

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

May 7, 2007

6:23 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. 109(JUD) am

"An Act relating to bribery, receiving unlawful gratuities, and campaign contributions; denying public employee retirement pension benefits to certain legislators, legislative directors, and public officers who commit certain offenses, and adding to the duties of the Alaska Retirement Management Board and to the list of matters governed by the Administrative Procedure Act concerning that denial; relating to campaign financing and ethics, including disclosures, in state and municipal government, to lobbying, and to employment, service on boards, and disclosures by certain public officers and employees who leave state or municipal service or leave certain positions in state or municipal government; restricting representation of others by legislators and legislative employees; relating to blind trusts approved by the Alaska Public Offices Commission; and providing for an effective date."

MOVED SCS CSHB 109(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 109

SHORT TITLE: DISCLOSURES & ETHICS/BRIBERY/RETIREMENT

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/25/07	(H)	READ THE FIRST TIME - REFERRALS
01/25/07	(H)	STA, JUD
01/30/07	(H)	STA AT 8:00 AM CAPITOL 106
01/30/07	(H)	Heard & Held

01/30/07 (H) MINUTE(STA)
02/03/07 (H) STA AT 10:00 AM SPEAKER'S CHAMBER
02/13/07 (H) STA AT 8:00 AM CAPITOL 106
02/13/07 (H) <Postponed Pending Subcommittee Report>
02/15/07 (H) STA AT 8:00 AM CAPITOL 106
02/15/07 (H) <Postponed Pending Subcommittee Report>
02/20/07 (H) STA AT 8:00 AM CAPITOL 106
02/20/07 (H) <Postponed Pending Subcommittee Report>
02/22/07 (H) STA AT 8:00 AM CAPITOL 106
02/22/07 (H) Heard & Held
02/22/07 (H) MINUTE(STA)
02/27/07 (H) STA AT 8:00 AM CAPITOL 106
02/27/07 (H) Heard & Held
02/27/07 (H) MINUTE(STA)
03/01/07 (H) STA AT 8:00 AM CAPITOL 106
03/01/07 (H) Heard & Held
03/01/07 (H) MINUTE(STA)
03/03/07 (H) STA AT 10:00 AM CAPITOL 106
03/03/07 (H) Moved CSHB 109(STA) Out of Committee
03/03/07 (H) MINUTE(STA)
03/07/07 (H) STA RPT CS(STA) NT 3DP 1NR 3AM
03/07/07 (H) DP: ROSES, DOLL, LYNN
03/07/07 (H) NR: JOHANSEN
03/07/07 (H) AM: JOHNSON, COGHILL, GRUENBERG
03/19/07 (H) JUD AT 1:00 PM CAPITOL 120
03/19/07 (H) Heard & Held
03/19/07 (H) MINUTE(JUD)
03/20/07 (H) JUD AT 1:00 PM CAPITOL 120
03/20/07 (H) Heard & Held
03/20/07 (H) MINUTE(JUD)
03/21/07 (H) JUD AT 1:00 PM CAPITOL 120
03/21/07 (H) Heard & Held
03/21/07 (H) MINUTE(JUD)
03/22/07 (H) JUD AT 1:00 PM CAPITOL 120
03/22/07 (H) Heard & Held
03/22/07 (H) MINUTE(JUD)
03/23/07 (H) JUD AT 1:00 PM CAPITOL 120
03/23/07 (H) Moved CSHB 109(JUD) Out of Committee
03/23/07 (H) MINUTE(JUD)
03/28/07 (H) JUD RPT CS(JUD) NT 3DP 1NR 3AM
03/28/07 (H) DP: LYNN, SAMUELS, RAMRAS
03/28/07 (H) NR: COGHILL
03/28/07 (H) AM: GRUENBERG, DAHLSTROM, HOLMES
04/02/07 (H) TRANSMITTED TO (S)
04/02/07 (H) VERSION: CSHB 109(JUD) AM
04/04/07 (S) READ THE FIRST TIME - REFERRALS
04/04/07 (S) STA, JUD, FIN

04/24/07 (S) STA AT 9:00 AM BELTZ 211
04/24/07 (S) Moved CSHB 109(JUD)am Out of Committee
04/24/07 (S) MINUTE(STA)
04/25/07 (S) STA RPT 1DP 3NR 1AM
04/25/07 (S) DP: BUNDE
04/25/07 (S) NR: MCGUIRE, FRENCH, STEVENS
04/25/07 (S) AM: GREEN
04/26/07 (S) STA AT 9:00 AM BELTZ 211
04/26/07 (S) <Bill Moved Out of Committee 4/24/07>
04/26/07 (S) MINUTE(STA)
05/02/07 (S) JUD AT 1:30 PM BELTZ 211
05/02/07 (S) Heard & Held
05/02/07 (S) MINUTE(JUD)
05/07/07 (S) JUD AT 5:30 PM BELTZ 211

WITNESS REGISTER

David Jones, Senior Assistant Attorney General
Opinions, Appeals, & Ethics
Civil Division
Department of Law (DOL)
Alaska Court System
Juneau, AK

POSITION STATEMENT: Provided information related to Senate CS for CSHB 109.

Cindy Smith, Staff to Senator French
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Highlighted changes in the Senate CS for CSHB 109.

Joyce Anderson, Chair
Select Committee on Legislative Ethics
Anchorage, AK

POSITION STATEMENT: Responded to questions related to Senate CS for CSHB 109.

ACTION NARRATIVE

CHAIR HOLLIS FRENCH convened the Senate Judiciary Standing Committee meeting at [6:23:54 PM](#). Present at the call to order were Senator Therriault, Senator Wielechowski, and Chair French. Senator McGuire arrived shortly thereafter.

CSHB 109(JUD)AM- DISCLOSURES & ETHICS/BRIBERY/RETIREMENT

[6:24:12 PM](#)

CHAIR FRENCH announced the consideration of HB 109 and asked for a motion to adopt version "W" committee substitute (CS) as the working document.

SENATOR WIELECHOWSKI motioned to adopt the Senate CS for CSHB 109, labeled 25-GH1059\W.

CHAIR FRENCH announced that without objection version "W" is adopted. He asked Ms. Smith and Mr. Jones to provide introductions and explain the changes that had been made since the committee last heard the bill.

CINDY SMITH, Staff to Senator French, directed attention to the first change on page 2, lines 8-10. The reference to the definition of official action was changed from a citation of AS 39.52.960 to an expanded definition of official action that was used in SB 19. The Department of Law requested the change to correct an error made in a House floor amendment. The bill was also amended on page 41, Section 70 to adopt the same expanded definition of official action.

Language was also added on page 2, line 28, to clarify that a state legislator may not receive membership credit for legislative service on or after the date the legislator commits a criminal offense that results in a pension forfeiture. The Division of Retirement and Benefits requested the change. Conforming changes occur in several places throughout the bill.

Page 4, lines 4-7, add language exempting candidates who commit to raise \$5,000 or less from the e-file requirements. They will still be required to report income and expenditures, but there will be the option to file on paper.

[6:26:44 PM](#)

SENATOR HUGGINS joined the meeting.

CHAIR FRENCH added that just this year it's a requirement that all individuals who run for office, whether they raise more or less than \$5,000, must submit detailed income and expenditure reports. The amendment in this CS says that once e-filing is a requirement, candidates that raise less than \$5,000 can file a handwritten report. Soon after the report is submitted it will be available electronically, he said.

[6:27:45 PM](#)

MS. SMITH said the next change occurs in new Section 8. It requires APOC to scan and post handwritten reports in a PDF type format within two working days after the commission receives the information. The thought is that although e-filing will be more commonplace, there's still an interest in seeing handwritten reports. This will allow APOC to put them online so people can review them as soon as possible.

[6:28:29 PM](#)

Senator McGuire joined the meeting.

MS. SMITH explained that new Section 12 requires lobbyists to report food or beverage provided or paid for for immediate consumption by legislators or legislative employees unless it's part of an event that's open to all legislators and employees, or the cost is \$10 or less. Lobbyists will be required to report the names of the recipients, the date the food or beverage was provided, and the amount paid.

[6:29:30 PM](#)

SENATOR WIELECHOWSKI asked if the \$10 threshold is cumulative.

[6:29:48 PM](#)

DAVID JONES, Assistant Attorney General, Department of Law, said he understands it was intended to be per event so a legislator could receive a \$10 cup of coffee one day and the next without violating the reporting requirement.

SENATOR MCGUIRE questioned how the \$10 amount came about.

CHAIR FRENCH replied it was his decision.

MS. SMITH directed attention to pages 9 and 11 and explained that language about telephone and facsimile use by legislators or employees was deleted because it's already covered under existing legislative ethics provisions. The Legislative Ethics Committee requested the change.

CHAIR FRENCH added there was a conflict between the de minimis standard, which applies to all usage of state equipment, and this particular provision. Removing the provision makes just one standard across the board, he said.

MR. JONES clarified the changes appear on page 9, lines 7-8, and page 11, lines 1-2.

MS. SMITH highlighted a deletion following Section 19, on page 19, and explained it's former Section 27, relating to representation. It also applies to legislative employees. Current Section 29, which was included in SB 13, already prohibits a legislator from doing work that's associated with legislative, administrative, or political action. This change requires a title change, she said.

CHAIR FRENCH added the House thoroughly worked over the deletion section and the Senate heard it was practically impossible to implement the section without boxing legislators out of ordinary activity in the course of their lives. He believes Section 29 picks up the largest majority of that disputed area.

SENATOR MCGUIRE asked for further explanation.

[6:33:55 PM](#)

MR. JONES explained that Section 29 would expand the restrictions on outside activities by legislators by prohibiting additional compensation from anyone other than the state for conducting those official activities. Rather than cinching down the outside activity restriction so tightly that a person couldn't go to the DMV to apply for a license, this bill would include the restriction in Section 29, which prevents receiving compensation from anyone other than the state for performing official duties. Also, it continues the existing requirement that representation for compensation before state bodies would be disclosed.

[6:35:40 PM](#)

MS. SMITH directed attention to page 22, line 27, through page 23, line 3, where language was added to create a first time course for new staff and legislators and a refresher course for returning staff and legislators. There's also language on page 42, an uncodified law, to clarify that everyone must first attend the full basic course.

CHAIR FRENCH said the idea is to get people to attend class and learn about ethics problems that are new to them.

SENATOR MCGUIRE asked if the idea of a manual or book containing new rules had been incorporated.

CHAIR FRENCH replied it's on page 22, line 22.

SENATOR MCGUIRE opined it would be nice to have that handbook incorporated into the training session.

CHAIR FRENCH asked if anyone online could confirm that that could be done.

[6:38:17 PM](#)

JOYCE ANDERSON, Legislative Ethics Committee, said that the manual could certainly be incorporated into the training program for a refresher course or a first-time training course.

[6:38:40 PM](#)

MS. SMITH referred to page 25-26 and said the first citation is on line 25. Deferred income is added to the financial disclosure requirements. Language regarding disclosure requirements has been modified to accommodate the deferred income requirements. Also, there's a conforming change on page 28, Section 46 adding deferred income to the definition of income. Legislative Ethics requested the change, she said.

On page 29, lines 8-12, the criteria for the ARM Board review of spouse or dependent benefits has been rewritten. The first criterion is retained and the financial benefit to the spouse criteria was replaced by the criteria asking whether the spouse had knowledge of the conduct. The third criteria regarding restitution was dropped. Also, language was changed to discuss the conduct for which the person was convicted, rather than the conduct for which the person was charged as the standard used for pension forfeiture.

CHAIR FRENCH commented that the language is conforming.

[6:40:35 PM](#)

MS. SMITH highlighted page 29, lines 20-23, which has more conforming language related to the credits for service that the Division of Retirements and Benefits asked for.

MS. SMITH said on pages 38-39, Sections 62 and 63 of the bill add the Senate Judiciary Committee language from SB 64 regarding the use of state aircraft.

CHAIR FRENCH commented the committee is well familiar with those amendments.

SENATOR THERRIAULT asked if the language is identical.

MS. SMITH said it was taken directly from the bill. Continuing, she said Section 66 beginning on page 39 through page 40, line 22, was amended to include language passed by the Senate

regarding which positions in the executive branch may not lobby for one year. That language includes division directors, legislative liaisons, and certain state board and commission members and offices of public corporations that weren't included in the House bill. She described it as a deeper list that was developed in the Senate State Affairs and Senate Finance committees and passed on the Senate floor.

[6:42:32 PM](#)

MS. SMITH said page 41 has a new Section 69. It clarifies the issues brought by the laborers union in testimony in both bodies. The language has been approved by the administration and the union representatives who highlighted the issue. It clarifies the ground rules under which the Executive Ethics Act applies to nepotism.

CHAIR FRENCH said he understands the language was agreed to by the Department of Law and the interested labor unions.

MR. JONES agreed.

MS. SMITH said Section 70, page 41, lines 24-25 expands the definition of official action to include what was contained in SB 19.

[6:44:06 PM](#)

MS. SMITH said the uncodified section on page 42 states that everyone is required to attend the first round of the ethics course. That concludes the changes in the CS, she said.

CHAIR FRENCH stated that the CS has been adopted and is before the committee. He asked if there were questions.

SENATOR McGUIRE mentioned that earlier that day she brought up the concept of conflicts related to citizen legislatures. She would probably address this in a separate bill, but one idea is to have a citizen task force look at how other states address compensation for lawmakers, and what the restrictions are on outside labor. Another idea is to allow an option in much the same way as is done when filing a campaign report. The option is to file either as a citizen lawmaker or as a fulltime lawmaker. Someone who files as a fulltime lawmaker would agree to only work for the state. Someone who files as a citizen lawmaker would be a lawmaker during the session and have outside disclosures. "Lots of folks in the building don't want restrictions on being able to work outside and yet we know that there are some very real concerns about that," she said. This is

an opportunity for both the public and those running for office to reflect on what they want and expect. "This is a very broad concept and it's not fleshed out, but it's something that would come in a different bill," she stated.

6:46:30 PM

SENATOR WIELECHOWSKI opined that this comprehensive bill is a good start toward restoring the public trust. However, more needs to be done. "I'm sure there will be projects over the Interim to try to deal with some of the situations that have occurred in the last couple days," he said. He noted that he has a bill that deals with campaign finance reform to achieve publicly funded elections. "It's time, I think, that we started the conversation on getting big money out of campaigns," he stated. I'll introduce a bill on that soon, he added.

CHAIR FRENCH stated appreciation for the work that Mr. Jones, Ms. Smith, and the committee did. "I think this committee is committed to getting some ethics reform this year," he said.

6:47:44 PM

MR. JONES said:

Pardon me for butting in, but I read and heard some stories over the weekend about Friday's arrests and indictments that left me a bit perplexed because in some of the stories it indicated that the "Ethics Bill" was stalled in the legislature and I knew differently. It was very clear to me last week that even before the arrests and indictments that you and this committee intended to move forward with the ethics bill. That it wasn't stalled. You scheduled a hearing last week. You held it and it was clear to me that day, based on my conversations with Ms. Smith that you intended to continue consideration tonight, at this meeting. So I think it's unfair to say that the bill was stalled and that any action the legislature takes now on the Ethics Bill has been motivated by Friday's events. It's very clear to me that that's not true. In fact you did intend to move the bill forward and we appreciate that and appreciate the leadership and statesmanship that you and the other members of the committee have shown. So thank you.

CHAIR FRENCH thanked Mr. Jones and said he believes the record speaks for itself. The bill went through the Senate State Affairs Committee a couple weeks ago and it was scheduled here.

"I very much thank you and the administration for saying so on the record though."

[6:49:09 PM](#)

SENATOR McGUIRE motioned to report version "W" SCS CSHB 109 from committee with individual recommendations and attached zero fiscal note(s).

CHAIR FRENCH announced that without objection SCS CSHB 109(JUD) is moved from committee. He asked for a motion to move the title change concurrent resolution.

[6:49:42 PM](#)

SENATOR McGUIRE motioned to pass the Senate Concurrent Resolution from committee.

CHAIR FRENCH announced that without objection the Senate Concurrent Resolution is moved from committee.

SENATOR THERRIAULT asked if he knows for a fact that the fiscal note is zero.

CHAIR FRENCH said he understands that the bill is scheduled in finance tomorrow and he can't answer whether it will be analyzed overnight to reflect the latest numbers.

[6:50:28 PM](#) at ease [6:52:51 PM](#)

The meeting was adjourned at [6:52:58 PM](#).