

SCOMM

#35:5

MEMORANDUM

May 6, 1983

TO: House Judiciary Committee Members
FROM: Staff
SUBJECT: House Concurrent Resolution 34

Section 1

16A

Authorizes the presiding officer to compel the attendance of individual absent members whether there is a quorum or not.

Section 2

21C

Adds a requirement that any resolution establishing a special or joint committee shall specify what the expected budget will be and the source of funds.

Section 3

23

Amends "Rule 23", Committee Meetings. The substance of this section was similar to CSHCR 32 which has already failed in the House. Committee Members may want to delete this section or ask the "sponsor" for a substantive comparison between this section and CSHCR 32, at the time of his testimony.

Section 4

37

Amends "Rule 37" by adding a new subsection. Same recommendation as above [for Section 3].

Section 5

39B

Adds clarifying language.

Section 6

52

Removes language requiring the adoption of a concurrent resolution for adjournment or recess.

Section 7

54

Changes "point of order" relating to violation of uniform rules by either house. By this change questions of order may be raised in the other house for violation of uniform rules other than a rule concerning matters relating to the organization or operation of a house.

Alaska State Legislature

file

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 485-4949



BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips
HOUSE DISTRICT 15

TO: SENATOR JAN FAIKS
SENATOR TIM KELLY
SENATOR JOE JOSEPHSON
REPRESENTATIVE BARBARA LACHER
REPRESENTATIVE MIKE MILLER

FROM: REPRESENTATIVE RANDY PHILLIPS *pp/r*

DATE: APRIL 20, 1983

RE: SPECIAL LEGISLATIVE REFORM COMMITTEE

Enclosed is a draft of the concurrent resolution containing the proposed amendments to the Uniform Rules.

The only change that I can see at this time is the resolution should be sponsored by the committee rather than myself. Please review the enclosure and advise Senator Faiks or myself regarding this resolution. Your prompt advice would be appreciated.

Enclosure

1 IN THE HOUSE

BY PHILLIPS

2 HOUSE CONCURRENT RESOLUTION NO.
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 Proposing certain amendments to the
6 Uniform Rules of the Alaska State Legis-
7 lature.

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

9 * Section 1. Rule 16(a) of the Uniform Rules of the Alaska State Legis-
10 lature is amended to read:

11 (a) A call of the house is used to compel attendance of absent
12 members who have not been previously excused from a call by a majority
13 vote of the full membership of the house. The journal shall reflect
14 the names of all members excused from attendance and such members
15 shall be excused from all roll calls during such absence. A call of
16 the house may be ordered by one member. The [WHEN NO QUORUM IS PRE-
17 SENT, THE] presiding officer of the house may compel the attendance of
18 individual absent members.

19 * Sec. 2. Rule 21(c) of the Uniform Rules of the Alaska State Legisla-
20 ture is amended to read:

21 (c) A resolution establishing a special or joint committee shall
22 specify the budget and source of funds for the committee and the date
23 or conditions of termination of the committee. A standing committee
24 may meet between sessions. A special or joint committee may meet
25 during the session or between sessions, or both, as authorized by the
26 resolution which establishes the committee. A standing, special, or
27 joint committee which acts between legislative sessions may consider
28 any legislative matter which is consistent with the jurisdiction of
29 the committee. A standing, special, or joint committee which acts

1 between legislative sessions constitutes a subcommittee of the Legis-
2 lative Council for administrative purposes. A special or joint com-
3 mittee may expend money only if the expenditure is authorized by a
4 majority vote of the full membership of the Committee [IN ACCORDANCE
5 WITH AN APPROPRIATION MADE FOR THE WORK OF THE COMMITTEE].

6 * Sec. 3. Rule 23 of the Uniform Rules of the Alaska State Legislature
7 is amended to read:

8 RULE 23. COMMITTEE MEETINGS. (a) Written notice of the time,
9 place and subject matter of all meetings of standing, special, and
10 joint committees during a week shall be provided by the person who
11 chairs the committee to the chief clerk or secretary by 4:00 p.m. on
12 the preceding Thursday.

13 (b) The person who chairs the committee to which a bill or
14 resolution is first referred shall provide to the chief clerk or
15 secretary written notice of the time and place of the first public
16 hearing on the bill or resolution at least five days before the hear-
17 ing.

18 (c) The notice requirements of (a) and (b) of this section
19 [HOWEVER, THIS REQUIREMENT] may be waived by motion of the person who
20 chairs the committee to which a bill or resolution is first referred
21 if concurred in by majority vote of the full membership of the house.

22 (d) The chief clerk or secretary shall publish and distribute
23 copies of the weekly schedule of committee meetings and of the five-
24 day notice of hearing.

25 (e) [(b)] If the time or place of a committee meeting is changed
26 from that shown in the weekly schedule of committee meetings, the
27 [THE] person who chairs a standing, special, or joint committee shall
28 provide the chief clerk or secretary written notice of the change [IN
29 THE TIME, PLACE OR SUBJECT MATTER OF A MEETING]. Written [AT THE NEXT

1 DAILY LEGISLATIVE SESSION,] notice of the schedule change shall be
2 given to [ANNOUNCED BY] the chief clerk or secretary and published as
3 a notice in the journal of the house.

4 (f) [(c)] A scheduled meeting of a standing, special, or joint
5 committee may be cancelled or consideration of the scheduled subject
6 matter may be postponed or cancelled at any time. If possible, notice
7 of the cancellation shall be given in the same manner as provided for
8 notice of change in (b) of this rule.

9 (g) [(d)] The provisions of (a) - (e) [AND (b)] of this rule do
10 not apply to a standing, special, or joint committee meeting scheduled
11 after the date a conference committee has been chosen to consider
12 amendments to or differences between versions of the general appro-
13 priation act. However, a person who chairs a standing, special, or
14 joint committee shall post written notice of the time, place and
15 subject matter of a meeting at least 24 hours before the meeting.

16 (h) [(e)] The provisions of (a) - (g) [(d)] of this rule do not
17 apply to meetings of

18 (1) the Rules Committee when it meets for the purpose of
19 preparing the daily calendar;

20 (2) the Committee on Committees referred to in Rule 1(e);
21 or

22 (3) standing, special, or joint committees when the commit-
23 tee meets during the interim between sessions or during a special
24 session.

25 (i) [(f)] Each standing, special, and joint committee

26 (1) shall record its meetings electronically and prepare a
27 log of the recording adequate to locate specific testimony;

28 (2) shall prepare minutes of each meeting of the committee
29 on a standard form prescribed jointly by the Rules Committees of the

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1 house and the senate; the minutes shall include

2 (A) a list of the names of each member present during
3 the meeting;

4 (B) a list of the name and affiliation of each witness
5 testifying before the committee;

6 (C) a brief statement of the position of the witness
7 on the subject testified upon; and

8 (D) each amendment formally considered by the commit-
9 tee, the name of the member moving adoption of the amendment, the
10 action taken on the amendment, and the yeas and nays if a com-
11 mittee member has requested a roll call vote on adoption of an
12 amendment;

13 (3) shall maintain a chronological file of minutes, copies
14 of which shall be made available upon request to committee members and
15 the public; committee minutes, tapes and other materials of research
16 value shall be delivered by the committee at the end of each session
17 or each legislature to the legislative reference library for appro-
18 priate disposition;

19 (4) shall [MAY] make available to the Legislative Affairs
20 Agency a copy of all minutes of committee meetings during the session
21 for entry of the minutes as a data base on the legislative computer
22 system.

23 * Sec. 4. Rule 37 of the Uniform Rules of the Alaska State Legislature
24 is amended by adding a new subsection to read:

25 (c) A member who has introduced a bill or resolution or, if the
26 bill or resolution was sponsored by more than one member, the member
27 whose name first appears in the list of sponsors, with the concurrence
28 of each of the cosponsors, may introduce a sponsor substitute for the
29 bill or resolution at any time before the bill or resolution is

1 reported from the first committee of reference. The effect of intro-
2 duction of a sponsor substitute is to withdraw the original bill or
3 resolution. The introduction does not require consent of the member-
4 ship of the house. A sponsor substitute may not be introduced if the
5 subject matter is different from that of the original bill.

6 * Sec. 5. Rule 39(b) of the Uniform Rules of the Alaska State Legisla-
7 ture is amended to read:

8 (b) First Reading. The first reading consists of a reading
9 aloud by the clerk or secretary of the following information: the
10 house of origin, the bill number, the sponsor, and the title of the
11 bill, e.g., "In the House, House Bill No., by and, A
12 bill for an Act entitled, 'An Act relating to a code of ethics for
13 state employees.'" The bill is then referred by the presiding officer
14 to one or more committees of the house. The house may by a majority
15 vote of the full membership of the house refer the bill to any other
16 standing or special committee of the house.

17 * Sec. 6. Rule 52 of the Uniform Rules of the Alaska State Legislature
18 is amended to read:

19 RULE 52. ADJOURNMENT. Neither house may adjourn or recess for
20 longer than three days unless the other concurs. (Sec. 10, Art. II,
21 State Constitution) [ADOPTION OF THE CONCURRENT RESOLUTION BY A MAJOR-
22 ITY VOTE OF THE FULL MEMBERSHIP OF EACH HOUSE CONSTITUTES CONCUR-
23 RENCE.] A motion to adjourn or recess a session is in order when it
24 is the intention of the legislature to recess or adjourn to a day
25 certain. A motion to adjourn sine die is in order only at the end of
26 a second regular session or a special session.

27 * Sec. 7. Rule 54 of the Uniform Rules of the Alaska State Legislature
28 is amended to read:

29 RULE 54. SUSPENSION OF RULES. Unless otherwise provided for in

1 the case of a particular rule, the Uniform Rules may be suspended by a
2 concurrent resolution approved by a two-thirds vote of the full mem-
3 bership of each house. If either house violates a uniform rule other
4 than a rule concerning matters relating to the organization or opera-
5 tion of a house a question of order may be raised in the other house.
6 If it is decided by the other house that the Uniform Rules have been
7 violated, the bill involved in that violation shall be returned to its
8 house of origin without further action.
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RECEIVED APR 06 1983

STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 6, 1983

SUBJECT: Definition of minority in Rule 1(e)
TO: Senator Rick Halford
FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have requested wording for a suggested definition of "minority" for the purposes of Rule 1(e) essentially as we discussed.

I would suggest:

For the purposes of this rule a minority is a group of members who have declared themselves to be a caucus not later than the day following the election of the presiding officers and who are not members of the majority. If there is more than one group who would meet these requirements, the larger group is the minority.

I believe this meets the concept you desired.

BGB:ljb
13/030

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

March 21, 1983

SUBJECT: Comments on Rules

TO: Senator Jan Faiks
Co-Chairman
Joint Special Committee on Legislative Reform

Representative Randy Phillips
Co-Chairman
Joint Special Committee on Legislative Reform

FROM: Billy G. Berrier 
Director
Division of Legal Services

You have requested I prepare informal comments on the Uniform Rules for use by the committee.

The enclosed comments are from the perspective of this office and are quite informal.

Any comments from a person who is not a legislator, and therefore involved in routine substantive use of the rules, are to an extent from an ivory tower perspective. Considering that limitation, I hope the comments are useful.

BGB:ljb

Enclosures
10/030

Rule 1. Organization of the First Session

(a) No problems.

(b) The rule states the presiding officer serves for the two year duration of the legislature. Regardless of this rule, the court has held the presiding officer serves at the pleasure of the body. The holding is based on the constitutional provision that each house may choose its officers and employees.

(c) No problems.

(d) No problems. (In practice the temporary rules frequently last for years. Recently, the 1977 Rules were in effect until 1982 and the Rules the 1977 Rules superseded were from 1973.)

(e) We have encountered two problems with this rule. The chair and members are stated to serve for the two year duration of the legislature which has the same problem as noted under paragraph (b). Secondly, in some instances, the term "minority" as used in this rule is not clear. If the division is along other than party lines or nearly party lines more than one interpretation is plausible and either interpretation has logical difficulties.

Rule 2. Organization of the Second Session.

No problems.

Rule 3. Legislative Session Staff.

While the appointment of the chief clerk and secretary for the two year duration of the legislature was not involved in the case holding the requirement unconstitutional as to the presiding officer, the logic of the case appears to apply.

Rule 4. Duties of the Presiding Officer.

No problems with the rule itself. Questions have arisen in several fact contexts concerning the presiding officer's power in that context. It would appear quite difficult to specify the powers in great detail and, in my opinion, would create more problems that it would solve.

Rule 5. Administrative Services.

No problems.

Rule 6. Expenditures.

No problems. The last sentence is amplified in Rule 21(c).

Rule 7. Communications.

No problems.

Rule 8. Privilege of the Floor.

There have been questions relating to the distinction between personal privilege and special privilege but the rule as it exists has been adequate to resolve the questions.

Rule 9. Journal.

No problems with the rule although form or content problems do arise in connection with the journal.

Rule 10. Drafting Manual.

No problems.

Rule 11. Admission to the Floor.

No problems.

Rule 12. Use of Chambers and Offices.

The only problem with this rule has arisen in context of jurisdiction for smoking designations.

Rule 13. Hour for Convening.

No problems. In practice neither house meets as a matter of routine on Saturday but the adjournment motion solves this. It would seem appropriate, however, to revise the rule to exclude Saturday also since this would then correspond to practice.

Rule 14. Quorum and Roll Call.

No problems.

Rule 15. Absence of Members.

The only problem has been in the relationship between this rule and Rule 16, Call of the House.

Rule 16: Call of the House.

Two problems have arisen here. One is the use of the call when a member deliberately absents himself from the house to delay action. The other concerns the effect of a call during a joint session. As to the first, I see no ready answer. As to the second the rule should explicitly state whether at

a joint session a call made by a member of one house is effective only as to that house or as to both houses.

In addition, the last sentence of (a) contains the modified "when no quorum is present" concerning the power of the presiding officer to compel attendance. The 1963 Rules used the concept in Mason's that a call of the house was to compel the attendance of a quorum. In 1965 when the rule was changed to essentially the present form, this language, which in the context of the changed rule is inappropriate, was carried forward. Although so far as I can determine this has never caused a problem it is archaic and poses a potential question.

Rule 17. Daily Order of Business.

Some general category of business would be useful since from time to time matters come up which do not fit well into any of the established criteria.

Rule 18. Daily Calendar.

Minor problems. There is no provision for the first day of the session which has apparently not caused serious problems.

Rule 19. Special Order of Business.

No problems.

Rule 20. Standing Committees.

There is a certain overlap of jurisdiction between the State Affairs Committee and the Transportation Committee. Some overlap appears inevitable, however, since there is not a bright line functional distinction between transportation facilities and other public facilities.

Rule 21. Special and Joint Committees.

The only serious problem encountered is the provision in (c) that "A special or joint committee may expend money only in accordance with an appropriation made for the work of the committee." This cannot reasonably be met in most instances unless there is a special appropriation since the general appropriation bill does not go into that level of detail.

Rule 22. Open and Executive Sessions.

A good many problems inherent in the subject matter. This tracks AS 44.62.310 - 44.62.312 which also applies to the legislature.

Rule 23. Committee Meetings.

A real problem rule which needs to be clarified. See attached memorandum.

Rule 24. Committee Referral and Action.

The title change problem discussed in the attached memorandum applies here. Since a committee substitute is an amendment the germaneness problem also exists.

Rule 25. Committee of the Whole.

No problems.

Rule 26. Decorum in Debate.

No problems.

Rule 27. Motions.

There are always problems under any rule with priority of motions. There seems to be no technical problems that re-drafting the rule would cure.

Rule 28. Form of Question.

No problems.

Rule 29. Indefinite Postponement.

No problems.

Rule 30. Reconsideration.

Reconsideration under any rule I have seen has a host of problems. This rule is clearer than others that I have seen.

Rule 31. Rescinding Action.

In the 1972 and earlier Uniform Rules reconsideration followed Mason's two motion procedure. In the 1972 Rules the relationship between reconsideration and rescinding was clearer. Those Rules in Rule 32(a) provided:

The motion is not in order when the question can be reached by a motion to reconsider or if the question has already been reconsidered.

In the 1977 revision which dispensed with the double motion the notice concept was necessarily put into the rule on rescinding.

An ambiguity arose because of the way this was written and should be corrected by a provision similar to that in the 1972 Rule.

Rule 32. Previous Question.

No problems.

Rule 33. Division of a Question.

There are fact problems as to what constitutes an independent question, but since that concept is necessary, we have had no problems with the rule itself.

Rule 34. Voting Procedure.

No problems.

Rule 35. Amendment.

The question of germaneness arises frequently. The limitation on changes in titles of bills also occurs in this rule. See attached memorandum.

Rule 36. Prefiling of Bills.

No problems with the rule, but since the legislature is not in session during the period this applies, there is a problem with obtaining the required sponsor approval. Any rule change to solve this that I can think of would cause more serious problems than it would solve.

Rule 37. Introduction of Bills.

The primary problem here has been introduction of bills not in proper form. The outstanding example is a bill introduced by the governor in 1978. The cover letter stated the bill had not gone through the normal analysis and drafting procedure. The lack was very obvious. A lesser example is a bill that a member planned to introduce this year which did not conform to the bill format. It would have been impossible to print the bill or get it into the computer without changes which would have led to two versions of the bill being used.

Rule 38. History of Bills.

No problems.

Rule 39. Action on Bills.

There have been questions concerning referrals, advancement, status when advanced and the effect of failure to approve of

a change in court rules or an effective date. The only problem that appears amenable to solution by change in the rule would be an explicit requirement that a committee to which a bill is referred must be a committee of the house but a presiding officer may refer a question concerning a bill to a joint committee. In my opinion this is the current requirement but an explicit statement could clarify.

Rule 40. Course of Bills.

There is a problem with possession of a bill after action is completed but before the bill has been transmitted to the other house. There does not appear to be a ready solution to this without introducing unworkable complexity.

Rule 41. Amendments in the Other House.

See memorandum on title changes, attached.

Rule 42. Conference and Free Conference Committees.

There have been problems with the limited free conference committee which is a relatively new concept. In discussion on this point with Paul Mason, he stated his opinion that the better procedure is to allow a bill to go directly to free conference committee. The limitation on inclusion of items by a free conference committee that were not in either version of an appropriation bill is new. There are potential problems of time constraints in closing out the budget.

Rule 43. Enrollment.

No problems except fact problems about the extent of change the enrolling secretary can make. These have not been serious.

Rule 44. Time Limit on Introduction.

The rule creates major problems to the drafting staff since a large volume of requests, sometimes requiring complex drafting, usually come in at the last minute. During one session the leadership of both houses established submission deadlines for requests which was very helpful.

Rule 45. Vetoed Bills.

The rule is clear. There have been computation of time problems and vote requirement problems, but both are of constitutional origin.

Rule 46. Confirmation of Appointments.

No problems.

Rule 47. Bills and Resolutions Carryover.

No problems. The resolution carryover problem was solved in the last amendment.

Rule 48. Discharge of Bills from Committee.

No problems.

Rule 49. Resolutions.

Much substantive material is contained in the form of definitions. It has apparently worked, however.

Rule 50. Legislative Citations.

There is a problem on how sponsors may appear which was addressed by the Joint Rules Committee and apparently satisfactorily solved.

Rule 51. Joint Sessions.

No problems with the rule itself.

Rule 52. Adjournment.

The requirement of a concurrent resolution to adjourn for more than three days is not followed in practice.

Rule 53. Adoption and Amendment of Rules.

It should be noted that a revision of the Uniform Rules does not occur each session. More often than not the legislature is operating under what are technically temporary rules under Rule 1(d) but this has not created a problem.

Rule 54. Suspension of Rules.

There have been questions concerning questions of order raised in the other house concerning a violation of the Uniform Rules. It seems clear this applies only when the violation concerns matters relating to both houses since each house has final authority in matters that relate only to that house. Perhaps clarification would be useful.

Rule 55. Interpretation and Implementation of Rules.

No problems with the rule itself.

10/028

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCHY STATE CAPITOL
JUNEAU ALASKA 99801
727-2431-1000

MEMORANDUM

March 8, 1983

SUBJECT: Notice requirements of Rule 23 of the Uniform Rules

TO: Senator Jan Faiks
Chairman, Senate Rules Committee

FROM: Billy G. Berrier
Director
Division of Legal Services

You have requested an analysis of the notice requirements under Rule 23 of the Uniform Rules of the Alaska State Legislature.

The relevant part of the Rule, paragraphs (a) through (e) provides:

"RULE 23. COMMITTEE MEETINGS. (a) Written notice of the time, place and subject matter of all meetings of standing, special, and joint committees during a week shall be provided by the person who chairs the committee to the chief clerk or secretary by 4:00 p.m. on the preceding Thursday. The person who chairs the committee to which a bill or resolution is first referred shall provide to the chief clerk or secretary written notice of the time and place of the first public hearing on the bill or resolution at least five days before the hearing. However, this requirement may be waived by motion of the person who chairs the committee to which a bill or resolution is first referred if concurred in by majority vote of the full membership of the house. The chief clerk or secretary shall publish and distribute copies of the weekly schedule of committee meetings and of the five-day notice of hearing.

"(b) The person who chairs a standing, special, or joint committee shall provide the chief clerk or secretary written notice of the change in the time, place or subject matter of a meeting. At the next daily

legislative session, notice of the schedule change shall be announced by the chief clerk or secretary and published as a notice in the journal of the house.

"(c) A scheduled meeting of a standing, special, or joint committee may be cancelled at any time. If possible, notice of the cancellation shall be given in the same manner as provided for notice of change in (b) of this rule.

"(d) The provisions of (a) and (b) of this rule do not apply to a standing, special, or joint committee meeting scheduled after the date a conference committee has been chosen to consider amendments to or differences between versions of the general appropriation act. However, a person who chairs a standing, special, or joint committee shall post written notice of the time, place and subject matter of a meeting at least 24 hours before the meeting.

"(e) The provisions of (a) - (d) of this rule do not apply to meetings of

(1) the Rules Committee when it meets for the purpose of preparing the daily calendar;

(2) the Committee on Committees referred to in Rule 1(e); or

(3) standing, special, or joint committees when the committee meets during the interim between sessions."

Paragraph (a) has two distinct notice requirements.

The first requirement is the written notice provided to the clerk or secretary by the Thursday preceding the meeting of the time, place and subject matter of all committee meetings during the succeeding week. This applies to all committee meetings and there is no provision for waiver of the requirement.

There is an additional requirement when the committee is the committee of first referral of a bill or resolution. In addition to the preceding Thursday notice, the person who chairs the committee must provide the clerk or secretary with a written notice of the first public hearing at least five days in advance. This rule would normally apply only

in the house of origin of the bill or resolution since normally the bill or resolution will go through the committee process before going to the second house. In my opinion the rule would apply to the next committee of referral if the committee of first reference waives referral since this waiver negates the reference in effect. The focus of the rule is the committee that holds the first public hearing, otherwise the rule would be meaningless. The five-day notice requirement may be waived by a majority vote of the full membership of a house.

Paragraph (b) requires the person chairing a committee to provide the clerk or secretary written notice of a change in the time, place or subject matter of a meeting. The change must be announced at the next legislative session and be published in the journal of the house. This paragraph would not allow the introduction of new subject matter since that would supersede the notice requirement of (a).

Paragraph (e) allows cancellation of a committee meeting at any time and provides, that where possible, the notice provisions in (b) relating to a change be followed.

Once a conference committee on a version of the general appropriation act has been chosen the notice requirements of (a) and (b) no longer apply. At that time the notice requirement in (d) comes into effect. This requires posting of written notice of the time, place and subject matter of a committee meeting 24 hours in advance of the meeting.

Paragraph (e) provides the notice requirements of the Rule do not apply to the Rules Committee when it meets for the purpose of preparing the daily calendar, to the Committee on Committees or to any committee meeting during the interim. The exception as to the Rules Committee would not apply where that committee was acting as a substantive committee of reference or otherwise acting on matters other than the calendar.

In summary Rule 23 has three distinct notice requirements. These are:

- (1) The written previous Thursday notice given to the clerk or secretary;

Senator Jan Faiks
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(2) The five-day notice which applies only to the first public hearing in the committee of first reference; and

(3) The 24-hour posting requirement which comes into effect only when the conference committee on the budget is chosen and which then supersedes the other requirements.

Each has specific application and distinct requirements as discussed above.

BGB:ljb
1/008

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907-463-1800

MEMORANDUM

March 10, 1983

SUBJECT: Amendment of bill titles

TO: Senator Jan Faiks
Chairman, Senate Rules Committee

FROM: Billy G. Berrier
Director
Division of Legal Services

The Uniform Rules of the Alaska State Legislature as amended last year made a significant change in the scope of amendment which may be made to a bill title in the other house.

The general statement of the change is contained in Rule 35 concerning amendments. The relevant part of that Rule provides:

A motion or proposition on a subject that requires a change in the title of the bill as enacted in the house of origin, other than a clerical or technical change, is not in order in the second house.

Specific application of the change is covered in other rules.

Rule 24 relating to committee referral and action provides in subsection (c):

A committee of the second house may not report a committee substitute for a bill or an amendment to a bill that requires a change in the title of the bill, other than a clerical or technical change, as the title was enacted in the house of origin.

Rule 41 relating to amendments in the other house provides in subsection (b):

(b) An amendment to a bill introduced in the other house is not in order if the amendment requires a

change of the bill title other than a clerical or technical change.

Rule 42 relating to conference and free conference committees provides in subsection (e):

(e) (EFFECTIVE JUNE 30, 1982) A Conference Committee, a Conference Committee with limited powers of free conference, or a Free Conference Committee may not adopt a report that requires a change in the title of a bill other than a clerical or technical change.

You have requested an analysis of these provisions.

All these are identical in substance. As a technical point the term "enacted" is incorrect. A bill is "enacted" when it becomes law so that action by both houses and the governor are required for enactment. It is clear however that adoption by a single house is intended.

The rule only applies to a bill which has been adopted by the other house. No change is made concerning amendments to Senate bills in the Senate or House bills in the House.

The prohibition is absolute except for the exception made in the rules. There is no provisions for waiving this requirement. Since these rules concern procedure in enacting law and are therefore of concern to both houses they can only be suspended by a concurrent resolution adopted by both houses under Rule 54.

The only exception in the second house is for clerical or technical change.

Clerical change is fairly clear. In my opinion, this refers to the type of changes that the enroller is authorized to make under Rule 43 or that the revisor of statutes is authorized to make under AS 01.05.031. Under Rule 43(a)

The enrolling secretary is authorized to correct form and manifest errors which are clerical, typographical, or errors in spelling or errors by way of additions or omissions.

Under AS 01.05.031, the revisor is authorized to edit and revise the laws "without changing the meaning of any law".

Senator Jan Faiks
Page 3
March 10, 1983

The term "technical change" is more difficult to apply. In my opinion this is intended only to allow changes in the title of a bill which are necessary for technical reasons to conform the title to the subject matter in the bill as adopted in the first house without change in the scope of the bill.

The amendments do not prohibit amendments, including amendments which introduce new matter, if the amendments are within the scope of the title, although, of course, other limitations such as the requirements of germaneness and compliance with the single subject rule continue to apply.

BGB:ljb

1/030

Tape 1, Side B

RULE 23

Phillips: Okay, Rule 23. Mr. Bradley

Kelly: Mr. Chairman?

Phillips: Mr. Kelly?

Kelly: Doesn't this do away with our five day notice.

Phillips: Yes.

Kelly: Why do we want to do that? That's the one thing that forces you to call attention to when you are bringing a bill up. This works. (undiscernable) The thing that you're keeping in this thing that doesn't work that should be reversed, we ought to keep the five-day notice and get rid of the 4:00 p.m. preceding Thursday.

Phillips: Okay, okay. I want to just let you know, the members of the committee -- I am not the author of this. These are just some of the things that some of the people at least some of the House and Senate members brought up to my attention and we are just -- Senator Faiks?

Faiks: Thank you, Mr. Chairman. Now, according to NCSL, the average number of times out there that a committee chair has to publish his agenda is 48 hours. And so their recommendation was that the written notice of time, place, subject matter of meetings of standing, special, blah, blah, be published 48 hours in advance of that time of that meeting. Now they liked the five-day notice on the first public hearing but they said that was a little excessive too that the average out there was from two to three days was the average. Now Pennsylvania has a 30-day notice required on all legislation dealing with a particular locale or county. A local legislation it's called in Pennsylvania. But that's the most excessive anywhere in the United States. They thought that the reason this rule was cumbersome -- the first part of this rule was cumbersome because the 4:00 on the preceding Thursday could never be waived. Legally, we do it but it's not legal to do that. The five-day notice could be waived but the 4:00 Thursday thing couldn't. So I would say in just for discussion purposes, we need at least 48 hours for the public to know what our agendas are, which is all we meant to do here. This is another FREE Committee rule and that on a public notice the public hearing process there just be some advance notice when a committee is going to hear, have a public hearing on a bill for the first time out.

Phillips: Barbara?

Lacher: The problem with that is that our newspapers are at least a day late from where most of our people live and that is also true of the messages that leave this community.

Faiks: Okay.

Lacher: And we are so locked in when it comes to weather. It would be my concern that you would not be getting the message to the people.

Faiks: Okay. I don't have any trouble with shifting the numbers around. My problem was with the 4:00 really gives the members of this legislature a hard time. Now I think they are getting it. All it was was a matter of organization. They just had to get used to it. But it could never be waived. Under the present rule it could not be waived and I think for political reasons we would be doing ourselves a favor if we reworded the 4:00 of the preceding Thursday. That terminology really gets to them and just as long as we can -- I'm not set on the numbers at all or the time frame, I just wanted you to know what NCSL commented on.

Phillips: (undiscernable) conceptual motion?

Faiks: Well ask them. I gave my conceptual

Kelly: What was the

Phillips: Restate

Faiks: My conceptual notice was that the chairman of the committee announce, have a written notice of the time, place and subject matter of all meetings of standing, special, and joint committees etc. at least 48 hours in advance was my conceptual notice and that could be waived with the majority membership of the body and that the first public hearing on a bill have an extended period of advance notice. Five days is what we've got and I think that's a reasonable amount of time.

Kelly: First hearing in each house or

Phillips: First committee of referral.

Faiks: First committee of referral

Kelly: In each body?

Faiks: Um hum

Miller: Well that's a departure from present rules

Faiks: Yeah, right now it's just the first one, the first one in either body

Miller: I mean, I don't care (undiscernable)

Phillips: For Mr. Bradley

Faiks: Well we are operating that way in the Senate.

Phillips: Okay, we've got to give direction to Mr. Bradley. We're talking in concepts now

Josephson: Well what happens in the special session?

Various: Rules apply.

Josephson: Does that mean we have to have ten days. Five days notice in the first body, five days notice

Millers: (a) through (c) do not apply

Phillips: Yeah, I'm wrong, special session it does not apply

Josephson: Well, except that's

Phillips: If you look on page 3, line 4, "The provisions (a) through (c) of this rule do apply to meetings of" if you look at number (3) "or during a special session". That's what we are adding. We're adding new language in that.

Josephson: Well, Mr. Chairman, I really question the five-day requirement in the second house because we are going to be in a situation right now where we get a lot of bills transferred from one body to the next and we're

Kelly: (undiscernable) the first house

Faiks: The first house.

Kelly: Okay, I would move Jan's amendments.

Phillips: Jan, for purposes of Mr. Bradley because I don't think he got it, state

Faiks: Before I move it could we talk about the amount of time? Is 48 hours enough time to publish an agenda for a chairman? Is that unruly? Is that a difficulty?

Phillips: Barbara?

Lacher: I have no problem with this (undiscernable)

Phillips: Mike? From your experiences? Tim?

Kelly: Then the first hearings is five days .

Faiks: Right, five days public notice on the first hearing of a bill

Kelly: And you can waive either or both of them?

Faiks: That's the unruly part. You must be able to waive -- the majority must be able to waive either one on the floor.

Kelly: Yeah.

Faiks: Majority vote.

Kelly: The important thing is that somebody stands up and says hey

Phillips: Okay, now what about the 4:00 preceding

Kelly: Get rid of it.

Faiks: Scratch it.

Phillips: Madame Chairman -- Senator Faiks, why don't you explain

Faiks: My conceptual motion for Rule 23 on page 2 is as follows: strike out section (a), replace section (a) with a two part rule. I don't think these, and I'm going to get off my motion, but I don't think that these two standards should be in the same paragraph. I think they need to be separated. Section (a) would be that written notice of the time, place and subject matter of all meetings of standing, special and joint committees during the week and that's an optional phrase shall be provided by the person who chairs the committee to the Chief Clerk or Secretary at least 48 hours in advance of that meeting.

? So what you've taken out is by 4:00 and

Faiks: Right of the preceding Thursday

Bradley: And replaced it with 48 hours notice.

Faiks: Right. However this requirement may be waived by motion of the person who chairs the committee if concurred in by the majority vote of the full membership of the house. And then subsection (b) -- and you can keep in there that the Chief Clerk and Secretary shall publish and distribute copies of the weekly schedule of committee meetings and all that. Okay. Then the second part of that chapter should be the

Phillips: Written notice

Faiks: Written notice of the first public hearing of a bill shall be provided to the Chief Clerk or Secretary and published at least five days in advance of that public hearing.

Bradley: Do you have this anywhere (undiscernable)

Faiks: It's page two, basically.

Bradley: Oh, I didn't realize you were reading. I'm sorry.

Faiks: Well, I'm not but the concept is there.

Bradley: Well, that's what I'm concerned about now.

Faiks: Okay, you got the first part? 48 hours?

Bradley: 48 hours, right.

Faiks: The next is the first public hearing on a bill, you need at least five days' notice on that and the key part here is only in the first house of referral.

Bradley: All right.

Faiks: And the first committee of referral. That's understood.

Bradley: That second part is understood. It doesn't need to be stated?

Faiks: I would assume so. I'd have to see it written out, but I would think that it would be all right. You might say the first committee of referral of a bill in the

Kelly: (undiscernable)

Faiks: Why?

Kelly: Because I'm getting tired.

Phillips: Once we get beyond this, I think it will be easy.

Faiks: And then that also can be waived if the chairman of the committee stands up and asks for a majority vote on the floor.

Phillips: Representative Lacher?

Lacher: I think maybe Mr. Bradley can relax a little bit if he realizes that we are on tape, Mr. Bradley.

Bradley: All right. Yes, I may need that.

Phillips: Dick, you got everything

Bradley: No.

Phillips: You didn't get everything

Bradley: (undiscernable)

Faiks: Yes.

Phillips: Okay.

Miller: Mr. Chairman?

Phillips: Mr. Miller?

Miller: Are you sure you want to say that the requirements of this rule may be waived so that it is clear that you can waive both provisions?

Faiks: Yes.

Miller: (undiscernable) especially in the other body. (undiscernable) by motion of the person who chairs the committee concurred in by a majority vote of the (undiscernable)

? (undiscernable)

Faiks: No, I've covered (a) but (a) will have to have two sections in it. I have not covered section (b) on page 2.

Phillips: Any changes there?

Miller: Mr. Chairman?

Phillips: Mr. Miller?

Miller: One other question (undiscernable) in the process of doing what we just did, which I concur with, we have totally negated the rule that calls for there even to be a weekly schedule and

Phillips: you want to keep it?

Miller: I think chairman should, to the best of their ability, continue to turn in (undiscernable) and the clerk should probably try to publish a weekly schedule. (undiscernable) 99% of the time, you know, it's okay, but I'm not quite sure how to phrase -- you can't very well say the chairman really ought to.

Lacher: How about this rule in no way is meant to

Faiks: They'll throw that out as soon as they have the opportunity to because they'll hate it.

Faiks: I don't understand why it is so objectionable to have your agenda for your succeeding week schedule turned in to the chief clerk by Thursday at 4:00 and if you have an exception to that then you provide 48 hours notice and ask for a majority

Miller: Yeah, we could even say written notice

Phillips: For a tentative agenda?

Miller: For a tentative agenda, yeah, with the time, place and subject matter of all meetings shall be provided by 4:00 the preceding Thursday and again in 99 cases out of 100 the tentative agenda will be the agenda (undiscernable) will be just as useful as the other ones.

Josephson: Mr. Chairman, I don't know. I'm a committee chairman and I don't have any problem with (undiscernable) My aide comes to me and says "hey, it's that time of the week." We do it. It doesn't take that long. (undiscernable) No problem there.

Phillips: Mr. Miller?

Miller: Well, the only problem with it is if you have a public hearing on a bill that you've just got (undiscernable) just got introduced, maybe a supplemental bill to keep the legislature alive or something like that, here we've got this rule and you can't even waive it and so every once in a while (undiscernable)

Phillips: Senator Faiks

Faiks: I think I've got it. Why don't we just reword it a little so it's not so awkward and then put the thing in there that this can be waived.

Phillips: Five day rule?

Faiks: No, the five day already can be waived. It's the 4:00 p.m. Thursday that cannot be waived. Getting your agenda in. So maybe we should do it that way. That would solve the problem.

Miller: Oh, yeah. Leave the rule exactly as it is right now instead (undiscernable) the requirements of this rule may be waived

Faiks: Yes, that's right. The entire rule. Right.

Miller: (undiscernable)

Phillips: How about a motion?

Miller: I'll leave that up

Faiks: No, go ahead.

Miller: Well, I'll just so move that we keep the rule

Various (undiscernable)

Phillips: Dick, did you get that?

Bradley: Leave (a) the way it is

Faiks: Right. Yeah.

Miller: No deletions. Except we would add the phrase "however,

Bradley: the requirements of this

Miller: Yeah, of this rule may be waived.

Bradley: Do you mean 23(a) or do you mean 23?

Miller: What's the balance of 23? Well, I guess 23(a) we'd better say. Yeah, I guess we had better say.

Faiks: Right. It still should be separated, Mr. Bradley. There are two distinct rules in this one section and they should be separated out.

Bradley: Now you've lost me again.

Faiks: Mr. Bradley, look at me. Now there are two concepts -- we work with this every day (undiscernable) and there are two concepts in this rule. One is the 4 p.m. Thursday business.

Bradley: Right.

Faiks: And the other is five days for public hearing. They need to be split up so that's there only -- see these legislators are very simple people and we can only have one thought or idea per paragraph

Lacher: And even then we screw it up.

Faiks: Yeah. And this one has got two thoughts in one paragraph and we cannot handle it. Very confusing to us. Now the other problem, sir

Bradley: Yes?

Faiks: is that we can't waive the first part of the rule and we can waive by majority vote, the second part of the rule. We want to be able to waive both parts of the rule.

Bradley: And that's achieved by simply changing the material (undiscernable)

Faiks: Yes,

Bradley: of this subsection.

Faiks: Right, but remember that we want to split the two ideas up.

? All rules are meant to be waived.

?? I know.

Phillips: Under certain circumstances.

Kelly: By concurrent resolution.

Faiks: Does that make sense to you?

Bradley: Yes, no (undiscernable -- truck noises)

Faiks: What happened to our crowd today?

Phillips: How about (c) on page three? We've got, on line 3, after the word "cancelled" "or consideration of the scheduled subject matter may be postponed or cancelled at any time."

Josephson: Move to approve

Phillips: Any objections? Okay. Now on page 3, line 7, it is suggested that we delete (d)?

Josephson: Why are we doing that?

Phillips: That's what I'm trying to figure out.

Kelly: It seems to me that because we run out of time, right?

Phillips: Provisions of (a) and (b) of this rule do not apply

Faiks: No, no, no. What this was supposed to be is that once the conference committee went into the budget then provisions (a) through (b) did not apply because you were in the two week crunch, supposedly. So why are we eliminating it?

Various? (undiscernable)

Josephson: The substance of it is carried down below, isn't it?

? Maybe it's rephrased.

Faiks: I don't think so.

Josephson: If (d) is taken out, would that mean that (e) would be relettered, Richard?

Bradley: I have a dense three page memorandum, I am not managing very well.

Josephson: The provisions, the exclusions that are listed under (e) anyway

Phillips: This is on page 3, this is what we are working from

Bradley: I know where you're working from. I've got the bill but I've got Berrier's memo too and that's whay I don't understand.

Miller: Mr. Chairman, I'm going to move that we delete

Phillips: Delete (d)?

Miller: Delete what (d) does. I'm not quite sure how we do it.

Phillips: Discussion? Objections?

Faiks: Why are we deleting it?

Miller: No, when I say "delete" I (undiscernable) delete dealing with it. In other words, leave it in the rules.

Faiks: Okay, good. Very good. I agree.

Phillips: Okay.

?: Rules Committee (undiscernable)

Phillips: Okay, on line 14, page 3, oh boy. Then we run into

Kelly: We all understand that, Randy. That picks up

Faiks: Yeah, the provisions of (a) through (d)

? I move to approve (e)

Faiks: No, object. Section 3 of (e) has a mistake in it. "standing, special, or joint committees -- this rule does apply to standing, special or joint committees when the committee meets during a special session." I think the public should now or be given the opportunity to know when a standing, special or joint committee meet during the interim.

Miller: You can't do the Thursday rule.

Faiks: No.

Phillips: If you look at (e), it says, the provisions of (a) through (c) do not apply to meetings of

Faiks: Right.

Miller: But you see (a)'s got the previous Thursday rule in it and during the interim there isn't any previous Thursday

Faiks: Oh.

Phillips: (undiscernable)

Faiks: Okay.

Lacher: Can we put the five day rule in there then?

Kelly: No.

Phillips: No.

Bradley: Where would you publish the information?

Lacher: Public notice newspapers, just like you do now

Faiks: Legislative affairs

? (undiscernable)

Lacher: all municipal governments have

Josephson: Mr. Chairman?

Phillips: Mr. Josephson?

Josephson: Let me try to reassure my friend from South Anchorage. There is no motive during an interim to try to move something through quickly without the public attention. In fact the opposite occurs where the legislators are trying to get as much attention to themselves as possible.

Faiks: Okay.

Josephson: So I

Phillips: So the only thing we are adding here

Josephson: I hear that any way

Phillips: or during special session

? Never served on one of those

Phillips: Any objections? Motion passes.

Faiks: It was just my experience when I was running around following the budget and audit committee meeting that a certain representative from Juneau did his utmost best not to ever let us know exactly when the meeting was meeting very much in advance..

Lacher: Did he wear glasses?

Faiks: No, he didn't. Nor did he have a beard.

Phillips: On page 4, paragraph 4, the only word changed there is we're deleting the words "may" with shall

Kelly: Move the amendment, Mr. Chairman.

Phillips: Any objections? Motion passes. Rule 31?

RECEIVED APR 0 6 1983.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

April 6, 1983

SUBJECT: Definition of minority in Rule 1(e)
TO: Senator Rick Halford
FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have requested wording for a suggested definition of "minority" for the purposes of Rule 1(e) essentially as we discussed.

I would suggest:

For the purposes of this rule a minority is a group of members who have declared themselves to be a caucus not later than the day following the election of the presiding officers and who are not members of the majority. If there is more than one group who would meet these requirements, the larger group is the minority.

I believe this meets the concept you desired.

BGB:ljb
13/030

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 10, 1983

SUBJECT: Amendment of bill titles

TO: Senator Jan Faiks
Chairman, Senate Rules Committee

FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

The Uniform Rules of the Alaska State Legislature as amended last year made a significant change in the scope of amendment which may be made to a bill title in the other house.

The general statement of the change is contained in Rule 35 concerning amendments. The relevant part of that Rule provides:

A motion or proposition on a subject that requires a change in the title of the bill as enacted in the house of origin, other than a clerical or technical change, is not in order in the second house.

Specific application of the change is covered in other rules.

Rule 24 relating to committee referral and action provides in subsection (c):

A committee of the second house may not report a committee substitute for a bill or an amendment to a bill that requires a change in the title of the bill, other than a clerical or technical change, as the title was enacted in the house of origin.

Rule 41 relating to amendments in the other house provides in subsection (b):

(b) An amendment to a bill introduced in the other house is not in order if the amendment requires a

change of the bill title other than a clerical or technical change.

Rule 42 relating to conference and free conference committees provides in subsection (e):

(e) (EFFECTIVE JUNE 30, 1982) A Conference Committee, a Conference Committee with limited powers of free conference, or a Free Conference Committee may not adopt a report that requires a change in the title of a bill other than a clerical or technical change.

You have requested an analysis of these provisions.

All these are identical in substance. As a technical point the term "enacted" is incorrect. A bill is "enacted" when it becomes law so that action by both houses and the governor are required for enactment. It is clear however that adoption by a single house is intended.

The rule only applies to a bill which has been adopted by the other house. No change is made concerning amendments to Senate bills in the Senate or House bills in the House.

The prohibition is absolute except for the exception made in the rules. There is no provisions for waiving this requirement. Since these rules concern procedure in enacting law and are therefore of concern to both houses they can only be suspended by a concurrent resolution adopted by both houses under Rule 54.

The only exception in the second house is for clerical or technical change.

Clerical change is fairly clear. In my opinion, this refers to the type of changes that the enroller is authorized to make under Rule 43 or that the revisor of statutes is authorized to make under AS 01.05.031. Under Rule 43(a)

The enrolling secretary is authorized to correct form and manifest errors which are clerical, typographical, or errors in spelling or errors by way of additions or omissions.

Under AS 01.05.031, the revisor is authorized to edit and revise the laws "without changing the meaning of any law".

Senator Jan Faiks

Page 3

March 10, 1983

The term "technical change" is more difficult to apply. In my opinion this is intended only to allow changes in the title of a bill which are necessary for technical reasons to conform the title to the subject matter in the bill as adopted in the first house without change in the scope of the bill.

The amendments do not prohibit amendments, including amendments which introduce new matter, if the amendments are within the scope of the title, although, of course, other limitations such as the requirements of germaneness and compliance with the single subject rule continue to apply.

BGB:ljb

1/030

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

MEMORANDUM

March 8, 1983

SUBJECT: Notice requirements of Rule 23 of the Uniform Rules

TO: Senator Jan Faiks
Chairman, Senate Rules Committee

FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have requested an analysis of the notice requirements under Rule 23 of the Uniform Rules of the Alaska State Legislature.

The relevant part of the Rule, paragraphs (a) through (e) provides:

"RULE 23. COMMITTEE MEETINGS. (a) Written notice of the time, place and subject matter of all meetings of standing, special, and joint committees during a week shall be provided by the person who chairs the committee to the chief clerk or secretary by 4:00 p.m. on the preceding Thursday. The person who chairs the committee to which a bill or resolution is first referred shall provide to the chief clerk or secretary written notice of the time and place of the first public hearing on the bill or resolution at least five days before the hearing. However, this requirement may be waived by motion of the person who chairs the committee to which a bill or resolution is first referred if concurred in by majority vote of the full membership of the house. The chief clerk or secretary shall publish and distribute copies of the weekly schedule of committee meetings and of the five-day notice of hearing.

"(b) The person who chairs a standing, special, or joint committee shall provide the chief clerk or secretary written notice of the change in the time, place or subject matter of a meeting. At the next daily

legislative session, notice of the schedule change shall be announced by the chief clerk or secretary and published as a notice in the journal of the house.

"(c) A scheduled meeting of a standing, special, or joint committee may be cancelled at any time. If possible, notice of the cancellation shall be given in the same manner as provided for notice of change in (b) of this rule.

"(d) The provisions of (a) and (b) of this rule do not apply to a standing, special, or joint committee meeting scheduled after the date a conference committee has been chosen to consider amendments to or differences between versions of the general appropriation act. However, a person who chairs a standing, special, or joint committee shall post written notice of the time, place and subject matter of a meeting at least 24 hours before the meeting.

"(e) The provisions of (a) - (d) of this rule do not apply to meetings of

(1) the Rules Committee when it meets for the purpose of preparing the daily calendar;

(2) the Committee on Committees referred to in Rule 1(e); or

(3) standing, special, or joint committees when the committee meets during the interim between sessions."

Paragraph (a) has two distinct notice requirements.

The first requirement is the written notice provided to the clerk or secretary by the Thursday preceding the meeting of the time, place and subject matter of all committee meetings during the succeeding week. This applies to all committee meetings and there is no provision for waiver of the requirement.

There is an additional requirement when the committee is the committee of first referral of a bill or resolution. In addition to the preceding Thursday notice, the person who chairs the committee must provide the clerk or secretary with a written notice of the first public hearing at least five days in advance. This rule would normally apply only

in the house of origin of the bill or resolution since normally the bill or resolution will go through the committee process before going to the second house. In my opinion the rule would apply to the next committee of referral if the committee of first reference waives referral since this waiver negates the reference in effect. The focus of the rule is the committee that holds the first public hearing, otherwise the rule would be meaningless. The five-day notice requirement may be waived by a majority vote of the full membership of a house.

Paragraph (b) requires the person chairing a committee to provide the clerk or secretary written notice of a change in the time, place or subject matter of a meeting. The change must be announced at the next legislative session and be published in the journal of the house. This paragraph would not allow the introduction of new subject matter since that would supersede the notice requirement of (a).

Paragraph (e) allows cancellation of a committee meeting at any time and provides, that where possible, the notice provisions in (b) relating to a change be followed.

Once a conference committee on a version of the general appropriation act has been chosen the notice requirements of (a) and (b) no longer apply. At that time the notice requirement in (d) comes into effect. This requires posting of written notice of the time, place and subject matter of a committee meeting 24 hours in advance of the meeting.

Paragraph (e) provides the notice requirements of the Rule do not apply to the Rules Committee when it meets for the purpose of preparing the daily calendar, to the Committee on Committees or to any committee meeting during the interim. The exception as to the Rules Committee would not apply where that committee was acting as a substantive committee of reference or otherwise acting on matters other than the calendar.

In summary Rule 23 has three distinct notice requirements. These are:

- (1) The written previous Thursday notice given to the clerk or secretary;

Senator Jan Faiks
Page 4
March 8, 1983

(2) The five-day notice which applies only to the first public hearing in the committee of first reference; and

(3) The 24-hour posting requirement which comes into effect only when the conference committee on the budget is chosen and which then supersedes the other requirements.

Each has specific application and distinct requirements as discussed above.

BGB:ljb
1/008

FEB 7 1983

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 7, 1983

SUBJECT: Amendments to the Uniform Rules

TO: Representative John G. Fuller
Chairman, House Rules Committee

FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

I have made some comments about rules which seemed to cause problems last year which are enclosed.

A matter that is not covered by the rules that I think it useful to deal with is sponsor substitutes. I am enclosing a memorandum Ed Hein sent you last year which illustrates the problem.

I am certain we will have problems with the requirement that the title of a bill may not be amended in the second house but this was adopted last year apparently with knowledge of the scope of the problems involved.

BGB:ljb

Enclosures

RULES PROBLEMS

Rule 1(b)

The phrase "for the two year duration of the legislature" has been held not to be legally effective.

(e)

The term "minority" is not clear in a coalition context.

Rule 3

The phrase "for the two year duration of the legislature" is questionable.

Rule 16

There is an apparent conflict between the phrase "when no quorum is present" modifying the power of the presiding officer to compel attendance in (a) and the broad provisions in (e). The modifier is not considered a limit in practice and understand the practice and should be deleted.

Rule 17

It seems a general catch-all order such as "miscellaneous business" could be useful. This could be done under Rule 19 but apparently that provision is in practice seldom used.

Rule 23

(a) - (d) of this rule seems to create more questions than any other rule. It should be rewritten for clarity after being reviewed for policy. One problem is the first week of a session and I cannot conceive how this would work during a special session.

Rule 31(a)

There has been some problems with the second sentence of the rule which reads "The motion is not in order when the question can be reached by giving notice of intent to reconsider or if notice of reconsideration has already been given." Although it apparently was intended that a motion to rescind cannot follow reconsideration this is not explicit. It is clear that a rescinding motion may not be used when a question can be reached by reconsideration. The rule should clearly state that after reconsideration has been disposed of rescinding action may be taken or may not be taken.

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

January 29, 1982

SUBJECT: Introduction of sponsor substitutes and
addition of co-sponsors (Work Order
No. 12-2333)

TO: Representative John G. Fuller
Chairman, House Rules Committee

FROM: Edward H. Hein
Legislative Counsel

You have asked four questions relating to legislative procedure. I will answer them in the order asked.

(1) Can a sponsor substitute be introduced at any time?

Neither the Uniform Rules nor Mason's Manual specifically address questions relating to sponsor substitutes. Rule 10, however, provides:

DRAFTING MANUAL. The legislative drafting manual prepared by the enrolling secretary of the legislature and the revisor of statutes and adopted by the Legislative Council is to be followed by all officers and employees of the legislature in the preparation, processing, and disposition of all legislative documents and records.

The 1982 Manual of Legislative Drafting, page 53 provides:

When the sponsor submits a sponsor substitute, the original bill is replaced. The action has the effect of withdrawing the original bill.

Withdrawal of a bill is governed by Rule 27(b), which allows a bill or resolution to be withdrawn by the member introducing it, if consent is given by a majority vote of the full membership of the house.

January 29, 1982

Since a sponsor substitute is, in effect, a withdrawal of the original bill, a sponsor substitute arguably may be introduced at any time so long as the original bill is in the possession of the house of origin.

Introduction of a sponsor substitute is also an amendment to the original bill, similar to a committee substitute. Under Rule 35, an amendment cannot be made in the third reading. Thus, it is reasonable to conclude that a sponsor substitute can be introduced at any time until the bill is in third reading in the house of origin. Even then, the bill could be returned to second reading for introduction of a sponsor substitute.

A sponsor substitute is also a new bill, and when introduced, should be referred to committees by the presiding officer. The committee referrals may be different from the referrals made for the original bill, especially if the sponsor substitute represents a substantial change from the original bill.

Because introduction of a sponsor substitute is a withdrawal of the original bill, arguably a member may object to the introduction, in which case consent to the introduction by a majority of the full membership of the house would be required.

Notwithstanding the provisions of Rule 44, a sponsor substitute may be introduced after the 35th day of the second session, so long as the original bill was introduced within the time limit.

- (2) If the bill is already in a committee of reference, may the committee report out a sponsor substitute or must it be a committee substitute?

Under Rule 24(c), a committee of referral may report out a committee substitute but not a sponsor substitute. A sponsor substitute is "introduced", not "reported out".

- (3) May a co-sponsor be added at any time; and (4) What is the procedure for adding a co-sponsor?

A change of sponsor may be made at any time before enrollment of the bill. Consent of a majority of those present is required if the change is to be made in third

Representative John G. Fuller

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reading or after passage. Rule 35. A sponsor of the original bill may have his or her name removed from a committee substitute by objecting. Rule 24(c). A request for change of sponsor may be made by a member from the floor or informally with the chief clerk.

EHH:ljb

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

February 3, 1983

SUBJECT: Expenditure of funds by committee.

TO: Senator Rick Halford

FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have asked whether a special or joint committee may expend money unless there is an appropriation made for the work of the committee.

Rule 21(c) provides:

(c) A resolution establishing a special or joint committee shall specify the date or conditions of termination of the committee. A standing committee may meet between sessions. A special or joint committee may meet during the session or between sessions, or both, as authorized by the resolution which establishes the committee. A standing, special, or joint committee which acts between legislative sessions may consider any legislative matter which is consistent with the jurisdiction of the committee. A standing, special, or joint committee which acts between legislative sessions constitutes a subcommittee of the Legislative Council for administrative purposes. A special or joint committee may expend money only in accordance with an appropriation made for the work of the committee.
(Emphasis added)

The underlined language clearly requires an appropriation made for the work of the committee as a condition for expending money by the committee.

While there may be questions in particular instances of the degree of specificity required, this condition, in my opinion, would preclude the committee from expending money

Senator Rick Halford
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made available to it from a generalized appropriation which makes no reference to the work the committee is to perform.

FGB:ljb

Introduced: 4/25/83
Referred: Judiciary

BY THE RULES COMMITTEE
BY REQUEST OF THE SPECIAL
COMMITTEE ON LEGISLATIVE REFORM

1 IN THE HOUSE

2 HOUSE CONCURRENT RESOLUTION NO. 34

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 Proposing certain amendments to the
6 Uniform Rules of the Alaska State Legis-
7 lature.

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

9 * Section 1. Rule 16(a) of the Uniform Rules of the Alaska State Legis-
10 lature is amended to read:

11 (a) A call of the house is used to compel attendance of absent
12 members who have not been previously excused from a call by a majority
13 vote of the full membership of the house. The journal shall reflect
14 the names of all members excused from attendance and such members
15 shall be excused from all roll calls during such absence. A call of
16 the house may be ordered by one member. The [WHEN NO QUORUM IS PRE-
17 SENT, THE] presiding officer of the house may compel the attendance of
18 individual absent members.

19 * Sec. 2. Rule 21(c) of the Uniform Rules of the Alaska State Legisla-
20 ture is amended to read:

21 (c) A resolution establishing a special or joint committee shall
22 specify the budget and source of funds for the committee and the date
23 or conditions of termination of the committee. A standing committee
24 may meet between sessions. A special or joint committee may meet
25 during the session or between sessions, or both, as authorized by the
26 resolution which establishes the committee. A standing, special, or
27 joint committee which acts between legislative sessions may consider
28 any legislative matter which is consistent with the jurisdiction of
29 the committee. A standing, special, or joint committee which acts

1 between legislative sessions constitutes a subcommittee of the Legis-
2 lative Council for administrative purposes. A special or joint com-
3 mittee may expend money only if the expenditure is authorized by a
4 majority vote of the full membership of the Committee [IN ACCORDANCE
5 WITH AN APPROPRIATION MADE FOR THE WORK OF THE COMMITTEE].

6 * Sec. 3. Rule 23 of the Uniform Rules of the Alaska State Legislature
7 is amended to read:

8 RULE 23. COMMITTEE MEETINGS. (a) Written notice of the time,
9 place and subject matter of all meetings of standing, special, and
10 joint committees during a week shall be provided by the person who
11 chairs the committee to the chief clerk or secretary by 4:00 p.m. on
12 the preceding Thursday.

13 (b) The person who chairs the committee to which a bill or
14 resolution is first referred shall provide to the chief clerk or
15 secretary written notice of the time and place of the first public
16 hearing on the bill or resolution at least five days before the hear-
17 ing.

18 (c) The notice requirements of (a) and (b) of this section
19 [HOWEVER, THIS REQUIREMENT] may be waived by motion of the person who
20 chairs the committee to which a bill or resolution is first referred
21 if concurred in by majority vote of the full membership of the house.

22 (d) The chief clerk or secretary shall publish and distribute
23 copies of the weekly schedule of committee meetings and of the five-
24 day notice of hearing.

25 (e) [(b)] If the time or place of a committee meeting is changed
26 from that shown in the weekly schedule of committee meetings, the
27 [THE] person who chairs a standing, special, or joint committee shall
28 provide the chief clerk or secretary written notice of the change [IN
29 THE TIME, PLACE OR SUBJECT MATTER OF A MEETING]. Written [AT THE NEXT

1 DAILY LEGISLATIVE SESSION,] notice of the schedule change shall be
2 given to [ANNOUNCED BY] the chief clerk or secretary and published as
3 a notice in the journal of the house.

4 (f) [(c)] A scheduled meeting of a standing, special, or joint
5 committee may be cancelled or consideration of the scheduled subject
6 matter may be postponed or cancelled at any time. If possible, notice
7 of the cancellation shall be given in the same manner as provided for
8 notice of change in (b) of this rule.

9 (g) [(d)] The provisions of (a) - (e) [AND (b)] of this rule do
10 not apply to a standing, special, or joint committee meeting scheduled
11 after the date a conference committee has been chosen to consider
12 amendments to or differences between versions of the general appro-
13 priation act. However, a person who chairs a standing, special, or
14 joint committee shall post written notice of the time, place and
15 subject matter of a meeting at least 24 hours before the meeting.

16 (h) [(e)] The provisions of (a) - (g) [(d)] of this rule do not
17 apply to meetings of

18 (1) the Rules Committee when it meets for the purpose of
19 preparing the daily calendar;

20 (2) the Committee on Committees referred to in Rule 1(e);
21 or

22 (3) standing, special, or joint committees when the commit-
23 tee meets during the interim between sessions or during a special
24 session.

25 (i) [(f)] Each standing, special, and joint committee

26 (1) shall record its meetings electronically and prepare a
27 log of the recording adequate to locate specific testimony;

28 (2) shall prepare minutes of each meeting of the committee
29 on a standard form prescribed jointly by the Rules Committees of the

1 house and the senate; the minutes shall include

2 (A) a list of the names of each member present during
3 the meeting;

4 (B) a list of the name and affiliation of each witness
5 testifying before the committee;

6 (C) a brief statement of the position of the witness
7 on the subject testified upon; and

8 (D) each amendment formally considered by the commit-
9 tee, the name of the member moving adoption of the amendment, the
10 action taken on the amendment, and the yeas and nays if a com-
11 mittee member has requested a roll call vote on adoption of an
12 amendment;

13 (3) shall maintain a chronological file of minutes, copies
14 of which shall be made available upon request to committee members and
15 the public; committee minutes, tapes and other materials of research
16 value shall be delivered by the committee at the end of each session
17 or each legislature to the legislative reference library for appro-
18 priate disposition;

19 (4) shall [MAY] make available to the Legislative Affairs
20 Agency a copy of all minutes of committee meetings during the session
21 for entry of the minutes as a data base on the legislative computer
22 system.

23 * Sec. 4. Rule 37 of the Uniform Rules of the Alaska State Legislature
24 is amended by adding a new subsection to read:

25 (c) A member who has introduced a bill or resolution or, if the
26 bill or resolution was sponsored by more than one member, the member
27 whose name first appears in the list of sponsors, ^{after 24 hrs. notice} (with the concurrence)
28 of each of the cosponsors, may introduce a sponsor substitute for the
29 bill or resolution at any time before the bill or resolution is

1 reported from the first committee of reference. The effect of intro-
2 duction of a sponsor substitute is to withdraw the original bill or
3 resolution. The introduction does not require consent of the member-
4 ship of the house. A sponsor substitute may not be introduced if the
5 subject matter is different from that of the original bill.

6 * Sec. 5. Rule 39(b) of the Uniform Rules of the Alaska State Legisla-
7 ture is amended to read:

8 (b) First Reading. The first reading consists of a reading
9 aloud by the clerk or secretary of the following information: the
10 house of origin, the bill number, the sponsor, and the title of the
11 bill, e.g., "In the House, House Bill No. ..., by and, A
12 bill for an Act entitled, 'An Act relating to a code of ethics for
13 state employees.'" The bill is then referred by the presiding officer
14 to one or more committees of the house. The house may by a majority
15 vote of the full membership of the house refer the bill to any other
16 standing or special committee of the house.

17 * Sec. 6. Rule 52 of the Uniform Rules of the Alaska State Legislature
18 is amended to read:

19 RULE 52. ADJOURNMENT. Neither house may adjourn or recess for
20 longer than three days unless the other concurs. (Sec. 10, Art. II,
21 State Constitution) [ADOPTION OF THE CONCURRENT RESOLUTION BY A MAJOR-
22 ITY VOTE OF THE FULL MEMBERSHIP OF EACH HOUSE CONSTITUTES CONCUR-
23 RENCE.] A motion to adjourn or recess a session is in order when it
24 is the intention of the legislature to recess or adjourn to a day
25 certain. A motion to adjourn sine die is in order only at the end of
26 a second regular session or a special session.

27 * Sec. 7. Rule 54 of the Uniform Rules of the Alaska State Legislature
28 is amended to read:

29 RULE 54. SUSPENSION OF RULES. Unless otherwise provided for in

1 the case of a particular rule, the Uniform Rules may be suspended by a
2 concurrent resolution approved by a two-thirds vote of the full mem-
3 bership of each house. If either house violates a uniform rule other
4 than a rule concerning matters relating to the organization or opera-
5 tion of a house a question of order may be raised in the other house.
6 If it is decided by the other house that the Uniform Rules have been
7 violated, the bill involved in that violation shall be returned to its
8 house of origin without further action.