

HOUSE FINANCE COMMITTEE  
March 26, 2013  
8:59 a.m.

8:59:53 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 8:59 a.m.

MEMBERS PRESENT

Representative Alan Austerman, Co-Chair  
Representative Bill Stoltze, Co-Chair  
Representative Mark Neuman, Vice-Chair  
Representative Mia Costello  
Representative Bryce Edgmon  
Representative Les Gara  
Representative Lindsey Holmes  
Representative Scott Kawasaki, Alternate  
Representative Cathy Munoz  
Representative Steve Thompson  
Representative Tammie Wilson

MEMBERS ABSENT

Representative David Guttenberg

ALSO PRESENT

Daniel Sullivan, Commissioner, Department of Natural Resources; Ed Fogels, Deputy Commissioner, Department of Natural Resources; Larry Hartig, Commissioner, Department of Environmental Conservation; Wendy Woolf, Petroleum Land Manager, Division of Oil/Gas, Department of Natural Resources; Joe Balash, Deputy Commissioner, Department of Natural Resources.

SUMMARY

HB 129 OIL & GAS EXPLORATION/DEVELOPMENT AREAS

HB 129 was HEARD and HELD in committee for further consideration.

SB 27 REGULATION OF DREDGE AND FILL ACTIVITIES

SB 27 was HEARD and HELD in committee for further consideration.

#sb27

SENATE BILL NO. 27

"An Act establishing authority for the state to evaluate and seek primacy for administering the regulatory program for dredge and fill activities allowed to individual states under federal law and relating to the authority; and providing for an effective date."

9:00:09 AM

DANIEL SULLIVAN, COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, explained that SB 27 and HB 129 were presented by the Department of Transportation and Public Facilities (DOT/PF). He noted the strong bipartisan support for the bill. He provided a PowerPoint presentation, "Statewide Permitting Reform" (copy on file).

Commissioner Sullivan discussed slide 2: "Importance of Permitting Reform for Alaska's Competitiveness."

Permitting reform has bipartisan, national, and local recognition and support

-Permitting reform is a bipartisan effort as policymakers realize the economic benefits of allowing large-scale development projects to proceed in a responsible, timely manner

-States as politically diverse as California, Massachusetts, Indiana, and Kansas are fully engaged in modernizing their permitting processes

-The Federal government also recognizes the issues and has undertaken initiatives to reduce costs, simplify the system, and eliminate redundancy and inconsistency

-Last year (February 2012), The Economist ran a cover story called "Overregulated America" in which it concluded that "America needs a smarter approach to regulation" that will "mitigate a

real danger: that regulation may crush the life out of America's economy"

-In Newsweek June 2011), President Bill Clinton lamented that it can take three years or more to permit major economic development projects. One of his top recommendations to put Americans back to work \-vas to speed up the regulatory approval process and grant state waivers on environmental rules to hasten start times on construction projects

Commissioner Sullivan looked at slide 3: "Importance of Permitting Reform for Alaska's Competitiveness."

Permitting reform is a national issue affecting U.S. competitiveness

-Potential investors sometimes express reluctance to pursue projects in the U.S. and Alaska because of the ever-present risk of permitting delays and litigation

-In 2012, the investment firm Behre Dolbear Group, 'which undertakes an annual global survey of mineral sector investment, ranked the United States last (tied with Papua New Guinea) out of 25 countries in the category of "permitting delays"

"Permitting delays are the most significant risk to mining projects in the United States"

States are negatively impacted by federal rules that they are bound to enforce resulting in a 7-to 10-year waiting period before mine development can begin

Australia is one of the countries with the fewest permitting delays

-Contrast Alcan Highway construction

[9:04:21 AM](#)

Commissioner Sullivan highlighted slide 4: "Importance of Permitting Reform for Alaska's Competitiveness."

Jobs and the Environment are Undermined by Permitting Delays and Overregulation

-While an overly burdensome regulatory system can discourage investments and job creation, it can also undermine, not enhance, environmental protection

-When companies forgo investing in places like Alaska and the U.S. places with very high environmental standards-because of regulatory delays, it can result in passing energy and mineral investment to nations with substandard environmental regulations and little capacity or desire to protect the environment

Last year the Associated Press estimated that 5 to 20 million tons of oil leaked a year in Russia. At even the lower end, that would be the equivalent of a Deepwater Horizon blowout about every two months

Russia experienced approximately 18,000 oil pipeline ruptures in 2010 the figure in the U.S. for the same year was 341

-The global environment would be much better off if hydrocarbons and other natural resources were produced in countries with the highest environmental standards rather than some of the lowest

Commissioner Sullivan highlighted slide 8: "Statewide Permitting Reform." He stated that the assistance of the committee was imperative to reform and he stated that the budget was reduced by one third.

[9:07:49 AM](#)

Representative Gara asked for a synopsis of permitting "streamline bills." Commissioner Butcher replied that HB 360 passed in the previous legislature.

ED FOGELS, DEPUTY COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, stated that interstate mining compact commission bill passed in the previous session.

Representative Gara noted problems with the Army Corps of Engineers in the past. He recalled a slide from a previous presentation that stated that the decisions from the Army Corps of Engineers had been historically timely. He wondered if there would be a similar slide in the presentation. Commissioner Sullivan noted that Pt. Thompson and CD 5 were examples of the need for primacy. He added that the department wished to avoid the problem of federal EPA and Fish and Wildlife permitting delays.

Representative Gara stressed that there were possible deficits that would reach beyond a billion dollars. He felt that the primacy bill would ask the state to spend \$2 million per year. He asked if there would be a slide related to the timeliness of the decisions of the Army Corps of Engineers. Commissioner Sullivan replied that fully evaluating the cost to benefit aspect of primacy. He stated that the Corps budget was recently reduced, so he could not speak to the timeliness of their decisions.

Mr. Fogels added that the time limits were not the whole issue. Stipulation and mitigation requirements played a large role in the permitting process.

[9:14:50 AM](#)

LARRY HARTIG, COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, discussed the primacy aspect of the fiscal note. He noted the bridge and build program in Section 404 permit from the Corp of Engineers. He noted that with primacy, the state could be issuing the permits more quickly. The 404 program included wetlands and waters of the United States, with 65 percent of the nation's wetlands are located in Alaska. He stated that a wetlands permit was required for every project. He discussed the Corps of Engineers and the delays of the 404 program, but stressed the importance of the program. He stated that the wetlands provided the improvement to water quality that clean the waters, and noted that many states were looking at primacy. He stated that the Waste Water Discharging Permitting Process was regulated by Department of Environmental Conservation (DEC) for the last five years. He mentioned that Oregon and Alaska were poised to pursue primacy.

Mr. Hartig noted the large issue on the national level regarding primacy. He stated that the bill would allow the resources to be accessed sooner. He could not promise that primacy was good for the state, but bill authorized the state to pursue primacy. If the bill passed, the department would continue to review the option. He stated that the application for primacy with the EPA would require another visit to the legislature for the money. He anticipated that the process could last a few years.

[9:21:47 AM](#)

Mr. Hartig mentioned that he asked the Corps of Engineers with employees if the state would be well positioned to achieve primacy. He pointed out that the three year study period.

Mr. Hartig stated that the permitting was a three year process, so 5-8 years for permuting effort.

Representative Kawasaki asked about the jurisdiction for Pebble Mine.

Mr. Hartig offered examples regarding the navigable waters. He stated that a negotiation to the memorandum of agreement. He remarked that the memorandum outlined the jurisdiction and how they would be determined. He noted that the pros and cons and the benefits were weighed in the jurisdiction.

Commissioner Sullivan noted that the amount of jurisdiction that the federal government was authorized through the state might not be worth pursuing.

[9:27:37 AM](#)

Representative Wilson asked about the placer miners. Mr. Hartig anticipated that the interior placer miner permits.

Representative Wilson asked if the bill would help the miners through the 7 year process. Commissioner Hartig noted that the 404 permitting and its geographical boundaries had programmatic general permits. He noted that the activity had low impact individually or collectively. He stated that the Clean Water Act and the authority by DEC

permitting for placer miner would not be obstructed by geographical location.

[9:30:02 AM](#)

Commissioner Hartig stated that that the Pebble Mine legislation was not the impetus for the legislation. He pointed out the ability to veto permits, and stressed that EPA still holds the trump card.

Representative Munoz asked if the EPA would have veto authority over the permits that were issued under a state program. Commissioner Hartig stated that two states had primacy, and one dozen other states were seeking it. He remarked that the EPA would have veto power, but only in very rare occasions.

Mr. Fogels pointed out that there were a number of programs that the federal government oversaw in the state.

Commissioner Sullivan noted that the state would be required to meet the federal standards by law.

[9:35:40 AM](#)

Representative Costello asked when the Clean Water Act was passed. Commissioner Fogels replied 1972.

Representative Costello thought that the states pursuing primacy and the timing interesting. Commissioner Hartig replied that Alaska reviewed the decision to review the permitting process. He stated that the process lasted six years, as was the primacy of the program. He did not know why there might be more effort now, but it might be the general recognition that development was hampered by the permitting process. He pointed out that Alaska had so many wetlands that it was worth looking at. He added that most states expressed concern.

Commissioner Sullivan added that the agencies came in at the last minute killed the project.

Representative Costello stated that the bill would allow analysis of the cost benefits of the decision. She asked if state primacy would allow for more local knowledge in the decision making process. Commissioner Butcher indicated that he would provide that information.

[9:42:50 AM](#)

Vice-Chair Neuman asked about resource development projects held up by 404 permit hold up. Mr. Fogels stated that Pt. Thompson was the largest example of a delay, because it stalled 1000 Alaskan jobs. He stressed that primacy would ease that delay.

Commissioner Hartig mentioned smaller projects, but noted that the authorization difficulties. He stressed that there were delay issues with the Corps of Engineers and the permitting process.

Mr. Fogels mentioned that the stipulations on the permits make the legislation extremely important.

Vice-Chair Neuman discussed federal oversight for small miners. He understood that the federal government and the permitting process, but felt that smaller mining operations with too much federal intrusion. Mr. Fogels stated that a wetlands permit was required for nearly every project in the state. He believed that state control of the permitting process would benefit the development of every chapter. He added that different states might have different views about the state's activities, but noted that the state had 64 percent of the country's wetlands. Most wetlands in Alaska were undisturbed.

[9:49:08 AM](#)

Vice-Chair Neuman asked about the oversight of the federal government later on. He hoped for the future chance for the federal government to take a step back. Commissioner Hartig replied that the 404 application would remain the same, including all regulations. The mitigation resources were available and Alaska might make different decisions.

Representative Gara requested that the decision be made with facts. He wished for information about the Army Corps of Engineers, and the 84 percent of the applications were decided in 60 days. He asked for the approval of \$10 million in the next 5 years. He requested an analysis of the Army Corp. Commissioner Hartig pointed out that applications for 402 general permits were processed more quickly, but he would need to see the slide that Representative Gara keeps referring to. He promised to

return with more facts. His experience with permitting was that the 404 was a large project when mitigations were considered, but stated that the process might be appealed. The average cost of a permit application was \$270 thousand.

[9:55:21 AM](#)

Representative Gara discussed CD 5. He wondered if the state takes over primacy, would the Clean Water Act Rules be observed. He discussed mitigation options and the statutory authorities as applied. He stated that decisions would be different and the state would and could take control. Mr. Fogels responded that the bill would be implementing the state's own regulations challenges and appeals in Alaska.

SB 27 was HEARD and HELD in committee for further consideration.

#hb129

HOUSE BILL NO. 129

"An Act relating to approval for oil and gas or gas only exploration and development in a geographical area; and providing for an effective date."

Commissioner Sullivan provided a PowerPoint presentation: "HB 129: Oil and Gas Exploration and Development Approval by Geographical Area."

Commissioner Sullivan continued to discuss a development plan. He noted that it was important to remember that the public interest phase would occur after // findings related to oil and gas leasing. He noted that there was an extensive vetting phase. There was much opportunity for meaningful public input. He stressed that certainty was important to the public process. He pointed to DNR statutes and relayed that there was a good argument that the department currently had the authority; however, it needed to be clarified. The bill would avoid an internal debate on the issue; the department did not want to invite litigation.

[10:03:30 AM](#)

Co-Chair Austerman noted that the bill would be heard and held at approximately 10:25 a.m.

WENDY WOOLF, PETROLEUM LAND MANAGER, DIVISION OF OIL/GAS, DEPARTMENT OF NATURAL RESOURCES, looked to slide 2 titled "Area wide Oil and Gas Lease Sales." She discussed lease sale areas. She moved to slide 3 and explained that the bill would clarify a statutory requirement related to leasing phases. Subsequent to the initial leasing phase, there would be a definition related to how oil and gas development would occur.

Ms. Woolf explained slide 4: "Oil and Gas Lease Sale Process." She discussed what HB 129 did, how it benefitted the public, and how it benefitted the industry.

- It clarifies the Department of Natural Resources can authorize oil and gas exploration and development activities within a geographical area.

- It preserves public notice and review at the beginning of an exploration or development phase.

- It ensures certainty when an approval has been granted for exploration or development activities.

- It allows the public to comprehensively evaluate oil and gas activities within a geographical area.

- It provides an opportunity for input at the beginning of an exploration or development phase.

- It safeguards environmental concerns through special stipulations and conditions.

- It allows a project to be planned within approved parameters and conditions.

- It provides certainty that plans of operations meeting those defined criteria can proceed.

- It ensures predictable project approvals for subsequent exploration or development activity.

Ms. Woolf discussed slide 5: "Oil and Gas Lease Sale Process."

Proposed Area wide Oil and Gas Lease Sale

- Public Notice and Opportunity to Comment
- Evaluate Statutory Criteria
- Develop Mitigation Measures

Final Finding of the Director to Lease Oil and Gas

Exploration Phase Public Notice and Opportunity to Comment

Development Phase Public Notice and Opportunity to Comment

Transportation (Pipelines) Public Notice and Opportunity to Comment

[10:09:32 AM](#)

Ms. Woolf discussed slide 6: "Life of an Oil and Gas Lease."

Year 0

- Final Finding of the Director - Area wide Oil and Gas Lease Sale
- Lease Issued (10-Year Term)

Year 3

- Lease Plan of Operations - Seismic Program (multiple leases)
- Public Notice and Comment Period

Year 5

- Lease Plan of Operations - Exploration Well
- Public Notice and Comment Period

Year 6

- Lease Plan of Operations - Exploration Well
- Public Notice and Comment Period

Year 7

-Lease Plan of Development - Conceptual -  
Development Plan

Year 8

-Lease Plan of Operations - Initial Development -  
Plans  
-Public Notice and Comment Period  
-Lease Plan of Operations - Modified Development  
Plans  
-Public Notice and Comment Period  
-Pipeline Application (AS 38.05.850 or AS 38.35)  
-Public Notice and Comment Period

Year 10

-Production  
-Lease Plan of Operations - Additional  
Development Plans  
-Public Notice and Comment Period

Ms. Woolf discussed slide 7: "Example of Geographical Areas for Exploration Activities." The activities in the core of the North Slope would define the exploration activities. She separated out the shale from the conventional area.

Ms. Woolf discussed slide 8: "Example Geographical Areas for Development Activities." She spoke about the development activities formed by the geography. She remarked that the areas reflected looked at the core of the legislative activities. She stated that the public notice and opportunity for comment were important aspects of the legislation.

[10:15:57 AM](#)

Ms. Woolf detailed slide 9: "Life of an Oil and Gas Lease under HB 129."

Year 0

-Final Finding of the Director - Area wide Oil  
and Gas Lease Angela Salerno, Executive Director,  
National Association of Social Workers Alaska  
Chapter Lease Issued (10 - Year Term)

Lessee develops exploration plans

Year 3

-Lease Plan of Operations - Seismic Program  
(multiple leases)

Year 5

-Lease Plan of Operations - Exploration Well

Year 6

-Lease Plan of Operations - Exploration Well

Discovery - Lessee formulates development plan

Year 7

-Lease Plan of Development - Conceptual  
Development Plan

Year 8

-Lease Plan of Operations - Initial Development  
Plans  
-Public Notice and Comment Period  
-Lease Plan of Operations - Modified Development  
Plans  
-Public Notice and Comment Period  
-Pipeline Application (AS 38.05.850 or AS 38.35)  
-Public Notice and Comment Period

Year 10

-Production  
-Lease Plan of Operations - Additional  
Development Plans

Ms. Woolf discussed slide 10: "Results."

HB 129 provides for a new comprehensive review before  
exploration or development.

HB 129 preserves public participation in the process.

HB 129 allows stipulations to be approved before a company develops site specific plans for exploration or development activities.

[10:20:52 AM](#)

JOE BALASH, DEPUTY COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, discussed the new fiscal note.

Co-Chair Austerman wondered if the financing would be a deposit. Mr. Balash stated that the bill would make permitting much more streamlined. He remarked that there would be more activity from additional lessees, so as the workload becomes greater, the department needed to be much more efficient.

Commissioner Sullivan referred to the shale oil development which turned around North Dakota and Texas.

Co-Chair Austerman requested a better definition of a geographical area to encompass shale oil development.

Vice-Chair Neuman remarked upstream cost of expediting the permitting process. He felt that a fiscal note of \$134 thousand would lead to a net gain for the state.

HB 129 was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

[10:25:10 AM](#)

The meeting was adjourned at 10:26 a.m.