

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 2, 2005

3:21 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Gabrielle LeDoux
Representative Bob Lynn
Representative David Guttenberg

MEMBERS ABSENT

Representative Pete Kott
Representative Norman Rokeberg
Representative Harry Crawford

COMMITTEE CALENDAR

HOUSE BILL NO. 93

"An Act relating to dentists and dental hygienists and the Board of Dental Examiners; establishing certain committees for the discipline and peer review of dentists; excluding the adjudicatory proceedings of the Board of Dental Examiners and its committees from the Administrative Procedure Act and from the jurisdiction of the office of administrative hearings; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 90

"An Act requiring warrants drawn by the Department of Administration against the state treasury to be negotiable instruments."

- MOVED HB 90 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 93

SHORT TITLE: DENTISTS AND DENTAL HYGIENISTS

SPONSOR(S): REPRESENTATIVE(S) ANDERSON

01/21/05 (H) READ THE FIRST TIME - REFERRALS

01/21/05 (H) L&C, JUD, FIN

01/28/05 (H) L&C AT 3:15 PM CAPITOL 17
01/28/05 (H) -- Meeting Canceled --
02/02/05 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 90

SHORT TITLE: STATE TREASURY WARRANTS

SPONSOR(S): STATE AFFAIRS

01/21/05 (H) READ THE FIRST TIME - REFERRALS
01/21/05 (H) L&C, STA
02/02/05 (H) L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

JON BITTNER, Staff
Representative Anderson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 93 on behalf of the sponsor,
Representative Anderson.

DR. GEORGE SCHAFFER, Dentist, and Member,
Executive Council of Alaska Dental Society
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 93.

DR. ROBINSON, Dentist, and Member,
Board of Dental Examiners
Juneau, Alaska

POSITION STATEMENT: Testified on HB 93.

REPRESENTATIVE MAX GRUENBERG
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained HB 90.

KIM GARNERO, Director,
Division of Finance
Department of Administration
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 90, offered additional
information.

ACTION NARRATIVE

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at [3:21:31 PM](#). Representatives Lynn, Ledoux, Guttenberg, Kott were present at the call to order. Representative Crawford is still in Anchorage, Alaska. Today we have two bills, HB 93 and HB 90. We do not plan on taking the bills out of committee today.

HB 93-DENTISTS AND DENTAL HYGIENISTS

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 93, "An Act relating to dentists and dental hygienists and the Board of Dental Examiners; establishing certain committees for the discipline and peer review of dentists; excluding the adjudicatory proceedings of the Board of Dental Examiners and its committees from the Administrative Procedure Act and from the jurisdiction of the office of administrative hearings; and providing for an effective date."

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JON BITTNER, Staff to Representative Anderson, started off by stating that the committee should have a CS for HB 93.

CHAIR ANDERSON moved to adopt the CSHB 93, Version 24-LS0384/G, for discussion purposes. There being no objection, Version G was before the committee.

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MR. BITTNER began by stating that there were five amended sections. The first one is on page 11, after 'dentistry' where we added 'dental hygiene', and on line 13, we added 'dental hygienists'. Page three, line 7-9, adds the words " threatens or compromises patient care, has the potential to compromise patient care, or after disability'. We added this into the bill to protect against discrimination. Page five, lines 18-20, we add 'a copy of the summary published under this paragraph shall be delivered to the named licensee if possible the delivery will be by electronic mail or facsimile'. Page ten, line one, has been amended to add 'a mediator approved by the board', to replace 'either a dentist or attorney licensed to practice in the state'. This has been added to allow dentists to serve as mediators. This amendment is something of an oversight from when the bill was first legislated.

CHAIR ANDERSON asked Mr. Bittner to sum up why his staff sponsors the bill.

MR. BITTNER stated that basically, this brings the expertise of dentists and hygienists to the process of reviews, complaints, within the industry. It also empowers the dental board to impose remedial measures and disciplinary actions. It gives the board the authority to refer certain types of complaints to a peer review committee, and more serious complaints will go to a disciplinary committee. The board will have the authority to suspend licenses of those that endanger the public health. It will add uniform standards to the dental practice in Alaska. It gives patients a peer review process to address their concerns.

CHAIR ANDERSON asked if Mr. Bittner could give an example of what would happen within the new process should a crime be committed by a dentist.

MR. BITTNER stated that one of the things that HB 90 addresses is the availability of drug and alcohol treatment. This gives a dentist that has a drinking problem, the family can intervene on his behalf and go to the board who then can ask the dentist to seek help or suffer penalties.

CHAIR ANDERSON stated that the great thing about this is that it has fellow dentists analyze these problems. Its like youth court for young offenders.

MR. BITTNER said that they understand the problems best and they also understand the techniques that are desirable in dentistry.

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REPRESENTATIVE LYNN asked what kind of physical or mental disability would not threaten patient care.

MR. BITTNER stated that a disorder like Tourette's Syndrome could be an example. He then retorted that it has not been specifically laid out.

REPRESENTATIVE LYNN understood this but acknowledged that he was not sure if he wanted a dentist working on his teeth while yelling out expletives.

MR. BITTNER answered absolutely and commented that there are many less severe mental disorders that are out there. He then commented that it would be up to the board to make this determination.

CHAIR ANDERSON took this further and stated that dyslexia is an example of an affliction that is less severe. He then goes to public discussion.

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DR. GEORGE SCHAFFER, licensed dentist for the past 25 years, member of the executive council of Alaska Dental Society, began by stating that he had a roommate in dental school who was certified paranoid. He was worried that the world was out to get him, and that despite this mental disorder, he was able to function in the profession and run a successful practice. His problems did not affect his patients. They affected his personal being only.

CHAIR ANDERSON asked what Dr. Schaffer thought of as the merits of the bill before the committee today.

DR. GEORGE SCHAFFER started off by stating that dentistry is a very different profession. Medicine, law, and engineering are almost always practiced in groups. Dentistry is practiced alone in a single office. Dentists do not have other professionals looking over their shoulders. The concern here is that they rely on the state licensing board to judge the dentist's practicing ability. He went on to say that when he served on the board, a complaint would come in, and it was investigated by someone in law who would then hand it over to the board. The board does not see the name or any of the evidence. They get what the investigator has related in the summation. They also get an advisory opinion on any action that should be taken. The problem here is that the board has no name, no evidence, and no real part in the investigation. The professionals need to see the evidence before they are forced to make a decision against a fellow dental practitioner.

DR. SCHAFFER went on to say that the new bill does this and defines the standards how the evidence is gathered and how it is handled when it is in the state's hands. He finished by stating that this bill allows the president or vice president of the board to 'triage a complaint'. If it is something very serious, the board as a whole will deal with the complaint. If it is less severe, like polishing teeth when not permitted to do so, then these issues are put into peer review or a disciplinary committee. The president of the board would decide the severity of the complaints and the penalties. One of the three groups: the peer review, the disciplinary committee, or the whole board itself will address the issues.

CHAIR ANDERSON decided that unless there was a pressing question, he would ask Dr. Schaffer to be available next time the bill is heard.

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DR. ROBINSON, general dentist in Alaska for 40 years, member on the board of Dental Examiners, added two things to the testimony given by Dr. Schaffer. He started by stating that is possible that a case be dismissed after review. The other thing is that this bill puts in writing the program for substance abuse that is available and gives it further credibility.

CHAIR ANDERSON stated that his staff and Mr. Union at the Department of Occupational Licensing would work on this bill.

REPRESENTATIVE GUTTENBERG asked if the chair was expecting substantial rewrite from Mr. Union.

CHAIR ANDERSON answered that he did not think so. He then announced that he was holding public testimony until next time.

[HB 93 was held over.]

HB 90-STATE TREASURY WARRANTS

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 90, "An Act requiring warrants drawn by the Department of Administration against the state treasury to be negotiable instruments."

[3:40:43 PM](#)

REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, explained that HB 90 simply makes state warrants negotiable instruments. The state pays its bills with warrants. He informed the committee that the question as to whether these warrants are legally negotiable instruments under the Uniform Commercial Code (UCC) arose. The Alaska Supreme Court case, Univentures [National Bank of AK v. Univentures 1231 (1/24/92), 824 P 2d 1377] case, to hold that warrants are negotiable instruments. In the aforementioned case the banks were put in the position in which the state would say the warrants weren't negotiable instruments, and therefore the banks would be left "holding the bag." Representative Gruenberg specified that a warrant is similar to a check and the state still pays its

employees with warrants. He informed the committee that this legislation was introduced last year, went through the House State Affairs Standing Committee and passed the full House and proceeded to the Senate Rules Standing Committee, where it resided. He said that he wasn't aware of any objection to this legislation.

REPRESENTATIVE LEDOUX inquired as to how the state failed to honor its instruments.

REPRESENTATIVE GRUENBERG answered that being a warrant, the state took the position that they weren't instruments and the dishonor provisions of the UCC didn't apply. He recalled introducing legislation on this back in the mid 1980s. The state was so opposed to this, that it took the banks taking the matter to the Alaska Supreme Court where it upheld that the warrants were negotiable instruments.

REPRESENTATIVE LEDOUX clarified that she was asking why the state was not honoring its own warrants.

REPRESENTATIVE GRUENBERG specified that it would depend upon the individual warrant. The state may have felt the vendor was supplying defective merchandise, for instance, and thus didn't want to honor the warrant. He recalled that in the Univentures case the state was a tenant in an office building owned by Univentures. There was a dispute between the partners of Univentures and the state was notified that it shouldn't pay the monthly rent to one of the partners of Univentures, which resulted in the state stopping payment on the warrant. The state was directed to hold the rent in abeyance until a court appointed receiver was named. Meanwhile, National Bank of Alaska had paid out \$28,143.47. Representative Gruenberg noted that the aforementioned wasn't the largest warrant that was dishonored.

REPRESENTATIVE GUTTENBERG surmised that the state has followed the court ruling and this legislation merely inserts conforming language in statute.

REPRESENTATIVE GRUENBERG agreed.

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KIM GARNERO, Director, Division of Finance, Department of Administration, confirmed that this legislation simply codifies in statute the earlier mentioned 1992 Alaska Supreme Court. The

case meant that warrants should be treated as checks in the banking industry. Since that decision, the state has administered its warrants as negotiable instruments, and therefore no administrative changes are necessary if this legislation passes.

CHAIR ANDERSON, upon determining there were no questions or witnesses, closed public testimony.

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REPRESENTATIVE GUTTENBERG moved to report HB 90 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at [3:50:48 PM](#).