

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 11, 2004

3:35 p.m.

TAPE (S) 04-17

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator Bert Stedman
Senator Gretchen Guess

MEMBERS ABSENT

Senator John Cowdery, Vice Chair
Senator Lyman Hoffman

COMMITTEE CALENDAR

SENATE RESOLUTION NO. 3

Relating to commemoration of Senator Frank R. Ferguson and other distinguished Senators.

MOVED SR 3 OUT OF COMMITTEE

SENATE BILL NO. 346

"An Act approving the monetary terms of the collective bargaining agreement with the International Organization of Masters, Mates, and Pilots, Pacific Maritime Region, for the Masters, Mates, and Pilots Unit for fiscal year 2004; and providing for an effective date."

MOVED SB 346 OUT OF COMMITTEE

SENATE BILL NO. 338

"An Act relating to actionable claims against state employees; relating to the state's defense and indemnification of its employees and former employees with respect to claims arising out of conduct that is within the scope of employment; amending the Public Employment Relations Act regarding claims against the state or state employees; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 308

"An Act increasing the duration of certain provisions of domestic violence protective orders from six months to one year."

MOVED SB 308 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 230(STA)

"An Act relating to political signs on private property."

MOVED SCS CSHB 230(STA) OUT OF COMMITTEE

SENATE BILL NO. 245

"An Act relating to retirement contributions and benefits under the public employees' retirement system of certain harbor officers."

HEARD AND HELD

CS FOR HOUSE CONCURRENT RESOLUTION NO. 5(FIN) am

Establishing a task force to make recommendations regarding a new design for the official seal of the State of Alaska.

MOVED SCS CSHB 5(STA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SR 3

SHORT TITLE: COMMEMORATING SEN. FRANK FERGUSON

SPONSOR(s): SENATOR(s) OLSON

02/16/04	(S)	READ THE FIRST TIME - REFERRALS
02/16/04	(S)	STA, FIN
03/09/04	(S)	STA AT 3:30 PM BELTZ 211
03/09/04	(S)	Scheduled But Not Heard
03/11/04	(S)	STA AT 3:30 PM BELTZ 211

BILL: SB 346

SHORT TITLE: MONETARY TERMS: MASTERS/MATES/PILOTS

SPONSOR(s): SENATOR(s) STEDMAN

02/16/04	(S)	READ THE FIRST TIME - REFERRALS
02/16/04	(S)	STA, FIN
03/11/04	(S)	STA AT 3:30 PM BELTZ 211

BILL: SB 338

SHORT TITLE: CLAIMS AGAINST STATE EMPLOYEES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/16/04	(S)	READ THE FIRST TIME - REFERRALS
02/16/04	(S)	STA, JUD
03/11/04	(S)	STA AT 3:30 PM BELTZ 211

BILL: SB 308

SHORT TITLE: DOMESTIC VIOLENCE PROTECTIVE ORDERS

SPONSOR(s): SENATOR(s) FRENCH

02/09/04 (S) READ THE FIRST TIME - REFERRALS
02/09/04 (S) STA, JUD
03/11/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 230

SHORT TITLE: POLITICAL SIGNS ON PRIVATE PROPERTY

SPONSOR(s): REPRESENTATIVE(s) HOLM

03/31/03 (H) READ THE FIRST TIME - REFERRALS
03/31/03 (H) TRA, STA
04/29/03 (H) TRA AT 1:30 PM CAPITOL 17
04/29/03 (H) Heard & Held
04/29/03 (H) MINUTE(TRA)
05/06/03 (H) STA AT 8:00 AM CAPITOL 102
05/06/03 (H) Scheduled But Not Heard
05/06/03 (H) TRA AT 1:30 PM CAPITOL 17
05/06/03 (H) Moved CSHB 230(TRA) Out of Committee
05/06/03 (H) MINUTE(TRA)
05/07/03 (H) TRA RPT CS(TRA) 4DP 2NR
05/07/03 (H) DP: OGG, KOOKESH, FATE, HOLM;
05/07/03 (H) NR: KOHRING, MASEK
05/07/03 (H) STA AT 8:00 AM CAPITOL 102
05/07/03 (H) Scheduled But Not Heard
05/08/03 (H) STA AT 8:00 AM CAPITOL 102
05/08/03 (H) Heard & Held
05/08/03 (H) MINUTE(STA)
05/09/03 (H) STA AT 8:00 AM CAPITOL 102
05/09/03 (H) Moved CSHB 230(STA) Out of Committee
05/09/03 (H) MINUTE(STA)
05/12/03 (H) STA RPT CS(STA) 3DP 3NR
05/12/03 (H) DP: GRUENBERG, HOLM, LYNN; NR: SEATON,
05/12/03 (H) DAHLSTROM, WEYHRAUCH
05/17/03 (H) CORRECTED CS(STA) RECEIVED
05/17/03 (H) TRANSMITTED TO (S)
05/17/03 (H) VERSION: CSHB 230(STA)
05/18/03 (S) READ THE FIRST TIME - REFERRALS
05/18/03 (S) STA, JUD
02/12/04 (S) STA AT 3:30 PM BELTZ 211
02/12/04 (S) Heard & Held
02/12/04 (S) MINUTE(STA)
03/09/04 (S) STA AT 3:30 PM BELTZ 211
03/09/04 (S) Scheduled But Not Heard
03/11/04 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 245

SHORT TITLE: PERS BENEFITS FOR HARBOR OFFICERS

SPONSOR(s): SENATOR(s) ELTON

01/12/04 (S) PREFILE RELEASED 1/2/04
01/12/04 (S) READ THE FIRST TIME - REFERRALS
01/12/04 (S) STA, FIN
02/26/04 (S) STA AT 3:30 PM BELTZ 211
02/26/04 (S) Heard & Held
02/26/04 (S) MINUTE(STA)
03/09/04 (S) STA AT 3:30 PM BELTZ 211
03/09/04 (S) Scheduled But Not Heard
03/11/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HCR 5

SHORT TITLE: LEGIS. TASK FORCE ON DESIGN OF STATE SEAL

SPONSOR(S): REPRESENTATIVE(S) JOULE

02/03/03 (H) READ THE FIRST TIME - REFERRALS
02/03/03 (H) CRA, STA, FIN
03/06/03 (H) CRA AT 8:00 AM CAPITOL 124
03/06/03 (H) Moved Out of Committee
03/06/03 (H) MINUTE(CRA)
03/07/03 (H) CRA RPT 5DP 1AM
03/07/03 (H) DP: ANDERSON, WOLF, KOOKESH, CISSNA,
03/07/03 (H) MORGAN; AM: SAMUELS
03/27/03 (H) STA AT 8:00 AM CAPITOL 102
03/27/03 (H) Scheduled But Not Heard
04/01/03 (H) STA AT 8:00 AM CAPITOL 102
04/01/03 (H) Moved Out of Committee
04/01/03 (H) MINUTE(STA)
04/04/03 (H) STA RPT 2DP 2NR
04/04/03 (H) DP: SEATON, WEYHRAUCH; NR: HOLM, LYNN
05/09/03 (H) FIN AT 8:30 AM HOUSE FINANCE 519
05/09/03 (H) Scheduled But Not Heard
05/09/03 (H) FIN AT 1:30 PM HOUSE FINANCE 519
05/09/03 (H) Moved CSHCR 5(FIN) Out of Committee
05/09/03 (H) MINUTE(FIN)
05/12/03 (H) FIN RPT CS(FIN) 8DP 2NR
05/12/03 (H) DP: MEYER, KERTTULA, BERKOWITZ, MOSES,
05/12/03 (H) CHENAULT, FOSTER, HARRIS, WILLIAMS;
05/12/03 (H) NR: HAWKER, STOLTZE
05/13/03 (H) TRANSMITTED TO (S)
05/13/03 (H) VERSION: CSHCR 5(FIN) AM
05/14/03 (S) READ THE FIRST TIME - REFERRALS
05/14/03 (S) CRA, STA, FIN
05/15/03 (S) CRA REFERRAL WAIVED
03/11/04 (S) STA AT 3:30 PM BELTZ 211

WITNESS REGISTER

Dave Gray
Staff to Senator Donny Olson
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced SR 3 for Senator Donny Olson,
sponsor

Kevin Jardell
Assistant Commissioner
Department of Administration
PO Box 110200
Juneau, AK 99811-0200
POSITION STATEMENT: Commented on SB 346

Gayle Voigtlander
Department of Law
PO Box 110300
Juneau, AK 99811-0300
POSITION STATEMENT: Answered questions on SB 338

Joe D'Amico
Business Manager
Public Safety Employees Association, Inc.
4300 Boniface Parkway, Suite 116
Anchorage, AK 99501
POSITION STATEMENT: Testified on SB 338

Senator Hollis French
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of SB 308

Lauree Huganon
Alaska Network on Domestic Violence and Sexual Assault
130 Seward Street
Juneau, AK 99801
POSITION STATEMENT: Testified on SB 308

Caren Robinson
Alaska Women's Lobby
Juneau, AK 99801
POSITION STATEMENT: Testified on SB 308

Todd Larkin
Staff to Representative Jim Holm
Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Introduced CSHB 230 for the sponsor,
Representative Jim Holm

Jeff Stark

Department of Law

PO Box 110300

Juneau, AK 99811-0300

POSITION STATEMENT: Answered questions on CSHB 230

Senator Kim Elton

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 245

Tim Ackerman

Juneau Harbor Officer

Juneau, AK 99801

POSITION STATEMENT: Testified in support of SB 245

Kevin Richie

Alaska Municipal League

217 2nd Street

Juneau, AK 99801

POSITION STATEMENT: Testified on SB 245

Larry Simmons

Kodiak Harbor Officer

Kodiak, AK 99615

POSITION STATEMENT: Testified in support of SB 245

Matt Clark

Homer Harbor Officer

Homer, AK 99603

POSITION STATEMENT: Testified in support of SB 245

John Greely

Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Introduced CSHCR 5 for Representative
Reggie Joule

ACTION NARRATIVE

TAPE 04-17, SIDE A

CHAIR GARY STEVENS called the Senate State Affairs Standing Committee meeting to order at 3:35 p.m. Present were Senators Stedman, Guess, and Chair Gary Stevens.

SR 3-COMMEMORATING SEN. FRANK FERGUSON

CHAIR GARY STEVENS announced SR 3 to be up for consideration. He asked Mr. Gray to come forward.

DAVE GRAY, staff to Senator Donny Olson, bill sponsor, explained that the resolution seeks to commemorate the late Senator Ferguson. Because the capitol building is short on committee rooms that could be named after legislators, the sponsor suggests that it would be appropriate to place a plaque in the capitol for that purpose. Senator Ferguson's name would be the first to appear and other distinguished senator's names could be added in the future.

CHAIR GARY STEVENS said it's an interesting thought and agreed that there weren't many rooms in the capitol that weren't already named after someone.

SENATOR BERT STEDMAN asked if they'd thought about how large the plaque might be.

MR. GRAY showed an example of a plaque that held 24 names then said that he would leave the decision regarding size to Pamela Varni, the executive director of Legislative Affairs.

There were no further questions or comments.

CHAIR GARY STEVENS asked for a motion.

SENATOR STEDMAN made a motion to move SR 3 from committee with individual recommendations and zero fiscal note. There being no objection, it was so ordered.

SB 346-MONETARY TERMS: MASTERS/MATES/PILOTS

CHAIR GARY STEVENS announced SB 346 to be up for consideration.

SENATOR BERT STEDMAN, bill sponsor, read the title of the bill and paraphrased from the sponsor statement saying:

The intention is to reaffirm our support for the organization of masters, mates and pilots. [The organization] is a vital component to the Alaska

transportation system. The organization represents licensed deck officers, state pilots, and other marine personnel employed by the Alaska Marine Highway System.

This bill approves the monetary terms of the collective bargaining agreement the state recently concluded with the masters, mates and pilots. The union's contract with the state expired last July and they have been operating without one.

Now the parties have agreed and the new contract is retroactive to January 1 and the money is still available. However, since this is technically a new contract, the Legislature must approve the terms.

I want to get the terms of this agreement approved by the Legislature as quickly as possible. The Alaska Marine Highway provides a critical transportation link not only in my district in Southeast Alaska, but also between outlying coastal areas and the Interior of the state. The waters of coastal Alaska are fraught with danger and operating our marine highway in a safe manner is no small task.

The ferry brings millions of dollars in tourism revenue in both coastal and Interior cities.

CHAIR GARY STEVENS asked Mr. Jardell if he had any comments.

KEVIN JARDELL, assistant commissioner, Department of Administration, said the administration supports the legislation.

There were no further questions.

CHAIR GARY STEVENS asked for a motion.

SENATOR STEDMAN made a motion to move SB 346 from committee with individual recommendations and attached zero fiscal note. There being no objection, it was so ordered.

SB 338-CLAIMS AGAINST STATE EMPLOYEES

CHAIR GARY STEVENS announced SB 338 to be up for consideration. He asked if Gayle Voigtlander was online.

GAYLE VOIGTLANDER, supervising attorney for the tort section of the Department of Law, identified herself and explained that she would address the bill with the amendment, which they support. The bill provides the ability for the attorney general to dismiss state employees who are individually named as defendants in a lawsuit and substitutes the state.

This is good legislation she said. Under existing law, state employees may be sued in combination with the State of Alaska for something the employee did in the course of their employment. When this happens, the employee must participate in the lawsuit until it is resolved through motion practice, a jury trial or appeal, which may be very distracting and disruptive for them in their day-to-day job requirements. This bill, as amended, would allow the attorney general to certify that the state employee was acting within the course of their employment after which the state employee would be dismissed as an individually sued defendant in the lawsuit and the State of Alaska would be substituted as the defendant. The state employee would no longer be involved in any way in the lawsuit.

She explained that she has been handling defense of State of Alaska/Alaska state employee cases since 1987 with the Department of Law and when there has been a genuine issue of state negligence, it is usually more of an institutional problem rather than any specific employee, which is another reason that the bill makes sense. "We think the certification process is an excellent way to handle plaintiff's claims against the state." In fact, the federal government uses the same certification process for claims against federal employees.

The only opposition they are aware of comes from PSEA (Public Safety Employees Association). She said, "We've tried to work with them on the bill, but we've been unsuccessful in doing so." In the interest of moving the bill forward, the Department of Law would support a conceptual amendment to exclude PSEA members from the provisions of the certification process.

MS. VOIGTLANDER advised that Jan DeYoung was also available to answer questions and she is more familiar with the labor aspects of law.

CHAIR GARY STEVENS asked her to explain the process that occurs when the attorney general doesn't certify that the employee was operating within the scope of their work.

MS. VOIGTLANDER said:

If the attorney general makes the decision that the employee was not acting within the course of their employment then the employee may litigate that issue by taking a petition to the superior court. If the superior court finds that they were acting within the course of their employment, they are dismissed from the lawsuit as they would have been if there had initially been certification and the state is substituted in as the defendant.

In addition if the state employee challenges that certification decision and is successful in superior court, then this bill provides that the state employee will be reimbursed the state employee's reasonable attorney's fees and costs in having to take and litigate the petition.

SENATOR BERT STEDMAN made a motion to adopt amendment 1 for discussion.

CHAIR GARY STEVENS noted that Ms. Voigtlander had been speaking to amendment 1. There was no objection to amendment 1 and it was adopted.

He asked Ms. DeYoung if she had comments to make and was told she was available for questions.

23G-2
3/5/2004
(11:43 AM)

AMENDMENT 1

OFFERED IN THE SENATE STATE
AFFAIRS COMMITTEE
TO: SB 338

Page 1, line 1:
Delete "**relating to the state's**"

Page 1, lines 2-4:
Delete all material.

Page 1, line 7:
Delete "adding new sections to read"

Insert "adding a new section to read"

Page 3, line 2, following "defendant":

Insert "Upon certification by the court, the state shall reimburse the state employee the employee's reasonable costs and attorney fees incurred in bringing the petition."

Page 3, following line 12:

Insert the following new material:

"(g) In this section,

(1) "acting within the scope of the employee's office or employment" means acts or omissions

(A) that the state employee is employed or authorized to perform;

(B) of the state employee that occur substantially within the authorized time and space limit;

(C) that are activated by a purpose to serve the state; and

(D) that do not constitute acting, or failing to act, with willful, reckless, or intentional misconduct, or with gross negligence or malice;

(2) "state employee"

(A) means

(i) a permanent, probationary, seasonal, temporary, provisional, or nonpermanent employee in the executive, legislative, or judicial branch of the state government, whether in the classified, partially exempt, or exempt service; or

(ii) a person appointed to a board or commission of the state government;

(B) does not include an employee of

(i) the University of Alaska;

(ii) the Alaska Railroad Corporation;

or

(iii) a political subdivision of the state, including a regional education attendance area."

Page 3, line 13, through Page 6, line 7:

Delete all material.

Page 6, line 10:

Delete "AS 09.50.253 - 09.50.257, the"

Insert "AS 09.50.253, the"

Page 6, line 13, through Page 7, line 28:
Delete all material.

Renumber the following bill sections accordingly.

SENATOR GRETCHEN GUESS asked whether there was any public testimony.

CHAIR GARY STEVENS said no one was listed to testify, but he wanted to hear from PSEA if a representative was present.

SENATOR GUESS added that she would also like to receive an explanation on part of the amendment, but she would like to hear from PSEA first.

CHAIR GARY STEVENS asked the PSEA representative to step forward and noted that the committee had the PSEA position paper.

JOE D'AMICO, business manager for PSEA, reported that the association had significant concerns on the initial bill because of a clause that removed indemnification rights if a lawsuit was served against a trooper. Under their current contract, troopers, airport police and firefighters are indemnified by the state unless "a court of competent jurisdiction determines they are acting outside of the scope of their employment." He said he understands that the amendment removes the objectionable sections of the bill.

The PSEA attorneys are thoroughly reviewing the amended version of the House companion bill and that review should be finished by tomorrow at which time their position may change. They have been unsuccessful in getting as much clarification from the AG's office as they would like, but he wouldn't characterize that as anything more than people with busy schedules playing phone tag.

He summarized saying, "We do want to work with the state on this. The bill, on its face, has some good ideas in it, but as originally written and what caused our position papers would have been a significant loss of protection for state employees - especially a class of employees who have to make life and death decisions in the blink of an eye."

CHAIR GARY STEVENS stated that he appreciated the PSEA position and it wasn't his intention to rush the bill. Nonetheless he looked forward to hearing from the association as soon as possible regarding whether or not they were comfortable with the amendment, which is identical to the amended version of the

House bill. If PSEA is comfortable, that's fine and if not the committee could consider a possible exclusion of PSEA as the Department of Law suggested.

CHAIR GARY STEVENS held SB 338 in committee.

SB 308-DOMESTIC VIOLENCE PROTECTIVE ORDERS

CHAIR GARY STEVENS announced SB 308 to be up for consideration and then recognized Senator French.

SENATOR HOLLIS FRENCH, sponsor of SB 308, stated that the bill extends the length of a long-term protective order from six months to one year. This is to give longer protection to petitioners who are seeking protection from an abuser and also to relieve the court system of the need for repeat hearings. He continued:

Right now just five states have long-term domestic violence protective orders that have a shorter time period than Alaska. Three have the same six-month maximum period and the 40 other states have increased the length of time to a year and beyond. In this bill we would set the time frame at one year. It's an incremental step and I think it's a reasonable balance between an order that never ends and an order that is too short of a duration.

For those of us who have worked in the area, the big difference between the two types of orders - an ex parte order and a long-term order - is that an ex parte order can be gotten without ever hearing from the respondent. An ex parte order is the order you hear about when someone says 'She ran down to the court house and got an order and I never knew about it.'

[The long-term] order is not that Mr. Chairman. This type of order has to take place with formal notice of the hearing to the respondent and give that individual every opportunity to show up in front of a judge and have his or her day in court. I think that is the chief protection for folks who think they are not being treated fairly by the system. That they are going to get their day in court under this hearing, no matter what.

This is a big area, but it is a fairly small adjustment to the law.

CHAIR GARY STEVENS noted that it's difficult to quantify court savings and costs, but he would like to hear the Senator's comments on the fiscal note.

SENATOR FRENCH said he hasn't had the opportunity to speak to Ms. Wilson [deputy director, Public Defender Agency] regarding her view of the fiscal note, but he questions the fiscal note in this respect:

Her analysis, I believe, assumes that all orders are violated at a regular rate throughout the duration of the order. ... I would contest that and I would say that most orders are violated fairly soon after they are issued because that is, in the cycle of domestic violence, the most dangerous time. ... That's when tempers are running high and I would assert that as time goes on those violations drop off. ...

I would assert that the price of this bill would go down over time and really wouldn't produce much more of a burden on the public defender's office.

CHAIR GARY STEVENS then asked the Senator to speak to decreasing the need for repeat court proceedings.

SENATOR FRENCH said they spoke with the Division of Statewide Services with the Department of Public Safety and they have indicated that this is likely the same as many areas of the criminal law. Most people that have a brush with the law aren't seen but once. They get themselves straightened out and don't have future problems. In fact, of the 28,000 domestic violence restraining order reports that have been filed, 22,000 appeared just once.

Nonetheless, you have to realize that some people absorb lots of resources. For instance, one petitioner had to file seven long-term orders and two ex parte orders over a three and one-half year period to continue to get the court's protection from a difficult person. In another case, a respondent had 19 entries in the registry filed by two related individuals.

SENATOR BERT STEDMAN said he wasn't concerned about the extension of time, but he did have some concern about how effective restraining orders really are and the false sense of

protection they might give to a woman with children in particular. He asked the Senator for a comment.

SENATOR FRENCH said that is an issue of great concern to both sides and he is personally aware of cases that were brought to trial "where exhibit 1 in the case was the bloody domestic violence restraining order that the woman had with her when she was killed by her former spouse." In a very real sense it's just a piece of paper, but people from the domestic violence community say that restraining orders do work. This is because the restraining order provides the ability to go to the police to make them enforce the order. It provides police help in separating the household and in establishing the initial buffer of safety. "It is no real way a physical barrier to anyone, but it sets up a psychological barrier. While you can't stop some determined aggressors, it seems to work very well with the broad base of rational people who are going through a violent time in their relationship."

SENATOR STEDMAN noted that a woman in Ketchikan had such an order recently and her 24-month-old baby is now deceased. He said, "So I think we do have some issues that need to be addressed in this area..." He encouraged Senator French to look into this area further to provide additional statutory support to affected mothers and their children. "It really upsets me to find that some of these orders are ignored, especially if there are children involved." It's egregious for a civilized society to tolerate such a thing in any form, he said.

SENATOR FRENCH responded to say that those concerns are right on target and SB 308 is just one piece of the puzzle. "An efficient 911 system helps every community, swift response from the police and certain prosecution on violations that sometime seem a little picayune." He described it as a bubble of protection around the woman. It protects her from not just violence, but from the communications that sometimes lead to violence. The restraining order doesn't say call when you're nice, it says don't call. Anything that can be done to strengthen that bubble of protection is a step in the right direction.

SENATOR GUESS agreed that Senator Stedman is on target and Senator French's response is correct. "We don't ...prosecute violations of these orders enough." It can be a constant struggle, but there are ways and she thought everyone could probably agree on that.

She commented that she too was having trouble with the fiscal note. Certainly it costs the state money when a petitioner goes to court at the end of a six-month period and files for another six month restraining order, but that is already happening in the cases in which continued protection is necessary. If there isn't a problem, the individual probably doesn't refile. That's probably the case now and is unlikely to change. "So for those cases there's not going to be any increase in cost."

SENATOR FRENCH stated that he sees the situation in much the same way. Someone who is still having problems in the relationship after a period of 5.5 months is going to have that order extended. If the order is then violated, it would likely have been violated regardless of whether it was for a year or six months. "I'm certain there will be some increased burden on the system. I wouldn't say there wouldn't be, but I think doubling is just sort of taking a snap judgment."

CHAIR GARY STEVENS advised that they would try to reach Ms. Wilson who prepared the fiscal note to see whether she could shed some light on the situation.

LAUREE HUGANON, Alaska Network on Domestic Violence and Sexual Assault, expressed support for the bill. Anytime there is an opportunity to decrease batterers' access to victims, it's important to do so. "Extending this order is one less time at least that she would have to go to court and be in the presence of the person that is abusing her. Often times repeated court appearances are often used as a way to coerce or further try to control the victims."

Separation doesn't always end the violence and although the restraining order may be just a piece of paper, it is a barrier that carries consequences if it is violated. There are seven provisions of protective orders that if violated can result in a class A misdemeanor. The penalty for a physical assault must be at least 20 days in jail if there is a conviction.

MS. HUGANON reported that there were about 6,000 protective order filings in FY 03. A little over half were filed in Anchorage, about 200 in Ketchikan, and more than 80 were in Kodiak, which shows that the problem is statewide.

CAREN ROBINSON, Alaska Women's Lobby representative, spoke in support of SB 308. She said it's amazing to her that it's taken 20 years to get the restraining order laws to the point they are today. She said, "Believe it or not back then we were fighting

to just to get anyone to believe that it was important to allow a person who was being victimized in a family situation to get any kind of protection." The change is refreshing.

MS. ROBINSON emphasized the need for the continuum of services and said she was concerned about the shelter network in Alaska. According to the recent information, there could be a \$1 million budgetary deficit for shelters this fiscal year. She asked the committee to contact the Department of Public Safety and get the information they need because shelters across the state would be affected. Keep in mind that women typically go to shelters first to get the information they need to go court in the first place.

CHAIR GARY STEVENS noted that there was no one on line from the public defender agency. There were no further comments or questions.

SENATOR STEDMAN remarked that he would like the Finance Committee to double check the accuracy of the fiscal note.

SENATOR GUESS made a motion to move SB 308 from committee with individual recommendations and "attached questionable fiscal note." There being no objection, it was so ordered.

TAPE 04-17, SIDE B
4:20 pm

CSHB 230(STA)-POLITICAL SIGNS ON PRIVATE PROPERTY

CHAIR GARY STEVENS announced CSHB 230(STA) to be up for consideration and noted that the sponsor's staff member was present.

TODD LARKIN, staff to Representative Jim Holm, bill sponsor, reminded members that they heard the bill previously so his recap would be very brief.

The state has traditionally disallowed political signs within 660 feet of the edge of rights-of-way, but those restrictions are a little excessive and not necessary to continue to qualify for federal highway funds.

"HB 230 seeks to give free speech rights back to property owners within the 660-foot margin, but outside of DOT rights-of-way."

CHAIR GARY STEVENS noted that the committee passed an amended version of amendment 1 at the previous meeting. He asked for

verification that you couldn't put signs in the rights-of-way on private property.

MR. LARKIN clarified that the original statute covers rights-of-way and there was some question regarding whether easements and rights-of-way were technically not the same thing. Because of that the committee adopted an amendment in the last hearing specifically saying that signs cannot be placed in a DOT easement.

CHAIR GARY STEVENS asked him to explain proposed amendment 2.

MR. LARKIN explained that the second amendment is the result of conversations with the federal highways administration. They would like intent language included in the bill to make it clear that the Legislature does not intend for the political signs to "pose an opportunity for indirect commercial advertising."

CHAIR GARY STEVENS summarized that the purpose is to make sure federal highway funds aren't jeopardized.

MR. LARKIN replied there is no threat to federal funds, but this increases the comfort level.

SENATOR BERT STEDMAN made a motion to adopt amendment 2. There being no objection, it was so ordered.

23-LS0780\U.1
Utermohle
10/7/04

A M E N D M E N T 2

OFFERED IN THE SENATE
TO: CSHB 230(STA)

Page 1, following line 2:

Insert a new bill section to read:

"* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INTENT. It is the intent of the Alaska State Legislature that political signs on private property not pose an opportunity for indirect commercial advertising."

Page 1, line 3:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill section accordingly.

JEFF STARK, Department of Law, participated via teleconference to say that he was asked to look at this on behalf of the Department of Transportation and was available for questions.

SENATOR GRETCHEN GUESS asked for his opinion on the bill and how it might impact any federal funds.

MR. STARK said it shouldn't have any affect on federal funds as written. "Anytime you get into any sort of regulation of signs and particularly political signs we had concerns about the constitutionality of the language. We took a look at it and I think our feeling is that as written it is probably all right. Once you get into constitutional issues, you never really know what the answer is until a judge takes a look at it and tells you what the answer is."

SENATOR GUESS asked if he understood that the Department of Transportation would be the enforcing entity.

MR. STARK replied, "Absolutely, they enforce the statutes as written now and this is simply an amendment to that statute."

SENATOR STEDMAN made a motion to move SCS CSHB 230(STA) from committee with the attached zero fiscal note. There being no objection, it was so ordered.

SB 245-PERS BENEFITS FOR HARBOR OFFICERS

CHAIR GARY STEVENS announced SB 245 to be up for consideration and recognized Senator Elton.

SENATOR KIM ELTON, sponsor of SB 245, refreshed members' memories by telling them that he gave a brief introduction to the bill at the end of a previous meeting and he had two points to add.

SB 245 seeks to acknowledge the new and special duties harbor officers have particularly since 9-11. He noted that, "What this bill does isn't that different than the way we treat other port officers." For instance, the port police at Anchorage airport are members of this same bargaining unit. The duties and requirements are essentially the same except that harbors are dealing with boats and ships rather than airplanes.

This bill would affect 54 people statewide and all are employees of political subdivisions of the state. In Juneau and Kodiak nine harbor officers would be involved and in Sitka the number would be eight. Other communities all have fewer officers than that. He noted that in some of the communities the harbor officers are police officers as well so they wouldn't be affected since they're already covered under statute.

CHAIR GARY STEVENS wanted to be clear that the additional costs would be borne by the various communities involved; this wouldn't be a state responsibility.

SENATOR ELTON said that is correct, the costs would be borne by the employee and the municipality. The fiscal note reflects no state costs, but the addendum recognizes that there are costs that would be borne by municipalities. The harbor officers' contribution rate would be adjusted as well.

SENATOR BERT STEDMAN asked if there was any fiscal information available from affected cities and boroughs.

SENATOR ELTON replied page two of the fiscal note reflects fiscal information from Juneau and Anchorage and although it doesn't have site-specific information, costs could be roughly extrapolated.

SENATOR STEDMAN noted that there would certainly be substantial benefits to the harbor officers and this legislation would make it easier for municipalities and cities to attract and retain employees. However, he wanted to get more information on the fiscal impact to the affected communities. Having spoken at length to the finance officers in Ketchikan and Sitka regarding the PERS and TRS under funding he realizes that they are already faced with a possible step increase of as much as 5 percent. With that in mind, he wanted to hear more about their comfort level on this. Although he didn't have any fundamental objection to the benefit package, municipalities are clearly running out of room to maneuver.

SENATOR ELTON responded that Senator Stedman's initial comments were the compelling reason for him to introduce the legislation. Given the fundamental duties of a harbor officer, and the way they have changed especially in communities that are now ports of call for major cruise ships - the fundamental duties have shifted dramatically." He said he would be happy to work with the Senator to get the desired information. He further reasoned

that because of the fiscal note the Finance Committee would scrutinize the bill closely.

CHAIR GARY STEVENS deemed Senator Stedman's request reasonable and said he would hold the bill.

SENATOR GUESS remarked that the bill had already been held for a year.

CHAIR GARY STEVENS opened public testimony.

TIM ACKERMAN, Juneau harbors officer, testified in support of SB 245. He advised that he has been employed in the harbor department since 1988 and his range of duties and responsibilities have changed considerably over the years particularly with the new homeland security requirements. They coordinate efforts with the Coast Guard, police department, fire department and the FBI.

KEVIN RICHIE, Alaska Municipal League, agreed with the sentiment that communities should be a part of the discussion. He said he spoke with the Division of Retirement and Benefits about the potential impacts, but the leagues policy statement is, "if things increase the cost to local governments and retirement system, that it's not a good thing for the retirement system." He said it's ironic that it's a municipal bill, but it's in a system that's controlled by the state.

Another good municipal question, he said, is why do firefighters, police officer, and teachers have a 20 and out system? Partly it is to attract and retain qualified people and presumably because firefighters and police officers have a higher level of danger in their jobs. However, he said he believes that a number of municipal jobs are dangerous and used assessors and librarians as examples. He said he wasn't trying to minimize the dangers in law enforcement and what harbor officers do, but he questioned how they fit in the whole scheme.

CHAIR GARY STEVENS asked about the opportunity for communities to opt in or opt out.

MR. RICHIE said that would be a minimum for a municipality.

LARRY SIMMONS testified via teleconference from Kenai in opposition to the bill. He made the point that the PERS system is seriously under funded and municipalities are on the hook. Furthermore, he took issue with the definition of harbor officer

and said that the harbor officer duties in Kenai don't compare to a police officer's duties.

MATT CLARK, Homer port and harbor employee, testified via teleconference on behalf of the Homer harbor staff and personnel in support of SB 245. He outlined the hazardous situations they encounter on a daily basis. Some of the hazards include oil spill clean up, pumping out boats with hazardous material aboard, putting out fires on boats, responding to a capsized or sinking boat and generally being the first responders in emergency situations.

CHAIR GARY STEVENS asked Senator Elton if he had any interest in exploring opt-in or opt-out as a possibility for municipalities.

SENATOR ELTON carefully said, "if it is an interest of the committee's and that is the way the bill moves, it's an interest of mine." He crafted the bill the way he did because these officers are owed the same recognition that other first responders and public safety officers are given. The examples given by the harbor officer from Homer made the concept very real.

His preference would be to not go that route. With regard to the testimony offered by Mr. Richie, he said he didn't think it is fair to characterize the duties of a harbor officer with those of a librarian. Second, in many communities, harbors are an enterprise function as they are in Juneau. Therefore, the costs incurred would be transferred to the harbor users. That is a significant difference, he asserted. "The concept we use here is no different than the concept we used when we added dispatchers to the peace officer retirement system. Dispatchers, of course, are an extremely important provision of public safety services, but I would note that their jobs are probably less hazardous than the job of a person who is actually in harbors." Of course he said he was willing to talk if committee members disagree with his approach.

SENATOR STEDMAN said, "I disagree with the concept of possibly adding or allowing an expansion of this particular benefit because of either costs and or just feel philosophically that they don't have the risk level like a peace officer has. I don't have any problem with that."

SENATOR ELTON said he looked forward to working with the Senator to quantify "on a micro level" the costs to communities.

CHAIR GARY STEVENS suggested that everyone would learn more about funding of harbor offices when they do a little research and talk to the communities. SB 245 was held in committee.

CSHCR 5(FIN) am -LEGIS. TASK FORCE ON DESIGN OF STATE SEAL

CHAIR GARY STEVENS announced CSHCR 5(FIN) to be up for consideration. He noted there was a committee substitute and asked for a motion to adopt it.

SENATOR GRETCHEN GUESS made a motion to adopt work draft 23-LSO367\H as the working document. There being no objection SCS CSHCR 5 was adopted as the working document.

JOHN GREELY, staff to Representative Reggie Joule, told members that the state seal was created in 1910. It depicts one man's vision of Alaska in that era. The seal has a steam engine, a sailing ship, and a horse and plow, but Alaska Natives aren't depicted and neither is Anchorage because it didn't exist then. Because of that, Representative Joule and 12 other House cosponsors believe it's time to modernize the seal. The resolution creates a task force to provide suggestions for a new seal. The Legislature would vote on the design recommendations and commission the engraving.

MR. GREELY explained that the current seal is the second one to represent Alaska's government. In 1885, Governor John Kincaid, designed a seal for the military district of Alaska that included northern lights, icebergs, and Alaska Natives. In 1910 Governor Walter Clark decided that the depictions on the seal were inappropriate so he had a new seal designed. The Department of Interior further modified the design before approving it and sending it back to Alaska. In 1911 an article in the "Alaska Yukon Magazine" described the seal as Governor Clark's view of "modern Alaska as he conceives it," including representations of the fishing industry, the timber industry, the fur seal industry and agriculture instead of the ancient conception of a land of cold and ice that has aboriginal people.

The 1910 seal is the same today even though the state has undergone many changes. For instance, Anchorage didn't exist in 1910 and the oil and gas industry didn't either. This raises the question of whether or not urban Alaska deserves a place on the state seal and whether oil and gas should replace the fur seal industry. In that same vein, he questioned whether the plow and horse accurately represents agriculture in Alaska today. In 1910 half of the population in Alaska was Native, yet Governor

Clark elected to drop any representation of them from the seal. He said, "I guess the question is can we fix that omission?"

"In 1910 there was no public involvement in designing the seal. This Alaska Legislature can fix that oversight and provide a valuable learning experience for residents of all ages." This, he said, is a time to use our imaginations and design a new seal with symbols that are appropriate now and will continue to be appropriate in the future.

CHAIR GARY STEVENS remarked that he wasn't aware of an earlier seal and as a former history teacher he found the presentation fascinating.

SENATOR BERT STEDMAN commented that the fishing industry is still a major Alaskan industry and he's sure it won't be forgotten.

MR. GREELY noted that the task force could approach the new design in any number of ways. They could suggest that the seal be changed completely or they could simply add new images to the present seal and keep the changes to a minimum.

CHAIR GARY STEVENS jested that a discussion regarding an urban symbol might be interesting.

MR. GREELY said that he wasn't sure what Alaska's largest urban center might look like in 100 years.

There were no further questions or comments.

SENATOR GRETCHEN GUESS made a motion to move SCS CSHCR 5(STA) from committee with individual recommendations and attached fiscal note. Furthermore, she suggested that the Chair sign on as a cosponsor. There being no objection, it was so ordered.

CHAIR GARY STEVENS adjourned the meeting at 5:05 pm.