

Alaska State Legislature

Select Committee on Legislative Ethics

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

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

HOUSE SUBCOMMITTEE COMPLAINT H 04-35

DETERMINATION OF PROBABLE CAUSE

The House Subcommittee hereby finds that there is probable cause to believe that Representative Beverly Masek violated the Ethics Code.

The House Subcommittee investigated allegations contained in the complaint H 04-35 and determined that:

1. The House Subcommittee received a properly filed complaint against Representative Beverly Masek, dated May 20, 2004. The complaint fell within the two-year statute of limitations.
2. The complaint alleged the following:
 - That Representative Masek filed a false and untrue Legislative Financial Disclosure report and POET Account report and used the POET Account for personal gain.
 - That Representative Masek violated the legislative ethics code by demanding, under threat of termination, personal loans including one in the amount of \$99.25 for her legislative Lounge bill.

SCOPE OF INVESTIGATION:

The House Subcommittee met on the following dates: May 24, 2004, June 15, 2004, September 22, 2004 and January 7, 2005.

- On June 15, 2004 the subcommittee adopted a Scope of Investigation focusing on AS 24.60.030(a)(4) prohibitions related to a legislative employee performing services for the private benefit of the legislator at any time and/or for the private benefit of the legislator on government time.

AS 24.60.030(a)(4) A legislator or legislative employee may not require a legislative employee to perform services for the private benefit of the legislator or employee at any time, or allow a legislative employee to perform services for the private benefit of a legislator or legislative employee on government time; it is not a violation of this paragraph if the services were performed in an unusual or infrequent situation and the person's services were reasonably necessary to permit the legislator or legislative employee to perform official duties;

- The subcommittee also determined that additional clarifying information was needed concerning the allegation of a false and untrue Legislative Financial Disclosure report and POET Account report. The subcommittee subsequently received documentation via photocopies and affidavits.
- On September 22, 2004 the subcommittee reviewed the investigative materials including the additional information requested. The subcommittee determined the allegation of a false and untrue Legislative Financial Disclosure report and POET Account report was not within the jurisdiction of the Select Committee on Legislative Ethics and would not be addressed. With regard to the Lounge bill and other loans, the subcommittee asked for additional investigation.
- On December 17, 2004 the subcommittee expanded the Scope of Investigation based on information obtained during the investigation. The scope of investigation was expanded to include AS 24.60.030(a)(2) prohibitions related to the use of government assets for private benefit or nonlegislative use and AS 24.60.080 receipt of a gift(s) worth \$250 or more aggregate in a calendar year from the same person/entity.

AS 24.60.030(a)(2) A legislator or legislative employee may not use public finds, facilities, equipment, services or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of either the legislator, legislative employee, or another person;

(A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use.

AS 24.60.080 (a) Except as provided in this section, a legislator or legislative employee may not solicit, accept, or receive, directly or indirectly, a gift worth \$250 or more, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, or gifts from the same person worth less than \$250 that in a calendar year aggregate to \$250 or more in value.

- The subcommittee provided Representative Masek with the opportunity to provide clarification or additional information, in person, as part of the subcommittee investigation. Representative Masek declined this opportunity.

- On January 7, 2005 the subcommittee reviewed the information obtained through the investigation.

FINDINGS:

The House Subcommittee found probable cause to believe that Representative Masek exhibited a pattern of mixing personal and state business for her private benefit in violation of AS 24.60.030(a)(2). Further, Representative Masek exhibited a pattern of utilizing a legislative employee for personal errands on legislative time as well as for financial convenience in violation of AS 24.60.030(a)(2) and AS 24.60.030(a)(4).

RECOMMENDATIONS FOR CORRECTIVE ACTION:

Pursuant to AS 24.60.178(a) the House Subcommittee found no sanctions are required. Representative Masek is no longer serving as a Representative in the Alaska House of Representatives.

The subcommittee notes that on the surface the actions of Representative Masek appear to be de minimus. However, statutory language in AS 24.60.030(a)(2) is clear in that a legislator may not use government assets for a nonlegislative purpose unless the use is limited and for personal use. AS 24.60.030(a)(4) states that a legislator may not require a legislative employee to perform personal tasks at any time and a legislator may not even allow a legislative employee to voluntarily perform personal tasks on government time. An exception to this general rule is allowed in infrequent and unusual situations where the legislative employee's personal services are necessary to permit a legislator to perform legislative duties. Government funds, buildings, equipment and services should not be treated as the personal possessions of a legislator. The subcommittee counsels Representative Masek in this regard in the event she returns to legislative service.

Signature redacted for privacy

Adopted this 7th day of January 2005
by a majority of the House Subcommittee

H. Conner Thomas, Chair
House Subcommittee

Members Participating

H. Conner Thomas, Chair
Dennis "Skip" Cook
Herman Walker, Jr.
Ann Rabinowitz
Representative Norman Rokeberg
Representative Mary Kapsner

Member Absent

Marianne Stillner