

HOUSE FINANCE COMMITTEE
March 23, 2010
9:08 a.m.

9:08:15 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 9:08 a.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Vice-Chair
Representative Allan Austerman
Representative Mike Doogan
Representative Anna Fairclough
Representative Neal Foster
Representative Les Gara
Representative Reggie Joule
Representative Mike Kelly
Representative Woodie Salmon

MEMBERS ABSENT

None

ALSO PRESENT

Representative Peggy Wilson; Ben Mulligan, Staff, Co-Chair Stoltze; Becky Rooney, Staff, Representative Wilson; Nancy Davis, President, Alaska Nurses Association; Rod Betit, President, Alaska Hospital & Nursing Home Association; Barbara Lander, ICU Nurse, Ketchikan General Hospital; Dr. Christie Artuso, Director of Neuroscience Services, Providence Alaska Medical Center; Debbie Thompson, Executive Director, Alaska Nurses Association; Barbara Huff Tuckness, Director of Legislative & Government Affairs, General Teamsters Local 959

PRESENT VIA TELECONFERENCE

Dr. Patrick Nolan, Endocrinologist, Anchorage; Pattie Arthur, North Star Hospital; Scott Jungwirth, Chief Human

Resources Officer, Providence Hospital & Health Services of Alaska; Doug Carson, Business Agent, Alaska State Employees Association; Donna Phillips, Registered Nurse, Turnagain Arm Health Board of Directors; John Bringhurst, CEO, Petersburg Medical Center; Evangelyn Dotomain, President & CEO, Alaska Native Health Board; Stacy Allen, Registered Nurse, Laborers Local 341, Palmer; Joey Merrick, President of District Council of Laborers, Eagle River

SUMMARY

HB 50 LIMIT OVERTIME FOR REGISTERED NURSES

 CSHB 50 (FIN) was HEARD and HELD in Committee for further consideration.

HB 369 IN-STATE PIPELINE MANAGER/TEAM/COMMITTEE

 HB 369 was SCHEDULED but not HEARD.

[9:08:21 AM](#)

#hb50
HOUSE BILL NO. 50

"An Act relating to limitations on mandatory overtime for registered nurses and licensed practical nurses in health care facilities; and providing for an effective date."

[9:08:31 AM](#)

Co-Chair Stoltze went over the morning itinerary.

[9:09:18 AM](#)

REPRESENTATIVE PEGGY WILSON indicated that she would present a general introduction to the bill.

Co-Chair Hawker MOVED CSHB 50 (FIN), 26-LS0274\U, Chenoweth/Wayne, 3/22/10 as a working document.

Co-Chair Stoltze OBJECTED for discussion.

Representative Wilson reported on the excessive working hours for nurses in Alaska. She did not believe this provides a safe working environment for patients or nurses. She explained that the purpose of the bill is to promote

better patient safety by making sure nurses receive enough rest. There are fifteen other states that have adopted similar requirements. Most of the other state versions restrict nurses to twelve consecutive hours with the mandated rest period of twelve hours. House Bill 50 will set a fourteen hour limit with a ten hour rest period to provide additional flexibility to hospitals. There are eleven additional states that are in the process of passing a similar bill. Representative Wilson alleged that there will be testimony from some hospitals insisting there is no need for this bill. Hospitals in Alaska do not use the practice of mandatory overtime. Representative Wilson believed that nurses in Alaska are working excessive overtime without adequate rest at these hospitals. She stated that nurses are often mandated or bullied into working the overtime hours. Nurses across Alaska have provided considerable testimony and written communications that there are serious problems occurring with these long shifts. Nurses are working beyond the twelve hour shifts on a frequent basis and then returning to work without enough rest. She stressed the lack of safety in this practice. Nurses often work twelve hour shift over multiple consecutive days. Representative Wilson disclosed that nurses often leave the state or retire early. She urged consideration and action on this bill.

[9:13:24 AM](#)

BEN MULLIGAN, STAFF, CO-CHAIR STOLTZE, explained the new Committee Substitute. He began on page 4, line 2, subsection (i) which needed further clarification of the intent coming out of the Health and Social Services Committee. In subsection (ii) and (iii) the statute references needed to be clarified. Mr. Mulligan continued to page 6 that removed Section 18.20.450 which brought the Department of Law into the situation of retaliation against the nurses by health care facilities. The co-chair removed that section. He also mentioned that the Applicability sections needed to be updated.

Co-Chair Stoltze remarked that the change was brought through the committee substitute rather than amendments. He voiced a concern about a state agency being involved in a litigation issue. Those opposed to the bill did not like this section.

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, CSHB 50 (FIN) 26-LS0274\U, Chenoweth/Wayne, 3/22/10 was adopted as a working document.

BECKY ROONEY, STAFF, REPRESENTATIVE WILSON commented that the new Committee Substitute changed was acceptable.

[9:17:04 AM](#)

Representative Austerman asked for an explanation of the change on page six. Mr. Mulligan stated that the co-chair removed the Department of Law in retaliation cases for the representation of the nurses.

Representative Austerman reiterated his question. Co-Chair Stoltze interjected that the section was removed. It provided for the Department of Law to be the legal services for the nurses. Representative Austerman commented that it appeared to be added back in.

[9:18:38 AM](#)

Mr. Mulligan explained that the numbers on the bill have just been changed.

Representative Wilson expressed that she was comfortable with the changes.

[9:19:10 AM](#)

Representative Doogan noted the section that has been deleted. One requirement of the Commissioner of the Department of Labor is investigate the allegations and then, if there is a violation, the Department of Law prosecutes. He inquired if the states requirement to investigate complaints has been removed. Mr. Mulligan replied yes.

[9:20:26 AM](#)

Representative Fairclough furthered that if anyone violates the law in the state of Alaska they still have recourse, but it has just been removed from this specific document.

Representative Doogan noted that the Commissioner's positive duty to investigate every complaint alleging a violation has been removed in this bill. He inquired on how

complaint investigations would now occur. Co-Chair Stoltze agreed that needed to be looked at again.

[9:22:32 AM](#)

Vice-Chair Thomas asked how many nurses are in Alaska. Representative Wilson did not know the exact numbers, but estimated in the thousands. Vice-Chair Thomas requested the exact number of nurses.

[9:23:41 AM](#)

NANCY DAVIS, PRESIDENT, ALASKA NURSES ASSOCIATION supported HB 50. She informed that she has been a Registered Nurse for over 40 years in public health and hospice associations. She indicated that nurses have been seeking basic protection for themselves and patients. The patient depends on the nurses for their health and safety, which is especially important for those who cannot make good determination for themselves. The patient should be protected against mistakes or errors. Nurses are ethically required to guard and protect the patient, but often feel the fear of retaliation if they refuse to work all the overtime hours. The bill reduces the practice of the nurses having to work these excessive overtime hours. It also protects against the retaliation practices. Nurses often fear their job is in danger. She would like to see Alaska join other states in passing this bill.

[9:29:59 AM](#)

Vice-Chair Thomas inquired on the number of nurses in Alaska being affected. Ms. Davis replied that there are eight thousand practicing nurses in Alaska, but some of them only practice a minimum amount of hours. She indicated that approximately 85 percent of nurses work in 24-hour institutional care facilities. She noted that 15 percent to 20 percent work outside in community or public health.

Vice-Chair Thomas asked for the average age of the nurses in Alaska.

Ms. Davis responded that Alaska's working nurses are older than the national average. She estimated close to fifty years old for the average nurse.

Vice-Chair Thomas inquired if nurses must update their nursing licenses. Ms. Davis informed that nurses must renew

their licenses every two years. They must demonstrate work as a nurse and complete thirty hours of continuing education.

Vice-Chair Thomas asked who pays for this recertification training. Ms. Davis noted that it depends on where the nurses worked; many hospitals have continuing training available in-house for the nurses, but there are some nurses who pay it themselves.

Vice-Chair Thomas noted that some nurses belong to unions and wondered if those nurses have the same problems under union contracts. Ms. Davis replied that labor contracts do not always address excessive overtime hours. She estimated that about half of Alaska's facilities have collective bargaining agreements. She believed that the first issue is patient safety.

Vice-Chair Thomas commented that he thought the unions would speak to this issue for patient safety. Ms. Davis declared that she wished there was no reason to have to set a limit, but there has been no other way to solve this.

[9:34:31 AM](#)

Representative Fairclough asked if Registered Nurses and Licensed Practical Nurses cover all aspects of nursing. Ms. Davis replied yes, although there are Certified Nursing Assistants covered under the Board of Nursing, but they are not considered professional nursing staff. They do not have independent responsibility for patient care.

Representative Fairclough asked if agencies would turn to a Certified Nursing Assistant in seeking additional hours. She wondered if that class of nurses would be covered under this bill. Ms. Davis replied that she did not believe a 24-hour facility could only run with nursing assistants. A registered nurse must oversee and be responsible for the work of the nursing assistants.

[9:36:53 AM](#)

ROD BETIT, PRESIDENT, ALASKA HOSPITAL & NURSING HOME ASSOCIATION spoke on behalf of the associations twenty seven members that represent private, federal, state, and tribal facilities. Although he respected Representative Wilson for her efforts, he did not support the bill. He

indicated that mandatory overtime has been tracked for a number of years and it is minimal in the state (ASHNHA 2007 and 2008 Nurse Overtime Survey Results, March 13, 2009, copy on file). Mandatory overtime has only been used in four facilities, mostly at state operated psychiatric institutes. The chart indicates that vacancies are improving; 11 percent in 2007 to 9 percent in 2008. Mr. Betit referred to the blue highlighted column that showed the temporary nursing hours purchased by the facilities from various companies throughout Alaska. It reflected over one quarter of a million hours were purchased. This is a more expensive approach to the facilities since temporary staff time is more expensive. The final column shows that a zero number of grievances were filed in 2008. Mr. Betit believed that this issue belongs in the bargaining table. He noted there is a there is a 12 hour basic nursing shift which means they pay for a fulltime nurse to produce 36 hours of work in any given week to protect a three day work for a nurse. There is a 10 percent loss of working time of each nurse employed by a facility. This is one of factor that contributes to the nursing shortage.

Mr. Betit continued that a third issue is quality of service and 90 percent of Alaskans responded always or usually positive. He proved further statistics of positive patient response. He believed the real question is the storage of nurses throughout the state. He provided ways that his organization has tried to deal with this storage. He also referred to several bills to bring already trained and ready to work nurses from around the country. Finally, he believed this bill would require a new mandatory recording burden that could hurt smaller facilities. He understood the purpose, but believed the facilities were meeting the intent of the bill and much was being done to move forward in a positive way.

[9:43:31 AM](#)

Representative Foster wanted clarification on the tracking burden because it seemed like the tracking mechanism was already in place. Mr. Betit explained that the report only tracked mandatory overtime and on-call time. The reporting requirement in the bill would be for all overtime by the nurses. All facilities in the state use voluntary overtime, therefore every facility in the state would have to keep these records and report them on a quarterly basis.

Representative Fairclough inquired if there was a payroll system in place in each of the facilities. Mr. Betit replied that was true, but it was his understanding that the depth of detail is not routinely put out by those personal systems.

Representative Fairclough commended that every time she has worked overtime it is tracked on her payroll checks. She did not understand how that information could not be linked up for the required reporting.

[9:45:18 AM](#)

Representative Doogan that some of the numbers show a variety of symbols under "length of shift in hours." He wondered what these numbers refer to.

Mr. Betit agreed there was an inconsistent use of commas and periods, but basically it states the variety of shifts available in each of the facilities.

[9:46:23 AM](#)

DR. PATRICK NOLAN, ENDOCRINOLOGIST, ANCHORAGE (via teleconference) voiced his concern about nurses working long hours. He believed that even the fourteen hours specified in the bill was excessive. Many hospital nurses have quit because of long hours and overtime requirements. Nursing is a stressful job and mistakes can be made when someone is tired.

[9:49:09 AM](#)

PATTIE ARTHUR, NORTH STAR HOSPITAL (via teleconference), testified in support of the bill. She referenced Article 4, Section 18.20.400 Limitations on nursing overtime and applauded this inclusion. She also referred to page 3, number 7 (A, B, C) (CS HB 50 (HSS)). This allowed her to get her nursing degree and opened other opportunities for nurses to pursue their master's degree or nursing degree. She was in favor of passing this legislation.

[9:51:02 AM](#)

SCOTT JUNGWIRTH, CHIEF HUMAN RESOURCES OFFICER, PROVIDENCE HOSPITAL & HEALTH SERVICES OF ALASKA (via teleconference), indicated that Providence Hospital does not support this legislation. He believed that collective bargaining should

be used to reach solutions on staffing issues. His hospital does not require mandatory overtime, but allows the nurses to bid on overtime should they choose. The on-call language in this legislation is vague and would create misinterpretations. On-call teams are often necessary in cases such as emergency operating rooms. For most part nurses are allowed to schedule their on-call time which is a practice preferred by many nurses.

Co-Chair Stoltze asked for a faxed copy of his testimony.

[9:53:24 AM](#)

Representative Gara commented that nurses, by being on-call, alter their lives in significant ways on behalf of their patients. He wished to hear some credit offered to these nurses.

Vice-Chair Thomas inquired about collective bargaining units and pondered retuning of this bill to those facilities that do not have collective bargaining units.

[9:54:43 AM](#)

BARBARA LANDER, ICU NURSE, KETCHIKAN GENERAL HOSPITAL, supported the bill. She believed this would put the hospital on call with more realistic hiring techniques. The facilities count on nurses to work overtime to fill in the time. She gave a personal experience when dealing with an emergency and the resulting mistakes made by some overtired nurses. She indicated there are many examples like this and it is a widespread problem that other states have dealt with. She disagrees with the collective bargaining technique because some nurses are not covered by labor. She explained a situation of excessive hours for herself. There are some nurses that oppose this bill and enjoy the overtime hours. Ms. Lander stressed that this bill is not about the nurses, but for the safety of the patients. Hospital administrators use overtime as a staffing tool.

[10:01:10 AM](#)

DR. CHRISTIE ARTUSO, DIRECTOR OF NEUROSCIENCE SERVICES, PROVIDENCE ALASKA MEDICAL CENTER presented her qualifications. She expressed that she was unaware of any instance when nurses were required to work overtime. She testified against the bill. Dr. Artuso argued that there was no need for legislation to regulate nurses. Mandatory

overtime is not the way to staff a hospital, but sometimes it is required and many nurses like this. She elaborated that sometimes nurses are often sent home due to lack of work. She asserted that when a nurse is paid, then patient safety does not seem to be the issue. Why is it necessary to have this bill, but a battle of power and money and not patient safety? She asked where is the current research on this situation. She challenged them to check the data. Demographics of nurses have changed with better educated nurses and workforce has aged but research is lacking. Nurse patient ratio has improved but no data. Do not support this legislation.

[10:07:19 AM](#)

Representative Gara on the data how is it data.

Ms. Artuso patient data did not include any current delivery that is present today. None of some particulars were included. Patients looked at differently in the past based on new techniques in medical profession. Has not seen current studies.

[10:09:05 AM](#)

DEBBIE THOMPSON, EXECUTIVE DIRECTOR, ALASKA NURSES ASSOCIATION supported this bill. She is responsible for hearing many of the nurses regarding this bill. She did not believe this to be a union issue - no one party has the best. She believed that working through a grievance. Often in negotiation session told it would be handled of legislation. It is a patient safety issue. The nurses were tired but often no one to call and they dealt with the pressures. The people and patients of Alaska need this bill.

[10:12:52 AM](#)

DOUG CARSON, BUSINESS AGENT, ALASKA STATE EMPLOYEES ASSOCIATION (via teleconference) supported this legislation and supported nurses. He spoke of the psychiatric institute overtime situation. Many required working too much overtime and results in injury and safety.

DONNA PHILLIPS, REGISTERED NURSE, TURNAGAIN ARM HEALTH BOARD OF DIRECTORS (via teleconference) supported the legislation. Patients should not be concerned about long hours of the nurses. Nurses can only last so long because

of long hours. UAA doing great job of training new nurses for Alaska. Too many people rely on them, especially doctors who rely on their monitoring. She urged for patient safety.

[10:17:21 AM](#)

EVANGELYN DOTOMAIN, PRESIDENT & CEO, ALASKA NATIVE HEALTH BOARD (via teleconference) named her issue is that it has not been proved it is a problem in Alaska. The data does not support this and their needs to be more study on this. All facilities have risk managers dealing with this issue. Main concern is that it presents a market challenge. Tribal health care have harder time recruiting nurses and this legislation will make it harder. In tight labor market the nurse there can make their own deals. These are agreed to in labor agreements. This will provide a hardship. Also not sure how certain issues will be handled under this bill. How will they know if people working in several facilities be directed under this bill.

[10:21:23 AM](#)

Representative Foster understood rural Alaska has unique challenges, and he believed tribal facilities were exempted in this bill and wondered if Ms. Dotomain was aware of that. Ms. Dotomain responded that she was aware. She believed the whole market is changes and made it more difficult to recruit and retain good nurses.

[10:22:15 AM](#)

JOHN BRINGHURST, CEO, PETERSBURG MEDICAL CENTER (via teleconference) voiced his opposition to the bill. He has never required overtime at his facility, it is always voluntary. There will be a burden that would require more tracking. This would go beyond just tracking overtime, but many other features. There is only one person tracking human resources and does many other jobs which would add much to her already overburdened scheduled. He did not believe a 16 hour shift was unsafe. This should be labor negotiation. Nurses often spend time on paperwork and patient care. This would inflict more regulation.

STACY ALLEN, REGISTERED NURSE, LABORERS LOCAL 341, PALMER (via teleconference) supported this bill and gave her reasons. She spoke to the mistakes made when nurses are tired. She wondered how it can be believed that a nurse can

work safely after 14 hours. She spoke of a personal situation where she patients and family were happy that the nurse was not in 15th hour when dealing with them. Collective bargaining is when two groups agree on something or if they don't, then try to agree with what they can.

[10:28:45 AM](#)

JOEY MERRICK, PRESIDENT OF DISTRICT COUNCIL OF LABORERS, EAGLE RIVER (via teleconference) supported this bill. He contended the support of safety in all industries. It has been proved that when working longer hours, more mistakes can happen.

[10:30:19 AM](#)

BARBARA HUFF TUCKNESS, DIRECTOR OF LEGISLATIVE & GOVERNMENT AFFAIRS, GENERAL TEAMSTERS LOCAL 959 spoke to the collective bargaining situation. She indicated that safety has been a big issue as well as the number of hours. She indicated that a new management may have a different attitude, but the importance deals with patient safety. Ms. Huff supported the passage of the bill.

[10:33:00 AM](#)

Co-Chair Stoltze closed public testimony.

[10:33:40 AM](#)

CSHB 50 (FIN) was HEARD and HELD in Committee for further consideration.

#hb369

HOUSE BILL NO. 369

"An Act relating to an in-state natural gas pipeline, the office of in-state gasline project manager, the Joint In-State Gasline Development Team, and the In-State Gasline Steering Committee; and providing for an effective date."

HB 369 was SCHEDULED but not HEARD.

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ADJOURNMENT

The meeting was adjourned at 10:33 AM