

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 27, 2007

9:00 a.m.

MEMBERS PRESENT

Senator Lesil McGuire, Chair
Senator Gary Stevens, Vice Chair
Senator Hollis French
Senator Lyda Green
Senator Con Bunde

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 16

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

MOVED CSSB 16(CRA) OUT OF COMMITTEE

SENATE BILL NO. 100

"An Act relating to substance abuse and mental health disorder prevention and treatment programs; and relating to long-term secure treatment programs for persons with substance abuse or co-occurring substance abuse and mental health disorders."

HEARD AND HELD

SENATE BILL NO. 101

"An Act relating to private professional conservators and private and public guardians."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 16

SHORT TITLE: EXTEND REGULATORY COMMISSION OF ALASKA

SPONSOR(S): SENATOR(S) THERRIAULT

01/16/07	(S)	PREFILE RELEASED 1/5/07
01/16/07	(S)	READ THE FIRST TIME - REFERRALS
01/16/07	(S)	CRA, STA, FIN
02/15/07	(S)	CRA AT 3:30 PM BELTZ 211
02/15/07	(S)	Heard & Held

02/15/07 (S) MINUTE(CRA)
02/20/07 (S) CRA AT 3:30 PM BELTZ 211
02/20/07 (S) -- Meeting Canceled --
03/01/07 (S) CRA AT 4:00 PM BELTZ 211
03/01/07 (S) Moved CSSB 16(CRA) Out of Committee
03/01/07 (S) MINUTE(CRA)
03/02/07 (S) CRA RPT CS 5DP NEW TITLE
03/02/07 (S) DP: OLSON, THOMAS, WAGONER, STEVENS,
KOOKESH
03/22/07 (S) STA AT 9:00 AM BELTZ 211
03/22/07 (S) Heard & Held
03/22/07 (S) MINUTE(STA)
03/27/07 (S) STA AT 9:00 AM BELTZ 211

BILL: SB 100

SHORT TITLE: SUBSTANCE ABUSE/MENTAL HEALTH PROGRAMS
SPONSOR(S): SENATOR(S) ELLIS

02/28/07 (S) READ THE FIRST TIME - REFERRALS
02/28/07 (S) HES, STA, FIN
03/19/07 (S) HES AT 1:30 PM BUTROVICH 205
03/19/07 (S) Moved SB 100 Out of Committee
03/19/07 (S) MINUTE(HES)
03/21/07 (S) HES RPT 4DP 1NR
03/21/07 (S) DP: DAVIS, ELTON, THOMAS, DYSON
03/21/07 (S) NR: COWDERY
03/27/07 (S) STA AT 9:00 AM BELTZ 211

BILL: SB 101

SHORT TITLE: GUARDIANSHIP AND CONSERVATORS
SPONSOR(S): LABOR & COMMERCE

02/28/07 (S) READ THE FIRST TIME - REFERRALS
02/28/07 (S) L&C, STA, FIN
03/08/07 (S) L&C AT 1:30 PM BELTZ 211
03/08/07 (S) Heard & Held
03/08/07 (S) MINUTE(L&C)
03/13/07 (S) L&C AT 1:30 PM BELTZ 211
03/13/07 (S) Moved CSSB 101(L&C) Out of Committee
03/13/07 (S) MINUTE(L&C)
03/14/07 (S) L&C RPT CS 3DP 1NR SAME TITLE
03/14/07 (S) DP: ELLIS, BUNDE, DAVIS
03/14/07 (S) NR: STEVENS
03/27/07 (S) STA AT 9:00 AM BELTZ 211

WITNESS REGISTER

DEAN THOMPSON, Attorney
Alaska Power Association
Anchorage, Alaska
POSITION STATEMENT: Spoke in favor of SB 16.

TED MONINSKI, Director
Regulatory Affairs
Alaska Communication Systems (ACS)
Anchorage, Alaska
POSITION STATEMENT: Spoke in favor of SB 16.

SENATOR JOHNNY ELLIS
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented SB 100 as sponsor.

KATE HERRING, Staff
to Senator Johnny Ellis
Juneau, Alaska
POSITION STATEMENT: Answered questions regarding SB 100.

JEFF JESSEE, Chief Executive Officer
Alaska Mental Health Trust Authority
Anchorage, Alaska
POSITION STATEMENT: Spoke in favor of SB 100.

LONNIE WALTERS, Chair
Governor's Advisory Board on Drug and Alcohol Abuse
Craig, Alaska
POSITION STATEMENT: Spoke in favor of SB 100.

ANNA SAPPAH
Governor's Advisory Board for Alcohol and Drug Abuse
Meeting the Challenge
Anchorage, Alaska
POSITION STATEMENT: Spoke in favor of SB 100.

NATHAN JOHNSON, Division Manager
Anchorage Department of Health and Human Services
Anchorage, Alaska
POSITION STATEMENT: Spoke in favor of SB 100.

JOHN STOLPMAN
Alaska Psychiatric Institute (API)
Anchorage, Alaska
POSITION STATEMENT: Spoke in favor of SB 100.

JOSH FINK, Director
Office of Public Advocacy
Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Spoke in favor of SB 101.

DAVID BROWER, Assistant Attorney General
Civil Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding SB 101.

ACTION NARRATIVE

CHAIR LESIL MCGUIRE called the Senate State Affairs Standing Committee meeting to order at [9:00:09 AM](#). Senators Bunde, French, and McGuire were present at the call to order. Senator Stevens arrived soon thereafter and Senator Green arrived later.

SB 16-EXTEND REGULATORY COMMISSION OF ALASKA

[9:01:08 AM](#)

CHAIR MCGUIRE announced the consideration of SB 16.

DEAN THOMPSON, Attorney, Alaska Power Association (APA), said APA is the trade association representing several electric utilities around the state, and it supports the reauthorization of the Regulatory Commission of Alaska (RCA). He has not heard any opposition from members of the APA regarding other statutory changes to the RCA that were discussed last week.

CHAIR MCGUIRE said his previous comments will be incorporated into a later bill. Diversified groups in the industry have made similar comments, she added.

[9:02:41 AM](#)

TED MONINSKI, Director of Regulatory Affairs, Alaska Communication Systems (ACS), said ACS doesn't always agree with the RCA, but during the past four years he has seen a significant improvement in the qualitative and quantitative performance of the RCA. He said ACS supports SB 16. He noted other changes that have been discussed, and he has no qualms with them. He offered ACS's strong endorsement for the provision that would add additional clarification and expand the coverage of AS42.05.175, which deals with final order deadlines. It strongly supports embedding deadlines in statute and making them reasonable. He said requests should be approved if the RCA

hasn't acted within reasonable timelines. There is language to expand the statute to include coverage of virtually everything that might come before the commission, he stated. The current version of AS42.05.175 has worked well, but it doesn't cover all matters coming before the commission.

[9:06:14 AM](#)

SENATOR FRENCH moved CSSB 16(CRA) from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

SB 100-SUBSTANCE ABUSE/MENTAL HEALTH PROGRAMS

CHAIR MCGUIRE announced the consideration of SB 100.

SENATOR JOHNNY ELLIS, Alaska State Legislature, sponsor of SB 100, said in 2005, 39,000 Alaskans abused or were dependent on alcohol and other substances, and 79 percent of newly incarcerated inmates were actively abusing or dependent on alcohol or other substances in the year before incarceration. Children in alcohol-abusive families are four times more likely to be maltreated and ten times more likely to be neglected. He noted the tragedy and state costs associated with that. In 2005, 37 Alaskans who needed treatment could not receive it due to a lack of treatment availability. Alcohol and substance abuse costs the state about \$738 million per year, conservatively, in lost productivity, accidents, health care, criminal justice, and public assistance. Substance abuse and addiction is a tragic and expensive problem, and the state should do better. He said the bill is a long-overdue tune-up to the statutes with one innovation. "Something new to try." Sections 1-7 are the free parts of the bill that just bring the statutes up to date. The important provision is supportive language to the Department of Health and Social Services in its mission to provide evidence-based and researched-based programming for Alaskans with substance abuse.

[9:09:50 AM](#)

SENATOR ELLIS said he took a wait-and-see attitude regarding changes made during the last administration, but now he is supportive. Mental health and substance abuse was combined into the same Office of Behavioral Health, finally giving recognition that those issues should be combined. The artificial barrier has been broken down. The bill sets out priority areas for any grants, but it is not saying there has to be grants. It says any substance abuse grant funding should go to priority areas, especially for incarcerated individuals, youth, preventative

services, and targeted populations. Target populations are where there is a crying need. Those are the targets for federal and private grants, he said.

9:11:52 AM

SENATOR ELLIS said the bill also mandates priority treatment for pregnant women in state-funded programs. The tragedy of fetal alcohol syndrome (F.A.S.) is a plague on Alaska and is one preventable birth defect. Putting pregnant women at the top of the list makes all the sense in the world, he stated. This would be the first time that is put in state statute. The bill also includes a provision that receives strong support from faith-based initiatives, and that is a non-discrimination clause for effective faith-based programming. The science shows that programs don't work for all people, so he supports a range of programming from secular to faith-based. If faith-based programs are effective they can't be disallowed.

9:13:56 AM

SENATOR ELLIS said 10 or 20 years ago he would not have advocated involuntary commitment legislation for co-occurring diagnoses, but because of the tragedy and Alaska's horrible, embarrassing statistics, he is willing to try something that is being tried in other states. The anecdotal evidence is quite compelling, he said. Section 8 would set up 10 to 12 beds for involuntary commitment cases in a secure setting in an existing "detox" facility. Involuntary commitment is in the existing statute for persons who present a threat to themselves or others and are incapacitated by alcohol or drugs. "This is the co-occurring mental health and substance abuse disorders." These people are called high flyers. He spoke of the "million dollar babies" few families can afford, and Medicaid largely pays to have those children in the world. There are "million dollar alcoholics" who cycle through law enforcement constantly. He said he is not talking about the run-of-the-mill street inebriate. It is the 40 or 50 people in Anchorage and other communities that constantly cycle through the system until found dead in the streets or until found guilty of murder. He called the provision "treatment on command." Judges would use the existing involuntary commitment statute for people who are mentally ill, out-of-control substance abusers, and in danger to themselves and others.

9:17:31 AM

SENATOR ELLIS said the statute is under-utilized because of a shortage of facilities. A 2006 study recommended that interventions toward the high flyers could be very cost

effective. He noted that similar facilities in Washington have resulted in a decrease in medical and psychiatric costs. "The longitudinal studies are not there yet...I don't want to oversell this, but the anecdotal information is quite promising." After 20 years of trying other approaches, "I'm ready to take this step," he concluded.

SENATOR STEVENS said he has always heard that programs only work when a person participates willingly. He wants to be convinced that involuntary commitment will turn someone's life around.

9:19:55 AM

KATE HERRING, Staff to Senator Ellis, said new studies show that treatment is most effective when people are ready, but it looks like involuntary is better than none at all.

SENATOR ELLIS said he attended a conference on substance abuse and budgeting with experts from around the country. The Alaska Department of Corrections agrees with those experts in that it is a myth that people need to hit rock bottom before treatment will work. It varies from person to person. He questioned the idea that people shouldn't try until they lose their jobs, family, and everything, but when they are found dead in a snow bank, it's too late. "Your understanding that people have to lose everything and be at rock bottom and be ready to accept treatment in a willing, rational way for it to work is something that experts in the field have sort of tried to disabuse me of that notion—it's more complicated than that and the people involved are more diverse than that." There are a lot of preconceived notions, he said.

SENATOR STEVENS said it is an enormous problem and it may be time to try something different.

9:23:44 AM

SENATOR BUNDE asked if staff from state-run programs will testify. He said this is a huge problem for Alaska, and when he was chairing the Health, Education, and Social Services Committee the issue came up at times. The information then, on state-funded programs, was not good. Recidivism was incredibly high, he said, but when people chose to join AA or other groups the success was much higher. "If there's been a change in that data, I hope there's someone who can share that with us."

SENATOR FRENCH said there is a narrow, identifiable group of individuals that cause enormous problems. They cycle through shelters, treatment providers, and jails and they cost the state

tens of thousands of dollars. The bill is the right approach, and he noted it is not just substance abuse alone but is combined with mental health problems. Sometimes just a small amount of medication turns them around. A person can get sober and then work with a professional to find the correct medication. It is absolutely crucial, he opined. He said he has seen some disturbing reports of poor health assessments for the individuals so they can never "get to a place in their lives were they can even make a sober assessment of their own lives." He applauds the coercive nature of the bill to get mental health issues dealt with before they can take the next step of attacking the substance abuse issue.

[9:27:16 AM](#)

CHAIR MCGUIRE said the bill is not changing statute, but involuntary commitment has not been used due to lack of beds.

JEFF JESSEE, CEO, Alaska Mental Health Trust Authority, said he is pleased with the legislation and the Trust worked closely with Senator Ellis on developing it. The establishment of priorities--there is never enough resources for everyone--focuses on people in greatest need and people that put the greatest strain on the system. Fetal alcohol problems are the most preventable and most costly disabilities in the system, he said. There are subtle consequences of that disability that cause behavioral problems and are difficult to manage. The Trust is looking at evidence-based practices and programs. "It won't do us a lot of good to just throw money at these problems and would-be solutions if we don't know that...they are effective."

[9:31:02 AM](#)

MR. JESSE said the involuntary commitment approach will hold people more accountable to their behavior. It is one thing to say that a person has an illness and buy into the medical model of addiction, but it is more important to have someone take responsibility for the illness and be able to work on treatment and manage the illness. The statement that involuntary commitment isn't effective is countered by data, he believes. Regarding the Fairbanks detox replacement project that the Trust is working on, if all you do is sober people up for a few days, they will come back again and again. The state can't afford that. "We have to intervene, involuntarily if necessary, and get these people into a treatment program." There is evidence that involuntary treatment is effective, but part of the bill is that this program will be rigorously evaluated. He will present the evidence on the pilot project, he assured the committee.

[9:33:42 AM](#)

SENATOR BUNDE noted that Mr. Jessee seems enthusiastic and asked if the Trust is willing to fund the pilot program.

MR. JESSEE said the Trust is not able to carry that financial burden. It has focused on five areas including disability justice, "but this is really pretty heavy lifting for us, but we don't intend to just look the other way." If the state makes the investment, the Trust will help make sure it is implemented as planned and make sure the program is rigorously evaluated so the state will know the return on its investment.

SENATOR BUNDE said \$11 million for 10 people is a lot for the state, as well.

[9:35:25 AM](#)

SENATOR FRENCH said the fiscal note says \$1.9 million.

SENATOR BUNDE said that is \$1.9 million per year for six years.

LONNIE WALTERS, Chair, Governor's Advisory Board on Drug and Alcohol Abuse, said he is also president of Substance Abuse Directors Association of Alaska. He said he is also a treatment provider and a recovering alcoholic. He questioned the concept of people wanting treatment before they can get sober. He was forced into treatment himself, and has been sober for 25 years. The treatment gave him a chance to open his mind while sober. A few years later he got into the substance abuse field in Washington where there are two involuntary commitment centers. He committed 23 people and saw the highest success rate with that program. Everybody wants to sober up, but they just can't. It is a debilitating disease that ruins lives. The toll it takes on Alaska is unimaginable, he opined.

[9:39:02 AM](#)

MR. WALTERS said there is no facility in Alaska, and there is a waiting list because treatment budgets have been cut drastically. A person needing to be committed needs it right away, and "you can't wait two or three or four months to get them into a center." He really supports an involuntary commitment center. He said two women on Prince of Wales Island have died in the ten years he has been there, and he believes that having the center would have saved them. This group has the highest usage of courts, police, and ambulances, and it really needs some help, he concluded.

SENATOR FRENCH asked about the length of stay for a patient.

MR. WALTERS said the law in Alaska is similar to Washington where commitment would be for 90 days, and another 90 days could follow. One center actually had a courthouse inside it, so a recommitment proceeding would occur in the center.

[9:41:53 AM](#)

MR. WALTERS said anything less than 90 days would be foolish. "These people take an awful lot of time."

SENATOR BUNDE said this is aimed at people who have co-occurring issues, and he asked where API [Alaska Psychiatric Institute] comes in. Mr. Walters is in Craig, and a facility in Anchorage for 10 people wouldn't be accessible to him. He said it seems as if "we're shoveling against the tide."

[9:43:54 AM](#)

MR. WALTERS said he is looking at this as a pilot project, and if it works it will be extended and his clients may benefit.

SENATOR ELLIS said it is a small pilot project with a significant investment, but it is worthwhile given the other costs that can be avoided. The bill is not specific about a location, but the existing [Salvation Army] Clithroe Center needs to be relocated, so that will provide an opportunity to house the program there.

[9:45:23 AM](#)

SENATOR STEVENS asked how success will be determined.

SENATOR ELLIS said he is not sure; he is a policymaker and layperson, but it would likely be a longitudinal tracking study. What we are doing now is not working, and there is a tremendous cost by a tiny group of people—let alone the human aspects of this. This is in existing statutes, and judges will determine if the treatment on demand is justified, he explained. It is a little disconcerting to consider this measure, he stated, but it is overdue in Alaska—a state with severe problems. Experts will do the evaluation, and if a compelling case cannot be made for the program, "we can pull the plug at any time."

[9:47:42 AM](#)

SENATOR FRENCH said he expects there will be proof that the program will save the state money. By looking at the costs before and after the commitment, he surmised that the state will come out ahead financially. It will be a win for all of us. The money saved will be clear, irrespective of the lives saved.

SENATOR ELLIS said it will be far more measurable than prevention or other programs. There will be a control group, and it will be very measurable.

[9:49:48 AM](#)

CHAIR MCGUIRE said that during the four years she was on the House Judiciary Committee she could see a direct correlation of cuts to the community treatment and mental health programs and the increase in those individuals going to jail. SB 100 could help reach individuals before the heinous crime is committed. They may not have committed that big crime yet that locks them up in jail. "So we're trying to get to those folks."

[9:51:11 AM](#)

ANNA SAPPAN, Governor's Advisory Board for Alcohol and Drug Abuse, said she is also the secretary for the Meeting the Challenge program, which is a recovery advocacy program sponsored by the Substance Abuse Directors Association. She supports SB 100, which can help save lives. Ms. Sappan is a recovered heroin addict and has the disease of addiction. She has been clean for over 11 years, and the reason for that is she was able to receive appropriate treatment, which is the key to addicts being able to stop using long enough to learn the life skills to live without the drugs or alcohol. She noted that after treatment, 12-step groups can be a valuable component. "I am not a bad person because I am an addict, I am a person with a disease, and I have to be active in my recovery," she stated. When she was using, she was a drain on public funds, couldn't raise her children, and was a victim of domestic violence. After treatment she has become a productive citizen who works full time, attends college, and parents her own children. She is also a volunteer and board member of the program she graduated from. SB 100 can reduce fetal alcohol problems, reduce expenditures of corrections and courts, and better serve people with co-occurring disorders. "Addicts do recover and treatment is effective," she concluded.

[9:53:38 AM](#)

NATHAN JOHNSON, Division Manager, Anchorage Department of Health and Human Services, said he supports SB 100. His department is engaged in an ongoing struggle with substance abuse. The impacts on the community cannot be overstated, he said. It's a massive problem, and when it is ignored, the great costs are perpetuated. For meaningful impact, treatment availability is critical, especially for pregnant women. An Alaskan F.A.S. baby costs \$2.95 million in his or her lifetime. He explained that

involuntary commitments have been difficult without secure facilities. The community service patrol (CSP) picks people up who are endangering themselves or others. They have about 20,000 admissions per year, and about 250 people in Anchorage get admitted about 100 to 150 days each year. That means they are picked up almost every other day.

[9:55:59 AM](#)

MR. JOHNSON said some people are picked up almost every day. "We're cycling them through at a great cost to public resources, to tax dollars, and there is really no hope for treatment. It's sort of a catch and release." Anchorage spends about \$1.4 million for the CSP annually and another million to try to address treatment issues. Those dollars are not even addressing police and other emergency services. It is a heavy burden on the taxpayer and the inebriates. Give them a moment of clarity to turn their lives around, he said.

[9:57:59 AM](#)

SENATOR FRENCH requested more information on those numbers.

SENATOR BUNDE asked if people can be involuntarily committed to API [Alaska Psychiatric Institute].

JOHN STOLPMAN, Alaska Psychiatric Institute (API), Anchorage, said yes, it happens everyday.

SENATOR BUNDE asked if API could be used by someone with a mental problem and a substance abuse problem.

MR. STOLPMAN said API will want to send those with a primary substance abuse problem to that kind of program, instead of taking them into the minimal bed space in their facility.

[10:00:07 AM](#)

SENATOR ELLIS said there might be some frustration in saying that the mental illness must be the predominant characteristic of a person, and these people are under the influence of alcohol or drugs. So it becomes a difficult choice for API. "We built a smaller API...and the idea was that the new API would be smaller and we would come through with building up the community-based services to handle folks...and API would be for the most severe or acute situations." He said API is in a more difficult situation today because of legislative decisions, he stated, and API is not an option for the involuntary commitment beds.

CHAIR MCGUIRE asked about the life of a person involuntarily committed to Clithroe and the use of Naltrexone.

[10:01:59 AM](#)

MR. STOLPMAN said the biggest challenge is getting someone to the facility. The number of beds has been reduced around the state, "and our waiting list is getting ridiculous." Some clients wait four months to get in, and that is not appropriate for a committed client. If someone is actually able to come in when there is a true emergency, the client is incorporated as anyone else who is in the recovery process. The process is challenging and difficult. The commitment law is 30 days, and after review, it can be extended for 90 days, twice. The facility offers the option of going to a medical provider to consider Naltrexone for aftercare. There is a six-month aftercare program, which is the true test.

CHAIR MCGUIRE asked about the in-house treatment.

[10:04:35 AM](#)

MR. STOLPMAN said it is case by case; there is a dual diagnosis unit working with severe mental health issues. Education and adaptation of living with mental illness is part of it. It can be very involved depending on a person's problems.

SENATOR STEVENS asked people have health insurance.

MR. STOLPMAN said it is extremely rare for someone to have insurance. He spoke of a recent case dealing with "Tricare," and "they don't even pay a dime for residential substance abuse treatment." "The payment part is quite challenging and fortunately the Salvation Army is very forgiving about all that."

[10:06:00 AM](#)

SENATOR BUNDE asked how many beds are in the Clithroe Center.

MR. STOLPMAN said the detox facility was essentially cut in half, from 17 to 8 due to funding cuts. Detox is the first point of entry for involuntary commitments, and then they go into treatment. There are 12 men's treatment beds, 16 beds for women, and 12 dual-diagnosis treatment beds. The center is getting calls everyday, but the next opening is in June, he said.

SENATOR BUNDE said it sounds like there are about 30 long-term involuntary-commitment beds.

MR. STOLPMAN said the center doesn't set aside beds for involuntary cases; it takes anyone who needs treatment. The length of stay is the same either way, he added.

[10:07:26 AM](#)

SENATOR BUNDE asked the cost per client per day.

MR. STOLPMAN he can get back on that.

SENATOR BUNDE asked if Clithroe would run the pilot program.

MR. STOLPMAN said he assumes his facility would have a very high interest in working with this project.

SENATOR ELLIS asked if the existing Clithroe program is a non-secure facility. "You have some involuntary commitments, but if people are ambulatory and refuse to be there, they don't have to be there?"

[10:09:10 AM](#)

MR. STOLPMAN said yes. It is a big obstacle. Anyone can walk away at any time, and there is "nothing we can do about that."

SENATOR ELLIS said that is the important distinction, and the bill is taking the step of a secure facility for the high flyers. It is a big step in terms of freedom, human dignity, and how to deal with substance abuse. The problem is driving the state to this point of trying something new, he said.

CHAIR MCGUIRE said she would set SB 100 aside.

SB 101-GUARDIANSHIP AND CONSERVATORS

[10:10:29 AM](#)

CHAIR MCGUIRE announced the consideration of SB 101.

[10:11:00 AM](#)

JOSH FINK, Director, Office of Public Advocacy, Department of Administration, said SB 101 cleans up previous legislation, which had enacted licensure requirements for private guardians. SB 101 does three things, including eliminating duplicate licensing. The original bill wanted to provide a level of scrutiny for private guardians, but it also wanted to encourage the growth of guardian services. But it required three duplicate licenses, he said, and "we never intended that." SB 100 clarifies that only one license is needed and it is attached to the individual. Secondly, SB 101 clarifies which crimes preclude

licensure, which will be crimes of dishonesty and any crime that would affect one's ability to be a guardian. The third aspect of SB 101 deals with certifying private and public guardians. The division is already requiring things like a criminal background check for both, but the bill puts it in statute. He noted that the committee is working off of a committee substitute (CS) from the Senate Labor and Commerce committee, and it eliminates a requirement to show proof of insurance or bond. It was meaningless language in a vacuum, he said. "You can't require someone to show proof of the ability to get insurance or a bond without a specific amount, and a specific amount cannot be set until you look at a particular client's estate you would be managing." Under current statute, the court can impose a bond requirement in individual cases based on the size of the estate. This bill allows the Department of Commerce to suspend someone's license when failing to maintain a bond ordered by the court, "but we simply eliminate the generic language that they have to show proof of ability to be insured."

[10:14:56 AM](#)

MR. FINK said that is the only change made in the last committee.

CHAIR MCGUIRE asked about aligning public and private requirements and if there are exceptions for a family member.

MR. FINK said a family member would not need to be licensed.

CHAIR MCGUIRE said she would hate to see them have to get a license; they are already taking on tremendous responsibilities.

[10:16:22 AM](#)

SENATOR GREEN moved to adopt the proposed committee substitute to SB 101, labeled 25-LS0559\K, Bullard, as the working document of the committee.

SENATOR FRENCH said he had Version M.

CHAIR MCGUIRE said it is Version K, and on page 6 the Senate Labor and Commerce committee took out the requirement for the bonding and insurance.

SENATOR FRENCH asked about page 5, lines 11-12, which eliminates the list of all persons currently employed by the licensee.

[10:17:58 AM](#)

MR. FINK said the bill eliminates the organization's license, which was causing the duplication of licenses. Each employee will need the license.

SENATOR FRENCH asked if the licensed person could delegate duties to an employee.

MR. FINK said a guardian might have clerical help but someone would be in violation of their license by delegating a guardianship responsibility to a non-licensed individual.

[10:19:27 AM](#)

DAVID BROWER, Assistant Attorney General, Civil Division, Department of Law (DOL), said the deleted language referred to the organizational license that SB 101 would eliminate. He reiterated that no one could delegate licensed activities to someone without a license. He asked if line 14 on Page 4 is a remnant of the organizational license.

SENATOR FRENCH asked what the new requirement will be for the organizations that once needed a license. "What, in the marketplace, is going to rise up to take the place of the thing that we're eliminating?"

CHAIR MCGUIRE said she understands the public policy of eliminating duplicate licensing, but "how will that change the marketplace? It is a big legal decision to be a guardian or conservator, she noted.

[10:22:17 AM](#)

MR. FINK said he worked closely with the Division of Occupational licensing. He said he assumes line 14 is a remnant. On Page 8 there is a transition paragraph that allows people with organizational licenses to keep them until they expire. Currently there are four private guardians in the state—individuals with solo shops. One may be getting out of the business, and it has number of employees and has been "the subject of quite a bit of criticism." It won't affect the current market except save them some money. The bill will allow a group of people to form a business, but each would need an individual license.

[10:24:13 AM](#)

SENATOR FRENCH asked if only four guardians are available for hire.

MR. FINK said there might be six.

SENATOR FRENCH surmised that the elimination of the organizational license will not have much impact on a person trying to find a guardian.

MR. FINK said he hopes the bill enhances the market. He knows of individuals who are interested in becoming guardians, but the duplicate license is a barrier.

[10:25:18 AM](#)

CHAIR MCGUIRE said she can understand that a public conservator should be held to the same standards as a private one, to a degree. But the public guardian is not doing it for a profit. She said she would like to see more guardians and conservators, and their job is to help people to make decisions and protect them. They can protect people from credit problems and help them find long-term care, for example. It is a phenomenal undertaking, she said. She said she doesn't want to deter those who will do it out of the goodness of their heart.

MR. FINK said all 15 of his guardians have passed the National Guardianship Association certification requirement. That has been his policy, and the bill puts it in statute. Criminal background checks have been run on people anyway, and the bill gives him the authority to perform them. It is important to know if a potential guardian has been convicted of a crime of dishonesty, he explained.

[10:27:47 AM](#)

CHAIR MCGUIRE closed public testimony and held SB 101 over.

There being no further business to come before the committee, Chair McGuire adjourned the meeting at [10:28:27 AM](#).