

HOUSE FINANCE COMMITTEE
April 30, 2021
1:41 p.m.

[1:41:45 PM](#)

CALL TO ORDER

Co-Chair Merrick called the House Finance Committee meeting to order at 1:41 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Kelly Merrick, Co-Chair
Representative Dan Ortiz, Vice-Chair
Representative Ben Carpenter
Representative Bryce Edgmon
Representative DeLena Johnson
Representative Andy Josephson
Representative Bart LeBon
Representative Steve Thompson
Representative Adam Wool

MEMBERS ABSENT

Representative Sara Rasmussen

ALSO PRESENT

Representative Geran Tarr, Sponsor.

PRESENT VIA TELECONFERENCE

Dale Kelley, Commissioner, Commercial Fisheries Entry Commission.

SUMMARY

HB 28 REGISTRATION OF BOATS: EXEMPTION

CSHB 28(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note by the Department of Administration and one previously published fiscal impact note: FN2(DFG).

HB 81 OIL/GAS LEASE: DNR MODIFY NET PROFIT SHARE

CSHB 81(RES) was REPORTED out of committee with a "do pass" recommendation and with two previously published fiscal impact notes: FN1(DFG) FN2(REV).

Co-Chair Merrick thanked the Co-Chair for the smooth amendment process to the operating budget bill in the previous day. She indicated the committee would be hearing amendments for the two bills on the meeting agenda.

#hb28

HOUSE BILL NO. 28

"An Act relating to the registration of commercial vessels; and providing for an effective date."

[1:42:55 PM](#)

Co-Chair Merrick relayed there were 2 amendments for HB 28.

Vice-Chair Ortiz MOVED to ADOPT Amendment 1 (copy on file):

Page 2, lines 9 -10:

Delete all material and insert:

"(7) a commercial vessel that has a valid
(A) certificate of documentation issued by
the United States Coast Guard under 46
U.S.C. 12101 -12121; and
(B) license issued under AS 16.05.490 or
16.05.530;"

Page 2, lines 17 -21:

Delete all material.

Renumber the following bill sections accordingly.

Page 2, line 30:

Delete "sec. 3"

Insert "sec. 2"

Co-Chair Merrick OBJECTED for discussion.

[1:43:10 PM](#)

Vice-Chair Ortiz MOVED to ADOPT Conceptual Amendment 1 to Amendment 1 (copy on file):

Page 2, Line 24

Following "year" insert: "for vessels that have a certificate of documentation issued by the United States Coast Guard under 46 U.S.C 121001 - 12121."

Co-Chair Merrick OBJECTED for discussion.

Vice-Chair Ortiz explained there was a drafting error in the original amendment which would be addressed with the adoption of Conceptual Amendment 1. If the amendment passed owners of documented vessels would be charged \$24 every 3 years to register with the Division of Motor Vehicles and an \$8 fee per year to register with the Commercial Fisheries Entry Commission (CFEC). Effectively, the documented vessel owner would be double charged as the bill stood. The conceptual amendment would exempt undocumented vessels from the annual \$8 vessel registration fee assessed by CFEC. They would still be required to register with DMV every 3 years and pay a fee of \$24. He reiterated the conceptual amendment simply corrected a drafting error.

Co-Chair Merrick WITHDREW her OBJECTION.

There being NO OBJECTION, it was so ordered.

Conceptual Amendment 1 to Amendment 1 was ADOPTED.

Co-Chair Merrick WITHDREW the OBJECTION to Amendment 1 as amended.

There being NO OBJECTION, it was so ordered.

Amendment 1 as amended was ADOPTED.

[1:45:05 PM](#)

Representative Carpenter MOVED to ADOPT Amendment 2 (copy on file):

Page 2, line 5, following "by":

Insert "the United States or"

Co-Chair Merrick OBJECTED for discussion.

Representative Carpenter explained the amendment was to correct an unintended consequence of SB 92 [Legislation passed in 2018 regarding vessel registration, titles, and derelict vessels]. Prior to SB 92 all Alaskan vessels were registered as documented or undocumented. When SB 92 went into effect it included all documented vessels. He relayed SB 92 attempted to provide funding to remove derelict vessels. However, according to the Legislative Finance Division, no funding was spent on removing or addressing derelict vessels. The amendment would address the burden on owners of U.S. Coastguard documented vessels outside the fishing industry.

Representative Carpenter reported that prior to SB 92 the vessels were not included in state registration requirements, as they were already federally documented. The amendment would also remove an increased burden on the DMV, lessen the burden on the commercial fishing industry, and lessen the burden on law enforcement. He mentioned a document from the administration confirming the function of the amendment would remove the requirement of U.S. Coastguard registered vessels from having to register with the State of Alaska.

Co-Chair Merrick asked if Representative Carpenter wanted the document distributed to members.

Representative Carpenter replied in the affirmative.

[1:46:36 PM](#)
AT EASE

[1:51:19 PM](#)
RECONVENED

Co-Chair Merrick invited Representative Carpenter to review the correspondence.

Representative Carpenter relayed the letter was from Kelly Hanke and indicated the amendment would exclude all U.S. Coast Guard documented vessels from having to register with the state.

Vice-Chair Ortiz asked Representative Carpenter to review the impact and intent of the amendment.

Representative Carpenter responded the intent of the amendment was to alleviate the owners of vessels already registered with the U.S. Coast Guard from having to register with the State of Alaska. If law enforcement was investigating a derelict vessel, the U.S. Coastguard could be contacted to assist with finding the owner of the vessel. He did not think it was necessary to have a duplicative registration requirement to identify a vessel owner.

1:53:00 PM

AT EASE

1:54:23 PM

RECONVENED

Vice-Chair Ortiz appreciated the response from Representative Carpenter. However, he thought the intent of the bill was to be able to identify the owner of a derelict vessel. He was concerned with the representative's words, "Relatively sure" was not convincing enough for him to support the amendment.

Co-Chair Merrick invited Ms. Kelley from CFEC to comment.

DALE KELLEY, COMMISSIONER, COMMERCIAL FISHERIES ENTRY COMMISSION (via teleconference), asked for the question to be restated.

Vice-Chair Ortiz thought the amendment suggested U.S. Coast Guard vessel registration would be enough to identify a vessel's owner and that vessel registration with the state was unnecessary. He wondered if a person investigating a vessel would have easy access to the vessel information through the U.S. Coast Guard without relying on another source. He asked Representative Carpenter if he was accurate.

Representative Carpenter responded, "Partially."

Ms. Kelley replied she was trying to figure out the intent of the amendment and how it articulated with the overall bill. She indicated CFEC was not an enforcement agency and was unsure of the process in dealing with a derelict vessel. She reported that for documented vessels there was a U.S. Coast Guard documented registry online look-up system that might provide information, but the information

was not necessarily inclusive. Originally, the bill attempted to correct documented vessels from having to register with DMV. They never had to until 2019. A U.S. Coast Guard documentation was effectively a registration and abstract of title which tracked the entire history of a vessel. The Commercial Fisheries Entry Commission required U.S. Coast Guard documentation to license [documented] vessels. She continued for undocumented vessels CFEC required DMV registration and title to issue a license.

[1:59:54 PM](#)

Representative Carpenter thought Ms. Kelley had answered the question definitively. U.S. Coast Guard registered vessel information could be accessed online from any computer connected to the internet. He commented there had been discussion in the bill about avoiding double fees for portions of the user group. Yet, the bill required a portion of the user group to register twice. The amendment would recognize there was already a registration process in place for a certain class of vessel with the federal government easily accessible online. The U.S. Coast Guard had the needed information to be able to identify owners of derelict vessels. He read the amendment.

Co-Chair Merrick recognized Representative Johnson.

Representative Wool gathered from the sponsor statement and prior testimony that the bill was trying to reduce duplicative state registration for certain vessels. By acknowledging that CFEC had a database for commercial fishing vessels, the vessels would not have to register with the DMV, avoiding two registrations within the state database. He noted the U.S. Coast Guard was part of the federal rather than the state database. He did not think it was unreasonable to have every vessel with a certain description registered with the state even if it was also registered with the U.S. Coastguard. He suggested the state fee was only \$8 per year. He spoke of the fiscal note associated with the removal of derelict vessels. He suspected the fiscal note would change if the amendment was adopted.

[2:03:52 PM](#)

Representative LeBon suggested that if a person registered a vessel with the U.S. Coast Guard, they were likely

utilizing the services of a preferred marine mortgage underwriter. He explained that the preferred marine underwriter searched the U.S. Coast Guard database and any other source including state, UCC filings, and DMV filings to investigate ownership history and clear title of a vessel. He thought requiring a redundancy in vessel registration was unnecessary and compared it to home owners and mortgages.

[2:05:47 PM](#)

Representative Edgmon commented that the amendment proposal was a sweeping change. He did not think there was enough time or information to decide on an oversight issue. He noted the number of supporters of the bill. The amendment was a technical fix regarding oversight established in a major omnibus bill, SB 92, which would exempt smaller commercial fishing vessels from having to undergo dual registration. The current bill was vetted in the House Fisheries Committee and had overwhelming support from several fishing associations. He suggested the amendment was a meat cleaver to an issue that was being surgically dealt with in the bill currently before the committee. He was unaware of what the effects would be and wanted to hear from interested parties such as the U.S. Coast Guard and the Alaska DMV. He also wanted to know about any potential fiscal impacts. He suggested there was a reason for a two-tier system of vessel registration with the U.S. Coast Guard and the State of Alaska. He would be opposing the amendment. He encouraged the sponsor to present the idea in a separate piece of legislation where it could be properly vetted.

Vice-Chair Ortiz relayed that the situation Representative LeBon described had existed for a number of years. He asked the representative if it had been an ongoing process.

Representative LeBon replied that any bank financing a vessel did an ownership search and a lien inquiry. A bank would not want to find out after the fact that another bank also had a loan against the same vessel. It would render the second loan junior to the first. Banks tended to be very careful with such circumstances.

Vice-Chair Ortiz noted the issue of derelict vessels despite tracing abilities. The original bill attempted to address the issue. Even though there had been significant

vessel information available, the issue of derelict vessels continued to exist. The current bill helped clean up the issue of duplicative registration.

Representative LeBon responded that he was good with it.

[2:10:19 PM](#)

Representative Johnson voted for the original bill because it was an attempt to ensure that harbor masters could track down owners of derelict vessels. She had received input from her constituents who did not think it would work out well for non-fishing vessel owners. She relayed that at the last town hall she had participated in a woman testified and provided a description of the process of registering a vessel. It caused her to take another look at the issue. She thought the amendment allowed for people who owned a sailboat not to have to go through extensive hoops to enjoy a boat. She was open to hearing feedback.

Representative Edgmon asked about the amendment's fiscal ramifications. He noted there would be less money going into the derelict vessel fund. He thought having other state documentation provided a valid public purpose. He did not understand the true depth of the cost of the amendment which did not have an accompanying fiscal note. It was difficult for him to continue to be part of the dialogue.

Representative Wool asked how many boats in Alaska were over 32 feet long or over 5 tons. He was concerned with the percentage of boats that would no longer have to register with the U.S. Coast Guard. He opined there was no harm in redundancy. He was concerned with the number of boats that might fall into the exempt category because of the potential revenue impact. He was not ready to support the amendment.

[2:16:07 PM](#)

Representative Johnson thought about \$20,000 was the amount available to dispose of derelict vessels. She argued that the amount was nominal based on the real cost associated with disposing of a vessel. She was not seeing the fiscal impact. She thought the amendment was straight forward.

Co-Chair Merrick invited Representative Tarr to comment.

2:17:30 PM

REPRESENTATIVE GERAN TARR, SPONSOR, understood that the point of the bill was to have a state-managed database. Certain references to the U.S. Coast Guard were specifically removed from the original bill. She believed it was considered in the debate of the legislation. The decision was made to pass a bill that would create a state-managed database for purposes of managing derelict vessels. Since then, it was identified that the CFEC was a state-managed database as was the DMV registration. The bill would clean up the redundancy within the state entities which she supported. However, she wanted to be certain that it did not upend the original intent of the bill and additionally remove the ability for the fee to be collected. She had looked at the amount collected to-date. The fee was necessary given the cost of the derelict vessel clean-up. The fee would help to offset costs.

CO-CHAIR MERRICK MAINTAINED the OBJECTION.

Representative Carpenter looked at the index of written testimony and counted seven organizations favoring the bill. He suspected their support was because commercial fishermen were referenced. It did not surprise him that active commercial fishermen with active vessels would support alleviating duplicate registrations. He wondered if active commercial vessels that were not affiliated with fishing would also like to be excluded from duplicative registrations. He speculated that there would be significant support. If the intent was to identify derelict vessels, there was no need for state registration, as they were identifiable through the U.S. Coast Guard. He offered the amendment for the sake of parody amongst user groups.

A roll call vote was taken on the motion.

IN FAVOR: Carpenter, Johnson, LeBon, Thompson

OPPOSED: Wool, Edgmon, Josephson, Ortiz, Merrick, Foster

The MOTION to ADOPT Amendment 2 FAILED (4/6).

2:24:07 PM

AT EASE

2:24:33 PM

RECONVENED

Representative Wool commented that the previous speaker mentioned that commercial fishermen only had to register once. He clarified commercial fishermen had to register vessels over 32 feet and over five tons with CFEC and the U.S. Coast Guard.

Representative Carpenter agreed. However, the undocumented fishing vessels were being treated differently, as they would not be required to register twice. The previous amendment specifically talked about both fishing vessels and non-fishing vessels that were documented. He read from the sponsor statement. There was a subset of fishing vessels that would be exempt. He suggested there would be no need for them to be registered with the U.S. Coast Guard. His point was moot, as the amendment had already failed.

[2:26:30 PM](#)

Vice-Chair Ortiz MOVED to report CSHB 28 (FIN) out of Committee with individual recommendations and the accompanying fiscal notes.

Representative Carpenter OBJECTED.

A roll call vote was taken on the motion.

IN FAVOR: Edgmon, Josephson, LeBon, Ortiz, Thompson, Wool, Merrick, Foster

OPPOSED: Carpenter, Johnson

The MOTION PASSED (8/2).

CSHB 28(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note by the Department of Administration and one previously published fiscal impact note: FN2(DFG).

#hb81

HOUSE BILL NO. 81

"An Act authorizing the commissioner of natural resources to modify a net profit share lease."

[2:27:46 PM](#)

Representative Josephson MOVED to ADOPT Amendment 1 (copy on file):

Page 7, following line 20:

Insert a new bill section to read:

"* Sec. 6. AS 38.05. I 80 is amended by adding a new subsection to read:

(mm) The commissioner may not grant a net profit share modification under (j) of this section unless the net profit share modification is approved by the legislature."

Co-Chair Merrick OBJECTED for discussion.

Representative Josephson explained that the net profit share leasing program was not well known until the introduction of HB 81 and the Senate companion bill. He explained that the administration wanted more latitude to negotiate certain items embedded into royalty contracts. They were binding bilateral contracts that did not need to be revisited. The proposal could be rejected summarily. The administration's position was that by giving it the liberty to modify a net profit share lease (NPSL), it could help prevent field assets from being stranded. It begged the question about the nature of a lease and the duty to develop. He noted that previous legislators, Eric Croft and Harry Crawford, had introduced an initiative on the topic of the obligation to develop.

Representative Josephson continued that fundamentally, his amendment would allow for agreements to be reached but would not bind them by law until they were approved by the legislature. His reason for offering the amendment had to do with trust. He suggested that legislators wanted reassurance that the administration would negotiate in an arms-length way, as the state was sovereign. He was unsure the administration was willing to negotiate in such a manner. He noted, for example, there were reports about press releases involving a large metallic mine Southwest of Anchorage. It was difficult to tell where the industry's words ended, and the state's words began. Separation was lacking and parroting occurred giving him pause.

Representative Josephson continued that the legislature had given the industry substantial breaks. The legislature was looking at reforms of SB 21 [Oil and gas production tax

legislation passed in 2013] in the form of HB 247 [Tax, credits, interest, refunds, and oil and gas legislation that passed in 2016] and HB 111 [Legislation passed in 2017 regarding oil and gas production tax, payments, and credits]. The legislature realized how complicated SB 21 had been. He argued that the punitive floor on gross tax was not really a floor except in narrow circumstances. The bill [SB 21] was favorable to the oil industry.

Representative Josephson was torn because Mr. Fitzpatrick had presented evidence that the legislation could result in a solution where everyone benefited, with the state potentially benefiting in the long-run. He suggested there was no harm in the legislature looking at the contracts for approval. It had been done in 1996 with the North Star oil and gas lease in HB 548. The bill was vetted and passed within 6 weeks and gave the state the right to modify a NPSL. He thought the legislature should do the same.

Representative Josephson noted a memo that indicated it might be unconstitutional or inappropriate. However, there were instances in current law where a royalty in-kind contract was accepted. He had voted on a couple of such contracts in the House Resources Committee then on the House Floor. Also, there were terms in the Alaska Gasline Inducement Act (AGIA) that required acceptance of an agreement related to AGIA and ratification by a bill from the House Rules Committee. There was some background for the requirement of legislative approval.

Representative Josephson reiterated that he was unsure if he wanted to give the administration leeway. He relayed that the House resources Committee modified the bill so that it would not apply to royalty modification. He had been told that without the modification, Prudhoe Bay, where the state had seen \$13 billion of royalties since it was developed, could have been modified without the legislature's participation. The Senate version did not include the same modification. He suggested that if there was not an easy concurrence between the bodies, the bill would go to conference committee where the legislature could be in a position of modifying Prudhoe Bay's royalty which he did not want to do. He thanked the committee.

[2:37:12 PM](#)

Representative Thompson was apprehensive about the legislature having to approve any NPSL modifications. He was concerned with a potential timeline issue if a modification was need when the legislature was not in session. He trusted the Department of Natural Resources (DNR) to make modifications based on their history with previous modifications. He did not want to see a well shut down because of the legislature not meeting in a timely manner.

Representative Carpenter relayed that the amendment stated that profit share modifications would have to be approved by the legislature. He thought the complexity of the issue would take a long time to properly vet in the legislative process. He also pointed out the need to take politics out of the decision about whether a NPSL modification should advance. He did not think it would contribute to setting an example of being business friendly in the state.

Co-Chair Merrick agreed with Representative Carpenter's comment.

[2:40:10 PM](#)

Representative Wool agreed the subject matter was complicated. He shared Representative Josephson's concerns about the amendments adopted in the House Resources Committee being removed from the committee substitute. He would be especially concerned with limiting the capital expenditure language to NPSLs only. The state had 26 leases, 2 of which were currently in production. Most of the leases had sat dormant for their existence - some leases were decades long. He would not comment on his trust level of the administration but shared some of the same concerns as Representative Josephson. There were several triggers that could influence production depending on the price of oil. Producers wanted to keep their wells in production, and he wanted to see the wells continue to produce oil. He suggested that future administrations could potentially negotiate new terms. The state had the ability to renegotiate royalty rates, although it occurred infrequently. He was concerned with the amendment's potential question of constitutionality.

Representative Edgmon concurred with Representative Wool's comments. He appreciated the efforts of the maker of the amendment but could not support it.

[2:43:03 PM](#)

Representative LeBon disagreed with the notion of politicizing the issue. He did not think the legislature was geared to weigh in on the issue. He had confidence the department would be motivated to negotiate the best possible settlement for the state.

Representative Josephson did not know how it was possible to keep politics out of the issue. He explained that when producers were profitable, they paid a portion under a NPSL. It was essentially a contract that was entered into willingly by both parties. The legislature was being asked to trust that the industry would do something. He did not see himself as "Anti-industry." However, the most recent promises of record had not been great. He did not have confidence in the administration because of the lack of separation between the two institutions. He did not think that looking at the issue through a political lens would color it in a detrimental way. He suggested if the administration could make its case to the legislature, the legislature would approve it, just like it happened in 1996. His constituents were dissatisfied with the share of taxes and royalties the state received for its assets.

Co-Chair Merrick MAINTAINED the OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Josephson, Ortiz

OPPOSED: Edgmon, Johnson, LeBon, Thompson, Wool,
Carpenter, Merrick, Foster

The MOTION to ADOPT Amendment 1 FAILED (2/8).

[2:46:21 PM](#)

Representative Wool MOVED to ADOPT Amendment 2 (copy on file):

Page 1, line 1:

Delete "authorizing the commissioner of natural resources to modify a net profit share"

Insert "relating to the modification of a royalty or net profit share in an oil and gas or gas only"

Page 7, following line 20:

Insert new bill sections to read:

"*Sec.6.AS.38.05.180 is amended by adding a new subsection to read:

(mm)The commissioner may grant a royalty or net profit share modification under U) of this section only if the Alaska Royalty Oil and Gas Development Advisory Board recommends that the commissioner approve the royalty or net profit share modification.

"*Sec. 7. AS 38.06.040(a) is amended to read:

(a) The board shall

(1) in accordance with the criteria set out in AS 38.06.070, develop a plan for the wise development of the state's oil and gas royalty interests; the plan of development shall be consistent with

(A) growth of the private sector of the economy;

(B) environmental standards required by law: and

(C) public fiscal stability;

(2)hold public hearings on proposed sales, exchanges, or other disposals of royalty oil or gas to determine whether the proposals comply with AS 38.06.070;

(3) examine proposed sales, exchanges, or other disposal of, and recommend to the legislature that it approve or disapprove a proposed sale, exchange, or other disposal of

(A) the oil or gas that is obtained by the state as royalty under AS 38.05.182; or

(B) the rights to receive future oil or gas production under slate leases; [and]

(4) recommend to the commissioner of natural resources the conditions relating to the sale, delivery, transportation, refining, or processing of oil or gas that [WI-IICI IJ the commissioner may include in the offer

and sale of oil or gas obtained by the state as royalty under AS 38.05.182; and
(5) review a royalty or net profit share modification under AS 38.05.180 and recommend that the commissioner approve or disapprove the modification."

Co-Chair Merrick OBJECTED FOR DISCUSSION.

Representative Wool explained that the amendment required any change to a NPSL or royalty (currently allowable under law) be approved by the Alaska Royalty Oil and Gas Development Advisory Board. The board currently helped to facilitate the wise development of Alaska's oil and gas royalty interests by providing means and procedures for sales, exchanges, or other disposition of those interests in ways calculated to promote private economic growth consistent with applicable environmental standards and public fiscal stability and in accordance with AS.38.05.183. The amendment would add the requirement that any change in royalty and NPSLs would have to be approved by the board. He thought it provided an extra safeguard layer.

Representative Josephson supported the amendment. He spoke of the referral of royalty in-kind from the administration to the legislature. He argued that royalty in-kind was already politicized. He noted that the amendment would further politicize the advisory board. He did not know whether it would be a meaningful layer of protection. However, he admitted that public input would be a plus.

Co-Chair Merrick WITHDREW the OBJECTION.

Representative Carpenter OBJECTED without comment.

Representative Carpenter MAINTAINED the OBJECTION.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION.

IN FAVOR: Ortiz, Wool, Edgmon, Josephson, Foster
OPPOSED: LeBon, Thompson, Carpenter, Johnson, Merrick

The MOTION to ADOPT Amendment 2 FAILED (5/5).

2:51:04 PM
AT EASE

2:52:16 PM
RECONVENED

Vice-Chair Ortiz MOVED to report CSHB 81(RES) out of Committee with individual recommendations and the accompanying fiscal note.

Representative Carpenter OBJECTED with no comment.

A roll call vote was taken on the motion.

IN FAVOR: LeBon, Ortiz, Thompson, Wool, Carpenter, Edgmon,
Johnson, Foster, Merrick
OPPOSED: Josephson

The MOTION PASSED (9/1).

CSHB 81(RES) was REPORTED out of committee with a "do pass" recommendation and with two previously published fiscal impact notes: FN1(DFG) FN2(REV).

2:53:38 PM
AT EASE

2:55:10 PM
RECONVENED

Co-Chair Merrick reviewed the agenda for the next meeting scheduled on Monday, May 3, 2021 at 9:00 a.m.

ADJOURNMENT

2:55:31 PM

The meeting was adjourned at 2:55 p.m.