

SENATE FINANCE COMMITTEE
March 28, 2013
9:05 a.m.

9:05:58 AM

CALL TO ORDER

Vice-Chair Fairclough called the Senate Finance Committee meeting to order at 9:05 a.m.

MEMBERS PRESENT

Senator Kevin Meyer, Co-Chair
Senator Anna Fairclough, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Lyman Hoffman
Senator Donny Olson

MEMBERS ABSENT

Senator Pete Kelly, Co-Chair

ALSO PRESENT

Christine Marasigan, Staff, Senator Kevin Meyer; Senator Peter Micciche, Sponsor; Idonna Peiper Nelson, CFO and Partner, Principle Davis Constructors and Engineers Inc.; Tim Lamkin, Staff, Senator Gary Stevens; Amy Lujan, Executive Director, Alaska Association of School Business Officials; Bruce Johnson, Executive Director, Alaska Council of School Administrators..

PRESENT VIA TELECONFERENCE

John Mackinnon, Executive Director, Associated General Contractors of Alaska, Anchorage; Deena Paramo, Superintendent, Mat-Su Borough School District, Mat-Su; Luke Fulp, Chief Business Officer, Mat-Su Borough School District, Mat-Su; Dave Jones, Assistant Superintendent, Kenai Peninsula Borough School District, Kenai..

SUMMARY

SB 22 CRIMES; VICTIMS; CHILD ABUSE AND NEGLECT

CSSB 22(FIN) was REPORTED out of committee with a "do pass" recommendation and with a previously published zero fiscal note: FN7(DHS), a previously published indeterminate fiscal note: FN5(ADM), a previously published zero fiscal note: FN2(DPS), an indeterminate fiscal note from the Department of Administration, an zero fiscal note from the Department of Law, an indeterminate fiscal note from the Department of Corrections, a zero fiscal note from the Department of Public Safety, and an indeterminate fiscal note from the Alaska Court System.

SB 57 LITERACY, PUPIL TRANSP, TEACHER NOTICES

SB 57 was HEARD and HELD in committee for further consideration.

SB 83 INTEREST ON CORPORATION INCOME TAX

SB 83 was REPORTED out of Committee with a "do pass" recommendation and with a new indeterminate fiscal note from the Department of Revenue.

[Secretary Note: The audio was unrecoverable from the start of the meeting at 9:05:58 until the AT EASE at 9:08:51.]

#sb22

SENATE BILL NO. 22

"An Act relating to the commencement of actions for felony sex trafficking and felony human trafficking; relating to the crime of sexual assault; relating to the crime of unlawful contact; relating to forfeiture for certain crimes involving prostitution; relating to the time in which to commence certain prosecutions; relating to release for violation of a condition of release in connection with a crime involving domestic violence; relating to interception of private communications for certain sex trafficking or human trafficking offenses; relating to use of evidence of sexual conduct concerning victims of certain crimes; relating to procedures for granting immunity to a witness in a criminal proceeding; relating to consideration at sentencing of the effect of a crime on the victim; relating to the time to make an application for credit for time served in detention in

a treatment program or while in other custody; relating to suspending imposition of sentence for sex trafficking; relating to consecutive sentences for convictions of certain crimes involving child pornography or indecent materials to minors; relating to the referral of sexual felonies to a three-judge panel; relating to the definition of 'sexual felony' for sentencing and probation for conviction of certain crimes; relating to the definition of "sex offense" regarding sex offender registration; relating to protective orders for stalking and sexual assault and for a crime involving domestic violence; relating to the definition of 'victim counseling centers' for disclosure of certain communications concerning sexual assault or domestic violence; relating to violent crimes compensation; relating to certain information in retention election of judges concerning sentencing of persons convicted of felonies; relating to remission of sentences for certain sexual felony offenders; relating to the subpoena power of the attorney general in cases involving the use of an Internet service account; relating to reasonable efforts in child-in-need-of-aid cases involving sexual abuse or sex offender registration; relating to mandatory reporting by athletic coaches of child abuse or neglect; making conforming amendments; amending Rules 16, 32.1(b)(1), and 32.2(a), Alaska Rules of Criminal Procedure, Rule 404(b), Alaska Rules of Evidence, and Rule 216, Alaska Rules of Appellate Procedure; and providing for an effective date."

Senator Bishop MOVED to ADOPT the proposed committee substitute for SB 22, Work Draft 28-GS1587\P (Strabaugh, 3/25/13) as a working document.

Vice-Chair Fairclough OBJECTED for the purpose of discussion.

CHRISTINE MARASIGAN, STAFF, SENATOR KEVIN MEYER, explained the changes in the new committee substitute (CS). She reported that on page 19, lines 4 to 5 beginning with "or," and ending in "duties," and lines 22 to 31, and all of Section 37 were deleted from the previous version. In addition, on page 20, line 2 the words "or volunteer" was removed. She noted that the changes were made in consultation with the Department of Law.

Vice-Chair Fairclough WITHDREW her OBJECTION. There being NO further OBJECTION, Work Draft 28-GS1587\P was ADOPTED.

Senator Bishop MOVED to REPORT CSSB 22(FIN) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSSB 22(FIN) was REPORTED out of committee with a "do pass" recommendation and with a previously published zero fiscal note FN7 (DHS), a previously published indeterminate fiscal note FN5 (ADM), a previously published zero fiscal note FN2 (DPS), a new indeterminate fiscal note from the Department of Administration, a new zero fiscal note from the Department of Law, a new indeterminate fiscal note from the Department of Corrections, a new zero fiscal note from the Department of Public Safety, and a new indeterminate fiscal note from the Alaska Court System.

[9:08:51 AM](#)

AT EASE

[9:12:52 AM](#)

RECONVENED

Vice-Chair Fairclough commented that there were some technical difficulties with the meeting's audio feed and that the earlier portion of the meeting had not been recorded. She reported that the committee substitute for SB 22, Work Draft 28-GS1587\P had been adopted and moved from committee.

#sb83

SENATE BILL NO. 83

"An Act relating to the corporation income tax; and relating to the computation of interest under the look-back method applicable to long-term contracts in the Internal Revenue Code."

[9:14:08 AM](#)

Senator Bishop MOVED to ADOPT the proposed committee substitute for SB 83, Work Draft 28-LS0634\U (Bullock, 3/27/13) as a working document. There being NO OBJECTION, it was so ordered.

CHRISTINE MARASIGAN, STAFF, SENATOR KEVIN MEYER, discussed the change in the CS. She noted that on page 1, line 11 the retroactive effective date was changed to January 1, 2013.

SENATOR PETER MICCICHE, SPONSOR, read from a prepared statement. He explained the legislation. He communicated that in addition to its focus on corporate income tax, the bill was about fairness and simplicity. He detailed that currently for state and federal corporate income tax purposes contractors undertaking large multi-year projects such as highways, schools, and universities were required to estimate their total profit on a project and to pay income tax on the portion of the project completed in a given tax year. He stated that it was impossible to predict in the first year of the project what the actual cost or profit would be. Upon completion of the project and once the profit amount had been determined, the contractor filed look-back taxes (an amended return). A contractor either owed additional taxes or received a refund based on whether the profit had been over or under estimated; interest was owed on the additional taxes due.

Senator Micciche relayed that although the Internal Revenue Service (IRS) code had a specific provision for over and under payments of estimated taxes for the multi-year projects, existing state laws considered the payments delinquent and applied an 11 percent interest rate. The state made no distinction between its system of estimating taxes based on a contractor's best knowledge and a tax payer who did not make a timely filing. He believed there should be a distinction between a tax penalty on delinquent taxes and an amended return. Conversely, the bill would tie the interest rate to a recognized index as opposed to the 11 percent interest currently paid by the state and contractors in the current outdated system.

Senator Micciche expounded that the bill corrected the interest issue, simplified the process for contractors, and adopted the IRS bulletin rates for look-back taxes on long-term projects allowing contractors and the state to use the same interest pay schedules for state taxes as the federal system. Currently the interest rate was 2 percent for under payments when the profit had been underestimated and over payments when the state owed money in the amount of \$10,000 or less; interest was currently levied at 0.5 percent on amounts greater than \$10,000. The rate fluctuated and was published quarterly. The CS specified the tax policy bullet

would be in effect for the 2013 calendar tax year. He communicated that the bill would primarily impact Alaska C corporation contractors, lenders, and surety bonding companies; it would ultimately allow for greater cash flow that would be reinvested in Alaska's communities. He pointed to several letters of support (copy on file) from general contractors, the Association of General Contractors, bankers, public accountants, surety or bonding brokers, and other. He opined that the legislation was beneficial for the state, private sector businesses, and Alaskans and it was an issue of fairness.

Senator Olson asked whether there was any opposition to the bill. Senator Micciche was not aware of anyone who opposed the modernization of the state's interest rates.

Senator Olson inquired about the administration's position. Senator Micciche responded that he could not speak for the administration, but believed the Department of Revenue (DOR) was in support of the bill.

[9:19:30 AM](#)

Vice-Chair Fairclough OPENED public testimony.

IDONNA PEIPER NELSON, CFO AND PARTNER, PRINCIPLE DAVIS CONSTRUCTORS AND ENGINEERS INC., spoke in support of SB 83. She believed that the issue was not previously addressed due to the complexity of the issue. She stated that the interest rate was assessed on a tax that was difficult for the taxpayer to understand or was even aware of. She explained that a large contractor was defined by the federal government as a contractor bringing in \$10 million or more per year in revenue; most contractors fell into that category. When a contractor began a fixed-fee job, they did not know exactly how profitable it would be; risk was reduced as the project progressed and more became known about exact costs. Typically contractors started out with conservative cost estimates; each year the contractor's current estimate was applied to the amount of revenue they had and taxes were paid on the total amount.

Ms. Nelson communicated that the legislation would allow contractors to pay taxes retroactively once actual costs were known. The objective was to make everyone "whole." She detailed that if a contractor was not conservative in the early years of a project they would lose the respect of

their banker, bonding company, shareholders, and others involved in the project. She furthered that because taxes were paid and income was reported based on estimates, it was crucial that estimates were conservative and that a gain was shown by the project's end. She stated that a good contractor would always have look-back taxes and an ethical contractor always paid taxes owed on time. She stressed that Davis Constructors was never delinquent in its tax payments. She opined that the high interest rate intended to deter companies from making late tax payments was fairly insulting.

Ms. Nelson continued to discuss the company's work and its contribution to the state. She conveyed that any additional profits that would result from decreased interest on look-back taxes would flow back into the business. She discussed that federal rates charged on look-back taxes were designed to recognize that the factor was out of the contractors' control. Under the circumstance, the federal government allowed businesses to pay the same interest rate that it paid a tax payer who had overpaid taxes. She relayed that an unethical contractor could technically make interest money from the federal and state governments by overestimating its ultimate profits.

[9:28:11 AM](#)

JOHN MACKINNON, EXECUTIVE DIRECTOR, ASSOCIATED GENERAL CONTRACTORS OF ALASKA, ANCHORAGE (via teleconference), spoke in support of SB 83. He emphasized that the bill would bring the interest rate on the taxes due in-line with current rates and would fluctuate with the federal rate, which could change quarterly. The bill would separate the look-back provision and interest on the taxes from other sections of the code that were considered delinquent taxes. He stressed that the taxes due were a result of an amended return and were not delinquent. He believed the bill helped level the playing field for C corporations and other types of corporations.

Vice-Chair Fairclough CLOSED public testimony.

Vice-Chair Fairclough addressed the indeterminate zero fiscal note from DOR. She pointed to the analysis on page 2 of the fiscal note, which point out, which indicated that approximately 50 percent of the corporations in Alaska would qualify. Changes in revenues were indeterminate.

Co-Chair Meyer supported the legislation. He MOVED to REPORT CSSB 83(FIN) out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSSB 83(FIN) was REPORTED out of committee with a "do pass" recommendation and with a new indeterminate fiscal note from the Department of Revenue.

9:31:57 AM

AT EASE

9:36:17 AM

RECONVENED

#sb57

SENATE BILL NO. 57

"An Act relating to parental involvement in education; adjusting pupil transportation funding; amending the time required for employers to give tenured teachers notification of their nonretention; and providing for an effective date."

TIM LAMKIN, STAFF, SENATOR GARY STEVENS, spoke to the legislation. He related that the bill accomplished three objectives. The first objective contained in Section 1 of the legislation encouraged increased parental involvement in developing children's reading skills. Under the state's direction, the school districts would publish information regarding the importance of parental involvement in developing reading skills in kindergarten through third grade. The second section and objective of the bill involved pupil transportation. The legislation realigned the funding for pupil transportation by annually matching the Consumer Price Index (CPI) for Anchorage. He explained that the school districts contracted with transportation providers. The contracts contained a 3 percent adjustment for inflation according to the Anchorage CPI. Currently, the state provided a 1.5 percent annual adjustment for pupil transportation funding for the next two years. Most districts were forced to subsidize pupil transportation costs at the expense of education programs. He indicated that the third objective found in Section 3 was referred to as the "pink slip" section. He pointed out that historically March 16 was established as an arbitrary date

to provide notification of layoff or retention. Section 3 moved the notification date forward to May 15th when school districts funding levels were known. He added that Section 4 of the legislation repealed the current pupil transportation funding provisions. Lastly, Section 5 allowed existing contracts with teachers and faculty to expire before the legislation took effect.

Senator Hoffman inquired why the bill used Anchorage as the CPI base and wondered whether there were other indexes for higher costs areas. Mr. Lamkin related that other indexes existed but that using the Anchorage CPI was a "policy call." Senator Hoffman thought that it would be fair to consider a higher index for Fairbanks and other high index areas of the state.

Senator Bishop inquired about the difference in the CPI between Fairbanks and Anchorage. Mr. Lamkin offered to provide the information.

Co-Chair Meyer cited Section 3 and inquired whether the provision only applied to tenured teachers. Mr. Lamkin confirmed that Section 3 only applied to tenured teachers. He added that subsection (b) of the statute referred to non-tenured teachers which required notification by the end of the school year.

Co-Chair Meyer wondered why the bill was structured with two separate notification dates. Mr. Lamkin replied that notification was a policy decision which was established many years ago.

Vice-Chair Fairclough speculated that due to the nature of tenure, a tenured position deserved as much layoff notification as possible.

Senator Olson remarked that the March 15th date offered as much notification as possible, which was more helpful to a person facing a layoff. Vice-Chair Fairclough ascertained that the pink slips were issued before the budget cycle for the state was completed and the school districts funding levels were known.

Mr. Lamkin concurred. He added that unnecessarily issuing pink slips caused teacher stress that could affect the classroom. He voiced that it was a matter of fairness and transparency.

Senator Dunleavy commented that things were done backward from the school districts' point of view. He noted that the districts were legally compelled to enter into contracts before budgets were known. He believed the change placed the notifications in line with the budget process.

[9:44:50 AM](#)

Co-Chair Meyer relayed that he had heard comments on Section 2 of the bill on both sides of the issue. Indexing was not a typical budget practice and might set an unwelcome precedent. The alternative of dealing with pupil transportation increases each year was also not ideal. He preferred supporting the legislation.

Mr. Lamkin communicated that the issue was a policy question. He pointed out that the cost was real. He deferred to school district financial officers for further discussion.

Senator Hoffman believed that in this particular case, the additional expenses would "diminish" classroom funding and was the core of the argument.

Vice-Chair Fairclough OPENED public testimony.

AMY LUJAN, EXECUTIVE DIRECTOR, ALASKA ASSOCIATION OF SCHOOL BUSINESS OFFICIALS, spoke in favor of SB 57. She offered that the Anchorage CPI was the standard for contracts, recommended by the Department of Education and Early Development (DEED) statewide. Contracts in Fairbanks and even Nome use the Anchorage CPI. The costs were real and increasing. Authorizing the Anchorage CPI budget increase keeps pace with the actual cost. She discussed Section 3 and agreed with the comments of Senator Dunleavy. She mentioned the unnecessary stress caused by issuance of the premature notification and keeping the pink slips in line with the state and municipal budget processes.

Senator Olson inquired whether it would be fairer to use a higher CPI. Ms. Lujan reminded the committee that the contracts were based on the Anchorage CPI and was the standard.

Senator Olson suggested moving the notification date up to May 1, which corresponds to the boroughs budgets. Ms. Lujan

observed that the dates vary according to the borough and opined that May 15 might be a safer date.

DEENA PARAMO, SUPERINTENDENT, MAT-SU BOROUGH SCHOOL DISTRICT, MAT-SU (via teleconference), spoke in support of SB 57. She referenced increased parental involvement and related that tools and resources made available to parents enriched education. She restated that all school district's contracts were based on the Anchorage CPI. She shared that when school districts budgets were developed "global big picture thinking" was balanced with financial realities. She believed that the current factor of 1.5 percent was not sufficient to fully support pupil transportation costs. She based that assessment on the Anchorage CPI's 2.6 percent five-year average. The funding shortfall reduced instruction funding. She stated that the Matanuska-Susitna borough school district was preparing to subsidize transportation funding with its general fund at \$1.5 million in FY 2014 with impacts to classroom instruction funding. The amount was the equivalent to 15 teacher positions. The bill reduced the shortfall by approximately \$500 thousand.

Ms. Paramo turned to non-retention notification. She related that under the year to year funding structure enacted (HB 273) by the state in 2008, funding levels were not known before statutorily mandated timelines required contract renewal and non-retention notification. She relayed the Matanuska-Susitna Borough School District's support of the notification date change and furthered that the contract dates should be changed as well. The Matanuska-Susitna Borough School District thought that the timeline was a "prudent and responsible fiscal policy." She thanked the committee and urged for support of the legislation.

[9:56:08 AM](#)

Senator Hoffman inquired how Mat-Su derived the \$1.5 million figure which contrasted with the DEED fiscal note FN2 (EED).

LUKE FULP, CHIEF BUSINESS OFFICER, MAT-SU BOROUGH SCHOOL DISTRICT, MAT-SU (via teleconference), replied that he was not certain how the fiscal note was developed. He stated that the borough developed the budget using the CPI five-

year average of 2.6 percent in relation to the 1.5 percent increase instituted in SB 182 last year.

DAVE JONES, ASSISTANT SUPERINTENDENT, Kenai Peninsula BOROUGH SCHOOL DISTRICT, KENAI (via teleconference), testified in support of SB 57. He concurred with all of the previous testimony. He added that DEED's standardization of school district contracts to the Anchorage CPI was an attempt to rein in costs and attract more contractors. The increase to the Anchorage CPI in SB 57 helped stabilize transportation funding; not at the expense of education funding. He discussed the notification issue. He related that the current system left teachers to wonder whether they had a job and the district in the situation that they will find another job and not be available if their jobs were retained.

Senator Dunleavy commented that the May 15th date was minimal in light of the possibility that the legislature could end in special session on any given year.

BRUCE JOHNSON, EXECUTIVE DIRECTOR, ALASKA COUNCIL OF SCHOOL ADMINISTRATORS, supported the legislation. He shared that school districts took lying off teachers and school district employees seriously. He agreed with Mr. Jones and did not want to lose teachers who sought and gained other employment due to premature notification. Rural districts commonly issued contracts to staff in February, especially in schools with high turnover in order to develop recruitment strategies for the next year. Most of the teachers were issued contracts well before the May 15th deadline. He appreciated the flexibility of the later date and believed it was more advantageous to have a stable employment force.

Vice-Chair Fairclough CLOSED public testimony.

SB 57 was HEARD and HELD in committee for further consideration.

[10:05:35 AM](#)

#

ADJOURNMENT

The meeting was adjourned at 10:05 a.m.