

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

March 17, 2021

1:33 p.m.

MEMBERS PRESENT

Senator Lora Reinbold, Chair
Senator Mike Shower, Vice Chair
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING(S) :

Commission on Judicial Conduct
Jane Mores - Juneau
Robert Sheldon - Anchorage
Karla Taylor-Welch - Fairbanks

- CONFIRMATIONS ADVANCED

Alaska Police Standards Council
Daniel Weatherly - Anchor Point

- CONFIRMATION ADVANCED

SENATE BILL NO. 90

"An Act relating to wills and the probate of wills; relating to the making, witnessing, self-proving, revocation, and probate of wills by electronic means; relating to the choice of law for execution of wills; relating to the certification of copies of wills; relating to the establishment of the validity of a will before death; and providing for an effective date."

- HEARD AND HELD

SENATE BILL NO. 15

"An Act relating to the Open Meetings Act; and establishing a civil penalty for violations of the open meeting requirements by members of governmental bodies."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 90

SHORT TITLE: ELECTRONIC WILLS

SPONSOR(s): SENATOR(s) MYERS

02/22/21	(S)	READ THE FIRST TIME - REFERRALS
02/22/21	(S)	JUD, L&C
03/03/21	(S)	JUD AT 1:30 PM BUTROVICH 205
03/03/21	(S)	Heard & Held
03/03/21	(S)	MINUTE(JUD)
03/15/21	(S)	JUD AT 1:30 PM BUTROVICH 205
03/15/21	(S)	Heard & Held
03/15/21	(S)	MINUTE(JUD)
03/17/21	(S)	JUD AT 1:30 PM BUTROVICH 205

BILL: SB 15

SHORT TITLE: OPEN MEETINGS ACT; PENALTY

SPONSOR(s): SENATOR(s) COSTELLO

01/22/21	(S)	PREFILE RELEASED 1/8/21
01/22/21	(S)	READ THE FIRST TIME - REFERRALS
01/22/21	(S)	CRA, JUD
02/25/21	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
02/25/21	(S)	Heard & Held
02/25/21	(S)	MINUTE(CRA)
03/04/21	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
03/04/21	(S)	Heard & Held
03/04/21	(S)	MINUTE(CRA)
03/09/21	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
03/09/21	(S)	Moved CSSB 15(CRA) Out of Committee
03/09/21	(S)	MINUTE(CRA)
03/10/21	(S)	CRA RPT CS 1DP 1DNP 2NR NEW TITLE
03/10/21	(S)	DP: HUGHES
03/10/21	(S)	DNP: GRAY-JACKSON
03/10/21	(S)	NR: MYERS, WILSON
03/17/21	(S)	JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

JANE MORES, Appointee

Commission on Judicial Conduct
Alaska Court System
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Commission on Judicial Conduct (CJC).

ROBERT SHELDON, Appointee
Commission on Judicial Conduct
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Commission on Judicial Conduct.

DANIEL WEATHERLY, Appointee
Alaska Police Standards Council
Department of Public Safety (DPS)
Anchor Point, Alaska

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

KARLA TAYLOR-WELCH, Appointee
Commission on Judicial Conduct
Alaska Court System
Fairbanks, Alaska

POSITION STATEMENT: Testified as appointee to the Commission on Judicial Conduct.

SUSAN POLLARD, Chief Assistant Attorney General
Statewide Section Supervisor
Legislation and Regulations Section
Department of Law
Juneau, Alaska

POSITION STATEMENT: Testified on the fiscal note for SB 90.

LINDA HULBERT, Agent
New York Life
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 90.

ABIGAIL O'CONNOR, Attorney
O'Connor Law Office, LLC
Homer, Alaska

POSITION STATEMENT: Testified in support of SB 90.

MELODIE WILTERDINK, Staff
Senator Mia Costello
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Briefly presented SB 15 on behalf of the sponsor.

ACTION NARRATIVE

[1:33:26 PM](#)

CHAIR LORA REINBOLD called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Kiehl, Myers, Shower, Hughes, and Chair Reinbold.

CONFIRMATION HEARINGS
Commission on Judicial Conduct
Alaska Police Standards Council

[1:35:33 PM](#)

CHAIR REINBOLD announced the consideration of Governor Appointees to Boards and Commissions.

[1:36:41 PM](#)

JANE MORES, Appointee, Commission on Judicial Conduct, Alaska Court System, Juneau, Alaska, stated she was reappointed to serve in an attorney position for the Commission on Judicial Conduct (CJC). She has practiced law in Alaska for 30 years in Anchorage, Haines and since 2007 in Juneau. She retired from the City and Borough of Juneau law department in 2019 and opened a private law practice. This commission is tasked with oversight of judicial conduct. Judges must conduct themselves in a highly ethical manner in and out of the courtroom, which provides accountability. It has been an honor to serve on the Commission on Judicial Conduct (CJC). She said she is seeking reappointment to the CJC.

[1:38:08 PM](#)

SENATOR HUGHES disclosed that Ms. Mores is her sister.

CHAIR REINBOLD asked if she had a conflict to declare.

SENATOR HUGHES responded that she has no conflict to declare but merely wanted the record to reflect Ms. Mores is her sister.

[1:38:46 PM](#)

SENATOR KIEHL agreed there was no conflict. He remarked that he had the privilege of working with Ms. Mores at the City and Borough of Juneau.

SENATOR HUGHES, in response to Chair Reinbold, replied that she was unaware of Ms. Mores' appointment or reappointment to the commission.

[1:39:51 PM](#)

SENATOR SHOWER asked whether the appointee has any conflicts, arrests, or convictions to disclose, has submitted a background check to the administration, has been involved in any political campaigns that could create an ethical or Alaska Public Offices Commission (APOC) conflict and if the appointee has reviewed the state ethics policy.

MS. MORES answered that she was unaware of any conflicts and has not undergone any background check but would be willing to do so. She said she had not made any contributions that would create a conflict, but she has made small contributions to Senator Hughes' campaign. She said she was very familiar with the ethics policy. She stated that she must adhere to high ethical standards as an attorney.

SENATOR SHOWER remarked that contributions to her sister's campaign would not be an issue.

[1:43:09 PM](#)

CHAIR REINBOLD asked if she has been politically active in any political party.

MS. MORES answered that she had maintained a non-political position. She said as a private attorney, unless working in the political arena, it is not prudent to be too political. She stated she has not been politically active in any political party and she is not registered with any political party.

[1:44:05 PM](#)

CHAIR REINBOLD described the circumstances when the Alaska Supreme Court struck down a parental rights bill passed by the legislature. She said she helped draft the bill with Senator Hughes that would have restricted abortion funding in the state. She asked if she considered the Alaska Supreme Court's action was "legislating from the bench" and, if so, what repercussions should be taken.

MS. MORES responded that judicial decisions are not within the CDC's jurisdiction. Judges can make decisions that can be appealed if they are believed to be legally wrong. She said she was not familiar with the specifics of the Alaska Supreme Court

decision so she was reticent to speak to it. She indicated she would review any complaint filed against a judge since that review falls within the commission's role and function. She said she would hold herself to the statutory and constitutional duties of the commission.

[1:46:09 PM](#)

CHAIR REINBOLD asked if it was appropriate for judges to legislate policy or strike down policy that was passed by the legislature since the legislature is the policy branch of government.

MS. MORES responded that the Commission on Judicial Conduct (CJC) does not look at the propriety of judicial decisions; that is not what the commission does. Instead, the CJC is charged with reviewing the conduct and ethical behavior of judges. Further, it is difficult to make generalities because sometimes the law can be "gray" so judges try to interpret what was intended by the law. If the legislature does not agree with their ruling, it is within the legislature's prerogative to change the law. She said she would like to be able to answer the question, but she did not believe it was appropriate to do so.

[1:47:22 PM](#)

CHAIR REINBOLD asked for clarification on the purpose of the Commission on Judicial Council.

MS. MORES answered that the powers and duties of the Commission on Judicial Council are set out in Alaska Statutes (AS) Title 22. She indicated that the commission could consider a judge's conduct, initiated by a written complaint, such that a judge has been convicted of a crime punishable as a felony under state or federal law; that the judge was convicted of a crime that involves moral turpitude under state or federal law; or that a judge suffers from a disability that seriously interferes with the performance of judicial duties. The CJC can also consider other matters, whether a judge commits acts that constitute wilful misconduct in office, wilful and persistent failure to perform judicial duties, conduct that brings the judicial office into disrepute, conduct in violation of the code of judicial conduct, or that a judge is habitually intemperate.

MS. MORES remarked that people often disagree with a judge's decision. Keep in mind that 50 percent of the parties in a case will not like the judge's decision. The commission does not review disagreements on decisions. The parties must demonstrate that the judge showed extreme bias or improper decorum in the

courtroom. Judges are required to submit affidavits that their decisions were timely and that they do not have any outstanding late decisions. Those serving on boards and commissions must only consider matters within the lines of jurisdiction, she said.

[1:49:36 PM](#)

CHAIR REINBOLD said it seemed that Ms. Mores was evading her questions. She said she cannot let the appointee plead ignorance. She surmised Ms. Mores understood that people have the right to life, liberty and the pursuit of happiness, and a ballot initiative was put forth on parental rights that was struck down. That initiative would have limited and restricted public funds for abortion. She said the bill passed the legislature and was struck down. She asked whether that action could be considered "legislating from the bench" since it impacts a policy that the legislature has passed.

[1:50:33 PM](#)

SENATOR KIEHL objected. He said that this question goes to the applicant's personal views outside of the Commission on Judicial Conduct arena.

[1:50:51 PM](#)

At ease

[1:51:09 PM](#)

CHAIR REINBOLD reconvened the meeting.

MS. MORES acknowledged that she heard Senator Kiehl's objection. She agreed that her personal opinion does not matter. She said she has not discussed the parental rights case with Senator Hughes. She said, "With all due respect, Chair Reinbold, I am not comfortable answering that question." She maintained that she has not reviewed the decision, that she was even unsure of her view but if she had a view, it would be a personal decision and not have any bearing on her work on this commission.

[1:51:56 PM](#)

CHAIR REINBOLD asked whether she believes that a judge should be impacting policy that the legislative branch passed.

[1:52:15 PM](#)

SENATOR HUGHES related a hypothetical situation. She highlighted that there are cases where it is appropriate for the courts to make a ruling when the legislature errs. If the legislature passed a bill banning guns and the court ruled that legislation

was unconstitutional, it would be appropriate for the court to do so. She stated that she disagreed with the Alaska Supreme Court's ruling on parental rights. However, she said she did not recall ever discussing this ruling with Ms. Mores.

[1:53:13 PM](#)

CHAIR REINBOLD persisted in questioning whether judges should set policy from the bench.

MS. MORES said that she would not answer the question with all due respect.

CHAIR REINBOLD remarked that some Alaskans get upset when the legislature passes laws that the courts overturn. She offered her belief that this constitutes a separation of powers issue. She said that anyone who serves on the Commission on Judicial Conduct must understand the separation of powers. She emphasized the importance of understanding her perspective since she will be serving on the Commission on Judicial Conduct. She commented that she could not just waive her appointment through.

[1:54:30 PM](#)

MS. MORES offered her belief that ethics is not political. A person's politics do not matter when it comes to the issue of ethics. The commission does not consider the political views of judges, but the commission does consider judicial conduct and behavior. The commission does not review judges' legal decisions because that falls outside its jurisdiction.

[1:55:19 PM](#)

CHAIR REINBOLD remarked that it is important that the legislature has the ability to set policy. As elected officials, legislators represent the people in their districts. Since the legislature sets policy, it is difficult for her to accept when the courts strike down laws that the legislators worked so hard to pass.

[1:56:20 PM](#)

ROBERT SHELDON, Appointee, Commission on Judicial Conduct, Alaska Court System, Anchorage, Alaska, stated that he has served on several boards and commissions for five governors. He stated that he had served three terms as a public member for the Commission on Judicial Conduct. The commission investigates judicial misconduct or impropriety. Fortunately, most complaints are not substantiated or are non-jurisdictional. His interest in finance extends to his service on the commission. The rule of law is critical to the orderly function of an economy. He said

that serving on the commission has been an honor. He emphasized having continuity on the commission to retain institutional knowledge. He reminded members that members who serve as attorney representatives often only serve for one term, so the public members provide continuity to the commission.

1:58:23 PM

SENATOR SHOWER asked whether the appointee has any conflicts, arrests, or convictions to disclose, has submitted a background check to the administration, has been involved in any political campaigns that could create an ethical or Alaska Public Offices Commission (APOC) conflict and if the appointee has reviewed the state ethics policy.

MR. SHELDON answered that he has signed the materials for the commission that asked questions about conflicts, but he had no conflicts to disclose. He said he does not make any political contributions and has reviewed the ethics policy.

2:00:07 PM

SENATOR SHOWER asked him to elaborate on a recent letter he wrote against the Alaska Supreme Court's comments on systemic racism in the courts. This relates to the premise that members of the judicial system can remove themselves from bias and objectively.

2:01:17 PM

MR. SHELDON clarified that Senator Shower was referring to a ten-minute Zoom segment from the Commission on Judicial Conduct's December 2020 meeting and not a letter. He described his comments at that meeting as "a stream of consciousness" to express his disappointment that the Alaska Supreme Court justices joined other states in suggesting systemic racism exists in Alaska's justice system. In summary, the clip captured his comments that Alaska is exceptional, that several of Alaska's largest corporations in the state are owned by minorities. He said his concerns were discussed at [the August and December 2020] meetings and a motion is pending before the commission but has not yet been acted upon. He said was disappointed that the court missed an opportunity to share Alaska's exceptionalism in the court system and provide a framework for others to follow. Alaska has done more for its primary minority population than any place with extensive reparations, including the Alaska Native Claims Settlement Act, two recapitalizations of Native corporations and land grants for Alaska Natives who served in the Vietnam War. Instead, the Alaska Supreme Court [posted its June 2020 letter about the

death of George Floyd] on its website. The letter seemed to echo what other states said. He said he was wondering aloud why the court was focusing on the negative when the nation is encountering such a difficult, stressful time.

[2:03:34 PM](#)

SENATOR SHOWER said it seemed that the court was reacting to the politics of the day. However, he has often heard that the judiciary is above the fray.

[2:05:00 PM](#)

CHAIR REINBOLD asked if the court should set policy or strike down laws from the bench or if the court should interpret cases based on the constitution and uphold the intent of the law.

MR. SHELDON answered that CJC could not handle complaints against magistrates, masters, attorneys, or federal judicial officers. However, CJC can handle the types of issues raised on the Superior Court or Alaska Supreme Court issues. He stated that CJC reviews conduct related to improper courtroom behavior, improper or illegal influence, and impropriety off the bench. He related that there are other improper activities CJC members review, including prohibitions against conducting proceedings or discussions involving one party in a legal dispute interfering with attorney and client relationship, bias, improper campaign activities abusing the prestige of the judicial office, and obstructing justice and actual criminal behavior. If any allegations fell within this, such as improper or illegal influence, the matter should be investigated.

[2:07:21 PM](#)

CHAIR REINBOLD reiterated her work and experience on passing the parental rights bill, which the Alaska Supreme Court struck down. She expressed concern that the Alaska Supreme Court decision did not uphold the constitution. She asked if that action would be considered an abuse of power.

MR. SHELDON offered his view that the decisions made during his time on the commission were good ones. He wrote minority reports that the Alaska Supreme Court agreed with. He said that if someone was concerned that an abuse of power occurred in any matter, a complaint should be filed. If no complaint is filed, the commission could file one. However, he cautioned that the commission is reluctant to file complaints. He suggested she was describing something that appears to be a philosophical difference between an interpretationist and a strict constructionist. He stated that he tends to be a strict

constructionist because the state and federal constitutions should be followed.

2:10:09 PM

CHAIR REINBOLD asked him to describe the complaint process.

MR. SHELDON commended the commission staff's work. Someone who wants to file a complaint could call the Commission on Judicial Conduct's office for assistance or go to CJC's website and locate a complaint form. If someone is reluctant to file a complaint, the office will also take an anonymous complaint. He said CJC will nominally review all complaints and some become jurisdictional complaints. He has encouraged people to file complaints with the executive director. He cautioned members not to approach commissioners with complaints because a potential conflict can arise if the matter comes up for a vote.

2:13:14 PM

CHAIR REINBOLD recapped that the process to file a complaint is to call the commission's office or fill out a complaint form online.

MR. SHELDON answered yes. He identified the Commission on Judicial Council website: <http://www.acjc.alaska.gov>.

2:14:24 PM

SENATOR KIEHL reported that some of his constituents were deeply disappointed when the Alaska Supreme Court ceased to protect the constitution and Alaskans' freedoms under the constitution in a 3-2 decision upholding a parental notification law. While it gave him great heartburn, it did not raise any ethical issues. He recalled Mr. Sheldon said Alaska had paid reparations. He asked what bearing that has to the commission initiating a complaint. He asked what the complaint was and how it was jurisdictional.

MR. SHELDON clarified that he did not mention a commission-initiated complaint. He said the commission can initiate complaints, but it does not. He said his reference to reparations related to the Alaska Native Settlement Claims Act, the two subsequent recapitalizations of Alaska Native Corporations, and the tremendous work the Congressional Delegation in Washington, DC, did to ensure that those with military service were entitled to land selections.

2:16:24 PM

SENATOR KIEHL offered his view that ANCSA was not reparations but is the last act of the termination era of federal Indian policy. He asked for clarification on an issue Mr. Sheldon mentioned relative to the Alaska Supreme Court statement on the state of justice in Alaska.

[2:17:09 PM](#)

SENATOR KIEHL offered to follow up later. He did not specifically recall Senator Shower's question about the letter.

[2:17:13 PM](#)

CHAIR REINBOLD asked if judges should legislate or set policy from the bench or strike down policy or if setting policy is the responsibility of the legislative branch.

MR. SHELDON answered that he believes in the separation of powers as he tends to be a strict constructionist.

[2:17:52 PM](#)

CHAIR REINBOLD brought up the next appointee, Daniel Weatherby, to the Alaska Police Standards Council.

[2:18:38 PM](#)

DANIEL WEATHERLY, Appointee, Alaska Police Standards Council, Department of Public Safety (DPS), Anchor Point, Alaska, stated that he served for 22 years with the Alaska State Troopers and three years at the Homer Police Department before retiring. He earned his Advanced Police Certificate from the Alaska Police Standards Council. He said he is seeking to serve in the urban/rural position on the board. He stated that he was involved in the Village Police Safety Officer Program (VPSO) from 1980 to 1995. He attends the quarterly meetings of the council. He finds that Alaska is ahead of some police agencies because the council and law enforcement have been working to address issues that have plagued police departments in the Lower 48.

[2:21:00 PM](#)

SENATOR KIEHL pointed out that increased training has been recommended for police departments, but he was unsure if regulations have been adopted yet. He asked for any recommendations or innovative ideas to help the smaller police agencies meet the training requirements given their limited budgets. He highlighted the importance of having all officers in Alaska in full compliance with the regulations.

MR. WEATHERLY said the Alaska Police Standards Council (APSC) will discuss training at its quarterly council meeting. It will focus on how to bring all law enforcement to the same standards given the limited financial resources of many departments. Currently, police departments have been conducting a significant amount of their training online, but at some point, police officers must receive hands-on training. He indicated that the council struggles to provide training to police officers in rural Alaska, yet these officers must receive the same training and standards as the troopers. He suggested that the council may offer training in one of the larger villages and bring in officers from surrounding villages rather than fly officers to Anchorage, Fairbanks, or Sitka for training.

[2:23:20 PM](#)

SENATOR SHOWER asked whether the appointee has any conflicts, arrests, or convictions to disclose, has submitted a background check to the administration, has been involved in any political campaigns that could create an ethical or Alaska Public Offices Commission (APOC) conflict and if the appointee has reviewed the state ethics policy.

MR. WEATHERLY answered that he did not have any conflicts and has reviewed the ethics policy.

[2:24:57 PM](#)

CHAIR REINBOLD reviewed some of the highlights on his resume. She thanked him for his community involvement.

[2:26:38 PM](#)

KARLA TAYLOR-WELCH, Appointee, Commission on Judicial Conduct, Alaska Court System, Fairbanks, Alaska, stated that she has served on the commission since 2015. She said she is a third-generation Alaskan lawyer, that her father and grandfather were both territorial lawyers. She said her family has a history of public service in Alaska, including that her grandfather helped to write the constitution and her father sat as a judge. She said she has worked as an attorney since 1984. She has served as a prosecutor at the attorney general's office and for the Office of Public Advocacy. As a trial lawyer, she was in court every day and observed judges and other attorneys firsthand, so she brought that perspective to the commission. She emphasized the importance for litigants to have an avenue to air their grievances when they think that something was not handled appropriately even if the commission is not the proper jurisdiction to address their issue.

[2:29:19 PM](#)

SENATOR SHOWER asked whether the appointee has any conflicts, arrests, or convictions to disclose, has submitted a background check to the administration, has been involved in any political campaigns that could create an ethical or Alaska Public Offices Commission (APOC) conflict and if the appointee has reviewed the state ethics policy.

MS. TAYLOR-WELCH answered that she does not have any conflicts to disclose. She said she was willing to submit to a background check but did not believe she was asked to do so.

[2:32:04 PM](#)

CHAIR REINBOLD asked whether she has any political involvement and if she believes that judges should legislate from the bench. She said thousands of Alaskans are concerned about this.

[2:33:24 PM](#)

MS. TAYLOR-WELCH said she does not have any political involvement and is not a member of any party. She offered her belief that there is a clear separation of powers in the Alaska Constitution. The Code of Judicial Conduct preamble states that our legal system is based on the principle that an independent, fair, and competent judiciary will interpret and apply the laws that govern us. The judiciary is empowered to interpret laws, and if they see that the laws are unconstitutional to so act. If the judiciary acts outside of that power and legislates on matters under AS 22.30.011, their actions should be reviewed. AS 22.30.011 describes the powers and duties of the commission. She said she was not in a position to determine whether the Alaska Supreme Court actions were incorrect. She offered her view that it would be improper for her to do so as a commission member. For example, she would automatically have to disqualify herself if she gave an opinion.

[2:34:53 PM](#)

CHAIR REINBOLD asked if she takes an oath to uphold the constitution and if it is the supreme law of the land.

MS. TAYLOR-WELCH answered yes.

CHAIR REINBOLD asked if the legislature writes laws with clear intent whether the courts should strike down these laws and legislate from the bench.

MS. TAYLOR-WELCH responded that when the court interprets the law as not following the constitution, the court has a duty and

right to strike it down. She acknowledged that an age-old conflict and struggle exists related to the checks and balances on the three branches of government. She acknowledged it is clear that Chair Reinbold is very upset about this. However, this is not the first or the last time that there will be a struggle between the legislature and the judicial branch. She maintained that the constitution is the supreme law of the land. However, the constitution is subject to interpretation. She said she is not able to weigh in on any specific judicial action or case since she serves on the commission.

[2:36:27 PM](#)

CHAIR REINBOLD maintained her concern that some Alaskans are upset when ballot initiatives are struck down by the courts, which they believe judicial activism occurs. She asked if the legislative branch is the policy-setting branch.

MS. TAYLOR-WELCH answered yes, the legislature sets policy, but it is subject to review.

[2:37:38 PM](#)

CHAIR REINBOLD opened public testimony and, after first determining no one wished to testify, closed public testimony on the confirmation hearing.

[2:38:20 PM](#)

SENATOR SHOWER stated that in accordance with AS 39.05.080, the Senate Judiciary Committee reviewed the following and recommends the appointments be forwarded to a joint session for consideration:

Commission on Judicial Conduct

Jane Mores - Juneau
Robert Sheldon - Anchorage
Karla Taylor-Welch - Fairbanks

Alaska Police Standards Council

Daniel Weatherly - Anchor Point

Signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees; the nominations are merely forwarded to the full legislature for confirmation or rejection.

[2:39:18 PM](#)

At ease

SB 90-ELECTRONIC WILLS

[2:41:44 PM](#)

CHAIR REINBOLD reconvened the meeting and announced the consideration of SENATE BILL NO. 90, "An Act relating to wills and the probate of wills; relating to the making, witnessing, self-proving, revocation, and probate of wills by electronic means; relating to the choice of law for execution of wills; relating to the certification of copies of wills; relating to the establishment of the validity of a will before death; and providing for an effective date."

[2:41:58 PM](#)

At ease followed by another at ease

[2:43:11 PM](#)

CHAIR REINBOLD reconvened the meeting and solicited a motion.

[2:43:17 PM](#)

SENATOR SHOWER moved to adopt the proposed committee substitute (CS) for SB 90, [work order 32-LS0501\I], Version I, as the working document.

[2:43:29 PM](#)

CHAIR REINBOLD objected for discussion purposes.

[2:43:39 PM](#)

SENATOR MYERS asked if the committee must first adopt the committee substitute.

CHAIR REINBOLD clarified that her reason for objecting was to hear the changes in Version I.

[2:44:30 PM](#)

SENATOR MYERS explained that the committee substitute (CS) for SB 90, Version I, incorporated Amendments 1, 2, and 5, which were previously adopted. This bill makes changes to revocatory acts, addresses an electronic form of holographic wills, and removes the ability to store an electronic will with the court since the court system cannot do so.

[2:45:49 PM](#)

CHAIR REINBOLD removed her objection and Version I was before the committee as the working document.

[2:46:00 PM](#)

SENATOR MYERS moved to adopt Amendment 1, [work order 32-LS0501\I.1]:

AMENDMENT [1]

OFFERED IN THE SENATE

BY SENATOR MYERS

TO: CSSB 90(JUD), Draft Version "I"

Page 3, line 5, following "form":

Insert "but not electronically generated"

Page 6, line 13, following "will":

Insert ", including a reproduction of a holographic will,"

Page 7, line 9, following "form":

Insert "but not electronically generated"

CHAIR REINBOLD objected for discussion purposes.

[2:46:29 PM](#)

SENATOR MYERS explained that Amendment [1] would address holographic wills. He stated that the committee previously worked on an amendment to the bill, but the general consensus was that it did not fully address the issues. He worked with Senator Kiehl on language to allow handwriting in electronic form but restrict it from being electronically generated. In practice, this will enable people to write their wills on paper and photograph them with their phones or scan them into computer documents. However, it does not allow people to type their wills on computer tablets. He indicated that concern was raised about someone using artificial intelligence (AI) to mimic a person's handwriting, making it difficult to authenticate who had written the will.

[2:48:12 PM](#)

SENATOR KIEHL agreed that holographic wills are tricky. He said that Amendment 1 gives him much comfort. He acknowledged it is possible to envision scenarios where bad actors can commit fraud, so the language in Amendment [1] was crafted to minimize the risks.

[2:49:02 PM](#)

CHAIR REINBOLD thanked them for developing language to better address holographic wills.

[2:49:17 PM](#)

CHAIR REINBOLD removed her objection. There being no further objections, Amendment [1] was adopted.

SENATOR MYERS stated that the Department of Law submitted a zero fiscal note. The department indicated that this bill affects what is done in private practice. The department does not anticipate that this will affect any state operations.

SENATOR MYERS said that this bill is technical but straightforward. The bill would allow people to validate their wills by using Zoom or some other platform that still can authenticate them. He said this provides another option for people to use during a pandemic or in remote situations.

[2:51:37 PM](#)

SUSAN POLLARD, Chief Assistant Attorney General, Statewide Section Supervisor, Legislation and Regulations Section, Department of Law, Juneau, Alaska, said that the department is comfortable with the fiscal note. Senator Myers gave a correct explanation of the fiscal note, she said.

[2:52:23 PM](#)

At ease

[2:52:32 PM](#)

CHAIR REINBOLD reconvened the meeting and opened public testimony on SB 90.

[2:52:55 PM](#)

LINDA HULBERT, Agent, New York Life, Fairbanks, Alaska, spoke in support of SB 90. She stated that she has worked in the insurance and financial planning industry for over 30 years. She has offices in Fairbanks and Anchorage but works with people throughout Alaska. She said that the industry has evolved from paper applications to electron processes due to consumer expectations. She highlighted that she works with clients on Zoom and can issue and deliver their insurance policies very quickly. She encourages her clients to engage in will and estate planning. However, it can be difficult for people to do so if they lack electronic access. She offered her view that this bill is necessary and well drafted. She highlighted that her clients are increasingly focused on proactive estate planning due to the pandemic.

[2:55:42 PM](#)

ABIGAIL O'CONNOR, Attorney, O'Connor Law Office, LLC, Anchorage, Alaska, spoke in support of SB 90. She said she is one of the attorneys that initially helped draft this bill. She related that she has attended numerous national meetings where electronic wills were discussed. She said she has followed the Uniform Electronic Wills Act so she is comfortable with electronic wills. When electronic wills were first introduced at a conference in Orlando, Florida, she recognized that electronic wills were trending since commercial entities have developed the technology to make electronic wills possible. She indicated that her firm wanted to take the initiative and work with the legislature to design statutes to make this technology available to Alaskans. This bill responds to the growing expectation to accomplish estate planning efficiently without the need to physically walk into an attorney's office, which SB 90 will achieve.

MS. O'CONNOR expressed her appreciation for the time spent on the amendment to address the holographic wills. She said she was not 100 percent sure that the electronic form but not electronically-generated language is what her firm had in mind. Instead, her office wanted people to be able to create holographic wills on their computer tablets. However, she said she respected and understood the concerns and conceded. She raised a point about Amendment [1 to Version I]. She said she thought she may have responded to questions about the "deleting" language. At the time, she thought it was from the Uniform Electronic Wills Act, which provides the primary basis for most of our language. However, she said she went back and reviewed the uniform act and it does not have the word "deleting" in it. She opined that this should not be an issue. Further, Amendment [1 to Version I] uses a clear and convincing evidence standard for issues related to electronic wills. However, the Uniform Electronic Wills Act uses a preponderance of the evidence standard, she said. She stated that she did not object to Amendment [1 to Version I] as written. She expressed her appreciation that the committee embraced the concept of electronic wills and remote witnessing, which is just as important as electronic wills.

[2:59:35 PM](#)

CHAIR REINBOLD closed public testimony on SB 90.

[2:59:42 PM](#)

CHAIR REINBOLD solicited a motion.

[2:59:47 PM](#)

SENATOR SHOWER moved to report SB 90, work order 32-LS0501\I as amended, from committee with individual recommendations and attached fiscal notes.

CHAIR REINBOLD found no objection and CSSB 90(JUD) was reported from the Senate Judiciary Standing Committee.

[3:00:48 PM](#)

At ease

SB 15-OPEN MEETINGS ACT; PENALTY

[3:01:30 PM](#)

CHAIR REINBOLD reconvened the meeting and announced the consideration of SENATE BILL NO. 15, "An Act relating to the Open Meetings Act; and establishing a civil penalty for violations of the open meeting requirements by members of governmental bodies."

[CSSB 15(CRA) was before the committee.]

[3:01:43 PM](#)

MELODIE WILTERDINK, Staff, Senator Mia Costello, Alaska State Legislature, Juneau, Alaska, said the committee substitute (CS) SB 15(CRA) would impose a civil penalty of \$1,000 on elected officials who violate the Open Meetings Act.

[SB 15 was held in committee.]

[3:03:58 PM](#)

There being no further business to come before the committee, Chair Reinbold adjourned the Senate Judiciary Standing Committee meeting at 3:03 p.m.