

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

March 9, 2005

8:36 a.m.

MEMBERS PRESENT

Senator Ralph Seekins, Chair
Senator Charlie Huggins, Vice Chair
Senator Hollis French
Senator Gretchen Guess

MEMBERS ABSENT

Senator Gene Therriault

OTHER LEGISLATORS PRESENT

Senator Donny Olson

COMMITTEE CALENDAR

SELECT COMMITTEE ON LEGISLATIVE ETHICS
Confirmation Hearing: Marianne Stillner

CONFIRMATION ADVANCED

SENATE BILL NO. 105

"An Act relating to the retrospective application and applicability of the overtime compensation exemption for flight crew members; and providing for an effective date."

MOVED CSSB 105(L&C) OUT OF COMMITTEE

SENATE JOINT RESOLUTION NO. 10

Supporting the federal marriage amendment.

SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 105

SHORT TITLE: OVERTIME WAGES FOR FLIGHT CREW

SPONSOR(s): SENATOR(s) SEEKINS

02/14/05 (S) READ THE FIRST TIME - REFERRALS
02/14/05 (S) L&C, JUD

02/22/05 (S) L&C AT 1:30 PM BELTZ 211
02/22/05 (S) Heard & Held
02/22/05 (S) MINUTE (L&C)
03/01/05 (S) L&C AT 1:30 PM BELTZ 211
03/01/05 (S) Moved CSSB 105(L&C) Out of Committee
03/01/05 (S) MINUTE (L&C)
03/02/05 (S) L&C RPT CS 3DP 1AM SAME TITLE
03/02/05 (S) DP: BUNDE, SEEKINS, STEVENS B
03/02/05 (S) AM: ELLIS
03/09/05 (S) JUD AT 8:30 AM BUTROVICH 205

WITNESS REGISTER

Ms. Marianne Stillner
Juneau, AK 99801

POSITION STATEMENT: Confirmation candidate to the Select
Committee on Legislative Ethics.

Mr. Thomas Daniel, Partner
Perkins Coie Law Office

POSITION STATEMENT: Testified in support of SB 105

Mr. Jerry Rock
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 105

Mr. Tom Nicolos
Barrow, AK

POSITION STATEMENT: Testified in support of SB 105

Mr. Grant Thompson
Barrow, AK

POSITION STATEMENT: Testified in support of SB 105

Ms. Karen Casanova
No address provided

POSITION STATEMENT: Testified in support of SB 105

Mr. Michael Charlie
No address provided

POSITION STATEMENT: Testified in support of SB 105

Mr. Bob Hajdukovich
No address provided

POSITION STATEMENT: Testified in support of SB 105

Mr. Mike Hageland, Owner

Hageland Aviation
No address provided

POSITION STATEMENT: Testified in support of SB 105

Mr. Mike Bergt, General Manager
Alaska Central Express (ACE)
No address provided

POSITION STATEMENT: Testified in support of SB 105

Mr. Bruce McGlasen, President and Owner
Grant Aviation
No address provided

POSITION STATEMENT: Testified in support of SB 105

Mr. Richard Clark, Pilot
Hageland Aviation
No address provided

POSITION STATEMENT: Testified in support of SB 105

Mr. Ignatius Beans, Pilot
Hageland Aviation
No address provided

POSITION STATEMENT: Testified in support of SB 105

ACTION NARRATIVE

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at [8:36:59 AM](#). Present were Senators Hollis French, Charlie Huggins, Gretchen Guess, and Chair Ralph Seekins.

CHAIR SEEKINS brought the Judiciary Committee up to speed on the settlement agreement between former Attorney General Renkes and the Alaska Personnel Board. He provided copies of documents for the committee members. Chair Seekins said the State Personnel Board intends to revise the Ethics Act. The members are working on a broad review of the Ethics Act and the committee is close to getting a final draft.

Confirmation Hearing - Select Committee on Legislative Ethics

[8:41:44 AM](#)

The following is a verbatim transcript of an interview by the Judiciary Committee of Marianne Stillner, up for reappointment to the Select Committee on Legislative Ethics:

CHAIR SEEKINS:

Welcome to the Senate Judiciary Committee this morning, if you would come up. Nice to have somebody in person rather than a voice on the end of a phone. Welcome to the committee. If you'd put yourself on the record so that we can have it clear for the clerk, we'd be eager to hear why you are reapplying for membership on this committee.

MARIANNE STILLNER:

Senator Seekins, I have been on the committee for two years, my first term. I felt that was a really steep learning curve for me and so I feel like now in the second term I could make a greater contribution to the committee. I enjoy the committee, I find it an intellectually challenging and intriguing working group. So that's why I want to be on it again.

CHAIR SEEKINS:

For the record, we have a balance we have to meet, are you registered within a particular political party?

MS. STILLNER:

No sir.

CHAIR SEEKINS:

So you're non-party?

MS. STILLNER:

Yes.

CHAIR SEEKINS:

We have to try to meet a balance. It's required within the statute as to political affiliation of public members; that's why I have to ask that question. You say that there was a steep learning curve to being on the committee. Could you flush that out a little for us? Give us some examples.

MS. STILLNER:

I came in, my background was in nursing and currently in education, and so I felt like I was being introduced to a new subculture. A subculture of the Legislature and I'm an extremely apolitical person so I really didn't have much understanding information about the process in the Legislature, so that part of it is the learning curve for me. Also I think that there's a lot of legalese and so forth that terminology of the process that I had to learn as well.

CHAIR SEEKINS:

Who were your instructors and how did you learn this?

MS. STILLNER:
My colleagues on the committee.

CHAIR SEEKINS:
When you talk about the legalese side of things, can you give us a little idea of what were your biggest challenges?

MS. STILLNER:
The legal terminology, just understanding, for example, just even the term "due process", what that really means, and so forth. Terms like that.

CHAIR SEEKINS:
The statutes themselves, as other members have told us that they can be a little confusing and a little overpowering, did you find that to be the case for yourself?

MS. STILLNER:
I think that the statutes, you need to really really really read them. Study them. Yes. You have to understand them. It's not something you can just glance at and feel like you have a grasp of...

CHAIR SEEKINS:
Other questions?

SENATOR HUGGINS:
Marianne, when we look at how you first got on the committee, can you describe for us? It appears you have to have some connection before you can make that leap.

MS. STILLNER:
Yes. It was a recommendation of a person that Judge Carpeneti had asked to be on the committee and this person did not feel like she could do that and so she recommended me to Judge Carpeneti and he recommended me. Obviously...

SENATOR HUGGINS:
It was a recommendation by someone that had been considered?

MS. STILLNER:
Right.

SENATOR HUGGINS:
So there was some connection?

MS. STILLNER:

Yes.

SENATOR HUGGINS:

In that regard, do you think it's reasonable that we have maybe a little more public process scenario where it might be publicly advertised so that somebody that lived in Willow, Alaska could find out about it that might not know...

MS. STILLNER:

Absolutely. I was a bit stunned, I was astonished, I was delighted to be on it but I couldn't quite believe it myself. Yes.

SENATOR HUGGINS:

In that regard, most bodies though, if you listen to people, I don't know, education probably a good example where you're losing all the seasoned quality teachers sort of thing but, for every person that departs a body, in this case your committee, there is a new, young, energetic person that replaces them, or at least new to the process. My question for you is, turnover on the committee, would you characterize how that has been your experience? Is it the same people recurring or...?

MS. STILLNER:

I don't really know beyond the two years but I was very thankful that there were people who had some experience on the committee beforehand because otherwise it would just be rather difficult to have new people every time. You have to have some people who are experienced to lead the way.

SENATOR HUGGINS:

Experienced.

MS. STILLNER:

Yes, definitely.

SENATOR HUGGINS:

Listening to you describe that, being a professional but when you talked about looking at the legalese for lack of a better term, that it was a little hard to come to grips and people had to coach you, that's my words not yours. I guess my question would be; for those people that that's applied to, whether or not it's too hard for them to figure out what it says and what it means.

MS. STILLNER:

I'm sorry; I don't understand what you mean.

SENATOR HUGGINS:

Language that you were describing. Whether that the application of it for people that it would be applicable to whether it's too hard for them to interpret what they're supposed to be doing to be in compliance with.

MS. STILLNER:

No, it's all part of the, like I said, the subculture of the Legislature so legislators, legislative aides and so forth already understand a lot of that language, I think, so it wouldn't be so difficult. Is that what you mean? I'm not quite sure...

SENATOR HUGGINS:

Yes, no, exactly.

SENATOR FRENCH:

Ms. Stillner, thanks for being here today and thanks for re-applying. Maybe you can tell us, because I know the committee is kind of curious about trying to get more of the public involved in this process, maybe you can tell folks how much of your time is devoted to the committee and how you're able to balance your committee duties with your professional duties.

MS. STILLNER:

Yes, it's quite variable. It sort of depends on how many and the nature of complaints that are presented to the committee how many meetings are called. I guess I can, people can assume or expect, I should say, to have two meetings a year. That's the very bottom line, and then beyond that, whatever the business is, a meeting is call. And it could be a bit of time. Yes. And so it is a bit of a balance, it is, and of course the task of the administrator is to get as many people there as possible and that's sometimes hard to do.

SENATOR FRENCH:

You're currently working as an assistant professor of nursing here at UAS.

MS. STILLNER:

Yes.

SENATOR FRENCH:

Did you ever find that the duties of the committee conflicted with your job duties and that you had to find someone to fill in for you to give a class or something like that?

MS. STILLNER:

Actually not. My absence was, I was absent a couple of times this past year, were due to travel schedules, travel. I was actually in flight for those absences so I couldn't call in right away. But no. It hasn't been... unless it's the very first week of class or something then I wouldn't want to but, who knows if a meeting would be called then or not. I don't know.

SENATOR FRENCH:

And for getting yourself up to speed, did you rely on the statutes themselves, conversations with colleagues, and is there any book or any guidebook or any primer for new folks on the committee about how to sort of take their job and run with it?

MS. STILLNER:

That's an interesting question. I relied on the handbook that we have and then we have the book, the uniform rules book, and then of course the conversation of my colleagues on the committee. And then I just did a little general reading on ethics and the concept of ethics and some of that on my own.

SENATOR FRENCH:

Last question, you say you're apolitical, which makes you a fish out of water here because people here are total political. Describe how that brought maybe a fresh prospective to the committee and why you think that might be useful.

MS. STILLNER:

I really don't see the committee as an area that should be political. It's a neutral area. It's a working group of the public and the Legislature, and within the legislative members on the committee there might be democrats or republicans, but I don't see that that's an issue because ethics, the actual looking at moral behavior doesn't really have much to do with politics in and of itself. You get right down to the inductive part of the experience, which is the concrete question being asked and I don't see that politics has much to do with it.

CHAIR SEEKINS:

What do you teach?

MS. STILLNER:

Right now I'm teaching certified nurse aide training, nutrition. I will be teaching introduction to health sciences and I was the clinical instructor for the nursing program when UAS partnered with Weber State (University).

CHAIR SEEKINS:

Ok. Good. My wife's a nurse.

MS. STILLNER:

Is that right?

CHAIR SEEKINS:

In fact I took a temporary job 35 years ago as a car salesman to get my wife through nursing school.

MS. STILLNER:

Good for you.

CHAIR SEEKINS:

So I think I went to nursing school too.

MS. STILLNER:

I'm sure you did.

CHAIR SEEKINS:

Every year as part of the recommendations, I was looking through some of the notes as I went by on some of the minutes and meetings, and I noticed in a report talking about education and getting up to speed. On our June 3rd meeting that there is this under the chair staff report there is a comment says, "staff conducted ethics training for 10 new legislators in Juneau this week. Hopefully the training generated an awareness of what ethics is all about." Well, you know, I would hope that would be the case too, but most people ... We have actual training session on our ethics knowledge. Do you? Did staff provide that kind of training for you?

MS. STILLNER:

It may have been that staff would have but in my case I came in late. I was a last minute choice because the original person on the committee was not reconfirmed because it was very late in the session and the committee was already meeting for that time period and so I sort of popped in there late and didn't get probably the orientation that somebody coming in would have received.

CHAIR SEEKINS:

So the staff didn't sit down with you on the same basis that they sat down maybe with other people or with legislators and say, "let's go through the same basis training for you as a member of the committee that we would put a legislative staff through."

MS. STILLNER:

I don't know what staff does with the Legislature so I can't answer that. I was given a lot of material and a lot of explanation and so forth. But the process is ...

CHAIR SEEKINS:

I'm just trying to ... a couple of questions and I'll ask you a couple more in a few minutes just for our own edification, not necessarily for any other reason, but the... We talked yesterday a little bit with Skip Cook and we've talked among ourselves as to the make up of the committee. Senator Huggins mentioned a few times how would his friend the potato farmer out there in the Matanuska Valley, and how would his potato farmer out there find out that he could possibly serve on this committee or how he would apply. But when we look at the make up of the committee, we find you who is a nurse but a teacher and we find Ms. Rabinowitz, who is a teacher by background and then we find three attorneys. The question that we're asking is do you think that there would be a benefit to this committee if it reflected a broader cross section of the people of the state of Alaska, rather than primarily two professions?

MS. STILLNER:

Actually the committee reflects a nice cross section of Alaska because everybody comes from a different part of Alaska. And we wear our geographic location when we come to any meeting so that the people, the attorney from Nome, the attorney from Fairbanks, the one from Anchorage all bring a totally different perspective. So it's not so much the attorney as it is the location, I think, the geographic regional location. I think it probably brings more to it. You kind of get underneath or beyond the level of your training when you get into ethical issues anyway. Ethical issues are more basic than that and so I'm not sure that the make up, in terms of profession, is so important.

CHAIR SEEKINS:

You don't have a vote for potato farmers? I'm just kidding.

MS. STILLNER:

(Laughs)

CHAIR SEEKINS:

Let me ask you just a couple questions, and we talked about the basic training that the members of the committee get. You say one of the things that you mentioned was Uniform Rules. Is this what you're looking at when you talk about the Uniform Rules?

MS. STILLNER:

I have a book back there, yes. It doesn't look quite like that.

CHAIR SEEKINS:

Do they provide you with this manual as well? The Mason's Manual of Legislative Procedure?

MS. STILLNER:

No.

CHAIR SEEKINS:

You've never seen that manual?

MS. STILLNER:

I've never used it, but I've only been there two years. It may have been there before, I don't know.

CHAIR SEEKINS:

So you're basically understanding of the uniform rules is whatever...do you have it? Can I just see for my clarification? Ok. I recognize it. It's the smaller version of this. We have those as well. So as far as uniform rules are concerned, these are the only uniform rules that you've been asked or provided with to be able to determine rules of legislative procedure?

MS. STILLNER:

That and our own ethics handbook.

CHAIR SEEKINS:

But this one you haven't seen?

MS. STILLNER:

Not that I know of.

CHAIR SEEKINS:

What do you think about two or three year terms? I know right now everybody is on a two-year cycle. Do you think there would be a benefit to three-year terms, rather than a two-year term?

MS. STILLNER:

Well if you're thinking of members rotating off after one term, then three years would be better because it just gives that little extra year of experience. But if you stay with two-year terms, then I think the terms should be... they shouldn't all come at the same time so that there is some rotating terms.

CHAIR SEEKINS:

I can agree with that. My personal preference is that they would be three-year terms and have a regular rotation. Not necessarily because we wanted to turn over every time, but I think that that, I think there is a spin up time for new members on any committee and you have to rely on the experience of other people who are a little more seasoned and a two year rotation doesn't really give you, within the body itself, a kind of background that is particularly beneficial to the task at hand. That's just my personal opinion, I just wondered if you agreed with me or not. You do, so you're pretty bright on that subject anyhow. Other questions? Senator Huggins?

SENATOR HUGGINS:

Yes ma'am, Senator Huggins again. In reference to cases or situations that you as a committee member have dealt with, could you share with us if there were any that, when you started looking at, the committee was wrestling with the proposition before them, where there might have been a division of opinion?

MS. STILLNER:

I can't share specifics obviously, there's an ethical code of confidentiality. However, I think most opinions it's not just everyone agrees, I mean there is a lot of discussion. A lot of back and forth, wrestling, as you say.

SENATOR HUGGINS:

The difference in opinion, was it based on interpretation of the language you were looking at or what?

MS. STILLNER:

No. Difference of opinion is, maybe I didn't hear your question right. Difference of opinion as much as a discussion of different angles of whatever issue was before us is a better way of saying it.

SENATOR HUGGINS:

I find as a new person in the legislature in this case, judiciary, and looking at the proposition of legislating ethics that that's easy to say and a little bit difficult to accomplish. So when you look at what you read as far as what's

applicable, ethically as your committee duties, does that come to bear at all that when you start looking at the words and what they mean and the interpretation of them that five or six people sitting around the table might come to different conclusions?

MS. STILLNER:

Sometimes. Maybe not definite conclusions but different questions. It's a very gray area. Ethics is not black and white and so whenever you're working in a gray area, you have a lot of room for movement back and forth and there's a coming together of final decision. It's not black and white.

SENATOR HUGGINS:

Has there been any occasions where, based on the rules that were applicable, that you made recommendations or that you have recommendations about changes that need to be made in ethics?

MS. STILLNER:

I don't understand.

SENATOR HUGGINS:

In our ethics rules in the standing rules, in any of the publications that you've used in your committee works, have you seen any changes that need to be made?

MS. STILLNER:

Oh, that need to be made. I don't know, I can't answer that right now. I don't know how to answer that.

CHAIR SEEKINS:

I guess maybe this is just maybe a little off track of my taking a look at whether or not we want to advance your name for confirmation, but I'm just a little concerned on one thing because, and I, this is just for open discussion. Let me just bring you an example of, because I'm curious now. You've ignited my curiosity. In January, over a period of time, the ethics committee was called on to consider a ruling having to do with rules of legislative procedure. And you were given this book, the blue book there, our yellow book, and I wonder if you could just help me out and look at rule 55 in that book. Toward the back. It's the last rule that we have in this book. Could you just read that for me?

MS. STILLNER:

Out loud?

CHAIR SEEKINS:

Yes.

MS. STILLNER:

The rules of parliamentary practice comprised in Mason's Manual of Legislative Procedure, 1979 edition, implement and govern the uniform rules of the Legislature in all cases not covered by these uniform rules.

CHAIR SEEKINS:

But no one ever referenced the committee, no attorney; no staff person ever referenced the committee to the Mason's Manual of Uniform Rules?

MS. STILLNER:

Not that I remember. I don't know. Maybe when I wasn't there.

CHAIR SEEKINS:

Do you think it would be fair to consider an issue on uniform rules without having all of the uniform rules present for you as a reference? I'm just wondering if procedure within... I'm sure, Senator French, since you're going to be a party to that, that you have been appointed to that committee, that you would never forget Mason's Manual.

SENATOR FRENCH:

If and only if the situation were not covered by the uniform rules, Mr. Chairman.

CHAIR SEEKINS:

Right. Exactly.

SENATOR FRENCH:

If and only.

CHAIR SEEKINS:

According to the rules. So I'm just curious. I'm not trying to set any traps. But it just appears to me that in this consideration of the uniform rules that you weren't provided with all of the uniform rules and that would be very hard for me, as a committee member, to make a decision without having all of the rules. I'm not even going to ask you that question. Just saying it would be hard for me. Other questions?

SENATOR HUGGINS:

Yes, Mr. Chair. I move that Ms. Marianne Stillner's name be forwarded from committee for consideration by the full Senate on the floor during session. And this does not reflect an intent by

members of the committee to vote for or against the individual during any further session.

CHAIR SEEKINS:

Is there objection? Hearing none, you've survived a nice interview. Thank you very much for your participation in being here. It was nice to make your acquaintance.

[9:06:24 AM](#)

SB 105-OVERTIME WAGES FOR FLIGHT CREW

[9:11:27 AM](#)

CHAIR SEEKINS announced his intention to skip the customary introduction of SB 105 and go straight to testimony.

MR. TOM DANIEL, Partner, Perkins Coie Law Office, testified in favor of SB 105. SB 105 clarifies that overtime exemption applies to pending lawsuits. Mr. Daniel gave an in depth account of the history of pilot pay, both state and federal.

[9:15:41 AM](#)

MR. DANIEL gave a history of lawsuits filed from the late 1990s to present date. He said the purpose of SB 105 is to ensure that lawsuits cease. Class action lawsuits can bankrupt small carriers, which impacts pilots, customers, and the economy of Alaska.

[9:21:43 AM](#)

MR. DANIEL gave an account of the history of Mike Hageland's company, Hageland Aviation Services.

[9:25:01 AM](#)

CHAIR SEEKINS asked Mr. Daniel if the pilots who are bringing lawsuits against air carriers are seeking to reap extra rewards over and above the earlier agreed upon pay, which was represented by a signed contract.

MR. DANIEL answered yes. He stated it only takes one former employee to start a class action lawsuit.

CHAIR SEEKINS asked if the plaintiff's attorneys are recruiting additional members into the class action.

MR. DANIEL replied yes. A notice was sent out to all the present and former pilots notifying them of the case. The pilots had 60 days to affirmatively opt out and 60 of them have done so. It's hard to tell how many of the remaining pilots want to

participate. If they do not respond, they are in the class. There is one pilot and a potential of 20 plus.

9:27:38 AM

SENATOR HUGGINS asked Mr. Daniel if he was permitted to contact the pilots to see if they are opting out.

MR. DANIEL replied no due to the ethics rules governing lawyers they are considered clients of the plaintiff's counsel.

CHAIR SEEKINS asked Mr. Daniel if he has contacted the pilots who have affirmatively opted out.

MR. DANIEL answered yes.

SENATOR HUGGINS asked Mr. Daniel to clarify his earlier statement.

MR. DANIEL said one active pilot out of approximately 60 is part of the class action lawsuit.

SENATOR HUGGINS commented small commuter airlines operate on the economic edge.

MR. DANIEL advised he is not sure about the financial condition of the airline companies. He said any significant unexpected cost threatens the viability of the small airlines.

SENATOR HUGGINS commented the essence of the class action that Mr. Daniel is involved in potentially jeopardizes one or more airlines.

MR. DANIEL agreed. The three pending lawsuits threaten the economic viability of three airline companies.

9:30:32 AM

SENATOR FRENCH asked Mr. Daniel about the statute of limitations.

MR. DANIEL answered it was two years. The time period covered by the lawsuit extends back to mid 2000.

SENATOR FRENCH asked if the pilots were still being paid wages during that time period.

MR. DANIEL answered yes; they were all paid on time. The individual who filed the lawsuit did not know he had an overtime

claim. His initial reason for seeing an attorney was another issue. The attorney is the one who saw the overtime claim.

SENATOR FRENCH asked Mr. Daniel to comment on the worse case scenario.

MR. DANIEL explained there are currently 23 class members. The plaintiffs have told some pilots they could recover \$70,000 each, which is doubled due to the liquidated damages penalty. This takes the damage into the millions and would bankrupt Hageland Aviation.

[9:32:50 AM](#)

SENATOR FRENCH asked Mr. Daniel if the judge issued a written opinion on his ruling.

MR. DANIEL answered yes. The case name was Harms versus Hageland.

SENATOR FRENCH commented that Mr. Daniel testified it was clear the Legislature intended to apply the previous bill to pending lawsuits. He asked Mr. Daniel if he could support his statement.

MR. DANIEL said he would refer to the legislative history of the lawsuit. The purpose of passing the legislation was to clear up the uncertainty of exemption to pilots. He suggested the Legislature did not expect the lawsuits to continue.

[9:34:35 AM](#)

SENATOR FRENCH commented the Legislature knows how to make a law retroactive. If you look back to the law passed in 2003, the intent of the final product would be hard to find.

MR. DANIEL agreed.

CHAIR SEEKINS asked Senator Olson to join the committee.

SENATOR FRENCH commented regarding notification of class action lawsuits and said the plaintiff's attorneys followed the law. They were required by law to send out notice to other potential claimants and the judge approved the notice they sent out.

MR. DANIEL agreed.

[9:36:38 AM](#)

CHAIR SEEKINS commented that one pilot who was in direct contact with the plaintiff's attorney testified in the Labor and

Commerce Committee meeting. In addition to the mail-out, that indicates some conversation between the plaintiff's attorney and the class members occurred.

MR. DANIEL agreed communication occurred after the mailing went out. He has no way of knowing if communication occurred before then.

CHAIR SEEKINS asked Mr. Daniel if there is jeopardy for other carriers.

MR. DANIEL answered yes. Two other carriers are facing lawsuits. Until July of 2005, there is potential that other carriers can be sued due to the statute of limitations.

CHAIR SEEKINS commented it could be a multimillion-dollar windfall for people who otherwise had a contract that the employer lived up to.

[9:38:31 AM](#)

MR. DANIEL agreed.

[9:38:50 AM](#)

MR. MIKE HAGELAND, owner of Hageland Aviation Services, testified in support of SB 105. He spoke of previous practices for pilot pay. He gave an historic account of starting his own business and of paying pilots fairly. He explained the situation of the pilot who sued Hageland Aviation for overtime pay.

[9:44:44 AM](#)

CHAIR SEEKINS asked Mr. Hageland if he ever had problems paying his pilots.

MR. HAGELAND answered no. He said if there was a dispute, he would always find in their favor.

CHAIR SEEKINS asked Mr. Hageland if his company had a history of wage and hour complaints.

MR. HAGELAND answered no.

[9:45:44 AM](#)

SENATOR HUGGINS asked Mr. Hageland when the lawsuit was initiated.

MR. HAGELAND replied 2002.

SENATOR HUGGINS asked Mr. Hageland for an estimate of how much the lawsuit has cost Hageland Aviation.

MR. HAGELAND said the cost to date was approximately \$450,000.

SENATOR HUGGINS asked if there was any way to recoup that money.

MR. HAGELAND answered no.

[9:46:23 AM](#)

SENATOR DONNY OLSON asked Mr. Hageland how he balances having a pilot fly in extreme conditions and keeping him happy.

MR. HAGELAND answered he pays pilots on a daily basis whether they fly or not. Pilots make the decision on the weather but they are not penalized. They are also paid if the aircraft is down for maintenance.

SENATOR OLSON commented that he has had to fire unsafe pilots.

MR. HAGELAND replied it was a hard call to terminate someone. One must be sure there is good reason.

[9:49:00 AM](#)

CHAIR SEEKINS asked Mr. Hageland if the person who created the class action was terminated from Hageland Aviation.

MR. HAGELAND replied he asked him to retire because he had been exhibiting problems.

CHAIR SEEKINS asked, "Was he asked to retire for safety reasons?"

MR. HAGELAND answered yes. Hageland offered to give the pilot another job within the company but he rejected the offer.

CHAIR SEEKINS commented that the Human Rights Commission determined there was no violation of rights.

MR. HAGELAND responded the pilot worked for Hageland one and a half years.

[9:49:53 AM](#)

SENATOR FRENCH asked Mr. Hageland how realistic the threat is that the class action lawsuit would put Hageland Aviation out of business.

MR. HAGELAND answered the pending lawsuit would definitely put his company out of business. The point is only the attorneys will benefit and it will negatively impact his employees and customers.

[9:52:57 AM](#)

CHAIR SEEKINS interjected his opinion that the only reason the court ruled the legal and lawful claim was because the Legislature did not foresee the jeopardy of the airlines. This is a second opportunity for the Legislature to address the original intent of the previous bill.

[9:54:14 AM](#)

SENATOR HUGGINS added the issue is between right and wrong, not about whether this would put an airline out of business.

[9:54:58 AM](#)

MR. MIKE BERGT, general manager of Alaska Central Express (ACE), testified his company provides a critical service for the U.S. Postal Service. They employ over 70 people. A former pilot who left the company on good terms later sued ACE for overtime pay. ACE pilot pay is standard throughout the industry. He said attorneys bypass ethics to seek a windfall. The lawsuit is now in Alaska Superior Court. Attorneys are taking advantage of the window created by previous legislation.

[9:59:44 AM](#)

MR. BRUCE McGLASEN, president and owner, Grant Aviation, testified in support of SB 105 and in support of Mr. Hageland who is one of his major competitors. Grant Aviation would benefit if Hageland Aviation were put out of business through the current lawsuit but it would not be fair.

[10:01:26 AM](#)

CHAIR SEEKINS asked Mr. McGlaser if Grant Aviation ever had any pilots file a wage and hour dispute.

MR. McGLASEN replied no but Grant Aviation is open to the same kind of lawsuit and the damages would be insurmountable.

CHAIR SEEKINS asked Mr. McGlaser if he would attempt to pay his pilots any justifiable outstanding wages.

MR. McGLASEN said his pilots are paid fairly.

SENATOR FRENCH clarified that Grant Aviation has not been sued to date.

[10:03:26 AM](#)

SENATOR HUGGINS commented that television advertisements could entice pilots to join the class action lawsuit.

MR. MCGLASEN replied he has watched the Hageland case with great interest. His calculations show that Hageland Aviation would enter into bankruptcy if the pilot wins the lawsuit.

[10:04:52 AM](#)

CHAIR SEEKINS commented he does not believe the legislative intent was to create a window for lawsuits. He maintained the previous Legislature did not realize there was jeopardy to the airline industry.

SENATOR HUGGINS aired his impression that the pilots are not feeling mistreated, it is the attorneys who are looking for money.

MR. MCGLASEN agreed.

[10:06:20 AM](#)

MR. RICHARD CLARK, pilot, Hageland Aviation, testified in support of SB 105.

[10:09:01 AM](#)

CHAIR SEEKINS asked Mr. Clark if he knows of any pilots who think the lawsuit is fair.

MR. CLARK answered the pilots view the lawsuit as unfair.

[10:09:32 AM](#)

MR. IGNATIUS BEANS, pilot, Hageland Aviation, testified in support of SB 105.

CHAIR SEEKINS asked Mr. Beans if he thought the loophole created by previous legislation was fair.

MR. BEANS answered it is unfair. He does not know of any pilots who want to take advantage of the current loophole.

[10:11:57 AM](#)

MR. BOB HAJDUKOVICH, Frontier Flying Service, testified in support of SB 105.

[10:14:57 AM](#)

SENATOR HUGGINS asked Mr. Hajdukovich if he views the current law as a loophole.

MR. HAJDUKOVICH agreed.

SENATOR OLSON asked Mr. Hajdukovich how many employees and pilots he employs.

MR. HAJDUKOVICH replied he has 195 employees and 45 of them are pilots.

SENATOR OLSON asked if there is any indication that his pilots will be filing lawsuits.

MR. HAJDUKOVICH replied no.

10:18:05 AM

MR. JERRY ROCK, president, Alaska Air Carriers Association (AACA) and president of Evergreen Aviation in Alaska, testified in support of SB 105. An attorney approached Evergreen in the past 90 days with a letter stating he represented an Evergreen pilot. Evergreen advised the attorney they were protected under federal law as an interstate carrier. Overtime pay goes against safe measures as it gives pilots incentive to fly under unsafe conditions.

CHAIR SEEKINS asked Mr. Rock if most carriers in Alaska carry mail.

MR. ROCK replied most of them do.

SENATOR OLSON asked Mr. Rock if the 121 portion of Evergreen airlines has been involved in wage and hour litigation.

MR ROCK answered they had never heard anything regarding wage and hour until they were approached by the attorney 90 days ago. After advising him of their federal protection, they haven't heard from him since.

10:22:28 AM

MR. TOM NICOLOS, general manager, Cape Smythe Air, testified in support of SB 105. A pilot who was discharged for an unsafe act sued Cape Smythe Air in May 2004. He then filed a lawsuit to receive overtime pay. Cape Smythe Air has spent close to \$100,000 to date in defense. Pilots agree on pay before beginning employment. Cape Smythe has a history of paying pilots fairly. Current lawsuits can potentially cause bankruptcy.

[10:26:05 AM](#)

MR. GRANT THOMPSON, Cape Smythe Air, testified in support of SB 105.

[10:26:34 AM](#)

MS. KAREN CASANOVA, Alaska Air Carriers Association testified in support of SB 105. She stated failure to pass SB 105 would negatively affect the entire airline industry in Alaska. None of the costs are covered by insurance. Many carriers provide critical service to Alaskans.

[10:28:16 AM](#)

MR. MICHAEL CHARLIE testified in support of SB 105.

CHAIR SEEKINS asked Mr. Daniel if Mr. Peter Norsak provided him with his previous briefing.

MR. DANIEL answered no.

SENATOR FRENCH asked Mr. Daniel if he has seen any briefings from Mr. Norsak.

MR. DANIEL answered no.

SENATOR HUGGINS made a motion to pass CSSB 105(L&C) out of committee with attached fiscal notes. There being no objection, the motion carried.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at [10:29:55 AM](#).