

HOUSE FINANCE COMMITTEE
January 26, 2017
5:31 p.m.

5:31:39 PM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 5:31 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Les Gara, Vice-Chair
Representative Jason Grenn
Representative David Guttenberg
Representative Scott Kawasaki
Representative Dan Ortiz
Representative Lance Pruitt
Representative Steve Thompson
Representative Cathy Tilton

MEMBERS ABSENT

Representative Tammie Wilson

ALSO PRESENT

Representative Andy Josephson, Sponsor; Lisa Weissler, Staff, Representative Andy Josephson; Joan Wilkerson, Attorney, Civil Division, Department of Law; Representative Charisse Millet.

SUMMARY

HB 23 INS. FOR DEPENDS. OF DECEASED FIRE/POLICE

HB 23 was HEARD and HELD in committee for further consideration.

#hb23

HOUSE BILL NO. 23

"An Act relating to major medical insurance coverage under the Public Employees' Retirement System of Alaska for certain surviving spouses and dependent children of peace officers and firefighters; and providing for an effective date."

Co-Chair Foster reported that Representative Wilson was excused.

[5:32:57 PM](#)

Co-Chair Foster announced that public testimony would be heard Wednesday, February 1. He asked members to submit their amendments by the following Friday at 5:00 p.m.

Co-Chair Seaton MOVED to ADOPT the proposed committee substitute (CS) for HB 23, Work Draft (30-LS0258\0). There being NO OBJECTION, it was so ordered.

[5:34:28 PM](#)

REPRESENTATIVE ANDY JOSEPHSON, SPONSOR, indicated he would provide some background on the bill. The background, as Representative Chuck Kopp had stated the day before on the floor in a special order, could be traced to the territorial days and earlier. There had been 70 officers who had lost their lives serving the public. What prompted the more recent legislative action was a spate of tragic deaths of officers in the line of duty. In terms of the legislative history, after the deaths of the troopers in Tanana, Governor Sean Parnell made an administrative fix. Additionally, Representative Josephson proposed HB 3, which tracked Governor Parnell's efforts; and Representative Charisse Millet proposed HB 66, which became the vehicle that ultimately passed [the House] in mid-June, 34-0. There had thus far been 9 committee hearings. The most recent bill was HB 4002 when Representative Millet's bill was withdrawn, and that bill became the vehicle that passed in the 4th special session in the 29th Legislature. Representative Millet had conducted special hearings. A working group was created, including a number of assistant attorneys general and, he believed, Senator John Coghill, Representative Millet, and most recently, his office. He read from a prepared statement:

Police officers and firefighters are unique in that their job description requires that they run to danger and put their lives at risk to save ours.

Tragically, this sometimes results in their death. Most recently, Allen Brandt became Alaska's 49th police officer to be murdered in the line of duty. In 2014, Alaska Troopers Scott Johnson and Gabe Rich were shot and killed in the line of duty in Tanana. Just months ago, Arn Salao, an Anchorage police officer, was shot five times. That he survived is nothing short of a miracle.

I also think about the recent spate of police officers killed in the line of duty in the Lower 48; including a young woman and a man near retirement age in Palm Springs, the deaths of five police officers in Dallas, and the killing of officers in Baton Rouge. In 2015, 123 police officers were killed in the line of duty in the U.S.

These officers are a part of a brotherhood/sisterhood with our own fallen heroes here in Alaska. They are all deserving of our respect and gratitude.

But respect and gratitude won't help the families who are left to cope, not just with the loss of their loved one, but also with the loss of health security.

As part of our social compact, we owe more to the police officers and firefighters who risk facing danger just by going to work. At the least, we owe them the assurance that their families will be cared for if the worst happens.

Currently, we rely on patchwork solutions with the state and municipalities covering survivors' health premiums on an ad hoc basis. What we need is a real fix that is predictable and long-lasting, and reflecting a genuine policy of care.

That is the aim of the proposed committee substitute to HB 23. The bill will ensure that surviving dependents' health insurance premiums are paid by either the state or by municipal employers, or a combination of both.

The original version of HB 23 would have covered some survivors through the state retirement system known as PERS. The proposed substitute was developed based on a concept developed by an administration working group that met during the interim and that recently worked with my staff.

Under the PERS approach, survivors were offered coverage more suited to an older generation of recipients. The substitute will continue the survivors' health care coverage at the same level that applied at the officer or fire fighters' death - coverage more suited to young families.

Though the final decisions belong to this committee and the legislature as a whole, I made certain choices for the committee substitute before you. One decision was whether to require municipalities to cover local police officers and fire fighters.

This was an easy decision for me. Anchorage has more police officers than there are state troopers and I want to know their families and families in other communities will have the same benefits as state employees.

[5:41:05 PM](#)

In addition, under the PERS proposal, 47 municipalities who participate in PERS would have covered their employees' survivors' health insurance. If we simply decided not to use PERS, we would drop those employees that the House saw covered by a vote of 34-0 in June 2016 on a bill similar to the original proposal in HB 23.

Representative Josephson explained that the working group concluded that the Public Employees' Retirement System (PERS) system was not the preferred method. According to a review of minutes of the past nine hearings, as well as media coverage, there had been push-back about "opening up PERS." The current bill used a claims concept, with a trust fund created within the Department of Public Safety (DPS), overseen by the Department of Administration, rather than an actuarial method. He stated that the CS was not a PERS bill. He explained that PERS used a definition for peace

officers and fire fighters that covered certain people in the statute, which included a number of jobs. However, he continued, there were police officers, first responders, and line of duty employees who were not in PERS. The PERS model was not perfect to begin with. He stated that there were police officers, for example, in the city of Fairbanks, who were not in PERS. They had their own retirement system. He did not know how this came about. He was sure that former mayor of Fairbanks, Representative Thompson, knew all about it. He thought that the bill would shrink and really target the line of duty. He stated that they would be using a definition for police officer, not peace officer. He thought the bill really hit the value statement that the legislature wanted to make, that involved the first responders, the line of duty folks. He mentioned that there were officers in the Lower 48 who were killed while sitting behind their desks, and who would probably not be covered under this bill.

Representative Josephson continued to read a prepared statement:

Because smaller municipalities will be more impacted by the requirement to pay survivors' premiums, the proposed substitute provides for the state to cover 50 percent of the premiums if the worse happens and a community loses one of their own.

Representative Josephson further explained that there are communities that have sworn officers, such as Hoonah, which lost two police officers, but could not easily cover the claims brought by the survivors. The bill asked for the state to help to the tune of 50 percent of those cities' costs. He added that this social compact, this value statement, would cost between \$170,000 and \$200,000, and that the municipalities' obligations would be somewhat comparable. He detailed that communities with their own police officers (e.g. Nome) would pay nothing if they did not lose an officer. The burden was restricted.

He continued to read from the prepared statement.

This is the 10th hearing on this subject in this body. I can only imagine the effect on employee morale and the alternative reality if no benefit is offered. I hope that we can finally join with 14 other states and get this important matter decided. It is time we gave

substance to our appreciation for the invaluable work that first responders and line-of-duty employees engage in every day.

[5:46:38 PM](#)

Representative Josephson, in reading through the minutes of previous meetings, saw that there had been a lot of discussion about PERS, and the body asked about the fact that the Clerk I position would not receive this coverage. He stated that there was a memo from Megan Wallace, Legislative Legal Services, dated mid-June [2016], in which she says with some confidence that the proposal was an economic interest and therefore the courts would say that the difficulties of going into the field with loaded assailants in front of them rendered these employees more prone to suffer the ultimate price. He surmised that there was no equal protection problem. One of the assistant attorneys general said the same thing in June of the previous year, albeit for a different bill. He thought the logic carried over to the present CS.

[5:48:10 PM](#)

Representative Thompson clarified that the police and fire fighters in Fairbanks were under the PERS system and always had been.

Representative Josephson stated that his office had been told that either the City of Fairbanks or the borough was not a member of PERS.

Representative Thompson indicated that the City of Fairbanks police and fire fighters were covered but that the borough was likely not covered with volunteer fire departments. He referred to an email from the Department of Fish and Game stating that it had lost 27 of its people in the field, more than the 16 lost by the State Troopers. (copy on file). He asked how those people would be covered.

Representative Josephson thought that with a fiscal plan those people could also be covered. He mentioned a demarcation for people who "run to harm." He suggested that it was a policy call. He conveyed that the impetus was the deaths of Officers Johnson and Rich, and the consensus was based on the line of duty.

Co-Chair Foster indicated that there were people available to answer questions.

[5:51:46 PM](#)

Representative Thompson asked how many municipalities in the state had a population of under 10,000. He remarked that a municipality was an organized, chartered community. For example, the City of Delta Junction had a fire department. The city was not a municipality, but it did have fire fighters who were paid. He wondered where the line would be drawn in those situations.

Representative Josephson suggested that the representative perhaps offer an amendment proposed from the Department of Law that would better clarify that the bill was meant to cover full-time sworn officers and fire fighters. He understood that there were certain ambiguities. He stated that because there were about 50 communities under the PERS system, there were about 157 total communities, and many had a police force but were not in the PERS system. He thought the representative would find that the fiscal note would present a very modest cost.

Representative Thompson asked if the municipality was liable for retroactivity and for officers in the past.

[5:54:17 PM](#)

Representative Josephson thought the answer was no. He thought that the CS was a prospective bill. He recalled the death of an officer in a helicopter crash. He thought that generally the government entities had done the honorable thing, but that it was better to have a system in place.

Representative Guttenberg was a little troubled by the process of buying insurance instead of fulfilling the PERS obligation to get people to the end of the day. He stated that he had been dwelling on the issue for several months. He wondered if Representative Josephson had considered setting up a fund such that every municipality contributed to it to cover every employee, regardless of job classification. He recalled Officer Johnson, who was well past 20 years [of service], nearing 25, and just fulfilling that obligation to the point when he would have normally retired. He suggested that not every employee charging into the line of fire was a police officer or a fire fighter,

for example in the case of an accident. He wondered where it was necessary to draw the line. He thought it was possible to cover PERS obligations for everyone who lost their lives in the line of duty by setting up a separate fund.

[5:57:25 PM](#)

Representative Josephson was looking for a response in the minutes. He was not aware of a system set up to collect a PERS share for someone who was no longer an employee as they were deceased.

LISA WEISSLER, STAFF, REPRESENTATIVE ANDY JOSEPHSON, recounted that in building the CS, the discussion included an actuarially calculated fund. The decision in version 0 had been to make it needs-based. In that way the communities' funds would not be tied up. She hoped the amount needed would be small. There were other problems with the PERS system. For example, it wouldn't make it available to communities that did not participate in PERS. For a dependent to be covered, there had to be a surviving spouse. It would not have covered a single employee who died in the line of duty who had a child. The fund was developed to be more flexible and to cover other situations.

Representative Guttenberg remarked that the committee was writing policy and could make such decisions.

[5:59:55 PM](#)

Representative Kawasaki thanked Representative Josephson for bringing the bill forward. He noted there had been questions brought before the finance committee at an earlier time about whether Village Public Safety Officers (VPSOs) could be covered at the same level. He asked him to comment.

Representative Josephson responded that he was very disturbed by what had happened to Officer Madole. There had been discussion about adding VPSOs. The exception was that they were funded through non-profit regional corporations. He elaborated that VPSOs are linked to the [DPS](#) and undergo training in Sitka. He thought that there may be exceptions to this. He thought VPSOs' work was critical and that they needed their day before the legislature; however, the bill did not address the issue.

Representative Kawasaki asked about the payout for small municipalities and asked why the number was set at 10,000. He wondered if it had to do with a municipality being able to contribute.

Representative Josephson responded that small communities were concerned about the ability to "pony up" the entire expense.

Co-Chair Foster acknowledged Representative Chuck Kopp in the audience.

[6:02:56 PM](#)

Ms. Weissler responded that the 10,000 number came from a discussion with the Alaska Municipal League (AML). She thought that there were around 8 communities above 10,000.

Representative Kawasaki indicated that the majority of the versions of the bill had a retroactivity clause. The current legislation did not appear to have such a clause but had an immediate effective date. He asked whether it was open to any previous officer or their family. If so, he wondered what the total number would be.

Representative Josephson deferred to Ms. Weissler.

[6:04:19 PM](#)

Ms. Weissler reported that the effective date came from the administration. She believed that families currently in the situation were being covered, and should the bill pass they would be eligible to apply for continuing coverage from either the state or the municipality.

Representative Kawasaki commented that the language appeared to state that anyone previous to that date could also become eligible as they would fit the criteria laid out by the commissioner of DPS.

Ms. Weissler called upon a lifeline to comment.

Co-Chair Foster wondered if someone from the administration was available to comment.

[6:05:44 PM](#)

JOAN WILKERSON, ATTORNEY, CIVIL DIVISION, DEPARTMENT OF LAW, turned to page 4, Section 5 of the CS and stated that the act would take effect on July 1, 2017. As anticipated, a person needing these benefits could apply, and if they established eligibility, could be considered for coverage. One of the mandates necessary for establishing eligibility was whether a person had access to medical insurance already. If someone already had medical benefits such as retirement benefits, and did not need additional insurance, then they would not be eligible. The CS deliberately did not have a retroactive impact, but there was not a cut-off date.

[6:07:22 PM](#)

Representative Pruitt referred to the previous year. There had been concerns with the actual makeup of the bill. He appreciated the work done over the interim. He thought the bill delivered what the legislature wanted. He wanted to understand if the intent of the legislation was to provide for the family member for life or to act as a transition or bridge towards whatever was in their future. He asked what the legislation was trying to accomplish.

[6:09:25 PM](#)

Representative Josephson stated that he had a 1-year solution, as had Governor Parnell. He believed that Representative Millet's proposal had a time limit, around 23 or 26 years-of-age for the children, with Medicare eligibility for the spouse, or perhaps in the event that there was other coverage available. Previously the finance committee had accepted a 10-year limit. The current bill did not have that. It would cover widows or widowers until there was other coverage, upon which they would no longer be eligible. This took into account the Affordable Care Act and the date in the federal law of 2026.

Representative Josephson added that the 10-year limit had problems, such as in the case of an unborn or 1-year-old child, who would lose coverage at the age of 11.

[6:11:23 PM](#)

Representative Pruitt thought that the year 2026 made sense. There was a timeframe in which a transition had been

allowed to take place. He asked Representative Josephson whether he would be willing to talk about a transition timeframe for as long as a surviving family member would take to move forward with their lives.

Representative Josephson thought there was an argument for the timeframe to be longer. He referred to officers' wives testifying that on the 31st of the month in which their spouse fell in the line of duty, they had lost their insurance. He commented on the possibility of them simply getting a life insurance policy. He felt that the legislation created a special privilege that he thought should be afforded to the families because their spouses paid the ultimate price. He pointed out that a \$100,000 policy payment would not help much in the event of four children, aged 2, 4, 6 and 8.

[6:14:22 PM](#)

Representative Pruitt thought there was an understanding that it was not about providing but was a discussion regarding the point at which the state felt it had fulfilled its responsibility. He moved to the discussion about municipality contribution. He understood that a community like Anchorage would make a contribution of 100 percent, while a smaller community would make a contribution of 50 percent. He felt that making the contribution mandatory could be a problem.

Representative Josephson responded that AML was celebrating the legislation. He asked Representative Pruitt to repeat his question.

Representative Pruitt was unclear whether the legislature could mandate contributions from municipalities.

Representative Josephson answered that the Department of Law was currently examining that very question.

Ms. Wilkerson added that the department had received the CS late in the day and would prefer to review the bill and come back with the information. She specified that she specialized in retirement and benefits and that the assistant attorney general who specialized in municipal law was working on the question and would give answers as soon as possible.

Representative Pruitt assumed the fiscal notes were attached to the previous version of the CS and not to the version before the committee.

Co-Chair Foster said that he would check but thought that his assumption was correct.

[6:17:46 PM](#)

Co-Chair Seaton asked if, as on page 3, line 3, "in the line of duty" included people on call 24 hours per day.

Representative Josephson thought that it would, but needed clarification on the question.

Co-Chair Seaton was trying to find out if 24 hour on call duty was included in the scope of the language.

[6:19:11 PM](#)

Representative Josephson responded that if he were going to defend someone in court who had been denied a benefit, he would probably not use the term "line of duty," but he would have to exclude paragraph 4 and say that his late client was not willfully negligent. He agreed that subparagraph 3, line 3, page 3 was fundamental.

Co-Chair Seaton asked Representative Josephson to come back to the committee on the exact parameters of the CS. Co-Chair Seaton referred to page 3, line 10. He asked whether "becomes eligible to receive..." referred to a spouse who remarried and could get insurance through the spouse's coverage, and whether that would be deemed "becoming eligible to receive major medical benefits..." or whether it referred to contracted major medical insurance.

Representative Josephson thought it would mean that if a person was eligible for insurance then the benefit would cease. The benefit in the bill was full, so he thought that a spouse's coverage would render them ineligible. He believed the issue was a matter of debate.

[6:21:43 PM](#)

Co-Chair Seaton gave the example of a husband and father of young children who was killed in the line of duty. Consequently, the mother became eligible for Denali

KidCare. He asked whether that eligibility for the Medicaid coverage under Denali KidCare, which the state provided, would be the prime eligibility, and whether the current CS would no longer apply.

Representative Josephson deferred to his colleagues.

Co-Chair Seaton stated that he was simply putting the questions on the table.

Ms. Wilkerson responded that as per page 3 of the CS, the dependent child would be eligible for alternative insurance and would therefore qualify for the other insurance [i.e. Denali KidCare], but the surviving spouse would not be covered through Denali KidCare and would still be eligible for insurance.

Co-Chair Seaton thought that Denali KidCare covered the parents of eligible children as well.

Ms. Wilkerson apologized that she was not adequately familiar with that coverage and thought that it was only for children.

Co-Chair Seaton pointed to page 3, line 12 of the CS and asked about the language regarding Medicare eligibility and the age of 65. He thought that the language "Medicare eligible age" should be included as it depended upon when a person was born and that the Medicare-eligible age was progressing and could be 67 or a different age.

[6:24:36 PM](#)

Representative Ortiz asked if during the discussions they had considered prorating that smaller community number even further, for example at 5,000 it went to 25 percent.

Ms. Weissler responded that the solution had come up recently. They had struggled with the notion of requiring municipalities to cover their employees and recognized the problems for small communities. The idea in the CS was just one way to mitigate the impact. She suggested that there could be three tiers, but that that was a policy decision.

Co-Chair Foster would be setting the bill aside. He asked that amendments be submitted by Friday, February 3.

HB 23 was HEARD and HELD in committee for further consideration.

Co-Chair Foster reviewed the agenda for the following day.

#

ADJOURNMENT

6:26:48 PM

The meeting was adjourned at 6:26 p.m.