

HOUSE FINANCE COMMITTEE
May 11, 2004
5:04 P.M.

TAPE HFC 04 - 114, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 5:04 P.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

Joel Gilbertson, Commissioner, Department of Health & Social Services; Pete Ecklund, Staff to Representative Williams; Mark Hickey, American Cancer Society; Steve Porter, Deputy Commissioner, Department of Revenue

PRESENT VIA TELECONFERENCE

Johanna Bales, Revenue Auditor, Tax Division, Department of Revenue

SUMMARY

CS SB 302(FIN)

An Act relating to the authority to take oaths, affirmations, and acknowledgments in the state, to notarizations, to verifications, to acknowledgments, to fees for issuing certificates with the seal of the state affixed, and to notaries public; and providing for an effective date.

HCS CSSB 302(STA) was REPORTED out of Committee with individual recommendations and one previously published fiscal impact note.

CS FOR 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.

HCS CSSB 368(FIN) was REPORTED out of Committee with a title change, individual recommendations, and two previously published fiscal impact notes.

#SB302

CS FOR SENATE BILL NO. 302(FIN)

An Act relating to the authority to take oaths, affirmations, and acknowledgments in the state, to notarizations, to verifications, to acknowledgments, to fees for issuing certificates with the seal of the state affixed, and to notaries public; and providing for an effective date.

Co-Chair Harris MOVED to report HCS CSSB 302(STA) out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HCS CSSB 302(STA) was REPORTED out of Committee with individual recommendations and one previously published fiscal impact note.

#SB368

CS FOR SENATE BILL NO. 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.

Co-Chair Harris MOVED to ADOPT Work Draft 23-GS2116, Version V, Bullock, dated 5/10/04, as the version of legislation before the Committee. There being NO OBJECTION, it was so ordered.

PETE ECKLUND, STAFF TO REPRESENTATIVE WILLIAMS, explained that the grammatical amendment would simply add the word "that" on page 5, line 21.

The Amendment reads:
Page 5, lines 18-21:

"The department may not set the limit of stamps that a licensee may purchase during that three-month period below an amount equal to three times the average monthly stamp purchases made by the licensee during the 12-month period immediately preceding that three-month period."

Mr. Ecklund explained that Version V mirrors the House version of the tobacco tax. The bill removes the floor tax of earlier versions, and substitutes a stockpiling provision on page 5, line 14. It removes the Other Tobacco Products (OTP) tax from the current 75% to 100% of the wholesale price so that in this version that tax remains at 75% of wholesale price. The Committee Substitute removes a provision added by the Senate known as the Internet sales provision, and it adds a nonparticipating manufacturers tax at 25 cents a pack higher than the new tax rate.

Mr. Ecklund explained that the new tax rate is a 60-cent increase beginning on July 1, 2004, with increases in the four following years to total a dollar a pack. The bill clarifies the definition of unstamped cigarette to include those cigarettes with an incorrect or lower tax stamp. At the direction of the Department of Law, clarifying language has been added to the minimum pricing. Version V also rolled in the appeal bond limitation in HB 468. It amended page 14, line 1, Section 4 of Chapter 48 of SLA 1997, so that in the event that the previous tax increase of \$1 is found to be unconstitutional, it would be deposited into the General Fund rather than the School Tax Fund.

Co-Chair Williams commented that he and his staff had been working with people on both sides of the issue, and had reached agreement on this version of the bill over the past week.

Representative Chenault asked about the tax stair stepping. Mr. Ecklund pointed out that the language begins on page 4, line 13.

Vice-Chair Meyer asked how the mil works. Mr. Ecklund answered that one-mil equals two cents per pack. The current tax rate is 12 mils, and the first year increase to 30 mils would equal a 60-cent per pack increase.

Vice-Chair Meyer asked how the tax schedule of a dollar increase was determined.

Co-Chair Williams reiterated that he'd negotiated with tobacco and anti-tobacco people.

Vice-Chair Meyer noted that the anticipated revenue for a \$1 a pack increase was \$35.5 million [Fiscal Note #1, Component 2476 dated 3/19/04]. Co-Chair Williams clarified that the revenue expected for a 60-cent increase would be 60% of \$35.5 million. Mr. Ecklund pointed out that an updated fiscal note was expected.

Co-Chair Harris asked if the bill includes provisions to direct revenues to smoking cessation programs. Mr. Ecklund affirmed, and noted that Version V uses the House language directing 8.9% of the proceeds of the tax to smoking cessation programs. The language begins on page 4, line 24.

Co-Chair Harris asked if the bill addresses smokeless tobacco or cigars. Mr. Ecklund said that the OTP, or Other Tobacco Products, were proposed to increase to 100% of the wholesale price, but this version retains the current 75% of the wholesale price.

Vice-Chair Meyer asked for the definition of cigarettes and cigars that would avoid creating a tax loophole.

JOEL GILBERTSON, COMMISSIONER, DEPARTMENT OF HEALTH & SOCIAL SERVICES (DHSS), explained that a cigarette is defined as tobacco wrapped in paper.

Co-Chair Harris asked the Department's position on this modification of the Senate bill. Commissioner Gilbertson replied that the primary concern of the DHSS relates to the public health impact. This version would accomplish the goal of raising the tax by a dollar a pack, with the largest portion of the tax levy [60 cents] achieved in first year.

Co-Chair Harris asked if the Administration intends to further increase the tax in future years, or to simply stair step the tax in this legislation to achieve the long-term goal. Commissioner Gilbertson replied that the Administration has not taken a position on whether or not to increase the cigarette tax in future years. The Governor's goal is to ensure a climate where cigarette products are cost prohibitive for consumption by Alaskan youth.

Co-Chair Harris asked about the Department's coordination with tobacco manufacturers and others to keep tobacco products from minors. Commissioner Gilbertson explained that the greatest cooperation is through the Master Settlement Agreement, which helps finance the tobacco control program through the State of Alaska. He felt that a solution would rely on the continuing cooperation of the manufacturers, the retailers, the State, the Tobacco Control Alliance and local communities. He pointed out that the reduction in the illegal sale rate from 30.2% to 10% last year would not have been accomplished without retailer compliance.

Representative Chenault commented on the health issues related to smoking, noting that one solution is to continue to tax tobacco products. He said that obesity is a leading cause of death in the United States, and he was curious if there would be a tax on fast foods next year. The tobacco tax singles out one group of people "because it's easy," and does not address other problems. He asked if the DHSS is considering future taxes on other health-related issues.

Commissioner Gilbertson replied that there are a number of public health concerns, and he did not feel that the Department is ignoring the large impact of diabetes and obesity, noting that the DHSS is in the middle of a multi-year Federal grant on obesity prevention. He was not aware of proposals to impose a tax levy on the consumption of high fat products even though it is a public health threat. The Department has worked with the Alaska Native population through education efforts in the schools, and with the Tribal Health Consortium.

STEVE PORTER, DEPUTY COMMISSIONER, DEPARTMENT OF REVENUE, stated that the Department is not currently reviewing the imposition of taxes on Twinkies or similar foods, but it is always willing to provide facts and information to legislators to assist in pursuing tax proposals.

Vice-Chair Meyer noted that the appeals bond was merged with the tobacco bill and asked the Administration's position on it.

Mr. Porter indicated that Ms. Bales would address the issue. He said that she has been active in both the administration and enforcement of the Master Settlement Agreement.

JOHANNA BALES, REVENUE AUDITOR, TAX DIVISION, DEPARTMENT OF REVENUE, VIA TELECONFERENCE, stated that she is the program manager for the tobacco tax in Alaska. She explained that the appeals bond provision in HB 468 is rolled into this bill. The language evolved because of litigation in Illinois and Florida in which judgments against tobacco manufacturers were so large that there was potential to bankrupt them, putting state revenue payments at risk. This provision preserves the manufacturer's right to appeal while still securing any judgment in favor of a plaintiff who might be injured by a manufacturer of tobacco products. The Administration is neutral on this provision.

Representative Stoltze pointed out that two issues are involved, and asked for guidance in achieving a balance.

MARK HICKEY, AMERICAN CANCER SOCIETY (ACS), expressed support for the bill by the public health community and the cancer coalition, which includes the ACS, the Heart

Association, the Lung Association, and the Alaska Native Health Board. He noted that although the bill includes provisions the cancer coalition doesn't support, the ACS urges that it be passed and signed into law. He explained that the ACS doesn't support the appeal bond provision, and sees no compelling need for that change because a current court rule allows a judge that discretion. He thought that the tobacco lobbyists would agree that minimal likelihood exists of an issue being raised in Alaska requiring the appeal bond. Mr. Hickey reiterated that the American Cancer Society doesn't support those provisions although it supports the bill.

Vice-Chair Meyer commented on tobacco distributors stockpiling inventory, and asked if that would be a concern since tobacco products have a shelf life. Mr. Hickey said that the provision was debated and deleted in earlier legislation, and deleted in this version as well. An alternative section has been drafted to allow the Department discretion to limit the number of sales of stamps over a month's period if there appears to be an attempt to stockpile. It is a significant revenue issue. He said that the public health community feels that it was a reasonable provision, but the Department may have other ideas on how to limit it. The effective date in this version is July 1, 2004, and the bill includes some regulatory authority.

Vice-Chair Meyer asked the estimated number of kids who wouldn't start smoking and adults who would stop after passage of this tax. Mr. Hickey didn't have those figures, but he said that the preference would be to see the \$1 [per pack] impact all at once. He thought that the statistics would show a 7% reduction of children's cigarette consumption from the immediate 60-cent tax increase, which would amount to a 10% price increase. A dollar tax would have nearly doubled that reduction in consumption. The Center for Disease Control and the Campaign for Tobacco Free Kids estimated that a \$1 tax would result in saving 2900 kids' lives. He said that passage of this bill would bring Alaska closer to that number, and the American Cancer Society views the legislation as a "public policy win."

Representative Chenault noted that the last increase of a dollar a pack included estimates that 30% of kids would not smoke. He questioned the rationale for the new estimate that the dollar a pack increase would stop only 14% of kids from smoking.

Mr. Hickey replied that it is a function of price and total change in price. Since the Master Settlement Agreement, the industry has increased prices by about \$1.12. The total price is higher now and the effect of the dollar isn't as great. These numbers are in line with the study in 1997 indicating that a 10% price increase leads to a 4% or higher

general consumption decrease. The youth consumption decrease is higher because ages 12 to 14 are targeted before they begin smoking. He pointed to a Department "youth at risk" behavioral survey demonstrating a 50% reduction of high school age youth smoking between 1995-2003. He expressed that this resulted from the 71-cent tax and the program, and said that the Legislature played a significant role in that achievement.

Representative Chenault MOVED to ADOPT his Amendment #1. Co-Chair Williams OBJECTED.

At Ease: 5:34 P.M.

Reconvene: 5:35 P.M.

Representative Chenault WITHDREW Amendment #1.

Co-Chair Harris MOVED to report HCS CSSB 368(FIN) out of Committee with individual recommendations and the accompanying fiscal notes.

HCS CSSB 368(FIN) was REPORTED out of Committee with a title change, individual recommendations, and two previously published fiscal impact notes.

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ADJOURNMENT

The meeting was adjourned at 5:40 P.M.