

**ALASKA STATE LEGISLATURE
HOUSE RULES STANDING COMMITTEE**

May 1, 2001
9:55 a.m.

MEMBERS PRESENT

Representative Pete Kott, Chair
Representative Brian Porter
Representative Vic Kohring
Representative Carl Morgan
Representative Lesil McGuire
Representative Ethan Berkowitz
Representative Reggie Joule

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 135(JUD)

"An Act relating to mental health records, communications, and information; and providing for an effective date."

- MOVED CSSB 135(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 198

"An Act relating to a post-retirement pension adjustment and cost-of-living allowance for persons receiving benefits under the Elected Public Officers Retirement System; and increasing the compensation of the governor."

- MOVED CSHB 198(RLS) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: SB 135

SHORT TITLE: MENTAL HEALTH INFO/RECORDS/COMMUNICATIONS

SPONSOR(S): RLS BY REQUEST OF LEG BUDGET &

Jrn-Date	Jrn-Page		Action
03/12/01	0618	(S)	READ THE FIRST TIME - REFERRALS
03/12/01	0618	(S)	HES, JUD
04/04/01		(S)	HES AT 1:30 PM BUTROVICH 205
04/04/01		(S)	-- Meeting Postponed to

4/9/01 --

04/09/01		(S)	HES AT 1:30 PM BUTROVICH 205
04/09/01		(S)	Scheduled But Not Heard
04/11/01		(S)	HES AT 1:30 PM BUTROVICH 205
04/11/01		(S)	Moved CS(HES) Out of Committee -- Meeting Postponed to 2:45 pm -- MINUTE(HES)
04/12/01	1092	(S)	HES RPT CS 5DP SAME TITLE
04/12/01	1092	(S)	DP: GREEN, LEMAN, WILKEN, WARD, DAVIS
04/12/01	1092	(S)	FN1: ZERO(HSS)
04/23/01		(S)	JUD AT 1:30 PM BELTZ 211
04/23/01		(S)	Moved CS(JUD) Out of Committee MINUTE(JUD)
04/26/01	1276	(S)	JUD RPT CS 3DP 2NR NEW TITLE
04/26/01	1276	(S)	DP: TAYLOR, THERRIAULT, DONLEY;
04/26/01	1276	(S)	NR: COWDERY, ELLIS
04/26/01	1276	(S)	FN1: ZERO(HSS)
04/27/01	1301	(S)	RULES TO CALENDAR 4/27/01
04/27/01	1304	(S)	READ THE SECOND TIME
04/27/01	1304	(S)	JUD CS ADOPTED UNAN CONSENT
04/27/01	1304	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/27/01	1305	(S)	READ THE THIRD TIME CSSB 135(JUD)
04/27/01	1305	(S)	PASSED Y20 N-
04/27/01	1305	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/27/01	1311	(S)	TRANSMITTED TO (H)
04/27/01	1311	(S)	VERSION: CSSB 135(JUD)
04/27/01		(S)	RLS AT 10:45 AM FAHRENKAMP 203
04/28/01	1296	(H)	READ THE FIRST TIME - REFERRALS
04/28/01	1296	(H)	RLS
05/01/01	1427	(H)	RLS RPT 4DP 2NR
05/01/01	1427	(H)	DP: JOULE, MORGAN, PORTER, KOTT;
05/01/01	1427	(H)	NR: MCGUIRE, BERKOWITZ
05/01/01	1427	(H)	FN1: ZERO(HSS)
05/01/01	1439	(H)	RULES TO CALENDAR 5/1/01
05/01/01	1439	(H)	READ THE SECOND TIME
05/01/01	1439	(H)	ADVANCED TO THIRD READING UNAN CONSENT

05/01/01	1439	(H)	READ THE THIRD TIME CSSB 135(JUD)
05/01/01	1439	(H)	PASSED Y35 E2 A3
05/01/01	1440	(H)	EFFECTIVE DATE(S) SAME AS PASSAGE
05/01/01	1440	(H)	RETURN TO (S), TRANSMIT TO GOV NEXT
05/01/01	1440	(H)	VERSION: CSSB 135(JUD)
05/01/01		(H)	RLS AT 8:00 AM Speaker's Chamber

BILL: HB 198

SHORT TITLE: PUB OFFICERS RETIREM'T COLA/COMPENSATION

SPONSOR(S): REPRESENTATIVE(S) HUDSON

Jrn-Date	Jrn-Page		Action
03/19/01	0649	(H)	READ THE FIRST TIME - REFERRALS
03/19/01	0649	(H)	STA, FIN
04/03/01		(H)	STA AT 8:00 AM CAPITOL 102
04/03/01		(H)	Heard & Held
04/03/01		(H)	MINUTE(STA)
04/26/01	1233	(H)	STA RPT CS(STA) NT 6DP 1AM
04/26/01	1233	(H)	DP: WILSON, STEVENS, JAMES, FATE,
04/26/01	1233	(H)	HAYES, COGHILL; AM: CRAWFORD
04/26/01	1233	(H)	FN1: (ADM)
04/26/01	1233	(H)	FN2: ZERO(GOV)
04/26/01		(H)	STA AT 8:00 AM CAPITOL 102
04/26/01		(H)	Moved CSHB 198(STA) Out of Committee
04/26/01		(H)	MINUTE(STA)
04/27/01		(H)	FIN AT 1:30 PM HOUSE FINANCE 519
			MINUTE(FIN)
04/28/01	1304	(H)	FIN RPT CS(FIN) NT 4DP 1DNP 5NR
04/28/01	1305	(H)	DP: DAVIES, HUDSON, FOSTER, WILLIAMS;
04/28/01	1305	(H)	DNP: WHITAKER; NR: BUNDE, HARRIS,
04/28/01	1305	(H)	CROFT, LANCASTER, MULDER
04/28/01	1305	(H)	FN1: (ADM)
04/28/01	1305	(H)	FN2: ZERO(GOV)
04/28/01		(H)	FIN AT 8:30 AM HOUSE FINANCE 519
04/28/01		(H)	Moved CSHB 198(FIN) Out of

			Committee
			MINUTE(FIN)
04/30/01		(H)	RLS AT 2:00 PM Speaker's Chamber
04/30/01		(H)	<Recessed to a call of the Chair>
			MINUTE(RLS)
05/01/01	1424	(H)	RLS RPT CS(RLS) NT 5DP 2NR
05/01/01	1425	(H)	DP: MCGUIRE, JOULE, MORGAN, PORTER,
05/01/01	1425	(H)	KOTT; NR: KOHRING, BERKOWITZ
05/01/01	1425	(H)	FN1: (ADM)
05/01/01	1425	(H)	FN2: ZERO(GOV)
05/01/01	1425	(H)	FN3: INDETERMINATE(H.RLS/ADM)
05/01/01	1435	(H)	RULES TO CALENDAR 5/1/01
05/01/01	1435	(H)	READ THE SECOND TIME
05/01/01	1436	(H)	RLS CS ADOPTED UNAN CONSENT
05/01/01	1436	(H)	ADVANCED TO THIRD READING 5/2 CALENDAR
05/01/01		(H)	RLS AT 8:00 AM Speaker's Chamber

WITNESS REGISTER

REPRESENTATIVE HUGH FATE
 Alaska State Legislature
 Capitol Building, Room 416
 Juneau, Alaska 99801
 POSITION STATEMENT: Presented CSSB 135(JUD).

ELMER LINDSTROM, Special Assistant
 Office of the Commissioner
 Department of Health & Social Services
 PO Box 110601
 Juneau, Alaska 99811-0601
 POSITION STATEMENT: Answered questions regarding CSSB 135(JUD).

ANNE HENRY, Special Projects Coordinator
 Division of Mental Health & Developmental Disabilities
 Department of Health & Social Services
 PO Box 110620
 Juneau, Alaska 99811-0620
 POSITION STATEMENT: Answered questions regarding CSSB 135(JUD).

REPRESENTATIVE BILL HUDSON
 Alaska State Legislature
 Capitol Building, Room 502

Juneau, Alaska 99801

POSITION STATEMENT: Testified as the sponsor of HB 198.

ACTION NARRATIVE

TAPE 01-14, SIDE A

CHAIR PETE KOTT called the House Rules Standing Committee meeting to order at 9:55 a.m. Representatives Kott, Porter, Morgan, and McGuire were present at the call to order. Representatives Kohring, Berkowitz, and Joule arrived as the meeting was in progress.

SB 135-MENTAL HEALTH INFO/RECORDS/COMMUNICATIONS

[The tape counter numbers indicate the number of minutes that have elapsed.]

CHAIR KOTT announced that the first order of business would be CS FOR SENATE BILL NO. 135(JUD), "An Act relating to mental health records, communications, and information; and providing for an effective date."

00.7

REPRESENTATIVE HUGH FATE, Alaska State Legislature, presented SB 135. He explained that SB 135 would do the following two things. The bill would require agencies to report the exact consumer data as recommended by the state auditor. The bill would hold harmless agencies for breach of confidentiality in reporting that data which settled a pending lawsuit. Representative Fate emphasized that this [legislation] will settle a pending lawsuit by community agencies. He explained that the state maintains all records in a confidential manner using sophisticated encryption methods. Representative Fate specified that this is really about accountability for state grant funds. The auditor was unable to track grant funds under the current system. Therefore, this [legislation] is the fix. In response to Chair Kott, Representative Fate stated that CSSB 135(JUD) is the companion to HB 174.

REPRESENTATIVE MCGUIRE asked whether there is any other way to disclose the confidential mental health information of a patient.

02.3

ELMER LINDSTROM, Special Assistant, Office of the Commissioner, Department of Health & Social Services (DHSS), explained that the community mental health centers are funded in two ways by DHSS. The community mental health centers are funded through Medicaid and the grant aid program. He pointed out that all the information being sought for the grant funds through this bill are already provided through the Medicaid management information system. Therefore, the legislative auditor noted that although that information is available through the Medicaid program, there is no way to determine who is receiving services and what type of services from the grant program. As the Medicaid budget grew, there was some concern from those requesting the audit that there should be knowledge regarding how these grant funds are being spent, particularly in relation to the services being provided by Medicaid.

MR. LINDSTROM highlighted that DHSS deals with confidential records in every aspect of its business. In the ten years that he has worked with DHSS he was unaware of any circumstance in which the department has inappropriately divulged that information. He noted that the information does have to be client-specific information, which is aggregated. Although this is a necessary fix to a specific statute, it isn't extraordinary in regard to the way [DHSS] does business elsewhere.

04.1

REPRESENTATIVE McGUIRE referred to Section 1 of CSSB 135(JUD) which says "when disclosure is authorized under AS 47.30.540, 47.30.590, 47.30.845, 47.31.032." She asked what those statutes are.

MR. LINDSTROM answered that he believes those statutes are the underlying health statutes for the community mental health grant program. He explained that the point of that provision is that providers must provide that information to the department. Therefore, the department wants the providers to have immunity for doing so. Without the clarification, the providers were concerned that they could be sued by a person in the community for providing that information. This bill makes it clear that the provider must provide that information to the department and it also makes it clear that the community mental health centers can't be sued for doing so.

REPRESENTATIVE McGUIRE asked if there would be any harm in narrowing the language such that it would require that the patient must agree to the release of their records.

MR. LINDSTROM deferred to Ms. Henry because he wasn't certain of the release that patient's currently sign. He explained that the clients in these cases don't have a contractual relationship with the department because it is a grant and aid process rather than (indisc.) the community mental health center.

05.5

ANNE HENRY, Special Projects Coordinator, Division of Mental Health & Developmental Disabilities, Department of Health & Social Services, informed the committee that the person's name and social security number are not required. Rather, there is a unique identifier that includes initials, date of birth, and the last four digits of the person's social security number. Currently, there is no release required for this information because it is encrypted. Ms. Henry also informed the committee that due to the federal regulations that will be coming on line, all individuals that use any type of health care will be using a unique identifier in the next two or three years.

06.5

REPRESENTATIVE PORTER moved to report CSSB 135(JUD) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 135(JUD) was reported from the House Rules Standing Committee.

HB 198-PUB OFFICERS RETIREM'T COLA/COMPENSATION

CHAIR KOTT announced that the next order of business would be HOUSE BILL NO. 198, "An Act relating to a post-retirement pension adjustment and cost-of-living allowance for persons receiving benefits under the Elected Public Officers Retirement System; and increasing the compensation of the governor."

07.5

REPRESENTATIVE PORTER moved to adopt CSHB 198 labeled 22-LS0723\S, Cramer, 4/30/01, as the working document before the committee. There being no objection, version S was before the committee.

07.8

REPRESENTATIVE BILL HUDSON, Alaska State Legislature, testified as the sponsor of HB 198. Representative Hudson explained that

the revised bill will make whole a small group of former public officers who have now retired or who are the surviving spouses of people who are a part of the Elected Public Officers Retirement System (EPORS). The EPORS legislation came about in 1976 and covered the governor, the lieutenant governor, and all of the legislators at that time. That legislation increased the salary of those folks, but a public referendum resulted in the repeal of the legislation, which essentially rolled the salaries back to their level prior to the legislation. There is a constitutional bar against lowering a benefit and thus those were the only folks able to retire under that program. Therefore, this bill attempts to pick up only those people who have received no cost of living increases since their retirement, which would include the governor and lieutenant governor at the time, and members of the legislature who went on to become the governor or lieutenant governor.

REPRESENTATIVE HUDSON said he believes that only four people would be effected by this legislation. These four people have not received a salary increase in the last 15 years [and have been retired for at least 15 years]. Representative Hudson suggested that [the retirement threshold] be changed to ten years, which would include an additional spouse. He noted that he is not permitted to use the names of these people because retirement information is personal. However, he did inform the committee that the four include a governor, a lieutenant governor, a spouse of a lieutenant governor, and one more individual if [the retirement threshold] is changed to ten years. Representative Hudson pointed out that everyone else in that category has received pay emollients or benefits or cost of living increases.

10.5

REPRESENTATIVE HUDSON said, "We do some wrong things with our governor and lieutenant governor salaries in this state." The salaries of the governor and lieutenant governor are simply dealt with in the statute. He explained that other [state employees] who have retired with the post retirement pension adjustment (PRPA) that automatically increases the TERS and PERS retirees [retirement pay] by 50 percent of the annual CPI adjustment if the retiree is under the age of 65 or by 75 percent of the annual CPI adjustment if the retiree is over the age of 65. The people addressed in the bill have never received any increase in their retirement pay. After being brought to his attention, Representative Hudson felt that these people should be treated as everyone else.

12.0

REPRESENTATIVE HUDSON turned to Chair Kott's suggestion of adding a study to the legislation. Representative Hudson pointed out that there is a February 21, 1989, study, which was fairly comprehensive. This 1989 study made the following salary recommendations. For the Speaker of the House [the study] suggested a salary of \$40,500 and for the legislators it suggested a salary of \$40,000. The [study] suggested that the governor's salary be tied to a Range 30A, which would amount to about \$100,000 in 1989. Representative Hudson pointed out that the current governor is making the same as the 1970s governor who this legislation would seek to give a cost of living increase. The governor and lieutenant governor's salaries have not been increased in all these years. Originally, HB 198 included language that would have elevated the governor's salary; however, at the request of Governor Knowles, that was taken out of the bill to be done in separate legislation. Representative Hudson offered to make copies of the 1989 study for the commission proposed in the current bill.

CHAIR KOTT remarked that the 1989 study would make the job of the commission easier than what was initially anticipated.

13.8

REPRESENTATIVE BERKOWITZ turned to the new portion included in the CS. He asked if any thought had been given to using the Base Realignment and Closure (BRAC) [approach]. He explained, "In essence the decision doesn't come back to the legislative body." He noted the difficulty in the legislature voting to cut its salaries.

REPRESENTATIVE HUDSON said that he didn't believe that there is anything in the legislation that would stimulate anything beyond the cost of living increase for the few EPORS members and the study. He reiterated the presence of the 1989 study.

15.0

REPRESENTATIVE PORTER related his belief that the final decision [regarding salaries] should rest with the legislative body that does appropriations. He didn't believe that such [a decision] could be delegated.

CHAIR KOTT noted his agreement with Representative Porter.

15.7

REPRESENTATIVE PORTER moved to report CSHB 198 [22-LS0723\S, Cramer, 4/30/01] out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 198(RLS) was reported from the House Rules Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Rules Standing Committee meeting was adjourned at 10:16 a.m.