaska coastal management program; and providing for effective dates.

Vice-Chair Meyer MOVED to ADOPT work draft #23-GH1069\H, Kurtz, 5/01/03, as the version of the bill before the Committee.

Representative Croft OBJECTED. He asked the difference between the two versions.

MARTY RUTHERFORD, (TESTIFIED VIA TELECONFERENCE), CONSULTANT, DEPARTMENT OF NATURAL RESOURCES, ANCHORAGE, explained that there are two differences between the House Resources committee substitute and the House Finance committee substitute. One is a technical change involving two parts, Page 15, Section 22, Subsection "0". The language clarifies that the new 90-day deadline for completing a review does not apply to the review involving the Department's disposal of State land or resources. That process is detailed in statute and would require a finding. The finding combined with other elements of the consistency review cannot be accomplished within 90-days. The second part of the amendment provides clarification that the 90-day time frame would be suspended, not terminated under three situations:

- When an applicant does not adequately respond within fourteen days in writing after receiving a request for additional information from the agency that is adopting the consistency review.
- When a project applicant requests a delay.
- When a consistency review undergoes an elevation, which is an appeal.

The second difference between the two versions is an amendment to satisfy one concern of the coastal districts. It would require when the district requests, the Department would consult with them to help identify which amendments necessary for plans and local policies in order to meet the established guidelines. That language is found on Page 23, Section 47, Lines 28-30.

Representative Croft WITHDREW his OBJECTION,

Ms. Rutherford added that a team had been reworking HB 191 attempting to make substantive changes to the original bill. Those changes are included in the House Finance Committee substitute.

She reported that the coastal management program is an older program that has not adequately responded to the changes in the Alaska statutory and regulatory regime. The result is that existing programs are often redundant. It is a program that uses local enforcement policies that are often a reiteration of the regulatory agencies permitting standards. Furthermore, the program's consistency review process as

currently structured is unpredictable and overly broad in scope and takes too much time.

Ms. Rutherford continued, the statewide standards and the local enforcement policies are often vague and subject to multiple interpretations. She noted that the program does have problems, however, the sweeping changes proposed in the original HB 191 does eliminate many of the fundamental reasons that Alaska embraced the coastal management program in the first place.

During the initial committee hearings and discussions regarding HB 191, the Administration took to heart the comments made by the districts, listening to the citizens statewide. The committee substitute introduced in the House Resources Committee returned to the basic structure of the existing coastal management program. Furthermore, that committee substitute insures that all federal activities and activities required at federal and State permits would have a consistency review.

The committee substitute insures that the districts retain their seats at the table, which is important when the State resource agencies are considering resource projects. While some of the elements are retained, the committee substitute would make significant changes to the program. The attempted balance is retention of the important elements directing the problem.

The House Finance Committee substitute includes recommendations for elimination of the Coastal Policy Council, transferring the duties to the Commissioner of the Department of Natural Resources (DNR). It also provides a sunset provision on the current statewide standards and on the coastal district plans. Additionally, it mandates that replacement standards and local policy be rewritten to be clear and concise. It would clarify that local enforcement policies may not address a matter that is regulated or authorized by State or federal law unless the policy relates specifically to a matter of local concern. The legislation provides important clarification on the consistency review process in order to provide better standards and timelines.

Ms. Rutherford concluded, the committee substitute clarifies that the Department of Environmental Conservation (DEC) permits and authorizations would constitute the consistency determinations for activities regulated by that Department's air and water quality standards. The change would insulate the coastal management consistency review process from delays associated with some of Department of Environmental Conservation's more complex permits and authorizations. That change would streamline the process.

Ms. Rutherford spoke to the fiscal note. She noted that there would be some immediate savings from the coastal management program budget based on Executive Order 106, which transfers the functions of the Division of Governmental Coordination to the Department of Natural Resources. Those savings are realized in the FY04 operating budget as a reduction of \$342 thousand dollars in State general fund match. The reduction would result in the elimination of five full time positions and one temporary position. She added that there would be a significant effort over the next three years for the Department of Natural Resources to clarify and update the statewide standards and for the districts to clarify their plans and policies.

Co-Chair Harris asked how this would affect local communities controlling their "destiny" with regard to environmental quality and land use.

Ms. Rutherford replied that there is a distinction there. The legislation would remove the local districts ability to develop specific enforceable policy. Under the legislation, the communities would not be able to implement a local enforcement policy to exceed the water quality standard for the Department of Environmental Conservation. Because the Department of Environmental Conservation air and water quality standards do not address some things, in those areas, the local communities would be able to develop their own local policy regarding the citations. When a Title 29 municipality has a local ordinance permitting functions linked to air and water quality, the bill would not eliminate their ability to do that under their Title 29 authority. It simply eliminates their ability to embed that in a local enforcement policy.

Ms. Rutherford addressed land use. She noted that the bill indicates that a municipality cannot restate a State standard or regulation, but rather, determine an area where a gap exists.

Representative Croft referenced Sections #11 and #14. He asked why that language does not exclude any discussion on air, land and/or water protection. Ms. Rutherford requested that Mr. Galvin respond to that question.

PAT GALVIN, (TESTIFIED VIA TELECONFERENCE), PETROLEUM, DIVISION OF OIL AND GAS, DEPARTMENT OF NATURAL RESOURCES, ANCHORAGE, explained that the language in Section 11 refers to the standards of the program. The Coastal Management Program (CMP) has always looked to the Department of Environmental Conservation statutes and regulations as establishing the air, land and water quality standards for the program and for the most part, the districts have referred to those standards. The bill is a product of a

problem that has existed within the Coastal Management Program based upon the embedding of the Department of Environmental Conservation standards into the Coastal Management consistency requirements. For the permitting process, a project could not be found consistent until it was found by the Department of Environmental Conservation to meet all their requirements, resulting in no permits being issued because the State cannot issue permits until the Department finds the projects consistent. The intent of the legislation is to separate those two so that the Department of Environmental Conservation permitting process can proceed at its own pace and the consistency determination can be issued without waiting for the Department to complete the permit.

Mr. Galvin explained that the question became how to keep the standards in place, retaining a reasonable process. One area was to determine if the districts would be able to add additional criteria to what the Department of Environmental Conservation regulates. HB 191 indicates that they cannot. What the Department of Environmental Conservation regulates are the State standards, which will apply throughout Alaska. The districts would not be able to add additional requirements to those specific purposes.

Representative Croft asked if part of the concern was that the districts would adopt the same statutes, however, interpreting them differently from the Department. Mr. Galvin replied that the problem was not that the districts had been interpreting the Department of Environmental Conservation (DEC) standards differently. The problem with the standards has been their role in the program. HB 191 clarifies that if the State is to allow the DEC permits to stand for a consistency determination and if the districts are allowed to add another requirement, it would create a need for two consistency determinations and two local review processes during that timeline. The decision was clear that the Department's permit needs to stand on its own and with its own standards and that the districts cannot allow additional requirements to those standards.

Representative Croft referenced the sectional analysis, Page 2, regarding coastal districts having enforceable policies for activities in a project that are not addressed by the Department of Environmental Conservation standards. He inquired where that authority would be defined.

Mr. Galvin pointed out that in one of the earlier sections, the language was changed and made to specific references to air, land and water quality. The language was changed to make specific reference to statutory provisions so not to presume that air, land and water quality are the exclusive product of that Department. The idea is that only whatever DEC embeds into statutory provisions would then establish

where DEC is regulating. That would preclude the districts from going into those areas.

Representative Croft thought that constitutional enforcement policies for "those purposes" are too broad. A grant of exclusive enforcement policy jurisdiction is clear; however, the exception is not yet clear. He asked how that language would interact with Section 14 and that State law could not adequately address a plan.

Mr. Galvin responded that the intent of Section 14 is to allow the districts to adopt local enforcement policies where the matter is not adequately addressed by State or federal law. Section 11 is specifically designed so that only the references to those statutes that DEC is actually regulating. If there is an area that the Department regulates, then the locals would be able to address them. Regarding the language "exclusive enforcement policies", if DEC is regulating an activity then that would be presumed to be adequately addressed.

REPRESENTATIVE BETH KERTTULA referenced Section 11, the federal activities and voiced concern regarding that activity. She asked what would be left if the Department of Environmental Conservation standards had been precluded. Mr. Galvin referenced b(2) in conjunction with Section C below it. Sub Section © recognizes that in the outer continental shelf, the review would be done by the Department of Natural Resources (DNR). Since DEC is not issuing a permit, then they would be looking at their standards making a finding to determine if it meets their requirements. In sub Section ©, DNR would review all other enforceable policies and would then incorporate the Department of Environmental Conservation finding into the consistency review.

Representative Kerttula pointed out that it would be DNR applying the DEC standards and issuing the consistency determination based upon that. Mr. Galvin responded that in regard to the areas that DEC regulates, the district would not have enforceable policies dealing with the activities that DEC was regulating under Sections 11 & 14. Under those sections, there could be district policies that relate to those issues.

Ms. Rutherford interrupted, noting that there was material regarding the local enforcement policies that meet the requirements of the committee substitute in Section #14.

In reference to an example provided by Mr. Galvin, Representative Kerttula commented that language would be "splitting fine hairs" about what the Department of Environmental Conservation standards are under Section #11 and that it would be a "terrible" area for litigation.

Representative Kerttula asked when the policy changes and if DEC has the exclusive enforceable policy, what would happen to federal activity in local districts. Mr. Galvin did not know the policies referenced by Representative Kerttula; however, based upon the description of the policies, he thought that they would be allowed under the provisions of the committee substitute and that DEC would be looking at the technical evaluation of the review.

Representative Kerttula asked what would happen if the local municipality had been precluded and the Department of Environmental Conservation had a set standard. She asked how would the local municipality receive a break. Mr. Galvin did not understand the presumption that the district would not have any enforceable policy on the issue. He responded that if it did not, then DEC permitting would be the determination of the efficiency and then the permitting process would make that determination. Ms. Rutherford pointed out that few districts have decided to expand or make more aggressive standards that are currently imposed by the Department's activities subject to regulation. The only circumstance found was when a couple districts chose to require that a containment area for stored fuel would be at 110% capacity instead of the DEC established standard of 105%. Including those regulations in a consistency review has greatly delayed the issuance of permits.

Representative Stoltze voiced concern that the handouts distributed had not been adequately identified. He stressed that documents should indicate from where they are being distributed. He knew that there would be litigation resulting from this legislation and that the handouts had not properly been labeled. Ms. Rutherford noted the Administration had provided a one-page synopsis, which identified only the key components of the committee substitute, a time line of transition to the new program, a chart that compares the committee substitute and a sectional analysis.

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Co-Chair Harris asked where the handouts had come from. Ms. Rutherford responded that the Department team, whom she identified earlier, had created them.

Representative Joule asked about the litigation expected to result from the proposed legislation. Ms. Rutherford replied that the Coastal Management Program has been rifled with litigation for the past 15 years. The intent of the legislation is to bring some clarity into the statewide standards and local enforcement policies so that they are

not subject to the confusion that currently exists. She hoped that it would reduce the current amount of litigation.

Representative Joule pointed out that the legislation would do-away with the State Policy Counsel and moves those responsibilities to the Department of Natural Resources Commissioner's Office. He recognized that the issue is a big concern and should have the citizen's participation and review. He mentioned all the other boards that review standards. Representative Joule reiterated that this is a very important area and should be adequately reviewed and considered.

Representative Joule spoke to the fiscal note. He asked when district level policy councils become null and void, would the State continue to help with financial resources for the transition. He noted that the fiscal note only goes through FY09 and that there would be a 10-year reevaluation. He asked if the district councils would receive the State's financial support.

BILL JEFFRESS, DIRECTOR, OFFICE OF PROJECT MANAGEMENT AND PERMITTING, DEPARTMENT OF NATURAL RESOURCES, spoke to the fiscal note. He noted that the intent of the legislation was to keep the program continuing all its functions and redirecting the focus to better assist the coastal districts.

Representative Joule asked about the reauthorization during the ten-year time frame. Mr. Jeffress responded that the program continues as long as the federal money keeps coming. It is anticipated that the focus will shift from what it was in the past to bringing the districts in line with the purpose of the committee substitute and to help guide the different coastal communities. He did not know how the federal government would continue their financial support. He thought that the coastal district would need to provide a higher match to continue the same level of service.

Representative Kerttula inquired how the cuts had been determined, how many positions had been lost and if salary changes were made. Mr. Jeffress responded that 5 full time positions were lost. By moving the program from the Office of the Governor, it changed from exempt to classified service status. With the reclassification, salaries were adjusted to the same function equivalent within DNR. He added that there had been an additional set back from cuts to the State general fund money against the grant. Once the positions are reclassified and the exact salaries are determined, the amount of the match will be more clear.

JUDY BRADY, (TESTIFIED VIA TELECONFERENCE), EXECUTIVE DIRECTOR, ALASKA OIL AND GAS ADVISORY COUNCIL (AOGAC), ANCHORAGE, testified in support of the committee substitute.

She urged that members closely examine information. She asked if it was possible to develop a reliable timeline for the existing permitting process. Ms. Brady suggested that Alaska Coastal Management Program (ACMP) was the single most confusing piece of legislation and that various problems exist within that program. She maintained that the proposed legislation only addresses some of the problems. She pointed out concerns with the permitting process. She maintained that the self-implementing approach was valid in the State because the lands and environmental laws are the most comprehensive in the country and are designed to fully protect all the air, water, fish and bird resources.

Ms. Brady stated that the committee substitute was the first time that the Legislature referred to enforceable policy and granting significant authority for the coastal districts. She discussed reasons for AOGAC's support of the legislation including:

- Improvements in processing time;
- Eliminating duplication of State and federal laws;
- Establishing clear guidelines of when ACM applies;
- Recognizing that DEC water standards were inherently different and sufficiently protective;
- Requiring enforcement policies be clear and not open to interpretation, and
- Streamlining procedures.

She concluded that Alaskans take pride in our comprehensive environmental regulations and that we should take care that State, local and federal laws are consistent and clear.

LARRY HOULE, (TESTIFIED VIA TELECONFERENCE), GENERAL MANGER, ALASKA SUPPORT INDUSTRY ALLIANCE, ANCHORAGE, spoke in support of the proposed legislation. The Alaska Coastal Management Program (ACMP) includes the Coastal Consistency Review Process, which requires all projects located in the coastal zone to obtain a Consistency Determination before State or federal permits can be issued. Nearly all oil and gas exploration, development, expansion and routine operations and maintenance activates undergo the Consistency Review Process. The purpose of the Consistency Review Process is to assure that projects within the coastal zone are consistent with State of Alaska and local coastal district enforceable policies. HB 191 would enforce that.

Mr. Houle stated that funding for exploration and development in Alaska faces increasing competition and that most competing projects are closer to markets, require less capital intensive and do not have the challenges faced in arctic development. For companies to make investment decisions, operators need reliable predictions of permitting

schedules and requirements and that, delays and the lack of permit certainty, are significant factors, which can adversely affect the economic viability of a project.

Mr. Houle noted that given the significant transportation costs and huge arctic development costs, Alaska projects start out with a huge economic disadvantage. Because ACMP is integral to the permitting system for oil and gas operations in the coastal zone, the program is critical to the efficiency of oil and gas operations. From the perspective of the contracting community, today's ACMP program is the single most significant deterrent to new oil and gas development in the State. The current program puts the future of oil and gas development in Alaska at risk.

Mr. Houle concluded that on behalf of the 420 company members that make up the Alliance, they encourage the Finance Committee to approve HB 191.

FAYE SULLIVAN, (TESTIFIED VIA TELECONFERENCE), REGULATORY AFFAIRS COORDINATOR, UNOCAL ALASKA, ANCHORAGE, spoke in support of the committee substitute. She discussed frustrations with the existing permitting process and the work of the Coastal Management Program. Ms. Sullivan stated that it is very important that the bill pass this session in order to revitalize the economy in Alaska. She acknowledged that the legislation does not answer all problems.

CHUCK DEGNAN, (TESTIFIED VIA TELECONFERENCE), BOARD MEMBER, BERING STRAITS COASTAL RESOURCE SERVICE AREA, UNALAKLEET, stated that the Bering Straits Coastal Resource Service Area Board opposes HB 191. That area is composed of nineteen communities from Shishmaref on the north, Stebbins on the south, Gambell on the west, and Unalakleet on eastern Norton Sound. All of the communities are heavily dependent on fish and other wildlife. All of the communities are located near or on the seashore or on a riverbank. For healthy fish and wildlife, clean air, water, and healthy lands are very important to all the citizens. The Bering Straits Coastal Management Program assists local, State, and federal officials plan projects that will be beneficial to all citizens, including the applicant for a permit.

HB 191 would terminate the Coastal Resource Service Areas. HB 191 would transfer the Alaska Coastal Management Program to the Department of Natural Resources, which would make the Alaska Coastal Policy Council subservient to the Department of Natural Resources. The current Alaska Coastal Management Program is a valuable planning tool for permit reviewers, applicants, and our citizens. Mr. Degnan stressed that all of these communities use vast areas of land and waters to hunt and fish. The communities oppose HB 191.

JOHN OSCAR, (TESTIFIED VIA TELECONFERENCE), COASTAL MANAGEMENT PROGRAM, BERING SEA, testified in opposition to the bill. He maintained that there is no duplication in the current process and that each area has varying needs. He stressed that Anchorage's needs should not determine other areas process. Mr. Oscar discussed his experience in creating road construction policies for coastal areas, which did not experience delays. He pointed out that traditional governments had not been present under Title 29 and questioned Alaska's constitutionality under this bill. The federal government requires equal treatment in the coastal communities. If coastal areas are not considered in these decisions, then tribal governments will also be excluded. He pointed out that extensive areas are not being represented in this process.

Mr. Oscar noted that it took five years to write a plan, which now is being rewritten in one year. He maintained that the bill includes only a voice for the larger communities, noting that there is no language taking subsistence or habitat protection into account. The villages support development, however, he pointed out that his village depends upon natural resources of the coastal area. He emphasized that there needs to be more thorough planning and involvement from the coastal districts.

BOB SHAVELSON, (TESTIFIED VIA TELECONFERENCE), EXECUTIVE DIRECTOR, COOK INLET KEEPER NON PROFIT ORGANIZATION, COOK INLET, testified in opposition to the committee substitute. He commented that the sweeping language of the bill would undermine the ability of the local communities. State law will consume local planning and there will be no room for the local areas to shape local decisions. The bill will "handcuff" the local communities decision-making process. That will result in bigger government at the expense of local communities.

Mr. Shavelson pointed out that there have been no facts indicating the sweeping effect that the bill will have. He inquired what an unreasonable delay would be. According to statistics, there has not been one review that has gone over the timetable. Currently, there is a reasonable balance between the permanent function, local protection and the State meeting its obligation under the constitution to promote a balanced use of resources. He commented on the holdup of the fuel pipeline in Anchorage, which resulted from the Army Corps of Engineers, not the CMP. Mr. Shavelson stressed that there are no examples of where local district plans unreasonably held up projects and that it is local communities and authorities that will have their power stripped resulting from the legislation.

Mr. Shavelson addressed the fiscal impacts and unfunded mandates. He believed that the legislation will place a

million dollar burden on the local communities. Those communities are currently struggling with their budgets for essential school needs, roads and other services. Now, they are being asked to rewrite the plans that they placed time and effort into and then submit those plans for review. He projected that every district would be faced with severe economic problems while accomplishing that. Additionally, fiscal impact concerns will be the costs to oversee the complete rewrite of rules and public hearings. That is not reflected in the note. The bill creates a significant change to the program and will require a comprehensive environmental statement, which needs to be approved. That work is highly time consuming, complex endeavor and is an unaccounted cost.

Mr. Shavelson asked when the program change would occur. He emphasized that unapproved programs do not get federal funding until they are approved. He urged members to take a prudent approach to the complexity of this issue.

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NANCY WAINWRIGHT, (TESTIFIED VIA TELECONFERENCE), ATTORNEY, ANCHORAGE, commented on the local process that the Coast Policy Council went through in creating their individual plans. Every plan had to go through the Coastal Policy Council, which had six State and nine local representatives. Each plan had unanimous support of the council.

Ms. Wainwright noted that ACMP was created under Governor Hammond and was the way to get around the bureaucratic approach imposing the will of the federal government on the State or the State government on the locals. HB 191 would return the State to the "top-down" approach and would leave the ultimate decisions to either the Department of Natural Resources or the Department of Environmental Conservation as the policy makers. Not the local areas. She surmised that local interests could be negated.

Ms. Wainwright acknowledged that the Committee should not minimize the concerns of AOGA regarding problem solving in delayed permitting. She stated it would not be best resolved by imposing a local government with an unfounded mandate. The concerns with AOGA could be met with regulations that set a specific time frame for projects. She understood that the Division of Governmental Coordination (DGC) went through a three-year regulatory revision process trying to meet some of the AOGA concerns. Those regulations came through in January, 2003.

Ms. Wainwright concluded that the costs in having a top down from the Department of Natural Resources & Department of

Environmental Conservation government would be tremendous. Imposing a mandate on the locals to revise their plans will be very expensive and the locals will be asked to bear more of the cost burden. On that basis, the Legislature should allow locals to review their budget and see if they have the funds to reach the mandate.

Representative Joule spoke against closing the public testimony on the bill. He noted that some people will be greatly impacted by this legislation and that they were planning on being in Juneau this Monday morning for a meeting.

RECESS: 10:55 A.M.
RECONVENE: 11:55 A.M.

Representative Croft stated that he was not ready to offer his amendments at this time and emphasized that this legislation is "troubling".

Co-Chair Harris acknowledged concern dealing with the States local management plan and the local's ability to override the State agencies. He noted that those issues could be addressed on the House floor.

Representative Foster MOVED to report CS HB 191 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes.

Representative Joule OBJECTED. He requested to hold the bill until Monday when the Coastal Policy meeting was scheduled. He pointed out that the areas represented by that group will be substantially impacted by the legislation. He knew that the bill would be going to the Senate side and hoped that there would be testimony there.

Representative Joule acknowledged the need for resource and economic development in Alaska; however, the current bill proposes policy for the coastal communities, which carries much uncertainty. He pointed out that there are cost issues and evaluation rewrites while the fiscal notes indicate zero.

Representative Joule reminded members that testimony had been given indicating that the legislation could slow down the delivering of fuel to the Anchorage airport. He emphasized that had not been from the involvement of CMP but rather, the Army Corps of Engineers. The Coastal Policy Council is a vital concern for coastal areas throughout the State. He objected to moving the bill from Committee and doubted that the Senate would be allowing public process.

Representative Croft objected to moving the bill on the grounds of policy and procedures. He emphasized that there are substantive and legal issues with the bill. He stated that he was not capable of dealing with the complexities of outcome of passage of this the bill. Delays were caused because "the original version was horrible". There have been a number of hearings on the bill, and the bill keeps moving. He reiterated that the House Finance Committee is not doing proper procedure by sending it out of Committee. No one knows the dimensions of this complicated bill. Regarding policy level, back up received from the Administration indicates that:

"Coastal resource districts could have enforceable policies that are not addressed by the Department of Environmental Conservation standards."

He advised that the bill states that it is the Department of Environmental Conservation policies that are the exclusive enforcement policies for those purposes. "Purposes" are broadly defined in the legislation. The Legislature has not done a good job of articulating where the Department of Environmental Conservation statutes and regulations preempt and where they do not. Representative Croft reiterated that there is no indication in statute where the authority lays.

A roll call vote was taken on the motion.

IN FAVOR: Meyer, Stoltze, Whitaker, Foster, Hawker,
Harris

OPPOSED: Moses, Croft, Joule

Co-Chair Williams and Representative Chenault were not present for the vote.

The MOTION PASSED (6-3).

CS HB 191 (FIN) was reported out of Committee with a "no recommendation" and with a zero fiscal note #1 by the Department of Fish and Game, zero fiscal note #2 by the Department of Environmental Conservation and a new zero note by the Department of Natural Resources.

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ADJOURNMENT

The meeting was adjourned at 12:07 P.M.