

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE

February 25, 2013

2:04 p.m.

MEMBERS PRESENT

Representative Wes Keller, Chair
Representative Bob Lynn, Vice Chair
Representative Neal Foster
Representative Gabrielle LeDoux
Representative Lance Pruitt
Representative Max Gruenberg

MEMBERS ABSENT

Representative Charisse Millett

COMMITTEE CALENDAR

HOUSE BILL NO. 63

"An Act extending the termination date of the Board of Governors of the Alaska Bar Association; and providing for an effective date."

- MOVED HB 63 OUT OF COMMITTEE

HOUSE BILL NO. 34

"An Act making state compliance with a federal law, regulation, or presidential executive order contingent on receipt of certain information from the federal government."

- HEARD & HELD

HOUSE BILL NO. 83

"An Act relating to certain federal statutes, regulations, presidential executive orders, and secretarial orders; relating to the duties of the attorney general; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 73

"An Act relating to the commencement of actions for felony sex trafficking and felony human trafficking; relating to the crime of sexual assault; relating to the crime of unlawful contact; relating to forfeiture for certain crimes involving

prostitution; relating to the time in which to commence certain prosecutions; relating to release for violation of a condition of release in connection with a crime involving domestic violence; relating to interception of private communications for certain sex trafficking or human trafficking offenses; relating to use of evidence of sexual conduct concerning victims of certain crimes; relating to procedures for granting immunity to a witness in a criminal proceeding; relating to consideration at sentencing of the effect of a crime on the victim; relating to the time to make an application for credit for time served in detention in a treatment program or while in other custody; relating to suspending imposition of sentence for sex trafficking; relating to consecutive sentences for convictions of certain crimes involving child pornography or indecent materials to minors; relating to the referral of sexual felonies to a three-judge panel; relating to the definition of 'sexual felony' for sentencing and probation for conviction of certain crimes; relating to the definition of "sex offense" regarding sex offender registration; relating to protective orders for stalking and sexual assault and for a crime involving domestic violence; relating to the definition of 'victim counseling centers' for disclosure of certain communications concerning sexual assault or domestic violence; relating to violent crimes compensation; relating to certain information in retention election of judges concerning sentencing of persons convicted of felonies; relating to remission of sentences for certain sexual felony offenders; relating to the subpoena power of the attorney general in cases involving the use of an Internet service account; relating to reasonable efforts in child-in-need-of-aid cases involving sexual abuse or sex offender registration; relating to mandatory reporting by athletic coaches of child abuse or neglect; making conforming amendments; amending Rules 16, 32.1(b)(1), and 32.2(a), Alaska Rules of Criminal Procedure, Rule 404(b), Alaska Rules of Evidence, and Rule 216, Alaska Rules of Appellate Procedure; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 63

SHORT TITLE: EXTEND BAR ASS'N BOARD OF GOVERNORS

SPONSOR(S): REPRESENTATIVE(S) HAWKER

01/16/13 (H) READ THE FIRST TIME - REFERRALS
01/16/13 (H) JUD, FIN

02/25/13 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 34

SHORT TITLE: FEDERAL LAWS, REGULATIONS & EXEC. ORDERS

SPONSOR(S): REPRESENTATIVE(S) T.WILSON

01/16/13 (H) PREFILE RELEASED 1/7/13
01/16/13 (H) READ THE FIRST TIME - REFERRALS
01/16/13 (H) JUD
02/25/13 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE MIKE HAWKER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 63.

HANNA SEBOLD, President
Board of Governors
Alaska Bar Association (ABA)
Juneau, Alaska

POSITION STATEMENT: Responded to a question during discussion of HB 63.

STEPHEN J. VAN GOOR, Bar Counsel
Alaska Bar Association (ABA)
Anchorage, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 63.

THOMAS S. OBERMEYER, SR., Attorney at Law
Anchorage, Alaska

POSITION STATEMENT: Asked that HB 63 not be passed, thereby allowing the Board of Governors of the Alaska Bar Association (ABA) to sunset.

REPRESENTATIVE TAMMIE WILSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 34.

MIKE COONS
Palmer, Alaska

POSITION STATEMENT: Expressed support for the intent of HB 34, recommended changes to the bill, and urged the bill's passage.

ACTION NARRATIVE

[2:04:20 PM](#)

CHAIR WES KELLER called the House Judiciary Standing Committee meeting to order at 2:04 p.m. Representatives Keller, Lynn, Gruenberg, and Foster were present at the call to order. Representatives LeDoux and Pruitt arrived as the meeting was in progress. Representative Millett was excused.

HB 63 - EXTEND BAR ASS'N BOARD OF GOVERNORS

[2:05:17 PM](#)

CHAIR KELLER announced that the first order of business would be HOUSE BILL NO. 63, "An Act extending the termination date of the Board of Governors of the Alaska Bar Association; and providing for an effective date."

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REPRESENTATIVE MIKE HAWKER, Alaska State Legislature, sponsor, explained that HB 63 would extend the termination date of the Board of Governors of the Alaska Bar Association (ABA), currently scheduled to terminate June 30, 2013. The Division of Legislative Audit, having concluded an audit of the Board of Governors of the ABA and determined that it's operating in the public's interest and has complied with its duties and responsibilities to the public, recommends that the termination date be extended to June 30, 2021. He mentioned that the Division of Legislative Audit [has also determined that the Board of Governors should again recommend to the Alaska Supreme Court that it amend the Alaska Bar Rules so as to] increase the number of continuing legal education (CLE) credit hours that each ABA member be mandated to complete.

REPRESENTATIVE GRUENBERG disclosed that he is a member of the ABA, and, remarking on the importance of mandatory CLE for ABA members, questioned whether something should be added to HB 63 regarding that recommendation.

REPRESENTATIVE HAWKER expressed a preference for attaching a letter of intent, rather than amending the bill.

REPRESENTATIVE GRUENBERG relayed that he would draft that letter of intent.

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HANNA SEBOLD, President, Board of Governors, Alaska Bar Association (ABA), in response to comments and a question, indicated that the Board of Governors is willing to discuss with the Alaska Supreme Court the issue of increasing the number of mandatory CLE credit hours for ABA members.

[2:14:22 PM](#)

STEPHEN J. VAN GOOR, Bar Counsel, Alaska Bar Association (ABA), indicated that such discussion would be occurring soon.

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THOMAS S. OBERMEYER, SR., Attorney at Law - referring to a letter he'd written, included in members' packets, and mentioning that he's licensed to practice law in Missouri - offered his beliefs that there are many problems with the ABA, including a lack of uniform discipline and low bar-examination passage rates, that Alaska's bar-examination passage rates should be increased, and that Alaska's current passage rates have been kept low on purpose through manipulation. He opined, therefore, that HB 63 should not be passed, thereby allowing the Board of Governors of the Alaska Bar Association to terminate, in turn providing an opportunity to reevaluate Alaska's bar examination. He also indicated, though, that he has no objection to increasing mandatory CLE. In conclusion, he said, "I don't think this should be just another rubberstamp ... passage ... of a sunset date."

MR. VAN GOOR, in response to comments and a question, indicated that the Board of Governors of the ABA is currently researching the issue of a uniform bar examination.

CHAIR KELLER, ascertaining that no one else wished to testify, closed public testimony on HB 63, and pointed out that as currently written, the bill would only extend the termination date of the Board of Governors of the Alaska Bar Association.

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REPRESENTATIVE LYNN moved to report HB 63 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 63 was reported from the House Judiciary Standing Committee. [Note to the reader: the

aforementioned letter of intent for HB 63 was adopted by the committee on 2/27/13.]

HB 34 - FEDERAL LAWS, REGULATIONS & EXEC. ORDERS

[2:29:09 PM](#)

CHAIR KELLER announced that the final order of business would be HOUSE BILL NO. 34, "An Act making state compliance with a federal law, regulation, or presidential executive order contingent on receipt of certain information from the federal government."

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REPRESENTATIVE LYNN moved to adopt the proposed committee substitute (CS) for HB 34, Version 28-LS0195\C, Nauman, 1/30/13, as the working document. There being no objection, Version C was before the committee.

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REPRESENTATIVE TAMMIE WILSON, Alaska State Legislature, sponsor, explained that the original version of HB 34 would preclude the state from complying with a federal law, federal regulation, or presidential executive order until the federal government provides a written description telling the state how to comply with, and the economic effect on each community of complying with, the federal law, federal regulation, or presidential executive order. Version C of HB 34, in contrast, precludes the state from complying with a federal law, federal regulation, or presidential executive order until the state requests from the federal government a written description of the economic effect - on the state and on each community [and on industry] - of complying with the federal law, federal regulation, or presidential executive order; and precludes the state from accepting any associated federal funding until either the federal government or the state provides that written description. She indicated that the drafter recommended this change in approach, and mentioned that members' packets contain examples, as well as an indeterminate fiscal note submitted by the Office of Management & Budget (OMB). In conclusion, she said, "I believe every time we take any money from the federal government, we should know what strings are attached and ... how it's going to affect the communities that we all live in."

CHAIR KELLER noted that language on page 2, lines [4-7], of Version C stipulates that the state may not accept the associated federal funding until the aforementioned written description is transmitted to the legislature.

REPRESENTATIVE T. WILSON relayed that under Version C, the state would request the written description from the federal government, but if the federal government does not provide it within 90 days, then the state would provide it and transmit it to the legislature. She mentioned that under the bill, the legislature would not be determining whether to accept the associated federal funding; instead, the legislature would simply be informed before the administration accepts such funding.

The committee took an at-ease from 2:37 p.m. to 2:39 p.m.

REPRESENTATIVE T. WILSON, in response to a question, indicated that a new fiscal note from the OMB reflecting the changes incorporated in Version C would be forthcoming.

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MIKE COONS, mentioning that he'd provided written testimony regarding the original version of HB 34, said he supports the intent of the bill though he believes that the bill itself does not yet go far enough. He suggested that Version C of HB 34 be changed: such that rather than merely requesting from the federal government a written description of the economic effect of the federal law, federal regulation, or presidential executive order, that the state instead demand that written description from the federal government; such that that written description include information about the constitutionality of the federal law, federal regulation, or presidential executive order; and such that it require the federal law, federal regulation, or presidential executive order to be fully funded by the federal government. In conclusion, Mr. Coons urged passage of HB 34.

REPRESENTATIVE T. WILSON offered her understanding that such changes would violate the constitution.

Due to teleconference-equipment malfunctions, the committee took an at-ease from 2:45 p.m. to 2:55 p.m.

REPRESENTATIVE T. WILSON, in closing, relayed that HB 34 would ensure that [the legislature] is kept apprised of the potential

economic effects of federal laws, federal regulations, and presidential executive orders, and reiterated that a new fiscal note from the OMB would be forthcoming.

CHAIR KELLER relayed that HB 34 [Version C] would be held over.

[2:56:24 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:56 p.m.