

ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE

February 7, 2014

1:05 p.m.

MEMBERS PRESENT

Representative Dan Saddler, Co-Chair
Representative Peggy Wilson, Vice Chair
Representative Mike Hawker
Representative Craig Johnson
Representative Kurt Olson
Representative Paul Seaton
Representative Scott Kawasaki

MEMBERS ABSENT

Representative Eric Feige, Co-Chair
Representative Geran Tarr

COMMITTEE CALENDAR

HOUSE BILL NO. 285

"An Act excluding certain land from the Kachemak Bay Critical Habitat Area."

- MOVED HB 285 OUT OF COMMITTEE

HOUSE BILL NO. 268

"An Act relating to big bull moose derbies."

- MOVED CSHB 268(RES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 285

SHORT TITLE: KACHEMAK BAY CRITICAL HABITAT AREA

SPONSOR(S): REPRESENTATIVE(S) CHENAULT

01/29/14 (H) READ THE FIRST TIME - REFERRALS

01/29/14 (H) RES

02/07/14 (H) RES AT 1:00 PM BARNES 124

BILL: HB 268

SHORT TITLE: BIG BULL MOOSE DERBIES

SPONSOR(S): REPRESENTATIVE(S) T.WILSON

01/21/14 (H) READ THE FIRST TIME - REFERRALS
01/21/14 (H) RES, FIN
02/03/14 (H) RES AT 1:00 PM BARNES 124
02/03/14 (H) Heard & Held
02/03/14 (H) MINUTE(RES)
02/07/14 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE MIKE CHENAULT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of HB 285.

TOM WRIGHT, Staff
Representative Mike Chenault
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 285 on behalf of the prime sponsor, Representative Mike Chenault.

WALT WREDE, City Manager
City of Homer
Homer, Alaska

POSITION STATEMENT: Testified in support of HB 285.

RANDY BATES, Director
Division of Habitat
Department of Fish & Game (ADF&G)
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 285.

REPRESENTATIVE T. WILSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of HB 268.

BRUCE TANGEMAN, Deputy Commissioner
Office of the Commissioner
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 268.

JOE KOSS, Tax Auditor
Tax Division
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 268.

ACTION NARRATIVE

[1:05:08 PM](#)

CO-CHAIR DAN SADDLER called the House Resources Standing Committee meeting to order at 1:05 p.m. Representatives Johnson, Kawasaki, Olson, P. Wilson, Seaton, and Saddler were present at the call to order. Representative Hawker arrived as the meeting was in progress.

HB 285-KACHEMAK BAY CRITICAL HABITAT AREA

[1:05:31 PM](#)

CO-CHAIR SADDLER announced that the first order of business would be HOUSE BILL NO. 285, "An Act excluding certain land from the Kachemak Bay Critical Habitat Area."

[1:05:54 PM](#)

REPRESENTATIVE MIKE CHENAULT, Alaska State Legislature, as prime sponsor, stated that HB 285 would exempt the Homer port and harbor from the Kachemak Bay Critical Habitat Area. The City of Homer supports HB 285, noting it would allow the City of Homer to move forward and capture some revenue from the oil industry while protecting the habitat as originally set up by the community.

[1:07:37 PM](#)

TOM WRIGHT, Staff, Representative Mike Chenault, Alaska State Legislature recalled that the Kachemak Bay Critical Habitat Area was generally well received and the enabling legislation "sailed" through the legislature. He noted the Alaska Department of Fish & Game (ADF&G) and Department of Natural Resources (DNR) are available for questions.

MR. WRIGHT pointed out the resolution from the City of Homer in members' packets, which passed the city council unanimously. He also noted that the sponsor received a letter today [dated February 6, 2014] from Kachemak Bay Conservation Society voicing several concerns.

[1:09:31 PM](#)

CO-CHAIR SADDLER opened public testimony on HB 285.

1:09:51 PM

WALT WREDE, City Manager, City of Homer, stated that the City of Homer strongly supports HB 285. He referred to City of Homer Resolution 14-005 [dated January 13, 2014] in members' packets adopted unanimously in support of HB 285. He reported that this bill will remove the Homer port and harbor area from the critical habitat area. He said the Kachemak Bay Critical Habitat Area is very important to Homer. It protects Homer's land and waters, sustains the economy and the lifestyle that people in Homer enjoy. The community doesn't intend to propose any changes to the critical habitat area as part of this bill.

MR. WREDE advised members that the port and harbor was never intended to be included as part of the Kachemak Bay Critical Habitat Area and has caused numerous problems with enforcement and regulation interpretation. He anticipated potential benefits if HB 285 passed. First, it would resolve conflicts that currently exist between the statutes and the Kachemak Bay Critical Habitat Area Plan with respect to the regulatory applicability of the plan on the port and harbor and the municipal land. Second, it would make things much clearer and straightforward for ADF&G to permit certain activities at the port and harbor. Third, it would solve some long-standing problems that this discrepancy has caused. For example, the critical habitat area plan says that a vessel cannot be moored for more than 14 days or drop an anchor for more than 14 days. He acknowledged that it's easy to see how it could cause problems for a busy harbor like Homer.

MR. WREDE indicated that the city has experienced quite a few permitting delays for even simple projects within the harbor, such as when the harbor replaces floats or other infrastructure within the harbor. Finally, probably the most noteworthy would be the effect on drilling rigs. Right now the ADF&G doesn't have the ability to permit drill rigs at the Homer dock if the drill rig is parked for maintenance and repair and resupply. He reported that oil and gas activities are ramping up in Cook Inlet and Homer is the logical place for rigs to be serviced. The port and harbor has sufficient infrastructure, emergency response capabilities, and it is an ice-free deep water port. The City of Homer would like to be of service to the oil and gas industry and this is one way to accomplish this. He thanked members for the opportunity to comment.

1:13:33 PM

CO-CHAIR SADDLER, after first determining no one else wished to testify, closed public testimony on HB 285.

[1:14:11 PM](#)

REPRESENTATIVE KAWASAKI stated the overall purpose of the Kachemak Bay Critical Habitat Area is to preserve habitat crucial to fish and wildlife populations. He presumed the port is in the middle of the critical habitat area but was unsure of the geography. He asked whether this is typical.

RANDY BATES, Director, Division of Habitat, Department of Fish & Game, stated that the exclusion is within the center of the critical habitat area.

REPRESENTATIVE KAWASAKI wondered if other critical fish and game habitat areas have an exemption right in the middle, creating a "donut" type of area.

MR. BATES answered yes; that a number of other critical habitat areas, state game refuges or sanctuaries - 32 areas comprising a little more than 3.2 million acres statewide - have either donut holes or privately-owned sections of land are fully and completely surrounded by critical habitat areas. He pointed out some fall on federal land, municipal land, or private inholdings, so this would not be unique in terms of the structure of land ownership in Alaska.

[1:16:26 PM](#)

REPRESENTATIVE SEATON noted that page 2 of the Kachemak Bay Critical Habitat Area plan excludes federal and municipal lands within the critical habitat area. It wasn't envisioned that the Port of Homer would be part of the critical habitat when it was drawn up in 1974. He highlighted one issue arose when the City of Homer obtained permission to lease land from the state to extend to a deep water dock and allow the same type of industrial use to occur on the end of the spit. Questions were raised on whether it was state land or municipal land. Last year the legislature transferred the ownership of the land to the municipality. This bill will clarify allowable activities. In fact, some areas have been intended to be dredged and re-dredged annually; however, it's hard to allow disturbances on land designated as part of the critical habitat area.

REPRESENTATIVE SEATON stated another problem arose when a drilling rig moored at the dock needed to put its legs down to stabilize during wind, raising questions about whether the activity was illegal storage even though it was at the same location. The ADF&G wasn't able to issue a permit and ultimately it all worked out but the incident highlighted the need to make proactive changes without impacting the integrity of the critical habit. The usages will not change. For example, if a drilling rig needed to put its legs down for safety, it would still require a permit but it wouldn't be as complicated as it is under the current Kachemak Bay Critical Habitat Area.

REPRESENTATIVE SEATON said he was at the city council meeting when the resolution passed and no one objected.

[1:20:02 PM](#)

REPRESENTATIVE P. WILSON moved to report HB 285 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HB 285 was reported from the House Resources Standing Committee.

The committee took an at-ease from 1:20 p.m. to 1:23 p.m.

HB 268-BIG BULL MOOSE DERBIES

[1:23:21 PM](#)

CO-CHAIR SADDLER announced that the next order of business would be HOUSE BILL NO. 268, "An Act relating to big bull moose derbies." [Before the committee was Version 28-LS0851\N, Martin, 1/31/14, adopted as the working document on 2/3/14.]

REPRESENTATIVE P. WILSON moved to adopt the proposed committee substitute for HB 268, Version C, labeled 28-LS0851\C, Martin, 2/4/14 as the working draft.

REPRESENTATIVE SEATON objected for discussion purposes.

[1:24:00 PM](#)

REPRESENTATIVE T. WILSON, Alaska State Legislature, explained the change, which adds "Snow Town Ice Classic" to the title.

REPRESENTATIVE SEATON removed his objection [Version C was before the committee].

[1:24:50 PM](#)

REPRESENTATIVE KAWASAKI moved to adopt Amendment 1, labeled 28-LS0851\C.1, Martin, 2/6/14, which read as follows:

Page 1, line 1:
Delete "**derbies**"
Insert "**classics**"

Page 2, line 24:
Delete "**derbies**"
Insert "**classics**"

Page 3, line 4:
Delete "**derbies**"
Insert "**classics**"

Page 3, line 12:
Delete "**derbies**"
Insert "**classics**"

Page 3, line 18:
Delete "**derbies**"
Insert "**classics**"

Page 4, line 11:
Delete "derby"
Insert "classic"

REPRESENTATIVE HAWKER objected for discussion purposes.

[1:25:24 PM](#)

REPRESENTATIVE KAWASAKI explained that "derby" gives a perverse financial incentive to hunt. He was unsure if the bill would increase the number of hunters for a limited resource. He stated that Amendment 1 would highlight betting on the size of the antlers. In Fairbanks there are 6,200 permits and 1,400 moose killed [annually], so ideally 6,200 people would participate in the derby; however, under Amendment 1, it could attract more people to bet on the size of the antlers rather than competing for the size of the largest antlers.

[1:27:18 PM](#)

REPRESENTATIVE P. WILSON asked the sponsor to weigh in on Amendment 1.

REPRESENTATIVE T. WILSON responded it was not her intent to encourage someone to shoot the biggest moose, but she was unsure that changing the term from "derbies" to "classics" makes the intended change.

[1:28:41 PM](#)

BRUCE TANGEMAN, Deputy Commissioner, Office of the Commissioner, Department of Revenue (DOR), responded that he was unsure of the language in Amendment 1.

CO-CHAIR SADDLER explained that the word "derbies" would be deleted and the word "classics" inserted in its stead.

JOE KOSS, Tax Auditor, Anchorage Office, Tax Division, responded that the statutes don't specifically define this. In general, however, the use has been that classics are considered guessing games in which the person guesses the depth of snow or the specific time the ice goes out, whereas with a derby, such as a fish derby, would identify the biggest fish caught or in this case the widest spread of antlers taken during the derby.

[1:30:26 PM](#)

REPRESENTATIVE SEATON said that a constituent in his area had expressed concern about the potential increase in the moose harvest. He pointed out existing antler size restrictions that require a minimum of spike four or above "50" inch spread due to the limited number of moose. He pointed out the definition of "big bull moose derby" means a contest in which prizes are awarded for harvesting "bull moose" based on the size or spread of the antlers. Therefore, based on the definition and his conversation with the sponsor, he understood that the amendment would eliminate "big bull moose" derbies and only allow a classic. He pointed out the statute will affect the entire state so he would favor broadly-permissive language for derbies and classics, which could allow communities to choose whatever is more applicable for the area. Therefore, he is not in favor of Amendment 1, as written. He asked whether the sponsor would be willing to consider broader language.

[1:32:46 PM](#)

REPRESENTATIVE T. WILSON answered that opening it up to the most people is the purpose of this bill. She pointed out that this provides one mechanism to raise revenue. She appreciated Representative Seaton's statement since she hopes for more opportunities for groups so she supports opening it up.

[1:33:56 PM](#)

REPRESENTATIVE JOHNSON asked regardless of what it is called, a person could create an element of chance even if the person wasn't hunting. He asked if he was wrong in this assumption.

MR. KOSS requested clarification of the question.

REPRESENTATIVE JOHNSON explained that the person who guessed closest to the size of antlers could share the pot of money. He clarified it would be a lottery and asked whether it matters if it is called a derby or a classic.

MR. KOSS supposed so and did not see a problem with that.

[1:35:24 PM](#)

REPRESENTATIVE HAWKER, addressing his objection to Amendment 1, stated he is going to support the sponsor in calling this a derby. He offered his belief there isn't any reasonably defined difference between a classic and a derby. Further, he did not think this has anything to do with conservation issues since those matters are handled in rigorous and controlled manners.

REPRESENTATIVE SEATON agreed if just talking about the word derby or classic that would be so; however, on page 4, [AS 04.15.690 (50) reads:

"big bull moose derby" means a contest in which prizes are awarded for harvesting bull moose based on the size or spread of the antlers.

REPRESENTATIVE SEATON explained that the problem isn't the general term but that the definition specifically includes harvesting bull moose. He appreciated the sponsor recognizing all areas of the state. He suggested one fix if acceptable to sponsor, could insert "derbies or classics" to create more options for communities.

[1:38:16 PM](#)

REPRESENTATIVE KAWASAKI withdrew Amendment 1.

REPRESENTATIVE OLSON agreed with Representative Hawker that bills can be challenging with respect to derbies and classics.

REPRESENTATIVE HAWKER concurred with withdrawing Amendment 1.

[1:39:07 PM](#)

CO-CHAIR SADDLER moved to adopt Conceptual Amendment 2, to remove the references to "big" as it may be cleaner to allow the derby organization to advertise the specifics.

REPRESENTATIVE HAWKER objected, saying he wants to preserve the sponsor's original intent of the bill.

REPRESENTATIVE SEATON asked the sponsor to comment.

REPRESENTATIVE T. WILSON said she would like organizations in her area to be able to raise money. She offered her belief that having the language "big" or not having it was fine either way.

[1:40:46 PM](#)

A roll call vote was taken. Representative Saddler voted in favor of Conceptual Amendment 2. Representative Hawker, Johnson, Olson, Seaton, P. Wilson, and Kawasaki voted against it. Therefore, Conceptual Amendment 2 failed by a vote of 1-6.

REPRESENTATIVE JOHNSON encouraged the sponsor to remove "harvesting" in the next committee, which would give people an opportunity to participate.

CO-CHAIR SADDLER, after first determining no one else wished to testify, closed public testimony on HB 268.

[1:43:12 PM](#)

REPRESENTATIVE P. WILSON moved to report the proposed committee substitute (CS) for HB 268, Version C, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 268(RES) was reported from the House Resources Standing Committee.

[1:43:51 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 1:44 p.m.