ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS COMMITTEE
April 19, 2001
3:45 p.m.

MEMBERS PRESENT

Senator Gene Therriault, Chair
Senator Randy Phillips, Vice Chair
Senator Rick Halford
Senator Bettye Davis

MEMBERS ABSENT

Senator Drue Pearce

COMMITTEE CALENDAR

SENATE BILL NO. 187
"An Act relating to absentee voting stations."
MOVED CSSB 187(STA) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 177(STA)
"An Act placing certain special interest organizations within the definition of 'group' for purposes of Alaska's campaign finance statutes; and requiring disclosure of the true source of campaign contributions."
HEARD AND HELD

SENATE BILL NO. 193
"An Act relating to a study of the economic and social effects of the permanent fund dividend on the state."
MOVED SB 193 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

SB 187 - No previous action recorded.

HB 177 - No previous action recorded.

SB 193 - No previous action recorded.

WITNESS REGISTER

Loretta Brown
Staff for Senator Ward
Alaska State Capitol, Room 423
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced SB 187

Gail Fenumiai
Election Program Specialist
Office of the Lieutenant Governor
Division of Elections
P.O. Box 110017
Juneau, AK 99811-0017
POSITION STATEMENT: Testified on SB 187

Representative Pete Kott
Alaska State Capitol, Room 204
Juneau, AK 99801-1182
POSITION STATEMENT: Co-sponsor of HB 177

Brooke Miles
Assistant Director
Department of Administration
Public Offices Commission
2221 E. Northern Lights, Room 128
Anchorage, AK 99508-4149
POSITION STATEMENT: Answered questions on HB 177

Steve Cleary
Alaska Public Interest Research Group
No address provided
Anchorage LIO
POSITION STATEMENT: Opposed to HB 177

Kathryn Kurtz
Legislative Legal Counsel
Legislative Affairs Agency
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Answered questions on SB 177

Senator Pete Kelly
Alaska State Capitol, Room 518
Juneau, AK 99801-1182
POSITION STATEMENT: Co-sponsor of SB 193

ACTION NARRATIVE

TAPE 01-19, SIDE A
Number 001

CHAIRMAN GENE THERRIAULT called the Senate State Affairs Committee meeting to order at 3:45 p.m. Present were Senators Davis, Phillips and Chairman Therriault.

The first order of business was SB 187.

#SB 187

SB 187-ABSENTEE AND SPECIAL NEEDS VOTING

LORETTA BROWN, staff to Senator Ward, introduced SB 187 for the sponsor. She read the following sponsor statement.

> This legislation will require the director of elections to notify the voting public of all absentee in person voting locations at least 60 days prior to an election. It will also provide a uniform statewide opening date for absentee in person voting. Currently the location and opening periods for absentee voting stations is at the discretion of the director of the division of elections and requires no public notice. This has lead to some inconsistencies in opening dates and voting locations.
>
> SB 187 requires that the director of the division of elections provide full public notice of the location of all absentee voting stations at least 60 days prior to each election. No new absentee voting station sights may be added or opened after the 60-day notification period.
>
> Absentee voting stations will be operated on or after the 15th day before a primary, general, or special election. Qualified voters may apply in person for an absentee ballot at the absentee voting station on or after the 15th day before an election up to and including the date of the election. Absentee voting stations cannot be opened early.
>
> Having a uniform state wide opening date and prior notification of all absentee voting in person locations will make for less confusion for the voters and a more even playing field for all concerned.

Basically, the bill removes the discretionary powers of opening and closing voting stations from the director of elections and sets those times in statute. In addition, voting stations are identified 60 days prior to elections and new stations may not be opened after that 60 day period passes.

On page 2, line 9, AS15.20.048(b) is referred to and gives the director the discretionary power to open the absentee stations more than 15 days before an election. The committee substitute (CS) for SB 187 removes this option altogether.

CHAIRMAN THERRIAULT asked whether there were any questions on the J version of the bill. There were none.

SENATOR DAVIS moved the J version (Kurtz 4/19/01) as the working document. There was no objection.

CHAIRMAN THERRIAULT asked whether he was correct in stating the director still has some latitude on when the absentee stations open so long as there is the required public notification and they all open up at the same time.

MS. BROWN said that the bill says stations may not be opened more than 15 days prior to an election. It also requires prior notice so all voters know where the voting station will be.

GAIL FENUMIAI, Election Program Specialist from the Division of Elections, wanted to clarify a number of issues. The division has historically published absentee voting locations from one to three weeks prior to Election Day. For general elections, locations are published in the official election pamphlet and mailed to the households of all registered voters about three weeks prior to the election.

There are two types of absentee in person voting. The first type is through an absentee voting station, which SB 187 specifically addresses. There were just 14 of those during the primary and 15 for the general election. Stations have all 40 House district ballots and in the last primary there were the four regional election offices in Juneau, Anchorage, Fairbanks and Nome that served as absentee voting stations. There was also a Kenai Peninsula office located in Soldotna that operated as a station. Access Alaska operated as an absentee voting station in Anchorage and there was a station in Prudhoe Bay that was operational four days prior to and through Election Day. The University of Alaska, Anchorage, was open the Monday before the election and on Election Day for the primary. During the general election the University of Alaska, Fairbanks was also open for voting during that same period of time. The airports at Juneau, Sitka, Ketchikan, Kodiak, Anchorage and Fairbanks are all open on Election Day to serve as absentee voting stations.

Other locations are single district locations in small communities that have absentee voting officials but generally the only ballots available are for that particular district.

The reason for starting absentee voting early in the general election is because they had statutory authority to do so and the ballots were delivered early. People called with unforeseen circumstances and asked whether they could vote early. Since they had the ballots and the statutory authority to allow individuals to vote early they decided it was their duty to do so.

The division feels that a newspaper notice of 60 days is too long for people to remember where the voting locations will be. For the August 22nd primary the division advertised August 3rd through the 10th and then the following week.

CHAIRMAN THERRIAULT asked whether there is a problem with setting a certain date so everyone knows the date the stations would open. Individuals going out of town could vote by mail.

MS. FENUMIAI said that's correct but sometimes people are not terribly cooperative. Historically, they have had no difficulty with all absentee in person voting starting the 15th day before the election. The November election was a rare occurrence in which the ballots arrived eight days early.

CHAIRMAN THERRIAULT asked her preference on advance notice for advertising an election.

MS. FENUMIAI thought 30 days would be a good starting point with additional notices run 21 days prior to the election and final advertising run between the 15th and 8th day before the election.

CHAIRMAN THERRIAULT said he realizes the division does not get additional funding if they advertise over a longer period of time but the first advertisement could start earlier and subsequent advertisements could run closer to the election day.

MS. FENUMIAI said that would be possible. Voting information is also posted on the elections home page and it is the same information that appears in printed advertisements. They are already required by statute to give location and time notice for absentee in person voting. Setting the statutory date for when this must be started is acceptable but 60 days is too far out to be beneficial to the voters.

CHAIRMAN THERRIAULT asked Ms. Brown to explain why 60 days was selected.

MS. BROWN said voters and campaigners need to have notice of where the locations will be and when they will open so they may depend on those as they go through their campaign process. She did not believe shortening the time frame a bit would be a problem.

CHAIRMAN THERRIAULT responded that candidates certainly could call the division of elections for that information. He asked whether the reluctance comes from the possibility that a candidate might prepare printed material advertising a certain polling station and then the division of elections could switch the location.

MS. BROWN said yes.

SENATOR PHILLIPS said that can be a problem. Candidates print campaign materials giving polling location information and then learn the division of elections has made a change making all the printed material inaccurate. He thought it only fair to ask the division of elections to have that information set far enough in advance so the candidate does not spend time and money disseminating voter information that is ultimately inaccurate.

MS. FENUMIAI said the division tries its best to have polling places secured by June 1 but there are unforeseen circumstances that require changes. They do try to notify voters of the changes made to accommodate emergency situations but it is a frustration that is borne by everyone.

Absentee voting stations and absentee voting officials are generally set on a June 1 time line because the division needs to know the number of locations there will be so that supplies may be ordered. To the best of her knowledge, an additional absentee voting station has never been added several days before absentee voting started if, for no other reason, there would not be enough supplies, workers or ballots available to accommodate an additional station. Occasionally an absentee voting official is added in small communities where an election board cannot be found.

CHAIRMAN THERRIAULT thought 60 days was too long.

SENATOR DAVIS moved amendment 1 on page 2, line 1, which changes "60" to "30".

SENATOR PHILLIPS wanted to ask the sponsor whether 30 days was acceptable.

MS. BROWN said she thought Senator Ward would like to see a longer length of time.

SENATOR PHILLIPS suggested 45 days.

SENATOR DAVIS did not support 45 days.

CHAIRMAN THERRIAULT said Senator Ward is a member of the finance committee so they could pass amendment 1 and he could address the issue in that committee.

CHAIRMAN THERRIAULT asked whether there was objection to amendment 1 changing "60" to "30" on page 2, line 1. There was none. He noted the zero fiscal note.

He asked for any other testimony. There was none.

SENATOR PHILLIPS moved CSSB 187 (STA) J version and accompanying zero fiscal note from committee with individual recommendations. There was no objection.
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#HB 177

HB 177-CAMPAIGN FINANCE: GROUPS & DISCLOSURE

REPRESENTATIVE KOTT, bill co-sponsor, said that members had a copy of the sponsor statement for this campaign finance reform bill. This legislation closes a loophole created when the last campaign finance measure was passed.

REPRESENTATIVE KOTT informed members of two changes, both on page 2. First, "contributor" is defined as "the true source of the funds, property, or services being contributed;" rather than simply the name of the person in which the money is given. Second, special interest organizations are dealt with in Section 3, lines 11 through 15. The term "special interest organizations" is now included in the terminology of group as it is currently in statute. "That is to meet the conditions that are set apart and these were extracted from the [American Civil Liberties Union] ACLU case years ago when that was challenged and they were reluctant to define the terminology 'group'."

This legislation closes a loophole, levels the playing field and places the same restrictions and limitations on non-group entities that fall into this category.

CHAIRMAN THERRIAULT asked whether there were arguments in the House over language that was modified to deal with legal challenges.

REPRESENTATIVE KOTT said they have dealt with legal challenges indirectly. Both counsel and the sponsors are of the opinion that they are on firm legal ground in spite of arguments to the contrary because they have extracted components from state and federal legal cases to make the two changes. Ultimately, the courts will make the determination.

BROOKE MILES, Assistant Director for the Public Offices Commission of the Department of Administration, explained that this legislation addresses non-group entities that were identified by the Alaska Supreme Court in the Alaska v. Alaska Civil Liberties Union decision. The court held that there were certain non-group entities such as non-profits that should be allowed to participate in the election campaign process even though there is a ban on corporation business entities and trust participation.

It is her understanding that this bill addresses that by making these organizations subject to the same disclosure requirements as other Alaskan groups.

She has received comments expressing concern about "special interest organization" found on page 2, line 11. The complainant was concerned that all special interest organizations, whether they were participating in election campaign activities or not, were now going to be subject to regulations under the public offices commission. Although it is not the intent of the bill and the commission does not interpret it that way, she thought some clarifying language was in order.

The commission has identified some costs in the first year where some regulations would need to be promulgated and where the special interest organizations could qualify to participate by showing they meet the three part test described by the court and contained in this legislation.

CHAIRMAN THERRIAULT said he did not have the statutes in front of him and wondered whether subsection (5) AS 15.13.400 deals with groups participating in the political process.

MS. MILES said it does.

STEVE CLEARY, representative for the Alaska Public Interest Research Group (AkPIRG) spoke in opposition to HB 177 because it unfairly subjects groups to the disclosure law. In the spring of 1999, the Alaska Supreme Court ruled ideological, non-profit corporations have a right to participate in the political process and it interpreted parts of the campaign finance law to allow participation by non-profit organizations. This legislation would unfairly constrict that right.

The court ruled in this way to keep the corporate voice from overruling the voice of individuals and for that reason AkPIRG is standing in opposition.

He mentioned amendments that were also on the table and was informed that they were for different legislation in the House.

CHAIRMAN THERRIAULT said since the courts decided that groups should be required to disclose their source of funding and since they said groups could participate and express an opinion in the public process, he did not see where there was a problem.

MR. CLEARY said the disclosure might provide the opportunity to retaliate. In other court cases, disclosure may not always be required "whenever identification and fear of reprisal would deter speech. The First Amendment protects anonymity." For instance, an employer might retaliate against an employee who chooses to donate

to non-profit corporations and that would unfairly limit their speech.

CHAIRMAN THERRIAULT asked how that is different from an individual who works for an environmental organization giving a campaign contribution to a candidate who traditionally supported oil development.

MR. CLEARY said if an individual chooses to donate to a political candidate then they are subject to those disclosure laws and that is of benefit to the state. However, if the individual elects to donate to a non-profit organization, that should be considered separately. With HB 177 individuals would be forced to disclose in a political arena although they may not have been donating for a political reason.

SENATOR PHILLIPS commented public disclosure should apply to all groups.

CHAIRMAN THERRIAULT asked for other teleconferenced or in-person testimony.

He asked Kathryn Kurtz to address some of the comments that had been expressed.

KATHRYN KURTZ, bill drafter, said there is case law in Alaska where the Alaska Supreme Court has talked about the public interest in knowing where the money that funds politics comes from. Those cases are the Messerly and Veco decisions.

She thought Mr. Cleary was distinguishing between contributions to candidates directly and contributions to groups that then make contributions to candidates. That is a different context than the Messerly or Veco cases.

CHAIRMAN THERRIAULT said if the entities were considered groups, disclosure would be required. He asked what limits would be placed on money flowing through the groups to individual candidates?

MS. KURTZ said this bill would put these entities into the definition of group, and all restrictions in AS 15.13 that apply to groups would apply equally to these entities.

CHAIRMAN THERRIAULT asked for a listing of some of those restrictions for the record.

MS. KURTZ responded there is a dollar limit on the amount of contributions that groups may make to particular entities.

CHAIRMAN THERRIAULT asked if that meant individual candidates and whether the limit is $1,000.

MS. KURTZ thought it was $1,000 but she did not have her statute book available. It also subjects them to the same disclosure requirements. Groups are now required to report the source of contributions that exceed $100. There are also some organizational requirements. This type of entity would be treated the same as other groups as defined in statute.

CHAIRMAN THERRIAULT asked about outside funds coming in to go directly into an individual political campaign or into campaign efforts in general.

MS. KURTZ responded there are restrictions on how much a candidate may accept from out-of-state sources. There are dollar limits for candidates that are scaled according to office and it is a percentage of total contributions for a calendar year.

CHAIRMAN THERRIAULT asked how that would compare if the bill is written so that these entities are treated as individuals.

MS. KURTZ said the disclosure requirement is different because groups must disclose the source of contributions over $100 while individuals do not. The individual contribution limits for an individual is lower than for groups. She thought it was $500 as compared to $1,000.

CHAIRMAN THERRIAULT asked whether there would have been any problem with defining them as individuals as opposed to groups.

MS. KURTZ said what the court was calling non-group entities seemed to be things that involved more than one person and the term individual generally is thought of as one person.

CHAIRMAN THERRIAULT asked for confirmation that the corporation was treated as an individual in the days when corporate contributions were allowed.

MS. KURTZ said there is some history there with regulations and it may be prior to the 1996 campaign finance reform.

CHAIRMAN THERRIAULT asked whether she saw any problem with defining them as individuals.

MS. KURTZ replied, "That's a good question."

CHAIRMAN THERRIAULT then asked whether there would be a problem with giving them the option of being a group and disclosing or an individual and not disclosing the source and having separate caps on what you could do with the money.

MS. KURTZ did not know of any case law that specifically addresses

that scenario.

CHAIRMAN THERRIAULT asked for questions from other committee members. There were none.

He asked for any other testimony. There was none.

He asked Susan Schrader whether she would be willing to answer any questions. She said she was not prepared to do so.

He then closed the hearings on HB 177 and held it in committee. He announced his intent to move to final action on the bill during the following week.
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#SB 193

SB 193-APPROP:STUDY EFFECTS OF PERM FUND DIVIDEND

CHAIRMAN THERRIAULT apologized to committee members for having just a copy of the bill and the sponsor statement in member's packets.

SENATOR KELLY, bill sponsor, quoted Senator Stevens saying, "There's nothing that beats a genuine lack of preparedness." He too apologized for the lack of information and attributed it to the speed with which bills are scheduled and moved during the last of the session.

SENATOR KELLY stated there is much discussion revolving around the permanent fund dividend, much of which centers on anecdotal evidence that the dividend might be drawing people to the state.

The courts have disallowed longer residency requirements but language in the 1990 Lindly v. Malone case allows a study to determine the effects of the permanent fund dividend on the demographics of the state. Depending on the findings, residency requirements could possibly be reconsidered. If the dividend program is drawing individuals that are causing a greater draw on our services than if we did not have the dividend, then the residency issue could possibly be revisited.

SENATOR HALFORD joined the meeting.

SENATOR KELLY explained that SB 193 authorizes a study to determine what the dividend is doing to the demographics of our state and whether it might be causing a drain on state services.

CHAIRMAN THERRIAULT asked for the reason for selecting January 15, 2003, as the date the report would be delivered to the legislature.

SENATOR KELLY said there was no reason other than it matched with another study bill. If it could be done sooner he would readily

agree because the sooner the information is available the better it is for everyone concerned.

Side B

CHAIRMAN THERRIAULT said there were no fiscal notes available but the depth of the study and the length of time would impact the size of the notes. Since Senator Kelly is chairman of the finance committee there was no reason to be overly concerned about fiscal notes in this committee. It is a matter of how specific the study will be or the amount of detail that is affordable.

SENATOR KELLY added that the Department of Community and Economic Development as well as the Department of Labor and Workforce Development are mentioned in the study and he will also be requesting that the Department of Health and Social Services participate in the study.

SENATOR HALFORD asked what costs are envisioned.

SENATOR KELLY responded they were discussing $250,000 to $300,000 during the first draft of the gender equity study. [A study authorized during the 2001 session.]

CHAIRMAN THERRIAULT asked for questions from committee members and then for on-line or in person testimony. There was no response.

He noted the lack of fiscal notes but added that they would be indeterminate at this time anyway.

Since Senator Kelly indicated he would like to include another department in the study and the affordability of that would need to be addressed in finance committee, he was prepared to take final action on the bill with the understanding that this would be dealt with in that next committee.

SENATOR PHILLIPS moved SB 193 to the next committee of referral. There was no objection.
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CHAIRMAN THERRIAULT adjourned the meeting at 4:25 p.m.