

3-4-82

H B 726

H B 823

H B 831

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 4, 1982
1:14 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Gardiner
Rep. Rogers
Rep. Randolph

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 726 An Act providing an exemption from the
Alaska Employment Security Act for certain
employees of certain corporations.

HB 831 An Act relating to telecommunications; and
providing for an effective date.

HB 863 An Act providing an exemption from the
Alaska Employment Security Act for sole
owners of certain corporations.

WITNESS REGISTER

Dave Stancliff
Aide to Rep. Barnes
Pouch V
Juneau, Alaska 99811
465-3797
Position Statement: Presented HB 726.

Art Zillig, Director
Employment Security Division
Department of Labor
Box 3-7000
Juneau, Alaska 99811
465-2712
Position Statement: No recommendation on HB 726.

Ed Hein, attorney
LAA Legal Services
Pouch Y
Juneau, Alaska 99811
465-3867
Position Statement: Evaluated HB 726.

Gary Jenkins
National Federation of Independent Business

Juneau, Alaska 99801

586-4100

Position Statement: Supported concept of HB 762; suggested changes.

Alex Hills, Deputy Commissioner

Department of Administration

Pouch C

Juneau, Alaska 99811

465-2200

Position Statement: Recommended HB 831 not be passed as written.

Charles Northrip, Executive Director

Alaska Public Broadcasting Commission

Pouch CB

Juneau, Alaska 99811

465-2846

Position Statement: Felt HB 831 was premature.

Gordon Zerbetz

Alascom

900 West 54th

Anchorage, Alaska

279-9971

Position Statement: Comments on HB 831.

PREVIOUS ACTION

HB 726

No previous action.

Statutory Reference: AS 23.20.526

Action Taken: Rep. Rogers moved to strike subsection (c) and replace with a new (c) "the employee is an executive officer of the corporation and owns, directly or indirectly, 25% or more of the voting securities of the corporation; and". There was objection by Rep. Bylsma; he removed his objection. Motion passed unanimously.

Rep. Rogers moved to report CSHB 726 (L&C), as amended, out of committee. There being no objection, motion passed.

HB 831

No previous action.

Statutory Reference: AS 44.21

Action Taken: No action taken.

HB 863

No previous action.

Statutory Reference: AS 23.20.526

Action Taken: Bill was not taken up this date. No action.

ACTION NARRATIVE

Tape #33
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:14 p.m. Members present were: Reps. Bylsma, Gardiner, Martin, Randolph, and Rogers. There were no members absent. Rep. Martin brought HB 726 before the committee for consideration.

Number 020

Dave Stancliff, administrative assistant to Rep. Ramona Barnes, presented HB 726 on her behalf. He explained the intent of the bill, and referred to a House Research report, which was given to the committee, for figures on the financial impact. (Stancliff spoke from prepared testimony.)

Number 060

Rep. Gardiner asked why the bill was introduced. Stancliff said it was for philosophical reasons. There was discussion. Rep. Randolph said he had no objection to using HB 726 as a vehicle, as it is almost identical to his bill (HB 863).

Number 082

Art Zillig, director, Employment Security Division of the Department of Labor, said the amendment would not impact the ability to conform with federal law. He had no recommendation on the bill. There was discussion. Rep. Martin asked the revenue impact; Zillig had no estimate. There was discussion of impact on FUTA taxes.

Number 126

Rep. Rogers was concerned about the stock ownership plan and its impact on employees. He was concerned that, if employees owned 25% of a class of voting securities, the employer could remove those employees from unemployment security.

Number 158

Ed Hein, attorney with LAA Legal Services, said he drafted the bill, and that the intent was to provide optional exemption from unemployment insurance. In drafting the legislation, he made efforts to check for conflicts with federal laws, and he was

satisfied there would be no conflicts. He could not say conclusively if there were conflicts with other portions of Title 23.

Number 194

Rep. Rogers again raised his concern about an employer exempting employees through a stock ownership plan. Hein said he didn't think that was the intent. He said this was meant to refer to someone with a controlling interest in the corporation. There was discussion. Hein said the language would seem to allow exempting employees. Rep. Rogers suggested deleting the language, "any class of", and inserting "the" on line 16, and suggested deleting the language, "the power to vote". There was discussion.

Number 278

Gary Jenkins, small business owner and member of the National Federation of Independent Business, supported the concept of the bill, but supported amending language. He suggested exempting corporate office, similar to a provision in the Workers Compensation Act. There was discussion. Rep. Rogers said there was a substantial difference between the workers compensation provisions and the provisions in the bill. He felt possibly redefining eligibles as officers of the corporation would solve the problem. Rep. Gardiner brought up the question of partnerships. Jenkins thought partnerships were already exempted, and suggested using the term, "executive officer of the corporation". Hein said other states provide for this. He noted that the state of Washington uses the term, "corporate officers", and said he supports this concept. There was discussion of how to amend the language.

Number 480

Jeff Barry said he did not question the concept, but thought it may conflict, especially in the construction industry, with prevailing wage. He cited examples. Rep. Rogers felt subsection (d) would cover this. There was discussion.

Number 568

Rep. Rogers moved to strike subsection (c) and replace with a new (c): "the employee is an executive officer of the corporation and owns, directly or indirectly, 25% or more of the voting securities of the corporation; and". Rep. Bylsma objected. There was discussion. The committee asked

Zillig to estimate the fiscal impact; Zillig said it would be difficult to determine. He said there would be no impact on the general fund. Rep. Bylsma removed his objection; there being no objection, the motion passed.

Number 639

Rep. Rogers moved to report CSHB 726 (L&C), as amended, out of committee. Motion passed without objection.

Number 655

Rep. Martin turned the committee's attention to HB 831. He referred to information sent by Senator Stevens regarding self-regulation by states of many functions previously handled by the FCC. He gave the reasons for and intent of the bill.

Side B, Number 040

Alex Hills, Deputy Commission of Administration responsible for telecommunications, suggested it is premature to judge the Telecommunications organization at this time. He believes the intention is to take over the functions of APBC, and to create oversight authority of various functions. Hills submitted a copy of their annual report, which he felt should be considered. (Hills also submitted written testimony; both these documents are available from the committee for inspection.) Hills said he was concerned about introducing another layer of bureaucracy, and about asking members of industry to make state-level decisions that would impact the private sector. He felt there was a potential conflict of interest. Hills recommended the bill not be passed as written.

Number 135

Rep. Martin asked the committee if it would like to have a special meeting with Hills regarding federal legislation.

Number 150

Charles Northrip, Executive Director, APBC, felt the impact of the bill on public broadcasting would set back progress by several years. (Northrip spoke from prepared testimony, which is available for review from the committee.) He explained the background of the Commission, and told why he felt the bill was premature.

Number 213

Gordon Zerbetz, Alascom, had no official stand on the bill as they hadn't had time to review the bill thoroughly. He said it was

apparent there would be overlap between the Telecommunications Division and the new commission. He had no time yet to evaluate the new division, as it had not been geared up long enough yet. He felt a coordinated effort was important. He said the bill causes him concern about the creation of an agency comingling a developmental entity and a regulatory entity. He was apprehensive about the commission have both authorities. He spoke to particular sections of the bill which caused him concern. There was discussion. Zerbetz said Alascom is committed to the establishment of a focal agency to develop telecommunications policy. He said the system created by EO 52 had not been in place long enough to determine if it fills this need.

Number 333

Zerbetz said, regarding appeal powers, that if the board is an appellate board for APUC or other agencies, the committee should consider addressing, by statute, the qualifications of people on the board. Rep. Rogers asked if the commission would be quasi-judicial or promotional. He said the state should not have an agency that does both. Rep. Martin responded that he had no real concept in mind.

Number 379

Jeff Barry, committee aide, said section 4 defines telecommunications. He pointed out that one area not addressed that should be is the area of computer security. He said the public needs protection. Barry felt this concept is a holistic approach to the entire industry. Barry said there are three factions to consider: public, industry, and government. He said the intention is to limits the courts' ability to rule to law, not policy. The commission would be an appellate body to hear the concerns of the three factions. There was discussion.

Number 450

Hills said they do have an awareness of computer privacy issues. He said Bruce Carlson, office of Information Management, would meet with staff. He said Sen. Parr had introduced a resolution which would ask them to investigate this area. There was discussion.

Number 479

Rep. Martin went over the next week's agenda. There being no further business to

come before the committee, the meeting was
adjourned at 2:35 p.m.

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 3/4/82

Place: _____

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	_____ ✓	_____	1:31	
Rep. D. Randolph	_____ ✓	_____	1:13	
Rep. B. Rogers	_____ ✓	_____	1:21	
Rep. T. Gardiner	_____ ✓	_____	1:06	
Rep. T. Martin, Chair	_____ ✓	_____	12:55	

Subject Matter:

House Bill No. 726 863 831 _____

Senate Bill No. _____

Special Orders:

1 IN THE HOUSE

BY BARNES, HAYES AND CLOCKSIN

2 HOUSE BILL NO. 726

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing an exemption from the Alaska Employ-
7 ment Security Act for certain employees of certain
8 corporations."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 23.20.526 is amended by adding a new paragraph to read:

11 (21) service performed for a corporation by an employee of the
12 corporation if

13 (A) the corporation is incorporated under AS 10.05;

14 (B) the corporation is not a government corporation;

15 (C) the employee ^{is} owns directly or indirectly, ^{or} has the
16 power to vote, ^{the} 25 percent or more of ~~of~~ ^{the} ~~the~~ voting securities
17 ~~of~~ the corporation; and

18 (D) the employee agrees that the services not be "employ-
19 ment" under this paragraph.

20
21
22 (c) the employee is an ~~employee~~
23 executive officer of the corporation
24 and owns directly or indirectly
25 25 percent or more of the
26 voting securities of the corporation; and
27
28
29

ALASKA
STATE LEGISLATURE
MEMORANDUM

3/4/82

To Legal Services
Fm Labor & Commerce
SJ HB 726

*Pls prepare a CS for HB 726 (L+C) incorporating
Changes shown.*

*Thanks -
Joan
--3657*

1 IN THE HOUSE

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12 corporation if

13 (A) the corporation is incorporated under AS 10.05;

14 (B) the corporation is not a government corporation;

15 *delete section (c) - replace with new section (c), below.*

16 ~~(C) the employee owns directly or indirectly, or has the
17 power to vote, 25 percent or more of any class of voting securities
of the corporation; and~~

18 (D) the employee agrees that the services not be "employ-
19 ment" under this paragraph.

20
21 *(c) the employee is an executive officer of the
22 corporation and owns directly or indirectly 25 percent
23 or more of the voting securities of the corporation; and*

Testimony of Charles Northrip On HB 831
Before the House Labor and Commerce Committee
March 4, 1982

Mr. Chairman, and members of the Committee, my name is Charles Northrip. I am the Executive Director of the Alaska Public Broadcasting Commission. I appreciate the opportunity to testify on this bill today. I also appreciate the prompt and courteous notice that the Committee staff provided me of the introduction of the Bill. Unfortunately my testimony will be negative with regard to the Bill. I feel its impact on public broadcasting would set back its progress several years.

Executive Order No. 50, now incorporated in Alaska Statute 44.21.256 - 290 recognized the need to centralize planning, coordination and operation of State telecommunications activities, and created a Deputy Commissioner and two divisions within the Department of Administration to do just that. The Order also transferred the Alaska Public Broadcasting Commission from the Department of Education to the Department of Administration so it would operate out of the same administrative home as the two new telecommunications divisions. The Order did not, however, abolish the APBC nor place public broadcasting in the chain of command linked directly to the State executive hierarchy. I do not believe those portions of the order were adopted without due deliberation, primarily in consideration of the dangers of government control or influence over programming. By leaving the APBC within the Department of Administration, but outside the direct line organization of the telecommunications divisions, the Order puts as much

distance as possible between the State hierarchy and programming, since the Commission is an independent agency governed by nine citizens who are not State employees. In further support of this concept, the APBC leaves program judgements to independent local licensees, who are in turn governed by local citizen boards.

Before Executive Order 50, the APBC was involved with the State satellite TV project, the video tape delay center, and the provision of commercial programming. Those activities detracted from the main purpose of the Commission, which is the encouragement and support of public broadcasting in Alaska. Those activities, however, also put the Commission in the posture of "meddling" in areas best left to the private sector. The Executive Order divested the APBC of all such activity, and gave the agency its single primary focus in the support of public broadcasting throughout the State. The Commission, thanks to the Executive Order, now has a clear focus for its activities.

There are many areas touched on by HB 831 that require additional comment, not the least of which is the proposed new Commission serving as a watchdog over Department of Administration telecommunications activities. I'll leave that topic to Dr. Hills and others from the Department. I can say, however, that the current Alaska Public Broadcasting Commission has no desire to undertake that role. In fact, the full Commission unanimously approved the Executive Order No. 50 approach last spring.

My major criticism of the Bill is that it is too much, too soon. Executive Order No. 50 has been in effect less than a year. The staffs of the new Divisions have had even less time to come to grips with the state's telecommunications priorities. The APBC has had its new, more pointed, focus for that same period of time. The APBC's first edition of its long-range plan is only now at the printers. Similar efforts in other areas of telecommunications are in various stages of completion in the telecommunications divisions.

The Governor's Executive Order should be given time to work before new approaches are attempted. If the Legislature feels the need for countervailing expertise, it should hire telecommunications professionals to advise the cognizant committees as they exercise their rightful oversight responsibilities of the work of the telecommunications divisions and the APBC each year. That approach is certainly open to any committee.

If, over time, Executive Order No. 50 proves inadequate to the task, the Department of Administration, I'm sure, will be the first to propose changes in the law. Now, however, is not the time to make such changes, when our new system is less than a year old.

STATEMENT OF ALEX HILLS
DEPUTY COMMISSIONER FOR TELECOMMUNICATIONS
DEPARTMENT OF ADMINISTRATION
ON HOUSE BILL 831
PROVIDED TO HOUSE LABOR AND COMMERCE COMMITTEE

The Alaska Communication Commission proposed in House Bill 831 would have two kinds of functions. The Commission would oversee public broadcasting, as the APBC presently does, and would, in addition, have oversight powers with respect to the two telecommunications divisions located in the Department of Administration. The functions of the APBC will continue to be required and should be provided for in the future. Issues related to these functions will be addressed in a separate statement by Dr. Charles Northrip, Executive Director of the APBC.

Our two telecommunications divisions, and my own position, were instituted on July 1, 1981, when Executive Order 50 became effective. Executive Order 50 was the result of a lengthy process that involved a great deal of effort by members of both the Administration and the Legislature. The new telecommunications organization has been in existence for less than nine months. Although most interested parties appear to be satisfied with its performance so far, the new organization certainly needs more time to prove itself. I would suggest that it is premature to judge the new divisions at this time.

I believe that the primary intent of HB 831 is to provide oversight of all State telecommunications activities. Accordingly, I am submitting a copy of our Telecommunications Annual Report, which has

been recently completed. As the Report shows, the divisions are involved in a wide range of statutorily required activities. I believe that any new telecommunications legislation should consider these activities.

As I understand the proposed Commission, it would be a new layer of bureaucracy involved in the telecommunications decision-making process. I believe that such an arrangement would not only increase the size of State government but would also make the decision process unnecessarily cumbersome.

Finally, I am concerned about asking members of the telecommunications industry to make State government decisions that affect the private sector. The Department of Administration actively seeks advice and input from the private sector. We consider this input as we make decisions designed to serve the public interest and State government needs. The proposed arrangement, on the other hand, would have industry representatives making decisions that affect the State's procurement of goods and services from their own industry.

In summary, for the reasons I have explained, I do not recommend that this bill be passed out of Committee. I further suggest that our present telecommunications organization be evaluated during the next legislative session at the earliest.

Absent:

3/4/82

~~Page~~

HB ~~726~~ HB863 HB 831

1:14

000 Call to order

~~010 Intro to HB 863 by Rep. Randolph~~

HB 726
020

~~Rep.~~ Dave Stancliffe AA to Ramona Barnes - ~~intro to~~ ^{explained intent} of HB 726. Referred to House Research report, which was given to committee, for figures on financial impact.

~~Adv. to people can~~ (Spoke from prepared testimony)

060 Gardiner asked why bill was introduced; Stancliffe said it was for philosophical reasons. Discussion

078 Randolph said he had no objection to using HB 726 as vehicle, as his bill is almost identical (HB 863)

082 Art Zellig, Dir, ESC, Dept Labor - amendt wd not impact ability to conform w/ fed'l law; no recommendation on bill.

097 Gardiner asked how many people wd be eligible; Zellig had no figures.

Discussion.

Martin asked revenue impact; Zellig had no estimate. Region X said if poor covered by fed'l FUTA tax, FUTA wd be increased.

Stancliffe said FUTA is calculated in report; ~~see~~ see figures.

106 Rogers - asked inst stock ownership plan; impact on employees - if emp's own 25% of stock a ^{class} portion of voting securities; concerned that employer cd remove employees from unemployment

158 Ed Hein - LAA leg sucs - drafted bill - intent was to provide optional exemption fm unemp ins. In drafting legis'n, made efforts to ck for conflicts w/ fed'l laws ~~and~~ - satisfied there wd be no conflicts. Can't say conclusively if there are conflicts w/ other portions of Title 23.

194 Rogers asked ~~abt~~ he again raised his concern abt an emp exempting employees through a stock ownership plan. Hein said he didn't think so, that wasn't intent; meant - to refer to someone w/ controlling interest in corp. Discussion. Hein said language wd seem to allow exempting employees.

^{suggested}
257 Rogers ~~proposed~~ deleting "any class of" & insert "the" (l. 16), & suggested ~~to~~ deleting "the p wer to vote" - discussion

278 Gary Jenkins - Nat'l Fed of Independent Business & Small Bus owner - supported concept. Edge supported amending lang. ~~age~~

Suggested ~~to~~ exempting corporate officers - similar to prov'n in Wkr Compn Act.

Discussion. Rogers said there was a substantial difference between the Wkr Compn provisions & the bill. Felt possibly redefining eligibles as officers of the corporation. Gardiner brought up ^{question of} partnerships - Jenkins thought partnerships were already exempted. Jenkins suggested using term "executive officer of the corp."

446 Hein said other states provide for this; Washington uses term "corporate officers" - goes along w/ this concept.

Discussion of how to amend.

The employee is an executive officer of the corp, & owns 25% or more of the corporation.

480 Barry - gets not concept, that's good, but may conflict, esp in const industry, w/ prevailing wage. Cited examples.

Purposes different fm Fedn of Businesses. Area of gain in const ind, under prevailing wage act, doing work as wage earner, potential conflict. Rogers felt (d) would cover this. Discussion.

568 Rogers moved strike (c) & replace w:

"(c) the emp^{ly} is an exec officer of the corp & owns, directly or indirectly, 25% or more of the voting securities of the corp; and "

Objection by Byloma; discussion. Asked Zellig to estimate fiscal impact; Zellig said it wd be difficult to determine. No general fund impact. Knight felt there wd be no significant impact.

~~Cost: for~~ ~~off it~~
No objection, no carried.

639 Rogers moved to report out CS HB 726 as amended

10/28/77

655 Intro to HR 831 by Ch. Martin. Referred to info sent by Sen Stevens re self-regn by states of many functions FCC ~~had~~ ^{previously} handled. Gave ~~intro~~ reasons for intent of bill.

side B

027 _____ clarified a point Martin made. Discussion.

040 Alex Hills, Deputy Comm of Admin responsible for telecom ^{spoke} (read from prepared testimony.)

~~Exec order 50~~ Gave background of telecom orgn.

~~Felt~~ Suggested it is premature to judge orgn at this time.

Believes intention is to

- 1) take over func of APBC
- 2) create oversight of various functions

Submitted by of annual report, which he felt shd be considered.

~~He~~ ~~His~~ ~~orgn~~ Noted that ^{his} orgn is wkg on many areas Martin spoke of being concerned abt.

Hills was concerned abt introducing another layer of bureaucracy. Concerned abt asking members of industry to make state-level decisions that wd impact private sector. Potential conflict of interest.

Recommended bill not be passed as written.

135 Martin asked if committee wd like to have special mtg w/ Hills regarding fed's legis'n, possibly 3/24.

Rank
2:30

150 Charlie Northrip, Exec Dir, APBC. (Spoke from prepared testimony.) Felt impact of bill on pub. bdcats wd set back progress several yrs. Explained ~~why he felt this~~ ^{background of} commission & why he felt bill was premature.

213 Gordon Zerbets, Alascom — no official stand yet as they haven't had time to rw thoroughly.

Apparent there wd be overlap bet Telecom Div & the new commission. No time yet to ~~evaluate~~ ^{evaluate} new division — not geared up long enough yet.

Coordinated effort is important.

Bill causes him concern abt creation of agency combining developmental entity & regulatory entity. Apprehensive abt comm having both authorities.

Re appeal pwr, p. 3, Secs 5 & 6 — re APUC — ~~the~~ exemption in Sec 6 — comm issues many other types of orders of interest to telecomm. industry. Sec 5 (8) — validity of regs — APUC has function of issuing telecomm-oriented regs.

297 Rogers pointed out Zerbets was on APUC abt 15 yrs. Rogers asked if APUC had own attys; Zerbets said an asst AG assigned to them. Rogers said AG wd be person bringing & person defending an action under that sec.

318 Zerbets — Alascom committed to estabmt of focal agency to develop telecomm policy. System created by EO 50 not in place long enough to determine if it ~~is~~ ^{does} this.

333 ~~Barry~~ Zerbetz - re appeal juris - re board - if it is appellate bd for APUC or other agencies, shd consider qualins of people on bd; shd perhaps be addressed in statute.

352 Rogers - asked if comm wd be quasi-judicial or promotional. Said AT shdnt have agency that does both. Martin responded no real concept 'n mind. Needed think tank. Developing ideas for legis'n.

379 Barry - sec 4 defines telecomm.

One area not addressed that shd be is ~~sector~~ computer security. Public needs protection. Concept is holistic approach to entire industry.

- 1) public
 - 2) industry
 - 3) govt
-) 3 factions to consider

Intention is to limit courts' ability to rule to law, not policy. Comm. wd be appellate to hear concerns of 3 factions.

430 Martin referred to a previous bill which wd have caused problems; w/o technical knowledge

450 Hills - do have awareness of computer privacy issues - Bruce Carlson, Ofc of Info Mgmt. Offered to meet w/ staff. Pass into resolu'n which wd ask them to investigate this area.
Discussion.

~~470~~ Rogers

479 Discussion of next wk's agenda.

490 Adjourned 2:35