

HOUSE JOURNAL
ALASKA STATE LEGISLATURE
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

Juneau, Alaska

Wednesday

January 27, 2010

Ninth Day

Pursuant to adjournment the House was called to order by Speaker Chenault at 10:32 a.m.

Roll call showed 39 members present. Representative Hawker was absent.

The invocation was offered by the Chaplain, Nancy Campbell of Gospel Outreach Christian Center. Representative P. Wilson moved and asked unanimous consent that the invocation be spread on the journal. There being no objection, it was so ordered.

In deepest respect for the religious beliefs of each person here, I invite you into a time of prayer and reflection. Let us pray.

I will lift up my eyes to the hills - from whence comes my help? My help comes from the Lord, who made heaven and earth.

Psalms 121:1-2

So I sought for a man among them who would make a wall, and stand in the gap before Me on behalf of the land...

Ezekiel 22:30

Dear Lord,

On behalf of this land, the great state of Alaska, and on behalf of this legislature, I lift up my eyes to you for your help.

You grant wisdom to those who ask. I ask for wisdom and that you heal those who are sick. I pray for healing for anyone in need and for the member in particular from the other body who is in need at this time of a quick recovery. You, Lord, give peace and I pray for peace - the peace that passes all understanding - in this House of Representatives.

May they accomplish all that is set before them to do this day. In Jesus' name. Amen.

The Pledge of Allegiance was led by Representative Cissna.

CERTIFICATION OF THE JOURNAL

Representative Johansen moved and asked unanimous consent that the journal for the seventh and eighth legislative days and Senate and House Joint Journal Supplement No. 10 be approved as certified by the Chief Clerk. There being no objection, it was so ordered.

COMMUNICATIONS

Letters dated January 22, 2010, were received from Walter L. Carpeneti, Chief Justice of the Alaska Supreme Court, stating that pursuant to AS 24.60.130 he has nominated the following public members for reappointment to the Select Committee on Legislative Ethics:

H. Conner Thomas
Gary J. Turner

The Speaker referred the appointments to the Judiciary Committee.

The following were received:

Dept. of Commerce, Community, & Economic Development
Division of Investments
2009 Annual Report of Fisheries Enhancement Term Extensions
(as required by AS 16.10.510)

Dept. of Commerce, Community, & Economic Development
Division of Investments
Annual State Loan Report FY09
(as required by AS 37.05.035 and AS 16.10.350)

REPORTS OF STANDING COMMITTEES

The State Affairs Committee reviewed the qualifications of the following and recommends the appointment be forwarded to a joint session for consideration:

Lawrence L. Hartig

as Lieutenant Governor Successor.

The report was signed by Representative Seaton, Vice Chair; and Representatives Johnson, Gatto, Gruenberg, P. Wilson, and Petersen.

HB 146

The Labor & Commerce Committee considered:

HOUSE BILL NO. 146

"An Act relating to transfer restrictions on trust interests."

The report was signed by Representative Olson, Chair, with the following individual recommendations:

Do pass (1): Chenault

No recommendation (6): Lynn, Buch, Holmes, Neuman, T. Wilson, Olson

The following fiscal note(s) apply:

1. Zero, Dept. of Law

HB 146 was referred to the Judiciary Committee.

INTRODUCTION OF CITATIONS

The following citations were introduced and referred to the Rules Committee for placement on the calendar:

Commemorating - Black History Month 2010
By Senator Davis

In Memoriam - Ron Sparks
By Representative Thomas; Senator Kookesh

**INTRODUCTION, FIRST READING, AND REFERENCE
OF HOUSE RESOLUTIONS****HCR 19**

HOUSE CONCURRENT RESOLUTION NO. 19 by Representatives Ramras and Johnson:

Urging the Alaska Industrial Development and Export Authority to present a business case to the Alaska State Legislature that includes a method for financing, a plan to solicit proposals for a public and private venture, and an analysis of the economic feasibility of a state-built and privately operated fuel storage facility that would serve the public interest by providing Alaskans with a reliable source of jet fuel, diesel, and gasoline at competitive prices.

was read the first time and referred to the Labor & Commerce and Finance Committees.

HJR 39

HOUSE JOINT RESOLUTION NO. 39 by Representatives T. Wilson and Harris:

Disapproving the Local Boundary Commission recommendation regarding the annexation of territory to the City of Fairbanks.

was read the first time and referred to the Community & Regional Affairs Committee.

HJR 40

HOUSE JOINT RESOLUTION NO. 40 by Representatives Millett, Neuman, Lynn, Johnson, and Keller:

Opposing the proposed designation by the National Marine Fisheries Service of 3,000 square miles of upper Cook Inlet, the mid-inlet, all of the inlet's western shores, and Kachemak Bay as critical habitat for beluga whales.

was read the first time and referred to the Resources Committee.

**INTRODUCTION, FIRST READING, AND REFERENCE
OF HOUSE BILLS****HB 314**

HOUSE BILL NO. 314 by the House Labor and Commerce Committee, entitled:

"An Act relating to fees and charges for medical treatment or services, the crime of unsworn falsification, investigations, and penalties as they relate to workers' compensation; and providing for an effective date."

was read the first time and referred to the Labor & Commerce and Judiciary Committees.

HB 315

HOUSE BILL NO. 315 by the House Labor and Commerce Committee, entitled:

"An Act relating to public accounting; and providing for an effective date."

was read the first time and referred to the Labor & Commerce and Finance Committees.

HB 316

HOUSE BILL NO. 316 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to post-conviction DNA testing, to the preservation of certain evidence, and to the DNA identification registration system; relating to post-conviction relief procedures; relating to representation by the public defender; amending Rule 35.1, Alaska Rules of Criminal Procedure; and providing for an effective date."

was read the first time and referred to the Judiciary and Finance Committees.

The following fiscal note(s) apply:

1. Zero, Dept. of Administration
2. Zero, Dept. of Administration
3. Zero, Dept. of Corrections
4. Zero, Dept. of Public Safety
5. Fiscal, Dept. of Law

The Governor's transmittal letter dated January 25, 2010, follows:

"Dear Speaker Chenault:

Under the authority of Art. III, Sec. 18, of the Alaska Constitution, I am transmitting a bill that adopts procedures for post-conviction deoxyribonucleic acid (DNA) testing and evidence retention.

This bill will adopt standards for evidence retention and disposal. As well as procedures for post conviction DNA testing and address changes in the DNA identification registration system.

The United States Supreme Court recently upheld Alaska's post-conviction procedures against a challenge based on due process of the law. In the District Attorney's Office for the *Third Judicial District v. Osborne*, 129 S. Ct. 2308 (2009), the court found Alaska's post-conviction relief statutes and procedures to be constitutional. While our current law is legally satisfactory, provide statutory guidance for granting post-conviction DNA testing will allow policy makers to adopt the most reasonable balance for ensuring that a person is not mistakenly convicted, and at the same time will protect the vast majority of convictions that are correct.

A person who has been convicted of a crime, and whose conviction has been upheld on appeal, has already had adequate opportunity to argue legal issues arising at trial and on appeal. The post-conviction DNA testing procedure should be limited to cases where the person reasonably claims that the wrong person was convicted. The bill provides for post-conviction DNA testing when there is a reasonable probability that the testing would produce evidence that could conclusively establish that the applicant is innocent.

The bill addresses retention of physical evidence and biological material in homicide, sexual assault, and abuse cases, and provides standards that may vary according to the community and the law enforcement resources of that community. A small community may be unable to retain large items of evidence in a criminal prosecution, but it can preserve samples of the evidence for use in future DNA testing or other post-conviction procedures. A larger community may have more space for evidence retention, and would be able to keep more of the original evidence rather than cutting representative samples of it. The bill also includes a procedure in which a law enforcement agency, after giving notice to all parties, may dispose of physical evidence and biological material if there is no objection to the disposition.

In addition to keeping evidence so that it may be used at a later date, law enforcement and other agencies, such as courts and prosecution offices, must safeguard it so that it is useful for possible future testing. The bill authorizes the establishment of a task force to include law enforcement, prosecutors, the court system, a representative from the crime laboratory, and the medical examiner to develop policies and procedures for maintaining evidence in a way that will protect and safeguard against tampering or degradation. Standards for evidence collection and retention will be established as well.

Although the Alaska post-conviction law has been upheld by the United States Supreme Court, standards for evidence retention and a procedure for post-conviction DNA testing will strengthen the current law and provide one more protection in our justice system.

I urge your prompt and favorable consideration of this bill.

Sincerely,
/s/
Sean Parnell
Governor"

HB 317

HOUSE BILL NO. 317 by the House Education Committee, entitled:

"An Act increasing the special needs funding and base student allocation for public schools, and extending the adjustment for student transportation funding; and providing for an effective date."

was read the first time and referred to the Education and Finance Committees.

CONSIDERATION OF THE DAILY CALENDAR

LEGISLATIVE CITATIONS

Representative Johansen moved and asked unanimous consent that the House approve the citations on the calendar. There being no objection, the following citations were approved and sent to enrolling:

Honoring - Dr. Martin Luther King Jr. Day

By Senator Davis; Representatives Chenault, Buch, Cissna, Crawford, Dahlstrom, Doogan, Edgmon, Fairclough, N. Foster, Gara, Gardner, Gatto, Gruenberg, Guttenberg, Harris, Hawker, Herron, Holmes, Johansen, Johnson, Joule, Kawasaki, Keller, Kelly, Kerttula, Lynn, Millett, Munoz, Neuman, Olson, Petersen, Ramras, Salmon, Seaton, Stoltze, Thomas, Tuck, P. Wilson, T. Wilson

In Memoriam - Allan Tesche

By Senator Ellis; Representatives Gara, Chenault, Buch, Cissna, Crawford, Dahlstrom, Doogan, Edgmon, Fairclough, N. Foster, Gardner, Gatto, Gruenberg, Guttenberg, Harris, Hawker, Herron, Holmes, Johansen, Johnson, Joule, Kawasaki, Keller, Kerttula, Lynn, Millett, Munoz, Olson, Petersen, Ramras, Salmon, Seaton, Thomas, Tuck, P. Wilson, T. Wilson

In Memoriam - Tito Kagimoto

By Senator Bunde; Representatives Hawker, Chenault, Buch, Cissna, Crawford, Dahlstrom, Doogan, Edgmon, Fairclough, N. Foster, Gara, Gardner, Gatto, Gruenberg, Guttenberg, Harris, Herron, Holmes, Johansen, Johnson, Joule, Kawasaki, Keller, Kelly, Kerttula, Lynn, Millett, Munoz, Neuman, Olson, Petersen, Ramras, Salmon, Seaton, Stoltze, Thomas, Tuck, P. Wilson, T. Wilson

UNFINISHED BUSINESS**HB 295**

The Speaker added a Community & Regional Affairs Committee referral for the following:

HOUSE BILL NO. 295

"An Act relating to the grant of certain state land to the University of Alaska; relating to the duties of the Board of Regents; relating to deposits made to the Alaska permanent fund received from certain lands conveyed to the University of Alaska; ratifying and reauthorizing certain prior conveyances of land to the University of Alaska; making conforming amendments; and providing for an effective date."

HB 295 is in the Education Committee with further referrals to the Community & Regional Affairs, Resources, and Finance Committees.

Representative Johansen moved and asked unanimous consent that the following members be excused from a call of the House. There being no objection, the members were excused as noted:

Representative Chenault – from noon, January 29 to evening plane time, January 31

Representative Harris – from morning plane time, January 29 to evening plane time, January 30

Representative Edgmon – from morning plane time, January 29 to evening plane time, January 30

Representative P. Wilson – from morning plane time, January 29 to 1:00 p.m., January 30

Representative Stoltze – from morning plane time, January 29 to evening plane time, January 30

Representative Ramras – from morning plane time, January 29 to evening plane time, January 30

Representative Thomas – from noon, January 29 to evening plane time, January 30

Representative Millett – from morning plane time, January 29 to evening plane time, January 31

Representative Gara – from evening plane time, January 29 to morning plane time, February 1

Representative Johansen – from morning plane time, January 29 to evening plane time, January 31

HB 76

Representative N. Foster added his name as cosponsor to:

HOUSE BILL NO. 76

"An Act relating to the membership of the Alaska Legislative Council and the membership of the Legislative Budget and Audit Committee."

HB 87

Representative Stoltze added his name as cosponsor to:

HOUSE BILL NO. 87

"An Act waiving payment of premiums for major medical insurance under the defined benefit retirement plan for public employees for disabled peace officers who have at least 20 years of credited service as peace officers."

HB 167

Representative Kawasaki added his name as cosponsor to:

HOUSE BILL NO. 167

"An Act relating to a corporation income tax credit for contributions by a person owning or operating a commercial passenger vessel to a qualified trade association that was awarded a contract by the Department of Commerce, Community, and Economic Development, and used for planning and executing a destination tourism marketing campaign."

HB 187

Representative Johansen added his name as cosponsor to:

HOUSE BILL NO. 187

"An Act requiring insurance coverage for autism spectrum disorders, describing the method for establishing a treatment plan for those disorders, and defining the treatment required for those disorders; and providing for an effective date."

HB 254

Representative Doogan added his name as cosponsor to:

HOUSE BILL NO. 254

"An Act relating to confidentiality of ethics complaints filed under the Alaska Executive Branch Ethics Act."

HB 263

Representative Lynn added his name as first cosponsor to:

HOUSE BILL NO. 263

"An Act relating to procedures and confidentiality under the Alaska Executive Branch Ethics Act."

HB 266

Representative Gatto added his name as cosponsor to:

HOUSE BILL NO. 266

"An Act providing for a priority for a fishery that is restricted to residents when fishing restrictions are implemented to achieve an escapement goal."

HB 267

Representative T. Wilson added her name as cosponsor to:

HOUSE BILL NO. 267

"An Act relating to travel by snow machine within five miles of the right-of-way of the James Dalton Highway."

HB 307

Representatives Kerttula, Gatto, Lynn, Gruenberg, and Ramras added their names as cosponsors to:

HOUSE BILL NO. 307

"An Act relating to sexual assault protective orders."

* * * * *

The House observed a moment of silence in memory of former Representative Sam Pestinger.

ANNOUNCEMENTS

House committee schedules are published under separate cover.

ADJOURNMENT

Representative Johansen moved and asked unanimous consent that the House adjourn until 10:30 a.m., January 29, 2010. There being no objection, the House adjourned at 11:18 a.m.

Suzi Lowell
Chief Clerk