

February 18, 2015

Senator Bill Stoltze, Chair
Senate State Affairs Committee

Re: Senate Joint Resolution 3

Dear Senator Stoltze:

On behalf of the ANCSA Regional Association (“the Association”), we submit this letter in opposition of Senate Joint Resolution 3. By way of background, the ANCSA Regional Association represents the Chief Executive Officers of the 12 land-based regional Alaska Native Corporations (ANCs), as well as the President of the Alaska Federation of Natives. Our corporations are owned by over 100,000 Alaska Native people and were formed under the Alaska Native Claims Settlement Act of 1971, 43 U.S.C. § 1601, et. seq. (ANCSA). Our mission is to collaborate in the creation of a sustainable socioeconomic future for Alaska Native people. ANCSA Regional Corporations have grown into an economic engine of Alaska. When measured against the top 49 Alaska-owned companies, ANCs account for 73.4 percent of the revenue earned, 66.3 percent of Alaskan jobs and 83.5 percent of the worldwide employment. Twenty-two ANCs, including all twelve ANCSA Regional Corporations, are among the top 49 companies.

The Alaska Judicial Council (Council) is an independent citizens’ commission created by the Alaska Constitution to screen applicants for judicial vacancies, nominate the most qualified applicants for appointment to the bench by the governor, evaluate the performance of sitting judges, recommend to voters whether certain judges should be retained for another term, and conduct research to improve the administration of justice in Alaska. SJR 3 seeks to double the number of politically appointed non-attorney members of the Council, from three to six and require legislative confirmation of all members of the Council. The increase in politically appointed members is due purportedly to concerns over the lack of regional representation and attorney dominance over the process.

The ANCSA Regional Association opposes efforts to alter the membership of the Council, for several reasons.

First, judicial appointments should be made from the “most qualified,” not politically expedient, candidates. As one Constitutional Convention delegate explained, judicial selection is rooted in a commitment to the principle that Alaskans deserve judges of “the best available timber.” The delegates recognized that a merit-based screening process, followed by the chief executive’s ultimate selection and decision, is preferential to the extremes of selecting judges based on either election or direct appointment.

Attorney delegates are ideally suited to balance the voice of non-attorney members in conducting a preliminary screening of judicial applicants. Attorneys spend time in court and elsewhere, closely assessing professional competence, experience, knowledge, ethics and temperament. Since all judicial candidates are assessed and scored by attorneys in a “bar poll,” the three attorneys on the council provide invaluable feedback evaluating these poll results. Attorney Councilmembers are apolitical. To serve on the Council, attorneys are selected based upon a Bar Association advisory vote based on professional experience and ability to determine qualifications for judicial service. Unlike political elections or appointments, this attorney vote occurs without regard to political affiliation.

The proposed amendments would diminish the role of the Council's attorney members and undercut the intent of the process of screening candidates based solely on aptitude and suitability for the bench. By definition, the amendments would tilt the balance away from professional qualifications and toward partisan politics, weakening the Constitution's commitment to merit-based judicial selection.

Second, this is not a problem that needs fixing. In the last 30 years, only 16 of the total 1,149 votes by the Alaska Judicial Council have resulted in a 3-3 split between attorneys and public members. That is 1.4 percent. In fact, over 81 percent of all votes have been unanimous or near unanimous but for one, because the non-attorneys and attorneys complement each other's evaluations and typically agree about rudimentary, objective judicial qualifications. There is no evidence to suggest that the Council has failed to function effectively or efficiently in performing its duties. Alaska's judiciary has been free of corruption, scandal, and cronyism. The proposed amendments would endanger that precious dynamic based upon unfounded perception.

Third, the public already has ample opportunity to participate. Whenever there is a judicial vacancy, the Council holds a public comment period. The public can comment at Council meetings orally or in writing and are given the option of signing the comments. The Council, as a public entity, is available to answer questions concerning its processes.

Fourth, increasing the non-attorney Council members does nothing to increase rural or regional representation on the Council, or address minority or regional access to the bench. Allowing the current Governor to appoint three more members to the Committee does nothing to fix the historically geocentric selections to the Council. The proposed amendments only would guarantee an even larger membership consistent with the political leaning of the existing executive, without regard to regional experience or affiliation.

Finally, our state's constitution should never be amended to effectuate short-term political objectives. The Framers set out a set of core principles and processes to secure broad-based rights for the people of Alaska, and that statement of overarching governmental principles and structures should not be tampered with whimsically. We should not follow the example of states like Alabama, which has amended its constitution 770 times. Our constitution must remain a core governing document, not a statute book replete with mutable processes and procedures effectuating the political winds of the day.

The ANCSA Regional Association strongly opposes SJR 3. If you have questions or comments regarding the content of this letter, please feel free to contact me directly.

Sincerely,
ANCSA REGIONAL ASSOCIATION

A handwritten signature in black ink that reads "Kim Reitmeier". The signature is written in a cursive, slightly slanted style.

Kim Reitmeier
President

cc: Senate State Affairs Committee Members
Senator John Coghill, Vice-Chair
Senator Charlie Huggins
Senator Lesil McGuire
Senator Bill Wielechowski
ANCSA Regional Association Board of Directors