

**ALASKA STATE LEGISLATURE
LEGISLATIVE COUNCIL**

**FEBRUARY 25, 2021
2:00 PM**

VIA TELECONFERENCE

MEMBERS PRESENT

Representative Sara Hannan, Chair
Senator Lora Reinbold, Vice Chair
Representative Matt Claman
Representative Bryce Edgmon
Representative Kevin McCabe
Representative Louise Stutes
Representative Cathy Tilton
Representative Chris Tuck
Senator Click Bishop
Senator Shelley Hughes (alternate)
Senator Peter Micciche
Senator Mike Shower
Senator Bert Stedman
Senator Gary Stevens

MEMBERS ABSENT

Senator Lyman Hoffman

OTHER MEMBERS PRESENT

AGENDA

COMMITTEE ORGANIZATION
COMMITTEE POLICIES
COMMITTEE BUSINESS

SPEAKER REGISTER

Jessica Geary, Executive Director, Legislative Affairs
Agency (LAA)
Megan Wallace, Director of Legal Services, LAA

[2:02:35 PM](#)

I. CALL TO ORDER

SPEAKER STUTES called the Legislative Council meeting to order at 2:02 pm. Present at the call were: Representatives Claman, Edgmon, Hannan, McCabe, Stutes, Tilton, Tuck; Senators Bishop, Micciche, Hughes (alternate), Shower, Stedman, Stevens, Reinbold.

Senator Hoffman was absent.

13 members present.

II. COMMITTEE ORGANIZATION

A. Election of the Chair

[2:03:58 PM](#)

REPRESENTATIVE EDGMON nominated and elected Representative Sara Hannan as the Chair of Legislative Council and asked for unanimous consent and that nominations be closed.

SPEAKER STUTES said without objection Representative Hannan is the Chair and turned the gavel over to her.

B. Election of the Vice Chair

[2:04:31 PM](#)

SENATOR STEVENS nominated and elected Senator Lora Reinbold as the Vice Chair of Legislative Council and asked for unanimous consent and that nominations be closed.

CHAIR HANNAN said hearing no objection, Senator Reinbold is the Vice Chair.

III. COMMITTEE POLICIES

A. Quorum and Voting Requirements

CHAIR HANNAN said it is a long-standing policy of the Council to have a requirement of eight members for a quorum and eight members to approve a motion. Because there are seven members of the House and seven members of the Senate, this standard ensures at least one member of

the other body approves a motion or satisfies a quorum to do the Council's business. Chair Hannan continued that unless there is objection, she would like to maintain the existing policy. Hearing no objection, that policy is approved.

IV. COMMITTEE BUSINESS

A. Motion to authorize Chair to give direction to Legal Services

[2:05:41 PM](#)

SENATOR REINBOLD moved that Legislative Council authorize the Chair to give direction to Legal Services in any pending legal matters.

There was an objection [speaker did not identify themselves].

CHAIR HANNAN noted the objection and asked Megan Wallace, Director of Legal Services to please speak to the motion and take questions.

MEGAN WALLACE, Legal Services Director, explained that as members are aware there are several pending lawsuits that Legislative Council previously authorized. Those include pending appeals in the Alaska Supreme Court on issues related to the forward funding of education and the Governor's appointment and Legislative confirmation of the Governor's appointees. This pending motion will be consistent with the motions that authorize those lawsuits which allow for the Chair to give direction to Legal Services as to how to proceed with those pending legal matters. Ms. Wallace said she is available for questions.

REPRESENTATIVE CLAMAN asked, this motion would not allow the Legislative Council Chair to make a decision to bring a lawsuit, that is left with Legislative Council, this just means that on the matters that have come up during the course of the lawsuit, the Legislative Legal Director can contact the Legislative Council Chair who can give directions following through on the earlier decision to bring the lawsuit?

MEGAN WALLACE replied that is correct. The statutory authority to bring a lawsuit by Legislative Council requires the consent of the Council, not just the Chair.

REPRESENTATIVE CLAMAN thanked Ms. Wallace.

REPRESENTATIVE TUCK asked if there was an objection to the motion.

CHAIR HANNAN replied yes, there was an objection for purposes of discussion.

REPRESENTATIVE MCCABE said he had an objection, not just for purposes of discussion and asked to speak to his objection.

CHAIR HANNAN asked Representative McCabe to please speak to his objection.

REPRESENTATIVE MCCABE thanked the Chair and said he appreciated the opportunity to speak. He believed in certain legal matters such this, the sense of Legislative Council needs to be given to the Chair before the Chair is allowed to make decisions such as this one on the expedited hearing and the pleadings before Ms. Wallace at this time. He said he would like to amend that motion to say, "In certain circumstances, the Legislative Council Chair can be given carte blanche to give direction to Megan Wallace, but the Council would have to determine what those circumstances were." This seems to be a very big pleading and a big decision, too big to rest on the shoulders of just the Chair with no discussion from the Council. He said it is divisive and it is important to the State that the correct decision is made as a Council. Thank you.

CHAIR HANNAN said she did not hear that stated as a motion so would rule Representative McCabe's statement is not a motion to take action on. She asked if there were other members who would like to speak to the objection and the motion.

SENATOR REINBOLD said she only had fifteen minutes, but wanted to say no one discussed this ahead of time, so she was not sure the scope of what this entails or how much authority this gives the Chair and thought it should be discussed. She is very supportive of moving forward on the Governor's appointees, but does not want to give blanket authority to the Chair, especially as the Vice Chair because she represents the Senate and there are a lot of Senators online. She said she did not know how much leeway this gives the Chair.

CHAIR HANNAN asked Senator Stevens, outgoing Council Chair, or Megan Wallace to speak to the parameters that this motion grants the Chair.

SENATOR STEVENS said he would like to hear what Ms. Wallace has to say but did want to comment. He said this is not an unusual thing Council is doing and, as Ms. Wallace said before, this is only pending litigation approved during the last session by that Legislative Council. This does not give carte blanche approval for the Chair to have lawsuits. If a new lawsuit were to occur during session, it would have to be approved by both the House and the Senate, but if it were to occur during the interim, it would have to be approved by the entire Legislative Council.

He said he is certain that our Chair will do as previous Chairs have done and ensure Legislative Council is fully aware of what is going on and not take independent action without tacit approval of the Council. He sees no reason why this is necessary as the business of the State must be run, sometimes quickly. He knows that is the case and often when he was Chair had to work with Ms. Wallace on very short notice to get things done, so he does not think it will be abused and would not be comfortable with an amendment that would change this motion.

SENATOR REINBOLD said she would like, with respect, to have all members say this is not carte blanche, she just wants the intent. She said she is not going to vote against this, however wants the intent to be clear.

CHAIR HANNAN asked if there were other members of the Committee who would like to address the motion.

SENATOR HUGHES asked Ms. Wallace, or perhaps Senator Stevens, if any direction that the Chair would give would incur any additional cost, and whether any direction that the Chair could give would make a policy call without the agreement of the Council.

SENATOR STEVENS said he did not believe there would be any policy issues or change of policy established by Legislative Council or by the House and the Senate during session. Additional costs are entirely possible as happens in lawsuits sometimes. When he was Council Chair several years ago, there was a large lawsuit against the owners of the downtown building in Anchorage which took a lot of effort. Legislative attorneys, himself, his staff were involved often in Anchorage on long, involved issues and in

that case, the Chair needs the support of the Council to accomplish their goals. He could not answer the issue about costs, but sometimes there may be additional costs by giving this authority to the Chair, but there would be no change in the policy of the Council.

CHAIR HANNAN asked Senator Hughes if that answered her question or if she would like to hear from Megan Wallace as well.

SENATOR HUGHES asked to please hear from Ms. Wallace.

MS. WALLACE said she will largely echo the statements made by Senator Stevens. With respect to the policy decisions, the policy decision to pursue the lawsuit was already made by a previous Legislative Council and any effort that moves forward is likely to be consistent with the positions taken by the Legislature already. With respect to cost, the matters that are currently pending have been handled entirely in-house by herself and members of her team and if any costs have been incurred, they have been modest and within the Legal Services approved budget. At this time, she does not expect there to be any additional cost associated with the ongoing appeal.

SENATOR STEVENS said he appreciates what Ms. Wallace said, but to underline, the Chair has a limit of \$35,000, unless approved by Council. That is a lot of money but can be spent quickly in lawsuits. There is a limit on any Chair of a \$35,000 obligation.

REPRESENTATIVE MCCABE said this meeting was scheduled so tightly because it is focused on one underlying motion and the fact that the judge wants a response from the Legislative Council today. We have a new Legislative Council that has recently been empaneled, not the old Legislative Council, and he does not believe we have had enough time to meet for the Chair to get a sense of what the Legislative Council actually wants. While he appreciates all the comments, he believes that this particular motion was put forth to give the Chair the ability to direct Ms. Wallace to respond to this pleading and the judge's requirement that she have a response in by this afternoon and he believes that doing so without the sense of the Council is incorrect. He appreciates the opportunity to speak on that.

CHAIR HANNAN asked Ms. Wallace to clarify the timeframe and the motion that she has been asked by the court to respond to.

MS. WALLACE replied that the motion we have been speaking about is that the Governor's Office has filed an appeal stemming from the decision issued by Judge Pallenberg last week in Juneau Superior Court and has filed an emergency motion seeking expedited consideration from the Supreme Court on that appeal and asking for that decision from the Supreme Court to be rendered by April 12, 2021. We received notice yesterday that the court was requesting our response by close of business February 25, 2021. Without knowing whether or not the committee would have the ability to hold a meeting so expeditiously, we did seek relief from the court and request some additional time to respond to that motion. We just recently received confirmation that the court has granted that request, but that request for an extension of time was not approved until after this meeting had been scheduled.

CHAIR HANNAN asked if there were other questions.

REPRESENTATIVE CLAMAN commented that the motion Ms. Wallace earlier indicated there are actually two pending appeals before the Supreme Court: one involving education forward funding, that was one of the matters she described, and the other involving the appointments topic. He wanted to echo the comments made earlier by Senator Stevens to the effect that the kinds of questions that will be asked for the Legislative Council Chair are consistent with past practice of the Legislature and that the decision to bring the lawsuit has already been made. He does not think this is just one motion, this is actually allowing us to continue doing business when we have matters before the court, such as has been the Legislature's practice for many years.

SENATOR SHOWER apologized for missing approximately the first six minutes of this meeting and the motion. He asked to please get a very brief synopsis of the motion, as he has only heard the debate since.

CHAIR HANNAN said the motion was, "I move that the Legislative Council authorize the Chair to give direction to Legal Services in any pending legal matters."

SENATOR SHOWER thanked the Chair.

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REPRESENTATIVE TUCK said this is basically standard operating procedure, not anything new. We granted these powers once the decision was made to move forward on a legal case, anything other than that would just slow the process down. That is one thing that gives government a bad name when we do not run as efficient as we should. He is in total support with the original motion.

SENATOR SHOWER said his question pertains to a physical quorum and so many people being on the phone. Our understanding is that we were not able to pass a motion or vote if we were not present. He would like to know from Legislative Legal, unless there is a quorum physically present, are we allowed to make these motions? We had some confusion with that earlier today about committees with so many people missing.

MS. WALLACE responded that yes, the Legislative Council can operate remotely with telephonic participation including voting to approve certain matters. The difference between Legislative Council motions for approval and committees which pass out a bill is that Uniform Rule 24a requires that committee reports relating to actions on bills be signed physically by committee members, there lies the distinction and because there is no committee report that requires signature, Legislative Council has historically operated and conducted a large amount of business telephonically with votes being taken by members who are participating remotely.

SENATOR SHOWER said thank you and was grateful for that being made clear and put on the record.

SENATOR STEVENS said he wanted to make clear that last interim while under the threat of COVID and Council could not meet physically in one location, it was pretty common practice, as it has been for many years during the interim, to not meet physically in one place, but to meet by teleconference or video conference.

CHAIR HANNAN asked Representative McCabe if his objection still stood.

REPRESENTATIVE MCCABE replied, yes, it does. Thank you.

CHAIR HANNAN requested a roll call vote.

[2:24:18 PM](#)

A roll call vote was taken.

YEAS: Representatives Claman, Edgmon, Hannan, Stutes, Tuck; Senators Bishop, Micciche, Hoffman, Hughes, Shower, Stedman, Stevens

NAYS: McCabe, Tilton

The motion passed 12-2.

CHAIR HANNAN asked if there were any questions.

SENATOR MICCICHE said he wanted to make it perfectly clear and should have brought this up before, but thinks there is a better path. The reason he supported this motion is the legislature is in a legal proceeding now and must see it through. He hopes that Council finds a better way to deal with this issue going forward. He is not supportive of the initial lawsuit, but the Legislature is in the middle of it now and will actually need some legal representation to deal with it, even if it backs out gracefully. Thank you.

SENATOR HUGHES said she is not supportive of the lawsuit either, but when things take longer the costs go up and that is why she voted yes.

REPRESENTATIVE MCCABE said for him, it is not about giving the Chair power or not or the ability to make a decision, it is specifically about this motion. He thinks there is a better way and that we are in a crossroads now with this injunction, where we could find a way to back out gracefully and do what we want to do with the legislation instead of with the cost, expense, and divisiveness of a lawsuit. He thinks the injunction accomplished our goals and that we need to find a better path, if we can, as a Council. Hence his no vote. It was not directed at the Chair in any way.

REPRESENTATIVE STUTES said Chair Hannan did a stupendous job chairing the first meeting and thanked Madam Chair.

CHAIR HANNAN thanked Speaker Stutes and all members and staff who, in this fire drill to meet a court deadline that we believed to be today, made yourselves available on short notice, in challenging times, on a complex issue. She assured members this will not be her practice to call meetings at the last minute, and we will have an organized,

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well-advertised in advance Legislative Council meeting in the very near future.

V. ADJOURN

CHAIR HANNAN said if there is nothing further to come before the Council, we are adjourned.

[2:29:30 PM](#)