

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

May 6, 2004
8:40 a.m.

TAPE (S) 04-14&15

MEMBERS PRESENT

Senator Bert Stedman, Chair
Senator Thomas Wagoner, Vice Chair
Senator Gary Stevens
Senator Kim Elton

MEMBERS ABSENT

Senator Georgianna Lincoln

COMMITTEE CALENDAR

SENATE BILL NO. 396

"An Act relating to the establishment of the Interior Rivers Port Authority; and providing for an effective date."

MOVED CSSB 396(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 396

SHORT TITLE: INTERIOR RIVERS PORT AUTHORITY

SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS

05/02/04	(S)	READ THE FIRST TIME - REFERRALS
05/02/04	(S)	CRA
05/03/04	(S)	CRA AT 1:30 PM FAHRENKAMP 203
05/03/04	(S)	Heard & Held
05/03/04	(S)	MINUTE(CRA)
05/06/04	(S)	CRA AT 8:30 AM BELTZ 211

WITNESS REGISTER

Representative Carl Morgan
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 396

Paul Fuhs
No address provided

POSITION STATEMENT: Testified on SB 396

George Utermohle
Legislative Legal and Research Services Division
Legislative Affairs Agency
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 396

ACTION NARRATIVE

TAPE 04-14, SIDE A

CHAIR BERT STEDMAN called the Senate Community and Regional Affairs Standing Committee meeting to order at 8:40 a.m. Present were Senators Gary Stevens, Wagoner, Elton and Chair Stedman.

SB 396-INTERIOR RIVERS PORT AUTHORITY

CHAIR BERT STEDMAN announced SB 396 to be up for consideration and asked for a motion to adopt the committee substitute (CS).

SENATOR THOMAS WAGONER made a motion to adopt CSSB 396 \I version.

SENATOR KIM ELTON objected for discussion purposes.

CHAIR STEDMAN asked the sponsor to explain the modifications.

REPRESENTATIVE CARL MORGAN, sponsor, told members that the board still consists of nine members. Five are from the area and the other four are public. In addition, the two ex-officio, non-voting members were changed to voting members. Specifically, the commissioners of DOT and DCED would be voting members, he said. He then said he would like Mr. Fuhs to explain the other changes.

PAUL FUHS introduced himself as a technical helper to Representative Morgan who asked him to participate because he has worked on a lot of the port authorities.

REPRESENTATIVE MORGAN noted that he misspoke and that six members are from the area.

MR. FUHS agreed that there are six area members. The reasoning behind having the commissioners on the board is that "if there is any question about if you do something under eminent domain

is it for a public purpose. And if you've got actual public state representatives on there it confirms that right. So that's one of the reasons."

CHAIR STEDMAN asked him if he was going to go through several items.

MR. FUHS said that was his intent and one of the items was the board. He continued to say:

The board now contains 11 voting members and this is laid out here where they come from. The governor does appoint them. The biggest difference is that before the commissioners were ex-officio non-voting and now they vote. So you do have direct state representation.

SENATOR GARY STEVENS questioned whether the term "physical presence" means that they live in the area or that the company that they represent does business in the area.

MR. FUHS replied it's that the company they represent must do business in the area. The member could be from anywhere.

CHAIR STEDMAN asked if that means a retired person wouldn't be eligible.

MR. FUHS said a retired person would be eligible. "They can appoint any person of any race, really any location." The requirement is in recognition of the major landowners in the area and organizations that operate there.

CHAIR STEDMAN referred to page 2, lines 28-30 and read, " Six of the appointed members of the board shall be officers, directors, or employees of private entities that have a physical presence within the area of operation of the authority." With a board of nine, he said, that leaves three.

MR. FUHS clarified that after adding the two commissioners, the board consists of 11 voting members.

SENATOR GARY STEVENS followed up saying that six would be involved with the corporations, but he wasn't sure whether the other three would be from the corporations as well.

MR. FUHS shook his head and said no, they're public members.

SENATOR GARY STEVENS reread lines 24-26 and agreed with Mr. Fuhs' interpretation regarding the three remaining board members.

SENATOR KIM ELTON noted that board members serve at the pleasure of the governor and it would seem that in an economic development entity, you'd want more potential stability. In light of that, he asked how service at the pleasure of the governor became a criterion.

MR. FUHS told him that stability comes from the fact that the seats are for three years. This is an unorganized part of the state so it has to be set up this way and it must be a state corporation. He added, "I guess there's potential for mischief there. Just as a practical matter, I just really don't see it happening. This is one of the poorest areas of the state. Everybody is looking for a way to help them lift themselves up."

CHAIR STEDMAN said the issue Senator Elton raised is important. "There are different philosophies that come and go with the third floor and I think it's critical that we have stability or long term planning and completion of projects." He preferred direct citizen participation for board control and he didn't see that in the legislation. "With the location of it it'll be rather difficult for the general populous to have much input in it." Perhaps it'd be beneficial to have some legislative oversight over the appointments, he said.

SENATOR WAGONER read, "A member of the board may not serve as chair for two consecutive terms. The position of the chair of the board shall rotate among the appointed members of the board." He then remarked that rotating the chair that quickly, if the chair is doing a good job and is willing to continue, would be a mistake. "There's no guarantee that anybody else can go into a chairmanship and give the same leadership as somebody that's already been there for two years."

REPRESENTATIVE MORGAN responded they discussed that at length and although he agreed with the Senator, he said this was a compromise.

SENATOR GARY STEVENS commented that two consecutive terms means four years in this case.

SENATOR WAGONER noted that a board member may not serve as chair for two consecutive terms so as written a chairman may only serve for two years. He said, "To me that is not allowing for

consistency." He asked if someone was insisting that it be done that way.

REPRESENTATIVE MORGAN stated it should be up to the board and there shouldn't be a term limit on the chair.

CHAIR STEDMAN agreed with Senator Wagoner that consistency on the board and the chairman in particular is critical because some projects may take years to develop.

SENATOR WAGONER announced that he was working on an amendment.

SENATOR ELTON said he'd be curious to hear from the Department of Community and Economic Development (DCED) regarding their experience with regional resource development authorities. He explained:

These are resource development authorities in the Unorganized Borough and the members of those boards are elected to the Regional Resource Authority Board and the election is conducted by the Division of Elections under rule so they may want to respond to that question.

CHAIR STEDMAN said he'd like to hear why the people in this area don't have the opportunity to vote.

MR. FUHS explained that they don't have enough resources in the area to carry a local government structure.

CHAIR STEDMAN asked if the residents vote for the governor or the President of the United States.

MR. FUHS said they do.

CHAIR STEDMAN asked why they couldn't vote for a board because it would have a huge economic impact on their area.

MR. FUHS replied that someone from the attorney general's office or legislative legal could answer the question. He asked Senator Elton if he was referring to ARDORS.

SENATOR ELTON said it's a different program.

MR. FUHS they said he thought it was the Rural Resource Development Council.

SENATOR ELTON said these are organizations established under state statute.

MR. FUHS admitted he wasn't aware of those, but in that case you could put it up to a vote.

The most important thing here is that you give the people the authority of the rest of this to do it. The other economic development organizations that have been set up - they really didn't have the authority to manage and do projects. In Alaska's Constitution, the Legislature is the borough assembly for the Unorganized Borough. It's just never met as that. What you're doing here today is you're breaking historical ground as you look at this.

This determines how the people in the Unorganized Borough will be empowered to stand up for themselves and do the things that municipalities normally do, he said.

He said he was unaware of any mechanism that allows these people to vote for direct representation other than for statewide and national offices.

SENATOR ELTON stated that he passed the statute book to DCED representatives and they might be able to clarify.

CHAIR STEDMAN admitted that he still couldn't understand why the people couldn't control their own destiny. Area residents should decide who sits on those boards, he said.

MR. FUHS agreed philosophically, but:

As a practical matter I'm not aware that this is done anywhere and I've worked all throughout rural Alaska for many many years and used to be Commissioner of Commerce. Maybe there's some mechanism that I'm unaware of, but I practically don't see how you can do it.

It is similar to if you were a municipality and formed a port authority, which people have. You know the Prince of Wales Port Authority; those members are appointed by the mayors of those areas there. I'm not sure if they're confirmed by the assembly. That would be the other thing that Senator Wagoner brought up. You can put in here that the Legislature confirms it, but this administration has taken the position that unless it's a quasi judicial board that controls

actual resources like fish and game, that even if it says so in the statute, that you do not confirm them.

For instance, the law on the Natural Gas Development Authority specifically states that the board will be confirmed by the Legislature. However, it is the administration's position that they don't have to do that and they're not going to send the names down. They also pulled the names on the Agriculture Board because they don't consider that quasi judicial.

So this is a separation of powers issue that you might want to check out. I don't know which way it's going to shake out or which way you think is correct, but I want you to be aware that there is an issue that even if you put it in the law here, at least this administration does not believe that you have the power to confirm them.

SENATOR GARY STEVENS remarked that this issue of how you have an election in an area that doesn't have municipalities is almost unsolvable. That being said, he turned to page 2, line 26 and asked if the listed Native corporations weren't private entities rather than public.

MR. FUHS said they're all registered in Alaska, private-for-profit or non-profit entities.

SENATOR GARY STEVENS asked if some are public and some private.

MR. FUHS replied they're all private.

SENATOR GARY STEVENS then asked about "private person" and asked if the six people specifically come from the corporations or could the corporations appoint private people beyond the corporations. The next question he asked was whether everyone in the area would be represented by one of the corporations or would some people be excluded.

MR. FUHS advised that no one would be excluded, but some people would be members of several organizations. He said line 25 is important because it makes it clear that the governor makes the final selection.

SENATOR GARY STEVENS asked if "private persons" means those outside the six organizations.

MR. FUHS admitted that the language is awkward, but he thought it was a legal term that also means corporations.

CHAIR STEDMAN asked why they didn't use language indicating that the governor would solicit names from persons that reside in the area.

MR. FUHS replied it's because these organizations all have elected boards and they represent everybody. It's the closed you can get to direct representation, he said.

CHAIR STEDMAN said that he's concerned that people moving into the area as a result of the economic development might not be equally represented. He pointed out that these aren't publicly traded companies.

MR. FUHS agreed then said, "they will nominate; the governor will still make the final decision and three other seats are just indicated as public seats that could also be just from anyone in the region."

CHAIR STEDMAN said he'd like to talk about reducing the number from six to three to give the governor more flexibility to select anybody from closely held corporations or not.

SENATOR WAGONER said he wasn't hung up on that point, but he did question the punctuation and wondered whether six or seven entities were listed.

MR. FUHS said Mr. Utermohle was on line if there were technical questions, but the governor would pick six members out of the seven groups.

SENATOR WAGONER wanted to clarify that there are seven different Native organizations throughout the district, which means that one might potentially be excluded. He asked who decides which one would get excluded.

REPRESENTATIVE MORGAN explained how and where the different Native organizations overlap in territory and in their representation of the people.

SENATOR WAGONER said that answered his question because even though one entity might not have a representative per se, they would be represented by another overlapping organization.

CHAIR STEDMAN noted Senator Wagoner offered amendment 1, which read:

The board shall elect a chair and a vice-chair from among its members. A member of the board may serve two consecutive terms as chairman of the board. After serving two consecutive terms, a member of the board may not serve as chairman for a period of three years.

SENATOR WAGONER said he didn't think they could take action on the amendment because there was an objection to the introduction of the committee substitute.

SENATOR ELTON pointed out that, "The way it is, you can't serve more than two consecutive terms and then you have to sit out for three years. Since the terms are two years, you're essentially asking that the former chair...."

SENATOR WAGONER interrupted to say, "I changed the term to three years."

MR. FUHS commented that it doesn't say that.

SENATOR ELTON suggested that it might be necessary to add to the amendment.

SENATOR WAGONER said he thought he did that then said, "we can just put that behind the last statement."

SENATOR ELTON asked if the terms would be for three year.

SENATOR WAGONER said they would and that coincides with the three year appointments. "I think it's kind of awkward to have a two year term as chairman. You have everybody serving three years on the board."

SENATOR ELTON said he didn't want to make the discussion too difficult but because the terms are staggered, you could end up with a situation in which the chair serves for three years, but has just two years left on his or her term.

SENATOR WAGONER pointed out that you could run into that situation anyway.

SENATOR GARY STEVENS stated that he would just as soon have it say, "The board shall select a chair and a vice-chair from amongst its members." then leave it up to the board to determine how they want to do their business. It's already difficult to

find good chairs and if you've found a good one you might want to keep them for a while.

CHAIR STEDMAN agreed with that.

SENATOR WAGONER said that was fine with him. He was willing to go along with Senator Gary Stevens and if it becomes a problem then the board could fix the problem themselves.

CHAIR STEDMAN asked Senator Elton for his thoughts.

SENATOR ELTON said he liked the idea of allowing the board to make the determination. Leaving the first sentence on page 3, line 17 and then striking the rest through line 21 would get you to where the board could set its own terms.

SENATOR WAGONER said that's fine, he just offered the amendment to point out that something needed to be changed because it was too limiting.

CHAIR STEDMAN asked whether the committee was ready to move beyond the board of directors then asked Mr. Fuhs explain the next issue

MR. FUHS pointed to page 3, line 10, which relates to compensation. Originally a board member would be paid \$300 per day for participation and that was taken out. Now board members would be reimbursed for travel expenses for attending a meeting.

SENATOR WAGONER remarked that the fiscal note relates more to the construction of the facility than to the operation of the board so there are two different budgets.

MR. FUHS agreed with his analysis.

SENATOR ELTON said he appreciated the distinction, but at some point a discussion is needed regarding where the operating expenses come from. The fiscal note is zero and even though the issue of \$300 per meeting was removed, there will be travel expenses in an area of the state that can be very expensive. "at some point we need to visit the issue that Senator Wagoner brought up," he said.

MR. FUHS agreed that they should look at that and suggested that the Legislature should be sure to give it receipt authority. He continued to say:

So that LB&A can come in. And there's a lot of people who want to look at regional landfills, the Denali Commission is very interested, other people that have been trying to do things in the area that had no way to approach them on a regional level because you didn't have the legal framework to do that. So I think there's going to be quite a few people that are going to be interested in putting some money into this. So hopefully that holds down the state general fund expenditure as far as possible.

So receipt authority is important to give them, but the way it's set up under the Executive Budget Act, they have to come back to LB&A to spend the money.

CHAIR STEDMAN said a way to handle that is to point it out to the Finance Committee so it could have a referral to that committee. He asked if that was agreeable and received nods and affirmative murmurs.

MR. FUHS pointed to page 4, line 5 that makes the attorney general the legal counsel for the authority, and said that the administration wanted to make sure that the state has a say in the legal matters of the corporation.

Page 5 line 21 makes it clear that the power of eminent domain is only for projects in the operating area of the authority.

SENATOR ELTON apologized for interrupting, but he had a 9:15 am caucus and he wanted to make several points and raise several questions before leaving.

- It might be beneficial to have a discussion on what obligations the state may have on debt incurred on the authority.
- He was curious about the department's discussion on how they conduct elections for other rural regional authorities.
- Page 7, line 3. He was interested in how the authority makes decisions on behalf of the state and whether or not they're required to interact with DNR and DOT/PF as they make those decisions and who has the preeminent decision-making authority for exercising that particular power.

9:10 am

MR. FUHS told the Chair he would get to those issues.

CHAIR STEDMAN announced it was his intention to move the bill that day, but they would try to get the answers.

SENATOR ELTON advised that his meeting was changed to 9:30 so he had another 15 minutes.

MR. FUHS said he might be able to address the issues while Senator Elton was present.

The bottom of page 6 relates to acquisition of land and easements and it allows the authority to control land for the purposes of projects.

Eminent domain is addressed on page 7 and it was pointed out that the original language probably wouldn't pass the legal test. The land needs to be taken for a specific public purpose and not for a land trade. To deal with that, they eliminated the section about acquisition of property for the purpose of exchange. Remaining is the provision that they may take land for a specific purpose. The language was taken directly from language that the Department of Transportation uses for eminent domain authority.

The difference, he said, is that DOT tells the governor what they're doing and page 7, line 20 makes it clear that the governor would give prior approval to the authority for the exercise of the power of eminent domain.

SENATOR ELTON noted that the state has been in court recently to try to get to the issue of whether moving land from state status to another status is an appropriation. He asked whether there had been discussion about....

SIDE B
9:15 am

... whether exercising the power of eminent domain would take legislative authority.

MR. FUHS ask whether George Utermohle was still on line.

GEORGE UTERMOHLE, legislative counsel with the Legislative Affairs Agency, clarified regarding eminent domain constituting an appropriation and an appropriation requiring legislative action by saying:

In the most recent case in issue, the Alaska Supreme Court determined that an appropriation for purposes of

acts by Legislature is appropriation only of money, not of land or assets or other items. In this case, eminent domain would not be an appropriation that requires legislative action.

SENATOR GARY STEVENS admitted he didn't understand eminent domain, but the powers are great and it's a scary thought. Referring to page 7, (c) lines 16-19, he asked whether shallow natural gas oil development would be included.

MR. FUHS advised that it isn't limited in any way. It's whatever might be needed for the purposes of a particular project.

SENATOR GARY STEVENS questioned whether it could include shallow natural gas.

MR. FUHS told him that it could.

SENATOR GARY STEVENS said, "Interesting."

SENATOR ELTON pointed out that when the state transfers land to the railroad or other entities, just the surface rights are transferred and the state retains the subsurface rights. He continued to say that, "This element of the bill transfers not just surface rights, but subsurface rights also." Looking at the Department of Law representative, he questioned whether that had been done before.

MR. FUHS said in another version of the bill there was a section that talked about public lands and the potential power of eminent domain, surface and subsurface rights and it was decided that it was inappropriate for the bill. "So the only way that they can be done is if that agency comes forward and says 'Yes it's a best interest finding of the state under the land use management provisions of the state to transfer it to the authority.' It can only be done with the acquiescence of that agency. Eminent domain can only be exercised on private lands."

CHAIR STEDMAN asked if it is correct that eminent domain only goes to private lands and, except for some Native holdings and property pre-statehood, most private lands don't have subsurface rights.

MR. FUHS replied that some do and some don't. In most cases you don't need the subsurface, he said. Because gravel is considered a subsurface mineral, you would need subsurface rights.

CHAIR STEDMAN said if one of these corporations found that they're sitting on a valuable subsurface resource and the proposed entity wanted to secure that resource, he was unclear about the protection the corporation might have to keep the port authority from preempting them.

MR. FUHS replied they'd have the same protection that anyone has. Full market value compensation is required for eminent domain and there's a special court set up to challenge the compensation amount if you don't think it's enough. You can also challenge whether it's a true public purpose. Those are the two challenge options but other than that, the legal recourse is fairly limited. If it weren't, eminent domain couldn't work because it'd be tied up in court forever and projects couldn't move forward.

SENATOR GARY STEVENS asked if it's correct that Native corporations own both surface and subsurface lands.

MR. FUHS said that village corporations usually own surface rights and the regional corporations own the subsurface rights. However, the regional corporations also own some surface land in the area under discussion.

CHAIR STEDMAN there could be a situation in which a regional corporation doesn't want to develop subsurface rights and the port authority does. If that were the case could the port authority exercise the power of eminent domain and argue that it is in the public interest and secure the subsurface rights, he asked.

MR. FUHS replied, "Yes sir."

CHAIR STEDMAN commented that he didn't think it was such a hot idea.

SENATOR WAGONER referred to page 7, line 17 and asked what "for the operation of the authority" means because eminent domain is typically used to establish rights of way and the bill doesn't say that. He questioned whether it is for the construction of projects, but "operation of the authority" makes him think of overall operation costs that go toward funding the authority in its annual operations budget.

MR. FUHS said he might have caught something because it was meant to be for projects of the authority.

SENATOR WAGONER said he'd be more comfortable changing the word "operation" to "projects" on page 7, line 17.

SENATOR ELTON remarked that that's one way to get a zero fiscal note.

SENATOR WAGONER laughed and said he though it was an odd use of the word operation.

MR. FUHS asked Mr. Utermohle if he saw any problem with that change since the intention was for projects.

MR. UTERMOHLE said he saw no problem with that change.

CHAIR STEDMAN repeated strike "operation" and insert "projects" in its place.

He returned to the issue of friction between a port authority and a regional corporation and opined that it sets up a potential conflict if a regional corporation wanted to hold a particular area of mineral wealth for future generations when the port authority wanted to develop it immediately.

SENATOR ELTON said it struck him as an anomaly that on page 7, line 20 exercising the power of eminent domain requires prior approval of the governor. It's understandable if you were talking about public lands, but it's odd that the governor would be able to approve use of the power on private lands.

MR. FUHS said it's meant as a check then pointed out that all the corporations had already written letters of support so they had already voluntarily given up some control because they want the authority to be effective and successful. They want it to have the powers needed to operate on a regional basis. He said, "That's the whole philosophy behind this and I just think that it's tremendous that an area like this would actually do that." It'll move all the people in the area ahead.

CHAIR STEDMAN noted that Senator Elton was leaving then asked Mr. Fuhs to go on.

MR. FUHS said they removed part of the capital reserve fund section because even though it says that the debt of the authority is not the state it might be seen as a moral obligation of the state.

He assured members that in drafting the bill they did everything they could to make sure that any debt of the authority was not the debt of the State of Alaska. He asked Mr. Utermohle to respond.

MR. UTERMOHLE agreed saying that the bill makes it clear that the debts and obligations of the authority are solely those of the authority and not of the state. "The language that was removed provided an argument that some could use to say that in spite of that language, the state had an obligation to make sure that the authority had the ability to pay off its debt and thus in some way bore a moral obligation to make sure that the debts of the corporation were honored."

SENATOR WAGONER opined that it was really a leap of faith. If the state allows the authority to move ahead and if bonds are sold and then if the corporations involved in the authority aren't able to pay their bills, he questioned whether it wouldn't be the moral responsibility of the state to pay the bonds.

MR. UTERMOHLE replied:

It's clear the intent of this act and of the state at this time in the enactment of this legislation to say that the debts of this authority are solely the debts of the authority and that the state is not to be held liable for them. It's the duty of the bondholders to make sure that they're investing their money wisely. That, nonetheless, would not necessarily preclude a court from finding that, based on the existence of certain facts, that perhaps the state does bear a moral obligation to make sure that the debts of the corporation are paid. But generally that would be under extraordinary circumstances.

CHAIR STEDMAN remarked that is another issue to flag for the Finance Committee.

SENATOR WAGONER agreed because if a municipality defaults on bonds, according to Title 29, the State of Alaska is liable for those bonds to be paid off.

MR. FUHS disagreed absolutely. He said that under Title 29 it's the responsibility of the municipalities, and the people that buy the bonds are aware of that. Believe me he said, "Anybody who buys bonds under this and invests in them will come in and we'll go through this with a fine tooth comb. And they will tell

people this is based on the revenues of that project. It is not based on the moral obligation or the full faith and credit general obligation bonding capability of the state."

CHAIR STEDMAN asked if he was just talking about issuance of revenue bonds versus general obligation bonds for the port authority.

MR. FUHS said they are revenue bonds.

SENATOR WAGONER said he thought they were general obligation bonds.

MR. FUHS repeated they are totally revenue bonds.

SENATOR WAGONER said, "Buyer beware."

MR. FUHS said that's correct.

Turning to page 17, he pointed to application of existing laws and said this is a new section. It makes sure that the authority is subject to AS 40.25, the public records act and to AS 44.62.310 to 312, the State Open Meetings Act. It applies the section of the Executive Budget Act to the operating and capital budgets of the authority but is specifically doesn't apply to the authority borrowing money. That is to create the firewall in terms of the moral and full faith and credit of the state. "The borrowing of money is not subject to the Executive Budget Act."

The CS inserted the issue of regional waste disposal on page 23, line 31.

TAPE 04-15
SIDE A

He said that DEC has been looking at a variety of efficiencies for doing regional landfills or waste disposal, which is why that was inserted.

There were no more changes.

CHAIR STEDMAN announced that they didn't have a quorum and he wanted to move the bill so he would recess for a brief time to get hold of Senator Gary Stevens otherwise the committee would meet later in the day.

CHAIR STEDMAN came back on the record saying, "We'll vote on the objection."

SENATOR WAGONER said they should vote on the introduction of the CS. He recalled that he moved the CS and Senator Elton objected for discussion purposes.

CHAIR STEDMAN asked for a roll call and stated that a yes vote would be to not accept the CS and a no vote would be to accept the CS. Senators Gary Stevens, Wagoner and Chair Stedman voted no.

CHAIR STEDMAN announced that the CS was adopted unanimously and he was ready to take action on the two amendments before the committee.

SENATOR WAGONER moved amendment 1. On page 3, lines 18-21 strike: "A member of the board may not serve as chair for two consecutive terms. The position of the chair of the board shall rotate among the appointed members of the board. The chair and vice-chair serve for terms of two years."

There being no objection, Amendment 1 was adopted.

SENATOR WAGONER moved amendment 2. On page 7, line 17, delete "operation" and insert "projects".

There being no objection, Amendment 2 was adopted.

CHAIR STEDMAN noted that there was no further testimony.

SENATOR WAGONER stated that the amended CS was before the committee.

CHAIR STEDMAN agreed.

SENATOR WAGONER moved CSSB 396(CRA) Utermohle \I version [as amended] from committee with individual recommendations and the attached fiscal note. There being no objection, it was so ordered.

CHAIR STEDMAN adjourned the meeting at 9:50 am.