

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 22, 2007

8:04 a.m.

MEMBERS PRESENT

Representative Bob Lynn, Chair
Representative Bob Roses, Vice Chair
Representative John Coghill
Representative Kyle Johansen
Representative Craig Johnson
Representative Andrea Doll
Representative Max Gruenberg

MEMBERS ABSENT

All members present

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

HOUSE BILL NO. 126

"An Act relating to driver's licenses and permits, commercial driver's licenses, and other motor vehicle laws; relating to the driver's license compact; and providing for an effective date."

- BILL HEARING CANCELED

HOUSE BILL NO. 117

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

- BILL HEARING CANCELED

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

WITNESS REGISTER

STUART THOMPSON

Wasilla, Alaska

POSITION STATEMENT: Testified on behalf of himself during the hearing on HB 109.

HEIDI DRYGAS, General Council

Public Employees Local 71

Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 109.

DENNIS MOEN

Fairbanks, Alaska

POSITION STATEMENT: Testified on behalf of Local 71 during the hearing on HB 109.

DAVID JONES, Senior Assistant Attorney General

Opinions, Appeals, & Ethics

Civil Division (Anchorage)
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 109.

REPRESENTATIVE LES GARA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 109.

JOYCE ANDERSON, Administrator
Select Committee on Legislative Ethics
Legislative Agencies & Offices
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 109.

REPRESENTATIVE MARC NEUMAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained how HB 5 was incorporated into HB 109.

BROOKE MILES, Executive Director
Alaska Public Offices Commission (APOC)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 109.

ACTION NARRATIVE

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at [8:04:46 AM](#). Representatives Roses, Coghill, Johansen, Johnson, Gruenberg, Doll, and Lynn were present at the call to order.

HB 109-DISCLOSURES & ETHICS

[Includes brief mention of HB 5, HB 6, HB 10, and HB 20.]

[8:05:25 AM](#)

CHAIR LYNN announced that the only order of business was 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."

CHAIR LYNN talked about the importance of ethics in the legislature. He said the committee started with two other ethics bills, HB 10 and HB 20, which he said are being morphed into HB 109 - the governor's bill. He said he would like to see HB 109 moved to the next committee of referral in a judicious manner. He thanked the State Affairs ethics subcommittee for its work.

[8:07:15 AM](#)

REPRESENTATIVE ROSES thanked the staff that worked for the subcommittee, and he talked about the work that was involved. He said two bills turned into about twelve bills. The subcommittee began with approximately 30 amendments, and that number grew. He paid particular comment to Rynnieva Moss, staff to Representative Coghill, for her assistance. He expressed appreciation for the process and predicted that the entire committee would be happy with the results.

[8:09:16 AM](#)

REPRESENTATIVE GRUENBERG expressed gratitude for the spirit of bipartisanship that was displayed during the subcommittee's deliberations.

[8:09:49 AM](#)

REPRESENTATIVE COGHILL reported that the subcommittee met four times. He said an agreement was made to include only those ideas that received unanimous consent; therefore, there remains a pile of amendments for the committee's consideration.

REPRESENTATIVE COGHILL reviewed some focal points of HB 109. He said it would: mandate electronic filing of the Alaska Public Offices Commission's (APOC's) reports; require legislators and other public officials to make financial disclosures upon leaving office; require disclosure of a description of services performed by candidates, legislators, and public officials for compensation; require disclosure of incomes, gifts, and other financial matters; establish a presumption that financial interest of less than \$5,000 is insignificant; and establish a presumption that any gift from a lobbyist to a member of the executive branch or immediate family of that executive officer is unethical. He said the bill would tighten up restrictions on public officials leaving office. He relayed that the bill would also tighten up timelines. For example, he mentioned a 90-day period that would be "aligned ... with the end-of-year reporting."

[8:12:52 AM](#)

REPRESENTATIVE COGHILL reviewed the committee substitute (CS) for HB 109, Version LS-GH1059\K, Wayne, 2/21/07. He said Version K would eliminate the exemption from disclosure for candidates raising less than \$5,000, except for judges that are going for confirmation, members and delegates of a constitutional convention, and municipal candidates. He said this topic had been debated during the hearing on HB 6. He stated that the subcommittee thought it best to include the governor and lieutenant governor in mandated electronic filing while an electronic filing system is "worked out."

REPRESENTATIVE COGHILL highlighted proposed changes to Title 24 of Alaska Statute, which would: mandate ethics training for all legislators; disallow legislators from generating news letters within 30 days of an election; give the Select Committee on Legislative Ethics more authority to address advisory opinions, meet quorum requirements, and issue due process; prohibit a spouse or domestic partner of a legislator from lobbying; and require full disclosure of gifts to legislators and their immediate family members. Representative Coghill said the bill also addresses issues related to the Office of Victims' Rights, standard of conduct laws, and uniform disclosures. He mentioned Title 30 and indicated that there would be amendments clarifying that former public officials would have to file a final disclosure within 90 days of leaving office.

[8:15:48 AM](#)

REPRESENTATIVE COGHILL said that as chair of the subcommittee, he focused on determining: whether a behavior is ethical, whether the issue is related to process, and who holds the authority to "apply these." He said both the Select Committee on Legislative Ethics and APOC are the "referees"; when there is a violation, those entities have to deal with it. He said he wants a bright line drawn as to what is ethical.

REPRESENTATIVE COGHILL expressed concern that [APOC] and the Select Committee on Legislative Ethics are not given authority beyond what he thinks is necessary. He said one question is whether or not the Select Committee on Legislative Ethics should be allowed to tell legislators which charity events they can participate in ethically. Currently it is the Legislative Council's position to sanction such events. He said he would like to see the Legislative Council retain that responsibility, but he would like it to make those decisions within a certain time frame.

[8:18:37 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt the committee substitute (CS) for HB 109, Version 25-GH1059\K, Wayne, 2/21/07, as work draft.

[8:19:03 AM](#)

CHAIR LYNN objected.

[8:19:09 AM](#)

REPRESENTATIVE COGHILL brought attention to the various sections of the bill [as shown in the sectional analysis, included in the committee packet]. He reviewed Sections 1 and 2 of the analysis, which read as follows [original punctuation provided]:

Sec. 1. Eliminates the exemption from disclosure for candidates raising less than and spending less than \$5,000, but retains exemption for delegates to a constitutional convention, a judge seeking electoral confirmations, or a municipal candidate.

Sec. 2. Requires candidates for governor and lieutenant governor to file campaign disclosure reports to APOC electronically.

REPRESENTATIVE COGHILL stated, "The governor had proposed ... that all elected officers file, and we thought best to start here."

REPRESENTATIVE COGHILL turned to Section 3, shown in the sectional analysis as follows [original punctuation provided]:

Sec. 3. Requires the APOC Committee to administer annually updated ethics courses to teach lobbyists and employers of lobbyists how to comply with laws regulating lobbyists.

Sec. 4. When lobbyists register with APOC, they must sign a sworn affirmation that they have completed a training course on disclosure laws within the last 12 months.

REPRESENTATIVE COGHILL said he thinks the reason [the subcommittee] feels strongly on this issue is that the laws are both dynamic and complex. He turned to Sections 5-8, shown in the sectional analysis as follows [original punctuation provided]:

Sec. 5. Prohibits a spouse or domestic partner of a legislator from lobbying for pay.

Sec. 6. Language clean up to clarify that this subsection applies to Chapter 60, Standards of Conduct.

Sec. 7. Adds a prohibition to a legislator preventing him from sending a newsletter to constituents within a 30-day window prior to a state election.

Sec. 8. Replaces it [sic] "written report" with "disclosure" to make language consistent with other sections of the statutes.

Allows a quorum of the committee to refrain from publishing disclosures that would be considered an invasion of the discloser's privacy. Currently a person who is a participant of the Violent Crimes Compensation program would have to disclose and the committee has determined they don't have the authority to withhold publication of a name.

8:22:16 AM

REPRESENTATIVE GRUENBERG explained that in the sectional analysis, the word "committee" refers to the Select Committee on Legislative Ethics, which is a bipartisan committee comprised of a Republican and Democrat from each House, plus five public members, for a total of 9 members.

8:22:34 AM

REPRESENTATIVE COGHILL moved on to Section 9, shown in the sectional analysis as follows [original punctuation provided]:

Sec. 9. Eliminates the requirement of a legislator to file a close economic relationship with a lobbyist. Section 5 prohibits a spouse or domestic partner of a legislator from lobbying, eliminating the ability for a legislator to have close economic relationship.

REPRESENTATIVE COGHILL explained that Section 9 is necessary because of Section 5, which prohibits a spouse from being a lobbyist. He continued to Section 10, which is shown in the sectional analysis as follows [original punctuation provided]:

Sec. 10. Special discounts are given to legislators and their staff to make the stay during session more affordable. An example is reduced rates at a local athletic club. This amendment adds the office of victims' rights to the list of legislative employees that do not qualify for the discounts.

REPRESENTATIVE COGHILL said he would have to defer to the Select Committee on Legislative Ethics for further explanation of Section 10. He turned to Sections 11 and 12, which are shown in the sectional analysis as follows [original punctuation provided]:

Sec. 11. Adds gifts of legal services and gifts to family members because of their relationship with a legislator to the disclosures that are maintained for public record and forwarded to APOC.

Sec. 12. Requires a legislator or legislative employee to disclose to the Ethics Committee gifts received by family members because of their relationship with a legislator or legislative employee. The disclosure is to be maintained for

public record by the Ethics Committee and forwarded to APOC for online public disclosure.

REPRESENTATIVE COGHILL said Section 13 is clean up language, changing "deadlines" to "deadline" in order to conform to the year-end and 90-day report.

REPRESENTATIVE COGHILL called Section 14 a "conforming issue on deadline filing." Section 14 is shown in the sectional analysis as follows [original punctuation provided]:

Sec. 14. This amendment requires all disclosures to be filed within 30 days of the association or interest. Filing dates for ethics disclosures are very confusing. Some disclosures are required within 30 days of association at certain times of the year, some annually, and no disclosures are required during the timeframe of 30 days prior to the end of the session.

REPRESENTATIVE COGHILL said Section 15 conforms to an advisory opinion. Section 15 is shown in the sectional analysis as follows [original punctuation provided]:

Sec. 15. Under existing law, once a person leaves service, they no longer are bound by disclosure laws. This new section would require them to report all matters subject to disclosure under 24.60 while they were in public service regardless of the fact they are no longer in service. The ethics committee issued an advisory opinion on December 4, 2006 that sets policy consistent with this change in statute.

REPRESENTATIVE COGHILL highlighted Sections 16-20, which are shown in the sectional analysis as follows [original punctuation provided]:

Sec. 16. Allows the chair of the committee or a subcommittee to designate the alternate legislative member to attend a meeting if the regular member is unable to attend. Currently the chair can only appoint the alternate if the regular member has a conflict with an with an [sic] item on the meeting agenda.

Sec. 17. Puts current practice into statute by deleting the requirement that summaries of public decisions and advisory opinions be published on a semi-annual basis. Public decisions have been published annually since 1999 and advisory opinions have been published annually since 1995.

Sec. 18. Makes ethics classes mandatory for legislators, legislative employees, and public members of the committee. Legislators, legislative employees, and public members of the ethics committee would be required to get the training within 10 days of the first day of the first regular session. If service begins after the tenth day, the legislator, legislative employee, or public member of the ethics committee would be required to get ethics training within 30 days of the [sic] first day of service.

[8:29:02 AM](#)

Sec. 19. Extends the authority to request an advisory opinion to the ethics committee and APOC. It also requires the committee to make deletions to advisory opinions that prevent the disclosure of the identity of the person requesting the opinion and any other persons named in the opinion. Finally, it clarifies that advisory opinions are confidential unless the person requesting the opinion waives confidentiality.

Sec. 20. This amendment grants authority to the committee to approve the change date of a hearing. Currently, if a complainant exercises his authority to change the date of a public hearing and requests a six-month extension, the committee cannot extend the hearing for more than 90 days. In addition, the committee may need to extend the hearing beyond the 90-day limit because they lacked a quorum.

CHAIR COGHILL said he would look to the Select Committee on Legislative Ethics for further explanation on Section 20. He moved on to Sections 21-23, which are shown in the sectional analysis as follows [original punctuation provided]:

Sec. 21. Adds to the list of "appointing authority" the victims' advocate for employees of the office of victims' rights and the legislature for the victims' advocate. When the ethics committee determines an

employee has violated standards of conduct, the committee forwards its findings of fact to the employee's appointing authority" or supervisor to determine sanctions for the employee.

Sec. 22 Leaves electronic reporting for all reporters other than Governor and Lt. Governor as optional but adds some requirements for APOC to accept non-electronic disclosures. Candidates for governor and lieutenant governor will be required to file electronically.

Sec. 23. Adds language to address who will be notified if the director of the office of victim's rights fails to file an annual financial report. It requires the APOC to notify the Legislative Council if the director of the office of victim's rights fails to file a financial disclosure report with APOC.

REPRESENTATIVE COGHILL said Section 22 "mirrors what we did in Title 15."

REPRESENTATIVE COGHILL said Section 24 begins the work done on Title 39. He said, "Now [we're] switching from lobbyists and legislators to executive branch members, so when you hear 'public official', from time to time it will include the legislators" Sections 24-29 are shown in the sectional analysis as follows [original punctuation provided]:

Sec. 24. This makes it clear that former public officials have to file a final disclosure statement after leaving his/her position within 90 days of terminating service. Subsection (b) clarifies former public officials and former municipal officers must comply with disclosure requirements.

Sec. 25. Applies to public officials and candidates. This section would require more detail in the financial disclosures reporting of income and interests exceeding \$5,000 in value. The disclosures must describe the source of the income, the amount received, the number of hours spent to earn the income if reimbursed on an hourly basis, and details regarding the services provided. It also clarifies that the official or candidate must report the gift if the cumulative value over the course of a year is more than \$250.

Sec. 26. This section would provide for permissive electronic filing of candidates' and public officials' financial disclosures with APOC, but makes it mandatory to file electronically for candidates filing for the office of governor or lieutenant governor.

Sec. 27. This section allows action on what is defined as significant business interests where the effect of the action is insignificant or conjectural. It attempts to draw a bright line for a public officer to know when he or she could be crossing the line in making decisions that could result in a financial gain for them or their immediate family.

Sec. 28. This applies to all state employees a presumption that all gifts from a lobbyist to a public officer or members of the officer's immediate family are improper unless the lobbyist is an immediate family member of the gift's recipient.

Sec. 29. This section would make the post-state employment limitation more restrictive by precluding former public officers from working on particular legislation or regulations, if they personally and substantially participated in work on the same legislation or regulations during their state service.

CHAIR COGHILL predicted that Sections 25 and 26 would generate a lot of discussion and amendments.

REPRESENTATIVE GRUENBERG, in response to a question from Representative Coghill, said the timeline related to Section 29 is two years.

[8:35:29 AM](#)

REPRESENTATIVE COGHILL highlighted Sections 30-35, which are shown in the sectional analysis as follows [original punctuation provided]:

Sec. 30. Sec. 30 extends the existing one-year ban on lobbying to include deputy heads of principal departments and those holding policy-making positions in the Office of the Governor. Currently, the one-year lobbying ban applies only to the governor,

lieutenant governor, and heads of principal departments.

Sec. 31. Prohibits for one-year after leaving a position as a former head of a department in the executive branch from serving on a board or other entity that was regulated by that department which the former department head worked.

REPRESENTATIVE COGHILL pointed out that Section 32 is missing from the sectional analysis in the committee packet. He said Section 32 addresses those who leave service after the effective date shown in Section 29. He said it also amends Section 30, which applies to people who leave service as governor or lieutenant governor after the effective date in Section 30.

REPRESENTATIVE COGHILL concluded by reviewing the purpose of Sections 33-35, which are shown in the sectional analysis as follows [original punctuation provided]:

Sec. 33. Applicability clause provides that new laws enacted in HB 109 would apply to elected officials and public officers who leave office after the effective date of HB 109.

Sec. 34. The sections of HB 109 that change reporting requirements with APOC have an effective date of July 1, 2007.

Sec. 35. The remainder of the bill becomes effective immediately.

[8:38:11 AM](#)

REPRESENTATIVE COGHILL said one amendment that needs consideration is related to improper campaign contributions, which he said is a criminal law issue. He indicated that there are about 26 more amendments for the committee's consideration.

[8:39:11 AM](#)

CHAIR LYNN stated that if the bill were passed out as is, it would be an improvement over "what we have now." He announced that the committee would now hear public testimony.

[8:41:03 AM](#)

STUART THOMPSON testified on behalf of himself as follows:

State leaders assert that their ethics reform objective is to recover lost public trust. Fiddling with public disclosure regulations, post public employment regulations, and conflict of interest definitions does serve this purpose. Indeed, I commend - I underline "commend" - the detailed work that's gone into the CS for HB 109; but unfortunately, this effort is superficial. Here's how:

The genesis of our country was a revolt against corrupt administration of a parliament-supported monarchy - reference U.S. Declaration of Independence. Consequently, our formal government was designed from a comprehensive study of all government successes and failures before. So was our Alaska Constitution. It follows that vigorous prosecution by all officials of the public oath of office, with educated initiatives, becomes the best overall tool for making government worthy of trust. Therefore, for our state to have corruption management problems is evidence of poor comprehension and application of our constitution, their devices, and their philosophical foundations.

Consequently, I recommend that at least the following portions of the Alaska Constitution be investigated for being ill understood and for weak or perverted application: Article 1, Section 1 - inherent rights; Article 1, Section 2 - source of government; Article 1, Section 5 - freedom of speech; Article 2, Section 12 - rules; Article 12, Section 5 - oaths of office; Article 12, Section 6 - merit system.

Specifics have been sent to each legislator in an e-mail entitled, "Corruption: Micromanaging with laws, versus macro managing with constitutions." I assert that Alaska's visibly applying less than 40 percent of our form of government's capability is worse corruption than a bit of vote selling. Since Alaska has no rule or law to compel a career-long study of the craft of government by public officials, this underlying corruption naturally encourages varied ethics lapses will persist.

MR. THOMPSON wished the committee luck and success in "getting something to happen in this area."

8:44:14 AM

HEIDI DRYGAS, General Council, Public Employees Local 71, stated that Alaska has a longstanding nepotism statute and corresponding regulations that prohibit family members from working together in a supervisory relationship. She relayed that in August 2005, the Department of Administration promulgated a new policy in the Alaska Administrative Manual (AAM) 100.050. She explained that the policy prohibits employees from being in an employment relationship with an immediate family member, including conjugal relationships, up to the second degree of kindred. She said this provision was enacted in response to a Department of Law memorandum issued in March 2005, regarding how the Executive Branch Ethics Act applies when a supervisor and subordinate are in a conjugal relationship. The attorney general's opinion was that the Ethics Act would prevent a supervisor and another employee from working together if they were family members or living in a conjugal relationship. She continued:

The Department of Administration, in promulgating this Alaska Administrative Manual, Section 100.050, has taken that opinion and dramatically extended its scope. In defining what an employment relationship is, the department expanded it to include a vast number of actions typically completed by nonsupervisory employees. And as it stands, the department's new policy, which is based on its interpretation of the Ethics Act and the March 2005 AG [attorney general] memorandum, has had [a] devastating effect on Alaska's public employees, especially those living and working in rural or Native communities. This policy is now prohibiting one family member from being hired, promoted, or transferred if it results in [an] employment relationship with another family member. This is true even if neither one is a supervisor, based solely on the minutest possibility that one family member may be promoted to a lead or foreman position, even if only for a day. And as most of you know, many Alaskan communities are so small that a lot of individuals are related to each other in some familiar relationship in some way. The impact on nonsupervisory employees is substantial, and it's really unnecessary. It's essentially prohibiting supervisory and nonsupervisory relationships between family members.

There's a longstanding state regulation enacted by the Alaska Labor & Relations Agency defining what a supervisory employee is, and it is just what we think of it as: a person who takes action in the form of employment, discipline, and grievance adjudication. We're talking: hiring, transfers, layoffs, suspensions, discharge; things that we think that an everyday supervisor would do. But the department's new nepotism policy is prohibiting far more than just supervisory relationships.

The union would suggest an amendment to add a [sub]section (d) to the Ethics Act, AS 39.52.910, which would limit the effect of the Ethics Act to what the legislature, in my mind, likely intended, which would "declarify" that Ethics Act issues arise in supervisory relationships between family members.

MS. DRYGAS said the union essentially believes that the suggested amendment would clarify the scope of the Ethics Act and protect working Alaskans, especially those working in the small communities who are being dramatically effected by "this policy based on the Ethics Act."

[8:48:50 AM](#)

CHAIR LYNN noted that the suggested amendment is attached to Ms. Drygas' written testimony, which is included in the committee packet.

[8:49:14 AM](#)

REPRESENTATIVE GRUENBERG said the subcommittee is aware that Ms. Drygas, her representatives, the Department of Law, and [Chair Lynn's] staff have been working hard on this issue. He asked if an accommodation had yet been reached and an amendment produced that is acceptable to everyone.

MS. DRYGAS answered that "nothing has happened yet that would fix this problem." In response to Chair Lynn, she said she has no current timeline regarding a solution.

CHAIR LYNN encouraged Ms. Drygas to try to expedite the process. He said this is a subject that needs to be explored, either in the House State Affairs Standing Committee or in the House Judiciary Standing Committee.

8:51:22 AM

REPRESENTATIVE JOHNSON asked for a definition of family for the record.

MS. DRYGAS answered that the definition is the "second degree of kindred," which she offered her understanding includes grandparents.

8:52:28 AM

REPRESENTATIVE GRUENBERG suggested that either the House State Affairs Standing Committee or its subcommittee could assist in reaching a solution.

8:53:35 AM

DENNIS MOEN, testifying on behalf of Local 71, offered the following example:

Down in one of our remote camps we had an [administrative] clerk that was an M&O [maintenance & operations] clerk, and she had a boyfriend that was a mechanic on the state equipment fleet side. Well, ... her boyfriend wanted to transfer from being a mechanic over to being an equipment operator They refused his transfer ..., because they felt that if the manager for that area was unavailable, if the foreman was unavailable, and if the lead man was somehow wiped out in the process, ... [and] the state troopers called, she might get the phone call and she might actually dispatch her boyfriend, showing favoritism. And that's just one of the examples that we run into that doesn't make a lot of sense. Consequently he quit and went to work somewhere else.

8:55:08 AM

CHAIR LYNN announced that the committee would hold any further public testimony for another time and take up review of the bill.

8:57:32 AM

DAVID JONES, Senior Assistant Attorney General, Opinions, Appeals, & Ethics, Civil Division (Anchorage), Department of

Law, thanked the committee and subcommittee for its work. He stated that the governor welcomes the opportunity to work with the committee toward improvements that will achieve the ultimate goal of confirming Alaskans' faith in their public representatives. He observed that not everything that was in the original governor's bill ended up in Version K, and he said nine amendments have been prepared to that version that would either restore some of the language in the original bill version or offer a compromise. He noted that the amendments address the following topics: electronic filing; the amount of details in legislative disclosures and disclosures of public officials; and a definition of "policy making position" - a term used in the restriction of lobbying.

MR. JONES said it came to the governor's attention that there were several boards and commissions in state government that one would expect would be subject to the financial disclosure requirements under Title 39, Chapter 50, but were not. One of the governor's amendments, he said, would add to that list of boards and commissions some of the following: the Alaska Industrial Development and Export Authority, the Mental Health Trust Authority; the Alaska Railroad Corporation; the Knik Arm Bridge and Toll Authority; and the Alaska Labor Relations Agency.

[8:59:55 AM](#)

MR. JONES, regarding Representative Johnson's query about the meaning of "immediate family member", read the definition in the Executive Branch Ethics Act as follows:

Immediate family member means the spouse or another person cohabitating with the person in a conjugal relationship that is not a legal marriage, a child, including a stepchild or adoptive child, a parent, sibling, grandparent, aunt or uncle, and a parent or sibling of the person's spouse.

[9:01:11 AM](#)

REPRESENTATIVE COGHILL recommended that the committee address "the Title 11 issue first," followed by a consideration of the governor's amendments.

[9:01:47 AM](#)

REPRESENTATIVE GRUENBERG offered his understanding that Mr. Jones, in answering Representative Johnson's question, was referencing AS 39.52.960(11).

[9:02:31 AM](#)

REPRESENTATIVE GRUENBERG talked about the need for an amendment to Title 11 - the criminal code - which would add a new section entitled, "improper campaign contribution and agreement."

[9:04:26 AM](#)

REPRESENTATIVE COGHILL indicated that that issue is in another bill.

[9:04:35 AM](#)

CHAIR LYNN removed his objection to adopting Version K. There being no further objection, Version K was before the committee as a work draft.

[9:05:27 AM](#)

REPRESENTATIVE GRUENBERG [moved] to adopt Amendment 1, labeled, 25-LS8001\A.4, Wayne, 2/9/07, which read as follows [with some handwritten changes]:

Page _____, line _____:

Insert "**relating to state and municipal elected officials and candidates for state and municipal elective office; relating to certain campaign contributions made in exchange for certain agreements;**"

Page _____, line _____:

Insert a new bill section to read:

*** Section 1.** AS 11.56 is amended by adding a new section to article 1 to read:

Sec. 11.56.135. Improper campaign contribution and agreement. (a) A person commits the crime of improper campaign contribution and agreement if the person

(1) explicitly agrees to make a campaign contribution to a state or municipal elected official or a candidate for a state or municipal elective office, and makes that contribution, in exchange for an agreement by the elected official or candidate to

alter the official's or candidate's position on a matter or issue related to the official duties of the statewide or municipal elective office held or sought; or

(2) as a state or municipal elected official or a candidate for state or municipal elective office, accepts a campaign contribution and explicitly agrees, in exchange for that contribution, to alter the official's or candidate's position on a matter or issue related to the official duties of the statewide or municipal elective office held or sought.

(b) Improper campaign contribution and agreement is a class B felony."

Page _____, line _____:

Insert a new bill section to read:

"* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read: APPLICABILITY. Section 1 of this Act applies to offenses occurring on or after the effective date of sec. 1 of this Act."

REPRESENTATIVE GRUENBERG clarified for the record that Amendment 1 is intended to cover a person who allows his/her vote to be changed or maintained for money.

[9:08:59 AM](#)

REPRESENTATIVE COGHILL objected to Amendment 1.

[9:09:13 AM](#)

REPRESENTATIVE DOLL said she agrees with the sentiments of Amendment 1, but she questioned how "explicit" is defined.

[9:09:45 AM](#)

REPRESENTATIVE COGHILL said he vehemently disagrees with Amendment 1, because it is a criminal code issue, not a civil code issue. He cited AS 24.60.030(e)(1)-(2), which read as follows:

(e) A legislator may not directly, or by authorizing another to act on the legislator's behalf,
(1) agree to, threaten to, or state or imply that the legislator will take or withhold a legislative, administrative, or political action, including support

or opposition to a bill, employment, nominations, and appointments, as a result of a person's decision to provide or not provide a political contribution, donate or not donate to a cause favored by the legislator, or provide or not provide a thing of value;

(2) state or imply that the legislator will perform or refrain from performing a lawful constituent service as a result of a person's decision to provide or not provide a political contribution, donate or not donate to a cause favored by the legislator, or provide or not provide a thing of value; or

REPRESENTATIVE COGHILL said, "I think the ethics issue is already very well stated on trading your decision for favors." He recommended taking the criminal issue to the House Judiciary Standing Committee. He said putting criminal code in an ethics bill that deals with civil code is mixing apples and oranges.

CHAIR LYNN asked, "What about the person that makes the offer?"

REPRESENTATIVE COGHILL replied, "I don't know that I would expect everybody who wants to offer a candidate some support to know all the ethics laws, but it is incumbent upon us to know."

[9:16:37 AM](#)

REPRESENTATIVE ROSES stated that he wants the issue discussed in committee in order to make recommendations to the next committee of referral.

[9:17:28 AM](#)

REPRESENTATIVE COGHILL said he will fight against putting the language of Amendment 1 in HB 109.

[9:17:46 AM](#)

REPRESENTATIVE GRUENBERG noted that Joyce Anderson and Representative Gara were present.

[9:18:27 AM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, stated that part of a recent FBI investigation [in Alaska] had to do with the issue at hand: [bribing with undue influence through

campaign contributions]. He said the legislature needs to send the message that it will be as tough on bribery as the federal government is. He said the federal government does not have the loophole that the State of Alaska has in its law. He said he thinks an ethics bill is the place to address that loophole that makes it okay for someone to bribe someone with a campaign contribution. He expressed his desire to see the bill move along quickly.

[9:21:17 AM](#)

REPRESENTATIVE DOLL said there is an implication that when someone accepts a campaign contribution, that money is given by a group, for example, that believes in what the candidate stands for. If that candidate changes his/her views in the future, then they will probably not be getting another campaign contribution from the group. She said the question is: "When does that become ..., 'Yes, I absolutely agree that I will do thus and thus'"? She asked how that would manifest itself, for example, if it would be in writing.

CHAIR LYNN said he wouldn't expect a contribution from someone who doesn't share the views of the person to whom he/she is contributing.

[9:22:55 AM](#)

REPRESENTATIVE COGHILL reemphasized his objection to putting this language in the civil code. He said he thinks the sponsor of the amendment is on the right track regarding criminal behavior. In response to a question from Chair Lynn, he clarified that he would support the concept in a separate bill.

[9:24:37 AM](#)

REPRESENTATIVE JOHNSON echoed Representative Coghill's statements. He said he would be happy to sign onto Representative Gara's bill.

[9:25:07 AM](#)

REPRESENTATIVE ROSES echoed that sentiment.

[9:25:12 AM](#)

REPRESENTATIVE GRUENBERG suggested that in the past, there have been environmental laws, for example, that included criminal provisions.

[9:25:52 AM](#)

REPRESENTATIVE GARA responded that there have been bills that mix civil and criminal elements that fit within a single subject. He said he will not disrupt the committee's discussion. He said there are differing points of view, and his purpose was just to let the committee know how he feels about the issue.

[9:26:25 AM](#)

JOYCE ANDERSON, Administrator, Select Committee on Legislative Ethics, Legislative Agencies & Offices, highlighted a sentence from AS 24.60.170(1), which read as follows:

If in the course of an investigation or probable cause determination the committee finds evidence of probable criminal activity, the committee shall transmit a statement and factual findings limited to that activity to the appropriate law enforcement agency.

MS. ANDERSON concluded that the Select Committee on Legislative Ethics does not look at any criminal activity; it looks strictly at activity within the ethics code itself.

[9:27:32 AM](#)

REPRESENTATIVE GRUENBERG said the Select Committee on Legislative Ethics has a limited ability to sanction. He asked, "Those recommended sanctions ... are found in AS 24.60.178, aren't they?"

[9:27:59 AM](#)

MS. ANDERSON answered that's correct. In response to a request by Representative Gruenberg, she reviewed the sanctions allowed the Select Committee on Legislative Ethics, which read as follows in statute:

Sec. 24.60.178. Recommended sanctions.

(a) When the committee finds that a person has violated this chapter, the committee may recommend

appropriate sanctions, including sanctions set out in (b) of this section.

(b) The sanctions that the committee may recommend include

(1) imposition of a civil penalty of not more than \$5,000 for each offense or twice the amount improperly gained, whichever is greater;

(2) divestiture of specified assets or withdrawal from specified associations;

(3) additional, detailed disclosure, either as a public disclosure or as a confidential disclosure to the committee;

(4) in the case of a legislative employee, suspension of employment with or without pay for a stated period of time or until stated conditions are met, or termination from legislative employment;

(5) restitution of property or reimbursement of improperly received benefits;

(6) public or private written reprimand;

(7) censure, including, in the case of a legislator, removal from a leadership position or committee membership and a determination that the legislator will not be appointed to serve in a leadership position or on a committee during the remainder of that legislature;

(8) placing the person on probationary status;

(9) in the case of a legislator, expulsion from the house of the legislature;

(10) any other appropriate measure.

(c) In addition to or in place of a sanction recommended under (b) of this section, the committee may recommend that the subject of a complaint be required to pay all or a portion of the costs related to the investigation and adjudication of a complaint.

MS. ANDERSON said the Select Committee on Legislative Ethics makes a recommendation when it finds probable cause, and the issue is brought before the full House or the full Senate for concurrence. In the past, she said the bodies have sometimes concurred and other times have not.

[9:29:14 AM](#)

REPRESENTATIVE COGHILL stated that it is appropriate that the full body address ethical behavior issues, whereas felonious behavior, he reiterated, is quite another issue and should not be included in this legislation.

[9:31:00 AM](#)

REPRESENTATIVE JOHANSEN concurred with Representatives Coghill, Johnson, and Roses, that Amendment 1 does not belong in the bill.

[9:31:23 AM](#)

REPRESENTATIVE GRUENBERG stated that ethics provisions in Title 24 don't cover the donor, municipal office holders, or candidates, and Amendment 1 does. He said, "The Class B felony is the same as for bribery, under [AS] 11.56.100, or for receiving a bribe, under [AS] 11.56.110; it's an entirely appropriate piece of legislation." He said Amendment 1 makes the bill "a piece of legislation that can be enforced." He stated, "This may be the only opportunity for this legislation to pass." He emphasized that as strongly as Representative Coghill feels about not adopting Amendment 1, he feels just as strongly that this is the time to add its proposed language to the bill.

[9:34:34 AM](#)

A roll call vote was taken. Representatives Gruenberg, Doll, and Lynn voted in favor of Amendment 1. Representatives Roses, Coghill, Johansen, and Johnson voted against it. Therefore, Amendment 1 failed by a vote of 3-4.

The committee took an at-ease from [9:36:33 AM](#) to [9:39:10 AM](#).

The committee took an at-ease from [9:39:26 AM](#) to [9:39:39 AM](#).

[9:39:45 AM](#)

REPRESENTATIVE MARC NEUMAN, Alaska State Legislature, said Section 1 of the bill proposes removing [subsection] (g) from AS 15.13.040, which read as follows:

(g) The provisions of (a) and (l) of this section do not apply if a candidate

(1) indicates, on a form prescribed by the commission, an intent not to raise and not to expend more than \$5,000 in seeking election to office, including both the primary and general elections;

(2) accepts contributions totaling not more than \$5,000 in seeking election to office, including both the primary and general elections; and

(3) makes expenditures totaling not more than \$5,000 in seeking election to office, including both the primary and general elections.

REPRESENTATIVE NEUMAN said he originally introduced HB 5, which would have served that purpose, and which he said was incorporated into HB 109. He said Section 1 would require the reporting of all contributions and a reckoning of how those monies are spent.

[9:41:30 AM](#)

REPRESENTATIVE COGHILL observed, "This exempts the municipal officer, a constitutional delegate, and a judge that's up for retention, I think." He asked Representative Neuman if he has any problem with those exemptions.

[9:41:58 AM](#)

REPRESENTATIVE NEUMAN answered that he does not. He said, "I would just as soon let the local decisions be made at the local level on how they want to apply their campaign contribution laws; this is a state-level ... bill that I'm interested in and that's what I want it to affect."

REPRESENTATIVE COGHILL clarified:

What this does is it removes the exemption for reporting except for those three, and that's kind of what I meant to say.

REPRESENTATIVE NEUMAN confirmed that's correct.

[9:43:44 AM](#)

REPRESENTATIVE COGHILL moved to adopt Amendment 2, which read as follows [original punctuation provided]:

Page 2, line 5, following "commission":
Delete "may request"
Insert "shall require"

Page 2, line 6, following "chapter":

Insert ", unless it is information required of a candidate for election to municipal elective office,"

Page 2, line 6, following "but":

Delete "shall"

Insert "may, when circumstances warrant an exception or when the information is required of a candidate for election to municipal elective office,"

Page 2, line 9, following "with the commission.", through line 15

Delete all material and insert:

"Candidates for election to municipal elective office must submit information required under this chapter electronically or in the typed or hand-printed form described in this subsection. In this subsection, 'municipal elective office' means the office of an elected borough or city mayor, elected member of a city or borough planning commission, elected utility board member, or elected member of a borough assembly, city council, or school board."

Page 22, following line 18:

Insert a new bill section to read:

"* **Sec. 33.** Section 2 of this Act takes effect May 1, 2009."

Renumber the following bill sections accordingly.

Page 22, line 19, following "Sections"

Delete "2"

REPRESENTATIVE GRUENBERG objected for discussion purposes.

[9:45:25 AM](#)

MR. JONES said Amendment 2 would restore, to some extent, the electronic filing requirement that was included in the governor's original bill, which applied to candidates in state-run elections, for judicial retention, and to municipal office. Version K applied the electronic filing requirement only to candidates to the office of governor and lieutenant governor. He emphasized, "The governor feels very strongly about the need to bring transparency to the filings that are submitted to ... APOC, not only for candidates, but for legislators and other public officials." In most cases, he said, Alaskans have access to the technology that allows them to file electronically. Both

the original bill and Version K would allow APOC to grant exceptions to those who do not have that access. Currently, only lobbyists are required to file electronically with ... APOC. Anybody else required to file "may" do it electronically. Without mandatory electronic filing, he said, a member of the public who is searching for information regarding the finances of a representative or the amount of campaign contributions that representative has received has to wait for APOC to manually enter the information - a time consuming and costly process.

MR. JONES said Amendment 2 would create an exception for municipal offices, which he said is an attempt [by the governor] to compromise. Another attempt to compromise was to eliminate language stipulating that an exception would be granting under extraordinary circumstances. Amendment 2 would allow the APOC to grant exceptions when the circumstances justified one. The third compromise, he related, was to delay the effective date [as shown in Amendment 2, text provided previously]. He said that timing would correspond with the start of the 18-month election campaign cycle for the 2010 general election.

[9:49:11 AM](#)

REPRESENTATIVE COGHILL suggested hearing from the director of APOC.

[9:50:21 AM](#)

BROOKE MILES, Executive Director, Alaska Public Offices Commission (APOC), stated her support of the concept of mandatory electronic filing. She said electronic filing is the best means by which to provide information to the public. In response to a question from Chair Lynn, she said she supports a plan to instigate an electronic filing mandate incrementally. She explained, "It helps both the filers and the public gain confidence in that system."

[9:51:31 AM](#)

REPRESENTATIVE COGHILL indicated that he had thought of incrementally as meaning starting at the top offices and working down. He asked Ms. Miles what issues may surface for APOC in the instigation of an electronic filing system for all state offices.

[9:52:04 AM](#)

MS. MILES said APOC's current system does not provide for the electronic filing by lobbyists; however, the current lobbying law does contain information that commission may mandate electronic filing for lobbyists and employers of lobbyists as the system is available. She said APOC anticipates that the system that is currently being developed will provide an electronic filing process for "all four of the laws that the commission administers," which are : the campaign disclosure law, the financial disclosure law for legislators, the financial disclosure law for public officials, and the lobbying law. She said, "We are anticipating a roll-out and early testing on it beginning July 1 this year." She said the hope would be that APOC could recruit some lobbyists to do their "last-part-of-the-year reports" electronically, and then begin with the mandate on lobbyist in January.

MS. MILES continued:

We come under a great deal of criticism, actually, regarding the fact of the nonavailability of financial disclosure statements on our website. I'm talking about your annual filings of financial disclosure statements and those that are filed by people in the executive branch at the deputy director level and above: all of the governor's assistants, all of the lieutenant governor's assistants, and many board and commission members. There's an interest on behalf of the public to have easier access to those statements.

The current system ... requires that a person can either come to our Anchorage or our Juneau office and review those statements or request a copy be faxed to them or mailed to them. Now, with the case of campaign disclosure, as you are all aware, we do have a voluntary system right now that is about to be replaced. That system is 10 years old; it is obsolete I would like to say, however, ... in the 2006 elections, all of the candidates for governor and lieutenant governor did file electronically. It was a big help to the commission and a way that we were able to get the information available on our website to the public before election day. I would also like to say that more than 50 percent of the legislative candidates running for office in 2006 filed electronically.

MS. MILES, in response to a question from Chair Lynn, said historically there have been more electronic filers from urban districts than remote districts, although there are people who file electronically in remote districts. She said they are not required to use the current electronic filing system (ELFS); they can file on an Excel spreadsheet, which permits APOC to simply input that contribution and expenditure activity into its web site expediently.

[9:56:37 AM](#)

CHAIR LYNN asked how many filings sent by mail were postmarked on time, but arrived to APOC late.

MS. MILES said she does not know but could find out.

[9:57:07 AM](#)

REPRESENTATIVE COGHILL expressed interest in the changes to APOC's software, hardware, and human resource capacity. He offered his understanding that the governor "has got some increased budgeting." He asked, "So, with all that, do you see an implementation problem with the dates in this amendment?"

MS. MILES replied that she does not.

[HB 109 was heard and held.]

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [9:58:22 AM](#).