

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

February 16, 2007

3:35 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Chair
Representative Anna Fairclough, Vice Chair (via teleconference)
Representative Bob Roses
Representative Paul Seaton
Representative Peggy Wilson
Representative Max Gruenberg

MEMBERS ABSENT

Representative Sharon Cissna

COMMITTEE CALENDAR

HOUSE BILL NO. 13

"An Act relating to prepayments of accrued actuarial liabilities of government retirement systems; relating to the Alaska Municipal Bond Bank Authority; permitting the Alaska Municipal Bond Bank Authority or a subsidiary of the authority to assist state and municipal governmental employers by issuing bonds, notes, commercial paper, or other obligations to enable the governmental employers to prepay all or a portion of the governmental employers' shares of the unfunded accrued actuarial liabilities of retirement systems; authorizing a governmental employer to issue obligations to prepay all or a portion of the governmental employer's shares of the unfunded accrued actuarial liabilities of retirement systems and to enter into a lease or other contractual agreement with a trustee or the Alaska Municipal Bond Bank Authority or a subsidiary of the authority in connection with the issuance of obligations for that purpose, and relating to those obligations; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 13

SHORT TITLE: RETIREMENT SYSTEM LIABILITY/BONDS

SPONSOR(S): REPRESENTATIVE(S) HAWKER

01/16/07 (H) PREFILE RELEASED 1/5/07
01/16/07 (H) READ THE FIRST TIME - REFERRALS
01/16/07 (H) W&M, STA, FIN
02/14/07 (H) W&M AT 3:30 PM HOUSE FINANCE 519
02/14/07 (H) Heard & Held
02/14/07 (H) MINUTE(W&M)
02/16/07 (H) W&M AT 3:30 PM HOUSE FINANCE 519

WITNESS REGISTER

No witnesses to record

ACTION NARRATIVE

CHAIR MIKE HAWKER called the House Special Committee on Ways and Means meeting to order at [3:35:10 PM](#). Present at the call to order were Representatives Hawker, Wilson, Gruenberg, Roses, Seaton, and Fairclough (via teleconference).

HB 13-RETIREMENT SYSTEM LIABILITY/BONDS

[Contains brief mention of HB12.]

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CHAIR HAWKER announced that the only order of business would be HOUSE BILL NO. 13, "An Act relating to prepayments of accrued actuarial liabilities of government retirement systems; relating to the Alaska Municipal Bond Bank Authority; permitting the Alaska Municipal Bond Bank Authority or a subsidiary of the authority to assist state and municipal governmental employers by issuing bonds, notes, commercial paper, or other obligations to enable the governmental employers to prepay all or a portion of the governmental employers' shares of the unfunded accrued actuarial liabilities of retirement systems; authorizing a governmental employer to issue obligations to prepay all or a portion of the governmental employer's shares of the unfunded accrued actuarial liabilities of retirement systems and to enter into a lease or other contractual agreement with a trustee or the Alaska Municipal Bond Bank Authority or a subsidiary of the authority in connection with the issuance of obligations for that purpose, and relating to those obligations; and providing for an effective date."

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CHAIR HAWKER, speaking as the prime sponsor of HB 13, said the bill is similar to legislation that passed the House last year and emphasized that it does not propose or commit the state to any course of action; rather HB 13 empowers the executive branch with the ability to pursue certain types of bond transactions. He explained that HB 13 empowers political subdivisions, which would include municipalities, school districts, and other state subdivisions, such as the university, to avail themselves of the transactions authorized by the bill. In response to a query about which governmental entities are within the scope of HB 13, Chair Hawker said that HB 13, Section 12, AS 44.85.410, is amended by adding a new paragraph to read:

(8) "governmental employer" means the State of Alaska or a municipality or other state or municipal governmental entity within the state, including an agency, instrumentality, district, school district, public corporation, department, division, or other subdivision of the state or of a municipality, in its capacity as an employer.

CHAIR HAWKER noted that this is a broad definition, and that HB 13 applies to those entities who qualify for assistance through the Municipal Bond Bank Authority (MBBA).

CHAIR HAWKER stated that the bill empowers the MBBA to facilitate a transaction for a municipal employer. He mentioned that HB 13 may be altered by granting the executive branch the authority to pursue any pension bond transactions on behalf of the state if and when the state determines such a transaction advisable.

CHAIR HAWKER responded to an inquiry of Representative Seaton's by noting that nothing in HB 13 empowers a school district with any additional it is not currently granted by its own municipal ordinances structure. He noted that a school in a Rural Education Attendance Area (REAA) is a direct responsibility of the state, and so the state is the entity which would have the authority to pursue a bond transaction on the its behalf. As written, HB 13 does not have provisions that allow the state to pursue transactions on behalf of REAA schools, but that authority may included in the bill by the time is moved out of committee.

CHAIR HAWKER explained that Section 1 empowers a Teachers' Retirement System (TRS) employer to make a lump sum payment to prepay all or part of its share of the unfunded actuarial

accrued liability (UAAL). This is similar to making pre-payments on a mortgage, which can change the amount of monthly payments owed and lower the total cost to the borrower, he explained. There may be an amendment offered to HB 13 regarding the re-calculations which may be done after an employer makes a lump sum payment of all or part of its share of the UAAL. The indemnity provision of Section 1, page 2, lines 16-19, protects an employer that has made a pre-payment, said Chair Hawker; that payment, "together with the earnings and losses from investment of that payment, may not be considered in calculating that employer's share of any discretionary payment authorized by the state that benefits multiple employers." He emphasized that this is an indemnity clause so that an employer will not be penalized for taking an action to benefit itself if the state subsequently does something that is intended to benefit all employers.

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REPRESENTATIVE WILSON expressed concern about the effects of past school funding decisions on the ability of some schools to save money with which to make additional payments to their UAALs.

CHAIR HAWKER stated that HB 13 does not have anything to do with issues of school funding, such as school cost differentials or other mechanisms for school funding. He said he recognizes that many school districts may not have additional money "just sitting around," however, the type of transactions contemplated by HB 13 are debt transactions whereby municipalities would be borrowing money from capital markets to make payments to their pension funds. He explained that allowing the MBBA to facilitate these types of transactions on behalf of smaller municipalities would benefit the smaller municipalities by essentially giving them an enhanced credit rating and more clout in financial markets than a single small municipality would have on its own.

REPRESENTATIVE GRUENBERG said that to him the type of transactions contemplated by HB 13 seem a "bit like juggling," where entities are borrowing at one rate in hopes of receiving an advantageous rate of return. He also questioned how small communities with no tax base could participate.

CHAIR HAWKER said that the state would have to pursue transactions for the REAAs, which could participate if the transaction is economically viable for their situation.

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REPRESENTATIVE GRUENBERG expressed concern about whether smaller communities, some of which he thinks may be in bankruptcy proceedings, will have the ability to avail themselves of the transactions provided by the provision of HB 13.

CHAIR HAWKER noted that there was a hypothetical component to this query, such as whether a community can bankrupt itself. He said that one would ultimately look to the state to support the municipalities, but opined that the provisions in HB 13 are not intended to put a governmental entity into worse financial circumstances. The MBBA will not facilitate a transaction which would place a community into a more difficult financial situation. Chair Hawker referred the committee to Section 6, page 6, which states that the MBBA authority conduct its operations to provide the lowest rates of interest; furthermore, Section 6 also says in part, "the legislature does not intend that the bond bank authority ... be utilized as a means to finance governmental employers ... beyond their capability to meet repayment schedules and debt service requirements" of any obligation that might be issued.

REPRESENTATIVE GRUENBERG said he was still concerned that municipalities in poor financial situations would not be able to avail themselves of the provisions of HB 13.

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CHAIR HAWKER agreed that as a practical matter, communities in poor financial shape would be unlikely to come forward and seek an independent financial transaction. However, he said the next committee substitute for HB 13 would contain authority for the state to pursue transactions to benefit smaller communities.

REPRESENTATIVE GRUENBERG suggested that in light of the huge debt facing some entities, and a "state mandate" to make payments on this debt, it might be worthwhile to consider reinstating a 5 percent cap on the yearly contribution amount employers are allowed to make to their unfunded pension fund liabilities to ameliorate the effects of paying off these large debts.

CHAIR HAWKER likened the entire retirement liability problem to eating an elephant - it must be done one bite at a time and the first bite must fit in one's mouth. He said he is working to

compartmentalize the numerous issues that affect pension fund debt and to take them on piece by piece. House Bill 13 fits into the pension debt solution by addressing how to refinance the debt at a lower interest rate. In contrast, HB 12 will potentially address some issues facing the TRS' pension fund.

REPRESENTATIVE SEATON offered that HB 13 is one mechanism for dealing with some aspects of the pension fund issues, but it will not solve all of the problems facing the PERS/TRS. There are other bills before the legislature that address other aspects of pension fund debt, he said.

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REPRESENTATIVE SEATON questioned the result of a state payment into PERS above the normal cost rate, and how that would affect future employer contributions.

CHAIR HAWKER offered his belief that a proposed committee substitute will have a specific provision for recalculation of contribution rates in situations where a lump sum payment has been made into the employees' pension system. He indicated that some of the points brought up, such as the effect of a state contribution to the pension fund debts, may need to be considered in the budget process.

REPRESENTATIVE ROSES summarized his understanding that because school districts could not pay their pension fund liabilities all at once, they were only required to pay a portion, and each year that portion has increased. The districts have the obligation to pay, and HB 13 sets up a mechanism for them to issue bonds, if they choose, for part of their indebtedness. He said he understands that the smaller districts can join together, and the state can help them out by facilitating a bond transaction on their behalf, and that this helps take care of the smaller entities mentioned by Representative Gruenberg.

REPRESENTATIVE GRUENBERG cautioned that while he hopes the aforementioned analysis is correct, he would like information to confirm this. He suggested there be a "Plan B" if some previously stated assumptions are not borne out.

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CHAIR HAWKER stated that the concerns expressed are beyond the scope of HB 13, but they will be covered by other legislation, such as HB 12.

REPRESENTATIVE FAIRCLOUGH concurred with prior points and concerns made by Representatives Roses, Gruenberg and Seaton, but reminded the committee that even if some efforts are made to fix pension fund obligations now, there are still escalating healthcare costs to consider which will further increase the gap between payments made by employers and benefits owed to employees.

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CHAIR HAWKER agreed that if the actuarial rate for medical costs can be lowered, it can reduce the unfunded pension fund liability. He noted that the governor recently issued an administrative order establishing an Alaska Health Strategies Planning Council in the Office of the Governor to evaluate the state's health care options. He went on to say that Section 2 of the bill outlines how municipalities can join together to issue debt obligations. It allows "funds diversion agreements" between municipalities and state agencies, which allows municipalities to assign to creditors future revenues to be received from the state, thus giving municipalities another credit enhancement tool. Sections 3 and 4 add facilitating language to two sections of the PERS accounting statute to allow for lump sum payments, and Section 5 allows a PERS employer to make a lump sum payment to pay all or part of its share of the UAAL without penalty, similar to what Section 1 allows for a TRS employer.

REPRESENTATIVE SEATON asked what authority currently allows municipalities to prepay some of their obligations for employee retirement debt. He sought assurance that there be a record to reflect consideration of communities that have already made their 5 percent extra deposit and that there would be consideration of making this bill retroactive so that communities that are trying to help reduce the liability are protected.

CHAIR HAWKER suggested that the Division of Retirement and Benefits could better address that issue. He continued by explaining that Section 6, of this bill contains the legislative policy directives to the MBBA, with a key directive being that assistance should be provided, but "without subsidizing the employers beyond their means." Section 7 grants to the MBBA the power to "create subsidiary entities to assist governmental employers" in enacting the transactions allowed by HB 13. Section 8 proposes new statutes which specifically define the

powers of the MBBA to engage in Pension Obligation Bond (POB) transactions on behalf of governmental employers. Section 9 exempts POBs from the current limit for revenue bonds that the MBBA may issue each year. Section 10 gives the MBBA the authority to issue POBs. Section 11 exempts POBs from the current limit for total revenue bonds and notes that the MBBA may have outstanding at any one time. Section 12 contains the definition of "governmental employer." Section 13 provides for an immediate effective date.

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CHAIR HAWKER explained that Sections 7-9 do not effect how states or municipalities can organize, but rather allow the MBBA to work within its own charter to create corporate structures within the state government. He opined that the provision empowering the state to pursue the bond transactions covered by HB 13 should remain in any future committee substitutes.

[HB 13 was held in committee.]

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at [4:31:11 PM](#).