

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

April 24, 2003

8:06 a.m.

MEMBERS PRESENT

Representative Bruce Weyhrauch, Chair
Representative Jim Holm, Vice Chair
Representative Nancy Dahlstrom
Representative Bob Lynn
Representative Paul Seaton
Representative Ethan Berkowitz
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 174

"An Act relating to the state centralized correspondence study program, to funding for educational programs that occur primarily outside school facilities, and to the duties of school boards of borough and city school districts and regional educational attendance areas; and providing for an effective date."

- MOVED CSHB 174(STA) OUT OF COMMITTEE

HOUSE BILL NO. 250

"An Act relating to protests of state contract awards, to claims on state contracts, to the arbitration of certain state construction contract claims, and to hearings and appeals under the State Procurement Code; making conforming amendments in the State Procurement Code; and providing for an effective date."

- MOVED CSHB 250(L&C) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 49(STA)

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

- WAIVED OUT OF COMMITTEE TO JUD

HOUSE BILL NO. 215

"An Act repealing statutes that relate to art works in public buildings and facilities and that require a set percentage of construction costs to be spent on art."

- HEARD AND HELD

HOUSE BILL NO. 157

"An Act eliminating the Alaska Public Offices Commission; transferring campaign, public official, and lobbying financial disclosure record-keeping duties to the division of elections; relating to reports, summaries, and documents regarding campaign, public official, and lobbying financial disclosure; providing for enforcement by the Department of Law; making conforming statutory amendments; and providing for an effective date."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 4

Proposing an amendment to the Constitution of the State of Alaska relating to the duration of a regular session.

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 149

"An Act requiring nonprofit corporations under the Alaska Net Income Tax Act to provide prior public notice of lobbying expenditures and an annual report of lobbying expenditures to the Department of Revenue; providing for a civil penalty for failure to provide the notice; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 174

SHORT TITLE: CORRESPONDENCE STUDY

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/05/03	0449	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0449	(H)	EDU, HES, FIN
03/05/03	0449	(H)	FN1: (EED)
03/05/03	0449	(H)	GOVERNOR'S TRANSMITTAL LETTER

03/10/03	0496	(H)	FN2: (EED)
03/11/03		(H)	EDU AT 11:00 AM CAPITOL 124
03/11/03		(H)	Heard & Held
03/11/03		(H)	MINUTE(EDU)
03/13/03		(H)	EDU AT 11:00 AM CAPITOL 124
03/13/03		(H)	Heard & Held
03/13/03		(H)	MINUTE(EDU)
03/18/03		(H)	EDU AT 11:00 AM CAPITOL 124
03/18/03		(H)	Moved Out of Committee
03/18/03		(H)	MINUTE(EDU)
03/19/03	0583	(H)	EDU RPT 3DNP 2NR 1AM
03/19/03	0583	(H)	DNP: KAPSNER, GARA, SEATON; NR: WOLF,
03/19/03	0583	(H)	GATTO; AM: WILSON
03/19/03	0583	(H)	FN1: (EED)
03/19/03	0583	(H)	FN2: (EED)
03/20/03		(H)	HES AT 3:00 PM CAPITOL 106
03/20/03		(H)	-- Meeting Canceled --
03/27/03		(H)	HES AT 3:00 PM CAPITOL 106
03/27/03		(H)	Moved Out of Committee
03/27/03		(H)	MINUTE(HES)
03/28/03	0666	(H)	HES RPT 2DP 2DNP 2NR
03/28/03	0666	(H)	DP: COGHILL, WOLF; DNP: SEATON,
03/28/03	0666	(H)	KAPSNER; NR: GATTO, WILSON
03/28/03	0667	(H)	FN1: (EED)
03/28/03	0667	(H)	FN2: (EED)
04/02/03	0747	(H)	STA REFERRAL ADDED AFTER HES
04/08/03		(H)	STA AT 8:00 AM CAPITOL 102
04/08/03		(H)	Scheduled But Not Heard
04/14/03		(H)	FIN AT 1:30 PM HOUSE FINANCE 519
04/14/03		(H)	<Bill Hearing Postponed>
04/24/03		(H)	FIN AT 1:30 PM HOUSE FINANCE 519
04/24/03		(H)	<Bill Hearing Postponed>
04/24/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 250

SHORT TITLE: STATE CONTRACTS

SPONSOR(S): REPRESENTATIVE(S) HOLM

Jrn-Date	Jrn-Page		Action
04/07/03	0818	(H)	READ THE FIRST TIME - REFERRALS
04/07/03	0818	(H)	L&C, STA
04/16/03		(H)	L&C AT 3:15 PM CAPITOL 17

04/16/03		(H)	Moved CSHB 250(L&C) Out of Committee MINUTE(L&C)
04/17/03	1030	(H)	COSPONSOR(S): CRAWFORD
04/22/03	1047	(H)	L&C RPT CS(L&C) 6DP
04/22/03	1047	(H)	DP: GATTO, CRAWFORD, GUTTENBERG,
04/22/03	1047	(H)	DAHLSTROM, ROKEBERG, ANDERSON
04/22/03	1048	(H)	FN1: INDETERMINATE(DOT)
04/24/03	1108	(H)	FIN REFERRAL ADDED AFTER STA
04/24/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: SB 49

SHORT TITLE: 2003 REVISOR'S BILL

SPONSOR(S): RLS BY REQUEST OF LEGISLATIVE COUNCIL

Jrn-Date	Jrn-Page		Action
01/31/03	0087	(S)	READ THE FIRST TIME - REFERRALS
01/31/03	0087	(S)	STA, JUD
02/20/03		(S)	STA AT 3:30 PM BELTZ 211
02/20/03		(S)	Moved CSSB 49(STA) Out of Committee
02/20/03		(S)	MINUTE(STA)
02/24/03	0256	(S)	STA RPT CS 5DP SAME TITLE
02/24/03	0256	(S)	DP: TAYLOR, HOFFMAN, COWDERY, DYSON, GUESS
02/24/03	0256	(S)	FN1: ZERO(S.STA)
02/24/03	0257	(S)	FN1: ZERO(S.STA)
03/17/03		(S)	JUD AT 1:30 PM BELTZ 211
03/17/03		(S)	Heard & Held MINUTE(JUD)
04/07/03		(S)	JUD AT 1:30 PM BELTZ 211
04/07/03		(S)	Moved CSSB 49(STA) Out of Committee MINUTE(JUD)
04/08/03	0745	(S)	JUD RPT CS(STA) 2DP 2NR
04/08/03	0745	(S)	DP: SEEKINS, THERRIAULT;
04/08/03	0745	(S)	NR: ELLIS, FRENCH
04/08/03	0745	(S)	FN1: ZERO(S.STA)
04/09/03	0783	(S)	RULES TO CALENDAR 4/10/2003
04/10/03	0783	(S)	READ THE SECOND TIME
04/10/03	0783	(S)	STA CS ADOPTED UNAN CONSENT
04/10/03	0783	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/10/03	0784	(S)	READ THE THIRD TIME CSSB 49(STA)
04/10/03	0784	(S)	PASSED Y19 N- E1

04/10/03	0784	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/10/03	0794	(S)	TRANSMITTED TO (H)
04/10/03	0794	(S)	VERSION: CSSB 49(STA)
04/11/03	0925	(H)	READ THE FIRST TIME - REFERRALS
04/11/03	0925	(H)	STA, JUD
04/22/03		(H)	STA AT 8:00 AM CAPITOL 102
04/22/03		(H)	Heard & Held
04/22/03		(H)	MINUTE(STA)
04/24/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 215

SHORT TITLE: REPEAL ONE PERCENT FOR ART
SPONSOR(S): REPRESENTATIVE(S) STOLTZE

Jrn-Date	Jrn-Page		Action
03/26/03	0640	(H)	READ THE FIRST TIME - REFERRALS
03/26/03	0640	(H)	STA, FIN
03/26/03	0640	(H)	REFERRED TO STATE AFFAIRS
04/03/03		(H)	STA AT 8:00 AM CAPITOL 102
04/03/03		(H)	Heard & Held MINUTE(STA)
04/17/03		(H)	STA AT 8:00 AM CAPITOL 102
04/17/03		(H)	<Bill Hearing Postponed to 4/24/03>
04/24/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 157

SHORT TITLE: ELIMINATE APOC
SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/05/03	0426	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0426	(H)	STA, JUD, FIN
03/05/03	0426	(H)	FN(S) FORTHCOMING
03/05/03	0426	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/05/03	0426	(H)	REFERRED TO STATE AFFAIRS
03/11/03		(H)	STA AT 8:00 AM CAPITOL 102
03/11/03		(H)	Scheduled But Not Heard
03/12/03	0522	(H)	FN1: ZERO(GOV)
03/12/03	0522	(H)	FN2: (ADM)
03/12/03	0522	(H)	FN3: (ADM)
04/22/03		(H)	STA AT 8:00 AM CAPITOL 102
04/22/03		(H)	Heard & Held

04/24/03

(H)

MINUTE(STA)

STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

MARK O'BRIEN, Chief Contracts Officer
Contracting, Procurement and Appeals
Office of the Commissioner
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska
POSITION STATEMENT: Explained the genesis of HB 250.

DICK CATTANACH, Executive Director
Associated General Contractors of Alaska
Anchorage, Alaska
POSITION STATEMENT: Urged the committee's support of HB 250.

RICHARD J. MONKMAN, Assistant Attorney General
Transportation Section
Civil Division (Juneau)
Department of Law
Juneau, Alaska
POSITION STATEMENT: Testified on HB 250.

CHARLOTTE FOX, Executive Director
State Council on the Arts
Anchorage, Alaska
POSITION STATEMENT: Expressed concern with HB 215, Version D.

BARBARA BITNEY, Staff
to Representative Bill Stoltze
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified during the hearing on HB 215, on behalf of Representative Stoltze, sponsor.

RUTH SANDVIK
Petersburg, Alaska
POSITION STATEMENT: During the hearing on HB 215, testified that she didn't want the art program to become anything less than it is now.

PAULINE LEE
Petersburg Arts Council
Petersburg, Alaska
POSITION STATEMENT: During the hearing on HB 215, responded to the changes proposed in Version D.

BROOKE MILES, Executive Director
Alaska Public Offices Commission (APOC)
Anchorage, Alaska

POSITION STATEMENT: Discussed the changes to HB 157 proposed in [the committee substitute (CS) labeled HB157, 4/14/2003], and answered question by the committee.

ACTION NARRATIVE

TAPE 03-43, SIDE A

Number 0001

CHAIR BRUCE WEYHRAUCH called the House State Affairs Standing Committee meeting to order at 8:06 a.m. Representatives Holm, Seaton, Dahlstrom, Lynn, Gruenberg, and Weyhrauch were present at the call to order. Representative Berkowitz arrived as the meeting was in progress.

HB 174- CORRESPONDENCE STUDY

Number 0038

CHAIR WEYHRAUCH announced that the first order of business was HOUSE BILL NO. 174, "An Act relating to the state centralized correspondence study program, to funding for educational programs that occur primarily outside school facilities, and to the duties of school boards of borough and city school districts and regional educational attendance areas; and providing for an effective date."

Number 0046

REPRESENTATIVE SEATON moved to adopt CSHB 174, Version 23-GH1126\H, Ford, 4/21/03, as the working document.

CHAIR WEYHRAUCH said, "Without objection, then, we've adopted the CS. And your motion was also to move it out of committee, with individual ..."

REPRESENTATIVE SEATON moved to report CSHB 174, Version 23-GH1126\H, Ford, 4/21/03, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 174 was reported from the House State Affairs Standing Committee.

CHAIR WEYHRAUCH thanked the committee and related his belief that with the CS the state will benefit. He remarked, "We'll hope we can get the Senate, governor, and House to agree."

HB 250-STATE CONTRACTS

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 250, "An Act relating to protests of state contract awards, to claims on state contracts, to the arbitration of certain state construction contract claims, and to hearings and appeals under the State Procurement Code; making conforming amendments in the State Procurement Code; and providing for an effective date."

Number 0285

REPRESENTATIVE HOLM, Alaska State Legislature, spoke as the sponsor of HB 250. He informed the committee that HB 250 was legislation negotiated between the Department of Transportation & Public Facilities' procurement officers and the Associated General Contractors (AGC). Representative Holm paraphrased the following sponsor statement:

Construction claims occur when parties to the contract disagree as to whether a specific element of a project is within the scope of work defined by a construction contract. For projects undertaken by the State of Alaska, the Alaska procurement code defines a process for resolving those differences.

Ideally such a process should resolve differences in a fair and expeditious manner.

At this time, however, the perception in the construction community is that the process has slowly deteriorated so that it is no longer fair or expeditious. As now prescribed, when a contractor files a claim, the procurement officer involved with the claim initially evaluates the claim and issues a ruling on the perceived merits. If the contractor is not satisfied, an appeal is made to the procurement officer's supervisor.

There is no review by an independent party unless a contractor elects to appeal the supervisor's decision. Even then, the hearing officer is selected by the state, which raises concern about the true

independence of the hearing officers, since the state has sole discretion to maintain the hearing officer list. Delays are rampant. Justice is delayed. Contractors are forced to expend money defending their claim, but that money cannot be recovered in the process. Small contractors cannot afford to participate in the claims process because of these costs. Claims of less than \$250,000 are frequently not pursued because of the great expense involved. The entire process is ripe for review and revision.

The purpose of HB 250 is to modify the construction claims process to once again create a fair and expeditious claims process. Specifically, HB 250 will modify the procurement code pertaining to construction claims in the following manner:

1. If a procurement officer does not issue a written decision by the due date, the contractor may seek arbitration.
2. On appeals of all construction claims, the parties can agree to binding arbitration.
3. The timelines for decisions have been tightened, and redundant requirements have been eliminated.
4. An arbitrator or hearing officer who does not issue a decision by the deadline is disqualified for a year.
5. Qualifications for arbitrators and hearing officers will be established by the commissioner of administration in regulation.
6. The contractor is entitled to recover some of the claims costs incurred.

Prompt passage of HB 250 will expedite contractor's claims and return fairness to the process.

REPRESENTATIVE HOLM concluded by urging the prompt passage of HB 250, adding that there is nearly \$400 million worth of work for the fiscal year 2003.

Number 0638

MARK O'BRIEN, Chief Contracts Officer, Contracting, Procurement and Appeals, Office of the Commissioner, Department of Transportation & Public Facilities (DOT&PF), explained that about two years ago the department began a process with the AGC in order to review revisions to the claims process. The discussions resulted in review of a way to improve the process such that it was faster, fairer, and less expensive. In terms of faster, the legislation proposes specific timeframes where there were none and shortens existing timeframes by which action must be taken to keep the claims moving forward. Arbitration is offered as an alternative to the hearing officer process. Mr. O'Brien related the general belief that arbitration process offers a faster and fairer resolution. Furthermore, this legislation makes arbitration final and there is no lengthy court appeal process. With regard to fairer, the arbitration process together with regulations govern the selection. The contractors and the state believe that it will provide an opportunity to provide a true, fair, and neutral third party to hear the claim. The less expensive aspect is [borne through] arbitration, which is generally considered less formal, more expeditious, and therefore a less expensive process. Additionally, he said, there will be no additional cost for appeals under arbitration, with very few exceptions.

MR. O'BRIEN noted that the only issue that the administration can't completely agree with the AGC on are the provisions for cost and fee. He explained that Rule 79 and 82 [of the Alaska Rules of Civil Procedure] allow the contractor and the state, if they are the prevailing party, to recover partial fees under different circumstances. For example, if there was a \$2 million claim and the arbitrator awarded the contractor \$50,000, the arbitrator would estimate that the Rule 82 fees and Rule 79 costs would amount to about \$73,000. If one were to apply those figures to the last 11 years worth of cases on claims and average out the costs depending upon the prevailing party, it would amount to about \$145,000 a year in additional claims costs. Mr. O'Brien informed the committee that the arbitrator has the authority, based on factors such as complexity or length of litigation, to increase those costs. Therefore, the \$145,000 a year in additional claims costs represents the minimum additional cost estimate based on the past 11 years worth of claims history. Mr. O'Brien highlighted that these fees aren't eligible for reimbursement under the federal aid provisions. Most of the claims are funded under federal appropriations, and therefore the additional costs would be obligations.

Number 0993

CHAIR WEYHRAUCH posed a situation in which there is a dispute between DOT&PF and a contractor and the dispute goes to court where there is a prevailing party. He asked if the state or the contractor are entitled to attorney fees incurred before the administrative part of the dispute.

MR. O'BRIEN replied no and specified that those aren't recoverable fees. Past court decisions have held that the claimant isn't eligible to recover cost and fees for hearings under the administrative process.

Number 1125

DICK CATTANACH, Executive Director, Associated General Contractors of Alaska, testified in support of HB 250 and thanked the sponsor. Mr. Cattanach related that contractors currently view the process as very expensive.

[Due to technical difficulties, the committee held HB 250 until later in the meeting and had Mr. Cattanach call back. In the meantime, the committee turned attention to other legislation.]

SB 49-2003 REVISOR'S BILL

Number 1300

CHAIR WEYHRAUCH announced that the next order of business was CS FOR SENATE BILL NO. 49(STA), "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

CHAIR WEYHRAUCH, in response to a question by Representative Gruenberg, confirmed that the House Judiciary Standing Committee was also a committee of referral for SB 49.

REPRESENTATIVE GRUENBERG noted that [Revisor's Bills] are typically heard only by the House Judiciary Standing Committee.

Number 1356

REPRESENTATIVE GRUENBERG, at the chair's suggestion, moved to either waive SB 49 to the House Judiciary Standing Committee or report SB 49 out of committee, with individual recommendations. There being no objection, it was so ordered. [It was later decided that SB 49 would be waived out of the House State Affairs Standing Committee.]

HB 250-STATE CONTRACTS

CHAIR WEYHRAUCH returned to the discussion on HOUSE BILL NO. 250 "An Act relating to protests of state contract awards, to claims on state contracts, to the arbitration of certain state construction contract claims, and to hearings and appeals under the State Procurement Code; making conforming amendments in the State Procurement Code; and providing for an effective date."

Number 1499

DICK CATTANACH, Executive Director, Associated General Contractors of Alaska, returning to the issue of cost, informed the committee that a contractor who had settled a claim for \$530,000 settled because the contractor couldn't afford to go any further. The contractor had already spent over \$25 million. The construction industry believes that the cost of the claim is sometimes used to delay the claim, and therefore the contractors are at a disadvantage when dealing with an organization as large as the state, which can financially outlast the contractor. Therefore, the cost containment provisions which bring in Rules 68, 79, and 82 of the Alaska Rules of Civil Procedure are important elements of this legislation. Mr. Cattanach urged the committee to support HB 250.

Number 1540

RICHARD J. MONKMAN, Assistant Attorney General, Transportation Section, Civil Division (Juneau), Department of Law, explained that HB 250 provides for arbitration at the contractor's request for claims under \$250,000, which provides for a faster and final decision on those claims. For claims above \$250,000, if the contractor and department agree, those claims can also be arbitrated. Again, a faster and more final decision is provided.

CHAIR WEYHRAUCH asked if parties can still agree not to have attorney fees and costs awarded in an arbitration. Or does the legislation require such.

MR. MONKMAN specified that HB 250 would allow the prevailing party to request attorney fees and costs in accordance with the Alaska Rules of Civil Procedure. Therefore, the prevailing party would have the right, in either arbitration [or a hearing], to [request] attorney fees and costs from the other side.

CHAIR WEYHRAUCH mentioned that many times parties want to go to arbitration, but don't want to have the possibility of having attorney fees and costs awarded against one another. He asked if the parties can agree to go to arbitration with each party bearing their own fees and costs.

MR. MONKMAN answered that he supposed that could be the case. However, either party would have a statutory right to claim those fees and costs. The provision in HB 250 references the Uniform Arbitration Act, which has broad language allowing the parties to agree to the parameters of an arbitration and to the boundaries of an arbitrator's award. Mr. Monkman clarified that although he hasn't looked at that question specifically, he believes the parties could agree to waive the attorney fees and costs.

Number 1727

REPRESENTATIVE GRUENBERG directed attention Section 7 and acknowledged the chair's concern with regard to the word "shall." Representative Gruenberg related his belief that Alaska's current rules of civil procedure would allow a party to waive attorney fees. Actually, the aforementioned does occur, he added, when one doesn't make an application for it.

MR. MONKMAN agreed.

REPRESENTATIVE GRUENBERG turned to Section 7(b), specifically the reference to Rule 68. He noted that there is also a statutory offer of judgment in AS 09.30.065. Basically, an offer of judgment allows a person to make an offer of judgment. For example, if a person is offered a better deal, but the offeree rejects it and the case is forced to go to trial, the attorney fees can be obtained and any resulting interest goes to [the offeror]. Although the court rule and the statute work together, the statute isn't referenced in HB 250. He asked if the statute was intentionally not referenced or should the legislation be amended to include it.

MR. MONKMAN related his belief that the when Legislative Legal and Research Services reviewed the legislation, it was felt that the reference to the rule was sufficient to bring offers of judgment. Mr. Monkman said he didn't have any particular objection to referencing the statute, although the rule alone is probably adequate for these purposes.

REPRESENTATIVE GRUENBERG suggested that members should review the statute and the rule so that they will see there really is a difference. If this legislation only provides the benefit of the rule, then the parties aren't being provided the full benefit of the offer of judgment scheme. Representative Gruenberg explained that the court rule provides that one can obtain actual costs, which can include enhanced attorney fees. The statute refers to certain deadlines and specifies that one can recover 75 percent of the attorney fees and [lower] depending upon when the offer occurs. He wasn't sure whether it would require additional work. He inquired as to Mr. Monkman's view on including the statute.

MR. MONKMAN related his belief that the percentage of recovery referred to by Representative Gruenberg is included in Rule 68 itself. Mr. Monkman characterized Rule 68 as the "meet or beat" provision of the civil rules. Rule 68 is there to enhance the possibility of settlement and to encourage the parties, early in litigation, to realistically evaluate their claim and possibility of succeeding. Most claims, like most court cases, settle. Mr. Monkman explained that under Rule 68 the offeror reviews the case and relates that the claim is worth a specified amount. The offeree can take the money or go to a hearing and try to beat the offer. If the offeree doesn't beat the offer, the offeree will have to pay for [the offeror's] attorney fees, costs, and enhanced interest. Therefore, it's an important piece of the legislation.

Number 2086

CHAIR WEYHRAUCH pointed out that Rule 68 references Title 9, the offer of judgment statute. Chair Weyhrauch explained that the committee will receive copies of the rules. He announced that if there was going to be a conceptual amendment he wanted it to occur today in order to move the legislation today.

REPRESENTATIVE GRUENBERG related his understanding that the current amended Rule 68 is tied closely to the statute.

MR. MONKMAN agreed and explained that's why the legislation only included the rule.

CHAIR WEYHRAUCH noted that the intent is to include any statutory provision that would allow parties to deal with offers of judgment.

REPRESENTATIVE GRUENBERG announced that he wouldn't offer a conceptual amendment. He noted that the House recently passed the revised Uniform Arbitration Act and asked if anything in HB 250 needs to conform to that.

REPRESENTATIVE BERKOWITZ said that he couldn't say.

CHAIR WEYHRAUCH, speaking as a cosponsor of the revised Uniform Arbitration Act, said that he didn't see anything [that necessitated conformity].

MR. MONKMAN informed the committee that HB 250 was drafted with the expectation that the revised Uniform Arbitration Act would be passed.

CHAIR WEYHRAUCH, upon determining there was no one else who wished to testify, closed public testimony.

Number 2230

REPRESENTATIVE HOLM moved to report CSHB 250(L&C) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

HB 215-REPEAL ONE PERCENT FOR ART

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 215, "An Act repealing statutes that relate to art works in public buildings and facilities and that require a set percentage of construction costs to be spent on art."

Number 2390

REPRESENTATIVE HOLM moved to adopt CSHB 215, Version 23-LS0605\D, Kurtz, 4/23/03, as the working document. There being no objection, Version D was before the committee.

Number 2340

CHARLOTTE FOX, Executive Director, Alaska State Council on the Arts (ASCA), noted that she appreciates that Representative Stoltze has come a long way, from the initial bill that repealed the statute, to Version D, which, in many ways, makes the process better. Ms. Fox informed the committee that since this original statute was passed 25 years ago, [ASCA] has struggled with the following two conflicting statutes: the "art in public places" statute and the "one percent for art" statute. Those

two statutes have never worked together and the two still don't quite work together in Version D. Version D doesn't include a mechanism by which ASCA has the authorization to expend the funds. However, Ms. Fox expressed her pleasure that Version D provides ASCA the authority to run the program. Furthermore, Version D sets aside money for maintenance. Still, Ms. Fox said she wasn't sure that ASCA is ready to give its wholehearted support to Version D because it hasn't had the opportunity to thoroughly review it.

REPRESENTATIVE GRUENBERG asked if the ASCA's authority to manage the program is found in Section 3 of Version D.

MS. FOX pointed out that Version D refers to two statutes, AS 44.27 and AS 35.27. She explained that the problem has been that for projects under \$250,000, the state department doing the construction has the ability to deposit the money into ASCA's "art in public places" fund. Currently, ASCA is authorized to expend \$75,000 a year on art for the Contemporary Art Bank. The problem is that if 5 percent of the total 1 percent is put into that fund for maintenance, there is no idea how much money that will be. Therefore, it could amount to more than ASCA's authorization.

MS. FOX, in response to Representative Gruenberg, specified that [Version D] does provide ASCA the authority. However, she wasn't clear of the difference this legislation would create and thus she isn't very comfortable with Version D at this time. Ms. Fox noted that this program has been confusing for the last 25 years and the desire is for it to be a good program that benefits the state.

Number 2659

REPRESENTATIVE GRUENBERG referred to page 1, line 15, which specifies that the 5 percent is to be used to meet future maintenance needs of art works. He asked if the term "maintenance" is sufficiently broad to encompass anything that might occur.

MS. FOX answered that she believes so. She noted that ASCA can't continually maintain all the artwork around the state, although it can be repaired [when necessary].

REPRESENTATIVE GRUENBERG posed a situation in which the fund grows and asked if ASCA might want to use those additional funds to acquire additional art.

MS. FOX said that acquiring additional art is part of what the art in public places fund is for. She said she wanted to be sure that under Version D, if 5 percent of the [fund] goes toward maintenance, then the [monies generated by] other provisions of the statute - [assuming that the project] is under \$250,000 or the building isn't of substantial public use - are placed into the fund to purchase art.

Number 2754

BARBARA BITNEY, Staff to Representative Bill Stoltze, Alaska State Legislature, spoke on behalf of Representative Stoltze, the sponsor of HB 215. Ms. Bitney explained the changes encompassed in Version D. Section 1 limits the percent for art to the first \$10 million of total construction costs and to .5 percent thereafter. The same reduction was made for rural schools: .5 percent for the first \$10 million for construction and a .25 percent thereafter. She explained that the intention with Section 1 is to set aside 5 percent in order to maintain the art that was being purchased. The funds would be monitored by ASCA. Therefore, when it was noticed that artwork is deteriorating, then there would need to be a request for funds from the ASCA.

MS. BITNEY explained that Section 2 intends to strengthen the existing statute for choosing Alaskan artists. Although she understood that has been the focus, some of the larger artwork requires bringing up an artist from the Lower 48 to do it. Therefore, the [sponsor] didn't want to completely restrict it. Section 3 ensures consistency in the identification, monitoring, and maintenance. Ms. Bitney noted that every agency manages this differently and thus having ASCA provide the information for the ongoing construction and the percentage for the art and the inventory to the Joint Committee on Legislative Budget and Audit is an appropriate control. Section 4 exempts correctional facilities and strengthens the language [specifying that] "buildings not subject to substantial use" wouldn't be subject to the "one percent for art" program. Section 5 specifies that ["state funding" means] general funds or general obligation bonds and the [program] wouldn't apply to federal funds any longer, save construction projects that are less than \$250,000 which would continue to require a deposit to the "art in public places" fund. Section 6 allows ASCA to use the "art in public places" fund for maintenance of the artwork.

CHAIR WEYHRAUCH asked if the state builds or maintains buildings outside the state.

MS. BITNEY said that she would have to check on that.

CHAIR WEYHRAUCH directed attention to Section 4, paragraph (1)(B)(iii), which refers to "buildings that are not subject to substantial public use". He pointed out that [in Section 4, paragraph (1)(A)(ii),] the language "designed for substantial public use" was used. He inquired as to the difference in language.

MS. BITNEY answered that she would have to check on that also.

TAPE 03-43, SIDE B

CHAIR WEYHRAUCH turned to Section 8. He asked if, for example, a high school, museum, or facility built with bond sales would have art in it.

MS. BITNEY said that the language means to say that those facilities built with the funds from bond sales would have art in them. Ms. Bitney agreed with Chair Weyhrauch that those projects approved by the voters in November would be enhanced by art under the existing program or this revised program.

Number 2949

REPRESENTATIVE LYNN related his observation that Version D appears to be almost completely different than the original. He inquired as to how and why Version D was developed.

MS. BITNEY answered that [Version D] is a compromise, reducing it by making it apply to the first \$10 million for a construction project and .5 percent thereafter. The intent was also to make the monitoring and maintenance of the art work better as well. Ms. Bitney agreed with Chair Weyhrauch that there was also the intent to manage the funds.

REPRESENTATIVE LYNN inquired as to how much money is saved under Version D as compared to the original legislation. He then posed the question in reverse by asking how much more money is being spent under Version D versus the original version.

MS. BITNEY responded that she didn't have an exact figure. She related that the intent was to have significant savings, but [the sponsor] realized that communities are supportive of art.

Ms. Bitney indicated agreement that not as much money would be saved under Version D as under the original legislation.

REPRESENTATIVE LYNN noted his support of art. However, he said he wasn't sure that the public should pay for this during a time of fiscal strife in the state.

Number 2825

REPRESENTATIVE SEATON surmised that per the language in Section 8, the general obligation bonds approved by voters on or after July 1, 2003, would fall under the new program while anything that was passed under the last general obligation bond would fall under the old program. This language doesn't speak about expenditures of general obligation bond money for projects but rather to when the bonds are approved.

MS. BITNEY agreed with Representative Seaton's understanding. With regard to Chair Weyhrauch's earlier question about bonds approved in November 2002, Ms. Bitney corrected her earlier answer by saying that those bonds wouldn't apply under this act.

REPRESENTATIVE SEATON inquired as to why one wouldn't want to make this program apply to the bond issues passed in November [2002].

MS. BITNEY answered that a date viewed as a good starting date was chosen. However, a different starting date could be chosen, she said.

CHAIR WEYHRAUCH interjected that the sponsor and Representative Lynn should discuss that and bring something back to the next hearing. Additionally, he requested that Ms. Bitney check into the "not subject to" language in Section 4. He further requested that Ms. Fox work with the sponsor to have her concerns addressed. He announced that he wanted to hold HB 215 over.

REPRESENTATIVE LYNN remarked that there should be a fiscal note and he indicated that he would like to have a fiscal note prepared for the original legislation and Version D.

REPRESENTATIVE BERKOWITZ reminded committee members that cave men created public art with their own funds. Representative Berkowitz pointed out that there is a distinction between construction, generally, and rural school construction and thus he inquired as to what rural means.

MS. BITNEY said that rural can be interpreted differently and thus she offered to review it.

Number 2600

REPRESENTATIVE BERKOWITZ [indicated a desire to] propose a conceptual amendment that would delete the terms "rural school facility" and the disparate funding that goes to rural school facilities because he believes it to be problematic in many ways.

CHAIR WEYHRAUCH said that would be taken under advisement.

REPRESENTATIVE BERKOWITZ pointed out that there needs to be a bright-line rule specifying the difference between urban and rural, which brings in the specter of subsistence debate. If the term rural is eliminated, then this problem could be avoided. Furthermore, he inquired as to why urban schools are given one percent for art while rural schools receive one-half percent for art. Such a disparate treatment would seem unconstitutional.

MS. BITNEY answered that she believes it has to do with the construction costs and the increase [in the cost] of flying.

CHAIR WEYHRAUCH requested that Representative Berkowitz provide his conceptual amendment to the committee and the sponsor in writing so that it could benefit from the sponsor's input and committee debate.

REPRESENTATIVE BERKOWITZ expressed the need for a tighter title.

REPRESENTATIVE GRUENBERG recalled that this issue was hotly contested in 1987 when there [was a proposal] to eliminate the entire program. He recalled that there was contention over [obtaining art work] only from Alaskan artists. At the time, the House resisted it. However, he said he wasn't going to resist it this time because this program will provide jobs. Therefore, Representative Gruenberg expressed the need to view the program with regard to the economics as well as the inherent value of the art.

REPRESENTATIVE LYNN commented that he hadn't considered that artists would be employed by this and it's a valid point.

REPRESENTATIVE HOLM highlighted that art can mean many different things, including landscaping and painting buildings. Representative Holm turned to the rural versus urban issue and related his belief that sometimes a parochial view is taken. He said if the desire is to be inclusive rather than divisive, perhaps the distinctions shouldn't be made, regardless of the cost.

REPRESENTATIVE SEATON suggested that the term rural, regarding school facilities, should include schools in regional education attendance areas (REAA) because schools in a REAA have a different funding mechanism. For the REAA districts, 100 percent of the school costs are being funded, whereas with the nonrural settings, [the state] is reimbursing a portion of the bonding. Therefore, there is a difference in the amount of state money going in to the two different types of facilities. He requested a fiscal note or analysis of the aforementioned. Although he said there may be some justification for this distinction, he proposed referring to those schools as those that are 100 percent funded by state funds rather than using the term rural.

CHAIR WEYHRAUCH commented that such language would address the emotional aspects of the issue.

Number 2197

RUTH SANDVIK informed the committee that she joined the Petersburg Arts Council when it began 30 years ago. She said, "My heart is with the fine job that Alaska has done so far." Anything that can be done to retain the [current funding level] will be appreciated, she indicated. She specified that she didn't want the art program to become anything less than it is now.

Number 2149

PAULINE LEE, Petersburg Arts Council, noted that she was the chair of the ASCA when the original legislation [first established] the ASCA. Ms. Lee turned to Version D and noted that the title is cumbersome and unclear and thus she suggested a more concise title. She didn't believe there should be a \$10,000,000 cap before funding begins and thus she suggested retaining the original language. She indicated agreement with the earlier stated concerns regarding the use of the language "rural." The reasons for the differences in the amount of funding should be clearly stated, she said. Ms. Lee directed

attention to the language on page 1, line 14, and recommended establishing a cap on the amount of the fund and any money over the cap should be designated for future or additional works of art.

MS. LEE moved on to the language "who are residents of the state under AS 01.10.055" on page 2, lines 6-7. When this law was originally passed, there were numerous problems with attempting to restrict who will receive commission. The guiding principle has been to obtain the very best works of art and hopefully those will be presented by Alaskan artists. Quality was the issue, she said. With regard to the proposed Sec. 35.27.022 on page 2, line 9, Ms. Lee said she wondered whether it's redundant with what the ASCA is presently doing. Ms. Lee concluded by relating that the value of public works of art is difficult to estimate. However, studies show the great value of public works of art, especially economic value, and thus that should be considered, she said.

Number 1829

CHAIR WEYHRAUCH remarked that the legislature is trying to do good things for the public and hard work has been done to make the legislation satisfactory for everyone involved. He announced that HB 215 would be held over.

HB 157-ELIMINATE APOC

CHAIR WEYHRAUCH announced that the final order of business was HOUSE BILL NO. 157, "An Act eliminating the Alaska Public Offices Commission; transferring campaign, public official, and lobbying financial disclosure record-keeping duties to the division of elections; relating to reports, summaries, and documents regarding campaign, public official, and lobbying financial disclosure; providing for enforcement by the Department of Law; making conforming statutory amendments; and providing for an effective date."

Number 1635

REPRESENTATIVE HOLM moved to adopt the proposed committee substitute (CS) for HB 157, labeled HB157.doc, 4/24/2003, as a work draft.

Number 1657

REPRESENTATIVE BERKOWITZ objected in order to hear about the differences [between the original bill and the proposed CS].

CHAIR WEYHRAUCH confirmed that Jan DeYoung and Nancy Gordon from the Department of Law are available to answer questions, and that Ms. DeYoung's client agency is the Alaska Public Offices Commission (APOC).

Number 1536

BROOKE MILES, Executive Director, Alaska Public Offices Commission (APOC), stated that the proposed CS came about as the result of the commission meeting with members of the administration to discuss concerns that may have been the foundation for the original bill proposing to eliminate APOC. During those conversations, she noted, the APOC set forth some concepts that its members had been discussing even prior to the introduction of [HB 157] regarding ways to streamline some of the functions of the APOC, particularly with respect to the way complaints are processed. She noted that this is an issue that APOC has been working on for over a year.

MS. MILES said there were issues not completely resolved "with the Alaska State Supreme Court case after campaign finance reform." She said, "That's an issue that has to do with fundraising during the legislative session, that the court specifically removed from one part of the statute, but not the other, leaving a reader very confused." She revealed that [APOC] has a former attorney general's opinion that says that that provision of the law was not enforceable. She added that that issue is addressed in the proposed CS.

MS. MILES said that [the proposed CS] would codify the authority for the commission to issue advisory opinions - a function that the commission has been performing since 1990. She added, "Although at our last go-around with writing regulations, which happened after campaign finance reform in 1996, the person in charge of regulations was concerned that APOC may not have had statutory authority for providing advisory opinions." She stated that [APOC] thinks it is an important function, because it is formal binding advice that protects the requestor from a complaint procedure, so long as the requestor follows that advice.

MS. MILES noted that there would also be a change to the lobbying law "in this statute" that will codify a regulation about certain activities performed by those in executive branch

who are not subject to the lobbying law. She explained that this is in regard to a person who works with the executive branch in its quasi-legislative or quasi-judicial function, with permitting, licensing, or requesting advice about how current statutes apply to proposed activity, for example. She noted, "That regulation has been on the commission's books since ... 1977 or 1978, and will now be in statute."

MS. MILES also noted that the proposed legislation would provide increases to the amount that an individual can give to a candidate, to political parties, and to a political group, as well as the amount that a group can give to a candidate. She listed [some existing requirements] that the proposed legislation would not change.

Number 1185

REPRESENTATIVE SEATON said he did not see the "24-hour reporting rule" in the proposed legislation, and he said he would like some explanation for the reasoning behind the 24-hour rule.

MS. MILES replied that the philosophy behind the requirement to report major contributions within 24 hours, during the 10-day period that proceeds the primary or general election, is that that would be information important for the public to know. She said she can understand questioning how valuable this is in terms of a \$500 dollar limit "of a contribution." She stated that the report is currently required when a contributor gives more than \$250 within ten days [of an election]. She said, "That was not an issue that was included in this bill at this time, and I believe part of not going to that is that it's being recommended that individuals be permitted to give \$1,000. So, certainly, if somebody gives \$500 or \$1,000 the week before the election, that is significant public information."

REPRESENTATIVE SEATON stated his understanding that "without changing this, we're still at requiring recording the \$250."

MS. MILES answered that that's correct. She stated, "If it's not included in this at some kind of an increase, then it would be required when someone gives more than \$250."

Number 1056

REPRESENTATIVE BERKOWITZ asked Ms. Miles who the individual is who requested the proposed legislation.

MS. MILES answered that [APOC] wants the legislation. In response to a follow-up question by Representative Berkowitz, she clarified that the commission has always wanted many components of this bill.

REPRESENTATIVE BERKOWITZ asked if there are parts of the legislation that the commission did not initiate.

MS. MILES responded that she doesn't think there are. She stated that she does not think there is anything in the proposed legislation that wasn't brought forward by the commission as a concept.

REPRESENTATIVE BERKOWITZ stated the following:

I have not heard anyone explain to me why this is in the public interest, and this seems to me to be driven by (indisc.) in the pocket. And I will fight it every inch of the way. And I want you to know that. I do not hold you personally responsible, but I assure you that this is one of the worst pieces of legislation that's come before me in my seven years in the legislature.

REPRESENTATIVE BERKOWITZ turned to [Section (1) of the proposed CS for HB 157, labeled HB157.doc, 4/24/2003]. He noted that it would effectively push municipal elections out of APOC's purview, unless municipalities opt in. He asked if that would effect the communities of Anchorage, Homer, Juneau, and Fairbanks.

MS. MILES answered yes.

REPRESENTATIVE BERKOWITZ asked what the cost to those communities would be to pick up "the APOC requirements here."

MS. MILES replied that APOC is working on determining that, but at this point doesn't know.

REPRESENTATIVE BERKOWITZ asked what portion of APOC's budget currently goes to handling municipal elections.

MS. MILES responded that that is also difficult to determine, because municipal and state elections are all handled the same. She clarified that she has three senior staff members who work with elections - both state and municipal. She indicated they also work on complaints from state and municipal [elections].

Complaints from municipalities regarding ballot and funding questions can be complex and time-consuming to address. In response to a question by Representative Berkowitz, Ms. Miles noted that [APOC's] current budget is \$752,600.

Number 0815

CHAIR WEYHRAUCH referred to [page 2, lines 18-21 of the proposed CS], which read as follows:

A municipality that opts for the application of the requirements of this chapter shall pay a fee to the state for services under this chapter. The amount of the fee will be set by the Department of Administration in regulation.

CHAIR WEYHRAUCH asked if the fee that was paid would be the full and true cost to the state for services.

MS. MILES answered that she is not familiar with "how this would come about," because this regulation would be written by the department that's more familiar with accessing fees than APOC is; although, she noted that APOC does have a program receipt fee for paid lobbyists who register. She stated her understanding that "they would attempt to be writing a regulation that would fairly assess a fee concerning the actual costs of administering it per community."

CHAIR WEYHRAUCH turned to the new proposed language on page 3, [beginning on line 26 of the proposed CS for HB 157, labeled HB157.doc, 4/24/2003], which read as follows:

and, for contributions in excess of \$250 in the aggregate a year, listing the principal occupation and employer of the contributor.

CHAIR WEYHRAUCH asked if that referred to a calendar year.

MS. MILES answered yes. She added that this [language] is a major change from existing law. Presently, only those contributors who give more than \$100 are listed by name and address; however, the proposed change would mean that all contributors would be reported by name and address. She added that the foundation for mandatory filing is also set forth "in this bill."

CHAIR WEYHRAUCH noted that page 5 and page 8 [of the proposed CS for HB 157, labeled HB157.doc, 4/24/2003] contain similar changes. He turned to page 5, lines 30-31, which read:

(1) Upon request of the commission, the information required under this chapter shall be submitted electronically.

CHAIR WEYHRAUCH said he assumed that means that "this is the electronic reporting component of this statute."

MS. MILES concurred.

CHAIR WEYHRAUCH asked Ms. Miles to define the "request of the commission".

Number 0595

MS. MILES stated that [this amendment to AS 15.13.040] would most likely "cover everyone." [Regarding electronic filing], she noted that a new system will be used, which will be web-based and, hopefully, user-friendly. She noted that a candidate can buy a computer with campaign funds and keep that computer afterward. She indicated [electronic filing] would be mandatory, with "narrow exceptions." She concluded, "When we get there, I'm sure that the Department of Law will most likely recommend that we do so by a formal regulation."

CHAIR WEYHRAUCH noted that many times during an election, reporting is done at the last minute. He remarked that some time may lapse between a candidate's pushing the send button and the commission's receipt of that report. He asked what the rule would be concerning that.

MS. MILES answered that the commission hasn't discussed that issue, but she stated that she is certain it would be when the report was sent. She added that that is what [APOC] considers when a report is postmarked. Under the current APOC electronic filing system, the time issue is treated liberally, especially if someone has a problem with E-mail or has a system crash, for example. She added that [APOC] has even made house calls to help people.

CHAIR WEYHRAUCH commented, "You may be very liberal about it, but I know when it's very tense and it's very contentious about when somebody sent something in, it needs to be very clear to those people, because a lot of these end up in court. And I

would like to know on the record now what you're thinking is"

MS. MILES stated, "It would be when it was sent. Likewise, when we receive [a fax] form on a due date, we count it timely, as long as it came on that due date before midnight" In response to follow-up questions by Chair Weyhrauch, she confirmed that [the transmittal would count as timely] as long as the send button on a fax machine or E-mail was pushed before midnight.

CHAIR WEYHRAUCH noted that in some cases, individuals have filed with APOC or the Division of Elections and have found later that there's no record of that filing. If the candidates had not kept a record for themselves, there would be no record at all, he said. He asked what candidates should do to ensure they have their own records if they file electronically.

MS. MILES said she knows of electronic record-keeping mechanisms that can be activated on a person's computer and fax machine. She revealed that the rules are stricter at the Division of Elections. For example, if a person has not signed "the declaration" by 5:00 [p.m.] on June 1, it doesn't matter if that person is in line - he/she is not a candidate. She stated her understanding that that comes from a supreme court decision.

Number 0267

CHAIR WEYHRAUCH turned to page 6, Section 9 [of the proposed CS]. He offered his understanding that this section addresses fundraising issues. He noted [subsections] (a) through (e). He asked if it is APOC's intent that "only these entities are ... to be included in fundraisers, and no other specific provision of fundraising activity is to be included."

MS. MILES answered no. She noted that [Section 9] has troubled the drafters and attorneys "because of that very construction rule," and she indicated that any help would be welcome. She clarified that the intended concept of this section is in regard to the high volume, low contribution activities, such as selling tee shirts or holding a dance, for example.

CHAIR WEYHRAUCH stated, "It's a very difficult and troubling thing for the public who wants to just innocently run for office, to know whether they're going to be subject to some sort of potentially criminal violation, by having a fundraiser, because they're innocently trying to raise ... some money by

selling cookies, or something else that's not included here." He posited that it would save APOC time to send out letters "before everybody runs out to have a fundraiser," in order to have some certainty on this issue.

MS. MILES explained that [Section 9] is meant to provide relief from reporting certain contributors by name and address and accounting for them in that manner, so that when a high volume, low cost fundraising event takes place, "you are permitted to simply report the proceeds of that, ... your end costs of that, and the number of people who attended." She indicated some concern on the part of attorneys regarding particular items that [may or may not be covered under subsection (c)].

CHAIR WEYHRAUCH stated that most people he knows want to run an honest campaign and don't want to be accused of being unethical. He indicated he thinks it's important to make certain that people are encouraged to run for public office, and that the voters are informed.

MS. MILES stated that APOC concurs.

CHAIR WEYHRAUCH noted that he has held fundraisers where cash has been given, and he had to send the cash back to the government, because he could not tell who had donated it.

TAPE 03-44, SIDE A

Number 0033

MS. MILES explained that [a candidate] wouldn't have to send the money back if it was \$50 and the name and address of the contributor was known. In response to a comment by Chair Weyhrauch, she acknowledged that \$50 dollars would be too much if the name of the contributor was not known. She said that [APOC] staff tries to encourage anyone who may be holding a fundraiser, such as a cookie sale, to have a person sit where the donations are placed and add notes to those donations that are for more than the amount allowed in the exemptions.

CHAIR WEYHRAUCH turned to [line 3] of Section 10 [at the top of page 7 of the proposed CS] and asked for the definition of "nongroup entity".

MS. MILES stated that the nongroup entities are nonprofit corporations that, because of the way they are organized, are unable to have a political action committee. She noted that the Alaska State Supreme Court said that those nonprofit

corporations should be able to participate somehow in political campaigns. Ms. Miles told the committee that the poster child of nongroup entities is the [Alaska Conservation Alliance and Alaska Conservation Voters (ACA/ACV)]. She noted that there are other groups like that and "this is how we have - after some regulatory [language] turning to statutory language - dealt with them."

REPRESENTATIVE BERKOWITZ asked if there is a problem causing the necessity to increase the contribution amounts. He offered the amounts shown in [Section 10, subsection(b)(1) and (2)] as examples.

MS. MILES replied that the philosophy is that if there is more availability for legal participation in the process of contributing to campaigns and helping to fund political groups that want to participate in campaigns, then there will be less "stuff going on that we can't regulate and can't provide public information on." For example, she listed: issue advocacy, soft money, and - in some ways - independent expenditures; although she said that the latter is reportable.

Number 0311

REPRESENTATIVE BERKOWITZ opined, "This is just a laundering machine for soft money." He stated that everybody knows that money is the mother's milk of politics and when the amount of money that's available to political parties and nongroup entities is increased, that invites corruption, decreased public participation, and decreased public confidence in the process. He added:

And what you do in a state that is currently dominated by a single political party is you make it very hard for people who have (indisc. - coughing) and it makes it incredibly difficult, even for members of that dominate party who have left [the] majority perspectives in that party, to maintain their perspective. ... You will see within the Republican Party - and I have seen it - that the moderates get whacked on account of these kind of fundraising tools.

REPRESENTATIVE BERKOWITZ, regarding the increased funds, stated, "There is no problem that exists, and there is no problem that needs to be redressed through this legislation."

REPRESENTATIVE LYNN stated that an incumbent's circle of supporters is typically much larger than somebody who is just getting into the process; therefore, it may be easier for an incumbent to attract larger contributions. He concluded, "It may work against opening up the political process so that anybody can run."

MS. MILES acknowledged Representative Lynn's remark and said that it wasn't an issue that had been discussed.

CHAIR WEYHRAUCH complimented Ms. Miles as "a wonderful bureaucrat to work with."

Number 0590

REPRESENTATIVE LYNN suggested he may introduce future legislation to establish some kind of bank account for candidate contributions and payments of expenses that would be viewable by the public over the Internet without a password. He pointed out the merits of the idea, including that it would help people report contributions in a timely manner and would save APOC from extra work. He added that he used electronic filing during his own campaign and it was a big help.

REPRESENTATIVE SEATON said he thinks that the public has strongly expressed the desire for campaigns that are run by candidates who talk to individuals in their districts rather than by those using a separate pot of money under which they conduct campaigns without contacting or involving the people in their district. He said, "I feel that these increases in campaign contributions are going to be exactly opposite [of] what I've heard from my constituents." He stated that he will be in opposition to the increases. Furthermore, he said, he thinks that the change proposed to allow lobbyists who don't reside in a candidate's district to contribute [to that candidate's campaign] would give incumbents such as himself a separate pot of money to run a political campaign; therefore, he stated that he would be opposing that section of change.

REPRESENTATIVE SEATON turned back to the 24-hour reporting rule. He said that he doesn't see the benefit of having the rule with the \$500 limit in campaign contributions, because [that amount is] not substantial enough to influence an election, although perhaps it could allow a candidate to strong-arm [the opponent's contributors]. He stated that it's a burden on any candidate to run a campaign, especially without a professional treasurer to assist in complying with the 24-hour reporting.

REPRESENTATIVE SEATON stated that if individual campaign contributions of up to \$50 are being allowed at events, without reporting the [contributor's] name, then he doesn't understand why a requirement is being made to report a \$15 contribution "outside of that event." He clarified that it doesn't make any sense to let somebody pay \$50 one time and \$5 another and have different reporting requirements. He stated that he would like to see that changed.

Number 1137

CHAIR WEYHRAUCH turned to Section 14. He asked if the bill still maintains the prohibition on fundraisers during legislative session.

MS. MILES answered that this bill does not. She noted that the campaign disclosure law does not prohibit candidates - whether incumbents or not - from accepting campaign contributions during the legislative session. She noted that the legislative ethics law is where the prohibition on that activity applies to incumbents. In fact, she added, the Alaska Supreme Court decided that there was no purposed in having a legislative time-out for all candidates.

MS. MILES referred to Section 14, [on page 8, lines 8, 10, and 12], where the words per year were added. She explained that that language was [proposed] because the revisor of statutes in the Department of Law thought that, without it, "it looked like it was a lifetime contribution."

REPRESENTATIVE GRUENBERG stated that he supports that change.

[HB 157 was heard and held. The motion to adopt the proposed committee substitute (CS) for HB 157, labeled HB157.doc, 4/24/2003 as a work draft was left pending.]

ADJOURNMENT

Number 1283

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:00 a.m.