

MINUTES
SENATE FINANCE COMMITTEE
February 12, 2007
9:01 a.m.

CALL TO ORDER

Co-Chair Bert Stedman convened the meeting at approximately [9:01:47 AM](#).

PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Charlie Huggins, Vice Chair
Senator Kim Elton
Senator Donny Olson
Senator Joe Thomas

Also Attending: SENATOR HOLLIS FRENCH; MILES BAKER, Staff to Co-Chair Stedman; DAVE JONES, Senior Assistant Attorney General, Opinions, Appeals and Ethics Section, Civil Division, Department of Law;

Attending via Teleconference: There were no teleconference participants.

SUMMARY INFORMATION

SB 19-EXEC. BRANCH ETHICS:INTERESTS & ACTIONS

The Committee heard from the sponsor and the Department of Law. A committee substitute was adopted and the bill was reported from Committee.

SB 20-LEGISLATIVE DISCLOSURES

The Committee heard from the sponsor. The bill was reported from Committee.

#SB20
[9:02:35 AM](#)

CS FOR SENATE BILL NO. 20(STA)

"An Act relating to disclosures by legislators, legislative employees, public members of the Select Committee on Legislative Ethics, and legislative directors subject to the Legislative Ethics Act; relating to the applicability of the Legislative Ethics Act; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

Co-Chair Stedman reminded of questions raised at the previous hearing regarding definition of income.

[9:03:42 AM](#)

Co-Chair Stedman referenced subparagraph (2) of AS 24.60.200. Financial disclosure by legislators, public members of the committee, and legislative directors., amended by Section 3. He had expressed concern that the provision requiring reporting of income derived from performing a service for a limited liability corporation would not "capture" all forms of income. Upon consultation with Senator French and the Alaska Public Office Commission (APOC), he was assured that the amended language would "close existing loopholes" in the disclosure requirements for income from a limited liability company.

[9:04:39 AM](#)

Co-Chair Stedman furthered that APOC had informed him that the reporting of "all other forms of compensation" such as stock options, equity, deferred compensation, and "other creative methods of compensation" was sufficiently addressed elsewhere in statute.

[9:05:23 AM](#)

Co-Chair Hoffman offered a motion to report the bill from Committee with individual recommendations and accompanying fiscal note.

There was no objection and CS SB 20 (STA) was REPORTED from committee with zero fiscal note #2 from the Department of Administration.

AT EASE [9:06:03 AM](#) / [9:09:02 AM](#)

#SB19

[9:09:16 AM](#)

CS FOR SENATE BILL NO. 19(STA)

"An Act relating to a public officer's taking official action regarding, or influencing, a matter in which the public officer has a personal or financial interest; prohibiting certain persons from engaging in activity as lobbyists; and defining 'official action' under the Alaska Executive Branch Ethics Act and related law."

This was the second hearing for this bill in the Senate Finance Committee.

[9:09:36 AM](#)

Co-Chair Stedman reminded that discussion was held at the previous hearing on this bill regarding the need for clarity in the language for the benefit of those directly affected as well as for public purview. Since that meeting, he has collaborated with the bill's sponsor to draft a committee substitute.

[9:10:17 AM](#)

Co-Chair Hoffman moved for adoption of CS SB 19, 25-LS0160/O, as a working document.

Without objection the committee substitute, Version "O" was ADOPTED as a working document.

[9:10:52 AM](#)

Senator Olson announced the presence of students from the Kobuk area within the Northwest Arctic Borough attending the meeting.

[9:11:38 AM](#)

MILES BAKER, Staff to Co-Chair Stedman, explained the changes contained in the committee substitute.

[9:11:51 AM](#)

Mr. Baker recounted that the provisions of Section 1 of the previous version of the bill amended AS 39.52.180 to address lobbying activities by former public officers. However, Title 24 of Alaska Statute governs lobbying activities. The committee substitute would amend AS 24.45.121 by adding a new subsection (d) to provide that "a former public official in the executive branch may not engage in activities as a lobbyist to the extent prohibited under AS 39.52.180(d)". This language would "cross reference" to the changes made to Title 39.

[9:12:26 AM](#)

Mr. Baker stated that the provisions of Section 2 were unchanged from the Senate State Affairs Committee substitute.

[9:12:31 AM](#)

Mr. Baker continued that Section 3 had initially only included subsection (d) of AS 39.52.180. The committee substitute would amend subsection (a), to specify that "proposal or consideration of legislative bills, resolutions and constitutional amendments, or other legislative measures" and "administrative regulations" would be included in the definition of "matter" in the prohibition on lobbying activities in which a former public officer could participate. Existing statute provided an exemption for these.

Mr. Baker remarked that the existing language effectively "created a loophole within its own section" allowing a former public employee to work for compensation in an area in which the company had "substantial involvement" if that work involved legislation, a constitutional amendment, administrative regulations, etc.

[9:14:18 AM](#)

Mr. Baker pointed out that Section 4 was grammatically amended in the committee substitute to change the listing of those to whom the provisions apply from a paragraph format to a listing of the pertinent positions. Additionally the positions of Legislative Liaison and policy making positions of the Office of the Lieutenant Governor were added.

9:15:15 AM

Mr. Baker reminded that discussions of whether "policy making position" should be defined had occurred. The Division of Legal and Research Services advised that such language would not be necessary.

9:15:36 AM

Mr. Baker furthered that the positions of chair of a governing board and executive officer of a state public corporation were included as positions in which the legislation would apply. Public corporations in Alaska include the Alaska Industrial Development Authority (AIDA) and the Alaska Seafood Marketing Institute (ASMI).

9:16:08 AM

Mr. Baker reported that no changes were made to the language of Section 5.

9:16:15 AM

Mr. Baker informed that Section 6 would repeal AS 39.52.180(c), which reads, "The head of an agency may waive application of (a) of this section after determining that representation of a former public officer is not adverse to the public interest. The waiver must be in writing and a copy of the waiver must be provided to the attorney general for approval or disapproval." Subsection (a) prohibits lobbying for two years after leaving State service.

Mr. Baker shared that discussions with the sponsor revealed a loophole that would allow for the lobbying activities if the State employee obtained written permission from his or her supervisor. The Attorney General's office had assured that this would not prevent a former employee from obtaining a determination of whether other employment could be accepted. Elsewhere in statute, the attorney general was specified as the party who would provide clarification as to whether future employment would be restricted by the provisions of subsection (a).

Mr. Baker remarked that elimination of this waiver "tightens up people's ability to kind of creatively interpret the statute."

9:18:13 AM

SENATOR HOLLIS FRENCH, sponsor of the bill, testified that three significant improvements were made to the bill. Each change "closed a loophole" or broadened the number of positions subject to the provisions of the bill.

Senator French averred, "The bill is a better product than what came into Committee."

9:19:13 AM

Senator Olson, noting the language of Sections 3 and 4, asked if "widespread abuse" had prompted the need for these changes.

9:19:30 AM

Senator French replied that he would not characterize the situation as widespread, although frequently individuals have left service in the Executive Branch and immediately accepted "lucrative" positions in the private sector that appear to capitalize directly on State experience.

9:20:17 AM

Senator Olson surmised that "more information by more knowledgeable people [would] give you a better sense of the legislative process."

9:20:27 AM

Senator French acknowledged this as a valid argument. The challenge was to achieve a balance between allowing knowledgeable former State employees to secure employment in the private sector while preventing them from "trading in" on their experience gained in the Executive Branch. Individuals who work in the Office of the Governor have "wide access" to the capitol and are present during every stage of the legislative process.

Senator French contended, "I think the public just feels like that's something you earn using their dollars and their building and their space if you will. It strikes some people as being a little too quick to hop from one side to the other without some intervening time."

[9:21:21 AM](#)

Senator Huggins posed a different potential conflict with lobbyists being hired or elected into State service. He encouraged review of this issue in addition to former State employees becoming lobbyists.

[9:22:00 AM](#)

Senator French indicated that other pending legislation pertained to the types of "outside" work allowed by sitting legislators.

[9:22:32 AM](#)

Senator Huggins stated that such legislators or Executive Branch employees could have the opportunity to make decisions on items they recently lobbied on behalf of.

[9:22:48 AM](#)

Senator Olson asked if Senator Huggins intended to prohibit a person to serve as a legislator if that person has been advocating for a specific issue.

[9:23:04 AM](#)

Senator Huggins corrected that he was speaking to both individuals who might serve as legislators or in the Executive Branch.

[9:23:10 AM](#)

Co-Chair Stedman indicated he would direct the Senate Judiciary Committee to address the issue in consideration of the other legislation. He commented on the need to review "both sides" because of the "two edges of the sword".

[9:23:36 AM](#)

DAVE JONES, Senior Assistant Attorney General, Opinions, Appeals and Ethics Section, Civil Division, Department of Law, testified to the question posed by Co-Chair Hoffman at the previous hearing on this bill as to whether Governor Palin supported the

additional positions to which this legislation would apply. Mr. Jones reported that the Governor was in support of the expansion. He also relayed the Governor's support of the increased lobbying restrictions proposed in the committee substitute.

[9:24:31 AM](#)

Mr. Jones directed attention to the addition of the position of administrative assistant within the Office of the Governor to AS 39.52.180(d)(5). The language was unclear as to whether the prohibition would apply to all administrative assistants employed in the Office of the Governor or only apply to those administrative assistants involved in policy making. The Committee's and the bill drafter's intent was unclear.

[9:25:24 AM](#)

Mr. Jones then noted that the lobbying prohibition of AS 39.52.180(d) would only apply to the chair or executive director of a State board or commission. Some boards and commissions have a practice of "rotating" the chair position between members. The language of the committee substitute would prohibit an individual from lobbying for one year after service as the chair. He was unsure whether the intent was to bar lobbying activities for one year after an individual left the board or commission if that individual had ever served as the chair.

Mr. Jones suggested that all members be included in the prohibition. Although the chair "runs" the meetings, that individual casts only one vote. All members "play a policy roll".

[9:26:58 AM](#)

Mr. Jones stated that the repeal of AS 39.52.180(c) by Section 6 would not cause "great harm" because the situation rarely occurs.

[9:28:00 AM](#)

Senator French summarized that two areas should be addressed. He understood the intent was that administrative assistants in the Office of the Governor who were in a policy making position would be subject to the lobbying restrictions.

[9:28:58 AM](#)

Co-Chair Stedman shared this intent and understanding.

[9:29:13 AM](#)

Mr. Jones cited AS 39.50.200(a)(1) as including a definition of assistants to the governor and lieutenant governor that are required to file financial disclosure forms with APOC. This definition lists several positions and "others employed similarly in policy making positions." He suggested utilizing similar language in this legislation to clarify intent.

[9:30:10 AM](#)

Senator French reiterated the Assistant Attorney General's recommendation to expand the provision of AS 39.52.180(d)(6) to include all members and the executive director of a State board or commission.

[9:30:31 AM](#)

Senator Elton asked if subparagraph (7) pertaining to the chair and executive officer of a State public corporation should also be amended to include all members.

[9:31:09 AM](#)

Senator French was unsure if the chair position "rotates" for the public corporations.

[9:31:23 AM](#)

Senator Elton deemed the ability of all members to participate in policy making to be of greater importance than the matter of whether the chair position rotates. As Mr. Jones stated, each member has the same vote as the chair.

[9:32:00 AM](#)

Senator French did not object to the rationale. He was uncertain who would be "harmed" by the inclusion of these positions in the lobbying prohibition provision. The application of the restrictions should be "a little wider than a little narrower".

He concluded that former members would "just have to find some other sort of work to sustain themselves after they've left public service."

[9:32:38 AM](#)

Amendment #1: This conceptual amendment deletes "chair" and inserts "member" in AS 39.52.180(d)(6) and (7) amended in Section 4 on page 3, lines 25 through 28. The amended language reads as follows.

(6) member of a state board or commission that has the authority to adopt regulations, other than a board or commission named in AS 08.01.010;

(7) member of the governing board and executive officer of a state public corporation.

Co-Chair Hoffman moved for adoption.

The amendment was ADOPTED without objection.

AT EASE [9:33:36 AM](#) / [9:36:05 AM](#)

Co-Chair Stedman announced that the matter of administrative assistants would not be addressed by this Committee; however, an amendment could be offered later in the legislative process.

[9:36:49 AM](#)

Senator Thomas asked the definition of "insignificant or conjectural effect on the matter" as included in AS 39.52.110(b)(1) amended by Section 2. This subparagraph would exempt, from a violation of public trust, certain actions or influences of a public officer. He questioned whether this language could "leave an opening" for a public officer to avoid the restrictions.

[9:37:24 AM](#)

Senator French was unsure that the language could be "tightened" further. He agreed that arguments could be made in defense of actions of a public officer utilizing this provision. This language had been included in statute for some time.

[9:38:06 AM](#)

Co-Chair Hoffman offered a motion to report CS SB 19, 25-LS0160\V, as amended from Committee with individual recommendations and accompanying fiscal notes.

Without objections CS SB 19 (FIN) was REPORTED from committee with zero fiscal notes #1 from the Department of Law and #2 from the Department of Administration.

AT EASE [9:39:32 AM](#) \ [9:39:44 AM](#)

#

ADJOURNMENT

Co-Chair Bert Stedman adjourned the meeting at [9:40:18 AM](#)