

MINUTES
SENATE FINANCE COMMITTEE
April 17, 2001
9:14 AM

TAPES

SFC-01 # 75, Side A
SFC 01 # 75, Side B

CALL TO ORDER

Co-Chair Pete Kelly convened the meeting at approximately 9:14 AM.

PRESENT

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

Also Attending: CHRIS CHRISTENSEN, Deputy Administrative Director, Alaska Court System; ALISON ELGEE, Deputy Commissioner, Department of Administration; JESSE KIEHL, staff to Senator Elton

Attending via Teleconference: From Fairbanks: PAUL LYLE, partially exempt State of Alaska Employee; PAM HARTNELL, partially exempt State of Alaska employee;

SUMMARY INFORMATION

SJR 22-CONST. AM: JUDICIAL OFFICERS' TERMS

The resolution moved from Committee.

SB 180-STATE EMPLOYEE PAY DIFFERENTIALS

The Committee heard from the sponsor, the Department of Administration, the Alaska Court System and partially exempt State of Alaska employees. The bill moved from Committee.

SJR 23-CONST AM: APPROPRIATION LIMIT

The Committee heard from the sponsor. The bill was held in Committee.

SB 50-EXTENDING BOARD OF VETERINARY EXAMINERS

The Committee heard from the sponsor. The bill moved from Committee.

SJR 24-AMEND CONSTITUTIONAL BUDGET RESERVE FUND

The Committee heard from the sponsor. The bill was held in Committee.

#SJR22

CS FOR SENATE JOINT RESOLUTION NO. 22(JUD)

Proposing an amendment to the Constitution of the State of Alaska relating to the retention elections for justices of the Alaska supreme court and judges of the superior court.

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

Co-Chair Donley reminded that the legislation was held from the previous meeting to give members an opportunity to review it.

Senator Leman commented that the subject of this resolution addresses matters that should have been addressed some time ago. He stated that the resolution promotes "a judiciary that is not only independent, but also accountable", which he asserted, "Alaskans deserve." He added that the public also deserves a judiciary that is "speaking for Alaskans" and expressed, "any time we can help make it more accountable to the people rather than to special interests that are trying to put people there and control them while they're there" the legislature should do so.

Co-Chair Donley offered a motion to move CS SJR 22 (JUD) from Committee with accompanying \$20,000 Alaska Judicial Council fiscal note.

There was no objection and the resolution MOVED from Committee.

AT EASE 9:17 AM / 9:17 AM

#SB108

SFC-01

(2)

04/17/01

SENATE BILL NO. 180

"An Act implementing pay differentials based on geographic areas for certain state employees and for members of the Alaska State Defense Force; and providing for an effective date."

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

PAUL LYLE, partially exempt State of Alaska Employee, testified via teleconference from Fairbanks on his own behalf, that this legislation is preferable to previous proposals, since it does not reduce the pay to partially exempt employees currently receiving a geographical differential. He requested the Committee amend Section 10 (b) the portion regarding freezing the salaries of partially exempt employees. He did not think it reasonable partially exempt employees should work for ten years before receiving a pay raise. He assured that he considered himself well compensated and that he made a career choice to work as a partially exempt employee. However, he asked that employees continue to receive pay increases in accordance with the provisions in effect when they were first hired. He spoke of the need to support families and the influx of younger employees as well as the need to provide incentive to attract employees to remote locations.

PAM HARTNELL, partially exempt State of Alaska employee, testified via teleconference from Fairbanks on her own behalf to say, "this is an issue of fairness." She elaborated that while other employees receive pay raises, partially exempt employees' salaries would be frozen. She asked that this provision in the bill be changed. She reiterated many of the points raised by the previous witness.

Co-Chair Donley presented the bill saying it implements the geographic pay differential currently in place for all collective bargaining employees of the state for certain non-collective bargaining employees. He referred to the existing cost of living variance, pointing out that it has not been changed since 1976. He said an updated cost of living variance has been implemented for the majority of state employees.

Co-Chair Donley asserted that this legislation treats employees who are not covered by a collective bargaining unit almost the same as those who are covered, using a grandfather clause to implement the newer geographical pay differential ratio. He pointed out that the non-covered employees have had the benefit of a "higher than truthful" geographical pay differential for many years and have

been paid more than covered employees performing the same functions in other areas of the state where the actual cost of living is greater.

Co-Chair Donley affirmed the need to treat long-term employees fairly and opined that this bill does "more than treat them fairly" because the non-covered employees continue to receive higher salaries than they would under the updated geographical pay differential. He said this adjustment is fair to those employees who have been paid according to the updated geographical differential.

Co-Chair Donley noted that some exempt employees would receive higher pay based on the geographical differential changes, while others would be "held harmless" and would not receive a raise. He stressed that new employees would be paid at the new geographical differential ratio, which would result in "significant savings" to the state over a period of time.

Co-Chair Donley addressed the fiscal notes, showing that the Alaska Court System fiscal note shows increased expenses for the first two years after the legislation becomes effective, then decreased expenses escalating in future years. He described the Department of Administration fiscal note reflecting expenses for all state agencies showing savings to the state in excess of \$100,000 in the first year, doubling in the next year and continuing to grow in the out years. He expressed this savings is a result of action that is "fundamentally fair" in treating all state employees the same with regard to geographical pay differentials.

CHRIS CHRISTENSEN, Deputy Administrative Director, Alaska Court System, testified to the fiscal note stating that the largest impact would occur in Fairbanks, with a ten-percent differential and Palmer, with 3.5 percent. He pointed out that the increased expenses would be realized in smaller communities such as Bethel with a ten-percent increase, Barrow and Kotzebue with 10.5 percent increase and Nome with a 2.5 percent increase. He informed that the Alaska Court System takes no position on this legislation and noted that half of the employees would be unaffected because they are located in Anchorage.

Senator Olson asked the witness the effect this would have on the ability to fill vacancies in rural courts.

Mr. Christensen told of the difficulties in filling vacancies in courts located in rural communities. He gave one reason as some borough governments, such as in Barrow, pay a significantly higher salary than the state. He therefore predicted that if the

geographical pay differential were to increase for these communities, it could be easier to hire for those positions. He pointed out however, that there could be some repercussions by those employees in non-rural communities who have their salaries frozen through this legislation.

Senator Wilken referred to information showing job growth in different fields across the state that was used in the consideration of other legislation. He suggested this information could be helpful in considering this legislation and requested it be provided to the Committee.

Senator Wilken said he appreciated the intent to make systemic changes to the state employee salary procedures but was concerned that the small amount savings could come at the expense of "people who have built their lives around their paychecks as almost all of us do." He recommended investigating the cost of applying the updated geographical pay differentials only to newly hired employees and retaining the existing salary structure for current employees.

Senator Hoffman asked for an explanation of the Department of Administration fiscal note.

ALISON ELGEE, Deputy Commissioner, Department of Administration, explained that the fiscal note gives consideration to the assumed five-percent annual rate of turnover as a result of the frozen salaries for current employees. She said with this turnover, new employees are hired at lower salaries. She added that the fiscal note also makes future assumptions for the current employees when their salaries are no longer frozen and they receive pay increases. She estimated that by FY 07, this legislation would result in a maximum net savings of \$446,000. She told of the various funding sources involved.

Ms. Elgee pointed out that the governor is in support of the legislation and she noted that he has actually introduced similar legislation in the past. She relayed his assertion that the issue is a matter of equity in making the geographical pay differentials the same for all state employees.

Senator Hoffman referenced the five geographical areas that would experience salary reductions listed in the fiscal note. He asked for a detailed analysis.

Ms. Elgee did not have figures to reflect the amounts resulting from this legislation, noting the limited time the administration had to prepare for this hearing. She offered to compile this

information.

Co-Chair Kelly asked for a comparison of this bill with one passed in the previous legislative session then vetoed by the governor.

Ms. Elgee replied that the earlier legislation contained unrelated amendments to the Supplemental Benefits System (SBS), which resulted in the governor vetoing the bill. She noted this bill does not contain these provisions. She explained the provisions established a two-tiered environment for SBS, reduce the employer contribution to half of the employee contribution and set a maximum salary in statute.

Co-Chair Kelly agreed that the information Senator Wilken requested would be valuable. However, he noted the need to report the bill from Committee and suggested the information could be provided before the Senate Rules Committee hearing on the bill.

Co-Chair Donley stated he would not request a hearing for this bill in the Senate Rules Committee before the information is received.

Co-Chair Donley offered a motion to report from Committee SB 180 with accompanying fiscal notes from the Alaska Court System, Trial Courts for \$94,300, and the Department of Administration, all state agencies, for a negative \$108,000.

The bill MOVED from Committee with no objection.

AT EASE 9:40 AM / 9:42 AM

#SJR23

SENATE JOINT RESOLUTION NO. 23

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

This was the first hearing for this resolution in the Senate Finance Committee.

Co-Chair Donley gave a history of a previous constitutional amendment adopted by the legislature in 1981 that established an appropriation limit. It received voter approval, he said, and is contained in Article 9 Section 16 of the Alaska Constitution. Unfortunately, he noted, the appropriation limit "has never worked the way it was intended." He explained that initially the limit was set at a level never reached and also contained a clause that

allows an escalation based on cost of living and inflation figures. As a result, he said the current limit is over \$6 billion, approximately \$3 billion greater than the actual spending of the general fund.

Co-Chair Donley opined that the language of this constitutional provision is unconstitutional, misleading, confusing and also contains a provision that should be interpreted to require one-third of the state budget is for capital expenditures. He noted this provision has never been implemented and that a court decision reinterpreted the language as "it didn't really mean what it said" and that the budget does not have to consist of one-third capital expenditures.

Co-Chair Donley shared that he has never heard this constitutional amendment defended but rather has heard that it should be changed. The resolution before the Committee, he stated, is an attempt to correct the existing provisions with language that could be more easily comprehended and by implementing a lower appropriation limit.

Co-Chair Donley explained the proposed appropriation limit would use the \$3.1 billion general fund appropriation of FY 00 as a starting base and would allow for population and inflationary increases. He said an additional provision allows an additional 25 percent increase with two-thirds approval from both legislative bodies.

Co-Chair Donley referenced a chart entitled, Appropriation Limit. [Copy on file.] He detailed the variables and shared that others could be calculated as the Committee desired.

Co-Chair Donley surmised that population and inflationary increases would have less impact than exists in the current constitutional amendment.

Co-Chair Donley pointed out that general obligation (GO) bonds are not included in the appropriation limit and that voters could approve such bonds if the need arose. He deemed this a "safety valve" in case of an unforeseen need or economic boom arises. He compared this to many municipal governments that operate under a tax cap, but allows the issuance of bonds not constrained in the spending limits.

Co-Chair Donley added that the resolution also contains automatic voter reconsideration in 2010. He suggested that the actual date could be changed. He surmised that the absence of this reconsideration provision is a fault in the current appropriation

limit. He expressed, "it is so difficult to get a two-thirds vote of the legislature to get a constitutional amendment on the ballot" and suggested this is the reason the existing constitutional amendment has not been corrected. He stressed that if the proposed constitutional amendment does not work, the voters are guaranteed an opportunity to eliminate it.

Co-Chair Donley spoke from a political science and public administration standpoint saying, "democratic institutions are just not well adapted at controlling spending." He emphasized the pressures on these institutions to increase spending.

Co-Chair Donley stressed the importance of addressing "the current fiscal crisis that is looming on the horizon." He expressed gratitude that the Constitutional Budget Reserve (CBR) fund was established.

Co-Chair Donley concluded that this resolution is a "useful tool to help restrain the on-going interest in ever increasing spending and force the continued consideration of hard decisions regarding how to make government run smarter with what we already have."

Co-Chair Kelly relayed an earlier conversation he had with Co-Chair Donley in which Co-Chair Donley stated that the just-completed five year fiscal plan to reduce or maintain government spending exercised by the legislative majority is unprecedented and does not exist anywhere else in the United States. Co-Chair Kelly remarked that he had not previously supported a constitutional spending limit because the existing provision does not work and also because of the unforeseen consequences encountered in utilizing the CBR. He said this resolution is a "workable" solution, particularly because of the stipulation requiring reassessment by the voters.

Senator Austerman also supported the idea of modifying the existing spending limit. However, as a layman, he was unsure if the public understood the issue. Therefore, he predicted it would be the legislature's duty to educate the public, including the language in the resolution. He surmised that most voters would only give the issue a quick review, which he did not think explains the issue, and as a result, not support the amendment. He asked how this could be rectified.

Co-Chair Donley predicted that the voters would only look at the dollar amounts, which is the reason he selected the FY 00 appropriation as the base. He detailed the calculations necessary to understand the existing methods. He agreed that a major education campaign would be necessary to inform voters that although the proposed base amount is increased from the \$2.5

billion currently named in the constitution, the actual appropriation limit is \$6 billion after accounting for inflation and population growth. He stressed that the resolution proposes a \$3 billion decrease, which would be need to be explained to voters.

Co-Chair Kelly asked if the appropriation limitation includes all general fund spending, but not permanent fund dividends, Alaska Railroad expenditures and emergency expenses.

Co-Chair Donley clarified the current constitutional amendment inclusions are, "a little more exclusive." He stated that additional information would be provided to the Committee that would better explain this issue.

Senator Austerman calculated that after removing permanent fund dividends, federal funds and special appropriations, the operating and capital budgets contain less than two billion general fund dollars. He reiterated the need to simplify the resolution warning that the ballot measure would easily fail if there were any organized opposition.

Co-Chair Kelly agreed and relayed his experience during his last campaign for office where his opponent stated that spending had increased by billions of dollars. Co-Chair Kelly emphasized that his opponent had been using permanent fund earnings and federal funding in his calculations.

Senator Austerman suggested that the Appropriation Limit chart should include an additional column to list the status quo.

Co-Chair Donley responded this could be added, but noted that the real issue would be predicting the status quo in future years.

Senator Hoffman stated that the requirement to spend one-third of general fund appropriation on capital projects is not observed and should be addressed. He opined that establishing a fiscal spending plan is the next largest issue before the legislature. He asserted that once such a plan is in place, future spending limits could be determined. He asserted that the requirement that the legislature provide a balanced budget each year is appropriate and should remain. He reiterated that the most important issue to Alaskans is that there is a fiscal plan.

Co-Chair Kelly countered that with various legislation and proposed constitutional amendments, "there is a fiscal plan." He expressed that he would always be in opposition to a "ledger sheet that goes out in the future" because legislatures are prohibited from requiring future legislatures to abide by spending guidelines.

Instead he said Co-Chair Donley's proposal is the appropriate method to bind future legislatures through a constitutional amendment. Co-Chair Kelly noted that statutory changes, such as SB 180 relating to geographical pay differentials, also are a part of establishing a fiscal plan.

SFC 01 # 75, Side B 10:05 AM

Senator Green referenced Medicaid as one of several entitlement programs and asked if under the proposed system, these programs would take priority over all discretionary expenditures. She warned that by imposing an appropriation limit, entitlement programs would be the only expenditures remaining and that there would be no funds for capital projects.

Senator Green asserted that until the Administration adopts and practices a fiscal plan, any efforts the legislature makes are irrelevant.

Co-Chair Kelly agreed and commented that in the seven years he has served in the legislature, efforts have been made to restrain and decrease government growth. However, he stressed that the legislature would never have all the information required to make this happen. He noted the majority votes required to adopt a budget. He compared this to "performing surgery in the dark while wearing mittens." He stated that corporate boards of directors do not make detailed financial decisions, but rather are presented with a fiscal plan by the company executives for approval.

Senator Green asked how university funding and mental health funds are related to the appropriation limitation. She suggested that the Mental Health Trust Authority (MHTA), through its income earning capacity, has the potential for future self-sufficiency and she wondered if developing this ability should be the priority.

Co-Chair Kelly agreed with Senator Green's earlier comments saying, "Medicaid drives our budget." He shared that he has been disturbed by the conflicts of funding state-operated programs and that he has never heard opposition to the importance of education or a capital project program that meets the needs of a young and growing state. However, he stressed that funding for these programs are contingent on the entitlement programs' budgets.

Co-Chair Kelly opined that while the Medicaid program is necessary, it is a program that gets abused and that along with deserving recipients, there are "free-loaders." He expressed that these free

loaders "push out" capital projects and university, education, and public safety funding. He qualified that Medicaid is a federal program, which the state has little control over.

Senator Green invited Co-Chair Kelly to join the Senate Health, Education and Social Services Committee subcommittee formed to research Medicaid spending.

Co-Chair Donley interjected that capital projects would not suffer since G.O. bonds could be issued. He noted that this was how the state addressed all capital projects before oil and gas revenues were generated.

Senator Green shared that before she was a member of the legislature, she would read a list of proposed capital projects on the ballot and ask herself, "Why would anyone think I know that that's the priority and why am I voting on it." She stated that voters did not have background information on the proposed projects to enable them to make an informed decision.

Co-Chair Donley suggested that since the 1970s, when G.O. bonds were last issued on a regular basis, technology has advanced and that background details could be provided on any proposed projects included in a G.O. bond package.

Co-Chair Donley assured that the proposed \$1.3 billion limitation does not include many funding sources, such as the Alaska Industrial Development and Export Authority (AIDEA) dividends and the Alaska Housing Finance Corporation (AHFC) dividends and University of Alaska tuition, which would increase the total amount of general fund spending. He stated that it would be reasonable to debate the inclusion of these variables to the resolution and adjust the appropriation limitation accordingly. However he recommended keeping the language broad to allow for unforeseen circumstances, such as a major natural disaster, and the Alaska Railroad, which functions independently.

Co-Chair Kelly suggested inserting language in the resolution to allow earnings from future public corporations to be excluded from the spending limit by a two-thirds legislative vote at the formation of that corporation.

Co-Chair Donley stated this would be consistent with other constitutional requirements to "fine tune" new public corporations through statute.

Senator Austerman added that the constitution should not be "micro managed" and become too specific to allow for future decisions.

Co-Chair Kelly commented that discussions such as this are important to hold when considering constitutional amendments.

Co-Chair Donley invited further discussions and suggestions for improvements.

Co-Chair Kelly ordered the bill HELD in Committee.

#SB50

SENATE BILL NO. 50

"An Act extending the termination date of the Board of Veterinary Examiners."

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

JESSE KIEHL, staff to Senator Elton, testified that this bill extends the sunset date on the Board of Veterinary Examiners. He informed that the board provides a "valuable public good" insuring minimum competency of veterinarians before they are granted a license to practice. He noted the board also provides professional peer review of complaints against practicing veterinarians.

Mr. Keihl referenced a Division of Legislative Budget and Audit report citing that the board is operating efficiently.

Co-Chair Donley offered a motion to move SB 50 from Committee with accompanying zero fiscal note from the Department of Community and Economic Development, Division of Occupational Licensing.

There was no objection and the bill MOVED from Committee.

#SJR24

SENATE JOINT RESOLUTION NO. 24

Proposing amendments to the Constitution of the State of Alaska relating to the budget reserve fund.

This was the first hearing for this resolution in the Senate Finance Committee.

Co-Chair Donley detailed the history of the CBR. He surmised that this resolution would restore "the original intent" of the constitutional language. He stated it would also clarify the conditions under which funds are drawn from the CBR and when a

three-quarters legislative vote is required.

Co-Chair Donley explained that currently a three-quarters vote is determined by a comparison of revenue in the current fiscal year with appropriations from the prior fiscal year. He stressed that this has little to do with the size of the fiscal gap. He detailed how the proposal compares revenue and appropriations from the same fiscal year, thus making a more accurate determination of a fiscal gap.

Co-Chair Donley informed the intent of the existing CBR constitutional amendment is in years where the legislature is proposing to spend less than in a previous year, the CBR could be accessed by a simple majority vote. He continued that if a legislature proposed to spend more than in the previous year, a three-quarters vote would be necessary to draw from the CBR to fund the extra spending.

Co-Chair Donley remarked that this creates a "natural limitation" on the growth of government by requiring three-quarters of legislators agree that the increased spending was necessary.

Co-Chair Donley spoke to court cases dealing with interpretation of the original constitutional amendment. He said that the court granted a more expansive definition of funds available for appropriation than the legislature normally considers during the budget process. As a result, he said the three-quarters vote is now needed even if spending is not higher than in the previous year. He noted that in the past five years, the spending was not higher, yet the three-quarters vote was required to access funds from the CBR to balance the spending.

Co-Chair Donley asserted that the dynamic that occurred is "the exact opposite from what was intended by the Republican minority" when the original constitutional amendment was proposed. This dynamic, he expressed is that the three-quarters vote has been used by the current minority to encourage additional spending on additional items. He concluded that the original intent has changed from establishing a method to limit government growth to a vehicle almost requiring growth.

Co-Chair Donley continued that the situation was even worse because of a "sweep provision" included in the original CBR language. This provision he detailed, stipulates that even if the CBR funds are not required to balance the budget in a particular year, such as when oil revenues were high, money borrowed in previous years must be paid back into the CBR and a three-quarters vote is needed to do so. He stressed that because the legislature has withdrawn several

billion dollars from the CBR in the past, the three-quarters vote is required each year to avoid the sweep provision, which would confiscate all non-general fund revenues for deposit into the CBR as payment toward the debt.

Co-Chair Donley opined that although the CBR has been successful as a savings account, the mechanism to access this account is flawed and does not operate as originally intended.

Co-Chair Donley addressed the resolution, explaining that it revises the CBR constitutional amendment clarifying that in years with proposed spending less than the prior year, the CBR could be accessed with a simple majority vote and also eliminates the sweep provision. He noted that the three-quarters legislative vote would still be necessary in years of increased spending.

Co-Chair Kelly asked what would happen if the three-quarter vote to appropriate money from the CBR failed, but the appropriation legislation passed.

Co-Chair Donley replied that the sweep provision would apply. He stressed that while, "a lot of people would not like the consequences of the sweep, life would go on."

Co-Chair Kelly remarked the reason for hearing this resolution at this time is to begin debate on the issue. He did not want the legislature to be allowed to have "a runaway budget" and opined that future legislatures would benefit from the restraint exercised in the past few years.

Senator Austerman stated that the entire CBR has been "a thorn in my side" since he was first elected to the legislature. He did not think the current method operates as it was originally intended and instead functions as a savings account used to balance the state budget each year. He surmised that the intent of the fund was to provide a buffer for years of hardship, such as in 1986 when the oil prices dropped. He understood that each year the legislature would be required to prepare and approve a budget and would argue over it, but suggested that at least guidelines could be put in place.

Co-Chair Kelly stated that SJR 23 was an appropriate first step in getting the public to consider different funding sources.

Senator Ward shared recent discussions on the CBR he participated in while in his district. He said the conversation expanded to include future revenue from oil development and other sources. He stated that the public must know that there is a spending plan.

Co-Chair Kelly ordered the resolution HELD in Committee.

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ADJOURNMENT

Co-Chair Pete Kelly adjourned the meeting at 10:39 AM