

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 28, 2003

2:05 p.m.

MEMBERS PRESENT

Representative Hugh Fate, Chair
Representative Beverly Masek, Vice Chair
Representative Carl Gatto
Representative Cheryll Heinze
Representative Bob Lynn
Representative Carl Morgan
Representative Kelly Wolf
Representative David Guttenberg
Representative Beth Kerttula

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

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."

- MOVED CSHB 191(RES) OUT OF COMMITTEE

HOUSE BILL NO. 208

"An Act relating to hunting on the same day airborne; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 78

"An Act relating to adoption and use of a unified permit application form by the natural resource agencies; and repealing the Environmental Procedures Coordination Act."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 191

SHORT TITLE: COASTAL MANAGEMENT PROGRAMS

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/12/03	0513	(H)	READ THE FIRST TIME - REFERRALS
03/12/03	0513	(H)	FSH, RES, JUD, FIN
03/12/03	0513	(H)	FN1: ZERO(DFG)
03/12/03	0513	(H)	FN2: ZERO(DEC)
03/12/03	0513	(H)	FN3: (DNR)
03/12/03	0513	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/17/03		(H)	FSH AT 8:30 AM CAPITOL 124
03/17/03		(H)	Heard & Held
03/17/03		(H)	MINUTE(FSH)
03/18/03		(H)	RES AT 12:30 PM CAPITOL 124
03/18/03		(H)	<Pending Referral> -- Meeting Canceled --
03/26/03	0638	(H)	FSH RPT 2DP 2DNP 1NR 2AM
03/26/03	0638	(H)	DP: HEINZE, WILSON; DNP: GUTTENBERG,
03/26/03	0638	(H)	BERKOWITZ; NR: SAMUELS; AM: OGG,
03/26/03	0638	(H)	SEATON
03/26/03	0639	(H)	FN1: ZERO(DFG)
03/26/03	0639	(H)	FN2: ZERO(DEC)
03/26/03	0639	(H)	FN3: (DNR)
03/26/03		(H)	FSH AT 8:30 AM CAPITOL 124
03/26/03		(H)	RES AT 1:00 PM CAPITOL 124
03/26/03		(H)	-- Meeting Canceled --
03/26/03		(H)	MINUTE(FSH)
03/28/03		(H)	RES AT 1:00 PM CAPITOL 124
03/28/03		(H)	<Bill Hearing Postponed>
04/11/03		(H)	RES AT 1:00 PM CAPITOL 124
04/11/03		(H)	<Bill Hearing Postponed>
04/16/03		(H)	RES AT 1:00 PM CAPITOL 124
04/16/03		(H)	Heard & Held
04/16/03		(H)	MINUTE(RES)
04/23/03		(H)	RES AT 1:00 PM CAPITOL 124
04/23/03		(H)	Heard & Held
04/23/03		(H)	MINUTE(RES)
04/25/03		(H)	RES AT 1:00 PM CAPITOL 124

04/25/03

(H)

-- Meeting Postponed to Mon.
April 28 --

WITNESS REGISTER

DOUGLAS MERTZ

Prince William Sound Regional Citizens' Advisory Council
Juneau, Alaska

POSITION STATEMENT: Expressed concern that proposed CSHB 191, Version 4/22/2003, jeopardizes locally enforceable policies, in particular.

MARTY RUTHERFORD, Consultant

to the Administration

and to the Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions about proposed CSHB 191, Version 4/22/2003; explained Amendment 1.

PATRICK GALVIN, Petroleum Land Manager

Division of Oil and Gas

Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Assisted Ms. Rutherford in answering questions relating to proposed CSHB 191, Version 4/22/2003.

BRECK TOSTEVIN, Assistant Attorney General

Environmental Section

Civil Division (Anchorage)

Department of Law

Anchorage, Alaska

POSITION STATEMENT: Answered questions on proposed CSHB 191, Version 4/22/2003; explained Amendment 1.

ACTION NARRATIVE

TAPE 03-35, SIDE A

Number 0001

CHAIR HUGH FATE called the House Resources Standing Committee meeting to order at 2:05 p.m. Representatives Fate, Masek, Heinze, Lynn, Morgan, Guttenberg, and Kerttula were present at the call to order. Representatives Wolf and Gatto arrived as the meeting was in progress.

HB 191-COASTAL MANAGEMENT PROGRAMS

[Contains discussion of SB 143, the companion bill]

CHAIR FATE announced that the committee would hear 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." [HB 191 was sponsored by the House Rules Standing Committee by request of the governor.]

Number 0085

CHAIR FATE announced that before the committee was the proposed committee substitute (CS) labeled 03-0069 bil2.doc, 4/22/2003, 1:30 pm [which had been discussed at the previous hearing].

CHAIR FATE informed the committee that although he'd closed public testimony, the committee would hear from Mr. Mertz, who'd waited to testify previously. In addition, an amendment had been requested by the City & Borough of Juneau (CBJ) and another had been prepared by the administration.

Number 0278

DOUGLAS MERTZ, Prince William Sound Regional Citizens' Advisory Council, told members:

The only real point that I wanted to make to you is that we have tracked the changes in the various versions of the CS as they've been developed over the last week or week and a half, and compared their provisions with the actual provisions of the local enforceable standards, which are available on line, to see whether the optimistic view of them that the administration ... testifiers are giving us is justified.

And, in fact, what we have concluded is that almost all of the current locally enforceable policies would be in jeopardy. And the ones that are most important to the local people - the ones that affect subsistence

resources, commercial fishery resources, other aspects of habitat preservation - would almost certainly fall if this language were enacted as it is.

Now, we appreciate what they are telling us about their intentions as drafters, but if it doesn't match the language of the bill, it doesn't work. So what we are suggesting is that the committee make its own decision on the policy question. Do you want to continue the present system of letting local coastal districts have local enforceable policies? Do you want to let it continue with maybe some tweaks? Do you want to basically do away with that power at all?

If it's the last, the present bill might work. If it's one of the first two - if you want to continue some of that authority - you really need to tell the drafters that that is your decision and have it redrafted, probably by [Legislation Legal and Research Services], which can clearly and unequivocally match ... the words in the bill with that intention.

Number 0451

REPRESENTATIVE KERTTULA requested examples of specific enforceable policies that districts are concerned they will lose.

MR. MERTZ answered that almost all have language - sometimes specific, sometimes general - about preserving critical habitat areas, which typically has to do with fish-rearing habitat for subsistence and commercial uses. Because they'd come within the prohibition on duplicating the permitting authority of the Department of Environmental Conservation (DEC), those probably would fall. He suggested that is probably the most critical area of all.

Number 0523

MR. MERTZ, in reply to a question from Representative Guttenberg, explained that under the bill DEC and DNR basically would continue the functions they've had all along, including those under the ACMP [Alaska Coastal Management Program], statewide and nationwide considerations within their purview, and anything else they'd be doing anyway such as DEC wastewater discharge permitting. However, they wouldn't pick up the lost local enforceable policies; those would drop out.

Number 0599

REPRESENTATIVE GUTTENBERG mentioned the regional coastal management groups and the proposed elimination of the Alaska Coastal Policy Council (ACPC). He asked whether Mr. Mertz sees those as vital to local input and inquired, "How do you see being able to interact with them?"

MR. MERTZ answered:

I am aware that many of the local coastal districts believe that the continued existence of the [ACPC] is vital, although I will have to tell you, to me, it is not as vital as continuation of the local enforceable policies. It gives everybody some unease that, essentially, DNR, in most instances, would become the final arbiter, and they wouldn't have the statewide coastal policy council as, in a sense, the voice of coastal districts ... and interests in general.

Number 0686

REPRESENTATIVE KERTTULA said as she reads it, DEC is "completely broken out," that there is no need for or envisioning of DEC's participation in coastal management anymore. She asked Mr. Mertz whether he reads it that way as well.

MR. MERTZ answered in the affirmative.

REPRESENTATIVE KERTTULA asked what Mr. Mertz thinks this will mean for communities with activities or permits at stake that are "DEC-oriented," as well as other portions of projects that will be part of coastal management. She asked whether the result will be two disparate permitting paths.

MR. MERTZ replied:

There will be the traditional DEC permitting path. And then the question is, what happens on ... a local level. In the local areas that ... have planning and zoning powers - home rule boroughs, first class cities - then there would be one based on those powers, but it would be different from DEC because it's different permitting authority. And anything that the CSRA [Coastal Resource Service Area], the local coastal district, could do would be extremely limited. And in

terms of the DEC process, they basically would be able to comment like any of the rest of us - but no more weight than any of the rest of us.

REPRESENTATIVE KERTTULA asked whether the problem is that now the permitting process is starting to be broken apart; rather than streamlining, now there will be not only DEC coastal management, but also "the ever-confusing ... Title 29 municipal authorities, which are so varied across the state, and which are very difficult to mesh with any kind of permitting."

Number 0835

MR. MERTZ replied:

It is worth bearing in mind that one of the original purposes of this program, this statute, was to coordinate, to streamline, to make it simpler for everybody involved. And ... in attempting to remove some of ... the features of the program that increase costs, increase delay, we may be tossing out some of the streamlining at the same time and bringing back some of the confusion and multi-channel permitting that existed before the ACMP.

Number 0883

CHAIR FATE explained to Marty Rutherford that there had been a real concern, because the local policy councils have been deleted [in the legislation], that local districts would have no enforceability and would lose the ability to make changes, especially in areas of environmental concern. He asked Ms. Rutherford whether she had dealt with this, and requested that she respond to the concern.

Number 0962

MARTY RUTHERFORD, Consultant to the Administration and to the Department of Natural Resources (DNR), responded that districts will be able to have local enforceable policies except pertaining to activities subject to DEC's air, land, and water quality standards. Noting that nine examples had been prepared at the committee's request, she referred to a document titled, "Examples of District Enforceable Policies that meet the requirements of CS FOR HB 191/SB 143 (RESOURCES), AS 46.40.070(aa)(2)(A)-(B)(section 14)."

MS. RUTHERFORD also acknowledged a concern that local municipalities won't be able to continue to implement ordinances that deal with air, land, and water quality standards. Referring to page 19, Section 38, paragraph (3) of the proposed CS, she said municipalities won't be negatively affected whatsoever, since it says that nothing in this chapter shall be construed to "(3) diminish the zoning or planning authority of municipalities under AS 29." She offered her belief that local enforceable policies are protected "in most areas except for the air, land, and water quality standards," but that "separate from this bill, local municipalities - Title 29 entities, corporations - will be able to maintain their local ordinances dealing with air, land, and water quality."

Number 1098

REPRESENTATIVE KERTTULA suggested that in Section 14, however, it isn't just DEC standards that the local enforceable policies run up against. Rather, it is anything that addresses a matter regulated or authorized by state or federal law unless [the enforceable policies relate specifically to a matter of local concern]; she noted that it is narrowed to a local concern with a specific coastal use or resource in the defined portion of the district's coastal zone. She requested confirmation that potentially it's much broader than DEC.

MS. RUTHERFORD replied:

There is a test imbedded in Section 14. You are correct. ... Let me be very clear here. ... Activities subject to air, land, and water quality standards ... are completely excluded from ... local enforceable policies. However, for anything else, whether there is state or federal law dealing with it - if, in fact, you're going to promulgate or develop local enforceable policies that address issues that are dealt with in state or federal law - then there's this test that you must go to.

Number 1194

MS. RUTHERFORD referred to the document setting out nine examples and said:

These all were pulled from district policies. I might note that there were situations where we refined the language of existing enforceable policies to meet the

test in Section 14. ... And I think it's really important to note that they are both addressing specific locations within particular districts and generally defined portions ... of a district coastal zone. So they are broad. ...

As you can see, it allows for quite a lot of breadth in local enforceable policies, even under this bill. These were created by the team that I have with me here today, and have had at previous meetings. And ... after we went through and developed these that we thought, ... in a fashion, that met the test within Section 14, we did clear them ... with the Department of Law and with the chief of staff, where we got approval. So these are a reflection of what the administration feels. They're very broad. They allow a great deal of flexibility within local enforceable policies. They just simply require that they be more concise. ... You make the argument that they are addressing areas that are sensitive to development - all the other elements in the test.

Number 1294

REPRESENTATIVE KERTTULA asked where the changes had been made to the policies to make them meet this test, and what kind of changes those were.

MS. RUTHERFORD referred to the third example under "Specific Location Policies" in the document that sets out nine examples. It read [original punctuation provided]:

3. Floathomes shall be recognized as an approved use of private and state tidelands in all residential zones identified on Map 3-B where:

1) Adequate sewage treatment (marine sanitation devices) and/or tidal flushing exists;

2) The floathome is moored in at least 15 feet of water at mean low water;

3) The presence of a floathome will not jeopardize access to another's upland property; and

4) the floathome is not an obstruction to use of navigable waters.

MS. RUTHERFORD, recalling that the foregoing is a Ketchikan district policy and noting that changes would be to make something more specific, if appropriate, explained in this

instance that the enforceable policy already references residential zones. "The only thing that we noted is that it would be linked to a mapped location, say, of ... where those residential zones would be," she said. "Other than that, nothing was changed in that particular policy."

Number 1373

REPRESENTATIVE KERTTULA brought attention to the reference to sewage treatment and marine sanitation devices in the third example just discussed. She said DEC clearly regulates those and asked, "Does the district have the authority now to be able to do this when you've broken DEC out?"

MS. RUTHERFORD replied that it just notes that [the district] will allow, under its enforceable policies, float homes with adequate sewage treatment, whether approved by DEC or simply tidal flushing. She added, "It just makes reference to it; it doesn't mean that they're going to second-guess the quality standards that are imposed by DEC."

REPRESENTATIVE KERTTULA asked whether ultimately DEC makes all those decisions.

MS. RUTHERFORD said she wasn't sure DEC required certain types of sewage treatment on float homes. She added, "Obviously, there are situations where there are none required. They just have to assure that there is enough tidal action to make ... it safe." She went on to say that if there were a sewage treatment facility regulated by DEC required, then DEC would make a determination itself as to whether that meets its standard.

Number 1470

REPRESENTATIVE MASEK suggested that Section 14 of the bill says the plan must meet DNR regulations and not address issues already regulated by the state unless it is a specific local concern. She asked whether that is the proper reading.

MS. RUTHERFORD answered that she believed so.

Number 1587

REPRESENTATIVE KERTTULA referred to the "DEC breakout" and asked what the interaction will be. For example, if a project has DEC permits and other permits at stake, won't there be two permitting processes going on? Or is it envisioned that the

consistency determination will bring in DEC so that everybody is at the table?

MS. RUTHERFORD requested that Patrick Galvin, past director of [the Division of Governmental Coordination (DGC)] join her at the table. She then said:

The answer is that there will be a consistency review where DEC will be brought to the table, ... particularly if there are other local enforceable policies pertinent to that project that are outside the parameters of activities regulated by DEC's air, land, and water quality standards.

Number 1639

PATRICK GALVIN, Petroleum Land Manager, Division of Oil and Gas Department of Natural Resources, explained:

What you have to recognize is, right now, when we talk about a consistency review, we talk about it as a coordinated review. And in theory, at least, the permit issues that each of the departments has to make will be made simultaneously with the consistency determination. However, that's not the way it works in practice on a project-by-project basis. ...

The distinction is that ... today when we do a consistency review, DEC has to fully decide its permitting decisions before the consistency determination can be issued. Under the bill, while the permitting will still be coordinated as best it can be through the consistency review, and DEC's permits will be brought in, the consistency determination could proceed along its own timeframe. And ... if DEC's permit has an issue that comes up that's specific to the DEC issue that doesn't pertain to other coastal-management issues, then the consistency determination can proceed and conclude without having to wait until those DEC issues are resolved. ...

The reason why the DEC provisions are still considered enforceable policies of the program - rather than just saying, OK, why don't we eliminate the DEC problem by not having the DEC standards apply - is because we want to have the DEC provisions apply to federal

projects, OCS [outer continental shelf] projects. We don't want to lose that application. Even though DEC's permits are still required within the state and there's no real value added having them in that process, we want to make sure that those standards ... still apply to offshore.

Number 1755

REPRESENTATIVE KERTTULA began discussion of Amendment 1. Noting that there had been an amendment to [SB 143, the companion bill], she asked whether there was a plan to offer the same one here, and whether the intention was to try to bring [DEC] "back on" to those projects. Amendment 1 read [original punctuation provided]:

Page 8, line 10:

Delete "a new subsection"
Insert "new subsections"

Page 8, line 13 following "purposes." through line 22:
Delete all material and insert:

"For those purposes only,

(1) the issuance of permits, certifications, approvals, and authorizations by the Department of Environmental Conservation establishes consistency with the Alaska coastal management program for those activities of a proposed project subject to those permits, certifications, approvals, and authorizations;

(2) for a consistency review of an activity that does not require a Department of Environmental Conservation permit, certification, approval, or authorization because the activity is a federal activity or the activity is located on federal lands or the federal outer continental shelf, consistency with AS 46.03, AS 46.04, AS 46.09, and AS 46.14 and the regulations adopted under those statutes shall be established on the basis of whether the Department of Environmental Conservation finds that the activity satisfies the requirements of those statutes and regulations.

(c) For a consistency review described in (b)(2) of this section, the department, in addition to its review under AS 46.40.096 of all other enforceable policies applicable to the project, shall coordinate

with the Department of Environmental Conservation and issue the Department of Environmental Conservation's finding of whether the activity satisfies the requirements of the statutes and regulations described in (b)(2) of this section."

[End of Amendment 1]

Number 1769

MS. RUTHERFORD reported that there had been comments received from several coastal districts about the third sentence of Section 11; the concern was that Section 11 prevented any district enforceable policies on the outer continental shelf. She explained:

That was not the intent, nor do we feel that was the effect of Section 11. However, in order to clarify that the districts can have local enforceable policies that are applicable to federal activities, federally permitted activities, and activities in the outer continental shelf, we prepared that amendment. And it basically says the DEC standards are not the exclusive standards that would apply to those types of consistency reviews.

Number 1834

CHAIR FATE reminded members that public testimony was closed except for answering questions. He also noted that a second amendment had been suggested by the CBJ.

Number 1867

REPRESENTATIVE HEINZE moved to adopt Amendment 1 [text provided previously].

The committee took an at-ease from 2:33 p.m. to 2:34 p.m.

Number 1902

REPRESENTATIVE KERTTULA called attention to [Section 46], the transition section, and asked what happens in the interim. She acknowledged testimony that the programs will stay the same, but noted that page 22, lines 15-16, says it's only "to the extent the regulations are not inconsistent with this Act". She expressed concern that it is circular, since it says it only

stays in effect to the extent it's not inconsistent, but that the inconsistencies would be huge because of the "DEC breakout, if nothing else." She asked, "Do we have to be consistent with the Act to have a district enforceable policy to remain in effect during transition?"

MR. GALVIN answered no. He offered his understanding that this is standard drafting language from [Legislative Legal and Research Services] to provide for the continuation of regulations when there has been a statutory change in the overarching program. He added, "It's to the extent consistent also with the transitional parts of this statute, which leave the district policies in place. And they will remain a part of the program until either they are amended by DNR through the amendment process or they sunset."

Number 1984

REPRESENTATIVE KERTTULA asked, when it says "not inconsistent with this Act," whether it is referring back to the original Act or program.

MS. RUTHERFORD deferred to Mr. Tostevin.

Number 2013

BRECK TOSTEVIN, Assistant Attorney General, Environmental Section, Civil Division (Anchorage), Department of Law, indicated there are two occurrences of "not inconsistent with" - one with the Act, and the other with the program, AS 46.40.

REPRESENTATIVE KERTTULA said the problem begins on line 12 [page 22, subsection (b)], where it talks about "sec. 45 of this Act". She suggested it might be a technical matter and that the committee can be sure that the language is drafted appropriately to keep the program in effect until transitioned out. She said that seems to be everyone's intent.

MS. RUTHERFORD added:

We'd heard Representative Kerttula's concerns previously. We absolutely want to keep the program in effect, as pertinent to the sections of the bill that talk about the timing for the transition. That was our intention. Mr. Tostevin went back, worked with the regulatory attorneys to assure that, in fact, this was as good as we could make this language, to give

you that comfort. But I can assure you, that's how the department will be implementing it.

Number 2088

CHAIR FATE returned attention to Amendment 1.

REPRESENTATIVE KERTTULA objected in order to request an explanation.

Number 2133

MR. TOSTEVIN noted that Section 11, page 8, beginning on line 11, reads, "AS 46.03, AS 46.04, AS 46.09, AS 46.14, and the regulations adopted under those statutes constitute the exclusive enforceable policies of the Alaska coastal management program for those purposes." He informed members that the foregoing are referred to as "the air, land, and water quality standards." He explained that Amendment 1 [deletes the rest of Section 11 and] inserts language that says, "For those purposes only", which refers back to those statutes and regulations.

MR. TOSTEVIN explained that there are two provisions. One relates to issuing permits and so forth. The second addresses situations involving federal activities, activities on federal lands, or activities on the outer continental shelf; consistency is based on whether DEC finds that the activity satisfies the requirements of those statutes and regulations, since DEC doesn't issue a permit for those. Noting that the reference in subsection (c) to the department refers to DNR, he said the idea behind that subsection is to clarify that a project can have other activities beyond those regulated by DEC.

MS. RUTHERFORD added that a district could develop local enforceable policies specific to the outer continental shelf, for example.

CHAIR FATE said it had seemed to be a big concern voiced consistently throughout these hearings.

MS. RUTHERFORD replied, "It is, and we want to protect that."

Number 2280

REPRESENTATIVE KERTTULA withdrew her objection.

CHAIR FATE, hearing no further objection, announced that Amendment 1 was adopted.

The committee took a brief at-ease at 2:40 p.m.

Number 2318

REPRESENTATIVE HEINZE moved to adopt [Conceptual] Amendment 2, a handwritten amendment that read [original punctuation provided]:

New (4) -

If the applicant fails to respond in writing to a written request for additional information within 14 days of receipt of such request;

Number 2319

REPRESENTATIVE KERTTULA objected for discussion purposes. She requested an explanation and asked what pages it applies to.

CHAIR FATE said it is Section 22, page 15, line 2.

MS. RUTHERFORD explained that if an applicant fails to respond in writing to a written request for additional information within 14 days [of receipt of such request], it allows the 90-day timeline to be tolled under certain circumstances, as do paragraphs (2) and (3).

Number 2423

REPRESENTATIVE KERTTULA withdrew her objection.

CHAIR FATE announced that the objection had been removed. [Conceptual Amendment 2 was treated as adopted.]

REPRESENTATIVE KERTTULA inquired about the proposed amendment from the City & Borough of Juneau mentioned previously. [There was no further discussion of this amendment on the record.]

The committee took a short at-ease at 2:45 p.m.

Number 2454

REPRESENTATIVE HEINZE moved to report CSHB 191 [Version 03-0069 bil2.doc, 4/22/2003, 1:30 pm], as amended, out of committee with individual recommendations and the accompanying fiscal note(s).

Number 2483

REPRESENTATIVE KERTTULA objected. She thanked the team from the administration for its hard work on this, acknowledging the huge step forward. However, she said it is almost impossible to put into words the difficulties she believes the bill will present to the state. For example, the "breaking out of DEC" is a huge step that will greatly impact not only districts, but also the permitting process; it will take a long time to discuss.

REPRESENTATIVE KERTTULA noted that this program has been in place almost 30 years, and that there are good and bad things about it, including delays and inconsistencies in standards. However, at its heart, it is how the state - in rural Alaska, particularly - has dealt with local areas and the control over their resource development. She pointed out that standards in some districts allow greater resource development. For example, on the Kenai Peninsula there are standards that actually go a step further than the state in encouraging development in certain areas. Similarly, Juneau has areas where people want to see development, balanced against areas like wetlands that people want to see protected.

Number 2559

REPRESENTATIVE KERTTULA highlighted some of the issues, including moving the DEC standards completely out and not understanding how it will balance when a district enforceable standard comes up against any other law. She suggested this should be of interest and some concern not only to people who are concerned about preservation, but also to those concerned about development, because what will be allowed isn't clear.

REPRESENTATIVE KERTTULA expressed hope that over the interim the districts will come forward, after having time to review this and understand the issues, and will come back to the legislature next session. She suggested that eventually some of it might conceivably work, but said some won't. She conveyed concern about having duplicative and confusing processes, rather than bringing things together, and said she cannot support the bill in this format because there are too many issues and it is too confusing.

Number 2632

REPRESENTATIVE MASEK said even though it is difficult to understand, it seeks to put management and development policies into DNR; she suggested this will help promote organization in coastal communities, ultimately allowing more local input and management of zones. She proposed the need to further develop statewide coastal management guidelines that include input from affected zones and yet don't adversely affect management objectives. She said she feels that the chair, the committee, the administrative staff, and the industry have done a good job of creating a partnership that includes the needs and concerns of local communities as well as the need of the state to grow.

REPRESENTATIVE MASEK remarked that curtailing development in Alaska's coastal zone is not a reasonable option in these difficult economic times; if the need to protect the coast isn't recognized, however, there is a risk of damage that affects the standard of living and livelihood of Alaska's coastal residents. She highlighted the ongoing challenge of managing use of the coast so that undesirable impacts are minimized and growth and development are enabled. Regarding the unorganized borough, she said she believes the state is obligated to manage the coastal areas to ensure protection from harm in addition to development for the future. She emphasized the need for a shared purpose and cooperation among government, industry, and the community in order to ensure sustainable development and management of Alaska's coastal zones. She offered her belief that this legislation can promote that cooperation, and said she feels pretty comfortable moving the bill from committee.

Number 2792

CHAIR FATE observed that consistency review with regard to coastal management has been a thorn. He suggested this is a "new skeleton" to build on, one that is much better than the system of the past. Commending the committee, he echoed Representative Masek's support for the work on the bill and said it is one of the most important bills the committee will see during the session.

Number 2840

REPRESENTATIVE GATTO, remarking on the almost overwhelming number of versions and changes, surmised that there will be a lot of controversy. He asked the committee to remember that the bill is designed to affect the residents of Alaska, and that the public process requires a lot of input [from those residents].

He expressed hope that over the interim what is learned can be incorporated to improve the bill.

Number 2953

REPRESENTATIVE GUTTENBERG expressed amazement at the amount of work that has gone into this, recognizing that the process has been in place 30 years and that while some people have problems with it, others have enjoyed the ability to influence what happens in their communities. He said he'd have been more comfortable with the bill if a stakeholders' group had come forward with it.

TAPE 03-35, SIDE B

Number 2988

REPRESENTATIVE GUTTENBERG indicated he'd missed the process of [having all groups at the table]. Although he doesn't live in a coastal community, he said he wants this process to go forward and work. He expressed concern that instead of streamlining and making it go forward in a smoother manner, this will stop a lot of things; people will need to learn the process all over again, and many of the disputes will be decided in court, which is the slowest way to get answers. He went on to say that although he'd like to see economic development, he believes this will hurt the process instead of helping it.

Number 2906

REPRESENTATIVE HEINZE referred to the saying, "If it ain't broke, don't fix it." She opined that this has been broken for years, and suggested [the current version] is something to be proud of.

REPRESENTATIVE WOLF said his hat is off to the administration.

A roll call vote was taken. Representatives Masek, Gatto, Heinze, Lynn, Morgan, Wolf, and Fate voted in favor of reporting CSHB 191 [Version 03-0069 bil2.doc, 4/22/2003, 1:30 pm, as amended] out of committee. Representatives Kerttula and Guttenberg voted against it. Therefore, CSHB 191(RES) was reported from the House Resources Standing Committee by a vote of 7-2.

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:01 p.m.