

From: [Bud Carpeneti](#)
To: [Senate State Affairs](#)
Cc: [Sen. Scott Kawasaki](#)
Subject: SJR 13
Date: Monday, April 14, 2025 12:57:52 PM

April 13, 2025

Hon. Scott Kawasaki and Hon. Jesse Bjorkman

Co-Chairs, Senate State Affairs Committee

Alaska State Senate, Juneau, AK

Dear Co-chairs Kawasaki and Bjorkman and Members of the Committee:

This letter is written in opposition to SJR 13. I hope you will firmly reject this massive step backwards for the delivery of justice services to Alaskans.

Let me start with my background. I served for 17 years as a superior court judge in Juneau and 15 years as a supreme court justice, the last three as chief justice. I had the honor to serve twice as a member of the Alaska Judicial Council, the first time in the early 1980's as an attorney member, and the last time in 2009-2012 as chief justice. During the last 55 years I have had a tremendous opportunity to observe the functioning of that body from every imaginable vantage point: as an attorney with no connection to the council, as an attorney member of the council, as an attorney applying for a judgeship, as a judge applying for a higher position, as chair of the council, and as a non-member observing "from the outside." I can say without hesitation that the Alaska Judicial Council is a high-functioning governmental body that does exactly what the framers of the Alaska Constitution intended: nominate for the governor's consideration the best possible candidates for the bench.

The framers carefully considered the various options open to them in determining how judges should be selected for Alaska, and they saw what the pitfalls were to be found in various systems in use in the other states and even in the federal government. They decided early that the focus should be on merit in judicial selection and not primarily on political considerations, but they also knew the elections had consequences and they wanted the ultimate check on judicial appointments to be with the people. Accordingly, they divided the process into three steps: (1) they created in the Alaska Constitution the Judicial Council, a nonpolitical body, and gave it the responsibility to nominate candidates for the bench based on merit; (2) they provided that the governor would have the power to appoint each judge from among the nominees forwarded by the council; and (3) they provided that the people would have the final word in retention elections held after the new judge had been on the bench a sufficient time to gauge the judge's performance and then at regular intervals afterwards.

The Council's broad make-up — three lay members appointed by the governor and confirmed by the legislature, three attorney members appointed by the board of governors of the Alaska Bar Association (following an advisory vote of the membership), and the chief justice (who votes only when necessary for a decision to be reached) — ably balances input from the public at large and the need for expert analysis on the capabilities of attorney applicants.

I know, from my direct observations, that council members work incredibly hard to fulfill their constitutional duty to nominate the best candidates for the bench. They poll all the members of the bar statewide on every applicant on each of several categories to determine merit — the applicant's legal competence, integrity, fairness, judicial temperament, and suitability of experience for the

position sought — they review every applicant’s long application form and read their writing samples, they review the comments of opposing counsel and the presiding judges in each applicant’s last several cases, they hold public hearings in the locales where the new judge will sit, they interview each applicant, and then they deliberate on each. I know that council members devote hundreds of hours each year to this service.

I also know that the result of all this effort to identify merit and nominate only individuals who are qualified to serve has resulted in a bench that has done what judges are supposed to do: honestly and fairly decide cases not on political considerations, or on their own private opinions, or on anything but the law. That is, judges work hard to determine what the law is — almost always as passed by the legislature, sometimes by the decision of a higher court (for example, where a statute is ambiguous or where a constitutional issue is involved) — and then apply it to the case at hand. Alaska has an unbroken history of judicial service untainted by corruption or scandal so frequently seen in many of the other states, and that is no accident. It is because applicants for the bench in Alaska must show that they have the qualities that the Judicial Council demands: professional competence, integrity, fairness, judicial temperament, and suitable experience for the position they seek.

SJR 13 would replace this careful balancing of all the factors that should be considered in naming an attorney to the bench with nothing but the governor’s completely unregulated and unguided caprice. If the applicant is an Alaska attorney with the five or eight years of practice minimally required for the superior or supreme courts, no further questions need be asked. To state the “requirements” that SJR 13 would create for appointment is to refute them. To state that it would represent a massive step backwards in the provision of judicial services to the people of Alaska is an understatement.

Please do not advance this resolution.

Sincerely,

Walter L. Carpeneti