

MINUTES
SENATE FINANCE COMMITTEE
February 12, 2001
9:07 AM

TAPES

SFC-01 # 13, SIDE A

CALL TO ORDER

Co-Chair Pete Kelly convened the meeting at approximately 9:07 a.m.

PRESENT

Senator Dave Donley, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Lyda Green
Senator Gary Wilken
Senator Alan Austerman
Senator Lyman Hoffman
Senator Loren Leman

Also Attending: LARRY DIETRICK, Director, Division of Spill Prevention and Response, Department of Environmental Conservation; PAUL FUHS, Marine Technical Advisor; HEATHER BRAKES, staff to Senator Gene Therriault, Alaska State Legislature; PAT DAVIDSON, Legislative Auditor, Legislative Audit Division; MARY JACKSON, staff to Senator John Torgerson, Alaska State Legislature; CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community and Economic Development

Attending via Teleconference: BRIAN ROGERS, Information Insights

SUMMARY INFORMATION

SB 16 - OIL DISCH PREVENTION: NONTANK VESSELS/RR

The Committee heard testimony from the Department of Environmental Conservation and Information Insights. The bill was held in Committee.

SB 2 - MUNICIPAL SCHOOL BOND REIMBURSEMENT

The bill was held in Committee.

SB 21 - FINES BY THE STATE MEDICAL BOARD

The bill was scheduled but not heard.

SB 52 - TERMINATION OF STATE PHYS THERAPY BOARD

The Committee adopted an amendment and the bill was reported from Committee.

SB 53 - EXTENDING THE BD. OF BARBERS/HAIRDRESSERS

After brief debate, the bill was held in Committee.

#sb16

SENATE BILL NO. 16

"An Act regarding oil discharge prevention and cleanup involving self-propelled nontank vessels exceeding 400 gross registered tonnage and railroad tank cars and related facilities and operations and requiring preparation and implementation of oil discharge contingency plans for those nontank vessels and railroad tank cars; amending the definition of 'response action' that relates to releases or threatened releases of oil and thereby amending the duties and liabilities of response action contractors; and authorizing compliance verification for nontank vessels and for trains and related facilities and operations; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

Co-Chair Kelly indicated that Co-Chair Donley had formally submitted some questions and wondered if those were answered to his satisfaction.

Co-Chair Donley answered no. He explained that they first asked them to clarify the funding source, because on the fiscal note it just refers to "1052-OHSRPRF-Prevention Account" as the funding source. He indicated that they gave him a list of codes used for the Alaska budgeting system and "1052-OHSRPRF-Prevention Account" was one of 15 codes that stands for "response fund." He believes that it should be amended so that it is not an obscure code.

Co-Chair Kelly affirmed that the discussion would be on the fiscal note.

Co-Chair Donley made a motion to amend the Department of Transportation and Public Facilities and Department of Environmental Conservation fiscal notes. This amendment replaces "1052-OHSRPRF-Prevention Account" with "oil spill response fund". Second, he wondered why the Task Force recommended against user fees. Third, he pointed out that the department did not explain why they felt that the response fund would be a preferred source rather than user fees. He indicated that he had hoped that there would be a better explanation of the different sections of the response fund.

Co-Chair Kelly explained that it was the general consensus with the people working on the Task Force that industry did not see the fairness in having them pay for it when they have the response fund, which, by statute, would be an appropriate use for it.

LARRY DIETRICK, Director, Division of Spill Prevention and Response, Department of Environmental Conservation, indicated that Senator Kelly's explanation was a fair characterization of the Task Force discussion.

BRIAN ROGERS, Information Insights, explained that the issue was that the users in this case are businesses that are going to be paying for the cost of acquiring response equipment; therefore, since they were already going to face some costs due to the legislation passed last year and the oil spill response fund appeared to the Task Force to include the prevention of oil spills it seemed an appropriate use of that fund.

Co-Chair Donley wondered if any of the people required to take action under the new legislation were paying into the oil spill response fund.

Mr. Rogers explained that there were two companies, BP Exploration and Tesoro Alaska, who paid into the fund.

Co-Chair Donley voiced concerned that the people who would be using the money from the response fund would not be paying into it; therefore, it would be really easy for them to recommend that the money be taken from the response fund.

Co-Chair Kelly indicated that he looks at it a different way. He pointed out that when they asked last week if there was a Federal statute hanging over their heads forcing the state into these sets of regulations the answer was no. He said that he could see how the Task Force would gravitate toward the response fund. He indicated that he was most displeased with the fact that in light of declining production any withdrawal from the fund would

ultimately deplete it. He noted that the answer given on the sheet does not necessarily address that and it does in fact deplete the fund.

Mr. Dietrick said that they did look at the out years on the fiscal note in order to do some long-term assessment on the health of the fund. He indicated that they used the Department of Revenue forecast as the official state forecast for the revenue that would be generated by the three-cent surcharge. He said that when they looked at the out years the three-cent surcharge roughly brought in \$9 to 10 million as the continued level of revenue that would be produced by the current production forecast. The \$141,000 fiscal note, which is the long-term permanent cost, was about one to two percent of the three-cent surcharge revenue, which they felt was sustainable.

Co-Chair Donley wondered if they have done any analysis on what a fee-based system would look like.

Mr. Dietrick indicated that the Task Force did do some research on a fee-based system from an incentive standpoint in order to determine if there were some ways to provide incentive. For the most part they turned them down in the end in favor of Recommendation 31.

Co-Chair Donley said that he does not see fees as an incentive.

Mr. Dietrick explained that one part of the Task Force report was to come up with incentives for encouraging the industry to pursue prevention measures. He noted that in almost all cases there was a lot of effort to try to encourage industry to prevent the spills, because in the long run that was the cheaper way to go. He pointed out that a number of incentive systems were looked at, as ways for the industry to accomplish prevention measures as part of the effort. He added that tax incentives were one of the things looked at as a way to encourage the industry to pursue prevention measures.

Co-Chair Donley reiterated his original question whether there was any analysis of a fee-based system to pay for this.

Mr. Dietrick indicated that the thing the Task Force relied upon, beyond the tax incentives that were discussed for the prevention, were to use the private sector to the maximum extent possible to implement the legislation. He explained that the package is dependent on the use of existing oil spill response cooperates, stevedoring operations and ship agents; those were felt by the Committee as the best way to keep the cost down. He added that

there was not a cost benefit done, because before the cooperatives could lock in a certain rate they had to know the pool of vessels that were going to participate and they felt that it would be worked out in time.

Co-Chair Donley requested clarification on whether they were hesitant to do an assessment of fees, because they did not know what vehicles would be subject to this.

Mr. Dietrick responded that is correct. He explained that the total pool of vessels is approximately 900. The percentage of those vessels that want to share in a single cooperative is something that will not be worked out until they engage in those negotiations with the cooperatives. In other words if one vessel were to meet all the requirements that single vessel operator would have to bear the full cost of meeting that compliance; however, if 500 vessels bear in that single response capability than that cost is shared amongst those 500 vessels. He indicated that knowing those arrangements and whether vessel groups will want to build their own capabilities or join the same cooperative or form a new cooperative or pursue other business arrangements with other partners is something that the legislation depends on, but was not worked out ahead of time.

Co-Chair Donley commented that the answer should have been that there was difficulty in assessing fees because of the complexities of the systems that were involved.

PAUL FUHS, Marine Technical Advisor, explained that they did not look at what the fees would be if they charged in addition to the fees of complying with it and paying the cooperatives and getting the certificate of financial responsibility. He indicated that when they looked at it they realized that the three-cent fund or response fund was designed for purposes such as this one. He noted that the historical compromise that was reached years ago was that the two-cents would lead up to \$50 million and the industry new that they would have the three-cents forever. He said that they do not mind if the money is spent on things such as prevention.

Mr. Dietrick noted that the industry's thinking behind this is that there would be additional vessels participating in the safety net; therefore, there would be a potential decrease in cost for the payer of the three-cents.

Co-Chair Donley wondered if there was a cap or if this was just an estimate of what was going to be assessed against the three-cent fund. He pointed out that if they develop a system of virtually unlimited revenue there might not be a guarantee that the costs are

going to be restrained.

Mr. Fuhs responded that their guarantee is the Senate and House Finance Committees, since they are in charge of appropriating the budget every year.

Mr. Dietrick augmented that they changed the two positions back to temporary to accommodate the peak load in FY03 and FY04 in response to the concerns that permanent positions would be on the books and carried on.

Senator Leman wondered how the production level decline from last year's estimate of a million barrels a day affects their estimates of the balance.

Mr. Dietrick responded that the production estimates are from the Department of Revenue tax division in the "Fall 2000 Revenue Sources Book;" this is the document the agencies use for planning their fiscal budget. He explained that the budget planning for the response fund is done on an annual fiscal year basis. He formulated that what they do is at the end of the fiscal year they take the balance and add to it the projected revenue over the next fiscal year, in this case it would be FY02, and subtract the expenditures that are planned for that year in the budget and that would determine the balance for the end of FY02. He pointed out that during that year, in answer to the question, the actual production does fluctuate from the number that they select to prepare the budget. He noted that they use the spring forecast number and then update it in the fall. He believes that they do have an advantage, because the fluctuations in production are not anywhere near the fluctuations in the price per barrel. He asserted that even though there is some fluctuation over the course of the year it usually balances out by the end of the fiscal year and they do not think there will be any substantial negative impact on the flow.

Senator Leman asked if that was even for the out years.

Mr. Dietrick responded that the farther they get out in FY04 and FY05 certainly the more speculative it becomes. He explained that BP just announced that they want to go for an increase as their goal by FY05 and that kind of information is not reflected in the revenue forecast, but an upside potential target that the companies hit will enhance the fund and drive it the other way.

Senator Leman wondered if they concur with the fiscal analysts assessment of the amount available for appropriation of \$27.7 million.

Mr. Dietrick responded that they did work with the Legislative Finance Division and the fiscal analysts and that is a correct starting number that they used for their FY02 forecast.

Senator Leman wondered if the response monies that are RSA'd (Reimbursable Services Agreement) to other departments included in the operating budget total approximately \$22 million.

Mr. Dietrick responded yes.

Senator Leman wondered whether the 20 staff currently reviewing the 140 c-plans were in one division and asked Mr. Dietrick to explain the rationale for the additional positions. He further inquired as to whether there were additional workloads to accommodate the additional positions.

Mr. Dietrick explained that all of the positions were in the Division of Spill Prevention and Response. He noted that by comparison the staff now currently reviews, for the crude and non-crude industry, approximately 140 plans and the number of vessels that will be brought in by SB 16 is approximately 900 vessels and 500 plans. He explained that they are only counting on two people to do that in the long run, because they are relying heavily on the streamline plan and further that the existing marine infrastructure will carry the load.

Senator Leman asked whether they were fairly confident in the projections that the department would not be coming back asking for additional funds.

Mr. Dietrick asserted that was what they had been driven toward in trying to prepare the fiscal note and they understand the long-term fiscal situation and they have tried to throttle it back so they do not have to come back in future years.

Senator Leman wondered how many of the staff are currently working on and reviewing c-plans.

Mr. Dietrick indicated that there were approximately 20 that were currently managing the c-plans for the crude and non-crude oil industries.

Senator Leman further inquired as to whether they were working on testing as well.

Mr. Dietrick responded correct.

Senator Leman asked if the c-plans were updated every three years.

Mr. Dietrick responded correct.

Senator Leman wondered how long the department has been involved in reviewing c-plans.

Mr. Dietrick said that it started in the 80s and they actually had legislation on the books prior to the 1989 event that required c-plans. He added that they took a significant new direction in the passage of HB 567 following the 1989 event.

Senator Leman wondered since HB 567 passed if they have worked on models for streamlining the plans.

Mr. Dietrick indicated that they have been working with the industry on how to do that and they now have plans in place for what they call "umbrella plans." For example, for the spot charter industry in Cook Inlet they will have one operator that will prepare the plan and have the plan and as they bring in new spot charters they can add those vessels to the c-plan in as short as five days. He added that they were doing the same thing on the North Slope.

Co-Chair Kelly referred to the amendment to the fiscal note that had been offered by Senator Donley.

AT EASE 9:33 AM / 9:49 AM

Co-Chair Donley asked the department to submit a new fiscal note that accurately reflected the sponsor and the request to the legislation.

[It was established that such a fiscal note had been prepared and Senator Donley's staff would submit it to the Committee.]

Co-Chair Kelly announced that SB 16 would be HELD in Committee.

AT EASE 9:52 AM / 9:53 AM

Co-Chair Kelly announced that SB 2 would roll to the bottom of the calendar and SB 21 would be HELD in Committee.

#sb52

SENATE BILL NO. 52

"An Act extending the termination date of the State Physical Therapy and Occupational Therapy Board."

HEATHER BRAKES, staff to Senator Gene Therriault, explained that SB 52 would extend the State Physical Therapy and Occupational Therapy Board an additional six years from June 30, 2001 to June 30, 2007. She pointed out that in the packet they would find a sponsor statement, letters of support, a draft zero fiscal note and a legislative audit that was released on September 6, 2000. She indicated that the audit found that the board is operating in an efficient and effective manner and that they should continue to regulate physical and occupational therapists. She further noted that the legislative audit believes that the board is safeguarding the public interest by promoting the competence and integrity of those that hold themselves out as such. She indicated that they continue to serve a public purpose and to conduct a business in a satisfactory manner. She pointed out that the legislative audit also continued to propose changes to regulation and improve the effectiveness of the board and ensure that the occupations it oversees were licensed in the State of Alaska. Finally, it recommended that the board be continued to June 30, 2007.

Co-Chair Donley offered a conceptual amendment on page 1, line 6, to delete "2007" and insert "2005." There being no objection, Amendment #1 was adopted.

Senator Lemman offered a motion to report from Committee, CS SB 52 (FIN), as amended with accompanying zero fiscal note from the Department of Community and Economic Development.

There was no objection and the bill MOVED FROM COMMITTEE.

#sb53

SENATE BILL NO. 53

"An Act extending the termination date of the Board of Barbers and Hairdressers."

HEATHER BRAKES, staff to Senator Gene Therriault, indicated that SB 53 extends the Board of Barbers and Hairdressers an additional four years from June 30, 2001 to June 30, 2005. She referred to the legislative audit and explained that the audit found that the board should be reestablished and that it is a benefit to the public's health, safety and welfare. She pointed out that the board benefits the public by establishing minimum educational experience requirements, but provide reasonable assurance that the person's licensed are qualified. She noted that the Division of Legislative Audit recommended that the board be extended to June 30, 2005.

Senator Green asked that the Committee to hold the bill until tomorrow.

Co-Chair Donley addressed the auditors and wondered if there was any inquiry into the concept of self-testing on behalf of the educators of barbers and hairdressers. He indicated that it was an issue that came up several years ago as a way to improve the efficiency and to make sure that the testing was offered on a more convenient basis for persons wishing to enter into these professions.

PAT DAVIDSON, Legislative Auditor, Legislative Audit Division, indicated that they looked at how often the tests were being offered and statute calls for twice a year. She noted that the testing was being done four to six times in Anchorage and three times in Juneau and Fairbanks. She said that there seemed to be an adequate dispersion and because of that they did not delve into that area any further.

Co-Chair Donley commented that he had constituents contact him saying that in other states they do it more efficiently with the schools themselves doing the testing and the certification; that way if someone misses one portion of the test they do not have to wait three months until the next opportunity. He said that he is interested in making the process more efficient.

Mrs. Davidson reiterated that when it was looked at there seemed to be a sufficient minimum number of tests being offered; therefore, they did not look into expanding it any further. She offered that the school that educated the student to be the sole determinate of whether or not they are qualified there might be a conflict of interest there. She noted that there is always some discussion of how a board member who runs a school should be evaluating their students.

Co-Chair Kelly indicated that there were some questions that Senator Green had.

Senator Green indicated that they were questions having to do with standards for nail and skincare.

Co-Chair Kelly said that in that case he would like to move the bill, because those are issues beyond the scope of an extension bill.

Co-Chair Donley mentioned that is part of the sunset review. First of all, he indicated that it is something that is still a need or

value to the state. He noted that even though sometimes they make light of this particular board it is very important that these people be qualified and skilled in their jobs. He pointed out that the other function of the sunset review is to possibly improve the existing system. Although, he is not suggesting spending a lot of time on this, but he is hopeful that the audit would examine that further. He said that it would be helpful for him to explore this further with the auditors.

Co-Chair Kelly said that his intent was to hold the bill.

Senator Green wondered about body piercing and tattooing.

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community and Economic Development, indicated that no licenses have been issued for body piercing or tattooing in permanent cosmetic coloring at this point. She said that the board decided, during the meeting in January, what it was going to public notice for comprehensive regulations about these professions. She indicated that they are waiting for another month in order to issue the board's public notice at the same time that Department of Environmental Conservation issues its public notice about the sanitary conditions of the shops. The requirement for a license with these professions does not go into effect until July 2002. She noted that the grandfather license deadline is July 1, 2001; therefore, they are still in the beginning stages of licensing and regulation of those two professions.

Co-Chair Kelly indicated that SB 53 would be HELD in Committee.

#sb2

SENATE BILL NO. 2

"An Act relating to reimbursement of municipal bonds for school construction; and providing for an effective date."

MARY JACKSON, staff to Senator John Torgerson, indicated that the bill is pretty straightforward. She explained that SB 2 is a fix to the language in last year's HB 281. There was language in that bill that has presented and posed a problem for the Anchorage School District, in particular, in terms of sales of the bonds for school construction. She said that there are articles in the packet from the Anchorage Daily News that describes the dilemma and support from the Anchorage School District and the Northwest Arctic Bureau School District for the language revision.

Co-Chair Kelly announced that SB 2 would be HELD in Committee.

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ADJOURNMENT

Co-Chair Kelly adjourned the meeting at 10:07 AM