

MINUTES
SENATE FINANCE COMMITTEE
February 25, 2003
10:02 AM

TAPES

SFC-03 # 9, Side A
SFC 03 # 9, Side B

CALL TO ORDER

Co-Chair Lyda Green convened the meeting at approximately 10:02 AM.

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice-Chair
Senator Ben Stevens
Senator Lyman Hoffman

Also Attending: DAN SPENCER, Director, Division of Administrative Services, Department of Administration; DAVE STEWART, Personnel Manager, Division of Personnel, Department of Administration; JERRY BURNETT, Director, Division of Administrative Services, Department of Corrections; KATHRYN DAUGHHETEE, Director, Administrative Services Division, Department of Law;

Attending via Teleconference: From Anchorage: BRANT MCGEE, Public Advocate, Office of Public Advocacy, Department of Administration; BARBARA BRINK, Director, Public Defender Agency, Department of Administration

SUMMARY INFORMATION

SB 75-SUPPLEMENTAL APPROPRIATIONS: FAST TRACK
SB 76-SUPPLEMENTAL APPROPRIATIONS

The Committee received overviews of the supplemental budget requests from the Department of Administration, the Department of Corrections and the Department of Law. The bills were held in Committee.

#SB75
#SB76

SENATE BILL NO. 75

"An Act making supplemental and other appropriations; amending appropriations; and providing for an effective date."

SENATE BILL NO. 76

"An Act making supplemental and other appropriations; amending appropriations; making appropriations to capitalize funds; and providing for an effective date."

Department of Administration

SB 76

Section 1(a)(1)

Finance Budget Request Unit (BRU)

\$400,000 general funds

The Division of Finance is incurring substantially more costs for accounting and payroll data processing charges, due to conversion from ADABAS to DB2. (Savings in general relief program offsets \$300,000.)

DAN SPENCER, Director, Division of Administrative Services, Department of Administration, delineated \$300,000 of this amount is "general processing costs" of the accounting and payroll systems and \$100,000 is related to converting the payroll system into a "new platform", which requires additional time and subsequently incurs a higher cost. He informed that these "charges" are "due" to the Division of Information Technology Group for mainframe processing.

SB 76

Section 1(a)(2)

Pioneers' Homes BRU

\$390,700 general funds

Cost of the certified nurse aide and assisted living aide reclassifications which were effective December 1, 2002. The classification study found that the positions were underpaid by one range compared to other similar positions. Affects 323 positions at approximately \$175 per month per position.

Mr. Spencer emphasized that this is a classification study rather than a salary study. He reminded of a salary study conducted several years prior to review Pioneer Home nurses' salaries and noted that salary adjustments were made as a result. In contrast, he explained this study reviewed the duties assigned to the Certified Nursing Aides (CNA) and Pioneer Home Aides in relation to

other employees in the State of Alaska system and found that the Aides perform duties equivalent to other employees paid at one salary range higher. Therefore, he said the CNA salaries were increased from Range 9 to Range 10, and Pioneer Home Aides were reclassified as Assisted Living Aides at Range 9, increased from Range 7. He qualified that some individual positions did not change and others were "classed down", although the employee's salaries would not change for two years.

Mr. Spencer noted that as a result of these changes, the Department would incur approximately \$700,000 additional payroll expenses annually. The amount requested in this supplemental, he said is for the salary increases effective December 1, 2002 through the remainder of the fiscal year.

Co-Chair Green recalled a determination that "No money appropriated in this Act may be used to pay costs for personnel due to job reclassification." She asked the difference between a classification study and a salary study.

Mr. Spencer explained the classification study examines the nature of specific duties performed, compared to other duties to ensure that employees are compensated "appropriately" in comparison to other positions within State government. He characterized this as "equal pay for equal work". A salary study, by contrast, he said examines a specific type of position and compares the salary to similar positions in the public and private sectors within a certain geographical area.

Mr. Spencer then informed that the Attorney General under the Knowles Administration found that the statutory language Co-Chair Green referred to, infringed upon the "administration of administering government." Mr. Spencer explained that the classification of State employees is an administrative matter and not subject to a legislative appropriation.

Mr. Spencer stressed the statutory and constitutional obligation to classify State employees appropriately.

Co-Chair Green asked when the study began.

Mr. Spencer replied the study commenced during the summer of 2002 and was completed with reclassifications enacted on December 1, 2002.

Co-Chair Green then asked the timeframe of implementation after such a study is completed.

DAVE STEWART, Personnel Manager, Division of Personnel, Department of Administration, testified to the personnel rules adopted under the State Personnel Act as well as contractual agreements reached with employee bargaining units. He stated that these rules provide that the effective date of a classification study is the first day of the pay period following completion of the study.

Co-Chair Green pointed out this was implemented during the final week of the prior gubernatorial administration.

Senator Hoffman spoke of the difficulties in hiring and retaining qualified nursing staff and asked whether this applies to CNA positions as well.

Mr. Spencer responded that a salary study conducted several years prior resulted in salary increases for nurses, which has partially alleviated the problem. However, he stated the State has not encountered significant difficulties in recruiting and retaining CNAs. He remarked this issues was not the "driving force behind" the recently conducted classification study.

Co-Chair Wilken did not oppose the outcome of the reclassification; however, he opposed the method considering Section 6, Chapter 94 of the FY 03 operating budget. He asked the consequences if this request were not funded.

Mr. Spencer responded that funds appropriated to the Pioneers' Homes operations would be transferred.

Mr. Spencer informed that classification and salary adjustments are done regularly, resulting in both increases and decreases. He stated that most of these changes are not brought to the attention of the legislature because the number of positions and amount of funds involved is usually negligible and therefore absorbed within the affected division's budget. The study in question he noted involved over 340 positions and is therefore unusual in its scope. He cautioned that if this item were not funded, additional space in the Pioneers' Homes must be held vacant.

Co-Chair Green commented that she has never seen a supplemental request for this purpose of this amount.

Co-Chair Green asked if all the positions impacted in the study are filled or whether the Department is budgeting for positions that would be filled before June 30, 2002.

Mr. Spencer replied that all the positions are not filled and that the request represents the current payroll needs with no funds for

any additional staff.

Senator Bunde questioned the on-going reclassification review, as he understood an employee hired for a certain position at a defined salary range could be reclassified and paid a different salary.

Mr. Spencer spoke to the usual six-week time period involved and how adjustments must be made to reflect new duties assigned to some positions, etc. He stated that in some instances, duties are reassigned or classification changes are made at the time of employee turnover. He also pointed out an appeal process is provided according to collective bargaining unit agreements.

Senator Bunde surmised this effort would require significant work.

Mr. Spencer assured the Department has a "long range plan"; but stressed the obligation to compensate employees appropriately for the duties performed.

Senator Bunde did not disagree, but suggested the matter should be addressed differently.

Co-Chair Green informed this topic should be discussed in the budget subcommittee.

SB 76
Section 1(a)(3)
Alaska Oil and Gas Conservation Commission (AOGCC) BRU
\$14,300 federal funds
Increased federal grant for the Underground Injection Control Program.

Mr. Spencer stated this request is for authorization to receive federal funds that supplement an existing grant.

SB 76
Section 1(a)(4)
Office of Public Advocacy BRU
2,473,500 general funds
Program shortfunding was estimated to be \$2,200,000 in May. Caseload growth has added an additional \$1,100,000. An additional \$826,500 is requested in the fast track supplemental bill to meet the total need of \$3,300,000.

AND

SB 75
Section 1

Office of Public Advocacy BRU
\$826,000 general funds

Program shortfunding was estimated to be \$2,200,000 in May. Caseload growth has added an additional \$1,100,000. An additional \$826,500 is requested in the fast track supplemental bill to meet the total need of \$3,300,000.

Mr. Spencer pointed out the initial FY 03 appropriation was less than the amount expended the prior year. At that time, he said it was estimated that \$2.2 million supplemental funds would be necessary, based on the caseload and the "intensity of the caseload". He reported that the caseload has continued to increase as well as amount of "legal activity" required for those cases, which accounts for the \$3.3 million actual request.

Mr. Spencer commented that supplemental funding has been necessary for the Office of Public Advocacy (OPA) for several years. He detailed the process of monthly reporting of expenses and informed that the requested amount would be adjusted accordingly.

Co-Chair Green calculated the total supplemental request represents approximately one-fifth of the annual budget.

Mr. Spencer explained how the requested amount was determined. He stated the OPA currently has funds adequate to pay expenses to the beginning of May and that \$826,500 contained in the fast track supplemental request would fund operations through the month of May with the balance included in the regular supplemental adequate to sustain operations through the month of June. He referenced a "longstanding" opinion issued by the Attorney General, allowing access to funds once a supplemental budget has passed the Legislature, providing there is no indication that the governor would veto the legislation.

Mr. Spencer told of the significant number of invoices from private attorneys received by the OPA for services rendered the previous fiscal year. He reported that the OPA normally remits over \$700,000 during the months of July and August for expenses incurred before June 30 of that calendar year.

Co-Chair Green opined, "That's bizarre," and instructed the Department provide an accounting of the cost to operate the OPA for 12 months, with the "July and August" invoices included. She furthered this should include "late billings and early billings". She requested similar accounting for the Public Defenders Agency (PDA) as well.

Senator Hoffman assured he would not object to fully funding the

anticipated budget initially. He noted that several years prior, supplemental appropriations were necessary to cover cost overruns, but that in recent years the budget was deliberately under-funded with the expectation that supplemental appropriations would be requested. He expressed concern about the increasing costs of the OPA.

Mr. Spencer expounded that the causes of the cost increases include an increase in the number of Child in Need of Aid cases assigned and he reminded of guideline changes instituted a few years prior that shortened the timeframes these cases must be resolved. This, he said has increased the average amount of time spent on cases. He stressed the difficulty in accurately predicting the number and types of cases that would be assigned to the OPA, and subsequently, the limited ability to in project the needed funding amount.

Senator Hoffman referenced the 20,000 new cases assigned in the current year, which appeared substantially higher than average. He surmised there must be a reason for this and asked if this is an anomaly or a change in the manner in which judges assign cases.

Co-Chair Green noted Senator Hoffman's comments pertain to the PDA and that she shared the questions.

Mr. Spencer informed that the increased caseload pertains to the number of new cases assigned each year, and applies to both the OPA and the PDA. He commented that the number of new cases assigned annually continues to increase.

BRANT MCGEE, Public Advocate, Office of Public Advocacy, Department of Administration, testified via teleconference from Anchorage, that the "ever larger" supplemental budget appropriations are not included in the amounts initially appropriated the following fiscal year. He reiterated that caseload increase and the increased costs of Child in Need of Aid cases are responsible for the increased expenses. He furthered that because of shorter timeframes, "a stronger adversarial context" exists because "people are much more likely to fight about things as they're facing deadlines", although this incurs higher costs. He noted he supports the stricter deadlines.

Mr. McGee next pointed out that the OPA has a "corollary" statutory responsibility to provide representation in cases in which the PDA has a conflict of interest. He stated that in these instances, the OPA contracts with private attorneys to represent one parent in Child in Need of Aid proceedings; this is in addition to OPA representation of the child's best interest.

Mr. McGee "welcomed the opportunity" to prepare a budget that would cover all anticipated expenses for FY 04. He noted this was the historical practice until the first year of the Hickel Administration.

Co-Chair Green directed the Department of Administration Budget Subcommittee to address the role of the OPA with senior citizen matters.

SB 76

Section 1(a)(5) and (6)

Public Defender BRU

\$1,157,000 general funds

Program shortfunding was estimated to be \$1 million in May. Caseload has added an additional \$157,000. Funding is also included to continue the mental health court attorney.

Mr. Spencer commented this situation is similar to the OPA matter.

Co-Chair Green asked for affirmation that the PDA was assigned 20,000 new cases in the past fiscal year.

BARBARA BRINK, Director, Public Defender Agency, Department of Administration, testified via teleconference from Anchorage that the number is accurate and noted the prior fiscal year the Agency was assigned 19,400 new cases. She listed one reason as the increase in Child in Need of Aid cases, in which the PDA is ordered to represent one of the parents. She also noted that serious felonies have increased 15 percent and because of the severity of penalties for conviction of such crimes, these cases are costly to defend. She added that changes to the minor consuming and Driving Under the Influence statutes have resulted in more of these cases being tried before a jury. She stated that the closure of pulp mills in Ketchikan has influenced the caseload by over 80 percent.

Ms. Brink stressed that the PDA must provide these services.

Co-Chair Wilken calculated 20,000 in one year as 80 cases assigned per day, which he had difficulty understanding. He asked for a breakdown of these assignments as well as a comparison with Washington State and other larger states, surmising that these states could not possibly address the issue in same manner as Alaska.

Ms. Brink stated she had data compiled to indicate the assignments of new cases between 1988 and 2002 and would submit it to the Committee.

SB 76
Section 1(a)(6)

Mr. Spencer commented this request would normally been presented to the Legislative Budget and Audit Committee, but because the funds were not immediately necessary, it is included in this legislation. He noted that currently these services are performed and paid from the existing budget appropriation.

SB 76
Section 1(a)(7)
Labor Relations BRU
\$209,300 general funds
Arbitration settlement with ASEA union on Fair Labor Standards Act (FLSA) residual claims including interest of \$9,238,36.

Mr. Spencer told of the settlement of the claims and the potential cost to the State of \$700,000 to \$1 million, plus legal expenses, if those cases were not settled and subsequently the State lost.

SB 76
Section 1(b)
Senior Services BRU
(\$300,000) general funds
Caseload for general relief program is lower than anticipated.
(Funds to help offset Finance's supplemental.)

Mr. Spencer explained this pertains to the vulnerable adults program and he reminded of the statutory obligation to assist those in harmful situations. He stated that the increase has not been as large as projected.

SB 76
Section 16(1)
Finance BRU
\$44,900 general funds
Miscellaneous Claims and Stale-dated Warrants \$44,916.88

Mr. Spencer explained these are to cover checks cashed two years or longer since they were issued.

Co-Chair Green asked how the Department tracks uncashed warrants.

Mr. Spencer replied that no system currently tracks outstanding checks not cashed, primarily due to the large volume of checks issued each month.

Senator Bunde asked about certain checks recently cashed illegally

in Anchorage. He indicated precautions must be taken to ensure against forgeries.

Mr. Spencer replied that he would research the matter.

Department of Corrections

SB 76

Section 3

Inmate Health Care BRU

\$187,700 general funds

Prior year bill for dialysis services for an inmate in FY 02. The vendor inadvertently billed a wrong party and recently discovered the error. An appropriation is needed in order for the department to pay the bill of \$187,680.05.

JERRY BURNETT, Director, Division of Administrative Services, Department of Corrections, testified this request is to cover a medical bill for services rendered in FY 02 but not received until November of 2002.

Co-Chair Green asked why this item was not included in the Miscellaneous Claims section of the supplemental bill.

Mr. Burnett stated that the amount is too large for such classification. However he noted it could not be paid without a supplemental appropriation.

SB 75

Section 2(a)

Inmate Health Care BRU

\$500,000 general funds

Costs incurred due to the November 19, 2002 accident involving a prisoner transport van at mile 19.5 of the Seward Highway.

SB 75

Section 2(b)

Anchorage Jail BRU

\$500,000 Statutory Designated Program Receipts (SDPR)

Due to increased negotiated contract amount with Municipality of Anchorage, the department will realize increased mandatory billings and needs receipt authority to utilize those receipts.

Mr. Burnett spoke of the automobile crash in which one correctional officer and four prisoners were killed and three prisoners were injured. He stated that approximately \$900,000 of the expenditure is direct hospital costs of the three surviving prisoners.

Co-Chair Green asked the status of the investigation of the crash and the liability of the other driver.

Mr. Burnett replied that as of the previous day, the investigation was still ongoing. He said if damages were recovered from the other driver the funds would be deposited into the general fund.

SB 76
Section 17(a)(2)(A)
\$219.77
Ratification: AR 50981-01 (Noncust Fingerprints)

AND

Section 17(a)(2)(B)
\$66.64
Ratification: AR 50982-01 (ADAM Pgm/Univ AK Anc)

Co-Chair Green understood the issue of inmate health care is under investigation.

Mr. Burnett affirmed and noted lower insurance rates are being negotiated and that a contract was negotiated with the Alaska Regional Hospital for the remainder of the fiscal year.

SFC 03 # 9, Side B 10:49 AM

Department of Law

KATHRYN DAUGHHETEE, Director, Administrative Services Division,
Department of Law,

SB 75
Section 4(a)
Criminal Division BRU
\$582,600 general funds
Criminal Justice Litigation - Outside counsel and experts for
the parental consent lawsuit \$432,600 and the sex offender
registration lawsuit \$150,000.

Ms. Daughhettee noted this item involves two major cases and she updated the Committee on their status. She informed that a decision is expected in the case involving Planned Parenthood and that regardless of the outcome an appeal is expected. She stated that \$432,600 would cover the appeal expenses.

Ms. Daughhettee continued with the litigation defending the State's sex offender registration statute, in which \$150,000 in expenses was already incurred and additional expenses are not expected. She informed that a decision from the US Supreme Court is expected in the fall of 2003 on the matter.

Senator Bunde asked if the requested amount is anticipated to be the total cost to argue the parental consent issue.

Ms. Daughhettee responded this amount would cover the cost incurred to date, including reinstating experts from retirement, hiring other experts; and anticipates the expense of a post trial brief and the appeal that would be handled by outside counsel. She was unsure whether more expenses would be incurred.

Co-Chair Green commented that the Department decided to withhold \$250,000 of the FY 03 Department-wide unallocated reduction from this section. She opined this is problematic knowing this litigation was ongoing.

Ms. Daughhettee countered that the Legislature directed an unallocated reduction to the Criminal Division. She qualified that carry-over funds were appropriated, but were not sufficient to offset the reduction.

SB 75

Section 4(b)

Oil and Gas Litigation BRU

\$600,000 general funds

Oil and gas caseload shortfall. \$500,000 is needed for the reopener-specific casework and \$100,000 for ongoing D.C. casework primarily regarding Federal Energy Reserve (FERC) and TAPS (utility) reopener. Extended lapse date thru June 30, 2004.

Ms. Daughhettee anticipated one case would begin shortly and would proceed rapidly. She stressed that State must as prepared as the oil companies.

SB 76

Section 9

Deputy Attorney General BRU

\$1,064,300 general funds

\$72,100 PERS funds

Judgments and Claims: \$1,064,246.51 general funds, \$72,053.97 PERS

Ms. Daughhettee noted this annual request is to pay judgments and claims.

Co-Chair Green asked if Committee Members desired to review the specific cases in this section.

No interest was expressed and it was determined that members would review the cases individually and pose questions at a later date if necessary.

Ms. Daughhettee indicated she would prepare information in the event members wanted additional details.

Ms. Daughhettee pointed out that sufficient catastrophic reserve funds, which historically paid expenses arising from settlements of personal injury cases, were no longer available. She reminded this fund is administered by the Department of Administration, Division of Risk Management. She anticipated additional judgments of \$4 to \$5 million during the current fiscal year.

Co-Chair Green and Ms. Daughhettee discussed the option of delaying payment until FY 04, although after July 15, interest would begin to accrue.

SB 76

Section 10

Fourth Judicial District BRU

\$95,000 general funds

Fairbanks DA office had unexpected move and lease costs due to the Department of Transportation and Public Facilities' closure of Fairbanks court building.

Ms. Daughhettee stated that due to budget cuts, the Department of Transportation and Public Facilities decided to close the old courthouse and a move was necessary. She noted that while occupying a State-owned facility, lease was not paid; however, the office now occupies space in a privately owned facility. She noted that the Department of Transportation and Public Facilities paid a portion of the moving expenses utilizing funds saved from the closure of the courthouse. She stated the requested funds are necessary for the remainder of the moving expenses and the balance of the annual lease at the new location.

Co-Chair Green asked if this is a one-time funding request.

Ms. Daughhettee replied that a request for approximately \$200,000 is included in the FY 04 operating budget proposal for lease expenses and moving expenses above the amount contributed by the

Department of Transportation and Public Facilities.

Co-Chair Green requested the budget subcommittee research this matter further.

SB 76
Section 16(7)
\$18,000 general funds
Miscellaneous Claims and Stale-dated Warrants \$17,947.82

Ms. Daughhettee explained this request is to cover payment for services rendered in FY 02 but not invoiced until after the closure of FY 02 accounting.

Co-Chair Green commented that this item is not unusual and she requested the Department implement a system to anticipate the receipt of late invoices.

Ms. Daughhettee stated this is the largest claim of this type for the Department. She explained the situation in which the Legislature authorized transfer of unspent FY 02 funds to FY 03 to cover large budget reductions. She reported that the maximum amount of funds was transferred, resulting in insufficient funds to pay the late invoices.

AT EASE 11:00 AM / 11:01 AM

Co-Chair Wilken asked the balance of the catastrophic reserve fund.

Ms. Daughhettee replied she would provide the information.

#

ADJOURNMENT

Co-Chair Lyda Green adjourned the meeting at 11:02 AM