

SENATE FINANCE COMMITTEE
April 13, 2010
2:59 p.m.

[2:59:26 PM](#)

CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at 2:59 p.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Charlie Huggins, Vice-Chair
Senator Johnny Ellis
Senator Dennis Egan
Senator Donny Olson
Senator Joe Thomas

MEMBERS ABSENT

None

ALSO PRESENT

Jennifer Senette, Staff, Representative Kurt Olson, Sponsor; Max Mertz, Alaska Board of Public Accountancy, Juneau; Julie Olson, President, Alaska Board of Public Accountancy, Juneau; Tim Benintendi, Staff, Senator Donny Olson, Sponsor; Randy Bates, Director, Division of Ocean Management, Department of Natural Resources; Dan Easton, Deputy Commissioner, Department of Environmental Conservation; Edward S. Itta, Mayor, North Slope Borough; Harold Curran, Chief Administration Officer, North Slope Borough

PRESENT VIA TELECONFERENCE

Lindsay Wolter, Department of Law; Steve Borell, Alaska Miners Association

SUMMARY

HB 315 PUBLIC ACCOUNTING

HB 315 was heard and HELD in Committee for further consideration.

SB 312 VESSEL PASSENGER TAX

SB 312 was scheduled but not heard.

SB 4 COASTAL MANAGEMENT PROGRAM

SB 4 was heard and HELD in Committee for further consideration.

[2:59:43 PM](#)

#hb315

HOUSE BILL NO. 315

"An Act relating to public accounting; and providing for an effective date."

Co-Chair Hoffman MOVED to ADOPT the SCS for HB 315, labeled 26-LS1380\R, Bannister, 4/12/10, as the work draft before the committee.

Co-Chair Stedman OBJECTED.

Co-Chair Stedman explained the sections of the SCS. In Sections 2 and 3, the SCS adds an executive secretary position to the State Board of Public Accountancy. The board is currently struggling to fulfill its mission because of insufficient staff. The addition of this position will enable the board to perform its duties more efficiently. The position will be paid from license fees and is supported by the Alaska Society of CPA's.

Co-Chair Stedman WITHDREW his OBJECTION. There being NO OBJECTION, it was so ordered.

JENNIFER SENETTE, STAFF, REPRESENTATIVE KURT OLSON, SPONSOR, explained that the SCS for HB 315 was crafted with the help of the Alaska Society of CPA's and with the State Board of Public Accountancy and enjoys their support. She knew of no opposition to the bill. It was passed in the other body unanimously. Some version of this legislation has been passed in 45 states. The bill represents Alaska's effort to bring accounting standards into line with the

rest of the nation and keep Alaskan CPA's nationally competitive.

Ms. Senette reported that the bill accomplishes several things. It gives CPA's mobility, the ability of a licensee to gain a practice privilege outside of his or her principle place of business without additional licensing and fees. An Alaskan CPA would be able to practice out of state and vice versa.

Ms. Senette related that the bill provides for simple majority ownership. Under current law, Alaskan accounting firms must be owned 100 percent by CPA's. Other non-CPA professionals would be able to have a minority ownership. The intent is to attract and retain qualified individuals.

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Ms. Senette described the third goal of the bill, which is to enhance the board's ability to protect the public interest. The board will have automatic jurisdiction over all CPA's practicing in the state and address any violations of its standards.

Ms. Senette said the bill also provides for an executive secretary position to the board in order to enhance the board's ability to perform its crucial functions. The cost of the position will be borne through an increase in CPA licensing fees.

Ms. Senette pointed out that a board member was present.

Co-Chair Stedman noted one zero fiscal note from the Department of Commerce, Community and Economic Development.

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MAX MERTZ, ALASKA BOARD OF PUBLIC ACCOUNTANCY, JUNEAU, introduced himself.

Senator Egan noted that Mr. Mertz' firm did his taxes.

Mr. Mertz related his six-year experience on the board. He shared the difficulty of the board's ability to carry out its mission. The bill brings to the table the notion of a practice privilege which will enhance the board's ability

to govern. He agreed with the need for an executive secretary.

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JULIE OLSON, PRESIDENT, ALASKA BOARD OF PUBLIC ACCOUNTANCY, JUNEAU, echoed Mr. Mertz's comments of support.

Senator Olson asked if the bill would have any effect on smaller businesses.

Ms. Senette reported receiving only positive feedback from firms of all sizes. She thanked the committee for hearing the bill.

HB 315 was heard and HELD in Committee for further consideration.

[3:13:13 PM](#)

#sb312

SENATE BILL NO. 312

"An Act providing for a reduction in the excise tax to \$34.50 for a passenger for each voyage on a commercial passenger vessel; providing for a reduction in the state excise tax imposed on a passenger on a commercial passenger vessel by the amount of tax on a passenger traveling on a commercial passenger vessel imposed by a municipality that does not elect to receive an appropriation of a portion of the proceeds from the state tax; authorizing an appropriation from the proceeds from the excise tax imposed on a passenger on a commercial passenger vessel for state-owned infrastructure to properly provide for commercial vessel or passenger visits; requiring a municipality receiving funds appropriated from the excise tax imposed on a passenger on a commercial passenger vessel to use the funds to improve port and harbor facilities and other services and infrastructure to properly provide for commercial passenger vessel or passenger visits; limiting the reduction for the excise tax imposed by a municipality on a passenger on a commercial passenger vessel to \$17.25 a passenger for each voyage; requiring the Department of Commerce, Community, and Economic Development to prepare and submit a report on the

needs of communities to safely and efficiently host passengers subject to the state tax imposed on a passenger on a commercial passenger vessel, and to summarize the extent to which appropriations from the state tax have been used to defray the costs of meeting those needs; eliminating the authority to appropriate funds received from the excise tax imposed on a passenger on a commercial passenger vessel to an area of the state that is not one of the first five ports of call in the state for a commercial passenger vessel carrying a passenger subject to the state excise tax imposed on a passenger of that vessel; and providing for an effective date."

SB 312 was scheduled but not heard.

#sb4

SENATE BILL NO. 4

"An Act relating to the Alaska coastal management program; and establishing the Alaska Coastal Policy Board."

Co-Chair Hoffman MOVED to ADOPT the CS for SB 4, labeled 26-LS0019\S, Cook, 4/10/10, as the work draft before the committee.

Co-Chair Stedman OBJECTED.

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Senator Donny Olson, Sponsor, explained the need for a bill dealing with the Alaska Coastal Management Board. He thanked the mayor of the North Slope Borough for appearing at the meeting.

TIM BENINTENDI, STAFF, SENATOR DONNY OLSON, SPONSOR, referred to Version S of the bill. He explained that coastal zone management is a big issue. Version S is a product of the sponsor and several supporters of the legislation.

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Mr. Benintendi explained the changes in the bill. Section 1 allows the governor to appoint four coastal district board members and an alternate without coastal district approval.

The commissioners would continue to serve on the board totaling nine people appointed by the governor. Section 4 removes a provision for board consultation with federal agencies. Section 5 is a grammatical correction. Section 9 removes the term "prescriptive and performance based" regarding enforceable policies. The term "contemporary and traditional" is also removed. The term "areas that merit special attention" replaces the term "special management areas" in several places. The word "on" replaces "upon".

Mr. Benintendi continued to say that Section 10 clarifies the role of the board in approving regulation changes. The term "areas that merit special attention" replaces the term "special management areas". Section 11 clarifies that regulations for district plan criteria cannot require designation of areas as a precondition for establishing district enforceable policies. Section 14 clarifies that enforceable policies cannot conflict with state statute or regulations.

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Mr. Benintendi explained that Section 19 removes the proposed provision to allow reviews inland of the coastal zone and removes the term "and water". Section 23 adds a new subsection to clarify that draft permits cannot be required before the start of an ACMP consistency review. Section 30 removes Section 30 from SB 4 to AS 46.40.190 regarding cooperative administration. Section 31 removes language in the existing definition "coastal resource district" regarding boroughs that do not exercise plan and zoning authority. Section 35 adds new language to the definition of project that allows ACMP reviews of proposed federal rules, including proposed rules regarding endangered species. This may be a new way to challenge the Endangered Species Act.

Mr. Benintendi reported that Section 36 removes the proposed new definition for "special management areas". Section 37 removes the repeal of the existing definition of "areas that merit special attention". Sections 38 and 39 both repeal provisions in CH. 31, SLA 2005 that repealed the coastal management program in 2011.

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Co-Chair Stedman WITHDREW his OBJECTION to adopting Version S. There being NO OBJECTION, it was so ordered.

Senator Olson pointed out the number of major concessions considered by the bill's sponsor.

Co-Chair Stedman noted two new fiscal notes, one from the Department of Natural Resources (DNR) for \$165,000 in general funds to cover the cost of travel and supplies for the Coastal Policy Board as well as contractual funds for DNR to draft regulations, and one from the Department of Environmental Conservation (DEC) for \$118,700 in interagency receipts for one additional person needed to serve as DEC's Coastal Management Program Coordinator.

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RANDY BATES, DIRECTOR, DIVISION OF OCEAN MANAGEMENT, DEPARTMENT OF NATURAL RESOURCES, stated that the department has serious issues with SB 4, especially Version R.

Co-Chair Stedman pointed out that the committee was considering Version S, not Version R, and asked Mr. Bates if he was prepared to address the substantial changes in that version. Mr. Bates responded that he had just been given a copy of Version S and has had a limited amount of time to review it. He noted that after a quick review of Version S, the changes made do not alter the department's major concerns.

Co-Chair Hoffman expressed frustration about a letter from DNR dated April 13 which he only received today. He said the department's letter offered no solutions or "fixes". He suggested that the department come up with something positive so that issues in rural areas can be resolved. He emphasized that rural Alaskans wish to be partners in decisions that affect their daily lives. He maintained that DEC does not want to share in decision-making regarding coastal zone issues. He emphasized that the coastal zone regulations would be expiring shortly. He strongly requested positive suggestions, not obstacles.

Mr. Bates responded that the department's concerns are substantial and the governor has spoken to these issues several times. He stated that it is the department's position that rural districts currently have an opportunity to have input through coastal management. The coastal

program is a state program that is based on state decision-making that takes into account local influence and input. Coastal districts do have an opportunity to provide comments during the consistency review of a project. They do have enforceable policies that they could apply. The bill deals with changing the input of local control. The governor has stated that for those projects that are of significant interest to the state and have significant economic or other interests to its collective residents, a local community should not have veto authority over those projects and preclude development that is of great interest to the rest of the state.

Mr. Bates maintained that SB 4, as proposed does not provide a reasonable balance, which is why the department has not provided solutions to modify the bill. He noted the sunset provisions under AS 44.66.020 and AS 44.66.050, and suggested that the legislative hearing process be followed related to those sunset provisions. At the hearing process the department should demonstrate an ability to implement a successful coastal program and identify proposed statutory regulatory changes that would benefit the public's interest. He referred to today's letter which highlighted his position.

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Co-Chair Stedman commented that four of the committee members have significant coastal areas in their districts and stressed the importance of this issue. The dialogue over past weeks led to the request that the bill sponsor consider amending Version R of the bill in order to address concerns that were brought forward. He voiced concern that the department is not interested in dealing with the matter until next year. He clarified that the goal, as policy makers, is to diminish the strife between coastal communities and the department. He was concerned that the department was not interested in working to solve the issues. He asked if the department would look at Version S and come back to the table with suggestions.

Mr. Bates stressed the importance of the written testimony which contains concerns by the Department of Law, the Department of Environmental Conservation, and the Department of Natural Resources. He said his department would go back and take another look and report back to the committee.

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Co-Chair Stedman noted that the department's letter is not in the packet.

Co-Chair Hoffman related that the biggest concession the sponsor made is in Section 1. He took issue with the change in Section 1 that lets the department pick its own team. He accused the department of having stalling tactics even though they are given a winning hand.

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Senator Thomas pointed out the interior's diverse economic interests. He observed that the board seems to be taking precedence over the department. He raised an issue about the permitting process and how permits might be affected by coastal management concerns such as water quality.

Mr. Bates replied that the Coastal Management Program does not get involved with water quality enforcement on an interior project unless it is a federal agency activity such as a BLM Forest Service timber sale.

Mr. Bates addressed Senator Hoffman's concern by explaining existing federal and state policies. He gave examples of enforceable policies under SB 4, Version S, that conflict with the state.

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Senator Thomas restated the question about water quality issues along the coast. Mr. Bates clarified that the current program as proposed in SB 4 eliminates the possibility of consistency review under the ACMP for an activity that is inland of the coastal zone. The reason is that in 1978 the coastal zone boundaries were limited. Alaska has an inland boundary that is biophysically defined. The department does not see a need to review the boundaries.

AT-EASE [3:45:05 PM](#)

RECONVENED [3:57:41 PM](#)

Co-Chair Hoffman asked if Mr. Bates had any more information to share. Mr. Bates offered to review Version S and report back to the committee.

Co-Chair Hoffman emphasized that the department's last time frame was unacceptable. He suggested that the department come up with suggestions by tomorrow morning. Mr. Bates offered to respond by tomorrow.

Co-Chair Hoffman understood that the governor would pick board members as a major concession found in Version S of the bill.

[4:00:24 PM](#)

Senator Olson pointed out that the governor received the bill only yesterday. He doubted that the time frame would be met by the department. Mr. Bates said he had not received a copy of Version S until today's meeting. A quick comparison of Versions R and S showed a continuation of substantial problems. He restated the department's concern about the authority and purview of district coastal policies. It is not a question about who approves the enforceable policies, but the substance of those policies that is the sticking point. He said he would respond within the time frame requested.

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DAN EASTON, DEPUTY COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, reported that DNR is not alone with concerns about Version S, which he had also not seen until today's meeting. He said DEC's concerns had to do with the DEC "carve out", which the last CS removed. He said he would also get back to the committee.

Co-Chair Hoffman requested addressing the concerns of the state while including rural areas.

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LINDSAY WOLTER, DEPARTMENT OF LAW (via teleconference), voiced concern about Version R. She said she has only recently seen Version S. She highlighted legal concerns in sections common to Version R and S. She began with Section 3 where the department may adopt regulations approved by the board and the board would be responsible for approving the coastal management regulations, coastal district plans, and the enforceable policies developed by coastal districts. She maintained that it was a significant amount of work for nine board members, of which four are

commissioners with full schedules. It makes it difficult to have a quorum and abolishes the ability to write emergency regulations.

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Ms. Wolter turned to Section 11, which permits the board to develop procedures and guidelines for consultation and coordination with federal agencies managing land or conducting activities potentially affecting coastal areas. She maintained that negotiations with the federal government should not be conducted by the board, but rather by the state, as it would infringe on the governor's executive powers. Section 13 also has a problem with the mandate for a consensus because there is no definition of what "consensus" means. There is also lack of transition language in the bill, meaning that it is unclear what would happen with the existing district plans and regulations and if they would remain in effect pending approval of new plans and regulations.

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Ms. Wolter reported that the Department of Law would have to get federal approval by NOAA for any new coastal management plans. That would also require transition language, which the department could provide. She concluded that there could be additional concerns in Version S; however, she has not had time to study it.

Co-Chair Stedman requested that Ms. Wolter provide recommendations for language changes by noon tomorrow. Ms. Wolter agreed to do so.

[4:11:03 PM](#)

EDWARD S. ITTA, MAYOR, NORTH SLOPE BOROUGH, spoke in support of the bill. He said that since the governor would appoint the board members that should take care of many concerns. He pointed out that local districts would have a voice with the board in place. He said the CS eliminates the inclusion of inland areas and includes additional protection so that coastal policies cannot conflict with state or federal law. The bill clarifies that draft permits are not needed to start the consistency review process. It also deletes "and OCS waters" to avoid confusion about the inclusion of any new areas or activities under this bill. There is a new section confirming that proposed federal

rules on critical habitat designations are reviewable under ACMP.

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HAROLD CURRAN, CHIEF ADMINISTRATION OFFICER, NORTH SLOPE BOROUGH, addressed one question, whether or not federal Endangered Species Act activities affecting coastal zone areas are subject to consistency. He maintained that they are subject to consistency. The state gets to make determinations about the consistency of federal actions within the coastal zone and those that affect the coastal zone. The state argues that local districts will have the power to veto state and federal statutes and regulations. The standard for state consistency standards does not use the word "veto" or indicate that there can possibly be a veto of either federal or state law under coastal zone management. It gives the state the ability to influence how the federal government carries out its regulations. It is an extension of state power, not a reduction. He noted that it applies to the Endangered Species Act and is a valuable authority for the state. He called it an example of how the state should embrace coastal zone management.

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STEVE BORELL, ALASKA MINERS ASSOCIATION (via teleconference), referred to a letter provided to the committee. He thought that the S version corrected some problems; however, he could not support the bill because concerns remain.

Co-Chair Stedman asked for a list of concerns. Mr. Borell agreed to provide them.

AT-EASE [4:18:09 PM](#)

RECONVENED [4:32:17 PM](#)

Co-Chair Stedman requested language changes to Version S by noon tomorrow.

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ADJOURNMENT

The meeting was adjourned at 4:34 PM.