

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

March 14, 2006

8:05 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

**OTHER LEGISLATORS PRESENT**

Representative Kurt Olson

**COMMITTEE CALENDAR**

HOUSE BILL NO. 475

"An Act describing contributions to the health reimbursement arrangement plan for certain teachers and public employees; clarifying eligibility for membership in that health reimbursement arrangement plan; relating to the 'administrator' of the Public Employees' Retirement System of Alaska; and providing for an effective date."

- MOVED CSHB 475(STA) OUT OF COMMITTEE

HOUSE BILL NO. 448

"An Act relating to special license plates for the Free and Accepted Masons."

- MOVED CSHB 448(STA) OUT OF COMMITTEE

HOUSE BILL NO. 438

"An Act relating to initiative, referendum, and recall petitions; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 45

"An Act amending the definition of the term 'lobbyist' in the Regulation of Lobbying Act; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 475

SHORT TITLE: PUB EMPLOYEE/TEACHER RETIREM'T/SBS/D.C.

SPONSOR(S): REPRESENTATIVE(S) SEATON

02/13/06	(H)	READ THE FIRST TIME - REFERRALS
02/13/06	(H)	STA, FIN
02/23/06	(H)	STA AT 8:00 AM CAPITOL 106
02/23/06	(H)	Heard & Held
02/23/06	(H)	MINUTE(STA)
02/28/06	(H)	STA AT 8:00 AM CAPITOL 106
02/28/06	(H)	Scheduled But Not Heard
03/02/06	(H)	STA AT 8:00 AM CAPITOL 106
03/02/06	(H)	Heard & Held
03/02/06	(H)	MINUTE(STA)
03/07/06	(H)	STA AT 8:00 AM CAPITOL 106
03/07/06	(H)	Heard & Held
03/07/06	(H)	MINUTE(STA)
03/14/06	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 448

SHORT TITLE: LICENSE PLATES FOR MASONS

SPONSOR(S): REPRESENTATIVE(S) ELKINS

02/13/06	(H)	READ THE FIRST TIME - REFERRALS
02/13/06	(H)	STA, FIN
03/07/06	(H)	STA AT 8:00 AM CAPITOL 106
03/07/06	(H)	Heard & Held
03/07/06	(H)	MINUTE(STA)
03/14/06	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 438

SHORT TITLE: INITIATIVE, REFERENDUM, RECALL PETITIONS

SPONSOR(S): REPRESENTATIVE(S) RAMRAS

02/08/06	(H)	READ THE FIRST TIME - REFERRALS
02/08/06	(H)	STA, JUD, FIN
03/09/06	(H)	STA AT 8:00 AM CAPITOL 106
03/09/06	(H)	-- Meeting Canceled --

03/14/06

(H)

STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

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

POSITION STATEMENT: Provided clarification regarding Conceptual Amendment 6 to HB 475, on behalf of Representative Seaton, sponsor.

MELANIE MILLHORN, Director  
Division of Retirement & Benefits  
Department of Administration  
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 475.

TRACI CARPENTER, Project Manager  
Health Benefits Section  
Division of Retirement & Benefits  
Department of Administration  
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 475.

JAMES VAN HORN, Staff  
to Representative Jim Elkins  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Answered questions raised during the last committee hearing on HB 448, on behalf of Representative Elkins, sponsor.

DUANE BANNOCK, Director  
Division of Motor Vehicles  
Department of Administration  
Anchorage, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 448.

LOUIS S. BANDIROLA, State Deputy  
Alaska Contingent  
Knights of Columbus  
Juneau, Alaska

POSITION STATEMENT: Asked the committee to consider including the Knights of Columbus in HB 448.

JIM POUND, Staff  
to Representative Jay Ramras  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Offered further details regarding HB 438,  
on behalf of Representative Ramras, sponsor.

ANNETTE KREITZER, Chief of Staff  
Office of the Lieutenant Governor  
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 438.

SARAH FELIX, Assistant Attorney General  
Labor and State Affairs Section  
Civil Division (Juneau)  
Department of Law  
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 438.

WHITNEY H. BREWSTER, Director  
Central Office  
Division of Elections  
Juneau, Alaska

POSITION STATEMENT: Addressed the fiscal implications of the HB  
438.

BROOKE MILES, Director  
Alaska Public Offices Commission (APOC)  
Department of Administration  
Anchorage, Alaska

POSITION STATEMENT: Talked about the fiscal implications of HB  
438.

HOPE L. CERMELJ  
Fairbanks, Alaska

POSITION STATEMENT: Testified on behalf of herself during the  
hearing on HB 438.

#### **ACTION NARRATIVE**

**CHAIR PAUL SEATON** called the House State Affairs Standing  
Committee meeting to order at [8:05:32 AM](#). Representatives  
Gatto, Elkins, Gardner, and Seaton were present at the call to  
order. Representatives Lynn, Ramras, and Gruenberg arrived as  
the meeting was in progress.

HB 475-PUB EMPLOYEE & TEACHER RETIREMENT & SBS

[Contains discussion of SB 141 and SB 293.]

[8:06:53 AM](#)

CHAIR SEATON announced that the first order of business was HOUSE BILL NO. 475, "An Act describing contributions to the health reimbursement arrangement plan for certain teachers and public employees; clarifying eligibility for membership in that health reimbursement arrangement plan; relating to the 'administrator' of the Public Employees' Retirement System of Alaska; and providing for an effective date."

[Before the committee was the committee substitute (CS) for HB 475, Version 24-LS1685\Y, Wayne, 3/1/06.]

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

[8:07:17 AM](#)

REPRESENTATIVE SEATON brought attention to a consolidated sectional analysis for HB 475, which was included in the committee packet. He reminded the committee that during the first hearing of the bill, there had been a review of the original sectional analysis, in which many issues were repeated for the various retirement systems. The consolidated analysis combines those systems and provides clarity.

[8:07:57 AM](#)

CHAIR SEATON moved to adopt Conceptual Amendment 6, which read as follows [original punctuation provided, but with some formatting changed]:

Page 17, following line 15:

Insert new bill sections to read:

**\*\* Sec. 45.** AS 39.35 is amended by adding new sections to read:

**Sec. 39.35.957. Designation of eligible employees, agreement to contribute, and amendment of participation.** (a) A political subdivision or public organization shall designate the departments, groups, or other classifications of employees eligible to participate in the plan, and shall agree to make

contributions each year in the amounts required for members of the plan under AS 39.35.750.

(b) If the employer does not participate in the defined benefit retirement plan under AS 39.35.095-39.35.680, an employee who is eligible under (a) of this section and who is a member of the defined benefit retirement plan under AS 39.35.095 - 39.35.680 shall not accrue credited service or make contributions under that plan, but shall be a member of the defined contribution retirement plan under AS 39.35.700-39.35.990 and make contributions under that plan.

(c) An employer may request to amend its participation in the plan to add or exclude departments, groups, or other classifications of employees by filing a resolution as provided by AS 39.35.950 or AS 39.35.955 with the administrator.

**Sec. 39.35.958. Termination of participation in the plan.** (a) A political subdivision or public organization may request that its participation in the plan be terminated. The request may be made only after adoption of a resolution by the legislative body of the political subdivision and approval of the resolution by the person required by law to approve the resolution, or, in the case of a public organization, after adoption of a resolution by the governing body of that public organization. A certified copy of the resolution shall be filed with the administrator.

(b) If contributions are not transmitted to the plan within the prescribed time limit, the commissioner of administration may grant an extension and shall assess interest on the outstanding contributions at the rate established under AS 39.35.610. If the political subdivision or public organization is in default at the end of the extension, participation in the plan is terminated, and it shall be sent notice of termination.

(c) When an employer's participation in the plan is terminated, or when an employer terminates coverage of a department, group, or other classification of employees under AS 39.35.957(c), the administrator shall assess the employer an amount that the

administrator determines is actuarially required to fully fund the costs to the plan for employees whose coverage is terminated, including the cost of providing the employer's share of retiree health benefits under AS 39.35.880, occupational disability and occupational death benefits under AS 39.35.890 and 39.35.892, and retirement benefits elected under AS 39.35.890(h)(2).

(d) An employee whose coverage under the plan is terminated as a result of termination of an employer's participation under this section or amendment of the employer's agreement under AS 39.35.957(c) shall be considered fully vested in employer contributions under AS 39.35.790(b) and in the individual account established for the employee under AS 39.30.370. If the employee is later employed with a participating employer, the employee's membership service earned under the plan during employment with a terminated employer shall be credited for purposes of determining vesting in employer contributions under AS 39.35.790(b) and eligibility for retirement and medical benefits under this chapter and AS 39.30.300-39.35.495."

[8:09:33 AM](#)

VICE CHAIR GATTO objected for discussion purposes.

[8:09:42 AM](#)

CHAIR SEATON spoke to Conceptual Amendment 6. He explained that currently there are provisions in the defined benefit (DB) retirement plan that allow employers to opt out of the plan. Conceptual Amendment 6 would bring the defined contribution (DC) retirement plan in conformity, so that if an employer decided to opt out in the future, it could be done basically under the same conditions that employers currently follow for the DB plan.

[8:10:47 AM](#)

KATIE SHOWS, Staff to Representative Paul Seaton, Alaska State Legislature, on behalf of Representative Seaton, sponsor, and in response to remarks made by Representative Gardner and Representative Seaton, clarified that, under Conceptual Amendment 6, a new employer can decide to opt into both a DC and a DB plan, or just the DC plan. By opting into the DB plan, the employer would be able to hire employees already established in

the DB plan and allow them to continue to accrue defined benefit service. Alternatively, a new employer could opt to participate solely in the DC plan, in which case, an employee with previous DB service would effectively start over as a DC employee and be a member of both plans, which would be treated as two separate plans.

[8:12:14 AM](#)

REPRESENTATIVE GARDNER suggested it may be difficult for people who have been in the DB plan but are not yet vested in it to leave that plan in order to work for a new employer who has opted to only be in the DC plan.

[8:12:44 AM](#)

MS. SHOWS responded that's correct. She stated that it is the decision of the employer to decide whether or not to have that flexibility in hiring [by offering both plans].

[8:12:56 AM](#)

MS. SHOWS, in response to Vice Chair Gatto, stated her assumption that, under the Internal Revenue Service (IRS) code, the employer could not offer one plan to one employee and not to another.

[8:13:09 AM](#)

REPRESENTATIVE SEATON clarified that if a new employer chose to be solely in the DC plan, "it would be exactly as if someone was going to work for a private employer or somebody else that was not a member of PERS."

[8:13:42 AM](#)

VICE CHAIR GATTO removed his objection to Conceptual Amendment 6.

[8:14:29 AM](#)

VICE CHAIR GATTO asked if there was any further objection to Conceptual Amendment 6. There being none, Conceptual Amendment 6 was adopted.

[8:14:48 AM](#)

REPRESENTATIVE GRUENBERG directed attention to Conceptual Amendment 7, which he explained is SB 293, with minor technical changes. He said the amendment would delay [the effective date of SB 141] from July 1, 2006, to July 1, 2008. He said [SB 141] has had a lot of unintended consequences. It is more expensive than the existing system for new employees, the greater part of the expense is shifted to future employees, and the benefit risk is shifted to employees. He said that risk is significant, because Alaska's government employees, unlike government employees elsewhere, are not generally eligible for a "social security safety net." He stated, "The change from Tier III to Tier IV will do nothing to pare down the unfunded liability, and the changes do not deal with the fundamental driver of (indisc. -- coughing) costs and skyrocketing health care costs."

[8:16:34 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 7, which read as follows [with some handwritten changes and formatting changes]:

**"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, 2008; providing for an effective date by amending the effective date section of sec. 148, ch. 9, FSSLA 2005; and providing for an effective date."**

Add the following sections to the bill - insert in appropriate places

**\* Section 1.** AS 14.25.009 is amended to read:

**Sec. 14.25.009. Applicability of AS 14.25.009 - 14.25.220.** The provisions of AS 14.25.009 - 14.25.220 apply only to members first hired before July 1, 2008 [2006].

**\* Sec. 2.** AS 14.25.012(c) is amended to read:

(c) Employees first hired after June 30, 2008 [2006], are not eligible to participate in the plan established in AS 14.25.009 - 14.25.220.

**\* Sec. 3.** AS 14.25.310 is amended to read:

**Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.590.** The provisions of AS 14.25.310 - 14.25.590 apply only to teachers who first become members on or

after July 1, 2008 [2006], or to members who transfer into the defined contribution plan under AS 14.25.540.

\* **Sec. 4.** AS 14.25.320(b) is amended to read:

(b) The defined contribution retirement plan includes a plan in which savings are accumulated in an individual account for the exclusive benefit of the member or beneficiaries. The plan is established effective July 1, 2008 [2006], at which time contributions by employers and members begin.

\* **Sec. 5.** AS 14.25.330(a) is amended to read:

**Sec. 14.25.330. Membership.** (a) A teacher who first becomes a member on or after July 1, 2008 [2006], shall participate in the plan as a member of the defined contribution retirement plan.

\* **Sec. 6.** AS 39.30.300 is amended to read:

**Sec. 39.30.300. State of Alaska Teachers' and Public Employees' Retiree Health Reimbursement Arrangement Plan established.** The State of Alaska Teachers' and Public Employees' Retiree Health Reimbursement Arrangement Plan is established for teachers who first become members of the defined contribution plan of the teachers' retirement system under AS 14.25.310 - 14.25.590 on or after July 1, 2008 [2006], and employees of the state, political subdivisions of the state, and public organizations of the state who first become members of the defined contribution plan of the public employees' retirement system under AS 39.35.700 - 39.35.990 on or after July 1, 2008 [2006].

\* **Sec. 7.** AS 39.30.310(b) is amended to read:

(b) The plan becomes effective July 1, 2008 [2006], at which time contributions by employers begin.

\* **Sec. 8.** AS 39.35.095 is amended to read:

**Sec. 39.35.095. Applicability of AS 39.35.095 - 39.35.680.** The following provisions of this chapter apply only to members first hired before July 1, 2008 [2006]: AS 39.35.095 - 39.35.680.

\* **Sec. 9.** AS 39.35.700 is amended to read:

**Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.990.** The provisions of AS 39.35.700 - 39.35.990 apply only to members first hired on or after July 1, 2008 [2006], or to members who transfer into the defined contribution plan under AS 39.35.940.

\* **Sec. 10.** AS 39.35.710(b) is amended to read:

(b) The defined contribution retirement plan is a plan in which savings are accumulated in an

individual retirement account for the exclusive benefit of the member or beneficiaries. The plan is established effective July 1, 2008 [2006], at which time contributions by employers and members begin.

\* **Sec. 11.** AS 39.35.720 is amended to read:

**Sec. 39.35.720. Membership.** An employee who becomes a member on or after July 1, 2008 [2006], shall participate in the plan set out in AS 39.35.700 - 39.35.990.

\* **Sec. 12.** AS 39.35.750(c) is amended to read:

(c) Notwithstanding (b) of this section, the employer contribution for retiree major medical insurance for fiscal year 2009 [2007] shall be 1.75 percent of each member's compensation from July 1 to the following June 30.

\***Sec. 11.** Section 148, ch. 9, FSSLA 2005, is amended to read:

Sec. 148. Sections 2, 8, 35, 40, 46, 61, 69, 80, 82, 122, and 134 of this Act take effect July 1, 2008 [2006].

\* **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL RETROACTIVITY. If secs. 1 - 13 of this Act take effect after July 1, 2006, secs. 1 - 13 of this Act are retroactive to July 1, 2006.

(These sections shall take effect immediately under AS 01.10.070(c).)

Change title as necessary

[8:16:51 AM](#)

REPRESENTATIVE RAMRAS objected to Conceptual Amendment 7.

VICE CHAIR GATTO said he wants to see a copy of SB 293/Conceptual Amendment 7.

[The committee moved to other business while waiting for copies of SB 293 to be made and distributed.]

[8:17:04 AM](#)

REPRESENTATIVE GARDNER directed attention to the part of the consolidated sectional analysis addressing a change from 120 days - the required time in which a decision on an appeal must be issued - to 180 days. She asked if the original PERS and TRS

Boards had 120 days and if [the Office of Administrative Hearings (OAH)] wants the 180 days.

[8:17:37 AM](#)

MS. SHOWS deferred to the Division of Retirement & Benefits to answer.

[8:18:40 AM](#)

VICE CHAIR GATTO noted that the committee had just received a copy of Conceptual Amendment 7.

[8:19:09 AM](#)

REPRESENTATIVE GRUENBERG said Conceptual Amendment 7 is simple; it just conforms the language in the appropriate places in HB 475, to change the date from July 1, 2006, to July 1, [2008].

[8:20:15 AM](#)

REPRESENTATIVE RAMRAS maintained his objection.

[8:20:17 AM](#)

REPRESENTATIVE SEATON suggested hearing from representatives from the Division of Retirement & Benefits regarding what they think the impact of the delay proposed by Conceptual Amendment 7 would be.

[8:21:15 AM](#)

REPRESENTATIVE GRUENBERG remarked that the new Tier IV retirement system is more expensive for employees than the old system.

[8:21:49 AM](#)

MELANIE MILLHORN, Director, Division of Retirement & Benefits, Department of Administration, said she doesn't agree with Representative Gruenberg's statement. She said the normal cost for Tier III [in TRS] and Tier IV [in PERS] is less expensive than the existing Tiers II and III for TRS and PERS, respectively. She said the DC retirement plan provides a more predictable, stable employer contribution rate. The portion that is not a defined contribution plan is the medical component. Ms. Millhorn discussed rising health care costs and

noted that many states do not offer medical benefits to their employees. She offered further statistics, and she concluded that [the DC plan] reduces the cost to the employer and reduces the volatility associated with defined benefit components.

[8:26:35 AM](#)

REPRESENTATIVE GRUENBERG clarified that he wants to know if [the new defined contribution plan] would be more expensive to new employees, and he said he thinks Ms. Millhorn's remarks indicate that she agrees it really would be. He continued:

When we look at the health care costs too, we can't artificially separate out the health care costs, because ... from the employee's point of view it's the total cost. And you have said that these total costs are going to be a certain amount. You've also said the employer section's going down. It just logically follows then that the employee portion is going to go up, doesn't it?

[8:27:29 AM](#)

MS. MILLHORN offered information relating to contribution rates.

[8:27:55 AM](#)

REPRESENTATIVE GRUENBERG stated that he is not talking about just the contribution rate, but rather the total cost, of which, under the new DC plan, the state will pay less. He said Ms. Millhorn is talking about the contribution rate, not the amount that the employee will have to pay the doctor.

[8:28:26 AM](#)

REPRESENTATIVE SEATON said he thinks Representative Gruenberg and Ms. Millhorn are talking about two different issues. He related that every time the state has changed from an existing tier to a new tier, it could be said that those in the new tier pay more, because they receive less. However, he pointed out that the new DC plan includes occupational death and disability benefits that were not provided under the DB plan. He stated that the plans are different and it is difficult to measure what employees get from one plan versus the other, because, for example, it depends on how many employees will qualify for the benefits. He offered examples. Chair Seaton said the contribution cost to the employer is easily assessable.

[8:30:57 AM](#)

REPRESENTATIVE GRUENBERG stated that he has been under the misimpression that the purpose of creating Tier IV was to cut down the cost to the state. He added, "And if the total costs remain the same, and the part the state pays goes less, logically the part the employee pays must go up."

[8:31:15 AM](#)

VICE CHAIR GATTO said the unfunded liability was not just climbing in interest, but also in principle each year. Stopping that trend, he said, is certainly a savings to the state.

REPRESENTATIVE GRUENBERG responded that the employee would then make up the difference.

VICE CHAIR GATTO said he would not agree that it would be the entire difference.

[8:31:42 AM](#)

MS. MILLHORN said she does not believe that the cost to the employee is increased. She said the employee's contribution is set in statute at 8 percent, and the employer's contribution is set in statute, as well. She explained that [the new DC plan] will stop the growth of unfunded liability in the future "for a system that has defined benefit elements that are subject to change over time, that can differ with experience."

[8:32:55 AM](#)

VICE CHAIR GATTO said one question is whether the new employee who will not be contributing into a DB plan will cost the state more in the long run when he/she retires. He stated, "This says the state will have to cough up some more money in the short run, because we don't have the new employees contributing into the plan; but we maintain the liability."

[8:33:34 AM](#)

REPRESENTATIVE GRUENBERG indicated that he is not particularly disagreeing with Vice Chair Gatto, but rather is espousing a different view point. He mentioned the cost of living, which he noted comes from "the cash portion of the pension," and the insurance cost, which he said "would come when the doctor is

paid. He stated that whatever those costs are, they are projected to increase - especially the health care costs. He reasoned that, given one amount, if the state's portion of that amount is reduced, then it stands to reason that the employees' portions will increase.

[8:34:25 AM](#)

REPRESENTATIVE SEATON explained that Representative Gruenberg's estimation is not quite correct. He continued:

Seventy-five percent of the expense coming from runaway health care is by people that have ... retirement before the age of 65 - before Medicare eligible age. So, there is a difference in benefit. Those people - and they're not a vast majority - that retire early, get that massive amount of benefit that everyone pays for under the current plan. So, if you are a Tier I employee and you could retire at 55, you would have all your health care paid for from that point on, and solely by the system. ... The current plan, ... if you've got 30 years, will pay 90 percent of the ... medical benefit, ... because Medicare picks up a lot from that point forward. So, when you talk about "to an employee," there is no average employee. Some employees - those that retire early - get an extreme benefit under the current plan because they get all their medical paid for by the system. Those people that work [until] they're 65 don't get that benefit at all. In this plan, what happens is it comes much more to everyone [who] qualifies for benefits and shares equally. The medical benefits that are provided under the defined benefit plan are far [inequitably] distributed among the people, depending upon when they retire. So, there is a definite realignment that makes these -- like the HRA. Everybody gets the HRA, based on the entire system wide average of ... wage base. So, everybody gets an equal amount of health care dollars there, depending upon their years of service.

So, what you have is a system right now under DB which is very ... weighted, and some people get a whole lot of benefits, and some people get much less benefit. And that's the entire cost of the plan. Whereas the new defined contribution plan is very definitely

individually based and much more aligned with equality for participants enjoying the benefits of their plan.

8:37:05 AM

REPRESENTATIVE OLSON asked Ms. Millhorn for a projection of how many new employees would "pick up under SB 293, under the current system."

8:37:19 AM

MS. MILLHORN said there is a projection, based upon the last 12-month fiscal year, which shows that there will be approximately 4,400 new PERS and TRS members. She added, "So, what this effective delay would do is it would allow entry of another approximate 8,800 members, who would then therefore be entitled to this very rich medical benefit."

8:37:44 AM

REPRESENTATIVE OLSON asked Ms. Millhorn if she knows what the cost would be.

8:37:50 AM

MS. MILLHORN replied that the division has not yet analyzed the cost.

8:38:05 AM

REPRESENTATIVE GARDNER asked Ms. Millhorn to describe the difference in cost under the new and old systems for the medical insurance portion between retirement and Medicaid eligibility.

8:38:35 AM

MS. MILLHORN stated that currently, under PERS, the normal cost that the employer pays for the employee medical benefit is approximately 8.68 percent, and under TRS it is approximately 9 percent. She continued:

When the tier redesign began a task force and ... asked the employers ... and ... employees what's really important ..., employers and employees said it's very important to have that medical benefit. When you actually start analyzing the cost for that medical benefit, you have to redesign it in a way that

you preserved the benefit to the employees and to the employers who have to recruit and retain a workforce. So, this redesign was studied extensively, it was reviewed, [and] the components within it are ... on the leading edge of looking at that redesign.

I appreciate the comments from Representative Seaton also, because before, under Tier I, for example, you had a deferred, vested member - most of those parties right now that are retiring are Tier I - you could have five years of vested service, you could go work for another employer, and then once you're eligible, you can start drawing that pension and medical benefit. So, by redesigning this plan that costs shares with the employee, you ... inject consumer-driven health care into your health plan where employees value decisions that they have to make. They have these dollars set aside to make these medical decisions and it provides a redesign of that benefit that is very, very beneficial to both the employer and the employee.

[8:41:04 AM](#)

REPRESENTATIVE GARDNER responded:

During that period when the employer's percentage drops ... from 8.68 to 1.75 percent, doesn't the former employee - who is now retired but doesn't yet qualify for [Medicare] - ... pick up a significant portion? And it comes out of the HRA account or a set aside until that's gone, and then there's another big hit. As I recall, last year there was some debate about if payments were missed and they didn't bring it current in a given timeframe, they would then lose access in the future to medical coverage.

REPRESENTATIVE GARDNER, in response to a request from Ms. Millhorn, clarified that she wants a comparison between the DB and DC members "for that period between retirement from the system as a fully vested member and access to [Medicare]."

[8:43:06 AM](#)

MS. MILLHORN stated that the normal retirement age for employees under the existing DB benefit plan is 55, at which point those employees who have met the membership service and vesting

requirements would be able to receive a pension and medical benefit for themselves and for their eligible dependents. At age 65, that benefit "coordinates with Medicare." Under the DC benefit plan, employees who have a service eligibility of 30 years and are 55 years of age would be eligible for their health reimbursement arrangement in order to pay the premiums [for health care] until age 65. In response to a question from Representative Gardner, she said the health reimbursement arrangement is not a contribution account that the employee makes any contributions to at all; it is an employer contribution that is made on behalf of the employee into the account to pay for medical expenses.

8:45:07 AM

REPRESENTATIVE GARDNER recalled from testimony last year that there is a potential that that money can run out and the employee would not have the funds from that account or elsewhere to keep current with his/her medical coverage. She described that time as occurring between when an employee has access to "funds for maintaining coverage" and when he/she has access to Medicare, and indicated that "that's where there's an additional for the ... employee."

8:45:45 AM

CHAIR SEATON confirmed that that's what he was talking about: "this unequal benefit by employees." He said the original Tier I was too expensive for the state to maintain, so a new tier was created. He continued:

But those people still have this very - if they take advantage of that - this very unequal benefit. You know, it could be a couple hundred thousand dollars a year if you started ... late and missed service, came back under Tier I, and then went forward and retired early at 55. Now, if you work to 65 it doesn't make any difference. If you continue to work so that you're not accepting that benefit, then you have your regular active medical plan ..., and then you get Medicare and you get the ... retirement benefit.

But Tier III is different than Tier I: you don't have the same retirement age, because we found that those were very unequal benefits that were provided for different employees and it couldn't be afforded. And we're looking at the same thing in Tier IV: we're

looking at benefits that ... vastly cost the system per individuals if they want to choose to retire as early as possible and take those payments from the system, versus the majority of the members in the system.

And so, you again have to come back into the basic philosophy ... [that] a DC plan equalized benefits among people, instead of saying, "Okay, we're going to throw out a very rich benefit for a certain select group of people in our retiree population." ... If you only want to consider the cost of somebody who makes the selection that costs the system the most, you'll find that that's the case. If you take the person that retires at 65, then those differences don't really exist. So, that's what you have to look at, as well.

[8:48:13 AM](#)

REPRESENTATIVE GRUENBERG directed attention to a letter dated Jan 7, 2006, to Senator Elton from Gail Schubert, Chair, Alaska Retirement Management (ARM) Board, [included in the committee packet]. He highlighted information from charts on the first and second pages of the letter, which shows that the normal costs to employers will drop when changing to a DC plan, whereas the normal cost for employees will rise.

[8:50:01 AM](#)

MS. MILLHORN said she does not dispute the facts and figures in the letter. She relayed that the new DC plan does have members paying 8 percent and sets out what the employer contribution rate is going to be. She said it was observed that the existing DB plans did not appear to equally share costs. The entire normal cost rate is over 20 percent and the employer pays the bigger portion of it. The employer is also left with a lack of predictability regarding ever-increasing costs that may be different from assumptions. Based on those facts, Ms. Millhorn said, the employer bears all of the risk for the plan. She said the DC plan would be more equal in terms of the employer cost in relation to the employee cost. She said members in focus groups were surveyed in 2004, and some said they would be willing to pay more for their valuable benefits, but statute prohibits them from doing so.

[8:52:00 AM](#)

REPRESENTATIVE GRUENBERG indicated that he doesn't want to keep beating "this horse."

[8:52:19 AM](#)

VICE CHAIR GATTO observed that the aforementioned letter indicates a .5 percent increase in cost. He asked, "And the short answer is balanced by ... the equity, or balanced by the long-term unfunded liability, or is that reasonable?"

[8:52:29 AM](#)

MS. MILLHORN answered yes.

[8:52:36 AM](#)

CHAIR SEATON proffered:

These are the normal costs; these don't include the past service cost, of course, which is associated with Tier II [and] Tier III, under [the] defined benefit plan. I would bring everybody's attention to how close these are, and that the defined contribution plan has very high benefits compared to other defined contribution plans that have been done around the nation. And we did this very specifically, because we said that employers could pay [this] kind or [amount], and employees could make these [kinds] of distributions and continue hiring employees, not having to cut their workforce, not having to lay people off because of the high benefit cost. And so, what this does is give security for people going forward, but it's a very ... high cost, and that cost is actuarially determined so that those benefits are ... quite similar, although they're different. So, I would just speak against [Amendment 7], because what we're going to do is continue a system that's going to increase past service cost liability.

[8:54:09 AM](#)

REPRESENTATIVE GRUENBERG said he would like to call a question on Amendment 7.

[8:54:20 AM](#)

VICE CHAIR GATTO stated his intention to wait until committee members who recently vacated the room returned. [Amendment 7 was set aside.]

[8:54:32 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 8 to Version Y, as follows:

On page 8, line 21:

Between "administrator" and "the appeal"  
Delete "receives"  
Insert "takes"

After "the appeal"  
Insert "under advisement"

REPRESENTATIVE GRUENBERG said a court does not receive an appeal; it "takes the appeal under advisement."

[8:55:38 AM](#)

REPRESENTATIVE SEATON objected to Amendment 8. For clarification, he referred to the entire sentence to which Amendment 8 applies [beginning on page 8, line 19], which read as follows:

The final decision under AS 44.64 is delegated to the administrative law judge and shall issue within 180 days after the date the administrator receives the appeal, unless the administrative law judge and all parties agree to another time.

[8:55:52 AM](#)

REPRESENTATIVE GRUENBERG responded, "I stand corrected."

CHAIR SEATON withdrew his objection.

REPRESENTATIVE GRUENBERG opined that is unusual to require a judge to issue an opinion within a certain amount of time of the appeal being filed. He said there are statutes that don't allow the judge to get paid until he/she has issued a decision within six months, "but it's within six months after the case is submitted to the judge for the decision - after they take the case under advisement." He asked Ms. Carpenter why the division

chose the date from which the administrator receives the appeal rather than the date the judge takes the appeal under advisement.

[8:57:00 AM](#)

TRACI CARPENTER, Project Manager, Health Benefits Section, Division of Retirement & Benefits, Department of Administration, said Representative Gruenberg brings up an excellent point. She explained that the language in question was modeled on current Office of Administration Hearings' statute, with some slight variation. The current statute requires that the administrative law judge shall prepare a decision within the agency having received the appeal.

[8:57:38 AM](#)

REPRESENTATIVE GRUENBERG withdrew Amendment 8. He commented that that is unusual, but he doesn't want to change existing law.

[8:58:10 AM](#)

VICE CHAIR GATTO brought Amendment 7 back before the committee.

REPRESENTATIVE GRUENBERG said he wants Representative Elkins present for the vote on Amendment 7.

The committee took an at-ease from [8:59:17 AM](#) to [8:59:30 AM](#).

[8:59:42 AM](#)

REPRESENTATIVE RAMRAS maintained his objection to Amendment 7.

A roll call vote was taken. Representatives Gardner, Gruenberg, and Lynn voted in favor of Amendment 7. Representatives Ramras, Gatto, Elkins, and Seaton voted against it. Therefore, Amendment 7 failed by a vote of 3-4.

[9:00:46 AM](#)

VICE CHAIR GATTO closed public testimony.

[9:01:25 AM](#)

REPRESENTATIVE SEATON moved to report CSHB 475, Version 24-LS1685\Y, Wayne, 3/1/06, as amended, out of committee with

individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 475 (STA) was reported out of the House State Affairs Standing Committee.

[VICE CHAIR GATTO handed the gavel back to Chair Seaton.]

HB 448-LICENSE PLATES FOR MASONS

[9:02:18 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 448, "An Act relating to special license plates for the Free and Accepted Masons."

[9:02:33 AM](#)

JAMES VAN HORN, Staff to Representative Jim Elkins, Alaska State Legislature, answered questions raised during the last committee hearing on HB 448, on behalf of Representative Elkins, sponsor. Regarding Representative Lynn's previous suggestion that the Knights of Columbus be included, he remarked that the title of the bill would have to be changed. He noted that the bill was originally called, "An act relating to special license plates for benevolent associations", but after talking to [Duane Bannock], the director of the [Division] of Motor Vehicles, the title was changed to its present form. Mr. Van Horn said the term "benevolent associations" is found only in the insurance section of Alaska Statutes, and says a new benevolent association may not be formed in Alaska after 1966. He indicated that he was informed by the Division of Motor Vehicles that the set-up cost of making a special license plate is about \$300.

[9:06:08 AM](#)

REPRESENTATIVE GARDNER asked for a description of "free and accepted Mason."

MR. VAN HORN deferred to Representative Elkins, whom he said is a Mason.

[9:06:33 AM](#)

REPRESENTATIVE ELKINS said he is not certain what the definition would be for "free and accepted." Notwithstanding that he noted that the organization is the oldest one of its kind in the world, and it does not discriminate by religion. He shared,

"It's more of a way of life in what you practice when you're a Mason; it's a very ritualistic lodge within the lodge."

9:07:25 AM

REPRESENTATIVE LYNN noted that George Washington was a Mason. He said the Masons and the Knights of Columbus do much the same things. He listed the principals of the Knights of Columbus as: charity, unity, fraternity, and patriotism. He stated his intention to eventually offer an amendment to add the Knights of Columbus to the bill.

9:08:46 AM

REPRESENTATIVE ELKINS, in response to a question from Chair Seaton, said he would have no objection to such an amendment, but questioned if the committee would like to consider adding other fraternal organizations.

9:09:12 AM

REPRESENTATIVE GRUENBERG asked Mr. Van Horn to distribute a copy of the committee substitute he had mentioned previously. He said he understands why Representative Lynn would like to include the Knights of Columbus. He indicated concern that by using the term "benevolent organization," some organizations that are not so benevolent may try to be included, for example, the Ku Klux Klan.

9:10:21 AM

REPRESENTATIVE LYNN recollected that Mr. Van Horn had told him that some states have watchdog agencies that have the power to decline applications.

9:10:53 AM

MR. VAN HORN clarified that Representative Elkins' office had done some research regarding the Department of Licensing in the State of Washington, and found that that department has 41 special license plates and has a special license plate review board, broken up into categories. He deferred to Mr. Bannock for further response on the issue. He noted that Version F is actually the original form of the bill, and he reiterated that statute does not recognize any benevolent organizations formed after July 1, 1966. Mr. Van Horn stated, "So, hopefully the Knights of Columbus were recognized by the state prior to 1966,

as, for example, the Elks, the Moose, and organizations such as that." In response to a question from Representative Gruenberg, he said he does not have a list of those organizations.

[9:12:49 AM](#)

REPRESENTATIVE GATTO said he shares Representative Gruenberg's concern regarding the "benevolent organization" definition. He explained that there could be some organizations that formed before 1966, but changed their focus since then to something less good. He stated, "I really feel good about having each individual organization come before a body of legislators, and I'm not happy about opening it up to whatever the definition of benevolent association is."

[9:14:19 AM](#)

CHAIR SEATON opened public testimony.

[9:14:37 AM](#)

DUANE BANNOCK, Director, Division of Motor Vehicles, Department of Administration, in response to a question from Chair Seaton, stated that he has recommended creating a subsection in "this chapter" for each individual license plate. Regarding previous comment that other states have some sort of body that makes the determination regarding license plates, he suggested that the Alaska State Legislature is that body. A more "blanket" approach, he said, would arguably take that authority away from the legislature and return it to bureaucrats. Currently, the legislature has the authority to approve or disapprove all plates before the Division of Motor Vehicles produces and issues them, which Mr. Bannock opined is a good process.

[9:15:46 AM](#)

CHAIR SEATON asked Mr. Bannock to clarify who pays the previously mentioned \$300 set-up fee.

[9:16:04 AM](#)

MR. BANNOCK explained that although he included that amount in the bill analysis for informational purposes, traditionally the DMV has paid that fee. He stated, "To be consistent, we have never charged the individual organization for them."

[9:16:40 AM](#)

MR. BANNOCK, in response to a question from Representative Ramras, informed the committee that the Advanced Business Partners (ABPs) [who are qualified to do work related to licensing and registration] often stock some of the special license plates.

[9:17:04 AM](#)

REPRESENTATIVE GRUENBERG referred to the aforementioned statute regarding benevolent association, and he asked, "Does the Division of Motor Vehicles have any experience in determining what are the relevant benevolent associations, et cetera, for the issuance of license plates?"

[9:18:28 AM](#)

MR. BANNOCK replied, "In the last three years I can say zero experience in that field."

[9:18:37 AM](#)

CHAIR SEATON reminded the committee that it does not have before it a working draft addressing benevolent [associations], thus, he asked the committee to focus on [the original bill version].

[9:19:12 AM](#)

LOUIS S. BANDIROLA, State Deputy, Alaska Contingent, Knights of Columbus, asked the committee to consider including the Knights of Columbus in HB 448. He said the organization has existed for over 150 years, is spread throughout most of the Americas and currently moving into parts of Europe, and has over 1.75 million members worldwide. He spoke about the principals of the Knights of Columbus, previously listed by Representative Lynn, characterizing them as key goals. In Alaska, he noted, the Knights of Columbus have just over 1,600 members; its first council met in 1914 in Juneau. He noted that the Alaska contingent did not receive statewide status "as a unit of its own" until 1994. However, based on the work that the Knights of Columbus have done in the past and hope to continue to do in the future, Mr. Bandirola restated his hope that the organization will be offered similar recognition in HB 488.

[9:21:17 AM](#)

REPRESENTATIVE GRUENBERG asked Mr. Bannock to explain the significance of the last sentence in Version G, which read as follows:

The department may disapprove the issuance of registration plates under this subsection when the requested plates are a duplication of an existing registration.

[9:22:02 AM](#)

MR. BANNOCK said that is standard language, the purpose of which is to clear up any confusion "from a customer point of view." He offered an example.

[9:23:10 AM](#)

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

[9:23:20 AM](#)

REPRESENTATIVE LYNN moved to adopt [Conceptual] Amendment 1, to add the Knights of Columbus to HB 448, with an appropriate change of title.

REPRESENTATIVE LYNN declared a conflict of interest; he revealed that he is a "fourth degree Knight of Columbus."

CHAIR SEATON asked if there was any objection [to Conceptual Amendment 1].

[9:23:44 AM](#)

REPRESENTATIVE ELKINS said he would accept [Conceptual Amendment 1].

[9:23:55 AM](#)

CHAIR SEATON announced that there being no objection, Conceptual Amendment 1 was adopted.

CHAIR SEATON asked Mr. Bannock if the addition of the Knights of Columbus should be made in a separate subsection (y).

MR. BANNOCK answered yes.

[9:25:26 AM](#)

CHAIR SEATON, in response to a question by Representative Gatto, explained that he had just clarified with Mr. Bannock that by putting the Knights of Columbus reference as a separate paragraph, the license plate itself would be separate from the design for the Free and Accepted Masons.

MR. BANNOCK concurred with Chair Seaton's explanation. He stated, "What we would have is one bill that addresses two ... distinctly different license plates."

[9:26:06 AM](#)

REPRESENTATIVE LYNN moved to report HB 448, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 448(STA) was reported out of the House State Affairs Standing Committee.

HB 438-INITIATIVE, REFERENDUM, RECALL PETITIONS

[9:27:08 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 438, "An Act relating to initiative, referendum, and recall petitions; and providing for an effective date."

[Although it was never adopted, the committee substitute to which the committee referred throughout this hearing was committee substitute (CS) for HB 438, Version 24-LS1344\X, Kurtz, 2/22/06, included in the committee packet.]

[9:27:18 AM](#)

REPRESENTATIVE RAMRAS introduced HB 438 as sponsor. He said he learned recently that there is "a certain looseness" to the processes related to initiative, referendum, and recall petitions.

[9:29:00 AM](#)

JIM POUND, Staff to Representative Jay Ramras, Alaska State Legislature, offered further details regarding HB 438, on behalf of Representative Ramras, sponsor. He described the proposed bill as a "tweaking" of House Bill 31 - legislation that was passed in 2004. He stated, "The process is broken down primarily between petitions and recalls, but it deals in

generalities between the two, as well." Although it is a law that those collecting signatures must be residents of the state, there have been cases where nonresidents have come up to work on petitions during particular "drives." Mr. Pound said there is language in [Version X] that would allow the signature gatherer up to \$15 a day for food if he/she travels more than 100 miles from home. He explained that quite often, individuals from one of the urban centers travel to outlying regions.

MR. POUND stated that HB 438 would require each "committee" to receive training related to the rules of circulating a petition or recall. Presently that is not a requirement. There would also be a requirement that [the sponsors] instruct the circulators as to what the rules are.

MR. POUND indicated that when signature collectors travel to rural areas, they sometimes have no idea whether or not the district they are in is "qualified"; therefore, the collectors "run blind" until they turn in the petition books. He said HB 438 would allow the petition gatherers or the committee to submit up to 2,000 signatures to the Division of Elections prior to the actual turning in of the petition. He explained, "There's a \$1-dollar fee that covers expenses for the division, but it will also allow the petition gatherers ... to ... have a read on ... the number of signatures and the percentages that they are receiving on an average."

[9:31:49 AM](#)

MR. POUND indicated [one of the provisions in Version X is] that an individual may not start a recall effort if a public official is within 270 days of the term's end. He offered an example of "term's end." He said the proposed legislation would change the formula for the recall petition from 10 to 20 percent. He emphasized that the issue of recall is a serious one and should only be approached when there is strong support. He posited that the current requirement to obtain signatures of 10 percent of those who voted in the previous election within a district does not represent strong support, ultimately costs the state money, and inflicts unnecessary hardship on the public official. Mr. Pound said when a person seeks a recall, he/she must make charges against the public official. Regarding those charges, [he paraphrased proposed language in Version X, which read as follows]:

**(5) a certification by each member of the recall committee, under penalty of perjury, that the**

**facts alleged in the application are true to the best of the member's knowledge.**

MR. POUND noted that there is no current definition of "normal use" and "recall efforts," and he indicated that the sponsor has attempted to supply those definitions. He said the proposed legislation further defines the petition and recall process, which will result in a better and "cleaner" public process. He urged the committee to support the bill.

[9:33:43 AM](#)

MR. POUND, in response to a question from Representative Gruenberg, said there are some legal opinions regarding HB 438 that he has not yet had an opportunity to review.

[9:33:50 AM](#)

REPRESENTATIVE GRUENBERG said he would like to view them. He referred to [the language on page 4, lines 8-10, which read as follows]:

**Sec. 15.45.490. Time of filing application.** An application may not be filed during the first 120 days **or the last 270 days** of the term of office of any state public official subject to recall.

REPRESENTATIVE GRUENBERG said he wonders if the addition of "**270 days**" may be unconstitutional, because under Article 11, Section 8 of the constitution, all public officials of the state, except judicial offices, are subject to recall. He said, "This would carve out a class of people who are not subject to recall within the last three-quarters of the year of their term."

[9:34:46 AM](#)

REPRESENTATIVE RAMRAS said, "I believe that presently in statute it's 180 days, so all we're doing is adjusting the current statute. So, the current statute would have to also be unconstitutional. But it's just a tweak, so it may or not be the case, and I think a lot of this is subject to the ... Buckley case ...."

[9:35:10 AM](#)

CHAIR SEATON remarked, "Representative Ramras, the citation in the bill, here, does not show a deletion of those terms."

[9:35:14 AM](#)

REPRESENTATIVE GRUENBERG clarified:

... No, what he is saying is on line 9: "may not be filed within the first 120 days". And logically I would have to agree that if that - the last 270 - is unconstitutional, then probably the first 120 days might also be subject to the same challenge ....

[9:35:34 AM](#)

MR. POUND noted that the review he received from Legislative Legal and Research Services does not address that issue.

[9:35:57 AM](#)

REPRESENTATIVE GARDNER asked how many successful recall efforts have been made in Alaska and how many recall petitions have actually made it to the ballot.

[9:36:01 AM](#)

MR. POUND said he doesn't know the exact number. Notwithstanding that, he related that in most of the cases where there has been a recall, the individual in question has resigned. In response to Representative Gardner's request that he find out the answer, [Mr. Pound nodded].

[9:36:27 AM](#)

CHAIR SEATON noted that in Sections 5-8 of Version X, "270" replaces "[180]", but Section 2 - referred to by Representative Gruenberg - is also amended to "270 days", but from "120", not "180". He suggested that there may be some discrepancy in play. He asked Mr. Pound to check with Legislative Legal and Research Services to find out if that was an omission.

[9:37:22 AM](#)

REPRESENTATIVE LYNN directed attention to page 1, [line 12, through page 2, line 1, of Version X], which read as follows:

**Sec. 15.45.003. Circulation; prohibition.**

(a) A petition may be circulated only in person throughout the estate. However, in the case of a

petition to recall a member of the state legislature, a petition may be circulated only in person in the senate or house district represented by the official sought to be recalled.

REPRESENTATIVE LYNN asked if that means, for example, that [the circulator] could not gather signatures in a supermarket across the street if it was out of his/her district.

[9:38:31 AM](#)

MR. POUND answered that for recalls, everyone who signs the petition has to be a member of the district in which the public official being recalled resides. He added, "So, going outside of the district would probably be considered a violation."

REPRESENTATIVE LYNN asked, "If you got the signature outside the district, but the person lived within the district, would that be acceptable?"

MR. POUND responded, "As I understand the change - no, it would not."

[9:38:56 AM](#)

CHAIR SEATON clarified that the bottom of page 1 to top of page 2 [in Version X] is what is being discussed.

CHAIR SEATON, in response to a query from Representative Ramras, clarified that the questions from Representative Lynn have to do only with recalls, not with initiatives or referendums.

REPRESENTATIVE GRUENBERG said he thinks Representative Lynn has made a good point; it shouldn't make any difference where the signature is obtained, only that the person who signs the petition is a registered voter in the district in which the person being recalled resides.

[9:39:48 AM](#)

REPRESENTATIVE RAMRAS responded that his intent was not to draw boundaries as previously described by Representative Lynn.

[9:40:29 AM](#)

CHAIR SEATON stated that HB 438 is a complicated bill, and he said the committee would certainly work on it for awhile.

[9:41:22 AM](#)

MR. POUND, in response to a question from Representative Gruenberg, stated that the person who signs the petition must be a registered voter.

[9:41:34 AM](#)

ANNETTE KREITZER, Chief of Staff, Office of the Lieutenant Governor, revealed that Lieutenant Governor Loren Leman has spoken with the sponsor of the bill and has "encouraged us strongly to work with the sponsor and help him accomplish the goals that he's set out to do here." She stated that the sponsor has said that he would like to have "this discussion on the record." Ms. Kreitzer recommended that the most efficient manner to study a bill is to deconstruct it first, and then reconstruct it - to not build understanding of the bill on assumptions, but rather on the sponsor's explanation of his/her intent. She referred to a list of questions from the Office of the Lieutenant Governor [included in the committee packet], and she explained that they were formed to illicit the sponsor's intent, not to be adversarial.

[9:43:01 AM](#)

MS. KREITZER, in response to a request for clarification from Chair Seaton, she said the aforementioned list shows materials submitted by Whitney Brewster, addressed to Ms. Pierson.

MS. KREITZER said she examined the bill in terms of issues. One of the first issues, she noted, is the qualification of a circulator, to include the definition of "not registered to vote in any other state." She said, "We do believe that this is not consistent with the Buckley decision." She said the Office of the Lieutenant Governor does not think there is a constitutional issue regarding the mandatory training of sponsors, but has recommended that the sponsor "separately and independently verify that." In the recent past, the [Division of Elections] has been asked to grant waivers for people who have gone through the training in the past and don't feel the need to repeat it. If the bill makes training mandatory, there will be no more waivers.

REPRESENTATIVE GRUENBERG said it seems like a good idea to allow [the division] the discretion of a waiver. He asked if Ms. Kreitzer sees any benefit in disallowing the waiver.

MS. KREITZER said the sponsor and the director of the division would most likely like to weigh in on the subject. She noted that some people who have asked for and received the waiver still had "some problems" that could have been avoided had they undergone the training again.

MS. KREITZER cited another issue of the bill is in regard to "the certification that a circulator has not received more than \$15 to cover meals." She said there are some sections in the bill that would best be addressed by the Alaska Public Offices Commission (APOC), and she noted that the director of APOC would be available to testify.

[9:45:54 AM](#)

MS. KREITZER, regarding the enforcement of infractions of election law, suggested that the committee hear from the Criminal Division of the Department of Law, regarding how it currently handles complaints related to those infractions. She suggested APOC address the issue of who enforces and collects civil fines. She mentioned an advance verification of signatures requirement, which Mr. Pound had noted was being paid for with \$1 per signature fee. However, Ms. Kreitzer said, "As you all know, [if] that fee goes into the general fund, we would still have to reflect an increased cost to the Division of Elections to implement this section."

MS. KREITZER, regarding the proposed raised thresholds related to recalls, indicated that the decision to adopt them would be a policy call of the legislature. She mentioned a requirement for certification that facts in the recall application are true. She added, "It is an interesting application of recall law that these facts don't necessarily have to be true, and it's a very important point." She offered to provide additional material on the subject.

[9:47:23 AM](#)

REPRESENTATIVE LYNN questioned how something can be a fact if it's not true.

[9:47:39 AM](#)

REPRESENTATIVE GRUENBERG said he would like to see that material. Referring to the issue of raising the 10 percent to the 20 percent, he noted that in the field of taxation, there is

a distinction between a tax that is regulatory in nature and one that is called, "confiscatory" and has a "chilling fact on the activity." He said he thinks it would be unconstitutional to require that 100 percent of people in the district sign the petition; it would have "a chilling effect on the ability to exercise that activity." He questioned whether doubling the requirement for signatures would have an "unconstitutional chilling effect on the protected constitutional activity."

[9:49:22 AM](#)

REPRESENTATIVE RAMRAS countered, "What if it's too easy? What if 10 percent is too low of a bar and it's easier to 'un-elect' somebody than it is for a person to get elected?"

[9:49:59 AM](#)

CHAIR SEATON clarified the issue as follows:

We're talking about a legal question of saying, "At what point of raising the amount do we get to a legal question of inhibiting - probably unconstitutionally - the ability to recall?"

CHAIR SEATON said it may be a good idea to get a legal opinion in writing.

REPRESENTATIVE GRUENBERG asked Mr. Pound if this issue is written in the legal opinion he spoke of previously.

[9:50:28 AM](#)

MR. POUND answered no.

[9:50:53 AM](#)

SARAH FELIX, Assistant Attorney General, Labor and State Affairs Section, Civil Division (Juneau), Department of Law, concurred with Chair Seaton that the aforementioned issue of raising the percentages is not one that attorney Mike Barnhill focused on when studying the recall aspects of the bill; therefore, she recommended bringing the issue to the department and then bringing an opinion back to the House State Affairs Standing Committee.

[9:51:44 AM](#)

REPRESENTATIVE GRUENBERG said he would like both the Department of Law and Legislative Legal and Research Services to discuss any possible constitutional problems with the bill.

[9:52:34 AM](#)

MS. KREITZER noted that the following areas currently are not defined in statute, but would be through Version X: corruption, incompetence, lack of fitness, and neglect of duties. Regarding Chair Seaton's previous observation that of the five proposed changes in the number of days related to term of office, one of the references did not match, she said it is most likely an oversight and the department will research the matter.

[9:53:43 AM](#)

WHITNEY H. BREWSTER, Director, Central Office, Division of Elections, addressed the fiscal implications of HB 438. She directed attention to page 2, line 8, where reference is made to a form from the division that a circulator would fill out showing that he/she traveled more than 100 miles from home in one day in order to receive \$15 compensation. She said this provision in the bill would require the division to develop another form and administratively process the form. She directed attention to page 3, [paragraph] (6), which read:

(6) that the circulator has not entered into an agreement with a person or organization in violation of AS 15.45.003(b);

MS. BREWSTER suggested that that language would take care of the requirement without requiring another form to be processed, because the circulator would sign that he/she has met the requirements and has not "violated subsection (b) on page 2."

[9:56:27 AM](#)

CHAIR SEATON clarified that Ms. Brewster is saying the person would make submissions to the signature gatherer that he/she was out for 15 or 20 days, thus that proclamation would not have to be on a separate form designed by the division. He stated, "The fact that they have to sign that they ... haven't claimed more than their due would take care of that fiscal responsibility."

MS. BREWSTER said that's correct.

CHAIR SEATON summarized, "The difference between those two approaches is: in one way we would have a listing at the division of the number of days that were claimed by the individual, and the other way we would have a certification, but no listing of the days. Is that correct?"

9:58:00 AM

MS. BREWSTER answered in the affirmative. Regarding the same issue, she suggested, "This may be more of a responsibility of APOC than a Division of Elections' responsibility." She directed attention to page 2, line 21, subsection (e), which read:

A person who pays a circulator and a circulator who receives compensation other than that permitted under (b) of this section are liable to the state for a civil fine of \$1 for each signature gathered by the circulator on a petition filed with the lieutenant governor.

MS. BREWSTER said the question is, "Who will assess and collect this fine?" She explained that historically the division has never been a "fining body." She suggested that the collecting of the fine may be more appropriate a task for APOC than for the division.

9:59:15 AM

MS. BREWSTER turned focus to language [beginning on page 3, line 31, through] page 4, line 2, which read as follows:

The sponsors may, before filing a petition, submit individual numbered petitions containing up to a total of 2,000 subscriptions to the director for review.

MS. BREWSTER said the additional signatures for review will require additional staff time, which will have a fiscal impact. The \$1 per signature fee assessed will go to the general fund and will not benefit the Division of Elections' budget. She directed attention to page 4, line 17, which shows the increase in the percentage of required signatures for a recall from 10 to 20 percent, which she said will result in additional signatures for review, which could also have a fiscal impact on the division.

10:00:59 AM

MS. BREWSTER, in response to Representative Gruenberg's aforementioned query, said any time the required number of signatures is increased, it makes it more difficult for an individual or committee to recall or get an initiative on the ballot. Whether that difficulty inhibits the person by creating a threshold that is insurmountable is a question for the Department of Law, she said.

[10:01:37 AM](#)

REPRESENTATIVE GRUENBERG said the recall process is part of the balance of power among the people and the legislature. He said he would like to hear feedback as to whether or not the raising of the signature requirement would upset the balance of power in state government from a constitutional point of view.

[10:02:29 AM](#)

MS. KREITZER interjected, "We're happy to await the Department of Law's assessment."

[10:02:45 AM](#)

VICE CHAIR GATTO directed attention back to page 2, line 21, [text provided previously], and stated his concern is not with the fine, but is related to whether a signature collected "when a person is performing an illegal act" qualifies as a valid signature.

[10:03:32 AM](#)

MS. BREWSTER said [page 2, lines 25-27] answer Representative Gatto's question as follows:

(f) In determining the sufficiency of a petition, the lieutenant governor may not count subscriptions on a petition circulated by a circulator who violated (b) of this section.

[10:03:49 AM](#)

REPRESENTATIVE GRUENBERG said he would also like that issue addressed in a legal opinion. He said, "It's one thing to fine the person because they're getting paid too much, but it's something else not to count the signature of the citizen who

wishes to endorse the petition." He said he would like that issue examined from a constitutional point of view.

[10:04:21 AM](#)

CHAIR SEATON remarked, "I don't think we're just talking about constitutional, we're talking about all legal issues in the state."

REPRESENTATIVE GRUENBERG concurred.

[10:04:42 AM](#)

REPRESENTATIVE GATTO proffered, "It's possible for someone who opposes the recall to collect a whole lot of signatures in violation of the rule, and therefore nullify a whole bunch of people who thought they were voting for a recall, but now have been disqualified."

[10:05:23 AM](#)

MS. BREWSTER pointed out that if someone wants to sabotage a recall effort, they could do that right now by not signing the back of the book or not signing whether or not he/she has been paid.

[10:05:53 AM](#)

REPRESENTATIVE GRUENBERG amended his previous request by asking that the legal opinions also address the constitutionality of the current law.

[10:06:33 AM](#)

MS. BREWSTER, in response to Representative Gardner's question as to how many recall petitions have been successful and how many have made it to the ballot, said she doesn't have that information at hand, but will follow up on that.

[10:06:47 AM](#)

MS. KREITZER offered her understanding that there have been three court cases on recalls that involved municipal-elected officials, and only one for a state-elected official. The latter recall was successful, she reported. It did not go to the ballot, because the individual resigned; but had the

individual not resigned, it would have gone to the ballot. She added that there is one recall pending in court.

REPRESENTATIVE GARDNER questioned why an effort is being made to make recalls so difficult when there has only been 1 in 50 years.

[10:08:18 AM](#)

MS. KREITZER asked that Brook Miles be allowed to speak on behalf of APOC, since currently any committee formed to support or oppose an initiative, referendum, or recall is required to file with APOC. She stated, "There is an opportunity to file what's called a zero report for efforts that are merely collecting signatures. And it would seem, since the focus of those parts of the bill that I've mentioned before have to do with the reporting of people that are collecting signatures, that it may be a good fit, but it's for the committee to discuss and decide."

[10:09:27 AM](#)

BROOKE MILES, Director, Alaska Public Offices Commission (APOC), Department of Administration, said she hasn't had a chance to study the bill to "explain whether or not it's a good fit with APOC." She continued as follows:

As the committee may be aware, the requirements for filing disclosure reports are limited to when groups are collecting signatures. In other words, they're filing zero reports until such time as a recall, referendum, or proposition is certified to appear on the ballot. At that point, the groups that are formed to support or oppose the election must file a full disclosure report. ... At this point we have no idea who gets paid a dollar or doesn't get paid a dollar for signatures, and I'm not really sure how that report is going to look at APOC. And just from a fiscal standpoint ... I have to, in all fairness, say at this point I have such limited staff I don't have one person who can do one more thing. So, it would certainly have fiscal impact on this agency.

[10:11:01 AM](#)

CHAIR SEATON asked Ms. Miles to consider some of the issues that the Division of Elections and the Office of the Lieutenant

Governor pointed out might be more appropriate for APOC, and to assign any fiscal note necessary.

MS. MILES acquiesced.

[10:11:41 AM](#)

REPRESENTATIVE GARDNER referred to the language in the bill regarding training, [found on page 3, lines 1-4], which read as follows:

**Sec. 15.45.005. Mandatory training.** (a) At least once during each two-year period between general elections, the division of elections shall offer training explaining the legal requirements for petitions. Each committee applying for or circulating a petition during that period shall attend the training.

REPRESENTATIVE GRUENBERG asked Ms. Brewster to offer details related to the training, including: where it is offered, by whom, how much it costs, and how it would affect someone from a rural area trying to recall a state representative.

[10:12:32 AM](#)

MS. BREWSTER relayed that currently the training is offered by a division employee, in person or over the phone. She said she does not know the cost, but can find out. She stated that an individual or committee in a remote rural area could be offered training by teleconference. In response to a follow-up question from Representative Gardner, she offered her understanding that the training takes several hours. In response to a question from Chair Seaton, she said she doesn't believe [the training] is required for municipal election recalls.

[10:14:03 AM](#)

CHAIR SEATON asked Ms. Brewster to get back to the committee with that information, because he said it is important to know which elections will be covered under the bill.

[10:14:12 AM](#)

HOPE L. CERMELJ, testifying on behalf of herself, revealed that she is a circulator and petition gatherer. She directed attention to a handout she had obtained from the Division of

Elections [included in the committee packet], showing statistics from March 3, 2006, including that there will be 450,985 voters in the next election. Ms. Cermelj stated:

240,211 people - possible voters - are upset with what's going on with the Republican/Democratic process here in the state of Alaska; that's why they (indisc.). I myself was certified in the Fairbanks office at the Division of Elections to be a voter registrar, so I was on that ... petition trail doing the same. We have a new political party in the state of Alaska right now, which Loren Lemman approved last year, and that's the Veterans' Party.

MS. CERMEJ noted that [there is a missing column on the first page of the handout], which should show a [column] "V," which displays the numbers for that Veterans' Party. She implored the Division of Elections to include that group's numbers on the page of statistics so that the numbers are more accurate. She noted that she has carried four petitions, and she listed places in the state in which she has lived and mentioned legislative topics of concern.

[10:18:09 AM](#)

MS. CERMEJ referred to the next two pages of the handout, and pinpointed the areas on the page that show a list of reasons that people who signed petitions will not be counted. She noted that on the first page of petition totals, it shows that 8,171 people will not be counted because their names did not match. Ms. Cermelj opined, "That is against their civil liberties." The list shows that there were 1,968 duplicate names. She indicated a connection between the proposed legislation and ensuring that petition gatherers are registered voters from Alaska who care about the issues. She talked about a man who came up from the state of Washington to gather petitions. The man, she related, was "in it for the money," and he intimidated the Native elders of the village and was asked to leave. Ms. Cermelj related further personal experience in petition gathering.

[10:20:32 AM](#)

MS. CERMEJ indicated that there has recently been a change in personnel within the Division of Elections and the director is currently learning about a new system that will be in place forthcoming. She relayed that, as a voter registrar, she has

received four phone calls from people who have yet to receive their voter cards. She stated her believe that their rights are being violated. Ms. Cermelj offered statistics from the handout showing the petition totals from an initiative related to a 90-day regular session of the Alaska State Legislature, emphasizing that out of 450,985 voters, the number of unqualified signatures was 11,370, which she reiterated is against the civil liberties of those people.

[10:22:56 AM](#)

MS. CERMEJ shared further accounts, including one related to homeless people who did not receive their voter registration cards, and a story of a woman affected adversely by political decisions made, and she emphasized that people sign petitions in order to see change.

[10:24:41 AM](#)

CHAIR SEATON said the committee is not dealing with any one specific petition, but with the system in general, and he remarked that Ms. Cermelj brought up many points for the committee to consider.

[10:24:57 AM](#)

MS. CERMEJ, in response to a question from Representative Gardner, said she supports the bill, with the exception of the \$15 payment, which she said she hopes can be more.

[10:25:28 AM](#)

REPRESENTATIVE GARDNER, regarding Ms. Cermelj's previous reference to the person from out of state, suggested that a local person could also be rude and disruptive and be asked to leave.

[10:25:43 AM](#)

MS. CERMEJ responded that that is true; however, the local people have good training.

[10:26:03 AM](#)

CHAIR SEATON asked Ms. Cermelj to specify if she supports the bill's proposal to increase the number of qualified signatures for a recall petition from 10 to 20 percent, and also if she is

in favor of not allowing a petition to be filed within 270 days of termination of office.

[10:27:08 AM](#)

MS. CERMEIJ answered yes to both.

CHAIR SEATON noted that neither of the petitions for which Ms. Cermelj brought the petition totals would have passed had the percentage been at 20.

[10:28:38 AM](#)

REPRESENTATIVE GARDNER asked Ms. Brewster, "If somebody, say Andy Jones, is registered as Andrew Jones, and he signs Andy Jones and provides a correct birth date, would that signature be qualified, or not?"

[10:29:10 AM](#)

MS. BREWSTER said that signature would count.

[10:29:20 AM](#)

REPRESENTATIVE GARDNER asked at what point is the name dissimilar enough to be considered unmatched.

[10:29:32 AM](#)

MS. BREWSTER answered that if there is a qualifier that allows the division to locate the signer within the voter registration system, and the name is similar, then the signature will count. If the name is entirely different, she said, it would not be counted.

[10:30:03 AM](#)

CHAIR SEATON asked, "If someone signs Andy instead of Andrew, would that mean that it probably wouldn't be a computer match - that would be a manual match?"

[10:30:11 AM](#)

MS. BREWSTER said she believes that would be a manual match.

[10:30:53 AM](#)

CHAIR SEATON asked another testifier to return at the next hearing.

[HB 438 was heard and held.]

**ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [10:31:15 AM](#).