

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

April 1, 2004

3:35 p.m.

**TAPE (S) 04-25**

**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. 231

"An Act shortening the time periods after which certain unclaimed property is presumed to be abandoned; and providing for an effective date."

MOVED CSSB 231(STA) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 91(FIN)

"An Act relating to medical benefits for retired peace officers after 20 years of credited service."

MOVED SCS CSHB 91(STA) OUT OF COMMITTEE

SENATE BILL NO. 354

"An Act relating to complaints filed with, and investigations, hearings, and orders of, the State Commission for Human Rights; making conforming amendments; and providing for an effective date."

MOVED CSSB 354(STA) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 30

Urging the United States Congress to amend the No Child Left Behind Act of 2001.

SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 231

SHORT TITLE: DECREASE TIME TO CLAIM UNCLAIMED PROPERTY

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

05/21/03 (S) READ THE FIRST TIME - REFERRALS  
05/21/03 (S) STA, FIN  
04/01/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 91

SHORT TITLE: RETIRED PEACE OFFICER'S MEDICAL BENEFITS  
SPONSOR(S): REPRESENTATIVE(S) ANDERSON

02/12/03 (H) READ THE FIRST TIME - REFERRALS  
02/12/03 (H) L&C, FIN  
02/21/03 (H) L&C AT 3:15 PM CAPITOL 17  
02/21/03 (H) Moved Out of Committee  
02/21/03 (H) MINUTE(L&C)  
02/24/03 (H) L&C RPT 4DP 1NR  
02/24/03 (H) DP: GATTO, CRAWFORD, GUTTENBERG,  
02/24/03 (H) ANDERSON; NR: ROKEBERG  
03/18/03 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
03/18/03 (H) Heard & Held  
03/18/03 (H) MINUTE(FIN)  
02/17/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
02/17/04 (H) Heard & Held  
02/17/04 (H) MINUTE(FIN)  
02/19/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
02/19/04 (H) Moved CSHB 91(FIN) Out of Committee  
02/19/04 (H) MINUTE(FIN)  
02/23/04 (H) FIN RPT CS(FIN) NT 3DP 7NR  
02/23/04 (H) DP: CROFT, FATE, WILLIAMS; NR: MEYER,  
02/23/04 (H) HAWKER, JOULE, MOSES, CHENAULT, FOSTER,  
02/23/04 (H) HARRIS  
03/04/04 (H) TRANSMITTED TO (S)  
03/04/04 (H) VERSION: CSHB 91(FIN)  
03/05/04 (S) READ THE FIRST TIME - REFERRALS  
03/05/04 (S) STA, L&C, FIN  
03/18/04 (S) STA AT 3:30 PM BELTZ 211  
03/18/04 (S) Heard & Held  
03/18/04 (S) MINUTE(STA)  
04/01/04 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 354

SHORT TITLE: HUMAN RIGHTS COMMISSION PROCEDURES  
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/27/04 (S) READ THE FIRST TIME - REFERRALS  
02/27/04 (S) STA, JUD  
03/23/04 (S) STA AT 3:30 PM BELTZ 211  
03/23/04 (S) Heard & Held

03/23/04 (S) MINUTE(STA)  
04/01/04 (S) STA AT 3:30 PM BELTZ 211

**WITNESS REGISTER**

Betty Martin, Comptroller  
Department of Revenue  
Treasury Division  
PO Box 110400  
Juneau, AK 99811-0400  
**POSITION STATEMENT:** Testified on SB 231

Rachel Lewis  
Department of Revenue  
Treasury Division  
Unclaimed Property Section  
PO Box 110400  
Juneau, AK 99811-0400  
**POSITION STATEMENT:** Testified on SB 231

Melanie Millhorn, Director  
Department of Administration  
Division of Retirement and Benefits  
PO Box 110200  
Juneau, AK 99811-0200  
**POSITION STATEMENT:** Testified on CSHB 91(TRA)

Anselm Staack, Chief Financial Officer  
Department of Administration  
Division of Retirement and Benefits  
PO Box 110200  
Juneau, AK 99811-0200  
**POSITION STATEMENT:** Testified on CSHB 91(TRA)

Larry Semmens  
City of Kenai  
210 Fidalgo Ave., St.200  
Kenai, AK 99611  
**POSITION STATEMENT:** Opposed CSHB 91(TRA)

Julie Benson  
Ketchikan, Alaska 99901  
**POSITION STATEMENT:** Testified in support of CSHB 91(TRA)

Kevin Richie, Executive Director  
Alaska Municipal League  
217 2nd Street Suite 200

Juneau, AK 99801

**POSITION STATEMENT:** Testified on CSHB 91(TRA)

Scott Nordstrand

Department of Law

PO Box 110300

Juneau, AK 99811-0300

**POSITION STATEMENT:** Testified on SB 354

Paula Haley, Executive Director

Office of the Governor

Human Rights Commission

800 A Street, Suite 204

Anchorage, AK 99501-3669

**POSITION STATEMENT:** Testified on SB 354

Lisa Fitzpatrick

Office of the Governor

Human Rights Commission

800 A Street, Suite 204

Anchorage, AK 99501-3669

**POSITION STATEMENT:** Testified on SB 354

#### **ACTION NARRATIVE**

#### **TAPE 04-25, SIDE A**

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

#### **SB 231-DECREASE TIME TO CLAIM UNCLAIMED PROPERTY**

CHAIR GARY STEVENS announced SB 231 to be up for consideration.

SENATOR JOHN COWDERY motioned to adopt the committee substitute (CS) for SB 231 for discussion purposes. It was identified as work draft dated 12/5/03. There being no objection, it was so ordered.

BETTY MARTIN, State Comptroller with the Department of Revenue, introduced herself and Rachel Lewis. She explained that the bill was introduced late in the previous session and dealt only with increasing the dormancy claims on unclaimed property. Over the interim, the Department of Revenue and the Department of Law worked to bring Alaska's unclaimed property law into conformance

with the Unclaimed Property Uniform Act passed in 1995 and the CS is the result of that effort.

SENATOR JOHN COWDERY asked what kind of property they were talking about.

RACHEL LEWIS with the Unclaimed Property Section of the Department of Revenue explained that it has to do with any kind of intangible money such as payroll checks, utility deposits, or health insurance reimbursements that have been sent to someone and remain un-cashed for a certain dormancy period. The only tangible property they receive are safe deposit boxes.

SENATOR COWDERY asked if they wanted to reduce the dormancy period from five years to three years.

MS. LEWIS said reducing the dormancy period would make it easier to find people, but actually they're just requesting various property reductions that are in line with the Uniform Unclaimed Property Act.

SENATOR COWDERY noted that most checks he's seen have a 180 day limit before they become stale dated and he wondered how they were addressing those.

MS. LEWIS explained that just because there is an expiration date doesn't cause them to be eliminated from unclaimed property. State of Alaska and government items are usually good for one year while Alaska warrants are now good for six months before they are listed as unclaimed property.

SENATOR COWDERY asked whether there are expenses associated with unclaimed property that they try to recover.

MS. LEWIS said no. Unclaimed property is held in perpetuity for the owner and the information is a matter of public record.

CHAIR GARY STEVENS asked about opposition to the bill.

MS. LEWIS said they haven't heard any opposition because everyone benefits.

CHAIR GARY STEVENS noted that Mary Ellen Beardsley from the Attorney General's Office was online to answer questions.

SENATOR BERT STEDMAN asked how long unclaimed property is held before it's reabsorbed.

MS. LEWIS told him it's never absorbed. Prior to 1986, Alaska had an estate law that had a seven years claim period, but that is no longer the case. The committee substitute makes it clear that the request is to reduce the reporting period; there is no request to reduce the period for claiming unclaimed property. Property may be claimed by subsequent generations if that's how long it takes before the owner is identified.

She advised that most of the requested changes are all in line with the Uniform Unclaimed Property Act, but three are not.

Section 5 is a new type of unclaimed property called demutualization. This has to do with mutual companies deciding they wanted to enhance their financial security by turning policyholders into stockholders. Because of this, they don't have records on the policyholders because the accounts may be several decades old. Section 5 calls for those proceeds and that stock to be reportable as unclaimed property at the time the policyholder is known to be lost.

Alaska is the only state that has the provision addressed in Section 10, which is that unclaimed property reports for diminutive amounts are not required. Businesses may hold small amounts of unclaimed property until the aggregate total reaches \$750 at which time an unclaimed property report is due. This reduces needless paperwork.

Turning to Section 13 she informed members that the Department of Revenue must publish annually the name of every person that has unclaimed property of more than \$100. Last year the publishing cost for that was \$30,000 and they received just 348 claims. They already list all the names on the Internet, which cost almost nothing and that listing generated 1,800 claims. It's more cost efficient for the department to reach people over the Internet, she said.

Section 15 streamlines the meaning of "last known address" and Section 16 deals with gift certificates. As per the Uniform Act, they are changing the reporting period to three years instead of five, but they are expanding the definition of gift certificates to include electronic gift cards as well.

CHAIR GARY STEVENS announced that he intended to move the bill from committee, but there wasn't a quorum. The bill would move as soon as a quorum was reestablished.

3:50 p.m.

**CSHB 91(TRA)-RETIRED PEACE OFFICER'S MEDICAL BENEFITS**

CHAIR GARY STEVENS announced CSHB 91(TRA) to be up for consideration. He noted that it was heard previously.

SENATOR BERT STEDMAN said he would move the State Affairs committee substitute when a quorum was reestablished and asked whether discussion could take place in the meantime.

CHAIR GARY STEVENS agreed and asked Senator Stedman whether it was correct that the CS calls for the initial costs to be absorbed by the State rather than the local municipalities.

SENATOR STEDMAN said that is true.

MELANIE MILLHORN, Director of the Division of Retirement and Benefits, introduced herself and Mr. Staack who was involved in the preparation of the draft fiscal note. It calls for the State to pay for the cost to PERS employers and also addresses some concerns raised by municipalities regarding the first fiscal note. The projections look at a percentage of individuals who would benefit from the legislation and indicates that 25 percent of those employees who positively benefit would make that election. Therefore the municipalities were concerned because they believe that more of their employees would make that selection. Because of this, MERCER Human Resource Consulting provided the revised calculations. The following, from page 2 of the draft fiscal note shows how a higher retirement rate assumption would affect the unfunded liability and the corresponding employer rates.

**Alternate Assumptions:**

	% Members Affected	% of Total Payroll	% of P/F Payroll	Increase in Unfunded Liability (in Dollars)
Current Assumption	21%	0.11%	0.97%	\$8,000,000
50% Retirement	40 %	0.19%	1.68%	\$11,400,000
75% Retirement	60%	0.27%	2.39%	\$14,800,000
100% Retirement	79%	0.35%	3.11%	\$18,200,000

CHAIR GARY STEVENS asked whether the figures included state as well as municipal employees.

MS. MILLHORN told him it includes state and all other PERS employers who would benefit from HB 91.

SENATOR STEDMAN asked her to explain the difference between the \$856,000 on the original fiscal note and the accrued liability.

ANSELM STAACK, Chief Financial Officer for the Division of Retirement and Benefits, explained that when the bill passes it places new benefits in place. The current assumption includes everyone expected to take advantage of the change and projects an immediate \$8 million unfunded liability. Those are the employees that would be the most expensive because they are under 50 years of age, have close to 20 years employment and would probably terminate within the year.

The previous fiscal note used only the State of Alaska figures and the draft fiscal note shows the total cost for the State of Alaska and all subdivisions. The \$8 million is amortized over 25 years and for FY 2005 the total would be \$1.7 million.

SENATOR STEDMAN noted that the draft fiscal note shows that the unfunded liability would range from \$8 million to \$18.2 million depending on how many people exercise the early retirement benefit to capture the cost of health insurance.

MR. STAACK agreed and added that you'd never see 100 percent participation in the police and fire population because some won't have enough years of employment before they reach 60 years of age.

SENATOR STEDMAN suggested ignoring the fiscal impact for a moment and asked for a comment on the fairness issue.

MS. MILLHORN replied the tier system is the result of legislative action and each tier provides different benefits.

MR. STAACK added that establishing new tiers was purposeful to reduce costs and maintain funding of the system. He acknowledged that the fairness and fiscal issues do collide.

CHAIR GARY STEVENS noted that a quorum was present and he was ready for a motion.

SENATOR STEDMAN motioned to adopt committee substitute (CS) version \S as the working document. There being no objection, it was so ordered.

SENATOR JOHN COWDERY questioned whether PERS and TRS were under funded.

MS. MILLHORN advised that the June 30, 2003 actuarial valuation information indicates a percentage point loss. For PERS the funding ratio was at 75 percent and now it's at 72 percent. The TRS funding ratio was at 68 percent and now it's at 64 percent. The recent valuation sets the employer contribution rates for FY 2006. Based on the current funding status for PERS and TRS, the division has requested that legislation be held in abeyance because this proposal is an enhancement to an under-funded system.

SENATOR COWDERY asked whether the system still has tiers.

MS. MILLHORN informed him that PERS has Tiers I, II, and III. Tier I was for a 25 year period. Tier II was created in 1986 and Tier III was created in 1996. TRS has two Tiers.

SENATOR COWDERY asked if state and municipal employees were affected.

MS. MILLHORN said that the fiscal note for the version \S CS, represents the cost to the State of Alaska and to the approximately 156 other PERS employers.

SENATOR COWDERY asked whether they were looking to the communities or the State to pay.

CHAIR GARY STEVENS explained that House version called for the State to pay its portion and the communities their portion. Version \S CS would make the entire amount a State responsibility.

LARRY SIMMONS from Kenai testified via teleconference in opposition to CSHB 91 for fiscal reasons. It's clear that more than 21 percent of eligible members would retire if they were to receive health benefits, he said.

CHAIR GARY STEVENS noted that the committee had copies of both his and MERCER's letters before them.

MR. SIMMONS continued to say that the 79 percent assumption is the most realistic among the options presented. For the City of Kenai, the percent and cost would be higher yet because they don't have any members who will be over 60 years old when they

have 20 years service. If 79 percent were to retire, that would more than triple the percent of police/fire payroll. If the 79 percent assumption is the realistic option, the State's fiscal impact will be \$2.75 million for FY 2005 rather than \$856.9. That number will grow to \$3.2 million per year by FY 2010.

He calculated that if 79 percent choose to retire in FY 2005 the total would be \$5.5 million rather than the projected \$1.7 million. That would grow to \$6.4 million in FY 2010. The cost to the City of Kenai would be \$85,000 per year. There is already a 5 percent increase in PERS rates for FY 2005 and when combined with the \$85,000, you're at more than three fourths of a mill property tax. It's unlikely that property taxes can be raised for that purpose, he said.

Remember, he said, the Tier II and III PERS members that could benefit from this legislation were aware of the retirement package when they were hired. "It's simply not appropriate or prudent to increase retirement benefits at this time of fiscal difficulty at nearly every level of government," he concluded.

CHAIR GARY STEVENS summarized his testimony then asked what his thoughts are regarding the State assuming the cost.

MR. SIMMONS admitted it would reduce costs to the City of Kenai. However, the bill isn't needed and the State of Alaska is in no position to pay \$5.5 million per year for additional health benefits for a select group of PERS members, he opined.

CHAIR GARY STEVENS asked Ms. Millhorn and Mr. Staack to comment.

MR. STAACK pointed out that if the 79 percent assumption were taken then the current assumption percentages would triple. He calculated that using the 79 percent assumption the total to the State of Alaska would be \$2.6 million in FY 2005.

He added that in 2001 the Legislature enhanced part of the benefit so that it became system paid.

JULIE BENSON testified via teleconference from Ketchikan in support of HB 91.

KEVIN RICHIE, Alaska Municipal League, distributed a two page hand out to show what a 5 percent increase in the PERS system would cost municipalities in terms of both dollars and mill rate increases. He advised that his figures were based on 2003

figures so they might be off slightly, but the financial impact to the various municipalities would be huge.

**4:35 p.m.**

**TAPE 04-25, SIDE B**

CHAIR GARY STEVENS summarized the testimony and asked for a motion.

SENATOR STEDMAN made a motion to report SCS CSHB 91(STA) from committee with the attached fiscal notes and individual recommendations. There being no objection, it was so ordered.

**SB 231-DECREASE TIME TO CLAIM UNCLAIMED PROPERTY**

CHAIR GARY STEVENS noted there was a new fiscal note on CSSB 231(STA) then asked for a motion.

SENATOR COWDERY made a motion to report CSSB 231(STA) from committee with individual recommendations and attached fiscal notes. There being no objection, it was so ordered.

**SB 354-HUMAN RIGHTS COMMISSION PROCEDURES**

CHAIR GARY STEVENS announced SB 354 to be up for consideration and noted that the bill was heard previously.

SCOTT NORDSTRAND, Deputy Attorney General, Civil Division, Department of Law (DOL), recapped previous testimony and the concerns expressed by the Human Rights Commission about some of the provisions of the bill.

He stated that it's important for the State to talk about the procedures that are used before the Human Rights Commission. With that in mind, he said he would walk members through the process so they would understand what the bill does in terms of the process.

If someone feels that they've been discriminated against they may file a complaint with the commission. The commission investigates the complaint and ultimately produces a finding of whether or not there was substantial evidence of discrimination. If substantial evidence is found, the next step is conciliation. This is a mediation process in which the commission tries to use a professional to bring the two parties together to work for a solution. If that is unsuccessful, a failure of conciliation occurs and the commission director would prepare an accusation.

That is like a complaint in a lawsuit. Discovery would follow and an attorney would be assigned who would represent the director in advocating on behalf of the person who may have been discriminated against. The employer often times hires a lawyer and the case goes forward in much the same way that a lawsuit would. Ultimately there would be a hearing before a hearing officer. The changes are procedural, but they're important to the participants, he said.

In the 1995 Fish and Game v Meyer case the Alaska Supreme Court was second-guessing how much evidence constitutes substantial evidence. They concluded that the evidence had to be "completely lacking in merit," which is a very low threshold.

MR. NORDSTRAND said that tied the commissions' hands because they couldn't exercise good judgment in terms of which cases to take to judgment. If they have to take every case forward, no matter how small the evidence, the burden is enormous and the system is backlogged. This bill, he said, gives the executive director the discretion to dismiss a claim for very specific reasons. The Human Rights Commission is supportive of that, he assured members.

Next, he said, there is a procedural aspect to the bill that is particularly important to employers. If a complaint is filed against an employer, they might spend thousands of dollars on an attorney simply to respond to the complaint. Currently the system doesn't allow motions for summary judgment before the commission and this bill sets up a system to allow that.

Sometimes, after the accusation stage the claims or charges change. Under the current system, the commission may amend the complaint and add the other charge. However, in the amendment process the substantial evidence requirement is bypassed. In this bill, he said, if you add a substantively new claim you must go back and make sure there is a finding of new evidence before it can be added to the accusation.

SENATOR COWDERY asked if there is a method for the employer to recover attorney fees.

MR. NORDSTRAND said there is a statutory provision about the commission awarding attorney fees, but it is seldom done. He explained that it's the director's representative in the form of a human rights advocate - a state attorney presenting the case and the employer has a defending attorney. If attorney fees were awarded to an employer, they would have to come from the

commission or the State. He wasn't aware of a case where that happened.

CHAIR GARY STEVENS asked if his office and the Human Rights Commission had come to agreement on most of the issues raised previously.

MR. NORDSTRAND replied there were three disputed issues. The commission wanted to change language on how you define whether you have reasonably mitigated your damages. The commission wanted to use "reasonably diligent" and the DOL wanted "reasonable and diligent." DOL conceded the difference.

The second disagreement was how to amend the complaint and under what standard. DOL proposed that you couldn't amend the complaint without "good cause." The commission prefers that you amend "reasonably and fairly." DOL conceded that difference as well.

Still in dispute is the front pay issue. DOL proposes to limit front pay to two years because those are speculative damages. Frankly, he said, there is no agreement on that issue and it's up to the Legislature to decide whether or not that's good policy. The administration's position is that two years is a fair remedy. In conclusion he said the commission's remedial powers are not all encompassing. As it stands, the commission cannot order punitive damages or emotional distress damages as you could if the case were taken to court. "All we're saying is one other limitation. If you go to the system where the State provides the lawyer, provides the process and the employer has no hope of recovering any attorney fees even if they win, let's limit it to two years."

CHAIR GARY STEVENS asked where "reasonable and diligent" is addressed.

MR. NORDSTRAND pointed out that it's in Section 6 at the bottom of page 4.

CHAIR GARY STEVENS asked Paula Haley or Lisa Fitzpatrick whether they agreed with the change.

LISA FITZPATRICK, Human Rights Commission, said she agreed on the first issue.

CHAIR GARY STEVENS asked for an amendment to reflect the change.

SENATOR COWDERY motioned to amend SB 354 on page 4, line 31 deleting the words "reasonable and diligent" and inserting "reasonably diligent." There being no objection amendment 1 passed.

CHAIR GARY STEVENS asked where the second issue was located in the bill.

MR. NORDSTRAND said that relates to the standards for amending a complaint found on page 3, line 27. Delete "showing of good cause" and insert "reasonably and fairly" between "be" and "amended" in the same sentence.

CHAIR GARY STEVENS asked for a motion.

SENATOR COWDERY motioned to adopt amendment 2 on page 3, line 27. Delete the first sentence in Section 5 (c) and insert, "An accusation may be reasonably and fairly amended by the commission." There being no objection, it was so ordered.

CHAIR GARY STEVENS asked for the location of the third issue, which was related to the two year front pay issue.

MR. NORDSTRAND said that is on page 4, line 23.

CHAIR GARY STEVENS asked Ms. Fitzpatrick to comment.

MS. FITZPATRICK advised that the Human Rights Commission has discussed the issue and has voted against putting a limitation on the number of years or the amount of time that front pay may be awarded. Front pay is an infrequently used but valuable remedy that hasn't presented a problem, she said.

She agreed with Mr. Nordstrand that it is inherently somewhat speculative, but nationally the courts recognize it as a remedy that is available to litigants in civil rights cases. Even there it is rarely invoked, but it needs to be available.

CHAIR GARY STEVENS recapped the commission's position.

SENATOR COWDERY opined that two years is too much and he would support an amendment for one year.

CHAIR GARY STEVENS asked Mr. Nordstrand to comment.

MR. NORDSTRAND stated that three of the seven commissioners supported the two year limitation. "I don't think this is out of

the mainstream in terms of a result," he said. He pointed out that if there were a particularly egregious case, the employee could go the courts to recover more. These are commission remedies and all other remedies would be available in court.

CHAIR GARY STEVENS summarized that the Human Rights Commission prefers no limit to front pay and the Department of Law suggests a two year limit and Senator Cowdery believes a one year limit is sufficient.

SENATOR STEDMAN said he wouldn't object to an amendment from Senator Cowdery.

SENATOR COWDERY made a motion to adopt amendment 3 on page 4, line 23 deleting "two years" and inserting "one year" to address the front pay issue. There being no objection, it was so ordered.

CHAIR GARY STEVENS asked if there were any further issues to address.

MS. FITZPATRICK stated that the commission wasn't in full agreement with part of Section 4 relating to administrative dismissal for certain enumerated reasons. On page 3, line 7 they suggest inserting "timely" before "initiating" or deleting all of line 7. As written the option to go forward in another forum is misleading to the layperson because there are time constraints on actions.

CHAIR GARY STEVENS asked Mr. Nordstrand to respond.

MR. NORDSTRAND expressed the concern that placing a warning in statute would create a statutory inner-connection that wouldn't work very well. This doesn't mean that the commission couldn't or shouldn't warn people of this in their process, he said, because they should let it be known that there is a statute of limitations.

SENATOR COWDERY remarked that he didn't like the fact that the employer isn't able to recovery expenses even if they win. Even if you win you lose, he said. He asked if there was a remedy for that.

MR. NORDSTRAND said there is a provision in AS 18.80.130 (e) for that. He read: "The commission may order payment of reasonable expenses, including reasonable attorney fees to any private party before the commission when the commission, in its

discretion, determines the allowance is appropriate." That's honored by the exception more than the rule, he said, and it's unlikely that there is much impetus for the commission to award attorney fees against itself for losing the case. To fix that, you'd have to change the language or devise an alternative.

CHAIR GARY STEVENS asked Ms. Fitzpatrick for a comment.

MS. FITZPATRICK said she wasn't familiar with the language and deferred to Paula Haley.

PAULA HALEY, Human Rights Commission staff, informed members that the provision has been invoked rarely in her sixteen year tenure.

CHAIR GARY STEVENS announced his preference was to send the bill on to the Judiciary Committee and they could address that issue.

SENATOR COWDERY agreed, but asked the Department of Law to consider his concern.

MR. NORDSTRAND asked whether he wanted something prepared for that committee.

SENATOR COWDERY stated that he would like the issue addressed in this bill if possible.

MR. NORDSTRAND agreed to assist.

CHAIR GARY STEVENS asked for a motion to move the bill as amended.

SENATOR COWDERY made a motion to move CSSB 354(STA) from committee with individual recommendations and attached fiscal note. He asked for unanimous consent. There being no objection, it was so ordered.

CHAIR GARY STEVENS announced that the committee would hear SJR 30 at another time then adjourned the meeting at 5:00 p.m.