

SENATE FINANCE COMMITTEE

April 17, 2014

2:19 p.m.

2:19:49 PM

CALL TO ORDER

Co-Chair Meyer called the Senate Finance Committee meeting to order at 2:19 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

Dirk Craft, Staff, Representative Lance Pruitt; Michael Paschall, Staff Representative Eric Feige; Representative Benjamin Nageak; Mary, Schlosser, Staff, Representative Benjamin Nageak; Victoria Dance, Self, Juneau; Representative Paul Seaton; Brenda Hewitt, Staff, Representative Doug Isaacson; Errol Champion, Director, Alaska Associations of Realtors.

PRESENT VIA TELECONFERENCE

Lela Klingert, President, Commercial Fishing and Agricultural Bank, Anchorage; Amanda Unser, Chair, American Massage Therapy Licensing Coalition, Anchorage; Marty Hester, Deputy Director, Division of Insurance, Department of Commerce, Community and Economic Development; Ed Sniffen, Attorney V, Department of Law, Anchorage.

SUMMARY

CSHB 121(FIN)

COMMERCIAL FISHING & AGRICULTURE BANK

CSHB 121(FIN) was REPORTED out of committee with a "do pass" recommendation and with a previously published fiscal impact note: FN2 (CED).

CSHB 143(FIN)

COMMERCIAL FISHING CREWMEMBER LICENSES

CSHB 143(FIN) was REPORTED out of committee with a "do pass" recommendation and with two previously published fiscal impacts note: FN4 (LWF) and FN3 (DFG).

HB 193

MUNICIPAL TAXATION OF TOBACCO PRODUCTS

SCSCSHB 193(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from the Department of Revenue and one new zero fiscal note from the Department of Commerce, Community and Economic Development.

HB 231

CATTLE BRAND REGISTRATION

HB 231 was REPORTED out of committee with a "do pass" recommendation and with a previously published zero fiscal note: FN1 (REV).

HB 282

LANDLORD AND TENANT ACT

HB 282 was HEARD and HELD in committee for further consideration.

CSHB 305(FIN)

JUNK DEALER & METAL SCRAPPER LICENSING

CSHB 305(FIN) was REPORTED out of committee with a "do pass" recommendation and with two previously published zero fiscal notes: FN1 (COR) and FN2 (REV).

CSHB 328(L&C)

BOARD/LICENSING OF MASSAGE THERAPISTS

CSHB 328(L&C) was REPORTED out of committee with a "do pass" recommendation and with one

previously published fiscal impact note: FN1  
(CED).

#hb193

CS FOR HOUSE BILL NO. 193(FIN)

"An Act relating to the joint administration of tobacco taxes by the state and a municipality."

[2:21:17 PM](#)

DIRK CRAFT, STAFF, REPRESENTATIVE LANCE PRUITT,

Vice-Chair Fairclough MOVED to REPORT SCSCSHB 193(FIN) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

SCSCSHB 193(FIN) was REPORTED out of committee with a "do pass" recommendation and with a new fiscal impact note from the Department of Revenue and a new zero fiscal note from the Department of Commerce, Community and Economic Development.

#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."

Vice-Chair Fairclough MOVED to REPORT CSHB 305(FIN) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 305(FIN) was REPORTED out of committee with a "do pass" recommendation and with two previously published zero fiscal notes: FN1 (COR) and FN2 (REV).

[2:23:33 PM](#)

AT EASE

[2:27:06 PM](#)

RECONVENED

#hb231  
HOUSE BILL NO. 231

"An Act eliminating the Department of Revenue's duty to register cattle brands."

Vice-Chair Fairclough MOVED to REPORT HB 231 out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 231 was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (REV).

#hb121  
CS FOR HOUSE BILL NO. 121(FIN)

"An Act relating to the examinations, board, loans, and records of the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date."

[2:29:11 PM](#)  
AT EASE

[2:32:44 PM](#)  
RECONVENED

Vice-Chair Fairclough had a question about the repeal language and inquired whether the sponsor knew how the state initially got involved loaning money to the bank.

MICHAEL PASCHALL, STAFF REPRESENTATIVE ERIC FEIGE, responded that he was not aware of all of the historical details but ascertained that the state had invested in the bank and the bank was initially using state money that has since been repaid.

Vice-Chair Fairclough wondered if the bank would be able to function if the state withdrew its permits.

LELA KLINGERT, PRESIDENT, COMMERCIAL FISHING AND AGRICULTURAL BANK, ANCHORAGE (via teleconference), understood the question as; if the state took action to rescind CFAB's privileges as agents to accept permits as collateral would the consequences be detrimental to the

bank. She answered that if the privilege was rescinded the impacts on future operations of the bank would be "severe and negative."

Vice-Chair Fairclough relayed that the issue that the committee was "grappling with" was the banks wish to hire a lobbyist. She elaborated that even though CFAB repaid its initial loan from the state, the bank was still in operation due to using state assets. The committee felt uncomfortable with the scenario of CFAB hiring a lobbyist to impact legislators' decisions. She felt that the scenario created a conflict for members. She inquired what a lobbyist would do for CFAB that it could not currently do for itself.

Ms. Klingert replied that a lobbyist would be the eye, ears, and voice of CFAB during the session. She expounded that the lobbyist would monitor legislation and identify any issues that affected CFAB. The bank rarely introduced its own legislation. The lobbyist would act as a representative of the bank so CFAB employees would not have to travel to Juneau to deal with any issues that arose.

Vice-Chair Fairclough queried whether statute prohibited CFAB from hiring a governmental affairs employee instead of a lobbyist.

Ms. Klingert responded that she was not aware of any prohibition against hiring a governmental affairs employee. She recounted that sometime in the 1990's, Senator Pearce [1988 - 2001] introduced legislation that prohibited CFAB and other similar entities from using state money to lobby state officials. Prior to enactment of the legislation the prohibition did not exist.

Vice-Chair Fairclough MOVED to REPORT CSHB 121(FIN) out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 121(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN2 (CED).

2:39:38 PM  
AT EASE

2:40:48 PM

RECONVENED

Co-Chair Meyer handed the gavel over to Co-Chair Kelly.

#hb328

CS FOR HOUSE BILL NO. 328(L&C)

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

2:41:51 PM

AMANDA UNSER, CHAIR, AMERICAN MASSAGE THERAPY LICENSING COALITION, ANCHORAGE (via teleconference), briefly spoke in support of HB 328. She related that the massage therapists were aware that licensing fees were associated with state licensure.

REPRESENTATIVE BENJAMIN NAGEAK, introduced HB 328 and related that it established a board of massage therapy to provide regulation for certification, educational standards, promote a code of ethics, public safety, self-regulation, accountability, business development, grievance process and increased access to therapy. He added that the legislation would allow massage therapist to directly bill insurance.

VICTORIA DANCE, SELF, JUNEAU, related her extensive experience in the massage therapy profession. She had serious concerns and "pragmatic" issues with the bill. She shared that the coalition had only surveyed 43 massage therapists out of an estimated 600 in the state, and that 17 respondents only favored licensing if "it was done right." She thought that the bill was a good start in bringing state licensure into alignment with other state licensing programs. She believed that the legislation did not reflect current competency industry standards, the licensing fees would be high, and that the bill would not enable therapists to directly bill insurance. She detailed that the Entry Level Analysis project established a competency standard for massage therapists of 625 hours. The recommendations were established after HB 328 was introduced. She relayed that 500 hours of education was an arbitrary standard based on relaxation massage and not medical or therapeutic massage. She continued that the

licensing fee would be very high, which created a hardship for entry level therapists. Fifty-three percent of states had licensing fees set at \$100 to \$150. She cautioned that investigations could lead to high licensing fees due to the existence of "massage parlors." The licensing board in Arizona had to deal with approximately 12 investigations each year related to massage parlors and the West Virginia board recently undertook an investigation that costs \$200 thousand that resulted in increased fees. She pointed out that Washington was the only state massage therapy board that had a mandate to bill third party insurance. She worried that the bill was not the adequate vehicle to authorize third party insurance billing for massage therapists. She summarized that the legislation did not adequately address public protection by allowing educational licensing requirements under 625 hours and that the fees were too high for entry level and part-time therapists.

[2:52:47 PM](#)

Ms. Unser addressed the concerns raised by Ms. Dance. She maintained that 500 hours was the national standard and that the board would be implementing continuing education standards. The coalition estimated that the licensing fees would be \$225 each year, which was within national standards. The fees were equivalent to performing four to eight massages over a two year period and were a tax write off. She offered that investigations related to massage parlors were criminal and not board investigations. She assured the committee that individual insurance companies set policies regarding accepting massage therapists as preferred providers and most allowed the practice. Online courses for CPR and continuing education were included in the bill to provide rural therapists easier and less costly access to complete required continuing education.

Vice-Chair Fairclough cited page 3 of the bill under "Qualification for a License." She related that Ms. Dance indicated that the 625 hour educational standard was only recently changed and asked for confirmation that 500 hours remained the national standard.

Ms. Unser assured Vice-Chair Fairclough that the American Massage Therapy Association (AMTA), Associated Bodywork and Massage Professionals (ABMT), and the National Association of Massage Therapy upheld the 500 hour standard.

Senator Olson wondered what types of complaints were made against massage therapists.

MARY, SCHLOSSER, STAFF, REPRESENTATIVE BENJAMIN NAGEAK, replied that issues of sexual inappropriateness related to massage parlors could possibly happen. She related that she never had a complaint after receiving massage therapy.

Co-Chair Kelly thought that complaints concerning massage parlors would be a criminal issue.

Vice-Chair Fairclough noted that Ms. Dance indicated that only Washington allowed third party billing. She inquired whether massage therapy had its own medical codes and how billing would work.

Ms. Unser responded that specific codes for massage therapy procedures existed. She voiced that insurance companies do recognize massage therapists as third party billers in states that have state licensure. Each individual insurance company had different requirements regarding massage billing that could include a doctor's referrals, medical necessity, or limited number of treatments.

Co-Chair Kelly asked what average licensing fees in other states were.

Ms. Unser responded that the national average was \$250 per year.

Senator Bishop referenced Section 10 on page 10. He wondered whether the section contained the "grandfathering provisions."

Ms. Unser replied in the affirmative. She interjected that according to previous testimony by the Division of Insurance direct billing would be guided by individual insurance policies.

[3:01:15 PM](#)

AT EASE

[3:02:37 PM](#)

RECONVENED

Co-Chair Kelly CLOSED public testimony

Ms. Schlosser referenced the document titled, "States Regulating Massage Therapy" (copy on file) which contained a map of the U.S. designating the states that regulated massage therapy and noted that Alaska was behind the curve. She maintained that licensing was a matter of professionalism and public safety. She stated that without licensure any cases of inappropriate touch had to be pursued as a civil case.

3:03:55 PM

AT EASE

3:05:13 PM

RECONVENED

Co-Chair Kelly inquired whether the legislation allowed massage therapist to directly bill insurance companies.

MARTY HESTER, DEPUTY DIRECTOR, DIVISION OF INSURANCE, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT (via teleconference), responded that HB 328 amended Title 8 and the changes did not alter or affect Title 21 of the insurance code. The department did not anticipate a cause and effect relationship between Title 21 and HB 328.

Vice-Chair Fairclough inquired whether the bill allowed massage therapists to directly bill insurance.

Mr. Hester responded that the bill did not mandate what insurance policies should cover. The bill did not mandate a particular type of coverage or the extent of the coverage.

Vice-Chair Fairclough understood that the bill did not mandate massage coverage but wondered whether the bill prevented coverage.

Mr. Hester specified that the Affordable Care Act (ACA) mandated preventive and rehabilitative care services. The state's benefit plan was based on a Premera plan that included massage therapy. State insurance plans that were compliant with the ACA were required to cover massage therapy. However, the ACA did not specify to what extent the services should be covered.

Co-Chair Kelly inquired whether insurance companies would cover massage therapy services if the state did not have licensure.

Mr. Hefter responded that massage coverage was dependent on the individual policy.

Vice-Chair Fairclough noted for the record the she obtained the report titled "The Core Entry Level Analysis Project" from the Entry Level Analysis project by the Coalition of National Massage Therapy Organizations completed in December, 2013. She relayed that the project's goals were to define knowledge and skill components of entry level education and recommendations, recommend the number of minimum hours of education... for the safe and competent practice of massage professionals." She confirmed that the report did recommend 625 hours of educational training but was uncertain whether the board had adopted the recommendation.

Ms. Schlosser replied that report was a "survey" and had not been adopted yet; as a result the national standard remained at 500 hours. She added that, once established the massage board had the ability to add additional educational hours.

Vice-Chair Fairclough reported that the AMTA standard was 500 hours.

[3:14:24 PM](#)

AT EASE

[3:17:41 PM](#)

RECONVENED

Co-Chair Meyer returned as Chair.

Senator Dunleavy observed that some massage therapists wanted to be licensed while others did not. He wondered whether licensing could be optional and what the sponsor's thoughts were regarding optional licensing.

Ms. Schlosser responded that the objective of licensing was to set a standard. She related that the sponsor's and coalition's intent was to set standards for the profession in Alaska.

Co-Chair Kelly believed that massage therapy professionals wanted to set a standard to gain legitimacy as a "professional health field" and that the legislation furthered that goal.

Vice-Chair Fairclough discovered that some states required more than 500 hours of educational training and noted that Arizona required 700 hours. However, it appeared that the majority of states required 500 hours.

Vice-Chair Fairclough MOVED to REPORT CSHB 328(L&C) out of committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 328(L&C) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (CED).

[3:20:09 PM](#)

AT EASE

[3:24:01 PM](#)

RECONVENED

#hb143

CS FOR HOUSE BILL NO. 143(FIN)

"An Act relating to crewmember fishing licenses; and providing for an effective date."

[3:24:16 PM](#)

REPRESENTATIVE PAUL SEATON, presented HB 143 and stated that the temporary crew member license was a "loophole" that was increasing in use. The bill would close the loophole. He detailed that the temporary seven day commercial fishing license was authorized in 2005, but resulted in [non-resident] crewmembers obtaining multiple and sequential temporary licenses, which were intended for tourists or short time participants. In short duration fisheries like Bristol Bay, crew members were obtaining temporary licenses instead of purchasing non-residential commercial fishing licenses. He reported that the Department of Fish and Game (DFG) lost \$285 thousand in revenues due to the abusive practice. In 2005, 47 temporary crew licenses were purchased and in 2012, 1,344 were purchased. The legislation would increase the department's revenues by approximately \$95 thousand. The temporary license would remain available and the licensee would be

able to apply for reimbursement of the temporary licensing fee if an annual license was subsequently purchased.

Co-Chair Meyer noted that the bill was revenue positive.

Senator Bishop thought that the bill would "bolster" the Fishermen's Fund.

Representative Seaton responded in the affirmative. He explained that the fund collected 11 percent from crew licenses and that temporary licenses were only \$30.

Senator Dunleavy inquired what would happen if the bill was not passed.

Representative Seaton answered that crew members would increasingly continue to abuse the system. He noted that some individuals were purchasing up to six sequential temporary licenses rather than purchase the \$250 annual crew license.

Senator Bishop commented that not passing the bill would put a strain on the Fisherman's Fund, which assists fishermen with medical expenses.

Vice-Chair Fairclough inquired why the effective date was January 1, 2015. She wondered how a crewmember license was obtained versus a sports license.

Representative Seaton replied that crewmember licenses were obtained similar to sports fishing licenses, sold through vendors, and were in paper form. The effective date was chosen because licenses were already printed and new regulations were not in place for the upcoming season.

[3:29:05 PM](#)

AT EASE

[3:30:00 PM](#)

RECONVENED

Vice-Chair Fairclough asked when the bill was introduced.

Representative Seaton stated that the bill was introduced on February 27, 2013.

Co-Chair Meyer CLOSED public testimony.

Vice-Chair Fairclough MOVED to REPORT CSHB 143(FIN) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 143(FIN) was REPORTED out of committee with a "do pass" recommendation and with two previously published fiscal impacts note: FN4 (LWF) and FN3 (DFG).

[3:31:26 PM](#)

AT EASE

[3:37:46 PM](#)

RECONVENED

Co-Chair Meyer handed the gavel over to Co-Chair Kelly.

[3:37:49 PM](#)

AT EASE

[3:38:04 PM](#)

RECONVENED

#hb282

CS FOR HOUSE BILL NO. 282(JUD)

"An Act relating to the rights and obligations of residential landlords and tenants; and relating to the taking of a permanent fund dividend for rent and damages owed to a residential landlord."

[3:38:46 PM](#)

BRENDA HEWITT, STAFF, REPRESENTATIVE DOUG ISAACSON, informed the committee that the legislation contained provisions that had been requested by landlords, tenants, and property managers. She elaborated that the legislation allowed both the landlord and tenant to verify the premise condition statement, which catalogued the condition of the property. The bill provided for a long term pet deposit, which was previously capped to the same time limit as the security deposit cap of two months. Another provision of the bill defined "normal wear and tear," which was more suitable than the current language, "normal non-abusive living." The legislation required landlords to maintain a separate accounting of security deposits to ensure that the landlord had the funds to reimburse the renter for the

deposit when vacating the premises. The bill allowed landlords to have up to thirty days to refund damage deposits to provide sufficient time to assess the cost of damage if damage was discovered. The current fourteen day time limit was retained if no damage was found. The bill defined "service animals", permitted the rental of dry cabins [cabins without running water], and allowed landlords to restrict the number of persons living in a dwelling. Additionally, the legislation permitted eviction for illegal activities. She furthered that the landlord may require professional dry cleaning of carpets if the landlord professionally dry cleaned the carpet prior to rental. Finally, HB 282 allowed landlords to attach a permanent fund dividend for unpaid rent or damages. Currently, dividend (PFD) attachment was legal, but the bill placed rent as a higher priority than commercial creditors.

Senator Dunleavy inquired whether there would be a change in who would have access to the premises.

Ms. Hewitt responded that the issue was not addressed in the legislation.

ED SNIFFEN, ATTORNEY V, DEPARTMENT OF LAW, ANCHORAGE (via teleconference), confirmed that the bill did not change any laws related to access.

ERROL CHAMPION, DIRECTOR, ALASKA ASSOCIATION OF REALTORS, supported the legislation. He related that he worked closely with the sponsor to develop the language in the bill and updated the provisions to protect both the tenant and the landlord.

Vice-Chair Fairclough inquired when the bill was introduced.

[3:44:40 PM](#)  
AT EASE

[3:44:57 PM](#)  
RECONVENED

Ms. Hewitt replied that the bill was introduced on February 22, 2014.

Vice-Chair Fairclough requested clarity on the provision that placed rent or damages as a higher priority PFD attachment over commercial creditors.

Ms. Hewitt detailed that there were established priorities for PFD attachment and the provision added rent and damages to the list as number eight. She shared that rent was intangible and landlords were not able to repossess possessions in lieu of unpaid rent, so the thought was to place landlords higher on the list than general creditors.

Co-Chair Kelly CLOSED public testimony.

HB 282 was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

[3:48:17 PM](#)

The meeting was adjourned at 3:48 p.m.