

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

March 26, 2003

1:34 p.m.

MEMBERS PRESENT

Senator Ralph Seekins, Chair
Senator Scott Ogan, Vice Chair
Senator Gene Therriault
Senator Johnny Ellis
Senator Hollis French

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 89

"An Act amending the definition of 'lobbyist' in the Regulation of Lobbying Act, and as it applies in the act setting standards of conduct for legislators and legislative employees, to define 'regular' and 'substantial' as those terms describe activities for which a person receives consideration for the purpose of influencing legislative or administrative action."

HEARD AND HELD

PREVIOUS ACTION

SB 89 - No previous action to record.

WITNESS REGISTER

Brian Hove
Staff to Senator Ralph Seekins
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced SB 89

Terry Aldridge
Fairbanks Chamber of Commerce
P.O. Box 84160
Fairbanks, AK 99708

POSITION STATEMENT: Testified on SB 89

Pamela LaBolle

217 2nd Street
Juneau, AK 99801
POSITION STATEMENT: Testified on SB 89

Margaret Russell
1625 Old Steese
Fairbanks, AK 99701
POSITION STATEMENT: Testified on SB 89

Andrea Jacobson
APOC
Department of Administration
PO Box 110200
Juneau, AK 99811-0200
POSITION STATEMENT: Testified on SB 89

Larry Wood
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Brooke Miles
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Ted Quinn
9195 Ninnis
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POSITION STATEMENT: Testified on SB 89

ACTION NARRATIVE

TAPE 03-11, SIDE A

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. All members were present. The committee took up SB 89.

SB 89-DEFINITION OF LOBBYING

MR. BRIAN HOVE, Senate Judiciary Committee aide, gave the following explanation of the bill.

Chapter 45 of Title 24, Regulation of Lobbying, leads off with a one sentence paragraph describing the legislative declaration of purpose: "The Legislature finds and declares that the operation of a responsible, representative democracy requires that the fullest opportunity be afforded to the people to petition their government for redress of grievances, and to express freely to individual members of the Legislature, to its committees, and to officials of the executive branch, their opinions on pending legislation or administrative actions and that the people are entitled to know the identity, income, expenditures, and activities of those persons who pay, are paid, or reimbursed for expenses or who make expenditures or other payments in an effort to influence legislative or administrative action."

The full statute goes on to describe reports, records, exemptions, and so on until finally arriving at the ubiquitous section pertaining to definitions. Number eight defines the term 'lobbyist' in two ways. Clearly, definition (B) is applicable to the professional lobbyist. The sponsors of the proposed legislation fully recognize and appreciate the public interest, which is well served by definition (B). SB 89 does not alter this in any way.

On the other hand, definition (A) is somewhat ambiguous to the extent that applicability rests on two terms, these being 'substantial' and 'regular.' These terms were not defined in statute. So we must look to the Administrative Code for guidance, specifically, 2 AAC 50.545. There, under item (f), we see that substantial and regular means that a person is considered to be a lobbyist if, '... within a 30 day period, he spends in excess of four hours in direct communication with a public official or legislative employee in activities directed towards influencing legislative or administrative action.'

This definition amounts to less than 2.5 percent of the working month, given the standard 8-hour day. Now Webster's tells us that substantial means considerable and that considerable means large and that large means greater than average. Four hours out of 173 simply

doesn't come close to fitting within any of these definitions.

SB 89 safeguards, as it should, the second half of the declaration of purpose by preserving definition (8)(B), pertaining to professional lobbyists. SB 89 seeks only to alter definition (8)(A) in the statute by clearly defining the term 'substantial or regular.' In so doing, this action accomplishes that which the Legislature originally intended with respect to the lobbying law. Specifically, by allowing the people the fullest opportunity to express their opinions freely to individual members of the Legislature on matters regarding pending legislation.

CHAIR SEEKINS wanted to make it clear that the intent of the bill was to define two words and, if the committee found they were creating a loophole for professional lobbyists, they would attempt to close the loophole. Approximately 40,000 people buy business licenses in the State of Alaska who have zero to four employees and it's difficult for these people to separate the "personal side of their business with the business side of their person." It's very important to preserve these individual's right to speak with their legislator on issues that affect them on a personal level, which is inseparable from their business profession. Professional lobbyists should not be able to avoid regulations and reporting, but the net shouldn't be so large that it catches people inadvertently and puts them in jeopardy of losing certain rights.

TERRY ALDRIDGE, Chair of the Fairbanks Chamber of Commerce and small business owner, was in Juneau as part of the annual Chamber fly-in. He testified in support of SB 89, which would broaden the definition of lobbyist to allow business owners and concerned citizens to communicate with their elected officials without registering as a professional lobbyist. In March 2003 the Board of Directors passed a resolution supporting the change in state law clarifying the definition of lobbyist in terms that would describe activity. The Chamber doesn't believe the Alaska Public Offices Commission (APOC) definition accurately reflects the intent of Alaska State law in defining the true professional lobbyist.

1:45 p.m.

SENATOR HOLLIS FRENCH advised that one of the definitions of professional lobbying specifically excludes testifying before a

committee. Testifying before the Legislature is not lobbying because it's happening within full view of the public.

MR. ALDRIDGE admitted it was confusing.

CHAIR SEEKINS asked Senator French to read the section he referenced.

SENATOR FRENCH read:

AS 24.45.161. Exemptions. (a) This chapter does not apply to (1) an individual ... (B) who limits lobbying activities to appearances before public sessions of the legislature, or its committees or subcommittees, or to public hearings or other public proceedings of state agencies;

He said Mr. Aldridge is not lobbying when testifying before a legislative committee.

CHAIR SEEKINS asked what would happen if Mr. Aldridge spent more than four hours talking with his legislators on issues of importance to the Chamber and to his businesses.

SENATOR FRENCH replied APOC might have information on how they view teleconference testimony.

CHAIR SEEKINS said, "I just wanted to make sure since you made the reference. We'll cross reference it on the record to the statute."

MR. ALDRIDGE said those are some of the issues he would like to have made clear so he could pass the information along. They don't want to create loopholes; they simply want to be assured they are abiding by the rules.

CHAIR SEEKINS asked if he intended to limit his lobbying activities to those listed in AS 24.45.161.

MR. ALDRIDGE replied he had no limits in mind.

CHAIR SEEKINS asked if he would be comfortable saying the time spent doesn't count in the four hours.

MR. ALDRIDGE replied that's the definition he hopes to have clarified.

CHAIR SEEKINS advised that he reads the statute to mean you're exempt if you limit your lobbying activities and there is no exemption if you don't limit them. Therefore, it's not clear what time the current testimony counts toward. Under his interpretation this time could count toward the four hours allowed.

SENATOR GENE THERRIault noted it is his experience that the Chamber will have the head of the Fairbanks Interior delegation set up a series of meetings with legislators in their offices. There are nine members of the Interior delegation and if someone spent a half hour in each member's office, they would be over the four-hour limit in one trip. That would be a meeting behind closed doors, not open to the public and without a tape running, which is just the kind of meeting he would want to have with his constituents if they want to take the time to meet with him.

SENATOR SCOTT OGAN pointed out the term lobbyist came from individuals who gathered in the lobby of the Willard Hotel in Washington D.C. With that in mind, simply spending time in the legislative hallways could be construed to be lobbying.

MR. ALDRIDGE responded they were looking for clarification to ensure they weren't violating the law.

PAMELA LaBOLLE, President of the Alaska State Chamber of Commerce and registered lobbyist, advised she spends more than four hours lobbying in some days. She explained the state chamber doesn't have a problem with the 1976 lobbying law, but they do have difficulty with the definition APOC has given for the term "substantial or regular" because they have interpreted that as being four hours in a 30 day period. That is just 2.5 percent of a 40-hour week for an employee or business owner. In the fall of 2002 the Alaska State Chamber of Commerce filed a lawsuit against APOC challenging this regulation arguing it is unconstitutional and infringes on the rights of members by denying them the opportunity to address their public officials on issues that impact their businesses. It's not uncommon for business members to travel with the Governor and other officials on trade missions, but they must register as lobbyists because of the time spent. In addition they challenge the equity of the law because public officials, public employees and the media are exempt from the law.

The laws and regulations passed by the Legislature impact private business to a greater extent than any other group and yet, those same businesses are held to a stricter standard. The

chamber's purpose in requesting the legislation is to get a clear definition of what the Legislature meant when they said "substantial or regular" because it's unclear.

Another confusing point is the requirement that an individual must register before they lobby. Although there are times an individual may know they would spend more than four hours on a certain issue, this isn't always the case. Phone conversations and consultations could readily exceed the four hour limit. APOC has added to the difficulty by including social events in the four hour allocation.

SENATOR JOHNNY ELLIS asked her to be more specific when she said the law infringed on a business owner's rights.

MS. LaBOLLE replied business owners give up the right to serve on a political campaign, to contribute to a candidate of their choice, and to serve on a board or commission if that board or commission could impact their earnings.

SENATOR ELLIS asked if campaign contributions and Mr. Bill Allen's concern weren't at the root of the issue.

MS. LaBOLLE disagreed.

CHAIR SEEKINS advised he introduced the bill as a result of the orientation class he attended where he found he probably violated the regulation when he was a state chamber member. It was at that time that he determined the four hour limit was not adequate. He mentioned it to Ms. LaBolle at a social event and she informed him of the lawsuit. It was then that they agreed to work together to establish a more reasonable number.

SENATOR ELLIS acknowledged his statement regarding the background related to the House version of the legislation. He was aware that the Chair was working with Representative Lesil McGuire on the issue.

CHAIR SEEKINS said her involvement came after his suggestions and because he needed someone to carry the legislation in the House.

MS. LaBOLLE agreed. The chamber felt confident they would win the case, but they realized legislation was a better avenue than relying on APOC to establish a different number of hours. She added Mr. Bill Allen doesn't run the Alaska State Chamber of Commerce and the 700 business members.

SENATOR ELLIS replied he wasn't making that claim; rather he took seriously the news reports that he approached Ms. LaBolle and she approached the Legislature and the state chamber set this in motion after those concerns were raised.

MS. LaBOLLE remarked, "We should all recognize you certainly can't believe everything you read in the newspaper."

CHAIR SEEKINS said, "I'll guarantee you I didn't talk to anybody at VECO or Bill Allen about.... the shock I felt when I turned it up in orientation."

SENATOR ELLIS advised he recently attended a town meeting in Anchorage and there were many people there to talk about the Governor's proposals to impose increased taxes and cuts to education among other things. Two people made comments on the Governor's proposal on APOC and this legislation. A woman argued with Representative Norman Rokeberg saying Alaska has the best lobbying law in the country, the best public disclosure and ethics laws in the country and we should be proud of that. In fact, SB 89 and SB 119 represent a step backward. She said she wants to know if someone is being compensated to influence the Legislature. That isn't an unreasonable citizen request. When she said that a cheer went up in the crowd and he took notice.

MS. LaBOLLE said the point the state chamber is trying to make is that 2.5 percent of your working time is not regular or substantial.

CHAIR SEEKINS said, "I just had the entire commission [APOC] come and lobby me, but I don't think it's necessary for the people of the state to know they were in my office doing that. I'm going to still make up my mind based on what I think the best approach is."

2:10 p.m.

SENATOR OGAN remarked, "There is a Supreme Court case law somewhere, I don't remember whether it's U.S. Supreme Court or Alaska Supreme Court, that talks about First Amendment rights and people being able to contribute to campaigns and talk to people." That case pointed out the press regularly tries to influence legislative behavior in editorials and that is a protected and cherished First Amendment right. He asked Ms. LaBolle if she was taking issue with the fact that as a lobbyist you couldn't contribute to whomever they want.

MS. LaBOLLE replied this too is an important point for chamber members because many of them have businesses in different districts throughout the state and are therefore concerned about issues that impact those districts. They should be able to support whomever they believe to be the best candidate, but they are limited. That isn't the driving force however; they don't believe they should have to give up any rights if they aren't really lobbyists.

CHAIR SEEKINS asked if the people in the Capitol hallways at the end of each session should be considered lobbyists.

MS. LaBOLLE said she believes the majority of those that burn the midnight oil at the end of session are lobbyists.

CHAIR SEEKINS added some of those are public employees that are trying to influence legislation and they're exempt.

SENATOR GENE THERRIAULT referenced the cheer elicited from the crowd at the Anchorage town meeting and remarked legislators must understand the intricacies of the laws and they must determine what makes sense and what doesn't. He wondered whether Senator Ellis asked the individual whether they knew the intricacies and whether they knew the reasoning behind the four hour limit. Did they know the impact on the individual in not being able to participate in a campaign or being able to give contributions in elections? A room full of applauding people gives no indication whether or not they understand these intricacies. If a discussion regarding the intricacies didn't ensue, the applause would be largely meaningless.

SENATOR ELLIS explained the context for his statement. It was a publicly noticed town hall meeting that was attended by individuals of various political persuasions. The woman he referred to was well informed and became offended when Representative Rokeberg announced he likes to play golf with lobbyists and if the game is under four hours there's no big deal. She made the point that if someone is compensated for promoting a certain interest in Juneau, she would like to know who that is and what he or she is paid. That's not an unreasonable request in the public interest.

He used Kevin Meyers with ConocoPhillips as an example. He comes to Juneau to represent a significant corporate interest in the state and has undoubtedly registered as a lobbyist. It would probably take him a very short time to influence legislation. In

fact professional lobbyists, corporate executives or small business owners might spend a very short time with a key committee chair to profoundly affect the outcome of legislation. If that is to occur, the public has a right to know.

CHAIR SEEKINS stated the right to know should be for anyone who seeks to influence. The APOC members he met with had no knowledge of his intent when he introduced SB 89 so he doesn't see how anyone reading the Anchorage paper would know either. No one from the Anchorage paper asked him so he didn't know how they could report on the intent of the legislation or what it was designed to do.

Kevin Meyer wouldn't influence him any more than Terry Aldridge who he has known and regarded highly for a long time. The law doesn't handicap the Kevin Meyers; it's the 40,000 small businesses that are handicapped. The net is too large. "Nobody's concentrating on Kevin Meyer or Bill Allen or any of the big boys out there. We're trying not to make criminals out of the little guys out there."

SIDE B

2:20 p.m.

CHAIR SEEKINS introduced Margaret Russell who has worked for him as his business general manager since 1978.

MARGARET RUSSELL, Fairbanks Chamber of Commerce representative, testified in support of SB 89. After reading the current statute, reviewing the Administrative Codes, regulations and interpretations, she and the Fairbanks Chamber support redefining "regular and substantial" because they are currently problematic. The Fairbanks Chamber represents more than 700 businesses most of which have five or fewer employees. Their primary mission is to promote a climate that fosters growth and development within the community and to be influential advocates for the community. This in the purest sense of the term is lobbying.

They deal with health concerns, education and child development issues, rural and urban issues, transportation issues and military issues among many others. They're all issues that add to a better quality of life for the Fairbanks community and many of those issues involve the state process. Chamber volunteers and board members are required to be regular working members and as a result, and to accomplish their mission, they spend a number of hours gathering information and influencing decisions

on the issues. If they weren't influencing decisions there would be little reason for their existence. They regularly participate in government and military affairs committees trying to influence the issues that come before those different venues. To accomplish that, and without admitting guilt, it takes more than four hours of time with legislators.

Part of her job description is to be a community leader so she is involved in more than just business issues. She served as past president of the United Way Board of the Tanana Valley and in that capacity worked with a number of executive directors from social services agencies, non-profits, and faith-based organizations. Funding for these organizations is tied into the state process and they depend on state legislation to accomplish what they have set out to do. It's not uncommon for these executive directors to spend more than the allowed time to influence their special interests. They do this in the capacity of their jobs and they aren't registered lobbyists. They're grass-roots professionals and volunteers working to make their community a better place.

As the manager of a Fairbanks business and now that she is fully aware of the criteria and the current interpretation, she would be less inclined to ask employees to be actively involved in community organizations that tie into the state process. If she told those same employees they had to register as a lobbyist, she's uncertain whether they would want to do that. Regular and substantial is too restrictive and risks losing ground in the area of community involvement.

CHAIR SEEKINS asked if her community work provided an indirect benefit to the company that employs her.

MS. RUSSELL replied they volunteer because it is a return to the community that supports the business and she has a personal interest in making Fairbanks a better place to live. She also acknowledged that, if Fairbanks grows as a community and, if the state grows as well, it's likely she would sell more cars.

SENATOR THERRIAULT asked if she felt her previous actions were in violation of the law.

MS. RUSSELL replied she was, absolutely, but she admits no guilt on the record.

SENATOR THERRIAULT asked if many others she interacts with and knows of were also in violation.

MS. RUSSELL said they were.

2:30 p.m.

SENATOR FRENCH commented she didn't look like a lawbreaker to him and his interpretation of the definition differed. A lobbyist must be employed and receive payment so if she wasn't paid for her United Way and chamber work, then she wouldn't be a lobbyist.

CHAIR SEEKINS said he pays Ms. Russell a salary and part of her job description is to be actively involved in her community and other areas that can have an indirect benefit to the company. It should be very clear that someone working as a community volunteer who is paid a salary to be involved would not run afoul of the law.

SENATOR FRENCH addressed the committee and said he was looking for someone who has been wounded as a result of the current law. He needed a concrete example of injury.

CHAIR SEEKINS responded it's not a good law if it puts people in jeopardy.

SENATOR OGAN said nice people do break laws because there are unreasonable laws on the books. If the "lobbyist police" spent times in the legislative hallways they'd probably find a lot of people that are breaking the law and that's the reasoning behind the bill.

SENATOR THERRIAULT pointed out Ms. Russell now knows the law and must consider whether she will register as a lobbyist. In doing so she gives up her constitutional right to participate in political activities. He asked where it makes sense to draw the line between a professional lobbyist and the small business owner that has someone on the payroll like Ms. Russell.

MS. RUSSELL said the non-profit executive director is clearly being paid a salary and lobbying on things that might create economic benefit to their special interest. She asked whether the intent of the law was to make them a lobbyist and that they could not spend more than four hours in a thirty-day period to accomplish their job. Redefining the terms "substantial and regular" clears up the definition of a lobbyist and the original intent of the law.

SENATOR ELLIS said there was substantial legislation regarding car dealerships before the Legislature several sessions ago. If she lobbied on that legislation in her capacity at the car dealership, he asked if it would be reasonable for the public to know she was engaged in that activity.

MS. RUSSELL replied if it were an ongoing part of her job description to influence legislation on behalf of car dealers then perhaps, at some point, it would be appropriate for the public to know. At issue in SB 89 is what is the point that the public should know that I'm a lobbyist or just doing something that arises in the course of business.

CHAIR SEEKINS clarified the Alaska Automobile Association employed a lobbyist for that legislation and Ms. Russell didn't spend four hours talking with legislators on that issue. He admitted he might have spent that much time, but most of the work was done through the paid lobbyist.

2:40 p.m.

The Chair called an at ease.

2:44 p.m.

CHAIR SEEKINS called Andrea Jacobson forward.

ANDREA JACOBSON, APOC Chair, stated they are the choir to whom they have been preaching. In prior meetings they discussed that the four hour limit was not enough and in light of that they were surprised the lawsuit was filed.

She clarified:

- To her knowledge no one has ever had to file as a lobbyist for going on a trade mission because the purpose of a trade mission has never been to influence legislation.
- It isn't true that lobbying laws are applicable only to businesses. Non-profits, social service organizations, hospitals and associations are registered lobbyists.

The majority of the people that are currently registered as lobbyists would not have to register if SB 89 passes. Although the commission believes four hours is too restrictive, 80 hours in a 30-day period is excessive. They were also concerned with

Section B because the language specifically excluded some people they consider professional lobbyists.

After speaking with the Chair, they understood they didn't understand the intent, which initially seemed as though it would wipe out the lobbying bill. The Alaska State Constitution says the Legislature will regulate lobbyists and they didn't want to face constitutional problems that would arise if lobbyists weren't regulated. They now understand that was not the intent and believe language could be found that would be satisfactory to everyone.

A community volunteer has never been a lobbyist in their view unless they were acting under the control of someone that was paying them to be there. There is a difference of opinion with regard to the requirement to do community service work and having that translate into a lobbying effort to influence legislation.

As a public disclosure agency their foremost goal is to make sure the public has the knowledge. The public can then make the decision how they want to vote regarding who is influencing whom. Having the information regarding who was paid to influence a legislator is important.

LARRY WOOD, APOC Republican appointee, explained APOC has five commissioners. Ms. Jacobson is the public member and there are two Republican appointees and two Democrat appointees. Members are not paid, but they are reimbursed for expenses. Currently two members are in business, two are in public service and one is retired.

There are four types of individuals under discussion, but just one merits discussion.

- The first group is professional lobbyists and Section 1 (B) makes it very clear there is no intent to impact that group.
- The second group consists of employees that are charged, at least partially, with doing lobbying work in the course of their job.

He worked for a company that required him to travel to Juneau as part of his duties and he was spending more than four hours every thirty days so he registered as a lobbyist.

It seems as though there is interest in including these individuals in the group that is required to register.

- Group number three consists of those small businesses the State Chamber spoke of. The individuals aren't paid and their expenses might not even be reimbursed. The way the legislation is written, if you're not paid and not reimbursed, you're not going to be covered by the law.
- The fourth group is public officials and they are exempted in the law and aren't under consideration in SB 89.

The conversation centers on the third group and how much time should trigger the requirement to register. SB 89 sets the limit at 80 hours while a House bill sets a 40-hour limit. He suggested deleting the word "regular" because it is confusing, but if an individual is spending a substantial amount of time in the course of his or her regular duties, then they should be required to register.

SENATOR THERRIAULT asked if there was a legitimate issue for the Legislature to make a policy call.

MR. WOOD replied yes, four hours is too little, but 40 and 80 hours is too much.

SENATOR THERRIAULT asked if they had a number to suggest.

MS. JACOBSON said they were looking at 16 hours because it would be difficult for a small business owner to be away from their business for longer than that length of time.

Lobbying laws don't apply to just legislative lobbyists; they also apply to administrative lobbyists she said. Therefore, in determining the number of hours, the time period needs to be such that it covers not just session time but also a block of time that is easy to assess for the administrative lobbyists.

SENATOR THERRIAULT asked for further clarification of administrative lobbyists.

MS. JACOBSON explained there are lobbyists that lobby the Legislature and there are lobbyists that lobby the Administration. All are covered under the lobbying laws.

SENATOR OGAN said he works with a company that applies for resource permits and they have lots of contact with the Administration to influence them to see issues in a certain way. Those people are paid to do that and technically, that activity could come under the definition of administrative lobbyists.

This would probably include everyone that writes permits for a resource development agency.

MS. JACOBSON agreed if they engage in those activities.

SENATOR OGAN emphasized anyone that fills out a permit is doing that activity because they're trying to influence administrative action. He opined there is a problem in the statute.

MS. JACOBSON said there is an administrative ruling that exempts the permitting process from the lobbying disclosure.

SENATOR THERRIAULT asked how she would respond to striking a balance between Bill Allen, the owner of VECO Corporation, and the owner of a Hallmark store in Fairbanks.

MR. WOOD replied the commission arrived at the 16 hour mark because it is two workdays every 30 days. Of course there's room for disagreement, but 16 hours is quite a lot of time and seems reasonable.

CHAIR SEEKINS asked about phone time and social time.

MR. WOOD said that would be included. It's time spent for the purpose of influencing legislation.

SENATOR THERRIAULT asked if the commission members would agree that when someone is required to register as a lobbyist, they're giving up rights other citizens have.

MS. JACOBSON replied that question is directed to the wrong individuals because as commission members they cannot engage in those activities and she doesn't look upon that as an unreasonable sacrifice. Those regulations are in place because the public wants to know and they're trying to be responsive to the public in that regard.

MR. WOOD added the courts have said that, with regard to lobbying, some restriction is reasonable in the public interest. He said he believes in that, but if you're a private individual and you're not being paid, wholly or in part, or you're not being reimbursed, you wouldn't be subject to the registration requirements. A private businessperson that isn't reimbursed or paid wouldn't trigger the requirement regardless of the number of hours spent.

SENATOR THERRIAULT pointed out that others are giving up their rights as part of their livelihood. That's different than volunteering to be on a commission.

MS JACOBSON said they aren't prohibited from all contributions; it's from contributing to anyone outside their district. It's important to look at the specifics of whom they aren't allowed to contribute to.

SENATOR THERRIAULT said it could be their brother or a number of others they have a natural connection to. They're barred from giving up to a maximum of \$500, which is one thing the general public doesn't know.

SENATOR OGAN read the definition of lobbyist from Black's Law Dictionary. It is, "One who makes it a business to procure the passage or defeat of bills pending before a legislative body." He asked how to define that person.

MR. WOOD replied that is a legal dictionary and therefore a collection of common definitions. In Alaska there is a structure that has been laid out for many years and the changes proposed by Senator Seekins don't change that. The discussion centers on part time people and those that aren't paid at all.

3:10 p.m.

SENATOR FRENCH noted one of the strains of argument heard throughout the issue is that people that must register as lobbyists give up important rights and the right to make contributions is brought up most frequently. That argument is in the position paper of the Alaska State Chamber of Commerce and referred to obliquely in the sponsor statement that it unconstitutionally restricts business people. This argument needs to be dispelled because the U.S. Supreme Court has taken up this issue several times. (Buckley versus Vallejo) Each time the Court said it's okay to regulate political contributions and that's what's under discussion, the right to contribute to political candidates. He asked if they were aware of any rulings to the contrary.

CHAIR SEEKINS said he would argue it's okay to restrict contributions but not contributors.

SENATOR ELLIS called a point of order. He respectfully asked the Chair for forbearance when committee members pose a question to witnesses.

CHAIR SEEKINS said he didn't hear a question.

SENATOR FRENCH restated his question asking whether Mr. Wood was aware of any legal ruling that was contrary to Buckley versus Vallejo.

TAPE 03-12, SIDE A
3:13 p.m.

MR. WOOD replied his recollection was the same as Senator French's. The courts have permitted more regulation in the area of lobbying. However, he understands the current law that says you can't make contributions during the registration period and one year thereafter is being litigated.

BROOKE MILES, APOC director, said that section of law was upheld by the Alaska State Supreme Court as constitutional and the U.S. Supreme Court didn't hear it.

SENATOR OGAN opined it is appropriate, as the courts have ruled, to regulate contributions, but he didn't know whether it had been constitutionally tested. It's an arbitrary discrimination based on residency to tell someone they may contribute to someone in their district but not in another district.

MR. WOOD advised, as per Ms. Miles' comments, it has been litigated and upheld by the Alaska Supreme Court. It's in statute, however, so the Legislature could reconsider it.

CHAIR SEEKINS said the question is, what is regular and what is substantial? "If we're going to do this, we should not do it lightly and we should not do it with a very low threshold."

MS. JACOBSON said Mr. Wood's suggestion of eliminating the word "regular" is good. That would make half APOC's task easier. For years they have regulated who can contribute to whom regarding out-of-state contributors so there is precedent in legislation regarding contributors as opposed to contributions.

SENATOR THERRIAULT asked for the impact of dropping the word regular.

MR. WOOD agreed it's confusing. Either word could be used and he would recommend using substantial.

SENATOR THERRIAULT asked if regular had any tie to the legislative session.

MR. WOOD said it's a "substantial" amount of time or a "regular" amount of time and it's confusing to use both terms. It has nothing to do with the regular legislative session.

CHAIR SEEKINS asked whether a person that was speeding and wasn't stopped was still breaking the law.

MS. JACOBSON replied they were still breaking the law and it still wasn't acceptable behavior just because they didn't get caught.

TED QUINN, small business owner in Juneau, testified he is currently acting as Chair of the Alaska State Chamber of Commerce, but he was representing his business. He related examples from his own business that raised questions about the limit. The definition of "substantial" should be in statute and not be left to a regulatory decision. He encouraged passage of the legislation as written.

CHAIR SEEKINS held SB 89 in committee.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at 3:22 p.m.