

ALASKA
STATE LEGISLATURE

LEGISLATIVE COUNCIL

BOX 2199-JUNEAU

November 13, 1962

MEMORANDUM

SUBJECT: Tentative Printing of the Revised Uniform Rules
TO: Members of the Legislative Council

Enclosed you will find a tentative printing of the revised Uniform Rules of the Legislature reflecting the decisions of the Council at its meeting of October 20-21.

You will recall that there was one rule or segment of a rule which yet requires a Council decision, i.e., Rule 40 (e) which pertains to treatment of bills containing changes to rules of the court which, under provisions of Sec. 15, Art. IV, require a two-thirds vote in each house.

Since the October meeting Senator Pollock has drafted a suggested rewrite of Rule 40 (e) (not the one included in the tentative version of the Rules attached) and pursuant to the Council directive the draft was submitted to Thomas B. Stewart, Administrative Director of Courts, for his review and comment. Senator Pollock's proposed amendment is attached to this letter as Exhibit #1 and the letter and alternate draft suggested by Mr. Stewart are attached as Exhibit #2.

I am receiving requests from members and members-elect for copies of the Uniform Rules so I am sending requestors a copy of the revised rules with a notation that the Council has yet to make a decision on Rule 40 (e) which will be considered at the December 12-15 meeting.



John C. Doyle
Executive Director

JCD:vd
Encl.

AMENDMENT TO RULE 40 (e) PROPOSED BY SENATOR POLLOCK

e. If a bill or portion of a bill purports to change a court rule promulgated by the supreme court for governing practice and procedure in civil or criminal cases, the bill must contain a section expressly citing the rule and noting what change is being proposed. The section containing a change in a court rule must be approved by an affirmative vote of two-thirds of the membership to which each house is entitled in accordance with the requirement of Sec. 15, Art. IV, Alaska State Constitution. If the section effecting a change in the court rule fails to receive the required two-thirds vote, the section is void and is deleted from the bill, and the balance of the bill, if approved by an affirmative vote of a majority of the membership to which each house is entitled, shall not have the effect of changing a court rule. If the bill is intended only to change the court rule and serves no other purpose, the entire bill fails without an affirmative vote of two-thirds of the membership to which each house is entitled.

RULE 40 (e) AS SUGGESTED BY MR. THOMAS B. STEWART

Rule 40.

e. If a bill or portion of a bill contains matter changing a supreme court rule of practice or procedure in civil or criminal cases in any court, the bill shall contain a section expressly stating the intent or purpose to change such rule. No bill changing rules governing practice and procedure in civil and criminal cases in any court may become law without an affirmative vote of two-thirds of the members elected to each house.

SUGGESTED CHANGES TO PROPOSED RULES:

Rule 3. On line 8, before the period insert:

"to serve for the two-year duration of the legislature!"

Rule 4(2) after "serve" delete the remainder of the sentence and insert "until replaced"

Rule 11. On lines 2 and 3 delete ", with the unanimous consent of the members present,"

Rule 21. The first sentence could be rephrased to read:

"The Rules Committee of each house is responsible for the preparation of the daily calendar for distribution to each member on the day preceding the next legislative day. Pending the printing of the calendar the contents of the calendar may be announced or posted."

Rule 25. Add new sentence:

"The committee chairman shall preside at all meetings unless he designates a vice chairman to act in his absence at a particular meeting."

Rule 26a. Delete the second sentence and insert:

"Committee reports must be in writing and the recommendation must be signed by a majority of the members of the committee. The report will note the recommendations of members not signing the majority report."

Rule 39. See p. 2, attached hereto.

Rule 40. See p. 3, attached hereto.

Suggested addition to Rule 39:

b. The original copy of a bill or resolution, or any substitute therefor, remains at all times in the custody of the chief clerk or secretary. When the original copy has been photographed for duplication each page of the bill is then marked or stamped "original copy". The first carbon copy of the original bill is jacketed and marked "committee copy" and is delivered on receipt to the chairman of the committee of first reference. The "committee copy" is the official copy used to accompany committee reports and the messages transmitting the document between houses. If the committee copy is lost or is not otherwise available a certified photocopy of the original copy may be used. The original of the enrolled copy is used for certification by each house for transmittal to the Governor.

SUGGESTED REVISION OF RULE 19 -

RULE 19. A call of the house is used to compel the attendance of absent members. When no quorum is present the presiding officer of the house may compel the attendance of individual absent members; otherwise the house must either order a call or adjourn. [When no quorum] is present A call of the house may be ordered by one-~~fourth~~^{fourth} of the membership to which the house is entitled. [When a quorum is present, a call may be ordered by ~~three~~^{one}-fourths of the membership to which the house is entitled.]

FURTHER REVISION OF RULE 21.

RULE 21. The Rules Committee of each house is responsible for the preparation of the daily calendar for distribution to each member on the day preceding the next legislative day. Pending the printing of the calendar the contents of the calendar may be announced or posted. Changes to a calendar or approval of a supplementary calendar may be authorized by the house. The committee may prepare a "consent calendar" for Saturdays to allow for the expeditious consideration of those bills and resolutions it deems to be non-controversial. The Saturday "consent calendar" shall be published and distributed on the preceding Thursday. No business shall be transacted nor any measure considered that is not on the calendar. A bill may not be withdrawn from the Rules Committee but two-thirds of the membership of the house may order a bill in the possession of the Rules Committee placed on the calendar for the next legislative day.

SUGGESTED REVISION OF RULE 32.

RULE 32. a. A member who voted on the prevailing side of of a motion, bill or resolution may give notice of his intention to move for a reconsideration on the next legislative day; however, two-thirds of the membership of the house may order the reconsideration taken up on the same day that the notice of reconsideration is given.

b. When a notice of intent to reconsider is given, the notice is recorded in the journal and the clerk or secretary may not report the measure to the other house until the reconsideration is disposed of, or the time for moving reconsideration has expired. The time for moving the reconsideration expires at adjournment of the session on the next legislative day unless a majority of the members present agree to extend the period for an additional legislative day. No notice of reconsideration is in order on the last two days of the session.

c. When a notice of reconsideration has been given, any member may move on the next legislative day for reconsideration of the question.

d. The motion for reconsideration opens for debate the question to be reconsidered and has precedence over every other motion except a motion to adjourn. (When a vote is reconsidered that vote is cancelled as completely as though it had never been taken. (Thus, the question immediately recurs upon the matter reconsidered.) There may be but one reconsideration even though the action of the house after reconsideration is opposite the action of the house before reconsideration.

SUGGESTED AMENDMENT TO RULE 42 - pp. 20-21

On p. 21 add a subsection e.

e. Any bill which shall have the effect of changing the rules promulgated by the Supreme Court for governing practice and procedure in civil and criminal cases in the court shall state in a separate paragraph the intent of changing^{the}/court rule. While other portions of the bill may become law with an affirmative majority of the membership of each house, these provisions of the bill purporting to change the court rule will fail and be void without an affirmative vote of two-thirds of the membership of each house, pursuant to provisions of Sec. 15, Art. IV of the state constitution.