

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

February 8, 2007

3:33 p.m.

**MEMBERS PRESENT**

Senator Hollis French, Chair  
Senator Charlie Huggins, Vice Chair  
Senator Bill Wielechowski  
Senator Lesil McGuire  
Senator Gene Therriault

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CS FOR HOUSE BILL NO. 69(JUD)

"An Act relating to executive clemency."

MOVED SCS CSHB 69(JUD) OUT OF COMMITTEE

SENATE BILL NO. 45

"An Act relating to murder in the first degree."

MOVED CSSB 45(JUD) OUT OF COMMITTEE

SENATE BILL NO. 69

"An Act relating to the creation of a civil legal services fund."

HEARD AND HELD

SENATE BILL NO. 64

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

restrictions on employment after leaving state service for purposes of the Alaska Executive Branch Ethics Act; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 5

"An Act relating to reporting of certain crimes."

SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 69

SHORT TITLE: NOTIFY CRIME VICTIM OF EXECUTIVE CLEMENCY

SPONSOR(s): REPRESENTATIVE(s) SAMUELS

01/16/07 (H) PREFILE RELEASED 1/5/07  
01/16/07 (H) READ THE FIRST TIME - REFERRALS  
01/16/07 (H) JUD  
01/22/07 (H) JUD AT 1:00 PM CAPITOL 120  
01/22/07 (H) Heard & Held  
01/22/07 (H) MINUTE(JUD)  
01/24/07 (H) JUD AT 1:00 PM CAPITOL 120  
01/24/07 (H) Moved CSHB 69(JUD) Out of Committee  
01/24/07 (H) MINUTE(JUD)  
01/25/07 (H) JUD RPT CS(JUD) 6DP 1NR  
01/25/07 (H) DP: GRUENBERG, LYNN, DAHLSTROM,  
SAMUELS, HOLMES, RAMRAS  
01/25/07 (H) NR: COGHILL  
01/30/07 (H) TRANSMITTED TO (S)  
01/30/07 (H) VERSION: CSHB 69(JUD)  
01/31/07 (S) READ THE FIRST TIME - REFERRALS  
01/31/07 (S) JUD  
02/05/07 (S) JUD AT 1:30 PM BELTZ 211  
02/05/07 (S) -- Meeting Canceled --  
02/08/07 (S) JUD AT 3:30 PM BUTROVICH 205

BILL: SB 45

SHORT TITLE: PEACE OFFICER CONVICTED OF MURDER

SPONSOR(s): SENATOR(s) OLSON

01/16/07 (S) PREFILE RELEASED 1/12/07  
01/16/07 (S) READ THE FIRST TIME - REFERRALS  
01/16/07 (S) STA, JUD  
01/25/07 (S) STA AT 9:00 AM BELTZ 211  
01/25/07 (S) Heard & Held  
01/25/07 (S) MINUTE(STA)  
01/30/07 (S) STA AT 9:00 AM BELTZ 211

01/30/07 (S) EXEC. BRANCH ETHICS:INTERESTS & ACTIONS  
02/01/07 (S) STA AT 9:00 AM BELTZ 211  
02/01/07 (S) -- Rescheduled from 01/30/07 --  
02/02/07 (S) STA RPT CS 4DP 1AM SAME TITLE  
02/02/07 (S) DP: MCGUIRE, STEVENS, GREEN, BUNDE  
02/02/07 (S) AM: FRENCH  
02/05/07 (S) JUD AT 1:30 PM BELTZ 211  
02/05/07 (S) -- Meeting Canceled --  
02/08/07 (S) JUD AT 3:30 PM BUTROVICH 205

BILL: SB 69

SHORT TITLE: CIVIL LEGAL SERVICES FUND

SPONSOR(s): SENATOR(s) MCGUIRE

01/29/07 (S) READ THE FIRST TIME - REFERRALS  
01/29/07 (S) JUD, FIN  
02/05/07 (S) JUD AT 1:30 PM BELTZ 211  
02/05/07 (S) -- Meeting Canceled --  
02/08/07 (S) JUD AT 3:30 PM BUTROVICH 205

BILL: SB 64

SHORT TITLE: DISCLOSURES & ETHICS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/26/07 (S) READ THE FIRST TIME - REFERRALS  
01/26/07 (S) JUD, STA, FIN  
02/08/07 (S) JUD AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

Representative Ralph Samuels  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Sponsor of HB 69

Lawrence Jones, Executive Director  
Alaska Board of Parole  
Department of Corrections  
431 N. Franklin, Suite 400  
Juneau, AK 99801

**POSITION STATEMENT:** Stated support for HB 69

Susan Sullivan, Executive Director  
Victims for Justice (VFJ)  
Anchorage, AK

**POSITION STATEMENT:** Stated support for HB 69

Rick Svobodny, Chief Assistant Attorney General  
Criminal Division  
Department of Law  
PO Box 110300  
Juneau, AK 99811-0300

**POSITION STATEMENT:** Responded to questions regarding HB 69 and SB 45

Senator Donald Olson  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Sponsor of SB 45

Loretta Bullard, President  
Kawerak, Inc.  
Nome, AK

**POSITION STATEMENT:** Stated support for SB 45

Andy Harrington, Executive Director  
Alaska Legal Services  
1648 Cushman, Suite 300  
Fairbanks, AK

**POSITION STATEMENT:** Explained the importance of SB 69

Doug Wooliver, Administrative Attorney  
Alaska Court System  
303 K St.  
Anchorage, AK 99501-2084

**POSITION STATEMENT:** Answered questions related to SB 69

David Jones, Senior Assistant Attorney General  
Civil Division  
Opinions, Appeals, and Ethics  
Department of Law  
Anchorage, Alaska

**POSITION STATEMENT:** Provided an overview of SB 64

#### **ACTION NARRATIVE**

**CHAIR HOLLIS FRENCH** called the Senate Judiciary Standing Committee meeting to order at [3:33:45 PM](#). Present at the call to order were Senator McGuire, Senator Huggins, Senator Wielechowski, and Chair French. Senator Therriault arrived shortly thereafter.

#### **CSHB 69(JUD)-NOTIFY CRIME VICTIM OF EXECUTIVE CLEMENCY**

CHAIR FRENCH announced the consideration of HB 69. He asked for a motion to adopt the \M committee substitute (CS).

SENATOR HUGGINS made a motion to adopt Version \M, labeled 25-LS0317\M, as the working document. There was no objection.

[3:34:49 PM](#)

REPRESENTATIVE RALPH SAMUELS, Sponsor of HB 69, said the bill is a choice between several constitutional issues. He read Article III, Section 21, of the Alaska State Constitution which states in part:

Subject to procedure prescribed by law, the governor may grant pardons, commutations, and reprieves, and may suspend and remit fines and forfeitures. This power shall not extend to impeachment.

REPRESENTATIVE SAMUELS said the conflict is with Article I, Section 24 of the Alaska State Constitution. It states in part:

Crime victims, as defined by law, shall have the following rights as provided by law: ... the right to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered; ...

REPRESENTATIVE SAMUELS said HB 69 simply establishes a procedure that the governor must follow in cases of executive clemency. This is good public policy, he said, and the fundamental crux is that the victim must be notified. A governor may choose to pardon someone, but he or she must pass the "red face test" and call the victim. He stated.

REPRESENTATIVE SAMUELS noted that the bill has changed since it passed the House. Originally the victim was notified as part of the application procedure, but that was changed to accommodate a situation where the governor grants a pardon without an application having been made.

The House version also said that a victim would be notified regardless of whether a request was made. That language was cleaned up, he said. Although the 180 days might be questioned, that is the time that the Alaska Board of Parole said it needed for its review process. He noted that the Department of Law might give its perspective on that point.

[3:39:54 PM](#)

SENATOR HUGGINS asked where victim notification is located in the bill.

REPRESENTATIVE SAMUELS said page 2, line 9 says:

The board shall provide notice of any action taken by the governor to the Department of Law, the office of victims' rights, and the victim.

The original legislation said, "If requested by the victim..." but a pardon could take place 20 years after a crime and someone may not have asked to be notified at the time. The idea is to make a best effort to notify, he said.

[3:40:57 PM](#)

Senator Therriault arrived.

CHAIR FRENCH commented that it's fair to say that the bill errs on the side of notification rather than waiting for someone to ask to be notified.

REPRESENTATIVE SAMUELS agreed.

[3:41:36 PM](#)

SENATOR THERRIAULT asked if the language about applying for notification had been removed because it was problematic.

REPRESENTATIVE SAMUELS replied that language became irrelevant because victims will be notified under any circumstances.

[3:42:20 PM](#)

CHAIR FRENCH opened public testimony.

[3:42:48 PM](#)

LAWRENCE JONES, Executive Director, Alaska Board of Parole, Department of Corrections (DOC), said he made lengthy testimony at the first [House] judiciary hearing; he was quite comfortable with the bill then and is more so now. He supports the proposed change in verbiage from "application" to "consideration" and as a matter of logistics, 180 days is quite adequate. From the Alaska Board of Parole perspective, the bill will be quite workable, he stated.

SENATOR WIELECHOWSKI asked if there is a definition for "victim" that would be used and if there would be a requirement that all family members be notified.

MR. JONES replied there is a statutory definition for victim that is relatively broad. It extends through to the family if the victim is deceased and to the parents in the case of a minor. Anecdotally the board will make every effort to determine a reasonable cutoff for victim notification, he said.

[3:46:06 PM](#)

SUSAN SULLIVAN, Executive Director, Victims for Justice (VFJ), stated strong support for the bill particularly with the recent changes. She suggested that on page 2, line 7 it might be more consistent to use the term "consideration" instead of "application".

CHAIR FRENCH asked the sponsor to comment.

SENATOR THERRIAULT said the change in terminology might be a good idea because under the existing system the governor could take action without an application having been filed.

REPRESENTATIVE SAMUELS said he tends to agree, but he would defer to the Department of Law.

CHAIR FRENCH asked Mr. Svobodny if, on page 2, line 7, it would be more desirable to say: "The victim may comment in writing to the board on the consideration for executive clemency."

[3:49:12 PM](#)

RICHARD SVOBODNY, Chief Assistant Attorney General, Criminal Division, Department of Law (DOL), said he would agree and it is in conformity with the sponsor's intent.

[3:49:34 PM](#)

SENATOR THERRIAULT said the governor has to provide notice to the parole board for an investigation. If an application isn't part of that process then it should be broadened, he stated.

CHAIR FRENCH asked, for the sake of clarity, if everyone was strictly considering the case where the governor has sua sponte, on his or her own, considered granting clemency outside the normal application process.

SENATOR THERRIAULT asked if the governor would have the power to grant clemency without interaction with the board.

MR. SVOBODNY said it's certainly not unheard of for the executive to grant clemency or commute sentences without a particular application having been made.

REPRESENTATIVE SAMUELS said Section 1 states that the governor may not grant clemency without having provided notice of consideration to the board of parole. Further in the process, he said, the board must notify the victim.

CHAIR FRENCH asked if it is fair to say that a governor who believes that this is a restriction on his or her constitutional power to grant clemency would have to challenge the constitutionality of the statute.

REPRESENTATIVE SAMUELS said HB 69 doesn't remove the governor's right to grant clemency; it simply sets up procedures.

[3:52:58 PM](#)

SENATOR WIELECHOWSKI said page 1, lines 6, 9 and 15 talk about notice of consideration, so it would seem that it would be consistent to change "application" to "consideration" on page 2, line 7. He is comfortable that the bill is constitutional for a number of reasons. The legislature has the authority to set procedures and also there is a constitutional provision that discusses victims' rights. He asked the sponsor to touch on that.

REPRESENTATIVE SAMUELS said Article 1, Section 24 lists a myriad of rights that victims have including: right to be reasonably protected from the accused; the right to bail; the right to be treated with dignity, respect and fairness; the right to a timely disposition of a case; and the right of the accused to be present at a criminal or juvenile proceeding. A governor wouldn't be required to follow the procedure, he said, but more than likely all would choose to do so.

[3:56:35 PM](#)

SENATOR McGUIRE said the argument is practical and compelling, but the phrase "may not grant" on page 1, line 4 raises a separation of powers issue. That changes the generous grant authority and requires a governor to take another step before executing that power. With that in mind, she suggested placing the burden on the board and saying, "The board of parole shall send a notice to the victim irrespective of whether or not the application has been forwarded to the board." It's okay for the legislature to make a direct requirement on the parole board,

but requiring the governor to make the extra step is shaky constitutional ground, she stated.

3:59:01 PM

REPRESENTATIVE SAMUELS said if the parameters and procedures aren't established, then midnight pardons won't stop. He noted that the number of days is a concern to some, but the parole board said six months is a good timeframe to review the case, process the application, and contact the victim. If that presents a constitutional problem then it can be revisited, he stated.

SENATOR McGUIRE said the goal is to keep the law from getting thrown out so she prefers to take the most conservative route. She suggested that keeping the discretionary word "may" in the bill instead of "shall". "You still put the political heat on, you still wage the public relations campaign, and you still have the requirements on the book and you don't get it thrown out by a court." The legislature simply doesn't have the ability to strap the governor's hands, she said.

SENATOR WIELECHOWSKI asked the DOL opinion on the constitutionality of the bill.

MR. SVOBODNY responded, there is an issue of how much time it takes. 180 days represents the first half year in office and the last half year in office so that cuts the governor's ability to grant pardons by 25 percent. "I don't think that's correct," he said. Nothing says an application made during the last two weeks of one governor's term would not carry over to the next governor.

The legislature has the authority to establish procedures for granting pardons and that takes time. However, it is better to pick a number that everyone is used to so that it is viewed as procedural rather than cutting into the governor's authority. "I don't know where that line is - whether it's at 120 days or 60. I certainly feel more comfortable in saying it's a procedural issue if it's 30 days, 45 days, 60 days.

CHAIR FRENCH said his view is that this is a way to harmonize the victims' right amendment and governor's power to grant clemency.

SENATOR WIELECHOWSKI asked if the power to pardon runs with the governor as a person or with the governor's office. There is an

argument that it runs with the office and if it does, this isn't an infringement at all, he said. "A governor in their last two weeks could offer up this pardon and then ... that person is no longer in office, but you still have a governor who still has that ability to pardon."

MR. SVOBODNY opined that the authority is while in office.

[4:05:44 PM](#)

CHAIR FRENCH closed public testimony and asked if the committee had discussion or amendments to offer.

[4:05:56 PM](#)

SENATOR WIELECHOWSKI made a motion to delete "application" and insert "consideration" on page 2, line 7.

CHAIR FRENCH found no objection and announced that Amendment 1 carries.

SENATOR McGUIRE asked the sponsor to restate how he decided upon 180 days.

REPRESENTATIVE SAMUELS replied that Mr. Jones from the board of parole said it would take about that much time to go through the normal application process and contact the victim.

SENATOR McGUIRE asked Mr. Jones if 120 days would be unfeasible.

MR. JONES said he had reconsidered his original answer and was ready to go on record stating that 120 days would be adequate.

[4:07:47 PM](#)

SENATOR McGUIRE made a motion to delete "180" and insert "120" from page 1, lines 7 and 8 and any conforming amendments. She explained the reason is to reflect customary deadlines that are recognized in the law.

CHAIR FRENCH said his review of the bill indicates that "180" appears just twice - on line 7 and line 8 of page 1.

CHAIR FRENCH found no objection and announced that Amendment 2 carries.

[4:09:01 PM](#)

SENATOR McGUIRE made a motion to report SCS CSHB 69, as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection SCS CSHB 69(JUD) moved from committee.

**SB 45-PEACE OFFICER CONVICTED OF MURDER**

[4:10:44 PM](#)

CHAIR FRENCH announced the consideration of SB 45. [CSSB 45(STA) was before the committee.]

SENATOR DONALD OLSON, sponsor of SB 45, paraphrased the following sponsor statement:

SB 45 mandates the maximum sentence for first-degree murder when committed by an on-duty peace officer.

This legislation derives from the Nome murder of Sonya Ivanoff, a well-known and well-liked young girl in the Bering Straits region. The investigation and subsequent conviction of the police officer responsible for the murder caused much anguish and consternation for both the Ivanoff family and the region's population in general.

At the police officer's sentencing, the judge agreed with the state prosecutor's recommendation that the maximum penalty should be imposed. His rationale was that while state law mandates the maximum penalty when a peace officer is murdered while acting in the line of duty [AS 12.55.125(a)(1)], first-degree murder by a peace officer acting in a position of trust and public protection was equally egregious.

SB 45 provides sentencing parity for the protection of our guardians of civil law and order and for the public trust in their activities and responsibilities.

[4:12:28 PM](#)

CHAIR FRENCH said he understands that the concerns that several law enforcement agencies expressed during the state affairs hearing were addressed through amendments made in that committee.

SENATOR OLSON said that is correct. The state affairs CS has support from the Department of Law, the Alaska Federation of Natives, Kawerak, Inc., and the Bering Straits Native

Corporation. Also, the Department of Public Safety has no objection to the amended version.

SENATOR THERRIAULT asked if police officers who use their position of authority to commit other crimes face increased penalties for those crimes as well.

SENATOR OLSON said he did not know.

[4:13:47 PM](#)

LORETTA BULLARD, President, Kawerak, Inc., said she assumes that CSSB 45(STA) seeks to ensure that on-duty peace officers do not have to second-guess using deadly force when it's necessary to protect the public or themselves. She testified in support of the concept encompassed in the bill, but she questioned what constitutes clear and convincing evidence that a peace officer used his or her authority to facilitate a murder. Perhaps Mr. Svobodny could provide information on that, she said.

MS. BULLARD recommended that any police officer who is convicted of premeditated first-degree murder should receive a mandatory 99-year sentence without possibility for parole or early release. By virtue of their position in society and the public trust, police officers should be held to the highest possible standard. If the public trust and the oath to protect the public is violated, the sentence ought to be commensurate to the violation.

[4:16:23 PM](#)

CHAIR FRENCH closed public testimony and opened the bill for discussion and amendment from the committee members.

SENATOR THERRIAULT asked if the bill differentiates between on-duty and off-duty.

CHAIR FRENCH noted that there was good testimony on that in state affairs. He asked Mr. Svobodny to give that same information.

[4:17:12 PM](#)

RICHARD SVOBODNY, Chief Assistant Attorney General, Criminal Division, Department of Law (DOL), said in the Sonya Ivanoff case the conduct was both on-duty and off-duty. The new language includes both as long as the peace officer is using his or her authority.

CHAIR FRENCH recapped a distinction Mr. Svobodny drew before about a hypothetical instance where a police officer was having a domestic dispute with his wife. The wife took the couple's child to the police station to do a custody transfer and, totally outside his role as a police officer, he murdered his wife. Although that would be a horrible crime and the officer would be punished, SB 45 does not address that sort of instance. The intent is to get at the officer who uses the official badge, car, or uniform to facilitate the commission of murder. That is what brings the 99-year sentence to bear, he stated.

MR. SVOBODNY responded to an earlier question and said Mr. Owens was also charged with official misconduct, which is an A misdemeanor offense. The court severed that charge and found no need to go forward with that prosecution after he was sentenced for the murder.

SENATOR THERRIAULT asked what would happen if the police officer used his authority to gain information about someone, but did not use the information until he was off duty. "Would that be swept in under this?" he asked.

MR. SVOBODNY said a judge would need to be convinced with clear and convincing evidence that the officer used his position of authority to gain that information. Given that example it could go either way, he said.

CHAIR FRENCH asked Mr. Svobodny to remind the committee of the various standards of proof.

MR. SVOBODNY relayed that in criminal cases there are four standards of proof. 1) Probable cause is the standard that is something less than 50 percent and is used to obtain a search warrant. 2) Preponderance of the evidence means more than 50 percent and is the standard that would be used for an evidentiary call. 3) Clear and convincing evidence is substantially greater than preponderance and is more than 50 percent. It firmly establishes a position. 4) Beyond a reasonable doubt is the standard that would cause a reasonable person to hesitate in the important affairs of life.

[4:21:34 PM](#)

SENATOR HUGGINS stated for the record that he is an advocate of the death sentence. From his perspective the bill falls short because "singling out different agencies of people is a road I would prefer we don't go down too often."

CHAIR FRENCH asked if the committee members had questions, comments or amendments to offer.

SENATOR THERRIAULT made a motion to delete Section 1, which names a section in statute.

SENATOR McGUIRE objected.

A roll call was taken on the motion to delete Section 1 from SB 45. Senators Therriault, Huggins and Chair French voted in favor and Senators Wielechowski and McGuire voted against. Therefore Amendment 1 carried.

CHAIR FRENCH found no further amendments and asked the will of the committee.

SENATOR THERRIAULT made a motion to report CSSB 45(JUD) from committee with individual recommendations and attached fiscal note(s). There being no objection, it was so ordered.

#### **SB 69-CIVIL LEGAL SERVICES FUND**

4:25:18 PM

CHAIR FRENCH announced the consideration of SB 69.

SENATOR McGUIRE, sponsor of SB 69, stated that the same bill passed the House unanimously twice and Senator Wielechowski is the only committee member who has not heard it before.

SB 69 would create a civil legal services fund that would be funded by provisions required under AS 09.17.020(j). This section requires that 50 percent of all punitive damage awards are turned over to the state and deposited into the general fund. 6

SENATOR McGuire said the Alaska Legal Services Corporation (ALSC) has helped low-income Alaskans with civil legal needs since the mid 60s. In prior years the legislature provided up to \$1.2 million in funding, but during the Murkowski administration the funding disappeared altogether. That is a travesty for those who believe that access to the civil legal system is important, she stated.

SENATOR McGUIRE relayed that ALSC has provided civil legal funds for citizens who don't have the income to fight landlord tenant cases, Social Security cases, Medicaid cases and others.

Currently ALSC receives some municipal and federal grants, but overall it has been very difficult to operate from year-to-year.

4:28:55 PM

ANDY HARRINGTON, Executive Director, Alaska Legal Services (ALS), Fairbanks, described how additional money would help 4,800 individuals or 1,500 families. Most of the cases involve custody or divorce litigation and about two-thirds of the domestic relations cases are violence related. When representing victims of domestic violence, the highest priority is getting the victims civil protection to help break the violence cycle and minimize any exposure or role modeling to children. The second highest are landlord tenant cases where families have lost shelter. Disability cases, usually involving problems with the Social Security Administration, are the next highest followed by collection cases.

MR. HARRINGTON said ALS does not represent people in criminal proceedings because those cases carry a right for an appointed attorney. Part of the ALS mission is to help people solve problems through civil proceedings thereby reducing the likelihood that the issue will evolve into a criminal proceeding. This is a sort of preventative medicine, he said.

MR. HARRINGTON explained that most of the case work is in state court rather than federal court, but most of the funding is federal. ALS also provides a service to the court system when it represents low income people because a litigant who is representing him/herself invariably slows the system for that and subsequent cases.

MR. HARRINGTON said that for a number of reasons SB 69 is a very good bill and ALS strongly supports its passage.

4:33:38 PM

CHAIR FRENCH noted that the committee had a supporting letter from the American Association of Retired Persons (AARP) that Marie Darlin signed.

CHAIR FRENCH asked Senator McGuire if SB 69 is exactly the same bill that passed the Senate last year.

SENATOR MCGUIRE said yes.

CHAIR FRENCH closed public testimony and asked for comment or discussion among the committee members.

SENATOR THERRIAULT asked about a House floor amendment that was offered that day. It adds an additional money source from Rule 9(b)(1) of the Alaska Rules of Administration.

[4:35:12 PM](#)

SENATOR McGUIRE said the motivation to get more revenue put aside into the fund is well placed, but she opposes the amendment. It calls for \$75 of each 9(b)(1) filing fee to be set aside for the fund. That would place a financial burden on the court system and she prefers the more conservative approach.

[4:35:53 PM](#)

DOUG WOOLIVER, Administrative Attorney, Alaska Court System, stated that the Court doesn't generally take a position in support or opposition of a bill. He allowed that the amendment was somewhat confusing and he believes it was misdrafted. The second section refers to a court rule change and a statutory reference neither of which are in the bill.

SENATOR McGUIRE said the amendment may apply to a concept that was discussed last year. She asked Mr. Wooliver to explain what the \$75 amount would represent in terms of filing fees to the Alaska Court System.

MR. WOOLIVER said the amendment might refer to an earlier version, which would have increased the court filing fees for certain cases and those fees would have funded the civil legal services account. The Court typically does not support surcharges on filing fees or increases on filing fees to support programs that are not related to the cost of bringing cases court. It believes that many of the programs are worthwhile and it agrees with Mr. HARRINGTON's comments about the burdens that Pro Se litigants place on the court. Nonetheless those programs are more appropriately funded through the general fund rather than through a tax on court system users, he stated.

SENATOR THERRIAULT asked for clarification that 9(b)(1) is the regular civil litigation filing fee.

MR. WOOLIVER said it is.

CHAIR FRENCH announced that he would hold SB 69 in committee.

#### **SB 64- DISCLOSURES & ETHICS**

CHAIR FRENCH announced the consideration of SB 64.

[4:39:20 PM](#)

DAVID JONES, Assistant Attorney General, Civil Division, Opinions, Appeals and Ethics, Department of Law, stated that SB 64 proposes improvements to Alaska's disclosure laws and ethics laws. Disclosure improvements would apply to the three branches of government, to candidates and political groups, and to some municipal officers. Improvements to the "Ethics Act" [Alaska Executive Branch Ethics Act] would apply only to executive branch members.

Disclosure improvements include requirements for: electronic filing with APOC (Alaska Public Offices Commission); more detailed legislative financial disclosures; disclosures from former legislators and certain others. Sections 1, 4, and 7 require electronic filing; Sections 2 and 6 require more detail in the financial disclosures that are filed with APOC; and Sections 3 and 5 require certain former officials to file financial disclosures within 90 days of leaving office.

The four improvements to the Ethics Act appear in Sections 8-11. Section 8 defines an insignificant business interest; Section 9 bans most gifts from lobbyists; Section 10 tightens the existing restrictions on types of work that former executive branch members may perform within two years of leaving state service; and Section 11 extends the reach of the existing ban on lobbying to apply to deputy commissioners and others who held policymaking positions in the governor's office. "That ban applies under existing law for one year," he said.

[4:42:05 PM](#)

MR. JONES explained the bill sections as follows:

Section 1 on page 2 requires electronic filing of campaign disclosure reports that candidates, groups and others file with APOC. In extraordinary circumstances APOC could grant an exception in extraordinary circumstances.

Section 2, 3, and 4 on pages 2 and 3 apply to the legislative branch. Section 2 requires more detail in the financial disclosures that legislators, public members of the Select Committee on Legislative Ethics, and legislative directors file with APOC. For all income exceeding \$1,000, the disclosures must describe the amount received, the number of hours spent to earn the income, and details regarding the services that were provided. He noted that Section 3 of SB 20 approaches that subject somewhat differently.

Section 3 requires former legislators, public members of the Select Committee on Legislative Ethics, and former legislative directors to file financial disclosures with APOC within 90 days of leaving service. He noted that Section 2 of SB 20 addresses that subject somewhat differently.

Section 4 requires legislators, public members of the Select Committee on Legislative Ethics, and legislative directors to electronically file financial disclosures with APOC. The commission could grant exceptions in extraordinary circumstances.

[4:44:17 PM](#)

SENATOR THERRIAULT asked if a FAX is regarded as an electronic submittal.

MR. JONES replied the intent is for Internet submissions. Currently APOC currently enters the data before it can be incorporated onto the APOC website.

CHAIR FRENCH asked how many candidates do not file electronically, how long it takes APOC to enter that data, and how long it takes before the data is available online.

[4:45:31 PM](#)

TAMMY KEMPTON, Project Coordinator, Alaska Public Offices Commission (APOC), said about half of the candidates file electronically. [Ms. Kempton subsequently sent a letter correcting her statement. About 15 percent of the candidates file electronically.] She did not know how many hours it takes to enter the information into the database, but this year for the first time all the seven-day reports were online prior to the election.

CHAIR FRENCH asked if APOC hires temporary staff at election time to do data entry.

MS. KEMPTON said yes when funds are available and APOC did receive extra money this last election cycle.

CHAIR FRENCH said he would like to get information on the level of burden on the commission including the hours it takes to enter the data and the time span between the filing deadline and when the information is available online.

MS. KEMPTON agreed to provide the information.

SENATOR HUGGINS asked if the rationale is the workload or that candidates are exploiting the system.

MR. JONES said part of the rationale is to avoid gamesmanship, but largely the idea is to make the information available to the public as quickly as possible. The information is important in helping the public make informed decisions when voting.

SENATOR HUGGINS expressed the view that most people don't check that information very closely, but activists might. He then asked what would constitute an extraordinary circumstance.

MR. JONES said that is intentionally vague because there are a spectrum of circumstances that might justify exceptions to the electronic filing requirement. Thus it seems appropriate to give APOC the discretion to decide when extraordinary circumstances exist. He clarified that the intention is that reasons such as, "I don't feel like it." or "I prefer to do it by hand." would not be acceptable.

SENATOR HUGGINS disclosed that he's proud that his wife does his filing and he might be in trouble if she weren't available. "I don't know whether that would be extraordinary or not," he said.

CHAIR FRENCH asked if it's correct that handwritten reports are available at the commission office the day after the filing deadline so a person could request that the information be faxed or copied.

MS. KEMPTON said that is the current system. When talking about the public seeing these reports, she said it's important to note that only campaign reports are currently available online. Legislative financial disclosure reports, public official disclosure reports, and the lobbyist and employer of lobbyist disclosure reports are not available online, she stated.

CHAIR FRENCH asked if this bill changes the distinction between candidate reports and the other disclosures.

MS. KEMPTON said SB 64 would make electronic filing for all those reports mandatory. Currently APOC has the ability to require electronic filing from lobbyists and employers of lobbyists. APOC is working on implementing that, she said.

CHAIR FRENCH asked if electronic filing would be required for all the legislative disclosures that APOC receives.

MS. KEMPTON said yes.

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SENATOR WIELECHOWSKI asked if the current requirement is that campaign disclosure information must be received on the specified day or postmarked on the specified day.

MS. KEMPTON said when filing by mail the current requirement is that it is postmarked on the specified day.

SENATOR THERRIAULT noted that some reports come in days or a week later if the mail system is used.

MS. KEMPTON agreed.

SENATOR THERRIAULT disclosed that he is treasurer of his campaigns and he does the reports by hand.

CHAIR FRENCH disclosed that he pays someone to file his reports and that person files electronically.

SENATOR THERRIAULT asked about the sophistication of the system.

MS. KEMPTON explained that the system will have drop-down menus to select the desired report. Currently candidates have two ways of filing electronically. One is ELFS (Electronic Filing System) and the other is by means of a spreadsheet. APOC supplies a list of field names to set up the spreadsheet such that the information can be imported into the APOC database. SB 64 will provide a third way, which "hopefully will be the best ever," she said.

SENATOR THERRIAULT asked if he could start a report, save it to a different location, and then return to complete the data entry before submitting the report

MS. KEMPTON said absolutely.

SENATOR THERRIAULT asked if each candidate has a PIN number.

MS. KEMPTON said that is her understanding.

SENATOR HUGGINS commented that this is a worthy goal, but the terms are onerous considering that 50 percent of the people are currently out of compliance with concept. [The committee subsequently learned that 85 percent do not file electronically.]

SENATOR WIELECHOWSKI commented that a significant upgrade is needed in the ELFS program. "The software is not intuitive, it is really inadequate," he said.

MS. KEMPTON said the new system is nothing like ELFS.

[4:59:19 PM](#)

CHAIR FRENCH announced he would hold SB 64 in committee.

There being no further business to come before the committee, Chair French adjourned the meeting at [4:59:29 PM](#).