

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS

March 19, 2013

1:09 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Gabrielle LeDoux, Co-Chair
Representative Shelley Hughes
Representative Lora Reinbold
Representative Dan Saddler
Representative Max Gruenberg

MEMBERS ABSENT

Representative Pete Higgins

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 11

Commemorating the 30th anniversary of President Ronald Reagan's address to the nation concerning the Strategic Defense Initiative, recognizing the strategic importance of Alaska in the missile interceptor defense system, and urging the United States to deploy the number of ground-based interceptors originally intended at Fort Greely.

- MOVED CSHJR 11(MLV) OUT OF COMMITTEE

HOUSE BILL NO. 164

"An Act authorizing municipalities to exempt from taxation, by ordinance approved by the voters in the municipality, the real property that is the primary residence of a resident who is at least 60 years of age and the widow or widower of a person who was killed while in the military service of the United States; and providing for an effective date."

- MOVED CSHB 164(MLV) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 11

SHORT TITLE: COMMEM. ANNIVERSARY OF REAGAN SDI SPEECH

SPONSOR(S): REPRESENTATIVE(S) SADDLER

03/13/13 (H) READ THE FIRST TIME - REFERRALS

03/13/13 (H) MLV
03/19/13 (H) MLV AT 1:00 PM CAPITOL 120

BILL: HB 164

SHORT TITLE: PROPERTY TAX EXEMPTION/MILITARY WIDOW(ER)

SPONSOR(S): REPRESENTATIVE(S) MILLETT

03/13/13 (H) READ THE FIRST TIME - REFERRALS
03/13/13 (H) MLV, CRA
03/19/13 (H) MLV AT 1:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE CHARISSE MILLETT

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 164.

MARTY MCGEE, Assessor

Municipality of Anchorage

Anchorage, Alaska

POSITION STATEMENT: During the hearing of HB 164, answered questions.

JEFFREY MITTMAN, Executive Director

American Civil Liberties Union of Alaska (ACLU of Alaska)

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 164.

ACTION NARRATIVE

[1:09:13 PM](#)

CO-CHAIR GABRIELLE LEDOUX called the House Special Committee on Military and Veterans' Affairs meeting to order at 1:09 p.m. Representatives Hughes, Gruenberg, Reinbold, Saddler, Foster, and LeDoux were present at the call to order.

HJR 11-COMMEM. ANNIVERSARY OF REAGAN SDI SPEECH

[1:09:51 PM](#)

CO-CHAIR LEDOUX announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 11, Commemorating the 30th anniversary of President Ronald Reagan's address to the nation concerning the Strategic Defense Initiative, recognizing the strategic importance of Alaska in the missile interceptor

defense system, and urging the United States to deploy the number of ground-based interceptors originally intended at Fort Greely.

[1:10:01 PM](#)

REPRESENTATIVE SADDLER, speaking as the sponsor of HJR 11, stated the resolution commemorates President Ronald Reagan's address to the nation on March 23, 1983. President Reagan believed the U.S. should attain peace through strength, and called for the development of a strategic missile defense system. The resolution credits President Reagan for his vision and also honors Alaskans who play a role in what is presently known as the Ground-Based Midcourse Defense System. The Alaska National Guard 49th Battalion mans the system at U.S. Army Base Fort Greely which has 26 missiles and silos; however, the original plans called for 40 missiles and since 2009, the nation has been vulnerable to the threats of missile capability from Iran, China, and North Korea. The resolution calls for the complete deployment of the full build out of missiles at Fort Greely. Recently, the incoming Secretary of Defense announced plans to deploy 14 more interceptors at Fort Greely and four at Vandenberg Air Force Base in California. Representative Saddler restated that HJR 11 recognizes President Reagan's "star wars vision," honors his commitment to peace defense systems, and validates the decision to complete the installation of inceptor missiles at Fort Greeley.

[1:12:56 PM](#)

CO-CHAIR LEDOUX opened public testimony.

REPRESENTATIVE GRUENBERG said he would offer a conceptual amendment to make a few grammatical changes to the resolution.

REPRESENTATIVE SADDLER concurred.

[1:15:11 PM](#)

REPRESENTATIVE GRUENBERG moved to adopt Conceptual Amendment 1.

REPRESENTATIVE HUGHES objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG called attention to page 2, line 13, and suggested deletion of the word "respectfully." On page 2, line 19, he suggested replacing the word "missile" with the word "missiles." On page 2, lines 26-27, he suggested replacing "a

North Korean missile attack" with "missile attacks from North Korea or any other geographically close entities." On page 2, line 29, he suggested deleting ", including in December 2012;" and inserting ", December 2012," following "2006."

[1:17:45 PM](#)

REPRESENTATIVE HUGHES withdrew her objection. There being no further objection, Conceptual Amendment 1 was adopted.

CO-CHAIR FOSTER thanked the sponsor for introducing the resolution.

REPRESENTATIVE HUGHES asked if the resolution was drafted before or after the announcement of the deployment of additional missiles at Fort Greely.

REPRESENTATIVE SADDLER said before.

[1:19:38 PM](#)

REPRESENTATIVE FOSTER moved to report HJR 11, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 11(MLV) was reported from the House Special Committee on Military and Veterans' Affairs.

The committee took an at-ease from 1:20 p.m. to 1:22 p.m.

HB 164-PROPERTY TAX EXEMPTION/MILITARY WIDOW(ER)

[1:22:15 PM](#)

CO-CHAIR LEDOUX announced that the final order of business would be HOUSE BILL NO. 164, "An Act authorizing municipalities to exempt from taxation, by ordinance approved by the voters in the municipality, the real property that is the primary residence of a resident who is at least 60 years of age and the widow or widower of a person who was killed while in the military service of the United States; and providing for an effective date."

[1:22:28 PM](#)

REPRESENTATIVE CHARISSE MILLETT, Alaska State Legislature, speaking as the sponsor, related that one of her constituents who lost her husband in action worked hard to pass an ordinance in the Municipality of Anchorage that would allow a property tax

exemption for the first \$150,000 of the assessed value of a primary residence for a widow(er) of a person who was killed while in military service. The ordinance, known as Proposition 7, passed in 2012, but will not take effect until the legislature amends AS 29.45.030(e). This bill will amend the statute and allow the exemption to take effect. Unfortunately, the bill as drafted only allows widows(ers) over the age of 60 to receive the exemption, but the intent was to help younger families also. An amendment will be offered to change the age requirement so the exemption will apply to any widow(er) whose spouse was killed during military service. Representative Millett advised that about three years after a military spouse is killed, there is a significant reduction in death benefits and the military pension is not available until the age of 62. This bill will encourage military families who have invested in a home to stay in Alaska.

[1:26:09 PM](#)

REPRESENTATIVE REINBOLD said she is glad for this assistance to military families.

REPRESENTATIVE HUGHES expressed her appreciation to the sponsor and said she supported the change in the age requirement.

CO-CHAIR FOSTER stated his support for HB 164, and asked for the range of income that is paid to a survivor after a spouse has died in military service.

REPRESENTATIVE MILLETT was unsure. In the aforementioned situation, her constituent received survivor status pay for three years and is now in retired status and must carry the burden of continuing insurance and other benefits. She will not receive survivor's benefits until the age of 62. Representative Millett offered to find out the exact death benefits for survivors.

CO-CHAIR LEDOUX opened the meeting to public testimony.

[1:29:44 PM](#)

REPRESENTATIVE GRUENBERG asked about the bill's fiscal impact on Anchorage.

[1:29:57 PM](#)

MARTY MCGEE, Assessor, Municipality of Anchorage, stated that approximately 250 widows(ers) are enrolled in the entire program and estimated the legislation would add less than 10 additional people to those eligible to receive benefits.

REPRESENTATIVE GRUENBERG asked whether Mr. McGee found subsection (e) confusing.

MR. MCGEE agreed, although he said he has a working knowledge and understanding of [subsection (e)].

REPRESENTATIVE GRUENBERG suggested using the bill to clarify the section.

REPRESENTATIVE MILLETT opined the abovementioned amendment will make the section more clear.

[1:32:37 PM](#)

CO-CHAIR LEDOUX said she was unsure whether the amendment is the place to do so.

[1:33:10 PM](#)

REPRESENTATIVE HUGHES asked for clarification on the change in the number of people who qualified for the exemption.

MR. MCGEE explained that the Municipality of Anchorage may add 10 more exemptions to the current number as the result of this legislation. This is primarily due to the change in age determination, and that the interpretation of existing law is that the deceased was a disabled veteran prior to death. House Bill 164 clarifies that the deceased does not have to be disabled prior to death, and that the exemption applies to the widow(er) of those who died in service. Mr. McGee saw no problem with the interpretation of HB 164 and supported the removal of the age requirement.

REPRESENTATIVE HUGHES asked on what the estimate was based.

MR. MCGEE responded the estimate of 10 is based on the number of those who have inquired about the exemption but who were ineligible due to age.

REPRESENTATIVE GRUENBERG called attention to page 2, line 3, which read:

... a person who was killed while in the military ...

REPRESENTATIVE GRUENBERG said "killed" means death by an accident, intentional homicide, or in combat. He asked whether the survivor would be excluded from the exemption if a person simply died while on active duty.

REPRESENTATIVE MILLETT said yes. In further response to Representative Gruenberg, she surmised expanding the exemption to those who died would include a large group of people, and the intent of the legislation is to assist young families during the beginning of their military service. She said this is a policy call, but preferred to retain the present language because it matches Anchorage's municipal policy.

[1:37:31 PM](#)

REPRESENTATIVE GRUENBERG advised it is important to determine whether a death is natural, accidental, a suicide, or a homicide to avoid possible controversy on determining whether a widow(er) is eligible for the exemption. He pointed out that the survivor and family are just as needy regardless of how the spouse passed away.

REPRESENTATIVE MILLETT said her answer is unchanged.

CO-CHAIR LEDOUX urged the sponsor to consider whether other service-related deaths could be applicable without expanding the exemption to all deaths.

REPRESENTATIVE MILLETT offered to clarify the bill by using the military's definition of "killed while during military service." This definition will address service-related death benefits - her understanding is that suicide is not included - and she will provide the definition to the next committee of referral or at the next meeting.

CO-CHAIR LEDOUX suggested the sponsor work on the bill prior to its hearing at the next committee of referral.

REPRESENTATIVE HUGHES agreed that there would be instances in which a service member may suffer a service-related death.

[1:41:53 PM](#)

REPRESENTATIVE GRUENBERG said service-connected disabilities have been greatly expanded to include type 2 diabetes for those

exposed to Agent Orange. He gave a personal example of service-related disease and death that occurred many years after military service. Because this legislation is broadly remedial, he expressed his hope that the bill would "cast the net broadly" to prevent litigation on behalf of a widow(er).

REPRESENTATIVE REINBOLD agreed to further discussion at the next committee of referral, of which she is a member.

REPRESENTATIVE GRUENBERG offered to help the sponsor. Also, he asked to contact the Municipality of Anchorage on the retroactivity authorized in Section 2.

REPRESENTATIVE MILLETT confirmed that the municipality approved [retroactivity] in the legislation.

[1:45:52 PM](#)

JEFFREY MITTMAN, Executive Director, American Civil Liberties Union of Alaska (ACLU of Alaska), expressed ACLU of Alaska's support for HB 164, and asked the committee to address a possible situation wherein a service member who is legally married in another state to a person of the same sex is killed, but the widow(er) is denied the benefit granted by HB 164 under the terms of the Alaska State Constitution. He stated that this is not only morally but legally wrong, because the Alaska Supreme Court has ruled on this issue in Alaska Civil Liberties Union v. State of Alaska, Municipality of Anchorage (AkCLU v. State). Furthermore, the Alaska Trial Court has decided on the property tax exemption issue which is currently under appeal to the state supreme court. With minor amendments, the bill can be brought in line with Alaska constitutional law and avoid litigation. He recalled in the 26th Alaska State Legislature a similar amendment was made to Senate Bill 278 thus there is precedent to recognize current Alaska law. The important moral issue is that it is essential for all states to recognize and honor all service members and veterans, especially those who give their lives. Mr. Mittman urged that amending this legislation will not be seen as making a moral judgment on same-sex marriage or homosexuality, but instead that all service members deserve to be honored and their families should not be discriminated against.

[1:48:56 PM](#)

REPRESENTATIVE REINBOLD asked how many people in Alaska would be affected by this change. She said she did not want to hinder the bill's passage.

MR. MITTMAN said because of historic and ongoing discrimination against Lesbian, Gay, Bisexual and Transgender (LGBT) families in Alaska, no one has exact numbers. However, there is no need to hold the bill because the amendments are very simple. Mr. Mittman stressed that the amendments are important even if only one family is affected.

REPRESENTATIVE GRUENBERG said he feels strongly about both this issue and the bill, and has a deep moral commitment to this cause. He said he was prepared to offer an amendment to address this issue; however, he said he does not want to jeopardize the bill and asked for advice from other members of the committee.

REPRESENTATIVE MILLETT advised that the case of Schmidt et.al, v. State of Alaska, Municipality of Anchorage (Schmidt v. State) is on appeal and no decision has been made on the legality of same-sex marriage benefits in the state. She urged the committee to move the bill as it is and amend at a later date if necessary. In further response to Representative Gruenberg, she said the Alaska Supreme Court case in question has been briefed and offered to provide copies.

REPRESENTATIVE GRUENBERG said he was interested in receiving copies of the brief. He asked Mr. Mittman for further comments.

[1:52:28 PM](#)

MR. MITTMAN explained there are two related court cases. The first case, AkCLU v. State was decided by the Alaska Supreme Court and established that because of the prohibition of same-sex marriage in the Alaska State Constitution, it was unconstitutional to deny same-sex couples benefits that the state provides to opposite-sex couples. On that basis, the Alaska Trial Court ruled in favor of same-sex couples in regard to the property tax exemption in Schmidt v. State, which was appealed, and is now awaiting a decision. He said, "But with respect to whether or not there's an open question of law, that question of law has already been decided."

REPRESENTATIVE GRUENBERG asked for the name and cite of the first case.

MR. MITTMAN responded it was AkCLU v. State, and further details are provided in the committee packet.

REPRESENTATIVE GRUENBERG said he did not want to slow the bill's progress but asked for assurance that the issue will be addressed if the court decision is made known.

CO-CHAIR LEDOUX preferred further discussion take place in the next committee of referral which is the House Community and Regional Affairs Standing Committee (HCRA).

REPRESENTATIVE REINBOLD said she is comfortable moving the bill as it is and further discussion may be a political maneuver.

[1:55:18 PM](#)

REPRESENTATIVE GRUENBERG stated he would not oppose moving the bill with the abovementioned assurance from the sponsor and the chair of the next committee of referral.

CO-CHAIR LEDOUX restated her assurance there will be discussion, but there is no assurance that anything will change.

REPRESENTATIVE MILLETT said she is also open to further discussion, but believes no decision has been made on the constitutionality of the tax exemption. Her intention is to help widows(ers) whose spouses volunteered to serve in the military stay in the state. There was no intention to make a political statement.

REPRESENTATIVE GRUENBERG said he did not impugn anyone's intentions.

The committee took an at-ease from 1:57 p.m. to 1:58 p.m.

[1:58:40 PM](#)

CO-CHAIR LEDOUX, after determining no one else wished to testify, closed public testimony.

[1:58:49 PM](#)

REPRESENTATIVE REINBOLD moved to adopt Conceptual Amendment 1, which would eliminate the age requirement for a widow(er). There being no objection, Conceptual Amendment 1 was adopted.

[1:59:34 PM](#)

REPRESENTATIVE REINBOLD moved to report HB 164, 28-LS0635\A, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 164(MLV) was reported out of the House Special Committee on Military and Veterans' Affairs.

[2:00:09 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Military and Veterans' Affairs meeting was adjourned at 2:00 p.m.