

HOUSE FINANCE COMMITTEE
March 15, 2012
8:54 a.m.

8:54:37 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 8:54 a.m.

MEMBERS PRESENT

Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Co-Chair
Representative Anna Fairclough, Vice-Chair
Representative Mia Costello
Representative Mike Doogan
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Reggie Joule
Representative Mark Neuman
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Joe Michel, Staff, Representative Bill Stoltze;
Representative Alan Austerman, Sponsor; Astrid Lievano,
Staff, Representative Alan Austerman; Jeff Johnson, Boating
Law Administrator, Office of Boating Safety, Division of
Parks and Outdoor Recreation, Department of Natural
Resources; Representative Mike Hawker, Sponsor; Juli Lucky,
Staff, Representative Mike Hawker; Rebecca Reichlin, Board
Chair, Four Valleys Community School, Girdwood; Jeff
Prather, Supervisor, Gaming Section, Tax Division,
Department of Revenue; Representative Bob Lynn, Sponsor;
Mike Sica, Staff, Representative Bob Lynn; Kayla Epstein,
Member, Anchorage Animal Control Advisor Board; Anne
Carpeneti, Assistant Attorney General, Legal Services
Section-Juneau, Criminal Division, Department of Law

PRESENT VIA TELECONFERENCE

Ben Ellis, Director, Division of Parks and Outdoor Recreation, Department of Natural Resources; Jane Schultz, Coordinator, Kenai Peninsula Emergency Services; Phil Morgan, Animal Care Manager, Mat-Su Borough Animal Shelter, Palmer

SUMMARY

HB 179 ANIMAL CRUELTY

HB 179 was HEARD and HELD in Committee for further consideration.

HB 245 SNOW CLASSIC

HB 245 was HEARD and HELD in Committee for further consideration.

HB 301 SUNSET OF BOATING REGULATION

CSHB 301(FIN) was REPORTED out of committee with a "do pass" recommendation and with previously published fiscal impact note: FN1 (DNR).

#hb301

HOUSE BILL NO. 301

"An Act amending the termination date of certain statutes relating to the use, operation, and regulation of boats, a uniform state waterway marking system, and civil liability for boat owners; providing for an effective date by amending the effective date of secs. 3, 5, 7, 9, 11, 14, 16, 18, 20, 23, 26, and 27, ch. 28, SLA 2000, as amended; and providing for an effective date."

8:55:29 AM

Vice-chair Fairclough MOVED to ADOPT proposed committee substitute for HB 301, Work Draft 27-LS1152\M (Martin, 3/13/12).

Co-Chair Stoltze OBJECTED for purpose of discussion.

JOE MICHEL, STAFF, REPRESENTATIVE BILL STOLTZE, explained the changes in the CS. There were two sections at the

beginning of the bill that had been inserted; and he read the inserted language in Sections 1 and 2. The wording in Section 1 said, "Nothing in this chapter authorizes a department or board to enter into an agreement with a department or agency of the federal government that cedes state authority for the management of its waterways to the federal government." He furthered that subsections (b), (c), and Section 2 inserts the new wording, "other than a person employed by the federal government." He explained that the wording currently existed in state statute.

Co-Chair Stoltze noted that the language was consistent with the state's rights and assertions.

Representative Guttenberg wondered if there was cooperation between a state and federal agencies would preclude the bill from happening. Mr. Michel deferred the question to the Department of Natural Resources (DNR).

Co-Chair Stoltze discussed that the language had been vetted with the Attorney General, to ensure that it did not contradict agreements with the Coast Guard. The subject was a narrow issue pertaining to enforcement.

Representative Guttenberg wondered if the language applied specifically to the program, or if it had a broad range of application. Co-Chair Stoltze replied hoped it would have a broad application.

Representative Gara referred to an earlier version of the bill that included regulation on non-motorized boats. He wondered if the work draft included regulation on non-motorized boats. Co-Chair Stoltze responded that the original bill, introduced by former Representative Bill Hudson, had a reference to boats that were under a certain length.

[8:59:27 AM](#)

Representative Gara restated his question about non-motorized boats

Mr. Michel deferred the question to DNR.

Co-Chair Stoltze stated that Representative Gara's concerns would be addressed by the bill sponsor.

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Work Draft 27-LS1152\M was ADOPTED.

REPRESENTATIVE ALAN AUSTERMAN, SPONSOR, informed the committee that the original bill had been introduced by former Representative Bill Hudson. He believed the program was helpful and saved lives.

ASTRID LIEVANO, STAFF, REPRESENTATIVE ALAN AUSTERMAN, explained that HB 301 repeals the sunset dates of the Statewide Boating Safety and Education Program. Through this program the State of Alaska works in close cooperation with the U.S. Coast Guard, U.S. Coast Guard Auxiliary, and other partners to provide national award winning programs such as the popular Kids Don't Float life jacket loaner program, nationally approved boating courses, instructor training, video production, and numerous publications and instructor tools. Alaska's non-commercial boating fatalities have dropped more than 20 percent since state efforts began, and at least 19 Alaskan children are alive today thanks to a Kids Don't Float life jacket. The program has been repeatedly recognized for excellence, including the U.S. Coast Guard's Meritorious Public Service Award. Between 1987 and 2000 Alaska was the only state without a comprehensive recreational boating safety program, even though Alaska had one of the highest fatality rates in the nation. During the same time, Alaska's share of the federal funding available to the states for boating safety programs was being distributed to the others states. Following 11 attempts at passage, in May of 2000, HB 108, the Alaska Boating Safety Act (AS 05.25) was signed into law. When the program was established, the 21st Legislature originally added two 'sunset' provisions to repeal the Alaska Boating Safety Act in the event the state did not receive the anticipated federal funds. The first sunset would take effect and the Boating Safety program would terminate if federal funds were not appropriated. The second sunset terminated the program by date, currently July 1, 2013. The boating safety program had been in effect for twelve years, and recreational boaters were safer, better educated, and recreational boating fatalities were on a downward trend. In comparing the number of fatalities during the first and second half of the last ten years, fatalities had dropped 22.1 percent. At least 22 Alaska children survived a water emergency thanks to a "Kids Don't Float" lifejacket. The United States Coast Guard wear rate studies also show that there are increases in lifejacket use.

9:03:40 AM

Representative Guttenberg looked at Section 3, and wondered if there were no federal funds; and if Legislative Council was given authority to fill the gap. Representative Austerman replied in the affirmative.

Representative Gara wondered whether the sponsor was working with the Coast Guard on the Kids Don't Float program. Representative Austerman replied that he was working with the Coast Guard as it relates to HB 301.

Representative Gara believed that some of the current life jackets were good for lakes and calm bodies of water, but would not prevent kids from drowning in white water rivers. He wondered if he needed to work on that issue, or if the bill sponsor could look into that issue. Representative Austerman replied that the issue should be addressed by DNR.

Representative Gara remarked that the "good" life jackets were often easily stolen.

BEN ELLIS, DIRECTOR, DIVISION OF PARKS AND OUTDOOR RECREATION, DEPARTMENT OF NATURAL RESOURCES (via teleconference), expressed support for the bill. The language should not impact the ability to receive federal boating safety grants and funds. The concerns of Representative Gara would be addressed and evaluated.

JEFF JOHNSON, BOATING LAW ADMINISTRATOR, OFFICE OF BOATING SAFETY, DIVISION OF PARKS AND OUTDOOR RECREATION, DEPARTMENT OF NATURAL RESOURCES, introduced himself.

Co-Chair Stoltze confirmed that Mr. Johnson had also heard Representative Gara's concerns. Mr. Johnson agreed.

Representative Edgmon pointed to a couple of parks in the Bristol Bay area and the Togiak National Wildlife Refuge. He wondered whether the bill would make any changes to those parks. Mr. Johnson replied that no change would occur.

Representative Wilson asked if a state park would qualify for the program if it was under passive management. Mr. Johnson replied that within the definition of "passive

management", DNR would determine whether the park would qualify for the program, but state resources would not continue to be used for the public.

Representative Wilson surmised that no life jackets had been provided for the Chatanika River. Mr. Johnson replied that he was not sure where state-provided life jackets were available on the Chatanika River.

[9:10:49 AM](#)

JANE SCHULTZ, COORDINATOR, KENAI PENINSULA EMERGENCY SERVICES (via teleconference), stated that the Kids Don't Float program was a collaborative program between the Department of Health and Social Services (DHSS), the U.S. Coast Guard, Alaska Safe Kids, and local sponsors. There were currently 617 active life jacket board stations in 249 communities. The Alaska Boating Safety program was the primary supplier of life jackets throughout the state, with 34,722 lifejackets provided to date. The Kids Don't Float school program provided boating safety education for Alaska students. Attendance for the program totaled 84,000. There were 2,129 boaters that had completed the training course related to boater safety. There were currently 126 instructors on the water wise education registry. She relayed that it was heartening to see families using the lifejackets available at public boating areas.

[9:14:51 AM](#)

Co-Chair Stoltze CLOSED public testimony. He pointed to the fiscal impact note from Department of Natural Resources.

Representative Wilson expressed concern about the availability of lifejackets in parks that were currently under passive management. She wanted to increase safety for all children. Representative Austerman replied that he had not had the passive management conversation, and stated that he would have to look into the issue with Legislative Legal and DNR.

Co-Chair Stoltze asked Mr. Johnson to contact Representative Wilson's office on the question. Mr. Johnson responded in the affirmative, and agreed to provide that information.

Representative Gara appreciated the responsiveness of the department related to the Kids Don't Float program.

Vice-chair Fairclough discussed the fiscal impact note that authorized the receipt of federal and boat receipts. She asked whether the note was authorizing four new positions. Ms. Lievano replied that it was her understanding the note reauthorized funding for the current staff. Mr. Johnson agreed.

Vice-chair Fairclough discussed another four and two positions on the fiscal note. Mr. Johnson clarified that the stated positions were for the current employees.

Representative Gara asked whether it was feasible to add a \$5,000 general fund amount to the fiscal note for the lifejackets on whitewater rivers.

Co-Chair Stoltze deferred to Co-Chair Thomas. Co-Chair Thomas noted the amount was a capital budget item.

Co-Chair Stoltze stated that the inquiry was meant for "another vehicle."

[9:19:40 AM](#)

Vice-chair Fairclough asked if an analysis could be conducted about the number of whitewater areas to determine an cost amount that would be necessary for additional life jackets.

Co-Chair Thomas believed that some fisherman donated life jackets to the program when their children outgrew them.

Co-Chair Stoltze noted that the conversation would occur at a later date.

Co-Chair Thomas MOVED to report CSHB 301(FIN) out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 301(FIN) was REPORTED out of committee with a "do pass" recommendation and with previously published fiscal impact note: FN1 (DNR).

[9:22:15 AM](#)

AT EASE

9:26:19 AM

RECONVENED

#hb245

HOUSE BILL NO. 245

"An Act establishing a snow classic as an authorized form of charitable gaming."

9:26:31 AM

REPRESENTATIVE MIKE HAWKER, SPONSOR, explained that HB 245 would allow Four Valleys Community School, Inc. to conduct a "snow classic" to raise funds for their organization. The snow classic would be operated much like other contests already allowed under statute: contestants would buy a ticket and write a guess of the depth of snow accumulated by a specific date and time on Mount Alyeska. The winner would receive half of the net proceeds from the fundraiser. Four Valleys Community School, Inc. (FVCS) is a nonprofit organization that annually offers more than 250 year-round classes and sponsors community events. While most of the participants are Turnagain Arm area residents, people from neighboring communities such as Anchorage, Eagle River, and Homer have participated in FVCS events. FVCS also supports athletes and local high school graduates with scholarships. When community school funding from the Anchorage School District was eliminated, local residents helped FVCS become a 501c(3) nonprofit to ensure that lifelong learning and recreational opportunities remain available to the community. FVCS recruited volunteers to administer and teach, secured corporate and private donations, and fostered community involvement. Operating the snow classic will help achieve the short-term goal of self-sufficiency while keeping classes affordable and locally available. It also will support a long-term goal of creating a stable fundraising opportunity that will enhance the entire community.

JULI LUCKY, STAFF, REPRESENTATIVE MIKE HAWKER, pointed to numerous written public testimonies included in members' packets (copy on file).

Co-Chair Stoltze asked Ms. Lucky to discuss the letters received.

Ms. Lucky listed various support for the legislation. She stated that there were roughly 40 letters of the support from the Alyeska Resort; Girdwood Rotary Club; Girdwood 20-20; Girdwood Turnagain Arm Lion's Club; Girdwood, Inc.; Little Bear's Playhouse; and many individuals and businesses in the surrounding areas.

Co-Chair Stoltze noted that there were 43 organizations on the list of support.

[9:30:54 AM](#)

REBECCA REICHLIN, BOARD CHAIR, FOUR VALLEYS COMMUNITY SCHOOL, GIRWOOD, pointed to her written testimony that had been provided to committee members (copy on file). She spoke in support of HB 245. She discussed that there had been some recent cuts to education funding, and the legislation would encourage fundraising to survive the cuts the schools had become a 501(c)3 organization. The organization had experience with gaming activities. The Snow Classic would allow the school to eliminate dependence on tax dollars, meet the schools goal of self-sufficiency, and would allow the school to help itself. She reiterated her encouragement for the committee's support for the legislation.

Vice-chair Fairclough asked whether there was a limit on the amount that you could sell a ticket.

Co-Chair Stoltze replied that the committee would come back to the question. He believed the Snow Classic would be a historic event.

Representative Hawker endorsed and supported new ideas.

[9:35:13 AM](#)

Vice-chair Fairclough restated her question she wondered whether there was a limit on the dollar amount of the tickets. JEFF PRATHER, SUPERVISOR, GAMING SECTION, TAX DIVISION, DEPARTMENT OF REVENUE, replied that there was no dollar limit on the price of raffle tickets.

Co-Chair Stoltze asked whether there was a typical upper limit on what tickets were sold for. Mr. Prather responded

that it was unusual to pay more than \$100 for a raffle ticket.

Vice-chair Fairclough discussed her prior experience working in non-profit organizations. She understood that there was a limit of \$20 per raffle ticket for non-profits; she believed the amount was restrictive.

Co-Chair Stoltze wondered whether there was a difference between a raffle and a game of chance. Mr. Prather stated that he was not aware of a \$20 limit on raffle tickets.

Co-Chair Stoltze noted that the issue would be clarified.

Co-Chair Stoltze informed members that the bill would come back before the committee the following week.

Vice-chair Fairclough noted that the fiscal note should be listed as indeterminate and not zero. She asked the sponsor if the analysis was correct. Representative Hawker responded in the affirmative.

Co-Chair Stoltze noted that the committee would work with the department on the fiscal note.

Co-Chair Stoltze CLOSED the public testimony with the intent to reopen it in the future if necessary.

HB 245 was HEARD and HELD in Committee for further consideration.

[9:41:02 AM](#)

AT EASE

[9:43:36 AM](#)

RECONVENED

#hb179

HOUSE BILL NO. 179

"An Act relating to cruelty to animals and making failure to care for five or more animals in a single continuous episode a class C felony."

REPRESENTATIVE BOB LYNN, SPONSOR, explained HB 179. He stated that over the past several years animal control officers had had to rescue multiple animals at one time in

the Mat-Su area. Troopers were issuing search warrants for individuals for alleged abuse. Cases of abuse were shocking, and the bill worked to make five or more cases of abuse a class C felony. The bill would provide a helpful tool for prosecutors. He believed the gravity of the charge should reflect the gravity of the situation. He was clear that the legislation did not affect mushers who did a great job caring for their dogs.

[9:47:34 AM](#)

MIKE SICA, STAFF, REPRESENTATIVE BOB LYNN, pointed to the legislation. Currently under statute there were seven counts of animal abuse: three class C felonies and four misdemeanors. He looked at page 1, line 8 of the bill:

A person commits cruelty to animals if the person with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal.

Mr. Sica looked at page 2, line 11. The following would be a class C misdemeanor within the legislation:

(If the animal cruelty occurs) with criminal negligence, contemporaneously fails to care for five or more animals and, as a result, causes the death of five or more animals or causes severe physical pain or prolonged suffering to five or more animals.

Mr. Sica spoke to the indeterminate fiscal notes. He pointed to a "Stat Sheet" from the Department of Law (DOL) displayed the number of offenses and cases related to criminal negligent animal cruelty count 2 charge (copy on file). He stated that the numbers range from one charge and one defendant in 2008, to a high of 62 charges and 12 cases in 2011. He stated that the fiscal impact would be zero or almost zero. He stressed that the particular crime of animal cruelty was infrequent, high profile, and impactful.

[9:52:07 AM](#)

PHIL MORGAN, ANIMAL CARE MANAGER, MAT-SU BOROUGH ANIMAL SHELTER, PALMER (via teleconference), thanked the committee for its time. He was currently driving to a location to address a situation involving a number of dogs and cats

that had been neglected. He pointed out that work had been done on the issue beginning in 2009. Officers had gone to the location on a regular basis between 2009 and 2010 to check on the animals; the owners were in financial trouble and officers had checked on the dogs recently, which were found to be in a deplorable state. He supported HB 179, and believed it would help to enforce the issue. Animal shelters needed something substantial to help enforce the situation and he believed the current punishment was woefully inadequate. The situations were very stressful and costly on animal shelter staff, continued to get more difficult. He urged the committee for its support of HB 179.

Co-Chair Stoltze noted that he had several family members that volunteered at the Mat-Su animal shelter. He wondered whether the proposed position was of the shelter, borough, or personal. Mr. Morgan replied that it was a combination of the borough manager, shelter, and personal position.

Representative Wilson noted that some people who may have been accused of animal cruelty, were merely facing financial straits, and were not intentionally harming animals. She shared a story related to people who were having trouble caring for animals, because of their financial situation. She asked whether the people in the description would be charged with a felony. Mr. Morgan replied that he had not been to the site to provide more detail. He remarked that the animal cruelty charges were examined carefully, and he would need more information about the specific case.

Co-Chair Stoltze wondered whether there was a non-judgmental clause that an individual could drop off an animal they could no longer care for. Mr. Morgan replied that no judgment was passed on people that approached the shelter for help. He felt the punishment should fit the crime.

[10:00:55 AM](#)

Representative Neuman discussed testimony that people did not understand the gravity of the situation. He thought that people could get into financial distress and not understand that they were no longer able to care for animals. He wondered whether the punishment would

Mr. Morgan replied that well minded people, just wanted to help one more animal. The point was that after people had been counseled and given other options he did not know what else could be done.

Co-Chair Stoltze discussed that Anne Carpeneti, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law would address the aspects of criminal negligence.

Mr. Morgan remarked that he always wanted to understand the other point of view; however, there had to be a higher punishment once it reached the level of some of the cases he had seen.

[10:04:59 AM](#)

KAYLA EPSTEIN, MEMBER, ANCHORAGE ANIMAL CONTROL ADVISOR BOARD, had no desire to make the issue an emotional appeal. The bill greatly addressed the crime, she expressed support for the HB 179. She pointed to an Anchorage case that involved dogs, cats, and birds. The case had taken over a year and had cost the municipality over \$77,000 to care for the animals; once criminal neglect had been proven, they were able to remove an additional 55 animals. The organization believed that the punishment should fit the crime. She urged the committee's support of the legislation.

Mr. Sica pointed out that he had discussed animal cruelty with Vice-chair Fairclough. He stated that the issue was not related to individuals who did not feed their dogs for several days, they were cases of severe neglect. He painted a sad picture of animals impacted by neglect. He discussed the public's level of outrage or scorn to fit the crime.

[10:10:51 AM](#)

ANNE CARPENETI, ASSISTANT ATTORNEY GENERAL, LEGAL SERVICES SECTION-JUNEAU, CRIMINAL DIVISION, DEPARTMENT OF LAW, noted that the department did not have a position on the bill.

Representative Costello asked what the sentence range was for a class C felony. Ms. Carpeneti replied that the range was zero to five years for a class C felony.

Co-Chair Stoltze asked Ms. Carpeneti to provide the statutory reference at a future hearing.

Representative Costello wondered what penalties were in other states for comparable offences. Mr. Sica responded that there were other states that had tougher felonies, for even one count of animal cruelty.

Representative Costello asked whether a person could fall under the law if dogs were loose and one got hit by a car. Ms. Carpeneti responded that in order to fall under criminal negligence it depended on the circumstance. She supposed it was possible for a person to be charged, if, perhaps a person let their dog out on a busy street during rush hour in Anchorage.

Representative Neuman wondered how criminal intent was proven. Ms. Carpeneti replied that it was based on a person's responses, behavior, and other factors. She noted that a maximum fine for a class C felony was \$50,000.

Representative Neuman asked if the court would determine criminal negligence.

[10:14:53 AM](#)

Ms. Carpeneti responded that she had already reported how the courts determined criminal negligence according to statute. She furthered that in a case of animal cruelty the court may look at factors related to failure to feed an animal, resources available, what the person was doing at the time. The department was ethically bound to the requirement to prove negligence.

Representative Neuman asked for the definition of an animal. Ms. Carpeneti replied that an animal was defined as an vertebrate that was not a fish.

Representative Neuman asked where trapping fell into the law. Ms. Carpeneti responded that the animal cruelty statute excluded hunting and conduct that was necessarily incidental to lawful fishing, hunting, dog mushing, or trapping activities.

Co-Chair Stoltze asked about the practice of dog mushing and how it fell under the law. Ms. Carpeneti replied that the animal cruelty prohibition statute did not apply to

generally accepted dog mushing, pulling contests, rodeos, or stock contests.

Co-Chair Stoltze pointed to Bill Maher and remarks made about dog mushing.

[10:18:44 AM](#)

Vice-chair Fairclough asked how the proposal was consistent with other parts of state statute related to domestic violence, sex trafficking, or child abuse. Ms. Carpeneti responded that the animal cruelty crime would be a class C felony. She furthered that third degree assault was a class C felony. She remarked that most domestic violence assaults were resolved at a class A misdemeanor, fourth degree assault level.

Vice-chair Fairclough asked what other types of crimes qualified as a class C felony. Ms. Carpeneti replied that example of class C felonies were as follows: assault in the third degree; theft of \$500 or more; larceny; and possession of many serious drugs.

Vice-chair Fairclough noted that at some point it was necessary to change the way things were done. She wondered why it was not possible to take the animals away from a person for neglect or abuse. She believed it had to do with the due process and the time it took to prosecute. She asked if there was a different way to solve the problem. Ms. Carpeneti responded that the law did allow for an animal to be forfeited, and the person was required to pay for the care of the animal. She furthered that it was a class A misdemeanor to fail to care for an animal, under criminal negligence. The law specifically required that each animal be considered separate.

[10:24:19 AM](#)

Vice-chair Fairclough wondered whether there was a different way to solve the problem. Ms. Carpeneti added that another provision in statute provided that there were currently some tools available.

Representative Edgmon asked whether shooting an animal would be a misdemeanor. Ms. Carpeneti replied that it would be no crime at all, as long as prolonged suffering was not inflicted.

Representative Guttenberg asked about the definition of a musher. Ms. Carpeneti replied that there was no definition of musher in criminal law.

Ms. Sica pointed to a minimum standard of care in state law, which included reasonable medical attention. He noted that Doug Gardner was available to answer additional questions.

[10:28:06 AM](#)

Co-Chair Stoltze CLOSED public testimony.

HB 179 was HEARD and HELD in Committee for further consideration.

#

ADJOURNMENT

[10:28:46 AM](#)

The meeting was adjourned at 10:28 AM.