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THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 111
 Title: An Act relating to public meetings under the Administrative Procedure Act.
 Requested by House State Affairs Date April 29, 1983

II. FISCAL DETAIL

Agency Affected Legislative Affairs Agency
 Program Category Affected General Government

BRU, Program, Or Subprogram(s) Affected Public Services - Teleconferencing

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars) 0

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME	None					
PART TIME	"					
TEMPORARY	"					

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

It is estimated that this bill will not create additional fiscal impact.
 Depending on the extent to which teleconferencing is used in lieu of actual meetings, there could be an inestimable negative fiscal impact due to diminished travel costs.

IV. DATE May 3, 1983

PREPARED BY Wally Harrison, Director

AGENCY Administrative Services, LAA

Original: Legislative Finance

PHONE 465-3850

cc: Budget and Management

Prime Sponsor (First Legislator Named)

CSSB 111

AS 44.62.210

State Government.
CHAPTER 62.
Administrative Procedure Act.
ARTICLE 4.
Procedure for Adopting Regulations.
Sec. 44.62.210.

PUBLIC PROCEEDINGS.

(a) On the date and at the time and place designated in the notice the agency shall give each interested person or his authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, with or without opportunity to present them orally. The state agency shall consider all relevant matter presented to it before adopting, amending or repealing a regulation.

(b) At a hearing under this section the agency or its authorized representative may administer oaths or affirmations, and may continue or postpone the hearing to the time and place which it determines.

HISTORY (Sec. 7 art IV (ch 1) ch 143 SLA 1959)

AS 44.62.310

State Government.
CHAPTER 62.
Administrative Procedure Act.
ARTICLE 6.
Agency Meetings Public.
Sec. 44.62.310.

AGENCY MEETINGS PUBLIC.

(a) All meetings of a legislative body, of a board of regents, or of an administrative body, board, commission, committee, subcommittee, authority, council, agency, or other organization, including subordinate units of the above groups, of the state or any of its political subdivisions, including but not limited to municipalities, boroughs, school boards, and all other boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions or organizations, advisory or otherwise, of the state or local government supported in whole or in part by public money or authorized to spend public money, are open to the public except as otherwise provided by this section. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. This section does not apply to any votes required to be taken to organize the afore-mentioned bodies.

(b) If excepted subjects are to be discussed at a meeting, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that come within the exceptions contained in (c) of this section shall be determined by a majority vote of the body. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. No action may be taken at the executive session.

(c) The following excepted subjects may be discussed in an executive session:

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

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

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

(d) This section does not apply to

(1) judicial or quasi-judicial bodies when holding a meeting solely to make a decision in an adjudicatory proceeding;

(2) juries;

(3) parole or pardon boards;

(4) meetings of a hospital medical staff; or

(5) meetings of the governing body or any committee of

Agency Meetings Public.

CITATION Sec. 44.62.312.

CATCH LINE

STATE POLICY REGARDING MEETINGS.

TEXT

(a) It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;

(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies which serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created.

(b) AS 44.62.310(c)(1) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and avoid unnecessary executive sessions.

HISTORY (Sec. 3 ch 98 SLA 1972)

AS 44.62.410

State Government.

a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline.

(e) Reasonable public notice shall be given for all meetings required to be open under this section.

(f) Action taken contrary to this section is void.

HISTORY (Sec. 1 art VI (ch 1) ch 143 SLA 1959; am sec. 1 ch 48 SLA 1966; am sec. 1 ch 78 SLA 1968; am sec. 1 ch 7 SLA 1969; am secs. 1, 2 ch 98 SLA 1972; am sec. 2 ch 100 SLA 1972; am sec. 1 ch 189 SLA 1976)

AS 44.62.312

State Government.
CHAPTER 62.
Administrative Procedure Act.
ARTICLE 6.

CHAPTER 62.
Administrative Procedure Act.
ARTICLE 8.
Administrative Adjudication.

CITATION Sec. 44.62.410.

CATCH LINE

TIME AND PLACE OF HEARING.

TEXT The agency shall determine the time and place of hearing. The hearing shall be held in Juneau or Ketchikan, whichever is closer to the place where the transaction occurred or where the respondent resides, if the transaction occurred in or the respondent resides in the Southeastern Senate District; in Anchorage if the transaction occurred or the respondent resides within the South Central Senate District; in Fairbanks or Nome, whichever is closer to the place where the transaction occurred or where the respondent resides, if the transaction occurred in or the respondent resides in the Central or Northwestern Senate Districts. The agency may, if the transaction occurred in a senate district other than that of respondent's residence, select the place of hearing appropriate for either district. The agency may select a different place nearer the place where the transaction occurred or where the respondent resides, or the parties by agreement may select any place in the state.

HISTORY (Sec. 9 (ch 2) ch 143 SLA 1959)

2/14
February 14, 1983

INTRODUCTION OF BILLS (Senate)

Telecon-
ferencing
(use of in
public
meetings)

SENATE BILL NO. 111, by the Rules Committee by request of the Governor. Amends portions of the state Administrative Procedure Act to explicitly allow participation in public meetings by teleconferencing. Defines "teleconferencing" as "information exchange by audio, video, or computerized electronic media." States that intent is to "allow state agencies and the public to employ advances in teleconferencing technology that can increase the efficiency and convenience of transacting business with or by a state agency." Does not provide for an effective date.

Introduced February 7 and referred to State Affairs and Judiciary.

In his message transmitting the bill to the Senate for consideration, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the use of teleconferencing for meetings and hearings held under the Administrative Procedure Act (AS 44.62). The bill confirms and clarifies that teleconferencing is a legally permissible means for increasing efficient public access and input to government bodies. Provisions to safeguard the constitutional and statutory rights of the public relating to hearings and public meetings are included in the bill.

This bill was derived from the last legislature's CSHB 703(L & C). I urge your prompt action on this important measure.

3/16
Telecon-
ferencing
(use of in
public
meetings)

SENATE BILL NO. 111, (see page 135). Reported back to the Senate on March 16 by State Affairs with a majority of the committee recommending it be replaced with State Affairs Committee Substitute and that it do pass. Concurring: Vic Fischer (Chmn.), Kelly, Sturgulewski and Rodey. To Judiciary.

The State Affairs CS makes several relatively minor changes in wording to various portions of the statutes being amended. Major change is in proposed new language added to the public meeting law. The CS adds the underlined material: "All participants must be afforded the opportunity to hear and, if video transmission is available, see everything transpiring at the meeting . . ."

4/12
Telecon-
ferencing
(use of in
public
meetings)

SENATE BILL NO. 111, (see pages 135; 315). Reported back to the Senate on April 12 by Judiciary with the committee recommending it be replaced with Judiciary Committee Substitute with new title and that it do pass. Concurring: Ray, (Chmn.), Ziegler, Josephson, Pettyjohn and Eliason. To Rules.

page 508

COMMITTEE REPORTS (Senate)(cont'd)

SB 111 (cont'd)

The Judiciary CS makes the following changes:

--Specifically includes the University of Alaska in list of government agencies that are subject to the public meeting law (AS 44.62.310).

--New language to public meeting law would read: "Attendance and participation at meetings by the public or members of the body, except sessions, including joint session, of the senate or house, may be by teleconferencing according to reasonable rules established by the body conducting the meeting. The rules shall provide that agency materials that are to be considered at the meeting are available at teleconference locations at which voting participants attend. The rules are not considered regulations and need not be adopted under AS 44.62.040 - 44.62.290."

The State Affairs version did not specifically except legislative sessions and referred to "ground rules" rather than "rules." Deletes provision that required rules to include guidelines for suspending or rescheduling a teleconference meeting if a teleconferencing system failure occurs during the meeting. Deletes: "All participants must be afforded the opportunity to hear and, if video transmission is available, see everything transpiring at the meeting and to speak on any issue upon which oral testimony is accepted."

--Deletes from new AS 44.62.635, "TELECONFERENCING": "If teleconferencing is used for consideration of an issue during a meeting or hearing, then it must be used for the entire time that that issue is being considered."

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CSSB 111
 Title: "An Act relating to public meetings"
 Sponsor: Senate Rules (request of Governor)
 Requestor: House State Affairs
 *under the Administrative Procedures Act"

II. FISCAL DETAIL

Agency Affected: Potentially all
 Program Category Affected:
 BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Sioux Plummer, Director *Sioux Plummer* Phone: 465-2041
 Division: Telecommunications Services Date: 4/28/83
 Approved by Commissioner: Commissioner Lisa Rudd *L.R.* Date: 5/4/83
 Department: Administration

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

The proposed legislation, which passed the Senate on 4-27-83 and was referred to the House, is intended to clarify and legally authorize the use of "teleconferencing technologies" to increase the efficiency and convenience of transacting business with or by State agencies. The bill essentially clarifies past and present ambiguities relating to the legal use of teleconferencing at public meetings.

Historically, the proposed legislation was derived from CSHB 703 (Labor and Commerce) which died last year in the House Finance Committee. At the request of the Governor, the bill was reintroduced this year by the Senate in the Rules Committee. The Rules Committee referred the bill, unamended, to the State Affairs Committee which amended the bill. The State Affairs Committee referred the bill to the Judiciary Committee which also amended it. This amended version passed the Senate on April 27, 1983.

The Judiciary Committee made several amendments to the bill. Primary changes include: 1) the bill title was changed; 2) the Committee added that "sessions, including joint sessions, of the senate and house" be excluded from attendance and participation by the public or members of a body by teleconferencing (section 3, lines 7-11); 3) the Committee deleted "All participants must be afforded the opportunity to hear and, if video transmission is available, see everything transpiring at the meeting and to speak on any issue upon which oral testimony is accepted" (previously section 3, lines 17-20); and, 4) the Committee deleted "if teleconferencing is used for consideration of an issue during a meeting or hearing, then it must be used for the entire time that that issue is being considered" (previously section 8-b, lines 27-29).

Items 3 and 4 above were originally added to the legislation as safeguards preventing agencies from excluding the public from segments of a meeting or hearing. Though the Department preferred non-removal of these two items, the Department does support the amended Judiciary Committee version of CSSB III.

CSSB III

POSITION PAPER

The Division of Telecommunications Services, Department of Administration, supports the passage of CSSB III (An Act relating to public meetings under the Administrative Procedures Act) because it will clarify past and present ambiguities relating to the use of teleconferencing at public meetings. Specifically, it will clarify the legality regarding voting and establishing quorums by teleconference.

Teleconferencing has proven to be an effective communications medium when used to disseminate or gather information. It is only when teleconferencing has been used for voting that questions regarding quorums and other legal considerations for meetings have arisen.

The intent to legally clarify teleconferencing has no direct fiscal impact on State agencies. However, it is noted that if this legislation becomes law, there are potential fiscal considerations for all teleconference users. It is assumed that by clearing up legal questions, teleconferenced meetings will become more popular and occur more frequently. This has the potential to reduce travel costs and to increase equipment and long distance telephone costs. Equipment costs could be for the purchase of teleconference terminal equipment and apparatus. In the final analysis, by clearing up legal considerations, resulting in increased teleconferencing activities and reduced travel would save money for the State. It is more cost effective to teleconference than it is to travel.

Sioux Plummer

Sioux Plummer, Director
Division of Telecommunications Services
Department of Administration

4-28-83
Date

Julianne Guy

Julianne Guy, Deputy Commissioner
for Telecommunications
Department of Administration

4-29-83
Date

Lisa Rudd

Commissioner Lisa Rudd
Department of Administration

5/3/83
Date

MEMORANDUM

To: John
From: Brent
Date: May 5, 1983

RE: CS SB 111 TELECONFERENCING, USE IN PUBLIC MEETINGS

WHAT THIS BILL DOES:

Amends portions of the state Administrative Procedure Act to allow participation in public meetings by teleconferencing. By "public meetings", this includes floor sessions for both the house and the senate.

Allows for "a member of an agency" to vote by teleconference, when "normal, in person voting is not reasonably possible."

This bill passed the senate 18 to 1

ADDITIONAL COMMENTS:

Staff is of the opinion that this bill, if passed, would have a detrimental effect the quality of the legislature. By allowing voting by teleconference, many problems would appear.

- (1). How would you totally verify or prove the identity of the member voting away from the body?
- (2). Art. I Sec. 4 of the U.S. Constitution states that a voting body be located in one location.
- (3) If voting was allowed by teleconference, how would a quorum be established? How about a call on the House? How would attendance be taken?

QUESTIONS:

Line 7-19, Page 2. Does this mean that sessions and joint sessions cannot be conducted by the aid of the teleconference network? If so, what about "special sessions"? Why is not this included?

Line 21, Page 2. What is "Reasonable public notice?" Exactly?

Line 7-8, Page 3. VOTING PROCEDURE. What is meant by "reasonably possible?" Does that mean out of Juneau, out of the capital, or perhaps out of the state? (Maybe you could vote from the shores of sunny Hawaii)

Line 20, Page 3. How do you waive a constitutional right?

CSSB 111

This bill originated from the Governor's office and comes highly endorsed by him and the Dept. of Administration. It would allow state agencies, boards & commissions to vote at teleconferenced meetings.

Originally, when the bill was written it also applied (mistakenly) to teleconferenced floor sessions. This has been corrected in the CS but they left out one thing.

Amendment # 1 page 2, line 9, after "joint" insert "and special"

Question: Why has the provision for rescheduling a meeting due to teleconferencing system failure been deleted from the Judiciary version? (It appears on both the original SB and the CS (State Affairs) on page 2 lines 12-14.

~~Question Page 2, line 21. What is unreasonable public interest?~~

Amendment # 2 Page 3, lines 7-8, delete " When normal, in-person voting is not reasonably possible, a " insert "A"

This sentence serves no useful purpose except confusion. Legal Services agrees that it is badly drafted.

Amendment # 3 Page 3, line 8, delete "an", insert "a state"

This section allows state agencies to vote either by mail or by teleconference. Voting by mail does not apply to the legislature an is not included in the definition of "state agency" in this chapter.

Amendment # 4 Page 3, line 20, delete "either waived or adequate ly"

This is an odd one. One page 1, lines 12-14 the bill discusses constitutional and statutory rights and yet on page 3, it talks about waiving those rights. Who would ever choose to waive a constitutional right? Why would they be in a position to have to waive any rights?