

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5044 HRLS HB 293 - HCR 12 (FILE 2) 1/25/88

4/6

STATE OF ALASKA

OFFICE OF THE GOVERNOR

VI

DIVISION OF ELECTIONS
P.O. BOX AF
JUNEAU, ALASKA 99811-0105
PHONE (907) 465-4611

March 8, 1988

The Honorable Pat Pourchot
Alaska State House of Representatives
Pouch V
Juneau, AK 99811

Subject: HB 293

Dear Representative Pourchot:

You have requested input from the Division of Elections on three elements of the elections process which relate to the payment of return postage on absentee ballots, procurement practices concerning the purchase of ballots for the statewide Primary & General Elections, and proposed improvements to personal representative voting. My input is as follows:

1. Return postage on absentee ballots: A suggestion has been made that the Division no longer pay return postage for absentee ballots with the rationale being that if the envelope is not franked "Postage Paid" that the Post Office would then assure that the return date is stamped on the outside of the envelope. It should be noted that many states require only civilian and in-country voters to pay their own postage, while military and overseas voters are allotted prepaid returns. Section 201 of the Uniformed and Overseas Citizens Absentee Voting Act mandates that balloting materials be sent expeditiously and free of postage. Since Alaska Statutes have never required registrants to declare military status we have no computer program in place that would allow us to sort or separate military voters from the civilian and in-country voters. Therefore, return postage is paid on all returned ballots.

The Division views the payment of return postage on absentee ballots as an incentive to voters to return their voted ballot, and because of the Uniformed & Overseas Citizens Absentee Voting Act has continued to pay the return postage. However, due to budget reductions the Division no longer pays for return postage on absentee ballot applications although legislation has been introduced in Congress which, if passed, would result in election jurisdictions being required to pay return postage for absentee-by-mail applications used by voters to apply for an absentee ballot.

The Honorable Pat Pourchot
March 8, 1988
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If Congress passes legislation requiring the payment of returned absentee ballot applications, one can anticipate the same requirement may be adopted concerning returned ballots.

2. Ballot Procurement: AS 15.15.030(3) states: "The director may contract for the preparation of the ballots on a regional basis if necessary and may contract for the preparation of ballots without obtaining competitive bids." This provision has provided the Division with a "safety net" to purchase ballots from a vendor capable of meeting the State's complex ballot rotation requirements and short timeframes. This is an important distinction since it is imperative that we have the assurance and confidence that the order will be completed within the short timeframes available for printing, and that the ballot order is free of error.

Up until 1986 there were no vendors in Alaska capable of facilitating an order of 1,000,000 ballots with the complex rotation and distribution requirements to 442 precincts statewide. As you are aware, Alaska's ballot order is one of the most complex in the nation due to rotation of candidate names within each race, the short timeframes available for printing the ballots after the candidate withdrawal deadline and in order to meet the Official Election Pamphlet timeframes, and because the ballots must be gang punched to accommodate the rotations prior to beginning the printing process.

Following the 1986 elections, my staff began making contact with Alaskan vendors to determine the feasibility of having the ballots printed in Alaska. Printers in Fairbanks and Juneau have indicated that they do not have the capability to print the ballots. One printing company in Anchorage who has printed the municipality's ballots will be meeting with my staff this Wednesday in Juneau concerning providing a bid for the 1988 ballots.

Although the bottom line is that the Division must have absolute confidence in the chosen vendor's ability to complete the order in an accurate and timely manner, every step will be taken to obtain an Alaskan vendor(s) to print them. There is absolutely no room for error, and we cannot reschedule an election because of printer error. I believe this is one of the prevailing reasons that the Division has statutory authority to sole source its ballot order.

The Honorable Pat Pourchot
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Page 3

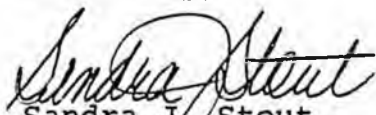
3. Personal Representative Voting: Absentee voting by personal representative, AS 15.20.071, allows a qualified voter who is physically disabled to apply for an absentee ballot through a personal representative. Federal statute (H.R. 1250, PL 98-345), Voting Accessibility for the Elderly and Handicapped, directs the states to ensure that all polling places are made accessible or that an alternative method be provided. 6 AAC 25.100 defines a "physically disabled voter" as a person who is unable to go to the polling place because of illness, age, or physical handicap.

The Division's interpretation of AS 15.20.071 has been that absentee voting by personal representative can be used primarily in two ways--for voters who are not physically able to visit their polling place to cast their ballot due to either a long term or short term illness; or voters whose precincts are not handicapped accessible (in some of our remote precincts, handicapped facilities are simply not available). The existing statute provides that an individual attempting to assist a disabled person vote must make two round trips between the voter and the Division of Elections. We feel that this not only places an unfair burden on the voter, but on the individual who has agreed to assist the disabled voter.

During the 1986 General Election, 447 people were voted by personal representative. This figure is .00245% of the total ballots cast (182,526). The largest number of voters (46) who voted through a personal representative occurred in District 4 - Juneau. In researching these voters, we found that they were voted in St. Ann's Nursing Home by the Region I Election staff, and at Bartlett Hospital by the Election Board for the Salmon Creek Precinct which is housed in the lobby of the hospital. The Division supports the proposed amendments to personal representative voting because we believe that the existing statutes put an undue burden on personal representatives, and discourages voting by disabled and institutionalized voters.

I hope that these comments are useful to you. If we may be of further assistance, please do not hesitate to call.

Sincerely,


Sandra J. Stout
Director

COMMENTS IN SUPPORT OF
CS FOR HOUSE BILL 293 (Judiciary)

Prepared by
Division of Elections
March 1, 1988

The Division of Elections has reviewed CSHB 293 and supports its provisions in their entirety. Much of this bill is "housekeeping" in nature. The thrust of the bill is to accomplish the following major objectives:

1. Streamline absentee by personal representative voting. The current statutes put an undue burden on the friend or volunteer who offers to provide voting assistance to a handicapped, disabled or institutionalized voter. The bill reduces the number of individual trips required by the representative back and forth between the Division of Elections and the voter from 5 to 2 by allowing application and issuance of ballots to occur simultaneously rather than as two separate parts of the process. The bill would also extend personal representative voting services to all precincts on election day rather than only at selected sites.
2. Reduce the complexity and expense of ballot printing. Under the current statutes, judicial retention candidates must appear on a "separate" ballot. Often there is adequate space on other ballot cards to include the judicial candidates for specific districts. A review of the 1984 and 1986 general election ballots, illustrated that in 1/3 to 1/2 of the districts in the state, all candidates and issues could have been accommodated on 2 ballot cards instead of 3. Reductions in the number of cards which must be printed could result in a savings in paper and printing costs.

Additionally, the bill deletes reference to a "+" sign which appears in the punch boxes in computer type ballots. The "+" sign serves no real purpose but does require us to print two versions of the same ballot in districts where some precincts vote punch cards and some precincts vote hand marked ballots.

3. Remedy the deficiency in the current statutes which tends to disenfranchise voters who change their names just prior to an election. Existing laws require that a voters who change their names must update their registration record 30 days prior to the election in which they seek to vote.

In the Supreme Court action regarding the Fischer/Uehling recount, the Division was directed to count the ballots of voters who voted under their new names but had not updated their registrations as required by law. The amendment proposed in this bill is consistent with the findings of the court.

4. Elimination of late ballots from inclusion in recounts. The bill eliminates the provision which allows ballots received after the statutory deadline from being counted in recounts. Concern has been expressed that accepting these very late ballots opens a window for fraudulent use of the absentee program because 1/3 of all mailed ballots have no readable postmark. With more and more voters using the by mail voting program, and greater access to absentee voter lists that indicate whether or not the voter has returned a voted ballot, there is concern a greater opportunity exists to "work" the absentee lists to solicit voters who did not return their ballots, to cast them after election day, where races are very close, potentially impacting the outcome of the recount.
5. Ease the impact of late candidacy withdrawals by changing the deadline from 40 to 54 days prior to an election. The Division of Elections strongly supports these amendments. The current 40 day deadline severely constricts the actual time frame in which ballots must be typeset, proofread, printed and distributed. In addition, the existing deadlines allow only 10 days for preparing camera ready sample ballots for inclusion in the Official Election Pamphlet which by law must be printed and in the mail to voters 30 days prior to the election.
6. Expanded services to voters. The bill provides that voters impacted by polling place or precinct boundary changes will be sent notification of the changes before the election. This notification should be beneficial in assuring that voters know where to vote on election day.

The bill also removes the requirement that applications for absentee ballots be postmarked 10 days prior to the election. Rather, it extends the application period by requiring, simply, that applications be received not later than 4 days prior to the election.

Hb 74

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STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: CSHB 294 (FIN)
Publish Date: HOUSE 5/11/87

Revision Date: _____

Agency Affected: Legislative Affairs Agency
BRIJ: Legislative Council

Title: An Act relating to compensation of legislators and legislators-elect . . .

Sponsor: House Rules Committee

Components: Salaries & Allowances

Requestor: House Finance Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		1201.7	1201.7	1201.7	1201.7	1201.7
TRAVEL	-0-	<868.8>	<868.8>	<868.8>	<868.8>	<868.8>
CONTRACTUAL		-0-	-0-	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	332.9	332.9	332.9	332.9	332.9

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	332.9	332.9	332.9	332.9	332.9
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Page 2.

Prepared by: Pamela A. Stoops, Manager
Division: Administrative Services

Phone: 465-3850
Date: 5/8/87

Approved by: Warren W. Endicott, Executive Director
Agency: Legislative Affairs Agency

Date: 5/8/87

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 294(Fin)

FY 88 Costs: (Before HB 294)

(After HB 294)

Personal Services

60 Legislators @\$1845/mo = \$1,770,849
 2 Legislators @\$500/yr = 1,126
 Less EPORS, TRS difference = <8,856>
 \$1,763,120

Personal Services

60 Legislators @\$3,250/mo = \$2,972,549
 2 Legislators @\$500/yr = 1,126
 Less EPORS, TRS difference = <8,856>
 \$2,964,819

Travel

Travel to and from session -
 transportation, moving and per diem \$223,200
 Per Diem during session - 120 days x
 60 legislators at short-term rate 568,800
 Per Diem during interim - 100 days x
 60 legislators at long-term rate 300,000

Travel

Travel to and from session-
 transportation, moving and per diem \$223,200

Contractual

Legislators' annual allowance
 60 legislators @\$4,000 each = \$240,000

Contractual

Legislators' annual allowance
 60 legislators @\$4,000 each = \$240,000

	<u>Before HB 294</u>	<u>After HB 294</u>
71000	\$1763.1	\$2964.8
72000	1092.0	223.2
73000	<u>240.0</u>	<u>240.0</u>
	\$3095.1	\$3428.0

*Sec. 5(e) addressing 7 days' per diem for newly elected or appointed legislators is already budgeted for in this appropriation. Every two years we have an orientation for newly elected legislators which is held the week before session.

*Sec. 5(f) it is anticipated that the Session Expenses and Legislative Operating budget allocations could absorb actual expenses for transportation, food, and lodging.

5-1112X ✓
Cramer
5/15/87

Original sponsor: Rules Committee
by request

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 294 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to compensation of legislators and
7 legislators-elect; and providing for an effective
8 date."

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

10 * Section 1. FINDINGS. (a) The legislature finds that from July 21,
11 1983, to July 16, 1985, legislators' compensation was established at Range
12 22, Step A, of the state salary schedule. Officers and employees com-
13 pensated at Range 22, Step A, at that time received \$3,900 per month or
14 \$46,800 per year. From July 16, 1985, until January 19, 1987, the salary
15 for legislators remained at \$46,800 per year although the compensation for
16 state employees paid at Range 22, Step A, increased to \$4,095 per month or
17 \$49,140 per year. On January 19, 1987, the compensation for legislators
18 was reduced to Range 10, Step A.

19 (b) The salary proposed in sec. 2 of this Act is 83 percent of the
20 salary legislators received before January 19, 1987, and 79 percent of the
21 salary other state employees who are compensated at a Range 22, Step A,
22 receive under the state salary schedule currently in effect.

23 * Sec. 2. AS 24.10.100 is amended to read:

24 Sec. 24.10.100. ANNUAL SALARY OF LEGISLATORS. The annual
25 [MONTHLY] salary for each member of the legislature is \$39,000 [EQUAL
26 TO STEP A, RANGE 10 OF THE SALARY SCHEDULE IN AS 39.27.011(a) FOR
27 JUNEAU]. The president of the senate and the speaker of the house of
28 representatives are each entitled to an additional \$500 a year during
29 tenure of office.

1 * Sec. 3. AS 24.10.105(b) is amended to read:

2 (b) Except as provided in (f) of this section, a [A] legislator
3 is entitled to receive per diem at the short-term rate

4 (1) during a special legislative session if the legislator
5 is not living in the legislator's place of permanent residence during
6 the special session; and

7 (2) while on [COMMITTEE BUSINESS OR OTHER] legislative
8 business in a place that is not the legislator's place of permanent
9 residence.

10 * Sec. 4. AS 24.10.105(c) is repealed and reenacted to read:

11 (c) Except as provided in (f) of this section, a legislator is
12 entitled to receive per diem at the long-term rate during a special
13 legislative session if the legislator is living in the legislator's
14 place of permanent residence during the special session.

15 * Sec. 5. AS 24.10.105(d) is amended by adding a new paragraph to
16 read:

17 (3) "legislator-elect" includes a person elected under
18 AS 15.35.020 or elected or appointed under AS 15.40.320 - 15.40.470 to
19 a seat in the Alaska legislature who has not taken the oath of office
20 under art. XII, sec. 5, Constitution of the State of Alaska.

21 * Sec. 6. AS 24.10.105 is amended by adding new subsections to read:

22 (e) A person elected as a legislator who has not yet taken the
23 oath of office is entitled to receive per diem for seven days before a
24 legislative session. A person appointed as a legislator who has not
25 yet taken the oath of office is entitled to receive per diem, not to
26 exceed seven days, for the days after the appointment and before the
27 date the person takes the oath or the appointment is rejected under
28 AS 15.40.330. Except as provided in (f) of this section, per diem
29 under this subsection shall be paid at the

1 (1) short-term rate for a legislator-elect not living in
2 the legislator-elect's place of permanent residence during the legis-
3 lative session; or

4 (2) long-term rate for a legislator-elect living in the
5 legislator-elect's place of permanent residence during the legislative
6 session.

7 (f) In lieu of receiving per diem under (b), (c), or (e) of this
8 section, a legislator or legislator-elect may choose to receive reim-
9 bursement for actual expenses for transportation, food, and lodging.

10 * Sec. 7. AS 39.23.200(c) is amended to read:

11 (c) The commission shall meet [EVERY OTHER YEAR] at the call of
12 the chair. Notice of a meeting shall be mailed to each member at
13 least 15 days before the date scheduled for the meeting.

14 * Sec. 8. AS 39.23.230(a) is amended to read:

15 (a) The commission may hire staff. If requested by the commis-
16 sion, the Legislative Affairs Agency shall provide staff for the
17 commission.

18 * Sec. 9. AS 39.23.240 is amended by adding a new subsection to read:

19 (g) The commission shall notify the president of the senate and
20 the speaker of the house of representatives if the commission is
21 unable to meet a deadline established under (c) or (d) of this sec-
22 tion. The commission shall inform the speaker and the president of
23 the date on which the commission expects to present the report.

24 * Sec. 10. AS 39.23.260 is amended to read:

25 Sec. 39.23.260. POLICY OF THE LEGISLATURE. It is the policy of
26 the legislature that the commission recommend to the legislature
27 [DETERMINE] an equitable rate and form of compensation, benefits, and
28 allowances for legislators.

29 * Sec. 11. AS 24.10.101; AS 39.23.230(b), 39.23.250; and secs. 5, 9,

1 and 12, ch. 124, SLA 1986 are repealed.

2 * Sec. 12. This Act takes effect January 9, 1989.

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HB

356

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

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

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H Rules

2-15-88



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

AGENDA - HOUSE RULES COMMITTEE MEETING

MONDAY, FEBRUARY 15, 1988 / 8:00a.m.

HB 356 - "An Act relating to the authority of the Alaska Public Utilities Commission in connection with certain activities of the Alaska Power Authority and in connection with calculating power cost equalization; and providing for an effective date."

(Rules by Request of the Governor)

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- I. PROPOSED CSHB 356 (RULES)
- II. MEMO DATED FEBRUARY 9, 1988 TO REP. NAVARRE FROM REP. BROWN
- III. CSHB 356 (FINANCE)
- IV. CSHB 356 (JUDICIARY)
- V. GOVERNOR'S TRANSMITTAL LETTER AND (2) FISCAL NOTES

SUND
2/5/88

LETTER OF INTENT - HB 356

It is the intent of the Legislature in enacting AS 42.05.511(d) to codify some of the testimony of the utilities and the Alaska Public Utilities Commission as to how costs will be allocated under the Bradley Lake power sales agreement and wheeling contracts, and any amendments thereto. The intent is that the formula for cost allocation among the utilities, as spelled out in Appendix A to the wheeling agreement, would be beyond the authority of the APUC; the commission would not be able to mandate changes to that formula. The specific cost items to be allocated under the formula, however, would be subject to normal APUC review. Thus, for example, the percentage of a utility's administrative costs attributable to operating and maintenance expenses for wheeling could be reviewed, but, once those costs have been validated by the APUC, the method of allocation among the utilities, as specified by the formula in the contracts, would be exempt from APUC-mandated changes.

(02/11/88 revision)

AMENDMENT

Elimination of Excess Payments

Page 2, Line 25 through Page 3, Line 1:

Eliminate Section 5

Page 3, Line 2 through Page 3, Line 9:

Amend as follows (renumber section)

* Sec. 5. NEGOTIATIONS TO REMOVE EXCESS PAYMENT TERM. If the parties to the Bradley Lake Hydroelectric Project Agreement for the Sale and Purchase of Electric Power signed December 8, 1987 undertake negotiations to amend the agreement, the legislature intends that the amendments should enhance consumer benefits of the project. to be in keeping with the legislature's financing of the project partly through cash grants. Removal of section 29 of the power sales agreement without requiring the purchasing utilities to make other contract changes or concessions would be consistent with the legislature's intent [THE ALASKA POWER AUTHORITY MAY NOT WITHHOLD ITS AGREEMENT TO REMOVE THE REQUIREMENT TO MAKE THE EXCESS PAYMENTS AS DESCRIBED IN SECTION 29 OF THE WHOLESALE POWER CONTRACT, NOR MAY THE ALASKA POWER AUTHORITY REQUIRE CONCESSIONS FROM THE PURCHASERS AS A CONDITION OF THE REMOVAL OF THE EXCESS PAYMENTS PROVISION].

go0168hX

Cramer
2/10/88

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 356 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the authority of the Alaska
7 Public Utilities Commission in connection with cer-
8 tain activities of the Alaska Power Authority, cer-
9 tain agreements among certain public utilities, and
10 calculating power cost equalization; and providing
11 for an effective date."

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

13 * Section 1. AS 42.05.431 is amended by adding a new subsection to
14 read:

15 (c) Notwithstanding (b) of this section,

16 (1) a wholesale agreement for the sale of power from a
17 project licensed by the Federal Energy Regulatory Commission on or
18 before January 1, 1987, and related contracts for the wheeling, stor-
19 age, regeneration, or wholesale repurchase of power purchased under
20 the agreement, entered into between the Alaska Power Authority and one
21 or more other public utilities or among the utilities after Octo-
22 ber 31, 1987, and before January 1, 1988, and amendments to the whole-
23 sale agreement or related contract, are not subject to review or
24 approval by the commission until all long-term debt incurred for the
25 project is retired; and

26 (2) a wholesale agreement or related contract described in
27 (1) of this subsection may contain a covenant for the public utility
28 to establish, charge, and collect rates sufficient to meet its obliga-
29 tions under the contract; the rate covenant is valid and enforceable.

1 * Sec. 2. AS 42.05.511 is amended by adding a new subsection to read:

2 (d) Validated costs incurred by a utility in connection with the
3 related contracts described in AS 42.05.431(c)(1) must be allowed in
4 the rates charged by the utility. In this subsection, "validated
5 costs" are the actual costs that a utility uses, under the formula set
6 out in related contracts described in AS 42.05.431(c), to establish
7 rates, charges for services and rights, and the payment of charges for
8 services and rights. This subsection does not grant the commission
9 jurisdiction to alter or amend the formula set out in those related
10 contracts.

11 * Sec. 3. AS 44.83.090(b) is amended to read:

12 (b) The authority is not subject to the jurisdiction of the
13 Alaska Public Utilities Commission. Nothing in this chapter [AS 44.-
14 83.010 - 44.83.425] grants the authority [ANY] jurisdiction over the
15 services or rates of a [ANY] public utility or diminishes or otherwise
16 alters the jurisdiction of the Alaska Public Utilities Commission with
17 respect to a [ANY] public utility, including any right the commission
18 may have to review and approve or disapprove contracts for the pur-
19 chase of electricity by a public utility other than wholesale agree-
20 ments and contracts described in AS 42.05.431(c)(1).

21 * Sec. 4. AS 44.83.162 is amended by adding a new subsection to read:

22 (p) In calculating power cost equalization, the commission may
23 not consider validated costs or kilowatt-hour sales associated with a
24 United States Department of Defense facility.

25 * Sec. 5. NEGOTIATIONS TO REMOVE EXCESS PAYMENT TERM. If the parties
26 to the Bradley Lake Hydroelectric Project Agreement for the Sale and Pur-
27 chase of Electric Power signed December 8, 1987, undertake negotiations to
28 amend the agreement, the legislature intends that the amendments should
29 enhance consumer benefits of the project, to be consistent with the

1 legislature's financing of the project partly through cash grants. Removal
2 of section 29 of the power sales agreement without requiring the purchasing
3 utilities to make other contract changes or concessions would be consistent
4 with the legislature's intent.

5 * Sec. 6. Sections 1 - 4 of this Act are retroactive to November 1,
6 1987.

7 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).
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Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Representative Mike Navarre

FROM: Representative Kay Brown

DATE: February 9, 1988 *Kay*

SUBJ: Amendments to HB 356:
APUC Exemption of Bradley Lake

The purpose of this memorandum is to explain the House Finance Committee amendments to CS HB 356 (Jud) regarding elimination of the "excess payment requirement contained in Section 29 of the Bradley Lake Power Sales Agreement.

Section 29 - Excess Payments Required

Section 29 of the Power Sales Agreement requires payments from Railbelt consumers "in excess of actual debt service required for retirement of Bonds issued to pay Recoverable Construction Costs." The "excess" payments will commence upon retirement of the long-term revenue bonds and will be paid during the latter part of the 50-year contract period.

Assuming no amendments to the agreement as now proposed, the "excess" payments will cost Railbelt consumers hundreds of millions of nominal dollars, and about \$10 million in present-value dollars. The payments will be made to the APA for deposit into the Railbelt Energy Fund.

House Finance Amendment Regarding "Excess" Payments

During the House Finance Committee's consideration of the bill, an amendment addressing the "excess" payments provision was adopted in Sections 5 and 6 of the bill. This amendment:

1) conditioned the applicability of the APUC exemption of the Bradley Lake project sought in HB 356 so that it does not apply to contracts that contain provisions requiring "excess" payments; and

2) directed that if the contract were to be amended, the APA could not withhold its agreement to remove the "excess" payment provision, nor require concessions as a condition of that removal.

The intent of the amendment is to have the "excess" payment requirement eliminated by a simple amendment to the power sales agreement.

Reasons for Amendment to Eliminate the "Excess" Payments

The major reason for the amendment is to ensure that Railbelt consumers fully benefit from the state's cash contribution to the Bradley Lake hydroelectric project.

From a Railbelt consumer perspective, the "excess" payments cannot be justified. Although Section 29 states that the payments would be "in recognition of efforts to obtain" an intertie, payments are not contingent upon the success of such efforts. Furthermore, the intertie project has not been demonstrated as economically feasible, nor is it even likely to be relevant 30 years from now. Essentially, Section 29 requires Railbelt consumers to pay an extraordinary charge for essentially unknown future purposes.

To date, the legislature has appropriated a total of \$168 million to the Bradley Lake project with the expectation that these funds would be used as a cash grant for the project. The terms of the wholesale power agreement negotiated by the APA violate this intent by including the "excess" payment requirement in Section 29. This requirement effectively transforms the grant into a loan. In his testimony before the House Judiciary Committee, APA Executive Director Robert LeResche confirmed that the excess payment requirement would recover the state's equity.

The House Finance Committee amendment to condition the applicability of HB 356, and to direct the APA to drop Section 29 without trying to negotiate alternative concessions, was offered as a means of correcting the APA's deviation from legislative intent.

In addition, the APA does not have the statutory authority to require that the excess payments be deposited in the Railbelt Energy Fund, as Section 29 of the Bradley Power Sales Agreement provides. "Absent statutory authorization...an executive branch agency cannot circumvent the legislative decision-making power by entering a contract with private parties that earmarks state revenue for deposit in a particular account," according to an opinion from Legislative Counsel. (See Attachment 1.)

Comparison of Bradley Lake Financing with the Four Dam Pool

The proposed requirement that Railbelt consumers be forced to make surplus payments to the APA is especially inappropriate when one considers the precedent established by the Four Dam Pool project financing arrangements.

In the case of the Four Dam Pool, the state funded about 60% (\$293.3 million) of the project with cash equity grants and loaned the balance (\$191.2 million) at a subsidized, effective interest rate of 5.7%. By contrast, the Bradley Lake plan of finance calls for approximately 51% (\$181 million) of the project to be financed with state equity and the balance of the project, up to \$175 million, to be financed with market-rate, tax exempt bonds with an estimated interest rate of approximately 8.0%. In addition to the debt service payments on the market-rate bonds, Railbelt consumers are expected to repay the equity through the "excess" payments in Section 29.

In summary, Railbelt consumers are being asked to accept a financing plan for Bradley Lake that is substantially less favorable than the financing terms provided for the Four Dam Pool. In fact, a recent analysis of alternative financing costs for Bradley Lake prepared by the APA shows that if the state were to offer financing terms for Bradley Lake comparable to those offered for the Four Dam Pool the savings to ratepayers would be approximately \$146.5 million in nominal terms (or nearly \$80 million in 1992 dollars).

Although removal of the "excess" payments provision in the power sales contract would not result in having benefits accrue to the Railbelt consumers that are comparable to the subsidized financing terms of the Four Dam Pool, it would enhance the consumer benefits of this project significantly.

Legal Issues

Several legal issues have been raised with respect to the constitutionality of Secs. 5 and 6 -- 1) separation of powers; 2) special legislation; and 3) severability. (See attachments 2 and 3, memoranda by Assistant Attorney General James Baldwin and Legislative Counsel Teresa Cramer)

The first two issues are addressed by the modification to Secs. 5 and 6 proposed in Attachment 4, which I recommend that the Rules Committee adopt, assuming the Committee wishes to encourage elimination of the "excess" payments provision.

The changes proposed in Sec. 6 of the bill are intended to encourage, rather than require, the APA to take specific actions by clearly stating legislative intent and policy. This should be sufficient to address the concern that the Legislature is improperly participating in contract negotiations.

The changes proposed in Sec. 5 of the bill are intended to address the concern that its specificity may cause a court to consider it to be special legislation.

The last time I spoke with Ms. Cramer about the severability issue (prior to receipt of Baldwin's opinion), she said the general severability clause in AS 01.10.030 was sufficient, and that it was unnecessary to specify the severability of Secs. 5 and 6. However, it may be desirable to provide expressly for the severability of secs. 5 and 6 rather than leaving an unresolved legal issue.

Effect on Timing of Bradley Lake Construction

With these changes, I believe the bill would be a defensible, appropriate response that could lead to significant consumer savings. However, we must persuade the Administration that this change is in the public interest to accomplish the desired result. It is not my intention to delay this bill or the planned summer construction of Bradley Lake, and removal of the excess payments provision need not have that effect. I believe it would be in the best interest of all concerned, especially Railbelt consumers, if the APA and the utilities moved forward quickly to amend the power sales contracts and eliminate Section 29. As a practical matter, these amendments could be accomplished in a matter of days.

If I can answer any questions, please don't hesitate to call.

cc: House Rules Committee
House Finance Committee

STATE OF ALASKA
THE LEGISLATURE

POUCH STATE CAPITOL
JUNEAU ALASKA 99801
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 5, 1988

SUBJECT: Deposit of excess payments under the
Bradley Lake Power Sales Agreement into
the Railbelt energy fund (Work Order
No. 5-1728)

TO: Representative John Sund, Chairman
House Judiciary Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked whether the provision in section 29 of the Bradley Lake Hydroelectric Project Power Sales Agreement, which states that excess payments from the purchasers are "for deposit in the Railbelt energy fund," is valid.

The excess payments are payments to be made by the purchasing public utilities after the retirement of bonds issued to pay for the construction of the power project. The bonds are expected to be retired 30 years after the project begins commercial operation and the excess payments are expected to continue for the remaining 20 years of the agreement.

In my opinion, the Alaska Power Authority (APA) does not have the statutory power to enter into an agreement requiring that the excess payments be deposited in the Railbelt energy fund.

Under AS 44.83.398(c), the APA is required to deposit money received from the sale of power from projects constructed under the energy program for Alaska in the general fund unless the money has been pledged or otherwise covenanted to secure bonds. The excess payments do not meet the requirements of the exception. The statute could be construed to allow the APA to deposit the payments in the Railbelt energy fund only if the Railbelt energy fund is considered to be the same as the general fund.

Representative John Sund, Chairman
House Judiciary Committee
Page 2
February 5, 1988

The Railbelt energy fund is an account within the general fund under AS 37.05.153. The statute provides

There is established in the general fund the Railbelt energy fund. The fund consists of money appropriated to it by the legislature. The Department of Revenue shall manage the fund. Interest received on money in the fund shall be accounted for separately and may be appropriated into the fund annually. The legislature may appropriate money from the fund to assist in meeting Railbelt energy needs.

The legislature has given the account a special purpose, even though the purpose is not binding on future legislatures. The setting aside of funds is a legislative function, implicit in the legislature's power of the purse. Therefore, deposit in the Railbelt energy fund does not constitute deposit in the general fund and does not satisfy AS 44.83.398(c).

The power to make deposits in the Railbelt energy fund is also restricted under AS 37.05.153. Under the terms of the statute, money is added to the fund by legislative appropriation. Therefore, the excess payments under section 29 of the Power Sales Agreement can only be added to the fund if the legislature appropriates them to it.

The appropriation of state revenue is a legislative function. Absent statutory authorization, as in the case of bonds or revolving loan funds, an executive branch agency cannot circumvent the legislative decision-making power by entering a contract with private parties that earmarks state revenue for deposit in a particular account.

If I may be of further assistance, please advise.

TBC:gc
WKG1:067

MEMORANDUM

State of Alaska
Department of Law

TO: Mary Halloran, Director
Division of Policy
Office of Management and Budget


DATE: February 8, 1987

FILE NO.:

TEL. NO.: 465-3600

SUBJECT: Proposed amendments to HB
356 -- Bradley Lake

FROM:


James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

You have requested our advice concerning the legal effect of amendments to HB 356 sponsored by Representative Brown. The amendments were adopted by the House Finance Committee on February 5, 1988. Specifically, you directed our attention to a proposed sec. 6 added to the Judiciary Committee substitute. Section 6 provides:

* Sec. 6. NEGOTIATIONS TO REMOVE EXCESS PAYMENT TERM. If the parties to the Bradley Lake Hydroelectric [project agreement] for the Sale and Purchase of Electric Power signed December 8, 1987 undertake negotiations to amend the agreement, the Alaska Power Authority may not withhold its agreement to remove the requirement to make the excess payments as described in Section 29 of the wholesale power contract, nor may the Alaska Power Authority require concessions from the purchasers as a condition of the removal of the excess payments provision.

Section 6 is complimented by sec. 5, which was also added by Representative Brown's amendment. Section 5 has the effect of nullifying other provisions of the bill which exempt certain power sales agreements from the regulatory jurisdiction of the Alaska Public Utilities Commission (APUC).

The bill applies to agreements made by the Alaska Power Authority (APA) that were negotiated during a two-month period in late 1987. Therefore, the bill has a very narrow operative effect. It appears to apply to only one power sales agreement, that being the agreement with utilities who will be purchasing power generated by the Bradley Lake hydroelectric project. You informed us that the agreement was negotiated by APA and the utilities and that it is desirable to avoid lengthy review by APUC. The agreement has the effect of adding amounts to rates charged to consumers in excess of the usual cost items that make up the base rate. These amounts are attributed to a provision in

Mary Halloran, Director
OMB Division of Policy
Re: Proposed ams to HB 356 (Bradley Lake)

February 8, 1988
Page #2

the agreement that requires the utilities to make "excess payments" of approximately \$11 million.

Sections 5 and 6 constitute an attempt to force APA to renegotiate the Bradley Lake hydroelectric project power sales agreement. Section 5 denies an exemption from regulatory oversight for an agreement that has a provision requiring "excess payments." Section 6 attempts to control the negotiating position of APA if the Bradley Lake negotiations are reopened. Section 5 has the effect of reversing the main purpose of the bill because the agreement as written could not be exempted from APUC jurisdiction.

We believe that secs. 5 and 6 contain provisions that raise substantial legal questions. If enacted, these provisions may delay affected projects until litigation is resolved. The provisions of sec. 6 embody an attempt to direct the exercise of discretion to negotiate power sales agreements granted by law to the Alaska Power Authority. The legislature may not do that. Springer v. Philippine Is., 277 U.S. 189, 202 (1928). It may set the limits of power of an agency to act but it may not attempt to direct how the agency exercises its statutory powers. APA is empowered to negotiate with utilities. It is not appropriate for the legislature to direct it to agree to one term or another. Clearly, the legislature may generally limit APA's power to make certain types of agreements. However, it cannot direct APA in the positions or concessions it must undertake during the course of negotiations.

Section 5 may add enough specificity to this bill to cause a court to consider it to be special legislation. In our view, the bill, without secs. 5 and 6, was carefully worded and narrowly drafted so that it probably qualified as general, not special, legislation. However, only a judicial determination can conclusively establish that legislation is special or general. Abrams v. State, 534 P.2d 91 (Alaska 1975). Section 5 directly refers to the Bradley Lake agreement and appears to lead to the conclusion that this section and perhaps the entire bill is special legislation. It is arguable whether the Bradley Lake hydroelectric project has statewide interest or impact. See State v. Lewis, 559 P.2d 630 (Alaska 1977), cert. denied, 432 U.S. 901 (1977). We believe that sec. 5 must be substantially amended before it would be considered a provision of general application.

You also requested our comments concerning the severability of secs. 5 and 6 if they are found to be invalid by a court. When a court considers the severability of provisions making up a law, the most important consideration is legislative

Mary Halloran, Director
OMB Division of Policy
Re: Proposed ams to HB 356 (Bradley Lake)

February 8, 1988
Page #3

intent. Lynden Transp., Inc. v. State, 532 P.2d 700 (Alaska 1975). The court attempts to determine if the legislature would have enacted the entire law if it knew that one of the constituent parts was invalid. Here, the question is whether the legislature would have exempted the agreement from APUC jurisdiction if limitations on the inclusion of the excess payment provision is declared void. It is difficult to predict the answer that a court would supply to that question. We presume there exists legislative history to show that the exemption and secs. 5 and 6 are closely related. This history would lend support for a finding that, if secs. 5 and 6 are determined to be invalid, these provisions are not severable and that all provisions in the bill are void. We believe that the general severability clause set out in AS 01.10.030 will not suffice to resolve this question.

Let us know if you need further assistance on this matter.

JLB/pjg

cc: Art Peterson
Legislation Attorney
Department of Law

STATE OF ALASKA
THE LEGISLATURE

POUCH STATE CAPITOL
BUREAU ALASKA 99511
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 8, 1988

SUBJECT: CSHB 356 (Finance)
(APUC jurisdiction over certain activities)

TO: Representative Al Adams
Chairman
House Finance Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

Enclosed is the Committee Substitute you requested. Section 6 of the bill, limiting the Alaska Power Authority's conduct during renegotiations over the excess payments provision in the Bradley Lake Power Sales Agreement, is arguably unconstitutional, either as a violation of the prohibition on enactment of "local or special legislation" under article II, section 19 of the state constitution, or as a legislative intrusion into the prerogative of the executive responsibility to conduct negotiations on behalf of the state, a violation of the separation of powers first recognized in Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

It would be possible to remedy the problem if the legislature were to enact a general law that subjected to Alaska Public Utility Commission jurisdiction, APA contracts that required utilities to make excess payments. Excess payments could be defined as payments not required for the operation and maintenance of a project or for the retirement of debt owed on the project.

If I may be of further assistance, please advise.

Enclosure

TBC:bb
wkb2/060

(02/11/88 revision)

AMENDMENT

Elimination of Excess Payments

Page 2, Line 25 through Page 3, Line 1:

Eliminate Section 5

Page 3, Line 2 through Page 3, Line 9:

Amend as follows (renumber section)

* Sec. 5. NEGOTIATIONS TO REMOVE EXCESS PAYMENT TERM. If the parties to the Bradley Lake Hydroelectric Project Agreement for the Sale and Purchase of Electric Power signed December 8, 1987 undertake negotiations to amend the agreement, the legislature intends that the amendments should enhance consumer benefits of the project. to be in keeping with the legislature's financing of the project partly through cash grants. Removal of section 29 of the power sales agreement without requiring the purchasing utilities to make other contract changes or concessions would be consistent with the legislature's intent [THE ALASKA POWER AUTHORITY MAY NOT WITHHOLD ITS AGREEMENT TO REMOVE THE REQUIREMENT TO MAKE THE EXCESS PAYMENTS AS DESCRIBED IN SECTION 29 OF THE WHOLESALE POWER CONTRACT, NOR MAY THE ALASKA POWER AUTHORITY REQUIRE CONCESSIONS FROM THE PURCHASERS AS A CONDITION OF THE REMOVAL OF THE EXCESS PAYMENTS PROVISION].



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 13, 1988

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the authority of the Alaska Public Utilities Commission (APUC) in connection with certain activities of the Alaska Power Authority (APA) and in connection with calculating power cost equalization.

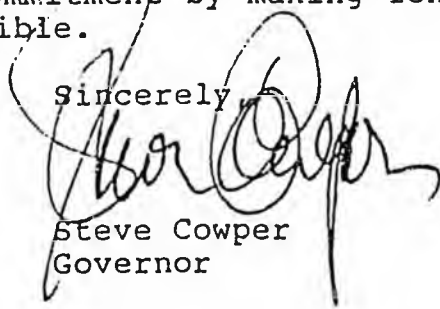
As you know, last session I vetoed HCS CSSSSB 22(Fin) on this subject. However, as stated in my June 15, 1987 veto message (1987 Senate Journal, p. 1731), my reason for vetoing that bill was its inclusion of provisions that would remove APUC regulation over some 67 small public utilities in the state. Existing law adequately provides for them. The attached bill deletes that section. Section 5 of HCS CSSSSB 22(Fin), which would have removed from the APUC's jurisdiction the review of all wholesale power agreements to which APA is a party, by declaring that the APA is not a public utility, has also been deleted. Section 1 of the attached bill provides an exemption from such APUC review and approval for the Bradley Lake project.

Two provisions in the attached bill were not contained in the vetoed bill. First, the bill proposes to amend AS 42.05.431 and 42.05.511 to allow the APA to contract with utilities to guarantee that the utilities will charge sufficient rates to cover the APA's bond obligations regarding the Bradley Lake project. Second, these same amendments expand the scope of the Bradley Lake regulatory exemption to include secondary contracts that are associated with the project. These related contracts include an agreement for wheeling and related services between Bradley Lake power purchasers and Chugach Electric Association, Inc., and an agreement for the sharing of transmission facilities between Bradley Lake power purchasers and Homer Electric Association, Inc.

Finally, like HCS CSSSSB 22(Fin), the attached bill includes the provision that prohibits power cost equalization calculations from including rates paid on military bases.

The Bradley Lake project has been the subject of extensive review by the legislative and executive branches of state government. The state has approved the Bradley Lake project and is committed to the financing of the project. This legislation implements that commitment by making long-term financing of the project feasible.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name and title.

Steve Cowper
Governor

**STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE**

No. 1

REQUEST: Rules Committee

Bill Version: HB 356 CS (JJD)
Publish Date: HOUSE 1/13/88

Revision Date: _____
Title: APUC authority in connection with
activities of the Alaska Power Authority
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: AK Power Authority
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL	(50)	(150)	(19,150)	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)


GENERAL FUND						
FEDERAL FUNDS						
OTHER *	(50)	(150)	(19,150)	-0-	-0-	-0-
TOTAL						

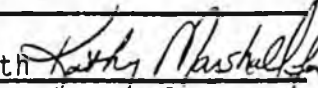
POSITIONS: *Railbelt Energy Fund

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(See attached page)

Prepared by: Robert E. LeResche  Phone: 465-3575
Division: Alaska Power Authority Date: 1/8/88

Approved by Commissioner: J. Anthony Smith  Date: 1/8/88
Agency: Department of Commerce & Economic Development

Distribution (by preparer):

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

PROGRAM SUMMARY

◦ Expenditures

It is estimated that approximately \$200,000 of additional legal fees will be incurred due to the PUC hearings process.

It is further estimated that the PUC hearings process would delay the Bradley Lake project by a year. The resulting increase in construction costs and interest during construction on the long-term debt would increase the total project costs by an estimated \$19.15 million.

◦ Funding

It is assumed that any additional Bradley expenditures would be funded by the Railbelt Energy Fund.

◦ Economic Impact

In addition to the increased costs described above and below, a delay in the Bradley Lake project would reduce the number of jobs available on the Kenai Peninsula this summer and next.

◦ Impact on Railbelt Electricity Consumers

Not passing this bill would increase the interest rate on the long-term debt for Bradley Lake in two ways. First, debt would have to be issued earlier in the construction schedule (the IDB allocation to Bradley Lake expires on 12/31/90), and completion risk becomes more of a factor. Second and perhaps more important, present law allows the PUC to reopen the contracts at any time in the future. The interest rate penalty from these two factors is estimated to be 1/2 percent. Such a penalty would increase debt service \$750,000 per year, or \$22,500,000 over the life of the bonds.

Additionally, the utilities are expected to incur approximately \$500,000 of legal expenses due to the PUC hearings process. This would be borne by the Railbelt Electricity Consumers.

- In summary, the total additional costs incurred from this bill not passing would be approximately \$42,350,000.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: APUC Commission authority re APA
and re PCE
Sponsor: Rules Committee by request of
Requestor: Governor

Agency Affected: Commerce & Economic Development
BRU: APIC
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: T.S. Moninski II Executive Director Phone: 276-6222
Division: Alaska Public Utilities Commission Date: 1/6/88
Approved by Commissioner: Lesly Marshall for J. Anthony Snelb Date: 1/6/88
Agency: Commerce & Economic Development

Distribution (by preparer):

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



January 6, 1988

The proposed legislation amends AS 42.05.431(b), which established the Commission's authority to review and approve wholesale power contracts entered into between the Alaska Power Authority and other public utilities.

When Section .431(b) was enacted in 1986, no fiscal impact was forecasted and the Commission did not receive any additional resources. The expectation was that the Commission would respond to filings pursuant to this section with existing staff. Therefore, no resultant fiscal impact is projected in response to the changes included in this bill.

go0168hX

Cramer
2/10/88

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 356 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the authority of the Alaska
7 Public Utilities Commission in connection with cer-
8 tain activities of the Alaska Power Authority, cer-
9 tain agreements among certain public utilities, and
10 calculating power cost equalization; and providing
11 for an effective date."

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

13 * Section 1. AS 42.05.431 is amended by adding a new subsection to
14 read:

15 (c) Notwithstanding (b) of this section,

16 (1) a wholesale agreement for the sale of power from a
17 project licensed by the Federal Energy Regulatory Commission on or
18 before January 1, 1987, and related contracts for the wheeling, stor-
19 age, regeneration, or wholesale repurchase of power purchased under
20 the agreement, entered into between the Alaska Power Authority and one
21 or more other public utilities or among the utilities after Octo-
22 ber 31, 1987, and before January 1, 1988, and amendments to the whole-
23 sale agreement or related contract, are not subject to review or
24 approval by the commission until all long-term debt incurred for the
25 project is retired; and

26 (2) a wholesale agreement or related contract described in
27 (1) of this subsection may contain a covenant for the public utility
28 to establish, charge, and collect rates sufficient to meet its obliga-
29 tions under the contract; the rate covenant is valid and enforceable.

1 * Sec. 2. AS 42.05.511 is amended by adding a new subsection to read:

2 (d) Validated costs incurred by a utility in connection with the
3 related contracts described in AS 42.05.431(c)(1) must be allowed in
4 the rates charged by the utility. In this subsection, "validated
5 costs" are the actual costs that a utility uses, under the formula set
6 out in related contracts described in AS 42.05.431(c), to establish
7 rates, charges for services and rights, and the payment of charges for
8 services and rights. This subsection does not grant the commission
9 jurisdiction to alter or amend the formula set out in those related
10 contracts.

11 * Sec. 3. AS 44.83.090(b) is amended to read:

12 (b) The authority is not subject to the jurisdiction of the
13 Alaska Public Utilities Commission. Nothing in this chapter [AS 44.-
14 83.010 - 44.83.425] grants the authority [ANY] jurisdiction over the
15 services or rates of a [ANY] public utility or diminishes or otherwise
16 alters the jurisdiction of the Alaska Public Utilities Commission with
17 respect to a [ANY] public utility, including any right the commission
18 may have to review and approve or disapprove contracts for the pur-
19 chase of electricity by a public utility other than wholesale agree-
20 ments and contracts described in AS 42.05.431(c)(1).

21 * Sec. 4. AS 44.83.162 is amended by adding a new subsection to read:

22 (p) In calculating power cost equalization, the commission may
23 not consider validated costs or kilowatt-hour sales associated with a
24 United States Department of Defense facility.

25 * Sec. 5. NEGOTIATIONS TO REMOVE EXCESS PAYMENT TERM. If the parties
26 to the Bradley Lake Hydroelectric Project Agreement for the Sale and Pur-
27 chase of Electric Power signed December 8, 1987, undertake negotiations to
28 amend the agreement, the legislature intends that the amendments should
29 enhance consumer benefits of the project, to be consistent with the

1 legislature's financing of the project partly through cash grants. Removal
2 of section 29 of the power sales agreement without requiring the purchasing
3 utilities to make other contract changes or concessions would be consistent
4 with the legislature's intent.

5 * Sec. 6. Sections 1 - 4 of this Act are retroactive to November 1,
6 1987.

7 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).
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COMMITTEE: HS RULES
2-15-88
DATE:

Subject of meeting:
HB 356

SIGN-IN

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
MARY HALLORAN	DIV. POLICY, GOVERNOR'S OFFICE	-3568	GOV'S OFFICE	IF THE COMMITTEE DESIRES
JACK KREINBERGER	" "	"	"	"
KURT DZINICH	Senate Advisory Council	465-3114	SAC	NO
KEN JOHNSON	ARECA 175 S. FRANKLIN JUNEAU	463-4992	ARECA	ANSWER QUESTIONS
Pat Smutz	124 Front St. Jun.	586-1620	AK AFL-CIO	No
Dow ROULEAU	Juneau	586-3101	Post Community Health	NO
Terry Cramer	Legislative Legal Services	465-2450		ANSWER QUESTIONS
D. J. ...	Rep	465-2689		NO

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/11/88

FURTHER REFERRALS:

DATE: 2/15/88

The Rules Committee has considered HB 356

"An Act relating to the authority of the Alaska Public Utilities Commission in connection with certain activities of the Alaska Power Authority and in connection with calculating power cost equalization; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published 1/13/88
- zero fiscal note same as previous zero fiscal note published 1/13/88
- zero with analysis

SIGNING DO PASS:

Mike Favore

Ben Sussman

Mark Mendenhall

SIGNING OTHER RECOMMENDATIONS:

James Huber No Rec.

Larry Martin No Rec.

Mike Favore
Chairman's signature

HB

424

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Rules:

April 12, 1988

AMENDMENTS

By Gruentey

Offered in the HOUSE

TO: CSHB 424(HESS)

#2 Page 1, line 6, after "An Act":

Delete all material.

Insert "adding a public high school student member and a representative of military reservation schools to the Board of Education; relating to the political party of persons appointed to the Board of Education; and increasing the quorum of the Board of Education."

#1 Page 1, line 28, after "state.":

Insert "The representative of the military reservation schools shall be a resident of the state."



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

AGENDA - HOUSE RULES COMMITTEE MEETING

TUESDAY, APRIL 11, 1988

HB 424 - "An Act relating to the state Board of Education."
(Representative Ellis)

INDEX

- I. MEMO/HB 424 FOR RULES COMMITTEE MEETING
- II. CSHB 424 (HESS)
- III. ORIGINAL VERSION HB 424
- IV. FISCAL NOTE-HB 424
- V. MISCELLANEOUS INFORMATION PACKET
- VI. BILL HISTORY - HOUSE JOURNAL ACTION, COMMITTEE MINUTES AND LEGISLATIVE REPORTING SERVICE INFO.

3111 C STREET, SUITE 455
ANCHORAGE, ALASKA 99503
(907) 581-7628

ALASKA STATE HOUSE

OFFICE OF MAJORITY WHIP

CO-CHAIR
HEALTH, EDUCATION & SOCIAL SERVICES

LABOR & COMMERCE
SUBCOMMITTEE ON FOREIGN TRADE

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3704



REPRESENTATIVE JOHNNY ELLIS

M E M O R A N D U M

TO: HOUSE RULES COMMITTEE MEMBERS

FROM: Representative Johnny Ellis *JE*

SUBJECT: CS HB 424 (HESS) "An Act relating to the state Board of Education."

DATE: April 11, 1988

HB 424 grants the student and military members of the state Board of Education voting privileges and makes their yearly appointments the responsibility of the Governor.

I request that HB 424 be amended to insure that the military representative is a resident of Alaska and the title reflects only the intent of this legislation.

If you have any questions, please contact me or Leola Weimer of my staff at x3705.

Thank you for your consideration.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB-424

Publish Date: _____

Revision Date: _____

Title: State Board of Education

Agency Affected: Education

BRU: Boards and Commissions

Sponsor: Ellie

Requestor: House HESS

Components: State Board of Education

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steve Hole
Division: Commissioner's Office

Phone: 465-2300
Date: 2/17/88

Approved by Commissioner: William G. Demmert
Agency: Department of Education

Date: 2/17/88

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agencies
- Senate Secretary

3111 "C" STREET, SUITE 455
ANCHORAGE, ALASKA 99503
(907) 561-7628

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3704

ALASKA STATE HOUSE

OFFICE OF MAJORITY WHIP



V.
CO-CHAIR
HEALTH, EDUCATION & SOCIAL SERVICES

LABOR & COMMERCE
SUBCOMMITTEE ON FOREIGN TRADE

REPRESENTATIVE JOHNNY ELLIS

SOME FREQUENTLY ASKED QUESTIONS

RE: CS HB 424

"AN ACT RELATING TO THE STATE BOARD OF EDUCATION."

1. What does HB 424 do?

HB 424 grants the student and military members voting privileges and makes their yearly appointments the responsibility of the Governor.

2. What is the current composition of the Board?

Currently, the state Board of Education consists of seven voting members appointed by the Governor for five-year terms. In addition, there are two advisory members appointed by the state Board of Education for one year terms; one representing the students and the other representing the military. The student and military members, however, are only advisors and have no voting privileges.

3. Why is this measure important?

This measure is important because it sends a clear message of respect and support for student and military input into the direction of Alaska's public education.

4. Who supports CS HB 424?

HB 424 has received unanimous support from the students, military, state Board of Education and NEA.

5. Is there any additional cost?

No. CS HB 424 incurs no additional cost and carries a zero fiscal note.

DEPARTMENT OF EDUCATION

STATE BOARD OF EDUCATION

March 29, 1988

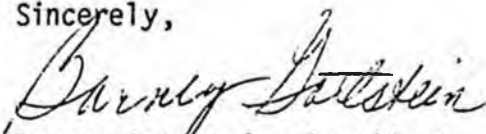
The Honorable Johnny Ellis
House of Representatives
Box V
Juneau, Alaska 99811

Dear Representative Ellis:

The State Board of Education voted at its January meeting to endorse House Bill 424 which would increase the membership of the State Board from seven voting members to nine voting members. The student and military members who have served on the Board since the mid-seventies have done so in an advisory capacity. The Board supports the notion that the segments of the education population that these two positions represent would be better served if the participants were given full voting status.

Thank you for your continuing interest in the education of Alaska's young people.

Sincerely,



Barney Gottstein, President
State Board of Education

REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2nd BRIGADE
8th INFANTRY DIVISION (LIGHT)
FORT WAINWRIGHT, ALASKA 99703-6100
March 29, 1988

Representative Johnny Ellis
1024 West Sixth Avenue
Anchorage, Alaska 99501

Dear Representative Ellis:

Please accept my sincere appreciation for sponsoring HB 424. I feel that the granting of voting privileges to the military member of the State Board of Education is an important milestone in deciding State education policies.

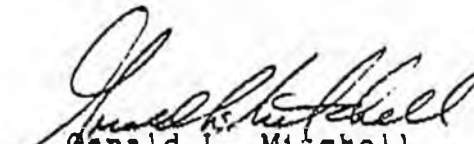
Military families comprise approximately 20% of the States's population. The military member of the State Board of Education should have an influence--a vote--on matters pertaining to the education of military school-age dependents.

Although my primary purpose as the military member of the SBE is to advise the Board on issues or matters pertaining to military students, I am also an educator. I share the same interests and concerns about educational matters as all other SBE members. Having an equal vote allows me to be fully involved in all facets of the educational process in the State.

With regard to the concern that it may not be legal for a regular officer to be appointed or elected to a position in government, I believe that, in this case, there is no conflict of interests. I will not be paid for my services; and will not be reimbursed by the State for travel. The position of Military Advisor to the State Board of Education is a duty assigned to me by the Joint Task Force, Alaska.

Thank you for your support in this matter.

Sincerely,


Gerald L. Mitchell
Major, U.S. Army
Adjutant

Student Vote Resolution

Whereas, current Alaska Statute stipulates that a student member of the Alaska Association of School Governments serve on the Alaska State Board of Education in an advisory capacity, and

Whereas, past experience has shown that the student advisory members possess sufficient levels of maturity and competence to handle the responsibility of voting; and

Whereas, policies effected by the Alaska State Board of Education have a large and direct impact on the student population, and

Whereas, students are aware of problems and situations on the education system that adults may not be immediately cognizant of, and

Whereas, other states, including California and Rhode Island, have had favorable results with having a voting student member on their State Boards of Education, and

Whereas, Alaska Girl's State 1987 and Alaska Boy's State 1987 have passed legislation supporting this concept.

Therefore, be it resolved, that the Alaska Association of School Governments supports and encourages legislative measures to increase the size of the Alaska State Board of Education by one member, establishing the student advisory member as a full voting member.



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

1411 W 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

FEV 23 1988

February 19, 1988

To: Rep. Al Adams, Chair
Members, House Finance Committee

Re: HB 424; "An Act relating to the State Board of
Education."

NEA-Alaska supports and encourages passage of HB 424.

We feel that all members of the State Board of Education
should be vested with full voting rights.

To be asked to serve on such a body but to be told that you
are not permitted to vote on matters subsequent to their
discussion and deliberation is to imply that the very
quality of your participation is of a lesser degree than
that of the other members having full voting rights.

Both the military and the student representatives, in
addition to their necessary statewide perspectives, have
responsibility to large and significant constituencies
within our structure of public education in Alaska.

We encourage that they be afforded the same rights and
privileges as the other members of the State Board of
Education.

Respectfully submitted,

Bob Manners
Executive Secretary

cc: Rep. Johnny Ellis

z19feb3

1 IN THE SENATE

BY EDUCATION

2 SENATE BILL NO. 4

3
4 IN THE LEGISLATURE OF ALASKA GIRLS STATE

5 A Bill for an Act entitled: "An Act relating to the change in membership status
6 and voting rights of the student member on the
7 State Board of Education; and providing for an
8 BE IT ENACTED BY THE LEGISLATURE OF BOYS' STATE.
ive date."

9 *Section 1. AS 14.07.075 is amended to read:

10 Creation. There is created at the head of the Department of Education
11 a Board of Education consisting of nine [seven] members. (1 ch 06 SRS 1967)

12 *Section 2. AS 14.07.085 is amended to read:

13 Appointment of members. (a) The nine [seven] members of the board, no
14 more than five [four] of whom shall be members of the same political party
15 as the governor, shall be appointed by the legislature in joint session
16 In appointing board members, the governor shall consider recommendations
17 made by recognized educational associations in the state.

18 (b) One member shall be appointed from each of the four judicial districts
19 and three from the state at large with at least one member representing
20 regional educational attendance areas. One student member shall be
21 appointed from the state at large who, during his/her term of office
22 is currently enrolled in any Alaska high school. The governor shall
23 appoint the student member only upon the endorsement of the student
24 by the Alaska Association of School Governments (A.A.S.G.) and the
25 State Board of Education currently instated. One military member

*Section 2. This Act takes effect on _____

Signed by: HOUSE SPEAKER Greg Catevich CHIEF CLERK Linda Rinkel
SENATE PRESIDENT Jennifer Brunner SENATE SECRETARY Jack Cooper
GOVERNOR Holly Curliow Date: 11 JUNE 87

1 shall be appointed from the state at large who, during his term of office,
2 is currently stationed at any military base within the state of Alaska.
3 The governor shall appoint the military member only upon the endorsement
4 of the military joint command and the State Board of Education.

5 (c) The members are entitled to the expenses, travel, and per diem
6 allowances provided by law.

7 (d) A member may act and receive compensation from the date of ap-
8 pointment until confirmation or rejection by the legislature. (1 ch 96
9 SLA 1967)

10 *Section 3. AS 14.07.095. is amended to read:

11 Term of office. The members of the board, with the exception of the
12 student member, shall be appointed for overlapping five-year terms com-
13 mencing February 1 of the year of appointment. A member appointed to
14 fill a vacancy serves for the unexpired term of the member whose vacancy
15 is filled. A vacancy occurring during a term of office is filled in the
16 same manner as the original appointment. The student member shall be
17 appointed for one, one year term commencing on the first August meeting
18 of the board and terminating at the end of the first June meeting of the
19 board. (1 ch 96 SLA 1967)

20 *Section 4. AS 14.07.105. is amended to read:

21 Quorum and chairman. (a) Five [Four] members constitute a quorum.

22 (b) The board shall designate one member of the board as the chair-
23 man who serves as chairman of the board at the pleasure of the board.
24 (1 ch 96 SLA 1967)

25 *Section 5. AS 14.07.110. is amended to read:

26 Removal. Members of the board serve at the pleasure of the governor
27 with exception of the military and student member. The military and/or
28 student members may be removed upon request of the governor and ma-
29 ority vote of the board. (1 ch 96 SLA 1967)

30 *Section 6. AS 39.05.100. is amended to read:

31 Qualifications for appointment. (a) A person appointed to a board or
32 commission of the state government, with the exception of a student ap-
33 pointee, shall be and have been before the last general election, (1) a

1 registered voter in the state, if the appointment is made at large or (2)
2 a registered voter from the judicial district, if the appointment is made
3 from a specific judicial district.

4 (b) A member of a board or commission of the state government who ceases
5 to reside in the state during the member's term terminates membership on the
6 board or commission. For the purposes of this section, the acceptance of
7 employment outside the state for a six-month period or longer, or physical
8 absence from the state for one year or longer, or registration as a voter in
9 a voting precinct outside the state is considered as discontinuing residence
10 in the state. (ch 64 SLA 1955; am ch 167 SLA 1957)

11 *Section 7. AS 44.19.130. is amended to read:

12 Appointment to boards and commissions. (a) Notwithstanding AS 39.03.100
13 or a provision of law relating to age, the governor may appoint any resident
14 of Alaska to a board or commission if recommended by the commission.

15 (b) A young person recommended by the commission may be appointed to
16 boards or commissions with or without special qualifications for membership
17 if the proposed nominee, except for age, meets the required qualifications
18 as set by law.

19 (c) An individual appointed to a board or commission under this section
20 is entitled to the rights, privileges, and responsibilities of other mem-
21 bers, and the appointment is subject to confirmation by the legislature
22 when required by law. No additional seat on a board or commission is cre-
23 ated by virtue of AS 44.19.123--44.19.130. (ch 121 SLA 1971)

Media
Refer to [unclear]
Tell me what N [unclear]
FEB 5 1988

MEMORANDUM

February 5, 1988

SUBJECT: House Bill 424, relating to the composition
of the State Board of Education

TO: Representative Johnny Ellis

FROM: Jack Chenoweth *JC*

May I submit the enclosed for addition to the record as the House considers the above-captioned bill.

The author of the letter served five years as the advisory military representative on the State Board of Education, concluding his service this past summer due to his reassignment to a Florida Air Force Base.

Enclosure



DEPARTMENT OF THE AIR FORCE
AIR FORCE SYSTEMS COMMAND REGIONAL HOSPITAL EGLIN (AFSC)
EGLIN AIR FORCE BASE, FLORIDA 32542-6300

22 Jan 88

Dear State Board Members.

Recently, I was asked to proffer an opinion regarding the military advisor position on the State Board of Education. Specifically, the question was raised whether the military advisor should be a voting member or remain in an advisory capacity. As in most things, I do have an opinion!

Evaluating my own role and overall effectiveness for the last five years as a non-voting advisory member is better left to your judgement. However, I certainly came to one conclusion, and that was in regard to the student member. I watched four young adults spend their time and energy, often to the detriment of their grades, and certainly for the most part not a lot of fun, dedicate themselves to the issues as tenaciously as any of the more senior members. The question is then, why shouldn't they vote, assuming the political climate is right for such a change? I respected their opinions but sometimes wondered if those opinions were brushed aside because they did not have the weight of a valid vote. I suspect that I am correct. Not when the issues were relatively innocuous but when they became more emotional and heated. And as they did, shorter attention was paid to either advisory members comments. This is certainly not to be condemnatory, but merely a philosophical observation. I believe, of human nature.

Should the military member vote? As with all the board members, the time I spent on Board duties impacted on my private and professional life. Should my time spent be any less 'important' than theirs? The implication being that if the advisory member was not present, it certainly did not affect the legal status of the board. The question was raised by legal counsel in 1983, although ignored, whether advisory members could even sit in executive session. Somewhat demeaning wouldn't you think? The military in the State of Alaska I suspect, approaches fifteen percent of the total population or even better. Although I never really thought of myself as 'representing' only the military of Alaska, it is certainly viewed that way by many others and presumed that we could act on matters that impacted the military member or their families. I believe that is a sizeable responsibility and should be honored with a valid vote.

The real danger is for the advisory member to lose interest and is probably more critical for the military member than the student, due to the normal tenure of one year for the student. If your comments are not taken seriously, if it does not really matter if you are present or not, and if you come and go rather more frequently than the regular member it is easy to not take any issue too seriously. Whether this happens to others I cannot say, but it did on occasion happen to me. I would not have lasted with the first board because of the closed attitude they appeared to have toward the advisory members. The second board was about one-half of the present members. The second board more open and easier to work with. The present board? Only the current advisory members can say. I say they should vote, why not ask them?



ROGER K. STROSNIDER, Colonel, USAF, DC
Base Dental Surgeon

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. HESS February 18, 1988
H. FIN. MARCH 16, 1988

AMENDMENTS

By Gruentey

Offered in the HOUSE

TO: CSHB 424 (HESS)

#2 Page 1, line 6, after "An Act":

Delete all material.

Insert "adding a public high school student member and a representative of military reservation schools to the Board of Education; relating to the political party of persons appointed to the Board of Education; and increasing the quorum of the Board of Education."

relating to residency requirements for the members of the Bd. of Education

#1 Page 1, line 28, after "state.":

Each Member

Insert "The representative of the military reservation schools shall be a resident of the state."

House Rules Committee

4-12-88

8:00 AM

Present: Navane, Grussendorf, Hoffman,
Martin, Pettyjohn, Boucher, Gruenberg

Navane: Distribute NCSL report,
briefing tomorrow morning

HCR 41

Ellis: on HCR 41 - known as the logjam
bill - goes through the changes by
the Judic. Comm. (page I of file)

Martin: on line 21 and 22 add

Max: say Conference Comm. and strike
"line 21 would read - no conference
committee may be submitted after ...

Pettyjohn: 120 day session but first day
doesn't count and refers to the numbered
days in the bill, 114th day, 95th day,
etc. ...

Gruenberg: ^{need a} formal definition of a Legislative day.

Gruenberg: first session different from second session

on line 15 -16 add "of the second session"
same on line 17 -18 and would have to
add it on line 14 also

Ellis: There would be no deadlines in the
first session, public is just as concerned

Pettyjohn: reserve these guidelines for appropriations
bills

Gruenberg - moved bill w/ ind.v. recommendations
- no objections -

Navane - next bill HB424

Gruenberg: #1 gets around the constitutional
problem - (7th day adventists)

Navane: Members of the Bd. of Ed. shall
be residents of the state

Gruenberg: Amend amendment #1 - no objections
Amend #2 - moved - no objections
moved bill - no objections

Navane - Rich Jones, Brian Weaver -

HCR

12

(File 1) 3-27-87



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

HOUSE RULES COMMITTEE MEETING
FRIDAY, MARCH 27, 1987
7:00 A.M. - ROOM 208

HCR 12 - Proposing amendments to Rule 23 of the Uniform Rules of the Alaska State Legislature relating to committee meetings.
(By the Rules Committee)

I N D E X

- I. MEMORANDUM - To House Rules Committee Members from Rep. Navarre
- II. HCR 12
- III. COMPARISON - CURRENT UNIFORM RULE 23 - PROPOSED UNIFORM RULE 23 AND ANALYSIS
- IV. FISCAL NOTE - HCR 12
- V. UNIFORM RULES ALASKA STATE LEGISLATURE



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

MEMORANDUM

March 27, 1987

To: House Rules Committee Members

From: Rep. Mike Navarre^{MN}, Chairman
House Rules Committee

Subject: BACKGROUND INFORMATION ON UNIFORM RULE 23 - RELATING
TO THE WEEKLY COMMITTEE SCHEDULE PROVISION.

The two sentences which separate committee meeting notifications into a "5-day notice" and a "weekly committee schedule" requirement, create the largest problem area within the entire Uniform Rules. This proposed rules change would remove the current "weekly committee schedule" requirement and provide for a 5-day notice requirement.

It is extremely critical to note that no matter what day of the week the current weekly committee schedule would be maintained, it would cause the same situations which are outlined below.

The only current provision for adding a bill or a joint resolution which does not appear on this weekly schedule is by submitting a Concurrent Resolution suspending Rule 54 which allows for suspension of the Uniform Rules. (27 Vote Requirement for suspension of Rules for the House and 14 Vote Requirement for the Senate) This creates a tremendous amount of paperwork and must be passed with the bill or joint resolution on the Senate side also. In the final hours of adjournment, these resolutions become even more cumbersome and can get overlooked and separated from the bill they were originally passed with to the opposite body.

During the first session of each legislature in particular, a large turn-over of representatives in the House creates a lot of new staff members. A significant amount of time is lost within the committee process mainly attributed to these two separate notice requirements.

This proposal would allow bills to be scheduled for hearings from the first day of the session each year. Currently in order to legally comply with the Rules, a chairman would have to wait until Thursday to schedule their bills for hearings.

Under Rule 23(a), if a new bill is sent to a committee on a Friday, the chairman cannot give notice of a hearing on that bill until the following Thursday and could not hear the bill until the following Tuesday. This is a time frame of at least 12 days. A bill which has had a previous hearing in the same situation would require at least eleven days.

Senate Bills.....

The serious problems relating to Rule 23 occur when the 120-day session limit is close and the conference committee on the budget is not appointed (*by both bodies). We are unable to go into the 24-hour notice provision included within Uniform Rule 23(d). At this stage, Senate bills are impacted by the current version of Rule 23.

Senate bills which are referred to the House may require an 11-day time frame before they can be heard in a House committee. Because of this, house committees are not given adequate time to hear the senate bills.

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.

CURRENT VERSION

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. Rule 23 of the Uniform Rules of the Alaska State Legisla-
10 ture is amended to read:

11 RULE 23. COMMITTEE MEETINGS. (a) At least five days before the
12 meeting, written [WRITTEN] notice of the time, place and subject
13 [MATTER] of all meetings of standing, special, and joint committees
14 [DURING A WEEK] shall be provided by the person who chairs the commit-
15 tee. If the subject of the meeting includes consideration of a bill
16 or resolution, the notice shall identify the bill or resolution by
17 number. If the legislature is in session, notice shall be given to
18 the chief clerk or secretary by 3:00 [4:00] p.m. If the legislature
19 is not in session the notice shall be provided to a Legislative Infor-
20 mation Office. The office to which the notice is provided shall
21 distribute the notice to each other Legislative Information Office or
22 Legislative Teleconference Center that is open during the interim [ON
23 THE PRECEDING THURSDAY. THE PERSON WHO CHAIRS THE COMMITTEE TO WHICH
24 A BILL OR RESOLUTION IS FIRST REFERRED SHALL PROVIDE TO THE CHIEF
25 CLERK OR SECRETARY WRITTEN NOTICE OF THE TIME AND PLACE OF THE FIRST
26 PUBLIC HEARING ON THE BILL OR RESOLUTION AT LEAST FIVE DAYS BEFORE THE
27 HEARING].

PROPOSED VERSION

28 (b) The notice requirement of (a) of this rule [HOWEVER, THIS
29 REQUIREMENT] may be waived by motion of the person who chairs the
1 committee to which a bill or resolution is [FIRST] referred if con-
2 curred in by majority vote of the full membership of the house.
3 (c) The chief clerk or secretary shall publish and distribute
4 each day the house is in session a [COPIES OF THE WEEKLY] schedule of
5 committee meetings scheduled for the next seven days [AND OF THE
6 FIVE-DAY NOTICE OF HEARING].

Section 1. Rule 23 of the Uniform Rules

This proposed resolution would break Rule 23(a) into three parts; (a), (b) and c.

ANALYSIS

Rule 23(a) proposes to eliminate the "weekly committee schedule" provision entirely and instead maintain a 5-day written notice on all legislation.

Added wording which clarifies currently understood policy; which is that if the subject of a meeting includes consideration of a bill or resolution, the notice must be identified by number.

Added to Rule 23(a) is a provision which would require that meeting notifications be distributed to the Legislative Information Offices or Legislative Teleconference Centers that are open during the interim.

Rule 23(b) - previously included in current version of Rule 23(a), relates to waiver requirements and states that notice requirements may be waived by a motion if concurred in by a majority vote of the full membership of the house. This provision previously related to bills of first referral only.

Rule 23(c) - previously included in current version of Rule 23(a) and required a once a week publication of the schedule; this version provides that the chief clerk or secretary publish and distribute each day the house is in session a schedule of committee meetings scheduled for the next seven days. We currently use this system, and have found it much more efficient. Notifications of cancellations, meetings which are continued within the week at another time, etc., may be added to the schedule throughout the week giving more adequate public notice.

055615

(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.

CURRENT VERSION

7 (d) The place of a scheduled meeting of a standing, special, or
8 joint committee may be altered or the time or subject postponed at
9 any time. [(b)] The person who chairs the [A STANDING, SPECIAL, OR
10 JOINT] committee shall provide the chief clerk or secretary written
11 notice of the change. Notice [IN THE TIME, PLACE OR SUBJECT MATTER OF
12 A MEETING. AT THE NEXT DAILY LEGISLATIVE SESSION, NOTICE] of the
13 schedule change shall be [ANNOUNCED BY THE CHIEF CLERK OR SECRETARY
14 AND] published as a notice in the journal of the house and, if a
15 regular floor session occurs before the time of the changed meeting,
16 the schedule change shall be announced.

PROPOSED VERSION

Rule 23(d) previously 23(b), rewrites this section to comply with the proposed 5-day notice of meetings. Referring to meetings as altered or postponed and removing the language [changed], will eliminate the confusion which has been created by the word changed. [Changed] is continually interpreted to mean a committee could actually change (i.e., add new bills) to their schedule.

This section also requires that meetings altered or postponed must be announced on the floor if a regular floor session occurs before the time of the changed meeting. This strengthens current policy. Note: in order to alter a meeting, you must consider 23(a) which requires the five day notice requirement which may only be waived by a motion and concurred in by a majority vote of the full membership 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.

CURRENT VERSION

17 (e) [(c)] A scheduled meeting of a standing, special, or joint
18 committee may be cancelled or consideration of a scheduled bill,
19 resolution, or other subject may be cancelled at any time. Notice [IF
20 POSSIBLE, NOTICE] of the cancellation shall be given in the same
21 manner as provided for notice of change in (d) [(b)] of this rule.

PROPOSED VERSION

Rule 23(e) - previously 23(c), defines actual intent of this section to currently understood policy. Previously, this section only allowed for a meeting to be cancelled; 23(e) adds provisions for cancellation or postponement of a single bill, resolution, or subject.

ANALYSIS

(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.

CURRENT VERSION

22 (f) [(d)] The provisions of (a) - (d) [AND (b)] of this rule do
23 not apply to a standing, special, or joint committee meeting scheduled
24 after the date a conference committee has been chosen to consider
25 amendments to or differences between versions of the general appro-
26 priation act. However, a person who chairs a standing, special, or
27 joint committee shall post written notice of the time, place, and
28 subject [MATTER] of a meeting at least 24 hours before the meeting.
29 If the subject of the meeting includes consideration of a bill or
1 resolution, the notice shall identify the bill or resolution by num-
2 ber.

PROPOSED VERSION

Rule 23(f) - Reflects the breakdown of Rule 23(a) into (a), (b), and (c) into three separate sections and shows that the provisions now relate to (a) - (d). New language adds a provision which requires that the notice identify the bill or resolution by number.

ANALYSIS

(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;

CURRENT VERSION

(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.

3 (g) [(e)] The provisions of (a) - (f) [(d)] of this rule do not
4 apply to meetings of
5 (1) the Rules Committee when it meets for the purpose of
6 preparing the daily calendar;
7 (2) the Committee on Committees referred to in Rule 1(e);
8 or
9 (3) standing, special, or joint committees during a special
10 session [WHEN THE COMMITTEE MEETS DURING THE INTERIM BETWEEN SES-
11 SIONS].

PROPOSED VERSION

Rule 23(g) - Reflects the breakdown of Rule 23(a) into 3 sections. The provisions of (a) - (d) now relate to (a) - (f). Rule 23(g) is changed to exempt special sessions from the provisions included within Rule 23(a) - (f), which would be impossible to comply with during special sessions.

ANALYSIS

Rule 23(g) - (3) originally stated that the provisions do not apply to a committee which meets during the interim. We have added the requirement of notification requirements during the interim into 23(a), which requires notification be distributed to the Legislative Information Offices and Legislative Teleconference Offices during interim.

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

CURRENT VERSION

(2) shall prepare minutes of each meeting of the committee on a standard form prescribed jointly by the Rules Committees of the house and the senate; the minutes shall include

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

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

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

(D) each amendment formally considered by the committee, the name of the member moving adoption of the amendment, the action taken on the amendment, and the yeas and nays if a committee member has requested a roll call vote on adoption of an amendment;

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

(4) may make available to the Legislative Affairs Agency a copy of all minutes of committee meetings during the session for entry of the minutes as a data base on the legislative computer system.

12 (h) [(f)] Each standing, special, and joint committee

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

15 (2) shall prepare minutes of each meeting of the committee
16 on a standard form prescribed jointly by the Rules Committees of the
17 house and the senate; the minutes shall include

PROPOSED VERSION

18 (A) a list of the names of each member present during
19 the meeting;

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

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

24 (D) each amendment formally considered by the committee,
25 the name of the member moving adoption of the amendment, the
26 action taken on the amendment, and the yeas and nays if a committee
27 member has requested a roll call vote on adoption of an
28 amendment;

29 (3) shall maintain a chronological file of minutes, copies
1 of which shall be made available upon request to committee members and
2 the public; committee minutes, tapes and other materials of research
3 value shall be delivered by the committee at the end of each session
4 or each legislature to the legislative reference library for appropriate
5 disposition;

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

Rule 23(h) - changes from (f) to (h) to indicate previous changes. Rule 23(h) 4 amends current version to state that committees shall, rather than may, make their minutes available to Legislative Affairs Agency for entry into the state's computer system. This is consistent with present procedure.

ANALYSIS

10 (i) The provisions of (a) - (h) of this rule do not apply to
11 subcommittees of standing, special, or joint committees. However,
12 reasonable notice of the time, place, and subject of a subcommittee
13 meeting shall be provided. If the subject of the subcommittee meeting
14 includes consideration of a bill or resolution, the notice shall
15 identify the bill or resolution by number.

PROPOSED VERSION

Rule 23(i) - This is an entirely new section which has been added which exempts subcommittees from the requirements of committee meetings within the Uniform Rules, however, requires a "reasonable" notification (which relates to the definition of the open meetings law contained in the Statutes) of time, place and subject of a subcommittee meeting and specifically requires that if a subcommittee meeting list a number of a bill or resolution.

ANALYSIS

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

IV

REQUEST: _____

Bill Version : HCR 12
Publish Date : _____

Revision Date: _____

Agency Affected : none

Title : Propos. amend. to Uniform Rule 23
re: committee meetings

BRU: _____

Sponsor : Rules Committee

Components : _____

Requestor : Rules Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars) n/a

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS: n/a

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by : Rep. Mike Navarre, Chairman
Division : House Rules Committee

Phone : 465-3764
Date : March 26, 1987

Approved by Commissioner : _____
Agency : _____

Date : _____

Distribution (by preparer) :

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

- ANALYSIS - ANALYSIS - ANALYSIS - ANALYSIS - ANALYSIS -

HOUSE CONCURRENT RESOLUTION 12
(BY THE RULES COMMITTEE)

Proposing amendments to Rule 23 of the Uniform Rules of the Alaska State Legislature relating to committee meetings.

Section 1. Rule 23 of the Uniform Rules

This proposed resolution would break Rule 23(a) into three parts; (a), (b) and c.

Rule 23(a) proposes to eliminate the "weekly committee schedule" provision entirely and instead maintain a 5-day written notice on all legislation.

Added wording which clarifies currently understood policy; which is that if the subject of a meeting includes consideration of a bill or resolution, the notice must be identified by number.

Added to Rule 23(a) is a provision which would require that meeting notifications be distributed to the Legislative Information Offices or Legislative Teleconference Centers that are open during the interim.

Rule 23(b) - previously included in current version of Rule 23(a), relates to waiver requirements and states that notice requirements may be waived by a motion if concurred in by a majority vote of the full membership of the house. This provision previously related to bills of first referral only.

Rule 23(c) - previously included in current version of Rule 23(a) and required a once a week publication of the schedule; this version provides that the chief clerk or secretary publish and distribute each day the house is in session a schedule of committee meetings scheduled for the next seven days. We currently use this system, and have found it much more efficient. Notifications of cancellations, meetings which are continued within the week at another time, etc., may be added to the schedule throughout the week giving more adequate public notice.

Rule 23(d) previously 23(b), rewrites this section to comply with the proposed 5-day notice of meetings. Referring to meetings as altered or postponed and removing the language [changed], will eliminate the confusion which has been created by the word changed. [Changed] is continually interpreted to mean a committee could actually change (i.e., add new bills) to their schedule.

This section also requires that meetings altered or postponed must be announced on the floor if a regular floor session occurs before the time of the changed meeting. This strengthens current policy. Note: in order to alter a meeting, you must consider 23(a) which requires the five day notice requirement which may only be waived by a motion and concurred in by a majority vote of the full membership of the house.

Rule 23(e) - previously 23(c), defines actual intent of this section to currently understood policy. Previously, this section only allowed for a meeting to be cancelled; 23(e) adds provisions for cancellation or postponement of a single bill, resolution, or subject.

Rule 23(f) - Reflects the breakdown of Rule 23(a) into (a), (b), and (c) into three separate sections and shows that the provisions now relate to (a) - (d). New language adds a provision which requires that the notice identify the bill or resolution by number.

Rule 23(g) - Reflects the breakdown of Rule 23(a) into 3 sections. The provisions of (a) - (d) now relate to (a) - (f). Rule 23(g) is changed to exempt special sessions from the provisions included within Rule 23(a) - (f), which would be impossible to comply with during special sessions.

Rule 23(g) - (3) originally stated that the provisions do not apply to a committee which meets during the interim. We have added the requirement of notification requirements during the interim into 23(a), which requires notification be distributed to the Legislative Information Offices and Legislative Teleconference Offices during interim.

Rule 23(h) - changes from (f) to (h) to indicate previous changes. Rule 23(h) 4 amends current version to state that committees shall, rather than may, make their minutes available to Legislative Affairs Agency for entry into the state's computer system. This is consistent with present procedure.

Rule 23(i) - This is an entirely new section which has been added which exempts subcommittees from the requirements of committee meetings within the Uniform Rules, however, requires a "reasonable" notification (which relates to the definition of the open meetings law contained in the Statutes) of time, place and subject of a subcommittee meeting and specifically requires that if a subcommittee meeting list a number of a bill or resolution.

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UNIFORM RULES

ALASKA

STATE LEGISLATURE

ADOPTED 1981

by the

TWELFTH LEGISLATURE - FIRST SESSION

AS AMENDED 1985

BY THE

FOURTEENTH LEGISLATURE - FIRST SESSION

Legislative Affairs Agency

HCR

12

(FILE 2) 1-26-88



Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

P.O. Box V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

AGENDA - HOUSE RULES COMMITTEE MEETING

JANUARY 26, 1988 8:00a.m.

HCR 12 - Proposing amendments to Rule 23 of the Uniform Rules of the Alaska State Legislature relating to committee meetings.

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- I. CS HCR 12 (RULES)
- II. MEMO - DATED JANUARY 25, 1988 - proposed changes to HCR 12
- III. HCR 12 **PROPOSED CHANGES ARE MARKED ON THIS VERSION**
- IV. MEMO - DATED MARCH 27, 1987 "BACKGROUND INFORMATION RELATING TO THE WEEKLY COMMITTEE SCHEDULE PROVISION"
- V. ALASKA LEGISLATIVE PROCEDURES STUDY FINAL REPORT PREPARED BY NCSL MAY 15, 1983 (pages 9 - 10)
- VI. FISCAL NOTE - 1988 VERSION
- VII. BILL HISTORY - HCR 12 - HOUSE ACTION ON HCR 12
- VIII. MISCELLANEOUS PROPOSED RULES CHANGES SUBMITTED BY REP. GRUENBERG FOR DISCUSSION

5-0408B
Cook
1/19/88

Original sponsor: Rules Committee

1 IN THE HOUSE BY THE RULES COMMITTEE

2 CS FOR HOUSE CONCURRENT RESOLUTION NO. 12 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 Proposing amendments to Rule 23 of the
6 Uniform Rules of the Alaska State Legis-
7 lature relating to committee meetings.

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

9 * Section 1. Rule 23 of the Uniform Rules of the Alaska State Legisla-
10 ture is amended to read:

11 RULE 23. COMMITTEE MEETINGS. (a) At least five days before the
12 meeting, written [WRITTEN] notice of the time, place and subject
13 [MATTER] of all meetings of standing, special, and joint committees
14 [DURING A WEEK] shall be provided by the person who chairs the commit-
15 tee. If the legislature is in session, notice shall be given to the
16 chief clerk or secretary by 3:00 [4:00] p.m. If the legislature is
17 not in session the notice shall be provided to a Legislative Infor-
18 mation Office. The office to which the notice is provided shall
19 distribute the notice to each other Legislative Information Office or
20 Legislative Teleconference Center that is open during the interim [ON
21 THE PRECEDING THURSDAY. THE PERSON WHO CHAIRS THE COMMITTEE TO WHICH
22 A BILL OR RESOLUTION IS FIRST REFERRED SHALL PROVIDE TO THE CHIEF
23 CLERK OR SECRETARY WRITTEN NOTICE OF THE TIME AND PLACE OF THE FIRST
24 PUBLIC HEARING ON THE BILL OR RESOLUTION AT LEAST FIVE DAYS BEFORE THE
25 HEARING].

26 (b) The notice requirement of (a) of this rule [HOWEVER, THIS
27 REQUIREMENT] may be waived by motion of the person who chairs the
28 committee to which a bill or resolution is [FIRST] referred if con-
29 curred in by majority vote of the full membership of the house.