

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 2, 2010

9:00 a.m.

MEMBERS PRESENT

Senator Linda Menard, Chair
Senator Kevin Meyer, Vice Chair
Senator Hollis French
Senator Albert Kookesh
Senator Joe Paskvan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 190

"An Act relating to biometric information."

- HEARD AND HELD

SENATE BILL NO. 284

"An Act relating to state election campaigns, the duties of the Alaska Public Offices Commission, the reporting and disclosure of expenditures and independent expenditures, the filing of reports, and the identification of certain communications in state election campaigns; and providing for an effective date."

- MOVED SB 284 OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 16(L&C)

Relating to federal procurement preferences for small businesses in the state that are owned and controlled by service-disabled veterans.

- MOVED CSHJR 16(L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 190

SHORT TITLE: BIOMETRIC INFORMATION FOR ID

SPONSOR(S): SENATOR(S) WIELECHOWSKI

04/10/09 (S) READ THE FIRST TIME - REFERRALS

04/10/09 (S) STA, JUD
03/02/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)

BILL: SB 284

SHORT TITLE: CAMPAIGN EXPENDITURES

SPONSOR(s): JUDICIARY

02/19/10 (S) READ THE FIRST TIME - REFERRALS
02/19/10 (S) STA, JUD
03/02/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)

BILL: HJR 16

SHORT TITLE: DISABLED VETERANS PROCUREMENT PREFERENCE

SPONSOR(s): GATTO

02/09/09 (H) READ THE FIRST TIME - REFERRALS
02/09/09 (H) MLV, L&C
02/24/09 (H) MLV AT 1:00 PM BARNES 124
02/24/09 (H) Moved Out of Committee
02/24/09 (H) MINUTE(MLV)
02/25/09 (H) MLV RPT 6DP
02/25/09 (H) DP: KAWASAKI, OLSON, HARRIS, LYNN,
BUCH, GATTO
03/27/09 (H) L&C AT 3:15 PM BARNES 124
03/27/09 (H) Heard & Held
03/27/09 (H) MINUTE(L&C)
04/03/09 (H) L&C AT 3:15 PM BARNES 124
04/03/09 (H) Moved CSHJR 16(L&C) Out of Committee
04/03/09 (H) MINUTE(L&C)
04/06/09 (H) L&C RPT CS(L&C) 3DP 2NR
04/06/09 (H) DP: LYNN, COGHILL, OLSON
04/06/09 (H) NR: NEUMAN, HOLMES
02/17/10 (H) TRANSMITTED TO (S)
02/17/10 (H) VERSION: CSHJR 16(L&C)
02/18/10 (S) READ THE FIRST TIME - REFERRALS
02/18/10 (S) STA
03/02/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR BILL WIELECHOWSKI
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 190.

JASON GIAIMO, representing himself

POSITION STATEMENT: Supported SB 190.

BRENDA NATION
American Council of Life Insurers (ACLI)
Washington, D.C.

POSITION STATEMENT: Opposed SB 190.

JEFFREY MITTMAN, Executive Director
ACLU - Alaska
Anchorage, AK

POSITION STATEMENT: Supported SB 190.

MARILYN RUSSELL, President
League of Women Voters - Alaska (LWV)
Fairbanks, AK

POSITION STATEMENT: Supported SB 284.

MATT WALLACE, Executive Director
Alaska Public Interest Research Group (AKPIRG)
Anchorage, AK

POSITION STATEMENT: Supported SB 284.

JOHN PTACIN, Attorney
Civil Division
Labor/State Affairs
Department of Law
Anchorage, AK

POSITION STATEMENT: Provided information for SB 284.

KAREN SAWYER
Staff to Representative Carl Gatto
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented HJR 16 for the sponsor.

RIC DAVIDGE, National Chairman
Economic Opportunities Committee for Vietnam Veterans of America
Anchorage, AK

POSITION STATEMENT: Supported HJR 16.

TIM WHEELER, National Director
Economic Opportunities
Veterans of Modern Warfare
Washington D.C.

POSITION STATEMENT: Supported HJR 16.

ACTION NARRATIVE

[9:00:34 AM](#)

CHAIR LINDA MENARD called the Senate State Affairs Standing Committee meeting to order at 9:00 a.m. Present at the call to order were Senators Paskvan, French, Meyer, Kookesh and Menard.

SB 190-BIOMETRIC INFORMATION FOR ID

[9:01:22 AM](#)

CHAIR MENARD announced the first order of business to come before the committee would be SB 190.

SENATOR BILL WIELECHOWSKI, sponsor of SB 190, said the purpose of SB 190 is to update an existing law, passed unanimously in 2004, to protect our privacy rights. The existing law outlaws the collection, analysis or storage of a law-abiding person's genetic information or DNA without his or her written consent. Advances in DNA technology have been of benefit to society, medicine and law enforcement but also hold the potential for misuse. DNA is now only one form of biometric information and emerging technologies further threaten our privacy rights. Physiological characteristics, unique to an individual, can be used to obtain information about people without consent. For example, facial recognition technology can track a person anywhere they go. He pointed out that Great Britain has cameras set up and tracks citizens all over the country; most Alaskans would find that offensive. Senator Wielechowski said he was motivated to sponsor SB 190 after being approached by an individual who was refused admittance to the state accountancy licensing exam because he refused to submit to fingerprinting. This man offered his driver's license, social security card and passport but was told this was insufficient identification.

[9:04:33 AM](#)

SENATOR WIELECHOWSKI said it is offensive to treat law-abiding, privacy-loving Alaskans like criminals. Once scanned, fingerprint data is often handed over to private data management firms, some of which sell personal data sourced from multiple public and private databases. Adding only "fingerprints" to the existing law protecting our DNA, would still allow companies to collect retinal scan information, facial characteristic information or other private data. Thus, the term "biometric" was used in drafting the law.

CHAIR MENARD said she understood that some of the data management firms are in Europe or East Asia.

SENATOR WIELECHOWSKI replied that is correct.

SENATOR FRENCH asked how the practice of taking photographs is differentiated from unauthorized collection of biometric information.

[9:07:16 AM](#)

SENATOR WIELECHOWSKI said a facial biometric system is made up of three components: a camera, a software program that recognizes face geometry such as placement of the eyes and nose and a system capable of classifying all those elements to differentiate between people.

[9:08:23 AM](#)

CHAIR MENARD opened public testimony.

JASON GIAIMO, representing himself, said two years ago he went to take the final part of the CPA exam. He was refused entrance due to a lack of proper identification, even though he presented his driver's license, passport and more. Only fingerprints, in addition to other ID, were sufficient. Through research, he found the fingerprints would have gone into a database that is transmitted over the internet to a foreign data-mining firm called Choice Point. Choice Point is the largest supplier of information to over 7,000 different companies including the IRS, FBI and Department of Homeland Security. He said big business is masquerading as security.

[9:12:25 AM](#)

BRENDA NATION, American Council of Life Insurers (ACLI), said the ACIL's first concern is the broad definition of biometric information particularly in Version P on page 3, lines 3-4: "an individual's unique behavioral and physiological characteristics". She said ACLI does not understand how to comply with this broad definition when collecting information about a person wanting to purchase life or long-term care insurance. Life insurers are required under federal and state privacy laws and regulations to obtain written consent from an individual before obtaining their personal, non-public health information. Those regulations include prohibitions on disclosure and business exceptions that allow ACLI to serve their customers. Exceptions are also found in the current statutory definition of DNA analysis which allows life insurers

and others to collect and retain certain information to serve customers.

She said ACLI's second major concern is that under AS 18.13.010(c), and SB 190, a person is allowed to revoke their written consent at any time. She said what information SB 190 protects or does not is unclear. For example, would the information included in a person's health history, held by a doctor, be considered biometric information? Without the ability for the insurer and the doctor to share information, paying a long-term care claim could be problematic.

[9:16:18 AM](#)

Similarly, should a person revoke his consent, an insurance issuer would not know what information is biometric and should be removed from the file, making it difficult to comply with the law. She said she provided two suggested amendments to Senator Wielechowski regarding the definition of biometric information that would alleviate ACLI's concerns with SB 190.

SENATOR PASKVAN said he expected that an insurance provider tracks a member with a plan number and a participant number rather than with biometric information. He asked Ms. Nation what she means by using biometric information to track a person in relation to a payment for a medical procedure.

MS. NATION said ACLI members do not use things like fingerprints, hand geometry, voice recognition, facial recognition or retinal scans. ACLI's concern with the definition of biometric information is the piece that reads, "information that is based on an individual's unique behavioral or physiological characteristics". The language is so broad that it could potentially encompass other health information.

CHAIR MENARD asked Senator Wielechowski if he feels the definition of "biometric information" is too broad.

SENATOR WIELECHOWSKI said the intent of SB 190 is not to exclude necessary health insurance information but to protect people's personal, private information against current and future technologies.

[9:20:03 AM](#)

He said he would not object to taking "behavioral and physiological characteristics" out of SB 190 if the committee is concerned about the interpretation of those words.

SENATOR PASKVAN suggested that the assembly of data by others and collecting that information scientifically or by computer is the troubling aspect.

SENATOR WIELECHOWSKI reiterated that the intent of SB 190 is to protect Alaskan's privacy and new technologies must be considered. He said removing "behavioral and physiological characteristics including" out of SB 190 might solve any problems. He said he is happy to work with Senator Paskvan and Senator Menard's offices and the insurance industry.

[9:23:12 AM](#)

CHAIR MENARD opened public testimony.

JEFFREY MITTMAN, Executive Director, ACLU, said ACLU is generally supportive of the SB 190. ACLU has one concern: On page 2, lines 11-12 of SB 190 would amend AS 18.13.010(b)(6) to read "for background checks as permitted or required by state statute or by federal statute or regulation". ACLU's concern is that that exception is so broad that it completely encompasses the rule. ACLU hopes to work with Senator Wielechowski or the drafter to ensure that necessary checks are allowed but not against an individual's consent or knowledge. If such a revision were made, ACLU would fully support SB 190.

[9:26:02 AM](#)

CHAIR MENARD closed public testimony.

CHAIR MENARD announced she would hold SB 190 in committee to clear up some of the questions that were discussed.

SB 284-CAMPAIGN EXPENDITURES

[9:26:38 AM](#)

CHAIR MENARD announced the next order of business to come before the committee would be SB 284.

SENATOR FRENCH, sponsor of SB 284, read the following sponsor statement:

In the wake of the recent U.S. Supreme Court ruling, Citizens United v. Federal Election Commission, the Senate Judiciary Committee has worked to determine the changes to Alaska's elections laws that will be needed. Corporations have been banned from participating in Alaska's elections prior to this ruling. This means many of Alaska's laws regarding

disclosure and disclaimers simply do not apply to corporations making independent expenditures to support or oppose specific candidates in elections.

Testimony from Legislative Legal Services attorneys and from the Alaska Department of Law indicated that changes would be needed to Alaska's campaign laws, and this bill was subsequently drafted to address the concerns raised by the attorneys and by committee members.

Senate Bill 284 amends state election laws to clarify that corporations are covered by all applicable reporting requirements. It expands communication identification requirements to ensure accurate reporting of top contributors, to require the approval of the content by the principal officer of the corporation, and to require statements in each communication that its content has not authorized or approved by the candidate. It also speeds reporting requirements for communications expenditures in the last nine days of the election so that expenditures over \$250 must be reported within 24 hours.

Recent opinion surveys show broad disapproval by Americans across party lines for the decision reached by the U.S. Supreme Court. In order to retain Alaskan's trust in our system it is vital that legislation be passed this year to ensure that corporations spending money to influence elections are at least required to disclose it in a timely fashion. I urge you to support Senate Bill 284.

SENATOR MEYER said the U.S. Supreme Court ruling pertained to corporations and unions. He asked why Senator French only addressed corporations in his sponsor statement.

SENATOR FRENCH replied that was inadvertent. SB 284 defaults to a definition of 'person' which under Alaska law encompasses individuals, candidates, groups, non-group entities, corporations and unions. The intent is to bring all players under the same set of laws and rules.

[9:30:03 AM](#)

CHAIR MENARD asked how other states are reacting to the U.S. Supreme Court ruling.

SENATOR FRENCH replied that states are hurrying to adopt new disclosure and disclaimer laws prior to upcoming elections. Alaska's Attorney General (AG) has issued an opinion that largely endorses many requirements that SB 284 puts into place. SB 284 has two main points: disclosure and disclaimer. Disclosure means reporting to the Alaska Public Offices Commission (APOC) what one is taking in and spending. Disclaimer means putting a message on the communication itself saying who paid for it. Under SB 284, the top five contributors to a group that paid for a communication would have to list their contributions.

[9:32:17 AM](#)

SENATOR MEYER asked if SB 284 would affect all corporations, regardless of size.

SENATOR FRENCH replied yes.

SENATOR MEYER asked what the disclosure requirements are for the corporations.

SENATOR FRENCH replied that on page 3, lines 7-12 require disclosure of the candidate or the title of the ballot proposition being supported or opposed and the name and address of each officer or director, when applicable. On page 3, paragraph 5, beginning on line 14, requires the name, address and principal occupation and employer of an individual contributor. If it is a group, non-group entity or corporation, the name and address of the contributor and the name and address of each officer and director of the contributor is required.

[9:34:38 AM](#)

SENATOR MEYER asked about the requirement for each officer and director on Page 3, line 11. He provided an example of Carrs Safeway contributing to a campaign to pass school bonds and asked if Carrs Safeway would have to list all directors and officers nationwide or just in Alaska.

SENATOR FRENCH replied that Carrs Safeway would have to list the officers and directors of whatever subdivision gave the money. He provided another example using BP. Whichever entity of BP "writes the check", such as BP Alaska, BP National or BP International, must list its directors and officers.

SENATOR MEYER asked how SB 284 would apply to unions.

SENATOR FRENCH replied that the U.S. Supreme Court decision and SB 284 do not effect contributions to candidates. The Supreme Court decision opened up independent expenditures for and against candidates by corporations and unions. Corporations still cannot give any candidate money but can support or oppose candidates independently on TV, in print or radio.

SENATOR MEYER asked if there is a dollar amount.

SENATOR FRENCH responded no.

SENATOR MEYER asked what the Teamsters, for example, need to disclose if they want to support a candidate.

SENATOR FRENCH replied that the Teamsters would have to disclose the name and address of each officer and director of the entity that wrote the check; for example, Teamsters Alaska Local 959.

9:37:46 AM

SENATOR MEYER asked Senator French to explain page 3, lines 13-17, about the aggregate amount not exceeding \$100. He asked why all contributions, regardless of amount, aren't required to be disclosed.

SENATOR FRENCH replied that the report of contributions must contain the aggregate amount of all contributions made to the person. For all contributions that exceed \$100, the report must include the date of the contribution and the amount contributed by each contributor. An individual contributor's name, address, principal occupation and employer must be listed. If a corporation is contributing, the name and address of each officer and director is required.

SENATOR MEYER said currently candidates can disclose all contributions.

SENATOR FRENCH said candidates have to disclose all the contributions and the name. Some candidates voluntarily add the occupation and employer for all contributions and others wait until the threshold is hit.

SENATOR MEYER asked if Senator French thinks SB 284 tracks the current process.

SENATOR FRENCH replied yes.

SENATOR PASKVAN referred to page 3, paragraph 5, lines 13-17 and asked for confirmation that a legal entity, such as a corporation, would be required to divulge whether the employees of that corporation are contributing or if the president alone is utilizing its general funds.

[9:40:56 AM](#)

SENATOR FRENCH replied that Senator Paskvan's analysis was correct.

SENATOR MEYER referred to Section 11 of SB 284 on page 5, line 23 which says "include a statement from the principal officer approving the communication". He asked what Senator French envisions as far as a statement from the principal officer.

SENATOR FRENCH responded that people are familiar with a statement following a TV ad, such as, "I am Senator So-and-so, and I approve this ad." He said the intention of SB 284 is to make certain that voters hear from the principal officer or the person bringing the advertisement forth.

SENATOR MEYER asked if a corporation's local presiding officer in Alaska would be at the end of a TV ad or, for example, the president of Conoco Phillips in Houston.

SENATOR FRENCH replied with an example: If Exxon Alaska made the ad, Marty Massey would make the statement; if it's Exxon USA or Exxon Global, whoever rules that particular domain would make the statement. The same applies for unions. It helps establish accountability.

SENATOR MEYER said he does not disagree but more than likely the money came from Houston, London or Ohio. Corporations are so big that you can get lost in the maze.

[9:43:54 AM](#)

SENATOR FRENCH said Senator Meyer is anticipating some of the difficulties of the new landscape and SB 284 will not stay its present form for long before more changes will be needed. However, something needs to get on the books.

SENATOR MEYER said he feels full disclosure is always best.

CHAIR MENARD said she is concerned about the requirement that a board of directors must report all names and asked if officers and secretaries must be named.

SENATOR FRENCH replied yes.

CHAIR MENARD said doing so could be cumbersome. She asked if the recording criteria for corporations is identical to the statutory requirements for other non-corporate groups.

SENATOR FRENCH said the intention is to make them all equal.

[9:45:51 AM](#)

MARILYN RUSSELL, President, League of Women Voters - Alaska (LWV) said LWV supports SB 284. The goals of a campaign system should be: to ensure the public's right to know, to combat corruption and undue influence, to enable candidates to compete more equitably and to promote citizen participation in the political process. The LWV was disappointed in the recent U.S. Supreme Court decision and polls show that eight in ten Americans oppose the decision to allow corporate political spending. Alaska's campaign laws must be amended, before the upcoming primary and general elections, to require full disclosure of campaign contributions by corporations and labor unions which are currently not covered under existing laws regarding disclosure and disclaimer. Citizens should know who is spending money supporting or opposing candidates and ballot issues. The information should be available with the campaign communication itself.

[9:48:06 AM](#)

MATT WALLACE, Executive Director, Alaska Public Interest Research Group (AKPIRG) said getting something on the books to mitigate undue spending in upcoming campaigns and elections is critical. AKPIRG is encouraged to see that SB 284 would require the same type of disclosure for independent corporate and union spending that is currently required for campaign contributions to candidates. AKPIRG wants citizens to know who is paying for attack ads. AKPRIG supports decreasing the influence of big money in politics, leveling the playing field, and giving citizens a voice in the political process. AKPIRG is in strong support of SB 284.

[9:50:47 AM](#)

JOHN PTACIN, Attorney, Department of Law, said his main client is the Alaska Public Offices Commission (APOC). He said Alaska may not prohibit independent expenditures attenuated to political speech outright. That changes the landscape of the law. Currently some disclosure and disclaimer laws do apply to corporations, labor unions and companies attempting to make an independent expenditure in a candidate election. Other laws do

not apply because when legislation was passed, the legislature did not contemplate corporations and labor unions making independent expenditures in candidate elections. An AG memorandum, issued about 10 days ago, determined that the true source of funds is an issue for corporations, labor unions and companies making independent expenditures in candidate elections.

[9:53:26 AM](#)

SENATOR FRENCH asked Mr. Ptacin if anything in SB 284 is inconsistent with the opinion put out by the AG's office.

MR. PTACIN replied that he does not find any inconsistencies between SB 284 and the AG's memo.

CHAIR MENARD closed public testimony.

SENATOR PASKVAN said Senator French should be commended because the change in the legal landscape following the January 2010 U.S. Supreme Court decision leaves potential for inequities in the upcoming election. A legal entity such as a corporation or union should stay out of the political debate if they don't want to disclose or disclaim. Citizens have a right to know and SB 284 should be passed.

SENATOR MEYER said he agrees with Senator Paskvan. His only concern is that SB 284 needs some cleanup so that unions or corporations know the rules if they want to participate in the passage of school bonds, for example.

[9:56:11 AM](#)

SENATOR MEYER moved to report SB 284 from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

At ease from 9:56 a.m. to 9:59 a.m.

HJR 16-DISABLED VETERANS PROCUREMENT PREFERENCE

[9:59:16 AM](#)

CHAIR MENARD announced the final order of business would be HJR 16. [CSHJR 16(L&C) was before the committee.]

KAREN SAWYER, staff to Representative Carl Gatto, sponsor of HJR 16, said a service disabled veteran is a veteran who possesses a disability rating letter issued by the Department of Veteran Affairs establishing a service connected rating between 1 and

100 percent disability. A veteran-owned business means that same veteran owns at least 51 percent of the business or stock or performs management and daily business operations. The procurement preference refers to the 2003 Veterans Benefits Act, which strengthened a law allowing service disabled veterans to go into business for themselves by bidding on federal contracts. Three percent of all federally budgeted dollars were to be set aside for these business, ensuring that small business in the state owned by these veterans were able to received sole source and restriction competition contracts for goods and services used by the federal government. However, that has not been happening.

HJR 16 urges the President to direct all federal agencies in the state to fully comply with the 3 percent procurement preference. HJR 16 also requests the house and senate small business committees and committees on veteran affairs to hold joint oversight hearings, in Alaska, into the refusal or failure of these agencies to comply. According to the Small Business Administration, which oversees the program, as of 2008 only 4 out of 24 federal agencies nationwide were meeting the goal.

[10:02:51 AM](#)

CHAIR MENARD opened public testimony.

RIC DAVIDGE, National Chairman, Economic Opportunities Committee for Vietnam Veterans of America and In-state Council President, Vietnam Veterans of America, and founding board member, Alaska Veterans Business Alliance said U.S. Presidents have signed executive orders and all agencies have been directed to put together strategic plans showing implementation of the 3 percent procurement preference. And yet, particularly in Alaska, the procurement officers say they are too busy and this is too much trouble. He said 300 service disabled veteran owned businesses from Alaska are registered. These businesses are discouraged about getting involved in federal procurement contracts in Alaska which are often in the tens of millions of dollars. The Army Corps of Engineers has made a significant effort and has exceeded the 3 percent set-aside showing that it can be done.

[10:05:40 AM](#)

A state resolution, focused on the problem and calling for oversight hearings, would bring needed attention to the problem.

TIM WHEELER, National Director, Economic Opportunities, Veterans of Modern Warfare, Washington D.C. and board member, Alaska Veteran's Business Alliance, said the Veterans Entrepreneurship

Act was passed nearly 11 years ago and is still not working. He has attended many meetings, particularly with the Department of Defense (DOD) in Anchorage, who told him the goals are being met nationwide but nationwide goals were never met. Veterans who want to go into business for themselves are disheartened. He noted HJR 16 has no fiscal note asked for immediate passage.

10:08:30 AM

SENATOR MEYER asked Mr. Wheeler if other states have similar resolutions.

MR. WHEELER replied yes but does not know which states off hand. Several organizations are involved at a national level.

10:09:55 AM

CHAIR MENARD closed public testimony.

10:10:11 AM

SENATOR MEYER moved to report HJR 16 from committee with individual recommendations and attached fiscal note(s).

CHAIR MENARD announced that without objection, CSHJR 16(L&C) moved from the Senate State Affairs Standing Committee.

10:10:36 AM

CHAIR MENARD, seeing no further business to come before the committee adjourned the meeting at 10:10 a.m.