

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

April 13, 2009

8:06 a.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Charisse Millett

**COMMITTEE CALENDAR**

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 96(FIN)

"An Act relating to nonpayment of child support, to the definition of the term "state" for the purposes of the Uniform Interstate Family Support Act, to certain judicial and administrative orders for medical support of a child, to periodic review and adjustment of child support orders, to relief from administrative child support orders, to child support arrearages, and to medical support of a child and the Alaska Native family assistance program; amending Rule 90.3, Alaska Rules of Civil Procedure; and providing for an effective date."

- MOVED HCS CSSB 96(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 192

"An Act relating to nonpayment of child support; relating to certain judicial and administrative orders for medical support of a child; relating to periodic review and adjustment of child support orders; relating to relief from administrative child support orders; relating to child support arrearages; relating to medical support of a child and the Alaska Native family

assistance program; amending Rule 90.3, Alaska Rules of Civil Procedure; and providing for an effective date."

- HEARD & HELD

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: SB 96

SHORT TITLE: CHILD SUPPORT/CASH MEDICAL SUPPORT

SPONSOR(S): HEALTH & SOCIAL SERVICES

02/04/09	(S)	READ THE FIRST TIME - REFERRALS
02/04/09	(S)	HSS, JUD, FIN
02/25/09	(S)	HSS AT 1:30 PM BUTROVICH 205
02/25/09	(S)	Heard & Held
02/25/09	(S)	MINUTE(HSS)
03/02/09	(S)	HSS AT 1:30 PM BUTROVICH 205
03/02/09	(S)	Moved CSSB 96(HSS) Out of Committee
03/02/09	(S)	MINUTE(HSS)
03/03/09	(S)	HSS RPT CS 2DP 2NR NEW TITLE
03/03/09	(S)	DP: DAVIS, PASKVAN
03/03/09	(S)	NR: THOMAS, ELLIS
03/11/09	(S)	JUD AT 1:30 PM BELTZ 211
03/11/09	(S)	Heard & Held
03/11/09	(S)	MINUTE(JUD)
03/16/09	(S)	JUD AT 1:30 PM BELTZ 211
03/16/09	(S)	Moved CSSB 96(HSS) Out of Committee
03/16/09	(S)	MINUTE(JUD)
03/18/09	(S)	JUD RPT CS(HSS) 1DP 3NR
03/18/09	(S)	DP: FRENCH
03/18/09	(S)	NR: THERRIAULT, WIELECHOWSKI, MCGUIRE
03/30/09	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/30/09	(S)	Heard & Held
03/30/09	(S)	MINUTE(FIN)
04/09/09	(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/09/09	(S)	Moved CSSB 96(FIN) Out of Committee
04/09/09	(S)	MINUTE(FIN)
04/09/09	(S)	FIN RPT CS 4DP 2NR NEW TITLE
04/09/09	(S)	DP: HOFFMAN, HUGGINS, THOMAS, ELLIS
04/09/09	(S)	NR: STEDMAN, OLSON
04/10/09	(S)	TRANSMITTED TO (H)

04/10/09 (S) VERSION: CSSB 96(FIN)  
04/10/09 (H) READ THE FIRST TIME - REFERRALS  
04/10/09 (H) JUD, FIN  
04/13/09 (H) JUD AT 8:00 AM CAPITOL 120

BILL: HB 192

SHORT TITLE: CHILD SUPPORT/CASH MEDICAL SUPPORT  
SPONSOR(S): REPRESENTATIVE(S) COGHILL

03/18/09 (H) READ THE FIRST TIME - REFERRALS  
03/18/09 (H) HSS, JUD  
03/31/09 (H) HSS AT 3:00 PM CAPITOL 106  
03/31/09 (H) Moved CSHB 192(HSS) Out of Committee  
03/31/09 (H) MINUTE(HSS)  
04/01/09 (H) HSS RPT CS(HSS) 2DP 3NR  
04/01/09 (H) DP: COGHILL, LYNN  
04/01/09 (H) NR: HOLMES, HERRON, KELLER  
04/13/09 (H) JUD AT 8:00 AM CAPITOL 120

BILL: HB 36

SHORT TITLE: INITIATIVES: CONTRIBUTIONS/ PROCEDURES  
SPONSOR(S): REPRESENTATIVE(S) JOHANSEN, MILLETT, P.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  
04/06/09 (H) Heard & Held  
04/06/09 (H) MINUTE(JUD)  
04/06/09 (H) JUD AT 1:00 PM CAPITOL 120  
04/06/09 (H) Heard & Held  
04/06/09 (H) MINUTE(JUD)  
04/13/09 (H) JUD AT 8:00 AM CAPITOL 120

**WITNESS REGISTER**

LYNDA ZAUGG, Staff  
Senator Bettye Davis  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During discussion of SB 96 and HB 192, presented SB 96 on behalf of the sponsor, the Senate Health and Social Services Standing Committee, which is chaired by Senator Davis.

SENATOR BETTYE DAVIS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During discussion of SB 96 and HB 192, spoke as chair of the Senate Health and Social Services Standing Committee, sponsor of SB 96.

JESSIE M. ARCHIBALD, Staff Attorney  
Tribal Child Support Unit  
Central Council of the Tlingit and Haida Indian Tribes of Alaska  
(CCTHITA)  
Juneau, Alaska

**POSITION STATEMENT:** During discussion of SB 96 and HB 192, expressed concern with Amendment 1 to SB 96 and suggested alternative language.

GINGER BLAISDELL, Director  
Administrative Services Division  
Department of Revenue (DOR)  
Juneau, Alaska

**POSITION STATEMENT:** Responded to questions and provided comments during discussion of SB 96 and HB 192.

PETER PUTZIER, Senior Assistant Attorney General  
Opinions, Appeals, & Ethics  
Civil Division (Anchorage)  
Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of SB 96 and HB 192.

REPRESENTATIVE KYLE JOHANSEN  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During discussion of SSHB 36, spoke as one of the joint prime sponsors.

JANET DeYOUNG, Chief Assistant Attorney General - Statewide  
Section Supervisor  
Labor and State Affairs Section  
Civil Division (Anchorage)  
Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of SSHB 36.

CHRISTINA ELLINGSON, Assistant Director  
Alaska Public Offices Commission (APOC)  
Department of Administration (DOA)  
Anchorage, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of SSBH 36.

JASON HOOLEY, Deputy Chief of Staff  
Juneau Office  
Office of the Lieutenant Governor  
Juneau, Alaska

**POSITION STATEMENT:** Responded to questions during discussion of SSBH 36.

### **ACTION NARRATIVE**

[8:06:11 AM](#)

**CHAIR JAY RAMRAS** called the House Judiciary Standing Committee meeting to order at 8:06 a.m. Representatives Ramras, Dahlstrom, Coghill, and Gatto were present at the call to order. Representatives Lynn, Gruenberg, and Holmes arrived as the meeting was in progress. Representative Millett was also in attendance.

SB 96 - CHILD SUPPORT/ CASH MEDICAL SUPPORT  
HB 192 - CHILD SUPPORT/CASH MEDICAL SUPPORT

[8:06:22 AM](#)

CHAIR RAMRAS announced that the first order of business would be a hearing on two bills: CS FOR SENATE BILL NO. 96(FIN), "An Act relating to nonpayment of child support, to the definition of the term "state" for the purposes of the Uniform Interstate Family Support Act, to certain judicial and administrative orders for medical support of a child, to periodic review and adjustment of child support orders, to relief from administrative child support orders, to child support arrearages, and to medical support of a child and the Alaska Native family assistance program; amending Rule 90.3, Alaska Rules of Civil Procedure; and providing for an effective date."; and HOUSE BILL NO. 192, "An Act relating to nonpayment of child support; relating to certain judicial and administrative orders for medical support of a child; relating to periodic review and adjustment of child support orders; relating to relief from administrative child support orders; relating to child support arrearages; relating to medical support of a child and the

Alaska Native family assistance program; amending Rule 90.3, Alaska Rules of Civil Procedure; and providing for an effective date." [Before the committee was CSHB 192(HSS).]

[8:07:32 AM](#)

LYNDA ZAUGG, Staff, Senator Bettye Davis, Alaska State Legislature, explained on behalf of the sponsor, the Senate Health and Social Services Standing Committee, which is chaired by Senator Davis, that SB 96 would bring Alaska into compliance with the federal Uniform Interstate Family Support Act (UIFSA), which requires states to establish guidelines addressing how either or both parents will provide for a child's healthcare needs and to include the term "Indian tribe" in the definition of "state". These two conforming changes will result in procedural changes for enforcement and modification of child support orders from other jurisdictions. If a parent is ordered to pay for healthcare, including cash medical support, the Child Support Services Division (CSSD) must enforce the ongoing medical support obligation as well as collect any cash medical-support arrears. Including the term "Indian tribe" in the definition of "state" will not expand or restrict tribal jurisdiction. Failure to satisfy these UIFSA requirements would jeopardize \$85 million in federal funding for Alaska's child support program and the Temporary Assistance for Needy Families (TANF) program.

MS. ZAUGG said that SB 96 adds the terms "Indian tribe" and "United States Virgin Islands" to the definition of the term "state" [as used in AS 25.25]; adds to existing law the authority for a tribunal to order either or both parents to pay cash medical support if warranted; directs the CSSD to review child support orders for modification on a federally-mandated three-year cycle; adds the term "cash medical support" to the definition of the terms "arrearage" and "support order", thereby enabling the CSSD to use its existing enforcement tools to collect a cash medical support obligation on behalf of the child; and removes language limiting who may request the correction of a clerical mistake in an administrative order or request the vacation of an administrative order that is based on a default amount. Senate Bill 96 would put Alaska in compliance with the federal requirements that ensure Alaska's children receive the medical support to which they are entitled, and would ensure that Alaska receives the aforementioned \$85 million in federal funding for Alaska's child support program and the TANF program.

8:10:05 AM

SENATOR BETTYE DAVIS, Alaska State Legislature, speaking as chair of the Senate Health and Social Services Standing Committee, sponsor, and in response to a question, offered that CSSB 96(FIN) now contains some legislative intent language, which is supported by the department.

MS. ZAUGG added that the intent language addresses the proposed changes to the definition of the term "state".

SENATOR DAVIS, in response to a further question, offered her understanding that Guam would be included under the [existing] definition of the term "state".

8:12:43 AM

JESSIE M. ARCHIBALD, Staff Attorney, Tribal Child Support Unit, Central Council of the Tlingit and Haida Indian Tribes of Alaska (CCTHITA), referred to Amendment 1, and relayed that the CCTHITA objects to its language; Amendment 1 read [original punctuation provided]:

Page 2, lin2 [sic] 5:

Insert new subsection:

(b) The proposed changes made in AS 25.25.101(19) under sec. 3 of this Act are conforming amendments that will result in procedural changes in Alaska for enforcement and modification of child support orders from other jurisdictions. UIFSA does not determine the authority of an Indian tribe to enter, modify, or enforce a child support order. In Alaska, the scope of tribal authority to enter, modify, or enforce a child support order is an unsettled legal question, due in part to the lack of Indian country in most of the state. In adopting UIFSA conforming amendments, the legislature does not intend to grant or restrict tribal jurisdiction to enter, modify, or enforce child support orders, and the amendments are not intended, either directly or impliedly, to acknowledge, expand, or restrict tribal jurisdiction.

MS. ARCHIBALD said the CCTHITA believes that the language of Amendment 1 is unnecessary because the UIFSA is simply a set of procedures pertaining to interstate processing of child support orders, and does not confer jurisdiction to the tribe; instead, the UIFSA deals with the contents of petitions, nondisclosure of

personal information, special rules for interstate transmission of evidence and discovery, streamlining interstate processes, and allowing for child support orders to be created administratively rather than just by the court. Furthermore, the UIFSA already has built-in procedures for the non-registrant to raise objections about the issuing tribunal's subject matter jurisdiction, personal jurisdiction, and other matters that might limit the recognition and enforcement of an order by Alaska's tribunals. The language of Amendment 1 would set out tribal child support orders for particular scrutiny, implying that such scrutiny should be hostile, and suggesting that the legislature is prejudging the validity of an objection based upon unsettled jurisdictional issues and the nature of Indian tribes in Alaska.

MS. ARCHIBALD offered her belief that the intent language essentially endorses the principle that a child support obligor can get out of paying his/her child support simply by objecting on the basis of unsettled jurisdictional issues and the nature of Indian tribes in Alaska. The legislature should instead leave those issues to individual litigants and the courts. Collecting child support is hard enough without having legislative intent language that could allow deadbeat parents to get out of paying their child support obligations. The CCHITA, she relayed, would like to propose the following alternative legislative intent language [original punctuation provided]:

(b) The legislature recognizes that child support enforcement programs are administered by Federal, State, and Tribal entities that address the establishment of paternity and enforcement of support orders with the intent of promoting the general economic welfare and the best interest of dependent children. UIFSA provides a vehicle for the non-registrant to raise objections about the issuing tribunal's subject matter jurisdiction, personal jurisdiction, and other matters that may make a specific order not entitled to recognition and enforcement in Alaska's tribunals. The intent of the legislature is that tribal child support orders should be subject to the same types of objections, and to the same extent, as child support orders from tribunals of other jurisdictions. It is the intent of the legislature is [sic] to provide a procedural vehicle for Tribal child support orders for such orders to be registered in Alaska state tribunals in the same manner child support orders from other tribunals are

registered. This legislation is not intended to prejudice the validity of any specific order or the validity of any objections to a specific order.

[8:19:40 AM](#)

MS. ARCHIBALD said that the CCTHITA's goal is to ensure that Tlingit and Haida children receive the financial and emotional support of both their parents, and that the UIFSA's goal is to provide for efficient, streamlined processing of child support orders. However, the CCTHITA is of the opinion that the current language of Amendment 1 will instead result in Alaska being out of compliance with the UIFSA, and thus not eligible for the aforementioned federal funding.

REPRESENTATIVE COGHILL offered his belief that Amendment 1 just preserves the status quo and therefore doesn't really matter.

MS. ARCHIBALD, in response to comments and questions, provided further information about the UIFSA, and reiterated that the CCTHITA objects to the current language of Amendment 1 believing it to be both unnecessary and likely to be used by child support obligors to get out of paying their child support orders.

SENATOR DAVIS expressed a preference for leaving the language of SB 96 as is, without the language Amendment 1 is proposing to add.

MS. ARCHIBALD, in response to a question, said that the language in Amendment 1 regarding the UIFSA is unnecessary because it's only stating the already-known fact that the UIFSA does not determine the authority of an Indian tribe to enter, modify, or enforce a child support order; furthermore, the statement that there are unsettled legal questions in Alaska regarding the scope of tribal authority is problematic because child support obligors could use that legislative intent language to refuse to pay a child support order from the tribe on the basis that even the legislature thinks that tribes don't have clear jurisdiction to issue such an order. Again, the language in Amendment 1 could be used by those wishing to get out of paying child support.

REPRESENTATIVE COGHILL expressed a preference for adopting Amendment 1, offering his belief that it would provide necessary clarification regarding the proposed changes to the definition of the term "state".

CHAIR RAMRAS suggested that Amendment 1 be amended by deleting the language that reads, "UIFSA does not determine the authority of an Indian tribe to enter, modify, or enforce a child support order".

MS. ARCHIBALD, in response to a question, said she also objects to the language of Amendment 1 that reads, "In Alaska, the scope of tribal authority to enter, modify, or enforce a child support order is an unsettled legal question". Again, that language could give a child support obligor a chance to get out of paying his/her child support order. Regardless that there is some jurisdictional conflict, child support obligors shouldn't be given any ammunition to say, "Well, the legislature even agrees that we're not sure you have any authority, so why should I have to pay my child support?" With regard to the language of Amendment 1 that reads, "the legislature does not intend to grant or restrict tribal jurisdiction", she pointed out that the legislature doesn't have the authority to grant or restrict tribal jurisdiction, and thus that language is incorrect. In response to a question, she again reiterated that the CCTHITA's view is that Amendment 1 is unnecessary.

[8:36:07 AM](#)

REPRESENTATIVE COGHILL made a motion to adopt Amendment 1 [text provided previously].

REPRESENTATIVE GRUENBERG objected.

[8:36:49 AM](#)

GINGER BLAISDELL, Director, Administrative Services Division, Department of Revenue (DOR), in response to a question, explained that the Department of Revenue (DOR) sent a request that intent language, made up of two paragraphs, be added to SB 96. The first paragraph was added to CSSB 96(FIN) but the second paragraph - the language now contained in Amendment 1 - was left out because the drafter thought it merely described the first paragraph.

REPRESENTATIVE GRUENBERG offered his understanding that the language of Amendment 1 is not supported by Senator Davis.

[8:38:23 AM](#)

PETER PUTZIER, Senior Assistant Attorney General, Opinions, Appeals, & Ethics, Civil Division (Anchorage), Department of Law

(DOL), in response to a question, relayed that the intent of the language in Amendment 1 is simply to preserve the status quo of the State not taking a position on the scope of tribal jurisdiction. Such jurisdiction, particularly with regard to domestic relations, is being contested in court and will continue to be contested. The concern, therefore, is that without clarification, the State would have to spend time in superior court arguing the legislative intent of the bill, and that's not something the State wants to do. He added that Amendment 1's language is not intended to address how the UIFSA is enforced or to change the UIFSA's processes.

REPRESENTATIVE COGHILL asked whether the language of Amendment 1 would call into question the authority of a tribe to administer child support orders.

MR. PUTZIER indicated that the language is simply stating that the legislature is not taking a position on the scope of tribal jurisdiction, thereby leaving that issue to be addressed by the courts.

REPRESENTATIVE COGHILL again expressed a preference for adopting Amendment 1, characterizing its intent language both as necessary and as neutral with regard to the issue of tribal jurisdiction.

[8:44:09 AM](#)

MR. PUTZIER, in response to a question, explained that AS 25.25 doesn't speak to the authority of a particular tribunal.

REPRESENTATIVE GRUENBERG asked whether not adopting Amendment 1 would change the DOR's position.

MR. PUTZIER said it would not, but cautioned that not adopting Amendment 1 could make the State's position significantly more difficult to defend.

REPRESENTATIVE GRUENBERG asked Mr. Putzier if he would support Amendment 1 if it were amended to say [in part], "UIFSA does not determine the authority of the State of Alaska to enter, modify, or enforce a child support order on Indian land".

MR. PUTZIER pointed out that there isn't any Indian country in Alaska except for Metlakatla and potentially some allotments or other kinds of lands not at issue. In response to further questions, he indicated that if the correct term were used, and

if the new language said that the bill doesn't add to or subtract from the State of Alaska's authority, he doesn't think such language would be objectionable, though he would have to look at the specific language first to be sure.

REPRESENTATIVE GRUENBERG surmised, then, that the DOL would be amenable to language that says the bill does not modify the State's authority over Alaska Native villages.

MR. PUTZIER said he is unable to confirm that because language regarding Indian law issues must be very precise, and the suggested change is not yet that precise.

REPRESENTATIVE GRUENBERG questioned whether the language of Amendment 1 that now reads, "In adopting UIFSA conforming amendments, the legislature does not intend to grant or restrict tribal jurisdiction to enter, modify, or enforce child support orders, and the amendments are not intended, either directly or impliedly, to acknowledge, expand, or restrict tribal jurisdiction" ought to instead read [in part], "In adopting UIFSA conforming amendments, the legislature does not intend to grant or restrict the State's jurisdiction to enter, modify, or enforce ...". In other words, should Amendment 1 be amended such that it addresses the State's jurisdiction rather than tribal jurisdiction?

MR. PUTZIER indicated that that's difficult to answer because such language would raise the question of whether it's the State's jurisdiction within Alaska that's being addressed via Amendment 1. He added, "The state of tribal jurisdiction in the State of Alaska, where there's not Indian country - except for Metlakatla and certain other exceptions - in play here -- the situation you're talking about just doesn't exist."

REPRESENTATIVE GRUENBERG expressed a preference for holding the bill over in order to further research Amendment 1 and the issues it raises.

[8:48:19 AM](#)

MR. PUTZIER, in response to a question, said he doesn't agree that the current intent language of Amendment 1 is improper; "it's straightforward and it says that the State is not taking ... [a position on] either expanding tribal jurisdiction or restricting it." In response to other questions, he indicated that altering Amendment 1 such that it says the bill is not intended to expand or restrict either the State's or the tribes'

jurisdiction could potentially result in the status quo being maintained in the event of litigation. The goal is to have the intent language clarify that the bill is only making conforming amendments in response to a federal requirement.

REPRESENTATIVE HOLMES offered her understanding that the language in Amendment 1 that reads, "In Alaska, the scope of tribal authority to enter, modify, or enforce a child support order is an unsettled legal question" is more controversial than the rest of Amendment 1's language. She asked, therefore, whether deleting that sentence would undermine the goal of the proposed intent language.

MR. PUTZIER offered his belief that if the language that reads, "In adopting UIFSA conforming amendments, the legislature does not intend to grant or restrict tribal jurisdiction to enter, modify, or enforce child support orders, and the amendments are not intended, either directly or impliedly, to acknowledge, expand, or restrict tribal jurisdiction" were to remain in Amendment 1, then the aforementioned sentence could probably be deleted while still maintaining and advancing the overall goal of the proposed intent language.

MS. BLAISDELL, referring to SB 96, relayed that it requires the obligor to either provide medical insurance for children in the custody of a custodial parent or to pay cash medical support; it requires a three-year review [of support orders] - this change wouldn't impact the CSSD and typically such a review occurs more frequently anyway; it contains technical changes so that the CSSD can make clerical corrections to child support orders; and it adds the term "Indian tribe" to the definition of the term "state".

CHAIR RAMRAS, after ascertaining that no one else wished to testify, closed public testimony on SB 96.

[8:57:03 AM](#)

REPRESENTATIVE HOLMES made a motion to amend Amendment 1, to delete the language that reads, "In Alaska, the scope of tribal authority to enter, modify, or enforce a child support order is an unsettled legal question.".

REPRESENTATIVE GATTO objected.

REPRESENTATIVE HOLMES offered her belief that amending Amendment 1 as she is proposing would not undermine the effect

of the proposed intent language, but would address Ms. Archibald's concern that the proposed intent language could give people additional ammunition for refusing to comply with child support orders.

REPRESENTATIVE COGHILL said he does not object to the amendment to Amendment 1.

REPRESENTATIVE GATTO offered his understanding that Ms. Archibald had characterized that sentence as unnecessary.

REPRESENTATIVE HOLMES said her understanding is that that characterization was instead directed at the language that read, "UIFSA does not determine the authority of an Indian tribe to enter, modify, or enforce a child support order".

REPRESENTATIVE GATTO removed his objection.

CHAIR RAMRAS relayed that Amendment 1 was amended.

REPRESENTATIVE COGHILL offered his belief that the issue of jurisdiction needs to be addressed carefully, particularly given that not speaking to the issue will, in and of itself, raise still further questions.

REPRESENTATIVE HOLMES mentioned that she would be following the wishes of the bill's sponsor and thus be voting against Amendment 1, as amended.

REPRESENTATIVE GRUENBERG said he opposes Amendment 1, as amended, because he is concerned that including it would jeopardize the whole bill, and he believes that it is not essential, particularly given that the bill passed the Senate without it.

[9:01:54 AM](#)

A roll call vote was taken. Representatives Coghill, Gatto, Lynn, Dahlstrom, and Ramras voted in favor of Amendment 1, as amended. Representatives Gruenberg and Holmes voted against it. Therefore, Amendment 1, as amended, was adopted by a vote of 5-2.

[9:02:22 AM](#)

REPRESENTATIVE DAHLSTROM moved to report CSSB 96(FIN), as amended, out of committee with individual recommendations and

the accompanying zero fiscal note. There being no objection, HCS CSSB 96(JUD) was reported from the House Judiciary Standing Committee. [CSHB 192(HSS) was held over.]

The committee took an at-ease from 9:02 a.m. to 9:07 a.m.

SSHB 36 - INITIATIVES: CONTRIBUTIONS/PROCEDURES

9:07:46 AM

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

CHAIR RAMRAS noted that public testimony on SSHB 36 had been closed.

9:08:53 AM

REPRESENTATIVE COGHILL made a motion to adopt Amendment 1, labeled 26-LS0197\E.3, Bullard, 4/9/09, which read:

Page 5, lines 4 - 7:  
Delete all material.

Renumber the following bill sections accordingly.

Page 6, line 11, through page 7, line 5:  
Delete all material.

Renumber the following bill sections accordingly.

REPRESENTATIVE HOLMES objected.

REPRESENTATIVE COGHILL explained that Amendment 1 would delete Section 8 and Section 11. Section 8 would preclude an initiative from being proposed if, [during the previous two years,] a substantially similar one failed to be approved by the voters, and raised the concern that it would limit citizens' free speech and right to place initiatives on the ballot. He offered his recollection that even one of the joint prime sponsors acknowledged that Section 8 could be problematic. Section 11 would prohibit a signature gatherer from collecting signatures for more than one petition at a time, and raised the concern that signature gatherers would be inordinately restricted.

CHAIR RAMRAS pointed out that Amendment 1 would also delete Section 12 [which contained conforming changes].

REPRESENTATIVE HOLMES removed her objection.

CHAIR RAMRAS announced that Amendment 1 was adopted.

[9:11:04 AM](#)

REPRESENTATIVE COGHILL [made a motion to adopt] Amendment 2, labeled 26-LS0197\E.4, Bullard, 4/9/09, which read:

Page 2, line 21:

Delete "[AN INITIATIVE,]"

Insert "**a municipal** [AN] initiative,"

Page 2, line 22, following "governor":

Insert "**or the division of elections**"

Page 2, line 27, through page 3, line 8:

Delete all material and insert:

"(g) An initiative committee, person, group, or nongroup entity receiving contributions exceeding \$500 or making expenditures exceeding \$500 in a calendar year in support of or in opposition to an initiative on the ballot in a statewide election or an initiative proposal application filed with the lieutenant governor under AS 15.45.020 shall file a report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) and (b) of this section. If the report is a first report, it must cover the period beginning on the day an initiative proposal application is filed under AS 15.45.020 and ending three days before the due date of the report."

REPRESENTATIVE HOLMES objected.

REPRESENTATIVE COGHILL relayed that he'd just been notified that Amendment 2's currently-proposed changes to page 2, lines 21 and 22, would be being made in the wrong place.

[9:12:37 AM](#)

REPRESENTATIVE KYLE JOHANSEN, Alaska State Legislature, speaking as one of the joint prime sponsors of SSHB 36, concurred, and suggested that the bill's next committee of referral could address those proposed changes. In response to questions, he indicated that he would be amenable to having Amendment 2 divided, since its proposed change to page 2, line 27, through page 3, line 8, is meant to address [a drafting error].

REPRESENTATIVE GRUENBERG made a motion to divide the question such that the changes proposed to page 2, lines 21 and 22, would become Amendment 2a, and the change proposed to page 2, line 27, through page 3, line 8, would become Amendment 2b. There being no objection, Amendment 2 was so divided.

REPRESENTATIVE COGHILL withdrew Amendment 2a.

REPRESENTATIVE COGHILL concurred that Amendment 2b would [address a drafting error].

REPRESENTATIVE JOHANSEN said he supports Amendment 2b.

CHAIR RAMRAS sought clarification regarding the terms "initiative committee", "person", "group", and "nongroup entity" as used in Amendment 2b.

[9:17:28 AM](#)

JANET DeYOUNG, Chief Assistant Attorney General - Statewide Section Supervisor, Labor and State Affairs Section, Civil Division (Anchorage), Department of Law (DOL), explained that the term "person" is broadly defined in Title 1, and encompasses both real people - individuals - and corporate or other business groups. The term "group" as used in Amendment 2b is considered by the Alaska Public Offices Commission (APOC) to mean a political action committee (PAC), an organization that registers with the APOC in order to participate in election fundraising and spending. The term "nongroup entity" is the creature of an Alaska Supreme Court ruling and was later codified, and refers to groups that are formed for the purpose of advocating certain points of view but not specifically organized for election purposes but may from time to time participate in elections.

CHAIR RAMRAS questioned whether Amendment 2b's proposed AS 15.13.110(g) would be the appropriate place to add language that would forbid corporations from contributing [to ballot initiatives].

MS. DeYOUNG said it would not be the appropriate place.

REPRESENTATIVE GATTO asked whether Amendment 2b's reporting requirement would apply to any contributions received before the day an initiative proposal application is filed under AS 15.45.020.

[9:21:08 AM](#)

CHRISTINA ELLINGSON, Assistant Director, Alaska Public Offices Commission (APOC), Department of Administration (DOA), indicated that it would because initiative sponsors, in their first quarterly report, are required to either start with a zero balance or disclose where any startup money came from.

REPRESENTATIVE HOLMES removed her objection.

REPRESENTATIVE GATTO asked whether [Amendment 2b] would apply to unions.

MS. ELLINGSON said yes.

CHAIR RAMRAS announced that Amendment 2b was adopted.

[9:25:30 AM](#)

REPRESENTATIVE COGHILL made a motion to adopt Amendment 3, labeled 26-LS0197\E.5, Bullard, 4/10/09, which read:

Page 7, lines 9 - 10:

Delete "the sponsors shall hold public hearings concerning the proposed bill in at least 30 house districts"

Insert "the lieutenant governor or a designee of the lieutenant governor shall hold at least two public hearings concerning the proposed bill in each judicial district of the state. Public hearings under this section shall be conducted in a manner that allows the initiative's sponsors, other affected and interested parties supporting or opposing the initiative, and citizens an opportunity to be heard"

Page 7, line 11:

Delete "sponsors"

Insert "lieutenant governor or a designee of the lieutenant governor"

Page 7, line 13:

Delete "sponsors"

Insert "lieutenant governor or a designee of the lieutenant governor"

Page 7, line 15, through page 8, line 12:

Delete all material.

Renumber the following bill sections accordingly.

REPRESENTATIVE HOLMES objected for the purpose of discussion.

REPRESENTATIVE COGHILL explained that Amendment 3 would remove the burden on an initiative sponsor to hold public hearings in [at least 30 house districts], and would instead place the burden on the lieutenant governor or his/her designee to hold at least two public hearings in each judicial district. He offered his understanding that the bill's sponsor considers this to be a good way of addressing the concern that the bill's current provision regarding public hearings would be too onerous on initiative sponsors.

CHAIR RAMRAS asked how many judicial districts there are in the state.

REPRESENTATIVE HOLMES and REPRESENTATIVE JOHANSEN said there are four judicial districts in the state.

CHAIR RAMRAS, surmising that Amendment 3 would result in eight meetings, asked when those meetings would be held. He noted that although several potential ballot initiatives might go through the signature-gathering phase, generally only a few actually get certified for placement on the ballot.

[9:28:50 AM](#)

JASON HOOLEY, Deputy Chief of Staff, Juneau Office, Office of the Lieutenant Governor, acknowledged that point, and said he is assuming that the meetings would be held [during the signature-gathering phase].

CHAIR RAMRAS expressed concern that a group could come up with what he characterized as a sensational ballot initiative and force public meetings to be held before the initiative is certified for placement on the ballot.

REPRESENTATIVE COGHILL acknowledged that under the bill - either with Amendment 3 or without it - the public meetings would be held after the ballot initiative application is filed but before it is certified for placement on the ballot.

CHAIR RAMRAS expressed concern that sponsors of a ballot initiative could force public meetings to be held but then never follow through with gathering the required number of signatures for placement on the ballot.

MR. HOOLEY offered his belief that the public hearings would be held regardless of the merits of the proposed ballot initiative, and reiterated that the meetings would be held after the application is filed.

REPRESENTATIVE COGHILL noted that litigation sometimes occurs between the time that a ballot initiative application is filed and the time that it is certified for placement on the ballot.

REPRESENTATIVE HOLMES expressed concern that the lieutenant governor's office would be spending State funds to hold public hearings on every potential ballot initiative, and noted that it is also not clear how the lieutenant governor's office would know how long it's going to take sponsors to gather enough signatures, and so could have difficulties scheduling the public meetings in a timely manner. She said she would be more comfortable if the bill required the public meetings to be held after a ballot initiative is certified for placement on the ballot but before the election.

CHAIR RAMRAS reiterated his concern, and questioned whether it would be the sponsor's intent to have the public hearings after an initiative is certified.

[9:34:48 AM](#)

REPRESENTATIVE JOHANSEN said his intention is to have as much information about proposed ballot initiatives made public as soon as possible, regardless that some of them might not get certified. He noted that voter pamphlets currently include a pro statement and a con statement, and opined that it will be the duty of the lieutenant governor to expand on those statements during the public hearings, which, he surmised, could be paid for out of the lieutenant governor's travel budget and be held at legislative information offices (LIOs).

CHAIR RAMRAS expressed a preference for the language of Amendment 3 over the language currently in the bill, but said he is not in favor with having the public hearings occur before a proposed ballot initiative gets certified. He suggested that Amendment 3 be amended such that the public hearings would be held after a proposed initiative gets certified for placement on the ballot.

REPRESENTATIVE JOHANSEN said:

I guess it's all perspective; the public's right to petition the government and have initiatives on any subject, whether it's deemed wacko ... or not, ... is part of the point; ... I'd argue that the lieutenant governor would provide an opportunity for both sides of an issue to be put out there, and if it is so out there and wacko, then I think it would be quite apparent.

REPRESENTATIVE JOHANSEN, in response to comments and a question, indicated that it is his intention for there to be public hearings on every issue that could potentially get on the ballot.

MR. HOOLEY, in response to questions, explained that both the initial application for an initiative proposal and any resulting proposed ballot initiative must be certified by the lieutenant governor; if the goal is to have the public hearings after a proposed ballot initiative is certified for placement on the ballot, the phrase that should be used is, "after the petition has been properly filed".

[9:44:17 AM](#)

REPRESENTATIVE GRUENBERG [made a motion] to amend Amendment 3 such that the correct term of art be used to [indicate that the public hearings would occur once a proposed initiative has been certified for placement on the ballot].

REPRESENTATIVE JOHANSEN indicated that such a change would be acceptable to him.

MR. HOOLEY mentioned that although the lieutenant governor's office has some discomfort with such a change, it has no opposition to it. The lieutenant governor's office is an unbiased and impartial administrator of the citizens' initiative process, and applies the same standards to every initiative that

comes into the office; these standards are provided for by the Alaska State Constitution and Alaska's statutes. In response to comments, he explained that once an initiative is certified for placement on the ballot, the legislature has one full legislative session to act on the matter raised by the initiative.

CHAIR RAMRAS questioned whether there ought to also be statutory timeframes for when the public meetings have to occur, or whether having something in regulations would be sufficient.

MR. HOOLEY indicated that he would have to research that issue further.

REPRESENTATIVE GRUENBERG offered his belief that the lieutenant governor's office should have flexibility in that regard so as to be able to hold the meetings when and where it sees fit depending on the topic of the proposed ballot initiative. He acknowledged that regulations could be promulgated to address this issue further.

[9:51:53 AM](#)

MR. HOOLEY offered his understanding that the lieutenant governor's office would prefer not to have that kind of discretion, and would instead prefer to have any such timeframes set out in either statute or regulation so as to avoid accusations of prejudice.

CHAIR RAMRAS expressed concern that political bias could influence the choice of venue for the public hearings if too much flexibility in that regard is provided.

MR. HOOLEY, in response to a question, said that the lieutenant governor's office wants the force of law behind the decisions it makes, particularly since any person, regardless of whether he/she is associated with a proposed ballot initiative, can file an action in court regarding those decisions.

REPRESENTATIVE GRUENBERG offered his belief that promulgating regulations [regarding the timeframes and locations of the public meetings] would be sufficient, but acknowledged that the lieutenant governor's office may prefer to have the legislature, via statute, set out those requirements.

MR. HOOLEY again said he would research this issue further.

CHAIR RAMRAS indicated that amendments addressing corporations and the single-subject rule would also be offered, and suggested that further work be done on Amendment 3 and any amendments to it.

REPRESENTATIVE JOHANSEN relayed that he was amenable to having the bill held over in order to address the questions raised.

REPRESENTATIVE GRUENBERG, characterizing the applicability section of the bill as awkward, indicated that an amendment addressing that section would also be offered.

[SSHB 36, as amended - with the motion to amend Amendment 3, and the motion to adopt Amendment 3, left pending - was held over.]

[10:01:24 AM](#)

**ADJOURNMENT**

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