

HOUSE JOURNAL

ALASKA STATE LEGISLATURE

TWENTY-THIRD LEGISLATURE -- SECOND SESSION

Juneau, Alaska

Thursday

March 25, 2004

Seventy-fourth Day

Pursuant to adjournment the House was called to order by Speaker Kott at 10:17 a.m.

Roll call showed 36 members present. Representatives Berkowitz, Croft, Kerttula, and Williams were absent and their presence was noted later.

The invocation was offered by the Chaplain, the Reverend Kathleen Wakefield of Church of the Holy Trinity. Representative Fate moved and asked unanimous consent that the invocation be spread on the journal. There being no objection, it was so ordered.

Let us pray,

"O God, the source of creation, ever present in the changes of this world, be present with Your people who cry to You for help. Empower us with vision and strength to enable the people of this earth to acquire the skills and resources necessary to a growing world. Enable those from countries with plenty to share their lives, funds, and resources with those in need. Embolden those with vision to proclaim new ways of creating communities of responsibility. Engage us in learning from one another and in valuing the unique gifts that You have given to the people of every land. Bless Your people, O God, who cry to You. Amen."

(Vienna Cobb Anderson)

The Pledge of Allegiance was led by Representative Gruenberg.

CERTIFICATION OF THE JOURNAL

Representative Coghill moved and asked unanimous consent that the journal for the 73rd legislative day be approved as certified by the Chief Clerk. There being no objection, it was so ordered.

* * * * *

Representative McGuire introduced Sara Schroeder and Tonya Parish, Guest Pages, from Anchorage.

Representative Stoltze introduced Tavish Logan, Guest Page, from Anchorage.

MESSAGES FROM THE GOVERNOR

A letter dated March 22, 2004, was read stating that, in accordance with AS 39.05.080, the Governor submits the following names for legislative confirmation of appointment to the boards and commissions set out below.

The Speaker referred the following to the Labor & Commerce Committee:

Occupational Safety and Health Review Board

Mr. Thor R. Christianson - Sitka
Appointed: 3/5/2004
Term Expires: 3/1/2008

Personnel Board

Ms. Laura Plenert - Ketchikan
Appointed: 3/10/2004
Term Expires: 3/1/2010

The Speaker referred the following to the Resources Committee:

Board of Agriculture and Conservation

Mr. Pete A. Alexion - North Pole
Appointed: 3/10/2004
Term Expires: 9/1/2006

Mr. Allan Baldwin - Palmer
Appointed: 9/1/2000 Reappointed: 10/1/2001
Term Expires: 9/1/2004

Ms. Rhonda P. Boyles - Fairbanks
Appointed: 3/10/2004
Term Expires: 9/1/2006

Mr. Donald J. Brainard - Palmer
Appointed: 9/1/2000 Reappointed: 3/10/2004
Term Expires: 9/1/2006

Mr. Peter T. Fellman - Delta Junction
Appointed: 7/30/2003
Term Expires: 9/1/2005

Mr. Sam F. Lightwood - Copper Center
Appointed: 9/1/2000 Reappointed: 8/14/2002
Term Expires: 9/1/2005

Mr. Ron E. Long - Seward
Appointed: 3/10/2004 Reappointed: 9/1/2004
Term Expires: 9/1/2007

Resumes for the appointments are on file in the Chief Clerk's office.

MESSAGES FROM THE SENATE

A message dated March 24, 2004, was read stating the Senate has passed the following and it is transmitted for consideration:

FIRST READING AND REFERENCE OF SENATE BILLS

SB 277

CS FOR SENATE BILL NO. 277(FIN) by the Senate Finance Committee, entitled:

"An Act relating to the Alaska Commission on Postsecondary Education; relating to the Alaska Student Loan Corporation;

relating to bonds of the corporation; relating to loan and grant programs of the commission; relating to an exemption from the State Procurement Code regarding certain contracts of the commission or corporation; making conforming changes; and providing for an effective date."

was read the first time and referred to the House Special Committee on Education and the Health, Education & Social Services and Finance Committees.

COMMUNICATIONS

The following were received:

Alaska Network on Domestic Violence and
Sexual Assault, Annual Report
"Rasmuson Foundation Improvements"
July 2002 - June 2003

Dept. of Natural Resources
Division of Geological & Geophysical Surveys
Annual Report 2003
(as required by AS 41.08.030)

REPORTS OF STANDING COMMITTEES

HB 421

The Labor & Commerce Committee has considered:

HOUSE BILL NO. 421
"An Act relating to reconveyances of deeds of trust."

and recommends it be replaced with:

CS FOR HOUSE BILL NO. 421(L&C)
(same title)

The report was signed by Representative Anderson, Chair, with the following individual recommendations:

Do pass (7): Crawford, Lynn, Gatto, Rokeberg, Dahlstrom, Guttenberg, Anderson

The following fiscal note(s) apply to CSHB 421(L&C):

1. Zero, Dept. of Natural Resources

HB 421 was referred to the Judiciary Committee.

HB 424

The Finance Committee has considered:

HOUSE BILL NO. 424

"An Act relating to review of regulations under the Administrative Procedure Act by the Legislative Affairs Agency; and providing for an effective date."

and recommends it be replaced with:

CS FOR HOUSE BILL NO. 424(JUD)

"An Act relating to review by the Legislative Affairs Agency of certain state agency regulations proposed for adoption, amendment, or repeal under the Administrative Procedure Act; repealing provisions relating to annulment of regulations; and providing for an effective date."

The report was signed by Representatives Harris and Williams, Co-chairs, with the following individual recommendations:

Do pass (5): Meyer, Fate, Foster, Harris, Williams

Do not pass (1): Hawker

No recommendation (4): Stoltze, Joule, Moses, Chenault

The following fiscal note(s) apply to CSHB 424(JUD):

4. Zero, Dept. of Health & Social Services
5. Zero, House Finance Committee/Legislative Agency
6. Indeterminate, Dept. of Law

HB 424 was referred to the Rules Committee for placement on the calendar.

HB 440

The Health, Education & Social Services Committee has considered:

HOUSE BILL NO. 440

"An Act relating to the Alaska Pioneers' Home, and the Alaska Veterans' Home; relating to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans' Home; relating to state veterans' home facilities; making conforming amendments; and providing for an effective date."

and recommends it be replaced with:

CS FOR HOUSE BILL NO. 440(HES)

"An Act relating to the Alaska Pioneers' Home and the Alaska Veterans' Home; relating to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans' Home; relating to the eligibility of residents for the Alaska Pioneers' Home and the Alaska Veterans' Home for general relief assistance; relating to state veterans' home facilities; making conforming amendments; and providing for an effective date."

The report was signed by Representative Wilson, Chair, with the following individual recommendations:

Do pass (3): Cissna, Seaton, Wilson

No recommendation (2): Kapsner, Coghill

Amend (2): Gatto, Wolf

The following fiscal note(s) apply to CSHB 440(HES):

1. Fiscal, Dept. of Health & Social Services

HB 440 was referred to the Finance Committee.

HB 472

The Judiciary Committee has considered:

HOUSE BILL NO. 472

"An Act relating to claims for personal injury or wrongful death against health care providers; and providing for an effective date."

and recommends it be replaced with:

CS FOR HOUSE BILL NO. 472(JUD)

(same title)

The report was signed by Representative McGuire, Chair, with the following individual recommendations:

Do pass (2): Anderson, McGuire

Do not pass (2): Gara, Gruenberg

No recommendation (3): Samuels, Holm, Ogg

The following fiscal note(s) apply to CSHB 472(JUD):

1. Zero, Dept. of Community & Economic Development
2. Zero, Dept. of Law

HB 472 was referred to the Rules Committee for placement on the calendar.

HB 490

The Labor & Commerce Committee has considered:

HOUSE BILL NO. 490

"An Act relating to the release of employment security records, to the admissibility of determinations and decisions regarding unemployment compensation benefits, and to contributions, interest, penalties, and payments under the Alaska Employment Security Act; providing that property under the Alaska Employment Security Act is not subject to the Uniform Unclaimed Property Act; and providing for an effective date."

The report was signed by Representative Anderson, Chair, with the following individual recommendations:

Do pass (4): Lynn, Gatto, Dahlstrom, Anderson

No recommendation (3): Crawford, Rokeberg, Guttenberg

The following fiscal note(s) apply:

1. Zero, Dept. of Labor & Workforce Development

HB 490 was referred to the Judiciary Committee.

HB 517

The Judiciary Committee has considered:

HOUSE BILL NO. 517

"An Act relating to registration in beneficiary form of certain security accounts, including certain reinvestment, investment management, and custody accounts."

The report was signed by Representative McGuire, Chair, with the following individual recommendations:

Do pass (5): Samuels, Gruenberg, Ogg, Holm, McGuire

No recommendation (1): Gara

The following fiscal note(s) apply:

1. Zero, Dept. of Community & Economic Development

HB 517 was referred to the Rules Committee for placement on the calendar.

**INTRODUCTION, FIRST READING, AND REFERENCE
OF HOUSE BILLS**

HB 543

HOUSE BILL NO. 543 by the House Health, Education & Social Services Committee, entitled:

"An Act relating to medical assistance coverage for prescription drugs; and providing for an effective date."

was read the first time and referred to the Health, Education & Social Services Committee.

HB 544

HOUSE BILL NO. 544 by the House Rules Committee by request of the Governor, entitled:

"An Act providing that public members of the Board of Trustees of the Alaska Permanent Fund Corporation may be removed only for cause; and providing for an effective date."

was read the first time and referred to the State Affairs Committee.

The following fiscal note(s) apply:

1. Zero, Dept. of Law
2. Zero, Dept. of Revenue

The Governor's transmittal letter dated March 24, 2004, follows:

"Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to removal of public members of the Board of Trustees of the Alaska Permanent Fund Corporation.

This bill would provide that public members of the Board of Trustees may be removed only for cause. The bill would provide grounds for the removal of public members of the board which includes, neglect of duty, misconduct in office or conviction of certain misdemeanor or felony charges. The bill also grants Board members the opportunity to be heard at a public hearing and requires at least ten days notice of the hearing.

Under existing law, it is possible to remove all Board members at a change in administration. This bill would insulate the Alaska

Permanent Fund from partisan politics by making it more likely that Board members would be retained until the expiration of their terms. The state invests a great deal in the experience and training provided to Board members. It is in our best interests to reap the full benefit of this investment. The Alaska Permanent Fund Corporation benefits from having experienced Board members direct policy for management of the Permanent Fund.

I urge your prompt and favorable action on this measure.

Sincerely yours,
/s/
Frank H. Murkowski
Governor"

HB 545

HOUSE BILL NO. 545 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to the extension under the State Procurement Code of terms for leases for real estate and certain terms for certain state contracts for goods and services; and providing for an effective date."

was read the first time and referred to the Labor & Commerce and Judiciary Committees.

The following fiscal note(s) apply:

1. Zero, Dept. of Administration

The Governor's transmittal letter dated March 24, 2004, follows:

"Dear Speaker Kott:

Under the authority of article III, section 18 of the Alaska Constitution, I am transmitting a bill relating to the extension of terms for leases and terms for contracts for goods and services under the State Procurement Code.

This bill would make several changes to the State Procurement Code. Section one of the bill would authorize the state to negotiate lease rate reductions on existing leases in exchange for certain term extensions when favorable lease rates are available. The current process only authorizes lease extensions if the property owner agrees to either (1) reduce the lease rate by ten percent and perform modifications to bring the property into Americans with Disabilities Act compliance, or (2) reduce the lease rate by 15 percent. The problem is, the current process does not take into account whether the current lease rate is already below market. Due to market conditions and current lease rates, this high discount is often not acceptable to property owners.

Many of our current lease rates are already below market and leave the lessor unwilling to meet the 10 or 15 percent reduction to extend the lease. In fact, only a small percentage of lease extensions have been negotiated under the existing provisions. The only option left for the state is to issue a new request for proposals. Often this results in additional moving costs and market rates, which can represent a substantial increase in costs to the state.

The method proposed in this bill would ensure that the state receives the best value for its leasing dollars. Lease extensions would only be authorized where the rates are a minimum of five percent below market. This would allow the state to maintain its presence in leases which are already well below market rates. Additional savings beyond the five percent would be negotiated depending on a number of factors such as location, current market value, existing vacancies, and market trends.

The bill also would authorize term extensions for up to five years for contracts for goods and services provided a minimum cost savings of at least five percent could be achieved on the price of the goods or services as set in the current contract. Under present law, at the end of the contract term, contracts for goods or services must be resolicited through a competitive process or a new contract awarded based upon alternative procurement methods regardless of price reductions that may be offered by the contractor if the contract were extended.

I urge your prompt and favorable action on this measure.

Sincerely yours,
/s/
Frank H. Murkowski
Governor"

HB 546

HOUSE BILL NO. 546 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to regulation of the discharge of pollutants from timber-related activities under the National Pollutant Discharge Elimination System; relating to waste treatment and disposal permits; making conforming amendments; and providing for an effective date."

was read the first time and referred to the Resources and Judiciary Committees.

The following fiscal note(s) apply:

1. Fiscal, Dept. of Environmental Conservation

The Governor's transmittal letter dated March 24, 2004, follows:

"Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill that would allow the State of Alaska to tailor part of its water discharge program to fit state concerns and environmental features. This bill would authorize the State of Alaska to administer National Pollutant Discharge Elimination System (NPDES) permits for the timber industry. Presently, NPDES permitting, compliance, and enforcement decisions are made pursuant to federal law designed to apply generically to all 50 states. The importance and value of assuming primacy is reflected by the fact that 45 other states have assumed primacy from the Environmental Protection Agency (EPA) for administering NPDES permits.

The Department of Environmental Conservation (DEC) has the capacity and experience to successfully implement primacy for the timber industry. DEC regulates a broad universe of technological and water-quality aspects for waste and wastewater disposal activities. These activities include regulation of timber industry discharges such as state certification of NPDES permits for log transfer facilities.

To accommodate NPDES primacy assumption, this bill would amend some existing permit requirements related to application submittals, public notice and comment opportunities, the maximum term of permits, and the causes for termination or modification of an authorization. These amendments would have the added benefit of streamlining and clarifying process requirements, to some extent, for all waste treatment or disposal authorizations.

The bill also includes legislative findings and intent language, to underscore the fact that assuming partial primacy for the NPDES program for a single industry sector might facilitate future assumption of a larger part or all of the NPDES program. A single-sector pilot-project-type program would allow the state to expand the current level of expertise and gain valuable experience in administering the program and working to resolve program administration issues with the EPA, which retains oversight authority over state NPDES programs. Because administration of the NPDES program is complex and costly, and assumption of the full program would require DEC to develop additional expertise, it makes sense to take measured steps toward full assumption by beginning with a single industry sector.

I urge your prompt and favorable action on this measure.

Sincerely yours,
/s/
Frank H. Murkowski
Governor"

The Speaker stated that the House would stand at ease; and so, the House stood at ease at 10:33 a.m.

AFTER AT EASE

The Speaker called the House back to order at 11:27 a.m.

**The presence of Representative Williams and Croft was noted.

CONSIDERATION OF THE DAILY CALENDAR**SECOND READING OF HOUSE BILLS****HB 123**

The following was read the second time:

HOUSE BILL NO. 123

"An Act relating to the allocation of money appropriated to the Alaska Human Resource Investment Council; and providing for an effective date."

with the:

Journal Page

FIN RPT CS(FIN) NT 1DP 7NR 1AM
FN1: ZERO(LWF)

2891
2892

The Speaker stated that, without objection, HB 123 would be returned to the Rules Committee. And so, HB 123 was held in second reading and returned to the Rules Committee.

HB 524

The following was read the second time:

HOUSE BILL NO. 524

"An Act relating to the protection of land and water from waste disposal; providing for the regulation of waste management; making conforming amendments; and providing for an effective date."

with the:

Journal Page

RES RPT 5DP 1NR
FN1: ZERO(DEC)

2841
2842

Amendment No. 1 was offered by Representative Heinze:

Page 5, lines 5 - 6:

Delete ", including financial assurance demonstrated through proof other than that described in"

Insert "if it otherwise meets the requirements of"

Page 5, line 2, following "department":

Insert "after a financial review under regulations adopted by the department; regulations adopted under this paragraph must set financial tests for the acceptance of corporate guarantees and other forms of financial responsibility that the department determines would be required for an independent showing of financial capability"

Representative Heinze moved and asked unanimous consent that Amendment No. 1 be adopted.

Objection was heard and withdrawn. There being no further objection, Amendment No. 1 was adopted.

**The presence of Representatives Kerttula and Berkowitz was noted.

Amendment No. 2 was offered by Representative Heinze:

Page 6, lines 6 - 7:

Delete "**one publication** [TWO SEPARATE PUBLICATIONS]"

Insert "two [SEPARATE] publications"

Representative Heinze moved and asked unanimous consent that Amendment No. 2 be adopted. There being no objection, it was so ordered.

Amendment No. 3 was offered by Representatives Seaton, Stoltze, Gatto, Kohring, Harris, and Kerttula:

Page 4, lines 4 - 6:

Delete ", or coal bed methane drilling or other natural gas drilling to recover gas from a field if a part of the field is within 3,000 feet of the surface"

Representative Seaton moved and asked unanimous consent that Amendment No. 3 be adopted. There being no objection, it was so ordered.

Representative Coghill moved and asked unanimous consent that HB 524 am be considered engrossed, advanced to third reading, and placed on final passage. There being no objection, it was so ordered.

HB 524 am was read the third time.

The question being: "Shall HB 524 am pass the House?" The roll was taken with the following result:

HB 524 am
Third Reading
Final Passage

YEAS: 36 NAYS: 1 EXCUSED: 0 ABSENT: 3

Yeas: Anderson, Berkowitz, Chenault, Cissna, Coghill, Crawford, Croft, Dahlstrom, Fate, Foster, Gara, Gatto, Gruenberg, Guttenberg, Harris, Hawker, Heinze, Kapsner, Kerttula, Kohring, Kookesh, Kott, Lynn, Masek, McGuire, Meyer, Morgan, Moses, Ogg, Rokeberg, Samuels, Seaton, Stepovich, Stoltze, Williams, Wilson

Nays: Wolf

Absent: Holm, Joule, Weyhrauch

And so, HB 524 am passed the House.

Representative Coghill moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

HB 524 am was referred to the Chief Clerk for engrossment.

LEGISLATIVE CITATIONS

Representative Coghill moved and asked unanimous consent that the House approve the citation on the calendar. There being no objection, the following citation was approved and sent to enrolling:

Honoring - The Courageous and Heroic Alaskans on the 40th Anniversary of the Great Alaska Earthquake
By Representatives Kohring, Kerttula, Gatto, Harris, Masek, Stoltze, Kott, Anderson, Berkowitz, Chenault, Cissna, Coghill, Crawford, Croft, Dahlstrom, Fate, Gara, Gruenberg, Guttenberg, Hawker, Holm, Joule, Kapsner, Lynn, McGuire, Meyer, Morgan, Ogg, Rokeberg, Samuels, Seaton, Stepovich, Weyhrauch, Williams, Wilson, Wolf;
Senators Therriault, Green, Ogan

UNFINISHED BUSINESS

Representative Coghill moved and asked unanimous consent that the following members be excused from a call of the House. There being no objection, the members were excused as noted:

Representative Crawford - from 7:30 p.m., March 25 to 10:00 a.m., plane time, March 29, 2004

Representative Croft - from 10:00 p.m., March 25 to 8:00 a.m., plane time, March 27, 2004

Representative Heinze - from 7:30 p.m., March 25 to 10:00 a.m., plane time, March 29, 2004 (amended from page 3068)

SPECIAL ORDER OF BUSINESS

Representative Coghill moved and asked unanimous consent that the notice and publication requirements be waived and the citation, Honoring - William Tyson Elementary School, be taken up as a Special Order of Business at this time. There being no objection, it was so ordered.

Representative Coghill moved and asked unanimous consent that the House approve the citation. There being no objection, the following citation was approved and sent to enrolling:

Honoring – William Tyson Elementary School
By Representatives Gruenberg, Kott, Anderson, Berkowitz, Chenault, Foster, Gara, Gatto, Harris, Hawker, Kapsner, Lynn, Masek, Morgan, Ogg, Rokeberg, Seaton, Stoltze, Williams, Wolf

ENGROSSMENT**HB 524**

HB 524 am was engrossed, signed by the Speaker and Chief Clerk and transmitted to the Senate for consideration.

ANNOUNCEMENTS

House committee schedules are published daily under separate cover.

ADJOURNMENT

Representative Coghill moved and asked unanimous consent that the House adjourn until 11:00 a.m., March 29, 2004. There being no objection, the House adjourned at 12:39 p.m.

Suzi Lowell
Chief Clerk