

MINUTES
SENATE FINANCE COMMITTEE
May 9, 2005
5:33 p.m.

CALL TO ORDER

Co-Chair Green convened the meeting at approximately [5:33:04 PM](#).

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Lyman Hoffman
Senator Donny Olson

Also Attending: MIKE TIBBLES, Deputy Commissioner, Department of Administration; ANNE CARPENETI, Assistant Attorney General, Criminal Division, Legal Services Section-Juneau, Department of Law; MIKE PAWLOWSKI, Staff to Representative Kevin Meyer

Attending via Teleconference: There were no teleconference participants.

SUMMARY INFORMATION

HB 161-REEMPLOYMENT OF RETIREES

The Committee heard from the Department of Administration. A committee substitute was adopted and the bill reported from Committee.

HB 88-CRIM LAW: MINORS, SCHOOLS, DRUGS, SENTENCES

Testimony was presented by the Department of Law. The Committee reported the bill from Committee.

HB 33-EFFECT OF REGULATIONS ON SMALL BUSINESSES

The Committee heard from the bill's sponsor, adopted one amendment, and reported the bill from Committee.

#hb161

CS FOR HOUSE BILL NO. 161(STA) am
"An Act relating to reemployment of and benefits for or on behalf of retired teachers and public employees and to teachers or employees who participated in retirement incentive programs and are subsequently reemployed as a commissioner; repealing secs. 5, 7, and 9, ch. 58, SLA 2001; providing for an effective date by amending the delayed effective date for secs. 3, 5, 9, and 12, ch. 57, SLA 2001, and repealing sec. 13, ch. 58, SLA 2001, which is the delayed effective date for secs. 5, 7, and 9, ch. 58, SLA 2001; and providing for an effective date."

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

Co-Chair Wilken moved to adopt committee substitute Version 24-LS064\L as the working document.

There being no objection, the Version "L" committee substitute was ADOPTED.

Senator Hoffman asked for an explanation of the Version "L" committee substitute.

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MIKE TIBBLES, Deputy Commissioner, Department of Administration, explained that the language in HB 161 Version "L" is identical to the version of SB 24-REEMPLOYMENT OF RETIREES that had recently passed the Senate. The lone difference in that bill and the version that had passed from this Committee was the addition of Intent Language that had been adopted on the Senate Floor. To that point, he stated that Intent Language mirroring that adopted by the Senate in SB 24 is included in HB 161, Version "L", in Section 1(d), page two, lines 21 through 26, as follows.

(d) Notwithstanding (b) of this section and secs. 10 and 17 of this Act, it is the intent of the legislature that the provisions of ch. 57, SLA 2001, ch. 58, SLA 2001, and ch. 15, SLA 2003, that provide for the reemployment of retired members of the teachers' and public employees' retirement systems sunset on June 30, 2005, and the rights of retirees who were reemployed before July 1, 2205 and whose extended periods of reemployment are created by this Act are governed by this Act.

Co-Chair Green understood therefore that other than the addition of this language, the entirety of the HB 161 Version "L" committee

substitute mirrors the version of SB 24 that had reported from this Committee.

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, SCS CS HB 161 (FIN) was REPORTED from Committee with Department of Administration zero fiscal note #1, dated May 2, 2005.

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#hb88

SENATE CS FOR CS FOR HOUSE BILL NO. 88(JUD)

"An Act relating to certain weapons offenses involving minors; relating to the definition of 'recreation or youth center' for purposes of misconduct involving a controlled substance; to aggravating factors in sentencing for certain offenses committed on school grounds, on a school bus, at a school-sponsored event, or in administrative offices of a school district; to mitigating factors in sentencing for a defendant's assistance to authorities to detect, apprehend, or prosecute other persons who committed an offense; and providing for an effective date."

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

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ANNE CARPENETI, Assistant Attorney General, Criminal Division, Legal Services Section-Juneau, Department of Law, stated that this legislation, which is sponsored by Governor Frank Murkowski, was "drafted to address the problems with violence" that is being experienced in schools throughout the State. She noted that the Municipality of Anchorage School Superintendent assisted in the development of the bill.

Ms. Carpeneti stated that this bill would enact an aggravating factor for assaults or crimes against a person or arson that occur on school grounds, a school bus, a school function, or in a school district's administrative office "if students are educated at the office". Crimes committed at schools not only affect the victim but also "make schools an unsafe place for children ... and set a bad example for children".

Ms. Carpeneti continued that the bill would also address law enforcement concerns about "weapons used in crimes by youth" by allowing 16 or 17-year old juveniles who possess a gun while committing a felony drug offense or a drive-by shooting in which persons are harmed, to be waived to Adult Court.

Ms. Carpeneti shared that under current State drug laws, "in certain cases, drug crimes are more serious" when they occur near a school or recreational or youth center. This bill would expand the definition of recreational youth centers, as specified in Section 1, page one, line nine through page two, line two, "to include not only those run by a municipality or the State, but also those operated by private entities".

Ms. Carpeneti noted that Sec. 3 would amend the mitigating factors in sentencing to specify that in order for a mitigating factor to be considered, the defendant's cooperation with authorities must occur after, rather than prior to, their being charged with the offense. She recounted that at one time, information provided ten years prior to the crime to which the person was charged, had been recognized as a mitigating factor.

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Co-Chair Green ascertained that this bill would "amend current Statute" rather than "creating new language".

Senator Dyson asked for examples of citations that would relate to Sec. 4(a)(4) on page three, lines ten through 14.

(4) that is misconduct involving weapons in the first degree under

(A) AS 11.61.190(a)(1); or

(B) AS 11.61.190(a)(2) when the firearm was discharged under circumstances manifesting substantial and unjustifiable risk of physical injury to a person.

Ms. Carpeneti explained that AS 11.61.190(a)(1) relates to "misconduct involving weapons in the first degree". That language would prohibit a person from possessing a gun while committing a drug felony. "AS 11.61.190(a)(2) is the prohibition of shooting a gun out of a vehicle."

Senator Dyson acknowledged.

Senator Olson asked whether AS 11.61.190(a)(2) would affect a hunter.

Ms. Carpeneti clarified that, AS 11.61.190(a)(2) would prohibit "shooting a gun out of a vehicle under circumstances that could cause harm to persons or property". In consideration of the hunting concern, the bill was amended to specify that a 16 or 17-year-old juvenile would be automatically waived to Adult Court only in cases in which "the shooting caused substantial risk of harm to a person".

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, SCS CS HB 88(JUD) was REPORTED from Committee with indeterminate fiscal note #3, dated March 21, 2005 from the Department of Health and Social Services and indeterminate fiscal note #4, dated March 21, 2005 from the Department of Law.

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#hb33

CS FOR HOUSE BILL NO. 33(FIN)

"An Act relating to required notification of the Department of Commerce, Community, and Economic Development, economic effect statements, and regulatory flexibility analyses regarding the adoption of regulations that may govern the conduct of small businesses; relating to a private cause of action, regulation invalidation, and judicial review related to required notification, economic effect statements, and regulatory flexibility analyses for the adoption of regulations that may govern the conduct of small businesses; and providing for an effective date."

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

MIKE PAWLOWSKI, Staff to Representative Kevin Meyer, bill's sponsor, noted that he was available to answer questions regarding the bill.

Co-Chair Wilken referenced the flow chart titled "Steps in the Regulation Process Under HB 33" [copy on file] that had been discussed during the bill's first hearing, and stated that the chart should be altered to include, at "Step 5", another step reflecting that the proposed legislation should be also transmitted to the Division of Legal Services, Legislative Affairs Agency for review. Legal Services would notify the Regulation Review Agency, the Senate President, and the Speaker of the House were they to

foresee a problem with the legislation. This step should be included as a result of 2004 enacted legislation that was sponsored by Senator Gene Therriault.

Co-Chair Wilken voiced uncertainty as to the purpose of the legislation before the Committee. While HB 33 might be a "feel good" bill, he was unsure as to whether it would accomplish anything beyond what should already be being conducted in State government.

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Co-Chair Green spoke against creating impediments to the process, as slowing the process down would be undesirable.

Mr. Pawlowski responded that "serious discussions" about that issue have occurred during the bill's committee hearing process. In response to Co-Chair Wilken's comments, he noted that the chart would be corrected to reflect the Division of Legislative Audit's role in the flow chart.

Mr. Pawlowski shared that "the experience of the 25 other states that have adopted similar legislation and the experience at the federal level is that these regulatory flexibility analyses and building this into state government has had significant savings for small businesses across the country". The Governor Frank Murkowski Administration has participated in the efforts being undertaken to ensure that the process "could be absorbed and not slowed down".

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Co-Chair Wilken asked whether a process has been developed through which to evaluate the success of this legislation.

Mr. Pawlowski stated that it has been the experience of other states, that the Regulatory Review Committee would conduct the follow-up evaluation. The goal of this flexibility regulatory analyses process is to lessen "the burden" on small businesses; therefore that occurrence would also indicate that the process was working. Some states have also implemented review provisions. The Legislature could also review it overtime.

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Co-Chair Wilken suggested that a three-year termination date be specified for this Act and that a Legislative audit be conducted in order to determine whether the program should be extended.

Co-Chair Green concurred.

Mr. Pawlowski stated that while he has not discussed this option with Representative Meyer, the issue had been raised before. One of the reasons that a termination date was not specified in the bill was due to the determination that "trying to change regulatory culture" could be characterized as a "glacial change". After sharing some previous regulatory change efforts, he allowed that incorporating a termination date would be acceptable.

Conceptual Amendment #1: This amendment specifies a termination date of January 1, 2009. In addition, a report of the program must to be presented to the Legislature no later than March 15, 2008.

Co-Chair Wilken moved Conceptual Amendment #1.

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

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, SCS CS HB 33 (FIN) was REPORTED from Committee with zero fiscal note #7, dated April 15, 2005 from the Department of Environmental Conservation; zero fiscal note #9, dated April 15, 2005 from the Department of Labor and Workforce Development; indeterminate fiscal note #10, dated April 13, 2005, from the Department of Law; \$95,100 fiscal note #11, dated April 15, 2005 from the Department of Commerce, Community and Economic Development; and zero fiscal note #12, dated April 19, 2005 from the Department of Health and Social Services.

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RECESS To CALL OF THE CHAIR [5:50:33 PM](#) / [10:30:17 PM](#)

ADJOURNMENT

Co-Chair Green adjourned the meeting at 10:30 PM.