

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

January 20, 2004

3:35 p.m.

TAPE (S) 04-1

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator John Cowdery, Vice Chair
Senator Bert Stedman
Senator Gretchen Guess

MEMBERS ABSENT

Senator Lyman Hoffman

COMMITTEE CALENDAR

SENATE BILL NO. 190

"An Act adding certain state-owned land and water to the Kenai River Special Management Area; relating to the mineral estate of the state-owned land and water in the Kenai River Special Management Area; amending the qualifications for members of the Kenai River Special Management Area advisory board; and providing for an effective date."

MOVED CSSB 190(STA) OUT OF COMMITTEE

SENATE BILL NO. 167

"An Act relating to introduction of measures in the legislature; and providing for an effective date."

HEARD AND HELD

SENATE CONCURRENT RESOLUTION NO. 8

Proposing amendments to the Uniform Rules of the Alaska State Legislature relating to the introduction of measures; and providing for an effective date for the amendments.

HEARD AND HELD

PREVIOUS ACTION

BILL: SB 190

SHORT TITLE: KENAI RIVER SPECIAL MANAGEMENT AREA

SPONSOR(S): SENATOR(S) WAGONER

04/16/03 (S) READ THE FIRST TIME - REFERRALS

04/16/03 (S) STA, RES
01/20/04 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 167

SHORT TITLE: INTRODUCTION OF BILLS

SPONSOR(s): SENATOR(s) GUESS

04/02/03 (S) READ THE FIRST TIME - REFERRALS
04/02/03 (S) STA, JUD
01/20/04 (S) STA AT 3:30 PM BELTZ 211

BILL: SCR 8

SHORT TITLE: AMENDING UNIFORM RULES 37 AND 44

SPONSOR(s): SENATOR(s) GUESS

04/02/03 (S) READ THE FIRST TIME - REFERRALS
04/02/03 (S) STA, JUD
01/20/04 (S) STA AT 3:30 PM BELTZ 211

WITNESS REGISTER

Senator Thomas Wagoner
State Capitol, Room 427
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 190

Pete Panarese
Department of Natural Resources
Division of Parks and Outdoor Recreation
400 Willoughby Ave.
Juneau, AK 99801-1724

POSITION STATEMENT: Commented on SB 190

Ted Wellman
Anchorage, AK 99513
POSITION STATEMENT: Testified on SB 190

Doug Vincent-Lang
Division of Sport Fish
Department of Fish & Game
PO Box 25526
Juneau, AK 99802-5226
POSITION STATEMENT: Testified on SB 190

William T. Arnold
Sterling, AK 99672
POSITION STATEMENT: Supports SB 167

ACTION NARRATIVE

TAPE 04-1, SIDE A

CHAIR GARY STEVENS called the Senate State Affairs Standing Committee meeting to order at 3:35 p.m. Present were Senators Stedman, Guess and Chair Gary Stevens. Senator Cowdery arrived shortly thereafter.

SB 190-KENAI RIVER SPECIAL MANAGEMENT AREA

CHAIR GARY STEVENS announced SB 190 to be up for consideration. He advised that committee substitute (CS) 23-LS0961\H was offered and asked for a motion to adopt it as the working document.

SENATOR GRETCHEN GUESS motioned to adopt the \H version of SB 190 as the working document. There was no objection and it was so ordered.

CHAIR GARY STEVENS asked Senator Wagoner to step forward.

SENATOR THOMAS WAGONER, sponsor, introduced Amy Seitz and said that she worked on SB 190 when she was staff to Representative Lancaster.

He explained that the issue has some history. In 2001, Representative Lancaster introduced a bill to add nearly 8,000 acres to the Kenai River Special Management Area. Because of problems with a federal energy regulation commission, 3,500 acres in the Kenai Lake area were removed. In subsequent hearings, the acreage was further reduced to 536 acres, most of which were acquired as habitat recreation lands with Exxon Valdez Oil Spill (EVOS) money.

SENATOR WAGONER pointed out that SB 190 includes the provision that makes agency personnel ex officio or non-voting members. State and federal employees are valuable for their expertise, but he said he firmly supports the concept of a true citizen's advisory council.

CHAIR GARY STEVENS clarified that the only difference between the original bill and the \H version is the composition of the advisory board. The change is on page 5, lines 11-13 and says that employees, elected officials or representatives of a state

or federal government who were members of the advisory board would serve as ex officio or non-voting members.

SENATOR GRETCHEN GUESS noted that "adjacent to the Kenai River" was added after "municipalities" on page 5, line 9 to clarify that the advisory board represents specific municipalities.

SENATOR WAGONER advised that provision was added to preclude the difficulty the Aquaculture Association experienced when an interpretation became too broad.

SENATOR JOHN COWDERY commented that catching a salmon fishing on the Kenai River is a large industry.

SENATOR WAGONER agreed saying it's a big part of the summertime economy of Kenai, Soldotna and the upper river area. In particular, the upper river area is becoming world known for float trips and fly-fishing and the resource needs to be protected.

He pointed out that SB 190 is basically the same bill that the Senate Resources Committee passed in 2002 [HB 165] at which time there was considerable public comment regarding adding land to the Kenai River Special Management Area. He noted that most of the land under consideration is not suitable for development because of wetland issues, but any additional development on the Kenai River threatens the continued viability of the salmon runs.

To address the concern regarding removing federal and state employees from the board, he pointed out that they were made ex officio members and would continue to provide expertise and guidance. He described the bill as " all in all, a pretty good bill " and noted that the controversial lands had been removed. He asked if there were any questions.

CHAIR GARY STEVENS referred to page 5, lines 2-5 and asked for clarification that this allows for oil and gas leasing.

SENATOR WAGONER asked that Department of Natural Resources (DNR) representative to elaborate.

CHAIR GARY STEVENS announced that Gary Morrison and Pete Panarese from Anchorage and Chris Degernes from Soldotna were available via teleconference and asked whether any of the men would like to address oil and gas questions.

PETE PANARESE, Division of Parks and Outdoor Recreation, DNR, reported that he reviewed the language in the CS and determined that the wording was simply reworked to make a more readable document.

CHAIR GARY STEVENS observed that the bill states that oil and gas leasing is open on the lands and follows state law.

MR. PANARESE agreed saying, "The state lands."

SENATOR GUESS asked Senator Wagoner to explain the duties and authority of the Kenai River Special Management Area Advisory Board.

SENATOR WAGONER acknowledged that he wasn't an expert and was carrying the bill at Representative Lancaster's request. He said he knows they are instrumental in reviewing the Kenai River system from the mouth up through Kenai Lake. They work closely with the Division of Parks and Outdoor Recreation and the Kenai River Center. It is a user group advisory board that is composed of citizens at large, commercial fishermen, and sport fishing guides. With regard to their exact authority, he admitted he was unsure because most of the actual enforcement and regulation authority rests with the state parks.

SENATOR GUESS referred to page 5, line 9 and asked if there is a definition for "user groups" in the by laws so that it would be easier to determine who is and is not a user group.

SENATOR WAGONER said that user groups are those that he previously defined: the general public including several municipalities, sports fishing guides, and commercial fishermen. "That pretty well covers the whole gauntlet of those of us who are interested in preserving the pristine beauty and viability of the Kenai River system and the fish runs that are in it." Also, the board members are appointed every four years and half are rotated every two years.

SENATOR GUESS asked for elaboration regarding why areas were removed from Representative Lancaster's original bill and why some of the lands were controversial.

SENATOR WAGONER said the largest controversy was with Chugach Electric and related to access to the flume, the road, and the rights of way. Also, some land was to be purchased or traded, but the state is no longer purchasing additional property to include in reserves.

SENATOR GUESS asked if it was correct that those lands were included initially because they were important to the river system.

SENATOR WAGONER said they were undeveloped properties and it was desirable to keep them that way. He admitted that he agreed to carry the bill with the EVOS lands because they were lands that the state had already purchased and it would protect them from future development.

SENATOR GUESS questioned whether some of the land that was excluded is critical to ensure the habitat of the Kenai River system.

SENATOR WAGONER opined they aren't as critical as they used to be because development restrictions are more stringent than they used to be. He stated that he isn't interested in controlling what another person may do with their property, but property rights on the Kenai River affect far more people than just those along the river. It is a valuable system and no one wants to lose it.

SENATOR GUESS asked if there is a reason for the immediate effective date.

SENATOR WAGONER replied it isn't a burning issue and continued to describe this as a non-partisan issue.

SENATOR BERT STEDMAN noted that SB 190 applies to just 536 acres, but that it has a broader reach, as it would protect the Kenai River for generations to come.

SENATOR WAGONER agreed.

SENATOR STEDMAN asked that Senator Wagoner explain the EVOS acronym and how it relates to the Exxon Valdez.

SENATOR WAGONER explained that EVOS stands for Exxon Valdez Oil Settlement. Close to a \$1 billion settlement was reached between Exxon, the State of Alaska and the federal government. A large percentage of that money was used to buy private sector lands and return them to the state, but the current governor halted the practice.

SENATOR STEDMAN observed that these lands would be held in perpetuity as untouched lands for future generations to enjoy.

SENATOR WAGONER agreed and said that although most of the lands are wetlands or have wetlands on them, SB 190 ensures their protection by placing them in the park system.

CHAIR GARY STEVENS called on Ted Wellman to give testimony.

TED WELLMAN from Anchorage testified via teleconference. He advised that he was speaking for himself, but that he has served on the Kenai River Special Management Area Advisory Board for eight years. He spoke in support of the bill with regard to the acreage, but disagreed with making some of the members ad hoc. Initially he was not in favor of allowing agency members to vote but has since changed his mind. They have a stabilizing quality and provide regular and ongoing information to the board. He expressed concern that a special interest group might gain control of the board and drive it in the wrong direction.

MR WELLMAN stated no objection to the Department of Natural Resources and the Department of Fish and Game having no vote because they are "too close." However, he believes that the refuge and Forest Service should be voting members because they prevent any user group among the public members from gaining control of the board. In his eight years on the board, there was no problem with the agencies voting and he could recall no instance in which the agency member made a determining vote.

To clarify any misunderstanding, he explained that the Chugach Electric property was a small part of the land selected for inclusion in the park. Most of the land slated for inclusion did not have to be purchased. There was some objection about commercial development around Kenai Lake and after an extensive public process, the board recommended including the areas in the park to protect the river. In particular, exchanges regarding commercial and non-commercial development in the Cooper Landing area were fiery, but the board thought that commercial development was incompatible with the river.

He expressed pleasure that SB 190 would add 536 acres, but stated his belief that the other land should be included as well. He then acknowledged that Chugach Electric's objections were legitimate. He said he would be happy to answer questions about how the board works.

CHAIR GARY STEVENS asked Mr. Wellman to comment on the board responsibilities and what it accomplishes.

MR. WELLMAN explained that in the mid 1990s, the board was charged with redeveloping the comprehensive plan for the Kenai River. They did so through an extensive public hearing process. The plan addresses all activity on the river. They review and comment on permit applications for building on the river, they participate in water quality monitoring studies, they review enforcement issues related to guiding activities, they advise the park on guide stipulations and numbers, and they review and comment on any other uses related to the river that might affect the public. Generally, they are very active and aggressive in protecting the river.

4:00 pm

CHAIR GARY STEVENS asked Mr. Vincent-Lang to give testimony.

DOUG VINCENT-LANG, Department of Fish and Game, testified via teleconference to say that the land under discussion was specifically purchased to be set aside. They are EVOS purchases and most are wetlands that form critical habitat to sustain the fisheries.

SENATOR WAGONER remarked that Mr. Wellman brought up a point that might benefit from additional clarification. The water quality study on the Kenai River that the Department of Environmental Conservation (DEC) was involved in was not funded last year. He advised that he is working to re fund that program so that the water quality study can be completed in the next year or two.

SENATOR GARY STEVENS noted that the bill would move to the Senate Resources Committee next. Fiscal notes from the Department of Natural Resources and the Department of Fish and Game were attached and the bill did not have a referral to the Finance Committee.

SENATOR JOHN COWDERY made a motion to move CSSB 190(STA) from committee with individual recommendations and attached fiscal notes. There was no objection and it was so ordered.

4:00 pm

SB 167-INTRODUCTION OF BILLS
SCR 8-AMENDING UNIFORM RULES 37 AND 44

CHAIR GARY STEVENS announced SB 167 and SCR 8 to be up for consideration. He stated that he did not intend to move the

bills from committee that day, but he wanted to begin the discussion and take testimony. He asked Senator Guess to present the bill.

SENATOR GRETCHEN GUESS, sponsor, advised that she would talk about the bills simultaneously.

She said it is interesting to learn how transparent or not transparent the system in the capitol is to the outside public. In combination, SB 167 and SCR 8 move toward a more transparent system for the Legislature. These bills do two things. They do away with committee bills and they add authority for the governor to introduce bills directly. Although legislators and others working in the capitol know what a committee bill means, the public doesn't necessarily have that same understanding. It's confusing to look at a bill and know who sponsors and believes in the bill. If a legislator sits on the Rules Committee, every governor's bill has their name on it whether they agree with the bill or not. She said that sixty legislators and one governor are elected officials and all should have the authority to introduce legislation.

She said she decided to introduce this legislation after it came to her attention that it is unclear to the public who supports certain bills. The confusion wasn't intended, but she thought it is time to revisit the process and become more transparent to the public.

She asked for questions.

SENATOR GARY STEVENS asked about Rule 44 that says a legislator may not introduce bills after the 35th day of the session. Because many bills do come after that time, he wondered what the impact might be if committee bills were no longer allowed.

SENATOR GUESS pointed out that on page 2, line 3 of SCR 8 Rule 44, which is specifically about committees and committee bills, is repealed. With this legislation, there wouldn't be committee bills, but any member of the Legislature could put in bills until the end of the session.

CHAIR GARY STEVENS recapped and said that in removing Rule 44, any legislator could introduce legislation right up until the end.

SENATOR GUESS agreed and said that it would be the prerogative of the chair to hear the bills or not.

SENATOR JOHN COWDERY noted that by the end of this session there would be close to 1,000 bills that were introduced, but less than 80 would become law and that isn't necessarily bad.

He referred to the sponsor statement that said that committee bills may have had a purpose at one time, but it is time to reevaluate the process. He asked what she believes the purpose to have been originally.

SENATOR GUESS said she would look to him as the more experienced member, but she understands that it is from when a committee, in it's entirety, worked on an issue and presented it in front of the Legislature. She acknowledged that is a positive and important part of the process and although she hasn't experienced that, her bill wouldn't prohibit it either. The difference is that the chair would put the bill in rather than the committee as a whole. She opined that a committee could work on and support a bill without it being a committee bill.

SENATOR COWDERY said that in her tenure she has probably seen many bills that were referred to a subcommittee because they had problems. It's not uncommon for the subcommittee to be composed of both minority and majority members and still they return an unacceptable product to the full committee and the bill doesn't go forward.

He asked Senator Guess what she believes has changed in the process.

SENATOR GUESS first stated that this bill would not affect committee substitutes. Committee substitutes that come from the subcommittee negotiation is a very good part of the process. She continued to say that government is becoming more transparent, particularly with respect to the Internet. People review bills more frequently and they have an increased desire to know and understand what legislators are doing. Gavel-to-Gavel is a very positive step and having all bills available on the Internet is another. There was less confusion years ago because the process was less transparent.

SENATOR COWDERY related his experience in giving people copies of a bill saying they don't understand what bracketed language means or what the bolded language means. "If you read it as a whole, without the bracket, it's confusing, but that's our system and those that do understand probably are fewer than

those that don't..." He asked when the process changed and why this is necessary.

SENATOR GUESS thanked Senator Cowdery for his questions and said that as Rules Chair, perhaps the web site should be changed to help people learn to read a bill. It's complicated and the more the public understands, the better.

She admitted that she didn't know when the change occurred. If a public member hadn't approached her, she might not have given it much thought. She was asked why she supported a certain Rules Committee bill and when she said she didn't, she began to understand how difficult this might be to understand. She said, "This isn't the sexiest issue out there," but the public should be able to understand who supports a bill.

SENATOR COWDERY pointed out that she probably didn't know most of the people that elected her and he doesn't personally know many his constituents either, but they decided that she would vote the way they wanted her to vote most of the time and that is why she was elected. Understanding that, he doubts that there will ever be a point when most people understand the system.

He then asked about issues that a constituent might bring to a committee chair dealing with the specific task of the committee.

SENATOR GUESS said that all legislators have the responsibility of evaluating the ideas that constituents bring in and deciding whether or not they should be put in as a bill.

4:30 pm
TAPE 04-1, SIDE B

SENATOR GUESS referred to the point he made regarding the number of bills introduced as compared to the number that become law. She pointed out that people are able to look at the voting records for the bills that become law.

SENATOR COWDERY interrupted to say that they look at how a legislator voted, they don't necessarily look at the committee bills where members have the option to vote do pass, do not pass, no recommendation, or amend. The true record is how you vote on it when it gets to the floor, if it gets to the floor.

SENATOR GUESS agreed that that's the point. Names are attached to committee bills yet the commitment might not be there. SB 167

would allow citizens to know which legislators support which bills. This would clarify the public record.

SENATOR COWDERY asked who should take the responsibility to ensure that the public's ideas are represented through the committee process. He continued to say that the committee process weeds out weak bills. He took issue with her charge that when a committee bill is introduced that all committee members are co-sponsors. He pointed out that there is a space on the bill for co-sponsors and there is a committee voting record on the bill. If the bill gets to the floor there is also a voting record.

He referred to the sponsor statement that said this is a good first step and asked what her second step might be.

SENATOR GUESS thanked him for clarifying that. She said she is always open to suggestions and there isn't a second step.

SENATOR COWDERY then asked how the court system would introduce a bill if this were passed.

SENATOR GUESS said they would go to the Judiciary Committee or to the governor. Under SB 167 they could introduce a bill through the governor or any of the 60 legislators.

SENATOR COWDERY outlined the steps a bill goes through to become law.

SENATOR GUESS said that under this bill, the governor could send a bill directly to the clerk.

SENATOR COWDERY disagreed with that idea wholeheartedly.

SENATOR GUESS asked why because she thought that, as the Rules Chair, he would support that change.

SENATOR COWDERY said he supports maintaining the separation of powers.

SENATOR GUESS replied that she believes the people elect the governor and he or she should be able to submit bills directly.

SENATOR COWDERY said our constitution is a model and there is no need for change.

SENATOR GUESS pointed out that this bill wouldn't change the constitution; it's an interpretation.

CHAIR GARY STEVENS noted that members had a copy of a fax from Mike McBride in their packets. He then asked Mr. Arnold to testify.

WILLIAM T. ARNOLD from Sterling testified via teleconference in support of both bills. He would like the sponsor to receive credit for their bill. He said this would help citizens know what's going on in their government and it's called full disclosure and transparency.

CHAIR GARY STEVENS thanked Mr. Arnold and repeated that he would not move the bill that day.

MR. ARNOLD then asked whether the committee would vote on the bill some other time.

CHAIR GARY STEVENS assured Mr. Arnold that the committee would look at the bill carefully and decide whether any changes were needed.

SENATOR COWDERY stated his intention to amend the bill.

MR. ARNOLD repeated his position with regard to tying a name to a bill.

SENATOR COWDERY said bills are tied to a name when they move from committee because the member's recommendations are a matter of public record.

CHAIR GARY STEVENS thanked Mr. Arnold for his testimony and asked Senator Guess if she had additional comments.

SENATOR GUESS said Senator Cowdery provided good debate on the subject. She restated her position that she always welcomes amendments to improve the bill as long as her intent is not changed. She voiced the opinion that although this subject isn't on par with fiscal plans or education, it is important. It's always worthwhile to look at ways to make the system work better for the people.

SENATOR BERT STEDMAN asked for an explanation of the retroactive date.

SENATOR GUESS explained that the date on SCR 8 is tied to SB 167 because statutes and rules wouldn't mesh if one were to pass without the other. In reviewing the bill she determined that it isn't necessary to have an effective date on SB 167.

SENATOR STEDMAN admitted he hasn't experienced the end of a session but he understands that it is fast moving. With that in mind, he asked what affect this bill might have on the end of a session.

SENATOR GUESS replied this bill isn't intended to change anything that happens once the budget goes into effect. This would remove the deadline for personal bills and would allow legislators the opportunity to put bills in at any time. She acknowledged that this might have the unintended consequence of cluttering first readings, but what Senator Cowdery, as Rules Committee chair, must balance is what needs to get to the floor. Because issues do arise after February, there must be a process to address those issues. However, the work entailed in introducing a bill acts as a natural inhibition. She thanked Senator Stedman for the clarifying question.

CHAIR GARY STEVENS thanked Senator Guess and noted that this makes everyone stop and think about the process. SCR 8 and SB 167 were held in committee.

CHAIR GARY STEVENS adjourned the meeting at 4:50 pm.