

MINUTES
SENATE FINANCE COMMITTEE
May 07, 2002
9:51 AM

TAPES

SFC-02 # 89, Side A
SFC 02 # 89, Side B

CALL TO ORDER

Co-Chair Pete Kelly convened the meeting at approximately 9:51 AM.

PRESENT

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

Also Attending: SENATOR GENE THERRIALT; JOE BALASH, Staff to Senator Gene Therriault; TAMMY KEMPTON, Regulation of Lobbying, Alaska Public Offices Commission, Department of Administration; CHIP WAGONER, private citizen; JASON HOOLEY, Staff to Representative Fred Dyson; ALISON ELGEE, Deputy Commissioner, Department of Administration; JOANNE GIBBENS, Program Administrator, Division of Family and Youth Services, Department of Health and Social Services; JOHN BITNEY, Legislative Liaison, Alaska Housing Finance Corporation

Attending via Teleconference: From Anchorage: ANTHONY LOMBARDO, Representative, Covenant House

SUMMARY INFORMATION

SB 363-CAMPAIGN COMMUNICATIONS & DISCLOSURES

The Committee heard from the sponsor, the Alaska Public Offices Commission, and took public testimony. The bill reported from Committee.

HB 162-ABSENCES UNDER LONGEVITY BONUS PROGRAM

The Committee heard from the sponsor and the Department of Administration. The bill reported from Committee.

HB 209-PROGRAM FOR FORMER FOSTER CHILDREN

The Committee heard testimony from the Division of Family and Youth Services, took public testimony, and reported the bill from Committee.

SB 268-GUARANTEED REVENUE BONDS FOR VETERANS

The Committee heard from the Alaska Housing Finance Corporation, considered but took no action on one amendment, and held the bill in Committee.

#sb363

CS FOR SENATE BILL NO. 363(STA)

"An Act relating to communications and elections, to reporting of contributions and expenditures, and to campaign misconduct in the second degree; relating to disclosure by individuals of contributions to candidates; and providing for an effective date."

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

SENATOR GENE THERRIAULT stated that this bill was generated by the Senate State Affairs Committee and clarifies regulations involving campaign contributions to candidates and issue-advertising guidelines for State elections. He noted these issues are also being addressed at the federal level. He voiced that citizen concerns about how contributions to candidates and issues could "influence the outcomes of campaigns" has resulted in a "compelling interest" to prohibit certain types of issue advertising while working within the parameters of the United States' constitution regarding freedom of speech. He mentioned that State regulations recognize "express advocacy" as advertising that, instead of educating people about a general issue or public policy, attempts to influence the outcome of the campaign. He communicated that State regulations align with the US Senate 1977 McCain-Feingold Bill, which expanded the definition of express advocacy to include issue advocacy commercials broadcast within "30 days of a primary

or 60 days before a general election, as those broadcasts could be recognized as "trying to impact the outcome of the election."

Senator Therriault furthered that this bill would "place some restrictions on the source of funding that is coming into and backing that expression." He noted that Section 8, subsection 14 on page 4, line 18 of this legislation further defines components within a commercial or communication that would be recognized as express advocacy by the State.

Senator Therriault explained that Sections 7 and 8 primarily address issue advertising while Sections 1, 2, 3, 4, 5, 6, and 10 address modifications to the Alaska Public Offices Commission (APOC) report requirements for campaign donations and expenditures, specifically the requirements of the "15/5 filing report," which requires anyone who contributes \$500 or more to a candidate to notify APOC of the contribution within 30 days of its being contributed. He stated that APOC has determined that the 15/5 ruling is "meaningless" as more recent law limits the maximum amount a person could contribute to a candidate at \$500.

Co-Chair Kelly asked the penalty for failing to file or for filing late, under the 15/5 regulation.

JOE BALASH, Staff to Gene Therriault, responded that the penalty for late filing is \$50 a day once APOC notification has been issued.

Co-Chair Kelly asked whether the notification is sent to the candidate receiving the contribution or to the contributor.

Mr. Balash surmised that both the candidate and the contributor receive notice.

TAMMY KEMPTON, Regulation of Lobbying, Alaska Public Offices Commission, Department of Administration, concurred that both the candidate and the contributor receive notification.

Co-Chair Kelly stated that the 15/5 filing "was somewhat problematic and a lot of citizens did not understand" their obligation to report contributions. He asked whether the elimination of the 15/5 penalty should be retroactive since the 15/5 regulation is recognized as not being a "a good idea in the first place," and some citizens could be prosecuted or fined "under the old law".

Ms. Kempton stated she is "fairly confident" that no one is currently being fined or prosecuted because of a violation of the

15/5 regulation.

Senator Green asked how the funding sources of political advertising "published" within 60 days of an election are reported.

Senator Therriault responded that current regulations require "source" reports to be filed with APOC for advertising expenditure contributions coordinated with a candidate's campaign, and that independent expenditure reports include "where the money comes from" and whether the funding is from "out-of-State" sources or a wealthy individual expending thousands of dollars.

Senator Green commented that APOC reporting restrictions focus on the funding sources, not necessarily what the funds are used for. She shared that candidates are often "surprised by something that happens out there that you know nothing about either pro or con, where you think... do I have to take the hit for this contribution."

Co-Chair Kelly asked for clarification as to whether a person who neglects to file the 15/5 report would be fined \$500 a day beginning on the thirty-first day after the contribution is made or beginning the day the APOC notification is received.

Ms. Kempton clarified that current law specifies that anyone contributing \$500 to a campaign must report that contribution to APOC within 30 days. She continued that if APOC finds that a \$500 contribution has not been reported, APOC would notify the contributor, and from that date on, the contributor would be fined \$50 a day until the filing is completed.

Co-Chair Kelly stated that Section 6 in this bill specifies the non-filing penalty amount to be \$500 a day.

Senator Therriault interjected that the \$500 fine referred to in line 14, Section 6 applies to a candidate or group.

Co-Chair Kelly asked if State statute specifies when a penalty would begin to accrue.

Ms. Kempton stated that APOC has the authorization to levy lower fines than those specified in regulation, with \$500 being the maximum per day fine. She reiterated that a fine would begin to accrue after APOC notification is given.

Co-Chair Kelly stressed that statute should clearly define at which point the levying of fines would begin to accrue. He asked the sponsor if the addition of this language would be problematic.

Senator Therriault asserted the need to continue allowing APOC to have the flexibility to adjust the level of fines according to the circumstances.

Co-Chair Kelly assured that APOC's flexibility in determining the amount of fines would not be affected by the addition of language such as "delinquency continues after notification by APOC."

Ms. Kempton spoke to the need to clarify current regulations.

Senator Therriault suggested that the Senate Rules Committee might need to address the addition of this language; however, there is sufficient time to do that before the Legislative session adjourns.

Co-Chair Kelly recommended that penalty clarification be included in this legislation.

Senator Lemman asked whether anyone has ever been convicted of campaign misconduct in the second degree, which is specified by State statute as a class B misdemeanor.

Ms. Kempton stated she is not aware of any such conviction.

Senator Lemman asked the penalty amount levied to someone convicted of this offense.

Ms. Kempton responded that a \$1,000 fine could be levied along with jail sentencing of up to one year.

Senator Lemman clarified this might be the penalty for neglecting to include the language "paid for by" in an advertising message.

Ms. Kempton concurred.

Senator Lemman asked if APOC has ever pursued this course of action for this violation.

Ms. Kempton replied that APOC has not.

Co-Chair Kelly stated that although APOC has recommended against this course of action, there have been instances in which the Department of Law pursued people according to these statutes. He opined that the penalty for not including "paid for by" in an advertising message is "silly." He complimented APOC for its discretion in invoking penalties on various APOC violations as some of the laws "are absurd."

CHIP WAGONER informed the Committee that APOC had charged a pro-

life organization he represented of express advocacy violations for distributing a postcard mailing during a local election. He stated that the postcard had "merely presented information" stating that a certain candidate "had as his campaign manager, the head of the Juneau Pro-Choice Coalition." He stated the message did not recommend nor encourage people "to vote for, vote against or support or oppose" the candidate. He stated that even though the organization was not fined; APOC held them to be in violation. He stated that he "is not sure this bill is a vast improvement" as "a bright line test" to further define express advocacy.

Mr. Wagoner suggested that Section 8, subsection 16 be expanded to include language regarding "imparting of information, so that what happened to his client does not happen to anyone else."

Senator Therriault stated APOC has acknowledged that the proposed language in this legislation would assist in establishing some definite "bright lines" in determining whether express advocacy or the influencing of an election is occurring. He stated that both APOC and the Alaska Court System support the establishment of "a definite line."

Senator Wilken moved "to report Senate Bill 363 from Committee with individual recommendations and attached fiscal notes."

There being no objections, CS SB 363 (STA) reported from Committee with a new fiscal note dated May 6, 2002 in the amount of \$5,000 from the Department of Administration, and a previous zero fiscal note dated April 22, 2002 from the Division of Elections, Office of the Lieutenant Governor.

#hb162

SENATE CS FOR HOUSE BILL NO. 162(STA)

"An Act relating to absences from the state under the longevity bonus program."

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

JASON HOOLEY, Staff of Representative Fred Dyson, informed the Committee that this legislation would extend a longevity program participant's allowable absence from the State from the current 30-consecutive days to 60 consecutive days, in addition to extending the allowable unpaid sabbatical term from 90 days to three years.

He stated that the extension of these two program components would lower the overall cost of the longevity program to the State.

ALISON ELGEE, Deputy Commissioner, Department of Administration, stated that the Department's fiscal note addresses the two extensions separately. She explained that extending allowable absences from 30 days to 60 days would cost the program additional money; however, extending the allowable unpaid sabbatical term to three years would save money. She stated that the three-year sabbatical would be applicable to such eligible longevity participants as those who move to Arizona and realize it was a "mistake" and move back, or those participants who wish to spend extended time with family out of State. She stated this provision would allow those individuals to return to the State and resume their residency without jeopardizing their longevity bonus eligibility. She stated that the three-year deadline provides the Department with a "necessary end-point."

Ms. Elgee stated the Department projects that if ten percent of current longevity bonus participants were out of the State an additional month, as would be allowed under the extended unpaid sabbatical plan, the State would save up to \$435,000. She noted significant interest has been expressed favoring this legislation and she predicted that participants would take advantage of the extensions.

Co-Chair Donley asked for clarification that, "people do not get paid if they are out of State for any given month."

Ms. Elgee responded that currently, individuals would not receive a monthly longevity check if they were out of the State for more than 30 days. She stated that this bill would increase the allowable absence time from 30 days to 60 days.

Co-Chair Donley summarized that if this legislation becomes effective, a participant who is out of the State for two months would receive benefits for those two months, but would not receive benefits during any time spent out of the State beyond two months.

Ms. Elgee agreed and clarified that their eligibility status would be suspended after the initial 60 days.

Senator Austerman asked how long a person could be absent from the State without losing their eligibility status.

Ms. Elgee responded that a person is currently allowed "to be consecutively absent for up to 90 days at which point you would need to return to the State for a least ten days" to retain your

eligibility. She continued that another 90 consecutive day absenteeism period could occur; however, there is an absenteeism limit of 180 days in a 12-month period. She explained that other allowable absences could occur as a result of an approved medical leave or sabbatical leave which would allow a person to be absent from the State for up to a year within a given five-year period.

Senator Austerman asked whether there are any other exemptions.

Ms. Elgee voiced there are not; however, she would verify this as the exemptions are identified in State regulations. She stated, "that medical absences are the most common."

Senator Green affirmed that the sabbatical component of this legislation provides significant savings for the longevity bonus program; however, she mentioned that as the longevity "program begins to wane," the overall expenses of the program lessen. She referred the Committee to the saving projections detailed in the Department's fiscal note.

Co-Chair Kelly asked the testifier the amount of the current total program "payout."

Ms. Elgee responded that this year's program expenses amount to \$50 million; however, expenses are being reduced \$3 to \$4 million a year as the number of eligible participants decrease.

Senator Austerman asked whether the Department would be tracking the two components of this bill, if enacted, to ensure that projected savings are occurring.

Ms. Elgee responded that the Department tracks absences, therefore, this information would be available.

Co-Chair Donley asked if the Department of Administration supports this legislation.

Ms. Elgee replied that the Department has not taken a formal position on the legislation; however, she noted that the Department "does not oppose it." She mentioned that all current longevity bonus recipients are over 70 years old, so "we think that as a policy call, if the Legislature chooses to pass this legislation, we think it's fine."

Senator Green offered a motion to move "House Bill 162, Version L, from Committee with individual recommendations and accompanying fiscal notes."

There being no objections, SCS for HB 162(STA) was REPORTED from Committee with a new Department of Administration fiscal note dated April 24, 2002 with a net savings of \$146,700.

#hb209

SENATE CS FOR CS FOR HOUSE BILL NO. 209(HES)
"An Act directing the Department of Health and Social Services to establish a foster care transition program; relating to that program; and providing for an effective date."

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

Mr. Hooley informed the Committee that this legislation would allow the Division of Family and Youth Services (DFYS) to access available federal funds to provide a variety of services to youth ages 16 to 21 "who are aging out" of the State's Foster Care Program.

JOANNE GIBBENS, Program Administrator, Division of Family and Youth Services, Department of Health and Social Services, informed the Committee that the federal Foster Care Independence Act of 1999 includes a foster care program to assist in developing independent living services for children "who are in State custody who would probably not be finding a permanent home in terms of adoption or guardianship," and who would likely be emancipated from care. She stated that statutory authority would allow the State of Alaska to expend a portion of \$500,000 federal funds to provide additional support for individuals over the age of 18 who had previously been in the foster care system.

Senator Austerman asked the testifier whether matching funds are required to receive these federal funds.

Ms. Gibbens responded that the 20 percent match requirement is currently funded by the "grantees who are providing some of the in-kind services" to the program.

Co-Chair Kelly clarified there is therefore no need to "find new money" to meet the match requirement.

Ms. Gibbens concurred.

Senator Austerman asked how much of the current \$500,000 federal

funding would be allocated to this program.

Ms. Gibbens replied that the amount would be determined by how many eligible individuals would request this transitional assistance.

Senator Austerman stated that language in the Department of Health and Social Services fiscal note specifies that the State shall receive "no less than \$500,000" from the federal government; therefore, he asked how much federal funding is currently allocated to the Foster Care program.

Ms. Gibbens clarified that the State is receiving \$500,000 in federal funds.

Senator Austerman clarified that the Foster Care program is not currently able to use these federal money to provide services to individuals who have transitioned out of the program.

Ms. Gibbens confirmed that is correct.

Senator Austerman offered a motion to report "HB 209 out of Committee with individual recommendations and accompanying fiscal note."

ANTHONY LOMBARDO, representative of Covenant House, testified via teleconference from Anchorage, in support of this bill, as it is "excellent for Alaska's youth."

There being no objections, SCS HB 209 (HES) was REPORTED from Committee with zero fiscal note #2, dated February 8, 2002 from the Department of Health and Social Services.

AT EASE 10:35 AM / 11:02 AM

#sb268

SENATE BILL NO. 268

"An Act relating to the issuance of state-guaranteed revenue bonds by the Alaska Housing Finance Corporation to finance mortgages for qualifying veterans; and providing for an effective date."

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

JOHN BITNEY, Legislative Liaison, Alaska Housing Finance Corporation (AHFC), Department of Revenue, stated that passage of this bill would authorize an AHFC bond measure to be placed on the next State general election ballot for a vote of the people to authorize \$500 million in veterans' mortgage revenue bonds. He informed the Committee that Alaska is one of five states whose veteran loan programs was granted a federal tax-exemption because the program was established prior to a change in federal law disallowing the exemption. He explained that the federal tax-exemption status "requires that the bonds have a State guarantee behind them;" and furthermore, Alaska's Constitution "requires a vote of the people in order to have that State guarantee on that debt."

Mr. Bitney assured the Committee that the bonds are structured in such a manner "that revenues from the mortgages that they fund, go to pay those bonds." He stressed that this program "has never cost the State anything nor is it intended to;" however, getting voter approval is "a formality required under the tax code to get that tax-exemption on the bond."

Mr. Bitney informed the Committee that voters previously approved AHFC veterans' bond propositions in 1982, 1983, 1984 and 1986 and that the program provides funds for low-interest home loans to qualified veterans. He stated that the federal veterans' loan program defines qualified veterans as those "individuals who must have entered active service prior to January 1, 1977 and not have been discharged more than 30 years prior to the date of their loan application," He stated that the number of individuals who qualify for the veterans' loan program is diminishing as time progresses, and that the program "should almost be non-existent" by the year 2006 or 2007, therefore, "this, in essence, would be the last time" that AHFC would be requesting this kind of bond authorization, pending any federal changes to the definition of a qualified veteran.

SFC 02 # 89, Side B 11:07 AM

Senator Austerman asked for clarification that previous bond packages amounts exceeded \$2 billion, and this bond is seeking authorization for an additional \$500 million.

Mr. Bitney stated that is correct, and he detailed the amounts distributed in the previous four voter authorizations. He stated that the approximately \$47 million currently remaining from the 1986 authorization is projected to be completely allocated by the

end of this year. He stated that the new bonds, if authorized, would be allocated on an "as-needed basis."

Senator Austerman asked if the tax-exempt status of these bonds reduces AHFC's bonding costs, and he asked how the bonds are repaid.

Mr. Bitney explained that there is approximately a one-percent difference in the taxable and tax-exempt rate; and he explained that the rate for the veterans mortgage program is the same as that of the tax-exempt rate for first-time homebuyer program as both are tax-exempt interest rates. He stated that "the qualifier" for the veterans program is the person's military service whereas other tax-exempt programs instill qualifiers such things as income limits.

Senator Austerman asked if the bonds "are actually paid back by the veterans."

Mr. Bitney stated that is correct as the mortgages funded by the bonds are structured in a manner where the loans are repaid to the bonds.

Senator Austerman asked if these bonds have any effect on the dividend that AHFC pays the State each year, which then funds other State programs.

Mr. Bitney responded that this bond program would not affect that dividend.

Senator Austerman stated that the annual dividend the State receives from AHFC is the result of interest earnings generated from various AHFC bond packages and loan programs. He asked if any of the interest earned from the veterans loan program is contributed to the State.

Mr. Bitney stated that the veterans loan program enhances AHFC's "bottom line" by offering a program that attracts borrowers.

Senator Austerman asked if the veterans loan program "is a break-even program on the pay-back of the bonds" or is there excess interest earnings generated which could be contributed to the State in the annual dividend.

Mr. Bitney stated that the veterans loan program is structured in such a manner that the veterans' mortgages are paid directly to the bond fund, and there are no "excess earnings, as the program is prohibited from doing that." He stated, "all cost savings have to

be passed through to the borrower."

Co-Chair Kelly asked if the federal government contributes funding assistance toward program administration expenses.

Mr. Bitney stated that AHFC does not receive federal administrative assistance and that the program is administered along with other AHFC programs "as a benefit to those who have served."

Senator Wilken commented that the State has "floated \$2.2 billion" in the past and is now being asked, "to float another \$500 million in what amounts to collateral against the federal loans." He stated that the State's involvement is limited to providing "the full faith and credit of Alaskans to back those bonds" if something happens at the federal level.

Mr. Bitney concurred with Senator Wilken's remarks; however, clarified that AHFC makes the loans and the State would need to "back the bonds if AHFC falters."

Senator Wilken voiced concern that this bond package might be one of several bonding issues listed on the general election ballot. He asked what would occur if this bond-vote were delayed.

Mr. Bitney responded that there would be no funds available for the veterans' home loan program and therefore, the program would need to be suspended.

Senator Leman asked if the printing costs of including this bond measure on the general election ballot would be absorbed by AHFC or whether they would be eligible to be covered as administration expenses under federal guidelines.

Mr. Bitney clarified that the \$22,000 printing expense specified in the Division of Elections fiscal note would be the cost of conducting the vote in conjunction with the general election.

Senator Leman stated that the fiscal note should specify who is responsible for the printing costs of the ballot.

Mr. Bitney clarified that historically, if the bond measure is part of the general election ballot, the costs are assumed by the Division of Elections. He informed the Committee that one bond authorization was voted on in a "stand-alone" special election, and that AHFC assisted with the cost of conducting that election.

Amendment #1: This amendment deletes "the first general" and inserts "a special election to be held on the date of the first

primary" in Section 4, page 2, on line 24, and on line 25 of that same section, deletes "and" and inserts, "The special election shall be held in substantial compliance with the election laws of the state, including absentee voting and preparation, publication, and mailing of an election pamphlet under AS 15.58. The election pamphlet must comply with AS 15.58.020(7). The question placed before the qualified voters of the state at the special election". The ballot language would read as follows.

BALLOT QUESTION. The question of the state guarantee of bonds referred to in this Act shall be submitted to the qualified voters of the state at a special election to be held on the date of the first primary after the effective date of this Act. The special election shall be held in substantial compliance with the election laws of the state, including absentee voting and preparation, publication, and mailing of an election pamphlet under AS 15.58. The election pamphlet must comply with AS 15.58.020(7). The question placed before the qualified voters of the state at the special election" shall read substantially as follows:

Senator Lemman moved for adoption of Amendment #1

Co-Chair Kelly objected for discussion.

Senator Lemman explained that this amendment would remove the veterans bond authorization ballot question from the November 5, 2002 general election, and instead, have it correspond with the next primary election.

Co-Chair Kelly informed the Committee that this election date change is suggested in a letter [copy on file] dated May 1, 2002 to Dan Fauske, CEO/Executive Director of AHFC from Wohlforth, Vassar, Johnson & Vrecht, Attorneys at Law.

Senator Wilken stated that the letter appears to suggest that if the election date were changed, "extraordinary precautions" should be taken because it would affect general voter interest as opposed to the interest generated by a general election.

Co-Chair Kelly stated that the amendment would be TABLED and the bill would be HELD in Committee.

RECESS TO CALL OF CHAIR 11:21 AM / 6:19 PM
#

ADJOURNMENT

Co-Chair Pete Kelly adjourned the meeting at 06:19 PM.