

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

April 22, 2004

8:40 a.m.

MEMBERS PRESENT

Representative Bruce Weyhrauch, Chair
Representative Jim Holm, Vice Chair
Representative John Coghill
Representative Bob Lynn
Representative Paul Seaton
Representative Max Gruenberg

MEMBERS ABSENT

Representative Ethan Berkowitz

COMMITTEE CALENDAR

OVERVIEW: STATE OF ALASKA VS. U.S.

[See 8:08 a.m. minutes for this date]

HOUSE BILL NO. 544

"An Act providing that public members of the Board of Trustees of the Alaska Permanent Fund Corporation may be removed only for cause; and providing for an effective date."

- HEARD AND HELD

CS FOR SENATE JOINT RESOLUTION NO. 31(STA)

Relating to urging the United States Congress to compensate the State of Alaska for the effect of federal land ownership on the state's ability to fund public education.

- MOVED CSSJR 31(STA) OUT OF COMMITTEE

HOUSE BILL NO. 523

"An Act relating to qualifications of voters, voter registration, voter residence, precinct boundary modification, recognized political parties, voters unaffiliated with political parties, early voting, absentee voting, ballot counting, voting by mail, initiative, referendum, recall, and definitions; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 532

"An Act amending the definition of 'lobbyist' in the Regulation of Lobbying Act; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 544

SHORT TITLE: PERM FUND BOARD PUBLIC MEMBER REMOVAL

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/25/04	3081	(H)	READ THE FIRST TIME - REFERRALS
03/25/04	3081	(H)	STA
03/25/04	3081	(H)	FN1: ZERO(LAW)
03/25/04	3081	(H)	FN2: ZERO(REV)
03/25/04	3081	(H)	GOVERNOR'S TRANSMITTAL LETTER
04/22/04		(H)	STA AT 8:00 AM CAPITOL 102

BILL: SJR 31

SHORT TITLE: FEDERAL FUNDING FOR EDUCATION

SPONSOR(S): RLS

Jrn-Date	Jrn-Page		Action
02/16/04	2173	(S)	READ THE FIRST TIME - REFERRALS
02/16/04	2174	(S)	STA, RES
03/18/04		(S)	STA AT 3:30 PM BELTZ 211
03/18/04		(S)	Moved CSSJR 31(STA) Out of Committee
03/18/04		(S)	MINUTE(STA)
03/19/04	2562	(S)	STA RPT CS 5DP SAME TITLE
03/19/04	2563	(S)	DP: STEVENS G, HOFFMAN, COWDERY,
03/19/04	2563	(S)	STEDMAN, GUESS
03/19/04	2563	(S)	FN1: ZERO(S.STA)
03/29/04		(S)	RES AT 3:30 PM BUTROVICH 205
03/29/04		(S)	Moved CSSJR 31(STA) Out of Committee
03/29/04		(S)	MINUTE(RES)
03/31/04	2708	(S)	RES RPT CS(STA) 3DP 2NR
03/31/04	2708	(S)	DP: WAGONER, DYSON, SEEKINS; NR: ELTON,
03/31/04	2708	(S)	STEVENS B

03/31/04	2708	(S)	FN1: ZERO(S.STA)
04/05/04	2782	(S)	RULES TO CALENDAR 4/5/2004
04/05/04	2782	(S)	READ THE SECOND TIME
04/05/04	2782	(S)	STA CS ADOPTED UNAN CONSENT
04/05/04	2782	(S)	ADVANCED TO THIRD READING
			UNAN CONSENT
04/05/04	2782	(S)	READ THE THIRD TIME CSSJR
			31(STA)
04/05/04	2783	(S)	PASSED Y20 N-
04/05/04	2787	(S)	TRANSMITTED TO (H)
04/05/04	2787	(S)	VERSION: CSSJR 31(STA)
04/06/04	3221	(H)	READ THE FIRST TIME -
			REFERRALS
04/06/04	3221	(H)	STA, RES
04/20/04		(H)	STA AT 8:00 AM CAPITOL 102
04/20/04		(H)	<Bill Hearing Postponed to
			4/22/04>
04/22/04	3445	(H)	STA RPT 5DP
04/22/04	3445	(H)	DP: SEATON, GRUENBERG,
			COGHILL, LYNN,
04/22/04	3445	(H)	HOLM
04/22/04	3445	(H)	FN1: ZERO(S.STA)
04/22/04		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 523

SHORT TITLE:VOTERS/VOTING/POLITICAL PARTIES/ELECTIONS

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
02/26/04	2748	(H)	READ THE FIRST TIME -
			REFERRALS
02/26/04	2748	(H)	STA, JUD, FIN
02/26/04	2748	(H)	FN1: ZERO(LAW)
02/26/04	2748	(H)	FN2: (GOV)
02/26/04	2748	(H)	GOVERNOR'S TRANSMITTAL LETTER
04/08/04		(H)	STA AT 8:00 AM CAPITOL 102
04/08/04		(H)	Heard & Held
			MINUTE(STA)
04/13/04		(H)	STA AT 8:00 AM CAPITOL 102
04/13/04		(H)	Heard & Held
			MINUTE(STA)
04/21/04		(H)	STA AT 8:00 AM CAPITOL 102
04/21/04		(H)	Heard & Held
			MINUTE(STA)
04/22/04		(H)	STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

MIKE BARNHILL, Assistant Attorney General
Commercial/Fair Business Section
Civil Division (Juneau)
Department of Law
Juneau, Alaska

POSITION STATEMENT: Presented HB 544 on behalf of the House Rules Committee, by request of the governor.

ROBERT D. STORER, Executive Director
Alaska Permanent Fund Corporation (APFC)
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the APFC, during the hearing on HB 544.

SENATOR GENE THERRIAULT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As a member of the House Rules Standing Committee, sponsor of SJR 31, summarized the resolution and answered questions.

LAURA GLAISER, Director
Division of Elections
Office of the Lieutenant Governor
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding Version V to HB 523, on behalf of the division.

ACTION NARRATIVE

TAPE 04-68, SIDE A
Number 0001

CHAIR BRUCE WEYHRAUCH called the House State Affairs Standing Committee meeting to order at 8:40 a.m. Representatives Seaton, Lynn, Gruenberg, and Weyhrauch were present at the call to order. Representatives Holm and Coghill arrived as the meeting was in progress. [For the Overview: State of Alaska vs. U.S. see 8:08 a.m. minutes for the same date.]

HB 544 - PERM FUND BOARD PUBLIC MEMBER REMOVAL

CHAIR WEYHRAUCH announced that the first order of business would be House Bill 544, "An Act providing that public members of the

Board of Trustees of the Alaska Permanent Fund Corporation may be removed only for cause; and providing for an effective date."

Number 0027

REPRESENTATIVE SEATON moved to adopt the committee substitute (CS) for HB 544, Version 23-GH2142\D, Cook, 4/15/04, as work draft.

CHAIR WEYHRAUCH objected for discussion purposes.

Number 0034

MIKE BARNHILL, Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Juneau), Department of Law, presented HB 544 on behalf of the House Rules Committee, by request of the governor. He stated that [HB 544] would provide that public members of the Board of Trustees of the Alaska Permanent Fund Corporation may be removed only for cause. Under current law, he explained, a board member can be removed for any reason, including partisan reasons. Mr. Barnhill offered examples of cause [found on page 1, lines 7-9 of Version D]. He summarized the steps of removal as outlined in the bill. He explained that "the reason why we do this" is to insulate the board, which manages \$28 billion in state assets. He explained that [HB 544] would ensure continuity. Mr. Barnhill noted that there is a list [included in the committee packet] that his office prepared in 1980, listing all the felonies involving moral turpitude. He indicated that his office has generated a more updated list since then. In conclusion, he stated that the language of the bill is patterned after similar language for the Alaska Board of Fisheries in AS 16.05.280.

Number 0275

ROBERT D. STORER, Executive Director, Alaska Permanent Fund Corporation (APFC), Department of Revenue, revealed that "several boards representing several administrations have supported this statutory change to ... protect the board from removal for cause." He noted that the board is comprised of six members, of which two are cabinet members who would change automatically with administration changes. The other four board members are appointed by the governor and serve four year staggered terms. He continued as follows:

Prior to ... several administrations, a new governor has come in and replaced five of the six board

members. Now, I can't say that it disadvantaged the fund's management, but I would suggest that the fund now is far more mature, in terms of how it implements its assets strategies - the kind of investment it makes - versus when that occurred. And investment knowledge, institutional memory, a continuity of education we believe is very important, and this is why board members support this.

We're now looking at contemporary investment strategies that can take over ... two years of study. That doesn't mean that you adopt these strategies, but it's important that you study what other large plan sponsors are doing, so that you're well aware of why they adopted ... the intricacies of these strategies.

MR. STORER stated that he finds that new board member learn far more quickly if there is some institutional memory that exists in the board. He indicated that better questions are asked and [those senior members of the board] remember how the decisions were made originally. He indicated that there are 19 individuals [on boards] who are protected for removal for cause, including the Alaska State Pension Investment Board. He stated that this issue is important and institutional memory is needed in order to make better, more informed investment decisions.

Number 0496

REPRESENTATIVE GRUENBERG directed attention to the term "misconduct in office" on page 1, line 7, and asked if that is defined anywhere.

MR. BARNHILL answered that it is not defined in the bill.

REPRESENTATIVE GRUENBERG asked if the term is defined anywhere in state statute or common law.

MR. BARNHILL said he would have to find out.

REPRESENTATIVE GRUENBERG assumed that the term "misdemeanor or felony involving moral turpitude" means only misdemeanors or felonies involving moral turpitude.

MR. BARNHILL answered that's correct.

REPRESENTATIVE GRUENBERG opined, "I think that if we are going to be referencing some fairly obscure statute in the elections

code, we should have that defined in here." He indicated that he may offer an amendment to that effect, and he asked Mr. Barnhill if he would have any problem with such an amendment.

MR. BARNHILL answered no. He noted that the Senate Judiciary Standing Committee decided to "delete the words involving moral turpitude." He commented that that is also fine. He reminded the committee that a list had been provided to define the terms. He said, "If a board member gets convicted of any crime, that should constitute reason for cause."

Number 0668

CHAIR WEYHRAUCH professed, "This is really a potential huge can of worms, politically and substantively, I think - doing this." He illustrated, "Moral turpitude with respect to ... child abuse is not necessarily moral turpitude with respect to the knowledge necessary to manage a permanent fund, but it may be an excuse ... or a reason to remove someone if you didn't want them." He said being charged with a crime may result in a huge political embarrassment, particularly regarding something like bribery or theft. He continued as follows:

Let's say you're accused of that crime. Of course, nobody wants to be convicted before they have their day in court. But you have somebody accused of a serious crime, but before the removal is final, they have to go through this huge due process hearing, this huge public spectacle embarrassing both the person on the board, potentially the governor, the members of the fund, the staff. You know, I just -- if you guys want this, you might get it, but you better be careful what you wish for.

Number 0752

MR. BARNHILL responded that Chair Weyhrauch's concerns are legitimate. He stated that what he thinks is most important to the administration is that it narrows removal for cause. He said, "If the committee feels that it's important to leave 'involving moral turpitude' in there, we're fine with that. I mean, that's why we drafted it in there - to make it narrow."

CHAIR WEYHRAUCH responded, "The policy goal here is to keep continuity - keep people on the board and not ... throw them out because of political whim. On the other hand ..., to keep that continuity, you want some cause. But if there's cause that

exists, maybe it's best to just get rid of them, without going through this cumbersome political trial."

Number 0833

MR. STORER proffered that "those facts are not lost on us." He said the conclusion essentially was that the board members have historically been high profile individuals throughout the state who have been under a lot of scrutiny prior to their appointment. He said that is the downside risk. He emphasized, "The importance of this is from the investment management point of view and that continuity, and not making decisions -- it is a double edged sword, and we believe the latter issues I've just observed material outweighs that potential risk on the other side."

Number 0859

REPRESENTATIVE SEATON stated:

Under the definition of moral turpitude, I guess the promoting gambling, now - of course this is once a person is a member - but if we had pull tab legislation that came up and ... someone voted for that, then they would be guilty under this? I mean, ... there seems to be, under this definition, some funny things.

MR. BARNHILL said the answer's no. He said, "Promoting gambling's a criminal offense and, if we pass a bill that authorizes, for instance, gaming or legal gambling, that would be exempted from a criminal offense."

Number 0908

REPRESENTATIVE GRUENBERG said he strongly supports the bill, but wants to think about it.

Number 1000

MR. STORER, in response to a question from Representative Holm, noted that he thinks the permanent fund's broad market returns are comparable to the [Standard & Poors (S&P)] index. He indicated there has been excess returns of between 3/4 and 1 percent. He stated that he has worked with virtually all of the board members who have been with the permanent fund. He assured the committee that "when you're a fiduciary for a large fund,

you take that role very seriously." He stated that the history and tradition of the permanent fund is "incrementalism" and long evaluation and study; therefore, he would envision changes to be incremental, rather than sweeping.

REPRESENTATIVE SEATON stated that part of the problem he sees in the bill is its legalistic manner. He suggested changing the language [beginning on page 1, line 6] to read, "only for cause, including inefficiency, neglect of duty, misconduct in office, and may not be removed simply for political convenience."

CHAIR WEYHRAUCH interjected that he had to leave momentarily and was, therefore, handing the gavel over to Representative Holm.

Number 1186

VICE-CHAIR HOLM suggested that Representative Seaton add his idea in the form of a committee substitute to be heard in the next hearing of HB 544.

Number 1194

MR. BARNHILL, in response to Representative Seaton's aforementioned suggestion, stated that there is actually no provision in the bill for an appeal. He said, "It's just a hearing." He clarified, "Because of the decision, the aggrieved board member -- they wouldn't appeal from that; there's no provision in here for administrative appeal - they'd probably have to sue the state." In regard to putting a decision in writing, he noted that there is supreme court precedent that says that administrative decisions should be detailed in writing. He added, "So, I think that's important to leave that in there, otherwise you get into an area of arbitrary and capricious decision-making by an administrative agency. I don't really think we want to do that."

REPRESENTATIVE SEATON stated that the point of the bill is to let administrations know that "they do not have the authority, for political reasons, to remove people, if there has to be a removal for cause." He questioned whether listing all the causes may restrict the ability too much or raise the bar so much that it becomes a very contentious issue.

[HB 544 was heard and held.]

SJR 31-FEDERAL FUNDING FOR EDUCATION

Number 1273

VICE-CHAIR HOLM announced that the next order of business was CS FOR SENATE JOINT RESOLUTION NO. 31(STA), Relating to urging the United States Congress to compensate the State of Alaska for the effect of federal land ownership on the state's ability to fund public education.

Number 1289

SENATOR GENE THERRIAULT, Alaska State Legislature, as a member of the House Rules Standing Committee, sponsor of SJR 31, paraphrased the sponsor statement as follows:

The legislation stems from a resolution adopted in July of 2002, by the Executive Committee of the Council of State Governments-WEST [CSG-WEST] urging the membership of thirteen states to support and pass joint resolutions expressing how federal land ownership hinders western states' abilities to fund education. Eight members of the Alaska Legislature serve on the Executive Committee: Senators Cowdery, Ogan, Gary Stevens, and myself, and ... Speaker Kott, Representative Coghill, McGuire and Rokeberg

The [committee substitute (CS)] before you had one change in [the Senate State Affairs Standing Committee], and that was adding another "**WHEREAS**" paragraph on page 2, line 27, which ties this resolution to the overall efforts of CSG-WEST and the twelve other member states.

Since this effort began, all thirteen states have introduced similar resolutions and all but four - California, Washington, Colorado, and Alaska - have passed the resolutions. This initiative is the result of years of research and preparation by legislators of the State of Utah and their legislative staff, who have developed the statistics and dollar amounts you see presented in the resolution.

The Western Governors' Association has also endorsed this resolution, which is termed, "APPLE," which stands for Action Plan for Public Land and Education. The western states as group are falling behind in education funding when measured in growth of real per pupil expenditures ... during the period from 1979 -

1998. Eleven of the twelve states with the lowest real growth in pupil expenditures are western states. The growth rate of real per-pupil expenditures in the thirteen western states is less than half - 28 percent versus 57 percent - of that in the 37 other states.

SENATOR THERRIAULT noted that that statistic is shown on the first of a group of graphs (included in the committee packet). He continued as follows:

On average, enrollment in western states is projected to increase dramatically, while the growth rate in other states is projected to actually decrease. ... That's shown on graphs 2 and 3.

Yet, Western states' state and local taxes as a percent of personal income are ... as high or higher than other states, and that's shown on graphs 4 and 5.

Number 1439

VICE-CHAIR HOLM stated, "That kind of flies in the face of what we normally hear; we don't pay any taxes on this."

SENATOR THERRIAULT answered that's true. He noted that chart 4 shows Alaska at 10.3 percent. He added, "And you can look across the country, you know, we're right in there with all the states." He continued as follows:

Western states' commitment to education as a percentage of state budget is equal to that of other states. If you look on charts 6 and 7, you can see the percentage of the overall state budget that goes into education.

The problem lies with the federal government and the enormous amount of land it owns in western states. If an imaginary line was drawn from Montana to New Mexico, no state east of that line has more than 14 percent of its land owned by the federal government. No state west of that line has less than 27 percent of their land federally owned, with the exception of Hawaii. Four western states have more than 62% of their land federally owned. Those four states are Alaska, ... Idaho, Nevada, and Utah, and that is displayed on graphs 8 - 11

SENATOR THERRIAULT stated that he thinks graph number 9 really shows "that imaginary line and how those western states have a tremendous amount of federal land ownership." He continued paraphrasing the sponsor statement as follows:

The two primary ways that federal land ownership impacts the funding of education in western states is through enabling Acts and property taxes. Most enabling Acts for western states, including Alaska, promised to give the state 5 percent of the proceeds from the sale of federal land for the benefit of public education. In 1977 the federal government abandoned its original policy to dispose of public lands, depriving the states of public education funding estimated to be over \$14 billion. This resolution does not recommend that federally owned lands be sold, necessarily, only that states be compensated as was promised.

States are not allowed to assess property tax on federal lands, impacting western states in an amount over \$4 billion annually. The federal government does provide Payment in Lieu of Taxes (PILT) ..., since the states cannot tax the federal lands, but the amount of PILT payments to states in 2001 was only 4 percent of the annual property tax lost by western states

This resolution proposes ... to create: legislative awareness, public education, and to build the western states' coalition, to petition Congress to compensate the western states.

In summary, western states are financially harmed in a significant way by the amount of federal land ownership. The conclusion is that federal land ownership hinders western states' ability to fund public education.

CSG-West has formed [the] APPLE Initiative Steering Committee, which is chaired by Speaker Marty Stevens, with the Utah House of Representatives, and I also sit as a member on the ... committee.

The ... committee will work like a strategic planning group who will press the case in Congress and with the Judiciary. The first meeting of the ... committee

will be held at the CSG-WEST annual meeting ... in Anchorage, in September of this year.

SENATOR THERRIAULT offered to answer questions from the committee. He noted that Mr. Briggs was also available to answer technical questions regarding the data that was used to produce the numbers that appear in the resolution and in [the graphs].

Number 1626

REPRESENTATIVE GRUENBERG noted that the premise is that the State of Alaska has a lot of federal land, is not receiving compensation, and needs the money for education. He noted that one remedy is to get compensation. Furthermore, he suggested two other alternatives: to allow the state to tax the federal land, and to give the state some of the federal land so that it can turn it into income-producing assets. He asked Senator Therriault what he thinks about adding those ideas as potential solutions.

SENATOR THERRIAULT replied that certainly, as the issue is pressed to Congress, if Congress is not willing or does not have the ability to compensate [the State of Alaska] on a yearly basis, it might consider one of the other remedies. He noted that it would take an Act of Congress to make the land taxable, as well as to distribute the land.

SENATOR THERRIAULT, in response to a question from Representative Gruenberg, confirmed that the resolution does not have to be uniform with that of the other states.

Number 1736

REPRESENTATIVE SEATON moved to adopt CSSJR 31(STA).

VICE-CHAIR HOLM objected for discussion purposes.

Number 1804

REPRESENTATIVE GRUENBERG moved to adopt Conceptual Amendment 1 as follows:

On page 3, line 3, following "compensation":

Insert "or allow the state to tax the land or transfer sufficient land to allow us to properly fund public education"

VICE-CHAIR HOLM asked if that wouldn't be incorporated in "just compensation".

REPRESENTATIVE GRUENBERG answered, "Not necessarily, because 'just compensation' implies that they pay us for the land; it certainly doesn't imply giving us the land. I don't think it applies allowing us to tax the land."

VICE-CHAIR HOLM said there are no "side boards" on "just compensation".

REPRESENTATIVE GRUENBERG offered his understanding that the term "compensation" means payment. He indicated that [Conceptual Amendment 1] would "make it clearer."

VICE-CHAIR HOLM offered his understanding that "just compensation" includes payment in loan taxes (PILT).

REPRESENTATIVE GRUENBERG asked if [the federal government giving the State of Alaska] the land would be included in PILT.

Number 1868

REPRESENTATIVE COGHILL said he appreciates [Representative Gruenberg's] thought. Notwithstanding that, he stated, "That is a bigger bite than I think we want to take out of just a mention in this resolution." He added, "Just mentioning it would almost do it some disservice."

Number 1882

REPRESENTATIVE GRUENBERG withdrew [Conceptual Amendment 1].

SENATOR THERRIAULT remarked that the federal government can control PILT, but he can't imagine the federal government giving the State of Alaska the power to tax its land. In regard to the transfer of land, he noted that federal land [in Alaska] includes bombing ranges, national parks, and preserves. He stated, "Even suggesting the thought that Denali National Park [and Preserve] might be transferred to state ownership ... - or [the Arctic National Wildlife Refuge (ANWR)] - perhaps brings a lot of criticism, unnecessarily, to the resolution, from people who would support getting PILT"

VICE-CHAIR HOLM removed his previous objection to adopting CSSJR 31(STA).

Number 1926

REPRESENTATIVE SEATON moved to report CSSJR 31(STA) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSJR 31(STA) was reported out of the House State Affairs Standing Committee.

HB 523-VOTERS/VOTING/POLITICAL PARTIES/ELECTIONS

VICE-CHAIR HOLM announced that the last order of business was HOUSE BILL NO. 523, "An Act relating to qualifications of voters, voter registration, voter residence, precinct boundary modification, recognized political parties, voters unaffiliated with political parties, early voting, absentee voting, ballot counting, voting by mail, initiative, referendum, recall, and definitions; and providing for an effective date."

Number 2000

REPRESENTATIVE SEATON moved to adopt the committee substitute (CS) for HB 523, Version 23-GH2021\V, Kurtz, 4/21/04, as a work draft.

VICE-CHAIR objected for discussion purposes.

Number 2006

REPRESENTATIVE COGHILL, on a procedural note, informed Vice-Chair Holm that it is not necessary to object for discussion purposes to the motion to adopt a committee substitute (CS). If there is no objection to a CS, then that's the CS that is before the committee.

VICE-CHAIR HOLM removed his objection [to Version V].

REPRESENTATIVE GRUENBERG [moved to adopt] Amendment 1, labeled 23-GH2021\V.1, Kurtz, 4/22/04, which read as follows:

Page 1, line 5, following "**ballot counting**,":

Insert "**optically scanned and electronically generated ballots**,"

Page 5, following line 4:

Insert new bill sections to read:

"* **Sec. 6.** AS 15.15.030(13) is amended to read:

(13) **The** [NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, THE] director may provide for **the optical scanning of ballots** [VOTING BY USE OF ELECTRONIC BALLOTING EQUIPMENT OR OPTICALLY SCANNED BALLOTS] where the requisite equipment is available. [IF THE DIRECTOR PROVIDES FOR VOTING BY USE OF ELECTRONIC BALLOTING EQUIPMENT, THE DIRECTOR SHALL PROVIDE ELECTRONIC BALLOTING EQUIPMENT THAT WOULD ALLOW VOTERS WITH DISABILITIES, INCLUDING THOSE WHO ARE BLIND OR VISUALLY IMPAIRED, TO CAST PRIVATE, INDEPENDENT, AND VERIFIABLE BALLOTS.]

* **Sec. 7.** AS 15.15.030 is amended by adding a new paragraph to read:

(14) The director may provide for voting by use of electronically generated ballots by a voter who requests to use a machine that produces electronically generated ballots.

* **Sec. 8.** AS 15.15 is amended by adding a new section to read:

Sec. 15.15.032. Use of electronically generated ballots. (a) If the director provides for voting by use of electronically generated ballots, the director shall provide balloting equipment that would allow voters with disabilities, including those who are blind or visually impaired, to cast private, independent, and verifiable ballots. The director may not provide for more than one machine that produces electronically generated ballots in a precinct or in a regional supervisor's office, except where the director determines that additional machines are needed to accommodate the needs of individuals with disabilities, including individuals with physical limitations or visual impairments.

(b) Software for voting by use of electronically generated ballots shall be tested and certified under AS 15.20.900.

(c) The director shall provide for a paper record of each electronically generated ballot that can be

(1) reviewed and corrected by the voter at the time the vote is cast; and

(2) used for a recount of the votes cast at an election in which electronically generated ballots were used."

Renumber the following bill sections accordingly.

Page 19, following line 28:

Insert new paragraphs to read:

"(38) "electronically generated ballot" means any ballot other than a paper ballot that is physically marked by the voter using a writing instrument or a mechanical device;

(39) "optically scanned ballot" means a paper ballot designed to be read by an optical scanning machine."

Renumber the following paragraphs accordingly.

Page 20, line 28:

Following "APPLICABILITY.":

Insert "(a)"

Delete "18 - 40"

REPRESENTATIVE GRUENBERG explained that Amendment 1 incorporates the ideas from another bill regarding elections, which was sponsored by Representative Les Gara and then by Representative Bill Harris.

Number 2068

VICE-CHAIR HOLM asked if there was any objection to Amendment 1. No objection was stated; therefore, Amendment 1 was so ordered.

Number 2091

REPRESENTATIVE GRUENBERG [moved to adopt] Amendment 2, labeled 23-GH2021\V.2, Kurtz, 4/21/04, which read as follows:

Page 10, line 29, through page 11, line 17:

Delete all material and insert:

"* **Sec. 23.** AS 15.45.130 is repealed and reenacted to read:

Sec. 15.45.130. Certification of circulator.

Before being filed, each petition shall be certified by an affidavit by the person who personally circulated the petition. In determining the sufficiency of the petition, the lieutenant governor may not count subscriptions on petitions not properly certified at the time of filing or corrected before the subscriptions are counted. The affidavit must state in substance that

(1) the circulator signing the affidavit meets the residency, age, and citizenship qualifications for circulating a petition under AS 15.45.105;

(2) the person is the only circulator of that petition;

(3) the signatures were made in the circulator's actual presence;

(4) to the best of the circulator's knowledge, the signatures are those of the persons whose names they purport to be;

(5) the signatures are of persons who were qualified voters on the date of signature;

(6) the circulator has not entered into an agreement with a person or organization in violation of AS 15.45.110(c);

(7) the circulator has not violated AS 15.45.110(d) with respect to that petition; and

(8) if the circulator has received payment or agreed to receive payment for the collection of signatures on the petition, before circulating the petition, the circulator prominently placed, in the space provided under AS 15.45.090(5), the name of each person or organization that has paid or agreed to pay the circulator for collection of signatures on the petition."

REPRESENTATIVE GRUENBERG explained that Amendment 2 redrafts AS 15.45.130, making only one substantive change. He directed attention to [the last sentence of] Section 23, [beginning on page 11, line 15, of Version V], which read as follows:

In determining the sufficiency of the petition, the lieutenant governor may not count subscriptions on petitions not properly certified.

REPRESENTATIVE GRUENBERG stated his concern that there may be a technical problem with a petition, and he explained that Amendment 2 would allow a supplement affidavit in order to add missing information.

[Vice-Chair Holm turned the gavel back over to Chair Weyhrauch.]

Number 2176

CHAIR WEYHRAUCH asked if any objection had been [stated] to Amendment 2.

Number 2186

REPRESENTATIVE COGHILL objected [to Amendment 2].

Number 2190

CHAIR WEYHRAUCH requested a roll call vote, which was ultimately voided.

REPRESENTATIVE GRUENBERG reiterated the purposed of Amendment 2 and said he hoped it would be fairly benign.

Number 2223

REPRESENTATIVE COGHILL expressed interest in knowing the court's past position on this issue.

CHAIR WEYHRAUCH emphasized the importance of addressing HB 523 expeditiously.

Number 2290

LAURA GLAISER, Director, Division of Elections, Office of the Lieutenant Governor, stated that she doesn't think it's wrong to allow someone to file a supplementary [affidavit] to make a correction.

CHAIR WEYHRAUCH stated that the committee, presented with a lengthy [Amendment 2], doesn't know how to analyze it in context of its historical basis or the legal issues surrounding it.

REPRESENTATIVE GRUENBERG clarified that the amendment had been drafted, using the same language, but "setting it out a little clearer."

Number 2330

CHAIR WEYHRAUCH announced that the committee would put aside Amendment 2 for now.

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Number 2339

MS. GLAISER turned attention to [Amendment 3, labeled 23-GH2021\V.3, Kurtz, 4/21/04], which read as follows:

Page 4, line 1, following "**confidential.**":
Insert "(a)"

Page 4, line 3, following "voter's":
Insert "age or"

Page 4, following line 9:

Insert new subsections to read:

"(b) In addition to the information in (a) of this section, the name and address of an individual who has been the victim of domestic violence shall be confidential and not open to public inspection if the individual requests in writing that the individual's name and address not be released.

(c) Notwithstanding other provisions, and in compliance with federal law, information made confidential by this section may be released by the division

(1) to a local, state, or federal government agency, including to the child support enforcement agency created in AS 25.27.010 or the child support enforcement agency of another state; the agency receiving information under this paragraph may use the information only for governmental purposes authorized under law;

(2) in compliance with a court order; or

(3) if the person who is the subject of the information has provided written consent to the release."

MS. GLAISER noted that both Representative Berkowitz and Representative Gruenberg had, at prior hearings of HB 523, spoke about protecting voting information and victims of domestic violence, and ensuring that courts, police, and the Child Support Enforcement Division (CSED) could have access [to voter information] if needed. She said that's what [Amendment 3] would do. She indicated that [Amendment 3] was drafted by request to incorporate the concerns of the committee.

REPRESENTATIVE GRUENBERG said [Amendment 3] would add subsections (b) and (c).

Number 2229

REPRESENTATIVE GRUENBERG, in response to a remark from Representative Lynn, indicated that the requirement for a voter's telephone number had not been taken out of the bill.

MS. GLAISER confirmed that was true.

[HB 523 was heard and held.]

ADJOURNMENT

Number 2225

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:32 a.m. [For the Overview: State of Alaska vs. U.S. see 8:08 a.m. minutes for the same date.]