

ALASKA STATE LEGISLATURE
SENATE HEALTH, EDUCATION & SOCIAL SERVICES COMMITTEE

April 29, 2002
2:20 p.m.

MEMBERS PRESENT

Senator Loren Lemman, Vice Chair
Senator Gary Wilken
Senator Bettye Davis

MEMBERS ABSENT

Senator Lyda Green, Chair
Senator Jerry Ward

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 55(STA)

"An Act relating to the Alaska Pioneers' Home and the Alaska Pioneers' Homes Advisory Board; relating to admissions to, payment assistance for, and transfers from the home; relating to housing and services for veterans; and providing for an effective date."

MOVED CSSB 55(STA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

SB 55 - See State Affairs minutes dated 2/8/01, 4/18/02 and 5/5/01.

WITNESS REGISTER

Commissioner Jim Duncan
Department of Administration
PO Box 110200
Juneau, AK 99811-0200

POSITION STATEMENT: Supports CSSB 55(STA) except for the removal of the name change.

Ms. Marty Margeson
1401 West 13th Ave.
Anchorage, AK 99501

POSITION STATEMENT: Opposed to CSSB 55(STA)

Ms. Lisa Caress-Beau
Center for Advocacy Rights of the Elderly (CARING)

2420 Chinook Ave.
Anchorage, AK 99516

POSITION STATEMENT: Opposed to CSSB 55(STA)

Ms. Aileen Herring
CARING
8821 Emerald
Anchorage, AK 99502

POSITION STATEMENT: Opposed to CSSB 55(STA)

ACTION NARRATIVE

TAPE 02-33, SIDE A

Number 001

VICE-CHAIRMAN LOREN LEMAN called the Senate Health, Education & Social Services Committee meeting to order at 2:20 p.m. Senators Wilken, Davis and Leman were present. Vice-Chair Leman said the committee would take up SB 55, a bill requested by the Governor, and hear from Commissioner Duncan, Laddie Shaw, and take public testimony.

#SB 55

SB 55-PIONEERS' AND VETERANS' HOME/ADVISORY BD

COMMISSIONER JIM DUNCAN, Department of Administration (DOA), informed members that SB 55 is designed to fulfill what the Administration considers to be a long-standing commitment to veterans in Alaska to recognize the service they have given to the United States and Alaska. Veterans would be given preference for a certain percentage of the beds in the Pioneers Home system and representation on the Pioneer Home Advisory Board in statute.

COMMISSIONER DUNCAN gave the following background of the issue. In 1992, legislation was passed that gave authority to the DOA to construct a stand-alone veterans home. However, no action has been taken in that regard. The legislation prohibits any state dollars from being used on either construction or operation of that home. Recognizing that no movement has gone forward, the Governor proposed using Alaska's six Pioneer Homes around the state to house Alaska's veterans and allow them to receive the benefits they should be receiving.

COMMISSIONER DUNCAN explained that CSSB 55(STA) amends the composition of the Alaska Pioneers Home Advisory Board from seven to five public members and two veterans. It also allows DOA, statutorily, to establish a veterans' preference for admission to the homes. It specifies that no more than 30 percent of the beds

in a single institution and no more than 21 percent of the total beds in the Pioneer Home system can be reserved for veterans. DOA is to establish those procedures by regulation. He pointed out the Pioneer Home system has about 100 vacant beds. If this legislation passes, about 125 of the total 600 beds would have a veterans' preference. At present, about 95 veterans are in residence in the Pioneer Homes throughout the state, therefore another 25 veterans could be admitted. The Pioneer Homes have an active waiting list of about 185, of which about 55 are veterans. He stated the bill would benefit both veterans and the senior citizen community.

COMMISSIONER DUNCAN said the bill also provides for a study by an outside consultant to determine the needs of Alaska's veterans. The age requirement for entry into a Pioneer Home is 65, therefore the veterans' preference in that system will not meet the needs of all veterans. DOA has requested \$250,000 for the study. It is DOA's intent to ensure that the Pioneer Homes continue to be owned and managed by the State of Alaska and not be subject to restrictions associated with federal guidelines and control. Mr. Jim Kohn of DOA and Mr. John Taber of the Governor's Washington, D.C. Office are currently negotiating with the Veterans Administration. They have arrived at a memorandum of understanding (MOU) to go forward and negotiate an agreement that will maintain the integrity of the present system and ensure that state ownership and control is maintained while allowing veterans' benefits to flow to veterans residing in the Pioneer Homes. He believes substantial progress is being made in that regard. He noted the bill has a substantial fiscal note: to fully fund the beds will cost about \$5.2 million - \$2.6 million of that will be paid from the general fund and \$2.6 million will be paid from Pioneer Home receipts (payments that individual residents make to help pay for their cost of care). If this legislation passes and the negotiations with the VA are successful, federal money will not flow directly to the Pioneer Home. Instead, veterans will be able to receive benefits that veterans receive elsewhere in the country, including per diem. The veteran would use the per diem to help pay the cost of care.

COMMISSIONER DUNCAN pointed out to members that the committee substitute does not change the name of the Alaska Pioneer Homes. The intent of the original legislation was to change the name to the Alaska Pioneer and Veterans Homes to show a true and strong commitment to both pioneers and veterans. The removal of the name change is cause for concern. DOA has discussed the name change with the VA and does not have a clear response yet, but the VA's initial response was that the name change to include veterans is critical in moving negotiations forward. He thanked the committee

for hearing the bill and said it is important, maintains the integrity of the Pioneer Home system, and recognizes the great contribution that pioneers and veterans have made to this state.

VICE-CHAIRMAN LEMAN referred to a letter from Secretary Principe and said Commissioner Duncan already addressed how the committee substitute will affect the Secretary's support.

COMMISSIONER DUNCAN repeated that, regarding the memorandum of agreement, DOA has not received a final answer on the name change yet. The VA has said the name change is critical but has not said what the change needs to be.

VICE-CHAIRMAN LEMAN asked what Commissioner Duncan will recommend the Governor do if this version of the legislation passes.

COMMISSIONER DUNCAN said the Administration continues to support legislation that would recognize the contribution of veterans in this state and continue to support legislation that would give them a preference to at least 21 percent of the fully-funded beds. DOA also continues to support a name change to give further recognition to the veterans. He said what would happen if the bill passes both bodies without a name change is a question he will have to get back to the committee on. He maintained that he is clearly advocating a name change during this process.

VICE-CHAIRMAN LEMAN said that while it is not early in the session, the bill is still in an early committee of referral so that question can be better answered toward the close of the session.

COMMISSIONER DUNCAN hoped to be able to give the committee a better answer within several days after receiving a response from the VA. He repeated that if the name change is critical to getting an agreement so that veterans can get veterans benefits, he will let the committee know.

VICE-CHAIRMAN LEMAN asked Commissioner Duncan to explain the difference in the amount requested in the Governor's transmittal letter (\$200,000) and the \$250,000 he referred to.

COMMISSIONER DUNCAN indicated the \$200,000 figure was based on an estimate made last year by the Department of Military and Veterans Affairs. DOA has conducted studies along this line and based the \$250,000 on similar studies done by other states.

SENATOR WILKEN asked what the capacity of the Pioneer Homes is.

COMMISSIONER DUNCAN replied the capacity is 600 and about 500 of those beds are filled, 95 by veterans. DOA has a waiting list of about 185. That number changes from day-to-day but about 55 to 60 on the waiting list are veterans.

SENATOR WILKEN asked if there is a way to funnel the veteran's stipend to the Pioneer Home to ensure that it gets to the Pioneer Home.

COMMISSIONER DUNCAN said that payment needs to go directly to the individual veteran. He then asked that Mr. Kohn explain to members how a veteran's resources are evaluated.

MR. JIM KOHN, Director of Alaska Longevity Programs, explained the residents of the Pioneer Homes are asked to pay a fair amount of the cost of their care. About half of the residents are able to pay the full amount of care. The veterans' monthly VA benefit will help lower-income veterans to pay the monthly rent payment at the Pioneer Home.

SENATOR WILKEN asked if the payment amount is a discretionary decision or whether the Pioneer Home will know the money coming from the federal government to a veteran will be used to pay part of his or her care every month.

MR. KOHN said the money coming from the federal government would not immediately increase the Pioneer Home's overall budget but it would increase it's revenues.

SENATOR WILKEN asked, "On the capital side, does the federal government bring us any assets in order to upgrade our Pioneer Homes, perhaps to get them Medicaid qualified or can this help us on the capital side if they become veterans' homes?"

MR. KOHN said he has talked to Marcia Goodwin (of the VA) to some degree. The federal government offers, when using buildings already owned by states, a 40/60 match with the federal government paying 60 percent of the cost of renovation. Alaska's situation differs from other states so both parties are trying to work through this, but Ms. Goodwin feels very strongly that the capital money available to other states should be available to Alaska.

SENATOR WILKEN asked if Alaska is the only state without a veterans' home.

MR. KOHN said it is the only state that does not at least have a

veterans' home planned.

SENATOR WILKEN stated:

And so now, if there are some capital monies available, jumping then to the name change - maybe a quid pro quo is if we indeed do this, and we don't change the name, then we take the pressure off of the federal government to come in and do a veterans' home or a veterans' hospital and that seems to be maybe the tradeoff, that we've set that push aside, or that effort aside, for the federal government to come spend money in our state by using existing facilities. Does that work?

COMMISSIONER DUNCAN said the VA is not moving forward to build stand-alone homes. In fact, it prefers to look at a system like Alaska's in which it has six homes that are geographically dispersed so that veterans can be served closer to their home communities. Part of what DOA is requesting in the \$250,000 study is to evaluate what unmet needs exist. The age requirement of 65 would not apply in a veterans' home in another state but it does in the Pioneer Home. There may be a lot of younger veterans who will not have access to these homes. He noted the Governor has requested \$4 million for future needs for a veterans' facility in his deferred maintenance bill. It has not been determined whether that facility will be a stand-alone home or a wing to an existing nursing home or hospital. Clearly, \$4 million will not do the job so the idea is to leverage \$6 million from the federal government. Once the unmet needs are identified, he believes the state could move ahead to address them. He pointed out that SB 55 does not meet all of the needs of the veterans.

SENATOR WILKEN commented that Alaska is the only state without a veterans' home but it is the only state with a Pioneer Home system so it is sort of out-of-sync.

COMMISSIONER DUNCAN said that is why he believes this proposal is so attractive.

SENATOR WILKEN noted the Pioneers of Alaska were rather vocal about this bill last year. He asked if they have been briefed and whether they have reached a consensus position on this bill.

COMMISSIONER DUNCAN said he cannot answer for the Pioneers of Alaska but he spoke with them about a month ago and believes they still have concerns about the name change.

SENATOR WILKEN asked when a representative of the Administration last spoke with the Pioneers of Alaska.

COMMISSIONER DUNCAN was unsure.

MR. KOHN said it is his understanding that not everyone who belongs to the Pioneers of Alaska believes the same thing so they do not have a uniform position on this issue.

SENATOR WILKEN said there was some discussion in the Senate State Affairs Committee about doing a pilot program in one of the six Pioneer Homes. He asked if the Administration has discussed that idea.

COMMISSIONER DUNCAN said it was not discussed because the MOU is to do a demonstration project to see if this system will work and what kind of benefits Alaska can pull into its present system. Identifying one home was not discussed and he does not believe that is the best approach because, for one reason, not all homes have vacant beds. The beauty of allowing veterans to have a preference in all facilities is that veterans can remain closer to home.

VICE-CHAIRMAN LEMAN asked if the fiscal note reflects how much veteran residents will be able to pay and that VA funds will flow to the veterans and then to the Pioneer Homes.

MR. KOHN said DOA did not assume there will be VA funds coming to individuals to help pay their bills because that is not a fact at this point in time. DOA did not want anyone to think it would have revenues beyond what it can collect under present circumstances.

VICE-CHAIRMAN LEMAN asked if that plan is successful and the revenue increases, how much the increase might be.

MR. KOHN said each veteran will receive about \$1200 in per diem per month so if half of the 125 veterans are unable to pay the full bill, the increase will be about \$70,000 per month.

2:45 p.m.

MR. LADDIE SHAW, Director of the Veterans Affairs Program in the Department of Military and Veterans Affairs, offered to answer questions on behalf of the veterans.

There being no questions, VICE-CHAIRMAN LEMAN thanked Mr. Shaw for his services and announced that he would take public testimony.

MS. MARTY MARGESON, testifying on her own behalf, said her father, a WWII veteran, is ready for discharge from Providence Hospital in Anchorage after a bronchial infection but the Pioneer Home has not yet readmitted him to his room. After previous

hospital stays, she has had to seek legislative assistance to get her father readmitted to the Pioneer Home. Today he is being evicted from the Anchorage Pioneer Home. Both the Assisted Living Licensing agency and the Office of the Long Term Care Ombudsman have called this termination retaliation for complaints filed. The termination letter stated her father requires too much medical care. Her disabled father is still able to attend church weekly and social events with her family. The Pioneer Home provides medical care to other residents. In August 2001, her father was left alone in his room strapped by a mechanical lift to a body chair for an hour. She filed a complaint and Assisted Living Licensing issued the Pioneer Home a violation. The Pioneer Home never apologized and, instead of improving care, it retaliated against her father by taking away his services for medical transportation, outpatient and physical therapy, administration of nutritional supplements and threatened to move him to a higher cost area. Now she must provide for his medical transport and the administration of nutritional supplements. The Pioneer Home retaliated against her by attempting to malign her character. She is a former commissioner and has received an award for public service.

MS. MARGESON said the Pioneer Home staff is rude and uncommunicative regarding her father's care. She continued discussing poor treatment of her father and accidents her father has had and how she placed a video-camera in his room.

VICE-CHAIRMAN LEMAN asked Ms. Margeson to direct her comments to the legislation before the committee. He said he is aware of her father's case.

MS. MARGESON said she is opposed to CSSB 55(STA) as she believes it is more important to re-establish the nursing license and protect all residents from hardship, such as her father's. She then said that veterans and pioneers would be better served if the \$6 million attached to this bill was instead attached to a new bill reinstating the nursing license so the state could begin addressing the systemic problems detailed by the Office of the Long Term Care Ombudsman and restore good quality care. Attempting to get federal money by using Alaska's veterans is wrong. A better way to obtain federal money would be to abolish the residency requirement so the home could qualify for Medicaid and federal assistance. Her father has paid \$200,000 for the services and is now broke. She asked members to support a new bill to reinstate the nursing license. She added that she was told by the VA that veterans, unless they were 70 percent disabled in service, would not qualify for federal assistance in the new Pioneer Homes.

MS. LISA CARESS-BEAU, said she is the president of Alaska's only senior advocacy group, CARING, and that for the last four years

she has advocated strongly for protection and better quality of life for residents of long term care in Alaska, and specifically for the residents of the Anchorage Pioneer Home. She has strong concerns about CSSB 55(STA) and does not believe it is in the best interests of pioneers or veterans. The Pioneer Homes have been the subject of controversy over the last few years. In May of 2000 a resident fell from a second floor window of the comprehensive care unit of the Anchorage home. That unit will probably be home to many veterans because, as Mr. Kohn stated, the new veteran residents will probably be very incapacitated. In February, the Anchorage Daily News reported the Pioneer Home was given an ultimatum by Assisted Living Licensing that stated the Pioneer Home would not be allowed to admit new residents until a plan of corrections was made to address systemic problems. During that same time, Commissioner Duncan was announcing that care of the residents in that home was excellent. She said she can understand why Commissioner Duncan does not want federal oversight of the home. To her knowledge, that plan of corrections has not yet been submitted.

MS. CARESS-BEAU asked that the bill be amended to require the level of care at the Pioneer Homes be scrutinized before additional revenue is added. She is proposing that a realistic, neutral assessment be done by local care coordinators. In the year 2000, the DOA paid a University of California geriatric expert for an assessment of the care needs of current residents in the AD/RD unit and the comprehensive care unit. He reported there were no nursing home level care residents at the Pioneer Home. These experts have collaborated with Mr. Kohn on behalf of the Division of Longevity Programs for many years. An assisted living home in Alaska is not mandated to offer regular and appropriate physical, occupational or recreational therapy for residents. An assisted living home in Alaska has no standard level of staff to resident ratios. She asked that those things be considered before the state offers additional beds to residents - a place to go that does not offer them the skilled services they would receive in a licensed nursing home. Pioneer Homes were once a place that Alaskans could trust and a place of comfort in their golden years. They could be that again, and for veterans as well, but not without a well thought out plan and a critical look at the levels of care, the realistic cost of that care, and a licensing agent.

MS. AILEEN HERRING said she is very much against bringing more people into a situation fraught with problems. She asked everyone to take a hard look at the current problems that are not being addressed.

VICE CHAIRMAN LEMAN asked Commissioner Duncan whether he would like to address the previous speakers comments.

COMMISSIONER DUNCAN said he would be happy to speak to the Vice-Chair about them in a different forum.

SENATOR DAVIS commented that previous testifiers have said the Pioneer Homes have vacancies because of a staffing shortage. She noted if that shortage cannot be alleviated, veterans will not be able to move in.

VICE-CHAIRMAN LEMAN asked if the change in the legislation from 15 years to one year was made to incorporate the court decision regarding residency. He noted a previous testifier commented that the state should do away with the residency requirement so that residents could become Medicaid eligible. He stated, "It's more than that, it's to make income, or lack of it, the basis for getting in which would make us Medicaid eligible. Is that not correct?"

MR. KOHN said that is one factor, the other is age. The Pioneer Homes would have to accept residents of any age to be Medicaid eligible.

SENATOR WILKEN asked for a grid that shows the disadvantages and benefits of this legislation. He stated that a lot of discussion has revolved around rumor and anecdote rather than fact.

COMMISSIONER DUNCAN agreed to do so.

VICE-CHAIRMAN LEMAN referred to a change from the word "state" to "United States" in the bill that applies when a person dies and leaves an estate. He assumed that was a drafting correction that reflects the current practice of collecting on an Alaskan's estate no matter what state the person died in. He asked if that is current practice.

COMMISSIONER DUNCAN said that is correct.

SENATOR DAVIS moved CSSB 55(STA) from committee with its attached fiscal notes and individual recommendations.

VICE-CHAIRMAN LEMAN announced that without objection, the motion carried. There being no further business to come before the committee, he adjourned the meeting at 3:05 p.m.

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