

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 21, 2008

1:30 p.m.

MEMBERS PRESENT

Senator Johnny Ellis, Chair
Senator Bettye Davis
Senator Con Bunde

MEMBERS ABSENT

Senator Gary Stevens, Vice Chair
Senator Lyman Hoffman

COMMITTEE CALENDAR

SENATE BILL NO. 153

"An Act relating to the use of credited military service by retired peace officers and fire fighters to meet certain requirements for major medical insurance coverage benefits."

MOVED SB 153 OUT OF COMMITTEE

SENATE BILL NO. 209

"An Act extending the termination date of the Alaska Commission on Aging; and providing for an effective date."

MOVED SB 209 OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 16

Opposing imposition of a milk tax on Alaskans.

HEARD AND HELD

CS FOR HOUSE BILL NO. 196(JUD)

"An Act relating to the handling of matters after a person's death."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 153

SHORT TITLE: PEACE OFFICERS/FIRE FIGHTER RETIREMENT

SPONSOR(s): SENATOR(s) FRENCH

04/13/07	(S)	READ THE FIRST TIME - REFERRALS
04/13/07	(S)	L&C, STA, FIN
01/31/08	(S)	L&C AT 2:00 PM BELTZ 211

01/31/08 (S) Heard & Held
01/31/08 (S) MINUTE(L&C)
02/07/08 (S) L&C AT 1:30 PM BELTZ 211
02/07/08 (S) -- MEETING CANCELED --
02/21/08 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 209

SHORT TITLE: EXTEND ALASKA COMMISSION ON AGING
SPONSOR(s): SENATOR(s) DAVIS

01/16/08 (S) PREFILE RELEASED 1/4/08
01/16/08 (S) READ THE FIRST TIME - REFERRALS
01/16/08 (S) L&C, FIN
02/19/08 (S) L&C AT 1:30 PM BELTZ 211
02/19/08 (S) Heard & Held
02/19/08 (S) MINUTE(L&C)
02/21/08 (S) L&C AT 1:30 PM BELTZ 211

BILL: HJR 16

SHORT TITLE: OPPOSING MILK TAX
SPONSOR(s): REPRESENTATIVE(s) LYNN

03/30/07 (H) READ THE FIRST TIME - REFERRALS
03/30/07 (H) L&C
05/04/07 (H) L&C AT 3:00 PM CAPITOL 17
05/04/07 (H) Moved Out of Committee
05/04/07 (H) MINUTE(L&C)
05/05/07 (H) L&C RPT 5DP
05/05/07 (H) DP: GARDNER, GATTO, BUCH, LEDOUX, OLSON
05/09/07 (H) TRANSMITTED TO (S)
05/09/07 (H) VERSION: HJR 16
05/09/07 (S) READ THE FIRST TIME - REFERRALS
05/09/07 (S) L&C
02/21/08 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 196

SHORT TITLE: HANDLING MATTERS AFTER A PERSON'S DEATH
SPONSOR(s): JUDICIARY

03/14/07 (H) READ THE FIRST TIME - REFERRALS
03/14/07 (H) JUD
04/04/07 (H) JUD AT 1:00 PM CAPITOL 120
04/04/07 (H) Heard & Held
04/04/07 (H) MINUTE(JUD)
04/10/07 (H) JUD AT 1:00 PM CAPITOL 120
04/10/07 (H) Moved CSHB 196(JUD) Out of Committee
04/10/07 (H) MINUTE(JUD)

04/11/07 (H) JUD RPT CS(JUD) 5DP 1NR
04/11/07 (H) DP: GRUENBERG, LYNN, COGHILL, HOLMES,
RAMRAS
04/11/07 (H) NR: SAMUELS
04/20/07 (H) TRANSMITTED TO (S)
04/20/07 (H) VERSION: CSHB 196(JUD)
04/23/07 (S) READ THE FIRST TIME - REFERRALS
04/23/07 (S) L&C, STA, JUD
02/21/08 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

ALLISON BIASTOCK
Staff to Senator French
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Commented on SB 153 for the sponsor.

REPRESENTATIVE BOB LYNN
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Sponsor of HJR 16.

DIRK MOFFAT
Staff to Representative Lynn
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Commented on HJR 16 for the sponsor.

ILONA RICHEY, Executive Director
Alaska Milk Coalition
Palmer, AK

POSITION STATEMENT: Supported HJR 16.

MARIO CASTILLO, Executive Director
Dairy Trade Coalition
No address provided

POSITION STATEMENT: Supported HJR 16.

REPRESENTATIVE JAY RAMRAS
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Sponsor of HB 196.

JANE PIERSON
Staff to Representative Ramras
Alaska State Capitol

Juneau, AK

POSITION STATEMENT: Commented on HB 196 for the sponsor.

ROBERT MANLEY, Estate Planning Attorney
Representing himself
Anchorage, AK

POSITION STATEMENT: Supported HB 196.

RODNEY KLEEDEHN, representing himself
No address provided

POSITION STATEMENT: Supported HB 196.

DOUGLAS BLATTMACHER, President
Alaska Trust Company
Anchorage, AK

POSITION STATEMENT: Supported HB 196.

STEVE GREER, Estate Planning Attorney
Representing himself
Anchorage, AK

POSITION STATEMENT: Supported HB 196 and spoke to Sections 2 and 3.

ACTION NARRATIVE

CHAIR JOHNNY ELLIS called the Senate Labor and Commerce Standing Committee meeting to order at [1:30:31 PM](#). Present at the call to order were Senators Bunde, Davis and Ellis.

SB 153-PEACE OFFICERS/FIRE FIGHTER RETIREMENT

[1:31:35 PM](#)

CHAIR ELLIS announced SB 153 to be up for consideration.

ALLISON BIASTOCK, staff to Senator French, sponsor of SB 153, said she was available to answer questions.

SENATOR BUNDE said he generally supported the bill, but one factor under discussion was that it would be used to recruit new employees, and he asked if that was the case.

MS. BIASTOCK replied that it applies to only Tier II and III and it is going to be used as a retention tool to keep people from leaving before they vest, not for new-hires.

SENATOR BUNDE remarked that he wanted it clarified that the state is not going to hire any people under a retirement system that no longer exists.

SENATOR DAVIS moved to pass SB 153 from committee with individual recommendations and accompanying fiscal notes. There were no objections and it was so ordered.

SB 209-EXTEND ALASKA COMMISSION ON AGING

[1:34:27 PM](#)

CHAIR ELLIS announced SB 209 to be up for consideration.

SENATOR BUNDE moved to pass SB 209 from committee with individual recommendations and attached fiscal notes. There were no objections and it was so ordered.

HJR 16-OPPOSING MILK TAX

[1:34:56 PM](#)

CHAIR ELLIS announced HJR 16 to be up for consideration.

REPRESENTATIVE BOB LYNN, sponsor of HJR 16, said the milk industry in Alaska is struggling to stay in business and the dairy business is a vital element to Alaska's economic diversification.

[1:36:24 PM](#)

SENATOR BUNDE asked after the Matanuska Maid debacle, if there is still a dairy industry in Alaska.

REPRESENTATIVE LYNN replied barely, but they need to keep the remnants of what is left and a milk tax would have the opposite effect.

DIRK MOFFAT, staff to Representative Lynn, explained that the milk tax refers to the mandatory dairy assessment that was imposed by Congress in 1983. The purpose of the tax was to decrease the surplus of milk by increasing the demand. In the past milk over-production was a big problem in the Lower 48 and answer to it was a massive generic campaign that asked "Got milk?" Alaska, Hawaii, and Puerto Rico have milk, but not enough. "We're a milk deficit state." So, he explained that Alaska was excluded from this promotion, but stated that Alaska is still a milk deficit state and should not be forced to promote outside surplus milk from the Lower 48.

[1:38:58 PM](#)

ILONA RICHEY, Executive Director, Alaska Milk Coalition, said she is also president of the Alaska Chapter of Women Involved in Farm Economics (WIFE), supported HJR 16. They oppose the milk tax because of its impact on consumers. Isolated Bush communities with the highest milk prices will be particularly affected.

[1:41:37 PM](#)

MARIO CASTILLO, Executive Director, Dairy Trade Coalition, supported HJR 16 said the Alaska Chapter of WIFE and the Alaska Milk Coalition are members of the association. He related that a new dairy was opening up in the Matanuska Valley and that four or five dairies in Alaska will have congressional funds to develop niche products. The Valley Dairy will start to produce some ice cream flavors very soon that will be niche products unique to Alaska. For example, their products are going to feature local ingredients such as wild salmon berries, huckleberries and birch syrup. He said the Alaska Gold Nugget Cheddar plant is already receiving orders. This operation is committed to using all the milk Alaska can produce.

MR. CASTILLO said he wrote the language that exempted Alaska in 1983.

[1:46:09 PM](#)

SENATOR BUNDE asked at \$.15 per 100-weight, what would that actually translate to for the consumer per half gallon of milk.

MR. CASTILLO answered any time a middle man has an opportunity to mark up a product, it won't be at the lowest level; he all of a sudden take a brand new look at some outside elements including transportation costs, storage or whatever to revisit his current pricing. "There is no way to gauge the level of human greed that could be let loose."

CHAIR ELLIS asked what the other milk-deficit states have done.

MR. MOFFAT answered that Congressman Young had sent a letter to U.S. Secretary of Agriculture. Others from Hawaii and Puerto Rico signed the same letter.

[1:48:42 PM](#)

CHAIR ELLIS noted a letter from Department of Natural Resources (DNR) talking about the "Got Milk" campaign and others. It said it might be prudent to wait for the outcome of the Beef Act

case. He asked if he had any comments on the natural resources briefing paper about this bill.

MR. MOFFAT had no comments.

CHAIR ELLIS said he would hold the bill for another hearing.

[1:51:14 PM](#) at ease [1:53:51 PM](#)

CSHB 196(JUD)-HANDLING MATTERS AFTER A PERSON'S DEATH

CHAIR ELLIS announced CSHB 196(JUD) to be up for consideration.

[1:53:51 PM](#)

REPRESENTATIVE JAY RAMRAS, sponsor of HB 196, testified that it discourages beneficiaries in a will from contesting elements of the document; it also addresses proceeds from life insurance policies.

[1:56:08 PM](#)

JANE PIERSON, staff to Representative Ramras, said the purpose of HB 196 is to make the will process as streamlined and efficient as possible. It works hand in hand with some of the provisions in trusts and that was really the impetus of this bill.

CHAIR ELLIS asked if it originated from trust attorneys.

MS. PEARSON replied yes.

SENATOR BUNDE asked if the bill wants to prevent someone who has a legitimate claim from contesting a trust.

MS. PIERSON answered that provisions in case law address undue influence in a will. This bill would apply if your last wishes were being questioned. Sometimes a protest will be used as a bargaining chip to get a monetary settlement in litigation.

[1:58:55 PM](#)

SENATOR BUNDE asked if this would prevent an investor from being named in a life insurance contract to protect his investment if the entrepreneur was somehow removed from the scene.

REPRESENTATIVE RAMRAS responded that the concept Senator Bunde was referring to is called "key man" insurance coverage and he had those same reservations last year. He deferred those answers

to professionals in the field because as a lay person he couldn't see the logic.

2:01:03 PM

MS. PIERSON clarified that AS 13.33.101 lays out that life insurance contracts and retirement plans are protected from claims and creditors.

SENATOR BUNDE said he thought an answer is that if you have key man insurance, those people are named in the insurance. So, this would not prevent them from having a claim.

MS. PIERSON answered yes.

2:02:14 PM

ROBERT MANLEY, Estate Planning Attorney representing himself, said he is part of an informal group of estate planning lawyers who have been working to keep Alaska law on trusts current and working well so Alaskans can have their wishes carried out with a minimum of expense and tax costs. While other legislation in recent years has come before them has been designed in part to attract trusts from other jurisdictions, HB 196 is primarily of local interest. It has been circulated through the bar association and it has broad support.

MR. MANLEY said Section 1 deals with no contest clauses; Sections 2 and 3 deal with probate waiver affidavits and section 4 deals with beneficiary designations for life insurance, qualified plans, IRAs and the like.

He said he wanted to speak to section 1 and allow his colleagues to speak to the other sections; he said this section simply brings Alaska law governing wills into conformity with laws governing revocable trusts. Revocable trusts and wills are the two primary vehicles that people use for estate planning. There are various reasons for selecting one over the other including privacy, avoidance of probate in multiple jurisdictions or avoidance of the extra expense of funding a revocable trust.

MR. MANLEY said that Alaska trust law provides that no contest clauses are effective; the laws governing wills say that contest clauses are not effective if the challenger has probable cause. The contest clause is the provision used if a beneficiary under a will or trust challenges the dispositions someone wants to make. Some people will challenge a will not because there is a good reason for doing it, but because they are trying to extort some kind of settlement on the basis of the cost of litigation;

often they are successful. This puts wills on the same plane as trusts in preventing that kind of thing.

MR. MANLEY stated there is a valid challenge if the person making the instrument didn't have testamentary capacity or was unduly influenced, and then a court could invalidate that instrument and the no contest clause is of no effect. More importantly, he said, if you totally disinherit somebody a no contest clause doesn't work at all because the person is risking nothing. So, it only applies in situations where one child is being favored over the other. This legislation will allow people to exercise their own judgment over disposition of their own money rather than have ongoing litigation in the future.

[2:07:26 PM](#)

Section 4(f) on page 3, line 21, specifically does not limit the right of the owner of a policy to pledge or assign a contract for collateral for debts. So it doesn't interfere in any way with the ability for creditors to protect themselves through life insurance. It clarifies in Alaska law that you can name a trust as well as an individual and have that disposition free from the claims of general predators of the deceased.

CHAIR ELLIS asked if he knew of any opposition to this bill.

MR. MANLEY replied he didn't know of any opposition.

[2:08:44 PM](#)

RODNEY KLEEDEHN, representing himself, supported HB 196 and said he would comment on the part of Section 4 that addresses life insurance proceeds payable to a beneficiary upon the death of an insured and also that addresses retirement account proceeds payable to a beneficiary upon the death of the account owner. He explained that life insurance proceeds payable to an individual or to an irrevocable trust are not subject to claims made by the insureds' creditors. This is true in the case of retirement account proceeds payable to an individual or an irrevocable trust. However, proceeds payable to a revocable trust are subject to such claims. This is the form of trust most widely used by Alaskans.

The problem is that the ability of creditors to reach these proceeds discourages use of revocable trusts, which provide much needed management for immature beneficiaries and others who can't manage money for one reason or another. His concern is for the 18-year old who is legally an adult getting unfettered control of life insurance proceeds because a parent chose not to

run the creditor risk of using a revocable trust. If the proceeds had gone to the trust, management could be provided indefinitely or to a suitable age for the individual to assume responsibility for financial affairs. He was aware of no opposition whatsoever; the consensus is it's a good idea.

[2:11:19 PM](#)

DOUGLAS BLATTMACHER, President, Alaska Trust Company, supported HB 196. He said it would improve Alaska's trust laws and make the administration of estates and trusts simpler.

CHAIR ELLIS asked him to describe what Alaska Trust Company does.

MR. BLATTMACHER replied it is a stand-alone trust institution similar to the bank's trust department, but all they do is provide trust, fiduciary and investment management services primarily to individuals, but to some institutions, as well. He has nine employees and about 1,000 trust accounts mostly from outside of Alaska. It started in 1996.

CHAIR ELLIS asked if it was fair to say the growth of his company was due in part to changes the state has made over the years in trust law in Alaska.

MR. BLATTMACHER replied yes; he added that trust departments in other banks have also received additional business along with insurance writers, stock brokers and attorneys.

[2:13:21 PM](#)

STEVE GREER, Estate Planning Attorney, representing himself, Anchorage supported HB 196 and spoke to Sections 2 and 3. He explained that they proposed bringing the threshold limit where probate can be avoided up to a more reasonable amount. These sections were meant to allow heirs to avoid the legal expense of a probate proceeding.

Current statutes say that the decedent can only avoid the legal expense of a probate proceeding if the decedent dies owning \$15,000 or less of personal property that has been on the books since the early 80s. This bill raises that threshold to \$25,000, a number that has tracked the consumer price index (CPI) since the early 80s. Cars are a problem and are treated separately. Because no one really knows what a car is worth when a spouse dies, and when title does not list the surviving spouse as "and/or" or "or", the spouse would have to go through a probate proceedings to get the car transferred to her if it exceeded the

value of \$15,000. This bill raises the threshold for the value of cars to a more reasonable amount of \$100,000 because most families have more than one car.

MR. GREER said it should be noted that virtually all states have a similar statute only differing only in the amount in which probate proceeding is not necessary. For example, Washington has a statute which states the formal probate proceeding is not necessary if a decedent's probatable estate is worth less than \$100,000; Oregon has a statute that says \$200,000. He concluded that this bill represents a compromise between those individuals who want to avoid probate as opposed to those attorneys who typically use the probate process to get assets from a decedent to the heirs. It really is a consumer protection bill because it makes it more possible for a decedent dying with a small estate to avoid the expense that would be the case under current law. He had heard of no objections to this bill; rather that it provided good changes.

SENATOR BUNDE asked why increase the value of vehicles to \$100,000, but leave the other property or cash to a modest increase of \$25,000.

2:18:48 PM

MR. GREER answered it's the case with any bill when you set an arbitrary amount whether it be \$25,000 or \$100,000, people have different thoughts. One thought is if someone died with \$100,000 in a bank account, there's too much room for fraud. He explained that the affidavit procedure wherein probate can be avoided simply states that a successor can go to a bank and the bank is obligated to pay that money to him. However if someone else is entitled to receive that money pursuant to the terms of the decedent's will, that individual can still go to court and go through the probate process. A property limit over \$25,000 would encourage abuse of this section, but that is not the case for automobiles.

SENATOR BUNDE asked if it's possible that people who do probate work would lose the opportunity to do some work if the limit were raised to \$100,000.

MR. GREER replied yes, but an attorney's duty is to his client, not his pocketbook.

REPRESENTATIVE RAMRAS wrapped up that no one is hurt by the changes and it is helpful to the process and an important housekeeping measure for Alaska.

2:22:19 PM

SENATOR BUNDE said when the bill comes up again he wanted to know what it would cost to go through probate for \$25,000 - because he understands it would cost them a significant portion of the \$25,000 to recover the \$25,000 - especially when he has heard other states are at \$100,000 or \$200,000 and vehicles are \$100,000. He wanted to raise the limit to \$100,000 or something higher so the cost of probate would not eat up most of the inheritance.

REPRESENTATIVE RAMRAS said he shared those concerns.

CHAIR ELLIS said the bill would be held for further work. There being no further business to come before the committee, he adjourned the meeting at 2:25:46 PM.