

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 6, 2017

1:33 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Zach Fansler, Vice Chair
Representative Jonathan Kreiss-Tomkins
Representative Gabrielle LeDoux
Representative David Eastman
Representative Chuck Kopp
Representative Lora Reinbold

MEMBERS ABSENT

Representative Louise Stutes (alternate)
Representative Charisse Millett (alternate)

COMMITTEE CALENDAR

CONFIRMATION HEARING(S):

SELECT COMMITTEE ON LEGISLATIVE ETHICS

Joyce Anderson - Anchorage

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 77

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

- MOVED HB 77 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 77

SHORT TITLE: 2017 REVISOR'S BILL

SPONSOR(S): RULES BY REQUEST OF LEGISLATIVE COUNCIL

01/25/17	(H)	READ THE FIRST TIME - REFERRALS
01/25/17	(H)	JUD
02/06/17	(H)	JUD AT 1:30 PM GRUENBERG 120

WITNESS REGISTER

JOYCE ANDERSON

Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Select Committee on Legislative Ethics.

LISA KIRSCH, Assistant Revisor

Legislative Legal Counsel

Legislative Affairs Agency

Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 77, explained various revisions and answered questions.

ACTION NARRATIVE

[1:33:25 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:33 p.m. Representatives Kopp, LeDoux, Fansler, Eastman, Reinbold, and Claman were present at the call to order. Representative Kreiss-Tomkins arrived as the meeting was in progress.

CONFIRMATION HEARING(S): **SELECT COMMITTEE ON LEGISLATIVE ETHICS**

[1:34:32 PM](#)

CHAIR CLAMAN announced that the first order of business is the appointment of Joyce Anderson to the Select Committee on Legislative Ethic, put forth by Chief Justice of the Alaska Supreme Court, Justice Craig Stowers.

CHAIR CLAMAN opened public testimony.

[1:35:20 PM](#)

JOYCE ANDERSON, advised that during 2001-2014, she was the administrator for the Select Committee on Legislative Ethics, and based upon her knowledge and experience on the committee and believing she would be an asset both to the committee and the legislature, submitted her application.

CHAIR CLAMAN, after ascertaining no one wished to testify with regard to the appointment of Joyce Anderson to the Select Committee on Legislative Ethics, closed public testimony.

[1:36:52 PM](#)

REPRESENTATIVE LEDOUX commented that she has known Ms. Anderson since 2005, when she was the director of the Select Committee on Legislative Ethics. She expressed that Ms. Anderson would be a good addition as a member of the committee and that her institutional knowledge would be phenomenal.

[1:37:28 PM](#)

REPRESENTATIVE EASTMAN asked how she sees her role as a member of the Select Committee on Legislative Ethics.

MS. ANDERSON responded that she sees her role as a bit different from that of administrator or the executive director. She explained that as a member of the Select Committee on Legislative Ethics she will review the materials being presented and provide her opinion based upon her experience interpreting statutes and past decisions issued by the committee. She advised she would strictly look at it as a member of the committee, and in the event the current administrator had questions she could provide background as she has done in the past as a consultant for the committee.

[1:39:07 PM](#)

REPRESENTATIVE EASTMAN asked, in the event there was a vacancy in the position of administrator, would serving as a member of the committee limit her from ever being able to fill that role.

MS. ANDERSON stated her belief that it would and pointed out that she is retired and would not want to return to the full time job of administrator.

[1:39:42 PM](#)

REPRESENTATIVE LEDOUX inquired as to whether Ms. Anderson would, as part of her role as a member of the committee, advise the legislature when rules do not make sense. She recalled that, after passing the ethics reform bill, Ms. Anderson lead the ethics course that all legislators were required to take. At one point, a legislator commented that a law didn't make sense,

and Ms. Anderson responded, "Don't blame me, you passed this law."

[1:41:04 PM](#)

MS. ANDERSON responded that she [does consider it part of her role]. She explained that she had, as administrator, advised the House Judiciary Standing Committee, Senate Judiciary Standing Committee and/or House State Affairs Standing Committee when something needed to be tweaked because it was unmanageable on an administrative level, enforcement level, or that it just didn't work. Also, under AS 24.60, one of the duties of the Select Committee on Legislative Ethics is to propose legislation, and she would definitely get back to the appropriate legislators, or the leadership, to advise when something needed to be changed.

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REPRESENTATIVE KOPP commented that he has worked with Ms. Anderson in various capacities over the last eight years and found her to be professional, easy to speak with while offering direct and forthright non-partisan advice. He expressed his appreciation that Ms. Anderson is willing to be a member of the Select Committee on Legislative Ethics.

[1:42:30 PM](#)

REPRESENTATIVE FANSLER said that in accordance with AS 24.60.130, the House Judiciary Standing Committee has reviewed the qualifications of Chief Justice's appointee and recommends the [name of the] appointee, Joyce Anderson, be forwarded to the House for ratification. This does not reflect intent by any of the members to vote for or against this individual during any further sessions for the purposes of ratification.

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The committee took an at-ease from 1:43 p.m. to 1:44 p.m.

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REPRESENTATIVE EASTMAN commented that he looks forward to availing himself on the Select Committee on Legislative Ethics for any recommendations she may have based on her experience.

HB 77-2017 REVISOR'S BILL

[1:45:21 PM](#)

CHAIR CLAMAN announced that the last order of business would be HOUSE BILL NO. 77, "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

[1:45:57 PM](#)

LISA KIRSCH, Assistant Revisor, Legislative Legal Counsel, Legislative Legal Services, Legislative Affairs Agency, explained that the revisor's bill is an opportunity to correct any deficiencies, conflicts, and obsolete provisions in the statutes. For the most part, she commented, the changes are minor because her office avoids anything that may be a substantive change to the law. It is generally "clean-up provisions" and corrections to make the statutes consistent. She offered to answer specific questions or go through section by section.

CHAIR CLAMAN asked that she highlight three to five sections that may be of more interest than others which represent a flavor of the changes made.

[1:47:12 PM](#)

MS. KIRSCH responded that she could group them by category. She explained there are a fair number of sections removing the words "but not limited to." Alaska has a statutory provision in Title 1 allowing her office to remove that language because the word "including" doesn't need to be qualified "but not limited to." She explained that provisions with general application to the statutes as a whole are located in a provision under Title 1, thereby, eliminating the need to repeat language over and over again.

CHAIR CLAMAN surmised this is an instance where words are actually being taken out of the statute book.

MS. KIRSCH agreed, and she said the words are removed because they are unnecessary due to the provision under Title 1.

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MS. KIRSCH advised that six sections delete, repeal, or update obsolete provisions, 22 sections deal with errors and

oversights, things that may have been changed throughout the law and then there was one spot that was missed. She pointed to the end of the sectional and advised that a couple of definitions are removed because [the subject] word was removed from the chapter or the section that the word represented. Therefore, there is no longer a need for the definition because the word being defined is no longer included, she said.

MS. KIRSCH advised there are 32 sections where the revisor's office improved the former substance of the law, often it is grammatical changes and preferred language. She explained that the revisor's office is directed by Legislative Counsel to follow the drafting manual and there are certain preferred phrases, and certain grammatical structures that are preferred over others so that the statutes are consistent in their usage of language.

[1:49:17 PM](#)

REPRESENTATIVE KREISS-TOMKINS commented that he appreciates the revisor's bill each year, and appreciates tighter and more minimalistic statutes. He said that having spent hundreds if not thousands of hours doing similar work on Wikipedia wherein a person attempts to bring things into conformance of the Manual of Style.

MS. KIRSCH responded that Representative Kreiss-Tomkins has a unique taste and that she shares those tastes.

[1:50:35 PM](#)

REPRESENTATIVE LEDOUX asked whether there is anything in the bill, if this bill had not been introduced, that would impact a criminal case where a person may, or may not, be seeing jail time in disregard of the intent of the legislature, or in a civil case where the person would lose or gain property rights.

MS. KIRSCH answered that that is a broad question, and she could not say with absolute certainty. Although, she said she does know that the revisor's office has not amended any criminal law provisions, at least nothing under Titles 11 or 12. Her office, she explained, generally provides the revisor's bill provisions based on what title it would use, and it has performed periodic reviews of different titles of the statutes. There are no changes to criminal law directly, but she was unsure there might not be a provision somewhere that may affect a criminal law

provision. Always, she said, the goal is to avoid changing substantive law.

MS. KIRSCH related that having said that, in the event there are two provisions that do not match up and the revisor's office has created something that makes it parallel, it may avoid a problem which is the goal. Such that, there may be something that was not changed in a bill one year, such as a definition was left in, and a court might look at that and say it creates an ambiguity. The purpose of the office, in part, is to avoid conflicts between two provisions of law that might create an ambiguity problem.

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MS. KIRSCH, in response to Representative LeDoux, answered that there is one revisor, two assistant revisors, and one advisor.

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MS. KIRSCH answered Representative LeDoux that she works for Legislative Legal, and the employees of revisor's office are the primary employees involved in the revisor's bill. These employees have other duties, such that all of the draft bills pass through the hands of one of the assistant revisors, and the hands of the revisor. She remarked that a recent big project was the republication of the statutes, and it has been completed.

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REPRESENTATIVE EASTMAN said he is also in favor of cleaning up the statutes whenever possible, although, he received a concern. He pointed to page 4, last paragraph of Ms. Kirsch's memorandum directed to Chair Claman, dated 1/27/17, which read as follows:

Text of Repealed Paragraphs:

...

AS 47.07.900(14)

(14) "nurse midwife" means a registered professional nurse who is certified as an advanced nurse practitioner under AS 08.68.850(1) and authorized to practice as a nurse midwife under regulations adopted in accordance with AS 08.68.850(8);

REPRESENTATIVE EASTMAN advised the concern is regarding the change to AK 47.07.900 dealing with "nurse midwives." He pointed out that being from the Matanuska-Susitna Valley there are quite a few midwives and nurse midwives, and sometimes there is a running battle between nurses and midwives as to their respective roles and potential competition for each other. While looking at removing the definition of "nurse midwife," which no longer appears in this section of statutes - which is the nursing board, he asked whether that definition appears elsewhere in the statutes, because the midwives have their own board and would clamor for equal recognition in statute if not here then somewhere else.

[1:56:04 PM](#)

MS. KIRSCH responded that she does not have the ability to search the electronic database here, but she will get that information to him later. She explained the reason this definition is being removed is because the term "nurse midwife" is no longer used for that chapter. If there is a need for that definition, it would have to be done through a piece of legislation.

REPRESENTATIVE EASTMAN asked, in the event there are multiple chapters dealing with similar terms, would the revisor's office recommend removing those definitions mentioned repeatedly throughout the statutes, or would it recommend that those terms used in every chapter should require a definition. Basically, he said, is there an ability to reference definitions in another portion of the statute if the chapter a person is looking at references a term and does not define it, or should that term be defined repeatedly in each chapter it appears.

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MS. KIRSCH related that the decision is made on a case-by-case basis, but there can certainly be general definitions that apply to multiple places in the statutes. Often, it will say "this term -- whatever that term is, say nurse midwife, -- has the meaning given in ___ and then it lists another statutory section." Also, she reiterated, Title 1 has a number of definitions, such as municipality or person, of which are terms used throughout the statutes. She paraphrased that it will read: "unless there is a specific definition that applies in a particular part of the statutes, this definition will apply throughout." She related that the revisor's office does both of

those things, and there are different reasons to choose to do one or the other in different parts of the statute.

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REPRESENTATIVE REINBOLD referred to Sec. 28. [AS 37.06.020(d), page 14, lines 23-25] which read as follows:

(d) Notwithstanding the guidelines in (b) of this section, the legislature may appropriate any amount to be community assistance [REVENUE SHARING] fund. Nothing in this section creates a dedicated fund.

REPRESENTATIVE REINBOLD noted that the revisor's office had corrected an oversight.

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MS. KIRSCH explained that Sec. 28 replaces "revenue sharing" with "assistance," via Senate Bill 210, passed during the Twenty-Ninth Legislature, and made law under Chapter 44, 2016 Session Laws. She advised that those terms were replaced in that manner throughout, and Sec. 28 is one that the revisor's office missed.

REPRESENTATIVE REINBOLD related that she could not recall what Senate Bill 210 related to.

MS. KIRSCH responded that she could not recall.

[2:00:18 PM](#)

REPRESENTATIVE REINBOLD noted she had five sections with regard to Ms. Kirsch's testimony that the revisor's office changed "the substance or the form of the law." She referred to Sec. 14, [AS 14.18.020, page 9, lines 8-16], and asked how the form or substance of the law was changed.

MS. KIRSCH advised this is a section where the revisor's office is removing "but not limited to" which follows the word "including." She referred to a statutory provision in Title 1, and she paraphrased, "anytime in the Alaska Statutes that we use the word 'including' it is presumed to be followed by 'but not limited to.'" Therefore, she reiterated, the words "not limited to" are unnecessary and are being removed.

MS. KIRSCH continued that the next change, "based on" rather than the "basis of," is a language change and it is not meant to change the substance of the law or its meaning.

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REPRESENTATIVE REINBOLD noted this is based on discrimination employment which is a large issue for the public, and it is not known whether the umbrella is bigger here or if it is just "not limited to" so it sounds like it is a broader umbrella.

MS. KIRSCH reiterated that the words "but not limited to" are presumed to remain there due to the provision in Title 1, nothing has been changed by removing them from this section.

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REPRESENTATIVE REINBOLD said it is important "because you said that -- it is going to change the form or substance of the law."

MS. KIRSCH said that she misspoke and clarified that it is not making a substantive change that would actually change the effect of the law. Rather, it is changing the substance in the sense of the form of the language to put it in a grammatical form, thereby, removing the words "but not limited to" which are already included by virtue of the provision in Title 1.

REPRESENTATIVE REINBOLD asked whether that is the same for [Sec. 15. AS 14.20.450. Responsibilities of commission] wherein the revisor's office eliminates "but not limited to." She further asked whether there are any other changes in Sec. 15.

MS. KIRSCH answered, "No, that's the single change ..."

[2:03:19 PM](#)

CHAIR CLAMAN advised that the title of the previously discussed Senate Bill 210, was "Community Revenue Sharing Program Change to Community Assistance Program." He remarked that in the legislature's infinite wisdom it chose to change the name.

REPRESENTATIVE REINBOLD referred to Sec. 16 [AS 22.15.100], Functions and powers of district judge and magistrate, page 9, line 25, and asked whether there are any substantive changes in their duties or responsibilities.

MS. KIRSCH responded "No," the only change in that section is the addition of the word "those" and the deletion of the word "such."

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REPRESENTATIVE REINBOLD queried why the revisor's office put these under the substance of the law if there is just one little word.

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MS. KIRSCH explained that it is referred to in that manner because it is changing the language, it is making a grammatical change. The word "such" is one that the revisor's office avoids because it is being used in this case as a demonstrative adjective. She remarked that the language was traditionally used by lawyers but is disfavored in this day and age, it is a language change to reflect common usage of modern English.

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REPRESENTATIVE REINBOLD referred to Sec. 23 [AS 23.40.225], Exemption based on religious convictions, page 12, line 26, and asked her to explain.

MS. KIRSCH pointed out that it is also a deletion of the words "but not limited to" which are unnecessary due to the provision under Title 1, and reiterated that "including" is presumed to include those words following it.

[2:06:18 PM](#)

REPRESENTATIVE KOPP commented that the deletion of the term "nurse midwife" was the result of a law passed last year.

CHAIR CLAMAN, after ascertaining no one wished to testify on HB 77, closed public testimony.

[2:07:08 PM](#)

REPRESENTATIVE LEDOUX complimented Ms. Kirsch on all of the hard work that has obviously taken place, and that she is aware Legislative Legal and Research Services works extremely hard and has lost people in the last couple of years. She related that there are times Legislative Legal and Research Services is working almost 24/7, and the legislators truly appreciate its

work. In light of how overworked the staff of Legislative Legal and Research Services are, she asked how necessary it is to change things, such as Sec. 14, [AS 14.18.020], page 9, line 14, which read as follows:

(1) ... noninstructional duties **based**
on [THE BASIS OF] sex or race; and

REPRESENTATIVE LEDOUX continued, as opposed to "on the basis of." She said she looks at that as "six to one - half dozen of the other" and that "but not limited to" is not of any huge concern to her. She then expressed that she would rather not use the limited hours overworking people with this type of "stuff," but the bill is finished and she appreciates the diligence.

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MS. KIRSCH responded that at the danger of becoming philosophical, she views her duty as a revisor to create the best possible law she can. She remarked that she is proud of the body of law in Alaska, as opposed to a person working their way through the federal statutes or regulations. Given the laws she has reviewed from other states, jurisdictions, and federal law, she pointed out that Alaska has a sensible, coherent, and a consistent body of law that she appreciates and it is important to her. While it may appear there are differences without any important distinction, legal cases can sometimes turn on a single word, she pointed out. The revisor's office tries hard to create a sensible, consistent, coherent body of law that is not caught up in needless legal terms, or terms of art, making it more difficult for the average person to understand, she remarked. The changes may appear to be minor changes, but she takes them seriously, and it is important to her as a revisor, she stressed.

[2:11:28 PM](#)

REPRESENTATIVE EASTMAN referred to work she does in reviewing the statutes, and asked whether the revisor's office has ever discovered any problematic conflicts in the law.

MS. KIRSCH responded that, in part, the revisor's office performs a review of a certain group of titles and determines the changes during the interim. Of course, she said, during the session if it discovers difficulties or problems in the context of an open section in a bill, it will suggest the change

improving the section, or correcting a problem, to the legislator to possibly include the change as part of their bill. In that manner the body has a chance to look at it and in the event the bill passes, those changes are made.

[2:12:33 PM](#)

REPRESENTATIVE KOPP noted that it is amazing how much the revisor's office catches how one statute changes so many other areas in the law, and it gets into repealers. He thanked the revisor's office for all the work it does in helping legislators catch things which seem to be the bigger projects legislators take on, the spider's web is enormous in the law and it has been effective in catching those, he commented.

[2:13:22 PM](#)

REPRESENTATIVE EASTMAN referred to Ms. Kirsch's earlier testimony about the difference between Alaska's statutes and other state's statutes, and related that her comments are accurate and he appreciates there is someone going through and performing that work. He offered that it gives him peace of mind as an Alaskan that the major errors, if any, will be caught.

[2:13:53 PM](#)

CHAIR CLAMAN observed that the use of "but not limited to" is a conversation he has had when drafting contracts as to whether those words were necessary. He offered that "we are not always" using words economically and he appreciates the details. The legislature gives Legislative Legal and Research Services the largest dose of work during session and appreciates that the revisor's office's work takes place out of session so it is not burning the midnight oil. He said he also appreciates Representative LeDoux's perspective that it can be time consuming.

[2:15:21 PM](#)

REPRESENTATIVE FANSLER said he, too, is appreciative of all of the hard work, and to tend toward Representative LeDoux's comments, he related that, hopefully, as technology advances it will cut down on some of these kinds of situations. He suggested, in not wishing to burn the legislature's employees out with this type of work, perhaps legislators should consider

all of the ramifications when drafting their legislation and put it in on the front end.

CHAIR CLAMAN offered the members an opportunity to review his book relating to Uniform Law Recommendations and a manual on how to write clear and concise legislation.

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REPRESENTATIVE FANSLER moved to report HB 77, Version 30-LS0010\0 out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, HB 77 passed from the House Judiciary Standing Committee.

[2:17:18 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:17 p.m.