

HOUSE FINANCE COMMITTEE
March 21, 2012
9:06 a.m.

9:06:29 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 9:06 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

Representative Craig Johnson; Yasmine Habash, Staff,
Representative Craig Johnson; Wyn Menefee, Chief of
Operations, Division of Mining, Land, and Water, Department
of Natural Resources.

PRESENT VIA TELECONFERENCE

Kirk Wickersham, Anchorage

SUMMARY

HB 115 NAMING WALTER J. HICKEL EXPRESSWAY

CSHB 115 (TRA) was REPORTED out of committee with a "do pass" recommendation and with new fiscal note: DOT

HB 361 DISPOSALS OF STATE RESOURCES

HB 361 was HEARD and HELD in committee for further consideration.

#hb115

HOUSE BILL NO. 115

"An Act designating a portion of Minnesota Drive in Anchorage the Walter J. Hickel Expressway."

9:06:35 AM

REPRESENTATIVE CRAIG JOHNSON presented the bill renaming a portion of Minnesota Drive and a portion of O'Malley Road in Anchorage to the Walter J. Hickel Expressway after the former governor. The road starts downtown and leads past Walter Hickel's home and business. Representative Johnson believed it was time to honor Walter Hickel and the road was an appropriate measure. The governor was pro-development and the road honors him well.

YASMINE HABASH, STAFF, REPRESENTATIVE JOHNSON presented the bill that concurrently names a 7.5 mile portion of Minnesota Drive and O'Malley Road in Anchorage to the Walter J. Hickel Expressway. The road extends from 15th Avenue to the New Seward Highway. No establishments will be required to change their addresses. Governor Hickel served as governor twice and as U. S. Secretary of the Interior under President Richard Nixon and advocated for the development of the state of Alaska and the circumpolar arctic region. He successfully opened Prudhoe Bay to oil development and oversaw the permitting process for the Tran-Alaska pipeline. He was a great advocate for public roads and transportation.

Co-Chair Stoltze asked if the bill was similar to the Eisenhower Corridor. Representative Johnson agreed that was correct. The reason for the concurrent names was so that people and businesses along the road would not to have to change their addresses.

Co-Chair Stoltze asked if it was similar to the Veterans Memorial Highway. Representative Johnson agreed it was similar to many things that have been co-named. Co-Chair Stoltze acknowledged that it was a better way of handling the situation rather than forcing people to change addresses. Mr. Menefee stated that originally a shorter section was chosen that did not impact any businesses, but in terms of honoring a great Alaskan, it was important to name the entire stretch.

Representative Costello pointed out a touching letter from Walter Hickel's wife (copy on file). Representative Johnson added that the family supported the name change honor.

Co-Chair Thomas asked why not rename the Haul Road. Representative Johnson did not want to compete with the Dalton family as the road is officially known as the James W. Dalton Highway. Co-Chair Stoltze noted that the Dalton Highway was named after James Dalton of Fairbanks who played a significant part in building the highway.

Representative Johnson interjected that the Anchorage road runs by Walter Hickel's business and home.

KIRK WICKERSHAM, SELF, ANCHORAGE (via teleconference), supported the bill and hopes it will pass out. He always thought of Minnesota as a temporary name for the road and believed it was appropriate to name the road after Walter Hickel. The former governor is missed and held in the hearts of many Alaskans.

Co-Chair Stoltze CLOSED public testimony.

Co-Chair Stoltze noted in the fiscal note the building of signs for the highway. He asked if the signs would be the brown signs. Representative Johnson replied he would not be part of the sign design, but had asked the department to design something appropriate for the governor.

[9:16:33 AM](#)

Representative Guttenberg indicated his great respect for the former governor.

Co-Chair Thomas remarked that the Department of Transportation and Public Facilities should design an appropriate sign for a governor.

Representative Doogan noted his many encounters with Governor Hickel. He believed Hickel to be a man of firm principles who never backed down when he believed he was right. He agreed that the former governor was one of the most important Alaska politicians in last half of the 20th century. He supported the bill. He hoped people, when seeing the name on the highway would research and learn more about the former governor.

Co-Chair Stoltze noted the former governor's deep imprint on Alaska.

Representative Edgmon supported the bill. He remarked that Walter Hickel was one of the great visionaries of the state. Originally many rural leaders were worried, but later learned to appreciate the former governor's vision and impact. He would like the record to reflect his legacy.

Representative Joule acknowledged that he did not originally appreciate the former governor's visions, but later realized he had many great ideas. He would like Alaska to be more forward looking today. There was no question he was a great man.

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Representative Gara agreed with Representative Joule, that as a democrat he originally did not share the former governor's vision. He was surprised by what Governor Hickel did as a governor in standing up for Alaska. He proved to be an independently minded person.

Co-Chair Stoltze did not believe any other governor has had as great an impact as Governor Hickel.

Vice-chair Fairclough commented on the fiscal note for the roadway identification signs. There was a onetime allocation of \$30,000 for signs.

Vice-chair Fairclough MOVED to report CSHB 115(TRA) out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 115(TRA) was REPORTED out of committee with a "do pass" recommendation and with new fiscal impact note from the Department of Transportation and Public Facilities.

9:24:33 AM

AT EASE

9:29:15 AM

RECONVENED

#hb361

HOUSE BILL NO. 361

"An Act relating to the Alaska Land Act, including certain lease, sale, and other disposal of state land and materials; relating to production royalties from miners; relating to rights to use state water; and providing for an effective date."

Co-Chair Stoltze indicated that the administration had noted some technical errors which needed to be addressed in committee substitute.

WYN MENEFEE, CHIEF OF OPERATIONS, DIVISION OF MINING, LAND, AND WATER, DEPARTMENT OF NATURAL RESOURCES commented that the intent of the bill was to make some changes in statute that will move toward permanent efficiencies. A work plan had been developed on what needs to be accomplished. The changes are meant to provide better timeliness, more certainty, less litigation risks, reduced time and cost to the applicant, and freeing up staff time.

Co-Chair Stoltze remarked that Mr. Menefee should hit the high points of the bill and identify some of the corrective language that needs addressing.

Mr. Menefee cited that he would be working off the paper titled "CSHB 361 (RED): Disposals of State Resources Briefing Paper, March 21, 2012" (copy on file). The bill covers many topics, none of which make a huge difference, but incrementally makes slight differences and efficiencies. The first item is to move more leases under the negotiated lease process rather than competitive lease process. When going through a competitive lease process, there are many necessary procedures. Often though, no one is interested outside of the applicant. The idea is to ask the public if there is a competitive interest in the

parcel, and then if there is no competitive interest; not go through the competitive process. The leasing statutes were last revised in 1984 and a cap was put in that allows the division to go directly to negotiating without going competitive if the lease value is below \$5000 or the time is less than 10 years.

Co-Chair Stoltze observed that "disposals of state resources" in an inadequate short title. It is a misnomer that the state is just divesting itself of resources since most of the discussion has been about leases.

Mr. Menefee remarked that disposals of leases or disposals of land are required to go through a "best interest decision." He returned to the threshold at \$5000 and commented that with costs going up the threshold has been raised to \$10,000. Leases can range all the way up to 55 years, but there are different terms depending on what will be put on the land. When the lease comes to an end, the current statutes require the leaser to go through a full competitive process. In section (2) the division's choice would be if someone is in good standing and has put infrastructure in place, the department would first see if there is any competitive interest, but if not, then just renew the lease.

Mr. Menefee continued that in section (3) the division would like to separate out the respective rules and procedures for timber sales and material sales. The two resources have been intertwined and the proposal is to separate them. There is also a modification of how material sales are prepared. At present, a "best interest" decision is needed on every sale. The division would like to designate a site, sell all the material out of the site, tell the public and address any issues. The process would save applicants and the division time and costs, since appraisals are expensive. If the division offers sales they would like to do it under representative regional sales prices. The price can be determined by an inventory of the costs of materials in a region. If an applicant wants to challenge the price and procure their own appraisal that comes in lower, the division will sell the parcel for the lower price.

Mr. Menefee referenced Section 18, page 12 of the bill which talks of conveying materials for less than fair market value. Some materials coming down the river are

causing flooding and the division would like to sell the material locally for less than fair market value. The state has to do emergency response and repair whenever flooding occurs. Co-Chair Stoltze asked if extraction of Knick River would be a good example.

Mr. Menefee mentioned that a better example would be Seward. He noted that an excess deposit of gravel from the mountains fills up the river which then overflows onto the land. Valdez is also a good example. The flooding is different from the flooding caused by general erosion. There would need to be a plan to determine if it should be sold at less than fair market value. He referred back to the briefing paper and section (4). The section clarified that temporary water use permits may be renewed. The water is used in construction projects, mining, oil and gas industry, and building a lodge. Temporary permits are for five years, but he indicated that many projects last longer than five years. If the same amount of water is being taken from the source for the same purpose, then the division would like to renew the permit and not have to go through all the former re-permitting effort. The division would make sure there were no other demands on the water.

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Mr. Menefee moved to section (5) of briefing paper noting that there were several sections where the Department of Law found a few corrections were needed. The section deals with public auction versus sealed bid. The land sale program uses sealed bids all the time, but over time the process has been written as sealed bid or sometimes as public auction and sealed bid. The Department of Law suggested that the process should be consistent and to only use the term sealed bid. He continued with section (6) that refers to notices. At present when there is a disposal of interest, the public needs to be notified using many methods. The division is now trying to transition to inform people that the online public notice is the key location of where the information will be posted. Newspapers and notices in post office will still be available, but the emphasis is on online public notices. He noted that 84 percent of Alaskans have access to the internet.

Co-Chair Stoltze asked what the Mat-Su newspaper, The Frontiersman, has in paid subscriptions in a community of 90,000. Mr. Menefee replied The Frontiersman has a 7,000

distribution. Co-Chair Stoltze commented they must give a lot of the newspapers away.

Mr. Menefee remarked that the top five newspapers in Alaska reach 14 percent of the population.

He moved on to section (7), Section 13 of the bill, dealing with mining royalties. He announced that very few miners are paying production royalties. Alaska law refers to net profit royalties. A miner can exempt out the amount of money spent to produce the gold. In the end, they do not pay royalties because their costs are so high. Statistics show that only two miners paid any royalties since they were the only ones who had a gross production of \$10,000. He believed staff time could be saved by just giving the miners under \$10,000 an exemption.

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Mr. Menefee continued to section (8) on Royalty Law. When people file royalty payments, the federal income tax gives the option of filing by calendar year or fiscal year. The Mining Tax managed by the Department of Revenue gives the individual a choice. He expressed that the choice should be either calendar or fiscal to be in sync with the federal code. In section (9), Submerged Mining Leases, occurs at present only in Nome. People have to invest a lot of money to produce the offshore mining leases. He disclosed that as long as someone stays in production then at the twenty year mark, the law already says the lease will be extended one year. He declared that is not good for a business which needs more certainty so the department would like to renew the lease for another twenty years. If the lease does not produce, the department can pull out of the lease.

[9:50:45 AM](#)

Representative Guttenberg referred to page 9, Section e, line 2, where it states there is a limit of personal use to two cubic yards. He wondered if there had been any comment or feedback on the section. Mr. Menefee remarked that over the years there have been no provisions in statutes for small quantities where there were no exemptions. There have been people who have called and wanted to take a small amount or quantity out and have been told that they would have to go through the long process. He noted that if the amount is less than two cubic yards per calendar year, then

they would not have to use the long process. There has been a concern of the cumulative effect, but for the small amount to let them have it.

Co-Chair Stoltze noted that Alan Dick mentioned the situation in House Resources with regard to peat extraction. Mr. Menefee replied that the section does not deal with peat. The entire part of (f) is for peat extraction to create a market for peat production.

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Representative Neuman asked if the first section regards the disposal of land. He wanted to know how it would work to purchase land from the state. Mr. Menefee remarked that when purchasing versus leasing land from the state, sales are within the Land Sale Program, Remote Recreational Cabin Site Program, Subdivision Sale Program, and Agricultural Land Sale Program. People nominate areas for sale and the division decides if they are going to dispose of the areas. If the state decides to dispose of the land, then it is offered in a public auction. The land size varies from one to twenty acres.

Representative Neuman asked if someone wanted to purchase state land Section 1 the bill modifies the process. He wondered if the person could contact one of the divisions of the Department of Natural Resources to individually negotiate the sale with the division.

Mr. Menefee indicated that by the statute they would have the capability of doing that, but the practice is not to entertain the sale of state land outside of the normal land disposal procedures. If someone indicates they would like a certain parcel of land, the division would entertain leasing the land. If a person with a long-term lease invests enough in the land, that person could come under a preference right for the sale of the land after the lease time is complete.

Representative Neuman remarked that in streamlining the public process, he wanted to make sure that all interested parties had a chance. He voiced his concern in Section 23 over the temporary use of water. Under the bill, the department is being given a lot more authority and discretion than currently exists. He wondered where that would stop and how would they deal with every use of water

in the state. He believed that every lease needed to be looked at every five years instead of just streamlining the process. He did not believe streamlining was always a good thing.

10:00:57 AM

Mr. Menefee responded that the department looks at those concerns regarding what other uses might occur since authorization and who might be impacted. The difference is not undergoing as formal a decision process, but the department would be looking at other public interest or concerns. He gave an example of the North Slope where an ice road comes into play to a well. He assured that there were all sorts of monitoring going on to understand how much water was being used. He also indicated that the Department of Fish and Game would be monitoring the situation. He noted a lot of information is constantly being gathered. He agreed that before renewing a lease the division would look at what might have changed or potential impacts on the surrounding area. Representative Neuman remarked that an issue continues to develop where local police are stopping individuals on state land asking for permits on vehicles over 10,000 pounds. He had real concerns about the department not looking more closely into all lease situations.

10:05:16 AM

Mr. Menefee asserted that it was not the department's intent in expediting to put less of a concern on protecting the resources. There are generally allowed uses that can happen without a permit. Throughout the state, there are many people using state land without permits where they should have permits. The department does not enough staff to monitor everything that happens in the state. A situation where someone exceeds the generally allowed usage does not come to the attention of the department unless something goes wrong. At the point it goes wrong then it is addressed.

Co-Chair Thomas noted that Vice-chair Fairclough had to leave and she has questions as well as there will be public testimony, therefore, the bill will not move out of committee today. The committee was also waiting for a committee substitute on the bill.

Representative Gara remarked on two concerns. He did not want people gaming the system on taxes. The department has indicated that people can choose between fiscal year or calendar year tax payments. He asked if the company could switch back and forth.

Mr. Menefee responded that in a given year the company would only be able to pick between fiscal and calendar year payments. Typically once a company makes that decision; there is no reason to change. But, for example, if a company is sold and the new company wants to change the method of tax payments, then they could make the change with the department. Representative Gara argued that some companies might want to change depending on how much money they were making in any given year, and he did not want that. He believed that there should only be one choice as there could be gaming of the system.

Co-Chair Thomas interjected that the company would lose six months if switching from fiscal to calendar. Representative Gara agreed then they would be reporting less income.

Mr. Menefee remarked that he was not an accountant, but would talk with the royalty accountant involved and bring the information back to the committee. The intent is not to let gaps occur so there are unreported periods.

Representative Gara signified that he was not worried about gaps, but people switching back and forth depending on which one lets them report less income. He also agreed with Co-Chair Thomas on how the transition would work. Mr. Menefee expressed his need to get back to the committee with the information. Representative Gara expressed that he was uncomfortable with the exemption of small operations. He requested a definition of "small operations."

Mr. Menefee responded there is not a definition in the bill. A preliminary review states that those earning less than \$10,000 gross product incomes, are not paying royalties since they can exempt the amount it takes to produce. The threshold would be set in regulation at somewhere in the \$10,000 area. Representative Gara opined that if people were being exempted from paying taxes, then the legislature should make those decisions, not the department. He would like to see the exemption level stated in the bill. Mr. Menefee responded that an amendment could be made stating that.

10:12:26 AM

Representative Doogan referred to a previous comment of "a lot of times there is no interest in sales." He asked for a better understanding of "a lot of times." Mr. Menefee signified that it would be difficult to give an exact term. He said that most times it concerned remote areas. He estimated that only one or two times over several years would the lease be competitive. Representative Doogan indicated he would like an actual figure before the bill goes out. He noted the governor's recommendations were "to allow the Department of Natural Resources sealed bid procedures if appropriate" He asked for a definition of "if appropriate."

Mr. Menefee explained that the decision process would look at maximizing revenues and if two or more people were in room bidding against each other and that would provide more money; the department would take the auction route. Historically sealed bids usually provide more money because if someone really wants the lease they would bid higher under a sealed bid process. Representative Doogan asked for some figures. Mr. Menefee remarked they he did not know how to provide figures on that question.

Representative Doogan noted section (3) gives the Department of Natural Resources more flexibility in issuing negotiated land leases. He requested the definition of "more flexibility." Mr. Menefee responded that situation exists when it has been determined there is no competitive interest and the department would not have to go through the option procedure.

Representative Doogan asked what are the "certain conditions" when the department would be allowed to renew mineral and land leases. Mr. Menefee asked for the reference. Representative Doogan responded to the section (4). Mr. Menefee replied that the conditions are the good standing conditions. He gave the example if someone has not been making their payments or violated their lease; those would be conditions where the lease would not be renewed. When everything is the same and nothing has changed that would constitute "good standing."

Representative Doogan asked if there was any opportunity for someone else to try lease the land. Mr. Menefee

responded that if someone else expressed a competitive interest, then the department would go through the longer process. The interested party would also have to understand that they would have to reimburse the original leaseholder for all the improvements and investments made to the property. Often the competition walks after that understanding.

Representative Doogan noted that when exempting small mining operations how long would that be for and requested a definition of "small." Mr. Menefee replied that when dealing with mining royalties "small" refers to small production under \$10,000 gross income. There is not a definition in statute. If conditions changes, such as gold prices, then the dollar mark might be adjusted. It is easier to do in regulation then in statute. Representative Doogan wanted some idea of the time and cost savings if the bill is passed.

Co-Chair Thomas OPENED and CLOSED public testimony.

Representative Joule asked if the information requested by Representative Doogan would be available for the entire committee.

Co-Chair Thomas replied that he hoped the department would have the answers by the afternoon.

ADJOURNMENT

The meeting was adjourned at 10:23 AM.