Agenda

**Board of Regents**

**Special Meeting of the Full Board**

Friday, March 9, 2012; 11:00 a.m. – 11:30 a.m.

AUDIO CONFERENCE

**I.** **Call to Order**

**II. Adoption of Agenda**

 **MOTION**

**"The Board of Regents adopts the agenda as presented.**

**I. Call to Order**

II. Adoption of Agenda

**III. Proposed Alternative Amendments to the Bylaws of the Board of Regents**

1. **Alternative 1**
2. **Alternative 2**

**IV.** **Resolution Regarding Referral for Possible Impeachment**

**V. Adjourn**

 **This motion is effective March 9, 2012."**

**III. Proposed Alternative Amendments to the Bylaws of the Board of Regents**

1. **Alternative 1 - MOTION**

**"The Board of Regents adopts Alternative 1 of the proposed amendments to the Bylaws of the Board of Regents, establishing new Bylaw 20 to read as follows. This motion is effective March 9, 2012."**

BACKGROUND

General Counsel Hostina drafted Alternative 1 of proposed BL20 consistent with the direction of the Board at its February 15-16, 2012 meeting. Chair Jacobson filed the amendment with Board Secretary Wickersham who notified the full board of proposed bylaw amendment Alternative 1 on February 22, 2012.

**(Alternative 1) BL20. Referral of a Regent for Possible Impeachment**

A. Upon a simple majority vote of the whole board finding that it is in the best interests of the university to do so, the board may refer a regent to the senate with a recommendation that the senate consider impeachment of the regent.

B. Grounds for referral may include:

1. A criminal complaint, presentment, information, indictment or conviction involving a felony in any jurisdiction;

2. An information, formal criminal charges or conviction of a misdemeanor involving dishonesty, breach of trust, or the University of Alaska;

3. A probable cause determination of a knowing ethics violation under AS 39.52 that results in an accusation under consideration by the personnel board, or a recommendation of removal from office under AS 39.52.410(b)(3);

4. Circumstances indicating: conduct that necessarily brings the university into disrepute; material, repeated and documented neglect of duty; or a regent’s inability to serve for an extended period;

5. Judicial proceedings involving or an adjudication of incompetence;

6. Proceedings before a professional or occupational licensing body involving misconduct that is related to the regent's ability to serve as a regent; or

7. Failure to possess the qualifications of a regent under AS 14.40.130.

C. The following process shall be followed in considering a motion to refer for possible impeachment. Consistent with AS 44.62.310(d)(5), the Open Meetings Act does not apply and all meetings regarding a possible referral shall be conducted in executive session. The process shall maintain confidentiality consistent with the circumstances and the requirements of the review:

1. Any member may request an executive session to discuss appointment of a review committee;
2. The board may consider a motion to appoint a review committee. If a simple majority of the whole board approves the motion:
3. The chair shall appoint a review committee of not less than three members and provide written notice to the affected member of the makeup of the committee and the stated grounds for possible referral;

b. The review committee shall gather information relevant to the stated grounds for referral, offer the affected member an opportunity to comment on the information gathered, and make a written report of its review, findings and recommendation to the secretary of the board. The report shall be confidential unless a referral for impeachment is made, at which point any further release shall be made in accordance with this bylaw and applicable law. The secretary shall immediately distribute the report to all members of the board, including the affected member.

3. The chair shall schedule a meeting to consider the report, to occur at least 14 calendar days after distribution. The Board shall consider information the affected member provides in response to the report that is relevant to the issue of referral and consistent with the question before the board.

1. The board shall consider whether it is in the best interests of the university to refer the affected member for possible impeachment.
2. In accordance with AS 39.52.120(a)(4), *Roberts Rules of Order* and this bylaw, the affected member may not participate in the vote, but is considered an active member for purposes of the required majority.
3. If the motion passes by the required majority the secretary immediately shall transmit the motion, the report and any written response or materials provided by the affected member to the president of the senate.
4. The board shall reconvene in public session and the motion shall be entered in the official minutes of the board.
5. **Alternative 2 - MOTION**

**"The Board of Regents adopts Alternative 2 of the proposed amendments to the Bylaws of the Board of Regents, establishing new Bylaw 20 to read as follows. This motion is effective March 9, 2012."**

BACKGROUND

On February 22, 2012, Board Secretary Wickersham proposed Alternative 2. Alternative 2 strikes Section B.6. of Alternative 1 and replaces it with a new section B.6. Board Secretary Wickersham notified the full board of proposed bylaw amendment Alternative 2 on February 22, 2012.

**(Alternative 2) BL20. Referral of a Regent for Possible Impeachment**

A. Upon a simple majority vote of the whole board finding that it is in the best interests of the university to do so, the board may refer a regent to the senate with a recommendation that the senate consider impeachment of the regent.

B. Grounds for referral may include:

1. A criminal complaint, presentment, information, indictment or conviction involving a felony in any jurisdiction;

2. An information, formal criminal charges or conviction of a misdemeanor involving dishonesty, breach of trust, or the University of Alaska;

3. A probable cause determination of a knowing ethics violation under AS 39.52 that results in an accusation under consideration by the personnel board, or a recommendation of removal from office under AS 39.52.410(b)(3);

4. Circumstances indicating: conduct that necessarily brings the university into disrepute; material, repeated and documented neglect of duty; or a regent’s inability to serve for an extended period;

5. Judicial proceedings involving or an adjudication of incompetence;

6. A formal allegation or charge, or a final decision, by a professional or occupational licensing body, alleging or finding a violation of the relevant licensing statutes or regulations that is related to the regent's ability or fitness to serve as a regent; or

7. Failure to possess the qualifications of a regent under AS 14.40.130.

C. The following process shall be followed in considering a motion to refer for possible impeachment. Consistent with AS 44.62.310(d)(5), the Open Meetings Act does not apply and all meetings regarding a possible referral shall be conducted in executive session. The process shall maintain confidentiality consistent with the circumstances and the requirements of the review:

1. Any member may request an executive session to discuss appointment of a review committee;
2. The board may consider a motion to appoint a review committee. If a simple majority of the whole board approves the motion:
3. The chair shall appoint a review committee of not less than three members and provide written notice to the affected member of the makeup of the committee and the stated grounds for possible referral;

b. The review committee shall gather information relevant to the stated grounds for referral, offer the affected member an opportunity to comment on the information gathered, and make a written report of its review, findings and recommendation to the secretary of the board. The report shall be confidential unless a referral for impeachment is made, at which point any further release shall be made in accordance with this bylaw and applicable law. The secretary shall immediately distribute the report to all members of the board, including the affected member.

3. The chair shall schedule a meeting to consider the report, to occur at least 14 calendar days after distribution. The Board shall consider information the affected member provides in response to the report that is relevant to the issue of referral and consistent with the question before the board.

1. The board shall consider whether it is in the best interests of the university to refer the affected member for possible impeachment.
2. In accordance with AS 39.52.120(a)(4), *Roberts Rules of Order* and this bylaw, the affected member may not participate in the vote, but is considered an active member for purposes of the required majority.
3. If the motion passes by the required majority the secretary immediately shall transmit the motion, the report and any written response or materials provided by the affected member to the president of the senate.
4. The board shall reconvene in public session and the motion shall be entered in the official minutes of the board.

**IV. Resolution Regarding Referral for Possible Impeachment**

**MOTION**

**"The Board of Regents adopts the following resolution regarding adoption of Bylaw 20 of the Board of Regents. This motion is effective March 9, 2012."**

WHEREAS Article VII, Section 3 of the Alaska Constitution creates the Board of Regents and provides for appointment of regents by the governor, subject to confirmation by a majority of the members of the legislature; and

WHEREAS Article II, Section 20 authorizes impeachment and removal from office of all civil officers, including members of the Board of Regents; and

WHEREAS the proceedings of the constitutional convention make clear that the framers intended to insulate the University of Alaska and the Board of Regents from politics, including action by the governor; and

WHEREAS those same proceedings and the Alaska Supreme Court have made clear that the university is not a principal department of the executive branch, and thus is not subject to Article III, Section 26 which authorizes removal of members of certain executive branch boards or commissions “as provided by law;” and

WHEREAS Article VII, Section 3 of the Alaska Constitution does not provide for removal of regents by the governor or in accordance with law, as is the case with a board or commission at the head of a principle department in the executive branch;

WHEREAS the Board of Regents lacks the constitutional authority to remove regents who have been duly appointed by the governor and approved by the legislature; and

WHEREAS suspension or removal of a regent by means other than those specified in the constitution is likely to lead to legal challenges by the affected and any newly appointed member, disruption of the board and legal uncertainty for the university;

NOW THEREFOREthe Board of Regents adopts Bylaw 20 to provide for referral of regents for possible impeachment.

**V. Adjourn**