

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

April 6, 2010

8:09 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

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 261(L&C)

"An Act relating to the membership of the Alcoholic Beverage Control Board; and providing for an effective date."

- MOVED HCS CSSB 261(STA) OUT OF COMMITTEE

SENATE BILL NO. 244

"An Act providing that, during the governor's term of office, the duty station of the governor is Juneau, and prohibiting payment of certain travel allowances for use of the governor's personal residence."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 261

SHORT TITLE: ALCOHOLIC BEVERAGE CONTROL BD MEMBERS

SPONSOR(s): SENATOR(s) OLSON

02/05/10	(S)	READ THE FIRST TIME - REFERRALS
02/05/10	(S)	STA, L&C
02/18/10	(S)	STA RPT 4DP
02/18/10	(S)	DP: MENARD, FRENCH, MEYER, KOOKESH
02/18/10	(S)	STA AT 9:00 AM BELTZ 105 (TSBldg)
02/18/10	(S)	Moved SB 261 Out of Committee

02/18/10 (S) MINUTE(STA)
03/16/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/16/10 (S) Moved CSSB 261(L&C) Out of Committee
03/16/10 (S) MINUTE(L&C)
03/17/10 (S) L&C RPT CS 3DP 1DNP SAME TITLE
03/17/10 (S) DP: PASKVAN, MEYER, DAVIS
03/17/10 (S) DNP: BUNDE
03/23/10 (S) TRANSMITTED TO (H)
03/23/10 (S) VERSION: CSSB 261(L&C)
03/24/10 (H) READ THE FIRST TIME - REFERRALS
03/24/10 (H) STA
04/01/10 (H) STA AT 8:00 AM CAPITOL 106
04/01/10 (H) Heard & Held
04/01/10 (H) MINUTE(STA)
04/06/10 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

TIM BENINTENDI, Staff
Senator Donny Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 261 on behalf of Senator Olson, sponsor.

ROBERT BEASLEY, Enforcement Supervisor
Alcoholic Beverage Control Board
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 261.

ACTION NARRATIVE

8:09:26 AM

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at 8:09 a.m. Representatives Seaton, Gatto, Johnson, Wilson, Petersen, and Lynn were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

SB 261-ALCOHOLIC BEVERAGE CONTROL BD MEMBERS

8:09:52 AM

CHAIR LYNN announced that the only order of business was CS FOR SENATE BILL NO. 261(L&C), "An Act relating to the membership of

the Alcoholic Beverage Control Board; and providing for an effective date."

[8:10:57 AM](#)

REPRESENTATIVE SEATON moved to adopt, as a work draft, the House committee substitute (HCS) to CSSB 261, Version 26-LS1406\P, Cook, 4/5/10, in which subparagraph (B), on page 2, line 9, is deleted and replaced with the following handwritten language:

(B) is an established village that is located in a borough or in the unorganized borough; for purposes of this subparagraph, "established village" has the meaning given in AS 04.21.080.

There being no objection, Version P was before the committee.

[8:11:08 AM](#)

TIM BENINTENDI, Staff, Senator Donny Olson, Alaska State Legislature, presented SB 261 on behalf of Senator Olson, sponsor. He highlighted the changes incorporated in Version P. He directed attention to page 1, line 11, where the specification regarding how many members of the board would be allowed to "be engaged in the same business, occupation, or profession" was changed from "No three" to "Not more than two". Mr. Benintendi directed attention to the second change on page 2, beginning on line 5, which read as follows [original punctuation provided with some handwritten changes]:

(2) "rural area" means a community with a population of 6,000 or less that is not connected by road or rail to Anchorage or Fairbanks, and that is

(A) a city; for purposes of this subparagraph, "city" has the meaning given in AS 29.71.800; or

(B) is an established village that is located in a borough or in the unorganized borough; for purposes of this subparagraph, "established village" has the meaning given in AS 04.21.080.

MR. BENINTENDI said that language is basically the same as in the original bill version, except that the population figure was raised from 4,500 to 6,000, which expanded the number of communities from which applicants could come, while still maintaining the bill sponsor's intent for the bill.

[8:14:18 AM](#)

MR. BENINTENDI offered his understanding that there is a roster of place names that was given to the committee, which "conforms to the structure of this bill." He indicated 94,000 is the "ultimate field."

MR. BENINTENDI said if committee members want the language in subparagraph (B) to also include organized boroughs, then an amendment would be necessary.

[8:17:19 AM](#)

REPRESENTATIVE JOHNSON moved to adopt Conceptual Amendment 1, as follows:

Page 2, following (B):

Insert "(C) but a rural area does not mean a community, city, or established village which is dry or damp under provisions of a local-option election."

REPRESENTATIVE P. WILSON objected to Conceptual Amendment 1 for discussion purposes.

REPRESENTATIVE JOHNSON said the purpose of Conceptual Amendment 1 is to put members on the board who deal with communities where there is a liquor license in the community.

CHAIR LYNN said that makes sense.

[8:18:12 AM](#)

REPRESENTATIVE SEATON [objected to Conceptual Amendment 1]. He explained that he thinks Conceptual Amendment 1 made sense for the former bill version, which specified that the communities must have held a local option election, but now Version P specifies that ["rural area"] must have a population of 6,000 or less. He continued as follows:

I think that ... when a community votes on these issues, ... it is generally a close election, so someone that is in that community that may have voted not to select that local option is fully vested and fully aware of the problems of this type of a structure, as well. ... I think that that gives a good perspective for the board. So, I'm not advocating we go back to language that says there has to have been a local option

election, but I would like to not disenfranchise anybody from one of those communities from serving on the board.

[8:19:38 AM](#)

REPRESENTATIVE JOHNSON responded that if dry and damp communities are included, then that would place the ABC Board in the position of having to enforce law, and the board has no power for recourse.

[8:20:48 AM](#)

REPRESENTATIVE SEATON said that is almost like saying that anyone who does not drink alcohol should not be allowed to serve on the board. He said he worries when barriers start being put in place. He related that he is happier that the population requirement was changed to 6,000 in Version P.

REPRESENTATIVE JOHNSON said [barring anyone who does not drink from serving on the board] would be "crossing the line."

[8:21:52 AM](#)

MR. BENINTENDI, in response to Representative Wilson, indicated that the bill sponsor supports [Conceptual Amendment 1].

[8:24:12 AM](#)

REPRESENTATIVE SEATON, in response to Representative Gruenberg, clarified that adopting Conceptual Amendment 1 would result in those from dry or damp communities not being allowed to serve on the ABC Board.

[8:26:20 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt an amendment to Conceptual Amendment 1, to move "or", on page 2, line 8, to the end of subparagraph (B), because he offered his understanding that a new subparagraph (C) would follow if Conceptual Amendment 1 is adopted.

[8:27:30 AM](#)

REPRESENTATIVE P. WILSON objected to the amendment to Conceptual Amendment 1. She explained that the "or" on page 2, line 8, is between subparagraphs (A) and (B), because under Version P, a

rural area must meet the requirements in paragraph (2) and subparagraph (A) "or" (B).

[8:29:08 AM](#)

REPRESENTATIVE GRUENBERG withdrew his motion to adopt an amendment to Conceptual Amendment 1.

[8:29:17 AM](#)

REPRESENTATIVE SEATON clarified that if Conceptual Amendment 1 is adopted, a person from a community that has both held a local option election and selected to be damp or dry would not be allowed to serve on the board. He added, "But if there had been no [local option] election in that community and there was no liquor store or something else, those people could serve on the board."

[8:30:23 AM](#)

REPRESENTATIVE JOHNSON said his preference is that a damp or dry community, whether or not it has held a local option election, would not be eligible to have one of its members serve on the board; however, he said he is willing to keep Conceptual Amendment 1 as is, because the sponsor has stated his support of it. He said he does not know of any dry communities that have not had local option elections. He indicated that the committee had heard from the ABC Board that a community that has not held a local option election is assumed not to be dry.

[8:31:21 AM](#)

MR. BENINTENDI relayed that when the bill sponsor considered Conceptual Amendment 1, he used the status of a community as criteria.

[8:31:49 AM](#)

REPRESENTATIVE GATTO reiterated his concern about placing restrictions, because he said he does not think it is the intention of the bill sponsor to narrow the number of eligible people.

[8:33:09 AM](#)

MR. BENINTENDI indicated that the bill sponsor is pleased with the bill, as written.

[8:34:22 AM](#)

REPRESENTATIVE P. WILSON said it seems as though it would be beneficial to have people serving on the ABC Board who are from towns with liquor licenses, because they would be more connected to the issues addressed by the board and the ramifications of the board's decisions.

[8:35:24 AM](#)

REPRESENTATIVE GATTO said every rural community, under state law, starts out a wet community, and in order to change that status must hold a local option election. He said he thinks people are valuable to the board who are from communities that used to be wet, but now are [dry or damp], because those people see both sides of the issue. He said he would oppose any amendment that would restrict the number of people that are available to serve on the board.

[8:36:55 AM](#)

REPRESENTATIVE PETERSEN suggested that there may be communities in Alaska that are wet, but "don't have anyone with a liquor license." He suggested that it is not economically viable for a community of 12-18 people to have an alcohol beverage license.

[8:37:33 AM](#)

REPRESENTATIVE SEATON, in response to Chair Lynn, confirmed that he maintained his objection to the motion to adopt Conceptual Amendment 1.

REPRESENTATIVE GRUENBERG stated his objection to Conceptual Amendment 1. He said the basic intent of the bill is to provide rural representation, and cutting out further constituents from eligibility on the board would not serve the purpose of the bill sponsor. He opined that a person from a rural community would bring a certain perspective to the board, whether or not that community happens to be wet, damp, or dry.

[8:38:38 AM](#)

A roll call vote was taken. Representatives Johnson and Wilson voted in favor of adopting Conceptual Amendment 1. Representatives Gatto, Gruenberg, Petersen, Seaton, and Lynn

voted against it. Therefore, Conceptual Amendment 1 failed by a vote of 2-5.

[8:39:10 AM](#)

REPRESENTATIVE JOHNSON moved to adopt Conceptual Amendment 2, as follows:

Page 2, line 6, following "Fairbanks,":

Insert "or a community of more than 6,000 that is not connected by road or rail to Anchorage or Fairbanks and has participated in a local-option election,"

REPRESENTATIVE GRUENBERG objected for discussion purposes.

REPRESENTATIVE JOHNSON indicated that a representative from the City of Bethel expressed concern that the latest U.S. Census information will show the City of Bethel as having more than 6,000 residents, which would disqualify that community under the proposed legislation. He said the City of Bethel has as severe a problem with [the issue of alcohol] as any other community in the state and has requested this amendment.

[8:41:10 AM](#)

REPRESENTATIVE GATTO suggested there are two ways to resolve the issue: to set a certain U.S. Census date or to set a certain population number. He indicated that Conceptual Amendment 2 would allow populations of more than 6,000, while Version P would allow populations of 6,000 or less, which would mean everyone would be included.

REPRESENTATIVE JOHNSON pointed out that those communities on the Railbelt and road system would be excluded, which he said is the intention of the bill.

[8:42:06 AM](#)

REPRESENTATIVE P. WILSON point out that Conceptual Amendment 2 would put Sitka on the qualified list.

[8:42:18 AM](#)

REPRESENTATIVE GRUENBERG, in response to Representative Gatto, said he thinks the population at the time of appointment to a

board seat would be the deciding factor. He then asked Representative Wilson if she knows if Sitka has participated in a local option election.

REPRESENTATIVE WILSON said she does not know if Sitka has participated in a local option election, although the community does have a liquor store. She said she does know that the community is not connected to Fairbanks by road or rail.

REPRESENTATIVE GRUENBERG offered his understanding that under the proposed legislation, Sitka would have to have participated in a local option election in order to qualify.

REPRESENTATIVE JOHNSON observed that language regarding local option elections is no longer in [Version P].

REPRESENTATIVE GRUENBERG indicated "that would be a criterion" under Conceptual Amendment 2.

REPRESENTATIVE JOHNSON said he knows that the City of Bethel has participated in a local option election and should not be excluded from representation on the board.

[8:44:08 AM](#)

[Chair Lynn passed the gavel to Vice Chair Seaton.]

[8:44:24 AM](#)

REPRESENTATIVE PETERSEN suggested language be added to the bill to specify that the City of Bethel is to be included.

REPRESENTATIVE JOHNSON responded that that would be unconstitutional.

REPRESENTATIVE GRUENBERG concurred.

REPRESENTATIVE P. WILSON questioned the need for the local option language.

[8:45:11 AM](#)

MR. BENINTENDI stated, "The language in Conceptual Amendment 2 is exclusive to Bethel." He related that the City of Bethel's current population is officially still fewer than 6,000, but is close to surpassing 6,000. He reminded members that the proposed Conceptual Amendment 2 includes the language "that is

not connected by road or rail" and "has participated in a local-option election"; therefore, this amendment [presently] would apply only to the City of Bethel.

REPRESENTATIVE P. WILSON said she wants to ensure that the committee is doing what the bill sponsor wants as encompassed in Version P [with the proposed Conceptual Amendment 2]. She concluded, "So, it doesn't have to be all of these; it's this one, this one, or this one."

[8:47:02 AM](#)

MR. BENINTENDI responded that that is the intention and stated that "we are very comfortable with the language." He emphasized the City of Bethel has been a community of interest since the bill's inception.

[8:47:26 AM](#)

REPRESENTATIVE GRUENBERG pointed out that under Conceptual Amendment 2, Juneau, for example, which is not connected by rail or road, could hold an open election, remain a wet community, and be eligible to have a person from its community serve on the rural board seat.

MR. BENINTENDI confirmed that technically that is correct.

[8:49:28 AM](#)

REPRESENTATIVE GRUENBERG removed his objection to the motion to adopt Conceptual Amendment 2.

[8:49:53 AM](#)

REPRESENTATIVE GATTO objected. He indicated concern that it has not been identified what the source will be to determine populations.

[8:50:54 AM](#)

VICE CHAIR SEATON pointed out that under the proposed legislation, a community under 6,000 would qualify for a rural seat, and [Conceptual Amendment 2] would allow an exception for a community with a population over 6,000, which meets other criteria. He suggested that Representative Gatto bring his point up again after Conceptual Amendment 2 has been addressed.

[8:52:45 AM](#)

REPRESENTATIVE GATTO withdrew his objection. There being no further objection, Conceptual Amendment 2 was adopted.

[8:54:09 AM](#)

REPRESENTATIVE GRUENBERG directed attention to the handwritten language in Version P, which references AS 04.21.080. He said "established village" is defined in [paragraph] (9) of that statute, and since "the bill is in Title 04," it is not necessary to reference AS 04.21.080 in subparagraph (B).

[8:55:10 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 3, as follows:

Page 2, in subparagraph (B), following "unorganized borough":

Delete "; for purposes of this subparagraph, 'established village' has the meaning given in AS 04.21.080."

VICE CHAIR SEATON objected for discussion purposes. He asked if the reference to AS 29.71.800 on page 2, line 8 - regarding the definition of "city" - should also be deleted.

REPRESENTATIVE GRUENBERG answered no. He explained that the definition of "city" comes from a different title; therefore, it must be noted in the bill language.

[8:56:48 AM](#)

VICE CHAIR SEATON removed his objection. There being no further objection, Amendment 3 was adopted.

[8:57:26 AM](#)

VICE CHAIR SEATON returned to the issue brought forth previously by Representative Gatto regarding the source of population statistics. He said not establishing which source those statistics come from may be problematic.

[8:58:58 AM](#)

REPRESENTATIVE PETERSEN concurred. He suggested that the 2010 U.S. Census be the source indentified.

8:59:29 AM

VICE CHAIR SEATON suggested that the committee instead designate the population statistics generated during annual community and municipal revenue sharing.

9:00:03 AM

REPRESENTATIVE P. WILSON offered her understanding that the Department of Labor & Workforce Development also generates population statistics.

VICE CHAIR SEATON, in response to a question from Representative Wilson, stated his belief that the legislature gets population statistics for revenue sharing purposes from the Department of Commerce, Community, & Economic Development (DCCED); however, he opined that the department need not be identified in the bill language. Instead, he suggested that the bill could note that the populations were determined by the revenue-sharing formula.

9:00:56 AM

REPRESENTATIVE GRUENBERG said he wants to hear from someone on the ABC Board regarding the source of population statistics.

9:01:13 AM

ROBERT BEASLEY, Enforcement Supervisor, Alcoholic Beverage Control Board, in response to Vice Chair Seaton, said he is not certain what source the board uses, but suggested the most current U.S. Census or statistics from DCCED. In response to Representative Gruenberg, he said he believes the board currently has the discretion to use the most current statistics.

REPRESENTATIVE GRUENBERG said he would like the board to have the discretion to do that by regulation.

9:03:45 AM

VICE CHAIR SEATON moved to adopt Conceptual Amendment 4, such that the numbers used for community population would be the numbers used for community revenue sharing by the State of Alaska.

REPRESENTATIVE GRUENBERG objected.

VICE CHAIR SEATON spoke to Conceptual Amendment 4. He said the state must generate population statistics each year for revenue sharing. It is all done on a per capita basis, he said; therefore, every municipality's population is determined for revenue sharing.

[9:05:04 AM](#)

REPRESENTATIVE GRUENBERG spoke to his objection. He indicated that that may not be the most recent statistic when a board seat opens. He said "we" used to have municipal assistance, but no longer do, and at some point "they might go away from revenue sharing for some reason." He said he would like to know the bill sponsor's opinion of Amendment 4.

[9:05:57 AM](#)

MR. BENINTENDI said the bill sponsor would be "satisfied either way."

[9:06:09 AM](#)

REPRESENTATIVE JOHNSON reminded Representative Gruenberg that whatever the regulations of the ABC Board are, it has nothing to do with the appointment of its members. He indicated that the policy call to be made may affect statute and the governor's process.

[9:06:52 AM](#)

REPRESENTATIVE GRUENBERG removed his objection. There being no further objection, Conceptual Amendment 4 was adopted.

[9:08:24 AM](#)

MR. BEASLEY, in response to Representative Johnson, said Shelley Gifford, the director of the ABC Board, has told him that the board is neutral on the issue [of SB 261]; therefore, the board has no recommendations to offer.

[9:08:51 AM](#)

REPRESENTATIVE GATTO said he thinks the committee has "done the right work."

[9:09:05 AM](#)

REPRESENTATIVE GATTO moved to report the proposed House committee substitute (HCS) for SB 261, Version 26-LS1406\P, Cook, 4/5/10, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 261(STA) was reported out of the House State Affairs Standing Committee.

The committee took an at-ease from [9:10:04 AM](#) to [9:10:35 AM](#).

[9:10:37 AM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:11 a.m.