

HOUSE FINANCE COMMITTEE

April 12, 2013

1:12 a.m.

[Note: This meeting is a continuation of the 4/11/13 9:45 a.m. meeting that was recessed at 10:41 p.m.]

1:12:57 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 1:12 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

Senator Micciche; Bruce Tangeman, Deputy Commissioner, Department of Revenue; Senator Micciche; Representative Peggy Wilson; Chad Hutchison, Staff, Senator Coghill; Larry Hartig, Commissioner, Department of Environmental Conservation; Ed Fogels, Deputy Commissioner, Department of Natural Resources; Michelle Bonnet Hale, Director, Water Quality Division, Department of Environmental Conservation; Ernest Prax, Staff, Representative Keller.

SUMMARY

SB 27 REGULATION OF DREDGE AND FILL ACTIVITIES

SB 27 was REPORTED out of committee with a "no recommendation" and with three previously published fiscal notes, two with fiscal impact: FN1(DEC) and FN2(DNR); and one zero note: FN3(LAW).

CSSB 65(JUD)

RETIREMENT PLANS; ROTH IRAS; PROBATE

CSSB 65(JUD) was REPORTED out of committee with a "no recommendation" and with four previously published zero fiscal notes: FN1(LAW), FN2(REV), FN3(ADM) and FN5(CED).

CSSB 83(FIN)

INTEREST ON CORPORATION INCOME TAX

HCS CSSB 83(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published indeterminate fiscal note: FN1(REV).

#sb83

CS FOR SENATE BILL NO. 83(FIN)

"An Act relating to the corporation income tax; relating to the computation of interest under the look-back method applicable to long-term contracts in the Internal Revenue Code; and providing for an effective date."

[1:14:04 AM](#)

Representative Holmes MOVED to adopt Amendment 1. Co-Chair Stoltze OBJECTED for discussion.

Page 1, line 3, following "Code;":
Insert "relating to the assignment of certain tax credits;"

Page 1, following line 8:
Insert a new bill section to read:
"* Sec. 2. AS 43.55 is amended by adding a new section to read:
Sec. 43.55.029. Assignment of tax credit certificate.
(a) An explorer or producer that has applied for a

production tax credit under AS 43.55.023(a), (b), or (1) or 43.55.025(a) may make a present assignment of the production tax credit certificate expected to be issued by the department to a third-party assignee. The assignment may be made either at the time the application is filed with the department or not later than 30 days after the date of filing with the department. Once a notice of assignment in compliance with this section is filed with the department, the assignment is irrevocable and cannot be modified by the explorer or producer without the written consent of the assignee named in the assignment. If a production tax credit certificate is issued to the explorer or producer, the notice of assignment remains effective and shall be filed with the department by the explorer or producer together with any application for the department to purchase the certificate under AS 43.55.028(e).

(b) To be effective, the assignment does not require the approval or consent of the department. The assignment must, at a minimum,

(1) be made in writing and signed by an officer or legally qualified agent of the explorer or producer making the assignment and the assignee, respectively;

(2) identify the explorer or producer making the assignment, the assignee in whose favor the assignment is being made, and the production tax credit application that is the subject of the assignment;

(3) define the interest in the production tax credit being assigned, expressed as either an amount in dollars, which may not exceed 90 percent of the credit applied for, or a percentage of the credit to be issued by the department;

(4) specify an account with a bank located in the state, with sufficient information for the electronic transfer of funds, to receive any future proceeds from the purchase of the tax credit certificate under AS 43.55.028(e);

(5) cite this section and acknowledge that, once filed with the department, the assignment is irrevocable and cannot be modified without the written consent of the assignee.

(c) An assignment complying with this section creates a property interest owned by the assignee in the application and any production tax credit certificates issued by the department to the explorer or producer and any future proceeds resulting from the

application, in the amount or to the extent set out in the assignment. An assignee may create a valid and enforceable security interest in that property as otherwise provided by law.

(d) Notwithstanding any other provision of law, and to the maximum extent permitted under federal laws, an assignment complying with this section shall give the assignee a first priority claim, not dischargeable in bankruptcy, against the proceeds received by the explorer or producer, including its estate, trustee or other representative, resulting from the production tax credit application that is the subject of the assignment under this section, if the assignee has taken the steps necessary under state and federal law to perfect a security interest in the assignment.

(e) Nothing in this section affects the terms and conditions otherwise required for an explorer or producer to qualify for a production tax credit or the determination by the department of the amount of credit the explorer or producer is qualified to receive.

(f) Neither the state nor the department, or any other agency, officer, or employee of the state, shall be subject to suit or any claim arising out of or in connection with an assignment made under this section, whether by act or omission.

(g) The department may adopt regulations to carry out the purposes of this section."

Representative Holmes explained that the amendment would allow gas producers the ability to receive credits, which could be pledged as collateral on loans to facilitate additional drilling. The language was vetted through Department of Revenue (DOR) and Department of Law (DOL). The amendment specified hold harmless language for the state. Requirements for credit qualification were not affected for the explorer/producer.

[1:16:32 AM](#)

BRUCE TANGEMAN, DEPUTY COMMISSIONER, DEPARTMENT OF REVENUE, stated that the department viewed the amendment as "solid." The amendment would help further the goal of opening private equity markets to the smaller investors in the state.

Representative Wilson asked if the amendment would allow similar advantages to producers on the North Slope. Representative Holmes believed that the amendment applied only to Cook Inlet and Middle Earth.

[1:18:27 AM](#)

Representative Gara asked for an estimate of the bill's potential revenue cost for the state. Mr. Tangeman replied that the amendment would not cost the state in revenue because of the existing estimates and projections for tax credits. The projections for tax credits would remain the same with the introduction of a third party.

Representative Gara asked if the bill would result in less oil revenue from the exchange of tax credits. Mr. Tangeman replied no and stated that a company must continue to qualify and apply for the tax credit. The change was the inclusion of a third party in the transaction.

Senator Micciche added that the tax credits would remain the same. The ability to assign credits for collateral was different with the amendment. The goal was to bring additional gas to Cook Inlet consumers. The fiscal note was zero, but the benefit to smaller producers would be great.

[1:20:36 AM](#)

Representative Kawasaki asked about the introduction of the third party. He asked if the certificate could be used against a tax liability. Mr. Tangeman replied that the third party was a lender who would work with the small company. The credit would flow to the third party lender and either remain with the lender as collateral or transfer to the small company.

Senator Micciche stated that the tax credit was a real asset that would be used as collateral to reduce the cost of the loan.

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment 1 was ADOPTED.

[1:22:42 AM](#)

Representative Munoz MOVED Amendment 2. Co-Chair Stoltze OBJECTED for discussion.

Page 1, line 1, following "Act":

Insert "making the income received by a regional aquaculture association or a salmon hatchery permit holder from the sale of salmon or salmon eggs under or from a cost recovery fishery exempt from the corporation income tax;"

Page 1, line 3, following "Code":

Insert "providing for an effective date by repealing the effective date of sec. 8, ch. 51, SLA 2012;"

Page 1, following line 4:

Insert new bill sections to read:

"* Section 1. AS 43.20.012(a) is amended to read:

- (a) The tax imposed by this chapter does not
 - (1) apply to an individual;
 - (2) apply to a fiduciary; [OR]
 - (3) for a tax year beginning after December 31, 2012, apply to an Alaska corporation that is a qualified small business and that meets the active business requirement in 26 U.S.C. 1202(e) as that subsection read on January 1, 2012; or
 - (4) for a tax year beginning after June 30, 2007, apply to the income received by a regional association qualified under AS 16.10.380 or nonprofit corporation holding a hatchery permit under AS 16.10.400 from the sale of salmon or salmon eggs under AS 16.10.450 or from a cost recovery fishery under AS 16.10.455.

* Sec. 2. AS 43.20.012(a), as amended by sec. 1 of this Act, is repealed and reenacted to read:

- (a) The tax imposed by this chapter does not apply to
 - (1) an individual;
 - (2) a fiduciary; or
 - (3) the income received by a regional association qualified under AS 16.10.380 or nonprofit corporation holding a hatchery permit under AS 16.10.400 from the sale of salmon or salmon eggs under AS 16.10.450 or from a cost recovery fishery under AS 16.10.455."

Renumber the following bill sections accordingly.

Page 1, line 5:

Delete "Section 1"

Insert "Sec. 3"

Page 1, following line 8:

Insert new bill sections to read:

"* Sec. 4. AS 43.20.012(c) and 43.20.012(d) are repealed July 1, 2023.

* Sec. 5. Section 8, ch. 51, SLA 2012, is repealed.

* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION; CLAIM FOR CREDIT OR REFUND. Notwithstanding the limitation on the period in which a person may file a claim for credit or refund of a tax paid under AS 43.20, a person that has paid a tax under AS 43.20 on income that is exempt under AS 43.20.012(a)(4), as enacted by sec. 1 of this Act, may file a claim for credit or refund on the tax paid on the exempt income within two years after the effective date of sec. 1 of this Act."

Renumber the following bill sections accordingly.

Page 1, line 11:

Delete "Section 1"

Insert "Section 3"

Page 1, line 12:

Delete all material and insert:

"* Sec. 8. Section 45, ch. 51, SLA 2012, is repealed.

* Sec. 9. Section 2 of this Act takes effect July 1, 2023.

* Sec. 10. Except as provided in sec. 9 of this Act, this Act takes effect immediately under AS 01.10.070(c)."

Representative Munoz explained the amendment clarified in statute that regional aquiculture associations or salmon hatcheries were exempt from state corporate income tax. The provision allowed for the repayment of corporate taxes paid due to a federal audit. The audit resulted in an automatic imposition of the state income tax on the federal charge levied against Southern Southeast Regional Aquiculture Association. The hatcheries were always considered exempt from state income tax and were initially established as nonprofit associations with the cost recovery model, which allowed them to derive revenue from the salmon sold. The amendment would confirm the hatcheries' exemption in statute.

[1:24:24 AM](#)

Co-Chair Stoltze asked what had triggered the hatchery's scrutiny. Representative Munoz replied the IRS audited two nonprofit hatcheries in 2010. Some cost recovery operations were considered taxable by the IRS, which led to arbitration and a settlement with a payment including back payments to 2008 of \$2.15 million. The state automatically implemented the corporate income tax on the facility. Co-Chair Stoltze asked if the corporate income tax was triggered by the federal income tax. Representative Munoz replied in the affirmative.

[1:25:46 AM](#)

Representative Wilson asked how the federal government was involved. Representative Munoz replied that the state continued to challenge the levy of federal taxes. The impact of federal taxes could eventually affect all Alaskan hatcheries, which would ultimately affect the number of fish available for commercial harvest.

[1:27:00 AM](#)

Vice-Chair Neuman asked Representative Munoz if a bill in another committee addressed a similar issue. Representative Munoz responded that the amendment was proposed to her by Representative Peggy Wilson.

SENATOR MICCICHE, stated that he initially declared a conflict with the amendments since the bill originally addressed C corporation look-back taxes. He had come to believe that both amendments fit well into the legislation. He noted that the companion bill was hosted by Representative Costello.

[1:29:11 AM](#)

REPRESENTATIVE PEGGY WILSON, stated that nonprofit hatcheries had never been taxed in Alaska and she questioned the wisdom of the process. To recover the costs, hatcheries would require more fish, which would affect salmon numbers in Alaska.

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment 2 was ADOPTED.

Representative Costello discussed the fiscal note from DOR. She stated that the fiscal note showed indeterminate change in revenues.

Representative Munoz MOVED to REPORT HCS CSSB 83(FIN) as amended out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HCS CSSB 83(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published indeterminate fiscal note: FN1(REV).

[1:33:56 AM](#)

#sb65

CS FOR SENATE BILL NO. 65(JUD)

"An Act relating to property exemptions for retirement plans, individual retirement accounts, and Roth IRAs; relating to transfers of individual retirement plans; relating to the rights of judgment creditors of members of limited liability companies and partners of limited liability partnerships; relating to the Uniform Probate Code, including pleadings, orders, liability, and notices under the Uniform Probate Code and the Alaska Principal and Income Act, the appointment of trust property, the Alaska Uniform Prudent Investor Act, co-trustees, trust protectors, and trust advisors; relating to the Alaska Principal and Income Act; relating to the Alaska Uniform Transfers to Minors Act; relating to the disposition of human remains; relating to insurable interests for certain insurance policies; relating to restrictions on transfers of trust interests; relating to discretionary interests in irrevocable trusts; relating to the community property of married persons; and amending Rule 64, Alaska Rules of Civil Procedure, and Rule 301(a), Alaska Rules of Evidence."

[1:34:19 AM](#)

CHAD HUTCHISON, STAFF, SENATOR COGHILL, introduced himself.

ERNEST PRAX, STAFF, REPRESENTATIVE KELLER, introduced himself.

Representative Costello MOVED CSSB 65 (JUD) as the committee's working document. There being NO OBJECTION, it was so ordered.

Mr. Hutchison stated that the senate version of the legislation mirrored the house version. He explained that changes occurred in the Senate Judiciary and Finance committees. He explained that some provisions were eliminated including one related to the procurement of life insurance policies. He noted that the bill passed the Senate floor 18-0.

Representative Gara appreciated information about the Senate vote, although it was technically improper.

Co-Chair Stoltze CLOSED public testimony.

[1:38:01 AM](#)

Representative Costello discussed the four previously published zero fiscal notes from Department of Law, Department of Revenue, Department of Administration, Department of Commerce, Community and Economic Development.

[1:39:26 AM](#)

Representative Costello MOVED to REPORT CSSB 65 (JUD) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSSB 65 (JUD) was REPORTED out of committee with a "no recommendation" and with four previously published zero fiscal notes: FN1(LAW), FN2(REV), FN3(ADM) and FN5(CED).

[1:40:29 AM](#)

AT EASE

[1:41:55 AM](#)

RECONVENED

#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."

1:42:39 AM

LARRY HARTIG, COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, explained that the bill utilized a provision in the Federal Clean Water Act that allowed states to take primacy of one of the key permitting programs under the Clean Water Act, known as the dredge and fill program or 404 section. The federal government would retain a portion of the primacy. He opined that the state ought to seek primacy because the bulk of the nation's wetlands were in Alaska and most state projects required a 404 permit. The bill established a two-stage process. The first stage provided close review of the cost and benefits of state primacy. The legislature would review the final application for primacy, following the thorough review.

Commissioner Hartig stated that the process might encompass a period of five years. By approving SB 27, the state would not commit to 404, but instead a close review of the very important permitting program under the Clean Water Act.

1:45:56 AM

Representative Gara clarified that the bill did not authorize state primacy, but instead allowed the state to seek it. He mentioned page 4, paragraph 14, which stated that all actions could be taken to enforce the primacy program.

Commissioner Hartig responded that complete applications must be submitted with all statutes and regulations in place. The regulatory process must be initiated and the staff hired. He added that the legislature was the gatekeeper. The bill authorized completion of the application for primacy, but the legislature must review the process prior to its submission.

Representative Gara noted that line 33 stated that the department had the ability to implement the program is authorized. Commissioner Hartig replied that the statutes and staff must be in order prior to presenting the application. The department was unsure of the exact number of people required to run the program. The fiscal note

attached to the legislation provided for program review, but not the money needed to run the program.

Representative Gara asked if \$2.3 million per year was not enough, what it would cost to run the program.

[1:49:53 AM](#)

Commissioner Hartig stated that the fiscal note was \$1.4 million. Some of the money was allocated to Department of Natural Resources. The ultimate cost of pursuing primacy was difficult to calculate as multiple variables were unknown.

Representative Gara noted that \$1.4 million for FY 14 with \$1.5 million for the next 5 years. He asked if the money would be spent seeking primacy.

Commissioner Hartig replied that the best time-estimate was two or three years. He anticipated that the departments would revisit the legislature with information regarding the benefits of primacy. He noted that the bill provided the ability to work with the Army Corps of Engineers to identify the programmatic general permits.

[1:52:51 AM](#)

Representative Kawasaki asked if the 402 permitting process was similar to the 404. Commissioner Hartig replied yes.

Representative Kawasaki asked about what the state would get for \$9 million and what full-primacy would cost. He asked if the costs required for the 402 process were similar to the anticipated costs. Commissioner Hartig responded that the department worked with the Environmental Protection Agency (EPA) to determine the number of necessary position. He recalled that the estimates were inaccurate and the department required additional funds to provide for staff needs. He noted that the growth in Alaska permitting existed in some areas, which required program expansion.

MICHELLE BONNET HALE, DIRECTOR, WATER QUALITY DIVISION, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, estimated that the 402 program had the advantage of incumbent staff involved in waste water permitting working for DEC's state program. The 404 program, in contrast would be built from

scratch. She noted that the 402 legislation required the addition of \$1.5 million and 13 new positions for a total of \$4.8 million and 43 positions.

Representative Kawasaki reviewed the history of permits processed and noted that the processing time for permits met the national standard. He wondered about the benefits of primacy anticipated when permits were already processed in ample time.

[1:57:20 AM](#)

ED FOGELS, DEPUTY COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, discussed the dredge and fill program. He pointed out that the value of primacy influenced the quality of the permitting decisions rather than the timeliness of the process. He believed that having state agencies make the decisions would allow flexibility to adapt to Alaskan conditions.

Mr. Fogels opined that misconceptions regarding the interpretation of information.

Ms. Hale agreed and stated that she had reviewed the data regarding the programs. She learned that 67 percent of the permits were processed in less than 120 days. She noted that 134 individual permits took longer than 120 days to process. She mentioned reports indicating that a United State Army Corp of Engineers' permit took 150 days to process.

Representative Kawasaki asked how many permits would be regulated through the state. Ms. Hale replied that the bill would allow and provide the analysis requested regarding the number of permits regulated by state agencies.

Mr. Fogels added that the department had reviewed the provisions of the Clean Water Act and the intent was to gain primacy over most wetlands in Alaska.

[2:01:24 AM](#)

Co-Chair Austerman asked about a U. S. Army Corps of Engineers Nationwide Permit (NWP) 29. He thought that the permit allowed up to one half acre. He wondered if the permit would be transferred to the state or remains with the Army Corps of Engineers. Commissioner Hartig replied

that the permit would be subject to the geographical limitation. The application of the permitting process would be negotiated in the Memorandum of Agreement. He noted that the question had been introduced recently in Washington DC and the response was that the Memorandum of Agreement would provide the details.

Co-Chair Austerman asked if all of the wetland permits fell under 404. Commissioner Hartig replied that a specific definition was used for the 404 program.

Mr. Fogels replied that many wetlands existed in Alaska and some subset was deemed jurisdictional by the US Army Corps of Engineers. The department would work with the US Army Corps of Engineers to better understand how the subset would be delegated to the state. Co-Chair Austerman offered to provide more information to better answer his question later.

[2:04:21 AM](#)

Representative Wilson appreciated the legislation. She was seeking an advocate for her miners. She understood that the state would continue to work within the EPA guidelines. She asked to know how the state would have a gentler hand than the federal government.

Commissioner Hartig replied that the benefits of primacy included work with Alaskan projects including accountability for the projects. He added that the state would be under the same federal laws, in terms of the Clean Water Act; there was room for interpretation and discretion. He provided an example of a discretionary decision made by the department.

Representative Wilson asked if the state would collect a permitting fee on top of the federal government's fee. Commissioner Hartig responded that one straight permitting fee would be required. The amount of the state fee would be dictated by the current statutes set by the legislature.

Mr. Fogels added that some placer miners were nervous about the fees required for mitigation. He believed that primacy would offer the advantage of working with the applicant to arrive at Alaska-specific mitigation measures.

Representative Wilson stated that one of her mining constituents spent seven years in the application process.

[2:08:45 AM](#)

Representative Munoz pointed out the benefit of litigation in state court versus in the federal court.

Representative Gara asked if placer mining could be regulated differently without seeking primacy. Mr. Fogels responded that primacy was only one tool that could be used to control wetlands permitting. Other tools, such as programmatic general permits were also valuable. The legislation allowed for research regarding the many tools that would work to facilitate the process of permitting.

Representative Gara asked if programmatic general permits would ensure state primacy for placer mining. Mr. Fogels replied that he did not know yet. The legislation would provide the opportunity for the departments to look more closely at their options.

[2:10:42 AM](#)

Representative Edgmon MOVED Amendment one. Representative Wilson OBJECTED for discussion.

Page 1, line 8, following "FINDINGS":

Delete "."

Insert "AND INTENT. (a)"

Page 2, following line 10:

Insert new subsections to read:

"(b) It is the intent of the legislature that

(1) government to government coordination and consultations take place if federal authorization is received for the administration and enforcement of a state dredge and fill permitting program under 33 U.S.C. 1344 (sec. 404, Clean Water Act);

(2) a federally recognized tribe be treated by the state as a government for the purposes of government to government coordination and consultation.

(c) In this section, "federally recognized tribe" means a tribe that is recognized by the United States Secretary of the Interior to exist as an Indian tribe under 25 U.S.C. 479a (Federally Recognized Indian Tribe List Act of 1994)."

Representative Edgmon noted that the purpose of the amendment added the requirement for state investigation of the advantages of a tribal relationship. He posed the question because many of Alaska's resources were tribally owned or controlled. He opined that without a Coastal Zone Management process, larger environmental entities could bypass local governments. He believed that resource development would be hampered by the lack of relationship between the tribal entities and the state. He expected that the state agency representatives would dispute the amendment.

[2:13:16 AM](#)

Commissioner Hartig stated that his agency and the administration were sensitive to the concerns of the tribal entities. He wished to work with the tribal entities and local governments to implement programs. He noted that the model for the 402 program provided valuable guidelines. He noted that the program description provided rural community and tribal participation. He noted that the agreement utilized the same language as the EPA's government-to-government consultation.

[2:17:28 AM](#)

Representative Edgmon appreciated the agreeable commentary.

Co-Chair Stoltze detected that the department was working with the government entities on a regular basis. He asked if a flaw existed in the amendment.

Commissioner Hartig stated that the amendment goes beyond the 404 program. The amendment discussed the state's ability to recognize tribes as government entities and deem consultations "government-to-government." He noted that the jurisdiction for that ability did not reside with DEC. The department sought optimal communication with the tribal entities, but another step was required to establish the government-to-government relationship.

Co-Chair Stoltze understood that the amendment expressed intent language.

Representative Edgmon agreed and stated the hope for further investigation from the department. He stressed that

he had seen the empowerment of tribal governments in relation to their connections to federal agencies. He expressed frustration with the absence of a formal relationship. He promised to continue pursuing the issue with every opportunity available, but chose to withdraw his amendment. There being NO OBJECTION, it was so ordered. Amendment 1 was WITHDRAWN.

[2:20:50 AM](#)

Representative Gara MOVED Amendment 2. Representative Wilson OBJECTED for discussion.

Page 5, following line 9:

Insert a new subsection to read:

"(d) The Department of Environmental Conservation and the Department of Natural Resources shall consider a reasonable fee structure for permit applications under this section in order to mitigate the costs of administering a state permitting program."

Representative Gara recalled conversations with the commissioners about the amendment's content. He expected a proposal from the departments, but since none was provided, he drafted the amendment. The amendment requested a reasonable fee structure to address permit applications to mitigate the costs of administering a state permitting program.

[2:22:27 AM](#)

Commissioner Hartig recalled the conversation and he did not opine that the amendment was necessary because the state had a statute guiding the fee structure in AS. 37.10.052. The statute prescribed fees based on "average reasonable direct costs" that were incurred by the departments in permitting and compliance activities. The structure applied to agency permitting activities and permits issued under the state 404 program. The fees were charged to permit applicants and were partially funded by program receipts. Staff involved in issuing the permits tracked their time and the fees were periodically revised in regulation.

Representative Gara appreciated the statute. With the new information, he chose to withdraw the amendment. There

being NO OBJECTION, it was so ordered. Amendment 2 was WITHDRAWN.

Co-Chair Stoltze appreciated Representative Gara's efforts.

[2:23:47 AM](#)

Representative Costello discussed the three fiscal notes. Two notes had fiscal impact; one from DEC and the other from DNR. The third fiscal note from Department of Law had zero fiscal impact.

Co-Chair Austerman asked about DNR fiscal note. He asked if the interagency receipts were anticipated to come out of the \$1.4 million given to DEC. Mr. Fogels replied in the affirmative.

Representative Costello MOVED to REPORT SB 27 out of committee with individual recommendations and the accompanying fiscal notes. Representative Gara OBJECTED. He did not believe that the departments made the case that the bill would be worth the money it cost. He opined that the exploratory process would not cost millions of dollars. He stated that the examples provided by the departments were situations where the state would not gain primacy. He advocated for a narrower placer mining program. He added that the Army Corps of Engineers were a group of local people. He did not feel compelled to spend the large sum of money.

Representative Gara WITHDREW his objection.

Representative Kawasaki OBJECTED. He expressed concern with the legislation and the memos from DEC regarding supposed primacy benefits. He opined that permit fees would likely increase under primacy. He expected the state to face budget reductions. He pointed out the memo dated January 31 regarding the program assumption methods discussed state primacy, which would take an estimated 4 to 5 years. Another option in the memo discussed the ability to cooperatively work to administer the programmatic general permits for the Army Corps of Engineers. He preferred to pursue the less costly option.

Representative Kawasaki WITHDREW his objection. There being NO further OBJECTION, it was so ordered.

SB 27 was REPORTED out of committee with a "no recommendation" and with three previously published fiscal notes, two with fiscal impact: FN1(DEC) and FN2(DNR); and one zero note: FN3(LAW).

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ADJOURNMENT

2:32:52 AM

The meeting was adjourned at 2:33 a.m.