

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON MILITARY AND
VETERANS' AFFAIRS**

May 1, 2003
3:15 p.m.

MEMBERS PRESENT

Representative Bob Lynn, Chair
Representative Beverly Masek, Vice Chair
Representative Nancy Dahlstrom
Representative Bruce Weyhrauch
Representative Sharon Cissna
Representative Max Gruenberg

MEMBERS ABSENT

Representative Hugh Fate

COMMITTEE CALENDAR

HOUSE BILL NO. 228

"An Act relating to state employees who are called to active duty as reserve or auxiliary members of the armed forces of the United States; and providing for an effective date."

- MOVED CSHB 228(MLV) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 14

Relating to urging that the 2006 National Veterans Wheelchair Games be held in Anchorage, Alaska.

- MOVED HJR 14 OUT OF COMMITTEE

HOUSE BILL NO. 185

"An Act changing the name of the Department of Military and Veterans' Affairs to the Department of Military and Veterans' Affairs and Homeland Security; and providing for an effective date."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 228

SHORT TITLE: STATE EMPLOYEES CALLED TO MILITARY DUTY

SPONSOR(S): REPRESENTATIVE(S) KERTTULA

Jrn-Date	Jrn-Page		Action
03/31/03	0712	(H)	READ THE FIRST TIME - REFERRALS
03/31/03	0712	(H)	MLV, STA, FIN
04/07/03	0831	(H)	COSPONSOR(S): LYNN
04/15/03		(H)	MLV AT 3:00 PM CAPITOL 124
04/15/03		(H)	Heard & Held
04/15/03		(H)	MINUTE(MLV)
04/16/03	1018	(H)	COSPONSOR(S): GARA
04/24/03		(H)	MLV AT 3:00 PM CAPITOL 120
04/24/03		(H)	-- Meeting Canceled --
05/01/03		(H)	MLV AT 3:00 PM CAPITOL 120

BILL: HJR 14

SHORT TITLE:NATIONAL WHEELCHAIR GAMES
SPONSOR(S): REPRESENTATIVE(S)CROFT

Jrn-Date	Jrn-Page		Action
03/10/03	0490	(H)	READ THE FIRST TIME - REFERRALS
03/10/03	0490	(H)	MLV, STA
04/15/03		(H)	MLV AT 3:00 PM CAPITOL 124
04/15/03		(H)	Scheduled But Not Heard
04/24/03		(H)	MLV AT 3:00 PM CAPITOL 120
04/24/03		(H)	-- Meeting Canceled --
05/01/03		(H)	MLV AT 3:00 PM CAPITOL 120

BILL: HB 185

SHORT TITLE:RENAMING DEPT. MILITARY/VETERANS AFFAIRS
SPONSOR(S): MILITARY & VETERANS' AFFAIRS

Jrn-Date	Jrn-Page		Action
03/12/03	0511	(H)	READ THE FIRST TIME - REFERRALS
03/12/03	0511	(H)	MLV, STA
03/12/03	0511	(H)	REFERRED TO MLV
03/27/03		(H)	MLV AT 3:00 PM CAPITOL 102
03/27/03		(H)	Heard & Held
03/27/03		(H)	MINUTE(MLV)
05/01/03		(H)	MLV AT 3:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE BETH KERTTULA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As sponsor of HB 228, answered questions raised at both the previous hearing and the current one.

TRACY WENDT, Intern
for Representative Beth Kerttula
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: In response to a question about HB 228, said it would have to be researched.

MARK GNADT, Staff
to Representative Eric Croft
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HJR 14 on behalf of Representative Croft, sponsor.

SUSAN MACAULAY
Alaska Disabled Veteran Sports Program, Inc.
Anchorage, Alaska

POSITION STATEMENT: During hearing on HJR 15, testified about the benefits of bringing the wheelchair games to Alaska.

BARBARA HOPKINS
Alaska Disabled Veteran Sports Program, Inc.
Anchorage, Alaska

POSITION STATEMENT: Testified on HJR 15; commended these veterans for their courage and expressed hope that the games would inspire other veterans as well.

JOHN CRAMER, Director
Administrative Services Division
Department of Military & Veterans' Affairs (DMVA)
Juneau, Alaska

POSITION STATEMENT: Presented HB 185 and explained most of the proposed committee substitute, Version S.

ACTION NARRATIVE

TAPE 03-8, SIDE A

Number 0001

CHAIR BOB LYNN called the House Special Committee on Military and Veterans' Affairs meeting to order at 3:15 p.m. Representatives Lynn, Masek, Weyhrauch, Dahlstrom, and Gruenberg were present at the call to order. Representative Cissna arrived as the meeting was in progress.

HB 228-STATE EMPLOYEES CALLED TO MILITARY DUTY

CHAIR LYNN announced that the first order of business would be HOUSE BILL NO. 228, "An Act relating to state employees who are called to active duty as reserve or auxiliary members of the armed forces of the United States; and providing for an effective date." [HB 228 had been heard and amended on 4/15/03.]

Number 0068

REPRESENTATIVE BETH KERTTULA, Alaska State Legislature, sponsor of HB 228, reminded members that this bill would allow the governor to offer members of the military the difference in pay between what they are receiving while on duty and what they would have received if they had remained in state employment. She commended her staff for work in addressing questions that had arisen at the previous meeting.

REPRESENTATIVE KERTTULA, addressing a fiscal concern voiced previously by Representative Masek, told members that departments' budgets already include the cost of full-time salaries and benefits for all state employees; therefore, the cost to the state would only be the difference between the state pay and active-duty pay, since other benefits already would have been budgeted for. The costs would only increase if the person's position needed to be filled during military deployment. Because the average duration of activation is three months, she opined that likely there wouldn't be a big fiscal impact if the governor chose to use this option.

Number 0167

REPRESENTATIVE KERTTULA addressed previous questions about current leave procedures. She said state employees who are called to active duty or who are under [military] orders are treated the same as an employee who takes an unpaid leave of absence. This is the problem with the health insurance, which only continues to the last day of the month in which the leave is taken; the state's retirement division complies with federal law on that. Under federal guidelines, an individual must be activated for more than 180 days before military health benefits will begin. Because the average duration is three months, however, that leaves a gap. As for the number of people the bill would affect, she noted that from September 11, 2001, to April 2002 there were 180 executive-branch employees in the Air

National Guard or Army National Guard; of those, 41 were called to active duty, and of those, only 8 received less military pay than state pay.

Number 0286

REPRESENTATIVE DAHLSTROM commended Representative Kerttula for her effort, saying she believes this is worthwhile and is another small way to thank those men and women who put their lives on the line for the country.

REPRESENTATIVE MASEK thanked Representative Kerttula for addressing her fiscal questions from the previous hearing.

Number 0345

REPRESENTATIVE GRUENBERG noted that this becomes implemented through an administrative order and asked how often that procedure is used.

Number 0413

TRACY WENDT, Intern for Representative Beth Kerttula, Alaska State Legislature, said she'd have to look into it.

REPRESENTATIVE GRUENBERG expressed concern that this may be a new procedure in a relatively noncontroversial bill. He mentioned promulgating emergency regulations under the Administrative Procedure Act (APA), for instance. He asked that the sponsor look into those issues, saying that otherwise he would move to amend this in the House State Affairs Standing Committee. He said he wants this to be standardized so that it doesn't require reinventing the wheel or result in litigation.

REPRESENTATIVE GRUENBERG referred to the phrase "issuance of an administrative order" on lines 7-8 [page 1]. He suggested saying instead, "issuance of regulations". He said doing it under the APA would avoid saying that this isn't subject to the APA and so forth. He also suggested that if it's under the APA, then emergency regulations could be issued, for instance. He said there is a whole body of law about this.

Number 0540

REPRESENTATIVE DAHLSTROM moved to report HB 228, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection,

CSHB 228(MLV) was reported from the House Special Committee on Military and Veterans' Affairs.

REPRESENTATIVE GRUENBERG offered to have his staff research the issues he'd raised.

REPRESENTATIVE KERTTULA said his points were excellent and that she had some answers about the emergency regulations. With regard to administrative orders, she offered her belief that they exist. [CSHB 228(MLV) was reported from committee.]

HJR 14-NATIONAL WHEELCHAIR GAMES

CHAIR LYNN announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 14, Relating to urging that the 2006 National Veterans Wheelchair Games be held in Anchorage, Alaska.

Number 0642

MARK GNADT, Staff to Representative Eric Croft, Alaska State Legislature, presented HJR 14 on behalf of Representative Croft, sponsor. He explained that these games seem to benefit many people in the community and can bring 550 to 600 participants as well as their families, trainers, and so forth, for a total of perhaps 1,300 to 1,500 visitors to the Anchorage area; he suggested these visitors likely would travel to other places in Alaska. He offered the expectation that this will bring in at least a million dollars just for lodging and food, based on \$900 to \$1,000 per participant. Thus it is expected to bring an economic benefit as well as the social benefit from these inspirational games. He deferred to testifiers on teleconference.

Number 0792

SUSAN MACAULAY, Alaska Disabled Veteran Sports Program, Inc., offered her belief that this could benefit "all of us" in more ways than one. She recalled attending events with people from all 50 states plus Puerto Rico, and said it made her feel a part of the United States, since she was being granted the opportunity to do the same events that other veterans could do. She suggested that bringing these wheelchair games to Alaska is a big way of letting all Alaskan veterans feel that they are part of the veterans throughout the nation.

Number 0936

BARBARA HOPKINS, Alaska Disabled Veteran Sports Program, Inc., noted that she was one of four founders of the sports program and has dedicated herself to helping disabled veterans, mainly in memory of her son, a disabled veteran who is now deceased. She lauded these veterans for their courage, and suggested that bringing the wheelchair games to Alaska would provide outreach and an example to other veterans who perhaps don't have the courage yet. She noted that Alaskan veterans must go to Seattle for treatment and that certain funds aren't available to them. Pointing out that the wheelchair games have 17 different events, she mentioned fundraising, donations, and grants.

Number 1083

CHAIR LYNN asked whether anyone else wished to testify; he then closed public testimony.

CHAIR LYNN spoke in strong support of HJR 14, noting that he is a retired military person and Vietnam veteran.

Number 1116

REPRESENTATIVE WEYHRAUCH moved to report HJR 14 out of committee with individual recommendations [and forthcoming zero fiscal note].

CHAIR LYNN indicated that without objection, HJR 14 was reported from the House Special Committee on Military and Veterans' Affairs.

HB 185-RENAMING DEPT. MILITARY/VETERANS AFFAIRS

CHAIR LYNN announced that the final order of business would be HOUSE BILL NO. 185, "An Act changing the name of the Department of Military and Veterans' Affairs to the Department of Military and Veterans' Affairs and Homeland Security; and providing for an effective date." [HB 185 was sponsored by the House Special Committee on Military and Veterans' Affairs.]

Number 1172

REPRESENTATIVE GRUENBERG moved to adopt the proposed committee substitute (CS), Version 23-LS0711\S, Chenoweth, 4/28/03, for discussion purposes. He opined that an objection was required in order to put Version S before the committee.

CHAIR LYNN said he would entertain an objection.

REPRESENTATIVE CISSNA objected.

REPRESENTATIVE GRUENBERG stated, "Then we have it before us."

Number 1212

JOHN CRAMER, Director, Administrative Services Division, Department of Military & Veterans' Affairs (DMVA), told members:

On behalf of the commissioner of our department, General Craig Campbell, we want to thank you and the committee members for your work on behalf of Alaskans and for bringing forward this committee substitute. Basically, this legislation complements the governor's Administrative Order 203, establishing the office of homeland security [within DMVA] and setting up some of those provisions. It modernizes Alaska Statute 26 and brings some of those in line with the needs that we have for this office and for homeland security in the state of Alaska. ... I think the bill and the sponsor statement pretty well [identify] the benefits and the need for this bill to go through.

Number 1256

REPRESENTATIVE GRUENBERG announced that he'd been taking the lead on this and indicated he and his staff, at the request of the committee, had tried to send the bill to various groups for review. He said a number of groups will want to comment on this but haven't had the chance to do so yet. He requested that Mr. Cramer do a section-by-section explanation and that the bill be held a few days in order to provide for the broadest possible dissemination. Noting that some provisions will be controversial, he said he wanted the committee to have the benefit of knowing both sides of the arguments and to try to resolve the problems before moving the bill along.

CHAIR LYNN announced his intention of taking testimony that day and then deciding whether to hold the bill or move it forward. He indicated letters had just been received from attorney Wayne Ross and the [Alaska Civil Liberties Union (AkCLU)].

Number 1369

MR. CRAMER explained that the bill has three main parts. Revisions to AS 26.20 update the chapter and make the statute

applicable to homeland security as well as civil defense, add provisions necessary to meet current and future threats, and repeal obsolete and unnecessary provisions. The chapter heading is changed from "civil defense" to "homeland security and civil defense". Throughout AS 26.20, homeland security responsibilities and authority are added to the existing civil defense responsibilities and authority of the governor and DMVA. The bill directs that all state homeland security and civil defense functions be coordinated by, through, and at the direction of DMVA, with the cooperation and assistance of all state agencies. It establishes and enumerates the statutory powers of the Division of Homeland Security established this year in DMVA by Administration Order 203. Furthermore, this section's statutory structure parallels that of AS 26.23.040, which establishes the Division of Emergency Services.

MR. CRAMER said the bill authorizes the governor to declare a state of emergency not only in the event of an actual enemy attack against the state, as presently provided, but also in the event of a threat of attack as determined by the commissioner of DMVA to be credible. It amends the definitions section, AS 26.20.200, to add new definitions of "attack", "homeland security", and "private agency".

Number 1456

MR. CRAMER reported that several bill sections eliminate obsolete or unnecessary provisions of AS 26.20. Foremost is the elimination throughout the references to "civil defense districts", entities that DMVA is authorized to designate under AS 26.20.020(b)(11), and which would have statutory powers specified in AS 26.20.060. Noting that civil defense districts have not been designated, he remarked, "In this era, it is preferable to use and improve the existing emergency planning and response capabilities of municipalities, rather than create new organizations."

MR. CRAMER said other housekeeping provisions in the bill repeal specific inclusion of DMVA's authority to take specified measures such as blackouts or air-raid drills without reducing DMVA's overall authority to take measures necessary for homeland security and civil defense purposes. The bill repeals a list of specified purposes for reciprocal aid agreements, leaving the specific purposes of such agreements to the governor's discretion.

MR. CRAMER said the bill also repeals various other obsolete or unnecessary statutes, including AS 26.25.050, AS 26.20.060, and AS 26.20.070, which all pertain to civil defense districts and their local organizations; AS 26.20.080, authorizing mobile support units; AS 26.20.090, authorizing DMVA to make surveys and investigations and giving it the power to subpoena the attendance of witnesses and production of documents; AS 26.20.120, providing that orders and regulations adopted by the governor, DMVA, or a district have the effect of law; AS 26.20.130, providing that federal, state, and local law enforcement authorities shall enforce orders and regulations under AS 26.20; AS 26.20.170, prohibiting political activity by the civil defense organization; and AS 26.20.180, penalizing a violation of a regulation pertaining to blackouts, alerts, evacuation procedures, or any other order or regulation under AS 26.20.

Number 1557

MR. CRAMER addressed revisions in the bill to AS 26.20.140, which relates to immunity of the government and employees arising out of civil defense activities. Presently, AS 26.20.140(a) provides that the state, a civil defense district, and the agents or representatives of the state or district may not be held liable for injury or property damage sustained by a volunteer civilian defense worker; the bill broadens that immunity to cover injury or property damage sustained by any homeland security or civilian defense worker, including employees as well as volunteers, and it substitutes "political subdivision" for "district".

MR. CRAMER noted that AS 26.20.140(b) currently provides that the state and any district established [for] civil defense purposes, their employees, agents, or representatives, authorized volunteer or auxiliary civil defense workers, and members of any other agency engaged in civilian defense activities who are complying with - or reasonably attempting to comply with - AS 26.20 or an order or regulation issued under AS 26.20 are not liable for injury to persons or damage to property as a result of their activities. The bill amends subsection (b) to provide immunity for homeland security activities as well, and to include any homeland security or civilian defense activities undertaken under authority of AS 26.20. Subsection (b) also currently provides an exception to the grant of immunity in cases of wilful misconduct, gross negligence, or bad faith. The bill amends subsection (b) to provide an exception only when malice or reckless indifference to the interests,

rights, or safety of others is shown by clear and convincing evidence.

Number 1640

REPRESENTATIVE GRUENBERG remarked that he'd been concerned about subsection (b), page 11, lines 9-21. He offered his belief that this parallels language in another immunity bill the committee heard a couple of weeks before.

MR. CRAMER said he believed that was correct.

REPRESENTATIVE GRUENBERG informed members that at some point he would move to strike page 11, lines 9-21 [the entirety of subsection (b)].

Number 1699

REPRESENTATIVE CISSNA expressed concern about discussing the bill when so few committee members were present.

CHAIR LYNN concurred, noting that only three members were present at this time. He confirmed that Sam Johnson and Thomas Burgess of DMVA were waiting to testify via teleconference.

REPRESENTATIVE GRUENBERG asked to hear their testimony, even if it required repetition later. He said this is a very important bill and pointed out that Representative Cissna may have another committee meeting to attend [the next time this is heard].

Number 1875

CHAIR LYNN announced that his preference was to hear testimony only once and to schedule a meeting at some other time of day. [HB 185 was held over.]

ADJOURNMENT

The House Special Committee on Military and Veterans' Affairs meeting was recessed at 3:50 p.m. to a call of the chair. [The meeting was never reconvened.]