

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 7, 2011

9:08 a.m.

MEMBERS PRESENT

Senator Donald Olson, Chair
Senator Thomas Wagoner
Senator Linda Menard
Senator Johnny Ellis

MEMBERS ABSENT

Senator Albert Kookesh

COMMITTEE CALENDAR

SENATE BILL NO. 45

"An Act extending the termination date of the Alaska coastal management program and relating to the extension; relating to the review of activities of the Alaska coastal management program; providing for an effective date by amending the effective date of sec. 22, ch. 31, SLA 2005; and providing for an effective date."

- MOVED CSSB 45(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 45

SHORT TITLE: COASTAL MANAGEMENT PROGRAM

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	CRA, RES, FIN
04/05/11	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
04/05/11	(S)	-- MEETING CANCELED --
04/07/11	(S)	CRA AT 9:00 AM BELTZ 105 (TSBldg)

WITNESS REGISTER

DAVID SCOTT, Staff
Senator Donny Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a sectional analysis of the committee substitute for SB 45.

JOE BALASH, Deputy Commissioner
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Commented briefly on the committee substitute for SB 45.

FRANK KELTY, Chairman of the Board
Aleutians West Coastal Resource Service Area (AWCRSA)
Unalaska, Alaska

POSITION STATEMENT: Testified in support of extending the sunset for the Alaska Coastal Management Program (ACMP) and the inclusion of the Alaska Coastal Policy Board in the committee substitute for SB 45.

BILL JEFFRESS
Alaska Miners Association
Anchorage, Alaska

POSITION STATEMENT: Commented on SB 45.

ACTION NARRATIVE

[9:08:01 AM](#)

CHAIR DONALD OLSON called the Senate Community and Regional Affairs Standing Committee meeting to order at 9:08 a.m. Present at the call to order were Senators Ellis, Menard, Wagoner and Chair Olson.

SB 45-COASTAL MANAGEMENT PROGRAM

[9:08:24 AM](#)

CHAIR OLSON announced the consideration of SB 45.

[9:08:36 AM](#)

SENATOR ELLIS [moved to adopt the committee substitute (CS) for SB 45(), labeled 27-GS1965\B, as the working document.] Hearing no objection, version B was before the committee.

[9:09:01 AM](#)

CHAIR OLSON, commented that a lot of testimony has been heard from coastal districts on issues with the Alaska Coastal Management Program (ACMP). He noted that the Senate Community and Regional Affairs committee (SCRA) heard similar testimony in 2007 [25th Alaska State Legislature] with the introduction of SB 161 and in 2009 [26th Alaska State Legislature] with the introduction of SB 4. He noted that these previous bills

attempted to improve the coastal districts' participation in the program and both bills were forwarded from SCRA with a "do pass" recommendation. He explained that SB 45 has many provisions from earlier bills and includes the recommendations of the Legislative Audit Division and many of the suggestions from the 2008 evaluation by the United States Department of Commerce's Office of Ocean and Coastal Resource Management.

[9:09:44 AM](#)

DAVID SCOTT, Staff to Senator Donny Olson, said version B is very different than the original bill, proposed by the governor. He noted that the governor's provisions are also included in the CS. He explained that version B does three things: establishes a Coastal Policy Board, eliminates the designated area requirement, and includes various process changes to alleviate some of the coastal districts' concerns and frustrations that currently exist with the program.

He continued by providing a sectional analysis of version B:

Section 1 extends the Alaska Coastal Management Program to 2017. He added that this extension was proposed by the governor.

Section 2 establishes the Alaska Coastal Policy Board.

Section 3 requires an annual report from the Department of Natural Resources (DNR), which would update the department's progress in drafting and adopting regulations to ACMP.

Section 4 adds the Alaska Coastal Policy Board to the entities that DNR can work and consult with.

Section 5 states that DNR must provide planning and consistency review data to coastal resource districts and annually solicit issues for discussion from the Alaska Coastal Policy Board.

Section 6 states that if DNR provides funds which include restrictions on how the funds are to be spent, it will specify the state statute or federal regulation requiring the restriction.

Section 7 requires that a district's coastal management plans must not conflict with statewide standards.

Section 8 requires that the enforceable policies of a district's management plan apply to all the land and water. He noted that

this is the "heart" of getting rid of the designated area requirement.

Section 9 retains the Department of Environmental Conservation (DEC) Carve-out. He explained that it also changes the term "areas of the coast that merit special attention" to "special management areas".

He explained that if a coastal district submits a plan for approval and DNR does not accept it, the plan would then go to the Alaska Coastal Policy Board for review. Section 10 and 11 lay out that process.

Section 12 requires DNR to approve a coastal district plan if it does not conflict with statewide standards or the enforceable policies do not duplicate federal or state law.

Section 13 requires the department to allow members of either the governing body of a coastal district or the coastal resource service areas to participate in the consistency reviews.

Section 14 states that the commissioners of Alaska Department of Fish and Game, DEC, and DNR conduct elevations of consistency determinations.

Section 15 specifies that the 90-day consistency determination is suspended if there is an elevation.

Section 16 defines a "reviewing entity" as one of the three resource agencies.

Section 17 requires that modifications to a coastal plan may not be inconsistent with the statewide standards.

Section 18 defines "elevation" and "special management area".

Section 19 includes a sunset for the Alaska Coastal Policy Board.

Section 20 changes the definition of "area which merits special attention" to "special management area".

Section 21 includes standard transition provisions for a board, which can be seen throughout the legislation.

Section 22 provides that if SB 45 does not become law by the sunset date and the program terminates, that it may be revived.

Section 23-25 includes conditional sunset language.

Section 26 includes an immediate effective date.

9:15:52 AM

SENATOR MENARD noted that she is happy to see that the version B addresses the concerns of her constituents, in particular reinstating the Alaska Coastal Policy Board. She turned to Section 13 on page 11, lines 10-11, of the CS which deals with public notice and comment. She emphasized the importance of public notices being published in local areas affected as opposed to only on the internet. She asked if this has been discussed.

MR. SCOTT replied that the language in this section is a duplicate of the language in the bill passed by the House, HB 106. He noted that a fairly lengthy discussion occurred on getting notices and information out to communities in the House Resources Standing Committee.

CHAIR OLSON commented that in rural Alaska there isn't internet and the only way to get these meetings posted is in the local newspaper.

SENATOR MENARD reiterated the importance of having these notices properly advertised.

SENATOR ELLIS turned to Section 18 on page 13. He asked if "elevation" is a term of art in this field or if it is a word that was made up and defined in statute in order to achieve a goal with regard to this legislation.

MR. SCOTT replied that it is both. He explained that the crux of ACMP is the consistency revision. The state reviews these consistencies and if there is an issue from either one of the three commissioners of the resource departments or a coastal district, then, at that time, it becomes an elevated issue.

9:20:09 AM

CHAIR OLSON asked Mr. Scott to explain the fiscal notes.

MR. SCOTT replied that there are [four] fiscal notes: one from DNR, two from DEC, and one from SCRA. He explained that the fiscal note from the committee reflects what has happened in the operating budget [HB 106]. He explained that the Senate has withdrawn funding for the program pending the passage of [HB

108], currently in conference committee. He continued that DNR's fiscal note (Fiscal Note Number 1) for FY2012 is zero and \$4.691 million for the following five years. He explained that for the committee's fiscal note he took out the zero for FY2012 and replaced it with \$4.691 million.

[9:21:53 AM](#)

JOE BALASH, Deputy Commissioner, Department of Natural Resources (DNR), said the governor offered a clean extension of the program for six years on this particular bill, and this would be DNR's preference in moving forward on ACMP. He explained that at this stage in the process, DNR supports moving the bill along and continuing reviews in order to see what the final product will ultimately look like.

He explained that, with regard to Senator Menard's question on public notice, not every community has a newspaper. He said to ensure that communities are notified, notices can be published either in the local newspaper or online with notices posted in three public places in the community. He added that nothing has been changed by the provisions on page 11 of version B.

SENATOR MENARD said ACMP is slated to have 33 employees. She asked whether this is an adequate number.

MR. BALASH replied the fiscal note that's been developed reflects the status-quo, plus any additional personnel that might be necessary to support increased activities and reviews that will be necessary. He explained that, for example, there will be a significant workload in supporting the Alaska Coastal Policy Board and its meetings and activities. He noted that DNR needs to make sure that it understands what the rules are. For example, if the department must supply districts with hardcopy duplications for a district it will be more expensive; however, if DNR has the latitude to do so electronically the cost will be reduced.

[9:25:31 AM](#)

FRANK KELTY, Board Chairman, Aleutians West Coastal Resource Service Area (AWCRSA), said AWCRSA wants ACMP to move forward and it is very important to the communities in the Aleutians West. He noted that the board passed a resolution in 2010 in support of the reauthorization of the plan. He continued that the board also supports the inclusion of the Alaska Coastal Policy Board so long as it has a meaningful role. He added that the House's version [CSHB 106(RES)] does not do this. He spoke to his involvement with the policy board in past years. He said

AWCRSA believes that the policy board did a good job in the past and gave residents of the area an opportunity to weigh in on issues when there were concerns.

CHAIR OLSON noted that there will be plenty of time for review of the CS and opportunities for public testimony in the future.

[9:29:09 AM](#)

BILL JEFFRESS, Alaska Miners Association, said that the association is still looking for the program to have a predictable process. He noted that once the association is able to review the CS it will form a position as to whether to support it. He cautioned that it is where the "rubber meets the road that really makes or breaks a program." He explained that in implementing some of these policies, it is how it is put together and implemented that will really affect the program overall.

[9:31:22 AM](#)

CHAIR OLSON closed public testimony.

[9:31:36 AM](#)

MR. SCOTT said that a lot of work has been put into this bill and the sunset is coming up this session so something has to happen.

CHAIR OLSON thanked the House for all of the work it put into this issue as well.

[9:32:09 AM](#)

SENATOR ELLIS moved to report CSSB 45(), version B, from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 45(CRA) moved from the Senate Community and Regional Affairs Standing Committee..

[9:32:34 AM](#)

There being no further business to come before the committee, Chair Olson adjourned the meeting at 9:32 a.m.