

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

February 20, 2008

3:46 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Chair
Representative Anna Fairclough, Vice Chair
Representative Bob Roses
Representative Paul Seaton
Representative Peggy Wilson
Representative Sharon Cissna
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 35

Proposing an amendment to the Constitution of the State of Alaska relating to state debt.

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 35

SHORT TITLE: CONST AM: STATE DEBT

SPONSOR(s): WAYS & MEANS

02/19/08	(H)	READ THE FIRST TIME - REFERRALS
02/19/08	(H)	W&M, JUD, FIN
02/20/08	(H)	W&M AT 3:30 PM HOUSE FINANCE 519

WITNESS REGISTER

LISA MARIOTTI, Staff
to Representative Gruenberg
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HJR 35, answered questions on behalf of the House Special Committee on Ways and Means, sponsor of the bill, of which Representative Gruenberg is a member.

DEVEN MITCHELL, Debt Manager
Treasury Division
Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: During discussion of HJR 35, offered comments and suggestions, and responded to questions.

JERRY BURNETT, Director, Legislative Liaison
Administrative Services Division
Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: During discussion of HJR 35, offered comments and suggestions, and responded to questions.

ACTION NARRATIVE

CHAIR MIKE HAWKER called the House Special Committee on Ways and Means meeting to order at [3:46:48 PM](#). Representatives Hawker, Seaton, Cissna, Roses, Fairclough, Gruenberg, and Wilson were present at the call to order.

HJR 35-CONST AM: STATE DEBT

[3:47:12 PM](#)

CHAIR HAWKER announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 35, Proposing an amendment to the Constitution of the State of Alaska relating to state debt.

[3:49:27 PM](#)

REPRESENTATIVE GRUENBERG, speaking on behalf of the House Special Committee on Ways and Means, sponsor of the bill, explained that the resolution would amend Article IX, sec. 8 of the Alaska State Constitution by deleting "for capital improvements or unless authorized by law for housing loans for veterans," as this places a limitation on state debt. He acknowledged that state debt would still have to be ratified by a majority of the voters. He referred to a handout included in the members' packets, "Gordon Harrison, Alaska's Constitution: A Citizen's Guide," pages 151-152, which discusses the common state constitutional limitations on the ability of states to incur debt. He noted that some states restrict debt to specific purposes, some declare a ceiling for allowable debt payments, and some require a vote of the legislature or the electorate.

He stated that originally Alaska, as a territory, was not allowed to incur debt, but that provision was removed and the current provision was inserted. He pointed out that the relevant court cases are documented in the Harrison article on page 152.

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REPRESENTATIVE GRUENBERG referred to the other handout included in the members' packets from Patricia Young, Legislative Research Services, dated June 25, 2007.

CHAIR HAWKER mentioned that the assemblage of all the referenced attachments to the handout is 177 pages and, although much of it is copyright protected, the sponsor will make it available upon request.

REPRESENTATIVE GRUENBERG referred to the single page handout in the members' packets labeled "Journal of Law, Economics & Organization, Vol. 12 1996" which indicates by state the types of limitations on long-term debt. He noted that only a few states have no limitations, but that the majority require approval by the voters. He pointed out that Ms. Young's paper refers to the four basic groups of constitutional provisions: referendum approval, supermajority vote of the legislature, revenue based ceiling, and prohibiting guaranteed debt. He noted that the voters will want the right to approve large debts, so this was retained in the amendment. He expressed that the purpose of the resolution is to provide additional flexibility for the state to incur debt.

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CHAIR HAWKER asked for an explanation of why this is good for Alaska and what is meant by greater flexibility in the utilization of debt. He also requested to know what changes in public policy might be expected as a result of the amendment.

REPRESENTATIVE GRUENBERG responded that there might be a need for creative financing. He offered his belief that the government should be free to govern as efficiently as possible without unnecessary strictures, and that the government should be able to incur debt with the voters' approval.

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CHAIR HAWKER asked for confirmation that deleting the language allowing debt for housing loans for veterans would not be eliminating this capability, but would instead be creating a broader authority.

REPRESENTATIVE GRUENBERG agreed.

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REPRESENTATIVE CISSNA expressed her concern that the state does not have a long term fiscal plan. She asked what advantages the resolution offers to the state.

REPRESENTATIVE GRUENBERG suggested that this amendment to the Alaska State Constitution may become part of the fiscal plan presented in HB 125. He responded that this would remove a constitutional impediment and allow the state to obtain GARVEE bonds and pension obligation bonds with the voters' approval. He allowed that there may be a need for additional legislation to limit the indebtedness.

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CHAIR HAWKER asked for confirmation that the resolution would not change the proposal procedure and would still require a voter referendum.

REPRESENTATIVE GRUENBERG agreed.

REPRESENTATIVE SEATON asked why the state should look for an alternative to the permanent fund for debt relief, as either will require a voter referendum.

REPRESENTATIVE GRUENBERG said that Mr. Mitchell will give specific reasons during his testimony. He explained that GARVEE bonds borrow against future highway trust fund payments. It is a method of incurring debt to build capital projects now, possibly cheaper than later, and spreading the cost to the future generations also using the projects. He explained that pension bonds will provide creative financing without withdrawing money from the permanent fund. These will be dealt with in a fiscal manner that is different than the rest of the budget. He offered his belief that it is sometimes advantageous to incur debt with a tax exempt, low interest rate, while allowing the state to retain its money for investments with higher earnings.

REPRESENTATIVE SEATON offered his belief that the state has previously used GARVEE bonds for capital improvements. He asked if the premise is to work on arbitrage and time the investments. He posed that this does not work well for most people, and asked why it would work better for the state.

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REPRESENTATIVE GRUENBERG said that he was not aware that the state has already used GARVEE bonds, and that he will defer the arbitrage questions to Mr. Mitchell.

LISA MARIOTTI, Staff to Representative Gruenberg, Alaska State Legislature, offered her understanding that the state currently contracts debt by setting up a public corporation that manages and issues the debt. She explained that the amendment provides a transparency that will allow voters to know what the debt is incurred for.

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DEVEN MITCHELL, Debt Manager, Treasury Division, Department of Revenue (DOR), stated that the amendment would apply to more than general obligation bonds, and would include certain revenue bonds, the Alaska International Airport system, sport fish revenue bonds, and lease revenue or certificates of participation that the state cannot currently issue without a capital project. He explained that the state can set up a public corporation in statute which is not restricted to the same limitations as the state itself. He pointed out that there is pending legislation that will allow public corporations to be set up with the authority to borrow, even though there are no projects, for pension obligation bonds. He noted that when money is borrowed for other than a capital project, the taxable loan rate is very similar to an investment rate of return, so there is no gain from borrowing as opposed to using state funds. He established that within the Alaska State Constitution there is a prohibition to the dedication of revenues, which is a much bigger problem for debt management. There are revenues which have the potential for being segregated and levered. He explained that GARVEE bonds allow a pledge of future federal revenue, but that obligation does not count against the net tax supported debt. However, in Alaska, we cannot do that, because the Alaska State Constitution prohibits dedicating those federal revenues.

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REPRESENTATIVE WILSON asked if this resolution would allow Alaska to borrow to pay off the PERS/TERS unfunded liability.

MR. MITCHELL said that the state already can, but this would allow the state to proceed in a more direct fashion. [He referred to HB 13, which will allow the state to issue bonds to fund an unfunded liability; however, he offered his belief that the Alaska State Constitution prohibition against the dedication of revenues will not allow the state to issue these bonds. He noted that HB 13 will also create the Pension Obligation Bond Corporation which could borrow money under the current constitutional limitations.]

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REPRESENTATIVE SEATON asked if this resolution would make certificates of participation or revenue bonds subject to a voter referendum.

MR. MITCHELL responded that the amendment would not change how debt is issued by various entities, but it would change the options that might be available, as currently state debt is not an option if there is not a capital project. He explained that revenue bonds, increases to the allowable bond limit, and certificates of participation are all legislative actions that would remain the same if this bill were to pass.

REPRESENTATIVE SEATON posed that if this resolution does not have any effect on revenue bonds or certificates of participation, why are they being discussed.

MR. MITCHELL said that this amendment would allow the state to issue revenue bonds or certificates of participation without a capital project, whereas right now, there has to be a capital project. He noted that there is no change in the process or the structure, just a change to where the money will go.

REPRESENTATIVE SEATON asked to clarify if there is still the need to set up the public corporations for issuing debt.

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MR. MITCHELL said that currently the state cannot borrow the money when there is no capital project, so the state sets up a public corporation to borrow the money. He explained that this resolution would not impact the existing corporations. He

pointed out that this resolution will give the state, through certificates of participation and revenue bonds, the flexibility to issue debt when there is no capital project, but that the process will remain the same.

REPRESENTATIVE WILSON reflected that the resolution removes two allowances for state debt. She asked whether a public corporation would still be able to offer a general obligation bond that was not for a capital project.

MR. MITCHELL said this would not change the public corporation's statutory ability to do things.

JERRY BURNETT, Legislative Liaison, Director, Administrative Services Division, Department of Revenue (DOR), said that currently public corporations can issue general obligation debt which is not specific to a capital project. He explained that these public corporations are not incurring state debt, and the resolution refers to state debt only. Certificates of participation are not considered state debt.

CHAIR HAWKER asked for a definition of state debt, as opposed to public corporation obligations. He requested more definition for general obligation debt and other generic forms of debt, including subject to appropriation debt and moral obligation debt, as they relate to state debt.

MR. MITCHELL responded that these questions are in the bond counsel realm. He pointed out that it is state debt if the letterhead on the offering document says State of Alaska and this would include general obligation bonds, revenue bonds, and certificates of participation. He allowed, however, that these are not considered debt under the constitutional definition. He explained that general obligation bonds are obligations that have the full faith, credit, and taxing authority of an issuer behind them, so either the state or a public corporation can issue them. He described that the public corporation is pledging the corporation's assets and ability to pay, whereas the state is pledging its ability to impose taxes and funds, and this usually allows the state a higher credit rating. He said that the state general obligation bonds are given the state's highest credit rating. He recommended that the committee read the Alaska Public Debt report which gives a thorough explanation of all the state debt, down through municipal debt.

CHAIR HAWKER advised that the committee review the Alaska Public Debt report as it gives a good explanation of the types of debt,

and it also introduces a foundational vocabulary necessary to understand debt issues.

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REPRESENTATIVE CISSNA compared the Alaska and Washington State investment strategies and systems, noting that Alaska still needs more tools to expand.

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MR. BURNETT responded that the resolution offers a potential tool.

REPRESENTATIVE ROSES asked what the consequence is if a public corporation defaults on a bond, as this is not considered state debt.

MR. MITCHELL replied that only a moral obligation bond carries an implied commitment for the state to stand behind the bonds. He stated that public corporation debt is supported by revenue generating projects, and although a default might generate pressure on the state, the state does not have a requirement to repay. He offered his belief that this would not bring any direct negative financial ramification to the state.

REPRESENTATIVE ROSES recounted that a public corporation can issue bonds without a vote from the citizens, yet, if this is a moral obligation bond, the state is accountable for that debt. He analyzed that the resolution eliminates the necessity to set up a public corporation in order to offer a bond which is not tied to a capital project, but that the bond offering will still need a vote of approval. He asked if this will ensure the state a lower interest rate, and thereby let the state arbitrage the money.

MR. MITCHELL offered his belief that the real potential exists with pension obligation bonds. He compared "general obligation" debt to "subject to appropriation" debt, either of which may entail a few billion dollars worth of borrowing. He allowed that there is currently a lot of angst with credit rating, and a different perception of credit worthiness will result in a better interest rate. He explained that these bonds would have the State of Alaska as the primary borrower, as opposed to a public corporation. The general obligation bond or the certificate of participation could result in a lower interest rate. He cited an example of a lower interest rate of 25 basis

points, which would generate a savings of \$25 million per \$1 billion borrowed.

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REPRESENTATIVE ROSES reminded the committee that this resolution is a constitutional amendment and there have been 21 constitutional amendments proposed this year. He asked if this establishes the need for another constitutional convention.

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REPRESENTATIVE SEATON asked if this resolution would allow the state to bond debt for operations. He cited an example of the Knik Arm Bridge and Toll Authority (KABATA), a large mine, or a timber operation that will not generate enough cash, but will generate economic activity in a region. He explained that he was searching for applications other than the pension obligation bonds.

MR. BURNETT relayed that there is some potential for similar projects, however the legislature would still need to propose a bill. He considered that a bond for an alternative energy fund or an economic development fund may be possible, and this has occurred in other states which have no limitation on debt. He allowed that there could be applications that "push the envelope."

MR. MITCHELL stated that any proposal will be judged on its merits. He explained that there needs to be a compelling reason to borrow money on a taxable basis. He reported that lower interest rates are given on tax-exempt loans, so that more speculative projects are best paid with cash. He advised to pay for schools, repairs, etc. with tax-exempt loans. He allowed that this is the compelling reason for public entities to borrow when they have money in the bank.

REPRESENTATIVE SEATON posed that he was searching for applications that were not capital projects, and he suggested operational partnerships for an economic development project.

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MR. BURNETT said that they have not had time to study this resolution enough to make any recommendations.

REPRESENTATIVE CISSNA asked for a suggestion, given the current debt management structure, for a bigger strategy.

MR. MITCHELL explained that there is no debt capacity limitation in statute or in the constitution. He allowed that there is a policy that the state tries to maintain the general fund supported debt at 8 percent of unrestricted revenue. He commented that some states have stronger debt management language written into statute, which can give them a better credit rating and lower interest rates, but that can also limit their capability for projects.

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CHAIR HAWKER explained that the purpose of this committee meeting is to introduce the idea, and develop an awareness of the technical, complex nature of any proposed changes.

[HJR 35 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at [4:45:37 PM](#).