

HB

87

STATE OF ALASKA

DEPARTMENT OF MILITARY & VETERANS AFFAIRS
OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 5800

FT. RICHARDSON, AK 99505-5800

PH: (907) 428-6003

The Honorable John Coghill, Chair
House State Affairs Committee
Alaska State House of Representatives
State Capitol
Juneau, AK 99811

April 2, 2001

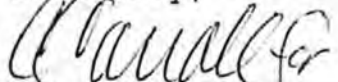
Dear Representative Coghill:

The Department of Military and Veterans Affairs requests a hearing on CSHB 87(MVA) "An Act establishing the Alaska Veterans Advisory Council; and providing for an effective date."

The bill establishes in statute the Alaska Veterans Advisory Council, an organization that has assisted the department in identifying the needs of veterans in the State of Alaska. Alaskan veterans have benefited from the work and dedication of these veterans. The bill assures that continued commitment.

I look forward to working with you on this bill. If you have questions or need information, please call Carol Carroll, 465-4730 or Laddie Shaw, 428-6068 of my staff. Thank you for your consideration.

Sincerely,



Phillip Oates
Adjutant General

STATE OF ALASKA
DEPARTMENT OF MILITARY & VETERANS AFFAIRS
OFFICE OF THE COMMISSIONER

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HB 87
SPONSOR STATEMENT
AN ACT ESTABLISHING THE ALASKA VETERANS ADVISORY
COUNCIL

This bill establishes in statute the Alaska Veterans Advisory Council, an organization that has assisted the department in identifying the needs of veterans in the State of Alaska. This organization was created by Administrative Order 164 in 1996.

The purpose of the council is to advise the Department of Military and Veterans Affairs on ways to better address the needs and concerns of Alaska's veterans, their dependants, and their survivors. The council's duties include making recommendations concerning veterans' priority service needs, developing public and private partnerships to meet those needs, and providing coordination of information regarding veterans' benefits and services around the state. The council members serve without compensation other than per diem and travel.

The council consists of 20 members appointed by the governor. The membership includes one or more persons affiliated with a veteran's organization, one or more persons from a state agency that manages programs affecting veterans, and one or more members of the general public familiar with veterans issues.

HB 87 was amended in HMVA to further define the membership of the Council and added that the House and the Senate shall appoint one member of each body to serve on the Council. The Committee also added that the AVAC shall advise and make recommendations to the Legislature as well as the governor, department and other agencies.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 87
 (H) Publish Date: 1/24/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Military & Veterans' Affairs
 Title: Establishing Alaska Veterans BRU: Veterans Services
Advisory Council Component: Veterans Affairs
 Sponsor: Rules Committee
 Requester: Governor Component Number: 421

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel	3.5	3.5	3.5	3.5	3.5	3.5
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	3.5	3.5	3.5	3.5	3.5	3.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	3.5	3.5	3.5	3.5	3.5	3.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	3.5	3.5	3.5	3.5	3.5	3.5

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note funds necessary travel costs associated with conducting meetings of the Alaska Veterans Advisory Council (AVAC), which is established in statute with this legislation.

The fiscal analysis is based on the following assumptions:

1. AVAC will conduct one annual meeting in Juneau and one in Anchorage.
2. Assume 15 of 20 members will attend each meeting.

Total estimated meeting costs is \$8.5. DMVA has \$5.0 existing authorization available, resulting in the need for an additional \$3.5.

Prepared by: Carol Carroll, Director Phone 465-4730
 Division: Administrative Services Date/Time 1/11/01 1:25 PM
 Approved by: Phil Oates Date 1/11/01
 Agency: Military & Veterans Affairs

For distribution information, call the Governor's Legislative Office

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

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JUNEAU, ALASKA 99811-0300
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March 7, 2001

The Honorable John Coghili
Chair, House State Affairs Committee
Alaska House of Representatives
State Capitol
Juneau, Alaska 99801

Re: HB 87

Dear Representative Coghil:

We are writing to advise you of concerns we have on an amendment to HB 87, an act establishing the Alaska Veterans Advisory Council. We have received information that the House Military and Veterans Affairs Committee has prepared a committee substitute for HB 87 that includes an amendment which provides that two members of the Council would be legislators appointed by the Senate President and House Speaker.

We have advised in the past that it is unconstitutional for a legislator to serve on an executive branch agency such as the Council. There are a number of issues that arise in this context, including the prohibition against dual office holding. The constitutional prohibition against dual office holding prohibits legislators from holding "any other office or position of profit under the United States or the State." Alaska Const. art. II, sec. 5. The term "office" stands alone; profit is not required. The reason for the prohibition is "to guard against conflicts of interest, self-aggrandizement, concentration of power, and dilution of separation of powers." *Warwick v. State ex rel Chance*, 548 P.2d 384 (Alaska 1976); *Begich v. Jefferson*, 441 P.2d 27, 35 (Alaska 1968). The amendment to HB 87 would require two legislators to hold dual offices and would thus violate the prohibition. See 1989 Inf. Op. Att'y Gen. (July 1; 883-89-0111).

The amendment to HB 87 also raises general "separation of powers" concerns. See *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976). Generally speaking, the legislature enacts laws and the executive branch enforces them. When a piece of legislation mixes the two functions, this creates an issue concerning the constitutionality of the legislation. Legislative agents cannot be appointed to carry out the law, and, as the Alaska Supreme

Hon. John Coghill
Re: HB 87

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Court said in *Bradner*, at p. 7, "the appointment of subordinate executive officers by the governor is an executive function, . . ." By requiring the President of the Senate and the Speaker of the House to appoint legislators to the Council, the amendment would usurp an executive function and thus violate the separation of powers doctrine. See 1989 Inf. Op. Att'y Gen. (May 1; 663-89-0506) and 1988 Inf. Op. Att'y Gen. (Feb. 29; 663-88-0371).

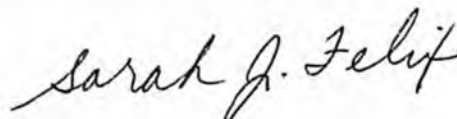
Additionally, under article III, sections 1 and 26, of the Alaska Constitution, the governor has the sole authority to appoint the members of all state boards and commissions. The amendment to HB 87 would interfere with this authority.

Therefore, we recommend that the House State Affairs Committee remove the amendment to HB 87, discussed above.

Thank you for considering our comments. Do not hesitate to contact me if we can be of further assistance to you on this matter.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL



By: Sarah J. Felix
Assistant Attorney General

SJF:jn

cc: Chrystal Smith, Legislative Liaison
Deborah Behr, Legislation Attorney
Dept. of Law

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

NO. _____
BILL VERSION: CSHB 87(MLV)
PUBLISH DATE: _____

Revision Date: _____
Title: "An Act establishing the Alaska
Veterans Advisory Council; and providing..."
Sponsor: House Rules Committee by request.
Requestor: House State Affairs

Department Affected: Legislature
BRU: Legislative Operating Budget
Component: Legislative Operating Budget

Component Number: _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

This bill will have zero fiscal impact on the Legislative Affairs Agency.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852
Division: Administrative Services Date: 4/20/01
Approved By: Pamela A. Varni, Executive Director *Karla Schofield for:*
Agency: Legislative Affairs Agency Date: 4/20/01

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov. , & Impacted Agency(ies).