

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 27, 2014

9:03 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Bert Stedman

OTHER LEGISLATORS PRESENT

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 18

Requesting the United States Congress to call a convention of the states to propose amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office of federal government officials; and urging the legislatures of the other 49 states to request the United States Congress to call a convention of the states.

- HEARD & HELD

SENATE BILL NO. 98

"An Act relating to Department of Public Safety regulations allowing village public safety officers to carry firearms."

- HEARD & HELD

SENATE BILL NO. 182

"An Act relating to salary differences in collective bargaining agreements subject to the Public Employment Relations Act that are based on a difference in the cost of living outside the state and the cost of living in the state; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 141

"An Act relating to vehicle registration fees for members of the Alaska National Guard."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 182

SHORT TITLE: PUBLIC EMPLOYEE SALARY DIFFERENTIALS

SPONSOR(s): SENATOR(s) DYSON

02/19/14	(S)	READ THE FIRST TIME - REFERRALS
02/19/14	(S)	STA
02/25/14	(S)	STA AT 9:00 AM BUTROVICH 205
02/25/14	(S)	Heard & Held
02/25/14	(S)	MINUTE(STA)

BILL: SB 98

SHORT TITLE: VPSO FIREARMS

SPONSOR(s): SENATOR(s) OLSON

04/05/13	(S)	READ THE FIRST TIME - REFERRALS
04/05/13	(S)	CRA, STA
02/11/14	(S)	CRA AT 3:30 PM BUTROVICH 205
02/11/14	(S)	Heard & Held
02/11/14	(S)	MINUTE(CRA)
02/13/14	(S)	CRA AT 3:30 PM BUTROVICH 205
02/13/14	(S)	Moved SB 98 Out of Committee
02/13/14	(S)	MINUTE(CRA)
02/14/14	(S)	CRA RPT 4DP
02/14/14	(S)	DP: MICCICHE, EGAN, BISHOP, GIESSEL
02/14/14	(S)	FIN REFERRAL ADDED AFTER STA
02/27/14	(S)	STA AT 9:00 AM BUTROVICH 205

BILL: SJR 18

SHORT TITLE: FEDERAL CONSTITUTIONAL CONVENTION

SPONSOR(s): SENATOR(s) DYSON

02/05/14	(S)	READ THE FIRST TIME - REFERRALS
02/05/14	(S)	STA
02/27/14	(S)	STA AT 9:00 AM BUTROVICH 205

WITNESS REGISTER

TYLER BELK, Staff
Senator Fred Dyson

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided an overview of SJR 18.

ROY CARLSON, representing himself
Wasilla, Alaska

POSITION STATEMENT: Supports SJR 18.

DAVID EICHLER, State Director
The Convention of State Project
North Pole, Alaska

POSITION STATEMENT: Supports SJR 18.

DAVID SCOTT, Staff
Senator Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided an overview of SB 98.

TERRY VRABEC, Deputy Commissioner
Alaska Department of Public Safety
Juneau, Alaska

POSITION STATEMENT: Addressed departmental questions pertaining to SB 98.

COLONEL JAMES COCKRELL, Director
Division of Alaska State Troopers
Alaska Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Addressed departmental questions pertaining to SB 98.

CAPTAIN STEVEN ARLOW, Commander
Village Public Safety Officers (VPSO) Program
Division of Alaska State Troopers
Alaska Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Addressed departmental questions pertaining to SB 98.

BEN GOLDRICH, Regional Representative
Marine Engineers' Beneficial Association
Juneau, Alaska

POSITION STATEMENT: Opposes SB 182.

RON BRESSETTE, Regional Representative
The International Organization of Masters, Mates & Pilots Union

Juneau, Alaska

POSITION STATEMENT: Opposes SB 182.

RICK DEISING, Regional Director
Inlandboatmen's Union of the Pacific
Juneau, Alaska

POSITION STATEMENT: Opposes SB 182.

CHRIS OLSEN, Chief Engineer
Motor Vessel LeConte
Alaska Marine Highway System
Wasilla, Alaska

POSITION STATEMENT: Opposes SB 182.

PATRICK PHILLIPS, Crew Member
Motor Vessel Fairweather
Alaska Marine Highway System
Alaska Department of Transportation & Public Facilities
Juneau, Alaska

POSITION STATEMENT: Opposes SB 182.

JARED BARLOW, Ordinary Seaman
Motor Vessel Kennicott
Alaska Marine Highway System
Alaska Department of Transportation & Public Facilities
Klawock, Alaska

POSITION STATEMENT: Opposes SB 182.

TERESA GILBERT, Crew Member
Motor Vessel Kennicott
Alaska Marine Highway System
Alaska Department of Transportation & Public Facilities
Juneau, Alaska

POSITION STATEMENT: Opposes SB 182.

NICKI NEAL, Director
Division of Personnel and Labor Relations
Alaska Department of Administration
Juneau, Alaska

POSITION STATEMENT: Addressed departmental questions regarding SB 182.

KATE SHEEHAN, Deputy Director
Labor Relations
Division of Personnel and Labor Relations
Alaska Department of Administration
Juneau, Alaska

POSITION STATEMENT: Addressed departmental questions regarding SB 182.

ACTION NARRATIVE

[9:03:19 AM](#)

CHAIR FRED DYSON called the Senate State Affairs Standing Committee meeting to order at 9:03 a.m. Present at the call to order were Senators Coghill, Giessel, and Chair Dyson.

CHAIR DYSON reviewed the committee meeting agenda. He stated his intention was to have Senator Wielechowski's bill on waiving registration fees for National Guard members before the committee. He said SJR 18 will be before the committee and noted that he sponsored the resolution for calling a convention of the states by proposing a constitutional convention to the U.S. Congress. He set forth that his intent was to pass out SB 182 and noted that at least 45 minutes has been allotted for testimony. He summarized that [SB 98] will also be before the committee on arming of Village Public Safety Officers (VPSO).

SJR 18-FEDERAL CONSTITUTIONAL CONVENTION

[9:04:56 AM](#)

CHAIR DYSON announced that SJR 18 is before the committee.

[9:05:05 AM](#)

TYLER BELK, Staff, Senator Dyson, Alaska State Legislature, Juneau, Alaska, read an overview as follows:

For the past seven years, the U.S. federal government has operated outside of the constraints of what our founding fathers had envisioned. Inherent overspending, over extended use of regulation and enforcement jurisdiction, and unreasonably long service terms of federal government officials are fused several ways in which our national government is moving outside of its designed blueprint. Aiming to mitigate a federal government that exceeds its enumerated powers, our founding fathers added a key provision of the Constitution that would allow for the states to rein in and control any move to expand federal government beyond its intended means. Article V grants states the power to call for a Convention of the States to amend the Constitution in a controlled

and topic-specific manner. This ability to call for a convention is a method to rein in and alleviate the aforementioned problems. A Convention of States is not a Constitutional Convention. The scope and subject matter of a Convention of States is controlled and limited by what the applications call for. SJR 18 is the first step in a long process for a convention. Through the Article V process, two thirds or 34 of the 50 states must call for a convention based on a similar application. Congress then must call for a convention once those applications are received. Delegates, who are chosen in a manner decided on by the states, will design and debate amendments aimed at the topic. In this case, imposing fiscal constraints on the federal government, limiting the power and jurisdiction of the federal government, and limiting the terms of office officials will be the topic. If the convention validly proposes one or more amendments, Article V requires Congress to select one of two modes of ratification. The Congress may decide that amendments be submitted to the states, then the state legislatures, or they will demand that the states call for special amendment conventions within the states, similar to how we did with the 21st Amendment to repeal prohibition. SJR 18 is a portion of step 1 of the Article V convention process; it is Alaska's formal application calling for a Convention of the States. Essentially, this resolution is Alaska moving into cue for an Article V convention.

CHAIR DYSON asked if anyone in the room would like to testify.

9:08:01 AM

ROY CARLSON, representing himself, Wasilla, Alaska, noted that he is a retired U.S. Army Lieutenant Colonel and Vietnam veteran. He read a statement as follows:

I do not intend my words to be partisan in any way. What I am saying has been going on for many years through different party administrations. The resolution before you is truly non-partisan. During the Constitutional Convention, it was argued that the amendment process did not address the possibility of an out of control federal government, they recognized that Congress would not pass an amendment limiting their own power, so they added another way to amend the Constitution and put that power in the hands of

state legislatures, that of course is your committee and your colleagues in the Alaska Legislature. You have a necessary and awesome responsibility. As a soldier, I have seen tyranny, I have seen it in the eyes of the children who are not carefree and laugh when they are at play. You see it in the faces of their parents who are afraid for themselves and their children, they are afraid to talk to you for fear of reprisal by their government or terrorist groups. Also, I have talked to a number of immigrants from the former Soviet Union, Cuba, and other countries with tyrannical governments and with a unified voice they say, "Wake up, don't you understand what is happening to you," they see it because they have been through it. The federal government is out of control and we know from history that a mere change of administration is not going to change that and so I ask you to please pass SJR 18.

CHAIR DYSON thanked Mr. Carlson for his service to the nation.

[9:10:24 AM](#)

DAVID EICHLER, State Director, The Convention of State Project, North Pole, Alaska, stated his support for SJR 18.

[9:10:59 AM](#)

CHAIR DYSON announced that SJR 18 will be held in committee.

SB 98-VPSO FIREARMS

[9:11:20 AM](#)

CHAIR DYSON announced that SB 98, version A was before the committee.

[9:11:30 AM](#)

CHAIR DYSON announced that the committee will stand at ease.

[9:12:03 AM](#)

CHAIR DYSON called the committee back to order.

[9:12:17 AM](#)

DAVID SCOTT, Staff, Senator Olson, Alaska State Legislature, Juneau, Alaska, said SB 98 is a one page bill and is easy to understand. He said SB 98 prohibits the Department of Public Safety (DPS) from not allowing VPSOs to carry firearms. He noted that since SB 98 and the companion in the other body were

introduced during the last Session, DPS has undergone a process to write the regulations for allowing the arming of VPSOs.

MR. SCOTT set forth that SB 98's intent is to clearly establish the Legislature's intent that VPSOs would be allowed to carry firearms. He said VPSOs would have to meet all satisfactory training standards. He asserted that SB 98's passage would make the State's support for arming VPSOs clear and unambiguous. He called attention to VPSOs killed in the line of duty in Manokotak and South Naknek. He pointed out that VPSOs often work without backup and in remote locations. He informed the committee that VPSO calls to the Alaska State Troopers (AST) for assistance can mean hours or even days due to weather. He set forth that Senator Olson, SB 98's sponsor, believes that it is not reasonable to ask VPSOs to walk unarmed into situations that pose obvious dangers to their lives and the lives of other Alaskans. He said it is Senator Olson's hope that arming VPSO first responders in rural Alaska will have a deterrent effect that makes the officers and communities safer. He pointed out that SB 98 will not require VPSOs to be armed. He said the wishes of individual communities, nonprofits, and the Northwest Arctic Borough will be respected. He asserted that everyone should have a thorough understanding of the issues if VPSOs will be armed in the front lines of public safety, search and rescue, firefighting, and medical assistance.

[9:15:47 AM](#)

He addressed arms training and evaluations. He said Senator Olson's office has spoken with DPS and specifically Captain Arlow, who is the head of the VPSO programs and training for AST. He said the firearms training that VPSOs will receive will be absolutely identical to the firearms training that AST and municipal police officers receive. He pointed out that VPSOs will receive training from the same instructors at the Sitka Training Academy (STA). He revealed that training will meet the Alaska Police Standards Council and the Alaska Law Enforcement training requirement. The training would cover the entirety of the use of force continuum and it emphasizes avoiding the use of deadly force. He noted that training terms used in the law enforcement are "verbal judo" and "de-escalation training;" it is a technique used to try to defuse situations to avoid the use of firearms. He said VPSO training would also include intensive scenario based exercises with the emphasis on judgment and avoiding the use of deadly force.

He addressed VPSO psychological evaluations and noted that DPS officials anticipate that the regional nonprofits will agree to

a requirement for full psychological evaluations for carrying firearms. The VPSO psychological evaluations will be identical to those administered to AST and municipal police. He noted that the requirement for the psychological evaluations can be added to DPS' contracts with the nonprofits and Northwest Arctic Borough. He revealed that the cost for each evaluation will be approximately \$400 per person. He said additional VPSO screenings will include medical examinations and full criminal checks from statewide and FBI resources.

[9:18:08 AM](#)

MR. SCOTT disclosed that there have been concerns through the committee process that VPSO firearms training will not be thorough and comprehensive. He added that there had been concerns regarding the psychological evaluation levels for VPSOs to carry firearms. He asserted that DPS has provided every assurance that the 600 total hours that current VPSOs train combined with additional arms training will produce safe and conscientious officers. He summarized that Senator Olson would characterize SB 98's fiscal note as modest.

[9:19:06 AM](#)

SENATOR GIESSEL addressed the drafted amendment provided to the committee regarding VPSO regulations, 13 AAC 96.040(b). She pointed out paragraph (6) regarding the submission of a written report if a VPSO has to draw his firearm and noted permissive language that says "may permit" a VPSO to carry a firearm. She asked if the submitted draft was done by DPS.

MR. SCOTT answered correct. He specified that the draft regulations that Senator Olson's office asked for.

SENATOR GIESSEL addressed 13 AAC 96.080 regarding "Basic standards for village public safety officers." She asked to clarify that 13 AAC 96.080 are adopted regulations that from what Mr. Scott described will be revisited and probably beefed-up a bit.

MR. SCOTT replied that DPS can answer Senator Giessel's question.

CHAIR DYSON stated that in general, government employees and public safety officers have sovereign immunity that protects them from lawsuits. He asked if VPSOs would have similar protection.

[9:20:55 AM](#)

SENATOR WIELECHOWSKI joined the committee meeting.

MR. SCOTT addressed the fiscal note and pointed out that additional liability insurance is included for \$500 per VPSO.

CHAIR DYSON asked if the added liability insurance is covered by the state or regional corporations.

MR. SCOTT replied that to his knowledge the regional corporations or non-profits that administer the VPSO program with cover the liability insurance. He deferred to DPS to verify his assessment.

CHAIR DYSON invited officials from DPS to address the committee.

[9:22:34 AM](#)

TERRY VRABEC, Deputy Commissioner, Alaska Department of Public Safety, Juneau, Alaska.

[9:22:43 AM](#)

COLONEL JAMES COCKRELL, Director, Division of Alaska State Troopers, Alaska Department of Public Safety, Anchorage, Alaska.

MR. VRABEC addressed liability concerns and noted that the added \$500 is for the non-profits' individual VPSOs. He said there is liability in everything and DPS will take VPSO training very seriously.

COLONEL COCKRELL asserted that DPS had adequate safeguards in place to provide the firearms training necessary for VPSOs. He noted that he had met with various VPSOs plus the nonprofits and revealed that there seems to be universal support for allowing the option to arm VPSOs. He said villages are seeing an increase in assaults, including the VPSOs. He asserted that arming VPSOs gives communities an option to decide if they want to have armed VPSOs. He pointed out that arming VPSOs will be up to the nonprofits and individual communities. He set forth that DPS supports SB 98 and will ensure that there are protections in place to assure VPSO and community safety.

[9:25:19 AM](#)

SENATOR WIELECHOWSKI noted his support for the concept of the bill. He explained that his only issue with SB 98 is its training aspect. He asked if VPSOs are considered state or nonprofit employees.

MR. VRABEC answered that VPSOs are not state employees. He pointed that the VPSOs go to STA, but the VPSOs are employees of their respective nonprofit organization.

SENATOR WIELECHOWSKI asked if VPSOs are indemnified by the state or native nonprofits for any liability if VPSOs use deadly force.

MR. VRABEC answered that liability insurance is included in the fiscal note. He specified that the additional liability insurance costs are coming up because there obviously is potential liability that would be borne by the respective nonprofit corporation. He stated that anytime DPS does any type of training or programs with a VPSO, police officer, or AST, DPS ensures that training meets the highest standards that also protects DPS respectively with some of the liability.

SENATOR WIELECHOWSKI asked if a VPSO can potentially be criminally prosecuted if the use of force was not justified under Alaska law and could there be civil responsibility if the use was not justified.

MR. VRABEC replied that he cannot speak as an attorney, but anytime any officer takes any action, everyone will be held accountable and actions must be justified. He remarked that Senator Wielechowski's inquiry was potentially possible.

[9:27:31 AM](#)

SENATOR WIELECHOWSKI asked if VPSOs will be treated differently from ASTs in terms of criminal prosecution and civil liability. He inquired if native nonprofits would be liable for the actions of their VPSO employees.

MR. VRABEC replied that he would not be able to answer Senator Wielechowski's question. He commented that any use of force action or the use of deadly force by any department or VPSO is internally investigated by DPS. He asserted that DPS does a very good investigative job.

COLONEL COCKRELL added that if DPS had a situation where a VPSO used deadly force in a village, whether it was justified or unjustified, AST would be the lead investigative agency and the only investigative agency. He said a deadly force incident would be thoroughly investigated and as is done in AST cases, regardless if DPS felt it was justified or not, it still gets reviewed by the Department of Law-Office of Special Prosecutions to determine justification.

SENATOR COGHILL inquired if DPS' expectations on the use of deadly force would be included in the VSP0 training. He asked if the VPSO trainees and the corporations doing the hiring would be made aware of the deadly force incident process and possible liability.

9:30:25 AM

CAPTAIN STEVEN ARLOW, Commander, Village Public Safety Officers Program, Division of Alaska State Troopers, Alaska Department of Public Safety, Anchorage, Alaska; answered that firearms training for VPSOs will be new grounds as far as educating the nonprofits on the firearm component. He explained that the current firearms training at the academy covers the use of force and the associated law issue. He explained that the use of force is currently investigated through the Alaska Bureau of Investigations where an incident is treated like a crime scene until all of the information and evidence is collected. He said after information and evidence is gathered, the incident is written up and then reviewed by the Office of Special Prosecutions. He detailed that the Office of Special Prosecutions determines independently whether there was a criminal act involved and justifiability. He opined that the Special Prosecutions' determination would most likely be shared with the nonprofits since the nonprofit is the VPSO employer. He added that if there was any civil litigation to follow, the nonprofits would have the information provided for use in a civil case as well. He set forth that VPSOs will be briefed on things to anticipate with the responsibilities of carrying a firearm, just like any AST or law enforcement trainee.

9:32:44 AM

CHAIR DYSON addressed Senator Coghill's question and asserted that the intent was to clarify that the regional corporations and the nonprofits will understand that some liability will be incurred if deadly force is used. He set forth that the committee encourages DPS to make very clear to the corporations that liability will be incurred.

SENATOR WIELECHOWSKI noted that Captain Arlow did a presentation in House Finance on the reasons that VPSOs leave the program. He recalled that approximately 30 percent leave because of violation of rules or laws.

CAPTAIN ARLOW responded that about half had issues with either policy violations or personal judgment calls where VPSOs violated either the law itself or some policy. He noted that

most of the nonprofits have a strict zero tolerance policy for the use of alcohol in the dry villages, violating the alcohol policy is grounds for termination. He specified that VPSO terminations are 25 to 30 percent for policy violations and 20 to 25 percent for criminal activities.

[9:34:37 AM](#)

SENATOR WIELECHOWSKI pointed out a concern regarding the creation of a private police force to enforce the laws of Alaska. He added that arming VPSOs is essentially giving AST responsibilities to a private police force. He asserted that VPSOs do not have the training and background checks. He referred to the 30 percent VPSO turnover rate because of rule or law violations. He asked if private police forces were used anywhere else in the U.S.

MR. VRABEC replied that VPSOs are very specialized and their academy training is over 600 hours. He pointed out that VPSO training is more than just law enforcement. He said VPSO training also includes fire and rescue, medical, and firefighting. He asserted that nonprofit organizations love having their VPSOs.

SENATOR WIELECHOWSKI announced that he wanted to be clear that he has absolutely no disrespect on his part towards VPSOs. He stated that his intent is to see the best possible trained officers that the state can get into the villages. He asked what the pay was for VPSO versus AST.

[9:36:34 AM](#)

MR. VRABEC replied that he does not have exact numbers, but conceded that there is a difference and AST officers are paid more. He pointed out that AST is a different job at a different capacity. He noted that the Legislature recently raised VPSO salaries. He stated that the VPSO position is a great job and some do very well with it. He reiterated that VPSO training is extensive and the 600-plus hour academy is well over the Alaska Police Standards minimum of 400-plus hours. He added that firearms will increase the VPSO training hours.

SENATOR COGHILL said part of the question that Senator Wielechowski was getting to is the corporations are doing the hiring and that is a private entity, but corporations are community based entities as well, something that is unique to Alaska. He queried what would happen if a community does not support a corporation and noted that a corporation is different from a municipality under Alaska Statutes-Title 29. He noted

that the State partners with the corporations and questioned whether the VPSO program is a private police force.

[9:39:32 AM](#)

MR. VRABEC answered that VPSOs are considered peace officers in the state and do have law enforcement authority. He set forth that VPSOs are employees of the nonprofits. He said in addition to training, DPS assists with the backgrounds and screening of VPSO candidates. He concurred that the VPSO program is very unique to Alaska with the state's rural areas.

CHAIR DYSON remarked that most of the villages he had worked with in Western Alaska had problems with bears in local dumps. He asked what is done about VPSOs having to protect people or run bears out of the dump. He asked if VPSOs are allowed to have a shot gun.

CAPTAIN ARLOW answered yes. He noted that current VPSO training includes proper shotgun use for the problems Chair Dyson described. He revealed that VPSOs already have the authority to use a shotgun as well as using a firearm in emergency situations. He said allowing VPSOs to carry a firearm is actually introducing another tool to do the job. He said the VPSO liability already exists for batons or other instruments needed for VPSOs to protect themselves.

CHAIR DYSON asked if anyone in the committee room or online that wants to speak against SB 98.

[9:41:52 AM](#)

CHAIR DYSON announced that the committee will stand at ease.

[9:41:59 AM](#)

CHAIR DYSON announced that SB 98 will be held in committee. He noted that Senator Wielechowski has an amendment to introduce at the next hearing. He noted that the bill will probably move out of committee and apologized to the people that wanted to testify. He said the bill will probably not require added testimony and asked supporters to provide written testimony.

[9:43:00 AM](#)

CHAIR DYSON announced that the committee will stand at ease.

SB 182-PUBLIC EMPLOYEE SALARY DIFFERENTIALS

[9:43:13 AM](#)

CHAIR DYSON stated that the committee will take up SB 182. He noted that the Administration provided testimony at the previous hearing. He set forth that his intention is to get through 35 or 40 minutes of public testimony and asked the union representatives to come forward and testify.

[9:44:14 AM](#)

BEN GOLDRICH, Union Representative, Marine Engineers' Beneficial Association (MEBA), Juneau, Alaska.

[9:44:23 AM](#)

RON BRESSETTE, Regional Representative, International Organization of Masters, Mates & Pilots Union (MM&P), Juneau, Alaska, said he represents the licensed deck officers onboard the Alaska Marine Highway System (AMHS).

[9:44:35 AM](#)

RICK DEISING, Regional Director, Inlandboatmen's Union of the Pacific-Alaska Region (IBU), Juneau, Alaska, said he is a 32 year retiree from AMHS.

MR. GOLDRICH set forth that the members of the three unions are the Senators' constituents. He asserted that SB 182 will result in roughly a 10 percent pay cut for MEBA members across the board and penalizes MEBA members for being Alaskan citizens. He said Cost of Living Differentials (COLD) has been part of the AMHS wage for 30 years and enables members to live throughout the state. He stated that COLD was intended as an incentive for mariners to move to Alaska and it has been a success.

[9:46:12 AM](#)

He continued that the overwhelming majority of MEBA members live in Alaska. He asserted that SB 182 targets only those members living in the state. He pointed out to the committee that SB 182 puts MEBA members in a strange place in addressing COLD when MEBA is actively in negotiations with the State. He remarked that early on in negotiations the Administration voiced their concern for COLD and MEBA has been negotiating in good faith throughout in an effort to come to a mutually agreeable conclusion. He asserted that SB 182 passage is asking MEBA to negotiate out of a hole. He noted that all of the union bargaining units are concerned with SB 182 due to the current vacancy rates that range from 7 to 20 percent. He set forth that the intent is to bring young mariners into the state, live in Alaska, and work their careers in AMHS. He asserted that removing COLD from union member's wages is going to prevent the unions from bringing young talent into Alaska in addition to

losing those with years of experience. He said at a time when wage really is all there is now, a 10 percent pay cut is just a killer and it is a big hit for AMHS moral.

9:48:35 AM

SENATOR GIESSEL noted that a chief engineer's wage is \$40.62 per hour in Alaska, plus \$677.96 for non-watch pay. She asked what non-watch pay is.

MR. GOLDRICH replied that non-watch pay is a payment that the chief engineers receive in lieu of overtime. He detailed that a chief engineer generally works a 12 hour day, but a day could be 18 hours long. Non-watch pay was intended to be based on 11 hours of overtime pay, but members work for beyond the 11 hours every month.

SENATOR GIESSEL asked if the \$677.96 is per pay period.

MR. GOLDRICH replied that the \$677.96 is a flat amount that the chief engineers receive per pay period regardless of how many hours they work.

MR. BRESSETTE noted that Mr. Goldrich addressed concerns for all three unions.

9:51:07 AM

MR. DEISING set forth that IBU represents the unlicensed AMHS employees. He said SB 182 will harm all Alaskans that work in the state. He detailed that IBU has 640 members in AMHS and 5 percent are from out of state. He asserted that a 10 percent pay cut is going to harm the lifestyle of every IBU member, harm Alaska communities, and will not entice new employees to work for AMHS. He pointed out that IBU members are well trained, first responders that wear multiple hats on ships.

SENATOR WIELECHOWSKI addressed the 40 year old contract language which basically says the base rate is based on a Seattle rate, but COLD is provided for employees that live in Alaska.

MR. BRESSETTE answered yes.

SENATOR WIELECHOWSKI continued that if COLD is taken away, every Alaskan member will receive a pay cut, while the people who live outside of Alaska keep their wage the same.

MR. BRESSETTE answered yes.

[9:54:11 AM](#)

SENATOR COGHILL noted that the contract with COLD was set in 1977. He asked what the 1977 differential is versus present day.

MR. GOLDRICH answered that the differential was set between Seattle and Anchorage. He said currently the State contends that the cost of living in Seattle and Anchorage is roughly the same. He remarked that the State's cost of living assertion is probably true if an individual lives in downtown Seattle where housing prices are sky high. He asserted that it is vastly more expensive to live in Alaska than the Lower 48. He pointed out that MEBA members do not receive step-increases, but receive a negotiated wage that Alaska members base their living on with COLD.

[9:56:00 AM](#)

SENATOR COGHILL asked if it would be more advantageous to negotiate a wage with COLD due to Alaska's dynamic geographical issues.

MR. GOLDRICH answered that COLD is a better fit for AMHS and noted that the State does not offer geographical differential in negotiations. He said starting from 10 percent less with a geographical differential would only benefit day-boat members.

SENATOR WIELECHOWSKI set forth that the three unions are in negotiations with the Administration. He asked if there is anything to stop the Administration from coming to the bargaining table and renegotiate the SB 182 provision.

[9:57:50 AM](#)

MR. GOLDRICH replied absolutely not.

MR. DEISING added that COLD has been a topic with the Administration. He asserted that union members are very passionate about keeping the benefits they have and serving Alaskans to the best of their ability.

MR. GOLDRICH addressed the Administration's concerns into nonresidents receiving COLD and noted that over the past 12 years only 1 member has lost in arbitration. He said it is the State's responsibility to take members to task who are nonresidents. He asserted that only Alaskan members are receiving COLD.

[10:00:40 AM](#)

SENATOR WIELECHOWSKI noted the unusual language in the agreement that dates back a long time. He remarked that the Legislature always talks about Alaska hire and encouraging people to live in Alaska, COLD is actually a pretty clever way to do that.

MR. GOLDRICH responded that COLD works.

SENATOR GIESSEL stated that the Legislature encourages Alaska hire. She referred to the information provided to her and noted that there are substantial benefits to living in Alaska outside of COLD. She pointed out that after 5 years of service, an AMHS-Alaska resident annually receives 420 vacation hours with 180 sick-leave hours and an AMHS-nonresident receives 160 vacation hours with 96 sick-leave hours. She asserted that AMHS employees receive significant benefit as Alaska residents in addition to COLD.

MR. BRESSETTE replied that in the MM&P contract, there is no difference between Alaska residents and out of state residents as far as vacation accumulation or sick leave accumulation. He pointed out that everyone gets the same thing for sick-leave accumulation and vacation hours is based on hire-date.

[10:02:51 AM](#)

SENATOR GIESSEL replied that she will follow up with the State and noted that her information differs from what Mr. Bressette had noted.

CHAIR DYSON addressed Senator Wielechowski and noted that parts of the negotiation are prescribed due to the 1977 law. He noted that the Administration has addressed a geographical differential in recent negotiations.

MR. GOLDRICH answered that if the State is going to offer up geographical differential pay, the unions are looking forward to hearing their proposal in negotiations.

CHAIR DYSON stated that he may be mistaken and noted his understanding that the Administration is aware of a potential pay cut. He said he is hopeful that the Administration will maintain pay and benefit levels that will keep union members happy.

He announced that the committee is going to run out of time and noted that two or three pages of testifiers have signed up. He announced his plan to provide time for testifiers who are online

and in person. He asked that the testifiers not repeat what had already been said unless it is very necessary.

[10:05:13 AM](#)

CHRIS OLSEN, Chief Engineer, Motor Vessel (MV) LeConte, Alaska Marine Highway, Wasilla, Alaska, noted that MV LeConte is home ported in Juneau and he is a member of MEBA. He stated that he is testifying against SB 182. He asserted that SB 182 penalizes him for being an Alaska resident. He said he has been an AMHS crew member for 18 years and noted that he relocated to Alaska in 1986. He said there is no comparison between the maritime unions' COLD and the geographical difference for the other regular state Alaska unions; the two are completely different and unrelated to each other. He asserted that SB 182 is specific to the maritime union's COLD payment. He asserted that the 1977 contract agreement rewards employees who choose to live in Alaska and keeps wages within Alaska while supporting communities. He noted that he does not agree with the study that claims that the cost of living in Seattle is equal to Anchorage and added that he pays for commuting to Juneau on a biweekly basis.

[10:08:29 AM](#)

PATRICK PHILLIPS, Crew Member, Motor Vessel Fairweather, Alaska Marine Highway System, Alaska Department of Transportation & Public Facilities, Juneau, Alaska, said he moved to Alaska 20 years ago. He asserted that SB 182 punishes him and changes the deal he originally agreed to. He asserted that the passage of SB 182 will be a hardship to him.

[10:10:10 AM](#)

JARED BARLOW, Ordinary Seaman, Motor Vessel Kennicott, Alaska Marine Highway System, Alaska Department of Transportation & Public Facilities, Klawock, Alaska, stated that he is an IBU member. He said he is speaking against SB 182 and asserts that the bill's passage will hurt him. He remarked that there is a cost living difference between Alaska and Seattle.

[10:13:21 AM](#)

TERESA GILBERT, Chief Steward, Motor Vessel Kennicott, Alaska Marine Highway System, Alaska Department of Transportation & Public Facilities, Juneau, Alaska, stated that she is buying a home in Juneau and sets her budget according to her wages. She said a cut in pay will be detrimental to her finances. She noted that she has worked 30 years for AMHS and intends to retire in Juneau.

CHAIR DYSON replied that the committee wants Ms. Gilbert to stay in Juneau. He asked if the union representatives had any closing comments.

MR. GOLDRICH answered no.

CHAIR DYSON noted that he has about nine pages of testifiers and explained that it is very difficult to get through the entire list. He encouraged written testimony to be submitted and noted that SB 182 will be heard in other committees in addition to having to go through the House as well. He asked representatives from the Administration to address the committee.

[10:16:12 AM](#)

NICKI NEAL, Director, Division of Personnel and Labor Relations, Alaska Department of Administration, Juneau, Alaska.

[10:16:28 AM](#)

KATE SHEEHAN, Deputy Director, Labor Relations, Division of Personnel and Labor Relations, Department of Administration, Juneau, Alaska.

CHAIR DYSON asked to clarify that not having COLD will result in AMHS employees taking up to an \$18,000 decrease per year. He remarked that Alaska residents will be discriminated against because they would not get something even though they have a higher cost of living and the accusation that there will be no geographical differential that many other state employees receive.

MS. SHEEHAN addressed the bargaining piece and stated that the DOA's bill interruption is that there would no longer be COLD negotiations. She pointed out that there have been discussions on COLD and geographical differential. She noted that the 2008 McDowell Study used a national study to show that there is no COLD between Seattle and Anchorage. She said the Administration is in the process of having geographical differential conversations with the three unions and referenced new geographical differential rates implemented with other state unions.

[10:18:22 AM](#)

CHAIR DYSON asked to clarify that the Administration's use of the word "COLD" means the term of art that is in the statute. He inquired that the bill's passage will allow the Administration to make adjustments based on where people's jobs are, or where

people live as the standards used by the State for other employees.

MS. SHEEHAN answered that geographical differential is more difficult with the marine units because they can live wherever they choose to live. She added that AMHS employees generally work weekly on-off based schedules and can choose to live in a place other than their change port. She pointed out that AMHS has three day-boats in Metlakatla, Juneau, and Cordova; that is clearer to address. She pointed out that the geographical differential was for the different intrastate cost of living and COLD was for interstate.

CHAIR DYSON pointed out that testimony implied that passing the bill just means an \$8,000 to \$18,000 wage cut. He asked to verify that it is the State's intent to negotiate an adjustment to keep AMHS' compensations competitive.

MS. NEAL answered that there will be options gained through collective bargaining and those have already been discussed with the unions regarding changes to the geographic rates within Alaska. She pointed out that there were discussions on protection for current employees on wage reduction.

[10:20:52 AM](#)

SENATOR WIELECHOWSKI read the language from the current MM&P Collective Bargaining Agreement with the State as follows:

Section 17.02, this is something you negotiated and you agreed to, it says, "It is agreed that the cost of living differential between Alaska and Seattle, which is referred to in AS 23.40.210, shall be a mandatory subject for collective bargaining, and shall not be changed, modified, adjusted, re-determined, or altered in any way by the state of Alaska unilaterally and no change shall be made without the consent and agreement of the union."

He asked Ms. Neal to verify that the section he read was the section that the Administration negotiated.

MS. NEAL answered yes, at one point in time many years ago.

SENATOR WIELECHOWSKI asked if Section 17.02 is currently valid.

MS. NEAL answered yes.

SENATOR WIELECHOWSKI asserted that the Department is violating Section 17.02.

MS. NEAL replied that she disagreed.

SENATOR WIELECHOWSKI asked for an explanation as to how the Administration is not involved in an unfair labor practice.

MS. NEAL answered that the bill is irrespective of the negotiations currently being held with the unions.

SENATOR WIELECHOWSKI responded that the bill says COLD shall be changed without the consent and agreement of the union. He asked if the Administration has the unions' consent and agreement to change COLD. He pointed out that he heard unanimous testimony that the Administration did not have consent and agreement from the unions.

MS. SHEEHAN replied that the Administration is currently bargaining with the unions on COLD and the process is irrespective of the bill. She said the Administration is bargaining the COLD and geographical differentials. She remarked that the whole contract with the unions is open for negotiations and the Administration is not violating the current contract and is not involved in unfair labor practices.

[10:22:55 AM](#)

SENATOR COGHILL inquired if the Administration is presently bound statutorily to COLD.

MS. SHEEHAN answered yes.

SENATOR COGHILL asked that the bill's passage would only apply to prospective bargaining agreements.

MS. SHEEHAN answered yes.

SENATOR COGHILL asked if Senator Dyson invited the Administration to you comment on the bill.

MS. SHEEHAN answered yes.

SENATOR COGHILL opined that he did not believe that the Administration was acting in bad faith by commenting on a bill that would change prospective bargaining. He stated that the unfortunate part is the unions and the Administration is in the middle of bargaining.

CHAIR DYSON added that he understands Senator Wielechowski's point is not that these people discuss it, but indeed that it is a part of negotiation in contrast to the law. He asked if anyone in the committee room is a labor attorney.

SENATOR WIELECHOWSKI [raised his hand.]

CHAIR DYSON asserted that his previous statement was an important question. He said he will hold SB 182 over. He asked that someone from the Administration have a labor attorney at the next meeting in order to address the issues raised by Senator Wielechowski. He noted that he is sympathetic to the bill, but added that he has the question about having SB 182 pass in the midst of negotiations. He apologized and asked that individuals who did not get a chance to testify to submit written testimony. He announced that SB 182 is set aside.

[10:24:56 AM](#)

CHAIR DYSON announced that the committee will stand at ease.

[10:25:05 AM](#)

SENATOR COGHILL asked if the next order of business is SB 98.

[10:25:19 AM](#)

CHAIR DYSON announced that the committee will stand at ease.

[10:25:38 AM](#)

CHAIR DYSON said Senator Olson would like to speak to Senator Wielechowski's amendment and cannot attend the committee meeting. He announced that SB 98 will be held in committee.

He said he appreciated everyone's presence at the committee meeting, particularly members of the marine unions.

[10:26:09 AM](#)

There being no further business to come before the committee, Chair Dyson adjourned the Senate State Affairs Standing Committee hearing at 10:26 a.m.