

Alaska State Legislature

Select Committee on Legislative Ethics

716 W. 4th Ave., Suite 230
Anchorage, AK 99501
(907) 269-0150
FAX: 269-0152

Mailing Address:
P. O. Box 101468
Anchorage, AK
99510 - 1468

MINUTES from August 8, 2012 FULL COMMITTEE MEETING Anchorage LIO Library, Room 210 (Teleconferenced)

DRAFT

- 1. CALL THE MEETING TO ORDER:** Chair Herman Walker, Jr., called the meeting to order at 9:05 a.m. Members present: Toni Mallott, Representative Chris Tuck (arrived at 9:15). Members present via teleconference: Senator John Coghill, Dennis “Skip” Cook, Representative Craig Johnson, Senator Gary Stevens (leaves at 9:15), H. Conner Thomas, Gary Turner. Staff present: Joyce Anderson, Administrator. Also present via teleconference: Chair Herman Walker, Jr., Dan Wayne, LAA Legal

Others present: Franklin Andrews, Sen Davis’ office

- 2. APPROVAL OF AGENDA:** Motion made by Member Thomas to approve the agenda as written. No objection. Motion passes.
- 3. PUBLIC COMMENT:** None.
- 4. ADVISORY OPINION 12-04 - Requested by Ethics Committee: Legislative Links on Campaign websites and other Campaign Materials:** Chair Walker asked that Mr. Wayne provide an overview of the opinion. Mr. Wayne stated that the question before the committee is legislative links on campaign websites; i.e., links to webpages that were created with legislative resources. He stated that in drafting the opinion, he relied on advice from AO 07-07, which addressed campaign door knocking and handing out a legislative business card, as well as the advice that the committee has been providing since then. The draft opinion states that the Ethics Act would prohibit a link on a campaign web page that takes the reader to a legislative web page containing a legislator’s contact information.

Senator Stevens asked the committee to clarify Mr. Wayne's recommendation, and asked if he was saying that there should not be any links. Mr. Wayne responded that the draft opinion relied on previous advice and applied that rationale to this situation. He further stated that if the committee was going to be consistent with previous advice, it follows the committee would advise not placing electronic legislative links on their campaign websites if they were created with legislative resources.

Chair Walker asked a member to make a motion to approve Advisory Opinion 12-04, as drafted. Senator Coghill stated that he agreed with the conclusion but asked members to explain the gray areas that prompted the advisory opinion or issues previously brought forth for discussion. Member Thomas motioned to approve Advisory Opinion 12-04, for the record. Chair Walker thanked Member Thomas and apologized for interrupting Senator Coghill and invited Senator Coghill back to the floor.

Senator Coghill asked if there was a challenge to the previous opinion. He stated that he did not see anything solid enough to put on a campaign website. He asked if there were gray areas he was missing. Chair Walker asked Ms. Anderson if she could provide some background for the issuance of the opinion.

Ms. Anderson explained to the members that the office has received numerous inquiries from legislators and their offices about putting a link to a legislative website on a campaign website. The callers indicated that the information on a legislator's legislative website is informational in nature and they did not understand why a link could not be put on their campaign website. She stated that her advice included referencing AO 07-07, which determined legislative contact information is a legislative resource. A legislator's web site contains legislative contact information and, therefore, a link to their legislative web site could not be provided on a campaign website. Many of the callers did not agree with the given reason and felt that the link should be allowed. Ms. Anderson explained that she had discussed the advice with the Chair and suggested an opinion was necessary to formalize the informal advice she has been giving out and advice provided in the ethics newsletter.

Member Turner stated that technology is changing so rapidly and he did not understand why there could not be a link. He stated that he tended to agree with those who have been calling Ms. Anderson. Member Turner stated that he felt that all a person was doing was making the public jump through another hoop to get there, such as having to use Google to obtain the information they were trying to find. He further stated that the information provided on the legislative website is biographical and factual information. Member Turner stated that he felt that not allowing a link was just another hurdle for the public.

Representative Chris Tuck joined the meeting.

Senator Stevens stated that he agreed with Member Turner. He stated that if the candidate's goal was to help voters find information, such as how a legislator voted on a Bill, he saw nothing wrong with providing the link and giving easy access to the public. Senator Stevens commented that he was disappointed with some of the ruling by this committee. He proceeded with the example of the state administration sending their employees to Anchorage on state business to attend meeting with the state paying for their travel; and on the same trip, working for or against various legislators and attending any fundraiser they wanted on their own time in the evening. He then talked about a trip he was going to take to Chicago on state business and then stop at a fundraiser in Anchorage on his return. The advice he received from Ms. Anderson was that he would have to pay for the ticket from Kodiak to Anchorage and from Anchorage to Kodiak, even though he was on state business. He provided another example of how the committee was tying up the public's hand by not allowing them to have access to information.

Chair Walker recommended returning to the issue at hand and pointed out to Senator Stevens that there was probably another forum for this discussion. Member Cook recommended that the Legislative floor would be the place to change the law. Senator Stevens asked why the Legislative Ethics Committee has a different interpretation of the travel rules than the state administration. Chair Walker interjected and again pointed out that this subject was not on today's agenda. Senator Stevens then stated he was voting against the draft opinion.

Senator Gary Stevens leaves the meeting.

Chair Walker asked members to return to the issue at hand, noting that this was not the time or place for anything but what was on their agenda. Member Cook stated that he looks at the issue the opposite of Senator Stevens' view in that the reason legislators would like to have these links is because it is another free source of information, developed by state money, to make available to the public on their campaign web site. Member Cook stated that on the other hand, this information is so readily available, anybody could simply Google the Legislature and get to that information. Regardless, the crux of the issue is that incumbent legislators want the links because it saves their campaign time and effort in getting out the information otherwise. The problem is that the committee has already decided that the legislative web site is a state resource because the sites have been created and maintained with state money. Additionally, prohibiting this use is not putting a terrible burden on the public. Member Cook stated that he does not favor giving incumbents an unfair advantage and although it is not a huge advantage, due to the fact that the information is so readily available, to be consistent with what has been previously decided, the use of the link should be prohibited.

Senator Coghill stated that he had his hand slapped for having his state phone number as contact information on his application to run for office. It had not occurred to him at the time that providing it would be unethical. He agreed with

Member Cook in that the office and campaign should be kept separate. It is slightly inconvenient but keeping it separate is cleaner and the cleaner the better.

Ms. Anderson mentioned for clarification that the advisory opinion draft, as well as information in the ethics newsletter, allows a legislator to paste information from the legislative website to a campaign website; whether it be from the general legislative website or the House/Senate legislative website. The opinion is not necessarily prohibiting the use of the *information*; rather, it is prohibiting the link.

Member Turner asked if Ms. Anderson was saying that a legislator could do a page shot of one of the legislative pages and copy it to a campaign page. Ms. Anderson stated that was correct as long as there was no legislative contact information included. She further stated that the use of this information gives the impression that the public may call a legislative office for campaign related questions and issues. Member Turner commented that pasting a shot of a legislative page is more problematic for him than providing a link. Chair Walker added that he too did not see the difference in allowing one but not the other and asked why one was allowable and not the other. Ms. Anderson stated that AO 07-07 determined that legislative contact information was a state resource. The Act states that a legislator may not 'require' a legislative employee to perform campaign related activities. In AO 07-07, the committee stated that by including legislative contact information, such as a phone number or fax on a campaign piece, the legislator is requiring the legislative employee to respond to campaign related calls. The opinion also stated that the number of campaign related inquiries received was not relevant.

Member Turner stated that he would like to revisit AO 07-07, or request a meeting for future discussion as he feels that the advice given in the opinion is leading the committee down another road by allowing a cut and paste, which can be done very easily and quickly with a snipping tool. At the same time, a legislator is not allowed to use the Juneau or interim legislative phone numbers.

Chair Walker welcomed more comments on the motion from the floor. Representative Tuck stated that legislators are good at keeping campaigning and legislative duties separate. He further stated that his office tells people to go to their campaign website, how to get there, and if they want additional information, they are asked to Google search them. It is easy enough for the public to find links for what they are searching for.

Member Mallott asked if anyone from the public can access the website and print any of the material and use it. Ms. Anderson stated yes, as well as cutting and pasting as Member Turner described.

Mr. Wayne asked if he could make an editorial suggestion to the draft opinion before a vote is taken. He suggested adding to the footnote on page 2, after the

first sentence of the third paragraph, the web site address for the Legislative Ethics Committee that cites the advisory newsletter referenced in the opinion.

Representative Johnson indicated that he was viewing the legislative websites just now and most of the information provided is biographical information, with the exception of the contacts. He stated that the information basically sums up what is in the official election brochure; therefore, he did not believe it served a purpose to be able to use the link and cross the line. Although the information is not overly favorable to one candidate or the other, he did not think crossing the line to allow the use of state funds was appropriate.

Member Thomas accepted the proposed amendment by Mr. Wayne to his original motion.

Ms. Anderson restated the motion as amended. A roll call vote was taken: YEAS: Rep Johnson, Rep Tuck, Skip Cook, Sen Coghill, Connor Thomas, Toni Mallott, Chair Walker. NAYS: Gary Turner. Absent: Sen Gary Stevens
Motion passes.

5. **ADJOURN:** Member Turner moved to adjourn the meeting at 9:40 a.m. Motion approved.