

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 18, 2010

8:06 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Peggy Wilson

COMMITTEE CALENDAR

HOUSE BILL NO. 394

"An Act relating to the data processing and telecommunications activities of the state; relating to the security of certain data processing records of the executive branch and making the Department of Administration responsible for the security of those records; and making the commissioner of administration the chief information officer."

- MOVED CSHB 394(STA) OUT OF COMMITTEE

HOUSE BILL NO. 53

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

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 394

SHORT TITLE: EXECUTIVE BRANCH RECORDS SECURITY

SPONSOR(S): REPRESENTATIVE(S) KELLER

02/23/10	(H)	READ THE FIRST TIME - REFERRALS
02/23/10	(H)	STA, FIN
03/18/10	(H)	STA AT 8:00 AM CAPITOL 106

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
01/28/10	(H)	Heard & Held
01/28/10	(H)	MINUTE(STA)
03/18/10	(H)	STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE WES KELLER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As sponsor, introduced HB 394.

JIM POUND, Staff
Representative Wes Keller
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information during the hearing on HB 394 on behalf of Representative Keller, sponsor.

RACHAEL PETRO, Deputy Commissioner
Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Provided comments during the hearing on HB 394.

KEVIN BROOKS, Deputy Commissioner
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 394.

CLYDE "ED" SNIFFEN, JR., Senior Assistant Attorney General
Commercial/Fair Business Section
Civil Division (Anchorage)
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 394.

REPRESENTATIVE MIKE DOOGAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Addressed HB 53 as sponsor.

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

POSITION STATEMENT: Answered questions during the hearing on HB 53 on behalf of Representative Doogan, sponsor.

HOLLY HILL, Executive Director
Alaska Public Offices Commission (APOC)
Anchorage, Alaska

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

ACTION NARRATIVE

[8:06:26 AM](#)

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at 8:06 a.m. Representatives Seaton, Gatto, Petersen, and Lynn were present at the call to order. Representatives Johnson and Gruenberg arrived as the meeting was in progress.

HB 394-EXECUTIVE BRANCH RECORDS SECURITY

[8:07:12 AM](#)

CHAIR LYNN announced that the first order of business was HOUSE BILL NO. 394, "An Act relating to the data processing and telecommunications activities of the state; relating to the security of certain data processing records of the executive branch and making the Department of Administration responsible for the security of those records; and making the commissioner of administration the chief information officer."

[8:07:28 AM](#)

REPRESENTATIVE WES KELLER, Alaska State Legislature, as sponsor, introduced HB 394. He said the ability to use computers to exchange information and cross distances and time has changed the way people live. He stated that the primary goal of HB 394 is to ensure that state records do not get released inappropriately. The bill would put together a management system by which to define the standards being used for the security of various records and the exchange of those records.

He mentioned some departments and the types of records they keep. He offered his understanding that \$400 million was recently spent in the Department of Education to expand a database which currently tracks each student to also track the education of each student. He said the bill does not propose to define each individual database, but proposes a situation in which each department would retain its own information technology (IT) system and a central information officer in the state would be added.

8:14:36 AM

REPRESENTATIVE KELLER, in response to Chair Lynn, said the state's data processors tell him there are "very sophisticated hits on the information in the state daily." In response to a follow-up question, he said there are no provisions in the bill for backup of data. He explained that it is difficult to write a bill regarding technology, because technology changes so fast.

CHAIR LYNN clarified that he wants to know if there will be a requirement for records to be backed up, without naming the method by which that would be done. He talked about the vulnerability of paper records to fires.

8:17:14 AM

REPRESENTATIVE KELLER responded that the point made by Chair Lynn is exactly why he introduced this bill. He indicated that backup standards should protect records, but said HB 394 does not specify how that must be done. He clarified that the proposed legislation would result in a starting system upon which other efficiencies could later be initiated.

8:18:21 AM

REPRESENTATIVE KELLER reminded the committee that in 2002, there was a security leak, and the following information of some state workers was leaked: name, social security number, and date of birth. Specifically, a contractor with the state lost the information. He offered further details.

REPRESENTATIVE KELLER said HB 394 would designate the commissioner of the Department of Administration as the person to establish protocols and standards related to security. He said the Department of Administration seemed logical to him, but he said he does not care which department, as long as a structure is in place.

[8:21:32 AM](#)

JIM POUND, Staff, Representative Wes Keller, Alaska State Legislature, on behalf of Representative Keller, sponsor of HB 394, highlighted Section 4, beginning on page 3, line 28, as being the most important section of the bill. Everything prior to Section 4, he explained, is existing language in statute. Mr. Pound said security breaches in computer technology are a worldwide problem. He said currently each department has its own security measures for records, but the proposed legislation would "establish a single plan for security in the state of Alaska." He added that whatever the plan is, it will have to be updated frequently to guard against hackers.

[8:23:43 AM](#)

REPRESENTATIVE KELLER remarked that he had no intent in sponsoring HB 394 to demean the standards that are currently in place in the various state departments.

[8:24:08 AM](#)

REPRESENTATIVE GATTO directed attention to language in the bill title, on page 1, line 3, which read "making the Department of Administration responsible". Next, he pointed to language in the fiscal note prepared by Guy Bell, the assistant commissioner of the Department of Labor and Workforce Development, who writes that the proposed legislation "places overall authority". He then highlighted that the fiscal note prepared by Anna Kim, the director of Administrative Services, says that [HB 394] "allows" the Department of Administration to create regulations. Finally, he pointed out that the sponsor statement read that the HB 394 "assigns" [the department]. He opined that it would be helpful to use the same word, and he questioned whether that word should be "designates."

[8:25:04 AM](#)

REPRESENTATIVE KELLER responded that the only assigning proposed by the bill is that of the chief information officer (CIO), who would not be able to "access ... anyone's ... HIPA record," because that would be illegal.

[8:26:38 AM](#)

REPRESENTATIVE GRUENBERG directed attention to page 4, line 15, which read as follows:

(d) The department shall adopt regulations to implement this section.

REPRESENTATIVE GRUENBERG relayed that Mr. Brooks told him the regulations would be adopted under the Administrative Procedures Act, AS 44.62. He then directed attention to language on page 4, line 29, which would set a due date for the first report "on January 1 of the fifth calendar year after this Act takes effect." He opined that five years is a long time to wait for a report. He asked the bill sponsor what he thinks about changing that requirement to the third or fourth year in order to get progress reports sooner.

[8:27:34 AM](#)

REPRESENTATIVE KELLER said he would support that. In response to a follow-up question, he said he would appreciate it if Representative Gruenberg would ask the department for its recommendation regarding when the first report could be expected.

[8:28:30 AM](#)

REPRESENTATIVE SEATON noted that HB 394 is about security of records and proposes that the department is "responsible for the operation and management of automatic data processing resources". He directed attention to language on page 4, beginning on line 21, which read as follows:

(1) "data processing records" means the records that are produced or maintained by the automatic data processing resources and activities of the state agency and that are not being held by the Alaska State Archives;

REPRESENTATIVE SEATON noted that subsection (2), on page 3, beginning on line 3, addresses management of records, which is under existing statutes. He observed that the new language in Section 4 addresses only automatic data processing records, whereas state agencies currently deal with records. He asked if that is the intent of the sponsor.

[8:29:57 AM](#)

REPRESENTATIVE KELLER responded that his intent was "to make the protocol standards structure over all records in the state," and he said he finds the word "automatic" confusing. He said he would like the department to weigh in on that word.

CHAIR LYNN emphasized the urgency of protecting the state's information.

[8:31:23 AM](#)

REPRESENTATIVE SEATON asked for clarification whether that language means that the commissioner will have sole responsibility or there will be designees involved.

REPRESENTATIVE KELLER offered his understanding that there would be a team of designees, but that the responsibility would lie with the commissioner of the Department of Administration.

REPRESENTATIVE SEATON explained that he is trying to figure out if the wording accomplishes the intent. He asked if there are other subsections addressing strictly IT functions or other duties and powers of the commissioner.

REPRESENTATIVE KELLER responded, "I assume it's the comprehensive description of the responsibilities of the Department of Administration, and that's worth checking."

[8:34:29 AM](#)

RACHAEL PETRO, Deputy Commissioner, Department of Administration, stated that HB 394 would affect not only the Department of Administration, but all the departments within the executive branch. She said every department in the executive branch is subject to different federal requirements. For example, the Department of Public Safety manages the criminal justice information system, which has specific FBI policies it must follow, and both the Department of Health & Social Services and the Division of Retirement and Benefits within the Department of Administration must adhere to the Health Insurance Portability and Accountability Act (HIPA). Essentially, she related, departments are concerned that the provision in HB 394 would somehow put them out of compliance with federal laws. For that reason, she said, the administration is not ready to take a position on the proposed legislation, but is very committed to working with Representative Keller to insure that the various requirements are accommodated.

8:36:19 AM

MS. PETRO said she would provide an update of where the administration is regarding the implementation of security procedures and policies on a statewide basis, and how that relates directly to Section 4 of the proposed legislation. She reminded the committee about the passage of House Bill 65 years ago, which was the Personal Information Protection Act (PIPA). That bill, along with the initiatives and efforts that ensued in the Department of Administration and throughout the executive branch provided further impetus to identify information security officers and computer security designees within each executive branch agency, as a means of ensuring that each department has a focus on securing its information system. She stated that essentially, the information security officers and computer security designees within each department provide the basic security infrastructure within each department for ongoing security initiative. She said the information security officers are designated by each department's commissioner.

MS. PETRO stated that security awareness and best practices training is currently under development through a contract with the University of Memphis, and on line training for department information security officers (ISOs) and computer security designees (CSDs) is expected to be available about this time next year. Eventually, all state employees, as well as political subdivisions of the state will be able to avail themselves of this training. Currently, she said, security policies and procedures are in place, but the Security Office of the Enterprise Technology Services Division within the Department of Administration is currently working to update those security policies. The policies, she related, are based on the Information Technology Infrastructure Library (ITIL) standard. She added that ITIL is the industry leader for IT best practices. Ms. Petro stated that these policies will be disseminated through department information security officers, and, at that point, they will be reviewed and discussion may result in policy modification to address conflict with existing department business practice, as well as specific requirements of different departments.

MS. PETRO stated that the next step will be to put auditing in place, to ensure that everyone involved is complying with the security policies. The department is in the process of developing those tools, and will be implementing that process first within the Department of Administration.

8:39:25 AM

MS. PETRO addressed previously stated concerns of the committee. First, regarding Representative Gruenberg's concern about the time frame for reporting, she said she thinks two to three years would be acceptable, given the department's current progress in implementing policies and procedures, which, she added, are being designed to allow each department to modify to fit their business needs. In response to Representative Seaton's previously expressed concern about definitions, Ms. Petro related that the department heard from at least one other department that is also concerned about the definitions. She said the definitions definitely need to be "cleaned up." She noted that in 20 years the state will not be talking about paper documents - all technology will be computerized. She said the department would be happy to work with the bill sponsor regarding the definitions and "how they relate." Ms. Petro offered to answer questions.

8:40:50 AM

CHAIR LYNN asked if there is any language in the bill as it is currently drafted that would cause problems for the department.

MS. PETRO, in response, reiterated that the department would like to work with the bill sponsor and the departments to ensure that there is no problematic language, and would prefer to do so "before the bill is passed."

CHAIR LYNN restated the urgency of passing legislation on this issue.

8:43:13 AM

REPRESENTATIVE GATTO, regarding the fiscal note from Guy Bell, directed attention to the last sentence of the analysis, which read as follows:

The cost to the department's business units of complying with any new policies derived as a result of this legislation is indeterminate.

REPRESENTATIVE GATTO observed that the amount for fiscal year 2011 (FY 11) shows as zero, as if it could be determined. He asked if there is some way to make the fiscal note "reflect more accurately what the cost of this activity will be."

8:44:51 AM

MS. PETRO responded that currently state departments are required to follow statewide security policies, which is the cost of doing business. She said there may be some changes in the future, but "it is part of what we do every day today." She said although there may be future, discreet, specific budget requests "related to the items," she does not anticipate any additional costs associated with the newer, updated policies to come.

REPRESENTATIVE GATTO asked if Ms. Petro believes that "putting all the information in the hands of one department" will enhance or diminish security. He pointed out that if a hacker gets into the system, he/she may get more information in one attempt.

MS. PETRO answered that the proposed legislation would not do anything to consolidate databases that are centered on different departments and divisions of state government. In Section 4, she said, the proposed bill outlines that the Department of Administration, through the CIO, would develop and adopt standards, policies, and procedures. She said current policies are being updated. Regarding security philosophy, Ms. Petro stated that the department subscribes to the view of security in depth. She said there are varying strategies related to IT infrastructures, and she indicated that in-depth strategy is the industry standard.

8:47:22 AM

KEVIN BROOKS, Deputy Commissioner, Department of Administration, stated that it is important to remember that the state has been spending a significant amount of money in the last five years reinforcing its data networks. He said each department is the keeper of its own data, whether paper or digitized. The State Archives has rules regarding how paper documents are stored. He said the words "automatic data processing" were probably put into statute in the 1970s when "punch cards" were still in use. Mr. Brooks said the Department of Administration is trying to secure the state's wide area network, into which all state agencies join. Then those departments have their own local area networks. He said even the legislature is part of the state's wide area network. He said the department is working to secure that infrastructure, but it is a collaborative effort with all the other departments. Regarding the indeterminate fiscal note, he stated, "Responses to real threats in the future could result in ... responses by the state and state agencies that could cost

money, and I think it's indeterminate because it's just really unknown at this time what you might be looking at."

8:49:58 AM

REPRESENTATIVE SEATON directed attention to language on page 4, lines 4-6, which read as follows:

- (b) The department shall
 - (1) develop, implement, and maintain policies to ensure that data processing records are secure from unlawful release;

REPRESENTATIVE SEATON asked if the department is doing that now or if each individual department currently is required to do that, but under HB 394 the Department of Administration would be responsible.

8:50:36 AM

MS. PETRO confirmed that the Department of Administration is doing that now, because the baseline policies that govern the state's wide area network and all departments within the executive branch are dependent upon that network. She explained the reason she had mentioned House Bill 65 previously is because that bill was a direct impetus that helped the Department of Administration organize other departments and ensure that there are information security officers key in each department to ensure that those departments follow the area wide network requirements, as well as their own business requirements.

REPRESENTATIVE SEATON directed attention to the ensuing language on page 4, lines 7-9, which read as follows:

- (2) define the responsibilities for the security of the data processing records of each state agency, communicate the responsibilities to the state agency, and coordinate the responsibilities among state agencies; and

REPRESENTATIVE SEATON asked, "Would that be expanded under this bill beyond what you're doing currently with the wide area network?"

MS. PETRO said she does not think the department's efforts would be expanded beyond what is currently being done.

REPRESENTATIVE SEATON said he presumes the answer would be the same regarding paragraph (3), which read as follows:

(3) establish procedures for maintaining the security of the data processing records and provide training for stage agency personnel to implement the procedures.

REPRESENTATIVE SEATON returned to the term "automatic data processing" in Section 4, and asked, "Do you see that your currently responsibility - what you're doing - is encompassing that, or do you see your current responsibility as larger than that for automatic data processing ... resources?"

MS. PETRO answered that she foresees no expansion of the department's responsibilities under Section 4 of HB 394.

[8:53:40 AM](#)

MS. PETRO, in response to Representative Gruenberg, confirmed that the department would be able to handle a requirement to file a first report in two years.

[8:54:22 AM](#)

REPRESENTATIVE JOHNSON noted that under HB 394, the five years is given as the deadline for the first report only; each subsequent report would be due every two years. He said he wonders if the reason for that is to give the department a chance to put a new system in place.

REPRESENTATIVE GRUENBERG said that is probably the reason, but he wants to the report to be produced sooner.

REPRESENTATIVE JOHNSON asked Ms. Petro if "this" would in any way remove accountability from the department for its own security and place that on the administration.

[8:55:29 AM](#)

MS. PETRO prefaced her answer by saying she is not an attorney. She reiterated that Section 4, as currently written, would not expand the responsibilities of the Department of Administration, which is currently working collaboratively with other departments out of necessity. She stated, "The information technology infrastructure on which every department builds its specific business systems to meet ... the needs of their

constituents are reliant on what we do at the Department of Administration. We are intertwined."

REPRESENTATIVE JOHNSON clarified that he is talking about accountability, not responsibility.

MS. PETRO said she thinks with the development of updated policies and standards will come additional accountability. She reiterated that the updating is already taking place.

8:58:03 AM

REPRESENTATIVE SEATON referred to the final sentence in the fiscal analysis written by Anna Kim, which read as follows [original punctuation provided]:

Additionally, with the Commissioner of Administration fulfilling the role of Enterprise CIO, each agency head will lose the critical and important responsibility for department data storage, security, and protocols.

REPRESENTATIVE SEATON asked Ms. Petro if there is just a philosophical agreement "as to whether that's correct in the fiscal note."

MS. PETRO reiterated that there are different concerns from different departments that need to be addressed. The department needs to work with the sponsor to ensure that everyone's concerns are addressed.

9:00:30 AM

REPRESENTATIVE PETERSEN directed attention to Section 3 and questioned if there might be an issue of separation of powers.

9:00:56 AM

CLYDE "ED" SNIFFEN, JR., Senior Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Anchorage), Department of Law, said he does not have an answer at this time, but will look into that. Notwithstanding that, he said his initial reaction is that he does not think there is an issue related to the separation of powers.

9:01:21 AM

REPRESENTATIVE SEATON asked Mr. Sniffen if the Department of Law has any of the same concerns that the Department of Education has expressed.

[9:01:32 AM](#)

MR. SNIFFEN answered no. He concurred with Ms. Petro's previous statement that the bill would not expand any of the responsibilities currently in place for the Department of Administration, and he said he is unsure how the bill would affect the Department of Education's role in continuing to do what is necessary to protect its information. He said just because he does not understand the concern of the Department of Education does not mean there is no reason for it, and he said it would be interesting to find out what that concern is in a little more detail.

[9:02:19 AM](#)

REPRESENTATIVE JOHNSON offered his understanding that Mr. Sniffen questioned the separation of powers issue. He stated, "This clearly says agencies mean agencies of the executive branch." He said the Department of Law is an executive branch, and he asked, "We're not thinking about the court system here are we?"

MR. SNIFFEN answered that is correct, which is why he does not think there is a problem "with this language here." He explained that he just has not had a chance to talk about the issue much.

REPRESENTATIVE JOHNSON asked for confirmation that "it doesn't include the legislature either," only the executive branch.

MR. SNIFFEN answered that is correct.

[9:03:09 AM](#)

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

[9:03:21 AM](#)

REPRESENTATIVE SEATON expressed concern that Section 3 seems to be dealing only with automatic data processing resources. He opined that if the bill is trying to coordinate activities, Section 3 should list all the pieces of information that are

intended. In response to Chair Lynn, he said he is not ready to offer an amendment without further consideration of the matter.

[9:05:02 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 1, as follows:

Page 4, line 29:
Delete "fifth"
Insert "second"

[9:05:19 AM](#)

REPRESENTATIVE JOHNSON suggested that the requirement on page 4, line 29, could be deleted, since there is already a requirement [in subsection (e), on page 4, lines 16-19] for a report to be submitted every two years.

[9:05:44 AM](#)

MS. PETRO said Representative Johnson's suggestion would work.

[9:05:51 AM](#)

REPRESENTATIVE GRUENBERG offered his understanding that the sponsor nodded his head in response.

[9:06:01 AM](#)

REPRESENTATIVE GRUENBERG withdrew Amendment 1.

[9:06:07 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 2, as follows:

Page 4, lines 26-30:
Delete Section 5

[Amendment 2 was treated as adopted.]

[9:07:04 AM](#)

REPRESENTATIVE GATTO moved to report HB 394, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 394(STA) was reported out of the House State Affairs Standing Committee.

The committee took an at-ease from [9:07:50 AM](#) to [9:10:26 AM](#).

HB 53-CANDIDATES INELIGIBLE FOR BDS/COMMISSIONS

[9:10:30 AM](#)

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

[9:10:44 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt the committee substitute (CS) for HB 53, Version 26-LS0296\R, Bullard, 2/10/10, as work draft.

CHAIR LYNN objected for discussion purposes.

[9:11:13 AM](#)

REPRESENTATIVE MIKE DOOGAN, Alaska State Legislature, as sponsor of HB 53, reviewed that the proposed legislation would require members of boards and commissions to resign their positions when applying for political office. He said there are people who serve on boards and commissions who are in a position to materially affect the lives of citizens by advancing the interests of candidates, financially and otherwise. For example, he said there is a man serving on the Human Rights Commission who has filed for the Alaska State Legislature. He stated, "He ..., in fact, would be able to materially affect something that somebody wants and be in a position to ask that same person for ... campaign money. And because of that, I think that one or the other of those things has to go."

[9:15:20 AM](#)

CHAIR LYNN asked if it would be possible to create a rule that a candidate who is serving on a board or commission may not accept a contribution from anyone on that board or commission.

REPRESENTATIVE DOOGAN said that would be a difficult law to draft.

CHAIR LYNN noted that legislators are not allowed to accept contributions during a legislative session.

REPRESENTATIVE DOOGAN said members of boards and commissions are appointed for a certain number of years, and their schedule follows that of the board or commission. He said he could not figure out a way "to go at it in that direction, to ... limit your ability to raise funds if you're running for office, outside of the limitations we already have."

[9:17:05 AM](#)

REPRESENTATIVE JOHNSON asked for confirmation that the proposed legislation pertains only to legislative or executive offices.

REPRESENTATIVE DOOGAN confirmed that is correct.

CHAIR LYNN specified that would mean the offices of legislator, governor, and lieutenant governor.

REPRESENTATIVE JOHNSON mentioned an "advisory commission," which is set up through the Alaska Department of Fish & Game (ADF&G). He asked, "How far down does this go when you say boards or commissions?"

[9:18:22 AM](#)

REPRESENTATIVE DOOGAN related that there are approximately 120 boards and commissions. He said, "They don't go down to the level that you're talking about." He indicated that the bill pertains to boards and commissions that are set up in statute to be able to take "some sort of action." He offered his understanding that that does not include advisory boards, for example.

REPRESENTATIVE JOHNSON noted that the committee has a list of 98 boards with influence over constituent groups [included in the committee packet]. He said he wants the legislation to be clear whether or not it includes advisory boards that are appointed or have their own elections, or community councils, for example.

REPRESENTATIVE DOOGAN responded that he is "not trying to get down to that level at all."

[9:20:39 AM](#)

CHAIR LYNN asked if a clear line has been drawn.

REPRESENTATIVE DOOGAN characterized the bill as "a rough attempt to limit the members of boards and commissions that in most

cases have got some ability to effect what the state does for ... [and] to citizens."

[9:21:20 AM](#)

CHAIR LYNN expressed concern that under HB 53, a person who gives up his/her seat on a board or commission in order to run for political office but does not get elected, will end up without his/her seat on the board or commission. He said it is difficult to find people to serve on boards and commissions.

REPRESENTATIVE DOOGAN responded that what Chair Lynn said is true; however, he pointed out that the person would be allowed to serve on that board or commission after a waiting period of one year.

CHAIR LYNN remarked that getting back on a board or commission requires an opening. He asked the reason for the proposed year waiting period.

REPRESENTATIVE DOOGAN explained that without the year waiting period, the person running for office could still make promises to do things on the board or commission for the person supporting his/her campaign.

[9:24:09 AM](#)

REPRESENTATIVE DOOGAN, in response to Representative Gatto, confirmed that currently an elected official is allowed to serve on a board. He pointed out that some boards require that a legislator fill a seat.

REPRESENTATIVE GATTO related that he serves on the Alaska Commission on Post Secondary Education, although he is not sure he fills a seat because of being a legislator. He asked if there could be a grandfather clause, by which a legislator already serving on a board could remain on that board while running for office.

REPRESENTATIVE DOOGAN offered his belief that there would be no such grandfather clause opportunity under HB 53. In response to a follow-up question, he stated that there is an exception under HB 53 for the positions legislators have on boards or commissions "by virtue of the fact that they are legislators."

[9:27:33 AM](#)

PRIYA KEANE, Staff, Representative Mike Doogan, Alaska State Legislature, answered questions on behalf of Representative Doogan, sponsor of HB 53. In response to Representative Gatto, she directed attention to a legal memorandum from the bill drafter, dated February 10, 2010. In the memorandum, Mr. Bullard maintains that there is a separation of powers issue in having legislators serve as public members on state boards, commissions, or authorities - it is not legal. However, she said certain boards, commissions, or authorities have positions for sitting legislators. Those legislative positions are exempt under HB 53. The purpose of Version R was to clarify that exemption.

[9:29:44 AM](#)

REPRESENTATIVE SEATON directed attention to the last page of the aforementioned list [included in the committee packet] of 98 boards with influence over constituent groups, and read the some of the names on it, including: the National Park and Park Monument Subsistence Resource Commissions, the Alaska Veterans Advisory Council, the Board of Veterinary Examiners, the Water and Wastewater Works Advisory Board, the Wood-Tikchik State Park Management Council, and the Yukon River Panel Advisory Committee. He said many of those entities are run by involved citizens. Especially in rural Alaska, he said, it is difficult to fill these positions with people who are active and want to be involved in their community. He surmised that it is an unintended consequence that the bill would prevent people who have been active and responsible in their communities from running for office without giving up their position for an entire year in the event they are not elected.

[9:31:23 AM](#)

REPRESENTATIVE DOOGAN responded that that is not an unintended consequence. He opined that people have to make choices in life, and under HB 53, a person would have to decide whether to run for office or stay on a board or commission. He said it is the same choice that a public employee would have to make if he/she ran for office.

REPRESENTATIVE SEATON directed attention to the title of the original bill version, which includes state boards, commissions, and authorities. He then noted that the title in Version R includes only state boards or commissions; however, on page 2 lines 14 and 17, of Version R, authorities is included.

[9:33:14 AM](#)

MS. KEANE responded that she is not clear why the bill drafter chose [to include "authorities" on lines 14 and 17].

[9:33:29 AM](#)

REPRESENTATIVE JOHNSON noted that [on page 2, lines 15 and 18, of Version R], federal office is included. He questioned, "I guess we're controlling the board, so if you run, we can remove you from the board, so, why couldn't we do the same thing with ... municipal elections?"

REPRESENTATIVE DOOGAN replied, "I'm not sure that we couldn't." He indicated that municipalities can decide whether or not to address the issue.

CHAIR LYNN questioned whether "any of us on committee here [could] run for Congress and still keep our job here."

REPRESENTATIVE DOOGAN responded no.

REPRESENTATIVE SEATON observed that there is a legislator currently in office who is running for a federal election.

CHAIR LYNN noted that legislator is not filing for reelection to the [legislature].

[9:35:26 AM](#)

REPRESENTATIVE JOHNSON said his point is that while cities have control of their elections, the legislature has control of their boards and commissions; therefore, requiring a person to resign from a state board in order to run for a city office would be problematic for a municipality. In response to Representative Doogan, he said, "I think there's a difference between making it a requirement that you not be on a board and saying you're getting kicked off a board if you do." He indicated that one may lead to discrimination issues. He concluded, "I think it has to come from us, it can't come from them."

[9:38:03 AM](#)

REPRESENTATIVE DOOGAN admitted Representative Johnson might be right.

[9:38:23 AM](#)

REPRESENTATIVE JOHNSON suggested the bill could pertain to city, state, and federal elections.

[9:39:28 AM](#)

HOLLY HILL, Executive Director, Alaska Public Offices Commission (APOC), noted that the definition of state boards or commissions, as well as a list of boards which report public financial disclosures, is found in AS 39.50.200(b).

[9:40:10 AM](#)

REPRESENTATIVE SEATON directed attention to language on page 1, line 5, of Version R, which read: "if the person sought nomination or became a candidate". He offered his understanding that until a person files a letter of intent [to run for office] he/she cannot raise funds.

MS. HILL responded that is correct. She offered her understanding regarding nomination, that until an individual is appointed, he/she does not file forms with APOC.

REPRESENTATIVE SEATON remarked that any intent the bill sponsor may have of including language to ensure that people do not use their influence on a board or commission to leverage contributions would be redundant, because currently if someone seeks nomination and has not filed a letter of intent, he/she is prohibited from soliciting or raising money in pursuit of that office.

[9:43:20 AM](#)

REPRESENTATIVE JOHNSON described a situation in which three people from a political party are nominated for a political office. He asked if all three nominated would be ineligible to serve on a board, even though only one of them could possibly get elected.

[9:44:07 AM](#)

REPRESENTATIVE SEATON commented that the bill would apply to anyone who put his/her name forward to the selection process. He stated, "So, it could be a dozen people in each community that wanted to put their name forward for that seat because they're seeking the nomination, as I read seeking the

nomination, and yet they've had no ability to file an intent or to raise campaign funds."

[9:44:43 AM](#)

REPRESENTATIVE DOOGAN directed attention to page 2, line 1, which read as follows:

(2) has filed a nominating petition under AS 15.25.140 - 15.25.200, AS 15.30.026, AS 15.40.180, 15.40.190, 15.40.270 - 15.40.290, or 15.40.430 - 15.40.450 to become a candidate for elective state or federal executive or legislative office;

REPRESENTATIVE DOOGAN said his understanding of that language is that a person has filed for office. In response to Representative Johnson, he stated his belief that appointments are not covered in the aforementioned statutes.

[9:45:45 AM](#)

REPRESENTATIVE PETERSEN stated, "That was basically the same thing I was going to say, ... that unless they have filed a declaration as a candidate then they wouldn't be covered, so, I think it's already covered."

[9:46:06 AM](#)

REPRESENTATIVE GRUENBERG opined that HB 53 is a confusing bill. He described proposed legislation as possible solutions to perceived problems; however, he said he is not certain what problem is being addressed by HB 53.

[9:46:49 AM](#)

REPRESENTATIVE DOOGAN said one of the responsibilities of the legislature is to safeguard not only the integrity of the electoral process, but also the citizens' faith in it. He said the proposed legislation is his attempt to address that issue. In response to a follow-up question, he said the point is to "do what you can to make sure that people don't think that somebody gets a leg up."

CHAIR LYNN said the issue relates to not only reality, but perception.

[9:48:53 AM](#)

REPRESENTATIVE GRUENBERG said, "I don't know that anybody is going to get a ... leg up because they're on the board of hairdressers or something like that. In fact, I don't know very many of these boards where you'd really get a leg up." He said his second concern is that there are many ways a person can get a leg up that don't relate to "this." He said he is not certain that the problem has been properly identified. He questioned whether this issue is something that can be legislated. He said he had thought that the purpose of the bill was to prevent bribery, but now he is "more confused than ever."

REPRESENTATIVE DOOGAN responded that he is having trouble understanding the cause of the confusion. He stated, "Either you think that there are opportunities that other people don't have, that go along with being a member of a board or commission, in electoral terms, or you don't."

CHAIR LYNN remarked that most people running for office have some special interest group either supporting or opposing them.

REPRESENTATIVE DOOGAN concurred, but added, "These are not advantages that you get from being put in a position basically that you can get that through the State of Alaska - this is a different deal."

[9:53:00 AM](#)

REPRESENTATIVE DOOGAN, in response to Representative Gatto, said the year waiting period begins from the date of the election.

[9:54:51 AM](#)

REPRESENTATIVE JOHNSON said a person who, for example, has served on the Board of Fisheries and then gets elected to be a legislator would have "huge support" from the board, which is why HB 53 makes sense.

[9:56:17 AM](#)

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

[9:56:41 AM](#)

REPRESENTATIVE DOOGAN remarked that he has no expectations that HB 53 will pass into law, and expressed willingness to start over with it in the next legislative session.

[9:58:05 AM](#)

CHAIR LYNN removed his objection to the motion to adopt the committee substitute (CS) for HB 53, Version 26-LS0296\R, Bullard, 2/10/10, as work draft.

[9:58:18 AM](#)

REPRESENTATIVE SEATON reminded the committee that there is no reference to "authorities" in the title of Version R, while there is mention of "authorities" within the body of Version R.

REPRESENTATIVE GRUENBERG opined that "authorities" should be added to the title of Version R.

REPRESENTATIVE JOHNSON suggested that the bill be held.

[9:58:56 AM](#)

CHAIR LYNN asked the bill sponsor to come back with a committee substitute as soon as possible.

REPRESENTATIVE DOOGAN expressed compliance with the idea of including "authorities" in the title of Version R, and said he would have a committee substitute made.

[HB 53 was held over. The motion to adopt the committee substitute (CS) for HB 53, Version 26-LS0296\R, Bullard, 2/10/10, as work draft, was left pending.]

[10:00:53 AM](#)

ADJOURNMENT

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