

2d 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: 3/10/93
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, BOROUGHs, 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 the executive session.

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

20 (e) Reasonable public notice shall be given for all meetings required to be
21 open under this section. The notice must include the date, time, subjects to be
22 considered, and place of the meeting and, if the meeting is by teleconference, the
23 location of any teleconferencing facilities that will be used. In addition to the
24 publication required by AS 44.62.175(a) in the Alaska Administrative Journal, the
25 notice may be given by using a combination of print and broadcast media. Except as
26 provided in other laws or in the Uniform Rules of the Alaska State Legislature,
27 notice shall be given at least 72 hours before the meeting, except that a shorter
28 notice period may be provided if, upon convening, the governing body adopts a
29 finding that an emergency exists that justifies the shorter notice period. The
30 finding must describe the nature of the emergency.

31 * Sec. 4. AS 44.62.310(f) is repealed and reenacted to read:

1 (f) If members of a governing body discuss, at a gathering or by other means,
2 a matter within the jurisdiction of the governing body, and if the number of members
3 participating in the discussion equals at least a majority of the quorum of the
4 governing body, the discussion constitutes a meeting subject to this section.
5 Notwithstanding the foregoing, if two members discuss, at a gathering or by other
6 means, a matter within the jurisdiction of the governing body, and if two members are
7 less than a quorum of the governing body, the discussion does not constitute a meeting
8 subject to this section. However, the members may not engage in a series of
9 discussions under this subsection if, taken together, the discussions circumvent the
10 requirements of this section. Attendance of members of a governing body at a social
11 function or gathering of a national, regional, or state association to which the members
12 belong or to which the public entity belongs does not constitute a meeting under this
13 section unless members attend for the purpose of circumventing this section.

14 * Sec. 5. AS 44.62.310 is amended by adding new subsections to read:

15 (g) An action to enforce this section may be brought in the superior court
16 against a public entity within two years after the first day of a meeting held in
17 violation of this section. Individual members of a governing body may not be named
18 in an action to enforce this section in court, although a knowing violation may
19 constitute grounds for recall or for filing an ethics complaint under other law. The
20 court shall hold that an action taken by the governing body on a matter discussed at
21 a meeting held in violation of this section is void unless the court finds that it is not
22 in the public interest that the action be voided. If the court finds that an action is void,
23 the governing body may discuss and act on the matter at another meeting held in
24 compliance with this section.

25 (h) In this section,

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

30 (2) "governing body" means the members of an entity of the state or
31 of a political subdivision of the state that consists of two or more members with the

1 authority to make decisions or recommendations for the purpose of exercising the
2 powers or duties of the entity including advisory responsibilities; "governing body"
3 includes the members of a subcommittee or other subordinate unit of a governing body
4 if the subordinate unit consists of two or more members.