

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 11, 2009

3:18 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Robert L. "Bob" Buch
Representative Mike Chenault
Representative John Coghill
Representative Lindsey Holmes
Representative Bob Lynn

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 85

"An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

- MOVED HB 85 OUT OF COMMITTEE

HOUSE RESOLUTION NO. 5

Opposing any federal legislation that seeks to eliminate the private election phase of union recognition campaigns or that seeks to impose compulsory and binding arbitration on employers.

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 85

SHORT TITLE: EXTEND BD ARCHITECTS/ENGINEERS/SURVEYORS

SPONSOR(S): LABOR & COMMERCE

01/26/09	(H)	READ THE FIRST TIME - REFERRALS
01/26/09	(H)	L&C, FIN
02/11/09	(H)	L&C AT 3:15 PM BARNES 124

BILL: HR 5

SHORT TITLE: OPPOSING FEDERAL EMPLOYEE FREE CHOICE ACT
SPONSOR(s): REPRESENTATIVE(s) JOHNSON

01/30/09 (H) READ THE FIRST TIME - REFERRALS
01/30/09 (H) L&C
02/11/09 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

KONRAD JACKSON, Staff
Representative Kurt Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As staff for the House Labor and Commerce Standing Committee, presented HB 85 on behalf of the sponsor.

PAT DAVIDSON, Legislative Auditor
Division of Legislative Audit
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented auditor findings and recommendations and answered questions on the AELS Board audit recommendations.

CRAIG FREDEEN, PE, Mechanical, Board Member; Vice-Chair,
Board of Registration for Architects, Engineers, and Land Surveyors (AELS)
Department of Commerce, Community, & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 85.

TERRY SCHOENTHAL, Member
Alaska Professional Design Council (APDC); and the American Society of Landscape Architects (ASLA)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 85.

HARLEY HIGHTOWER, Architect Member, Board of Registration for Architects, Engineers, and Land Surveyors (AELS)
Department of Commerce, Community, & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion on HB 85.

BURDETT LENT, Landscape Architect Member
Board of Registration for Architects, Engineers, and Land
Surveyors (AELS)
Department of Commerce, Community, & Economic Development
(DCCED)
Anchorage, Alaska
POSITION STATEMENT: Testified during the discussion on HB 85.

FRANK RAST, P.E.; President
Alaska Professional Design Council (APDC)
Anchorage, Alaska
POSITION STATEMENT: Testified and answered questions during the
discussion on HB 85.

REPRESENTATIVE CRAIG JOHNSON
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as prime sponsor of HR and
answered questions during the discussion of HR 5.

ROD BETIT, President
Alaska State Hospital & Nursing Home Association (ASHNHA)
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HR 5.

MICHAEL HUFF, Task Force Director
American Legislative Exchange Council (ALEC)
Washington, D.C.
POSITION STATEMENT: Testified in support of HR 5, and answered
questions during the discussion on HR 5.

ROBERTA BROOKS, Business Representative
International Brotherhood of Electrical Workers (IBEW)
Anchorage, Alaska
POSITION STATEMENT: Testified during the discussion of HR 5.

JOHN BROWN, Retired
Operating Engineers
Fairbanks, Alaska
POSITION STATEMENT: Testified during the discussion of HR 5.

DENNIS KNEBEL, Business Representative
International Brotherhood of Electrical Workers (IBEW)
Anchorage, Alaska
POSITION STATEMENT: Testified during the discussion of HR 5.

AVES THOMPSON, Executive Director
Alaska Trucking Association, Inc.
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HR 5 and answered questions during the discussion of HR 5.

ACTION NARRATIVE

[3:18:14 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:18 p.m. Representatives Buch, Chenault, Coghill, Lynn, and Olson were present at the call to order. Representative Neuman and Representative Holmes arrived as the meeting was in progress.

HB 85-EXTEND BD ARCHITECTS/ENGINEERS/SURVEYORS

[3:18:21 PM](#)

HOUSE BILL NO. 85, "An Act extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors; and providing for an effective date."

[3:18:42 PM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson and the House Labor and Commerce Standing Committee, explained that HB 85 would extend the Board of Registration for Architects, Engineers, and Land Surveyors (AELS) for eight years. He related that the Legislative Budget & Audit Committee (LB&A) recommended the AELS board should be extended from June 2009 to June 30, 2017.

[3:19:45 PM](#)

REPRESENTATIVE BUCH asked for clarification of the bill's purpose.

[3:20:00 PM](#)

REPRESENTATIVE COGHILL asked the auditor to explain the three recommendations contained in the legislative audit, Audit Control Number 08-20058-08.

[3:20:47 PM](#)

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, explained to members that various boards and commissions throughout the state are under sunset laws, which means the boards have specific termination dates associated with them. The Division of Corporations, Business, and Professional Licensing (DCBPL) within the Department of Commerce, Community, & Economic Development (DCCED) regulate most of the licensing boards that are subject to sunset provisions. She further explained that the Legislative Audit Division is required under law to review the board's activities and specific criteria to determine if the board is operated in the public interest. As a result of its audit, the Legislative Budget & Audit Committee (LB&A) reviewed and approved the legislative audit that determined the AELS Board is operating in the public's best interest and its termination date should be extended. Based on the LB&A's review, the DCBPL also recommended the board should be extended for eight years, which is June 30, 2017.

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MS. DAVIDSON detailed that in the course of the audit review, auditors identified three areas for improvement. First, the auditors found that the AELS board had been hampered by unfilled vacancies. The LB&A recommended to the Office of the Governor that appointments should be made timely. She related her understanding that appointments have been made, although the legislature has not yet confirmed the AELS board appointees.

MS. DAVIDSON explained that the auditors analyzed the finances of the AELS Board. By law, all boards are required to be financially self-sufficient, meaning the fees collected through licensing actions should cover the operating costs. She offered that the auditors discovered a surplus generated over the past few years for the AELS board. The auditors recommended that the DCBPL reduce the AELS fees and the DCCED concurred with the recommendation.

MS. DAVIDSON offered the third audit recommendation, which was for "a little better housekeeping" as it refers to obtaining the required paperwork when issuing licenses to limited liability corporations (LLC) and limited liability partnerships (LLP). She explained that certain documents were missing from applicant files. She highlighted that the problem was not considered pervasive, but the problem needed to be corrected. The DCCED agreed to the changes, she stated.

3:23:35 PM

REPRESENTATIVE BUCH inquired as to whether reductions in fees have been identified.

MS. DAVIDSON answered that the AELS board's finances are reviewed at the end of each alternate fiscal year. When the LB&A recommends fees should be reduced, the DCCED sets the fees in consultation with the board. She offered that a few professions are licensed by the AELS board, and that several examinations are administered for the professions. The LB&A does not identify which fees should be reduced, just that the DCCED should make an assessment. She noted that if a large regulatory project is forthcoming or pending, the department may reduce the fees less than if overall expenditures are anticipated to be static.

3:34:49 PM

CRAIG FREDEEN, P.E.; Vice-Chair, Board of Registration for Architects, Engineers and Land Surveyors (AELS), Department of Commerce, Community, & Economic Development (DCCED), began his testimony by stating that he works for PDC Engineers in Anchorage and has served on the AELS Board since 2004. He explained that the AELS board has been following the issue of Canadian licensure very closely, including meeting with the professional engineers of Canada, who are referred to as a "P.Eng". He advised that the P.Eng's have given presentations to the AELS Board and have attended regional and annual meetings of the National Council of Examiners for Engineering and Surveying (NCEES) for many years. The interest has increased due to the proposed gas pipeline, he stated. He related that he is a registered mechanical engineer and cannot speak to architects' and landscape architects' involvement. In May, some board members hope to attend the upcoming Western Zone meeting, the regional meeting of the NCEES, pending travel approval, which will be held in Banff, Canada. He emphasized that the Canadian engineers are very interested in obtaining comity with Alaska and other states.

MR. FREDEEN explained that the methodology for Canadian licensure differs from the United States (US). He characterized the Canadian process as more of a journeyman process for licensure, while the US relies on four years of education, experience, and two examinations, the Fundamentals of Engineering exam (FE) and the Professional Engineering exam (PE) for licensure. Thus, the models do not mesh well, he opined.

He related that the AELS has relaxed its licensure rules to allow Canadians to waive the FE exam, which is the exam taken as a college senior or right out of college. The process for licensure includes that engineering applications must take the PE examination approximately four years later. He further related that much discussion needs to take place to determine solutions for the PE license requirement in Alaska. Additionally, he expressed concern that the AELS board has for Alaskan engineers seeking licensure in Canada. He offered that some states such as Nevada and Texas accept comity licensure, but Alaska is not yet ready to take that step.

[3:46:05 PM](#)

REPRESENTATIVE COGHILL related his concern, which is to ensure that discussions continue. He said he hopes that the AELS board will share any conclusions it reaches with the legislature. He said the legislature might ask why other states can offer comity licensure, yet Alaska cannot. He highlighted that the legislature could introduce a bill to focus dialogue on the reciprocity issue. He expressed interest in figuring out how Alaska's qualifications for engineering can fit into the journeyman process of Canadian licensure so that Alaskan engineers can work in Canada.

CHAIR OLSON asked if a trade group was working on the licensure issue.

MR. FREDEEN said he did not believe so. He mentioned that members of US licensure boards have been in discussion with representatives of the Canadian licensure board. He explained that the AELS board chair, Mr. Brownfield, has attended several meetings with respect to licensure.

[3:47:51 PM](#)

REPRESENTATIVE COGHILL opined that presents a classic example of why the AELS board should not be extended to 2017 and possibly the legislature could "ratchet that back" to force a discussion on comity.

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REPRESENTATIVE BUCH inquired as to whether the professional associations are international organizations.

MR. FREDEEN answered yes, that the AELS board is a member of the NCEES for engineering, the National Council of Architectural Registration Boards (NCARB) for architects, and the Council of Landscape Architects (CLARB) for landscape architects. He stated that each state's licensing board is a member of the national organization. He explained that the national organizations own the exams, and that member boards attend annual and regional meetings to discuss issues such as international licensure. He pointed out that various agreements between nations exist to allow licensed design professionals to work in the U.S. and other countries. He highlighted that countries such as the United Kingdom (UK) belong to the Washington Accord. The agreements sort through issues such as dissecting the degree programs offered by foreign universities to ensure that the candidates have met the minimum standards for education as well as any other requirements for the licensure process. He stated at the international level "we're not there yet" with respect to international licensure for engineers. However, the NCEES is offering the licensure examinations in foreign cities such as Cairo, Egypt and is working to offer more locations for engineers to take engineering examinations overseas.

REPRESENTATIVE BUCH inquired as to whether any collaboration effort exists to meld licensure for reciprocity.

MR. FREDEEN explained that each state makes its own regulations and statutes for comity licensure. While some discussions occur at the national level to ensure that licensing requirements are the same, differences still exist. He opined that other countries still need to work out comity equivalency from nation to state on a state-by-state basis. In the meantime, engineers from other countries must obtain licensure by comity by meeting Alaska's requirements, just as engineers from other states must do so. He emphasized that restrictions on degrees obtained from other countries do not exist. Thus, every engineer in the world has a process to obtain licensure in Alaska, but minimum qualifications must be met to ensure public safety. He related his understanding that a "straight across, one-for-one" licensure process does not exist.

[3:52:44 PM](#)

CHAIR OLSON opined that the committee would like reciprocity so that Alaskan engineers can also obtain licensure, particularly with Canadian licensure. He offered the committee's assistance.

MR. FREDEEN expressed concern that currently when Canada issues a license to an Alaskan engineer that the license name for foreign license is different, although he could not recall the designation. He mentioned that the title for foreign engineers is a foreign P.Eng. Mr. Fredeen highlighted that the P.Eng title is reserved solely for Canadian engineers, while Canadians registered in Alaska are issued the title professional engineer (P.E.) just without differentiating them from Alaskan P.E.'s.

CHAIR OLSON reiterated his offer for legislative assistance to the AELS board on reciprocity between the U.S. and Canada.

[3:55:05 PM](#)

TERRY SCHOENTHAL, Member, Alaska Professional Design Council (APDC), and the American Society of Landscape Architects (ASLA), explained that the state has licensed landscape architects since 1998. He related that currently 49 states license landscape architects. Since 1998, landscape architects have held a temporary non-voting position on the AELS Board. He explained the rationale for this is that not many landscape architects are licensed in Alaska as compared to the other design professionals. However, ten years has passed and the landscape architect member is still a non-voting ex-officio temporary member. He surmised that this status may be the only one of its type among all the state's licensing boards. He acknowledged that licensing of landscape architects will continue when the temporary non-voting landscape architect membership on the AELS board disappears on June 30, 2009. However, since landscape architects will continue to be licensed, members representing other professions will make determinations on qualifications for licensure without input from a landscape architect.

MR. SCHOENTHAL, expressed concern that a licensed landscape architect has volunteered his/her time on the AELS board during the past ten years, which represents substantial time and effort taken on his/her part. Yet, the landscape architect board member never had the opportunity to vote on any issues that came before the AELS Board. He applauded and commended the service of the two volunteer landscape architects who have served in that capacity for ten years. He opined that it may be beneficial to the state to have a licensed landscape architect board member review landscape architect applications for licensure.

[3:57:50 PM](#)

MR. SCHOENTHAL, in response to Representative Holmes, answered that changing the non-voting temporary member to a permanent AELS member would require a statute change. He offered that in 2005, a bill passed the legislature that extended the temporary non-voting position until 2009.

CHAIR OLSON explained that the committee used the legislative auditor's recommendations when preparing HB 85. He related that four years ago the legislative auditor recommended the landscape architect for membership on the AELS board, but that recommendation was not made in current legislative audit report.

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MR. SCHOENTHAL provided additional history of the landscape architect that in 2004 the LB&A's audit report recommended that the landscape architect should be a voting position. He highlighted that in 2007, the AELS board recommended to convert the temporary landscape architect position to a full voting position. He mentioned that the APDC, an umbrella organization of design professionals, voted to support the landscape architect position as a full voting member of the AELS board at its January meeting. He stressed that at a minimum the landscape architects in Alaska would like to see the AELS board maintain a non-voting landscape architect position on the board. However, the landscape architect and other design professionals fully support making the temporary landscape architect member a full voting position of the AELS board.

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REPRESENTATIVE BUCH expressed interest in the cost or additional resources required to make the non-voting landscape architect a permanent member of the AELS Board. He related that some committee members do not know the practical aspects and structure of the licensing boards.

MR. SCHOENTHAL answered that the AELS board is entirely self-sufficient, in that the professions cover all its costs through biennial licensure fees. He further explained that other professionals subsidize the landscape architects since fewer landscape architects are licensed. He highlighted that the state does not cover the AELS board's costs or subsidize the board. Thus, the request to maintain the existing landscape architect board member on the AELS board would not entail additional funding.

[4:01:40 PM](#)

HARLEY HIGHTOWER, Architect Member, Board of Registration for Architects, Engineers and Land Surveyors (AELS), Department of Commerce, Community, & Economic Development (DCCED), stated that he is a licensed architect who resides in Anchorage. He said he has served on the AELS Board for four years. He offered that the architects fall under the jurisdiction of the NCARB, consisting of 53 member board member jurisdictions, including all 50 states plus other jurisdictions including Puerto Rico, and Guam.

MR. HIGHTOWER explained that NCARB is working with Canada. He stated he serves on a national NCARB subcommittee that writes and updates the qualifying examination. He offered that the NCARB has Canadian membership, as well, and Canadians also take the U.S. licensure examinations. He further explained that the accrediting board also has accredited some Canadian universities. Additionally, the NCARB is currently negotiating with European companies and Asia for cooperative agreements and collaborates with various countries for comity licensure and parity in licensing standards, he mentioned.

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MR. HIGHTOWER, in response to Chair Olson, answered that Canadian architects have reciprocity in Alaska. He highlighted that the NCARB is further along with reciprocity in Canada than with other countries.

[4:03:34 PM](#)

MR. HIGHTOWER, in response to Representative Buch, stated that Canada appears to be open to working with Alaska. He offered that currently Canada has more engineering work than it has engineers. Therefore, Canada is more open to reciprocity, he opined.

[4:05:15 PM](#)

BURDETT LENT, Landscape Architect Member, Board of Registration for Architects, Engineers and Land Surveyors (AELS), Department of Commerce, Community, & Economic Development (DCCED) explained that he is a licensed landscape architect in Anchorage. He offered that the landscape architects work cooperatively with Canada and that Canadians are also members of their national organization, CLARB. Thus, Canadian landscape architects are

subject to the same licensing requirements as U.S. landscape architects, he advised.

FRANK RAST, P.E., stated he is the current president of the Alaska Professional Design Council (APDC), an umbrella organization of design professionals. He explained that the AELS board works to ensure the safety of Alaskans by ensuring that design professionals are qualified. He said he agrees with Representative Neuman that the legislature can remand the licensing board if the board is not operating within the desires of the legislature. He opined that the AELS Board is the best vehicle to ensure engineers, architects, and land surveyors outside of Alaska who perform work within Alaska meet standards that protect the public health, safety, and welfare of Alaskans. He suggested that in any profession unethical people will work outside their practice and jeopardize the public health. Thus, it is critical to have a licensing board, he noted. He reiterated that the LB&A audit indicates that the design professionals pay the AELS board expenses through their license fees. In fact, he advised a surplus currently exists for the AELS board since licensed AELS members have paid more in fees than total AELS board expenses in the past few years. He offered his willingness to pay fees to ensure continued professional competency in Alaska.

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CHAIR OLSON, after first determining no one wished to testify, closed public testimony on HB 85.

[4:09:04 PM](#)

REPRESENTATIVE NEUMAN moved to report HB 85, Version 26-LS0420\A out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 85 was reported from the House Labor and Commerce Standing Committee.

CHAIR OLSON offered his belief that the issue of the landscape architect membership on the AELS Board was not included as a legislative audit recommendation and the matter should be introduced as a separate bill.

[4:10:43 PM](#)

The committee took an at-ease from 4:10 p.m. to 4:13 p.m.

[4:13:11 PM](#)

HR 5-OPPOSING FEDERAL EMPLOYEE FREE CHOICE ACT

CHAIR OLSON announced that the next order of business would HOUSE RESOLUTION NO. 5, Opposing any federal legislation that seeks to eliminate the private election phase of union recognition campaigns or that seeks to impose compulsory and binding arbitration on employers."

[4:13:17 PM](#)

REPRESENTATIVE CRAIG JOHNSON, Alaska State Legislature, explained that HR 5 is a resolution directed to Washington D.C. to state opposition to pending federal legislation which is referred to as the "Employee Free Choice Act." He related that members of this body swore an oath to uphold and defend the constitution of the State of Alaska. He offered that Alaska is one of the few states in the union that has a privacy act in its constitution. He opined that acts such as the Employee Free Choice Act (EFCA) clearly violate the freedom of privacy. He offered his belief that it is time to use that clause to protect businesses in the state. He pointed out that a new bill is not currently before the Congress. He highlighted three areas that seem to be present in most of the bills of this type that would fall into the category of "employee free-choice" bills.

REPRESENTATIVE JOHNSON related that some bills that fall into the category of "employee free choice" and remove the secret ballot from the process of selecting union representation. He offered a scenario in which someone asks a group of employees if they want to join a union and once a simple majority is reached, the opportunity for a "secret ballot" evaporates. He recalled during his childhood, he was asked to put his head on his desk at school while his teacher explained the process for a secret ballot. He opined that people all have a right to cast a secret ballot, without threat or recourse. He emphasized the secret ballot represents a basic American premise. He said, "This does away with that."

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REPRESENTATIVE JOHNSON stated the second thing that an "employee free choice act" would do is to allow the federal government undue access to Alaskan business. He related that once cards have been signed, within 30 days the federal government will require mandatory binding arbitration, without any negotiations. Further, if one does not abide by the EFCA, the employer can be

fined up to \$20,000. He surmised that if the union or organizing body does not abide by the EFCA, no penalty provision would apply. Therefore, the EFCA violates the constitution in terms of privacy, presents an undue burden to bring in the federal government for binding arbitration, and is "very one-sided." He stated that copies of HR 5 will be sent to Alaska's Congressional Delegation and will ask them to oppose any similar legislation. This resolution also encourages the governor to fight and defend Alaska's constitution and the U.S. Constitution at every opportunity. He stressed that HR 5 will send the message to Washington D.C. that the legislature will protect and defend the constitution. He reminded members of their sworn oath of office. He further emphasized his desire to keep the federal government out of Alaska.

[4:18:22 PM](#)

REPRESENTATIVE NEUMAN related his understanding that pending legislation at the federal level would not allow people to vote in secret, no matter what the issue is, although he said he thought this had to do with unions.

REPRESENTATIVE JOHNSON agreed that the resolution relates to the process of organizing unions. He explained the process to organize does not allow people to cast ballots and cast votes to determine an outcome to lead to the next step for union representation. He opined that since unions have burgeoned by over 400,000 people in the past year that the current system does not stifle unions' growth.

REPRESENTATIVE BUCH pointed out his understanding that HR 5 does not eliminate the opportunity to form a union.

REPRESENTATIVE JOHNSON answered that under the current law, "we would still have that." He stated under the "Employee Free Choice Act (EFCA)" that right to privacy would be removed, a requirement for binding arbitration would be added, and would become the way of organizing unions. He referred to HR 800, in members packets, which he said is a bill that is working its way through the Congress.

REPRESENTATIVE BUCH asked for specific clarification.

REPRESENTATIVE JOHNSON referred to page 3 of HR 800, which he read, "The arbitration panel shall render a decision settling the dispute and such decision shall be binding upon the parties for a period of 2 years..." He said he was not certain this is

the specific provision he had in mind. However, he opined that the EFCA eliminates the right to vote. He related that employees are given cards in a public manner and once the organizers receive 50 percent plus 1, binding arbitration is triggered. He related that absent the binding arbitration that a private vote would occur.

[4:23:00 PM](#)

REPRESENTATIVE BUCH related his understanding that the opportunity for an election still exists. He asked in the event of a certified election at the worksite how the election is eliminated.

REPRESENTATIVE JOHNSON answered that an election would be eliminated in the "card check" process. He explained that employee is subject to public pressure to sign a card to join the union. Once a simple majority is reached, it triggers binding arbitration and an election, including a private ballot is eliminated.

[4:23:45 PM](#)

REPRESENTATIVE BUCH offered the "card check" as representing only one option. He reiterated his understanding that another option exists under current law that also allows employees the option to hold an election.

REPRESENTATIVE JOHNSON reiterated that under the "card check" process, that an election would not be held. He stated the proposed resolution would remove the option of "card checks" which would eliminate a private ballot election.

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REPRESENTATIVE BUCH related his understanding that HR 5 would eliminate options for employees.

REPRESENTATIVE JOHNSON agreed, if that means employees would not have the privacy offered under a "secret ballot." He pointed out that small businesses are targeted by union organizers. He offered a scenario in which 11 of 20 people in a company "sign a card" that the vote is eliminated and binding arbitration is triggered. The binding arbitration process takes two years, during which time the federal government dictates the wage and benefits the employer will pay, he opined. He emphasized that 9

people in the described scenario will not have a "say in what to do" and would never get a chance to vote on the matter.

4:26:10 PM

REPRESENTATIVE NEUMAN recalled the 20 person employee scenario Representative Johnson described. He related his understanding that under legislation like proposed HR 800, that the person would sign their card in private.

REPRESENTATIVE JOHNSON described the ballot process that would consist of the employee receiving a ballot that asks whether the employee wants to join a union and he/she would check "yes or no" in the privacy of a ballot booth. He contrasted the ballot voting process with the "card check" in which the person signs a card, and is subject to everyone knowing how he/she voted and from pressure by the employer and the union.

REPRESENTATIVE JOHNSON, in further response to Representative Neuman, explained that under current law, employees cast ballots in voting booths and how they vote is private. Under proposed HR 800 and similar legislation, the employee would not have that right.

4:28:15 PM

REPRESENTATIVE LYNN asked for further clarification. He related his understanding that binding arbitration does not occur unless the management and union still cannot reach an agreement after 120 days.

REPRESENTATIVE JOHNSON agreed. He said he stands corrected. He agreed that binding arbitration would take place after negotiations.

ROD BETTIT, President, Alaska State Hospital & Nursing Home Association (ASHNHA), stated that he represents the Alaska State Hospital and Nursing Home Association (ASHNHA), which consists of 27 private, federal, state, and tribal health care facilities located throughout Alaska. He expressed concern that legislation such as HR 800 might pass at the federal level. He reiterated that the ASHNHA shares the three concerns that one of the sponsors of HR 5 mentioned in his testimony. He said, "We would like to go on record that we strongly support this measure and urge its passage out of committee." He offered that if necessary, the chief executive officers of ASHNHA members are also willing to testify and provide first-hand their concerns.

[4:31:00 PM](#)

MR. BETIT, in response to Representative Buch, stated that ASHNHA consists of nursing homes that serve the medically fragile that don't require hospital-level care, but need skilled nursing care. Thus, about half of the hospitals and five free-standing nursing homes are also members. In further response to Representative Buch, Mr. Betit stated that physicians employed by hospitals would fall under the highest level professional health care person that works for ASHNHA members.

[4:32:04 PM](#)

REPRESENTATIVE BUCH asked whether nurses are employed by ASHNA.

MR. BETIT ventured that his organization is the largest employer of nurses.

REPRESENTATIVE BUCH inquired as to the level of health care offered for its retired nurses.

MR. BETIT answered that health care benefits for retired nurses depends on the facility. He related that some benefit plans fall under the Public Employees Retirement System (PERS) system, others are private facilities.

[4:32:53 PM](#)

REPRESENTATIVE BUCH opined that most nurses do not have health care as a condition of their retirement. He opined that needs to be addressed. He emphasized that providing adequate health care for nurses is important to him.

MR. BETIT offered to provide the information to Representative Buch about health care benefits for retired nurses.

MICHAEL HUFF, Task Force Director, American Legislative Exchange Council (ALEC), stated that the American Legislative Exchange Council (ALEC) is the nation's largest non-partisan organization for state legislators. He offered ALEC's strong support for HR 5. He mentioned that ALEC's members previously adopted a similar resolution two years ago on this issue. He offered the biggest issue relates to the issue of the secret ballot. He referred to the steps for a union recognition campaign, which are outlined in the National Labor Relations Act of 1935 (NLRA), the primary law governing relations between unions and employers

in the private sector. He mentioned that the NLRA was drafted in its current form in 1947. First, employees will sign a card, and once 30 percent of the employees have signed the card, a secret ballot election is held, similar to elections for candidates that are elected in the United States. He emphasized the reason for this is to free employees from harassment and intimidation, as well as to find out the true intent of the voter. Once the election is held, by a majority vote, then the workplace is unionized.

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MR. HUFF related that currently when these elections are held, that 60 percent of the time the unions prevail. Election rates have remained constant since 1996, according to data statistics recorded by ALEC, under the Clinton and Bush Administrations.

MR. HUFF said that what pending federal legislation would do is to remove the secret ballot of the election and would solely use the "card check" method. He reiterated that ALEC believes that removing the secret ballot would expose employees to harassment and intimidation. He offered testimony from the Congressional hearings during the 1935 process that changed the NLRA Act to a secret ballot. He related specific testimony that said that for the last 14 years as a result of labor laws, ill conceived and disastrously executed, the American working man has been deprived of his dignity as an individual, has been cajoled, coerced, and intimidated on many occasions, and beaten up. He mentioned that testimony was written in 1947 when the federal act was changed. He offered his belief that passing HR 5 would be a strong stand and statement that Alaska supports the right of workers to vote by secret ballot.

[4:38:33 PM](#)

ROBERTA BROOKS, Business Representative, stated that she is a business representative for the International Brotherhood of Electrical Workers (IBEW) local 1547 in Anchorage. She stated that she has strong opinions with HR 5. She referred to page 2, lines 23-29 of HR 5, regarding binding arbitration. She offered her belief that the two clauses do not accurately describe what happens at the bargaining table when the parties attempt to negotiate a contract. She mentioned her 13 years of experience with IBEW, and her primary duties of negotiating and administering collective bargaining agreements. During that time, she offered that she is responsible for the vast majority of first agreements with newly organized employers. While

contracts were often obtained, frequently frustrating circumstances arose between the employers and employees that lasted for years as a result of not obtaining a final agreement. She offered her belief that when both parties negotiate, that the parties' knowledge that an independent third party will review the negotiations which creates an atmosphere in which the employer and the union each strive to achieve a reasonable negotiation. She opined that the atmosphere helps parties develop arguments that "pass the red face test."

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MS. BROOKS referred to the language in HR 5 that states that binding arbitration is fundamentally unconstitutional and said "with all due respect that is simply not the case." She opined that every day in Alaska and the US, people use independent third parties to resolve disputes that they cannot resolve on their own. She further stated that the use of independent third parties such as judges and arbitrators are helpful in resolving disputes in an amicable fashion. She reiterated that knowledge that an independent decision maker will make a final determination also helps to motivate parties to present reasonable proposals that will ultimately achieve a collective bargaining agreement. She concluded by stating that one of the purposes of the NLRA is to prevent labor strikes and interruption of interstate commerce. She further opined that having binding arbitration at the end of the process encourages and promotes that process, not undermine it.

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JOHN BROWN, Retired, Operating Engineers, stated that he spent 15 years working as a business representative and organizer. He indicated that he was involved in many campaigns to create a union in the workplace. Mr. Brown offered labor history, such that the NLRA was created since commerce was being disrupted, in some instances across whole industries. As a result of the NLRA, collective bargaining became the official labor relations policy in the US, he opined. He reiterated that prior to passage of the NLRA, that labor relations did not work and the result was that it hurt business and workers. Over the past 70 years, the NLRA still requires both parties to negotiate with the purpose of reaching an agreement. Unfortunately, he related, penalties do not exist in the law for not reaching an agreement. Thus, employers have learned ways to avoid being reasonable and do not come to the table in good faith to reach agreements, he surmised.

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MR. BROWN stated that currently, for whatever reason, the economy is not working, which has placed workers in circumstances similar to when the NLRA was enacted. He opined that the economic situation is due to imbalance between wage and profits. He offered his belief that wages have not kept up with inflation for almost 40 years. He acknowledged that two sides exist, the seller and the buyer. Mr. Brown further opined the EFCA is an attempt to bring back balance to the workforce. He said, "And for those that say we're trying to take away a free election, that is not true." He noted that if 30 percent of the employees want an election, they can call for an election, which won't change under the proposed legislation. He agreed with Ms. Brook's observation that binding arbitration's advantage is that both parties know they must be reasonable in their negotiations. Currently, the employer can withdraw recognition from the union when 51 percent of his/her employees sign an open petition. He concluded his testimony by emphasizing that the employer can require his/her employees to attend campaign meetings while they are being paid, which he opined does not represent a fair election.

DENNIS KNEBEL, Business Representative, International Brotherhood of Electrical Workers (IBEW), stated that he has been an organizer International Brotherhood of Electrical Workers (IBEW), Local 1547 for almost five years. He described a scenario in which he had been asked, in 2007, by mechanics in a busing company about representation by the IBEW. He related that he subsequently met with day and night shift workers at Denali National Park and Preserve. He related that by the end of two meetings he had obtained 100 percent of the representation cards signed by the employees. He offered that employees were upset about working conditions such as paying for their own tools, specific to the company buses, and food and lodging expenses that the company required its employees to pay. He pointed out most employees resided in Southcentral or in the North Star Borough. Additionally, employees paid for room and board during the time they were in their home districts on their days off. He stated none of the employees previously had been members of the IBEW, although some had been union members. He said he returned to Anchorage and contacted the employer, advised the employer of the signatures, and asked for voluntary recognition of the union. The company decided to hold an election under the NLRA in 45 days. He further opined that prior to the election, the company held one-on-one meetings and

spread rumors that some employees were secretly employed by the IBEW and would receive an increase in their pension if the union prevailed.

MR. KNEBEL related that the IBEW lost the election 8 to 8. He opined an employee related that he had asked the employer why he claimed to be a union member when he was not. He said, "He just shrugged his shoulders," and decided not to answer the question. He further explained that the following spring he was re-contacted by the employees with the same issues, and additional issues to add to their complaint, including health care issues. He stated that one year later the group voted for IBEW representation. He mentioned that the employer and union are still undergoing contract negotiations. He emphasized tactics are so common that the union has an acronym for them, "TIPS," which stands for threaten, intimidate, promise, and spy. He stressed that HR 5 does not address issues faced by workers trying to band together for a better future. Instead, he surmised, the resolution is designed to support the current broken system that ignores the wishes of working Alaskans and gives the power to the company.

REPRESENTATIVE BUCH asked how many elections Mr. Knebel has personally been involved in organizing.

MR. KNEBEL answered that he has been involved in organizing about a dozen requests for union representation.

REPRESENTATIVE BUCH inquired as to the number of instances that the IBEW prevailed.

MR. KNEBEL related that the IBEW prevailed in about 75 percent of the time, although contract negotiations are still underway with some. In further response to Representative Buch, Mr. Knebel answered that the employers always threaten and intimidate employees.

[4:52:05 PM](#)

AVES THOMPSON, Executive Director, Alaska Trucking Association, Inc. read a prepared statement:

The Card Check or the Employee Free Choice ACT (EFCA) is one of the most contentious issues to appear in the labor/management arena for many years.

The secret ballot is one of the most treasured and envied rights that Americans possess. The EFCA will take away the right of employees to use the secret ballot to make the decision whether to organize in the workplace. While many of our member companies work with collective bargaining units in their place of business, many do not. This is not a referendum on whether there should be collective bargaining units but the method by which votes are taken to make that decision. We believe that the current mechanisms operate fairly giving each employee the right to make their decision in private without any undue influence from either the organizers or the employers.

Secondly, this bill introduces the federal government into the contract negotiation process. This bill provides that if the parties cannot come to agreement within a specified time period, a government employee presides over binding arbitration and that government employee can impose his/her decision on the employer and the bargaining unit for a period of up to two years. It is impossible to believe that a government arbitrator can have sufficient knowledge of the industry and/or the specific issues in that specific workplace to make an educated decision. Additionally, there is nothing either party can do to change the arbitrator's decision for the two year period.

There are a number of other issues involved in the EFCA, but we feel that these two issues alone are sufficient to support this resolution.

On behalf of our members, we urge you to vote yes.

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REPRESENTATIVE NEUMAN asked how many paid union lobbyists are in the room. He answered that he counted eight.

REPRESENTATIVE BUCH answered that lobbyists better be in the room since their job requires them to follow issues of importance to their members.

REPRESENTATIVE LYNN remarked that it might be more appropriate to count constituents in the audience.

CHAIR OLSON announced that the bill would be held over. He noted that the committee would take additional public testimony on HR 5.

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ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:56 p.m.