



# Alaska State Legislature Legislative Council Minutes

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**JANUARY 20, 2011**

[9:55:17 AM](#)

The Legislative Council meeting was called to order at 9:55 a.m. by Pam Varni, Executive Director, Legislative Affairs Agency, in the House Finance Committee Room.

## **1. ROLL CALL**

The roll was taken. In attendance were Council members: Senators Menard, Davis, Hoffman, Olson, Stedman, and Stevens; Representatives Austerman, Chenault, Holmes, Johnson, Stoltze, and P. Wilson. Absent members: Senator Egan and Representative Herron.

Staff present: Varni, Clothier, Cotter, Gardner, Ibesate, Johnston, Kurtz, Lesh, Luckhaupt, Miller, Schofield, and Strong.

## **2. ELECTION OF CHAIR**

Executive Director Pam Varni called for nominations for the Chair of Legislative Council.

Senate President Gary Stevens nominated Senator Linda Menard as the Chair of Legislative Council and asked for unanimous consent and that the nominations be closed.

There were no objections to the nomination. Senator Menard was unanimously elected Chair of Legislative Council.

Executive Director Pam Varni turned over the gavel to Chair Menard with congratulations.

## **3. ELECTION OF VICE-CHAIR**

Chair Menard called for nominations for the Vice-Chair of Legislative Council.

Speaker Chenault nominated Representative Bob Herron as the Vice-Chair of Legislative Council and asked for unanimous consent and that the nominations be closed.

There were no objections to the nomination. Representative Herron was unanimously elected Vice-Chair of Legislative Council.

## **4. APPROVAL OF AGENDA**

Senate President Stevens requested to add to the agenda a discussion of alternates for Legislative Council.

There were no objections to the addition.

Senator Stedman joined the meeting. [10:04:27 AM](#)

Speaker Chenault moved that Legislative Council approve the agenda as amended.

The motion passed with no objections.

## **5. APPROVAL OF DECEMBER 14, 2010 MINUTES**

Speaker Chenault moved that Legislative Council approve the minutes of the December 14, 2010 Council meeting as presented.

The motion passed with no objections.

## **6. SANCTIONING OF CHARITABLE EVENTS**

Speaker Chenault moved that Legislative Council sanction the following charitable events per AS 24.60.080(a)(2)(B):

- Fahrenkamp Classic Charity Putting Tournament – March 10-12, 2011
- Thanksgiving in March – March 15, 2011

The motion passed with no objections.

## **7. REVISOR'S BILL**

Kathryn Kurtz, Assistant Revisor of Statutes, introduced herself and Jerry Luckhaupt, a new Assistant Revisor. Ms. Kurtz testified that the Revisor's bill is something the Agency does every year; it's mentioned in statute at AS 01.05.036 that the Revisor and the Legislative Affairs Agency will prepare a bill recommending changes to the statutes to fix deficiencies, conflicts, and obsolete provisions. She went on to say that these are issues that staff note in their review of the statutes, and the Department of Law brings some of them to their attention. Other lawyers and practitioners also notice issues and contact the Agency. She said the Revisor's bill is what the Agency uses to clean things up.

Ms. Kurtz stated that the Department of Law has reviewed the Revisor's bill and has had no objections to date. She noted that, in preparing the Revisor's bill, staff also talk to the Alaska Court System. She said that, in fact, one of the changes in this bill is to make consistent how the Administrative Director of the Alaska Court System is referred to; that Administrative Director is the preferred title. Ms. Kurtz noted that they have checked with the Director and she is agreeable with the change.

Ms. Kurtz noted that staff try and stick to policy-neutral, non-controversial, house-keeping type changes. She specifically pointed out that this bill removes references to Sheldon Jackson

College since it's no longer in operation, making it impossible for somebody from that institution to be included in the process of putting people on the Commission on Post-Secondary Education.

Ms. Kurtz stated that there is also a change to an oil and gas tax credit provision requested by the Department of Law. She said the change is in AS 43.55.023(a), to add the word "and". She has conferred with Don Bullock, the attorney who does drafting in that area in the Legal Service Division, and he is agreed that this really can't be read as "or"; it is read naturally as "and", so staff don't think that adding the word "and" and making it explicit makes any substantive change, but she wanted members to be aware that this provision is in this bill. She informed members that, as with anything, staff do not view this as controversial, but if her perceptions are off on this issue or any other, members can elect to remove sections from the Revisor's bill.

Representative Peggy Wilson joined the meeting. [10:08:08 AM](#)

Discussion followed.

Senator Olson joined the meeting. [10:10:08 AM](#)

Jerry Luckhaupt, Assistant Revisor, testified that the special 2011 Revisor's bill corrects a misspelling of the word "lorazepan" that has existed in the statutes since 1982. He said he went back as far as he could to try and discover when the mistaken spelling had first occurred and it was in the process of the bill making it through committee back in 1982. Mr. Luckhaupt stated that the reason this change is presented as a special Revisor's bill is that for criminal statutes there is usually an applicability section. Applicability sections are necessary to avoid ex post facto problems with trying to apply laws. He said the reason he is using this special applicability clause in this bill is to try and emphasize to the Court System that this is a mere correction to a misspelling and that there is no substantive change intended by the Legislature; it is merely fixing a mistake that was made back in 1982. This change is intended to apply to every prosecution that has existed for the last 30 years and into the future.

Mr. Luckhaupt stated that the reason for this change is that someone could argue that they were convicted of possessing lorazepan, with a "p-a-n", which doesn't even exist, instead of what they should have been convicted of, which is possessing lorazepam, spelled with a "p-a-m" on the end. The common name of lorazepam is valium. In short, the reason for a special Revisor's bill is to provide emphasis to the Court System that this is not a substantive change, as well as applying this change from the date of enactment of this statute.

At this point, Chair Menard stopped testimony to ask Council and audience members for a moment of silence in acknowledging the death of Senator Dennis Egan's mother, Neva Egan, who passed away last night.

Ms. Kurtz resumed her testimony to note that the remaining changes are explained in the sectional, and that if the Council would like to proceed with these recommended changes to the statutes, it can move to introduce the draft through the Rules Committee.

Speaker Chenault moved that Legislative Council approve the 2011 Revisor's bills and have the Rules Committee by Request of Legislative Council introduce it.

The motion passed with no objections.

Chair Menard commented to Ms. Kurtz and Mr. Luckhaupt that the Council may need to ask them back for any future items and thanked them for their presentation.

## **8. 2011 MANUAL OF LEGISLATIVE DRAFTING**

Kathryn Kurtz testified that the Legislative Drafting Manual is used by people in Legislative Affairs, the Department of Law, and legislative staff to prepare bills and legislation. She noted that it is prepared by herself and Patty Rose, the Legal Editor. It is updated every two years. The changes are outlined in the memo each Council member received and are primarily technical, such as adding references to new case law, changing dates to 2011 instead of 2009, and updating some of the examples in the appendix. She stated that this year, staff have also added a new section on how to engross multiple amendments. She asked that the Council approve this year's Drafting Manual.

Speaker Chenault moved that Legislative Council per Uniform Rule 10 adopt the 2011 Legislative Drafting Manual as prepared by Legal Services.

The motion passed with no objections.

## **9. DISCUSSION REGARDING HAVING ALTERNATE MEMBERS ON LEGISLATIVE COUNCIL**

Chair Menard stated that, for those who weren't present at the beginning of the meeting, an item had been added to the agenda by Senate President Stevens to discuss adding alternates to this committee.

Senate President Stevens thought it was important that the committee discuss the issue of alternates. He said he understood that the House was considering an alternate for this committee. He stated that there are alternates to certain committees, such as LB&A, and that's in statute, but there are no alternates to this committee in statute. He has no objection to alternates but it is a delicate balance of seven Senators and seven Representatives. He said this is a very important committee and members should enter into this decision knowing what they are doing. If the House wants to do that, then the Senate can add one as well, and he has no objection to doing that. What is important is that there are rules and that all members understand what they are with regard to adding alternates to this committee.

Representative Bill Stoltze joined the meeting. [10:17:47 AM](#)

Discussion followed.

Speaker Chenault said that it's important that, especially during the interim when Legislative Council has an opportunity to meet to conduct the state business, we know that, at different times it's pretty hard to put together a quorum. He said this is the biggest issue - to be able to form a quorum - and that's why the House has elected to look at an alternate. The alternate would give the Chair a better opportunity to be able to form a quorum to be able to conduct business at any time that she so chooses that it needs to be done.

Representative Stoltze said he likes the idea of an alternate. He said he is often the only dissenter on issues of spending and policy and he has been asked many times to change his vote because there are not enough votes to pass it. He said he finds that to be very uncomfortable and said that if the Council can do anything to promote a better public process by making sure that there is the ability to make a quorum; to vigorously debate the issue; to allow full participation; and to allow dissent than he supports doing so.

Representative Holmes said she agrees with everything that has been said. She said having the most number of people weighing in is preferable. She said she knows there are alternates for LB&A and for Ethics; as the sole House minority member on the committee, she recommends that if the Council is going to appoint alternates that the Council do it as it is done for Ethics and LB&A where there is alternate for the majority members and an alternate for the minority members.

Senator Stedman said that he is a little concerned with the gravitational direction of the conversation that there is multiple back-up support if anyone that is in the majority or minority who can or cannot make a meeting. He prefers not to have alternates personally but if the Committee decides that that's what they want, that would be fine. The House could have an alternate and the Senate could have an alternate. He said fracturing it down to the point of minority and majority is going a little too far.

Senate President Stevens said that having this discussion is important so that the rules are very clear. He recommended that there be some rules written up and actually make a formal proposal. Alternates are in statute for LB&A, it is not in statute the Legislative Council can do that. He said it is best that it is done properly and clearly so that everyone understands the rules.

Representative Wilson asked that if a change was made, wouldn't there have to be a bill so that the change was made in statute.

Chair Menard responded that this is just in the discussion arena right now.

Speaker Chenault said that the statute is silent on whether Legislative Council can have alternates or not. He said he thinks it is the Council's decision to make.

Senator Bettye Davis said we should put this into a committee and let them draw up a proposal and bring it back for further action.

Senator Lyman Hoffman said he agreed that in today's age of technology we have the ability to participate by teleconference. The timeframe of notification of meetings is adequate enough that

people should be able, if they want to request to be on this committee, to make the effort during the interim to put an hour and a half to two hours aside maybe three or four times during the summer. He said it's not asking that much and maybe there should be more consideration given to who is appointed to the committees and ask them if they are committed to attending the meetings before they're seated. He said he could go either way on this issue, whatever the committee decides.

Chair Menard stated that this item would be addressed at the next Legislative Council meeting.

Chair Menard asked Pam Varni to introduce her fabulous Agency staff.

Ms. Varni introduced Tina Strong, Procurement Officer; Shane Miller, Finance Manager, who is replacing Karla Schofield, when she retires; Karla Schofield, Deputy Director, is still on staff to train Shane; Curt Clothier, IS Manager; Wen Ibesate, Administrative Officer; Doug Gardner, the new Legal Services Director chosen by Legislative Council to replace Tam Cook; Don Johnston, Capitol Building Manager; Sue Cotter, Manager of Information and Teleconference Section, who used to be Sue Gullufsen but was recently married, and; Santé Lesh, Publications Specialist who does legislative citations and is also the Legislative Council support staff.

Chair Menard thanked Ms. Varni and noted that she had put together a very professional staff in addition to herself.

Chair Menard introduced her lead Legislative Council staff, Administrative Assistant Cathy Tilton, and her Chief of Staff, Michael Rovito.

## **10. FUTURE TOPICS**

Chair Menard noted that there are future topics and that she will be sending out memos to the members regarding these topics.

Senate President Stevens acknowledged Karla Schofield and said she has been just great to work with. He said it seems like she says "no" a lot of times, but that she has been wonderful and he is really sorry to see that she is retiring. He asked for a round of applause for Karla.

The meeting adjourned at 10:32 a.m.

[10:31:45 AM](#)