

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 26, 2008

9:06 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

CS FOR HOUSE BILL NO. 260(STA)

"An Act relating to a State Officers Compensation Commission and establishing how legislators, the governor, the lieutenant governor, and executive department heads shall be compensated; providing for an effective date by repealing the effective dates of certain sections of ch. 124, SLA 1986; and providing for an effective date."

MOVED CSHB 260(STA) OUT OF COMMITTEE

SENATE BILL NO. 181

"An Act relating to the Uniform Anatomical Gift Act, to anatomical gifts, to donations to the anatomical gift awareness fund, to a registry of anatomical gifts, and to organizations that handle the procurement, distribution, or storage of all or a part of an individual's body."

HEARD AND HELD

SENATE JOINT RESOLUTION NO. 12

Opposing proposed changes to the interpretation of the Passenger Vessel Services Act of June 19, 1886, by the United States Department of Homeland Security, Bureau of Customs and Border Protection, affecting cruise itineraries of foreign-flagged vessels transporting passengers to ports in Alaska.

SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 260

SHORT TITLE: STATE OFFICERS COMPENSATION COMMISSION
SPONSOR(S): REPRESENTATIVE(S) DOOGAN

05/15/07 (H) READ THE FIRST TIME - REFERRALS
05/15/07 (H) STA, FIN
01/17/08 (H) STA AT 8:00 AM CAPITOL 106
01/17/08 (H) Heard & Held
01/17/08 (H) MINUTE(STA)
01/19/08 (H) STA AT 11:00 AM CAPITOL 106
01/19/08 (H) Moved CSHB 260(STA) Out of Committee
01/19/08 (H) MINUTE(STA)
01/22/08 (H) STA RPT CS(STA) 1DP 3NR 2AM
01/22/08 (H) DP: ROSES
01/22/08 (H) NR: JOHNSON, JOHANSEN, LYNN
01/22/08 (H) AM: COGHILL, DOLL
01/30/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519
01/30/08 (H) Moved CSHB 260(STA) Out of Committee
01/30/08 (H) MINUTE(FIN)
01/31/08 (H) FIN RPT CS(STA) 2DP 2DNP 4NR 1AM
01/31/08 (H) DP: CRAWFORD, NELSON
01/31/08 (H) DNP: STOLTZE, KELLY
01/31/08 (H) NR: GARA, THOMAS, MEYER, CHENAULT
01/31/08 (H) AM: HAWKER
02/08/08 (H) TRANSMITTED TO (S)
02/08/08 (H) VERSION: CSHB 260(STA)
02/11/08 (S) READ THE FIRST TIME - REFERRALS
02/11/08 (S) STA, FIN
02/21/08 (S) STA AT 9:00 AM BELTZ 211
02/21/08 (S) Heard & Held
02/21/08 (S) MINUTE(STA)
02/26/08 (S) STA AT 9:00 AM BELTZ 211

BILL: SB 181

SHORT TITLE: ANATOMICAL GIFTS
SPONSOR(S): SENATOR(S) MCGUIRE

05/15/07 (S) READ THE FIRST TIME - REFERRALS
05/15/07 (S) HES, STA, JUD
02/11/08 (S) HES AT 1:30 PM BUTROVICH 205
02/11/08 (S) Moved CSSB 181(HES) Out of Committee
02/11/08 (S) MINUTE(HES)
02/15/08 (S) HES RPT CS 4DP SAME TITLE
02/15/08 (S) DP: DAVIS, ELTON, THOMAS, DYSON
02/26/08 (S) STA AT 9:00 AM BELTZ 211

WITNESS REGISTER

KARL KURTZ, Researcher
National Conference of State Legislatures (NCSL)
Washington D.C.

POSITION STATEMENT: Presented data on legislative salaries.

TREVOR FULTON, Staff
to Senator Lesil McGuire
Alaska State Legislature
Juneau AK

POSITION STATEMENT: Presented SB 181.

MICHAEL GERAGHTY, Commissioner
Uniform Law Commission
Anchorage AK

POSITION STATEMENT: Presented information on SB 181.

BRUCE ZALNERAITIS, Chief Executive Officer
Life Alaska Donor Services
Anchorage AK

POSITION STATEMENT: Spoke in favor of SB 181.

WHITNEY BREWSTER, Director
Division of Motor Vehicles (DMV)
Anchorage AK

POSITION STATEMENT: Presented information on SB 181.

ROBERTA PYRAH, Mother of an organ donor
Palmer AK

POSITION STATEMENT: Spoke in favor of SB 181.

ROBERT MEYER, Heart recipient
Anchorage AK

POSITION STATEMENT: Spoke in favor of SB 181.

SCHAEFFER COX
Fairbanks AK

POSITION STATEMENT: Spoke of the sanctity of life.

ACTION NARRATIVE

CHAIR LESIL MCGUIRE called the Senate State Affairs Standing Committee meeting to order at [9:06:01 AM](#). Senators Stevens, French, Bunde, and McGuire were present at the call to order. Senator Green arrived later.

HB 260-STATE OFFICERS COMPENSATION COMMISSION

CHAIR MCGUIRE announced the consideration of HB 260. [Before the committee was CSHB 260(STA).]

9:07:09 AM

KARL KURTZ, Researcher, National Conference of State Legislatures (NCSL), Washington D.C., said he does not take a position on HB 260 but will give perspective on legislator salaries and compensation commissions throughout the country. It is not easy to estimate salaries for state legislators because there are per diem payments and other payments to get around constitutional limits in salaries. There is also the political issue of legislators raising their own salaries. He tries to figure out what the IRS requires taxes on, so in his estimates he includes salary, unvouchered expense payments, and per diem. He excludes leadership and committee chair compensation.

9:10:12 AM

SENATOR FRENCH asked what an unvouchered expense is.

MR. KURTZ said some states offer office expenses that don't require submission of a voucher so the money can be used as income. He then referred to a map of the states showing the estimates of what legislators are paid. There are seven states that pay legislators over \$60,000 per year. Another seven pays \$45,000 to \$60,000. Alaska falls into the middle with between \$30,000 and \$45,000. Eleven states pay between \$15,000 and \$30,000. There are nine states that pay less than \$15,000. New Hampshire legislators get \$100 per year. The ranges are broad.

SENATOR BUNDE asked if he included the regular salary of Alaska legislators plus the long-term per diem.

MR. KURTZ said Alaska's director of Legislative Affairs estimates an average of \$33,000 for Alaska legislators.

9:13:29 AM

SENATOR BUNDE said that number probably includes legislators who claim no long-term per diem and others who claim it nearly every day. He asked if that per diem is considered as salary.

MR. KURTZ said yes, and that emphasizes the fact that all the numbers are estimated averages. The next map divides states into three levels of "professionalization." Some states have full-time legislators with compensation to allow them not to work outside the office. They also have a large staff, and there are ten states in that category. There are 16 classic citizen legislatures including New Hampshire and most of the Rocky

Mountain States, and they are very part time, have low pay, and have very few staff. Almost half of the states are a hybrid between the two. Alaska is in that category.

[9:16:51 AM](#)

MR. KURTZ referred to a list of compensation. The average is close to \$40,000 in the hybrid category, and Alaska is close to that. The highest paid category averages \$75,000. There have been substantial pay increases in each category, but by correcting for inflation, Congress has had cuts and the states have stayed about the same. Alaska has had pay cuts since 1972 based on inflation. In most states the legislature is responsible for setting their own salaries. Most states do not have a salary commission. His map is color-coded, and the darker the color the more the legislature has the responsibility for its salary. The salmon-colored states have commissions that make salary recommendations, and then the legislature votes on them. The third category (pink) shows states that have a commission that can act, but the legislature, governor, or voters have the right to reject the decisions of the commission. He understands that HB 260 is similar.

[9:21:26 AM](#)

MR. KURTZ said the fourth category of states ties legislator salaries to some type of index, like an economic index. The salaries are thus automatic. Washington State has a commission that sets salaries every two years, and the only way to change it is with a voter initiative of the people.

SENATOR STEVENS said there have been enormous ethical issues, lawsuits, and prison terms in Alaska. He asked if a lack of ethics is tied to unfair compensation.

MR. KURTZ said that would be difficult to prove. Congress is the only body that bans all outside income. That is the principle that allows them to pay enough, and Congress has ethical problems. He doesn't think a correlation can be drawn between corruption and pay.

[9:24:58 AM](#)

CHAIR MCGUIRE asked if California bans outside income.

MR. KURTZ said no, but it may have a ban on honoraria. A farmer or attorney, for example, can still earn their incomes.

[9:25:46 AM](#)

SENATOR BUNDE moved Amendment 1, labeled 25-LS0659\K.3, Bullard, 2/25/08, as follows:

Page 2, line 1, following "place of":

Insert "permanent"

Page 2, line 4, following "allowance":

Insert ", except that those whose place of permanent residence is within 50 miles of a location in which the legislature is convened in regular or special session are not entitled to a per diem allowance for that session"

Page 2, lines 6 - 7:

Delete "applicable to all legislators"

Insert "[APPLICABLE TO ALL LEGISLATORS]"

Page 2, line 10, following "council.":

Insert "The policy may not provide for the reimbursement of moving expenses or per diem for legislators whose place of residence is within 50 miles of a location in which the legislature is convened in regular or special session for that session."

Page 5, following line 10:

Insert a new subsection to read:

"(c) A recommendation of the commission may not have the effect of allowing a legislator whose place of permanent residence is within 50 miles of a location in which the legislature is convened in regular or special session to receive compensation in the form of a per diem allowance or reimbursement for moving expenses for that session."

CHAIR MCGUIRE objected for discussion purposes.

SENATOR BUNDE said he believes in truth-in-labeling, and compensation that is taxed should not be called per diem. Amendment 1 asks the commission to look at that. The staff at Legislative Legal Services told him that "we actually cannot do that, even though leg council is a creature of the legislature, we can't tell them, apparently, what to do when it comes to deciding what is salary and what is per diem." He said he narrowed the amendment to focus on the intent of per diem, which is when someone must move to a temporary residence. Currently, people who live in Juneau are paid per diem. It is likely an attempt to equalize salaries, but it is not accurately described. The amendment is an attempt to "suggest that if you

live within 50 miles of where the legislature is convened, and I'm will to discuss the distance ... [you] ought not to be subject to a per diem allowance." A 50-mile commute can be done daily.

CHAIR MCGUIRE said the amendment is before the committee and the letter [of intent] will be discussed separately.

[9:29:18 AM](#)

SENATOR FRENCH said this battle has come up before, and the topic is exactly what the commission should do. There may be some places near Juneau cut off from the road system. He appreciates treating everyone fairly, but this is a topic for the commission, "not us here on the fly."

SENATOR GREEN said she agrees.

SENATOR BUNDE said he appreciates that view, and "I think it makes my point: we ought to be telling the commission they ought to study this and that amendment would do that."

A roll call vote was taken. Senators McGuire and Bunde voted in favor of Amendment 1, and Senators Green, French, and Stevens voted against it. Amendment 1 failed on a vote of 2 to 3.

[9:31:13 AM](#)

CHAIR MCGUIRE said the letter of intent is before the committee and she asked Senator Bunde if he wants to offer it.

SENATOR BUNDE offered Conceptual Amendment 2. The commission should have a broad scope, but because of the problem of the legislative council not being, apparently, under the direction of the legislature, he wants the commission to review long-term per diem to see if it is more accurately defined as salary.

CHAIR MCGUIRE asked why Senator Bunde thinks the commission won't have that authority.

[9:32:05 AM](#)

SENATOR BUNDE said without this letter the commission may choose to ignore the issue.

SENATOR GREEN asked if Senator Bunde said legislative legal told him that long-term per diem is salary.

SENATOR BUNDE said no. They said long-term per diem versus salary is a creature of the legislative council, "and we can't tell them to change that." The council has chosen the term, and

he thinks it is a subterfuge to say that legislators don't have a big salary, but he was told that IRS sees it as salary. He said he is just suggesting the commission review the accuracy of those terms.

CHAIR MCGUIRE said it is a directive, and she feels that the committee has made it clear on the record that the commission will look at all compensation. There may be legitimate per diem expenses like gas or other things to do legislative work. Her concern is telling the commission it must redefine it.

[9:34:30 AM](#)

SENATOR BUNDE said the word "encourage" can replace "shall".

CHAIR MCGUIRE asked why this would be highlighted above any other subject.

SENATOR BUNDE noted that any accountant will say what we call long-term per diem is salary. It is accuracy in labeling. When the term was put in, it was a subterfuge to hide salaries.

The committee took an at-ease from [9:35:59 AM](#) to [9:37:46 AM](#).

SENATOR BUNDE said he can count, and he withdrew Conceptual Amendment 2.

SENATOR MCGUIRE asked the record to reflect that good statements have been made.

SENATOR FRENCH moved to report HB 260 from committee with individual recommendations and attached fiscal note(s). There being no objection, CSHB 260(STA) passed out of committee.

SB 181-ANATOMICAL GIFTS

CHAIR MCGUIRE announced the consideration of SB 181. She said it is a uniform clean-up bill.

TREVOR FULTON, Staff to Senator McGuire, Alaska State Legislature, Juneau, said SB 181 is a technical bill. It is straightforward and aims to save lives. It updates and clarifies the statutes dealing with anatomical gifts in order to ensure that badly needed organ and tissue donations get to those who need them. There have been significant changes in the donation and transplant field, and SB 181 draws on the federal Uniform Anatomical Gift Act, which is a very good template and has harmonized anatomical gift laws in all 50 states. In drafting SB

181, he worked with the Department of Law, Department of Health and Social Services, the state medical examiner's office, Life Alaska Donor Services, and representatives of the National Conference of Commissioners on Uniform State Laws to ensure a sound piece of legislation. Currently, 180 Alaskans are waiting for organ donations, and hundreds more are waiting for tissue transplants. SB 181 encourages and facilitates badly needed donations, which can save and improve lives all over the state and country.

[9:41:17 AM](#)

SENATOR BUNDE said he supported other organ and tissue donor bills, and he asked why there is this third bill.

MR. FULTON said it is not extending power or authority. It is bringing Alaska statutes up to speed with the federal act.

[9:42:43 AM](#)

MICHAEL GERAGHTY, Commissioner, Uniform Law Commission, Anchorage, said the original act was passed in 1968 by all 50 states. There are a lot of experiences to draw on since then. There have been changes with electronic records, for example. The revised act was just promulgated by the National Conference of Uniform Law Commissioners in 2006, and it has been adopted in over 20 states in substantially the same form as SB 181. The bill strengthens first-person consent for organ and tissue donations. It bars others from revoking a gift once the decision has been made. Gifts by family members are facilitated if the deceased has not acted to refuse to make an anatomical gift. It can include a health care agent or a grandchild, for example. If a person has not refused to make a gift, the act clarifies who can make a decision on his or her behalf. The bill outlines how donor registries can be used, and identification cards are authorized. A number of states have created state-sponsored registries, and Alaska is one of those states.

[9:45:57 AM](#)

MR. GERAGHTY said SB 181 provides for coordination between procurement organizations and medical examiners. The language minimizes conflicts when a potential donor is under the jurisdiction of the medical examiner. It clarifies how the donor organization can work with the medical examiner's office to maximize the chances of getting a donation. The bill includes rules to deal with those kinds of potential conflicts. It harmonizes the uniform act with federal law and current practices, including the use of do-not-resuscitate directives.

[9:47:32 AM](#)

CHAIR MCGUIRE asked him to discuss uniform laws.

MR. GERAGHTY said the Uniform Law Commission began in 1916, and it identifies topics where uniform laws would benefit the states. He noted the uniform commercial codes. The National Conference of Commissioners drafts laws that need to be uniform across all states. Each state has representative commissioners. After much deliberation the group creates a uniform act for the states to use. Uniformity is really important for organ donation. Transplant decisions need to be made within minutes or hours of someone's death. The donor may be in one jurisdiction, the recipient in another, and the families may be in another. With no time to spare, uniformity is critical in facilitating the transplantation. The original act worked effectively, but things have been learned so the national conference updated the act in 2006. Many states have acted quickly in adopting it, and he sincerely hopes Alaska joins them.

[9:50:02 AM](#)

SENATOR STEVENS said most people go outside for a transplant. He understands harmonizing. Are there more transplants in Alaska?

BRUCE ZALNERAITIS, Chief Executive Officer, Life Alaska Donor Services, Anchorage, said Alaska does many tissue transplants but no organ transplants. Most are done in specific Seattle hospitals. Expertise is needed to perform these procedures, including the surgery and post-operative care. When an Alaskan is a donor, the organs are made available to patients in the Northwest, which includes Alaskans.

SENATOR STEVENS surmised that this law will not have an impact on Alaska hospitals, but will impact Alaska donors.

MR. ZALNERAITIS said the donation would be made in Alaska and then shipped to the center.

[9:52:59 AM](#)

MR. ZALNERAITIS said there are 100,000 patients waiting for organs, and about 180 are Alaskans. About 18 people in the United States die each day while waiting for a transplant that never comes. SB 181 will update the act, remove obstacles by defining who can grant consent, and recognizes the benefits of donor registries. Alaska has a very successful donor registry with 330,000 Alaskans that grows by about 800 per week. The bill prioritizes donations over research and education, and it

further improves the relationship between donation organizations and the medical examiner, who plays a key role.

[9:54:47 AM](#)

SENATOR BUNDE said if there are 800 donors each week, one needs to assume there are far more driver's licenses issued each week, so "we probably ought to assure that people are actually accurate in their application."

WHITNEY BREWSTER, Director, Division of Motor Vehicles (DMV), said she does not oppose this legislation.

SENATOR BUNDE asked if there are 800 new donors per week.

[9:56:00 AM](#)

MS. BREWSTER said she doesn't know, but the bulk of the registry comes through the DMV, and it is close to 90 percent.

MR. ZALNERAITIS said the DMV provides more than 98 percent of all people signing up as donors.

ROBERTA PYRAH, Mother of an organ donor, Palmer AK, noted the importance of the registry. Her son died in 2001. When he got his driver's license that year he was asked if he wanted to be an organ donor. He joked about it. Unfortunately six months later the decision was put upon her and her husband for making her son an organ and tissue donor, based on what he would have done himself. It is important to know about the transplant process and to know that it is not a scary thing. It is something to help others. She is proud that her son's donation has saved a life and improved the lives of thirteen individuals in the Northwest. It is important that youth know about it, and the registry with the DMV is very important.

[9:59:43 AM](#)

ROBERT MEYER, Heart recipient, Anchorage, said he has received two heart transplants in 2003 from the University of Washington. He has two special families to thank for his continued life. Streamlining the process of organ and tissue donation is extremely important. The faster the process moves, the better, because the wait is agonizing. In hind sight his wait was relatively short. His first transplant failed on the table, and he was kept alive by a machine for four days, and then he was fortunate enough to receive a second transplant from a young man in Montana. There is a young child in California who has been waiting for two years. Anything that can be done to simplify and create uniformity would be very helpful.

[10:02:47 AM](#)

SCHAEFFER COX, Fairbanks, said he flew down on a whim to visit the capital and he happened to sit in on this hearing. He said SB 181 is great, but he said to maintain a vigilant stance toward the sanctity of human life and never slide off into valuing one life over another. Make sure there are provisions that recognize the sanctity of human life in the bill. Some people may be deemed somehow less worthy for sheer economic reasons. In some countries, prisons have been the source of organ transplants.

CHAIR MCGUIRE said this bill is a cleanup bill, but there are laws governing who can give and how. Any profit or involuntary donations are not allowed.

[10:05:30 AM](#)

SENATOR GREEN said this bill strengthens that by referring to "after death" instead of "on death".

CHAIR MCGUIRE said she will set SB 181 aside to let people understand it.

The committee was adjourned at [10:06:22 AM](#).