

APPENDIX A

20th Legislature(1997-1998)
Committee Minutes
HOUSE JUDICIARY
Feb 21, 1997
HOUSE JUDICIARY STANDING COMMITTEE
February 21, 1997
1:04 p.m.

MEMBERS PRESENT

Representative Joe Green, Chairman
Representative Con Bunde, Vice Chairman
Representative Brian Porter
Representative Jeannette James
Representative Norman Rokeberg
Representative Eric Croft
Representative Ethan Berkowitz

MEMBERS ABSENT

All members were present

COMMITTEE CALENDAR

* SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 58
"An Act relating to civil actions; relating to independent counsel provided under an insurance policy; relating to attorney fees; amending Rules 16.1, 41, 49, 58, 68, 72.1, 82, and 95, Alaska Rules of Civil Procedure; amending Rule 702, Alaska Rules of Evidence; amending Rule 511, Alaska Rules of Appellate Procedure; and providing for an effective date."

- HEARD AND HELD

Governor's Appointments: Violent Crimes Compensation Board

- REMOVED FROM AGENDA

(* First public hearing)

PREVIOUS ACTION

BILL: HB 58
SHORT TITLE: CIVIL ACTIONS & ATTY PROVIDED BY INS CO.
SPONSOR(S): REPRESENTATIVE(S) PORTER, Cowdery

JRN-DATE JRN-PG ACTION
01/13/97 43 (H) READ THE FIRST TIME - REFERRAL(S)
01/13/97 43 (H) JUDICIARY, FINANCE
01/16/97 95 (H) COSPONSOR(S): COWDERY
02/17/97 373 (H) SPONSOR SUBSTITUTE INTRODUCED-
REFERRALS
02/17/97 374 (H) JUDICIARY, FINANCE
02/19/97 (H) JUD AT 1:00 PM CAPITOL 120
02/19/97 (H) MINUTE(JUD)
02/21/97 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

JIM SOURANT, Legislative Assistant
to Representative Brian Porter
Alaska State Legislature
Capitol Building, Room 216
Juneau, Alaska 99801
Telephone: (907) 465-4930
POSITION STATEMENT: Answered questions regarding SSHB 58.

THOMAS B. STEWART, Judge (Retired)
Alaska Superior Court

P.O. Box 114100
Juneau, Alaska 99811-4100
Telephone: (907) 463-4741
POSITION STATEMENT: Testified on behalf of Governor's Advisory
Task Force on Civil Justice Reform regarding
SSHB 58.

DAVID A. MCGUIRE, M.D., Representative
Alaska Liability Reform Group
4048 Laurel Street, Suite 202
Anchorage, Alaska 99508
Telephone: (907) 562-4142
POSITION STATEMENT: Testified on SSHB 58.

JOEL BLATCHFORD
1983 Waldron Drive
Anchorage, Alaska 99507
Telephone: (907) 563-3743
POSITION STATEMENT: Testified on SSHB 58.

CHERI SHAW, Executive Director
Cordova District Fishermen United; and
Chair, Tort Reform Committee
United Fishermen of Alaska
P.O. Box 939
Cordova, Alaska 99574
Telephone: (907) 424-3447
POSITION STATEMENT: Testified in opposition to SSHB 58; provided
suggestions.

DALE BONDURANT
HC 1, Box 1197
Soldotna, Alaska 99669
Telephone: (907) 262-0818
POSITION STATEMENT: Testified in opposition to SSHB 58.

PAUL SWEET
P.O. Box 1562
Palmer, Alaska 99645
Telephone: (907) 745-2242
POSITION STATEMENT: Testified in opposition to SSHB 58.

STEVE CONN, Director
Alaska Public Interest Research Group
P.O. Box 101093
Anchorage, Alaska 99510
Telephone: (907) 278-3661
POSITION STATEMENT: Testified on SSHB 58.

BONNIE NELSON
20615 White Birch Road
Chugiak, Alaska 99567
Telephone: (907) 688-3017
POSITION STATEMENT: Testified in opposition to portions of SSHB
58.

ROSS MULLINS
P.O. Box 436
Cordova, Alaska 99574
Telephone: (907) 424-3664
POSITION STATEMENT: Testified on SSHB 58.

DARYL NELSON
4334 Vance Drive, B-5
Anchorage, Alaska 99508
Telephone: (907) 333-9713
POSITION STATEMENT: Testified in opposition to SSHB 58.

ERIC YOULE, Executive Director
Alaska Rural Electric Cooperative Association

703 West Tudor Road, Number 200
Anchorage, Alaska 99503
Telephone: (907) 561-6103
POSITION STATEMENT: Testified on SSHB 58.

JEFFREY W. BUSH, Deputy Commissioner
Office of the Commissioner
Department of Commerce and Economic Development
P.O. Box 110900
Juneau, Alaska 99811-0800
Telephone: (907) 465-2500
POSITION STATEMENT: Provided Administration's position on SSHB 58.

ACTION NARRATIVE

TAPE 97-23, SIDE A
Number 0020

CHAIRMAN JOB GREEN called the House Judiciary Standing Committee to order at 1:04 p.m. Members present at the call to order were Representatives Green, Bunde, Porter, Croft and Berkowitz. Chairman Green noted that Representatives James and Rokeberg would be late; they arrived at 1:56 p.m. and 2:00 p.m., respectively.

SSHB 58 - CIVIL ACTIONS & ATTY PROVIDED BY INS CO.

The only order of business was Sponsor Substitute for House Bill No. 58, "An Act relating to civil actions; relating to independent counsel provided under an insurance policy; relating to attorney fees; amending Rules 16.1, 41, 49, 58, 68, 72.1, 82, and 95, Alaska Rules of Civil Procedure; amending Rule 702, Alaska Rules of Evidence; amending Rule 511, Alaska Rules of Appellate Procedure; and providing for an effective date."

CHAIRMAN GREEN said the sponsor would explain the bill and questions for clarity would be addressed. However, there would be no debate on substantive issues. Public testimony would be taken that day and Monday, February 24. The committee would then debate and discuss SSHB 58 on Wednesday, February 26.

Number 0221

REPRESENTATIVE BRIAN PORTER, sponsor of SSHB 58, read from Section 1, subsection (1), which set forth the legislative intent: "encourage the efficiency of the civil justice system by discouraging frivolous litigation and by decreasing the amount, cost, and complexity of litigation without diminishing the protection of innocent Alaskans' rights to reasonable, but not excessive, compensation for tortious injuries caused by others". He said that was the legislation in a nutshell.

REPRESENTATIVE PORTER said Section 2 was not substantive but a minor consistency change. A change existed in Section 23 reflecting the thought of the Governor's Advisory Task Force on civil justice reform, as well as the previous year's bill, that the rate of prejudgment interest should more adequately reflect the marketplace instead of being a fixed rate, which was currently 10.5 percent. The provision in Section 23 provided for a floating rate. Section 2 was a consistency change to leave 10.5 percent interest in a section of the banking code that was referenced to this section, he said. The banking statute was being left in place, with this being a conformity change to what was done in Title 9.

Number 0439

REPRESENTATIVE PORTER said the next sections dealt with the statute of repose and the statute of limitations. In layman's terms, a statute of repose is an absolute outer limit on when a case can be brought, based on the length of time since the action took place that supposedly caused injury or damage. SSHB 58 proposed an

eight-year statute of repose. Within that eight years, varying statutes of limitations shortened the time period allowed if the plaintiff knew or should have known that the damage or injury had taken place. The bill suggested what those limits should be in several areas.

Number 0615

REPRESENTATIVE PORTER said Section 3 reflected suggestions from the task force. It addressed a law that had contained a six-year statute of limitations on several provisions. Section 3 specified what would retain that six-year statute of limitations. "And further limitations will be shown from that law that -- as it had existed in subsequent sections," he added.

REPRESENTATIVE PORTER referred to Section 4. Again from the task force, it imposed a three-year statute of limitations, reduced from six years, on contract actions.

Number 0666

REPRESENTATIVE ERIC CROFT said some task force conclusions were compromises between doing nothing and having more extreme provisions. He asked whether Representative Porter intended to include the compromises as well as the original legislation.

REPRESENTATIVE PORTER said he was on the subcommittee that dealt with the statute of limitations issue. He believed the provisions did not result from discussion of "outer limits" or a "compromise to the middle." He said it was a suggestion by a subcommittee member that was discussed, adopted, and then subsequently adopted by the entire task force.

Number 0764

REPRESENTATIVE CROFT asked whether Representative Porter's intention on the statute of repose was to keep the discovery rule intact. For example, if someone had no way of knowing a harm had been done until nine years had passed, would that be barred? Was there any relief for someone who, through no fault of their own, did not know?

REPRESENTATIVE PORTER said he hadn't yet explained the statute of repose. However, to that specific question, there certainly could be a situation where someone did not have, for whatever reason, knowledge of an injury or a damage. If the statute of repose had been completed, that would be a bar to filing a case. However, there were exceptions where the statute of repose would not apply. He offered to go through those.

CHAIRMAN GREEN suggested he address them as they came up, but only for clarification.

Number 0846

REPRESENTATIVE PORTER pointed out the statute of repose is similar to the hearsay rule in that the meat of the law is in the exceptions. He listed exceptions to the eight-year statute of repose from Section 5(2)(b)(1): (A) any prolonged exposure to hazardous waste; (B) an intentional act or gross negligence; (C) fraud or fraudulent misrepresentation; (D) breach of an express warranty or a guarantee.

REPRESENTATIVE PORTER said one criticism of a statute of repose is the supposition that people wanting to provide a longer period of time were seemingly barred from doing so. That is not the case, he said. Citing the example of a school roof falling in, he said no such cases on record had occurred within the allotted time period. However, nobody constructing a building was barred from having a contract with the contractor for a longer period of statute of

repose if both parties agreed to it.

REPRESENTATIVE PORTER believed one of the biggest exceptions was Section 5(2)(b)(1)(E), a defective product. There had been much testimony over the last four years about "some of the more salient products that have come to light after an eight-year period." He cited Thalidomide as an example. Although one could argue for a statute of repose in those cases, an accommodation and compromise existed in this legislation. "We're saying, 'Okay, we're not going to fight that battle today,' he said. "Quite frankly, I don't intend to fight it ever, but if someone wants to, welcome."

Number 1050

REPRESENTATIVE PORTER said another cause for exception would be if a defendant had intentionally tried to conceal any element that would go to establish the occurrence of the injury or negligence.

REPRESENTATIVE PORTER referred to Section 5(2)(c), which he described as somewhat unusual, a sticking point for which accommodation was made along the way. "The old sponge left in the body after surgery" kept coming up, he said. "We toll the statute of repose. Tolling is a nice legal word for meaning that it's null and void, held in abeyance until this thing is discovered, that if there is a foreign body that has no therapeutic or diagnostic purpose found ... in a person's body, that that is an exception to the statute of repose."

Number 1132

REPRESENTATIVE ETHAN BERKOWITZ asked whether hazardous waste had a legal definition or was addressed by a body of law.

REPRESENTATIVE PORTER replied, "It is an attempt to address another concern that was raised of the more typical kinds of 'someone's property leached chemicals into my property and I didn't know about it,' those kinds of things." He said if someone had a better definition, he would certainly look at it.

Number 1184

REPRESENTATIVE BERKOWITZ asked whether there was a reason for using the term "waste" instead of "material."

REPRESENTATIVE PORTER said there may have been at the time; however, he could not recall one.

REPRESENTATIVE BERKOWITZ asked whether a person committing a criminal act would fall outside the statute of repose.

REPRESENTATIVE PORTER said, "The exception regarding an intentional act, would, I'm sure, bring that outside."

REPRESENTATIVE BERKOWITZ asked, "That would include even if the criminal statute of limitations precluded a criminal action?"

REPRESENTATIVE PORTER said yes. The statute of limitations for prosecution would not apply to a civil case.

Number 1235

REPRESENTATIVE BERKOWITZ asked whether defective products included products involving "intellectual property" such as an idea.

REPRESENTATIVE PORTER replied, "Well, the definition, of course, is an object that has intrinsic value, is capable of delivery as an assembled whole or as a component part and is introduced into trade or commerce. I don't think thoughts would fall into that definition."

Number 1270

REPRESENTATIVE BERKOWITZ asked, "If there's an indication of intentional concealment, the tolling period begins at what point?"

REPRESENTATIVE PORTER replied, "When the injury, damage, whatever is discovered, or should have been discovered, and that's put in there, obviously, so that you can't just say, 'I didn't know' and (indisc.) to prove what's in a person's head. Then the two-year statute of limitations would start accruing, but the statute of repose, the eight-year limitation, would be tolled, so that if this discovery were made ten years after the fact, and it was as a result of an intentional concealment or fraud or something like that, then you would have two years to get it in."

Number 1308

REPRESENTATIVE CROFT asked, "The statutes of limitations don't mention it, but do they still contain the discovery rule?"

REPRESENTATIVE PORTER said yes. The definition of "from the time of accrual" was not currently in statute, but it fairly reflected the case law. He explained that the statute of limitations begins from the time a person knew or should have known, which was basically the time of accrual.

REPRESENTATIVE CROFT said, "So the statute of limitations provisions didn't mean any change in the discovery rule."

REPRESENTATIVE PORTER concurred.

REPRESENTATIVE CROFT continued, "But the statute of repose provisions do. I mean, that's the point of a statute of repose."

REPRESENTATIVE PORTER replied, "By definition; that's correct."

REPRESENTATIVE CROFT said, "And my original question from before was: Something that someone has no way of learning, if it doesn't fall into these exceptions, would be barred after eight years?"

REPRESENTATIVE PORTER said that was correct.

Number 1382

REPRESENTATIVE PORTER referred to Section 6, the limitation of actions against health care providers. He said it provides an exception to the statute of limitations for children from zero to six years old. He explained, "It, by its first statement, notwithstanding the disability of a minor, shortens an exception that currently exists in law that provides ... that the statute of repose, if you will, is tolled for minors, for incompetent persons, and in cases of adult recollection of child abuse when the memory was suppressed and was later recalled as an adult."

REPRESENTATIVE PORTER said those three exceptions to the statute of repose were existing law. In this statute, the exception for minors was being changed from eighteen years to eight years of age. As a result, the statute of repose would be in place for these kinds of cases for injuries to children up to six years of age, such as at-birth injuries. "The statute of limitations is tolled, but the statute of repose fits with this," he said.

Number 1470

REPRESENTATIVE CROFT asked whether there was a statute of repose previously or simply a tolling of the statute of limitations up to 18 years, the age of majority.

REPRESENTATIVE PORTER indicated the statute of repose was repeatedly in and out of the statutes, based on actions by the

APPENDIX B

20th Legislature(1997-1998)

Committee Minutes

SENATE FINANCE

Apr 11, 1997

HB 58 CIVIL ACTIONS/ATTY FEES/INSURANCE

Vice-Chair Phillips took testimony via statewide teleconference between 5:00 P.M. and 7:30 P.M. After a brief recess, COCHAIR SHARP reconvened the meeting to take up amendments. SENATOR TORGERSON MOVED Amendment an Amendment to Amendment #1. Without objection, the Amendment to Amendment #1 was ADOPTED. There was no further objection, and Amendment #1 was ADOPTED. SENATOR TORGERSON MOVED Amendment #2. COCHAIR SHARP objected. Amendment #2 FAILED by a 3 to 4 vote. SENATOR ADAMS did not offer Amendment #3. Amendment #4 was not offered. SENATOR DONLEY MOVED Amendment #5. Objection was heard. Amendment #5 FAILED by a 2 to 5 vote. SENATOR DONLEY MOVED Amendment #6. SENATOR DONLEY MOVED an Amendment to Amendment #6. SENATOR TORGERSON objected. SENATOR DONLEY MOVED to amend the Amendment to Amendment #6. Without objection, it was ADOPTED. There being no further objection, Amendment offer Amendment #7. SENATOR DONLEY MOVED Amendment #8. COCHAIR PEARCE objected. SENATOR DONLEY withdrew Amendment #8 without objection. SENATOR ADAMS MOVED Amendment #9. COCHAIR PEARCE objected. Amendment #9 FAILED by a 2 to 5 vote. SENATOR ADAMS MOVED Amendment a 2 to 5 vote. SENATOR ADAMS MOVED Amendment #11. SENATOR TORGERSON objected. Amendment #11 FAILED by a 2 to 5 vote. SENATOR ADAMS MOVED Amendment #12. Objection was heard. Amendment #12 FAILED by a 2 to 5 vote. SENATOR ADAMS MOVED Amendment #13. COCHAIR PEARCE objected. Amendment #13 FAILED by a 2 to 5 vote. SENATOR ADAMS MOVED Amendment #14. COCHAIR PEARCE objected. Amendment #14 FAILED by a 1 to 6 vote. SENATOR ADAMS MOVED Amendment #15. SENATOR TORGERSON objected. Amendment #15 FAILED by a 2 to 5 vote. SENATOR ADAMS MOVED Amendment #16. SENATOR PARNELL objected. Amendment #16 failed by a 2 to 4 vote. SENATOR ADAMS did not offer Amendment #17. SENATOR ADAMS MOVED Amendment #18. COCHAIR PEARCE objected. Amendment #18 FAILED by a 1 to 6 vote. SENATOR PARNELL MOVED Amendment #19. SENATOR TORGERSON objected. Amendment #19 was ADOPTED by a 6 to 1 vote. SENATOR PARNELL MOVED Amendment #20. COCHAIR SHARP objected then withdrew his objection. Without further objection, Amendment #20 was ADOPTED. SENATOR TORGERSON MOVED SCSCSSSHB 58(FIN) from committee with individual recommendations. SENATOR ADAMS objected. By a vote of 6 to 1, SCSCSSSHB 58(FIN) was REPORTED OUT with previous zero fiscal notes from the Department of Law and the Department of Commerce and Economic Development, fiscal notes from the Judicial Council (26.5) and the Court System (19.4) and a new zero fiscal note from the Department of Administration.

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 58(FIN) am
"An Act relating to civil actions; relating to independent

counsel provided under an insurance policy; relating to attorney fees; amending Rules 16.1, 41, 49, 58, 68, 72.1, 82, and 95, Alaska Rules of Civil Procedure; amending Rule 702, Alaska Rules of Evidence; and amending Rule 511, Alaska Rules of Appellate Procedure."

VICE-CHAIR PHILLIPS announced that teleconferenced testimony would be limited to two minutes per person. He invited Representative Porter, Sponsor of HB 58, to address the committee.

REPRESENTATIVE PORTER kept his remarks brief, stating it was more relevant to say what the bill did not do as opposed to what it did. It did not limit economic damage recovery. The three avenues of request for recovery for a person who had been injured or had property damage were economic damages, non-economic damages and punitive damages. He provided additional detail and gave examples. He pointed out that non-economic damages were capped at \$300 thousand but could go to \$500 thousand in exceptional cases and punitive damages were capped at three times compensatory damages or \$300 thousand, whichever was greater up to \$600 thousand and four times compensatory damages in extreme cases. REPRESENTATIVE PORTER stated that the bill did not affect Workers Compensation cases and then concluded his introduction.

The presence of Senators Donley and Parnell was noted.

SENATOR ADAMS stated that the legislation did not allow for fair and just compensation for Alaskans because it did not favor the injured party, but instead favored businesses. He continued by stating that the belief that insurance rates would go down as a result was a myth. REPRESENTATIVE PORTER spoke to the issue of insurance rates, pointing out that they were regulated by the state and companies are asked to justify their rates based on experience in paying claims. The inability to lower rates immediately was because current cases had to be tried and compensated under existing law, which could take up to ten years.

VICE-CHAIR PHILLIPS called for statewide teleconference testimony next. The following individuals testified.

Valdez:

JAMES CULLEY, CEO, Valdez Community Hospital: Support

MIKE LOPEZ, Fisherman: Oppose

Ketchikan:

DAVID JOHNSON, M.D., Alaska State Medical Association:

Support

Cordova:

CHERI SHAW, Cordova District Fishermen United: Oppose

COLLETTE PETIT: Oppose

AMY BROCKERT, Eyak Village Corporation: Oppose

JACK HOPKINS: Oppose

CHRISTINE HONKOLA: Oppose

ROSS MULLINS: Oppose

LINDEN O'TOOLE: Oppose

DENNY WEATHERS: Oppose
ROXY ESTES: Oppose

Kenai:

JOHN SIVELY, Kenai Central Labor Council: Oppose
ROBERT COWAN: Oppose

End SFC-97 #99, Side 1, Begin Side 2

PHIL SQUIRES: Oppose
SUSAN ROSS: Oppose
HUGH TORDOFF: Oppose

Mat-Su:

ROBERT MARTINSON: Oppose
DAVID GLEASON: Oppose

Sitka:

JANET LEEKLEY KISARAUSKAS: Support

Kodiak:

CHRIS BERNS: Oppose

The presence of Senator Donley was noted.

Anchorage:

KAREN COWART, Alaska Alliance: Support
COLIN MAYNARD, Professional Design Council: Support
STEPHEN CONN: Oppose
FRANK DILLON; Alaska Trucking: Support
DICK CATTANACH: Support
MONTY MONGTOMERY, Associated General Contractors: Support
KEVIN MORFORD: Oppose
RANDY RUEDRICH: Support
LES GARA, AKPIRG Board Member: Oppose
AL TAMAGNI: Support
STEVE BORELL, Executive Director; Alaska Miners Assn.:
Support

Fairbanks:

RICHARD HARRIS, Geologist: Support

The following individuals testified in person in Juneau.

JIM JORDAN, Executive Director, Alaska Medical Association:
Support CYNTHIA BROOKE, M.D., Anchorage: Support

End SFC-97 #99, Side 2
Begin SFC-97 #100, Side 1

KEVIN SMITH, Risk Manager, Alaska Municipal League: Support
CHRISTY TENGS FOWLER, Haines: Support
The presence of Cochair Sharp, Senators Torgerson and
Parnell was noted.

PAMELA LA BOLLE, Alaska State Chamber of Commerce: Support
MICHAEL LESMEIER, State Farm Insurance: Support

After a brief recess, COCHAIR SHARP reconvened the meeting
to take up amendments.

SENATOR TORGERSON MOVED Amendment #1. He explained that the amendment clarified that the legislation would not affect existing litigation taken in the Exxon Valdez case. SENATOR ADAMS objected. SENATOR TORGERSON MOVED an Amendment to Amendment #1 relating to maritime law. Without objection, the Amendment to Amendment #1 was ADOPTED.

COCHAIR SHARP asked for comments from the bill sponsor. REPRESENTATIVE PORTER welcomed the amendment and had no problem with it.

There was no further objection, and Amendment #1 was ADOPTED.

SENATOR TORGERSON MOVED Amendment #2. COCHAIR SHARP objected. SENATOR TORGERSON explained the amendment. REPRESENTATIVE PORTER spoke in opposition, as did SENATOR DONLEY.

End SFC-97 #100, Side 1, Begin Side 2

A roll call vote was taken on the MOTION to adopt Amendment IN FAVOR: Phillips, Torgerson, Adams
OPPOSED: Donley, Parnell, Sharp, Pearce
Amendment #2 FAILED by a 3 to 4 vote.

SENATOR ADAMS did not offer Amendment #3.

Amendment #4 was not offered because it was identical to Amendment #1 which had been adopted.

SENATOR DONLEY MOVED Amendment #5 and explained that the amendment related to limited immunity for emergency room doctors. Objection was heard. REPRESENTATIVE PORTER spoke to the amendment. Although he philosophically agreed, he opposed the amendment.

A roll call vote was taken on the MOTION to adopt Amendment

IN FAVOR: Donley, Adams
OPPOSED: Torgerson, Parnell, Phillips, Pearce, Sharp.
Amendment #5 FAILED by a 2 to 5 vote.

SENATOR DONLEY MOVED Amendment #6. SENATOR DONLEY MOVED an Amendment to Amendment #6. SENATOR TORGERSON objected. SENATOR DONLEY explained that the amendment related to posting notice of limited liability. There was lengthy discussion, with support expressed by SENATORS ADAMS and TORGERSON. SENATOR DONLEY MOVED to amend the Amendment to Amendment #6. Without objection, it was ADOPTED. There being no further objection, Amendment #6, as amended, was ADOPTED.

SENATOR DONLEY did not offer Amendment #7.

SENATOR DONLEY MOVED Amendment #8. COCHAIR PEARCE objected. SENATOR DONLEY explained the amendment. There was lengthy discussion between SENATOR DONLEY, COCHAIRS PEARCE and SHARP and REPRESENTATIVE PORTER concerning the effect of the amendment. SENATOR DONLEY withdrew Amendment #8 without

objection.

SENATOR ADAMS MOVED Amendment #9 which repealed the statute of repose. COCHAIR PEARCE objected. REPRESENTATIVE PORTER spoke to the amendment and discussion continued.

End SFC-97 #100, Side 2
Begin SFC-97 #101, Side 1

A roll call vote was taken on the MOTION to adopt Amendment
IN FAVOR: Adams, Donley
OPPOSED: Torgerson, Parnell, Phillips, Pearce, Sharp
Amendment #9 FAILED by a 2 to 5 vote.

SENATOR ADAMS offered Amendment #9B and explained that it was a one word change. COCHAIR SHARP declared the amendment out of order.

SENATOR ADAMS MOVED Amendment #10, explained that it changed the term "hazardous waste" to "hazardous substance" and gave examples. COCHAIR PEARCE objected. REPRESENTATIVE PORTER spoke to the amendment and concluded that "hazardous waste" was inclusive and didn't need to be changed. A roll call vote was taken on the MOTION to adopt Amendment #10.
IN FAVOR: Adams, Donley
OPPOSED: Parnell, Phillips, Torgerson, Pearce, Sharp
Amendment #10 FAILED by a 2 to 5 vote.

SENATOR ADAMS MOVED Amendment #11. SENATOR TORGERSON objected. SENATOR ADAMS explained that the amendment deleted the new caps on non-economic damages. A roll call vote was taken on the MOTION to adopt Amendment #11.

IN FAVOR: Donley, Adams
OPPOSED: Phillips, Torgerson, Parnell, Pearce, Sharp
Amendment #11 FAILED by a 2 to 5 vote.

SENATOR ADAMS MOVED Amendment #12. Objection was heard. SENATOR ADAMS explained that the amendment changed "and" to "or" concerning the standards for higher punitive damages. REPRESENTATIVE PORTER spoke in opposition to the amendment. A roll call vote was taken on the MOTION to adopt Amendment
IN FAVOR: Adams
OPPOSED: Phillips, Donley, Torgerson, Parnell, Pearce, Sharp
Amendment #12 FAILED by a 1 to 6 vote.

SENATOR ADAMS MOVED Amendment #13. COCHAIR PEARCE objected. SENATOR ADAMS explained that the amendment deleted the section related to collateral benefits. Some discussion was had between SENATORS DONLEY, ADAMS and REPRESENTATIVE PORTER . A roll call vote was taken on the MOTION to adopt Amendment #13.

IN FAVOR: Donley, Adams
OPPOSED: Torgerson, Parnell, Phillips, Pearce, Sharp
Amendment #13 FAILED by a 2 to 5 vote.

SENATOR ADAMS MOVED Amendment #14. COCHAIR PEARCE objected. SENATOR ADAMS explained that the amendment cleared up language related to expert witness qualifications of the bill. A roll call vote was taken on the MOTION to adopt Amendment #14.

IN FAVOR: Adams

OPPOSED: Donley, Torgerson, Parnell, Phillips, Pearce, Sharp
Amendment #14 FAILED by a 1 to 6 vote.

SENATOR ADAMS MOVED Amendment #15. SENATOR TORGERSON objected. SENATOR ADAMS explained the amendment. A roll call vote was taken on the MOTION to adopt Amendment #15.

IN FAVOR: Adams, Donley

OPPOSED: Parnell, Phillips, Torgerson, Sharp, Pearce
Amendment #15 FAILED by a 2 to 5 vote.

SENATOR ADAMS MOVED Amendment #16. SENATOR PARNELL objected. SENATOR ADAMS described the amendment concerning offers of settlement prior to litigation. REPRESENTATIVE PORTER commented on the amendment, stating it would not be prudent. Additional discussion was had between he, SENATORS ADAMS, DONLEY and PARNELL. A roll call vote was taken on the MOTION to adopt Amendment #16.

IN FAVOR: Adams, Donley

OPPOSED: Phillips, Torgerson, Parnell, Sharp
Amendment #16 failed by a 2 to 4 vote.

SENATOR ADAMS did not offer Amendment #17, but did provide a brief description.

SENATOR ADAMS MOVED Amendment #18. COCHAIR PEARCE objected.

SENATOR ADAMS explained that the amendment would set up a pilot program for alternative dispute resolution to help streamline the justice system. REPRESENTATIVE PORTER spoke against the amendment. A roll call vote was taken on the MOTION to adopt Amendment #18.

IN FAVOR: Adams

OPPOSED: Phillips, Donley, Torgerson, Parnell, Pearce, Sharp
Amendment #18 FAILED by a 1 to 6 vote.

SENATOR PARNELL MOVED Amendment #19. SENATOR TORGERSON objected. SENATOR PARNELL explained that the amendment deleted periodic payments of a settlement. REPRESENTATIVE PORTER opposed the amendment. A roll call vote was taken on the MOTION to adopt Amendment #19.

IN FAVOR: Donley, Parnell, Adams, Phillips, Pearce, Sharp

OPPOSED: Torgerson

Amendment #19 was ADOPTED by a 6 to 1 vote.

SENATOR PARNELL MOVED Amendment #20. COCHAIR SHARP objected for the purpose of discussion. SENATOR PARNELL explained the amendment which related to reckless conduct.

End SFC-97 # 101, Side 1, Begin Side 2

COCHAIR SHARP withdrew his objection. Without further objection, Amendment #20 was ADOPTED.

COCHAIR SHARP announced there were no further amendments and requested the pleasure of the committee.

SENATOR TORGERSON MOVED SCSCSSSHB 58(FIN) from committee with individual recommendations. SENATOR ADAMS objected. A roll call vote was taken on the MOTION to report the bill

from committee.

IN FAVOR: Parnell, Phillips, Donley, Torgerson, Pearce,
Sharp

OPPOSED: Adams

By a vote of 6 to 1, SCSCSSSHB 58(FIN) was REPORTED OUT with previous zero fiscal notes from the Department of Law and the Department of Commerce and Economic Development, fiscal notes from the Judicial Council (26.5) and the Court System (19.4) and a new zero fiscal note from the Department of Administration.
