

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 11, 2014
9:01 a.m.

MEMBERS PRESENT

Senator Fred Dyson, Chair
Senator Cathy Giessel, Vice Chair
Senator John Coghill
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Bert Stedman

COMMITTEE CALENDAR

SENATE BILL NO. 132

"An Act relating to motor vehicle registration fees."

- MOVED CSSB 132(STA) OUT OF COMMITTEE

SENATE BILL NO. 104

"An Act relating to appropriations from the dividend fund; creating the criminal fund; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 132

SHORT TITLE: MOTOR VEHICLE REGISTRATION FEES

SPONSOR(s): SENATOR(s) FAIRCLOUGH

01/22/14	(S)	READ THE FIRST TIME - REFERRALS
01/22/14	(S)	STA, FIN
02/11/14	(S)	STA AT 9:00 AM BUTROVICH 205

BILL: SB 104

SHORT TITLE: APPROPRIATIONS FROM THE DIVIDEND FUND

SPONSOR(s): SENATOR(s) DYSON

01/22/14	(S)	PREFILE RELEASED 1/10/14
01/22/14	(S)	READ THE FIRST TIME - REFERRALS
01/22/14	(S)	STA, FIN

02/06/14 (S) STA AT 9:00 AM BUTROVICH 205
02/06/14 (S) Heard & Held
02/06/14 (S) MINUTE(STA)
02/11/14 (S) STA AT 9:00 AM BUTROVICH 205

WITNESS REGISTER

SENATOR ANNA FAIRCLOUGH
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: SB 132 sponsor.

TALLY TEAL, Staff
Senator Fairclough
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Provided committee substitute (CS) overview for SB 132.

JOSHUA BANKS, Staff
Senator Dyson
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Provided a sectional analysis and CS review for SB 104.

DAN DEBARTOLO, Director
Permanent Fund Dividend Division
Alaska Department of Revenue
Juneau, Alaska
POSITION STATEMENT: Addressed Permanent Fund Dividend (PFD) distributions pertaining to prison inmates.

ACTION NARRATIVE

9:01:24 AM

CHAIR FRED DYSON called the Senate State Affairs Standing Committee meeting to order at 9:01 a.m. Present at the call to order were Senators Giessel, Coghill, and Chair Dyson.

CHAIR DYSON announced that the committee will take up SB 132 with the intention to pass the bill. He said the committee will accept a Committee Substitute (CS). He noted that SB 132 has little or no known opposition. He stated that the committee will also take up SB 104 and a CS will be presented. He said SB 104 will not be passed out of today's committee meeting.

SB 132-MOTOR VEHICLE REGISTRATION FEES

9:02:26 AM

CHAIR DYSON announced that SB 132 was before the committee.

CHAIR DYSON welcomed Senator Wielechowski to the committee meeting.

9:02:46 AM

SENATOR GIESSEL moved the CS for SB 132, labeled, 28-LS1218\N, as the working document.

CHAIR DYSON announced that [without objection] version N is adopted.

9:03:12 AM

SENATOR ANNA FAIRCLOUGH, Alaska State Legislature, Juneau, Alaska, sponsor SB 132, announced that the CS before the committee addressed clean-up language for SB 132.

She remarked about the difficulty from statutes in previous legislative bodies for individuals turning 65 in receiving their one-car motor vehicle benefit for registering without fee. She detailed that an individual turning 65 after January 1 may have to wait for their benefit for nearly two years due. She explained that the current auto registration is for two years. She stated that the initial legislative intent was not to have an individual 65 or over wait 2 years. She asserted that her intent is to fix the wrong in delaying registration benefits to individuals who turn 65.

9:04:13 AM

TALLY TEAL, Staff, Senator Fairclough, Alaska State Legislature, Juneau, Alaska, addressed the CS for SB 132. She said there are three changes from the original bill. First, after discussion with Amy Erickson from the Alaska of Administration-Division of Motor Vehicles (DMV), a language change was made that specifies a person must be 65 at the time of registration to be eligible for the exemption. She explained that DMV was concerned about any confusion about the possibility of having to refund fees for someone who had registered at age 64 earlier in the year and would turn 65 with an expectation for a refund. Second, at the request of the DMV, an effective date will for the bill will be January 1, 2015 in order to keep records and accounting as clean as possible. Third, language was added to the title to make it specific to vehicle registration fee exemptions for seniors.

CHAIR DYSON asked to clarify that if a person turns 65 after they registered their vehicle, the individual has to wait the two years.

MS. TEAL [indicated "yes" with a gesture.]

CHAIR GIESSEL asked to confirm that the fiscal note is zero.

MS. TEAL answered yes.

SENATOR FAIRCLOUGH pointed out that the fiscal note is indeterminate. She said DMV thinks the fiscal note will be very minimal and the effect will be a very small amount.

CHAIR DYSON asked if anyone wanted to testify. He noted that no one requested to testify. He announced that the Chair will entertain a motion.

[9:06:52 AM](#)

SENATOR GIESSEL SENATOR moved to report CS for SB 132, version 28-LS1218\N from committee with individual recommendations and attached zero fiscal note.

[9:07:06 AM](#)

CHAIR DYSON announced that seeing no objection, CSSB 132(STA) passes from committee.

[9:07:12 AM](#)

CHAIR DYSON announced the committee will stand at ease.

[9:08:30 AM](#)

CHAIR DYSON called the committee back to order.

SB 104-APPROPRIATIONS FROM THE DIVIDEND FUND

[9:08:39 AM](#)

CHAIR DYSON announced that SB 104 is before the committee. He noted that SB 104 was introduced the previous week and some discussion occurred. He revealed that Mr. Banks has worked with two or three different state executive branch personnel and excellent suggestions were received. He set forth that the intent is to incorporate the suggestions into the bill. He stated that the purpose at today's meeting is to discuss the changes with the intent to act on SB 104 at the following meeting.

[9:09:36 AM](#)

JOSHUA BANKS, Staff, Senator Dyson, Alaska State Legislature, Juneau, Alaska, explained that SB 104's four major goals are as follows:

1. Restore crime victims to pre-offense condition.
2. Establish a reliable funding source for the Violent Crimes Compensation Board (VCCB).
3. Sets a priority for the use of the Criminal Fund (CF).
4. Uses a "vehicle" for compensation that already exists in statute.

MR. BANKS explained the sectional analysis for SB 104 as follows:

Section 1, subparagraph (A) makes the language for the legislative intent for taking away a felon or certain misdemeanants' Permanent Fund Dividend (PFD) uniform with our priority order set in SB 104.

Section 1, subparagraph (B) would ensure that money from ineligible individuals' PFDs goes into CF before it is spent. The purpose of this language change was to make sure that there wasn't an end-run to avoid giving money to victims.

Section 2, subsection (a), this section in total gives direction on how to spend the CF; it is a new section that would create AS 43.23. Subsection (a) creates a priority order for how the CF should be appropriated.

[9:11:42 AM](#)

He continued to address the sectional analysis as follows:

The priority order that we are setting is:

1. The Violent Crimes Compensation Board to make payments for victims.
2. The Child Support Services Division to pay child support arrearages owed by incarcerated individuals.
3. State approved court-ordered drug or alcohol rehabilitation costs.
4. The Department of Corrections for other incarceration costs.

Subsection (b), the VCCB will give a report to the Department of Revenue (DOR) showing the amount of compensable claims that could have been given to victims and the amount that would have been needed to pay the first amount. The reason why we have two amounts in this section is if they didn't have enough money in the previous year, they can request what is needed. Also, in the case in the future, if they end up not granting the money that was appropriated in the previous year, they will just need to ask for what they need.

Subsection (c), the Child Support Services Division (CSSD) will send the amounts of child support arrearages owed by incarcerated individuals to the DOR.

Subsection (d) will have the court system report on how much they need to operate drug and alcohol rehabilitation programs.

Subsection (e) will have DOR look at the reports given in sections (b), (c), and (d), and determine how much each agency should receive from the CF based on the priority set in subsection (a).

[9:13:28 AM](#)

SENATOR COGHILL noted Section 2 and asked if the CF was placed at the top of the list and the rest of the list stayed the same.

MR. BANKS replied that the current statute does not have a priority order. He added that the priority list is based upon the Governor and legislature as to who should receive funds.

CHAIR DYSON informed the committee that SB 104's primary intent is to specify victims as the first priority. He noted in previous legislation it was assumed that victims were listed first.

SENATOR COGHILL asked to clarify that penalties for court-ordered drug and alcohol treatment will be tallied and assessed rather than the actual cost for treatment.

MR. BANKS replied that the court system does not have records for treatment program costs. He said the intent to have the Department of Corrections (DOC) report treatment program costs.

[9:15:20 AM](#)

CHAIR DYSON explained that there are two groups who kind of get money for victims to propitiate them: DOL for court-ordered adjudication and VCCB. He specified that DOL cannot begin their work until final adjudication and the process can take months or years. He said VCCB can begin immediate recompense for victims. He asserted that SB 104 does not touch DOL's court system orders.

MR. BANKS continued the sectional analysis as follows:

Subsection (f) will have DOR submit a legislative report listing the amounts that should go to each agency; this is going to be done when the operating budget is submitted to the legislature.

Section 3 establishes the CF in statute. Currently there is no statutory reference to the PFD-CF; it is really only in existence for accounting purposes. We felt that it was needed so that all PFDs from ineligible individuals can statutorily be tracked and specify that it is going into the CF. The last sentence in Section 3, page 4, line 28, you will see that nothing in this section creates a dedicated fund and the purpose of that is to avoid misconstruing that this fund is creating a dedicated fund. In Article IX, Section 7 of the Alaska Constitution; it prohibits the dedication of funds to a specific purpose. The Alaska Supreme Court did a good precedent case on Sonneman v. Hickel, which dealt with the Alaska Marine Highway System Fund. The court said that even though the money automatically goes into the Marine Highway Fund through revenue received from the Marine Highway, because the legislature is not forced by law to spend that money in the fund on the Marine Highway, it does not violate the dedicated funds clause. So we worked with Legislative Legal to make the language in the CF very similar to the Marine Highway Fund so that we can avoid the dedicated funds clause.

SENATOR COGHILL asked to clarify that anything in the CF can be appropriated by the legislature for any purpose.

MR. BANKS answered yes.

[9:18:41 AM](#)

He continued the sectional analysis on Section 4 as follows:

In paragraph 6 we are giving DOR additional regulatory authority to implement AS 43.23.031, which is Section 2 of our bill. Page 6, subsection 11 will allow DOR to use the list ineligible individuals provided by DOC to determine how much child support arrearages are owed by these individuals.

CHAIR DYSON noted that original intent was to have victims paid 50 percent from the CF and 50 percent from the Victims Compensation Fund. He explained that SB 104 allows VCCB to do what is appropriate for the victim and the perpetrator will be on the hook to repay what the perpetrator is able to do. He remarked that it was his own experience with criminal activity that as part of the criminal's rehabilitation and or restoration that many individuals do what they can for restoring the victim.

[9:20:41 AM](#)

MR. BANKS summarized the sectional analysis as follows:

Section 5 will set an effective date for July 1, 2014.

SENATOR COGHILL asked if an inmate has to apply for a PFD and can an inmate be forced to apply for a PFD.

MR. BANKS replied no. He specified that inmates are ineligible to receive a PFD. He said the state has a quasi-garnishment process where an inmate's PFD is taken away and put into the CF.

SENATOR COGHILL asked to clarify that an inmate is an Alaskan resident and the PFD is a transactional question whether they apply or not with the state getting the PFD for correctional costs.

CHAIR DYSON added that fund distribution will be dictated by the set priorities.

[9:22:08 AM](#)

SENATOR WIELECHOWSKI asked if inmates housed outside of Alaska were still considered Alaska residents.

MR. BANKS responded that he did not know.

[9:23:11 AM](#)

DAN DEBARTOLO, Director, Permanent Fund Dividend Division (PFDD), Alaska Department of Revenue, Juneau, Alaska, responded that PFDD receives information from DOC and the Department of

Public Safety (DPS) strictly for instate individuals. He explained that PFDD is not making the assumption for individuals who are out of state. He asserted that out of state individuals would not be counted.

SENATOR WIELECHOWSKI asked to clarify that an inmate housed outside of the state does not meet any of the requirements or exceptions to receive a PFD.

MR. DEBARTOLO clarified that PFDD never puts an application through on behalf of inmates. PFDD receives a list of individuals that meet the criteria in the statute whether or not they are a felon or misdemeanor, whether they were sentenced or incarcerated. He said since PFDD does not receive an actual application, the assumption is made that the individual would have applied for a PFD had the individual not been in one of those particular situations. He explained that PFDD does not know where sentenced inmates are incarcerated.

CHAIR DYSON asserted that bringing the prisoners home has a collateral benefit.

[9:25:50 AM](#)

CHAIR DYSON announced that SB 104 will be held in committee and asked Mr. Banks to review the CS for SB 104.

MR. BANKS said the CS for SB 104 changes the following:

The first change that we are looking at making is in Section 1, page 2, line 20: after "victims," we would like to add "and operating costs of the Violent Crimes Compensation Board;" the purpose of this is to allow VCCB to continue using the CF to fund their operating costs. Currently the money that they get from the CF goes towards compensation of victims as well as the operating costs.

CHAIR DYSON asked if the change just puts in statute that which is already the practice.

MR. BANKS answered yes.

[9:27:28 AM](#)

MR. BANKS continued to address the CS for SB 104 as follows:

On page 3, line 14: we are doing the same thing, adding operating costs to the VCCB.

At the end of page 3 and the first line of page 4: we are deleting Subsection 1 and putting in the language "to the Crime Victim Compensation Fund established under AS 18.67.162 for payments to crime victims and operating costs of the Violent Crimes Compensation Board." This will just mirror the language that is currently used to allow the VCCB to receive money from the CF.

On page 4, line 2: after "arrearages," we would add the words "owed by incarcerated individuals with minor children;" the purpose of this is to put a time limit on how much money from the CF will go to pay child support arrearages. You will have offenders that have life sentences and when they start they have a three year old child, but 15 years later they are not a minor child anymore and so not in need of child support at that point.

On page 4, line 3: we will be deleting "to a state approved rehabilitation program," and substitute that for "to the Department of Corrections."

CHAIR DYSON asked what the previously noted change accomplishes.

MR. BANKS answered that the court system does not track drug rehabilitation costs and DOC will report drug rehabilitation costs.

[9:29:38 AM](#)

He continued the address the CS as follows:

Page 4, line 9: add "and operating cost of the Violent Crimes Compensation Board" at the end of line 9.

Page 4, line 12: after "individuals," add "with minor children;" again, to put in that time limit.

CHAIR DYSON asked if the previous change is a change in policy. He specified that placing "with minor children" does not change what the policy is, just puts it in statute.

MR. BANKS answered correct. He explained that minor children currently receive child support and do not receive support when they are no longer a minor.

He continued to address the CS as follows:

Page 4, line 13: we are deleting "court system" and replacing that with "Department of Corrections."

CHAIR DYSON set forth the following to the committee:

I want it clearly on the record that my intention that the funds that will be available for crime victims will go back and catch up on arrearages and what is due to them. It's not just this year's victims and this year's court ordered restitution, it is to go back and catch up on what they were ruled to get. If I didn't say it before, DOC realizes they are going to take a decrement in their budget from these funds, but indeed with the PFD going up and the prison population significantly increasing; there may not be a huge hit. The other thing is, under the Affordable Care Act, DOC can now get reimbursement from Medicaid; so that will be additional funds that will backfill from these funds that won't be going to prisoner healthcare.

[9:32:57 AM](#)

SENATOR COGHILL asked to clarify that the change allows the flow of money into a fund that will go into a program to help victims. He noted that the Department of Law (DOL) is still proceeding with court ordered claims that are owed and asked how DOL's claims collections works with the victim's funds. He asked to clarify that DOL is going to go after restitution and that money flows in a different way.

MR. BANKS relied that DOL's statutes will not be changed. He specified that DOL will continue to seek court-ordered restitution. He specified that SB 104 will allow money to go to VCCB, a fund that is different than restitution. He explained that VCCB can give a "grant" to a victim before there is a conviction.

SENATOR COGHILL remarked that he did not want the legislature to relax on restitution. He asserted that the victim's restitution avenue be held firm. He said the DOL budget must include the necessary tools for restitution.

[9:34:31 AM](#)

CHAIR DYSON added that DOL's Collection Department has accelerated and intensified their efforts. He noted that DOL's Collection Department is getting two or three times the amount

of restitution versus two years ago. He noted his appreciation that the Governor and the Administration have shown a significant amount of enthusiasm for getting after victims' restitution. He remarked that the affected departments have been supportive.

CHAIR DYSON announced that the intent is to move the bill at the next committee meeting, [SB 104 is held in committee]. He asked if anyone in the room or online would like to testify.

9:36:00 AM

CHAIR DYSON closed public testimony.

9:36:06 AM

There being no further business to come before the committee, Chair Dyson adjourned the Senate State Affairs Committee at 9:36 a.m.