

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 11, 2024

1:31 p.m.

MEMBERS PRESENT

Senator Forrest Dunbar, Chair
Senator Elvi Gray-Jackson
Senator Jesse Bjorkman
Senator Cathy Giessel

MEMBERS ABSENT

Senator Donald Olson, Vice Chair

COMMITTEE CALENDAR

SENATE CONCURRENT RESOLUTION NO. 13

Relating to the procedure that the Thirty-Third Alaska State Legislature will use to reconsider bills and items vetoed by the governor.

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SCR 13

SHORT TITLE: ART. II, SEC. 16, CONST:AFFIRM COMPLIANCE

SPONSOR(S): JUDICIARY

04/08/24	(S)	READ THE FIRST TIME - REFERRALS
04/08/24	(S)	CRA
04/08/24	(S)	CRA WAIVED PUBLIC HEARING NOTICE, RULE 23
04/11/24	(S)	CRA AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR MATT CLAMAN, District H
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SCR 13 as Chair of the Senate Judiciary Committee.

SUSAN ORLANSKY, Attorney

Reeves Amodio LLC
Anchorage, Alaska

POSITION STATEMENT: Gave invited testimony on SCR 13.

ACTION NARRATIVE

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CHAIR FORREST DUNBAR called the Senate Community and Regional Affairs Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Gray-Jackson, Bjorkman, and Chair Dunbar. Senator Giessel arrived immediately thereafter.

SCR 13-ART. II, SEC. 16, CONST:AFFIRM COMPLIANCE

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CHAIR DUNBAR announced the consideration of SENATE CONCURRENT RESOLUTION NO. 13 Relating to the procedure that the Thirty-Third Alaska State Legislature will use to reconsider bills and items vetoed by the governor.

This is the introductory hearing of SCR 13 in the Senate Community and Regional Affairs Committee.

CHAIR DUNBAR invited Senator Claman to introduce the resolution.

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SENATOR MATT CLAMAN, District H, Alaska State Legislature, Juneau, Alaska, introduced SCR 13 as Chair of the Senate Judiciary Committee. He explained that it concerns the process for reconsidering the governor's vetoes under the art. II, sec. 16 of the Constitution of the State of Alaska. He deferred to Susan Orlansky for opening remarks on SCR 13, noting her extensive experience as an appellate lawyer. He highlighted that she has served as counsel in over 200 cases before the Alaska Court of Appeals and Alaska Supreme Court.

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SENATOR GIESSEL joined the meeting.

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SUSAN ORLANSKY, Attorney, Reeves Amodio LLC, Anchorage, Alaska, gave invited testimony on SCR 13. She stated that she has been a lawyer in Alaska for over 40 years and has conducted legal research on a variety of issues. She stated that she was asked by Senator Claman and Mr. Gardner, Senate Majority Counsel, to conduct research on art. II, sec. 16 of the Constitution of the State of Alaska, which governs the legislature's action upon a

veto. She explained that she had no preconceptions about this section of the Constitution but found it to be a straightforward research project with only one sensible answer regarding how the provision is supposed to work. This conclusion is supported by the complete consistency between the explicit language of the Constitution, the Constitutional Convention minutes explaining the intent of the framers who wrote the section, and the rules of practice adopted by the first legislature. She noted that some members of the first legislature were delegates to the Constitutional Convention and therefore had a unique understanding of what the framers intended the legislature to do in response to a gubernatorial veto.

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MS. ORLANSKY said she had no part in drafting SCR 13. She opined that SCR 13 accurately outlines the history and meaning of art. II, sec. 16. She highlighted the following key points regarding the constitutional language and subsequent practice:

- Regular session: The legislature upon receipt of a veto message shall meet immediately in joint session and reconsider passage of the veto bill or item.
- Not in session: The legislature shall reconsider the veto bill in joint session no later than the fifth day after reconvening in either regular or special session.
- The Constitution requires the legislature to meet in joint session when a veto is received. There is no discretion to refuse to meet.
- Uniform Rule 45 provides that after the governor returns a vetoed bill with his objections to the house of origin while the legislature is in session, that house shall note the veto message in the journal, and the other house is promptly requested to meet in joint session to reconsider passage of the veto bill or item. If the legislature is not in session when the veto is delivered, the bill must be considered in joint session within five days of that legislature's reconvening in regular or special session.

MS. ORLANSKY opined that if there is anything unclear in the constitutional language, it is the exact meaning of "immediately." She stated that the constitutional language and the Constitutional Convention minutes suggest the framers did not intend for both houses to drop everything and move literally immediately into a joint session. Equally clear, however, is that the framers intended the legislature to hold that joint session promptly, without undue delay. She provided an example, noting that the first legislature, dealing with the first vetoes

in the state's history, met in joint session on the same day the vetoes were delivered. She further stated that an outside limit for what could be considered prompt enough to meet the spirit of "immediately" is suggested by the five-day limit for convening in joint session if the legislature has adjourned and needs to reconvene for the next regular or special session, allowing enough time for members to gather from all parts of the state.

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MS. ORLANSKY stated that she had heard that, in the recent past, the legislature turned to Uniform Rule 51 for guidance instead of Uniform Rule 45. She explained that this was clearly a mistake because Rule 51 is a general rule on joint sessions, whereas Rule 45 is specifically written to define the legislature's required procedure in response to a vetoed bill. She noted that it is well established in law that a more specific rule always takes precedence over a general rule. She concluded that SCR 13 accurately reflects the history, the intent of the constitutional language, and the framers' intention regarding the procedure and response to a vetoed bill.

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SENATOR CLAMAN commented that Ms. Orlansky framed the focus of SCR 13 well. He said that on the question of vetoes, the legislature looked to Uniform Rule 51 to determine the procedure [for responding to a veto message] and whether there were votes to call a special session. He opined that a review of the issue this session led to focus on specific language in the Constitution, Constitutional Convention discussions at the time "immediately" was adopted, and the content of Uniform Rule 45. He stressed the importance of passing SCR 13, as it provides the proper procedure to follow when the legislature receives a veto message.

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SENATOR GIESSEL said that, as a former presiding officer, she recalled trying to determine if there were enough votes to override a veto, which informs the decision to call a special session.

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CHAIR DUNBAR asked what the practical implications of SCR 13 to the public are.

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SENATOR CLAMAN used the recently vetoed education bill as an example to explain the implications of SCR 13 for the public. He

noted that the education veto message was received in June, and constituents asked their legislators about the possibility of overriding the veto. He explained that his response had been, "I'm not sure we have the votes to call a special session." Under the plain language of the Constitution, he stated that communication to constituents would shift to: "There will be a special session in the first five days when we return to Juneau. I don't know if the votes are there to override [the veto], but you can organize to try to get the votes." He emphasized that while the Constitution requires the legislature to meet in a joint session, whether there are enough votes to override the veto remains uncertain. He opined that this represents a significant change in how legislators interact with constituents.

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SENATOR GRAY-JACKSON commented that she is really happy to see SCR 13, as she knows of the situation mentioned by Senator Giessel. For clarity she asked, if the governor vetoes a bill in June, would the legislature need enough votes to call a special session, or must a meeting on the veto take place right away.

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SENATOR CLAMAN replied that if the legislature was not in session, it would only convene during a special session or upon returning for the second regular session. He clarified that there is no requirement to meet solely because there is a veto.

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SENATOR GIESSEL noted that SCR 13 includes vetoed "bills and items," prompting her to think of budget items that are frequently vetoed. She asked whether requiring the legislature to meet "immediately" when not in session could pose challenges for legislators, such as those working on boats.

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CHAIR DUNBAR stated his understanding that meeting doesn't occur until the legislature is back [in session].

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MS. ORLANSKY stated that the constitutional provision under review outlines how the legislature must respond to a vetoed bill or item during a regular or special session but does not dictate when, where, or how a special session should be called. She acknowledged that other rules, which she had not researched and is not an expert on, govern the process of calling a special session. She explained that in the first year of a two-year

legislature, if adjourned and no special session occurs during the summer, the legislature would address a veto within five days of reconvening in the second year. In the second year, if adjourned and a veto is issued, a special session must be called to reconsider the veto; otherwise, there is no opportunity to override it. She clarified that the bill does not address the rules for calling a special session or require a session within five days of receiving a veto but specifies that the legislature must meet within five days if already in session.

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CHAIR DUNBAR opened public testimony on SCR 13; finding none, he closed public testimony.

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SENATOR CLAMAN thanked the committee for hearing the resolution.

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CHAIR DUNBAR held SCR 13 in committee.

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There being no further business to come before the committee, Chair Dunbar adjourned the Senate Community and Regional Affairs Standing Committee meeting at 1:50 p.m.