

# Alaska State Legislature

## Select Committee on Legislative Ethics

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### MINUTES from June 11, 2007 FULL COMMITTEE MEETING Anchorage LIO, Room 220 **AMENDED**

**1. Call the Meeting to Order:** The meeting was called to order at 8:35 a.m. by Chair Dennis (Skip) Cook. Members present: Senator Con Bunde, Representative Bob Roses, Representative Berta Gardner, Herman G. Walker Jr. (joined the meeting at 9 a.m.), Dennis (Skip) Cook, Gary J. Turner and Ann Rabinowitz. Member absent: Senator Gary Stevens and H. Conner Thomas. Staff present: Joyce Anderson, Dan Wayne, LAA legal (joined the meeting at 9 a.m.).

**2. Approval of Agenda:** Representative Bob Roses made a motion to approve the agenda. Hearing no objection, agenda approved.

**3. Approval of Minutes:** Representative Berta Gardner made a motion to approve the minutes from the April 17, 2007 meeting. Hearing no objection, minutes approved.

**4. Public Comment:** None.

**5. Chair/Staff Report:**

**a. Disclosures:** Ms. Anderson reported the disclosure list in the packet is current as of May 31, 2007. Six late disclosures were received. No fines were issued as these were the first late disclosures received from these individuals: Sen Lyman Hoffman, Mary Katherine Shows, Rep Mike Chenault, Rep Mike Kelly, Sen Kim Elton, and Sen Gary Stevens.

Letters were sent to six former legislators asking for clarification of previous ethics disclosures. Five of the six filed updated disclosures forms. No fine was assessed. Former Rep Jim Holm has not responded to two letters to file "final day of service" disclosures. He previously submitted disclosures for an AIDEA loan and membership on a board of directors. Pursuant to AS 24.60.260 his fine would be \$100 for each late disclosure. Senator Bunde asked what options are available for collecting fines. Staff reported there are no options or language in the new statute for collecting fines from those no longer in office. Chair Cook stated the committee's options are to waive the fine or keep it in place even if it is not paid. Chair Cook asked Ms. Anderson to follow up on options available for

securing the fine and also what is in statute regarding APOC fines. Senator Bunde made a motion to keep the fine in place and notify Mr. Holmes. Staff will send a certified letter notifying Mr. Holm the disclosures are required and a fine of \$100 for each late disclosure is imposed. Hearing no objection, motion passed. Member Turner asked to add to a future agenda the subject of reviewing our fine structure.

**b. 2007 Standards of Conduct Handbook:** Ms. Anderson reported the draft of the new handbook was included in the packet for committee review. Chair Cook stated staff will go over each section of the handbook with changes and ask for comment. Staff reported many of the sections were updated based on language in HB 109. Some minor changes were also made. The only entirely new section is the one on administrative hearings, AS 24.60.030(i) which became effective in 2005. Staff reported the handbook is used by legislators and staff as a guide.

Senator Bunde questioned language under AS 24.60.030(i). He was concerned he could not contact the commissioner of a state department if a matter had progressed to the hearing stage and the commissioner was the one making the final decision on the matter.

Note: Member Herman Walker and LAA counsel, Dan Wayne, joined the meeting.

Staff reported she worked with Terry Thurbon, Chief Administrative Law Judge, on the Q&A's in this section. The statute is clear in that the hearing officer cannot be contacted by a legislator with the exception of during the hearing itself or if all parties are notified of the contact. The decision maker's staff may be contacted for an update on procedural matters. Senator Bunde suggested this area be re-emphasized with legislators and legislative offices on a periodic basis.

Representative Roses asked for clarification of representation before a state agency or board. He referenced discussions during the hearings on HB 109 this last legislative session. Staff pointed out we are talking about two different areas: one where a legislator represents a client before a state agency or board [which is permissible under AS 24.60.030(i)] and the other when a legislator has a constituent who has a matter before a hearing officer.

Staff clarified under the new regulation in the lobbying statute legislators and others covered by the Legislative Ethics Act may accept food and beverage for immediate consumption for any amount. Only lobbyists are required to report food and beverage that exceeds \$15 if given to someone covered by the Act. Legislators and legislative staff do not have a reporting requirement.

Staff reported there are no Q&A's for the new language in section AS 24.60.085 relating to the prohibition on accepting work associated with legislative, administrative or political action. Representative Gardner indicated she had an example and will work with staff. Chair Cook asked other members with examples to contact staff.

AS 24.60.075, Compassionate gift. Staff reported Tam Cook, Director of Legal Services, stated a compassionate gift disclosure must be considered a public disclosure and available for public review because the statute does not specifically state the disclosure is confidential. Further, the statute does not stipulate the disclosure must be published in the Legislative Journal as is the requirement with other disclosures. Therefore, the committee may decide a course of action. The committee decided to not publish the disclosure due to the sensitive nature of the disclosure.

The 2007 Standards of Conduct Handbook should be available in July. Chair Cook suggested the disclosure forms include a signature line and date for the final 90 day report; thus simplifying the reporting process. The committee agreed.

An ethics training session will be conducted in September to cover major changes to the ethics code. Two sessions will be held: one session in the morning and one in the afternoon. Representative Gardner questioned how well attended the sessions would be considering many legislators and staff take vacations during the summer. The sessions may be repeated again later this year.

**c: Informal Advice Staff Report:** Ms. Anderson stated she has not compiled the report due to time constraints but indicated she is working on one and when completed will email to committee members for review.

## **6. Budget:**

**a. Update on FY07 Budget (07-01-06 through 06-30-07):** Ms. Anderson reported as of June 1, 2007, total expenditures were \$105,258 out of \$144,100 with almost \$10,000 in encumbrances. A new printer was purchased for \$600. We are on target with our budget.

**b. Update on FY08 (07-01-06 through 06-30-08):** The request for additional staff was approved by the legislature and is awaiting final approval by the Governor.

**7. Legislation:** Ms. Anderson reported HB 109 is still waiting for transmittal to the Governor. A summary and sectional analysis of the bill prepared by Dave Jones, Attorney General working on the bill, was included in the packet.

**8. Legal Counsel Contract:** Senator Bunde made a motion to approve the legal counsel contract with Marston & Cole for \$10,000 for the period July 1, 2007 through June 30, 2008. The rate per hour for legal services was increased from \$150 per hour to \$160 per hour with the assistant rate staying at \$75 per hour. Hearing no objections, the contract was approved.

**9. Other Business: Kenai River Classic and On the River Tour:** Chair Cook summarized the issue. Is the Kenai River Classic an event of a recreational nature or educational? The agenda on the web site, covering 2 ½ days of events from July 5 to July 7, certainly shows the event to be one for recreational purposes which includes two days of fishing, meals, banquets and entertainment. The cost per day for legislators is estimated at \$175 which includes two days of fishing with three meals each day along with

entertainment and another evening meal and entertainment. Corporate sponsors pay \$4000 to attend. Staff has been working with the group for the last two weeks.

The Kenai River Sportsfishing Association also offers to legislators a tour called "On the River". The tour is organized with the intent of providing educational information about the river and accompanying conservation issues. The "On the River" tour estimated cost is \$150. The tour is offered at various times throughout the summer months. Fishing is also a part of the tour.

Chair Cook asked Member Turner, a member of the board of the Kenai River Sportsfishing Association to address the committee. He has been a board member for four years. The Classic has been around for 14 years and was the brainstorm of Senator Ted Stevens. Its main purpose is to educate national and state elected officials about the Kenai River watershed, habitat protection, sustainability of fisheries, angler access and other issues affecting the Kenai River and sport fishing. The Kenai River Classic has always been a fundraising event with the funds going into scientific research and habitat protection to name a few projects. The agenda (which is posted on the Web site) has not been clear in this regard. Agency personnel from within the state as well as from outside will be available to answer questions from participants. Kenai River guides are required to attend the "Kenai River Guide Academy" and are well versed on issues regarding the Kenai River and its use.

Senator Bunde has attended before and found it very educational and broad ranging in relation to policy issues. He suggests in the future the agenda include a policy statement indicating the informal discussions and Q&A that goes on at the event.

Chair Cook asked if the \$4000 is waived for elected officials does someone else pay that amount. Member Turner stated the \$4000 is only charged for corporate executives. Chair Cook suggested the name be changed to the "Kenai River Conference and Classic" to offer clarification of the dual intent of the event.

Senator Bunde made a motion stating the Kenai River Classic event is determined to be for a legislative/educational purpose and disclosure is required. Hearing no objection, motion passed. Member Turner asked to be recused from voting. No objection.

Representative Gardner suggested participants receive an accounting of the costs for attending. Member Turner stated one will be provided.

Member Rabinowitz asked for clarification of the "On the River" letter distributed by Representative Gardner. Rep Gardner explained she distributed the letter because the letter also asked if she would like to invite three others to join her for the tour. She felt the cost of the gift, the tour, would then include the cost for the three other people. Member Turner explained the logic behind inviting three other individuals. There are four seats on the boat and the guide. Member Turner stated the guide would conduct the tour with one, two, three or four participants. Representative Gardner found the tour very educational. There were two other legislators and one staff person on the boat. The guide, *Reuben Hanke*, was a

~~registered~~ *representational* lobbyist for the Kenai River Sportsfishing Association.  
[Minutes corrected at the February 23, 2012 meeting.]

Chair Cook stated that if family members went on the tour with a legislator, the legislator would be required to disclose the family member(s) received a gift related to legislative connection. If other than family members went on the tour with the legislator, the legislator should disclose the cost of entire boat which is \$600, \$150 for four seats. Staff will work out the particulars with each legislator/staff who participated in the “On the River” tour.

**10. Motion to go into Executive Session:** Member Walker moved at 10:37 a.m. to go into Executive Session after a ten minute break for the purpose of discussing an advisory opinion request which is confidential by law and other matters which must by law be kept confidential. Representative Gardner made a motion at Noon to go back into Open Session.

**11. PUBLIC SESSION: Advisory Opinion 07-01:** Representative Gardner made a motion to approve draft Advisory Opinion 07-01 with the recommended changes. All members present voted to approve the motion. Absent: Senator Gary Stevens and H. Conner Thomas.

**10. Adjourn:** Senator Bunde made a motion to adjourn at 12:02 p.m.