

ALASKA STATE LEGISLATURE

SENATE RULES COMMITTEE

May 11, 2002

10:40 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Rick Halford

COMMITTEE CALENDAR

SENATE BILL NO. 268

"An Act relating to the issuance of state-guaranteed revenue bonds by the Alaska Housing Finance Corporation to finance mortgages for qualifying veterans; and providing for an effective date."

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 180(JUD)

"An Act relating to persons who provide services related to children; establishing a legislative task force on child services; and providing for an effective date."

APPROVED FOR CALENDARING

HOUSE BILL NO. 348

"An Act relating to violations of domestic violence protective orders."

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 443(L&C)

"An Act retroactively extending the application and licensing deadlines and amending the effective date of certain provisions relating to regulation of persons who practice tattooing and permanent cosmetic coloring or body piercing; and providing for an effective date."

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 474(CRA) am

"An Act relating to public rights-of-way and easements for surface transportation affecting the Anchorage Coastal Wildlife

Refuge."

APPROVED FOR CALENDARING

HOUSE BILL NO. 501

"An Act relating to the use of unclaimed property to pay court-ordered restitution; and providing for an effective date."

APPROVED FOR CALENDARING

CS FOR HOUSE BILL NO. 517(STA)

"An Act relating to the disposition of obsolete or surplus state property."

APPROVED FOR CALENDARING

PREVIOUS COMMITTEE ACTION

SB 268 - See State Affairs minutes dated 2/12/02 and Finance Report dated 5/9/02.

HB 58 - See Labor and Commerce minutes dated 5/6/01 and Finance Report dated 5/11/02.

HB 180 - See Judiciary minutes dated 5/8/02.

HB 348 - See HESS minutes dated 4/24/02 and Judiciary minutes dated 5/8/02.

HB 443 - See Labor and Commerce minutes dated 4/25/02 and Finance Report dated 5/9/02.

HB 474 - See Resources minutes dated 5/6/02.

HB 501 - See Judiciary minutes dated 5/9/02.

HB 517 - See State Affairs minutes dated 5/7/02.

WITNESS REGISTER

Mr. John Bittney
Alaska Housing Finance Corporation
PO Box 101020
Anchorage, AK 99510-1020

POSITION STATEMENT: Answered a question about SB 268

Representative Eric Croft
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Explained the contents of HB 348

Representative Joe Green

Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Prefers the House version of HB 474

Ms. Laura Achee
Staff to Representative Green
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Explained the differences between the House and Senate versions of HB 474

Mr. Dennis Poshard
Special Assistant
Department of Transportation &
Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Opposed to HB 474 but prefers the House version

ACTION NARRATIVE

TAPE 02-13, SIDE A

Number 001

CHAIRMAN RANDY PHILLIPS called the Senate Rules Committee meeting to order at 10:40 a.m. Senators Cowdery, Ellis and Phillips were present.

#SB 54

CHAIRMAN PHILLIPS informed members that the committee has a fiscal note to **SB 54-ALASKA VETERANS ADVISORY COUNCIL** that was not approved the previous day.

SENATOR COWDERY moved to attach the updated fiscal note to SB 54 for the purpose of calendaring.

CHAIRMAN PHILLIPS announced that with no objection, the updated fiscal note would be attached to SB 54.

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#SB 268

SENATOR ELLIS moved to calendar **SB 268-GUARANTEED REVENUE BONDS FOR VETERANS** with its attached fiscal notes at the Chairman's discretion.

CHAIRMAN PHILLIPS asked why Korean War veterans are not included in this bill.

MR. JOHN BITTNEY, Alaska Housing Finance Corporation (AHFC), told members that the program is governed by federal rules under the U.S. tax code that qualify the bonds for a tax exemption. Under the U.S. tax code, the term "qualified veteran" is defined as someone who served prior to January 1, 1977 or cannot have been discharged more than 30 years prior to the date of the application of the loan. AHFC is supporting measures in Congress right now that will expand the definition and the legislature has voted in unanimous support of sending a resolution to Congress to support those measures.

CHAIRMAN PHILLIPS noted that with no further questions or objections, SB 268 would be calendared.

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CHAIRMAN PHILLIPS announced that the committee does not yet have possession of HB 58.

#HB 180

SENATOR ELLIS moved to calendar CSHB 180(JUD)-YOUTH SERVICES: REGULATION & TASK FORCE and its accompanying fiscal notes at the Chairman's discretion.

CHAIRMAN PHILLIPS announced that with no questions or objections, the motion carried.

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#HB 348

SENATOR THERRIAULT asked for a review of HB 348-VIOLATION OF A DOMESTIC VIOLENCE ORDER.

REPRESENTATIVE ERIC CROFT, sponsor of HB 348, described the bill as a simple measure that describes the knowledge requirement one needs to show to prove violation of a domestic violence restraining order. He said a court opinion was issued last year in which the judge could not determine the legislature's intention. Because of that opinion, it is almost impossible to prosecute these cases. The defense can rely on an unreasonable mistake of fact so that if the defendant believed something, no matter how "off-the-wall," a jury cannot determine it to be unreasonable. As an example, he noted that an individual might claim to have not known that a phone call would be considered a means of communication in regard to a restraining order. Representative Croft said the current standard requires a prosecutor to prove what "is in a person's head." The court opinion has caused a lot of consternation in the prosecutorial community. Representative Croft said that HB 348 contains a

middle ground standard.

SENATOR ELLIS moved to calendar HB 348 and its two accompanying fiscal notes at the Chairman's discretion.

SENATOR COWDERY objected.

CHAIRMAN PHILLIPS announced that the motion to calendar HB 348 carried with Senators Therriault, Ellis and Phillips in favor and Senator Cowdery opposed.

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#HB 443

SENATOR COWDERY moved to calendar CSHB 443(L&C)-TATTOOING AND BODY PIERCING at the Chairman's discretion.

SENATOR ELLIS objected and said that he is a reluctant supporter of this legislation. He sponsored the original effort to bring some regulatory oversight to tattooing and body piercing. He noted that Alaska is the "wild west" of tattooing and body piercing with no regulations and unsanitary practices taking place. Minors have gotten hepatitis from the practice. Senator Ellis said the sponsor's concern in HB 443 is that a few of the practitioners did not get the notice of minimal state regulation of their activities so they will be given a window of opportunity to "get legal." He said he is willing to go along with this approach once but he cannot support reopening the window again because the public health is at risk from practitioners who are not "good actors." He pointed out that the responsible practitioners were registered and therefore notified. He repeated that he will give the others the benefit of the doubt one time but hopes the legislature does not attempt to open this window again.

CHAIRMAN PHILLIPS announced that without objection, the motion to calendar CSHB 443(L&C) carried.

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#HB 474

CHAIRMAN PHILLIPS asked Representative Green which version of HB 474 he prefers.

REPRESENTATIVE JOE GREEN, sponsor of CSHB 474(CRA) am -ANCHORAGE COASTAL WILDLIFE REFUGE, told members he prefers the House version (CSHB 474(CRA) am.

CHAIRMAN PHILLIPS asked for an explanation of the two versions.

MS. LAURA ACHEE, staff to Representative Green, stated that both bills require the Department of Transportation and Public Facilities (DOTPF), if it seeks to create a new easement through the Anchorage Coastal Wildlife Refuge, to come back to the legislature. The House version only requires that DOTPF notify the legislature whereas the Senate version requires approval from the legislature. The Senate version more closely resembles the original bill introduced by Representative Green but the changes made in the House version were more acceptable to House members. She pointed out the difference can be summed up by saying in the House version, inaction by the legislature implies tacit approval of the easement while in the Senate version, inaction by the legislature implies tacit disapproval. From DOTPF's perspective, the House version will make its job much easier.

SENATOR THERRIAULT asked why the legislature would want this level of involvement in this refuge.

MS. ACHEE replied that this project has been ongoing for several years. Although it went through the public process, a lot of Anchorage residents have felt their concerns were not heard. The Anchorage Coastal Wildlife Refuge is unique because islands protect that section of coastline from ice scour that ravages the rest of Cook Inlet. The protected shoreline provides habitat for nesting shore birds. Many of the proposed trail routes for the coastal trail extension would go right through the prime habitat areas. Biologists and local residents were speaking out against those routes and felt DOTPF was not listening to any of their concerns. The only proposed routes that were showing up on the plans were those through the coastal refuge. Representative Green was asked to get involved because so many people felt the process was broken and asked that the legislature have final oversight authority over the refuge it created in 1988.

REPRESENTATIVE GREEN informed members that this oversight would apply only to refuge lands. There is a belt along a considerable amount of the 12-mile refuge and the juncture between the bluff and the flat is where the critical habitat is located in most cases. That would have also been the location of the trail under consideration for two years by DOTPF.

SENATOR THERRIAULT asked to hear from a representative of DOTPF.

MR. DENNIS POSHARD, DOTPF, thanked the sponsor for agreeing that the House version is a better version - DOTPF takes that position also. However, DOTPF does continue to oppose the bill. DOTPF believes the establishment of the wildlife refuge and the Alaska Department of Fish and Game (ADF&G) management plan is sufficient

in order to oversee the wildlife and what occurs within the wildlife refuge. He believes Representative Green's concerns are very legitimate in regard to protecting the wildlife, but the federally-mandated NEPA process is working well and will result in a trail route that does protect the wildlife. He noted that the Orange route, which was the most coastal route, has been removed and, in lieu of that route, a new route has been proposed by ADF&G. That is the result of interagency cooperation to propose a route that can be permitted by all agencies that oversee wildlife protection and wetlands management. DOTPF believes the bill is unnecessary but asks the legislature, if it supports the bill, to support the House version.

SENATOR THERRIAULT asked who prepared the Senate version.

MS. ACHEE specified that Senator Halford prepared the amendment in the Senate Resources Committee.

CHAIRMAN PHILLIPS said it is his opinion that if the sponsor wants a specific version of his or her own bill, the sponsor should get it. He said the Senate will have to "slug it out on the floor."

SENATOR THERRIAULT stated that if the Senate Rules Committee addresses the House version, it will have eliminated the Senate committee process. He then asked Representative Green if he believes ADF&G is being coerced into moving forward with the route that has habitat problems.

REPRESENTATIVE GREEN said that a significant change recently took place and that his concern is that if this legislation doesn't pass, that "would then possibly get shaken." He noted that an ADF&G biologist spoke against the Orange route, as well as many others, yet that route stayed active for two years. He said the way the Administration is looking at it now is very, very favorable. He feels everyone is in tune with the possible exception of two or three landowners that lie along the new route. He noted the cost of maintaining the Orange route would have been very high and habitat would have been destroyed. He felt the process is now on track and CSHB 474(CRA) am will ensure it stays that way.

SENATOR THERRIAULT said he believes the Rules Committee should act as a gatekeeper and decide whether a bill is calendared or not.

SENATOR ELLIS moved to calendar CSHB 474(CRA) am with its accompanying fiscal note.

CHAIRMAN PHILLIPS announced that the motion failed with Senators Cowdery and Therriault opposed and Senators Ellis and Phillips in favor.

SENATOR COWDERY moved to calendar SCS CSHB 474(RES) with its zero fiscal note.

SENATOR ELLIS objected.

CHAIRMAN PHILLIPS announced that the motion carried with Senators Therriault, Cowdery and Phillips in favor and Senator Ellis opposed.

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#HB 501

SENATOR THERRIAULT moved to calendar HB 501-UNCLAIMED PROPERTY & RESTITUTION with its zero fiscal notes at the Chairman's discretion.

CHAIRMAN PHILLIPS announced that without objection, the motion carried.

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#HB 517

SENATOR THERRIAULT moved to calendar CSHB 517(STA)-SURPLUS/OBSOLETE STATE PROPERTY with its zero fiscal note at the Chairman's discretion.

CHAIRMAN PHILLIPS announced that without objection, the motion carried.

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There being no further business to come before the committee, CHAIRMAN PHILLIPS adjourned the meeting at 11:05 a.m.