

LEGISLATIVE COUNCIL
September 5, 2001

1. ROLL CALL

The Legislative Council meeting was called to order at 11:10 a.m. by Representative Green, Legislative Council Chair, in the Anchorage 2nd Floor Conference Room & via teleconference.

The roll was taken. In attendance were Council members Green, Berkowitz, Kott, Murkowski, Ogan, Rokeberg, Cowdery, Elton, Halford, P. Kelly (via teleconference), and Torgerson (via teleconference). Members absent were Porter and Donley. Staff present were Varni, Logan, (via teleconference Cook, Crawford, Finley, Ibesate, Schofield and Utermohle).

2. APPROVAL OF JULY 11, 2001 MINUTES

Senator Cowdery moved the minutes of the July 11, 2001 meeting be approved.

YEAS: Green, Berkowitz, Kott, Murkowski, Ogan, Rokeberg, Cowdery, Elton, Halford, P. Kelly, and Torgerson

NAYS: None

ABSENT: Donley and Porter

The minutes were approved unanimously.

3. CONSIDERATIONS OF JUDICIAL APPEALS

(A) Representative Green informed the Council that on June 18, 2001, the final plan for redistricting in Alaska was presented by the Redistricting Board. Subsequently, nine entities have filed lawsuits. Representative Green informed the Council that the Attorney General through Assistant Attorney General Jim Baldwin filed a motion to intervene so that the interests of the Executive Branch were represented. Representative Green posed the question to the members whether the Council should intervene in the lawsuit on behalf of the Legislative Council.

Discussion follows.

Representative Ogan moved that the Legislative Council give the Chair the authority to obtain Legal Counsel and file a motion to intervene on behalf of the Legislative Council in the redistricting case.

Representative Berkowitz offered an amendment to the motion that the Attorney hired would be an Alaskan Counsel who resides in the State.

YEAS: Berkowitz, Murkowski, Rokeberg, and Elton

NAYS: Green, Kott, Ogan, Cowdery, Halford, P. Kelly and Torgerson

ABSENT: Donley and Porter

The amendment failed 7 to 4.

Representative Ogan restated his motion to allow the Chair the authority to obtain a Legal Counsel and file a motion to intervene on the redistricting plan.

YEAS: Green, Kott, Murkowski, Ogan, Rokeberg, Cowdery, Halford, P. Kelly, and Torgerson

NAYS: Berkowitz and Elton

ABSENT: Donley and Porter

The motion was approved by 9 to 2.

(B) Representative Green briefed the Council that in April 2000, Governor Knowles vetoed SB 7. SB 7 provides for the transfer of approximately 260,000 acres of public land and dedication of income from that land to the University of Alaska. The Legislature voted to override the governor's veto, with 41 in favor and 19 against veto override.

James Crawford, Legislative Legal Counsel summarized to the Council that the superior court rendered its decision in Legislative Council v. Knowles, also known as the University Lands case. The case presented the question whether the veto of SB 7, a bill that entitled the University to select and receive state land, had been overridden by a 41 yea 19 nay override vote. In its opinion, the court decided that bills setting aside state assets other than just money could constitute appropriations. Although this holding had already been decided in the initiative setting, the superior court's decision represents the first time the initiative treatment of appropriations had been applied in the enactment setting. Additionally, the court decided that SB 7's provisions dealing with income

potentially arising under SB 7's land selection scheme constituted a monetary appropriation. Consequently, the court held that the three-fourths appropriation veto override requirement applied, that the 41 yeas and 19 nays fell short of this requirement, and that SB 7 was not validly enacted into law.

Representative Berkowitz moved that the Council appeal the decision.

YEAS: Green, Berkowitz, Kott, Murkowski, Ogan, Rokeberg, Cowdery, Halford, P. Kelly, and Elton

NAYS: None

ABSENT: Donley, Porter and Torgerson

The motion was approved by 10 to 0.

(C) Representative Berkowitz stated that at the previous Council meeting, the Council tabled a motion regarding the Anchorage Legislative Office parking lot. Representative Berkowitz moved that the Council un-table that motion to allow the public to rent space or park in the Legislative Office parking lot after hours.

Discussion followed.

Representative Green appointed a subcommittee on the issue with Representative Murkowski as Chair and Representatives Berkowitz, Green, and Senator Cowdery and Donley as the members.

The meeting was adjourned at 11:10 a.m.