

Introduced: 1/27/82  
Referred: Community &  
Regional Affairs and  
Judiciary

1 IN THE SENATE

BY PARR

2 SENATE JOINT RESOLUTION NO. 64

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 Relating to the liability of municipi-  
6 palities and municipal officers under  
7 the 1871 Civil Rights Act.

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

9 WHEREAS the provisions of the 1871 Civil Rights Act were enacted to  
10 secure to recently emancipated black Americans the protections of the Due  
11 Process Clause of the Fourteenth Amendment; and

12 WHEREAS the provisions of the 1871 Civil Rights Act have been interpreted  
13 by the Supreme Court in a fashion probably not intended by the Congress that  
14 enacted it (though admittedly within the language of the Act); and

15 WHEREAS the scope of the coverage of the Act by the Supreme Court has  
16 not been consistently applied but has rather been expanded exponentially; and

17 WHEREAS municipalities in the United States had thought until recently  
18 that they were exempt from claims for damages for the "deprivation of any  
19 rights, privileges, or immunities secured by the Constitution and law" under  
20 the 1871 Civil Rights Act because of the long-standing common law immunity  
21 shielding state and local officials acting in good faith as well as because  
22 of the Eleventh Amendment immunity to the states from litigation in federal  
23 courts; and

24 WHEREAS difficult cases have caused the Supreme Court to reexamine the  
25 language of the 1871 Civil Rights Act and to find municipalities and municipal  
26 officers liable in cases where no liability existed just a few years ago; and

27 WHEREAS it is clear that blatant and obvious violations of established  
28 constitutional rights by municipal officers not acting under established  
29 municipal procedures should not go unchallenged but cases have established

1 substantial municipal liability on principles that were established after the  
2 particular municipal action occurred; and

3 WHEREAS the Alaska State Legislature recognizes that the alteration of a  
4 law so vital to the safekeeping of fundamental civil rights and the enforce-  
5 ment of the Fourteenth Amendment requires an exceptionally delicate hand; and

6 WHEREAS municipalities need protection from the unexpected vicarious  
7 liability for acts of municipal officers not acting under color of law from  
8 the municipality or properly authorized municipal officers; and

9 WHEREAS the obligation of a municipality to respond in damages for  
10 constitutional wrongs creates an uncontrollable problem for the municipality  
11 during a time when the Supreme Court is expanding the scope of constitution-  
12 ally protected rights; and

13 WHEREAS the Supreme Court has stated that the argument that the court's  
14 interpretations of the 1871 Civil Rights Act have not properly assigned  
15 liability as to municipal officers and municipalities are best left to  
16 Congress, particularly as Congress has been aware of the Supreme Court's  
17 interpretations and has done nothing to change them;

18 BE IT RESOLVED by the Alaska State Legislature that Congress is respect-  
19 fully requested to reexamine the validity of the more recent interpretations  
20 put upon the 1871 Civil Rights Act by the Supreme Court and to revise the Act  
21 without seriously undermining individual rights and the procedures for their  
22 protection.

23 COPIES of this resolution shall be sent to the Honorable George Bush,  
24 Vice-President of the United States and President of the U.S. Senate; the  
25 Honorable Thomas P. O'Neill, Jr., Speaker of the U.S. House of Representa-  
26 tives; and to the Honorable Ted Stevens and the Honorable Frank Murkowski,  
27 U.S. Senators, and the Honorable Don Young, U.S. Representative, members of  
28 the Alaska delegation in Congress.

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