

**ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

March 25, 2024

1:32 p.m.

MEMBERS PRESENT

Senator Jesse Bjorkman, Chair
Senator Click Bishop, Vice Chair
Senator Kelly Merrick
Senator Forrest Dunbar

MEMBERS ABSENT

Senator Elvi Gray-Jackson

COMMITTEE CALENDAR

SENATE BILL NO. 203

"An Act relating to business license fees; and providing for an effective date."

- HEARD & HELD

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 200

"An Act relating to employer contributions in the teachers' retirement system; relating to supplemental employee benefits; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 153

"An Act exempting certain employees from overtime pay requirements; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 203

SHORT TITLE: BUSINESS LICENSE FEES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/24/24	(S)	READ THE FIRST TIME - REFERRALS
01/24/24	(S)	L&C, FIN
03/11/24	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

03/11/24 (S) Scheduled but Not Heard
03/18/24 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/18/24 (S) -- MEETING CANCELED --
03/25/24 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 200

SHORT TITLE: TRS CONTR RATE; PERS SOC SECURITY OR SBS
SPONSOR(s): STEDMAN

01/22/24 (S) READ THE FIRST TIME - REFERRALS
01/22/24 (S) L&C, FIN
02/15/24 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
02/15/24 (S) L&C, FIN
03/18/24 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/18/24 (S) -- MEETING CANCELED --
03/25/24 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 153

SHORT TITLE: OVERTIME PAY EXEMPTION
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

05/16/23 (S) READ THE FIRST TIME - REFERRALS
05/16/23 (S) L&C, FIN
03/25/24 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

MICAELA FOWLER, Deputy Commissioner
Department of Commerce, Community and Economic Development
(DCCED)
Juneau, Alaska
POSITION STATEMENT: Introduced SB 203 on behalf of the
administration.

SYLVAN ROBB, Director
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community and Economic Development
(DCCED)
Juneau, Alaska
POSITION STATEMENT: Provided a presentation on SB 203.

SENATOR BERT STEDMAN, District A
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of SB 200.

ROSE FOLEY, Staff

Senator Bert Stedman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided the sectional analysis for SB 200.

CATHY MUNOZ, Commissioner Designee
Department of Labor and Workforce Development (DOLWD)
Juneau, Alaska

POSITION STATEMENT: Introduced SB 153 on behalf of the administration.

JEREMY APPLGATE, Chief Wage and Hour
Labor Standards and Safety Division
Department of Labor and Workforce Development (DOLWD)
Anchorage, Alaska

POSITION STATEMENT: Provided a presentation on SB 153.

ACTION NARRATIVE

[1:32:13 PM](#)

CHAIR JESSE BJORKMAN called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Merrick, Dunbar, and Chair Bjorkman. Senator Bishop arrived thereafter.

SB 203-BUSINESS LICENSE FEES

[1:33:16 PM](#)

CHAIR BJORKMAN announced the consideration of SENATE BILL NO. 203, "An Act relating to business license fees; and providing for an effective date."

[1:33:40 PM](#)

MICAELA FOWLER, Deputy Commissioner, Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska, introduced SB 203 on behalf of the administration. She said that over the past year and a half, the department has had discussions with the business community about interest in the ways the state can do more to promote industries that do not have a promotional entity (e.g. the Alaska Seafood Marketing Institute (ASMI) and Alaska Travel Industry Association (ATIA)). She said that in 2023, the legislature provided \$5 million in the capital budget to start doing some of this work. The Division recognizes that requesting an Unrestricted General Funds (UGF) appropriation on an ongoing basis is difficult in the present economy. The Division has been seeking a small fee

increase (impacting the population that would benefit from that activity).

[1:35:18 PM](#)

MS. FOWLER explained that the business license fees have been set at \$50 per year since 2008. Prior to this, the fees were \$100 per year. SB 203 proposes returning to the \$100 licensing fee. The intention is that the funds could be appropriated to support business marketing should the legislature choose to do so. She gave a brief overview of the \$5 million received in 2023. She expressed gratitude for the funds and said that the Department has a contract with the Alaska Chamber to determine where Alaskans would like to see that money invested. This would also offer information on where appropriate market research can be done and allow the division to offer appropriate support to thriving or emerging industries. Prior administrations saw promotional activities around peonies - which helped grow this industry. She noted that additional promotional activities occurred around that time - this is providing data on where the greatest interest is going forward.

[1:37:28 PM](#)

SYLVAN ROBB, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development, Juneau, Alaska, offered a presentation on SB 203 and advanced to slide 2:

[Original punctuation provided.]

What Does SB 203 Do?

- Increases regular business license fees from \$50 to \$100 per year
- Increases business license fees for sole proprietorships owned by a disabled veteran or individual who is 65 years of age or older from \$25 to \$50 per year
- Increases tobacco endorsement fees from \$100 to \$200 per renewal

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MS. ROBB advanced to slide 3:

[Original punctuation provided.]

Why Increase These Fees?

- All funds received each fiscal year in excess of what's required to run the business licensing program are deposited into UGF
- Increasing business licensing fees is a way to generate additional revenue for the State of Alaska without heavily impacting one profession or industry over another

MS. ROBB noted that the impact for a single business would be a \$50 increase. She stated that the estimated revenue from this increase is \$2.7 million. She added that Alaska would remain in-line with other states' business license fees, which range from \$20 to \$500. She stated that the intention behind the increase is to use the funds to promote the businesses that are requesting promotional assistance.

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MS. ROBB advanced to slide 4:

[Original punctuation provided.]

When is a Business License or Tobacco Endorsement Required?

- A business license is required for the privilege of engaging in a business in the State of Alaska (AS 43.70.020(a))
- "Business" means a for-profit or non-profit entity engaging or offering to engage in a trade, a service, a profession, or an activity with the goal of receiving a financial benefit in exchange for the provision of services, or goods, or other property. (AS 43.70.110(1))
- A person who sells cigarettes, cigars, products containing tobacco, electronic smoking products, or products containing nicotine as a retailer must have a business license and a [tobacco] endorsement. (AS 43.70.105(b))

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MS. ROBB advanced to slide 5:

[Original punctuation provided.]

When is a Business License Not Required?

Business license exemptions (AS 43.70.105):

- Fisheries business
- Sale of liquor under a license issued under AS 04.11
- Insurance business
- Mining business
- Supplying services as an employee
- Furnishing goods or services by a person who does not represent to be regularly engaged in furnishing goods or services
- Activities of an investment club as defined in AS 43.70.105(7)
- Bank organized under AS 06.05 or the laws of another state
- National bank chartered by the U.S.
- Credit union organized under AS 06.45 or the laws of another state
- Credit union regulated by the National Credit Union Administration
- Mutual savings bank chartered under AS 06.15 or organized under the laws of another state

[1:40:37 PM](#)

SENATOR DUNBAR asked why insurance businesses and financial businesses are exempt from this requirement and if they have separate fees to pay.

MS. ROBB answered that this is correct. She explained that insurance businesses are licensed through the Division of Insurance and alcohol businesses are licensed through Alcohol & Marijuana Control Office (AMCO), both of which are in the Department of Commerce, Community and Economic Development (DCCED).

SENATOR DUNBAR asked about financial institutions.

MS. ROBB replied that these are licensed through Banking and Securities in DCCED.

SENATOR DUNBAR surmised that these licenses are not free.

MS. ROBB answered no.

[1:41:36 PM](#)

CHAIR BJORKMAN commented that oftentimes, banks require business licenses before they will open a business banking account - including those listed as exempt from licensing. He asked if there is a short cut by which businesses that are not required to obtain a business license can provide other supporting documents to open an account.

MS. ROBB stated she could not speak in depth to this question. She commented that some exempt businesses choose to get a business license for various reasons.

[1:42:53 PM](#)

MS. ROBB advanced to slide 6, displaying a graph of the scope of new business licenses and endorsements from 2014 through 2023. She pointed out that these numbers reached a high point during the COVID-19 pandemic. She noted that this includes the number of endorsements for tobacco and related products. In addition, there are around 100 thousand licensed businesses.

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SENATOR DUNBAR asked what caused the spike in business licenses during the COVID-19 pandemic.

MS. ROBB replied that from April 3, 2020 to February 1, 2023 there was no charge for business licenses. She surmised that this may have been a factor. She speculated that during the pandemic, work was disrupted, and people may have taken that opportunity to open businesses; however, the division does not keep data on the reasons for obtaining business licenses.

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MS. ROBB advanced to slide 7, displaying a graph of FY2014 through FY2023 business licenses - new, renewed, and current. She explained that "current business license" applies to those who have purchased a two-year business license. (This does not include a monetary discount but saves the business owner from reapplying each year.) She noted that this brings the total to roughly \$100 thousand.

[1:45:20 PM](#)

MS. ROBB advanced to slide 8, displaying a graph of FY2014 through FY2023 business licenses with endorsements. She said that this shows the number of businesses that have a tobacco endorsement - along with the number of actual endorsements. A business may have a number of endorsements, as each location selling nicotine products needs its own endorsement.

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MS. ROBB moved to slide 9 displaying a graph of business license revenue deposited into the general fund for FY2017 through FY2023. She explained that, currently, the money generated through business license fees exceeds the cost of operating the program. The excess funds flow into the general fund. The graph shows the amount generated through business licenses as well as the amount that has lapsed into the general fund in the past.

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MS. ROBB moved to slide 10, which listed business license and endorsement reports and resources. She offered to present the sectional analysis if it was the will of the committee.

[1:46:46 PM](#)

CHAIR BJORKMAN stated that the committee understood the concept and would forego the sectional analysis.

[1:47:04 PM](#)

CHAIR BJORKMAN held SB 203 in committee.

[1:47:10 PM](#)

At ease

SB 200-TRS CONTR RATE; PERS SOC SECURITY OR SBS

[1:48:34 PM](#)

CHAIR BJORKMAN reconvened the meeting and announced the consideration of SPONSOR SUBSTITUTE FOR SENATE BILL NO. 200, "An Act relating to employer contributions in the teachers' retirement system; relating to supplemental employee benefits; and providing for an effective date."

[1:49:08 PM](#)

SENATOR BERT STEDMAN, District A, Alaska State Legislature, Juneau, Alaska, sponsor of SB 200, explained that this is the beginning of a discussion of three options to address the inequities in the retirement system. With respect to the education system, he stated that there is concern about the wage level and savings for retirement. However, when compared to the average state worker, there is a considerable retirement value discrepancy. Education workers feel they should be accumulating more value towards their retirement. He shared his belief that education workers should be treated the same as state workers.

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SENATOR STEDMAN gave a brief overview of the three areas of consideration. One is an increase in the contribution to the retirement system to make it equal to the contribution of the average state worker. Another option would be for all educators to join the Supplemental Benefits System (SBS) He explained that this is a replacement for social security (which the average state worker does not participate in). He said that, in lieu of social security, employee and employer equally contribute 6.13 percent of the employee's salary to SBS. Teachers do not have this option. Allowing educators to participate in SBS would create equal footing among state employees with respect to retirement. The third option would ask employers that are not participating in social security or SBS and are in the state retirement system to ensure that all employees are covered by either social security, SBS, or an equivalent program. This would ensure that the employee is not shorted on their ability to accumulate retirement. He added that many state employees do not have social security, SBS, or a replacement option and are therefore not able to accumulate retirement funds. He shared his belief that this is unacceptable.

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SENATOR STEDMAN advanced to slide 2:

[Original punctuation provided.]

Teachers' Retirement System (TRS) Basics

- The Teachers' Retirement System (TRS) was the first Alaska retirement system, developed by the Territory of Alaska in the 1940s to encourage teachers to live and work in Alaska
- Tiers I and II are defined benefit plans that closed to new employees 6/30/2006
- Tier III is a defined contribution plan, and is the plan offered to employees hired after 6/30/2006
- TRS employees are in neither SBS nor Social Security

SENATOR STEDMAN stated that in the 40s, 50s, 60s, and 70s, the average teacher in Alaska had substantially more salary growth than those in the lower 48. He stated that this information is not disputable and referenced a report that offered data on this issue. However, this is not the case today. He encouraged members of the committee to keep this in mind when considering SB 200. What was reasonable in the past is not reasonable today;

therefore, review is necessary. He briefly explained Tiers I and II, which ensured that employees get a percentage of their salary for the remainder of their life after retirement. He emphasized that these payments continue regardless of the state's economic status. He briefly explained Tier III and the way it differs from tiers I and II. He pointed out that teachers were not in SBS or social security during this time.

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SENATOR STEDMAN advanced to slide 3:

[Original punctuation provided.]

History of Social Security in Alaska

1935

- Social Security established by the federal government, available to federal employees only

1940s

- Teachers' Retirement System (TRS) created in the Territory of Alaska

1950s

- A series of amendments to the Social Security Act allowed states and local governments to enroll employees in Social Security by enacting "Section 218 agreements"

1961

- The Public Employees' Retirement System (PERS) established for State of Alaska employees, all of whom were also enrolled in Social Security

1980

- The State of Alaska created the SBS system and terminated its Section 218 agreement, moving all state (PERS) employees from Social Security into the SBS program

SENATOR STEDMAN reiterated that during this time, average teacher salaries were substantially higher in Alaska. Because teachers were adequately compensated and had a defined benefit plan, it was not necessary for them to be a part of the SBS or social security program. However, times have changed.

[1:59:08 PM](#)

SENATOR STEDMAN moved to slide 4:

[Original punctuation provided.]

Employee Retirement Savings Comparison: PERS v. TRS

PERS TIER IV

- Employee Contribution: 8 percent
- Employer Contribution: 5 percent
- SBS Employee Contribution: 6.12 percent
- SBS Employer Contribution: 6.12 percent
- Total Retirement Savings: 25.24 percent

TRS TIER III

- Employee Contribution: 8 percent
- Employer Contribution: 7 percent
- SBS Employee Contribution: --
- SBS Employer Contribution: --
- Total Retirement Savings: 15.0 percent

SENATOR STEDMAN explained that PERS Tier IV includes those employed after 2006. He explained that the employer contribution is two percent higher for TRS because teachers do not participate in SBS. He drew attention to the inequity between the PERS 25.24 percent total retirement savings and the TRS 15 percent and emphasized that there would be no way for teachers to close the gap. He said that it is not uncommon to see values of \$750,000 to \$1 million in the employees SBS account. He stated that this is a significant retirement savings.

[2:01:50 PM](#)

SENATOR STEDMAN advanced to slide 6 and posed the question, "How do we make it fair?" He shared his belief that employers should be contributing the same amount of money. He suggested that there is no difference between a teacher and someone working at the airport or in any other state employment position. He emphasized that all employees should be treated equally. He explained that one concept was to take the seven percent contribution and add 2 percent - or even 3 percent - to it. However, he stated that allowing teachers to join SBS would be an even better choice. This would mean both employer and employee pay in 6.12 percent (SBS), and the regular employer contribution would be adjusted down to 5 percent, thus creating the same 25.24 percent as state employees receive. This would level retirement savings capability throughout the state employment system. He reiterated that the potential savings is a significant amount of funds and added that SBS funds are passed along to the employee's beneficiaries after death.

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SENATOR BISHOP joined the meeting.

[2:04:05 PM](#)

SENATOR MERRICK asked which option is preferred by teachers.

SENATOR STEDMAN answered that, over the past two years, he has spoken to NEA representatives about this concept and shared his understanding that they would take whatever was given. However, SB 200 would potentially increase the retirement potential by the hundreds of thousands of dollars (not by tens of thousands). He surmised that getting this issue on the table would germinate the necessary discussion.

[2:05:00 PM](#)

SENATOR STEDMAN advanced to slide 6:

[Original punctuation provided.]

SB 200 Key Provisions

GOAL: Equalize retirement savings between State employees and nonstate PERS and TRS employees

Increase the TRS Employer Contribution Rate

- Raises the employer contribution rate by 2 percent, from 7 percent to 9 percent of gross salary
- Increases the cap on employer contributions from 12.56 percent to 14.56 percent to account for the increased contribution

Require PERS and TRS Employers Provide a Supplemental Annuity Plan

- Requires participation in either SBS or Social Security
- Opens the SBS statute to allow TRS employers to participate in the program alongside PERS employers

SENATOR STEDMAN commented that a Base Student Allocation (BSA) increase is a top-down way to fund this increase. He said that the legislature can decide what fiscal lever is best suited to benefit both the state and the employee. He questioned whether the intention is for educators to receive what other state employees get or to truly level the system. He argued that the system needs to be level.

[2:07:10 PM](#)

SENATOR STEDMAN advanced to slide 7:

[Original punctuation provided.]

Full Implementation of SB 200
FOR ILLUSTRATIVE PURPOSES ONLY

PERS TIER IV

- Employee Contribution: 8 percent
- Employer Contribution: 5 percent
- SBS Employee Contribution: 6.12 percent
- SBS Employer Contribution: 6.12 percent
- Total Retirement Savings: 25.24 percent

TRS TIER III

- Employee Contribution: 8 percent
- Employer Contribution: 9 percent
- SBS Employee Contribution: 6.12 percent
- SBS Employer Contribution: 6.12 percent
- Total Retirement Savings: 27.24 percent

If both the employer contribution and SBS participation were enacted, a TRS Tier III employee would be saving more for retirement than a PERS Tier IV employee - this is not the intent.

SENATOR STEDMAN explained that these numbers would need to be rearranged by the Senate Finance Committee so that the total contribution is equal to 25.24 across the board. He reiterated that BSA would need to be adjusted to accommodate the additional employer contribution and added that this would ensure the responsibility does not fall to city governments. He opined that it is the state's responsibility to fund education.

[2:08:29 PM](#)

SENATOR STEDMAN advanced to slide 8:

[Original punctuation provided.]

SB 200 provides options to improve retirement savings equity

Participation in SBS

- Could provide total additional savings of 12.24 percent
- Contributions are made equally by employer and employee

Increased employer contribution to TRS

- Could provide an additional savings of 2 percent
- Contribution made by employer

SENATOR STEDMAN said that SB 200 would require all employers in the state retirement system to contribute to SS or SBS. He explained that this would ensure that no employers outside of the state (but in the state's retirement system) are skating their responsibility to pay into social security or SBS - or replacing these monies with bargaining unit agreements. He explained that when the state's retirement system was rewritten in 2006, an oversight allowed employers to not fund social security or SBS - and thus short-fund the retirement system. He said that the retirement system is balanced - regardless of whether members are in a defined benefit or a defined contribution plan - with the supplemental benefits system (which is roughly one-quarter to one-third of an employee's retirement). He stated that one does not work without the other. SB 200 is an attempt to begin the dialogue to level retirement throughout the system. He commented that education employees deserve these benefits just as other state employees do.

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SENATOR BJORKMAN referred to 12.56 - 14.56 in Section 1, line 6 and asked for clarification on what number this is adjusting and how this increase for the employer relates to other sections of SB 200.

SENATOR STEDMAN said that this was the first "lever" considered to enhance the retirement system. He explained that this would adjust TRS employer contributions so that this number matches that received by state employees. He briefly explained the reasoning behind this change. He gave a brief history of TRS and explained the amount paid by the state and the amount paid by city hall. He suggested that the paragraph in question be edited to reflect the appropriate adjustments if SBS was added to TRS. He clarified that this paragraph is one lever that leaves TRS out of SBS but gets employees a bigger contribution. He opined that the current contribution is too light to accumulate wealth for retirement.

[2:13:37 PM](#)

CHAIR BJORKMAN commented that it is not clear that SB 200 is a menu of options from section to section. He asked for clarification that the sponsor's intent is that the sections can be taken individually. He asked for more information.

[2:13:59 PM](#)

SENATOR STEDMAN commented that SB 200, Section 3 would apply to businesses that are a part of the state's retirement system but are not paying into the appropriate retirement programs. He requested a brief at-ease.

[2:14:25 PM](#)

At ease

[2:15:39 PM](#)

CHAIR BJORKMAN reconvened the meeting.

[2:16:05 PM](#)

SENATOR STEDMAN suggested the committee hear the sectional analysis.

[2:16:27 PM](#)

ROSE FOLEY, Staff, Senator Bert Stedman, Alaska State Legislature, Juneau, Alaska, provided the sectional analysis for SB 200:

[Original punctuation provided.]

Sectional Analysis

SB 200 - TRS Employer Contribution Rate; Supplemental Employee Benefits Sponsor Substitute version S 2.23.24

Section 1: Increases the required employer contribution to the Teachers' Retirement System from 12.56 percent of payroll to 14.56 percent of payroll, to account for the increased contribution rate in Section 2.

Section 2: Increases the employer contribution rate to the Teachers' Retirement System defined contribution retirement accounts from seven percent to nine percent.

Section 3: Requires participation in the Supplemental Annuity Plan (SBS) for employers in the Public Employees' Retirement System and the Teachers'

Retirement System that do not participate in the federal Social Security system.

Section 4: Adds employers within the Teachers' Retirement System to the definition of "participating employer" under the Supplemental Annuity Plan.

Section 5: Establishes an effective date of July 1, 2024.

MS. FOLEY noted that Section 3 is the second "lever" that is available to adjust retirement savings.

[2:18:13 PM](#)

CHAIR BJORKMAN asked about the aggregate and total costs to local municipalities and school districts based on these two options.

SENATOR STEDMAN answered that the intent is to hold school districts harmless. He added that funding would need to be increased on the employer side, to cover the added contribution (6.15 percent for both employee and employer if teachers were added to SBS).

CHAIR BJORKMAN stated his understanding that this would be a cut to what employees see on their check, putting this 6.15 percent into a mandated savings account for them.

SENATOR STEDMAN said this is correct and pointed out that this is matched by employer contributions, which is an instant 100 percent return. He acknowledged that this is an impact on teachers' paychecks. He added that the intent of SB 200 is for the state to fund this additional cost on the employer side, making the cost identical for state employees and teachers. He surmised that this would generate significant conversation due to the potential savings, which could fall in the hundreds of thousands per individual.

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SENATOR MERRICK stated that the fiscal note is incomplete.

CHAIR BJORKMAN stated that conversations would continue with those impacted by SB 200. He shared the general industry understanding that all sections would be enforced together, rather than it being a choice. He opined that this is an important distinction that requires clarification. He commented

on the high cost (more than \$100 million) adding teachers to SBS would place on school districts.

[2:22:01 PM](#)

SENATOR DUNBAR commented that he has received documents from AML and referred to the hold harmless provision for the employee and asked if the salary increase would come from state funds, local government, or from the school district.

[2:22:37 PM](#)

SENATOR STEDMAN clarified that the provision would hold the employer (school districts, in this case) harmless, not the employee. He explained that, if teachers were added to SBS, employees and employer (i.e. the school district) would contribute 6.13 percent. He explained that the legislature would have to fund the school districts' cost.

SENATOR DUNBAR referred to the AML document and explained that it includes a "hold-harmless salary increase". He said that this sounds like something different from what is being described.

SENATOR STEDMAN replied that this likely refers to a nonteacher employee who may work for city hall as a policeman or a fireman. He opined that if city hall does not have employees in SBS or social security with a bargaining agreement, "they are getting off like skinflints."

[2:23:38 PM](#)

SENATOR DUNBAR shared his understanding that the total increase as a result of SB 200 is \$36.3 million and asked if the sponsor has seen this number.

SENATOR STEDMAN replied that he has not seen the document in question.

SENATOR DUNBAR said that the committee received it within the last day. He asked for clarification that this does not include some of the costs for the school districts.

SENATOR STEDMAN replied that he has not seen the document and is not able to speak to its contents.

SENATOR BJORKMAN stated that this can be discussed further as members develop a better understanding of the mechanics of SB 200 and its associated costs.

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SENATOR STEDMAN stated that a committee substitute to clearly delineate the various options may make this easier. He emphasized that the intent is not to overfund teachers (over 25 percent) but to place them on level ground with other state employees. He shared his belief that 10 percent is significantly light in terms of retirement savings ability. He agreed that this is an expensive change and argued that it is a change that should have happened a long time ago.

[2:25:07 PM](#)

SENATOR DUNBAR questioned if SBS is it like social security (which is guaranteed until death) or if it is more like a 401K. He briefly discussed "retirement failure" - i.e. people running out of money during their retirement years. He surmised that the intent of SB 200 is to reduce the number of individuals who experience this. He asked if there is information on the impact this legislation would have on the number of individuals who experience retirement failure.

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SENATOR STEDMAN said that this is a question for an actuary. He surmised that an additional \$750,000 in retirement funds after 30 years of service would extend their retirement and their assets for their children substantially. He clarified that this is not a defined benefit and works like a defined contribution. SBS (defined contribution) has the same portfolio selections as TERS and deferred compensation. He said that these programs are different levers that get the money into the retirement system for employees. He surmised that SB 200 would help keep people from running short on retirement and argued that the benefit of SBS would also help the employee's spouse and children.

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SENATOR STEDMAN stated that this is not a small movement - rather, it is a substantial change. Employees who work for 10 or 15 years and then change jobs would take the money with them. He expressed willingness to work on a committee substitute and acknowledged that this issue is complex. He added that this issue has a huge impact on state employees and their ability to retire and stay in Alaska.

[2:28:33 PM](#)

SENATOR MERRICK commented that there has been discussion of a \$680 BSA increase. She asked how much of that money would be used to fund the changes made by SB 200, vs how much would be spent on classes and associated expenses.

SENATOR STEDMAN said that he has been seeking fiscal notes for SB 200 for the past year, but there have been delays. He said that the basic question is - how much does it cost the state for every one percent additional contribution for a teacher in retirement. He added that from this number a broader discussion can occur. He pointed out that SBS is a known number (6.13) and therefore the cost can be determined. If the legislature chooses to take that route, plans can be made on how to fund the additional expense. He argued that there is no way for teachers making 15 percent in retirement to close the gap between that and the 25 percent made by state workers.

[2:30:22 PM](#)

CHAIR BJORKMAN held SB 200 in committee.

[2:30:28 PM](#)

At ease

SB 153-OVERTIME PAY EXEMPTION

[2:35:44 PM](#)

CHAIR BJORKMAN reconvened the meeting and announced the consideration of SENATE BILL NO. 156, "An Act relating to commercial passenger vessel environmental compliance; relating to commercial passenger vessel fees; establishing the wastewater infrastructure grant fund; repealing the authority for citizens' suits relating to commercial passenger vessel environmental compliance; and providing for an effective date."

[2:36:15 PM](#)

CATHY MUNOZ, Commissioner Designee, Department of Labor and Workforce Development (DOLWD), Juneau, Alaska, introduced SB 153 on behalf of the administration. She said that the purpose of this legislation is to add a section AS 23.10.060 that creates an exemption for overtime pay for full-time employees working a flexible work schedule for up to 12 hours per day, three days per week. She stated that eligible entities include ambulatory surgical centers, child placement agencies, foster homes, birth centers, hospices, nursing facilities, residential childcare facilities, and residential psychiatric treatment centers. She explained that, under statutory authority, overtime pay applies to work performed over 40 hours in one week or over 8 hours in one day.

MS. MUNOZ explained that state law currently provides an exemption of state overtime requirements in flexible 4/10 work schedules - that is, ten hours per day for four days per week.

She noted that these are voluntary agreements between employer and employee (a written, signed document is submitted to the Department of Labor in order to authorize these agreements). She stated that SB 153 would add an additional flexible work schedule of 12/3 - that is, twelve hours a day, three days a week. This would provide employers with a new recruitment tool and prospective employees with the opportunity to enjoy additional downtime during the week.

[2:39:00 PM](#)

JEREMY APPLGATE, Chief Wage and Hour, Labor Standards and Safety Division, Department of Labor and Workforce Development (DOLWD), Anchorage, Alaska, offered a presentation on SB 203 and advanced to slide 2:

[Original punctuation provided.]

Purpose

Increase the hours of flexible work hour plans from 10 hours to 12 hours per day for certain businesses.

Allow more flexibility in staffing for the following entities:

- ambulatory surgical centers
- child placement agencies
- foster homes
- free standing birth centers
- hospices
- agencies providing hospice services or operating hospice programs
- nursing facilities
- residential childcare facilities
- residential psychiatric treatment centers

MR. APPLGATE stated that the covered entities are defined by AS 47.32.010.

[2:40:22 PM](#)

MR. APPLGATE advanced to slide 3:

[Original punctuation provided.]

Overtime

- Employers must pay overtime to employees who:

- Work more than 8 hours per day
- Work more than 40 hours per week

Alaska Statute 23.10.060

MR. APPLGATE explained that Alaska is a dual overtime state, meaning there is a daily and weekly overtime. Federal overtime is based on the week. He clarified that the changes made by SB 203 apply to the daily overtime, as state law cannot override the federal requirement.

[2:41:18 PM](#)

MR. APPLGATE advanced to slide 4 and explained that overtime applies to all employees who are not otherwise exempt. The flex time provides for a partial overtime exemption.

[2:41:44 PM](#)

MR. APPLGATE advanced to slide 5:

[Original punctuation provided.]

Flexible Workhour Plans

- Allow employees to voluntarily work up to 10 hours without overtime (Alaska Statute 23.10.060(14))
- Are reviewed and approved by the Department of Labor (8 AAC 15.102)
- Require overtime payment for hours worked outside the agreement

MR. APPLGATE emphasized that an employee must voluntarily enter into a flexible workhour plan and briefly explained the process of plan approval. He stated that employees can choose to opt out of their flexible workhour plans (without employer approval) between November 1 and December 31 (the standard yearly opt-out period). The employer can allow the employee to opt out at any time.

[2:43:12 PM](#)

MR. APPLGATE stated that hours worked beyond the plan that are considered incidental to employment are paid overtime; however, if the employer schedules the employee beyond the ten hours allowed by the plan, this is not considered incidental to employment. In the latter case, the agreement would be considered invalid, and the employer would be required to pay overtime for all hours worked in excess of eight hours in a day.

The standard overtime pay (1.5 times the rate of pay) would apply.

[2:44:11 PM](#)

MR. APPELEGATE moved to slide 6:

[Original punctuation provided.]

Summary

- The legislation would allow employees to work up to 12 hours
- Require overtime for work over 12 hours in a day
- Remain voluntary on behalf of the employee
- Only apply to businesses licensed under Alaska Statute 47.32.010(b)

[2:45:24 PM](#)

SENATOR MERRICK asked why this would be limited to 47.32.010.

MR. APPELEGATE answered that, to his understanding, this was the industry asking for the change. He added that he has had conversations with those in this industry and explained that their need stems from the shift change standard of practice in the medical industry and a need to have all staff on a similar shift change schedule. This allows for continuity of care and good communication. However, he added that this change could easily be extended to all businesses in the state.

[2:46:33 PM](#)

SENATOR DUNBAR asked how employers would be prevented from making these shifts a requirement for employment.

MR. APPELEGATE answered that there is no way to directly prevent employers from making this a requirement of employment. He stated that the Labor Standards and Safety Division is an evidence based, fact finder agency. He explained that once a violation has occurred, the division would look for evidence of the violation and take the appropriate enforcement action. He acknowledged that unless a violation is brought to their attention - or if the investigation of a reported violation does not turn up demonstrative evidence that a violation has occurred - there would be no enforcement action.

SENATOR DUNBAR shared his experience working overtime as a cannery employee and surmised that many interviewees do not know that this statute exists - and are therefore not aware that they

are entitled to overtime for hours worked in excess of 8 hours a day (unless they have signed a contract for a flexible workhour plan). In addition, he surmised that employees are not aware that they cannot be denied employment if they refuse to sign a flexible workhour contract. He observed that the division has no way to proactively enforce this statute and asked if the division ever sends staff through the hiring process to test these practices.

[2:48:54 PM](#)

MR. APPELEGATE answered that the division does not engage in this type of activity. He explained that cases are brought to the division via a wage claim process. He added that when employees are presented with a flexible workhour plan, the forms contain the relevant statutory information.

[2:49:44 PM](#)

SENATOR DUNBAR expressed concern with a request to massively expand this program in a sophisticated industry with high-demand professionals. He commented about the potential for abusive labor practices and the ability for employees in high-demand industries to find employment at less abusive locations; however, this is not the case in every industry. He directed attention to AS 47.32.010 (b) and shared his understanding that the Municipality of Anchorage would like to expand this to include behavioral health providers. He noted that the list of allowed facilities includes residential psychiatric treatment centers and subacute mental health facilities and asked if there are any behavioral health providers that are not included in this program.

MR. APPELEGATE replied that he would have to look into this more closely to make a determination.

SENATOR DUNBAR suggested that this could be a question for someone in the department to answer before the next hearing on SB 153. He commented that drug treatment facilities where patients require 24-hour monitoring is one example of when this shift work would be appropriate. He suggested that reaching out to behavioral health organizations to find out if they would want to make this change and opined that these providers would benefit from this.

[2:52:11 PM](#)

SENATOR DUNBAR asked if the department has spoken with employees and bargaining units regarding this change.

[2:52:41 PM](#)

MS. MUNOZ answered that this was brought to the department's attention a year ago by individuals involved with ambulatory surgical centers as a means to boost recruitment opportunities. She explained that this industry is experiencing labor shortages, and this would be a recruitment incentive. She added that, beyond this there has not been expansive discussion with other employers or employees.

MS. MUNOZ stated that the division would gather additional information regarding behavioral health providers that could possibly be incorporated into the legislation and would provide this to the committee.

[2:54:11 PM](#)

CHAIR BJORKMAN held SB 153 in committee.

[2:54:46 PM](#)

There being no further business to come before the committee, Chair Bjorkman adjourned the Senate Labor and Commerce Standing Committee meeting at 2:54 p.m.