

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 24, 2009

2:02 p.m.

MEMBERS PRESENT

Senator Joe Paskvan, Chair
Senator Joe Thomas, Vice Chair
Senator Bettye Davis
Senator Kevin Meyer
Senator Con Bunde

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 1

"An Act increasing the minimum hourly wage, and creating an annual adjustment to the minimum hourly wage based on the rate of inflation; and providing for an effective date."

MOVED CSSB 1(L&C) OUT OF COMMITTEE

SENATE BILL NO. 84

"An Act relating to bonding limitations and confidentiality of records and information of the Alaska Industrial Development and Export Authority; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 1

SHORT TITLE: ALASKA MINIMUM WAGE

SPONSOR(s): SENATOR(s) WIELECHOWSKI, ELLIS, THOMAS, DAVIS,
FRENCH

01/21/09	(S)	PREFILE RELEASED 1/9/09
01/21/09	(S)	READ THE FIRST TIME - REFERRALS
01/21/09	(S)	L&C, FIN
02/05/09	(S)	L&C AT 1:30 PM BELTZ 211
02/05/09	(S)	Heard & Held
02/05/09	(S)	MINUTE(L&C)
02/12/09	(S)	L&C AT 1:30 PM BELTZ 211
02/12/09	(S)	Heard & Held
02/12/09	(S)	MINUTE(L&C)

02/17/09 (S) L&C AT 1:30 PM BELTZ 211
02/17/09 (S) AIDEA: BONDING LIMITS; CONFIDENTIALITY
02/24/09 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 84

SHORT TITLE: AIDEA: BONDING LIMITS; CONFIDENTIALITY

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/26/09 (S) READ THE FIRST TIME - REFERRALS
01/26/09 (S) L&C, FIN
02/17/09 (S) L&C AT 1:30 PM BELTZ 211
02/17/09 (S) Bills Previously Heard/Scheduled
02/24/09 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

AL LEVINSON, Restaurant owner
Anchorage, AK

POSITION STATEMENT: Had question about Amendment 1 to SB 1.

VINCE BELTRAMI, President
Alaska AFL-CIO

POSITION STATEMENT: Supported SB 1.

TED LEONARD, Executive Director
Alaska Industrial Development and Export Authority (AIDEA)

POSITION STATEMENT: Supported SB 84.

BRIAN BJORKQUIST, Senior Assistant Attorney General
Department of Law (DOL)

POSITION STATEMENT: Answered questions on SB 84.

ACTION NARRATIVE

[2:02:42 PM](#)

CHAIR JOE PASKVAN called the Senate Labor and Commerce Standing Committee meeting to order at 2:02 p.m. Present at the call to order were Senators Davis, Meyer, Thomas and Paskvan. Senator Bunde joined the committee at 2:04 p.m.

SB 1-ALASKA MINIMUM WAGE

CHAIR PASKVAN announced SB 1 to be up for consideration.

SENATOR THOMAS moved to adopt CSSB 1, labeled 26-LS006\E, and objected for discussion purposes.

[2:05:23 PM](#)

CHAIR PASKVAN explained that SB 1 sets Alaska's minimum wage at \$1 above the federal minimum wage. If they had used the same proportions of \$.04 and \$.42 applied to stamps over the last 50 years, Alaska's minimum wage would be an additional \$5/hr. at \$12.25. He found that the first legislature 50 years ago said the Alaska the minimum wage would be approximately 50 percent of the federal minimum wage, which in 2009 would be a difference of \$7.25. If that same principle were applied now, \$3.62 would be added to the current rate, which would equate to a \$10.87/hr. minimum wage.

At the same time the committee has heard from the business community that these are troubling times for the nation and he didn't want to impose too much of a burden at one time, so the CS is at \$1 above federal minimum wage and it takes effect January 1, 2010.

SENATOR BUNDE mentioned that the CS does not involve an automatic escalator or COLA.

CHAIR PASKVAN said that was correct.

SENATOR THOMAS removed his objection and therefore, version E was before the committee.

[2:08:36 PM](#)

SENATOR BUNDE moved to adopt Amendment 1.

26-LS0006\R.2
Cook/Wayne

AMENDMENT 1

OFFERED IN THE SENATE
TO SB 1

BY SENATOR BUNDE

Page 1, line 1, following "Act":

Insert "**relating to the minimum hourly wage,**"

Page 1, line 12, following "section":

Insert "**except as provided in (d) of this section**"

Page 2, following line 12:

Insert a new bill section to read:

"* **Sec. 2.** AS 23.10.065 is amended by adding a new subsection to read:

(d) An employer may apply tips or gratuities bestowed upon an employee as a credit toward payment of the minimum hourly wage required by this section equal to 30 percent of that minimum wage. The credit may be applied only if the

(1) employee receives tips or gratuities in the course of the employment;

(2) tips or gratuities equal or exceed an average hourly amount of at least \$15 calculated for the pay period for which the credit is applied;

(3) amount of tips or gratuities can be determined by the employee's declaration for purposes of 26 U.S.C. 3101 (Federal Insurance Contributions Act); and

(4) employee was informed by the employer of the provisions of this subsection at least 30 days before an employer first elects to apply tips or gratuities as a credit toward payment of the minimum hourly wage of that employee."

Renumber the following bill section accordingly.

SENATOR THOMAS objected for discussion purposes.

CHAIR PASKVAN announced an at ease at 2:09 p.m.

[2:10:24 PM](#)

CHAIR PASKVAN called the meeting back to order at 2:10.

SENATOR BUNDE explained that a lot of people from the hospitality industry have testified that wait staff is often in the \$20-wage category and they would get a raise when the people in the back of the house who are already working for more than minimum wage, but substantially less than \$20/hr. would not get a raise. He didn't think Amendment 1 would cost anything, and it would help businesses maintain jobs.

SENATOR THOMAS said he didn't understand objections to tipped employees getting a minimum wage increase. Many places share tips.

[2:15:21 PM](#)

SENATOR MEYER said he understands that 45 other states have some sort of a tip credit, and he asked Senator Bunde how he came up with 30 percent more versus 10 or 15 percent. He agreed with

Senator Thomas that if he has a good waiter or waitress he wants to reward them, and this amendment would reduce what they would get.

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A roll call vote was taken. Senator Bunde voted yea; Senators Meyer, Davis, Thomas and Paskvan voted nay; so Amendment 1 failed.

SENATOR BUNDE said since the legislature proposed to receive a 50 percent pay raise and since the amount proposed in the CS was not based on any hard data, he wanted to offer conceptual Amendment 2 to: "Instead of a dollar more than federal minimum wage, which would make it \$8.15 instead of \$7.15, my amendment would make the minimum wage at \$14.30, double what it is currently, similar to the proposal to double our legislative salary. That seems to be as much a precedent as anything."

He added that with this amendment, people at minimum wage would make about \$570/wk. or almost \$2300/mo. or \$27,500/yr. That would take them to about current legislative pay levels - substantially above the poverty level.

SENATOR THOMAS objected and said that people are concerned with raising the minimum to \$1 - \$1.50, and they would be even more concerned with this figure. He believed the CS addressed the major complaints he has heard and he sees in most of the restaurants he goes to that people move up. People have said the reason they have the lower wage is because it's a beginning wage.

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SENATOR BUNDE said, "The current proposal leaves people in poverty, and if you want to take them out of poverty, here's an opportunity to do it."

SENATOR THOMAS said the restaurateurs who have commented anecdotally said few of these people were living in poverty and were making anywhere from \$30,000 to \$60,000. Some of that has to be taken factually.

[2:22:35 PM](#)

A roll call vote was taken. Senator Bunde voted yea; Senators Meyer, Davis, Thomas and Paskvan voted nay; and so conceptual Amendment 2 failed.

AL LEVINSON, Restaurant owner, Anchorage, wanted to know if the tip credit (Amendment 1) failed.

CHAIR PASKVAN said that it had failed.

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VINCE BELTRAMI, President, Alaska AFL-CIO, supported SB 1. However, he was a little disappointed they lowered the amount to \$1 over the federal minimum wage and eliminated the CPI. Washington and Oregon have had good experiences using the CPI in terms of both jobs and business. Recent data shows that Washington had an over 10 percent increase in restaurant and bar employment from the time it passed the increase up until 2006, "which punched a hole in the argument that the minimum wage increase is bad for business." Other studies have shown no evidence of negative employment effects on small business as a result of increasing the minimum wage.

MR. BALTRAMI said he found a paper published by the National Employment Law Project that speaks to Alaska's tipped employees. Senator Thomas and Senator Meyer hit the nail on the head when he said a tip credit is punitive to waiters and waitresses, some of whom are professional. A lot of people make their living on tips; since the last minimum wage increase in 2003, they have not had an increase. There has been a roughly 18 percent-increase in the cost of living without a comparable increase in pay.

He has seen a lot of menu prices go up with the increased cost of business, but since employees aren't getting increases, he wasn't sure how negatively impacted the restaurant owners would really be with this raise. But higher wages could result in a positive impact of more people being able to go out and spend money and spend it in their establishments and in the general economy. He also mentioned that he is gathering the initial 100 signatures for a ballot initiative to raise the minimum wage to what was originally proposed in SB 1.

SENATOR BUNDE asked if he would have supported his Amendment 2.

MR. BELTRAMI replied there has to be an element of reasonableness, and it wasn't realistic.

CHAIR PASKVAN closed public testimony.

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SENATOR THOMAS moved to pass CSSB 1(L&C) from committee with individual recommendations and attached fiscal notes.

SENATOR BUNDE objected.

A roll call vote was taken. Senators Thomas, Meyer, Davis and Paskvan voted yea; Senator Bunde voted nay; so CSSB 1(L&C) moved from committee.

[2:32:17 PM](#)

CHAIR PASKVAN announced an at ease.

SB 84-AIDEA: BONDING LIMITS; CONFIDENTIALITY

[2:35:10 PM](#)

CHAIR PASKVAN called the meeting back to order at 2:32 and announced SB 84 to be up for consideration.

TED LEONARD, Executive Director, Alaska Industrial Development and Export Authority (AIDEA) said AIDEA's mission is to provide various means of financing to promote economic growth and diversification in Alaska. An important way that AIDEA fulfills its mission is by providing Alaska businesses and non profit agencies with access to long-term capital at reasonable cost through its conduit revenue and loan participation programs.

AIDEA requested this bill in order to amend its statutes to allow the Authority flexibility in how and when it issues bonds to insure that it obtains the most favorable terms and interest rates it can in order to reduce the overall cost of financing for AIDEA and Alaskan business and non profits that use its financing program. This is in Sections 1 and 2

He said the bill would also assist the mission of the Authority by clarifying and assuring borrowers and development project applicants that certain records and information provided to it will be kept confidential, and also set up a process to do that. That is in Sections 3-6.

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Section 1 would amend their annual bonding limitation to exclude refunding and conduit revenue bonds from the \$400 million/12-month bond limitation (a rolling 12 months, not an annual 12 months). The main types of bonds issued by AIDEA are general obligation (GO) bonds, revenue bonds, conduit revenue bonds and refunding bonds.

The refunding bonds are used to refinance and replace existing bond debt; a good analogy of that is when mortgage rates go down it's a good time to refinance your mortgage. Refunding bonds can be done on GO bonds, revenue bonds and conduit revenue bonds.

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They are also asking conduit revenue bonds to be excluded from the \$400 million limit. These bonds are provided to businesses and non profits where AIDEA acts as a conduit for the issuance of taxable and tax exempt bonds. AIDEA has financed over \$1.1 billion in conduit revenue bonds for 309 projects through this program. These bonds are payable solely by the project developer primarily from the revenue generated by the project. The Authority has no financial obligation for the bond debt; neither are the assets nor the credit of AIDEA at risk.

MR. LEONARD said one of the prime benefits of this program is that AIDEA can pass its tax exempt status to a project developer who meets certain criteria. Only states and municipalities have the ability to do that. So for businesses and non profits that meet certain IRS regulations, the only way to do this is through a state organization or a municipality.

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Tax exempt bonds for each state have a \$260 million annual cap, and the Alaska Bond Committee has to approve those. In essence refunding and conduit bonds help promote the Authority's economic development mission without substantially increasing the amount of its outstanding bond debt. Enactment of this amendment would ensure that the 12-month bond limit would not preclude the Authority from issuing debt that would provide the Authority, Alaska businesses and non profits with more favorable terms and lower capital costs or limit AIDEA's conduit revenue bond program.

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SENATOR THOMAS asked if refinancing bonds has a standard fee or is the fee negotiated.

MR. LEONARD answered that it is a negotiated process. Part of Section 2 clarifies that the proceeds from the refunding debt can be used to pay those new issuant fees.

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Section 2 begins on page 1, line 8, and amends AS 44.99.095 to provide for two recommendations. It would reinstate the

Authority's ability to issue bonds that existed before the July 1, 2007 statutory sunset and it clarifies in statute that the Authority can use proceeds from the refunding bonds to finance certain costs and expenses associated with the issuance of the refunding bonds.

Due to the statutory sunset, AIDEA currently requires legislative approval to issue any bonds except refunding and conduit revenue bonds. Section 2 would eliminate the sunset and enable the Authority to again issue most types of bonds without legislative approval, but it would still require legislative approval to issue GO and revenue bonds in excess of \$10 million to assist in financing AIDEA-owned development projects. One example of that would be the Red Dog Mine.

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MR. LEONARD said the second change in Section 2 will allow proceeds from the refunding bonds to retire the outstanding bonds, the cost of refinancing and other costs related to the issuance of the refunding bonds. In the past they had to come back to the legislature for approval to do that.

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Sections 3-6 amend the confidentiality of information provision and adds clarification to the definition that certain records and information provided to the Authority are confidential and establishes a process for the Authority to determine that confidentiality.

He explained that the Authority has heard several complaints from several borrowers who are project developers that AS 44.85.215 does not clearly establish that the Authority can retain the confidentiality of certain records or information that is essential and proprietary to their businesses. So, Section 3 clarifies and identifies the specific type of trade secrets that are kept confidential.

Section 6 further clarifies existing language by defining "trade secrets" using the Alaska Uniform Trade Secrets Act in AS 45.50.940(3). Section 5 establishes a process for AIDEA to determine which records and information will be kept confidential. Under sections 3 and 5 the applicant must request confidentiality and make an adequate showing to the executive director that the records and information should be kept confidential. Based on that request, the executive director would make a determination and this process would provide greater assurance to the applicants that certain information and

records will be kept confidential. The important thing is that it does that at the start of the process.

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CHAIR PASKVAN wanted to hear more about the template that determines confidentiality.

BRIAN BJORKQUIST, Senior Assistant Attorney General, Department of Law (DOL), said the standard applied under AS 44.88.215(a) wouldn't change from existing law. Certain specific types of information are confidential and not public records. These are listed in items 1-8 - like income tax returns, financial statements, and profit and loss statements. The showing the applicant would have to make is that the document in question fits within what is listed.

CHAIR PASKVAN asked if a document is submitted with a request that it be confidential, and the executive director determines it's not confidential, does the business owner or project owner get to withdraw it before it becomes public.

MR. BJORKQUIST answered yes.

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SENATOR BUNDE asked assuming someone in the public felt that things labeled confidential didn't meet the statutory requirements, would there be recourse for them through the Freedom of Information Act or would it require a court lawsuit.

MR. BJORKQUIST answered that under this statute the executive director would make a determination of confidentiality at the time the document is submitted by the applicant. However, in the process of public records request there would be an opportunity for a challenge, but because the determination had already been made by the executive director, there would be a heavier burden to overcome.

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MR. LEONARD continued saying that Section 8 makes the effective date July 1, 2009.

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SENATOR THOMAS asked why he wanted to revisit this issue.

MR. LEONARD said a few years back they almost had to stop a bonding project based on the \$400 million limitation and AIDEA would like to reissue some variable rate bonds they have now.

They are actually also looking forward to the time when the bond market starts to smooth out.

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SENATOR MEYER asked what the state is paying for a bond now.

MR. LEONARD answered that AIDEA does not have the moral obligation of the state; so for taxable bonds it's about 8 percent. It hasn't issued a non-taxable bond for a while. The last he heard the state did a AA bond for was the prison at 5.99 percent.

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SENATOR MEYER said he liked the sunset clause. Why remove it?

MR. LEONARD answered the possibility of losing one of AIDEA's major tools every three years is why they are against the sunset. It is one of their main tools to perform their mission.

SENATOR MEYER said the AIDEA dividend the state has received the last few years has helped fund the general budget, so the legislature would probably want to continue some oversight into its business, and he wanted the sunset clause to stay.

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MR. LEONARD said AIDEA believes the budget process provides that oversight to the state.

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CHAIR PASKVAN closed public testimony on SB 84, and held it for further hearing.

SENATOR DAVIS thanked Mr. Leonard for his testimony.

[2:58:44 PM](#)

There being no further business to come before the committee, Chair Paskvan adjourned the meeting at 2:58 p.m.