

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

May 18, 2003

10:43 a.m.

MEMBERS PRESENT

Senator Scott Ogan, Chair
Senator Thomas Wagoner, Vice Chair
Senator Fred Dyson
Senator Ben Stevens
Senator Kim Elton

MEMBERS ABSENT

Senator Ralph Seekins
Senator Georgianna Lincoln

COMMITTEE CALENDAR

HOUSE BILL NO. 283

"An Act relating to limitations on coal leases."

SCHEDULED BUT NOT HEARD

CS FOR HOUSE BILL NO. 246(RES)(title am)

"An Act relating to certain audits regarding oil and gas royalty and net profits, to audits regarding costs relating to exploration incentive credits and oil and gas exploration licenses, and to the limitation on upland acreage that a person may take or hold under oil and gas leases; and providing for an effective date."

MOVED SCS CSHB 246(RES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 24(JUD)

"An Act relating to intergovernmental agreements with the federal government regarding management of fish or game in the state."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 172

"An Act relating to the limitation on upland acreage that a person may take or hold under oil and gas leases; and providing for an effective date."

SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

HB 246 - No previous action to record.

HB 283 - See Resources minutes dated 5/16/03.

HB 24 - See State Affairs minutes dated 5/17/03.

SB 172 - See Resources minutes dated 5/16/02.

WITNESS REGISTER

Mr. Sean Parnell
Conoco-Phillips Alaska, Inc.
P.O. Box 100360
Anchorage, Alaska 99510

POSITION STATEMENT: Opposed to audit transfer provision in CSHB 246(RES)(title am)

Mr. Mark Myers, Director
Division of Oil and Gas
Department of Natural Resources
550 W. 7th Ave. Ste 800
Anchorage AK 99501-3560

POSITION STATEMENT: Supports SCS CSHB 246(RES)

Ms. Bonnie Robson
Deputy Director
Division of Oil and Gas
Department of Natural Resources
550 W. 7th Ave. Ste 800
Anchorage AK 99501-3560

POSITION STATEMENT: Answered questions about SCS CSHB 246(RES)

ACTION NARRATIVE

TAPE 03-48, SIDE A

VICE-CHAIR TOM WAGONER called the Senate Resources Standing Committee meeting to order at 10:43 a.m. Senators Dyson, Elton, and Stevens were present. The committee took up CSHB 246(RES)(title am).

CSHB 246(RES)(title am)-OIL & GAS AUDITS & ACREAGE LIMITS

VICE-CHAIR WAGONER informed members that a proposed committee substitute [Version I] was before the committee and that the two amendments incorporated into the committee substitute (CS) were in members' packets.

SENATOR DYSON moved to adopt the proposed committee substitute, Version I, as the working document before the committee.

VICE-CHAIR WAGONER noted that without objection, the motion carried. He then informed members that their packets contain a new zero fiscal note. He asked Mr. Myers to testify.

MR. MARK MYERS, Director of the Division of Oil and Gas, Department of Natural Resources (DNR), explained the first change to the CS is on page 4, line 10, where the word "Meridian" was eliminated. That term was used to describe an east-west baseline that separates the North Slope oil and gas provinces where the North Slope areawide sales stop and the foothill sales begin. The correct term is the "Umiak Basin." The second change clarifies the misdemeanor fees in Section H on page 3, line 4, if confidential information is released. He said the new language is more up-to-date and was recommended by Chair Ogan. The Division supports that language.

SENATOR DYSON asked Mr. Myers to describe the new penalties in the CS.

MR. MYERS replied \$10,000 and one year in prison.

SENATOR DYSON said if a person steals confidential information and disseminates it to an interested party, the economic gain could be huge. He questioned whether a \$10,000 fine is enough of a deterrent.

MR. MYERS said he believes the key is the 1-year prison term. He said the \$10,000 fine is standard for anyone who misuses confidential information.

SENATOR DYSON asked if the crime is a felony.

MR. MYERS said it is a class A misdemeanor. He noted that this legislation makes no changes in that arena - it adopts the existing standard in current law for such crimes.

SENATOR DYSON said his guess is if the crime was classified as a felony, most offenses would get pleaded out to a misdemeanor.

VICE-CHAIR WAGONER asked Mr. Parnell to testify.

MR. SEAN PARNELL, representing Conoco-Phillips, said that members' packets contain a letter of support from Rick Mott,

Vice President of Exploration, but due to the amendments made in the House that pertain to the transfer of the audit function to DNR, Conoco-Phillips can no longer support the bill in its current form. He said the original bill pertained to acreage expansion from 500,000 to 750,000 acres. The amendments made in the House give audit and subpoena powers to DNR.

MR. PARNELL told members that Conoco-Phillips is concerned about the new arrangement for two reasons. First, giving DNR these powers creates an inherent conflict of interest. DNR is a party to a lease so giving DNR those powers essentially gives it police power over the lease when it has other remedies in the contract. Conoco-Phillips believes those powers appropriately rest with the Department of Revenue. Conoco-Phillips' second concern is that it believes those powers would be duplicative. Conoco-Phillips would have to respond to requests for information from both DNR and DOR when the information is available through DOR. Finally, the amendments that were added have nothing to do with acreage limitations. Conoco-Phillips would like the legislature to return to the original version of HB 246 but retain Sections 5 and 10. He noted that Sections 5 and 10 are the acreage limitation provisions.

SENATOR DYSON asked if DOR already has the power to subpoena an audit.

MR. PARNELL said that is correct and that is what is being deleted on page 1, lines 7 and 8. He clarified that power is part of AS 38.05.036.

SENATOR DYSON asked the departments to comment on Mr. Parnell's request.

MR. MYERS said he would comment but turn the question over to Bonnie Robson. He said the bill, as it stands, is supported by DNR, the Administration, the Governor and DOR. It does not change authority; it merely uses the existing authority more efficiently.

MR. BONNIE ROBSON, Deputy Director, Division of Oil and Gas, DNR, said, in response to the two points made by Mr. Parnell, the powers that will rest with DNR to conduct the audit of royalty matters were with DNR prior to 1980. At that time, the law was changed to move the audit function from DNR to DOR because of perceived efficiencies. It was believed that tax and royalty audits could be conducted simultaneously. This

legislation simply provides DNR with the audit authority it previously had.

MS. ROBSON said Mr. Parnell's second concern was that this change will result in duplicative action. She said the initial assignment of royalty audits to DOR in 1980 was done for the purpose of eliminating duplication of royalty and tax audits, with the belief they could be done simultaneously. They never have occurred simultaneously. Changes in tax schemes and settlements have diverged over time so, as a practical matter, the perceived efficiencies of a single agency conducting the audits have not resulted. In fact, inefficiencies have been created because what is first audited by DOR must then be re-examined by DNR in light of DNR's administration of royalty issues. She said DNR has not received all of the information it needs from DOR.

SENATOR DYSON asked Mr. Parnell if he wanted to respond.

MR. PARNELL replied, "No thank you. I think it's all been said."

SENATOR DYSON announced a brief at-ease.

CHAIR OGAN reconvened the meeting at 10:57 a.m. and noted the presence of Senators Elton, Dyson, Stevens and himself.

SENATOR BEN STEVENS moved SCS CSHB 246(RES) [Version I] from committee with individual recommendations and its attached fiscal note.

CHAIR OGAN announced that without objection, the motion carried. He then called an at-ease.