

ALASKA STATE LEGISLATURE
CONFERENCE COMMITTEE ON SB 36

February 8, 2006

5:02 p.m.

MEMBERS PRESENT

Senator Gene Therriault, Chair
Senator Charlie Huggins
Senator Albert Kookesh

Representative Jim Holm
Representative Max Gruenberg

MEMBERS ABSENT

Representative Paul Seaton

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 36(JUD)
"An Act relating to absentee ballots."

HOUSE CS FOR CS FOR SENATE BILL NO. 36(JUD) am H
"An Act relating to absentee ballots."

UNABLE TO TAKE ACTION, REQUEST DISCHARGE

PREVIOUS COMMITTEE ACTION

BILL: SB 36

SHORT TITLE: ABSENTEE BALLOTS

SPONSOR(S): SENATOR(S) THERRIAULT

01/11/05	(S)	PREFILE RELEASED 1/7/05			
01/11/05	(S)	READ THE FIRST TIME - REFERRALS			
01/11/05	(S)	STA, JUD			
01/20/05	(S)	STA AT 3:30 PM BELTZ 211			
01/20/05	(S)	Heard & Held			
01/20/05	(S)	MINUTE(STA)			
02/01/05	(S)	STA AT 3:30 PM BELTZ 211			
02/01/05	(S)	Moved CSSB 36(STA) Out of Committee			
02/01/05	(S)	MINUTE(STA)			
02/02/05	(S)	STA RPT CS	3DP	1NR	
		NEW TITLE			
02/02/05	(S)	DP: THERRIAULT, WAGONER, HUGGINS			
02/02/05	(S)	NR: ELTON			

02/08/05 (S) JUD AT 8:30 AM BUTROVICH 205
 02/08/05 (S) Heard & Held
 02/08/05 (S) MINUTE(JUD)
 02/09/05 (S) JUD AT 8:30 AM BUTROVICH 205
 02/09/05 (S) Moved CSSB 36(JUD) Out of Committee
 02/09/05 (S) MINUTE(JUD)
 02/10/05 (S) JUD RPT CS 3DP 1NR
 NEW TITLE
 02/10/05 (S) DP: SEEKINS, THERRIAULT, HUGGINS
 02/10/05 (S) NR: FRENCH
 03/02/05 (S) TRANSMITTED TO (H)
 03/02/05 (S) VERSION: CSSB 36(JUD)
 03/03/05 (H) READ THE FIRST TIME - REFERRALS
 03/03/05 (H) STA, JUD
 03/15/05 (H) STA AT 8:00 AM CAPITOL 106
 03/15/05 (H) Heard & Held
 03/15/05 (H) MINUTE(STA)
 03/17/05 (H) STA AT 8:00 AM CAPITOL 106
 03/17/05 (H) Moved HCS CSSB 36(STA) Out of Committee
 03/17/05 (H) MINUTE(STA)
 03/18/05 (H) STA RPT HCS(STA) 5DP 2NR
 03/18/05 (H) DP: LYNN, GATTO, ELKINS, RAMRAS,
 SEATON;
 03/18/05 (H) NR: GARDNER, GRUENBERG
 04/06/05 (H) JUD AT 1:00 PM CAPITOL 120
 04/06/05 (H) <Bill Hearing Postponed>
 04/22/05 (H) JUD AT 1:00 PM CAPITOL 120
 04/22/05 (H) Scheduled But Not Heard
 04/25/05 (H) JUD AT 1:00 PM CAPITOL 120
 04/25/05 (H) Scheduled But Not Heard
 04/27/05 (H) JUD AT 1:00 PM CAPITOL 120
 04/27/05 (H) Moved HCS CSSB 36(JUD) Out of Committee
 04/27/05 (H) MINUTE(JUD)
 04/29/05 (H) JUD RPT HCS(JUD) 4DP 1NR 1AM
 04/29/05 (H) DP: DAHLSTROM, GRUENBERG, ANDERSON,
 MCGUIRE;
 04/29/05 (H) NR: KOTT;
 04/29/05 (H) AM: GARA
 05/07/05 (H) VERSION: HCS CSSB 36(JUD) AM H
 05/08/05 (S) CONCURRENCE MESSAGE READ AND HELD
 05/09/05 (S) CONFERENCE COMMITTEE APPOINTED
 05/09/05 (S) THERRIAULT (CHAIR), HUGGINS, KOOKESH
 05/09/05 (H) RECEDE MESSAGE READ
 05/09/05 (H) CONFERENCE COMMITTEE APPOINTED
 05/09/05 (H) SEATON, HOLM, GRUENBERG

WITNESS REGISTER

Annette Kreitzer, Chief of Staff
Office of the Lieutenant Governor
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Explained suggested changes to SB 36

Whitney Brewster, Director
Division of Elections
Office of the Lieutenant Governor
P.O. Box 110017
Juneau, AK 99811-0017

POSITION STATEMENT: Provided information related to absentee ballots

ACTION NARRATIVE

CHAIR GENE THERRIAULT called the Conference Committee meeting on SB 36 to order at [5:02:39 PM](#). Present were Representative Jim Holm, Representative Max Gruenberg, Senator Albert Kookesh, Senator Charlie Huggins and Chair Gene Therriault.

CSSB 36(JUD)-ABSENTEE BALLOTS
HCS SBSB 36(JUD)am H-ABSENTEE BALLOTS

[5:02:40 PM](#)

CHAIR THERRIAULT announced that CSSB 36(JUD) and HCS CSSB 36(JUD) am H were before the committee. He recapped the bill history including the determination that to make the necessary changes, free powers of conference are required. He clarified that the committee could not undertake those powers and that the meeting was to ensure that everyone understood what this committee would ask the subsequent conference committee with free powers to consider.

He asked Ms. Kreitzer to come forward and explain the issues on behalf of the Division of Elections.

[5:04:08 PM](#)

ANNETTE KREITZER, Chief of Staff to Lieutenant Governor Lehman, explained that there were issues with the version that passed the House. Since that happened, HB 94 also passed. The sponsor was informed and given the suggestion to delete all language from SB 36 that is now current law. Doing so would make it easier to follow SB 36.

A second issue relates to problematic language in Sections 5 and 6 of HCS CSSB 36(JUD) am H. Both contain broad cross-reference to AS 15.20.081. She read Section 5, page 3, lines 20 and 31 and Section 6, page 4, line 18 and said she asked the Department of Law (DOL) to look at the issue.

Sarah Felix (DOL) subsequently issued a memo stating that the DOL opinion is that Sections 5 and 6 relating to violations of AS 15.20.081 should be more specific. The sponsor was asked if he would agree to take the issue up in the conference committee.

MS. KREITZER said she had no further changes to suggest.

CHAIR THERRIAULT restated the reason for requesting free conference powers and therefore a new committee is because language is being considered that isn't in either version of the bill.

REPRESENTATIVE GRUENBERG questioned whether the current committee couldn't request powers of free conference.

CHAIR THERRIAULT explained that the Uniform Rules state that a member who has served on an earlier conference committee may not serve on a later committee on the same measure. Typically free powers aren't requested unless there is a deadlock and although that isn't the issue here, the rule still applies.

REPRESENTATIVE GRUENBERG asked whether the committee should brief its successors on the issue of Wesley Education Foundation v. Cox.

CHAIR THERRIAULT responded that was an initial concern, but it isn't of concern now.

[5:09:43 PM](#)

REPRESENTATIVE GRUENBERG announced he would review the case in any event.

CHAIR THERRIAULT asked Ms. Kreitzer if she or Ms. Brewster could speak to the Wesley case.

MS. KREITZER said no internal review was undertaken. The issue was forwarded to the Department of Law.

CHAIR THERRIAULT asked Ms. Kreitzer to review the suggestions Sarah Felix (DOL) made related to Sections 5 and 6.

MS. KREITZER reiterated that Sections 5 and 6 of the version that passed the House must be particular about what behavior is being criminalized. An amendment was drafted that was designed to satisfy the sponsor and Legislative Legal. She noted that the Chair was holding that amendment in a pending file.

CHAIR THERRIAULT advised that Version N draft committee substitute CS was prepared. It incorporates the specific language regarding what activity is being criminalized.

He asked for verification that Sections 5 and 6 became Sections 4 and 5 because some language had been dropped. He recalled that Representative Coghill placed language in SB 36 that was also included in HB 94.

MS. KREITZER agreed.

CHAIR THERRIAULT added that Representative Coghill ultimately agreed that the language was inadvisable and it was dropped from HB 94. As proposed, the language would also be dropped from SB 36.

MS. KREITZER said yes; it would be dropped from SB 36 as well. She continued to explain that the first sentence of Section 4 [HCS CSSB 36(JUD) am H] is now law. That was included in HB 94. The second sentence in that section relates to a voter who did not indicate affiliation with a political party or group. It was added as a House floor amendment, but at that time Representative Coghill was not aware of the Division of Elections policies and procedures when a voter doesn't declare affiliation when registering to vote. She advised that Director Whitney Brewster was available to speak to what happens in that instance.

[5:14:36 PM](#)

WHITNEY BREWSTER, Director, Division of Elections, Office of the Lieutenant Governor, explained what the division procedure when a person doesn't designate a ballot choice on an absentee ballot application. If the person is eligible for more than one ballot, the division sends the individual a letter stating that a ballot designation was not made. If the individual doesn't respond to the letter, no ballot is sent.

She added that the absentee ballot section has more temporary employees this year so that increased effort will be made to contact individuals who don't respond by mail. If some other means of contact has been designated the division make a phone call or send an email to ask the individual about a ballot choice.

CHAIR THERRIAULT remarked that clears up the issue about whether the division is encouraging a person to vote one way or another. The instruction must come from the voter.

MS. BREWSTER said that's correct.

CHAIR THERRIAULT asked for verification that Representative Coghill agreed to modify the language when HB 94 passed.

MS. KREITZER answered yes. Representative Coghill indicated he was comfortable dropping the language from bill after he reviewed the Division of Elections policies and procedures and saw that the decision is solely the voter's decision.

CHAIR THERRIAULT summarized the modified language in Section 4 passed into law in HB 94 so that section falls out of SB 36. Renumbering occurs and the sections move up. The new Sections 4 and 5 include the language suggested in the DOL email.

MS. KREITZER said yes.

REPRESENTATIVE GRUENBERG reiterated the explanation.

CHAIR THERRIAULT agreed and said that leaves the language that the committee doesn't have power to adopt. He indicated he had prepared a letter stating that the committee took no action on any bill sections and respectfully requests that a free conference committee be appointed. He added that this committee would pass Version N work draft CS on to the next committee for review.

REPRESENTATIVE GRUENBERG asked whether the next committee would have free conference powers rather than limited powers of free conference.

CHAIR THERRIAULT answered yes.

REPRESENTATIVE GRUENBERG asked if the current committee could remain constituted if limited powers of free conference were needed.

CHAIR THERRIAULT replied this committee could exercise limited free powers.

REPRESENTATIVE GRUENBERG asked this committee could accomplish what it wanted to do with limited powers.

CHAIR THERRIAULT responded Legislative Legal advised that it isn't possible because of the new language.

[5:19:01 PM](#)

CHAIR THERRIAULT asked for a motion to report that the conference committee on SB 36 took no action.

SENATOR CHARLIE HUGGINS said, "So moved." There being no objection, it was so ordered.

MS. KREITZER thanked the committee for its cooperation.

There being no further business to come before the committee, Chair Therriault adjourned the meeting at [5:19:28 PM](#).