

SENATE FINANCE COMMITTEE

April 1, 2014

1:40 p.m.

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CALL TO ORDER

Co-Chair Meyer called the Senate Finance Committee meeting to order at 1:40 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

None

ALSO PRESENT

Rudy VonImhof, President, Delta Leasing, LLC; Tom Wright, Staff, Representative Mike Chenault; Representative Mike Chenault; Representative Lance Pruitt; Dirk Craft, Staff, Representative Lance Pruitt; Robert Brean, Director, Research and Rural Development, Alaska Housing Finance Corporation (AHFC);

PRESENT VIA TELECONFERENCE

Matt Fonder, Director, Tax Division, Department of Revenue; Jon Cook, Chief Financial Officer, Airport Equipment Rentals Inc., Fairbanks; Randy Johnson, Tyler Rental, Ketchikan; Louise Bray, Shnitzer Steel, Tacoma, Washington; Phil Steyer, Chugach Electrical Association, Anchorage; John MacKinnon, Executive Director, Alaska Association of General Contractors, Anchorage; Al Barrette, Self, Fairbanks.

SUMMARY

SB 178 PASSENGER VEHICLE RENTAL TAX

SB 178 was HEARD and HELD in committee for further consideration.

CSHB 297(FIN)

HOME ENERGY RATING SYSTEMS

CSHB 297(FIN) was HEARD and HELD in committee for further consideration.

CSHB 305(FIN)

JUNK DEALER & METAL SCRAPER LICENSING

CSHB 305(FIN) was HEARD and HELD in committee for further consideration.

#sb178

SENATE BILL NO. 178

"An Act relating to the application of the passenger vehicle rental tax; and providing for an effective date."

1:42:13 PM

Senator Hoffman inquired how the passenger vehicle rental tax would be implemented, particularly for vehicles rented for use only on the North Slope.

MATT FONDER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE (via teleconference), responded that all vehicles on the North Slope, rented for a period of at least 28 days, would be exempt from the tax.

Senator Hoffman surmised that a vehicle rented for 21 days would be subject to the tax.

Mr. Fonder replied in the affirmative.

Co-Chair Meyer understood that vehicles that were purchased on the North Slope did not need to be registered and were not subject to a registration tax.

Mr. Fonder responded that the question was not under the per-view of the Department of Revenue.

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Senator Olson inquired if Co-Chair Meyer referencing the road system that was maintained by the North Slope Borough.

Co-Chair Meyer responded in the affirmative.

Senator Olson explained that the North Slope Borough did not require the tax on roads that it owned and maintained, but that not all roads were included; the Dalton Highway, for example, was part of the state system and would require payment of a registration tax.

Co-Chair Meyer thought that roads at Prudhoe Bay, Kuparuk, and Alpine were all exempt from having registered vehicles.

Senator Olson pointed out that those were private roads.

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Senator Hoffman inquired whether the legislation applied to all the vehicles that were rented regardless of whether they were driven on borough or state roads.

Mr. Fonder believed that there was a provision in existing statute that pertained to driving on a public right-of-way. He thought that if a vehicle was rented in Anchorage for a three week period, traveled up the Dalton Highway to Deadhorse, the passenger vehicle rental tax would be applied regardless of the roads taken.

Senator Hoffman requested that DOR clarify the interpretation of the law and get back to him.

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Co-Chair Meyer thought that if the vehicle was used on private roads on the North Slope, the Department of Motor Vehicles did not require vehicle registration.

Vice-Chair Fairclough referenced a prior fiscal note which had proposed a higher cost due to retroactivity. She noted that the current fiscal note before that was zero.

Mr. Fonder replied that the original fiscal note had addressed legislation that had a retroactivity of approximately 10 years; the burden would have been on the department to ensure that any taxes paid during that period, that should not have been paid, would be refunded.

The current draft of the bill had an immediate effective date, which had resulted in the new fiscal note.

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Vice-Chair Fairclough understood that individual tax payers had paid vehicle rental tax in the past.

Mr. Fonder responded in the affirmative. He and added that the tax was paid through the rental companies and submitted to the department on a quarterly basis.

Vice-Chair Fairclough asked if the proposition of retroactivity would mean that the state would be forced to seek individual tax payers, rather than the rental entities.

Mr.Fonder said yes.

Vice-Chair Fairclough asserted that the tax should be fair and equitable and that the funds from the tax should be used to maintain state roads.

Mr. Fonder agreed.

Mr. Fonder returned to Senator Hoffman's question regarding the public right-of-way. He stated that current statute defined a passenger vehicle in AS 28.90.990 as a vehicle that was driven, or moved on a highway, or other public right-of-way in the state.

Co-Chair Meyer OPENED public testimony.

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JON COOK, CHIEF FINANCIAL OFFICER, AIRPORT EQUIPMENT RENTALS INC., FAIRBANKS (via teleconference), spoke in support of SB 178. He pointed out that the bill addressed several unintended consequences of the original vehicle tax legislation. He believed that issues regarding the rental tax on the North Slope should not be addressed in the bill. He noted that rentals under 28 days out of Deadhorse would be subject to the tax. He asserted that his business was located on a private road system should not be subject to the tax. He believed that the DOR had no right to impose the tax on the North Slope.

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RUDY VONIMHOF, PRESIDENT, DELTA LEASING, LLC, spoke in support of SB 178. He relayed that his company had been corresponding with DOR on the issue since 2010. In 2013 the department had asked the company to file returns on the tax and the company had responded that they did not need to pay the tax. He noted that he had written a letter to the department detailing the 2010 correspondence (copy on file). He said that on November 2, 2013 his Prudhoe Bay and Anchorage offices were the subject of a raid by the Department of Revenue the results of which were that DOR confiscated 70 boxes of files and computers. The files had not been returned. He opined that BP had written a letter to DOR explaining that the DMV did not consider the greater Prudhoe Bay area taxable for vehicle registration; a map of operations was included with the letter that detailed where state maintenance began and ended on the Dalton Highway. He shared that the checkpoints between public and private roads were monitored by strong security and required badges for access. He expressed concern with the current version of the bill and opined that DOR maintained possession of the files confiscated in 2013.

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Mr. VonImhof related that his company had never felt that the tax was applicable to its customers and had never collected the tax.

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Co-Chair Meyer assumed that Mr. VonImhof's business operated out of Deadhorse.

Mr. VonImof replied in the affirmative.

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Senator Olson wondered if the security guards at the checkpoints were armed.

Mr. VonImof replied that he was unsure.

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Senator Hoffman spoke to an intent letter and asked whether the contents of the letter were meant to be included in the legislation.

Mr. VonImhof believed that an intent letter had been slated to be drafted into the legislation, but that it had not been written into the current version.

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Vice-Chair Fairclough inquired whether the electronic information seized in the raid had been returned.

Mr. VonImhof stated that the company maintained the server, which was imaged. He said that front desk computers and technician computers in the maintenance facility had not been seized. He relayed that the hard drives of three computers had been returned in January 2014.

Vice-Chair Fairclough probed whether when the computers were seized, the company had been able to perform a back-up and if the business had been totally disabled by the seizure.

Mr. VonImhof replied that the IT conversion had been unexpected. He said that most of the information resided on a server and that his business was allowed to keep its server. Employees personal downloads on work computers had not been returned.

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Mr. VonImhof reiterated that he supported the current bill.

Co-Chair Meyer believed that the current bill would still charge a tax on private roads on the North Slope.

Mr. VonImhof responded that he was surprised at the Department of Revenue's position on Prudhoe Bay. He expressed concern for that aspect of the legislation.

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Co-Chair Meyer asked whether the company leased vehicles for longer than a 30 day period.

Mr. VonImhof responded that it varied. He offered that the vast majority of business operations were long-term leases, meaning more than 6 months. He opined that there were outstanding issues between industry and DOR on the topic.

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RANDY JOHNSON, TYLER RENTAL, KETCHIKAN (via teleconference), spoke in support of SB 178. He expressed reservations regarding truck rentals on non-public roads and support for a retroactivity clause. He related that his company had never received notice on the tax since its inception in 2004 and as a result had never collected the tax from its customers. He understood that most of the vehicle rental companies had received notice of the tax and that he could only assume that the reason it was not notified was because it was not originally the intent to tax businesses like Tyler Rental.

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Co-Chair Meyer CLOSED public testimony.

Senator Hoffman questioned whether the sponsor had intended that the legislation would not apply to certain vehicles.

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Senator Bishop stated that the sponsor's intent was to clarify that Prudhoe Bay would be exempt from the tax.

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Senator Hoffman offered that if the DOR thought that the intent was that the Prudhoe Bay should be taxed, there needed to be clarification.

Senator Olson asked whether only vehicles rented on state maintained roads should be taxed.

Senator Bishop noted that the original intent had been for passenger vehicles during the summer tourist season and that it had never been to target rentals in Prudhoe Bay or remote mine sites.

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Senator Olson inquired if the bill's original intent had been to tax people on private mining roads in Southeast Alaska.

Senator Bishop responded that it had not been the intent to do so.

Senator Olson stressed the need for further clarification in order to stave future raids on small businesses.

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Vice-Chair Fairclough asserted that ignorance of the law was not defensible in court and that it would be impossible for the state to notify every single business of every law.

Co-Chair Meyer thought that his staff needed to work with Senator Bishop's staff in order to craft a comprehensive piece of legislation. He believed that the 28 day rental period was workable.

Vice-Chair Fairclough urged communication with the Department of Law in order to draft language that spoke to the North Slope but also addressed mining operations in Southeast Alaska.

Co-Chair Meyer said that DMV already knew which roads were private or public.

Vice-Chair Fairclough believed that the work would need to be done by both DOT and DMV.

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SB 178 was HEARD and HELD in committee for further consideration.

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AT EASE

[2:28:03 PM](#)

RECONVENED

#hb305

CS FOR HOUSE BILL NO. 305(FIN)

"An Act relating to the records of metal scrappers; repealing the requirement that a junk dealer or metal scrapper obtain a license; and providing for an effective date."

TOM WRIGHT, STAFF, REPRESENTATIVE MIKE CHENAULT, read from a sponsor statement:

HB 305 as originally introduced proposed to repeal a pre-statehood requirement for junk dealers and metal scrappers to obtain a state license. Research could not identify any licenses which were issued under the statute and therefore, it was felt the statute served no public purpose and should be repealed. Although the original intent of the legislation was to eliminate an unneeded law from the books, the process led to the identification of an area where Alaska state law was deficient and needed improvement.

The junk dealer statute was discovered during discussions by a working group of contractors, utilities and scrap metal dealers looking for ways to deter metal theft in Alaska. Due to the higher value of metals such as copper, metal theft has been increasing nationwide. However, Alaska remains as the only state without a law specifically targeting metal theft.

Thieves often target utilities, construction sites, and other locations with significant volumes of copper. In some cases, the value of the scrap metal stolen pales in comparison to the damage done by thieves. For utilities, theft can result in life threatening situations, service outages for many customers, and be very costly to repair. For construction sites, significant costs and project delays can result from theft.

The main goal of metal theft laws is to provide law enforcement with additional tools to track down metal thieves as well as provide a deterrent to the crime by closing down avenues to sell stolen property. In many cases, other states have adopted very comprehensive laws, which are costly to implement as well as burdensome to businesses. This bill takes a different approach. Through the input of a those impacted (utilities, contractors, law enforcement, and scrap

metal dealers), the legislation implements those tools the working group felt would be most effective in a manner which add as little burden as possible.

Specifically, the bill adds new recording keeping requirements on the sale of scrap metal. Basic information includes date, time, location, and value of the metal as well as information about the seller including the name, address, driver's license number, and vehicle plate number. The legislation also requires the seller to sign a statement that the metal is not stolen.

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Co-Chair Meyer clarified that the committee was working with version R of the bill.

Mr. Wright replied in the affirmative.

Senator Dunleavy understood that the bill would not prevent someone from selling wire or metal to someone else.

Mr. Wright replied that it would not.

Senator Dunleavy thought that there could be a way around the law.

Mr. Wright agreed. He surmised that there were ways to circumvent nearly any law.

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Co-Chair Meyer asked how many junk dealers or scrappers there were in the state.

Mr. Wright deferred the question to available experts in the field.

Co-Chair Meyer wondered if a scrappers/junk dealer license was the same as business license.

Mr. Wright replied in the affirmative.

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LOUISE BRAY, SHNITZER STEEL, TACOMA, WASHINGTON (via teleconference), spoke in support of HB 305. She felt that the bill was a first small step to combat metal theft and to provide additional tools for law enforcement to track thieves. She believed that there would always be non-compliant dealers, but once the law was implemented those dealers would be easier to locate.

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PHIL STEYER, CHUGACH ELECTRICAL ASSOCIATION, ANCHORAGE (via teleconference), testified in support of HB 305. He stated that the Chugiak Electrical Association had been the victim of theft and property damage. He said that the cost of repairs for the damage and lost business was expensive inconvenient.

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JOHN MACKINNON, EXECUTIVE DIRECTOR, ALASKA ASSOCIATION OF GENERAL CONTRACTORS, ANCHORAGE (via teleconference), testified in support of HB 305. He stated that the Alaska Association of General Contractors' hoped that the legislation would make it more difficult for thieves to sell scrap metal without adding more regulations or requirements for dealers.

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AL BARRETTE, SELF, FAIRBANKS (via teleconference), spoke against the reporting requirements in HB 305. He questioned the constitutionality of the portion of the bill that would require that records be kept available for inspection by law enforcement during normal business hours. He opined that he should have to collect data or file burdensome paperwork for the sake of public safety.

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Co-Chair Meyer CLOSED public testimony.

Senator Bishop inquired whether the metal scrappers and dealers had been involved in crafting the bill.

Mr. Wright replied yes.

Vice-Chair Fairclough queried to what extent the record keeping proposed in the legislation would inconvenience business owners.

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REPRESENTATIVE MIKE CHENAULT, replied that it was not the sponsor's intent make the reporting any more burdensome than what was considered good business practice. He asserted that it would be best for businesses to keep accurate records. He noted that if enforcement came into a pawn shop and found that things were stolen, the items were confiscated and given back to the rightful owner, resulting in a loss for the store owner; proper record keeping offers the proprietor the ability to recoup the costs from whoever pawned the item. He understood that there would be more paperwork and acknowledged the concerns; however, it was better business practice to keep the information regarding customers. He stressed that the legislation was an attempt to address theft concerns in the most innocuous way possible.

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Vice-Chair Fairclough questioned the reasoning behind repealing the licensing requirement of junk dealers and metal scrappers.

Mr. Wright replied that it was handed over as an arcane law that pre-dated statehood. He cited the Legislative Research Services Research Brief (copy on file):

Because the licensing of junk dealers and metal scrappers involved the payment of fees, the Department of Revenue inherited the provision through passage of duties from territorial offices to the newly created state offices.

Mr. Wright furthered that the law was not enforced by DOR and that the issue was now the per view of the Department of Commerce, Community and Economic Development (DCCED) under their business license division.

Vice-Chair Fairclough stated if the number of metal scrappers/dealers was unknown, and there were increasing instances of metal scrappers buying stolen merchandise,

then it would be in the state's best interest to require then to hold a license under DOR.

Representative Chenault replied that the state did know how many there were and that they were all licensed under DCCED. He said that the original intent of the legislation was to terminate the section pertaining to DOR and not DCCED.

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CSHB 305(FIN) was HEARD and HELD in committee for further consideration.

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AT EASE

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RECONVENED

#hb297

CS FOR HOUSE BILL NO. 297(FIN)

"An Act recognizing the Alaska Housing Finance Corporation as the authorizing agency to approve home energy rating systems for the state; and providing for an effective date."

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REPRESENTATIVE LANCE PRUITT, introduced HB 297. He stated that the Alaska Finance Housing Corporation (AHFC) was the state's home energy rating system authorizing agency for the purpose of approving home energy rating systems in the state. He relayed that the bill sought to protect the state's investment via AHFC in developing its own rating system, AkWarm. He shared that the AkWarm system had been in use since 1996, and was designed specifically for the unique climate and environment of Alaska. The bill would highlight that AHFC was the authorizing agency in charge of approving Home Energy Rating Systems (HERS).

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Senator Dunleavy inquired whether and authorizing agency was currently recognized.

Representative Pruitt said no.

Co-Chair Meyer noted the zero fiscal note. He inquired whether there were federal funds available to assist this program.

DIRK CRAFT, STAFF, REPRESENTATIVE LANCE PRUITT, responded that the intent of the bill was to protect any potential federal funds.

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ROBERT BREAN, DIRECTOR, RESEARCH AND RURAL DEVELOPMENT, ALASKA HOUSING FINANCE CORPORATION (AHFC), added that the corporation did not receive additional federal funds as a result of exercising the program, but by formula AHFC received approximately 300 thousand dollars from the United States Department of Energy. The corporation anticipated that to use any federal funds on an analysis of any rating systems introduced that might benefit the state.

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Senator Bishop wondered whether AHFC would interface with the Cold Climate Research Housing in Fairbanks as it developed the regulations.

Mr. Brean replied that it was possible. He said that AHFC had extended a great deal of time and energy developing the current software rating system. He relayed that the current system had weather regimes and weather systems built in as well as construction techniques in the state. He concluded that AHFC planned on working closely with Cold Climate Housing on the project.

Co-Chair Meyer CLOSED public testimony.

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HB 297(FIN) was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

[3:00:05 PM](#)

The meeting was adjourned at 3:00 p.m.