

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

February 9, 2005
9:19 a.m.

MEMBERS PRESENT

Senator Ralph Seekins, Chair
Senator Charlie Huggins, Vice Chair
Senator Gene Therriault
Senator Hollis French

MEMBERS ABSENT

Senator Gretchen Guess

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 1

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit.

HEARD AND HELD

SENATE JOINT RESOLUTION NO. 4

Proposing amendments to the Constitution of the State of Alaska relating to the budget reserve fund and to uses of money in the general fund available for appropriation at the end of each fiscal year; and providing for an effective date for the amendments.

MOVED SJR 4 OUT OF COMMITTEE

SENATE BILL NO. 36

"An Act relating to applications requesting the delivery of absentee ballots by mail."

MOVED CSSB 36(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SJR 1

SHORT TITLE: CONST. AM: APPROPRIATION LIMIT

SPONSOR(S): SENATOR(S) DYSON

01/11/05	(S)	PREFILE RELEASED 12/30/04
01/11/05	(S)	READ THE FIRST TIME - REFERRALS
01/11/05	(S)	JUD, FIN
02/08/05	(S)	JUD AT 8:30 AM BUTROVICH 205
02/08/05	(S)	CONST AM: BUDGET RESERVE FUND

BILL: SJR 4

SHORT TITLE: CONST AM: BUDGET RESERVE FUND

SPONSOR(s): SENATOR(s) DYSON

01/26/05 (S) READ THE FIRST TIME - REFERRALS
01/26/05 (S) JUD, FIN
02/08/05 (S) JUD AT 8:30 AM BUTROVICH 205
02/08/05 (S) ABSENTEE BALLOT APPLICATIONS

BILL: SB 36

SHORT TITLE: ABSENTEE BALLOT APPLICATIONS

SPONSOR(s): SENATOR(s) THERRIAULT

01/11/05 (S) PREFILE RELEASED 1/07/05
01/11/05 (S) READ THE FIRST TIME - REFERRALS
01/11/05 (S) STA, JUD
01/20/05 (S) STA AT 3:30 PM BELTZ 211
01/20/05 (S) Heard & Held
01/20/05 (S) MINUTE (STA)
02/01/05 (S) STA AT 3:30 PM BELTZ 211
02/01/05 (S) Moved CSSB 36(STA) Out of Committee
02/01/05 (S) MINUTE (STA)
02/02/05 (S) STA RPT CS 3DP 1NR NEW TITLE
02/02/05 (S) DP: THERRIAULT, WAGONER, HUGGINS
02/02/05 (S) NR: ELTON
02/08/05 (S) JUD AT 8:30 AM BUTROVICH 205
02/08/05 (S) Bills Previously Heard/Scheduled

WITNESS REGISTER

Ms. Laura Glaiser
Division of Elections
Office of the Lt. Governor
PO Box 110015
Juneau, AK 99811-0015

POSITION STATEMENT: Commented on SB 36

Senator Fred Dyson
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SJR 1 and SJR 4

Mr. Lucky Schultz
Staff to Senator Dyson
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SJR 1 and SJR 4

ACTION NARRATIVE

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at 9:19:19 AM. Senators Gene Therriault, Hollis French, Charlie Huggins and Chair Ralph Seekins were present.

SB 36-ABSENTEE BALLOT APPLICATIONS

9:20:04 AM

CHAIR SEEKINS announced SB 36 to be up for discussion.

SENATOR THERRIAULT proposed a committee substitute for SB 36. He moved to use version \I as the working document.

CHAIR SEEKINS announced the motion carried with no objection.

SENATOR THERRIAULT explained the changes in version \I.

Page 1, line 4 inserts the words "in person".

Page 1, line 5 clarifies "under this section".

Page 3, lines 7-9

(4) encourages or assists in a violation of AS 15.20.081 and has been previously convicted for unlawful interference with voting in the second degree under AS 15.56.035 (a) (5).

Page 3, line 25

(5) encourages or assists in a violation of AS 15.20.081.

CHAIR SEEKINS asked for comments from the Division of Elections.

MS. LAURA GLAISER, director, Division of Elections, supported version \I.

CHAIR SEEKINS announced the committee adopted version \I.

SENATOR HOLLIS FRENCH asked if removing subsection (j) is the intent of the committee - making it a crime to violate any part of the entire statute.

SENATOR THERRIAULT answered yes.

SENATOR FRENCH said he wanted to make sure any initial violation of AS 15.20.081 was a class A misdemeanor and a second violation would be a felony.

CHAIR SEEKINS answered if it is knowingly and willfully done, it would be a violation.

SENATOR FRENCH voiced concern with how a judge would view Section 3, subsection (j), paragraph (2), and indicated there is still a question as to who can be penalized for carrying absentee ballots.

MS. GLAISER replied that the Division of Elections receives applications through FedEx Express and DHL, which is another form of service. The sponsor's intent was to make sure the information in the application was concealed.

SENATOR FRENCH asked if the information was appropriately concealed, what difference does it make who delivers the application.

SENATOR THERRIAULT commented that no party has any right to handle ballots. The intent is to restrict political groups from ballot delivery.

CHAIR SEEKINS agreed.

SENATOR THERRIAULT moved CSSB 36 (JUD) out with individual recommendations and a zero fiscal note.

CHAIR SEEKINS heard no objection and CSSB 36(JUD) was passed out of committee.

SJR 1-CONST. AM: APPROPRIATION LIMIT

[9:30:48 AM](#)

CHAIR SEEKINS announced SJR 1 was up for consideration.

SENATOR FRED DYSON and Lucky Schultz, staff to Senator Dyson, introduced themselves as sponsors of SJR 1.

SENATOR DYSON asked the committee to accept the conceptual amendment to SJR 1.

CHAIR SEEKINS announced to the committee that they would consider the amendment.

SENATOR DYSON informed Chair Seekins that the Finance committee would deal with the numbers portion of SJR 1.

[9:33:36 AM](#)

CHAIR SEEKINS announced that his intent was to consider the judiciary portion of SJR 1 and to allow the Finance committee to look at the numbers.

SENATOR DYSON advised Chair Seekins that the base number has been adjusted to cover the out years.

CHAIR SEEKINS referred to a conceptual amendment before the committee and the committee members discussed the amendment language.

CHAIR SEEKINS moved to adopt Amendment 2. Hearing no objection, the committee adopted Amendment 2.

CHAIR SEEKINS referred back to Amendment 1 and asked the committee "what if the Legislature itself deems that there are extraordinary circumstances that needs to be addressed outside of the Governor's request?"

MR. LUCKY SCHULTZ answered that a clause was added last year to accomplish that scenario and if the committee prefers it could be added to SJR 1.

[9:38:34 AM](#)

CHAIR SEEKINS advised that he is attempting to be proactive. He said a political body (such as the Governor), which has fiscal responsibility should never be allowed to consider special circumstances.

SENATOR FRENCH referred to separation of powers.

CHAIR SEEKINS answered that he was not willing to give the Governor too much power.

[9:39:32 AM](#)

SENATOR THERRIAULT said he wants to see a balance of power.

CHAIR SEEKINS agreed saying he would like to see that the Legislature also has authority to determine what is an extraordinary circumstance, by a two-thirds vote.

SENATOR THERRIAULT said the Governor can call a committee back into special session but can't force them to make an appropriation. The committee can pass an appropriation but the Governor can veto it. It is a check and balance.

SENATOR DYSON advised that language from last year's bill covers the issue. He read the language:

If the Legislature by law declares an extraordinary circumstance exists upon affirmative vote of two-thirds of the members of each house, Legislature may pass an appropriation that exceeds the appropriation limit under this section to address the extraordinary circumstances. Notwithstanding Section 17 of Article 2, a bill declaring an extraordinary circumstance passed by the Legislature may not become law unless signed by the Governor.

Discussion last year was, "what if the Governor vetoes it? Would there have to be a three-quarter vote to overrule the Governor?"

[9:41:34 AM](#)

CHAIR SEEKINS said when the Governor is faced with a veto or with declaring extraordinary circumstances; the cat is already out of the bag.

SENATOR DYSON offered to add a conceptual amendment with language from last year's bill.

CHAIR SEEKINS said he would be more comfortable with that.

[9:42:21 AM](#)

SENATOR THERRIAULT asked Senator Dyson to work with the drafters and come back to committee with the appropriate committee substitute.

MR. SCHULTZ said if the Legislature passes an appropriation for a special circumstance, it cannot become law until signed by the Governor, but SJR1 says both parties must agree.

CHAIR SEEKINS said he feels more comfortable that it be subject to the same procedure that any other bill would be.

[9:43:24 AM](#)

SENATOR HUGGINS agreed.

SENATOR DYSON said there is some reason to move SJR 1 with some dispatch since budget decisions must be made soon. A spending limit has populace appeal. The committee could ask the Senate President to give additional referral back to the Judiciary Committee once the Finance Committee has done its work.

CHAIR SEEKINS said the committee could pass SJR 1 out in the next meeting.

[9:46:07 AM](#)

SENATOR DYSON said he would support any extra time and effort spent on constitutional issues when considering amending the constitution.

CHAIR SEEKINS referred to a point made by Senator French, which was what if a big argument negatively affected the education budget? The Legislature needs the override ability of the normal course.

SENATOR DYSON agreed to finish the amendment before next committee meeting.

SJR 1 was held in committee.

SJR 4-CONST AM: BUDGET RESERVE FUND

[9:48:59 AM](#)

CHAIR SEEKINS announced SJR 4 was up for consideration.

SENATOR DYSON asked if the Legislature should make repaying the constitutional budget reserve (CBR) a priority in years with a surplus, and getting it up to \$5 billion dollars as a buffer fund.

CHAIR SEEKINS said maybe there should be an escalator built into the amendment so that the Legislature doesn't have to re-address the dollar amount in the future.

SENATOR THERRIAULT said he does not like escalators. Setting the buffer at \$5 billion should cover things for the near future and then it wouldn't be difficult to step it up when needed.

[9:51:45 AM](#)

CHAIR SEEKINS agreed and offered to consider a 5 or 10-year review.

SENATOR THERRIAULT said SJR 4 should probably have gone to the Finance Committee before the Judiciary Committee.

CHAIR SEEKINS announced the committee might request a second referral after Finance has finished with SJR 4.

SENATOR DYSON agreed with Senator Therriault being wary of escalators on the spending side. SJR 4 is different because it is the financial back up that bonding ratings are dependent

upon. SJR 4 will bring voters because of the appeal of a disciplined spending.

[9:54:18 AM](#)

CHAIR SEEKINS said the CBR fulfills two functions, it is a buffer for bad years and it is a cash flow account. There must be an amount in the CBR to handle cash flow variations.

[9:54:55 AM](#)

MR. SCHULTZ said last year the Governor suggested \$1 billion dollars as the minimum. SJR 4 does not limit the CBR to \$5 billion dollars it limits the payments. The CBR can grow past \$5 billion from other sources.

[9:55:49 AM](#)

CHAIR SEEKINS advised Senator Dyson and the committee that he would watch SJR 4 and ask for a second referral back to the Judiciary Committee.

SENATOR HUGGINS made a motion to move SJR 4 out of committee with individual recommendations and zero fiscal notes.

CHAIR SEEKINS heard no objections and so the motion passed. There being no further business to come before the committee, Chair Seekins adjourned the meeting at [9:57:19 AM](#).