

Minutes approved December 2, 2019

**ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
AUGUST 14, 2019**

Full Committee Meeting

10:40:00 AM

1. CALL THE MEETING TO ORDER

Joyce Anderson called the meeting to order at 10:41 a.m. and Jerry Anderson conducted roll call.

Roll Call

Senator John Coghill
Senator Tom Begich
Representative Louise Stutes
Deb Fancher
Lee Holmes
Conner Thomas
Skip Cook
Joyce Anderson

Quorum present.

Others present

Senator David Wilson (Alternate for Senator John Coghill)
Senator Elvi Gray-Jackson (Alternate for Senator Tom Begich)
Jerry Anderson, Administrator
Jacqui Yeagle, Administrative Assistant

Joyce Anderson declared a quorum and she introduced and welcomed new alternate public member Patrick FitzGerald. She explained that the role of the alternate member is to serve when a public member is unable to serve.

At Joyce Anderson's request, Patrick FitzGerald introduced himself. He said that he was born and raised in Alaska and he has lived in Alaska his entire life except for four years when he went to school. He said that he gotten involved in politics when he moved to Anchorage in 2016 and he loves doing the work for state and for the people. He said he is excited to be on the committee and thanked Chief Justice Joel Bolger for selecting him.

Joyce Anderson said that Patrick FitzGerald is a Republican. She added that there is a requirement in statute that disallows more than two public members of one political party on the committee.

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Representative Louise Stutes joined the meeting telephonically.

Joyce Anderson said that Dan Wayne with LAA Legal, Jacqui Yeagle, Administrative Assistant, and Jerry Anderson, Ethics Committee Administrator were also in the room.

Joyce Anderson asked that for the record the committee members identify themselves before they speak. She said that the agenda for the day was full and the meeting was expected to last three hours.

2. APPROVAL OF AGENDA

Joyce Anderson said she wanted to reserve for a future meeting item 7b1, Review of Statutes and Rules of Procedure, from the agenda. She asked for a motion to approve the agenda as amended.

Lee Holmes moved to approve the agenda as amended. Senator Tom Begich seconded the motion. There was no further discussion. The motion carried.

10:44:34 AM

3. APPROVAL OF MINUTES

Joyce Anderson directed the committee's attention to the March 28, 2019 Full Committee Meeting Minutes and asked for a motion to approve the minutes of the March 28, 2019 full committee minutes.

Senator Tom Begich moved to approve the March 28, 2019 Full Committee meeting minutes. Lee Holmes seconded the motion. There was no further discussion. The motion carried.

Joyce Anderson asked for a motion to approve the March 28, 2019 House Subcommittee Meeting Minutes as presented.

Lee Holmes moved to approve the March 28, 2019 House Subcommittee Meeting Minutes. Senator Tom Begich seconded the motion. There was no further discussion. The motion carried.

10:45:32 AM

4. PUBLIC COMMENT

There were no public comments.

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5. ADVISORY OPINIONS

Joyce Anderson directed the committee's attention to draft Advisory Opinion 19-03, which was requested by Senator Tom Begich who had waived confidentiality so it could be discussed by the Ethics Committee in a public session.

Joyce Anderson asked Senator Tom Begich if he wanted to speak to why he requested the advisory opinion.

Senator Tom Begich began by saying that he would be recusing himself from voting on the advisory opinion because he requested the opinion. He explained that the question stemmed from a spirited preliminary discussion by the Ethics Committee about a request that he had made on an issue that had come up during the 2018 election. There was scheduled at a location in his district a forum for candidates of all political parties and he considered it part of his role as a member of the state senate to inform the public about the forum. He was not a candidate in that election and he was not publicly supporting any of the candidates. Senator Begich received informal advice not to provide that information and he did not. After the committee discussion about the issue, he requested a formal opinion, resulting in draft Advisory Opinion 19-03.

Dan Wayne began his overview of the advisory opinion by saying that the request received through the Ethics Committee did not have a lot of facts and so he made some factual assumptions in writing the opinion. The assumptions are noted in the opinion.

Dan Wayne reviewed the statement of facts: the forum was hosted by a nonpartisan organization and the legislator publishing the newsletter is not a featured candidate at the forum, is not using the newsletter to advocate for a particular candidate, or pack attendance at the forum, or influence the outcome of the election in which the featured candidate is running; and also that the requestor desires to include information about the forum in the newsletter in order to fulfill what the legislator perceives as an obligation to inform constituents of civics matters. Dan Wayne noted that he was not sure if the word "civics" in the last sentence should be "civic" or "civics."

Senator Tom Begich offered that the word should be "civic."

Dan Wayne read from the discussion section of the advisory opinion: From this, we understand your question to be one relating to a future candidate forum. Therefore, it is likely that, at a minimum, the public would perceive the information published in the newsletter as informing constituents about an opportunity to attend an upcoming candidate forum. It is conceivable that they could also perceive the forum or the presentation of information in the newsletter as partisan political activity, depending on how it's presented – we didn't have facts about how it was going to be presented really – and what additional information is provided.

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Dan Wayne said that AS 24.60.030(a) provides that a legislator can't use public funds, facilities, services, or other government assets or resources for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of the legislator... and he added that the rule does not prohibit a legislator from sending any communication in the form of a newsletter to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate.

10:51:20 AM

Representative DeLena Johnson joined the meeting.

Dan Wayne referred to the question presented: Does the Legislative Ethics Act permit a legislator to include, in the legislator's *regularly scheduled legislative newsletter*, information about a candidate forum. He said it was important to reference that phrase because the conclusion refers to and limits the opinion to regularly scheduled newsletters.

Dan Wayne continued, saying that after citing AS 24.60.030(a) and the exception in (J) in the advisory opinion, there is a brief discussion about the lack of definition in the Ethics Act of "partisan" or "non-partisan." But, he said, a definition is not necessary to answer the question as long as the information published [in the newsletter] doesn't expressly advocate for the election or defeat of a candidate and is not clearly only for the private benefit of the legislator or legislative employee because the exception in AS 24.60.030(a)(J) allows the legislator to include information in a legislative newsletter to the legislator's constituents even if it amounts to partisan political activity or if the forum itself is a partisan political activity.

Dan Wayne that other limitations in the Act might apply and cited AS 24.60.030(a)(5), "a legislator or legislative employee may not use or authorize the use of government assets or resources for the purpose of political fund raising or campaigning," which he said depending on the facts of the case could trump the AS 24.60.030(a)(J) exception.

10:53

Dan Wayne continued, saying that under AS 24.60.031 legislators and legislative employees are barred from soliciting contributions or promises or pledges to contribute to a political campaign during a 90-day period except in certain limited circumstances, on a day when a house of the legislature is in session. After reading the section in the meeting, Dan Wayne suggested changing it to read "90-day period before an election..." and he made a note to that effect.

Dan Wayne continued, saying that previous opinions of the committee – AO 13-03 and

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AO 15-03 – talked about how AS 24.60.030(a)(2)(J) allows legislators to use legislative assets and resources to send legislative newsletters, but only to constituents.

Dan Wayne said that advisory opinion concludes that a legislator is permitted to include the information about a candidate forum in a regularly scheduled newsletter as long as it does not expressly advocate for the election or defeat of a candidate; it is not clearly only for the private benefit of a legislator or legislative employee; and it does not constitute political fund raising or campaigning barred by AS 24.60.030(a)(5) or a solicitation barred by AS 24.60.031. The conclusion ends with the reminder that everybody is responsible for their own compliance with the Act and that the committee will consider applicable facts in each instance and also factor in whether there is an appearance of ethical impropriety.

Senator Tom Begich clarified some of the factual points to ensure the committee's understanding. Senator Begich said that it was a nonpartisan organization that conducted the forum – the Downtown Partnership – there was no charge to the public, there was no fund raising activity, there was no political activity of any kind, the newsletter went out to all constituents and it was posted online so there was no restricted audience that would have received the newsletter. Senator Begich added that in his opinion the advisory opinion cut to the heart of the difference between what is electioneering, what is campaigning, and what is the civic duty of legislators to inform.

Joyce Anderson asked if there any discussion by committee members.

Skip Cook recommended adding the word ‘upcoming’ to the second line on page two as suggested by Dan Wayne.

Joyce Anderson recommended two changes: replace the word “do” to “does” at the end of the first line of 2 under the conclusion and to reference the statute in 1 of the conclusion.

Conner Thomas moved to adopt draft Advisory Opinion 19-03 with the proposed amendments.

Deb Fancher seconded the motion to adopt draft Advisory Opinion 19-03 with the proposed amendments.

Joyce Anderson reviewed the proposed amendments.

- Removing the “s” from the word “civics” in the Statement of Facts.
- Adding the word “upcoming” to the sentence at the top of page two to read “...that opportunity to attend an upcoming candidate forum.”
- Adding the words “before an election” after the word “period” to the sentence on page three to read, “Also, legislators and legislative employees are barred, under AS 24.60.031, from soliciting contributions or promises or pledges to contribute to a political campaign during a 90 day period before an election except in certain limited circumstances...”

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- Adding a reference to AS 24.60.030(a)(2)(J) to the second paragraph under the conclusion.
- Replacing the word “do” with “does” in the third paragraph under the conclusion.

Joyce Anderson asked if there were further discussion. Seeing none, Joyce Anderson said that a roll call was required and directed Jerry Anderson to conduct a roll call vote.

11:00:22 AM

Jerry Anderson read a summary in accordance to the Rules of Procedure, “Formal Advisory Opinion AO 19-03 advises whether a legislator may include information in a regularly scheduled legislative newsletter to the legislator’s constituents about a candidate forum. This advisory opinion states the conditions under which such information may be included in the legislative newsletter.

Roll Call Vote is to concur or not concur with the draft opinion. A vote of yes will be a vote to concur with the draft opinion as amended. A vote of no will be to not concur with the draft opinion as amended in committee discussion.

Skip Cook	Y
Conner Thomas	Y
Joyce Anderson	Y
Senator John Coghill	Y
Senator Elvi Gray-Jackson (alternate to Senator Tom Begich who recused himself)	Y
Representative DeLena Johnson	Y
Representative Louise Stutes	Y
Deb Fancher	Y
Lee Holmes	Y

The Ethics Committee adopted advisory Opinion 19-03 as amended with a vote of 9-0.

Joyce Anderson said that the advisory opinion will be referred back to Legislative Legal for the changes, the final advisory opinion will be sent to Jerry Anderson, distributed to committee members, added to the Ethics Committee website, and included in the next Ethics Committee newsletter.

11:02:30 AM

Word of caution language

Joyce Anderson directed the committee’s attention to the Word of Caution language for advisory opinions and asked Jerry Anderson to speak about it.

Jerry Anderson said that he proposed the word of caution language be added to the online versions of advisory opinions 18-01, 18-02, 18-04, 18-05, and 19-05 that were related to

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HB44, which passed in 2018, and affected by the passage of SB 89 in 2019. Jerry Anderson read the proposed language to the committee:

Word of Caution:

SB 89 became law on May 25, 2019, significantly changing AS 24.60. Prohibited Conduct and Conflicts of Interest. Based on these changes, the advice in this formal advisory opinion may no longer be applicable or appropriate. Caution is required in using this opinion in similar situations.

Jerry Anderson said that the date the language was adopted by the committee would be included in the word of caution statement. The word of caution language would appear on the website at the top of the affected advisory opinions. Jerry Anderson said he was looking for committee input on the prudence of the word of caution and the language used in the word of caution.

Senator Tom Begich asked Joyce Anderson if a motion was required prior to discussing the word of caution language.

Joyce Anderson replied that no motion was required.

Conner Thomas asked if the intent was to take a vote on the language.

Joyce Anderson replied that she did not believe a vote was needed unless the committee thinks it is necessary.

Conner Thomas said that the language was good, that he supports it, and thinks it is needed. Conner Thomas asked Jerry Anderson if he intended to include all of AS 24.60 in the word of caution language.

Jerry Anderson said he believed that the advisory opinions previously approved by the committee are impacted through that statutory section alone but it could be the Legislative Ethics Act (AS 24.60).

Conner Thomas said that the reason he asked that question is because it references Prohibited Conduct and Conflicts of Interest, which is AS 24.60.030.

Joyce Anderson suggested citing the entire act and mentioning AS 24.60.030 specifically.

Conner Thomas agreed with Joyce Anderson's suggestion and added that personally he thought that it was appropriate to be specific about AS 24.60.030.

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Joyce Anderson said that she agreed and that the statement should cite both the Act and AS 24.60.030 specifically.

Senator Tom Begich asked if there were a plan to review the affected advisory opinions against the new statute to update the advisory opinions or if it would require the committee to request Legislative Legal to revise the advisory opinions.

Joyce Anderson responded that there are many advisory opinions that are no longer applicable because of statutory changes and in her memory the committee has only made changes to one advisory opinion due to a specific request from the committee. It is an option if the committee wants to request revising the advisory committee.

Senator John Coghill said he thought the language in the cautionary statement was appropriate and that the changes should be a talking point in training because they were subjects of significant conversation over the last three or four years and there are going to be lingering questions in peoples' minds.

Joyce Anderson asked if there were further discussion. Seeing none, she read the word of caution again:

Senate Bill 89 became law on May 25, 2019, significantly changing AS 24.60 Legislative Ethics Act, specifically AS 24.60.030 Prohibited Conduct and Conflicts of Interest. Based on these changes, the advice in this formal advisory opinion may no longer be applicable or appropriate. Caution is required in using this opinion in similar situations.

11:10:30 AM

6. APPROVAL OF AMENDED CONTRACT WITH OUTSIDE COUNSEL – FY 2019

Jerry Anderson said that the contract amended the amount of the contract from \$8,000 to \$10,000. The amendment was previously approved by Chair Joyce Anderson and based on a request by Legislative Legal the amendment was approved by members via an email vote with seven members approving the amendment and two members nonresponsive.

Jerry Anderson continued, saying no further expenditures were anticipated and that the reason the contract was on the agenda was to approve the amended contract in a public session. Jerry Anderson asked the committee to note that the contract had expired at the end of the fiscal year on June 30, 2019.

Joyce Anderson entertained a motion to approve the amended contract as presented.

Deb Fancher moved to approve the amended contract as presented. Lee Holmes seconded the motion.

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Joyce Anderson asked if there were further discussion regarding the contract. There was no further discussion.

Joyce Anderson directed Jerry Anderson to conduct a roll call vote.

Deb Fancher	Y
Lee Holmes	Y
Senator John Coghill	Y
Senator Tom Begich	Y
Representative DeLena Johnson	Y
Representative Louise Stutes	Y
Skip Cook	Y
Conner Thomas	Y
Joyce Anderson	Y

Jerry Anderson announced that the vote approved the amended contract by a vote of 9-0.

7. REVIEW OF STATUTES AND RULES OF PROCEDURE

Review of statute AS 24.60.150(b)(1) Duties of Committee

Joyce Anderson opened a review of AS 24.60.150(b)(1) Duties of Committee. She said the Rules of Procedure states, "The committee may recommend legislation to the legislature the committee considers desirable or necessary to promote and maintain high standards of ethical conduct in government." She added that the Rules of Procedure stipulate that the committee is to discuss changes to the Legislative Ethics Act at a committee meeting and may make recommendations to the legislature.

Joyce Anderson asked if any committee members had legislative changes to propose.

Conner Thomas expressed his opinion that it might be difficult to vet changes at the current meeting and suggested that if members did have suggested changes that they be submitted and distributed and discussed at a future meeting.

Joyce Anderson agreed that changes could be considered at the next meeting, noting that the Rules of Procedure stipulate that at least on an annual basis, the committee review proposed statutory changes received from committee members, staff, and others. She directed the committee to send suggested legislative changes to Jerry Anderson for consideration at the next meeting.

11:17 AM

Review of statutes pursuant to AS 24.60.150(b)(1)

Jerry Anderson addressed the handbooks that are required under AS 24.60.150(a)(2) and required in Section 12 of the Rules of Procedure to be distributed at Ethics trainings to all

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employees and in new hire packets. The word “distributed” implies a physical copy of the handbook. He said that the requirement is currently fulfilled by printing for every employee a copy of the Standards of Conduct Handbook. The vast majority of employees who attended training in 2019 declined a paper copy of the handbook leaving three full boxes of leftover handbooks. The handbook is published online and can be accessed at any time. He asked that the committee consider limiting the distribution to legislators’ offices, LIOs, and new hires.

Senator Tom Begich added that the copies of the handbooks are now useless because they contain outdated material.

Jerry Anderson agreed and added that the statutes were not updated by the publishing deadline and so they were not even included in the handbook. So, changes, for example, to HB 44 were not in the handbook, making it out of date at distribution.

Senator Tom Begich submitted that the lack of a physical copy may result in the handbook not being read so he recommended a provision allowing individuals to request a physical copy.

Joyce Anderson added that Section 12 of the Rules of Procedure requires that the handbook be distributed at the beginning of each legislative session to legislators’ offices, the LIOs, and be included in new hire packets. She opened the discussion to other committee members and Jerry Anderson.

Skip Cook suggested language saying the committee will publish yearly on the internet the Standards of Conduct Handbook and that printed copies will be distributed on request or to all first time employees and on request to others.

Conner Thomas asked for confirmation of his understanding that the committee was discussing amending the Rules of Procedure, not statute. Joyce Anderson confirmed Conner Thomas’s understanding.

Deb Fancher suggested only publishing the handbook online rather than distributing it every year to legislators’ offices and LIOs.

Senator Tom Begich said that he agrees with publishing the handbook online and appreciates wanting to reduce the number of copies printed. He agreed to distributing physical copies at training by request only – that would significantly reduce the number of handbooks to be published – but expressed concern that a physical copy continue to be distributed to legislators’ offices because not having the physical copy in the office may minimize the perception of its importance.

Senator John Coghill expressed his agreement that a physical copy be distributed to legislators’ office, new hires, and by request.

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Skip Cook suggested adding cautionary language to the handbook to the effect that the handbook is updated regularly and to check the online version for the most updated information.

Conner Thomas asked what is the practice for updating the handbook regularly online.

Joyce Anderson said that it is updated yearly.

Conner Thomas suggested that the cautionary language refer to updating on an annual basis rather than regularly.

Skip Cook asked if it would be better to update regularly rather than on an annual basis.

Joyce Anderson said she thought that because it will be online it would be better to update the handbook as changes occur rather than annually. Conner Thomas agreed, as long as it is updated continuously.

Jerry Anderson said he thinks it avoids confusion to include a revision date in the online version. Joyce Anderson agreed with Jerry Anderson's comment.

Representative DeLena Johnson expressed support for distributing printed copies to legislators and on request and suggested adding a revision date to the printed copy as well so it would be easy to compare the revision dates.

Senator Tom Begich asked if a motion was required to change the Rules of Procedure. Joyce Anderson responded affirmatively.

Senator Tom Begich moved to amend the Rules of Procedure Section 12 Education by adding after the word "online" after the word "publish" in section (a)(1); adding the words "by request" after the word "attendees" in section (a)(2)(A); and including language at the beginning of the physical copy of the handbook indicating that readers should check online for regular updates and including revision dates when making online updates. Skip Cook seconded Senator Tom Begich's motion.

Joyce Anderson asked if there were further discussion.

Senator John Coghill asked for restatement of the motion. At Joyce Anderson's request, Senator Tom Begich restated the motion.

Skip Cook made a friendly amendment suggesting that (a)(2)(A) of Section 12 include language that says, "printed copies of the handbook will be distributed" instead of "the handbook will be distributed".

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Representative DeLena Johnson made a friendly amendment that (a)(1) of Section 12 say “the committee will publish online and printed copies.”

Senator Tom Begich advised that the language Representative DeLena Johnson proposed in her friendly amendment was the intent and did not need to be a friendly amendment.

Joyce Anderson said there was a motion with a friendly amendment on the floor and directed Jerry Anderson to conduct a roll call vote.

Lee Holmes	Y
Senator John Coghill	Y
Senator Tom Begich	Y
Skip Cook	Y
Conner Thomas	Y
Joyce Anderson	Y
Deb Fancher	Y
Representative DeLena Johnson	Y
Representative Louise Stutes	Y

The committee adopted changes to section 12 of the Rules of Procedure by 9-0.

Joyce Anderson stated that Jerry Anderson will update that section of the Rules of Procedure and distribute it to committee members.

11:35 AM

Internships

Jerry Anderson directed the committee’s attention to the list of approved internships in the packet. He said that the committee had delegated to the administrator the ability to review the material submitted to the Ethics Office for new internship programs and in consultation with the chair to approve them without full committee action.

Jerry Anderson noted that on the list there are two categories of internship programs: academic ones affiliated with educational institutions and non-academic internships affiliated with outside organizations. In some cases, interns are paid by an organization other than the legislature.

Jerry Anderson said that he has been contacted about new paid internships that may be politically oriented and would fall outside of the parameters of those on the list. He thinks the committee, not the administrator, should approve those internships.

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Referring to the list of internships, Senator Tom Begich said that he believed the name of the Alaska Universities Legislative Internship Program had been changed to the Ted Stevens Legislative Internship Program. Senator Tom Begich continued by saying he

Joyce Anderson asked if there were any current interns.

Senator Tom Begich replied there were none currently but that he may in the future in his other capacity formally request that those internship programs be considered by the committee.

Joyce Anderson replied that she didn't think for discussion purposes that Senator Tom Begich had a conflict.

Skip Cook asked if the interns were paid.

Senator Tom Begich replied that yes, the interns are paid. They receive a \$15,000 stipend, which sometimes goes to the potential employer but usually to the intern for living expenses.

Joyce Anderson asked if the interns had been approved by the Ethics Office. Senator Tom Begich replied that he did not think so.

Joyce Anderson wondered if legislative offices may be unaware that they need to come through the committee and if notice to that effect should be distributed to legislators at the beginning of session. Senator Tom Begich agreed that would be a good idea.

Joyce Anderson explained that the reason the committee approves internships is to assure the sponsoring organizations do not have an ulterior motive in placing an intern in a legislative office. She reiterated her position that it would be a good idea to distribute a message to legislators at the beginning of session directing them to contact the Ethics Office.

Senator John Coghill said yes, the legislators should be made aware of the requirement and he believes there is a difference between educating interns about the legislative process and allowing advocacy activities in the legislature and the use of state resources for those advocacy issues.

Skip Cook said that as he understood, the committee approves the internship program, not approve the individual intern. He advised Senator Begich to apply for approval for his program. Senator Tom Begich agreed he would do so.

Skip Cook said that he thought both the administrator and the committee chair have authority to review and approve internship program requests and if either or both were uncomfortable doing so, the committee could do so.

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Joyce Anderson agreed and asked Jerry Anderson if he had any more to add.

Jerry Anderson said that he had no problem reviewing and approving requests that fell within established parameters but was uncomfortable with those that did not.

11:49

8. CHAIR/STAFF REPORT

Management Log

Joyce Anderson directed attention to the July 31, 1019 Management Log and asked if anyone had questions for Jerry Anderson.

Conner Thomas had a question about the first question on the second page: May a legislator enter into a "scope of work" with a non-profit related to pending legislation that a legislator is promoting? He wondered if AS 24.60.030(e)(3), which references taking official action while negotiating for employment should have been included in answer to the question. Jerry Anderson and Joyce Anderson agreed to add a reference to AS 24.60.030(e)(3) in the answer.

Senator Tom Begich asked about the fifth question on page six: May my legislator accept a gift of conference fees for a group which discusses policy issues but not political or partisan issues? He said he had recently accepted gifts of travel to attend National Conference of State Legislatures forums and asked for confirmation that he should disclose those gifts. Joyce Anderson responded that yes, if the gift amount was over \$250.

11:56

Deb Fancher asked about the fourth question on the second page: May a legislator write a letter or sign onto a letter to the Attorney General urging the prosecution of an individual or individuals based on the request of a private party? She wondered if that action constitutes official action.

Lee Holmes said there is a difference between a legislator speaking to the attorney general as an individual to advocate for an issue or as a representative in an official capacity. As an individual, a legislator could speak to the attorney general but not as a representative.

Senator Tom Begich said that two co-chairs had in their official capacity requested specific information about an alleged criminal act by a member of the administration. He said he thought their actions were legitimate and that it was a legislative responsibility to ensure the law is upheld. He suggested that the question needs more discussion.

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Joyce Anderson asked Jerry Anderson to explain more about the question.

Jerry Anderson said that someone believed a crime had been committed and requested prosecution of the person believed to have committed the crime. Legislators signed on to the letter asking the attorney general to prosecute. He said he had had multiple questions about this matter.

Senator Tom Begich recalled that he had been approached to sign the letter and admitted he felt conflicted about whether or not he should sign it.

Representative Stutes left the meeting.

Joyce Anderson recalled that her understanding was that if a legislator uses their title, it does not necessarily mean they are taking official action as a legislator and asked other long time committee members if her understanding was accurate.

Senator John Coghill agreed that what Joyce Anderson said sounded correct. He said the question is whether the action taken is for a private benefit. Sometimes there is a manifest injustice that a legislator wants to have examined. Asking for examination is different than advocating for it.

Lee Holmes said that he thinks the words, “urging the prosecution of an individual” seems to be crossing the bounds of ethics. A person can ask the attorney general to look at whether a law has been broken but to urge prosecution is ethically bothersome because it is not up to a legislator to determine if a law has been broken.

Senator Tom Begich responded to Lee Holmes saying that he thinks the letter requested that the attorney general reconsider the decisions made, based on additional evidence, as to whether or not the person should be prosecuted.

Joyce Anderson said based on the discussion, she thinks additional information about that question should be added to the staff report. Senator Tom Begich offered to work with Jerry Anderson to add the additional information.

Joyce Anderson directed Jerry Anderson to provide more details in the answer and send the revised answer out to committee members for review and comments.

Representative DeLena Johnson said that she agrees with the opinion in the staff report.

Senator Tom Begich pointed out that the word “day” is missing from line two on the seventh page.

Joyce Anderson added that in the fourth question on page four, the word “disclosure” should be replaced with the word “disclose.”

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12:09:39 PM

Patrick FitzGerald left the meeting.

12:09:55 PM

BREAK

12:20:49 PM

Searchable database

At Joyce Anderson's direction, Jerry Anderson proposed to the committee the idea of implementing an online and searchable database of informal advice, similar to the searchable database of advisory opinions that is currently online. He said IT had developed a searchable database for his use and wanted the committee's input about making it accessible to members of the committee, legislators and their staff, and the general public.

Representative DeLena Johnson expressed interest in making the database password protected for use by legislators and legislative offices but expressed concerns about public access to the database because there is a possibility that confidential information about the requestor would be made public. She also offered that the advice should also be date-marked and carry a word of caution about the continued applicability of the advice for similar situations.

Joyce Anderson acknowledged she had not considered the possibility that a person could use the database and learn the identity of the person who asked the question. She responded to Representative DeLena Johnson's second point by referring to the second page of the related memo and reading Jerry Anderson's suggestion for word of caution:

“This informal advice is not a substitute for current informal advice from the Administrator of the Select Committee on Legislative Ethics and is not binding on the Committee. This informal advice only applies to the specific facts and activities as outlined in the communication. The advice is not applicable to a scenario under different or omitted facts.”

Joyce Anderson said she would also like to add the words, “The advice was based on the statute applicable at the time of advice and has not been reviewed or updated under current statutes.”

Conner Thomas said that Representative DeLena Johnson's concerns gave him cause to reconsider his initial thought that it would be great to have the database available to all and added that protecting the advice with a password would be better – with the caveat

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that the advice was based on existing laws at the time the advice was given and had not been reviewed since that time.

Jerry Anderson responded to Representative DeLena Johnson's concern about dating the advice. He said that the documents would be dated by the year of the advice going back to 2011.

Representative DeLena Johnson said she thought the database would be a useful tool to help frame a question before calling the administrator for advice.

Joyce Anderson said no formal action was required and informally asked each of the members about their thoughts about a searchable database. All members agreed it was a good idea and Joyce Anderson directed Jerry Anderson to proceed in arranging for the database to be password protected and available to legislators.

Jerry Anderson offered to send to committee members the link to the document so they could review the database and make sure they are comfortable with it.

Joyce Anderson agreed, directed Jerry Anderson to do so, and asked committee members to send comments about the database to Jerry Anderson.

12:34:43 PM

COGEL conference

Joyce Anderson opened a discussion of the 2019 COGEL Conference, asking for expressions of interest in attending. Skip Cook, Conner Thomas, Senator John Coghill, Representative DeLena Johnson, and Senator Tom Begich expressed interest. Jerry Anderson recommended arranging travel early to secure the early bird price (the end of October) and space at the conference hotel.

Disclosure filing

Joyce Anderson asked Jerry Anderson to speak about electronic disclosure filing. He explained there were many more steps and time involved in processing handwritten disclosures. He directed attention to the packet documents that demonstrate the steps involved in processing handwritten disclosures and electronically filed disclosure, then asked Jacqui Yeagle to explain more fully the situation.

Jacqui Yeagle communicated a few other advantages of electronically filed disclosures – assuming no special circumstances: eliminates the need to contact the filer for review of the electronic version of the disclosure; requires no database access, which increases the chance of errors in the back-end processes and requires more knowledge on the part of the processor; and requires fewer documents submitted to the Senate Secretary's office and the Chief Clerk's office, which reduces the load on those offices.

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Lee Holmes asked how committee members – who do not have computer access to file online – could get access so they could comply.

Joyce Anderson said in the past there may have been committee access.

Jacqui Yeagle said that there are cases where a person does not have the ability to file online. The proposal under discussion would not eliminate filing a handwritten disclosure, just make it easier to file online than submit a handwritten disclosure.

Conner Thomas asked what percentage of disclosures are filed by hand.

Jacqui Yeagle replied that maybe ten percent of the disclosures are filed by hand, and added that in January, February, and March when there are more than 100 disclosures filed, the time it takes to process them becomes significant. She added that the Ethics office has been encouraging filing online and there has been a noticeable increase in the number of electronically filed disclosures.

Joyce Anderson asked what Jerry Anderson suggests doing.

Jerry Anderson said the link to the disclosure documents could be disabled. Instead, if a paper disclosure is required, the filer could call the Ethics office for a disclosure to complete.

Joyce Anderson said another advantage to electronic filing is that the Ethics office receives a receipt when a disclosure is filed online.

Jerry Anderson added that the filer also gets a confirmation of filing when it is completed online.

Joyce Anderson asked if the committee approved the idea of removing the online link to paper copies of the disclosures.

There was no disagreement and Joyce Anderson asked Jerry Anderson to include information in the newsletter about the online filing requirement and ask filers with special circumstances to call the Ethics office and to inquire about login credentials for the public members.

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Ethics Training

Jerry Anderson said new employee training is ongoing via video, which includes 3 ½ hours of the sexual harassment and other forms of discrimination component conducted by Human Rights Commission staff and another 2 ½ hours of the Ethics training. Total time to complete the training is six hours and ten minutes.

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Jerry Anderson said that there were two components of in-person ethics training in early 2019: ethics and the Human Rights Commission sexual harassment and other discrimination training. Ethics training was condensed somewhat in order to accommodate 3 ½ hours of the Human Rights Commission training. Returning legislators had 1 ½ hours of refresher ethics training.

Jerry Anderson said there was a change in Human Rights Commission leadership and all of the 2019 presenters have left the organization so new arrangements for that component of training need to be made. He asked the committee for direction regarding the length of time and delivery method for each of the components.

Joyce Anderson said to Jerry Anderson that she recalled that he had said he thought the number of phone calls received this year had increased and that he had suggested that may have been the result of the condensed training for legislators.

Jerry Anderson said that HB 44 issues had dominated the training for returning legislators, and that SB 89 would alleviate some of the questions around that topic. He affirmed Joyce Anderson's memory that he had ventured that the amount of time spent on returning legislator training may have resulted in an increase in the number of questions received by the ethics office.

Joyce Anderson asked for clarification about why the ethics committee was charged with mandating and providing the sexual harassment prevention training.

Skip Cook said that the reason the training was required was due to the behavior of some legislators.

Joyce Anderson responded that she still did not understand why the ethics office was charged with mandating and providing the training when the ethics office cannot answer questions about the topic and why the Legislative Council, for example, could not make it mandatory.

Deb Fancher said that her memory is that the Ethics Committee was charged with it because the committee had "teeth".

Senator John Coghill recalled that the committee had been reluctant to take it on. Conner Thomas agreed and said that there had been a long debate about it. Senator John Coghill added that legislative leadership thought that the training was necessary and the committee had the only leverage point to make it mandatory and that it could not be severed without a mandate to personnel and that has not happened.

Senator Elvi Gray-Jackson said ethics training was valuable, especially for new legislators and staff. She had personally benefitted from the training.

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Senator John Coghill said that he had noticed in both the legislator and legislative employee training that discussion had dominated and that had impacted the ability to get through the training agenda. He said that ethics training was important because that is the arena in which legislators and legislative employees worked all the time. He suggested that personnel training and ethics training have some overlap, they are also unique. He personally found it difficult to transition between the two parts of training and would prefer separate trainings.

Senator Tom Begich said he thought one part of the training dominated the discussion. He would prefer shorter, more effective separate trainings on separate days.

Senator John Coghill said he did not think there was a statutory requirement to provide the personnel training.

Joyce Anderson agreed with Senator John Coghill's statement.

Skip Cook said that he had learned that the Human Rights Commission had been conducting their training for years to state employees. He questioned why the state mandate and training for all employees could not be extended to legislators and legislative employees.

Representative DeLena Johnson said that now may be a good time to hand off the sexual harassment prevention training so that it does not detract from ethics training and requested that investigation be conducted and discussed at the next meeting, perhaps including Skiff Lobaugh at that meeting.

Senator Tom Begich suggested assembling a small subcommittee to develop a proposal and return it to the full committee for debate.

Senator John Coghill recalled that Skiff Lobaugh, the Legislative Council chair, and Legislative Legal were involved in the discussion about mandating the personnel training. He suggests a hardline proposal going forward.

Skip Cook suggesting involving the Human Rights Commission in the discussion as well.

Joyce Anderson suggested internal discussion first and asked other member's thoughts.

Senator John Coghill said that would be okay as long as Skiff Lobaugh was involved because he would be one to make further contact.

Joyce Anderson directed Jerry Anderson to set up the meetings and to notify the committee about the details in case they are interested in participating.

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1:11:46 PM

9. 2019 LEGISLATION UPDATE

Senator John Coghill said that in the beginning of the legislative session everybody agreed that HB 44 needed changes and it took almost 100 days to agree on how to change the law. SB 89 is still less than perfect and there are questions left that will be just as tough to resolve.

Senator Tom Begich offered that Senator John Coghill had much patience in getting through the process in spite of the number of nuances and opinions involved and that without Senator John Coghill's involvement, the bill would never have gotten through.

Deb Fancher commented that the comparison document prepared on May 6, 2019 by Chad Hutchison was helpful and valuable and asked if there was an updated version of the document.

Chad Hutchison directed the committee's attention to two documents on BASIS: a comparison sheet and a list of bullet points that gives details about analyzing the changes incorporated into SB 89.

Joyce Anderson thanked Chad Hutchison and asked Jerry Anderson to locate the documents and forward them to the committee.

Senator Tom Begich asked when the bill was signed and ceremonialized.

Joyce Anderson said the bill had been signed on May 25, 2019. Chad Hutchison confirmed the signing date and said there had been no signing ceremony.

10. OTHER BUSINESS

Joyce Anderson said that Jerry Anderson had received a compassionate gift request from Legislative Council for three legislative employees. Joyce Anderson read from the statute that refers to a compassionate gift request:

... [is to] intended to aid or comfort a recipient or a member of the recipient's immediate family in contending with a catastrophe, a tragedy, or a health-related emergency.

Joyce Anderson continued that the compassionate gift request did not identify the gift or the reason for the gift as it had been in the past. Joyce Anderson proposed calling the chair of the Legislative Council and ask for the information and solicited the committee's thoughts about that action. There were no comments from the committee.

Jerry Anderson initiated a discussion about the date of the next meeting and asked if the committee wanted to wait until January. Joyce Anderson proposed an earlier meeting, perhaps by teleconference if there were only a few items. The committee discussed dates

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and Joyce Anderson asked Jerry Anderson to work with committee members to find an agreeable date.

11. ADJOURN

Joyce Anderson asked for a motion to adjourn the meeting.

Lee Holmes moved to adjourn the meeting.

Joyce Anderson adjourned the meeting at 1:23 p.m.

1:23:46 PM