

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

May 3, 2005

8:04 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 277

"An Act naming the Charles Gamble Jr. - Donald Sperl Joint Use Facility in Juneau."

- MOVED HB 277 OUT OF COMMITTEE

HOUSE BILL NO. 283

"An Act relating to the compensation for board members of the Alaska Housing Finance Corporation; and providing for an effective date."

- MOVED CSHB 283(STA) OUT OF COMMITTEE

HOUSE BILL NO. 189

"An Act relating to an extension for review and approval of revisions to the Alaska coastal management program; providing for an effective date by amending the effective date of sec. 45, ch. 24, SLA 2003; and providing for an effective date."

- MOVED CSHB 189(STA) OUT OF COMMITTEE

SENATE BILL NO. 132(efd fld)

"An Act relating to complaints filed with, investigations, hearings, and orders of, and the interest rate on awards of the State Commission for Human Rights; and making conforming amendments."

- HEARD AND HELD

HOUSE BILL NO. 28

"An Act relating to the municipal dividend program; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 277

SHORT TITLE: GAMBLE-SPERL UAS JOINT USE FACILITY

SPONSOR(s): REPRESENTATIVE(s) KERTTULA

04/19/05	(H)	READ THE FIRST TIME - REFERRALS
04/19/05	(H)	MLV, STA
04/30/05	(H)	WAIVE MLV REFERRAL DENIED
05/02/05	(H)	MLV REFERRAL WAIVED
05/03/05	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 283

SHORT TITLE: AK HOUSING FINANCE CORP BOARD COMP.

SPONSOR(s): REPRESENTATIVE(s) KOTT

04/21/05	(H)	READ THE FIRST TIME - REFERRALS
04/21/05	(H)	STA, FIN
04/28/05	(H)	STA AT 8:00 AM CAPITOL 106
04/28/05	(H)	Heard & Held
04/28/05	(H)	MINUTE(STA)
05/03/05	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 189

SHORT TITLE: COASTAL MANAGEMENT PROGRAMS

SPONSOR(s): STATE AFFAIRS

03/01/05	(H)	READ THE FIRST TIME - REFERRALS
03/01/05	(H)	CRA, STA, RES
04/28/05	(H)	CRA AT 8:00 AM CAPITOL 124
04/28/05	(H)	Moved CSHB 189(CRA) Out of Committee
04/28/05	(H)	MINUTE(CRA)
04/29/05	(H)	CRA RPT CS(CRA) NT 4NR 1AM
04/29/05	(H)	NR: SALMON, LEDOUX, OLSON, THOMAS;
04/29/05	(H)	AM: NEUMAN
04/29/05	(H)	FIN REFERRAL ADDED AFTER RES
05/03/05	(H)	STA AT 8:00 AM CAPITOL 106

BILL: SB 132

SHORT TITLE: HUMAN RIGHTS COMMISSION

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/04/05	(S)	READ THE FIRST TIME - REFERRALS
03/04/05	(S)	STA, JUD
03/17/05	(S)	STA AT 3:30 PM BUTROVICH 205
03/17/05	(S)	Heard & Held
03/17/05	(S)	MINUTE(STA)
03/29/05	(S)	STA AT 3:30 PM BELTZ 211
03/29/05	(S)	Moved SB 132 Out of Committee
03/29/05	(S)	MINUTE(STA)
03/30/05	(S)	STA RPT 3NR 1AM
03/30/05	(S)	NR: THERRIAULT, WAGONER, HUGGINS
03/30/05	(S)	AM: DAVIS
04/07/05	(S)	JUD AT 8:30 AM BUTROVICH 205
04/07/05	(S)	Scheduled But Not Heard
04/08/05	(H)	JUD AT 8:00 AM CAPITOL 120
04/08/05	(S)	Scheduled But Not Heard
04/14/05	(S)	JUD RPT 1DP 2NR 2AM
04/14/05	(S)	DP: SEEKINS
04/14/05	(S)	NR: THERRIAULT, HUGGINS
04/14/05	(S)	AM: FRENCH, GUESS
04/14/05	(S)	JUD AT 8:00 AM BUTROVICH 205
04/14/05	(S)	Moved SB 132 Out of Committee
04/14/05	(S)	MINUTE(JUD)
04/21/05	(S)	TRANSMITTED TO (H)
04/21/05	(S)	VERSION: SB 132(EFD FLD)
04/22/05	(H)	READ THE FIRST TIME - REFERRALS
04/22/05	(H)	STA, JUD
05/03/05	(H)	STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE BETH KERTTULA

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As sponsor of HB 277, presented Senator Kim Elton and Representative Bill Thomas.

SENATOR KIM ELTON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 277.

REPRESENTATIVE BILL THOMAS

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 277.

WALTER A. SOBELEFF, JR.

Juneau, Alaska

POSITION STATEMENT: Testified on behalf of himself during the hearing on HB 277.

CARLOS C. CADIENTE

Juneau, Alaska

POSITION STATEMENT: Testified on behalf of himself during the hearing on HB 277.

KARYL D. "BUNNY" LINDEGAARD

Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the Class of 1965 and herself during the hearing on HB 277.

LORRAINE DAVIS

(Address not provided)

POSITION STATEMENT: Her testimony supporting HB 277 was read by Karyl D. "Bunny" Lindegaard.

MIKE O'HARE, Staff

to Representative Pete Kott

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented the HB 283 on behalf of Representative Kott, sponsor.

BRIAN BUTCHER, Director

Government Relations and Public Affairs

Alaska Housing Finance Corporation (AHFC)

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 283.

DANIEL R. FAUSKE, Chief Executive Officer (CEO)/Executive Director

Alaska Housing Finance Corporation (AHFC)

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 283.

MORRIS NASSUK, Director

Bering Strait Coastal Management Program

(Address not provided)

POSITION STATEMENT: POSITION STATEMENT: Testified in support of "the extension for the OCRM approval program changes" and in opposition to "the 2011 sunset clause" during the hearing on HB 189.

MARV SMITH, Community Development Coordinator
Lake & Peninsula Borough
(Address not provided)

POSITION STATEMENT: Testified in support of a six-month extension of time during the hearing on HB 189.

JOHN OSCAR, Program Director
Cenaliulriit Lake Coastal Resource Service Area District (CRSA)
(Address not provided)

POSITION STATEMENT: Testified during the hearing on HB 189.

SCOTT NORDSTRAND, Deputy Attorney General (AG)
Civil Division
Office of the Attorney General
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Introduced SB 132.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House State Affairs Standing Committee meeting to order at [8:04:09 AM](#). Representatives Seaton, Gatto, Elkins, Lynn, and Gardner were present at the call to order. Representatives Ramras and Gruenberg arrived as the meeting was in progress.

HB 277-GAMBLE-SPERL UAS JOINT USE FACILITY

[8:04:40 AM](#)

CHAIR SEATON announced that the first order of business was HOUSE BILL NO. 277, "An Act naming the Charles Gamble Jr. - Donald Sperl Joint Use Facility in Juneau."

[8:04:42 AM](#)

REPRESENTATIVE BETH KERTTULA, Alaska State Legislature, as sponsor of HB 277, thanked the committee for so promptly hearing the bill and presented Senator Kim Elton and Representative Bill Thomas.

[8:05:06 AM](#)

SENATOR KIM ELTON, Alaska State Legislature, noted that 35 years ago, he would have introduced himself as "U.S. 50203352" - a draftee of the U.S. Army who served in Vietnam from 1969 through 1970. He introduced the parents, sister, and brother-in-law of the late Donald Sperl. He said the Sperl family has brought some of the memorabilia of Donald Sperl to share with the committee. He also introduced the family and friends of Charles Gamble.

SENATOR ELTON said Charles and Don lived their entire lives in Juneau, Alaska, and joined the army and ended up in Vietnam. Charles was born November 16, 1948, and died October 28, 1969, as a result of a helicopter crash in Vietnam. Donald was born January 12, 1948, and died May 8, 1968 from wounds received in the line of duty. He noted that both of the men would have been his age if they were still alive.

[8:07:53 AM](#)

SENATOR ELTON reported that the joint use facility - both armory and student recreation - will be completed on the University of Alaska campus in July [2005]. He offered his understanding that the facility will be the only one in the nation that is used as both a university recreation center and as an armory. The facility is being built with federal, state, and university funds. He stated that naming the facility after Charles Gamble and Donald Sperl will be an important reminder [of what these men have sacrificed]. Senator Elton shared that during his last visit to Washington, D.C., he visited the Vietnam War Memorial and found the names of both Mr. Sperl and Mr. Gamble on the wall. He concluded, "It would be very, very important, I think, for the community, if we could honor them locally instead of just in our nation's capital."

[8:09:08 AM](#)

REPRESENTATIVE BILL THOMAS, Alaska State Legislature, said he knows both families well, having met them after he returned from Vietnam. He said, "It took me 18-20 years before I had the guts to go see the Sperl family." He explained that he grew up with "Donny," meeting him on the basketball court during high school. He said he went to college with Donald Sperl. He said he was drafted to Vietnam on December 7, 1966 as U.S. 50202962. He related a story of running into Donald and Charles on his way to duty. Both men were serving as medics. Representative Thomas stated his support of HB 277.

[8:11:47 AM](#)

SENATOR ELTON, in response to a question from Representative Gardner, confirmed that Donald Sperl and Charles Gamble were the only two men from Juneau who lost their lives in the Vietnam War. He stated for the record that the effort to name the facility began about the same time an agreement was made to build it, about three years ago. He revealed that there is an institutional bias within the university to name facilities after university folks, and there is an institutional bias to name armories after those in the National Guard. He emphasized that both of those biases are appropriate. He said it's important for the record to reflect that while these are the only two ... young men from Juneau who died in Vietnam, there are people from Juneau, and around the state who are presently serving in Iraq, and if any harm should come to them, he is certain that Representatives Kerttula and Thomas would join him in welcoming additions to the names on the building. He said he thinks the naming of the facility is especially appropriate, because it's a facility designed for young men and women both at the university and serving in the [National Guard].

[8:13:58 AM](#)

SENATOR ELTON, in response to a question from Chair Seaton, confirmed that the borough assembly passed a resolution in support of the naming of the facility.

[8:14:12 AM](#)

REPRESENTATIVE KERTTULA noted that the university did have concerns because normally the board of regents and students are involved. However, she noted that Chancellor Pugh has asked that the rooms within the building remain available to name. She said she thinks that was a gracious compromise from the university.

[8:14:50 AM](#)

CHAIR SEATON noted for the record that he saw the chancellor nod his head in agreement to that statement.

[8:15:06 AM](#)

WALTER A. SOBELEFF, JR., testifying on behalf of himself, stated that [the Vietnam War] was largely unpopular and veterans from

that war have "just gone by the wayside." He said recognition given to Donald Sperl and Charles Gamble is long overdue. He noted that there is a memorial to a dog on Juneau's waterfront. He spoke of the sacrifices of the men and of their families.

CHAIR SEATON assured Mr. Sobelevf that he would find wide support for the bill.

[8:16:22 AM](#)

CARLOS C. CADIENTE, testifying on behalf of himself, told the committee that Charles Franklin Gamble - also known as "Skoogie" - was one of his best friends. He said Charles was a full-blood Alaska Native. Mr. Cadiente listed the names of the late Mr. Gamble's parents and sisters. He noted that Donald Sperl was an outstanding varsity athlete. He said both Donald and Charles were loved by all their classmates at Juneau Douglas High School, and both had the ability to bridge all people in the community together. Mr. Cadiente said he and his father debated the Vietnam War; he said he believed that war was not the answer. He said his father was devastated when Charles died in Vietnam.

MR. CADIENTE shared a photograph of his father next to "panel 17-West of the Vietnam Memorial, where Charles' name is inscribed. He stated that it would be a great tribute to both Donald and Charles, who made the ultimate sacrifice, to name the new building in their honor. He noted that Charles' family also approves of the naming of the building after both their son and Donald Sperl. He added, "I ... think that naming in honor of Charles and Don would also be a belated thank you from all our Alaskan communities to all those who have served in Vietnam." Furthermore, he opined that it would honor all the Alaskan soldiers who are currently in harm's way. He urged the committee to support HB 277.

[8:18:58 AM](#)

CHAIR SEATON said he knows it's difficult to testify, and he emphasized how much he appreciates the efforts of those testifying, as well as of [those who serve their country].

[8:19:05 AM](#)

KARYL D. "BUNNY" LINDEGAARD, testifying on behalf of the Class of 1965 and herself, said meetings are being held in preparation

for a 40-year reunion this year. She said, "We will be missing Donald Sperl."

LORRAINE DAVIS had her testimony read by Karyl D. "Bunny" Lindegaard as follows:

I will be out of town tomorrow, until May 12. Just wanted to say, "thank you" for this opportunity to express support naming the new facility, "The Sperl/Gamble Armory." What a tribute to the families and those of us who went to JD-High with these men. Please feel free to use my name in support of naming this facility

MS. LINDEGAARD continued with her testimony. She said Donald Sperl and Charles Gamble were young men of character. She listed Donald's qualities. She said that people will be able to explained to others the reason the building is named after the two men. She stated, "They were men of responsibility, respect, courtesy, and honesty, and that those values might be displayed through their names and through their families' names on that building, I thank you for any thoughtful consideration you will give."

[8:22:14 AM](#)

CHAIR SEATON closed public testimony.

[8:22:24 AM](#)

REPRESENTATIVE LYNN moved to report HB 277 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 277 was reported out of the House State Affairs Standing Committee.

HB 283-AK HOUSING FINANCE CORP BOARD COMP.

[8:23:40 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 283, "An Act relating to the compensation for board members of the Alaska Housing Finance Corporation; and providing for an effective date."

[8:23:48 AM](#)

MIKE O'HARE, Staff to Representative Pete Kott, Alaska State Legislature, presented HB 283 on behalf of Representative Kott, sponsor. He said the bill would increase the board meeting compensation levels for public board members from the current level of \$100 to \$400 per meeting. The \$100 amount has been in place since the inception of the corporation in 1971. He explained that the Alaska Housing Finance Corporation (AHFC) Board is asked to consider and review topics having to do with bonding, the mortgage industry, public housing, and many other complex technical financial matters. The board members do not draw a salary from AHFC. They are tasked to consider and approve bond programs valued between \$600 million and \$1 billion.

MR. O'HARE said that with such responsibility, members must spend a considerable amount of time educating themselves regarding the issues. He said the proposed legislation will allow the corporation to ensure having the most capable people on the board. He stated that the per board meeting compensation is applicable only to the four public board members of the seven-member board of directors. The fiscal note is \$14,400 in corporate receipts per fiscal year.

[8:25:52 AM](#)

BRIAN BUTCHER, Director, Government Relations and Public Affairs, Alaska Housing Finance Corporation (AHFC), added that AHFC is a completely self-supporting corporation that does not receive any state general funds and pays a \$103 million dividend to the state annually. In response to a question from Chair Seaton regarding information pertaining to compensation rates of other boards that he had requested at the prior hearing of HB 283, Mr. Butcher affirmed that he provided that information with Chair Seaton's staff [included in the committee packet].

[8:27:10 AM](#)

REPRESENTATIVE GARDNER noted that the sponsor statement reveals that board members spend a lot of their own time studying and preparing for meetings. She asked for confirmation that the bill proposes to increase the amount of reimbursement for only the members' meeting time.

[8:27:26 AM](#)

MR. BUTCHER answered that's correct. He offered further details. In response to Representative Gatto, he said the board

usually meets in Anchorage, but sometimes in Juneau or "different places where we have public housing units." In response to follow-up questions from Representative Gatto, he said a board member's airfare and hotel rate is covered by the corporation; the stipend in question is above and beyond those costs and is considered compensation pay for the board meeting time. He agreed with Representative Gatto that the stipend is, essentially, like a salary. However, he pointed out that in many cases board members have to take a day off work for a meeting. He clarified that in many cases it costs board members to participate in meetings. He reminded the committee that \$400 is currently what Permanent Fund Corporation and Alaska Railroad Board members receive. He said, comparatively, AHFC receives less than most in terms of compensation.

[8:29:58 AM](#)

REPRESENTATIVE RAMRAS offered his belief that the Permanent Fund Corporation trustees are paid annually, and he asked if the AHFC Board members are.

[8:30:13 AM](#)

MR. BUTCHER answered no. In response to a follow-up question from Representative Ramras, he said the aggregate fund that AHFC manages is \$5 billion.

[8:30:46 AM](#)

REPRESENTATIVE RAMRAS stated his support of the bill.

[8:31:33 AM](#)

REPRESENTATIVE GRUENBERG asked if any other boards use the term "or portion of the day" [on page 1, line 6,] regarding compensation, and if the board would be paid for meeting only 15 minutes.

[8:31:51 AM](#)

MR. BUTCHER, to the first question, replied that he doesn't know. Regarding the second question, he said the compensation is applied "to the date of the board meeting." He said the meetings tend to last 3-5 hours.

[VICE CHAIR GATTO was handed the gavel.]

[8:32:26 AM](#)

DANIEL R. FAUSKE, Chief Executive Officer (CEO)/Executive Director, Alaska Housing Finance Corporation (AHFC), said the length of meetings are five to six hours. Sometimes the meetings carry over to the next day. Sometimes a subcommittee will meet the day before a regular meeting, so that it can make a recommendation to the board the next day. He said he has never heard of a meeting that has lasted only 15 minutes and it would not be proper to pay someone \$400 for stopping by the office to sign a paper, for example.

[8:33:57 AM](#)

VICE CHAIR GATTO asked if that means Mr. Fauske would act negatively on any request.

[8:34:13 AM](#)

MR. FAUSKE responded that he has a good relationship with the board and would deny someone if he felt that the intent of the compensation was being abused.

[8:34:36 AM](#)

VICE CHAIR GATTO offered a scenario whereby board members meet for dinner and talk business, have a meeting the next day, and meet for breakfast the next morning and conduct business. He asked if that would be an unlikely scenario.

[8:35:11 AM](#)

MR. FAUSKE said he cannot envision that happening.

[8:35:22 AM](#)

REPRESENTATIVE ELKINS asked, "So, you're telling me on the days they travel they get no per diem?"

[8:35:31 AM](#)

MR. FAUSKE answered in the affirmative. He said the purpose of the bill is to increase the amount of money board members receive solely for the meetings they attend.

[8:36:21 AM](#)

REPRESENTATIVE ELKINS pointed out that a member from Wrangell [attending a meeting in Anchorage] loses three days pay for attending a meeting. He said he doesn't think it's right not to be reimbursed for days of travel. He stated, "I have a hard time supporting the \$400, but not supporting the travel days is harder for me than supporting the \$400."

[8:36:37 AM](#)

REPRESENTATIVE GARDNER noted that the bill refers to AS 39.20.180, which she said is legislation that provides for transportation and per diem expenses. She added, "So, my understanding is that members would get transportation and per diem on the days they're traveling as well as the days they're actually meeting."

[8:36:57 AM](#)

MR. FAUSKE offered the following correction to his previous statements: "They do get paid that day for travel. If they're traveling on corporate business coming here, they do get their pay for the day."

[CHAIR SEATON took back the gavel.]

[8:37:24 AM](#)

CHAIR SEATON stated, "I would like to note on another portion that we are looking at the same compensation rate for the Alaska Retirement Board. That's built into that piece of legislation, as well."

[8:37:34 AM](#)

REPRESENTATIVE GRUENBERG suggested standardizing the rate for all boards and incorporating into HB 283 a section asking the administration or appropriate entity to review all the boards and submit a report to the legislature at the beginning of the next session.

[8:38:35 AM](#)

CHAIR SEATON recommended the committee make that request of the administration in a separate piece of legislation.

[8:38:44 AM](#)

REPRESENTATIVE GARDNER noted that the fiscal note states that the members would receive the \$400 compensation per meeting. She said that is incorrect, because members would actually receive the reimbursement per day.

[8:39:03 AM](#)

MR. BUTCHER confirmed that Representative Gardner is correct, and he said he would change that.

[8:39:15 AM](#)

REPRESENTATIVE GARDNER questioned whether that would increase the [amount of the fiscal note].

[8:39:21 AM](#)

CHAIR SEATON asked, "Were the calculations based on the way the compensation was ... actually done, or [were] the calculations in the fiscal note based just on an anticipated meeting date?"

[8:39:46 AM](#)

MR. BUTCHER replied that it was based on what the anticipated cost to the corporation would be should the proposed legislation pass.

CHAIR SEATON asked if that was based on the idea that the compensation would be only on the day of the meeting, or whether that included the travel days, as well.

MR. BUTCHER answered that of the four public members, one lives in Anchorage and two others frequently participate by teleconference; therefore, multiple-day meetings are "not applicable in most cases." He said, "I don't know that it would be a big difference; maybe a difference of a thousand dollars, or so, depending on how you looked at it."

[8:40:17 AM](#)

CHAIR SEATON said he would not hold the bill up, but would like Mr. Butcher to ensure that the issue is revised before the bill is heard before the House Finance Committee. He said he would like the House State Affairs Standing Committee to focus on the policy issue of whether \$400 is adequate for someone serving on the board, rather than looking at the absolute terms of the fiscal note.

[8:41:23 AM](#)

REPRESENTATIVE GRUENBERG said, "If we decide that, for example, ... \$400 a day is more than we should be spending for these folks, we're not going to be able to roll this board back. By doing this now, we are setting a precedent for what we're going to be quite possibly doing with these other boards."

[8:42:16 AM](#)

CHAIR SEATON closed public testimony.

[8:42:26 AM](#)

REPRESENTATIVE LYNN declared a potential conflict of interest; he revealed that he is a licensed real estate associate broker who has done business with AHFC in the past and may do so again in the future.

[8:42:44 AM](#)

CHAIR SEATON noted Representative Lynn's conflict and stated, "I make a ruling that it's not significant at this time."

[8:42:57 AM](#)

REPRESENTATIVE GARDNER moved Amendment 1, to delete "or portion of a day". She explained that she is troubled by that phrase. She said she read AS 18.56.030 and doesn't know that "a day" is defined anywhere.

[8:43:32 AM](#)

CHAIR SEATON said he would like Representative Gardner to clarify if the intent of the amendment is to say that a board member has to work for a specific amount of time for it to count as a day. He indicated that that is the problem he has with Amendment 1.

[8:44:49 AM](#)

REPRESENTATIVE GARDNER asked if a breakfast meeting on the day of departure would be counted as a workday.

[8:45:01 AM](#)

CHAIR SEATON reminded Representative Gardner that since the travel day is compensated, it doesn't matter whether or not there is a breakfast meeting. He said the \$400 a day compensation rate is not really high when consideration is made to the caliber of people being asked to make decisions for AHFC. He said, "So, I think we may be getting into more technicalities than we really want to."

[8:45:47 AM](#)

REPRESENTATIVE ELKINS said he has a hang up with any board or commission member being paid more than a legislator. He said he thinks it would be proper "that their per diem rate be tied to ours."

[8:46:26 AM](#)

CHAIR SEATON clarified that although the money in question is called a per diem, it really is a salary, not just expense compensation. He added, "So, you'd have to compare it to our salary, and I don't think we want to compare very many people to our salaries, otherwise we wouldn't have anybody doing anything."

[8:47:29 AM](#)

REPRESENTATIVE GRUENBERG asked if any other statutes for any other boards use the phrase, "or portion of a day".

[8:48:09 AM](#)

MR. BUTCHER responded that he doesn't know. He said the request to Legislative Legal and Research Services was to change the amount from \$100 to \$400 and "this is how it was drafted."

[8:48:32 AM](#)

REPRESENTATIVE GRUENBERG said he supports Amendment 1. He explained that if the phrase "or portion of a day" is used only in HB 283 and not in other statutes pertaining to other boards, the result may be that "this statute" is interpreted differently.

REPRESENTATIVE GARDNER restated Amendment 1 for clarification purposes. She added, "And I'd like to say, if 'day' is not defined, a 'portion of a day' is covered."

REPRESENTATIVE GRUENBERG added, "I would ask that that be done with the understanding that I'll be offering that motion."

[8:50:18 AM](#)

CHAIR SEATON, upon a query from the committee secretary, stated that he had objected to Amendment 1.

[8:50:28 AM](#)

A roll call vote was taken. Representatives Gardner, Gruenberg, Gatto, Elkins, and Lynn voted in favor of Amendment 1. Representatives Ramras and Seaton voted against it. Therefore, Amendment 1 passed by a vote of 5-2.

CHAIR SEATON asked Representative Gruenberg if he wanted to restate his request.

REPRESENTATIVE GRUENBERG said, "I will do that after we move the bill; if you're going to move the bill."

[8:51:36 AM](#)

REPRESENTATIVE GARDNER interpreted:

My reading of this, because it includes AS 39.20.180, means that they do get per diem rate at essentially the same rate as the legislature, according to the regulations, on the travel date. So, what they would now get is \$400 a day for travel day, as well as the same per diem that everybody else gets. Is that correct?

[8:51:40 AM](#)

MR. BUTCHER responded that's correct. He said, "For the day they're in Anchorage, they receive \$40, or whatever the meal per diem is for that day."

[8:51:47 AM](#)

REPRESENTATIVE GATTO referred to the language: "may be reimbursed by the corporation for actual and necessary expenses". He indicated that the language "sounds like we're telling them we're going to reimburse their hotel cost - 'actual and necessary expense' - and their food cost." He continued, "But what you told us was that that's already covered and this

is more of a salary. And yet, the language conflicts with that."

[8:52:54 AM](#)

MR. BUTCHER explained that the corporation pays for the air fare, hotel rate, and meal allowance, all of which are separate from the \$100 [or \$400 if the bill is adopted] compensation for the board meeting.

[8:54:31 AM](#)

REPRESENTATIVE GARDNER noted that the language that Representative Gatto is asking about already exists in statute. She said, "The only change we're making is the dollar amount."

[8:54:51 AM](#)

REPRESENTATIVE RAMRAS asked Mr. Butcher to remind him how much the dividend is that AHFC "throws off annually."

MR. BUTCHER answered that it's been \$103 million a year for about the last 8-10 years.

[8:55:15 AM](#)

REPRESENTATIVE RAMRAS responded:

So, a billion dollars over the last 10 years has gone to the general fund and we're arguing about moving the per diem from \$100 a day to \$400 a day for a fiscal note of \$14,000 a year? For over 10 years, that would be \$140,000 dollars, and [AHFC] has thrown off a billion dollars into the general fund for the use of the state. Is that right?

[8:55:28 AM](#)

MR. BUTCHER replied, "In the last 10-15 years it's been about \$1.5 billion."

[8:55:41 AM](#)

REPRESENTATIVE RAMRAS remarked, "We're probably not going to change the per diem for awhile ..., so it could be \$140,000 over the next 10 years. And we may see another billion or two in dividends over the next 10 years?"

8:55:48 AM

MR. BUTCHER responded that that's a possibility.

8:55:58 AM

REPRESENTATIVE GARDNER said, "Point taken."

REPRESENTATIVE GARDNER moved to report HB 283, as amended, out of committee with individual recommendations and the accompanying fiscal note that will also be amended. There being no objection CSHB 283(STA) was reported out of the House State Affairs Standing Committee.

8:57:01 AM

REPRESENTATIVE GRUENBERG presented a concept for a letter to be transmitted from the committee as follows:

The House State Affairs Committee requests the administration ... to provide a written response to the following questions concerning all boards and commissions, compensated and noncompensated

1) Should any [other] noncompensated boards and commissions be compensated?

...

2) Should the compensation rate or rates be adjusted or standardized and, if so, at what rates?

3) Should the following language be added to those statutes that provide compensation at a daily rate "or a portion of a day"?

... If legislation is warranted, the committee would welcome proposed legislation.

8:58:41 AM

CHAIR SEATON said unless the committee has a burning desire to address the letter with a committee action, he would prefer to transmit the letter individually and "get the information back."

8:58:49 AM

HB 189-COASTAL MANAGEMENT PROGRAMS

8:58:56 AM

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 189, "An Act relating to an extension for review and approval of revisions to the Alaska coastal management program; providing for an effective date by amending the effective date of sec. 45, ch. 24, SLA 2003; and providing for an effective date."

8:59:10 AM

CHAIR SEATON explained that HB 189 is sponsored by the House State Affairs Standing Committee and was heard first by the House Community and Regional Affairs Standing Committee, during which time "there was some frustration" which resulted in, basically, a "one-line bill." Chair Seaton assured the committee members that the House Community and Regional Affairs Standing Committee fully anticipates that the House State Affairs Standing Committee will make significant changes to the bill. He said, "This isn't a fight between two committees."

9:00:18 AM

REPRESENTATIVE GATTO moved to adopt the committee substitute (CS) for HB 189, Version 24-LS0703\G, as a work draft. There being no objection, Version G was before the committee.

9:00:49 AM

CHAIR SEATON reviewed that the committee had conducted a lengthy meeting on the coastal zone management program, during which there was discussion surrounding the sunset of House Bill 191 and districts that didn't get plans in by July 1. There were problems in revising the state standards necessary in order for "them to build their new plans around." He said there was dissent between the federal approving agencies and the state regarding "what those plans could be - whether it could be a minor modification or would have to be a major amendment." He said, "Those things are still working through the system." To date, there is still no federal final approval of regulations, and coastal districts are in limbo as to how to rewrite their plans in a way that will be consistent.

CHAIR SEATON pointed out that some districts along Western Alaska are widespread with a lot of communities to cover. Part of the process for having a coastal management program is to get local input and knowledge in the plans; so, "the timeframe of constructing a plan is very difficult if you're going to get meaningful public input."

CHAIR SEATON said [Version Y] has been constructed to change the date at which the state plan has to be recognized by the federal government, so that the action of House Bill 191 does not take effect and kill the program on July 1. He said it would also have the effect of sunseting the program in 2011, so that the legislature will have to review the program to extend it. Also included in Version Y would be an extension of six months after approval by federal office of the state's regulation, so that the local districts know in entirety what they have to build their plans on. He said, "After those state regulations are finalized, ... adopted, and noticed, then there is a six-month date in which they have to revise their plans and get them back into the state. And the state then must finish ... [its] review of those plans and certify those district plans by January 1, 2007." He said the state plan has to have the federal approval by March 1, [2006].

[9:05:32 AM](#)

CHAIR SEATON, in response to a question from Representative Gardner, reviewed that the two firm dates are March 1, 2006, and January 1, 2007.

[9:07:29 AM](#)

REPRESENTATIVE GARDNER asked if there is any possibility that what's needed by March 1 may not be available. She explained that she doesn't want to set a firm date "if we don't have control of all the steps that lead up to that." She asked what would happen if the federal approval was not obtained by March 1.

[9:07:46 AM](#)

CHAIR SEATON responded that currently the program ends on July 1 - when the legislature is not in session. The proposal is to extend that to January 1, but that, he explained, means that the legislature would have no ability "to influence and control that decision." The March 1 date would give the legislature 45 days in which to act "if nothing has happened."

9:08:26 AM

REPRESENTATIVE GARDNER clarified that she is just concerned about having something in legislation that "all hinges on a piece that we don't have any control over."

CHAIR SEATON said he agrees with Representative Gardner. He pointed out that House Bill 191 had some dates in it and "every one of them turned out to be unrealistic."

REPRESENTATIVE GARDNER replied, "Exactly, and I don't want to repeat that."

CHAIR SEATON said dates have "slipped" before, and if they do so again, at least the legislature would be in session and "if both houses and the administration want to, if something did go really crazy, we could extend."

9:09:15 AM

REPRESENTATIVE GARDNER said she is willing to not offer an amendment she had thought to offer, in order that the bill will move more quickly. In return, she asked for Chair Seaton's commitment "to help with extending it if we need to because the other pieces that we don't control haven't dropped into place next session."

9:09:40 AM

CHAIR SEATON gave her his commitment to do that.

9:09:55 AM

REPRESENTATIVE GRUENBERG remarked that there is only a week to go in the session and asked if it will be possible to "get this thing through."

9:10:51 AM

CHAIR SEATON noted that there is a bill on the Senate side that is similar. He said he has been in communication with the chair of the Senate State Affairs Standing Committee in an attempt to "go on a common path."

9:11:17 AM

REPRESENTATIVE GRUENBERG asked if it wouldn't allow more breathing room to change March 1 to April 1, for example.

[9:11:46 AM](#)

CHAIR SEATON responded that the March 1 date gives the legislature 45 days, which he said is adequate. He said, "There have been a number of negotiations around that date, and that's about 30 days longer than ... [we] were offered previously." He noted that the Senate version of HB 189 is on the Senate calendar today to be heard on the Senate floor.

REPRESENTATIVE GRUENBERG said, "So, what we're doing is passing this out so that that can be then put into the [House Resources Standing Committee] directly."

CHAIR SEATON answered that's correct.

The committee took an at-ease from [9:13:14 AM](#) to [9:13:26 AM](#).

[9:13:36 AM](#)

CHAIR SEATON said the bill on the Senate side doesn't have the six-month approval time after federal approval, which he indicated he thinks is important. In response to a question from Representative Gruenberg, he said that language appears on page 11, in Section 15.

The committee took an at-ease from [9:14:19 AM](#) to [9:14:56 AM](#).

CHAIR SEATON stated another consideration is whether to put July 1, 2001, in the title of the bill.

[9:15:34 AM](#)

REPRESENTATIVE GARDNER moved Amendment 1 to add "on July 1, 2001", after the title sentence.

[9:15:59 AM](#)

REPRESENTATIVE GRUENBERG objected. He explained, "Because if the vehicle is the Senate vehicle, they have to add that over there [and] we're going to need a concurrent resolution. So, you ought to be sure that they do a floor amendment to put that in on the other bill."

The committee took an at-ease from [9:16:20 AM](#) to [9:16:50 AM](#).

REPRESENTATIVE GARDNER [withdrew Amendment 1].

[9:18:04 AM](#)

REPRESENTATIVE GARDNER moved to report 24-LS0307\Y out of committee with individual recommendations and the accompanying fiscal notes.

[9:18:36 AM](#)

CHAIR SEATON announced that the motion to move the bill out of committee must be withdrawn in order to open public testimony.

[9:18:48 AM](#)

MORRIS NASSUK, Director, Bering Strait Coastal Management Program, testified in support of "the extension for the OCRM approval program changes" and in opposition to "the 2011 sunset clause." He urged the committee to support the extensions from six months to a year.

[9:20:08 AM](#)

CHAIR SEATON asked Mr. Nassuk how important it is for [those managing the Bering Strait Coastal Management Program] to know what the final regulations are before they are required to finalize their plans.

[9:20:23 AM](#)

MR. NASSUK responded that it's extremely important. He explained that it's confusing to be told to follow certain guidelines that haven't yet met with federal approval. Currently, the program is in limbo because of unclear guidelines.

[9:20:58 AM](#)

REPRESENTATIVE GARDNER asked if six months would be adequate for his program to prepare his plan and submit it once he knows the state and federal plans.

[9:21:14 AM](#)

MR. NASSUK said [six months] would be an improvement over the present deadline of July 1.

[9:21:45 AM](#)

MARV SMITH, Community Development Coordinator, Lake & Peninsula Borough, testified in support of the six-month extension of time, adding that more time would probably be needed. He said he has put out plans for public review that took three years to develop, and he has received feedback from many agencies. He said, "I've got a lot of work to get done." He explained that he found out there are a lot of problems that need to be worked out with his contractor and it's questionable whether everything can be done by July 1. He said, "I think the Coastal Management Program is something that the people of Alaska have something to do with." He stated his opposition to the sunset clause, scheduled for 2011, because, depending on the administration in office at the time, [the program] could possibly be eliminated.

[9:23:18 AM](#)

CHAIR SEATON said he thinks developers would hate to see [the program] ended, because that would mean that they would have to go to the boroughs for the land use planning, to the state for state standards, and go separately to the federal government, because there would be no consistency review. He asked the same question of Mr. Smith as he did of Mr. Nassuk, regarding how important it is to have the six-month extension begin after the final federal approval of the state regulations.

[9:24:18 AM](#)

MR. SMITH responded that he cannot emphasize enough how important it is.

[9:25:18 AM](#)

JOHN OSCAR, Program Director, Cenaliulriit Lake Coastal Resource Service Area District (CRSA), said the district includes the largest area of remote villages in the Yukon/Kuskokwim Delta region of Alaska, with Yupik Eskimo spoken as the primary language at public meetings. He said ACMP has been a successful part of the communities in Alaska regarding the permitting process. He said a one-year extension would be practical for his program. He thanked the committee for its patience regarding the extension of deadlines, which, he indicated, assists everyone - the legislature, the state, and the majority of districts - to comply with well-planned revisions "with fair support from our constituency in Alaska." He stated that

although the sunset of date of July 1, 2011, is discomfoting for fear of "losing to the federal government agencies," he stated his belief that it will "offer some compromise to revisit the ... success of any program at that time."

[9:26:56 AM](#)

CHAIR SEATON closed public testimony.

[9:27:17 AM](#)

REPRESENTATIVE GRUENBERG [moved Amendment 2] as follows:

Page 12, line 10:

Between "July 1," and "."

Delete "2011"

Insert "2015"

REPRESENTATIVE GRUENBERG said he is offering the amendment in response to the public testimony.

[9:28:41 AM](#)

CHAIR SEATON objected to Amendment 2. He noted that the original bill did not have a sunset date, but after intense negotiations between various entities involved in the program, a sunset date of 2011 was chosen.

[9:29:34 AM](#)

REPRESENTATIVE GRUENBERG withdrew Amendment 2. He added, "I appreciate your efforts to get this extended."

[9:29:50 AM](#)

REPRESENTATIVE GARDNER moved to report CSHB 189, Version 24-LS0703\Y, Bullock, 5/2/05, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection CSHB 189(STA) was reported out of the House State Affairs Standing Committee.

#

The committee took an at-ease from [9:30:40 AM](#) to [9:39:22 AM](#).

[9:39:23 AM](#)

#hb202
SB 132-HUMAN RIGHTS COMMISSION

[Contains brief mention of HB 202.]

[9:39:25 AM](#)

CHAIR SEATON announced that the last order of business was SENATE BILL NO. 132(efd fld), "An Act relating to complaints filed with, investigations, hearings, and orders of, and the interest rate on awards of the State Commission for Human Rights; and making conforming amendments."

[9:39:31 AM](#)

SCOTT NORDSTRAND, Deputy Attorney General (AG), Civil Division, Office of the Attorney General, Department of Law, introduced SB 132, which he said is identical to HB 202. He stated that the intent of the bill is to "enhance the effectiveness of the Alaska State Commission for Human Rights ... (ASCHR), by allowing the commission to evaluate complaints of unlawful discrimination and to allocate its resources to prosecuting those complaints that will best serve the commission's goal of eliminating unlawful discrimination." The bill would: improve commission procedures, enhance the fairness of commission procedures, clarify what the commission may award to remedy unlawful discrimination, and make some housekeeping changes.

MR. NORDSTRAND said the bill would enhance the commission's effectiveness by allowing it to be more selective about the cases it prosecutes. The executive director would be authorized to choose the complaints of unlawful discrimination that merit pursuit, based on: strength of evidence, severity of violation, employer's history before the commission, and complaint's value in establishing precedence.

MR. NORDSTRAND mentioned the Department of Fish & Game v. Meyer, a case which required the director to take to hearing any complaints supported by substantial evidence of unlawful discrimination, without regard to such factors as the weakness of the evidence or the strength of the employer's affirmative defenses. He indicated that SB 132 would reverse the effect of that case. The bill would allow a complainant to withdraw a complaint before the accusation is served, but would preserve the executive director's right to file a complaint on his/her own if he/she disagrees with the complainant's withdrawal. The

bill would also improve commission procedures. It would permit agreements during the prehearing - or conciliation phase, as it's called in statute - to compromise damaged claims.

[9:42:16 AM](#)

MR. NORDSTRAND reviewed the process undergone when a person believes he/she has been discriminated against. He explained that once there is a finding of substantial evidence, that's when the phase called conciliation begins, which is an attempt to settle a case amicably between parties. If there is a failure of conciliation, then the executive director tells the commission that it is necessary to go forward with formal procedures. He offered further details, including the steps of a discovery process and a hearing before a hearing examiner. He reiterated the effect that the Department of Fish & Game v. Meyer case had. He noted that the claims under the Human Rights Act can either be brought to the commission or to the superior court, thus, if someone brings a claim, he/she would have to be subjected to the test of summary judgment. He added, "Now, as it stands, in the Human Rights Commission, you don't."

[CHAIR SEATON turned the gavel over to Vice Chair Gatto.]

[9:47:36 AM](#)

REPRESENTATIVE GRUENBERG spoke of the nuances between the civil and prosecutorial aspects of the Human Rights Act. He asked Mr. Nordstrand to provide the committee with a marked up copy of the aforementioned case.

[9:50:20 AM](#)

MR. NORDSTRAND summarized that the intent of the bill is to give the commission the ability to direct its resources in the best way to alleviate the greatest amount of discrimination possible. It would also allow a procedure to be followed if an investigation is lacking in substantial evidence, which would serve as a check on the executive director's authority. He offered an example. He said the commission has concerns about that because of the associated workload.

[9:51:43 AM](#)

VICE CHAIR GATTO said no one knows what the term "substantial" means. He stated, "We're just trying to figure out a way to keep the door from swinging open every time somebody nudges it."

He opined that it's impossible to reach a standard where any possibility of discrimination can be denied.

[9:52:23 AM](#)

MR. NORDSTRAND said he thinks that's true. He continued as follows:

What we've essentially done is recognized that we can't really fix the substantial evidence problem. ... We could try to come up with new words, but new words wouldn't make it clearer. So, what we've done is we've said, "If there's substantial evidence - this lowest standard of evidence - the door can swing open, but there are reasons why the executive director may choose not to go forward anyway." And we've listed those criteria ...: If [there is] substantial evidence, okay, go forward. But the executive director could say, for example, "This person's refusal to settle for a fair sum is unreasonable. And we're not going to use the state's resources to go any further when ... a fair settlement is \$5,000 and they say, 'I ... won't settle for less than [\$50,000].'"

As the system stands now, ... it's not costing that person to go forward So, there's sort of a disincentive to settle, in some sense, because usually the farther along in the process you go, the higher the settlement offer gets, because the cost associated with going forward increased. And so, this is a recognition that as a check to that kind of motivation, the executive director has to be a fair judge of what should go forward and what ... [shouldn't].

MR. NORDSTRAND directed attention to a handout in the committee packet that shows a comparison of SB 132 with last year's Senate Bill 354.

[9:54:27 AM](#)

REPRESENTATIVE GRUENBERG noted that he, Chair Seaton, and Representative Lynn spent a fair amount of time on [Senate Bill 354].

[9:54:48 AM](#)

MR. NORDSTRAND stated that, in addition to the procedural changes, the bill also would enhance the fairness of the commission's procedures by requiring "charges in the accusation." He explained that the complaint is what the person brings to the commission and signs. The accusation happens after that; it clarifies the charge against the person. The bill would require that charges in the accusation - that the executive director issues after deciding to pursue a complaint to hearing - be based upon an investigators determination of substantial evidence. He offered further details.

[9:56:46 AM](#)

VICE CHAIR GATTO asked that Mr. Nordstrand come back on Thursday.

[SB 132 was heard and held.]

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [9:57:17 AM](#).