

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

March 10, 2014

3:29 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Lora Reinbold, Vice Chair  
Representative Mike Chenault  
Representative Bob Herron  
Representative Dan Saddler  
Representative Andy Josephson

**MEMBERS ABSENT**

Representative Charisse Millett  
Representative Craig Johnson

**COMMITTEE CALENDAR**

HOUSE BILL NO. 316

"An Act relating to workers' compensation fees for medical treatment and services; relating to workers' compensation regulations; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 152

"An Act requiring certain employers who terminate participation in the defined benefit retirement plan or the defined contribution retirement plan of the Public Employees' Retirement System to make contributions related to past service liability and pay termination costs; repealing a requirement that employers who terminate participation in the defined contribution retirement plan or the defined benefit retirement plan of the Public Employees' Retirement System pay for a termination cost study; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 328

"An Act establishing the Board of Massage Therapists; relating to the licensing of massage therapists; and providing for an effective date."

- HEARD & HELD

HOUSE CONCURRENT RESOLUTION NO. 15  
Relating to the continuation of the Task Force on Unmanned  
Aircraft Systems.

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 316

SHORT TITLE: WORKERS' COMPENSATION MEDICAL FEES

SPONSOR(S): LABOR & COMMERCE

02/19/14	(H)	READ THE FIRST TIME - REFERRALS
02/19/14	(H)	L&C
03/07/14	(H)	L&C AT 3:15 PM BARNES 124
03/07/14	(H)	Heard & Held
03/07/14	(H)	MINUTE(L&C)
03/10/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 152

SHORT TITLE: PERS TERMINATION COSTS

SPONSOR(S): THOMPSON

03/04/13	(H)	READ THE FIRST TIME - REFERRALS
03/04/13	(H)	L&C, FIN
04/05/13	(H)	L&C AT 3:15 PM BARNES 124
04/05/13	(H)	Heard & Held
04/05/13	(H)	MINUTE(L&C)
03/05/14	(H)	L&C AT 3:15 PM BARNES 124
03/05/14	(H)	-- MEETING CANCELED --
03/10/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 328

SHORT TITLE: BOARD/LICENSING OF MASSAGE THERAPISTS

SPONSOR(S): NAGEAK

02/21/14	(H)	READ THE FIRST TIME - REFERRALS
02/21/14	(H)	L&C, FIN
03/05/14	(H)	L&C AT 3:15 PM BARNES 124
03/05/14	(H)	-- MEETING CANCELED --
03/10/14	(H)	L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

ANNA LATHAM, Staff  
Representative Kurt Olson

Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** On behalf of the House Labor & Commerce Standing Committee (HL&C), Kurt Olson, Chair, explained the proposed committee substitute (CS) for HB 316, Version O.

MICHAEL MONAGLE, Director  
Central Office  
Division of Workers' Compensation  
Department of Labor & Workforce Development (DLWD)  
Juneau, Alaska

**POSITION STATEMENT:** Testified regarding HB 316.

LUKE HOPKINS, Mayor  
Fairbanks North Star Borough (FNSB)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 316.

MARIANNE E. BURKE  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 316.

REPRESENTATIVE STEVE THOMPSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as prime sponsor of HB 152.

JANE PIERSON, Staff  
Representative Steve Thompson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on behalf of the sponsor of HB 152 on the changes in Version Y.

MICHAEL BARNHILL, Deputy Commissioner  
Department of Administration (DOA)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions regarding HB 152.

KATHIE WASSERMAN, Executive Director  
Alaska Municipal League (AML)  
Juneau, Alaska

**POSITION STATEMENT:** Testified on HB 152.

BOB BARTHOLOMEW, Director of Finance  
City and Borough of Juneau (CBJ)  
Juneau, Alaska

**POSITION STATEMENT:** Testified regarding HB 152.

JIM WILLIAMS, Chief of Staff  
Office of the Mayor  
City of Fairbanks  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 152.

LUKE HOPKINS, Mayor  
Fairbanks North Star Borough (FNSB)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified regarding HB 152.

KATIE KOESTER, Community and Economic Development Coordinator  
City Manager's Office  
City of Homer  
Homer, Alaska

**POSITION STATEMENT:** Testified in support of HB 152.

LUCINDA MAHONEY, Chief Financial Officer  
Municipality of Anchorage  
Anchorage, Alaska

**POSITION STATEMENT:** Testified regarding HB 152.

JENNIFER JOHNSTON, Member  
Anchorage Assembly  
Municipality of Anchorage  
Anchorage, Alaska

**POSITION STATEMENT:** Testified regarding HB 152.

REPRESENTATIVE BENJAMIN NAGEAK  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as the prime sponsor of HB 328.

MARY SCHLOSSER, Staff  
Representative Benjamin Nageak  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 328 on behalf of Representative Nageak, sponsor.

AMANDA UNSER, Chair  
Alaska Massage Therapy Licensure Coalition (ANTLC)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 328.

DON HABEGGER, Director  
Division of Corporations, Business, and Professional Licensing  
Department of Commerce, Community, & Economic Development  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 328.

TRACI GILMOUR, Massage Therapist  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 328.

CARL KANCIR, Massage Therapist  
Northern Comfort Massage Therapy  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 328.

CHERI ZEP, Massage Therapist  
Chez Sante  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 328.

#### **ACTION NARRATIVE**

[3:29:00 PM](#)

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:29 p.m. Representatives Reinbold, Chenault, Josephson, and Olson were present at the call to order. Representatives Herron and Saddler arrived as the meeting was in progress.

#### **HB 316-WORKERS' COMPENSATION MEDICAL FEES**

[3:29:11 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 316, "An Act relating to workers' compensation fees for medical treatment and services; relating to workers' compensation regulations; and providing for an effective date."

[3:29:51 PM](#)

REPRESENTATIVE CHENAULT moved to adopt the proposed committee substitute (CS) for HB 316, labeled 28-LS1362\0, Wallace, 3/10/14, as the working document.

CHAIR OLSON objected for the purpose of discussion.

3:30:17 PM

ANNA LATHAM, Staff, Representative Kurt Olson, Alaska State Legislature, explained the changes in proposed committee substitute (CS) for HB 316, Version 0. She related that the CS contains two new subsections pertaining to the duties of the Medical Services Review Committee (MSRC). She referred to page 2, lines 24-26, Section 2, which explicitly requires the Workers' Compensation Board (WCB) to request and consider recommendations from the MSRC on setting conversion factors and rates. Additionally, language on page 2, lines 27-29, requires the WCB to consult with the MSRC before evaluating or revising conversion factors for the fee schedules.

3:30:40 PM

MS. LATHAM explained that there was some opposition to the [Workers' Compensation Board] setting conversion factors, including raising questions about the WCB's expertise in setting the medical schedules. The MSRC is already defined under AS 23.30.095 in the original bill. However, the MSRC has not met since 2009. The intent of this change is to make it extremely clear in statute that the MSRC will advise the Workers' Compensation Board (WCB) on setting the rates.

MS. LATHAM referred to page 3, line 17, subsection (n), which provides an exemption for critical access hospitals. There are 13 federally designated critical access hospitals in Alaska certified under Medicare conditions of participation. Typically, these small hospitals are under 25 beds, are located in rural areas, and patients have a 96-hour average stay or less. For examples, critical access hospitals are in Cordova, Valdez, and Kodiak, and these facilities represent a separate provider type with their own Medicare conditions of payment as well as a separate payment method. The critical access hospital certification allows these hospitals to receive cost-based reimbursements for Medicare instead of the standard fixed-based rates. Page 3, line 21, subsection (o) adds language for geographical area differential, which was inadvertently omitted in the original bill. The sponsor felt it was imperative in Alaska for the board to have the option of using the geographical adjustment factor. She noted that the language is "may" rather than "shall," so the board will have flexibility to determine whether to use this option. She referred to page 3, line 24, Section 3, relating references AS 44.62.245, under which future amended document or reference material, as listed can be incorporated by reference in future regulations.

[3:33:24 PM](#)

MS. LATHAM pointed out that the sunset provision in the original bill [Section 5] was removed. The language was originally envisioned as a safety net to give the board four years to set rates, conduct an audit, and require legislative action to extend the new fee schedules; however, substantial public opposition occurred, such that providers and insurers testified against it, noting it would be difficult for future planning.

CHAIR OLSON interjected that the sunset provision is the only provision that brought all the stakeholders together. No one liked the sunset provision except for the sponsor, so it's gone.

[3:34:19 PM](#)

MS. LATHAM concluded her testimony by outlining the effective dates. She referred to page 4, lines 15-17, to the effective date language. With the sunset provision removed, new fee schedules and conversion factors will be effective on January 2015; and proposed Section 5, would make subsections (h) and (i) effective on July 1, 2014. Thus, the board has an opportunity to begin its review to set fee schedules on July 1, 2014, and the fee schedules and conversion factors would be effective on January 1, 2015.

[3:36:33 PM](#)

MICHAEL MONAGLE, Director, Central Office, Division of Workers' Compensation, Department of Labor & Workforce Development (DLWD), introduced himself.

[3:37:07 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the [WCB] with advice from the MSRC would set this conversion rate.

MR. MONAGLE answered yes.

[3:37:29 PM](#)

REPRESENTATIVE JOSEPHSON asked for more information on the WCB.

MR. MONAGLE answered that the board is actually the Workers' Compensation Board. He acknowledged it has an advisory role, but most importantly under the statutes it provides that the

department may not adopt a regulation unless the regulations are approved by the WCB. Thus, the WCB has authority under the statutes to be the final voice for any regulations that the department proposes. The WCB is comprised of 18 members; 9 representing labor, 9 representing industry, and all 18 members are appointed by the governor.

[3:38:23 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the nine labor members are required to have any specific background before they can be nominated for confirmation by the governor. He further asked what identifies these appointees as being associated with labor.

MR. MONAGLE answered that the Office of the Governor, Boards and Commissions makes the selection process. He commented that the division rarely is consulted, unless it relates to the knowledge or activity of potential board members. He offered his belief that the people who serve on the WCB are typically involved in a labor union with representation from most of the larger labor organizations in the state.

CHAIR OLSON remarked that the committee has been responsible for the language in HB 316, and it was a unanimous decision by all members to put forth the resolution which led to a good portion of the bill, including labor, medical insurance, and lay people.

[3:40:00 PM](#)

REPRESENTATIVE JOSEPHSON recalled earlier testimony from a previous committee hearing that indicated that there needs to be an effort to control treatment. He asked how the committee will know that this reform doesn't go too far and that rates will not be set in a way that undermines the capacity of an injured worker to obtain the treatment he/she needs.

MR. MONAGLE agreed it is a balancing act that the MSRC and the WCB are challenged to achieve, which is to set the conversion factors at a level that appropriately awards doctors but not so low as to cause providers to elect not to treat injured workers. He offered his belief that a broad range of data exists that suggests some specialties - as provided in members' packets as price comparisons - that some allowable reimbursement rates are 400-500 percent higher than in regional states such as Washington, Oregon, and Idaho. He said he can't speak for either the MSRC or the WCB, but those would be areas these entities would be focused on when determining the appropriate

conversion factors. Additionally, rates for other treatment such as evaluation and management, office physician, physical medicine, physical therapist, and chiropractor are more reasonable, although they are higher than regional costs, but don't represent 400 percent higher costs. He further said that one of the values of the conversion factors is the MCRC and WCB can customize them for each specialty and "it's not going to be one size fits all."

[3:42:30 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the bill should spell out and define the goal of a conversion factor so those involved in setting the factor know the policy they are trying to implement.

MR. MONAGLE answered that he certainly would leave that policy decision to the committee. He said he thought there was some public testimony - both written and in person last week to that effect.

[3:43:18 PM](#)

LUKE HOPKINS, Mayor, Fairbanks North Star Borough (FNSB), testified in support of HB 316. He said the FNSB and the FNSB school district workers' compensation plans are self-funded programs. The FNSB spends approximately \$1.1 million per year on workers' compensation benefits. The FNSB continues to see medical costs increasing. The regulation of fees and charges for medical treatment, equipment, and drugs could reduce the overall workers' compensation costs. The FNSB doesn't have any ability to steer the workers' compensation related injuries to the PPOs network, where certain services are provided. In most circumstances the FNSB is paying the additional costs for these claims more than if they were non-work related injuries covered under the self-funded plan. He said that allowing the board to adopt a fee schedule based on quantified data, based upon federal Centers for Medicare and Medicaid service scales, is a positive change and would provide the needed reform to address the highest workers' compensation costs in Alaska. The FNSB and the FNSB assembly fully support HB 316. The FNSB assembly adopted a resolution on February 13, 2014. He thanked members for the opportunity to express the FNSB's concerns.

[3:45:05 PM](#)

MARIANNE E. BURKE said she is representing herself. She stated there are some problems with the workers' compensation system with respect to the value for the single person.

CHAIR OLSON informed Ms. Burke that the bill she is referring to is not currently the bill before the committee [so he would not take her testimony at this time.]

[HB 316 was held over.]

### HB 152-PERS TERMINATION COSTS

[3:46:55 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 152, "An Act requiring certain employers who terminate participation in the defined benefit retirement plan or the defined contribution retirement plan of the Public Employees' Retirement System to make contributions related to past service liability and pay termination costs; repealing a requirement that employers who terminate participation in the defined contribution retirement plan or the defined benefit retirement plan of the Public Employees' Retirement System pay for a termination cost study; and providing for an effective date."

[3:48:14 PM](#)

REPRESENTATIVE STEVE THOMPSON, Alaska State Legislature, introduced himself.

[3:48:59 PM](#)

REPRESENTATIVE CHENAULT moved to adopt the proposed committee substitute (CS) for HB 152, labeled 28-LS0272\Y, Wayne, 2/26/14, as the working document.

CHAIR OLSON objected for the purpose of discussion.

[3:49:24 PM](#)

JANE PIERSON, Staff, Representative Steve Thompson, Alaska State Legislature, explained that HB 152 addresses the future financial stability of the municipal Public Employees' Retirement System (PERS) employers and PERS unfunded liability. Legislation was passed in 2008 establishing that PERS is a consolidated system combining the defined benefit and defined

contribution salary bases to pay down the unfunded obligations. Paying off the unfunded obligation is predicated on a stable, reasonably growing system-wide base. She related a concern in the 2008 legislation was that employers might en mass elect to convert PERS salaried employees to contracted positions to avoid PERS costs thereby shrinking the PERS salary base needed to pay off the unfunded obligation. To address this concern, the state set a contribution floor such that employers would be required to pay the greatest of 22 percent based on the current defined benefit and defined contribution salary base or the total payroll for the period ending June 30, 2008. Language providing for termination studies was also added requiring employers who terminate participation of a department, group or other classification of employee to pay the following: the cost associated with obtaining a termination study from the PERS actuary; the actuarial cost to the employer for future benefits due employees whose coverage is terminated; the past service cost annually on each position terminated until the unfunded liability paid off decades from now.

MS. PIERSON said the requirement for termination studies makes it difficult for employers to manage their delivery of services, discriminates against small municipalities, even though their impact on the system is minimal, is costly, and nearly impossible to implement in an equitable manner. It also fails to recognize the original and personnel structures differ between municipalities. The system-wide salaries have increased by \$325 million or 18.6 percent over the salary base floor established in 2008. As a result, contributions towards the unfunded liability have not been compromised; rather, they have increased at a greater than actuarial assumed growth of four percent, which is what was assumed in 2008. Thus, Version Y, would eliminate termination costs and provide municipalities with the operational flexibility to effectively manage the delivery of programs and services while maintaining the minimum 22 percent contribution requirement.

[3:52:32 PM](#)

MS. PIERSON provided a section-by-section analysis of the proposed committee substitute (CS) for HB 152, Version Y, as follows [original punctuation provided]:

**Section 1.** Amends AS 39.35.615(i) Conforming language due to the repealing of termination costs in AS 39.35.625, eliminates being current on the termination costs as a bar for an employer to renew a terminated department,

group or classification of employees into the PERS system.

**Section 2.** Amends AS 39.35.620(k) Conforming language due to the repealing of termination costs in AS 39.35.625, eliminates being current on the termination costs as a bar for a terminated employer participant to return into the PERS system.

**Section 3.** Repeals:

- AS 39.35.625 Termination Costs
- AS 39.35.958(c) Assessing Termination costs
- AS 39.35.958(e) Payment of termination costs
- AS 39.35.958(f) Payment of the termination cost study

**Section 4.** Annuls AAC 35.235.

**Section 5.** Is a conditional effective date upon the legislature taking action this session to smooth the PRS accrued liability.

**Section 6.** Provides for an immediate effective date for sections 1-4 of the bill, upon the passage of section 5.

[3:54:04 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the \$1.2 billion in Section 5 is in addition to the \$3 billion the governor is proposing.

MS. PIERSON answered no; that it was basically a placeholder in case the \$3 billion did not come through that the governor was proposing.

[3:54:37 PM](#)

REPRESENTATIVE JOSEPHSON asked whether this would mean the governor would only be contributing \$1.8 billion to reduce the unfunded liability.

MS. PIERSON answered yes. She pointed out that funds would also go into the Teachers Retirement System (TRS). She pointed out that this bill just addresses the PERS unfunded liability.

[3:55:11 PM](#)

REPRESENTATIVE JOSEPHSON referred to the fiscal note from the DOA Retirement and Benefits, which suggests the institution paying the costs would change, but the costs would not change, and this could add \$75 million to the state's burden.

MS. PIERSON acknowledged that is true; it assumes a 20 percent reduction for a \$75 million fiscal note, which is the latest draft fiscal note from the agency.

[3:56:06 PM](#)

REPRESENTATIVE JOSEPHSON referred to the 2013 Administrative Order 37 issued by Mayor Sullivan, which he characterized as one of the most divisive in his community. He asked how to avoid incentivizing reduction in the public sector, since the public sector tends to be more responsive to citizens.

MS. PIERSON said she believes his concern relates to privatization. She noted that there may be some privatization, but if that is happening that some divisions might not be able to be maintained. She recalled that happened in Fairbanks. She said that currently the employer must keep departments that it cannot maintain due to the termination costs and studies.

[3:57:55 PM](#)

REPRESENTATIVE JOSEPHSON asked why HB 152 was abandoned for the wholesale repeal of the termination studies in Version Y.

MS. PIERSON answered that the sponsor thought it was a cleaner approach.

[3:58:19 PM](#)

REPRESENTATIVE THOMPSON stated that as a former mayor having faced costs of PERS when the actuarial presented the actuals, and in observing how termination costs have affected municipalities, he predicted many small communities will go away because they can't afford to exist. He explained that with the current budget situation and potential reductions to revenue sharing, municipalities will likely layoff more people, which will lead to more termination studies and increased liabilities. He offered his belief that this is something that must be addressed, that it has a fiscal note, but it will save communities.

3:59:21 PM

REPRESENTATIVE CHENAULT expressed concern about the municipalities and the costs associated with PERS and TRS and said the state has stepped up to the tune of hundreds of millions of dollars, if not \$1 billion. The state has picked up the amount in excess of 22 percent for municipalities. He cautioned that as the committee reviews this it needs to make sure that it considers the municipalities "bottom line" but that the committee also consider the state's "bottom line" in terms of continuing to pay for associated costs.

4:00:13 PM

MICHAEL BARNHILL, Deputy Commissioner, Department of Administration (DOA), stated that the DOA has been working with municipalities and the Alaska Municipal League (AML) on various versions of HB 152 for about three years. He said that, generally speaking, the DOA is sympathetic to the concerns expressed by the sponsor in terms of the difficulty in managing the personnel workforce for municipalities, which is one reason the DOA has been working with them. He asked to take a step back and understand the reasons for termination studies and costs in the first place, which Ms. Pierson adequately addressed. The DOA is fundamentally concerned about cost shifting. He reminded members the state has an \$11.9 billion unfunded liability across the PERS and TRS. In 2007-2008, the legislature wanted to maintain some participation by municipalities in paying off the unfunded liability. The state was concerned that without statutory provisions to maintain the participation, that positions would be pulled out of the PERS, reducing the payroll base and the unfunded liability that would be paid by the positions being included in the PERS payroll would then shift to the state.

MR. BARNHILL acknowledged that as Speaker Chenault just mentioned, since the enactment of Senate Bill 125 in 2008, the state has paid in excess of \$600 million on behalf of municipalities through FY 2014. The state will continue to pay substantial amounts on behalf of municipalities going forward. This happens through the 22 percent employer contribution rate cap. If the actuarial rate is greater than 22 percent, and it has been in the PERS since 2008, the state pays it. IN FY 15, the actuary is recommending adopting an employer contribution rate of 44 percent. The employers are capped out at 22 percent but the actual rate will be 44 percent, which means the state pays 22 percent of the total payroll on behalf of municipal

employees, which is considerable relief. He said he has not done a state-by-state comparison, but he imagined this magnitude of state assistance on behalf of municipalities is quite extraordinary. The state has gone a considerable distance in providing relief, he said. In 2008, one means of avoiding further cost shifting, which is the reason for the termination cost studies. Another feature put into law was the 2008 salary floor; thus, if the municipal payroll base goes below what it was in 2008, that 22 percent will be based on the 2008 payroll. These are important measures to keep in place to preserve a certain amount of municipal participation in paying down the unfunded liability.

[4:04:03 PM](#)

MR. BARNHILL pointed out that the municipalities have found this particular feature of law as being restrictive so the state has been examining ways to make adjustments without shifting unfunded liabilities to the state. He explained that Version Y repeals all termination study cost requirements. The state's actuary has said that if this is passed into law that all municipalities will take 22 percent of their payroll out of PERS service. He said the state isn't sure that is a good assumption, but certain municipalities are considering making changes that will pull a considerable number of PERS positions out of PERS service. He did not think it would be unreasonable to assume a 20 percent reduction over time. The actuary has reported that the net present value out of pulling 20 percent of the positions out of PERS will cost approximately \$75 million, assuming this takes place over an extended period of time.

[4:05:30 PM](#)

MR. BARNHILL explained that the governor has proposed to appropriate \$3 billion from the state's Constitutional Budget Reserve to the PERS and TRS retirement trusts. He reported that it would be allocated at \$1.9 billion to the PERS and \$1.1 billion to the TRS. Equally important to the governor's plan is that on a going forward basis the state assistance for the PERS will be capped at \$172 million per year as compared to the current fiscal year in excess of \$300 million per year for PERS grading up to close to \$500 million. In response to a question, Mr. Barnhill answered that the \$157 million in the governor's plan is state assistance from the general fund on behalf of municipal employers, including the state since state employees participate in PERS.

[4:06:54 PM](#)

MR. BARNHILL stated that capped state assistance is roughly 50 percent of the current costs for PERS, which is fixed until 2036 and should give substantial fiscal certainty with respect to general fund expenditures going forward. Additionally, this plan better aligns the municipal and state's interests in terms of new unfunded liability. New unfunded liability can come in the form of investment losses and changes that municipalities may make to their payroll. Under the governor's proposal, any new unfunded liability will get added to the end of the amortization term in 2036, which is shared on a proportional basis between the state and the municipalities. Under the status quo any new unfunded liabilities that are created are borne entirely by the state. When the legislature passed Senate Bill 125 in 2008, there was an assumption that the payments the state would make on behalf of municipalities would grade down, but the opposite has happened and the costs have graded up steeply. The reason for that is due to the substantial dislocations in the investment markets. In FY 2009, the state lost 25 percent of its investment assets.

MR. BARNHILL reiterated that the state has borne the unfunded liability associated with that loss in the form of steadily increasing state assistance payments. Under the governor's proposal, new unfunded liability would be shared. In viewing the conditional effect of this bill, if the legislature appropriates \$1.2 billion from the CBR for PERS and TRS, without any indication how that would be allocated if the bill takes effect. It is not clear that Version Y will accomplish what the governor proposes, which is that \$1.9 billion for PERS, capped \$157 million payments going forward through 2036, and alignment of the state and municipal interests. The \$1.2 isn't sufficient to do that, so the \$75 million - if all employers remove 20 percent out of PERS service - would still be borne by the state under this version of the bill. He said that DOA's concerns remain the same until a conditional effect is put into place which is to align the interests through a capped state assistance that will put new unfunded liability at the end of the amortization terms to be shared by the state and municipalities.

[4:10:45 PM](#)

CHAIR OLSON asked what kind of shape PERS would be in if it had gone forward with Senate Bill 125 in 2008.

MR. BARNHILL answered that employer contribution rates paid by employers and municipal employers would have paid \$609 million more than they did since the state picked up those payments. He said you'd have to ask your constituents what that would have felt like.

CHAIR OLSON offered his belief that a good number of entities would not have been able to pay that.

MR. BARNHILL answered absolutely. He said that other states have not provided this sort of relief to municipalities, which are evident by the various bankruptcy proceedings that have happened in Detroit, Stockton, and San Bernardino.

[4:12:22 PM](#)

KATHIE WASSERMAN, Executive Director, Alaska Municipal League (AML), stated that municipalities truly appreciate the 22 percent that has saved numerous municipalities from huge financial concerns. This bill was crafted with the governor's proposal in mind, she said. She understood discussions are being held about the amount. The first concern was not to repeal, but after the governor's proposal, considerable discussion was held with the DOA, the AML's members, and some PERS board members that this could be tacked on to the end of the amortization schedule. In other words, the municipalities chose "to remortgage our home and extend the payments out." The municipalities will cost share those costs with the state at the end of the amortization over 31 years. She reminded members that the non-state employers are 38 percent of the entire liability. The AML and municipalities support Version Y. Referring to Senate Bill 125, she said the termination costs have made a huge difference on whether municipalities want to accept grants that would entail hiring a grant person since it would trigger a termination study and costs on that employee for the next 25 years or until the end of the liability.

[4:15:03 PM](#)

MS. WASSERMAN recalled Representative Thompson's earlier remarks. When you go to the small communities, the people terminated must be included in a class or group. For example, in the City of Pelican, if one harbormaster exists, and the harbormaster is laid off, it will immediately trigger a termination study; whereas in a larger community, laying one off wouldn't trigger a study.

[4:15:43 PM](#)

CHAIR OLSON asked whether this applies to seasonal employees.

MS. WASSERMAN answered that will depend on agreements with the state. She acknowledged that Mr. Barnhill has assisted municipalities considerably. She understood that cuts will be happening throughout the state, which usually results in a trickledown effect. She stated that municipalities are in a "no win situation" since municipalities to raise extra money through taxes or cutting services since they cannot cut employees.

[4:16:30 PM](#)

REPRESENTATIVE CHENAULT asked for clarification if Anchorage and Pelican laid off harbormasters, whether it would result in termination studies.

MS. WASSERMAN responded that it would likely result in only one study, through the City of Pelican.

REPRESENTATIVE CHENAULT asked if two municipalities eliminate a harbormaster if it would result in two termination studies.

MS. WASSERMAN answered that the municipalities would have done that if it were possible.

REPRESENTATIVE CHENAULT suggested that perhaps everyone could be reclassified.

[4:17:24 PM](#)

MS. WASSERMAN stated that the municipalities have looked for ways to make this work but are not trying to slip through the cracks.

REPRESENTATIVE CHENAULT related he is trying to find a solution.

MS. WASSERMAN summarized that most municipalities know that the governor's proposal at 22 percent is something they can budget; that the municipalities are willing to pick up more years if that is what it takes, but to have ongoing termination studies constantly arising creates difficulties and it affects their hospitals, schools, and economic development.

[4:18:24 PM](#)

REPRESENTATIVE HERRON said after reviewing correspondence he understood municipalities want to eliminate the termination studies. He wondered what would happen if a cost shift occurred and the small municipalities didn't pay the costs. He asked whether the PERS needs the termination cost study.

MS. WASSERMAN answered that if the governor's proposal goes through in some form, the entire termination study that each city incurs will be "pushed to end" and everyone will share the costs.

REPRESENTATIVE HERRON asked whether the state would pay for the studies.

MS. WASSERMAN answered that the [municipalities and the state] will all pay for them.

REPRESENTATIVE HERRON clarified that if there was no cost to municipalities whether the state would pick up termination costs.

[4:19:27 PM](#)

MS. WASSERMAN answered that is not what is being proposed.

[4:19:34 PM](#)

REPRESENTATIVE HERRON asked if it would be acceptable if the municipalities were not responsible but someone else paid the termination study costs.

MS. WASSERMAN said that AML is not attempting to cost shift.

REPRESENTATIVE HERRON asked whether the AML would support something like that to look out for the smallest employers.

MS. WASSERMAN answered that she would like to see the proposal in writing.

[4:20:12 PM](#)

CHAIR OLSON said he's been out of municipal government for about 12 years. He asked whether the AML has been seeing a trend in privatization, in which the jobs are contracted out.

MS. WASSERMAN answered that some communities are holding discussions, but most of Alaska's communities cannot do so. She

recalled only two situations in a list of jobs that were contracted out. She did not believe there has been much discussion overall; however, she anticipated there could be considerable "push back" from people in the community.

[4:21:26 PM](#)

CHAIR OLSON understood that many communities might be desperate enough to do so since they may not see any other alternative.

MS. WASSERMAN offered her belief the communities would still incur a termination study so they haven't done so.

CHAIR OLSON suggested it would do away with future termination studies.

MS. WASSERMAN indicated she was unsure what municipalities might do. She said she hoped that municipalities would not layoff people.

[4:22:10 PM](#)

CHAIR OLSON asked whether smaller communities are not aware of the issues or are not prepared.

MS. WASSERMAN asked for clarification on whether he meant not prepared for extra costs or for termination studies. She stated that municipalities are aware of the issues and many have not laid off any employees since they don't want to incur the termination study costs.

[4:22:59 PM](#)

CHAIR OLSON stated that there isn't any easy answer.

MS. WASSERMAN responded that the AML has been working on this issue for three years. The AML has not been trying to push off employee costs to the state and is trying to find a way to all share the [unfunded liability costs], but the municipalities cannot absorb the upfront costs every time they need to manage their personnel.

[4:23:23 PM](#)

REPRESENTATIVE JOSEPHSON related his understanding that this bill will shift costs to 2036.

MS. WASSERMAN answered that the AML hopes the governor's proposal will pass. If so, this bill will transfer the unfunded liability cost to the end of the amortization. The AML and state would each pay 22 percent. She acknowledged there would be some transfer of costs, but everyone shares the costs and the payments would be extended at least five to six years or more.

[4:24:24 PM](#)

REPRESENTATIVE JOSEPHSON suggested that the original bill seemed to take more a "scalpel than a knife" approach and have a graduated system with payrolls under \$1 million, \$1-5 million, and over \$ 5 million. He wondered if smaller cities are having more difficulty since they have one harbormaster instead of three, whether the committee should consider the original version of the bill as the approach.

MS. WASSERMAN answered that AML is very supportive of HB 152, but with the governor's proposal the AML envisioned a way to help even more and contain costs.

[4:25:22 PM](#)

REPRESENTATIVE JOSEPHSON said if he heard Mr. Barnhill correctly, there is some resistance from the administration. He asked whether the committee is back at "ground zero" on this issue.

MS. WASSERMAN answered no, she did not think so, but Mr. Barnhill would need to assess any pushback.

CHAIR OLSON said everyone seems to still be talking so he did not think that the stakeholders were at loggerheads.

[4:25:50 PM](#)

BOB BARTHOLOMEW, Director of Finance, City and Borough of Juneau (CBJ), commented that the CBJ has been working with AML. He said that at times CBJ would be considered a small employer and at others a large employer. From CBJ's perspective the termination study is very difficult to implement and to try to manage changes in the workforce. Two recent instances did not try to remove PERS positions - and historically CBJ has not removed many PERS positions - but CBJ has tried to make organizational changes that would result in some classes not being used. For example, an investment officer might not be needed, but CBJ might need an investment accountant, and that

simple reclassification would trigger a termination study, even though CBJ would still retain the same number of PERS employees. Therefore, CBJ doesn't do something that makes logical sense because CBJ doesn't know what that study will be.

MR. BARTHOLOMEW said the statement that it's hard to implement and administer is true, which is something many municipalities are encountering. He stated that the bill eliminating the termination study makes things simpler. Secondly, the "big picture" of the unfunded liability still exists and how it would be affected by the bill creates some uncertainty, which is difficult for employers. Representative Josephson's question about how to minimize the risk and incentives to do some gaming or downsizing brings the issue back to the governor's proposal. He acknowledged considerable effort was made in the governor's proposal and suggested that a comprehensive solution to move forward and how to address the unfunded liability is how to minimize the risk. If employers are confident that their share will stay at 22 percent, and an infusion of capital occurs [via the governor's proposal], the financial markets will likely consider it as a positive, and local government credit ratings won't be adversely affected. He offered his belief that this bill on its own needs help as far as a comprehensive solution, which includes the contribution and commitments to cap the rate that will give the state some fiscal certainty on the general fund. In response to Chair Olson, he stated that he previously worked for the Alaska Permanent Fund Corporation and the Department of Revenue.

[4:29:36 PM](#)

JIM WILLIAMS, Chief of Staff, Office of the Mayor, City of Fairbanks, stated that he echoes the comments and concerns expressed by Ms. Wasserman. The City of Fairbanks recognizes that termination studies were added to prevent employers from initiating steps to intentionally and unfairly reduce their portion of the growing unfunded liability obligation. However, evidence has shown that employers have not acted in this way. In fact, the salary base has grown since 2008. Additionally, the unintended consequences of the termination study and contributions have led to some challenges for small municipalities and employers. The impact of the termination studies and long term continuing past service payment obligations is significant and burdensome. The laws make the day to day management of workforce impractical and difficult to implement changes. He expressed concern about the long-term sustainability and fairness of the PERS and supports HB 152.

[4:31:46 PM](#)

LUKE HOPKINS, Mayor, Fairbanks North Star Borough (FNSB), suggested that if it was possible to roll back to the discussions on unfunded liability, the FNSB's past chief financial officer, Michael Lamb, identified the proposed municipal share at 22 percent. He offered his belief that the proposed appropriation of \$1.9 billion for PERS should be done. He urged members to move forward with HB 152. With respect to termination study costs, he recalled Buck Consultants projected \$75 million in costs. He indicated that 20 percent reduction in workforce seems to be a "pretty wild assumption." He emphasized that he wanted to manage his workforce. He stated that the FNSB's workforce has grown and the idea of termination costs being assessed to municipalities seems unwarranted to him.

MAYOR HOPKINS asked the committee to consider removing the termination study costs. He said, "It is real. It is not going away, but there are ways to manage it." He suggested that HB 152 puts forward pieces that are reasonable for the state and all the other employers who are paying [the liability] to PERS.

[4:35:41 PM](#)

KATIE KOESTER, Community and Economic Development Coordinator, City Manager's Office, City of Homer, asked to testify in support of HB 152, which eliminates termination study costs. Municipalities are feeling "the pinch of lean times and reduced budgets." Personnel costs represent the largest expense and it's important for municipalities to manage their workforce and personnel. Homer is one of the municipalities that have a number of very small departments. In fact, the personnel department has a personnel director and economic development consists solely of her position. As the city makes choices about how to organize the workforce, it is limited due to the termination costs even in instances in which the city considers whether it would be beneficial to have a city attorney. Currently, the city contracts out its legal work, but it can't consider creating a new class of employees. She expressed support for transferring funds to the retirement trust and thanks the legislature for its leadership on the serious issues of past service cost, and PERS and TRS retirement costs. She encouraged members to continue to work on this thorny issue.

[4:37:25 PM](#)

LUCINDA MAHONEY, Chief Financial Officer, Municipality of Anchorage, stated that the MOA needs to have flexibility especially as the state faces fiscally challenging times. She acknowledged that repeal of termination costs will give the MOA the ability to adjust the staffing levels as funding levels change year to year. She emphasized that the MOA needs this to determine what programs to offer citizens. For example, some grant funding could be reduced or eliminated due to changes beyond municipal control, such as reduced state or federal funding. That loss of funding may result in our need to reduce staff and change staff classifications. For instance, if the MOA transferred an employee from one job classification to another and in the process eliminate a classification, this will trigger a termination cost even though the particular employee is still employed. Anchorage is working on modernizing and standardizing its job classification to achieve efficiency. This effort could result in fewer classifications, but not necessarily fewer employees. She said that the MOA currently has many classifications on the books that have been vacant - some for over 10 years. She indicated it would be efficient to eliminate these positions since it would reduce administrative costs, but the MOA doesn't do so since it may trigger termination costs.

MS. MAHONEY said the MOA understands the fiscal impact everyone faces due to the unfunded liability, but the fiscal impact of the termination costs is significant to Anchorage, but immaterial to the total PERS unfunded liability of \$12 billion. Certainly, the MOA appreciates every dollar that reduces the unfunded liability and are committed to partner with the state to reduce this burden by supporting the governor's plan to contribute \$3 billion and assuming a greater financial portion of the unfunded liability. This represents nearly \$300 million more that the MOA would pay into the unfunded liability if the \$3 billion is contributed. As Kathie Wasserman explained, the way that happens is because the 22 percent of our payroll would be contributed for approximately five more years, which illustrates the importance of this bill.

[4:40:59 PM](#)

JENNIFER JOHNSTON, Member, Anchorage Assembly, Municipality of Anchorage, stated that she is past president of the AML. She thanked the legislature for its assistance with the unfunded liability. She stressed that the governor's plan outlines a way in which the municipalities can share the risk and will have alignment as far as managing the liability. She considered a

different perspective, and what happens with the termination costs. For example, when the permanent dividend program initially started, it was extremely labor intensive. She surmised that the PFD program probably does not have as many employees or the employees may be working differently in the current "My Alaska" program. She asked what would happen to the state if it maintained the past employees in non-existent positions, and how they could adapt to the 21st Century technology. She said that is how the state and municipalities will have to manage. She suggested that the MOA wants to grow and manage its workforce. She emphasized that the MOA wants to grow its workforce but adapt to the 21st Century technology.

[4:42:50 PM](#)

REPRESENTATIVE JOSEPHSON asked for the AML's position at the time Senate Bill 125 passed. In other words, did the municipalities believe that dispensing with Tier III and defined benefits was a bargain they'd be happy to take in exchange for the burden of termination costs and termination cost studies. He asked what whether she knew about the history.

MS. JOHNSTON answered that she came in late in 2008. She related her understanding that a number of retirement funds existed but no one knew the allocation of the unfunded liability. Trying to come up with something that was fair to everyone going forward was "trying to wrap their arms, their huge arms around a big problem." She was unsure of the AML's policy at the beginning, but she understood the AML was active. She stated that if the state didn't come up with another program other than defined benefits that the state would extend the situation to a point at which it would be completely unmanageable. She suggested that Mr. Barnhill and Ms. Wasserman could probably better answer the question.

[4:45:06 PM](#)

REPRESENTATIVE JOSEPHSON related a scenario in which it was 2036 and the \$11 billion unfunded liability was gone, but a new unfunded liability was created by another stock market crash or other variables. He wondered what would prevent the municipalities from asking the state to absorb the unfunded liability from the permanent fund. He wondered why this wouldn't become a "moving target" for decades.

MS. JOHNSTON acknowledged that the MOA and state can't predict the future. She offered her belief that the governor's proposal

does "set the table" for managing the unfunded liability and having alignment between the employers and the state.

[4:46:26 PM](#)

CHAIR OLSON removed objection to adopt the work draft. There being no further objection, the committee substitute (CS) for HB 152, Version Y was before the committee.

[HB 152 was held over.]

[4:46:43 PM](#)

The committee took an at-ease from 4:46 p.m. to 4:48 p.m.

### **HB 328-BOARD/LICENSING OF MASSAGE THERAPISTS**

[4:48:38 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 328 "An Act establishing the Board of Massage Therapists; relating to the licensing of massage therapists; and providing for an effective date."

[4:48:40 PM](#)

REPRESENTATIVE BENJAMIN NAGEAK, Alaska State Legislature, introduced himself and his staff, Mary Schlosser.

[4:49:28 PM](#)

MARY SCHLOSSER, Staff, Representative Benjamin Nageak, Alaska State Legislature, stated that Alaska is one of six states that does not regulate massage therapists. She stated the standard of practice or regulation allows consumers to self-educate the expected standard of care and an appropriate therapy for their individual care. This bill endorses business development by allowing massage therapists to become an in-network provider, giving them the ability to bill insurance directly versus going through chiropractors, physical therapists, or physicians' offices. This may be especially important in light of the roll out of the Affordable Care Act. She surmised that physical therapists may see an increase in demand. Regulation may be a nuisance but it is expected.

MS. SCHLOSSER related that in the fall of 2013, Forbes graded states in terms of their legal and regulatory framework. She

reported that Alaska ranked 37th in business friendliness. Part of the standing ranks the states' regulatory environment and Alaska is ranked 44th of 50 states. She said that this bill encourages greater professional opportunities for therapists. The massage therapy profession is growing at a rate of approximately 120 therapists per year in the state. The time has come to bring clear industry standards for the health and safety of Alaskans. She reported that 84 percent of respondents in the field support state licensure. The sponsor requests the committee to support this bill and raise the massage therapy standard in the state.

[4:51:59 PM](#)

REPRESENTATIVE JOSEPHSON said he was familiar with massage therapist rates, which range from \$60 to \$120, depending on the time. He surmised that providers that massage therapists work under receive a portion of the fees. He asked whether this would change that in massage therapists' favor.

MS. SCHLOSSER deferred to the professionals to answer.

[4:52:55 PM](#)

AMANDA UNSER, Chair, Alaska Massage Therapy Licensure Coalition (ANTLC), stated the ANTLC represents 600 members. She also serves as the first vice-president of the American Massage Therapy Association, Alaska Chapter, in charge of legislation. She has practiced massage therapy for 12 years. She has previously been licensed in the State of Washington and maintains that license. The majority of massage therapists are employed by chiropractors. She referred to a letter of support from the chiropractors in members' packets. She explained that the Alaska Massage Therapy Licensure Coalition formed in 2012 and houses two major groups that represent massage therapists nationwide: the [Associated Bodywork & Massage Professionals] ABMP and the [American Massage Therapy Association] AMTA, and massage therapists throughout Alaska. The intentions were to assess whether massage therapists were ready for licensure and to get feedback on bill provisions, such as grandfathering or transition provisions, education, cardiopulmonary resuscitation (CPR) requirements, exemptions, and how the licensing board would be formed. The result was overwhelming support from massage therapists throughout the state. After two years of research and much deliberation, the result was HB 328. She urged members to pass HB 328 out of the committee.

[4:55:28 PM](#)

DON HABEGER, Director, Division of Corporations, Business, and Professional Licensing (DCBPL), Department of Commerce, Community, & Economic Development (DCCED), stated that bring up one issue. He referred to page 3, line 24, related to qualifications of a license. He read [beginning on page 3, line 22]: "**[Sec.08.61.030. Qualification for license.]** The board shall issue a license to practice massage therapy to a person who (1) applies on a form provided by the board; ...." He stated that the division is happy to allow the board to do that work but typically it is delegated to the department. The same issue occurs on page 4, line 18. He stated that this language requires the board to supply the form, but often this is something that the department does. He offered his neutrality on this issue, but if the board wants to delegate this activity, the department will take the responsibility. In response to a question, he directed attention to page 4, line 18.

[4:57:52 PM](#)

REPRESENTATIVE JOSEPHSON asked for assurances that fees won't rise above \$500. He further asked what assurances that the biennial fees would be predictable and massage therapists will not see marked increases.

MR. HABEGER responded that predictability is one of the issues the department and the legislature have been discussing recently. He said there are no assurances that it will be \$500 year after year. He explained that the license fees are a cost and fee relationship. The centralized licensing in AS 08.01 basically requires costs incurred by the program results in fees adjusted accordingly. Licensees are required to pay for the activities of the program; however, fees don't tend to fluctuate but are concentrated more on small programs.

[4:59:33 PM](#)

CHAIR OLSON offered his belief that a bill before the House Finance [Standing Committee] would attempt to level out the fees.

MR. HABEGER answered yes.

[4:59:41 PM](#)

REPRESENTATIVE HERRON said he has read the bill and asked whether this bill provides a typical, normal setup for any new licensed profession.

MR. HABEGER answered that this program looks similar to an existing program, and the fiscal note is based on the Board of Social Work Examiners, consisting of five board members, likely with a shared licensing examiner based on the time spent working on the program.

REPRESENTATIVE HERRON asked whether the state has a position on the bill.

MR. HABEGER answered no.

[5:00:53 PM](#)

REPRESENTATIVE HERRON asked if there is a need for this bill.

MR. HABEGER stated that the division has not received any calls prior to advocates requesting the program about a year ago.

REPRESENTATIVE HERRON noted one letter in opposition to the bill. He asked whether he has read the letter.

MR. HABEGER answered no.

CHAIR OLSON asked whether the suggested changes would provide more comfort to the division.

MR. HABEGER answered the two changes are merely suggestions that may make it easier for the board.

[5:02:06 PM](#)

REPRESENTATIVE HERRON asked him to read the letter in opposition to the bill.

MR. HABEGER agreed to do so.

[5:02:18 PM](#)

TRACI GILMOUR, Massage Therapist, stated she has waited 19 years for licensure. She is a fourth generation Juneauite and has been practicing massage since 1994 in Juneau. She attended an 800-hour massage program in Seattle, and has held a license from Washington for her entire career. She owns a massage business

and has practiced under the supervision of a chiropractor for 17 years. She practices medical massage as a majority of her business and passing this bill will allow her to be recognized as a health care provider. She has been required through her license and national membership to receive continuing education annually. She has not felt burdened by her Washington licensing fees and the American Massage Therapy Association (AMTA) not the costs associated with her initial and continuing education. She indicated that she holds a business license, pays sales tax, and charges \$60 per hour. She did not believe her fees would increase due to costs incurred with licensure. She takes great pride in the diverse knowledge she has about the body and welcomes the opportunity to discuss massage and how she can help her clients. This bill will assist nearly 600 massage therapists become current with their education, knowledge of the body and the many ways they can help or harm their clients. She urged members to pass the bill from the committee.

[5:04:00 PM](#)

REPRESENTATIVE SADDLER asked how many people who are practicing massage therapy will be barred from doing so under the bill.

MS. GILMORE answered that the grandfathering provisions would permit anyone practicing massage therapy right now and can properly prove it. There are seven ways in which they can prove they have been currently working in the industry.

[5:04:47 PM](#)

REPRESENTATIVE SADDLER understood that no one would be barred.

MS. GILMORE agreed so long as they have been working in the industry for fees. In response to a question, she deferred to Ms. Unser to reference the specific provisions.

MS. UNSER referred to page 10, line 3, to the transition provision in HB 328. She specified the bill allows six different ways to transition in, which can date back to five years prior to the [effective date of the bill].

[5:05:57 PM](#)

CARL KANCIR, Massage Therapist, Northern Comfort Massage Therapy, stated that he received his training at the University of Alaska Anchorage (UAA). He started in approximately 2000 or 2001 to get state licensure for massage therapists. He strongly

supports state licensure for massage therapists, but he does have some questions and comments on the bill. He referred to page 3, line 27, to the number minimum of hours of in-class supervised instruction, which he felt should be 1,000 hours. A number of other states require a minimum of 750 to 1,000 hours. He offered his belief that increasing the number of hours would lend credibility for massage therapists, in particular, to gain knowledge on healing and yet still stay within their scope of practice and not "run afoul of doctors, chiropractors and other health care professionals." Again, he suggested it would be more credible to raise the minimum to 1,000 hours for the minimum hours for a course of study.

[5:08:16 PM](#)

MR. KANCIR referred to page 2, line 26, to the one public member, which seemed confusing. The language read, as follows: "(2) one public member; the governor may not appoint as a public member (A) a licensed health care provider; ...." Additionally, he expressed concern about requirements for submitting the person's Form W-2, which he believes is private and personal to obtain licensure as a massage license. Instead, he thinks that this provision should be limited to those applicants without education. He indicated that his accredited studies required 1,250 hours, although he wished he had obtained more hours. He suggested that provision may need further clarification. He related he has obtained numerous hours of continuing education costing several thousand dollars. He just finished a February 1-2 course that cost \$400, which illustrates his commitment to his profession.

[5:11:06 PM](#)

REPRESENTATIVE HERRON referred to the transition language. He asked whether the committee should base the minimum requirements on the length of time a person has practiced massage therapy.

MR. KANCIR answered yes. He pointed out that the current massage therapists can't go backwards to gain more hours. He reiterated his belief that from this point forward the minimum number of hours for massage therapists should be increased. He knows many massage therapists, some of whom worked on the issue of licensure for massage therapists who also objected to being required to submit federal income tax forms. He said, "It just doesn't make sense." He acknowledged that he not a lawyer and suggested the bill language could be stated in "plainer language" so it could better be understood.

5:13:02 PM

CHAIR OLSON asked whether it is common to require applicants to submit federal income tax documents and records.

MR. HABEGER answered that he could not think of any program that requires it.

MS. SCHLOSSER responded that the transition language offers numerous options and the signed federal income tax is only one of many options applicants can use to prove they have met the education and examination requirements. She referred to page 10 to [paragraph (2)(A)-(F)] that lists the options.

5:14:22 PM

CHERI ZEP, Massage Therapist, Chez Sante, stated that she was raised in Southeast Alaska and has been practicing massage therapy for 10 years. She stated she is self-employed and owns and operates Chez Sante in Juneau. She said she provides employment for six other massage therapists. The hourly rate for massage is \$60 plus tax and she does not anticipate raising rates since she currently engages in continuing education and associated costs. She supports massage therapy licensure in the state to provide public safety for clients and the massage therapists. The bill sets a standard of education to ensure massage therapists are trained in contraindications as well as the body systems and the effect of massage on the body. She acknowledged that if massage therapists are not properly educated they can cause harm. It protects clients from potential sex offenders and human traffickers. Currently, anyone can call themselves massage therapist since the person doesn't need to submit to background checks or fingerprinting. Thus it is possible to have sex offenders and sexual predators working on innocent people without their knowledge. She chooses respect and asked members to pass HB 328.

5:15:51 PM

REPRESENTATIVE JOSEPHSON asked whether she pays for malpractice insurance.

MS. ZEP answered that she pays for liability or malpractice insurance.

REPRESENTATIVE JOSEPHSON asked about the cost of the insurance.

MS. ZEP answered she pays \$195 per year for a \$2 million policy.

REPRESENTATIVE JOSEPHSON remarked that is a bargain.

[5:16:24 PM](#)

REPRESENTATIVE HERRON asked whether some massage therapists "won't make the cut" if HB 328 passes.

MS. ZEP answered that she didn't know. She suggested that those who cannot meet the standards are those currently "hiding behind the curtains" without a business license and not paying sales taxes. She offered her belief that there are lots of people in Juneau that do not want the bill to pass.

[5:17:11 PM](#)

REPRESENTATIVE HERRON asked if there are inappropriate people in the business. He asked whether this activity is prevalent.

MS. ZEPP said she has heard about some issues in larger cities. She said, "It's not happening here in our town so I don't think it's going on right now...." She said that it could happen.

[HB 328 was held over.]

[5:18:17 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, House Labor & Commerce Standing Committee meeting was adjourned at 5:18 p.m.