

SENATE FINANCE COMMITTEE
May 10, 2011
1:08 p.m.

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CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at 1:08 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

None.

ALSO PRESENT

Senator Cathy Giessel; Senator Charlie Huggins; Senator Linda Menard; Senator Bill Wielechowski; David Gray, Staff, Senator Lyman Hoffman, Miles Baker, Chief of Staff, Senator Bert Stedman

PRESENT VIA TELECONFERENCE

SUMMARY

SB 46 BUDGET: CAPITAL

CSSB46(FIN) was REPORTED OUT of committee with a "do pass" recommendation.

CSHB106(FIN)

HB 106-COASTAL MANAGEMENT PROGRAM

CSHB 106(FIN) was HEARD and HELD in committee for further consideration.

#hb106

CS FOR HOUSE BILL NO. 106(FIN)

"An Act extending the termination date of the Alaska coastal management program and relating to the extension; relating to the review of activities and regulations of the Alaska coastal management program; establishing the Alaska Coastal Policy Board; relating to the development, review, and approval of district coastal management plans; relating to the duties of the Department of Natural Resources relating to the Alaska coastal management program; relating to the review of certain consistency determinations; providing for an effective date by amending the effective date of secs. 1 - 13 and 18, ch. 31, SLA 2005; and providing for an effective date."

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Co-Chair Stedman discussed Housekeeping.

Co-Chair Hoffman MOVED to ADOPT Work Draft SCS CSHB 106(FIN) Work Draft version 27-GH1965\H 5/13/11, as a working document before the committee.

Co-Chair Stedman OBJECTED for discussion.

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}David Gray, Staff, Senator Lyman Hoffman{ explained version H of the bill. He stated that the bill maintained the House structure of the new coastal policy board: four commissioners, four representatives from coastal districts in the four Alaskan regions, and one industry representative from industries operating in the coastal zone. He stated that the board would act to review and provide oversight for the Department of Natural Resources (DNR). The department would retain all responsibilities for program management.

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Mr. Gray detailed the Senate changes to the bill. He cited page 3, line 31 through page 4, line 7. In the House version, the public members of the board served at the pleasure of the governor. The Senate version would require that members be removed for cause only. Causes for removal

were as follows: lack of contribution, neglect of duty, incompetence, inability to serve, and misconduct. A removal recommendation could be made by the board or the governor. The individual up for removal could appeal the removal recommendation.

Mr. Gray looked at page 8, lines 11 through 16. The language detailed a new concept for coastal districts to present enforceable policies. The language stated that the districts must present a policy that employed the least restrictive means to achieve its objective. Senate changes added the factors of: the economic effects of alternative methods, the technological feasibility of the alternative methods, and any other relevant factors. The Senate version recognized that the requirement to provide an economic analysis could be beyond the means of smaller coastal districts. The Section had been added to provide flexibility enough to cater to the needs of each district.

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Mr. Gray cited page 10, lines 8 through 12, which had been amended to read:

* **Sec. 13.** AS 46.40.060(c) is amended to read:

(c) **After the board has reviewed the district coastal management plan and submitted recommendations under (b) of this Section** [IF, AFTER MEDIATION, THE DIFFERENCES HAVE NOT BEEN RESOLVED], the department shall enter findings and, by order, may [REQUIRE]

(1) **approve the plan or portions of the plan;**

(2) **require** that the district coastal management plan be amended to **meet** [SATISFY] the provisions of this chapter [OR MEET THE STATEWIDE STANDARDS] and district plan criteria adopted by the department;

(3) **require** [(2)] that the district coastal management plan be revised to accommodate a use of state concern; or

(4) **require the coastal resource district to submit additional information if, in the judgment of the department, additional information is necessary for the department to approve the plan or portions of the plan** [(3) ANY OTHER ACTION BE TAKEN BY THE COASTAL RESOURCE DISTRICT AS APPROPRIATE].

Mr. Gray discussed the changes found on page 12, lines 6 through 8. Subsection (d) of the Senate version stated:

(d) Notwithstanding AS 46.40.030(a)(4), in reviewing and approving a district coastal management plan under (a) of this Section, the department may not require a district to designate areas for the purpose of developing an enforceable policy.

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Mr. Gray referred to page 15, section 24. The previous House version had offered two definitions, one for local knowledge and one for scientific evidence. The Senate CS would delete both definitions. Under current regulations the language "not contradicted by scientific evidence" was unnecessary.

Mr. Gray looked at page 16, Section 27. The House version required the policy board to make recommendations to the legislature concerning clean water and air pertaining to coastal management determinations. The amended Section would require a second report from the board every four years containing an overview of the entire coastal management program. Finally, the Senate version provided clear language as to who would be making departmental decisions in discussions with the Alaska Coastal Policy Board.

Co-Chair Stedman WITHDREW his OBJECTION. There being NO further OBJECTION, SCS CSHB106(FIN) Work Draft 27-GH1965\H 5/13/11 was ADOPTED.

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Co-Chair Hoffman offered thanks to his staff for crafting the new version. He believed that the version before the committee could be agreed to by both bodies.

Co-Chair Stedman noted the two fiscal notes from the Department of Environmental Conservation (DEC) that had already been adopted by the Conference Committee on the Operating Budget and looked to the new fiscal note from DNR for \$6,715,800 to cover the cost of the Alaska Coastal Policy Board and 34 staff positions.

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Senator Olson queried the DEC "carve out" had not been included in the bill.

Co-Chair Stedman requested an explanation of the carve out. Mr. Gray explained that the DEC carve out required that nothing pertaining to DEC permitting would be rolled into coastal zone management program permit overviews. Essentially, the DEC permits would be automatically accepted by the coastal zone management program; this limited the action districts could take concerning coastal zone management. The federal government had asked the state to review the carve out in order to allow for more local participation.

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Senator Olson stated that the frustrations he had heard from constituents were that some local plans had been rejected by DEC. He wondered what local communities could do to appeal departmental decisions. Mr. Gray stated that communities could appeal directly to the commissioner. He added that the DEC deputy commissioner would be on the board, which would create an avenue for appealing directly to the commissioner.

CSHB 106 (FIN) was HEARD and HELD in committee for further consideration.

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RECESSED

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RECONVENED

#sb46

SENATE BILL NO. 46

"An Act making and amending appropriations, including capital appropriations and other appropriations; making appropriations to capitalize funds; and providing for an effective date."

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Co-Chair Stedman discussed Housekeeping. He stated that this would be the sixth meeting on SB 46, which had been heard previously on February 21, March 15, March 16, March 17 and April 11.

Senator Hoffman MOVED to ADOPT CSSB 46(FIN) Work Draft version 27-GS1740\S, 5/10/11 as a working document.

Senator Stedman OBJECTED for discussion.

}Miles Baker, Staff, Senator Bert Stedman{ discussed the changes in the committee substitute (CS). He stated that the CS added \$107 million to the budget:

- \$51 million federal dollars
- \$50 million from the Alaska Capital Income Fund
- \$155 million from the general fund

- The \$155 would be offset by a reduction of \$150 million of general obligation bond authority.

Mr. Baker highlighted the primary changes found in the current bill version. He revealed that the bill contained \$50 million in additional funds for the Alaska Housing Finance Corporation (AHFC) Weatherization Program, which brought the program total to \$100 million, \$75 million for low-income weatherization, and \$25 million for the home rebate program. The governor's original request for the program had been \$75 million. He pointed out the governor's FY 11 supplemental capital items, totaling \$51.5 million, had been added to Sections 13 through 15 of the bill. Federal dollars constituted most of the funding, however, \$1.7 million of the funds would come from the general fund. The bill would increase the savings deposits to the Constitutional Budget Reserve (CBR) by \$500 million. The increase, located on Page 145, would enlarge the FY 11 surplus deposit from \$300 million to \$500 million and the FY 12 from \$200 million to \$500 million.

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Mr. Baker referred to the document "2011 Legislature-Capital Budget Statewide Totals-Senate CS3 Structure" (copy on file). The net increase of \$107 million in spending was reflected in reports 1(a) and 1(b), which compared the CS that had been adopted previously by the committee to the current bill. Reports 2(a), 2(b), and 2(c) compared the current CS with the governor's original request. Column 5 of Report 2(a) reflected the \$778,264,000 difference in additional spending, but did not include savings deposits. Report 3, "Multi-year Agency Summary"(copy on file) broke down spending into 10 columns, each column representing a Section in the CS:

- Column 1, Section 1: FY 12 Capital Budget

- Column 2, Section 4: Energy projects
- Column 3, Sections 7, 8, and 9: cruise ship tax projects
- Column 4, Section 10: school infrastructure projects
- Column 5: Language Section
- Column 6: FY 12 supplemental
- Column 7: total spending
- Columns 8, 9, and 10: Operating Budget

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Mr. Baker stated that two grants totaling \$2.2 million had been added to Section 1, for the Department of Fish and Game. The first change could be found on page 56, line 10. The second could be found on page 56, line 24. He remarked that the items were added based on an agreement in the Conference Committee on the Operating Budget. The Senate version of the operating budget had included funding for both items in FY 12. An agreement had been made to concur with the House to remove the items and list them as three-year capital grants in SB 46.

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Mr. Baker looked at Section 4, the energy Section. An additional \$50 million had been added to the Weatherization Program based on discussions in committee and public testimony since the introduction of the previous CS. He noted that all of the energy projects and project amounts in Section 4 had remained unchanged. Structural changes had been made. Page 108, line 28 reflected the change of the appropriation title to read, "Energy Generation Projects." Intent language had been augmented from the previous bill concerning the 50 percent match requirement, and the expectation was that Alaska Energy Authority (AEA) would examine the appropriations and return to the legislature by February 2012 with reappropriation requests. The original intent of the language was to make clear the legislature's desire that the AEA manage the responsibility of vetting the energy projects. In the event that AEA found that any of the project amounts were not at 50 percent, they could return to the legislature with recommendations for the rebalancing of the appropriations in order to bring the state's investment up to 50 percent.

Mr. Baker pointed out that the expectation that the AEA vet the programs and return to the legislature with

recommendations had caused confusion. The previous language had asked AEA to use the statutory criteria of the renewable energy grant program as guidance in vetting the projects, while at the same time calling for the application of the 50 percent match requirement; the statutory criteria of the renewable energy grant program does not require a 50 percent match. The reappropriation language had been removed, and the 50 percent match language specific to generation projects had been retained. Transmission projects, most of which were Alaska Railbelt Cooperative Transmission and Electric Company (ARCTEC) Energy Projects, were listed as a separate appropriation on page 107, line 24. The appropriation was a single appropriation, with allocations. Under the new CS, the AEA would be given a lump sum for the ARCTEC projects, with recommended allocations; this would give AEA the flexibility to move the funds where necessary. Because the projects were transmission projects, they would not be restricted to the 50 percent match requirement. The appropriation total was higher than the previous CS because of the addition of "Association Soldotna to Nikiski Transmission Upgrade" (found on page 108, line 10). The ten ARCTEC projects totaled \$96.5 million.

Mr. Baker concluded the list of structural changes to Section 4.

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Mr. Baker referred to page 129 of the CS. The current bill reflected an additional \$200 million in savings, in addition to statutory budget reserve deposits. The savings were accomplished in four Sections of the bill. Section 16 made available an additional \$49 million for previously approved certificates of participation (which was state revenue bonding), \$25 million for the Anchorage Jail, and \$24 million for the Alaska Psychiatric Institute. The intent was to pay off the most significant debt shouldered by the state. The language was intended to make funds available that would otherwise been required in the operating budget to pay down the debts. Report 3, Column 9, reflected the change. Section 24 (page 133, line 29 through page 133, line 13), depicted the use of the 2008 Transportation General Obligation Bonds and replacement of the \$150 million bonding authority with general funds. The bill included contingencies from the State Bond Committee that required that the bond committee verify the amounts.

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Mr. Baker stated that Section 22 was a new addition to the legislation. page 131, line 27, reflected the approximately \$8 million to be appropriated to the Department of Health and Social Services for the Low Income Energy Assistance Program (LIHEAP). The roughly \$8 million of FY 12 operating funds would replace federal dollars that had been cut from the program. Sub-Section (a) reflected a \$3.3 million dollar appropriation to be used for grants to tribal entities for energy assistance under AS 47.25.626 for the fiscal year ending June 30, 2012. Sub-Section (b) listed the \$4.6 million for the regular energy assistance program grants for the fiscal year ending June 30, 2012.

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Mr. Baker looked to Page 130, which reflected additions to Section 19. Sub-Section (c) was a \$30 million dollar appropriation from the general fund to the Alaska Housing Capital Corporation account. The Alaska Housing Capital Corporation is a savings account set up within the Alaska Housing Finance Corporation (AHFC), with the intended purpose of capital spending. The current balance of the account was approximately \$370 million. The additional \$30 million dollars would bring the account to \$400 million. line, 14, Sub-Section (d) stated after the \$30 million was transferred and added to the account, the account be used to fund postsecondary scholarship programs at a later date. The language in the sub-Section would earmark funding for the postsecondary scholarship program.

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Mr. Baker continued to page 143, Section 39, titled "Reappropriation of Legislative Appropriations." Sub-Section (b) had been changed to read:

The unexpected and unobligated balance, not to exceed \$750,000, of the appropriation made in sec. 1, ch. 12, SLA 2009, page 44, line 29 (Budget and Audit Committee - \$19,501,800) is reappropriated to the Legislative Council to conduct for the legislature an independent third-party scientific and multidisciplinary study of the potential large mine development in the Bristol Bay drainage for the fiscal years ending June 30, 2011, June 30, 2012, and June

30, 2013. The \$450,000 for the expansion of the study of mine development in the state had been moved and added to the amount that would be reappropriated to the Legislative Council for a system-wide redesign of BASIS, the legislative document management system.

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Mr. Baker returned to page 145, which detailed changes to the savings deposits. The nonseverability language in Section 49 had been changed to read:

Notwithstanding AS 01.10.030, in the event that a court of competent jurisdiction finds the contingency in sec. 48(a) of this Act is invalid, then the contingency in sec. 48(a) of this Act is not severable from the appropriations made in sec. 4 of this Act if

(1) the governor has vetoed, weather by striking or reducing, any appropriation in sec. 4 of this Act; and

(2) the legislature, by action or inaction, has failed to override all vetoes of, including reductions to, appropriations made in sec. 4 of this Act in the time and manner allowed under art. ii, sec. 16 Constitution of the State of Alaska.

Mr. Baker stated that the language was necessary to protect against a third party delaying the appropriations from going into effect. He furthered that the language spoke to the concern that the issue would remain unresolved legally if the governor chose to veto an item in Section 4, and the legislature overrode the veto.

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Co-Chair Stedman WITHDREW his OBJECTION. There being NO further OBJECTION CSSB 46(FIN) was ADOPTED as a working document.

Co-Chair Hoffman MOVED to REPORT CSSB 46(FIN) out of committee with individual recommendations. There being NO OBJECTION it was so ordered.

CSSB 46 (FIN) was REPORTED out of committee with a "do pass" recommendation.

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ADJOURNMENT

The meeting was adjourned at 4:01 PM.