

HOUSE FINANCE COMMITTEE
February 05, 2004
2:34 P.M.

TAPE HFC 04-21, Side A & B

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 2:34 P.M.

MEMBERS PRESENT

Representative John Harris, Co-Chair
Representative Bill Williams, Co-Chair
Representative Kevin Meyer, Vice-Chair
Representative Hugh Fate
Representative Richard Foster
Representative Mike Hawker
Representative Reggie Joule
Representative Eric Croft
Representative Mike Chenault
Representative Carl Moses

MEMBERS ABSENT

Representative Bill Stoltze

ALSO PRESENT

Representative Norman Rokeberg; Michael Notar, Assistant Business Manager to IBEW Local 1547, and President, Building Trades Council, Juneau; Chip Wagoner, Alaska Catholic Conference; David Ford, Business Manager, Ironworkers Local 751, and Vice President, Anchorage Building Trades Council; Don Etheridge, AFL/CIO; Pam LaBolle, State Chamber Of Commerce; Barbara Huft-Tucknes, Director of Affairs, Teamsters Local 359.

PRESENT VIA TELECONFERENCE

Karen Rogina, Alaska Hospitality Alliance (AHA), Anchorage; Jon Faulkner, Owner of Lands End Resort, Homer; John Brown, President, Central Labor Council, Fairbanks; Andrew Hodnik, Fairbanks; James Akers, Fairbanks; David Ford, Ironworkers Local 751, Vice President, Anchorage Building Trades Council; Jay Quakenbush, Business Representative, IBEW Fairbanks; Gary Niese, Fairbanks; Steve Joswiak, Union Representative for United Food Commercial Workers Union, Fairbanks; John Brown, Fred Meyer Employee, Fairbanks; Jack Amon, Part Owner of Marx Brothers Cafe, Past Chair of Alaska Restaurant and Beverage Association, Anchorage; Kevin Batters, General Manager, Anchorage Hilton, Anchorage; John M. Johnson, Retired Construction Worker, Fairbanks.

SUMMARY

HB 255 An Act amending the Alaska Wage and Hour Act as it relates to flexible work hour plans, the provision of training wages, and the definitions of certain terms; and repealing the exemption in the Act from the payment of minimum wages for learners.

HB 255 was heard and HELD in Committee for further consideration.

#HB 255
HOUSE BILL 255

Co-Chair Williams provided the Committee with Work Draft, 23-LS0827, Version U, on behalf of Representative Rokeberg.

REPRESENTATIVE NORM ROKEBERG briefly outlined the three provisions of Version U relating to the Alaska Wage and Hour Act.

Section I refers to definitions and to current regulations regarding the "80-20 Rule" and the provision for executive salaries at 2.5 times the minimum wage for the first 40 hours. It is the sponsor's intention to conform these definitions to the federal law and the new federal regulations that will go into effect in March 2004. He explained that this would repeal the "80-20" rule, which currently means that if an employee is working as a manager and is not eligible for overtime pay, the employee can't do 20% of an hourly employee's work. Representative Rokeberg asserted that it is an extremely restrictive provision and damaging to state commerce.

The Department of Labor regulations enacted several years ago set a manager's minimum compensation at 2.5 times the minimum wage. Representative Rokeberg explained that since the minimum wage law has risen substantially, 2.5 times the minimum wage would currently total \$17.88 per hour.

Vice-Chair Meyer MOVED to ADOPT Work Draft, 23-LS0827, Version U. There being NO OBJECTION, it was so ordered.

Representative Rokeberg discussed Section 3, page 3, line 17 of Version U. He explained that the language modifies the flexible time provisions currently restricted to 10 hours per day in a 40-hour period. The committee substitute would change the flexible schedule to a two-week, 80-hour schedule to provide more flex-time for working mothers. He stated that it would accommodate the changing requirements and patterns of the workforce.

Representative Rokeberg suggested an additional change to the bill that would address current law that requires an employee and employer to submit flex-time changes to the Department of Labor for review. He said that often the department does not approve these changes.

Section 4 of Version U would create a new section in existing law that addresses the training wage provision. Representative Rokeberg clarified that it would change the period to 30 days from the 90-day period in the original bill.

KAREN ROGINA, ALASKA HOSPITALITY ALLIANCE (AHA), VIA TELECONFERENCE, ANCHORAGE, spoke in support of HB 255, stating that the AHA believes all three provisions benefit both the employer and the employee. The AHA is the principal employer of entry-level workers.

JON FAULKNER, OWNER and MANAGER of LANDS END RESORT, VIA TELECONFERENCE, HOMER, spoke in favor of the bill, which impacts his small business. He believes that flex-time is demanded by the modern workforce. He asserted that the definition of "supervisor" must be changed because the present definition lacks clarity, and currently in litigation the burden is on the employer to prove that a supervisor doesn't spend more than 20% of his time on "line work."

JOHN BROWN, PRESIDENT of the CENTRAL LABOR COUNCIL, FAIRBANKS, VIA TELECONFERENCE, FAIRBANKS stated that the Council is opposed to HB 255. He explained that although employers are unhappy with current regulations, the statute has been in place for years and he could see no advantage to the proposed changes which would lower the wages of employees. He expressed doubt that 12-hour days would provide flex-time, or that employees would want to work 12 hours a day without receiving overtime pay.

MICHAEL NOTAR, ASSISTANT BUSINESS MANAGER TO IBEW Local 1547, and PRESIDENT, BUILDING TRADES COUNCIL, JUNEAU, spoke on behalf of about 5,000 people who are paid an hourly wage. He stated the IBEW's strong opposition to the proposed changes to the state wage and hour law "that would return workers to pre-20th Century standards and would undo nearly one hundred years of progressive reform." He explained that the provision exists in state law to allow workers to develop a bona fide voluntary flex plan within a collective bargaining agreement. The employee is shielded from employer coercion through the collective bargaining process. He stated that the issue in this legislation is employer benefit.

ANDREW HODNIK, VIA TELECONFERENCE, FAIRBANKS, referred to Section 4, stating that he is a veteran and should not be penalized for serving his country. He believes that anyone over the age of 18 should be paid a fair wage, whether in training or not.

CHIP WAGONER, ALASKA CATHOLIC CONFERENCE, JUNEAU, voiced opposition to the training wage, which would reduce the minimum wage by \$2.00 for 30 days for newly hired workers under 20. He stated that this represents a 28% reduction, and it counters the public policy of the legislature, which set the minimum wage at \$7.15. Many young people have only 90 days during the summer months to earn money for the year, and thirty days are not needed to train people in entry level or fast food industry jobs. The training wage issue affects those who can least afford it and cannot do anything about it, including minorities and those with disabilities.

JAMES AKERS, VIA TELECONFERENCE, FAIRBANKS, stated that he is a Viet Nam combat veteran and he expressed opposition to the proposed changes in the bill.

DAVID FORD, BUSINESS MANAGER, IRONWORKERS UNION, and VICE PRESIDENT, ANCHORAGE BUILDING TRADES COUNCIL, stated that the proposed changes are detrimental to the employee and to the Alaskan economy. Flex-time work weeks are not a benefit to the employee. Mr. Ford referred to page 4, line 18, stating that voluntary agreements between an employer and employee do not occur. Time off for family matters is also not a reality in the building industry. The provisions of the bill would allow an employer to coerce a worker. He concluded that young people would have to leave during the summer to find work, because \$5.15 per hour in Alaska is not a fair wage for kids, or for any worker.

JAY QUAKENBUSH, BUSINESS REPRESENTATIVE FOR IBEW, VIA TELECONFERENCE, FAIRBANKS, discussed young people who want to remain in Alaska to earn a living, and who come up through the ranks before they enter a career. He voiced opposition to employees aged 16- 20 working for less than the minimum wage when being trained. Mr. Quakenbush asserted that this legislation will hurt Alaska's economy because workers will leave.

GARY NIESE, REPRESENTING SELF, VIA TELECONFERENCE, FAIRBANKS, spoke as an hourly worker opposed to the bill because it does not benefit hourly workers. He questioned how a single mother could afford daycare during a 12-hour shift at straight-time pay.

STEVE JOSWIAK, REPRESENTATIVE FOR UNITED FOOD COMMERCIAL WORKERS UNION, VIA TELECONFERENCE, FAIRBANKS stated that he represents working mothers and kids aged 14-19. He did not

know of one mother who would benefit from the proposed flex work plan, and he voiced opposition to the training wage.

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JOHN BROWN, EMPLOYEE of FRED MEYER NORTH, VIA TELECONFERENCE, FAIRBANKS stated he's been employed for 3 weeks at Fred Meyer and the training period was adequate for mastery of the tasks. He feels this bill would not help anyone but employers.

DON ETHERIDGE, AFL & CIO, brought up the "80-20 rule" and stated that a supervisor could occasionally cover for an hourly employee who doesn't show up for a shift, without being fined. Mr. Etheridge expressed the AFL & CIO's "total opposition" to the bill.

Representative Rokeberg asked if the Alaska Wage and Hour Act, including the flexible work plan provisions, affect organized labor, which is covered by collective bargaining contracts to negotiate work conditions. Mr. Etheridge responded "no," that organized labor has collective bargaining contracts. He stated that under the Collective Bargaining Act, the employee isn't threatened with being fired if he refuses a flex work week.

PAM LABOLLE, STATE CHAMBER OF COMMERCE, stated that the bill is very important to the employers in the state. The training wage is a break for kids without any previous work experience. She discussed the definition of salaried worker, and the benefit of a salaried worker being able to negotiating a package. She discussed her personal experience with flex-time, which was positive. Ms. LaBolle believes that the legislation would be beneficial to both the employee and the employer.

JACK AMON, PART OWNER of MARX BROTHERS CAFÉ and CATERING, PAST CHAIR OF ALASKA RESTAURANT AND BEVERAGE ASSOCIATION, VIA TELECONFERENCE, ANCHORAGE spoke in support of HB 255. He stated that the bill would correct the unintended consequences of the minimum wage increase. Changing the definition of supervisor to fit the rules of the workplace would benefit both the employee and the employer. Mr. Amon stated the flex plan would benefit the employee, and he was in favor of the training wage because apprenticeships would not be possible at a higher wage. The high turnover rate of young people makes it difficult for an employer to start them at a higher wage.

BARBARA HUFT-TUCKNES, DIRECTOR OF LEGISLATIVE AFFAIRS, TEAMSTERS LOCAL 959, stated that the Federal Labor Standards Act directly affects her public employees under collective bargaining agreements. Those employees will look at laws on the federal, state, and local levels with Teamsters as the

bargaining unit. Without the opportunity to assess the impact on employees, she predicts a continuing controversy over adoption of the federal regulations on definitions. She asked that the section on employees in protected categories be removed. She described a situation where an employee was given flex-time but her total hours were reduced and her days off were not consecutive. She voiced opposition to Section 2 because the flex schedule would be used by employers on unprotected, unrepresented employees to reduce their overtime costs.

Representative Hawker brought up the current law of 40 hours per week and not more than 10 hours per day. He asked, would not a flex-time agreement become invalid if the work schedule was reduced to fewer than 40 hours per week. Mrs. Huft-Tucknes replied yes, that it would, but in the case she described above the employee did not report the violation to the Department of Labor.

Representative Rokeberg interjected that under the current law the Department of Labor has oversight, which would continue under his proposed change.

Ms. Huft-Tucknes concluded by voicing concern over the potential inequities of the training wage.

KEVIN BATTERS, GENERAL MANAGER, ANCHORAGE HILTON, VIA TELECONFERENCE, ANCHORAGE spoke in support of protecting the individual and the hourly employee. He stated that the 80-20 rule has caused confusion for hotels and food and beverage outlets. He suggested eliminating the exempt supervisory management position and creating the hourly position in order to avoid litigation.

JOHN M. JOHNSON, RETIRED CONSTRUCTION WORKER, VIA TELECONFERENCE, FAIRBANKS, stated that an 8-10 hour work day without overtime is a step backwards in the workplace. He said that it is unfair.

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ADJOURNMENT

The meeting was adjourned at 4:03 P.M.

