

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

April 5, 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

SENATE BILL NO. 159

"An Act relating to disbursement options under the Public Employees' Retirement System of Alaska and the Teachers' Retirement System of Alaska for participants in the defined contribution plan; and providing for an effective date."

- MOVED SB 159 OUT OF COMMITTEE

HOUSE BILL NO. 47

"An Act requiring certain municipalities with a population that decreased by more than 25 percent between 2000 and 2010 that participate in the defined benefit retirement plan of the Public Employees' Retirement System of Alaska to contribute to the system an amount calculated by applying a rate of 22 percent of the total of all base salaries paid by the municipality to employees of the municipality who are active members of the system during a payroll period; authorizing the administrator of the defined benefit retirement plan of the Public Employees' Retirement System of Alaska to reduce the rate of interest payable by certain municipalities that are delinquent in transmitting employee and employer contributions to the retirement plan; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 152(STA)

"An Act relating to the organized militia; and relating to the authority of the adjutant general."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 159

SHORT TITLE: PERS/TERS DISTRIBUTIONS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/24/18	(S)	READ THE FIRST TIME - REFERRALS
01/24/18	(S)	STA, FIN
03/20/18	(S)	STA AT 3:30 PM BUTROVICH 205
03/20/18	(S)	Heard & Held
03/20/18	(S)	MINUTE(STA)

BILL: HB 47

SHORT TITLE: MUNICIPAL PERS CONTRIBUTIONS/INTEREST

SPONSOR(S): FOSTER

01/18/17	(H)	PREFILE RELEASED 1/13/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	CRA, FIN
02/28/17	(H)	CRA AT 8:00 AM BARNES 124
02/28/17	(H)	Heard & Held
02/28/17	(H)	MINUTE(CRA)
03/02/17	(H)	CRA AT 8:00 AM BARNES 124
03/02/17	(H)	Moved HB 47 Out of Committee
03/02/17	(H)	MINUTE(CRA)
03/03/17	(H)	CRA RPT 4DP 1NR 1AM
03/03/17	(H)	DP: WESTLAKE, DRUMMOND, FANSLER, PARISH
03/03/17	(H)	NR: RAUSCHER
03/03/17	(H)	AM: SADDLER
04/06/17	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
04/06/17	(H)	Heard & Held
04/06/17	(H)	MINUTE(FIN)
04/13/17	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
04/13/17	(H)	Moved HB 47 Out of Committee
04/13/17	(H)	MINUTE(FIN)
04/14/17	(H)	FIN RPT 5DP 6AM
04/14/17	(H)	DP: ORTIZ, GUTTENBERG, GARA, SEATON, FOSTER
04/14/17	(H)	AM: WILSON, KAWASAKI, THOMPSON, TILTON, GRENN, PRUITT
05/15/17	(H)	TRANSMITTED TO (S)
05/15/17	(H)	VERSION: HB 47

05/16/17 (S) READ THE FIRST TIME - REFERRALS
05/16/17 (S) STA, FIN

BILL: HB 152

SHORT TITLE: ORGANIZED MILITIA; AK ST. DEFENSE FORCE

SPONSOR(s): MILITARY & VETERANS' AFFAIRS

03/06/17 (H) READ THE FIRST TIME - REFERRALS
03/06/17 (H) MLV, STA
03/14/17 (H) MLV AT 1:00 PM GRUENBERG 120
03/14/17 (H) -- MEETING CANCELED --
03/23/17 (H) MLV AT 1:00 PM GRUENBERG 120
03/23/17 (H) Heard & Held
03/23/17 (H) MINUTE(MLV)
03/30/17 (H) MLV AT 1:00 PM GRUENBERG 120
03/30/17 (H) Heard & Held
03/30/17 (H) MINUTE(MLV)
04/04/17 (H) MLV AT 1:00 PM GRUENBERG 120
04/04/17 (H) Moved CSHB 152(MLV) Out of Committee
04/04/17 (H) MINUTE(MLV)
04/05/17 (H) MLV RPT CS(MLV) 3DP 2DNP 1NR
04/05/17 (H) DP: SPOHNHOLZ, PARISH, TUCK
04/05/17 (H) DNP: REINBOLD, SADDLER
04/05/17 (H) NR: LEDOUX
05/09/17 (H) STA AT 3:00 PM GRUENBERG 120
05/09/17 (H) Heard & Held
05/09/17 (H) MINUTE(STA)
01/23/18 (H) STA AT 3:00 PM GRUENBERG 120
01/23/18 (H) Heard & Held
01/23/18 (H) MINUTE(STA)
01/25/18 (H) STA AT 3:00 PM GRUENBERG 120
01/25/18 (H) Heard & Held
01/25/18 (H) MINUTE(STA)
02/22/18 (H) STA AT 3:15 PM GRUENBERG 120
02/22/18 (H) Moved CSHB 152(STA) Out of Committee
02/22/18 (H) MINUTE(STA)
02/23/18 (H) STA RPT CS(STA) 2DP 1DNP 3NR
02/23/18 (H) DP: TUCK, KREISS-TOMKINS
02/23/18 (H) DNP: KNOPP
02/23/18 (H) NR: BIRCH, WOOL, LEDOUX
03/07/18 (H) ENGROSSED
03/15/18 (H) TRANSMITTED TO (S)
03/15/18 (H) VERSION: CSHB 152(STA)
03/16/18 (S) READ THE FIRST TIME - REFERRALS
03/16/18 (S) STA, JUD
04/03/18 (S) STA AT 3:30 PM BUTROVICH 205
04/03/18 (S) Scheduled but Not Heard

WITNESS REGISTER

KATHY LEA, Chief Pension Officer
Division of Retirement and Benefits
Alaska Department of Administration
Juneau, Alaska

POSITION STATEMENT: Provided an overview of SB 159.

REPRESENTATIVE NEAL FOSTER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 47, provided an overview.

PAUL LABOLLE, Staff
Representative Foster
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided an overview and sectional analysis of HB 47.

SHANDRA HUNTINGTON, City Manager
City of Galena
Galena, Alaska

POSITION STATEMENT: Testified in support of HB 47.

KATHIE WASSERMAN, Executive Director
Alaska Municipal League
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 47.

KEVIN WORLEY, Chief Finance Officer
Division of Retirement and Benefits
Alaska Department of Administration
Juneau, Alaska

POSITION STATEMENT: Addressed questions regarding HB 47.

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

POSITION STATEMENT: Provided an overview of HB 152.

REPRESENTATIVE CHRIS TUCK
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Chair of the House Military & Veterans' Affairs Committee, commented on HB 152.

BRIAN DUFFY, Administrative Services Director
Alaska Department of Military and Veterans' Affairs
Joint Base Elmendorf-Richardson (JBER), Alaska
POSITION STATEMENT: Answered questions regarding HB 152.

ACTION NARRATIVE

[3:31:06 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 Wilson, Giessel, Coghill, Egan, and Chair Meyer.

SB 159-PERS/TERS DISTRIBUTIONS

[3:31:49 PM](#)

CHAIR MEYER announced the consideration of Senate Bill 159 (SB 159).

[3:32:49 PM](#)

KATHY LEA, Chief Pension Officer, Division of Retirement and Benefits, Alaska Department of Administration, Juneau, Alaska, announced her availability to answer questions regarding SB 159.

SENATOR GIESSEL asked if SB 159 will have any affect on the state's unfunded pension liability that continues to grow.

MS. LEA answered no. She specified that the bill deals with moving the distribution options that are available to participants at termination from statute into regulation so that the plan can have better flexibility in offering changing options. She added that the cost of any of the distribution options is borne by the participant.

[3:34:12 PM](#)

SENATOR GIESSEL referenced the bill's fiscal note and noted reference to authorizing a lump-sum payment of the entire balance or a periodic payment option. She inquired if the lump-sum payment would have a negative impact on the unfunded liability.

MS. LEA explained that the plan is a defined-contribution provision so there is no tie to the unfunded liability. She explained that the lump sum is the participant's account that contains their contribution and the employer's contribution made on their behalf.

SENATOR COGHILL commented that he appreciated Ms. Lea's response because he believed that distribution methods can change from one generation to another. He asked if Ms. Lea could identify the "flex points" in the plan that were immediately needed.

MS. LEA replied that there are no plans in changing the existing options; however, the Alaska Retirement Management (ARM) Board as well as the Department of Revenue-Treasury Division and the Division of Retirement have identified a need for more robust spend-down options for participants. She disclosed that the division has reviewed eight presentations on different spend-down options and disclosed that they did not fit into the current definitions.

[3:36:54 PM](#)

CHAIR MEYER opened and closed public testimony.

He summarized that the bill will provide the division with more flexibility without having to wait for the Legislature to come into session each time a change is needed.

SENATOR COGHILL disclosed that he was in Tier IV and noted he appreciated the plan's flexibility.

CHAIR MEYER pointed out that the bill has a zero fiscal note.

[3:37:53 PM](#)

SENATOR GIESSEL moved to report SB 159, version 30-GS2815\A from committee with individual recommendations and attached zero fiscal note.

[3:38:06 PM](#)

CHAIR MEYER announced that there being no objection, the motion carried.

[3:38:12 PM](#)

At ease.

HB 47-MUNICIPAL PERS CONTRIBUTIONS/INTEREST

[3:40:15 PM](#)

CHAIR MEYER called the committee back to order and announced the consideration of House Bill 47 (HB 47).

[3:41:00 PM](#)

REPRESENTATIVE NEAL FOSTER, Alaska State Legislature, Juneau, Alaska, sponsor of HB 47, provided an overview as follows:

HB 47 provides relief for communities who have lost 25 percent or more of their population in the last census, it does this by reducing the required payments to the [Alaska Public Employees' Retirement System (PERS)]. Galena, for example, lost 30 percent of its population in the last census and this was largely due to the closure of the U.S. Airforce base in Galena. Municipalities must pay into PERS based on their current salary level and at a minimum they must pay based on what their salary level was back in 2008. The rationale is that local governments usually either grow or they stay the same, but they don't typically shrink. The problem is Galena's salary level did shrink and it shrank in half from \$1.5 million in 2008 to \$770000 in 2012; but, according to PERS, Galena has to make payments to PERS as if it still had a \$1.5 million workforce.

Galena simply does not have the resources to pay into the retirement system for workers that they do not have, so they are faced with two options; they can either let the amount that they owe grow and currently that bill is \$1 million, or they can simply shut the doors and turnout the lights and close-up shop. So, we are hopeful that we can find a compromise with this bill, Galena would still owe for the bill that has been accumulated, but they would be provided some relief as they go forward.

SENATOR GIESSEL asked if the bill has been previously presented to the Legislature.

REPRESENTATIVE FOSTER answered that the legislation has gone through the Legislature several times but has not "crossed the finish line." He noted that HB 47 is the first time the legislation has made it to the Senate.

[3:43:34 PM](#)

PAUL LABOLLE, Staff, Representative Foster, Alaska State Legislature, Juneau, Alaska, provided an overview of HB 47 as follows:

In 2007-2008, we had SB 125 that pooled the PERS systems in the individual municipalities which used to be siloed systems and in that pooling we required a 22-percent payment of their gross salaries; there was concern during discussion on that bill that what you might have with that system is municipalities laying off employees so they can put them out on contract thereby reduce their contribution and yet their liability remains the same, and it would distribute that to the rest of the PERS employers. A couple of different options were looked at for addressing that, what was settled upon was the 2008 floor, which is you have to pay it at the 2008 floor or gross salaries, which ever is greater. Existing statute also had the penalty payment for delinquent payments, if you didn't make the full payment then it's one-and-a-half times the actuarial amount or in our case is 12-percent interest on delinquent payments.

[3:45:02 PM](#)

He provided a sectional analysis as follows:

Section 1

Clean up language that is needed for implementation of section 4 that the administrator is authorized to determine the rate of interest assessed under the statute referenced in section 4.

Section 2

Portion of the bill that addresses the 2008 floor problem. What it does is put a new subsection under subsection (a)(2) that allows for the floor to be reestablished for FY2012 if the community has lost more than 25 percent of its population between the 2000 and 2010 census.

Section 3

Conforming language.

Section 4

Addresses the delinquent interest payment that is at 12 percent. The current version of the bill allows the administrator to negotiate the interest rate for

delinquent payments. In several iterations of the bill we had gone through different ideas of setting different rates, deliberation led us to the conclusion that setting the rate in statute was problematic to begin with. The administration would have liked to have helped them with their burden, but they are directed to charge 12-percent interest and there's nothing they can do about it, so we give them the ability in these situations to negotiate that interest rate.

MR. LABOLLE addressed the cost of not implementing the bill as follows:

Right now, they have about a \$1.5 million outstanding balance they owe the state. As that accrues, you run into different scenarios where the state could cutoff community assistance, bar them from participating in certain revolving loan programs, and you could end up at a place where the city can no longer function, and bankruptcy is not an option for municipalities in the State of Alaska. Cities can dissolve but they can't dissolve unless they pay all of their debts, and if they can pay all of their debts they would not be in the situation. What that leaves them with is basically they could turnoff the lights and give the keys to the state in which case we would now be on the hook for the entire amount rather than paying on their current salaries and or the new established floor.

[3:48:01 PM](#)

CHAIR MEYER asked how many communities would be affected by the bill.

MR. LABOLLE answered that there are five communities that meet the population metric: Atka, St. George, Pelican, Galena, and Anderson. He detailed that actuarial analysis cites only three communities that are affected, that being: Pelican, Galena, and St. George. He added that St. George was not an ongoing issue.

CHAIR MEYER asked why St. George was not an ongoing issue.

MR. LABOLLE replied that Kevin Worley from the Division of Retirement and Benefits could better address Chair Meyer's question.

CHAIR MEYER asked what Galena's economy is.

MR. LABOLLE detailed that Galena functions as a sub-regional hub in addition to fishing. He reiterated that Galena's main economy used to be the Air Force base which closed.

CHAIR MEYER said he knew Galena's base closing caused a population decrease. He asked if the population will ever go back up to the level prior to the base closing.

REPRESENTATIVE FOSTER noted that Galena also has the Galena Interior Learning Academy and students from throughout the state attend the academy.

SENATOR WILSON noted that the Air Force left Galena with substantial assets that the community could leverage to pay off some of its debts.

MR. LABOLLE concurred that assets were left. He admitted that the question remains as to how much is an asset and how much is a liability. He noted that one asset that has been a major help to Galena has been the fuel that was left behind by the Air Force, the fuel has been used to offset the community's fuel bills.

[3:50:44 PM](#)

CHAIR MEYER asked what happened in the other communities that caused the population decreases.

MR. LABOLLE explained that Pelican was impacted by the closing of its processing plant. He admitted that he did not know the reasons for Atka, Anderson, and St. George.

SENATOR WILSON asked what the cost is to the state from the communities' population decreases and reduced PERS contributions.

MR. LABOLLE deferred the question to Mr. Worley.

[3:52:27 PM](#)

CHAIR MEYER opened public testimony.

[3:52:33 PM](#)

SHANDRA HUNTINGTON, City Manager, City of Galena, Galena, Alaska, testified in support of HB 47. She disclosed that she was born and raised in Galena and served as the city clerk and currently as city manager. She said she would explain the

importance of HB 47 for communities like Galena that have seen significant population decline between 2000-2010.

MS. HUNTINGTON specified that the Air Force base in Galena closed October 1, 2010, but the shutdown process started in 2006. She explained that prior to the base's closure the population in Galena was 675 residents, after the closure there were 470 residents. She added that a flood occurred in 2013 that led to a disaster declaration for Galena.

She detailed Galena's PERS contribution challenges and noted that the law was not designed to consider sharply declining populations from events outside of decisions made by the city. She explained the city's financial challenges in dealing with a cashflow crisis. She set forth that HB 47 will not undermine the underlining goals and structure of PERS while helping to ensure municipalities facing significant population loss are able to continue contributing to PERS.

[3:59:48 PM](#)

CHAIR MEYER asked if there were assets left by the Air Force after the base closing.

MS. HUNTINGTON answered that the Air Force left one million gallons of fuel. She noted that the fuel was specifically left for the Galena Interior Learning Academy, but the fuel has nearly run out. She disclosed that Galena had to take out a \$4 million loan to upgrade the heating system and water utilities that were left in poor condition by the Air Force for the city to receive a grant. She added that the buildings left by the Air Force were built in the 1960s and require maintenance.

[4:01:16 PM](#)

At ease.

[4:02:00 PM](#)

CHAIR MEYER called the committee back to order. He asked Ms. Huntington if there was any hope for Galena's population coming back.

MS. HUNTINGTON answered that Galena always has hope. She noted that the city has the Galena Interior Learning Academy. She opined that the city can grow, but maintenance will have to occur to the buildings and infrastructure at the closed Air Force base.

[4:03:23 PM](#)

KATHIE WASSERMAN, Executive Director, Alaska Municipal League, Juneau, Alaska, testified in support of HB 47. She concurred with previous testimony that the legislation related to HB 47 has been around for quite some time. She noted that Pelican's population drop occurred when a cold storage business closed in 2002 but noted that the community had paid off its PERS debt. She explained that St. George no longer has PERS employees, but their PERS debt remains. She explained that the population decreases in the five communities was due to circumstances outside of the communities' control.

[4:07:00 PM](#)

CHAIR MEYER asked if additional communities can be expected to have population decreases in the future.

MS. WASSERMAN answered that she did not have numbers to back her response but opined that populations will stabilize but the debts will not go away.

CHAIR MEYER noted that Ms. Wasserman addressed SB 125 in her overview and asked if that the bill passed in a previous Legislature.

MS. WASSERMAN specified that SB 125 was PERS legislation passed by Senators Hoffman and Stedman in 2006.

CHAIR MEYER asked if the state went to the defined-retirement plan in 2006.

MS. WASSERMAN answered yes.

SENATOR GIESSEL addressed PERS employee-count data from FY2008-FY2016. She noted in FY2016 that Galena had 18-PERS employees, 0 in Nenana and St. George, and 5 in Pelican.

MS. WASSERMAN remarked that a lot of the communities have gone out of their way to not let go of employees because they do not want to trigger a termination study.

CHAIR MEYER asked why the time frame of 2000 to 2010 was chosen.

MS. WASSERMAN surmised that it was when "this legislation started."

[4:11:27 PM](#)

CHAIR MEYER closed public testimony.

CHAIR MEYER asked Mr. Worley to address the bill's fiscal notes. He asked if there were two fiscal notes and one forthcoming.

[4:12:08 PM](#)

KEVIN WORLEY, Chief Finance Officer, Division of Retirement and Benefits, Alaska Department of Administration, Juneau, Alaska, stated that HB 47 has no fiscal impact on the division. He explained that the division would provide updated actuarial numbers and a new fiscal note soon.

CHAIR MEYER pointed out that the fiscal note that he reviewed was dated FY2017 when the bill was introduced. He detailed that it showed \$121,000 for FY2018, and then \$112,000 for FY2019. He asked if those numbers will be adjusted.

MR. WORLEY answered correct.

CHAIR MEYER asked him to confirm that the bill modifies the 2008 salary floor and it has to do with the 25-percent decrease in population between 2000-2010. He asked why time range was between 2000 and 2010.

MR. WORLEY answered that the years were based on the U.S. Census from 2000 and 2010.

CHAIR MEYER asked if the 25-percent population decrease only applies to the five communities.

MR. WORLEY answered yes. He noted that the division confirmed the five impacted communities participating in PERS with the Department of Commerce, Community, and Economic Development.

[4:14:31 PM](#)

CHAIR MEYER asked if there could be other communities asking for the same relief in the future or if the bill precludes the state from providing relief again.

MR. WORLEY answered that the legislation was very date-specific between 2000 to 2010 and only deals with the five communities. He believed that new legislation would have to be enacted for communities that suffer the same decline in the future.

CHAIR MEYER admitted that population loss in smaller communities is concerning due to fragile economies. He asked Mr. Worley if he believed that the fiscal note will be presented soon.

MR. WORLEY answered that he will present the fiscal note the following day.

[4:16:05 PM](#)

CHAIR MEYER held HB 47 in committee.

[4:16:47 PM](#)

At ease.

HB 152-ORGANIZED MILITIA; AK ST. DEFENSE FORCE

[4:18:31 PM](#)

CHAIR MEYER called the committee back to order and announced the consideration of House Bill 152 (HB 152).

[4:19:02 PM](#)

KENDRA KLOSTER, Staff, Representative Tuck, Alaska State Legislature, Juneau, Alaska, provided an overview of HB 152 as follows:

This bill is part of a series of bills for updating our Alaska Military Code. Our military code was in 1955 and we are just starting to work on updating it now, so a lot of it has been out of date. So, this is one of four bills going through the Legislature this year to help update that code.

House Bill 152 will help ensure organized militia's four components, which is the Army Guard, Air Guard, Alaska State Defense Force, and Alaska Naval Militia, have an efficient military force to respond to the needs of Alaskans.

A couple of the key parts of this bill is clarifying that the adjutant general (TAG) has control and command of the organized militia under the direction of the governor as the commander and chief. The TAG already possesses statutory control over the organized militia, but this bill will clarify command. Command and control are important functions in any military organization. Commanders are set for the response of the organizations' priorities, goals, missions, while people have the authority to direct people to accomplish those missions; it's logical, however it is not clearly set in statute, so this is one of the clarifications in House Bill 152.

This will also ensure that the adjutant general has the ability to adopt regulations as needed, it clarifies and lists that the Alaska State Defense Force may exist only with the express consent of the U.S. Congress. House Bill 152 will also streamline some of the day-to-day matters; for example, the TAG can be able to accept resignations of commissioned officers or place the name of commissioned officers on a retirement list, right now it can go through the governor, but we are moving that to the adjutant general.

This also relaxes the requirement from militia units to be served by an active armory. So, right now the Department of Military Veterans' Affairs is trying to grow that. Currently in some of our small communities it doesn't necessarily make sense to build an armory before we can have some of our State Defense Force members there, it's just not needed at this point and it costs a lot of money to build an armory, so that part is being removed.

There's a tuition assistance program for organized militia, we are adding the Alaska State Defense Force to that statute. We are not increasing the fiscal note or asking for any money for this, it's just allowing to make sure that all members of our organized militia are listed under there for the opportunity if money does become available for tuition assistance.

Some of the changes that came out of the House, there was some concerns over parts of the bill which were removed and that was imminent authority going to the adjutant general in certain times, I just want to explain the history of how we got to this version. In the first version it would expand the ability of the TAG to call in an organized militia when the governor was unavailable; for example, if he was unreachable and we had another big earthquake and we couldn't get ahold of the governor, the TAG would have been able to call in an organized militia; at this time they cannot do that you have to get ahold of the governor, but there are a lot of concerns over that so we removed that part, going to go on more discussion on that and so that was really the major change in the State Affairs Committee that was made.

[4:22:51 PM](#)

CHAIR MEYER asked if the bill was brought forward at the request of the governor.

MS. KLOSTER answered that the bill is a committee bill that Military and Veterans' Affairs worked on with the governor's office.

CHAIR MEYER pointed out that the governor would be delegating some of their authority to the adjutant general.

MS. KLOSTER provided a sectional analysis as follows:

Section 1

Clarifies control and command of the organized militia.

Section 2

Describes the circumstances under which a governor may order the organized militia into active state service.

Section 3

Describes when the adjutant general may call the organized militia into active state service but reviewed by the governor.

Section 4

Clarifies existing law specifying the Alaska State Defense Force may exist only with the expressed consent of the U.S. Congress.

Section 5

Adds the Alaska State Defense Force to the organized militia definition.

Section 6

Establishes the adjutant general and the assistant adjutant generals are subject to regulations under the chapter and paid according to state law.

Sections 7-9

Authority going from the governor to the adjutant general to allow the adjutant general to accept resignations and add commissioned officers to the retired list.

Section 10

Relaxes the authority to not have to build an armory when expanding the Alaska State Defense Force.

Section 11

Allows the adjutant general to authorize when funds are available for the tuition assistance program; or adding in the Alaska State Defense Force with the Air Guard, Army Guard, and Naval Militia for eligibility under the tuition assistance program.

Section 12

Specifies regulations adopted in the statute cannot be contrary to federal law.

Section 13

Directs regulations adopted under the statute must conform when governing by the armed forces of the United States.

Section 14

Allows the governor to delegate authority and provide a sub-delegation except for the powers given to the governor to convene a general court-marital.

Section 15

Repeals existing statute which is no longer necessary or amended because of the bills that are currently going through.

[4:26:33 PM](#)

CHAIR MEYER addressed section 4, lines 29-31 regarding members of the Alaska State Defense Force performing inactive duty or training and pointed out the line, "Shall receive benefits if they suffer an injury or disability." He asked if lines 29-31 was new and a possible cost to the state.

MS. KLOSTER answered that lines 29-31 were also part of conforming language. She noted that another bill was coming through the Legislature that dealt with the part lines 29-31 addressed. She noted that the statute relates to "pay and allowances, AS 26.05.260."

CHAIR MEYER reiterated that he wondered if there would be an impact on the fiscal note.

[4:28:20 PM](#)

SENATOR COGHILL addressed section 2, "The organized militia may not be used against to mitigate a lawful activity including organized labor." He asked if the verbiage was something new as a policy call or something conforming to a policy call that already exists regarding organizing.

MS. KLOSTER replied that the part Senator Coghill referenced was moved from another section and cleaned-up in the Military and Veterans' Affairs Committee where language was added to ensure the organized militia would not be sent out for lawful activities.

CHAIR MEYER asked what would happen if the lawful activity became unruly.

SENATOR COGHILL specified that the section says, "lawful activity." He asked if the section was already in statute and if it was a policy that has already been enforced and contemplated or if it was new.

MS. KLOSTER explained that section 2 used to be much larger and a lot of language was moved around via statute clean-up.

SENATOR COGHILL asked Ms. Kloster to address the "repealers" in section 15.

MS. KLOSTER detailed as follows:

AS 26.05.170

A relationship between the governor and adjutant general regarding control and command of the organized militia.

AS 26.05.235

Mandatory annual active duty training at sites other than regular bases.

AS 26.05.340

Use of organized militia against labor organizations.

AS 26.05.340 (d)

Necessary regulations adopted by the adjutant general and approved by the governor.

She noted that the sections addressed for AS 25.05.340 were repealed and reenacted in another part of the bill.

SENATOR COGHILL asked if the sections address the authorities of those taking place but were rewritten.

MS. KLOSTER explained that a lot of the bill is cleaning up the statute at the same time.

[4:31:43 PM](#)

REPRESENTATIVE CHRIS TUCK, Chair of the House Military & Veterans' Affairs Committee, Alaska State Legislature, Juneau, Alaska, said HB 152 clearly defines the control authority and the command authority between the governor and the adjutant general. He noted that Title 26 has not been changed since 1955. He detailed that the first change occurred three years ago with the Military Code of Justice and followed by a series of bills to make it flow evenly so that everyone understands what their roles are.

CHAIR MEYER pointed out that HB 152 has a zero fiscal note. He reiterated that there seems to be the possibility that costs are being added, specifically in section 4 regarding disability while on the line of duty. He remarked that the zero-fiscal note may be attributed to the fact that injury was not being anticipated.

MS. KLOSTER disclosed that Representative Tuck has a bill going through the Legislature where the Alaska State Defense Force is covered for while on active-duty status for workers' compensation. She detailed that the proposed bill, HB 126, would include workers' compensation for training as well. She added that HB 126 has a zero-fiscal note. She reiterated that the three bills moving through the Legislature intermingle with one another, so HB 152 is part of the conforming language between the bills.

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CHAIR MEYER asked if the three bills are a "package deal."

REPRESENTATIVE TUCK replied there is a package of five or six bills.

MS. KLOSTER detailed that there are three bills sponsored by the Military and Veterans' Affairs Committee and there is one that is also the Alaska Code of Military Justice update, so there are four bills going through the Legislature to clean up the statutes. She explained that the intent was to break up the legislation into pieces due to complex issues that were going on.

SENATOR GIESSEL referenced section 4 regarding the liability issue and pointed out the reference to, "Or community service." She asked if the reference to community service was also covered or was being added.

REPRESENTATIVE TUCK explained as follows:

Right now the Alaska Defense Force, I believe, are covered under community service but when they are performing in active duty or training, that's where we are covering them in case they get hurt because we are still obligated but they are not covered under the workers' compensation, it really costs us a lot more when we have to pay right out without having insurance coverage for them, so it encompasses them for all of those activities now.

CHAIR MEYER noted previous testimony on section 4 regarding liability concerns and asked Mr. Duffy from the Alaska Department of Military and Veterans' Affairs if he anticipated any costs associated with liability.

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BRIAN DUFFY, Administrative Services Director, Alaska Department of Military and Veterans' Affairs, Joint Base Elmendorf-Richardson (JBER), Alaska, answered questions regarding HB 152 as follows:

The only cost we have seen to date with members of the Alaska State Defense Force being injured while in service of the state but not on state-active duty was one incident and I think it was a tort claim that was settled for about \$50,000, maybe with additional fees for legal services to the department. We don't anticipate a significant cost, it's a bit hard to judge but what we will be able to gain through the other legislation Ms. Kloster mentioned is coverage for those members when they are in non-active-duty status, but they are acting in service of the state.

SENATOR COGHILL addressed section 2 related to an organized militia not being allowed to be used against or to mitigate a lawful activity including an organized labor activity. He asked if the legislation rewrites something that has already been done.

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MR. DUFFY replied as follows:

You've seen other improvements covered elsewhere, the Alaska Code of Military Justice affords the adjutant general and chain of command opportunity to correct behavior of the likes of which you described which are counter to good order and discipline within the National Guard.

SENATOR COGHILL asked if addressing organized labor as a lawful activity was done for the first time.

MR. DUFFY answered as follows:

The intent here really is to ensure that it is codified in statute that the elements of the militia cannot be called into service to counter lawful activities that are being done in the state.

SENATOR COGHILL asked if there was organized labor within the state's militia.

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REPRESENTATIVE TUCK specified as follows:

This section is dealing with any type of lawful activity that civilians may be performing, whether it's a demonstration, a march or any other lawful activity including organized labor activity. I think we've seen in the history in the past, especially in the turn of the 19th century, organized militia was used against [lawful activities].

SENATOR COGHILL remarked as follows:

I remember people putting flowers in guns at Kent State. What I was wondering is would it ever be used to prevent organized labor from saying, "Well, we're flight-line operators and we want to organize," and I just didn't know if that was even within the realm of possibility within our militia?

REPRESENTATIVE TUCK replied as follows:

That's a very good question because in the 1980s we had the Professional Air Traffic Controllers

Organization (PATCO) strikes and at that time the president said to return back to work according to law and according to collective bargaining agreements. I don't think organized militia was used or any type of militia was used to enforce collective bargaining agreements or to force people to return back to work because it is a lawful activity to not have to return back to work, but they did feel the consequences of being terminated as a result of that. I don't know of any time in history where people were forced to return back to work. I can tell you that the Sherman Anti-Trust Act one time had looked at any type of monopoly including a loose monopoly in organized labor and if you withheld or held back on commerce, labor was considered commerce at the time, so you could be jailed for not working; later on, there was an amendment to the Sherman Anti-Trust Act that removed labor from that so you that you couldn't use that as a means of forcing people to go to work.

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SENATOR COGHILL asked if there was any organized labor within the state's militia force and would they then be in a cross-tension within the militia itself.

REPRESENTATIVE TUCK replied that he did not know. He noted that military and agricultural workers are exempt from the National Labor Relations Act.

MR. DUFFY explained as follows:

There are no organized labor elements within the uniformed portions of the organized militia. The non-uniform, normal state employees, certainly there are bargaining units that govern them and if by chance a member were to refuse his or her assigned duties or refused to report, refused to preform, those are matters the chain of command would take up in accordance with the Alaska Code of Military Justice.

SENATOR COGHILL responded as follows:

That's what I was looking for, I didn't know what that tension within the organization would be. I appreciate the fact that we don't want to use the military to intercede lawful civic activities.

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CHAIR MEYER remarked that the section dealing with the organized militia appears to have been amended in Military and Veterans' Affairs.

REPRESENTATIVE TUCK answered yes and noted that sections were moved in the committee while making sure organized labor activities were still included.

MS. KLOSTER concurred and specified that organized labor was moved from one section to another and amended in the Military and Veterans' Affairs Committee to clean up the language.

SENATOR EGAN noted that he served in the National Guard while serving as a union worker and state employee in civilian life.

REPRESENTATIVE TUCK pointed out that Senator Egan served in the capacity of a collected bargaining agreement as a union worker in civilian life and then was called into active duty. He noted that Mr. Duffy said serving in any type of organized militia with a bargaining agreement is not allowed.

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CHAIR MEYER announced that public testimony would be left open. He referenced a letter submitted by Mr. Wood regarding his concern that too much authority was being delegated to the adjutant general.

REPRESENTATIVE TUCK answered as follows:

There was a section that we had in the bill, it was allowing the adjutant general to act on behalf of the governor when the governor was incapacitated in any way, within up to 72 hours; for example, we almost had that situation with the recent earthquake at Kodiak and tsunami warnings where the governor was about to board an airplane, if he wasn't able to be reached we were giving permission for the adjutant general to act on behalf of the governor because we may not have time to actually reach the governor and if the lieutenant governor is not available, there's a little bit of delay of saying that the governor is incapacitated and then swearing in the lieutenant governor; a lot of people had problems with that section, so we went ahead and removed that.

SENATOR EGAN recalled when the adjutant general was lost in a plane crash when responding to the 1964 earthquake.

REPRESENTATIVE TUCK replied that Senator Egan's example was the reason why the previously noted provision was initially in the bill but later removed.

MR. DUFFY addressed Mr. Woods' letter and commented as follows:

I would just offer one thought to the committee members, the changes that are proposed in this legislation, although they enhance the ability of the adjutant general to perform command and control activities, at no point is the authority of the governor compromised, it remains supreme the entire time.

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CHAIR MEYER held HB 152 in committee.

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There being no further business to come before the committee, Chair Meyer adjourned the Senate State Affairs Committee at 4:50 p.m.