

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

January 27, 2004
1:30 p.m.

TAPE(S) 04-01

MEMBERS PRESENT

Senator Con Bunde, Chair
Senator Ralph Seekins, Vice Chair
Senator Gary Stevens
Senator Hollis French

MEMBERS ABSENT

Senator Bettye Davis

COMMITTEE CALENDAR

Pulltabs Subcommittee Report

SENATE BILL NO. 237

"An Act relating to the Alaska Railroad workforce development scholarship program."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

SB 237 - No previous action to record.

WITNESS REGISTER

Mr. Richard Schmitz, Staff
Senator John Cowdery
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 237 for Senator Cowdery, sponsor.

Ms. Wendy Lindskoog, Director
External Affairs
Alaska Railroad Corporation (ARRC)
PO Box 107500
Anchorage AK 99510-7500

POSITION STATEMENT: Opposed SB 237.

Ms. Susan Lindemuth, Director
Division of Human Resources
Alaska Railroad Corporation (ARRC)
PO Box 107500
Anchorage AK 99510-7500
POSITION STATEMENT: Opposed SB 237.

ACTION NARRATIVE

TAPE 04-1, SIDE A

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at 1:30 p.m. Present were Senators Seekins, Stevens, French and Chair Con Bunde. Senator Bettye Davis was excused. The first order of business to come before the committee was a report from the Pulltab Subcommittee, manned by Senators Seekins and French.

SENATOR RALPH SEEKINS said he and Senator French had three meetings on this issue. He recapped that last year a number of witnesses referred to pulltab gambling as charitable gaming and warned of dire consequences to the charities if the state raised taxes on them. The definition of a charity was questioned as well as which charities are permitted to participate in Alaska's so-called charitable gaming activities. Further testimony revealed that some permittees operate pulltab operations in communities hundreds of miles from their home bases. The question arose of whether or not authorized participants should be limited by statute to operate within a fixed geographic proximity to the community in which they are based. His further comments today were primarily directed to participation and proximity. He said:

One thing many people don't know, I suppose, is best summarized in the quote from the 2002 gaming group report, which says, 'In general, gambling is illegal in Alaska.' However, the Legislature created an exception for what is commonly, though somewhat inaccurately, referred to as charitable gaming. The use of the word 'charity' is really a misnomer. An organization does not have to have any charitable purpose in order to have a gaming permit. The department 'may' only issue a permit to a municipality or qualified organization and charities represent only one of 15 qualified organizations eligible to game in

Alaska. Also, from the Department of Revenue, we've listed 13 of those 15 categories including municipalities on top of that and provided some of the statutory definitions of those categories.

CHAIR BUNDE said he saw 13 categories listed and adding municipalities made 14.

SENATOR SEEKINS responded that he only found 13 categories also, and their subcommittee report provided some examples of the diversity of types of organizations that fit inside a general category. For instance, an education organization includes licenses such as the Juneau Golf Club, the Southeast Alaska State Fair and the Nome Public Schools. It does not recommend that the statutory exception allowing charitable gaming be changed. However, it does recommend that the Labor and Commerce Committee review the list of permitted gaming groups to consider changes that assure that pulltab licenses and revenue fulfill some charitable purpose, as that was probably the intent of the Legislature in the beginning. Municipalities, political organizations, chambers of commerce, and the like should be examined to see if they should be beneficiaries of pulltab income from Alaska's charitable gaming exception.

However, because of the not-for-profit status of the currently qualified organizations and so that there are some legitimate fund-raising opportunities for them, the subcommittee recommends that raffle licenses continue to be granted to all the current game groups....

During the committee hearings, it became evident that some permittees that were domiciled in one community operate their pulltab licenses in other communities and so some so-called charitable gaming revenue from pulltab gambling in some communities did not benefit those communities at all; rather, that revenue went to organizations in communities sometimes hundreds of miles distant. This led to the question of whether or not the Legislature should institute a geographic proximity limit for the operation of pulltab licenses.

Pulltab permittees operate in distant locations for a number of reasons. The American Red Cross, for instance, has a statewide presence and mission. Some rural permittees do not have a very large population base and have found it more profitable to

operate in urban locations. Some communities charge a sales tax on pulltab sales and permittees have found that they can net more by operating in communities that do not have a sales tax. Another reason is that some communities are saturated with pulltab operations for their population and the opportunity to play in some other community came up.

SENATOR SEEKINS said they didn't reach any unified recommendation regarding specific actions to address the proximity action, but agreed that the matter should be discussed in the full committee and would benefit from further public testimony before a final decision was reached on the matter.

Other considerations came forward, i.e., a lot of the permittees depend on gambling revenue as "a" or "the" major source of their revenue to operate. He maintained:

It's easier to have a pulltab license than it is to run a bake sale.... Therefore, there is a lot of fear out there that any change in the gaming structure at all would have a devastating effect on their operations.... Operators also testified that they operated on small margins and changes could easily put them out of business. There aren't a lot of operators. I think 14, or something like that, were licensed last year.

SENATOR SEEKINS said that Jerry Richards, a Fairbanks CPA who does some auditing for gaming operations, presented several suggestions for clarifying gaming statutes. He suggested that the Legislature allow licensed operators to "pool" the gaming activities of their permittees. Pooling is currently allowed with the multiple beneficiary permittees (MBP) and if extended to the operators, it would result in the sales being spread between more permittees. In other words, the operator wouldn't come to the end of what one person could earn and have to stop play in the middle of a game; but he could pool it, which would result in a more even flow of the net proceeds throughout the year. He felt that was a good suggestion, because it simplifies the operation, makes the cost of operating cheaper and gives a more even flow to the people who are there.

In summary, I've shown here in our report that gaming and gambling is big business in Alaska. In 2002, the total amount gamed exceeded \$358 million. After prizes were paid out, approximately \$85 million was available

for gaming expenses and net proceeds to benefit municipalities and qualified organizations [from the Department of Revenue report].

SENATOR SEEKINS said there are over 1,200 permittees and the \$85 million pie gets sliced thinner and thinner. Competition makes it harder and harder for small organizations to effectively compete for any share at all. He felt it was time for the Legislature to examine the charitable gaming exception to the general gambling prohibition and start by redefining whether or not municipalities, political organizations and others should be permitted to operate pulltab operations. They recommended considering a geographic proximity limitation that would keep charitable gaming revenue in the community where the proceeds are generated.

1:48 p.m.

SENATOR FRENCH said he appreciated the work Senator Seekins did with him on this issue. They focused on pulltabs because they are the biggest part of the gaming puzzle at 77 percent of gaming receipts statewide. In general, he felt the system is working fairly well. Since 1997, the gross increase in gaming receipts has been 28 percent, the adjusted gross income has grown by 25 percent and the net to charities has grown by 33 percent. "It's not as if charities are getting a smaller and smaller slice of the gaming pie as time goes on.... I'd like us to continue that trend."

He also thought that some groups that receive money from gaming could generate their own income for their own purposes, like municipalities. His sentiments fall with the smaller rural villages and towns that continue to need access to gaming receipts whereas bigger cities should have their own tax base to fall back on. He wasn't that concerned about the proximity question as long as the group of players is worthy.

SENATOR FRENCH revealed that some pulltab parlors post whose permit is being played at any given moment on the wall, so you can see which one is being played; and if a player doesn't want to contribute any dollars to the Alyeska Ski Club, for instance, he can walk out. He thought making that a requirement should be considered. The flip side is that most players don't look at that information and wouldn't be concerned.

SENATOR BUNDE said he heard rumors about inflated expenses and asked if they had looked at what auditing is done.

SENATOR SEEKINS responded that his sense is that there are allegations of inflated expenses - for excessive rent being charged, for instance, where 10 permittees were all paying 100 percent of the rent rather than one tenth each out of their expenses. The permittees are reluctant to question the situation because they might not be allowed to continue to participate. He knows the Department of Revenue (DOR) doesn't have a huge commitment to examine these types of allegations on a continued basis and he felt they could have a few more investigators to go through the process. The DOR annual report mentions some cases where the state has found some abuses within the pulltab operations. The industry also says that if an operator catches an employee stealing, it's virtually impossible to get the state's prosecutors to prosecute the case. He didn't know if that was true or not. But if an employee is caught stealing, he gets fired and nothing else happens to him. He might end up working in another pulltab parlor down the street and doing the same thing and the charity doesn't ever have a chance to recover its losses.

SENATOR GARY STEVENS said the implication is that, "the organizations that are not charitable are not charitable and I know that that's not true."

The Alutiiq Museum in Kodiak is funded largely by a bingo parlor in Anchorage, for instance.

CHAIR BUNDE asked the committee if they wanted to have a work session on questions like the percentage that goes to charity and whether the cost of licensing should be borne by the applicant.

SENATOR FRENCH said he would be willing to do that. He pointed out that the DOR has seven employees who are attached to monitoring this \$380 million industry. "There's a lot of money being moved through here without a lot of oversight."

CHAIR BUNDE announced that he would schedule a meeting on the regulatory regime of gaming probably February 5.

#SB237

SB 237-AK RAILROAD EDUCATION APPRENTICE PROGRAM

CHAIR BUNDE announced SB 237 to be up for consideration.

MR. RICHARD SCHMITZ, staff to Senator John Cowdery, sponsor of SB 237, said the purpose of the bill is to create a scholarship program for study in fields related to railroad operation. The state is coming up on what looks like a lot of construction - realignments with the Alaska Railroad through the Mat-Su and an extension to Delta Junction continuing down to the Canadian border, perhaps. The Knik Arm Crossing and the gas pipeline are also possible. History shows that whenever there is a heat up of construction in Alaska, the positions get filled by a lot of outside hire. Senator Cowdery wants to head this off at the pass early. The proposed scholarship program would be for Alaskan students to study in Alaskan institutions for railroad related tasks.

He explained that two bills established the Alaska Railroad as being state owned. One is the Alaska Railroad Transfer Act, which is the federal legislation that gave the railroad to the state from the Army, and the other is the Alaska Railroad Act, the state enabling legislation.

The Alaska Railroad Corporation (ARRC) has a 93 percent Alaska hire rate over the last five years, but 52 hires are from areas outside of Alaska. The program in SB 237 is a way that the Railroad can fill those positions. The \$1.2 million per year would come out of the Railroad's operating funds and would fund about 200 scholarships for about \$17,000 - \$18,000 each. The scholarships could cover positions from office work to welding and engineering.

CHAIR BUNDE noted that a dividend back to the state from the railroad had been discussed and asked if that would have to be limited to railroad purposes also. He also asked if the scholarship would take the dividend off the table.

MR. SCHMITZ replied that the dividend is a separate issue.

SENATOR STEVENS said while he supports Alaskan schools, there might be only one place one could learn how to be a diesel steam operator, for instance. Second, he asked if current employees would be eligible to apply. Third, he asked if there would be any commitment from those who get the scholarships to work for the railroad.

MR. SCHMITZ replied that the idea is to give the railroad a broad selection of people to choose from, but individuals don't have to commit to work for the railroad when they get a scholarship.

SENATOR STEVENS thought language could be added that says the funds would be returned unless the individual is eventually hired by ARRC.

MR. SCHMITZ responded that was not Senator Cowdery's intent.

CHAIR BUNDE said there has been talk of limiting the Alaska student loan program to just Alaskan schools, but constituents have strong feelings about whether they should be forced to go to school here. He asked if an Alaska resident is defined for the bill's purpose.

MR. SCHMITZ responded that latitude would be given to the ARRC.

CHAIR BUNDE said he thought the issue of repayment should be discussed if the recipients of the scholarship don't stay in Alaska.

MR. SCHMITZ added that the sponsor envisioned them staying some period of time in Alaska. "The idea would be that this scholarship would benefit Alaska students in a broad and general sense...."

CHAIR BUNDE asked if the requirements could be stretched far enough that someone who gets the scholarship, but doesn't work for the railroad, and stays in Alaska, would somehow be considered a benefit to the railroad.

MR. SCHMITZ responded that a statutory requirement under the federal Alaska Transfer Act says revenues generated by the state-owned railroad shall be retained and managed by the state-owned railroad for railroad related purposes. That's why this bill mandates that the scholarships are for a railroad related purpose.

CHAIR BUNDE bantered that he thought a semi-talented lawyer could drive a train through that phrase.

SENATOR STEVENS asked if these funds could be managed through the Commission on Postsecondary Education to avoid creating another bureaucracy.

MR. SCHMITZ replied that Senator Cowdery would be amenable to that.

TAPE 04-01, SIDE B

SENATOR SEEKINS asked if they were considering a ramp-up for funding the program.

MR. SCHMITZ replied that they envisioned \$1.2 million from the railroad per year.

SENATOR SEEKINS asked how many employees the ARRC has now. He also wanted to know what their retention rate was to justify their turnover needs.

MR. SCHMITZ replied that there were 732 new hires over five years and 52 of those were from areas outside of Alaska. In 2003, there were 117 new hires.

CHAIR BUNDE was concerned that Alaskans are very creative and could figure out a way to absorb that money.

SENATOR SEEKINS related how a federal program tried to target particular qualifications by designating a student trainee status. To encourage students to start working for a certain department, retirement benefits started accruing from the day they enrolled in college as a student trainee. A lot of people were retained as a result of that. He wondered if any thought was given to using some kind of status for the students that would be reportable back to the Alaska Railroad.

CHAIR BUNDE asked how many scholarships would be available next year if this program started immediately.

MR. SCHMITZ replied 200 - 250 scholarships.

CHAIR BUNDE noted that the Railroad wouldn't hire 250 people annually.

MR. SCHMITZ responded that the thinking is that ARRC would have a broad range of trained people to choose from.

SENATOR SEEKINS said he would have a problem without a ramp-up.

MR. SCHMITZ said that Senator Cowdery would be amenable to letting the Commission on Postsecondary Education run the scholarship program; he just wants a workforce to be available when needed.

MS. WENDY LINDSKOOG, Director, ARRC External Affairs, said:

While management for the Alaska Railroad Corporation strongly believes that investing in an educated and skilled workforce is essential to operating a safe and successful railroad, we do not support SB 237. This bill seeks to remedy a problem that does not exist and fails to recognize the extensive training and education programs already provided for Alaska Railroad employees. In 2003, the Alaska Railroad spent \$1.8 million on workforce development programs and plans to sustain that level of support in the years to come. SB 237 contains no findings or other evidence that ARRC is currently experiencing a shortage of skilled and educated employees or expects such a shortage in the future. In fact, there is an abundance of Alaskan workers who can fill the few openings the railroad has available each year for management, administration, technical and professional employees. The only area where ARRC may have problems recruiting a qualified employee is in the specialized railroad trades such as car men and locomotive electricians - those types of trades. This bill will not increase the pool of qualified workers in these trades, because, quite frankly, there are no Alaska schools that teach these types of specialized railroad skills. To address the situation, ARRC does provide apprenticeship programs and other in-house training for new employees. And, as mentioned before, we spent approximately \$1.8 million last year to educate and train employees over the past five years, and we have a 93 percent Alaska hire rate.

Requiring ARRC to hand out \$1.2 million per year in scholarships to unnecessarily educate managers, administrators, computer technicians, account insulators and other white collar employees that are already in abundant supply in Alaska would actually reduce the amount of money ARRC does need to provide its new operational employees with the unique railroad-specialized training. The cost of a full-ride

scholarship at the University of Alaska, according to what we found, is approximately \$8,000 per year. Requiring ARRC to provide \$1.2 million per year for such scholarships means we would be paying to educate about 150 people per year to work at the railroad when there are really only about 70 full-time permanent positions available each year. Thus there would be no ARRC jobs for approximately 50 percent of the people trained each year. Furthermore, SB 237 does not require scholarship recipients to actually go to work for ARRC when they complete their training, nor does it require a payback to the railroad if they fail to complete their training.

Finally, the Railroad's net earnings are our only source of federal match funds. We do not receive any state matching funds to garner federal funds. The Railroad currently has a 9 percent Federal Transit Administration (FTA) match. Requiring the Railroad to pay \$1.2 million for unneeded scholarships could cause ARRC to lose over \$12 million in FTA formula funds per year.

CHAIR BUNDE commented that if they couldn't put \$1.2 million toward scholarships each year, why not just have ARRC give the state a dividend each year to grow the economy and that would help railroad related purposes. Seriously, though, he wanted to hear from their legal department about why some dividend can't come back to the state since it capitalized the railroad originally.

SENATOR GARY STEVENS asked Ms. Lindskoog to talk about the railroad's current education program for its employees.

MS. LINDSKOOG replied that apprenticeship programs are offered through the Union. They also have a scholarship type program in house for someone who wants to get a new skill that would benefit the railroad.

CHAIR BUNDE asked if those people who get the extra training have an obligation to work for the railroad afterward.

MS. SUSAN LINDEMUTH, Director, ARRC Human Resources, answered that they don't, but the job relatedness of the training is reviewed before any training is started.

SENATOR SEEKINS asked if the railroad has a method of tracking residency status of its employees.

MS. LINDEMUTH replied that it doesn't have a method in place now, but uses the address on the job application for residency and doesn't do any kind of verification.

SENATOR SEEKINS asked if she had any indication of what percent of ARRC's new hires are Alaska residents.

MS. LINDEMUTH replied that a majority of ARRC's employees are Alaska residents and "have been here for some period of time."

SENATOR SEEKINS asked how many railroad employees are sent to ARRC from local unions.

MS. LINDEMUTH replied that the local union doesn't have any kind of local hiring hall. In other words, when people are hired, they then join the union.

SENATOR STEVENS said he heard that Alaskan schools don't teach railroad trades and asked where people go to learn those skills.

MS. LINDEMUTH replied that scales and maintenance of weights is taught on the job and workers move up through the ranks by union seniority. ARRC has an apprenticeship program for the car men, the locomotive electricians, and the locomotive mechanics that eight apprentices have recently been hired for. If skilled journeyman are needed, ARRC looks outside to other areas.

MS. LINDSKOOG added that there are special schools for some railroad skills in the Lower 48 and offered to get a list of them for the committee.

SENATOR SEEKINS asked her to estimate what percentage of railroad jobs required either a vocational or a four-year college degree.

MS. LINDEMUTH replied that a majority of the 120 people in the mechanical department require an apprenticeship. There are about 150 management positions, 75 percent of which may not require a college degree, but would certainly require in-lieu experience.

CHAIR BUNDE asked what ARRC's minimum requirements are for someone walking in off the street to apply for a job.

MS. LINDEMUTH replied that each job has different requirements, but an entry level skill like track laborer requires high school graduation and a good driving record and preferably some type of mechanical aptitude and background.

SENATOR HOLLIS FRENCH asked how the FTA match works.

MS. LINDSKOOG explained that the ARRC is required to provide a 9 percent match for any money it receives from FTA. No state match is involved.

SENATOR FRENCH said if \$1.2 million is taken out of the railroad side, ARRC would lose \$12 million in federal matching funds and asked how high up that figure could go.

MS. LINDSKOOG replied that she didn't have the FTA totals, but could get them. The railroad has a net income between \$1 million and \$10 million; \$1.2 million is used for workforce development programs and matching funds for internal capital projects, etc. "There is a limited amount that we have and we try to make the most of it."

CHAIR BUNDE inserted that the federal match is not an unlimited amount of money. ARRC wouldn't get the 9:1 ratio from the feds with \$10 million, for instance.

SENATOR SEEKINS commented that not coming up with enough money to get the matching funds was a worst-case scenario. The committee indicated its general agreement.

CHAIR BUNDE said he would hold SB 237 and hoped the ARRC and Senator Cowdery could find some middle ground. He looked forward to learning how tightly the federal regulation on railroad-related purposes is written. There being no further business to come before the committee, he adjourned the meeting at 2:45 p.m.
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