

**ALASKA STATE LEGISLATURE**  
**SENATE LABOR AND COMMERCE STANDING COMMITTEE**

April 24, 2007

1:34 p.m.

**MEMBERS PRESENT**

Senator Johnny Ellis, Chair  
Senator Gary Stevens, Vice Chair  
Senator Bettye Davis  
Senator Lyman Hoffman  
Senator Con Bunde

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 28

"An Act relating to limitations on mandatory overtime for registered nurses and licensed practical nurses in health care facilities; and providing for an effective date."

BILL POSTPONED TO APRIL 26

SENATE BILL NO. 120

"An Act relating to the calculation and payment of unemployment compensation benefits; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE BILL NO. 118(RLS)

"An Act relating to underage possession of alcoholic beverages in a dwelling."

MOVED CSHB 118(RLS) OUT OF COMMITTEE

SENATE BILL NO. 124

"An Act relating to the allocation of money appropriated to the Alaska Workforce Investment Board; and providing for an effective date."

MOVED CSSB 124(L&C) OUT OF COMMITTEE

SENATE BILL NO. 102

"An Act relating to mortgage lenders, mortgage brokers, mortgage originators, state agents who collect program administration fees, and other persons who engage in activities relating to mortgage lending; relating to mortgage loan activities; relating

to an originator fund; relating to fees for mortgage loan transactions; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 140

"An Act requiring paid leave from employment for bone marrow donation."

HEARD AND HELD

SENATE BILL NO. 155

"An Act relating to the exemption of water and wastewater utilities of a political subdivision."

HEARD AND HELD

#### **PREVIOUS COMMITTEE ACTION**

BILL: SB 120

SHORT TITLE: UNEMPLOYMENT COMPENSATION BENEFITS

SPONSOR(s): LABOR & COMMERCE

03/14/07	(S)	READ THE FIRST TIME - REFERRALS
03/14/07	(S)	L&C, FIN
03/22/07	(S)	L&C AT 1:30 PM BELTZ 211
03/22/07	(S)	Heard & Held
03/22/07	(S)	MINUTE(L&C)

BILL: HB 118

SHORT TITLE: PROHIBIT ALLOWING MINORS TO HAVE ALCOHOL

SPONSOR(s): REPRESENTATIVE(s) MEYER

02/05/07	(H)	READ THE FIRST TIME - REFERRALS
02/05/07	(H)	L&C, JUD
02/16/07	(H)	L&C AT 3:00 PM CAPITOL 17
02/16/07	(H)	<Bill Hearing Canceled>
02/21/07	(H)	L&C AT 3:00 PM CAPITOL 17
02/21/07	(H)	Moved Out of Committee
02/21/07	(H)	MINUTE(L&C)
02/22/07	(H)	L&C RPT 4DP 2NR
02/22/07	(H)	DP: GARDNER, RAMRAS, GATTO, OLSON
02/22/07	(H)	NR: LEDOUX, NEUMAN
03/12/07	(H)	JUD AT 1:00 PM CAPITOL 120
03/12/07	(H)	Moved Out of Committee
03/12/07	(H)	MINUTE(JUD)
03/14/07	(H)	JUD RPT 2DP 4NR 1AM
03/14/07	(H)	DP: LYNN, RAMRAS
03/14/07	(H)	NR: COGHILL, DAHLSTROM, SAMUELS, HOLMES
03/14/07	(H)	AM: GRUENBERG

04/02/07 (H) RLS AT 5:00 PM CAPITOL 106  
 04/02/07 (H) Moved CSHB 118(RLS) Out of Committee  
 04/02/07 (H) MINUTE(RLS)  
 04/03/07 (H) RLS RPT CS(RLS) 4DP 3NR  
 04/03/07 (H) DP: FAIRCLOUGH, KERTTULA, HARRIS,  
 JOHNSON  
 04/03/07 (H) NR: SAMUELS, GUTTENBERG, COGHILL  
 04/03/07 (H) TRANSMITTED TO (S)  
 04/03/07 (H) VERSION: CSHB 118(RLS)  
 04/04/07 (S) READ THE FIRST TIME - REFERRALS  
 04/04/07 (S) L&C, JUD  
 04/17/07 (S) L&C AT 1:30 PM BELTZ 211  
 04/17/07 (S) Heard & Held  
 04/17/07 (S) MINUTE(L&C)  
 04/19/07 (S) L&C AT 1:30 PM BELTZ 211  
 04/19/07 (S) Scheduled But Not Heard  
 04/24/07 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 102

SHORT TITLE: MORTGAGE LENDING

SPONSOR(s): SENATOR(s) HUGGINS BY REQUEST

03/02/07 (S) READ THE FIRST TIME - REFERRALS  
 03/02/07 (S) L&C, FIN  
 04/17/07 (S) L&C AT 1:30 PM BELTZ 211  
 04/17/07 (S) Scheduled But Not Heard  
 04/19/07 (S) L&C AT 1:30 PM BELTZ 211  
 04/19/07 (S) Heard & Held  
 04/19/07 (S) MINUTE(L&C)  
 04/24/07 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 140

SHORT TITLE: LEAVE FOR BONE MARROW DONATIONS

SPONSOR(s): SENATOR(s) ELTON

03/28/07 (S) READ THE FIRST TIME - REFERRALS  
 03/28/07 (S) L&C, STA, FIN  
 04/19/07 (S) L&C AT 1:30 PM BELTZ 211  
 04/19/07 (S) Scheduled But Not Heard  
 04/24/07 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 155

SHORT TITLE: REGULATION OF WATER/WASTEWATER UTILITIES

SPONSOR(s): LABOR & COMMERCE

04/16/07 (S) READ THE FIRST TIME - REFERRALS  
 04/16/07 (S) L&C, CRA, FIN

04/24/07

(S)

L&C AT 1:30 PM BELTZ 211

**WITNESS REGISTER**

PETE PAWLOWSKI

Staff to Representative Kevin Meyer  
Alaska State Capitol  
Juneau, AK

**POSITION STATEMENT:** Commented on HB 118 for the sponsor.

DAVE GRAY

Staff to Senator Donny Olson  
Alaska State Capitol  
Juneau, AK

**POSITION STATEMENT:** Commented on SB 124 for the sponsor.

DANA OWEN

Staff to the Labor and Commerce Committee  
Alaska State Capitol  
Juneau, AK

**POSITION STATEMENT:** Commented on the CS to SB 124.

MIKE ANDERS, Director

Alaska Works Partnership  
Department of Labor and Workforce Development (DOLWD)  
Juneau AK

**POSITION STATEMENT:** Supported CSSB 124 (L&C), version L.

WENDY REDMAN

Vice President for University Relations  
University of Alaska  
Anchorage AK

**POSITION STATEMENT:** Supported CSSB 124 (L&C), version L.

MARK DAVIS, Director

Division of Banking and Securities  
Department of Commerce, Community & Economic Development  
Juneau AK

**POSITION STATEMENT:** Explained and supported CSSB 102(L&C).

KEVIN BREELAND, President

Alaska State Mortgage Bankers Association  
Juneau AK

**POSITION STATEMENT:** Supported CSSB 102(L&C).

SENATOR ELTON

Alaska State Legislature

Juneau, AK

**POSITION STATEMENT:** Sponsor of SB 140.

PAULA CADIENTE

Staff to Senator Elton

Alaska State Capitol

Juneau, AK

**POSITION STATEMENT:** Explained the CS to SB 140 for the sponsor.

MARK PREMO, General Manager

Anchorage Water and Wastewater Utility Authority (AWWU)

Anchorage, AK

**POSITION STATEMENT:** Supported SB 155.

CALVIN WEST, Chairman

Anchorage Water and Wastewater Authority Board

Anchorage, AK

**POSITION STATEMENT:** Supported SB 155.

VIRGINIA RUSH

AARP

Juneau, AK

**POSITION STATEMENT:** Opposed SB 155.

#### **ACTION NARRATIVE**

**CHAIR JOHNNY ELLIS** called the Senate Labor and Commerce Standing Committee meeting to order at [1:34:06 PM](#). Present at the call to order were Senators Stevens, Bunde, Davis and Ellis.

#### **SB 120-UNEMPLOYMENT COMPENSATION BENEFITS**

[1:35:45 PM](#)

CHAIR ELLIS said he was bringing SB 120 up for the purpose of referring it to a subcommittee that he would chair. It would meet April 26 in the Fahrenkamp Room and all interested parties were welcome.

#### **CSHB 118(RLS)-PROHIBIT ALLOWING MINORS TO HAVE ALCOHOL**

[1:36:10 PM](#)

CHAIR ELLIS announced CSHB 118(RLS) to be up for consideration. He said this was the bill's second hearing in the committee.

PETE PAWLOWSKI, Staff to Representative Kevin Meyer, sponsor of HB 118, briefed the committee that the bill closes a gap in statute and provides another tool for law enforcement to deal

with those parties where it's difficult or impossible to prove that a person is hosting or has furnished alcohol to an underage person. It would now enable police to assess a non-criminal violation for hosting a party for underage people.

CHAIR ELLIS noted the zero fiscal note.

[1:37:05 PM](#)

SENATOR STEVENS moved to pass CSHB 118(RLS) from committee with individual recommendations and attached fiscal note. There were no objections and it was so ordered.

### **SB 124-ALASKA WORKFORCE INVESTMENT BD ALLOCATION**

[1:38:13 PM](#)

CHAIR ELLIS announced SB 124 to be up for consideration. He said it had already been before the committee.

[1:39:57 PM](#)

DAVE GRAY, staff to Senator Donny Olson, sponsor of SB 124, said initially the bill had to do with funding for a VocTech effort in Nome. Subsequent to that, the Senate was approach by a number of interests to expand the bill's application to take a broader look at the education needs of Alaska's workforce prior to any kind of a pipeline construction effort.

[1:41:42 PM](#)

DANA OWEN, staff to the Labor and Commerce Committee, reviewed the proposed CSSB 124, version L, saying it changes the allocation scheme significantly on page 2. The University of Alaska now gets 37 percent, the Galena project gets 3.5 percent, Kotzebue is at 8.5 percent, Alaska Vocational Technical Center will get 16 percent, Northwestern Alaska Career and Technical Center will get 3.5 percent, Southwest Alaska Vocational and Educational Center will get 3.5 percent, the Ute People's Learning Center gets 8.5 percent, the Delta Career Advancement center gets 3.5 percent and Alaska Works Partnership gets 16 percent. He said the idea was to find an equitable distribution that would not disadvantage any of the centers and would try to fairly distribute the monies. All the other provisions remain the same.

[1:42:57 PM](#)

SENATOR BUNDE said he had visited many of the centers he mentioned and noticed their reductions and asked for the rationale behind taking money away from people who are already doing a successful job to give it to new places.

MR. OWEN responded that he has spoken with both the University of Alaska and the Alaska Works Partnership and they are both supportive of this bill. No one will receive an actual reduction in funding amounts.

MR. GRAY had no comments on the proposed CS.

[1:45:12 PM](#)

SENATOR DAVIS asked where the numbers came from.

CHAIR ELLIS answered there was input from the Department of Labor and Workforce Development (DOLWD), Alaska Works Partnership, and the University of Alaska to his staff and he had a discussion with Senator Stevens.

[1:46:03 PM](#) recess [1:50:08 PM](#)

MIKE ANDERS, Director, Alaska Works Partnership, Inc., said the one thing that wasn't stated earlier in looking at the changed allocations is that actually the technical vocational education fund has increased 50 percent as a result of this legislation. Therefore, the overall allocations are changed. The formula was arranged so that no current training facility loses money or gets less money as a result.

[1:51:14 PM](#)

WENDY REDMAN, Vice President for University Relations, University of Alaska, supported CSSB 124 (L&C) and getting money into the other programs that the University partners with. Adding to their capacity will be a great help to the state.

SENATOR BUNDE asked if she could use more money if it were available.

MS. REDMAN replied that the University certainly could use more money. It has a budget request with a lot of workforce training requests and it is trying to get some money through the AGIA bill that is more gasline related.

[1:52:34 PM](#)

SENATOR STEVENS moved to adopt the CSSB 124 (L&C), version L. There were no objections and it was so ordered.

[1:53:42 PM](#)

SENATOR STEVENS moved to pass CSSB 124(L&C), version L, from committee with individual recommendations and attached fiscal

notes. SENATOR BUNDE objected saying he thought success should be rewarded by giving the successful programs more money rather than siphoning some potential money away into new and unproven programs.

A roll call vote was taken. Senators Stevens, Davis and Ellis voted yea; Senator Bunde voted nay; and CSSB 124(L&C), version L, passed from committee.

### SB 102-MORTGAGE LENDING

1:56:13 PM

CHAIR ELLIS announced SB 102, version C, to be up for consideration. He said they are in receipt of a second letter in support of SB 102 from AARP that had worked through its concerns with Mr. Davis.

MARK DAVIS, Director, Division of Banking and Securities, Department of Commerce, Community & Economic Development (DCCED), said he had conversations with the American Financial Services Association (AFSA) and outside firms like Countrywide, but they didn't come to an agreement that pleased all parties. He explained that as division director, the difficulty he has is if they exempt the originators who work for an affiliate of a bank, that would include the state bank, and he didn't think that would be in the consumers' best interest. Right now the division regulates state bank mortgages, which is very beneficial for consumers. If the change is adopted, the state bank could adopt an affiliate and entirely avoid licensing as originators.

He talked with them about carving out an exemption for federal banks. But in looking at the state statutes, he is required to preserve parity between the state and federal banks. However, he said he understood their concerns more thoroughly now and had made progress in one area - having to comply with different education requirements in all 50 states - and a fellow regulator said they were adopting Internet-based testing that is standardized and adapted to each state - much like the multi-state bar exam. He thought that would make it much easier for out-of-state companies to comply.

On education, he does not want to discipline everyone, but he also wants everyone to be educated. As an example he said he gets complaints every month from young couples who have bought their first home in Alaska and who have gone to a company that is not familiar with Alaska law. That company does not tell them about Alaska Housing Finance Corporation's first time homebuyer

program. Then they get told by a relative and realize they could have saved one or two points. He gets called and he has to tell them the company was not regulated. He also knows that certain outside companies are writing mortgages that have prepayment penalty clauses in them, which are not legal in this state. So, he is a proponent of education. On the other hand, he can understand AFSA not wanting to comply with 50 different education requirements.

MR. DAVIS said it would cost \$5,000 to license 20 originators in Alaska per year. Some states have call center licensing where all the originators meet all the other requirements. He thought a lot things they are concerned with could be dealt by regulation or perhaps some modification of the bill rather than an exemption - if absolutely necessary. He reminded them that the effective date is July 1, 2008 and the bill wouldn't apply to the AFSA members until March 1, 2009.

[1:59:51 PM](#)

He also reported checking with the Department of Financing Institutions in Washington State, which has adopted the AFSA language allowing for exemptions. He was told they are processing a couple thousand exemptions and it has become as onerous as probably doing the licensing. Its statute also didn't provide for payment of processing those exemptions. So it cost Washington State money. So if you were going to process exemptions, it might require another fiscal note.

MR. DAVIS said he thought the bill should be passed as is, but they should be very careful not to target any part of the industry. You don't want to discriminate against people from out of state. He wanted everyone to have education and background checks. Right now, people with felonies are mortgage originators and last weekend a mortgage originator pled guilty to two counts in federal court. This bill will correct that.

[2:01:19 PM](#)

SENATOR BUNDE said he had written testimony from the Alaska Association of Realtors dated this weekend and it says the Division of Banking receives as many as 50 complaints a week.

MR. DAVIS responded that he receives about 20 complaints, but he is getting 5 or 6 inquiries from mortgage companies a week that want to enter into the state. The people who answer the phone tell him that they get two reactions when they say there is no licensing. Some say great and others say they don't want to come here. His experience with payday lending is that loans to the

public were substantially cut with that bill, but the state also had 30 new companies enter because it's now legal to do so. Ten companies have exited who couldn't comply with the statute. He thought a similar thing would happen with mortgage companies.

SENATOR BUNDE asked the average number of complaints a week over the last year.

MR. DAVIS replied about 4 or 5. The complaints include not knowing about the programs like AHFC, switching fees, and tying groups into a closing, which is illegal, but no one can enforce that. He said the State of Maine recommended the best thing for state mortgaging to do is to adopt federal standards into state law. That's exactly what this bill does.

[2:02:05 PM](#)

SENATOR HOFFMAN joined the committee.

[2:03:54 PM](#)

SENATOR STEVENS asked how the exemptions would be applied.

MR. DAVIS explained that Southcentral Mortgaging would be exempt from this program. Some complaints are people not getting what they were promised and education so originators can tell people what programs are out there to help them if they fall into a certain category.

CHAIR ELLIS asked if he was recommending the original bill after talking to AFSA folks.

MR. DAVIS replied yes with the understanding that the regulatory burden is evenly applied.

CHAIR ELLIS asked if he had all of the statutory authority to promulgate the regulations that would address some if not all of the concerns of the AFSA under this bill.

MR. DAVIS answered that after checking with other states on the education, he thought he could work with that and make sure the test is similar to other tests in states with licensure; he could also offer reciprocity.

CHAIR ELLIS asked him what other states do to regulate AFSA members.

[2:06:29 PM](#)

MR. DAVIS replied there are differences. The States of Washington and Idaho have language similar to what AFSA is proposing and they process exemptions. That just took place in Washington on January 1, 2007; Montana just passed a new statute that licenses originators and does not exempt the AFSA members. Georgia does not license originators; they make the mortgage banker responsible for the originator.

His division favors originator licensing because that's the person who meets with the consumer and sits down with them and makes the representations. If that person is educated, less enforcement will be needed. If he has to go to court, the Department of Law would charge \$170,000 to \$200,000 for that representation. The best thing to do is have the originators be educated and be sensitive to minorities.

2:07:39 PM

SENATOR STEVENS asked if he intends to return at some point to talk more about a bill that would concern predatory lending.

MR. DAVIS replied very much so. If Alaska wants to get in line with other states, it needs to have a predatory lending act. He intended to find a sponsor for that bill next session and it would have to include enforcement powers.

2:09:09 PM

CHAIR ELLIS asked him for the history of the mortgage lending bill.

MR. DAVIS replied that last year SB 272 proposed licensing mortgage brokers and mortgage bankers and it was his intention to come back with an originator licensing bill this year. But over the summer the industry decided to prepare a bill that included all three.

2:09:38 PM

KEVIN BREELAND, President, Alaska State Mortgage Bankers Association, said he is also a partner in Residential Mortgage in Anchorage. They both supported CSSB 102(L&C). This bill defines an originator, which is exactly what he does every day - and every originator in the State of Alaska should be doing exactly what the definition says. He said Alaska is the only state with no licensing for mortgage companies and it is one of the few states left that doesn't require any licensing for loan originators. Currently 26 states do require it and that number continues to grow on an annual basis. He said that mortgage originator licensing has become such an important component

against predatory lending that at the federal level a bipartisan bill with 236 sponsors was introduced with a component for a nationwide mortgage originator national registry so that all originators in the United State would have to be registered there. This is a key component in looking at predatory lending practices.

[2:13:31 PM](#)

He said that currently, when a consumer has a complaint the only recourse he has is to contact the attorney general's office that has limited resources and there's only so much they can do. Under this bill, the Division of Banking and Securities gets an opportunity to look at what companies and originators are doing and it can fend off predatory lending and other illegal acts that may be going on.

MR. BREELAND said that Alaska has a dual banking system, which makes state banks competitive with federal banks. The proposed AFSA amendment adding the word "affiliate," would start stripping away at the core of the dual banking system by allowing state banks to take their mortgage operations, move them out of the bank and put them into an affiliate where they would be completely unregulated.

[2:16:11 PM](#)

MR. BREELAND said he is sensitive to the fact that some of companies would have 200 or 300 originators they would have to license, but out-of-state lenders should not receive privileges that instate lenders don't. Residential Mortgage has 70 originators statewide; it will spend thousands of dollars licensing all of them and they welcome the opportunity to do it. He also drew their attention to language on page 36, lines 18 - 27, that does not require loan processors, loan underwriters, shipping departments, and clerical staff to be licensed saying it is not the intent to license all the support staff, only originators. "If someone gains financially from the origination of a loan, they should be licensed. It's that simple."

He said he gets up to 80 emails a day from out-of-state mortgagers, which he doesn't respond to, but he knows that other Alaskans do respond to them. He reminded them that SB 102 is a collaboration effort between the Mortgage Bankers Association and the Alaska Association of Mortgage Brokers; they are both asking for regulation and this level of consumer protection.

[2:18:10 PM](#)

He said SB 102 [version C] is an industry friendly bill that will promote competition and doesn't bar anybody from competing in Alaska.

[2:18:49 PM](#)

SENATOR STEVENS asked if his employees would need additional training to become licensed and if they are talking about a major investment in education.

MR. BREELAND replied that continuing education would take a sizeable investment from his company. He explained that one of the components of the bill is an education committee consisting of seven members. He said the Alaska Mortgage Bankers has an association with the National Mortgage Bankers Association and within that association they have what is called Campus NBA that has a lot of training programs that can be submitted to this education committee for approval. They would more than likely be approved. The Alaska Association of Mortgage Brokers through their national chapter has the same thing; Countrywide has in-house training programs that can be submitted for approval and on and on. That was the intent of this bill - to allow all of these education programs that already exist to just be submitted for approval so they can be used for continuing education.

MR. BREELAND said the competency test is going to be a test that basically anyone who is an originator of mortgage loans in the State of Alaska should be able to pass. The "Kevin provision" will allow him or anyone else to take it more than once in case he fails it the first time. It is not a difficult test, but it gives some level of competency to the people who are talking to families about the purchase of a home. He said money his company spends on educating its people will at the very least enhance their current understanding. The mortgage industry is extremely technical and always changing and people need to keep abreast through education.

[2:22:09 PM](#)

CHAIR ELLIS noted that Roger Prince with the State of Alaska, John Martin with the Alaska Association of Mortgage Brokers and Julia Koester from the Department of Law, were available to answer questions. He asked the committee to have their questions ready for next Thursday and held SB 102.

**SB 140-LEAVE FOR BONE MARROW DONATIONS**

[2:23:10 PM](#)

CHAIR ELLIS announced SB 140 to be up for consideration and that it already had a hearing before this committee.

SENATOR ELTON, sponsor of SB 140, briefly summarized that the leave donation component of this bill kicks in only when a donor is selected as a potential donor in an individual case. Section 1 applies the provisions of this bill to private employers who employ more than 20 people, municipalities and school districts. He worked with the Alaska State Chamber of Commerce and tried to address some of its concerns by capping the leave donation that an employer had to grant at 60 hours.

Sections 2 and 3 are part statutory cleanup and part technical. Section 4 is the part of the bill that applies the donor program to state employees. This part of the bill says that the employer must provide 40 hours minimum and then the caps will be done by the department in regulation. Section 5 is technical. He noted that he was speaking to the version M committee substitute. In the previous version section 4 had a provision that the bill applied to the Alaska Railroad Corporation. The CS creates a new section 6 and applies the provisions to the Alaska Railroad there instead of combining it with section 4.

[2:25:36 PM](#)

SENATOR ELTON said a person who is selected as a potential donor who then becomes a donor has a certain timeframe in which to do things. Most often a component of the time is travel. The donation procedure is usually done in Seattle where they try to do it on Friday because of the recovery time that is necessary after the donation is made. That is usually done over the weekend and then the donor is released. The bill removes an impediment to getting on the register. It means most people won't have to take personal leave to join a registry.

[2:28:09 PM](#)

SENATOR ELTON explained that recently a Juneau boy received a donation from an out of state person and this made him realize that it is good state policy to have a pool of people who can become a donor.

The several fiscal notes are all zero and that played into his decision as sponsor to include private employers, since the legislature doesn't normally extend mandates to private employers. The state didn't believe there would be many donors and that's why it came up with a zero fiscal note. This will not have much an impact on private employers.

[2:30:25 PM](#)

SENATOR ELTON asked his staff, Paula Cadiente, to join him in answering questions about this bill. He continued saying, however, that the fact is that figures from the National Marrow Donor Program indicate that lack of financial resources can delay donor searches or limit opportunities for post transplant care. For patients who qualify for financial assistance, the Donor Program offers the Marrow Foundation Patient Assistant Program. In 2006 more than 1000 requests for funds were approved and more than \$4 million were made available to patients in need. So, a non profit group recognizes there is a financial impact on donors. This bill is the right thing to do just as there is a program that the non profit group does.

[2:31:22 PM](#)

SENATOR STEVENS asked if the donation procedure really takes a full week and why there is a difference between public employer and private employer leave.

SENATOR ELTON responded that he tried to respond to a concern of the Alaska State Chamber of Commerce that there could be circumstances in which the employee would want things that would grow into a bigger issue that would have a bigger financial impact on businesses. Public employees were left some latitude for people who write the regulations.

Responding to the first question, Senator Elton said it doesn't take long to join the registry; it's a simple swab on the cheek. This bill does not provide for any leave for getting on to the registry. Once one is selected, a series of tests are made; the first is a blood test which can be done in a simple way. However, once you're selected, time is needed even if you live in an urban area. You have to catch a plane and go to Seattle where you undergo additional testing. The harvest then occurs and the person is kept to make sure he didn't suffer any consequences.

[2:34:31 PM](#)

SENATOR BUNDE agreed that people should be encouraged to be organ and tissue donors, but they are also telling the private employer they have to give up one week of salary. He asked why not have the state reimburse private enterprise and that would encourage people to be organ, tissue or bone marrow donors even more.

SENATOR ELTON replied that would be the legislature's policy call, but he cautioned that in most cases private employers will

bend over backwards to accommodate and protect their employees from a financial hit. So every employer would apply for reimbursement.

CHAIR ELLIS announced that the proposed CS just arrived.

[2:36:31 PM](#)

PAULA CADIENTE, staff to Senator Elton, walked the committee through the new CS. She said language on page 2, lines 1 - 9 changes the definition of employee to a person who works for a political subdivision of the state or a private employer. It also defines "political subdivision." Section 4, on page 3, line 8, deletes the Alaska Railroad Corporation (ARRC) because it is not subject to Title 39. Language is added on page 4 in section 6 to Title 42 to include employees of the ARRC.

[2:38:46 PM](#)

CHAIR ELLIS asked if the changes in the definition of "employee and political subdivision" on page 2 are just for the purposes of this statute change (for bone marrow).

MS. CADIENTE replied that is correct.

CHAIR ELLIS asked if the change expands the definition of employee compared to the original bill.

MS. CADIENTE replied that it is actually more restricted. In the original bill, an employee was a public or private employer.

CHAIR ELLIS asked how the definition of "political subdivision" is changed.

MS. CADIENTE replied that it is defined as a municipality and its subdivisions - as most political subdivision are defined.

[2:40:06 PM](#)

CHAIR ELLIS said adopting the CS to SB 140 would be held until the next hearing.

#### **SB 155-REGULATION OF WATER/WASTEWATER UTILITIES**

[2:41:02 PM](#)

CHAIR ELLIS announced SB 155 to be up for consideration.

MARK PREMO, General Manager of the Anchorage Water and Wastewater Utility Authority (AWWU), supported SB 155. He said this bill would exempt AWWU from economic regulation by the

Regulatory Commission of Alaska (RCA) and place it in the same status as every other municipally owned water/wastewater utility in Alaska, except one, Pelican. He related:

The AWWU is two separate utilities, both subject to economic and service area regulations by the RCA. The Water Utility, a former City of Anchorage utility, has been under RCA regulation since inception of the Alaska Public Utilities Commission (APUC) in 1970.

The Anchorage Sewer Utility, which was formerly owned by the Greater Anchorage Area Borough, was voluntarily submitted to the APUC for regulation in 1971. An umbrella organization, AWWU, was formed in 1975, following unification of the Borough and City into the Municipality of Anchorage. The Municipality of Anchorage in 1991 petitioned the then APUC to exempt AWWU and its electric utility from regulation.

The Commission split evenly, by a 2-2 vote, on the question of exempting the electric utility and AWWU.

The opinion by the commissioners opposing self-regulation cited competition by the Municipality's electric utility and telephone utility with other utilities as the primary reason why AWWU should remain regulated by the state.

No commissioner suggested then or has since suggested that competition between the water and wastewater was present, nor is there any competition there today. Also the telephone utility is no longer owned by Anchorage.

The House of Representatives previously approved HB 515 and HB 108. Both of these bills would have exempted AWWU from economic regulation by the RCA. The Senate did not act on either bill.

HB 108 included a requirement from the House that the Municipality of Anchorage create an AWWU Authority with a Board of Directors that reports directly to the Municipal Assembly to provide oversight of AWWU and remove AWWU from under the Mayor of Anchorage.

In September 2005, the Municipal Assembly created the AWWU Authority with a seven member Board of Directors

which are approved by the Assembly and serve 5-year overlapping terms. Five of the seven Board members must be customers of AWWU and four must be experts in the respective fields of engineering, business, public health and law. A supermajority (five of the seven) must be AWWU customers, thereby ensuring a strong level of consumer input into decision-making.

The work of the Board of Directors is written into Municipal Code by Assembly Ordinance passed in September, 2005. The Board is empowered to recommend rates to be charged by the utility to its customers. Code requires that ratemaking follow standard industry practice of developing revenue requirements on the basis of true and documented costs. Public hearings for proposed rates are required before Board Approval and public hearings are required again at the Municipal Assembly level prior to the current practice of filing tariff adjustments with the RCA. We know of no other utility in the country that faces three tiers of public approval prior to establishment of new rates.

With the Board of Directors in place, the RCA approval process becomes redundant and value-less

Why does the Municipality of Anchorage desire exemption from RCA Regulation?

1) The current RCA regulation processes and procedures are slow and expensive.

From 1993 to 2003, AWWU filed only minor housekeeping and procedural matters with the RCA and never requested a rate increase. Yet AWWU ratepayers have paid approximately \$2.8 million in regulatory assessments to the RCA during this period as part of every monthly bill. Currently, annual cost to ratepayers for regulatory commission charges amount to more than \$600,000.

However, the greater cost to AWWU and its customers is in the form of the cost of preparing filings and regulatory lag. The cost of staff, consultants and attorneys currently exceed \$700,000 per year over and above the \$600,000 in fees to RCA. A typical tariff rate adjustment case takes a minimum of 15 months and

requires the preparation of thousands of pages filings, responses to discovery questions, testimony and exhibits to adjudicate the case before the RCA.

The large delays substantially increase the jeopardy for the AWWU rate payers and AWWU in the event that a portion of the requested rates have to be refunded.

History and present events show that local regulation is faster, less structured and more economical.

2) Current RCA regulations and procedures are non-responsive to local needs.

The RCA process was designed for private utilities and is not entirely appropriate for municipal utilities. The RCA process is a very structured and adversarial process that is not consumer friendly.

The RCA is not accountable to Anchorage residents. The Municipal Assembly and Authority Board of Directors are more responsive to local needs and are directly accountable to the ratepayers who are served by the utilities. These customers are Municipal voters.

Public hearings are now required by Code to be held by both the new Authority Board and the Municipal Assembly on all rate matters. The public hearings are non-adversarial and are much more customer friendly.

I ask for the Committee's support of SB 155. Self regulation has worked effectively across the nation, in other Alaskan communities, and in Anchorage. Anchorage has regulated its own public utilities for many more years than have state regulators. The Municipality of Anchorage has a proven track record of effectively regulating the Port of Anchorage, Merrill Field and Solid Waste Services. All are financially strong, highly reputable enterprises that provide excellent customer service.

For nearly 20 years, rate payers have benefited as AWWU has reduced staff positions and labor expenses by leveraging technology and improving business processes while at the same time increasing spending on system repairs and rehabilitation. In 1987, AWWU employed 339 people on staff for 84,000 customer accounts (water

and sewer). Today, we serve over 110,000 accounts with a staff of 266 individuals. This has all been done without direction and assistance (or value added) from the RCA.

Over the years, the municipal assembly has made sound decisions in their oversight of AWWU and other municipally owned utilities, including such decisions as the creation of the AWWU Authority Board to specifically address governance of the utility with focused, local expertise and consumer interests in mind.

In conclusion, the passage of SB 155 provides for local regulation of municipal water and wastewater utilities and facilitates the proper local-regulation of the AWWU Authority like other utilities across Alaska and the rest of the nation. It will also facilitate the most efficient and effective operation and management of the AWWU Authority. Thank you.

[2:48:22 PM](#)

CALVIN WEST, Chairman, Anchorage Water and Wastewater Authority Board, supported SB 155 saying it will exempt the AWWU from economic regulation from the RCA. The following is a transcript of his testimony:

This bill would exempt the Anchorage Water and Wastewater Utility, commonly referred to as AWWU, from economic regulation by the Regulatory Commission of Alaska. This action will allow AWWU to operate like every other municipally owned water and/or wastewater utility in Alaska, except the City of Pelican which voluntarily opted for economic regulation.

Some history is necessary to understand why AWWU is economically regulated. Currently, AWWU is two separate utilities, both subject to economic and service area regulations by the RCA. The Water Utility, a former City of Anchorage utility, has been under economic regulation since inception of the APUC in 1970, because of competition with other local utilities.

The Anchorage Sewer Utility, which was established by the Greater Anchorage Area Borough, and the Borough voluntarily submitted to the APUC for economic

regulation in 1971 to facilitate the creation of the utility. In 1975, following unification of the Borough and City into the Municipality of Anchorage, the two utilities were organized into single operation forming AWWU.

The current status today - In September 2005, the Municipal Assembly created the AWWU Authority with a seven member Board of Directors to provide governance and oversight of the utilities. This action transferred responsibility for guidance and direction of AWWU from the Mayors Office to the Authority Board.

Board members are approved by the Assembly and serve 5-year overlapping terms. Five of the seven Board members must be customers of AWWU and four must be experts in the respective fields of engineering, business, public health and law. Since five of the seven Board Members must be AWWU customers, a strong level of consumer input is ensured in the decision-making process.

Oversight of AWWU and the Authority Board is provided by the Municipal Assembly in three key areas: appointment of board members, approval of changes in the tariffs, including rates, and approval of debt.

Through Municipal code the Board is empowered to recommend rates charged for utility services. The Municipal code requires that ratemaking follow standard industry practice. Public hearings before the Board are required for new proposed rates prior to Board approval. Board approved rates are then submitted to the Municipal Assembly and public hearings are again required prior to Assembly approval. Following Assembly approval the current practice is the filing of tariff adjustments with the RCA. We know of no other utility in the United States that has three tiers of public approval prior to establishment of new rates.

It is important to note that the initiation of this legislation, allowing AWWU to become economically self-regulated, emanates from the Board and is endorsed by the Municipal Assembly. While Mayor Begich may also embrace the concept of self-regulation, he has not expressed his opinion to the Board.

Some key points to consider regarding economic self-regulation for AWWU are:

- 1) No other municipally-owned utility in the United States has three tiers of public governance and oversight.
- 2) The seven-member AWWU Authority Board, comprised of at least five AWWU customers, is more responsive to the needs of the utilities and its customers than a state-wide board appointed to oversee a number of utilities throughout the state.
- 3) The Municipal Assembly, elected by the citizens of the Municipality, is more responsive to the citizens of the Municipality and the customers of AWWU than a board appointed by the state.
- 4) The reasons that brought economic regulation of the water and wastewater utilities are no longer valid. The water utility does not compete with other adjacent utilities and the wastewater utility is now well established and accepted by the community.
- 5) The current RCA regulation processes and procedures are slow and expensive: Annual cost to AWWU ratepayers for regulatory commission charges amount to more than \$600,000 a year. The cost of staff, consultants and attorneys currently exceeds \$700,000 per year for rate case filings. A typical tariff rate adjustment case takes a minimum of 15 months to complete. Current RCA regulations and procedures are non-responsive to local needs for municipally-owned utilities; it is designed to regulate privately-owned utilities.

In conclusion, the passage of SB 155 provides for local regulation of Anchorage's water and wastewater utilities. It facilitates the proper local regulation of the AWWU Authority like other utilities across Alaska and the rest of the nation. It will also facilitate the most efficient and effective operation and management of the AWWU Authority.

I ask for the Committee's support of SB 155. Thank you.

[2:54:20 PM](#)

VIRGINIA RUSH, AARP, opposed SB 155 because it removes the AWWU from RCA oversight that provides consumer protections. She said that she served as an Assistant Attorney General in Alaska for

23 years, 14 of those years she was assigned to the RCA and so has a lot of experience with the RCA's expertise in utility rate-making and its processes.

She said she wanted to respond today to the arguments they had just heard from Mr. Premo and Mr. West. They say that the Board that has been established and the Anchorage Assembly adequately do the job that the RCA does, but the RCA is an independent judicial-type agency that is given the responsibility of protecting consumers by assuring that the rates they pay are just and reasonable. They do that through a rate-making process which Mr. Premo has described as "adversarial and not consumer friendly."

MS. RUSH responded further:

But in fact let me tell you what that process is. It's that the utility files a rate case with the cost justification for the rates it wants and then a state-funded consumer organization, which is now in the Attorney General's Office, has a chance to audit and carefully examine the cost justification for those rates. It files a report and then to the extent there is a disagreement between the utility and the AG as consumer advocate, there is a hearing for the independent judicial body that the RCA represents to decide those issues.

Now, AARP has also participated in a couple of rate cases because of its concern for consumer rates. Let me compare that with the process that AWWU proposes as I understand it. There are consumer hearings - they said - before the Board and I believe that means that any citizen can come in and talk for three or five minutes without the opportunity to audit or have professional expertise to look at those costs.

The Board is not independent like the RCA. It is the Board; it's just like the Board of Enstar might be. It's the number of people who are in charge of running that utility. Do they take an independent consumer-protection look at the rates they themselves have proposed? Well. No.

The Anchorage Assembly, we have talked to and they have been very helpful and I have nothing but admiration for people who spend so much time in the

role of Assembly members, but their plates are stacked a foot high with numerous numerous issues that they have to decide. They do not have the time or the expertise to look at the data on cost justification that the RCA does.

2:58:48 PM

As far as local control goes, the utility and its management along with its municipal budgeting have all kinds of authority. They decide if a new main line is needed through south Anchorage; they decide what facilities to repair - local needs like that are addressed exclusively by those bodies. But the RCA's area of authority is rate making and they do it independently.

Now, there is a great need for it as illustrated by AWWU's four new requests for rate increases since the beginning of 2004 and a large percentage of that increase that the utility sought - and they are currently getting it - is to pay additional money right into the municipalities' coffers as a payment in lieu of taxes. And when the RCA was asked to look at the fairness of that, they rejected that. They said it doesn't follow our precedence; it doesn't follow good utility policy and currently that issue is on appeal.

But look back and realize that AWWU's first effort to deregulate itself came just at the same time about three years ago that the City of Anchorage was attempting to put more money into its own pocket through this extra charge in the utility bills, which they don't come out and declare it to be tax. They don't call it a tax; it's well hidden in the utility base, but it is a tax.

3:00:47 PM

CHAIR ELLIS apologized for interrupting and asked her to wrap up and said that he would hold this bill over for further testimony and consideration.

MS. RUSH concluded that the RCA is more responsive to consumers and protects them in a way that is independent and has more expertise as opposed to two in-house layers that are not independent at all.

SENATOR STEVENS asked if they could get some response from Pelican on whether it would want to be exempt as well.

CHAIR ELLIS replied that Pelican would be contacted. He held SB 155 in committee.

There being no further business to come before the committee, Chair Ellis adjourned the meeting at [3:01:53 PM](#).