

HOUSE BILL NO. 563

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Introduced: 5/4/04
Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to open meetings guidelines applicable to legislators, to the**
2 **confidentiality of complaints and proceedings involving alleging violations of AS 24.60,**
3 **and to hearings on formal charges by the Select Committee on Legislative Ethics or its**
4 **subcommittees."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 24.60.037 is repealed and reenacted to read:

7 **Sec. 24.60.037. Open meetings guidelines.** (a) A meeting of a legislative
8 body is open to the public in accordance with the open meetings guidelines established
9 in this section. A legislator may not participate in a meeting held in violation of these
10 open meeting guidelines.

11 (b) For purposes of the legislative open meetings guidelines, a meeting occurs
12 when a majority of the members of a legislative body is present and action, including
13 voting, is taken. The Uniform Rules of the Alaska State Legislature control the
14 procedure for conducting open and executive sessions of a legislative body.

1 (c) Legislators may meet in a closed caucus or in a private, informal meeting
 2 to discuss and deliberate on political strategy. Those meetings are exempt from the
 3 legislative open meetings guidelines. For purposes of this subsection, "political
 4 strategy" includes organization of the houses, assignment of committee membership,
 5 scheduling of bills, vehicles for adoptions, House-Senate relations, other procedural
 6 matters, caucus operations, meetings between majority and minority caucus leaders,
 7 meetings between majority and minority caucus leaders of both houses, meetings with
 8 the governor, deliberations with regard to strategy, and discussions of issues in the
 9 context of strategy.

10 (d) Notwithstanding AS 24.60.130(h) and (n), if a complaint alleges a
 11 violation of this section by a group of legislators that includes a legislative member of
 12 the committee and that member's alternate, the complaint shall be treated as two
 13 separate complaints with members of the group apportioned between them so that the
 14 legislative member is not disqualified from participating in a proceeding involving one
 15 of the complaints and the alternate is not disqualified from serving in a proceeding
 16 involving the other.

17 (e) The legislative open meetings guidelines are subservient to the Uniform
 18 Rules adopted by the Alaska State Legislature. In cases where there are conflicts
 19 between these guidelines and the Uniform Rules, the Uniform Rules prevail.

20 (f) The legislative open meetings guidelines are the guidelines that shall be
 21 used by the committee when considering complaints filed regarding open meetings.

22 (g) In the legislative open meetings guidelines,

23 (1) "legislative body"

24 (A) includes

25 (i) the Senate;

26 (ii) the House of Representatives;

27 (iii) the Senate and the House of Representatives
 28 meeting in joint session;

29 (iv) a committee of the legislature, other than the
 30 Committee on Committees, but including a standing committee, special
 31 committee, joint committee, conference or free conference committee,

1 committee of the whole, and permanent interim committee;

2 (v) a legislative commission, task force, or other group
3 established by statute or resolution; or

4 (vi) a caucus of members of one or more of the bodies
5 set out in (i) - (v) of this subparagraph;

6 (B) does not include

7 (i) any committee or group of legislators considering
8 only matters involving the organization of a committee or a house of
9 the legislature, including selection of legislative officers;

10 (ii) any committee or group of legislators and the
11 governor or staff of the Office of the Governor;

12 (iii) officers of the legislature, including committee
13 chairs;

14 (iv) officers of a caucus;

15 (2) "meeting" does not include

16 (A) a gathering of members of a legislative body for purely
17 ministerial or social purposes where there is no deliberation of policy issues; or

18 (B) forums where members of a legislative body have been
19 invited to address a group on legislative issues or concerns.

20 * **Sec. 2.** AS 24.60.170(j) is amended to read:

21 (j) If the committee has issued a formal charge under (h) of this section, and if
22 the person charged has not admitted the allegations of the charge, the committee shall
23 schedule a hearing on the charge. **The committee may appoint an individual to**
24 **present the case against the person charged if that individual does not provide**
25 **and has not provided legal advice to the committee except in the course of**
26 **presenting cases under this subsection.** The hearing shall be scheduled for a date
27 more than 20 days after service of the charge on the person charged, unless the person
28 agrees to an earlier hearing date. At the hearing, the person charged shall have the
29 right to appear personally before the committee, to subpoena witnesses and require the
30 production of books or papers relating to the proceedings, to be represented by
31 counsel, and to cross-examine witnesses. A witness shall testify under oath. The

1 committee is not bound by the rules of evidence, but the committee's findings must be
2 based upon clear and convincing evidence. Testimony taken at the hearing shall be
3 recorded, and evidence shall be maintained.

4 * **Sec. 3.** AS 24.60.170(l) is amended to read:

5 (l) Proceedings of the committee relating to complaints before it are
6 confidential until the committee determines that there is probable cause to believe that
7 a violation of this chapter has occurred. The complaint and all documents produced or
8 disclosed as a result of the committee investigation are confidential and not subject to
9 inspection by the public. If in the course of an investigation or probable cause
10 determination the committee finds evidence of probable criminal activity, the
11 committee shall transmit a statement and factual findings limited to that activity to the
12 appropriate law enforcement agency. If the committee finds evidence of a probable
13 violation of AS 15.13, the committee shall transmit a statement to that effect and
14 factual findings limited to the probable violation to the Alaska Public Offices
15 Commission. All meetings of the committee before the determination of probable
16 cause are closed to the public and to legislators who are not members of the
17 committee. However, the committee may permit the subject of the complaint to attend
18 a meeting other than the deliberations on probable cause. The confidentiality
19 provisions of this subsection may be waived by the subject of the complaint. **Except**
20 **to the extent that the confidentiality provisions are waived by the subject of the**
21 **complaint, if a complainant violates any confidentiality provision, the committee**
22 **shall immediately dismiss the complaint.**

23 * **Sec. 4.** Section 10, ch. 69, SLA 1994, is repealed.