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B

366

Offered: 3.28/84
Referred: Community and Regional
Affairs

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 366 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL
6 For an Act entitled: "An Act relating to protection of forested land."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 41.15.010 is amended to read:

9 Sec. 41.15.010. INTENT. It is the intent of AS 41.15.010 -
10 41.15.170 to provide protection, commensurate with the value of the
11 resources at risk, for the natural [TIMBER] resources and watersheds
12 on land that is owned privately, by the state, or by a municipality
13 [ALL LAND IN THE STATE].

14 * Sec. 2. AS 41.15.030(b) is amended to read:

15 (b) The commissioner may hire emergency fire-fighting personnel
16 [UP TO A TOTAL OF 30,000 MAN-HOURS EACH YEAR], and shall establish
17 classifications and rates of pay for the emergency fire-fighting
18 personnel consistent with the compensation paid by other fire-fighting
19 agencies. The commissioner may adjust the classifications and rates
20 based on findings of the federal Bureau of Land Management for Alaska.

NEGOTIATIONS WITH

D.N.R. (BILL SPONSORED BY GOVERNOR)

ALASKA MUNICIPAL LEAGUE

FIRE CHIEFS ASSOCIATION

FEATURES:

1. CLARIFIES THAT STATE NEED NOT PROTECT ALL LAND IN STATE BUT ONLY LAND THAT IS OWNED PRIVATELY, BY THE STATE, OR BY A MUNICIPALITY.
2. PROTECTION PROVIDED BY STATE IS TO BE COMMENSURATE WITH THE VALUE OF THE RESOURCES AT RISK.
3. REMOVES THE LIMITATION ON THE NUMBER OF MANHOURS OF EMERGENCY FIREFIGHTING SERVICE THAT DNR MAY USE YEARLY.

CHANGE FROM ORIGINAL:

ORIGINAL BILL WOULD HAVE TRANSFERRED FIRE SUPPRESSION RESPONSIBILITY FROM STATE TO MUNICIPALITY. OPPOSED BY MUNICIPAL LEAGUE (CONCERNED ABOUT MUNICIPALITIES' CAPABILITIES AND THE COSTS AND LIABILITY THEY WOULD INCUR).

NOTES:

CURRENT LIMITATION IS 30,000 MAN-HOURS PER YEAR, THIS IS EQUIVALENT TO 8 DAYS OF A FULL FIRE FORCE. THE ROSIE CREEK FIRE IN FAIRBANKS (SPRING 1983) TOTALED OVER 30,000 MAN-HOURS.

PROTECTION CATEGORIES WHICH HAVE BEEN CATEGORIZED BY LAND USE COUNCIL:

1. CRITICAL (INVOLVING LIFE AND PROPERTY)
2. HIGH VALUE (VALUABLE NATURAL RESOURCES - TIMBER, WILDLIFE)
3. MODIFIED SUPPRESSION (RESOURCE VALUE DOESN'T MERIT CONSIDERABLE COMMITMENT)
4. LIMITED SUPPRESSION ("LET BURN", MONITORED)

CS SENATE BILL NO. 366 (Res)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

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STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 3/20/84

REQUEST
Bill/Resolution No.: CS for SB 366
Title: Protection of Forested Land

FISCAL DETAIL
Agency Affected: Dent. Natural Resources
Program Category Affected: Forestry

Sponsor: Rules Committee
Requestor: Governor
Date of Request: 1/20/84

BRU, Program or Subprogram(s) Affected:
Fire Suppression

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-			
CAPITAL	-0-	-0-	-0-			
REVENUE	-0-	-0-	-0-			

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-			

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Sharon Barton Phone: 465-2400
Division: Commissioners' Office Date: 3/20/84

Approved by Commissioner: William D. Arnold, Deputy Date: 1/30/84
Agency: Department of Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Analysis: Although this legislation neither requires an appropriation nor generates revenue, it is expected to reduce future fire fighting costs to the State by defining the lands for which the State is responsible.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT D. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 485-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

March 5, 1984
3:11 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chair
Senator Eliason
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 278, An Act establishing a waterfowl conservation stamp.
SB 366, An Act relating to protection of forested land.
SJR 31, Relating to the capture of orcas in Alaska waters.

SB 278

Senator Rodey, sponsor of the bill, explained that proceeds from the sale of stamps would be used for the conservation and enhancement of waterfowl and said the bill has the support of conservation and sport hunting groups. He supported the Committee Substitute, as it clears up any questions over dedication of funds.

Dan Timm, Regional Management Coordinator, Game Division, and Tom Rothe, Waterfowl Coordinator, Game Division, Alaska Department of Fish and Game, testified in support of the Committee Substitute, which would make the purchase of the stamps mandatory and specify that the stamp would not be required of hunters until September 1, 1985. They answered questions from members of the committee regarding the Department's administrative costs, the process of requesting proposals for design and publishing of stamps, and how the Department plans to use the revenues generated.

Jav Nelson, Executive Director, Alaska Environmental Lobby, spoke in support of the Committee Substitute, and urged the state to become more actively involved in waterfowl management.

Ron Sommerville, Alaska Outdoor Council, testified in support of the Committee Substitute.

Jim King spoke in support of the bill, urging the state to take more control over the management of its waterfowl.

Senator Sturgulewski moved to adopt the Committee Substitute. There was no objection.

Senator Mulcahy moved CS SB 278 with individual recommendations. There was no objection.

SB 366

John Sturgeon, State Forester, Department of Natural Resources, testified in support of the bill, explaining that transferring responsibility for firefighting to local service areas would remove the duplication of effort by the state and municipalities.

Ginnv Chitwood, Alaska Municipal League, testified in opposition to those sections of the bill that would give municipalities primary responsibility for fire suppression within service areas, expressing concern over municipalities' capabilities and the costs they would incur.

Senator Fahrenkamp asked that Sturgeon and Chitwood work with Committee staff to prepare a Committee Substitute that would address the needs and concerns of both the state and the municipalities.

SJR 31

Senator Vic Fischer spoke in support of the Committee Substitute and moved it be adopted and moved from Committee with individual recommendations. There was no objection.

The meeting adjourned at 4:27 pm.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

March 26, 1984
3:04 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chairman
Senator Eliason
Senator Paul Fischer
Senator Vic Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 366, An Act relating to protection of forested land.

SB 480, An Act relating to the establishment of certain commodity marketing commissions.

SB 461, An Act relating to the management and use of water in mining; and providing for an effective date.

SB 462, An Act making a special appropriation to the Mining Water Use Board for loans and grants concerned with the management and use of water in mining; and providing for an effective date.

SB 366

Sandra Schubert, Aide to Senator Fahrenkamp, explained that the Committee Substitute leaves fire suppression responsibility with the State, and clarifies which lands the State must protect and how much protection must be provided.

Senator Mulcahy moved to adopt the Committee Substitute for SB 366. There was no objection.

Carole Wilson, Special Assistant to the Commissioner of the Department of Natural Resources, testified that the Department supported the Committee Substitute.

Senator Sturgulewski moved CS SB 366 from committee with individual recommendations. There was no objection.

SB 480

Richard Ramsey, Aide to Senator Kerttula, explained that commodity marketing commissions, common in the lower 48, are intended to function as self-help institutions to further agricultural potential through marketing research, education, and promotion.

Sharon Barton, Special Assistant to the Commissioner of the Department of Natural Resources, testified that the Department supported the bill as an important step for Alaskan farmers. The Department would be involved in the organization of the commissions but not in their ongoing operations. She proposed an amendment that would clarify that DNR would perform "shell egg" inspections.

Senator Mulcahy moved to adopt DNR's proposed amendment and to move CS SB 480 from Committee. There was no objection.

SB 461

SB 462

Jim Palmer, Aide to Senator Fahrenkamp, explained that these bills would set up a program for researching the problems of placer mining and the pollution of streams. He spoke in support of the Department of Natural Resources' proposed amendments.

Pedro Denton, Division of Mining, Department of Natural Resources, spoke in support of the bill as the programs will provide a source of needed information for making management decisions. He offered specific amendments to clarify the intent of the bill.

Senator Vic Fischer suggested language be added to the Committee Substitute that would clarify that the intent of the innovative gold recovery grant program is to reduce water usage and pollution.

Randy Bavliss, Water Quality Section, Department of Environmental Conservation spoke in support of the bills urging the development of new methods and procedures for gold recovery as the best long range solution to placer mining problems.

Phil Holdsworth, Alaska Miners Association, spoke in support of the bills, and the need for more data from miners on new recovery techniques.

Senator Ziegler moved to adopt the added language suggested by Senator Vic Fischer. There was no objection.

Senator Sturgulewski moved to adopt the amendments proposed by the Department of Natural Resources. There was no objection.

Senator Ziegler moved CS SB 461 and SB 462 from Committee with individual recommendations. There was no objection.

The meeting adjourned at 4:04 pm.

Chapter 15. Forests.

Article

1. Protection of Forested Land (§§ 41.15.010 — 41.15.170)
2. Forest Reserve Fund (§ 41.15.180)
3. Fire Suppression Fund (§§ 41.15.200 — 41.15.240)
4. Haines State Forest Resource Management Area (§§ 41.15.300 — 41.15.330)
5. Miscellaneous Provisions (§ 41.15.900)
6. General Provisions (§ 41.15.950)

Article 1. Protection of Forested Land.

Section

10. Intent
20. Regulations
30. Contracts for forest protection
40. Right of entry to control and suppress fires
50. Fire season
60. Permits
70. Disposal of burning materials
80. Equipment and notice required
90. Building or leaving fires

Section

100. Setting fires without consent
110. Uncontrolled spread of fire; leaving fire unattended
120. Failure to assist in preventing or suppressing fires
130. Backfires excluded
140. Penalty for misdemeanor
150. Malicious or wanton setting of fires
160. Double damages in civil actions
170. Definitions

Collateral references. — 52 Am. Jur. 2d, Logs and Timber, §§ 64 — 65; 63 Am. Jur. 2d, Public Lands, § 18.
98 C.J.S., Woods and Forests, § 1 et seq.
Constitutionality of reforestation or forest conservation legislation, 13 ALR2d 1095.
Constitutionality of fire prevention provisions of forest conservation legislation, 13 ALR2d 1129.

Liability for spread of fire purposely and lawfully kindled, 24 ALR2d 241.
Res ipsa loquitur in actions against owner or occupant of premises for personal injury, death, or property damage caused by fire, 8 ALR3d 974.
Measure of damages for destruction of or injury to fruit, nut, or other productive trees, 90 ALR3d 800.

Sec. 41.15.010. Intent. It is the intent of AS 41.15.010 — 41.15.170 to provide protection for the timber resources and watersheds on all land in the state. (§ 1 ch 138 SLA 1961)

Sec. 41.15.020. Regulations. The commissioner shall, by regulation, make provision for the protection of forested land in the state from fire and other destructive agents. (§ 2 ch 138 SLA 1961)

Sec. 41.15.030. Contracts for forest protection. (a) The commissioner may enter into necessary protection contracts.

(b) The commissioner may hire emergency fire-fighting personnel up to a total of 30,000 man-hours each year, and shall establish classifications and rates of pay for the emergency fire-fighting personnel consistent with the compensation paid by other fire-fighting personnel.

commissioner may adjust the classifications and rates based on findings of the federal Bureau of Land Management for Alaska. (§ 2 ch 138 SLA 1961; am § 1 ch 100 SLA 1976)

Sec. 41.15.040. Right of entry to control and suppress fires. Upon approval by the commissioner or an authorized agent, employees of the division of lands, or of any organization authorized to prevent, control or suppress fires or destructive agents, and others assisting in the control or suppression of fires upon request of an officer or employee of the United States or the state may at any time enter upon any land, whether publicly or privately owned, for the purpose of preventing, suppressing or controlling forest fires and destructive agents. (§ 2 ch 138 SLA 1961)

Collateral references. — 22 Am. Jur., 2d Fires, § 2.
visions of forest conservation legislation, 13 ALR2d 1129.
Constitutionality of fire prevention pro-

Sec. 41.15.050. Fire season. The period from May 1 to September 30, inclusive, of each year is designated the fire season. The commissioner may designate other periods as fire season. The commissioner may proclaim an additional period for all or any portion of the state when weather or other conditions require action for the protection of forested land. The commissioner may also, during the fire season, prohibit, or allow only by permit, the setting of fires, smoking, entry or other use on the land, when, in the judgment of the commissioner, the activities would unduly increase the fire danger. (§ 3 ch 138 SLA 1961; am § 1 ch 27 SLA 1973)

Sec. 41.15.060. Permits. The commissioner shall, by regulation, prescribe the conditions of and the manner for obtaining a permit. Failure to obtain the required permit, or violation of a condition of the permit is a misdemeanor. (§ 3 ch 138 SLA 1961; am § 1 ch 179 SLA 1970)

Sec. 41.15.070. Disposal of burning materials. A person who, during the fire season, throws away lighted tobacco, cigar, cigarette, match, firecracker or other burning material on forested land, whether public or private, is guilty of a misdemeanor. (§ 4 ch 138 SLA 1961)

Sec. 41.15.080. Equipment and notice required. Every conveyance operated through or above forested land shall be equipped at all times in each compartment with a suitable receptacle for the disposition or reception of burning material mentioned in AS 41.15.070. Every owner or operator of a public conveyance operated through or above forested land shall post and keep displayed at all times a copy of AS 41.15.050 — 41.15.080 and 41.15.140 in a conspicuous place within the



58366

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 20, 1984

The Honorable Jalmar Kerttula
President of the Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the protection of forested land. This bill clarifies the extent of the state's duty to protect forested land, and removes the limitation on the number of man-hours of emergency fire-fighting service that the Department of Natural Resources may use each year.

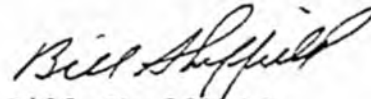
AS 41.15.010 currently provides that "[i]t is the intent of AS 41.15.010 -- 41.15.170 to provide protection for the timber resources and watersheds on all land in the state." The bill first clarifies that the protection provided by the state is to be commensurate with the value of the resources at risk. The state is not obligated to provide more protection to forested land than is reasonable, based on the value of the resources at risk.

This bill next clarifies that the state need not protect all forested land located within the state, but only state land (as defined in AS 38.05.365(16)) or land owned privately or by a municipality. The U.S. Departments of Agriculture, Interior, and Defense are obligated to protect federal land located within the state, and there is no reason for the state to provide duplicate protection.

This bill also clarifies that the primary responsibility for suppressing fires on forested land located within a tax-supported fire service area rests with the municipality in which that service area is located. The state's duty with regard to fires in these areas is to provide assistance to the municipality if the fire exceeds its capabilities.

Finally, this bill removes the limitation placed on the number of man-hours of emergency fire-fighting service that may be used each year by the Department of Natural Resources. In an average or worse-than-average year, the state cannot adequately suppress forest fires occurring in the areas for which it is responsible using only the 30,000 man-hours permitted by AS 41.15.030.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor