

HOUSE FINANCE COMMITTEE
May 11, 2007
8:51 A.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [8:51:22 AM](#).

MEMBERS PRESENT

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

MEMBERS ABSENT

None

ALSO PRESENT

Suzanne Cunningham, Staff, Representative Meyer; Diane Casto, Section Manager, Prevention and Early Intervention Section, Division of Behavior Health, Department of Health and Social Services; Cindy Drinkwater, Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Anchorage), Department of Law; Annette Kreitzer, Commissioner, Department of Administration; Virginia Ragle, Assistant Attorney General, Labor and State Affairs, Department of Law; Kevin Brooks, Deputy Commissioner, Department of Administration.

PRESENT VIA TELECONFERENCE

None
#sb84
SUMMARY

CS SB 84(JUD)

An Act relating to the testing and packaging of cigarettes to be sold, offered for sale, or possessed in this state; and providing for an effective date.

HCS CS SB 84 (FIN) was reported out of Committee with a "" recommendation and with a new fiscal note by the Department of Health and Social Services, fiscal note #4 by the Department of Public Safety and a new fiscal note by the Department of Revenue.

HCS CSSB 84 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a previously published fiscal impact note from the Department of Public Safety and two new fiscal notes: DHSS #5 and REV #6.

CS FOR SENATE BILL NO. 125(FIN)

An Act relating to the accounting and payment of contributions under the retirement plans of the Public Employees' Retirement System of Alaska and the Teachers' Retirement System, to calculations of contributions under those retirement plans, and to participation in, and termination of and amendments to participation in, the defined benefit plans of those systems; relating to employer contributions to the health reimbursement arrangement plan; making conforming amendments; and providing for an effective date.

HCS CS SB 125 (FIN) was reported out of Committee with a "do pass" recommendation and with indeterminate note #1 by the Department of Administration and fiscal note #2 by the Department of Administration.

CS FOR SENATE BILL NO. 84(JUD)

An Act relating to the testing and packaging of cigarettes to be sold, offered for sale, or possessed in this state; and providing for an effective date.

Vice Chair Stoltze MOVED to ADOPT work draft #25-LS0596\N, Bannister, 5/9/07. There being NO OBJECTION, it was adopted.

SUZANNE CUNNINGHAM, STAFF, REPRESENTATIVE MEYER, discussed the new provisions of HCS CSSB 84 (FIN). The Department of Health and Social Services (DHSS) will be required to notify tobacco endorsement holders when DHSS investigators cite employees of the endorsement holder for selling tobacco products to a minor. Notification can either be hand delivered or postmarked no later than five days after the citation is issued. Currently, endorsement holders become aware of the violation when they receive a suspension notice. The committee substitute (CS) expands the criteria that can be considered in a hearing pertaining to an

endorsement holder's license suspension for a violation of selling tobacco products to a minor. The new criteria are: Did the endorsement holder adopt or enforce education, compliance and a disciplinary program for agents and employees? Did the endorsement holder overcome the presumption that an employee negligently sold tobacco products to a minor? Were there other violations of selling tobacco to a minor at the endorsement holder's locations within five years of the suspension hearing? Did the endorsement holder engage in conduct that was likely to result in the sale of tobacco to a minor?

The committee substitute allows the suspension to be mitigated or aggravated based on the new criteria presented in the committee substitute pertaining to an endorsement holder's license suspension.

Ms. Cunningham observed that the department could reduce a first offense suspension by ten days and a second offense by 20 days. The CS provides that a suspension can only be reduced once in a twelve month time period. A second suspension cannot be reduced if it occurs within a twelve month period of the first violation. The CS sets out the endorsement holder's responsibilities in regard to training and education programs. Evidence submitted in a suspension hearing on a license suspension must show that a written policy was adopted and enforced, employees were informed of state laws and penalties and training was conducted on state laws and compliance. Each employee is required to sign a form stating that they have been informed and understand the written policy adopted by the employer. The employer must determine that the employee has sufficient skills and experience to apply with the written policy in state law. Agents and employees must verify age before selling tobacco products and monitor the compliance of agents and employees of the written policy. The CS prohibits an employee younger than 19 years of age from selling tobacco products, since it is an age restricted product similar to alcohol.

[8:55:14 AM](#)

Co-Chair Meyer MOVED to ADOPT Amendment #1. (Copy on File). To Page 11, after line 25, insert new Section:

Ms. Cunningham explained that discussion on the fiscal notes noted that the Department of Revenue plans to use receipt supported services that are collected from the certification fees for self extinguishing cigarettes. Clarification language is needed in statute. A new paragraph was added under the definition of program receipts: (82) fees collected under AS 18.74.080.

[8:56:39 AM](#)

There being NO OBJECTION, it was so ordered.

Representative Gara WITHDREW Amendments 2 and 3.

[8:58:28 AM](#)

Co-Chair Meyer questioned if concerns regarding due process have been resolved.

DIANE CASTO, SECTION MANAGER, PREVENTION AND EARLY INTERVENTION SECTION, DIVISION OF BEHAVIOR HEALTH, DEPARTMENT OF HEALTH AND SOCIAL SERVICES felt that the due process issue had been resolved. She noted that retailers are provided an opportunity for hearings and to if certain criteria are laid out can have their 1st and 2nd violations reduced by an administrative law judge.

[8:58:47 AM](#)

Representative Gara was comfortable with the Department of Law's interpretation, but noted that the issue may be decided in the Alaska Supreme Court someday.

[8:59:30 AM](#)

CINDY DRINKWATER, ASSISTANT ATTORNEY GENERAL, COMMERCIAL/FAIR BUSINESS SECTION, CIVIL DIVISION (ANCHORAGE), DEPARTMENT OF LAW, spoke to the rebuttable presumption provision. The presumption is that citation, which resulted in a conviction, is proof of the underlying fact that the sale occurred. However, the endorsement holder can provide evidence that there was not a negligent sale of tobacco and if they overcame the presumption then they would not be subject to a suspension period.

[9:03:52 AM](#)

Ms. Drinkwater explained that the employer was not negligent. The endorsement holder would put on that evidence.

Co-Chair Chenault referred to a case in Fairbanks where a disgruntled employee sold tobacco products to a minor regardless of the safeguards of the employer. The employer's recourse under the bill would be a ten day suspension instead of a 20 day suspension.

[9:05:48 AM](#)

Co-Chair Meyer noted that HB 187, which was introduced to address due process, was merged into CSSB 84 (FIN). Public testimony was previously taken on both bills.

[9:07:04 AM](#)

Representative Hawker noted concern that the proposed amendments do not correct the constitutional deficiencies identified by the Court and suggested that the issue would be decided in the courts.

[9:08:40 AM](#)

Representative Foster MOVED to REPORT HCS CS SB 87 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

HCS CS SB 84 (FIN) was reported out of Committee with a "" recommendation and with a new fiscal note by the Department of Health and Social Services, fiscal note #4 by the Department of Public Safety and a new fiscal note by the Department of Revenue.

AT EASE: [9:09:28 AM](#)

RECONVENE: [9:11:02 AM](#)

Co-Chair Meyer clarified a new fiscal note from the Department of Revenue, dated 5/10/07, was attached to HCS CSSB 84 (FIN), which shows the receipt support services.

HCS CSSB 84 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with a previously published fiscal impact note from the Department of Public Safety and two new fiscal notes: DHSS #5 and REV #6.

#sb125

CS FOR SENATE BILL NO. 125(FIN)

An Act relating to the accounting and payment of contributions under the retirement plans of the Public Employees' Retirement System of Alaska and the Teachers' Retirement System, to calculations of contributions under those retirement plans, and to participation in, and termination of and amendments to participation in, the defined benefit plans of those systems; relating to employer contributions to the health reimbursement arrangement plan; making conforming amendments; and providing for an effective date.

ANNETTE KREITZER, COMMISSIONER, DEPARTMENT OF ADMINISTRATION, observed that Amendment #2 would speak to concerns by the Department of Law.

Co-Chair Meyer MOVED to ADOPT Amendment #2. Vice-Chair Stoltze OBJECTED.

Michael Barnhill, Assistant Attorney General, Department of Law, explained that the HCS CSSB 125 (FIN) provides new sections for additional state contributions to the PERS/TRS systems. Review of these sections with outside counsel uncovered concern to which a statute in AS 09.17.070 might be used to characterize payments as offsets to any eventual recovery, if there should be a recovery against the state's actuarial: Mercer. The purpose of Amendment #2 is to clarify that AS 09.17.070 will not apply to offset against any recovery against Mercer based on additional state contributions under the bill.

In response to a question by Representative Gara, Mr. Barnhill explained that the department intends to pursue litigation and funding for the litigation. No funding has been provided to date.

[9:15:04 AM](#)

Vice-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment was adopted.

Co-Chair Meyer MOVED to adopt New Amendment #3. Vice-Chair Stoltze OBJECTED. Ms. Kreitzer explained the amendment. She noted the backup included with the amendment.

VIRGINIA RAGLE, ASSISTANT ATTORNEY GENERAL, LABOR AND STATE AFFAIRS, DEPARTMENT OF LAW, explained that the technical amendments were introduced to make sure that the two bills conform.

[9:17:01 AM](#)

Ms. Ragle observed that HCS CSSB 125 (FIN) contains all the substantive provisions of SB 123 except the requirement for employers to separately compute medical retiree benefits. The benefits would be deposited into the new employee health trust established under AS 39.30.097(a). This provision is important to assure tax compliance.

Commissioner Kreitzer provided members with backup to Amendment #3 (copy on file), which further explained the amendment would supersede SB 123 amendments.

[9:18:57 AM](#)

Ms. Ragle and Commissioner Kreitzer reviewed amendments to the Revisor's Instructions. Ms. Ragle explained that the Revisor Instructions would resurrect repealed sections.

There being NO OBJECTION, it was so ordered.

[9:22:41 AM](#)

Representative Gara originally understood that the PERS rate of 22% and the TRS rate of 12% would continue into the future. He concluded that these numbers could increase according to investment performance.

[9:24:06 AM](#)

KEVIN BROOKS, DEPUTY COMMISSIONER, DEPARTMENT OF ADMINISTRATION, clarified that the rates are set and fixed in Statute at 22% and 12.56%. He acknowledged that there is a remote chance the rates could increase if the normal costs exceed the rates in statute, since statutes state "the greater of". He did not think the normal costs would grow to the rate set in statute. The difference between the normal costs and 22% for PERS is intended to offset past service costs. It would take a dramatic shift of assumptions and would grow overtime. It would take action by the Legislature to change the rate.

[9:25:52 AM](#)

Representative Foster MOVED to REPORT HCS CS SB 125 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

HCS CS SB 125 (FIN) was reported out of Committee with a "do pass" recommendation and with indeterminate note #1 by the Department of Administration and fiscal note #2 by the Department of Administration.

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ADJOURNMENT

The meeting was adjourned at [9:27:31 AM](#)