

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 15, 2009

5:17 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Carl Gatto

OTHER LEGISLATORS PRESENT

Representative Charisse Millett

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 36

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

- MOVED CSSSHB 36(JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 48(JUD)

"An Act exempting municipal service area boards from the requirements of conducting meetings open to the public when a meeting is administrative or managerial in nature; and amending the definition of 'meeting' as it relates to public governmental meetings."

- MOVED CSSB 48(JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 148(JUD)

"An Act relating to limitation of state liability on certain federal highway programs; and providing for an effective date."

- MOVED HCS CSSB 148(TRA) OUT OF COMMITTEE

HOUSE BILL NO. 181

"An Act relating to the use of headlights when operating a motor vehicle."

- HEARD & HELD

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."

- BILL HEARING CANCELED; HCS CSSB 96(JUD) WAS REPORTED FROM COMMITTEE ON 4/13/09

PREVIOUS COMMITTEE ACTION

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
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
04/13/09	(H)	Heard & Held
04/13/09	(H)	MINUTE(JUD)
04/15/09	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: SB 48

SHORT TITLE: PUBLIC MEETINGS/MUNI SERVICE AREA BDS

SPONSOR(S): SENATOR(S) THERRIAULT

01/21/09 (S) READ THE FIRST TIME - REFERRALS
 01/21/09 (S) CRA, TRA, JUD
 01/21/09 (S) PREFILE RELEASED 1/9/09
 02/10/09 (S) CRA AT 3:30 PM BELTZ 211
 02/10/09 (S) Moved CSSB 48(CRA) Out of Committee
 02/10/09 (S) MINUTE(CRA)
 02/11/09 (S) CRA RPT CS 4DP 1NR NEW TITLE
 02/11/09 (S) DP: OLSON, THOMAS, KOOKESH, MENARD
 02/11/09 (S) NR: FRENCH
 03/10/09 (S) TRA AT 1:00 PM BUTROVICH 205
 03/10/09 (S) Moved CSSB 48(CRA) Out of Committee
 03/10/09 (S) MINUTE(TRA)
 03/11/09 (S) TRA RPT CS(CRA) 5DP
 03/11/09 (S) DP: KOOKESH, MENARD, DAVIS, MEYER,
 PASKVAN
 03/30/09 (S) JUD AT 1:30 PM BELTZ 211
 03/30/09 (S) Heard & Held
 03/30/09 (S) MINUTE(JUD)
 04/10/09 (S) JUD AT 1:30 PM BELTZ 211
 04/10/09 (S) Moved CSSB 48(JUD) Out of Committee
 04/10/09 (S) MINUTE(JUD)
 04/11/09 (S) JUD RPT CS 1DP 3NR NEW TITLE
 04/11/09 (S) NR: FRENCH, WIELECHOWSKI, MCGUIRE
 04/11/09 (S) DP: THERRIAULT
 04/14/09 (S) TRANSMITTED TO (H)
 04/14/09 (S) VERSION: CSSB 48(JUD)
 04/15/09 (H) JUD AT 1:00 PM CAPITOL 120

BILL: SB 148

SHORT TITLE: LIABILITY FOR TRIBAL ROAD CONSTRUCTION

SPONSOR(S): TRANSPORTATION BY REQUEST

03/13/09 (S) READ THE FIRST TIME - REFERRALS
 03/13/09 (S) TRA, JUD
 03/24/09 (S) TRA AT 1:00 PM BUTROVICH 205
 03/24/09 (S) Moved SB 148 Out of Committee
 03/24/09 (S) MINUTE(TRA)
 03/25/09 (S) TRA RPT 4DP 1NR
 03/25/09 (S) DP: KOOKESH, MENARD, DAVIS, MEYER
 03/25/09 (S) NR: PASKVAN
 03/30/09 (S) JUD AT 1:30 PM BELTZ 211
 03/30/09 (S) Heard & Held
 03/30/09 (S) MINUTE(JUD)
 04/06/09 (S) JUD AT 1:30 PM BELTZ 211
 04/06/09 (S) Moved CSSB 148(JUD) Out of Committee
 04/06/09 (S) MINUTE(JUD)
 04/07/09 (S) NR: THERRIAULT, WIELECHOWSKI, MCGUIRE

04/07/09 (S) JUD RPT CS 1DP 3NR SAME TITLE
04/07/09 (S) DP: FRENCH
04/09/09 (S) TRANSMITTED TO (H)
04/09/09 (S) VERSION: CSSB 148(JUD)
04/10/09 (H) TRA, JUD
04/10/09 (H) READ THE FIRST TIME - REFERRALS
04/14/09 (H) TRA AT 1:00 PM CAPITOL 17
04/14/09 (H) Moved HCS CSSB 148(TRA) Out of
Committee
04/14/09 (H) MINUTE(TRA)
04/15/09 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 181

SHORT TITLE: USE OF HEADLIGHTS REQUIRED
SPONSOR(S): KAWASAKI

03/12/09 (H) READ THE FIRST TIME - REFERRALS
03/12/09 (H) TRA, JUD
03/24/09 (H) TRA AT 1:00 PM CAPITOL 17
03/24/09 (H) Heard & Held
03/24/09 (H) MINUTE(TRA)
03/26/09 (H) TRA AT 1:00 PM CAPITOL 17
03/26/09 (H) Moved Out of Committee
03/26/09 (H) MINUTE(TRA)
03/27/09 (H) TRA RPT 2DP 1DNP 3NR
03/27/09 (H) DP: DOOGAN, GRUENBERG
03/27/09 (H) DNP: JOHANSEN
03/27/09 (H) NR: MUNOZ, JOHNSON, WILSON
03/27/09 (H) FIN REFERRAL ADDED AFTER JUD
04/15/09 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

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

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

REPRESENTATIVE KYLE JOHANSEN
Alaska State Legislature
Juneau, Alaska

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

MICHAEL BARNHILL, Senior Assistant Attorney General

Labor and State Affairs Section
Civil Division (Juneau)
Department of Law (DOL)
Juneau, Alaska

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

ERNEST PRAX, Staff
Senator Gene Therriault
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 48 on behalf of the sponsor, Senator Therriault.

A. RENE BROKER, Attorney
Fairbanks North Star Borough (FNSB)
Fairbanks, Alaska

POSITION STATEMENT: Provided a comment during discussion of SB 48.

DOROTHY SHOCKLEY, Staff
Senator Albert Kookesh
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 148 on behalf of the sponsor by request, the Senate Transportation Standing Committee, which is chaired by Senator Kookesh.

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

POSITION STATEMENT: Provided comments during discussion of SB 148, and relayed that the DOT&PF supports the bill.

REPRESENTATIVE SCOTT KAWASAKI
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 181.

TABITHA WILLIAMS, Intern
Representative Scott Kawasaki
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a comment during discussion of HB 181.

KURTIS SMITH, P.E., State Traffic & Safety Engineer
Traffic and Safety
Design & Construction Standards Section
Division of Statewide Design & Engineering Services
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 181.

ACTION NARRATIVE

[5:17:20 PM](#)

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at 5:17 p.m. Representatives Ramras, Lynn, Gruenberg, and Coghill were present at the call to order. Representatives Holmes and Dahlstrom arrived as the meeting was in progress. Representative Millett was also in attendance.

SSHB 36 - INITIATIVES: CONTRIBUTIONS/PROCEDURES

[5:17:33 PM](#)

CHAIR RAMRAS announced that the first order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 36, "An Act relating to ballot initiative proposal applications and to ballot initiatives." [SSHB 36 had been amended on 4/13/09; left pending from 4/13/09 were the motions to adopt Amendment 3, and to amend Amendment 3.]

REPRESENTATIVE COGHILL withdrew 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.

[5:18:11 PM](#)

REPRESENTATIVE COGHILL made a motion to adopt Amendment 4, labeled 26-LS0197\E.8, Bullard, 4/14/09, which read:

Page 7, lines 7 - 10:

Delete all material and insert:

"Sec. 15.45.195. Public hearings. (a) At least 30 days before the election at which an initiative is to appear on the ballot, the lieutenant governor or a designee of the lieutenant governor shall hold two or more public hearings concerning the initiative in each judicial district of the state. Each public hearing under this section shall include the testimony of one supporter and one opponent of the initiative."

Page 7, line 11:

Delete "sponsors"
Insert "lieutenant governor"

Page 7, line 13:

Delete "sponsors"
Insert "lieutenant governor"

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

Delete all material.

Renumber the following bill sections accordingly.

REPRESENTATIVE GRUENBERG objected for the purpose of discussion. He questioned what language would be best to use in order to address members' concerns [regarding when the public hearings would be held].

5:19:56 PM

JASON HOOLEY, Deputy Chief of Staff, Juneau Office, Office of the Lieutenant Governor, said that if the desire is to have the public hearings after the signature-gathering phase, then the proper language would be "after the petition has been properly filed".

REPRESENTATIVE GRUENBERG indicated a preference for amending Amendment 4 to that effect.

REPRESENTATIVE COGHILL offered his belief that the language currently in Amendment 4 - "At least 30 days before the election" - allows discretion with regard to when the public-hearing phase could begin.

5:21:33 PM

REPRESENTATIVE KYLE JOHANSEN, Alaska State Legislature, speaking as one of the joint prime sponsors of SSHB 36, offered his understanding that the lieutenant governor would like to have a specific timeframe in which to hold the public hearings, and that the language currently in Amendment 4 provides that timeframe.

REPRESENTATIVE GRUENBERG suggested amending Amendment 4 such that it would say in part, "No earlier than the date the petition has been properly filed and at least 30 days before the election at which an initiative is to appear on the ballot, ...".

REPRESENTATIVE JOHANSEN surmised that everyone has the same intention.

MR. HOOLEY offered his understanding that the language in Amendment 4 that says, "an initiative is to appear on the ballot" implies that the lieutenant governor's office has found that petition to be properly filed, since if it had not been, it would not be appearing on the ballot, but acknowledged that the suggested change to Amendment 4 would make it more explicit.

REPRESENTATIVE GRUENBERG said he is merely attempting to insert a start date, that being the date that a petition has been properly filed, with the end date being 30 days before the election. He indicated that that would be his conceptual amendment to Amendment 4.

CHAIR RAMRAS surmised that this would leave some latitude to the lieutenant governor.

MR. HOOLEY concurred.

[5:26:40 PM](#)

REPRESENTATIVE JOHANSEN concurred with Mr. Hooley that the current language of Amendment 4 is clear that the start date would be after the lieutenant governor has certified an initiative for placement on the ballot, with the end date being 30 days prior to the election, and opined that it would be proper for the lieutenant governor to be provided some latitude so that his/her resources and time could be properly managed.

REPRESENTATIVE GRUENBERG surmised, then, that no amendment to Amendment 4 is necessary to address that point.

MR. HOOLEY, in response to a question, opined that the current language is clear enough for all future lieutenant governors to understand that the public hearings need to occur after the signature-gathering phase but at least 30 days before an election.

REPRESENTATIVE GRUENBERG removed his objection.

REPRESENTATIVE HOLMES noted that Amendment 4 says in part, "Each public hearing under this section shall include the testimony of one supporter and one opponent of the initiative". She questioned whether this language would require people other than those in the lieutenant governor's office to get themselves to each one of the eight meetings.

REPRESENTATIVE JOHANSEN said the intent is to give the public the opportunity to discuss, from both sides, what is in the ballot initiative, regardless of how they participate, either in person or via teleconference. "You could probably find one person in each meeting, for each of the judicial districts, to present the idea to the public," he added.

REPRESENTATIVE HOLMES expressed concern that the word, "shall" might invalidate the whole meeting if all who come to it only speak to one side of the issue.

REPRESENTATIVE JOHANSEN said that's not the intent, and indicated that he might be amenable to having the word, "shall" changed to the word, "may".

[5:31:59 PM](#)

CHAIR RAMRAS offered his belief that written testimony could suffice to meet the proposed requirement.

MR. HOOLEY relayed that for every initiative that goes on the ballot, the Division of Elections gathers statements in support and statements in opposition for the purpose of including a support statement and an opposition statement in the election pamphlet, and surmised that that existing process would simply be used as a starting point for the proposed public hearings.

REPRESENTATIVE HOLMES pondered whether it might be better for the language to instead say something along the lines of, "Each public hearing under this section shall allow opportunity for the testimony of at least one supporter and one opponent of the initiative" - something to make it clear that the meeting won't be invalidated simply because only those on one side of the issue came to the meeting.

REPRESENTATIVE JOHANSEN said he doesn't have any problem with having the language be passive, adding, "If they don't show up, that's ... really their own problem."

REPRESENTATIVE COGHILL said he would have a problem with such a change because he believes that they should provide as much direction [to the lieutenant governor] as possible. In this case, making the lieutenant governor work to find someone with an opposing view would be more beneficial than giving the lieutenant governor so much latitude that a court case results due to a perception that he/she favored one side of an issue over the other.

REPRESENTATIVE HOLMES expressed a preference, then, for changing the language to read in part, "shall include the testimony of at least one supporter and one opponent ...". She questioned whether such a change would be acceptable to the sponsor.

REPRESENTATIVE JOHANSEN said it is his understanding that supporting and opposing views are compiled into one supporting statement and one opposing statement for purposes of including in the election pamphlet. He said his preference would be for the information about the initiative to flow impartially from

the lieutenant governor's office, rather than having an eight-hour meeting, for example, at which 500 people talk about what they think is included in the initiative. He then expressed a preference for the language currently in Amendment 4.

CHAIR RAMRAS expressed concern that Amendment 4 says that two "or more" public hearings would be held, questioning what result including the words "or more" would have should someone wish to contest the process, and whether including those words meets the intent.

MR. HOOLEY said it would be the lieutenant governor's intention to hold two meetings per judicial district so as to absorb the costs of those meetings in his/her current budget.

REPRESENTATIVE JOHANSEN indicated that he would be amenable to having the language specify just two meetings.

CHAIR RAMRAS indicated that he would be offering an amendment to delete the words, "or more".

REPRESENTATIVE COGHILL pointed out, though, that in the Fourth Judicial District, because of its tremendous size, [the committee] may want to allow for more than just two meetings.

CHAIR RAMRAS questioned, however, whether including the words "or more" but then not holding more than two meetings could invite the argument that the lieutenant governor had not fulfilled his/her obligation.

REPRESENTATIVE JOHANSEN characterized the comment regarding judicial district size as a valid point, and expressed a preference for giving the lieutenant governor's office the latitude to have more than two meetings.

[5:41:25 PM](#)

MICHAEL BARNHILL, Senior Assistant Attorney General, Labor and State Affairs Section, Civil Division (Juneau), Department of Law (DOL), in response to a question, offered his belief that the phrase, "two or more" is synonymous with the phrase, "at least two", and that holding only two meetings would satisfy the proposed requirement.

CHAIR RAMRAS indicated that they would therefore be leaving the words, "or more" in Amendment 4.

REPRESENTATIVE HOLMES again expressed concern that the phrase, "shall include the testimony of one supporter and one opponent" might invalidate the whole meeting if only those on one side of the issue come to the meeting. She asked what would be the consequences of not complying with the requirements of Amendment 4.

REPRESENTATIVE JOHANSEN indicated that he didn't think the language regarding testimony would create a problem, and opined that it would be an unwise political decision for the lieutenant governor to choose not to comply with the proposed public hearing requirements.

REPRESENTATIVE HOLMES, to clarify, questioned what effect noncompliance with Amendment 4 would have on the initiative, adding that she doesn't want an initiative to be thrown out simply because of a loophole that someone takes advantage of.

REPRESENTATIVE JOHANSEN said is not his intention for [noncompliance with Amendment 4] to have any effect on an initiative.

CHAIR RAMRAS questioned whether they ought to insert the words, "written or public" into Amendment 4, before the word, "testimony".

[5:45:43 PM](#)

MR. BARNHILL, characterizing that as a fine concept, indicated that such a change would clarify the type of testimony that would be acceptable. In response to an earlier question, he explained that the court system has a default position of providing as much access to the ballot as possible, and so any technical defects in the public hearing process would likely be overlooked by the court in order to secure access by the initiative sponsors to the ballot.

REPRESENTATIVE GRUENBERG pointed out that any such change should instead say "written or oral" instead of "written or public".

CHAIR RAMRAS made a motion to amend Amendment 4 to include the words "written or oral" before the word "testimony". There being no objection, the amendment to Amendment 4 was adopted.

REPRESENTATIVE GRUENBERG sought clarification that in order to comply with the phrase, "testimony of one supporter and one opponent" the lieutenant governor would seek input from the

initiative's sponsors and those opposed to the initiative so that they could have a hand in who's selected to [present their viewpoint].

MR. HOOLEY said that would be the case, adding that the lieutenant governor generally starts with the initiative's sponsors.

CHAIR RAMRAS, after ascertaining that there were no further objections, announced that Amendment 4 [as amended] was adopted.

[5:48:52 PM](#)

CHAIR RAMRAS made a motion to adopt Amendment 5, labeled 26-LS0197\E.9, Bullard, 4/15/09, which read:

Page 5, following line 7:

Insert a new bill section to read:

"* **Sec. 9.** AS 15.45.080 is amended to read:

Sec. 15.45.080. Bases of denial of certification.

The lieutenant governor shall deny certification upon determining in writing that

(1) the proposed bill to be initiated is not confined to one subject or is otherwise not in the required form;

(2) the application is not substantially in the required form; or

(3) there is an insufficient number of qualified sponsors."

Renumber the following bill sections accordingly.

REPRESENTATIVE HOLMES objected.

CHAIR RAMRAS explained that Amendment 5 would preclude an initiative that addresses more than one subject from being placed on the ballot, and cited the ballot initiative regarding cruise ship taxation, regulation, and disclosure as an example of an initiative that was not confined to a single subject.

REPRESENTATIVE JOHANSEN said he does not object to Amendment 5, but offered his belief that its concept is already addressed in Article II, Section 13, of the Alaska State Constitution.

CHAIR RAMRAS acknowledged that point, but offered his belief that Amendment 5 would give the lieutenant governor a bit more latitude.

REPRESENTATIVE HOLMES removed her objection.

CHAIR RAMRAS announced that Amendment 5 was adopted.

5:51:10 PM

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 6, labeled 26-LS0197\E.6, Bullard, 4/11/09, which read:

Page 9, lines 4 - 6:

Delete all material and insert:

"APPLICABILITY. This Act applies only to an initiative, the application for which is filed with the lieutenant governor under AS 15.45.020 on or after the effective date of this Act."

REPRESENTATIVE DAHLSTROM objected.

REPRESENTATIVE GRUENBERG explained that Amendment 6 would clarify the applicability section.

REPRESENTATIVE JOHANSEN said he has no objection to Amendment 6.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR RAMRAS announced that Amendment 6 was adopted.

REPRESENTATIVE HOLMES said she is still nescient about the provisions of SSHB 36 that address contributions and disclosure, and would therefore probably be voting against [moving the bill from committee at this time].

REPRESENTATIVE LYNN said that although he likes some of the bill's disclosure provisions and he thinks the amendments have improved the bill, he has some serious problems with tinkering with the initiative process because he thinks doing so will have a chilling effect on the ability of folks to put forth initiatives.

CHAIR RAMRAS said that although he is amenable to moving the bill from committee, he does not like the bill, and questions whether Section 1 is constitutional. He relayed that he is in favor of limiting contributions once a proposed ballot initiative has been certified, though that is contrary to a U.S. Supreme Court ruling, because he is troubled that a corporation could influence an election simply by writing a large check.

[5:59:26 PM](#)

REPRESENTATIVE GRUENBERG, remarking that he would like the title narrowed, made a motion to adopt Conceptual Amendment 7, to narrow the title of the bill to the subjects currently in it.

REPRESENTATIVE COGHILL objected, and suggested that a specific amendment to that effect be drafted instead.

REPRESENTATIVE GRUENBERG relayed, then, that if he still feels it's necessary, he would be offering such an amendment on the House floor, though he doesn't see a problem with adopting a conceptual amendment now and allowing the drafter come up with the appropriate language.

REPRESENTATIVE JOHANSEN relayed that he would be willing to work on [the bill title] further before the bill gets to the House floor.

REPRESENTATIVE GRUENBERG withdrew Conceptual Amendment 7.

[6:02:08 PM](#)

REPRESENTATIVE DAHLSTROM moved to report SSHB 36, as amended, out of committee with individual recommendations and the accompanying zero fiscal note.

REPRESENTATIVE HOLMES objected.

A roll call vote was taken. Representatives Dahlstrom, Coghill, Lynn, and Ramras voted in favor of reporting SSHB 36, as amended, from committee. Representatives Gruenberg and Holmes voted against it. Therefore, CSSHB 36(JUD) was reported from the House Judiciary Standing Committee by a vote of 4-2.

SB 48 - PUBLIC MEETINGS/MUNI SERVICE AREA BDS

[Contains brief mention that CSSB 48(JUD) is identical to CSHB 153(JUD), and that some testimony pertaining to both bills was provided during the hearing on HB 153.]

[6:02:57 PM](#)

CHAIR RAMRAS announced that the next order of business would be CS FOR SENATE BILL NO. 48(JUD), "An Act exempting municipal service area boards from the requirements of conducting meetings

open to the public when a meeting is administrative or managerial in nature; and amending the definition of 'meeting' as it relates to public governmental meetings."

CHAIR RAMRAS noted that CSSB 48(JUD) is identical to CSHB 153(JUD), which was recently reported from committee.

[6:04:04 PM](#)

ERNEST PRAX, Staff, Senator Gene Therriault, Alaska State Legislature, concurred on behalf of the sponsor, Senator Therriault, and relayed that the concept of SB 48 was brought forth by the Fairbanks North Star Borough (FNSB) attorney, and that the bill is intended to reduce some of the conflicts arising in certain service areas because of a perception that service area commissioners have been violating the [Administrative Procedure Act]. Section 1 of SB 48 would extend the existing statutory exemption from the [Administrative Procedure Act] to municipal service area boards only when they are conducting work of an administrative or managerial nature, and Section 2 would clarify how many members of such a board must be gathered together in order to constitute a "meeting" for purposes of complying with the [Administrative Procedure Act].

[6:08:23 PM](#)

A. RENE BROKER, Attorney, Fairbanks North Star Borough (FNSB), noted that she'd previously testified on the issues pertaining to SB 48 when the committee heard HB 153.

[6:08:56 PM](#)

REPRESENTATIVE DAHLSTROM moved to report CSSB 48(JUD) out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSSB 48(JUD) was reported from the House Judiciary Standing Committee.

SB 148 - LIABILITY FOR TRIBAL ROAD CONSTRUCTION

[6:09:21 PM](#)

CHAIR RAMRAS announced that the next order of business would be CS FOR SENATE BILL NO. 148(JUD), "An Act relating to limitation of state liability on certain federal highway programs; and providing for an effective date." [Before the committee was HCS CSSB 148(TRA).]

[6:09:40 PM](#)

DOROTHY SHOCKLEY, Staff, Senator Albert Kookesh, Alaska State Legislature, on behalf of the sponsor by request, the Senate Transportation Standing Committee, which is chaired by Senator Kookesh, explained that SB 148 would resolve the issue of liability to the State or employees of the State when partnering with federal-recognized tribes under the Indian Reservation Roads (IRR) Program. With the decline in state and federal highway funding it's imperative that everyone collaborate and work together, and SB 148 will assist that partnering process, and ultimately benefit all Alaskans by leading to long-term improvements in the state's overall transportation infrastructure.

MS. SHOCKLEY mentioned that members' packets contain letters from the commissioner of the Department of Transportation & Public Facilities (DOT&PF), Manley Village Council, and Ruby Tribal Council; two handouts from the IRR Program - one listing villages and the money being allocated to them, and the other providing a breakdown of inventory, population, and funding; and a synopsis by the DOT&PF of the IRR Program, the road inventory, how the funding occurs, and what that funding can be used for. She noted that 25 percent of each year's funding can be used for maintenance, with the remainder being used for design and construction and for matching other federal funds, and that tribes could get up to [an additional] \$35 million in American Recovery and Reinvestment Act of 2009 (ARRA) funding.

[6:12:44 PM](#)

PETER PUTZIER, Senior Assistant Attorney General, Opinions, Appeals, & Ethics, Civil Division (Anchorage), Department of Law (DOL), noted that both the DOT&PF and the tribes support SB 148, and that the "plaintiffs bar" was consulted as well. He explained that a provision was added to the bill to address the bar's concerns regarding what standards would apply if tribes were to perform work on State roads and then litigation ensued. Some of the standards that would apply are defined in 25 C.F.R. 170, Subpart D, Appendix B, and certainly the State, in any agreement, would require that certain standards be met; furthermore, the language chosen for the bill was, "all applicable federal and state standards". However, that's not to suggest that both federal and state standards would apply in every case, or even that every conceivable standard must be listed; rather, there should simply be a requirement or a

reference in the bill that applicable standards be followed when tribes work on State roads.

MR. PUTIER, in conclusion, noted that the language on page 1, lines 12-14, through page 2, lines 1-2, reads:

In this subsection, "independent negligence" means negligence that is not due to the state's selection, supervision, administration, monitoring, or controlling of the activities of the tribe, the tribe's agents, employees, or contractors, or the state's approving or accepting any of the work performed under programs listed in this subsection.

[6:14:59 PM](#)

REPRESENTATIVE DAHLSTROM moved to report HCS CSSB 148(TRA) out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HCS CSSB 148(TRA) was reported from the House Judiciary Standing Committee.

The committee took an at-ease from 6:15 p.m. to 6:17 p.m.

HB 181 - USE OF HEADLIGHTS REQUIRED

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CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 181, "An Act relating to the use of headlights when operating a motor vehicle."

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REPRESENTATIVE SCOTT KAWASAKI, Alaska State Legislature, sponsor, explained that HB 181 addresses a key goal of the Alaska Highway Safety Office's (AHSO's) Strategic Highway Safety Plan (SHSP), which recommends that State law be changed to require all vehicles to use headlights at all times. Research indicates that traffic accidents - particularly head-on traffic accidents - are reduced when daytime running lights are used, and the AHSO has determined that enforcement of a headlight law could decrease head-on collisions by 7-15 percent. Furthermore, the effectiveness of such a law has been demonstrated in Alaska on the Seward Highway, where, in the mid-1990s, signs were installed requiring the use of headlights at all times when traveling between Anchorage and Seward. Both the Department of

Public Safety (DPS) and the Department of Transportation & Public Facilities (DOT&PF) acknowledge the effectiveness of headlight usage in saving lives and markedly reducing the number of crashes.

REPRESENTATIVE KAWASAKI noted that similar results have been seen in other countries with polar regions similar to Alaska's. In Sweden, for example, studies indicate that requiring the use of headlights at all times reduces crash rates by 20 percent in urban areas and 17 percent in rural areas. He surmised that even in the summertime, when the sun lingers on the horizon, it is easier to see oncoming traffic when vehicles' lights are on. Currently 39 out of 50 states, including Alaska, require the use of headlights on motorcycles at all times, since that makes them easier to see. He offered his belief that HB 181 will increase safety on Alaska's roads by making all vehicles easier to see. He mentioned that a national insurance group has advertisements stressing that people should drive with their headlights on at all times, and that some vehicle manufactures have begun adding daytime running lights in order to increase vehicle safety.

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CHAIR RAMRAS expressed concern that a violation of HB 181 would be a primary offense.

REPRESENTATIVE KAWASAKI, acknowledging that it would be a primary offense, noted that the proposed new crime only applies to motor vehicles traveling on a highway, and that there is already a statutory definition of "highway". Driving with one's headlights on enables others - even those who have difficulty seeing in some circumstances - to see one's vehicle better, thus providing more protection. He relayed that although the AARP as a whole has not yet endorsed passage of HB 181, individual members of the AARP have spoken in support; as one's eyes start to fail, it sure helps to be able to see oncoming traffic.

REPRESENTATIVE DAHLSTROM, observing that the DOT&PF's fiscal note indicates that passage of HB 181 would result in 39 signs being posted, asked how that number was arrived at.

REPRESENTATIVE KAWASAKI offered his understanding that the DOT&PF used some sort of formula, with 39 being the bare minimum number of signs it would be comfortable posting, and surmised that those signs would be posted at highway entry points, ferry terminals, and airports. He noted that the legislature could stipulate that either more or fewer signs be posted.

REPRESENTATIVE LYNN surmised that under the bill, drivers of cars that don't have headlights that turn on automatically would be obligated to turn their headlights on manually.

REPRESENTATIVE KAWASAKI concurred, added that he does so as a matter of course when driving, and predicted that having to turn on one's headlights while driving would be an easy concept for folks to understand should HB 181 be adopted.

CHAIR RAMRAS asked whether language has been drafted that would make a violation a secondary offense.

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REPRESENTATIVE LYNN said he doesn't understand the concern about a violation being a primary offense, adding that probable cause would not be an issue because it would be obvious when someone is driving without his/her headlights on.

REPRESENTATIVE COGHILL, mentioning that he drives with his headlights on but has occasionally drained the battery in his older cars when he forgets to turn the headlights off, expressed favor with the concept of driving with headlights on at all times, but questioned whether offering incentives for such behavior, compared to the bill's current punitive approach, had been considered.

REPRESENTATIVE KAWASAKI offered his belief that education is always the best, cheapest, and first route to take towards compliance, adding that signage also helps with compliance, as does seeing others driving with their headlights on. He noted that his dad always drove with the headlights on and his mom began doing so after she was involved in a vehicle accident.

REPRESENTATIVE COGHILL noted that his wife's newer vehicle has automatic headlights but not his older cars, and that when changing cars, sometimes he just forgets to turn the headlights on in his older cars. He surmised that under the bill as currently written, law enforcement would be able to stop him when he again forgets to turn on his headlights, since it would be a primary offense, and that if he were to be so stopped and given a ticket, it would provide him with an incentive to get a device that would automatically turn his headlights on and off when his car is turned on and off. He indicated, though, that the nuisance of having to remember to turn on his headlights

does not outweigh the benefit that driving with headlights on provides.

REPRESENTATIVE GRUENBERG, noting that there are already a number of ads promoting seatbelt use [and discouraging drinking and driving] and highlighting the dangers of distracted driving, posited that perhaps the DPS could be encouraged, via an appropriation or legislation, to engage in a comprehensive advertizing campaign regarding safe driving behavior, including the use of headlights at all times.

REPRESENTATIVE COGHILL observed that the public is being endangered by the use of very, very bright headlights, the use of misaligned headlights, and the use of what he characterized as "blinding" blue headlights, and opined that in terms of public safety, these dangers far outweigh the danger of not driving with headlights on at all times. He mentioned that he would be drafting amendments to address those issues.

CHAIR RAMRAS again expressed a preference for having a violation of the bill be only a secondary offense.

REPRESENTATIVE GRUENBERG predicted that it would be difficult to make a violation a secondary offense.

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TABITHA WILLIAMS, Intern, Representative Scott Kawasaki, Alaska State Legislature, in response to comments, said she personally would prefer a violation to be a secondary offense.

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KURTIS SMITH, P.E., State Traffic & Safety Engineer, Traffic and Safety, Design & Construction Standards Section, Division of Statewide Design & Engineering Services, Department of Transportation & Public Facilities (DOT&PF), relayed that the DOT&PF strongly supports HB 181, believing that making vehicles more conspicuous would be a cost effective way of saving lives, and estimating that it could reduce head-on collisions and other accidents and save a minimum of one life per year as well as eliminate many non-fatal crashes. Signage would be necessary at major points of entry into the state - airports, borders, marine terminals, et cetera - in order to notify drivers that Alaska law requires them to drive with their headlights on at all times. He clarified that the DOT&PF estimates that about 40 signs would be needed, at a cost of about \$135,000, and that it

has already identified about \$40,000 in AHSO funding for such signage. Should HB 181 be adopted, before it takes effect, the DOT&PF would fund a public education campaign to notify drivers of the new law.

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CHAIR RAMRAS relayed that the committee would be holding HB 181 over.

REPRESENTATIVE HOLMES expressed favor with the concept of the bill, noting that as a youngster, she used to drive back and forth on the Seward highway a lot, and back then, there were no passing lanes so drivers would have to pull out into the oncoming traffic lane in order to pass slower-moving vehicles, and many times when she did so - thinking that the other lane was clear - she just didn't see an oncoming car, especially when it was gray and the day was overcast. House Bill 181, she surmised, addresses some real safety concerns regardless that the issue of primary offense versus secondary offense still needs to be addressed, adding that she agrees with Representative Coghill that super bright headlights can be potentially dangerous.

CHAIR RAMRAS ventured that the bill discriminates against people who don't have new cars, making such drivers more of a target for law enforcement, and more prone to having dead batteries and in turn more likely to become stranded. He indicated that he is questioning whether the funding currently being proposed for headlight signage couldn't be spent more effectively elsewhere.

[HB 181 was held over.]

[6:42:44 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 6:42 p.m.