

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 7, 2017

5:32 p.m.

MEMBERS PRESENT

Representative Jonathan Kreiss-Tomkins, Chair
Representative Gabrielle LeDoux, Vice Chair
Representative Chris Tuck
Representative Adam Wool
Representative Chris Birch
Representative DeLena Johnson
Representative Gary Knopp

MEMBERS ABSENT

Representative Andy Josephson (alternate)
Representative Chuck Kopp (alternate)

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 44

"An Act requiring a legislator to abstain from taking or withholding official action or exerting official influence that could benefit or harm an immediate family member or certain employers; requiring a legislator to request to be excused from voting in an instance where the legislator may have a financial conflict of interest; and providing for an effective date."

- HEARD & HELD

HOUSE CONCURRENT RESOLUTION NO. 1

Proposing an amendment to the Uniform Rules of the Alaska State Legislature relating to voting and abstention from voting.

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 44

SHORT TITLE: LEGISLATIVE ETHICS: VOTING & CONFLICTS

SPONSOR(S): REPRESENTATIVE(S) GRENN

01/18/17	(H)	PREFILE RELEASED 1/13/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	JUD, FIN

01/23/17 (H) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
 01/23/17 (H) READ THE FIRST TIME - REFERRALS
 01/23/17 (H) JUD, FIN
 01/25/17 (H) STA REPLACES FIN REFERRAL
 01/25/17 (H) BILL REPRINTED 1/25/17
 01/25/17 (H) JUD WAIVED PUBLIC HEARING NOTICE, RULE
 23 FOR SSHB 44
 01/25/17 (H) JUD AT 1:00 PM GRUENBERG 120
 01/25/17 (H) -- Meeting Postponed to 1/27/17 --
 01/27/17 (H) JUD AT 1:00 PM GRUENBERG 120
 01/27/17 (H) -- Meeting Rescheduled from 1/25/17 --
 01/30/17 (H) JUD AT 1:30 PM GRUENBERG 120
 01/30/17 (H) Heard & Held
 01/30/17 (H) MINUTE(JUD)
 02/03/17 (H) JUD AT 1:30 PM GRUENBERG 120
 02/03/17 (H) Moved CSSSHB 44(JUD) Out of Committee
 02/03/17 (H) MINUTE(JUD)
 02/08/17 (H) JUD RPT CS(JUD) 1DP 3DNP 3AM
 02/08/17 (H) DP: LEDOUX
 02/08/17 (H) DNP: KOPP, EASTMAN, REINBOLD
 02/08/17 (H) AM: KREISS-TOMKINS, FANSLER, CLAMAN
 02/18/17 (H) STA AT 11:00 AM GRUENBERG 120
 02/18/17 (H) Heard & Held
 02/18/17 (H) MINUTE(STA)
 02/21/17 (H) STA AT 3:00 PM GRUENBERG 120
 02/21/17 (H) Heard & Held
 02/21/17 (H) MINUTE(STA)
 02/21/17 (H) STA AT 5:30 PM GRUENBERG 120
 02/21/17 (H) Heard & Held
 02/21/17 (H) MINUTE(STA)
 03/02/17 (H) STA AT 3:00 PM GRUENBERG 120
 03/02/17 (H) Heard & Held
 03/02/17 (H) MINUTE(STA)
 03/07/17 (H) STA AT 5:30 PM GRUENBERG 120

BILL: HCR 1

SHORT TITLE: AMEND UNIFORM RULES: ABSTAIN FROM VOTING
 SPONSOR(S): REPRESENTATIVE(S) GRENN

01/20/17 (H) READ THE FIRST TIME - REFERRALS
 01/20/17 (H) STA, JUD
 01/20/17 (H) JUD REFERRAL REMOVED
 01/20/17 (H) JUD REFERRAL ADDED BEFORE STA
 01/25/17 (H) JUD AT 1:00 PM GRUENBERG 120
 01/25/17 (H) -- Meeting Postponed to 1/27/17 --
 01/27/17 (H) JUD AT 1:00 PM GRUENBERG 120
 01/27/17 (H) -- Meeting Rescheduled from 1/25/17 --

01/30/17 (H) JUD AT 1:30 PM GRUENBERG 120
 01/30/17 (H) Heard & Held
 01/30/17 (H) MINUTE(JUD)
 02/03/17 (H) JUD AT 1:30 PM GRUENBERG 120
 02/03/17 (H) Moved HCR 1 Out of Committee
 02/03/17 (H) MINUTE(JUD)
 02/08/17 (H) JUD AT 1:30 PM GRUENBERG 120
 02/08/17 (H) Moved HCR 1 Out of Committee
 02/08/17 (H) MINUTE(JUD)
 02/10/17 (H) JUD RPT 1DP 3DNP 2AM
 02/10/17 (H) DP: CLAMAN
 02/10/17 (H) DNP: EASTMAN, KOPP, REINBOLD
 02/10/17 (H) AM: KREISS-TOMKINS, FANSLER
 02/21/17 (H) STA AT 3:00 PM GRUENBERG 120
 02/21/17 (H) Heard & Held
 02/21/17 (H) MINUTE(STA)
 02/21/17 (H) STA AT 5:30 PM GRUENBERG 120
 02/21/17 (H) Heard & Held
 02/21/17 (H) MINUTE(STA)
 03/02/17 (H) STA AT 3:00 PM GRUENBERG 120
 03/02/17 (H) Heard & Held
 03/02/17 (H) MINUTE(STA)
 03/07/17 (H) STA AT 5:30 PM GRUENBERG 120

WITNESS REGISTER

BARBARA HOOD

Anchorage, Alaska

POSITION STATEMENT: Testified in support of CSSSHB 44(JUD).

JAKE JACOBSEN

Kodiak, Alaska

POSITION STATEMENT: Testified in support of CSSSHB 44(JUD).

MARGO WARING

Juneau, Alaska

POSITION STATEMENT: Testified on CSSSHB 44(JUD).

DOUGLAS MERTZ

Juneau, Alaska

POSITION STATEMENT: Testified on CSSSHB 44(JUD).

GEORGE PIERCE

Kasilof, Alaska

POSITION STATEMENT: Testified on CSSSHB 44(JUD).

CARL BERGER

Anchorage, Alaska

POSITION STATEMENT: Testified on CSSSHB 44(JUD).

ACTION NARRATIVE

[5:32:55 PM](#)

CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 5:32 p.m. Representatives LeDoux, Tuck, Birch, Johnson, Knopp, and Kreiss-Tomkins were present at the call to order. Representative Wool arrived as the meeting was in progress.

HB 44-LEGISLATIVE ETHICS: VOTING & CONFLICTS

[5:32:56 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 44, "An Act requiring a legislator to abstain from taking or withholding official action or exerting official influence that could benefit or harm an immediate family member or certain employers; requiring a legislator to request to be excused from voting in an instance where the legislator may have a financial conflict of interest; and providing for an effective date." [Before the committee was CSSSHB 44(JUD).]

[5:33:21 PM](#)

CHAIR KREISS-TOMKINS opened public testimony on CSSSHB 44(JUD).

[5:34:46 PM](#)

BARBARA HOOD testified that she supports CSSSHB 44(JUD) and believes it to be a step in the right direction. She asserted that if a legislator has a conflict of interest, it is very important that he/she not act on the public's behalf unless the full legislative body is aware of the conflict of interest and has weighed in on the merits of the advantages or disadvantages of allowing the member to vote. She stated that with so many issues facing legislators, public faith and confidence in the process are of utmost importance. She offered that when conflicts of interest are not addressed openly, public confidence in legislative actions is undermined. She emphasized that the integrity of the legislative process depends on Alaskans knowing that all the decisions made on their behalf are

in their best interest and not influenced by conflicts of interest.

5:37:15 PM

JAKE JACOBSEN testified that he supports passage of CSSSHB 44(JUD). He expressed his belief that legislators should be ashamed of themselves for their lack of ethics rules. He asserted that an honest person would want to "put teeth into" the ethics rules.

5:39:02 PM

MARGO WARING testified that she appreciates the attempt to provide more guidance to legislators regarding conflict of interest, but she opined that the proposed legislation "leaves things to be desired." She expressed her belief that most voters mistakenly believe that legislators are not permitted to vote when they have conflicts of interest, because they feel it is inappropriate.

MS. WARING explained her concerns with CSSSHB 44(JUD). She stated that on page 2, Section 1(e)(3), the standard that is used [for conflict of interest] is employment, and she asserted that other financial aspects should be recognized. She mentioned that subparagraph (D) [under Section 1(e)(3)] refers to receiving a financial benefit of more than \$10,000 of income, but there is no mention of a comparable increase in the value of one's assets or other financial interests. She opined that the standard is artificially high and referred to the "Corrupt Bastards Club" [a group of former Alaskan legislators implicated in a federal corruption investigation], who accepted bribes for less than \$10,000.

MS. WARING referred to AS 24.60.030(g), which states that the Uniform Rules take precedence over the statute. She suggested that there is a lack of "teeth" in the Section 1 of the proposed legislation if any change to the Uniform Rules can negate what the section states. She concluded by offering that the proposed legislation represents a move in the right direction, but additions are needed. She opined that the most important addition would be the requirement that a legislator must abstain from voting if he/she has a conflict of interest.

5:43:07 PM

REPRESENTATIVE WOOL referred to Ms. Waring's mention of the [Corrupt Bastards Club] bribery case and offered that the proposed legislation includes nothing about bribes.

MS. WARING responded that the point she was making was that experience demonstrates that people will "do things" for a financial benefit of less than \$10,000.

[5:44:08 PM](#)

REPRESENTATIVE KNOPP agreed that changes to CSSSHB 44(JUD) are needed. He asserted that there are many conflicts of interest that are not financial. He also agreed that the current process for declaring conflicts of interest on the floor of the House and Senate is inadequate. He opined that the legislature seems to "err on the side of caution, and our floor procedures sometimes don't function very well." He stated that he is reluctant to create a situation in which legislators over-declare [conflicts of interest]. He said that he does not recall that anyone in the Corrupt Bastards Club truly had a conflict of interest. He asked Ms. Waring if she is aware of any specific instances of conflict of interest [among legislators].

MS. WARING replied that she agreed that there are potential conflicts of interest that are not financial. She added that she thinks that the standard for financial conflict of interest specified in CSSSHB 44(JUD) is a high bar. She mentioned that in recent years, people have been excused from abstaining from voting, thus made to vote. She stated that in her many years of experience and involvement with the legislature, she believes that many legislators with conflicts of interest have voted.

[5:47:22 PM](#)

REPRESENTATIVE TUCK commented that in the Twenty-Eighth Alaska State Legislature, 2013-2014, a representative failed to declare a conflict of interest and was found in violation [of AS 24.60.030(g)].

[5:48:03 PM](#)

DOUGLAS MERTZ testified that for many years he was an assistant attorney general for the State of Alaska. He relayed that part of his duties was to administer the Alaska Executive Branch Ethics Act passed by the legislature to apply ethics rules and procedures to members of the executive branch and members of

boards and commissions. He said that as an attorney, he is also aware of the Code of Judicial Conduct, which applies to judges and others in the judicial branch. He attested that for the other two branches of state government, the rules are clear and strict: if you have a conflict of interest, you do not take official action. He maintained that it is only the legislature that has effectively exempted itself from that rule. He stated his belief that the public is aware and aghast at the current procedure on the House and Senate floor allowing a single objection to excuse a conflict of interest. He opined that Alaskans believe legislators are not consistent in applying [conflict of interest] rules to the branches of government. He asserted that the rules should be the same for every public servant: if someone has a conflict of interest, then he/she should not take official action.

MR. MERTZ said that he is aware of the argument that requiring a legislator to abstain from voting deprives that member's constituents of that vote. He asserted that most of the constituents would not mind being deprived of a biased vote - one motivated by money or an improper interest.

MR. MERTZ referred to Section 1 of CSSSHB 44(JUD) and contended that the proposed legislation mentions items that might benefit a legislator's family or employer, but not the legislator himself/herself. He agreed with previous testimony that not all conflicts of interest are financial and mentioned the possibility of a "romantic" conflict of interest. He recommended that a conflict of interest not be defined solely in terms of money. He concluded by reiterating that for all public servants, if there is a conflict of interest, then they should not take official action.

[5:52:44 PM](#)

REPRESENTATIVE BIRCH asked if Mr. Mertz was aware of any instance on the floor of the House or Senate in which someone declared a conflict of interest, there was no objection raised, and the legislator was not permitted to vote.

MR. MERTZ responded that he is not aware of any such instance.

REPRESENTATIVE BIRCH suggested that, in theory, if someone announced an egregious and obvious conflict of interest, there would be no objection. He offered that each representative spends a great deal of time communicating with the public, is "hired" by about 5,000-10,000 voters, and submits a Public

Official Financial Disclosure (POFD). He suggested that the public has the information and tools to make a judgement on the representative it elects and any potential conflicts of interest of that representative.

MR. MERTZ agreed that the public is the final arbiter but questioned whether the public gets the necessary information. He said that he doubts whether the members of the Corrupt Bastards Club reported on their POFDs the payments they received. He added that an impropriety may well be under the table and out of sight, in which case the voters have a handicap.

REPRESENTATIVE BIRCH suggested that people who are going to lie, cheat, and steal, will do so regardless of the rules established. He said that his concern is regarding 40 legislators "getting tangled up" during the floor session trying to determine conflicts of interest.

[5:56:45 PM](#)

REPRESENTATIVE WOOL mentioned that a judge who knows a defendant in a trial will recuse himself. He asked Mr. Mertz if his testimony took into consideration a citizen legislature, one whose members have other jobs when not in session.

MR. MERTZ answered that legislators should be meeting with and listening to their constituents, as long as they are not doing it in a way that involves money or some other improper emolument. He said he believes that to be a critical distinction. He mentioned that judges must recuse themselves not only if there is a conflict of interest but if there is the appearance of a conflict of interest. He reiterated that there is a high standard for the other branches of government [regarding conflict of interest].

[5:58:43 PM](#)

REPRESENTATIVE WOOL suggested that the Corrupt Bastards Club is a low bar, those people were punished, and the "system" has changed quite a bit since then. He referred to the various possible conflicts of interest and mentioned a recent vote on the floor concerning one of the boards and commissions. He said that a legislator was a dues-paying member of the board overseeing the industry in which the legislator was licensed to practice. He asserted that questions related to conflicts of interest arise often and are difficult to sort out.

MR. MERTZ maintained that the rules must be crafted with reason. He added that no one would say, "If you're an engineer, you must never vote on a bill which affects engineers."

6:00:27 PM

GEORGE PIERCE testified that CSSSHB 44(JUD) is a good start but needs more work. He expressed his belief that a legislator should be excused from voting on legislation, if he/she has a financial conflict of interest. He added that no legislator should be allowed to override another legislator's declared conflict of interest. He opined that a legislator should, out of conscience, abstain from voting, and he said he does not recall that ever happening.

MR. PIERCE stated that he supports Section 2 of CSSSHB 44(JUD) and that too many times it appears that legislators vote in favor of their personal interests instead of serving the public. He gave as an example [the passage of] Senate Bill 21, in which the deciding vote was cast by a legislator who was a manager for ConocoPhillips Alaska, Inc. He opined that the vote constituted a definite conflict of interest. He said that he supports the administrative hearing process mentioned in Section 3 of CSSSHB 44(JUD). He paraphrased Section 5 of CSSSHB 44(JUD), which read as follows:

This Act takes effect only if the Thirtieth Alaska State Legislature passes a resolution that amends Rule 34(b), Uniform Rules of the Alaska State Legislature, to require a member to request to be excused from voting on a question before a house of the legislature when the member has a conflict of interest that is reasonably likely to influence the member's vote on the question, and allow a member's abstention to be approved or disapproved by a majority vote.

MR. PIERCE emphasized that Uniform Rule 34(b) needs to be changed. He expressed his disapproval of the current procedures allowing a vote regardless of a declared conflict of interest. He maintained that declared conflicts of interest should be put to a vote. He opined that legislators with conflicts of interest being allowed to vote constitutes a corrupt system. He added that the same standard that applies to municipal governing bodies should apply to the legislature: if there is a conflict of interest, the member may not vote.

[6:04:33 PM](#)

CARL BERGER testified that he believes each legislator must determine his/her own appropriate course of action if he/she has a potential conflict of interest. He added that the key to addressing potential conflicts of interest is ensuring that no conflicts of interest are involved in any decision-making process, thus maintaining transparency and public trust in all activities of both bodies of the legislature at all times. He urged the committee to support those guiding principles through the proposed legislation.

MR. BERGER suggested that changes to the proposed legislation would strengthen legislative integrity and public trust. He maintained that community and state leaders lead by example when financial conditions, such as the current budget dilemma, require it. He said that Governor Bill Walker reduced his salary by 40 percent to support cost savings; all Alaskans have given up 50 percent of their permanent fund dividend (PFD); many Alaskans are willing to tax themselves for the good of the state; and many state employees have taken pay cuts or reduced work hours. He contended that the legislators continue to collect an exorbitant amount in per diem, a \$50,400 salary for three to four months' work, an office expense allowance of between \$12,000 and \$20,000 for minimal office expenses, per diem when living at home, lavish multiple trips worldwide at state expense that are junkets with no real purpose or activity reports, and moving allowances that include washers, dryers, pianos, compressors, and other questionable goods. He opined that the "time for all of you to clean house is long past," and he urged the committee to "do the right thing."

[6:07:45 PM](#)

CHAIR KREISS-TOMKINS closed testimony on CSSSHB 44(JUD). He announced that CSSSHB 44(JUD) would be held over.

HCR 1-AMEND UNIFORM RULES: ABSTAIN FROM VOTING

[6:07:55 PM](#)

CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE CONCURRENT RESOLUTION NO. 1, Proposing an amendment to the Uniform Rules of the Alaska State Legislature relating to voting and abstention from voting.

[6:07:58 PM](#)

CHAIR KREISS-TOMKINS opened public testimony on HCR1. After ascertaining that no one wished to testify, he closed public testimony. [HCR 1 was held over.]

[6:08:18 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 6:08 p.m.