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Executive Director
Leila Kimbrell



RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

2021-2022

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February 7, 2022

The Honorable Roger Holland, Chair
Senate Judiciary
Alaska Legislature

Submitted via Senate.Judiciary@akleg.gov

Re: Senate Bill 23, An Act related to initiative severability

Dear Chair Holland, and members of Senate Judiciary:

The Resource Development Council for Alaska, Inc. (RDC) is writing to support Senate Bill 23, an Act related to initiative severability, in your committee.

RDC is a statewide trade association comprised of individuals and companies from Alaska's fishing, forestry, mining, oil and gas, and tourism industries. RDC's membership includes Alaska Native corporations, local communities, organized labor, and industry support firms. RDC's purpose is to encourage a strong, diversified private sector in Alaska and expand the state's economic base through the responsible development of our natural resources.

RDC supports passage of SB 23 as it would bring clarity to the initiative process and restore the State's proper role in the vetting of initiatives.

The Alaska constitution provides the important right of initiative to the people. However, that right is not without limitation. As part of our system of constitutional checks and balances built into our republican form of democracy, the constitution also gives the legislature the right to first review an initiative proposal and the opportunity to enact similar legislation through the legislative process. In this way, Alaska's initiative process can be characterized as an indirect one. This is an important power that, on the one hand, gives the legislature veto authority over an initiative; however, on balance, should the legislature exercise this authority, the voters still benefit from an open, transparent legislative process, including public hearings at committee level, debate and amendment processes, as well as floor debate before final passage. This is often lost in a direct initiative process.

Recent court decisions have had the result of severing language of initiative proposals deemed unconstitutional but allowing the remainder of the language to move forward to the ballot without first returning to the signers or the legislature. This denies two important rights in the initiative process: those of the people as well as those of the legislature. It also violates the separation of powers because this results in the judicial branch drafting legislation, which is expressly limited to the legislative branch and to the people through the initiative process.

SB 23 would fix these fatal flaws and ensure that the version of the initiative that is reviewed and approved by the Alaskans signing on as supporters is the actual language that goes before the voters. It should not be allowed that the courts can materially change an initiative after it has been supported by its sponsors and signers.



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Furthermore, with severance, the legislature is denied the ability to review the court-amended version of the initiative proposal (assuming that is still what the sponsors and signers want). This divests the legislature of its constitutional obligation and right to consider initiatives and provide the Alaskan people with a thoroughly vetted version of law with enactment of a similar measure.

In the absence of SB 23, RDC is further concerned proponents of flawed initiatives will overreach knowing that the courts will sever unconstitutional language, allowing the remainder to go forward without the proper checks and balances. This sends a message that anything can be on the Alaska ballot, no matter how poorly written or unconstitutional.

We applaud this effort to correct a deficiency that has been overlooked in the ballot initiative process and respectfully urge members of this committee to pass SB 23.

Sincerely,



Leila Kimbrell
Executive Director

Cc: Senate Judiciary Committee Members
Senator Revak