

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

January 19, 2008

11:10 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

MEMBERS ABSENT

Representative Max Gruenberg

OTHER LEGISLATORS PRESENT

Representative Anna Fairclough

COMMITTEE CALENDAR

HOUSE BILL NO. 296

"An Act extending the termination date of the Board of Parole;
and providing for an effective date."

- MOVED HB 296 OUT OF COMMITTEE

HOUSE BILL NO. 281

"An Act extending the statute of limitations for the filing of
complaints with the Alaska Public Offices Commission involving
state election campaigns."

- MOVED CSHB 281(STA) OUT OF COMMITTEE

HOUSE BILL NO. 260

"An Act relating to a State Officers Compensation Commission and
establishing how legislators, the governor, the lieutenant
governor, and executive department heads shall be compensated;
providing for an effective date by repealing the effective dates
of certain sections of ch. 124, SLA 1986; and providing for an
effective date."

- MOVED CSHB 260(STA) OUT OF COMMITTEE-

HOUSE BILL NO. 269

"An Act requiring the state to procure United States and Alaska flags manufactured in the United States; and requiring state buildings and schools to display only United States and Alaska flags manufactured in the United States."

- BILL HEARING POSTPONED TO 1/24/08

PREVIOUS COMMITTEE ACTION

BILL: HB 296

SHORT TITLE: EXTENDING BOARD OF PAROLE

SPONSOR(s): REPRESENTATIVE(s) LYNN

01/04/08 (H) PREFILE RELEASED 1/4/08
01/15/08 (H) READ THE FIRST TIME - REFERRALS
01/15/08 (H) STA, FIN
01/17/08 (H) STA AT 8:00 AM CAPITOL 106
01/17/08 (H) <Bill Hearing Postponed to 01/19/08>
01/19/08 (H) STA AT 11:00 AM CAPITOL 106

BILL: HB 281

SHORT TITLE: CAMPAIGN FINANCE COMPLAINTS

SPONSOR(s): REPRESENTATIVE(s) LYNN, GATTO

01/04/08 (H) PREFILE RELEASED 1/4/08
01/15/08 (H) READ THE FIRST TIME - REFERRALS
01/15/08 (H) STA, JUD
01/17/08 (H) STA AT 8:00 AM CAPITOL 106
01/17/08 (H) Heard & Held
01/17/08 (H) MINUTE(STA)
01/19/08 (H) STA AT 11:00 AM CAPITOL 106

BILL: HB 260

SHORT TITLE: STATE OFFICERS COMPENSATION COMMISSION

SPONSOR(s): REPRESENTATIVE(s) DOOGAN

05/15/07 (H) READ THE FIRST TIME - REFERRALS
05/15/07 (H) STA, FIN
01/17/08 (H) STA AT 8:00 AM CAPITOL 106
01/17/08 (H) Heard & Held
01/17/08 (H) MINUTE(STA)
01/19/08 (H) STA AT 11:00 AM CAPITOL 106

WITNESS REGISTER

MICHAEL STARK, Vice Chair

Parole Board
Anchorage, Alaska
POSITION STATEMENT: Introduced HB 296 on behalf of Representative Bob Lynn, sponsor.

ED RAIS, Chair
Parole Board
Anchorage, Alaska
POSITION STATEMENT: Answered questions during the hearing on HB 296.

KATHY MATSUMOTO, Executive Director
Parole Board
Department of Corrections
Anchorage, Alaska
POSITION STATEMENT: Provided information during the hearing on HB 296.

DWAYNE PEEPLES, Deputy Commissioner
Department of Corrections
Juneau, Alaska
POSITION STATEMENT: Answered a question related to the fiscal note during the hearing on HB 296.

MICHAEL SICA, Staff
Representative Bob Lynn
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented the sectional analysis for the committee substitute (CS) for HB 281, Version 25-LS1115\M, Bullard, 1/18/08.

BROOK MILES, Executive Director
Alaska Public Offices Commission (APOC)
Anchorage, Alaska
POSITION STATEMENT: Testified during the hearing on HB 281.

JOYCE ANDERSON, Administrator
Select Committee on Legislative Ethics
Anchorage, Alaska
POSITION STATEMENT: Testified during the hearing on HB 281.

JANET DeYOUNG, Chief Assistant Attorney General - Statewide
Section Supervisor
Labor and State Affairs Section
Civil Division (Anchorage)
Department of Law (DOL)

POSITION STATEMENT: Provided the definition of "person" as it appears in Alaska Statute, during the hearing on HB 281.

REPRESENTATIVE MIKE DOOGAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 260.

ACTION NARRATIVE

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at [11:10:13 AM](#). Representatives Roses, Coghill, Johansen, Johnson, Doll, and Lynn were present at the call to order.

HB 296-EXTENDING BOARD OF PAROLE

[11:10:46 AM](#)

CHAIR LYNN announced the first order of business was HOUSE BILL NO. 296, "An Act extending the termination date of the Board of Parole; and providing for an effective date."

[11:11:31 AM](#)

MICHAEL STARK, Vice Chair, Parole Board, introduced HB 296 on behalf of Representative Bob Lynn, sponsor. He noted that he had worked in the Office of the Attorney General for 20 years prior to his seven years on the board. He stated that the proposed legislation would extend the life of the Parole Board, which is set to sunset at the end of fiscal year 2008 (FY 08).

MR. STARK directed attention to the Parole Board's statistical report for calendar years 1996-2007 [included in the committee packet], which shows all the responsibilities that keep the board busy. He said the board conducts hundreds of hearings each year, during which it considers early release of persons who have demonstrated that they are a "safe risk to be released into the community." He indicated that a majority of the hearings are focused on the issue of parole revocation, wherein the parole board must decide whether to deal with the parolee through intermediate sanctions, issue a warning, or put him/her back in prison and require program participation.

[11:13:42 AM](#)

REPRESENTATIVE DOLL stated that the Parole Board is an important link in the corrections system. She directed attention to the audit report, dated August 28, 2007, [included in the committee packet], and asked for comment from the board regarding two recommendations found in the audit [on page 7], which read as follows [original punctuation provided]:

The Board of Parole should increase public accessibility to, and accountability for, its administrative actions and operations.

The Board of Parole should hold a general session meeting, open to the public, at least once a year.

[11:14:25 AM](#)

ED RAIS, Chair, Parole Board, replied that in response to reading those recommendations, the board will be advertising [its hearings] in local newspapers in Juneau, Fairbanks, and Anchorage. He offered his understanding that in the past, only one or two people have had questions of the board.

[11:15:32 AM](#)

MR. STARK, in response to Representative Doll, said the Parole Board will be scheduling its statewide teleconference for public participation in July.

REPRESENTATIVE DOLL, citing another entry on page 7 of the aforementioned audit, read, "... since 2001, the board has not formally issued a statistical report summarizing how effective the board has been at achieving operating objectives." She commented that that is a long time between reports.

MR. STARK referred again to the statistical report covering the period of 1996 to 2007. He stated, "In fact, the board has produced annual statistics demonstrating what the board has accomplished each year. However, due to some budget constraints, they stopped publishing a formal report." He said information has been made available on the web site. He clarified, "It was the actual formal publishing that was lacking, not the production of the statistics." In response to a follow-up question from Representative Doll, he said the legislature fully funded the board this fiscal year.

[11:17:48 AM](#)

REPRESENTATIVE JOHANSEN mentioned that he had questions regarding a handout in the committee packet from the Division of Probation & Parole's "Goals and Objectives," but that he would wait to get clarification.

[11:18:35 AM](#)

REPRESENTATIVE ROSES asked how many of the 497 full board hearings conducted in 2007 were full-day sessions as opposed to half-day sessions.

MR. STARK replied that the board typically hears 8 to 13 hearings in a day, and each hearing is allotted between 30 minutes to one hour. In response to a follow-up comment from Representative Roses, he clarified that most of the days the board meets are full days. He added, "So, you have to divide that 497 by that number to figure out roughly how many days there were of full compensation for hearings alone." He noted that the statistics reflect that the board serves other functions, too.

REPRESENTATIVE ROSES told Mr. Stark that it would be helpful to the committee if the board would submit the number of full days and half day meetings to accompany the fiscal note to facilitate translation of the information in order to decide whether or not the fiscal note is in line.

MR. STARK noted that the compensation for board members is a relatively minor expense in the board's budget. There are five staff persons who work full-time.

KATHY MATSUMOTO, Executive Director, Parole Board, Department of Corrections, acknowledged Representative Roses' request to see a list of the number of full and half days that the board meets. In response to that request, she explained that she cannot recollect any half days scheduled in addition to the five full days of hearings that the board schedules on its calendar each month. She noted that additionally, individual board members provide preliminary hearings. She said, "That also adds to the cost in terms of compensation."

[11:21:33 AM](#)

MR. REIS reported that during calendar year 2007, he personally conducted 172 preliminary hearings in Anchorage. He offered his understanding that the other Parole Board member, Charles Moses (ph), conducted almost 190 preliminary hearings, while Mr. Stark

conducted 124 preliminary hearings. He said [conducting preliminary hearings] comprises a majority of the board members' work. He noted that board members work out of their homes and are compensated \$16 per each file read. He said he believes the board as a whole signed over 500 parole warrants last year.

MS. MATSUMOTO confirmed that statistic.

MR. REIS added that many board members are also required to speak before the public, and they work in conjunction with the department to discuss , for example, the budget and planning.

[11:23:13 AM](#)

CHAIR LYNN stated the need for this information to be supplied to the House Finance Committee.

REPRESENTATIVE ROSES concurred. He clarified that he does not think anyone believes the parole board is not putting in lots of time; the information is needed simply in order to balance finances.

[11:23:39 AM](#)

MR. REIS said the committee should also be made aware that in addition to parole, the board is also responsible for clemency.

MS. MATSUMOTO inserted that the board members are responsible for conducting final board hearings, preliminary hearings, signing warrants, reading packets, and studying parole conditions; however, "it falls on board staff in terms of responsibility for clemency." She clarified, "The board doesn't have any impact on that work; that's strictly assigned to board staff."

MR. REIS said his point is that it will take a lot of board staff time to conduct the business of the state in that area.

[11:24:33 AM](#)

REPRESENTATIVE ROSES asked the sponsor why he chose 2016 as the next sunset date. He asked if eight years was a deliberate time frame.

[11:24:49 AM](#)

CHAIR LYNN indicated that choosing that date had to do with the audit.

MR. STARK added that the last time the legislature extended the Parole Board, they did so for an eight-year period.

[11:25:04 AM](#)

MR. STARK, in response to a question from Representative Johansen, reiterated the board's plan to make an annual meeting available to the public.

[11:26:47 AM](#)

MS. MATSUMOTO, in response to a question from Representative Doll regarding past fiscal notes, reported the Parole Board's past budgets as follows: \$481,200 allocated and \$612,424 expended in FY 03; \$530,400 in FY 04; and \$524,000 allocated, with a supplemental of \$65,000 in FY 05.

REPRESENTATIVE DOLL observed that the board has been spending an average of \$600,000 [a year]; therefore, it is looking for an additional \$169,000 this year.

MR. STARK offered his understanding that the board is "looking at a maintenance budget for this coming year," and that the amount in the current fiscal note is the amount that was appropriated last year.

MS. MATSUMOTO responded that she thinks there was an increase.

[11:28:41 AM](#)

MR. REIS noted:

One of the issues per board compensation members was never budgeted. I believe per day it was \$150 per board member. That had not been changed since 1984. When I became the chair under the Murkowski Administration, Governor Murkowski signed a bill that allowed each board member, on a full day of compensation, to receive \$250 dollars per day. That was never offset in our budget until last year. We asked for \$794,000, and I believe that we were appropriated ... \$736,000.

We also have - due to retirement benefits ... for employees to the board -- as the committee all knows, those costs have all gone up. And that was our request there to fund all those positions. And the board ... for years has been funded for two ... Parole Officer III positions, and for almost two and half years we did not have one of those positions filled, because our budget was restricting ... [filling] that position.

CHAIR LYNN noted that the fiscal note analysis read:

Passage of this legislation should have no fiscal impact on the Department of Corrections.

CHAIR LYNN said the issue at hand is whether or not to extend the Parole Board, and he stated that he does not want to do too much of the House Finance Committee's work for them.

MR. REIS assured the committee that the board members will be willing to go through the board's budget line by line with the House Finance Committee. In closing, he stated that he thinks the eight-year off-set for the budget is a good thing, because a sunset audit of the board yearly would be a waste of state resources. He said he understands the importance of outside perception and having an annual open meeting for the public, as is mandated in statute; however, as Mr. Stark previously noted, the board is not fully funded to do a lot of the work as is required by statute. In response to a question from Representative Johnson, he said he has not heard from the deputy commissioner regarding allocations to the board this year.

[11:32:22 AM](#)

DWAYNE PEEPLES, Deputy Commissioner, Department of Corrections, in response to a question from Representative Johnson, noted that the fiscal note has been modified. He explained:

The number being reflected for [FY] 09 on the note page, first column - appropriation required - is the base in the governor's request FY 09. The second column in the fiscal note, where you see FY 09 again, would be additional monies required to implement. The base is \$769.1 thousand in the current governor's budget request. By passage of the sunset law, there [are] no additional funds required.

[11:33:08 AM](#)

REPRESENTATIVE ROSES moved to report HB 296 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 296 was reported out of the House State Affairs Standing Committee.

The committee took an at-ease from 11:34 a.m. to 11:35 a.m.

[Due to technical difficulties the recording did not start until 11:43 a.m.]

HB 281-CAMPAIGN FINANCE COMPLAINTS

CHAIR LYNN announced the next order of business was HOUSE BILL NO. 281, "An Act extending the statute of limitations for the filing of complaints with the Alaska Public Offices Commission involving state election campaigns."

[11:43:10 AM](#)

MICHAEL SICA, Staff, Representative Bob Lynn, Alaska State Legislature, presented the sectional analysis for the committee substitute (CS) for HB 281, Version 25-LS1115\M, Bullard, 1/18/08 [not yet before the committee].

MR. SICA said Section 1 would establish in code a retention period of six years for records of transactions listed in this section. Section 2, he said would add a new section, AS 15.13.042, mandating that each candidate, group, nongroup entity, or person required to report under this chapter preserve all necessary records for six years. Section 3 would amend AS 15.13.380(b), increasing the statute of limitations for filing a complaint for an alleged campaign finance violation from one year to five years. Mr. Sica said a sentence [from AS 24.60.170 - Legislative Ethics Law] was added, which read: "The time limitations of this subsection do not bar proceedings against a person who intentionally prevents discovery of a violation of this chapter."

[11:46:43 AM](#)

REPRESENTATIVE DOLL indicated that she needed a minute to read a memorandum she had just received.

CHAIR LYNN requested a motion to adopt the committee substitute.

[11:47:20 AM](#)

REPRESENTATIVE COGHILL moved to adopt the committee substitute (CS) for HB 281, Version 25-LS1115\M, Bullard, 1/18/08, as a work draft.

[11:47:43 AM](#)

CHAIR LYNN objected.

REPRESENTATIVE DOLL explained that the memorandum is from Representative Gruenberg, asking the committee to consider amending the sentence to read: "The time limitations of this subsection do not bar proceedings against a person who the commission finds willfully prevents the discovery of a violation of this chapter. Such a finding by the commissioner must be based on clear and convincing evidence."

REPRESENTATIVE COGHILL stated that "intentionally" and "willfully" are standards that the committee may wish to consider; however, the issue will be subject to review in the House Judiciary Standing Committee.

CHAIR LYNN noted that he, Representative Coghill, and Representative Gruenberg serve together on the House Judiciary Standing Committee. He indicated that the issue would be dealt with in that committee.

REPRESENTATIVE DOLL said that is acceptable.

REPRESENTATIVE COGHILL suggested that the committee decide which version of the bill is before them.

[11:49:40 AM](#)

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

[11:50:16 AM](#)

MR. SICA returned to his review of the sectional analysis. He stated that Section 4 pertains to [AS 24.45.111(a)], which already requires that a lobbyist retain records required under this section, and would add to that requirement: an employer, a retainer, or a contractor of a lobbyist. The section would also increase the retention period [from one year] to six years. Section 5, he said, [amends AS 24.45.131] to allow any person,

not just a qualified voter, to file a complaint with the commission.

11:51:08 AM

REPRESENTATIVE ROSES asked if the sponsor really means "any person," because that could include, for example, a nonresident visiting Alaska on a fishing trip or a head of a political party based in Washington, D.C. He said it would be nice if the person were at least a citizen of the U.S.

11:52:05 AM

REPRESENTATIVE COGHILL warned that the legal definition of "person" can include corporation or trust.

CHAIR LYNN suggested the committee consider specifying that the person be a resident of Alaska.

REPRESENTATIVE COGHILL said the committee should probably have that discussion. He asked if the intent of the bill sponsor was to review the bill today, because he sees many places in the bill that may require significant discussion. In response to a question from Chair Lynn, he said he would like to hear the entire sectional analysis before offering amendments.

MR. SICA continued to Section 6, which he said would add a new section, AS 24.45.131(d), which would prohibit commission members and staff who file complaints from participating in any commission proceeding related to the complaint. Section 7, he noted, would add AS 24.45.135, allowing "a person" - as well as a commission member or staff - to file a complaint [alleging a violation of AS 24.45.121-24.45.171 has occurred or is occurring]. Section 8 would amend AS 24.60.170(a), increasing the time limitation on complaints alleging a violation of this section from two years to five years. Furthermore, Section 8 would increase the time limitation for investigation of complaints against a former legislator from one year to five years.

MR. SICA noted that Section 9 would add AS 24.60.255, which would allow a person, as well as a member of the Alaska Public Office Commission (APOC) or a member of its staff to file a written complaint alleging a violation of [AS 24.60.200-24.60.260] has occurred or is occurring. The complaint must be filed within five years after the date of the alleged violation. Section 10, he said, adds a new section, AS 39.50.055, which

would allow a person, as well as a member of APOC or APOC staff, to file a written complaint alleging a violation of this chapter has occurred or is occurring. Like Section 9, Section 10 would require the complaint to be filed with five years after the date of the alleged violation. It also would not allow an APOC member or APOC staff who files a complaint to participate in any proceeding of the commission related to the department.

[11:56:15 AM](#)

REPRESENTATIVE COGHILL asked for confirmation that Title 24 addresses legislative issues, while Title 39 deals with administrative issues.

CHAIR LYNN said he believes that is correct.

MR. SICA said, "Public officials." He continued with his review of the sectional analysis. He said whereas Section 10 has to do with a complaint filed to APOC, Section 11 involves public officials with a complaint filed in court; it would allow a person, not just a qualified voter, to bring a civil action to enforce any of the sections of this chapter. Section 12 would amend AS 39.50.100, relating to public officials, and would create a statute of limitations of five years from the date of the alleged violation for a complaint to be filed under this section. Mr. Sica offered his understanding that "the code is currently silent on that," and the sponsor is looking for consistency through Titles 15, 24, and 39.

MR. SICA said Section 13 would establish an effective date for the sections that have been amended and created in this act. He stated, "I think all that language in there is an attempt to capture the current investigations allowable under the existing code, while avoiding retroactivity on these sections. I don't know if it accomplishes that, but I think that's what we're looking at." Sections 14-16, he observed, "just look like boiler plate statements to me."

[11:58:15 AM](#)

BROOK MILES, Executive Director, Alaska Public Offices Commission (APOC), thanked the committee for considering the request of APOC that the five-year statute of limitations be expanded to all four disclosure laws administered by the commission. The applicable statutes she listed as: AS 15.13, campaign disclosure law; AS 24.45, lobbying law; AS 24.60.200-260, including the Legislative Ethics Act - the financial

disclosure that is filed by members of the legislature, the public members on the Select Committee on Legislative Ethics, and the legislative directors that work within the Legislative Affairs Agency; and AS 39.50, executive branch financial disclosure. She also thanked the bill sponsor for including the same statute of limitations across all of those codes, as well as including a six-year retention of records, codified within each statute. Having that records retention requirement in law will aide APOC in searching through records further in the past.

MS. MILES, regarding the concern over changing qualified "voter" to "person," stated:

It was only in the lobbying law, where the free conference committee ... wrote this law in 1976 had the words that you had to be a qualified voter. Today, if a foreign natural visiting Alaska came into our office and filed a complaint under the campaign disclosure law ... this agency may have to accept it, because under that law, it's always been [that] a person could file.

[12:02:31 PM](#)

JOYCE ANDERSON, Administrator, Select Committee on Legislative Ethics, said she concurs with Ms. Miles' remarks about making APOC's statute of limitations the same and changing the statute of limitations within the Legislative Ethics Code from two years to five years for filing a complaint, in order to make it consistent across the board, since both APOC and the Select Committee on Legislative Ethics work closely together.

MS. ANDERSON related that she had spoken with Mr. Sica about a change to AS 24.60.170(a). She directed attention to page 4, of Version M, to a sentence beginning on line 7, which read:

However, the committee may reinstitute proceedings concerning a complaint that was closed because a former employee terminated legislative service or because a legislator left the legislature if the former employee or legislator resumes legislative service, whether as an employee or a legislator, within five [TWO] years after the alleged violation.

MS. ANDERSON explained that because the proposed language increases the statute of limitations from two to five years and the statute of limitations is already five years for a

legislator, she thinks it is redundant to include "or because a legislator left the legislature" and "or legislator" within the proposed sentence.

[12:05:31 PM](#)

REPRESENTATIVE COGHILL moved Amendment 1 to Version M, as follows:

On page 4, line 9, following "service":

Delete "or because a legislator left the legislature"

On page 4, line 10, following "employee":

Delete "or legislator"

There being no objection, Amendment 1 was adopted.

[12:06:28 PM](#)

MS. ANDERSON asked the committee to consider that once a legislator leaves office, there is very little left in the sanction code to impose any kind of sanction upon a legislator who is out of office. She offered an example of a former legislator who failed to file his final disclosures that were due at the Ethics Office and was fined \$200. When he refused to pay, the Select Committee on Legislative Ethics referred the case to the Office of the Attorney General; however, that office does not follow up on fines unless they are over \$500. She questioned whether this issue could affect APOC in terms of that agency's dealings with public officials. In response to a question from Representative Johansen, she clarified that the fine she referred to in the example had to do with disclosures, and the Select Committee on Legislative Ethics is asking for an increase in that fine through a separate bill. She said that when it comes to an issue regarding a complaint that's filed with the ethics committee, and the committee finds "probable cause," it has the option under AS 24.60.178 to impose a civil penalty of not more than \$5,000 for each offense, or twice the amount improperly gained, whichever is greater. That section in statute also allows the Select Committee on Legislative Ethics to make a recommendation or take any appropriate measures. So, the rest of the sanctions that are recommended in the statute really have to do with individuals who are still legislators.

[12:08:34 PM](#)

REPRESENTATIVE JOHANSEN interpreted Ms. Anderson as saying there are "no teeth," but he said if a fine is \$5,000, for example, he is going to pay attention to it.

MS. ANDERSON explained that the previous example was more about a disclosure than a complaint. She continued:

I'm just saying that the only measure that seems to be listed in the statute for a sanction would be ... the dollar amount, versus any other type of sanction. So, there [are] still some teeth there, but I guess I'm just pointing out that once the ... decision of probable cause is made ... it is just strictly the dollar amount.

MS. ANDERSON asked Representative Roses if he, as a member of the Select Committee on Legislative Ethics, would like to expound on that issue.

REPRESENTATIVE ROSES replied that it's a matter of making the dollar amount high enough that it is worth the Office of the Attorney General's pursuit of the matter.

CHAIR LYNN said he is disturbed that the attorney general is not pursuing the issue no matter the monetary value.

[12:11:56 PM](#)

REPRESENTATIVE COGHILL, regarding having a statute of limitations on the ethics issue, stated that the fact is once someone leaves legislative service, there may be little "teeth" involved; however, should that person choose to file again, then there are teeth, because it becomes "a huge character issue on that particular individual." He expressed concern regarding how authority given by the legislature may be used. He asked Ms. Anderson, "What should we anticipate as a committee that was worth keeping records for five years on?"

MS. ANDERSON offered an example wherein a legislator leaves office at the end of 2008, and two years down the road it becomes known that while he/she was still in office, legislation had been proposed that directly benefitted that legislator. A complaint could be filed against that legislator. Ms. Anderson said this would not create more record keeping, but would mean the committee would be looking at information that surfaced after the term of the legislator that would have been in violation of the Ethics Code. The Select Committee on

Legislative Ethics would be obligated to do an investigation and make a recommendation if it found probable cause. In response to a follow-up comment from Representative Coghill, Ms. Anderson said if the committee found probable cause, the only option in the Ethics Code currently would be a penalty of \$5,000 or less.

REPRESENTATIVE COGHILL concluded that the question is whether or not the penalties are sufficient, because with the extended statute of limitations, the accountability measure would be kept alive for a period of five years after public service ended.

MS. ANDERSON answered that's correct.

12:17:52 PM

REPRESENTATIVE ROSES directed attention to page 3 of Version M, Section 6, lines 19-21, which read as follows:

(d) If a member of the commission or a member of its staff files a complaint, that member of the commission or member of its staff may not participate in any proceeding of the commission relating to the complaint.

REPRESENTATIVE ROSES asked if there are ever any complaints brought forth by APOC, or if the complaints are brought only by citizens outside the board.

MS. MILES replied that in the past, APOC staff members have filed complaints; however, she offered her understanding that that has not happened since the late '80s.

MS. ANDERSON, in response to a question from Representative Roses, clarified that the statute related to the Select Committee on Legislative Ethics is a little bit different from that of APOC. The ethics statute allows the committee to bring forth a complaint; the chair signs the complaint on behalf of the committee. A situation where the committee initiates its own complaint, she explained, is when information becomes known to the committee, but no complaint has been filed.

REPRESENTATIVE ROSES stated that he wanted it clear on the record that the limitation related to APOC, in which a committee member is not allowed to sit in on the complaint hearing if he/she is the one to have brought the complaint forward, has nothing to do with the Select Committee on Legislative Ethics.

He added, "Otherwise, if they brought it on behalf of the entire committee, there would be nobody there to hear the complaint."

MS. ANDERSON responded that's correct.

REPRESENTATIVE ROSES stated, "I just want to make sure that's on the record that that's not the intent of this bill."

[12:20:06 PM](#)

CHAIR LYNN closed public testimony.

[12:20:15 PM](#)

REPRESENTATIVE JOHNSON said he would like to hear for the record the definition of "person" found in Alaska Statute.

[12:20:28 PM](#)

JANET DeYOUNG, Chief Assistant Attorney General - Statewide Section Supervisor, Labor and State Affairs Section, Civil Division (Anchorage), in response to a request from Representative Johnson, provided the definition of "person" as it appears in AS 01.10.060(a)(8), which read as follows:

(8) "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;

[12:20:45 PM](#)

REPRESENTATIVE JOHNSON asked, "Can you think of anything other than a government entity in a state that would not be a person?"

MS. DEYOUNG responded, "I'm not even sure that a government entity wouldn't be a person, to tell you the truth."

CHAIR LYNN surmised that the intent behind the discussion is to decide if the committee does not want a corporation to be able to file a complaint.

REPRESENTATIVE JOHNSON clarified that his concern is that a group or an individual may form a corporation, file a complaint, disband, and disappear.

[12:21:49 PM](#)

CHAIR LYNN stated that he has concern regarding Section 5. He suggested changing the language to read: "a resident of the state of Alaska."

REPRESENTATIVE JOHNSON pointed out that then it would be necessary to know if the corporation was a resident. He stated that he would like the language to specify "registered voter" - someone who has at least enough vested interest in the state to register and participate in the system - because he said he thinks that would serve the purpose of eliminating corporations and partnerships.

CHAIR LYNN concurred, but questioned how to phrase that in the bill.

[12:23:35 PM](#)

REPRESENTATIVE DOLL moved Amendment 2, as follows:

On page 3, line 13:
Delete "person"
Insert "registered voter"

REPRESENTATIVE JOHNSON objected for discussion purposes. He said he appreciates the offer of Amendment 2, but wants first to ensure that it would not leave the word "person" elsewhere in the bill.

[12:25:30 PM](#)

REPRESENTATIVE JOHNSON maintained his objection, reiterating that he would like the amendment to be conceptual.

[12:25:40 PM](#)

REPRESENTATIVE DOLL withdrew Amendment 2.

REPRESENTATIVE DOLL moved to adopt [Conceptual] Amendment 3, which would replace the word "person" wherever it appears in the bill with the words "registered voter".

REPRESENTATIVE JOHNSON objected for discussion purposes.

REPRESENTATIVE ROSES suggested that the amendment should specify the change is to "person" as applies to a person filing a complaint. He explained that there are other areas in the bill

where "person" applies to someone who is on the board or serves on the commission.

REPRESENTATIVE JOHNSON remarked that he is not sure he wants anyone serving on the commission who is not a registered voter.

REPRESENTATIVE ROSES, in response to Chair Lynn, clarified that he had not just moved to adopt an amendment to Amendment 3.

REPRESENTATIVE COGHILL objected to Amendment 3. He highlighted the following in the bill: "any person" - on page 3, line 13; "A person" - on page 3, line 23, and page 4, lines 15 and 25; and "Any person" - on page 5, line 4. He recommended that the amendment be drafted by Legislative Legal and Research Services.

CHAIR LYNN said, "In other words, we know what we want to do, [we're] just trying to figure out how to get there."

REPRESENTATIVE JOHNSON asserted, "And that's why it was conceptual was my understanding."

REPRESENTATIVE COGHILL stated, "If that's your intention on those lines, then I will withdraw my objection."

REPRESENTATIVE JOHNSON pointed out that he had objected, and he removed his objection to [Conceptual] Amendment 3.

There being no further objection, [Conceptual] Amendment 3 was adopted.

[12:28:24 PM](#)

REPRESENTATIVE COGHILL directed attention to page 2, Section 4, which read as follows:

***Sec.4.AS 24.45.111(a) is amended to read:**

(a) A person required to register or report as a lobbyist or as a person who employs, retains, or contracts for the services of a lobbyist shall preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the reports required to be made and filed under this chapter for a period of at least six years [ONE YEAR] from the date of the filing of the report containing these items.

REPRESENTATIVE COGHILL said he can understand requiring lobbyists to keep records for six years, but questioned whether

it is necessary to require the same for those who retain lobbyists.

MS. DEYOUNG responded that employers of lobbyists are accountable presently under law; they file disclosure statements. [Section 4 in the proposed legislation] would, she said, permit the enforcement of those provisions in addition to enforcement of the lobbying reporting requirements. She said, "The record-keeping requirements facilitate the prosecution of the requirements for both employers of lobbyists and a lobbyist himself." In response to a request for clarification from Representative Coghill, she said, "The requirement for record keeping is new, but the obligation for the employer or retainer or contractor of a lobbyist to report is longstanding. So, that underlying disclosure requirement already exists."

REPRESENTATIVE COGHILL said he was not aware of that.

[12:31:46 PM](#)

REPRESENTATIVE JOHANSEN directed attention to the second paragraph on page 2 of a memorandum from Alpheus Bullard of Legislative Legal and Research Services, included in the committee packet, which read:

Your draft serves to increase the statute of limitations for the filing of administrative complaints with the Alaska Public Offices Commission. Please be aware that these extended statutes of limitation for the filing of complaints alleging violations of AS 15.13 do not serve to amend the existing law pertaining to criminal prosecution of related election law violations.

REPRESENTATIVE JOHANSEN said it seems like Mr. Bullard is telling the committee that "these two things don't quite comport." He asked for feedback.

[12:32:41 PM](#)

MR. SICA responded that Ms. Miles, Ms. Anderson, and Mr. Bullard agree that "with the revisions in this Act now codifying in the various sections themselves - everything from ... retention schedules of six years to the statute of limitations for five years - there's no longer a need for [AS] 15.56.130."

[12:33:04 PM](#)

MS. MILES responded:

Yes, the conflict with [AS] 15.56 would no longer exist if we repealed that. ... Although the commission may conduct an investigation that would resolve in their referring their findings to the Criminal Division of the Department of Law, prosecution under campaign misconduct, of course, is not within the jurisdiction of the commission.

MR. MILES suggested the question be asked of Ms. DeYoung.

[12:33:56 PM](#)

MS. DeYOUNG stated her concern is that if AS 15.56.130 covers other election violations, there would definitely be an impact if that provision is repealed. She said she would like the opportunity for the Criminal Division of the department to consider the issue.

[12:34:24 PM](#)

REPRESENTATIVE COGHILL said that particular issue belongs in the House Judiciary Standing Committee. He recommended that the committee refrain from deleting any language as yet.

[12:34:52 PM](#)

REPRESENTATIVE ROSES echoed that sentiment, suggesting that the House State Affairs Standing Committee send a note along with the bill, asking the House Judiciary Standing Committee to take a close look at this particular provision to determine whether or not it should be repealed.

[12:35:08 PM](#)

REPRESENTATIVE JOHNSON stated his intent to "keep a real tight handle on the money." He asked if the fiscal note is money that is included in the governor's proposed budget.

MS. MILES answered no.

[12:35:53 PM](#)

REPRESENTATIVE JOHNSON said it seems that the Select Committee on Legislative Ethics, to a certain extent, and the Alaska

Public Offices Commission have become judge, jury, and hangman, without the oversight. He said he is uncomfortable with putting too much power in one place, without some type of check and balance system in place.

[12:38:35 PM](#)

CHAIR LYNN said he would ensure that this issue is addressed when the House Judiciary Standing Committee hears the bill, as three of the legislators on the House State Affairs Standing Committee also serve on the House Judiciary Standing Committee, including himself.

[12:39:04 PM](#)

REPRESENTATIVE JOHANSEN stated that as a member of the [House Administration Finance Subcommittee], he will track the fiscal notes for HB 281.

[12:39:42 PM](#)

REPRESENTATIVE ROSES moved to report CSHB 281, Version 25-LS1115\M, Bullard, 1/18/08, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 281(STA) was reported out of the House State Affairs Standing Committee.

The committee took an at-ease from [12:40:20 PM](#) to [12:43:23 PM](#).

HB 260-STATE OFFICERS COMPENSATION COMMISSION

[12:43:26 PM](#)

CHAIR LYNN announced that the last order of business was HOUSE BILL NO. 260, "An Act relating to a State Officers Compensation Commission and establishing how legislators, the governor, the lieutenant governor, and executive department heads shall be compensated; providing for an effective date by repealing the effective dates of certain sections of ch. 124, SLA 1986; and providing for an effective date."

[Amendment 1 was pending before the committee with an objection.]

[12:43:50 PM](#)

REPRESENTATIVE MIKE DOOGAN, Alaska State Legislature, reviewed the bill, which he had introduced at the last committee meeting on Thursday, January 17, 2008. He said the proposed legislation attempts to recreate a salary commission similar to the one that existed at the end of the 1970s. The commission would consist of five members [appointed by the governor], with one of those members chosen from a list provided by the Speaker of the House and one chosen from a list provided by the President of the Senate. The commission would make recommendations at least every two years regarding the salaries of the governor, lieutenant governor, legislature, and commissioners of the State of Alaska, and those recommendations would become law within 60 days unless specifically rejected by the legislature. The recommendations would be subject to appropriations.

[12:46:12 PM](#)

REPRESENTATIVE ROSES, at the request of the chair, reviewed Amendment 1, which read as follows:

Page 3, line 18, following "not":

Insert ", in the four years preceeding [sic] that member's appointment,"

REPRESENTATIVE ROSES explained that the amendment would not disallow former legislators or commissioners from serving. He said he felt it is important to allow people to serve who know the background of the jobs they are reviewing.

[12:47:23 PM](#)

REPRESENTATIVE DOOGAN said his intent was to prevent criticism of the commission for "helping out their friends." Notwithstanding that, he said he does not object to Amendment 1, because four year's time seems appropriate for anyone who has been involved to have been out of office.

[12:48:03 PM](#)

REPRESENTATIVE COGHILL removed his objection to Amendment 1. There being no further objection, Amendment 1 was adopted.

[12:48:37 PM](#)

REPRESENTATIVE COGHILL directed attention to language on page 3, beginning on line 23, which defines the duties of the commission, and he asked if there is a reason why the sponsor

chose to have the administration only in the review process and "not include some staff support, since we're the ones instituting this."

[12:49:22 PM](#)

REPRESENTATIVE DOOGAN answered that his choice was simply a matter of keeping the legislature at arm's-length.

[12:49:50 PM](#)

REPRESENTATIVE COGHILL pointed out that executive branch members are in the equation, too; therefore, the arm's-length consideration is one-sided.

REPRESENTATIVE DOOGAN said Representative Coghill is absolutely right. He explained that the arm's-length arrangement in this case is based on the history of the past salary commission, where the problems have all been related to legislative compensation.

[12:50:40 PM](#)

REPRESENTATIVE ROSES directed attention to page 3, lines 23-25, which read:

Sec. 39.23.530. Staff. The director of personnel in the Department of Administration shall serve as ex officio secretary to the commission and provide research, technical, and administrative services.

REPRESENTATIVE ROSES pointed out that an ex officio member does not get to vote; therefore, the staff would not be in a decision-making position.

REPRESENTATIVE DOOGAN confirmed that it is not his intent that the Commissioner of the Department of Administration or his/her designee would be a voting member on the salary commission.

[12:51:43 PM](#)

REPRESENTATIVE COGHILL turned to page 4, line 5, which proposes: "The commission shall prepare its preliminary findings and recommendations for the compensation of state officers by November 15." He asked Representative Doogan if this would be done annually.

REPRESENTATIVE DOOGAN responded that the recommendation would need to be made every two years.

[12:52:35 PM](#)

REPRESENTATIVE ROSES, regarding the November 15 date, observed that another section of the bill proposes that the recommendation of the commission would automatically take effect in 60 days, unless the legislature rejects it. He said, "Well, 60 days from November 15 would put us into January 15, and that would be the day we usually gavel in, if our 90-day session date that we have remains ... the same. So, we'd have to have a special session in order to act on it if ... indeed the 60 days kicked in."

REPRESENTATIVE DOOGAN explained that November 15 would be the date for preliminary findings, with the assumption that there would then be time for public comment and other activity before the commission completed its report and handed it over to the legislature. He said the timing is intended to ensure the recommendations are given to the legislature "and there are 60 days."

[12:53:37 PM](#)

REPRESENTATIVE COGHILL noted that the language [in subsection (d)], on page 4, proposes that the commission will submit its findings and recommendations during the first 10 days of a legislative session. He surmised that the language requiring the commission to "give reasonable public notice" [on page 4, line 7], refers to reasonable accommodation, not reasonable time.

REPRESENTATIVE DOOGAN said that's correct.

REPRESENTATIVE COGHILL directed attention to the phrase, "a bill disapproving all the recommendations", one page 4, line 15, and he offered his understanding that the legislature can only reject through a resolution. He indicated that that is the case concerning the constitution. He asked Representative Doogan if he has considered that.

REPRESENTATIVE DOOGAN replied that he had not. He committed to sorting that issue out before the bill leaves the next committee of referral, which is the House Finance Committee.

[12:56:14 PM](#)

REPRESENTATIVE COGHILL directed attention to page 4, lines 24-25, which read:

(e) The commission may prepare amendments to the report submitted under (d) of this section and notify the legislature that the amendments are available.

REPRESENTATIVE COGHILL asked Representative Doogan how he envisions that process working.

REPRESENTATIVE DOOGAN answered:

The amendment portion is intended to take care of a situation in which the commission has made a final report and subsequently finds out that it made a big mistake. ... It's simply to give them a mechanism to fix that while the bill is still before the legislature, so that, essentially, the final product is not flawed.

REPRESENTATIVE COGHILL said he agrees with that; however, he said that through his years of service with the legislature, he has found that "every door that lets something in, also lets something out." He asked the sponsor to ponder possible areas of misuse.

[12:58:19 PM](#)

REPRESENTATIVE COGHILL moved on to page 5, lines 15-17, which read as follows:

Sec. 39.23.560. Policy of the legislature. It is the policy of the legislature that the commission recommend an equitable rate and form of compensation, benefits, and allowances for legislators.

REPRESENTATIVE COGHILL said that was the original intent of the first commission. He asked Representative Doogan if he intends to leave it to the commission to decide what equitable means.

REPRESENTATIVE DOOGAN answered yes. He said he thought it important to have a statement in HB 260 describing the intent of the legislature in establishing the commission.

REPRESENTATIVE COGHILL drew focus to page 6, lines 19-21, which read as follows:

(b) If the first recommendations submitted by the State Officers Compensation Commission under (a) of this section are disapproved or are not fully funded, the commission may continue to submit recommendations under (a) of this section until secs. 1-5 of the Act take effect.

REPRESENTATIVE COGHILL stated, "Because of the amendment capacity and the recommendation capacity, now we have somebody knocking at the door, kind of in perpetuity." He asked the bill sponsor if that was his intent.

REPRESENTATIVE DOOGAN answered yes. He explained, "The failure of the previous method is that it stopped."

REPRESENTATIVE COGHILL observed that the legislature could be forced with the same question on a regular basis. He said, "I guess we'll just leave that to reasonable people. And you're expectation is that they would have that capacity."

REPRESENTATIVE DOOGAN responded that it is his fervent hope that the governor will appoint reasonable people who will take reasonable positions. If that proves not to be true, he stated, the ultimate authority continues to rest with the legislature, because it can always repeal a law, if fitting to do so.

[1:01:09 PM](#)

REPRESENTATIVE COGHILL said he would look into his previous concern regarding whether the rejection of the legislature would need to be by resolution or by bill.

[1:01:25 PM](#)

REPRESENTATIVE JOHANSEN said the crux of the problem is that the legislature is reluctant to set new salaries because of perception, and a commission would force the issue every two years. He concluded, "I think the concept is ... well."

[1:02:06 PM](#)

REPRESENTATIVE COGHILL moved to report HB 260, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 281(STA) was reported out of the House State Affairs Standing Committee.

1:02:52 PM

REPRESENTATIVE LYNN reviewed the committee schedule for Tuesday, January 22, 2008.

REPRESENTATIVE JOHNSON said he is keeping a running total of the amount of dollars sent out of committee through fiscal notes.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 1:04:14 PM.