

HJR

1

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF HJR 1

Legislative Meetings Open to the Public

Received January 9, 1989

by Reps. Brown, Ellis, Boucher, Cotten, Donley,
Ulmer, M. Davis, Koponen, and Navarre

Heard January 19, 1989

Heard January 24, 1989

Committee Substitute adopted January 24, 1989

Passed Out of Committee January 24, 1989

5 Do Pass

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January 23, 1989

Original Sponsors: Brown, Ellis
Boucher, et al.

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE JOINT RESOLUTION NO. 1 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

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

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

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

11 SECTION 24. MEETINGS OPEN. (a) Unless the legislature or a
12 committee of the legislature is meeting in executive session to con-
13 sider matters authorized by law, the discussions and debates of each
14 house of the legislature and its committees shall be open to the
15 public.

16 (b) Except as provided in (a) of this section, private and
17 formal or informal discussions that lead to promises, agreements, or
18 votes on legislation under its jurisdiction by a quorum of a house of
19 the legislature or a committee are prohibited. A court may not pre-
20 scribe rules or procedures for the conduct of legislative business or
21 invalidate legislation because of a violation of this section. A
22 court may impose a civil fine upon a member of the legislature for a
23 wilful violation of this section.

24 (c) The provisions of this section do not apply to a subcommit-
25 tee of a committee of the legislature.

26 (d) The legislature may implement this section.

27 * Sec. 2. INTENT. (a) The purpose of the amendment to art. I, Consti-
28 tution of the State of Alaska, proposed in sec. 1 of this resolution is to

1 amendment ensures that the public is not excluded during the substantive
2 deliberative and decision-making stages of the budgetary and lawmaking
3 process.

4 (b) This amendment provides a basis for judicial enforcement of the
5 existing open meetings law (AS 44.62.310 - 44.62.312) or an amendment to it
6 to the extent that the provisions are consistent with the amendment pro-
7 posed in sec. 1 of this resolution, notwithstanding art. II, secs. 6 and
8 12, Constitution of the State of Alaska. The amount of civil fines au-
9 thorized by this amendment may be established by law.

10 (c) This amendment is not intended to prevent the free flow of ideas
11 among legislators or their participation in public forums, community
12 events, site visitations, or social events.

13 (d) In the preparation of its neutral summary under AS 15.58.-
14 020(6)(C), the Legislative Affairs Agency shall consider the statement of
15 legislative intent contained in (a) - (c) of this section.

16 * Sec. 3. The amendment proposed by this resolution shall be placed
17 before the voters of the state at the next general election in conformity
18 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-
19 tion laws of the state.
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Item 2

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Office of the Governor
Title: Const. Amend.- Open Meetings BRU: Division of Elections
Sponsor: Brown Components: 1 Elections
Requestor: Brown

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-0-	-0-	2.2*	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	2.2*	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	2.2*	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	2.2*	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

* Costs included cover 2 to 3 pages in each Official Elections Pamphlet, for printing and typesetting, and costs estimated to cover computer program-ing requirements for vote (Continued)

Prepared by: Linda Edgeworth Phone: 465-4611
Division: Elections Date: 1/17/89

Approved by Commissioner: *Sandra Stewart* Date: 1/17/89
Agency: Division of Elections

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 1

counting purposes. However, these costs are based on the assumption that all candidates and issues will fit on three ballot cards, which is the norm. It should be noted, however that should the inclusion of this issue require a 4th ballot to be printed, the cost increase would have to be calculated at 16 cents per ballot x approximately 320,000 voters. The total cost of printing the additional ballot card would be \$51.2.

Under these circumstances the fiscal note would be:

53.4

By Brown, Ellis, Boucher, Cotten
Donley, Ulmer, M. Davis, Koponen
and Navarre

Prepared by:
Rep. Kay Brown
January 19, 1989

HJR 1: Proposing an amendment to the Constitution of the State of Alaska relating to open meetings.

HJR 1 proposes to amend the State Constitution by:

- mandating legislative adherence to the Open Meetings Act
- providing for court enforcement in the instance of a violation
- requiring that the discussions and debates of the legislature or a committee of the legislature be open unless the house of the legislature or a committee is meeting in executive session to consider matters authorized by law
- prohibiting a quorum of a house of the legislature or a committee of the legislature from engaging in private and substantive discussions and debates on legislation under its jurisdiction
- providing for a civil fine for a wilful violation, and other sanctions authorized by law.

HJR 1 includes intent language making it clear that this amendment is not intended to prevent the free flow of ideas among legislators or their participation in public forums, community events, site visitations, or social events. It intends to make openness in government the rule and secrecy the exception, and ensures that the public is not excluded during the substantive deliberative and decision-making stages of the budgetary and lawmaking process.

Item 4

2 lawmakers argue case for open meetings amendment

Amendment would protect the public's right to know

By SEN. ARLISS STURGULEWSKI

Alaska's Open Meeting Act states "All meetings of a legislative body ... are open to the public ..." If members of the Anchorage Assembly, the Bristol Bay Borough Assembly, or the Ketchikan City Council meet to discuss legislative matters the meeting has to be public.

The law clearly applies to the legislature also, but the way Alaska's Constitution is constructed there can be no enforcement against the legislature. The legislature says, "Do as we say, not as we do." Hypocritical? You bet, but also very comfortable for some.

The legislation which Rep. Brown introduced in the House and I introduced in the Senate last year would amend the Constitution to prohibit private and substantive debate on legislation by a quorum of either house or a committee of the legislature. Legislators could be personally subject to civil fine for violations, but legislation could not be invalidated.

The amendment makes a proper exception for executive sessions for consideration of confidential material. It also specifies that

the courts may not prescribe rules or procedures for the conduct of legislative business.

Certainly any change to a Constitution should be made with great thought and care, yet one of the beauties and strengths of our form of government is that our constitutions are living, growing documents. Since statehood, the Alaska Constitution has been amended 18 times to clarify and protect our rights. The public should be guaranteed the right to know what their representatives and senators are doing when a quorum of them meet to work on legislation.

I have no problem with making my stands in public. This is the least that people deserve from their legislators.

For next session I have already prefiled Senate Joint Resolution No. 1 — "Proposing an amendment to the Constitution of the State of Alaska relating to open meetings."

This is an issue of fundamental importance to Alaska, and with your support we can amend our state Constitution and ensure the public's right to participate in their own government.

Sen. Arliss Sturgulewski represents midtown and South Anchorage in the state Senate.

Public need for access has never been more critical

By REP. KAY BROWN

When the Alaska Supreme Court ruled last year on the open meetings lawsuit brought against the legislature by the League of Women Voters and two newspapers, the court decision highlighted a crucial flaw in our state Constitution. While there was no dispute that violations had occurred, the Supreme Court ruled that it was powerless under the Constitution to enforce the state's Open Meetings Act against the legislature.

In the *League vs. the Alaska Legislature* case, there was no argument that secret closed-door meetings were held during the 1988 legislative session in violation of the Open Meetings Act. However, because the Alaska Constitution currently does not expressly provide the court jurisdiction to enforce the law with regard to the legislature, the court ruled that it could not require the legislature to obey the law.

Openness is the foundation of effective democratic representation — without access to legislative meetings there can be no accountability. It is essential for the public

and press to be able to follow and understand the issues debated and decided by the legislature — not only to know what happens, but also how and why specific decisions are made.

That's why Sen. Arliss Sturgulewski and I sponsored constitutional amendments last legislative session that would guarantee the public's right of access to the legislative deliberations. House Joint Resolution 44 passed the House with overwhelming support. Although HJR 44 cleared three of its Senate committee referrals, the resolution died in the Senate Rules Committee without a vote of the full Senate.

Decisions made in Juneau are of vital interest to all Alaskans as the state comes to terms with declining revenues. I will continue working to secure passage of an amendment to guarantee the public's right of access to legislative debate. Until such an amendment is adopted, the legislature will be free to meet at will behind closed doors in violation of the Open Meetings Act, but beyond the reach of the courts.

Rep. Kay Brown represents downtown Anchorage in the state House.



January 19, 1989

Representative Kay Brown
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Representative Brown:

The Alaska League of Women Voters strongly support HJR 1, proposing an amendment to the Constitution of the State of Alaska relating to open meetings. As you must know, our belief is strong that the deliberations and the decision making of the Legislature and its constituent groups must be done in full public view. We believe in it so strongly that we are working with other interested groups to launch an initiative campaign. The process of placing the initiative on the ballot for a vote of the people will be a healthy one. It will provide an opportunity for public debate and then for voters to say whether they believe public access to legislative meetings should be guaranteed in the Constitution of the State of Alaska.

The League of Women Voters asks you to give the people of Alaska the opportunity to make that decision. Thank you.

Sincerely,

Charlotte Fox (by VLB)

Charlotte Fox
President

A M E M D M E N T

BY REP. MACLEAN

TO: HJR 1

Page 1, line 17

Delete "substantive discussions and debates"

insert "formal or informal discussions that lead to agreements,
promises, or votes"

Proposed Amendment

HJR 1

MacClean

Page 1, line 17

Delete "substantive discussions and

Insert "formal or informal discussions, agreements, promises, or votes"

Donley

Page 1, lines 21 to 23

Delete "A court may impose a civil fine upon a member of the legislature for a wilful violation of this section and may impose other sanctions authorized by law"

Insert "If authorized by law, a court may impose a civil fine upon a member of the legislature for a wilful violation of this section"

Page 1, lines 24 to 25

(c) is now (d)

New language for (c) reads: "The provisions of this section do not apply to subcommittees of the legislature"

Introduced: 1/9/89
Referred: State Affairs and
Judiciary

IN THE HOUSE

HOUSE JOINT RESOLUTION
IN THE LEGISLATURE OF THE
SIXTEENTH LEGISLATURE -

Proposing
tion of
open mee

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA
Section 1. Article I, Constitution of the State of Alaska, amended
by adding a new section to read:

SECTION 24. MEETINGS OPEN. (a) If a committee of the legislature is meeting to consider matters authorized by law, the doors of each house of the legislature and its committee shall be open to the public.

(b) Except as provided in (a), FORMAL OR INFORMAL DISCUSSIONS, SUBSTANTIVE DISCUSSIONS, AND DEBATES OF PROMISES OR GOALS shall be conducted in accordance with the jurisdiction by a quorum of a house of the legislature. A court may not prescribe the conduct of legislative business or impose a civil fine upon a member of the legislature for a willful violation of this section. IF A COURT MAY IMPOSE A CIVIL FINE UPON A MEMBER OF THE LEGISLATURE FOR A WILLFUL VIOLATION OF THIS SECTION, a court may impose other sanctions authorized by law.

(D) The legislature may implement

* Sec. 2. INTENT. (a) The purpose of the State of Alaska, proposed in order to make openness in government the rule and standard. The amendment ensures that the public is not excluded from the deliberative and decision-making stages of the legislative process.

CLERK OF THE HOUSE
STATE OF ALASKA

IF A COURT MAY IMPOSE A CIVIL FINE UPON A MEMBER OF THE LEGISLATURE FOR A WILLFUL VIOLATION OF THIS SECTION,

THE PROVISION OF THIS SECTION SHALL APPLY TO ALL ACTS OF THE LEGISLATURE

LEGISLATIVE SPONSOR: House State Affairs

TC DATE/DAY: Thurs, Jan 19

Pub. Hear Work Ses. Inv. Hear

TIME: 8:30-10:30

LEGISLATIVE REFERENCE: HJR 1

JUNEAU ROOM: C-102

SUBJECT: Legislative Meetings

BRIDGE: _____

Open to public

OF PORTS: _____

CONTACT: Ann PH: 4931

DATE TAKEN/BY: 1/13/89 Londi

TELECONFERENCE SITES:

LIO'S

LTC'S

VTS'S

- Anchorage
- Darrow *
- Bethel
- Delta Junction *
- Dillingham *
- Fairbanks
- Glennallen *
- Juneau
- Ketchikan
- Kodiak
- Kotzebue
- Mat-Su
- Nome
- Petersburg *
- Sitka
- Soldotna
- Valdez *

- Homer
- Wrangell

See List on Reverse Side

ALL LIO'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

OFFNETS: _____

CHAIRING SITE: Juneau

CHAIRPERSON: Rep. Boucher

[] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

SIGNATURE OF SPONSOR/CONTACT PERSON

DATE

SPECIAL INSTRUCTIONS

