

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 4, 2021

3:30 p.m.

MEMBERS PRESENT

Senator Shelley Hughes, Chair
Senator Robert Myers, Vice Chair
Senator David Wilson
Senator Elvi Gray-Jackson

MEMBERS ABSENT

Senator Lyman Hoffman

COMMITTEE CALENDAR

SENATE BILL NO. 15

"An Act relating to the Open Meetings Act; and establishing a civil penalty for violations of the open meeting requirements by members of governmental bodies."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 15

SHORT TITLE: OPEN MEETINGS ACT; PENALTY

SPONSOR(S): SENATOR(S) COSTELLO

01/22/21	(S)	PREFILE RELEASED 1/8/21
01/22/21	(S)	READ THE FIRST TIME - REFERRALS
01/22/21	(S)	CRA, JUD
02/25/21	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)
02/25/21	(S)	Heard & Held
02/25/21	(S)	MINUTE (CRA)
03/04/21	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

DAWSON MANN, Staff
Senator Shelley Hughes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained the changes from version B to G for SB 15.

MELODIE WILTERDINK, Staff
Senator Mia Costello
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information the committee requested about SB 15.

ACTION NARRATIVE

[3:30:15 PM](#)

CHAIR SHELLEY HUGHES called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Myers and Chair Hughes. She said she expected Senator Wilson to join the committee shortly to make a quorum. Senator Gray-Jackson arrived during the course of the meeting.

SB 15-OPEN MEETINGS ACT; PENALTY

[3:31:36 PM](#)

CHAIR HUGHES announced the consideration of SENATE BILL NO. 15 "An Act relating to the Open Meetings Act; and establishing a civil penalty for violations of the open meeting requirements by members of governmental bodies."

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CHAIR HUGHES reconvened the meeting and noted Senator Wilson had joined the committee to make a quorum.

She noted the proposed committee substitute (CS) for SB 15 and said her aide would review changes to the bill.

[3:34:02 PM](#)

SENATOR MYERS moved to adopt the CS for SB 15, work order 32-LS0176\G, as the working document.

[Due to confusion about whether the work order contained a forward slash (/) or back slash (\), Chair Hughes asked Senator Myers to rescind his earlier motion and make a new motion.]

CHAIR HUGHES asked Senator Myer to remove his motion and begin again.

[3:34:35 PM](#)

SENATOR MYERS withdrew the previous motion and moved to adopt the CS for SB 15, version 32-LS0176\G, as the working document.

[3:34:50 PM](#)

CHAIR HUGHES objected for discussion purposes.

She asked Dawson Mann to review the changes from version B to version G for SB 15.

[3:35:14 PM](#)

DAWSON MANN, Staff, Senator Shelley Hughes, Alaska State Legislature, Juneau, Alaska, paraphrased the changes that appear in version G of SB 15:

Title Changes: The following has been added to the title in order to conform to changes and added provisions.

- And relating to the duties of the Alaska Public Offices Commission and the attorney general

Sec.1 - AS 15.13, Page 1, Lines 5-14

Adds a new section AS 15.13.395 outlining the duties of the Alaska Public Offices Commission with regards to hearing and enforcing complaints of violations of section 4 of this bill AS 44.62.310(i). This section also excludes members of the commission from being subject to enforcement of AS 44.62.310(i) under this section.

Sec. 2 - AS 44.23.020, Page 2, Lines 1-10

Adds a new section outlining the duties of the Alaska Attorney General with regards to hearing and enforcing complaints of violations of section 4 of this bill AS 44.62.310(i) directed towards members of the Alaska Public Offices Commission.

Sec. 3 - AS 44.62.310(h), Page 2, Lines 11-14

Is amended to define the terms "knowingly" and "public official." Under this section, "knowingly" has the meaning given in AS 11.81.900(a)(2). "Public official" has the meaning given in AS 39.50.200(a)(9) but is changed to exclude "judicial officers" with regards to this bill.

Sec. 4 - AS 44.62.310, Page 2, Lines 15-23

Is amended to add a civil penalty of up to \$1,000 for elected or appointed members of a governmental body who knowingly attend a meeting that violates the Open Meetings Act. This section is changed to outline that the Alaska Public Offices Commission will enforce this penalty in all cases except when a member of the commission is accused of a violation. This section also explicitly excludes community councils from the types of governmental bodies subject to this section.

Sec. 5 - Page 2, Lines 24-29

Provides that the penalties added by this bill apply to offenses occurring on or after the effective date of this Act and is amended to conform to the addition of new sections of the bill.

[3:38:30 PM](#)

CHAIR HUGHES listed the individuals available to answer questions. She asked the staff for Senator Costello if they had any comment about the work with her office that resulted in the CS.

[3:39:27 PM](#)

MELODIE WILTERDINK, Staff, Senator Mia Costello, Alaska State Legislature, Juneau, Alaska, stated she has answers to the questions committee members asked during the previous hearing on SB 15.

She said the committee posed questions regarding violations of open meeting requirements in other states, specifically how often they happen and what the penalties are. She relayed that these violations are rarely penalized. When something does go to court, it is to determine whether the governmental body is in fact held to the Open Meetings Act. If the court determines "yes," the court releases the documents to the public and future meetings are open to the public.

MS. WILTERDINK said there are some egregious cases that have happened in various states where people ended up paying attorney fees in the tens of thousands of dollars, sometimes spending a night in jail for not holding open meetings and not recording minutes. She noted that was one of the documents she provided.

[3:41:27 PM](#)

CHAIR HUGHES restated that other states are going through the court system rather than a civil penalty process to handle violations.

MS. WILTERDINK answered yes; sometimes it goes through the court, otherwise it is an opinion from the attorney general. She noted that part of the CS addresses APOC as the defendant.

She said the next question was how the bill and Open Meetings Act would interact with the Anchorage code of ethics. She explained the code of ethics in Anchorage refers to the Open Meetings Act. The Board of Ethics in Anchorage is an advisory board and when complaints are filed the board can make a recommendation to whoever is presiding over the person who is the defendant in the complaint. Penalties are the same as those in the Open Meetings Act, which is what is in statute.

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CHAIR HUGHES asked for confirmation that there currently is no penalty in statute.

MS. WILTERDINK answered correct. She explained, "Actions can be voided and it is specifically of a governmental body, it does not target an individual elected official."

CHAIR HUGHES asked if she was aware of any other home rule or municipalities with anything more extensive than what Anchorage has.

MS. WILTERDINK answered she was not aware of any other municipality that has a similar ethics code that refers to Alaska statutes.

CHAIR HUGHES asked if the Alaska Municipal League (AML) weighed in on the bill.

MS. WILTERDINK answered yes; Nils Andreassen with the Alaska Municipal League was helpful in figuring out the difference between governmental bodies and whether community councils would be subject to SB 15. She said they discovered Alaska statute is not clear and does not define community councils. The CS adds language to ensure community councils would not be subject to the penalty.

CHAIR HUGHES asked if the bill drafter felt the language would be adequate for coverage even though statute is not definitive.

MS. WILTERDINK cited a memo from Legal Services that said, "This should cover it, if we did want to define community councils more specifically, we could, but having it in there will be sufficient."

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CHAIR HUGHES announced Senator Gray-Jackson joined the meeting.

She summarized the committee has reviewed changes to the bill and there is an objection before the committee.

SENATOR GRAY-JACKSON asked her to confirm the committee was hearing the amended version of SB 15.

CHAIR HUGHES answered yes. She summarized the CS would exclude community councils, have APOC deal with penalties unless the issue deals with a commission member from APOC, which would route the matter to the attorney general. Additionally, the CS triggered a title change.

She asked Ms. Wilterdink if she missed anything.

MS. WILTERDINK noted there was one additional change. The Open Meetings Act excludes judicial officers, but the definition of a public officer in the CS includes judicial officers, so the CS now specifies "not judicial officers."

SENATOR GRAY-JACKSON said she was pleased the CS removes community councils.

CHAIR HUGHES thanked Senator Gray-Jackson for highlighting community councils in the previous hearing because that was not the intention of the sponsor.

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SENATOR MYERS asked Ms. Wilterdink what the thought process was for picking APOC as the enforcement body.

MS. WILTERDINK replied because APOC regulates elected officials, the determination was APOC was the best group to handle enforcement.

SENATOR GRAY-JACKSON noted in the previous hearing she brought up how the Municipality of Anchorage has an ethics code that deals with the Open Meetings Act. She said she was glad to see that put into the legislation and to show that the bill will be

basically the last remedy if things did not work out at that level.

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CHAIR HUGHES removed her objection. Finding no further objection, version G was adopted.

[3:48:43 PM](#)

CHAIR HUGHES held SB 15 in committee.

[3:49:33 PM](#)

There being no further business to come before the committee, Chair Hughes adjourned the Senate Community and Regional Affairs Standing Committee meeting at 3:49 p.m.