

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 7, 2017

3:30 p.m.

MEMBERS PRESENT

Senator Click Bishop, Chair
Senator Anna MacKinnon
Senator Lyman Hoffman
Senator Bert Stedman

MEMBERS ABSENT

Senator Berta Gardner

COMMITTEE CALENDAR

SENATE BILL NO. 64

"An Act adopting the Uniform Environmental Covenants Act; relating to environmental real property covenants and notices of activity and use limitation at contaminated sites to ensure the protection of human health, safety, and welfare, and the environment; and providing for an effective date."

- MOVED SB 64 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 64

SHORT TITLE: UNIFORM ENVIRONMENTAL COVENANTS ACT

SPONSOR(S): SENATOR(S) MICCICHE

02/17/17	(S)	READ THE FIRST TIME - REFERRALS
02/17/17	(S)	CRA, L&C
02/28/17	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
02/28/17	(S)	Heard & Held
02/28/17	(S)	MINUTE(CRA)
03/07/17	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR MICCICHE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 64.

KRISTIN RYAN, Director
Division of Spill Prevention and Response
Department of Environmental Conservation (DEC)
Anchorage, Alaska
POSITION STATEMENT: Commented on SB 64.

JENNIFER CURRIE
Department of Law (DOL)
Civil Division
Environmental Section
Anchorage, Alaska
POSITION STATEMENT: Commented on SB 64.

ACTION NARRATIVE

[3:30:50 PM](#)

CHAIR CLICK BISHOP called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Stedman, MacKinnon, Hoffman, and Chair Bishop.

SB 64-UNIFORM ENVIRONMENTAL COVENANTS ACT

[3:31:42 PM](#)

CHAIR BISHOP announced consideration of SB 64. He said the sponsor, Senator Micciche, gave a brief overview in the last meeting. He also stated that he would leave public testimony open.

[3:32:30 PM](#)

At ease

[3:32:43 PM](#)

CHAIR BISHOP said there is new information on SB 64 from the U.S. Department of Defense (DOD).

[3:33:12 PM](#)

SENATOR PETER MICCICHE, sponsor of SB 64, Alaska State Legislature Juneau, Alaska, said he read the DOD letter and expected this response and would like to hear more specifics from that agency. He didn't feel Alaska's land should be subject to contamination without an answer from the federal government. SB 64 holds them accountable for their contamination.

[3:34:16 PM](#)

KRISTIN RYAN, Director, Division of Spill Prevention and Response, Department of Environmental Conservation (DEC), Anchorage, Alaska, said that the U.S. Department of Defense has the most contaminated sites in Alaska, but she did not expect them to testify. Some of their restrictions last for 500 years. The state has legitimate concerns that those restrictions run with the land, because the assumption is that the lands will go into other people's hands at some point. The Department of Defense won't necessarily own the land for the entire 500 years.

In addition, she said the state is already doing environmental restrictions on federal lands. All SB 64 does is communicate those restrictions to future landowners. DEC has disagreements with the DOD and other federal agencies about state sovereignty and the ability to put restrictions on federal lands, and those will continue with or without this legislation. However, she asserted that they believe it is important to be able to communicate those restrictions to future landowners.

MS. RYAN stated that the language the DOD particularly recommends comes from similar legislation in the State of Colorado to serve just this purpose, and they are complying. It is working. So, she said they disagree with the DOD and think the state can put restrictions on federal property, and other states have done it successfully.

CHAIR BISHOP said his question was that the department believes the state's efforts in this regard would likely qualify for payment under the Defense/State Memorandum of Agreement (MOA) and he wanted to know if it has an MOA now.

MS. RYAN answered yes and explained that when the state works on contaminated sites DOD pays the state for that time now; and that work will continue as it is right now. The bill will not change the amount of work performed by the state on those sites.

[3:37:36 PM](#)

CHAIR BISHOP asked if either she or the Department of Law (DOL) is concerned about the payments continuing under SB 64.

MS. RYAN said she did not have concerns that the state will continue to be paid for work performed on federal sites; it's a continuing negotiation every year. But the amount fluctuates depending on the work they do and the amount of money that is available to the DOD.

CHAIR BISHOP asked the Department of Law if she could defend the state. "Does this lead you to pause?"

[3:38:23 PM](#)

JENNIFER CURRIE, Assistant Attorney General, Civil Division, Environmental Section, Department of Law (DOL), Anchorage, Alaska, answered this does not give her pause.

SENATOR MACKINNON asked Ms. Currie to comment on the amendments DOD is proposing.

MS. CURRIE responded that the two specific amendments listed purport to take the DOD out of the requirements for SB 64, and she thinks that is not justified in the sense that all people who contaminate state lands should be subject to the same rules. These rules are for moving forward and making sure that covenants and notices run with the land, which is important for maintaining the list of contaminated sites in Alaska.

The letter also suggests changing references to the Comprehensive Environmental Response Compensation and Liability Act and the Resource Conservation and Recovery Act, and she had not yet looked at the whether those changes are necessary. But she was open to assuring those laws are referenced correctly.

SENATOR MACKINNON asked to make sure the legal references are accurate.

[3:40:39 PM](#)

SENATOR MICCICHE said it is important to continue to defend the integrity of Alaska's lands from the federal government that often deals with Alaska "from both sides of the coin." Certain federal agencies restrict commerce on a regular basis in the state of Alaska through extremely stringent regulatory requirements that have often squelched development. "All we are asking the feds to do, and everyone else in this case, is to maintain the integrity of our lands and to help us document contaminated lands for the protection of future owners."

SENATOR MICCICHE said he sees this bill as a way to move forward in the sense of commerce in Alaska; it protects the buyers and the sellers, and in this case the federal government shouldn't be any different. Further, he expected the letter and it won't ever change, but it's imperative that the bill continue to move through the process.

[3:42:05 PM](#)

At ease

[3:42:50 PM](#)

CHAIR BISHOP called the meeting back to order and asked Ms. Currie if the DOD wants exemptions from the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Resource Conservation and Recovery Act (RCRA).

MS. CURRIE answered that they are saying that the state did not refer to the two laws with the correct titles.

CHAIR BISHOP noted that it was just a technical amendment then.

MS. RYAN added that the reference to the CERCLA that the DOD wants the state to make is to an older version that grants immunity.

CHAIR BISHOP remarked that is why they are asking for it.

[3:44:45 PM](#)

CHAIR BISHOP said the bill has another committee of referral and a couple of their questions would follow with the bill. He closed public testimony.

[3:44:52 PM](#)

At ease

[3:44:58 PM](#)

CHAIR BISHOP called the meeting back to order.

SENATOR MACKINNON said she sees a zero fiscal note from DEC's Division of Spill Prevention and Response on OMB component 3094. But additional regulations will need to be adopted and the department's existing budget won't cover those. She also noted a zero fiscal note from the Department of Natural Resources' (DNR) Division of Mining, Land, and Water for Fire Suppression for OMB component 3002 with no regulations required.

SENATOR MACKINNON moved to report SB 64, version 30-LS0446\J, from committee with individual recommendations and attached fiscal note(s).

CHAIR BISHOP announced that without objection, SB 64 moved from the Senate Community and Regional Affairs Standing Committee.

[3:46:15 PM](#)

CHAIR BISHOP adjourned the Senate Community and Regional Affairs
Standing Committee meeting at 3:46 p.m.