

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 15, 2019

1:33 p.m.

MEMBERS PRESENT

Senator Shelley Hughes, Chair
Senator Mike Shower
Senator Peter Micciche
Senator Jesse Kiehl

MEMBERS ABSENT

Senator Lora Reinbold, Vice Chair

COMMITTEE CALENDAR

SENATE BILL NO. 55

"An Act relating to judges of the court of appeals; and providing for an effective date."

- MOVED CSSB 55(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 55

SHORT TITLE: TEMP. APPOINTMENTS TO COURT OF APPEALS

SPONSOR(S): SENATOR(S) WILSON

02/13/19	(S)	READ THE FIRST TIME - REFERRALS
02/13/19	(S)	JUD
03/11/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/11/19	(S)	Heard & Held
03/11/19	(S)	MINUTE(JUD)
03/15/19	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

BUDDY WHITT, Staff
Senator Shelley Hughes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided the changes in the proposed committee substitute for SB 55, Version M on behalf of the committee.

NANCY MEADE, General Counsel
Administrative Offices
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 55.

ACTION NARRATIVE

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CHAIR SHELLEY HUGHES called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Kiehl, Shower, and Chair Hughes. Senator Micciche arrived as the meeting was in progress.

SB 55-TEMP. APPOINTMENTS TO COURT OF APPEALS

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CHAIR HUGHES announced that the only order of business would be SENATE BILL NO. 55, "An Act relating to judges of the court of appeals; and providing for an effective date."

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SENATOR SHOWER moved to adopt the proposed committee substitute to SB 55, work order 31-LS0485\M, Bruce, 3/13/19, referred to as Version M, as the working document of the committee.

CHAIR HUGHES objected for the purpose of discussion.

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BUDDY WHITT, Staff, Senator Shelley Hughes, Alaska State Legislature, reviewed the changes in the proposed committee substitute to SB 55, Version M. He said that the proposed committee substitute would change the appointment of an acting court of appeals judge from three years to two years. This would differentiate the temporary appointment of a court of appeals judge from the three permanent court of appeals judges, he said.

He reviewed the sectional analysis, which read as follows:

Section 3: Amends AS 22.07.070(c) to make the term of service for the acting court of appeals two years instead of three.

Section 6: Changes the effective date of the repeal of AS 22.07.070(c) to July 1, 2021 to coincide with the change to a two-year term.

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CHAIR HUGHES said that she considered having an acting court of appeals judge be subject to the same process as a judicial appointee to the court of appeals. However, that process can take from eight months to a year. Therefore, she concluded that it was best to shorten the term. [The three judges on the court of appeals are chosen by the governor from a list of candidates recommended by the Alaska Judicial Council.]

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NANCY MEADE, General Counsel, Administrative Offices, Alaska Court System, said the court system welcomes the relief that this bill will give to the court of appeals.

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SENATOR SHOWER recalled that at a previous hearing, the committee had asked whether the court was interested in making the acting judge a permanent position rather than a temporary court of appeals appointment. He asked whether Ms. Meade had discussed this with the court

MS. MEADE answered that it is the court's preference to make this position a temporary position as reflected in the bill. The court does not feel the need for a fourth permanent judge. She explained that appellate courts operate most effectively with an odd number of judges. The court does not think it needs five members, but that the fourth acting judge will help the court process its backlog of cases. At that point, the court would like to revert to three permanent court of appeals judges. She related that the court has two new judges. One judge was sworn in yesterday, one has served since 2017, and the third judge has served on the court of appeals since 2012. She said the judges believe they have developed a strategy to further streamline the process once they have caught up.

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CHAIR HUGHES removed her objection.

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SENATOR KIEHL remarked that he has no objection to moving the bill from committee. He agreed that it is important to have the Alaska Judicial Council (AJC) involved. He said that he worked

with Ms. Meade on this issue. However, they were not able to find a solution prior to this meeting. He agreed that the court of appeals needs temporary relief to help it "get the pig through the python" so it can get back to its regular business.

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SENATOR MICCICHE joined the meeting.

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SENATOR KIEHL said that the court of appeals is a court of record that sets precedents. It is critical as SB 55 moves forward to find a way to ensure that only the most qualified judges serve on the court of appeals. He said the Alaska Judicial Council (AJC) is the constitutional way to do so.

He emphasized that he would rather have a governor with whom he has political and philosophical differences make an extra appointment than to skip that step. He said that he will continue to look for a way to [involve the AJC] in the process. However, he reiterated that he would like to give the court system the relief it needs to process its backlog of cases. In closing, he reiterated that he will not object the bill moving from committee, but he will continue to try to add a depoliticizing, screening step to the process.

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CHAIR HUGHES said that she shares the very same concerns. She explained that she vetted options, which is one reason the term for the acting judge has been reduced from three to two years. In response to Senator Micciche, she explained that the committee adopted Version M of SB 55. She explained that Version M would reduce the judicial appointment from three years to two years for the acting judge to serve on the court of appeals.

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SENATOR MICCICHE moved to report the proposed committee substitute For SB 55, work order, 31-LS0485\M, Bruce, 3/13/19, referred to as Version M, from committee with individual recommendations and accompanying fiscal note.

There being no objections, the CSSB 55(JUD), was reported from the Senate Judiciary Standing Committee.

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CHAIR HUGHES reviewed upcoming committee announcements. She anticipated that the committee would consider a number of amendments to SB 35 and develop a committee substitute. She said, "We want to get it right." As the policy committee, the

committee wants to do a thorough job before it moves the bill to the next committee of referral, which is the [Senate] Finance [Standing] Committee."

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SENATOR MICCICHE thanked Chair Hughes for taking the time to work on SB 35. He acknowledged that drafting bills is difficult, and these issues are very important ones. He said he appreciated her diligence to be certain "we get it right" before the committee moves the bill. He said he was happy to support Chair Hughes in that process.

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CHAIR HUGHES remarked that some criminal statutes were addressed in months of committee hearings in the last few years. However, the statutes pertaining to sexual crimes have not been addressed. In some ways this process is reform work and it is quite complicated. She said she thought it was the right thing to slow the process down. She expressed appreciation for the committee members' support.

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There being no further business to come before the committee, Chair Hughes adjourned the Senate Judiciary Standing Committee meeting at 1:42 p.m.