

ALASKA STATE LEGISLATURE
CONFERENCE COMMITTEE ON HJR 22

April 20, 2001

4:07 p.m.

HOUSE MEMBERS PRESENT

Representative Jeannette James, Co-Chair
Representative Bill Williams
Representative Ethan Berkowitz

HOUSE MEMBERS ABSENT

All House members present

SENATE MEMBERS PRESENT

Senator Jerry Ward, Co-Chair
Senator Pete Kelly
Senator Lyman Hoffman

SENATE MEMBERS ABSENT

All Senate members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 22

Relating to a diverse community; condemning a recent racially motivated attack; and requesting the Municipality of Anchorage police department to conduct a conclusive investigation and to take rapid action against the perpetrators.

- HEARD AND HELD

PREVIOUS ACTION

BILL: HJR 22

SHORT TITLE: DIVERSE COMMUNITY/CONDEMN HATE CRIMES

SPONSOR(S): RLS BY REQUEST OF THE HOUSE

Jrn-Date	Jrn-Page		Action
03/16/01	0626	(H)	READ THE FIRST TIME - REFERRALS
03/16/01	0626	(H)	RLS
03/20/01		(H)	RLS AT 5:00 PM BUTROVICH 205

03/20/01		(H)	<Recessed to a call of the CO-CHAIR >
03/20/01		(H)	MINUTE(RLS)
03/21/01		(H)	RLS AT 4:30 PM Speaker's Chamber
03/21/01		(H)	Moved CSHJR 22(RLS) Out of Committee
03/21/01		(H)	MINUTE(RLS)
03/22/01	0678	(H)	RLS RPT CS(RLS) NT 4DP
03/22/01	0678	(H)	DP: PORTER, KOHRING, JOULE, KOTT
03/22/01	0679	(H)	FN1: ZERO(H.RLS)
03/22/01	0693	(H)	RULES TO CALENDAR 3/22/01
03/22/01	0693	(H)	READ THE SECOND TIME
03/22/01	0693	(H)	RLS CS ADOPTED UNAN CONSENT
03/22/01	0693	(H)	CHANGED SPONSOR UNAN CONSENT
03/22/01	0693	(H)	ADVANCED TO THIRD READING UNAN CONSENT
03/22/01	0693	(H)	READ THE THIRD TIME CSHJR 22(RLS)
03/22/01	0694	(H)	PASSED Y38 E2
03/22/01	0698	(H)	TRANSMITTED TO (S)
03/22/01	0698	(H)	VERSION: CSHJR 22(RLS)
03/23/01	0782	(S)	READ THE FIRST TIME - REFERRALS
03/23/01	0782	(S)	STA
04/05/01	0956	(S)	STA RPT SCS 4DP SAME TITLE
04/05/01	0956	(S)	DP: THERRIAULT, PHILLIPS, PEARCE, DAVIS
04/05/01	0956	(S)	FN1: ZERO(H.RLS)
04/05/01		(S)	STA AT 3:30 PM BELTZ 211
04/05/01		(S)	Moved Out of Committee MINUTE(STA)
04/09/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/09/01		(S)	MINUTE(RLS)
04/10/01	1047	(S)	RULES TO CALENDAR 4/10/01
04/10/01	1051	(S)	READ THE SECOND TIME
04/10/01	1052	(S)	HELD IN SECOND READING TO 4/11 CALENDAR
04/11/01	1074	(S)	STA SCS ADOPTED UNAN CONSENT
04/11/01	1074	(S)	AM NO 1 FAILED Y7 N11 E1 A1
04/11/01	1075	(S)	AM NO 2 NOT OFFERED
04/11/01	1075	(S)	AM NO 3 ADOPTED Y13 N6 E1
04/11/01	1076	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/11/01	1076	(S)	READ THIRD TIME SCS CSHJR

			22(STA) AM S
04/11/01	1077	(S)	PASSED Y16 N2 E1 A1
04/11/01	1077	(S)	WILKEN NOTICE OF RECONSIDERATION
04/12/01	1095	(S)	RECON TAKEN UP - IN THIRD READING
04/12/01	1095	(S)	PASSED ON RECONSIDERATION Y17 N1 E2
04/12/01	1097	(S)	TRANSMITTED TO (H) AS AMENDED
04/12/01	1097	(S)	VERSION: SCS CSHJR 22(STA) AM S
04/17/01	1008	(H)	HELD UNDER UNFINISHED BUSINESS
04/17/01	1019	(H)	FAILED CONCUR (S) AM Y5 N30 E4 A1
04/18/01	1160	(S)	FAILED RECEDE (S) AM Y8 N11 E1
04/18/01	1161	(S)	CONFERENCE COMMITTEE APPOINTED
04/18/01	1161	(S)	*WARD, KELLY, HOFFMAN
04/19/01	1059	(H)	CONFERENCE COMMITTEE APPOINTED
04/19/01	1059	(H)	*JAMES, WILLIAMS, BERKOWITZ
04/20/01		(H)	022 AT 4:00 PM BELTZ 211

WITNESS REGISTER

No witnesses to record

ACTION NARRATIVE

TAPE 01-1, SIDE A
Number 001

CO-CHAIR JEANNETTE JAMES called the Conference Committee on HJR 22 to order at 4:07 p.m. Representatives James and Berkowitz and Senators Ward and Kelly were present at the call to order. Representative Williams and Senator Davis arrived as the meeting was in progress.

HJR 22-DIVERSE COMMUNITY/CONDEMN HATE CRIMES

CO-CHAIR JAMES announced that the only order of business before the committee would be HOUSE JOINT RESOLUTION NO. 22, Relating to a diverse community; condemning a recent racially motivated attack; and requesting the Municipality of Anchorage police department to conduct a conclusive investigation and to take

rapid action against the perpetrators. [Before the committee are SCS CSHJR 22(STA) am S and CSHJR 22(RLS).]

Number 0020

CO-CHAIR WARD reviewed a document prepared by his staff. This document outlines the changes by the Senate. He informed the committee of the following changes to CSHJR 22(RLS), which are encompassed in SCS CSHJR 22(STA) am S:

Page 1, line 6, "incredibly" was deleted.
Page 1, lines 8-9, "WHEREAS" clause was deleted.
Page 1, lines 12-13, "WHEREAS" clause was deleted.
Page 1, line 15, "to build bridges with the" was replaced with "an understanding with the".
Page 1, line 15, before "discrimination", "unlawful" was inserted.
Page 2, line 4, "and business" was deleted.
Page 2, line 6, The "WHEREAS" clause was changed to read as follows:
 "**WHEREAS** federal law 18 U.S.C. 245 makes it unlawful by the commission of certain acts to prevent a person from exercising a "federally protected right" when the assailant is motivated by bias based on race, religion, national origin, or color;"
Page 2, lines 16 and 17, before "discrimination", "unlawful" was inserted.
Page 2, line 20, before "unacceptable", "reprehensible and" was inserted.
Page 2, line 22, "continue its" was replaced with "complete a".
Page 2, lines 25-29, was deleted.
Page 2, lines 30-31, was deleted.
Page 3, line 3, "racism and" was replaced with "unlawful".

Number 0424

CO-CHAIR WARD related his understanding that insertion of the word "unlawful" by the Senate drew much attention in the House. He informed the committee that he was in support of that amendment because of his belief that there are "lawful and legal and appropriate forms of discrimination." Therefore, he wanted to differentiate between the aforementioned forms of discrimination and unlawful discrimination. For example, he informed the committee that as an Alaskan Native and Vietnam

combat veteran, he is eligible for 160 acres of land. However, those [Alaskans] that were in Vietnam that [are not Alaska Native] aren't eligible for such. Co-Chair Ward characterized the aforementioned example as appropriate and lawful discrimination because he wasn't in Alaska to sign up for the land allotment with the Bureau of Indian Affairs. Co-Chair Ward noted other forms of lawful discrimination such as being the membership of a Native corporation or eligibility for longevity.

CO-CHAIR JAMES related her belief that the objection to the insertion of "unlawful" was that this case was, because it was racial discrimination, lawful and by inserting "unlawful" it seemed to draw attention to the fact that maybe it wasn't.

Number 0617

REPRESENTATIVE BERKOWITZ said that his interpretation of "unlawful" is tepid because when one criticizes "unlawful racism" one is criticizing things that are already illegal. Furthermore, one of the definitions of discrimination is: "A prejudiced act." One of the definitions of prejudice is: "An irrational hatred or suspicion of a specific group, race, or religion." Therefore, [prejudice] is what is being condemned and it doesn't have to be illegal to condemn it.

CO-CHAIR WARD returned to his example that because he is an Alaska Native and Vietnam combat veteran, he is allowed 160 acres. He asked if that is discrimination.

REPRESENTATIVE WILLIAMS remarked that Co-Chair Ward is correct to some extent in that there are many types of discrimination. However, HJR 22 relates to a specific racially motivated attack. Therefore, he suggested creating another resolution if the desire is to address the other types of discrimination.

CO-CHAIR JAMES asked what Representative Williams thought about deleting "unlawful" and replacing it with "racial".

REPRESENTATIVE BERKOWITZ pointed out that doing such is beyond the ability of this conference committee.

CO-CHAIR JAMES agreed, but noted that such [powers] could be requested.

Number 0800

SENATOR DAVIS emphasized that comparing Co-Chair Ward's example to this resolution is like comparing apples and oranges because the situation before the committee is a racial incident. Senator Davis interpreted the insertion of "unlawful" to mean that one can do anything to anyone as long as it's not illegal. Why would one allow that concept or message to be sent to children, she asked. She said that is the only problem she has with [SCS CSHJR 22(STA) am S].

CO-CHAIR JAMES announced that she is personally opposed to any form of discrimination. However, there is a lot of discrimination that isn't illegal. Therefore, she felt that the type of discrimination being addressed in HJR 22 should be defined. She agreed that "unlawful" takes the focus and thus shouldn't be included; however, she expressed the need to have some [language] in order to indicate that the legislation speaks to a particular type of discrimination.

Number 0930

SENATOR KELLY recalled that Co-Chair James felt that "racial discrimination" would be appropriate. However, he said that he didn't believe that language would "get to it" because there is racial discrimination in Alaska as well. For example, non-Natives can't belong to a Native corporation. Senator Kelly remarked, "The list of things that we give to people in this state is, it's exhaustive with how we discriminate racially." Therefore, the choices are to not discriminate at all or not to racially discriminate, which is problematic due to the lawful racial discrimination that already exists. He felt that the choice [has to be] "unlawful discrimination" because although the act speaks to a specific incident, the language is very broad.

REPRESENTATIVE WILLIAMS maintained that a non-Native can be a shareholder of a Native corporation, although a non-Native can't vote. Representative Williams turned to the resolution and asked if the desire is to send a strong message or to water it down.

SENATOR KELLY answered that he wanted to send a strong message.

CO-CHAIR JAMES asked if this incident would be just as bad if a group such as women or elderly people was targeted. She asked if this is worse because Natives were targeted.

REPRESENTATIVE DAVIS said that regardless of the race, this incident would have been bad and just as important [to address]. Representative Davis related her understanding that there was no debate in the House regarding only having "discrimination" language. However, now some seem to have concerns with the language.

CO-CHAIR WARD returned to Representative Williams' comments and remarked that everyone has felt discrimination. However, he said that he has a problem with [language] that isn't interpreted. Although he believes the three youths will be prosecuted, he was interested in enhancing existing laws to make [discrimination] more difficult. Co-Chair Ward reiterated his stance that he couldn't support this resolution without the term "unlawful." However, he would consider legislation that addresses name calling, et cetera.

Number 1327

CO-CHAIR JAMES said that she agreed with Senator Davis. Co-Chair James related her belief that this incident was an act of discrimination because a particular group was targeted. Furthermore, the crime would remain the same regardless of the group targeted. However, there is another element that has been discussed lately and that is hate crime. A hate crime involves the intent or mindset. Co-Chair James related her understanding that intent does make a difference in regard to the outcome. Therefore, she felt that this incident was worse because a specific group was targeted based on the groups race, but she wasn't sure how to get at that degree of difference.

REPRESENTATIVE BERKOWITZ reiterated the definition of prejudice, which is the definition of discrimination and said, "To me, what discrimination is, is quite clear and if we're going to condemn it, lets condemn it."

CO-CHAIR JAMES disagreed and said that Representative Berkowitz is using a contemporary meaning of discrimination. She emphasized that the word discriminate means to choose between things.

REPRESENTATIVE BERKOWITZ said that he didn't want to discuss the etymology of words. However, the definition that makes sense in this context is the definition of discrimination that he read earlier.

Number 1499

SENATOR KELLY pointed out that when words are unclear, modifiers are used to further clarify the meaning of the word. Therefore, "unlawful" serves that purpose.

CO-CHAIR WARD reiterated that the only way he will support this resolution is with the insertion of "unlawful." He remarked that there should be added emphasis on this incident because the three youths were bigots who sought a particular race to attack. "If our laws are not strong enough to take care of that, then ... that's our fault," he said. Co-Chair Ward also reiterated his lack of trust in the public interpreting the laws.

CO-CHAIR JAMES inquired as to the committee's opinion of using the word "prejudice."

SENATOR DAVIS clarified that she isn't saying that Senators Ward and Kelly are wrong for wanting the word "unlawful." However, she felt both should be held accountable for what happens with this resolution. She expressed [disbelief] that the legislature would get "hung up" on a simple resolution simply because of a lack of trust in the system to say and do what is right and wrong. However, she emphasized that there is a difference between special privileges and discrimination.

SENATOR DAVIS remarked that this resolution has already been watered down enough. However, she expressed the need to work on it. Perhaps the fifth "**WHEREAS**" could read as follows: "**WHEREAS** Anchorage has a responsibility to take a leadership role in creating a climate of tolerance" and insert additional language to make the statement stronger.

CO-CHAIR JAMES said that she appreciated Senator Davis' direction because the chore is to develop something that both sides can agree upon. Therefore, she requested that committee members think [about a language change]. However, she felt that powers of free conference would have to be obtained first.

REPRESENTATIVE BERKOWITZ disagreed because he felt this could be put to a vote.

CO-CHAIR JAMES announced that she wouldn't do that.

REPRESENTATIVE BERKOWITZ pointed out, "The choice would belong to any member of this committee who made a motion."

CO-CHAIR WARD requested that the avenues of fixing the [language] within the document or creating a new document not be thwarted.

Number 1783

CO-CHAIR JAMES explained her belief that this resolution can't be fixed [under the committee's current powers] because "unlawful" is not acceptable by the House. Co-Chair James said, "I'm not willing to put a motion on the floor and get the sufficient amount of votes and get out of here. I want to have six of us agree on something." She related her belief that it can happen.

CO-CHAIR WARD referred to the seventh "**WHEREAS**" that says that it's illegal to commit a crime. He pointed out that a crime is already illegal and asked if there is agreement on that point. He also asked if this body should be putting out a statement that says "makes it illegal to commit a crime".

CO-CHAIR JAMES pointed out that there is already agreement on the seventh "**WHEREAS**." She asked if the "unlawful" language is the only place where there is disagreement.

REPRESENTATIVE BERKOWITZ replied no and directed attention to the fact that the Senate deleted the next to the last "**FURTHER RESOLVED**." That provision seems to be a fairly straightforward declaration of intent by the legislature. Therefore, he inquired as to why that was removed.

CO-CHAIR JAMES identified the issues needing attention as the "unlawful" language and the fourth "**FURTHER RESOLVED**."

Number 1947

SENATOR DAVIS informed the committee that the Senate State Affairs Committee determined that the resolution should be more precise and thus a new committee substitute (CS) was drafted. That new CS didn't have the fourth "**FURTHER RESOLVED**". Therefore, the resolution that came before the Senate floor didn't have that provision.

SENATOR KELLY said that the fourth "**FURTHER RESOLVED**" was probably removed because that language is traditionally "**WHEREAS**" language.

CO-CHAIR JAMES pointed out that the language has a pledge.

SENATOR DAVIS informed the committee that there was no item-by-item debate by the Senate State Affairs Committee.

CO-CHAIR JAMES remarked that the language seems innocuous.

SENATOR KELLY indicated that the language was probably deleted due to the "fair and equitable treatment for all who ... visit Alaska" language. Those who visit the state aren't treated fair and equitable because they are charged different rates for their licenses and they don't receive a dividend. He noted that this is speculation.

Number 2068

CO-CHAIR JAMES asked if the committee could agree to put the fourth "**FURTHER RESOLVED**" back in.

CO-CHAIR WARD said that although he didn't see a problem with returning that language, he wasn't prepared to vote to do so. He expressed the need to determine whether someone had a compelling reason for its deletion.

CO-CHAIR JAMES announced her belief that the committee would not be able to come to consensus today because in order to do so the committee would need [the appropriate powers] to change the language. Therefore, she expressed the desire to pursue the language that would bring the committee to consensus.

REPRESENTATIVE BERKOWITZ remarked that the longer the delay on the issue, the more it looks as if the legislature is equivocating on this issue.

CO-CHAIR JAMES opposed Representative Berkowitz' comment.

SENATOR KELLY interjected that a resolution really resolves nothing.

CO-CHAIR JAMES agreed. However, this resolution was created so that the legislature would recognize this horrible act. She didn't believe there was a person in the legislature who didn't believe this was a horrible act. Therefore, she felt the legislature should be able to verbalize it. Although she did believe the committee could come together, she didn't believe it could be done with existing language. Therefore, she was willing to request changes in the language if she knew there was something to go to. Co-Chair James related her belief, in

regard to the fourth "**FURTHER RESOLVED**," that everyone should be treated fair and equitable. The argument that visitors aren't treated fairly and equitably doesn't hold water in her opinion.

Number 2180

CO-CHAIR WARD expressed the need to develop a resolution that condemns the actions of these three youths. Co-Chair Ward said that he was baffled with the conflict over this resolution.

REPRESENTATIVE BERKOWITZ expressed the need for this resolution to do more than condemn.

CO-CHAIR JAMES interjected that [condemning] is about all that can be done with a resolution.

CO-CHAIR WARD interjected that passage of a law would be required if the desire is to do something else.

REPRESENTATIVE BERKOWITZ refuted Co-Chair Ward's comment and pointed out that the resolution could express the need for [the legislature] to assert leadership and other methods of intolerance could be rejected. Representative Berkowitz mentioned that pursuant to taking this action [legislators] received mail from a white supremacist group. Therefore, he didn't believe the way to respond to such is to back off and address one small incident.

TAPE 01-1, SIDE B

REPRESENTATIVE BERKOWITZ continued by saying that once someone bully's him, it is appropriate to standup to that person with clear and unambiguous language. Therefore, that's what should be done.

CO-CHAIR WARD agreed, but noted that [CSHJR 22(RLS)] is not that.

Number 2220

SENATOR KELLY said that is why the term "unlawful" is being discussed because without it, the language is ambiguous. Furthermore, if the desire is to do more than condemn an act or future commissions of that act, then it will probably [require] more than a resolution. There will be resistance to a broader statement.

CO-CHAIR JAMES remarked that there should have been a resolve that expressed sorrow for the victims of this attack.

CO-CHAIR JAMES requested that committee members attempt to develop language without using "unlawful discrimination." She proposed requesting special powers of free conference on Monday so that the committee could meet Monday afternoon.

REPRESENTATIVE BERKOWITZ announced that he was opposed to going to special powers of free conference until more work has been done.

CO-CHAIR WARD said that he wasn't willing to give up the term "discrimination." Furthermore, he said that there should be a resolution and a law about this.

SENATOR DAVIS pointed out that Senator Lincoln has such legislation and the governor's office is working on several laws. Therefore, that isn't the problem. Senator Davis remarked that she didn't see that the committee is making progress and thus she inquired as to why the Co-Chair would choose not to vote on this matter if someone wanted to do so.

Number 2097

CO-CHAIR JAMES stressed that she is embarrassed that such a wrong act happened in Anchorage and the legislature can't put it on paper and agree. She acknowledged that there is the option of letting this resolution die, but she felt that would make the legislature look worse. Therefore, Co-Chair James begged the committee to come together to develop something that it could agree upon.

CO-CHAIR WARD noted his agreement with Co-Chair James' request. He then made a motion to adjourn.

ADJOURNMENT

There being no further business before the committee, the Conference Committee on HJR 22 meeting was adjourned at 4:48 p.m.