

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 10, 2011

1:30 p.m.

MEMBERS PRESENT

Senator Dennis Egan, Chair
Senator Joe Paskvan, Vice Chair
Senator Linda Menard
Senator Bettye Davis
Senator Cathy Giessel

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 38

"An Act establishing a one-time occupational death benefit for peace officers and firefighters."

- HEARD AND HELD

SENATE BILL NO. 67

"An Act establishing the commercial charter fisheries revolving loan fund, the mariculture revolving loan fund, and the Alaska microloan revolving loan fund and relating to those funds and loans from those funds; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 38

SHORT TITLE: POLICE & FIREFIGHTER DEATH BENEFITS

SPONSOR(s): SENATOR(s) MEYER

01/19/11	(S)	PREFILE RELEASED 1/14/11
01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	L&C, FIN
02/10/11	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 67

SHORT TITLE: LOAN FUNDS:CHARTERS/MARICULTURE/MICROLOAN

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/24/11 (S) READ THE FIRST TIME - REFERRALS
01/24/11 (S) L&C, FIN
02/10/11 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR KEVIN MEYER
Alaska State Legislature
Juneau, AK
POSITION STATEMENT: Sponsor of SB 38.

BRIAN PARTCH
Alaska Professional Firefighters Association
Anchorage, AK
POSITION STATEMENT: Supported SB 38.

MIKE BARNHILL, Deputy Commissioner
Department of Administration (DOA)
Juneau, AK
POSITION STATEMENT: Commented on the fiscal note for SB 38.

CURTIS THAYER, Deputy Commissioner
Department of Commerce, Community and Economic Development
(DCCED)
Anchorage, Alaska
POSITION STATEMENT: Supported SB 67.

WANETTA AYERS, Director
Division of Economic Development
Department of Commerce, Community and Economic Development
(DCCED)
State of Alaska
POSITION STATEMENT: Supported SB 67.

RUSSELL DICK, President and CEO
Haa Aani, LLC
Subsidiary of Sealaska Corporation
Juneau, AK
POSITION STATEMENT: Supported SB 67.

ROGER PAINTER, President
Alaskan Shellfish Growers Association
Juneau, AK
POSITION STATEMENT: Supported SB 67.

MARK STEARNS, Chairman

Alaska Manufacturing Extension Partnership, Inc.
Anchorage, AK

POSITION STATEMENT: Supported SB 67.

JOHN THIEDE, Manager
Aquatic Farm Program
Department of Natural Resources (DNR)
Anchorage, AK

POSITION STATEMENT: Available to answer questions on SB 67.

THYES SHAUB
Alaska Bankers Association
Juneau, AK

POSITION STATEMENT: Commented on SB 67.

ACTION NARRATIVE

[1:30:49 PM](#)

CHAIR DENNIS EGAN called the Senate Labor and Commerce Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Paskvan, Giessel, and Chair Egan.

SB 38-POLICE & FIREFIGHTER DEATH BENEFITS

[1:31:15 PM](#)

CHAIR DENNIS EGAN announced SB 38 to be up for consideration.

SENATOR KEVIN MEYER, sponsor of SB 38, said this measure provides a one-time payment of \$100,000 for a surviving spouse or dependent children of the peace officer or fire fighter who dies in the line of duty. The benefit would come out of the pension fund that that members already pay into. No new state dollars are anticipated to fund this program. The beneficiaries would be the fire fighters, police officers and others in similar positions that pay into the PERS program. This is a one-time benefit that would help families who must deal with a substantial loss of income, expenses (including funeral costs), travel and the aftermath of a tragedy. Fortunately, not many police officers or fire fighters die in the line of duty, but it does happen.

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SENATOR DAVIS joined the committee.

BRIAN PARTCH, Alaska Professional Firefighters Association, said he was available to answer questions.

MIKE BARNHILL, Deputy Commissioner, Department of Administration (DOA), reviewed the fiscal note for SB 38. A letter from Buck Consultants, the state's actuary, was attached. He explained that AS 42.08.036 requires getting an actuarial analysis when a bill impacts the state's retirement system. Because this bill would offer members of PERS with both defined benefit (DB) and defined contribution (DC) plans a new retirement benefit, it creates a modest fiscal note. Buck Consultants indicates an additional \$140,000 for the FY13 DB plan that increases modestly going forward and an additional cost of \$35,000 for the DC plan that also increase slightly going forward. The two figures were added for purposes of the fiscal note.

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SENATOR PASKVAN asked what the actuarial death rate is and how those affect the base rate.

MR. BARNHILL responded that he is not an actuary, but generally he thought the actuary looks at the historical payment of the plan had it been in place for a number of years and projects it forward. That suggests to him that this benefit would be tapped about once a year in the DB plan, but he was not certain that had been the actual experience. It would be less for the DC plan because the membership at this time is smaller. These numbers might have some element of caution in them.

SENATOR PASKVAN asked if the fiscal impact of this change is miniscule compared to the whole plan.

MR. BARNHILL answered \$100,000 is a small amount when the DB plan has \$11 billion in assets.

CHAIR EGAN said hopefully it wouldn't be utilized.

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CHAIR EGAN closed public testimony and held SB 38.

SB 67-LOAN FUNDS:CHARTERS/MARICULTURE/MICROLOAN

[1:39:42 PM](#)

CHAIR EGAN announced SB 67 to be up for consideration.

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CURTIS THAYER, Deputy Commissioner, Department of Commerce, Community and Economic Development (DCCED), read a statement in support of SB 67. He said the DCCED is on a mission to foster a business climate in this state that is conducive to job creation

and economic growth. The department is actively and introspectively engaged in examining how it operates.

He said the Commissioner's Office recently formed the Economic Advisory Council comprised of industry leaders from around the state; it has been instrumental in helping the administration plot a productive course towards economic development. They have sought input from NGOs, trade associations, regional development organizations, ARDORs, the CDQ groups, ANCSA Corporation and legislators. A commonly heard theme has been to increase financing options for small businesses.

MR. THAYER said access to critically needed capital can be the difference between simply getting by and actually thriving. SB 67 creates a suite of three new revolving loan programs to be housed in the DCCED. One is to incentivize the development of the shellfish mariculture industry, another is to assist Alaska charter operators in acquiring halibut permits in the new regulatory and management regime instituted by NOAA, and the other is to seed micro enterprise development across the state.

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The Commercial Fisheries Revolving Loan Fund would provide access to capital for Alaskan-owned charters, repatriate permits to Alaskans, and increase economic benefits to Alaska from this sector from a recirculation of earnings. The Governor's Office had over 100 inquiries on just the issue of the halibut charters last week.

The Mariculture Revolving Loan Fund would provide a spark for a growing industry with great year-round potential for coastal Alaska communities and entrepreneurs. Currently, there are 67 permitted farms in Alaska, but only 25 of them are producing: 10 in Southeast and 15 in South-central communities.

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MR. THAYER said the Microloan Revolving Loan Fund would help small businesses grow by providing loans for start-ups, working capital, inventory expansion and a variety of other commercial interests. Alaska is one of the few remaining states without a microloan program.

He said these programs would compliment two existing small business loan programs administered by the Division of Economic Development: the Small Business Economic Development Revolving Fund and the Rural Development Initiative Fund, both which are geared toward long-term financing. Small businesses are the

number one creator of private sector jobs, he said, so this legislation will help the department in its efforts to spur sustainable economic growth in Alaska.

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WANETTA AYERS, Director, Division of Economic Development, Department of Commerce, Community and Economic Development (DCCED), added that Alaska is lucky to have a responsible and responsive banking community that didn't participate in some of the actions that created a lot of economic uncertainty over the last several years. They are, in fact, active small business lenders. The division's role is to seed those business start ups through the lending them money that private lenders would not be able to lend them. She pointed out that even though private lenders didn't participate in some of the activities that led to economic instability they are now operating under the regulations and oversight that resulted from those activities. They have to live within this national framework and try to create solutions that make sense in Alaska.

She said the three new loan funds are: the Commercial Charter Fisheries Fund, the Mariculture Revolving Loan Fund, and the Microloan Revolving Fund. Each one has different features. She emphasized that they are all revolving loan funds where the repayments and fees will be retained within each fund to help build more funds for future loans. The operating expenses will be paid from the earnings of these funds. She said they received a lot of input and input from urban and rural leaders, and these loan programs will help rural as well as urban areas that haven't been able to access the small business loan funds the department currently has available.

MS. AYERS said the Halibut Charter Revolving Loan Fund is precipitated by the change in the regulatory management regime for Halibut Charter Fishing in areas 2C and 3A in the Gulf of Alaska. The requirement for a halibut charter permit was affective on February 1, 2011. The National Oceanic and Atmospheric Administration (NOAA) estimated, based on log book activity, that there were going to be 532 permittees and they received over 800 applications for those permits. Right now permit prices are still being established in the marketplace, but a ballpark range is \$40,000-100,000. It is important to provide access to capital for Alaskan charter operators with this regulatory change and to repatriate as many permits as possible to Alaska as well as increase the level or resident participation in those fisheries to help Alaska realize the economic benefits of bringing those permits back home.

The fund is proposed to be capitalized at \$5 million with a loan limit of \$100,000. The term would be 15 years and the interest rate may not exceed prime-plus two; it has a floor of 3 percent and a ceiling of 10.5 percent.

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MS. AYERS moved on to the Mariculture Revolving Loan Fund and said there are currently 67 permitted farms in Alaska with 25 of them producing. There is potential for growth, but obviously some of the 45 initial farms might prove to be the borrowers for this particular fund - to help move them into productive status.

She said that mariculture is a relatively new industry in Alaska, but it's highly regulated through ADF&G's Division of Commercial Fisheries, DNR's Aquatic Farm Lease Program, and DEC's Food Safety and Sanitation Program with shellfish, and issues within the Alaska Coastal Management Program that may come into play with mariculture development.

Since 1990 they have had records for productive farms, and complete data for the most recent of 2009. The farm gate value was \$473,000. Anecdotally, some dozen years or so ago, British Columbia started actively trying to develop their mariculture industry and they were at roughly the same level. Now they are at a multi-million dollar industry.

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One other requirement of the Mariculture Loan Fund is a training requirement at the request of the industry. A number of training resources are available:

- through the University Alaska Sea Grant Marine Advisory Program
- other collaborative research and resources available through other branches of the University including the Fishery Industrial Technology Center
- the Alaska Shellfish Growers Association has had an EDA grant to write a best management practices for the mariculture industry.

Their loan officers will work potential borrowers to determine their experience in other areas that would bring transferable skills - like time on the water.

The loan features are proposed capitalization of \$3 million, loan limits of \$100,000, terms for 20 years and interest may not exceed prime plus one; the floor is 5 percent and the ceiling is 9 percent. This has a special feature which is delayed repayment

and accrual. So, a loan for 20 years at the option of the loan officer they may approve a delayed repayment and accrual schedule in the first six years. This is proposed because of the unique needs of the mariculture industry. When you are starting a farm it could be a minimum of probably three to four years and sometimes as long as six years to develop a product and create a revenue stream. The critical piece is you may be writing a 20-year loan but the amortization happens from year 17 or 20. So they will have larger over the end of the life of that loan.

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SENATOR PASKVAN asked if interest is deferred and/or accrued if there is a delay.

MS. AYERS answered there are going to be both options and it will depend on the borrower. She said SB 67 mirrors what the governor introduced last year, and they feel there is wide-spread support.

SENATOR MENARD said she struggles with the initial six-year period of delay. Many businesses want to be part of a small business loan program, and delaying six years almost becomes an attitude of how diligent one has to be. She wanted to see that shortened. Talk me out of that.

MS. AYERS answered with probably members of the mariculture industry could best speak to that particular issue, but with regard to lending practices, they have very savvy lending officers who have worked predominantly in the commercial fishing industry and worked with borrowers with a range of circumstances. One of the reasons that public financing works with regard to riskier enterprises is because they have the capacity to be patient. The vast majority of loans portfolio dollar-wise is in the commercial fishing industry. Many private lenders, not because of the lack of compassion for the commercial fishing industry, but because of the lending practices they are subject to would have written off loans that the department had "waited out with the industry" and proved they could be collected. She suspected what they know going into the mariculture industry that that is their business model and therefore, their loan fund is structured on it.

SENATOR MENARD said she was correlating it to the school loan model.

SENATOR PASKVAN asked what it means that they can wait it out in terms of the default rate.

MS. AYERS replied their lending and collections staff is very experienced especially in the commercial fishing area. Their annualized default rate for last year was 0.6 percent. They would anticipate a certain level of default within each loan fund. For instance, their existing small business economic development fund's annual default rate was 4.5 percent; nationally, SBA microloans are at 4.8 percent. Her department's performance is as good as or better than what would be expected particularly given the fact that they have a risky portfolio that is heavily weighted in an industry that typically isn't considered by private lenders.

SENATOR GIESSEL asked if the halibut permit language on page 3, lines 21-27, was what they were relying on to bring permits back to Alaska.

MS. AYERS replied yes, particularly in area 2C that has a very high non-resident operator rate in the charter industry; it was lower in 3A. They are interested in increasing economic benefits to Alaskans and that is their threshold.

SENATOR GIESSEL asked if an individual gets one of these loans and then moves out of the state, what happens.

MS. AYERS answered there would be a number of constitutional issues, but the department has some good borrower incentive programs to pay on time. They are looking at what can be done for any loan fund if a borrower becomes a non-resident to rescind those incentives, especially with the revolving loan fund.

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SENATOR PASKVAN asked if there is any comparable security interest that is attached to the license itself, so if it goes into bankruptcy the state has a claim on it.

MS. AYERS answered this permit is issued by NOAA, a federal agency; so the department is hampered by how they interpret the UCC and whether or not a lien could be perfected against a particular permit or asset. While they are continuing to work with them on this issue, the easiest answer now is no.

SENATOR PASKVAN commented the reason he brought that up is in the area of liquor licenses a transferor can retain a security interest to the exclusion of others. And this is a transfer process.

SENATOR MENARD asked if these loans are available to fish farmers like "Frankenfish?"

MS. AYERS answered no; the eligible purposes are shellfish, echinoderms, seaweeds and algae.

SENATOR PASKVAN referred to (b)(1) on page 1 and noted the absence of the term "grant", and asked if that was a drafting issue.

MS. AYERS answered yes, and a CS would be forthcoming to correct that error.

[2:04:32 PM](#)

RUSSELL DICK, President and CEO, Haa Aani, LLC, subsidiary of Sealaska Corporation, said they supported SB 67. He said they applaud the administration's effort to address impediments they see to economic development in their rural communities. Haa Aani was created by Sealaska Corporation to address very fragile economic social conditions in rural communities, communities they represent. It's not about owning businesses on a regional scale, but about fostering individual entrepreneurial activities in these communities that normally have impediment after impediment to economic development. Their view is that is the only way these communities can be sustainable over the long term. Each item in SB 67 that removes access to affordable capital is crucial.

For the last couple of years they have seen shellfish mariculture as an opportunity. They have invested a significant amount of capital into developing mariculture in these communities. They have actually purchased infrastructure and provided seed to local growers. Two areas they have focused on initially are Kake and Yakutat and they are doing extremely well today. They have two new small business oyster farms in Yakutat and a partnership in Kake, which again provides oyster seed to entrepreneurs and some vital on the job training and experience to build up their credibility within this industry. As a result of the success thus far they are looking at expanding this program into other rural communities in Southeast Alaska.

SB 67 is very important to apprentice growers because Haa Aani doesn't plan on continuing to invest a significant amount of capital going forward. If SB 67 passes these apprentice growers will easily qualify for the types of loans in it.

With regards to the eligibility requirements in the six years, they see a new grower need capital infrastructure that will cost a new grower over \$120,000 and operating expenses associated with that, living wages, and permit impediments; it all adds up over time. It's harder for a rural resident to try to get in this business because its three years before even one oyster can be sold. It makes sense to give them six years to get to scale where they are able to support themselves as well as meet the covenants of these loans.

SENATOR PASKVAN asked his definition of "apprentice grower" as opposed to "grower."

MR. DICK answered their view is that an apprentice grower who someone who has come in the door and said they've taken a look at this industry and is willing to get into it. He commits to the training and learning; it's from that point until they are ready to go out on their own.

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ROGER PAINTER, President, Alaskan Shellfish Growers Association, said he has been an oyster grower for the past 25 years. He thanked the governor and the administration for SB 67. This is the most significant effort in advancing small businesses he has seen the state put forward.

He said he submitted a letter dated February 4 that covers the legislation and two position papers, one called "The Economic Development Tool" and the other that addresses the terms and needs for the loans in depth. He said the first paper has population figures for coastal Alaska, and if you go down the list they can see why people are real concerned about trying to create jobs in this region.

He said, "When you lose half of your population or more in 35 years, that's an economic and social crisis," and this legislation goes a long way in addressing those. It's important to recognize how much support there is in the Region 4 mariculture development. The association has identified the tremendous front-end costs and effort involved in getting these small businesses off the ground before revenues come in has the greatest impediment.

MR. PAINTER explained that it takes about a year to get permits for a "farm" and then it will take 3-4 years to get a first crop, and another 1-2 years before revenues are solid. During this time significant expenses are incurred (addressed in the

second position paper on terms and deferrals). He stressed that not only is the business owner facing these costs, he is not getting any income. Even once the income starts it will take a while to make up loss of income for those lost years. So, the interest and payment deferrals are a very important component of this legislation. He informed them that these terms were patterned after the state's existing private salmon aquaculture loan program where the state's patience was greatly rewarded with the economic contributions (about \$400 million annually) of the private salmon enhancement program.

He stressed the goal is to create businesses that will still be here 200 years from now. Many oyster farms in the state of Washington have been in business for 200-300 years; that is what they are trying to foster here.

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MARK STEARNS, Chairman, Alaska Manufacturing Extension Partnership, Inc., said they are a quasi-private partnership with the federal and state governments, and that they had gotten strong support from the State of Alaska which they appreciate. He remarked that it is a bit out of their normal experience with the state to have people that are so focused on actually promoting business development and can see the needs that small business owners actually have. Small business is the backbone of the US economy and an important component of Alaska's economy, but they often get lost in the shuffle because they don't have a collective voice to press their need. This would go a long way to help businesses that struggle from time to time. He has seen instances in the last few years where good sound business ideas maybe outside the normal criteria that are required to establish a loan were basically dismissed.

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JOHN THIEDE, Aquatic Farm Program Manager, Department of Natural Resources (DNR), said he was available to answer questions.

SENATOR GIESSEL said a banking executive in a previous meeting wanted a turn-down provision and she didn't see that in the bill.

MR. THAYER replied they are working with the banking industry on that subject. Some Anchorage bankers didn't want a turn-down provision because it would create non-revenue work for them with customers coming in to get a turn down just so they can apply for a loan. However, after this testimony they will go back to

the Banker's Association, and they might see that incorporated in a committee substitute (CS).

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SENATOR MENARD said conceivably the argument could be made that a bank could get inundated because people want to get in quickly and get refused. However, it's possible that the bank could make them a better loan than this proposed legislation would.

MR. THAYER replied that is a possibility and that is something their loan officers will look at when they evaluate a loan. He is willing to discuss with industry what is best for them. He said, "The Division of Economic Development by no means wants to compete with the private sector." They are trying to find the middle ground where it's not quite commercially viable yet it is something that will benefit the small businesses in Alaska.

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THYES SHAUB, Alaska Bankers Association, said a week ago interest was expressed by the association in having a turn down provision. That got reinforced today, but they don't want the turn down to be perfunctory.

She said the Alaskan banking industry is very interested in loaning to small business. "They want people to come in and apply for a loan; not just say give me a letter..." Not all businesses will qualify, especially start-ups, so it will be good to have an alternative for them to go to.

MS. SHAUB said Last year members disagreed and the association was neutral on this issue, but they are getting closer to supporting the idea. She noted the association will have a change of presidents and that Joe Beadle had been nominated. She knows he has a good association with the department and she hoped that would help the association move toward support of the bill instead of just a neutral position.

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SENATOR PASKVAN asked what kind of schedule they should consider for the association's approval.

MS. SHAUB answered they are working with the DCCED to see if they can get something similar to Senator Wielechowski's bill. She said small business is very important to the banking industry; it's important for the whole state. The industry is interested in things that help small business, but they want the first bite of the apple. They're in business.

SENATOR MENARD commented if the turn down provision is in the legislation, perhaps a person could get introduced to other banking services like starting a savings account or buying a treasury bond. There are opportunities for the banking industry even though a person walks through the door just wanting this turn down.

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MS. AYERS amplified on that idea saying their goal in seeding new businesses is that these will become customers for future loans and financial services with private lenders. They already have a partnership with private lending as well as the Small Business Administration (SBA) and they are trying to incorporate USDA loan funds into this as well by giving them the "cheat sheet" which is a laminated summary of the loan funds available through DCCED programs. Private lenders can refer business to the department as they refer business back to them. "It's a symbiotic relationship."

CHAIR EGAN thanked everyone for their comments and held SB 67.

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Finding no further business Chair Egan adjourned the meeting at 2:31 p.m.