

MINUTES
SENATE FINANCE COMMITTEE
March 28, 2001
6:06 PM

TAPES

SFC-01 # 56, Side A
SFC 01 # 56, Side B

CALL TO ORDER

Co-Chair Pete Kelly convened the meeting at approximately 6:06 PM.

PRESENT

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

Attending via Teleconference: From Anchorage: BOB LOHR, Director, Division of Insurance, Department of Community and Economic Development

SUMMARY INFORMATION

SB 37-PHYSICIAN NEGOTIATIONS WITH HEALTH INSURE

The Committee considered and adopted two amendments and heard from the Department of Community and Economic Development. The bill moved from Committee.

SB 48-MUNICIPALITIES:INCORP/PROPERTY VALUATION

The Committee adopted a committee substitute and moved the bill from Committee.

SB 123-FEDERALLY FUNDED PROJECTS OF RAILROAD

This bill was scheduled but not heard.

SB37

CS FOR SENATE BILL NO. 37(L&C)

"An Act relating to collective negotiation by physicians with health benefit plans, to health benefit plan contracts with individual competing physicians, to the application of state antitrust laws to agreements involving providers and groups of providers affected by collective negotiations, and to the effect of the collective negotiation provisions on health care providers."

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

Co-Chair Kelly drew attention to the proposed committee substitute Version "B", which was introduced, but not adopted during the previous hearing. He pointed out that a provision regarding the exemption of nurses was inadvertently omitted in this committee substitute, which a proposed amendment would reinsert. He pointed out that this amendment reflects an agreement with the nurses association.

Senator Wilken moved for adoption of CS SB 37 22-LS0323\B, 3/27/01 as a working draft.

Without objection it was ADOPTED.

Amendment #1: This amendment adds a new subsection on page 7, lines 15-19 of the committee substitute to Section 1. Chapter 50. Collective Negotiation by Physicians. Sec. 23.50.020 as follows.

(p) Nothing in this section shall be construed as exempting from the application of the antitrust laws the conduct of providers or negotiations or agreements between providers and a health benefit plan if the purpose or effect of the conduct, negotiations, or agreements would be, directly or indirectly, to exclude, limit the participation or reimbursement of, or otherwise limit the scope of services to be provided by separate or competing classes of providers who practice or seek to practice within the scope of the occupational licenses held by the providers.

Senator Wilken moved for adoption.

There was no objection and the amendment was ADOPTED.

Amendment #2: This conceptual amendment deletes Section 3, the July 1, 2006 sunset date, from page 8, lines 30 and 31 of the committee substitute.

Co-Chair Kelly moved for adoption. He explained this sunset date was inserted in the bill as a result of concerns over increased health care costs. He assured that most of the concerns have been addressed, such as making the negotiations voluntary, establishing veto provisions for both the carriers and providers, that "soften the impact" of a worse case scenario. He surmised that the need for the sunset is therefore no longer necessary and warned that the insurance corporations would wait for the sunset date rather than participate in negotiations.

The amendment was ADOPTED without objection.

Co-Chair Kelly addressed the Department of Administration fiscal note that describes possible impacts to the state employees' self-insurance plan. He noted that the committee substitute Version "B" eliminates self-insured plans from the negotiation requirements and therefore, there would be no fiscal impact to the state. He recommended the Committee adopt a zero fiscal note for the Department of Administration.

Senator Green asked the impact of the provision regarding self-insured plans.

Co-Chair Kelly explained that the state, municipalities and most labor organizations would not be required to abide by the negotiation requirements established in this legislation. He clarified that physicians would not have the protection of the state action doctrine if they entered into negotiations with self-insured organizations.

Senator Green wanted to know the segment of the population effected by the removal of the self-insured from the legislation.

Co-Chair Kelly did not know.

Senator Wilken moved to adopt a zero fiscal note for the Department of Administration.

Co-Chair Kelly clarified for Senator Austerman that the new fiscal note would delete reference to a potential \$3.5 million to \$9.1 million increase to the state.

Senator Austerman assumed that health maintenance organizations (HMO) and similar organizations are not self-insured.

Co-Chair Kelly pointed out that there are no HMOs operating in the state, but there are preferred provider organizations.

Senator Austerman asked if any of the preferred provider organizations are self-insured.

Co-Chair Kelly answered they are not.

Senator Hoffman asked about the second paragraph of the fiscal note analysis regarding any increased costs that would be borne by the employee, and asked if the removal of the self-insured portion of the bill would eliminate this.

Co-Chair Kelly responded that the matter was irrelevant with the proposed zero fiscal note.

Senator Austerman commented that the expenses shown on the current fiscal note were estimates and that there is no way to know if health care costs would increase or not.

Senator Green expressed that she did not understand the reasoning behind the legislation. She judged the sponsor's legislative findings to be questionable and she did not agree with them. She asserted that there would be a fiscal impact as a result of the bill. She cited from the findings, "There are however instances in which a health benefit plan dominates the market to the degree that fair negotiations..." She wondered how many people remained available to participate in the negotiations when the self-insured are removed from the process. She recalled discussions regarding the impact on the Comprehensive Health Insurance Association (CHIA) caused by changing health care coverage for state employees to a self-insured system. She stressed that this action removed a large segment of the population from private insurance plans. She was concerned that this legislation targets the small group remaining.

Co-Chair Kelly directed the discussion to the motion on the table to adopt a fiscal note.

There was no objection and a zero fiscal note for the Department of Administration was adopted.

Senator Green stressed that if a fiscal note applies to the state and its employees only, it could be claimed that the legislation would have an indeterminate fiscal impact, but that it does not give assurance to those with private insurance that there would be no cost increase. He requested the Department of Community and Economic Development address this concern.

Co-Chair Kelly did not agree that the consumer costs would increase an estimated 15 to 20 percent as a result of this legislation. This

he explained is because the program is "completely voluntary". He stressed that the insurance companies could decline to participate in negotiations and the physicians would have no retaliation options nor could they refuse patients covered by that insurance company.

Senator Green expressed her concerns were based on the size of the pool of participants that are not self-insured.

[Note: teleconference connection is very poor. Much of the testimony is inaudible.]

BOB LOHR, Director, Division of Insurance, Department of Community and Economic Development, testified via teleconference from Anchorage that once the self-insured participants are excluded from the bill, the number of people covered by this legislation would decline.

Mr. Lohr noted that if physician fees were negotiated at a higher rate, the increase could result in a rise in the cost of insurance.

Senator Green wanted a percentage figure.

Mr. Lohr estimated "ten-percent of the total published." [Continued testimony inaudible.]

Senator Green asked if it is typical that the remaining privately insured participants attempt to enter a self-insured pool.

Mr. Lohr replied there would be an economic incentive to increase the volume of members in an insurance plan for the purposes of negotiations. He indicated that plan administrators would look to do this or possibly reduce benefits or eliminate coverage completely.

Senator Green asked about the impact on CHIA.

Mr. Lohr explained that CHIA is based on the number of health insurers participating in the market and that percentage of the total market. He said the assessment to fund CHIA is determined by the board of directors for CHIA. [Additional comments inaudible.]

Co-Chair Kelly reiterated earlier assumptions that health care prices would increase because of negotiated prices. He countered that this legislation provides either side with veto power and that insurance companies could refuse to negotiate fees. He remarked, "This constant talk about prices being raised, I think is uncalled for. It doesn't follow what is in the bill." He admitted that

quality of care issues are a different matter, such as determining what procedures constitute emergency services. He noted that there could be price increases in this area.

AT EASE 6:28 PM / 6:29 PM

Senator Wilken offered a motion to report from Committee CS SB 37 22-LS0323\B as amended with forthcoming zero fiscal note from the Department of Administration, Division of Retirement and Benefits.

Without objection, the bill MOVED from Committee.

#SB 48

CS FOR SENATE BILL NO. 48(CRA)

"An Act relating to the determination of full and true value of taxable municipal property for purposes of calculating funding for education and certain other programs, to incorporation of third class boroughs, to incorporation of certain boroughs in the unorganized borough and annexation of portions of the unorganized borough to boroughs and unified municipalities, and to the formation of separate unorganized boroughs; and providing for an effective date."

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

Senator Wilken updated the Committee on events since the previous hearing related to a subcommittee formed to review this legislation and chaired by Senator Leman. Senator Wilken noted a proposed committee substitute, Version "R" would be offered.

Senator Leman listed membership on the subcommittee as Senator Wilken, Senator Hoffman and himself who heard testimony from "interested parties" across the state. He noted that while there was testimony in favor of the legislation from the City of Cordova, there was a far greater amount of testimony in opposition, primarily from rural communities. He summarized responses from rural communities as "We don't want no government." and "We want services but we don't want to pay for it." He stated that no specific amendments were offered.

Senator Hoffman corrected that there were recommendations offered, for example if there were boroughs organized, they should be done so by a vote of the residents. He emphasized that of all the testimony heard, there was one speaker in support of the bill and the remaining 20 speakers reflected and "overwhelming opposition"

to the legislation. He stressed that there was a speaker for each of the recommended model boroughs who opposed the bill. He singled out the Valdez borough as an example, noting that while the community of Cordova was in support of the mandatory borough, residents of Valdez opposed it.

Senator Wilken asserted that he had received unsolicited support for the legislation, given the "difficult positions" placed on those voicing support. He noted the Eagle River Chamber of Commerce as a supporter. He stressed that the facts and intent of the bill speaks "to the effort and the reasons why it should pass."

Senator Wilken moved for adoption of CS SB 48 22-LS0025\R, 3/28/01 as a working draft.

Senator Hoffman objected for explanation.

Senator Wilken detailed the changes in the committee substitute as follows.

Page 4 lines 16-18: new language, "In addition, the commission shall hold at least one public hearing in each community with at least 400 residents and in each home rule or first class city located in the area."

Senator Wilken commented this had been discussed during a previous hearing and noted there would be no fiscal impact on the department given the Local Boundary Commission's (LBC) experience in the matter.

Page 4, line 23 - 26: changes "each annexation" to "an annexation" and inserts "however the commission may submit not more than two petitions to the legislature under this subsection each year."

Senator Wilken reminded that the legislature has noted that this legislation "sells patience" as much as it "sells fairness." He expressed he has waited ten years to receive studies on the identified areas. He predicted that the two petitions per year is an ambitious schedule. He also thought that once this system is validated and in place and residents in unorganized Alaska realize that they "can help pay for education and can support government like others in Alaska" these residents would find it in their best interest to form a borough under existing law. He stated that this language addresses concerns that this bill is "a mass wholesaling of unorganized Alaska into boroughs."

Page 5, line 12 through "voter", and line 15: inserts new

language stipulating that if a borough is incorporated and if there is to be use taxes or sales taxes, those taxes must have voter approval from the residents of the new borough.

Senator Wilken suggested that for some boroughs, it could be more appropriate to fund their government in other ways besides property taxes.

Page 5, line 21: inserts "on the date of the annexation"

Senator Wilken noted this change was the recommendation of the Department of Natural Resources and addresses the concern related to annexed land to a borough as deemed appropriate by the LBC under this legislation, and the borough's entitlement to ten-percent of the state-owned portion of the annexed land.

Senator Green asked if the committee substitute also includes the same legislative purpose as contained in the Senate Community and Regional Affairs committee substitute.

Senator Wilken affirmed it was.

AT EASE 6:42 PM / 6:43 PM

Senator Hoffman removed his objection and the committee substitute was ADOPTED as a working draft.

Senator Austerman shared that he had been considering a delayed effective date for this legislation. He spoke to concerns that once the bill became law, those communities that already have a sales tax with a portion dedicated to local education, would be precluded from making decisions regarding what forms of taxation to adopt. He surmised that the two petitions per year stipulation would give communities ample opportunity to make these decisions.

Senator Wilken spoke to the search for funds for K-12 education and responded that while some argued that this legislation is premature, he also faced pressure that this is not soon enough.

Senator Olson remarked that this bill would continue to receive scrutiny. He opined that one of the appeals of Alaska is its opportunity for independent thinking. He referred to the stipulation in the committee substitute that provides LBC petition approval without voter ratification. He compared this to taxing citizens but allowing them no influence in these decisions.

Co-Chair Kelly countered that some communities receive money but pay nothing to the state. He suggested that those communities that

do not want government should not receive the benefits of government. He understood that there are some communities that are unable to contribute.

Senator Wilken commented that 83 percent of Alaskans had government "crammed down their throats" in the early 1960s, which turned out to be beneficial. He noted that Alaska is the only state with unorganized governmental districts. He surmised that when citizens actually assist in paying for local education, they take a greater interest in how the funds are spent, which improves the quality of education. He asserted that those areas that can contribute should begin to do so and that those areas unable to contribute should be assisted in developing an economy so that they could contribute in the future. He suggested that this legislation helps focus state resources on those areas in need of assistance.

Senator Hoffman agreed that some areas would be unable to contribute. He stressed many of the unorganized boroughs are comprised mostly of federal land and that the state receives federal funding, i.e. Impact Aid Program, in lieu of taxes. He gave as examples, the Lower Kuskokwim School District, which receives \$8.3 million in impact aide, and the Bering Strait School District, which receives \$5.6 million. He calculated the Average Daily Membership (ADM) for these districts and the amount of funding received per student and compared these figures to local contributions for school districts in Anchorage, Juneau and Fairbanks, noting that the larger communities have a lower per student allocation. He surmised that when considering the impact aid as contribution to local education in lieu of taxes, the two districts have a greater per student allocation.

Co-Chair Kelly appreciated the math, and asked if this takes into consideration that Anchorage, Fairbanks and Juneau also contributes additional taxes to local education.

Senator Hoffman stressed that this legislation addresses equity and fairness in education funding. Therefore, he expressed that the Lower Kuskokwim and Bering Straits school districts are already contributing fairly to their local education.

SFC 01 # 56, Side B 06:55 PM

Senator Hoffman responded to a question by Co-Chair Kelly suggesting that the Impact Aid Program and ADM relationship should be calculated for all school districts. He noted that one reason many areas of the state remain unincorporated is because of the

large make-up of federal lands.

Senator Wilken disagreed that the federal impact aid should be considered as a local contribution, stating that it is not considered as such in the Fairbanks school district. He cited a March 29, 2000 letter from the US Department of Education as follows.

Financial need of such agencies for the provision of free public education for children served by such agency [US Department of Education], except that a State may consider as local resources funds received under this title...only [Impact Aid Program] in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues.

Senator Wilken concluded that if no local taxes are collected for education, the Impact Aid Program funds could not be claimed as local contribution.

Senator Hoffman pointed out that this bill provides taxing property to raise the local effort. He stressed that when a community is limited in the number of acres available for taxation due to federal ownership, the ability to collect those taxes is limited. He surmised that the Impact Aid Program funds should therefore be considered local effort. He stressed that many communities in his district are themselves located on federally owned property.

Co-Chair Kelly responded that a community with 95 percent federally owned land would not be a top priority for organization by the boundary commission.

Senator Wilken agreed.

Co-Chair Kelly accepted Senator Hoffman's position that an area consisting primarily of federal land the ability to collect taxes is decreased.

Senator Hoffman remarked that 67 percent of the land in Alaska is exempt from taxation because it is federally owned. He estimated that the existing organized boroughs contain a lower percentage of federally owned land, leaving a higher percentage in the unorganized boroughs.

AT EASE 7:01 PM / 7:01 PM

Senator Wilken offered a motion to report CS SB 48, 22-LS0025\R, from Committee with accompanying Department of Community and

Economic Development fiscal note for \$130,000.

Senator Hoffman objected.

A roll call was taken on the motion.

IN FAVOR: Senator Wilken, Senator Austerman, Senator Green, Senator Leman, Co-Chair Donley and Co-Chair Kelly

OPPOSED: Senator Hoffman and Senator Olson

ABSENT: Senator Ward

The motion PASSED (6-2-1)

The bill MOVED from Committee.

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ADJOURNMENT

Co-Chair Pete Kelly adjourned the meeting at 07:03 PM