

Original sponsors: Brown, Ellis,
Frank, et al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE JOINT RESOLUTION NO. 44 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska relating to
7 open meetings.

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

9 * Section 1. Article I, Constitution of the State of Alaska, is amended
10 by adding a new section to read:

11 SECTION 23. MEETINGS OPEN. The deliberations of each house of
12 the legislature and its committees shall be open to the public unless
13 the legislative body is meeting in executive session to consider
14 matters authorized by law. If a matter is appropriate to a particular
15 legislative body, private and substantive deliberation on the matter
16 by a quorum of that legislative body is a violation of this section.
17 A member of the legislature who wilfully violates this section is
18 subject to a civil penalty for each wilful violation in an action
19 brought in the superior court. Caucuses of the legislature may meet
20 in private to consider matters of procedure, organization, or strate-
21 gy. The provisions of this section that permit executive sessions and
22 caucuses shall be narrowly construed to achieve maximum public access
23 and to avoid unnecessary executive sessions and caucuses.

24 * Sec. 2. (a) The purpose of the amendment to art. I, Constitution of
25 the State of Alaska, proposed in sec. 1 of this resolution is to make
26 openness in government the rule and secrecy the exception. The amendment
27 ensures that the public is not excluded during the substantive deliberative
28 and decision-making stages of the budgetary and lawmaking process.

29 (b) The existing open meetings law, AS 44.62.310 and 44.62.312,

1 complies with this constitutional amendment and the amendment provides a
2 basis for judicial enforcement of that law, notwithstanding art. II,
3 secs. 6 and 12, Constitution of the State of Alaska.

4 (c) The existing open meetings law requires that votes be conducted
5 in a manner that allows the public to know how members voted. For execu-
6 tive sessions, it requires that meetings first be convened as public meet-
7 ings and the question of holding an executive session be determined by a
8 majority vote of the body. Reasonable public notice is required for open
9 meetings.

10 (d) Under existing law, a legislative body may use an executive
11 session only to discuss

12 (1) matters, the immediate knowledge of which would clearly have
13 an adverse effect on the finances of the government;

14 (2) subjects which tend to prejudice the reputation and charac-
15 ter of any person, provided the person may request a public discussion; and

16 (3) matters which by law, municipal charter, or ordinance are
17 required to be confidential.

18 (e) This amendment is not intended to prevent the free flow of ideas
19 among legislators or their participation in public forums, community
20 events, or social events. Meetings of less than a quorum of the legisla-
21 tive body that have the purpose or effect of circumventing the open meet-
22 ings law would also be a violation of this section.

23 (f) In the preparation of its neutral summary under AS 15.58.020(6)-
24 (C), the Legislative Affairs Agency shall consider the statement of legis-
25 lative intent contained in (a) - (e) of this section.

26 * Sec. 3. The amendment proposed by this resolution shall be placed
27 before the voters of the state at the next general election in conformity
28 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-
29 tion laws of the state.