

ALASKA STATE LEGISLATURE
SENATE LABOR & COMMERCE COMMITTEE

February 12, 2002
1:35 p.m.

MEMBERS PRESENT

Senator Ben Stevens, Chair
Senator Alan Austerman
Senator Loren Leman
Senator John Torgerson
Senator Bettye Davis

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

SENATE BILL NO. 263

"An Act relating to the subsequent acquisition of title to, or an interest in, real property by a person to whom the property has purportedly been granted in fee or fee simple; and providing for an effective date."

MOVED CSSB 263(L&C) OUT OF COMMITTEE

SENATE BILL NO. 274

"An Act relating to issuance of a locum tenens permit for a physician or osteopath; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

SB 263 - No previous action to record.

SB 274 - No previous action to record.

WITNESS REGISTER

Ms. Annette Kreitzer
Staff to Senator Leman
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on SB 263 for sponsor.

Mr. Rick Harris, Sr. Vice President
Natural Resources
Sealaska Corp.
One Sealaska Plaza
Juneau AK 99801
POSITION STATEMENT: Supported SB 263.

Mr. Jon Tillinghast
Counsel to Sealaska Corp.
One Sealaska Plaza
Juneau AK 99801
POSITION STATEMENT: Supported SB 263.

Mr. Randall Burns
Alaska Psychiatric Institute
2900 Providence Dr.
Anchorage AK 99508
POSITION STATEMENT: Commented on SB 274.

Mr. Jim Jordan, Executive Director
Alaska State Medical Association
Off net
POSITION STATEMENT: Commented on SB 274.

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 SB 274.

Ms. Lorraine Derr
Alaska State Hospital Association
426 Main Street
Juneau AK 99801
POSITION STATEMENT: Supported SB 274.

ACTION NARRATIVE

TAPE 02-4, SIDE A
Number 001
#SB263

SB 263-REAL PROPERTY CONVEYANCES

CHAIRMAN BEN STEVENS called the Senate Labor & Commerce Committee meeting to order at 1:35 p.m. and announced SB 263 to be up for consideration.

MS. ANNETTE KREITZER, Staff to Senator Leman, sponsor of SB 263, said this bill was requested by Sealaska and attempts to resolve a legal dilemma. She explained:

Under the Alaska Native Claims Settlement Act (ANCSA) village corporations own surface estate to lands conveyed under ANCSA, but regional corporations own the subsurface estate. Where estate is passed to a person by a quit claim deed, only the rights the grantor had are passed to the grantee, so the village corporations cannot pass on the right to disturb the surface of the property so that shareholders could build, for instance, a home. To correct this SB 263 amends the conveyance statutes to allow after acquired title for shareholders. There have been some concerns that the legislation as introduced was too broad and would have unintended impacts and for that reason you have a committee substitute in your packets, LS1318\J Bannister 2/12/02. On page 2, lines 3 - 6, subsection (b) - this is the subsection we believe will ameliorate the concerns that the Department of Natural Resources had..

SENATOR DAVIS moved to adopt the CS to SB 263. There were no objections and it was so ordered.

MR. RICHARD HARRIS, Sr. Vice President, Natural Resources, Sealaska Corp. and MR. JON TILLINGHAST, Counsel to Sealaska, said they appreciated consideration of this bill.

MR. HARRIS explained:

It [this bill] was driven by a problem that we began to encounter in which village corporations had subdivided their property and conveyed some of their land to shareholders. In doing those transactions, in some cases we had worked with the village corporations and actually gave them a subsurface easement, which allowed people to develop the subsurface in terms of putting in foundation, water lines, sewers and sewer lines, to be able to move sand and gravel around on the estate that belonged to Sealaska. In some circumstances, however, subdivisions were created and the subsurface easement was not completed or transferred to the recipients of the property. We estimate that we have right now about 500 - 600 people who own lots in Southeast Alaska who don't have a clear title. They are currently the subsurface in some way, probably without the appropriate easement. This legislation would enable us

to create the easement, pass it to the village corporation who would then, by virtue of that action, would allow the easement, which we are willing to grant to be transferred down to people. The effect is that we clear up their title.

SENATOR TORGERSON questioned the wording of the purpose section and asked if they were trying to accomplish more than one purpose.

MR. TILLINGHAST replied that they could say "the purpose".

SENATOR TORGERSON asked why they referred to "some cases" in the purpose section.

MR. TILLINGHAST replied with the exceptions the bill has for state conveyances and municipalities and the University of Alaska, it is probably now more accurate to say "in some cases".

CHAIRMAN STEVENS asked if that was (b) on page 2.

MR. TILLINGHAST replied yes.

SENATOR TORGERSON asked if they needed to mention the Mental Health Trust since it is a trust, not an agency of the state or the executive branch.

MR. TILLINGHAST said they would have no objection to that language.

SENATOR LEMAN said he supported this legislation.

SENATOR TORGERSON moved to adopt amendment #1 on page 1, line 7 delete "one" and insert "the" and on page 2, line 6 insert "Mental Health Trust". There were no objections and it was so ordered.

SENATOR LEMAN moved to pass CSSB 263 (L&C) from committee with individual recommendations. There were no objections and it was so ordered.

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1:49 p.m.

#SB274

SB 274-PHYSICIANS' LOCUM TENENS PERMITS

CHAIRMAN STEVENS announced SB 274 to be up for consideration.

SENATOR OLSON, sponsor of SB 274, thanked the committee for bringing up this bill. It allows the State Medical Board to issue

a locum tenens permit to a physician or osteopath for purposes of employment evaluation.

Their Association believes that the use of a locum tenens permit in this way will enhance the recruitment of qualified doctors for permanent positions within the state.

The issue of recruitment is a matter of increasing concern for the Medical Association because of both the aging population of Alaskan practitioners and the small number of Alaskans that graduate from medical school every year. Over 50 percent of Alaska's 2,000 medical doctors are past the age of 50. Typically, the WWAMI medical program produces eight new doctors per year. Replacement of retiring physicians and osteopaths will increasingly depend on the recruitment success. Statistics indicate that the Alaska physician workforce is already under represented in comparison with other western states.

SB 274 temporarily permits an invited physician to practice medicine for 60 days for employment evaluation. This bill also allows the medical board to further extend a 240 day time limit in a situation where a locum tenens doctor, who is substituting for an Alaskan physician, is providing a critical and essential service.

CHAIRMAN STEVENS asked if he could explain his last sentence and if the 240 day time limit exists now.

SENATOR OLSON replied that it does. In order for a physician to get a substitute, if there are five slots, they all have to be filled. Otherwise the pressure on the other four gets to be intense, especially when dealing with four-wheeler accidents, gunshot incidents or trying to get people out to villages to have village clinics. This allows a physician to get a permit for 60 days as a substitute for a returning doctor. The Medical Association has requested this legislation to give clinics time to see if a temporary doctor would complement the other doctors' specialties.

SENATOR AUSTERMAN asked what happens currently.

SENATOR OLSON explained that now when someone gets a locum tenens permit, the physician has to leave the site before he fills the position.

SENATOR TORGERSON asked who the "designee" is.

SENATOR OLSON replied that the Medical Board is comprised of physicians who are practicing within the state, two from the general public, and one who is a physician assistant. They meet four times a year. When something comes up and a decision needs to be made, the designee to make the decision is normally the executive director who currently is Ms. Leslie Abel.

MR. RANDALL BURNS, Chief Executive Officer, Alaska Psychiatric Institute (API) supported SB 274. He said in many cases hospitals have staff physicians and when they have a vacancy, they use locum tenens to fill the vacancy while they try to choose a new doctor. They are not substituting doctors; they actually have a vacancy. The Medical Board has taken the position that the current statute doesn't allow for locum tenens to be used in that capacity [to fill a vacant position that does not have another doctor coming back to work]. He said he had language that would fix that problem.

MS. CATHERINE REARDON, Executive Director, Division of Occupational Licensing, said she staffs the State Medical Board, which is a group of volunteers that meets quarterly. She emails the members on issues of concern between meetings. At this point, she has heard from only two members on this bill, but both expressed concern and individual opposition. The Board has regulations implementing the locum tenens statute and 12AAC40.036 says:

A physician who is not currently licensed in this state may apply for a locum tenens permit for the purpose of substituting for a physician licensed in this state who (1) is temporarily absent from the practice location at which the applicant applies, or (2) is not expected to return to the practice location, if issuance of the locum tenens permit is necessary to temporarily provide essential medical services to the public or to protect the public health and safety.

So, she said, the current Board regulations do provide for the possibility of a locum tenens for a vacancy rather than just a substitute while someone is on leave, but the Board must feel that it is necessary to provide essential medical services to the public or protect the public health and safety and she thought that was where the issue has come up. The Board has this regulation that acknowledges that sometimes a vacancy is an appropriate reason for locum tenens; the Board feels that it needs to be essential, not just whenever you have a vacancy or not because you aren't proceeding promptly to fill your vacancies.

CHAIRMAN STEVENS asked if they were taking regulation and putting it into statute.

MS. REARDON said no; she doesn't agree that the Board no longer issues locum tenens for vacancy reasons. She thinks that they do and she is differing with Mr. Burns whether the Board will issue for vacancy purposes. This Board has sent out the message that it should only be used for vacancy purposes when all other means of getting a completely licensed physician have been exhausted.

SENATOR TORGERSON asked where was the letter of opposition from the Board.

MS. REARDON replied that she just informal wording in emails from the two members, which she would show him.

SENATOR TORGERSON asked when the Board would have a position on the bill.

MS. REARDON replied that their next regular board meeting is in April. She will probably get more individual comments until then.

MR. JIM JORDAN, Executive Director, Alaska State Medical Association, said that basically there were two reasons why they were interested in the enactment of this bill.

The first and primary reason is recruitment. The one area that is not currently allowed for under the locum tenens permitting system is for the use of a locum tenens permit in the circumstance when a physician is being evaluated for potential employment at a later date. That is the primary reason the State Medical Association wants this bill.

He said Alaska has relatively few doctors compared to other states and we have a workforce that is rapidly aging and the replacement task is going to be quite large. The second reason has to do with the extension of the 240-day limit in the two-year period in which locum tenens circumstances are allowed for. They want to provide physicians in areas that are underserved.

2:10 p.m.

SENATOR AUSTERMAN asked what the definition was of locum tenens and asked if physicians and radiologists were classified the same way.

SENATOR OLSON replied that the interpretation for locum tenens has to do with the temporary permitting of a physician to

practice medicine in whatever location he is called to. He said that radiologists are covered in this bill; they are a medically licensed person who has either an MD degree or a DO (Doctor of Osteopathy) who has done a residency in radiology and in many cases has fulfilled the number of years to become Board eligible. Many have gone on to take the Board exams and become certified.

CHAIRMAN STEVENS asked if he would work through the concerns of API within two weeks and asked Ms. Reardon if she would convene the State Board and get a recommendation within that time, also.

SENATOR TORGERSON suggested looking at a different timeline for filling vacancies instead of the 240 days.

MS. LORRAINE DERR, Alaska State Hospital and Nursing Home Association, supported SB 274. She said that Mr. Burns is part of her organization and the problem comes in interpretation. The Board is talking about temporary or essential services. Using the Fairbanks Hospital that was trying to find a psychiatrist as an example, she said that they are difficult to find right now. There becomes a difficulty between are they recruiting to find a psychiatrist or are they using locum tenens to fill the position. "There has been a tug of war there."

There has also been a tug of war in the interpretation of what temporary is. This legislation is an attempt to clarify some of those issues. The Association supports reworking the definitions.

CHAIRMAN STEVENS said they would hold the bill for further work and adjourned the meeting at 2:15 p.m.

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