

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

January 26, 2006
8:42 a.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

Confirmation Hearings:

James J. Fayette, Commission on Judicial Conduct
CONFIRMATION ADVANCED

William S. L. Walters, Alaska Public Offices Commission
CONFIRMATION ADVANCED

Regina C. Chennault, Violent Crimes Compensation Board
SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

None to report

WITNESS REGISTER

Mr. James J. Fayette
310 K. St. STE 308
Anchorage, AK 99501
POSITION STATEMENT: Candidate for Confirmation

Mr. William S. L. Walters
93 Roxie Road
Fairbanks, AK 99709
POSITION STATEMENT: Candidate for Confirmation

ACTION NARRATIVE

CHAIR RALPH SEEKINS called the Senate Judiciary Standing Committee meeting to order at [8:42:12 AM](#). Present were Senators Hollis French, Charlie Huggins, and Chair Seekins.

Confirmation Hearing: James J. Fayette - Commission on Judicial Conduct

[8:42:51 AM](#)

CHAIR SEEKINS announced the first order of business to be the confirmation hearing of Mr. James Fayette. He asked Mr. Fayette the reason he consented to be nominated to the position.

MR. FAYETTE described his background as a supervising prosecutor at the special prosecutions office of the Department of Law (DOL). Last year he was appointed by Governor Murkowski to the Judicial Conduct Commission and that appointment requires confirmation from the Senate. He has been a prosecutor in Anchorage for over 16 years. He attended college and the University of Vermont Law School on an ROTC scholarship and served active duty at Fort Richardson primarily as the military prosecutor. He joined the district attorney's office in 1993 and worked there for 11 years.

[8:44:47 AM](#)

Senator Gretchen Guess joined the committee.

MR. FAYETTE handled all sorts of cases from misdemeanors to double murders. Last year Mr. Dean Guaneli, Chief Assistant Attorney General for the Department of Law (DOL), offered him the special prosecution job and for the past year he has supervised an eight-lawyer office. The office handles cases involving police officer misconduct, public official misconduct, white-collar crime, and specialized fraud prosecutions.

[8:46:17 AM](#)

MR. FAYETTE said he is particularly proud of a recognition award received from Victims for Justice for his work with Anchorage Youth Corps. He has been interested in serving on the Judicial Conduct Commission for some time and was pleased when the Bar Association nominated him.

The Judicial Conduct Commission is an important oversight commission with the esteemed role to ensure public confidence in state court judges and the judiciary and court system. It is a nine member commission comprised of three citizens that are appointed directly by the Governor, three judges, elected by the

state court judges themselves, and three lawyers that are apportioned geographically.

The Judicial Conduct Commission issues formal advisory opinions and often gives informal ethics advise to state court judges and state court personnel. The constitution says that the Alaska Supreme Court can discipline, retire, or censure a state court judge on the recommendation of the Judicial Conduct Commission, and that is its most significant function. The Commission handles complaints against state court judges, which can range from the mundane to the serious.

[8:49:12 AM](#)

The commissioners must be aware that judges are held to a high level of professional conduct and there are restrictions on their activities that other public officials don't have. The Commission deals with a fairly complex set of rules of conduct that aren't always clear. Judges have to be conscious of the fact that a mere appearance of impropriety is often as bad as the actual impropriety. Commissioners also have to be sensitive to the ease at which a citizen can bring a merit-less complaint against a judge. He said he believes he has the background that will enable him to serve the Commission well. Further, he feels it is important that the criminal section of the Alaska Bar Association has a voice on the Judicial Conduct Commission. He offered to answer questions.

[8:53:55 AM](#)

SENATOR HOLLIS FRENCH commented he worked in the district attorney's office with Mr. Fayette and that Mr. Fayette was consistently in the first rank of the prosecutors and that he brought energy, intelligence and creativity to the job.

SENATOR CHARLIE HUGGINS asked Mr. Fayette to elaborate on the reason he received his award from Victims for Justice.

MR. FAYETTE said while at the district attorney's office he was assigned to the violent crimes unit. Victims for Justice had a program of assisting homicide family survivors to court. He interacted frequently with the Victims for Justice representatives. What immediately led to the recognition was a 1998 shooting in Eagle River. He spent a lot of time with family members and loved ones. The murder victim's surviving significant other wrote a nice letter to Victims for Justice nominating him for the annual award.

[8:57:19 AM](#)

CHAIR SEEKINS asked the process when a complaint is brought against a judge.

MR. FAYETTE explained that any citizen could file a complaint against a judge. The Commission is staffed by an executive director and staff investigator. The complaint is screened informally at first. Prior to the quarterly meeting, the executive director provides the commissioners with that quarter's received complaints, any underlying documents and the executive director's quick summation of the substance of the complaint(s). The complaints are segregated between those that are properly before the Commission and those that aren't. The complaint is discussed and a vote is taken on whether the complaint is dismissed or should proceed formally. If it proceeds, the judge might be brought in to address the Commission. Then the matter may proceed or it may be dismissed.

9:00:11 AM

CHAIR SEEKINS asked whether there was a point at which there was a finding of probable cause to proceed farther.

MR. FAYETTE said the complaint would proceed to formal investigation process, which are public proceedings. That has only happened a handful of times since statehood.

CHAIR SEEKINS asked whether the complaint that does not proceed to formal procedures was held confidential.

MR. FAYETTE said it was a confidential matter. The reason is due to the ease with which a complaint can be brought.

CHAIR SEEKINS asked who would be bound to the confidentiality.

MR. FAYETTE answered it would be members of the Commission and staff.

CHAIR SEEKINS asked whether the Commission used a procedure manual.

9:02:31 AM

MR. FAYETTE said yes. It is on the Judicial Conduct Commission's website. The Commission has rules of procedure and bylaws. They are published in the Rules of Court book, which is circulated amongst the Bar annually.

CHAIR SEEKINS asked Mr. Fayette the kind of instruction and preparation the staff provided for him.

[9:03:14 AM](#)

Senator Gene Therriault joined the committee.

MR. FAYETTE said the executive director provided him with copies of the judicial canon and the Commission's bylaws and internal rules. He was also provided with materials from the American Judicature Society that assists conduct commissions in every state.

CHAIR SEEKINS asked Mr. Fayette and committee members whether there were any further statements, questions, or comments. Hearing none, he informed Mr. Fayette his recommendation would be forwarded to the President of the Senate. This does not reflect any intent of any members of The Senate Judiciary Standing Committee to vote for or against the individual during any further session.

[9:05:20 AM](#)

SENATOR THERRIAULT moved to forward Mr. Fayette's name to the Senate President for consideration during a joint session for confirmations. Hearing no objections, the motion carried. Chair Seekins announced a short recess at [9:05:51 AM](#).

Confirmation Hearing: William S.L. Walters - Alaska Public Offices Commission

[9:09:00 AM](#)

CHAIR SEEKINS announced the confirmation hearing for Mr. William Walters to be up for consideration. He asked Mr. Walters to give a brief summation of the reason he aspires to be on the Commission.

[9:09:46 AM](#)

MR. WILLIAM WALTERS introduced himself and said he moved to Alaska in 1981. He attended law school at the University of Texas where he specialized in administrative law. He is presently a hearing officer with the Worker's Compensation Division for the Department of Labor and Workforce Development (DOLWD). Previous to that, he worked for the Tanana Chiefs Conference for six years. He has served on several public bodies including the Fairbanks North Star Borough Planning and Zoning Commission.

[9:11:38 AM](#)

MR. WALTERS explained he was solicited to have his name submitted to the Governor for the Alaska Public Offices

Commission (APOC), which is a bipartisan commission that oversees four different statutes and a fifth modification of one of the statutes. The Commission consists of five members, two of whom represent the two parties that received the largest number of votes in the last Gubernatorial election and the fifth member is a public member nominated by the current members. He said he would be pleased to serve on the Commission.

SENATOR THERRIAULT asked Mr. Walters to identify the person or body that approached him.

MR. WALTERS said it was the Democratic Central Committee.

SENATOR THERRIAULT asked whether there was an interview process.

MR. WALTERS said no. He was merely asked to submit materials.

[9:13:38 AM](#)

SENATOR GRETCHEN GUESS asked Mr. Walters whether he was currently employed.

MR. WALTERS said he currently works as a hearing officer for the Department of Labor and Workforce Development (DOLWD) in the Division of Worker's Compensation.

SENATOR HUGGINS asked MR. Walters his impression of APOC.

MR. WALTERS hesitated to speak firmly due to his newness to the Commission. He said APOC is fundamentally about disclosure and is not a policing organization except to the necessary degree. He said fundamentally it is doing what it is supposed to do.

[9:16:49 AM](#)

SENATOR HUGGINS asked Mr. Walters to clarify whether he was nominated by a political organization.

MR. WALTERS said yes. He was one of four persons whose names were chosen to fill an empty seat and the Governor ultimately chose him.

SENATOR HUGGINS asked Mr. Walters whether he felt he had a partisan task.

MR. WALTERS said no. His experience is that the vast majority of the time, the Commission rules unanimously. There is no partisan divisiveness within the Commission.

[9:18:59 AM](#)

CHAIR SEEKINS asked Mr. Walters the background information or preparation that he was given before serving on APOC.

MR. WALTERS said he was on the Commission before the staff was allowed to know of his appointment. Once on the committee they provided him with extensive information. He said the staff does a very good job supporting the Commission's work.

CHAIR SEEKINS asked Mr. Walters to give an example of the process in a recent complaint brought before the Commission.

MR. WALTERS reminded the committee the proceedings are matters of public record. However, he hesitated to speak of any in particular, as they could be still in process or could recur.

Normally the Commission staff is alerted to a problem by discovering a discrepancy in records that are filed or by a citizen complaint. A staff member is assigned to sort it out and rectify the matter if there is a problem. If rectified, it might not be brought before the Commission or it might be informally put on a consent agenda. It would be only the decisions that are of higher elevation that has to be looked at by the Commission.

CHAIR SEEKINS asked Mr. Walters and committee members whether there were any further statements, questions, or comments. Hearing none, he informed Mr. Walters his recommendation would be forwarded to the President of the Senate. This does not reflect the intent of any members of The Senate Judiciary Standing Committee to vote for or against the individual during any further session.

[9:23:54 AM](#)

SENATOR HUGGINS moved to forward Mr. Walters name to the Senate President for consideration during a joint session for confirmations. Hearing no objections, the motion carried.

Chair Seekins announced a brief recess at [9:24:23 AM](#).

CHAIR SEEKINS announced the final confirmation hearing would be postponed to a future date.

There being no further business to come before the committee, Chair Seekins adjourned the meeting at [9:26:55 AM](#).