

SENATE FINANCE COMMITTEE
February 27, 2013
9:06 a.m.

9:06:37 AM

CALL TO ORDER

Co-Chair Meyer called the Senate Finance Committee meeting to order at 9:06 a.m.

MEMBERS PRESENT

Senator Kevin Meyer, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Anna Fairclough, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Lyman Hoffman
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

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; Senator Cathy Giessel; Deantha Crockett, Executive Director, Alaska Miners Association; Michael Satre, Executive Director, Council of Alaska Producers

PRESENT VIA TELECONFERENCE

Greg Conrad, Executive Director, Interstate Mining Compact Commission

SUMMARY

SB 2 INTERSTATE MINING COMPACT & COMMISSION

SB 2 was REPORTED out of committee with a "do pass" recommendation and with previously

published fiscal notes: FN1 (DEC), FN2 (DNR), and FN3 (LAW).

SB 27 REGULATION OF DREDGE AND FILL ACTIVITIES

SB 27 was REPORTED out of committee with a "do pass" recommendation and with previously published fiscal notes: FN1 (DNR) and FN2 (ADM).

#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."

9:08:09 AM

LARRY HARTIG, COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, (DEC) introduced his support staff. He shared that in crafting the legislation the department had considered the most efficient use of time and personnel. He stated that the department had led the charge at moving the legislation forward. He noted that seeking primacy was a significant endeavor. He recognized that the department wanted to attract experts on regulatory programs which would limit work with contractors or non-firms. He stressed that an informed discussion with the federal government concerning what should be delegated to states would be necessary in meeting the intent of the legislation.

9:11:49 AM

ED FOGELS, DEPUTY COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, relayed that in his extensive experience with permitting activities for large projects he had noted the importance of the relationship between the state and the U.S. Army Corps of Engineers (USACE). He said that wetlands permitting had been important to every project. He believed that state primacy would be beneficial and would give the state more control over the permitting process. He highlighted that there was not an economic activity in the state that did not somehow rely on the wetlands permitting process.

[9:12:51 AM](#)

Vice-Chair Fairclough looked to Page 4, line 19 of SB 27:

notwithstanding any other provision of law, take all actions necessary to receive federal authorization of a state program for the department and the Department of Natural Resources to administer and enforce a dredge and fill permitting program allowed under 33 U.S.C. 1344 (sec. 404, Clean Water Act) and to implement the program, if authorized

Vice-chair Fairclough wondered if the legislature would have any recourse for not going forward regardless of the cost of acquiring the program.

Commissioner Hartig replied that it was important going forward that federal agencies understand that the intent of the state was to gain primacy. He stressed that statutes and regulations, as well as personnel, needed to be in place before the state applied for primacy. He noted that the program had to be comparable to federal law, which meant that the department would need to have the positions funded in the budget. He said that the request in the current fiscal note would not be enough to fund the positions; without the positions the state would not have a complete application to submit to the federal government.

[9:15:29 AM](#)

Vice-Chair Fairclough understood that there would be approximately 50 new, full-time employees to implement the federal program.

Commissioner Hartig responded that 49 was the number of people in the regulatory program for the corps. He stated that he did not believe that the number would increase. He said they did not expect to get the full program from the corps due to geographic limitations.

[9:16:42 AM](#)

Co-Chair Meyer believed that the state takeover of the program would expedite the permitting process which had been one of the biggest frustrations voiced by small businesses in particular. He noted that the cost of implementing the legislation would be significant. He

appreciated why the employees were necessary and why they should be state employees rather than contract employees. He expressed concern that unfunded liability could raise with each new position. He asked if the first 5 needed to be hired immediately, or if the state could hold off on any of the positions until the next budget cycle.

Commissioner Hartig responded that the 5 positions would be added to DEC this year, and the next 3 would be added in two years in FY 15, making a total of 8 new positions in the department.

9:20:09 AM

MICHELLE BONNET HALE, DIRECTOR, WATER QUALITY DIVISION, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, spoke to the five positions in FY 14. She said that one position was a fairly high level management position because the department needed someone who understood how to coordinate with EPA and USACE and the different federal service agencies. She relayed that there were additional two program development positions and two capacity building positions. She elaborated that the program development positions were necessary to complete the list of tasks necessary to develop the application that would be submitted to the EPA for assumption of the program. She explained that the first task would be to write a program description of how the program would operate; one of the key components would be determining which waters and wetlands were subject to USACE oversight and which would be able to be assumed by the state. She said that the state would have a lot of work to figure out the cost and benefits of the program; describing what the program would look like and how it would operate. She stated that a contractor would work on a gap analysis on statutes and regulations and would possibly write regulations and draft statutes. She reiterated that the amount of work would be significant and detail oriented. She furthered that the capacity development track of the legislation augmented the program development track. She explained that statewide programmatic general permits were permits that the USACE could issue, and the state could cooperate with the corps on the issuance of the permits and then take over management of the permits. She said that the people in capacity development positions would work with the corps to develop statewide programmatic general permits which the state would implement and then run.

9:24:00 AM

Vice-Chair Fairclough wondered about the work/share agreement between the state and the USACE.

Ms. Hale replied that the work/share program was similar to the relationship the state had with the Environmental Protection Agency (EPA). She said that it could involve a state employee sitting at the corps in order to learn how to run the program and identify efficiencies, and to assist the corps with the permit backlog. She asserted that the collaborative work/share between the corps and the state would benefit the state in the end.

9:25:56 AM

Senator Olson queried the mining industry's perspective on the program.

Mr. Fogels responded that his experience with smaller mining operations revealed a great concern for the future of the industry.

Senator Olson noted that there were a number of small mining operations trying to make money in Nome in a short period of time. He said that the increase in depressed miners was bordering on a social issue in Nome. He wondered who would be paying for the extra burden to social services.

Mr. Fogels said that he had been working closely with the mayor of Nome to identify solutions to the problems.

9:30:26 AM

Senator Olson said that the city was at the breaking point of its public safety constraints.

Mr. Fogels said that there was an increased appropriation in the governor's budget request that would extend the length of the DNR position in Nome.

9:31:26 AM

Senator Olson opined that the streets in Nome were becoming populated with vagrants due to the lack of mining activity after the influx of miners.

Commissioner Hartig interjected that he could not speak to the social issues in Nome, but he recognized the additional activity in the area due to gold prices. He stated that discussions had been held with the mayor of Nome, as well as the city council, concerning how to maintain order. He said that the representative from DNR currently in Nome had experience with law enforcement, and because DNR was a regulatory agency, was being granted some police authority.

Senator Olson expressed concern that having too many new people in the community could tax the social and essential services beyond the community's capabilities.

[9:33:53 AM](#)

Co-Chair Kelly expressed support for streamlining the permitting process. He understood the one of DNR's missions was to make it so businesses could operate in the state without the "ridiculous hindrances" that were currently seen throughout the permitting process. He encouraged the committee to pass the bill out of committee with the published fiscal notes.

[9:34:51 AM](#)

Co-Chair Kelly MOVED to REPORT SB 27 out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

SB 27 was REPORTED out of committee with a "do pass" recommendation and with previously published fiscal notes: FN1 (DNR) and FN2 (ADM).

[9:36:14 AM](#)

AT EASE

[9:38:26 AM](#)

RECONVENED

#sb2

SENATE BILL NO. 2

"An Act enacting the Interstate Mining Compact and relating to the compact; relating to the Interstate Mining Commission; and providing for an effective date."

[9:39:01 AM](#)

SENATOR CATHY GIESSEL, stated that SB 2 would allow Alaska to become a full member of the Interstate Mining Compact Commission (IMCC). She explained that full membership would give the governor an active vote which would give the state a broader voice on mining discussions at the national level. She shared that the IMCC was a coalition of mining states that join together to represent natural resource development and environmental protection as it related to mining. She furthered that there were currently 19 member states and that Alaska was one of 6 associate member states. She said that the IMCC recognized the basic importance of the mining industry and the essential balance between the country's need for minerals and the protection of the environment. She noted the various elements of the compact found in the bill. She spoke to the fiscal note, and stated that the dues were based on the amount of minerals that were produced in each state. She pointed out that the highest dues were paid in West Virginia and that Alaska could experience annual dues of approximately \$35,000 per year, not including the provisions for travel to compact meetings. She stated that the membership could be cancelled at any time.

[9:42:06 AM](#)

Senator Hoffman remarked that it was odd that western states were only associate members.

She explained that the most prolific mining states to date had been eastern states. She said that all of the associate western states were in the process of gaining full membership. She added that Montana was evaluating joining the compact as well.

[9:42:55 AM](#)

Senator Dunleavy remarked that the eastern states with full membership were huge coal producers.

[9:43:12 AM](#)

Co-Chair Meyer wondered why a state would not join. He felt the cost of joining the IMCC was minimal when compared to the benefits of membership in the compact.

Senator Giessel responded that she did not know why some states were not yet full members. She noted that associate members had lower dues. She shared that some of the associate members had similar legislation in place to gain full membership in 2013.

[9:44:26 AM](#)

Vice-Chair Fairclough wondered when the original compact was formed.

Senator Giessel replied that the IMCC was formed in April of 1971.

[9:45:53 AM](#)

Senator Bishop wondered if full membership would give the state more standing against Mine Safety and Health Administration (MSHA) overreach.

ED FOGELS, DEPUTY COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES responded that full membership would include voting rights for the state to influence the policy direction of the compact.

[9:47:51 AM](#)

Mr. Fogels stressed that mining was becoming increasingly important to the state; the state now had 7 operating mines that were strong economic contributors to the state economy. He said that the state had a strong regulatory permitting process and he gave assurances that all of the active mines had strong environmental records. He shared that the governor had tasked the department with crafting a more efficient permitting system. He relayed that work with federal agencies was a key part of changing the process. He asserted that the IMCC would foster a better and more productive relationship with the federal government. He reiterated the benefits of joining the compact. He offered the example of IMCC pushback against the U.S. Environmental Protection Agency (EPA) concerning hard rock mining bonding efforts. He shared that he was the governor's current designee to IMCC and he believed that full membership would put the state in a stronger position.

[9:51:33 AM](#)

Vice-Chair Fairclough queried the travel line in the fiscal note of \$20,000.

Mr. Fogels responded that a key component to membership in the IMCC was attending meetings which required travel to various locations. He noted that travel expenses for associate membership had been covered in departmental budget to this point. He felt that it was important to show a commitment that in the long-term the state would be represented at all meetings.

[9:52:50 AM](#)

Vice-Chair Fairclough if DNR had expended all the money that was currently assigned for travel in the department's budget.

Mr. Fogels referred the question to another staff member within the department.

[9:53:14 AM](#)

Senator Dunleavy understood that Alaska had more coal than any other state in the country.

Mr. Fogels replied in the affirmative.

[9:54:27 AM](#)

DEANTHA CROCKETT, EXECUTIVE DIRECTOR, ALASKA MINERS ASSOCIATION, (AMA) testified in support of SB 2. She said that it was increasingly difficult for mineral development to happen under federal constraints. She believed that having regulators engaged with IMCC would give the association a better understanding of how to communicate with federal agencies. She felt that full membership would give Alaska greater access to expertise in the mining field. She said that miners in the state were having a lot of trouble with MSHA issues and oversight and that the IMCC had been helpful.

[9:57:51 AM](#)

MICHAEL SATRE, EXECUTIVE DIRECTOR, COUNCIL OF ALASKA PRODUCERS, spoke in support of SB 2. He said that the state should join as a full member in order to ensure a smooth permitting process and to join with other states in

fighting against federal overreach. He said that the council believed that the state was a leader in permitting of all resources. He believed that the state's process was rigorous, science based, transparent and predictable. He felt that the state needed to go out and benchmark permitting procedures with other states. He concluded that a combined voice was always better than a single voice.

[10:00:57 AM](#)

GREG CONRAD, EXECUTIVE DIRECTOR, INTERSTATE MINING COMPACT COMMISSION (via teleconference), testified in support of SB 2. He stated that Alaska had joined the IMCC as an associate member in 2006. He said that the legislative and regulatory climate on the federal level highlighted the importance for the state to maintain a strong voice. He pointed out that IMCC was recognized and respected in Washington D.C. as an expert on mining issues. He said that the act of participation and commitment of the full members carried the organization forward in terms of support and leadership. He relayed that full membership would put the state in a position that would be favorable for resource development. He stated that the state's full membership would be recognized by those who worked with the compact on a regular basis and would bring about a greater degree of recognition and influence regarding Alaska's participation in the compact.

[10:05:43 AM](#)

Vice-Chair Fairclough wondered what the dues were for the associate membership.

Mr. Conrad replied that Alaska's associate member dues were \$15,000 annually.

[10:07:03 AM](#)

Vice-Chair Fairclough queried the number of times the IMCC met each year.

Mr. Conrad replied that there were two formal meetings per year, with the possibility of other meetings.

[10:07:43 AM](#)

Senator Hoffman wondered whether other states had considered joining the associate member status.

Mr. Conrad replied that Montana, Arizona, and Idaho were considering associate membership.

Co-Chair Meyer CLOSED public testimony.

[10:09:42 AM](#)

Vice-Chair Fairclough MOVED to REPORT SB 2 out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

SB 2 was REPORTED out of committee with a "do pass" recommendation and with previously published fiscal notes: FN1 (DEC), FN2 (DNR), and FN3 (LAW).

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ADJOURNMENT

[10:10:40 AM](#)

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