

**ALASKA STATE LEGISLATURE  
HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 17, 2009

8:05 a.m.

**MEMBERS PRESENT**

Representative Bob Lynn, Chair  
Representative Paul Seaton, Vice Chair  
Representative Carl Gatto  
Representative Craig Johnson  
Representative Peggy Wilson  
Representative Max Gruenberg  
Representative Pete Petersen

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Harry Crawford

**COMMITTEE CALENDAR**

HOUSE BILL NO. 157

"An Act amending the State Personnel Act to place in the exempt service the chief economist and state comptroller in the Department of Revenue and certain professional positions concerning oil and gas within the Department of Natural Resources; relating to reemployment of and benefits for or on behalf of reemployed retired teachers and public employees by providing for an effective date by amending the delayed effective date for secs. 3, 5, 9, and 12, ch. 57, SLA 2001 and sec. 19, ch. 50, SLA 2005; and providing for an effective date."

- HEARD AND HELD

HOUSE CONCURRENT RESOLUTION NO. 11

Proclaiming the month of April 2009 to be Sexual Assault Awareness Month.

- MOVED HCR 11 OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 3

Proposing an amendment to the Constitution of the State of Alaska requiring an affirmative vote of the people before any

form of gambling for profit may be authorized in Alaska and setting other requirements.

- MOVED HJR 3 OUT OF COMMITTEE

HOUSE BILL NO. 115

"An Act establishing a permanent absentee voting option for qualified voters; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 157

SHORT TITLE: REEMPLOYMENT OF RETIREES; EXEMPT SERVICE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/27/09 (H) READ THE FIRST TIME - REFERRALS  
02/27/09 (H) STA, FIN  
03/17/09 (H) STA AT 8:00 AM CAPITOL 106

BILL: HCR 11

SHORT TITLE: SEXUAL ASSAULT AWARENESS MONTH

SPONSOR(S): REPRESENTATIVE(S) FAIRCLOUGH

03/09/09 (H) READ THE FIRST TIME - REFERRALS  
03/09/09 (H) STA  
03/17/09 (H) STA AT 8:00 AM CAPITOL 106

BILL: HJR 3

SHORT TITLE: CONST.AM:NO GAMING WITHOUT VOTER APPROVAL

SPONSOR(S): REPRESENTATIVE(S) CRAWFORD, DAHLSTROM

01/20/09 (H) PREFILE RELEASED 1/9/09  
01/20/09 (H) READ THE FIRST TIME - REFERRALS  
01/20/09 (H) STA, JUD, FIN  
02/12/09 (H) STA AT 8:00 AM CAPITOL 106  
02/12/09 (H) Heard & Held  
02/12/09 (H) MINUTE(STA)  
03/17/09 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 115

SHORT TITLE: PERMANENT ABSENTEE VOTING

SPONSOR(S): REPRESENTATIVE(S) BUCH

02/04/09 (H) READ THE FIRST TIME - REFERRALS  
02/04/09 (H) STA, FIN

03/17/09

(H)

STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

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

**POSITION STATEMENT:** Introduced HB 157 on behalf of the House Rules Standing Committee, sponsor by request of the governor.

KEVIN BANKS, Acting Director  
Central Office  
Division of Oil & Gas  
Department of Natural Resources (DNR)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 157.

JERRY BURNETT, Deputy Commissioner  
Treasury Division  
Department of Revenue (DOR)  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 157.

PAT SHIER, Director  
Division Retirement & Benefits  
Department of Administration  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 157.

NIKKI NEAL, Director  
Division of Personnel & Labor Relations  
Department of Administration  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 157.

BARB ANGAIAK, President  
National Education Association-Alaska ("NEA-Alaska")  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke to issues in HB 157 that are related to employees of the Teachers' Retirement System (TRS).

DON ETHERIDGE  
American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

Juneau, Alaska

**POSITION STATEMENT:** Expressed concerns and answered questions during the hearing on HB 157.

HANNAH RAMISKEY, Member  
Ketchikan Charter School Board  
Ketchikan, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 157.

HARRY MARTIN, Principal  
Ketchikan Charter School  
Ketchikan, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 157.

KEVIN BROOKS, Deputy Commissioner  
Department of Administration (DOA)  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 157.

CRYSTAL KOENEMAN, Staff  
Representative Anna Fairclough  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HCR 11 on behalf of Representative Fairclough, prime sponsor.

REPRESENTATIVE BOB BUCH  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, introduced HB 115.

LARRY BENSON  
American Postal Workers Union  
Anchorage, Alaska

**POSITION STATEMENT:** Expressed support of HB 115.

DORSEY ROLAND  
National Association of Letter Carriers  
Eagle River, Alaska

**POSITION STATEMENT:** Expressed support of HB 115.

#### **ACTION NARRATIVE**

[8:05:40 AM](#)

**CHAIR BOB LYNN** called the House State Affairs Standing Committee meeting to order at 8:05 a.m. Representatives Seaton, Gatto,

Wilson, Gruenberg, Petersen, and Lynn were present at the call to order. Representative Johnson arrived as the meeting was in progress.

HB 157-REEMPLOYMENT OF RETIREES; EXEMPT SERVICE

8:06:52 AM

CHAIR LYNN announced that the first order of business was HOUSE BILL NO. 157, "An Act amending the State Personnel Act to place in the exempt service the chief economist and state comptroller in the Department of Revenue and certain professional positions concerning oil and gas within the Department of Natural Resources; relating to reemployment of and benefits for or on behalf of reemployed retired teachers and public employees by providing for an effective date by amending the delayed effective date for secs. 3, 5, 9, and 12, ch. 57, SLA 2001 and sec. 19, ch. 50, SLA 2005; and providing for an effective date."

8:07:08 AM

GINGER BLAISDELL, Director, Administrative Services Division, Department of Revenue (DOR), on behalf of the House Rules Standing Committee, sponsor by request of the governor, paraphrased the sponsor statement for HB 157, which read as follows [original punctuation provided]:

HB 157 Reemployment of Retirees; Exempt Service contains three personnel topics regarding state employment. First, extending the sunset provision of the "retire/rehire" employment provision would allow state entities to hire retired employees into existing positions. Second, the Department of Revenue is requesting that two professional positions be made "exempt" for the purposes of allowing flexibility in recruitment and paying market value. Third, certain professional positions concerning oil and gas within the Department of Natural Resources are requested to be made "exempt" for flexibility in recruitment and paying market value.

Each of the portions of the bill are presented in order of the bill:

**Department of Revenue - Exempt Positions**

Two positions in the Department of Revenue have been difficult to fill and retain because the department

cannot offer market pay. The state comptroller oversees billions of dollars and coordinates the state's accounts with national banking agencies. This position is currently partially-exempt, meaning that it is not governed by collective bargaining but that it must be paid within a state salary scale. This position has turned over every year for the past four years due to more appealing private-sector offers accepted by the incumbents. The chief economist position is a classified position and has been open for recruitment for approximately one year. Although one of the division's lead economists is filling this position in acting status, the department is seeking an economist who can speak with experience and authority on Alaska's global petroleum economics.

#### **Department of Natural Resources - Exempt Positions**

The division of oil and gas and the division of geological and geophysical survey of the Department of Natural Resources (DNR) are responsible for assessing the state's mineral resources, overseeing the assessment and collection of a large portion of the state's revenues related to oil and gas development, as well as management of the state's oil and gas resources. DNR, through these divisions, must maintain an experienced and professional staff as well as recruit new staff. Without exempt status the State cannot be competitive with industry in hiring the best and most experienced employees in areas where that experience can mean millions of dollars in revenue to the employer.

#### **Retire/Rehire Sunset Extension**

Legislation was passed in 2005 that allows for the rehire of certain PERS and TRS employees who retired with a normal retirement. These rehires can continue to receive normal retirement benefits by waiving further participation in the retirement systems. This legislation is scheduled to sunset on July 1, 2009.

In a report provided to the legislature on February 6, 2009, the number of waivers in the retire/rehire program in 2008 were 62 PERS and 85 TRS participants. While the number of participants are seemingly low, these individuals play a vital role in the communities where they are employed. Many rural communities and school districts have benefited from the retire/rehire

program to retain retirement eligible individuals in these hard-to-fill positions.

8:11:44 AM

KEVIN BANKS, Acting Director, Central Office, Division of Oil & Gas, Department of Natural Resources (DNR), said he would be speaking in regard to the Division of Oil & Gas (DOG), as well as the Division of Geological and Geophysical Survey (DGGS), which is headed by Bob Swenson. Mr. Banks said HB 157 would amend [paragraph] 14 of AS 39.25.110, by "adding several positions that are now hired under a provision in 110 that refers to people who are conducting special inquiries, studies, and examinations. He added, "That would be then transferred to position titles, like petroleum geophysicist, commercial analysts, and, in the case of DGGS, the state geologist."

MR. BANKS reviewed that DOG is responsible for assessing and managing the state's mineral resources. Staff members "in these positions" have been hired "out of industry," because the division can offer under exempt status a salary that includes a measure of stability.

8:14:35 AM

MR. BANKS stated that significant industry experience is critical to being able to interpret the data and type of information generated by the industry. He said [DOG] has geologists, engineers, and commercial "folks" who have received national recognition. Similarly, DGGS brings expertise to the table in promoting the state's mineral, oil, and gas wealth to the industry by developing studies and marketing the state to other professionals.

CHAIR LYNN asked how much more the occupations proposed to be added to [paragraph 14] would be paid.

MR. BANKS responded that the top exempt salaries range at about \$150,000; a petroleum engineer in the private sector could be making up to \$200,000. He continued as follows:

The positions that are listed here are now filled under an exempt status, and we would not be changing the amount of money that we're paying folks from now. What it does, though, is change from this special inquiry or studies or examination, which is a bit of a

loose reference. For example, we have commercial analysts that work for us under special inquiry, and I've had difficulty at times persuading folks coming to work for us that that doesn't mean that this special inquiry will be over in six or eight months, and thank you very much for your service. What we'll do is convert those ... two positions that are listed here and be able to offer, I think, ... a sense of permanence for those folks, recognizing that they have technical skills that we need and will continue to need as their job evolves over time. So, we're not talking about changing a classified position to an exempt position under this bill.

[8:17:41 AM](#)

MR. BANKS, in response to Representative Wilson, remarked that the term "special inquiry" has been interpreted fairly broadly. He relayed that when he worked as a petroleum market analyst in the division, his responsibilities included managing royalty in kind and royalty in value contracts. That, he explained, was the definition of his special inquiry as applied to that position. It involved a certain skill set and certain ongoing work. In response to a follow-up question, Mr. Banks stated his belief that the meaning of special inquiry has to do not so much with a skill set, but with the nature of the work and what it contributes.

[8:19:52 AM](#)

MR. BANKS, in response to Representative Gruenberg, said DNR's concern is solely with Section 1 of the proposed legislation.

REPRESENTATIVE GRUENBERG asked if this issue will need to come before the legislature every few years because the titles in job positions change.

MR. BANKS replied that he does not think that will be necessary because "these positions are the names of the positions that do exist now under the special inquiry part of the statute." The definition of the positions is broad and common to the industry nomenclature, he said. In response to Representative Gruenberg, he said the term "special inquiry" is found in AS 39.25.110, paragraph (9).

[8:21:33 AM](#)

REPRESENTATIVE GRUENBERG cited the introductory paragraph of AS 39.25.110, which read:

Sec. 39.25.110. Exempt service.  
Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

REPRESENTATIVE GRUENBERG noted that paragraph (14) is set out in Section 1 of the bill and paragraph (42) is in Section 2 of the bill. He cited Section (9), to which Mr. Banks referred, which read as follows:

(9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;

[8:22:39 AM](#)

MR. BANKS continued his testimony. He said it is important to realize, "It's not only a matter of hiring people; it is also a matter of retaining people." He stated his belief that the changes proposed in HB 157 represent the state's commitment to its current employees - that temporary or special inquiry is not the reason they are working for [the department], but rather that their skills and the work they are doing are essential for the performance and conduct of DOG and DGGs. These people, he said, offer many benefits to the state, including providing mentorship to the classified state employees. Mr. Banks reemphasized the importance of retaining "these folks." He shared that some have come to him to let him know that although they have received offers from the private sector, they prefer to stay. He surmised the reasons include a sense of civic responsibility, the realization of job security, and because they may have a role that exceeds the responsibility that they had in a much larger organization.

[8:24:17 AM](#)

MR. BANKS, in response to Representative Gatto, explained that the term "petroleum physicist" is a field of study in oil and gas or schools of mining. Many geophysicists have had undergraduate training in physics, followed by a narrowed focus into the acoustic properties of geophysical type survey. A geophysicist does not have certification like that of a petroleum engineer, he said. In response to Representative

Gatto, he indicated that the bill is a way in which to sweeten the deal for those who want to remain in Alaska to work, and to demonstrate commitment to those who already work for the state; however, anyone working for the state "in this capacity," under exempt or classified service, can move on to greener pastures.

[8:27:28 AM](#)

MR. BANKS, in response to Representative Seaton, stated:

Several positions were created under 110 (9) - the special inquiry. They included several commercial analyst positions and some of the [geotechnical] positions, like the geophysicists. And people were brought in on staff. So, we went from about 20 people on our staff that are exempt to 30 people. That occurred about five years ago. It also included a substantial increase in salaries at that time to try to achieve some parity with the industry, and frankly that was quite successful. We were able to attract over the last several years several new people and replace those who were retiring.

[8:28:45 AM](#)

REPRESENTATIVE GRUENBERG asked if the terms "temporary" and "special inquiry" - in Section 9 of the bill - are defined in regulation.

[8:29:16 AM](#)

MR. BANKS offered his understanding that the Department of Law issued an opinion at the beginning of the current administration which narrowed the definition of "special inquiry" and required that people hired under that provision go through more scrutiny. He said he is not aware of any specific definition. The hiring of an exempt employee in DOG requires the vetting through the Office of the Governor. The hiring of someone in the exempt status is not done willy-nilly, he said.

REPRESENTATIVE GRUENBERG asked if there is a uniformity of that phrase throughout the department, questioned the reason for the legal opinion, and said he would like to have a copy of that legal opinion given to committee members. He suggested the committee may want to consider whether or not to address that classification phrase.

[8:32:56 AM](#)

MR. BANKS remarked that the original provision in 110 (9) has existed for many years. He said Representative Seaton was referring to a budget item that came through five years ago, which allowed "us" to pay people in exempt positions a salary more commensurate with the industry; it had no effect on changing the content of this bill. He speculated that [Representative Gruenberg] may be correct that temporary or special inquiry might have been viewed as a loophole by some in the past; however, he said his understanding of the legal opinion is that it basically closed that loophole. The exempt job has to require someone with the kinds of skills that are not found in someone who is a member of the classified service.

[8:34:27 AM](#)

REPRESENTATIVE SEATON clarified that HB 157 would take the positions in question out of paragraph (9) and add them to the list of exempt employees listed in paragraph (14).

[8:36:14 AM](#)

JERRY BURNETT, Deputy Commissioner, Treasury Division, Department of Revenue, testified regarding Section 2 of HB 157. He said Section 2 addresses two positions in DNR - the chief economist and the state comptroller - that would be moved to exempt service. Currently, he said, the chief economist is a classified job, at range 26. The chief economist heads the economic analysis group in the tax division and is responsible for the state's revenue sources and forecasts. The job was held by one person for more than 20 years prior to 2004, by another from 2004 to 2008, and attempts to fill it since that time have been unsuccessful. There needs to be a capable person in the position, because consequences are high in it. Given the current market, Mr. Burnett said, the best way to successfully recruit someone with international petroleum economics experience is by moving the job into the exempt service.

[8:38:19 AM](#)

REPRESENTATIVE GATTO commented on the fact that although the state has paid someone a range 26 to forecast oil prices, the legislature has had no accurate help from anyone in its efforts to forecast prices.

MR. BURNETT responded that that has been a classified position. Furthermore, the state contracts with "external people" and has other resources it uses to figure out oil prices. He stated, "I don't think anyone has been successful forecasting oil prices or stock prices, or any real asset or commodity prices over the last year or two. He offered his understanding that the volatility in the market is greater than it has been since the 1860s. He concurred with Chair Lynn that no one is to blame, and he said "we" want the most qualified person in the job and to be able to access the markets.

REPRESENTATIVE GATTO questioned the philosophy of looking for a better person for a job that cannot be done.

MR. BURNETT said the person in this position does a lot more than forecast; he/she also looks at the competitiveness of the state's fiscal system on a worldwide basis and has to be able to understand how petroleum economics work. The right person in the job makes a better advisor, and the department does not believe it can get the person with the right skills in the job without offering the position as exempt.

REPRESENTATIVE GATTO said that answer does not satisfy him. He further commented on the unpredictability of forecasting, suggesting that The Old Farmer's Almanac may do just as a good a job forecasting.

MR. BURNETT said if it was purely a matter of forecasting prices, a number of external tools may work as well. However, understanding how price movement will impact Alaska's revenues within its current fiscal system is much more complex than that.

REPRESENTATIVE GATTO said, "I'll agree."

[8:42:51 AM](#)

MR. BURNETT, in response to Representative Johnson, confirmed that the person in this position also contracts with companies, such as Black & Veach, to look at Alaska's fiscal systems, and it is important to have a person in the position who can "speak the same language."

[8:43:32 AM](#)

MR. BURNETT addressed the second DNR position proposed to be moved to exempt status: the state comptroller. That position needs to be filled by a CPA who is in charge of the accounting

function of the Treasury Division. In the last five years, the department has had four comptrollers. The department is happy with the person currently in the position and would like the ability to negotiate a salary comparable with those exempt positions that are paid market-based salaries, in order to keep the employee. The position is responsible for generating the financial statements for the pension funds and all of the state treasury functions. Mr. Burnett stated, "Most of the staff in the Treasury Division are exempt ..., so working in that environment, it seems appropriate to have this position also as an exempt position." He noted that the comptroller position is currently partially exempt, paid at a "state-paid schedule."

[8:45:24 AM](#)

REPRESENTATIVE GATTO asked what changes, from the state's perspective, once someone's position has been made exempt.

MR. BURNETT, using the example of the position of comptroller, which is currently filled, said the state would be looking at using a market survey to set future wages. However, he said nothing would really change; the person would still be an at-will employee subject to the same work environment. In response to Representative Gatto, he stated that the whole point of changing the position to exempt status would be to have the ability to offer an employee more, based on market survey, to entice him or her to take the position or to stay in the position. He emphasized that that is the whole point of Section 2.

[8:47:13 AM](#)

REPRESENTATIVE GRUENBERG directed attention to AS 39.25.110(26) and asked Mr. Burnett why the economist and comptroller could not be listed here, rather than in (42).

[8:47:59 AM](#)

MR. BURNETT said he believes the decision of where to put those positions is merely a drafting style.

[8:48:28 AM](#)

PAT SHIER, Director, Division Retirement & Benefits, Department of Administration, testified regarding Section 3 of HB 157. He said the division has heard from school districts, in particular, as well as from certain public employers, expressing

concern that "this portion of the law was set to end." He continued:

It's a tool in the toolbox that helps those public employers and those school districts where they're experiencing a real shortage in individuals to come to the table and do the work that needs to be done. It simply extends the sunset out to 2013; it doesn't make it permanent. And we see it as a rational response to current labor situations.

[8:49:39 AM](#)

REPRESENTATIVE GATTO questioned the hardship in hiring during a time when there is an increase in unemployment.

MR. SHIER responded that employers are reporting a difficulty in recruiting qualified applicants. He noted that public employers must prove they have had a difficulty in recruiting qualified individuals by showing that they had five or fewer qualified applicants. In response to Chair Lynn, he acknowledged that things may be changing; the state may find individuals coming to Alaska looking for work. In that case, public employers would have more than five qualified applicants and would not be able to "access the future to this bill."

[8:50:40 AM](#)

REPRESENTATIVE WILSON said she has heard that there are two areas in which there currently is an exception to the unemployment problem: health and education. However, the number of Baby Boomers retiring will be increasing. She warned that the state will have a terrible time replacing teachers, because there are not enough of them in the United States. She reported that the schools within her constituency have asked her to extend this legislation.

[8:51:38 AM](#)

REPRESENTATIVE SEATON said the legislature dealt with this issue before when it scheduled the 2009 sunset. He continued:

As I recall, part of the problem was when the policy was put in, we had supervisors ... - people who were still not exempt, but they would leave their materials in the desk, would go on vacation for 30 days, would continue. We wouldn't have applications from people

under them in the department, because who's going to put in an application when you know your boss is going to get the job because somebody ... liked him, and who can be more qualified, probably, than the person that's existing in the job?

So, one of the ... problems, and why there's a sunset, was because this was seen as a detriment or a deterrent for people to stay within the department because they knew the guys at the top would never leave - they could be rehired, retire, start collecting their retirement, and stay in the same job, and there was a real problem of upward mobility.

How have you solved that within this situation, and do we have that same problem with morale within the department for upward movement of personnel, and if we extend this, won't we be ... keeping that same problem?

MR. SHIER responded that the division is committed to developing talent "to come up and take the jobs of the future." He said it is clear from his conversations with the commissioner that she highly values the importance of taking steps toward having an adequate training program - a succession program - in place. The division is currently developing the internal training programs and knowledge transfer programs that will allow the state to do business as well or better "when some of us were here or gone." Notwithstanding that, he said he has heard of one case where a situation exactly as Representative Seaton described occurred, and he said that is demoralizing. In terms of how the law is structured, if extended, the two features designed to help minimize this occurrence were the requirement that there be proof of five or fewer qualified candidates and the development of a knowledge transfer plan, he reviewed.

MR. SHIER referred to the aforementioned report to the legislature and said it shows that "better than" 80 percent of the Public Employees' Retirement System (PERS) employers and almost 80 percent of the Teachers' Retirement System (TRS) employers have in place and on file with the division that knowledge transfer plan. He said the division would expect that, and the five or fewer requirement, to continue to be part of the process of certification.

[8:55:36 AM](#)

REPRESENTATIVE SEATON indicated that some employers have not completed their transfer plan, even though it is required. Furthermore, there is no mention of the plan in the department's web site. He asked if there is an annual certification that would show that every employer is exercising that knowledge transfer plan.

MR. SHIER responded that the division would like 100 percent compliance and currently reminds employers to complete their plan. He said some employers have reported feeling panicked because they are having difficulty filling all the vacancies. The department tries to help those employers accomplish this part of the requirement.

REPRESENTATIVE SEATON asked if the Department of Administration is ensuring that the knowledge transfer plan is actually being implemented or [if the requirement] is "just on paper."

MR. SHIER said he does not want to answer off the cuff without speaking with the person responsible for doing the follow-up on this.

REPRESENTATIVE SEATON asked Mr. Shier to do that and let the committee know what the Department of Administration's procedure is for following up on the knowledge transfer plans within each agency which uses a "retire/rehire." He emphasized the importance of morale within departments.

[8:59:01 AM](#)

REPRESENTATIVE SEATON, regarding the "five or fewer" requirement, asked if the rehire would last through 2013 - throughout the time until the bill would sunset.

MR. SHIER stated his understanding that there is no provision in this part of the law due to sunset that would require the division or employer to report a change in the labor market that would lead the division or the employer to release the retiree automatically.

REPRESENTATIVE SEATON offered his understanding that the situation is that if there is a job opening and there are five or fewer applications, the employer can rehire "the person that's in there" and [that person] can maintain that position until 2013 "without any reoffering of the job if anything changes." He asked Mr. Shier to get back to him regarding whether that understanding is correct.

MR. SHIER said he will.

9:00:45 AM

REPRESENTATIVE WILSON mentioned a memorandum from Scott Nordstrand, [former commissioner of the Department of Administration], dated 9/11/06, which addresses the issue of rehiring retirees. She recollected that the legislature had at one time considered a requirement that [the retiree] had to be "out at least six months"; however, she observed that former Commissioner Nordstrand's memorandum notes that the time is only 30 days. She cited a portion of the memorandum, which read as follows [original punctuation provided, with some formatting changes]:

A retiree who intends to seek a PERS waiver may be appointed to a position in the classified service if:

an open competitive recruitment process is conducted for at least 30 days and results in an applicant pool of fewer than five qualified, eligible, and available applicants;

all qualified, eligible and available applicants are considered;

the hiring authority demonstrates why no other applicant will have the knowledge, skills, or ability to perform the duties of the position after serving the full probationary period;

and

the retiree has served a thirty-day separation with the PERS. If the employee currently is covered under [House Bill 242], a second thirty-day separation will not be required if the employee is later appointed under [House Bill 161]. However, if the employee has not been rehired under [House Bill 242] and has not served the initial thirty-day separation, a thirty-day separation will be required.

REPRESENTATIVE WILSON asked, "Are these regulations or ... is this ... in statute?"

MR. SHIER responded, "This is the administrative execution plan that the division is currently using; we haven't changed anything since that memo." In response to a follow-up question, he said it is difficult to make a blanket statement as to whether a 30-day separation requirement is fair. He said "this"

is designed to be addressed on a case-by-case basis. He stated, "This has been a method for us to try and bring some accountability to the process, and I can imagine going further than this might create undue administrative hardships on both the employers and on the division. So, I would call this - for the time being - adequate."

REPRESENTATIVE WILSON asked if Mr. Shier has received complaints from other employees "because you're doing this."

MR. SHIER noted that last year the division received a complaint; however, it was not from a candidate. He related that the complaint was from an employee who is governed by a board, and there was some disagreement on the board. Mr. Shier said that is the only complaint he can recollect having been received in the last year and a half.

[9:05:18 AM](#)

REPRESENTATIVE SEATON directed attention to page 4 of the Alaska Legislative Report handout, which shows a list of job classes rehired under PERS as a result of House Bill 161. He noted that one of the jobs listed is Administrative Assistant I. He questioned why that would be a position for which it would be necessary to hire a retiree. He asked if that is an entry-level position.

MR. SHIER replied that without further information, he would surmise that the reason has to do with the two most common factors: the location and the labor pool at the time of recruitment.

REPRESENTATIVE SEATON expressed concern that the legislature not support a bill that "could lead to the cronyism kind of hiring" that that body attempted to get rid of with the sunset date of 2009. He asked Mr. Shier to get back to the committee with more details related to the issue.

MR. SHIER said he would try. However, he told Representative Seaton that it may be that some of the data concerning the labor market at the time will be difficult to substantiate. Regarding some of the clerical positions listed, he said, "We may find that those individuals simply found it difficult to have anybody apply for that kind of work ... - the labor pool being what it was at that time."

REPRESENTATIVE SEATON responded that if the proposed bill is passed, what the labor pool is at the time, and which jobs are on the list, will be locked in through 2013. He relayed that someone retired and rehired may occupy that job for a long time, while there may be a new labor pool that is willing and eager to have the job.

[9:10:06 AM](#)

NIKKI NEAL, Director, Division of Personnel & Labor Relations, Department of Administration, in response to a question from Representative Wilson, said there are approximately 15,000 employees in the executive branch.

REPRESENTATIVE WILSON remarked that there are 71 people on a list of those rehired under House Bill 161, which, out of 15,000 employees, is not bad. She directed attention to [page 8] of the Alaska Legislative Report, entitled, "Number of Months Retired Rehired under [House Bill 161] for participating PERS employers," and offered her understanding that of that 71, only four were retired one to six months before being rehired. She said she is not as concerned about that, because most of the retirees were retired much longer than that before being rehired.

[9:12:47 AM](#)

MS. NEAL, in response to a question from Representative Johnson, said regulations and collective bargaining agreements allow departments to recruit departmentally or for state employees only. Regarding HB 157, she pointed out that the Division of Personnel does not allow individuals to be rehired as retirees through only a departmental or statewide recruitment; an open competitive recruitment must be conducted.

[9:14:14 AM](#)

MS. NEAL, in response to a question from Representative Seaton regarding the issue of five or more qualified applicants, said it is not enough just to have fewer than five applicants; the employer must illustrate the reasons why the other applicants do not have the skills necessary to perform the work. She said she is the one who personally signs off on those approvals, and "they're very few and far between." The majority of retirees working today were not recently appointed, she noted.

[9:15:24 AM](#)

BARB ANGAIK, President, National Education Association-Alaska ("NEA-Alaska"), said she would speak to issues in HB 157 that are related to employees of the Teachers' Retirement System (TRS). She stated that the original intent of bill - to address the issue of shortfalls in filling hard-to-fill positions - was good. Unfortunately, she said, the bill does not provide a solution and is, in fact, problematic. The categories of hard-to-fill positions were broadly interpreted by school districts. For example, the term "hard-to-fill teacher" was [interpreted] in such a broad manner that in some districts, any teacher in a teaching position who wished to be rehired after retiring was allowed to be, regardless of whether or not the position was hard to fill, because the district, as a whole, could show that it was having trouble filling teaching positions.

MS. ANGAIK, in another example, said in at least one school district the term administrator was used in a broad term to include the superintendent; therefore, there was no serious attempt made to recruit for a superintendent, since there had been an ongoing problem of trying to fill principal positions, and the two categories were considered administrators.

MS. ANGAIK said one problem in hiring retirees into teaching positions has to do with the issue of wanting the "best and brightest." Teachers who are just starting out do not have the opportunity to develop their craft and become excellent educators if the system continues to rehire the same teachers repeatedly. She continued as follows:

Some of the people who are rehired retirees are our members; but I think they would agree that the long-term impact of this really affects how effective we can be in our schools in working with Alaska's children. So, for us, it's important to take a look at whether this is really a solution.

[9:18:46 AM](#)

MS. ANGAIK related that a superintendent told her not long ago that even if the proposed legislation passes and the sunset is moved further out, he probably would recommend to his school board that it not participate, because he does not think "that it's the fix that we need," and he sees it as exacerbating already existing recruitment and retention problems.

REPRESENTATIVE GRUENBERG opined that the bill presents a difficult policy issue. He said there are a lot of Baby Boomers with a wealth of experience and a younger generation that needs to build for the future, and he said he thinks society has to protect both. He asked everyone to consider the issue more broadly. He asked for Ms. Angaiak's advice regarding how to help both generations.

[9:21:25 AM](#)

MS. ANGAIK responded that it is problematic when retirees draw a retirement income while filling a position that could be filled by someone who would be contributing to the system. She said she has heard many concerns expressed about the funding of the state's retirement system, and "this only causes it to be worse."

[9:22:18 AM](#)

REPRESENTATIVE GATTO questioned if there is a point at which the state would be better off paying off all the retiree debt and "not taking on any more," or whether the state should maintain that the system will go on forever as long as people are hired "at the front end" to help pay the people "at the back end."

MS. ANGAIK indicated that the latter system - in which new hires come into the system and make a contribution, while those retiring are able to collect retirement - has worked. She said that system is most beneficial to the children of Alaska. She emphasized the importance of bringing people with the best and current knowledge into the system. Regarding her own peer group, Ms. Angaiak stated, "It's a tough battle to stay ... up on what we need to know to really offer the very best." She concluded, "The funding of the retirement system is tied to this, certainly, but the most important thing to us is, 'How are we going to educate our kids in the very best way we can?'"

REPRESENTATIVE GATTO said this is a question about money. He said the situation reminds him of the social security system, which must acquire new people in order to pay those who retire, but has an enormous unfunded liability. He questioned if that is what is being created through TRS.

MS. ANGAIK expressed her belief that the state has system which needs work, but which can support a retirement for its public employees in order to draw people to public service.

[CHAIR LYNN passed the gavel to Vice Chair Seaton.]

9:26:43 AM

DON ETHERIDGE, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), related that during his past 25 years sitting at the negotiating table for the labor, trades, and crafts group, the message was hammered in that "we need to lower the wages to middle ground." He stated, "I think we're there. That's why we're having problems with recruiting and retention. We've reached middle ground, and we're right in the ball park with everybody else, so there's nothing extra to show the people who we need to stay here." He said AFL-CIO's concern is that by exempting positions just because they are hard to fill, the consequence may be that there will be no classified positions left.

MR. BENSON, regarding the issue of retirement, said the state is using PERS and TRS to fund the shortfall of the wages. He warned that that "will hurt the retirement system even worse than it already is now." He said there are people who cannot afford to work because wages are not enough, but if they retire and collect retirement and get rehired to collect wages, then they can afford "to stay here." Mr. Benson said he does not believe that is right.

9:28:55 AM

REPRESENTATIVE PETERSEN asked Mr. Benson if he thinks the fact that the State of Alaska does not offer a defined benefit system [to any employee hired after June 30, 2006,] is hurting the recruitment effort.

MR. ETHERIDGE answered yes. He said he knows for a fact that has caused problems. Many engineer positions and administrative office positions in the harbor system have been vacated for that precise reason, he said.

9:29:51 AM

MR. ETHERIDGE, in response to Representative Gatto, said as yet no study has been done to show recruitment and retention trends, but he said he has requested that one be conducted. He said a study would make it easier for "us" to demonstrate the problem. He added, "And to also look at the cost to government having to retrain every time we have a problem with that retention and recruitment effort." In response to a follow-up question, he

affirmed that "in some areas" the state ends up hiring less qualified people because of the existing recruitment and retention problems. He said the study would have to be done to determine the percentage of jobs affected.

[9:31:25 AM](#)

VICE CHAIR SEATON reminded everyone that retire/rehire legislation originally passed when the state was still under [a defined benefit system]; therefore, "this wasn't coincident with the new retirement system when we worked on that."

[9:31:37 AM](#)

HANNAH RAMISKEY, Member, Ketchikan Charter School Board, told the committee that the Ketchikan Charter School has a core knowledge curriculum and an 80 percent or higher assessment on all its students. She mentioned [a former] superintendent who was a curriculum director and reading specialist, had accepted knowledge in the curriculum, and was young. She stated, "He did not retire because he wanted to double dip; he retired because the school board chose to let him go to hire someone with a different educational philosophy." Mr. Martin is the new administrator whom Ms. Ramiskey said 100 percent of the staff in the school support. The man has the knowledge and experience to make the charter school successful, she opined.

MS. RAMISKEY talked about the importance of hiring the best people to educate the students, and she expressed her concern regarding the testimony she has heard thus far. She continued as follows:

First of all, the Ketchikan School District does pay Mr. Martin's retirement benefits to the state; he just doesn't get them. So, the money's going in; he does not get them. He is more experienced and yet less paid than most principals, because he comes in at an entry level elementary school principal's position and he does not collect retirement benefits.

[9:35:03 AM](#)

MS. RAMISKEY talked about a teacher who retired because her husband had cancer, and who was subsequently rehired to run the school's reading program after her husband died. She continued:

There's no one else in the City or island of Ketchikan who can replace these people or come close. They do not have their experience; they do not have their training.

The last few principals hired in Ketchikan have come from somewhere else. And I don't know that Ketchikan has that [emphasis on "that"] many smart, well-educated people that we can afford to say to these people, "We don't want you in our community as a part of our base; we can't reuse your education and your knowledge; we are going to insist that we hire someone else who may not be able to fill the bill, but at least we're bringing in someone new."

MS. RAMISKEY asked the legislature to think about the children involved. She mentioned No Child Left Behind, and stated her concern that if there are people using the system in a way that does not benefit the state or school children, then that issue needs to be addressed. She said there are many charter schools in Alaska that have either retired principals or retired superintendents "at their core," and whose curriculums are sometimes different from other curriculums in the district. She said some people say they would like to work for the charter school, but they do not have the belief in the school, and without that belief, the school would not be successful. She asked the committee to take that into consideration when making decisions about money and numbers. Ms. Ramiskey restated her concern for the children.

VICE CHAIR SEATON noted:

We're only talking about people that wanted to be rehired that want to continue to collect their retirement while being reemployed. They could go back into the system and earn further years in the system as a regular employee. So, all options are not off the table if ... this goes away.

[9:38:41 AM](#)

REPRESENTATIVE GRUENBERG observed that part of the problem with the proposed legislation is that it is an amalgamation of at least two bills: one dealing with exempt service, and the other dealing with retired/rehired service. Currently the discussion pertains to the retired/rehired portion of the bill - the second part of HB 157 - which is also an amalgamation because it

includes people working for state and people working for local governments. Furthermore, the category of people working for local governments is an amalgamation because it includes those working as teachers under TRS and those working in other administrative capacities under PERS. He pointed out that to this point, Ms. Ramiskey and Ms. Angaiak were the only people to have testified about local teacher issues. Ms. Angaiak talked about it from the employees' and union's point of view, while Ms. Ramiskey is discussing the issue from the point of view of the parents. Representative Gruenberg concluded, "As the legislature continues to consider this and related issues, it may be helpful for us to break them out analytically in the manner I've outlined, because some of the policy considerations may be somewhat different."

[9:40:37 AM](#)

HARRY MARTIN, Principal, Ketchikan Charter School, testified as follows:

The state statute gives the charter schools the opportunity to come up with their own curriculum and then to find people who support that curriculum to be hired for that school.

In this case we have our own reading program. We have a trainer who is trained in that program, who did, and still continues to do in some of the schools here, training for teachers that buy into that particular philosophy and that particular method of teaching of teaching reading.

She is back in the charter school doing that for the charter school curriculum, because they have completely bought into that. She is the only one that is a certified trainer for this particular program. She does a tremendous job with the people reading, and as Ms. Ramiskey pointed out, she comes in at the bottom salary schedule according to our district arrangements and stays on that bottom level, so it is an economic plus for the district. And, as part of the state TRS agreement, the employer does pay TRS for the employer, however, she does not contribute to that.

So, just keep in mind that for charter schools, to whom you've given the opportunity to come up with

their own curriculum and hire the people best for that, that this is certainly one of the tools that we use in order to do that and provide the best education for those kids that go to our charter school.

[VICE CHAIR SEATON returned the gavel to Chair Lynn.]

[9:43:03 AM](#)

KEVIN BROOKS, Deputy Commissioner, Department of Administration (DOA), noted that the retire/rehire provisions in statute have been in place for some years now. The proposed legislation is the second proposal for extension, and would extend the sunset date by four years. Mr. Brooks said the nature of the retire/rehire practice has changed over the years. It used to occur that a person would retire on Friday and be rehired and back at work on Monday, which caused hard feelings because people thought that blocked promotional opportunities. However, from the state's perspective, Mr. Brooks said, "It has really become much more refined." He offered his understanding that there are less than 30 employees currently employed under this status.

MR. BROOKS said the requirement to prove recruitment difficulty by showing there were five or fewer candidates after weeks of recruitment, along with the carrying out of a knowledge transfer plan, has served the state well.

[9:45:36 AM](#)

MR. BROOKS stated that an employer still has to pay the past service cost on a retiree. A person coming in is not accruing additional service, is not "adding normal costs," and the employer is "paying the delta between the normal cost and the 22 percent that is set in statute to pay down that unfunded liability." Mr. Brooks said there is a zero fiscal note; there would be no financial impact as a result of the proposed legislation. He added, "In fact, you have taken measures in previous bills to make sure that it's not having a negative impact on the unfunded liability." He said he wants to clarify for the committee that that is also a concern of the department and he thinks the concern has been adequately addressed.

[9:47:00 AM](#)

REPRESENTATIVE SEATON said he would like to know what the interaction is "with this and the hiring freeze that's currently in place."

[9:47:30 AM](#)

MR. BROOKS, in response to Representative Gruenberg, clarified that his previous comment regarding there being no impact to the unfunded liability was made in regard to both PERS and TRS.

[9:47:48 AM](#)

CHAIR LYNN announced that HB 157 was held over.

HCR 11-SEXUAL ASSAULT AWARENESS MONTH

[9:47:50 AM](#)

CHAIR LYNN announced that the next order of business was HOUSE CONCURRENT RESOLUTION NO. 11, Proclaiming the month of April 2009 to be Sexual Assault Awareness Month.

[9:48:16 AM](#)

CRYSTAL KOENEMAN, Staff, Representative Anna Fairclough, Alaska State Legislature, presented HCR 11 on behalf of Representative Fairclough, prime sponsor. She said this is the third year that the resolution has been presented. In 2007, Representative Meyer carried the resolution, and in 2008, Representative Fairclough carried the resolution. She said the purpose of the bill is to "bring awareness to sexual assault."

[9:49:15 AM](#)

CHAIR LYNN closed public testimony.

[9:49:22 AM](#)

REPRESENTATIVE JOHNSON moved to report HCR 11 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCR 11 was reported out of the House State Affairs Standing Committee.

HJR 3-CONST.AM:NO GAMING WITHOUT VOTER APPROVAL

[9:50:04 AM](#)

CHAIR LYNN announced that the next order of business was HOUSE JOINT RESOLUTION NO. 3, Proposing an amendment to the Constitution of the State of Alaska requiring an affirmative vote of the people before any form of gambling for profit may be authorized in Alaska and setting other requirements.

The committee took an at-ease from [9:50:23 AM](#) to [9:52:09 AM](#).

[9:52:16 AM](#)

CHAIR LYNN, after ascertaining that there was no one to testify, closed public testimony.

[9:52:45 AM](#)

REPRESENTATIVE GRUENBERG moved to report HJR 3 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HJR 3 was reported out of the House State Affairs Standing Committee.

#### HB 115-PERMANENT ABSENTEE VOTING

CHAIR LYNN announced that the last order of business was HOUSE BILL NO. 115, "An Act establishing a permanent absentee voting option for qualified voters; and providing for an effective date."

[9:53:25 AM](#)

REPRESENTATIVE JOHNSON said he does not want [HB 115] to be held over and subsequently listed as heard and held for the next hearing. He explained that he wants to "properly notice" the bill so that the public will have an adequate opportunity to come forward and testify. He opined, "I don't think this is one of those things that we want to have brought up under bills previously heard, without plenty of notification."

[9:53:54 AM](#)

REPRESENTATIVE GATTO concurred.

CHAIR LYNN said the committee would hear a quick introduction to HB 115 and, before its next hearing, would "notice the bill."

[9:54:09 AM](#)

REPRESENTATIVE BOB BUCH, Alaska State Legislature, as prime sponsor, introduced HB 115. He said the bill would give voters the option to register for permanent absentee voting status. An absentee ballot would automatically be sent to any voter choosing that option. He commented on the convenience of receiving a ballot at home and voting no matter where a person is. Representative Buch reported that permanent absentee voting is gaining popularity nationwide; currently, eight states have it and 21 other states "have some version of it." The system in Oregon is the most commonly known and has been in place since the '80s. Officials in Oregon were consulted before drafting HB 115.

REPRESENTATIVE BUCH stated that HB 115 would not make any changes to statutes or procedures that govern the absentee voting process. The proposed bill only applies to state elections - not local elections. Alaska voters would still have the option of requesting a one-time absentee ballot or vote at the polls. The proposed legislation would take affect in 2010. Representative Buch predicted those whom the bill would benefit would include: soldiers, miners, North Slope workers, and the elder population. The bill would streamline the absentee voting process for the Division of Elections by cutting down on paperwork and administrative costs, and that entity supports the proposed legislation.

[9:57:10 AM](#)

REPRESENTATIVE BUCH described the [permanent] absentee ballot application. He emphasized that the change made by the bill would be minimal and offer convenience.

[9:57:49 AM](#)

REPRESENTATIVE PETERSEN said that based on the comments he has received from his constituents, he sees the need for the option of permanent absentee voting.

[9:59:07 AM](#)

LARRY BENSON, American Postal Workers Union, in response to Representative Lynn, expressed his support of HB 115.

[9:59:16 AM](#)

DORSEY ROLAND, National Association of Letter Carriers, in response to Representative Lynn, expressed his support of HB 115.

[9:59:42 AM](#)

REPRESENTATIVE SEATON said he wants Representative Buch to address the issue of people moving out of state next time the bill is heard.

[10:00:30 AM](#)

REPRESENTATIVE GATTO said he would like the bill sponsor to express his belief regarding whether election day should last "only a single day."

[10:01:01 AM](#)

REPRESENTATIVE JOHNSON said he would like the answer regarding voters moving to include discussion of how to monitor those changing districts.

[10:01:12 AM](#)

REPRESENTATIVE WILSON said she wants to know how the state purges records when someone dies. She related that in some states where the record is not purged frequently, some people have used the names of deceased voters as a means by which to vote.

[10:01:58 AM](#)

CHAIR LYNN announced that HB 115 was held over.

[10:02:03 AM](#)

CHAIR LYNN discussed the upcoming calendar.

[10:02:26 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:02 a.m.