

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 26, 2007

1:09 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

Representative John Coghill

COMMITTEE CALENDAR

HOUSE BILL NO. 117

"An Act relating to proclamations issued by the governor calling the legislature into special session."

- HEARD AND HELD

HOUSE BILL NO. 102

"An Act relating to vacating lanes or slowing down for certain vehicles stopped along the side of a road."

- MOVED HB 102 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 117

SHORT TITLE: PROCLAMATION CALLING A SPECIAL SESSION

SPONSOR(S): REPRESENTATIVE(S) HARRIS

02/01/07	(H)	READ THE FIRST TIME - REFERRALS
02/01/07	(H)	STA, JUD
02/20/07	(H)	STA AT 8:00 AM CAPITOL 106
02/20/07	(H)	Moved Out of Committee
02/20/07	(H)	MINUTE(STA)
02/21/07	(H)	STA RPT 6DP
02/21/07	(H)	DP: JOHNSON, DOLL, COGHILL, GRUENBERG, ROSES, LYNN
02/22/07	(H)	STA AT 8:00 AM CAPITOL 106

02/22/07 (H) <Bill Hearing Canceled>
02/26/07 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 102

SHORT TITLE: PASSING STATIONARY VEHICLES

SPONSOR(S): REPRESENTATIVE(S) COGHILL

01/22/07 (H) READ THE FIRST TIME - REFERRALS
01/22/07 (H) TRA, JUD
02/15/07 (H) TRA AT 1:30 PM CAPITOL 17
02/15/07 (H) Moved Out of Committee
02/15/07 (H) MINUTE(TRA)
02/19/07 (H) TRA RPT 4DP
02/19/07 (H) DP: JOHNSON, DOOGAN, SALMON, NEUMAN
02/26/07 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

TOM WRIGHT

House Majority Office
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 117 on behalf of the sponsor,
Representative John Harris.

KAREN LIDSTER, Staff
to Representative John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 102 on behalf of the sponsor,
Representative Coghill.

McHUGH PIERRE, Director of Communications
Department of Military & Veterans' Affairs (DMVA)
Fort Richardson, Alaska

POSITION STATEMENT: During discussion of HB 117, expressed
concerns and suggested a change.

TAMARA COOK, Director
Legislative Legal and Research Services
Legislative Affairs Agency (LAA)
Juneau, Alaska

POSITION STATEMENT: Spoke as the drafter of HB 117.

ACTION NARRATIVE

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at [1:09:33 PM](#). Representatives Samuels, Holmes, Gruenberg, and Ramras were present at the call to order. Representatives Lynn and Dahlstrom arrived as the meeting was in progress.

HB 117 - PROCLAMATION CALLING A SPECIAL SESSION

[1:10:00 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 117, "An Act relating to proclamations issued by the governor calling the legislature into special session."

[1:11:01 PM](#)

TOM WRIGHT, House Majority Office, Alaska State Legislature, presented HB 117 on behalf of the sponsor, Representative John Harris. He relayed that HB 117 would require the governor to provide 30 days notice when calling a special session except when it is called while the legislature is in regular or special session, or it is called within one hour after the first house has [adjourned] from a regular or special session, or it is called under "a disaster declaration." He mentioned that a representative from the Department of Military & Veterans' Affairs (DMVA) has relayed to him that the department would prefer to have both AS 26.20.040 - which pertains to emergency powers of the governor - and the entirety of AS 26.23.020 included in the bill's exemption provision.

CHAIR RAMRAS expressed favor with the concept embodied in HB 117.

REPRESENTATIVE SAMUELS said that according to his understanding of the bill, had it been in effect last year, only the last special session - the Fourth Special Session of the Twenty-Fourth Alaska State Legislature - would have required more notice.

MR. WRIGHT concurred.

REPRESENTATIVE SAMUELS also expressed favor with the concept embodied in the bill.

[1:14:51 PM](#)

REPRESENTATIVE LYNN moved to report HB 117 out of committee with individual recommendations and the accompanying fiscal note.

CHAIR RAMRAS relayed that the committee would be taking testimony from the public first. [Although nothing was stated, the motion was treated as having been withdrawn.]

[Technical difficulties with the teleconference equipment resulted in public testimony being delayed.]

REPRESENTATIVE GRUENBERG said he has concerns with the language located on page 1, lines 7-8, that says in part, "within one hour after the first house has adjourned"; this provision could have a significant effect on the "end-game politics" of the legislature, because one house could adjourn hours or even days before the second house adjourns. He offered his belief that the current language would require the governor to make a decision on whether to have a special session before knowing what language the final version of a particular piece of legislation might contain. He indicated that the language on page 1, lines 7-8, should instead say in part, "within several hours after the second house has adjourned".

[Public testimony was again delayed as technical difficulties continued.]

[1:18:22 PM](#)

REPRESENTATIVE DAHLSTROM said she does not have a problem with the bill as currently written, offering her belief that that extra time won't make a difference.

REPRESENTATIVE SAMUELS agreed, noting that if the governor calls a special session after the first house adjourns, and then, after the second house adjourns, if he/she feels it's necessary to do so, the governor could either withdraw the call or expand or reduce the call.

REPRESENTATIVE HOLMES pointed out that the language currently in AS 24.05.100(a)(1) requires the governor to provide at least 15 days notice of a special session, regardless of the reason for calling it and even if the proclamation is issued right at the end of a session.

MR. WRIGHT clarified that although the governor is currently supposed to provide 15 days notice of a special session regardless of why or when it is called, the presiding officers

and membership have instead allowed a special session to start immediately after a prior session adjourns because legislators are already in town. He pointed out that the 15-day notice requirement is simply a statutory requirement, whereas [the Alaska State Constitution] provides that the governor may convene the legislature whenever he/she wants.

REPRESENTATIVE DAHLSTROM reiterated her belief that the bill is fine as currently written.

REPRESENTATIVE SAMUELS remarked that if a special session is called right after the first house adjourns, it sends a message to the second house that it will need to address the subject of the proclamation immediately.

MR. WRIGHT recounted that in the past the governor once issued a proclamation right away after one house adjourned before [the body as a whole passed] the capital budget.

REPRESENTATIVE HOLMES asked whether the bill will set up a situation in which the governor, every year, automatically calls a special session right after one house adjourns.

REPRESENTATIVE GRUENBERG agreed that such may occur because of "the one hour provision." He indicated that although he likes the concept embodied in the bill, the aforementioned language has the potential to cause a lot of mischief. He reiterated that he would prefer that the bill be changed to say in part, "after the second house has adjourned".

MR. WRIGHT, in response to comments and a question, explained that the words "within one hour after the first house has adjourned" was inserted at the suggestion of the drafter, but he is not sure why she preferred that language. He remarked that if the governor resorts to automatically calling a special session every year after the first house adjourns, the governor will eventually incur the disfavor of the legislature. He also pointed out that one body may "only be out for three days" if the other body chooses not to adjourn within that timeframe.

The committee took an at-ease from 1:29 p.m. to 1:37 p.m. for the purpose of allowing the teleconference equipment to be repaired.

[1:37:55 PM](#)

CHAIR RAMRAS, noting that the teleconference equipment had not yet been repaired, indicated that HB 117 would be set aside until later in the meeting so that the public would still have an opportunity to testify when the equipment was again operational.

HB 102 - PASSING STATIONARY VEHICLES

[1:38:33 PM](#)

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 102, "An Act relating to vacating lanes or slowing down for certain vehicles stopped along the side of a road."

[1:39:25 PM](#)

KAREN LIDSTER, Staff to Representative John Coghill, Alaska State Legislature, relayed on behalf of Representative Coghill, sponsor, that HB 102 will provide greater protection for law enforcement and emergency services personnel who are performing official duties on single- and double-lane highways. Current law says that on a highway with two or more lanes in the same direction a driver approaching emergency vehicles performing official duties shall vacate the lane closest to the emergency vehicle or slow to a reasonable and prudent speed; this "or" clause has made the enforcement of the current law very difficult, she remarked, adding that the sponsor is seeking to clarify the law and make it enforceable so as to protect law enforcement and emergency services personnel who are out performing duties on the highway. She mentioned that committee packets include letters of support from the Department of Public Safety (DPS), the Public Safety Employees Association, Inc. (PSEA), and [the Alaska Association of Chiefs of Police (AACOP)], as well as [several] zero fiscal notes.

CHAIR RAMRAS mentioned that he has seen police officers, after pulling someone over to the side of the road, be passed by other drivers driving in the closest lane or at unsafe speeds; HB 102 will put some teeth into the current law and provide law enforcement and emergency services personnel with more protection.

CHAIR RAMRAS, after ascertaining that no one else wished to testify, closed public testimony on HB 102.

REPRESENTATIVE GRUENBERG referred to the term "impossible" as used on page 2, line 2, and questioned whether the meaning of that word would be encompassed under the term "unsafe", which is also used on page 2, line 2. He suggested that that portion of the bill could simply say in part, "prohibited by law or unsafe". In response to a question, he posited that it is not necessary to include the term, "impossible" in the bill.

REPRESENTATIVE DAHLSTROM expressed favor with the bill as currently written.

CHAIR RAMRAS offered his belief that including the term, "impossible" would enhance the protection afforded to police officers and emergency services personnel, and thus he would prefer to keep that term in the bill.

[1:44:49 PM](#)

REPRESENTATIVE DAHLSTROM moved to report HB 102 out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, HB 102 was reported from the House Judiciary Standing Committee.

The committee took an at-ease from 1:45 p.m. to 1:52 p.m.

HB 117 - PROCLAMATION CALLING A SPECIAL SESSION

[1:52:45 PM](#)

CHAIR RAMRAS announced that as its last order of business the committee would return to the hearing on HOUSE BILL NO. 117, "An Act relating to proclamations issued by the governor calling the legislature into special session."

[1:53:14 PM](#)

McHUGH PIERRE, Director of Communications, Department of Military & Veterans' Affairs (DMVA), offered his belief that as currently written, HB 117 has the possibility of restricting the DMVA and the governor from moving forward right away in situations involving either a natural disaster or a terrorist attack on the state. He suggested, therefore, that if the bill were altered such that it exempted both AS 26.20.040 and [the entirety of] AS 26.23.020 from the bill's 30-day notice requirement, it would help the DMVA respond more quickly should either situation arise.

REPRESENTATIVE GRUENBERG argued, however, that in either situation, a proclamation would only have to be issued under AS 26.23.020(k).

MR. PIERRE said he simply doesn't want the governor's authority to call a special session dealing with a disaster or terrorist attack hindered in any way.

REPRESENTATIVE GRUENBERG reiterated his argument, and pointed out that under the governor's plenary powers, he/she may call a special session for any reason, not just an emergency. He suggested that the drafter should be asked about this issue.

[1:58:36 PM](#)

TOM WRIGHT, House Majority Office, Alaska State Legislature, on behalf of the sponsor, Representative John Harris, said he agrees with Representative Gruenberg's assessment; specifically, AS 26.23.020(k)(2)(A) is the only place in [Title 26] that pertains to calling a special session, and it says in part, "the governor convenes a special session of the legislature within five days after declaring the condition of disaster emergency or within five days after providing a financing plan ...". Mr. Wright, in response to a question, said that the other statutes that Mr. Pierre spoke of don't really relate to the governor's authority to call a special session.

REPRESENTATIVE GRUENBERG offered his understanding that [AS 26.23.020(k)] only authorizes funds to be spent under subsections (h) and (i), and that AS 26.20.040 pertains to enemy and terrorist attacks.

[2:03:05 PM](#)

TAMARA COOK, Director, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), speaking as the drafter of HB 117, in response to a question, said that AS 26.23.020(k) and AS 26.20.040 appear to focus on separate subjects, and that AS 26.23.020(k) even limits what the special session could be about - that being for the purpose of allowing the legislature to ratify a financing plan.

REPRESENTATIVE GRUENBERG offered his understanding that the goal would be to give the governor broad authority to deal with the aforementioned types of emergencies without waiting 30 days.

MS. COOK said that would go beyond the current subject of the bill but could still be addressed.

REPRESENTATIVE GRUENBERG sought confirmation that the sponsor would want to have that issue addressed.

MR. WRIGHT indicated that the sponsor would. He referred to AS 26.23.020(k)(2)(A), and said it seems pretty broad in that the governor can call a special session within five days of declaring a disaster regardless of whether a financing plan had been provided to the legislature.

MS. COOK concurred, acknowledging that that provision pertains to the power of the governor to make the expenditures ahead of time and outlines that those expenditures must be ratified by the legislature. If it is the wish of the committee, she remarked, the reasons for providing only five days notice could be expanded to deal with any disaster-related issue.

REPRESENTATIVE GRUENBERG offered his understanding that AS 26.23.020(h) and (i) - referred to in AS 26.23.020(k) - don't pertain to terrorist activities.

MS. COOK concurred.

REPRESENTATIVE GRUENBERG surmised, then, that if the legislature wants the governor to have the authority to call a special session - without providing 30 days notice - for actions unrelated to funding but pertaining to a terrorist attack, the bill will have to be changed.

[2:07:45 PM](#)

MR. WRIGHT expressed an interest in seeing the language that would effect such a change before agreeing to it, because it is not the sponsor's intent to broaden the powers of the governor beyond what they are now; currently the governor has the ability to call a special session at anytime for any need, and the question is simply how much notice must be given.

MS. COOK said:

I think the point of subsection (k) always was to require that the governor call a special session if the governor elected to make the expenditures, and to require that the special session occur within this short time period of 5 days unless, of course, the

legislature was already in session and had approved the financing. So [subsection (k)] always was ... more of a spear than a shield in that it said, "Look," to the governor, "you may spend the money, but if [you] do, we need to ... [come into] session fairly rapidly to deal with the situation." The other things that can come up that may cause a governor to call a special session have never had a special time period such as [subsection (k)] does, [and] ... right now, ... the regular statute ... would have applied so that the governor would be required by statute to give 15 days notice.

I will observe that despite that statute, we have a fairly long recent history, now, of the governor convening the legislature in special session without complying with the 15 day notice when the legislature has been in town anyway and therefore there was no need to travel. And I believe the governor's position is that the governor has a constitutional right to convene a special session that cannot be limited by a 15 day notice ... particularly where there's really no good logical reason for the 15 day notice. My guess is that any governor confronted with a disaster emergency would invoke that constitutional power and convene the legislature in session with far less than a 15 day notice, or even a 30 day notice if the statute were to be changed.

2:10:30 PM

CHAIR RAMRAS said the committee wants to honor the sponsor's intent with regard to providing a citizen legislature with as much notice as possible, and doesn't want to mishandle AS 26.23.020(k).

MS. COOK surmised that the only reason that provision raises an issue is that it happens to provide a different timeframe to which the governor must adhere. In response to a question, she said that all that is necessary is to clarify the public policy decision regarding whether the legislature wishes to particularly articulate various different areas that the governor may have wherein he/she does not have to give [the current] 15 day notice, just as only AS 26.23.020(k) does now. She said that if it is the desire of the committee, she could draft the language in the bill to allow for a 5-day notice

requirement for any matter coming up under AS 26.23.020 or under AS 26.20.040, for example.

[2:12:31 PM](#)

MR. WRIGHT agreed with that suggestion.

CHAIR RAMRAS asked Ms. Cook to draft language to that effect.

MR. WRIGHT, in response to a question, pointed out that the current language in AS 26.23.020(k)(2)(A) says in part, "within five days", and surmised that a special session called under that provision could actually start sooner than that.

MS. COOK - in response to a question regarding the language located on page 1, lines 7-8, that says in part, "within one hour after the first house has adjourned" - said that she was attempting to ensure that individual legislators were not inconvenienced by special sessions that they'd not had an opportunity to plan for. She offered her understanding that if legislators are in Juneau already and don't have to make travel plans, that it was felt that that would be an acceptable situation in which legislators could forgo the notice requirement for a special session. The problem, she relayed, pertains to what is to be done when one house has adjourned but not the other. Should the governor be required to provide 30 days notice in that situation? Or should the governor be given some time period within which he might reasonably notify the legislators from the early adjourning house before they make their way to the airport.

MS. COOK went on to say that there is no particular reason why that phrase couldn't be deleted if the committee prefers that the governor give 30 days notice unless he/she can issue a proclamation while both houses are in session. In response to a question she offered her understanding that the goal of the legislation is to protect legislators from the inconvenience of special sessions when they do not have enough notice to make arrangements in their lives to travel down to Juneau - they may need to make arrangements to deal with children, with business, et cetera - and 30 days notice would make that process easier on legislators than the current 15 days notice does.

REPRESENTATIVE GRUENBERG expressed concern that under the bill as currently written, the governor might call a special session before knowing whether a key piece of legislation is going to pass. He indicated that he would prefer to have the language on

page 1, lines 7-8, say in part, "within one hour after the second house has adjourned".

MR. WRIGHT relayed that such a change would be acceptable to the sponsor.

REPRESENTATIVE SAMUELS indicated that if he were already in Juneau, he would rather just stay and go into special session right away rather than having to come back 30 days later.

CHAIR RAMRAS, in response to comments, indicated that if the language is changed as Representative Gruenberg is suggesting, if one house adjourns early by three days or less, that house may end up only being provided with notice equaling that amount of time.

CHAIR RAMRAS, after ascertaining that no one else wished to testify, closed public testimony on HB 117.

[2:21:21 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 1, to replace the word, "first" - on page 1, line 8 - with the word, "second". There being no objection, Amendment 1 was adopted.

[HB 117, as amended, was held over.]

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:21 p.m.