

SENATE FINANCE COMMITTEE
March 27, 2019
9:01 a.m.

9:01:29 AM

CALL TO ORDER

Co-Chair von Imhof called the Senate Finance Committee meeting to order at 9:01 a.m.

MEMBERS PRESENT

Senator Natasha von Imhof, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Click Bishop
Senator Lyman Hoffman
Senator Peter Micciche
Senator Donny Olson
Senator Mike Shower
Senator Bill Wielechowski
Senator David Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Nancy Meade, General Counsel, Alaska Court System; Tim Lamkin, Staff, Senator Gary Stevens; Bob Kehoe, Executive Director, Purse Seine Vessel Owners Association; Frances Leach, Executive Director, United Fishermen of Alaska; Grey Mitchell, Director, Division of Worker's Compensation, Department of Labor and Workforce Development; Senator Cathy Giessel; Senator Mia Costello; Senator Gary Stevens.

PRESENT VIA TELECONFERENCE

Renee Alward, Fisherman's Fund Advisory and Repeals Council, Homer.

SUMMARY

SB 55 TEMP. APPOINTMENTS TO COURT OF APPEALS

SB 55 was HEARD and HELD in committee for further consideration.

SB 61 COMM FISHERMEN'S FUND:VESSEL OWNER CLAIMS

SB 61 was HEARD and HELD in committee for further consideration.

DISCUSSION on PERMANENT FUND DIVIDEND CALCULATION

#sb55

SENATE BILL NO. 55

"An Act relating to judges of the court of appeals; and providing for an effective date."

[9:03:02 AM](#)

SENATOR DAVID WILSON, SPONSOR, presented the legislation.

[9:04:01 AM](#)

AT EASE

[9:04:18 AM](#)

RECONVENED

Senator Wilson continued to present the description of the bill.

[9:05:48 AM](#)

Co-Chair von Imhof acknowledged SENATOR MIA COSTELLO.

Senator Wilson presented the Sectional Analysis (copy on file):

Section 1: Amends AS 22.07.010 to provide an exception for an additional court of appeals judge under AS 22.07.070(c)

Section 2: Conforming amendment to remove the exception for an additional court of appeals judge after a three-year period

Section 3: Adds a new subsection, AS 22.07.070 (c), to allow the chief justice of the supreme court to appoint acting court of appeals judges as needed to

serve for no longer than two years. An acting court of appeals judge must meet the qualifications established under AS 22.07.404.

Section 4: Repeals AS 22.07.070(c) after a two-year period

Section 5: Adds a revisors instruction directing the revisor of statutes to change the catch line of AS 22.07.070 from "Vacancies" to "Selection of court of appeals judges"

Section 6: Establishes that sections 2 and 4 of this act will take effect on July 1, 2021

Senator Hoffman wondered whether the backlogs were included in the testimony.

Senator Wilson replied that it was difficult to figure out the reason for the backlogs. He remarked that there was always a possibility for appeal. He stated that the Court of Appeals recently had judges retire, and the new judge would recuse themselves, so it was difficult for the third judge to see the case.

Senator Hoffman queried the location of the three judges.

Senator Wilson replied that there were only three judges on the Court of Appeals.

Senator Olson wondered why the legislation was presented, if the Courts were not asking for it.

Senator Wilson felt that it was a need that he observed within the court system.

[9:09:55 AM](#)

Senator Olson surmised that the Chief Justice would appoint the Court of Appeals Judge.

Senator Wilson replied that it would be one judge for two years, which was less than the three-year cycle.

Senator Olson stressed that the judges were chosen by the governor, which was chosen from a list from the Judicial

Council. He surmised that the bill bypassed that process, and queried the justification for that bypass.

Senator Wilson replied that there was already a statute that allowed for the Supreme Court Justice to appoint district court judges to serve temporarily for a three-year period.

Senator Olson noted that the Court of Appeals did not see any new evidence, so they were on a different level than the lower courts. He felt that equating the District Court to the Court of Appeals was a "bit of a stretch."

Senator Wilson replied that there was not an attempt to set up a new hierarchy.

Senator Shower asked for an explanation of the Repealer section.

Senator Wilson replied that Section 4 repealed AS 2.07.007c after the two-year period. He stressed that it was not in perpetuity, and had a direct calculated cost to that time period.

Co-Chair von Imhof asked for thoughts about the judge addressing the backlog.

[9:14:34 AM](#)

NANCY MEADE, GENERAL COUNSEL, ALASKA COURT SYSTEM, shared that Court System did not seek this change in statute, but welcomed the change. She remarked that each fall, as the Court System assessed its needs, this was discussed, but took a conservative approach with its request.

[9:19:45 AM](#)

Senator Bishop queried the number of backlogs. He also queried the qualifications the Supreme Court Judge would use to fill the position.

Ms. Meade replied that the statute set out qualifications for a district court judge, and the bill said that the qualifications must be met.

Senator Bishop asked for the number of backlogs.

Ms. Meade replied that the Court of Appeals handled different types of cases, but the number of cases that had been briefed awaiting decision at the end of FY 18 were 341 cases.

Senator Bishop wondered whether the temporary judge would qualify for Judiciary retirement.

Ms. Meade replied in the negative, but would be eligible for Public Employees' Retirement System (PERS).

Senator Wielechowski wondered whether there was a requirement for the Court of Appeals judges to issue decisions within six months.

Ms. Meade responded that there was a statutory requirement that a matter could not be pending for more than six months. She furthered that the definition of "matter pending" was not about the moment a case was briefed.

Senator Wielechowski queried statistics on the frequency in the last two years.

Ms. Meade agreed to provide that information.

Senator Wielechowski wondered whether the Court of Appeals heard the cases as a three-member panel.

Ms. Meade replied in the affirmative.

[9:25:01 AM](#)

Senator Wielechowski wondered how adding one additional person would work.

Ms. Meade replied that the fourth judge was pulled up for a few years, and the panel rotated regularly.

Senator Micciche wondered why this was not a priority for the Court.

Ms. Meade replied that the Supreme Court was cognizant of the fiscal situation, by not asking for more than what was absolutely necessary.

Senator Wielechowski noted that the repealer would take affect July 1, 2021. He wondered whether someone could be appointed on June 30, 2021, and that person serve for two years.

Ms. Meade replied that the fiscal note only had funding available for two years.

Senator Olson wondered how optimistic, with the increased cases, and decreased budgets that there would not be an additional request.

Ms. Meade responded that she did not know how long it would take, but the court was optimistic.

Co-Chair von Imhof wondered whether Ms. Meade had anything to add to the fiscal note conversation.

Ms. Meade replied in the negative.

Co-Chair von Imhof OPENED public testimony.

Co-Chair von Imhof CLOSED public testimony.

[9:30:01 AM](#)

AT EASE

[9:30:40 AM](#)

RECONVENED

SB 55 was HEARD and HELD in committee for further consideration.

#sb61

SENATE BILL NO. 61

"An Act relating to claims against protection and indemnity insurance policies of vessel owners."

[9:31:17 AM](#)

SENATOR GARY STEVENS, SPONSOR, presented the legislation.

Co-Chair von Imhof noted that there was one section of the bill.

[9:33:45 AM](#)

TIM LAMKIN, STAFF, SENATOR GARY STEVENS, discussed the one section of the bill.

Senator Micciche declared a conflict of interest.

9:35:30 AM

Mr. Lamkin directed to the fact sheet (copy on file). He pointed to page 3 which he felt provided important information.

Senator Bishop declared a potential conflict of interest.

Senator Hoffman stated that the also had a commercial fishing permit.

Senator Wilson stated that the also had a commercial fishing permit.

Senator Shower noted that there was no cost to the state, but queried the small impact in the fiscal note.

Senator Stevens stated that he no longer had a commercial fishing permit.

Mr. Lamkin noted that the insurance claims were decreasing, but because of the deductible increase therefore reflected a modest fiscal note covered by the fund itself.

9:38:20 AM

RENEE ALWARD, FISHERMAN'S FUND ADVISORY AND REPEALS COUNCIL, HOMER (via teleconference), spoke in support of the legislation

9:40:27 AM

BOB KEHOE, EXECUTIVE DIRECTOR, PURSE SEINE VESSEL OWNERS ASSOCIATION, testified in support of the bill.

Senator Wielechowski queried the number of vessel owners with PNI insurance.

Mr. Kehoe replied that he speculated that there was not much data on that issue.

9:44:21 AM

FRANCES LEACH, EXECUTIVE DIRECTOR, UNITED FISHERMEN OF ALASKA, spoke in support of the bill.

Senator Olson queried what amount was referred to when discussing a claim.

Ms. Leach replied that the average claim depended on the injury.

Co-Chair von Imhof OPENED public testimony.

Co-Chair von Imhof CLOSED public testimony.

9:48:11 AM

GREY MITCHELL, DIRECTOR, DIVISION OF WORKER'S COMPENSATION, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, introduced himself.

Senator Wielechowski queried the benefits available to a commercial fisherman with no insurance, and the maximum allowable under the Fisherman's Fund.

Mr. Mitchell replied that the Fisherman's Fund provided a benefit of up to \$10,000 for medical costs, which could include travel costs related to medical treatment.

Senator Wielechowski queried any data regarding how many fisherman were injured and were not provided benefits.

Mr. Mitchell replied that the number of claims that the fund receives was approximately 300 per year.

Senator Olson wondered how many claims had been paid out on.

Mr. Mitchell agreed to provide that information.

Co-Chair von Imhof announced that questions could be submitted to her office, consolidated, and distributed.

Senator Bishop explained the fiscal note.

Mr. Mitchell announced that the fund currently had a balance of over \$11 million.

SB 61 was HEARD and HELD in committee for further consideration.

[9:53:05 AM](#)

AT EASE

[9:57:26 AM](#)

RECONVENED

^DISCUSSION on PERMANENT FUND DIVIDEND CALCULATION

[9:57:37 AM](#)

Co-Chair von Imhof announced that the committee was evaluating many different inputs simultaneously.

[10:00:13 AM](#)

Co-Chair von Imhof discussed the presentation, "POMV, Percent of Market Value" (copy on file). She explained that the slide showed the mathematics related to the POMV.

Co-Chair Stedman wondered why there were the different percentages, and why they were averaged rather than taking a previous number. He queried the history of the structure.

Co-Chair von Imhof replied that the reason for the numbers would be discussed later in the presentation. She stated that the intent was to create a controlled and disciplined draw on the Permanent Fund. She stated that the 5 percent was used because most of the similar funds in the world saw a 4 percent to 5 percent draw on the market value.

Co-Chair Stedman surmised that historical market returns were used to determine the percentages.

[10:06:13 AM](#)

Co-Chair von Imhof replied that the 5 percent rate would not change how the fund was managed. She stated that there were funds around the world that had a lower percentage draw.

Co-Chair Stedman wondered whether the lookback would smooth out some predictability.

Co-Chair von Imhof replied that the 5-year lookback was a conservative approach. She stated that she wanted to provide a predictable draw amount.

Senator Bishop reiterated that there were many discussions about the statutory draw amount. He recalled discussions about the predictable budget draw. The effective rate could theoretically be 4.25 percent.

Co-Chair von Imhof replied that was correct in a rising market condition.

[10:10:04 AM](#)

Co-Chair von Imhof looked at slide 2, "Statutory PFD Calculation: FY 2020 example." She noted that there were three statutes.

Co-Chair Stedman wondered whether the income was fairly constant. He wondered why the previously slide showed \$1.2 billion in the ERA, and then 2019 showed \$18.9 billion. He wondered whether those numbers affected the ability to pay the dividend.

Co-Chair von Imhof noted the sum of previous five year statutory income and the big jump from 2017 to 2018 from \$3.2 billion to \$6.3 billion. She stated that it demonstrated high volatility.

Co-Chair Stedman noted that 2010 had \$1.2 billion in the ERA. He recalled that there was a concern in 2009 that there would not be funds available to have a dividend. He recalled a concern about the Permanent Fund being aggressive in the management of their assets to assure that they had the funds to pay a dividend. He noted that the concerns were addressed at the time. He wanted to ensure that it would not happen again.

[10:15:08 AM](#)

Co-Chair von Imhof shared a historical perspective.

Co-Chair von Imhof highlighted slide 3, "Split of the POMV draw."

Co-Chair Stedman understood that there may be favorable resource markets, and there may be a surplus on the recurring revenue. Therefore, the draw would not be necessary.

[10:20:26 AM](#)

Co-Chair von Imhof noted that it highlighted the fact that keeping the draw flexible was important to the program.

Co-Chair von Imhof addressed slide 4, "FY 19 UGF Expenditures."

Co-Chair Stedman remarked that there was a forecasted draw of \$300 million in the current year to make ends meet.

Co-Chair von Imhof highlighted slide 5, "What is the PFD and Budget Interplay?"

Break even: It appears the state could pay about a \$1000 check with flat funding.

Caution: More cuts may not necessarily mean a biggest dividend because the state should consider past underfunding of capital, Mr. Grasser: leaky school roofs, damaged bridges, aging infrastructure.

[10:26:13 AM](#)

Senator Wilson expressed concern paying the dividend. He did not see any discussions about more than 50/50, because that would require additional statues passed in the legislature. He stressed that the focus should only be on a 50/50.

Co-Chair von Imhof noted that no bills were introduced, but she felt that it was important to show the interplay.

Senator Wielechowski stressed that SB 26 did not change anything, and the legislature always had authority to draw from the ERA. He noted that the bill put a cap on it of 5.2 percent. He stressed that the dividend statute that defined its specific amount. He felt that if the legislature wanted to ignore the statute, the statute must be changed.

Co-Chair Stedman noted the substantial risk, so the conversation was important.

Co-Chair von Imhof acknowledged that there was money in the ERA, so the percentage split discussions could take place.

[10:34:38 AM](#)

Senator Hoffman remarked that it was not the intent of the committee to "raid" the Permanent Fund.

Co-Chair Stedman remarked that it was important to ensure that the money not be spent, so there should be raids blocked.

Senator Wielechowski felt that it was an important discussion. He wanted to discuss whether the state was getting its fair share of its resources.

Senator Micciche felt that the discussion was only conceptual.

Co-Chair von Imhof replied that it was a conceptual conversation.

Senator Micciche did not feel that it was appropriate to discuss things that were untrue, because the state's oil tax in the year prior was close to 44 percent.

Co-Chair Stedman remarked that the budget components had been assigned to the members of the committee to chair their subcommittees.

[10:42:01 AM](#)

Senator Hoffman remarked that he was a strong proponent of SB 26 .

Co-Chair von Imhof surmised that 56 villages had their own specific needs. She wondered whether the dividend should be in the constitution, rather than education and health care.

Senator Hoffman wanted to resolve the issue once and for all.

[10:48:29 AM](#)

Co-Chair Stedman remarked that the process should be to discuss the concept and to have a draft bill refined.

Senator Bishop stated that Alaska was a very rich state, and stressed that the state was not broke.

Senator Shower echoed Senator Hoffman's comments about a solution to keep the PFD out of politics.

Co-Chair von Imhof did not feel that future generations should be financially obligated.

#

ADJOURNMENT

[10:56:13 AM](#)

The meeting was adjourned at 10:56 a.m.