

**ALASKA STATE LEGISLATURE
LEGISLATIVE COUNCIL
JUNE 29, 2016
8:03 AM**

MEMBERS PARTICIPATING VIA TELECONFERENCE

Senator Gary Stevens, Chair
Representative Bob Herron, Vice Chair
Senator John Coghill
Senator Lyman Hoffman
Senator Charlie Huggins
Senator Anna MacKinnon
Senator Kevin Meyer
Senator Peter Micciche
Senator Cathy Giessel, alternate
Representative Mike Chenault
Representative Mike Hawker
Representative Craig Johnson
Representative Sam Kito
Representative Charisse Millett
Representative Mark Neuman
Representative Harriet Drummond, alternate

MEMBERS ABSENT

Senator Lesil McGuire, alternate
Representative Steve Thompson, alternate

OTHER MEMBERS PARTICIPATING VIA TELECONFERENCE

Representatives Claman and Vazquez

AGENDA

OTHER COMMITTEE BUSINESS

SPEAKER REGISTER

Doug Gardner, Director of Legal Services, Legislative
Affairs Agency

8:03:49 AM

- I. CHAIR GARY STEVENS** called the Legislative Council meeting to order at 8:03 a.m. via teleconference. Present at the call were Senators Stevens, Meyer, Coghill, Hoffman, Huggins, MacKinnon, Micciche, and Giessel, alternate member; Representatives Herron, Chenault, Hawker, Johnson, Kito, Millett, Neuman, and Drummond, alternate member. Senator McGuire, alternate member, and Representative Thompson, alternate member, were absent.

Other Legislators present via teleconference were Representatives Claman and Vazquez.

II. COMMITTEE BUSINESS - EXECUTIVE SESSION
a. Medicaid Expansion Lawsuit

CHAIR STEVENS said that Judge Pfiffner's decision to deny the motion to substitute the House of Representatives for Legislative Council in the matter of the Medicaid Expansion Lawsuit was delivered, and now Legislative Council needed to make a decision on whether to proceed with Phase II of the lawsuit. He said that there was no intention of going into an Executive Session unless necessary; if there are some legal details, Council would go into Executive Session because there would be confidential information being discussed.

8:06:22 AM

SENATOR COGHILL moved that Legislative Council proceed with Phase II of the litigation entitled *The Alaska Legislative Council v. Governor Bill Walker, No. 3AN-15-09208CL*.

SENATOR Coghill, noting that the Senate chose not to proceed and that the question was how to help the House proceed, read into the record an email his office sent out:

"The evidence shows beyond a reasonable doubt that Mr. Hutchison, who was the Project Director under the Legislative Council contract, on May 5, 2016, expressly stated unequivocally via email at 3:41pm to Mr. Higgins, Mr. Bullock, Mr. McKeever, Ms. Murphy, Mr. LaCouer and Ms. Stone, that the Senate and Legislative Council would not be joining the appeal. Any representation that the Senate is a party or Legislative Council is a party approved the appeal or wanted to proceed with the appeal are false."

He went on to say that the May 5, 2016, email had been provided to Senator Stevens and to Ms. Varni. It was

something we worked our way to finally get to in trying to figure out a way to deal with this contract.

Discussion followed clarifying the motion. If Legislative Council voted in favor of the motion, then Legislative Council would be party to pursuing Phase II of the lawsuit; a "no" vote would mean Legislative Council would not proceed with the lawsuit nor be a party to it, regardless of what the House chose to do. There was further discussion regarding whether the filing date had passed and if that would present a legal issue should Legislative Council vote in favor of pursuing Phase II of the lawsuit; as well as that this was a separation of powers issue, not a Medicaid expansion issue.

REPRESENTATIVE JOHNSON, in response to a question by Senator Mackinnon, said that the House had not made a decision about pursuing Phase II of the lawsuit. Right now, Legislative Council is the only party to the lawsuit and it has been ruled that the House cannot be a substitute for Legislative Council. At this point, the House would have to start over if Legislative Council votes not to proceed.

SENATOR MACKINNON said that it was an issue about separation of power and that it was difficult for some to reflect accurately to the general public. She said she was concerned because we have had different people from the public come to the Legislature multiple times requesting oversight of the courts; that the courts are taking a more active role in vetting public policy. She said she was concerned that a judge would not let a legislative body go forward when they were two parties in a lawsuit knowing the legal maneuver, and she wanted that on the record. She said she wanted to make sure that the general public knew she had heard those comments.

SENATOR COGHILL restated the motion at the request of Speaker Chenault.

Discussion followed regarding what the motion would accomplish.

A roll call vote was taken.

YEAS: Chenault, Johnson, Millett, Neuman, MacKinnon

NAYS: Stevens, Meyer, Coghill, Hoffman, Huggins, Micciche, Hawker, Kito, Herron

The motion to proceed with Phase II the litigation entitled *The Alaska Legislative Council v. Governor Bill Walker* failed 9-5.

There being no further business before the committee, the Legislative Council meeting was adjourned at 8:22 a.m.

[8:21:51 AM](#)