

HOUSE FINANCE COMMITTEE
April 11, 2002
8:48 AM

TAPE HFC 02 - 81, Side A
TAPE HFC 02 - 81, Side B

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 8:48 AM.

MEMBERS PRESENT

Representative Eldon Mulder, Co-Chair
Representative Bill Williams, Co-Chair
Representative Con Bunde, Vice-Chair
Representative Eric Croft
Representative John Davies
Representative John Harris
Representative Bill Hudson
Representative Ken Lancaster
Representative Carl Moses
Representative Jim Whitaker

MEMBERS ABSENT

Representative Richard Foster

ALSO PRESENT

Representative Pete Kott; Kathy Hansen, Executive Director, Southeast Alaska Fishermen's Alliance, Juneau; Don Etheridge, AFL-CIO, Juneau; Darryl Tseu, Inland Boatmen's Union of the Pacific, Juneau; Barbara Huff Tuckness, Teamsters Union, Juneau; Leo S. Brown, Homer.

PRESENT VIA TELECONFERENCE

Jim Sampson, Fairbanks; Leo S. Brown, Homer; Sue Aspelund, Executive Director, Cordova District Fishermen United, Cordova.

SUMMARY

HB 287 "An Act relating to the exemption of commercial fishing entry permits from claims of creditors, to loans to satisfy past due federal tax obligations of commercial fishing entry permit holders, and to loan origination charges for loans made by the commercial fishing loan program to refinance a debt obligation; and providing for an effective date."

HB 504 "An Act relating to the wages of people working in
the fisheries business."

#hb504

HOUSE BILL NO. 504

"An Act relating to the wages of people working in the
fisheries business."

Representative Hudson MOVED to ADOPT proposed committee
substitute 22-LS1595\S, 4/10/02. There being NO OBJECTION,
it was so ordered.

REPRESENTATIVE PETE KOTT, SPONSOR, spoke to the changes made
in the committee substitute. The committee substitute would
require departmental approval for charges [by an employer
engaged in the fisheries business for board and lodging]
over \$15 dollars a day. He explained that the flat \$15
dollar a day rate is lower than the rate currently being
used by a processor in Petersburg.

KATHY HANSON, EXECUTIVE DIRECTOR, Alaska Southeast Alaska
Fishermen's Alliance testified in support of the
legislation. She stressed that the legislation would assist
the commercial fishing industry. She maintained that most
workers would pay more than what they are charged if they
had to pay for their own food and lodging. She asserted that
commercial fishermen would have to pay the cost if the
legislation is denied. She thought that most fishermen are
currently earning less than the minimum wage.

DON ETHERIDGE, AFL-CIO, JUNEAU stated that the union's main
concern is that lower level positions do not lose their
income. He observed that budget cuts would affect the lowest
paid employees first.

DARRYL TSEU, INLAND BOATMEN'S UNION OF THE PACIFIC, JUNEAU
spoke against the legislation. He observed that Southeast
Alaska processors are already allowed to deduct for housing.
He expressed concern that workers would not have enough
money to return to their homes.

BARBARA HUFF TUCKNESS, DIRECTOR, LEGISLATIVE AFFAIRS,
TEAMSTERS LOCAL 959, JUNEAU testified in opposition to the
legislation. She noted that she spoke on behalf of the
approximate 7,000 members around the state. The Teamster's
mission is to organize the unorganized and represent all
workers to assure fairness and dignity in the work
environment. She quoted the union's Secretary/Treasurer,
Jerry Hood: "What is negotiated today can be legislated away
tomorrow with a stroke of a pen."

Ms. Tuckness maintained that the legislation is "one of the
most blatant instruments of oppression to come before this
legislature in a while." She emphasized that the fishing

industry is a multi billion dollar industry. Many of the workers are from out of state or out of country. She stressed that they should not be treated with any less dignity and respect than Alaskan [North] Slope workers who live in Company accommodations.

Ms. Tuckness referred to comments that the bill corrects an inequity in current regulation. She observed that under current regulation if an employee is working in an area in the state, for example Ketchikan, which would have available housing an employer could charge for their room and board. In this situation the employee could choose to go elsewhere. If there are not alternative living quarters then the employer cannot charge the employee.

Ms. Tuckness referred to a fish processor's website and noted that most of the work available is called sliming or cleaning fish. The environment is wet, cold and drafty. Sliming and other processing jobs require standing in one spot doing the same task for 16 or more hours a day, 7 days a week in peak season. There also are periods of time when no work is available. The living quarters on a processing plant hold 4 to 12 people per room. Recreation is limited and there is usually no shore time.

Ms. Tuckness asked members to reject the bill and send a message to all workers in this state, including those on processing plants, that all workers deserve to be treated with dignity and respect and compensated fairly, no matter how menial the work they perform. She quoted quote President George W. Bush: "As we think what is possible, we must also think what is right." She maintained that support of the legislation only brings the old company town mentality to the state of Alaska.

JIM SAMPSON, FAIRBANKS testified via teleconference in opposition to the legislation. He noted that he is one of the prime sponsors of the minimum wage petition. He maintained that HB 504 would deny thousands working in the fishing industry the increase that many Alaskans support. He maintained that HB 504 is an anti-worker bill.

Representative Hudson MOVED to ADOPT Amendment 1 on line 7 of page 1: insert "paid day worked." He observed that the employee could accrue costs on days when they aren't working due to a downturn. He explained that, in order to have money deducted from an employee, the employee would have had to work.

Representative Croft questioned if the legislation would apply to remote and non-remote sites. Representative Kott clarified that the legislation would apply to both remote and non-remote sites. He maintained that existing

contractual relations between an employer and employee would be impacted.

Representative Kott thought that the employee and employer would be damaged by the amendment because of the change in a contractual agreement. He pointed out that if an employee worked one-quarter of an hour that they would be getting paid for that day. There are no limitations included in the amendment. It would be difficult from an accounting standpoint.

Representative Hudson stated that the intent would be that the employee work an 8 hour paid day. If the employee received an 8-hour paid day, then the employer would be able to take the \$15 dollars or the agreed upon amount. The provision would be negotiated up-front with the employee and create a standard to address the low-end employee during the times that they are not making money. He claimed that the amendment would find the middle ground.

A roll call vote was taken on the motion to adopt Amendment 1.

IN FAVOR: Hudson, Lancaster, Moses, Bunde, Davies
OPPOSED: Harris, Whitaker, Croft, Williams

Co-Chair Mulder and Representative Foster were absent from the vote.

The MOTION PASSED (5-4).

Representative John Davies WITHDREW #1a.

Representative John Davies MOVED to ADOPT Amendment #2. Vice-Chair Bunde OBJECTED. Representative Davies explained that the amendment would eliminate the immediate effective date. No effective date would be specified. The bill would become effective after 90 days.

Vice-Chair Bunde thought that it would eliminate the possibility of the legislation being used in the current summer season. Representative Kott agreed that the effective date change would take away the opportunity to use the provisions of the bill in the up coming salmon season. He stressed that there is a problem in the industry today, and emphasized that the bill should not be tied to the minimum wage. The intent is to help an ailing industry.

Representative John Davies acknowledged problems in the fishing industry but did not want to see the industry helped by balancing the books on the backs of the workers. He pointed out that the effected workers are being paid a minimum wage and that in remote areas there is a tradition of providing housing. He maintained that a worker's wages

could be cut in half [with the provisions under the legislation]. He spoke in support of fixing the fundamentals problems and basic economics of the industry, "not balance the books on the backs of the workers."

Co-Chair Williams questioned what would happen if the processors went away. "Then where will these minimum wage people go for work? Where does a fisherman take his fish to get processed? That is a problem we are having today". He maintained that the industry is on its knees and the intent is to help.

Representative Lancaster asked what would happen if an employee is making more than the minimum wage.

Representative Kott replied that the legislation would disallow penetration below minimum wage. He observed that the legislation would not apply to the mining industry or other industry that pay well above minimum wage.

Representative John Davies pointed out that the legislation impacts people on the really low end of the wage schedule. He noted that it would help the industry if workers worked for nothing, but emphasized that there must be a balance. There is a minimum wage that is fair to pay people; the bill allows the minimum wage to be penetrated and the effective compensation dropped.

A roll call vote was taken on the motion.

IN FAVOR: Lancaster, Moses, Croft, Davies, Harris
OPPOSED: Hudson, Whitaker, Bunde, Williams

Co-Chair Mulder and Representative Foster were absent from the vote.

The MOTION PASSED (5-4).

Representative John Davies WITHDREW Amendment #3.

Representative John Davies MOVED to ADOPT Amendment #4. Co-Chair Williams OBJECTED.

Representative John Davies explained that the amendment would provide that charges for room and board could only take place when alternative public board and lodging facilities are available and the employee has declined to use those facilities.

Representative Kott stated that the amendment would minimize the bill. He emphasized that the legislation addresses the regulations and states to the department that they wrongly interpreted the statues. "Now we are trying to marry up the statue with the regulation by correcting a wrong by making

the statutes right." He thought that the amendment would go against the intent of the legislation. He pointed out that alternative lodging facilities do not exist in remote areas.

Representative Davies agreed that his intent is in opposition to the sponsor's. He maintained that the existing practice, which several departments of labor over several administrations have upheld, should be put into statute.

Representative Lancaster pointed out that the legislation does not speak to remote work sites.

HB 504 was held till later in the meeting.

#hb287

HOUSE BILL NO. 287

"An Act relating to the exemption of commercial fishing entry permits from claims of creditors, to loans to satisfy past due federal tax obligations of commercial fishing entry permit holders, and to loan origination charges for loans made by the commercial fishing loan program to refinance a debt obligation; and providing for an effective date."

REPRESENTATIVE DREW SCALZI, SPONSOR, spoke in support of the legislation. He noted that recent developments in law require a clear statement of the principle embodied in the original Limited Entry Act to clarify that limited entry permits are not property subject to the claims of creditors. The long-term crisis facing the Alaska salmon industry due to dramatic increases in world salmon production coupled with equally dramatic reductions in salmon prices make this principle all the more important. If Alaska fishermen are forced out of the water because creditors take their limited fishing privileges, everyone in Alaska loses.

Representative Scalzi observed that the bill would extend the existing tax obligation loan program portion of the commercial fishing loan program, now scheduled to sunset. The bill also continues the Division of Investments existing loan program for satisfying past due tax obligations. It keeps the same limit of \$30,000, but allows an individual to apply for a secured loan under the program more than once and removes the one-half percent refinancing fee. The bill does not alter any current claim exemptions, but simply strengthens and clarifies the exemptions.

Representative Scalzi referred to page 7, section 5(e): "An entry permit is not property; an entry permit constitutes a use privilege that may be modified or revoked by the legislature without compensation." He noted that, "commercial fishing privileges granted under this chapter, including entry permits, are exempt from claims of creditors, including claims under AS 09.38.065 and AS

45.29.408." The provision in section 7 pertains only to the Commercial Fisheries and Agricultural Bank, Division of Commercial Fishing Loans and the Child Support Division.

In response to a question by Representative John Davies, Representative Scalzi clarified that the legislation does not change the status of limited entry permits. Permits would still be purchased or sold. The legislation strengthens the state's position that the permits are not property. Federal legislation by Senator Stevens would have the same affect on the federal level if adopted.

Representative John Davies questioned if the Internal Revenue Service would be impressed by the argument that it is not property if permits are still being purchased and sold. Representative Scalzi noted that the Commercial Fisheries Entry Commission suggested the language. He noted that the federal government has tried to seize Alaskan permits without success. While the federal government could seize a permit they could not obtain any value out of the seizure since the state of Alaska retains the transfer rights.

Vice-Chair Bunde maintained that the permits amount to property and maintained that the state of Alaska would not take permits without compensation.

Representative Scalzi emphasized that fishing privileges are harvest rights. It's in the state's best interest to control the harvest capabilities of the resource. The state wants to retain control for biological management. If anyone could seize the permits it would take away the state's ability to manage the fisheries.

LEO S. BROWN, HOMER, testified via teleconference in support of the legislation. He spoke in support of the refinancing language, which would allow fisherman to take advantage of low interest rates without refinancing costs. The legislation would be a proactive step to help people in the industry.

SUE ASPELUND, CORDOVA FISHERMEN UNITED, CORDOVA, testified via teleconference in support of the legislation. She maintained that the fishing industry needs the protections contained in HB 287 in order to survive in the unprecedented market and resource challenges. Loss of a commercial fishing permit strips away the permit holder's primary means of making a living. In some areas access to a commercial fishery may be the only access to a livelihood for a resident. She spoke in support of provisions regarding the refinancing fee. The legislation is another tool in the fishermen's box to maximize flexibility in their response to the economic crisis that faces the industry. The Commercial Fishing Revolving Loan program is critical to fishermen.

KATHY HANSEN, SOUTHEAST ALASKA FISHERMEN'S ALLIANCE, JUNEAU noted that the Alliance supports the legislation.

Co-Chair Mulder provided members with proposed committee substitute, work draft 22-LS1106\0, Utermohle, 4/10/02 (copy on file). He explained that the proposed committee substitute would retain the exemption of commercial entry permits from claims and creditors. The proposed committee substitute would remove provisions pertaining to the refinance charges and focus on the Division of Investments. It would require the Division of Investments to adopt the same standards offered by SEAFAB. There are currently two state loan programs: SEAFAB and the Division of Investments. He maintained that there should be consistency within state policy.

HB 287 was heard and HELD in Committee for further consideration.

#hb504

HOUSE BILL NO. 504

"An Act relating to the wages of people working in the fisheries business."

Representative John Davies reiterated his motion to ADOPT Amendment 4.

Representative Croft explained that the amendment would place into statute the longstanding practice of the state, under 8 administrations, and the regulatory scheme that has been followed for at least 15 years. He maintained that the amendment recognizes that there is something different about remote sites.

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Representative Croft stressed that there is a difference between having alternatives and not having alternatives. He pointed out that legislators are paid a per diem rate and maintained that there is a tremendous difference between working in Petersburg and Chignik.

Representative John Davies noted that Amendment 4 would be conceptual.

In response to a question by Representative Lancaster, Representative Davies explained that if an employee is in a place where there are alternatives and they decline to use the alternative, but live in employer provided housing, then the employer can charge a fee. If the employee is in a place where there are no alternatives the employer could not charge a fee.

Vice-Chair Bunde concluded that no remote or floating processor would be able to take advantage of the provisions of the bill.

Representative Hudson noted that he opposed the amendment, as it would "neutralize" the proposed draft. His support of the legislation was intended to aid marginal fish processors in remote areas with the on-set of the coming minimum wage. He pointed out that provisions already exist in regulation. Representative John Davies responded that the adoption of the legislation would remove the regulatory provisions.

Representative Kott spoke against the amendment. He maintained that the regulation was inconsistent with the statute and emphasized that there is a separation of power issue.

Representative John Davies disagreed that there is something wrong [between the regulation and statute] or that there is a separation of powers. He felt that the regulations correctly interpret the statute.

A roll call vote was taken on the motion.

IN FAVOR: Croft, Davies, Moses
OPPOSED: Bunde, Harris, Hudson, Lancaster, Whitaker,
Williams, Mulder

Representative Foster was absent from the vote.

The MOTION FAILED (3-7).

Representative Hudson MOVED to report CSHB 504 (FIN) out of Committee with the accompanying fiscal note.

Representative Whitaker OBJECTED. He noted that a minimum wage bill was passed to confirm to the will of the people. House Bill 504 would mitigate the action of the minimum wage legislation.

Representative Hudson amended his motion to include a zero fiscal note. Representative John Davies OBJECTED. He maintained that there would be a need for auditing. Co-Chair Mulder argued in support of a zero fiscal note.

Representative Davies acknowledged that there would not be as many complaints or audits [under the committee substitute], but emphasized that there would still be some increase in required work as the result of the bill.

Representative Croft argued in support of the department's fiscal note. He did not think that the changes would reduce the need for the fiscal note.

Representative Hudson observed that the department issued a justification for a \$70 thousand dollar fiscal note and at least one new wage and hour investigator position would be necessary to conduct audits. He observed that the bill was amended to a set fee and concluded that audits would not be necessary.

Representative Lancaster expressed concern that the bill is too broad.

Vice-Chair Bunde stressed that people "vote with their feet". He did not think the legislation would be onerous on workers and pointed out that the workers would not have the option of a job if the industry were gone.

Representative John Davies maintained that the problem with the legislation is that it gets ride of, or reduces the minimum wage for this class of workers. He observed that the majority of Alaskans support a minimum wage and have indicated that it should be increased.

Co-Chair Williams acknowledged the comments made by Representative John Davies, but emphasized that the proposed bill attempts to "fix" the fishing industry. He observed that there are people in the industry that cannot find a market for their fish.

A roll call vote was taken on the motion to MOVE HB 504 from Committee.

IN FAVOR: Bunde, Hudson, Lancaster, Mulder, Williams
OPPOSED: Moses, Whitaker, Croft, Davies, Harris

Representative Foster was absent from the vote.

The MOTION FAILED (5-5).

HB 504 remained in Committee.

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ADJOURNMENT

The meeting was adjourned at 9:56 A.M.