

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 6, 2009

8:04 a.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative John Coghill
Representative Carl Gatto
Representative Bob Lynn
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Nancy Dahlstrom, Vice Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 193

"An Act relating to representation by a legislator or legislative employee of another person in an administrative hearing; relating to charity events under the Legislative Ethics Act; requiring compensation of public members of the Select Committee on Legislative Ethics; exempting certain information from disclosure requirements of the Legislative Ethics Act; relating to the selection of alternate members and the participation of members and alternate members in formal proceedings of the Select Committee on Legislative Ethics and its subcommittees; and defining 'constituent,' 'constituent service,' 'legislative purpose,' 'nonlegislative purpose,' and 'private benefit' for the purposes of the Legislative Ethics Act."

- HEARD BUT NOT SCHEDULED; CSHB 193(JUD) WAS REPORTED FROM COMMITTEE ON 4/3/09

HOUSE BILL NO. 186

"An Act declaring that certain firearms and accessories are exempt from federal regulation."

- MOVED CSHB 186(JUD) OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 36

"An Act relating to ballot initiative proposal applications and to ballot initiatives."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 193

SHORT TITLE: LEGISLATIVE ETHICS ACT

SPONSOR(S): REPRESENTATIVE(S) COGHILL

03/18/09 (H) READ THE FIRST TIME - REFERRALS
03/18/09 (H) STA, JUD
03/24/09 (H) STA AT 8:00 AM CAPITOL 106
03/24/09 (H) Heard & Held; Assigned to Subcommittee
03/24/09 (H) MINUTE(STA)
03/26/09 (H) STA AT 8:00 AM CAPITOL 106
03/26/09 (H) Moved CSHB 193(STA) Out of Committee
03/26/09 (H) MINUTE(STA)
03/27/09 (H) STA RPT CS(STA) NT 4DP 1AM
03/27/09 (H) DP: JOHNSON, SEATON, WILSON, LYNN
03/27/09 (H) AM: GRUENBERG
03/28/09 (H) STA AT 10:00 AM CAPITOL 106
03/28/09 (H) -- MEETING CANCELED --
03/30/09 (H) FIN REFERRAL ADDED AFTER JUD
04/03/09 (H) JUD AT 1:00 PM CAPITOL 120
04/03/09 (H) Moved CSHB 193(JUD) Out of Committee
04/03/09 (H) MINUTE(JUD)
04/06/09 (H) JUD AT 8:00 AM CAPITOL 120

BILL: HB 186

SHORT TITLE: AK FIREARMS EXEMPT FROM FED. REGULATION

SPONSOR(S): REPRESENTATIVE(S) KELLY

03/12/09 (H) READ THE FIRST TIME - REFERRALS
03/12/09 (H) JUD, FIN
04/06/09 (H) JUD AT 8:00 AM CAPITOL 120

BILL: HB 36

SHORT TITLE: INITIATIVES: CONTRIBUTIONS/PROCEDURES

SPONSOR(S): REPRESENTATIVE(S) JOHANSEN, MILLETT, WILSON

01/20/09 (H) PREFILE RELEASED 1/9/09
01/20/09 (H) READ THE FIRST TIME - REFERRALS
01/20/09 (H) STA, JUD
03/25/09 (H) SPONSOR SUBSTITUTE INTRODUCED
03/25/09 (H) READ THE FIRST TIME - REFERRALS
03/25/09 (H) JUD, FIN
04/06/09 (H) JUD AT 8:00 AM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE MIKE KELLY
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 186.

DERECK MILLER, Staff
Representative Mike Kelly
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Assisted with the presentation of HB 186 on behalf of the sponsor, Representative Kelly.

SCOTT HAMANN
Kenai, Alaska

POSITION STATEMENT: Testified in support of HB 186.

STEVE CATALANO
Kenai, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 186.

REPRESENTATIVE KYLE JOHANSEN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SSHB 36 as one of the joint prime sponsors.

SONIA CHRISTENSEN, Staff
Representative Kyle Johansen
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Assisted with the presentation of SSHB 36 on behalf of one of its joint prime sponsors, Representative Johansen.

ANNE CARPENETI, Assistant Attorney General
Legal Services Section
Criminal Division
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 186.

REPRESENTATIVE MIKE KELLY

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 186.

SONIA CHRISTENSEN, Staff
Representative Kyle Johansen
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Assisted with the presentation of SSHB 36 on behalf of one of its joint prime sponsors, Representative Johansen.

CHIP THOMA
Juneau, Alaska

POSITION STATEMENT: During discussion of SSHB 36, provided comments and expressed concern with Section 13.

WAYNE STEVENS, President/CEO
Alaska State Chamber of Commerce (ASCC)
Juneau, Alaska

POSITION STATEMENT: Urged passage of SSHB 36.

MARK GNADT
Juneau, Alaska

POSITION STATEMENT: Provided comments during discussion of SSHB 36.

ACTION NARRATIVE

[8:04:56 AM](#)

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at 8:04 a.m. Representatives Ramras, Gatto, Lynn, and Holmes were present at the call to order. Representatives Coghill and Gruenberg arrived as the meeting was in progress.

HB 193 - LEGISLATIVE ETHICS ACT

[8:05:19 AM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 193, "An Act relating to representation by a legislator or legislative employee of another person in an administrative hearing; relating to charity events under the Legislative Ethics Act; requiring compensation of public members of the Select Committee on Legislative Ethics; exempting certain

information from disclosure requirements of the Legislative Ethics Act; relating to the selection of alternate members and the participation of members and alternate members in formal proceedings of the Select Committee on Legislative Ethics and its subcommittees; and defining 'constituent,' 'constituent service,' 'legislative purpose,' 'nonlegislative purpose,' and 'private benefit' for the purposes of the Legislative Ethics Act." [CSHB 193(JUD) had been reported from committee on 4/3/09.]

CHAIR RAMRAS indicated that once Representative Gruenberg was present, he would be [providing the committee with alternative language to Conceptual Amendment 4, as amended, which was adopted on 4/3/09].

CHAIR RAMRAS then relayed that HB 193 would be set aside until later in the meeting.

HB 186 - AK FIREARMS EXEMPT FROM FED. REGULATION

8:06:00 AM

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 186, "An Act declaring that certain firearms and accessories are exempt from federal regulation."

8:06:30 AM

REPRESENTATIVE LYNN moved to adopt the proposed committee substitute (CS) for HB 186, Version 26-LS0627\E, Luckhaupt, 4/3/09, as the working document. There being no objection, Version E was before the committee.

8:07:30 AM

REPRESENTATIVE MIKE KELLY, Alaska State Legislature, sponsor, relayed that HB 186 was engendered by a concern that the rights granted by the Second Amendment be preserved and defended. Specifically, HB 186 provides that firearms and their accessories manufactured in and kept in Alaska are not subject to federal law or federal regulation. In response to a question, he suggested that firearm and accessory manufacturing in Alaska might become a growing industry should HB 186 become law.

8:10:13 AM

DERECK MILLER, Staff, Representative Mike Kelly, Alaska State Legislature, on behalf of Representative Kelly, sponsor, explained that Section 1 of Version E outlines findings that the authority for the bill comes from the Second, Ninth, and Tenth Amendments of the U.S. Constitution. Section 2 of Version E adds a new proposed AS 44.99.500(a)-(d) that exempts from federal law and federal regulation - including registration - personal firearms, firearm accessories, and ammunition that is manufactured in Alaska and remains in Alaska. Furthermore, since such firearms, accessories, and ammunition wouldn't be leaving the state, the Commerce Clause of the U.S. Constitution would not apply either. Under proposed AS 44.99.500(c), firearms manufactured in Alaska shall have the words "Made in Alaska" clearly stamped on a central metallic part, such as the receiver or frame. Proposed AS 44.99.500(d) contains definitions of the terms, "firearm accessory", "generic and insignificant parts", and "manufactured". Section 3 adds an applicability section to uncodified law stating that AS 44.99.500 would apply to firearms, firearm accessories, and ammunition manufactured in Alaska after October 1, 2009.

MR. MILLER mentioned that the Montana legislature recently passed a similar law, and that the Tennessee legislature is also considering such a law. He noted that due to a separation-of-powers issue, Version E no longer contains language requiring the attorney general to defend citizens being prosecuted by the federal government; that provision had caused the Department of Law (DOL) concern.

REPRESENTATIVE HOLMES noted that no state has had this language on the books long enough for any potential constitutional problems to be made known. She said she is concerned that passage of the bill could be setting some citizens up for problems with the federal government - opening them up to significant civil and criminal liabilities.

REPRESENTATIVE KELLY expressed a preference for reinserting the aforementioned DOL mandate back into the bill, surmising that such language would address Representative Holmes's concern. He acknowledged, though, that removal of that language addressed the aforementioned separation-of-powers concern. He predicted that anyone considering starting a business manufacturing firearms, firearm accessories, or ammunition, would automatically consult with an attorney to ensure that he/she doesn't run into problems with the federal government.

CHAIR RAMRAS mentioned that he's received word that the fiscal note from the DOL for Version E would still be indeterminate due to the bill's potential of engendering litigation.

REPRESENTATIVE GATTO questioned whether passage of the bill could be interpreted to mean that Alaska acknowledges that the Second Amendment could be overturned.

REPRESENTATIVE KELLY offered his belief that the bill is instead stipulating that the State has the right to regulate firearm manufacturing in Alaska.

CHAIR RAMRAS expressed favor with the bill.

REPRESENTATIVE GRUENBERG turned attention to language on page 2, lines [11-15], and suggested that an amendment might be in order to make that provision stronger, perhaps by changing the language such that it no longer focuses on what was understood in 1959 when Alaska was admitted to the union. He then noted that the bill doesn't appear to address the Supremacy Clause of the U.S. Constitution and whether in this situation a federal law can still preempt a state law.

MR. MILLER, in response to comments, agreed to research the issues raised further.

REPRESENTATIVE GRUENBERG noted that members' packets contain a copy of the proposed Tennessee law.

[8:23:06 AM](#)

SCOTT HAMANN said he strongly supports HB 186, and offered his belief that Alaska should protect its citizens from abuse by the federal government. In conclusion, he urged the committee to pass HB 186.

[8:24:06 AM](#)

STEVE CATALANO said he agrees with Mr. Hamann, adding that HB 186 speaks directly to his pursuit of happiness. Mr. Catalano opined that it's time for the State to start supporting its citizens in their endeavors to pursue happiness.

CHAIR RAMRAS, after ascertaining that no one else wished to testify, closed public testimony on HB 186.

The committee took an at-ease from 8:25 a.m. to 8:29 a.m.

CHAIR RAMRAS relayed that HB 186 [Version E] would be set aside until later in the meeting.

HB 193 - LEGISLATIVE ETHICS ACT

8:30:12 AM

CHAIR RAMRAS announced that as its next order of business, the committee would return to the hearing on HOUSE BILL NO. 193, "An Act relating to representation by a legislator or legislative employee of another person in an administrative hearing; relating to charity events under the Legislative Ethics Act; requiring compensation of public members of the Select Committee on Legislative Ethics; exempting certain information from disclosure requirements of the Legislative Ethics Act; relating to the selection of alternate members and the participation of members and alternate members in formal proceedings of the Select Committee on Legislative Ethics and its subcommittees; and defining 'constituent,' 'constituent service,' 'legislative purpose,' 'nonlegislative purpose,' and 'private benefit' for the purposes of the Legislative Ethics Act." [CSHB 193(JUD) had been reported from committee on 4/3/09.]

CHAIR RAMRAS relayed that [in order to comply with the intent of Conceptual Amendment 4, as amended, the drafter developed alternative language for it]:

AS 24.60.060(a) A legislator, or legislative employee, or a public member of the committee may not knowingly make an unauthorized disclosure of information that is made confidential by law and that the person acquired in the course of official duties. A person who violates this section is subject to a proceeding under AS 24.60.170 and may be subject to prosecution under AS 11.56.860 or another law.

CHAIR RAMRAS ascertained that members consented to the aforementioned alternative language for Conceptual Amendment 4, as amended, which was adopted on 4/3/09.

[CSHB 193(JUD) had been reported from committee on 4/3/09.]

The committee took an at-ease from 8:32 a.m. to 8:35 a.m.

HB 36 - INITIATIVES: CONTRIBUTIONS/PROCEDURES

8:35:29 AM

CHAIR RAMRAS announced that the next order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 36, "An Act relating to ballot initiative proposal applications and to ballot initiatives."

8:36:52 AM

REPRESENTATIVE KYLE JOHANSEN, Alaska State Legislature, speaking as one of the joint prime sponsors of SSHB 36, and noting that the bill is very similar to legislation passed out of committee last session, explained that in part SSHB 36 would require disclosure of funding pertaining to ballot initiatives, and would require that public hearings be held on proposed ballot initiatives. The aforementioned disclosure of ballot initiative funding would occur as close as possible "to the beginning of the process," he remarked, adding that the required public meetings would provide a formal process by which voters could learn about the impacts of proposed ballot initiatives.

8:41:27 AM

SONIA CHRISTENSEN, Staff, Representative Kyle Johansen, Alaska State Legislature, on behalf of Representative Johansen, one of SSHB 36's joint prime sponsors, offered her understanding that [SSHB 36] "pushes back the disclosure, the times when groups have to disclose, from after language is certified on the ballot to as soon as they file their language with the lieutenant governor's office." In response to a question, she explained that when a group files its language and pays its fee and presents 100 signatures, the lieutenant governor's office has 60 days to review that language and determine whether it has constitutional issues; after that review, the lieutenant governor's office will either print the petition booklets or deny certification of the [initiative proposal application].

REPRESENTATIVE JOHANSEN added his understanding that the aforementioned disclosure would happen "as far back as possible." In response to a question, he said that this would allow people to know, "from the onset, when money goes into the system and who's putting the money in the system."

REPRESENTATIVE GATTO pointed out a discrepancy between the language in Section 1 and the language in the sectional analysis as it pertained to Section 1, in that the bill uses the term "filing" whereas the sectional analysis uses the term

"influencing". He offered his belief that the language of the bill appears to only apply to those supporting an initiative but not to those opposing it.

REPRESENTATIVE JOHANSEN said his goal is to have every dollar given disclosed, regardless of [the contributor's] intent.

REPRESENTATIVE GRUENBERG opined that the bill is very clear on that point and thus doesn't need to be changed in that regard. He then asked the sponsor whether he would approve of narrowing the title, which he characterized as too broad.

REPRESENTATIVE JOHANSEN indicated that he would be amenable to such a change as long as it maintains his intent to have every dollar disclosed and provide for the dissemination of information.

REPRESENTATIVE GRUENBERG said he just doesn't want SSHB 36 to become a vehicle for "all kinds of stuff we haven't looked at."

[8:46:48 AM](#)

MS. CHRISTENSEN offered her understanding that Section 2 provides language conforming to Section 1, and is "requiring bumping that disclosure deadline back to as soon as the initiative's been filed." She added, "This is the same with Section 3." She explained that Section 4 removes initiatives from the statutory provision currently pertaining to initiatives, referendums, and recalls, so as to be able to apply specific disclosure requirements to initiatives.

REPRESENTATIVE JOHANSEN added that Section 5 provides for those specific disclosure requirements for initiatives.

MS. CHRISTENSEN offered her understanding that Section 5 says that if one contributes \$500 or more, or if a group is organized and spends \$500 or more, then disclosure must occur.

REPRESENTATIVE GRUENBERG pointed out that Section 5's proposed AS 15.13.110(g)(2) doesn't make sense grammatically.

CHAIR RAMRAS surmised that a drafting error occurred.

REPRESENTATIVE JOHANSEN acknowledged that point.

MS. CHRISTENSEN explained that Section 6, in addition to relocating some of the words in proposed AS 15.13.400(4),

changes the definition of "contribution" to include those contributions made in support of or in opposition to an initiative proposal filed with the lieutenant governor; that Section 7 changes the definition of "expenditure" to include expenditures made in support of or in opposition to an initiative proposal filed with the lieutenant governor; and that Section 8 precludes an initiative from being proposed if, [during the previous two years,] a substantially similar one failed to be approved by the voters.

CHAIR RAMRAS questioned whether Section 8 is constitutional.

REPRESENTATIVE JOHANSEN acknowledged that that provision might be challenged on constitutional grounds; although other states have such a provision, their constitutions are different from Alaska's constitution.

CHAIR RAMRAS suggested to the sponsor that he contemplate either amending such provisions so that they don't raise constitutional concerns, or deleting them altogether.

REPRESENTATIVE LYNN questioned whether legislative bills that don't pass during a given legislature also ought to be precluded from being reintroduced in a substantially similar form for [two sessions].

REPRESENTATIVE JOHANSEN acknowledged that point.

[8:55:07 AM](#)

MS. CHRISTENSEN explained that Section 9 requires petition booklets to include a copy of the entire proposed bill; currently, if a bill contains 500 words or more, including a summary is sufficient.

REPRESENTATIVE JOHANSEN opined that potential petition signers should be able to access all of the language in a proposed bill.

MS. CHRISTENSEN explained that Section 10 prohibits signature gatherers from being paid on a per-signature basis, but doesn't preclude them from being paid hourly wages, [salaries,] or bonuses.

REPRESENTATIVE HOLMES asked whether paying signature gatherers on a per-signature basis has resulted in a problem with fraud in Alaska.

CHAIR RAMRAS shared his belief that it has not.

REPRESENTATIVE JOHANSEN offered his understanding that fraud had become an issue in other states, and so they'd therefore established other methods of payment; although the issue has not yet arisen in Alaska, it seems prudent to make such a change as well.

REPRESENTATIVE GRUENBERG expressed interest in receiving more documentation regarding the problems that occurred in other states, and regarding whether a change in the payment methodology has chilled the initiative process in those states.

[9:00:55 AM](#)

MS. CHRISTENSEN explained that members' packets include information from the National Conference of State Legislatures (NCSL) regarding fraudulent signature-gathering practices; a couple of such practices include using carbon paper in such a way that [signatures] written on one petition transfer to another petition, or telling signers they have to sign a petition in three different places, for example, when in reality they are actually signing three different petitions. In response to questions, she offered her understanding that the rationale used in other states has been that if signature gatherers aren't being paid per signature, they would take more time explaining the issues to potential signers and wouldn't be so aggressive. She agreed to research whether the change in payment methodology has chilled the initiative process in those states.

CHAIR RAMRAS, remarking on his past experiences with the initiative process, said he's satisfied that no fraud is occurring in Alaska, and expressed appreciation for the work the Division of Elections does.

CHAIR RAMRAS then relayed that SSHB 36 would be set aside until later in the meeting.

HB 186 - AK FIREARMS EXEMPT FROM FED. REGULATION

[9:04:46 AM](#)

CHAIR RAMRAS announced that as its next order of business, the committee would return to the hearing on HOUSE BILL NO. 186, "An Act declaring that certain firearms and accessories are exempt from federal regulation." [Before the committee was the

proposed committee substitute (CS) for HB 186, Version 26-LS0627\E, Luckhaupt, 4/3/09, which had been adopted as the work draft earlier in the meeting.]

9:05:07 AM

ANNE CARPENETI, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law (DOL), said that the DOL doesn't have a position on HB 186 and has not had a chance to study it to the extent that it should be, but realizes that there may be issues with it.

REPRESENTATIVE HOLMES, again noting that no state has had such a law on the books long enough for a legal challenge to arise, reiterated her concern that under the Supremacy Clause of the U.S. Constitution, a person complying with HB 186 would run afoul of federal law.

MS. CARPENETI said those are also issues of concern to the DOL.

REPRESENTATIVE GRUENBERG said he is concerned about other possible legal challenges being raised as well. For example, because there are federal regulations regarding firearm manufacturing specifications and the care with which such weapons must be made, passage of HB 186 could result in national gun manufactures filing civil suit on the grounds that Alaskan manufacturers, as competitors, have an unfair advantage because they don't have to comply with the federal regulations. He asked whether the DOL has considered civil litigation issues as well as criminal litigation issues.

MS. CARPENETI said the DOL has not done so yet, but acknowledged that those issues should be considered as well. In response to questions, she surmised that a constitutional challenge of HB 186 could take more than a year to resolve.

REPRESENTATIVE GATTO asked whether under HB 186, a national firearms manufacturer could come into Alaska and make firearms that it would otherwise be precluded from making due to federal regulations.

MS. CARPENETI offered her belief that in a constitutional challenge, input from such a company would not be helpful to upholding this proposed law.

REPRESENTATIVE GRUENBERG said he presumes that someone would first have to be prosecuted in federal court and then he/she could use the provisions of the bill as an affirmative defense.

MS. CARPENETI concurred. In response to another question, she offered that as a practical matter, the person being prosecuted would bear the burden of proving that he/she manufactured the firearm in Alaska under Alaska law.

[9:15:07 AM](#)

REPRESENTATIVE GATTO made a motion to adopt Conceptual Amendment 1, to delete the word "understood" from page 2, lines 2 and 12, and anywhere else it occurs, and replace it with the word "intended", though if a better word can be found by the drafter, to use it instead.

CHAIR RAMRAS objected for the purpose of discussion.

REPRESENTATIVE MIKE KELLY, Alaska State Legislature, sponsor, said he had no objection to Conceptual Amendment 1.

CHAIR RAMRAS removed his objection, indicated that there were no further objections, and announced that Conceptual Amendment 1 was adopted.

The committee took an at-ease from 9:16 a.m. to 9:17 a.m.

[9:17:23 AM](#)

REPRESENTATIVE LYNN moved to report the proposed committee substitute (CS) for HB 186, Version 26-LS0627\E, Luckhaupt, 4/3/09, as amended, out of committee with individual recommendations and the accompanying indeterminate fiscal note.

REPRESENTATIVE GRUENBERG objected for the purpose of discussion. He said:

We haven't really had complete vetting of the constitutional issues and legal opinions, and I see these being extremely significant and having far-reaching ramifications that could go well up to the U.S. Supreme Court. And this could serve as precedent for all kinds of states asking to be exempted from federal regulation on everything from firearms to mosquito spray and cosmetics and food and ... [drugs] and everything else.

REPRESENTATIVE GRUENBERG suggested that the committee needs further information on the constitutional issues raised by the bill.

REPRESENTATIVE KELLY said he would like to see all 50 states seek exemption from federal regulations, predicted that the bill will be challenged, and acknowledged that as currently written, the bill would put Alaskan firearm manufacturers at risk.

REPRESENTATIVE GATTO offered his belief that the bill sends a message about overreaching by the federal government.

REPRESENTATIVE GRUENBERG predicted that during the course of any forthcoming constitutional challenge, the court would find that the committee did not adequately vet the constitutional issues raised by the bill, and that the legislative record was insufficient to support passage of the bill.

REPRESENTATIVE LYNN remarked that [a review of the committee discussion thus far] might make it more difficult for the legislation to withstand a constitutional challenge.

[9:25:39 AM](#)

A roll call vote was taken. Representatives Coghill, Gatto, Lynn, and Ramras voted in favor of the motion to report the proposed CS for HB 186, Version 26-LS0627\E, Luckhaupt, 4/3/09, as amended, from committee. Representatives Gruenberg and Holmes voted against it. Therefore, CSHB 186(JUD) was reported from the House Judiciary Standing Committee by a vote of 4-2.

REPRESENTATIVE GRUENBERG indicated that his "no" vote was based on his concern regarding an insufficient vetting of the constitutional issues raised by the bill, not on the merits of the bill itself.

REPRESENTATIVE HOLMES said "ditto."

[CSHB 186(JUD) was reported from the House Judiciary Standing Committee.]

HB 36 - INITIATIVES: CONTRIBUTIONS/PROCEDURES

[9:26:47 AM](#)

CHAIR RAMRAS announced that as its final order of business, the committee would return to the hearing on SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 36, "An Act relating to ballot initiative proposal applications and to ballot initiatives."

9:27:33 AM

REPRESENTATIVE GRUENBERG, referring to information from the National Conference of State Legislatures (NCSL) provided in members' packets, asked whether either the bill or current law addresses the problem of signature gatherers using carbon paper to fraudulently obtain more signatures.

9:27:57 AM

SONIA CHRISTENSEN, Staff, Representative Kyle Johansen, Alaska State Legislature, on behalf of Representative Johansen, one of SSHB 36's joint prime sponsors, offered her understanding that Section 12 - which pertains to the certification of petition circulators - addresses that point.

REPRESENTATIVE GRUENBERG suggested that more research be done on that issue.

MS. CHRISTENSEN explained that Section 11 would prohibit a signature gatherer from collecting signatures for more than one petition at a time. In response to questions, she indicated that this provision is intended to address the aforementioned fraudulent practice by signature gatherers of telling a petition signer he/she needs to sign in several places when really the signature gatherer is getting the signer to sign several different petitions without him/her knowing it.

CHAIR RAMRAS expressed dissatisfaction with Section 11, surmising that professional signature gatherers typically handle more than one petition at a time.

REPRESENTATIVE GATTO, noting that sometimes two or more signature gatherers can be found in close proximity to each other, also expressed dissatisfaction with Section 11.

MS. CHRISTENSEN, acknowledging that [the behavior Section 11 is intended to address] was difficult to define, relayed that the sponsor's intent is to have "one place, one time, for one person."

CHAIR RAMRAS, in response to a comment, pointed out that signature gatherers in close proximity to each other may not relieve each other for even short periods of time, because petition booklets are signed out to specific individuals; such behavior would constitute fraud under current law.

REPRESENTATIVE GRUENBERG, referring to the fraudulent use of carbon paper and remarking that the committee just wants to be sure that the signer knows what he/she is signing, said he doesn't think that the language currently in the bill constitutes the best solution to that problem. He suggested that perhaps language could be drafted to specifically address fraudulent signature-gathering practices such as those previously mentioned.

[9:34:10 AM](#)

MS. CHRISTENSEN went on to explain that Section 12 requires the oath that signature gatherers must now sign to also include a statement that they haven't solicited signatures for more than one petition, but to no longer contain language regarding per-signature payment; the changes proposed by Section 12 are conforming changes. She relayed that Section 13 requires that public hearings on initiatives be held in at least 30 house districts, and includes notice and publication requirements. Section 14 requires that [a sworn affidavit asserting compliance with Section 13 - along with acceptable proof - be submitted to the lieutenant governor]. Section 15 contains conforming language [as it would pertain to a review of the petition]. Section 16 authorizes the lieutenant governor to disqualify a petition if the initiative sponsors [fail to comply with the requirements laid out in Section 13]. Sections 17 and 18 were inserted at the drafter's request; these sections add a reference to special elections because, depending on the timing, initiatives can be on a special election ballot. Section 19 requires that a standing committee of the legislature review initiatives certified by the governor, but doesn't give the legislature any power to amend the initiatives; this step would provide a venue for affected State agencies to voice their concerns with initiatives.

REPRESENTATIVE GRUENBERG asked whether a reference to municipal elections could be added to Sections 17 and 18.

MS. CHRISTENSEN indicated that the sponsor would consider that point.

9:37:06 AM

CHIP THOMA, after noting that he has been involved with initiatives for the past 20 years but during the course of that work has never raised money, disbursed money, or been paid, relayed information about two past initiatives wherein funds from outside sources [far exceeded] that of local contributors. Referring to Section 13, he characterized it as a poison pill and punitive in that if an initiative sponsor doesn't comply with it in exactly the right way, the initiative will get thrown out. He suggested that if public meetings on initiatives are really desired, then the Division of Elections or the Office of the Lieutenant Governor should pay for them. He predicted that what will be found is that the cost of holding such meetings is quite prohibitive, and opined that such a burden shouldn't be placed on initiative sponsors, particularly given how low all the other costs associated with the initiative process generally are.

9:39:25 AM

WAYNE STEVENS, President/CEO, Alaska State Chamber of Commerce (ASCC), stated:

Alaska's initiative process is increasingly being used to drive up the costs of doing business in the state, and, in some cases, to attempt to stop industries from operating at all. While a functional initiative process is important in order to give citizens an opportunity to directly petition their government, Alaska's current system is [opaque] ... and susceptible to abuse. For example, individuals and groups involved in campaigning for or against an initiative are not required to provide financial disclosure online; the public may be deprived of critical information on election day, as hard copy reporting of last minute donation and expenditures is typically not available until after the election.

This lack of transparency makes it impossible for the public to accurately analyze the interests making arguments for or against any particular initiative. In recent years, Alaska's resource-based industries have been targets of numerous, punitive ballot initiatives. The oil and gas industry faced an onerous and counterproductive natural gas reserves tax. The cruise ship industry was struck with a

passenger head tax and new regulatory standards that are not applied to any other discharger in Alaska. And most recently, the mining industry battled an ambiguous initiative financed by undisclosed sources which many thought was designed to shut down industry in Alaska.

A more transparent and public process would help ensure the public was well-informed prior to voting on a ballot initiative, thereby lowering the risk of unintended consequences when poorly-understood ballot initiatives are passed. The [ASCC] ... encourages the Alaska legislature to pass legislation that at a minimum establishes a streamlined financial disclosure system, including disclosure of the first dollar spent or collected prior to an initiative being formally certified for the ballot, and online filing so [that] Alaskans can follow the money from the beginning and access important information prior to the election.

Secondly, an opportunity for meaningful public involvement and vetting of proposed initiatives to increase awareness and ensure the public is well informed prior to voting - e.g., the required public hearings in a majority of election districts prior to petition certification. The cost of initiative drafting, certifying, and campaigning would likely increase if the recommended action is [taken]. Such a scenario may be a double-edged sword for the business community depending on whether the business was an initiative sponsor or opponent; however, a well-informed public is less likely to pass poorly-drafted initiatives, less-likely to produce unintended consequences which could mean significant savings to business in the long run.

MR. STEVENS, in conclusion, said:

[The ASCC} ... urges the legislature to pass ... [SSHB 36] that makes drafting, signature gathering, and financing of ballot initiatives more transparent for all Alaskans.

[9:42:39 AM](#)

REPRESENTATIVE GATTO asked whether amending the bill such that it only addressed financial disclosure issues would be sufficient.

MR. STEVENS characterized that as being a first step in the right direction.

REPRESENTATIVE HOLMES questioned whether requiring meetings in 30 house districts - for example, having 2 separate meetings in Juneau and 25-30 separate meetings in Anchorage and the Matanuska-Susitna (Mat-Su) area - would be duplicative and overly expensive compared to just having a single meeting each in Juneau, Anchorage, and the Mat-Su, for example.

MR. STEVENS offered his belief that if the meetings are held close to where people reside, more people will attend them. Regardless that having more meetings might result in extra work and extra expense, the intent, he surmised, is to ensure that people have the opportunity to discuss the possible impacts of ballot initiatives with the sponsors.

REPRESENTATIVE LYNN asked Mr. Stevens whether he would be opposed to having the bill amended such that it would prohibit foreign contributions for initiatives.

MR. STEVENS declined to answer.

REPRESENTATIVE GRUENBERG asked Mr. Stevens whether he would be amenable to having [Section 17] amended such that it would also apply to municipal elections. In this way, voters in municipal elections would also receive election pamphlets informing them of municipal ballot initiatives.

MR. STEVENS offered his understanding that in Kodiak, election pamphlets for local elections are provided and include information about proposed measures. In response to another question, he said he assumes that Kodiak voters appreciated receiving those pamphlets.

[9:49:45 AM](#)

MARK GNADT relayed that he has collected many signatures, from Sitka to Barrow, often for initiatives that he's had some hand in. The initiative process is very valuable, he opined, offering his belief that generally initiatives in Alaska are pretty widely debated once they are approved for placement on the ballot. However, to try to enforce election laws on

something that's not even on the ballot yet is troubling to him, he remarked; once an initiative has been certified by the lieutenant governor for placement on the ballot, those sponsoring or opposing it should have to comply with statutory disclosure requirements, but not before, because at that point, an initiative is just an idea. To blur that line could lead to governmental interference with other rights held by citizens, and raises the questions, "What are they afraid of?" and "Why are we trying to make this more difficult?"

MR. GNADT opined that instead, the goal should be to make the initiative process easier for the public; even just the signature-gathering phase of the initiative process is already very hard even without having to then also organize public meetings. If the intent is to get more information to the public, then it should be the State's duty make that happen - the State should take on that cost and burden, rather than the citizens who are attempting to enact a law that for whatever reason the legislature didn't.

MR. GNADT, in response to questions, indicated that he is familiar with one instance wherein a signature gatherer might have created fraud - that person was thereafter essentially blackballed as a signature gatherer; that he's worked on four major initiatives; that he votes; that half of the initiatives he's worked on were approved by the voters; that instances of fraud are unlikely to occur in Alaska because potential petition signers are vigilant in asking questions and perusing the petition booklets; that although not required, when he gathered signatures, he provided the full language of the proposed initiatives; that he supports that provision of the bill; that potential petition signers generally are not satisfied with just a summary; and that he's found the per-signature payment methodology to be a great motivator, much like commission sales.

REPRESENTATIVE GRUENBERG asked Mr. GnadT to review Section 10 further.

MR. GNADT agreed to do so.

CHAIR RAMRAS relayed that SSHB 36 would be held over until the committee's next meeting, scheduled for later in the day.

[10:01:31 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 10:01 a.m.