

STATE OF ALASKA THE LEGISLATURE

2006

FOURTH SPECIAL SESSION

Source
SCR 401

Legislative
Resolve No.
60



Relating to legislative powers over same-sex partner employment benefits and urging the courts to delay action until the legislature has sufficient time to act in the next regular session of the legislature.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS Governor Frank Murkowski has called the Twenty-Fourth Alaska State Legislature into special session November 13, 2006, to consider the subject of employment-related benefits for same-sex partners of state employees and retirees; and

WHEREAS the convening of the special session follows elections that resulted in the selection of a new governor and the establishment of the membership of the Twenty-Fifth Alaska State Legislature; and

WHEREAS expansion of employment-related benefits is a critical state policy decision that will result in a need for additional appropriations and that requires legislative action; and

WHEREAS the timing of the special session prevents the necessary and desirable involvement of the new governor and legislature in this critical state policy decision and

related appropriation; and

WHEREAS a belated special session requires a rushed and politicized review of employee benefits without adequate public participation; and

WHEREAS the legislature finds that a court's engaging in administrative rulemaking to establish same-sex employment benefits, as done by the Alaska Superior Court, Third Judicial District, in *Alaska Civil Liberties Union, et al., v. State of Alaska, et al.* (Case No. 3 AN-99-11179CI) is an improper exercise of judicial power; and

WHEREAS there are multiple avenues that the legislature may pursue to remedy the constitutional defect that the Alaska Supreme Court has identified in the state employment benefits program, including (1) withdrawal of spousal benefits for all newly hired married state employees; (2) moving away from the issue of sexual orientation altogether and focusing instead on granting benefits to dependents; and (3) adoption of legislation that authorizes regulations along the lines currently proposed by the Department of Administration; and

WHEREAS selection of the appropriate remedy to the benefits program requires and deserves the legislature's careful consideration and can be achieved best in the Twenty-Fifth Alaska State Legislature's regular session; and

WHEREAS the legislative power of the state is vested in the legislature by art. II, sec. 1, Constitution of the State of Alaska; and

WHEREAS appropriations must be made by legislative act as provided under art. II, sec. 13, and art. IX, sec. 13, Constitution of the State of Alaska;

BE IT RESOLVED that the Alaska State Legislature disagrees with the assumption that regulations may be drafted and mandated by the courts; and be it

FURTHER RESOLVED that the legislature reserves its authority to make policy decisions and will not surrender that authority to the courts; and be it

FURTHER RESOLVED that the legislature reserves its constitutional authority to appropriate state funds and will not surrender that authority to the courts; and be it

FURTHER RESOLVED that the legislature reserves its authority and power to enact legislation granting employment benefits to state employees and defining how and to whom those employment benefits may be extended for dependents and employees; and be it

FURTHER RESOLVED the Twenty-Fourth Alaska State Legislature respectfully urges the court to honor the constitutional authorities of the legislature and to delay the

adoption of regulations until the Twenty-Fifth Alaska State Legislature has had the opportunity to deliberate with due legislative and public process.

COPIES of this resolution shall be sent to the clerks of the Alaska Supreme Court and Alaska Superior Court, Third Judicial District.