

**SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 37
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION**

BY REPRESENTATIVES DAVIES, Therriault, Brice

Introduced: 2/11/93

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to open meetings of governmental bodies."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1. AS 44.62.310(a) is amended to read:**

4 (a) All meetings of a governing [LEGISLATIVE] body of an entity [, OF A
5 BOARD OF REGENTS, OR OF AN ADMINISTRATIVE BODY, BOARD,
6 COMMISSION, COMMITTEE, SUBCOMMITTEE, AUTHORITY, COUNCIL,
7 AGENCY, OR OTHER ORGANIZATION, INCLUDING SUBORDINATE UNITS
8 OF THE ABOVE GROUPS,] of the state or of a political subdivision [ANY OF ITS
9 POLITICAL SUBDIVISIONS, INCLUDING BUT NOT LIMITED TO
10 MUNICIPALITIES, BOROUGHES, SCHOOL BOARDS, AND ALL OTHER
11 BOARDS, AGENCIES, ASSEMBLIES, COUNCILS, DEPARTMENTS, DIVISIONS,
12 BUREAUS, COMMISSIONS OR ORGANIZATIONS, ADVISORY OR
13 OTHERWISE,] of the state [OR LOCAL GOVERNMENT SUPPORTED IN WHOLE
14 OR IN PART BY PUBLIC MONEY OR AUTHORIZED TO SPEND PUBLIC

1 MONEY,] are open to the public except as otherwise provided by this section or
2 another provision of law. Except for meetings of a house of the legislature,
3 attendance and participation at meetings by members of the public or by members of
4 a governing body may be by teleconferencing. Materials [AGENCY MATERIALS]
5 that are to be considered at the meeting shall be made available at teleconference
6 locations. Except when voice votes are authorized, the vote shall be conducted in such
7 a manner that the public may know the vote of each person entitled to vote. The vote
8 at a meeting held by teleconference shall be taken by roll call. This section does not
9 apply to any votes required to be taken to organize a governing [PUBLIC] body
10 described in this subsection.

11 * Sec. 2. AS 44.62.310(b) is amended to read:

12 (b) If excepted subjects are to be discussed at a meeting, the meeting shall
13 [MUST] first be convened as a public meeting and the question of holding an
14 executive session to discuss matters that come within the exceptions contained in (c)
15 of this section shall be determined by a majority vote of the governing body. Subjects
16 may not be considered at the executive session except those mentioned in the motion
17 calling for the executive session unless auxiliary to the main question. Action may not
18 be taken at an [THE] executive session held under (c)(1) - (3) of this section.

19 * Sec. 3. AS 44.62.310(c) is amended to read:

20 (c) The following excepted subjects may be considered [DISCUSSED] in an
21 executive session:

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

24 (2) subjects that tend to prejudice the reputation and character of any
25 person, provided the person may request a public discussion;

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

28 (4) legal matters with which an attorney who represents the
29 governing body is involved.

30 * Sec. 4. AS 44.62.310(e) is amended to read:

31 (e) Reasonable public notice shall be given for all meetings required to be

1 open under this section. The notice must include the date, time, subjects to be
2 considered, and place of the meeting and, if the meeting is by teleconference, the
3 location of any teleconferencing facilities that will be used. In addition to the
4 publication required by AS 44.62.175(a) in the Alaska Administrative Journal, the
5 notice may be given by using a combination of print and broadcast media. Except as
6 provided in other laws or in the Uniform Rules of the Alaska State Legislature,
7 notice shall be given at least 72 hours before the meeting, except that a shorter
8 notice period may be provided if, upon convening, the governing body adopts a
9 finding that an emergency exists that justifies the shorter notice period. The
10 finding must describe the nature of the emergency.

11 * Sec. 5. AS 44.62.310(f) is repealed and reenacted to read:

12 (f) If members of a governing body discuss, at a gathering or by other means,
13 a matter within the jurisdiction of the governing body, and if the number of members
14 participating in the discussion equals at least a majority of the quorum of the
15 governing body, the discussion constitutes a meeting subject to this section.
16 Notwithstanding the foregoing, if two members discuss, at a gathering or by other
17 means, a matter within the jurisdiction of the governing body, and if two members are
18 less than a quorum of the governing body, the discussion does not constitute a meeting
19 subject to this section. However, the members may not engage in a series of
20 discussions under this subsection if, taken together, the discussions circumvent the
21 requirements of this section. Attendance of members of a governing body at a social
22 function or gathering of a national, regional, or state association to which the members
23 belong or to which the public entity belongs does not constitute a meeting under this
24 section unless members attend for the purpose of circumventing this section.

25 * Sec. 6. AS 44.62.310 is amended by adding new subsections to read:

26 (g) An action to enforce this section may be brought in the superior court
27 against a public entity within two years after the first day of a meeting held in
28 violation of this section. Individual members of a governing body may not be named
29 in an action to enforce this section in court, although a knowing violation may
30 constitute grounds for recall or for filing an ethics complaint under other law. The
31 court may hold that an action taken by the governing body on a matter discussed at

1 a meeting held in violation of this section is void if the court finds that it is in the
2 public interest that the action be voided. If the court finds that an action is void, the
3 governing body may discuss and act on the matter at another meeting held in
4 compliance with this section.

5 (h) In this section,

6 (1) "entity of the state or of a political subdivision of the state" includes
7 an agency, the legislature, a board or commission, the University of Alaska, a public
8 authority or corporation, a municipality, a school district, and other governmental units
9 of the state or a political subdivision of the state;

10 (2) "governing body" means the members of an entity of the state or
11 of a political subdivision of the state that consists of two or more members with the
12 authority to make decisions or recommendations for the purpose of exercising the
13 powers or duties of the entity including advisory responsibilities; "governing body"
14 includes the members of a subcommittee or other subordinate unit of a governing body
15 if the subordinate unit consists of two or more members.