

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

April 15, 2004

1:30 p.m.

TAPE(S) 04-32, 33

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Gary Stevens

COMMITTEE CALENDAR

^CONFIRMATION HEARINGS

^BRD OF REGIS FOR ARCHITECTS, ENGINEERS AND LAND SURVEYORS

Clifford E. Baker - Kenai
Boyd J. Brownfield - Anchorage
Richard A. Hughes - Fairbanks
Kenneth D. Maynard - Anchorage

^ALASKA LABOR RELATIONS AGENCY

Gary P. Bader - Anchorage
Dennis Niedermeyer - Eagle River
James S. Spalding - Anchorage

CS FOR HOUSE BILL NO. 428(JUD) am

"An Act relating to civil liability for acts related to obtaining alcohol for persons under 21 years of age or for persons under 21 years of age being on licensed premises."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 272

"An Act relating to certain monetary advances in which the deposit or other negotiation of checks to pay the advances is delayed until a later date; and providing for an effective date."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 358

"An Act relating to the performance of railroad track construction work for the Department of Transportation and Public Facilities by the Alaska Railroad Corporation."

MOVED SB 358 OUT OF COMMITTEE

SENATE BILL NO. 377

"An Act relating to the state's mechanical code, to mechanical contractors and mechanical administrators, to mechanical standards and inspections involved in certain housing loans, and to the adoption of the state's mechanical code; and providing for an effective date."

HEARD AND HELD

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 29(JUD) am

"An Act relating to real estate licensees and real estate transactions; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE BILL NO. 91(FIN)

"An Act relating to medical benefits for retired peace officers after 20 years of credited service."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 358

SHORT TITLE: ALASKA RAILROAD TRACK WORK

SPONSOR(S): TRANSPORTATION

03/03/04	(S)	READ THE FIRST TIME - REFERRALS
03/03/04	(S)	TRA, L&C
03/04/04	(H)	TRA AT 1:30 PM CAPITOL 17
03/04/04	(H)	-- Meeting Canceled --
03/05/04	(S)	TRA RPT 3DP 2NR
03/05/04	(S)	DP: WAGONER, COWDERY, THERRIAULT
03/05/04	(S)	NR: LINCOLN, OLSON
03/23/04	(S)	L&C AT 1:30 PM BELTZ 211
03/23/04	(S)	Heard & Held
03/23/04	(S)	MINUTE(L&C)
04/01/04	(S)	L&C AT 1:30 PM BELTZ 211
04/01/04	(S)	<Bill Hearing Postponed>

04/13/04 (S) L&C AT 1:30 PM BELTZ 211
04/13/04 (S) -- Meeting Canceled --
04/15/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 377

SHORT TITLE: STATE MECHANICAL CODE

SPONSOR(S): LABOR & COMMERCE

03/26/04 (S) READ THE FIRST TIME - REFERRALS
03/26/04 (S) L&C, FIN
04/01/04 (S) L&C AT 1:30 PM BELTZ 211
04/01/04 (S) Heard & Held
04/01/04 (S) MINUTE(L&C)
04/15/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 29

SHORT TITLE: REAL PROPERTY TRANSACTIONS/LICENSEES

SPONSOR(S): REPRESENTATIVE(S) ROKEBERG

01/21/03 (H) PREFILE RELEASED (1/10/03)
01/21/03 (H) READ THE FIRST TIME - REFERRALS
01/21/03 (H) L&C, JUD
01/20/04 (H) SPONSOR SUBSTITUTE INTRODUCED
01/20/04 (H) READ THE FIRST TIME - REFERRALS
01/20/04 (H) L&C, JUD
02/04/04 (H) L&C AT 3:15 PM CAPITOL 17
02/04/04 (H) Moved CSSSHB 29(L&C) Out of Committee
02/04/04 (H) MINUTE(L&C)
02/05/04 (H) L&C RPT CS(L&C) 6DP 1NR
02/05/04 (H) DP: CRAWFORD, LYNN, GATTO, ROKEBERG,
02/05/04 (H) DAHLSTROM, ANDERSON; NR: GUTTENBERG
02/18/04 (H) JUD AT 1:00 PM CAPITOL 120
02/18/04 (H) Heard & Held
02/18/04 (H) MINUTE(JUD)
02/20/04 (H) JUD AT 1:00 PM CAPITOL 120
02/20/04 (H) Moved CSSSHB 29(JUD) Out of Committee
02/20/04 (H) MINUTE(JUD)
02/26/04 (H) JUD RPT CS(JUD) 4DP 2NR
02/26/04 (H) DP: SAMUELS, ANDERSON, OGG, MCGUIRE;
02/26/04 (H) NR: GARA, GRUENBERG
03/04/04 (H) TRANSMITTED TO (S)
03/04/04 (H) VERSION: CSSSHB 29(JUD) AM
03/05/04 (S) READ THE FIRST TIME - REFERRALS
03/05/04 (S) L&C, JUD
04/15/04 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 91

SHORT TITLE: RETIRED PEACE OFFICER'S MEDICAL BENEFITS
SPONSOR(s): REPRESENTATIVE(s) ANDERSON

02/12/03 (H) READ THE FIRST TIME - REFERRALS
02/12/03 (H) L&C, FIN
02/21/03 (H) L&C AT 3:15 PM CAPITOL 17
02/21/03 (H) Moved Out of Committee
02/21/03 (H) MINUTE(L&C)
02/24/03 (H) L&C RPT 4DP 1NR
02/24/03 (H) DP: GATTO, CRAWFORD, GUTTENBERG,
02/24/03 (H) ANDERSON; NR: ROKEBERG
03/18/03 (H) FIN AT 1:30 PM HOUSE FINANCE 519
03/18/03 (H) Heard & Held
03/18/03 (H) MINUTE(FIN)
02/17/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/17/04 (H) Heard & Held
02/17/04 (H) MINUTE(FIN)
02/19/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/19/04 (H) Moved CSHB 91(FIN) Out of Committee
02/19/04 (H) MINUTE(FIN)
02/23/04 (H) FIN RPT CS(FIN) NT 3DP 7NR
02/23/04 (H) DP: CROFT, FATE, WILLIAMS; NR: MEYER,
02/23/04 (H) HAWKER, JOULE, MOSES, CHENAULT, FOSTER,
02/23/04 (H) HARRIS
03/04/04 (H) TRANSMITTED TO (S)
03/04/04 (H) VERSION: CSHB 91(FIN)
03/05/04 (S) READ THE FIRST TIME - REFERRALS
03/05/04 (S) STA, L&C, FIN
03/18/04 (S) STA AT 3:30 PM BELTZ 211
03/18/04 (S) Heard & Held
03/18/04 (S) MINUTE(STA)
04/01/04 (S) STA AT 3:30 PM BELTZ 211
04/01/04 (S) Moved CSHB 91(STA) Out of Committee
04/01/04 (S) MINUTE(STA)
04/02/04 (S) STA RPT SCS 3NR SAME TITLE
04/02/04 (S) NR: STEVENS G, COWDERY, STEDMAN
04/13/04 (S) L&C AT 1:30 PM BELTZ 211
04/13/04 (S) -- Meeting Canceled --
04/15/04 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

Clifford E. Baker, Boyd J. Brownfield and Richard A. Hughes,
Boyd J. Brownfield, Richard A. Hughes, Kenneth D. Maynard -
nominees to the Board Of Registration For Architects, Engineers
And Land Surveyors

Gary P. Bader, Dennis Niedermeyer and James S. Spalding,
nominees to the Alaska Labor Relations Agency

Mr. John Guichici
Fairbanks AK

POSITION STATEMENT: Opposes Mr. Spaulding's appointment.

Mr. Jay Quakenbush
Fairbanks AK

POSITION STATEMENT: Opposes Mr. Spaulding's appointment.

Ms. Roberta Demoski
International Brotherhood of Electrical Workers (IBEW)
Anchorage AK

POSITION STATEMENT: Opposed Mr. Spaulding's appointment.

Mr. Paul Weisenberger
Sheet Metal Workers
Anchorage AK

POSITION STATEMENT: Opposes Mr. Spaulding's appointment.

Mr. Scott Bridges
Teamsters Local 959
Anchorage AK

POSITION STATEMENT: Opposes Mr. Spaulding's appointment.

Mr. John Landerfelt
Laborers Local 341
Anchorage AK

POSITION STATEMENT: Opposes Mr. Spaulding's appointment.

Ms. Wendy Lindskoog, Director
External Affairs
Alaska Railroad Association
Anchorage AK

POSITION STATEMENT: Supports SB 358.

Mr. Zack Warwick
Staff to Senator Therriault
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 377 for sponsor.

Mr. Jeff Robinson
Cliff's Mechanical

Anchorage AK

POSITION STATEMENT: Opposes SB 377.

Ms. Vicki Sterling
Design Professional
No address provided

POSITION STATEMENT: Opposes SB 377.

Mr. Craig Stephenson
International Code Council
No address provided

POSITION STATEMENT: Opposes SB 377.

Mr. Ernie Hetrick
Design Professional
No address provided

POSITION STATEMENT: Opposes SB 377.

Mr. Kelly Nicoleillo
Department of Public Safety
PO Box 111200
Juneau, AK 99811-1200

POSITION STATEMENT: Available to answer technical questions about SB 377.

Mr. Dale Nelson, President
Alaska Professional Design Council
No address provided

POSITION STATEMENT: Opposes SB 377.

Mr. Dale Nelson, President
Alaska Design Council
Delta AK

POSITION STATEMENT: Opposes SB 377.

Mr. John Knabe, Training Director
UA Local 375 Plumbers and Pipefitters Joint Apprenticeship
Training Committee
Fairbanks AK

POSITION STATEMENT: Supports SB 377.

Mr. Jim Lahti
Pipefitters 375
Fairbanks AK

POSITION STATEMENT: Supports SB 377.

Mr. Rodney Brown

Plumbers and Pipefitters Local 375
Fairbanks AK
POSITION STATEMENT: Supports SB 377.

Mr. David Peet
Fairbanks AK
POSITION STATEMENT: Supports SB 377.

Mr. Dennis Michael, President and Owner
American Mechanical
Fairbanks AK
POSITION STATEMENT: Supports SB 377.

Mr. Dayn Cooper
Chandler Plumbing and Heating
Fairbanks AK
POSITION STATEMENT: Supports SB 377.

Mr. Mark Anderson, Construction Manager
Chandler Plumbing and Heating
Fairbanks AK
POSITION STATEMENT: Supports SB 377.

Mr. Bill Sager, Executive Director
Mechanical Contractors of Fairbanks
Fairbanks, Alaska 99707
POSITION STATEMENT: Supports SB 377.

Mr. Chuck Deerdon
City Building Inspector
City of Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901
POSITION STATEMENT: Opposes SB 377.

Mr. Steve Shows
Juneau AK
POSITION STATEMENT: Opposes SB 377.

Mr. Max Mielke, Business Manager
Plumbers and Pipefitters UA Local 262
Juneau AK
POSITION STATEMENT: Supports SB 377.

Mr. Robert Buch
Local 367
Anchorage AK

POSITION STATEMENT: Supports SB 377.

Mr. Gary Hile
Anchorage AK

POSITION STATEMENT: Supports SB 377.

Mr. Harry Devasconcelles
Alaska Oil and Gas Association (AOGA)
Anchorage AK

POSITION STATEMENT: Opposes SB 377.

Mr. Greg Moore
NANA/Colt
Anchorage AK

POSITION STATEMENT: Opposes SB 377.

Mr. Pat Knowles
Mt. Mechanical
Anchorage AK

POSITION STATEMENT: Opposes SB 377.

Mr. Frank Kapelari
Knik Plumbing
Anchorage AK

POSITION STATEMENT: Supports SB 377.

Mr. Colin Maynard
BBFM Engineers
Anchorage AK

POSITION STATEMENT: Opposes SB 377.

Mr. Craig Hatelly
Local 367
Anchorage AK

POSITION STATEMENT: Supports SB 377.

Mr. Steve Miller
Plumbers Local 367 3 ATC
Anchorage AK

POSITION STATEMENT: Supports SB 377.

Representative Rokeberg
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 29.

Ms. Peggy Ann McConnochie

Alaska Association of Realtors
Juneau AK
POSITION STATEMENT: Supports HB 29.

Mr. Perry Underwood
Alaska Association of Realtors
Eagle River AK 99577
POSITION STATEMENT: Supports HB 29.

Mr. Dave Feeken, Chair
Legislative and Industry Issues
Alaska Association of Realtors
Eagle River AK
POSITION STATEMENT: Supports HB 29.

Mr. Steven Cleary, Executive Director
Alaska Public Interest Research Group (AKPIRG)
Anchorage AK
POSITION STATEMENT: Commented on HB 29.

Ms. Linda Garrison, Owner and Broker
AAR Number 1 Buyer's Agency
Anchorage AK
POSITION STATEMENT: Opposes HB 29.

Mr. Kirk Wickersham
Anchorage AK
POSITION STATEMENT: Supports HB 29.

Representative Tom Anderson
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HB 91.

Mr. Mike Fox
Public Safety Employees Association (PSEA)
Juneau AK
POSITION STATEMENT: Supports HB 91.

Mr. Chuck Hansen, Correctional Officer
Lemon Creek Correctional Facility
Juneau AK
POSITION STATEMENT: Supports HB 91.

Ms. Melanie Millhorn, Director
Division of Retirement and Benefits
Department of Administration

PO Box 110200

Juneau, AK 99811-0200

POSITION STATEMENT: Deferred testimony on HB 91.

Mr. Dean Baugh, Finance Director

City of Homer

Homer AK

POSITION STATEMENT: Opposes HB 91.

Mr. Maurice Hughes

Alaska State Trooper

Public Service Employees Association (PSEA)

PO Box 802

Kodiak AK

POSITION STATEMENT: Supports HB 91.

Mr. Paul Comolli

Police Officer

Juneau AK

POSITION STATEMENT: Supports HB 91.

Mr. Larry Simmons, Finance Director

City of Kenai

Kenai AK

POSITION STATEMENT: Opposes HB 91.

Mr. Chris Burns

Human Resource Consulting

Seattle WA

POSITION STATEMENT: Available to answer questions.

ACTION NARRATIVE

TAPE 04-32, SIDE A

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at 1:30 p.m. Present were Senators Bettye Davis, Ralph Seekins, Hollis French and Chair Con Bunde. Senator Gary Stevens was excused.

CONFIRMATION HEARINGS

ARCHITECTS, ENGINEERS AND LAND SURVEYORS

The first order of business to come before the committee was confirmation hearings for the Board of Registration for Architects, Engineers and Land Surveyors - Clifford Baker, Boyd

Brownfield, Richard Hughes and Kenneth Maynard. He asked for questions, but there were none.

LABOR RELATIONS AGENCY

Next, he took up the Alaska Labor Relations Agency nominees - Gary Bader, Dennis Niedermeyer and James Spaulding. He noted there were questions for Mr. James Spaulding.

CHAIR BUNDE asked if Mr. Spaulding had an opening statement.

MR. JAMES SPAULDING said he didn't have a statement, but this appointment took him by surprise.

I've spent most of my adult life in Alaska and Alaska has been very good to me. I've worked for both labor and management in the field of human resources and labor relations and I feel like I can do a fair and objective job.

SENATOR HOLLIS FRENCH said that usually these appointments get very little attention, but he had received 5 to 10 e-mails opposing his appointment. The tenor of the objections was that a management person was being appointed to a labor seat on a labor relations panel. He asked Mr. Spaulding to describe his current position at Matanuska Electric Association (MEA).

MR. SPAULDING replied that he is the director of Human Resources and Corporate Affairs and oversees all the human resource (HR) and labor functions for MEA.

SENATOR FRENCH asked if he represented labor or management.

MR. SPAULDING replied that he represents management.

SENATOR FRENCH asked if he represented labor or management when he went to arbitrations.

MR. SPAULDING replied that he represents management.

SENATOR FRENCH asked if he reports to management in his current job.

MR. SPAULDING replied yes.

SENATOR FRENCH asked him, as a management person, to address the concerns of the folks who are concerned about his being appointed to a labor seat.

MR. SPAULDING replied that he had worked for a labor organization in the past and has sat on both sides of the table in negotiations and grievance investigations. "I feel I have a pretty good knowledge of labor perspective from both a management and labor viewpoint." Most folks he dealt with thought he was very fair.

SENATOR FRENCH asked how long he had worked for MEA.

MR. SPAULDING replied since September 1997.

SENATOR FRENCH asked who he worked for before that.

MR. SPAULDING replied that City of Unalaska.

SENATOR FRENCH asked what he did in Unalaska.

MR. SPAULDING replied that he was the human resources (HR) manager for the city.

SENATOR FRENCH asked if that was similar to the job he has now.

MR. SPAULDING replied that it is very similar.

SENATOR FRENCH asked how long he worked in Unalaska and who did he work for.

MR. SPAULDING answered that he worked for three years for the city as the HR manager; he also worked for three years for Unisea, a very large seafood processing company in Dutch Harbor.

SENATOR FRENCH asked if that preceded his work for the city.

MR. SPAULDING replied yes, they weren't simultaneous.

SENATOR FRENCH asked if his work for Unisea was in human relations.

MR. SPAULDING replied yes.

SENATOR FRENCH asked if that was a management position.

MR. SPAULDING replied yes.

SENATOR FRENCH asked if he was correct, then, that since 1991 he had been basically in management positions in his professional capacity.

MR. SPAULDING responded that the period of time he worked for labor was in the mid-80s when he worked for the Alaska Public Employees Association (APEA) as a senior labor representative. After that he went to Washington for two years to care for his father and then he worked for Marine Management in Seattle there. He moved back to Alaska in 1990 with Unisea.

SENATOR FRENCH asked when the last time was that he held a job that could be classified as a labor-type perspective job.

MR. SPAULDING replied his position with APEA in the mid-80s.

SENATOR BETTYE DAVIS asked if he was surprised he received this appointment because he didn't apply for it.

MR. SPAULDING replied that he did apply, but didn't know he would be considered.

SENATOR DAVIS asked him what he thought his responsibilities would be and how did he feel about working on the labor side, since he had been in management so long.

MR. SPAULDING replied that he has a good understanding of what the board and agency do. He appeared before them several times when he worked for the City of Unalaska. He understood that the board is a quasi-judicial body that hears disputes between public employees and their employers on a variety of issues. He felt that he still has a pretty good understanding of that and of the state and could apply that understanding in a fair and judicious manner.

SENATOR DAVIS asked if he had anything filed against him by some of the employees and MEA.

MR. SPAULDING replied no, not that he is aware of.

CHAIR BUNDE asked if he believed one had to be a member of a union to be able to make fair and impartial decisions.

MR. SPAULDING replied no.

CHAIR BUNDE asked if he believed one had to be a member of management to make fair and impartial decisions.

MR. SPAULDING replied no.

CHAIR BUNDE asked if he was capable of making fair and impartial decisions.

MR. SPAULDING replied that he thought so, yes.

MR. JOHN GUICHICI, Fairbanks, opposed Mr. Spaulding's appointment, because there are enough labor organizations in Alaska that could put forward names of people who are more oriented toward labor than Mr. Spaulding.

MR. JAY QUAKENBUSH, Fairbanks, expressed his concern about Mr. Spaulding's appointment.

Seats on boards like this need to have a balanced view...and certainly the labor seat that this man has been nominated for should come from someone within labor, someone who has been active either in the field or dealing closely with the labor unions on the labor side of things.

SENATOR SEEKINS asked if he or Mr. Guichici was aware of any members of organized labor who applied for this position.

MR. GUICHICI replied no. "Usually when a vacancy comes up, someone within the agency goes and seeks out individuals. I didn't know there was an open enrollment or application process for these positions.

SENATOR SEEKINS asked if the commissioner didn't actively solicit for any applications.

MR. GUICHICI replied, "None whatsoever."

MR. QUAKENBUSH said as president of a building trade, he received no notification that this seat was open. As a participant in the Central Labor Council in Fairbanks, he hadn't heard anything on that level either.

MS. ROBERTA DEMOSKI, International Brotherhood of Electrical Workers (IBEW), Anchorage, said she had a couple of concerns and that she deals with Mr. Spaulding on a daily basis in his capacity at Matanuska Electric Association.

One of the issues I have with his appointment into the labor seat there on the Labor Board is that Mr. Spaulding works for an employer - and I believe it's not secret - that has had a very contentious labor relations atmosphere and culture. I think it will be very difficult for anybody in that situation to sit on a board in a seat that is supposed to be representative of labor and then on a daily basis go to an employer who has an anti-labor culture and atmosphere that's prevalent at that property.

The other thing is I believe that by appointing Mr. Spaulding to the labor seat on this board [violates] the intent and spirit of the statute. The panel is supposed to be comprised of perspectives from organized labor, a perspective from management and a perspective from the public sector. I actually sat on the Labor Relations Board and sat through some hearings on panels with those three perspectives presented and I can tell you it is very important in the decision-making process that all of those perspectives be brought forward and considered so that ultimately everybody who shows up at that hearing - organized labor and the employers - feel like they've gotten a fair shake. I believe that you will be nullifying that perception and, maybe, reality [is] that the fair hearing process is going to go out the window if you have a management person put in a labor seat.

I agree with John in Fairbanks. I believe that there are many up and coming labor leaders in organized labor that would be a tremendous asset to that board and have a contribution.

MR. PAUL WEISENBERGER, Sheet Metal Workers, Anchorage, said he didn't know Mr. Spaulding personally, but did know of the strong labor animus exhibited by MEA administration and some of the board members.

I know this from my status as an MEA consumer and citizen in the Matanuska Valley for many years. I have received many anti-labor fliers and letters from Wayne Carmony, who is the director at MEA and who I believe is Mr. Spaulding's boss. I believe that Mr. Spaulding's management position at MEA is detrimental

to fairly representing the seat to which he has been appointed. I hope the board will reconsider this position and appoint someone who is more suited to the job from a true labor perspective. Thank you.

MR. SCOTT BRIDGES, Teamsters Local 959, said he has been in Alaska since 1959 and is an attorney. He is an MEA consumer and objects to Mr. Spaulding's appointment for all the reasons that have already been stated.

There is absolutely no way that an individual in his capacity could serve objectively from a management perspective. I think this appointment needs to be withdrawn and I think labor needs to be appropriately notified and proper candidates need to be appointed to fill that slot.

MS. JOHN LANDERFELT, Laborers Local 341, opposed Mr. Spaulding's appointment for all the reasons previously stated and, "most sincerely because it seems to violate the intent of what a labor board is supposed to be, which is viewpoints from all sides."

CHAIR BUNDE closed the hearing and said he would hold the confirmation over for another meeting, probably next week.

^#SB358

SB 358-ALASKA RAILROAD TRACK WORK

CHAIR CON BUNDE announced SB 358 to be up for consideration.

MS. WENDY LINDSKOOG, Director, External Affairs, Alaska Railroad Corporation (ARRC), said she was asked to try to come up with a solution with all the different parties involved in this issue. That is what they did. She offered to go through the highlights.

CHAIR BUNDE said that everyone had read it and there were no further questions.

SENATOR SEEKINS moved to pass SB 358 from committee with individual recommendations and attached zero fiscal note. Senators Bettye Davis, Ralph Seekins, Hollis French and Chair Con Bunde voted yea; and SB 358 moved from committee.

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^#SB377

SB 377-STATE MECHANICAL CODE

CHAIR CON BUNDE announced SB 377 to be up for consideration.

MR. ZACK WARWICK, staff to Senator Therriault, sponsor, said there seems to be a lot of misunderstanding about this bill.

All it does is grant the adoption authority for the Mechanical Code to the Department of Labor. It does not change the code from one brand to the other. It simply grants the adoption authority to the department since historically there has been no statutory adoption authority.... In addition, it does not change the way the plan inspections or building inspections are done. The Department of Public Safety will still be doing the plan inspections with regard to fire and life safety issues. The Department of Labor will still do all post-building inspections in regards to mechanical, plumbing and electrical codes. That's exactly what's been going on for years.

The bill simply recognizes that the mechanical code and the plumbing code are closely related because nearly all mechanical contractors are also plumbing contractors. Given this relationship and regardless of which code is adopted, it makes more sense to have these two closely related codes coordinated within one single agency. It comes down to basically a policy call by the Legislature...

CHAIR BUNDE asked if he thought it was possible to alleviate some of the misunderstanding. "What can we do to lower the level of anxiety this bill seems to have created?"

MR. WARWICK replied that he has received calls from a number of different industry groups, Associated Builders and Contractors as well as the International Code Council. The letter from the Council does not support SB 377, but it was completely unaware of what the bill really does. It is being put where all family codes will receive a fair hearing. He added that he didn't think it was possible to clear up the misconceptions.

MR. JEFF ROBINSON, Cliff's Mechanical, Anchorage, opposed SB 377. His understanding is that the underlying intent of the legislation is to bring back the Uniform Mechanical Code (UMC) just to appease a minority group of contractors.

MR. ROBINSON said he is also a member of the American Society of Heating, Refrigeration and Air Conditioning Engineers and out of all the people he has spoken to, no one supports it.

MS. VICKI STERLING, private consultant in the design community, opposed SB 377 saying it is a life safety issue, which belongs in the Department of Public Safety.

MR. CRAIG STEPHENSON, International Code Council, opposed SB 377. He has read the actual bill, which has very generic language. He is concerned that it is just a way to undo codes that have been adopted. He urged, "What we need to be doing is taking a very thoughtful look at how codes are adopted in the State of Alaska that serves Alaska the best."

MR. ERNIE HETRICK, design professional, opposed SB 377. He thought all codes should be adopted by the same group so they can be considered together.

MR. KELLY NICOLEILLO, Department of Public Safety, said he was available to answer technical questions.

MR. DALE NELSON, President, Alaska Professional Design Council, said he sent the committee a letter dated April 13 stating its concerns. He added one more concern - that there is no stated fiscal impact resulting from changing departments.

MR. JOHN KNABE, Training Director, UA Local 375, Plumbers and Pipefitters Joint Apprenticeship Training Committee, said he is also chair of the City of Fairbanks Plumbers Examining Board and that all members support SB 377.

We feel it is a good compromise and will address the current situation we have of having two different codes that aren't in harmony with each other, published by two separate organizations and adopted and administered by two separate state departments. This fragmented approach is problematic and responsible for a great amount of frustration and cost to the necessary training and certification in our industries. We have a very good working relationship with the State Department of Labor. SB 377 will benefit the public and our industry by insuring coordination of the plumbing and mechanical codes.

MR. JIM LAHTI, Plumbers and Pipefitters Local 375, said it trains and maintains a significant workforce to the standards of

the Uniform Plumbing Code. "To help maintain consistency, it's only logical that both the mechanical and the plumbing codes should fall under the jurisdiction of the Department of Labor."

MR. RODNEY BROWN, Plumbers and Pipefitters Local 375, supported SB 377.

MR. RANDY BAYER supported SB 377.

I believe to have both the mechanical code and the plumbing code under the Department of Labor would facilitate the enforcement and oversight that this code provides for the citizens of the State of Alaska.

MR. DAVID PEET, Fairbanks resident, supported SB 377.

It just seems to me that these two codes are related to our industry and if they are, they should fall under the jurisdiction of one department.

MR. DENNIS MICHAEL, President and owner, American Mechanical, thought SB 377 would give the public a better quality product.

There really is no inspection on the jobsite because the Department of Labor has no authority to look at mechanical systems when they are already on the job site looking at plumbing systems....

MR. DAYN COOPER, Chandler Plumbing and Heating, supported SB 377 for the reasons already stated.

MR. MARK ANDERSON, Construction Manager, Chandler Plumbing and Heating, supported SB 377 for all the previously stated reasons.

MR. BILL SAGER, Executive Director, Mechanical Contractors of Fairbanks, said his members unanimously support SB 377. "We feel that since our members have to work under both codes, it just makes sense for them to be administered out of one department."

MR. CHUCK DEERDON, Ketchikan Building Inspector, said he also is representing the State Homebuilder's Association. The Homebuilder's Association opposed SB 377.

One of the reasons is that the IMC, which a lot of municipalities have adopted, includes the International Mechanical Code as part and parcel of that. From the city perspective, the interlocking of

the International Fire Code, the International Building Code and the International Mechanical Code are pretty important and they go to the State Fire Marshall's office for review. I think the system isn't broken, but I think it could be improved and if you don't mind, I'd like to offer a suggestion. That would be that the Governor's Office could possibly get the State Fire Marshall's Office, which is on the same level as the Department of Labor, and get a letter of understanding [so]...one of the state plumbing inspectors can go out and also do mechanical inspections. The State Fire Marshall's Office can still do the plan review including the life safety issues and then we can tailor the codes to encompass the training for the mechanical and plumbing contractors. But, at this point, I don't think that the issue of the Fairbanks - and I understand their issues on the Mechanical Plumber Contractor's Union - I think they have a valid point that the training could be done better and that they could possibly mix the codes so that things could work for them....

CHAIR BUNDE agreed with him.

MR. STEVE SHOWS said he would speak on his own behalf. He said he has 35 years in the construction industry, 25 years have been in the State of Alaska regulating construction for municipal, borough, state and federal government. He opposed SB 377 primarily because it doesn't address the big picture issue, which is the safety of Alaskans in a built environment.

I think there are things related to this topic that Alaskans do agree on. Number one, the State of Alaska does not have an effective construction regulation environment. It just doesn't exist. I believe it is evident that our municipal governments, each and every one of them...they do have an effective way of administering these regulations without conflicts in a coordinated manner. So, I think we have a roadmap that the State of Alaska may look to to see how can we get out of this quagmire, move forward as a team, because, trust me, building a major building takes a team; it takes qualified licensed individuals on the job doing the work. It takes a knowledgeable set of people reviewing plans and all the nuances and intricacies those plans have to provide the safety that codes require. Codes need to be reviewed and adopted by

impartial technically proficient individuals - as many of them as you can find working together. Beyond that, as Reagan said, trust, but verify....

So, I leave you with that thought that things are working well in the plan review area of coordinated technically adopted codes in public safety. There is no effective field inspection by the Department of Labor and I can tell you that for a fact. If a non-union contractor gets a bid, I may see the state labor inspector in my town checking up on him. These partisan interests are understandable. Economic self-sufficiency is a human drive that's very important, but we need to understand that and not adopt codes that limit new technology and material to the financial benefit of a small group of contractors to the detriment of the people of the State of Alaska who look to their legislature and representatives to help them get the biggest bang for the buck. Life safety is important. We're probably one of the most seismically active areas on the world; fire, loss of life is not something to be swallowed over without the best effort that we can bring to bear to address it.

CHAIR BUNDE said, "That best effort, then, would be for folks to forget their turf battles and work together?"

MR. SHOWS replied, "You got it. My personal opinion is to consolidate these construction regulations in one department...." [END OF SIDE A]

TAPE 04-32, SIDE B

MR. SHOWS continued:

I've seen the Department of Labor do their best effort and it falls short and it's one-sided. That's my personal opinion.

SENATOR SEEKINS asked how much inspection of the mechanical work is done by the Department of Public Safety (DPS).

MR. SHOWS answered that the DPS reviews plans, but does no field inspection work that he knows of.

MR. MAX MIELKE, Business Manager, Plumbers and Pipefitters UA Local 262, said he is also president of the Alaska State Pipe

Trades Association, which represents over 1,000 members who install mechanical systems every day for mechanical contractors in Southeast. They all strongly support SB 377. He thought the issue is basically between the mechanical contractors, the people who install the mechanical systems and the building officials.

I want to say one thing in my closing statement. The IMC is not a consensus code. Only government building officials are on the review committee when it comes to the International Code Committee whereas under the Uniform Mechanical Code, there's a balanced committee for all industries involved in putting mechanical contractors and building officials....

CHAIR BUNDE said he wasn't going to move the bill today and a lot more people wanted to testify. He wanted to go through the list and have people say yes or no on whether they support SB 377.

MR. ROBERT BUCH, Local 367, supported SB 377.

MR. GARY HILE, Anchorage, supported SB 377.

MR. HARRY DEVASCONCELLES, Alaska Oil and Gas Association (AOGA), opposed SB 377.

MR. GREG MOORE, NANA/Colt, Anchorage, opposed SB 377.

MR. PAT KNOWLES said he is not a union member and supported SB 377.

MR. FRANK KAPILARI, Knik Plumbing, said he represents the non-union side of this and supports SB 377.

MR. COLIN MAYNARD, BBFM Engineers, opposed SB 377.

MR. CRAIG HATELY, Local 367, supported SB 377.

MR. STEVE MILLER, Plumbers Local 3673 ATC, supported SB 377.

CHAIR BUNDE thanked everyone for their brevity and said he would sit on the bill for a while to see if a proper consensus would arise.

SENATOR SEEKINS said for the record:

I [was] co-chair of the Safety Code Task Force last summer with Representative Dahlstrom. I've spent several hundred hours on this matter. I think I'm spun up about just as much on where the turf war is on any of it. The one thing that I want to say for consideration at this point is that under the current system there is no inspection by the Department of Public Safety on mechanical applications as they're applied in the field. Once it's done, it's not inspected; it's only a plan review. As I understand, this bill would not eliminate the plan review from [the Department of] Public Safety. That is a safety issue that continues in place. But, there is the matter now that an inspection process would have to take place from the Department of Labor just as they're supposed to do. They may not in all cases, but they're supposed to do it and they're tasked to do it on the plumbing. So, it appears to me...as I looked at the review from the Safety Code Task Force that in order to put in place the mechanism that we came to some consensus should exist in the overall safety code system in the State of Alaska, that it's going to take some time to design it out and work with the different departments and try to put in place, because of the autonomy of the cities - Juneau, Anchorage, Fairbanks - where they have their own department. The code then applies to pretty much the rest of the state except that it's a minimum code that those cities have to meet and if there's any waiver from that, they have to get approval.

What the co-chair and I said was that it seems logical that in the long run that we should at least have some kind of inspection of the mechanical and plumbing on the same level at the same time and that it seems that most mechanical contractors are also the plumbing contractors on the job. So, to have some uniformity that would be simple, let's just change the administration of this code from here to here. There is no, as one person said or alleged, no known underlying intent from any member of the Legislature to try to favor one group or the other, but there is an intent to make sure that we have an efficient operation that also involves inspection of the completed work as well as just plan review. We think that that's best, in the long run, serves the public

interest and the safety of the people in the State of Alaska....

CHAIR BUNDE reiterated that he would hold the bill and hoped time would build a consensus.

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^#HB29

HB 29-REAL PROPERTY TRANSACTIONS/LICENSEES

CHAIR CON BUNDE announced HB 29 to be up for consideration.

REPRESENTATIVE ROKEBERG, sponsor, said this bill is the culmination of two years of effort by a task force representing the Alaska Association of Realtors throughout the state. There have been some difficulties since the legislature first adopted statutory language in 1992 requiring the disclosure of agency-type relationships between clients and the real estate licensees in the State of Alaska, a needed step forward in terms of consumer protection. The statutory requirements were found to be vague and difficult to enforce. This bill redesigns and clarifies the meaning and duties and provides a foundation for the promotion of sound and good commerce in the state. The real estate industry and the associated businesses provide over a third of the state's domestic product and people need to give it due consideration. He pointed out that one of the key elements of consumer protection in this bill requires a pamphlet that clearly outlines the responsibilities of their relationships. Vicarious liability is also provided for. One of two amendments provided to the committee embrace technical changes and one fills a gap in the area of psychological impairment of property. The bill clarifies what the duty to investigate is and requires disclosure of it.

SENATOR SEEKINS asked him to explain the concept of dual agency.

REPRESENTATIVE ROKEBERG replied:

Dual agency is an allowed form of relationship between a real estate licensee and their clients. What this bill does is get rid of that, because it's an almost unworkable concept - where under the principle of common law, a licensee in this instance would have to serve two masters simultaneously. That's fundamentally a difficult thing in terms of the perspective of fairness and equity in dealing with the clientele....

We solved this by going to what's called the neutral relationship and witnesses will describe that for you.

SENATOR SEEKINS asked if the real estate industry has a lot of confusion when someone comes to an agent who represents the seller.

REPRESENTATIVE ROKEBERG disclosed that he is a licensed real estate broker in Alaska, but only deals with commercial properties and deferred the answer to one of his witnesses.

CHAIR BUNDE asked if it was an oversimplification to say that a real estate agent who lists his house has the responsibility to get him the highest prices that's practical.

REPRESENTATIVE ROKEBERG replied that is correct.

CHAIR BUNDE asked if it was also the responsibility of the buyer's agent to get him the lowest price possible.

REPRESENTATIVE ROKEBERG said that's right.

SENATOR FRENCH disclosed that his wife is a licensed real estate agent and he might have a conflict.

CHAIR BUNDE moved amendment 1, BA.4, 4/9/04 Bannister, and objected for discussion purposes.

23-LS0189\BA.4
Bannister

A M E N D M E N T 1

OFFERED IN THE SENATE

TO: CSSH B 29(JUD) am

Page 5, line 11:

Delete all material.

Insert "to imply a duty to

(1) investigate

(A) a matter that the licensee has not agreed to investigate; or

(B) a matter that is not known by the seller, prospective buyer, lessor, prospective lessee, or licensee; or

(2) disclose, unless otherwise provided by law, events that have occurred on the real estate that might affect whether a person wants to buy or lease the real estate."

REPRESENTATIVE ROKEBERG said amendment 1 related to the psychological impairment issue. Subsection (B) speaks only to the duty to investigate, not to disclose. Subsection (A)(4) on page 4, line 17, addresses the disclosure.

SENATOR FRENCH said it makes sense to not have to investigate something that isn't known by the seller or the buyer, but then (2) jumps back to (A)(4) which says "it shall not be construed to imply a duty to disclose, unless provided by law, events that have occurred that might affect whether or not a person wants to buy or lease the real estate.

REPRESENTATIVE ROKEBERG replied if a crime had been committed in the house or if the house had a HIV or AIDS resident, that can't be disclosed according to federal law. He said a state disclosure statute says all sellers of a residence have to fully disclose stipulated items on their disclosure statement. He emphasized that the seller, not the licensee, is required to disclose.

SENATOR FRENCH asked for a list of the required disclosures.

CHAIR BUNDE withdrew his motion to adopt amendment 1 until Senator French had an opportunity to review the list.

REPRESENTATIVE ROKEBERG said he had no objections. He wanted everyone to understand the bill.

CHAIR BUNDE moved amendment 2, BA.2, and objected for discussion purposes.

23-LS0189\BA.2
Bannister

A M E N D M E N T 2

OFFERED IN THE SENATE
TO: CSSSHB 29(JUD) am

Page 7, lines 15 - 16:

Delete "if the licensee's broker maintains"

Insert "but the licensee's broker has a duty to maintain the"

REPRESENTATIVE ROKEBERG explained that it is a clarifying amendment on page 7, line 15, that says that the broker must maintain confidentiality.

CHAIR BUNDE removed his objection and amendment 2 was adopted. He said that a substantial number of people want to testify and he began with Peggy Ann McConnochie.

MS. PEGGY ANN MCCONNOCHIE, Alaska Association of Realtors, said she also represented the task force that worked on this bill. She wanted to touch on four points for the committee.

First of all, we want you to know that every licensee in the State of Alaska and all over the United States understands the need for consumer protection. After all, we are the first ones to deal with a person who decides to buy a home; we're the people who deal with somebody who wants to rent a property and we're dealing with the investor who wants to buy their first investment. We look into their eyes and see the trust and we want to make sure that we maintain that trust and their trust is well placed.

The second topic is representation - how it used to be. It used to be that every single real estate licensee, wherever he went, always represented the seller. It didn't matter if he were going from one agency and looking at a property that was listed with another agency, everybody represented the seller. When in point of fact, that's not the way licensees necessarily operated or the way the buyer believed. The buyer thought, 'Gosh, they're spending all this time with me; they're showing me houses listed by that other company; they must represent me.'

Thank goodness the law changed. Thanks to Representative Rokeberg in 1992 we got the law changed to allow for something called buyer representation where you could come to buy a house and the agent that you worked with represented you. That was a very good thing.

What this legislation is going to move to is a situation in which, rather than the broker and all the agents representing every single seller who comes through that agency to sell a house - it will allow that broker in the office to designate one licensee in the office to work with the buyer, one licensee to work with the seller, and for the broker to set up firewalls so that confidentiality of all parties is maintained. As many times as we can get an individual

who wants representation to be represented by the agents, the better off we're going to be. In other words, we're going to take away that dual licensee situation. Our goal by this legislation is to make it far more fair and more understandable for all parties, the consumer and the licensees alike.

MS. MCCONNOCHIE said that agency people from all over the state, residential, commercial and property and association management, worked on this bill. She said that a lot of research was done including looking at what other states have done. The states of Washington, Montana, Nebraska and Colorado have agency laws and basic tenants that meet much of what Alaska wants.

We also knew that [the law] had to make sense no matter what type of real estate you're doing.... We also knew that once we got this law passed, we needed to have a plan in order to be able to implement it and we do. Our association, the Alaska Association, is committed to make this work.

The implementation dates are set very purposely so the public can be educated about the changes. Association members will also go out to communities to educate agents and work with the Real Estate Commission to design the pamphlet telling how licensing works. They will help brokers to design the changes in their policy and procedures manuals.

This bill calls for the Real Estate Commission to design supervision standards for their licensees, especially when we deal with designated licensees. The Alaska Real Estate Commission knows that the Alaska Association of Realtors is going to provide them with some things to look at; we're going to provide them with words to look at so they can take it from there and design those standards. The second thing is we're going to be also providing them with samples of potential policy procedure manuals that will help a broker implement a confidentiality standard for their office. We do not want to leave any broker in the lurch wondering how in the world they are going to be able to implement these policies....

MR. PERRY UNDERWOOD, Alaska Association of Realtors, said he is also the owner and broker of Coldwell Banker Fortune with offices in Anchorage, Eagle River and Wasilla. He summed up HB 29 in five major points

First, HB 29 establishes specific requirements as to when and how a real estate licensee must disclose to the consumer their relationship....

The second thing HB 29 does - it eliminates dual agency and the problems that are inherent with dual agency. Yet, it allows real estate licensee to sell their own listings.... Real estate licensees can sell their own listings with the consent and the disclosure of their customers

The third thing that this bill does - it moves the relationship with the consumer to the level of a person who is actually being represented. Traditionally, the broker is who the relationship is with, but the broker, in most cases, never sees, meets or even talks to the consumer. It's being done by the agents that work underneath this broker.... That avoids the current situation we have where all licensees in the company, as well as the broker, are expected to represent and act on behalf of both parties.

The fourth thing that this bill does - our current statute that we operate under provides no duties or minimum standards under which licensees operate. Our bill before you, HB 29, sets forth duties and responsibilities by which all licensees must operate their business clearly establishing those duties and what the public on a minimum can expect from us as professionals.

The fifth thing that this bill does that is very important - it eliminates vicarious liability. Vicarious liability, as you may know, is if I, acting as your representative, go out and say or do something - it might be by action, neglect or dishonesty - in a traditional relationship under common law, the offended party could not only sue me, but sue the person I was representing who may be totally innocent in this. This bill protects the consumer from vicarious liability and the exposure that would come from dishonest dealings.

MR. DAVE FEEKEN, Legislative and Industry Issues Chair, Alaska Association of Realtors, said he is also the broker of ReMax on

the Kenai Peninsula. He said the bill had been worked on by members from all over the state, but he wanted to comment specifically on amendment 1. The key is the word "investigate."

TAPE 04-33, SIDE A

MR. FEEKEN said it attempts to clarify the issues of an investigation. The original paragraph came from Washington and Nebraska statutes. Also, the amendment attempts to insert language saying the Real Estate Commission can regulate.

MR. STEVE CLEARY, Executive Director, Alaska Public Interest Research Group (AKPIRG), said he was concerned that consumers are adequately protected specifically since the common law is being abrogated. He thought standardization of the forms, the disclosures and eliminating vicarious liability would help consumers. However, he failed to understand how a designated agency isn't a dual agency. Continuing a football game analogy that was used earlier, if a back-up quarterback and the quarterback are on the same team, or the agents are in the same agency, they would supposedly be playing against each other, but even with firewalls set up, it's hard to believe that the consumer's best interests would be served if people in one agency are representing both seller and buyer.

MS. LINDA GARRISON, Owner and Broker, AAR Number 1 Buyer's Agency, said:

The only thing I'm concerned about is that the bill is being rushed through. The common law of agency has worked for hundreds of years in protection of the consumer. So, any dilution, even partial abrogation or total abrogation is extremely detrimental to the consumer.

MS. GARRISON explained that a lawsuit brought the issue to light and now it is hard to understand. Currently there are two types of designated agency under common law and dual agency is one, which demands that the agent alert the consumer up front. It can exist in two instances, one is when the same agent in a company represents both the buyer and the seller and the other when one agent in a company represents the buyer and another agent represents the seller.

The designated agency is basically a proposal where the broker will appoint one agent to represent the seller and another agent to represent the buyer. That

is still dual agency; however, it is undisclosed dual agency. The public, the buyer and the seller, will have an agent representing them without being required to do the protective language that is currently required in the statute for dual agency. It's the common law of agency that creates the fiduciary responsibilities that the agent owes to the consumer. Those are such responsibilities of confidentiality, accountability, loyalty, diligence, obedience - very important.

We run into a potential problem - what if the broker appoints one experienced agent to represent the seller and another somewhat inexperienced agent to represent the seller? It is an internal problem, but remember the consumer will think they have their own representation. With dual agency, they know the ramifications.

In conjunction with that, the limits of the liabilities - the liability is limited for the brokerages and for the agents and it does reduce their remedy in a legal recourse for only actual damages, which are very difficult to prove. So, when we take the combination of this - unrelated and not addressed in this bill - currently, a person can get a real estate license with only 20 hours of education and passing a test - so, that in itself is a detriment to the consumer. This is the largest sale or purchase of most people's lives. That isn't addressed in the bill. When we combine that already detrimental [indisc.] with the consumer with the removal of common law of agency of all of those responsibilities, we combine it with the limit of liabilities to broker and limiting the recourse of the public, the detriment to the consumer far [outweighs] any benefit....

MS. GARRISON thought the vicarious liability paragraph on page 10 could be handled in a different manner. "When you add all these things up, consumer protection does not exist in this bill."

MR. KIRK WICKERSHAM, Anchorage real estate broker and lawyer, said he served on the task force that helped develop this legislation. He said this law is a step forward both for the industry and for the consumer and encouraged the committee to pass it. It generally follows the trend other states are going

in to come up with alternatives to conventional agency as defined in the common law statutes. He thought some of the problem with it is that it approaches the relationship between the parties and their agents as an adversarial type situation, but a real estate transaction is not like that. The parties may disagree, but generally speaking, they are working in a more or less cooperative fashion to get a transaction completed that both of them want. "I think this approach is reflective of how real estate transactions actually work and the type of services that are provided by real estate professionals."

CHAIR BUNDE thanked him and closed public testimony and promised that it would be heard again.

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^#HB91

HB 91-RETIRED PEACE OFFICER'S MEDICAL BENEFITS

CHAIR CON BUNDE announced CSHB 91(FIN) to be up for consideration and that it was accompanied by a power point presentation.

REPRESENTATIVE TOM ANDERSON, sponsor, said that HB 91 is of great importance to law officers whether they be correction, firemen or policemen. It is a cost-avoidance bill. Current policy requires that Tier 2 and Tier 3 peace officers defer retirement an extra five years to qualify for their medical benefit. He believed that deferment has a price tag and although this bill has a fiscal note from the Division of Retirement and Benefits, the Department of Corrections and the Department of Public Safety haven't reported in at this juncture.

I think those fiscal notes would basically deplete the elevated fiscal note from [the Division of] Retirement and Benefits.... I hope you will consider that. Also, when a peace officer defers retirement, I think it's important to note that the operational cost increase is greater than the actual benefit cost. So, I want you to think of this, first of all, recognizing that PERS is managed on the basis of equality among its members and without this bill passing, there is no fairness. You're aware of what it does; it gives 20-year retirement for medical retirement and benefits to peace officers.... There is a \$23,105 savings in base pay and leave during the first year after a 20-year correction officer 3 takes normal retirement. So, we see a savings.... These examples go on and on and

on.... This is important even though there is a fiscal note, which again, I think can be reconciled down. We have to defer to the judgment that we want to keep these peace officers and the old adage I said in the previous committee, hey, you look at the service...and the risks and the stress that are involved...20-year medical retirement doesn't seem that out of kilter with respect to the career and that choice.

CHAIR BUNDE said he once heard that because the cost of recruiting and training was so expensive, the state had to keep these people longer. Now, because of other circumstances, we want them to leave sooner.

REPRESENTATIVE ANDERSON responded that Mr. Fox's power point presentation would show that a 20-year career span is as good as it gets.

MR. MIKE FOX, PUBLIC SAFETY EMPLOYEES ASSOCIATION (PSEA), showed the committee a power point presentation on HB 91 that illustrated how HB 91 provides medical benefits for retired peace officers after 20 years of accredited service instead of after working five years beyond normal retirement. It removes the disincentive for peace officers to take normal retirement. It reestablishes parity with all other PERS members. Mercer's current experience is that 21 out of 100 peace officers will make it to retirement.

SENATOR HOLLIS FRENCH asked what Mercer's Human Resources is.

MR. FOX replied that they are the actuaries who are contracted by the Division of Retirement and Benefits to perform analyses. He continued that DPS hired 90 troopers in 2002 and 2003, 13 percent per year; Department of Corrections (DOC) hires about 70 [indisc.] per year, about 10 percent to maintain level staffing. The remaining Tier 1 trooper class had an approximate 62 percent separation rate. This means that 38 percent of the troopers left are Tier 1.

MR. FOX explained that only Tier 2 and Tier 3 members would be affected by this bill. Major medical is already provided to all Tier 1 recipients. In 1986, Tier 2 was created, which provided major medical at age 60. In 2001, the current situation was created where after a 10-year vesting period, major medical is provided at age 60 or at normal retirement unless you're a peace officer and then you must work five more years.

The perspective from HB 91 simply removes the five-year extra requirement for peace officers. That's all it does. The justification for change - current law withholds the benefit from peace officer members of PERS unless an extra five years is worked; it undermines the intent of peace officers' normal retirement; it inhibits recruitment and retention and it causes inequality among PERS members.

HB 91 is a cost-avoidance bill. Current policy intends to defer retirement of Tier 2 and 3 peace officers. Operational cost increases from a deferred retirement are greater than the actual benefit costs. A cost comparison example - the largest group affected is correctional officers (CO). A correctional officer 2's additional base pay and leave costs for one year of deferred retirement is at least \$18,252. DRB advises that the average benefit cost is \$9,670. The current policy intends to defer retirements for five years. The choice is to fund the benefit or fund the deferred retirement cost increase.

COs by years of service - When Tier 2 and 3 COs defer retirement, the 15 - 20 group will be added to the 20 - 25 group. This shift in the workforce profile will significantly increase operational costs....

MR. FOX explained the chart for Chair Bunde and reminded the committee that retirement is cut in half for those who divorce.

CHAIR BUNDE pointed out that he couldn't assume that all the people in Tier 2 would continue to work after their 20-year retirement. There would be some reduction.

MR. FOX agreed and added that people drop out all along the curve. He continued:

Risk - If 20 years are not completed, there is no benefit change and no new costs. If an officer makes it to 20, the benefit cost is balanced by the payroll reduction. There is no risk of a benefit cost without a corresponding cost-avoidance.

Problems associated with peace officers working past normal retirement - increased health problems, increased risk of injury, higher compensation, lower morale and burnout.

Disability rates were provided by Mercer Human Resources and show that troopers and correctional officers average about 34 years of age when they are hired and they reach 20 years of service at approximately age 54. Another graph showed the increase in disability rates as peace officers age. He noted the steep increase when retirement is deferred past age 54. The line representing other employees who are not peace officers is significantly lower than the peace officers and the gap widens all the way to age 60.

The graph, using 2002 data for administrative versus officer positions, illustrated the limited opportunity for peace officers to move into administrative positions as they age. It showed 709 corrections officers and 30 administrative jobs, 336 troopers and 33 administrative jobs. "It's impractical to think a person can continue through their career until they get older and then move into a desk job."

CHAIR BUNDE asked if he had data that showed typical behavior for someone who now retires under the Tier 1 at age 54 or 55. "They don't just play golf, do they?"

MR. FOX replied no, but he didn't have any data to show him. He, himself, is one of those guys, however, and knows a whole lot of others like himself. He explained that the PERS mission is not to provide a living wage for life. It is, after 20 years, to get 45 percent of your average monthly income, at the most. He elected to buy dental and vision insurance and the long-term care insurance. He elected to buy a survivor benefit for his wife. So, his actual monthly benefit is much lower than where it started out. He did not know of any of his contemporaries who didn't go on to other employment.

CHAIR BUNDE asked if it was likely that they had health benefits in their other employment.

MR. FOX replied no. A lot of guys end up doing something that they have more of an interest in and have the freedom to pursue even if it pays less money or benefits.

PERS is managed on the basis of equality among members. Normal retirement is after 20 years for peace officers and after 30 years for all others. Peace officers pay a higher contribution rate than all of the members to maintain equality. Current policy withholds benefits from peace officer members unless

they work five extra years. HB 91 corrects this prejudice against peace officers.

The current policy is unfair. If a peace officer beats the odds, makes it to 20, the current policy is to defer their retirement. That is accomplished by unfairly withholding their medical benefit until they work five years beyond their normal retirement.

In conclusion, the current law undermines the intent of normal retirement for peace officers and inhibits the PERS mission to recruit and retain in public service. HB 91 removes the disincentives to peace officers to take normal retirement and reestablishes parity among all PERS members and this bill is good for peace officers and it's also good policy.

CHAIR BUNDE noted there were no questions and thanked him for his presentation.

MR. CHUCK HANSEN, Correctional Officer, Lemna Creek Correctional Center, said he has an undergraduate degree in human development and a master's degree in human services. He represents himself and fellow correctional officers in Alaska. He is a Tier 1 employee and has been on the job 19 years and 9 months. His job is part-time, seasonal, and he doesn't get any retirement benefit for it. He noted the sick behaviors and violence that make up the daily stresses in his job. The number of prisoners who are HIV positive or have hepatitis A, B or C is far higher than the public population, because inmates are often involved in high-risk activities before they come into the system. This also puts COs at higher risk than ordinary citizens, resulting in a potential need for long-term care health benefits.

Correctional officers rarely make the present 20-year retirement goal. I've watched over 250 floor staff come and go without reaching that magic time...at Lemna Creek, alone. I've lost track of about 25 more. One day, a short time ago, I asked my superintendent, Dan Carothers, 'In your 27-year career in corrections, how many floor officers, which are non-management staff, have you known to complete 20 years with the Department of Corrections?' Four people. More recently, a co-worker made it to 20. So, that is a total of five making it to retirement that Mr. Carothers knows of. The likelihood that COs will reach the 20-year mark before retirement is bad enough,

pushing the mark to 25 years for full medical benefits is next to impossible and demeaning to us when we are all at risk of serious long-term illness because of our jobs.

HB 91 will insure an appropriate retirement package for those of us who make it that far. It is not cost-effective to continually pay to train new people in order to replace those who see the 25-year as unattainable and so they quit early. And yet, that's exactly what's happening now.

MS. MELANIE MILLHORN, Director, Division of Retirement and Benefits, deferred her testimony on the fiscal note to let the large number of citizens testify.

MR. DEAN BAUGH, Finance Director, City of Homer, said he also represents the Alaska Government Finance Officers Association (AGFOA). He didn't want to say that police officers don't deserve this, but right now the PERS systems can't afford it.

If you would have asked me a year ago, I might have said that is one thing, because my city was 100 percent funded, but if you look at me now, all of a sudden, I'm \$6 million in the hole.

He disputed the fact put forward by Mercer's Human Resources that 21 percent of the officers would retire at 20 years. He thought closer to 80 - 100 percent of officers will retire at 20 years, if medical coverage is provided. So, the costs in the fiscal note are incorrect. He also noted that it is state law once Tier 2 and 3 are changed again to 20-year retirements with full medical, it can't be changed again. At this point, PERS is looking at creating a Tier 4 to keep the budget actuarially sound.

CHAIR BUNDE asked if the committee changed the tier system today so that it's not retroactive, would he support it.

MR. BAUGH responded that the issue would be argued all the more because someone who had been there for 15 years has more benefits than someone who has been there for one year.

CHAIR BUNDE said the fiscal note was attached to the state's budget, not the municipalities' budgets.

MR. BAUGH responded that the state has said it would fund it for the next year, but not forever.

MR. MAURICE HUGHES, Alaska State Trooper, Public Service Employees Association, said it has approximately 350 members.

The difference between Tier 2 and Tier 3 is that when Tier 2 was created, the members kept paying the same percentage for 20-year retirement.

TAPE 04-33, SIDE B

3:55 p.m.

MR. HUGHES continued:

So, in relation to the statement where they would be going back to paying for 30 years...our members continue to pay that 7.5 percent....

I would just like to make some statements about our core message and the message about HB 91 and that is the policy that's in effect right now - it's influencing police officers at Tier 2 or Tier 3 to defer their retirement from a 20-year retirement to 25-year retirement. This is being done by the holding [back] of a retirement benefit, which is the medical benefit. The police officer who decides to defer that retirement, it could be for a good reason. There could be a good reason that officer wants to stay around, but if a person is forced to stay to get a medical benefit that he would otherwise have if he stayed in some other occupation at his normal retirement, then that's not right.

It's hard to accept, but when you say old and police officer, the two don't go together. Police work is a young man's game. When you get older, you get hurt easier; it takes a longer time to mend when you do get hurt. Mike pointed out that you have issues of sleep deprivation and it's tougher to [do] shift work. The burnout issue is a real issue, the older you get.

On the other end of the spectrum, with younger officers coming along, when they get to that 7 - 8 years on the job, they have to make that determination whether or not they want to stay that extra five years

to receive their medical benefit or to go ahead and possibly change careers entirely or to go to another system. The extra five years of working on holidays and working on weekends and working when your family is asleep is not a real conceivable goal for someone to have to work that extra five years....

MR. PAUL COMOLLI, Juneau Police Officer, said he represented himself and fellow police officers, not the city or the chief. He related how his long-time friend, Kenai Police Officer John Watson, was killed in the line of duty while responding to a welfare check on a citizen, on Christmas Day 2003.

He was searching for a person who reportedly needed help. He was doing his job on Christmas, trying to keep you safe, just like we all do - on every shift, every day and every night.... If John had survived two more years on the job, he would have been eligible for normal retirement. Far less than half of us make it to 20. John had only two more to go; he almost beat the odds.

MR. COMOLLI said the current policy is ill-conceived, unfair and blatantly prejudicial against peace officers. This bill does nothing more than reestablish the parity among all PERS members.

I've got my benefits. It's not fair to me to leave my young brothers and sisters behind me that are going to step up and continue to do this job without what I have. It's not too much to ask.

CHAIR BUNDE commented that he has a brother and two nephews who are police officers and knows what he is talking about.

MR. LARRY SIMMONS, Certified Public Accountant (CPA), said he is finance director for the City of Kenai, and that he had been following this bill since last year and at that time the AGFOA passed a resolution against it. When Tier 2 was created in 1986, it didn't include medical benefits until members reached the age of 60, a requirement that stayed in place for 15 years. In 2001, benefits were changed for police and fire members to receive medical benefits after 25 years. "Prior to that there were no medical benefits, period, until age 60." At that time, the PERS was 106 percent funded, but the following year the PERS system was funded at 75 percent and the expense for the added medical benefits are huge. He was very concerned about the fiscal note

for HB 91. It is based on actual experience that only 21 percent of the eligible members would retire.

Do you think more people will retire when you give them medical benefits at 20 years than will retire at 20 years if they don't have medical benefits? The answer is totally obvious and, therefore, that fiscal note is well understated. I think for the City of Kenai, it is four times understated....

State funding for the increased benefits can go away when the next legislature decides to make it go away.

MR. CHRIS BURNS, Mercer Human Resource Consulting, said he would answer questions.

CHAIR BUNDE noted there were no questions and thanked all who testified and said HB 91 would be held over. There being no further business to come before the committee, he adjourned the meeting at 4:07 p.m.

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