

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

March 13, 2008

8:07 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Bob Lynn, Chair
Representative Kyle Johansen

COMMITTEE CALENDAR

HOUSE BILL NO. 406

"An Act relating to a requirement for competitive bidding on contracts for the preparation of election ballots."

- MOVED CSHB 406(STA) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 19

Relating to opposition to the Real ID Act of 2005.

- MOVED CSHJR 19(STA) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 38

Recognizing the State of Israel on the 60th anniversary of its founding.

- MOVED CSHJR 38(STA) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 37

Proposing amendments to the Constitution of the State of Alaska to correct obsolete references to the office of secretary of state by substituting references to the office of lieutenant governor and to eliminate personal pronoun references in the sections proposed to be amended.

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 406

SHORT TITLE: CONTRACTS FOR PREPARATION OF BALLOTS

SPONSOR(s): REPRESENTATIVE(s) FAIRCLOUGH

02/19/08	(H)	READ THE FIRST TIME - REFERRALS
02/19/08	(H)	STA, FIN
03/04/08	(H)	STA AT 8:00 AM CAPITOL 106
03/04/08	(H)	Scheduled But Not Heard
03/06/08	(H)	STA AT 8:00 AM CAPITOL 106
03/06/08	(H)	Heard & Held
03/06/08	(H)	MINUTE(STA)
03/11/08	(H)	STA AT 8:00 AM CAPITOL 106
03/11/08	(H)	Heard & Held
03/11/08	(H)	MINUTE(STA)
03/13/08	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HJR 19

SHORT TITLE: OPPOSE FEDERAL ID REQUIREMENTS

SPONSOR(s): REPRESENTATIVE(s) COGHILL

04/13/07	(H)	READ THE FIRST TIME - REFERRALS
04/13/07	(H)	STA
03/13/08	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HJR 38

SHORT TITLE: ISRAEL 60TH ANNIVERSARY

SPONSOR(s): STATE AFFAIRS

03/11/08	(H)	READ THE FIRST TIME - REFERRALS
03/11/08	(H)	STA
03/13/08	(H)	STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE ANNA FAIRCLOUGH

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As prime sponsor of HB 406, reviewed the changes made in Version E.

GAIL FENUMIAI, Director

Division of Elections

Office of the Lieutenant Governor

Juneau, Alaska

POSITION STATEMENT: Offered information regarding a printer certification process during the hearing on HB 406.

VERN JONES, Chief Procurement Officer
Division of General Services
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Provided information related to HB 406.

RYNNIEVA MOSS, Staff
Representative John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered a more in depth explanation of HJR 19 on behalf of Representative Coghill, prime sponsor.

BRODY ANDERSON, Staff
Representative Scott Kawasaki
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered a perspective on HJR 19 on behalf of Representative Kawasaki, co-sponsor.

CHRISTOPHER CLARK, Staff
Representative John Harris
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HJR 38 on behalf of the House State Affairs Standing Committee, sponsor.

KEVIN BROOKS, Deputy Commissioner
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Outlined the work that has been going on in the department in relation to the Real ID Act during the hearing on HJR 19.

ACTION NARRATIVE

VICE CHAIR BOB ROSES called the House State Affairs Standing Committee meeting to order at [8:07:15 AM](#). Representatives Coghill, Johnson, Doll, and Roses were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

HB 406-COMPETITIVE BIDDING FOR BALLOT PREP

8:07:54 AM

VICE CHAIR ROSES announced that the first order of business was HOUSE BILL NO. 406, "An Act relating to a requirement for competitive bidding on contracts for the preparation of election ballots."

[Before the committee, adopted as a work draft on 3/6/08, was the committee substitute (CS), Version 25-LS1487\C, Bullard, 2/28/08.]

8:08:05 AM

REPRESENTATIVE COGHILL moved to adopt the committee substitute (CS) for HB 406, Version 25-LS1487\E, Bullard, 3/11/08, as a work draft. There being no objection, Version E was before the committee.

8:08:23 AM

REPRESENTATIVE ANNA FAIRCLOUGH, Alaska State Legislature, reviewed the changes incorporated into Version E. She noted that after the prior bill hearing, she had discussed the concerns of the committee with [Gail Fenumiai], the director of the Division of Elections, and Vern Jones, the chief procurement officer for the Division of General Services, and she offered her understanding that there is now concurrence regarding the issues of timing and the exclusion of the ballot bidding process outside of the procurement code.

REPRESENTATIVE FAIRCLOUGH reviewed that Representative Coghill's concern had been that following the procurement procedure, in relation to ballots, would be an arduous process, especially in terms of special elections. She reviewed that Representative Doll wanted to know if there would be an additional cost involved in doing a request for proposal (RFP), and she said the director of the Division of Elections thinks since Version E would allow a competitive bid process under a bidder proposal, there would be no increase in fiscal obligations for the division.

8:10:25 AM

REPRESENTATIVE FAIRCLOUGH, regarding the certification process, said she has not heard back from Premier Elections [Solutions] - formerly Diebold [Election Systems] ("Diebold"), and before that Global Election Systems; however, she said it is rumored that

when the original developer of the hardware had proprietary provider options on the balloting, it developed the certification process so that no one else could compete against those who were building and selling the hardware. She deferred to Ms. Fenumiai for an update on that matter.

[8:10:49 AM](#)

GAIL FENUMIAI, Director, Division of Elections, Office of the Lieutenant Governor, said she spoke with a representative from Premier Election [Solutions] about the printer certification process and was informed that it was started as a courtesy to customers. When optical scan technology was brand new, customers were concerned about printers being able to print the ballots properly so that they would be able to be fed into the AccuVote units and read properly. However, the company became too big and it was no longer economically feasible for them to continue that process, and it was not something that was required of Premier Election [Solutions]. Additionally, Premier Election Solutions purchased a printing company and determined it had a conflict of interest. That, she concluded, is the reason that the certification of printers ceased.

REPRESENTATIVE FAIRCLOUGH added that Alaska state law does not require the certification; it is a quality measure. She indicated that one of the reasons that she chose the RFP process versus the bid process in Version E was based on testimony of "the current provider" that the points of utmost importance would be outlined through the RFP process.

MS. FENUMIAI confirmed that's correct. She added that the proposal process would allow the division to consider factors other than just the lowest bid.

[8:12:49 AM](#)

REPRESENTATIVE FAIRCLOUGH reviewed that Representative Johnson, at the last bill hearing, had suggested five years for the length of time an individual printer would be awarded the state's contract for ballot printing; however, she said one year is better, because the state can hold the printer accountable for performing in a timely manner, as well as for producing the quality work necessary. Furthermore, she said the Division of Elections would offer the bid in an "off year" to ensure that a printer can perform before the general election year arrives.

[8:13:47 AM](#)

MS. FENUMIAI confirmed that's correct.

[8:13:52 AM](#)

REPRESENTATIVE FAIRCLOUGH, in response to a question from Representative Doll, said the division would ensure the quality of the ballot. She spoke of printers that are showing what they can provide, noting that Anchorage has a competitive bid process already.

REPRESENTATIVE DOLL remarked, "You can follow written specifications, but unless you go through a testing, it may not work."

[8:15:56 AM](#)

MS. FENUMIAI offered her understanding that under the current process, as the printer runs official ballots, those ballots are run through a testing process to make certain the "timing" marks are in the correct places and that the folding marks do not infringe on them. She said the division would ensure that testing procedures were in place for that.

REPRESENTATIVE FAIRCLOUGH clarified that the one-year process would include multiple years of renewal options to be determined at the proposal.

[8:16:46 AM](#)

VICE CHAIR ROSES asked if the option would be designed only as one exercised by the state or if it would also be exercised by the printer.

REPRESENTATIVE FAIRCLOUGH responded it would be determined in the RFP whether the printer wanted to "be under the state's specification."

[8:17:13 AM](#)

REPRESENTATIVE DOLL asked the bill sponsor to clarify what the new language is on page 4, [lines 2-5], which read as follows:

Sec. 15.15.031 Contracts for the preparation of election ballots. (a) Except as provided in (b) of this section, the director shall award a contract for the preparation of election ballots to the most

advantageous offeror whose proposal conforms in all material respects to the requirements and criteria set out in the request for proposals.

REPRESENTATIVE FAIRCLOUGH said the new language is "advantageous offeror", which is a term of art in procurement code.

[8:18:05 AM](#)

VERN JONES, Chief Procurement Officer, Division of General Services, Department of Administration, explained that "advantageous" is used to mean "the proposal deemed most beneficial to the state through evaluation criteria that's published in the RFP."

[8:18:57 AM](#)

MR. JONES, in response to Vice Chair Roses, confirmed that when HB 406 first surfaced, it proposed a low bid takes all situation, which caused him concern regarding ambiguities of timing in relation to procurement code requirements for bid circulation time, protest period, and official written notice. He said he thinks the changes made in Version E address some of those concerns. For example, Version E would allow a number of factors to be listed in addition to price so that the state could look for a printer that would produce the best quality and value. He said, "I am also convinced that given the timing and the plan to have term contracts in lieu of individual, yearly, or election-cycle contracts, ... the division will be able to go out with enough time, get a contractor on board, and meet their time frame."

[8:20:48 AM](#)

REPRESENTATIVE FAIRCLOUGH noted that the term, "Alaska product" is defined in Version E, beginning on page 4, line 28. In response to a question from Representative Gruenberg, she referred to language [on page 4, within lines 6-8], which read as follows:

(b) The director shall award a contract based on solicited proposals to the most advantageous, responsive, and responsible offeror after an Alaska offeror preference of five percent and an Alaska product preference of seven percent.

REPRESENTATIVE FAIRCLOUGH stated her intent that Alaskans get awarded the contract. However, she noted that currently in Alaska there is only one printer that has an Alaska product certificate, and it is not the current printer. She said she was assured by Kevin Fraley, who is the current printer, "that he had been an Alaska product provider before and had that certificate." Representative Fairclough said the certificates are issued, at no charge, by the Department of Commerce, and established a number ranking for how much of a printer's service is made in Alaska. She reiterated that she is trying to make certain Alaska contractors are awarded printing bids from the State of Alaska. She added, "So, that's why I support that preferential in this product." She suggested Mr. Jones may have a differing opinion on the subject.

[8:23:04 AM](#)

MR. JONES said he supports the sponsor's intent to ensure the job goes to an Alaskan firm. He said he thinks it almost has to because of the logistics involved, and he mentioned that there is a lot of shipping to many sites. He related that his only reservation with an Alaska product preference is that, as the sponsor noted, there is currently only one vendor who has that certificate; all the others living in Alaska and presumably qualified would certainly qualify to obtain that preference. He explained his concern has to do with the timing it takes for the Department of Commerce to qualify a firm and put it on a list that is only published twice a year. A new printer may start work in the state and miss the publishing cycle and not qualify in time for preference. The result, he indicated, could be that one Alaskan firm could be distinguished over another. Mr. Jones suggested the committee consider "eliminating that preference and simply increasing the Alaska bidder preference." He concluded, "It would have the same effect, and the printers wouldn't have to go through this ... process, which I guess, in my opinion, if you're in Alaska, if you're printing, I don't know what ... purpose that serves."

[8:25:03 AM](#)

MR. JONES, in response to a question from Representative Gruenberg, said he knows of no legal opinions about the product preference, whereas he said he thinks the bidder preference has been vetted several times and has survived the lawsuits. In response to a follow-up question from Representative Gruenberg, he said the "offeror" would be the person who submits a proposal.

REPRESENTATIVE GRUENBERG remarked that the aforementioned 5 and 7 percent are so substantial, the result may be to "knock anybody else out," particularly if there is only one firm that qualifies. He expressed concern about whether, in the event of a lawsuit, an administrative law judge would consider "the constitutionality of this" or whether "it would have to go up on an appeal to the [Alaska] Superior Court and then the [Alaska] Supreme Court," which could slow the process down considerably and also increase the cost. He added, "... I don't know that we want to push the envelope, at least right away on this."

[8:26:42 AM](#)

REPRESENTATIVE FAIRCLOUGH said "Alaska product" is defined in AS 36.30.338.

REPRESENTATIVE GRUENBERG pointed out that Version E refers to a definition of "Alaska product" [from AS 36.30.338(2)], which differs from the definition of "Alaska product" found in [AS 36.30.338(1)], as follows:

(1) "Alaska product" means a product of which not less than 25 percent of the value, as determined in accordance with regulations adopted under AS 36.30.332(a), has been added by manufacturing or production in the state;

REPRESENTATIVE FAIRCLOUGH stated her disagreement, adding that the [statute] referenced on line 30 of Version E refers to that subsection.

REPRESENTATIVE GRUENBERG highlighted that [the statute] is only [referenced] in [subparagraph] (A). "Then you have to add [subparagraphs] (B) and (C). Those are not in the current definition as I read it," he said.

REPRESENTATIVE FAIRCLOUGH clarified, "We did not define 'product' or 'recycled Alaska product'; that's under the certification that if anyone got the certification that they would go through."

REPRESENTATIVE GRUENBERG said the terms "produced or manufactured" are defined in the current statute. He then pointed out that the statute referenced, AS 36.30.338, only refers to [paragraph] (2). He suggested distributing this

statute to the committee members as he read it as a different definition. Paragraph (2) of AS 36.30.338 read:

(2) "produced or manufactured" means processing, developing, or making an item into a new item with a distinct character and use through the application within the state of materials, labor, skill, or other services;

[8:29:20 AM](#)

REPRESENTATIVE FAIRCLOUGH said Legislative Legal and Research Services prepared the language "to be Alaska product that would fall under the certification under the Department of Commerce ..., and if it doesn't meet that I'm happy to amend it to do that."

REPRESENTATIVE GRUENBERG reiterated that the definition presented in Version E is different than the existing definition. He asked Mr. Jones if he concurred.

MR. JONES answered that he wasn't sure since the bill references that statute.

MR. JONES related that although there are two preferences, which total 12 percent, the way the RFP works, cost is not going to be 100 percent. He said the preferences act on cost. He stated, "So, for example, if the evaluation factor for cost was 50 percent, these preferences would, in essence, equate to a 6 percent advantage to an Alaskan firm."

[8:30:54 AM](#)

REPRESENTATIVE JOHNSON said a printer who is chosen by the state would have a considerable investment in printing ballots; therefore, he recommended the contract term be made as long as possible. Doing so, he said, would save money and ensure quality.

[8:33:05 AM](#)

MR. JONES, in response to a question from Representative Doll, explained that the term "advantageous" is a term of art used across the country and probably listed in Black's Law Dictionary. He noted that "responsive" and "responsible" are procurement terms either defined in statute or regulation.

8:35:18 AM

REPRESENTATIVE GRUENBERG asked for the definition of the word "staffed" on page 4, line 14. He said even if a business was in the state, its staff may not be.

8:36:01 AM

MR. JONES replied that the phrasing is "from the existing Alaska bidder preference in statute," and is interpreted to mean that the firm has a physical presence in the state, with employees doing the work on site. It does not include a person renting a suite and Post Office box and having phones answered out of state.

REPRESENTATIVE GRUENBERG said he wants to establish that ["staffed"] and "advantageous" are terms that, although not familiar to everyone in the legislature, are defined by the agency's common law.

MR. JONES responded, "We've certainly had many numerous protests and appeals and lawsuits using the RFP with that language ... contained in it."

8:38:33 AM

REPRESENTATIVE GRUENBERG said he does not want any legal problems regarding [the definition of "Alaska offeror" and "Alaska product"], on page 4, line 9,.

REPRESENTATIVE FAIRCLOUGH said she would be happy to make a request of Legislative Legal and Research Services to "clarify the intent of the difference in the language."

REPRESENTATIVE GRUENBERG said he would leave that to the discretion of the bill sponsor. He said he does not have a problem with moving the bill.

8:39:44 AM

REPRESENTATIVE JOHNSON moved to report the committee substitute (CS) for HB 406, Version 25-LS1487|E, Bullard, 3/11/08, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 406(STA) was reported out of the House State Affairs Standing Committee.

HJR 19-OPPOSE FEDERAL ID REQUIREMENTS

8:40:04 AM

VICE CHAIR ROSES announced that the next order of business was HOUSE JOINT RESOLUTION NO. 19, Relating to opposition to the Real ID Act of 2005.

8:40:22 AM

REPRESENTATIVE COGHILL moved to adopt the proposed committee substitute (CS) for HJR 19, Version 25-LS0844\E, Luckhaupt, 2/21/08, as a work draft. [No objection was stated, and Version E was treated as a work draft before committee.]

REPRESENTATIVE COGHILL offered an initial introduction of HJR 19 as prime sponsor. He said since 2005, the issue surrounding the Real ID Act has become a question of balancing the state's responsibility to verify people's identification (ID) or the federal government mandating how the state must do so. He said he does not support an international ID card. The original Act passed in an appropriation bill. Currently, it looks like there will be a division between the federal government and the state. He said, "If the 'feds' continue going down the road, ... unless we accept their ID requirements, we can't get into their federal buildings." He said he does not think the people of America should be divided up in that manner. He indicated that Article 10 of the Constitution [of the State of Alaska] "requires us to say we don't think that's the best way to go about it," and that is the purpose of HJR 19. The resolution tells the federal government that Alaska is considering the Real ID Act, but may not implement it exactly as written.

8:44:06 AM

RYNNIEVA MOSS, Staff, Representative John Coghill, Alaska State Legislature, offered a more in depth explanation of HJR 19 on behalf of Representative Coghill, prime sponsor. She said, "If powers aren't delegated to the U.S. Government by the Constitution, those are reserved to the state and the people." She said she thinks the term, "the people," is the issue that Representative Coghill is trying to bring forth.

MS. MOSS explained that the Real ID Act would not punish states for noncompliance by withdrawing funds, as normal; it would punish the people of the state by not allowing them access to airports for travel or to federal facilities. She indicated that May 2008 is the date by which states must comply with the

Real ID Act, and she reminded the committee that states have had the administrative authority for drivers' licenses for approximately 100 years. She summarized that the reason for HJR 19 is that [the Real ID Act] is an unfunded mandate, is contrary to the Tenth Amendment, and would punish citizens "for the actions of a government."

[8:46:16 AM](#)

BRODY ANDERSON, Staff, Representative Scott Kawasaki, Alaska State Legislature, offered a perspective on HJR 19 on behalf of Representative Kawasaki, co-sponsor. He stated that [the Department of] Homeland Security overlooked the consequences that Alaska and Hawaii would face regarding noncompliance of the Real ID Act when it related that the Act would not impede people's travel between states but would simply not allow people to fly on federally regulated commercial airlines. Without a Real ID card or passport, people in Alaska would be essentially landlocked, Mr. Anderson said.

[8:47:56 AM](#)

REPRESENTATIVE DOLL asked what the impact of the proposed resolution would be.

[8:48:19 AM](#)

MS. MOSS described HJR 19 as "soft ball" compared to resolutions that have been passed in some other states. In fact, she noted, many states have passed laws into statute that prohibit the use of state funds to implement the Real ID Act. Ms. Moss relayed that the sponsor of the resolution realizes that changes must be made in response to changing times; however, he wants to get the message across that the federal government needs to work with states to make the country safer - not order states under unfunded mandates to "do things that are contrary to what states have been doing for 100 years." She recollected when Representative Coghill first came to the legislature he introduced a bill that would remove the requirement that people include their social security numbers on hunting and fishing licenses. At the time, Representative Coghill was told the state would lose federal dollars if it passed that legislation. In researching the bill, she said, Representative Coghill's office found that two other states had already passed similar legislation and had lost no federal dollars. Ms. Moss offered her understanding that Alaska has not lost a single penny because of that legislation.

[8:49:50 AM](#)

REPRESENTATIVE GRUENBERG recollected that extensive hearings had taken place during the Twenty-Fourth Alaska State Legislature related to the implementation of the Real ID Act. Involved in those hearings was the then director of the Division of Motor Vehicles (DMV) who no longer serves in that capacity. He said a law suit was brought about because "they published a regulation that implemented the Real ID without any statutory authority whatsoever." The [law suit] was subsequently dismissed on a technicality, which Representative Gruenberg said is unfortunate. He opined that that regulation "is still hanging out there, ... entirely illegally." He said this is a very serious liability that the state faces. He offered further details, and said he assumes the sponsor would not like any of this additional information added to what he called, "a naked resolution."

MS. MOSS responded that HJR 19 is geared toward the federal government and its actions, but she thinks Representative Gruenberg brought up a good point that needs to be pursued. She confirmed that the director of DMV, to which Representative Gruenberg referred, no longer holds that position, and [the fact that the resolution is still on the books] "should be corrected."

[8:52:25 AM](#)

REPRESENTATIVE JOHNSON moved to report the committee substitute (CS) for HJR 19, Version 25-LS0844\E, Luckhaupt, 2/21/08, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 19(STA) was reported out of the House State Affairs Standing Committee.

[Later in the hearing further testimony on HJR 19 was heard.]

HJR 38-ISRAEL 60TH ANNIVERSARY

[8:52:58 AM](#)

VICE CHAIR ROSES announced that the last order of business was HOUSE JOINT RESOLUTION NO. 38, Recognizing the State of Israel on the 60th anniversary of its founding.

The committee took an at-ease from [8:53:35 AM](#) to [8:53:54 AM](#).

[8:53:56 AM](#)

CHRISTOPHER CLARK, Staff, Representative John Harris, Alaska State Legislature, presented HJR 38 on behalf of the House State Affairs Standing Committee, sponsor. He said May 14, 2008, is the sixtieth anniversary of the State of Israel. In response to a question from Representative Gruenberg, he said after talking to several of Juneau's Jewish community, one of the recommendations he received was to change "have shared" to "share" [on page 2, lines 14-15], which would then read as follows:

WHEREAS the American people share an affinity with the people of Israel and regard Israel as a strong and trusted ally;

MR. CLARK, in response to Representative Gruenberg, noted that a second suggestion had been to add the name of Secretary of State Condoleezza Rice to the names of those to whom copies of the resolution would be sent [page 2, line 29, through page 3, line 1].

[8:55:06 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 1, as follows:

Page 2, line 14:
Delete "have shared"
Insert "share"

There being no objection, Amendment 1 was adopted.

[8:55:47 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 2, to add the name of Secretary of State Condoleezza Rice to the list of those receiving copies of the resolution. There being no objection, Amendment 2 was adopted.

[8:56:02 AM](#)

REPRESENTATIVE GRUENBERG moved to report HJR 38, [as amended], out of committee with individual recommendations [and the accompanying fiscal notes]. There being no objection, CSHJR 38(STA) was reported out of the House State Affairs Standing Committee.

HJR 19-OPPOSE FEDERAL ID REQUIREMENTS

8:56:47 AM

VICE CHAIR ROSES announced that although CSHJR 19(STA) had already been reported out of committee, he had overlooked a request to testify that had been made by Kevin Brooks, and he said he would now hear that testimony.

8:57:05 AM

KEVIN BROOKS, Deputy Commissioner, Department of Administration, outlined the work that has been going on in the department in relation to the Real ID Act.

The committee took an at-ease from 8:57:33 AM to 8:58:28 AM.

8:58:30 AM

MR. BROOKS said he does not dispute the passage of HJR 19, because the department has "some very strong concerns about Real ID, as well." Regarding the aforementioned regulations, he said they are written out in nearly 200 pages of rules. Some of those rules are good, he said, and some Alaska is already following. The concern is that there is an unfunded mandate placed upon the state, and the department is attempting to determine the cost to the state for compliance.

MR. BROOKS said the State of Alaska, along with 44 other states, has applied for and received an extension to December 2009. He said that does not commit the state to complying at the end of that extension, but gives the state time to "analyze those rules and see how they would impact us." Mr. Brooks stated, "There are things that the state does that arguably are in compliance with the Real ID Act, but they don't make us compliant, if that distinction is clear."

MR. BROOKS mentioned the National Governors' Association and working with other states in terms of trying to be responsible in the state's approach to this matter while preserving the rights of Alaska's citizens. He confirmed the problem that Alaska and Hawaii would have in relation to complying with the Real ID Act and attempting to fly out of state.

MR. BROOKS stated for the record that the department passed regulations a couple years ago, but those regulations did not implement the Real ID Act. He said, "We're not compliant today;

we weren't when they passed the regulations." The regulations that passed, he noted, were the result of about a two-year effort to update the DMV regulations, which had not been updated for over a decade. There were numerous references to the Division of Motor Vehicles when it existed in the Department of Public Safety, for example. The regulations that the department passed reflected that the DMV was now in the Department of Administration, and those regulations updated the division's rules with current statute - not with any prospective statute that had yet to pass. Regarding the reference to the former DMV director, Mr. Brooks clarified, "There was no relationship with his no longer working for us in the passage of those regulations." Mr. Brooks said the department believes that the regulations were the result of a good work effort by a lot of people and comprehensive legal review, and they withstood the test of a lawsuit. He said the department stands by those regulations today.

[9:02:23 AM](#)

REPRESENTATIVE GRUENBERG asked:

Is it not true that they did not reach the issue of the legality of the regulations in that lawsuit; that they dismissed it, because the main plaintiff didn't have standing?

MR. BROOKS responded that that is an accurate statement.

[Earlier in the meeting, CSHJR 19(STA) was reported out of the House State Affairs Standing Committee.]

[9:03:00 AM](#)

VICE CHAIR ROSES made an announcement pertaining to the calendar for the next committee meeting.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [9:03:17 AM](#).