

**ALASKA STATE LEGISLATURE  
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

May 13, 2003

2:20 p.m.

**TAPE(S) 03-32**

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

Confirmation Hearings

Colleen Scanlon - Alaska Labor Relations Agency  
Charlotte Lushin - Board of Barbers and Hairdressers  
Joylene A. Marrs - Board of Barbers and Hairdressers  
Dr. David Mulholland - Board of Chiropractic Examiners  
Brad J. Fluetsch - Real Estate Commission  
Barbara Parker-Ramsey - Real Estate Commission  
David B. Somers - Real Estate Commission  
Z. Kent Sullivan, Esq. - Real Estate Commission  
Steven Torrence - Board of Veterinary Examiners  
Mr. John Abshire - Workers Compensation Board  
Mr. Richard Behrends - Workers Compensation Board  
Mr. Andrew Piekarski - Workers Compensation Board  
Mr. Marc Stemp - Workers Compensation Board

CS FOR HOUSE BILL NO. 135(HES)

"An Act relating to marital and family therapists."

MOVED SCS CSHB 135(HES) OUT OF COMMITTEE

SENATE BILL NO. 218

"An Act authorizing a pilot program relating to state procurement and the use of electronic commerce tools; and providing for an effective date."

MOVED SB 218 OUT OF COMMITTEE

SENATE CONCURRENT RESOLUTION NO. 14

Relating to requesting the Governor to negotiate a 40-hour workweek with state employees.

MOVED SCR 14 OUT OF COMMITTEE

SENATE CS FOR CS FOR HOUSE CONCURRENT RESOLUTION NO. 21(FIN)

Relating to establishing the Alaska Energy Policy Task Force.

MOVED SCS CSHCR 21(FIN) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 234(RLS) am

"An Act extending the termination date of the Alcoholic Beverage Control Board; relating to the sale of beer manufactured at a brewpub; and providing for an effective date."

MOVED SCS CSHB 234(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 83

"An Act adopting a version of the Revised Uniform Arbitration Act; relating to the state's existing Uniform Arbitration Act; amending Rules 3, 18, 19, 20, and 21, Alaska Rules of Civil Procedure, Rule 601, Alaska Rules of Evidence, and Rule 402, Alaska Rules of Appellate Procedure; and providing for an effective date."

HEARD AND HELD

#### **PREVIOUS ACTION**

HB 135 - See HESS minutes dated 4/23/03. See Labor and Commerce minutes dated 5/8/03.

SB 218 - No previous action to record.

SCR 14 - No previous action to record.

HCR 21 - No previous action to record.

HB 234 - No previous action to record.

HB 83 - No previous action to record.

#### **WITNESS REGISTER**

#### CONFIRMATION HEARINGS

Ms. Colleen Scanlon - Alaska Labor Relations Agency

Ms. Charlotte Lushin and Ms. Joylene Marrs - Board of Barbers and Hairdressers

Mr. Steve Torrence - Board of Veterinary Examiners

Mr. Richard Behrends and Mr. Andrew Piekarski - Worker's Compensation Board

Mr. David Jacobs  
Staff to Representative Peggy Wilson  
Alaska State Capitol  
Juneau AK 99801-1182

**POSITION STATEMENT:** Commented on HB 135 for the sponsor.

Mr. Scott Hawkins, General Manager  
Alaska Supply Chain Integrators  
Anchorage AK

**POSITION STATEMENT:** Supported SB 218.

Mr. Vern Jones, Chief Procurement Officer  
Department of Administration  
PO Box 110200  
Juneau AK 99811-0200

**POSITION STATEMENT:** Commented on SB 218.

Mr. Lynn Johnson, President  
Dowland-Bach Corporation  
6130 Tuttle Place  
Anchorage AK

**POSITION STATEMENT:** Supported SB 218.

Mr. Don Etheridge  
AFL-CIO  
710 W. 10 St.  
Juneau AK 99801

**POSITION STATEMENT:** Opposed SCR 14.

Mr. Tom Wright  
Staff to Representative John Harris  
Alaska State Capitol  
Juneau AK 99801-1182

**POSITION STATEMENT:** Commented on HCR 21.

Mr. Eric Yould, Executive Director  
Alaska Rural Electric Cooperative Association (ARECA)  
703 West Tudor Road Number 200

Anchorage, Alaska 99503  
**POSITION STATEMENT:** Supported HCR 21.

Ms. Pat Davidson  
Division of Legislative Budget and Audit  
Legislative Affairs Agency  
PO Box 113300  
Juneau AK 99811-3300  
**POSITION STATEMENT:** Commented on HB 234.

Mr. Matt Jones, Founder  
Moose's Tooth  
Anchorage AK  
**POSITION STATEMENT:** Supported HB 234.

Ms. Lisa Weissler  
Staff to Representative Ethan Berkowitz  
Alaska State Capitol  
Juneau AK 99801-1182  
**POSITION STATEMENT:** Commented on HB 83 for the sponsor.

Mr. Grant Callow, Attorney  
Alaska Commissioner  
National Conference of Commissioners on Uniform State Laws  
Anchorage AK  
**POSITION STATEMENT:** Supported HB 83.

#### **ACTION NARRATIVE**

#### **TAPE 03-32, SIDE A**

**CHAIR CON BUNDE** called the Senate Labor and Commerce Standing Committee meeting to order at 2:20 p.m. Present were SENATORS STEVENS, DAVIS and BUNDE. The Chair announced the committee would first take up the confirmation hearings.

#### ^CONFIRMATION HEARINGS

#### ^Alaska Labor Relations Agency

MS. COLLEEN SCANLON, Alaska Labor Relations Agency nominee, said she was honored to serve. For the last 11 years, she has managed her family art gallery business in Ketchikan and has been on both the Visitors Task Force and the Chamber of Commerce Task Force. She has a lot of involvement with state regulations and labor laws and has taken a class in human resource management.

CHAIR BUNDE thanked her for her comments and said they would move her name forward to the joint session.

CHAIR BUNDE turned the gavel over to Senator Stevens for the Board of Barbers and Hairdressers as he had a conflict.

^Board of Barbers and Hairdressers

MS. CHARLOTTE LUSHIN, nominee for the Board of Barbers and Hairdressers, said she had been in the field since 1979 and feels that she has the experience to represent barbers.

SENATOR FRENCH arrived at 2:23 p.m.

SENATOR STEVENS thanked her and asked Joylene Marrs to comment on her nomination.

MS. JOYLENE MARRS, nominee for the Board of Barbers and Hairdressers, said she feels that she can add a lot to the board as the public member. She said that barbers and hairdressers have been mandated, on a trial basis for one year, to give a standardized test for certification and she looks forward to working with that issue.

SENATOR STEVENS thanked her for her comments and said they would forward her name to the joint session for consideration.

^Board of Chiropractic Examiners

CHAIR BUNDE announced that the nominee to the Board of Chiropractic Examiners, Dr. Mulholland, had to leave and that the nominees to the Real Estate Commission, Brad Fluetsch, Barbara Parker-Ramsey, David Sommers and Z. Kent Sullivan, Esq., had a teleconference conflict. He announced the committee would take up consideration of nominee Steve Torrence to the Board of Veterinary Examiners.

^Board of Veterinary Examiners

DR. STEVE TORRENCE, nominee to the Board of Veterinary Examiners, said he primarily practices small animal medicine in Fairbanks and that he was recently asked to serve on the board. He thought this will be a good opportunity to serve his profession and his state.

^Worker's Compensation Board

CHAIR BUNDE thanked him on behalf of the committee for his willingness to serve and forwarded his name to the joint session for consideration. He announced the committee would next take up the nominees to the Worker's Compensation Board and that Mr. John Abshire was not present.

MR. RICHARD BEHREND, nominee to the Workers Compensation Board, said he was planning on doing his civil responsibility by serving on the board.

CHAIR BUNDE thanked him for being here and said the committee would forward his name to the joint session for confirmation.

MR. ANDREW PIEKARSKI and MR. MARC STEMP, nominees for the Workers Compensation Board, were not present and the chair asked if there were any objections to their confirmations. None were indicated.

SENATOR STEVENS moved to forward the nominations to the joint session. There were no objections and it was so ordered.

#### **CSHB 135(HES)-MARITAL & FAMILY THERAPISTS**

CHAIR BUNDE announced CSHB 135(HES) to be up for consideration and said the last discussion the committee had was about the words "and/or".

MR. DAVID JACOBS, staff to Representative Peggy Wilson, sponsor, offered to answer questions.

CHAIR BUNDE said that committee members have a letter from Mr. Holman who suggested that it wasn't necessary to add "and" rather than "or" to allow a practitioner to use discretion and asked if there was any more public discussion. None was indicated.

SENATOR FRENCH moved to pass SCS CSHB 135(L&C) from committee with attached fiscal notes and individual recommendations. SENATORS STEVENS, FRENCH, DAVIS, and BUNDE voted yea and the motion carried.

#### **SB 218-STATE PROCUREMENT PILOT PROGRAM**

CHAIR BUNDE announced SB 218 to be up for consideration. He said folks had talked to him about the idea of creating a pilot program for the state procurement program that might save some money. The procurement procedures to be used in the pilot

program have promoted efficiency and cost savings in private enterprise. The bill has a zero fiscal note.

MR. SCOTT HAWKINS, General Manager, Alaska Supply Chain Integrators, said his company has a great deal of interest in the general concept of cost savings through automation and process excellence around supply chain management. The company is four years old and employs 160 people. They provide procurement, requisitioning, receiving, warehouse management and a whole host of other services that support large purchasing institutions. Their tool of choice for automation efficiency is e-commerce and they have quietly become one of the largest business-to-business Internet e-commerce sites in the country, transacting several million dollars a year in purchase orders and tens of thousands of purchase orders per year. He has been able to deliver savings of 35 to 50% in the overhead cost of transactions. Typically, he has been able to deliver another 5 to 10% in the cost of items that are being procured.

CHAIR BUNDE said he thought the potential savings could be \$5 to \$20 million.

MR. HAWKINS said he thought that was a conservative estimate.

SENATOR SEEKINS arrived at 2:35 p.m.

SENATOR FRENCH asked if the state is engaged in e-commerce now.

MR. HAWKINS said his understanding is that the state uses some e-commerce tools, such as ordering from websites.

SENATOR FRENCH noted this bill is exempt from AS 36.30 and asked for a description of that statute.

MR. HAWKINS replied AS 36.30 is the state procurement code and the exemption is for the purposes of the pilot program.

MR. VERN JONES, Chief Procurement Officer, told members:

SB 218 would allow the Department of Administration to establish the pilot program that includes a privatized procurement model with technological advancements. Under the bill, a private sector contractor would take over a governmental unit's procurement activities with the goal of achieving savings on both the cost of goods and services purchased as well as savings on acquisitions costs. The department believes that there

is potential for cost savings. The administration is interested in exploring just how significant those savings could be.

Any changes to our current procurement operations, even for a pilot project, would require the administration to do several things. First, we would have to study the organizational structure, the mix of goods and services procured by various state entities in order to select an appropriate unit for the pilot. We would also have to conduct a feasibility study as required by union bargaining agreements. Any time we are displacing state employees we need to do that under our various contracts. If that feasibility study indicates that there are substantial savings, we would then likely develop policies and procedures that would govern the privatized procurement process.

Just exempting the contractor from our state procurement code, I think, would create a void. We would probably have to have some policies and procedures that people had some confidence, insured fairness and some sort of due process since we are spending government money. We would then have to select a private sector provider to operate the pilot program. We would intend to do that through our state procurement process that's in place now. If the bill becomes law, those are the steps that we intend to follow.

CHAIR BUNDE asked if the agencies that would participate have been chosen yet, and whether the commissioner of the Department of Administration in collaboration with Mr. Jones will decide who will participate.

MR. JONES replied the selection of the Department of Administration implies that the agencies are going to be from the executive branch.

SENATOR STEVENS asked Mr. Jones to explain a little about the state procurement process and whether a bid process is used. He also noted the sunset date of 2006 and asked if the procurement bid will be awarded for a three-year period.

MR. JONES replied:

Yes, the selection of any contractor would be subject to our procurement code. The bill does not exempt the selection of the contractor, but rather the procurement activities done by the contractor.

Would we do a bid? We would probably not do a bid. We would probably do a request for proposals [RFP] whereby we select the contractor based on a number of factors including cost. I'm not confident that we could write bid specifications sufficiently tight in order to make a selection based on low cost alone. So we would probably use an RFP.

The process that I've outlined would likely take a number of months to accomplish. I'm not certain how. It's been a long time since we've conducted a feasibility study and there's a give and take with the unions and there's the developing procedures and the procurement process, itself...The bill allows for a pilot no longer than three years and we feel with a sunset date of 2006 - that's possible, at least.

SENATOR FRENCH asked if the executive branch is involved in all electronic purchasing now and, if so, how this program would differ.

MR. JONES replied that the executive branch has a limited involvement in electronic commerce, mostly on the reconciliation and payment side. He told members:

It would be a stretch, though, to say that we had any kind of a procurement system really, and it's definitely not an automated procurement system. It's more of a manual system. That's one of the inherent problems we have with efficiency in state procurement right now. The Department of Administration is trying to address that through a larger project.

MR. LYNN JOHNSON, President, Dowland-Bach Corporation, said his company is 28 years old and headquartered in Anchorage. It is a main supplier of control systems, UL panels and process control systems, instrumentation products, stainless steel piping and sheet metal fabrication. They have other business interests in Alaska including manufacturing and exporting. They are also a minor affiliate of Alaska Supply Chain Integrators. He testified that SB 218 is a great idea and has the potential to save the

state a great deal of money by reducing costs and automating the procurement process.

SENATOR FRENCH thanked Mr. Johnson for taking the time to testify today. He moved to pass SB 218 from committee with the attached fiscal note. SENATORS DAVIS, STEVENS, SEEKINS, FRENCH and BUNDE voted yea; and SB 218 was moved from committee.

**SCR 14-40-HOUR WORK WEEK FOR STATE EMPLOYEES**

CHAIR BUNDE announced SCR 40 to be up for consideration. He said that state workers negotiated shorter hours when the state was in different fiscal circumstances and that he had heard unfair criticism of state workers. He frequently asks people to address the realities of our fiscal situation and to also consider paying a state income tax. The answer he gets is that no one wants to pay taxes until state workers start working a 40-hour workweek. This resolution encourages the administration in their negotiations with the various public employee unions to move toward a 40-hour workweek. He maintained, "It increases productivity and, I think, increases public confidence in the efficiency of state employees."

MR. DON ETHERIDGE, AFL-CIO, said the AFL-CIO has negotiated this issue several times in the past. It was ratified by the memberships but rejected by the legislature nine years ago. This administration asked the unions if they were interested, and they were, but then the administration said they weren't interested any more. The reason they are on a 37.5-hour workweek is because hours were reduced years ago as an additional pay increase. He explained:

Our memberships and our leaderships feel that if we do go back to the 40-hour workweek, we should be looking at being paid for those additional hours that we put in, which would be only right. If you're expected to work more, you should be paid for those hours.

In the past, the contracts that we did negotiate, we negotiated a straight 40 hours at the current rate, no increases for I think the one Local 71, did. There were no increases for a three-year period if we went on the 40-hour workweek and that was one of the contracts that was rejected....

SENATOR STEVENS asked how many labor unions he represents and how many the state is dealing with.

MR. ETHERIDGE replied that the state bargaining unit is made up of 12 units. Some of them are at the table right now and others will be negotiating later this year. Not all 12 are under the 37.5-hour workweek. Some work 40 hours; some work 80 hours, such as the marine units.

SENATOR FRENCH asked if some employees work for a straight hourly wage and submit a time sheet for hours worked.

MR. ETHERIDGE replied yes, the majority of employees are in that category.

SENATOR FRENCH asked if the work hours are increased to 40, the employees would just get that many more hours on their paychecks every two weeks.

MR. ETHERIDGE said that is right.

SENATOR FRENCH asked if some employees are salaried but also get overtime.

MR. ETHERIDGE replied that some are, but he isn't familiar with which ones.

SENATOR FRENCH said it sounds like most employees are hourly and salaried with no overtime.

MR. ETHERIDGE agreed.

SENATOR STEVENS asked if overtime is paid for hours worked between 37.5 and 40 hours.

MR. ETHERIDGE replied that some are, but the majority work up to 40 hours at the straight time rate.

SENATOR SEEKINS moved to pass SCR 14 out of committee with individual recommendations and its attached zero fiscal note. SENATOR STEVENS, DAVIS, SEEKINS and BUNDE voted yea; SENATOR FRENCH voted nay; and SCR 14 moved out of committee.

#### **HCR 21-ALASKA ENERGY POLICY TASK FORCE**

CHAIR BUNDE announced HCR 21 to be up for consideration.

MR. TOM WRIGHT, staff to Representative John Harris, said the Representative introduced this resolution because he saw the

need for the state to come up with a comprehensive long-term energy plan. A long-term plan would help the state promote more economic development, technological advancement and create an energy plan so the legislature has some guidelines.

CHAIR BUNDE asked how the task force would be established.

MR. WRIGHT replied it would have a member from the Board of Directors of the Alaska Energy Authority, the commissioner of the Department of Revenue, two members chosen by the governor, two members chosen by the Speaker of House, three members by the Senate President, one who would be selected by the minority members from the House and Senate from a list of three names in consultation with the speaker. The task force would elect its own chair from the membership.

CHAIR BUNDE noted the fiscal note of \$78,000.

MR. WRIGHT responded they want to staff the task force because it will get technical assistance from AIDEA and the Alaska Energy Authority. They feel the task force will be undertaking two comprehensive plans - one being the Railbelt portion (to be submitted to the legislature by December 31) and the other being the non-Railbelt portion (to be submitted by March 31), so fiscal note needs to cover staff time.

SENATOR STEVENS said in the case of the Salmon Task Force, it was nice to have a legislator on it that could shepherd the bill through the legislature. He wanted to know why a legislator would not be involved in this.

MR. WRIGHT replied that the reason Representative Harris wanted to keep this within the industry is because there would be a lot of discussions around the technical aspects and he didn't want to see a lot of politics involved. He added there is nothing to preclude anyone from the legislature from participating in the task force.

CHAIR BUNDE asked since the task force will focus mostly on electrical energy, it would be more appropriate to rename the task force the "Electrical Energy Task Force."

MR. WRIGHT agreed that it is focused on electrical needs and said, "It could go one way or the other, Mr. Chairman..."

CHAIR BUNDE stated, for the record, that this will be an electrical task force that will not be involved in petrochemicals.

SENATOR FRENCH asked for an example of a state-owned Railbelt energy asset.

MR. WRIGHT replied Healy and possibly Bradley Lake, because the state financed half of that project. He didn't know if the state was an owner in it, though.

SENATOR SEEKINS asked if this obligates any legislature to adopt any plan that is presented.

MR. WRIGHT replied, "No, it does not."

MR. ERIC YOULD, Executive Director, ARECA, said his members generate about 90% of the electricity around the state and feel this resolution has merit. Some large projects on Alaska's horizon are beyond the abilities of the individual utilities to pursue - for instance, a transmission line from Nenana to Dominion Creek and the Intertie from Anchorage to Fairbanks and Kenai. There is a transmission line that could go from Delta to Tok, through Glennallen and back into the Anchorage area that would be very important considering that there might be a gas line terminal facility in the Valdez area in the future. In order to liquefy that gas, put it in barges and ship it to market, tremendous amounts of waste heat would be generated and that heat alone could generate up to 300 megawatts of capacity that could be fed back into the Railbelt area.

**TAPE 03-32, SIDE B**

MR. YOULD thought a task force would be much more effective than an interdepartmental study by a state agency, which would take a long time.

SENATOR SEEKINS moved to pass CSHCR 21(FIN), version H, from committee with individual recommendations and the attached fiscal note. SENATORS FRENCH, SEEKINS, STEVENS, DAVIS and BUNDE voted yea and HCR 21 passed from committee.

CHAIR BUNDE noted that Mr. Kent Sullivan, nominee for the Real Estate Commission, just showed up and that the committee had already forwarded his name to the joint session. He asked Mr. Sullivan to introduce himself and comment on his qualifications for this appointment.

MR. KENT SULLIVAN, nominee for the Real Estate Commission, said he is currently a litigation attorney and has lived in Juneau for 2.5 years. He came from Montana and was a lawyer with a firm that specialized primarily in real estate and property law, including transaction work, lobbying, legislation and litigation. He is anxious to serve on the commission, give a little back to the state and to work in an area that is his primary interest.

CHAIR BUNDE thanked him for his willingness to serve.

### HB 234-BREW PUBS; ABC BOARD

CHAIR BUNDE announced HB 234 to be up for consideration.

MR. KEITH HILLIARD, staff to Representative Lesil McGuire, sponsor of HB 234, said it does basically three things and that there was a blank CS before the committee.

SENATOR SEEKINS moved to adopt SCSCSHB234 (L&C), version B, as the working document. There were no objections and it was so ordered.

MR. HILLIARD explained that the committee substitute they just adopted establishes that the Alcohol Beverage Control (ABC) Board under the Department of Public Safety for administration. The department felt that the investigative responsibilities of the ABC Board needed to be under their direction rather than the Department of Revenue.

Second, it addresses current inconsistencies in Alaska statute found in AS 04.111.135(d) regarding the sales of beer by brewpubs in quantities of not more than five gallons per day, so-called growlers.

Under current statutory language, sales of growlers are limited to brewpubs that brew their beer on the premises, but this restriction unfairly disadvantages Alaskan brewpub operators who may brew their product in one location of the state and dispense it at another. So, we're going to remove that arbitrary restriction. Lastly, SCSCSHB 234(L&C) extends the life to the Alcoholic Beverage Control Board to June 30, 2007.

MS. PAT DAVIDSON, Legislative Auditor, said their report contained eight recommendations and two of them were for legislative changes; five were operational improvements; one was to the Governor's Office recommending that they move faster in keeping the board filled. There was general concurrence by the ABC staff with the recommended operational improvements.

MS. DAVIDSON said she recommended a three-year rather than a four-year extension that would provide for timely follow-up of issues identified during the course of the audit. The two statutory recommendations are first to have the ABC Board determine the need to get investigative responsibilities for gambling and prostitution. While the idea that when the investigators are in the bars, they be looking for other illegal activity is appealing from a synergistic standpoint, anytime there is an investigation, it takes time and energy. Right now, there was more than enough work for the ABC investigators focusing on issues critical to the state for controlling alcohol. Investigating prostitution and gambling expands the scope of the work assigned to the ABC investigators, but there was no additional funding for additional investigators and no more time to do their job. The audit recommended that the legislature refocus any violations on the alcohol laws of the state.

The second recommendation was to consider whether or not the ABC Board should be given the authority to do summary suspensions. Those are powers that are allowed on a great many boards, like occupational boards. In recommending that, she recognizes that there needs to be a clear presence of an emergency, because a summary suspension has significant economic impact on the owners and employees of the establishment. Careful consideration would have to be given to what constituted the emergency and be put in regulation.

SENATOR STEVENS asked if she had seen the letter from Homer Brewing Company.

MS. DAVIDSON answered that she had not.

SENATOR STEVENS said his concern was over verbiage regarding brewpubs.

CHAIR BUNDE commented that the turf battles would continue on.

MR. MATT JONES, Moose's Tooth in Anchorage, said this bill seeks to amend a drafting oversight that was made in the 1999 bill

that singled them out as the one brewpub that cannot sell growlers.

All other brewpubs are allowed to sell growlers, but because our brewing facility is not co-located with our restaurant facility and the language of the 1999 bill said that growlers had to be sold where the beer is manufactured...

All other brewpubs that are covered under a separate section were allowed to sell their growlers where a customer was present on the licensed premises in the retail area. We have been the one brewpub that can't sell their growlers to a person who is present at the restaurant...

Representative Rokeberg said this was never the intended consequence when he drafted this legislation back in 1999.

2:21 p.m.

SENATOR STEVENS said he was sure Mr. Jones didn't have the letter from Homer Brewing that said this legislation would widen the gap between brewpub licensees and brewery licensees and would hurt present and future breweries. He asked if he had any comments on that issue.

MR. JONES responded said he didn't think this legislation would change the position between brewpubs and breweries. "All it would do is put us back in having the same bundle of rights as all other brewpubs currently have..."

CHAIR BUNDE asked if there was a maximum gallonage he could use off premise.

MR. JONES replied yes, that they have a total production cap and a [indisc.] cap.

CHAIR BUNDE asked if that cap wouldn't exist for a brewery.

MR. JONES replied there is no cap for a brewery.

SENATOR SEEKINS moved to pass SCS CSHB 234(L&C), version B, from committee with attached fiscal note and individual recommendations. SENATORS DAVIS, FRENCH, SEEKINS, STEVENS and BUNDE voted yea and the motion carried.

**HB 83-REVISED UNIFORM ARBITRATION ACT**

CHAIR BUNDE announced HB 83 to be up for consideration.

MS. LISA WEISSLER, staff to Representative Berkowitz, said the Revised Uniform Arbitration Act was adopted in 1968. She explained that arbitration is essentially private resolution of a dispute; it's a voluntary process and provides a relatively speedier, lower cost and more efficient means of resolving disputes. The uniform acts around the entire country need to be revised because there is an increasing use of arbitration and a variety of issues have come up that were not addressed by the original act. The revised act seeks to address some of those issues.

The National Conference of Commissioners on Uniform State Laws drafted the act that is the basis for this legislation and HB 83 essentially follows what they have recommended. Grant Callow is the Alaska representative on the Conference and can provide testimony on this issue. Representative Berkowitz is bringing this forward on behalf of the Commission.

MR. GRANT CALLOW, Alaskan member, National Conference of Commissioners on Uniform State Laws, said he practices law in Anchorage. This act was drafted by the Commission and is a revision of the original act that was created in 1955. It is an update of the Uniform Arbitration Act, because of changes in procedure. It also takes into account certain court decisions and other issues that came up over the years and need to be addressed. Those can best be addressed in a revision that will make revisions uniform across the states.

He explained that new procedures have been incorporated that allow more flexibility in terms of how arbitrations are conducted - for instance, when multiple arbitrations are going on involving similar issues arriving from similar events like contract interpretations, the revised act, among other things, allows all those to be consolidated. This is important because the number of disputes to be resolved by arbitration seems to be growing yearly by significant amounts. If more disputes can be resolved privately through arbitration instead of in the courts, the reduction in the caseload will have a positive fiscal impact on the state.

He highlighted one of the revisions that provides that [the uniform act] is a default act and that most of its provisions

may be waived by contract, but there are some provisions that may not be waived or varied. Those include the basic rule that any agreement to submit a dispute to arbitration is valid and that the rules that govern disclosure of facts by a neutral arbitrator are in place. In addition, rules guaranteeing enforcement of an appeal of the act cannot be waived and an arbitration decision in a court cannot be waived.

MR. CALLOW said it also sets forth standards for when awards can be vacated and allows the court to order provisional remedies during the course of arbitration before an arbitrator is selected. That is important because it prevents parties from delaying the selection of an arbitrator in order to delay the proceedings and somehow dissipate the effect of an arbitration award.

MR. CALLOW explained this bill also addresses the issue of arbitrators' immunity to civil liability. Judges, unless they perpetrate some kind of fraud, are immune from civil liability for their decision-making and that wasn't made clear in the 1955 act. The upshot of that is in some circumstances, arbitrators have been sued for no good reason. In most cases those suits don't go anywhere, but having a provision in the act that says that arbitrators are immune from civil liability will insure a supply of arbitrators. It also prevents a situation where a person who had arbitration would have to have another proceeding in court on the same issue.

SENATOR FRENCH asked if this bill was modeled on a uniform act that is being adopted in other states.

MR. CALLOW replied yes; this has already been enacted in 12 other states and was just approved by the Commission and the AVA.

SENATOR FRENCH asked if all the stakeholders had an opportunity to provide input into the uniform act.

MR. CALLOW replied yes, absolutely.

CHAIR BUNDE said they were running out of time today and held the bill for further work.

### **SB 32-INSURANCE FOR MOTOR VEHICLE REPAIRS**

CHAIR BUNDE announced that SB 32 needs more work. He appointed Senator Seekins as the chair of a subcommittee and extended an

invitation to join the subcommittee to any committee members who might want to work with Senator Seekins and the bill's sponsor over the interim to come up with a compromise solution for next session.

CHAIR BUNDE adjourned the meeting at 3:35 p.m.