

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 4, 2004

3:30 p.m.

TAPE (S) 04-15

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator John Cowdery, Vice Chair
Senator Bert Stedman

MEMBERS ABSENT

Senator Gretchen Guess
Senator Lyman Hoffman

COMMITTEE CALENDAR

SENATE BILL NO. 255

"An Act relating to traffic preemption devices."

MOVED CSSB 255(STA) OUT OF COMMITTEE

SENATE BILL NO. 326

"An Act relating to investments of Alaska permanent fund assets;
and providing for an effective date."

MOVED CSSB 326(STA) OUT OF COMMITTEE

SENATE BILL NO. 309

"An Act relating to testing the blood of prisoners and those in
custody for bloodborne pathogens."

MOVED SB 309 OUT OF COMMITTEE

SENATE BILL NO. 351

"An Act requiring the Alaska Public Offices Commission to accept
documents by nonelectronic means."

SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 255

SHORT TITLE: ILLEGAL USE TRAFFIC PREEMPTION DEVICE

SPONSOR(S): SENATOR(S) THERRIAULT

01/12/04 (S) PREFILE RELEASED 1/9/04

01/12/04 (S) READ THE FIRST TIME - REFERRALS

01/12/04 (S) STA, JUD, FIN
02/12/04 (S) STA AT 3:30 PM BELTZ 211
02/12/04 (S) Heard & Held
02/12/04 (S) MINUTE(STA)
03/02/04 (S) STA AT 3:30 PM BELTZ 211
03/02/04 (S) Heard & Held
03/02/04 (S) MINUTE(STA)
03/04/04 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 326

SHORT TITLE: PERMANENT FUND INVESTMENTS

SPONSOR(s): RULES BY REQUEST OF LEG BUDGET & AUDIT

02/13/04 (S) READ THE FIRST TIME - REFERRALS
02/13/04 (S) STA, FIN
02/24/04 (S) STA AT 3:30 PM BELTZ 211
02/24/04 (S) Heard & Held
02/24/04 (S) MINUTE(STA)
03/04/04 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 309

SHORT TITLE: BLOOD PATHOGENS TESTING OF PRISONERS

SPONSOR(s): SENATOR(s) WAGONER

02/09/04 (S) READ THE FIRST TIME - REFERRALS
02/09/04 (S) STA, JUD
03/04/04 (S) STA AT 3:30 PM BELTZ 211

WITNESS REGISTER

Dennis Michel
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Responded to questions on SB 255 for the sponsor, Senator Gene Therriault

Bob Storer
Executive Director
Alaska Permanent Fund Corporation
PO Box 25500
Juneau, AK 99802-5500

POSITION STATEMENT: Presented information on SB 326

Kurt Olson
Staff to Senator Thomas Wagoner
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced SB 309 for the sponsor, Senator Wagoner

Commissioner Marc Antrim
Department of Corrections
431 N. Franklin, Suite 400
Juneau, AK 99801

POSITION STATEMENT: Stated departmental support to SB 309

Richard Beeler
Corrections Officer
Kenai, AK 99611

POSITION STATEMENT: Supported SB 309

ACTION NARRATIVE

TAPE 04-15, SIDE A

CHAIR GARY STEVENS called the Senate State Affairs Standing Committee meeting to order at 3:30 p.m. Present were Senators Cowdery, Stedman and Chair Gary Stevens.

SB 255-ILLEGAL USE TRAFFIC PREEMPTION DEVICE

CHAIR GARY STEVENS announced SB 255 to be up for consideration and asked for a motion to adopt the committee substitute as the working document.

SENATOR JOHN COWDERY made a motion to adopt the \I version of SB 255 for discussion purposes. There being no objection, it was so ordered.

CHAIR GARY STEVENS asked Mr. Michel to explain the changes.

DENNIS MICHEL, staff to Senator Gene Therriault, said the change occurs on page 1, lines 14 & 15 so that "motor vehicles involved in highway maintenance or public transit ...can either be authorized by Department of Transportation [and Public Facilities] or the local municipality that they are operating within." He said this change was made to accommodate the situation in Anchorage in which the municipality controls all state roads within its borders. "To have the state involved and the municipality makes sense so all bases are covered," he said.

There were no questions.

SENATOR COWDERY made a motion to move CSSB 255(STA), \I version from committee with individual recommendations and zero fiscal note. There being no objection, it was so ordered.

SB 326-PERMANENT FUND INVESTMENTS

CHAIR GARY STEVENS announced SB 326 to be up for consideration and asked Mr. Storer to identify himself for the record.

ROBERT STORER, executive director, Alaska Permanent Fund Corporation, introduced himself and advised members that Ron Lorenson, outside counsel, was on line to answer questions.

To address the discussion about how the corporation would use the increased investment flexibility, he distributed a chart outlining how they would use the basket clause over the next several years. He said:

We are in the late stages of implementing a private equity program ... and that takes several years to get it up to the 3 percent target. Then we're also recommending a pilot program that will be - we call it alternative investments - that's the sort of contemporary term - many people call it hedge funds. Hedge funds have some notoriety in the sense that they use a lot of leverage and when they don't work they get a lot of headlines. This proposal that we are suggesting will not be that kind of hedge fund. We're suggesting a pilot program to learn with no more than 1 percent. It will expire within 3 years, but I think the key is that it is not going to be risky. We're going to have a targeted, expected risk of equal to or less than the fixed income market - a bond market. It's not going to be leveraged up to get excess returns over the equity market. It'll be structured in a very conservative manner and we hope to learn from this program, but it will not be designed as a risky investment.

One of the problems with where we are right now is that we are close to our statutory limitations. We hope we have a wonderful problem, which is what happens if it all works. If it all works, the fund will increase - these target allocations will increase, but we're also going to have a problem, which means statutes not the markets will define when we must liquidate the assets.

That, Mr. Chair, is why we're asking for increased flexibility in the basket clause.

CHAIR GARY STEVENS referred to the new chart and asked for verification that the traditional asset class [gray bar] is not part of the basket clause.

MR. STORER said, the blue bar represents the unused portion in the '03 bar chart. He then pointed out that as the 5 percent is implemented there would be a 1 percent target to hedge funds and 1.5 to 2 percent in private equities. Moving out to '05, there will be 3 percent private equity investment and over that time, the basket clause will essentially be used up on a cost basis so with appreciation there will be problems.

SENATOR BERT STEDMAN asked Mr. Storer to go over the effects of the leverage when it moves from 5 to 15 percent.

MR. STORER said he would answer the question at the extreme, but because they are driven by diversification, the probability of placing all the eggs in one basket is extremely unlikely. He continued to say that if they increased risk for dramatically higher returns they could only use the full 15 percent. He said he wasn't prepared to suggest they do that, but even that is low versus some real estate portfolios that are leveraged to 50 percent. "That would probably be the most volatile scenario that I could think of in terms of using all the investment."

SENATOR STEDMAN used the example of putting \$100 down to control \$1,000 of some entity and said, "I assume then that you're looking at the weighting effect of the \$1,000; you're not counting the \$100."

MR. STORER replied that is correct. In that example, they would use the basket clause and count the leverage and not just the \$100 investment.

SENATOR STEDMAN asked if there is a diversification gain by targeting a return that would be about equal to the bond market return.

MR. STORER said that's true, but you can gain diversification in far more ways than just more equities or more return. The corporation is working to develop a conservative instrument such as the targeted risk of a bond market or less as opposed to the more volatile equity market.

At present the corporation is looking for alternatives to fixed income, not increasing their equity exposure so the 1 percent target would reduce the fixed income exposure. They expect to get some additional incremental return greater than the fixed income market.

SENATOR STEDMAN asked Mr. Storer to explain the effect that interest rates have on their bond portfolio.

MR. STORER explained:

The major component of a fixed income security is the yield of the security and when you buy it, you will buy that security to yield X. That's a snapshot in time, but during that whole period you will earn that yield. Let's just say that the environment is 5 percent so that means that if you earn that security for life, you get a 5 percent yield. But every time interest rates change, the price of that security changes to reflect the changing interest rate environment. So what will happen in a rising interest rate environment is we will continue to get that 5 percent yield, but that security that we paid \$100 for will become worth \$99 become worth \$98 so that diminishes the value of the investment. Of those two components, historically the yield has been the largest contributor of return, but in a lower interest rate environment you get greater profits from the principal and in a rising interest rate environment you will end up losing some principal.

SENATOR STEDMAN opined that the concept is important because "the impression I'm getting is that you want to broaden out this asset class and you want to target that bond - roughly the return you would get in a normal bond environment - and there probably will not be a normal bond environment coming at you - and you want to have some diversification for that area to hopefully give you an incremental, if not a positive rate of return, at least pushing in that direction."

MR. STORER agreed with the assessment. If interest rates stay stable or rise they would expect the 1 percent allocation to have a higher return plus some diversification from a volatility factor, but part of our goal is to have a higher return than the bond option.

SENATOR STEDMAN noted that historically returns are yield rate averaged over the years. He then brought up a previous discussion regarding reducing the request from 15 percent to 10 percent. If that change were made, he questioned how long it might be before the corporation would return to the Legislature and ask for a review of the basket clause limit.

MR. STORER said it would depend on need and the financial markets, but he estimated that they would be back within two years.

SENATOR COWDERY asked about the reason for the request.

MR. STORER replied there are two basic reasons for the request. The immediate one is to address that there are arbitrary constraints on the successful management of the fund. The corporation could be forced to liquidate assets because of statutory constraints rather than due to market conditions. The other more long-range reason is to create flexibility to meet the ever-changing financial markets.

CHAIR GARY STEVENS asked Mr. Lorenson whether he had anything to add.

MR. LORENSON told him that he was listening and available to answer questions from a legal standpoint.

SENATOR STEDMAN offered an amendment to change the request from 15 percent to 10 percent [page 2, line 3].

CHAIR GARY STEVENS asked if there was any objection to the amendment and there was none.

He asked for a motion to pass the bill from committee.

SENATOR COWDERY made a motion to move CSSB 326(STA) from committee with individual recommendations and the attached fiscal note. There being no objection, it was so ordered.

SB 309-BLOOD PATHOGENS TESTING OF PRISONERS

CHAIR GARY STEVENS announced SB 309 to be up for consideration and asked Kurt Olson to introduce the bill.

KURT OLSON, staff to Senator Thomas Wagoner, bill sponsor, introduced himself and read the following into the record:

Currently our state allows testing of prisoners for bloodborne pathogens at the request of rape victims. This bill would allow correctional officers who have been exposed to blood and other bodily fluids to request testing of a prisoner responsible for the exposure.

AS 18.15 would be amended to include five new sections:

- AS 18.50.400 addresses the process of the testing
- AS 18.15.410 provides consent provisions
- AS 18.15.420 addresses testing without consent
- AS 18.15.440 addresses confidentiality issues and provides penalty for disclosure
- AS 18.15.450 defines the new terms included in this section

Last year 41 protection officers were potentially exposed to bloodborne pathogens in the workplace. In most cases the exposure was intentional and is one of the few weapons readily available to inmates. Current treatment to unknown pathogens consists of a daily treatment of what is known in the correctional industry as the cocktails - large dose of several broad-spectrum medications. The side effects can include nausea, missing work for up to two weeks, and additionally it disrupts their home life.

CHAIR GARY STEVENS asked if the corrections officers had to undergo treatment in all 41 instances.

MR. OLSON replied some officers opted not to undergo treatment.

SENATOR JOHN COWDERY noted the fiscal note is zero and he wondered who would pay for the testing.

MR. OLSON said the correctional officers are tested under workers' compensation and under state law the state can't test inmates without their consent.

SENATOR COWDERY clarified that his point is that there is cost associated with the test.

MR. OLSON replied there is a cost for the test, but he thought there would be an offset as well. Commissioner Antrim could probably answer more definitively, he said.

CHAIR GARY STEVENS asked what the procedure would be under SB 309 when a prisoner refuses to provide a blood sample.

MR. OLSON replied there would be two choices. The prisoner could be asked to submit a blood sample voluntarily and if they refuse, a court order is obtained and medical personnel would take the sample. He added, "I believe there are OSHA guidelines on taking that. The federal penal system has coverage similar to this for their federal correctional officers."

SENATOR BERT STEDMAN admitted he didn't have much background in this area, but he assumes it would cost the state money if an inmate refuses to give a sample for testing. He then added that he believes it's a good bill.

COMMISSIONER MARC ANTRIM, Department of Corrections, reported that the department supports SB 309 and thanked the sponsors for recognizing the hazards that face the men and women that serve in the correctional facilities. One of the hazards certainly is bloodborne pathogens.

Although there is a process for obtaining a blood sample from an inmate, SB 309 establishes a clear series of steps to follow and will ensure that the process is followed every time and won't depend on whether or not the parties involved are familiar with the procedure.

CHAIR GARY STEVENS asked if the corrections officer would have a choice regarding their own treatment and whether the inmate is tested.

COMMISSIONER ANTRIM replied the affected officer may seek information regarding the prisoner's medical records and ask that the inmate be tested, but the officer decides whether or not to undergo personal treatment.

RICHARD BEELER, correctional officer at Wildwood Pretrial, testified via teleconference in support of the legislation. He said he was exposed to bloodborne pathogens and underwent treatment twice, which was very expensive and harsh on his system. He and his family were traumatized by the experience.

CHAIR GARY STEVENS asked for verification that he had little choice but to undergo treatment.

MR. BEELER replied, "If I would have had a test come back saying that there wasn't a high percentage of me getting it, I would not have taken the medications. It was not a fun deal."

CHAIR GARY STEVENS noted that no one else signed up to testify. He recognized Senator Cowdery.

SENATOR COWDERY made a motion to move SB 309 from committee with the attached zero fiscal note and asked for unanimous consent. There being no objection, it was so ordered.

CHAIR GARY STEVENS adjourned the meeting at 4:05 pm.