

HOUSE FINANCE COMMITTEE
March 20, 2008
1:56 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:56:54 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 Reggie Joule
Representative Mike Kelly
Representative Bill Thomas Jr.

MEMBERS ABSENT

Representative John Harris
Representative Mike Hawker
Representative Mary Nelson

ALSO PRESENT

Representative Mike Kelly; Don Etheridge, Alaska State AFL/CIO; Rebecca Logan, President, Associated Builders and Contractors Association; Krista Crum, Chief Financial Officer, Northern Industrial Training; Ms. Barbara Huff Tuckness, Director of Governmental and Legislative Affairs, Teamsters Local 959.

PRESENT VIA TELECONFERENCE

Mike Samson, Chairman of the Board, Associated Builders and Contractors & President, Samson Electric, Anchorage & Fairbanks; Jeff Robinson, Division Manager, Klebs Mechanical, Anchorage; Bill Meade, Attorney, Turner and Meade, Anchorage.

SUMMARY

HB 391 An Act relating to project labor agreements.

HB 391 was HEARD and HELD in Committee for further consideration.

HOUSE BILL NO. 391

An Act relating to project labor agreements.

REPRESENTATIVE MIKE KELLY, Sponsor, explained that when the Alaska Gasline Inducement Act (AGIA) was introduced last year, it had no project labor agreement (PLA) requirement. As the Act moved through committee, it picked up a PLA requirement, and then a collective bargaining PLA requirement. The collective bargaining PLA causes a challenge for non-union contractors. House Bill 391 was introduced to address that.

Representative Kelly pointed out that when non-union companies are employed on PLA projects, workers are compelled to pay union dues and make union health, training and pension contributions into plans that are different than the plans with their non-union employer. These contributions may have little or no long-term benefit to the workers because they may not be employed long enough to meet vesting requirements for the union plan. In addition, for the duration of the project contributions are not made into the employee's regular pension plan, and if contributions were required to be made to maintain that plan, the employer would be required to double-pay for expensive benefits.

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Representative Kelly stated that he did not intend to criticize labor contracts. In his experience labor contracts are excellent. His intention is to level the playing field. House Bill 391 says that if Alaska mandates that a project be covered by collective bargaining PLA, then it is appropriate for the State to ensure the PLA contains adequate safeguards to ensure non-union workers benefit from the pension contributions they make. He wanted to put as many Alaskans to work as possible, whether union or non-union. The bill states that any collective bargaining PLA mandated by the State must permit employees who are not covered by a local collective bargaining unit to execute a "Benefits Election Declaration." The Declaration would allow employees the option to have fringe benefit payments and/or contributions made on their behalf to either the employer's existing benefits program or to the applicable union trust fund.

Representative Kelly described an additional provision that had been added in the last committee of referral: Within seven days of request, the employee must be provided with a notice comparing the union plan with non-union plan benefits, so that the employee can make an informed choice.

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Representative Crawford related a personal story about his work history. He described benefits he would receive for the rest of his life because of excellent defined benefit pension plans from union jobs. When he was young he could

not imagine being older and wanted an annuity plan that he had easy access to. He was grateful that he had been compelled to invest in a pension plan. He thought the bill would help younger workers make that same investment in their futures.

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Representative Kelly clarified that the bill was addressing non-union companies with employees that want to work on the pipeline. If a worker has time invested with a contractor and intends to return to that contractor after the pipeline project, the bill would permit them to protect and add to their primary plan during the years on the pipeline. They also have the choice to invest in the union piece. The point is the freedom to make the decision.

Representative Crawford said a good portion of his retirement comes from the pipeline years, short as they were. He wondered if the proper time to make a decision about long-term benefits is during a worker's younger years. Younger people seem to prefer the cash annuity, but they tend to take it out before they are retired. He thought the bill would jeopardize the longer term benefit.

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Representative Kelly agreed that young workers were not always in the right frame of mind to make long-term decisions. He intended the bill to give workers some counsel on the long-term effects of the decisions. He referred to some of the problems associated with the previous pipeline project, some of which have been addressed. The situation is still not perfect for non-union contractors, but the bill would help.

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Vice-Chair Stoltze wondered where rural workers who do not have the same opportunities to work on long-term projects fit into the picture. Representative Kelly replied that someone from a rural community who works on a short project for a contractor or sub-contractor is unable to vest.

Representative Gara noticed that the bill is written to apply to any PLA in Alaska. He did not support the bill for reasons similar to Representative Crawford's; however, he wondered if the Sponsor would accept restricting the bill to PLAs connected with the gas pipeline project. Representative Kelly said that would not be his preference because the provisions in the bill would only be triggered in state-mandated collective bargaining PLAs. He thought it preferable to leave the language the way it is because if IGIA does not work, another project might have the same

issues. He did not see risk in tying the provision to other projects.

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Representative Crawford explained how benefits work in the union model. When a worker dies, all the money paid in goes back into the pension trust fund. Because of the fund, other workers can draw out for a longer time. In a 401(k) plan, the money is gone once drawn out. He gave examples of rural workers who work in many short stints and build up good retirements through a defined benefit pension plan. Others have 401(k) plans but run into tough times and draw the money out, and then the retirement is gone. He did not want the State to give people a way out of defined benefits. Two or three years on the pipeline could result in more long-lasting benefits than a 401(k) accumulated during the rest of a work life.

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Representative Kelly asserted that it was not necessarily more secure to have a defined benefit plan than a defined contribution plan. He referred to the unfunded PERS liability. He thought there would be no unfunded liability with defined contribution plans. He acknowledged that there is less threat of an unfunded liability now.

Co-Chair Meyer opened public testimony.

DON ETHERIDGE, ALASKA STATE AFL/CIO, spoke in opposition of HB 391 and made some clarifications regarding previous discussion. He pointed out that the unions do not get any of the trust funds. They go to the different trusts, whether health, training, or pension. If someone leaves before getting vested, the contributions stay with the trust, not the union. Locals do their best to make sure workers are vested and don't lose their money.

Mr. Etheridge explained that in earlier testimony, AFL/CIO had stated that they were not opposed to the bill but wanted to see some amendments that would make sure the plans were equal for the covered as well as the non-covered units. He said AFL/CIO had determined that it was time to oppose the legislation.

Mr. Etheridge was concerned that the language in the bill will cause legal problems with the federal Employment Retirement Income Security Act (ERISA) provisions. The unions are committed and willing to negotiate in good faith. All employees working under the PLA will have better benefits than what exists in the non-union sector at this time.

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Representative Kelly revealed that he had not known AFL/CIO would oppose the bill if the plans were not the same. He did not think it was practical to say that a non-union contractor that has been in business for twenty or more years could make that happen. He did not think it would be workable to put the plans together. Mr. Etheridge responded that under the PLA the wage package would have to be the same.

REBECCA LOGAN, PRESIDENT, ASSOCIATED BUILDERS AND CONTRACTORS (ABC) ASSOCIATION, spoke in support of the bill. She said ABC had actively pursued not having PLA language in AGIA and were disappointed to see it included. They thought HB 391 cleanly addressed their issues. The worker has a choice to stay with current employer's plan or make contributions to the union plan. She thought that was fair.

Representative Gara queried her as to ABC's interest in the bill. Ms. Logan said that ABC has long fought project labor agreements in any form. One of the issues with PLAs that they struggle with most is fringe contributions to union pension plans.

Representative Gara wondered what was at stake economically for ABC if workers had one plan or the other. Ms. Logan responded that ABC wanted to see all workers treated fairly. She described a scenario of an Alaskan company that would very likely be working on a gas pipeline project, Udelhoven Oilfield System Services. In the scenario, Udelhoven would sign an agreement. They would have employees who have been working for them for decades with existing benefit packages. When Udelhoven signs a labor agreement like that, then the employees traditionally would be required to make the pension contributions to a union plan. The bill would allow them to choose.

Representative Gara asked if under the provision there would be a cost to the employer. Ms. Logan replied that there would be an economic impact if the bill does not pass. A company like Udelhoven would face making duplicate contributions for the term of the project.

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Representative Crawford asked for clarification regarding the duplicate contributions. Ms. Logan replied that the labor agreement would determine the amount of the contribution. A company like Udelhoven would be bound to make the negotiated contribution. For that employee for that project they make a contribution based on the terms of the contract. Without the legislation in place, they would make it to the union pension plan and might also have to maintain

contributions to their own plan on behalf of the same employee.

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Representative Crawford asked, for sake of discussion, if the amount negotiated in the PLA was \$5.50, but Udelhoven's plan stipulated they pay \$4.00, what would happen to the difference. Ms. Logan did not answer the question.

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KRISTA CRUM, CHIEF FINANCIAL OFFICER, NORTHERN INDUSTRIAL TRAINING (NIT), spoke in support of HB 391. In 2007 they trained over 800 Alaskans, both union and non-union people. She described an experience of being employed by a union. When the position was terminated, she was not vested, so she will not get those contributions. She thought all workers should have the right to chose where the funds go.

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MS. BARBARA HUFF TUCKNESS, DIRECTOR OF GOVERNMENTAL AND LEGISLATIVE AFFAIRS, TEAMSTERS LOCAL 959, spoke in opposition to the bill. Teamsters 959 is strongly for employee choice and agrees with the concept of choice in HB 391. One of the reasons they are opposed to the bill is because benefits are a mandatory subject of collective bargaining. She is paid to represent union workers and ultimately non-union workers, because the better benefit and wage packages they are able to negotiate in a collective bargaining agreement makes everything better for all workers.

Ms. Huff Tuckness explained that the majority of non-union contractors do not have the same overhead as union contractors with respect to wage and benefit packages. In fact, ABC is on record fighting the prevailing wage, something Teamsters has fought to increase.

Ms. Huff Tuckness referred to litigation in relation to the pipeline thirty years ago because of changes in legislation at the state level. She emphasized that all pension and health benefit plans are governed under ERISA. State law cannot be inconsistent with the federal law.

Ms. Huff Tuckness said that ABC is trying to get laws changed so they can provide benefits to their particular contractors through this process and they use the unions and they use the big employers as examples.

Ms. Huff Tuckness thought the public conversation was important.

Ms. Huff Tuckness maintained that HB 391 says potential sub-contractors for the gas pipeline do not have to trust the contract negotiations with the unions. The big oil companies will be ultimately responsible for negotiating the PLA with union representatives who know and understand employee issues. Those non-union contractors should be required to provide a benefit plan. Her concern is litigation resulting from changing a particular term under AGIA, but also attempting to legislate on a state level what is already mandatory subjective bargaining under a federal law. The communication that matters in contract negotiations is at the table, not in legislation.

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Ms. Huff Tuckness described concerns that HB 391 would be at odds with the terms and conditions of the existing AGIA legislation as well as ERISA.

Representative Gara asked if she thought HB 391 would allow a selection between a defined benefit plan and a defined contribution plan. Ms. Huff Tuckness replied that she reads the bill as providing the same expectations for union or non-union regarding benefit packages. Representative Gara asked if passed what would it do in terms of benefit packages that would be made available to an employee.

Ms. Huff Tuckness reiterated the centrality of negotiations in collective bargaining.

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Representative Thomas described a friend who took his retirement out of the State and moved it in order to get a better return. He asked if a retiring state employee can take their benefit package with them. Ms. Huff Tuckness said that under the old system the employee could take benefits with them and continue to get credit. It is no longer transferrable under the current system.

Representative Thomas asked how many people she thought would work the planned pipeline. Ms. Huff Tuckness said that at the peak of the previous pipeline, Teamsters Local 959 alone represented well over 25,000 employees. Representative Thomas wondered how many of those people left their money in the retirement account because they left and went elsewhere. Ms. Huff Tuckness replied that she could not answer that but could find numbers.

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Representative Thomas stated that he favored the bill. He does not support PLAs. He appreciated the ability to work flexibly and still have something to show for that time.

Ms. Huff Tuckness stated that many people attempt to get vested. It is a choice to get that vesting.

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Representative Crawford thought the key was to negotiate at the beginning of the pipeline so that everyone who works the pipeline gets the benefit of what they paid in. The five year vesting can be adjusted now.

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Representative Gara said although he supports defined benefits, he thought the best argument on the other side is that when someone works for a few years without intending to vest, he doesn't want them walking away with no retirement or defined contribution. Ms. Huff Tuckness emphasized the employee's choice to walk away. She responded that if there are other opportunities, they could move from one job to another, which is not unusual in the construction industry. They may walk away, but they do not lose their vestment option and can come back later and work until they are vested.

Representative Gara asked if the benefit plan could be transferrable in circumstances where an employee worked a job with one union and then transferred to another job with another union. Ms. Huff Tuckness replied that the plans would be different. Representative Gara reiterated his support of defined benefits. He thought defined contributions worked best for those making more money and defined benefits worked best for those who make less.

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Representative Thomas asked how many workers Teamsters 959 represented three years after the pipeline and how many currently. Ms. Huff Tuckness replied that currently they represent approximately 7,500 people across the state.

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MIKE SAMSON, CHAIRMAN OF THE BOARD, ASSOCIATED BUILDERS AND CONTRACTORS & PRESIDENT, SAMSON ELECTRIC, ANCHORAGE & FAIRBANKS (Testified via teleconference), noted his support for HB 391. He pointed out that Samson offers two pension plans, one of which is a defined contribution. For electricians currently, the fringe benefit is \$17.83 per hour for pension, training and health. Samson contributes the entire \$17.83 into the defined contribution for every hour worked. Outside of a union program, this contribution money is considered wage. The money is 100% vested with the first dollar that goes into it; the worker can draw on it at any time. There is also a profit sharing pension plan, with

401(k), 50 cents on the dollar with 3% cap. He noted that they are 100% behind their workers and pay for 75% of workers' health insurance outside of the fringe package. He thought the bill is about choice, not negotiation. Once the negotiations with AGIA are complete, the fringe package would have to comply with ERISA. If a company has an ERISA approved pension plan, then the workers should be able to choose to put their money in that.

Mr. Samson was disappointed in the shortsightedness of official vote taken last year when collective bargaining was inserted in the PLA language.

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Representative Gara asked about the non-defined benefit plan cap at 3%. Mr. Samson described the 401(k) plan, which was previously not capped; now it is capped at 3%.

JEFF ROBINSON, DIVISION MANAGER, KLEBS MECHANICAL, ANCHORAGE (Testified via teleconference), stated that PLAs place an unfair financial disadvantage on the workers on a project who have not previously been part of a collective bargaining agreement. He thought forcing workers to make contributions to a benefit plan, knowing they would not receive it, was unethical. An employee could stay five years and be vested, but he thought the majority probably would not do that. Klebs Mechanical makes contributions to benefit plans ranging from \$27,000 to \$36,000 annually per worker. Workers cannot afford to make annual contributions in that amount to plans that will never benefit them.

Mr. Robinson said Klebs would never sign a PLA because of the hardships that would place on the workers; unfortunately, smaller companies may decide to go with a PLA, which would put their workers at a disadvantage. If they had to contribute to the union plan, they would see none of it if they didn't stay long enough to become vested. He was concerned about rural workers who work short stints. The biggest non-union contribution vehicle is the 401(k); however, another option approved by ERISA is the Individual Retirement Account (IRA) or Roth IRA. The employee would be able to contribute to the plan if the employer did not have one. The employee can walk away and that money is always there.

Mr. Robinson spoke to Representative Crawford's description of his union benefits, but stated that there are good and bad plans. Some plans put workers in jeopardy in their later years. The bill gives the worker a choice.

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Representative Crawford stated that the company-sponsored pension plans that are in trouble did not have a set amount that they had to contribute on the worker's behalf each year. The building trades are in good shape. They have a multiple employer welfare association. He did not know of a company that would be working on the pipeline that was in trouble. The amount of money for the plan is set by hour and invested wisely.

Mr. Robinson had heard that some pension funds were in jeopardy. He referred to Department of Labor statistics that union membership is declining from 26% in 1977 to at 13.3% in 2007 Unions.

Co-Chair Meyer thought there was risk in all plans.

BILL MEADE, ATTORNEY, TURNER AND MEADE, ANCHORAGE (Testified via teleconference), spoke in support of HB 391. He negotiates collective bargaining agreements. He thought the bill ensures the employee the opportunity to get something from the pension contributions made under mandated PLAs. The State is compelling a PLA. Many employees make contributions to union pension plans and never see a penny of it.

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PUBLIC TESTIMONY CLOSED.

Vice-Chair Stoltze wanted quantifiable information regarding how many people don't end up vesting and what that adds up to.

Representative Gara voiced his skepticism regarding defined contribution plans for people who are not making high wages, because that translates to less money put away. If they retire in a good stock market, it might be good, but retiring in a bad stock market could be bad.

Representative Kelly responded that the purpose of the bill is for the employee to be able to choose, not to address defined contribution or defined benefit. He related his experience with the effects of the unfunded liability. He pointed out that nation-wide, seven out of eight people are not union. In Alaska three out of four workers are not union. He intends HB 391 to protect those people now that the State has the collective bargaining PLA language.

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Vice-Chair Stoltze said he would like to have Commissioner Bishop from Department of Labor and Workforce Development testify and clarify some issues related to the law. Co-Chair Meyer agreed. He asked about the stance the Administration

was taking on the issue. Representative Kelly replied that they are remaining neutral.

HB 391 was HEARD and HELD in Committee for further consideration.

ADJOURNMENT

The meeting was adjourned at 3:37 PM.