

HOUSE FINANCE COMMITTEE
February 14, 2007
2:09 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [2:09:41 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Harry Crawford
Representative Les Gara
Representative Mike Hawker
Representative Mike Kelly
Representative Mary Nelson
Representative Bill Thomas, Jr.

MEMBERS ABSENT

Representative Reggie Joule
Representative Richard Foster

ALSO PRESENT

Representative Jay Ramras; Emily Stancliff, Staff,
Representative Jay Ramras; Representative Paul Seaton;
Representative Bob Roses; Jerry Burnett, Director, Division
of Administrative Services, Department of Revenue

PRESENT VIA TELECONFERENCE

Douglas Griffin, Director, Alcoholic Control Board,
Department of Public Safety

SUMMARY

HB 51 "An Act relating to recorking, sealing, or packaging of wine served with a meal and removal of recorked, sealed, or packaged wine from licensed premises."

HB 51 was REPORTED out of Committee with a "do pass" recommendation and with fiscal note #1 by the Department of Public Safety.

HB 48 "An Act amending the powers of the board of trustees of the Alaska Retirement Management Board to authorize purchase and sale of transferable tax credit certificates issued in conjunction with the

production tax on oil and gas; and providing for an effective date."

CSHB 48 (FIN) was heard and HELD in Committee for further consideration.

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HOUSE BILL NO. 51

"An Act relating to recorking, sealing, or packaging of wine served with a meal and removal of recorked, sealed, or packaged wine from licensed premises."

REPRESENTATIVE JAY RAMRAS, sponsor, introduced HB 51 by stating that the current version of the bill omits beer sampling, which was included in last year's bill, because the bill is about drinking less, rather than more. He explained that the purpose of the bill is to give consumers an opportunity to drink less because they can bring home the unconsumed portion of a bottle of wine.

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DOUGLAS GRIFFIN, DIRECTOR, ALCOHOLIC CONTROL BOARD, DEPARTMENT OF PUBLIC SAFETY noted that the Alcohol Beverage Control (ABC) Board has not taken a position on the bill and he is speaking on behalf of himself. He endorsed the comments that Representative Ramras made. There are two public policy issues: over-consumption vs. open container. This bill would allow patrons of restaurants to enjoy a bottle of wine without the need to consume the entire bottle and therefore not worry so much about being over the .08 level of intoxication. The bill would also allow for recorking the bottle to avoid open container problems. Thirty-four states have legislation to deal with open containers. He termed the bill a worthy effort to make the roads safer by reducing over-consumption and driving while impaired. He offered to answer questions.

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Representative Thomas asked how the bottle would be resealed.

EMILY STANCLIFF, STAFF, REPRESENTATIVE JAY RAMRAS replied that recorking the bottle is one method, tamper-proof bags another. The ABC Board would determine the methods to be used.

Co-Chair Meyer noted the zero fiscal note from the Department of Public Safety.

Representative Hawker MOVED to REPORT HB 52 out of committee with individual recommendations and the accompanying zero fiscal note. There being NO OBJECTION, it was so ordered.

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HOUSE BILL NO. 48

"An Act amending the powers of the board of trustees of the Alaska Retirement Management Board to authorize purchase and sale of transferable tax credit certificates issued in conjunction with the production tax on oil and gas; and providing for an effective date."

REPRESENTATIVE PAUL SEATON, sponsor, explained that HB 48 is a mechanism that was discussed last session during the development of the Petroleum Profits Tax (PPT). Under PPT transferable credits for net operation losses, capital credits, and exploration tax credits were created. For small oil and gas companies, the PPT created a direct refund of up to \$25 million in transferable tax credit per company each year. The credits are transferable to companies that can write those credits off against their PPT tax liability. The incentive was to return funds to the investors. Currently, those eligible to buy the credits are oil companies that have PPT liability so that there is not a negative impact on the state. HB 48 allows the ARM Board to purchase those credits at a fixed 92 percent of the face value and then refund the full face value to the state. The Commissioner of Revenue has to determine that the economic conditions of the state are sufficient so that the credits could be refunded without a negative impact.

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Representative Seaton said the purpose of the bill is so that the ARM Board can apply the return on their investment against the state's unfunded liability. He explained that the bill also establishes a floor for small explorers. The bill allows the ARM Board to act like a small oil company and apply for the credits pending the Commissioner's approval. The return on the investment to the overall portfolio could be significantly increased if many credits are made.

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Representative Seaton referred to pages 42 and 43 from the State of Alaska Public Employees' Retirement System manual (copy on file.) He explained that the table 1.5(e) "Actuarial Projections - Projections a Calculated Rate Effect of Economic Scenarios" demonstrates the effect of an increased return on the ARM Board investment. Raising the

investment return by 0.75 percent over a ten-year period will change the annual contribution from \$630 million to \$550 million. He opined that there could be many credits available, which would yield a significant amount to the ARM Board investment.

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Co-Chair Meyer declared a potential conflict of interest due to his work with an oil company.

Representative Crawford stated support for the bill and the idea of creating a floor. He wondered if it might be beneficial to say "at least 92 percent".

Representative Seaton explained that the reason that was not done was to prevent the ARM Board from having to engage in a bidding war. The idea was that 92 percent would make a very good return for the ARM Board. The Commissioner of Revenue is a member of the ARM Board and would be able to make a determination whether it is economically sound to proceed with the refund.

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Representative Crawford restated a concern to watch and see how it goes and possibly make changes if needed. He thought the larger companies would bid the minimum amount to get credit. Representative Seaton shared the history of how companies bought credits in the high 80s and 90s. There is an internal marker of 10 percent historically.

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Representative Gara expressed confusion as to how this would work. He summarized that the ARM Board would purchase the credits as a means to fund the pension system. Representative Seaton agreed. He asked if the state already has the ability to purchase these credits. Representative Seaton replied that no one is prevented from purchasing the credits; however, the only companies that can apply are those that have PPT liability. He gave an example how an individual company might use the tax credit.

Representative Gara suggested that more competition is better. He opined that other state entities might benefit from this option. Representative Seaton pointed to the large liability of the retirement system. The numbers are so high that if the University and others were allowed to bid, not as much money would be made. This process yields 92 percent. It is a reasonable way to go.

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Representative Gara thought there might be an incentive for oil producers and explorers to sell the credits among themselves. He suggested a provision that if the ARM Board's offer is the highest, it must be accepted. Representative Seaton thought restriction of the credits would not work. There is no public reporting requirement for purchasing. He maintained that making this an allowable vehicle helps those doing the investing because of the floor. It adds no layers of regulation or disclosure. He suggested keeping it simple.

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Co-Chair Meyer favored the free market idea, but agreed that 92 percent is an acceptable number in order to protect the small explorers. He summarized that the Department of Revenue buys credit from the ARM Board and then the money is made available by the legislature. Representative Seaton reiterated that a company applies for a credit because they had a net operating loss or qualified capital or operating expenses. The company applies for a certificate, which DOR issues, and which has a 20 percent face value of that expenditure. Whoever turns the certificate in gets the face value. The buying and selling of the credits is a simple operation - an overnight transaction - to get reimbursed 100 percent.

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Representative Hawker voiced a concern that 92 percent is too low. He asked if there were any trades of the certificates on record. Representative Seaton recalled testimony about tradable credits during PPT hearings. He recalled the highest being 91 or 91.5. Representative Hawker summarized that a "buy order" is being put into this bill. He opined that the state could be "leaving money on the table" if the market is lower. He asked if an amendment to say "no more than 92 percent" would be acceptable.

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Representative Seaton thought that would be complicated and the Board would have to meet to verify each trade. He explained some of the problems with that idea. He pointed out the 20 percent annual limit criteria. Part of the reasoning behind the bill is to make sure that the small explorers are going to get 92 percent of their net operating loss. He explained that changing 92 percent would complicate the matter. Representative Hawker asked if the ARM Board would have to meet. He questioned the state's dictating market prices.

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Representative Seaton thought the ARM Board would not have to meet with a fixed rate of 92 percent because of immediate reimbursements and because the Commissioner is a member of the Board.

Representative Kelly concurred with the method. He suggested the ARM Board have the ability to authorize up to 100 percent or stay with the default number.

Co-Chair Meyer thought the objective was to protect the small explorers. Representative Seaton said that is correct. He explained that it would also help the ARM Board.

Representative Hawker concurred with Representative Kelly's ideas.

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Representative Gara asked what cost it is to the state at 92 percent. Representative Seaton repeated that the state is going to pay 100 percent of the face value of the certificate. The ARM Board would harvest the 8 percent difference. The ARM Board will be able to reimburse the credit. No explorer will go to the ARM Board if they have not used the \$25 million direct cash because that is 100 percent. The ARM Board will act like one of the producers with tax liability and purchase the credit.

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Representative Gara gave a hypothetical investment example. Representative Seaton corrected that the state has not lost anything in Representative Gara's example. It does not matter if a company buys the credit for 98 percent, the state will pay for the face value at 100 percent of the credit certificate. The ARM Board would get 8 percent. Representative Gara reiterated his conclusions. He wondered if it would be a good investment for BP at 92.1 percent so the ARM Board could not make a purchase. He suggested letting the ARM Board into the bidding process.

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Representative Seaton thought that if oil companies do bid at 92.1 percent, then the bill would have to be revisited. He could not expound further. Small explorer companies have expressed concern that there will be no floor.

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Representative Kelly concluded that HB 48 will cost the oil industry, not the state or the small explorer. He asked if the ARM Board is in agreement. Representative Seaton

related that the ARM Board supports the bill. He did not know if they would be interested in a bidding system. Representative Kelly suggested that Representative Seaton ask the ARM Board that question. Representative Seaton offered to contact the executive director. He pointed out that the bill establishes a floor and this suits the small explorers. Representative Kelly said it is a balance of a benefit to the state and to the small producers.

Representative Seaton questioned if the intent is to make as much from the explorers as possible.

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Representative Kelly stated that he would prefer zero to 100 percent, but that he was not sure what the ARM Board would prefer. He pointed out that he would support flexibility. Representative Seaton asked if the Committee's intent would be to give up a defined floor for the explorers and retain the ability of the ARM Board to make money.

Representative Kelly didn't think the small explorers would be hurt since a new player would be involved.

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Representative Seaton asked for clarification of the Committee's intent regarding 0 - 100 or 92 - 100. He pointed out that the small producers would opt out at 0 - 100 percent.

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JERRY BURNETT, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF REVENUE, spoke in support of the legislation. He noted that the Commissioner believes there should be a floor, but has not settled on the figure. How credits are allocated might affect the market.

In response to a question by Representative Kelly, Mr. Burnett did not know if the ARM Board has spoken to the level of percentage.

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Representative Hawker referred to (B) on page 2, lines 17 - 19 of the bill, and noted that the language provides broad authority. The policy decision would be the responsibility of the ARM Board. Mr. Burnett observed that the ARM Board does not have authority to shift funding between the systems. Representative Hawker stressed the need for further direction to the ARM Board.

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Representative Crawford spoke in support of the concept and noted that the "big three" oil companies are currently the only bidders. The addition of the ARM Board would increase the "free" market. He spoke in support of additional flexibility for the beneficiaries of the retirement system.

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Representative Thomas felt there should be a resolution from the ARM Board supporting the concept. He spoke in support of language allowing zero to 100 percent of the credit to be purchased.

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Representative Gara noted that the ARM Board would not have a high transaction cost and suggested that the ARM Board would make money at higher levels. Representative Seaton responded that there is a huge percentage of return on investment. The change in portfolio performance affects the overall fund and return. Historically, they have been traded at the high 80's and low 90's.

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Representative Gara summarized that the intent is to both give money to the ARM Board and provide a floor for producers. He suggested not limiting it to 92 percent.

Representative Seaton suggested that bids will come in at the highest amount inserted. The idea is to make it simple. Representative Seaton related that the history is that to establish the floor allows for security. He said he will find the information requested.

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Representative Kelly pointed out that there is not perfect information in the market.

ADJOURNMENT

The meeting was adjourned at 3:31 PM.