

SENATE FINANCE COMMITTEE
January 24, 2024
1:33 p.m.

[1:33:34 PM](#)

CALL TO ORDER

Co-Chair Olson called the Senate Finance Committee meeting to order at 1:33 p.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Donny Olson, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Click Bishop
Senator Jesse Kiehl
Senator Kelly Merrick
Senator David Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Senator Matt Claman, Sponsor; Carly Dennis, Staff, Senator Matt Claman; Fadil Limani, Deputy Commissioner, Department of Revenue; Ajai Desai, Director, Division of Retirement and Benefits, Department of Administration; Kevin Worley, Chief Financial Officer, Division of Retirement and Benefits, Department of Administration; Kathy Lea, Chief Pension Officer, Division of Retirement and Benefits, Department of Administration; Ken Alper, Staff, Senator Donny Olson; Senator Cathy Giessel, Sponsor; Senator Bill Wielechowski.

PRESENT VIA TELECONFERENCE

Greg Joubert, Midnight Sun Vehicle Rental, Anchorage; Benjamin Palmer, Enterprise Holdings, California; David Kershner, Buck Global LLC, Florida.

SUMMARY

SB 88 RETIREMENT SYSTEMS; DEFINED BENEFIT OPT.

CSSB 88(FIN) REPORTED out of COMMITTEE with one "do not pass" recommendation, three "no recommendations", and three "do pass" recommendations; and with two new fiscal notes from the Senate Finance Committee/Various Departments and the Department of Administration.

SB 127 TAXATION: VEHICLE RENTALS, SUBPOENAS

SB 127 was HEARD and HELD in committee for further consideration.

#sb127

SENATE BILL NO. 127

"An Act relating to vehicle rental taxes; relating to the issuance of subpoenas related to tax records; and providing for an effective date."

[1:34:36 PM](#)

SENATOR MATT CLAMAN, SPONSOR, introduced himself. He stated that the bill was introduced at the request of the Department of Revenue (DOR). He read from the Sectional Analysis (copy on file):

Senate Bill 127 requires vehicle rental platform companies, such as Turo and Getaround, to collect the existing state vehicle rental tax and remit the tax to the Department of Revenue on behalf of the vehicle owners. Additionally, Senate Bill 127 revises the subpoena provisions that relate to Department of Revenue tax collections.

Under current law, there is uncertainty about whether the vehicle rental platform companies owe the existing excise tax or whether only the vehicle owner owes the excise tax. At least one prior lawsuit did not resolve this question. Senate Bill 127 resolves the question by requiring the vehicle rental platform companies to collect the excise tax from the vehicle renter and remit the excise tax to the Department of Revenue on behalf of the vehicle owner.

Senate Bill 127 was introduced at the request of the Department of Revenue. The Department informed our office that vehicle owners owe the vehicle rental excise tax under existing law, but the law requires a new section to specify that the vehicle rental platform companies are responsible for collecting and remitting the excise tax on behalf of the vehicle owners.

Senate Bill 127 is not meant to affect Alaskans that use other means to advertise their rental cars, such as Craigslist and Facebook Marketplace, because those websites do not collect any funds from the renter or coordinate details about the rental. Vehicle owners who use websites such as Craigslist and Facebook Marketplace to advertise their vehicles owe the existing excise tax on such rentals, and websites such as Craigslist and Facebook Marketplace would not have a duty to collect the excise tax under the current structure of those websites

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CARLY DENNIS, STAFF, SENATOR MATT CLAMAN, explained the Sectional Analysis (copy on file):

Section 1

AS 43.05.040. Inspection of records or premises and issuance of subpoenas.

Amends AS 43.05.040(c) by removing unnecessary language regarding the issuance of out-of-state subpoenas related to tax records.

Section 2

AS 43.52.050. Liability for payment of vehicle rental taxes.

Amends AS 43.52.050(a) by adding language clarifying that vehicle rental platform companies and other companies that arrange vehicle rentals and leases shall collect the existing state vehicle rental tax and remit the tax to the Department of Revenue. Adds language requiring vehicle rental platforms collecting the vehicle rental tax to pay the tax quarterly.

Section 3

AS 43.52.050. Liability for payment of vehicle rental taxes.

Amends AS 43.52.050 by:

- Creating a new subsection (c) requiring a vehicle rental platform that arranged or executed more than 200 transactions in the state in the preceding calendar year to collect and pay to the department the taxes imposed under AS 43.52.010 - 43.52.099;
- Creating a new subsection (d) clarifying that a vehicle rental platform company is not liable for failing to collect or pay the vehicle rental tax if they were provided with incorrect or insufficient information. The company must demonstrate that a reasonable effort was made to obtain the correct or sufficient information from the person; and
- Adding a new section (e) defining "motor vehicle," "vehicle rental platform," and "vehicle rental platform company."

Section 4

Uncodified law - assessment and collection limitation

The Department of Revenue shall have six months from the effective date of this Act to assess and collect the vehicle rental taxes that were imposed before the effective date of this Act on a transaction arranged or executed through a vehicle rental platform. If the tax is not assessed and collected before six months after the effective date of this Act, proceedings may not be instituted in court for the assessment or collection of the tax.

Section 5

Effective Date

This Act takes effect immediately.

[1:39:17 PM](#)

FADIL LIMANI, DEPUTY COMMISSIONER, DEPARTMENT OF REVENUE, discussed the presentation on SB 127 (copy on file). He looked at slide 3, "SB 127 Objective":

- The intent of this legislation is to move the responsibility for collecting and remitting tax from the individual owners to the vehicle rental platform company if the lease or rental was arranged or executed through a platform.
- The proposed legislation does not impose a new tax.
- The legislation provides for a streamlined process for the Department of Revenue in collecting the peer-to-peer rental tax.

- AS 43.52.010: "There is imposed an excise tax on the charge for the lease or rental of a passenger vehicle in this state if the lease or rental of the passenger vehicle does not exceed a period of 90 consecutive days."
- AS 43.52.050: taxes "shall be collected and paid to the department by the person who provides the leased or rented vehicle."

Mr. Limani addressed slide 4, "Bottom Line":

The tax burden already exists - AS 43.52.010

- This bill compels the vehicle rental platforms to collect and remit the tax on behalf of vehicle owners

Mr. Limani pointed to slide 5, "SB 127- Background":

- Alaska levies an excise tax on fees and costs charged for the lease or rental of a passenger or recreational vehicle if the lease or rental does not exceed a period of 90 consecutive days.
- The person working for the rental/lease agency that provides the leased or rental vehicle collects the tax from the individual renting or leasing the vehicle. The rental/lease agency in turn remits the tax to the Department of Revenue's Tax Division.
- For passenger vehicles, the rate is 10% of the total fees and costs for renting or leasing. For recreational vehicles, the rate is 3% of the total fees and costs for renting or leasing.
- Vehicle rental/lease agencies file tax returns and remit taxes quarterly

Mr. Limani discussed slide 6, "SB 127 Legislative History":

- 2003 - The Legislature enacted the vehicle rental tax on Aug. 20, 2003. The tax became effective Jan. 1, 2004.
- 2004 - The Legislature exempted the rental of taxicabs by taxicab drivers from the vehicle rental tax.
- 2006 - The Legislature exempted trucks rented by individuals for moving personal property and for vehicles provided to customers by automobile dealers as replacement transportation during warranty, recall, or service contract repairs.

- 2013 -The Legislature excluded motorcycles and motor-driven cycles as defined by AS 28.90.990 from the tax.
- 2020 - The municipality of Anchorage passed ordinance AO No. 2020-55 to establish the duties and responsibilities of a rental vehicle hosting platform; and to establish the rules and responsibilities of rental agencies who use a hosting platform to conduct motor vehicle rental transactions.

Mr. Limani pointed to slide 7, "SB 127 - Legal Framework":

- AS 43.52.010: "There is imposed an excise tax on the charge for the lease or rental of a passenger vehicle in this state if the lease or rental of the passenger vehicle does not exceed a period of 90 consecutive days."
- AS 43.52.050: taxes "shall be collected and paid to the department by the person who provides the leased or rented vehicle."
- AS 44.23.020(b)(2): "The attorney general shall... (2) bring, prosecute, and defend all necessary and proper actions in the name of the state for the collection of revenue."
- AS 44.25.020(1) & (2): "The Department of Revenue shall (1) enforce the tax laws of the state; (2) collect, account for, have custody of, invest, and manage all state funds and all revenues of the state [with certain exceptions like the permanent fund]."
- Dick Fischer Development No. 2 Inc. v. DOA, superior court case: Neither a commissioner nor any other state official has the authority to deprive the state treasury of public monies unless authorized by law.

Mr. Limani displayed slide 8, "SB 127 - New IRS Regulation on 1099-K":

- As part of the American Rescue Plan Act of 2021, the threshold for reporting on third party network transaction (Form 1099-K) was reduced to \$600, regardless of the number of transactions.
- On November 2023, the IRS announced delay in form 1099-K reporting threshold for third party transaction platforms.
- Phase-in to implementation
- For Tax Year 2024, threshold of \$5,000
- For Tax Year 2025, threshold of \$600

- In recent years including Tax Year 2023, the threshold for reporting on third party network transactions (Form 1099-K) when payments totaled more than \$20,000 and more than 200 transactions.

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Senator Wilson asked for a definition of "third party transactions."

Mr. Limani replied that if anyone participated in a transaction that was in excess of \$600, prior to 2012, the IRS required that there was an issuance of a 1099-Misc form. He stated that after 2012, the IRS imposed a new regulation that required a 1099-K form submission if there was participation in sales for a consumption of goods in a network transaction for more than 200 transactions or \$20,000. He explained that, recently, the IRS reverted to the \$600 provision with a phased implementation. He remarked that currently the IRS does not have the ability to access data on the network. He shared that once the regulations were enacted, DOR would have access to the platform participants, so taxes would need to be assessed and collected.

Senator Bishop queried the estimates of the uncollected revenues, and the reason for the proposal.

Mr. Limani replied that there were no exact numbers related to the fiscal impact, but felt that it would have a positive revenue impact to the state.

Senator Merrick wondered whether there was a concern about the network host companies passing on the tax obligation to those renting out the vehicles.

Mr. Limani replied that the tax was not new, so the tax responsibility would be collected by the platform.

Senator Merrick asked whether a rideshare company would halt business in Alaska due to the tax enforcement.

Mr. Limani replied that he did not know.

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Senator Wilson felt that there would be an impact, because of the add-in rate.

Co-Chair Olson felt that the question was better suited for the sponsor of the bill.

Mr. Limani deferred to the sponsor.

Mr. Limani pointed to slide 9, "SB 127 - Fiscal Impacts":

- The Department of Revenue has collected an average of \$10.7 million per year in vehicle rental taxes over the past four years.
- The proposed legislation would capture unreported vehicle rentals that are arranged or executed through a vehicle rental platform and, therefore, would have a positive effect on revenue.
- The Department of Revenue currently does not have enough data on peer-to-peer rental information in Alaska to provide an estimative revenue impact.
- Currently the Department of Revenue has approximately \$470K in delinquent accounts spread across 25 taxpayers.

Senator Wilson queried the department's current efforts to taxpayers.

Mr. Limani replied that DOR had not taken any active action.

Senator Wilson wondered whether the department had intended to forgive the tax.

Mr. Limani replied that DOR had the statutory obligation to collect the tax.

Senator Kiehl wondered whether the bill was a more cost-efficient way to collect the tax.

Mr. Limani replied that it provided more efficiency in DOR.

Senator Kiehl wondered who would have the burden of tax, and whether a person who rents out a car would have the tax obligation.

Mr. Limani replied that he believed that the legislation would make it easier on individual vehicle owners.

[1:55:38 PM](#)

Senator Merrick wondered whether there were other states that collected tax in the manner outlined in the bill.

Mr. Limani replied in the affirmative.

Co-Chair Hoffman wondered whether there were other states that had a different tax structure than proposed in the bill.

Mr. Limani replied that there were different structures in different states across the country.

Co-Chair Hoffman queried an underlying reason for different structures or rates.

Mr. Limani replied that that he could not speak for other states for their reasonings. He stated that the 10 percent was already in statute, so there was no change to the rate.

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GREG JOUBERT, MIDNIGHT SUN VEHICLE RENTAL, ANCHORAGE (via teleconference), testified in support of the legislation.

[2:00:03 PM](#)

BENJAMIN PALMER, ENTERPRISE HOLDINGS, CALIFORNIA (via teleconference), spoke in support of the bill.

SB 127 was HEARD and HELD in committee for further consideration.

[2:01:12 PM](#)

AT EASE

[2:03:39 PM](#)

RECONVENED

#sb88

SENATE BILL NO. 88

"An Act relating to the Public Employees' Retirement System of Alaska and the teachers' retirement system; providing certain employees an opportunity to choose

between the defined benefit and defined contribution plans of the Public Employees' Retirement System of Alaska and the teachers' retirement system; and providing for an effective date."

[2:04:46 PM](#)

AJAI DESAI, DIRECTOR, DIVISION OF RETIREMENT AND BENEFITS, DEPARTMENT OF ADMINISTRATION, (DOA) introduced himself.

[2:04:57 PM](#)

KEVIN WORLEY, CHIEF FINANCIAL OFFICER, DIVISION OF RETIREMENT AND BENEFITS, DEPARTMENT OF ADMINISTRATION, introduced himself.

[2:05:10 PM](#)

KATHY LEA, CHIEF PENSION OFFICER, DIVISION OF RETIREMENT AND BENEFITS, DEPARTMENT OF ADMINISTRATION, introduced herself.

Co-Chair Olson remarked that the fiscal notes were quite large, which have caused some questions and concerns.

Co-Chair Stedman asked about the fiscal note, and felt that there needed to be detail about how the unfunded liability percentage related to the municipalities.

Mr. Desai deferred to Mr. Kershner.

[2:08:43 PM](#)

DAVID KERSHNER, BUCK GLOBAL LLC, FLORIDA (via teleconference), explained the details of the actuarial analysis.

[2:18:55 PM](#)

Co-Chair Olson acknowledged SENATOR BILL WIELECHOWSKI, in the gallery.

Co-Chair Stedman asked how the bill affected the unfunded liability.

[2:20:18 PM](#)

Mr. Kershner replied that the current unfunded liability would not be affected by SB 88.

Co-Chair Olson wanted to know that the state would not have another unfunded liability.

Mr. Kershner replied that the state received a benefit by shifting the risk from the state to the employees. He stated that the bill would take on some of that risk.

Co-Chair Stedman looked at the fiscal note from May 11, and remarked that there may be an opening for the municipality to shift the responsibility to the state.

[2:26:32 PM](#)

Senator Merrick queried how much of the unfunded liability was the result of the medical portion of the plan.

Mr. Kershner replied that both PERS and TRS were overfunded in the health care portion. He shared that the issue was that the overfunding of the health care trust could not be used for pensions due to legal reasons.

Senator Wilson wondered whether the actuarial assessments took into account the new tier outlined in SB 88.

Mr. Kershner replied "no", and explained that the contributions were at the actuarial rate at no less than 12 percent, which included 3 percent for the HRA contributions.

Senator Wilson wondered whether a 90 percent funded was a "funded pension plan."

Mr. Kershner replied that a funded pension plan was 100 percent funding, and remarked that there were degrees of funding.

Senator Wilson queried the 90 percent pension liability to the state of Alaska under SB 88.

Mr. Kershner agreed to provide that information.

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Co-Chair Stedman surmised that there would be an updated actuarial analysis.

Mr. Kershner replied that there had been a request for alternative projections with different assumptions.

Co-Chair Olson queried the expected completion date of the analyses.

Mr. Kershner replied that the goal was to complete the materials by the end of February.

Co-Chair Stedman wanted to know which fiscal notes were used in the bill.

[2:33:53 PM](#)

KEN ALPER, STAFF, SENATOR DONNY OLSON, replied that there were three current fiscal notes. He stated that one fiscal note was conventional, and about the implementation of the bill and its impact to the department. He stated that the fiscal note may be slightly different, and require a replacement. He shared that the other two were based on the Buck actuarial analysis.

Co-Chair Olson wondered how a current and updated fiscal note would be different.

Mr. Alper replied that new fiscal notes based on the actuarial analysis would need to be replaced, because they were dated from the year prior.

[2:37:39 PM](#)

SENATOR CATHY GIESSEL, SPONSOR, stated that Mr. Desai could speak in response to the fiscal notes.

Mr. Desai stated that the department was working to produce new fiscal notes with the latest information.

Co-Chair Stedman wondered whether the \$1.6 billion was the cost of the bill.

Mr. Desai replied that the \$1.6 billion was the cost of the administration of the program.

Co-Chair Stedman was trying to determine the cost of the bill. He wondered when the committee could expect the new actuarial analysis.

Mr. Desai replied that a new fiscal note would be verified, and stated that there would only be minor changes.

[2:40:06 PM](#)

Co-Chair Stedman queried the total fiscal note cost.

Mr. Alper replied that the fiscal note was the conventional fiscal note, which would be the administrative cost of the bill that would have normal administrative costs. He stated that the remaining two would be tied to the actuarial analysis, which were potential costs of additional payroll and pension contributions from the state.

Co-Chair Stedman asked for a ballpark number.

Mr. Alper replied that the two fiscal notes that were tied to the Buck analysis totaled approximately \$1.2 billion over 17 years. He stated that the cost over six years is \$140 million, which would be the years covered in the fiscal note. He explained that most of the money was not additional costs to the bill, but rather was assumed that the retention would improve therefore the state payroll would increase.

Senator Bishop wondered whether the payroll numbers were filling the vacant positions in the budget.

Mr. Alper replied that there was a very large vacancy rate and it was his expectation that there would be a lower vacancy rate after the passage of the bill.

Senator Giessel requested a quantification of the savings in recruitment.

Mr. Desai agreed to provide that information.

Co-Chair Stedman wondered when the exact numbers related to the calculation of over or under funding resulting from the passage of the bill.

Mr. Desai replied that those numbers should be expected near the end of February.

Co-Chair Olson stressed that he did not need a precise number, but more of an approximation.

Senator Kiehl applauded the division, because the implementation cost seemed the same as the implementation of the current tier.

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Mr. Desai explained that the reason for the cost differences, is due to the cost of the implementation.

Co-Chair Olson queried comments on the legislation.

Mr. Worley replied that the fiscal note for implementation included the actuarial analyses and evaluations. He explained the process to make a final determination of the cost of the bill.

[2:49:55 PM](#)

Ms. Lea stated that she was able to deliver the benefits outlined in the legislation.

Co-Chair Stedman wondered how TRS could be allowed into the supplemental benefits system.

Ms. Lea replied that the statutes needed to be changed to accommodate that allowance.

Co-Chair Stedman felt that there should be a discussion about that issue.

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AT EASE

[2:57:11 PM](#)

RECONVENED

[2:58:07 PM](#)

Senator Giessel commented on some history of the bill, and encouraged passage of the bill.

Senator Kiehl MOVED to REPORT SB 88 out of committee with individual recommendations and attached fiscal notes.

3:04:25 PM

AT EASE

3:08:17 PM

RECONVENED

There being NO OBJECTION, it was so ordered.

3:09:05 PM

AT EASE

3:11:17 PM

RECONVENED

CSSB 88(FIN) REPORTED out of COMMITTEE with one "do not pass" recommendation, three "no recommendations", and three "do pass" recommendations; and with two new fiscal notes from the Senate Finance Committee/Various Departments and the Department of Administration.

Co-Chair Olson discussed the following day's agenda.

#

ADJOURNMENT

3:11:36 PM

The meeting was adjourned at 3:11 p.m.