

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

May 12, 2023

3:34 p.m.

MEMBERS PRESENT

Senator Click Bishop, Co-Chair
Senator Cathy Giessel, Co-Chair
Senator Bill Wielechowski, Vice Chair
Senator Scott Kawasaki
Senator James Kaufman
Senator Forrest Dunbar
Senator Matt Claman

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 12

Supporting action by the United States Congress to authorize and appropriate adequate funding for states that assume the dredge and fill permitting program under Section 404 of the Clean Water Act; and expressing the intention of the state to assume jurisdiction over the program when funding is available.

- MOVED SJR 12 OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 104 (RES) AM

"An Act relating to salvage sales of timber, negotiated timber sales for local manufacture of wood products, and expedited timber sales; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 69

"An Act relating to geothermal resources; relating to the definition of 'geothermal resources'; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SJR 12

SHORT TITLE: SECTION 404 CWA PERMIT PROGRAM

SPONSOR(s): SENATOR(s) BISHOP

05/12/23 (S) READ THE FIRST TIME - REFERRALS
05/12/23 (S) RES
05/12/23 (S) RES WAIVED PUBLIC HEARING NOTICE, RULE
23
05/12/23 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HB 104

SHORT TITLE: TIMBER SALE: EXPEDITED/SALVAGE/NEGOTIATED

SPONSOR(s): REPRESENTATIVE(s) CRONK

03/08/23 (H) READ THE FIRST TIME - REFERRALS
03/08/23 (H) RES
03/20/23 (H) RES AT 1:00 PM BARNES 124
03/20/23 (H) Heard & Held
03/20/23 (H) MINUTE(RES)
03/24/23 (H) RES AT 1:00 PM BARNES 124
03/24/23 (H) Heard & Held
03/24/23 (H) MINUTE(RES)
04/03/23 (H) RES AT 1:00 PM BARNES 124
04/03/23 (H) -- MEETING CANCELED --
04/14/23 (H) RES AT 1:00 PM BARNES 124
04/14/23 (H) Moved CSHB 104(RES) Out of Committee
04/14/23 (H) MINUTE(RES)
04/17/23 (H) RES RPT CS(RES) NEW TITLE 4DP 2NR
04/17/23 (H) DP: RAUSCHER, MCCABE, SADDLER, MCKAY
04/17/23 (H) NR: ARMSTRONG, PATKOTAK
04/20/23 (H) TRANSMITTED TO (S)
04/20/23 (H) VERSION: CSHB 104(RES) AM
04/21/23 (S) READ THE FIRST TIME - REFERRALS
04/21/23 (S) RES
04/24/23 (S) RES AT 3:30 PM BUTROVICH 205
04/24/23 (S) Heard & Held
04/24/23 (S) MINUTE(RES)
05/05/23 (S) RES AT 3:30 PM BUTROVICH 205
05/05/23 (S) **Streamed live on AKL.tv**
05/08/23 (S) RES AT 3:30 PM BUTROVICH 205
05/08/23 (S) Heard & Held
05/08/23 (S) MINUTE(RES)
05/12/23 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 69

SHORT TITLE: GEOTHERMAL RESOURCES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/15/23	(S)	READ THE FIRST TIME - REFERRALS
02/15/23	(S)	RES, FIN
04/12/23	(S)	RES AT 3:30 PM BUTROVICH 205
04/12/23	(S)	Heard & Held
04/12/23	(S)	MINUTE (RES)
04/17/23	(S)	RES AT 3:30 PM BUTROVICH 205
04/17/23	(S)	Heard & Held
04/17/23	(S)	MINUTE (RES)
05/12/23	(S)	RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

RANDY BATES, Director
 Division of Water
 Department of Environmental Conservation
 Juneau, Alaska

POSITION STATEMENT: Responded to questions during the hearing on SJR 12.

JULIE PACK, Assistant Attorney General
 Environmental Section
 Civil Division
 Department of Law
 Anchorage, Alaska

POSITION STATEMENT: Responded to questions during the hearing on SJR 12.

ANNE RITTGERS, Staff
 Co-Chair Click Bishop
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Presented the explanation of changes from U to D for HB 104.

JOHN BOYLE, Commissioner
 Department of Natural Resources
 Anchorage, Alaska

POSITION STATEMENT: Stated support for the intent of HB 104.

HELGE ENG, State Forester and Director
 Division of Forestry and Fire Protection
 Department of Natural Resources (DNR)
 Anchorage, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 104.

DAVE STANCLIFF, Staff
Representative Mike Cronk
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Stated support for the Senate CS for HB 104 on behalf of the sponsor.

ACTION NARRATIVE

[3:34:48 PM](#)

CO-CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:34 p.m. Present at the call to order were Senators Kawasaki, Dunbar, Kaufman, Wielechowski, Co-Chair Giessel, and Co-Chair Bishop. Senator Claman joined the committee during the course of the meeting.

SJR 12-SECTION 404 CWA PERMIT PROGRAM

[3:35:39 PM](#)

CO-CHAIR GIESSEL announced the consideration of SENATE JOINT RESOLUTION NO. 12 Supporting action by the United States Congress to authorize and appropriate adequate funding for states that assume the dredge and fill permitting program under Section 404 of the Clean Water Act; and expressing the intention of the state to assume jurisdiction over the program when funding is available.

[3:35:51 PM](#)

CO-CHAIR BISHOP, speaking as the sponsor of SJR 12, explained that the resolution states support for the Department of Environmental Conservation's (DEC) efforts to assume the dredge and fill permitting program under Section 404 of the Clean Water Act, and urges Congress to appropriate the funds for states that have assumed primacy. He clarified that the Environmental Protection Agency (EPA) would still retain veto power under 404(c) as well as dredge and fill permitting authority for federal waters of the US.

CO-CHAIR GIESSEL noted who was available to answer questions.

[3:37:50 PM](#)

SENATOR KAWASAKI asked if the state would have permitting authority for state waters but not for Section 10 waters under the 404 assumption.

[3:38:30 PM](#)

RANDY BATES, Director, Division of Water, Department of Environmental Conservation (DEC), Juneau, Alaska, stated support for SJR 12. He reported that the department was working with the congressional delegation, the funding agencies at the Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA), and representative organizations the state belongs to as it look3 at state primacy of the Section 404 program. He agreed with the sponsor that EPA will retain oversight authority over a state-run 404 program and the Corps will retain permitting authority in the non-assumable Section 10 waters. The state will assume permitting authority in the assumable Section 10 waters. He deferred to Julie Pack to answer Senator Kawasaki's question.

[3:40:12 PM](#)

JULIE PACK, Assistant Attorney General, Environmental Section, Civil Division, Department of Law, Anchorage, Alaska, confirmed Mr. Bates' statement that once the state assumes the Section 404 program, the Corps will retain authority over the non-assumable Section 10 waters.

SENATOR KAWASAKI asked, if the state were to assume 404 primacy, whether permit applicants would be faced with working with both EPA and the state when the waterway has both Section 10 and non-Section 10 waters.

MR. BATES responded that it was DEC's intention to provide the applicant with an option in that circumstance. They could go through the Army Corps of Engineers for the entire project or they could get a permit from the Corps for the part of the project that's under the Corps' jurisdiction and get a state 404 permit for the part of the project that is inland of the retained waters boundary.

SENATOR KAWASAKI asked under what circumstance an applicant who is interfacing two separate waterbodies would forego working with the state and opt to work only with the federal government.

MR. BATES cited the example of a project that has just a sliver of state waters and the rest is non-assumable Section 10 waters. He continued that for a project that is substantially in state-assumed waters or that has some compensatory mitigation requirements that the state could manage more appropriately, the applicant may choose to bifurcate the review process.

[3:45:02 PM](#)

CO-CHAIR GIESSEL opened public testimony on SJR 12; finding none, she closed public testimony.

[3:45:26 PM](#)

At ease

[3:47:08 PM](#)

CO-CHAIR GIESSEL reconvened the meeting and noted that there was an amendment for the committee to consider.

[3:47:19 PM](#)

SENATOR WIELECHOWSKI moved to adopt Amendment 1 to SJR 12, work order 33-LS0846\A.1, on behalf of Senator Claman.

33-LS0846\A.1
Radford
5/12/23

AMENDMENT 1

OFFERED IN THE SENATE

BY SENATOR CLAMAN

TO: SJR 12

Page 1, line 3, following "Act;"

Insert "**supporting federal funding to locate in the state a United States Environmental Protection Agency office that serves the state;**"

Page 2, following line 10:

Insert new material to read:

"**WHEREAS** the United States Environmental Protection Agency office that serves the state is located in Seattle, Washington, which is 1,448 miles away from Anchorage, the state's largest city; and"

Page 2, following line 27:

Insert new material to read:

"**FURTHER RESOLVED** that the Alaska State Legislature supports federal funding for the United States Environmental Protection Agency office that serves the state to be located in the state; and be it"

[3:47:24 PM](#)

CO-CHAIR GIESSEL objected for purposes of discussion.

SENATOR WIELECHOWSKI qualified that he was offering the amendment for Senator Claman who was presenting a bill in another committee. He read Amendment 1 and suggested the department articulate its position on the amendment.

CO-CHAIR GIESSEL asked Mr. Bates to comment on Amendment 1.

[3:48:11 PM](#)

MR. BATES stated that DEC doesn't object to Amendment 1, but believes that it may be redundant as there already is a district office in the federal building in Anchorage for EPA. It is staffed by Region 10, which includes Alaska, Washington, Oregon, and Idaho and that office interacts with Washington DC on a regular basis. He also noted that at one time there was a district office for EPA in the federal building in the capital [city].

[3:49:00 PM](#)

SENATOR DUNBAR asked whether the EPA office for Alaska was ever located in Seattle.

MR. BATES said he wasn't aware of a district office that was outside the state, but there is a significant Region 10 EPA office in Seattle and DEC works with that office regularly.

CO-CHAIR BISHOP asked him to clarify that the EPA district office was in the federal building in the Capital City of Juneau, not the state capitol building in Juneau.

MR. BATES said that's correct; EPA district offices are located in federal buildings.

SENATOR WIELECHOWSKI asked how many EPA employees were in the Anchorage district office.

[3:50:23 PM](#)

MR. BATES said he didn't know the exact number but he was aware of several attorneys, some staff, and some higher-level positions that were counters to his supervisor.

SENATOR WIELECHOWSKI asked what percentage of the work is being done in Anchorage as opposed to Seattle.

MR. BATES said he didn't know but he would follow up with EPA and provide an answer.

[3:51:01 PM](#)

SENATOR WIELECHOWSKI withdrew Amendment 1 and asked Mr. Bates to provide a response as quickly as possible.

CO-CHAIR GIESSEL stated that Amendment 1 has been withdrawn.

[3:51:30 PM](#)

SENATOR KAWASAKI asked what the impact has been on the general fund since the state assumed the Section 402 program about 12 years ago.

[3:52:04 PM](#)

MR. BATES said the Section 402 program for wastewater discharge permitting was implemented in phases from 2008 through 2012. The state currently receives about \$2.6 million in federal support and the state has been providing about \$1.5 million from the general fund, which is a little more than the required 25 percent match, and the permit fees bring another \$1.5 million. In total, the 402 program operates on about \$5.5 million.

DEC estimates that the funding for the 404 program will be \$4.9 million in FY2024 and \$4.7 million in subsequent years. This includes 32 staff. Current funding for the 404 program would come from the general fund (GF) and the resolution requests federal funding to offset some of the GF. Building the permit fees into the 404 program will offset the general fund requirement much like it currently does in the 402 program.

[3:53:59 PM](#)

At ease

[3:54:09 PM](#)

CO-CHAIR GIESSEL reconvened the meeting. Finding no further questions, she solicited a motion.

[3:54:19 PM](#)

CO-CHAIR BISHOP moved to report SJR 12, work order 33-LS0846\A, from committee with individual recommendations and attached zero fiscal note.

[3:54:33 PM](#)

CO-CHAIR GIESSEL found no objection and SJR 12 was reported from the Senate Resources Standing Committee.

[3:54:36 PM](#)

At ease

HB 104-TIMBER SALE: EXPEDITED/SALVAGE/NEGOTIATED

[3:56:43 PM](#)

CO-CHAIR BISHOP reconvened the meeting and announced the consideration of CS FOR HOUSE BILL NO. 104 (RES) am "An Act relating to salvage sales of timber, negotiated timber sales for local manufacture of wood products, and expedited timber sales; and providing for an effective date."

He noted there was a Senate committee substitute for the committee to consider.

[3:56:52 PM](#)

CO-CHAIR GIESSEL moved to adopt the Senate committee substitute (SCS) for HB 104, work order 33-LS0474\D, as the working document.

[3:57:04 PM](#)

CO-CHAIR BISHOP objected for purposes of discussion.

[3:57:47 PM](#)

ANNE RITTGERS, Staff, Co-Chair Click Bishop, Alaska State Legislature, Juneau, Alaska, presented the explanation of changes from U to D for HB 104.

SUMMARY

1. SRES CS \D simplifies and expedites the negotiated timber sale process.
2. SRES CS \D retains the usual Department of Natural Resources (DNR) public processes to meet the constitutional requirement to give public notice for disposals of natural resources:

Article VIII, Section 10. Public Notice. No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

3. SRES CS \D retains the local manufacturing requirement for negotiated sales; if logs are to be sold as export (not manufactured locally), timber sales must be sold competitively. This protects local manufacturers' advantage to negotiate timber sales, since they create local jobs and contribute more to the local and state economy than a company focusing on export sales.

4. SRES CS \D creates the requirement for a DNR report to the Legislature during the 2024 session describing each timber sale in detail and how long they took to implement. It also requires DNR to describe timber sales that did not occur because of loss of value and asks for information that would increase timber sales and improve timber sale procedures.

CO-CHAIR BISHOP stated his intention to adopt the Senate CS, hear from the commissioner, and hold the bill in committee over the Interim.

3:59:00 PM

JOHN BOYLE, Commissioner, Department of Natural Resources, Anchorage, Alaska, stated that DNR supports the intent of HB 104. He's talked to small harvesters and manufacturers of local wood products to get a sense of how well DNR has been performing in the area getting timber out to sale and whether the existing statutes, regulations, and procedures are apposite to what the industry needs. He said DNR recognizes it needs to take a hard look at how it is managing and interacting with the industry that is utilizing state forested land. He reminded the committee that last year DNR brought in about \$1.5 million from timber sales statewide. Over that same time, the department spent \$120 million putting out wildfires, which is indicative of an imbalance. He said countries in similar latitudes that have similar climates and similar forests have timber industries that produce board feet of timber an order of magnitude larger than Alaska, which suggests there is more that Alaska can do in this space.

He opined that a small step is to streamline and simplify some of the processes. HB 104 works to that end by lengthening the terms of the lease sales for operators. This will make it easier to access financing to produce more lumber and grow their businesses. He talked about the unmet demand he's seen for local lumber and the department's desire to make small changes to help operators meet that demand.

COMMISSIONER BOYLE stated that he had already tasked the Division of Forestry and Fire Protection to take a holistic look at the existing framework of regulations and statutes to find ways to better monetize state forests and grow the timber industry in the state. This will take active forest management

which includes the carbon bill and more aggressive replanting after wildfires with higher quality merchantable timber. The idea is to close the current monetary imbalance between timber sales and the cost of fighting wildfires.

COMMISSIONER BOYLE continued that HB 104 enables DNR to offer timber at less than appraised value when it will benefit communities, help grow the industry, and bring revenue to the state. He said he looks forward to bringing a more comprehensive package to the committee next session.

[4:05:49 PM](#)

SENATOR DUNBAR referenced Section 5 of the SCS that repeals the section on base price and Section 4 that authorizes the sale of timber at less than the appraised value; he expressed concern about creating a monopsony, which is a market situation in which there is only one buyer. He suggested that it would be easy for some commissioner in the future to cut a sweetheart deal with a manufacturer that is far below the appraised value. He asked the commissioner for his thoughts and whether some sideboards or a floor could be added to protect the state from that sort of behavior.

COMMISSIONER BOYLE replied that he didn't see that as a great risk to the state given that the current revenue from timber sales is less than \$1.5 million per year. He relayed his belief that the more DNR can promote and incent local operators, the better it will be for the state even if it isn't getting top dollar for its timber in all instances. The offsetting benefit is the potential for such sales to increase investment and employment opportunities and lower the cost of building supplies in small rural communities that are off the main Railbelt. He added that the intent is to ultimately grow the revenue share and have high quality trees to sell in the quantities needed to attract significant investors who will produce more commercial amounts of lumber in the state.

[4:10:04 PM](#)

SENATOR KAUFMAN commented that the total value calculation of the timber will include the reduction in fire risk once the dead and standing fuels are removed. The timber is worth nothing left in situ but it is a liability if it ignites in a wildfire.

[4:10:53 PM](#)

CO-CHAIR BISHOP commented that if the state is only receiving \$1.5 million/year in timber revenue, there was a lot of room to grow the industry to provide revenue for the treasury. He

described the vibrant timber-based economies in Southeast communities when he was growing up and noted that in the 1960s, Ketchikan was the third largest city in the state. He thanked the sponsor for raising the bar to grow the timber industry. Making it possible for DNR to process sales faster and have more flexibility to evaluate the kinds of sales will provide untold opportunities. He described the requirement in the bill for DNR to provide an annual report to the legislature as valuable.

[4:13:04 PM](#)

CO-CHAIR GIESSEL said she and her husband burn beetle-killed wood and it's not unusual to find live beetles in the house. She asked Mr. Eng how the people who harvest and burn this wood can keep from spreading the infestation.

[4:13:55 PM](#)

SENATOR CLAMAN joined the committee.

[4:14:03 PM](#)

HELGE ENG, State Forester and Director, Division of Forestry and Fire Protection, Department of Natural Resources (DNR), Anchorage, Alaska, stated that spreading beetle infestations is always a concern but it's important to understand that the beetle is endemic so background levels are always present. Avoiding the spread of the beetle is best done by maintaining healthy forests that are able to resist beetle epidemics. He also advocated for burning firewood as close to the source as possible.

[4:15:12 PM](#)

SENATOR DUNBAR pointed out that as currently drafted, the report to the legislature that is outlined in Section 6 of the Senate CS is not ongoing. He said some of his concern relating to the lack of a floor on these sales would be alleviated if the report were recurring. Acknowledging that ongoing reports are time consuming and costly, he asked about the possibility of a revenue-based trigger provision for the report.

COMMISSIONER BOYLE said he didn't believe DNR would object to a revenue-based trigger provision for the reports.

CO-CHAIR BISHOP opined that Section 6 needed work in several areas.

[4:17:54 PM](#)

SENATOR KAUFMAN suggested the drafters add an inflation adjustment measure to the reporting requirement. He also asked

whether kiln dried lumber produced by this process would be better at attenuating the beetle infestation than transporting the timber as firewood.

COMMISSIONER BOYLE deferred the question to Mr. Eng.

[4:18:55 PM](#)

MR. ENG stated that kiln drying isn't required to kill the beetles; the beetles also die when the wood is air dried.

[4:19:22 PM](#)

CO-CHAIR BISHOP removed his objection; finding no further objection, the Senate CS for HB 104 was adopted.

He invited Mr. Stancliff to provide closing comments.

[4:19:40 PM](#)

DAVE STANCLIFF, Staff, Representative Mike Cronk, Alaska State Legislature, Juneau, Alaska, stated that the sponsor views the Senate CS as a negotiated compromise with the administration and the committee. The goal is to turn a withering timber industry into a vibrant industry. The administration has assured the sponsor that the division will perform more quickly and efficiently as outlined in the report to the legislature.

[4:21:20 PM](#)

CO-CHAIR BISHOP held HB 104 in committee.

SB 69-GEOTHERMAL RESOURCES

[4:21:27 PM](#)

CO-CHAIR BISHOP announced the consideration of SENATE BILL NO. 69 "An Act relating to geothermal resources; relating to the definition of 'geothermal resources'; and providing for an effective date."

He noted that public testimony was held open during the last meeting.

[4:21:36 PM](#)

CO-CHAIR BISHOP asked if anyone wished to testify on SB 69; finding none, he closed public testimony.

[4:21:48 PM](#)

CO-CHAIR BISHOP held SB 69 in committee.

[4:24:56 PM](#)

There being no further business to come before the committee,
Co-Chair Bishop adjourned the Senate Resources Standing
Committee meeting at 4:24 p.m.