

**ALASKA STATE LEGISLATURE**  
**HOUSE JUDICIARY STANDING COMMITTEE**

February 22, 2006

2:50 p.m.

**MEMBERS PRESENT**

Representative Lesil McGuire, Chair  
Representative Tom Anderson  
Representative John Coghill  
Representative Max Gruenberg

**MEMBERS ABSENT**

Representative Pete Kott  
Representative Peggy Wilson  
Representative Les Gara

**COMMITTEE CALENDAR**

HOUSE BILL NO. 410

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

- MOVED CSHB 410(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 486

"An Act relating to the disqualification of judicial officers and jurors; relating to the rule of necessity; and amending Rules 42(c) and 47, Alaska Rules of Civil Procedure."

- HEARD AND HELD

CS FOR SENATE BILL NO. 20(JUD)

"An Act relating to offenses against unborn children."

- BILL HEARING POSTPONED TO 2/23/06

**PREVIOUS COMMITTEE ACTION**

BILL: HB 410

SHORT TITLE: REVISOR'S BILL

SPONSOR(S): RULES BY REQUEST OF LEGISLATIVE COUNCIL

01/30/06	(H)	READ THE FIRST TIME - REFERRALS
01/30/06	(H)	JUD

02/22/06 (H) JUD AT 2:30 PM CAPITOL 120

BILL: HB 486

SHORT TITLE: DISQUALIFYING JUDGES/JURORS FROM CASES

SPONSOR(S): JUDICIARY

02/17/06 (H) READ THE FIRST TIME - REFERRALS

02/17/06 (H) JUD, FIN

02/22/06 (H) JUD AT 2:30 PM CAPITOL 120

#### **WITNESS REGISTER**

PAM FINLEY, Revisor of Statutes  
Legislative Legal and Research Division  
Legislative Affairs Agency  
Juneau, Alaska

POSITION STATEMENT: Presented HB 410.

DOUG WOOLIVER, Administrative Attorney  
Administrative Staff  
Office of the Administrative Director  
Alaska Court System (ACS)  
Anchorage, Alaska

POSITION STATEMENT: Expressed concerns with HB 486.

#### **ACTION NARRATIVE**

**CHAIR LESIL MCGUIRE** called the House Judiciary Standing Committee meeting to order at [2:50:32 PM](#). Representatives McGuire, Anderson, Gruenberg, and Coghill were present at the call to order.

HB 410 - REVISOR'S BILL

[2:51:06 PM](#)

CHAIR MCGUIRE announced that the first order of business would be HOUSE BILL NO. 410, "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

[2:51:32 PM](#)

PAM FINLEY, Revisor of Statutes, Legislative Legal and Research Division, Legislative Affairs Agency, relayed that HB 410 is essentially cleanup legislation. She explained that her standard is to include no policy changes, and therefore the

legislation simply corrects drafting errors or oversights and those [cites] that have become obsolete. The process is such that a draft is sent to the Department of Law to review and then to Legislative Council after which it moves through the legislative process as any other piece of legislation. Ms. Finley pointed out that the committee packet should include a sectional analysis as well as five proposed amendments. She withdrew the amendment labeled [24-LS1333\A.2, Finley, 2/14/06].

[2:53:12 PM](#)

REPRESENTATIVE GRUENBERG referred to Section 12 of HB 410, and requested explanation.

MS. FINLEY explained that Title 15 refers to the Division of Elections, although it never creates nor defines it in statute. Therefore, Section 12 of HB 410 would create the division and Section 14 adds a definition of "division" as used in the Alaska Election Code.

REPRESENTATIVE GRUENBERG commented that although he doesn't have a problem with the aforementioned, he related his preference for the Division of Elections to be an independent body rather than under the Office of the Lieutenant Governor's Office. He also noted that this legislation creates the Division of Workers' Compensation. Since the creation of divisions is occurring in the revisor's legislation and being considered technical, he suggested that there should be a written statement relating that due to the unusual nature of these divisions, they are being created in the revisor's legislation. He said he didn't want this to create a precedent. Therefore, he requested that Ms. Finley pen a letter of intent to the aforementioned effect to accompany HB 410.

[2:55:59 PM](#)

MS. FINLEY agreed to do so. She explained that the reason the divisions are being created in HB 410 is because the statutes are written as if the divisions already exist.

REPRESENTATIVE GRUENBERG reiterated the need for a letter of intent so that it's included in the [House] Journal.

MS. FINLEY offered to include the aforementioned intent language in the sectional analysis because it is placed in the [House] Journal.

MS. FINLEY, in response to Representative Gruenberg, confirmed that Section 17 is a technical amendment necessitated by the fact that the federal government changed the number of its statute. In regard to Sections 18-19, Ms. Finley clarified that there never was a director to the Division of Veterans' Affairs.

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REPRESENTATIVE GRUENBERG then turned attention to Sections 31-32 and asked whether those are technical changes as well.

MS. FINLEY explained that currently under [AS 39.50.200] people are included in the definition of "entity," although they aren't included in the definition of "people" where it's appropriate. She informed the committee that there is language in the Alaska Permanent Fund Corporation statutes that specify that AS 39.50 applies to it.

REPRESENTATIVE GRUENBERG specified that his questions speak to whether the changes are technical and thus in the purview of the revisor.

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MS. FINLEY, in regard to Section 35, reminded the committee that last session legislation was passed in which the terms "qualified regional seafood development association" and "seafood development region" were used "and they just referenced back." Although it was quite clear in the legislation, the terms ended up in different parts of statute, she explained.

REPRESENTATIVE GRUENBERG, in regard to Section 36, related his understanding that the judicial districts, although not exactly congruent with the senatorial districts, are close enough.

MS. FINLEY concurred.

MS. FINLEY, in response to Representative Gruenberg, confirmed that the repealers are technical. She pointed out that the last page of the sectional analysis includes the text of the repealed provisions.

[3:02:05 PM](#)

MS. FINLEY explained that the amendment labeled 24-LS1333\A.1, Finley, 2/14/06, amends AS 09.65.161, which is an immunity statute. This immunity statute was tied to health care data

reports under AS 18.05. However, last session legislation from the administration changed the terminology of "public health significance" to "public health importance" in AS 18.05 but failed to do so in AS 09.65. She mentioned that it was discovered upon review of the regulations.

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REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 1, labeled 24-LS1333\A.1, Finley, 2/14/06, which read:

Page 2, following line 18:

Insert a new bill section to read:

"\* **Sec. 5.** AS 09.65.161 is amended to read:

**Sec. 09.65.161. Immunity for disclosure of required health care data.** A person who reports health care data required to be reported under AS 18.05 and regulations adopted under that chapter for conditions or diseases of public health importance [SIGNIFICANCE] may not be held liable for the disclosure to the Department of Health and Social Services or for the use of the data by the department."

Renumber the following bill sections accordingly.

CHAIR MCGUIRE asked whether there were any objections to Amendment 1. There being none, Amendment 1 was adopted.

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MS. FINLEY turned to Amendment 3, labeled 24-LS1333\A.3, Finley, 2/14/06, and explained that it provides a short title to AS 24.60, which is commonly known as the Legislative Ethics Act. By giving it a statutory statement, it's much easier to place it in bill titles.

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 3, labeled 24-LS1333\A.3, Finley, 2/14/06, which read:

Page 6, following line 24:

Insert a new bill section to read:

"\* **Sec. 17.** AS 24.60 is amended by adding a new section to read:

**Sec. 24.60.995. Short title.** This chapter may be cited as the Legislative Ethics Act."

Renumber the following bill sections accordingly.

CHAIR MCGUIRE asked whether there were any objections to Amendment 3. There being none, Amendment 3 was adopted.

[3:04:47 PM](#)

MS. FINLEY explained that Amendment 4, labeled 24-LS1333\A.4, Finley, 2/14/06, adds a short title to [AS 39.52], which is commonly known as the Alaska Executive Branch Ethics Act.

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 4, labeled 24-LS1333\A.4, Finley, 2/14/06, which read:

Page 13, following line 4:

Insert a new bill section to read:

"\* **Sec. 33.** AS 39.52 is amended by adding a new section to read:

**Sec. 39.52.965. Short title.** This chapter may be cited as the Alaska Executive Branch Ethics Act."

Renumber the following bill sections accordingly.

CHAIR MCGUIRE asked whether there were any objections to Amendment 4. There being none, Amendment 4 was adopted.

MS. FINLEY moved on to Amendment 5, labeled 24-LS1333\A.5, Finley, 2/14/06, and reminded the committee that the coastal policy council was repealed in 2003. However, the Department of Law recently brought to her attention that there was a remaining reference. She further explained that the substantive power of the department is in existing law, and therefore Amendment 5 merely conforms to it.

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 5, labeled 24-LS1333\A.5, Finley, 2/14/06, which read:

Page 14, following line 28:

Insert a new bill section to read:

"\* **Sec. 37.** AS 46.40.210(1) is amended to read:

(1) "area which merits special attention" means a delineated geographic area within the coastal area which is sensitive to change or alteration and which, because of plans or commitments or because a claim on the resources within the area delineated would preclude subsequent use of the resources to a conflicting or incompatible use, warrants special management attention, or which, because of its value

to the general public, should be identified for current or future planning, protection, or acquisition; these areas, subject to the department's [COUNCIL] definition of criteria for their identification, include:

(A) areas of unique, scarce, fragile or vulnerable natural habitat, cultural value, historical significance, or scenic importance;

(B) areas of high natural productivity or essential habitat for living resources;

(C) areas of substantial recreational value or opportunity;

(D) areas where development of facilities is dependent upon the utilization of, or access to, coastal water;

(E) areas of unique geologic or topographic significance which are susceptible to industrial or commercial development;

(F) areas of significant hazard due to storms, slides, floods, erosion, or settlement; and

(G) areas needed to protect, maintain, or replenish coastal land or resources, including coastal flood plains, aquifer recharge areas, beaches, and offshore sand deposits; "

Renumber the following bill sections accordingly.

CHAIR McGUIRE asked whether there were any objections to Amendment 5. There being none, Amendment 5 was adopted.

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REPRESENTATIVE GRUENBERG moved to report HB 410, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 410(JUD) was reported from the House Judiciary Standing Committee.

HB 486 - DISQUALIFYING JUDGES/JURORS FROM CASES

[3:06:14 PM](#)

CHAIR McGUIRE announced that the final order of business would be HOUSE BILL NO. 486, "An Act relating to the disqualification of judicial officers and jurors; relating to the rule of necessity; and amending Rules 42(c) and 47, Alaska Rules of Civil Procedure."

[3:06:59 PM](#)

DOUG WOOLIVER, Administrative Attorney, Administrative Staff, Office of the Administrative Director, Alaska Court System (ACS), questioned what problem HB 486 seeks to fix. He expressed concern with regard to how broadly the legislation is drafted, particularly with regard to the sections amending the rule that says, "if no other judge is available to act in the matter". He clarified that he wasn't clear whether that language refers to the judge's unavailability for a specified time.

REPRESENTATIVE GRUENBERG interjected that the aforementioned concern was also brought forth by the drafter, and therefore will require some attention. Representative Gruenberg then related that the purpose of HB 486 is to address the problem raised by State v. Amerada Hess, et al. 1 JU-77-847 Civ. (Superior Court, First Judicial District). He recalled when it was determined that one can't be disqualified from sitting in a case merely because one receives a permanent fund dividend.

MR. WOOLIVER stated that there is a court rule to that effect.

REPRESENTATIVE GRUENBERG explained that he wanted to codify the common law rule of necessity, which states that if no one can hear a case, no one is disqualified. He said he would work with Mr. Wooliver on the drafting.

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CHAIR McGUIRE recalled that this issue arose after the committee heard legislation relating to the percent of market value (POMV).

[HB 486 was held over.]

#### **ADJOURNMENT**

[3:09:42 PM](#)

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:09 p.m.