

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 15, 2001

8:03 a.m.

MEMBERS PRESENT

Representative John Coghill, Chair
Representative Jeannette James
Representative Hugh Fate
Representative Peggy Wilson
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

Representative Gary Stevens

COMMITTEE CALENDAR

HOUSE BILL NO. 149

"An Act relating to correctional facility space and to authorizing the Department of Corrections to enter into an agreement to lease facilities for the confinement and care of prisoners within the Kenai Peninsula Borough."

- HEARD AND HELD

CONFIRMATION HEARINGS

Department of Administration

Jim Duncan, Commissioner

- CONFIRMATION ADVANCED

Alaska Public Offices Commission

Mark Handley, Commissioner

- CONFIRMATION ADVANCED

Alaska Human Rights Commission

Judge Roy Madsen, Commissioner

- CONFIRMATION ADVANCED

PREVIOUS ACTION

BILL: HB 149

SHORT TITLE: PRIVATE PRISON IN KENAI

SPONSOR(S): REPRESENTATIVE(S) CHENAULT

Jrn-Date	Jrn-Page		Action
02/26/01	0437	(H)	READ THE FIRST TIME - REFERRALS
02/26/01	0437	(H)	STA, FIN
02/26/01	0437	(H)	REFERRED TO STATE AFFAIRS
03/13/01		(H)	STA AT 8:00 AM CAPITOL 102
03/13/01		(H)	Heard & Held MINUTE(STA)
03/15/01		(H)	STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

REPRESENTATIVE MIKE CHENAULT

Alaska State Legislature
Capitol Building, Room 432
Juneau, Alaska 99801

POSITION STATEMENT: Testified as sponsor of HB 149.

ROY GILBERTSON, Mayor
City of Delta Junction
P.O. Box 229

Delta Junction, Alaska 99737

POSITION STATEMENT: Testified on HB 149.

PETE HALGREN, Director
Department of Economic Development
City of Delta Junction
P.O. Box 229

Delta Junction, Alaska 99737

POSITION STATEMENT: Testified on HB 149.

SUSAN KEMP, City Council Member
City of Delta Junction
P.O. Box 229

Delta Junction, Alaska 99737

POSITION STATEMENT: Testified on HB 149.

NAT GOOD, City Council Member
City of Delta Junction
P.O. Box 229
Delta Junction, Alaska 99737
POSITION STATEMENT: Testified on HB 149.

MARGOT KNUTH, Assistant Attorney General
Office of the Commissioner
Department of Corrections
431 North Franklin Street, Suite 203
Juneau, Alaska 99801
POSITION STATEMENT: Testified on HB 149.

RICHARD VAN HATTEN, President
Correctional Officers Bargaining Unit
Public Safety Employees Association
840 Set Net Drive
Kenai, Alaska 99611
POSITION STATEMENT: Testified in opposition to a privately
operated prison, as authorized by HB 149.

KEVIN WYATT
40635 Belnap Drive
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to a privately
operated prison, as authorized by HB 149.

JIM DUNCAN, Commissioner Appointee
Department of Administration
P.O. Box 110200
Juneau, Alaska 99811-0200
POSITION STATEMENT: Testified as appointee to the position of
commissioner.

HAROLD HEINZE
1336 Staubbach Circle
Anchorage, Alaska 99508
POSITION STATEMENT: Asked questions of commissioner appointee,
Department of Administration.

MARK HANDLEY, Appointee
Alaska Public Offices Commission
630 Dixon Street
Juneau, Alaska 99801
POSITION STATEMENT: Testified as appointee to the Alaska Public
Offices Commission.

JUDGE ROY MADSEN, Appointee
Alaska Human Rights Commission
P.O. Box 726
Kodiak, Alaska 99615

POSITION STATEMENT: Testified as appointee to the Alaska Human Rights Commission.

ACTION NARRATIVE

TAPE 01-22, SIDE A
Number 0001

CHAIR JOHN COGHILL called the House State Affairs Standing Committee meeting to order at 8:03 a.m. Committee members present at the call to order were Representatives Coghill, James, Fate, Wilson, Crawford, and Hayes. Representative Stevens was absent.

HB 149-PRIVATE PRISON IN KENAI

CHAIR COGHILL announced that the first order of business would be HOUSE BILL NO. 149, "An Act relating to correctional facility space and to authorizing the Department of Corrections to enter into an agreement to lease facilities for the confinement and care of prisoners within the Kenai Peninsula Borough."

Number 0165

REPRESENTATIVE MIKE CHENAULT, Alaska State Legislature, came forward as sponsor of HB 149.

CHAIR COGHILL called committee members' attention to the fiscal note for HB 149 that had been distributed.

Number 0274

ROY GILBERTSON, Mayor, City of Delta Junction, testified by teleconference. He recalled that when he joined the city council in 1998, there was an existing agreement with Allvest, Inc., to entertain a prison at Fort Greely. About three months later, a public vote indicated that the people of Delta Junction wanted to see Fort Greely re-used and that a prison would be a possible use.

MR. GILBERTSON noted that at that point, Allvest had been ready to file suit against the city. He and two other councilmen met several times with Allvest's attorneys and worked out a

settlement agreement, which he thought was a very good one for Delta Junction. They brought the proposed agreement to the city council, which at a public meeting on March 30 approved it and passed Ordinance 9904 expressing the city's agreement and intent to move forward with the prison project.

MR. GILBERTSON went on to say that the public was not unanimously in favor of the idea. A referendum was brought against the city council action. That prompted a lawsuit from Allvest to the city clerk. The city council passed Ordinance 2002 that suspended Ordinance 9904, "and that brought the lawsuit directly to the city and we have been trying to work through that ever since then," he said. He noted that the city council simultaneously has been working with the military. "Basically that's where we are right now," he said. "We have a lawsuit against the city, the property isn't available, we haven't had much interaction by the State of Alaska and absolutely no financial help on this whatsoever...."

Number 0615

CHAIR COGHILL asked Mr. Gilbertson if he objected to HB 149 or thought it would cause problems for Delta Junction in relation to the lawsuit.

MR. GILBERTSON said HB 149 would repeal HB 53, which gives Delta Junction authority to build a prison. "It also gives Kenai something that they didn't give Delta, the ability to build a prison off [the Fort Greely] site," he said. "Yes, it would hurt Delta Junction, because right now there's no certainty that ...[a prison] is coming here." Since the military has withheld the use of Fort Greely, the only way there could be a prison built in Delta Junction would be for the legislature to change HB 53 to allow the prison to be built on another site.

Number 0747

PETE HALGREN, Director, Department of Economic Development, City of Delta Junction, testified by teleconference. Since he assumed the job in September 1999, his job has been to move forward with the re-use of the surplus area of Fort Greely, including construction of the prison authorized by HB 53. The city has undertaken a financial feasibility study on using existing buildings at Fort Greely, as anticipated by HB 53. Although the study is still in draft form, the latest revision (dated February 8, 2001) indicates that using those buildings for the prison is financially unfeasible.

MR. HALGREN said, "I hate to use terms like 'jerked around,' but that's sort of the feeling I've gotten. I've been pulling my hair out." In September 1999, after the lawsuit started, the city was still being told by the military that a prison and a National Missile Defense (NMD) installation could co-exist at Fort Greely. By December of 1999, city officials "were having strong suspicions that that might not be true." he said. In March of 2000, the city was awarded funding from the Department of Defense for a financial feasibility study to look at both the proposed prison footprint (which includes the buildings) and raw land on Fort Greely. In April of 2000, funding for studying use of the footprint was "deferred" by the Department of Defense. That department stopped any funding for any studies using the existing facilities at Fort Greely in May 2000. The city since has learned that in March of 2000, the NMD folks decided to use the prison footprint buildings. That information came in testimony in the lawsuit from a representative of the United States Army Corps of Engineers in Alaska. Everybody is waiting for the President to make a decision [about the location of NMD facilities, potentially in Alaska], Mr. Halgren said.

CHAIR COGHILL asked if the HB 53 prison plan "just wouldn't work in Delta because of the existing building issue. Is that true?"

MR. HALGREN replied, "That's what our study indicates."

CHAIR COGHILL explained that HB 159 is taking the language [of HB 53] and moving it to Kenai under a little different scenario. He asked Mr. Halgren, "Do you object to HB 149 as it is written"?

MR. HALGREN replied, "HB 149 as written ... takes away Delta's opportunity to move forward on a prison."

CHAIR COGHILL observed that it seems like the Fort Greely site is not going to work, and for the committee to make a clear policy decision, it needs to know if Delta Junction needs a separate statutory provision for a prison in Delta.

MR. HALGREN pointed out that HB 53 requires Delta Junction to re-use existing buildings on Fort Greely. It does not allow them to look into putting a prison on raw land. "You're absolutely correct," he told Chair Coghill. "House Bill 53 needs to change."

CHAIR COGHILL explained that the committee is looking at the Kenai issue separately from the Delta issue, knowing full well that the Delta issue would require another statutory fix. So HB 149 is not meant to disparage Delta so much as to move along with prison-building. "Do you see it that way?" he asked Mr. Halgren.

MR. HALGREN replied, "I do see it that way, however, Delta has a strong feeling that there should be a level playing field. House Bill 149 is going to offer Kenai the opportunity to build a prison on raw land, an option that Delta Junction has not been given, he pointed out.

Number 1146

REPRESENTATIVE WILSON requested clarification of who was providing the land for the prison in Kenai.

REPRESENTATIVE CHENAULT explained that the deal for the land in Kenai has not yet been made. The borough has passed a resolution supporting efforts to reach an agreement to use Kenai Native Association land. He said he did not know the particulars about the negotiations.

REPRESENTATIVE WILSON said, "We aren't doing anything legislatively to provide land down there. I guess what I'm getting at is that the playing field's kind of level. They could have the same things down there, couldn't they?"

CHAIR COGHILL noted that Delta Junction had become entangled in a lawsuit and that "there were other issues."

Number 1227

REPRESENTATIVE JAMES said HB 53 was drafted in a way that did not give Delta Junction the option to do anything other than re-use existing facilities. For them to have the same opportunities that are being given to Kenai by HB 149, there would have to be another piece of legislation. "Quite frankly, I wouldn't oppose that," she said.

CHAIR COGHILL said he agreed and thinks that is an issue. House Bill 149 is not intended to give one community preference over another; "it's just that Kenai has done some of the homework that Delta was never afforded the opportunity to do," he said. "I think Pete Halgren makes a good point: it hurts."

Number 1288

REPRESENTATIVE HAYES expressed curiosity about why the Kenai proposal did not go through a statewide process. "Did the rest of the state have the opportunity to propose something for a private prison?" he asked.

REPRESENTATIVE CHENAULT said he did not know.

CHAIR COGHILL said he would like to let those in Delta Junction finish their testimony before going into committee discussion.

Number 1263

SUSAN KEMP, City Council Member, City of Delta Junction, testified by teleconference. She commented that she felt HB 149 is going to eliminate Delta Junction's chances to be able to proceed with something on which they have been working for a long time. As she understands HB 149, it eliminates HB 53. If this opportunity is afforded to Kenai, she would like to see the state step in and give Delta Junction some help in negotiating a settlement in the lawsuit. "We sort of feel like we've been hung out here to dry, and we're not in a position to be able to come up with a large sum of money to settle this lawsuit," she said. "In fact, we've never been in a position where we could even afford to be in a lawsuit. We'd certainly like to see some consideration given for getting some kind of a settlement."

Number 1460

NAT GOOD, City Council Member, City of Delta Junction, testified by teleconference. He reiterated that if HB 149 is going to eliminate HB 53, then he believes the state needs to clear all issues remaining on HB 53, including Delta Junction's lawsuit. It is a result of HB 53 as are some other problems the City of Delta Junction now has. "We have done everything we can," he said.

MR. GOOD continued:

BRAC [the Department of Defense Base Realignment and Closure Commission] has not allowed us ... to have any buildings whatsoever out there [at Fort Greely]. If we took any building on post and attempted [to use] it in any way, BRAC rules mean that if they chose to take the buildings back, we need to restore the buildings to their original condition. So for us to do anything

with any buildings out there would cause serious potential problems for us. In order to do anything with bonding, we ... [have] to get title to the land, so it's just impossible to do any construction until we have title to the land, and that simply hasn't been possible. Bonding simply can't be done.

Number 1540

REPRESENTATIVE JAMES said she thought the legislature had done everything it could do to make the HB 53 prison project work. It looks to her, as an outsider, "that an awful lot of your trauma that you're having there is because of a conflict within your community," she observed. "Is that correct or not?"

Number 1581

MR. GOOD acknowledged that there has been a conflict within the community. However, the city council has continued forward with work on HB 53, doing what it could with Fort Greely, "which, as it turned out, has been a very educational experience for us," he said. "There hasn't been very much that we in reality could do."

REPRESENTATIVE JAMES asked if in the unlikely event that the Fort Greely site became available for prison "is there still something holding you up?"

MR. GOOD said Delta Junction needs to have actual ownership of any building or land in order to issue bonds to construct anything there. "Ownership is the real roadblock here," he said.

REPRESENTATIVE JAMES noted that she had worked intently on HB 53, and recalled that one of the reasons the Fort Greely site was chosen was because it had buildings that could be used, thereby saving money. "Are you saying that that is not a possibility any more?" she asked.

MR. GOOD explained that it has turned out to be impossible for Delta Junction to get the Fort Greely buildings. The whole BRAC process has been developing over the years during which the city has been involved with it. "At this point, can we do anything with anything out there? I have to answer no," he said.

REPRESENTATIVE JAMES said, "I honestly in my heart believe ... that we owe you something, not what you're asking for, but some

provision to be able to get whole on this if you can. But a lot of the problems that you've had are not necessarily our fault." From her perspective, she said, it appears that conflict in the community has been a complicating factor, notwithstanding the problem of being unable to get the title to the facility. "If we were to pass a piece of legislation which ... gave you the same authorization you had before, but did not require you to put [the prison] on Fort Greely, what would you do?" she asked.

Number 1770

MR. HALGREN replied, "We could move forward at this point to finish up our financial feasibility study. The city council met last week and authorized ...[use of] limited funds to investigate the financial feasibility of a raw land prison in the Delta area If we were off Fort Greely, we would not have any of the BRAC transfer problems ... [and] it would turn out to be a pure financial feasibility question.

REPRESENTATIVE JAMES asked, "But that doesn't give you any land to do it on, does it?"

MR. HALGREN replied, "No it doesn't, but land in the Delta area is dirt cheap." [Laughter.] "We have been looking at land for a new areawide landfill, and land is running approximately \$1,000 an acre or less.

Number 1864

REPRESENTATIVE WILSON recalled that the Delta prison project did not go out for statewide bid because it appeared that the military base at Fort Greely was going to be closed, and the prison project was a way for the state to help Delta Junction offset the consequent economic devastation. She asked Mr. Halgren the status of the military there now.

MR. HALGREN said the official status of the military is that Fort Greely is continuing its final downsizing to fewer than 100 people, including both military and civilians, by July 2001. The economy in the area is in "a world of hurt."

Number 1927

REPRESENTATIVE FATE asked if in all the discussion with Allvest concerning the lawsuit, had there been any talk about another site.

MR. HALGREN said that in the course of the settlement discussions last year, there had been some talk about an off-base site. However, those discussions ended in June when a letter from Senator Jerry Ward was received by Delta Junction's funding agency. The letter had said, "A plan to build a new prison on an alternative site will require the approval of the Alaska legislature as well as the governor. I can assure you that such approval will not be forthcoming."

Number 1998

CHAIR COGHILL observed that there appears to be need for a "statutory fix," but didn't know if that was germane to HB 149. "The only connection is ... House Bill 53, and at this point, HB 53 is not workable in Delta."

Number 2017

REPRESENTATIVE JAMES said:

House Bill 53 is not workable as it is currently written. This piece of legislation [HB 149] does away with HB 53. And I'm very in favor of Kenai being able to go forward with this, but I think we do owe something to Delta Junction, and I think that maybe we ought to give them some more opportunities ... There's plenty of room for more than one prison.

REPRESENTATIVE JAMES voiced concern that building a prison may not be possible in Delta Junction because of conflict within that community. However, she thought Delta Junction should be given the opportunity to try if those there want to do so. The community has a budget of about \$150,000 a year, "and they've been spending money up the ying-yang, and ... they're in a situation to which we helped to contribute." She said she is eager to move HB 149 forward but feels "like we would be dumping them [Delta Junction] if we don't make some provision in this bill to allow them to do something that they can't currently do to get themselves out of this ... problem that they have." She said she would like to get some legal advice about the legislature's responsibility and how the legislature could help Delta Junction without keeping Kenai from going ahead.

REPRESENTATIVE JAMES said, "I think it's very unfortunate ... for the senator from this area [Kenai] to make such damning comments to people when he's only one vote out of 60, and I'm not pleased with that at all..." But, she continued, she did

not want that to reflect badly upon the Kenai folks' application, which she thinks is a good one; she is very impressed with the participation of the Native community in Kenai, and she thinks it provides the opportunity for cultural input into the facility that is going to be good for the state.

REPRESENTATIVE JAMES closed by saying she thinks the legislature still owes something to Delta Junction and needs to figure out what that is.

Number 2230

CHAIR COGHILL agreed and said he would be willing to work on that. He then returned attention to the question Representative Hayes had raised earlier.

REPRESENTATIVE HAYES said he wondered why the proposal for a private prison had not gone through a statewide selection process.

MARGOT KNUTH, Assistant Attorney General, Office of the Commissioner, Department of Corrections, explained that HB 53 was site-specific. It said the prison had to use the existing facilities at Fort Greely. House Bill 149 also is site-specific. It says the prison would be in Kenai. Theoretically one could do a statewide request for proposals and compare proposals from all of the interested communities, but that is possible only if there is authority granted to do so, and that authority comes from the legislature.

REPRESENTATIVE CHENAULT said he did not think there was anything to keep any other area from coming to the legislature with a proposal. He called it "forward thinking" that Kenai came forward and said, "We see we have a problem; we feel that we can fill the need." That was part of the reason he introduced HB 149.

REPRESENTATIVE HAYES commended Kenai for that, but said he had a problem with the letter sent by the senator from Kenai.

REPRESENTATIVE CHENAULT emphasized that there is interest in the Kenai area not only in bringing Alaska prisoners home, but also keeping Alaskans working.

CHAIR COGHILL noted that both Kenai and Delta had put a lot of work into their proposals, and that he wanted to avoid pitting one community against another.

Number 2449

REPRESENTATIVE JAMES spoke of the serious need for corrections space. Part of problem is that nobody wants to have a prison in his or her back yard. She says she thinks a community that wants to build a prison should be given every opportunity to do so.

CHAIR COGHILL summarized that the committee's policy call on HB 149 is to allow Kenai to go forward, but not to cut off Delta Junction. "If we're going to end up doing that, I want to make sure that we can hold them [Delta Junction] harmless to the point where they can come up with another proposal, so I'm interested in language to that effect," he said.

REPRESENTATIVE JAMES agreed.

REPRESENTATIVE FATE said he was also interested in getting the legal advice that Representative James had suggested.

Number 2586

REPRESENTATIVE WILSON suggested additional research on the increased military activity that may be coming into the Delta Junction area.

Number 2660

RICHARD VAN HATTEN, President, Correctional Officers Bargaining Unit, Public Safety Employees Association, who is employed as a correctional officer at Wildwood Correctional Center, came forward to testify. He said there is a small and growing group of people on the Kenai Peninsula who do not wish to have a private prison. There also are some people who do not want the Kenai Borough to assume an \$80 million to \$120 million revenue bond.

MR. VAN HATTEN said he objects to private prisons in general because of "the danger that has been demonstrated nationwide." He said private prisons have a 40 percent rate of staff turnover, and that prisons need experienced staff. A recent five-year study in California showed that there was a 20 percent higher escape rate from private prisons than from state-operated ones. There is a 66 percent greater incidence of prisoner-to-prisoner violence and a 50 percent greater incidence of prisoner-to-staff violence in private prisons, he said. There

is a resolution now before Congress that would eliminate any federal use of private prison facilities. That bill also disqualifies from federal grants anyone who contracts for private housing of prisoners. He named six states that he said are eliminating either existing or future contracts with private prisons and are "building state facilities as quickly as they can."

MR. VAN HATTEN said he believes the Alaska Department of Corrections "can do it better than anybody else, and ... can also do it less expensively than the private prisons will cost us." He said he is working with others in the Kenai borough that are opposed to the private prison project.

MR. VAN HATTEN clarified that he was testifying as a private citizen and not as a representative of the Department of Corrections.

Number 2896

REPRESENTATIVE WILSON asked Mr. Van Hatten if he knew anything about the track record of Cornell Corrections, Inc., as a private prison operator.

MR. VAN HATTEN said the figures he provided are an average of all private prison operators, but that he could separate out the figures for Cornell.

CHAIR COGHILL said he thought that was a question for the Kenai Peninsula Borough, which had scrutinized proposals from four different private prison operators.

Number 2966

CHAIR COGHILL then said that he sees the question of "how to help Delta get de-tangled" as a primary issue, but does not know the answer to that.

TAPE 01-22, SIDE B

REPRESENTATIVE HAYES said he thought there was some language in HB 149 that might put the state at some financial risk, and he wondered why the language in HB 149 is not the same as it had been in HB 53.

CHAIR COGHILL referred to question to Representative Chenault, who asked that it be re-stated.

REPRESENTATIVE HAYES said he was curious why the language in HB 149 is different from the language used in authorizing the Anchorage jail project. His concern was that those changes might cause the state financial difficulty if the project group were to pull out.

REPRESENTATIVE CHENAULT said he was unable to answer that question.

REPRESENTATIVE JAMES volunteered that the terms and agreements for the Anchorage jail were not generic ones, but had been negotiated specific to the project there. She recalled a great deal of negotiation about it when HB 53 was being passed. She was not involved in those negotiations, but thinks that may be why there is a difference.

CHAIR COGHILL observed that to answer Representative Hayes' question would require looking into the history of HB 53, which included both the Anchorage jail and the Delta Junction prison projects.

Number 2862

KEVIN WYATT, of Homer, testified by teleconference. He said it was interesting to hear all the conflicts swirling around the Delta Junction question. He said the only point of contention on the Kenai Peninsula "is not that we don't want a prison in our back yard; it's not that we don't think the space is needed or anything like that. The only point of contention ... is that this is going to be run by a private entity. That's when the discussion gets interesting and vigorous, to say the least."

MR. WYATT continued, "I think the incarceration and rehabilitation of people who break the law is a very legitimate function and responsibility of the State of Alaska, and there is no reason why the state itself shouldn't build and run this prison." He said he would be "all in favor of it wherever it is," and that the site on the Kenai Peninsula is perfect. "The fly in the ointment is the private versus public [issue]," he reiterated. "This is a function of public government, and that's the point I want to make."

Number 2780

CHAIR COGHILL observed that there were legal questions remaining and that the committee needed to dig into the history of HB 53.

He announced his intention to appoint a subcommittee to look into those issues, stating that he wanted to let the Kenai prison project proceed but also wanted to take care of Delta Junction. There being no other people who wished to testify, he closed public comment on HB 149.

CHAIR COGHILL asked Representative James to chair the subcommittee and Representatives Hayes and Fate to join her in serving on it. The committee was asked to report back to the full committee on March 20.

CHAIR COGHILL declared a brief at-ease at 9:00 a.m. He called the meeting back to order at 9:01 a.m.

CHAIR COGHILL announced that he had scheduled one hour for further discussion of HB 149, to begin at 9 a.m. Tuesday, March 20. He said it was his intention to move the bill from committee then.

REPRESENTATIVE JAMES issued an open invitation to anyone who wished to attend the subcommittee meeting. [HB 149 was HEARD AND HELD.]

Number 2527

CHAIR COGHILL declared an at-ease beginning at 9:03 a.m. He called the meeting back to order at 9:10 a.m.

CONFIRMATION HEARINGS

Department of Administration

CHAIR COGHILL announced that the committee would consider the appointment of Jim Duncan as Commissioner, Department of Administration.

Number 2508

JIM DUNCAN, Commissioner Appointee, Department of Administration, joined the committee at the table. He noted that committee members had copies of his resume detailing past experience. He quickly reviewed his most recent work history in the Department of Administration, which he joined in February 1999 as a special assistant whose main duties were to oversee the negotiation of labor contracts with 12 public employee unions. In July 2000, he was appointed deputy commissioner with

responsibility for overseeing several divisions within the department. At the end of August 2000, he was appointed commissioner.

MR. DUNCAN recalled that in committee meetings earlier in the session, he had given an overview of the Department of Administration and the major initiatives underway at this time. He said he thinks his philosophy is clear that the Department of Administration needs to fulfill the duties and the obligations required by statute in the most efficient and effective way possible. He said his goal is to ensure that is done and to also ensure that the department is responsive to those it serves. That includes state agencies with which it interacts and, of course, consumers, through a variety of programs that the department delivers. He said he thought the department was well on its way to doing that, and volunteered to answer any questions the committee might have.

Number 2406

CHAIR COGHILL thanked Mr. Duncan for his years of public service, previously as a member of the legislature and now in the administration. He asked his perspective on the movement of policy.

MR. DUNCAN said it had been a very interesting learning experience for him. After 12 years in the House and another 12 years in the Senate, he understood the legislative branch of government and the legislative process pretty well. He thought he also understood the executive side of government pretty well, but he learned quickly that there is a whole new approach to delivering programs and services when one is charged with responsibility of overseeing a number of programs and services and divisions. It had given him not only a broader but a whole different perspective on how to approach issues and deal with problems, he said. "I guess if I had any recommendation to a legislator, it would be [to] spend some time in the executive branch also because it broadens your perspective, gives you a whole different ... background and feeling for what needs to be done, and really is beneficial. It's been a challenge for me," he said.

Number 2282

CHAIR COGHILL asked Mr. Duncan what his vision is for the Department of Administration.

MR. DUNCAN said he did not see it as his role to shake the foundations of the department or of state government. He thinks his role is to ensure that the department effectively and efficiently delivers the programs and services it is required to deliver, and to continue to explore ways to deliver those more efficiently and more effectively.

Number 2173

HAROLD HEINZE, of Anchorage, testified by teleconference. He said he would like to understand Mr. Duncan's views related to Alaska hire and contracting with Alaska companies for state-funded work related to North Slope gas development. He said he is past president of Arco Alaska and served as commissioner of natural resources in the Hickel administration, so has a good understanding of the broad public policy responsibilities of a commissioner as well as the importance of the confirmation responsibility of the legislature. He is a self-employed consultant and in November 2000 responded to a request for proposal issued by the Alaska Oil and Gas Conservation Commission (AOGCC), which is part of the Department of Administration. The proposal was the low bid, and despite his being qualified and responsive, the work was awarded to a Californian. It seems to him that the state would want to demonstrate to the private sector positive rather than negative examples of its expectations on Alaska hire. The Department of Administration provides the leadership throughout the state government on issues related to hiring and contracting. He asked the committee to give Mr. Duncan a chance on the record to express his views regarding Mr. Heinze contracting experience.

Number 1980

MR. DUNCAN first explained that the AOGCC is located in the Department of Administration for administrative purposes only. "We provide administrative support, but we do nothing more than that with AOGCC," he said. The AOGCC commissioners are appointed by the governor and confirmed by the legislature, so the commission is independent of the Department of Administration. The AOGCC follows the procurement policy of the State of Alaska and the regulations set out by the commissioner of Administration. However, the commissioner does not review their requests for proposals or approve them in any way. "The only time I'd become involved in that process is if there was an appeal of the process by one of the losing bidders," he said. The appeal would come to me as commissioner of administration to

rule upon. There was no protest or appeal in this case that I'm aware of, so I was not even aware of this consultant contract."

MR. DUNCAN then responded to three questions Mr. Heinze had asked. He said it is important to use Alaska hires and contractors; that the state, indeed, should set an example to the greatest extent possible related to Alaska hire and use of Alaska contractors; and no, the Department of Administration does not have any leadership role in Alaskanizing the state's gas development work. The governor has appointed a gas sub-cabinet, and the commissioner of administration does not serve on it and does not have a direct role in the gas development work.

Number 1766

CHAIR COGHILL asked Mr. Heinze if he had appealed the selection process.

MR. HEINZE said he had sought and received some background information on the decision, found a number of errors, and called those to the attention of the procurement officer. That did not change the decision, he said. He decided at that point not to appeal. He explained that his concern in raising the question is not to change that decision "but that the state has put itself in a very bad position to influence very big decisions."

REPRESENTATIVE HAYES asked if a motion was in order.

CHAIR COGHILL said that was not necessary, but recommended to the committee that it forward its approval of the commissioner's appointment to the full body. He suggested forwarding several appointments, including Mr. Duncan's, on one piece of paper. [CONFIRMATION ADVANCED.]

Alaska Public Offices Commission

Number 1528

MARK HANDLEY, Appointee, Alaska Public Offices Commission (APOC), came forward to testify. He said one of his goals, as a commissioner is to try to make the APOC process less intimidating and less difficult for candidates and contributors while at the same time enforcing the law even-handedly and firmly.

CHAIR COGHILL asked if he anticipated any major policy changes for APOC in the next two years.

MR. HANDLEY said he did not. APOC just hired a new executive director, and the selection of Brooke Miles is a reflection of the commission's view that it needs to hold the course and build on what it has done. APOC needs to see how the new regulations work and whether they create any unanticipated problems for candidates and members of the public and maybe do some fine-tuning.

CHAIR COGHILL observed that an interesting issue arose in the last election with Mr. Lindauer [a gubernatorial candidate]. There were some unfortunate timetable issues, APOC was right in the middle of that, and, unfortunately, the outcome of the election was significantly affected, he said. "Would you do anything differently?" he asked. "Are there any policy changes needed because of that?"

MR. HANDLEY explained that he had not been a member of the commission at that time, but as a member of the public following the unfolding scenario, his impression was that the commission "didn't exactly cover itself with glory." He said he thinks the commission was caught by surprise by an unusual set of circumstances. Most people can't finance a campaign out of their own pockets, so they are reporting and things come to light a lot earlier than they do when someone asserts that he or she is going to be financing the campaign out of pocket. There's not a lot that the APOC statutes and regulations give the commission as far as tools to deal with that, he said. "I think the commission, myself included, would be hesitant to make any changes without direction from the legislature," he stated. If the legislature is concerned, one suggestion might be to have some kind of increased reporting requirements for individuals who are going to contribute more than a certain amount to their own campaigns. That additional reporting might include disclosure of their tax returns or of sources of income. That would give an opposing candidate the opportunity to press the issue if he or she thought those funds were being channeled in from illegal sources. But he does not think the present statutes give APOC the authority to do that.

CHAIR COGHILL noted that the House State Affairs Standing Committee might have to deal with that issue. He also observed that the committee was losing its quorum due to conflicting commitments, but that he intended to continue the hearing and pass the record on to the members. [CONFIRMATION ADVANCED]

Human Rights Commission

Number 1111

JUDGE ROY MADSEN, of Kodiak, testified by teleconference as appointee to the Human Right Commission. Judge Madsen explained that he retired from the Superior Court bench in 1990 and has since been involved in community activities. One of those is the multicultural forum in Kodiak and another was the Supreme Court committee concerning fairness and access. A friend suggested that there was a position available on the Human Rights Commission and asked if he would be interested in serving. He then received a call from the governor's office, and the Human Rights commission "sounded like something that fit in with in with the kind of things that I've been involved in since my retirement," he said. He was struck by the professionalism of the commission staff and the longevity of their service, and by the professionalism of the board. He has had one case assigned to him for review, and he looks forward to further work with the commission.

CHAIR COGHILL noted that the term of the appointment runs through January 31, 2003. He asked Judge Madsen if he had encountered any surprises as he began to look at the duties of the commission.

JUDGE MADSEN didn't think there had been any surprises.

CHAIR COGHILL noted that the job involves handling a great deal of sensitive information. He asked for more information about Judge Madsen's recent activities.

JUDGE MADSEN described the inception of a multicultural forum in Kodiak three years ago. He explained that there are many ethnic groups in Kodiak including Filipino, Korean, Vietnamese, Laotian, African-American, Jamaican, Samoan, and Hispanic people from several different countries. The forum includes representatives of the groups and sponsors different activities including a multi-cultural celebration of the Fourth of July, several ethnic dance groups, and food festivals. Currently, the forum is staging a benefit for Salvadorian earthquake victims.

CHAIR COGHILL commended the celebration of diversity while maintaining community unity. He asked what Judge Madsen thought about the timeliness of decisions by the Human Rights Commission. "Are we doing well there?" he asked.

JUDGE MADSEN said there had been problems in the past but he thinks those problems have been addressed and that the commission intends to keep on top in the future.

CHAIR COGHILL said he was going to pass on to the full body a recommendation for Judge Madsen's confirmation. [CONFIRMATION ADVANCED]

ADJOURNMENT

Number 0222

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:43 a.m.