

SENATE FINANCE COMMITTEE  
March 8, 2018  
9:01 a.m.

9:01:58 AM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:01 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair  
Senator Anna MacKinnon, Co-Chair  
Senator Click Bishop, Vice-Chair  
Senator Peter Micciche  
Senator Donny Olson  
Senator Gary Stevens  
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

Rachel Hanke, Staff, Senator Peter Micciche; Commander Graham Lanz, United States Coast Guard, Juneau; Kristin Ryan, Director, Division of Spill Prevention and Response, Department of Environmental Conservation, Juneau; Fabienne Peter-Contesse, homeowner, Juneau.

SUMMARY

SB 92           VESSELS: REGISTRATION/TITLES; DERELICTS

SB 92 was HEARD and HELD in committee for further consideration.

SB 158          OIL/HAZARDOUS SUB.:CLEANUP/REIMBURSEMENT

SB 158 was HEARD and HELD in committee for further consideration.

#sb92

SENATE BILL NO. 92

"An Act relating to abandoned and derelict vessels; relating to the registration of vessels; relating to certificates of title for vessels; relating to the duties of the Department of Administration; relating to the duties of the Department of Natural Resources; establishing the derelict vessel prevention program; establishing the derelict vessel prevention program fund; and providing for an effective date."

9:03:02 AM

Co-Chair MacKinnon directed attention to SB 92. she relayed that the committee had heard the bill on March 1, 2018; public hearing had been opened and closed.

Vice-Chair Bishop MOVED to ADOPT proposed committee substitute for SB 92, Work Draft 30-LS0481\U (Bruce, 3/7/18).

RACHEL HANKE, STAFF, SENATOR PETER MICCICHE, stated that most of the changes to the bill were technical. She discussed the substantive changes detailed on "Explanation of Changes Ver.0 to Ver.U"(copy on file):

16. Page 13, Lines 19, 20: Rewrites to read "develop and maintain a publicly available database of known derelict vessels in the state." This clarifies that this database is only for existing derelict vessels and not for all vessels.

17. Page 13, Line 31: Adds new subsection (4), which allows the fund to be used to pay for administration costs.

18. Page 14, Lines 11-28: Adds new subsection that grants departments, municipalities and peace officers to enforce the chapter.

9:05:26 AM

Co-Chair MacKinnon WITHDREW her OBJECTION. There being NO further OBJECTION, it was so ordered.

9:05:54 AM

Ms. Hanke gave a high-level overview of the bill. She detailed that SB 92 rewrote AS 30.30, which had been largely unchanged since the 1970s. She said that the bill would make procedures for dealing with derelict vessels through the state clear for local governments, strengthened vessel owners due process rights, expanded current boat registration to capture U.S. Coast Guard documented vessel and barges, allowed for the titling of vessels, and created a Derelict Vessel Program Prevention Fund. The revenue sources for the fund were the barge registration funds, titles, federal receipts, donations, vessel sales under the chapter, and civil penalties. The fund would pay for establishment and administration of the Derelict Vessel Prevention Program, education and community outreach, an advisory council, and the Derelict Vessel data base. The fund may pay for reimbursement costs of vessel removal on state and municipal property, development and implementation of programs to incentivize compliance with the chapter, subsidizing Derelict Vessel Prevention Program projects, and fund administration.

[9:07:19 AM](#)

Senator Stevens understood that the requirement for a title did not include a requirement for small boats such as skiffs. He wondered whether there was a size threshold included in the legislation.

Ms. Hanke stated that all boats required to register would be titled.

Senator Stevens asked again whether the bill excluded vessels such as skiffs.

Senator Micciche stated that all motorized boats and barges would be required to register and have a title. He stated that he was working with the Department of Motor Vehicles. He said that the bill did not include vessels like canoes. All motorized vessels were required to have a title.

Senator Stevens asked whether a skiff with an outboard motor (and moved by a trailer) would be included in the requirement. He asserted that the danger of a skiff sinking and causing problems was not equivalent to the danger cause by a fishing boat or barge. He wondered whether there should be an exclusion for smaller vessels.

Senator Micciche thought the topic was worthy of discussion and noted that excluding smaller vessels would shrink the size of the fund. He thought that smaller vessels could sometimes be part of the problem. He reiterated that the issue was worth consideration but would remove a significant amount of the funding for the fund.

[9:11:12 AM](#)

Senator Stevens wondered what the requirements under the bill would be to register a Boston Whaler.

Senator Micciche explained that the bill would add \$2 per year to the registration fee, as well as a one-time \$20 title fee that would extend for as long as the person registering owned the boat.

[9:12:02 AM](#)

Co-Chair Hoffman asked whether the cost would be the same for an 18-foot skiff and a large yacht.

Senator Micciche replied in the affirmative.

Ms. Hanke stated that all boat registration would cost \$30 under the bill; except for barges, which would cost \$75; titling of vessels would be \$20 across the board.

Co-Chair Hoffman thought the committee should consider different fees for different sizes of vessels. He discussed different size thresholds. He thought the bill should treat the registration of various sizes of boats in an equitable manner.

Senator Micciche agreed. He added that the current cost of \$24 was applied to all state registered vessels, regardless of size. This would remain the same whether the bill passed committee. He said that the legislation was largely targeted at bigger vessels. He noted that the original version of the bill had included a differential on cost and well as an insurance requirement for larger vessels. He thought that the \$20 title fee could be augmented to recognize vessel size.

Co-Chair Hoffman suggested setting policy now that recognized the issue.

9:16:20 AM

Co-Chair MacKinnon recapped that there were boats in Alaska waters that were abandoned and afloat and were sometimes harming the environment and creating a safety hazard. She concluded that the intent of the bill was to alleviate this issue.

Senator Micciche added that there were thousands of vessels that were derelict and abandoned, and the problem affected the entire state. He detailed that there were 3,100 vessels between 28 feet and 59 feet that were more than 45 years old, which he believed was a precursor to future problems. He reiterated that the bill was largely targeted at larger vessels. He argued that knowing who owned vessels would help to deal with derelict vessels before they sink.

Co-Chair MacKinnon noted that Senator Micciche was open to suggestions. She discussed derelict cars and trucks, for which individuals were held accountable, and thought that the issue was similar.

9:20:01 AM

Senator Stevens expressed concern about the definition of "derelict" and wondered what criteria would be used to determine whether a vessel was derelict.

Senator Micciche said that you could tell that vessels were derelict by looking at them. He reiterated that it was important that vessels owners be known in order to hold derelict vessel owners accountable. He argued that the bill provided a method for dealing with the problem before it became expensive for the state.

Co-Chair MacKinnon stated that she wanted the committee to provide a clear definition of derelict vessels.

9:24:08 AM

COMMANDER GRAHAM LANZ, UNITED STATES COAST GUARD, JUNEAU, explained that the Coast Guard did not have a definition for derelict or abandoned vessels. He stated that the Coast Guard regulated vessels on their intended service.

Co-Chair MacKinnon used the analogy of overdue parking fines.

Senator Micciche thought the definition of the term derelict was present in the bill.

Ms. Hanke stated that Section 22 on page 12 of the bill provided various situations in which a vessel would be considered derelict.

Vice-Chair Bishop asked whether the Coast Guard had protocol for what determined whether a vessel was seaworthy. Theoretically, a derelict vessel could be made seaworthy again with enough work and a reinspection.

Commander Lanz answered in the affirmative. He added that the Coast Guard would not make the decision on whether a boat was no longer fixable, just when it was no longer safe to get underway.

[9:27:26 AM](#)

Co-Chair MacKinnon directed Senator Micciche to work with Senator Stevens on language defining derelict. She asked Senator Stevens to provide feedback on the language already found in Section 22.

Senator Micciche thought the section suggested that if the vessel was in immediate danger of sinking, had already sunk, or if ownership could not be determined, it would be considered derelict.

Co-Chair MacKinnon supported the bill. She referenced page 12, lines 8 and 9, which cited environmental concerns as a factor for defining derelict vessels. She thought that the bill could be clearer in the issue.

[9:29:43 AM](#)

Senator von Imhof recalled previous testimony that referenced derelict versus abandoned vessels. She stated that there were different consequences for derelict vessel and abandoned vessels.

Co-Chair MacKinnon supported the concept of a tiered approach to fees as suggested by Co-Chair Hoffman. She felt

that larger vessels were more likely to cause public safety issues than smaller vessels.

Senator Micciche stated that separating the definition of derelict from abandoned had no function. He felt that either way the vessel would need to be dealt with and the legislation would provide additional tools to deal with those vessels. He admitted that there was further work to be done on the bill.

SB 92 was HEARD and HELD in committee for further consideration.

#sb158

SENATE BILL NO. 158

"An Act relating to oil and hazardous substances and waiver of cost recovery for containment and cleanup of certain releases; and providing for an effective date."

9:33:39 AM

KRISTIN RYAN, DIRECTOR, DIVISION OF SPILL PREVENTION AND RESPONSE, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, JUNEAU, discussed SB 158. The bill would offer cost recovery to homeowners when they had a release of oil or hazardous substance from equipment used for space heating or electrical power generation. Current statutes require the Department of Environmental Conservation to seek complete cost recovery for cleaning up spilled petroleum or other hazardous substances. This can deter homeowners from reporting or cooperating with the department when they experience a spill at their home, such as a spill from a heating oil tank. She added that the language of the bill had been crafted specifically for small homeowners that due to lack of expertise were least able to deal with a spill.

9:37:42 AM

Ms. Ryan discussed the fiscal impact of the bill. She said that costs related to spills ranged from \$200 to \$4,000. She believed that guidance from the department was cost effective. She stated that the money currently collected from cost recovery went into the Prevention Account, which was utilized by the legislature to provide the division's annual operating costs. She relayed that several other

sources of funds that went into the account would be adequate to cover costs into the future. She felt that the reduction in revenue was worth the value that would be gained by cleaning up the environment and helping individuals through a stressful situation.

[9:39:55 AM](#)

Senator von Imhof noted that she had heard the bill in the Senate Resources Committee. She recalled testimony that had clarified the reticence of homeowners to contact the department because of the financial repercussions. She asked how much the fuel tax the division received.

Ms. Ryan replied that the division received \$.095 per gallon.

Co-Chair MacKinnon clarified that the question was how much was received in total on an annual basis.

Ms. Ryan stated that there were 2 sources of monies that went to the fund. One was the \$.095 per gallon for refined fuel, which she believed would end up generating \$6 million per year; additionally, there was a \$.04 per barrel tax from Trans-Alaska Pipeline System (TAPS). Because of declining production, there had been a decline in the revenue, which had prompted the refined fuel tax.

[9:41:54 AM](#)

Vice-Chair Bishop asked about the release amount that constituted a recordable spill.

Ms. Ryan stated that the amount varied depending on the receiving environment. She stressed that all spills should be reported to the division. She said that water spills should be reported immediately, land spills were less immediate depending on size. She relayed that large companies on the North Slope provided a monthly report of spills, rather than reporting each minor spill.

Co-Chair MacKinnon asked Ms. Ryan to walk through the Sectional Analysis.

Ms. Ryan addressed the Sectional Analysis (copy on file):

Section 1 (Page 1, lines 4 -8): provides an exception to existing mandatory cost recovery requirements.

Section 2 (Page 1, line 9 - 13): allows the Department to adopt regulations to waive cost recovery efforts in situations defined by the proposed legislation.

Section 3 (e) (Page 1, line 14 - Page 2 line 16): Establishes reasons the Department may waive cost recovery efforts. The Department must find the release was from a home or building with four or fewer housing units; the release was not willful and was reported to the Department immediately; the homeowner took immediate measures to stop and contain the release; and the homeowner granted access to the property and is cooperative.

Section 4 (Page 2, lines 17-22): establishes the ability for the Department to adopt regulations.

Section 5 (Page 2, lines 23-26): makes sections 1-3 of the legislation retroactive to January 2018.

Section 6 (Page 2, line 27): allows the Department to adopt regulations under section 4 immediately.

[9:44:06 AM](#)

Senator Stevens asked for an explanation of the term "small homeowners."

Ms. Ryan explained that any sized home would meet the exemption requirement.

Co-Chair MacKinnon referenced Ms. Ryan's comments about unexpected exemptions. She requested further details.

Ms. Ryan stated that the most significant exemption was municipalities that provided fuel for heat generation. She recalled that the initial fiscal note had assumed \$7.6 million would be generated, which had dropped to \$6 million. She said that the most significant exemptions had been for municipalities and power generation in villages.

Ms. Ryan stated that there was a section in statute that spoke to the exemptions.

Co-Chair MacKinnon asked whether there was spills in municipalities that the state was responsible for.

Ms. Ryan affirmed that there wherever there was fuel used there would be spills. She said that the first goal was to have the responsible party address the problem.

[9:47:08 AM](#)

Co-Chair MacKinnon OPENED public testimony.

[9:47:28 AM](#)

FABIENNE PETER-CONTESSÉ, HOMEOWNER, JUNEAU, testified in support of the bill. She recounted that she had an underground fuel spill at her home and had immediately called Department of Environmental Conservation. She detailed her process working with the department. She had spent many tens of thousands of dollars to mitigate the problem. She lamented that homeowner's insurance did not cover her spill. She expressed appreciation for the ease with which the department's staff had worked with her. She revealed that overtime she began to receive bills for the day to day operations of the division. She felt that the billing of the public put a barrier between the public and the department. She shared that she had recently received a letter and expected that she would receive a bill for them having written the letter. She expressed concern for people who would be financially burdened for clean up efforts, on top of the stress of dealing with the spill. She encouraged full support of the legislation.

[9:51:52 AM](#)

Vice-Chair Bishop appreciated the testimony. He related that he had heard similar stories from constituents.

Co-Chair MacKinnon CLOSED public testimony.

Vice-Chair Bishop discussed FN 1 from Department of Environmental Conservation, OMB component number 3094. He believed that the division had effectively explained the note.

Senator Micciche supported the bill. He asked whether DEC had increased its outreach to the public about the program and spill prevention measures.

Ms. Ryan stated that the division had spent quite a bit of time at home building association meetings and various fairs that highlighted home products. She discussed the concept of increasing prevention and noted that most spills were occurring where fuel was stored in large volumes. She said that the division only regulated tanks of 420,000 gallons or larger and had no role in prevention regulation below that threshold. She stated that regulation was recently drafted that would require tanks below that threshold, down to 13,000 gallons, to register with the division. She believed that building relationships through providing technical assistance would improve the dialogue surrounding the maintenance of tanks.

[9:56:18 AM](#)

Ms. Ryan shared that the goal was setting standards in regulation but thought this would be difficult to apply universally throughout the state because of varied resource availability in different areas of the state.

SB 158 was HEARD and HELD in committee for further consideration.

[9:58:08 AM](#)

Co-Chair MacKinnon informed that amendments to the bill were due by 5:00 p.m. on the following Friday.

#

ADJOURNMENT

[9:58:53 AM](#)

The meeting was adjourned at 9:58 a.m.