

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

April 9, 2013

9:04 a.m.

MEMBERS PRESENT

Senator Fred Dyson, Chair
Senator Cathy Giessel, Vice Chair
Senator John Coghill

MEMBERS ABSENT

Senator Bert Stedman
Senator Bill Wielechowski

COMMITTEE CALENDAR

HOUSE BILL NO. 130

"An Act establishing July 21 each year as Jay Hammond Day."

- MOVED HB 130 OUT OF COMMITTEE

SENATE BILL NO. 73

"An Act authorizing municipalities to exempt from tax, by ordinance approved by the voters in the municipality, the real property that is the primary residence of a resident who is 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 CSSB 73(STA) OUT OF COMMITTEE

SENATE BILL NO. 64

"An Act establishing the Alaska Sentencing Commission; relating to jail-time credit for offenders in court-ordered treatment programs; allowing a reduction of penalties for offenders successfully completing court-ordered treatment programs for persons convicted of driving while under the influence or refusing to submit to a chemical test; relating to court termination of a revocation of a person's driver's license; relating to limitation of drivers' licenses; relating to conditions of probation and parole; and providing for an effective date."

- MOVED CSSB 64(STA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 130

SHORT TITLE: JAY HAMMOND DAY

SPONSOR(s): REPRESENTATIVE(s) SEATON

02/20/13 (H) READ THE FIRST TIME - REFERRALS
02/20/13 (H) STA
03/19/13 (H) STA AT 8:00 AM CAPITOL 106
03/19/13 (H) Moved Out of Committee
03/19/13 (H) MINUTE(STA)
03/20/13 (H) STA RPT 3DP 4NR
03/20/13 (H) DP: KREISS-TOMKINS, MILLETT, LYNN
03/20/13 (H) NR: GATTIS, KELLER, ISAACSON, HUGHES
04/01/13 (H) TRANSMITTED TO (S)
04/01/13 (H) VERSION: HB 130
04/02/13 (S) READ THE FIRST TIME - REFERRALS
04/02/13 (S) STA
04/09/13 (S) STA AT 9:00 AM BUTROVICH 205

BILL: SB 73

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

SPONSOR(s): SENATOR(s) MEYER

03/11/13 (S) READ THE FIRST TIME - REFERRALS
03/11/13 (S) CRA, STA
03/19/13 (S) CRA AT 3:30 PM BUTROVICH 205
03/19/13 (S) -- Meeting Postponed to 3/26/13 --
03/26/13 (S) CRA AT 3:30 PM BUTROVICH 205
03/26/13 (S) Moved CSSB 73(CRA) Out of Committee
03/26/13 (S) MINUTE(CRA)
03/27/13 (S) CRA RPT CS 4DP NEW TITLE
03/27/13 (S) DP: MICCICHE, EGAN, HOFFMAN, GIESSEL
03/28/13 (S) STA AT 9:00 AM BUTROVICH 205
03/28/13 (S) Heard & Held
03/28/13 (S) MINUTE(STA)
04/09/13 (S) STA AT 9:00 AM BUTROVICH 205

BILL: SB 64

SHORT TITLE: OMNIBUS CRIME/CORRECTIONS BILL

SPONSOR(s): JUDICIARY

02/27/13 (S) READ THE FIRST TIME - REFERRALS
02/27/13 (S) STA, JUD
04/04/13 (S) STA AT 9:00 AM BUTROVICH 205
04/04/13 (S) <Bill Hearing Postponed>
04/09/13 (S) STA AT 9:00 AM BUTROVICH 205

WITNESS REGISTER

REPRESENTATIVE PAUL SEATON
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of HB 130.

EDRA MORLEDGE, Staff
Senator Kevin Meyer
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Described changes to SB 73 on behalf of the sponsor.

MARTY MCGEE, Assessor
Municipality of Anchorage
Anchorage, Alaska
POSITION STATEMENT: Stated that Anchorage has no objection to version C of SB 73.

JEFF MITTMAN, Executive Director
American Civil Liberties Union (ACLU) of Alaska
Anchorage, Alaska
POSITION STATEMENT: Suggested a change to SB 73 and testified in favor of SB 63.

SCOTT RUBY, Director
Division of Community and Regional Affairs
Department of Commerce, Community and Economic Development
Anchorage, Alaska
POSITION STATEMENT: Answered questions related to SB 73.

SENATOR JOHNNY ELLIS
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified on SB 64.

CHAD HUTCHISON, Staff
Senator John Coghill
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Explained sections of SB 64 on behalf of the Senate Judiciary Committee, sponsor of the bill.

TIFFANY THOMAS, Driver Licensing Manager
Division of Motor Vehicles

Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Presented information related to SB 64.

QUINLAN STEINER, Public Defender
Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Presented information on SB 64.

CARMEN GUTIERREZ, Chair
Alaska Prisoner Reentry Task Force
Anchorage, Alaska

POSITION STATEMENT: Testified in favor of SB 64.

JANET MCCABE, Chair
Partners for Progress
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 64.

NANCY MEADE, General Council
Office of the Administrative Director
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Presented information related to SB 64.

ACTION NARRATIVE

[9:04:47 AM](#)

CHAIR FRED DYSON called the Senate State Affairs Standing Committee meeting to order at 9:04 a.m. Present at the call to order were Senators Coghill, Giessel, and Chair Dyson.

HB 130-JAY HAMMOND DAY

[9:04:56 AM](#)

CHAIR DYSON announced that the first order of business would be HB 130.

REPRESENTATIVE PAUL SEATON, sponsor of HB 130, explained that the idea for the bill was brought to him by Jim Reardon, a resident of Homer. He directed the committee to look at Jay Hammond's interview in the oral history series moderated by Dr. Terrance Cole from the University of Alaska - Fairbanks called "Alaska Statehood Pioneers - In Their Own Words." He said it was available on the public television station, 360 North.

REPRESENTATIVE SEATON shared Jay Hammond's biography. He detailed the achievements of Jay Hammond as a two-term governor, representative, senator, and mayor. He related that Jay Hammond worked toward a diversified Alaska economy promoting healthy fisheries, conservation of land, and agriculture, as well as oil development. He worked to establish the Permanent Fund and PFD. Following his public service career, he also served on numerous committees and boards. He was named the Alaskan of the Year in 1994 and received the University of Alaska's Medal of Merit.

REPRESENTATIVE SEATON concluded that HB 130 honors Jay Hammond's legacy by naming July 21 as Jay Hammond Day.

CHAIR DYSON asked what was significant about the date.

REPRESENTATIVE SEATON said it was Jay Hammond's birthday in 1922.

CHAIR DYSON related a story about Jay Hammond rescuing people in his plane.

[9:09:07 AM](#)

SENATOR GIESSEL moved to report HB 130 from committee with individual recommendations and attached zero fiscal notes. There being no objection, HB 130 was reported from the Senate State Affairs Standing Committee.

SB 73-PROPERTY TAX EXEMPTION/MILITARY WIDOW(ER)

[9:10:00 AM](#)

CHAIR DYSON announced the consideration of SB 73.

EDRA MORLEDGE, Staff, Senator Kevin Meyer, noted that there was a proposed committee substitute (CS) for SB 73. It allows a municipal property tax exemption for widows and widowers of military service members. She explained that version C is a result of concerns raised at the last hearing.

SENATOR GIESSEL moved to adopt work draft CS for SB 73, labeled 28-LS0631\C, as the working document.

MS. MORLEDGE referred to a memo from the Department of Law that answers all of the questions that were raised on April 1.

She detailed the two significant changes in the CS. On page 1, line 13 through page 2, line 2, the following language was inserted: "or to a resident who is the widow or widower of a person who dies from a service connected cause sustained while

serving as a member of the United States Armed Forces or as a member of the National Guard." This change addresses two major concerns. One concern was that there is no definition in Alaska statutes for the term "active duty" and the federal definition specifically excludes National Guard members. The term was deleted and National Guard members were specifically included. She explained that the change clarifies that the death must be service related, not a suicide, and not incurred off duty, such as from a car accident.

The second change adds language on page 2, lines 12-13, to clarify that municipalities shall determine eligibility requirements and application procedures for this optional exemption. This language was inserted at the suggestion of Senator Coghill. The Fairbanks Northstar Borough voiced approval of the change, she said.

MS. MORLEDGE said the sponsor anticipates a new zero fiscal note.

[9:13:44 AM](#)

CHAIR DYSON related that the Municipality of Anchorage has commented that property tax exemptions can cause budget concerns.

MARTY MCGEE, Assessor, Municipality of Anchorage, stated that Anchorage has no objection to the bill as currently written. He could not estimate the number of people that might qualify for the exemption under SB 73.

CHAIR DYSON suggested that Mr. McGee provide a report after the fact.

[9:15:14 AM](#)

JEFF MITTMAN, Executive Director, American Civil Liberties Union (ACLU) of Alaska, suggested a change to SB 73. He noted that the ACLU has provided written testimony. He referred to a court case where the Alaska Supreme Court decided that same sex couples should not be denied benefits provided by the state to married opposite sex couples. He also related that due to changes in military policies, families in same sex relationships should be treated the same as traditional families. He requested that the committee make a change to the bill to reflect those findings.

[9:17:08 AM](#)

CHAIR DYSON requested clarification. He asked if the court rules in favor of the issue Mr. Mittman raised, whether it would cover all laws regarding married survivor benefits.

MR. MITTMAN opined that legally that would be true, but practically it would be difficult, because often there is a lengthy litigation process to challenge the agency to follow the law. He stressed that an amendment would be required to prevent litigation.

CHAIR DYSON commented that if the court rules in favor of the ACLU, it should notify the Office of the Attorney General, the Department of Law, and the Judiciary Committees for the purpose of writing a "clean up bill."

CHAIR DYSON said he would request an opinion from the Department of Law.

[9:20:52 AM](#)

SCOTT RUBY, Director, Division of Community and Regional Affairs, Department of Commerce, Community and Economic Development, answered questions related to SB 73. He addressed the issue whether municipalities had the ability to make policies and procedures about how to enact this legislation. He explained that subsection (e) contains mandatory exemptions, but the way the bill is written, there is a subsection that contains an optional exemption. Subsection (f) gives municipalities some leeway on adopting policies and procedures. Subsection (g) to subsection (f) states that any exemption placed in (e) would be reimbursable by the state to municipalities, although it is subject to an appropriation by the legislature. In the recent past, the legislature has chosen not to fund those exemptions.

SENATOR COGHILL spoke of the confusion between "030" and "050." He thought they were compatible.

MR. RUBY explained that they are different variations of an exemption and have different parameters so the municipalities can choose which of those it prefers.

SENATOR COGHILL predicted there would be a debate on each one of the areas. He concluded that 030 was broader than 050.

[9:24:31 AM](#)

SENATOR DYSON voiced appreciation that the exemption is permissive.

SENATOR GIESSEL moved to report SB 73, version 28-LS0631\C, from committee with individual recommendations and attached zero fiscal note. There being no objection, CSSB 73(STA) moved from the Senate State Affairs Standing Committee .

SB 64-OMNIBUS CRIME/CORRECTIONS BILL

[9:25:50 AM](#)

CHAIR DYSON announced the consideration of SB 64.

SENATOR JOHNNY ELLIS provided testimony on SB 64 on behalf of the Senate Judiciary Committee. He remarked that in terms of correction policies, Alaska is truly at a crossroads. Lawmakers have an opportunity to follow the best minds in the country on corrections reform to confront Alaska's rising prison costs, with an emphasis on public safety. He opined that the state can have both.

He spoke of an epiphany he had during his work on correction policies when he came across a website called "Right On Crime." He highly recommended the site. He noted he agreed with the mission the group promoted. He stated that progressives and conservatives can work together and accomplish good work. He concluded it was a national movement.

He noted that SB 64 does several things. It is designed to stem the tide of Alaska's climbing corrections costs, reduce recidivism, and increase public safety. It is called the "Smart Justice Movement."

[9:29:10 AM](#)

SENATOR ELLIS spoke of the expense of the Goose Creek Correctional Facility project and the need to prepare for the next mega-prison almost immediately in order to keep up with the trajectory of increase in incarceration. He said there has to be a better way to protect the public and protect the treasury.

CHAIR DYSON recalled information that Alaska incarcerates people at the highest rate in the nation, and the growth in the prison population is among the top four or five states.

SENATOR ELLIS agreed.

CHAIR DYSON said he respects Senator Ellis's experience. He asked about policy concerns of the bill.

SENATOR ELLIS said he would need a minute to think this through.

CHAIR DYSON stated that it is the intention of the committee to move the bill to Judiciary Committee to work on during the interim.

9:31:09 AM

SENATOR GIESSEL moved to adopt the work draft CS for SB 64, labeled 28-LS0116\C, as the working document. There being no objection, version C was before the committee.

93124

CHAIR DYSON called a short at ease.

93157

CHAIR DYSON reconvened the meeting and recognized Mr. Hutchison.

CHAD HUTCHISON, Staff, Senator John Coghill, explained the sections of SB 64 on behalf of the Senate Judiciary Committee, sponsor of the bill.

SENATOR COGHILL suggested addressing the two conditional driver's license issues.

9:32:47 AM

CHAIR DYSON requested information about how the bill addresses the mission stated by Senator Ellis.

MR. HUTCHISON explained two ways that SB 64 addresses the mission to confront Alaska's rising prison costs, with an emphasis on public safety. The first way is by establishing the Alaska Sentencing Commission, which is found in Section 2. The commission will make recommendations and do the analysis with regards to improving sentencing practices. The second way deals with therapeutic courts, treatment programs, and limited drivers' licenses for misdemeanants and felons.

MR. HUTCHISON provided a sectional overview. He said that Section 1 discusses credit for the time the defendant is in treatment. Section 3 deals with the termination of revocation of DUI's or refusals. It states that if a person successfully completes a court-ordered treatment program and has good behavior and has driven under a limited license for a period of time, the revocation terminates. It provides incentives for people to go through the therapeutic program.

He related that Section 4 outlines when a court may grant limited license privileges. They must be associated with a DUI or a refusal and a person has to participate in a court-ordered treatment program. Section 5 outlines the procedure for someone who pleads no contest or guilty. The intent is to encourage people to receive treatment.

He said Sections 6 and 7 were taken from SB 81 and deals with how the court restores the license if conditions are met. Sections 8 and 9 establish a program for certain offenders with random drug testing and probation conditions.

[9:38:02 AM](#)

TIFFANY THOMAS, Driver Licensing Manager, Division of Motor Vehicles, Department of Administration, presented information related to SB 64. She explained the DMV process for termination of revocation. She said the court does not have access to DMV driving records, so once the revocations are modified by a DMV hearing officer, the court signs off that they agree to the modification of revocation and the applicant can apply to get their license back. She said the new CS appears to alleviate concerns about the felony termination process.

She discussed Section 4 regarding the issuance of a limited license. In most cases the actions on a driving record run consecutive to one another so they compound with each new offense. This is especially true for someone convicted of a felony DUI. By the time a person is convicted of a felony DUI, they may already be revoked for ten years or more before they can get to the revocation for Wellness Court. The bill would allow a person in Wellness Court to drive with a limited license, even though they may be revoked or suspended for another offense.

She noted that the court does not have access to the DMV driving record, so the problem is that the person's driving record may not be updated to reflect that the person may be on a limited license. If they are pulled over by law enforcement, all they will have is a piece of paper to show the limited license, however, their driving record may show that they are suspended or revoked. She highlighted another problem regarding DMV's limited license issuance for DUI's. She said it is also not clear if DMV would need to require an ignition interlock device with a limited license.

[9:42:09 AM](#)

CHAIR DYSON asked what the impact might be on DMV's budget.

MS. THOMAS replied that there was a zero fiscal note.

SENATOR COGHILL said there has always been a problem with communication between the courts, DMV, and public safety. He suggested the bill might be able to create a better communication pathway, especially in light of accountability measures.

CHAIR DYSON suggested the task force look at the barriers to communication.

QUINLAN STEINER, Public Defender, Department of Administration, presented information on SB 64. He pointed out that the bill opens up treatment opportunities and provides incentives for treatment participation. He spoke of the benefits of treatment toward promoting public safety.

CHAIR DYSON noted that the Senate Judiciary Committee would work more on that issue. He said he worries about technical parole violators and their difficulty getting to work without a driver's license.

[9:45:38 AM](#)

CARMEN GUTIERREZ, Alaska Prisoner Reentry Task Force, testified in support of SB 64. She agreed with Senator Ellis' statement that, with this bill, Alaska has a real opportunity to look at proven best practices that may more effectively address criminality in Alaska, reduce recidivism, and build healthier, safer Alaska communities. She stressed that the time is right to address this new course and direction with the creation of an Alaska Sentencing Commission.

MS. GUTIERREZ pointed out that crime in Alaska has actually decreased. According to the Department of Public Safety Uniform Crime Report for 2011, all violent crime index offense total and property crime index offense total decreased. She said in spite of those decreases, the prison population continues to grow by 3 percent per year. Since 2005, the "hard bed" prison population cost the state \$135 per day per bed. The number of those inmates grew from 4,200 inmates to 4,961 in 2012. At the current rate the Department of Correction (DOC) prison population will reach over 6,000 hard bed inmates by 2020. She stressed the need to build the next prison if that growth rate continues.

She spoke of the goal to do what Texas did in 2007, which was to change to cost-effective ways to reduce criminality and

recidivism. She related statistics from the Texas program: it avoided \$2 billion in projected DOC expenses; the recidivism rate dropped, and the crime rate dropped. She described how Texas provided effective treatment programs as the most cost effective way to reduce costs and recidivism.

MS. GUTIERREZ concluded that the Alaska Legislature increased DOC's budget for treatment programs within prisons and within communities. She said she is hopeful that there will be positive results shown in 2013 and 2014 as a result of the increased funding.

[9:51:56 AM](#)

MS. GUTIERREZ noted that the majority of Alaska's criminal statutes were re-written in 1982 and much has been learned since then. She stated that this bill will help reduce criminality in Alaska. Current laws are not working, and she is hopeful that SB 64 will make Alaska safer and healthier.

CHAIR DYSON voiced appreciation for Ms. Gutierrez's work.

MS. GUTIERREZ said it was her honor.

[9:53:40 AM](#)

JANET MCCABE, Partners for Progress, testified in support of SB 64. She described Partners for Progress' efforts initiating Therapeutic Courts for DUI offenders in Alaska and participating in Smart Justice in order to reduce waste of public and human resources through excessive incarceration. She said the bill is an excellent step toward achieving that goal. She mentioned that Senator Dyson said by doing the smart thing, not just the tough thing, Alaska can create good economies and public safety improvements.

MS. MCCABE highlighted Sections 3 - 7 that allow a successful participant in a court-ordered treatment plan to drive on a limited license as a pathway to getting a full license. In the classic Smart Justice format, these sections recognize the reality of DUI offenders' addictions, as well as the reality of every-day life in an Alaskan community without the ability to drive.

She described the three main categories of beneficial effects found in the five sections. The opportunity to drive legally provides an incentive for treatment. More people opting into Therapeutic Courts results in less costly, community-based treatment programs. Specialized addiction treatment is designed

to break the pattern of recycling through the prison system. Another benefit is that the possibility of employment is enhanced. Additionally, the requirement for on-going drug and alcohol testing is Smart Justice and is based on scientific evidence that recovery is stabilized after 4 or 5 years of sustained abstinence.

She concluded that SB 64 is an important step forward toward criminal justice system reform that solves problems and reduces excessive incarceration.

[9:59:16 AM](#)

CHAIR DYSON thanked Ms. McCabe.

SENATOR GIESSEL described an incident of a drunk driver with chronic alcohol issues.

SENATOR COGHILL said it is not possible to stop all drunk drivers. He noted that the bill gives the courts the capacity to mandate the ignition interlock device, which is victim protection. He thought the question is whether the legislature has put enough money into the specialty courts. He emphasized that the bill provides ways to protect the public.

JEFF MITTMAN, Executive Director, American Civil Liberties Union (ACLU) of Alaska, testified in support of SB 64.

[10:02:26 AM](#)

CHAIR DYSON commented that there were areas that remain unclear in the mission statement. He suggested clarifying the process for expunging the felony conditions. He noted that other states have done so.

He spoke of his work on restorative justice and a concern that assets of the perpetrator should go to the victim. He understood that many on probation serve their time serially. He voiced concern about those who violate probation for technical reasons, such as those related to transportation needs. He stressed the impact of over-sentencing on a family and the social cost.

[10:05:43 AM](#)

NANCY MEADE, General Counsel, Office of the Administrative Director, Alaska Court System, testified that the Court System supports the Sentencing Commission that is described in Section 2 of SB 64, and that the Chief Justice is enthusiastic about making the appointments on the Commission.

She noted that she will continue to work on the other sections of the bill with the sponsor. She voiced support for Therapeutic Courts. She related that many provisions came out of the Criminal Justice Working Group. She said they recognized that people without licenses have a hard time getting to work and to probation appointments. She concluded that the Court System is prepared to implement these provisions.

SENATOR ELLIS thanked Ms. Meade for supporting the bill.

CHAIR DYSON expressed hope that the administration would also support the bill.

[10:08:16 AM](#)

SENATOR GIESSEL moved to report CS for SB 64, labeled 28-LS0116\C, from committee with individual recommendations and attached fiscal notes. There being no objection, CSSB 64(STA) was reported from the Senate State Affairs Standing Committee.

[10:08:59 AM](#)

There being no further business to come before the committee, Chair Dyson adjourned the Senate State Affairs Standing Committee at 10:08 a.m.