

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

January 28, 2010  
8:07 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

**COMMITTEE CALENDAR**

HOUSE BILL NO. 53

"An Act relating to eligibility for membership on state boards, commissions, and authorities."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 53

SHORT TITLE: CANDIDATES INELIGIBLE FOR BDS/COMMISSIONS

SPONSOR(S): REPRESENTATIVE(S) DOOGAN

01/20/09	(H)	PREFILE RELEASED 1/9/09
01/20/09	(H)	READ THE FIRST TIME - REFERRALS
01/20/09	(H)	STA, JUD
01/28/10	(H)	STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

PRIYA KEANE, Staff  
Representative Mike Doogan  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 53 on behalf of Representative Doogan, prime sponsor.

REPRESENTATIVE MIKE DOOGAN  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, related the reason behind the bill.

JASON HOOLEY, Director  
Boards and Commissions  
Office of the Governor  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 53.

#### **ACTION NARRATIVE**

[8:07:23 AM](#)

**CHAIR BOB LYNN** called the House State Affairs Standing Committee meeting to order at 8:07 a.m. Representatives Seaton, Gatto, Johnson, Wilson, Gruenberg, Petersen, and Lynn were present at the call to order.

#### **HB 53-CANDIDATES INELIGIBLE FOR BDS/COMMISSIONS**

[8:08:17 AM](#)

CHAIR LYNN announced that the only order of business was HOUSE BILL NO. 53, "An Act relating to eligibility for membership on state boards, commissions, and authorities."

[8:09:05 AM](#)

CHAIR LYNN made a brief remark concerning the submission of bills to the committee chair.

[8:10:07 AM](#)

PRIYA KEANE, Staff, Representative Mike Doogan, Alaska State Legislature, presented HB 53 on behalf of Representative Doogan, prime sponsor. She said the proposed legislation would require members of boards and commissions to resign their memberships before filing for office. Furthermore, the bill would disallow those who have run for offices from becoming members of boards, commissions, or authorities for a full calendar year.

MS. KEANE said under current law, a number of people must resign their positions if they want to run for offices, including:

state employees and members of boards and commissions that receive a salary for being on a board or commission. Of the 123 boards, commissions, and authorities in state government, 22 are affected by this provision. That equates to approximately 176 people. Ms. Keane said HB 53 would extend the provision to the remaining 101 boards and commissions, which would affect approximately 984 members of boards and commissions if this were added.

[8:11:19 AM](#)

MS. KEANE imparted that the bill is broken into three sections. The first section would amend AS 39.05.100 to stipulate that a person would not be eligible for appointment to a state board, commission, or authority if that person sought nomination or became a candidate for elective or federal office during the preceding year. An exception is provided for positions where holding a particular elective, state, or federal office is required by law for appointment. Ms. Keane pointed out that that exception would encompass all legislators and the boards on which they serve. Section 2 of the bill would require that members of board, commissions, and authorities that are not compensated must resign from their position when they seek nomination or become a candidate for state or national elective office. Section 3 of the bill would provide that Section 1 would only apply to candidates who run for office or file for candidacy after the effective date of the Act, which would be 90 days after it is signed into law.

[8:12:25 AM](#)

CHAIR LYNN asked Ms. Keane if the bill would affect him if he were to run for office in a local municipality, for the State of Alaska, or for U.S. Congress.

MS. KEANE confirmed that is correct.

CHAIR LYNN asked what prompted this proposed legislation.

[8:13:19 AM](#)

REPRESENTATIVE MIKE DOOGAN, Alaska State Legislature, as prime sponsor, related that when someone was "put up for a commission" who also filed for legislative office, that is when he began considering this bill. He explained that there could be the appearance of wrong-doing, even where there is none, because

some boards and commissions have authority over that which they oversee.

[8:16:19 AM](#)

REPRESENTATIVE DOOGAN, in response to Chair Lynn, confirmed that he thinks HB 53 is a proactive bill. He said he thinks it is better to prevent a problematic situation.

CHAIR LYNN indicated that every member of the legislature is a member of some profession that might be benefitted by their position in the legislature.

REPRESENTATIVE DOOGAN pointed out that being a member of a board or commission goes further toward being able to "one way or another help people out." He offered an example.

CHAIR LYNN spoke of not being able to collect contributions during session.

[8:19:37 AM](#)

REPRESENTATIVE P. WILSON said she serves on two commissions: one is a federal commission that requires a legislator to be a member; the other is an education organization that wanted her to serve because she is the chair of the House Education Standing Committee. She asked if the education organization would need to make changes if HB 53 passes.

[8:20:33 AM](#)

REPRESENTATIVE DOOGAN offered his understanding that legislators are exempt and would continue to be exempt under HB 53. He said a legislator's actions are scrutinized, which is not the case with "a group that numbers more than a 1,000." He stated, "So, the idea that a legislator's going to be able to use that kind of a position to get an advantage is, frankly, just not really well founded, I think, in the real world."

REPRESENTATIVE P. WILSON asked then why someone who is running for the legislature is not exempt if a legislator does not have to resign to run for a state board, commission, or authority.

[8:22:02 AM](#)

MS. KEANE noted that AS 39.25.160(b) lists those employees who currently have to resign any position held in state service when

seeking nomination or becoming a candidate for state or national elective political office, while a member of the legislature is listed as one of the exemptions in paragraph (3).

REPRESENTATIVE DOOGAN explained that the exemption applies to a legislator's status.

[8:24:41 AM](#)

REPRESENTATIVE P. WILSON said she understands the idea behind the exemption of a standing legislator, but questions why a person running to be a legislator is not exempt. She asked if that is constitutional.

REPRESENTATIVE DOOGAN answered that he has been told there is no constitutional problem.

[8:26:15 AM](#)

REPRESENTATIVE DOOGAN, in response to Chair Lynn, said he thinks the director of Boards and Commissions is always having to fill positions, for many reasons. He said he does not think [HB 53] would increase [the number of times positions have to be filled].

CHAIR LYNN opined that serving on a board or commission is a good way to earn public policy experience.

[8:27:59 AM](#)

REPRESENTATIVE JOHNSON asked if those serving on boards and commissions fall under the same ethics requirements as legislators.

REPRESENTATIVE DOOGAN said he does not know.

REPRESENTATIVE JOHNSON suggested that may make a difference in Representative Wilson's concern. He then asked if the Alaska State Legislature has the power to force someone to resign who is running for a federal office.

REPRESENTATIVE DOOGAN offered his understanding that since the legislature is setting the rules for board and commission membership, rather than for membership for a particular office, it is allowable to tell someone who is filing for a federal seat that he/she cannot be on a board or commission.

REPRESENTATIVE JOHNSON referred to language [on page 1, lines 5-7], which states that a person "would not be eligible for appointment to a state board, commission, or authority if the person sought nomination or became a candidate for elective state or federal office during the preceding year". He questioned whether that may deny someone the opportunity to serve, and he asked the bill sponsor how big an issue that language is.

[8:31:19 AM](#)

REPRESENTATIVE DOOGAN responded as follows:

REPRESENTATIVE DOOGAN explained that the provision is included to address a situation in which a legislator, who is a member of a board or commission, resigns his/her position on the board or commission in order to run for state or federal office. The situation could be one in which during the course of the campaign, the legislator may or may not receive a campaign contribution by someone who is affected by the board or commission. Upon completion of the campaign, the legislator or elected official could return to his/her position on the commission or board and help or not help someone in the profession [related to the board or commission on which he/she sat]. Therefore, the language on page 1, lines 5-7, provides a sort of a one-year, cooling-off period.

REPRESENTATIVE JOHNSON explained his concern is filling board positions. He said very few people run over and over again, but the person who runs once and does not get an appointment may still have a desire to serve. He said he does not want to curtail that knowledge pool.

[8:33:44 AM](#)

REPRESENTATIVE DOOGAN, in response to Chair Lynn, said the bill is strictly about memberships on [state] boards and commissions.

[8:34:09 AM](#)

REPRESENTATIVE GATTO named two board positions on which he served before election, one of which was a paid position on a school board. He said when he ran for office, he kept his position on the school board for as long as possible. He said he knew that as a state legislator he could favor a school board. He said the non-paying board on which he served was with the Parks & Recreation Division.

8:35:48 AM

MS. KEANE responded that the proposed legislation applies only to state boards, commissions, and authorities; it would not require a person on a school board seat to give up that seat in order to run for office. Ms. Keane offered her understanding that the Parks & Recreation board to which Representative Gatto referred is state affiliated.

8:36:13 AM

REPRESENTATIVE SEATON said he thinks it is the sitting legislator that has the most influence, not the person running for office who does not already have a seat. He said it seems as though the bill would protect incumbents.

8:38:09 AM

REPRESENTATIVE DOOGAN responded that legislators and members of the public who serve on the same board have equal power, but it is not desirable to allow people to take whatever authority they might have and try to "parlay it into a bunch of money to run for higher office."

8:40:56 AM

REPRESENTATIVE SEATON interpreted that the bill sponsor thinks there is less perceived ability for a legislator who is a member of a board or commission to leverage money from the board or commission than someone who is not a legislator who is a member of a board or commission.

REPRESENTATIVE DOOGAN answered that that is not correct. He offered an example to clarify. He said people will not make the decision whether or not to contribute to an incumbent's campaign based on his/her membership on a board, but will make the decision based on what that legislator has accomplished so far. Conversely, he said a person on a board or commission who is running for the legislature may raise money based on how he/she has helped the voters in the past and will, as a member of a board or commission, help the voters in the future. He spoke of expecting money for favors done.

REPRESENTATIVE SEATON, regarding Representative Wilson's previously stated concern, asked for a legal opinion regarding

whether it is okay to discriminate between the incumbent and non-incumbent.

REPRESENTATIVE DOOGAN said he would get that legal opinion.

[8:44:37 AM](#)

REPRESENTATIVE PETERSEN said there are a lot of small towns and villages in Alaska and approximately 900 people on the boards who represent different parts of the state. He related that having come from a small town in Iowa, he knows how hard it is to get people to serve on boards. He said there is a tendency for a small number of people within a small community to end up serving on most all of the boards. He expressed concern that the proposed legislation would make it more difficult to fill these positions.

REPRESENTATIVE DOOGAN said he knows it is not easy to fill positions. However, he said there are already people who have to remove themselves from compensated positions on state boards or commissions before running for office, and he does not think there will be a significant increase in those having to remove themselves from [non-compensated] board or commission positions as a result of HB 53. He emphasized that his concern is regarding the risk to the public, and he stated that the only question is whether "we" want to have a system that is above reproach.

[8:48:57 AM](#)

CHAIR LYNN, in response to Representative Johnson, said the committee members will decide what action to take on the proposed legislation today. He noted that the legal opinion requested would take time to get.

REPRESENTATIVE JOHNSON said he wants to know which boards and commissions fall within "the executive ethics branch."

[8:50:16 AM](#)

REPRESENTATIVE SEATON directed attention to the following three members listed on page 4 of 4, from a table showing compensation for members of Alaska boards, commissions, and related organizations, dated January 2008, [included in the committee packet]: Seismic Hazards Safety Commission, Suicide Prevention Council, and Wood-Tikchik State Park Management Council. He said he is trying to figure out how having a position with one

of those entities would give a person any leverage power in "soliciting funds from someone."

REPRESENTATIVE DOOGAN said a person who works on boards or commissions often has more exposure to the public, which can be an advantage in running for office. The concern, however, is whether the person running for office who has had that exposure is in a position to "advantage other people with the understanding that those other people are going to give him money." He said he considered all the boards and commissions when creating HB 53. He indicated that while some people may have more advantages than others, he did not know how to "draw that line."

REPRESENTATIVE SEATON said [those serving on boards or commissions] do have an advantage through their public exposure. He said he thinks Representative Doogan is trying to find the balance.

REPRESENTATIVE DOOGAN said that is correct. He reiterated his desire to prevent unfair advantage and assist the state in conducting its business in the best way possible.

CHAIR LYNN observed that every candidate has advantages and disadvantages from his/her life experience and the public "sorts it out."

[8:58:18 AM](#)

JASON HOOLEY, Director, Boards and Commissions, Office of the Governor, said he would do his best to answer questions from the committee. He said he would not be speaking in support of or in opposition to the bill, even though the proposed legislation could impact his work by limiting the pool of candidates who are able to serve the state in a volunteer capacity. Mr. Hooley noted that the State of Alaska currently has over 120 boards and commissions, which represents 1,200-1,300 seats for which the governor works annually to make approximately 300 reappointments. He said he does not know how many of those people are planning to run for office in the upcoming year, but he does know there are a couple legislators serving in a nonlegislative capacity on a board who would be affected by HB 53. For example, Senator Fred Dyson is serving as a public member on the Board of Marine Pilots.

Mr. Hooley said there is always some level of vacancy on board rosters, and it is his job to recruit and retain people to serve

on boards. He noted that he has only been on the job for eight months. In response to Representative Johnson's question, he related that each board has different requirements of its members. Some members, after appointment, are not required to fill out financial disclosures or similar forms, while others are. Some members are even required to be confirmed by the legislature. He said he could provide a list of those requirements to the committee.

[9:01:04 AM](#)

MR. HOOLEY, in response to Representative Gatto, said it is difficult to conjecture the exact impact of HB 53. He said the bill sponsor's office has said the number of those affected would be from 800-900; however, that does not include those who may be planning to apply for a board and run for office. Mr. Hooley related that when "the Legislative Ethics Act" was strengthened in recent years and additional financial disclosure laws were required, some members who thought the new requirement was too onerous were lost.

[9:02:27 AM](#)

REPRESENTATIVE GATTO questioned whether a legislator could reduce the number of people who could run against him/her in an election by supporting HB 53.

MR. HOOLEY responded that he thinks the proposed legislation would not restrict who may run for office, but would restrict the candidates' activities. He added that he does not want to speak for the bill sponsor.

[9:03:11 AM](#)

CHAIR LYNN asked if Mr. Hooley knows of anyone running for office this year who is currently on a board or commission.

MR. HOOLEY replied that he has not viewed the Division of Elections' candidate list against the department's rolls, but could do so and bring that information back to the committee and bill sponsor.

CHAIR LYNN remarked that it is unknown who will file in the future.

[9:03:59 AM](#)

MR. HOOLEY, in response to Representative Johnson, said regional advisory councils are not state boards, but the Board of Fisheries and the Board of Game are state entities. He commented that different boards draw in varying levels of interest.

[9:04:57 AM](#)

REPRESENTATIVE SEATON said he would like clarification regarding the distinction between a candidate for state office and one for a political subdivision of the state.

MS. KEANE said she would provide that information.

[9:07:55 AM](#)

CHAIR LYNN, after ascertaining that there was no one else who wished to testify, closed public testimony. He offered to hold the bill depending on the wishes of the committee.

[9:09:12 AM](#)

REPRESENTATIVE JOHNSON recommended the committee hold the bill.

[HB 53 was held over.]

[9:09:43 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:09 a.m.