

HOUSE FINANCE COMMITTEE
March 21, 2014
1:50 p.m.

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CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 1:50 p.m.

MEMBERS PRESENT

Representative Alan Austerman, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Mark Neuman, Vice-Chair
Representative Mia Costello
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Lindsey Holmes
Representative Cathy Munoz
Representative Steve Thompson
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Daniel George, Staff, Representative Bill Stoltze; Charles Guinchard, Staff, Representative Costello; Representative Lora Reinbold; Crystal Koeneman, Staff, Representative Reinbold.

PRESENT VIA TELECONFERENCE

Matt Fonder, Director, Tax Division, Department of Revenue, Anchorage.

SUMMARY

HB 140 NOTICE FOR REGULATION ADOPTION

CSHB 140 (FIN) was REPORTED out of committee with a "do pass" recommendation and with one new indeterminate fiscal note from the Office of the Governor.

HB 306 EVAL. INDIRECT EXPENDITURES; TAX CREDITS

CSHB 306 (FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal note from the Department of Revenue, one new fiscal note from the Legislature, one new zero fiscal note from the Department of Labor and Workforce Development, one new zero fiscal note from the Department of Commerce, Community and Economic Development, one new zero fiscal note from the Department of Natural Resources, one new zero fiscal note from the Department of Environmental Conservation, and one new indeterminate fiscal note from the Department of Commerce, Community and Economic Development.

#hb306

HOUSE BILL NO. 306

"An Act relating to tax credits and administration of tax credit programs; requiring the Department of Revenue to report indirect expenditures; relating to the duties of state agencies; requiring the legislative finance division to analyze certain indirect expenditures; relating to lapse dates for appropriations for capital projects; repealing certain statutes authorizing indirect expenditures; and providing for an effective date."

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Co-Chair Stoltze continued the fiscal note discussion from earlier in the day. He appreciated the process encouraged by committee members.

Representative Costello discussed the seven fiscal notes attached to the bill.

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MATT FONDER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, ANCHORAGE (via teleconference) commented on the fiscal note. He explained that the larger numbers on the front end

of the Department of Revenue fiscal note allowed for the staff to compile the comprehensive 5-year look back. He explained the legislative intent. Future years would allow utilization of the information obtained from the report. The division required only one full-time employee in the out years. He mentioned that the first year would require two economists, a tax technician, and a college intern.

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Representative Thompson asked if the first year would be used to establish a methodology for compiling the report.

Mr. Fonder concurred. He explained that the bill language required analysis of indirect expenditures by the Department of Revenue and every other department in state government. A methodology to communicate with each agency to obtain the necessary information was crucial to compiling the report.

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Representative Thompson MOVED to REPORT CSHB 306 (FIN) out of committee with individual recommendations and the accompanying fiscal notes.

Representative Gara objected. He pointed out that the state adopted a new rewritten film tax credit program. He disagreed with the sunset in 2016 as noted in the legislation. He discussed the veteran's employment tax credit that was also eliminated in 2016. He appreciated the portions of the bill requiring a report. He agreed that some tax credits should be eliminated.

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Representative Thompson replied that he liked the film tax, but changes in the last report provided inadequate information. He noted that the bill would allow for review of the changes in the film tax credit. He argued that the current extension was not funded and he wished to review the credit with the analysis provided.

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AT EASE

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RECONVENED

A roll call vote was taken on the motion.

IN FAVOR: Wilson, Costello, Edgmon, Holmes, Munoz, Neuman,
Thompson, Austerman, Stoltze

OPPOSED: Gara

The MOTION PASSED (9/1).

CSHB 306 (FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal note from the Department of Revenue, one new fiscal note from the Legislature, one new zero fiscal note from the Department of Labor and Workforce Development, one new zero fiscal note from the Department of Commerce, Community and Economic Development, one new zero fiscal note from the Department of Natural Resources, one new zero fiscal note from the Department of Environmental Conservation, and one new indeterminate fiscal note from the Department of Commerce, Community and Economic Development.

#hb140

HOUSE BILL NO. 140

"An Act relating to the information that must be included with certain notices provided for the proposed adoption, amendment, or repeal of a regulation."

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Representative Costello MOVED to ADOPT the proposed committee substitute for HB 140, Work Draft 28-LS0478\I (Bannister, 3/20/14). Co-Chair Stoltze OBJECTED for discussion.

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DANIEL GEORGE, STAFF, REPRESENTATIVE BILL STOLTZE, discussed the changes to the CS. Version I replaced version O. He highlighted the changes and their locations within the bill. He began with page 1 where sponsors Costello, Wilson, Neuman and Olson were added. Section 2 was a new section that removed the exemption for boards and commissions in submitting a copy of regulations or orders repeal when submitted to the governor for review. Sections

were renumbered throughout. He referred to page 3, section 5, 6, 7, 8, 9, 10 and 11 were new. Section 12 was amended to reflect the additions. He pointed out that section 5, page 3 included a change of the word "assure" to "ensure." A copy of the proposed amendments would be posted on the online public notice system. He stated that section 6 removed the Regulatory Commission of Alaska (RCA), the Board of Fisheries and the Board of Game from the exemption in statute. Section 7 addressed contact with the public as previously discussed in committee. Section 9 included the distribution list for regulations adding the members of the administrative regulation review committee to the list in statute that were required to receive the notice. Section 10 was amended to clarify "chair" rather than "chairman." If a regulation was filed by the lieutenant governor and submitted to the chair, the section specified that "at the time that the regulation was submitted for filing under the current statute allowing a seven day to submit a comment to the lieutenant governor."

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CHARLES GUINCHARD, STAFF, REPRESENTATIVE COSTELLO, testified on section 7. He pointed out paragraph (a) on page 3, line 25 specifying that an "agency may contact persons and the agency may answer questions from persons during the period of drafting proposed legislation." He pointed out page 4, line 1, paragraph (b), referring to "once regulations have been proposed." An agency may contact a person regarding proposed regulations and shall answer a question regarding those regulations.

Co-Chair Stoltze commented that the statement was different from the usual permissive.

Mr. Guinchard concurred.

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Representative Holmes appreciated the idea. She wished to avoid challenges or lawsuits based on ex parte communication. She appreciated the ease of public accessibility.

Mr. Guinchard pointed out a change made in section 8. He referred to page 4, line 10. Legislative legal counsel pointed out that the existing statute referred to comment

in writing. A change was included to communicate that agencies received comments in writing, electronically and orally. He mentioned language stating "relevant to regulation being drafted." The implementation could be broad and the departments would consult with the Department of Law on a case-by-case basis regarding the best course of action. He understood that the section would require communication with Department of Law about how best to proceed.

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Co-Chair Stoltze WITHDREW his OBJECTION. There being NO OBJECTION, it was so ordered. The CS was adopted.

REPRESENTATIVE LORA REINBOLD appreciated the efforts of her staff and of the committee members. She stated that the legislation was brought to her by small businesses and restaurants in her area concerned with overregulation. She advocated for an open regulatory process. The legislation would increase transparency and allow the legislative branch to work well with the executive branch.

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Representative Costello MOVED to ADOPT Amendment 1, 28-LS0478\I.1, 3/21/14:

Page 2, line 4:

Following "section"

Insert "within 30 days"

Language would read:

"The governor may return the regulations and orders of repeal to the adopting agency before they are submitted to the lieutenant governor for filing under (a) of this section within 30 day (1) if they are inconsistent with the faithful execution of the laws, or (2) to enable the adopting agency to respond to specific issues raised by the Administrative Regulation Review Committee."

Page 2, line 31:

Following "inaccuracy"

Insert "or insufficiency"

Following "of the"

Insert "good faith"

Language would read:

"(f) Notwithstanding AS 44.62.300, a person may not bring action in court to challenge the adoption, repeal, or amendment of a regulation by a state agency for inaccuracy or insufficiency of the good faith cost estimates provided under (d)(3) of this section."

Page 4, line 30:

Delete "seven"

Insert "ten"

Language would read:

"(c) Within ten days after receiving a regulation, the chair of the Administrative Regulation Review Committee may submit to the lieutenant governor, by legislative memorandum or letter, comments regarding the regulations provided to the Administrative Regulation Review Committee under (b) of this section."

In addition to CS HB 140 (FIN) 28-LS0478\I the following changes are requested by the sponsor:

The first change is to ensure the governor reviews regulation expeditiously and does not inadvertently slow down the regulation process.

The second change is requested from the Department of Law to clarify that actions may not be brought to challenge the good faith estimates.

The last change is requested to give the Administrative Regulations Review Committee ten days for review instead of seven days to ensure a thorough review of the regulations.

Co-Chair Stoltze OBJECTED for discussion.

Representative Reinbold explained the amendment. She pointed to page 2, line 4 inserting "within 30 days." She continued with page 2, line 31 following "inaccuracy" the word "inefficiency" was inserted to decrease exposure as a state. Following "of the" the words "good faith" were inserted. She continued with page 4; line 30, which changed the time from seven to ten days.

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Co-Chair Stoltze WITHDREW his OBJECTION. There being NO OBJECTION, it was so ordered. Amendment 1 was adopted.

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Representative Gara MOVED to ADOPT Amendment 2:

Page 2, line 28:

Insert "(6) An email subject line, and a title in a written publication, shall to the extent possible give a reader a fair idea of the substance of the regulation changed."

Co-Chair Stoltze OBJECTED for discussion.

Representative Gara MOVED to ADOPT a conceptual amendment that Legislative Legal Services renumber the bill accordingly. There being NO OBJECTION, it was so ordered.

Representative Gara explained that the notice of regulation change typically stated "notice of regulation change." He proposed that emails list clearly the subject of the regulation change in the subject line of the email.

Representative Gara MOVED to AMEND Amendment 2 changing the word "possible" to "feasible". There being NO OBJECTION, it was so ordered. The amendment to the amendment was ADOPTED.

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Co-Chair Stoltze WITHDREW his OBJECTION. There being NO OBJECTION, it was so ordered. Amendment 2 was adopted.

Co-Chair Stoltze stated that the changes in the bill would not have a fiscal impact the departments.

Representative Costello discussed the indeterminate fiscal note for CSHB 140 (FIN).

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Representative Gara stated that he was confused about the indeterminate nature of the fiscal note. He opined that the bill should have no fiscal impact.

Representative Reinbold pointed out administrative order number 266 by the governor to minimize the cost, time and burden to encourage state agencies to work with all stakeholders to meet the objective of Alaska statutes to ensure that the state regulations were consistent with the statutes and limited to carrying out the statutory purpose. She believed that the agencies were absorbing costs of the legislation.

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Representative Wilson disagreed. The fiscal note was based on state impacts. The bill addressed the effects on local districts. The indeterminate nature of the fiscal note was due to the fact that the reports were not provided by the agencies.

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Vice-Chair Neuman asked about page 3, section 6. He asked why the Board of Fisheries and the Board of Game were removed from the bill.

CRYSTAL KOENEMAN, STAFF, REPRESENTATIVE REINBOLD, replied that the RCA, the Board of Fisheries and the Board of Game were exempted from providing a brief description with public notices. Per the legislation, the boards would be required to provide a brief description in their notice.

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Representative Gara MOVED to change the fiscal note from indeterminate to zero.

Co-Chair Stoltze OBJECTED.

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Representative Edgmon stated that the agencies might require additional funds.

Representative Gara WITHDREW his suggestion to change the fiscal note.

Representative Costello appreciated the sponsor and the members of the committee.

Vice-Chair Neuman MOVED to REPORT CSHB 140 (FIN) out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 140 (FIN) was REPORTED out of committee with a "do pass" recommendation and with one new indeterminate fiscal note from the Office of the Governor.

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ADJOURNMENT

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The meeting was adjourned at 2:31 p.m.