

Introduced: 2/21/77
Referred: State Affairs

1 IN THE HOUSE

BY MILES

2 HOUSE BILL NO. 243

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public meetings; and providing for
7 an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 44.62 is amended by adding a new section to read:

10 Sec. 44.62.305. PUBLIC POLICY. (a) It is essential to the main-
11 tenance of a democratic society that public business be performed in an
12 open and public manner and that the citizens be advised of and aware of
13 the performance of public officials and the deliberations and decisions
14 that go into the making of public policy. It is the policy of the state
15 that

16 (1) governmental units exist to aid in the conduct of the
17 people's business;

18 (2) it is the intent of the law that actions of those units
19 be taken openly and that their deliberations be conducted openly;

20 (3) the people of this state do not yield their sovereignty
21 to the agencies which serve them;

22 (4) the people, in delegating authority, do not give their
23 public servants the right to decide what is good for the people to know
24 and what is not good for them to know;

25 (5) the people's right to remain informed shall be protected
26 so that they may retain control over the instruments they have created.

27 (b) Section 310(c) of this chapter shall be construed narrowly in
28 order to effectuate the policy stated in this section and avoid unneces-
29 sary executive sessions.

1 * Sec. 2. AS 44.62.310(b), (c), (d) and (e) are amended to read:

2 (b) If excepted subjects are to be discussed at a meeting, the
3 meeting must first be convened as a public meeting and the question of
4 holding an executive session to discuss matters that come within the
5 exceptions contained in (c) of this section shall be determined by a
6 two-thirds [MAJORITY] vote of the body. The vote of each member on the
7 question of holding the executive session shall be recorded and entered
8 into the minutes of the meeting. The reason for holding the executive
9 session shall be entered into the minutes and identified with reference
10 to a paragraph of (c) of this section. No subjects may be considered at
11 the executive session except those mentioned in the motion calling for
12 the executive session unless auxiliary to the main question. No action
13 may be taken at the executive session.

14 (c) The following excepted subjects may be discussed in an execu-
15 tive session:

16 (1) matters, the immediate knowledge of which would clearly
17 have an adverse effect upon the finances of the government unit;

18 (2) subjects that tend to prejudice the reputation and charac-
19 ter of any person, unless the person requests [PROVIDED THE PERSON MAY
20 REQUEST] a public discussion;

21 (3) matters which by law, municipal charter, or ordinance are
22 required to be confidential;

23 (4) strategy sessions with respect to litigation, when an
24 open meeting would have a detrimental effect on the litigating position
25 of the public body;

26 (5) discussion regarding the deployment of security personnel
27 or devices; and

28 (6) investigative proceedings regarding allegations of criminal
29 misconduct.

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(d) This section does not apply to

- (1) judicial or quasijudicial bodies when holding a meeting solely to make a decision in an adjudicatory proceeding;
- (2) juries;
- (3) parole or pardon boards;
- (4) meetings of a hospital medical staff; [OR]
- (5) meetings of the governing body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline; or

(6) a chance meeting, or a social meeting at which matters relating to official business are not discussed; no chance meeting, social meeting, or electronic communication shall be used in circumvention of the spirit or requirements of this Act to discuss or act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.

(e) Public [REASONABLE PUBLIC] notice shall be given under sec. 311 of this chapter for all meetings required to be open under this section.

* Sec. 3. AS 44.62 is amended by adding new sections to read:

Sec. 44.62.311. NOTICE. (a) All public bodies shall give written public notice of their regular meetings at the beginning of each month. The notice shall include the dates, times, and places of these meetings.

(b) All public bodies shall give supplemental written public notice of any regular, special, or rescheduled meeting no later than 72 hours before the meeting. The notice shall include the agenda, date, time, and place of the meeting.

(c) When an emergency makes a meeting necessary before 72 hours have passed, a public body is excused from the requirements of (b) of this section if written public notice of its meeting is given as soon as practicable. Nothing in this subsection excuses any public body from

1 any of the requirements of this chapter other than the notice require-
2 ments imposed by this section.

3 (d) Written public notice shall include, but is not limited to,

4 (1) posting a copy of the notice at the principal office of
5 the public body holding the meeting, or if no such office exists, at the
6 building in which the meeting is to be held, and in at least three other
7 prominent places within the governmental unit; and

8 (2) mailing a copy of the notice to any person who requests
9 notice of such meetings; that person shall be given notice of all special
10 or rescheduled meetings in the same manner as is given to members of the
11 public body.

12 Sec. 44.62.313. MINUTES. (a) All public bodies shall keep written
13 minutes of all meetings. The minutes shall include, but are not limited
14 to,

15 (1) the date, time and place of the meeting;

16 (2) the members of the public body recorded as either present
17 or absent;

18 (3) the substance of all matters proposed, discussed or
19 decided, and, at the request of any member, a record, by individual
20 member, of any votes taken; and

21 (4) any other information that any member of the public body
22 requests be included or reflected in the minutes.

23 (b) The minutes shall be public records and shall be available
24 within a reasonable time after the meeting except where such disclosure
25 would be inconsistent with sec. 310 of this chapter.

26 (c) All or any part of a meeting of a public body may be recorded
27 by any person in attendance by means of a tape recorder or any other
28 means of sonic reproduction, except when a meeting is closed under sec.
29 310 of this chapter, if in so recording there is no active interference

1 with the conduct of the meeting.

2 Sec. 44.62.314. LIMITATION ON ACTIONS. Suits brought to contest
3 the validity of some act of a public body for the reason that the body
4 did not comply with AS 44.62.310 must be commenced within 90 days of the
5 lack of compliance.

6 Sec. 44.62.315. ENFORCEMENT. (a) The attorney general shall
7 enforce the provisions of this Act.

8 (b) Any person may commence a suit in a court of competent juris-
9 diction for the borough or city in which the public body ordinarily
10 meets or in which the plaintiff resides for the purpose of requiring
11 compliance with or preventing violations of this Act. The court may
12 order payment of reasonable attorney fees and court costs to a successful
13 plaintiff in a suit brought under this section.

14 Sec. 44.62.316. PENALTIES. A person violating the provisions of
15 this Act is guilty of a misdemeanor and upon conviction is punishable by
16 a fine of not more than \$500 or by imprisonment for not more than six
17 months, or by both.

18 Sec. 44.62.317. DEFINITIONS. As used in this Act:

19 (1) "meeting" means the convening of a quorum of the consti-
20 tuent membership of a public body, whether corporal or by means of
21 electronic equipment, to discuss or act upon a matter over which the
22 public body has supervision, control, jurisdiction, or advisory power;

23 (2) "public body" means any administrative, advisory, execu-
24 tive, or legislative body of the state or political subdivision of the
25 state mentioned in sec. 310(a) of this chapter;

26 (3) "quorum", unless otherwise defined by applicable law,
27 means a simple majority of the constituent membership of a public body.

28 * Sec. 4. AS 44.62.312 is repealed.

29 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-

1 070(c).

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