

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE

April 16, 2007

1:10 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill
Representative Bob Lynn
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Ralph Samuels

COMMITTEE CALENDAR

HOUSE BILL NO. 79

"An Act relating to reapplications for the Alaska longevity bonus program; and providing for an effective date."

- MOVED CSHB 79(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 164

"An Act relating to reporting of vessel location by certain commercial passenger vessels operating in the marine waters of the state, to access to vessels by licensed marine engineers for purposes of monitoring compliance with state and federal requirements, and to the obligations of those engineers while aboard the vessels; and providing for an effective date."

- BILL HEARING POSTPONED TO 04/18/07

PREVIOUS COMMITTEE ACTION

BILL: HB 79

SHORT TITLE: LONGEVITY BONUS REAPPLICATIONS

SPONSOR(S): REPRESENTATIVE(S) LYNN, THOMAS, GUTTENBERG, KERTTULA

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| 01/16/07 | (H) | PREFILE RELEASED 1/5/07 |
| 01/16/07 | (H) | READ THE FIRST TIME - REFERRALS |
| 01/16/07 | (H) | STA, FIN |
| 02/08/07 | (H) | STA AT 8:00 AM CAPITOL 106 |
| 02/08/07 | (H) | Moved CSHB 79(STA) Out of Committee |

02/08/07 (H) MINUTE(STA)
02/12/07 (H) STA RPT CS(STA) 3DP 1NR 3AM
02/12/07 (H) DP: ROSES, GRUENBERG, LYNN
02/12/07 (H) NR: JOHANSEN
02/12/07 (H) AM: JOHNSON, COGHILL, DOLL
02/12/07 (H) JUD REFERRAL ADDED AFTER STA
04/16/07 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

MIKE SICA, Staff
to Representative Bob Lynn
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Assisted with the presentation of HB 79 on behalf of Representative Lynn, one of the bill's joint prime sponsors.

RALPH C. HUNT
Igloo No. 6
Pioneers of Alaska
Juneau, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 79.

MARIE DARLIN, Coordinator
AARP Capital City Task Force
Juneau, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 79.

STACIE KRALY, Chief Assistant Attorney General - Statewide
Section Supervisor
Human Services Section
Civil Division (Juneau)
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Responded to a question during discussion of HB 79.

TAMARA COOK, Director
Legislative Legal and Research Services
Legislative Affairs Agency (LAA)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 79.

JANET CLARKE, Assistant Commissioner
Central Office
Finance and Management Services
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 79.

ACTION NARRATIVE

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at [1:10:17 PM](#). Representatives Coghill, Lynn, Holmes, and Ramras were present at the call to order. Representatives Gruenberg and Dahlstrom arrived as the meeting was in progress. Representative Samuels was excused.

HB 79 - LONGEVITY BONUS REAPPLICATIONS

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CHAIR RAMRAS announced that the only order of business would be HOUSE BILL NO. 79, "An Act relating to reapplications for the Alaska longevity bonus program; and providing for an effective date." [Before the committee was CSHB 79(STA).]

REPRESENTATIVE LYNN, speaking as a joint prime sponsor, assured the committee that HB 79 is not intended to restore funding for the longevity bonus program, but is instead intended to make reapplication to the longevity bonus program possible for previously qualified longevity bonus recipients if the program is ever again funded. He opined that [the legislature] should help Alaska's seniors to live out their days in a decent and dignified manner by funding both the Alaska longevity bonus program and the [Alaska senior benefits payment program], and then requiring seniors to choose which of those two programs to apply for.

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MIKE SICA, Staff to Representative Bob Lynn, Alaska State Legislature, said on behalf of Representative Lynn, joint prime sponsor, that once the [funding for the] longevity bonus program was eliminated four years ago, eligible seniors simply stopped filing their required monthly applications, thereby unintentionally violating the program's "continuous eligibility" procedures. Should the Alaska longevity bonus program be funded again in the future, passage of HB 79 or similar legislation is

necessary so that otherwise eligible applicants won't be disqualified.

MR. SICA relayed that subsection (a)(1)-(3) allows a person to file a reapplication to the longevity bonus program if he/she was qualified to receive a monthly longevity bonus payment before 1/1/97, if he/she was eligible for a longevity bonus for 6/03, and if he/she is a resident of Alaska. He mentioned that there is a proposed amendment that would alter the language in paragraph (3) to specifically reference the statute that defines state residency. Subsection (b) requires that the reapplication be filed before 1/1/08, and directs the Department of Health and Social Services (DHSS) to prepare reapplication forms and require evidence of eligibility. Subsection (c) specifies that the amount of a person's monthly longevity bonus shall be the same amount the person was eligible to receive before the funding was eliminated in 2003. Section 2 of the bill provides for an effective date of 7/1/07.

MR. SICA concluded by saying that HB 79 is intended to ensure that formerly eligible recipients can qualify for future longevity bonus payments through reapplication should the program ever be funded again.

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RALPH C. HUNT, Igloo No. 6, Pioneers of Alaska, said that [the longevity bonus program] was very important to Alaska's pioneers, and that quite a few of them had to leave Alaska once the program's funding was eliminated. If the goal is to take care of Alaska's pioneers, he opined, it is important to reestablish the program, which will phase out automatically in a few years anyway. In response to a question, he relayed that he's lived in Alaska for 57 years, and then recounted some of his employment and residence history.

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MARIE DARLIN, Coordinator, AARP Capital City Task Force, said that the AARP has written letters in support of "this" with the idea that many AARP members in Alaska would still be affected by the longevity bonus program. She said that with the understanding that HB 79 simply addresses the reapplication process, the AARP supports the legislation. She also said she concurs with Mr. Hunt's comments, and posited that reestablishing the longevity bonus program will assist seniors financially so that they won't have to leave the state, thus

allowing them to continue contributing to the community. In response to questions, she pointed out that eligibility for the longevity bonus program was not based on income, and that if a person had to choose between the Alaska longevity bonus program and the [Alaska senior benefits payment program], he /she would first have to consider his/her individual financial situation before making that choice.

REPRESENTATIVE COGHILL said he supports the reapplication process and agrees with the original intent of the longevity bonus program.

MS. DARLIN, in response to comments, acknowledged that the longevity bonus program was designed to phase out eventually with the death of applicants.

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STACIE KRALY, Chief Assistant Attorney General - Statewide Section Supervisor, Human Services Section, Civil Division (Juneau), Department of Law (DOL), relayed that she represents the DHSS, and, in response to a question, said that although the Alaska Superior Court has determined that the provision phasing out the longevity bonus program is constitutional because of the way the provision is framed, there could be an equal protection challenge raised if the program is funded again. However, since the statutes pertaining to the longevity bonus program were never repealed, the "reliance" position taken by the Alaska Superior Court would be similar to the position the DOL would take should the funding be reinstated and the reapplication legislation be adopted and then challenged.

REPRESENTATIVE COGHILL surmised, however, that a new process for establishing eligibility would have to be created, thus giving the appearance that it is a new program regardless that it would apply to the same group of applicants.

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TAMARA COOK, Director, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), said she is in substantial agreement with Ms. Kraly that while "this" is susceptible to an equal protection challenge, there are reasonably good theories of defense that can be asserted, and thus the program, should it be funded again, could be defended. She surmised that [any challenge] would revolve around the fact that it has been approximately four years since the original recipients were

receiving their longevity bonus and relying on it, and so the argument might be made that this four-year gap has destroyed former recipients' "reliance" interest.

MS. COOK, in response to questions, offered her understanding that under HB 79, only those applicants who were previously receiving longevity bonus payments would qualify to reapply; that the legislature couldn't be forced to fund the program, either for future payments or for retroactive payments, because the legislature's power to appropriate is paramount in situations involving a non-needs based benefit program; and that an argument could possibly be raised that distinguishing between prior-year recipients and current or future elders is no longer justified, but this argument would depend on the notion that the original recipients no longer rely on the longevity bonus payments because they haven't received those payments for such a long period of time.

REPRESENTATIVE GRUENBERG expressed concern that HB 79 only inserts language into Alaska's uncodified law and not into statute. He asked Ms. Cook how she feels about either putting the proposed language into statute along with a provision to repeal it, or at least requiring the revisor of statutes to include [information about the passage of HB 79] in a note under the relevant statute.

MS. COOK said that "setting it out" as a note makes more sense than codifying the language and then repealing it. She pointed that if all "temporary law" statutes were to be codified, "we literally burn up those section [numbers] in the statute books and then we start running out of space for new laws." She surmised that the revisor of statutes would probably "set it out" as a note anyway.

REPRESENTATIVE GRUENBERG questioned whether either adopting a letter of intent or setting out specific instruction to the revisor would help.

MS. COOK said that although the legislature could do either, she could also simply let the revisor know that "that's" the will of the legislature. In response to a question, Ms. Cook said she would ask the revisor of statutes what her preference would be, but surmised that the revisor won't have any problem setting it out as a note after simply being advised that doing so is the will of the legislature.

MR. SICA then recounted how CSHB 79(STA) came to be.

CHAIR RAMRAS, after noting that no one else wished to testify, closed public testimony on HB 79.

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REPRESENTATIVE LYNN made a motion to adopt Amendment 1, labeled 25-LS0359\K.1, Cook, 4/16/07, which read:

Page 1, line 14, through page 2, line 1:

Delete all material and insert:

"(3) is a resident under AS 01.10.055 on the day the reapplication form is signed and dated by the applicant."

CHAIR RAMRAS objected for the purpose of discussion.

MS. COOK explained that Amendment 1 would add language used by the Senate in similar legislation in place of HB 79's existing proposed paragraph (3). The language being proposed by Amendment 1 comes at the request of the administration and is meant to ensure that residency is determined on the date the reapplication form is signed and dated by the applicant, and to ensure that the definition of resident that exists in Title 1 is used.

REPRESENTATIVE GRUENBERG opined that the term "resident" would be defined under AS 01.010.055 anyway.

MS. COOK agreed, and, in response to comments and questions, pointed out that although Amendment 1 will loosen up the residency requirements considerably, only those who were previously receiving longevity bonus payments would qualify for reapplication.

REPRESENTATIVE GRUENBERG surmised that under Amendment 1, someone who had previously been receiving longevity bonus payments but had since left the state could simply move back to Alaska and qualify for reapplication.

MS. COOK concurred.

REPRESENTATIVE GRUENBERG questioned whether adoption of Amendment 1 would result in additional costs to the state.

REPRESENTATIVE HOLMES surmised that it wouldn't result in any additional costs because the bill stipulates that only those who

were previously receiving payments would be eligible for reapplication and thus there wouldn't be any new applicants. She posited that Amendment 1 could benefit those recipients who were forced to leave the state for financial reasons once the program stopped being funded.

MS. COOK, in response to comments, offered her understanding that the language in paragraph (c) stipulates that a person must still meet the original program's requirements, one of which is outlined in AS 47.45.030(c), which says that a recipient who has been absent from the state for a continuous period that exceeds three years is permanently disqualified from receiving payments. So, potentially, under Amendment 1, a person could have left the state and still qualify for reapplication as long as he/she was not gone from the state for longer than three years.

CHAIR RAMRAS removed his objection to Amendment 1.

REPRESENTATIVE GRUENBERG objected, and said he would still like to find out how many additional people might qualify under [Amendment 1].

CHAIR RAMRAS suggested that the House Finance Committee could more appropriately address that issue.

REPRESENTATIVE GRUENBERG concurred but said he still wants an answer to his question.

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JANET CLARKE, Assistant Commissioner, Central Office, Finance and Management Services, Department of Health and Social Services (DHSS), relayed that although she would not be able to specifically answer that question this afternoon, there are assumptions built into the DHSS's fiscal notes. Referring to the fiscal note pertaining to longevity bonus grants, she pointed out that on page 2, there is an assumption that 5 percent - or approximately 631 individuals - of those who formerly received longevity bonus payments either will not meet residency criteria or will not apply. This assumption is based on cursory information related to the population, and thus the real number could be higher or lower.

REPRESENTATIVE GRUENBERG surmised, then, that adoption of Amendment 1 could affect "up to a little over 600" individuals.

MS. CLARKE said that is the department's best estimate on this population at this time, though the department will continue looking at these figures as the bill moves through the process. In response to a question, she explained that any additional cost to the program will vary depending on the circumstances each individual found himself/herself in, in 1997, because some recipients were getting \$100 per month and some were getting more, up to [\$250] per month.

REPRESENTATIVE GRUENBERG offered a calculation of 600 people receiving \$100 a month for a total of \$720,000 per year.

REPRESENTATIVE GRUENBERG then removed his objection.

CHAIR RAMRAS announced that Amendment 1 was adopted.

REPRESENTATIVE LYNN, in conclusion, characterized HB 79 as a good bill.

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REPRESENTATIVE COGHILL moved to report CSHB 79(STA), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 79(JUD) was reported from the House Judiciary Standing Committee.

[Members spoke briefly regarding how the committee would be proceeding during the committee's next meeting.]

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:05 p.m.