

SENATE CS FOR CS FOR HOUSE BILL NO. 254(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/23/93
Referred: RULES

Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE

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 a public entity [,
5 OF A 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 ANY OF ITS POLITICAL
9 SUBDIVISIONS, INCLUDING BUT NOT LIMITED TO MUNICIPALITIES,
10 BOROUGH, SCHOOL BOARDS, AND ALL OTHER BOARDS, AGENCIES,
11 ASSEMBLIES, COUNCILS, DEPARTMENTS, DIVISIONS, BUREAUS,
12 COMMISSIONS OR ORGANIZATIONS, ADVISORY OR OTHERWISE,] of the
13 state [OR LOCAL GOVERNMENT SUPPORTED IN WHOLE OR IN PART BY
14 PUBLIC MONEY OR AUTHORIZED TO SPEND PUBLIC MONEY,] are open to

1 the public except as otherwise provided by this section or another provision of law.
2 Except for meetings of a house of the legislature, attendance and participation at
3 meetings by members of the public or by members of a governing body may be by
4 teleconferencing. Materials [AGENCY MATERIALS] that are to be considered at the
5 meeting may [SHALL] be made available at teleconference locations. [EXCEPT
6 WHEN VOICE VOTES ARE AUTHORIZED, THE VOTE SHALL BE
7 CONDUCTED IN SUCH A MANNER THAT THE PUBLIC MAY KNOW THE
8 VOTE OF EACH PERSON ENTITLED TO VOTE.] The vote at a meeting held by
9 teleconference shall be taken by roll call unless the question is approved by
10 unanimous consent. This section does not apply to any votes required to be taken to
11 organize a governing [PUBLIC] body described in this subsection.

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

13 (b) If permitted [EXCEPTED] subjects are to be discussed at a meeting in
14 executive session. the meeting must first be convened as a public meeting and the
15 question of holding an executive session to discuss matters that are listed [COME
16 WITHIN THE EXCEPTIONS CONTAINED] in (c) of this section shall be determined
17 by a majority vote of the governing body. Subjects may not be considered at the
18 executive session except those mentioned in the motion calling for the executive
19 session unless auxiliary to the main question. Action may not be taken at an [THE]
20 executive session held under (c)(1) - (4) of this section. Action may be taken at an
21 executive session held under (c)(5) or (6) of this section.

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

23 (c) The following [EXCEPTED] subjects may be considered [DISCUSSED]
24 in an executive session:

25 (1) matters, the immediate knowledge of which would clearly have an
26 adverse effect upon the finances of the public entity [GOVERNMENT UNIT];

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

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

31 (4) matters involving consideration of governmental records that

1 are not subject to public disclosure;

2 (5) legal matters with which an attorney who represents the
3 governing body or public entity is involved;

4 (6) matters involving labor relations between the public entity and
5 its employees.

6 * Sec. 4. AS 44.62.310(d) is amended to read:

7 (d) This section does not apply to

8 (1) a governing body performing a judicial or quasi-judicial function
9 [BODIES] when holding a meeting solely to make a decision in an adjudicatory
10 proceeding;

11 (2) juries;

12 (3) parole or pardon boards;

13 (4) meetings of a hospital medical staff; [OR]

14 (5) meetings of the governing body or any committee of a governing
15 body [HOSPITAL] when holding a meeting solely to act upon matters of professional
16 qualifications, privileges or discipline;

17 (6) staff meetings or other gatherings of the executive,
18 administrative, or other employees of a public entity;

19 (7) meetings held for the purpose of participating in or attending
20 a gathering of a national, state, or regional organization of which the public
21 entity, governing body, or member of the governing body is a member; or

22 (8) meetings held for the purpose of meeting with an elected official
23 or representative of an elected official, if the elected official is not a member of
24 the governing body or an official of the public entity the governing body
25 represents.

26 * Sec. 5. AS 44.62.310(e) is amended to read:

27 (e) Reasonable public notice shall be given for all meetings required to be
28 open under this section. The notice must include the date, time, and place of the
29 meeting and, if the meeting is by teleconference, the location of any teleconferencing
30 facilities that will be used. In addition to the publication required by AS 44.62.175(a)
31 in the Alaska Administrative Journal, the notice may be given in any reasonable

1 manner. This subsection does not apply to a meeting held for the purpose of
2 considering an emergency that has caused or may cause immediate harm to the
3 public health or safety [BY USING A COMBINATION OF PRINT AND
4 BROADCAST MEDIA].

5 * Sec. 6. AS 44.62.310(f) is repealed and reenacted to read:

6 (f) Action taken contrary to this section is voidable. An action may be
7 brought in the superior court against a public entity seeking to void action on a subject
8 taken during a meeting held in violation of this section. The action must be filed
9 within 90 days after the first day of a meeting held in violation of this section. A
10 member of a governing body may not be named in an action to enforce this section
11 in either the member's official capacity or personal capacity. If the court finds that
12 an action is void, the governing body may discuss and act on the matter at another
13 meeting held in compliance with this section. A court may hold that an action taken
14 at a meeting held in violation of this section is void only if the court finds that,
15 considering all of the circumstances, the public interest in compliance with this section
16 outweighs the harm that would be caused to the public interest and to the public entity
17 by voiding the action. In making this determination, the court shall consider at least
18 the following:

19 (1) the expense that may be incurred by the public entity, other
20 governmental bodies, and individuals if the action is voided;

21 (2) the disruption that may be caused to the affairs of the public entity,
22 other governmental bodies, and individuals if the action is voided;

23 (3) the degree to which the public entity, other governmental bodies,
24 and individuals may be exposed to additional litigation if the action is voided;

25 (4) the extent to which the governing body, in meetings held in
26 compliance with this section, has previously considered the subject;

27 (5) the amount of time that has passed since the action was taken;

28 (6) the degree to which the public entity, other governmental bodies,
29 or individuals have come to rely on the action.

30 * Sec. 7. AS 44.62.310 is amended by adding a new subsection to read:

31 (g) In this section,

1 (1) "governing body" means a commission, council, board, assembly,
2 or other similar body with the authority to establish policies for a public entity
3 regarding the manner in which the entity will exercise its powers or duties, or with the
4 authority to make recommendations concerning the establishment of policies directly
5 to another governing body; "governing body" includes the members of a subcommittee
6 or other subordinate unit of a governing body if the subordinate unit consists of two
7 or more members;

8 (2) "meeting" means a prearranged gathering of at least a majority of
9 the authorized membership of a governing body held for the purpose of considering
10 a matter upon which the governing body is empowered to act;

11 (3) "public entity" means an entity of the state or of a political
12 subdivision of the state including an agency, the legislature, a board or commission,
13 the University of Alaska, a public authority or corporation, a municipality, a school
14 district, and other governmental units of the state or a political subdivision of the state.

15 * Sec. 8. AS 44.62.312(b) is repealed.