

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4041 SJUD UNIFORM RULES: LEGISLATIVE REFORM



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Date

UNIFORM

RULES:

LEGISLATIVE

REFORM

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

June 2, 1984

SUBJECT: Rescinding action in defeating a bill
TO: Senator Patrick Rodey
FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have asked whether action in failing to adopt a bill may be rescinded when the bill has been reconsidered.

Rule 31(a) of the Uniform Rules provides in relevant part:

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.

As phrased the provision is ambiguous. It can be read as providing that a motion to rescind is not in order while the matter may be reached by reconsideration or that a motion to reconsider is not in order at any time after notice of reconsideration has been given.

Mason's Manual in Sec 480(1) and (4) provides:

Sec. 480. Use of the Motion to Rescind

1. The motion to rescind has many of the same characteristics as the motion to reconsider and is used for much the same purpose. Many court decisions treat the two motions as one motion.

4. A motion to rescind is principally used to reverse a previous action after the time for consideration has passed. The motion to rescind is not in order when the question can be reached by a motion to reconsider.

Senator Rodey
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Neither speak directly to the question. The implication from (1) that reconsideration and rescinding are the same motions would be that the motion to rescind is not in order after reconsideration while the implication from the last sentence of (4) is that the motion is out of order only when the question can be reached by a motion to reconsider. In my opinion Mason's does not resolve the ambiguity in the Rule.

Before 1977 the rule on rescinding action was explicit on this point. The earlier rule provided that:

The motion is not in order when the question is reached by a motion to reconsider or if the question has already been reconsidered. (Rule 32(a), 1977 Uniform Rules)

Under those rules it was necessary to move reconsideration and making the motion brought up reconsideration without the need for a vote. Reference to a motion was dropped in the 1977 rules, which on this point are identical to the present rules, and reference was made to calling up reconsideration which is what actually happens. Apparently the change in rescinding action was a conforming language change to conform to dropping a reference to a motion for reconsideration.

The direct construction of the present rule would be: The motion is not in order

(1) when the question can be reached by giving notice of intent to reconsider; or

(2) if notice of reconsideration has already been given.

The alternative reading is: The motion is not in order when the question can be reached

(1) by giving notice of intent to reconsider; or

(2) if notice of reconsideration has already been given.

The first construction seems more reasonable and accords with the principle of finality of decision. Based on this and on the history of the rule it is my opinion that when a

Senator Rodey
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bill has failed to be adopted and has been reconsidered the
action in failing to adopt may not be rescinded.

BGB: csh
J8/120

AGENDA

Legislative Study Committee

1. Instrduction of panel.
2. Introduction of guests.
3. Introduction of GFWC Anchorage FREE Committee.
4. Brief review of activities of Legislative Study Committee to date.
5. Continue in-depth discussion of selected topics.
6. Prioritize topics for further investigation.
7. Suggestions and strategy for implementaticn. of goals.
8. Publish Report.

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14. Bill Gutting or Stripping
15. Bill "Piggybacking"
16. Legislative Structure and Staffing

Professional Service Contracting Procedures

1. Need a standardized process.

- *a. The purpose and objectives of the professional services desired should be clearly defined by the committee or legislator requesting the service.
 - b. The parameters and scope of the professional services required should be determined in advance by the committee or legislator requesting the service.
 - c. A time frame or schedule for commencement and completion should be indicated by the requesting party.
 - d. The request for professional services, along with the information addressed in items 1-3, should be forwarded to a currently existing state agency assigned to handle professional service contracting. One such agency is the Research Agency of the House of Representatives.
 - e. The agency would advertise the professional service to be contracted and a committee within the agency should analyze the qualifications and proposals of bidders, ranking them in 1, 2, 3 order. The ranking goes to the requesting committee for final selection. A contract should then be negotiated and signed with the number 1 choice, moving on to number 2 or 3 if necessary, until a contract satisfactory to both parties is agreed upon.
 - f. The Research Agency or its equivalent should determine if the finished product meets the desired and stated criteria prior to any disbursement of funds.
 - g. All reports shall be made available to the public 10 days after due to the committee.
 - h. Final report should include on the title page (1) Name of Requesting Committee, (2) Name of the firm providing the service, and (3) total cost of the project.
 - i. Some provision must be made for needed emergency information, such as a dollar amount.
- *Legislators requesting a report must have a statement why the administration, the legislative staff or private enterprise could not meet the legislative need.

Public Notice of Committee Meetings and Agenda

Consensus agreed that a minimum of five days was necessary to inform the public of committee meetings, but an element of flexibility must be included for last minute "crunch" items.

The legislators requested that other states be called to find out how they handle end of the session crunch periods.

Finance Committee Reform

A Joint House-Senate Finance Committee (Pat Rodey has agreed to write up structure of the committee and report back to this study group.)

1. Co-Chairman from House and Senate

If the system remains the same, both committees could hear the same testimony at the same time, eliminating the need for groups to travel to Juneau twice.

Set specific time tables early in the session for the finalization of the budget.

Budget committees should insist on program implications, back-up material and criteria for every item added to the budget.

Free Conference Committee

1. Committee back-up for additions to FCC bill.
2. Voting on free conference committee bills should be delayed for a twenty-four hours, so that legislators could at least read the bill before having to vote on it.

Budget Limitations

Length of Session

Interim Committees

Limit Terms of Office

Limitation on Number of Bills Introduced
by Individuals and Committees

Lobbying Law Reform

Role of Legislative Oversight

1. Legislative intent and follow through.

Bill Originator Specified

Ethics Committee

1. Fund raisers during session

Bill Gutting or Stripping

Bill "Piggybacking"

Legislative Structure and Staffing

House vote would limit free conference abuses

JUNEAU (AP)—Reversing a much-criticized stand taken Saturday, House Democrats today approved a Senate-passed measure aimed at limiting abuses by legislative free conference committees.

All but three Democrats joined their GOP and Libertarian colleagues in voting to limit the power of free conference committees—joint House-Senate panels appointed to negotiate compromises when the two chambers pass different versions of the same bill.

Most Democrats opposed a nearly identical measure pushed by the Senate during a joint session held last week to adopt new rules of procedure for the Legislature. But after a long and reportedly heated caucus, Democrats today voted to reverse their earlier stand.

However, the new rule change is not to take effect until June 30, 1982, and it would be possible for members of the 1983 Legislature to reject the change.

That prompted some criticism from a few Republicans. Rep. Terry M. ... R-Anchorage, said "if we're going to do

reform, we should start with ourselves."

Besides attempting to limit the power of free conference committees, the resolution (SCSCSHCR3 Rules) approved on a 36-3 vote also aims at halting the practice of bill "stripping," which occurs when one house guts a bill—usually a bill passed by the other house—and replaces it with almost totally new matter.

The major change mandated by the measure would require that free conference committees be limited to appropriations passed by either the House or Senate, which means a free conference panel could not add an entirely new appropriation. The panels also could not exceed the amount of the appropriation in either the Senate or House bill.

For example, if the House passed a bill appropriating \$1 million for a project, and the Senate approved \$2 million, the free conference committee could not exceed \$2 million, nor could it tack on money for a totally different program, as often occurs now. The rule change, if followed closely, could have a major impact on free conference committee deliberations on the budget.

However, the resolution still allows free conference committees to add new money to the budget that's needed to cover new legislation.

House limits conference powers

By The Associated Press

The House voted Friday to restrict some of the powers of legislative free conference committees, which are House-Senate panels appointed to negotiate compromises between different versions of legislation passed by each chamber.

However, the House refused to adopt an amendment by Rep. Dick Randolph, L-Fairbanks, which would have blocked the six-member bargaining teams from drastically rewriting a bill or exceeding the appropriation amount included in either the House or Senate version of the bill.

Rep. Brian Rogers, D-Fairbanks, said the amendment would not allow enough latitude to deal with budgets which may have been approached differently by the House and Senate.

The changes made by the bill

(CSHC3 State Affairs), which passed on a unanimous vote, are not nearly as sweeping as recommended by some private citizens groups.

The abuses of power by free conference committees have drawn sharp criticism on multiple fronts. During hearings on the legislation, veteran Rep. Oral Freeman, D-Ketchikan, said lawmakers' "most flagrant abuses" of political clout surface in free conference committees, which can do "almost anything they want to."

The bill passed by the House would make some changes, but free conference committees still would have wide latitude to rewrite legislation.

One major change made by the bill would be to require that free conference committee reports be printed and given to lawmakers at least 24 hours before a final vote is taken on the

floor. During past sessions, lawmakers sometimes have voted on bills written by free conference committees moments after the bills were printed and distributed.

Another change would be made in the makeup of free conference committees.

At present, legislative rules call for three House members and three Senate members to be appointed to an initial conference committee to work out differences in legislation adopted by the two chambers. A conference committee is required to stay within the limits of material in the two bills passed by the House and Senate.

If initial negotiations fail, the panel is given powers of "free conference," which means the panel has authority to completely rewrite a bill, adding or deleting material at will.

Under the bill, members of

the original conference committee could not be appointed to the free conference committee. The change is intended to encourage the initial panel to work out differences.

However, the intent of the reform could be thwarted if House and Senate leaders appointed a bogus conference committee, and then appointed the intended negotiators to the free conference panel.

The bill also would require that free conference committee bills be returned to the last committee of referral in each chamber before coming to the floor for a final vote.

Senate opts to twist arms to get reform

By JON MATTHEWS
Daily News reporter

JUNEAU — The Senate today may violate one of its own proposed legislative rule reforms in an effort to push the same reform through the House and into law.

Senate leaders Tuesday conceded the irony of their tentative strategy, but defended it as their best shot to curb potential legislative abuses involving free conference committees, bill stripping and piggybacking practices.

The proposed Senate reforms include a prohibition against either the House or Senate radically changing the contents of the other house's bills in an effort to force legislative approval of the proposals. The practice, widely used in the Alaska Legislature, is called bill stripping when a bill is substantially changed, and piggybacking when a new proposal is tacked on to a bill.

Senate leaders tentatively planned today to piggyback their proposed reforms on a House resolution already passed by that body and sent to the Senate. The House measure contains rule changes and reforms adopted Saturday by a joint session of the legislature.

By adding their reforms to the otherwise dead House bill, Senators can force the House to vote the amended bill up or down without allowing any additional changes by House members.

"I don't like to do it, but if this is the only way we feel we can get it changed under existing rules, then we'll do it," said Senate Rules Chairman Tim Kelly, R-Anchorage.

Senate moves to end bill stripping

JUNEAU—Senators abused the very rules they hope to change Wednesday in an effort to force House lawmakers to go along with them in clamping down on the powers of free conference committees and halting bill stripping.

Rules Chairman Tim Kelly, R-Anchorage, said "one additional evil is needed to purge evil in the future." The Senate voted 19-1 to strip a House measure and substitute a proposal similar to one defeated by House Democrats last week at the Uniform Rules joint session. The rules govern the conduct of legislative business.

The Senate-passed measure would halt bill stripping, which is gutting a bill and replacing it with totally new matter, and would hold free conference committees to appropriations approved by either the full House or Senate. Free

Line OK means little harm

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th allnmental groups,
coas:at fragile marine
1 woulment in the re-
Foothly affected.
ch soe Line Ltd.,
\$1.4 bisfully to build
nd route from

Alaska, also opposed the Trans Mountain proposal.

The board's decision still must be approved by the Canadian federal cabinet.

The Low Point proposal still is pending before Washington state

regulatory agencies.

Alaskan crude oil currently is shipped by tanker down the British Columbia and California coasts and through the Panama canal to U.S. pipeline terminals on the Gulf of Mexico.

and free ~ erence

" Kelly . In the nference committee e been accused of pwers.

ments would prevent use to receive a bill g it so substantially

that it would require a title change. Kelly said the proposal would "eliminate full stripping all together." He said, however, that piggybacking — tacking one bill onto another — still would be allowed.

But House Rule Chairman Sally Smith, D-Fairbanks, said the measure introduced by Sens. BillnRay, D-Juneau, and Ed Dankworth, R-Anchorage, duplicates existing rules and is unnecessary. "We have rules stating that a bill can't be changed unless the amendment is germane," she said.

Sen. Charlie Parr, D-Fairbanks, who cast the only vote against the rules changes, said "they're cosmetic. It may look good to the FREE committee and the League of Women Voters, but while I was in the House I saw too many times when a Senate chairman held bills (in committee), and the only way to do anything about it was to strip a bill."

Under the measure (SCSHJR3), free conference committees would be held to appropriations approved by the full House or Senate, except on new legislation that was not included in the original budget.

Senators killed a provision which would have allowed the governor to ask free conference committees to increase an appropriation for an agency program after the budget has been set.

For the changes to be included in the Uniform Rules adopted May 30, the House must approve the resolution with a two-thirds vote.

Legislators falter at brink of reform

Alaskans are not likely to be fooled no matter what the excuse. When efforts at needed legislative reform fail, it is almost always because legislators wanted them to do so.

That's apparently the case in Juneau this year, as it has been for many years. Although a solid agenda of reform measures was before a joint session for decision, the body stopped short Saturday of the needed changes.

There were some successful tentative steps toward reform. Members agreed to some changes already approved by House and Senate rules committee, limiting in some ways the sweeping powers of free conference committees, mandating notice before public hearings, requiring minutes of meetings and restricting special committee finances. Those worthwhile changes seem certain to improve the way the legislature does business.

But more important issues were left unaddressed when the reform session was adjourned without approval of essential free conference reforms. In a break with recent tradition, the Senate led the way in pushing these improvements, voting 16-1 to restrict free conference panels from adding new or higher appropriations to bills under their jurisdiction. But a majority in each house must approve joint rules changes, and recalcitrant House members defeated the proposal, 20-19.

House Rules Chairman Sally Smith called the change "too broad and idealistic" and said, "It wouldn't have left us the latitude to make something right."

If she means the proposed change would have mandated a different way of doing business in the Alaska Legislature, she is right. It would have limited the ability of free conference committees to make things right, but also would have prevented them from doing what they too often do now — making things wrong. The legislature obviously retains the ability to change legislation — it simply would be forced to do so through the open process of full debate, and not in the tiny, six-member free conference committees.

We are sad to see the House members stand in the way of that change. For too long, the platitudes of legislative rules reform have been offered in campaigns only to be denied after election. This was an opportunity for members to make a real reform, and those who turned their backs on it will have to answer to voters for all the free conference committee abuse that surely will follow their decision.

Legislators take a forward step

Alaskans who have observed the most wondrous transmutations of measures that come before legislative free conference committees will cheer the passage Friday of a resolution aimed at limiting abuses of the rules.

House Democrats reversed a previous position Friday and approved a measure that would impose some discipline on the work of free conference committees. The switch came after widespread criticism of the Democratic-controlled House for rejecting the changes only last week — and indicated, perhaps, that the Democrats are unwilling to concede the political high ground to Republicans carrying the reformist banner.

In the past, free conferences have resulted in entirely new legislation being inserted in the place of the bills at hand. Friday's measure would limit free conference committees to appropriations that already had been approved by one house or the other. Moreover, the amount of a free conference appropriation could not exceed the amount of that which already had cleared one house of the legislature.

The measure also intends to curtail the practice of "stripping" — gutting a previously passed bill and inserting new material under the old name — in either house of the legislature.

The changes are important. They reduce the flexibility of free conference committees to resolve legislative conflicts, but they also reduce the concentration of power in the hands of the six-member panels. The gain in accountability more than compensates for the loss of flexibility.

Friday's vote was only a first step, and not a very firm one, since the new rules would not take effect until June 30, 1982 and could be rejected by the 1983 legislature. The delayed deadline leaves plenty of time for the current legislature to indulge in the political finagling that has brought widespread criticism of free conference committees. But given the convenience of free conference politics, it is easy to see why legislators are reluctant to rein in the practice.

That, of course, is precisely why the changes are a good idea.

Center Building, Douglas, Alaska.

This project will consist of grading, drainage and paving on 6.3 miles of two-lane road, approximately 36.5 miles southeast of Fairbanks.

Principal items of work consist of the following: 94,000 tons of borrow, 22,700 tons of crushed aggregate base course, 11,000 tons of type I Asphalt concrete and 700 tons of Asphalt cement, AC-2.5.

shall be completed in 120 Calendar Days.

The following provisions are made a part of all advertisements for highway construction contracts:

"Bidders must submit certification that all Alaskans are treated fairly.

(5) Repealing substantive laws so that all Alaskans are treated fairly.

(4) Sufficient funding and emphasis to criminal justice functions so that violent crime is controlled to the greatest degree possible.

(3) Making private land available through homesteading principles.

(2) Reduced state spending - Actual reductions in state spending rather than to continue increasing the budget each year by 25% and 900 new employees.

(1) Limited length of session majority! including free conference committee reform, reduction of committee chairman power, elimination of piggybacking, and having bills come to the floor for a vote.

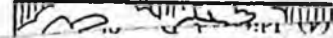
Here are the Libertarian priorities which have not been seriously considered by the majority!

QUESTION - Do Alaskans deserve better than this for a \$150 day plus session? I believe so.

As of June 21 this will be the longest legislature in history. Hopefully it will be over soon, but let's look at what the House leadership's priorities have been and compare it to what should have and could have been done!

NOW to Reorganize

A reorganization meeting of the National Organization for Women will be held on June 25 at 7:30 p.m. in the Fairbank Chamber of Commerce Log Cabin. The two main priorities of the local group will be ratification of the Equal Rights Amendment and setting up a women's network newsletter in the local community.



(1) Rules - Even though they have violated both the State Constitution and States by not holding a rules session for four years, Democrats finally held a rules session on May 31, but passed no substantial rules changes which would decentralize power and make the system more representative.

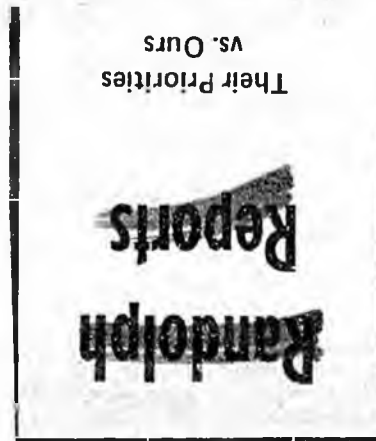
(2) Socialized Health Care - They've passed HB 41 which substantially increases government involvement in medical delivery and will lead to lower quality of health care at a higher cost.

(3) Permanent Fund - The majority put \$1.8 billion into the Permanent Fund where it will only lose money and benefit those who have it invested with them. This is one of their substitutes for direct property and sales tax relief, and direct distribution to individual Alaskans.

By Dick Randolph



Randolph Reports Their Priorities vs. Ours



Legislative rules meeting postponed by Senate chief

By JON MATTHEWS
Daily News reporter

JUNEAU — State Senate President Jay Kerttula has cancelled a planned Thursday House-Senate meeting on proposed reforms and changes to legislative rules.

But the rules session tentatively has been rescheduled for May 30, lawmakers say.

The state House long has been seeking such a joint rules session, but Kerttula said Tuesday he "requested delay" of the Thursday House-Senate meeting because of other business before the Senate this week.

Senate Rules Chairman Tim Kelly, R-Anchorage, said he, Kerttula and House Speaker

Jim Duncan tentatively agreed Tuesday to reschedule the joint session to May 30.

State law requires each state legislature to adopt joint legislative rules, but the current 12th Alaska Legislature is operating under rules adopted in a previous legislature.

"I fully expect a joint rules session this session. I think every senator expects it," Kelly said.

Kelly said the Senate is scheduled to vote on its proposed state operating budget on Thursday, which would have conflicted with the proposed joint rules meeting. And he said that this week's stepped-up House-Senate bargaining over key legislative proposals has made the capitol atmosphere too tense for careful consideration of rules changes.

"Kerttula was probably wise to delay the joint session," Kelly said. "Too many people aren't getting along over too many different items."

But some House leaders were sharply critical of the Palmer Democrat's announcement. House Rules Chairwoman Sally Smith charged that the Senate's claim that House-Senate bargaining is reason for delay "is cosmetic."

"The real reason is that Sen. Kelly didn't start his work (on the legislative rules) early enough," the Fairbanks Democrat said.

But Kelly said the Senate is prepared to go into a rules meeting, but simply wants to make sure that lawmakers will have enough time to thoroughly debate the rules changes.

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By JON MATTHEW
Daily News reporter

JUNEAU —
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Jim Duncan and
dent Jay Kerttula

Duncan's three
no surprise: Rep. Sam Cotten,
D-Eagle River, who is chair-
man of the House Finance
Committee; Rep. Brian Rog-
ers, D-Fairbanks, a respected,
young liberal on the House
finance panel; and Anchorage

Western Family large pitted

OLIVES 6 oz.....

Nalley's genuine

DILLS 46 oz.....

Kraft onion-bits

BBQ SAUCE 18 oz.....

Kraft plain

BBQ SAUCE 18 oz.....

Kraft hickory smoked

BBQ SAUCE 18 oz.....

Kraft hot

BBQ SAUCE 18 oz.....

Kraft

MIRACIE WHIP

finance panel this year, and
some sources say he named
himself to strike a compromise
between private Senate fac-
tions.

The House-Senate panel, ex-
pected to begin work next
week, will have broad powers

79¢

\$1.59

89¢

89¢

89¢

89¢

\$2.49

the free conference choices
give the state's Railbelt area
the most members, but rural
interests can be confident that
Sackett — by far the most
experienced financial wizard of
the group — will more than
hold his own in the negotia-

Comm

by Ellis E. Conklin
Times Writer

The operation of the Alaska Legislature places too much of the hands of a few legislators, according to a report released today by a non-profit citizen group.

Common Sense of Alaska, formed in 1976 to monitor state spending policies, said the Legislative Conference Committee sends a handful of legislators the power to change legislative

Common Sense's 12-member search committee has recommended that placing in the use of the Free Conference in the Alaska Legislature.

Free conference committees are appointed to settle differences between the House and Senate bills that have passed but in different forms.



Perspective

'Reform' Bill Perpetuates Legislature's Contract Abuses

By Joe La Rocca

Juneau — Wednesday, the State House of Representatives passed a bill which purports to reform legislative contracting.

That's the process by which some legislators have doled out millions of dollars worth of non-competitive contracts for professional services in recent years with little or no accountability or public scrutiny. The legislation was introduced by a group of House Democrats in response to growing public criticism of these pervasive contracting abuses.

For example, during 1980 a dozen legislators in key positions awarded contracts, some worth tens or hundreds of thousands of dollars — sometimes secretly to political partisans, cronies, supporters, and in one case, a close relative.

A large percentage of these contracts were handed out by Senator George Hohman (D-Bethel) during 1979 and '80, while he was chairman of the Legislative Council. That is the joint committee which handles the legislature's affairs, mostly during the interim between sessions.

While Hohman was singled out by the news media, the public and even fellow legislators as the perpetrator of the abuses, the truth is that many others, including some who pointed their fingers at Hohman, were — and continue to be — just as guilty of the same practices.

Among them are some sponsors of the so-called Legislative Contracting Reform bill approved by the House Wednesday after lengthy debate.

For example, only last month, Senator Jalmar Kerttula (D-Palmer) who publicly repudiated Hohman's contract practices, secretly agreed to retain a Boston legal firm in connection with pending litigation over the state's special income tax on oil corporations. Kerttula denied that he had negotiated a contract with the Eastern law firm, but I later learned later that he had, in fact, negotiated a verbal contract guaranteeing the firm a minimum of \$90,000 for a few week's work. Additionally, Kerttula and Rep. Terry Gardiner (D-Ketchikan), who are co-chairmen of the illegally-constituted joint Gas Pipeline Committee, secretly negotiated an unwritten contract last month for \$30,000 with a former State Commissioner of Revenue John Messenger, now an Anchorage attorney, to provide legal services. The contract, which called for 13 days' work, was not signed or available for public scrutiny until after the work had been completed.

The so-called Legislative Contracting Reform Bill which passed the House Wednesday, a relatively short three-page measure, was debated on the floor of the House for several hours Tuesday and Wednesday. And no fewer than 14 floor amendments were offered during the debate.

That signifies two things: first, that the two committees which considered the bill — the State Affairs Committee chaired by Rep. Mike Miller (D-Juneau) and the Rule Committee chaired by Rep. Sally Smith (D-Fairbanks) — did a lousy job of drafting it in committee; second, that legislators have no business tampering with the clearly administrative function of contracting.

The simple fact is that there's not a single member of the legislature who is a qualified public contract administrator. Both the committee work and the extended floor debate revealed all too clearly that legislators are inept amateurs when it comes to public contract administration, and should not be poking their noses into the purely technical aspects of the public contracting process.

For example, the Democratic majority defeated a floor amendment Tuesday which would exempt contracts for legal services from the contracting procedures proposed in the bill.

They argued that it is impossible to impose any guidelines or restrictions on their ability to select lawyers to advise them without limiting the quality of legal counsel available to them.

But the fact is that the State Department of Law routinely utilizes procedures requiring the solicitation of competing proposals for legal services when it contracts out some of its legal work to private law firms as it frequently does and that the Department of Law retains for oil and lands litigation some of the finest legal minds in the nation.

The fact that members of the House were collectively unaware of the routine actions of this common type of

A losing battle

THERE WERE some authentic heroes in Juneau last Saturday when the battle was fought over reforming Alaska's legislative process.

They didn't win on the major issues. But they made a sincere effort that almost surely will pay off in the future — at the polls, perhaps, if voters remember such things; in succeeding legislatures, surely, when reform inevitably must come because the people of Alaska are fed up with the way many legislators are conducting public business.

The major fight was twofold.

It came first on a proposal to impose certain restrictions on the conference committees, which are now unbridled and uninhibited in the dangerous, costly and malevolent actions they can take. It came next on a proposal to prohibit what is called "bill-stripping" and "piggy-backing" — taking a bill that has been introduced under a specific title and, with calculated deceit, changing the meat of the legislation or adding the substance of another measure that could not win approval on its own.

REPUBLICAN Sen. Tim Kelly and Democratic Sen. Pat Rodey of Anchorage — along with Republican Rep. Randy Phillips of Eagle River — led the fight for changes in the joint House-Senate rules.

They had some surprising help from three Democrats whose advocacy of reform deserves commendation. Principal support, say those who watched the action on the floor, came from Sen. Bill Ray of Juneau and Reps. Russ Meekins Jr. of Anchorage and Terry Gardiner of Ketchikan.

Their support was particularly important in the effort to eliminate the garden in which the weeds of legislative abuse

grow most abundantly. Both Mr. Ray and Mr. Meekins have served as chairmen of the House Finance Committee. They know first-hand the evils of the unlimited power of the free conference committees in dealing with budgetary matters. Mr. Gardiner is a former speaker of the House, who has seen good legislative work undermined and destroyed by flagrant excesses of greed and horsetrading.

IN THE BATTLE last Saturday, a firm majority of the Senate voted in favor of the two reform measures. The support of Sen. Ray was particularly noteworthy. As a member of the Senate's old guard he might be regarded as one of the least likely to endorse reform. But the legislative process cannot and must not, he said, permit the abuses that are now occurring.

The effort died, however, because the Democratic House leadership wanted to protect its ability to wheel and deal. House Speaker Jim Duncan and Reps. Mike Miller of Juneau, Brian Rogers of Fairbanks and Hugh Malone of Kenai reportedly were those who led the fight against reform.

It is said that Democratic House members who were inclined to vote for reform were threatened with deletion of appropriations for their areas if they went along with the effort to change the rules. Mr. Meekins and Mr. Gardiner are said to have been among them, but they refused to bend in the face of fierce arm-twisting by Mr. Duncan and others.

But reform is not dead, regardless of the outcome of last Saturday's vote. It's a tidal wave that will overpower the legislators who continue to resist — sooner, perhaps, than these recalcitrants believe.



Jackson, Miss. — When Britt Singletery, a leading Democratic candidate in a special congressional election here, wants to criticize President Reagan, he talks about "the administration" or maybe "those people around him who are making some of these decisions."

What he avoids, Singletery says with a small smile, is anything that might be construed as personal criticism of Ronald Reagan.

As well as anything, this defines the dilemma of the Democrats in dealing with Reagan's extraordinary personal popularity in an election here June 23 that is inevitably going to be viewed, rightly or wrongly, as a referendum on the president's beginnings — and, more specifically, on his proposals to reduce Social Security benefits.

THE CAMPAIGN in Mississippi's 4th Congressional District is not a pure test of Reagan, of course; all politics is practiced in the real world rather than a laboratory. But the contest here does offer a more legitimate measure than those in any of the other special elections this spring, in all of which one party or the other held a long-time and pronounced advantage.

And the injection of the Social Security issue has clearly transformed the campaign, at least for the moment. As Singletery puts it, until Reagan advanced those proposals the entire focus was on the economy. "The white people were talking about inflation and the black folks were talking about both inflation and jobs," he says.

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Lawmakers pull punches on legislative reform

By JON MATTHEWS
Daily News reporter

JUNEAU — In what one lawmaker branded an "embarrassment," the Alaska Legislature adopted some rule reforms here Saturday but refused to clamp down on other potential legislative abuses.

With a stack of proposed changes to legislative practices yet to be considered, Senate President Jay Kerttula, D-Palmer, overrode a voice vote and gavelled the special joint rules session of the state House and Senate into adjournment.

Charges flew between political parties and the two chambers after the three-hour session, with lawmakers accusing each other of trying to hog publicity by supporting reforms.

"I think we've embarrassed ourselves by adopting some but not all of the rules changes," said House Majority Leader Russ Meekins, D-Anchorage.

"I'm very disappointed that the two most substantive changes, free conference and bill stripping, weren't adopted," said Senate Rules Chairman Tim Kelly, R-Anchorage. "I'm upset the session was adjourned so soon."

The representatives and senators voted with little debate to adopt a series of rule reforms and changes already agreed to by the House and Senate Rules Committees. Although many of

the changes are minor, lawmakers supporting the amendments said they will make significant improvements in how the Alaska legislature operates on a day-to-day basis.

The adopted rules changes include some curbs on when powerful legislative free conference committees can be appointed.

But the fireworks started in the Saturday joint session when the legislators considered and defeated a stiff clamp-down on the wide-ranging appropriation powers of the free conference panels.

Free conference committees are joint House-Senate panels charged with working out compromises between proposals of the two bodies. Currently, the committees are free to add anything they want to bills, including items that haven't passed either the House or Senate.

"The biggest abuse as we all know is the free conference committee system . . . there is no other issue, period," argued Kelly.

The Senate voted 15-1 to restrict free conference committees from adding new or higher appropriations to spending bills over what was previously approved by either house. But a majority of both houses must approve rules changes, and all but two of the controlling House Democrats



voted against the measure, thereby killing it on a House vote of 20-19.

Voting for the measure were the two Democrats, Meekins and Rep. Terry Gardiner, D-Ketchikan, and House Republicans and Libertarians.

Kerttula adjourned the rules session before lawmakers voted on another major reform measure intended to prevent lawmakers from stripping bills from the opposite chamber and adding new proposals.

House Rules Chairwoman Sally Smith, D-Fairbanks, said the Democrats opposed the free conference spending restriction because it was "too broad and idealistic."

"It wouldn't have left us with the latitude to make something right," she said. She argued that lawmakers, for example, wouldn't be able to make up for federal funding cuts in free conference committees under the proposal.

Other Democrats said they feared they would lose too much power against Republicans if the rule change were

adopted.

"A lot of what was happening today was just show-bill," said one House Democrat leader. "But because of this public may overlook what did adopt."

Rules changes adopted the joint session include:

- Instead of a free conference committee being named immediately, a more limited conference committee must be appointed to try to work out a House-Senate compromise bill. If the conference committee fails to reach agreement, it can be given limited free conference powers on specific points of disagreement. If it fails, a free conference committee can be appointed. A free conference committee chair must be clearly pertinent to the subject.

- The House and Senate must wait at least 24 hours before voting on a free conference committee compromise.

- Special and joint legislative committees can spend money "only in accordance with an appropriation made by the work of the committee."

- A minimum five-day notice is required for the first public hearing on all bills and resolutions.

- All committee meetings are to be electronically recorded and minutes are to be published and made available to the public.

~~On and on and on~~

WHEN IT COMES to the matter of limiting the length of Alaska's legislative sessions, which now convene in January of each year and run until everybody in the state is sick of 'em, we are pleased to note there is growing support — no, let's be stronger and say there is an outright demand — that some brakes be applied.

We've been advocating that for years, over and over again. And over and over again, the idea was rejected, especially by members of the legislature, other politicians and even some ex-legislators.

In the case of former lawmakers, it's comforting to see how different things look as the years go by. Upon leaving office, they usually hold to the idea that an unlimited, unrestricted session still has merit — in theory, if not in fact. But as they watch from afar, their attitudes change and now many of them are among the strongest advocates for a limitation that would impose a disciplined and workmanlike approach on the legislative task.

FROM ALL PARTS of the state, from a wide spectrum of the public, people are outraged by the behavior of recent legislatures. The sessions have drifted along, week in and week out, with no concern for setting priorities, with little sense of urgency for doing a responsible job in orderly fashion and getting back home.

Prudence and civic sanity demand a limit, but the legislators refuse to exercise the discipline required to establish deadlines for the sessions.

We began our campaign years ago by recommending a 60-day limit. We've compromised since then and acknowledged that perhaps a 60-day session is too brief, given the problems that confront the state. We held out for a long time for a 90-day limit and still believe three months each

year is more than adequate to legislate for the needs of just 400,000 people.

Finding no response from the legislature to a 90-day limit, we even bent a little more and said, all right, let's at least get the job done in 100 days.

Finally, two years ago, we endorsed even the concept of a 120-day limit, a time-frame suggested by legislative leaders under pressure from irate constituents. Even then, the legislators dodged the issue. Instead of putting on the ballot a proposed constitutional amendment that would have mandated a 120-day session, the lawmakers came up with a deceitful subterfuge. It was in the form of an "advisory" proposition, asking whether the people wanted the legislature to put on the ballot an amendment proposition for a 120-day limit.

Given no time choice, and recognizing that the whole affair probably was sham to begin with, the people voted 3 to 1 for the 120-day limit, as they surely would have approved a 90-day limit, given the opportunity.

IT WOULD have made no difference, anyway. The legislature had no intention of paying heed to the ballot results — as was proven when subsequent legislatures simply ignored the vote. And to this day no proposal to amend the constitution has been brought to the ballot.

This is the 139th day of a dismal session and no target date for adjournment has been set. There's actually talk being heard that the session, which began back on Jan. 12, may now run until the middle of June.

It's a situation that cries for correction.

A time limit — 90 days, 100 days, 120 days — is absolutely essential to the well-being of Alaska.

And to reform

THE LENGTH of Alaska's lawmaking sessions is not the only matter of reform that needs to be considered if the state is to improve the quality of its legislature.

The legislators know this. But reform is always difficult when those who are expected to address it are the very same ones who stand to benefit if there is no reformation.

Today in Juneau, the rules committees of the House and Senate are scheduled to meet to talk about ways to improve the lawmaking function.

Whether anything will come of the meeting — if, indeed, it is even held — is problematical. The legislators have been dodging the reform issue all this year, despite promises from both houses that steps would be taken to eliminate legislative abuses.

OVER THE YEARS, we have been advocates of any number of measures that could improve the legislative process. At the risk of raising hopes that very likely will be dashed once again, let's identify some of them.

- The free conference committees, which are cesspools of abuse and mischief, should be abolished.

- There should be a legal limit on state spending.

- Supplemental appropriations to cover the continued habit of bureaucratic cost overruns should be outlawed.

- Interim committees, other than the standing Budget and Audit Committee and the Legislative Council, should be reduced in number or downright eliminated.

- Consultant contracts let

at the whim of individual legislators should be banned.

- Creation and funding of major new programs should require public hearings and full legislative consideration, and should not be spawned through hidden items in the complex state operating budget.

- There should be no more blanket appropriations of hundreds of thousands or millions of dollars for individual legislators to spend as they wish in their respective districts.

- The size of legislative staffs should be curtailed and the number of aides any one legislator can hire should be reduced, almost to the point of zero.

THOSE ARE reform items with teeth.

Not a one of them requires a constitutional amendment, although a limit on state spending would be more powerful if it were made a part of the constitution.

The legislature could, by statute, spell out a spending limit. True, a subsequent law could change that limit. But the change could not be made without public debate and it is very likely that statewide pressure could prevent its passage. Any kind of limit is better than none and enactment of a simple law is certainly an easy and quick first step along the way.

Unfortunately, the chances are slim that any of these reforms will be adopted this year. We don't like to say it, but the '81 sess'on appears to be following the old path of just giving lip service to the task.

CHARLIE PARR

ALASKA LEGISLATURE

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RECEIVED

May 28, 1981

MEMORANDUM

TO: Members of the Senate Rules Committee

FROM: Senator Charles H. Parr

SUBJECT: Proposed Rule Change

I am concerned about a proposed change in the Rules which would require a 2/3 vote in the house of origin if a committee makes a title change in a bill. This may well give a small minority the opportunity to block legislation.

The State Constitution provides for a majority vote in all cases except the following:

- changing a court rule;
- overriding a veto;
- impeachment;

- the Legislature calls itself in for special session;
- expelling members;
- advancement from 2nd to 3rd reading on same day;
- providing an effective date.

The first three of the above involve the Legislature with a different branch of government. The second group are all internal to the Legislature, but all, I believe, are more significant than the title change on a bill.

The same proposal also will prohibit the second house which considers a bill from making a title change. I question such a sweeping rule, despite the bad name which the practice has. There are times when it makes sense and furthers the democratic process.

I hope Committee members will consider these factors very carefully.

CHP:vc

EAGLE RIVER CHAMBER

SUMMARY OF RECOMMENDATIONS

1. Two consecutive conference committees should be appointed, deliberate in good faith, and be unable to reach a compromise before granting powers of free conference to a third committee.
2. A simple "bill content" rule is needed to define "germane" and prevent bill "piggybacking" from occurring. The rule should read: "No bill shall be passed by either house containing more than one subject, which should be clearly expressed in the title."
3. The public should be informed of the standing committee meetings and their agendas at least five days prior to the meeting.
4. The House and Senate Finance Committees should meet jointly for the purpose of holding public hearings or considering any proposed or pending legislation.
5. Precise procedures for standing committees are vital. Fiscal impact statements and legislative intent should be included with all bills. The committee report should include one of three recommendations from each member. - "Do pass", "do pass as amended", or "do not pass".
6. No interim committees should be provided except those authorized by the state constitution, or either or both houses jointly may by resolution or statute, provide for the appointment of interim committees.
7. The legislative session should be limited to 120 days. Any extension beyond that time should require a 2/3 vote of both houses and include a "limited call" provision. The extension should be for a specific number of days.
8. There should be a limitation on the number of consecutive terms for legislators. Our recommendation: Two 4-year terms for Senators, and four 2-year terms for representatives. Possible to alternate houses every 8 yrs
9. A Code of Ethics should be added to the Uniform Rules. A disciplinary mechanism should be established to deal with alleged violations.
10. A simple precise procedure is needed in awarding legislative professional service contracts.

Alaska State Legislature

House of Representatives

FILE
LEGIS. REFORM

JUNE-DECEMBER
Box 80929
College, AK 99708
Ph. 907-479-4234

WHILE IN SESSION:
Pouch A
State Capitol
Juneau, Alaska 99811
Ph. 907-465-4833

Representative Ken Fanning

Official Business

July 21, 1981

Sen. Pat Rodey
3271 Montclair
Anchorage, AK 99503

Dear Pat:

While I realize we have all had our fill of limits for the next several years, I believe it would benefit us immeasurably to seriously consider one more - that of limited session length.

Our record-breaking 165-day session engendered not only tremendous grumbling among legislators, who would rather have been anywhere else, but a veritable chorus of complaints from our constituents, who emphatically wrote that we were wasting the peoples' money to produce nothing and should adjourn and go home.

I have had the enclosed bill prepared for introduction in January. It differs from HB 168 only in that it would cease per diem payments after the 100th day, rather than the 120th day.

For several reasons, I believe our opportunity to act decisively in this regard is now.

First, in light of the 165-day session, I believe there has been clearly demonstrated a need for an incentive for us to get down to business. The per diem cut-off is a practical incentive.

Second, because each of us now has at least one permanent staff person at his or her disposal, we should all come back to Juneau well prepared to efficiently and expeditiously attend to the state's business and adjourn within a responsible period of time. I hope we can be done within 90 days, but certainly not later than 100. I am confident that committee meetings will go smoothly, considering that committee staffs have the next six months to prepare their work.

Finally, as I mentioned on the House floor, the public has come to expect strawmen all too often of the legislature, and therefore I sincerely view this session limit as our opportunity to show the public that we do take seriously the responsibilities of our offices.

Sen. Pat Rodey

-2-

July 21, 1981

I hope you will spend some time during the interim to consider this bill and its implications (consider also the discomfoting consequences of another 165-day session).

It is my desire that this bill, or at least the idea it embodies, be a high priority in both the House and the Senate. I would personally appreciate it if you urge your leadership to adopt this legislation as a number one priority for passage early in the session.

Thank you for your attention to this matter. Please feel free to contact me if you have any comments.

Best Regards,

A handwritten signature in dark ink, appearing to be 'Ken Fanning', written in a cursive style with a long horizontal stroke extending to the right.

Ken Fanning

KF/gdn

1 IN THE HOUSE

BY FANNING

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to payment of legislative per diem;
7 and providing for an effective date."

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

9 * Section 1. AS 24.15.010 is amended by adding new subsections to read:

10 (e) Per diem may not be paid for a day in regular session
11 the 100th day of that regular session.

12 (f) Per diem may not be paid after the seventh legislative day of
13 a regular session to a member of a house for which a permanent pre-
14 siding officer has not been chosen. However, payment of per diem shall
15 resume beginning the legislative day on which a permanent presiding
16 officer is chosen.

17 * Sec. 2. This Act takes effect January 1, 1983.
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