

ALASKA STATE LEGISLATURE
SENATE LABOR & COMMERCE COMMITTEE

April 10, 2001
1:32 p.m.

MEMBERS PRESENT

Senator Randy Phillips, Chair
Senator Alan Austerman
Senator Loren Lemam
Senator John Torgerson
Senator Bettye Davis

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

SENATE BILL NO. 138

"An Act relating to the business of insurance, including changes to the insurance code to implement federal financial services reforms for the business of insurance and to authorize the director of insurance to review criminal backgrounds for individuals applying to engage in the business of insurance; amending Rule 402, Alaska Rules of Evidence; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 30

"An Act relating to the calculation and payment of unemployment compensation benefits; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE BILL NO. 81(FIN)

"An Act extending the termination date of the Board of Dental Examiners; relating to the Board of Dental Examiners and regulation of the practice of dentistry; and relating to dental hygienists and dental assistants."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

SB 138 - See Labor and Commerce minutes dated 3/20/01.

SB 30 - No previous action to record.

HB 81 - No previous action to record.

WITNESS REGISTER

Mr. Bob Lohr, Director
Division of Insurance
Department of Community and Economic Development
3601 C Street, Ste. 1324
Anchorage AK 99503

POSITION STATEMENT: Commented on SB 138.

Mr. John George
American Council of Life Insurers
National Association of Independent Insurers
3328 Fritz Cove Rd.
Juneau AK 99801

POSITION STATEMENT: Supported CSSB 138.

Mr. David Hale
Alaska Independent Insurance Agents and Brokers
P.O. Box 73840
Fairbanks AK 99707

POSITION STATEMENT: Supported CSSB 138.

Ms. Rebecca Nance-Gamez, Deputy Commissioner
Department of Labor & Workforce Development
PO Box 21149
Juneau, AK 99802-1149

POSITION STATEMENT: Supported SB 30.

Mr. Joe Thomas, State Actuary
Division of Finance
Department of Administration
PO Box 110200
Juneau, AK 99811-0200

POSITION STATEMENT: Commented on SB 30.

Mr. Chuck Blankenship, Manager
Unemployment Insurance Program
Department of Labor & Workforce Development
PO Box 21149
Juneau, AK 99802-1149

POSITION STATEMENT: Commented on SB 30.

Ms. Pam LaBolle, President
Alaska State Chamber of Commerce
217 Second St., #201
Juneau AK 99801

POSITION STATEMENT: No position on SB 30.

Ms. Brenda Balash
Staff to Representative Fate
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on HB 81 for the sponsor.

Ms. Pat Davidson, Legislative Auditor
Division of Legislative Audit
Department of Administration
PO Box 110200
Juneau, AK 99811-0200

POSITION STATEMENT: Commented on HB 81.

Ms. Catherine Reardon, Director
Division of Occupational Licensing
Department of Community and Economic Development
P.O. Box 110806
Juneau AK 99811

POSITION STATEMENT: Commented on HB 81.

Mr. George Shaffer, Dentist
306 Main, Ste 202
Ketchikan AK 99901

POSITION STATEMENT: Supported HB 81.

Ms. Elizabeth Woolley
P.O. Box 73704
Fairbanks AK 99707

POSITION STATEMENT: Supported HB 81.

Representative Hugh Fate
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Sponsor of HB 81.

ACTION NARRATIVE

TAPE 01-16, SIDE A

Number 001
#SB138

SB 138-INSURANCE CODE AMENDMENTS

CHAIRMAN RANDY PHILLIPS called the Senate Labor & Commerce Committee meeting to order at 1:32 p.m. and announced SB 138 to be up for consideration.

MR. BOB LOHR, Director, Division of Insurance, explained that the Division had worked closely with every interest group that has expressed interest about any portion of the bill and has achieved agreement on each point. The committee substitute reflects all of

those changes. He said that SB 138 focuses on implementing changes at the federal level that are contained in the Gramm-Leach-Bliley Act (GLBA), which largely eliminated the barriers among banking, securities and insurance industries.

It allowed mergers and take-overs among those. There is very recent evidence that that is happening. The bill also reforms the way insurance regulation will occur in this country and requires states to consider a number of different changes in their regulatory structures for insurance and this bill reflects those changes in three basic areas. It includes producer licensing to make it much more straight forward and faster for non-residents to obtain a license in all 51 jurisdictions.

Secondly, it deals with consumer privacy provisions and authority for states to adopt privacy provisions by regulation that at least equal the federally adopted regulations on privacy; and, if states go beyond those privacy provisions to be more protective of privacy, they will be upheld under the GLBA.

The third area of emphasis in the bill is the consumer protection provision, which deals especially with banks selling insurance.

MR. JOHN GEORGE, American Council of Life Insurance, National Association of Independent Insurers and AFLAC, said they negotiated with the Division of Insurance who graciously accepted many of their proposals and they support the committee substitute to SB 138.

SENATOR DAVIS moved to adopt version F CS to SB 138 with individual recommendations. There were no objections and it was so ordered.

MR. DAVE HALE, Alaska Independent Insurance Agents and Brokers, supported CSSB 138.

CHAIRMAN PHILLIPS asked if they had ever resolved the third party liability issue with worker's compensation.

MR. LOHR responded that concern had been addressed under the revised language in the privacy section.

MR. GEORGE concurred with that statement.

CHAIRMAN PHILLIPS said he would hold SB 138 until Thursday for further work.

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#SB30

SB 30-UNEMPLOYMENT COMPENSATION BENEFITS

CHAIRMAN PHILLIPS announced SB 30 to be up for consideration.

MS. REBECCA NANCE-GAMEZ, Deputy Commissioner, Department of Labor and Workforce Development, said that SB 30 relates to the effectiveness of Alaska's unemployment insurance program. She told members:

The national unemployment system was originally created in 1935 as one of the programs under the Social Security Act. Congress chose, at that time, to create a national system for compensation of unemployed workers composed of programs administered by each state and territory with broad federal oversight. The decision was made to create the system on an insurance model rather than as a straight-forward entitlement program. The insurance model has worked well for over 65 years. As with any insurance program, the object is to underwrite an identified potential loss incurred by a small percentage of the insured through accumulation of funds collected from a group as a whole. The loss insured by this program is the loss of wages by unemployed workers. The premiums required to cover this potential loss are in most states paid solely by the employer; although in Alaska, the cost is shared between the employer and the worker, employers carrying 80 percent of the direct cost and workers paying 20 percent of these costs through payroll taxes.

As with any program that compensates individuals while they are not working, there's always been a concern that the goal of providing temporary partial wage replacement not be a disincentive for returning to work. In striving to provide sufficient temporary income to enable a worker to bridge the gap between jobs while meeting non-deferrable expenses, such as housing, food, and utilities, the target of 50 percent wage replacement is most widely used. According to figures provided by the U.S. Department of Labor, Alaska ranks not only below all other states in the adequacy of wage replacement provided by its unemployment insurance program, but also below the District of Columbia and Puerto Rico. Benefit amounts are based on the amount of wages a worker earns during a prescribed base period. Workers with higher earnings whose loss of work has a higher financial impact generally receive a higher weekly benefit amount.

Naturally, higher levels of contributions have been collected on these higher wage amounts.

Under current statutes, the maximum benefit amount can be paid to workers who have earned over \$26,750 a year, which is \$248 per week regardless of whether the loss of wages the worker has incurred was \$26,750 or \$50,000 per year. The maximum amount currently represents about 38 percent of the average weekly wage in our state.

The proposed legislation seeks to raise the maximum weekly benefit amount in Alaska in two steps to an amount roughly equally to one half of the average weekly wage in the state of \$320 maximum weekly benefit amount. The first increase, to be effective January 1, 2002 would raise the amount to \$284 with a second increment effective January 1, 2003. The second intent of this proposal is to then tie the maximum weekly benefit amount to a percentage of the average weekly wage as is done in most other states. This would allow the wage replacement offered by the program to rise or fall based on a relationship to the loss being replaced.

Clearly, there's a cost associated with both of these goals. The initial goal of closing the gap between our current maximum benefit amount and the target of 50 percent of the average weekly wage is the largest financial hurdle. The total additional cost to the fund is anticipated to be just under \$10 million. This will result in an increase of taxes to the average employer of 9.6 percent. However, the costs used as the foundation of determining tax rates are derived from the average of the benefit outlays from the previous three state fiscal years. The increase resulting from this legislation will not impact taxes until 2003 and then the increases will be phased in during the following years with the full impact being included in the tax calculations for 2007.

From 2003 forward, the maximum weekly benefit amount would be calculated each year based on 50 percent of the average weekly wage in the state. This economic indicator is relatively stable. Using it in the long-term would result in less dramatic changes to employer taxes than we have experienced in the past as a maximum weekly benefit amount remains static and then becomes less and less adequate. During the 90s, two separate law changes were necessary to raise the maximum benefit amount a total of \$60. Had our maximum benefit amount been tied to the 50

percent of the average weekly wage, it would have increased less than \$40 in very small incremental changes. It would have, in fact, decreased in one of those years. I appreciate your consideration and am ready and available to answer any questions you may have.

Number 1000

SENATOR AUSTERMAN asked why there were two fiscal notes from the Department of Administration (DOA).

MR. JOE THOMAS, Division of Finance, DOA, explained:

The first fiscal note was drafted by the director with the understanding that we were going to have 100 percent increase in costs to the working reserve account, which is used to fund the unemployment insurance; but upon receiving the information from Department of Labor's Actuary, we revisited the fiscal note and have revised it downwards accordingly to take into account, for example, the University of Alaska is no longer in our numbers, nor is AHFC nor the Railroad. The fiscal note is to address the increased cost to state agencies for funding unemployment insurance.

SENATOR AUSTERMAN asked if AHFC, the University and the Railroad would have their own fiscal notes.

MR. THOMAS answered that he hoped they would, if this would impact their organization.

CHAIRMAN PHILLIPS said the University's was there, but not AHFC or the Railroad.

SENATOR TORGERSON asked how healthy the trust is.

MS. GAMEZ answered that it remains solvent and is healthy at this time. It has between \$200 to \$220 million in the fund right now.

SENATOR TORGERSON asked if the employers' contribution would be \$10 million.

MS. GAMEZ said that figure was right. She explained that right now the maximum earning someone can have to get \$248 is \$26,750. The schedule takes that up to about \$31,000 and it goes up in \$2 increments.

SENATOR TORGERSON asked if this was inflation proofed each year.

MS. GAMEZ answered that it's not inflation proofed as she

understood it. It is tied into the average weekly wage. So if the wages go down, the benefit amount could go down. "In terms of employer contributions, it just keeps [indisc.] the trust fund in order to reach the payment amount of the maximum. So it kind of self-adjusts, if you will."

SENATOR TORGERSON asked if it self-adjusts now.

MS. GAMEZ replied that if the trust fund amount dips below a certain level, tax rates will go up, "but right now, benefit rates don't go up just because the tax rates might go up."

SENATOR TORGERSON said, "This bill gives you all those tools." He asked why jump from where we are now to something that floats and raises rates.

MS. GAMEZ explained that at this point in time, "We only replace an average of about 38 percent of someone's income temporarily and the U.S. DOL recommends that we hit 50 percent wage replacement. The \$320 this legislation would get us to in 2002 is still well below the poverty level of \$410 per week. So it really does cover the bare essentials for people. The reason we wanted to tie it to the average weekly wage is because 50 percent wage replacement for most workers (it wouldn't cover all workers) is in the best interest for economic stabilization to communities and for the workers themselves.

SENATOR TORGERSON said the estimated collection from employers was \$10 million and asked, "Is it equal to the \$10 million or are you building the trust a little bit with this?"

MR. CHUCK BLANKENSHIP, Program Manager, Unemployment Insurance Program, explained that the costs to the employer are linked to the additional benefits paid.

SENATOR TORGERSON asked what rate they target to keep in the trust.

MR. BLANKENSHIP replied that the target balance for solvency in the trust is in relationship to total wages paid in the state. We target 3 - 3.3 percent of total wage in order to maintain a solvency that reacts to a recessionary economy.

SENATOR TORGERSON asked if they are low now.

MR. BLANKENSHIP replied that it is pretty healthy now.

SENATOR TORGERSON said the wages in the state are about \$11 billion and 3 percent of that \$330 million.

MR. BLANKENSHIP said he wasn't sure what the total wages are in the state, but their economists would know.

SENATOR TORGERSON asked if the poverty level of \$410 was tax-free.

MR. BLANKENSHIP replied that the amount is subject to federal income tax.

SENATOR TORGERSON noted that they are adding a category of \$31,000 at the high end and asked what percent that was.

MR. BLANKENSHIP replied 45 - 50 percent.

SENATOR TORGERSON said that 50 percent of the \$10 million is a new category completely.

MR. BLANKENSHIP explained that it brings the maximum amount from \$248 to \$284, which is the half-way-point.

SENATOR TORGERSON asked how much money the new category costs.

MS. GAMEZ answered, "Based on the new schedule, we have a collection of about \$10 million over three years. We're extending the schedule. It really helps out the middle class workers. That's the people on the lower economic end of things."

MS. PAM LABOLLE, President, Alaska State Chamber of Commerce, said they do not have an official position on this issue at this time, but from an informal poll she did, members would like to see a justification for an increase and if there is an increase, they want it to be in the lesser amount. They also wanted the legislature to retain the ability to make the decision about where the benefit level rests. She said there wasn't a clear understanding of what would happen to the \$24 per week for dependents that the unemployed get above the 50 percent.

SENATOR TORGERSON asked how many people responded to her poll.

MS. LABOLLE answered about 12 percent of the 600 members.

SENATOR DAVIS asked if you are drawing unemployment, are you able to hold another job at the same time.

SENATOR TORGERSON asked what affect this bill has on dependent allocations.

MS. GAMEZ answered that it would do nothing to the dependent's allowance. The maximum number of dependents would stay at three and the amount would remain at \$24.

SENATOR TORGERSON asked if the national number included dependents.

MR. BLANKENSHIP answered that the dependent number was not used,

because it's not something that's available to all of the claimants. About 40 percent draw the dependent's allowance.

SENATOR DAVIS asked him to repeat that.

MR. BLANKENSHIP reiterated that currently about 40 percent of the unemployment insurance claimants receiving dependent's allowance, which is an additional amount up to a maximum of three and it's \$24 for each of those children.

SENATOR DAVIS asked how they determined who is eligible for it and who isn't.

MR. BLANKENSHIP answered that not everyone claims children as dependents.

SENATOR DAVIS asked if anyone who claimed dependent children would get the money.

MR. BLANKENSHIP answered if they establish they have children who are dependent upon them for support, yes.

SENATOR TORGERSON asked how many other states have a floating average set yearly.

MS. GAMEZ answered 35 states. Six states tie it to the average weekly wage and the other states tie it to the CPI. "Tying it to the CPI, it always goes up and with the average weekly wage, it can go up or down."

CHAIRMAN PHILLIPS said he would hold the bill for further consideration.

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#HB 81

HB 81-DENTISTS/DENTAL HYGIENISTS & ASSISTANTS

CHAIRMAN PHILLIPS announced HB 81 to be up for consideration.

MS. BRENDA BALASH, staff to Representative Fate, said the Board of Dental Examiners is due to terminate on June 30, 2001 and Legislative Budget and Audit recommended that it be extended to June 30, 2005. She explained:

The regulation and licensing of qualified dentists and hygienists benefits the public safety and welfare. The Board contributes to safeguarding the public interest by insuring competence and integrity of dentists and dental hygienists. Initially, this is why we brought the bill forward. There were also some concerns by the Dental Board of Examiners and the Alaska Dental Society and HB

81 attempts to clear up these issues. It attempts to clear up some duplicate and confusing language, reduce paper work, expand the definition of dentistry, address dental testing equivalency options, board appointments and increase the allowable civil fine penalty that the board can impose.

Number 2300

SENATOR LEMAN asked what was the significance of the deletion of the words "or prophylactic" after "preventative". He thought it would be restrictive.

MS. BALASH answered that it's duplicate language.

MS. PAT DAVIDSON, Legislative Auditor, said they conducted a sunset review of the Board of Dental Examiners and recommended continuation of the Board until 2005.

CHAIRMAN PHILLIPS asked what she thought of the rest of the bill.

MS. DAVIDSON answered that it hadn't been proposed during the audit, so they didn't have a studied opinion.

SENATOR AUSTERMAN asked where language came from on page 2 talking about authorizing inspectors of radiology equipment.

MS. BALASH answered the Alaska Dental Society proposed it and the Board supported it.

SENATOR LEMAN asked the significance of the last sentence on page 6, which says, "requires a person licensed under AS 08.64 to be licensed under this chapter."

MS. CATHERINE REARDON, Director, Occupational Licensing, said her division staffs the Board of Dental Examiners. She said AS 08.64 contains medical licensing statutes, which apply to physicians and other people like physician assistance or intensive care paramedics. Podiatrists are also licensed under this statute. "This dental statute doesn't mean you have to have a dental license. It doesn't say the scopes of practice for an intensive care paramedic have now been expanded to include them."

SENATOR LEMAN commented that in the professions he is familiar with, there are overlapping areas and he thought there would be overlapping areas for physicians and dentists.

MS. REARDON explained that the definition came from American Dental Association (ADA) model definition of dentistry and was added on to the current definition rather than rewriting the entire definition.

TAPE 01-16, SIDE B

SENATOR LEMAN asked what is the current limit on the civil fine authority mentioned on page 5.

MS. REARDON answered \$5,000. The \$25,000 maximum would match a bill that increased the amount the medical board can fine. This would do the same thing for the dental board.

SENATOR TORGERSON asked if inspection of radiology was recognized in the fiscal note as costing more money.

MS. REARDON responded that they didn't indicate that anything in the bill would cost more money. It's a positive fiscal note, because that is the way they are supposed to prepare sunset extensions. There is no additional expenditures in that fiscal note over this year. This was a request of the Dental Society and not the Dental Board, although they like it.

SENATOR TORGERSON asked what happens to the money that is collected by the inspector.

MS. REARDON explained:

In statute right now the department is permitted to set a fee and charge a fee for issuing the inspection seals. We don't do so. We haven't set a fee charging for that, but if we were to set a fee charging for that, then my understanding of this language is that the inspector could collect that and pass it along to the board. The way the current law works for the x-ray equipment registration inspection is that every five years the owner of the dental x-ray equipment, which is usually a dentist, but could be some one other than the dentist, has to have it inspected to make sure it's safe by an inspector. The owner sends in a piece of paper that shows it got inspected and if there was a fee, they'd mail us a fee and we'd mail them the sticker. They'd slap it on their machine. This would allow the inspector who's a private citizen approved by the board to go around and inspect. When he inspects and says it meets standards, he'll slap a sticker on it and if there were any fee, he'd collect it and send it to us. I think the department is unlikely to establish a fee under that circumstance. It's awkward to have the money go through some one else's hands. What if some one says, "I've paid and the inspector says, "No, they didn't."

MR. GEORGE SHAFFER, Ketchikan Dentist, clarified that there is a fee established for the dentist to have his radiological equipment

inspected.

In the past, the state used to do the inspecting through the Division of Radiology and charge us a fee. The change now is that we have a private inspector that's certified by the state that does the testing, but at the moment the seal has to be issued by the board through the department. The change in this language simply is to simplify the process so that the person who does the inspecting can issue the certification without us having to wait until paper work goes to Juneau and then comes back to us. It can be done on-site. The fact is that we do pay a fee straight to the inspector rather than to the state, the way it used to be.

MR. SHAFFER also said there was a change in the civil penalties. The Dental Society and the Board has been concerned for a number of years that the fees that are charged for the investigations aren't actually covering the cost to the state of doing the investigations when a license is disciplined. This bill raises fee commensurate with the cost to the state. He said he endorses the bill.

SENATOR LEMAN said when the upper limit was changed for physicians, the committee sent along a letter of intent saying that should apply only to the most egregious offenses.

MS. REARDON said she remembered the letter of intent, but didn't have it with her. The concern was that they didn't want the Medical Board to take the message that you should take each fine you normally give and double it, but instead, you should leave the continuing education violations low.

SENATOR LEMAN asked the sponsor if it was acceptable to increase the upper limit to get to some of the bad offenses, but not minor ones.

SENATOR AUSTERMAN asked where the money from the civil fine went.

MS. REARDON responded that the division considers it part of their program receipts and, therefore, credit the money to the dental program, just like they credit the costs of the investigation and prosecution to the dental program. She assumed it was part of the general fund since it was state money. She explained that there is a self-sufficiency mandate for each program in statute that they cover their own costs.

SENATOR AUSTERMAN asked if currently the fines are not paying for the investigations.

MS. REARDON answered that's true. She said one of the reasons for

increasing the fine is to have the wrong-doer help offset the investigation more fully.

SENATOR AUSTERMAN asked for backup showing costs associated with investigations.

MS. REARDON responded that she would get that information and added that the other reason the Dental Board strongly supported increasing the maximum is they felt like larger figures would be better deterrents.

REPRESENTATIVE FATE said that the Dental Society brought the issue forward and he didn't object to using language in the letter of intent from the Medical Board regarding raising the fine amount.

MS. BETSY WOOLLEY, Fairbanks Dental Assistant, supported HB 81, but has concerns with Section 5. She said the Minnesota State Board of Dentistry last year elected a certified dental assistant as a president of the Board of Dentistry and she is concerned that dental hygienists and assistants are being eliminated to possibly be president of the board.

REPRESENTATIVE FATE responded that was the previous version, which was amended out in the House.

MR. SHAFFER inserted that he favored a letter of intent to be attached with the change in civil penalties.

CHAIRMAN PHILLIPS thanked everyone for their participation and adjourned the meeting at 3:37 p.m.

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