

HOUSE FINANCE COMMITTEE
May 10, 2004
11:20 A.M.

TAPE HFC 04 - 113, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 11:20 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 Hugh Fate
Representative Richard Foster
Representative Mike Hawker
Representative Reggie Joule
Representative Carl Moses
Representative Bill Stoltze

MEMBERS ABSENT

None

ALSO PRESENT

Anselm Staack, Chief Financial Officer, Department of Administration; Pete Kelly, Director, State Relations, University of Alaska; Melanie Millhorn, Director, Division of Retirement and Benefits, Department of Administration; Daniel Patrick Otierney, Assistant Attorney General, Regulatory Affairs, Department of Law; Richard Schmitz, Staff, Senator John Cowdery; Cindy Cashen, Executive Director, Mother's Against Drunk Driving (MADD); Jason Hooley, Staff, Senator Fred Dyson; Anthony Lombardo, Director, Division of Public Assistance, Department of Health & Social Services

PRESENT VIA TELECONFERENCE

Linda Wilson, Deputy Director, Alaska Public Defender Agency, Department of Administration, Anchorage; Jay Marley, Public Assistance Fraud Control Unit Manager, Department of Labor & Workforce Development, Anchorage

SUMMARY

CS SB 224(STA)

An Act relating to a minor operating a vehicle after consuming alcohol, to a minor refusing to submit to chemical tests, and to driving during the 24 hours after being cited for one of those offenses; and providing for an effective date.

CS SB 224 (STA) was reported out of Committee with "no recommendation" and with zero note #5 by the Department of Public Safety, indeterminate note #6 by the Alaska Court System, zero note #7 by the Department of Health & Social Services, zero note #8 by the Department of Administration, indeterminate note #9 by the Department of Administration and a new note by the House Finance Committee for the Department of Administration.

CS SB 232(FIN)

An Act relating to federal tax requirements for and other provisions of the teachers' retirement system, the public employees' retirement system, and the judicial retirement system; removing village public safety officers from the public employees' retirement system; eliminating the public employees' retirement system conditional duty to refund contributions under \$1,000 to inactive employees; limiting service credit for village public safety officer service in the public employees' retirement system to five years; and providing for an effective date.

CS SB 232 (FIN) was reported out of Committee with "no recommendation" and with zero note #2 by the Department of Administration.

#SB368

CS SB 368(FIN) am

An Act relating to taxes on cigarettes and tobacco products, to tax stamps on cigarettes, to forfeiture of cigarettes and of property used in the manufacture, transportation, or sale of unstamped cigarettes, and to licenses and licensees under the Cigarette Tax Act; and providing for an effective date.

CS SB 368(FIN) am was SCHEDULED by not HEARD.

#

CS SB 376(HES) am

An Act relating to public assistance and subpoena powers; and relating to the permanent fund dividend and subpoena powers.

CS SB 376 (HES)am was reported out of Committee with "no recommendation" and with fiscal note #1 &

#2 by the Department of Health & Social Services and zero note #3 by the Department of Revenue.

SB 392 An Act relating to the expenses of investigation, hearing, or public advocacy before the Regulatory Commission of Alaska, to calculation of the regulatory cost charge for public utilities and pipeline carriers to include the Department of Law's costs of its public advocacy function, to inspection of certain books and records by the attorney general when participating as a party in a matter before the Regulatory Commission of Alaska; and providing for an effective date.

SB 392 was reported out of Committee with "no recommendation" and with fiscal note #3 by the Department of Law.

CS SB 393(FIN)

An Act relating to default on tuition, fees, and other charges of the University of Alaska and to claims on permanent fund dividends for tuition, fees, and other charges of the University of Alaska that are in default.

CS SB 393(FIN) was reported out of Committee with a "do pass" recommendation and with fiscal note #1 by the University of Alaska and fiscal note #2 by the Department of Revenue.

CS SB 395(FIN) am

An Act authorizing the Alaska Railroad Corporation to extend its rail line to Fort Greely, Alaska, and relating to that extension; authorizing the corporation to issue bonds to finance the cost of the extension and necessary facilities and equipment; relating to the Railroad Planning, Platting, and Land Use Regulation Task Force; and providing for an effective date.

CS SB 395 (FIN)am was reported out of Committee with "individual recommendations" and with fiscal note #2 by the Department of Community & Economic Development.

#SB395

CS FOR SENATE BILL NO. 395(FIN) am

An Act authorizing the Alaska Railroad Corporation to extend its rail line to Fort Greely, Alaska, and relating to that extension; authorizing the corporation to issue bonds to finance the cost of the extension and necessary facilities and equipment; relating to the

Railroad Planning, Platting, and Land Use Regulation Task Force; and providing for an effective date.

Co-Chair Harris MOVED to RESCIND previous action taken on failure to move the bill out of Committee. There being NO OBJECTION, the action was rescinded.

Co-Chair Harris MOVED to report CS SB 395(FIN)am out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS SB 395 (FIN)am was reported out of Committee with "individual recommendations" and with fiscal note #2 by the Department of Community & Economic Development.

#SB232

CS FOR SENATE BILL NO. 232(FIN)

An Act relating to federal tax requirements for and other provisions of the teachers' retirement system, the public employees' retirement system, and the judicial retirement system; removing village public safety officers from the public employees' retirement system; eliminating the public employees' retirement system conditional duty to refund contributions under \$1,000 to inactive employees; limiting service credit for village public safety officer service in the public employees' retirement system to five years; and providing for an effective date.

MELANIE MILLHORN, DIRECTOR, DIVISION OF RETIREMENT AND BENEFITS, DEPARTMENT OF ADMINISTRATION, advised that the proposed legislation was extremely important for the Division and would insure tax compliance for the Public Employees Retirement Account (PERS), Teachers Retirement System (TERS) and the Judicial Retirement System (JRS). Presently, there is an agreement with the Internal Revenue Service stating that the State intends to move forward with the legislation.

ANSELM STAACK, CHIEF FINANCIAL OFFICER, DEPARTMENT OF ADMINISTRATION, offered to answer questions of the Committee.

Representative Foster MOVED to report CS SB 232 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS SB 232 (FIN) was reported out of Committee with a "no recommendation" and with zero note #2 by the Department of Administration.

#SB392
SENATE BILL NO. 392

An Act relating to the expenses of investigation, hearing, or public advocacy before the Regulatory Commission of Alaska, to calculation of the regulatory cost charge for public utilities and pipeline carriers to include the Department of Law's costs of its public advocacy function, to inspection of certain books and records by the attorney general when participating as a party in a matter before the Regulatory Commission of Alaska; and providing for an effective date.

DANIEL PATRICK OTIERNEY, ASSISTANT ATTORNEY GENERAL, REGULATORY AFFAIRS, DEPARTMENT OF LAW, stated that last year's Executive Order (EO) 111 transferred the responsibility for advocacy on behalf of the public in utility matters before the Regulatory Commission of Alaska (RCA) from the RCA to the attorney general, and established the public advocacy function within the Department of Law. As a result, the RCA personnel, historically responsible for public advocacy, now acts under the authority and direction of the Department. The bill completes the prior transfer of authority by providing for execution aspects.

SB 392 clarifies that regulatory cost charge receipts (not general fund) would continue to pay for the general costs of public advocacy now administered by the Department, just as the receipts historically paid for public advocacy costs when the function was performed by RCA personnel.

The bill also adjusts the regulatory cost charge ceiling and creates two, distinct percentages of total regulatory cost charge receipts to separately fund the RCA and the Department public advocacy function in order to provide each entity with budgetary independence from the other.

Mr. Otierney advised that SB 392 would provide the Department qualified access to utility or pipeline carrier records similar to that afforded the RCA's former public advocacy staff to maintain efficient and economical access to information where the RCA has determined that comprehensive review. Also, the bill clarifies that State agencies are exempt from paying the allocated costs of RCA proceedings to which the State agency is a party because there is no net fiscal benefit to the State.

Representative Stoltze thought that the request should have been included in the Department of Law's operating budget request. Mr. Otierney disagreed that the request was misplaced.

Co-Chair Harris asked if Mr. Otierney's job was "on the line if the bill did not pass". Mr. Otierney stated it was not.

The funding source for public advocacy had already been transferred and currently is from regulatory cost charge receipts. In that scenario, the Department of Law's public advocacy function is in RDU within the RCA budget and funded from regulatory cost charge receipts. The bill provides the appropriate independence of the budget for that function. He added, there would be no change in the source of funding.

Co-Chair Harris inquired why the issue had not been submitted in the Department of Law's budget. Mr. Otierney understood that it was not a function funded out of the general fund but rather a regulatory cost-charge.

Co-Chair Harris referenced Mr. Otierney's statement that the request was "off-budget", pointing out that there are no "off-budget" requests. All funds are receipts for services and are taken into consideration. Mr. Otierney indicated that he did not take issue to that and that he is the "substantive guy" with the responsibility to implement the advocacy function.

Co-Chair Harris noted that he supports the bill.

Representative Foster MOVED to report SB 392 out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SB 392 was reported out of Committee with "no recommendation" and with fiscal note #3 by the Department of Law.

#SB393

CS FOR SENATE BILL NO. 393(FIN)

An Act relating to default on tuition, fees, and other charges of the University of Alaska and to claims on permanent fund dividends for tuition, fees, and other charges of the University of Alaska that are in default.

PETE KELLY, DIRECTOR, STATE RELATIONS, UNIVERSITY OF ALASKA, stated that SB 393 would add the University to the list of exemptions for Permanent Fund dividends when there is debt owed to the State. Currently, criteria exist in statute by which it can be collected. The bill clarifies the purposes of collecting bad debt from tuition and department fees. In policy, there are protections built in notice. It is anticipated that the legislation will allow the University to collect approximately \$400 thousand dollars this year. To implement the legislation, the first year costs amount to approximately \$100 thousand dollars, with \$40 thousand per year used to collect the fees after that.

Representative Stoltze inquired if the only other State agency that has the authority was the Child Support Enforcement Agency (CSEA). Mr. Kelly pointed out language on Page 2, Line 22, indicating how broad that statute is.

Representative Croft asked why it could not be collected under Section (5), Page 2, Lines 18-20. He thought that the difference between Sections #5 & #6 was that they would have to go through the expense of small claims action to get the judgment rather than the administrative appeals process. Mr. Kelly agreed that was correct and that the procedures are already in statute.

Co-Chair Harris asked if the University's Student Council had issued an opinion. Mr. Kelly responded that it had not yet been proposed to them. Co-Chair Harris recommended that discussion occur.

Representative Foster MOVED to report CS SB 393 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS SB 393 (FIN) was reported out of Committee with a "do pass" recommendation and with fiscal note #1 by the University of Alaska and fiscal note #2 by the Department of Revenue.

#SB224

CS FOR SENATE BILL NO. 224(STA)

An Act relating to a minor operating a vehicle after consuming alcohol, to a minor refusing to submit to chemical tests, and to driving during the 24 hours after being cited for one of those offenses; and providing for an effective date.

RICHARD SCHMITZ, STAFF, SENATOR JOHN COWDERY, explained that SB 224 would change Alaska's law to require that stiffer penalties apply to people under the legal drinking age after consuming any amount of alcohol. Under current law, a person under 21 years old, who drives with a Blood Alcohol Content (BAC) of below .08, would receive a charge of minor consuming and/or minor operating a vehicle after consuming, both of which are infractions.

SB 224 applies mandatory fines and community service for minors to drive after consuming any amount of alcohol. A first-time offender faces a \$500 fine, which increases to \$1000 for a second offense and \$1500 for additional offenses. Community service requirements increase similarly.

Mr. Schmitz continued, drivers between the ages of 15 and 20 years old make up approximately 7% of the total driving population. That 7% constitutes 14% of the alcohol related fatalities. Zero tolerance laws can act as a deterrent and dramatically help change the behavior.

CINDY CASHEN, EXECUTIVE DIRECTOR, MOTHER'S AGAINST DRUNK DRIVING (MADD), JUNEAU, explained that currently, teenagers are being charged with minor consuming charges. The public defenders office has indicated that passage would increase their workload. She thought that in reality, most of the minor consuming charges already have the right to a public defender, which would not significantly change. Presently, time, the fee for such a charge is usually around \$250 dollars, which to the offender is a joke.

Ms. Cashen commented that the BAC level usually create a raise with each charge and then the person becomes familiar with the system, becoming a high-risk driver. The bill would detour them with the first charge at \$500 dollars, the second charge at \$1000 dollars and the third at \$1500 dollars. That would be an amount, which would affect the legal guardians, providing an opportunity for them to talk about the situation. Also, the community work service program aspect is very important, as it would force the teenager to work in a program that deals with the education of treatment and intervention of alcohol abuse. Ms. Cashen thought that it would be effective and urged that the bill pass.

Representative Stoltze asked if the proposed change would alter eligibility for first time youth offenders being able to get into the Youth Corp program. Ms. Cashen understood that 14-16 year olds would no longer be eligible for that program.

Representative Stoltze asked if the increase in the penalty would create any barrier to that program. Mr. Schmitz did not know, however, understood that different municipalities addressed that concern differently. Representative Stoltze asked that a more definitive answer be provided before the House Floor session discussion. Mr. Schmitz understood that the legislation would make the student ineligible for the Youth Corp program.

Representative Chenault asked if the legislation would only apply to a .02 BAC. Mr. Schmitz stated that it would apply if the person had driven within a 24-hour period after drinking or consuming alcohol and that the BAC level would not be the only factor considered. There would need to be proof that the student had been consuming alcohol.

Vice Chair Meyer pointed out the indeterminate fiscal notes and asked if the teenager would be eligible for a jury

trial. Ms. Cashen acknowledged that was correct, pointing out that most of them are additionally charged with minor consuming, which allows that person to qualify for a jury trial.

Vice Chair Meyer noted that he appreciated the community service aspect of the legislation.

Representative Fate questioned if the provision would be waived if drinking were done at home with family. Mr. Schmitz replied that was not included in statute. If the person were caught drinking illegally, they would be guilty. Ms. Cashen interjected that it is legal to give your child alcohol.

Representative Fate reiterated his question, asking what would happen if there was an accident. Ms. Cashen responded that they would be charged because they were a minor and operating a motor vehicle while under consumption.

Representative Croft asked if the "minor" as proposed in the legislation, would be under 21 years old. Mr. Schmitz explained that had been discussed in the House Judiciary Committee and was a "term of art" and applies to drinking and driving statutes. In response to Representative Croft, Ms. Cashen added that the legislation would increase the penalties and fines and would add mandatory community work service.

Representative Joule asked if the community service prevention including treatment and education would be mandatory. Ms. Cashen responded that the community service would be done through the schools, hopefully offering a variety of opportunities.

Co-Chair Harris asked about the fiscal notes. Mr. Schmitz pointed out the public defender's note that MADD does not agree with. The original bill proposed a Class B misdemeanor, which subsequently was removed and however, the fiscal note did not change removing that language.

Co-Chair Harris MOVED to zero out fiscal note #10. Representative Stoltze pointed out for the record that it is the opinion of MADD that action would be appropriate. Ms. Cashen acknowledged that entire court system could use more staff, however, SB 224 would not increase the Public Defender's workload to require another person. Co-Chair Harris stated that the reality is, the public defender is required by the court to represent those people and that the agency could come back to the Legislature through the supplemental budget request. He maintained that he would rather face the supplemental later than to fund it at this time.

LINDA WILSON, (TESTIFIED VIA TELECONFERENCE), DEPUTY DIRECTOR, ALASKA PUBLIC DEFENDER AGENCY, DEPARTMENT OF ADMINISTRATION, ANCHORAGE, commented on the fiscal note. Currently, when a person is charged with a movack, they get their license revoked. Requiring mandatory community work service and increased graduated fines, will require more prosecution in court. For a first minor consuming charge, there would be no license action as there would be no tie in consuming with the driving. In the past, when the legislature changed the statute concerning minor consuming, calling it an infraction, the minor was not to be entitled to a court appointed council. In 2001, when that statute changed, there were 58 cases charged with a public defender for minor consuming. That number has mushroomed in 2003 to 892. There are three statutes now that have graduated sanctions and mandatory community work service.

Enactment of the legislation would provide entitlement to court appointed council and a jury trial and will require a fair amount of public defenders. Changing it from a misdemeanor to an infraction does not negate the entitlement to a court appointed attorney or a jury trial because of the mandatory community work service that is part of the bill. She stressed that they will need at least one additional attorney to handle the request and she urged that the fiscal note not be zeroed out.

Co-Chair Williams OBJECTED to zeroing out the note. Representative Croft added his objection to zeroing out the note, stressing that it would not be an appropriate action. He noted the usual large supplemental requests from that agency, which does not provide an accurate picture of that agency's on-going needs. Fiscal notes are provided to give the State an understanding of the costs for implementing legislation.

Co-Chair Williams WITHDREW his OBJECTION to the amendment. There being NO further OBJECTION, the note was zeroed out.

Representative Foster MOVED to report CS SB 224 (STA) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS SB 224 (STA) was reported out of Committee with "no recommendation" and with zero note #5 by the Department of Public Safety, indeterminate note #6 by the Alaska Court System, zero note #7 by the Department of Health & Social Services, zero note #8 by the Department of Administration, indeterminate note #9 by the Department of Administration and a new note by the House Finance Committee for the Department of Administration.

#SB376

CS FOR SENATE BILL NO. 376(HES) am

An Act relating to public assistance and subpoena powers; and relating to the permanent fund dividend and subpoena powers.

JASON HOOLEY, STAFF, SENATOR FRED DYSON, noted that SB 376 would allow the commissioners for the Department of Health & Social Services and the Department of Revenue to issue subpoenas to compel the production of records needed to investigate cases of suspected fraud. The Department of Labor & Workforce Development currently has that type of subpoena power, as do many agencies in other states.

The Division of Public Assistant Fraud Control Unit reported that records such as rental agreements, utility billings or health care information are often used to verify information provided by public assistance applicants or recipients. Simple requests for these items often go unheeded due to concerns about exposure to litigation. Currently, the cost of going to court to get subpoenas for that type of record makes investigating "smaller" fraud cases prohibitively expensive. By allowing these departments to issue their own subpoenas, the costs of going to court would be eliminated, and the department could cost-effectively investigate more cases of suspected fraud. The result will be additional recovery of welfare overpayments. The one-person staff working to combat Permanent Fund Dividend fraud has begun an aggressive fraud program, aimed to assure that fraud is identified, prosecuted, and deterred to the greatest extent possible.

Representative Foster MOVED to report CS SB 376 (HES)am out of Committee with individual recommendations and with the accompanying fiscal notes.

Representative Chenault OBJECTED to make a comment. He voiced concern with who would be in charge with the subpoena ballot. He stated that it is important that the Legislature indicate who they would want to see it be. Representative Chenault WITHDREW his OBJECTION.

JAY MARLEY, (TESTIFIED VIA TELECONFERENCE), PUBLIC ASSISTANCE FRAUD CONTROL UNIT MANAGER, DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT, ANCHORAGE, stated that within the Department of Labor & Workforce Development, the subpoena power went down to the investigator level. With the number of subpoenas currently being investigated by the Department, it would be extremely burdensome to have to wait for the commissioner, deputy commissioner or the deputy director of any division's signature.

Representative Stoltze could not believe that it would be a "burden" to get the signature of the commissioner.

ANTHONY LOMBARDO, DIRECTOR, DIVISION OF PUBLIC ASSISTANCE, DEPARTMENT OF HEALTH & SOCIAL SERVICES, noted that there had been discussion in the Senate regarding potential abuse. As a result, there was language proposed by Senator French that it be limited to the commissioner's or director's level. Essentially, the decisions need to be made on an executive level where there is some accountability in the issuance. Department of Health & Social Services agreed that would be an appropriate limitation.

There being NO further OBJECTION, CS SB 376 (HES)am was reported out of Committee with "no recommendation" and with fiscal note #1 & #2 by the Department of Health & Social Services and zero note #3 by the Department of Revenue.
#

ADJOURNMENT

The meeting was adjourned at 12:08 P.M.