

HOUSE FINANCE COMMITTEE
April 26, 2004
2:18 P.M.

TAPE HFC 04 - 98, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 2:18 P.M.

MEMBERS PRESENT

Representative John Harris, Co-Chair
Representative Bill Williams, Co-Chair
Representative Kevin Meyer, Vice-Chair
Representative Mike Chenault
Representative Eric Croft
Representative Hugh Fate
Representative Richard Foster
Representative Mike Hawker
Representative Carl Moses
Representative Bill Stoltze

MEMBERS ABSENT

Representative Reggie Joule

ALSO PRESENT

Representative Beverly Masek; Representative Carl Gatto;
Amanda Wilson, Staff to Representative Rokeberg

PRESENT VIA TELECONFERENCE

Mark Meyers, Director, Division of Oil and Gas, Department of Natural Resources; Mryl Thompson, Representing Self; Chris Whittington-Evans, Friends of Mat-Su

SUMMARY

HB 395 An Act relating to shallow natural gas leasing and the regulation of shallow natural gas operations.

HB 395 was heard and HELD in Committee for further consideration.

HB 531 An Act relating to natural gas exploration and development and to nonconventional gas, and amending the section under which shallow natural gas leases may be issued; and providing for an effective date.

HB 531 was heard and HELD in Committee for further consideration.

HB 255 An Act amending the Alaska Wage and Hour Act as it relates to flexible work hour plans, the provision of training wages, and the definitions of certain terms; and repealing the exemption in the Act from the payment of minimum wages for learners.

HB 255 was Scheduled but not Heard.

HB 342 An Act relating to driving while intoxicated; and providing for an effective date.

HB 342 was heard and HELD in Committee for further consideration.

#HB395

HOUSE BILL NO. 395

An Act relating to shallow natural gas leasing and the regulation of shallow natural gas operations.

REPRESENTATIVE HARRIS, SPONSOR, explained that the Resources Committee Substitute deals with shallow natural gas development in the Matanuska Valley. The bill had been heard in the Oil and Gas, Judiciary, and Resources Committees. He stated his preference to hold the bill and work on it rather than hear public testimony today.

HB 395 was heard and HELD in Committee for further consideration.

#HB531

HOUSE BILL NO. 531

An Act relating to natural gas exploration and development and to nonconventional gas, and amending the section under which shallow natural gas leases may be issued; and providing for an effective date.

REPRESENTATIVE BEVERLY MASEK, SPONSOR, commented that the House Oil and Gas and Resources Committees did a lot of work on CSHB 531(RES) and there have been several versions of the bill.

Representative Masek read the sponsor statement as follows:

"The intent of original shallow gas leasing legislation in 1995, HB 394, was to expand development of our state's marketable natural gas resources, as well as to promote private-sector employment, generate less expensive energy alternatives for rural Alaskan consumers, and enhance local tax bases for municipalities. Shallow gas legislation was

inspired by the need to tailor the particular economies of this resource opportunity to available market opportunities. This type of gas extraction does not conform to the same economies of scale as conventional deep-hole oil and gas drilling.

Original legislation provided for leasing on a first-come, first-served basis so that development of the resource in areas away from the energy grid could take place. With a well-known shortage of natural gas development opportunities in South Central Alaska, prospects of leasing on-shore fields in the Cook Inlet Basin became very attractive. Two unintended consequences of this sudden interest materialized. One, it sparked leasing of the state-owned subsurface mineral estate in uneconomic areas, and two, it encouraged leasing in areas where divergent interests between gas development and established local residential and business activities came into conflict.

Without HB 531, a subsequent gas development entity could immediately lease land relinquished by the original lessee. In addition, land not currently leased remains subject to current over-the-counter standards. This bill initiates a permanent solution to these problems. It has been brought forward in response to strong citizen interest in the Mat-Su Valley and on the Kenai Peninsula, with input from several public meetings held at one time or another by the Alaska Department of Natural Resources (DNR), and the Senate Resources Committee.

Legislation Highlights

Eliminates over-the-counter, first-come, first-served shallow gas leases and replaces it with area-wide leasing or exploration licensing.

Requires a best-interest finding before any oil and gas leasing or exploration licensing. This will give DNR control of what land is leased, avoiding unnecessary surface-owner conflicts. Best-interest finds are a time-tested public process.

Creates a gas-only section of area-wide leasing and exploration licensing identified in a best-interest finding by DNR.

Differentiates conventional and non-conventional gas resources for the purposes of lease rentals.

Defines conventional and non-conventional gas development, and treats each distinctly. Recognizes that lease rights should not be determined by a depth criteria only. Enhances production opportunities.

Encourages exploration licenses with a best-interest finding as the method for nonconventional gas exploration outside of the area-wide leasing in rural Alaska.

Makes leasing and regulatory criteria fit the appropriate activity.

Ensures competitive processes, thereby, maximizing the state's interests."

CHRIS WHITTINGTON-EVANS, FRIENDS OF MAT-SU, A NONPROFIT CITIZENS GROUP, VIA TELECONFERENCE, expressed support for the bill but voiced that it has problems that he would like to see addressed. Currently there are 157,000 acres of land that have been applied to be leased, with about 80,000 acres located in the Mat-Su Valley. The land is not currently under contract and a lease is not pending on it. He said that the reforms in this bill are very important, but the bill should not move forward with the additional 157,000 acres excluded from the provisions of the best interest finding, adequate notice and other policy reforms in the bill. It is in the best interest of the citizens living adjacent to and on the leased lands that the bill includes those lands as well. He implored the Committee not to bifurcate the bill into an urban and rural divide by giving a best interest finding in the Mat-Su, Kenai, Anchorage and Fairbanks areas. He felt that it would create animosity in rural areas. He noted that people are unhappy over the Holitna River and Healy area lands that have been applied for but are not active leases.

Co-Chair Harris asked where in the bill to include these leases that are available but not yet acted upon by the State. Mr. Whittington-Evans replied that the last part of the bill in Section 59 relates to exclusion of active leases and those that have been applied for.

Co-Chair Harris thought that leases issued under AS 38.05.177 and in effect on December 31, 2003 [Sec. 59, page 48, line 10] would be exempt under the provisions of this bill.

MRYL THOMPSON, REPRESENTING SELF VIA TELECONFERENCE, agreed with the comments of Mr. Whittington-Evans. He referred to page 2, line 30 through page 3, line 1 regarding regulation of hydraulic fluid. He explained that he had wanted to add toxic fluid language to the bill but previous committees did not support it. The 10% hydrochloric acid that is part of every fracturing load [hydrofracturing through acid or diesel] amounts to half a gallon per load, and in some wells there could be up to 26 seams of coal. He felt that it is a large amount of toxic fluid that should be addressed by language in the bill. He reiterated for the record that HB 531 does not affect any portion of the Mat-Su Valley leases.

MARK MEYERS, DIRECTOR, DIVISION OF OIL AND GAS, DEPARTMENT OF NATURAL RESOURCES (DNR), VIA TELECONFERENCE, ANCHORAGE, clarified that retroactivity is in Sec. 59 on page 48, line 11, "(2) lease applications under AS 38.05.177 that were received by the Department of Natural Resources before January 1, 2004."

Mr. Meyers explained that the DNR slowed the process of issuing leases on applications that were mostly filed prior to the fall [of 2003]. The Department has not issued those leases because its priority was the regulatory process in the [Mat-Su] Valley. The lease applications were in the Holitna Basin, the Matanuska Valley, and Healy. There are currently no shallow gas leases in either the Healy or Holitna areas although there are pending applications. The logic behind the grandfather date of January 1, 2004 [page 48, line 12] was to allow for those applications to be processed under the regulatory framework that will exist, at least in case of Mat-Su, at the time the Department issues the leases after the public process is complete.

Co-Chair Harris asked why the Department would oppose changing to the best interest finding for the lease applications that are still unprocessed, since there was opposition to the prior process. Mr. Meyers replied that the Department is not opposed to it, but because of the fairness issue, it has slowed down the process by a self-imposed moratorium. The concern would be in the Healy [Usibelli] and Holitna [Holitna Energy] areas where there are efforts to develop projects with power, and, to some degree, Evergreen's operations in the Matanuska Valley. He stated that it is a legislative policy issue.

Co-Chair Harris asked if the leases are all in areas with mining operations. Mr. Meyers affirmed, with the exception of the Evergreen Resources applications in the Matanuska Valley, the Healy and Holitna areas. In response to a question by Co-Chair Harris, Mr. Meyers explained that Healy is populated around the mine site, but is less densely populated than the Matanuska Valley, and Holitna has low population density with no active coal leases.

Co-Chair Harris asked if the available leases in the Matanuska Valley are in a populated area. Mr. Meyers responded that it's moderately populated, with pockets of higher density in subdivisions. In response to a question by Co-Chair Harris, he said that eleven applications for permits are pending in that area.

Co-Chair Harris advised that he is weighing the problems with not going to the best interest findings, which he supports, since there is so much difficulty with the current program.

Representative Fate requested that someone be available at a later hearing on the bill to answer technical questions regarding the statutes pertaining to University lands.

Representative Masek pointed out that recently the DNR closed out public notices in the Mat-Su Valley and provided the Legislature with a draft review of their enforceable standards for coal bed methane development of State-owned resources in the Mat-Su Valley. She had reviewed the report and felt that the public workshops led to good enforceable standards that the Administration can implement. The draft report clears up issues of concern to the public including standards regarding public notice and standards for future leases.

Co-Chair Harris commented that coal bed methane shallow gas leasing is not new, and he felt that the Department has been extremely slow in promulgating the needed regulations. He asked if HB 531 requires a timetable for the DNR to write regulations. Representative Masek answered that the bill does not. The Department will hold more public hearings before finalizing their standards.

HB 531 was heard and HELD in Committee for further consideration.

#HB342

HOUSE BILL NO. 342

An Act relating to driving while intoxicated; and providing for an effective date.

Co-Chair Harris MOVED to ADOPT Work Draft Version V, Luckhaupt dated 4-22-04. There being NO OBJECTION, it was so ordered.

Co-Chair Harris asked if a person with a DUI conviction must install a device [ignition interlock] so that the vehicle will not start if the driver's breath contains alcohol.

REPRESENTATIVE CARL GATTO affirmed, and explained that it is now virtually impossible for a good mechanic to defeat the ignition interlock device.

Co-Chair Harris asked if this would place in statute that a person convicted of an alcohol-related offense could drive if he had an ignition interlock device in his vehicle. Representative Gatto explained that historically penalties for DUI were increased, with the State paying for jail time and medical treatment. He conducted research on the laws in other states, and he asserted that the single most effective way to prevent drunks from driving cars is an interlock device. He said that it had a good rate of reduction

although it didn't eliminate recidivism. In previous versions of the bill, the penalties were "laddered."

AMANDA WILSON, STAFF TO REPRESENTATIVE ROKEBERG, explained that the changes made to HB 342 dealt with the ignition interlock device, and allowing limited licenses for people in wellness courts or therapeutic courts, which are intensive outpatient treatment programs. The participants are monitored while taking Naltrexone, which prevents people from consuming alcohol.

Ms. Wilson informed the Committee that the Wellness Court is an 18-month program. Upon completion of it, people currently may have portions of their sentence and fine reduced, and under this bill, could get a limited license as well. It is an effective tool and there is incentive to enter the program and successfully complete it. She noted that the Wellness Court has had tremendous success in turning peoples' lives around. The court also closely monitors the participants.

Ms. Wilson discussed the changes in Version V of the bill. Section 2, subsections 2 and 3 [on page 3] refers to a court-ordered treatment program described under AS 28.35.030 (p) and it is the Wellness Court program.

Ms. Wilson noted that Section 3, page 3, changes the "look back laws" which are currently lifetime. The lifetime look back at offenses was intended to nab the habitual offenders who re-offended every four or five years. Currently the license is suspended for a year and there is no ability to get a limited driver's license. For equity, the bill excludes offenses longer than fifteen years preceding the date of the present offense, so that an offender is not treated the same as someone with two DUI's within a few years.

Ms. Wilson explained that Section 4 deals with the DUI courts for the felony offender, and it allows for a limited license if the offender has an ignition interlock as well. Completion of the lengthy and intensive therapeutic court program and treatment with Naltrexone is required. Ms. Wilson concluded that punishment is not an effective tool, and people must be socially reintegrated. The intent of the bill is to assist people with reentering society, reaching sobriety and maintaining a healthy lifestyle through finding steady employment.

HB 342 was heard and HELD in Committee for further consideration.

#HB255

HOUSE BILL NO. 255

An Act amending the Alaska Wage and Hour Act as it relates to flexible work hour plans, the provision of training wages, and the definitions of certain terms; and repealing the exemption in the Act from the payment of minimum wages for learners.

HB 255 was Scheduled but not Heard.

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ADJOURNMENT

The meeting was adjourned at 2:55 P.M.