

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 17, 2011

9:10 a.m.

MEMBERS PRESENT

Senator Bill Wielechowski, Chair
Senator Joe Paskvan, Vice Chair
Senator Kevin Meyer
Senator Cathy Giessel

MEMBERS ABSENT

Senator Albert Kookesh

COMMITTEE CALENDAR

SENATE BILL NO. 98

"An Act relating to biometric information."

- MOVED CSSB 98(STA) OUT OF COMMITTEE

HOUSE BILL NO. 98

"An Act relating to display, folding, presentment, and retirement of the state flag."

- MOVED CSHB 98(STA) OUT OF COMMITTEE

SENATE BILL NO. 94

"An Act adding a second verse to the official Alaska state song."

- HEARD & HELD

CONFIRMATION HEARINGS

Alaska Public Offices Commission
Kenneth Kirk

- CONFIRMATION ADVANCED

Human Rights Commission
Jerrad "Shea" Hutchings

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 98

SHORT TITLE: BIOMETRIC INFORMATION FOR ID

SPONSOR(s): SENATOR(s) WIELECHOWSKI

03/11/11 (S) READ THE FIRST TIME - REFERRALS
03/11/11 (S) STA, JUD
03/15/11 (S) STA AT 9:00 AM BUTROVICH 205
03/15/11 (S) Heard & Held
03/15/11 (S) MINUTE(STA)

BILL: HB 98

SHORT TITLE: HANDLING OF STATE FLAG

SPONSOR(s): REPRESENTATIVE(s) JOHNSON

01/18/11 (H) READ THE FIRST TIME - REFERRALS
01/18/11 (H) STA
02/17/11 (H) STA AT 8:00 AM CAPITOL 106
02/17/11 (H) Moved Out of Committee
02/17/11 (H) MINUTE(STA)
02/18/11 (H) STA RPT 5DP
02/18/11 (H) DP: JOHANSEN, KELLER, SEATON, PETERSEN,
LYNN
02/25/11 (H) TRANSMITTED TO (S)
02/25/11 (H) VERSION: HB 98
02/28/11 (S) READ THE FIRST TIME - REFERRALS
02/28/11 (S) STA
03/08/11 (S) STA AT 9:00 AM BUTROVICH 205
03/08/11 (S) Heard & Held
03/08/11 (S) MINUTE(STA)

BILL: SB 94

SHORT TITLE: SECOND VERSE OF ALASKA'S STATE SONG

SPONSOR(s): SENATOR(s) DAVIS

02/25/11 (S) READ THE FIRST TIME - REFERRALS
02/25/11 (S) CRA, STA
03/08/11 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
03/08/11 (S) Moved SB 94 Out of Committee
03/08/11 (S) MINUTE(CRA)
03/09/11 (S) CRA RPT 5DP
03/09/11 (S) DP: OLSON, KOOKESH, WAGONER, ELLIS,
MENARD
03/09/11 (S) FIN REFERRAL ADDED AFTER STA
03/17/11 (S) STA AT 9:00 AM BUTROVICH 205

WITNESS REGISTER

MICHAEL CAUFIELD, Staff to Senator Wielechowski
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented SB 98 for sponsor, Senator Wielechowski.

JEANNE OSTNESS, Staff to Representative Craig Johnson
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented HB 98 for sponsor, Representative Johnson

SENATOR BETTYE DAVIS
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 94.

PAMELA MARSH, Staff to Senator Davis
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented SB 94 for sponsor, Senator Davis.

CONNIE DAVIS, representing herself
Juneau, AK

POSITION STATEMENT: Testified in support of SB 94.

MARIE OLSEN
Alaska Native Sisterhood
Juneau, AK

POSITION STATEMENT: Testified in support of SB 94.

RICHARD JACKSON, Grand President
Alaska Native Brotherhood
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 94.

KENNETH KIRK, Governor's Nominee
Alaska Public Offices Commission (APOC)
Juneau, AK

POSITION STATEMENT: Answered questions from committee members.

MICHELLE SYDEMAN, staff to Senator Wielechowski
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Explained absence of governor's nominee Jerrad Hutchings.

ACTION NARRATIVE

9:10:06 AM

CHAIR BILL WIELECHOWSKI called the Senate State Affairs Standing Committee meeting to order at 9:10 a.m. Senator Giessel, Meyer, and Wielechowski were present at the call to order. Senator Paskvan arrived soon thereafter.

SB 98-BIOMETRIC INFORMATION FOR ID

9:10:45 AM

CHAIR WIELECHOWSKI announced the consideration of SB 98, a bill seeking to protect Alaskans from inappropriate use of their fingerprints, voice patterns, facial characteristics, and other biometric information. He asked his staff to explain the proposed amendment. It is in response to a question about palm prints that Senator Paskvan raised at the previous hearing; the change occurs on page 4, line 2 of version M, which is the version that is before the committee.

9:11:06 AM

SENATOR PASKVAN joined the meeting.

CHAIR WIELECHOWSKI moved to adopt Amendment M.1 [27-LS0661\M.1] and objected for discussion purposes.

AMENDMENT M.1

OFFERED IN THE SENATE BY SENATOR WIELECHOWSKI
TO: CSSB 98, Draft Version "M"

Page 4, line 2:
Delete "palm print"
Insert "skin"

9:11:34 AM

MICHAEL CAUFIELD, staff to Senator Bill Wielechowski, explained that the amendment changed "palm print" to "skin."

CHAIR WIELECHOWSKI removed his objection [and Amendment M.1 was adopted.] He informed the committee that the Department of Law (DOL) fiscal note is indeterminate and discussions are ongoing to get it reclassified as zero. He asked for a motion to move the bill, reflecting that a zero fiscal note would be forthcoming.

[9:13:32 AM](#)

SENATOR PASKVAN moved to report CS for SB 98, as amended by M.1, from committee with individual recommendations and forthcoming fiscal note.

CHAIR WIELECHOWSKI announced that without objection CSSB 98(STA) moved from the Senate State Affairs Standing Committee.

[9:14:00 AM](#)

At ease

HB 98-HANDLING OF STATE FLAG

[9:15:07 AM](#)

CHAIR WIELECHOWSKI announced the consideration of HB 98 and noted it was heard last week. He asked for a motion to adopt the proposed [Senate] committee substitute (CS). He explained that it adds the words "in a public facility" to page 1, lines 4 and 6. This is to clarify that these provisions apply only to an official display of the flag in a public location. Some concern was expressed about dictating how the flag could be used privately, which was probably not the intent of the sponsor.

[9:16:11 AM](#)

SENATOR PASKVAN moved to adopt the work draft Senate CS for HB [98], labeled 27-LS0014\B as the working document.

CHAIR WIELECHOWSKI objected for discussion purposes.

[9:17:15 AM](#)

JEANNE OSTNESS, staff to Representative Craig Johnson, sponsor of HB 98, said the sponsor had no objection to the CS, which makes the one small change that Chair Wielechowski explained.

CHAIR WIELECHOWSKI removed his objection and asked for a motion to move the bill.

[9:18:01 AM](#)

SENATOR PASKVAN moved to report the Senate CS for HB 98, version B, from committee with individual recommendations and attached fiscal note(s).

CHAIR WIELECHOWSKI announced that without objection SCS HB 98(STA) moved from the Senate State Affairs Standing Committee.

[9:18:32 AM](#)

At ease

SB 94-SECOND VERSE OF ALASKA'S STATE SONG

[9:19:15 AM](#)

CHAIR WIELECHOWSKI announced the consideration of SB 94, which would create a second verse to the Alaska State Song.

[9:19:42 AM](#)

SENATOR BETTYE DAVIS, sponsor of SB 94, said this bill passed the Senate last year but didn't make it through the House due to a lack of time. She showed the committee that the second verse is already in the legislative directory and she would like it to be official.

[9:20:59 AM](#)

PAMELA MARSH, staff to Senator Bettye Davis, said she would defer to the daughter of the woman who wrote the song.

CHAIR WIELECHOWSKI opened public testimony.

[9:22:16 AM](#)

CONNIE DAVIS, representing herself, said she is the daughter of Trevor and Carol Berry Davis. She said 1927 was an exciting year. In January then Governor Parks announced a contest for an official state flag. Her father said the design represented all of Alaska. It became known nationwide and in Paris where the American Legion was meeting. Her mother drafted the song soon thereafter and was able to interview Benny Benson, the contest winner for the flag design. Her mother also used words from her friend Marie Drake. Ms. Davis said we've listened to this song for many years but now some people don't even know the first verse. It would be nice to hear both verses at public functions.

CHAIR WIELECHOWSKI said it's amazing that this is such a young state that some of the people who helped create the state are still around.

[9:25:35 AM](#)

MARIE OLSEN, representing herself, said she is a member of the Alaska Native Sisterhood. ANS always supported the Alaska Native Brotherhood that was responsible for bringing equal education to Alaska Natives, workers' compensation, and the right to vote before the U.S. voting amendment passed. Carol Berry Davis was a member of the sisterhood and a good family friend. She wrote poetry. The second verse would complete the history of Alaska. It would unite the people because it mentions Benny Benson. If there ever was a division, this would remove it.

[9:28:19 AM](#)

RICHARD JACKSON, Grand President, Alaska Native Brotherhood, said he supports the sponsor's efforts to get this bill passed. He is a three-year veteran and he always remembered the state song when he was overseas. He believes that the first line of the second verse is particularly meaningful because it complements the efforts toward non-discrimination. It complements the first verse. Both the Alaska Native Brotherhood and Sisterhood support the bill.

CHAIR WIELECHOWSKI closed public testimony and held SB 94 in committee.

CONFIRMATION HEARING(S)
Alaska Public Offices Commission

[9:31:47 AM](#)

CHAIR WIELECHOWSKI announced the next order of business would be confirmation hearings. He said the first nominee is Mr. Kenneth Kirk, who has been nominated to serve on the Alaska Public Offices Commission.

[9:32:17 AM](#)

KENNETH KIRK, Governor's nominee, Alaska Public Offices Commission (APOC), said he is an attorney in Anchorage and a Republican member candidate but he believes the position should be non-partisan. He would like to change some things on the commission but care must be taken to meet legitimate concerns and protect the First Amendment.

[9:34:04 AM](#)

CHAIR WIELECHOWSKI asked what changes he had in mind regarding procedures and policies.

MR. KIRK responded the commission is already reviewing the regulations and he believes they only need tweaking, not major changes.

CHAIR WIELECHOWSKI asked if there might be better ways to file required APOC reports.

MR. KIRK answered the filing procedures could be improved. For example, APOC rules state the public official financial disclosure must be done on a form provided by APOC; however, there is no form. Many small things need to be fixed.

CHAIR WIELECHOWSKI asked his opinion about the APOC staffing level.

MR. KIRK answered he believes it's about right, but that assessment may be premature.

CHAIR WIELECHOWSKI asked his opinion on the draft regulations APOC has out for public review.

MR. KIRK replied he has concerns about things like the definition of "anything of value" and the restriction on political funds being spent on public utility elections, but these are relatively minor.

[9:37:24 AM](#)

SENATOR PASKVAN noted Mr. Kirk's writing on the merit based system for the selection of judges sets out a dichotomy between liberal and conservative, and asked how he would apply that distinction in his work with APOC.

MR. KIRK replied that is his private citizen view. As a commissioner he would need to be more careful and considered in his decisions. He noted that he writes for the Bar Rag and his writings often try to shake things up; as an APOC commissioner he would be much more cautious.

CHAIR WIELECHOWSKI said Mr. Kirk's letter to the committee talks about restrictions on free speech, and asked how he would deal with situations that don't reflect his personal philosophy but rather are points of law or regulation.

MR. KIRK responded he wouldn't expect to look at every case in terms of the First Amendment. However, restrictions on free speech need to be narrowly tailored. The issue last year about forwarding emails was a concern and was beyond what the First Amendment would permit. There was nothing in the statutes which prohibited forwarding emails.

[9:41:55 AM](#)

CHAIR WIELECHOWSKI asked if he would have a problem being fair since this is a political appointment.

MR. KIRK answered people can be fair when dealing with members of the other party just as legislators do. The current commissioners feel the same.

CHAIR WIELECHOWSKI said that's been his experience.

[9:43:12 AM](#)

SENATOR PASKVAN noted the phrase "using the state constitution as a weapon" in Mr. Kirk's writing is a concern. The constitution is more of a standard than a weapon. That reference was made to the Alaska Supreme Court. The writing was "Alaska: Conservative State, Liberal Judiciary."

MR. KIRK said he did that writing at the request of an advocacy organization. The reference was to the Supreme Court trying to push a particular agenda.

SENATOR PASKVAN said he was focused on the word "weapon" and why Mr. Kirk would use that term.

MR. KIRK said he doesn't recall, but his point was probably that the court was not interpreting the constitution but rather misusing it to push a particular agenda.

[9:45:38 AM](#)

CHAIR WIELECHOWSKI asked if the meeting load would be problematic for him, in view of his private practice.

MR. KIRK answered no. He's always done extra activity and in preparing for this position he has resigned from others. He imagines he will cut back on new cases during the election season.

[9:46:55 AM](#)

SENATOR MEYER disclosed that Mr. Kirk is a constituent and he's found him to be impartial, fair, and unbiased. It is a volunteer position for all practical purposes.

CHAIR WIELECHOWSKI asked for a motion.

[9:47:38 AM](#)

SENATOR MEYER moved to forward the name Kenneth Kirk to the joint body for further consideration.

CHAIR WIELECHOWSKI reminded the committee that a vote today does not indicate support or opposition. Finding no objection, he congratulated Mr. Kirk and said his name would be forwarded to the joint body for consideration.

Human Rights Commission

[9:48:35 AM](#)

CHAIR WIELECHOWSKI announced the next order of business would be the confirmation hearing of Jerrad "Shea" Hutchings who has been nominated to the seven-member Human Rights Commission. Finding that Mr. Hutchings was not online, he asked his staff to explain.

[9:49:52 AM](#)

MICHELLE SYDEMAN, staff to Senator Wielechowski, informed the committee that she had called Mr. Hutchings at least three times, sent several emails, the latest this morning, and contacted the Governor's Office. She noted that Jason Hooley from the Governor's Office has been trying to contact Mr. Hutchings as well. Her understanding is that Mr. Hutchings did not participate during the House confirmation hearing. She acknowledged that Mr. Hutchings did call to ask if he could testify in the Senate State Affairs committee on Wednesday, but he was told that the committee only meets on Tuesday and Thursday.

[9:51:26 AM](#)

CHAIR WIELECHOWSKI set the confirmation hearing of Mr. Hutchings aside.

[9:51:49 AM](#)

There being no further business to come before the committee, Chair Wielechowski adjourned the Senate State Affairs Standing Committee meeting at 9:51 a.m.