

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

May 12, 2007

01:12 p.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

CS FOR HOUSE BILL NO. 151(JUD)

"An Act requiring an indemnification, defense, and hold harmless provision in construction-related professional services contracts of state agencies, quasi-public agencies, municipalities, and political subdivisions."

MOVED CSHB 151(JUD) OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 22(RLS)

Denouncing the National Entertainment Collectibles Association's production of the Rapist No. 1 collectible doll.

MOVED SCS CSHJR 22(STA) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 45(MLV)

"An Act authorizing the Department of Military and Veterans' Affairs to establish and maintain Alaska veterans' cemeteries; and establishing the Alaska veterans' cemetery fund in the general fund."

MOVED CSHB 45(MLV) OUT OF COMMITTEE

HOUSE BILL NO. 186

"An Act relating to sharing with certain federal agencies records required of sport fishing guides."

WAIVED OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 151

SHORT TITLE: INDEMNITY CLAUSE IN PUBLIC CONTRACTS

SPONSOR(S): REPRESENTATIVE(S) JOHNSON BY REQUEST

02/22/07 (H) READ THE FIRST TIME - REFERRALS
02/22/07 (H) STA, JUD
03/20/07 (H) STA AT 8:00 AM CAPITOL 106
03/20/07 (H) Heard & Held
03/20/07 (H) MINUTE(STA)
03/24/07 (H) STA AT 10:00 AM CAPITOL 106
03/24/07 (H) Moved CSHB 151(STA) Out of Committee
03/24/07 (H) MINUTE(STA)
03/26/07 (H) STA RPT CS(STA) NT 6DP
03/26/07 (H) DP: JOHANSEN, JOHNSON, COGHILL, DOLL,
GRUENBERG, LYNN
04/02/07 (H) JUD AT 1:00 PM CAPITOL 120
04/02/07 (H) Heard & Held
04/02/07 (H) MINUTE(JUD)
04/30/07 (H) JUD AT 1:00 PM CAPITOL 120
04/30/07 (H) Moved CSHB 151(JUD) Out of Committee
04/30/07 (H) MINUTE(JUD)
05/01/07 (H) JUD RPT CS(JUD) NT 3DP 4NR
05/01/07 (H) DP: GRUENBERG, LYNN, RAMRAS
05/01/07 (H) NR: COGHILL, DAHLSTROM, HOLMES, SAMUELS
05/09/07 (H) TRANSMITTED TO (S)
05/09/07 (H) VERSION: CSHB 151(JUD)
05/09/07 (S) READ THE FIRST TIME - REFERRALS
05/09/07 (S) STA, JUD
05/12/07 (S) STA AT 1:00 PM BELTZ 211

BILL: HJR 22

SHORT TITLE: DENOUNCE SALE OF "RAPIST" DOLL

SPONSOR(S): REPRESENTATIVE(S) FAIRCLOUGH

04/26/07 (H) READ THE FIRST TIME - REFERRALS
04/26/07 (H) STA
05/01/07 (H) STA RPT 7DP
05/01/07 (H) DP: JOHNSON, JOHANSEN, ROSES,
GRUENBERG, COGHILL, DOLL, LYNN
05/01/07 (H) STA AT 8:00 AM CAPITOL 106
05/01/07 (H) Moved Out of Committee
05/01/07 (H) MINUTE(STA)
05/07/07 (H) RLS AT 5:00 PM CAPITOL 106
05/07/07 (H) Moved CSHJR 22(RLS) Out of Committee
05/07/07 (H) MINUTE(RLS)
05/08/07 (H) RLS RPT CS(RLS) 4DP
05/08/07 (H) DP: FAIRCLOUGH, SAMUELS, JOHNSON,
COGHILL
05/08/07 (H) TRANSMITTED TO (S)

05/08/07 (H) VERSION: CSHJR 22(RLS)
 05/09/07 (S) READ THE FIRST TIME - REFERRALS
 05/09/07 (S) STA
 05/12/07 (S) STA AT 1:00 PM BELTZ 211

BILL: HB 45

SHORT TITLE: STATE VETERANS' CEMETERY & FUND
 SPONSOR(S): REPRESENTATIVE(S) GUTTENBERG, DOLL

01/16/07 (H) PREFILE RELEASED 1/5/07
 01/16/07 (H) READ THE FIRST TIME - REFERRALS
 01/16/07 (H) MLV, STA, FIN
 02/13/07 (H) MLV AT 1:00 PM CAPITOL 124
 02/13/07 (H) Heard & Held
 02/13/07 (H) MINUTE(MLV)
 02/20/07 (H) MLV AT 1:00 PM CAPITOL 124
 02/20/07 (H) -- Meeting Canceled --
 02/22/07 (H) MLV AT 1:00 PM CAPITOL 124
 02/22/07 (H) Moved CSHB 45(MLV) Out of Committee
 02/22/07 (H) MINUTE(MLV)
 02/26/07 (H) MLV RPT CS(MLV) 5DP
 02/26/07 (H) DP: LEDOUX, KAWASAKI, RAMRAS, BUCH,
 ROSES
 04/03/07 (H) STA RPT CS(MLV) 6DP
 04/03/07 (H) DP: JOHNSON, JOHANSEN, ROSES,
 GRUENBERG, DOLL, LYNN
 04/03/07 (H) STA AT 8:00 AM CAPITOL 106
 04/03/07 (H) Moved CSHB 45(MLV) Out of Committee
 04/03/07 (H) MINUTE(STA)
 04/18/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/18/07 (H) <Bill Hearing Postponed to 4/20/07>
 04/20/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/20/07 (H) Scheduled But Not Heard
 04/23/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/23/07 (H) Moved CSHB 45(MLV) Out of Committee
 04/23/07 (H) MINUTE(FIN)
 04/24/07 (H) FIN RPT CS(MLV) 9DP
 04/24/07 (H) DP: GARA, THOMAS, CRAWFORD, STOLTZE,
 JOULE, KELLY, HAWKER, MEYER, CHENAULT
 05/04/07 (H) TRANSMITTED TO (S)
 05/04/07 (H) VERSION: CSHB 45(MLV)
 05/07/07 (S) READ THE FIRST TIME - REFERRALS
 05/07/07 (S) STA, FIN
 05/12/07 (S) STA AT 1:00 PM BELTZ 211

WITNESS REGISTER

TREVOR FULTON, Staff
to Representative Craig Johnson
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented CSHB 151(JUD).

DALE NELSON, Chair
Legislative Liaison Committee
Alaska Professional Design Council
Anchorage, Alaska
POSITION STATEMENT: Supports CSHB 151(JUD).

BRAD THOMPSON, Director
Division of Risk Management
Department of Administration
Juneau, Alaska
POSITION STATEMENT: Supports CSHB 151(JUD).

REPRESENTATIVE ANNA FAIRCLOUGH
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented CSHJR 22(RLS).

REPRESENTATIVE DAVID GUTTENBERG
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented CSHB 45(MLV).

ACTION NARRATIVE

CHAIR LESIL MCGUIRE called the Senate State Affairs Standing Committee meeting to order at [1:12:46 PM](#). Senators McGuire, Green, and Stevens were present at the call to order. Senators Bunde and French arrived soon thereafter.

CSHB 151(JUD) - INDEMNITY CLAUSE IN PUBLIC CONTRACTS

CHAIR MCGUIRE announced the consideration of HB 151. [Before the committee was CSHB 151(JUD).]

[1:13:21 PM](#)

TREVOR FULTON, Staff, to Representative Craig Johnson bill sponsor, introduced the bill to the committee. The bill would require uniform indemnification and hold harmless provisions in professional services contracts for all public agencies within the State of Alaska. The bill would close a loophole in contracts that has caused considerable problems for companies in

the design profession. The loophole allows public agencies to write provisions allowing them to pass responsibility for negligence onto the consultant company they are contracting with. The bill language mirrors Department of Transportation and Public Facilities (DOTPF) contract language that has been in use for years. He said the majority of public agencies use the language contained in the bill, but this would make it standard statewide.

SENATOR STEVENS asked why the bill should be passed.

MR. FULTON replied that the bill would ensure fair business practices between the public and private sector.

[1:16:25 PM](#)

DALE NELSON, Chair, Legislative Liaison Committee, Alaska Professional Design Council, Anchorage, said the purpose of the bill is to standardize indemnification requirements through all public agencies in Alaska, making each party responsible for their own liabilities, errors, and omissions.

[1:19:37 PM](#)

BRAD THOMPSON, Director, Division of Risk Management, Department of Administration, Juneau, testified the reason to pass this bill is because professional design engineers or architects obtaining an errors and omissions (EO) policy have no contractual liability protection within an insurance policy. DOT contracts, from which the language in the bill was drawn, have always contained comparative fault allocation in the indemnity language. Some public entities go beyond the comparative fault allocation in their contracts which creates an uninsurable risk for the independent design professional. This legislation would obligate all public agencies as defined in the bill, to use a comparative fault allocation within their indemnity language when they contract with an independent professional.

SENATOR STEVENS asked what happens if the bill does not pass.

MR. THOMPSON answered there are public agencies that have entered stronger indemnity terms in contracts. An independent professional signing such a document to obtain the work is obligating themselves beyond their insurability. There is no effect on the State of Alaska.

[1:22:21 PM](#)

SENATOR FRENCH said there is an impressive number of letters of support. He asked who opposes the bill.

MR. FULTON answered that there was little opposition as the bill made its way through house committee reviews and the few disagreements that surfaced were resolved.

SENATOR FRENCH asked if there was opposition from labor groups.

MR. FULTON answered there was none that he knew of.

[1:24:16 PM](#)

CHAIR MCGUIRE closed public testimony on HB 151.

[1:25:36 PM](#)

SENATOR GREEN moved to report HB 151 from committee with individual recommendations and accompanying zero fiscal note. Hearing no objections, CSHB 151(JUD) moved from the Senate State Affairs committee.

CSHJR 22(RLS) - DENOUNCE SALE OF "RAPIST" DOLL

[1:26:02 PM](#)

CHAIR MCGUIRE announced consideration of HJR 22. [Before the committee was CSHJR 22(RLS).]

SENATOR GREEN moved to adopt the proposed Senate committee substitute (SCS) to HJR 22, labeled 25-LS0891\C, Bullard, as the working document of the committee. There being no objection, Version C was before the committee.

REPRESENTATIVE ANNA FAIRCLOUGH, Alaska State Legislature, bill sponsor, introduced the HJR 22 to the committee which denounces the National Entertainment Collectibles Association production and sale of the "Rapist No. 1" doll. She said rape is a serious crime that destroys families and individuals and dehumanizes victims. Becoming a rape victim is 2.2 times more likely in Alaska than in other states and 25 percent more likely than the average in the entire nation. She is not trying to ban the sale of a product or limit free speech, but is asking Alaskans to choose against purchasing this particularly inappropriate doll.

[1:28:56 PM](#)

CHAIR MCGUIRE said she personally appreciates this effort and believes policy makers must be responsive to messages such as this being communicated, especially in a state that has such a considerable problem with rape. Free speech is important, but there is a point in a child's life where parents need to pay attention to the kind of toys available to their children.

CHAIR MCGUIRE closed public testimony on HJR 22.

[1:30:35 PM](#)

SENATOR GREEN moved to report, HJR 22, from committee with individual recommendations and accompanying zero fiscal notes. Hearing no objections, SCS CSHJR 22(STA) moved from the Senate State Affairs Committee.

CSHB 45(MLV) - STATE VETERANS' CEMETERY & FUND

[1:31:07 PM](#)

CHAIR MCGUIRE announced consideration of HB 45. [Before the committee was CSHB 45(MLV).]

REPRESENTATIVE DAVID GUTTENBERG, Alaska State Legislature, bill co-sponsor, introduced HB 45 to the committee. This bill establishes a process that allows any qualifying Alaskan community to apply to the Veterans' Administration (VA) to build a local national veterans' cemetery. Currently there are two national cemeteries in the state, one on Fort Richardson and one in Sitka. He said if a veteran is buried at either of those locations it can be difficult for family members to visit if they live far from the sites. All criteria in the bill follow VA specifications for selection and construction. The VA pays for construction of the cemetery and a burial allocation for each interment. He said the bill simply sets up the process to allow the state to apply and allow veterans to be buried close to their homes and families.

[1:33:26 PM](#)

CHAIR MCGUIRE closed public testimony on HB 45.

SENATOR BUNDE asked if the bill would place a financial obligation on the state.

REPRESENTATIVE GUTTENBERG answered construction costs would be covered by the federal government. There could or would be a maintenance cost, but the total cost is unknown without specific location information.

SENATOR BUNDE asked if there would be any operating expenses.

REPRESENTATIVE GUTTENBERG answered yes; a ballpark operating amount might be \$80,000 per year. If the state applied and was successful, the earliest a cemetery could be constructed is 2011 or 2012.

[1:35:05 PM](#)

CHAIR MCGUIRE noted this is an important issue to some veterans, and the bill will go to Finance Committee for cost discussions.

SENATOR FRENCH moved to report CSHB 45(MLV) from committee with individual recommendations and attached fiscal note. Hearing no objections, the motion carried.

CHAIR MCGUIRE adjourned the meeting at [1:36:01 PM](#).