

MINUTES
SENATE FINANCE COMMITTEE
March 26, 2004
9:01 AM

TAPES

SFC-04 # 59, Side A

CALL TO ORDER

Co-Chair Gary Wilken convened the meeting at approximately 9:01 AM.

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Donny Olson
Senator Ben Stevens

Also Attending: DENNY DEWITT, Special Assistant to the Governor;
LUCKY SCHULTZ, Staff to Senator Fred Dyson; CHERYL FRASCA,
Director, Office of Management and Budget, Office of the Governor

Attending via Teleconference: From Ketchikan: JAMES VAN HORN, State
Commander, Alaska Department of the American Legion, From
Anchorage: LEON BERTRAN, State Services Officer, Alaska American
Legion

SUMMARY INFORMATION

SB 301-PIONEERS' HOMES/VETERANS' HOMES

The Committee heard from the Office of the Governor and took public
testimony. Three amendments were adopted, and the bill reported
from Committee.

SJR 3-CONST AM: APPROPRIATION/SPENDING LIMIT

The Committee heard from the bill's sponsor and the Office of
Management and Budget. One amendment was adopted, one was offered
but withdrawn from consideration, and two were provided for
Committee review. The bill was held in Committee.

#sb301

CS FOR SENATE BILL NO. 301(HES)

"An Act relating to the Alaska Pioneers' Home and the Alaska Veterans' Home; relating to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans' Home; relating to the eligibility of residents for the Alaska Pioneers' Home and the Alaska Veterans' Home for general relief assistance; relating to state veterans' home facilities; making conforming amendments; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated that the Senate Rules Committee by Request of the Governor sponsors this legislation. He noted that the legislation would establish "a statutory framework for the operation of a Veterans Home in accordance with federal law," and would provide the Department of Health and Social Services the ability to acquire additional funding sources for the Alaska Pioneers' Home and Alaska Veterans' Home systems. He noted that a Letter of Intent accompanies the bill.

DENNY DEWITT, Special Assistant to the Governor, Office of the Governor stated that CS SB 301(HES) would allow the Palmer Pioneer Home to be converted into the State's Veterans' Home, culminating twenty years of efforts to create such a Home in the State. He reviewed that, at the direction of Governor Frank Murkowski, the Administration worked with the federal Veterans Administration (VA) to determine workable parameters through which a Home could become a reality; and it was through this process, he continued, that it was concluded that converting the existing Palmer Pioneers' Home into a Veterans' Home could enable veterans to be able "to secure the veterans benefits to which they are entitled."

Mr. DeWitt continued that, initially, the VA has specified that 79 of the Home's 82 total bed capacity would be for veterans. However, he furthered, after lengthy discussions, the VA is contemplating granting a waiver to the State through which the entire 82 beds would be available for veterans. He mentioned that after an the Palmer Home inspection and a review of the both the Palmer and Anchorage Pioneers' Home programs, the VA was "somewhat amazed at the quality and type of care" being offered in the Pioneers' Home system, and were contemplating incorporating some of the State's program into its national VA system.

Mr. DeWitt noted that the VA would pay approximately 65 percent of

the estimated \$3.5 million capital improvements that would be required to align the Palmer facility with VA construction standards, and he stated that a final agreement with the VA is nearing completion. He clarified that the State's funding support for this endeavor is included in the FY 04 Supplemental Appropriations bill, and he expressed that the adoption of this bill would provide for the Veteran's Home authorization and would allow the State to move forward were the supplemental funding request authorized.

Mr. DeWitt explained that the bill's drafting incorporates the term "and Veteran's Home" everywhere in Statute that there is a reference to the Pioneers' Home. He also noted that the bill would provide the State the ability to require Home residents to seek other forms of assistance, such as Medicaid, prior to using the assistance provided by the Home.

He noted that the Administration has worked with veterans and Pioneers' Home groups to address their concerns. He also pointed out that this committee substitute addresses the preponderance of the concerns expressed regarding the transition phase of the project. He stressed that the bill would specify that no current resident of the Palmer Pioneers' Home would be displaced as a result of this legislation. He stated that the State has received transitional authority from the VA that would allow for a gradual transition to the 75-percent veterans/25-percent non-veteran ultimate occupancy, as required by the federal VA home system. He reminded that additional information had been provided to the Committee during the February 5, 2004 Veteran's Home Presentation.

Senator Dyson asked regarding the correctness of the grammatical language change regarding the word "voter" to "voter's" in Sec. 2, subsection (10) on page three, line three that reads as follows.

(10) The address of a voter as it appears on an official voter registration card is presumptive evidence of the person's voting residence. This presumption is negated only by the voter's [VOTER] notifying the director in writing of a change of voting residence.

New Text Underlined [DELETED TEXT BRACKETED]

Co-Chair Green stated that the question should be deferred to the bill's drafter.

Mr. Dewitt agreed that this was a drafting change.

Senator Dyson asked regarding how the Statute change would affect

the other Pioneers' Homes in the State.

Mr. Dewitt understood that this change would not have any affect on the State's other Pioneers' Homes as the change would be limited to adding the term "and Veterans' Home" following any Statutory references to the Pioneers' Home.

Senator Dyson asked whether the reference to the Pioneers' Home should more correctly be referenced as "Pioneers' Homes" in the bill's title and in body of the bill.

Mr. Dewitt again deferred to the bill's drafter.

Co-Chair Wilken stated that this question would be addressed with the bill's drafter.

[NOTE: The bill's drafter, Jean Mischel, Attorney, Legislative Legal Services, stated that drafting regulations require the singular rather than the plural noun to be used, and use of such is not a limiting factor.]

Amendment #1: This amendment inserts the words "Sitka and at other" following "at" in Sec. 15, subsection (a) page 6, line 31. This language would read as follows.

Sec. 15. AS 47.55.010 is repealed and reenacted to read:

Sec. 47.55.010. Maintenance of Alaska Pioneers' Home and Alaska Veterans' Home. (a) The state shall maintain facilities known as the Alaska Pioneers' Home at Sitka and at other sites designated by the commissioner of health and social services.

Co-Chair Green, by request, moved for the adoption of Amendment #1.

Co-Chair Wilken objected for explanation.

Co-Chair Green explained that this language was included in the original Statute; however, she continued, as the Statute was repealed and reenacted, this phrase was deleted. She noted that the Pioneers' Home and others have requested that the original language be retained.

Mr. DeWitt stated that the language was omitted as the result of a "stylist drafting decision", and, he noted that the Administration supports the amendment.

Co-Chair Wilken removed his objection.

There being no further objection, Amendment #1 was ADOPTED.

Amendment #2: This amendment inserts ", up to 50 percent of the total floor space in a home," in Sec. 15 (e) on page eight, line seven, following "space".

Co-Chair Green moved to adopt Amendment #2.

Co-Chair Wilken objected.

Mr. Dewitt explained that one component of this legislation is to address the leasing of excess space in the Pioneers' Home system in order to allow them to be financially viable.

Co-Chair Green asked for clarification regarding where this proposed language should be inserted, as she noted, it might be more correctly placed on line six as opposed to line seven.

Mr. DeWitt understood the location of inserting the language to be correct.

Co-Chair Wilken removed his objection.

There being no other objection, Amendment #2 was ADOPTED.

Senator Dyson noted that language on page six, line 26 also contains language pertinent to his earlier concern regarding the singular and plural correctness of Pioneers' "Home" verses "Homes."

JAMES VAN HORN, State Commander, Alaska Department of the American Legion, testified via teleconference from Ketchikan in support of the bill. He stated that the veterans groups in Alaska have been actively involved in the long-term efforts to establish a Veterans' Home in the State. He noted that the minimum per veteran VA monetary contribution is \$26.95 per day. This he calculated would, for an 82-bed facility, amount to \$800,000 in new federal monies to be available to the State, per year, to assist in offsetting the cost of operating the facility.

LEON BERTRAN, State Services Officer, Alaska American Legion, testified via teleconference from Anchorage and also spoke in favor of this legislation.

Mr. Van Horn voiced his appreciation for Legislature's efforts in support of establishing a Veterans' Home and for their funding appropriation to support the 2003 Veterans' Home Study.

Co-Chair Wilken clarified that the funding support for this legislation is included in the FY 04 Fast Track Supplement bill

rather than in the Department of Health and Social Services fiscal note #1 which is a zero fiscal note.

AT EASE 9:20 AM / 9:20 AM

Conceptual Amendment #3: This amendment corrects the placement of the language being inserted by Amendment #2 to specify that the words being inserted should be inserted on page eight, line six rather than line seven. This language would read as follows.

(e) The department may engage in activities directed to increase revenue from a home. These activities may include the lease of excess bed or floor space, up to 50 percent of the total floor space in a home, or lease of space or buildings that are not in use or are underutilized.

Co-Chair Green moved for the adoption of Conceptual Amendment #3.

Without objection, Conceptual Amendment #3 was ADOPTED.

Co-Chair Green moved to report the bill, as amended, and the HES Committee Letter of Intent from Committee with individual recommendations and accompanying fiscal note.

There being no objection, CS SB 301(FIN) was REPORTED from Committee accompanied by the HES Committee Letter of Intent and with zero fiscal note #1 from the Department of Health and Social Services.

#sjr3

CS FOR SENATE JOINT RESOLUTION NO. 3(JUD)
Proposing an amendment to the Constitution of the State of Alaska relating to an appropriation limit and a spending limit.

This was the sixth hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated that this legislation would result in a Constitutional spending limit.

Amendment #4: This amendment deletes language in the committee substitute, Version 23-LS0296\B on page one, line two as follows.

, and to deposits into the budget reserve fund

In addition, this amendment deletes all language on page two, line 30 through page three, line four of the Version "B" committee substitute. The language being deleted reads as follows.

Sec. 2. Article IX, sec. 17 (c), Constitution of the State of Alaska, is amended to read:

(d) The [IF AN APPROPRIATION IS MADE FROM THE BUDGET RESERVE FUND, UNTIL THE AMOUNT APPROPRIATED IS REPAID, THE] amount of money in the general fund available for appropriation at the end of each [SUCCEEDING] fiscal year shall be deposited in the budget reserve fund. The legislature shall implement this subsection by law.

New Text Underlined [DELETED TEXT BRACKETED}

Furthermore, the amendment deletes language on page three, lines nine through eleven of the committee substitute, version "B" as follows.

...The 2004 amendment relating to deposits to the budget reserve fund (art. IX, sec. 17(d) first applies at the end of the fiscal year 2005 and applies thereafter.

Senator Dyson, the bill's sponsor, moved to adopt Amendment #4. He stated that this amendment is being offered in response to a question from Senator Hoffman regarding whether this legislation violates the single subject rule, by specifying "in this Constitutional amendment legislation" where the money would be deposited.

Co-Chair Wilken objected for further clarification.

Senator Dyson explained that this amendment would delete language that specified, "where any excess monies above the limit would be deposited." As a result, he continued, the original Constitutional language that specifies that excess funds would be deposited into an interest bearing account would be retained. The original language, he continued, provides the Legislature with the flexibility to deposit those funds wherever they decided, to include the Constitutional Budget Reserve (CBR) and the Statutory Budget Reserve.

LUCKY SCHULTZ, Staff to Senator Fred Dyson, noted that this amendment would eliminate the section in the Version "B" committee substitute that referenced the deposit of funds into the CBR. He shared that in order to avoid violating the single rule order, "the decision was made to not encumber the resolution" with this CBR issue.

Co-Chair Wilken understood therefore that the affect of the amendment would be to remove the requirement that any excess funds must be deposited into the CBR. Continuing, he stated that the removal of this language would provide the Legislature the option of depositing funds either into the CBR or the budget reserve.

Mr. Shultz summarized that were this amendment adopted, the original CBR language would be unchanged. Furthermore, he stated, the requirement that any draw from the CBR fund must be repaid, would continue.

Co-Chair Wilken removed his objection.

There being no further objection, Amendment 4 was ADOPTED.

Amendment #3: This amendment inserts "and except as provided in (d) and (e) of this section" after "section" in Section 1, Section 16 on page one, line six of the Version "B" committee substitute.

Furthermore, this amendment deletes all material in Version "B", Section 16, subsection (d) on page two, lines 23-29 and replaces it with the following.

(d) An appropriation that exceeds the appropriation limit under this section may be made for any public purpose identified in a declaration of emergency that is issued by the governor as prescribed by law.

(e) If the governor declares that an extraordinary circumstance exists, upon the affirmative vote of at least two-thirds of the members of each house, this legislature may adopt an appropriation that exceeds the appropriation limit under this section to address the extraordinary circumstance. The declaration shall identify the specific extraordinary circumstance, specify the amount of each appropriation the governor requests, and identify the time period during which expenditures under each appropriation will be made.

Senator Dyson moved to adopt Amendment #3, and objected for explanation.

Mr. Shultz explained that during previous Committee hearings on this bill, there was disagreement as to whether extraordinary circumstances and emergencies "should be lumped together." Upon further review, he continued, the determination was that the Governor should be able to declare an emergency "as he does now without the necessity of having to convene the Legislature" in order to acquire a two-thirds approval. Therefore, he continued, this amendment would serve to separate the extraordinary circumstance language from the emergency language and thereby allow the Governor to declare an emergency, as currently allowed under law. Furthermore, he stated, the extraordinary circumstances language has been retained in that the Governor could declare an extraordinary circumstances with the requirement that its appropriation must be approved by a two-thirds vote of the Legislature. This action, he declared, would provide the Governor and the Legislature "with broad latitude" to address whatever

extraordinary circumstance might develop.

Co-Chair Green asked whether the Committee would be addressing, for the record, the definition of what would be recognized as an extraordinary circumstance.

Mr. Shultz stated that rather than identifying what would constitute an extraordinary circumstance in this legislation, the sponsor desires to allow the Governor and the Legislature to make that determination "at the time."

Co-Chair Green voiced objection to the amendment.

Co-Chair Green removed her objection.

Co-Chair Wilken acknowledged that there is concern about the definition of extraordinary circumstance.

Co-Chair Green reminded the Committee that, approximately four years prior, there had been "terrible difficulty" in arriving at the definition of an emergency and the declaration of an emergency. Therefore, she expressed her "concern that the term extraordinary circumstances could be expanded to mean anything." She requested that, before the Committee includes this language in any Statute, further legal analysis be conducted, as there could be a variety of interpretations. She asked whether other states' experiences in this field could be provided.

Mr. Shultz noted that the State of Connecticut, which has similar legislation in their Constitution, segregates emergencies and extraordinary circumstances. Continuing, he identified the limitations or "sidebars" that Connecticut has placed on extraordinary circumstances, are limited to specifying that "repayment of bonds, loans, or other forms of indebtedness" would not be allowed under that definition.

Senator Dyson voiced that the amendment's language should be included in the Legislation in order to allow the State to address things "that are unforeseen at the present time:" to include "major construction projects" that might be in the State's future that might require the State to expand its infrastructure, train craftsmen, and to expand the State's ability "to supervise and regulate major projects." He stated that this amendment was carefully drafted to separate the terms emergency and extraordinary circumstances, in order for an emergency to be declared as currently allowed, and in order to provide the Governor with the ability to exceed the spending limit for an extraordinary circumstances, provided the Legislature supports it with a two-thirds vote.

Co-Chair Wilken stated that this language suggests that the

extraordinary circumstance determination must begin with the Governor. He asked whether the Legislature could initiate it, and in that case, how would the situation be coordinated with the Governor, who may or may not support the Legislature's position.

Senator Bunde voiced the desire that both the Legislature and the Governor could initiate the extraordinary circumstance action and that both must agree before it advances. He reminded the Committee of the unforeseen disruption caused by the Good Friday earthquake in 1969 that required \$900 million to address. Therefore, he stated, substantial flexibility must be maintained in order to continue the balance of power between the Governor and the Legislature.

Co-Chair Wilken stated that such things as earthquakes and oil spill disasters are not the concern being raised, as, he continued, the concern arises "more from things that are probably less important to the people but more important to the politics that could get out of hand here."

Senator B. Stevens voiced agreement with the concept of providing a mechanism for the Legislature to initiate extraordinary circumstance action, and he declared that the Governor's ability to veto Legislative action would provide the tool to agree or disagree with that action. Therefore, he stated, the Governor's ability to veto or support the Legislative initiative and the Legislature's ability to approve or disapprove by way of the two-thirds vote requirement would provide the balance of power.

Senator Dyson asked that thought be given to the mechanism through which the Legislature could initiate extraordinary circumstance action.

CHERYL FRASCA, Director, Office of Management and Budget, Office of the Governor, observed that the Legislature would be able to indicate their wishes regarding a Governor's extraordinary circumstance initiative by their lack of or support by a two-thirds vote.

Senator Dyson asked Ms. Frasca her opinion in regards to whether the Legislature should be able to declare an extraordinary circumstance.

Ms. Frasca responded that she would check with the Department of Law; as she noted, an issue could result were the Legislature's declaration in the form of a resolution, as the Governor is not permitted to veto a resolution.

Senator Dyson understood therefore, that while Senator B. Stevens would be correct in that the Legislature could initiate a resolution declaring an extraordinary circumstance and appropriate

funds in support of that resolution, the Governor could veto the appropriation.

Senator Dyson moved to withdraw Amendment #3.

There being no objection, Amendment #3 was WITHDRAWN from consideration.

AT EASE 9:41 AM / 9:44 AM

Amendment #5: This amendment, drafted to Version "B" deletes the word "Reconsideration" in Section 30, page three, line seven and replaces it with "Repeal."

In addition, Amendment #5 deletes "and applies thereafter" in Section 30, page three, line nine.

Furthermore, Amendment #5 deletes all material in Section 30 (b) on page three, lines 12- 17 and replaces it with "(b) Section 16 of Article IX (appropriation limit) is repealed on July 1, 2009."

Senator Dyson explained that this amendment is offered for review purposes only as it would result, if adopted, in "a significant policy change."

Co-Chair Wilken reiterated that this amendment is for review purposes and that it might be formally offered at a later time.

Senator Dyson concurred. He explained that this amendment would provide a termination date for this legislation, "four years out," unless the Legislature provides for another Constitutional amendment on a State election ballot. He stated that this approach would provide a four-year window to observe how the legislation performs. He noted that the citizens of the State would be provided the ability to support the legislation, or a modified version of the legislation at that time were the Legislature to support its being offered for continuation.

Senator Dyson opined that a spending limit would be supported by those voters who might not understand some of the issues that might be negatively affected in the future by a unforeseen situation. Continuing, he noted that in four years time, there might be a need to modify the spending limit legislation, and he noted that as the resolution is now written, it would be automatically placed on the ballot, without the requirement for modification. He declared that spending caps are popular with the voting public. The decision regarding whether the legislation might require some modification before it is again placed on the ballot should be, he attested, a policy call made in this Committee.

Amendment #6: This amendment, drafted to Version "B," deletes the

word "Reconsideration" in Section 30 on page three, line seven and replaces it with "Repeal."

In addition, Amendment #6 deletes "and applies thereafter" in Section 30, page three, line nine.

Furthermore, Amendment #6 deletes all material in Section 30 (b) on page three, lines 12-17 and replaces it with the following language.

(b) On July 1, 2009, Section 16 of Article IX (appropriation limit) is repealed and readopted as it read on January 1, 2003.

Senator Dyson stated that Amendment #6 is presented for Committee review, in the same manner as Amendment #5. This amendment, he continued, would repeal the legislation but would reinstitute the spending cap that was put into effect in approximately 1982, which he stated, some argue to have been ineffective. He stated that this language would leave the Legislature with nothing and require that "one-third of the budget be expended on capital."

Senator Dyson asked the Members to review these amendments and the subsequent policy calls they might present.

Senator Dyson stated that the Legislative Finance Division would be forthcoming with an additional amendment, as they have determined that language in the bill pertaining to an "average in the formula" does not do what was intended.

Ms. Frasca also noted that there would be another Legislative Finance amendment that would address a duplication in services issue.

Senator Dyson commented that he is "frustrated by the process but absolutely delighted by the product" that is being developed. He noted that similar legislation with "similar conclusions" is being addressed in the House of Representatives.

The bill was HELD in Committee.

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ADJOURNMENT

Co-Chair Gary Wilken adjourned the meeting at 09:51 AM.