



# LEGISLATIVE RESEARCH SERVICES

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## Research Brief

TO: Senator Bill Stoltze  
FROM: Patricia Young, Manager  
DATE: March 2, 2015  
RE: Proposals for an Elected Attorney General in Alaska  
*LRS Report 15.293*

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*You asked for information on the history of measures before the Alaska Legislature proposing to change the state constitution such that the position of attorney general would be filled by election rather than by appointment, as is presently the case.*

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Intending to create an executive branch that was both unified and efficient, the delegates to the constitutional convention designed the document to avoid the fragmentation of executive authority that results from independently elected department heads. Committed to the principle of a strong and accountable governor, the delegates rebuffed several efforts to weaken the governor's control over the attorney general, including proposals to make the position elective.<sup>1</sup>

Over the years, the possibility of amending the constitution to elect the attorney general has surfaced many times in legislation introduced by democrats as well as by republicans. Since 1973, two bills calling for advisory votes and 26 resolutions on the issue have been introduced. Senate Joint Resolution 12, currently before the 29<sup>th</sup> Legislature, is the 26<sup>th</sup> such resolution.<sup>2</sup>

The table on the following page lists sponsors and final status for each measure introduced from 1973 through March 1, 2015 (the 8<sup>th</sup> Legislature to the present). Most such measures died in their first committee, many without a hearing. Only five have reached a floor vote.

In regard to the arguments for and against changing the status quo, those in favor of an elected attorney general cite objectivity and independence from the interests of the governor. They contend that an elected attorney general is better able to vigorously safeguard interests of the state at times when those interests do not coincide precisely with a governor's political values.

Those who support the appointment process for the post, on the other hand, point out that, as politicians, elected attorneys general cannot be free from political influences. As one former attorney general put it, "Appointed AGs are lawyers who have an interest in politics and elected AGs are politicians who are lawyers."<sup>3</sup> As such, the relationship between the governor and an elected attorney general may be adversarial as well as inefficient.

We hope this is helpful. If you have questions or need additional information, please let us know.

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<sup>1</sup> As Delegate Ralph Rivers argued, "... if you are going to let the governor's administration be held responsible for the conduct of that administration, you have got to at least give the governor an attorney general of his own choice. Under [the proposal for an elected attorney general] he might get an attorney of the opposite political faith. He might get one of his own party who is either inadequate or who is hostile to him. ... In either case, the governor could say at the end of his term, if things haven't gone well, 'We had a good program but that attorney general you foisted upon me wrecked our program.'" *Proceedings of the Constitutional Convention*, p. 2198. We include as Attachment A, the original proposal for an elected attorney general (Proposal 45) from the Constitutional Convention as well as the discussion of the issue (pp. 2193- 2202).

<sup>2</sup> From Statehood through the present, introduced measures on this issue total two advisory votes and 41 resolutions (SJR 12 being the 41<sup>st</sup>).

<sup>3</sup> Avrum Gross, testimony on SB 69 before the Senate Judiciary Committee, February 24, 1999.

## Measures Proposed to Elect the Alaska Attorney General, 1973-Present

| Legislature      | Measure                | Sponsor            | Final Status | Votes                        |
|------------------|------------------------|--------------------|--------------|------------------------------|
| 8th Legislature  | HJR 9                  | Warwick & Randolph | (H) STA      |                              |
|                  | SJR 4                  | Lewis              | (S) JUD      |                              |
| 9th Legislature  | HJR 20                 | Fischer            | (H) JUD      |                              |
| 10th Legislature | HJR 44                 | Osterback          | (H) JUD      |                              |
|                  | SJR 14                 | Huber              | (S) JUD      |                              |
|                  | SJR 23                 | Bradley, W         | failed (S)   | vote: 11-07-02               |
| 11th Legislature | HJR 6                  | Martin             | (H) STA      |                              |
| 12th Legislature | HJR 22                 | Barnes             | failed (H)   | vote: 16-22-02               |
|                  | HJR 23                 | Judiciary          | (H) JUD      |                              |
|                  | SJR 7                  | Bradley, W         | (S) JUD      |                              |
| 13th Legislature | HB 456 (advisory vote) | Ward               | (S) JUD      | H: 29-10-01                  |
|                  | HJR 7                  | Uehling            | failed (S)   | H: 28-12-00 S: 06-12-02      |
| 14th Legislature | HJR 42                 | Marrou             | (H) STA      |                              |
|                  | SJR 9                  | DeVries            | (S) RLS      | failed 09-11-04; rtrd to RLS |
| 19th Legislature | SJR 26                 | Green              | (S) STA      |                              |
| 20th Legislature | HJR 19                 | Green              | (H) JUD      |                              |
|                  | SJR 10                 | Green              | (S) FIN      |                              |
| 21st Legislature | HJR 43                 | Coghill            | (H) JUD      |                              |
|                  | SB 69 (advisory vote)  | Ward               | (S) FIN      |                              |
|                  | SJR 14                 | Ward               | (S) RLS      |                              |
|                  | SJR 32                 | Kelly (Pete)       | (S) JUD      |                              |
| 24th Legislature | HJR 13                 | Crawford           | (H) STA      |                              |
|                  | SJR 7                  | Dyson              | (S) STA      |                              |
| 25th Legislature | HJR 6                  | Crawford           | (H) STA      |                              |
| 26th Legislature | HJR 4                  | Crawford           | (H) STA      |                              |
| 27th Legislature | SJR 3                  | Davis              | (S) JUD      |                              |
| 28th Legislature | HJR 18                 | Stoltze            | (H) RLS      |                              |
| 29th Legislature | SJR 12                 | Stoltze            | (S) STA      | status as of March 1, 2015   |

NOTES: HJR 9 during the 8th Legislature proposed an attorney general selected by the governor from nominations presented by the judicial council; the attorney general would then be subject to approval or rejection on a non-partisan ballot at the first general election held more than two years after the appointment. Thereafter, the attorney general would be subject to approval or rejection in a like manner every fourth year.

SJR 3 during the 27th Legislature proposed an attorney general elected by voters to represent the state and a general counsel appointed by the governor and subject to confirmation by the legislature to represent the governor and departments.

SOURCES: Alaska Final Status of Bills and Measures (8th - 17th Legislatures); Bill Action and Status Inquiry System (BASIS) (18th - 29th Legislatures; as of March 1, 2015).