

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 28, 2017

5:35 p.m.

MEMBERS PRESENT

Representative Jonathan Kreiss-Tomkins, Chair
Representative Gabrielle LeDoux, Vice Chair
Representative Chris Tuck
Representative Adam Wool
Representative Chris Birch
Representative Gary Knopp
Representative Andy Josephson (alternate)

MEMBERS ABSENT

Representative DeLena Johnson
Representative Chuck Kopp (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 13

"An Act prohibiting the expenditure of state or municipal assets to create a registry based on race or religion."

- MOVED CSHB 13(STA) OUT OF COMMITTEE

HOUSE BILL NO. 163

"An Act authorizing the Department of Public Safety to enter into agreements with nonprofit regional corporations and federal, tribal, and local government agencies to provide law enforcement services; authorizing the Department of Public Safety to collect fees for certain law enforcement services; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 190

"An Act relating to the presentation of oral comments on the proposed adoption, amendment, or repeal of regulations."

- HEARD & HELD

HOUSE BILL NO. 181

"An Act relating to per diem for legislators; relating to a travel allowance for legislators and legislative employees; and relating to the State Officers Compensation Commission."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 13

SHORT TITLE: NO ST. FUNDS FOR FEDERAL REGISTRY

SPONSOR(s): REPRESENTATIVE(s) JOSEPHSON

01/18/17	(H)	PREFILE RELEASED 1/9/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	STA, JUD
02/18/17	(H)	STA AT 11:00 AM GRUENBERG 120
02/18/17	(H)	Heard & Held
02/18/17	(H)	MINUTE(STA)
03/23/17	(H)	STA AT 3:00 PM GRUENBERG 120
03/23/17	(H)	Scheduled but Not Heard
03/28/17	(H)	STA AT 5:30 PM GRUENBERG 120

BILL: HB 163

SHORT TITLE: DPS LAW ENFORCE. SVCS: AGREEMENTS/FEES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/08/17	(H)	READ THE FIRST TIME - REFERRALS
03/08/17	(H)	STA, FIN
03/16/17	(H)	STA AT 3:00 PM GRUENBERG 120
03/16/17	(H)	<Bill Hearing Canceled>
03/21/17	(H)	STA AT 3:00 PM GRUENBERG 120
03/21/17	(H)	Heard & Held
03/21/17	(H)	MINUTE(STA)
03/28/17	(H)	STA AT 5:30 PM GRUENBERG 120

BILL: HB 190

SHORT TITLE: REGULATION ADOPTION/ORAL COMMENT

SPONSOR(s): TALERICO

03/22/17	(H)	READ THE FIRST TIME - REFERRALS
03/22/17	(H)	STA
03/28/17	(H)	STA AT 5:30 PM GRUENBERG 120

BILL: HB 181

SHORT TITLE: LEGISLATURE PER DIEM AND TRAVEL ALLOWANCE

SPONSOR(s): KREISS-TOMKINS

03/16/17 (H) READ THE FIRST TIME - REFERRALS
03/16/17 (H) STA, FIN
03/28/17 (H) STA AT 5:30 PM GRUENBERG 120

WITNESS REGISTER

WALT MONEGAN, Commissioner Designee
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 163 on behalf of the House Rules Standing Committee, sponsor, by request of the governor.

WILL MAYO

Alaska Regional Coalition and Tanana Chiefs Conference
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 163.

REPRESENTATIVE DAVE TALLERICO

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 190, as prime sponsor.

BERETT WILBER, Staff

Representative Jonathan Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 181 on behalf of Representative Kreiss-Tomkins, prime sponsor, with the use of a PowerPoint presentation.

KATE SHEEHAN, Director

Division of Personnel and Labor Relations (DPLR)
Department of Administration (DOA)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 181.

PAM VARNI, Executive Director

Legislative Affairs Agency (LAA)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 181.

ACTION NARRATIVE

[5:35:11 PM](#)

CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 5:35 p.m. Representatives Tuck, Wool, Birch, Knopp, and Kreiss-Tomkins were present at the call to order. Representatives LeDoux and Josephson (alternate) arrived as the meeting was in progress.

HB 13-NO ST. FUNDS FOR FEDERAL REGISTRY

[5:35:33 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business would be HOUSE BILL NO. 13, "An Act prohibiting the expenditure of state or municipal assets to create a registry based on race or religion." [Before the committee, adopted as a work draft on 2/18/17, was the proposed committee substitute (CS) for HB 13, Version 30-LS0147\J, Martin, 1/26/17, hereafter referred to as Version J.]

[5:35:54 PM](#)

REPRESENTATIVE JOSEPHSON, testifying on HB 13 as prime sponsor, referred to AS 44.99.040, entitled "Limitation on use of assets", which lists efforts for which Alaska does not wish to contribute assets, including the REAL ID Act of 2005 and other efforts that might infringe on Alaska's due process rights. He maintained that the proposed legislation would add a provision declaring that Alaska will not have a registry based on race, religion, national origin, or ethnicity. He opined that Version J is a tempered and modest bill; it does not reference "sanctuary city" or enforcement of federal immigration orders; and it is consistent with statements made by the legislature after [the terrorist attacks of September 11, 2001]. He explained that Representative David Guttenberg introduced House Joint Resolution 22 during the Twenty-Third Alaska State Legislature, 2003-2004, declaring that the state would not participate in efforts by the federal government to collect and maintain information about political, religious, social views, and associations. He asserted that Version J supports these statements.

REPRESENTATIVE JOSEPHSON noted that during the House State Affairs Standing Committee meeting of 2/18/17, Representative Birch asked about "benign" registries that Alaska currently maintains, such as those relating to health or social services, which contain information on race. He asserted that "race" is not the sole reason for any of those registries. He maintained

that under Version J, a registry may not be based on race, religion, or national origin.

[5:39:34 PM](#)

REPRESENTATIVE TUCK stated that he appreciates the proposed legislation; so much of an individual's information is nationalized and privatized; and registries should not be created to "single out" people based on religion and race. He mentioned that the Minnesota Senate voted down its REAL ID Act because of a concern for Muslims being identified and tracked. He suggested that the proposed legislation addresses this same concern by attempting to prevent a registry based on religion.

[5:41:16 PM](#)

REPRESENTATIVE WOOL moved to report the proposed CS for HB 13, Version 30-LS0147\J, Martin, 1/26/17, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 13(STA) was reported from the House State Affairs Standing Committee.

HB 163-DPS LAW ENFORCE. SVCS: AGREEMENTS/FEES

[5:41:55 PM](#)

CHAIR KREISS-TOMKINS announced that the next order of business would be HOUSE BILL NO. 163, "An Act authorizing the Department of Public Safety to enter into agreements with nonprofit regional corporations and federal, tribal, and local government agencies to provide law enforcement services; authorizing the Department of Public Safety to collect fees for certain law enforcement services; and providing for an effective date."

[5:42:23 PM](#)

WALT MONEGAN, Commissioner Designee, Department of Public Safety (DPS), relayed that there will be changes to HB 163 to clarify the intent of the proposed legislation. He stated that the intent of HB 163 is not to charge villages for DPS services for which they are entitled, but to facilitate the contracting for DPS services by communities seeking extra protection.

[5:43:39 PM](#)

REPRESENTATIVE WOOL noted that there is a shortage of troopers and DPS has withdrawn trooper coverage from areas due to lack of

funding. He suggested that when an entity such as a municipality, regional corporation, or tribal government contracts for a trooper, that creates a shortage of troopers in the area from which that trooper came. He explained that unless there is a surplus of troopers and the money saved is used to hire and train another trooper, "we're playing a bit of whack-a-mole."

COMMISSIONER MONEGAN responded that is not the intent of the proposed legislation. He suggested that the "cleanest" way to provide a contract trooper is to hire one into a long-term, non-permanent ("non-perm") position, so as not to detract from trooper coverage elsewhere. He stated that DPS is not "chasing the money"; it is trying to provide a service; and if the contract ends, so does the long-term, non-perm position.

5:45:58 PM

REPRESENTATIVE BIRCH relayed that he is continually contacted by constituents in South Anchorage about the lack of trooper enforcement on the Seward Highway. He offered that having lived in Fairbanks for 25 years, he is aware that troopers provide law enforcement outside the corporate city limits of Fairbanks and North Pole but still within the Fairbanks North Star Borough (FNSB). He asked how DPS, with limited resources, chooses the areas of trooper coverage.

COMMISSIONER MONEGAN answered that at one point there were 19 troopers assigned to the Alaska Bureau of Highway Patrol (ABHP), but now there are 3. He stated that Colonel [James] Cockrell, Director, Alaska State Troopers (AST), has indicated that AST will service the Seward Highway Safety Corridor until the Municipality of Anchorage (MOA) can "gear up" and take it over. He added that AST would still patrol that highway for limited hours during times of high traffic, since it is a state highway. He maintained that ultimately DPS needs to consider the areas with no other law enforcement available. He expressed his hope that MOA will arrange for all the communities along Turnagain Arm to "ante up" and work towards having that highway patrolled. He added that there is an ongoing discussion between the state and MOA regarding this matter.

REPRESENTATIVE BIRCH asked about law enforcement coverage on Farmer's Loop Road, Steese Highway, Richardson Highway, and all the roads outside of the city limits of Fairbanks and North Pole, where residents have an expectation of public safety and public safety response.

COMMISSIONER MONEGAN responded that the AST detachment in Fairbanks is more robust for patrol than that of Anchorage. The Fairbanks detachment handles areas not protected by the North Pole, Fairbanks, or University police, and often the police and troopers will support each other. He relayed that realistically the detachment in Fairbanks has a few more troopers who can respond to calls, whereas the Anchorage post has mostly command staff.

[5:49:44 PM](#)

REPRESENTATIVE TUCK posed the question: If an agency contracted with DPS for services, would the authority for enforcement be with DPS or with the contracting agency?

COMMISSIONER MONEGAN answered that the troopers would be working under the authority of state statutes.

REPRESENTATIVE TUCK asked, "Who do they answer to?"

COMMISSIONER MONEGAN responded that the troopers would take direction from the community to address the issues and concerns for which they were contracted.

[5:52:00 PM](#)

CHAIR KREISS-TOMKINS opened public testimony on HB 163.

[5:52:22 PM](#)

WILL MAYO, Alaska Regional Coalition (ARC) and Tanana Chiefs Conference (TCC), testified that ARC is a consortium of five Native non-profit regional corporations representing 65,000 Alaskans and 100 tribes from Kotzebue to Ketchikan. He stated that the members of the coalition include the Central Council of Tlingit and Haida Indian Tribes of Alaska (CCTHITA) in Southeast Alaska, Kawerak in the Nome region, Chugachmiut in the Prince William Sound region, Maniilaq in Northwest Alaska, and TCC in the Interior. He relayed that [these corporations] partner with the State of Alaska through contracts and grants to provide numerous services to Alaska residents, including public safety in remote rural communities.

MR. MAYO maintained that the Alaska Regional Coalition appreciates the intent of HB 163, which is to find ways to increase the number of public safety officers in the state. He

asserted that public safety is a key priority for the coalition. He reiterated that the intent of HB 163 is for the department to have the flexibility to contract with communities that want to pay for trooper presence. He stated that this is a laudable goal; however, he expressed that the coalition is concerned that HB 163 may have unintended consequences. This concern is that HB 163 may one day be interpreted such that all 150-plus small communities in Alaska that currently do not have any public safety presence might be invited, expected, or required to enter into contracts with DPS to receive public safety services.

MR. MAYO mentioned that the coalition has brought this concern to the attention of DPS; DPS shares the concern and is drafting language to address it. He asserted that DPS did go on record to the House State Affairs Standing Committee [during the 3/21/17 meeting] stating that it does not intend to create a system in which law enforcement is available to one community and not another. He conceded that the interpretation he cited does not represent the intent of HB 163, but the coalition believes that this concern should be alleviated explicitly within the proposed legislation.

[5:56:18 PM](#)

CHAIR KREISS-TOMKINS closed public testimony on HB 163.

[HB 163 was held over.]

HB 190-REGULATION ADOPTION/ORAL COMMENT

[5:56:33 PM](#)

CHAIR KREISS-TOMKINS announced that the next order of business would be HOUSE BILL NO. 190, "An Act relating to the presentation of oral comments on the proposed adoption, amendment, or repeal of regulations."

[5:56:55 PM](#)

REPRESENTATIVE DAVE TALLERICO, Alaska State Legislature, presented HB 190, as prime sponsor. He paraphrased from the sponsor statement, which read as follows [original punctuation provided]:

This legislation changes the Administrative Procedure Act to allow for oral testimony when requested by individuals. In a time of informational technology and the vast geography of the state, it is

time to update this public proceeding law. On the date and at the time and place designated in the notice the agency shall give each interested persons or person's authorized representative, the opportunity to present orally to that agency about regulation changes. This includes regulations being adopted, amended, or repealed. This does not include emergency regulations that are adopted for emergency purposes.

Currently, state agencies and boards are required to give notice about regulation changes, but they are not required to listen to oral testimony and sometimes only written testimony will be accepted.

This legislation requires the agency or board to provide an opportunity to give a verbal testimony when requested. This verbal testimony can be taken telephonically at the time and place designated by the agency or board.

REPRESENTATIVE TALERICO continued by saying that his staff is currently working with the Department of Law (DOL), the Department of Commerce, Community, & Economic Development (DCCE), and the administration to draft a committee substitute that is acceptable to all three.

[5:59:27 PM](#)

REPRESENTATIVE TUCK asked if there was some occurrence that prompted introduction of the proposed legislation.

REPRESENTATIVE TALERICO replied that several constituents contacted him regarding a recent meeting of the Alaska State Medical Board at which they had wanted to give oral testimony but did not have the opportunity to do so. He was asked by the constituents why they could not give testimony, when the legislature and other boards take testimony. He suggested that with the changes in technology, the Administrative Procedure Act may be outdated.

[6:01:15 PM](#)

REPRESENTATIVE BIRCH asked Representative Talerico to explain what constitutes testimony. He asked if email communication is considered testimony.

REPRESENTATIVE TALERICO responded that an email is an acceptable form of written testimony. He noted that emails addressing bills and other topics are often sent to legislators and committees.

REPRESENTATIVE BIRCH asked if emails are part of the official record; that is, what makes an email a bonified component of the testimony on proposed legislation?

REPRESENTATIVE TALERICO expressed his understanding that all emailed testimony on any issues that the legislature addresses is listed on the Bill Action & Status Inquiry System (BASIS) and compiled for the historic record.

[HB 190 was held over.]

HB 181-LEGISLATURE PER DIEM AND TRAVEL ALLOWANCE

[6:04:30 PM](#)

CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 181, "An Act relating to per diem for legislators; relating to a travel allowance for legislators and legislative employees; and relating to the State Officers Compensation Commission."

[6:04:44 PM](#)

The committee took an at-ease from 6:04 p.m. to 6:07 p.m.

[6:07:06 PM](#)

BERETT WILBER, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, presented HB 181 on behalf of Representative Kreiss-Tomkins, prime sponsor, with the use of a PowerPoint presentation. She began by referring to Slide 2, entitled "What's the point of HB 181?" She stated that the intent of HB 181 is to empower the State Officers Compensation Commission (SOCC) to set legislative per diem.

MS. WILBER referred to Slide 3, entitled "How does per diem currently work?" She relayed that legislative per diem is money paid to legislators to cover lodging, meals, and incidental expenses related to legislators' work during the legislative session. It is automatically paid to a legislator unless he/she contacts the Legislative Affairs Agency (LAA) and declines payment, which may be done on a daily basis. She added that the

current per diem policy for Alaska legislators has been set by the Legislative Council Joint Committee (Legislative Council) since 1993. She explained that the current policy is that the legislative per diem is equal to the highest rate of federal per diem for the location of session.

[6:08:29 PM](#)

MS. WILBER referred to Slide 4, entitled "What does the highest federal rate mean?" She stated that the U.S. Department of Defense (DoD) sets the federal per diem rate for Alaska, which is the rate for a non-contiguous state. Alaska's legislative per diem rate is currently the highest federal short-term per diem rate. She referred to the information on the chart on Slide 4, which lists the maximum lodging rate, meal rate, and incidental rate for Juneau for two seasons. She indicated that the rate changes seasonally: the total maximum per diem for the summer is \$295 and for the winter is \$275. She pointed out that the rate may also be adjusted by DoD according to a market shift; for example, it was set at \$213 earlier in the current session and recently was changed to \$275.

[6:09:57 PM](#)

REPRESENTATIVE LEDOUX said that her understanding is that the seasonal change is the beginning of March; however, the chart shows May as the beginning of the seasonal change.

MS. WILBUR explained that the seasonal dates listed on the chart indicate yearly changes for winter and summer. She suggested that there are additional "de facto" adjustments made by DoD based on local rates for lodging, meal, and living expenses.

[6:11:09 PM](#)

MS. WILBUR referred to Slide 5, entitled "Two Slide History of SOCC & Leg Per Diem, Pt. 1," and asked, "Why does legislative per diem work the way it does?" She mentioned that Slide 5 gives a short history on legislative per diem and how it relates to the SOCC. She relayed that in 1986, the SOCC was authorized and vested with full power to set legislative compensation salaries, including per diem, but could only do so after a constitutional amendment was approved. Until the constitutional amendment was passed, statutory guidelines were adopted making legislative per diem rates the same as those of [other] State of Alaska (SOA) employees. These guidelines were to be repealed once the constitutional amendment passed.

MS. WILBUR stated that by 1992, the constitutional amendment had neither been passed nor offered to voters. She said that applying the SOA per diem rates to legislators was intended to be a short-term solution. She offered that doing so turned out to be an accounting "nightmare": at that time, legislators could receive per diem during both session and interim; there was a short-term rate for legislators not living in their permanent residences during session or while traveling to do legislative business; there was a long-term rate for legislators living in their permanent residences while doing legislative business; and there was a variation on each rate based on where a legislator lived.

MS. WILBUR related that a floor amendment [Amendment 2] to Senate Bill 99, an omnibus licensing bill, was offered by the chair of Legislative Council in 1993 [the Eighteenth Alaska State Legislature, (1993-1994)]. The amendment withdrew the authority to set travel reimbursement and per diem for legislators from the SOCC and gave the authority to Legislative Council.

MS. WILBUR relayed that from 1994 to 2017, Legislative Council has had the authority to set legislative per diem; it has set the per diem at the highest federal rate of per diem set by DoD and based on the location at which a person is receiving per diem.

[6:14:28 PM](#)

MS. WILBUR referred to Slide 6, entitled "Two Slide History of SOCC & Leg Per Diem, Pt. 2," to discuss the history of the SOCC. She said that Legislative Council withdrew the authority to set per diem from the SOCC because the SOCC had not yet been enacted. She relayed that in 2008, the SOCC was reestablished as a fully functioning commission. Former Representative Mike Doogan introduced House Bill [260] to repeal and replace the defunct SOCC statutes and establish a new system, which would (indisc.) the commission to set salaries for legislators, the governor, the lieutenant governor, and department commissioners. She stated that the intent of this legislation was to keep legislators "at arm's length" from the process of having to set their own compensation to avoid conflicts of interest, to decrease inequity in the system of setting rates, and to avoid having to adjust legislative salaries through legislation. She added that it does not look good when legislators adjust their own salaries by legislation, even when the adjustment is

necessary and consistent with market prices. She maintained that the proposed legislation would require Legislative Council to set per diem in accordance with the recommendation of the SOCC.

MS. WILBUR relayed that the language in House Bill 260 pertaining to the SOCC was subsequently incorporated into House Bill 417 by the House Finance Committee and passed both bodies [as SCS CSHB 417(FIN)], establishing the SOCC as it is today. Consequently, the SOCC sets salaries for legislators, the governor and lieutenant governor, and department commissioners. She said that currently the SOCC does not address legislative per diem. She stated that in 2009, the SOCC recommended that legislative salaries be increased from \$24,000 to \$50,400 per year. It also eliminated interim per diem, which had allowed legislators to claim per diem during interim if they had performed up to four hours of work on any given day.

[6:17:02 PM](#)

REPRESENTATIVE LEDOUX asked if the SOCC ever recommended a salary increase after 2009.

MS. WILBUR responded that the SOCC made recommendations for salary increases for the governor and lieutenant governor in 2011, which the legislature adopted; in 2014, it recommended salary increases for commissioners, which the legislature rejected. She stated that in 2015, the SOCC recommended that if a deputy commissioner was offered the position of commissioner and his/her salary was currently greater than that of the commissioner, he/she would not have to take a pay cut to become commissioner.

[6:18:54 PM](#)

REPRESENTATIVE WOOL referred to the idea of the SOCC setting the compensation for legislators with the intent of keeping the process "at arm's length" from legislators. He suggested that if the SOCC's recommendation is subject to legislative approval, then that brings the decision within arm's length. He gave an example: the SOCC decides to recommend a legislative salary increase of 25 percent, because the legislators have not had an increase since 2009. He asked if it could be perceived that there is an expectation for the legislature to act depending on the political whim at the time.

MS. WILBUR responded that she will address that in a subsequent slide.

[6:20:14 PM](#)

MS. WILBUR said that even though the SOCC had the legal authority to set legislative per diem as far back as 2009, it decided not to do so; it wanted Legislative Council to continue to set travel allowances and legislative per diem.

[6:20:40 PM](#)

MS. WILBUR referred to Slide 7, entitled "Current legal relationship," and explained that it describes the legal relationship between the SOCC and per diem policy. She relayed that AS 24.10.130(c) of Article 03, entitled "Compensation of Legislators," states that the Alaska Legislative Council shall adopt a policy in accordance with AS 39.23.540(d). She said that AS 39.23.540(d) states that the SOCC shall set the rate and form of compensation benefits and allowances for legislators.

[6:21:21 PM](#)

MS. WILBUR referred to Slide 8, entitled "State of the SOCC in 2007." She stated that the SOCC is a five-person board appointed by the governor: the speaker of the House puts forward two nominees; the president of the Senate puts forward two nominees; and the governor chooses one nominee from each and appoints three people from the public. The commissioners on the board serve "staggered" four-year terms; they meet no more than once per year and no less than once every two years. The commissioners may not serve on any other state boards or commissions or in any group for which the board makes recommendations for at least four years before becoming an SOCC commissioner. A legislator would have to wait four years after his/her term ended before being eligible to serve on the SOCC.

MS. WILBUR mentioned that the duties of an SOCC commissioner are to set salaries for the governor, the lieutenant governor, legislators, and department commissioners. She clarified that the legislature does not have the power to approve SOCC recommendations but does have the power to reject them. The legislature may refrain from acting, therefore adopting the recommendations de facto, or it may pass legislation to reject the recommendations. She explained that to reject SOCC recommendations, legislators must pass a bill within the first 60 days of the session rejecting the recommendations. She added

that the SOCC puts forward a package of recommendations so that to reject the recommendations, the legislature must reject them "wholesale." She gave an example: the SOCC may not allow an increase in the lieutenant governor's salary but reject an increase in commissioners' salaries.

[6:23:35 PM](#)

REPRESENTATIVE WOOL asked what determines SOCC's agenda for making recommendations.

MS. WILBUR replied that it is written into statute that SOCC is to assess if changes need to be made, and that assessment must be performed at least once every two years and no more than every year. The assessment entails a systematic analysis of a variety of data to decide if compensation and salary rates are appropriate and if recommendations are needed. The SOCC considers rates of other states, past legislative salaries, cost-of-living, inflation rates, and an abundance of salary data.

[6:25:04 PM](#)

MS. WILBUR referred to Slide 9, entitled "SOCC Membership," to point out the current and past members of the board.

[6:25:32 PM](#)

REPRESENTATIVE WOOL referred to Slide 9 and asked for the meaning of "Public/House of Representatives" after the first name under current members.

MS. WILBUR explained that each member is a public member, whose nomination comes from the House of Representatives, the Senate, or the governor. She pointed out the one vacant seat shown in the chart.

CHAIR KREISS-TOMKINS asked if that vacancy has been filled by the governor.

MS. WILBUR replied that she believes that Scott Cunningham holds that seat, although the name is not yet on the SOCC website.

[6:26:40 PM](#)

MS. WILBUR referred to Slide 10, entitled "What would it look like if SOCC set per diem?" She mentioned that she spoke with

Jessica Geary [Accounting Finance Manager, Legislative Administrative Services] of LAA, who indicated that she sees no technical or logistic difficulties, under the current legislative accounting system, with the SOCC setting per diem rates. She stated that the SOCC already uses data-driven methods to craft fair and logical proposals for legislative salaries and could do the same regarding per diem.

MS. WILBUR pointed out that the SOCC is an apolitical and impartial body specifically designed to remove legislators from the awkward position of setting their own compensations and per diems. Tasking the SOCC with that function supports that intent. She said that with authority over both salary and per diem, the SOCC can maintain a balance between cost-of-living, which per diem is intended to cover, and salary, to make sure that legislators' living expenses are covered and a diverse range of good candidates are attracted to public office. She added that since the SOCC meets a minimum of every other year and a maximum of once per year, it can make necessary adjustments or address unexpected changes without the need for legislation. She suggested that consequently, legislative per diem would cease to consume legislative time, money, and resources.

[6:28:23 PM](#)

REPRESENTATIVE LEDOUX asked if her understanding is correct: the SOCC has the authority to perform the tasks mentioned but has not performed them.

MS. WILBUR replied that in statute, in the records of the committee meetings to establish the SOCC, and in SOCC meeting records, there is evidence to suggest that the SOCC has the legal power to set per diem; however, Legislative Council has been performing this task for the past nine years and the SOCC has declined to contest that.

MS. WILBUR, in response to Representative LeDoux, said that HB 181 would require the SOCC to set per diem rates. She confirmed that currently the SOCC has authority under statute to set per diem rates; it is not using this authority; and HB 181 would require them to use that authority to set per diem rates.

[6:30:29 PM](#)

MS. WILBUR referred to Slide 11 and stated that on the right of the slide is a list of the reports that the SOCC consulted to

make 2015 salary recommendations - evidence of its data-driven approach to setting salaries. She pointed out the statement on the left of the slide indicating that the SOCC will meet to make recommendations later this year; therefore, the proposed legislation is timely.

6:31:05 PM

MS. WILBUR referred to Slide 12 to give thanks to those who assisted her with her research.

6:31:41 PM

REPRESENTATIVE TUCK referred to Slide 6, which cites the legislation proposed by Mike Doogan. He pointed out that the slide indicates that the SOCC was to adjust legislative salaries every five years. He asked if that was correct or if that was eliminated from the bill.

MS. WILBUR explained that she inserted the language about having to adjust salaries every five years to illustrate how difficult it would be for the legislators to set their own salaries. She added that to keep up with inflation and cost-of-living, they would have to adjust the salaries often. She said that she regrets using such specific information, since it was meant to be representational and not factual.

6:33:01 PM

REPRESENTATIVE LEDOUX asked if the SOCC has given any reason why it has not considered either a legislative salary increase, or a legislative salary decrease within the last 13 years. She suggested that it hasn't considered the legislature at all and asked if there is an explanation for that.

MS. WILBUR answered that the SOCC considers the legislature, but making recommendations is a different matter.

6:34:13 PM

REPRESENTATIVE WOOL asked how many state legislatures determine their own salary, and he offered his belief that the U.S. Congress does vote on its own salary. He stated that he grew up in a state in which lawmakers voted on their own salary and still do.

MS. WILBUR referred to a list, entitled "2017 Legislative Compensations By State," in the committee packet. She said that she does not know the specific number but said she believes that 19 states have independent compensation commissions to set legislative salaries.

[6:35:51 PM](#)

REPRESENTATIVE BIRCH stated that in his experience, per diem is usually based on reimbursable expenses, and he suggested the SOCC might consider such a system of payment. He conceded that paying a flat per diem rate is easier. He pointed out that many of the legislative staff are from out of Juneau and do not receive per diem. He asked, "How do you reconcile that?" He mentioned that 12 out of 14 commissioners in the governor's cabinet are domiciled outside of Juneau. He stated his understanding that there are some housing accommodations for these commissioners. He asked for an estimate of how many legislative staffers are from out of town.

MS. WILBUR replied that she does not know and will defer that question to Pamela Varni [Executive Director, LAA], who is present in the audience.

REPRESENTATIVE BIRCH responded that he would like to better understand this issue and if the responsibility for accommodating out-of-town staff lies with him or with the SOCC.

MS. WILBUR commented that legislative staff do not receive per diem or compensation and there has been litigation in the past concerning this. She said that SOA departmental employees receive meals and incidentals as well as travel and lodging reimbursements from the state if they are away from home to work. She added that those rates are set by the commissioner of the Department of Administration (DOA), and for these employees, the policy for per diem and reimbursement is clearly stated in the Alaska Administrative Manual (AAM). Legislative staff do not receive per diem. Legislators do receive per diem, and the policy for legislative per diem would be addressed in the proposed legislation.

REPRESENTATIVE BIRCH asked how per diem is calculated for SOA employees. He asked if lodging is fully reimbursed and a meal allowance is offered. He clarified that he is referring to employees of departments, not legislative employees.

MS. WILBUR answered that per diem for state employees who travel for work consists of lodging expenses, which are paid in advance, a \$60 meal allowance, and reimbursement of incidental expenses. She said that the question is, Why can't legislators just jump on the SOA rate? She explained that SOA employee travel consists of a brief trip, and rates are set by the commissioner of DOA and/or by collective bargaining units. She added that none of these characteristics apply to legislators; the nature of legislator travel - to move to Juneau for four months - is very different from SOA employee travel. Applying SOA per diem policy to legislators - that is, paying for travel and lodging in advance - would be very difficult.

6:43:11 PM

REPRESENTATIVE WOOL reiterated that when a state employee travels for work - such as to visit a facility or check on a dock - it involves a plane ticket, a few nights lodging, some meals, and possibly a taxi. He said that legislators are in Juneau for months and generally have different housing options other than a nightly hotel. These alternative living arrangements are typically less expensive than nightly hotel expenses. He concluded that this "gray area" of compensation would be addressed by the SOCC under the proposed legislation.

6:46:01 PM

KATE SHEEHAN, Director, Division of Personnel and Labor Relations (DPLR), Department of Administration (DOA), stated that under state statute, she serves as secretary to the SOCC. In response to Representative LeDoux's question on salary increase recommendations since 2009, she stated that there have been recommendations, but not for the legislature. The SOCC considers each person or group - the governor, the lieutenant governor, the legislators, and the department commissioners - then has a discussion and determines recommendations. It meets several times, votes on the recommendations, issues a preliminary report by November 15, and issues a final report to the legislature ten days after the beginning of session.

REPRESENTATIVE LEDOUX commented that it was curious that the SOCC, which was authorized to deal with legislative salary issues, has made no recommendations since it was formed in 2009.

MS. SHEEHAN responded that in the past four years, the SOCC has only met twice and has determined for various reasons not to make recommendations for wage increases.

REPRESENTATIVE LEDOUX asked if those reasons have been made public.

MS. SHEEHAN responded yes. She stated that the meetings are public and meeting minutes are posted on the SOCC website. She stated that she has been in her position just under three years so has been to only one SOCC meeting; the determination was made at that meeting that there would be no recommendations for salary increases due to budgetary issues.

[6:48:56 PM](#)

CHAIR KREISS-TOMKINS asked how the SOCC agenda is determined and what method it uses to choose the categories of state officers that it will consider for compensation.

MS. SHEEHAN answered that the SOCC considers each group - the governor, the lieutenant governor, the commissioners, and the legislators. There is data provided for each group, and there is discussion on each group. She said that recommendations might be no salary increases or some salary increases and not others. She reiterated that the legislature may either take no action, in which case the recommendations are adopted, or the legislature may reject all the recommendations.

[6:50:02 PM](#)

REPRESENTATIVE TUCK commented that in 2009, there was a bill to reject the SOCC recommendations. He asked if legislators paid taxes on their interim per diem.

MS. SHEEHAN responded that she was not sure. She said that there are not always taxes paid on per diem, but there potentially could be taxes on per diem if it is above the federal rate.

REPRESENTATIVE TUCK expressed his understanding that additional compensation was awarded when a legislator left his/her normal workplace to conduct legislative activity. He offered that Juneau legislators get per diem because they also leave their workplaces and forego other earnings; they receive 35 percent of what is received by "traveling" legislators and are taxed. He suggested that per diem is a part of compensation; it is part of legislative salaries; and by statute it is determined by Legislative Council.

6:52:22 PM

REPRESENTATIVE WOOL responded that he has heard the explanation that the per diem paid to Juneau legislators, which is 75 percent of the per diem paid to non-Juneau legislators, is taxed, because they live in their own houses and eat in their own kitchens. Their per diem is more like income and not compensation for travel, lodging, and meals. He asked if the SOCC considers per diem to be income, since the living expenses for legislators vary greatly. He mentioned that the SOCC has not recommended a cost-of-living increase in salary since its inception, and he suggested it may consider an increase in per diem to be a raise. He asked if that has been discussed by the SOCC.

MS. SHEEHAN replied that the SOCC has not discussed legislative per diem since 2009.

REPRESENTATIVE WOOL asked if the SOCC, as a compensation commission, considers compensation in totality and if it considers other sources of compensation, such as received by Juneau legislators.

MS. SHEEHAN responded yes. She said that would be presented to the SOCC for consideration along with office allowances and travel.

6:54:38 PM

REPRESENTATIVE LEDOUX asked if it is fair to say that the SOCC has not looked at anything with respect to the legislature since 2009.

MS. SHEEHAN replied that the SOCC looked at the historical wage increases for the legislature and what legislators in other states earn. She said that her recollection is that it did not look at anything beyond that, but she added that she would have to refer to the minutes.

REPRESENTATIVE LEDOUX offered that the SOCC looked at the salaries in other states and decided not to make any recommendations.

MS. SHEEHAN answered that the SOCC considers the current budget situation.

REPRESENTATIVE LEDOUX noted the difference between a state employee and a legislator regarding per diem expenses. She asked if there was such a thing as long-term per diem for employees in the executive branch and, if so, what that is.

MS. SHEEHAN answered that there is long-term per diem, and it depends on the housing arrangement. She said that the executive branch may need to send employees to oversee a project for an extended time. In that case, the employees will be in an apartment-type setting and will provide their own meals; meals, incidentals, and lodging allowances are reduced. She said she believed the meal and incidental allowance to be \$30 per day.

REPRESENTATIVE LEDOUX asked if the state arranged the apartment or lodging or if the employee was given an allowance to secure his/her own lodging. She asked if there was a separate allowance for food and incidentals.

MS. SHEEHAN relayed that the state does secure the housing and pays for it. She said there are times when employees stay with family or friends, in which case they get the very reduced rate of \$30, or they may own a home in the location. She conceded that she did not know if, in some instances, the state paid a set amount and the employee secured his/her own long-term housing. She said she would provide that information to the committee.

REPRESENTATIVE LEDOUX mentioned that legislators bring their cars to Juneau for the session and cannot rent a car in Juneau for the three or four months that they are in Juneau. She asked if the executive branch allows employees to rent cars for one to four months while working at a different location or if they are expected to ship their cars to the location.

MS. SHEEHAN responded that she did not know the answer to that and would provide that information to the committee.

[6:59:16 PM](#)

REPRESENTATIVE BIRCH stated that there are many staff that move to Juneau for the session - they don't live in Juneau but are there for work. He asked if the long-term per diem rate is available or offered to them. He asked Ms. Sheehan if she had a sense of how many staff were in that category and if there is opportunity for them to mitigate some of the relocation costs.

MS. SHEEHAN stated that she does not work with legislative per diems and salaries, and she deferred to Ms. Varni.

7:00:31 PM

REPRESENTATIVE TUCK referred to Slide 7. He relayed that AS 24.10.130(c) states that "the Alaska Legislative Council shall adopt a policy in accordance with AS 39.23.540(d)", and AS.39.23.540(d) states that "the commission shall make available to the governor and presiding officers of each house of the legislature a final report of its findings and recommendations". He offered that the speaker and senate president receive these reports annually in the first ten days of the legislative session. He continued reciting AS 39.23.540(d), which read "its findings and recommendations as to the rate and form of compensation, benefits, and allowances" and declared that per diem is an allowance. He stated that AS 24.10.130(c) refers to "an applicable per diem allowance policy" and added that the conditions of the policy should be established in accordance with the statute. He suggested that the intent of the statute is for the SOCC to meet, report its findings, and make recommendations to the presiding officers of both bodies; Legislative Council shall adopt a policy in accordance with the duties of the SOCC. He stated that he did not understand why that was not occurring as such and added that it appears the SOCC has been "punting" by not making recommendations regarding the legislature.

MS. SHEEHAN stated that she asked the former director [of DPLR] why the SOCC does not consider legislative per diem. She said the former director indicated to her that there may have been some confusion in Section 24 regarding Legislative Council setting the per diem policy, and an opinion was never obtained from the Department of Law (DOL).

REPRESENTATIVE TUCK mentioned that the statute states that the Alaska Legislative Council shall adopt a policy in accordance with AS.39.23.540(d), which names the duties of the SOCC. He expressed that a legal opinion may be warranted.

7:04:26 PM

PAM VARNI, Executive Director, Legislative Affairs Agency (LAA), in response to Representative Birch, stated that about 100-120 legislative staff are reimbursed for transportation to and from Juneau and [paid] per diem for travel time. She said that legislative staff salaries have changed over the years; in the

beginning, only leadership staff were paid a salary and other staff were paid daily. She indicated that due to the disparities between the two groups, many years ago the legislature instituted salaries for all staff in order that they might receive retirement and health benefits. She mentioned that it has been about five or six years that legislative staff have been paid for travel to Juneau for session and said she believed that before that salaries were set higher to compensate for the cost of travel. She said that per diem for legislative staff has been discussed; however, the legislature has not taken steps to establish it.

MS. VARNI pointed out that in the January 10, 2009, report, the SOCC set the annual salary for legislators at \$50,400. The SOCC also decided that session per diem, travel expenses, moving allowances, and office expense accounts should not be considered compensation. She added that the SOCC wanted Legislative Council to set the amount and rules governing moving expenses and per diem allowances and made those recommendations in its report; therefore, the SOCC did not make any recommendations for per diem.

MS. VARNI explained that the state [executive branch] pays a short-term per diem rate of \$60 for meals and a long-term per diem rate of \$33 for meals. She relayed that the state pays "actuals" for short-term lodging or \$30 for a noncommercial lodging option. She continued by saying that the state paid a long-term rate of \$45 for commercial lodging and \$30 for non-commercial lodging. She mentioned that the executive branch pays actuals [for lodging] according to the bargaining agreements. She said that Ms. Geary informed the per diem committee that if LAA switched to actuals, it would need another accountant.

MS. VARNI expressed her opinion that the federal rate of per diem has worked well for the legislature. She suggested that whether it is the SOCC or DoD setting the rates, the rates will go up and down. She mentioned that since 1995, the federal per diem rate has decreased 19 times and has increased 23 times. She gave the following example: The SOCC sets a rate of \$213 per day and the federal rate is decreased to \$175 per day. The state is not to exceed the maximum federal rate and therefore must tax legislators the difference between the two rates. Ms. Varni maintained that would create a great deal of accounting by the state to accomplish that. She reiterated that the system of per diem used for legislators has worked well.

7:09:47 PM

REPRESENTATIVE LEDOUX requested that Ms. Varni state the federal long-term per diem rate and asked if that rate would "work as well" from an accounting viewpoint.

MS. VARNI responded that currently the federal long-term rate for Juneau is \$206.25 per day. She opined that rate would work well and mentioned that in 2014 the federal government considered using a flat rate. She relayed that the short-term rate is for 0 to 30 days, the long-term rate is for 30 to 180 days, and for over 180 days, there is another rate.

REPRESENTATIVE LEDOUX asked if the \$206.25 rate is the long-term rate for 30 to 180 days.

MS. VARNI responded, "That is correct."

REPRESENTATIVE LEDOUX asked if using the federal long-term rate would work for LAA from an accounting standpoint.

MS. VARNI answered that LAA would have no problem with using that rate. It would pay legislators the short-term rate if traveling for a short time and the long-term rate for session, which would be 75 percent of the short-term rate.

REPRESENTATIVE LEDOUX asked if her understanding is correct: when legislators leave Juneau to attend a conference, they continue to get the short-term Juneau per diem rate; they get reimbursed actuals for their hotel but no meal allowance.

MS. VARNI replied, "That is correct."

7:12:47 PM

REPRESENTATIVE WOOL said that he has heard that legislative staffers are paid at a higher range than someone in a comparable position in another state agency. He asked if that is true.

MS. VARNI responded that she has not studied that recently; a salary study could be performed to determine that. She mentioned that staff duties are allocated differently in each legislative office.

REPRESENTATIVE WOOL asked if, for example, a Range 15, Step C in the legislature is different from a range 15c in another state agency, or if they are uniform across the board.

MS. VARNI conceded that the two branches of government have different salary schedules. She added that employees under the legislative branch did not receive a cost-of-living (COLA) increase, which was received by employees of the executive branch. She mentioned that there are different bargaining units, and she is unfamiliar with the difference in the salary schedules among them.

REPRESENTATIVE WOOL said that he had heard that legislative staff receive higher compensation due to varied work hours, varied work days, and working away from their homes.

MS. SHEEHAN stated that range levels differ between the executive branch and the legislative branch, which is exempt. She relayed that the Classification Section [DPLR] in DOA determines the salary ranges in the executive branch based on statute; they are internally aligned so that like pay is awarded for like work. The work of an office assistant is a range 8. She said that an exempt agency may decide that the work of an office assistant is Range 10 work; it can determine that the work warrants a higher range. She concluded that differences in salary between the two branches may be due to different salary schedules, different assignments of salary levels for certain work, or non-comparable positions between the two branches.

[7:17:13 PM](#)

REPRESENTATIVE TUCK stated that he recently learned that spouses receive per diem for days of travel to and from Juneau. He asked if that is correct.

MS. VARNI nodded affirmatively.

REPRESENTATIVE TUCK asked if under HB 181, the SOCC would consider the different lifestyles of legislators or listen to testimony from legislators regarding per diem. He mentioned that some legislators can get by with very little and some move their entire families to Juneau.

MS. SHEEHAN responded that the SOCC may consider anything it chooses, and public testimony is taken at its meetings. She expressed her belief there would be no restrictions against legislators testifying.

MS. VARNI clarified that the spouse and family of a legislator receive a reduced per diem for travel to Juneau, but not during the session.

[7:19:38 PM](#)

REPRESENTATIVE WOOL stated his understanding that the system currently works fine in that there is a set salary that has not been changed since 2009, but it is reviewed every year; the per diem schedule that Legislative Council uses is based on the federal rate. He asked Ms. Varni if she believes the system is working well.

MS. VARNI replied yes. She stated that the choice is to continue to pay the maximum federal per diem or look at the 75 percent. She added that is what other state legislatures do; under the IRS regulations, legislators are eligible for the federal per diem rate. This amount is to pay for lodging and meals, and that is why Juneau legislators are taxed. She mentioned that there are a few states that pay [per diem to] their legislators living within 50 miles of the capitol, and she stated that she is certain that these legislators, too, are being taxed. She relayed that LAA previously taxed long-term per diem, because legislators were receiving it in their home towns. She added that the practice discontinued with the salary increase. She related that she noticed on the SOCC website that the Consumer Price Index (CPI) for the \$50,400 has increased to \$56,000.

[7:22:11 PM](#)

REPRESENTATIVE WOOL referred to the document citing compensation by state and asked for the number of states in which the legislature votes on compensation and the number of states in which compensation is set by a commission.

MS. WILBUR replied that she would provide that information.

[7:23:05 PM](#)

REPRESENTATIVE LEDOUX moved to adopt the proposed committee substitute (CS) for HB 181, Version 30-LS0717\J, Gardner, 3/28/17, as the working document. There being no objection, Version J was before the committee.

[HB 181 was held over.]

7:24:01 PM

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 7:24 p.m.