

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 15, 2008

4:03 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Lyman Hoffman

COMMITTEE CALENDAR

SENATE BILL NO. 297

"An Act relating to the compensation for certain public officials, officers, and employees not covered by collective bargaining agreements; relating to pay increments for longevity in state service; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 294

"An Act relating to the pay and duties of commissioners of the Regulatory Commission of Alaska, establishing the position of executive director of the Regulatory Commission of Alaska and defining the duties and powers of the position, and placing the executive director and administrative law judges of the Regulatory Commission of Alaska in the exempt service under the State Personnel Act."

HEARD AND HELD

CS FOR HOUSE BILL NO. 65(FIN)

"An Act relating to breaches of security involving personal information, credit report and credit score security freezes, protection of social security numbers, care of records, disposal of records, identity theft, credit cards, and debit cards, and to the jurisdiction of the office of administrative hearings; amending Rules 60 and 82, Alaska Rules of Civil Procedure; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 297

SHORT TITLE: NONUNION PUBLIC EMPLOYEE SALARY & BENEFIT

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/03/08 (S) READ THE FIRST TIME - REFERRALS
03/03/08 (S) FIN
03/06/08 (S) L&C REFERRAL ADDED BEFORE FIN
03/11/08 (S) L&C AT 1:30 PM BELTZ 211
03/11/08 (S) Heard & Held
03/11/08 (S) MINUTE(L&C)
03/15/08 (S) L&C AT 4:00 PM BELTZ 211

BILL: SB 294

SHORT TITLE: RCA POSITIONS AND SALARIES

SPONSOR(S): LABOR & COMMERCE BY REQUEST

02/25/08 (S) READ THE FIRST TIME - REFERRALS
02/25/08 (S) L&C, JUD, FIN
03/11/08 (S) L&C AT 1:30 PM BELTZ 211
03/11/08 (S) Heard & Held
03/11/08 (S) MINUTE(L&C)
03/15/08 (S) L&C AT 4:00 PM BELTZ 211

BILL: HB 65

SHORT TITLE: PERSONAL INFORMATION & CONSUMER CREDIT

SPONSOR(S): REPRESENTATIVE(S) COGHILL, GARA

01/16/07 (H) PREFILE RELEASED 1/5/07
01/16/07 (H) READ THE FIRST TIME - REFERRALS
01/16/07 (H) L&C, JUD, FIN
01/31/07 (H) L&C AT 3:00 PM CAPITOL 17
01/31/07 (H) <Bill Hearing Canceled>
03/28/07 (H) L&C AT 3:00 PM CAPITOL 17
03/28/07 (H) Heard & Held
03/28/07 (H) MINUTE(L&C)
04/04/07 (H) L&C AT 3:00 PM CAPITOL 17
04/04/07 (H) <Bill Hearing Canceled>
04/16/07 (H) L&C AT 10:00 AM CAPITOL 17
04/16/07 (H) Scheduled But Not Heard
04/20/07 (H) L&C AT 3:00 PM CAPITOL 17
04/20/07 (H) Heard & Held
04/20/07 (H) MINUTE(L&C)
04/23/07 (H) L&C AT 3:00 PM CAPITOL 17
04/23/07 (H) Moved CSHB 65(L&C) Out of Committee
04/23/07 (H) MINUTE(L&C)
04/24/07 (H) L&C RPT CS(L&C) 2DP 3NR 1AM
04/24/07 (H) DP: GATTO, NEUMAN

04/24/07 (H) NR: BUCH, LEDOUX, OLSON
 04/24/07 (H) AM: GARDNER
 05/02/07 (H) JUD AT 1:00 PM CAPITOL 120
 05/02/07 (H) Heard & Held
 05/02/07 (H) MINUTE(JUD)
 05/05/07 (H) JUD AT 8:00 AM CAPITOL 120
 05/05/07 (H) Moved CSHB 65(JUD) Out of Committee
 05/05/07 (H) MINUTE(JUD)
 05/07/07 (H) JUD RPT CS(JUD) NT 4DP 2AM
 05/07/07 (H) DP: HOLMES, LYNN, COGHILL, RAMRAS
 05/07/07 (H) AM: DAHLSTROM, SAMUELS
 01/23/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 01/23/08 (H) Heard & Held
 01/23/08 (H) MINUTE(FIN)
 02/13/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 02/13/08 (H) Heard & Held
 02/13/08 (H) MINUTE(FIN)
 02/18/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 02/18/08 (H) Heard & Held
 02/18/08 (H) MINUTE(FIN)
 02/19/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 02/19/08 (H) Moved CSHB 65(FIN) Out of Committee
 02/19/08 (H) MINUTE(FIN)
 02/21/08 (H) FIN RPT CS(FIN) NT 4DP 5NR
 02/21/08 (H) DP: HAWKER, CRAWFORD, GARA, NELSON
 02/21/08 (H) NR: KELLY, THOMAS, STOLTZE, MEYER,
 CHENAULT
 02/27/08 (H) TRANSMITTED TO (S)
 02/27/08 (H) VERSION: CSHB 65(FIN)
 02/29/08 (S) READ THE FIRST TIME - REFERRALS
 02/29/08 (S) L&C, JUD, FIN
 03/04/08 (S) L&C AT 1:30 PM BELTZ 211
 03/04/08 (S) Heard & Held
 03/04/08 (S) MINUTE(L&C)
 03/13/08 (S) L&C AT 1:30 PM BELTZ 211
 03/13/08 (S) Scheduled But Not Heard
 03/15/08 (S) L&C AT 4:00 PM BELTZ 211

WITNESS REGISTER

DANA OWEN
 Staff to Senator Ellis
 Alaska State Capitol
 Juneau, AK

POSITION STATEMENT: Explained the proposed CSSB 297(L&C) 25-
 GS2011\E that consolidated SB 294.

TONY PRICE, Commissioner
Regulatory Commission of Alaska (RCA)
Anchorage, AK

POSITION STATEMENT: Supported SB 294.

BRUCE LUDWIG, Business Manager
Alaska Public Employees Association
Juneau, AK

POSITION STATEMENT: Supported SB 297.

KEVIN BROOKS, Deputy Commissioner
Department of Administration (DOA)
Juneau, AK

POSITION STATEMENT: Supported SB 297 without section 20.

REPRESENTATIVE JACK COGHILL
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Sponsor of HB 65.

ED SNIFFEN, Assistant Attorney General
Department of Law (DOL)
Anchorage, AK

POSITION STATEMENT: Commented on HB 65.

JON BURTON, ChoicePoint
Alpharetta, CA

POSITION STATEMENT: Still had issues with HB 65.

JENNIFER FLYNN
Consumer Data Industry Association (CDIA)
Washington D.C.

POSITION STATEMENT: Commented on HB 65.

AUDREY ROBINSON
Reed Elsevier, parent company of LexisNexis
Washington, D.C.

POSITION STATEMENT: Still had issues with HB 65.

GAIL HILLEBRAND
Consumers' Union
No address provided

POSITION STATEMENT: Commented on HB 65.

TERRY BANISTER
Legislative Legal and Research Services Division

Legislative Affairs Agency
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Commented on HB 65.

ACTION NARRATIVE

CHAIR JOHNNY ELLIS called the Senate Labor and Commerce Standing Committee meeting to order at [4:03:08 PM](#). Senators Bunde, Davis, and Ellis were present at the call to order.

SB 297-NONUNION PUBLIC EMPLOYEE SALARY & BENEFIT
SB 294-RCA POSITIONS AND SALARIES

[4:04:18 PM](#)

CHAIR ELLIS announced SB 297 and SB 294 to be up for consideration and that a proposed CS combines the two.

DANA OWEN, staff to Senator Ellis, explained the proposed CS [referred to as CSSB 297(L&C) 25-GS2011\E] consolidates SB 294 , which pertained only to the Regulatory Commission of Alaska (RCA) and SB 297 and some of the changes are fairly significant.

CHAIR ELLIS said version E contains consolidated RCA salaries into one vehicle so as to have an overarching approach to pay and benefits.

MR. OWEN added in order to accomplish that the title was broadened.

CHAIR ELLIS noted that was fine because the bill is in the body of origin.

MR. OWEN continued saying sections 1-4 had not been changed and clarified that the reference to the commissioners is to the Commercial Fisheries Entry Commission. Section 5 on page 2, line 15, places the executive director of the RCA, which is enacted in section 12 of the bill, into the exempt service. Section 6 on page 2, line 17, corrects terminology that exists in RCA statutes; currently "hearing officers" is used, but "hearing examiners" is more correct.

CHAIR ELLIS noted that Senator Stevens joined the committee.

[4:07:02 PM](#)

MR. OWEN said sections 7-10 on page 2, line 20 - page 3, line 30, are from the original bill and are the new pay schedule and

the three-year raises from 2008-10. One of the sections establishes a longevity pay system for employees who reach step F of the pay schedule. Section 11 on page 4, line 14, sets all RCA commissioner salaries including the chair's at step F, range 30. Under the bill, the chair would no longer have administrative duties, but further in the bill an executive director's position is created that would assume those duties. As a result all commissioners will get the same pay.

CHAIR ELLIS remarked that was reflective of recommendations from the RCA task force.

[4:08:23 PM](#)

MR. OWEN said section 12 on page 4, line 20, establishes the position of the RCA executive director, clarifies that the commission hires the executive director and administrative law judges (judges report to the commission and not to the executive director). It further sets out the responsibilities, powers and limitations of the executive director position. Sections 13-14 on page 5, lines 4-18, are conforming amendments that result from creation of the executive director's position. Sections 15-16 on page 5, line 19 - page 6, line 3, are not changed from the original bill.

Section 17 is an amendment from the court system saying that court employees not covered by a collective bargaining unit including magistrates, but excluding judges and justices, and are under the same section 7-9 pay schedule and two-year increases as the executive branch non-covered employees. In other words, it brings the judicial branch into the same structure as the executive branch. Additionally, the court may adopt the longevity pay increment formula in section 10, but that is not mandatory.

[4:10:19 PM](#)

CHAIR ELLIS asked if language on page 6 addressed the two concerns of the court system that look back on pay and the magistrate issue.

MR. OWEN answered yes with one exception; judges were added to the retroactivity provisions later in the bill. The magistrate issue is resolved. He continued that sections 18-20 on page 6, line 22 - page 7, line 14, had no changes from the original bill. Section 21 has the new retroactivity clause, and that is the same except that justices and judges were added. Section 22 on page 7, line 23, makes the longevity formula for executive branch employees (enacted in section 10) contingent upon the

administration formally offering the same benefit to all state employee bargaining units. Section 23 has the immediate effective dates for the new pay schedule and judges were brought into it. The sections of the act covering exempt branch, judicial and university employees are part of the retroactive provisions. Section 24 has the effective date of July 1, 2008 for all the other sections.

[4:12:13 PM](#)

SENATOR BUNDE asked if the additions means a new fiscal note is needed.

MR. OWEN replied yes.

[4:12:57 PM](#)

TONY PRICE, Commissioner, Regulatory Commission of Alaska (RCA), encouraged committee members to review the RCA's presentation to the task force, because it provide insight as to how the RCA fulfills its statutory obligations within the recently imposed statutory timelines. He said the members care about the RCA and believe it has an impact on every citizen in the state, whether they turn on a light, heat their house with gas or flush a toilet.

He said over 1,700 orders were issued by the RCA in 2007 and those required the review of volumes of filings and testimony. The reviews found a critical lack of people in technical advisory positions and the inability to hire people with knowledge and experience at state pay levels. He advised that the personnel have to be grown from within the system over an expensive two-year training process and that would produce only a minimally productive advisor that the commission could rely on for advice, but they are still not experts.

MR. PRICE remarked:

So, what is the benefit of addressing the pay and staffing problems of the RCA separately from those existing statewide? Can't this wait for a fix that fixes all these statewide pay problems all at once, down the road at an undefined future date? Some view this as a perfect solution. My advice is it's impossible to achieve. The problem is too big. It's a Mount McKinley-sized personnel issue. If you want to climb Mount McKinley, you do it one step at a time, not in one giant step.

RCA commissioner pay is one step on the state's journey. The next step is for the unions and administration to begin immediately to work together to remedy the compensation and related attraction and retention of RCA advisory staff during the next fiscal year. I do not desire to be a commissioner at a broken RCA unable to retain and hire staff, perform its duties and meet its statutory deadlines. The Administration, Senate and House should feel the same way. An ineffective RCA will lead to rates too high. Single parents, elderly on fixed income and others living at the lower margins will be economically damaged the most. They have few resources to spare....

[4:16:38 PM](#)

MR. PRICE explained if regulated utility and pipeline rates are just 10 percent too high, monopoly utilities and pipelines would collect an additional \$95 million per year. "There are winners and losers if the RCA is broken. Monopolies are winners and consumers are losers."

He said he supported SB 294 because he believed compensated commissioners at range 30 gives the state a chance to attract and retain highly qualified and experienced candidates. The creation of an executive director creates continuity of management and administrative efficiencies. He also encouraged the legislature to perform the necessary studies to recognize RCA professional advisory staff as rare and compensate appropriately. It needs to be done at the completion of the study, but not later than the beginning of FY 2009.

[4:17:59 PM](#)

BRUCE LUDWIG, Business Manager, Alaska Public Employees Association, said he represents two state bargaining units, the state supervisors and the confidential employees. They just completed negotiations on an almost 12-percent raise compounded over the three years contract. But, he said, that does little to help the current recruitment and retention problems facing the state. A number of positions go unfilled every year because the state can't find people who will accept the salaries and Alaska's high cost of living. Exacerbating that is the fact that about 45 percent of state employees will be eligible to retire within five years.

MR. LUDWIG remarked that Commissioner Kreitzer made some changes to the personnel system in lowering the qualifications and said this is not "dumbing it down," but rather giving people an

opportunity to apply for a job. Using that philosophy, you basically grow your own employees. To do that, you need experienced mentors. The original bill would only apply to 8 percent of the entire state workforce; adding section 20 makes it apply to 92 percent.

[4:20:45 PM](#)

MR. LUDWIG said the state needs some kind of incentive to get senior supervisors to stay because the system now tops out at step N. The only other variable is cost of living increases, which have not been that forthcoming. Another benefit is that the state saves money in the PERS system by not having to pay health benefits for people who retire by keeping them in service longer.

[4:22:34 PM](#)

KEVIN BROOKS, Deputy Commissioner, Department of Administration (DOA), said the department is not opposed to including SB 294 in with SB 297. His approach was to place the commissioners at a range 27 without reference to steps; the philosophy being that steps become a limiting factor over time. Not having them provides flexibility. Currently department commissioners are placed by statute anywhere from a range 28 to a range 30 and this measure would put them at the upper level. On the 27 salary schedule one can get to the equivalent of a 30F without the step designation.

[4:25:00 PM](#)

CHAIR ELLIS said this was a recommendation of the RCA Task Force and the bill has a further referral to the Finance Committee.

MR. BROOKS said the pay would be comparable either way. He then went to section 20 and encouraged the committee to consider that collective bargaining is best done at the bargaining table, not in legislation like this. A number of factors led to the offer that was made and accepted by the SU bargaining unit along with the package for non-covered employees. Bargaining is a dynamic process and there were many offers on the table; ultimately one of them was chosen and ratified.

He said it was important to note that a few years ago the SU bargaining unit negotiated for service steps to replace longevity steps. In doing so, they eliminated one of the items they are trying to accomplish in the bill - the requirement that someone have continuous service for seven years and an F step before they can move. This is important as the state hires people from outside and make promotions because someone could be

placed at an F step and not be eligible for any kind of pay adjustment for seven years. The SC bargaining unit received that already several years ago and they don't have the seven-years of continuous service and F step restriction.

MR. BROOKS again emphasized when there is a price associated with everything that is on the table and an N step was added for the SU bargaining unit that doesn't exist for the other bargaining units. Similarly, he explained, the GGU unit has negotiated a G step that doesn't exist with other units.

Another example, he said, was the LTC unit that front-loaded their steps where after six months an individual goes from a step A to a step B, about a 20 percent raise. Then they don't see another one for five to seven years. So, he said they are taking a disparate group of contracts and trying to apply something standard, but what they offer to one group isn't necessarily what they would offer to another group.

[4:28:20 PM](#)

MR. BROOKS also pointed out that the step provisions in the bill for non-covered employees will not be reflected in a fiscal note. The administration decided that state agencies would absorb those costs (\$1.5 million to \$2 million/year). So, he encouraged them to not adopt section 20 and leave collective bargaining at the table where it belongs.

[4:29:37 PM](#)

CHAIR ELLIS said he looks at this as a conversation starter and all the issues in this bill will be revisited in the Finance Committee.

SENATOR DAVIS moved to adopt CSSB 297(L&C), version E. There were no objections and it was so ordered.

SENATOR BUNDE said he agreed that combining the two bills was basically wise, but he also agreed with the administration that section 20 handicaps collective bargaining. So he moved to delete section 20 on page 12, lines 6-14, as conceptual Amendment 1.

[4:32:50 PM](#)

CHAIR ELLIS objected to adopting Amendment 1. A roll call vote was taken: Senators Bunde and Stevens voted yea; Senators Davis and Ellis voted nay; therefore Amendment 1 failed to be adopted.

SENATOR Davis moved to report CSSB 297(L&C) version E from committee with individual recommendations and accompanying fiscal notes.

SENATOR BUNDE objected saying this is a commendable effort, but section 20 needs to be deleted.

SENATOR STEVENS also said he has a big problem with putting collective bargaining anywhere other than on the table. Anything else was an attempt to go around the bargaining table to get something.

[4:35:32 PM](#)

CHAIR ELLIS said he didn't want to follow through on the motion to move the bill if it would fail.

SENATOR STEVENS said he thought it would be wise to hold the bill. So, the chair said he would hold the motion to pass CSSB 297(L&C).

CSHB 65(FIN)-PERSONAL INFORMATION & CONSUMER CREDIT

[4:36:47 PM](#)

CHAIR ELLIS announced CSHB 65(FIN) to be up for consideration. [SCS CSHB 65() 25-LS0311\V was before the committee.]

[4:39:10 PM](#)

REPRESENTATIVE COGHILL, sponsor of HB 65, said he had nine more suggested amendments and some of them were legislative policy calls. He said the \$5 charge had already been changed from \$10 in Version V. He said \$5 is a more reasonable fee for elderly people and it is in line with what other states charge.

[4:41:26 PM](#)

CHAIR ELLIS said that addressed Senator Bunde's question about other states' cost, but asked how it related to the actual cost of performing the work.

REPRESENTATIVE COGHILL replied it doesn't relate to the actual charge; agencies have not quantified it and look upon it as a transactional fee.

[4:42:29 PM](#)

SENATOR BUNDE asked if it's true that the credit reporting agencies don't have a cost for a credit freeze.

REPRESENTATIVE COGHILL replied that is his understanding. It is a new area of law throughout the United States.

[4:43:15 PM](#)

REPRESENTATIVE COGHILL said the next change he wanted was to delete "or part of" on page 7, line 6, security freezes and inserting conforming amendments on page 16, line 18, credit freeze definitions. He explained that credit reporting agencies said they would freeze all or nothing of a credit report, not parts of it.

CHAIR ELLIS asked if he was proposing further amendments to the proposed CS.

REPRESENTATIVE COGHILL responded basically yes; that changes had been coming at him pretty fast and were based on comments from the committee.

[4:45:43 PM](#)

CHAIR ELLIS said if the amendments were easily understood, they could be conceptual amendments.

[4:46:24 PM](#)

SENATOR BUNDE said a CS would be a cleaner way to go. There might be more to it than meets the eye.

CHAIR ELLIS asked Representative Coghill to go through his changes and another CS could be drafted.

[4:47:23 PM](#)

REPRESENTATIVE COGHILL said page 11, line 9, dealt with credit reports and had the \$5 fee. The next suggested change was to delete "request or collection" and insert "communicate or otherwise make available to the general public" on page 17, lines 22 and 24. The Records Office thought it was important to make that information available to the public.

ED SNIFFEN, Assistant Attorney General, Department of Law (DOL), commented that the reason he wanted to change that language is because the prohibition on page 16, line 27, says that "a person may not intentionally communicate or otherwise make available [a social security number] to the general public". When that language was put in on page 17, lines 20-26, it was a cut and paste from section 45.48.410 right below it that related to the request or collection section. This is only a conforming amendment to make that exemption track the prohibition in section 45.48.400. There was no intent to broaden the exemption.

CHAIR ELLIS asked if he had worked with Terry Bannister, the drafter on this point.

MR. SNIFFEN answered not yet. He just got this CS a half hour ago and he would be happy to work with her on additional refinements to that language.

[4:50:23 PM](#)

CHAIR ELLIS said he was counting on him to work this out.

REPRESENTATIVE COGHILL said the next three items deal with the LexisNexis and ChoicePoint issues starting on page 18, line 12, the request and collection section.

[4:51:32 PM](#)

CHAIR ELLIS asked to go back to the "expressly authorized" language on line 1 and if some reasonable middle language had been found.

REPRESENTATIVE COGHILL responded that the language he came up with will fit lower in the section. He explained that the broad picture is that these folks are regulated under the Gramm-Leach-Bliley Act (GLBA) and the Fair Credit Reporting Act (FCRA). The "expressly authorized" problem was how to regulate those that are not regulated under those two acts. So he wanted to leave "expressly" on the top of the page and put new language in sections 3 and 4 saying "For an entity regulated by a purpose authorized by the U.S. Code 68.01-68.27 (the GLBA)". The next section on page 18, lines 16-18, would deal with the Fair Credit Reporting Act. Conforming language would be inserted where needed.

[4:53:25 PM](#)

REPRESENTATIVE COGHILL said the GLBA has express authorizations and the FCRA has permitted uses and this language clashes, especially when he is trying to have "expressly authorized" language in the state's statutes which exclude some of the permitted purposes. He said, "I think this language lets them go ahead and operate freely under their federal rules and then helps us to have express authorization for everything outside of that."

[4:54:52 PM](#)

CHAIR ELLIS asked if he wanted to leave the "expressly authorized" language in the CS and make adjustments further on.

REPRESENTATIVE COGHILL replied that the drafters advised that new section 3 had to say "for an entity regulated by" and "purpose authorized by" because that language would allow business the freedom to operate openly under the two federal acts.

[4:55:45 PM](#)

SENATOR BUNDE asked if this cures LexisNexis' concern about using "permitted" versus "authorized."

REPRESENTATIVE COGHILL answered that he was not sure it cures the problem, but he thought this language allowed them the freedom they want. Industry really doesn't want the state to regulate this issue at all.

CHAIR ELLIS said this is one of the main rubs and he wanted testimony on this point in particular and then they would continue with the sponsor's list.

[4:56:27 PM](#)

JON BURTON, ChoicePoint, said he thought the amendment responded to some of his concerns, but it didn't solve the ongoing problem of "expressly permitted" versus "permitted or authorized" in the other exemption. He said he would continue to work with the sponsor on resolving the issue. These two fixes don't solve all their problems.

CHAIR ELLIS remarked that the beat goes on with that particular issue.

JENNIFER FLYNN, Consumer Data Industry Association (CDIA), said CDIA is the national association that represents the consumer reporting agencies including LexisNexis and ChoicePoint. She agreed with Mr. Burton that they had come a long way with the sponsor to alleviate their concerns. However, there are still problems with the "expressly authorized" language. She said she would bring this language to her members and lawyers and continue to work with Representative Coghill's office.

[4:59:23 PM](#)

CHAIR ELLIS said the expressly authorized language wouldn't get resolved before sending this to the Judiciary Committee.

AUDREY ROBINSON, Reed Elsevier, parent company of LexisNexis, stated the "expressly authorized" and "permitted purpose" language really is the rub for her company. The entire reason they don't want to use that language is because the FCRA

specifically uses "permitted purpose" language. So using "expressly authorized" doesn't really work in the new amendment, but she said she would run it by her attorneys.

5:01:25 PM

GAIL HILLEBRAND, Consumers' Union, said the amendments being offered today take away the "expressly authorized" requirement for the two statutes most closely identified with this industry, GLBA and FCRA. She said that federal law doesn't restrict in any comprehensive way the sale, lease, disclosure or collection of social security numbers. If it did, this bill wouldn't be needed. Federal law takes a specific approach rather than looking at the whole problem and says that anything is okay because it likes the marketplace as it is.

She stressed that today's amendments make a big change, particularly with respect to sale, loan, lease, trade and rental. The bill will work, but it is a substantial step back from where it was when it first came to the committee. Something useful about the amendments is that federal laws do not address everybody who touches a social security number and the way these amendments have been crafted, only those folks who are under the federal law will get some kind of exemption in state law.

5:03:22 PM

REPRESENTATIVE COGHILL commented that the folks who want to be out from under "expressly authorized" generally speaking are under federal law. Those who are not regulated need to have, in his view, the law pushing at them if they are going to buy, steal or request collection of social security numbers. He wanted them to be regulated by state law, but he didn't want to be crossways with federal law. So he would continue to work with them.

REPRESENTATIVE COGHILL went back to Article 1 on page 3, line 11, breach of security and notification, and said this language would be an answer to Yahoo's question. He explained that Yahoo and ChoicePoint were concerned about not providing for electronic notification; so if a business is not in the normal habit of keeping a database of addresses and only has email addresses available to them, then they can notify by email.

5:05:24 PM

CHAIR ELLIS asked if this addresses Yahoo's written concern.

REPRESENTATIVE COGHILL answered yes. He went on to page 9, lines 4-14, that give insurance companies more than enough ways to

deal with a consumer who has come to them for access during a security freeze. It was narrowly crafted on purpose and he didn't think they liked that. But if people are going to correct their credit, this is the new world. It is a policy call.

CHAIR ELLIS asked Ms. Flynn if she wanted to comment on that point.

[5:06:46 PM](#)

MS. FLYNN responded that credit reporting agencies recognize that 33 states do have an insurance exemption for the credit freeze, but each state makes its own policy decision on it.

REPRESENTATIVE COGHILL said the next concern was regarding printing a social security number on a student transcript. On page 20, line 2, subparagraph (5) on disclosures says the prohibition doesn't apply if the disclosure is for a background check on an individual, debt collection, identity or verification. He couldn't think of any other reason to have a social security number on a transcript other than for identity verification. For any other use, he would be suspicious.

The other concern was on page 15, line 18 - reports of credit freezes. Under subparagraph (10) the suggestion was to delete "consumer reporting agency" and insert "a person if the database or file". This is a word fix that was needed for conformity with following language that talks about "a person."

[5:10:24 PM](#)

REPRESENTATIVE COGHILL said this bill is a compromise with industry, but he is trying to push a consumer policy call with the legislature and the reason this is so important is once somebody has their identity taken from them, they have to prove themselves innocent. They are actually responsible for the cost of someone else's failure. Even going before a court of law, they won't easily get their name back.

[5:11:48 PM](#)

CHAIR ELLIS noted that not everyone was satisfied, so he held CSHB 65(FIN) for more work. There being no further business to come before the committee, he adjourned the meeting at [5:13:40 PM](#).

