

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

March 22, 2007

1:09 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Berta Gardner

**COMMITTEE CALENDAR**

HOUSE BILL NO. 109

"An Act relating to the requirement for candidates, groups, legislators, public officials, and other persons to submit reports electronically to the Alaska Public Offices Commission; relating to disclosures by legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and certain candidates for public office concerning services performed for compensation and concerning certain income, gifts, and other financial matters; requiring legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and municipal officers to make certain financial disclosures when they leave office; relating to insignificant ownership interest in a business and to gifts from lobbyists for purposes of the Alaska Executive Branch Ethics Act; relating to certain restrictions on employment after leaving state service for purposes of the Alaska Executive Branch Ethics Act; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 109

SHORT TITLE: DISCLOSURES & ETHICS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/25/07	(H)	READ THE FIRST TIME - REFERRALS
01/25/07	(H)	STA, JUD
01/30/07	(H)	STA AT 8:00 AM CAPITOL 106
01/30/07	(H)	Heard & Held
01/30/07	(H)	MINUTE(STA)
02/03/07	(H)	STA AT 10:00 AM SPEAKER'S CHAMBER
02/13/07	(H)	STA AT 8:00 AM CAPITOL 106
02/13/07	(H)	<Postponed Pending Subcommittee Report>
02/15/07	(H)	STA AT 8:00 AM CAPITOL 106
02/15/07	(H)	<Postponed Pending Subcommittee Report>
02/20/07	(H)	STA AT 8:00 AM CAPITOL 106
02/20/07	(H)	<Postponed Pending Subcommittee Report>
02/22/07	(H)	STA AT 8:00 AM CAPITOL 106
02/22/07	(H)	Heard & Held
02/22/07	(H)	MINUTE(STA)
02/27/07	(H)	STA AT 8:00 AM CAPITOL 106
02/27/07	(H)	Heard & Held
02/27/07	(H)	MINUTE(STA)
03/01/07	(H)	STA AT 8:00 AM CAPITOL 106
03/01/07	(H)	Heard & Held
03/01/07	(H)	MINUTE(STA)
03/03/07	(H)	STA AT 10:00 AM CAPITOL 106
03/03/07	(H)	Moved CSHB 109(STA) Out of Committee
03/03/07	(H)	MINUTE(STA)
03/07/07	(H)	STA RPT CS(STA) NT 3DP 1NR 3AM
03/07/07	(H)	DP: ROSES, DOLL, LYNN
03/07/07	(H)	NR: JOHANSEN
03/07/07	(H)	AM: JOHNSON, COGHILL, GRUENBERG
03/19/07	(H)	JUD AT 1:00 PM CAPITOL 120
03/19/07	(H)	Heard & Held
03/19/07	(H)	MINUTE(JUD)
03/20/07	(H)	JUD AT 1:00 PM CAPITOL 120
03/20/07	(H)	Heard & Held
03/20/07	(H)	MINUTE(JUD)
03/21/07	(H)	JUD AT 1:00 PM CAPITOL 120
03/21/07	(H)	Heard & Held
03/21/07	(H)	MINUTE(JUD)
03/22/07	(H)	JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

MEGAN KRUZICK

Ninilchik, Alaska

POSITION STATEMENT: Provided comments regarding proposed Amendment 24 to HB 109.

EARTHA FIERRO  
Wasilla, Alaska

POSITION STATEMENT: Provided comments regarding proposed Amendment 24 to HB 109.

DANIEL CHAPPELL  
Glennallen, Alaska

POSITION STATEMENT: Provided comments regarding proposed Amendment 24 to HB 109.

HEIDI DRYGAS, General Counsel  
Public Employees Local 71  
Alaska District Council of Labors  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of proposed Amendment 24 to HB 109.

JOHN FARLEIGH  
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 109, provided comments.

PAUL D. KENDALL  
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 109, provided comments.

REPRESENTATIVE PAUL SEATON  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 109.

DAVID G. SHAFTEL, Attorney at Law  
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 109, provided comments regarding blind trusts and responded to questions.

DAN WAYNE, Attorney  
Legislative Legal Counsel  
Legislative Legal and Research Services  
Legislative Affairs Agency (LAA)  
Juneau, Alaska

POSITION STATEMENT: As the drafter, provided comments and responded to questions during discussion of HB 109.

BROOKE MILES, Director  
Alaska Public Offices Commission (APOC)  
Department of Administration (DOA)  
Anchorage, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 109.

REPRESENTATIVE MARK NEUMAN  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 109.

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

POSITION STATEMENT: Responded to questions during discussion of HB 109.

#### **ACTION NARRATIVE**

**CHAIR JAY RAMRAS** called the House Judiciary Standing Committee meeting to order at [1:09:13 PM](#). Representatives Holmes, Gruenberg, Dahlstrom, Coghill, Lynn, and Ramras were present at the call to order. Representative Samuels arrived as the meeting was in progress. Representative Gardner was also in attendance.

#### **HB 109 - DISCLOSURES & ETHICS**

[1:09:35 PM](#)

CHAIR RAMRAS announced that the only order of business would be HOUSE BILL NO. 109, "An Act relating to the requirement for candidates, groups, legislators, public officials, and other persons to submit reports electronically to the Alaska Public Offices Commission; relating to disclosures by legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and certain candidates for public office concerning services performed for compensation and concerning certain income, gifts, and other financial matters; requiring legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public

officials, and municipal officers to make certain financial disclosures when they leave office; relating to insignificant ownership interest in a business and to gifts from lobbyists for purposes of the Alaska Executive Branch Ethics Act; relating to certain restrictions on employment after leaving state service for purposes of the Alaska Executive Branch Ethics Act; and providing for an effective date." [Before the committee was CSHB 109(STA), as amended.]

CHAIR RAMRAS, referring to Amendment 24, said that he doesn't feel that HB 109 is the proper vehicle with which to address the issue of nepotism; Amendment 24, labeled 25-GH1059\0.24, Wayne, 3/20/07, read:

Page 27, following line 26:

Insert a new bill section to read:

"\* **Sec. 41.** AS 39.52.910 is amended by adding a new subsection to read:

(d) Nothing in this chapter

(1) supersedes AS 39.90.020; or

(2) precludes a person from being in an employment relationship with a member of the person's immediate family if the person

(A) does not supervise the immediate family member; or

(B) supervises the immediate family member but exercise of the supervision is only routine; under this subparagraph, supervision is routine only if, as to a decision that requires the person's exercise of independent judgment, the person may not act or recommend the family member's

(i) appointment to employment, including hiring, transferring, laying off, and rehiring;

(ii) discipline, including suspension, discharge, demotion, and issuance of written warnings; or

(iii) grievance adjudication, including responding to a first level grievance under a collective bargaining agreement."

Renumber the following bill sections accordingly.

Page 28, line 11:

Delete "secs. 42 and 43"

Insert "secs. 43 and 44"

REPRESENTATIVE DAHLSTROM expressed a willingness to assist in creating a specific bill pertaining to the issue of nepotism, should the amendment be withdrawn.

REPRESENTATIVE LYNN opined that [HB 109] should address nepotism, and that many constituents are awaiting a resolution on this issue. Due to the pending passage of the bill, and the timeliness of the issue, he said he is declining to withdraw his amendment pending further discussion. He stated, "I think it's a good amendment."

CHAIR RAMRAS offered that it could affect the bargaining abilities of unions, and suggested that it may not be in the best interest of those organizations to have it addressed as an amendment to this bill.

1:14:40 PM

MEGAN KRUZICK relayed that she worked for two seasons as a "fighter," out of the Soldotna Department of Transportation & Public Facilities (DOT&PF) office. However, when called back to work for the 2005 season, upon her arrival at the office she was told that she was ineligible for activation due to nepotism. She reported that after pursuing the chain of command within the department, she filed a grievance with her union. A year of arbitration ensued, resulting in a ruling against her claim; her employment was considered nepotism. Having expected to continue with the union and maintain her seasonal job with the state, this disruption of service caused unexpected repercussions in her life, which she recounted. The ruling was made because her father also works for the state; however, she assured the committee that her employment was not due to favoritism since she went through the same process as any other applicant. As a dues-paying member of the union, she said she feels that she shouldn't be punished simply for having a relative who also works for the state. She said that she would appreciate being able to work for the state again.

CHAIR RAMRAS asked if she is currently eligible for rehire with the state.

MS. KRUZICK said that although she has been called back, she has also been told again that she may not work because of nepotism, and so she remains unclear about her eligibility.

1:17:53 PM

EARTHA FIERRO described her history of working for three seasons with the state, passing the test to become a permanent employee, and, in 2005, being told that she would not be able to be hired as a permanent employee due to nepotism - she has an aunt who works for the state. She said she was informed that she could decline her promotion and continue working as a non-permanent employee, though she was also told that she would not be able to work for the season based on a freeze that was imposed. Recently, however, she has been offered a [non-permanent] position in Fairbanks, but as a Wasilla resident, she is unable to accept the position.

1:19:24 PM

DANIEL CHAPPELL said that he has worked for 17 years for the DOT&PF, out of Tazlina, and that he'd recently requested a transfer to the maintenance and operations section (M&O), but was denied because his long-term "girlfriend" works in the M&O administration office. The denial was cited as nepotism, and it was suggested that his girlfriend could possibly alter timesheets or manipulate schedules for his benefit. He characterized this as a rude affront to his girlfriend's ethical behavior. Neither would it be possible, he reported, as it is the foreman who has the authority of overseeing the timesheets and managing the work schedules. The result is that he is continuing to work in the position which he has held for so many years. He read the letter from his supervisor, which indicated that although he exceeds qualifications and holds seniority, he cannot be offered the operator position due to the relationship between him and his girlfriend; they may not both work in the M&O section. He pointed out that this would have been a lateral position change, with no financial gain. After so many years of ethical, committed work, he said that he feels that he has been shortchanged.

REPRESENTATIVE LYNN asked for information regarding the area served by the DOT&PF office in Tazlina, the population of that area, and the specific job titles that he and his girlfriend hold.

MR. CHAPPELL responded that the service area encompasses Tok, Glennallen, Valdez, Paxson, and Nelchina. Including the Copper River Basin, the population is approximately 3,500 people. He reiterated that his girlfriend is an M&O administrative clerk, and he works for Statewide Equipment Fleet (SEF); although they would be working in the same building, they would work for different bargaining unions; he is with Public Employees Local

71, and she is with the Alaska State Employees Association (ASEA).

1:26:24 PM

HEIDI DRYGAS, General Counsel, Public Employees Local 71, Alaska District Council of Labors, stated support for Amendment 24, stressing that as previously testified to, the current Alaska Executive Branch Ethics Act is preventing state employees from having appropriate job opportunities, though it in no way affects or restricts the unions' bargaining abilities. She acknowledged that there may be some confusion regarding what Amendment 24 will address. The state workers represented by Local 71 are employees under the executive branch, working for the administration in the various departments; thus the Alaska Executive Branch Ethics Act governs each of these positions. She stated:

This amendment will restore the long-standing policy that would prevent family members from supervising other family members, but would allow working relationships between family members as long as neither one is a supervisor of the other. It addresses lower-level, non-supervisory employees, and not mid- or upper-level management. ... We have no problem with preventing family members from working together when one is a supervisor over the other. [Currently, however,] ... two flaggers [for example] aren't able to work together on the same crew, because they're family members, even though they're the same wage grade, [and] neither one of them has authority over the other. ... This amendment would fix that problem.

MS. DRYGAS opined that it is not the intent of the Alaska Executive Branch Ethics Act to prohibit this type of benign situation between "everyday working folks," wherein many tasks are routine in nature and are governed by the collective bargaining agreement or approved by a supervisor.

MS. DRYGAS referred to the attorney general's March 2005 memorandum, and pointed out that it analyzed supervisory/subordinate relationships. The policy change, which this memorandum caused, has had a significant impact on small communities. She stressed the need to review the language of the Alaska Executive Branch Ethics Act in order to gain a clear understanding of the intent. She opined that what is being

carried out by current policy is not in response to actual "substantial and material conflicts" as set forth in the original Act, but is instead causing a problem for these employees, and Amendment 24 will rectify the situation.

[1:31:34 PM](#)

JOHN FARLEIGH relayed that a section of a previous version of HB 109 appears to be missing in CSHB 109(STA). He described the section and stressed the importance of having it included in the bill.

CHAIR RAMRAS affirmed that the issue has been previously dealt with via an amendment, and thanked Mr. Farley for his comments.

[1:33:37 PM](#)

PAUL D. KENDALL directed the committee's attention to his letter of January 4, 2007, included in members' packets. He opined that the issue [of ethics] has become very complex and perhaps beyond the average person's ability to comprehend. Referring to his letter, he said:

It has become common knowledge to us, the general citizenry, that many of those to whom we have conveyed the "highest honor in the land" are failing us in their representations of our public's business affairs and matters, thereby jeopardizing our general welfare, safety, well-being, and the pursuit of happiness. The time has come for us citizens to impose a higher standard of expectations and performances from our public servants' behaviors. And in order to achieve a greater degree of responsible, honest, fair, and truthful conduct, we must declare, design, and impose a higher magnitude of penalty.

We must give our jury system the latitude - discretion - to make the final determination of a description of a public servant's deeds as either "Honorable Conduct" or "Less than Honorable Conduct," along with the severest penalties, fines, and actions so as to stop the continuing malaise of corrupted conduct by our public servants. If we do not protect and establish integrity and value for the fundamental laws that govern our society, and hold accountable those who [we] elect to represent those values and us with "Honorable Conduct," then we have in essence

undermined our entire ... legal system and the very fabric of our society.

We must in all fairness set a bar and a standard that gives a clear and obvious forewarning and notification that any public servant who betrays the full faith and trust of the general citizenry will pay a heavy and just price with short and long term impacts and consequences in an expedient manner of trial and sentencing. How can we hold to accountability the common criminal for an impact born out of an act of desperation while we let those who represent the highest law and honor of the land go nearly scot-free for an act of unmitigated greed and self indulgence with impacts far beyond what the individual criminal might do?

In closing, I believe that time is of the essence or at least at hand for us today to end this historical, continuing and ongoing, betrayal of the public's conveyances of their full faith and trust in our public leadership. I realize that I have focused primarily on our need to and means of judgment and penalties here in this writing, because we have to begin our work on those foundational aspects to begin correcting our political representations, infrastructure, and process. Those fundamental aspects being the establishment of clear and meaningful reward and punishment for one's actions. ... This goes to reference the Act relating to campaign financing. ...

[1:38:24 PM](#)

CHAIR RAMRAS closed public comment for the day on HB 109.

CHAIR RAMRAS reiterated his belief that the change proposed by Amendment 24 should not be in HB 109. He said that in speaking with John Bitney, legislative liaison for Governor Palin, he has received assurance that the administration will circulate a new opinion on how frontline management should interpret the nepotism rule, thereby addressing the problems referred to by Ms. Drygas. He assured the committee that he will follow-up with the executive branch to ensure that such action has taken place during the next two weeks, and encouraged interested parties to call his office for updates.

REPRESENTATIVE LYNN opined that given the need for people to earn a living with appropriate ethical statutes imposed, Amendment 24 and HB 109 is the means by which this should be addressed.

[1:41:56 PM](#)

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, offered that the current statute pertaining to blind trusts is problematic due to its generality. With this in mind, he has been making an effort to "clean up" the blind trust statute and make it available to administration officials. He provided an example wherein an official, such as the commissioner of revenue, may hold assets and receive income from stocks and bonds; the commissioner may then be required to take action on issues regarding the investment field, and this could pose a conflict. He explained that a blind trust could allow greater participation by people serving in high-ranking positions with the State because their marketable assets could be placed in a blind trust. He opined that [Section 32] clearly defines what constitutes marketable assets, and said it is expected that the trust would be managed by a trustee who would be required to prepare the taxes and either file them or report the gross total to the owner of the trust for filing. A sealed report of the trust would be provided to Alaska Public Offices Commission (APOC), and if a relevant accusation was subsequently raised, the APOC would break the seal and release the pertinent information.

REPRESENTATIVE COGHILL, in response to a question, relayed that his intention is to delete that language [Section 32] should the House Judiciary Standing Committee not find sufficient reason to retain it.

REPRESENTATIVE DAHLSTROM asked how a trust owner would know whether a blind trust would need to be unsealed by the APOC.

REPRESENTATIVE SEATON said that the APOC would receive trust information from the trustee, and, then, should accusations arise involving the blind trust, the owner would need to have that information in order to defend himself/herself. If the accusation requires the unsealing of the blind trust, then it is no longer blind. He said that typically the person would be charged with actually having knowledge about the blind trust and taking actions or making decisions that would benefit the trust.

[1:51:22 PM](#)

DAVID G. SHAFTEL, Attorney at Law, after indicating that he specializes in the field of trust law, reported that he and his colleagues have reviewed [Section 32], current statute, and "the federal blind trust form," and relayed his understanding of the purpose of blind trusts and how they might be used under HB 109. He suggested that the federal form could be of assistance in developing a thorough blind trust statute because although [Section 32] was modeled after New Jersey law, the federal form requires that certain issues be addressed. Issues such as protection for and flexibility of the trustee - he/she would be held to a standard of good faith and ordinary diligence but otherwise could not be sued for the way he/she manages the trust; income tax reporting - the trustee should only be providing the trustor with basic information, and the trustor should be responsible for actually reporting his/her income and capital gains/losses; quarterly reporting by the trustee to the trustor; cash distributions from the trust; and annual certificates of compliance from the trustee.

MR. SHAFTEL, in response to comments, relayed that the lack of protection for the trustee is a glaring omission [in Section 32], and that the requirement to have the trustee file the trustor's personal income tax return may not even be legal.

REPRESENTATIVE SEATON pointed out that the New Jersey law has been serving that state without repercussions from the Internal Revenue Service (IRS), and that the DOL has reviewed that law with regard to applicability in Alaska. He suggested that the word "or" on page 24, line 19, makes [Section 32] compliant with the federal form.

REPRESENTATIVE COGHILL clarified that Alaska statute does include language regarding trusts, regardless that it is general and broad. The question to be answered, he opined, is:

When a person is in a conflict situation, because of investments they've made, do they recuse [themselves] from the decision and send the decision to somebody else, or do they create this blind trust ... [thereby creating] a whole other range of questions.

REPRESENTATIVE COGHILL maintained that if a person creates a blind trust, such action may automatically raise an ethical question. A "straight-up recusal" would be in keeping with the committee's emphasis on "bright lines." He inquired about the

intent, and necessity, of the language in paragraph (6) of Section 32 that stipulates that a trust shall be irrevocable.

REPRESENTATIVE SEATON posited that the irrevocability clause prevents someone from setting up a blind trust merely for the sake of convenience. A blind trust is intended to be established by someone who is able to isolate a group of assets that can be set aside while he/she serves in public office.

REPRESENTATIVE COGHILL asked under what circumstance would the APOC have the authority to revoke a trust.

[2:05:47 PM](#)

REPRESENTATIVE SEATON described how an accusation could be lodged, reviewed, and acted appropriately upon by the APOC.

REPRESENTATIVE COGHILL asked if the APOC should be put in the position of enforcement. Currently, the APOC has been reported to for disclosure purposes, and this would bring in a new level of authority.

CHAIR RAMRAS observed that the committee could do one of three things: accept the current language of Section 32; have the drafter produce a new version [of Section 32] that incorporates Mr. Shaftel's recommendations; or simply remove Section 32.

REPRESENTATIVE GRUENBERG requested that Mr. Wayne be provided the latitude to confer directly with Mr. Shaftel, or whomever he might wish to consult, in order to draft a new version of Section 32. He expressed confidence that acceptable language could be crafted for inclusion in the bill.

REPRESENTATIVE DAHLSTROM asked what the financial threshold is for establishing a blind trust.

MR. SHAFTEL said that a dollar amount is not specified, and reiterated a description and use of a blind trust. He pointed out that establishing a blind trust would remain a voluntary action with the amount included in the trust being left to the discretion of the trustor.

REPRESENTATIVE GRUENBERG asked whether Section 32 should be expanded and made available to employees below the level of deputy commissioner, and whether the federal Act includes provisions for the trustor to give the trustee general

directions regarding the type of investments to make. He said he would expect such directions to be made public.

MR. SHAFTEL, in response to the latter question, stated that it does not, though the point is well taken, as every fiduciary will ask that type of direction of an investor.

[2:17:42 PM](#)

CHAIR RAMRAS turned the committee's attention to Amendment 26, labeled 25-GH1059\0.42, Wayne, 3/22/07, which read:

Page 19, lines 18 - 26:

Delete all material and insert:

"(2) as to income in excess of \$1,000 received as compensation for personal services if the source of the income is known or reasonably should be known to have a substantial interest in legislative, administrative, or political action and the recipient of the income is a legislator or legislative director, the name and address of the source of the income, [AND] a statement describing in detail the nature of the services performed, the amount of the income, and the approximate number of hours of services performed to earn the income; additional information regarding how the income was earned may [; IF THE SOURCE OF INCOME IS KNOWN OR REASONABLY SHOULD BE KNOWN TO HAVE A SUBSTANTIAL INTEREST IN LEGISLATIVE, ADMINISTRATIVE, OR POLITICAL ACTION AND THE RECIPIENT OF THE INCOME IS A LEGISLATOR OR LEGISLATIVE DIRECTOR, THE AMOUNT OF INCOME RECEIVED FROM THE SOURCE SHALL] be disclosed;"

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 26.

REPRESENTATIVE SAMUELS objected for the purpose of discussion.

[2:19:06 PM](#)

DAN WAYNE, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), referred to paragraph (2) of Section 26, and said that the semicolon on page 19, line 20, creates two scenarios. Prior to the semicolon, the language refers to anyone receiving income in excess of \$1,000 for personal services, and, following the semicolon, the language deals with someone having the same income but addresses the source of the personal services. Amendment 26 removes the semicolon and creates one scenario

dealing with instances involving substantial interest in legislative, administrative, or political action. Without Amendment 26, someone who might be remodeling a legislator's house, doing work in excess of \$1,000, would need to have his/her name and address reported, with a description of the services performed, despite their disinterest in political action.

CHAIR RAMRAS surmised that this takes a non-retail event and treats it as a retail event.

REPRESENTATIVE HOLMES expressed a concern that existing requirements are being loosened rather than tightened. She opined that Amendment 26 would serve to strip the existing language of accountability. The legislator would be the only person determining the relevancy of someone's services in connection with the legislator, and she opined, "I really think that flies in the face of what the public's been asking us to do down here, ... to increase transparency rather than reduce transparency."

CHAIR RAMRAS offered a scenario involving a car dealer, selling large ticket items such as a \$30,000 vehicle. As a retail seller, a client's name or address would not be required to be disclosed. Neither the car dealer, nor someone like himself, with restaurant clientele, would be brought to the attention of the APOC.

[2:24:40 PM](#)

BROOKE MILES, Director, Alaska Public Offices Commission (APOC), Department of Administration (DOA), concurred that under current law, information about individual clients would not need to be disclosed by Chair Ramras. Under Amendment 26, a fundamental change will occur, requiring the reporting of the names and addresses of only those individuals who render compensation in excess of \$1,000 and are deemed to have an interest in a legislative, administrative, or political action. As a point of history, she relayed that beginning in 1997, legislators were required to name all income sources over \$100; this threshold was changed in 1997 to \$1,000, and a caveat was also added regarding income sources who had an interest in legislative, administrative, or political activities in Alaska. The year 2003 saw this amount increased to \$5,000, and in August 2006, the reporting threshold was decreased to \$2,000. Throughout these fluctuations, the names and addresses of income sources have always been required to be reported.

2:26:28 PM

REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, noting that he's spoken to other legislators about the concerns he has with the current language of the bill regarding reporting income sources, relayed that Amendment 26 has been offered as a possible vehicle with which to address his concern.

MS. MILES suggested as an alternative to Amendment 26 that the APOC change the exemption regulations to be more inclusive so as to encompass the needs of the business community and thereby address Representative Neuman's concern.

REPRESENTATIVE NEUMAN acknowledged that that may be a good alternative.

REPRESENTATIVE HOLMES said she is sympathetic to the fact that [existing statutory language] might create a hardship for individual legislators and/or their clients, but she has a problem with the approach being taken via Amendment 26.

CHAIR RAMRAS offered his understanding that Amendment 26 poses certain problems, and that the APOC could craft regulation that would address the concern raised.

MS. MILES concurred, and suggested that the regulations needed to be revisited anyway to ensure that they address the needs of the business community.

REPRESENTATIVE DAHLSTROM withdrew Amendment 26.

2:32:36 PM

CHAIR RAMRAS referred to Amendment 24 [text provided previously].

REPRESENTATIVE DAHLSTROM made a motion to take Amendment 24 from the table. There being no objection, it was so ordered.

REPRESENTATIVE SAMUELS objected [to the motion to adopt Amendment 24, originally made on 3/21/07].

REPRESENTATIVE LYNN suggested that Amendment 24 is intended to protect the public.

REPRESENTATIVE SAMUELS opined that it would be better to address an issue involving bargaining units via a separate piece of legislation, and that Amendment 24 is not addressing an ethics issue but rather a procedural issue regarding hiring.

CHAIR RAMRAS reiterated that he does not believe that HB 109 is the appropriate vehicle for the change proposed by Amendment 24, and that he has spoken to representatives from the executive branch regarding the problems with the current nepotism statute and has been assured that they will address this issue via existing administrative authority; a new opinion dealing with how frontline management should interpret the nepotism rules ought to eliminate the problems that were brought before the committee. He again assured members that he would follow up with the administration and will report back to the committee within a reasonable period of time.

[2:36:51 PM](#)

REPRESENTATIVE HOLMES said that although she has great confidence in the administration's ability to fix the problem, without a statutory change it is possible that somewhere down the line the problem could reoccur. She offered her belief that Amendment 24 would ensure that action is taken to address the problem.

REPRESENTATIVE DAHLSTROM said she is not convinced that HB 109 is the appropriate vehicle with which to address the problem raised, and again expressed a willingness to assist in developing other legislation that would be a more appropriate vehicle. If Amendment 24 as adopted, she remarked, "We are opening ourselves up to a myriad of other issues ... that should be dealt with separately ...."

REPRESENTATIVE GRUENBERG argued that the title of the bill indicates that it is an Act related to ethics and to employment and so the topic being discussed is well within the subject matter. Furthermore, Amendment 24 proposes to alter a provision of AS 39.52, the Alaska Executive Branch Ethics Act, and nepotism is at the heart of executive ethics and is central to the bill. Although the administration has made a commitment to try to fix the problem outlined by the folks testifying today, there is no assurance that the administration will actually do so. Referring to how much of the session has already passed, he surmised that if this issue is not addressed right now, the legislature won't have time to deal with it either via a late amendment to HB 109 or via another bill, and thus the problem

that the testifiers have been experiencing will still exist during the upcoming construction season.

REPRESENTATIVE GRUENBERG suggested, therefore, that Amendment 24 be adopted, and, then, if the administration is actually able to address the situation, this provision could be removed before final passage of the bill.

A roll call vote was taken. Representatives Gruenberg, Lynn, and Holmes voted in favor of Amendment 24. Representatives Dahlstrom, Coghill, Samuels, and Ramras voted against it. Therefore, Amendment 24 failed by a vote of 3-4.

[2:42:37 PM](#)

CHAIR RAMRAS referred to Amendment 27, which read [original punctuation provided]:

Page 1, lines 4 -5:

Delete "restricting representation of others by legislators and legislative employees;"

Page 13, lines 12 - 25:

Delete all material and insert:

Sec. 24.60.100. Representation. A legislator or legislative employee who takes action for compensation, other than compensation by the State of Alaska, on behalf of another, including but not limited to telephone calls and meetings and appearances at proceedings or meetings, before an agency, board, or commission of the municipal or executive branch shall disclose to the committee the name of the person on whose behalf the action is taken, the subject matter of the action taken, and the body before which the action is taken. The disclosure shall be made within 48 hours of the commencement of the action taken. A legislator or legislative employee may not take action for compensation, other than compensation by the State of Alaska, on behalf of another, including but not limited to telephone calls and meetings and appearances at proceedings or meetings, before an agency, committee, or other entity of the legislative branch.

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 27.

REPRESENTATIVE COGHILL objected.

REPRESENTATIVE HOLMES relayed that Amendment 27 proposes to replace Section 16, which currently says that a legislator or legislative employee may not represent another person for compensation before a municipal, legislative, or executive branch agency, board, or commission. She offered her understanding that the word, "represent" means an action taken on behalf of another, whether for compensation or not, including but not limited to telephone calls and meetings and appearances at proceedings or meetings, and that the definition of the word, "compensation" includes salaries, honoraria, and other types of compensation. She opined that because of the broad definitions, under Section 16, taking action on behalf of another could include simply making routine telephone calls to gather information, but such activity would be prohibited.

REPRESENTATIVE HOLMES suggested that as currently written, Section 16 could keep legislators and legislative employees from being able to do their jobs in the legislature during session and from doing just about anything during the interim. She referred to a memorandum by the drafter, Dan Wayne, dated 3/21/07, and said that under the replacement language proposed by Amendment 27, Section 16 would simply require strict disclosure within 48 hours of the action in question and would exempt the work that is done by a legislator or legislative employee on behalf of a constituent. She added:

It's a hard line to draw, what we do, and this is my stab at shining as much light as early as possible on anything that's going on. I've heard a lot of people say in these halls, "You can't legislate ethics." At the end of the day, I don't care what the rules are, you're going to have people who are going to break them or you're going to have people who are going to bend them and you're going to have people who are going find ways to make unethical choices, and I think if you can get these things disclosed, any action that anybody's making - I don't care what profession you're in - any action that [you have] with the state, [you've] got to disclose it within 48 hours. Any interaction you're having, [that's] in any way compensated, with a municipal agency, [you've] got to disclose it right away. So there's a lot of attention paid right away to what's going on.

REPRESENTATIVE DAHLSTROM asked whether, under Amendment 27, if she went to the municipality and applied for a permit on behalf

of her husband so that he could do work as part of his business, she would have to fill out a disclosure form within 48 hours.

REPRESENTATIVE HOLMES indicated that if Representative Dahlstrom and her husband were being compensated for that work, then, yes, Representative Dahlstrom would be required to disclose that information. However, under the bill's existing language, Representative Holmes pointed out, Representative Dahlstrom wouldn't be able to apply for that permit at all.

REPRESENTATIVE DAHLSTROM acknowledged those points.

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TAMARA COOK, Director, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), concurred that there is a definition of compensation, and surmised that the question being discussed is whether a part owner of a business is in fact receiving compensation. She said: "I suppose it is at least possible that the part owner would be considered to ... be receiving compensation in the form of whatever increase in value the business has as a result of carrying on its business enterprises."

CHAIR RAMRAS asked what the phrase, "another person" means. For example, as a business owner, he has to call the Alcoholic Beverage Control Board ("ABC Board"), and so would his company be considered to be "another person?"

MS. COOK said that "a person" is defined to include essentially all legal entities. So when used in statute, the word, "person" is broader than "individual". In response to questions, she offered her belief that under the current language of Section 16, Chair Ramras could not call the ABC Board on behalf of the limited liability company (LLC) of which he is a managing member, because the LLC would be considered to be "another person".

CHAIR RAMRAS surmised that under Amendment 27, he would simply have to report within 48 hours that he called the ABC Board.

MS. COOK concurred.

REPRESENTATIVE SAMUELS said he wants to avoid having someone hire a legislator simply because the person is a legislator and will thus be treated differently by the government entities with whom he/she might deal.

CHAIR RAMRAS said that when he calls the ABC Board, he explains who he is calling as - a legislator or a licensee.

MS. COOK, in response to comments and a question, explained that the existing statutory language applies to legislators and legislative employees, as does the language currently in Section 16, regardless of whether they are attorneys.

REPRESENTATIVE GRUENBERG, referring to Representative Samuels's comment, opined that by following that line of reasoning, a legislator should also be precluded from taking any action before a government entity even on behalf of himself/herself because the legislator will be treated differently then too. He suggested that precluding a legislator from taking action on behalf of another simply because the legislator might be treated differently is an unreasonable approach to take.

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CHAIR RAMRAS opined that Section 16 won't work as currently written.

[CSHB 109(STA), as amended, was held over with the motion of whether to adopt Amendment 27 left pending.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:03 p.m.