

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 16, 2017

3:31 p.m.

MEMBERS PRESENT

Senator Mike Dunleavy, Chair
Senator David Wilson
Senator Cathy Giessel
Senator John Coghill
Senator Dennis Egan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

Alaska Police Standards Council

Luis Nieves

Ronda Wallace

- CONFIRMATIONS ADVANCED

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3(MLV)

"An Act relating to the employment rights of employees in the state who are members of the National Guard of another state, territory, or district of the United States."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 3

SHORT TITLE: NATL GUARD LEAVE/REEMPLOYMENT RIGHTS

SPONSOR(S): REPRESENTATIVE(S) TUCK

01/18/17	(H)	PREFILE RELEASED 1/9/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	MLV, STA
01/26/17	(H)	MLV AT 1:30 PM GRUENBERG 120
01/26/17	(H)	Heard & Held

01/26/17	(H)	MINUTE(MLV)
02/02/17	(H)	MLV AT 1:30 PM GRUENBERG 120
02/02/17	(H)	Moved CSHB 3(MLV) Out of Committee
02/02/17	(H)	MINUTE(MLV)
02/03/17	(H)	MLV RPT CS(MLV) 7DP
02/03/17	(H)	DP: LEDOUX, SPOHNHOLZ, PARISH, RAUSCHER, SADDLER, REINBOLD, TUCK
02/14/17	(H)	STA AT 3:00 PM GRUENBERG 120
02/14/17	(H)	Heard & Held
02/14/17	(H)	MINUTE(STA)
02/16/17	(H)	STA AT 3:00 PM GRUENBERG 120
02/16/17	(H)	Moved CSHB 3(MLV) Out of Committee
02/16/17	(H)	MINUTE(STA)
02/17/17	(H)	STA RPT CS(MLV) 6DP
02/17/17	(H)	DP: JOHNSON, WOOL, KNOPP, BIRCH, JOSEPHSON, KREISS-TOMKINS
02/20/17	(H)	TRANSMITTED TO (S)
02/20/17	(H)	VERSION: CSHB 3(MLV)
02/22/17	(S)	READ THE FIRST TIME - REFERRALS
02/22/17	(S)	STA
03/16/17	(S)	STA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

Sergeant LUIS NIEVES, Appointee
 Alaska Police Standards Council
 Department of Public Safety
 Dillingham, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council.

Chief of Police RONDA WALLACE, Appointee
 Alaska Police Standards Council
 Department of Public Safety
 Kodiak, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council.

KENDRA KLOSTER, Staff
 Representative Chris Tuck
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Provided an overview of HB 3.

ROBERT DOEHL, Deputy Commissioner
 Alaska Department of Military and Veterans' Affairs
 JBER, Alaska

POSITION STATEMENT: Answered questions regarding HB 3.

MARK SAN SOUCI, Regional Legislative Liaison
Military Community and Family Policy
United States Department of Defense
Lakewood, Washington

POSITION STATEMENT: Testified in support of HB 3.

ACTION NARRATIVE

[3:31:01 PM](#)

CHAIR MIKE DUNLEAVY called the Senate State Affairs Standing Committee meeting to order at 3:31 p.m. Present at the call to order were Senators Giessel, Wilson, Coghill, Egan, and Chair Dunleavy.

CONFIRMATION HEARINGS

Alaska Police Standards Council

[3:31:47 PM](#)

CHAIR DUNLEAVY announced that the committee would hear from the governor's appointees for the Alaska Police Standards Council. He explained that the council's mission is to produce and maintain a highly trained and positively motivated professional, capable of meeting contemporary law enforcement standards of performance.

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LUIS NIEVES, Sergeant and Appointee, Alaska Police Standards Council, Dillingham, Alaska, provided the committee his background information as follows:

- Originally from Queens, New York.
- Worked military and federal law enforcement in Alaska via the U.S. Coast Guard.
- Lived in Alaska since 2004.
- Started with the Alaska State Troopers in 2006 to present.
- Served the State of Alaska as a member of the Maritime Safety Security team in Anchorage for the U.S. Coast Guard which provided maritime infrastructure protection.
- Served in the following communities for the Alaska State Troopers:

- o Mat-Su Valley as a member of patrol, DUI enforcement team, child abuse investigator, and crisis negotiator.
 - o Kotzebue and the Northwest Arctic Borough as an oversite trooper for the Village of Selawik and other villages in the region.
 - o Anchorage as a recruiter for the Department of Public Safety and supervised court security and prisoner movement for Anchorage Judicial Services.
 - o Currently serves in Bristol Bay as law enforcement supervisor in addition to search and rescue for the Bristol Bay region and the Aleutian chain.
- Served on the Alaska Police Standards Council since 2013 as both chairman and vice chairman.

SERGEANT NIEVES asserted that the Alaska Police Standards Council acts as the law enforcement conscience for the State of Alaska. He set forth that the Alaska Police Standards Council promotes professionalism, and promotes the best law enforcement training and standards in the nation. He said he looks forward to hopefully receiving the committee's recommendation for further retention on the Alaska Police Standards Council.

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CHAIR DUNLEAVY noted that Sergeant Nieves was first appointed to the Alaska Police Standards Council on June 1, 2013; reappointed on March 1, 2017; term expires on March 1, 2021. He added that Sergeant Nieves currently serves as the vice chairman for the Alaska Police Standards Council.

SENATOR COGHILL asked if Sergeant Nieves had recommendations to improve law enforcement training.

SERGEANT NIEVES replied that training was currently done very well. He said what is really needed is improved law enforcement promotion within the state to encourage young kids to apply to be law enforcement officers in Alaska.

SENATOR COGHILL noted that Sergeant Nieves is an example of a person with a military background that has come into Alaska's forces. He asked if recruiting military personnel for Alaska's law enforcement is still a part of the state's recruiting.

SERGEANT NIEVES replied that from an Alaska State Troopers' point of view, troopers are required to move around the state and military personnel and their families are accustomed to a lot of moving.

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SENATOR COGHILL addressed law enforcement families and asked if family problems come before the council.

SERGEANT NIEVES replied that family issues are typically at the departmental level and their employers.

CHAIR DUNLEAVY announced that the committee would address the next appointee. He detailed that Ronda Wallace was the chief of police for Kodiak. He explained that Chief Wallace was appointed to the Alaska Police Standards Council on May 31, 2016 with the appointment expiring on March 1, 2019.

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RONDA WALLACE, Chief of Police and Appointee, Alaska Police Standards Council, Kodiak, Alaska, detailed that she has been in law enforcement for 18-1/2 years, the entire time in Kodiak. She stated that she strongly believed in the "law enforcement mission" by which:

You cannot have law without law enforcement and you cannot have law enforcement officers without the laws to guide them; the State of Alaska has in place those regulations which govern the conduct and the training of those who enforce our laws being police officers, probation and parole officers, and correctional officers, and we all must be held to the highest of those standards.

She set forth that if confirmed by the Senate State Affairs committee that she would provide advice, oversight and direction for the executive director on issues brought before the council. She emphasized that she takes cases of misconduct very seriously, especially where an employer has requested decertification where a violation has been so egregious that decertification is warranted. She said if confirmed, she would be honored to serve alongside the council's 12 other members to serve the citizens of Alaska.

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SENATOR WILSON asked what year she started as the chief of police for Kodiak.

CHIEF WALLACE answered that she started in 2013 as the police chief.

SENATOR GIESSEL noted that the commission meets twice a year and asked how many meetings Chief Wallace has attended.

CHIEF WALLACE answered that she has attended one telephonic hearing and one in-person hearing.

SENATOR GIESSEL asked to confirm that Chief Wallace has a sense for the responsibilities and the work required for the council.

CHIEF WALLACE answered yes.

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CHAIR DUNLEAVY opened public testimony.

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CHAIR DUNLEAVY closed public testimony.

SENATOR GIESSEL thanked Sergeant Nieves and Chief Wallace for their law enforcement service in Alaska.

CHAIR DUNLEAVY read the following statement regarding committee appointment recommendations:

In accordance with AS 39.05.080, the Senate State Affairs Committee reviewed the following and recommends the appointments be forwarded to a joint session for consideration: Sergeant Luis Nieves and Chief Ronda Wallace for the Police Standards Council. This does not reflect an intent by any of the members to vote for or against the confirmation of the individual during any further sessions.

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At ease.

HB 3-NATIONAL GUARD LEAVE/REEMPLOYMENT RIGHTS

[3:50:11 PM](#)

CHAIR DUNLEAVY called the committee back to order. He announced the consideration of HB 3. [CSHB 3(MLV) was before the committee.]

[3:50:34 PM](#)

KENDRA KLOSTER, Staff, Representative Chris Tuck, Alaska State Legislature, Juneau, Alaska, introduced HB 3 speaking to the following sponsor statement:

House Bill 3 seeks to correct a deficiency in employment protections for Alaskans who are serving in the National Guard. This is a nationwide effort by the Department of Defense to ensure those who serve their nation for all 50 states when called to duty - regardless of their service location - will have reemployment rights to their Alaskan civilian job after completing the various critical duties when called by a governor for state active duty.

The National Guard is a hybrid state-federal entity. While National Guard members are subject to federal call to duty by the President of the United States, they can also be called up for state active duty by the Governor to respond to state emergencies such as fires, tornadoes and floods.

The federal law Uniformed Services Employment and Reemployment Rights Act (USERRA) protects members of the Army or Air National Guard when they are called away from their civilian jobs for federal service.

However, USERRA does not apply when a National Guard member must leave their job for state active duty. If National Guard members are to have reemployment rights after state active duty, it must be through state law.

Alaska currently has a law that applies to employment protections to the public and private employees. However, it is explicitly limited to members of the Alaska Army or Air National Guard. There are several Alaskan residents who serve in the National Guard of another state. These Alaskans currently do not have the reemployment protections for their employment.

By passing House Bill 3, we will extend the employment protections to Alaskans who are serving in any National Guard. The Department of Defense has identified this legislation as a key quality of life issue and is actively seeking to make this policy change across the nation. So far, 29 other states have passed similar legislation and 5 other states are taking it up this session.

Please join me in supporting House Bill 3 by making this important change to protect those who are honorably serving our nation.

MS. KLOSTER detailed that 33 Alaskans currently serve in other National Guard units. She noted that the number of Alaskans serving elsewhere is a self-reported number so there could be more. She reiterated that the bill ensures individuals have the same reemployment rights if they are called to service. She noted that some of the reasons that individuals belong to another National Guard includes education and training opportunities in the Lower 48.

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SENATOR COGHILL asked her to confirm that the bill requires an individual to be a resident of Alaska.

MS. KLOSTER answered it does.

SENATOR COGHILL asked that Ms. Kloster specify the residency requirements. He disclosed that his son-in-law went to Mississippi in the Air National Guard under another unit for a year, but retained his job in Alaska because he was deployed for training outside of Alaska. He asked if his son-in-law would have qualified under the state's present statute or under the legislation proposed in HB 3.

MS. KLOSTER asked if Senator Coghill's son-in-law was an Alaskan resident serving in another National Guard in the Lower 48.

SENATOR COGHILL answered yes. He detailed that his son-in-law was lent for training purposes that benefited the Alaska Air National Guard. He noted that he did not know if either the current statute or his son-in-law's employer assured reemployment.

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MS. KLOSTER answered that the scenario Senator Coghill described would be covered under the proposed legislation. She noted that she did not know of any circumstances where employers have said "No, you cannot have your job back." She opined that Alaska has been very friendly to the state's service members who are serving. She specified that HB 3 is an important step to cover those in case of certain circumstances rather than presenting a bill because reemployment did not happen for someone that was called to duty.

SENATOR COGHILL asked what would occur if an Alaskan resident takes a fulltime job with the National Guard in another state.

MS. KLOSTER answered that the individual would have to be an Alaskan resident. She noted that a provision was added to the bill that protected businesses if circumstances change where an individual's position no longer exists due to downsizing, etc. She pointed out that in most cases the time away for National Guard members is not for extended periods of time.

SENATOR COGHILL asked Mr. Doehl to address his concern on the Legislature mandating that somebody hold a job, explain the deployment process, and if the bill applies to those that take a fulltime position with the National Guard in another state or to those that retain their residency when deployed to another state.

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ROBERT DOEHL, Deputy Commissioner, Alaska Department of Military and Veterans' Affairs (DMVA), JBER, Alaska, noted that there are various types of duty status.

He detailed that Title 10 of the United States Code addresses overseas guardsman deployment to do things that are necessary to defend the nation.

He explained that Title 32 of the United States Code addresses guardsman training, either federal or state status. He specified that federal-status training would be protected under USERRA. He noted that a guardsman put into state-active duty for another state guard is conceivable, but DMVA has never heard of it.

He said where state-active duty is used primarily is when a guardsman is answering a call of the governor for natural disasters where tours are 72 hours or less.

He noted that under federal law, not related to HB 3, there is a total time limit of five years where a guardsman can be away from a job and still have reemployment. He added that DMVA is not aware of state-active duty ever running out as far as five years.

SENATOR COGHILL asked Mr. Doehl to address someone serving fulltime in another guard unit in another state and if the individual could still try to claim residency in Alaska.

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MR. DOEHL answered that for someone working fulltime in the National Guard of another state, the individual would be working under Title 32 of the United States Code. He added that the

individual would be under the federal protection to the extent that they exist. He noted that HB 3 will not impact the scenario he previously described.

SENATOR WILSON asked that Mr. Doehl address the use of the phrase "active state service" in the bill on page 2, lines 2 and 5.

MR. DOEHL replied that "active state service" or the term used by the National Guard, "state active duty," would only apply to specific-duty status for performing duties that typically entails the role of disaster response.

SENATOR WILSON responded that he understood Mr. Doehl's inference, but noted that on page 1, line 12 the bill says, "Or active National Guard service under the law of another state;" however, on page 2, line 2 the phrase, "Or National Guard service in another state" is used without the use of the word "active."

MS. KLOSTER replied that the sentence on page 2, line 2 states that, "A result of 'active state service' or 'National Guard' service in another state." She explained that when she had talked to the bill's drafters, they said "active" would cover both the "active state service" and the next line that notes, "National Guard." She said she would double check with the drafters to address Senator Wilson's question.

CHAIR DUNLEAVY welcomed invited testimony for HB 3.

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MARK SAN SOUCI, Regional Legislative Liaison, Military Community and Family Policy, United States Department of Defense, Lakewood, Washington, testified in support of HB 3. He summarized that HB 3 is about protecting those people in private employment who get called for things like forest fires and have a private employer who wants to fire them. He said 29 states have passed legislation like HB 3 and 5 other states are considering the legislation.

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CHAIR DUNLEAVY held HB 3 in committee.

[4:05:50 PM](#)

There being no further business to come before the committee, Chair Dunleavy adjourned the Senate State Affairs Committee at 4:05 p.m.