

**ALASKA STATE LEGISLATURE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES
STANDING COMMITTEE**

March 18, 2004
3:05 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Carl Gatto, Vice Chair
Representative John Coghill
Representative Paul Seaton
Representative Kelly Wolf
Representative Sharon Cissna
Representative Mary Kapsner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 511

"An Act relating to the certificate of need program for health care facilities; and providing for an effective date."

- MOVED CSHB 511(HES) OUT OF COMMITTEE

HOUSE BILL NO. 353

"An Act relating to jury duty; and amending Rule 15(k), Alaska Rules of Administration."

- MOVED *CSHB 353(HES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 333(EDU)

"An Act relating to an endowment for public education and the University of Alaska; relating to university land; establishing a trust fund for public education; and providing for an effective date."

- REMOVED FROM AGENDA

PREVIOUS COMMITTEE ACTION

BILL: HB 511

SHORT TITLE: CERTIFICATE OF NEED PROGRAM

SPONSOR(S): REPRESENTATIVE(S) SAMUELS

02/16/04 (H) READ THE FIRST TIME - REFERRALS
02/16/04 (H) HES, FIN
03/02/04 (H) HES AT 3:00 PM CAPITOL 106
03/02/04 (H) Heard & Held
03/02/04 (H) MINUTE(HES)
03/04/04 (H) HES AT 3:00 PM CAPITOL 106
03/04/04 (H) Heard & Held
03/04/04 (H) MINUTE(HES)
03/18/04 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 353

SHORT TITLE: JURY DUTY EXEMPTION FOR CERTAIN TEACHERS

SPONSOR(S): REPRESENTATIVE(S) KAPSNER

01/12/04 (H) PREFILE RELEASED 1/2/04
01/12/04 (H) READ THE FIRST TIME - REFERRALS
01/12/04 (H) EDU, HES, JUD
02/17/04 (H) EDU AT 11:00 AM CAPITOL 124
02/17/04 (H) Moved Out of Committee
02/17/04 (H) MINUTE(EDU)
02/18/04 (H) EDU RPT 3DP 2NR 2AM
02/18/04 (H) DP: GARA, KAPSNER, GATTO;
02/18/04 (H) NR: OGG, WOLF; AM: SEATON, WILSON
03/04/04 (H) HES AT 3:00 PM CAPITOL 106
03/04/04 (H) Scheduled But Not Heard
03/18/04 (H) HES AT 3:00 PM CAPITOL 106

WITNESS REGISTER

JANET CLARKE, Director
Division of Administrative Services
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 511 and answered questions from the committee members.

DOUG WOOLIVER, Administrative Attorney
Alaska Court System
Juneau, Alaska

POSITION STATEMENT: Testified on HB 353 and answered questions from the members.

ACTION NARRATIVE

TAPE 04-20, SIDE A
Number 0001

CHAIR PEGGY WILSON called the House Health, Education and Social Services Standing Committee meeting to order at 3:05 p.m. Representatives Wilson, Gatto, Coghill, Seaton, and Kapsner were present at the call to order. Representatives Wolf and Cissna arrived as the meeting was in progress.

HB 511-CERTIFICATE OF NEED PROGRAM

Number 0092

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 511, "An Act relating to the certificate of need program for health care facilities; and providing for an effective date."

JANET CLARKE, Director, Division of Administrative Services, Department of Health and Social Services, testified in support of HB 511 and answered questions from the committee members. She told the members that the administration support HB 511 in its current form which includes one amendment the committee adopted during the first hearing of the bill. That amendment was related to residential psychiatric treatment centers (RPTC) which the department believes strikes the right balance of technical corrections in closing some of the loopholes to make the CON program work better.

MS. CLARKE referred to a letter she sent to the member on March 15 which addressed a number of the questions from the members. She commented that Tanana Valley Clinic testified that 99 percent of the CONs submitted have been approved. Ms. Clarke explained that the department did a review of that point and asked the members to look at Attachment 1, Response to TVC Assertions. There were also issues of non-hospital CON approvals and the assertion that the department protects hospitals from competition. Ms. Clarke pointed to the third page of the attachment, Certificate of Need Decisions from 1996-2003. She noted that the table at the top of the page reflects that 61 percent of the CONs had been approved as requested, 11 percent were denied, 11 percent were partially approved, 6 percent were withdrawn, 14 percent had special conditions attached to their CONs, and 17 percent were shaped by the CON process. In other words, the process provides technical assistance with the application, and the questions that were asked in the CON process helped shape the direction the facilities chose to go. Ms. Clarke emphasized that this is not a rubber stamping process, but a public interactive process.

She summarized that she believes the CON process is doing the job the legislature intended.

Number 0367

REPRESENTATIVE SEATON commented on the differences between the CON processes in Alaska as opposed to the process in Utah. He said the committee was told that in Utah the department assesses the needs of a community when a CON application comes in. However, in Alaska when a CON application comes in there is a public notice for 30 days where counter proposals can come forward. He asked Ms. Clarke to address this point.

MS. CLARK directed the members' attention to Attachment 3, History of Concurrent (Competing) Certificate of Need Reviews. This attachment shows the number of competing CON applications in Alaska since 1982, she said. In the 1980s there were four [competing CON applications], and in the 1990s there were two [competing CON applications]. She agreed with Representative Seaton's description of the way CONs are handled in Alaska. During the 30-day public notice there would be an opportunity for someone to come in with a competing application, she acknowledged. Ms. Clarke commented that the department does not solicit, encourage, or in any way encourage competition to CONs. She summarized that competing CONs have been a very rare occurrence particularly in the last twenty years where it has only happened twice.

Number 0544

CHAIR WILSON announce that Representatives Cissna and Wolf have joined the meeting.

Number 0561

REPRESENTATIVE CISSNA asked if the CON process is time consuming.

MS. CLARKE referred to Attachment 2, Certificate of Need Questions & Answers, and directed the members' attention to the question: "What are the components of the certificate of need (CON) process?" She provided the following list [original punctuation provided]:

- Submission of a letter of intent (includes who, what, how large, the cost and timeline);

- Letter of intent (LOI) determination - a decision is made as to whether a CON is required;
- 60-Day wait - A CON application may be submitted 60 days after the LOI determination;
- Completeness Check - The application is checked for completeness, and more information is requested if the application is incomplete. The applicant has 60-days to submit information;
- Review Period - The analysis document must be submitted to the Commissioner in 90 days;
- Public Notice & Public Comment - Public notice is given at the beginning of a review and the public comment period runs concurrently with the review,
- Commissioner's Decision - The Commissioner makes the decision, which is published, and
- Appeal - The applicant has 30 days to appeal if dissatisfied.

MS. CLARKE added that the commissioner will make a decision, and if an applicant is still unhappy litigation is still an option.

Number 0709

REPRESENTATIVE CISSNA asked at what point in the process does the department make the application public. Is it when a submission of a letter of intent is received or later in the process.

MS. CLARKE replied that the letter of intent is a one-page document that is public information.

REPRESENTATIVE CISSNA asked if the letter of intent is published.

MS. CLARKE responded that a lot of things are published on the department's web page, but would have to verify that the letter of intent is one of them.

MS. CLARKE summarized information on Attachment 2 which was titled "Certificate of Need Questions and Answers." She explained that the types of projects which require CON are health care facility projects that involve expenditures of \$1 million or more for construction, renovation, or the purchase of new equipment. Ms. Clarke told the members that there are other projects which are exempt from CON; for example, if the project

costs under \$1 million, or is for routine maintenance or repair, or routine replacement of equipment. Specifically, exemptions are for pioneer homes, private physicians' offices, dentists' offices, and any other project that is not included in the definition. Ms. Clarke emphasized that if HB 511 passes the legislature the definition will change to include residential psychiatric treatment centers and independent diagnostic testing facilities.

Number 0843

MS. CLARKE explained that the department is required to have a decision on a CON application to the commissioner within 90 days, and then the commissioner can take as long as necessary to make the determination. She added that there is usually a lot of pressure to turn that decision around fairly quickly.

MS. CLARKE responded to earlier comments concerning the cost of a CON as being between \$5,000 to \$100,000 or more, by saying that a lot of the cost depends on the whether the applicant is happy with the decision and if there is a decision to litigate it. However, one example from a group in the state of Washington that has done consulting in the state of Alaska and has done at least four CON applications charges \$15,000 per application. She said she believes that is a good independent assessment of the cost.

MS. CLARKE summarized that the department supports HB 511 and urged the members to pass it from committee.

CHAIR WILSON commented that an amendment will be presented shortly that will remove residential psychiatric treatment centers (RPTC) from the bill and asked Ms. Clarke to comment on the purpose of including them.

Number 0933

REPRESENTATIVE WOLF moved Amendment 1. He told the members that many communities are looking at adding RPTC's and this bill simply adds one more layer of bureaucracy. He pointed out that Ms. Clarke stated the cost could be between \$15,000 to \$100,000 to obtain a CON.

Number 0977

REPRESENTATIVE KAPSNER objected for purposes of discussion. She explained that in her area a tribal health consortium, Yukon-

Kuskokwim Health Corporation, is planning on building a RPTC for Native kids. She added that there are no RPTCs in Rural Alaska, so most of these kids get shipped out of state. Representative Kapsner said that there is concern that a for-profit hospital could come into the area and take that option way from the tribal health consortium.

Number 1024

MS. CLARKE responded that the department opposes Amendment 1. She explained that there is an effort to bring the 500 children who are currently placed in out of state facilities back to Alaska. Ms. Clarke told the members it is the department's wish to do this in a planned community-based way where many smaller facilities would be constructed throughout Alaska if needed. She emphasized that it is important not to over build the system. The department wants a three-pronged approach where there would be a gate keeping system in place to ensure that kids are going to the right place. It is important to make sure that RPTCs are built in the right locations so kids can be as close to home as possible. Kids who are not close to their parents do not receive the same benefit as those who are. It is also important these facilities not be large. Ms. Clarke added that while there are 500 kids out of state, the department does not believe it would be prudent to build 500 beds in Alaska. Instead, the department believes having a smaller number of beds with a variety of options will be helpful in making the kids successful.

MS. CLARKE noted that three of the members of the House Health, Education and Social Services Standing Committee are on the House Finance Budget Subcommittee which deals with this issue. She told the members that this is one of the fastest growing areas of the Medicaid budget. She explained that the budget is now well over \$40 million and is growing rapidly every year. It is important that as the kids are moved back to Alaska, they are provide with better treatment, and that the Medicaid budget is not broken. Ms. Clarke explained that the administration wishes to work with Tribal partners because there is 100 percent federal funding available for those services, and it is important to do it in a planned manner.

Number 1153

REPRESENTATIVE CISSNA commented that she understands that there is legislation currently moving through the process that would removed reimbursement to this kind of program. She added that

she hopes there is some coordination to ensure that the community-based RPTCs are paid enough to remain open.

MS. CLARKE replied that she believes Representative Cissna is referring to some cost containment regulations that are currently out for public comment.

Number 1199

REPRESENTATIVE GATTO asked for clarification on residential psychiatric treatment center. In this context what does the word "residential" mean. "Is this a locked-down facility," he asked?

MS. CLARKE replied that some of the facilities will be locked facilities; however, some are secured facilities. By that she said she means the facility is secured by staff; it is not like a locked cell.

REPRESENTATIVE GATTO asked if there is 100 percent control.

MS. CLARKE responded that there are a whole array of residential facilities including many levels of security. She clarified that RPTCs are one step away from an inpatient psychiatric hospital.

REPRESENTATIVE GATTO asked how many kids the department plans on bringing back to Alaska.

MS. CLARKE replied that it is the intention to bring back as many children as will benefit from returning to the state of Alaska. There are some specialized facilities in the Lower-48 that deal with for example, fire starters. That program cannot be replicated in every state. Ms. Clarke emphasized that the department wants to stem the tide of kids going out of state and bring some back to the appropriate placement.

Number 1383

REPRESENTATIVE WOLF pointed out that the committee has heard from a program in Southeast Alaska [Crossing Wilderness Expeditions for Youth, Overview, 1/29/04] that has a remote program, yet it would be considered a residential facility which would fall under the CON process.

MS. CLARKE responded that there is no retroactive clause in HB 511. There are a couple of facilities, in Anchorage and Palmer,

that have the designation of RPTCs. She emphasized that not all residential centers will fall under the CON process. Many communities have residential homes that fall under a different program and CON does not apply to them.

REPRESENTATIVE WOLF said that the members were told the CON process would apply to the program he is referring to. Unless Ms. Clarke can confirm that it does not apply, he will assume it does.

MS. CLARKE responded that she would have to look at the program to determine the level of care and intensive services that are being provided.

Number 1405

REPRESENTATIVE COGHILL commented that the budget debate has made it clear that there needs to be management of RPTCs because they are largely publicly funded. He told the members that he opposes the amendment even though he struggles with the idea of the state managing many of these programs.

CHAIR WILSON agreed with Representative Coghill's comments. She pointed out that there are many companies in the Lower-48 who know the current problems Alaska is experiencing and without the CON process these companies could come up here and build many facilities as a way to make money.

Number 1441

A roll call vote was taken. Representative Wolf voted in favor of Amendment 1. Representatives Cissna, Kapsner, Gatto, Coghill, and Wilson voted against it. Therefore, Amendment 1 failed to be adopted by a vote of 1-5.

Number 1508

REPRESENTATIVE COGHILL moved to report HB 511 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 511(HES) was reported out of the House Health, Education and Social Services Standing Committee.

HB 353-JURY DUTY EXEMPTION FOR CERTAIN TEACHERS

Number 1543

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 353, "An Act relating to jury duty; and amending Rule 15(k), Alaska Rules of Administration."

Number 1554

REPRESENTATIVE MARY KAPSNER testified as sponsor of HB 353. She explained that this bill allows for teachers whose schools fall under the designation of not meeting adequate yearly progress (AYP) under the No Child Left Behind Act (NCLB) to be exempt from jury duty. She commented that she knows the members are aware of the fact that all teachers are now required to be highly qualified teachers. This adds an extra burden because substitute teachers most often are not highly qualified teachers. In many cases it is difficult to find teachers who at the minimum have a high school diploma. Representative Kapsner told the members that it is her hope that one day this will not be a concern because all of Alaska's schools will be meeting AYP and teachers will not be exempted.

REPRESENTATIVE KAPSNER explained that the Lower Kuskokwim School District brought this problem to her attention. Bethel has the third busiest court system after Anchorage and Fairbanks, she said. Residents in Bethel and 11 villages in a 50-mile radius are asked to come in to participate in jury duty. Until this year jury duty meant three months of service and four months for grand jury. The court system has been helpful in working with the communities to shorten the required length of time in serving on jury duty, she added.

REPRESENTATIVE KAPSNER told the members that from September 1 to December 15, 2003, the Lower Kuskokwim School District's payroll records show 107.5 days that its teachers were out of the classroom performing jury duty. She added that most of those schools are not meeting AYP.

CHAIR WILSON asked what the requirements are for persons serving as substitute teachers.

REPRESENTATIVE KAPSNER responded that requirements for substitute teaching is up to the individual school districts. She added that it is not necessary to be a certified teacher. In the Lower Kuskokwim School District the minimum requirements is that substitute teachers have a high school diploma. Representative Kapsner added that it can be difficult to find someone in the village who is available to substitute.

Sometimes substitutes are 19 year-olds who just graduated the year before.

Number 1685

REPRESENTATIVE GATTO commented that his trip to Kipnuk was enlightening. He told the members that it could be days of waiting to get in or out of a village for jury duty. With AYP requirements this can be a real strain on the school district. Representative Gatto said he supports this bill.

Number 1721

REPRESENTATIVE COGHILL asked if it is necessary to reference public law [on page 1, line 5 and 7] where it says:

(b) A person may claim exemption and may be excused from service as a juror if it is shown that the person is a teacher in a school that has failed to make adequate yearly progress under P.L. 107-110.

REPRESENTATIVE COGHILL asked if this reference is for definition purposes only.

REPRESENTATIVE KAPSNER replied that she is unsure, and asked if the bill drafter is in the committee room.

REPRESENTATIVE COGHILL noted that the next committee of referral is the House Judiciary Standing Committee and suggested that the question could be addressed in that committee. He said he does understand the need for teachers in these circumstances to be excused. However, he struggles with the idea that if he were an accused person who knew that a certain segment of society would be excused from jury duty, he might feel that it would be necessary to appeal for a trial outside of that area. Representative Coghill asked Representative Kapsner if she has consider that scenario.

Number 1791

REPRESENTATIVE KAPSNER replied that she has looked at that situation. She emphasized that this bill is not an effort to allow a particular group to shirk its civic duty. In looking at the problem Representative Kapsner said she really tried to balance the stress that is put on the schools and the students and the burden it would place on the court system. She explained that one theory she has is that in many cases teachers

would not be a jury of their peers. For instance, if most of the teachers are first or second year Alaskan citizens from the Lower-48 those teachers [are not peers of rural residents]. She said she understands that most attorneys would like to have a teacher in the jury pool because of the education level and language level that brings to the jury. Representative Kapsner noted that not all teachers are from out of state or out of the region, in fact, many teachers have been in the villages for 20 years or more.

Number 1860

REPRESENTATIVE COGHILL commented that there could be schools in the Anchorage School District that are not meeting AYP.

REPRESENTATIVE KAPSNER agreed that every district has schools which do not meet AYP.

REPRESENTATIVE COGHILL referred to the term "may" [on page 1, line 5] that says:

(b) A person may claim exemption and may be excused from service as a juror

REPRESENTATIVE COGHILL commented that he is concerned about that language.

Number 1894

REPRESENTATIVE KAPSNER emphasized that it is her goal that this will not even be an issue for very long. As soon as schools reach AYP, then this would not be an issue. Even if a teacher may be called to jury duty it creates a lot of stress within the school district. She emphasized that this legislation is one thing that can be done to help the schools.

REPRESENTATIVE COGHILL responded that he appreciates what Representative Kapsner is saying and will likely vote to pass the bill from committee. He said he has to ask about the guy who runs the generator, the Village Public Safety Officer, or the only Alaska State Trooper, all of whom may be the only ones who are available for their duty. Representative Coghill said he assumes the court system will take all of that into account. He summarized that he is concerned with the many jobs where there is little or no backup, and questioned whether all of them should be exempted from jury duty.

Number 1982

REPRESENTATIVE CISSNA commented that there are nine school months in the year, so theoretically there are another three months that teachers could be called to jury duty. She emphasized that it is important for the members to prioritize what is important. She stated that she believes it is important to keep the commitments to the schools by keeping the teachers in the classroom to ensure that the policy that is already in place is then met.

Number 2019

REPRESENTATIVE GATTO commented that maybe this questions would be better addressed in the House Judiciary Standing Committee. He said he wants to make sure that when the bill refers to "teachers" it is referring to "classroom teachers". He pointed out that a principal could be a teacher and not be a classroom teacher. It is certainly possible for the principal to leave town and not have it impact the classroom. Another important point would be to specify that the exemption is good for only the school term. Representative Gatto agreed with Representative Cissna's comments that teachers should not be given a "free pass" during the summer months. Perhaps teachers should be given a delay in serving on jury duty rather than an exemption.

CHAIR WILSON commented that in earlier discussion in the House Special Committee on Education there was a suggestion that some language should be inserted that clarified that only schools that were off the road system would qualify. For example, she said she believes it is a lot easier to find substitute teachers in Anchorage as opposed to a village. She asked if other members have any thoughts on this point.

Number 2078

REPRESENTATIVE KAPSNER replied that she believes it would be important to talk with administrations from some of the larger school districts because it is her understanding that finding substitute teachers is a problem for those districts as well.

REPRESENTATIVE COGHILL commented that when the bill gets to the House Judiciary Standing Committee there will be talk of the law of general applicability. If this exemption is good for one community, it is good for all of them since this bill is really in response to the AYP requirements and the hardship jury duty

service incurs. For example, Tok, Dot Lake, or even North Pole could experience some of the same problems communities not on the road system have, he said.

DOUG WOOLIVER, Administrative Attorney, Alaska Court System, testified on HB 353 and answered questions from the members. In response to the question by Representative Coghill on language which refers to "may," he said he read that language to mean it is the discretion of the teacher to ask for an exemption from jury duty. For example, judges are exempt from jury duty, but some choose to be seated as jurors. He suggested if the members wish to make that language clear it should be run by the drafter for clarification.

Number 2197

REPRESENTATIVE COGHILL replied that he believes the language should be clarified. He said he would like to see judges have discretion.

MR. WOOLIVER commented that there are many other important community professions that serve an important function and whose absence may have a detrimental effect on a community if they are called away to jury duty. He told the members that Alaska Statutes use to have a long list of professions that could be exempted. For example, a public health nurse, use to be exempt if he/she is the only health care professional in a town. Mr. Wooliver told the members that anyone who is called for jury duty can automatically defer service for up to ten months. In particular hardship cases, he said, individuals have been excused for a particular call.

REPRESENTATIVE COGHILL said that if it is the wish of the legislature that an individual claim that exemption, then the language should be "to be excused" rather than "may be excuse". He commented that he would like to give the judge discretion, and wondered if the House Judiciary Standing Committee might be better at devising the language for this.

CHAIR WILSON agreed with Representative Coghill's comments that it is important to give the judge discretion.

Number 2326

REPRESENTATIVE KAPSNER asked Mr. Wooliver how many judges he believes would look at the discretionary language and say teachers should not be exempt.

MR. WOOLIVER responded that he does not know. He said he believes judges would look at this as a preference that the legislature wishes these teachers be given an exemption from jury duty. Mr. Wooliver pointed out that some judges could look at the language and be unclear as to whether this is a redundancy in the sentence or whether this is really granting the judge discretion to deny the exemption.

Number 2330

REPRESENTATIVE COGHILL told the members an amendment could be made [on page 1, line 5] after the word "excused" insert the words "by the court". He noted that the language may not be the exact wording that should be used.

TAPE 04-20, SIDE B

Number 2349

MR. WOOLIVER suggested another option which would be to delete the second "may" [on page 1, line 5]. He said that would take away the discretion, but it would clearly say that the teacher could claim an exemption and be excused from service.

Number 2330

REPRESENTATIVE COGHILL moved Amendment 1 as follows:

On Page 1, Line 5, after "exemption and"
Delete "may"

Number 2307

CHAIR WILSON objected for purposes of discussion. She pointed out that by removing "may" from this sentence the wording would read as follows:

(b) A person may claim exemption and be excused from service as a juror

CHAIR WILSON pointed out that language would automatically give teachers an exemption.

REPRESENTATIVE GATTO said he believes the first "may" in the sentence handles the issue. He said he believes that the language is clear by removing the second "may" in the sentence.

REPRESENTATIVE COGHILL commented that he does not want to hold the bill up over this issue; however, there needs to be clarification that there is some discretion by the judge. He pointed out that the next committee of referral is the House Judiciary Standing Committee and believes that committee could more appropriately address the question.

Number 2253

CHAIR WILSON agreed that she will have a discussion with the House Judiciary Standing Committee chair to address the issue of court discretion.

REPRESENTATIVE CISSNA told the members that it is her opinion that the highest priority in this issue is addressing the needs of students who are having a hard time reaching AYP. She said she does not believe that the courts should have a higher value in this particular instance.

REPRESENTATIVE COGHILL said he agrees that students are a high priority, but constitutionally [a defendant's] right to a fair trial is also a high priority and that is his reason for suggesting the need for some judicial discretion.

MR. WOOLIVER said that he believes his earlier suggestion of removing the second "may" [on page 1, line 5] removes the discretion by the courts. Judges do currently have the discretion of providing a teacher with an exemption if a teacher says there is a burden.

REPRESENTATIVE COGHILL commented that he believes his earlier suggestion of inserting [on page 1, line 5] the words "by the court" after the word "excused" would be clarifying language. The language would read as follows:

(b) A person may claim exemption and may be excused by the court from service as a juror

MR. WOOLIVER urged the committee to be sure to tell the court what the members want it to know.

CHAIR WILSON said she believes the language could be read in two different ways.

Number 2083

REPRESENTATIVE COGHILL withdrew Amendment 1.

REPRESENTATIVE COGHILL moved to adopt Amendment 2, as follows:

On Page 1, Line 5, after "excused"
Insert "by the court"

Number 2064

REPRESENTATIVE CISSNA objected to Amendment 2. She told the members that she prefers that the highest priority remain the welfare of the students.

A roll call vote was taken. Representatives Coghill, Gatto, Wolf, and Wilson voted in favor of Amendment 2. Representatives Cissna and Kapsner voted against it. Therefore, Amendment 2 was adopted by a vote of 4-2.

Number 1960

REPRESENTATIVE GATTO moved Amendment 3 [later conceptual Amendment 3], as follows:

On Page 1, Line 7
Delete "teacher has the meaning"
Insert "teacher means a person who serves a school district in a teaching capacity and is required to be certified in order to hold that position."

Number 1957

CHAIR WILSON objected to the motion for discussion purposes. She agreed to strike the sentence and asked if it would be better to simply say, "if it is shown that a person is a classroom teacher in a school that has failed."

REPRESENTATIVE GATTO responded that he is not sure, but the current language has the definition of a "teacher as a person who serves the school district in a teaching" He stated that he just wants to use the same language that is in statute.

CHAIR WILSON pointed out that part of the language would be left out.

REPRESENTATIVE GATTO replied that he would like to leave out the part [of the definition] that refers to those who serve in counseling or administrative capacities.

Number 1900

REPRESENTATIVE KAPSNER told the members that her father was a principal and also a teacher in four schools. She commented that most school districts are so strapped that many counselors also teach.

Number 1882

REPRESENTATIVE GATTO agreed that is a good point. As long as an individual is a teacher in the classroom, even if the individual may have other jobs, that person would be exempt from jury duty.

REPRESENTATIVE GATTO restated Amendment 3 [later conceptual Amendment 3] as follows:

On Page 1, Line 7, after "in this subsection,"
Delete "teacher has the meaning"
Insert "teacher means a person who serves a school district in a teaching capacity and is required to be certified in order to hold the position."

REPRESENTATIVE COGHILL said he appreciate what Representative Gatto is trying to achieve with this amendment. He suggested that if court discretion is left in the bill, a judge would be able to discern the level of need. He said he is opposed to the amendment.

REPRESENTATIVE GATTO replied that he is simply trying to place a higher bar for an individual to be excused from jury duty because he believes citizens have an obligation to serve. He pointed out that Representative Kapsner's bill is trying to defend the classroom by keeping the classroom teacher there. The idea that there may be other positions which may merit exemptions are separate issues.

The committee took an at-ease from 4:10 p.m. to 4:11 p.m.

Number 1749

REPRESENTATIVE KAPSNER suggested that Amendment 3 be changed to a conceptual amendment to address the definition of a classroom teacher.

Number 1722

REPRESENTATIVE GATTO restated his motion to adopt conceptual Amendment 3, to define a teacher as a classroom teacher. There being no objection, conceptual Amendment 3 was adopted.

Number 1525

REPRESENTATIVE GATTO moved conceptual Amendment 4 to define the term during the year when this exclusion would apply. He suggested language be crafted that would define the time when school is not in session for a week or longer.

CHAIR WILSON objected to the motion. She explained that jury duty is not just one week of service; it is usually a month or more.

REPRESENTATIVE COGHILL pointed out that many teachers have to take classes in the summer for recertification tests. He reiterated the importance of court discretion.

REPRESENTATIVE GATTO said the original intent of the bill was to deal with schools off of the road system. He commented that every school has teachers that will be required to take special classes. The intent of this bill, and the reason he supports it, is the difficulty that occurs during the school year for those teachers in rural areas. This exemption should not be offered outside of the school year, he emphasized.

REPRESENTATIVE KAPSNER asked if a conceptual amendment could be offered that inserts language that addresses the time during the school year.

Number 1525

REPRESENTATIVE GATTO withdrew Amendment 4 and moved new Amendment 4 to read:

Page 1, Line 4
After the word "juror"
Insert "during the school year"

CHAIR WILSON objected to the motion. She pointed out that many of the teachers leave the area during the summer months.

A roll call vote was taken. Representatives Cissna, Kapsner, Gatto, and Wolf voted in favor of Amendment 4. Representatives Wilson and Coghill voted against it. Therefore, Amendment 4 was adopted by a vote of 4-2.

REPRESENTATIVE COGHILL moved to report HB 353 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 353(HES) was report out of House Health, Education and Social Services Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 4:18 p.m.