

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 22, 2018

3:31 p.m.

MEMBERS PRESENT

Senator Kevin Meyer, Chair
Senator David Wilson
Senator Cathy Giessel
Senator John Coghill
Senator Dennis Egan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SS FOR HOUSE BILL NO. 44 (STA)

"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; and requiring a legislator to request to be excused from voting in an instance where the legislator may have a financial conflict of interest."

- HEARD & HELD

SENATE BILL NO. 130

"An Act relating to a vote of the people before a broad-based individual income tax or statewide sales tax takes effect."

- MOVED CSSB 130 (STA) OUT OF COMMITTEE

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
 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(A) 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
 03/07/17 (H) Heard & Held
 03/07/17 (H) MINUTE(STA)
 03/28/17 (H) STA AT 3:00 PM GRUENBERG 120
 03/28/17 (H) Moved CS SSHB 44(STA) Out of Committee
 03/28/17 (H) MINUTE(STA)
 04/03/17 (H) STA RPT CS(STA) NT 3DP 1DNP 3NR
 04/03/17 (H) DP: LEDOUX, TUCK, KREISS-TOMKINS
 04/03/17 (H) DNP: BIRCH
 04/03/17 (H) NR: JOHNSON, WOOL, KNOPP
 04/08/17 (H) SUSTAINED RULING OF CHAIR Y23 N16 E1
 04/08/17 (H) BEFORE HOUSE IN SECOND READING
 04/08/17 (H) TRANSMITTED TO (S)
 04/08/17 (H) VERSION: CSSSHB 44(STA)

04/10/17 (S) READ THE FIRST TIME - REFERRALS
04/10/17 (S) STA, JUD
02/20/18 (S) STA AT 3:30 PM BUTROVICH 205
02/20/18 (S) Heard & Held
02/20/18 (S) MINUTE (STA)
02/22/18 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 130

SHORT TITLE: VOTER APPROVAL FOR NEW TAXES

SPONSOR(s): SENATOR(s) MEYER

01/16/18 (S) PREFILE RELEASED 1/8/18
01/16/18 (S) READ THE FIRST TIME - REFERRALS
01/16/18 (S) STA, FIN
01/30/18 (S) STA AT 3:30 PM BUTROVICH 205
01/30/18 (S) Heard & Held
01/30/18 (S) MINUTE (STA)

WITNESS REGISTER

BARBARA BELKNAP, Advocate
League of Women's Voters
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 44.

REPRESENTATIVE JASON GRENN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 44, answered questions regarding the bill.

RYAN JOHNSTON, Staff
Representative Grenn
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding HB 44.

CHRISTINE MARASIGAN, Staff
Senator Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reviewed a committee substitute (CS) for SB 130.

ACTION NARRATIVE

[3:31:17 PM](#)

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

HB 44-LEGISLATIVE ETHICS: VOTING & CONFLICTS

[3:32:05 PM](#)

CHAIR MEYER announced the consideration of House Bill 44 (HB 44). He said the committee will continue with public testimony.

[3:32:25 PM](#)

SENATOR EGAN joined the committee meeting.

[3:32:46 PM](#)

BARBARA BELKNAP, Advocate, League of Women's Voters, Juneau, Alaska, testified in support of HB 44. She said transparency in government is important to the league at all levels. She asserted that a voting official with a conflict of interest should not be voting on legislation that will benefit the official more than the public. She stated that one of democracy's greatest challenges comes from citizens who no longer think government represents or cares about them and in response fails to participate in democracy. She opined that the erosion of confidence is evident from the declining numbers of citizens participating in elections. She asserted that part of restoring confidence is making it clear that legislators do not use their position for personal gain.

[3:34:26 PM](#)

CHAIR MEYER closed public testimony.

He explained that in the previous hearing the committee wrestled with different conflicts of interest, how to define conflict of interest, and why is it good for one and maybe not good for another body. He noted that Senator Giessel brought up a point in the previous meeting that HB 44 does not change things too much. It defines what a conflict of interest is with a dollar amount of anything greater than \$10,000. He asked if the member still votes after declaring a conflict.

[3:35:46 PM](#)

REPRESENTATIVE JASON GRENN, Alaska State Legislature, Juneau, Alaska, sponsor of HB 44, replied that the \$10,000 helps the definition of an employer. He continued as follows:

It's not in regard to what the benefit might be but actually just putting it in statute what the definition of that relationship between an individual and an employer, what constitutes that relationship. I think where the conflict comes into play is a significant benefit, that is the term that is kind of the key in terms of what might constitute the conflict for an individual, their spouse or their employer, but I think that is the main term regarding a potential conflict, a significant benefit. The bill is what we are focusing on is obviously the definition of conflict of interest and when that might arise and why would someone ask to recuse themselves from voting.

CHAIR MEYER asked if a legislator would still vote if somebody objects.

REPRESENTATIVE GRENN answered yes.

CHAIR MEYER remarked that Representative Grenn's proposal is similar to what the Legislature currently does.

SENATOR WILSON asked if Legislative Research said that the Ethics Committee identifies the "significant benefit" dollar amount as \$250.

[3:37:16 PM](#)

RYAN JOHNSTON, Staff, Representative Grenn, Alaska State Legislature, Juneau, Alaska, recalled that Jerry Anderson, [Committee Administrator for the Ethics Committee], said the \$250 amount was for a close economic association, not for a significant benefit on a legislative matter.

SENATOR WILSON asked if there is a number for a significant benefit.

MR. JOHNSTON answered no and Representative Grenn's office took the \$10,000 amount to mirror what was already in statute.

SENATOR GIESSEL referenced the definition of "financial interest" in section 4 on page 3, line 9, paragraph (17). She noted it talks about "professional or private relationship" and asked if that is where the \$250 comes in.

MR. JOHNSTON answered that a close economic association for a professional or private relationship would fall under that

definition. In that situation, \$250 would be the amount. He added that he would clarify that with Jerry Anderson.

CHAIR MEYER asked Representative Grenn if he was involved with or part sponsor of the initiative that deals with the conflict of interest and other things.

[3:39:49 PM](#)

REPRESENTATIVE GRENN answered yes. He explained that there is an initiative that will hopefully be before the voters in November. He detailed that it deals with five points that are focused on legislative reform, one of them is regarding conflict of interest.

CHAIR MEYER asked if the initiative would be removed from the ballot if HB 44 was passed. He inquired if the initiative is asking for different things than HB 44. He noted that the initiative states that a legislator cannot vote while HB 44 states that a legislator can vote if a conflict of interest is declared.

REPRESENTATIVE GRENN explained that the bill addresses the Legislature's uniform rules regarding the conflict of interest definition whereas an initiative cannot change uniform rules. He pointed out that the initiative closely mirrors the bill's language.

He addressed the question whether the initiative would be removed from the November ballot if HB 44 passed. He noted that in previous rulings an initiative is ruled to be removed if the legislation that becomes law is deemed to be similar to the initiative. He pointed out that the initiative has many more parts than conflict of interest.

[3:41:53 PM](#)

CHAIR MEYER asked if he has spoken to Legal Services to see if the initiative would be offset if HB 44 passes.

MR. JOHNSTON replied Representative Grenn's office has asked for a memo from Legal Services.

SENATOR GIESSEL disclosed that the Senate Secretary's Office verified that for similar conflict-of-interest legislation that there is a public document recording when a legislator stands up and states a perceived or possible conflict of interest. She reiterated that she questioned what HB 44 changes that the Legislature already does. She noted that section 1 of the bill

addresses a legislator's employer and referenced a related situation in the House that occurred where an individual served a jail sentence for a violation. She said she questioned what HB 44 is helping or changing about the Legislature's transparency.

3:44:03 PM

REPRESENTATIVE GRENN replied as follows:

I believe that that section is in current statute regarding negotiating for employment, that is our current definition of where conflict of interests might rise when there is an actual quid pro quo.

What we are saying is we believe that the bar can be raised, and an actual conflict is there or even a perceived conflict, we are trying to remove that ambiguity of when people can rise. You see sometimes where people rise to declare conflicts which given our current definition are not conflicts, but they do so because they want to be transparent and be open.

What this legislation is hopefully doing is now giving an actual definition that we can all follow, and we can point to when we do talk to constituents about us following the actual statute when conflicts arise or potentially arise. Our belief is that this puts us in line with the majority of other states, states that have dealt with actual corruption and they've addressed those through conflict of interest in ethics acts. Fortunately for Alaska I believe that we have very few acts like that and we have a great integrity within our body, but the main goal of this, increasing transparency, increasing trust with the general public; this would help put into law a standard that is higher than what we have now and really creates actually less ambiguity of what conflicts of interest are.

CHAIR MEYER opined that Representative Grenn's statement is subject to interpretation.

REPRESENTATIVE GRENN concurred.

CHAIR MEYER said ethics rules and laws have changed over time and there is nothing that says they cannot be changed some more.

SENATOR GIESSEL point out that Senator Coghill and Senator Meyer have seen ethics rules both change and work during their legislative tenure. She asserted that people on the Senate side have been diligent in declaring conflicts of interest and noted that she has stood up when voting on the budget to declare a conflict of interest because cuts were being made to a department that her husband worked in. She reiterated that the Legislature currently follows its ethics rules and is quite transparent.

[3:47:17 PM](#)

SENATOR COGHILL pointed out that legislators currently make financial disclosures on the record that include their families. He asserted that the bill will now include family members that may or may not be of real value. He addressed his history in the Legislature and noted that he has, "Seen more shenanigans with those kinds of things that real ethical issues brought to light." He continued as follows:

Those are always a concern when we bring these transparency things out is its how will they be used in a political forum, and with you putting an initiative forward you are pretty well aware of the politics of that and how you can use both the real law for real transparency and perceived problems as political footballs and that has happened a lot down here.

He said citizen legislators with families are encouraged to report their financial status with their various family entanglements. He added as follows:

The fact is, if people elect the legislators, and it is true that people could game that and probably aggrandize their family, but that's less likely to happen because of the transparency we have on financial reporting issues. I think what you are doing is you are creating a place for "got you" rather than real clarity of transparencies; those are the things that I get concerned about and I've watched how the media has used that to pick on their favorite people to pick on and that is an unethical thing in my view and you haven't been the beneficiary of it, I have been. So, if you are accused of something in the newspaper, it's a headline, you might as well be guilty of a felony in many cases because your reputation is just taken to the task that much. So,

there's a balance here between the transparency for clarity or a tool to use people unwisely.

When I read these things, I try to watch for that balance all of the time and I just don't know that this hits that balance yet, but I've been quiet a long time because I've had to think about how the implementation of this works, it's just not what it says, it's the implementation. I've been on the Ethics Committee for a lot of years and I've been in the Rules Committee, I've been part of the leadership team, and I've watched how people's whole lives have been taken to task inappropriately under the guise of ethics or transparency. I've also seen people misuse the rules and go to jail. I was here when my party-guys were going to jail because they put their own self interest above the others, but the rules that we had back then were sufficient to put them in jail.

I was part of the group that put a huge change in because the year after everybody was going to jail, we probably had 40 bills introduced that year on how we were going to make it more transparent and accountable. Max Gruenberg and I got together and said we can't have 40 bills floating through the Legislature, so we as a bipartisan effort went to the leadership and said that; I was the Judiciary chairman at the time, let us work on them so that we can corral them into a unit of a code problem, and even at that we got into a bidding war on the floor, who was going to be the most transparent, we couldn't help ourselves, but we put in a code that had a few places that is tough, but it's a better code than even when people were going to jail, but the code that we put into place was a higher bar, but the code that we had in place was sufficient for those that were gaming the system.

What we did do was we put into place some transparency rules, but we also had to put confidentiality in there because it became really apparent that it became a whipping tool rather than an accountability tool. We had to endure two or three years of misuse of the press of people who were sterling characters but had been charged just because of a technical or a grammatical or some other error and they got charged with being unethical when in reality it was not an

unethical thing, it was just a methodology thing. So, those kinds of things do happen here, and they went through a whole new cycle.

So, those are the kinds of things I watch what we are doing here, now we are asking we are going involve our immediate family, then what you are going to do is you are going to create the questions upon if you forgot something, and it was your third cousin; but, I can tell you then they just go the next step beyond and say well it was your third cousin, it was an immediate. The trouble is in Alaska, we are a small community and we have business dealings very broadly and quite deeply quite often in communities. Now that you are including the family in it it's a new wrinkle and I've been thinking how that works, I can't say that I've arrived at a good conclusion yet, but in looking through this I've tried to take it thoughtfully, but you just needed the benefit of some of the history of how these things have both been well used and poorly used.

[3:53:45 PM](#)

REPRESENTATIVE GRENN commented that he takes no offense by benefitting from Senator Coghill's and the committee's knowledge related to the bill. He said he brings a new prospective. He asserted that his constituents want something different than what is currently in statute and that is the reason for his passion for different reforms in the Legislature.

He referenced the family aspect and financial disclosures that Senator Coghill noted and explained that the bill puts more in a public forum that is not hidden on a website that is hard to navigate. He asserted that the bill allows legislators to find ways to add transparency and trust, especially when legislators are away from their constituency during the session.

He disclosed that the definition used for "family" and "employer" is used in 29 other states. He noted that some states bar legislators from voting without a vote or objection when there is a conflict of interest.

He said different states do it different ways, but his intent was to define ways to keep the conversation going, especially with the public when legislators are talking about transparency and trust.

[3:56:21 PM](#)

SENATOR COGHILL remarked that Representative Grenn is a legislator who has chosen to go into a "public manner" and that becomes a political campaign over against a substantive campaign. He said he would have been more open to the discussion if someone had not said, "The Legislature isn't transparent therefore we need to do this." He asserted that Representative Grenn cannot have it both ways and said the representative was going to have a struggle with him on the bill.

SENATOR WILSON asked if there is a timeline when conflicts must be known. He noted scenarios where a legislator may not be aware of transactions from close economic associations, especially when voting.

REPRESENTATIVE GRENN replied that he is not aware of a retroactive rule when a legislator votes when not being aware of a conflict. He noted that there is an ethics committee to confer with if something comes up afterwards.

[3:59:17 PM](#)

SENATOR WILSON pointed out that the bill would make nondisclosure a statute violation versus an ethical disclosure act violation which may have a higher level of consequence as a legislator versus an unknown error.

MR. JOHNSTON replied as follows:

Since this statute is under AS 24.60.030, which is the legislative ethics, the same kinds of rulings the ethics committee can do now also are the same under this bill. So, it would be the same kind of consequences that the ethics committee could decide.

CHAIR MEYER asked if the bill does the following:

- Does not bar a legislator from voting.
- Legislator must declare a conflict of interest and ask to be excused.
- Legislator must vote if another legislator objects.

REPRESENTATIVE GRENN answered correct.

CHAIR MEYER said in that case he does not know that the bill is too much different from what the Legislature currently does. He noted that the next committee of referral is the Senate Judiciary Committee. He said before the bill leaves committee he would like to see the legal analysis if there is enough to

offset it from being on the ballot. He concurred with Senator Coghill that, "Once you do an initiative then it becomes part of the political campaign."

SENATOR GIESSEL inquired if offering a bill at the same time as offering a ballot initiative is an ethical violation. She added as follows:

It's an interesting question because it could be viewed that way, depending kind of like beauty is in the eye of the beholder, ethics conflicts could be in the eye of the interpreter as well.

CHAIR MEYER said Senator Giessel brought up a good point and that is why the topic is difficult to bring up. He summarized as follows:

The bottom line is it is up to the voters to decide if we are ethical or not ethical and whether they want us to represent them or not represent them, but I appreciate you bringing this forward and we will look forward to the legal analysis.

[4:02:30 PM](#)

CHAIR MEYER held HB 44 in committee.

[4:02:40 PM](#)

At ease.

SB 130-VOTER APPROVAL FOR NEW TAXES

[4:04:26 PM](#)

CHAIR MEYER announced the consideration of Senate Bill 130 (SB 130).

[4:04:52 PM](#)

SENATOR GIESSEL moved to adopt the committee substitute (CS) for SB 130, version 30-LS1088\J as the working document.

[4:05:08 PM](#)

CHAIR MEYER objected for discussion purposes.

[4:05:19 PM](#)

CHRISTINE MARASIGAN, Staff, Senator Meyer, Alaska State Legislature, Juneau, Alaska, reviewed the CS for SB 130.

The CS before you for SB 130 removes the entire bill, both pages, all sections and replaces it with a main section, section 1, which basically turns the bill into an advisory vote.

This new version essentially carries the intent of the original bill which was to place before voters questions about having a broad-based tax, and so there would be two questions.

The first question would be do you approve of the passage by the Alaska State Legislature of a bill that imposes an individual income tax, yes or no?

The second question would be do you approve of the passage by the Alaska State Legislature a bill that imposes a statewide sales tax, yes or no?

SENATOR COGHILL asked why the change was made.

MS. MARASIGAN explained that at the previous hearing on January 30, Emily Nauman from Legislative Legal Services said SB 130 was unconstitutional. She said to determine whether voters approve or disapprove a statewide sales tax or income tax, there are two pathways. She said the first way would be a constitutional amendment and the second way would be an advisory vote.

She detailed that Chair Meyer assumed sponsorship of SJR 7, which was held by the former chair of the Senate State Affairs Committee, to allow for voter approval of new taxes via a constitutional amendment. She explained that a constitutional amendment has the full force of law by enshrining the refutation of taxation in the constitution unless allowed by voters, but enactment requires a two-thirds vote in each body.

She said the second pathway is before the committee through SB 130, version J. She detailed that SB 130 is an advisory vote which would simply be a majority vote from both bodies; however, the caveat is the vote is nonbinding.

She summarized that Chair Meyer followed up with both pathways by changing SB 130 into an advisory vote while taking up a constitutional amendment bill as well.

[4:09:09 PM](#)

SENATOR GIESSEL asked if SB 130 is the same as the vote that was taken to put into place a 90-day legislative session.

SENATOR COGHILL explained that the vote for a 90-day legislative session was a citizen initiative.

SENATOR GIESSEL asked if SB 130 would have the same force as a citizen's initiative and hopefully the citizens would understand that.

CHAIR MEYER confirmed that the hope is citizens would understand. He added that SB 130 would provide legislators with feedback whether to implement a tax. He concurred that a constitutional amendment is a high hurdle, as it should be; however, SB 130 "hedges our bet" to have a go before the voters on a broad-based tax this year.

He asked if the advisory vote would go on the ballot for the primary or general election.

MS. MARASIGAN replied that the bill says the advisory vote would go on the ballot on the first statewide election following the effective date. She detailed that if the legislative session goes beyond 90 days the advisory vote would be in the general election.

SENATOR COGHILL asked if the advisory vote would be on a sales tax or an income tax.

[4:11:57 PM](#)

CHAIR MEYER replied that the advisory vote would be on both.

SENATOR GIESSEL noted a letter from the Division of Elections was included in the packets that estimated a cost if the advisory vote was not held during the primary or general election.

SENATOR WILSON pointed out that the question was posed during the previous hearing about the difference between a statewide election cost versus a special election cost.

CHAIR MEYER noted that the bill has a zero fiscal note. He withdrew his objection to the CS.

[4:13:52 PM](#)

SENATOR GIESSEL moved to report CSSB 130, version 30-LS1088\J from committee with individual recommendations and attached fiscal note.

SENATOR COGHILL objected to comment. He said he is not a big fan of advisory votes but would not hold the bill up in committee. He asserted that legislators have a responsibility to perform. He said he might be convinced to vote for the bill, but not at this point. He removed his objection.

CHAIR MEYER added that he struggled with the same issue as well. He concurred that people vote for legislators to be represented on all issues during the session. He opined that although the issue is big, there is a feeling that the bill is what the public wants. He said by doing an advisory vote, legislators will really know what the public wants or doesn't want regarding broad-based taxes.

[4:15:06 PM](#)

CHAIR MEYER said there being no objection, CSSB 130(STA) moves from committee.

[4:16:14 PM](#)

There being no further business to come before the committee, Chair Meyer adjourned the Senate State Affairs Committee at 4:16 p.m.