

**ALASKA STATE LEGISLATURE  
HOUSE RULES STANDING COMMITTEE**

April 12, 2008

12:39 p.m.

**MEMBERS PRESENT**

Representative John Coghill, Chair  
Representative John Harris  
Representative Anna Fairclough  
Representative Craig Johnson  
Representative Ralph Samuels  
Representative Beth Kerttula  
Representative David Guttenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 306

"An Act relating to the adoption of conservation, development, and utilization regulations by the Board of Game to address concerns relating to public assets."

- MOVED SB 306 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 306

SHORT TITLE: BOARD OF GAME REGULATIONS

SPONSOR(s): RESOURCES

03/21/08	(S)	READ THE FIRST TIME - REFERRALS
03/21/08	(S)	RES
03/24/08	(S)	RES AT 3:30 PM BUTROVICH 205
03/24/08	(S)	Scheduled But Not Heard
04/11/08	(S)	RES RPT 2DP 2NR
04/11/08	(S)	DP: HUGGINS, GREEN
04/11/08	(S)	NR: STEDMAN, STEVENS
04/11/08	(S)	TRANSMITTED TO (H)
04/11/08	(S)	VERSION: SB 306
04/11/08	(H)	READ THE FIRST TIME - REFERRALS
04/11/08	(H)	RLS
04/11/08	(S)	RES AT 8:30 AM BUTROVICH 205
04/11/08	(S)	Moved SB 306 Out of Committee

04/11/08 (S) MINUTE(RES)  
04/12/08 (H) RLS AT 10:30 AM CAPITOL 120

### **WITNESS REGISTER**

REPRESENTATIVE WES KELLER  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Spoke as the sponsor of HB 348, which is the companion to SB 306.

KEVIN SAXBY, Senior Assistant Attorney General  
Natural Resources Section  
Civil Division (Anchorage)  
Department of Law  
Anchorage, Alaska

**POSITION STATEMENT:** During hearing of SB 306, answered questions.

### **ACTION NARRATIVE**

**CHAIR JOHN COGHILL** called the House Rules Standing Committee meeting to order at [12:39:16 PM](#). Representatives Coghill, Harris, Fairclough, Johnson, Samuels, Kerttula, and Guttenberg were present at the call to order.

#### SB 306-BOARD OF GAME REGULATIONS

[12:39:34 PM](#)

CHAIR COGHILL announced that the only order of business would be SENATE BILL NO. 306, "An Act relating to the adoption of conservation, development, and utilization regulations by the Board of Game to address concerns relating to public assets."

[12:40:10 PM](#)

REPRESENTATIVE WES KELLER, Alaska State Legislature, speaking as the sponsor of HB 348, which is the companion to SB 306, said that SB 306 is a game management policy statement that Alaska intends to manage its own game. He explained that HB 348, the companion legislation, was pulled back due to questions from rural areas regarding the existing subsistence preference. He noted that there is letter from the Association of Village Council Presidents, which now endorses the legislation. With

regard to the charge that the intent of SB 306 [infringes] on voter rights, Representative Keller said that SB 306 doesn't restrict voter rights. In fact, it's impossible for the legislation to restrict voter rights because the constitution specifies that the citizens are the only entity that can change the constitution, the initiative process, and what the initiative does. He clarified then that the intent of SB 306 is to pull in common law and codify the Supreme Court decision such that game is managed as an asset just as fish is. The proposed legislation sets policy for management of game and incorporates common law and constitutional concepts into law. The legislation makes an overarching policy statement on the Board of Game that clarifies that management should be for abundance of the resource. Without such a statement, there is a tendency for the Board of Game to manage people and disputes between the beneficial uses. Representative Keller then opined that HB 348 might prevent some abuses of the initiative process. He pointed out that Article 11 clearly states that the executive branch determines whether a specific initiative is valid and then the initiative is open to judicial review. Therefore, he suggested that it's a good thing for the legislature's policy statement to guide the administration. He noted that Representative Gruenberg wants to include intent language specifying that this legislation doesn't intend on restricting voting. Representative Keller concluded by encouraging support for SB 306.

[12:46:14 PM](#)

CHAIR COGHILL informed the committee that AS 16.05.255, which this legislation amends, addresses Board of Game regulation requirements. This legislation inserts a new subsection (k), which the Board of Game will have to consider each time it seeks to adopt regulations.

[12:46:53 PM](#)

REPRESENTATIVE GUTTENBERG inquired as to changes in the behavior of the Board of Game Representative Keller would foresee with the passage of SB 306.

REPRESENTATIVE KELLER opined that because of the clarification [provided in the legislation] there would be less confusion. Representative Keller highlighted that the language is the product of Kevin Saxby, Department of Law, and Brian Kane, Legislative Legal and Research Services.

[12:47:50 PM](#)

REPRESENTATIVE KERTTULA inquired as to the Board of Game's response to this legislation.

REPRESENTATIVE KELLER said that he has received resounding support for [this legislation] and hasn't received any negative [comments] from anyone who identified him/herself as affiliated with the Board of Game. In further response to Representative Kerttula, Representative Keller specified that there has been no formal response from the Board of Game.

[12:49:07 PM](#)

REPRESENTATIVE KERTTULA, referring to the Pullen case, related her understanding that the court goes through an analysis that specifies wildlife is an asset that can be appropriated by initiative. Therefore, she questioned whether [SB 306 specifies] something that the Board of Game already has the authority to do; if that's the case, why is SB 306 necessary, she inquired.

[12:50:01 PM](#)

KEVIN SAXBY, Senior Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law, related his agreement with Representative Kerttula that it's already established law that game is an asset. The Pullen case specified that fish is an asset, and thus there's no reason that game would be treated differently. The question the lieutenant governor has to face is whether a given initiative is an appropriation of that asset. The proposed language [in SB 306] has been designed to provide a statement from the legislature that when the Board of Game is acting within its conservation and development authority it is allocating or appropriating game.

[12:50:49 PM](#)

REPRESENTATIVE KERTTULA surmised then that the legislation isn't speaking to the initiative process at all, and this legislation isn't going to change the constitutional analysis.

MR. SAXBY replied yes, [the legislation] is a statement from another branch of government that the sponsor believes the Supreme Court, as it's making its analysis, will take into

serious consideration the nature of the activities the Board of Game is taking when it's regulating.

[12:51:20 PM](#)

REPRESENTATIVE KERTTULA surmised that this legislation isn't changing the constitution or the ruling that initiatives are appropriations or not appropriations.

MR. SAXBY confirmed that to be the case.

CHAIR COGHILL noted that sometimes he disagrees with the courts and opined that the courts aren't always the constitution either.

[12:52:05 PM](#)

REPRESENTATIVE KERTTULA, in terms of assets, asked if SB 306 would help [clarify] that [the Board of Game] would have to consider the panoply of ways in which wildlife can be valued.

MR. SAXBY replied yes, adding that the legislation makes it clear that wildlife is important to the people of Alaska when it's regulated and almost anything [the legislature] does is an appropriation or allocation of that asset, whether it be an allocation to tourism use or consumptive use.

[12:53:25 PM](#)

REPRESENTATIVE KERTTULA surmised that the legislation also reiterates the Common Use Clause and the state's commitment to that.

MR. SAXBY stated his agreement, adding that this legislation reinforces constitutional statements that the court has essentially already made, although not explicitly with respect to game.

[12:53:48 PM](#)

REPRESENTATIVE SAMUELS related his understanding then that the executive branch has already said that game is an asset and this legislation just confirms that as the legislature's statement as well.

REPRESENTATIVE KELLER noted his agreement, but opined that it's an even stronger statement.

[12:54:54 PM](#)

REPRESENTATIVE SAMUELS moved to report SB 306 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

[12:55:19 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Rules Standing Committee meeting was adjourned at [12:55:26 PM](#).