

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

April 14, 2005

8:08 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Jim Elkins
Representative Bob Lynn
Representative Jay Ramras
Representative Berta Gardner
Representative Max Gruenberg

MEMBERS ABSENT

Representative Carl Gatto, Vice Chair

COMMITTEE CALENDAR

CONFIRMATION HEARING: ALASKA AIR NATIONAL GUARD - BRIGADIER
GENERAL COLONEL TONY A. HART - KULIS AIR NATIONAL GUARD BASE

HOUSE BILL NO. 167

"An Act relating to providing a death certificate for a deceased
veteran without cost."

- MOVED CSHB 167(STA) OUT OF COMMITTEE

HOUSE BILL NO. 160

"An Act limiting the use of money of the state and its political
subdivisions to affect an election."

- HEARD AND HELD

HOUSE BILL NO. 238

"An Act relating to contribution rates for employers and members
in the defined benefit plans of the teachers' retirement system
and the public employees' retirement system and to the ad-hoc
post-retirement pension adjustment in the teachers' retirement
system; requiring insurance plans provided to members of the
teachers' retirement system, the judicial retirement system, the
public employees' retirement system, and the former elected
public officials retirement system to provide a list of
preferred drugs; relating to defined contribution plans for
members of the teachers' retirement system and the public

employees' retirement system; and providing for an effective date."

- HEARD AND HELD

CS FOR SENATE BILL NO. 141(FIN)

"An Act relating to the teachers' and public employees' retirement systems and creating defined contribution and health reimbursement plans for members of the teachers' retirement system and the public employees' retirement system who are first hired after July 1, 2005; relating to university retirement programs; establishing the Alaska Retirement Management Board to replace the Alaska State Pension Investment Board, the Alaska Teachers' Retirement Board, and the Public Employees' Retirement Board; adding appeals of the decisions of the administrator of the teachers' and public employees' retirement systems to the jurisdiction of the office of administrative hearings; providing for nonvested members of the teachers' retirement system defined benefit plans to transfer into the teachers' retirement system defined contribution plan and for nonvested members of the public employees' retirement system defined benefit plans to transfer into the public employees' retirement system defined contribution plan; providing for political subdivisions and public organizations to request to participate in the public employees' defined contribution retirement plan; and providing for an effective date."

- PENDING REFERRAL

PREVIOUS ACTION

BILL: HB 167

SHORT TITLE: DECEASED VETERAN DEATH CERTIFICATE/HONOR

SPONSOR(S): MILITARY & VETERANS' AFFAIRS

02/22/05	(H)	READ THE FIRST TIME - REFERRALS
02/22/05	(H)	MLV, STA
03/17/05	(H)	MLV AT 1:00 PM CAPITOL 124
03/17/05	(H)	Moved CSHB 167(MLV) Out of Committee
03/17/05	(H)	MINUTE(MLV)
03/18/05	(H)	MLV RPT CS(MLV) 5DP
03/18/05	(H)	DP: THOMAS, GRUENBERG, CISSNA, ELKINS, LYNN
03/21/05	(H)	FIN REFERRAL ADDED AFTER STA
04/12/05	(H)	STA AT 8:00 AM CAPITOL 106
04/12/05	(H)	Scheduled But Not Heard
04/14/05	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 160

SHORT TITLE: PUBLIC FUNDS & BALLOT PROPS/CANDIDATES

SPONSOR(S): REPRESENTATIVE(S) STOLTZE

02/18/05 (H) READ THE FIRST TIME - REFERRALS
02/18/05 (H) CRA, STA
03/17/05 (H) CRA AT 8:00 AM CAPITOL 124
03/17/05 (H) Heard & Held
03/17/05 (H) MINUTE(CRA)
04/07/05 (H) CRA AT 8:00 AM CAPITOL 124
04/07/05 (H) Moved CSHB 160(CRA) Out of Committee
04/07/05 (H) MINUTE(CRA)
04/08/05 (H) CRA RPT CS(CRA) 2DP 3NR
04/08/05 (H) DP: NEUMAN, THOMAS;
04/08/05 (H) NR: SALMON, LEDOUX, OLSON
04/12/05 (H) STA AT 8:00 AM CAPITOL 106
04/12/05 (H) Scheduled But Not Heard
04/14/05 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 238

SHORT TITLE: PUBLIC EMPLOYEE/TEACHER RETIREMENT

SPONSOR(S): STATE AFFAIRS

03/30/05 (H) READ THE FIRST TIME - REFERRALS
03/30/05 (H) STA, FIN
03/31/05 (H) STA AT 8:00 AM CAPITOL 106
03/31/05 (H) Heard & Held
03/31/05 (H) MINUTE(STA)
04/02/05 (H) STA AT 10:00 AM CAPITOL 106
04/02/05 (H) Heard & Held
04/02/05 (H) MINUTE(STA)
04/05/05 (H) STA AT 8:00 AM CAPITOL 106
04/05/05 (H) Heard & Held
04/05/05 (H) MINUTE(STA)
04/07/05 (H) STA AT 8:00 AM CAPITOL 106
04/07/05 (H) Scheduled But Not Heard
04/09/05 (H) STA AT 9:30 AM CAPITOL 106
04/09/05 (H) Heard & Held
04/09/05 (H) MINUTE(STA)
04/12/05 (H) STA AT 8:00 AM CAPITOL 106
04/12/05 (H) Heard & Held
04/12/05 (H) MINUTE(STA)
04/14/05 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

JOHN CRAMER, Director
Administrative Services Division
Department of Military & Veterans Affairs
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of Tony A. Hart, Colonel, appointee as Brigadier General of the Alaska Air National Guard, during the confirmation hearing for Colonel Hart.

SARAH HOOK, Staff
to Representative Gruenberg
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on behalf of Representative Gruenberg, member of the House Special Committee on Military and Veterans' Affairs, sponsor of HB 167.

REPRESENTATIVE BILL STOLTZE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 160.

BEN MULLIGAN, Staff
to Representative Bill Stoltze
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 160 on behalf of Representative Bill Stoltze, sponsor.

CAROL COMEAU, Superintendent
Anchorage School District
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 160.

RON LONG
No address provided

POSITION STATEMENT: Testified during the hearing on HB 160.

TOM BOEDEKER, City Manager
City of Soldotna
Soldotna, Alaska

POSITION STATEMENT: Expressed concerns with the scope of HB 160.

BROOKE MILES, Executive Director
Alaska Public Offices Commission (APOC)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 160.

ANNE MARIE HOLEN, Staff
City Manager's Office
City of Homer
Homer, Alaska

POSITION STATEMENT: Testified in opposition to HB 160.

KATHY WASSERMAN, Policy & Program Coordinator
Alaska Municipal League (AML)
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 160.

KATHERINE SHOWS, Staff
to Representative Paul Seaton
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reviewed aspects of HB 238 on behalf of Representative Seaton, Chair of the House State Affairs Standing Committee, sponsor.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House State Affairs Standing Committee meeting to order at [8:08:52 AM](#). Representatives Lynn, Ramras, Gardner, Gruenberg, and Seaton were present at the call to order. Representative Elkins arrived as the meeting was in progress.

CONFIRMATION HEARING(S)

Alaska Air National Guard - Brigadier General

CHAIR SEATON announced that the committee would consider the confirmation of the appointment of Colonel Tony A. Hart as Brigadier General of the Alaska Air National Guard.

[8:09:49 AM](#)

[8:12:14 AM](#)

REPRESENTATIVE LYNN added that the Air War College is a prestigious institution for senior officers, which few officers attend. He offered his understanding that a person has to be a full colonel to attend. He said it's almost mandatory for an officer to attend Air War College in order to become a general. He added, "It's the military Harvard."

[8:13:53 AM](#)

REPRESENTATIVE GRUENBERG listed some additional qualifications of Colonel Hart. He noted that the colonel had testified via teleconference during a House Special Committee on Military and Veterans' Affairs meeting, and he asked that "the record in that committee be incorporated by reference in today's hearing."

[8:15:04 AM](#)

CHAIR SEATON agreed. He read what he understood to be the mission statement of the Air War College for the record. He said Colonel Hart visited with him and he was impressed by his presentation.

[8:15:26 AM](#)

REPRESENTATIVE LYNN moved [to advance the confirmation] of Colonel Tony A. Hart [to the joint session of the House and Senate]. There being no objection, the nomination of Colonel Tony A. Hart to the position of Brigadier General, Alaska Air National Guard, was advanced.

HB 167-DEATH CERTIFICATE FOR DECEASED VETERAN

[8:16:19 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 167, "An Act relating to providing a death certificate for a deceased veteran without cost."

[8:17:15 AM](#)

CHAIR SEATON noted that Representatives Lynn and Gruenberg serve on the House Special Committee on Military and Veterans' Affairs, sponsor of the bill.

[8:17:40 AM](#)

REPRESENTATIVE GRUENBERG, speaking as a member of the House Special Committee on Military and Veterans' Affairs, sponsor of HB 167, noted that there was a committee substitute in the committee packet.

[8:18:17 AM](#)

REPRESENTATIVE LYNN moved to adopt the committee substitute (CS) for HB 167, Version 24-LS0605\Y, Bullock, 4/11/05, as a work draft. There being no objection, Version Y was before the committee.

[8:18:51 AM](#)

REPRESENTATIVE GRUENBERG explained that the House Special Committee on Military and Veterans' Affairs combined the former HB 166 into HB 167; the first half of the bill is the former HB 167 and the second half is the former HB 166. [Section 1] would amend AS 18.50.320 to add a new [paragraph (7)]. He said it is modeled on an Arizona statute: ARS 39.122.A. Representative Gruenberg directed attention to the death certificate issued in Arizona for Seymour Epstein [included in the committee packet]. He noted that the late Mr. Epstein was his uncle-in-law. He cited paragraph (7), which read as follows:

(7) upon request and without cost to the individual making the request, the bureau shall issue a certified copy of the death certificate of a veteran to the surviving spouse, next of kin, or other relative of the deceased veteran for the purpose of obtaining veterans' benefits, social security benefits, and other government benefits; in this paragraph, "veteran" has the meaning given in AS 26.10.080.

[8:20:27 AM](#)

CHAIR SEATON pointed out that the committee packet includes a fiscal note, but it is for the original bill version, not for Version Y.

The committee took an at-ease from [8:21:11 AM](#) to [8:21:33 AM](#).

[8:21:34 AM](#)

SARAH HOOK, Staff to Representative Gruenberg, Alaska State Legislature, said there is someone available to address questions regarding the fiscal note.

[8:21:53 AM](#)

CHAIR SEATON clarified that he wants to ensure a fiscal note for Version Y will be available for the record.

[8:22:01 AM](#)

REPRESENTATIVE GRUENBERG directed attention to Section 2 of the bill, which he said is modeled on federal law: 38 U.S.C. Section 112. It would allow the adjutant general of the Department of Military and Veterans' Affairs, upon the request of the governor, to issue certificates expressing the state's recognition of the veteran's service. The certificate could be issued to eligible recipients, defined to mean: the surviving spouse, next of kin, and relative of the deceased veteran. He added that in this sense the eligible recipient is the same in both sections of the bill. He said "veteran" is defined in AS 26.10.080. He said this is a small token of the state's appreciation for people who have really gone out of their way to help the country and the state of Alaska.

[8:24:42 AM](#)

CHAIR SEATON asked if the effective date is such that it would not negatively impact the bureau. He said there may be a backlog of requests and he stated for the record that there may be an issue of consistency regarding the combining of the two bills.

[8:26:01 AM](#)

REPRESENTATIVE GRUENBERG said it doesn't cost \$30,000 a year to print up the death certificates, because it's just a copy made with a seal affixed to it. He added, "The only thing would be - at least theoretically - these people might ... be requesting death certificates."

[8:26:38 AM](#)

REPRESENTATIVE GARDNER noted that the previously mentioned death certificate has a stamp on it that read, "FOR GOVERNMENT USE ONLY Pursuant to A.R.S. 39-122.A this copy has been issued free of charge for the purpose of applying for and obtaining

veteran's or Social Security Benefits and shall not be valid for any other purpose." She asked what other purpose there would be and why that stamp would be needed.

[8:27:09 AM](#)

MS. HOOK said that she spoke with Mr. Mitchell in Vital Statistics, and he expressed concern that people would take advantage of the program by requesting too many copies of death certificates, which would in turn increase the cost of the program.

[8:27:53 AM](#)

REPRESENTATIVE GRUENBERG stated that originally when the bill was drafted, he thought a person should be able to get as many copies as desired. However, he said Mr. Mitchell was very conservative. He said the way the language is currently written, one certificate can be acquired. He said he would consider a friendly amendment to broaden that language.

[8:28:53 AM](#)

REPRESENTATIVE LYNN said he would like to keep the language as narrow as possible; however, he asked about private commercial life insurance. He expressed concern that the bill not be bound too much.

[8:29:48 AM](#)

REPRESENTATIVE GRUENBERG suggested that the language could be deleted restricting the purpose of the certificate to obtaining veterans' benefits, social security benefits, and other government benefits. He also suggested that "copy" could be made "copies".

[8:30:18 AM](#)

CHAIR SEATON said he thinks that Representatives Lynn and Gruenberg have struck some kind of compromise, and he said he would hate to jeopardize the swift passage of the bill by making it too expansive.

[8:30:47 AM](#)

REPRESENTATIVE GARDNER asked if the words that Representative Gruenberg suggested striking would mean that "that one time the bureau would issue a single certified copy."

[8:31:19 AM](#)

REPRESENTATIVE GRUENBERG suggested that instead of saying "a" certified copy, say "one" certified copy. In response to a question from Representative Gardner, he confirmed that the copy would not be stamped regarding the restrictive purposes, and thus the person could show the death certificate for varied purposes.

[8:31:22 AM](#)

REPRESENTATIVE GARDNER moved Amendment 1 as follows:

On page 2, line 23:

Delete "a"
Insert "one"

On page 2, beginning on line 24:

Delete "for the purpose of obtaining veterans' benefits, social security benefits, and other government benefits"

[8:33:06 AM](#)

REPRESENTATIVE LYNN [objected for the purpose of discussion]. He asked if it isn't necessary to have a new copy of a death certificate for each purpose.

[8:33:22 AM](#)

REPRESENTATIVE GRUENBERG noted that, in the case of the late Mr. Epstein, he got one certificate and made copies.

[8:33:36 AM](#)

CHAIR SEATON treated Representative Lynn's objection as having been withdrawn and asked if there was any other objection. No objections were stated and Amendment 1 was adopted.

[8:35:11 AM](#)

CHAIR SEATON, in response to a suggestion from Representative Gruenberg, stated for record that two fiscal notes would be sent along with Version Y.

8:35:40 AM

CHAIR SEATON, after ascertaining that there was no one to testify, closed public testimony.

8:35:49 AM

REPRESENTATIVE GARDNER asked how people will become aware of this law if it is passed.

8:36:06 AM

REPRESENTATIVE GRUENBERG said he is not sure how that would be done; however, he said the division usually has a pretty good network to getting the word out to veterans' groups, for example. He offered to inquire.

8:36:20 AM

REPRESENTATIVE GARDNER responded that if there are benefits to survivors, "they need to know or it doesn't mean anything."

REPRESENTATIVE GARDNER moved to report CSHB 167, Version 24-LS0605\Y, Bullock, 4/11/05, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 167(STA) was reported out of the House State Affairs Standing Committee.

HB 160-PUBLIC FUNDS & BALLOT PROPS/CANDIDATES

8:37:21 AM

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 160, "An Act limiting the use of money of the state and its political subdivisions to affect an election."

8:37:36 AM

REPRESENTATIVE BILL STOLTZE, Alaska State Legislature, introduced HB 160 as sponsor. He said the original intent of the bill is based on his opinion that the government should not spend money to try to influence elections. He indicated that, based on the concerns of a previous committee and some local

governments, he "didn't want to micromanage every local level" and instead narrowed the focus to statewide propositions.

[8:38:49 AM](#)

CHAIR SEATON clarified that although there is a Version F in the committee packet, the work draft presently before the committee is the committee substitute (CS) for HB 160(CRA), Version 24-LS0586\Y.

[8:42:01 AM](#)

CHAIR SEATON directed attention to [page 1, lines 4-14], which read as follows:

***Section 1.** AS 15.13.145(a) is amended to read:

(a) Except as provided in (b) and (c) of this section, each of the following may not use money held by the entity to influence the outcome of the election of a candidate to a state or municipal office or the outcome of an election concerning a state ballot proposition:

(1) the state, its agencies, and its corporations;

(2) the University of Alaska and its Board of Regents;

(3) municipalities, school districts, and regional educational attendance areas, or another political subdivision of the state; and

(4) an officer or employee of an entity identified in (1) - (3) of this subsection.

CHAIR SEATON asked for confirmation that the entities listed are those that could not use the money.

[8:42:54 AM](#)

BEN MULLIGAN, Staff to Representative Bill Stoltze, Alaska State Legislature, on behalf of Representative Stoltze, sponsor, answered that's correct. In response to questions from the committee, he explained that there is a suggested amendment in the committee packet labeled, "24-LS0586\Y.1, Kurtz, 4/11/05," which read:

Page 1, line 1:

Delete "an"
Insert "a state"

Page 2 line 1 - 17:

Delete all material and insert:

"* **Sec. 2.** AS 15.13.145(b) is amended to read:

(b) Money held by an entity identified in (a)(3) [(a)(1) - (3)] of this section may be used to influence the outcome of a municipal [AN] election concerning a ballot proposition or question, but only if the funds have been specifically appropriated for that purpose by [A STATE LAW OR] a municipal ordinance.

* **Sec. 3.** AS 15.13.145(c) is amended to read:

(c) Money held by

(1) the division of elections or a municipal election official [AN ENTITY IDENTIFIED IN (a)(1) - (3) OF THIS SECTION] may be used

(A) [(1)] to disseminate information about the time and place of an election and to hold an election; or

(B) [(2)] to provide the public with the information described in AS 15.58.020;

(2) a municipality, school district, regional educational attendance area, or another political subdivision of the state may be used to provide the public with nonpartisan information about a ballot proposition or question other than a state ballot proposition or question or about all the candidates seeking election to a particular [PUBLIC] office."

[8:45:35 AM](#)

REPRESENTATIVE ELKINS stated, "When I look at this, it kind of brings to mind that maybe this is a backdoor attempt to get around the [Frustrated Responsible Alaskans Needing Knowledge (FRANK)] Initiative." He reviewed that the FRANK Initiative requires the government to notify the people of the total cost of any proposed capital move, and "this would prohibit them from doing that."

[8:46:06 AM](#)

CHAIR SEATON responded, "Knowing the sponsor, I would doubt that was his intent."

[8:46:24 AM](#)

REPRESENTATIVE STOLTZE said he thinks he supports the FRANK Initiative enforcement more than the people of Juneau do, because "they have a selective enforcement of the FRANK Initiative," while he wants it to apply to all expenses on any capital. He stated, "The crux of the FRANK Initiative is that the public has the right to vote on the cost of the relocation of the capital, and I don't dispute that. ... That's a right that the public has demanded twice at the ballot box."

[8:46:43 AM](#)

REPRESENTATIVE ELKINS replied that the way he reads HB 160, the government would "not be allowed to give them that cost so that they could make an intelligent decision."

[8:47:01 AM](#)

REPRESENTATIVE STOLTZE said the government could provide the cost in a public document. He said, "I think it's going to be available to the public I think the press will deliver it. I think it would still be allowed to be printed right in the ballot statement; that's very explicit in our language." Representative Stoltze respectfully disagreed that [HB 160] would have any bearing on the Frank Initiative.

[8:48:24 AM](#)

REPRESENTATIVE RAMRAS remarked that the City of Fairbanks held an election some years ago to sell its water utility and phone company. The vote was supported by the people of Fairbanks and the result has been the significant public employees' retirement system (PERS) deficit, which is up to \$89 million and growing. He said a lot of money was spent by the City of Fairbanks advocating the sale of those assets. He asked if there is a limit on how much a school system or municipality can spend in representing their point of view and whether they can outspend the private sector.

[8:49:54 AM](#)

REPRESENTATIVE STOLTZE replied that if they pass a local ordinance, there's no limit. He said he still has a fundamental philosophical problem with the government's spending money to tell the people how they should vote. He offered further details.

[8:51:19 AM](#)

CHAIR SEATON mentioned a statewide bond issue regarding rural school construction and a "70-30 bond debt reimbursement by municipalities." He questioned how [HB 160] would affect that statewide bond proposition, and who could or could not use funds to campaign for it. He clarified that he is trying to figure out whether, if there is a statewide initiative that impacts a municipality, the bill would prevent that municipality from communicating its concerns with its citizens through campaigning.

[8:53:30 AM](#)

REPRESENTATIVE STOLTZE replied that he's never known local officials to be shy about sharing their opinions. He said he thinks the appropriate measure is to form a political action committee or advocacy group.

[8:54:13 AM](#)

REPRESENTATIVE GARDNER said she is concerned about the bill. She offered an example of a public affairs official of a museum who wants to advocate for museum expansion because he/she believes to do so would be in the best interest of the community. She said under HB 160, that public affairs official would be prohibited from actively working toward passage of legislation that would improve the museum.

[8:54:47 AM](#)

REPRESENTATIVE STOLTZE said he respectfully disagrees. He said, "I think you would be prohibited from acting in the capacity as the museum director during the work hours, if it's clearly spending public funds, but I don't think you check your First Amendment rights at the door. And I think that's been clearly upheld."

[8:55:16 AM](#)

REPRESENTATIVE GARDNER clarified that she is asking about a situation in which it's the job of the museum official to ensure that the museum gets all the funding it needs, for example, in order to serve its function in the community.

[8:56:15 AM](#)

REPRESENTATIVE STOLTZE responded that that may be construed as a use of resources if that official is on the state payroll or actively promoting the passage of a statewide bond proposition. He said he would "get that clarified."

[8:57:13 AM](#)

REPRESENTATIVE RAMRAS indicated that he did not initially like the bill, but then he read "vigorous opposition from officials." He said, "It makes me nervous when elected officials get an unfair megaphone compared to the private sector to try and dictate what the private sector should be doing." He stated that he's not certain how he would vote for this issue on the House floor, but he said he believes he supports the notion that the legislature should be discussing how public money is spent "to affect the outcomes of these things." He asked why there is so much opposition from elected officials in small communities.

[8:58:12 AM](#)

REPRESENTATIVE STOLTZE said, "I think part of it is [the Alaska Municipal League (AML)] has been on the phone for the last week and saying, 'This is going to prevent you from talking about a local school bond.' I think there's been a lot of bad faith misrepresentation, with all due respect, because I've confirmed some of that through conversations."

[8:58:28 AM](#)

CHAIR SEATON interjected that he wants to make sure the conversation remains focused on the bill rather than on other people's actions.

[8:58:44 AM](#)

REPRESENTATIVE GRUENBERG offered his understanding that a municipal government can hold money from at least the following four sources: money from it's own tax base or revenue source; money from the state; money from federal government; and money from other sources. He offered examples. He stated that the bill seems to limit the municipality's ability to use money from any source, not just state money, and he questioned the constitutionality of doing so. He offered further details. He clarified that his constitutional question relates to free speech, to the supremacy clause in the case of the federal constitution, and to the inherent powers of a municipality.

CHAIR SEATON recommended a legal opinion be sought from Legislative Legal and Research Services and take up the issue in future committee discussion.

[9:02:40 AM](#)

CAROL COMEAU, Superintendent, Anchorage School District, testifying on behalf of the district, said she is pleased that Version Y will allow municipalities and school districts to "continue to educate the public." She stated that a superintendent and his/her staff cannot advocate and must give facts. She said she thinks it's the obligation [of the superintendent's office] to give the public enough information if, for example, the community is being asked to support a school bond that will impact taxes. She noted that the school board is allowed to advocate. She stated, "We believe we've been very upfront and honest and heavily scrutinized by everybody about what we're saying and what our information is." She said she believes that the public is informed when money spent is part of the budget.

[9:05:40 AM](#)

MS. COMEAU said she took personal leave as superintendent any time she worked on campaigning for Proposition C. and the district did not contribute to the campaign. She offered further details. She said she is happy to work with the committee on HB 160.

[9:08:02 AM](#)

MS. COMEAU, in response to a question from Representative Gardner, she said she believes that Version Y would allow [the Anchorage School District] to "continue doing what we've been doing," but she said she has not seen the suggested amendment.

[9:08:13 AM](#)

MR. MULLIGAN, in response to a request from Chair Seaton, offered his understanding of what the suggested amendment would do.

[9:08:58 AM](#)

MS. COMEAU said that based on Mr. Mulligan's understanding, [the district] would be supportive of "this."

9:09:36 AM

RON LONG, testifying on behalf of himself, said he has only just seen Version Y, but is encouraged by the testimony he has heard thus far. He explained that the original bill version had caused him concern. He stated that he is not part of any good- or bad-faith effort to overturn anyone's right "to influence anybody about anything," but he believes that there is "a large gap between informing people of the time and place of an election and telling people how to vote." Somewhere within that gap, he continued, lies factual information that voters reasonably look to their elected officials to provide. He offered some examples. He continued:

If we take away that gap and conclude that there's nothing left beyond time and place that's not telling people how to vote, then we leave people looking for their facts that will form the basis of their vote from the coffee shop, from letters to the editor, from the newspapers - whom of course we know wouldn't print it if it wasn't true.

I think the existing system is working pretty well. The consequences are pretty straightforward and not usually pleasant for anyone - whether they're state or local - that abuses the system as it exists. ... It's not plausible to me to conclude that everyone in local ... or state government is incapable of acting responsibly within the existing law, and this is more fixed than I think is needed for some of the abuses that may have occurred somewhere around the state.

... I'm accepting on good faith that Y.1 will address the concerns of other local officials like myself who feel that we need to fairly represents some factual evidence to the public so that they can make an informed decision, without stepping over the line and telling them how to vote.

9:13:15 AM

TOM BOEDEKER, City Manager, City of Soldotna, Alaska, expressed concerns with the scope of bill. He stated one concern is that the bill "goes way beyond advocacy; it limits the type of information that can be distributed to time and place" He mentioned the state ballot proposition, which he said often

affects municipalities. He said his job is to inform the city council and the citizens of Soldotna, and [HB 160] would put him in the position of saying, "I can't give you that information, because it could be viewed as information beyond time and place of the election." He predicted that that kind of restriction would cost him his job. He stated that he understands the issues the sponsor has regarding advocacy of outcomes, but he said the bill goes well beyond that and is "much more than is needed to solve the problem."

9:15:40 AM

REPRESENTATIVE ELKINS asked Mr. Boedeker if he thinks there are a lot of people in his municipality who look to the local government to provide "information of this kind" to them prior to an election.

9:16:04 AM

MR. BOEDEKER answered yes. He said in almost every instance where a proposition could affect the municipality, he has been asked to speak at the Chamber of Commerce and before various groups in the community to explain the pros and cons of the issue. He concluded, "This occurs on a regular basis in a community like Soldotna, and I think in many other communities."

9:16:34 AM

BROOKE MILES, Executive Director, Alaska Public Offices Commission (APOC), stated that APOC has not taken a position on HB 160. Notwithstanding that, she suggested that she could illustrate how the proposed legislation would change current law. Regarding the suggested amendment, she said it "would go a far way to clarify ... what the sponsor is intending to do here."

9:17:43 AM

MS. MILES reviewed that under the current campaign disclosure law, municipalities and the state are restricted from ever using funds to advocate on behalf of a candidate and from using them on behalf of ballot propositions unless those funds are specifically appropriated by a municipal ordinance or by state law. She said it happened last year that when agencies came before the legislature asking for specific appropriations to advocate on behalf of a potential ballot question, they were

denied. However, different municipalities have approved school board advocacy on behalf of school bonds.

MS. MILES directed attention to page 2, lines 4-7, which she noted is language that was removed from Version Y [shown in brackets and capitalized] but would be reinserted with the suggested amendment, Y.1. That language [with the beginning of the sentence from line 2] read:

(b) Money held by an entity identified in (a)(1)-(3) of this section may be used to **disseminate information about the time and place of an election** [INFLUENCE THE OUTCOME OF AN ELECTION CONCERNING A BALLOT PROPOSITION OR QUESTION, BUT ONLY IF THE FUNDS HAVE BEEN SPECIFICALLY APPROPRIATED FOR THAT PURPOSE BY A STATE LAW OR A MUNICIPAL ORDINANCE].

MS. MILES indicated her belief that APOC would support the language [being added back].

[9:19:18 AM](#)

MS. MILES, regarding the question of public employees "taking action" during their regular duties, noted that there is a current law that provides that in the absence of a specific appropriation, those entities listed [on page 1, subsection (a), paragraphs (1)-(4)] may use money held by "the entity" to communicate about a ballot proposition or question if the communication is made in the usual and customary performance of the officer's or employee's duties. For example, she said if [Mr. Boedeker], City Manager, Soldotna, routinely attends meetings where he provides information and speaks to questions that are on the ballot, that would not be a violation of law.

[9:20:41 AM](#)

REPRESENTATIVE GRUENBERG noted that in the suggested amendment there would still be a prohibition of an appropriation by a subsequent state legislature. He asked Ms. Miles if she could comment regarding the constitutionality of the current legislature's limiting the ability of a future legislature to appropriate.

[9:21:52 AM](#)

CHAIR SEATON suggested that that opinion could be asked of Legislative Legal and Research Services.

9:22:14 AM

REPRESENTATIVE LYNN recalled that he had, during his campaign, sent out what he thought were political advocacy "mailers," but suggested that they could have been called educational. He questioned where the line is drawn. He concluded, "It seems to me that the whole thing has become rather disingenuous."

9:23:33 AM

MS. MILES responded that there are major differences in the rules that regulate how a candidate conducts his/her campaign and how the campaigns for ballot issues are conducted. For example, she said the law has no restriction on who can contribute to a ballot issue or question. Furthermore, there is not restriction on the amount that is contributed. She added, "And as you all are very much aware, that is not the situation with respect to candidate campaign." Ms. Miles offered the example that sometimes the PTA might take a poll of all candidates and then publish that poll in the paper, which she said would be just informational. She stated, "But ... basically everything that's sent by a candidate's campaign is viewed to be in support of that candidate's candidacy."

9:25:22 AM

MS. MILES, in response to a question from Representative Gardner, said although she has not had much time to study this legislation, she doesn't think that it would change "the area that was carved out by regulation to protect the elected or appointed officials' rights of free speech."

9:25:53 AM

ANNE MARIE HOLEN, Staff, City Manager's Office, Homer, Alaska, testified on behalf of the City Manager in opposition to HB 160. Ms. Holen reminded the committee that municipalities around the state have been hit hard by the elimination of state revenue sharing and other state funding. Last October, the Homer City Council put a question on the ballot to increase the local sales tax to address a projected budget shortfall in 2005. That measure failed and criticism was expressed by the public that the city had not offered enough information to explain why the tax increase was needed. The City Council of Homer decided to put the question back on the ballot for a special election in March, that time making a concerted effort to supply all the

facts regarding increased expenses, reduced revenues, and what it would mean if the sales tax did or did not pass. As a result of the increased public education effort, the voters passed the tax increase.

MS. HOLEN concluded:

We were shocked to learn of a bill that would allow municipal funds to be spent only to disseminate information about the time and place of an election. And, frankly, our dismay would ... extend to legislation that narrowed the scope to statewide ballot questions; although that would be less onerous, we still feel like it is not good public policy. ... Following the elimination of state revenue sharing, HB 160 is sort of like adding insult to injury for local governments, and we urge you to vote against this bill.

[9:28:33 AM](#)

CHAIR SEATON noted that the latest version of bill takes care of some of Ms. Holen's concerns.

[9:29:04 AM](#)

REPRESENTATIVE STOLTZE welcomed all local officials to call his office. He stated his intent has been to work with the municipalities.

[9:30:13 AM](#)

KATHY WASSERMAN, Policy & Program Coordinator, Alaska Municipal League (AML), testified on behalf of AML in opposition to HB 160. She stated it is the job of AML to keep municipalities aware of legislation. She said, "Sometimes that works to the benefit of the sponsors on bills that they may have before the legislature." She said information positions that explain local and/or state impacts should be expected by constituents. She said, "We believe constituents want strong positions on issues by the people they elect. Silence and the appearance of waffling is not good leadership." The decision as to whether money has been spent to influence voters should be made locally, she opined, and should not be made by the legislature.

[9:32:55 AM](#)

MS. WASSERMAN stated her concerns: First, she said she is worried about the sources of money that come to communities, particularly regarding how to separate "what came from where and how and where it is spent." Second, she emphasized her concern with the "gray parameters" surrounding what is and is not allowed. She said she thinks it puts local elected officials in a dangerous spot not to know when they can or cannot say something, or when they can or cannot spend money. She offered further details. She concluded, "I don't think we should demean the local voters by thinking that, at the local level, we can tell them how to vote."

[9:33:37 AM](#)

REPRESENTATIVE RAMRAS suggested that the city is telling the public how to vote when it runs an advertisement. He asked why it's not acceptable to just use letters to the editor, for example. He asked, "Why does the government, beyond just providing the election pamphlet information, have to insert themselves into the fray. I mean, obviously, if it's put forward by the municipality, the assembly, the city council, [or] the mayor's ... [office], why do you then have to go allocate money to ... prove the point?"

[9:34:39 AM](#)

MS. WASSERMAN responded, "I think they have already inserted themselves into the fray - as being government or local officials - when propositions come up, and I certainly think that the local voters look to those elected officials for information. Call that influence, if you will."

[9:35:01 AM](#)

REPRESENTATIVE RAMRAS offered an example when the local officials in Fairbanks decided that they wanted to put up a \$30 million school bond. He said he finds it somewhat offensive when those officials are able to insert themselves with money and influence into that election. He said in that situation only the public sector was speaking for the school bond; there was no advocacy for the other side to suggest thinking about whether the schools would be adequate for another 10, 20, or 30 years. He asked Ms. Wasserman to address that issue.

[9:36:12 AM](#)

MS. WASSERMAN said she has been aware of many groups around the state who act as "advocates against things that local governments ... or even the state has advocated." She reiterated that the local school board who has put out a bond is in the fray, and she thinks it is up to them to explain why. She added, "And I would hope that their hands would not be tied so that the only people you would hear are the ones against those bonds." Ms. Wasserman said there are very few people on the outside of local government who are going to be pushing for more taxes; therefore, there needs to be an explanation [when local officials are calling for more taxes]. She said especially in the case of local municipalities looking for money, sometimes "taxes are all that's left."

[9:37:30 AM](#)

REPRESENTATIVE GRUENBERG suggested the best public policy is to allow more free speech so that both sides are heard.

[9:38:08 AM](#)

MS. WASSERMAN concurred. She said the legislature, for example, has been elected by the public to represent it.

[9:38:40 AM](#)

REPRESENTATIVE RAMRAS responded:

I'm with you: public officials get elected to have an opinion. But aren't you then asking the public officials to spend the public's money to tell the public what they should think?

[9:38:55 AM](#)

MS. WASSERMAN replied, "Telling infers that they are doing what you say. I don't think that that happens with very many people."

[9:39:11 AM](#)

REPRESENTATIVE ELKINS asked Ms. Wasserman if she finds that the hard working public looks for explanations from government to help them make an intelligent decision, because they haven't had time to listen to the radio or [read the paper].

[9:39:56 AM](#)

MS. WASSERMAN answered yes. She offered an example regarding the [percent of market value (POMV)] issue.

[9:40:31 AM](#)

REPRESENTATIVE ELKINS revealed that he had been against the POMV until the state came to Ketchikan and made a presentation to the chamber of commerce.

CHAIR SEATON closed public testimony.

[9:41:00 AM](#)

REPRESENTATIVE GRUENBERG reiterated his previously stated concerns regarding the constitutionality of the proposed bill in allowing the current legislature to set limits on future legislatures. He said he would also like to know how the local governments are supposed to separate out the money "so that they know that this dollar that goes into the treasury is used for this purpose." He said it seems an impossibility.

[9:42:26 AM](#)

REPRESENTATIVE STOLTZE, regarding the first concern, said he doesn't think it's an issue. He said there is already a statute that prohibits the use of state funds to advocate for candidates. Notwithstanding that, he said he would seek clarification on the issue.

[9:43:09 AM](#)

CHAIR SEATON asked Representative Stoltze if he supports the suggested amendment, labeled Y.1.

[9:43:34 AM](#)

REPRESENTATIVE STOLTZE answered yes.

[9:43:42 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment [1], labeled 24-LS0586\Y.1. There being no objection, it was so ordered.

[HB 160 was heard and held.]

[9:44:29 AM](#)

HB 238-PUBLIC EMPLOYEE/TEACHER RETIREMENT

9:44:37 AM

CHAIR SEATON announced that the last order of business was HOUSE BILL NO. 238, "An Act relating to contribution rates for employers and members in the defined benefit plans of the teachers' retirement system and the public employees' retirement system and to the ad-hoc post-retirement pension adjustment in the teachers' retirement system; requiring insurance plans provided to members of the teachers' retirement system, the judicial retirement system, the public employees' retirement system, and the former elected public officials retirement system to provide a list of preferred drugs; relating to defined contribution plans for members of the teachers' retirement system and the public employees' retirement system; and providing for an effective date."

CHAIR SEATON noted that the committee had discussed several changes to Version L and those changes are shown in a handout with color-coded type [included in the committee packet]. He announced he would give the committee three minutes to review the handout before proceeding with the bill hearing.

The committee took an at-ease from 9:45:19 AM to 9:48:06 AM.

9:48:14 AM

REPRESENTATIVE ELKINS noted that the committee members had received a facsimile that mornings from AARP advising the committee to take HB 238 slowly. He said he thinks that is good advice.

9:48:31 AM

CHAIR SEATON agreed that the matter before the committee is "extremely serious." He returned to the subject of the color-coded handout and explained that it contained all the ideas for amendments that the committee had discussed at its prior meeting. He stated his intent for the committee to adopt all the changes in the handout as a unit rather than adopting individual amendments.

9:50:01 AM

KATHERINE SHOWS, Staff to Representative Paul Seaton, Alaska State Legislature, on behalf of Representative Seaton, chair of the House State Affairs Standing Committee, sponsor, reviewed the color-coded handout. She said the changes would be to the following categories: changing "health reimburse account" to "health reimbursement arrangement"; adding definitions where needed; making changes in semantics; clarifying the part of the bill that addresses cost sharing as it relates to the increasing health care costs; addressing the committee's concerns regarding a retiree's acquiring dependents after retirement; and eliminating the language that spoke to the issue of generic drugs and changing it to intent language for the Division of Retirement & Benefits. She said there would be no change of the intent of the bill.

[9:52:38 AM](#)

MS. SHOWS, in response to a question from Representative Gruenberg, explained that the red type shows the changes that she made, while the blue type shows the language changes by Brad Lawson of Mercer Human Resource Consulting.

[9:52:52 AM](#)

REPRESENTATIVE GRUENBERG asked if the intent language would be in the form of a letter of intent or an intent section in the bill.

[9:53:15 AM](#)

CHAIR SEATON said he believes that would be an intent section in the bill.

MS. SHOWS said she expects that the bill drafter will put that into more formal language.

[9:53:45 AM](#)

REPRESENTATIVE GRUENBERG stated his assumption that there will be a new committee substitute (CS) that contains the changes in the handout.

CHAIR SEATON answered yes. He added that he didn't want to create a CS without first displaying the changes in writing that the committee spoke of previously.

REPRESENTATIVE GRUENBERG said he is not familiar with the word "arrangement" as a legal term of art. He also recommended that the phrase "must retire directly" is the most accurate term to use.

[9:54:41 AM](#)

MS. SHOWS said the actual language in the Internal Revenue Service (IRS) code is "arrangement," although "account" is the more well-known term.

[9:55:18 AM](#)

REPRESENTATIVE GRUENBERG observed that there appear to be typographical errors in the color-coded handout and urged Ms. Shows to clear those before giving it to the bill drafter.

[9:56:04 AM](#)

CHAIR SEATON asked the committee members if there was any objection to adopting the language in the handout into a new committee substitute. There being no objection, it was so ordered.

[9:57:05 AM](#)

CHAIR SEATON referred to a handout included in the committee packet showing the "Projected Values for Health Reimbursement Accounts," [with various scenarios, including early or late hire, with spouse, PERS "other," PERS police/fire, and TRS]. He reviewed that the early hire provision is when someone works for 30 years and, in the example provided, retires at 55. In that example, the employee would probably not be able to make the medical payments necessary. He said the question is whether to choose a 30-years-and-out retirement provision or to set retirement at age 60. At age 60 and with an HRA provision of 2 percent, the tables show that there would probably be adequate funding to allow people to transition between early retirement at age 60 and Medicare eligibility. Another option for the committee to consider is whether to just have a big warning: "If you retire before age 60 and are required to have medical insurance bridging that coverage, our projections are that if you don't have ... another job with medical coverage [or] medical coverage with spouse that you can identify, the plan will not provide you sufficient money to bridge [the gap] and you will lose your post-Medicare eligible contribution." He summarized that the question is whether to go with a

conservative approach or to just issue a warning. He said another option would be to decide to increase to a 3 percent HRA, or some other mechanism to fund the early retiree. He stated, "That is the philosophical problem that we have to address."

[9:59:58 AM](#)

REPRESENTATIVE GRUENBERG said he would like to hear various groups testify regarding this issue to find out what they want.

[10:00:32 AM](#)

CHAIR SEATON said he wants to put these questions out to be addressed at the succeeding hearings on HB 238.

[HB 238 was heard and held.]

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [10:01:44 AM](#).