

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 22, 2018

1:32 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Kevin Meyer, Vice Chair
Senator Gary Stevens
Senator Berta Gardner
Senator Peter Micciche

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 165

"An Act relating to the Alaska comprehensive health insurance fund; and providing for an effective date."

- MOVED SB 165 OUT OF COMMITTEE

SENATE BILL NO. 161

"An Act relating to the licensure of dentists."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 165

SHORT TITLE: COMPREHENSIVE HEALTH INSURANCE FUND

SPONSOR(S): SENATOR(S) MACKINNON

01/26/18	(S)	READ THE FIRST TIME - REFERRALS
01/26/18	(S)	L&C, FIN
02/22/18	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 161

SHORT TITLE: DENTISTRY: TEMPORARY PERMIT

SPONSOR(S): HEALTH & SOCIAL SERVICES BY REQUEST

01/26/18	(S)	READ THE FIRST TIME - REFERRALS
----------	-----	---------------------------------

01/26/18 (S) L&C, FIN
02/22/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR ANNA MACKINNON
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of SB 165.

BRITTANY HARTMANN, Staff
Senator Anna MacKinnon
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Delivered a sectional analysis for SB 165.

ANNA LATHAM, Deputy Director
Division of Insurance
Department of Commerce, Community and Economic Development
Juneau, Alaska
POSITION STATEMENT: Answered questions related to SB 165.

SENATOR DAVID WILSON
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of SB 161.

JASMIN MARTIN, Staff
Senator David Wilson
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Introduced SB 161 on behalf of the sponsor.

DAVID NIELSON, Member
Board of Dental Examiners
Anchorage, Alaska
POSITION STATEMENT: Testified in support of SB 161.

DR. JULIE ROBINSON, Delegate
Alaska Dental Society, Anchorage, Alaska
POSITION STATEMENT: Testified in support of SB 161.

ACTION NARRATIVE

[1:32:30 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Stevens, Micciche, Gardner, and Chair Costello. Senator Meyer joined the committee during the introduction.

SB 165-COMPREHENSIVE HEALTH INSURANCE FUND

[1:34:24 PM](#)

CHAIR COSTELLO announced the consideration of SB 165.

[1:34:49 PM](#)

SENATOR ANNA MACKINNON, Alaska State Legislature, Juneau, Alaska, sponsor of SB 165, introduced the legislation speaking to the following sponsor statement:

In 2015, the individual health care market in Alaska was in a precarious state. There were only two insurers with current enrollees in individual healthcare plans in Alaska, and each insurer was experiencing significant losses. Average premium rate increases in 2015 were 38.7 percent for one insurer and 39.9 percent for the other. In 2016, one of Alaska's only two remaining insurers gave notice that they would be withdrawing from the Alaska individual market effective January 2017.

The 29th Legislature passed HB 374 in 2016, which created the Alaska Reinsurance Program, and allowed the Division of Insurance to apply for a federal Section 1332 state innovation waiver under the Affordable Care Act (ACA). That legislation included a sunset date of June 30, 2018 to ensure that the diversion of insurance premium taxes from the general fund was not relied upon as a long-term funding mechanism. In July 2017, the waiver was approved by both the Department of Health and Social Services and the Department of Treasury based on the application submitted by the division, which requested pass-through funding for the Alaska Reinsurance Program.

The federal award for this waiver was approximately \$322 million over five years. The award is to be used, in conjunction with the Alaska Reinsurance Program, to continue to stabilize the individual healthcare market in Alaska.

This legislation extends the sunset provision on the Alaska comprehensive health insurance fund by six years, from June 30, 2018 to June 30, 2024 to allow for the continuation of the Alaska Reinsurance Program and receipt of the federal funding.

The bill also removes the requirement that funds collected under AS 21.09.210 (tax on insurers), AS 21.33.055 (unauthorized insurance premium tax), AS 21.34.180 (surplus lines tax) and AS 21.66.110 (annual tax on title insurance premiums) are to be deposited into the Alaska comprehensive health insurance fund within the general fund.

Passage of HB374 by the 29th Legislature has resulted in stabilization of the individual insurance market. The Section 1332 state innovation waiver provides funding for the Alaska Reinsurance Program, through the Alaska comprehensive health insurance fund. Now this legislation is necessary to ensure the continued effectiveness of the Alaska Reinsurance Program, meet the intent of the waiver, and receive the federal funding.

[1:36:30 PM](#)

BRITTANY HARTMANN, Staff, Senator Anna MacKinnon, Alaska State Legislature, Juneau, Alaska, provided the following sectional analysis for SB 165.

Section 1: Removes the requirement for the Department of Administration to separately account for revenue collected under AS 21.09.210 (tax on insurers), AS 21.33.055 (unauthorized insurance premium tax), AS 21.34.180 (surplus lines tax) and AS 21.66.110 (annual tax on title insurance premiums), and to deposit net proceeds into the Alaska comprehensive health insurance fund.

Section 2: Extends the sunset date of the Alaska comprehensive health insurance fund from June 30, 2018 to June 30, 2024.

Section 3: Repeals net proceeds definition due to the deletion of language in Section 1.

Section 4: Adds a retroactivity clause, making Section 1 of the bill retroactive to July 1, 2018 if Section 1

of the Act takes effect after June 30, 2018, and making Section 2 of the bill retroactive to June 30, 2018 if Section 2 of the Act takes effect after June 30, 2018.

Section 5: Provides for an immediate effective date for Section 4.

Section 6: Provides for a June 30, 2018 effective date for Section 2. This is to correspond with the end of the state fiscal year for accounting purposes.

Section 7: Provides for a July 1, 2018 effective date for Sections 1 and 3.

CHAIR COSTELLO asked the reason for the immediate effective date on the retroactivity clause in Section 4.

MS. HARTMANN deferred the question to Ms. Latham.

[1:38:58 PM](#)

ANNA LATHAM, Deputy Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska, explained that the reason for the retroactivity clause in Section 4 is to adhere to the terms and conditions of the Section 1332 State Innovation Waiver that was approved for five years.

MS. LATHAM said she also had several points to make on the bill. First is that the request to extend the sunset date of the Alaska comprehensive health insurance fund for six years is based on indications that the Centers for Medicare and Medicaid Services may extend the five-year 1332 waivers for an additional year. She also pointed out that since House Bill 374 was enacted in 2016, premium taxes have been deposited into the comprehensive health insurance fund. Prior to that all premium taxes collected by the Division of Insurance were deposited into the general fund. Should SB 165 pass, new premiums will be collected and deposited into the general fund. The third point is that the federal government is paying for about 90 percent of the reinsurance program. The terms and conditions of the waiver include the requirement that the [legislature] enact legislation to authorize the reinsurance program beyond the state fiscal year. The state must also appropriate sufficient funds on an annual or other appropriation basis for the Alaska Reinsurance Program (ARP) to operate as described in the state waiver application. The state must convey copies of its authorization

and the appropriation and other relevant legislation to the U.S. Department of Treasury and the U.S. Department of Health and Human Services within two days of passage.

The federal waiver and the reinsurance program is contingent on this fund extension.

SENATOR GARDNER asked what surplus lines means.

MS. LATHAM explained that those are types of insurance that take on more risk. The brokers also pay the premium taxes directly. There are two types. Foreign surplus lines are domiciled in the U.S. and file annual statements with the National Association of Insurance Commissioners. Alien surplus lines only file statements with the NAIC who is responsible for their regulation. Lloyds of London is an example

[1:42:38 PM](#)

SENATOR MEYER commented that the division appears confident that the money will continue for the next five or six years.

MS. LATHAM said her confidence is based on the approval and the terms and conditions of the waiver. The division received verification of the \$58 million award to fund the program for 2018.

SENATOR MICCICHE asked if the extension is through December 31, 2022.

MS. LATHAM said that is correct.

CHAIR COSTELLO reminded the committee that it had some familiarity with this program. Director Lori Wing-Heier gave an update on it recently and the legislature passed the bill in 2016.

SENATOR MICCICHE said he asked the question because SB 165 allows the sunset to extend from June 30, 2018 through June 30, 2024 and the authorization is two years short. He asked if DHSS would need to reapply for the additional two years.

MS. LATHAM said the dates are confusing because insurance premiums are determined based on program years and the payments for the premium are through a calendar year. The federal fiscal year ends in October for federal appropriation and the state fiscal year is for the state match of the appropriation. The division is requesting an extension of the fund through 2024.

[1:45:16 PM](#)

SENATOR STEVENS asked her to talk about the \$25 million the state received from Premera.

MS. LATHAM explained that the \$25 million award was due to Premera making more profit than anticipated. Through an MOU the division directed Premera to award the \$25 million to the reinsurance program so that premiums would be lower for all individuals in the individual market. Awards like that are not anticipated going forward.

[1:46:26 PM](#)

At ease

[1:46:53 PM](#)

CHAIR COSTELLO reconvened the meeting. Finding no one who wished to comment on SB 165, she closed public testimony and looked to the will of the committee.

[1:47:27 PM](#)

SENATOR MEYER moved to report SB 165, version D, from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO announced that without objection, SB 165 moves from the Senate Labor and Commerce Standing Committee.

[1:47:53 PM](#)

At ease

SB 161-DENTISTRY: TEMPORARY PERMIT

[1:50:48 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 161.

[1:51:18 PM](#)

SENATOR DAVID WILSON, Alaska State Legislature, Juneau, Alaska, introduced SB 161 on behalf of the Senate Health and Social Services Committee. He and Senator von Imhof both worked on this committee bill. It is "An Act relating to the licensure of dentists." It would allow the Board of Dental Examiners to grant a temporary license when a dentist is suddenly incapacitated and needs an immediate replacement. When an Alaska dentist is unable to work, it creates an immediate gap in care for Alaskans. Many other health care professionals have a mechanism in place to

issue temporary licenses and SB 161 would allow one for the dental profession.

[1:52:24 PM](#)

JASMIN MARTIN, Staff, Senator David Wilson, Alaska State Legislature, Juneau, Alaska, stated that Senate Bill 161, "An Act relating to the licensure of dentists," would allow the Board of Dental Examiners to issue a temporary license when an incapacitated dentist needs a replacement for an extended period. She said there are so few dental specialists in Alaska that just one incapacitation can leave a large gap in care. She referenced a document that lists the various dental specialties and noted that Anchorage is the only community where all the specialties are represented. Several specialties are represented in Fairbanks, Juneau, and the MatSu area but the remaining communities in the state are either not served or served by a traveling dental specialist. Small communities have historically had difficulty recruiting health care practitioners. SB 161 provides a quick solution through a temporary permit.

[1:53:49 PM](#)

She provided the following sectional analysis for SB 161:

Section 1 amends Sec. 08.36.100, which is the section addressing examination and licensing for dentistry.

Section 2 adds a new section to article 2, Sec. 08.36.254. Temporary permit to substitute for an incapacitated dentist. It details the requirements and process for obtaining this new dental permit.

MS. MARTIN reviewed the fiscal note for SB 161 from the Department of Commerce, Community and Economic Development. Should the bill pass, the Division of Corporations, Business and Professional Licensing will need \$2,600 in FY19 to cover legal costs to amend regulations, printing, and postage. The total revenue collected from the licensing fee will approximately equal the costs.

She noted the letters of support in the bill packets from the Alaska Dental Society and the Alaska State Board of Dental Examiners.

[1:54:58 PM](#)

At ease

[1:57:42 PM](#)

CHAIR COSTELLO reconvened the meeting and advised that members had received the document that shows the breakdown of dental specialists in Alaska.

[1:58:09 PM](#)

SENATOR GARDNER asked if the proposed temporary license holders would have met all the requirements to be a licensed dentist.

SENATOR WILSON deferred the question to dental experts who were available online to answer questions.

[1:58:56 PM](#)

SENATOR MEYER asked if dentists who hold a temporary license would become part of a pool that can be called upon to replace an incapacitated dentist.

SENATOR WILSON directed attention to paragraph (f) on page 2. That language specifies that a temporary permit is initially valid for 90 consecutive calendar days. Permit extensions are allowed but for not more than 240 calendar days during any consecutive 24 months. The idea was not to have a locum tenens dentist who travels to and from Alaska. It is for a temporary substitution in an emergent situation.

SENATOR MEYER asked if there is a pool of temporary licensees to choose from.

SENATOR WILSON said not necessarily.

SENATOR GARDNER directed attention to subsection (c) starting on page 1, line 15. She noted that language is contrary to previous testimony that suggested that there are dentists who treat patients in a cluster of villages. Subsection (c) specifies that the temporary permit is only valid to treat patients "at the address listed on the business license of the incapacitated dentist."

[2:02:00 PM](#)

MS. MARTIN deferred to the experts online.

SENATOR GARDNER directed attention to subsection (g) starting on page 2, line 17. It says the permit can only be extended if the board determines it is necessary to provide essential dental services and has received clearance reports from the National Practitioner Data Bank and the U.S. Drug Enforcement Administration. She asked why those two clearance reports

wouldn't be advisable for the original permit if they are required for the extension.

SENATOR WILSON said the idea is to have more due diligence for a more permanent situation.

[2:03:50 PM](#)

SENATOR STEVENS questioned why someone would apply for a temporary license when they could get a permanent license.

MS. MARTIN replied a temporary permit is appropriate for someone who doesn't plan to practice dentistry in Alaska permanently or is recently retired and willing to temporarily fill the gap.

SENATOR STEVENS asked if the process of getting a permanent license is much more onerous and lengthy.

MS. MARTIN deferred the question to the dentistry board.

SENATOR MICCICHE offered his understanding that someone who applies for a temporary permit could have previously been licensed under AS 08.36.110 but has chosen not to keep up with the requirements under AS 08.36.234. The individual would be a qualified dentist who is not continuing their competency requirements.

MS. MARTIN agreed.

SENATOR MICCICHE pointed out that the initial 90-day temporary permit and three 60-day extensions do not add up to the 240-day maximum. He requested an explanation.

CHAIR COSTELLO suggested the sponsor follow up with the answer since the bill wasn't moving today.

She observed that the members' questions are focused on where the pool of people is coming from. She asked if these could be people licensed in other states or Alaskan dentists who aren't practicing.

SENATOR WILSON said it could be either or both scenarios.

CHAIR COSTELLO asked him to talk about the public safety aspect; she assumed that the clearance reports referenced on page 2 in subsection (g), paragraphs (1) and (2) would include a background check.

SENATOR WILSON explained that the Board of Dentistry will thoroughly vet and select the qualified applicants. This includes an extensive background check and fingerprinting that goes through the FBI system.

CHAIR COSTELLO asked if the bill covers liability and the client's right to file suit. She also asked if other states have successfully implemented temporary dental licenses.

SENATOR WILSON said his office has not looked at other state laws regarding dentistry. He offered to do some research and follow up with the information.

SENATOR STEVENS offered his understanding that a temporary permit only relates someone who has been licensed in the past. He asked if that excludes a recent dental school graduate who has never applied for and held a permanent license.

SENATOR WILSON replied it would not exclude a recent graduate if they have the qualifications.

SENATOR STEVENS observed that previous testimony that it would need to be someone who was licensed in the past isn't quite accurate.

SENATOR WILSON said he would follow up with clarification.

CHAIR COSTELLO said the committee will wait for an answer to that question too.

She asked if the board meets often enough or has a provision to meet to accommodate these emergency situations. She also asked if the temporary license must be displayed and if the licensee is obligated to inform the patient that he/she has a temporary license.

SENATOR WILSON replied that could be added to the bill if that is the will of the committee.

[2:13:52 PM](#)

CHAIR COSTELLO opened public testimony on SB 161.

[2:14:20 PM](#)

DAVID NIELSON, Member, Board of Dental Examiners, Anchorage, Alaska, stated that the dental board recently noticed that the governing statutes lacked a permitting option that is available to other professional licensing boards in Alaska. The board

approached the dental society to help with the issue that arises in the rare instance that a dentist becomes incapacitated and their patient base can't be absorbed by licensed dentists who are practicing in the state. Creating a temporary permit would allow the board to address this issue without waiting the four to six months it generally takes to collect the information required for an applicant to become credentialed and issued a license.

He mentioned the requirements under AS 08.36.234 and stated that the board is willing to develop regulations that would apply to the new permit. He recalled an earlier question about liability and opined that there would be a requirement that the applicant have a license in good standing in some other U.S. state or territory. He surmised that they would also be in good standing with the National Practitioner Data Bank.

CHAIR COSTELLO asked him to comment on Senator Gardner's question about the temporary permit only being valid "to treat patients of the incapacitated dentist at the address listed on the business license of the incapacitated dentist." Senator Gardner asked if this would make it more challenging for the temporary licensee to treat people in a region.

DR. NIELSON said that was generally meant to mean that practices could occur in satellite offices

CHAIR COSTELLO asked if he had the document that shows the different dental specialties represented in Alaska.

DR. NIELSON said no but he is aware that specialists are concentrated in larger communities.

[2:19:37 PM](#)

SENATOR GARDNER asked for clarification that the people getting a temporary permit would all be licensed practitioners of dentistry.

DR. NIELSON said yes. He added that the board would develop regulations, but he didn't imagine that a recent graduate who had not been licensed in any U.S. state or territory would qualify for this permit.

SENATOR GARDNER asked if the applicants would need to hold an active license to practice dentistry.

DR. NIELSON declined to speak to that and noted that a committee substitute was anticipated. He pointed out that the current draft says it must be a position that is not reasonably filled by current licensees.

SENATOR GARDNER suggested the forthcoming committee substitute should include language about an active license and liability insurance. She also expressed interest in knowing how Alaska's license requirements for dentists compare to other states and if there is a national standard.

[2:22:44 PM](#)

SENATOR MICCICHE pointed out that the bill only waives the continued competency requirements under AS 08.36.234. The temporary permit holder would still need to meet the requirements under AS 08.36.110, which is the qualifications for license. He described some areas of the legislation as "a little foggy."

MR. NIELSON said there is a committee substitute in the other body and he assumes one is forthcoming in the Senate. He wanted it clear that the dental board supports a permit category of this type.

[2:24:05 PM](#)

SENATOR STEVENS asked how long a license remains in effect when a dentist retires.

MR. NIELSON replied the license is valid as long as the dentist pays the annual renewal fees and keeps up with continuing education.

SENATOR STEVENS said he suspects that retiring dentists would maintain their licenses in good standing much the same way that teachers do.

MR. NIELSON agreed that most people keep their license active as long as they feel they can contribute.

CHAIR COSTELLO directed attention to the language in paragraph (e) on page 2. She observed that it will be a burden to reach out to find out if somebody "may reasonably substitute for the incapacitated dentist." She asked the meaning of the phrase may reasonably substitute.

MR. NIELSON replied it probably means that if a general dentist in Anchorage becomes incapacitated, it is reasonable to expect another Anchorage dentist could help.

[2:28:32 PM](#)

DR. JULIE ROBINSON, Delegate, Alaska Dental Society, Anchorage, Alaska, stated that the dental society recently became aware of rare situations where an Alaska dentist becomes incapacitated and their patient base is uncovered for geographic reasons or because the dentist is a specialist and no licensed dentist is willing or able to cover. The Alaska Dental Society supports SB 161 which gives the Board of Dental Examiners an expedited process to grant a temporary permit in such cases.

SENATOR STEVENS asked if the bill would allow the board to decide to substitute a dentist who practices outside the specialty field of the incapacitated dentist.

DR. ROBINSON offered her understanding that nobody outside the specialty field would be approved to substitute for a specialist. Finding a substitute for a specialist is the primary concern, she said. If a specialist who travels to rural areas becomes incapacitated, the specialists in those larger cities may not be able to leave their practices, whereas a specialist from out of state may be able to do that for a limited period.

SENATOR MICCICHE asked for clarification that the bill does not affect a dentist who is licensed in Alaska. They can step in and substitute for another dentist.

DR. ROBINSON said that is correct. It's not uncommon for a general dentist in a larger city to fill in on a short-term basis. It's a different matter if the incapacitated dentist is a specialist who travels to rural communities

SENATOR MICCICHE offered his understanding that currently unlicensed dentists that have previously been licensed may be temporarily permitted to practice through the waiver of continued competency requirements.

DR. ROBINSON said no; the person must have an active license in [Alaska or] another state and thus have continued competency. The bill just waives the fact that the person does not have an Alaska license.

[2:32:42 PM](#)

CHAIR COSTELLO found no one else who wished to testify and closed public testimony on SB 161.

She held SB 161 in committee awaiting answers to several questions.

[2:33:13 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 2:33 pm.