

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON FISHERIES

February 1, 2008
8:39 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Craig Johnson
Representative Peggy Wilson
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Kyle Johansen
Representative Gabrielle LeDoux
Representative Bryce Edgmon

COMMITTEE CALENDAR

HOUSE BILL NO. 41

"An Act returning certain duties regarding habitat management from the Department of Natural Resources to the Department of Fish and Game; and providing for an effective date."

- MOVED HB 41 (FSH) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 41

SHORT TITLE: TRANSFER HABITAT DIV FROM DNR TO F&G

SPONSOR(S): REPRESENTATIVE(S) GARA

01/16/07	(H)	PREFILE RELEASED 1/5/07
01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	FSH, RES, FIN
02/09/07	(H)	FSH AT 8:30 AM CAPITOL 124
02/09/07	(H)	Heard & Held
02/09/07	(H)	MINUTE(FSH)
02/12/07	(H)	FSH AT 8:30 AM CAPITOL 124
02/12/07	(H)	Heard & Held
02/12/07	(H)	MINUTE(FSH)
02/14/07	(H)	FSH AT 8:30 AM CAPITOL 124
02/14/07	(H)	Heard & Held
02/14/07	(H)	MINUTE(FSH)
02/01/08	(H)	FSH AT 8:30 AM BARNES 124

WITNESS REGISTER

REPRESENTATIVE LES GARA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 41, as prime sponsor.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House Special Committee on Fisheries meeting to order at [8:39:51 AM](#). Representatives Seaton, Johnson, Holmes, and Wilson were present at the call to order.

HB 41-TRANSFER HABITAT DIV FROM DNR TO F&G

[8:40:06 AM](#)

CHAIR SEATON announced that the only order of business would be HOUSE BILL NO. 41, "An Act returning certain duties regarding habitat management from the Department of Natural Resources to the Department of Fish and Game; and providing for an effective date."

[8:41:23 AM](#)

CHAIR SEATON directed attention to the new information received in the committee packet, including: A memo from Legal Services comparing HB 41 with the Fisheries Habitat Protection Initiative. The initiative has gathered signatures, received certification, and been submitted to the legislature to provide the body with the opportunity to pass commensurate legislation. Also, a comment letter from the Pebble Partnership, stressing the need to solve this issue, and finally, a position statement from the Friends of The Anchorage Coastal Wildlife Refuge.

[8:43:50 AM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, provided an update on the progress of the bill, the work with the current administration to encourage a reversal of Governor Frank Murkowski's Executive Order (EO), and a review the historical development of the two departments. He explained why the Office of Habitat Management & Permitting (OHM&P) was originally situated, as a division of the Alaska Department of Fish & Game (ADF&G) vs. an office of the Department of Natural Resources (DNR). He directed attention to the letter, dated January 30,

2003, signed by every ADF&G commissioner appointed since statehood; a united position statement in support of HB 41. He paraphrased from the third paragraph, which read as follows [original punctuation provided]:

At Alaska's Constitutional Convention in 1955, our founding fathers debated whether the new state would have one resource agency or two. They understood the need to develop our oil, mineral, and timber resources, and build the roads and highways needed to open up our vast state, and they recognized the need to balance that development with protection of fish and wildlife by purposefully giving the responsibility and authority to protect in-stream fish habitat to ADF&G.

REPRESENTATIVE GARA continued, stated that ADF&G was charged with the protection of fisheries, habitat, and wildlife. To create the appropriate checks and balances, DNR was formed. The function of OHM&P is to evaluate the habitat risk of a project; the potential damage to the fish, wildlife, or other habitat. As previously noted, this was a function originally identified as being under the purview of ADF&G. Stating that the initiative is continuing to gather signatures, he indicated that the only substantive difference between the initiative and the bill is how the role of the DNR deputy commissioner is addressed. He stressed that the public interest is strongly behind making this move. Responding to a committee member, he acknowledged the need for a new effective date on page 11, Sec 24, and suggested January 1, 2009.

[8:48:52 AM](#)

REPRESENTATIVE JOHNSON asked whether HB 41 supplants the need for the initiative.

REPRESENTATIVE GARA said yes.

[A brief exchange occurred regarding the role of the deputy commissioner at DNR.]

[8:50:19 AM](#)

REPRESENTATIVE WILSON said that the governor's letter cites the good work of both divisions. However, the public's perception should to considered a reality, whether it is how things are

actually working or not. Further, she provided her intent to support the bill.

[8:51:28 AM](#)

CHAIR SEATON pointed out that the Pebble Mine letter did not state specific support for the bill, but rather the need for solving the issue; either way. He explained the sixty day time line, as noted in the Legal Services memo, and expressed his desire for passage of the bill. The committee provided a full year for the administration to review and act on this issue. The opportunity still remains for the governor to issue an EO.

[8:54:13 AM](#)

REPRESENTATIVE HOLMES moved Amendment 1: page 11, line 11, Sec. 24, delete July 1, 2007, and insert January 1, 2009.

There being no objection, Amendment 1 was adopted.

[8:54:47 AM](#)

REPRESENTATIVE JOHNSON stated his support for the bill. Further, he expressed concern for any process that might suppress state scientists from expressing their concerns based on fear of departmental retribution. Although, he said that he does not believe this has happened, he underscored the need to protect against stifling the ability for biologists to openly report their scientific findings, or participate in establishing appropriate, science based, policy.

[8:58:20 AM](#)

REPRESENTATIVE HOLMES agreed, and stressed that the passage of this bill is not intended to reflect negatively, or be viewed as an indictment on OHM&P, but rather place the office in the appropriate department to carry out its intended functions. She stated support for the bill.

[8:59:39 AM](#)

REPRESENTATIVE WILSON offered her agreement that the integrity of OHM&P is not in question. She suggested that operational changes may not be readily apparent, but the perception will be altered. She pledged her support for the bill.

[9:00:54 AM](#)

CHAIR SEATON stated that HB 14 also resolves a possible ethical dilemma. By having OHM&P operate under the mission statement of DNR vs. that of ADF&G, a "dueling mission statement" situation is created. Passage of this legislation is not intended to endorse one mission statement above the other, but it will provide clarification of policy application for the concerned state employees.

9:02:48 AM

REPRESENTATIVE HOLMES moved to report HB 41, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 41(FSH) was reported from the House Special Committee on Fisheries.

9:03:54 AM

CHAIR SEATON reported that he recently attended a permitting conference. He put the question of relocating OHM&P to the DNR representative. The response was that the department does not anticipate any complications, regarding the permitting process, should the move occur.

9:04:50 AM

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Fisheries meeting was adjourned at 9:05 a.m.