

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

May 1, 2005

4:41 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 125

"An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, and rural health clinics; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; making conforming amendments; and providing for an effective date."

MOVED CSSB 125(JUD) OUT OF COMMITTEE

SENATE BILL NO. 127

"An Act prohibiting a public officer from taking official action regarding a matter in which the public officer has a significant financial interest; and defining 'official action' for purposes of the chapter generally referred to as the Executive Branch Ethics Act."

HEARD AND HELD

SENATE BILL NO. 186

"An Act relating to the Alaska Executive Branch Ethics Act."

MOVED CSSB 186(JUD) OUT OF COMMITTEE

SENATE BILL NO. 187

"An Act relating to legislative ethics open meetings guidelines, to the public members of the Select Committee on Legislative Ethics, to alternate members of the legislative subcommittees, to advisory opinions, and to confidential information and proceedings regarding legislative ethics complaints and investigations."

HEARD AND HELD

CS FOR HOUSE BILL NO. 33(FIN)

"An Act relating to required notification of the Department of Commerce, Community, and Economic Development, economic effect statements, and regulatory flexibility analyses regarding the adoption of regulations that may govern the conduct of small businesses; relating to a private cause of action, regulation invalidation, and judicial review related to required notification, economic effect statements, and regulatory flexibility analyses for the adoption of regulations that may govern the conduct of small businesses; and providing for an effective date."

SCHEDULED BUT NOT HEARD

CS FOR HOUSE BILL NO. 81(L&C)

"An Act establishing an administrative fine and procedure for construction contractors in certain circumstances; increasing the amount of a civil penalty for persons acting in the capacity of contractors or home inspectors; modifying the elements of a crime involving contractor registration and residential contractors; modifying the exemptions from regulation under AS 08.18 for contractors; and exempting the administrative hearings for imposing an administrative fine on construction contractors from the hearings conducted by the office of administrative hearings in the Department of Administration."

SCHEDULED BUT NOT HEARD

CS FOR HOUSE BILL NO. 149(FIN) am

"An Act relating to controlled substances; relating to the crimes of manslaughter, endangering the welfare of a child, and misconduct involving a controlled substance; relating to the manufacture of methamphetamine and to the sale, possession, and delivery of certain substances and precursors used in the

manufacture of methamphetamine; relating to listing certain anabolic steroids as controlled substances; and providing for an effective date."

SCHEDULED BUT NOT HEARD

CS FOR HOUSE BILL NO. 183(JUD) am

"An Act relating to the use of campaign contributions for shared campaign activity expenses and to reimbursement of those expenses; and amending the definition of 'contribution' in regard to sharing fundraising lists between candidates and political parties without compensation."

SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 184 am

"An Act relating to firearms."

SCHEDULED BUT NOT HEARD

CS FOR HOUSE BILL NO. 210(JUD)

"An Act relating to blood testing of certain persons alleged to have committed certain offenses directed toward peace officers or emergency workers."

SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 125

SHORT TITLE: LICENSING MEDICAL OR CARE FACILITIES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/02/05	(S)	READ THE FIRST TIME - REFERRALS
03/02/05	(S)	HES, JUD, FIN
03/14/05	(S)	HES AT 1:30 PM BUTROVICH 205
03/14/05	(S)	Heard & Held
03/14/05	(S)	MINUTE(HES)
04/06/05	(S)	HES AT 1:30 PM BUTROVICH 205
04/06/05	(S)	Heard & Held
04/06/05	(S)	MINUTE(HES)
04/13/05	(S)	HES AT 2:00 PM BUTROVICH 205
04/13/05	(S)	Moved CSSB 125(HES) Out of Committee
04/13/05	(S)	MINUTE(HES)
04/14/05	(S)	HES RPT CS 3DP 2NR NEW TITLE
04/14/05	(S)	DP: DYSON, WILKEN, GREEN
04/14/05	(S)	NR: ELTON, OLSON

04/20/05 (S) JUD AT 8:30 AM BUTROVICH 205  
04/20/05 (S) Heard & Held  
04/20/05 (S) MINUTE(JUD)  
04/23/05 (S) JUD AT 4:00 PM BUTROVICH 205  
04/23/05 (S) -- Rescheduled from 04/22/05 --  
04/30/05 (S) JUD AT 9:00 AM BUTROVICH 205  
04/30/05 (S) Scheduled But Not Heard  
05/01/05 (S) JUD AT 4:00 PM BUTROVICH 205

BILL: SB 127

SHORT TITLE: EXEC. BRANCH ETHICS: FINANCIAL INTERESTS  
SPONSOR(S): SENATOR(S) FRENCH

03/03/05 (S) READ THE FIRST TIME - REFERRALS  
03/03/05 (S) STA, JUD  
04/26/05 (S) STA AT 3:30 PM BELTZ 211  
04/26/05 (S) Moved SB 127 Out of Committee  
04/26/05 (S) MINUTE(STA)  
04/27/05 (S) JUD AT 8:30 AM BUTROVICH 205  
04/27/05 (S) Scheduled But Not Heard  
04/28/05 (S) STA RPT 1DP 3NR  
04/28/05 (S) NR: THERRIAULT, HUGGINS, WAGONER  
04/28/05 (S) DP: ELTON  
04/28/05 (S) JUD AT 8:30 AM BUTROVICH 205  
04/28/05 (S) Scheduled But Not Heard  
04/29/05 (S) JUD AT 8:30 AM BUTROVICH 205  
04/29/05 (S) EXECUTIVE BRANCH ETHICS  
04/30/05 (S) JUD AT 9:00 AM BUTROVICH 205  
04/30/05 (S) Scheduled But Not Heard  
05/01/05 (S) JUD AT 4:00 PM BUTROVICH 205

BILL: SB 186

SHORT TITLE: EXECUTIVE BRANCH ETHICS  
SPONSOR(S): SENATOR(S) SEEKINS

04/22/05 (S) READ THE FIRST TIME - REFERRALS  
04/22/05 (S) STA, JUD  
04/26/05 (S) STA AT 3:30 PM BELTZ 211  
04/26/05 (S) Moved CSSB 186(STA) Out of Committee  
04/26/05 (S) MINUTE(STA)  
04/27/05 (S) JUD AT 8:30 AM BUTROVICH 205  
04/27/05 (S) Scheduled But Not Heard  
04/28/05 (S) STA RPT CS 1DNP 3NR NEW TITLE  
04/28/05 (S) NR: THERRIAULT, WAGONER, HUGGINS  
04/28/05 (S) DNP: ELTON  
04/28/05 (S) JUD AT 8:30 AM BUTROVICH 205  
04/28/05 (S) Scheduled But Not Heard

04/29/05 (S) JUD AT 8:30 AM BUTROVICH 205  
04/29/05 (S) LEGISLATIVE ETHICS/MEETINGS  
04/30/05 (S) JUD AT 9:00 AM BUTROVICH 205  
04/30/05 (S) Scheduled But Not Heard  
05/01/05 (S) JUD AT 4:00 PM BUTROVICH 205

BILL: SB 187

SHORT TITLE: LEGISLATIVE ETHICS/MEETINGS

SPONSOR(s): SENATOR(s) SEEKINS

04/22/05 (S) READ THE FIRST TIME - REFERRALS  
04/22/05 (S) STA, JUD  
04/26/05 (S) STA AT 3:30 PM BELTZ 211  
04/26/05 (S) Moved CSSB 187(STA) Out of Committee  
04/26/05 (S) MINUTE(STA)  
04/27/05 (S) JUD AT 8:30 AM BUTROVICH 205  
04/27/05 (S) Scheduled But Not Heard  
04/28/05 (S) STA RPT CS 1DNP 2NR 1AM SAME TITLE  
04/28/05 (S) AM: THERRIAULT  
04/28/05 (S) DNP: ELTON  
04/28/05 (S) NR: WAGONER, HUGGINS  
04/28/05 (S) JUD AT 8:30 AM BUTROVICH 205  
04/28/05 (S) Scheduled But Not Heard  
04/29/05 (S) JUD AT 8:30 AM BUTROVICH 205  
04/30/05 (S) JUD AT 9:00 AM BUTROVICH 205  
04/30/05 (S) Scheduled But Not Heard  
05/01/05 (S) JUD AT 4:00 PM BUTROVICH 205

**WITNESS REGISTER**

Ms. Virginia Stonkas  
Division of Public Health  
Department of Health & Social Services  
PO Box 110601  
Juneau, AK 99801-0601

**POSITION STATEMENT:** Commented on SB 125

Ms. Stacie Kraly, Senior Assistant Attorney General  
Department of Law  
PO Box 110300  
Juneau, AK 99811-0300

**POSITION STATEMENT:** Commented on SB 125

Mr. Merle Thompson  
Susitna Valley, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 186

**ACTION NARRATIVE**

**CHAIR RALPH SEEKINS** called the Senate Judiciary Standing Committee meeting to order at [4:41:08 PM](#). Present were Senators Gretchen Guess, Hollis French, Gene Therriault, Charlie Huggins, and Chair Ralph Seekins.

**SB 125-LICENSING MEDICAL OR CARE FACILITIES**

[4:41:08 PM](#)

CHAIR RALPH SEEKINS announced SB 125 to be up for consideration.

SENATOR CHARLIE HUGGINS moved Version \I as the working document.

CHAIR SEEKINS objected for the purpose of discussion.

[4:42:10 PM](#)

MS. VIRGINIA STONKAS, Division of Public Health (DPH), Department of Health and Social Services (DHSS), advised Version \I added a couple of amendments that were adopted. Section 6 was added through a recommendation by the Legislative Legal Affairs Agency. The new language was added to comply with SB 125 licensing entities in lieu of individuals. The second amendment is on Page 23, line 13. The concern was for a definition of entities in regulation. The third amendment is on Page 25, lines 14-16. Existing language was cut and pasted into the bill for clarification that when licensing an entity they will not be negatively affected in their ability to do business. The fourth amendment is to ensure compliance with AS 47.33. Amendment 5 is on Page 38, line 28 to ensure assisted living is clearly referenced in terms of long-term care and nursing homes and assisted living.

[4:45:59 PM](#)

CHAIR SEEKINS removed his objection. The committee would work with Version \I for the purpose of this meeting.

SENATOR GENE THERRIAULT asked Ms. Stonkas whether there were still concerns about assisted living homes with certain provisions in SB 125.

MS. STONKAS responded no. Concerns in the past related to costing rather than structure.

CHAIR SEEKINS understood the structural side had been addressed yet the fee schedule is a different matter that is not addressed in the bill.

MS. STONKAS added they were never meant to be part of SB 125. Legislative Legal Affairs submitted another set of amendments to consider.

[4:49:26 PM](#)

CHAIR SEEKINS moved Amendment 1. He also objected for the purpose of discussion.

**Amendment to CSSB 125 (JUD) (version I)**

Page 4, line 15 through page 5, line 28:

Delete all material.

Re-number bill sections accordingly.

Page 8, line 15 through page 9, line 30:

Delete all material.

Re-number bill sections accordingly.

Page 13, line 31, following "jurisdiction":

Insert "or to have committed medical assistance fraud under AS 47.05.210 or a substantially similar provision in another jurisdiction"

Page 15, line 23, following "jurisdiction":

Insert "or to have committed medical assistance fraud under AS 47.05.210 or a substantially similar provision in another jurisdiction"

Page 17, following line 26:

Insert "**Sec. 47.05.350. Immunity.** An entity or individual service provider that obtains information about an employee

under a criminal history check under AS 47.05.310 may use that information only as provided in regulations adopted by the department under AS 47.05.320. However, if that entity or individual service provider reasonably relies on that information in denying employment for an individual selected for hire as an employee, including during a period of provisional employment, the entity or individual service provider is not liable in an action brought by the individual based on the employment determination resulting from the information."

Page 33, line 20:

Delete "applies"

Insert "and AS 44.62.330 - 44.62.630 apply"

Page 34, lines 9 - 15:

Delete all material.

Page 39, line 22, following "to", through line 30:

Delete all material and insert "assisted living homes as defined in AS 47.32.900."

Page 42, following line 9:

Insert a new bill section to read:

**"\*Sec. 44.** AS 14.43.148(h)(1)(B)(iii) is repealed."

Renumber the following bill sections accordingly.

Page 42, following line 16:

Insert a new bill section to read:

**"\* Sec. 47.** AS 25.27.244(s)(2) is repealed."

Page 43, line 16:

Delete "36"

Insert "37"

Page 43, line 17:

Delete "36"

Insert "37"

Page 43, line 19

Delete "36"

Insert "37"

Page 43, line 26:

Delete "36"

Insert "37"

Page 43, line 31:

Delete "36"

Insert "37"

MS. STONKAS advised the revisions had to do with technicalities and consistency throughout the bill. She asked that Stacy Kraly explain the changes.

MS. STACEY KRALY, senior assistant attorney general, Department of Law (DOL), explained the revisions are in response to a lengthy bill with a lot of conforming amendments. The first revision deletes Section 6.

[4:52:07 PM](#)

The second revision is a conforming edit with respect to the change on Page 9.

SENATOR FRENCH:

Ms. Kraly, both of the revisions have the affect of taking out the change to a license issued to a

childcare facility. Is that going to be relocated or what is happening to both of those changes?

MS. KRALY said the revision goes back to her misunderstanding. This particular statute deals with individual property rights and the DOL is no longer licensing individuals they are licensing entities. They won't be re codified or moved somewhere else they will be repealed in total.

[4:53:50 PM](#)

The third and fourth revisions are to include Medicaid fraud as an inclusion on the abuse registry. If somebody is prosecuted for Medicaid fraud the DOL wants that to be part of the criminal background check.

SENATOR FRENCH:

Ms. Kraly on Page 13 what I have in front of me now reads, "the department may not issue or renew a license or certification for an entity if an individual is applying for a license, license renewal, certification, or certification renewal for the entity and that individual has been found by a court or agency of this or another jurisdiction to have neglected, abused, or exploited a child or vulnerable adult under AS 47.10, AS 47.24, or AS 47.62 or a substantially similar provision in another jurisdiction." Is it the entity may not have someone make this application, the person can't make the application, and the person can't be part of a group that... It's just not clear to me how this works.

MS. KRALY explained it would be further developed through a regulatory process similar for what is done for an assisted living home. The premise is that the entity would be the licensed structure. With respect to the hiring decisions, the entity would submit a name for a background check for an individual to see whether they were barred from employment under a mandatory barrier crime list.

SENATOR FRENCH said it sounds like the entity can't have anyone with a criminal history working for the entity or applying for a license for the entity.

CHAIR SEEKINS said it looks like the individual in question can not own an entity or be an officer, director, partner, member or principal of a business or organization that owns an entity if any of the things were there.

SENATOR FRENCH restated it was unclear as to how it operates with the licensing statute.

[4:56:37 PM](#)

MS. KRALY said it is very similar to what is being done with the assisted living statute and the foster care statute:

If you have somebody working with you or residing in your home who has regular contact with an individual, they must submit to a criminal background check and that criminal background check will show... if it shows a conviction for a certain listed crime then that person cannot be employed or have any sort of function within the entity. There is another rigorous list called "permissive barrier crimes" where there would be the potential that if you were 20 years old and got into a bar fight in college and you are now 35 and have not had any trouble since that time, you would still be able to become a part in a licensed entity. The basic structure of what we envisioned is the nuts and bolts of this will be dealt with through the regulations, which is currently how we do things for the assisted living homes and it seems to work pretty well.

[4:58:17 PM](#)

SENATOR FRENCH said it seems clumsily drafted but the idea behind it seems sound.

MS. KRALY continued Page 17 following line 26 (immunity clause) was created to remove the immunity provision from the criminal background check.

[5:00:12 PM](#)

SENATOR GUESS asked Ms. Kraly to explain the term "reasonably relies."

MS. KRALY responded "reasonably relies" means when an employee presents a fingerprint card for a background check and it is run through the state process the employer reviews the information and makes a decision. If they decide not to employ somebody, then the individual cannot file suit against the prospective employer.

SENATOR GUESS asked if something shows up on the background check that wouldn't exclude the applicant, does the employer have a right to not employ the person.

MS. KRALY said the decision would be left up to the employer. The immunity attaches only to the case if an applicant's background check flags a barrier crime.

[5:03:08 PM](#)

SENATOR GUESS asked whether there would be anything come up in a criminal background check that would not be a reason under statute for them to hire the person. She is worried this allows open immunity. The employer could use information they wouldn't normally have to not hire the person.

MS. KRALY said the distinction is a low level misdemeanor wouldn't be listed as a permissive crime. If the decision not to employ was based upon something that was not listed through the regulatory process, the employer couldn't use that as a basis for preventing employment.

[5:04:59 PM](#)

CHAIR SEEKINS asked Ms. Kraly whether the employer would be able to see everything on the criminal history check.

MS. KRALY admitted the employer would see everything on the background check.

CHAIR SEEKINS asked whether a criminal history background check was public information.

MS. KRALY said not as readily as this process would envision but yes, it is public information.

CHAIR SEEKINS said this would be putting the onus on the employer to do a reasonably available background check. If that employer wanted to preclude someone from being hired they could already do that.

[5:06:54 PM](#)

SENATOR GUESS expressed concern with the immunity. She said this would give the employer the ability to look at someone's entire background and deny him or her employment while being immune from a lawsuit. She said the immunity clause seems to provide immunity regardless of the reason the employer decides not to hire.

[5:08:56 PM](#)

CHAIR SEEKINS disagreed. He read it as the employer may use the information only as provided in regulations adopted by the department.

MS. KRALY agreed. There are sufficient sideboards in the bill to ensure the immunity that is being provided addresses only the use of the information from the criminal background check.

SENATOR FRENCH said it appears to be two different interpretations happening. If the second sentence said, "however if the individual or service provider reasonably relies on that information only in the manner provided in regulations adopted by the department and denies employment for an individual selected for hire as an employee, the entity is not liable for any action." What Senator Guess is saying is that someone could misread that information and mistake a charge for a conviction or they could decide that a 15-year-old DWI is a barrier crime. This is all based on somebody's interpretation of someone else's criminal history.

[5:12:44 PM](#)

CHAIR SEEKINS said an employer always has to determine whether or not the person is of good character. He said an employer should be held harmless for making a decision based on a background check. He said he has no objection to a conceptual amendment to clarify the employer can only use the information in the manner prescribed by the regulations. He asked Ms. Kraly whether she objected to the proposed conceptual amendment.

MS. KRALY said no.

CHAIR SEEKINS announced the conceptual amendment was adapted to Amendment 1.

Ms. Kraly continued explaining the revisions. Last week the committee wanted to make sure that "assisted living" was defined and so that was added and it is consistent throughout the statutes.

[5:15:57 PM](#)

After deleting Section 6 there required an inclusion of a repealer on Page 42. The change on Page 42, line 16 is to make sure the corresponding section in the back was repealed. The remaining revisions would be numbering issues.

CHAIR SEEKINS removed his objection and hearing no others, Amendment 1 was adopted.

SENATOR HUGGINS moved CSSB 125(JUD) from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.  
Chair Seekins announced a brief recess at [5:17:37 PM](#).

**SB 127-EXEC. BRANCH ETHICS: FINANCIAL INTERESTS**

[5:18:47 PM](#)

CHAIR RALPH SEEKINS announced SB 127 to be up for consideration. He asked Senator French to describe the approach he took to define unethical conduct with regard to the potential violation of AS 39.52.110(b) of the current statute. He asked him to compare SB 127 with SB 186.

SENATOR HOLLIS FRENCH said both bills tend to clear up a loophole that the former Attorney General Renkes case brought to light. SB 186 takes out the word "substantial" and says there is no impropriety. Both bills say there is no impropriety if the action or influence would have an insignificant effect.

[5:21:26 PM](#)

SB 127 takes the question of interests that are insignificant or possessed by the public or large class of persons. SB 186 leaves it alone in Section 1. Two of the sections are very similar and of the two approaches SB 186 is right because it includes financial interest. If a person has stock in a company that is going to build a gas pipeline and also owned a home in Fairbanks and that person voted to build the pipeline, the value of every house in Fairbanks would go up and that would be okay. But the value of the person's stock would also go up and it's important to differentiate the two. The person could be charged with two violations but would be acquitted on the first charge because everyone has that same interest.

[5:25:29 PM](#)

SENATOR FRENCH said he has difficulty interpreting how Section 2, Paragraph 4 of SB 186 would work. He asked Chair Seekins to explain.

CHAIR SEEKINS said determining the value of a stock of a company by percentage is difficult. Zero percent of nothing is still nothing. Most people can determine how many dollars something is. If a public officer owns 50 percent of a stock and the value is less than \$10,000 than it is no impropriety.

SENATOR FRENCH said if the public officer owns one-half of one percent of a high value stock it could be worth ten million dollars. That would be impropriety.

CHAIR SEEKINS added that would be an equity interest in the business worth less than \$10,000. SB 186 is attempting to establish equity value in dollars.

SENATOR FRENCH asked whether a person would have to meet all the requirements of Section 2, Paragraph 4 subparagraphs (A)-(H) in order to be exempt from liability.

CHAIR SEEKINS said yes. He said unless a person "jumps through all the hoops", s/he must do something about it.

[5:27:43 PM](#)

SENATOR FRENCH voiced agreement with the section. He said SB 186 looks to be better drafted than SB 127.

CHAIR SEEKINS voiced the difference between SB 127 and SB 186 was in the dollar value.

SENATOR FRENCH agreed.

It sounds like the only place that would have an application is not in a stock, it's as if you owned a slice of Joe's Tire Company in Fairbanks and you think, with the gas line coming you're going to sell a bunch of tires. And if you own a little tiny slice it's not a factor but if you own a big slice it might get to be one.

[5:29:38 PM](#)

CHAIR SEEKINS said that's true.

But what is a slice? It could be a conceptual company. We have to have some real things to look at. That's the hard part of trying to set up a bright line. When we shine the light on it there should be more than a hallucination. It has to be something real to take a look at. And that's what I'm trying to boil it down to is something that has three dimensions. The hard part in trying to set this is where to put it and how to define it.

SENATOR FRENCH said it is a good and thorough series of hoops.

Chair Seekins announced a recess at [5:30:51 PM](#).

Chair Seekins reconvened the meeting at [6:43:03 PM](#).

CHAIR SEEKINS advised before the break the committee was discussing the similarities and differences between SB 127 and SB 186.

6:43:27 PM

SENATOR FRENCH noted another difference is on Page 2, lines 3 and 4. SB 186 has an exception for those interests held in a blind trust and interests where the public officer does not have management control over the financial interests.

CHAIR SEEKINS stated in order to set up a blind trust a person would have to have assets in excess of \$1,000,000. There could be a potential conflict of interest but it would not necessarily have to preclude the public officer from making decisions if they did not have their hands on the investment. In the case of a public officer advising their superior of a conflict of interest there may be a way to arrange their financial interests so that the public officer could continue working on the particular project for the state. He said SB 186 attempts to find a balance for the public officer to continue making decisions for the State of Alaska. He asked Barbara Richey to explain how it is done currently.

6:46:26 PM

MS. BARBARA RICHEY, chief assistant attorney general, Department of Law (DOL), introduced herself as the head of a section called Opinions, Appeals, and Ethics.

CHAIR SEEKINS asked the course when a person discloses a potential violation of ethics or conflict of interest.

MS. RICHEY said often the inquiries come via the designated ethics supervisors. Ethics are very fact specific so they gather all of the facts first. They research the situation both factually and legally and do an advisory opinion.

CHAIR SEEKINS said Section 17 of SB 186 states even the personnel board may order the same type of divestiture or establishment as part of their remedy. He said a person could go to their designated ethics supervisor and the supervisor at that time could advise them on how to avoid the conflict.

MS. RICHEY noted a good example was Attorney General David Marquez, when he was being considered for possible appointment as attorney general, made disclosure of all of his personal financial interests and asked for a review and an opinion.

[6:50:18 PM](#)

SENATOR FRENCH said management control was a rational approach so long as the asset in question wasn't one that the public officer put in to the account.

CHAIR SEEKINS asserted once that person puts it into a brokerage fund it becomes managed by someone else.

[6:52:51 PM](#)

SENATOR THERRIAULT said he doesn't believe people should have to divest themselves of their holdings, especially if they have owned them long term.

SENATOR FRENCH stated the issue is not whether they own it or not, the issue is whether they use their public office to influence the investment.

[6:54:44 PM](#)

CHAIR SEEKINS speculated a public officer would be compelled under the law to seek the advice of their designated supervisor.

MS. RICHEY agreed.

CHAIR SEEKINS continued the designated supervisor has the right to tell the public officer what to do with their holdings and that person either accepts the recommendation or doesn't perform the job.

MS. RICHEY said correct or they could be reassigned. The concept is to lie out options because situations differ.

[6:56:48 PM](#)

MS. RICHEY commented discretionary managed accounts occur where the broker makes investments without prior knowledge. However, the investor receives monthly reports and can check accounts via the Internet.

CHAIR SEEKINS asked whether the process of an ethics advisor is discoverable.

MS. RICHEY answered notices of potential violation and requests for advice is currently confidential.

CHAIR SEEKINS asked whether it could be discoverable if a case was brought.

MS. RICHEY responded it would depend on whether the subject was willing to waive confidentiality.

CHAIR SEEKINS clarified there would be a traceable history if charges were brought.

MS. RICHEY agreed.

[6:59:52 PM](#)

CHAIR SEEKINS advised Senator French that SB 186 has hurdles but the bill also requires the subject to get advice.

SENATOR HUGGINS commented the contents of the bill appear reasonable.

MS. RICHEY added another part of the process is that any notices, declaration of potential violation, as well as any actual violations, the designated ethics supervisors on a quarterly basis report all of those to the attorney general's office. They are all reviewed and if something is questionable it is followed up on. There is also a report to the personnel board, which is made public.

[7:02:38 PM](#)

CHAIR SEEKINS asked the number of public employees that fall under the rule.

MS. RICHEY stated all of them including members of boards or commissions that are formed by statute.

SENATOR FRENCH explained the last difference between SB 127 and SB 186 is the definition of official action.

CHAIR SEEKINS asked Senator French to explain how that would be in effect.

SENATOR FRENCH said the impetus for the re-definition came out of the (former Attorney General) Renkes affair. He said he wants to make sure employees know most of the things they do during the course of the day is official action.

MS. RICHEY commented the current definition of "official action" is very broad. Senator French's proposal is more articulate.

[7:06:26 PM](#)

MS. RICHEY said overall she was comfortable with the current definition of official action.

SENATOR FRENCH asserted (former Attorney General) Renkes felt some things he did was not "official action" and so the current definition seems open to confusion.

CHAIR SEEKINS said he does not have a problem with the effort to re-define things so that people are clearly informed of the parameters. A lot of potential ethics violations can result from someone not having a clear understanding of the parameters.

[7:10:27 PM](#)

SENATOR FRENCH concluded the comparison of the two bills.

CHAIR SEEKINS said his intent is to reach an agreement between the two bills and move one forward.

**SB 186-EXECUTIVE BRANCH ETHICS**

For the purpose of research, it is important to review minutes and recordings of SB 127 one May 1<sup>st</sup>, 2005 where the two bills were distinctly compared.

CHAIR RALPH SEEKINS announced his intent to merge SB 127 into SB 186. He asked Ms. Barbara Richey whether she had concerns with SB 186.

MS. BARBARA RICHEY, chief assistant attorney general, Department of Law (DOL), said SB 186 does a good job of indicating what constitutes a significant personal or financial interest in a matter. The changes in confidentiality work well.

CHAIR SEEKINS moved Version \I as the working document. Hearing no objections, the motion carried.

[7:13:29 PM](#)

MS. RICHEY continued SB 186 does not dramatically change current law on confidentiality of executive branch ethics matters. It sets up a mechanism for the steps in the event of an allegation of ethics violation in regards to the governor, the lieutenant governor, and the attorney general. She said it was an improvement to the current ethics law.

[7:15:02 PM](#)

CHAIR SEEKINS asked Ms. Richey how long she has worked with the current law.

MS. RICHEY informed she has headed up her section for two years and has worked in ethics matters prior to that.

CHAIR SEEKINS asked Ms. Richey to explain her concern with the effective date.

MS. RICHEY said she would like to have an opportunity to do some training on the changes because they are significant. She would like people to have a chance to review their financial holdings. There may also need to be some regulatory changes as well.

[7:16:37 PM](#)

MS. RICHEY added the law from 1986 until 1998 identified violation of the confidentiality provisions of the Ethics Act as a class A misdemeanor. Legislators in 1998 felt it was too harsh a penalty and so they took it out.

CHAIR SEEKINS advised he was going to advance a conceptual amendment. On Page 1, line 8; reduce the penalty for disclosure of ethics violation to a \$5,000 fine. He would leave it to the drafters to determine whether that would be a new section of the bill. He asked Ms. Richey to read the statute regarding the penalty that the personnel board may impose on current or former public officers.

[7:18:41 PM](#)

MS. RICHEY said the Ethics Act itself is not a criminal statute. The civil penalty that may be imposed is not to exceed \$5,000.

CHAIR SEEKINS stated that would include confidentiality sections.

MS. RICHEY looked at Oregon law and said they have a civil penalty for violation of confidentiality provisions. It reads, "any person aggrieved as a result of violation of this paragraph by a member of the ethics commission or it's staff may file a petition in court in the judicial district where the petitioner resides in order to enforce a civil penalty provided in this section."

[7:20:53 PM](#)

CHAIR SEEKINS speculated the intent was the aggrieved person could now bring into the process a person who was not a member of the personnel board or the attorney general's office.

SENATOR FRENCH said his analysis is that in Oregon a person could sue a member of our equivalent of the personnel board if one of those members leaks to the press.

MS. RICHEY agreed.

7:22:55 PM

SENATOR THERRIAULT asked the process previous to 1998.

MS. RICHEY advised the Ethics Act was enacted in 1986 and the misdemeanor provision was in the bill since the beginning.

7:24:06 PM

CHAIR SEEKINS reiterated his intent was to allow the appropriate public entity to impose up to \$5,000 penalty.

7:25:58 PM

SENATOR FRENCH assumed the enforcement mechanism would lie in the attorney general's office.

CHAIR SEEKINS said yes.

MS. RICHEY agreed. Under current law the personnel board could impose a penalty for violation of the chapter and the chapter is the entire Ethics Act. It may be possible to give the personnel board jurisdiction if the complainant is not a public officer.

CHAIR SEEKINS conceptually proposed to ask the drafters to add a new section to AS 39.52.440 that allows the board the authority to impose a fine on any person who violates the confidentiality requirements of the statute. So a person could be fined \$5,000 on other violations and also \$5,000 fine for violating the confidentiality portions.

7:29:30 PM

SENATOR FRENCH disagreed. The personnel board would not have jurisdiction over a citizen who files a complaint.

CHAIR SEEKINS said in the case of someone who is not a public officer then authority would be given to the DOL.

SENATOR FRENCH disagreed with the fundamental approach of the amendment. There has only been one flagrant violation of confidentiality in recent history.

7:31:12 PM

MS. RICHEY said currently when a complaint is filed the complainant and the subject of the complaint are always advised the complaint is confidential under law.

CHAIR SEEKINS stated a complaint must be in writing and under oath.

MS. RICHEY agreed.

CHAIR SEEKINS asked whether there was an actual form that is filed.

MS. RICHEY said it was under oath.

CHAIR SEEKINS asked whether there was anything in statute that bars the complainant from disclosing they are filing an ethics report before they actually file the complaint.

MS. RICHEY said no. What is confidential right now is the complaint and the investigation.

SENATOR FRENCH noted current law says the attorney general and all persons contacted during the course of an investigation shall maintain confidentiality regarding the existence of the investigation. He said the law is clear the investigations are confidential.

[7:35:11 PM](#)

CHAIR SEEKINS reiterated his earlier conceptual amendment. Hearing no objections, Amendment 1 was adopted.

SENATOR HUGGINS asked Senator French his reservations in the blind trust area.

SENATOR FRENCH said the concern is when a person puts an asset into a blind trust and then later makes a decision that affects the stock in the account. As it is now, a person has too much access to their investments and could make decisions based on those assets.

[7:38:22 PM](#)

CHAIR SEEKINS said he would be more nervous putting money into an account where he had no control. At least a blind trust has more fiduciary responsibilities on the part of the trustee.

[7:43:59 PM](#)

CHAIR SEEKINS asked for further amendments.

SENATOR FRENCH offered a conceptual amendment having to do with the length of time the assets are in a blind trust and a set of restrictions an officer sends along with his/her investments.

The assets would have to be in a blind trust for six months or greater and the management control would be something similar to what Attorney General Marquez did to put his assets out of his control.

CHAIR SEEKINS asked if he wanted to apply that standard to all twenty thousand state employees.

SENATOR FRENCH clarified he was trying to avoid a public officer making decisions based on their investments and not on the public good.

CHAIR SEEKINS said he would consider Amendment 3, which would read, "...after consulting with the public officers designated ethics supervisor the financial interest in a matter is held in a blind trust where the public officer does not have management control over the financial interest."

[7:48:03 PM](#)

MS. RICHEY advised the committee they were considering proposed amendments to AS 39.52.110 and that is a section that provides overall guidance to the code of ethics. She assured the committee that section is followed properly.

Chair Seekins announced a brief recess at [7:50:48 PM](#).  
Chair Seekins reconvened the meeting at [7:57:12 PM](#).

CHAIR SEEKINS advised he wants to work with Senator French to craft a good bill. His experience with broker managers is a person could place restrictions on what the broker can buy.

[7:58:18 PM](#)

SENATOR FRENCH said it might be easier to do by developing a set of forms for each state department.

CHAIR SEEKINS agreed that could be done.

[7:59:46 PM](#)

MS. RICHEY noted Section 8, sub-paragraph (A), and asked the reason for the changes.

CHAIR SEEKINS answered they directly relate to financial investments.

MS. RICHEY argued that is true for sub-paragraph (B) but not (A). She recommended the committee leave "personal or" in sub-paragraph (A). There can be a situation where people are on a

board and if they resign from that board it is a personal type interest.

8:02:06 PM

SENATOR FRENCH withdrew Amendment 2.

CHAIR SEEKINS proposed Amendment 3.

Insert "personal, or" on Page 4, beginning of line 3.

SENATOR THERRIAULT asked Chair Seekins to restate his proposed amendment.

MS. RICHEY commented it would allow a designated ethics supervisor to require someone to remove interests.

Amendment 3 was adopted unanimously.

8:04:04 PM

CHAIR SEEKINS commented Sections 9-13 all deal with the process for the attorney general, the lieutenant governor and the governor.

SENATOR FRENCH expressed concern regarding Section 10 and review of the report of the independent counsel.

CHAIR SEEKINS interrupted to clarify Section 10 relates to the allegation of complaint. Section 10 lays out the process prior and is used to determine if a complaint should be filed.

SENATOR FRENCH speculated a series of newspaper articles could make allegations of ethics violations against the governor, which comes to the attention of the attorney general. The attorney general would ask the personnel board to appoint an independent counsel who would conduct an investigation. A report would be submitted to the attorney general who would review it to decide whether the findings indicate a violation. That stated, he asked why insert the judgment of a political ally of the subject instead of simply handing the completed report over to the personnel board.

8:06:56 PM

CHAIR SEEKINS answered he would have as much confidence in the attorney general as he would the politically appointed board.

SENATOR HUGGINS aired the fail safe mechanism is nothing precludes a person from filing a complaint concerning the same matter.

CHAIR SEEKINS asserted trust must be placed at the attorney general level.

8:09:15 PM

SENATOR GUESS commented since the investigation and the conclusion is confidential there would appear no public response or no comment to Senator French's speculated newspaper scenario.

CHAIR SEEKINS said more than likely if an independent investigator's report came back to show no violation, someone would make that fact public. In order to stop a public inquiry somebody would have to disclose the result of the investigation. If there was found to be probable cause the matter then becomes public because the attorney general would have to file the complaint.

SENATOR GUESS asked at what time does a report of an allegation become an allegation versus just someone's opinion.

8:12:26 PM

SENATOR FRENCH answered currently a person has to file a complaint and swear to it. SB 186 doesn't detail how to get the mechanism going. He suggested adding a probable cause standard in the bill for a legal reference.

8:14:43 PM

CHAIR SEEKINS asked Ms. Richey her interpretation of the trigger point for the investigation.

MS. RICHEY assessed the report part is clear and easy, where a person reports to a supervisor under oath and in writing of a potential violation. She said she would have to think more about allegations and newspaper opinions because it seems to leave it to the discretion of the attorney general or the governor who is each other's designated ethics supervisors under the current law. For the benefit of their own piece of mind and the people of Alaska, they should go to the personnel board and get an independent counsel appointed.

8:17:16 PM

CHAIR SEEKINS said his intent was to allow them that discretion.

MS. RICHEY said it happened (in former Attorney General Renkes case) and the governor immediately investigated it.

SENATOR GUESS referred to Page 6, line 15 and noted there are two campaign periods, one when filing for office and another when filing APOC (Alaska Public Office Commission) papers. She asked which campaign period was referenced.

CHAIR SEEKINS responded it would be when a person actually files for office.

MS. RICHEY advised "campaign period" is defined in the Ethics Act.

8:20:00 PM

SENATOR FRENCH detailed currently an interested party could petition the superior court and the superior court could make the matter public. He asked the reason for taking that power away from the superior court in Section 13.

CHAIR SEEKINS said the intent is not to strike the authority of the superior court; it's just not included in the section.

SENATOR THERRIAULT commented the drafter dropped it out but it is still included somewhere else.

MS. RICHEY explained the superior court process. She added it has never been used.

The entire section AS 39.52.335 was added in the 1998 amendments to the law. The concept was to have more oversight of what the attorney general is doing because the attorney general has a lot of power under the Ethics Act to dismiss complaints or proceed with complaints. This is the one that triggered the quarterly reports and the reports to the personnel board that we do every month on what's going on with complaints etc. When the bill shows deleting "the superior court makes the matter public under (h) of this section", before the superior court could ever get involved, you'd have to have a situation where number one, it's a dismissal that is confidential and number two, the personnel board, in their review, decides for whatever reasons that the publication is in the public interest. Then they put in their report a recommendation that the matter be made public. That was in AS 39.52.335(f), which is proposed to be deleted in Section 14 of SB 186.

If all those things happened, so that the disposition was not made public and the personnel board report

contained recommendation that it be made public, that is when an interested person could go to superior court. They can't just go to superior court because they feel like it. The personnel board first has to decide that this matter should be made public. Then they go to court and the court could order that all of it or parts of it be made public if they determine that the several things that have to be established were. One of those things is "the release of information will not infringe on protected rights", "the matter concerns public interest", and "the resolution was clearly contrary to the requirements of this chapter", those kinds of things.

As a matter of practice, when we resolve a complaint through a stipulation, we require that the stipulation be made public so that Alaskans know the law is being enforced and it gives guidance to state employees and to designated ethics supervisors as to what sort of conduct will result in an ethics complaint and enforcement of the law. We try to make all our resolutions of these public.

[8:25:42 PM](#)

MS. RICHEY summarized the only change that SB 186 would make to AS 39.52.335 is to end the process when there is a dismissal that is not public then that would end it. The personnel board could not recommend that it be made public and the trigger for the superior court to make something public would be removed.

SENATOR FRENCH asked Ms. Richey how the personnel board could come to a wrong conclusion about the need to publish a dismissal.

MS. RICHEY reiterated there is no history of anybody using AS 39.52.335.

[8:27:22 PM](#)

MS. RICHEY stated confidence in the handling of the cases. Ones that have substance are made public.

[8:29:02 PM](#)

SENATOR FRENCH relayed his belief the superior court is a safety valve for if a cover up is happening. He moved Amendment 4. Page 6, line 25 reinsert "superior court makes the matter public under (h) of this section."

CHAIR SEEKINS objected. He advised Senator French his motion would also have to repeal the repealer.

SENATOR FRENCH added to repeal the repealer and any further adjustments for statute conformity. The idea behind Amendment 4 is to maintain the safety valve of the superior court.

Roll call proved Amendment 4 failed with Senators Huggins, Therriault and Chair Seekins dissenting.

SENATOR FRENCH noted a section deleted on Pages 6 and 7. He asked Ms. Richey whether that section applied to personnel board issues.

MS. RICHEY said it all related to AS 39.52.355 and disposition of complaints by the attorney general's office.

8:33:37 PM

SENATOR FRENCH stated for the record he was positive that a citizen of the State of Alaska could not be bound to confidentiality as Section 15 states.

CHAIR SEEKINS responded what triggers the violation is somewhat retrospective in that a person has filed the complaint. What he is trying to avoid is someone using ethics violation to harm someone else. SB 186 is an attempt to give somebody the opportunity for a deliberative body to review a complaint before that person is tried by the press.

8:38:00 PM

SENATOR FRENCH said he believed the press wasn't generally that interested. The bill is covering a range of violations that are already covered by liable and slander laws. He moved Amendment 5. Page 7, line 18 strike the material "complainant" and remove the rest of the material on lines 20-27 that is bold and underlined.

SENATOR THERRIAULT objected.

8:40:54 PM

Roll call proved Amendment 5 failed with Senators Huggins, Therriault and Chair Seekins dissenting.

MS. RICHEY commented lines 24-27 are about public records cases.

SENATOR FRENCH asked the reason for the word changes in Section 19 sub-paragraph (B) (conjugal vs. sexual).

CHAIR SEEKINS stated he was trying to reflect a marriage relationship better.

MS. RICHEY agreed. She said the words "conjugal" and "cohabit" indicate living in a marital relationship.

[8:42:42 PM](#)

SENATOR FRENCH proposed Amendment 6. Add a definition for "official action", which would read, "Official action means performance of any duties in the course and scope of a public official's employment including review, advice, participation, assistance, or other kind of involvement regarding a matter such as a recommendation, decision, approval, disapproval, vote, or other similar action including inaction by a public officer."

CHAIR SEEKINS objected.

[8:44:23 PM](#)

Roll call proved Amendment 6 failed with Senators Huggins, Therriault, and Chair Seekins dissenting.

[8:46:12 PM](#)

MR. MERLE THOMPSON testified in opposition of SB 186. He stated public trust is the reason ethics laws are written. SB 186 seems more concerned with groundless complaints, ruined reputations and financial restriction. It suggests need for more secrecy and punishes the complainant more so than the actual violator. People in public office are supposed to be held to higher standards.

[8:48:35 PM](#)

MR. THOMPSON continued the class A misdemeanor was applied to members of the committee, not to the general public. He claimed SB 186 was taking away from the system of government and in violation of the First Amendment of the U.S. Constitution.

[8:52:47 PM](#)

CHAIR SEEKINS alleged there was nothing in SB 186 that would fine a whistleblower.

MR. THOMPSON asked whether he would be penalized in the case of if he intended to file a complaint against the attorney general and advised the press of his intentions.

CHAIR SEEKINS said it depends on whether he filed that complaint.

8:55:24 PM

CHAIR SEEKINS closed public testimony.

SENATOR FRENCH suggested there would have been more citizens who would have testified had the hearing been better advertised. He said the public is unaware that the Senate Judiciary Standing Committee is hearing SB 186 today.

8:57:01 PM

CHAIR SEEKINS stated SB 186 has been on the daily schedule since last Friday. People will have opportunity to testify at the House hearings.

SENATOR THERRIAULT moved CSSB 186(JUD) from committee with individual recommendations and attached fiscal note(s).

SENATOR FRENCH objected.

Roll call proved Senator French's objection failed. CSSB 186(JUD) passed out of committee with Senator French dissenting.

**SB 187-LEGISLATIVE ETHICS/MEETINGS**

9:00:04 PM

CHAIR SEEKINS announced SB 187 to be up for consideration. The committee is working off Version \Y.

9:01:37 PM

SENATOR THERRIAULT moved Amendment 1. Adopt similar language in SB 186 with regard to the \$5,000 fine. Replace the language on Page 1, line 10. Hearing no objections, the motion carried.

9:03:51 PM

SENATOR FRENCH asked Chair Seekins whether the underlined language on Page 1, line 14 and Page 2, lines 1 and 2 was current law.

CHAIR SEEKINS:

My understanding, Senator French, is that the constitutional right and responsibility of the Legislature to adopt it's own uniform rules cannot be subject to statute. It is a constitutional provision that has been given to the Legislature and only to the Legislature and a statute adopted by a Legislature that would affect the uniform rules would only be in effect for the term of that Legislature because no future Legislature can be bound by the current

Legislature. Uniform rules have to be adopted by each Legislature on its opening day. This is only meant to clarify the statute. Current law cannot trump uniform rules.

9:06:14 PM

SENATOR FRENCH asked wouldn't the statute be same thing as an amendment to the uniform rule.

CHAIR SEEKINS responded yes but the uniform rules say that the uniform rules can be changed by majority of the Legislature at any time. So that statute would only be in existence as an amendment to the uniform rules until the legislative body decided to change it.

SENATOR THERRIAULT read from Mason's Manual. Section 13:

The power of a house of a legislature to determine its rules of proceedings is a continuous power. It can always be exercised by the house and is absolute and beyond the challenge of any body or tribunal if the rule does not ignore constitutional restraints or violate fundamental rights. Rules of procedure passed by one legislature or statutory provisions governing the legislative process are not binding on a subsequent legislature. Rules of procedure are always in control of the majority of a deliberative body and may be changed at any time by a majority vote.

9:11:02 PM

CHAIR SEEKINS said rules adopted by a state Legislature expire with the convening of the subsequent Legislature. SB 187 is trying to clarify it so that there is no conflict that has no basis in law or under the uniform rules.

SENATOR FRENCH said the argument is sound, however statutes pass for a reason. He expressed concern the bill would attempt to supersede a statute by the application of uniform rules.

CHAIR SEEKINS:

Well, I think it's only a restatement of a truism and I think that would be a great test case for someone to bring. So far the state Supreme Court has commented and the state supreme court basically says, Article 2, Section 12, for example the Malone vs. Meekins case, the supreme court has said, "We can think of few actions which would be more intrusive into the legislative process than for a court to function as a

sort of super parliamentarian to decide the varied and often skewed points of parliamentary law which may be raised in the course of the legislative day. Thus even though the uniform rules may have been violated such violation is solely the business of the legislature and does not give rise to a justice-able claim."

If the Supreme Court can't intervene in the uniform rules, and there's another rule, Senator, that is very interesting and it says that for example Section 51, "A public body cannot delegate its powers, duties or responsibilities to any other person or groups, including a committee of its own members. However, a legislative body may delegate by rule such procedural powers as appointment of members of standing, special and conference committees as well as the power to refer bills to committee to a constitutional presiding officer who may or may not be a member of the body."

A statute that would delegate this responsibility to others other than the member is a violation of the rules. So there's the problem. It is constitutional that we adopt our own rules and that when we adopt those rules it requires that we are the ones who would investigate violations and determine whether or not they were. That's not meant to be argumentative, punitive, or anything else but merely to clarify the issue.

9:15:00 PM

SENATOR FRENCH moved Amendment 2. Delete the underlined and bold language starting on Page 1, line 14 and ending on Page 2, line 2.

SENATOR THERRIault asked Senator French to clarify whether he thought the language was true yet superfluous.

SENATOR FRENCH replied there could be a case where the public passes a statute through an initiative process, which could require that the uniform rules be changed by a super majority.

CHAIR SEEKINS:

It would violate the constitutional right of the Legislature.

SENATOR FRENCH:

We don't exist to enforce our own rights. We exist to serve the will of the public. I would say we should bow before the will of the public.

CHAIR SEEKINS:

The Constitution very clearly says that is the responsibility of the Legislature, to adopt its own uniform rules.

SENATOR THERRIAULT:

Even through initiative, because of the separation of powers issue, the people cannot pass a law to throw more power to the court system or strip the Legislature of power and throw it to the governor.

[9:17:22 PM](#)

Roll call proved Amendment 2 failed with Senators Huggins, Therriault, and Chair Seekins dissenting.

CHAIR SEEKINS advised Section 3 addresses the open meetings section. Section 4 concerns diversity.

SENATOR FRENCH asked the number of public members that are currently employed by the state.

CHAIR SEEKINS said two.

SENATOR FRENCH asked the affect of this law on their membership.

CHAIR SEEKINS said nothing. They would have to come up for re-confirmation and one would have to go.

SENATOR FRENCH stated whichever one comes up first would have the advantage.

CHAIR SEEKINS said there are currently three lawyers and two teachers. There is no current process for diversity.

[9:21:44 PM](#)

CHAIR SEEKINS explained Section 5 changes the structure of the alternate member.

SENATOR FRENCH pointed out the weakness is a member may vote on a matter without hearing any of the discussion. He suggested tightening it so a member could only vote on matters they have participated in.

SENATOR THERRIAULT asked Senator French why that should be treated differently than how the Senate Judiciary Standing Committee operates.

[9:24:35 PM](#)

SENATOR FRENCH answered the main reason is because the select committee is only hearing complaints and they are highly fact specific.

SENATOR THERRIAULT asked Senator French whether he has had conversations with the chair of the commission about the impact.

SENATOR FRENCH said no. He also advised he may prepare an amendment for the section.

SENATOR GUESS asked Chair Seekins to explain the idea behind the last two sentences of Section 6.

CHAIR SEEKINS said except as provided in the chapter, an advisory opinion is confidential.

[9:27:30 PM](#)

CHAIR SEEKINS explained Section 7 and Section 8 remove redundant language on confidentiality. Section 9 relates to the committee issuing a decision explaining the dismissal order.

[9:30:18 PM](#)

CHAIR SEEKINS held SB 187 in committee.  
There being no further business to come before the committee,  
Chair Seekins adjourned the meeting at [9:30:29 PM](#).