

ALASKA STATE LEGISLATURE
SENATE RULES COMMITTEE
April 23, 2002

MEMBERS PRESENT

Senator Randy Phillips, Chair
Senator John Cowdery, Vice Chair
Senator Johnny Ellis
Senator Gene Therriault

MEMBERS ABSENT

Senator Rick Halford

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 389(CRA)

"An Act eliminating the delayed repeal of a provision authorizing an exemption from and deferral of municipal property taxes on certain types of deteriorated property; and providing for an effective date."

APPROVED FOR CALENDARING

SENATE BILL NO. 326

"An Act relating to evaluating state assumption of the wastewater discharge program under the federal Clean Water Act; and providing for an effective date."

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 157(JUD) am

"An Act relating to trust companies and providers of fiduciary services; amending Rules 6 and 12, Alaska Rules of Civil Procedure, Rule 40, Alaska Rules of Criminal Procedure, Rules 204, 403, 502, 602, and 611, Alaska Rules of Appellate Procedure, and Rules 7.2 and 7.3, Alaska Rules of Professional Conduct; and providing for an effective date."

APPROVED FOR CALENDARING

SENATE CONCURRENT RESOLUTION NO. 31

Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, concerning House Bill No. 297, regarding aggravating factors at sentencing.

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 297(JUD)

"An Act related to aggravating factors at sentencing."

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 298(L&C)

"An Act relating to authorizing the Alaska Railroad Corporation to lease land for a period of up to 55 years."

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 355(CRA)

"An Act relating to the taxation of mobile telecommunications services by municipalities; and providing for an effective date."

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 418(L&C)

"An Act amending the Alaska Corporations Code as it relates to delivery of annual reports, notice of shareholders' meetings, proxy statements, and other information and items to shareholders, to voting, and to proxies, including electronic proxy voting and proxy signing; and providing for an effective date."

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 470(L&C)(title am)

"An Act relating to public offering statements required under the Uniform Common Interest Ownership Act; and providing for an effective date."

APPROVED FOR CALENDARING

PREVIOUS COMMITTEE ACTION

SB 326 - See Resources minutes dated 3/15/02 and 3/25/02 and Finance Report dated 4/18/02.

SJR 31 - See State Affairs minutes dated 2/7/02.

HB 157 - See Labor and Commerce minutes dated 1/29/02 and Judiciary minutes dated 3/27/02

HB 297 - See Judiciary minutes dated 3/25/02.

HB 298 - See Resources minutes dated 3/20/02.

HB 355 - See CRA minutes dated 4/8/02 and Labor and Commerce minutes dated 4/11/02.

HB 389 - See Labor and Commerce minutes dated 4/2/02.

HB 418 - See Judiciary minutes dated 4/8/02 and Judiciary minutes dated 4/10/02.

HB 470 - See Labor and Commerce minutes dated 4/2/02.

WITNESS REGISTER

Ms. Lorali Carter
Staff to Representative Meyer
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Testified for the sponsor of HB 297

Ms. Janet Seitz
Staff to Representative Rokeberg
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Testified for the sponsor of HB 470

ACTION NARRATIVE

TAPE 02-9, SIDE A

Number 001

CHAIRMAN RANDY PHILLIPS called the Senate Rules Committee meeting to order at 8:38 a.m. Senator Ellis and Phillips were present. The committee took up HB 389.

#HB 389

REPRESENTATIVE VIC KOHRING, sponsor of HB 389, offered to answer questions.

The committee took a brief recess. Upon reconvening, Senators Therriault, Cowdery, Ellis and Phillips were present.

SENATOR ELLIS moved to calendar **CSHB 389(CRA)-MUNI TAX EXEMPTION: DETERIORATED PROPERTY** with its zero fiscal note at the Chairman's discretion.

CHAIRMAN PHILLIPS announced that with no objection, the motion carried.

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#SB 326

SENATOR THERRIAULT moved to calendar **SB 326-WASTEWATER DISCHARGE PROGRAM** with its attached fiscal note at the Chairman's discretion.

CHAIRMAN PHILLIPS announced that with no objection, the motion carried.

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#HB 157

SENATOR COWDERY moved to calendar CSHB 157(JUD)am-TRUST COMPANIES & FIDUCIARIES with its attached fiscal note at the Chairman's discretion.

SENATOR ELLIS commented that CSHB 157(JUD)am contains complicated subject matter and that he appreciates the great deal of work that went into it.

CHAIRMAN PHILLIPS announced that with no objection, the motion carried.

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#SCR 31

#HB 297

SENATOR COWDERY moved to calendar SCR 31-SUSPEND UNIFORM RULE FOR HB 297 at the Chairman's discretion.

SENATOR ELLIS asked why the title change is necessary.

MS. LORALI CARTER, staff to Representative Kevin Meyer, said the title was changed at Senator Halford's request so that it could be used as a vehicle to move some language on juvenile restitution. She noted that Section 2 of HB 297 is the original language on aggravator for sexual assault; Sections 1 and 3 through 6 are new.

SENATOR ELLIS asked if Representative Meyer supports the new language and whether it is non-controversial.

MS. CARTER answered affirmatively.

SENATOR ELLIS asked what it does.

MS. CARTER explained that Section 1 creates a new section under restitution and declares that if a conviction is set aside, the restitution will remain enforceable. Sometimes a conviction can be set aside if part of the sentence has been served. This section makes sure the restitution will still be paid to the victim even if the conviction is set aside.

SENATOR THERRIAULT asked if being set aside is different than being exonerated.

MS. CARTER said that is correct. She then explained that Section 3 relates to delinquency disposition orders. Current law requires juveniles and parents to submit full financial statements when

restitution is being decided. This amendment will require full financial statements only in cases where one party requests them, that being the Department of Law, the court, or the defendant. Full financial statements, in most cases, are usually unnecessary if the amount of the restitution is comparable to the permanent fund dividend. If damage is in the tens of thousands, one of those parties would likely request full financial disclosure.

SENATOR ELLIS asked if Section 3 was in the bill when it was heard in the Senate Judiciary Committee.

MS. CARTER said it was.

SENATOR ELLIS asked Senator Therriault if he remembers discussing it.

SENATOR THERRIAULT said he does not remember. He asked if someone from the Department of Law was present.

MS. CARTER said no.

CHAIRMAN PHILLIPS asked if it is the will of the committee to hold SCR 31.

SENATOR THERRIAULT said if it is not scheduled for 24 hours, he can get his questions answered. He then noted he would like a description of "set aside" versus "exoneration." He surmised that the term "set aside" is not in statute.

MS. CARTER said she was not sure but it is the term used by the Department of Law.

CHAIRMAN PHILLIPS said he would like to move the bill out of committee and would not schedule it for at least 24 hours.

SENATOR THERRIAULT pointed out that the phrase "suspends imposition of sentence" is used in Section 1.

SENATOR ELLIS asked how a conviction that is set aside would be noted on a juvenile record.

CHAIRMAN PHILLIPS suggested sponsors of House bills contact Senate Rules Committee members ahead of time to respond to questions so that bills are not delayed.

SENATORS ELLIS and THERRIAULT agreed to move the bill from committee and get their questions answered before the bill is scheduled on the Senate floor.

SENATOR THERRIAULT moved to calendar SCR 31 and CSHB 297(JUD)-AGGRAVATOR FOR SEXUAL OFFENSES with its fiscal notes at the Chairman's discretion.

CHAIRMAN PHILLIPS announced that with no objection, the motion carried.

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#HB 298

SENATOR COWDERY moved to calendar CSHB 298(L&C)-LEGISLATIVE APPROVAL OF RAILROAD LEASES with its zero fiscal note at the Chairman's discretion.

CHAIRMAN PHILLIPS announced that with no objection, the motion carried.

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#HB 355

SENATOR COWDERY moved to calendar HB 355-MOBILE TELECOMMUNICATIONS TAX with its attached fiscal notes at the Chairman's discretion.

CHAIRMAN PHILLIPS announced that with no objection, the motion carried.

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#HB 418

SENATOR COWDERY moved to calendar CSHB 418(L&C)-ELECTRONIC PROXY VOTING & NOTIFICATION with its attached fiscal notes at the Chairman's discretion.

CHAIRMAN PHILLIPS announced that with no objection, the motion carried.

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#HB 470

The committee took up CSHB 470(L&C)Title am - COMMON INTEREST OWNERSHIP:OFFERING STMTS.

SENATOR ELLIS asked for a synopsis of the measure.

MS. JANET SEITZ, staff to Representative Rokeberg, explained that CSHB 470(L&C)title am makes two changes to the Uniform Common Interest Ownership Act, sometimes referred to as UCIOA. It allows a preliminary version of what is called a public offering statement, which is a lengthy document. Current law says a seller

must give a public offering statement to the buyer who then has so many days to back out of the transaction. However, buyers of high-end condominiums are not able to get financing statements because public offering statements cannot be done until the project is finished. HB 470 allows the seller to offer a preliminary offering statement to the buyer, which is substantially similar to the public offering statement. Right now the penalty for not providing a public offering statement is 10 percent of the purchase price. HB 470 changes that penalty to a maximum of 10 percent so that a court can adjust the penalty depending on how egregious the error was. She pointed out that HB 470 was requested by some builders from Homer and has the support of the real estate industry and Homebuilders' Association. It retains the buyer's right to decline to purchase within 15 days of the time the preliminary offering statement is received.

SENATOR COWDERY moved to calendar CSHB 470(JUD)title am-COMMON INTEREST OWNERSHIP:OFFERING STMTS with its attached fiscal notes at the Chairman's discretion.

CHAIRMAN PHILLIPS announced that with no objection, the motion carried.

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CHAIRMAN PHILLIPS thanked members for coming in early and adjourned the meeting at 8:55 a.m.