

MINUTES
SENATE FINANCE COMMITTEE
April 08, 2002
4:21 PM

TAPES

SFC-02 # 50, Side A

CALL TO ORDER

Co-Chair Pete Kelly convened the meeting at approximately 4:21 PM.

PRESENT

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

Also Attending: REPRESENTATIVE VIC KOHRING; AMY ERICKSON, staff to Representative Lisa Murkowski; RICH MOSTRIANO, Director, Division of Labor Standards and Safety, Department of Labor and Workforce Development; REMOND HENDERSON, Director, Division of Administrative Services, Department of Labor and Workforce Development

Attending via Teleconference: There were no teleconference participants.

SUMMARY INFORMATION

SB 185-PCE BASED ON HIGHEST COST

This bill was scheduled but not heard.

HB 389-MUNI TAX EXEMPTION: DETERIORATED PROPERTY

The Committee heard from the sponsor and reported the bill from Committee.

HB 262-BUILDING SAFETY ACCOUNT

The Committee heard from the sponsor and the Department of Labor and Workforce Development. The bill was held in Committee.

SB 277-DEFINITIONS OF FISHERIES BUSINESSES

The bill moved from Committee without further discussion.

#HB389

CS FOR HOUSE BILL NO. 389(CRA)

"An Act eliminating the delayed repeal of a provision authorizing an exemption from and deferral of municipal property taxes on certain types of deteriorated property; and providing for an effective date."

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

REPRESENTATIVE VIC KOHRING, sponsor, testified the bill modifies AS 29.45.050, which allows municipalities to exempt certain properties from property taxes. He exemplified historical sites and property owned by non-profit organizations. He noted deteriorated properties are also addressed in this legislation.

Representative Kohring reminded the Committee of the legislation that created this statute in 1998, which would expire on July 1, 2002. This bill, he stated, eliminates the sunset provision in current statute.

Representative Kohring informed that the House Community and Regional Affairs Committee decided to eliminate the sunset provision rather than extend the date because the standards and safeguards contained in the statute are adequate to prevent abuse of the tax exemption. He gave as an example the requirement that before property could receive this exemption, it must meet certain safety requirements established by the local municipality.

Representative Kohring noted the long vacant and decrepit McCabe building located in the Ship Creek area of downtown Anchorage and detailed efforts to renovate the building to operate as a hotel. He relayed that because of the national events of September 11, 2001, financing has been more difficult to secure. He remarked this legislation would assist the financing process.

Senator Leman reiterated statements he made when this bill was heard in the Senate Labor and Commerce Committee that he supported the original legislation, which expanded the expiration date rather

than repeal it. However, because amending the bill would require a title change, he would not propose reinstating a sunset date.

Representative Kohring voiced appreciation.

Senator Olson asked if there were other "major pieces of real estate" that would be impacted either positively or negatively by this legislation.

Representative Kohring listed the Knik Power Plant located on First Avenue in Anchorage and a vacant dairy in downtown Palmer.

Senator Lemman clarified for Senator Green this statute applies to buildings at least 15 years of age.

Senator Lemman offered a motion to report CS HB 389 (CRA) from Committee with accompanying zero fiscal note from the Department of Community and Economic Development.

There was no objection and the bill MOVED from Committee.

#HB262

HOUSE BILL NO. 262

"An Act relating to accounting for and appropriations of receipts from fees collected by the Department of Labor and Workforce Development for certain inspections and for certain plumbing and electrical worker certificates of fitness; establishing a building safety account; and providing for an effective date."

AT EASE 4:29 PM / 4:34 PM

AMY ERICKSON, staff to Representative Lisa Murkowski, sponsor of the bill, read a statement into the record as follows.

It is a "fees-for-service" measure establishing a building safety account to allow the department to collect fees to support its Mechanical Inspections program and more importantly to catch up on the serious and sizable backlog of boiler and elevator inspections.

Currently, the Mechanical Inspection section generates just over \$1 million in general funds and is allocated about \$695,000. House Bill 262 allows the department to collect fees and gives the authority to utilize all the money generated from those fees.

Fees range from \$40 to about \$105 depending on the type of vessel; certificates of fitness for both electricians and plumbers also generate fees.

The sizable backlog of boiler and elevator inspections is a growing safety concern. The backlog has reached about 6,000 for boiler vessels and 300 for elevators. Incidentally, the Americans with Disabilities Act has caused the number of elevators to roughly double in the last eight years.

Passage of HB 262 will give the Mechanical Inspections program the ability to restore three new inspectors to the program and to generate enough revenue to eliminate the backlog of boilers and elevators in approximately two years.

Senator Olson asked the consequences of the backlog of elevator inspections and whether there are significant unaddressed violations.

Ms. Erickson stated the Department "red tags" the boilers that have failed an inspection and those boilers have a certain amount of time to comply with safety requirements.

Senator Olson understood the process but wanted to know the "danger to society".

Ms. Erickson did not know the extent of the danger, but stressed the backlog is "sizable".

RICH MOSTRIANO, Director, Division of Labor Standards and Safety, Department of Labor and Workforce Development, listed the 6,000 boiler inspections and 300 elevator inspections overdue.

Senator Olson asked how a repaired boiler or elevator has a "red tag" removed, and the length of time entailed before operation could resume.

Mr. Mostriano detailed the self-abatement procedure whereby the owner notifies the Department, using a certain pink card avowing that the necessary compliance action has been taken, and is allowed to resume operation. He noted a re-inspection is conducted at a later date to verify the delinquency has been corrected.

Senator Green asked the effect this legislation would have on the regular budget process and how the annual appropriation to the Mechanical Inspections program would be determined. She asked if this legislation stipulates that all revenue generated from the

inspection program could only be appropriated for that purpose. She commented that if "every function of state government could charge-back" the amount that agency earned, it might be an acceptable practice, but she was unsure.

REMOND HENDERSON, Director, Division of Administrative Services, Department of Labor and Workforce Development, replied that funding for the Mechanical Inspections program would be included in the annual budget review process as is currently practiced. He assured the only change is the funding source for this program from general fund/program receipts to the Building Safety Account fund.

Co-Chair Kelly stated the Legislature would retain the ability to appropriate these funds for any purpose, exempling public safety activities.

Mr. Henderson explained this bill establishes the Building Safety Account in which the program receipts from the Mechanical Inspections would be deposited.

Co-Chair Kelly ascertained this is an "easy budgeting move more than anything else."

Mr. Henderson affirmed and added that the program receipts would no longer be considered general funds for budget purposes, although this would not be a designated fund and therefore could be used for purposes other than the Mechanical Inspections program.

Senator Green asked the consequences if the Legislature determined to appropriate those funds to another use.

Mr. Henderson replied there would be no funds available to pay the expenses related to the inspections.

Co-Chair Kelly qualified a general fund appropriation could fund the program.

Senator Green surmised this legislation would be "further subverting the freedom of the budget process". She anticipated if this account were created and the funds were appropriated for other purposes, the Legislature would receive complaints attesting that building safety is compromised.

Senator Ward asked about the relationship of the inspection backlog to the Americans with Disabilities Act (ADA).

Mr. Henderson responded the backlog of elevator inspections is a result of the ADA.

Senator Ward asked the amount of time to eliminate the backlog without this legislation and utilizing the current funding mechanism.

Mr. Mostriano informed the number of new boiler inspections is currently maintained at one level with no reduction in backlog. He warned that so long as construction continues there would be no reduction in the backlog. Relating to elevators, he informed the state has only one inspector and did not expect this backlog to abate without changes.

Senator Ward shared he had hired a private inspector to inspect his boiler when he was obtaining refinancing. He asked if utilizing private inspectors could reduce the backlog.

Mr. Mostriano explained that when an insurance company is considering issuing a policy it often employs a private inspector, but this is the only instance where private inspections occur.

Senator Ward asked if it is possible that some of the 6,000 boilers have already been inspected.

Mr. Mostriano answered no and explained that if a boiler is privately inspected, the Department must still issue a certificate of operation before the inspection is complete. Therefore, he stated, the Department is aware of all private inspections.

Senator Hoffman referenced fiscal note #3, which indicates three full time positions would be added in FY 03 and the backlog would be eliminated by FY 07, at which time one of the new positions would no longer be necessary. He asked why additional expenditures and program receipts are not reflected for FY 05 and FY 06.

Mr. Henderson responded the fiscal note listed the additional costs of hiring and training new inspectors in FY 03 and FY 04.

Mr. Henderson continued it was determined to be unnecessary to list additional operating costs in FY 05 and FY 06 those years because the program would be operating at "maintenance level".

Senator Hoffman countered the fiscal note should account for the three positions included on the Department's payroll until FY 07. He surmised the fiscal note does not reflect the intent of the Department.

Mr. Henderson told of discussions with the Division of Legislative Finance where it was agreed there were different ways the fiscal

note could be written and it was determined this is the most appropriate method to show the costs.

Senator Hoffman opined, "[It] may be the most appropriate way but it's [also] the most deceiving way."

Senator Austerman clarified the FY 05 and FY 06 expenditures are not reflected on the fiscal note because they would be paid from the Building Safety Account.

Mr. Henderson affirmed.

Senator Austerman reiterated that appropriations from the Building Safety Account would require approval in the operating budget.

Mr. Henderson again affirmed.

Senator Austerman asked if other "accounts" in the Department of Labor and Workforce Development operate in this manner.

Mr. Henderson answered yes and listed a workers' safety account that funds Occupational Safety and Health Administration (OSHA) programs, and an account that funds the workers' compensation program.

Senator Austerman asked the benefit of this legislation to the Department of Labor and Workforce Development.

Mr. Henderson responded that with general funds, budget limitations are imposed by the Legislature when determining general fund appropriations, and that the three additional inspector positions had been requested in the past but were not funded because of those limitations. Under this legislation, he explained, the expenses are "off budget" and the program is self-sufficient.

Senator Ward revisited the matter of private inspectors and asked why he had to pay for this inspection rather than have the Department perform the inspection.

Mr. Mostriano informed Senator Ward he could have requested the Department perform the inspection.

Senator Ward had made such a request and was told there would be a two-month wait.

Mr. Mostriano stressed this is the backlog at issue.

Senator Ward asked why others are provided this service without

charge.

Mr. Mostriano corrected the Department collects an inspection fee. He compared this to the process of private inspectors, who assess travel, time, and inspection charges, whereas the state charges a flat fee based on the average cost of all inspections. He noted the cost of a state-conducted inspection is less than a private inspection.

Senator Ward argued public employees should not perform this service and that ordinary workers should not have to pay this cost.

Co-Chair Kelly pointed out this is a fee-based service.

AT EASE 4:55 PM / 4:55 PM

Mr. Henderson clarified the question is why not have private inspectors.

Mr. Mostriano informed that only board certified inspectors could perform these inspections and that the Department and insurance companies are the only employers of inspectors. He pointed out that if an insurance company does not offer coverage for an area, it would not employ an inspector to perform in that area.

Senator Ward asked how many of the 6,000 boilers with overdue inspections are located in areas more than 50 miles from a private inspector.

Mr. Mostriano stated information is not currently available but that he would provide it once a new computer program is in operation.

Mr. Henderson pointed out discussion has focused on the merits of the inspection program, however this legislation does not change the program, it only changes the accounting procedure.

Senator Austerman commented this legislation allows the Department to operate without utilizing general funds.

Mr. Mostriano affirmed.

Senator Austerman relayed a question he raised when the bill was heard in the Senate Labor and Commerce Committee regarding the "total dollar values" of the revenue collected compared to the number of employees.

Mr. Henderson replied there is not a "one to one ratio" for all the

positions, explaining that only the boiler pressure inspection, vessel inspection and elevator inspection positions generate fees. He informed the Department collects approximately \$400,000 annual from electrical inspections, and \$150,000 from plumbing inspections, but that these revenues are not generated from fees. He explained the fees for these inspections are generated by Certificates of Fitness, i.e., a license to inspect, for electricians and plumbers.

Mr. Henderson stated the addition of boiler and elevator inspection positions would allow more inspections to occur and subsequently increase revenue by approximately \$200,000 and \$50,000 respectively for each function.

Senator Ward assumed most inspections are requested because of the need for a Certificate of Occupancy.

Mr. Mostriano affirmed and furthered that once a new boiler is inspected, that inspection is noted and the boiler is scheduled for re-inspection every two years.

Senator Ward exemplified the rural community of Savoonga and asked if once construction is completed a project in that community, whether the owner could operate the boiler before receiving a Certificate of Occupancy.

Mr. Mostriano answered no, and explained that when notified of new construction, the Department "makes every effort" to perform the inspection at the time of completion.

Co-Chair Kelly asked if the owner could hire a private inspector to perform the inspection if the Department was unable to reach the located due to its backlog.

Mr. Mostriano responded this could only be done through an insurance company. In the case of Savoonga, he surmised the insurance company would be unwilling to send a private inspector to the area unless the company was issuing a policy on the building.

Senator Hoffman rhetorically asked the rating of this legislation on a scale of one to ten of "the smoke and mirrors concept of budgeting".

Senator Austerman predicted if additional inspectors were employed, the program would become more efficient rather than less so. He listed the estimated revenue changes included in the fiscal note and disagreed with their accuracy. He did not approve of adding positions, while "going off budget". He furthered that the

Legislature should be forthright in presenting the budget; including all expenditures from every funding source. He opined that not doing so is "deceiving to the public".

Senator Olson referenced the Workers' Safety Account and the Workers' Compensation Account and asked if there have been problems associated with their methods.

Senator Austerman asserted, "It bothers me" and explained this practice does not reflect the budget accurately. He noted that each year 300 to 500 new state employees are added and that these positions are not completely funded with either general funds or federal funds.

Co-Chair Kelly pointed out that in using the fiscal note process, the new positions are voted on by the entire Legislature rather than included in the larger budget. He remarked that if there is a problem relating to the number of inspectors, the issue could be voted upon.

Senator Austerman did not disagree. He also did not oppose boiler inspectors. However he noted the state is receiving less oil revenue and that if the program needs funding, the Legislature should fund it instead of depending on the Department to craft ways to operate around the system.

Co-Chair Kelly referenced earlier legislation, which he did not detail, but cited the provisions in this bill is not unusual considering the earlier legislation.

Senator Olson noted there is no backlog of elevator inspections in Savoonga.

Co-Chair Kelly ordered the bill HELD in Committee.

AT EASE 5:10 PM / 5:12 PM

#SB277

CS FOR SENATE BILL NO. 277(RES)

"An Act relating to the tax levied on pollock processed by a floating fisheries business; and providing for an effective date."

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

Senator Austerman offered a motion to report CS SB 277 (RES) from Committee with a 3/2/2002 Department of Revenue zero fiscal note.

Senator Green objected.

A roll call was taken on the motion.

IN FAVOR: Senator Leman, Senator Ward, Senator Austerman, Senator Hoffman and Co-Chair Kelly

OPPOSED: Senator Green

ABSENT: Senator Olson and Co-Chair Donley

The motion PASSED (6-3-2)

The bill MOVED from Committee.

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ADJOURNMENT

Co-Chair Pete Kelly adjourned the meeting at 05:14 PM