

ALASKA STATE LEGISLATURE
SENATE SPECIAL COMMITTEE ON ENERGY

March 17, 2015

1:10 p.m.

MEMBERS PRESENT

Senator Click Bishop, Co-Chair
Senator Peter Micciche, Co-Chair
Senator Lyman Hoffman
Senator Bert Stedman
Senator Dennis Egan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 57

"An Act relating to the development of state emission standards in accordance with the federal Clean Air Act."

- MOVED CSSB 57(NRG) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 57

SHORT TITLE: CLEAN AIR ACT PLAN

SPONSOR(s): SENATOR(s) GIESSEL

02/20/15	(S)	READ THE FIRST TIME - REFERRALS
02/20/15	(S)	NRG, RES
03/17/15	(S)	NRG AT 1:00 PM BUTROVICH 205

WITNESS REGISTER

SENATOR CATHY GIESSEL
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 57.

JERRY MULLINS, Vice President
Government Affairs and External Relations
National Mining Association

Washington, D.C.

POSITION STATEMENT: Supports SB 57.

NORMAN ROKEBERG, Commissioner
Regulatory Commission of Alaska
Anchorage, Alaska

POSITION STATEMENT: Noted rulemaking concerns regarding the Environmental Protection Agency.

ALICE EDWARDS, Deputy Commissioner
Division of Air Quality
Department of Environmental Conservation
Juneau, Alaska

POSITION STATEMENT: Stated no departmental position on SB 57.

ACTION NARRATIVE

[1:10:23 PM](#)

CO-CHAIR PETER MICCICHE called the Senate Special Committee on Energy meeting to order at 1:10 p.m. Present at the call to order were Senators Egan, Hoffman, Stedman, Co-Chair Bishop, and Co-Chair Micciche.

SB 57-CLEAN AIR ACT PLAN

[1:11:04 PM](#)

CO-CHAIR MICCICHE announced the consideration of SB 57.

CO-CHAIR MICCICHE asked for a motion to adopt the CS for SB 57, version: I, as the working document.

CO-CHAIR BISHOP moved that the committee adopt the CS for SB 57 [version 29-LS0523\I].

[1:11:40 PM](#)

CO-CHAIR MICCICHE announced that without objection, version: I was before the committee as the working document.

[1:11:46 PM](#)

SENATOR CATHY GIESSEL, Alaska State Legislature, Juneau, Alaska, said SB 57 is a response to some egregious regulation proposals made by the Environmental Protection Agency (EPA). She read a sponsor-statement as follows:

In June 2014, the EPA released a proposed rule to regulate emissions from power generators. The proposed

rule has two main elements: 1) state-specific emission reduction targets and 2) guidelines for the development, submission, and implementation of state plans to meet those targets. The EPA set Alaska's CO2 emissions reduction target at 26 percent by 2030.

First and foremost, SB 57 requires the Department of Environmental Conservation (DEC) to seek a waiver or similar exemption for Alaska to the EPA's proposed rule known as "Existing Source Performance Standards" under section 111(d) of the Clean Air Act. SB 57 also provides guidance to DEC regarding the development of a State Implementation Plan (SIP) should this rule go into effect as it is currently proposed.

So what are some of the elements in the state's implementation plan that the bill would prohibit; in other words, the bill tells the department that the plan should not result in:

1. Increased retail electric rates in a way that would disproportionately affect households of low or moderate income.
2. Less reliable electric service, resource inadequacy, or transmission constraints.
3. Impairment of investments in existing electricity generating capacity.
4. Impairment of the competitive position of manufactures or other public or private sectors of the state economy.
5. Decrease in employment in the state.
6. Decrease in state or local revenue.

You can see that there are some sidebars set around what this plan could and could not do, specifically could not do. We don't want negative effects on our economy and on our citizens.

The EPA's proposed rule would cause significant increases in Alaska's electrical rates, challenge the reliability of electric service, and will effectively preempt the state's energy policy. The state's plan must include some specific and forcible measures and responsible parties. Once approved by the EPA, the state plan would be federally enforceable.

SB 57 is written to protect the state from EPA's overreach and protect the citizens. So SB 57 is a tall order, but we are not alone. 15 other states have either passed legislation or resolutions in opposition to EPA's section 111(d) of the Clean Air Act.

There are some folks asserting that this piece of legislation is somehow copied from other organizations and I will tell you that that is not true; this is specifically written for Alaska by my office and collaboration with other offices who have the same concern I do. So this would set parameters that would protect Rail Belt ratepayers from Seward to Anchorage to the Interior.

[1:15:49 PM](#)

CO-CHAIR MICCICHE noted that the next committee of referral will be Senate Resources. He stated that he has no need to hold on to the bill and noted his intent to move the bill out of committee.

[1:17:43 PM](#)

JERRY MULLINS, Vice President, Government Affairs and External Relations, National Mining Association, Washington, D.C., stated that he supports SB 57. He revealed that 20 other state legislatures are making sure that their State Implementation Plans (SIP) complies with the President's Clean Power Plant Rule without causing higher electricity rates or future reliability issues. He pointed out that some states have passed legislation that requires state legislatures to approve their SIP. He revealed that there is worry the EPA can simply force a Federal Implementation Plan (FIP) on states that are slow or do not offer plans as fast as the EPA expects. He pointed out that the EPA cannot simply go into a state and start telling power plants, businesses, or households what to do regarding electricity production or consumption. He summarized that making sure a state has elected officials serving as a responsible stakeholder regarding SIP development is the best path forward to ensure that affordable and reliable electricity remains a reality for all Alaskans.

CO-CHAIR MICCICHE asked Commissioner Rokeberg if he sees any problems with SB 57 getting in the way of the Regulatory Commission of Alaska's (RCA) processes or impeding the state on complying with the EPA's requirements.

[1:20:09 PM](#)

NORMAN ROKEBERG, Commissioner, Regulatory Commission of Alaska, Anchorage, Alaska, replied that his only concern is making sure that all of the leadership and people of Alaska have a common goal. He stated that the RCA has significant problems with the EPA's rulemaking docket under 111(d) of the Clean Air Act. He revealed that the RCA's executive branch worked hard in putting together comments that were submitted to the EPA in December. He explained that the most appropriate action was to request a waiver from the EPA. He pointed out that Alaska is not connected to the continental-grid and the impact from 111(d) on Alaska is quite extraordinary. He revealed that Alaska had joined other states in filing a lawsuit to set the EPA's rulemaking aside, but noted that Alaska was subject to the EPA's imposition of a plan if the state did not file a plan. He detailed that an EPA drafted plan would be enforced by the EPA and subject to citizen's suits. He summarized that he was concerned if Alaska did not provide a SIP.

[1:23:12 PM](#)

CO-CHAIR MICCICHE closed public testimony. He noted letters of support from the Teamster's Local 959, Fairbanks Chamber of Commerce, Alaska Railbelt Cooperative Transmission & Electric Company (ARCTEC), Alaska State Chamber of Commerce, Consumer Energy Alliance-Alaska, Alaska Miners Association, and Golden Valley Electric Association. He noted one letter of opposition submitted by Ms. Whytal from Homer where she worries SB 57 prohibits DEC from hearing a very unique, state-specific implementation plan. He asked Senator Giessel if SB 57 prohibits a plan from being constructed.

SENATOR GIESSEL replied that SB 57 does the opposite. She detailed that SB 57 urges DEC to create a plan that is specific for Alaska in addition to asking for an exemption. She asserted that there was no prohibition and her office had met with DEC. She revealed that DEC understood SB 57's goal and the department would carry its provisions forward.

CO-CHAIR MICCICHE thanked Senator Giessel and pointed out that the committee was paying attention to letters of testimony and that the sponsor was aware of the specified issues.

SENATOR EGAN asked if the Administration had a position on the bill.

CO-CHAIR MICCICHE stated that he nor the sponsor could speak for the Administration.

SENATOR GIESSEL concurred with Co-Chair Micciche.

1:25:42 PM

ALICE EDWARDS, Deputy Commissioner, Division of Air Quality, Department of Environmental Conservation, Juneau, Alaska, replied that she does not have a formal position from the Administration on SB 57. She concurred with Commissioner Rokeberg that DEC shares concerns regarding the provisions in 111(d) about having affordable and reliable power in the state. She added that the department also shares the RCA's concerns about the state's ability to meet both the bill's requirements and the federal rule requirements that may be put into place. She summarized that the department is concerned that the state may end up with a federal plan rather than a state plan.

SENATOR EGAN asked if the federal plan would cost the state more money.

MS. EDWARDS replied that DEC believes the analysis required would cost a little bit more money than what normally is prepared.

SENATOR EGAN specified that the state would have to spend a lot of money fighting the federal government as other states were doing.

MS. EDWARDS reiterated that the state had joined a lawsuit in addition to requesting an exemption. She said the EPA's rules were not known and there was uncertainty as to what steps should be taken next.

1:27:59 PM

SENATOR EGAN opined that being involved in something does not cost the state anything, but fighting a federal regulation costs a lot of money.

CO-CHAIR MICCICHE noted that the fiscal note was \$75,000 for FY16 and \$25,000 for FY17. He asked what the cost would have been without SB 57. He opined that a plan would be produced anyway once there was a regulation.

MS. EDWARDS specified that the costs identified in the fiscal note address economic analysis that typically goes beyond what DEC normally does. She specified that the fiscal note identified the contractual costs that go beyond the division's technical capacity.

CO-CHAIR MICCICHE asked if the fiscal note reflected the cost of DEC or another department.

MS. EDWARDS answered that DEC would be assumed to be contracting for assistance.

CO-CHAIR MICCICHE opined that the bill pushes an understanding of the impacts from federal regulations on the state's everyday lives. He remarked that the state would just comply in the past while sometimes not understanding the unintended consequences. He said understanding the impact is a worthwhile investment considering the hundreds of millions that would be costing the state in the long run.

[1:30:09 PM](#)

CO-CHAIR BISHOP commended the bill's sponsor. He noted that the Teamsters pointed out in a letter that 80 full-time employees work at the Usibelli Coal Mine (UCM). He revealed that 47 percent of the Alaska Railroad's revenue comes from hauling UCM coal. He asserted that the state needs to stand up and debate the 111(d) rule, a rule that was clearly an over-reach attempt by the EPA. He noted an article that detailed Denali National Park as having the cleanest air of any national park in the U.S. with a coal mine and producing coal plant located within 30 miles. He divulged that samplings over the past 35 years have not mentioned anything regarding coal mine or coal plant contaminants.

CO-CHAIR MICCICHE asked Senator Giessel to make her final comments. He reiterated that SB 57 will be heard in the Senate Resources Committee as well.

SENATOR GIESSEL commented that SB 57 may ask DEC to do a bit more analysis than what was required in writing the SIP. She opined that the cost of doing nothing was too high. She said Alaska and other states know that the EPA's new regulations will increase energy costs for citizens and businesses. She summarized that states may be able to convince the EPA to abandon the 111(d) rulemaking procedure.

[1:32:27 PM](#)

CO-CHAIR BISHOP moved that the committee pass the CS for SB 57 [29-LS0523\I] from the committee with individual recommendations and attached fiscal note(s).

CO-CHAIR MICCICHE announced that hearing no objection, CSSB 57(NRG) passed from the Senate Special Committee on Energy.

1:33:09 PM

There being no further business to come before the committee, Co-Chair Micciche adjourned the Senate Special Committee on Energy hearing at 1:33 p.m.