

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

April 3, 2012

1:32 p.m.

MEMBERS PRESENT

Senator Joe Paskvan, Vice Chair
Senator Bettye Davis
Senator Cathy Giessel

MEMBERS ABSENT

Senator Dennis Egan, Chair
Senator Linda Menard

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 252(FIN)

"An Act exempting certain small businesses from the corporate income tax; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 301(FIN)

"An Act relating to enforcement of boating safety statutes; amending the termination date of certain statutes relating to the use, operation, and regulation of boats, a uniform state waterway marking system, and civil liability for boat owners; providing for an effective date by amending the effective date of secs. 3, 5, 7, 9, 11, 14, 16, 18, 20, 23, 26, and 27, ch. 28, SLA 2000, as amended; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 128

"An Act relating to brewery licenses."

- BILL HEARING POSTPONED TO APRIL 5, 2012

PREVIOUS COMMITTEE ACTION

BILL: HB 252

SHORT TITLE: SMALL BUSINESS INCOME TAX EXEMPTION

SPONSOR(S): REPRESENTATIVE(S) COSTELLO

01/17/12 (H) PREFILE RELEASED 1/6/12

01/17/12 (H) READ THE FIRST TIME - REFERRALS
 01/17/12 (H) L&C, FIN
 02/22/12 (H) L&C AT 3:15 PM BARNES 124
 02/22/12 (H) Moved CSHB 252(L&C) Out of Committee
 02/22/12 (H) MINUTE(L&C)
 02/24/12 (H) L&C RPT CS(L&C) 6DP 1NR
 02/24/12 (H) DP: THOMPSON, JOHNSON, SADDLER, HOLMES,
 MILLER, OLSON
 02/24/12 (H) NR: CHENAULT
 02/29/12 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 02/29/12 (H) Heard & Held
 02/29/12 (H) MINUTE(FIN)
 03/13/12 (H) FIN AT 8:30 AM HOUSE FINANCE 519
 03/13/12 (H) Moved CSHB 252(FIN) Out of Committee
 03/13/12 (H) MINUTE(FIN)
 03/14/12 (H) FIN RPT CS(FIN) 8DP 3NR
 03/14/12 (H) DP: GARA, GUTTENBERG, JOULE, COSTELLO,
 EDGMON, DOOGAN, STOLTZE, THOMAS
 03/14/12 (H) NR: FAIRCLOUGH, T.WILSON, NEUMAN
 03/23/12 (H) TRANSMITTED TO (S)
 03/23/12 (H) VERSION: CSHB 252(FIN)
 03/26/12 (S) READ THE FIRST TIME - REFERRALS
 03/26/12 (S) L&C, FIN
 04/03/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 301

SHORT TITLE: BOATING REGULATION: SUNSET/ENFORCEMENT

SPONSOR(S): REPRESENTATIVE(S) AUSTERMAN

01/27/12 (H) READ THE FIRST TIME - REFERRALS
 01/27/12 (H) L&C
 02/22/12 (H) L&C AT 3:15 PM BARNES 124
 02/22/12 (H) Moved Out of Committee
 02/22/12 (H) MINUTE(L&C)
 02/24/12 (H) L&C RPT 7DP
 02/24/12 (H) DP: CHENAULT, THOMPSON, SADDLER,
 JOHNSON, HOLMES, MILLER, OLSON
 02/24/12 (H) FIN REFERRAL ADDED AFTER L&C
 03/07/12 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/07/12 (H) Scheduled But Not Heard
 03/15/12 (H) FIN RPT CS(FIN) NT 10DP
 03/15/12 (H) DP: FAIRCLOUGH, GARA, JOULE, T.WILSON,
 GUTTENBERG, NEUMAN, COSTELLO, EDGMON,
 STOLTZE, THOMAS
 03/15/12 (H) FIN AT 8:30 AM HOUSE FINANCE 519
 03/15/12 (H) Moved CSHB 301(FIN) Out of Committee
 03/15/12 (H) MINUTE(FIN)

03/23/12 (H) TRANSMITTED TO (S)
03/23/12 (H) VERSION: CSHB 301(FIN)
03/26/12 (S) READ THE FIRST TIME - REFERRALS
03/26/12 (S) L&C, FIN
04/03/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

REPRESENTATIVE MIA COSTELLO
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HB 252.

JOSHUA WALTON, Staff
Representative Mia Costello
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented HB 252 for the sponsor and answered questions.

JON BITTNER
Anchorage Economic Development Corporation (AEDC)
Anchorage, AK

POSITION STATEMENT: Strongly supported HB 252.

ALLEN JOHNSTON, representing himself
Anchorage, AK

POSITION STATEMENT: Strongly supported HB 252.

JOHANNA BALES, Deputy Director
Department of Revenue (DOR)
Anchorage, AK

POSITION STATEMENT: Answered questions on HB 252 and said the department had not issues with it.

JANE SCHULTZ
Kenai Peninsula Emergency Services
Kenai, AK

POSITION STATEMENT: Supported HB 301.

JOHN BAKER, Assistant Attorney General
Civil Division
Natural Resources Section
Department of Law (DOL)
Anchorage, AK

POSITION STATEMENT: Answered questions on HB 301.

ASTRID LIEVANO, Staff
Representative Alan Austerman
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented HB 301 for the sponsor and answered questions.

ACTION NARRATIVE

[1:32:02 PM](#)

VICE CHAIR JOE PASKVAN called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Davis, Giessel and Vice Chair Paskvan.

HB 252-SMALL BUSINESS INCOME TAX EXEMPTION

[1:33:38 PM](#)

VICE CHAIR PASKVAN announced consideration of HB 252 [CSHB 252(FIN), version 27-LS1085\D, was before the committee].

[1:33:46 PM](#)

REPRESENTATIVE MIA COSTELLO, sponsor of HB 252, explained that the premise behind this bill is to diversify the state's economy. The state depends on the federal government, the oil industry and then everything else, she said, but it can expect a decrease in federal spending, and this bill focuses on the "everything else" aspect of the economy by encouraging fast growing businesses to come to Alaska and become corporate income taxpayers.

She said that right now the state of Alaska has about 16,000 corporate income tax returns coming in; about half of those pay no corporate income tax, and of the remaining 3,100, only about 900 companies pay more than \$1,000 in corporate income tax annually. HB 252 would exempt qualifying industries from the state's corporate income tax until they reach \$50 million in gross aggregate assets. This bill dovetails with federal law that exempts people from capital gains tax if they invest in an initial public offering (IPO) and keep their money in it for five years. In order for a company to be considered a 1202 C corporation, it has to have \$50 million gross aggregate assets or less, cannot be in an exempted industry and 80 percent of its assets have to be used in the daily conduct of its business. That portion of the federal definition really makes it apply to a small slice of industries, but this bill exempts additional industries to those in the federal law.

[1:37:04 PM](#)

REPRESENTATIVE COSTELLO said she was trying to attract software development, biotech, pharmaceutical, telecommunications, superconductors, business technologies and solutions, media storage servers, video games, mobile apps and industries that deal primarily with intellectual property and that don't typically have many physical assets.

[1:38:10 PM](#)

VICE CHAIR PASKVAN asked how long these tax provisions apply to a company.

[1:38:27 PM](#)

JOSHUA WALTON, staff to Representative Mia Costello, replied that neither the federal version nor the state version of this exemption has a time limit, but the time limitation for how long a company can qualify comes through the asset cap. He explained that when companies are starting up they are looking for fast growth; as they grow they either become profitable or not. If they are not profitable, they go away. If they are, they wind up accumulating assets which count towards the \$50 million cap. At least 80 percent of those assets have to be rolled into the active conduct of their business: things like paying the costs, increasing their production or additional research and development.

VICE CHAIR PASKVAN asked if a company stays under \$50 million in assets, would the exemption continue to apply.

MR. WALTON said that was correct.

REPRESENTATIVE COSTELLO added if this bill becomes law, Alaska would be the first state to piggyback on federal 1202 C corporation law.

SENATOR PASKVAN opened public testimony.

[1:40:54 PM](#)

JON BITTNER, Vice President, Anchorage Economic Development Corporation (AEDC), said they strongly supported HB 252. These incentives are extremely important to generating a stronger economy in Alaska as well as generating interest in relocating here from outside. This measure also dovetails nicely with several federal and municipal opportunities that are coming down the pike over the next year. On the federal level, the Jobs Act changes several regulations in the SEC code that hasn't been

changed since 1933; these changes will generate a lot of interest and new business that could take advantage of this kind of incentive. In Anchorage, it could dovetail with the Municipal Angel Fund that is coming on line soon. There has never been a better time than right now for businesses to come to Alaska.

VICE CHAIR PASKVAN asked his thoughts on a time limitation.

MR. BITTNER replied that they would leave the details up to the legislature.

VICE CHAIR PASKVAN said he supported the bill, but was trying to figure out some sideboards for it.

[1:43:59 PM](#)

SENATOR DAVIS said she was looking at letters of support and was impressed with someone who was born and raised in Alaska and started his business at age 16. He is now 19. He was born and raised in Alaska and is now in Europe. He is quite an entrepreneur.

VICE CHAIR PASKVAN said that the man she was referring to, Tyler Arnold, had provided written testimony.

[1:45:00 PM](#)

ALLEN JOHNSTON, representing himself, said he had been with an investment company for the last 35 years and strongly supported HB 252. This is the best bill he had seen for the least cost, the most leverage for changing the psychology in Alaska as far as getting people to think "can do" in identifying local problems and becoming involved in their solutions and creating different types of companies that don't make any sense to do here right now. He remarked that this exemption could work as a catalyst for a lot wonderful initiatives that are happening now.

VICE CHAIR PASKVAN remarked that he remembered meeting Mr. Johnston in Fairbanks about 25 years ago.

[1:47:03 PM](#)

REPRESENTATIVE COSTELLO presented video testimony from Tyler Arnold in which he explained that his current start up, "Simply Social," is a 1202 C corporation based in Alaska. He said he may be global, but he acts local and unfortunately, Alaska has one of the highest state corporate income tax rates in the country. HB 252 would not only remove this burden but would strengthen the state's global competitiveness by waiving the state tax rate for like-minded tech startups and high growth companies.

He said he chose to incorporate in Alaska partly because it's his home, but also because he was able to attract nine local accredited angel investors who chose a path forward in mentoring and funding him. He hoped lawmakers would be equally supportive.

[1:50:30 PM](#)

The video with Mr. Arnold's testimony ran from 1:48 to 1:50 p.m.

MR. WALTON said there was an 11 hour time difference in Romania and Mr. Arnold had a sore throat, so he wasn't available for questions right now and offered to provide contact information.

SENATOR PASKVAN found no questions from committee members and asked if this tax had any appropriate sideboards.

[1:51:44 PM](#)

JOHANNA BALES, Deputy Director, Department of Revenue (DOR), said this version of HB 252 has a 10-year sunset provision on page 2, line 22. She said the department had no issues with version D of HB 252, but didn't have an official position on it.

VICE CHAIR PASKVAN, finding no further comments, closed public testimony and held HB 252 in committee.

HB 301-BOATING REGULATION: SUNSET/ENFORCEMENT

[1:53:43 PM](#)

VICE CHAIR PASKVAN announced consideration of HB 301 [CSHB 301(FIN), version 27-LS1152\M, was before the committee].

[1:53:48 PM](#)

ASTRID LIEVANO, staff to Representative Alan Austerman, introduced herself and said Representative Austerman was in a House Finance Committee meeting right now and sent his regrets.

SENATOR DAVIS moved to bring SCS CSHB 301(), version 27-LS1152\B, before the committee.

VICE CHAIR PASKVAN objected for discussion purposes.

MS. LIEVANO said the purpose of HB 301 was to repeal the sunset date of the Alaska Boating Safety Program. Without legislative action, the program would terminate on July 1, 2013. When the program was established in the 21st Legislature, it cautiously added two sunset clauses; one repealed the Boating Safety

Program by date and the second repealed it in case the federal funds didn't come through. Since the program was established, the legislature has acted three times to extend it. It has now been in effect for 12 years and thanks to the "Kids Don't Float" a loaner life jacket program, at least 22 children have survived a water emergency.

MS. LIEVANO explained that federal financial assistance is provided through the "Boating Safety Account for the Aquatic Resource Trust Fund," also known as the "Sport Fish Restoration and Boating Trust Fund." Alaska met the eligibility requirements to receive the funds in the year 2000 with the passage of HB 108, the Alaska Boating Safety Act.

She said that sections 1 and 2 of the bill were added by the House and the wording is related to the federal government not being able to enforce or exercise enforcement in state waterways. This wording already exists in statute, and it was the will of the Finance Committee to put it in this section.

Section 3 is the meat of the bill and has the sunset repealer requirements. Section 4 is the effective date of section 2 and section 5 is the effective date of section 3.

[1:56:48 PM](#)

MS. LIEVANO explained that the CS broadens a statutory reference in sections 1 and 2 of the bill that was too narrowly written according to the Attorney General's Office. She said a representative from that office was on line to speak to it.

VICE CHAIR PASKVAN added that sections 1 and 2 were substantive additions that went beyond the sponsor's intent and weren't connected to the sunset provisions.

MS. LIEVANO said that was correct.

[1:58:06 PM](#)

JANE SCHULTZ, Kenai Peninsula Emergency Services, Kenai, said she had attended the Boating Safety class and that it is excellent. It's provided free of charge and goes all over the state. In her job she gets many calls asking where this information can be obtained, and she directs them to the Office of Boating Safety. It has kids' books that they are willing to share and videos on boating safety. They provide a pre-departure check list and a float plan for people and encouragement to use it. Their posters are all over the state providing information on boating safety. One is called the "Choose LIFE Poster."

"LIFE" stands for "use your Life jacket, Inspect your boat, File a Float plan and get continuing Education." It is a very worthwhile program.

2:00:12 PM

MS. SCHULTZ said the "Kids Don't Float program" is a tremendous life saver. She didn't see any need for the sunset clause and encouraged passage of HB 301.

VICE CHAIR PASKVAN asked the assistant attorney general to walk them through the department's legal concerns.

2:01:31 PM

JOHN BAKER, Assistant Attorney General, Civil Division, Natural Resources Section, Department of Law (DOL), said Ms. Lievano accurately summarized the history of the program. He explained that most of the past amendments (mostly extending the sunset) had been directed at the conditional sunset date and were required to be achieved by special session laws rather than through amendments to the permanent statute. That may have led to some confusion in the process of an amendment that came out from the House Finance Committee CS.

He said the only concern DOL had was with two very narrow provisions in sections 1 and 2 that have brief references to AS 12.25, the citation authority. For reasons not entirely clear, the House Finance CS would substitute only one section of that law for the original version in statute, which would make all of AS 12.25 applicable to citations issued by officers enforcing the Boating Safety Program. The complication in that provision is that it would lead to other sections in AS 12.25 being exempted from citations under the program - for instance, uniform citation format, notice requirements for citations that are issued, whether the normal bail forfeiture schedule would apply to citations and disposition of records if an individual were cited. It raises questions as to whether any of those provisions would apply, and they apparently would not. It's their working assumption that the change was an error.

MR. BAKER said he consulted with Assistant Attorney General Annie Carpenetti in the Criminal Division, and she concurred that it would be problematic to change the format and have only one section of that statute apply to citations. That was their only objection to the House Finance CS. He said they had no objection to the substantive amendment in sections 1 and 2, which clarifies that federal officials wouldn't be able to enforce the act.

VICE CHAIR PASKVAN asked if the Attorney General's Office favors section 1 as currently written.

MR. BAKER replied yes. The recommendation would be the current language in sections 1 and 2 that refers to "peace officer may issue a citation as provided in AS 12.25.175 through AS 12.25.230" and then repeat that language again in section 2.

[2:06:23 PM](#)

VICE CHAIR PASKVAN asked if the problem was in the current version.

MR. BAKER answered that version B had the correct language.

SENATOR DAVIS asked if he was okay with section 3 in version B, also.

MR. BAKER answered yes.

VICE CHAIR PASKVAN closed public testimony and said he would hold HB 301 in committee.

[2:08:05 PM](#)

Finding no further business to come before the committee, Vice Chair Paskvan adjourned the Senate Labor and Commerce Committee meeting at 2:08 p.m.