

HOUSE FINANCE COMMITTEE
April 25, 2003
9:10 A.M.

TAPE HFC 03 - 64, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 9:10 A.M.

MEMBERS PRESENT

Representative John Harris, Co-Chair
Representative Bill Williams, Co-Chair
Representative Kevin Meyer, Vice-Chair
Representative Mike Chenault
Representative Eric Croft
Representative Richard Foster
Representative Carl Moses
Representative Bill Stoltze
Representative Jim Whitaker

MEMBERS ABSENT

Representative Mike Hawker
Representative Reggie Joule

ALSO PRESENT

Kevin Jardell, Assistant Commissioner, Department of Administration; Susan Cox, Assistant Attorney General, Department of Law; Jerry Burnett, Director, Division of Administrative Services, Department of Corrections

PRESENT VIA TELECONFERENCE

Peter Lapinski, Inland Boatman's Union, Ketchikan

SUMMARY

HB 61 An Act establishing an exploration and development incentive tax credit for persons engaged in the exploration for and development of less than 150 barrels of oil or of gas for sale and delivery without reference to volume from a lease or property in the state; and providing for an effective date.

CS HB 61 (FIN) was reported out of Committee with a "do pass" recommendation and with zero fiscal note #1 by the Department of Natural Resources and zero fiscal note #2 by the Department of Revenue.

SB 115 An Act allowing expenses of the correctional industries program that may be financed from the correctional industries fund to include the salaries and benefits of state employees.

SB 115 was HEARD and HELD in Committee for further consideration.

SB 120 An Act relating to the state's sovereign immunity for certain actions regarding injury, illness, or death of state-employed seamen and to workers' compensation coverage for those seamen; and providing for an effective date.

SB 120 was reported out of Committee with a "do pass" recommendation and with a zero fiscal note #1 by Department of Administration and fiscal note #2 by the Department of Labor and Work Force Development.

#SB120

SENATE BILL NO. 120

An Act relating to the state's sovereign immunity for certain actions regarding injury, illness, or death of state-employed seamen and to workers' compensation coverage for those seamen; and providing for an effective date.

Co-Chair Harris asked if the Unions were supportive of the proposed legislation.

SUSAN COX, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, advised that there have been hearings in other committees on this bill and the identical House bill, HB 164. She noted that in the Senate Labor and Commerce Committee, the Union attorney, Mr. Joe Geldoff suggested that there be some kind of legal review and Senator Con Bunde requested that the Department of Law provide that review. The Inland Boatman's Union (IBU) did have a member testify in opposition to the legislation. She observed that testimony seemed to be more of a "neutral" observation.

Ms. Cox continued, in the House Judiciary Committee, Representative Gara asked if the Inland Boatman's Union (IBU) was for or against the bill. The representative was not willing to take a position at that time. Ms. Cox understood that a gentleman, Mr. David Moore, thought that the bill could benefit 98% of the members more than the current system does.

PETER LAPINSKI, (TESTIFIED VIA TELECONFERENCE), INLAND BOATMANS UNION (IBU), KETCHIKAN, stated that it was the

official position of the IBU-Alaska that they oppose the bill and that they do not want to go into the worker's compensation plan. He stated that it would be detrimental to the Union members and not in their best interest.

Co-Chair Harris noted that there had only been one testimony in opposition to the legislation.

Co-Chair Harris MOVED to report SB 120 out of Committee with individual recommendations and with the accompanying fiscal notes.

Representative Croft OBJECTED.

Representative Croft stated that these employees should not be forced out of the Jones Act. They have testified through their Union representative that they do not want the change. He understood that worker's compensation would severely limit the benefits and what a jury could award for an injury on the job. The trade-off is that they would receive a "lot less money, quicker". He recommended that it should be the employees that make the decision to change.

KEVIN JARDELL, ASSISTANT COMMISSIONER, DEPARTMENT OF ADMINISTRATION, noted that another IBU representative had testified in the Senate Judiciary Committee indicating that 98%-99% of their membership supports the change. Mr. Jardell stressed that the legislation would provide a good policy and that the Administration believes in it.

At-Ease: 9:25 A.M.
Reconvene: 9:30 A.M.

Co-Chair Harris asked if the legislation would require that the seamen working on the Alaska Highway System would have to be under the workmen's compensation insurance rather than a different type of protection system. Mr. Jardell replied that was correct.

Co-Chair Harris asked if at the present time, those employees had the right to be under either system. Mr. Jardell stated they did not. At one time, they did bargain to be included under workmen's compensation. A single individual litigated the issue of whether it was a bargainable issue. The Alaska Supreme Court stated that you cannot bargain your way out of the Jones Act without changing the statute asserting the State's immunity.

SB 120 provides the statutory authority to bring the State employed seamen under the worker's compensation rules. He commented that this would be a better remedy for a vast majority of labor employees on the sea.

Co-Chair Harris asked the difference between the two systems.

Ms. Cox explained that there are no fault remedies now for seamen. If a person becomes injured or ill at sea, they would be entitled to their wages until the end of the voyage without deductions from their regular sick-leave account. That person would receive their regular paycheck for that voyage. They also receive a maintenance stipend to cover food and lodging, which amounts to a \$45 dollar a day payment until they recover and are able to return to the vessel. Ms. Cox pointed out that no fault remedies are currently being paid. In addition, if that person is injured on a vessel and believe that it was the fault of the employer, they would have the right to sue the employer under the Jones Act. If they do sue, the potential range of damages that could be recovered would be more substantial than would be available in the typical, no-fault worker's compensation claim. She went on to say that if the injured person had no intent to sue, the \$45 dollars a day is less significant and a smaller payment than they would receive through worker's compensation. That payment would be more equivalent to 80% of the net wage, tax-free. The proposed system would provide as no fault measure more as an economic compensation to most employees with most injuries. In the case of a more significant injury, the potential for recovery is greater under the Jones Act but again, they would have to prove fault and would have to hire a lawyer to do it.

Co-Chair Harris clarified that the Jones Act would be better if the employee had to sue for damages. Mr. Jardell replied that was not always the case. There is potentially a greater windfall in the end with the Jones Act; however, there have been some instances where it has taken four years for the case to close. Whereas, with worker's comp, the claim pays 80% of net income. He believed the policy would benefit State employees.

Representative Stoltze asked what was the definition of a "seaman" and how many employees would be included in the legislation. Ms. Cox responded that it would apply to all the people that work on the ships for the Alaska Marine Highway System. There are approximately 650 employees working on those ships. Additionally, there are employees that work on law enforcement and research vessels who also would qualify.

Representative Stoltze noted that the legislation would affect three different State agencies, the Department of Fish and Game, Department of Transportation & Public Facilities and Department of Public Safety.

Mr. Lapinski explained that in the current contract, if the employee becomes sick or injured, they would continue to be paid until the end of the voyage. That language would continue to be in the contract. He added that the Alaska Marine Highway System is a seasonal job and that the employees do not make a lot of money. He noted that 70% of the employees receive a very minimal payment. The \$45 dollars a day, if they got sick, helps them out and plus they receive maintenance on their medical and are paid until cured. Under the workman's comp, if that employee got sick on the job, they receive nothing. He stressed it would be detrimental to the members.

Representative Croft advised that the legislation would not be in the best interest of the employee. He stressed that there are "good reasons" that the employees want to stay under the Jones Act. He recommended that they be given the choice.

Co-Chair Harris interjected that some individuals in the Union want it and some do not. He stated he would support the bill.

A roll call vote was taken on the motion to move the bill from Committee.

IN FAVOR: Whitaker, Chenault, Foster, Meyer, Stolze,
Harris, Williams
OPPOSED: Croft, Moses

Representative Hawker and Representative Joule were not present for the vote.

The MOTION PASSED (7-2).

SB 120 was reported out of Committee with a "do pass" recommendation and with a zero fiscal note #1 by the Department of Administration and fiscal note #2 by Department of Labor & Workforce Development.

#SB115
SENATE BILL NO. 115

An Act allowing expenses of the correctional industries program that may be financed from the correctional industries fund to include the salaries and benefits of state employees.

JERRY BURNETT, DIRECTOR, ADMINISTRATIVE SERVICES DIVISION, DEPARTMENT OF CORRECTIONS, stated that SB 115 would allow the administrative costs of the Correctional Industries Program to be paid from product revenues instead of the general fund.

Currently, 14 correctional industry positions are paid from the general fund. By allowing employee salaries to be paid from the correctional industries fund, the Department would be taking the first step toward making the program self-sufficient.

Mr. Burnett understood that Vice-Chair Meyer would be providing a committee substitute, which originated from discussions in the House State Affairs Committee on HB 161, the companion bill. The purpose of the committee substitute, which the Department would support, would make it clear that the correctional industries will cooperate with and for the benefit of the private industry. The intent is to insure that revenues could be increased enough to make it self-supporting. Currently, \$960,000 dollars a year is paid in salaries.

Representative Stoltze inquired the plans for the Mt. McKinley meat processing plant. Mr. Burnett responded that at this point, the Department of Natural Resources through the Division of Agriculture will support the product manager's salaries within that plant. The Department of Corrections will continue to provide security and inmate labor.

Co-Chair Harris asked if it was scheduled to be shut down. Mr. Burnett replied that Department of Corrections has no plans to make changes to that operation.

Co-Chair Harris noted that the \$960,000 dollars would be shifted to the correctional industry fund. He asked if currently, the Department was making \$960,000 dollars through that system. Mr. Burnett replied that at the end of FY03, it is expected that there will be approximately a \$400 thousand dollar balance. He added that the Department is looking at a number of ways to increase sales. The committee substitute will provide more tools to increase revenues. He listed measures that the Department currently has undertaken. Recently, the Department closed the Juneau Alaska Correctional Industries office, which consists of two people and a \$50,000 dollar a year grant and will be avoiding those costs. He believed that the Department would be able to make the projected amount this year.

Co-Chair Harris reiterated his question if the Department will make the targeted amount of \$960,000 dollars this year. Mr. Burnett stated that they intent to make that much "in the future". He reiterated that they would be increasing product sales and would not be competing with the private sector. Current statute requires that correctional industries will not compete with the private sector. The committee substitute makes that a more positive statement in regard to the private sector.

Representative Stoltze asked what Mr. Burnett meant by "avoiding costs". Mr. Burnett replied that was in reference to reducing the lease costs and avoiding a cost that they currently have been paying at \$50,000 a year.

Co-Chair Williams indicated that the Committee would wait for the committee substitute to be presented later this afternoon.

SB 115 was HELD in Committee for further consideration.

#HB61
HOUSE BILL NO. 61

An Act establishing an exploration and development incentive tax credit for persons engaged in the exploration for and development of less than 150 barrels of oil or of gas for sale and delivery without reference to volume from a lease or property in the state; and providing for an effective date.

Representative Chenault MOVED to ADOPT Amendment #1, #23-LS0270\Q.4, Chenoweth, 4/24/03. (Copy on File). Co-Chair Williams OBJECTED for purposes of discussion.

Representative Chenault explained that the amendment would address concerns voiced by Representative Hawker at the last meeting. The new language would establish the parameters of when the tax credit can happen.

Co-Chair Williams WITHDREW his OBJECTION.

There being NO further OBJECTION, Amendment #1 was adopted.

Representative Chenault MOVED to ADOPT Amendment #2, #23-LS0270\Q.2, Chenoweth, 4/24/03. (Copy on File). Co-Chair Harris OBJECTED for purposes of discussion.

Representative Chenault explained that Amendment #2 would address concerns regarding "operators". The amendment would change the current language of "person" to "operators" and would insert language on Page 1, Line 9: "That is an operator or working interest owner directly".

Co-Chair Harris WITHDREW his OBJECTION.

There being NO further OBJECTION, Amendment #2 was adopted.

Representative Chenault MOVED to adopt Amendment #3, #23-LS0270\Q.3, Chenoweth, 4/24/03. (Copy on File). Co-Chair Harris OBJECTED for purposes of discussion.

Representative Chenault explained that Amendment #3 inserts new language at the request of the Department. The language

would tie the bill in with income tax credit by inserting that language on Page 2, Line 7: "In or before the tax year in which the credit is claimed through the date the reserves produce gas for sale and delivery".

Co-Chair Harris WITHDREW his OBJECTION.

There being NO further OBJECTION, Amendment #3 was adopted.

Representative Foster MOVED to report CS HB 61 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes.

There being NO OBJECTION, it was so ordered.

CS HB 61 (FIN) was reported out of Committee with a "do pass" recommendation and with zero fiscal note #1 by the Department of Natural Resources and zero fiscal note #2 by the Department of Revenue.

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ADJOURNMENT

The meeting was adjourned at 9:48 A.M.