

HJR

36

HOUSE RULES
STANDING COMMITTEE
May 3, 1983
8:30 a.m.

Members Present: Rep. Fuller, Chairman
Rep. Phillips, Vice-Chair
Rep. Hayes
Rep. Barnes
Rep. Tischer
Rep. M.M. Miller
Rep. M.W. Miller
Rep. Koponen
Rep. Larson

COMMITTEE CALENDAR

HB 209: "An Act placing emergency guards employed by the Department of Public Safety in exempt service."
HJR 36: Relating to the confirmation of justices and judges by the legislature.
HB 180: "An Act relating to eligibility for veterans' interest rates on loans made under the special mortgage loan purchase program (AS 18.56.098) by the Alaska Housing Finance Corporation."

WITNESS REGISTER

Rep. Bussell
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-4990/4991
Position Statement: Sponsor of HB 209; in favor of proposed amendment CS for HB 209 (Rls).

Cherie Shelley
Executive Director
Alaska Public Employees Association
340 N. Franklin St.
Juneau, Alaska 99801
586-2334
Position Statement: Against amendment placing Correctional Superintendents into exempt service.

Frank Rye
Director
Division of Personnel

Pouch C
Department of Administration
Juneau, Alaska 99811
465-4430
Position Statement: Against amendment placing Correctional
Superintendents into exempt service.

William H. Houston
Superintendent
Juneau Correctional Center
P.O. Box 309
Juneau, Alaska 99802
586-2871
Position Statement: Against amendment placing Correctional
Superintendents into exempt service.

Mary Halloran
Director
Division of Administration and Management
Pouch M
Juneau, Alaska 99811
465-2400
Position Statement: Proposed amendment to HB 209 placing youths
employed by Department of Natural Resources
in the youth employment - student intern
program in the exempt service.

Rep. Ward
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-4939/4985
Position Statement: Sponsor of HJR 36.

Rep. Liska
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-3732/3733
Position Statement: Sponsor of HB 180.

Michael Gay
Professional Assistant
Rep. Liska
Pouch V
Juneau, Alaska 99811
465-3732
Position Statement: Researched HB 180.

PREVIOUS ACTION

HB 209: 2/17/83 - First Reading.

Committee referrals - State Affairs, Finance and Rules Committees.

3/11/83 - Page 452 of House Journal:

State Affairs Committee Report; recommends it be replaced with CSHB 209 (SA); (placing emergency guards employed by the Department of Public Safety in the partially exempt service; eff. date) and reports it back as follows: Abood, Furnace, Larson, Cowdery and Shultz recommend do pass; Vaska and M.M. Miller have no recommendation.

A zero fiscal note was attached.

HB 209 was referred to the Finance Committee.

3/25/83 - Page 625 of House Journal:

Finance Committee Report; recommends it be replaced with CSHB 209 (Fin); (placing guards employed by the Department of Public Safety for emergencies in the partially exempt service; eff. date) and reports it back as follows: Adams, Pestinger, Flood, Lindauer, Ward, Duncan, Zharoff and Bettisworth recommends do pass.

A zero fiscal note was attached.

HB 209 was referred to the Rules Committee.

No previous action in Rules Committee.

HJR 36:

3/11/83/ - First Reading.

Committee Referrals - Judiciary and Rules Committees.

3/31/83 - Page 693 of House Journal:

Judiciary Committee Report; reports it back as follows: Bussell, Liska, Hayes and Barnes recommend do pass. Malone and Clocksin recommend do not pass. Wendte had no recommendation.

A zero fiscal note was attached.

HJR 36 was referred to the Rules Committee.

No previous action in Rules Committee.

HB 180:

2/9/83 - First Reading.

Committee Referrals - Loans, Finance and Rules Committee.

2/23/83 - Page 322 of House Journal.

Special Committee on State Loans Committee Report; recommends it do pass. Concurring; Uehling, Wendte, Koponen and Furnace.

A zero fiscal note was attached.

HB 180 was referred to the Finance Committee.

4/12/83 - Page 821 of House Journal.

Finance Committee Report; reports it back as follows; Adams, Pestinger, Flood, Ward, Hurlbert, Grussendorf, Martin and Bettisworth recommend do pass; Zharoff and Duncan have no recommendation.

HB 180 was referred to the Rules Committee.

No previous action in Rules Committee.

ACTION NARRATIVE

TAPE#1
Recording
Number 0002

Chairman Fuller called the meeting to order at 8:30 a.m. in the Butrovich and indicted the members present. Not present at the beginning of the meeting were Representatives Tischer, M.M. Miller and M.W. Miller, however, they arrived after the meeting started. Chairman Fuller announced the agenda for the meeting; HB 209, HJR 36 and HB 180. Rep. Bussell was called to testify on the first bill to be heard; HB 209.

Number 0041

Rep. Bussell explained his proposed amendment to CSHB 209. The "Executive Head" of Corrections is ultimately responsible for all actions, or inactions, taken by his Correctional Superintendents who are responsible for direct management of correctional institutions. The intent of this amendment is not to infer the impression that the Superintendents who

presently manage correctional institutions are not doing a good job. It is felt, however, if these positions are placed in the partially exempt service that timely implementation of new policies and directions will be assured. He felt that by placing Correctional Superintendents in the partially exempt service will enhance the coordination within Corrections and will contribute to an orderly and systematic implementation of new policies and directives leading to a comprehensive development of corrections within the state.

Rep. Phillips; does the Department of Health & Social Services support this amendment?

Rep. Bussell; I'm not sure, however, it is supported by Roger Endell, Director, Division of Adult Corrections. I can assure they are in complete compliance.

Chairman Fuller asked for any more witnesses.

Frank Raye, Director of the Division of Personnel, stated he had a quarrel with goals in terms of the desired end are having good employees. We are talking about Range 19 and 21 employees. You are removing a career ladder and allowing public employees to replace career employees. We need professionally trained qualified people. I talked with Mr. Endell about this, in regards to establishing minimum qualifications. Partially exempt removes requirements of professional qualifications.

Number 0241

Cherie Shelley, Executive Director of Alaska Public Employees Association, identified herself for the record. APEA is opposed to any amendments of HB 209 which would remove Correctional Superintendents, Department of Public Safety, from the Classified Service and place them in exempt service. She raised the following concerns regarding the proposed amendments:

Classified Service Employees are covered by Personnel Rules.

Correctional Superintendents currently are required to have specific employment requisites, this amendment would take away

employment requisites in a career field that is hazardous and working conditions that are stressful.

Exempt service employees are not covered by the Personnel Rules.

Appointees to exempt positions are not required to meet any standards of employment with regard to experience or education.

Ms. Shelley raised concerns about the positions becoming part of the political spoils system, they could then be hired or fired at will. If terminated they would not have recourse to due process which includes an objective review of the action. The career ladder would no longer reach from the level of corrections personnel to Correctional Superintendent. There would no longer be the opportunity for fair and equitable promotion for motivated and qualified staff personnel. In studying the State Personnel Act, the Blue Ribbon Commission has reviewed the issue of exempt, partially exempt and classified service. It has expressed concern regarding agencies whose employees might be more appropriately placed in the Classified Service and subject to the merit principle of employment. The Commission has urged that employees be moved to the Classified Service whenever possible.

The action contemplated by the Legislature is counter to the recommendations of the Commission. If there were problems within an institution the first person to go would be the Superintendent. This makes the opportunity to get qualified people hard.

Rep. Tischer; why are we calling this a political selection or appointment?

Ms. Shelley; because these positions now have to meet minimum qualifications to be hired. If an exempt service, no qualifications are needed to be hired. By making these positions exempt you are putting them in a political arena with Directors and Commissioners.

Rep. Tischer; I don't understand why a person would be fired unless they did not do their job.

Cherie Shelley; the superintendent is open for firing when he isn't the source of the problem at all. Mr. Houston can answer better, he is the Superintendent of Juneau Correctional Center.

Mr. Houston identifies himself for the record and stated that he had been involved in corrections for the past 23 years; as a Superintendent for 18 years and as Director of Corrections for 3. When I heard about this partially exempt service I became extremely concerned. These jobs are very demanding and require much experience.

Partially exempt service allows administration to place people in this position without experience. This could be detrimental to the public. He expressed concerns over the problems in overcrowding, etc., and when you look at the problems existing and the decisions made by these position are not always popular, they would always have being terminated hanging over their heads.

Number 0416

Rep. Tischer; I frankly don't see that it makes any difference at all if you are superintendent and you make an error and you and the boss can't work it out. Corrections is going to undergo tremendous change and has tremendous problems. I think the new director needs this latitude to align the appointment. This is just an additional tool to give him to make it better.

Number 0457

Mr. Houston; I feel this is a great mistake, this is a very tough and demanding job and you can't feel like your head is on the block after you make a decision. His retirement would be in jeopardy. Those people won't move up who are qualified. You can terminate people when they aren't doing their job, just document and take action if necessary.

Rep. Phillips to Rep. Bussell; who requested this? How did it get here?

Rep. Bussell; Rep. Tischer and I sat on budget committee to put together budget for Department of Corrections and we came up with this to try to make things better for them.

Rep. Phillips; I don't see an official request from the Department saying this is a good idea or group of people or personnel.

Number 0529

Rep. Barnes; legislation isn't always requested from someone. Its a fact that Anchorage has had very serious problems with escapes and in each instance the superintendents were someplace else.

Mr. Houston; institutions are boiling pots and I'm amazed there isn't a riot.

Rep. Barnes; someone isn't doing their job when there's a problem.

Mr. Houston; you can't be all things to all people. I have 46 staff I have to rely on getting work done through others. When there is negligence I can investigate but I can't be everywhere at once and I must rely on staff to a degree. I will be leaving the State and I am only here to give you my ideas.

Mr. Raye; if there is a need for positions to be put from one class to partially exempt service, there is a method individually, there are administrative procedures where it can be done on an individual basis.

Chairman Fuller; what's the pleasure of the committee for CSHB 209?

Number 0620

Rep. Tischer moved and asked unanimous to adopt CSHB 209.

Chairman Fuller; any objections? Hearing none, so moved. Any more witnesses?

Mary Halloran, Department of Natural Resources, Director, Division of Administration and Management. She wanted to add a new amendment which would place youths employed by DNR in the youth employment, student intern program in the exempt service. Without this amendment, she stated that the young people would be non-permanent employees. This amendment is proposed to insure that these people may be hired at minimum wage as proposed in the budget approved the House Finance, rather than at union wages. With the loss of federal funding, the payment set at the

minimum wage is no longer guaranteed.

Rep. Tischer; what age group are we talking about?

Ms. Halloran; ages 15 through 23.

Mr. Raye; I support this amendment, current statutes make it impossible to maintain state funding.

Chairman Fuller; what is the pleasure of the committee?

Rep. Hayes moved and asked unanimous consent that CSHB 209 (R1s) as amended be moved from Rules Committee.

Number 0695 Chairman Fuller; any objections? Hearing none, so moved.

Number 0699 HJR 36 was moved down on the agenda since the prime sponsor was not present to testify.

Number 0709 HB 180; relating to eligibility for veterans' interest rates on loans made under the special mortgage loan purchase program (AS 18.56.098) by the Alaska Housing Finance Corporation, was heard by the committee.

Number 0721 Rep. Liska, sponsor of the bill stated they found that under Alaska Housing Finance Corporation, non-veterans could qualify for a loan with no residency requirement and in our deal we submitted earlier not noted that the veterans interest rates on loans for veterans' widows required her to be a resident for one year. So, to bring it into line we have requested that on Page 1, delete Lines 19-29, Subsections (A) and (B) and on Page 2, Line 5, place a semicolon (;) after the word "state". Delete everything after the semicolon through the end of Line 6.

Rep. Phillips; you don't think one year residency will withstand a constitutional test?

Rep. Liska; we probably would lose it, a non-veteran doesn't need any residency requirement. We wanted to clean the bill up so veteran could be on the same status as

non-veterans.

Number 0790

Rep. M.M. Miller; a person comes up from the Lower '48 can qualify for the most generous loan in the country with no residency requirement. The state ends up putting more money into it than the person. Any veteran is already eligible for the most generous program in the United States. I would support the widow situation, but I question whether we want to give additional subsidy to anyone who steps off the plane. Anyone could come in, buy, sell out and get out two months later.

Number 0836

Rep. Liska; until we get residency problem solved we are going to have this problem. It is a very generous program. I would like to see 5 years as it used to be. Now we have a 30-day requirement in order to vote, so many things are on the chopping block now. This is one step until tested in courts.

Number 0903

Rep. Barnes; when military comes to get resident hunting and fishing licenses they have to be here a year. I don't believe you need to put amendments in this bill. You can defend a year in everything but voting. I think we can defend a year.

Rep. Hayes; I agree with Rep. Barnes.

Michael Day, Assistant to Rep. Liska stated they had a legal opinion from Attorney General's Office, one year residency requirement would not hold up in court. Thirty day requirement would be very difficult as well. That is why we came up with this date, the date of opinion, February 22, 1983.

Number 0964

Rep. Barnes; I would like to challenge this opinion, the Attorney General's Office is going too far even if we have to go to court on it.

Rep. Koponen; a year is not asking too much for this, I worry if we go to court and our Attorney General has those opinions we are in trouble.

Rep. Tischer; we don't have an Attorney General as yet, we do have that problem and give credence to opinion that comes from an

individual that doesn't hold a job yet.
Residency decisions get another opinion.

Rep. Hayes; I think a one year residency is supportable. I would not want to see legislature given in to anything less than one year.

Tape 1, Side B
Recording
Number 0001

Rep. Barnes; I would like to ask Rep. Liska to withdraw his amendment to this bill and keep the original and see if it won't stand up to a constitutional test.

Rep. Liska; we based our decision with the Attorney General's Office, I have no objection to withdrawing amendment.

Number 0118

Rep. Miller; I do not want it to go on the record that comments made by Rep. Tischer go unchallenged. We do have an Attorney General.

Rep. Phillips; if we go and pass as is without adopted amendments with no objection to it?

Number 0170

Chairman Fuller; if prime sponsor wishes to withdraw his amendments.

Rep. Phillips moved that HB 180 be passed out of committee with individual recommendations.

Number 0178

Chairman Fuller; no objections? Motion carried with individual recommendations.

Chairman Fuller announced HJR 36 and recognized Rep. Ward, sponsor of the resolution.

Rep. Ward; with this amendment we would have more public input. This legislation gives public input through confirmation in lieu of election of judges. Confirmation process would be able to put more validity into process of judicial system. I support this and think we need this and it is long overdue.

Rep. Ward said, recently the Supreme Court Judges may serve for three years with no input.

Number 0248

Rep. Hayes moved and asked unanimous consent that CSHJR 36 (Rls) be passed out of committee.

Rep. M.M. Miller; I object, Rules Committee Substitute is a slightly better way to go than previous bill, but I would not want anybody to think that I concur, I think it is in the worst public interest. Now I withdraw my objection.

Chairman Fuller; there is a motion before us to pass out Rules CSHJR 36.

Number 0250

No further objections, CSHJR 36 (Rls) was passed out of committee with individual recommendations.

No further business to come before the committee, Chairman Fuller adjourned the meeting at 9:34 a.m.



Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

Official Business

RULES COMMITTEE MEETING

May 3, 1983

8:30 am, Butrovich Room

AGENDA

- HB 209 "An Act placing emergency guards employed by the department of public safety in the exempt service."
- HJR 36 Relating to the confirmation of justices and judges by the legislature.
- HB 180 "An Act relating to eligibility for veterans' interest rates on loans made under the special mortgage loan purchase program (AS 18.56.098) by the Alaska Housing Finance Corporation."

