

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 10, 2008

3:07 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Carl Gatto
Representative Gabrielle LeDoux
Representative Robert L. "Bob" Buch
Representative Berta Gardner

MEMBERS ABSENT

Representative Jay Ramras

COMMITTEE CALENDAR

HOUSE BILL NO. 391

"An Act relating to project labor agreements."

- HEARD AND HELD

HOUSE BILL NO. 350

"An Act providing for an amount to be deducted and retained for collecting and submitting the vehicle rental tax."

- MOVED CSHB 350 (L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 391

SHORT TITLE: STATE CONSTRUCT'N PROJECT LABOR AGREEMENT

SPONSOR(s): REPRESENTATIVE(s) KELLY

| | | |
|----------|-----|---------------------------------|
| 02/19/08 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/19/08 | (H) | L&C, FIN |
| 03/05/08 | (H) | L&C AT 8:00 AM CAPITOL 17 |
| 03/05/08 | (H) | Heard & Held |
| 03/05/08 | (H) | MINUTE(L&C) |
| 03/10/08 | (H) | L&C AT 3:00 PM CAPITOL 17 |

BILL: HB 350

SHORT TITLE: VEHICLE RENTAL TAX COLLECTION

SPONSOR(s): REPRESENTATIVE(s) HARRIS

02/04/08 (H) READ THE FIRST TIME - REFERRALS
02/04/08 (H) L&C, FIN
02/25/08 (H) L&C AT 3:00 PM CAPITOL 17
02/25/08 (H) Heard & Held
02/25/08 (H) MINUTE(L&C)
03/05/08 (H) L&C AT 8:00 AM CAPITOL 17
03/05/08 (H) Heard & Held
03/05/08 (H) MINUTE(L&C)
03/10/08 (H) L&C AT 3:00 PM CAPITOL 17

WITNESS REGISTER

DEREK MILLER, Staff
to Representative Mike Kelly
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented Amendment 1 on HB 391 on behalf of the prime sponsor, Representative Mike Kelly.

PETE FELLMAN, Staff
to Representative John Harris
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented two proposed committee substitutes for HB 350 on behalf of the prime sponsor, Representative John Harris and answered questions.

JOHANNA BALES, Deputy Director
Anchorage Office
Tax Division
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions on HB 350

ACTION NARRATIVE

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at [3:07:13 PM](#). Representatives Buch, Gardner, Neuman, and Olson were present at the call to order. Representatives Gatto and LeDoux arrived as the meeting was in progress.

[Before the committee was the proposed committee substitute (CS) for HB 391, labeled 25-LS1493\C, Wayne, 2/26/08, adopted at the March 5, 2008 House Labor and Commerce Standing Committee meeting.]

HB 391-STATE CONSTRUCT'N PROJECT LABOR AGREEMENT

3:07:22 PM

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 391, "An Act relating to project labor agreements."

3:07:44 PM

DEREK MILLER, Staff, to Representative Mike Kelly, Alaska State Legislature, summarized Version C of HB 391 for members. He stated that proposed Section 1 would require construction contracts initiated by the state would also require contractors that commit to a project labor agreement (PLA) must include an option for employees to sign a declaration of benefits. This declaration would allow employees the choice of depositing their employer's contribution to the fringe benefit package to the union plan or to the non union plan. Proposed Section 2 of HB 391 would apply the declaration of benefit language as part of the application requirements set out in obtaining an Alaska Gas Inducement Act (AGIA) license. Proposed Section 3 would provide applicability standards for PLAs after the effective date of HB 391.

3:09:13 PM

REPRESENTATIVE NEUMAN made a motion to adopt Amendment 1, labeled 25-LS1493\C.1, Wayne, 3/10/08, which read:

Page 2, following line 9:

Insert a new subsection to read:

"(c) An employer or labor representative who participates in or administers a fringe benefits program that is available for selection by an employee under (b) of this section shall provide to the employee a written description of the fringe benefits program within seven days after a request by the employee."

Reletter the following subsection accordingly.

Page 2, line 28, following "agreement;":

Insert "an employer or labor representative who administers a fringe benefits program that is available for selection by an employee under this

paragraph shall provide the employee with a written description of the fringe benefits program within seven days after a request by the employee;"

[3:09:56 PM](#)

REPRESENTATIVE GATTO objected for the purposes to read Amendment 1.

[3:10:17 PM](#)

MR. MILLER offered that Amendment 1 would add a new subsection, proposed AS 36.30.405 that would address concerns raised in the companion bill in the other body about employees making an informed decision prior to submitting their declaration of benefits to the employer. Amendment 1 would require an employer to provide a written description of the fringe benefit package at the request of the employee to ensure full disclosure and allow the employee to make an informed decision.

[3:11:00 PM](#)

REPRESENTATIVE NEUMAN inquired as to whether the employee would be able to compare both fringe benefit plans.

MR. MILLER answered that is the effect of Amendment 1, which would include requirements for vesting and enable the employee to review the benefits package side by side within 7 days of the request for information.

[3:11:41 PM](#)

REPRESENTATIVE GARDNER, inquired as to when the employee is required to select the fringe benefit plan.

MR. MILLER responded that the employee would receive copies of the fringe benefit plans prior to any contribution. In further response to Representative Gardner, Mr. Miller acknowledged that the employee would have an opportunity to view both fringe benefit plans prior to selecting a plan.

[3:12:45 PM](#)

REPRESENTATIVE BUCH noted that he would like to put on record his gratitude for the opportunity to weigh in on HB 391. He asked for clarification of the fringe benefit process. He related his understanding that the employer offers the fringe

benefit plan that generally consists of a health plan and a defined contribution plan. Since the employer holds the plan, the employer has the option to develop the plan, not the employee especially if the employee is not part of a collective bargaining agreement. In those instances, the employee would be considered an "at will" employee and would not have an option to develop his/her own plan.

MR. MILLER related his understanding that when a contractor enters into a PLA that the declaration of benefits would allow the employee to select either the benefit package under the PLA or their current employer.

[3:15:34 PM](#)

REPRESENTATIVE BUCH offered that in a project labor agreement the parties would be the State of Alaska and the contractors such as TransCanada PipeLine, LTD. He suggested that the employees would be working for subcontractors who would not "even be sitting at the table". The negotiation takes place at the onset of any construction so none of the subcontractors would be working for contractors at that point, he opined.

MR. MILLER professed that he is not an expert and could not answer questions about the project labor agreement process. He related that many subcontractors who bid on projects that require a PLA are non-competitive bids due to the requirement to contribute to the PLA plan, as well as their own retirement fringe benefit plan. He offered to respond at a later time with more information.

REPRESENTATIVE GATTO pointed out that proposed AS 36.30.405 states, "to the extent permitted by law" whereas Amendment 1 refers to "an employer or labor representative who administers a fringe benefits program..." He opined that Amendment 1 refers to the person who administers the fringe benefit. He inquired whether in a PLA do all employees fall under the PLA or can employees be treated differently.

REPRESENTATIVE BUCH opined that all workers who work under a [PLA] agreement are subject to that agreement.

REPRESENTATIVE GATTO inquired as to whether a welder working for a subcontractor under a PLA would be entitled to the same benefit package as all other employees who work under the PLA.

REPRESENTATIVE LEDOUX related her understanding that the purpose of HB 391 is to assist the non union contractors who cannot competitively bid due to the benefits they are required to give under the project labor agreement. She opined that the only time the employee would make a decision would be after the employer was awarded the contract such that the subcontractor would have prevailed.

MR. MILLER clarified that some non union companies must not only contribute to their own plans, but must also contribute to the union trust. Thus, the company contributes to two plans. He surmised that there are two separate issues and he offered to garner more information for the committee.

[3:22:44 PM](#)

REPRESENTATIVE NEUMAN offered that Amendment 1 states that an employee of a subcontractor has the choice to select fringe benefit plans on previously negotiated agreements. Contractors would already have determined their fringe benefit plans, he noted. Amendment 1 would allow employees to compare benefits between union and non union fringe benefit packages.

MR. MILLER agreed with Representative Neuman's analysis of Amendment 1.

[3:24:16 PM](#)

REPRESENTATIVE GARDNER inquired as to whether HB 391 is supported by unions since she was absent at the initial hearing on HB 391.

CHAIR OLSON answered that the lobbyist for the AFL-CIO testified that that it did not oppose HB 391.

MR. MILLER, in response to Representative Gardner, answered that written benefits would include not only the benefits but also timelines and cost to the employee.

[3:25:18 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 391.

[HB 391 was held over. Amendment 1 was left pending]

The committee took an at-ease from 3:25 p.m. to 3:27 p.m.

[3:25:49 PM](#)

HB 350-VEHICLE RENTAL TAX COLLECTION

[3:27:05 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 350, "An Act providing for an amount to be deducted and retained for collecting and submitting the vehicle rental tax."

[3:27:24 PM](#)

PETE FELLMAN, Staff to Representative John Harris, Alaska State Legislature, explained on behalf of the prime sponsor of HB 350, the proposed committee substitutes (CS) for HB 350, labeled 25-LS1362\L, Bullock, 3/5/08, referred to as Version L; and 25-LS1362\M, Bullock, 3/5/08, referred to as Version M. He explained that Version L of HB 350 would allow businesses to retain 2 percent [of the vehicle rental tax collected] with a \$4,000 cap, and Version M of HB 350 would allow businesses to retain 2 percent [of the vehicle rental tax collected] without a cap. He offered that the prime sponsor prefers to limit the bill to timely filing credits to only the vehicle rental tax due to time constraints.

[3:28:28 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 350.

[3:29:21 PM](#)

MR. FELLMAN, in response to Representative Gardner, confirmed that the rebate on the vehicle rental tax is only available to those businesses who submit timely filings to the state.

[3:30:19 PM](#)

CHAIR OLSON, in response to Representative Gardner, surmised that the reason that companies are given a rebate that is not limited to the specific amount charged by a credit card company is because credit card agreements vary.

MR. FELLMAN opined that the reason for the timely filing credit has more to do with the labor intensive process that the Department of Revenue (DOR) would need in order to maintain separate rates for all businesses. The two percent timely filing credit represents a figure somewhere in the median range.

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REPRESENTATIVE GARDNER inquired as to the specific credit card rates.

CHAIR OLSON answered that testimony at a prior hearing on HB 350 highlighted that the rates varied widely.

[3:31:58 PM](#)

REPRESENTATIVE GATTO posed a scenario in which a credit card company charges a business a rate of 4 percent, but may also offer the business a discount for heavy usage. In those instances, the state would not be privy to any rebates the vehicle rental business received from the credit card company, he surmised.

[3:33:14 PM](#)

CHAIR OLSON, in response to Representative Gatto, noted that the committee packet contains two versions of proposed committee substitutes for the committee to review that include different timely filing credit percentages. The purpose of HB 350 is to compensate the business for the administrative functions for collecting the vehicle rental tax on behalf of the state.

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REPRESENTATIVE LEDOUX pointed out that companies have the benefit of interest accrual on the vehicle rental tax collected for the period from the collection of the tax to the quarterly submittal date.

[3:34:45 PM](#)

JOHANNA BALES, Deputy Director , Anchorage Office, Tax Division, Department of Revenue (DOR), said that Representative LeDoux is absolutely right in that businesses who collect the vehicle rental tax submit the tax collected quarterly and companies can retain the state's money for up to 3 months. She opined that the lag time represents one of the downsides to third party

collections. While the fractional interest and timely filing credit may offset credit card charges assessed to businesses offering credit cards, the purpose of the timely filing is simply to assist companies to recover a portion of their costs for the administrative functions of collecting the tax. Additionally, if businesses fail to timely file, the company would incur interest assessed by the state which is currently set at 11 percent, compounded quarterly, she noted.

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REPRESENTATIVE NEUMAN opined that Version L seems to incorporate the comments and testimony on HB 350. Version L offers a 2 percent timely filing credit capped at \$4,000, he noted. He related his understanding that the timely filing credit is similar to a fee charged for the service provided to the state. He surmised that if a business collects \$20,000 to \$30,000 in vehicle rental tax and is able to earn interest on the taxes collected, that those companies are entitled to the interest earned, since it probably takes more effort to account for the tax. He offered his support for Version L of HB 350.

[3:38:40 PM](#)

REPRESENTATIVE NEUMAN made a motion to adopt the proposed committee substitute (CS) for HB 350, Version 25-LS1362\L, Bullock, 3/5/08, as the working document.

There being no objection, Version L was before the committee.

[3:39:12 PM](#)

MS. BALES, in response to Representative Gatto, offered that in addition to the 11 percent interest, the state charges a penalty of 5 percent per month up to a 25 percent maximum for businesses that fails to file on time.

[3:39:29 PM](#)

REPRESENTATIVE GATTO opined that the amount being paid for the vehicle rental tax is probably already calculated into the amount received in revenue. He inquired as to whether the state would then increase the tax to attempt to recoup the shortfall in revenue.

CHAIR OLSON surmised he did not think that would be the case and is the reason for the cap on the timely filing credit.

REPRESENTATIVE BUCH related his understanding that HB 350 would allow businesses that collect vehicle rental tax on behalf of the state to retain a portion of the tax to offset the administrative costs to the business.

MR. FELLMAN, in response to Representative Gatto, answered that HB 350 has a further referral to the House Finance Committee. In further response to Representative Buch, Mr. Fellman assured him that the chart provided to the committee that correctly assesses the amounts of the timely filing credits.

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REPRESENTATIVE NEUMAN referred to the chart provided to the committee and related that the total cost to the state would be approximately \$65,000. He expressed his preference for expanding HB 350 to incorporate other taxes collected on behalf of the state, but he also acknowledged the time constraints due to the 90 day legislative session. He maintained his support for Version L of HB 350.

MR. FELLMAN, in response to Representative Gardner, explained that the fiscal note of \$8.5 million refers to the HB 350 prior before the cap.

MS. BALES further explained that the fiscal note reflects that the DOR collects \$8.5 million in vehicle rental tax. Thus, 3 percent timely filing credit with no cap would equate to \$255,000 in lost revenue. She maintained that the total tax collected remains projected at \$8.5 million. Therefore, a 2 percent timely filing credit with no cap would equate to \$65,000 lost revenue to the state versus the \$255,000 loss when the timely filing credit is set at 3 percent with no cap.

REPRESENTATIVE GATTO related that HB 350 would simply return \$65,000 to companies.

[3:44:17 PM](#)

REPRESENTATIVE NEUMAN moved to report proposed CS for HB 350, labeled 25-LS1362\L, Bullock, 3/5/08, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 350(L&C) was reported from the House Labor and Commerce Standing Committee.

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ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 3:44 p.m.