

Minutes approved September 29, 2023

ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
JANUARY 19, 2023
2:00 PM

FULL COMMITTEE

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1. CALL THE MEETING TO ORDER

Skip Cook called the meeting to order and welcomed committee members and guests.

Skip Cook announced that Gerald McBeath had been selected by Supreme Court Justice Winfree to fill the public member position formerly held by Lee Holmes. He added that the committee was waiting for another letter from the Supreme Court Justice about another position.

Skip Cook directed Jerry Anderson to take roll.

Roll call

Senator Gary Stevens
Senator Loki Tobin
Skip Cook
Conner Thomas (telephonic)
Joyce Anderson
Deb Fancher
Jerry McBeath

Quorum present with two senators and five public members.

Skip Cook asked if anyone other than Conner Thomas was on the phone. There was no response.

Skip Cook announced that Jacqui Yeagle and Jerry Anderson were also in attendance in the room.

Skip Cook reminded everyone to identify themselves before speaking. He added that the meeting was expected to last about 45 minutes.

Others present

Doug Gardner

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2. APPROVAL OF AGENDA

Skip Cook entertained a motion to approve the agenda.

Motion made by Deb Fancher

No objection. The agenda was approved.

3. APPROVAL OF MINUTES

a. House Subcommittee October 13, 2022

Skip Cook entertained a motion to approve the minutes of the [October 13, 2022, House Subcommittee] meeting.

Deb Fancher so moved.

Skip Cook entertained objections. There were no objections. The minutes were approved.

b. House Subcommittee November 18, 2022

Skip Cook entertained a motion to approve the minutes of the [November 18, 2022, House Subcommittee] meeting.

Joyce Anderson so moved.

Skip Cook entertained objections. There were no objections. The minutes were approved.

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4. PUBLIC COMMENT

Skip Cook inquired whether there was public comment. There was no public comment.

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5. ELECTION OF COMMITTEE CHAIRS FOR 2023-2024

Skip Cook announced the committee would elect only officers of the Senate Subcommittee because the House had not yet appointed its members.

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Skip Cook opened nominations for the Senate Subcommittee chair position.

Conner Thomas nominated Skip Cook to chair the Senate Subcommittee. Skip Cook entertained additional nominations. Hearing none, Skip Cook directed Jerry Anderson to conduct a roll call vote.

Roll call vote

Deb Fancher	Y
Jerry McBeath	Y
Conner Thomas	Y
Skip Cook	Y
Joyce Anderson	Y
Senator Gary Stevens	Y
Senator Loki Tobin	Y

The Ethics Committee members elected Skip Cook to chair the Senate Subcommittee by a vote of 7-0.

Skip Cook entertained nominations for the Senate Subcommittee Vice-Chair position.

Deb Fancher nominated Conner Thomas. Skip Cook entertained other nominations. There were no other nominations. Skip Cook directed Jerry Anderson to conduct a roll call vote.

Roll call vote

Senator Loki Tobin	Y
Deb Fancher	Y
Jerry McBeath	Y
Conner Thomas	Y
Skip Cook	Y
Joyce Anderson	Y
Senator Gary Stevens	Y

By a vote of 7-0, Ethics Committee members elected Conner Thomas Vice-Chair of the Senate Subcommittee.

Joyce Anderson noted that the chair of the Senate Subcommittee shall chair the full committee in odd number years beginning the first day of the legislative session. The House Subcommittee Chair, when elected, would chair the

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full committee in even number years beginning the first day of the regular legislative session.

Skip Cook thanked Joyce Anderson for her comment.

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6. CHAIR/STAFF REPORT

a. Management Log Review

Skip Cook directed Jerry Anderson to the next agenda item.

Jerry Anderson directed the committee members to the management log. He said the [log] contained informal advice that did not pertain to routine matters. He entertained questions about the report from the committee.

Joyce Anderson cited a couple of typos. The first typo, in the first question under the Campaign Related subheading, the first line should be edited to say, "letter of intent." The second typo, in the second sentence of the question, the word campaign was misspelled.

Jerry McBeath asked for more information about the question on the second page of the staff report, "May I sell tickets for a fundraiser in the Capitol?" The answer says you may sell tickets for a recognized, nonpolitical charitable organization under AS 24.60.030(a)(2)(I). He asked how it was determined whether an organization is a recognized, nonpolitical charitable organization.

Jerry Anderson said informal advice from the administrator does not extend to determining whether an organization is a recognized, nonpolitical charitable organization. A legislator or legislative employee would have to research an organization to determine whether fundraising in the Capitol would be allowed under that statute section.

Jerry McBeath reported the statute section does not list recognized, nonpolitical charitable organizations.

Jerry Anderson confirmed there was no list.

Jerry McBeath confirmed it was a judgement call.

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Jerry Anderson indicated that as many things are, that was the case.

Skip Cook asked if there were other comments on the topic.

Senator Löki Tobin stated that there is a 501(c)(3) status with the IRS that outlines a recognized, nonprofit - they cannot engage in political action more than 25% of the time. Over 25%, the organization is considered a political organization and are no longer recognized as a charitable organization.

Jerry McBeath replied that was federal code and they were looking at Alaska statutes.

Senator Löki Tobin agreed and said she would be curious if that definition [might also be true in Alaska].

Jerry McBeath lamented the lack of clarity because there are thousands of charitable, nonpolitical organizations.

Senator Löki Tobin agreed and noted there are 7,000.

Skip Cook directed Jerry Anderson to move on.

Jerry Anderson asked if there were other questions about the management log. There was none.

c. Ethics Disclosures

Jerry Anderson directed the committee to a discussion of the ethics disclosures filed in 2022 and the comparison between disclosures filed between 2019 and 2022.

Jerry Anderson pointed out the differences in the number of disclosures filed over that time period. Covid may have contributed to the drop in numbers. He noted in particular the decrease in the number of gifts of travel disclosures, especially in 2020 and 2021 but he pointed out that even in 2022 there were roughly half as many as in 2019.

Jerry Anderson said he is more puzzled by the number of board disclosures. The list shows a decrease in the number of disclosures from 2021 to 2022. Ethics staff emphasizes in newsletters that board memberships disclosures are required during and between sessions, the only exception being if the position is read across the floor. If the

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difference in the number of disclosures can be attributed to the exception, that would be understandable.

Jerry Anderson said that in [AO 13-02] the committee focused on what constitutes a board and who is considered a board member. Staff will continue to emphasize disclosure reporting in newsletters.

Jerry Anderson asked for input from the committee.

Senator Gary Stevens said he did not think [the drop in numbers] was shocking given Covid. People didn't want to go into public meetings. It might be interesting to see if that changes this year. He himself did not participate as much as before Covid.

Deb Fancher asked Jerry Anderson to explain the term "read across the floor."

Jerry Anderson said that term applies to, for example, if Senator Gary Stevens appoints a representative from the legislature to a committee. In that case, that board membership need not be disclosed.

Jerry McBeath said that he had originally understood the term board of directors from a business perspective. But the committee definition includes nonconventional positions such as treasurer or elder of a church. A number of examples would help in increasing the board membership disclosures.

Jerry Anderson replied that there is a list of examples in training materials.

Senator Löki Tobin echoed Senator Gary Stevens. She said that in 2019, she participated in six organizations; in 2022, she participated in two organizations. She is currently the board development chair of one of the organizations, and they struggle to recruit. People are tired, burnt out, and overwhelmed. She thinks there is a shift in the service sector, similar to the great resignation in the business sector.

Jerry Anderson thanked Senator Löki Tobin and commented that it may be activity fatigue.

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Joyce Anderson gave an example to Deb Fancher of the type of board disclosure that would be read across the floor: an appointment to an NCSL committee.

b. Public Member Committee Appointment Update

Not taken up by committee

c. Publications

- i. 2022 Public Decisions Booklet - AS
24.60.150(a)(3)
- ii. 2022 Advisory Opinion Booklet - AS
24.60.150(a)(2)
- iii. 2023 Standards of Conduct Handbook

Jerry Anderson directed the committee's attention to the Public Decisions and Advisory Opinions booklets. There was only one public decision and one advisory opinion published in 2022. In accordance with the statute and the committee rules of procedure, the booklets were distributed to all legislators and to the public members as well.

Jerry Anderson remarked that in addition each of the committee members were given a copy of the 2023 Standards of Conduct Handbook. In accordance with committee discussion, a printed copy of the handbook was distributed to every legislative office; it is also posted on the ethics website. Paper copies are available if requested.

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7. 2021 ETHICS TRAINING

Jerry Anderson reported there were no numbers yet to share. New legislators had training in December. The in person attendance was impacted by the amount of snow. Deb Fancher attended that training also. Jerry Anderson asked Deb Fancher if she had any comments about the training.

Deb Fancher said she did not think that Jerry Anderson had enough time to cover all the good questions that were asked. Other than that, she thought the training was excellent.

Jerry Anderson said he had a full three hours at the December training, unlike the shorter training with returning legislators. There were limited opportunities to

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take advantage of in person training by NCSL trainers. The NCSL training was recorded to allow those unable to attend in person on the training days to have the opportunity to view the NCSL training.

Jerry Anderson noted that he appreciated Senator Gary Stevens working with the ethics office to coordinate training with other legislator activities.

Senator Gary Stevens applauded Jerry Anderson for the day's excellent presentation. He thinks it was just about the right amount of time for returning legislator training and he would be concerned if it lasted longer.

Skip Cook complimented Jerry Anderson on effectively using his limited amount of time in training.

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8. BUDGET

Skip Cook moved to discussion of the budget and directed Jerry Anderson to speak.

a. FY23 Budget Summary

Jerry Anderson said that the budget was current as of January 9. The need for extra money appears to have faded, and the remaining funds in the budget are sufficient for the rest of the fiscal year. He entertained questions by the committee.

b. FY24 Budget Request Detail

Jerry Anderson directed the committee to the FY 2024 budget request. He said there is always a 4.9% vacancy rate, something that does not happen often in a two-person office.

Joyce Anderson asked Jerry Anderson to confirm that he believes the budget is sufficient.

Jerry Anderson confirmed that the budget appears sufficient.

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9. CONTRACT REPORT

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Skip Cook directed the committee to a discussion of outside contracts.

Jerry Anderson said the committee had approved a \$15,000 contract with Kevin Fitzgerald for outside counsel. However, it seems the \$15,000 is no longer needed; only minimal expense, about \$2,000, will be encumbered.

Jerry Anderson said modification will be needed to extend the contract with Brent Cole, the attorney handling the lawsuit filed against the committee by former Senator Lora Reinbold, which while ongoing, may be dismissed shortly by the judge.

Conner Thomas asked if there was a motion for dismissal pending before the judge.

Jerry Anderson replied that was the case.

Conner Thomas asked Jerry Anderson to confirm that as far as he knows, the motion work is done.

Jerry Anderson answered yes and he believes it is in the hands of the court to act on it.

Senator Löki Tobin asked for a brief at ease.

Skip Cook entertained objections from the committee to rollback to public comment to allow Representative Sara Hannan to address the committee. There were no objections.

Representative Sara Hannan thanked the committee for the opportunity to speak. She commented on her observations of the investigation done on a House ethics complaint. She said she wished she had asked more questions about the process the investigator used to contact people in the investigation.

Representative Sara Hannan believes the committee was led to believe that people were noncompliant and nonresponsive to the investigator. Her understanding was that no one returned repeated phone calls placed to offices in the Capitol outside of legislative sessions. No attempts to reach the people in writing or using alternative phone numbers were attempted. The result was several months delay, which in turn cost money and time and a request for additional funding, which she herself supported and advocated. She feels frustrated that much of that could have been truncated had the investigator used alternative methods to

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reach the people involved. It is her understanding that when those same people received written communication, they responded immediately.

Representative Sara Hannan said she is happy to hear that the additional money is no longer needed but the delay in the process was unnecessary.

Joyce Anderson asked if the phone number the investigator called was a legislative phone number.

Representative Sara Hannan replied yes but it was outside of session.

Joyce Anderson asked if calls made to the Capitol phone number are automatically forwarded to legislative office outside of the Capitol.

Representative Sara Hannan replied not automatically - it is up to each office to forward the phone calls. She does not know why the staff did not forward the calls, but it is not a requirement. Many legislators have a district office with a different phone number. All of the numbers are published on the same site. It is her understanding that the investigator only called the phone numbers in the Capitol.

Joyce Anderson said she had always been under the impression that calls were always forwarded and she was glad that Representative Sara Hannan had clarified that.

Skip Cook thanked Representative Sara Hannan for her comments.

10. OTHER BUSINESS

Skip Cook said that he would comment on the COGEL conference in December. He said that he and Conner Thomas were the only attendees from the committee. He invited Conner Thomas to comment about the conference.

Conner Thomas said he thought it was a great conference. There were a couple of things that were particularly relevant to the committee's situation. One related to updating the status and projected timelines of public complaints on websites. A second topic addressed the issue of prohibitions against using Zoom for certain kinds of meetings. Massachusetts developed a process using best practices to avoid confidential information becoming

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public. He added he did not know the level of interest the committee may have in pursuing [a similar process] but given the difficulties of convening a meeting, it would be worth considering. And lastly, there was talk about using a variety of social media to keep people engaged with ethics training.

Skip Cook said that COGEL attendees are primarily from North America but occasionally there are attendees from other countries. The organization is the Council on [Governmental] Ethics Laws, which includes states, counties, cities, and other governmental organizations. The Ethics Committee is unique in that the committee has both legislators and public members. It is unique in that the committee only deals with legislative matters. Many others deal with both legislative and executive ethics. He expressed his opinion that Alaska has the best composition of committee members.

Skip Cook said he brought the Massachusetts Ethics Commission Guidelines for Remote Adjudicatory Proceedings to Jerry Anderson for distribution to the committee. Scheduling difficulties have arisen in the past because of the requirement that final adjudications be in person. He thinks the committee prefers to meet in person but it may be impossible and there is no option.

Skip Cook added that next year's conference will be in Kansas City.

Joyce Anderson said that legislators on the committee are also welcome to attend the COGEL conference.

Senator Gary Stevens asked when the conference occurs.

Joyce Anderson replied the conferences were in December, usually the first week.

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11. ADJOURN

Skip Cook entertained a motion to adjourn.

Deb Fancher so moved.

There were no objections. The meeting was adjourned.

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ADJOURN :