

HOUSE FINANCE COMMITTEE

April 7, 2016

8:48 a.m.

8:48:51 AM

CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 8:48 a.m.

MEMBERS PRESENT

Representative Mark Neuman, Co-Chair  
Representative Steve Thompson, Co-Chair  
Representative Dan Saddler, Vice-Chair  
Representative Bryce Edgmon  
Representative Les Gara  
Representative Lynn Gattis  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Cathy Munoz  
Representative Lance Pruitt  
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Mark Luiken, Commissioner, Department of Transportation and Public Facilities; Heather Fair, Right-Of-Way Chief, Department of Transportation and Public Facilities; Brodie Anderson, Staff, Representative Steve Thompson; Kim Skipper, Staff, Representative Dan Saddler;

PRESENT VIA TELECONFERENCE

SUMMARY

HB 259 RELOCATION ASSISTANCE FOR FED. PROJ/PROG

HB 259 was REPORTED out of committee with a "do pass" recommendation and with a previously published zero fiscal note: FN1 (DOT).

HB 188 PERSON W/DISABILITY SAVINGS ACCOUNTS

CSHB 188 (FIN) was REPORTED out of committee with a "do pass" recommendation and with one zero fiscal note by the Department of Health and Social Services and one fiscal impact note by the Department of Revenue.

Co-Chair Thompson reviewed the agenda for the day.

#hb259

HOUSE BILL NO. 259

"An Act relating to relocation assistance for federally assisted projects and programs; and providing for an effective date."

[8:50:17 AM](#)

MARK LUIKEN, COMMISSIONER, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, explained that the purpose of the bill was to bring Alaska statutes into compliance with federal law. He continued that when right-of-ways were acquired for public transportation purposes federal law required the department to compensate property owners for the value of the property and to provide relocation benefits to displaced families, businesses, and farms. Under the federal initiative known as MAP 21 [Moving Ahead for Progress], the previous federal transportation bill passed in 2012, the state's funding partners had made it easier to qualify and increase the maximum relocation assistance available to the affected parties. Benefits paid to Alaska families and businesses related to the program were eligible for federal reimbursement. He thanked the committee for hearing the bill and considering its passage. He was happy to respond to any questions.

Co-Chair Neuman asked why the state needed the bill since the state could already accept federal funds without legislative approval.

[8:51:53 AM](#)

HEATHER FAIR, RIGHT-OF-WAY CHIEF, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, asked Co-Chair Neuman to elaborate on his question.

Co-Chair Neuman restated his question. Ms. Fair confirmed that the state already had authorization to accept federal funding. However, the current statutes limited- the department's ability to pay the funding to families, farms, and businesses. There was a statutory limit that did not currently comply with the new federal maximums. The bill would bring the state into compliance with the new federal maximums.

[8:52:56 AM](#)

Co-Chair Neuman asked Ms. Fair to explain further. He had worked with the commissioner on expansions within the state. He asked her to provide sideboards including the previous limit and the current limit. Ms. Fair explained that the limits had been raised under the MAP 21 bill for federal highways. Under previous legislation by congress, business reestablishment payments were only limited to \$10,000. They were now \$20,000 under federal limits. Fixed payments in lieu of actually moving and reestablishment used to be only \$20,000 and was now \$40,000. The perimeters around replacement housing for home owners used to include having to live in your home 180 days and now was only 90 days. The limit used to be \$22,500 and now it was \$31,000. The final increase was replacement housing for tenants that were not owners. She explained that being a 90 day tenant used to be \$5250 and was now \$7200.

[8:54:18 AM](#)

Co-Chair Neuman clarified that the state was required to assist people that had been displaced because of eminent domain. Commissioner Luiken responded in the affirmative. He emphasized that it was purely the relocation assistance piece of the process - to help people when they were moving.

[8:54:53 AM](#)

Representative Wilson asked if it was all federal funding or if there was state funding as well. Ms. Fair responded that there was a portion of state funding that could be applicable. The state's share was roughly 9 percent. It was a small amount relative to the total cost of relocation. The federal government's share was about 91 percent.

[8:55:34 AM](#)

Representative Wilson asked her for the definition of "reasonable" noted in the language of the bill. Ms. Fair replied that there were definitions in the federal regulations to which they were being referred to in the bill under Section 1.

[8:55:59 AM](#)

Representative Munoz asked how the department dealt with businesses that had a loss of business due to a transportation project. She wondered if there was a reimbursement policy to deal with the issue. Ms. Fair reported that the state did not compensate for business losses, but it did compensate for relocation and for reestablishment of a business under federal law.

Representative Kawasaki asked if similar legislation in other states had eased eminent domain takings. He asked if that was the purpose of the legislation.

Ms. Fair stated that it was specific to relocations apart from the acquisitions. In general, congress' purpose was to help assist families for relocation and businesses for reestablishment. Any type of relocation could be disruptive and congress recognized that prices had gone up, costs to relocate had increased, and it was time to adjust the amounts available to eligible parties.

Representative Kawasaki suggested that it was a substantive policy call when discussing eminent domain and federal road projects which he wanted the committee to be aware of.

[8:57:56 AM](#)

Representative Guttenberg relayed being involved with a project in his district. The right-of-way had been on private property. The department had been willing to move a building or a septic system. He asked if there was an example of a building needing to be moved or a similar situation. He wondered about the qualifications. Ms. Fair replied that the bill assisted with some qualifications which allowed an easier pathway by reducing the number of days that a person had to be a homeowner or tenant from 180 to 90 days. As far as relocating a building or a septic system, that fell under the category of acquisition which the bill did not address. Relocation meant moving to another site.

[8:59:52 AM](#)

Representative Gattis asked about farms. She wondered why farms were mentioned independent of businesses. She asked about the distinction for farming.

Ms. Fair suggested that in federal law there was a distinction for farming. The law was referred to in the new legislation. She admitted that she was also a fellow farmer.

Representative Gattis thought it was important to recognize issues that accompanied a right-of-way on a farm. It was possible that with a right-of-way farming could potentially not be possible on either side or crossing could be impeded. There had been certain situations that came up around these issues. She wondered if such issues were the reason for farming having a distinction over other businesses.

Ms. Fair stated that the federal government made the distinction because of the reasons Representative Gattis had brought up. The bill did not address the specific issues mentioned, only the relocation of a farm, for example.

[9:01:35 AM](#)

Representative Gattis thought it was a lengthier conversation. She suggested that some of the same issues could apply to any business.

[9:02:05 AM](#)

Vice-Chair Saddler wanted to know historic numbers of people that had been displaced by federally assisted programs and the associated costs.

Ms. Fair stated that the effective date was in October 2014. There was just a hand full of people and businesses that had increased eligibility. The state's share of the costs were estimated to be \$12,000 in retroactive payments. Through a design process the state tried to minimize relocations as best as possible understanding how disruptive they could be.

[9:03:04 AM](#)

Vice-Chair Saddler wanted a firm number.

Ms. Fair stated that there were about a dozen people that qualified for additional money under the statute since the effective date.

[9:03:35 AM](#)

Representative Kawasaki referenced Section 3 regarding business and moving expenses but not acquisitions, he wondered if there had been any relocations resulting from various right-of-way acquisitions in the Fairbanks area. He asked if there were examples of a business having to move. He provided an example of a veterinary clinic on the corner of a Fairbanks intersection that had to be moved. He wondered if his example was one where moving expenses were compensated above the \$10,000 cap.

Ms. Fair responded that the veterinarian clinic was an example where the state assisted in relocation. It was prior to October 2014. However, it would be an example where they would be eligible for more in relocation but not acquisition. Acquisition was always market value or greater.

[9:04:51 AM](#)

Co-Chair Thompson OPENED public testimony.

[9:05:06 AM](#)

Co-Chair Thompson CLOSED public testimony.

[9:05:11 AM](#)

AT EASE

[9:06:46 AM](#)

RECONVENED

Commissioner Luiken reemphasized that the purpose of the bill was to bring the state into compliance with federal law so that the state was able to pay Alaska residents what they would be due in additional relocation benefits.

Co-Chair Neuman MOVED to REPORT HB 259 out of committee with individual recommendations and the accompanying fiscal note(s). There being NO OBJECTION, it was so ordered.

HB 259 was REPORTED out of committee with a "do pass" recommendation and with a previously published zero fiscal note: FN1 (DOT).

9:07:49 AM

AT EASE

9:10:22 AM

RECONVENED

#hb188

HOUSE BILL NO. 188

"An Act relating to financial accounts for persons with disabilities; relating to financial institutions; relating to property exemptions; relating to securities; and providing for an effective date."

9:10:41 AM

Co-Chair Neuman MOVED to ADOPT the proposed committee substitute for HB 188, Work Draft (29-LS0787\G). There being NO OBJECTION, it was so ordered.

Representative Thompson invited his staff, Mr. Anderson to the table to explain the differences between Version I [N] and the committee substitute version G.

BRODIE ANDERSON, STAFF, REPRESENTATIVE STEVE THOMPSON, explained the changes to the committee substitute. There were four changes in the bill from the previous version. He noted the first change was on Page 1 of the previous Version P [N] on lines 2 and 3 in the title. It deleted "Creating a limited property exemption for money in or paid from a financial account in the program with an individual with a disability". The second change was on Page 9, lines 2-8 of Version P [N]. It deleted Section 06.65.260, the exemption from creditor claims which removed the exemption from the bill. The third change was also in Version P [N] on Page 11 [12], lines 20-12 [17-18]. It deleted conforming language from subsection 11. The final change was all other sections after the deletion were remunerated to reflect the new sections.

9:12:37 AM

Representative Munoz asked Mr. Anderson to repeat the first change. Mr. Anderson responded that it was a title change which deleted the sections referencing the exemption. In the previous version the lines were on Page 1, lines 2-3.

Vice-Chair Saddler wanted to answer two questions from earlier meetings. There had been a question about whether there was a need for funds in the ABLE account to be protected from creditors. In the CS before the committee the section was deleted that would have provided the protection against creditors and state law including child support orders. There was no inhibition to prevent a creditor from going after the amount of funds in the account. One of the questions that had been asked concerned the lack of a zero fiscal note from Department of Health and Social Services (DHSS). The department had consulted with Department of Revenue (DOR) and currently there was a zero fiscal note reflecting the minimal to implement the bill. The cost could be covered with the department's existing budget. There had been some discussion about what level of disability qualified a person to open an ABLE account and how a disability was determined. He answered that a person had to either be eligible for supplemental security income or meet the same standard. The standard stated that the disability standard for children for claiming benefits under the supplemental security income program was based on the disability which meant that they had to have marked and severe functional limitations. The certification of the limitations had to include a copy of the individual's diagnosis relating to that person's relative impairments and signed by a licensed physician under the penalty of perjury.

Vice-Chair Saddler continued that there was a question as to how to be sure a person was using their ABLE account for the appropriate expenses. The answer was that they had to file the appropriate paperwork with the IRS to document their deposits and their disbursements from their ABLE account. If someone were to lie on their tax return they would be subject to the same penalty that placed Al Capone in jail. Lastly, it was asked at what level of precedence did the state have in recovering Medicaid expenses from an ABLE account. The state was fifth. He elaborated that the order of precedence was that first their estate went to pay

the costs and expenses for the administration of the estate; second, the regional funeral expenses; third, debts and taxes with a federal preference for child support past due payments; fourth, reasonable and necessary medical expenses of the last illness of the person who died; fifth, debts and taxes with preference including Medicaid payments; and sixth, all other claims. If there was any other money remaining it would go to the person's estate to be disposed of by will or through the probate court process.

[9:15:50 AM](#)

Representative Gattis thanked the sponsor. She thought the bill was better in the current day than in the previous day.

Vice-Chair Saddler appreciated the thoroughness of the committee process.

[9:16:16 AM](#)

Representative Kawasaki asked about the fiscal note. He stated that part of the ABLE Act was to shield assets within the account for purposes of Medicaid and other programs. He thought it would have a fiscal impact if the account was no longer an asset of the individual.

Vice-Chair Saddler responded in the negative. He explained that Medicaid was not a means except for the original qualification. He relayed that the means testing was primarily for supplemental security income.

[9:17:03 AM](#)

Representative Kawasaki asked if it included other programs the state had specifically through the group that also had asset tests.

Vice-Chair Saddler responded in the affirmative.

[9:17:18 AM](#)

Representative Gara remarked that there would be a certain number of additional people who would qualify for Medicaid which he thought was appropriate. He hoped in the following year the legislature would not have to make additional cuts

to make up for it. He thought the individuals deserved treatment. He asked Vice-Chair Saddler if he had an opinion on the issue.

Vice-Chair Saddler did not see how it would add to the categories of people who qualified for Medicaid.

[9:17:56 AM](#)

Representative Gara indicated the bill would help shield assets from being counted which he thought was completely fine. He thought some people would qualify for Medicaid who currently did not.

[9:18:15 AM](#)

KIM SKIPPER, STAFF, REPRESENTATIVE DAN SADDLER, responded that the bill was intended for disabled people, some who could be on Medicaid and social security income. However, she did not think it would add to the number of people on Medicaid but would enable the people in the disabled condition to save money.

Vice-Chair Saddler added that it would be people who were disabled and often did not have income. He did not believe there would be many people that would be working, earning income, and having an ABLE account sheltering income. The point of the bill was to shelter their income from interest on an account.

[9:19:14 AM](#)

Representative Gara did not have a problem with additional recipients. He just did not want to have to see an additional reduction to offset it. He also asked if disabled people would no longer be protected from creditors on the ABLE account with the new version of the bill. He wondered if the representative was comfortable with the change.

Vice-Chair Saddler stated that he was correct. The protections were removed in the newest version of the bill. He was comfortable because he did not see much of a risk of someone going bankrupt. There was an interest and concern expressed about people that would potentially seek to abuse the account. He did not see much of a risk and did not

think the protection was all that effective in the first place.

[9:20:22 AM](#)

Representative Wilson stated that the definition from the previous day versus how it was depicted in the current version of the bill was much different. She was in support of the bill. She knew folks who had wanted to get part time jobs. However, social security took \$2 away from a person for every dollar they made which was not a big incentive to get a job. She thought any extra income was a benefit. The bill would allow folks to get a job without being penalized. She really appreciated a better definition which made her feel more comfortable with the legislation. She thanked the bill sponsor.

[9:21:28 AM](#)

Co-Chair Neuman reviewed the fiscal notes from the bill.

[9:22:07 AM](#)

Co-Chair Neuman MOVED to REPORT CSHB 188 (FIN) out of committee with individual recommendations and the accompanying zero and fiscal impact notes. There being NO OBJECTION, it was so ordered.

CSHB 188 (FIN) was REPORTED out of committee with a "do pass" recommendation and with one zero fiscal note by the Department of Health and Social Services and one fiscal impact note by the Department of Revenue.

Co-Chair Thompson reviewed the agenda for the following meeting.

#

ADJOURNMENT

[9:23:01 AM](#)

The meeting was adjourned at 9:23 a.m.