

SENATE FINANCE COMMITTEE

April 4, 2017

1:49 p.m.

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CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 1:49 p.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Click Bishop, Vice-Chair
Senator Mike Dunleavy
Senator Peter Micciche
Senator Donny Olson
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

Buddy Whitt, Staff, Senator Shelley Hughes; Kaci Schroeder, Assistant Attorney General, Department of Law; Leslie Ridle, Deputy Commissioner, Department of Administration; Kate Sheehan, Director, Division of Personnel and Labor Relations, Department of Administration; Juli Lucky, Staff, Senator Anna MacKinnon.

PRESENT VIA TELECONFERENCE

Rob Carter, Division of Agriculture, Palmer.

SUMMARY

SB 6 INDUSTRIAL HEMP PRODUCTION

SB 6 was HEARD and HELD in committee for further consideration.

SB 31 NO ST. EMPLOYEE PAY INCREASE FOR 2 YRS

SB 31 was HEARD and HELD in committee for further consideration.

#sb6

SENATE BILL NO. 6

"An Act relating to industrial hemp; and relating to controlled substances."

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Co-Chair MacKinnon wondered why the three-year limit was chosen to maintain records following the sale of industrial hemp. She remarked that the federal government typically maintained a five or ten-year record.

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BUDDY WHITT, STAFF, SENATOR SHELLEY HUGHES, replied that it was modeled after other hemp programs in other states. He stressed that it was important to keep the records for a length of time.

Co-Chair MacKinnon wondered whether the GPS location needed to be included in the bill. Mr. Whitt responded that Division of Agriculture would have that GPS information in their records, so it was not included in the piece.

Co-Chair MacKinnon looked at page 4, line 29; and page 5 line 1. These locations referenced to fees collected that equaled the regulatory costs of the proposed new industry. She wondered why the word "approximate" was used. She noted that other licensures were required to pay for the cost of the program support, and the word "approximate" was not used for those programs. The legislature normally confines the program to a fee that supported the costs. Mr. Whitt replied that "approximate" was used, because it was a new industry for the state. The fees associated with the registration would be charged prior to the growth of the prop. There was no way to know exactly the regulatory costs, because the crop had not yet grown.

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Co-Chair MacKinnon wondered whether the words "may" or "shall" for inspections would cause an increase to the

fiscal note. She wondered why there was no issued violation related to a problem in the industry. Mr. Whitt replied that the Division of Agriculture may want to use some leniency in the beginning to review the crop at a violation.

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ROB CARTER, DIVISION OF AGRICULTURE, PALMER (via teleconference), stated that the language was by the bill sponsor. The interpretation by the division was that the should the incumbent of the stop-sell order not follow the order; the violation would be allocated to that individual.

Co-Chair MacKinnon looked at line 19, which said "may import into the state, and resell industrial hemp seeds." The guidance said that the Drug Enforcement Agency (DEA) needed to be involved in that transaction. Mr. Carter replied that the DEA would need to issue a form that allowed the transfer of a controlled substance. The registrant could apply through the DEA to import seeds, and then recoup the costs to another registrant of the program.

Co-Chair MacKinnon queried the comment on \$500, and whether that was consistent with other places in code for a violation. Mr. Whitt replied that in AS 03.05.090, it stated that the Division of Agriculture had the authority to issue a civil penalty for up to \$500 for farmers who were not following the guidelines. He remarked that there was an additional provision to increase that fee to a Class A misdemeanor.

Co-Chair MacKinnon wondered whether the \$500 would be a deterrent, should the chemical content be higher. Mr. Whitt replied the Division of Agriculture had the authority to fine \$500 as often as was needed. He stressed that the crop would have a THC content of 0.3. He stated that a THC content of above 1.0 would be a criminal violation.

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Vice-Chair Bishop hoped to have an expert to discuss industrial hemp versus the "other kind of pot." Mr. Carter replied that he could answer that question.

Vice-Chair Bishop understood that hemp would grow an excess of above four feet. The retail marijuana for consumption

did not grow that tall. He understood that the leaves were the same, but hemp did not have any buds; and the stock and fibers were different. Mr. Carter replied that the planting densities determined the trait differences. He stated that industrial hemp was upright and recreational marijuana was a larger and wider plant to create flowers. He stated that the largest difference was that the recreational growers were growing cannabis sativa for the flowers and the female byproducts. The industrial hemp industry grew male and female plants in one setting, resulting in pollination and seed development.

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Vice-Chair Bishop asked how the THC content was lowered in hemp production. He wondered whether the seeds were modified. Mr. Carter responded that industrial hemp seeds have not been modified in a laboratory.

Co-Chair MacKinnon queried the definition of "cannabidiol (CBD) oil." Mr. Whitt responded that CBD oil was already available in stores. He stated that the CBD content would be high in a low THC content plant.

Co-Chair MacKinnon wondered how CBD oil would be used. Mr. Whitt responded that CBD oil was the oil content of industrial hemp that was used in products like lotions, soaps, and candles.

Co-Chair MacKinnon looked at page 6, line 8, and wondered why "peace officer" was used instead of law enforcement. Mr. Whitt replied that it matched current statute.

Mr. Whitt continued to discuss the Sectional Analysis (copy on file):

AS 03.05.079 Page 6, lines 16-20

A registered grower of industrial hemp is guilty of a violation when they produce industrial hemp with a THC content of between .3 percent and 1 percent.

Sec. 5 - AS 03.05.100 Page 6, Lines 21-23

The definition of industrial hemp, which meets the definition is federal statute, is the plant Cannabis Sativa L containing less than 0.3 percent delta-9 tetrahydrocannabinol (THC).

Sec. 6 - AS 11.71.900 Page 6, Lines 24-31 and Page 7, Lines 1 and 2

Amendment in statute to remove industrial hemp as defined in AS 03.05.100 from the list of controlled substances.

Sec. 7 - AS 17.20.020 Page 7, Line 3-5

Food containing industrial hemp as defined in AS 03.05.100 is not considered adulterated.

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Co-Chair MacKinnon queried the regulation of food and consumption with the product used in food. Mr. Whitt replied that the Department of Environmental Conservation (DEC) regulated food.

Co-Chair MacKinnon looked at Section 7, page 7, and queried the regulation of industrial hemp in the food supply. Mr. Carter that food products were regulated by DEC.

Co-Chair MacKinnon queried a fact sheet about the foods that contained hemp.

Mr. Whitt continued to discuss the Sectional Analysis:

Sec. 8 - AS 17.38.900 Page 7, Lines 6-14

Amendment in statute to further remove industrial hemp as defined in AS 03.05.100 from marijuana definitions.

Sec. 9, Page 7, Lines 15-30

By December 1, 2024 the Department of Natural Resources will issue a report to the legislature on the regulation of industrial hemp in the state of Alaska.

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Co-Chair MacKinnon remarked that currently under federal law, hemp was a controlled substance. She understood that the bill removed hemp from the controlled substance schedule. Mr. Whitt deferred to Ms. Schroeder.

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KACI SCHROEDER, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, explained that marijuana was a schedule 1 controlled substance under federal law. She stated that the farm bill

specifically addressed hemp production, should the THC level be below 0.3 percent.

Co-Chair MacKinnon believed that it was still considered a controlled substance. Ms. Schroeder queried the document referenced.

Co-Chair MacKinnon stated that she was looking at the "Notice of Guidance" (copy on file). Ms. Schroeder replied that following Section 706 would allow that conduct with industrial hemp.

Co-Chair MacKinnon queried comments on the controlled substance issue. Mr. Carter responded that Section 706 of the Farm Bill did not remove industrial hemp from the National Controlled Substance Act, but it did give legal by-proxy to the activities authorized under the Industrial Hemp Pilot Program. The language removing hemp from the Alaska Controlled Substance list was to protect the agricultural industry.

Co-Chair MacKinnon remarked that marijuana was still on the controlled substance list in the state. Therefore, hemp would now be seen differently. Ms. Schroeder replied that without the change in the bill, hemp would fall under the same definition as marijuana.

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Senator Dunleavy queried the other restrictions on marijuana in the state.

Co-Chair MacKinnon felt that it was a circular argument.

Senator Dunleavy felt that hemp was getting more scrutiny than marijuana. Ms. Schroeder replied that personal use marijuana allowed for baking into foods, operating with one ounce or less; or twelve plants within a dwelling.

Senator Dunleavy replied that those were limited under the state criminal code. Ms. Schroeder agreed.

Mr. Whitt furthered that the bill was under scrutiny. He stressed that the bill sponsor wanted to ensure that the public interest was protected.

Co-Chair MacKinnon stressed that the marijuana discussion over a previous legislature did not remove marijuana from the controlled substance list. The purpose was that it was still listed as a controlled substance at the federal level.

Senator Micciche wondered whether a better analogy might be the difference between a grape and wine. Ms. Schroeder replied that she could not comment on that analogy.

Senator Micciche queried the point at which hemp could be transported across state lines in the form of a product. Ms. Schroeder deferred to Mr. Carter.

Mr. Carter stated that an inviable hemp seed could be sold and transported; and any non-raw agricultural product could be transported worldwide.

Mr. Whitt stated that the Department of Law (DOL) pointed out one area that he hoped the committee would consider. He noted that there were numerous issues of confiscating CBD oil across the state. He looked at page 5, lines 21 through 25, where the bill specifically addressed hashish and hashish oil as defined in AS 11.71.900; but not to include CBD oil. He stated that to remove oil from the criminal code to avoid confiscation of CBD oil in the future, there needed to be an exclusion of CBD oil from AS 11.71.900.

Co-Chair MacKinnon asked to review the fiscal notes

Vice-Chair Bishop addressed the fiscal notes.

Co-Chair MacKinnon announced that there would be a discussion about the need for \$25,000 to draft the regulations.

SB 6 was HEARD and HELD in committee for further consideration.

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AT EASE

[2:35:19 PM](#)

RECONVENED

Co-Chair MacKinnon handed the gavel to Vice-Chair Bishop.

#sb31

SENATE BILL NO. 31

"An Act relating to compensation, merit increases, and pay increments for certain public officials, officers, and employees not covered by collective bargaining agreements; and providing for an effective date."

2:35:58 PM

LESLIE RIDLE, DEPUTY COMMISSIONER, DEPARTMENT OF ADMINISTRATION, introduced herself.

KATE SHEEHAN, DIRECTOR, DIVISION OF PERSONNEL and LABOR RELATIONS, DEPARTMENT OF ADMINISTRATION, introduced herself.

Ms. Sheehan discussed the question and answer memo dated April 4, 2017 (copy on file):

1. Senator Bishop asked how long it would take an employee to get to the end of the alphabet?

It would take approximately 39 years to get to the end of the alphabet, assuming that an employee remained at the same range and on the same base salary schedule the entire time.

2. Senator Von Imhof asked how long it would take to double an employee's initial salary?

It would generally take 37-40 years to double the initial salary (remaining at the same range and schedule) and assuming no COLAs.

However, assuming an annual COLA of 1 percent, the employee's initial salary would be doubled in about 23-24 years. Assuming an annual COLA of 1.33 percent (to somewhat mimic a 1-1-2 agreement), the salary would double in about 20-21 years. Again, this assumes that the employee stays at the same range and on the same schedule.

3. Senator Bishop asked what the attrition rate is for non-covered employees?

Please see the attached report titled "Copy of EX EE and PX Separation Rates".

4. Senator Bishop asked the total salary cost for non-covered employees?

The payroll of the non-covered people in the salary bill is \$370 million with the University (but excluding the Legislature, Courts and AMHS).

5. Senator Dunleavy asked the total of personal services for the State?

Salaries of employees for which we have budget position detail is \$1.8 billion (excludes University, Legislature, Courts and AMHS). Salaries of ALL employees is \$2.4 billion (includes University, Legislature, Courts and AMHS).

6. Senator Bishop asked the number of employees at each range and each step?

Please see the attached report titled "Copy of XE Emp Counts". You will notice on this report that there are terms such as "inapplicable" and many employees at a range 0. "Inapplicable" refers to employees that do not use a standard schedule (e.g. Governor and commissioners).

There are several instances where PCNs at a range 0 appear to be filled by multiple employees:

- o 07-4550 Sub Teacher - AVTEC - 35 entries
- o 01-501SF, 01-501SA, 01-501SG Election Translator - 18 entries
- o 01-505YF, 01-505YJ, 01-505YW, 01-505YN Election Official - 11 entries
- o 05-0065 Sub Teacher Mt. Edgecumbe - 64 entries

Senator Dunleavy asked for an "At Ease."

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AT EASE

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RECONVENED

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Senator Dunleavy noted that the governor could hire beyond step F, with the proper written determination of extraordinary need. He also noticed that there were no restrictions for hiring between steps A through E. Ms. Sheehan remarked that the personnel rules governed whether someone could be hired above step A. She stated that one could be hired through step F, if there were exceptional qualifications and/or recruitment difficulties.

Senator Dunleavy wondered whether the governor was required to make a written determination for hiring between steps A through E. Ms. Sheehan replied that the governor did not need to make a written determination for hiring between A through A. She stated that any hiring at a pay increment for steps J or higher would need a written determination.

Senator Dunleavy surmised that there would still be a salary override, but no written explanation was required for steps A through E. Ms. Sheehan responded that the appointing authority must show that there were recruitment difficulties and/or exceptional qualifications.

Ms. Sheehan continued to discuss the document:

7. Senator Dunleavy asked for the number of non-covered employees on salary overrides and advanced step placement?

Attached is a report titled "Executive Branch Employees with Rate Overrides" as well as the report which shows all non-covered employees hired above A step. If a job class isn't listed, then that position did not include anyone hired above A step.

Regarding the override report, there are many reasons why an employee may be paid on a rate override such as commissioner's pay since it is set by the State Officers Compensation Commission and doesn't necessarily correlate to a range or step on the salary schedule.

Regarding the report of non-covered employees hired above A step, it's also important to note

that some of these employees had earned that step at that range already so can be appointed back at that same step under the Personnel Rules. Therefore, these may not all be due to the advanced step placement rules.

To provide some clarification, advanced step placements, for partially-exempt employees, can be granted in three ways:

- o Under the Personnel Rules for recruitment difficulties (2 AAC 07.320)
- o Under the Personnel Rules for exceptional qualifications (employees can be placed on the highest merit step, F step, if both recruitment difficulties and exceptional qualifications are found)
- o AS 39.27.011(k) allows the Governor to authorize a step higher than F if the determination is made that the action serves a critical governmental interest of the state, the employee possesses exceptional qualification, recruitment difficulties exist, or the action is necessary due to competitive salaries in the relevant labor market.

Senator Dunleavy wondered whether the document contained the salary overrides. Ms. Sheehan replied in the affirmative.

Senator Dunleavy queried the estimator in the packet. Ms. Sheehan replied that there were over 2000 salary overrides.

Ms. Sheehan continued:

8. The Committee requested to know the number of hires since the hiring restriction went into effect in January, 2016?

Please see the report titled "State Employment Statistics for 2016".

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Vice-Chair Bishop asked for a restatement. Ms. Sheehan replied that the last report was the State Employee Statistics for 2016. She noted that the department was down 804 employees, but reduced by 2500 positions.

Vice-Chair Bishop queried the department exemptions of the hiring freeze. Ms. Sheehan agreed to provide that information.

Senator Dunleavy wondered whether the discussion was for a "restriction" or a "freeze." Ms. Sheehan replied that it was a restriction.

Senator Dunleavy asked whether hiring was occurring. Ms. Sheehan replied in the affirmative.

Vice-Chair Bishop noted the exempt positions that were not included in the restriction.

Senator von Imhof asked for more information about the employee reduction of 804 and the 2500 positions. Ms. Sheehan agreed to provide that information.

Senator Dunleavy queried a definition of "people." Ms. Sheehan agreed to provide that information.

Vice-Chair Bishop requested a breakdown by department. Senator Dunleavy agreed.

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JULI LUCKY, STAFF, SENATOR ANNA MACKINNON, explained the fiscal notes.

Vice-Chair Bishop wondered whether the employees had received a pay freeze or cut before the bill. Ms. Sheehan replied that there were not any freezes on merit increases or pay increments. She remarked that the administration did not give any cost of living allowances.

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AT EASE

[2:54:04 PM](#)

RECONVENED

SB 31 was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

The meeting was adjourned at 2:54 p.m.