

HB

230

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# COMMITTEE REPORT

## HOUSE

FURTHER: JUDICIARY

February 15, 1979

Date: 3-19-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 230

"An Act relating to initiatives and referenda."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
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**MEMBERS HAVING  
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**CHAIRMAN**

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
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LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 13, 1979

SUBJECT: HB 230 Relating to initiatives & referenda.

TO: Mike Miller, Chairman  
House State Affairs Committee

FROM: Billy G. Berrier, Director  
Division of Legal Services *BGB*

This act repeals AS 15.45.110 and AS 15.45.340 which requires that petitions be circulated throughout the state only by a sponsor and only in person. The effect of these two repeals would be to allow the petitions for an initiative or referendum to be circulated in whatever method the sponsor decided to use with a probable limitation that the method could not be clearly unreasonable.

It also repeals secs. 15.45.130 and 360 which are the sections containing the certification of the sponsor, that he has complied with the circulation requirement and that it be circulated only by a sponsor and only in person. In addition, the certification requirements are that the signatures were made in the sponsor's actual presence and that to the best of his knowledge the signatures were genuine.

BGB:nem



committee may designate additional sponsors by giving written notice to the lieutenant governor of the names and addresses of those so designated. (§ 9.06 ch 83 SLA 1960)

**Sec. 15.45.070. Review of application for certification.** The lieutenant governor shall review the application and shall either certify it or notify the initiative committee of the grounds for denial. (§ 9.07 ch 83 SLA 1960)

*Cited in Boucher v. Engstrom, Sup. Ct.  
Op. No. 1097 (File No. 2232), 528 P.2d 456  
(1974)*

**Sec. 15.45.080. Bases of denial of certification.** The lieutenant governor shall deny certification if he determines, in writing, that (1) the proposed bill to be initiated is not in the required form, (2) the application is not substantially in the required form, or (3) there is an insufficient number of qualified sponsors. (§ 9.08 ch 83 SLA 1960)

*Cited in Boucher v. Engstrom, Sup. Ct.  
Op. No. 1097 (File No. 2232), 528 P.2d 456  
(1974)*

**Sec. 15.45.090. Preparation of petition.** If the application is certified, the lieutenant governor shall prescribe the form of and prepare petitions containing (1) a copy of the proposed bill, if the number of words included in both the formal and substantive provisions of the bill is 500 or less, (2) an impartial summary of the subject matter of the bill, (3) the warning prescribed in § 100 of this chapter, (4) sufficient space for signature and address, and (5) other specifications prescribed by the lieutenant governor to assure proper handling and control. Petitions, for purposes of circulation, shall be prepared by the lieutenant governor in a number reasonably calculated to allow full circulation throughout the state. The lieutenant governor shall number each petition and shall keep a record of the petition delivered to each sponsor. Upon request of the committee, the lieutenant governor shall report the number of persons who voted in the preceding general election. (§ 9.09 ch 83 SLA 1960)

**Sec. 15.45.100. Statement of warning.** Each petition shall include a statement of warning that a person who signs a name other than his own on the petition, or who knowingly signs his name more than once for the same proposition at one election, or who signs the petition knowing he is not a qualified voter, upon conviction is punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both. (§ 9.10 ch 83 SLA 1960)

**Sec. 15.45.110. Circulation by sponsor.** The petitions may be

**Sec. 15.45.120. Manner of signing and withdrawing name from petition.** Any qualified voter may subscribe to the petition by signing his name and address. A person who has signed the initiative petition may withdraw his name only by giving written notice to the lieutenant governor before the date the petition is filed. (§ 9.12 ch 83 SLA 1960)

**Sec. 15.45.130. Certification of sponsor.** Before being filed, each petition shall be certified by an affidavit by the sponsor who personally circulated the petition. The affidavit shall state in substance that (1) the person signing the affidavit is a sponsor, (2) the person is the only circulator of that petition, (3) the signatures were made in his actual presence, and (4) to the best of his knowledge, the signatures are those of the persons whose names they purport to be. In determining the sufficiency of the petition, the lieutenant governor shall not count subscriptions on petitions not properly certified. (§ 9.13 ch 83 SLA 1960)

**Sec. 15.45.140. Filing of petition.** The sponsors must file the initiative petition within one year from the time the sponsors received notice from the lieutenant governor that the petitions were ready for delivery to them, and the petition must be signed by qualified voters equal in number to 10 per cent of those who voted in the preceding general election and resident in at least two-thirds of the election districts of the state. If the petition is not filed within the one year period provided for in this section, the petition has no force or effect. (§ 9.14 ch 83 SLA 1960; am § 1 ch 128 SLA 1971)

*Cited in Boucher v. Engstrom, Sup. Ct.  
Op. No. 1097 (File No. 2232), 528 P.2d 456  
(1974)*

**Sec. 15.45.150. Review of petition.** Within not more than 60 days of the date the petition was filed, the lieutenant governor shall review the petition and shall notify the initiative committee whether the petition was properly or improperly filed, and at which election the proposition shall be placed on the ballot. (§ 9.15 ch 83 SLA 1960)

**Sec. 15.45.160. Bases for determining the petition was improperly filed.** The lieutenant governor shall notify the committee that the petition was improperly filed if he determines (1) that there is an insufficient number of qualified subscribers, or (2) that the subscribers were not resident in at least two-thirds of the election districts of the state. (§ 9.16 ch 83 SLA 1960)

**Sec. 15.45.170. Submission of supplementary petition.** Upon receipt of notice that the filing of the petition was improper, the initiative committee may amend and correct the petition by circulating and filing a supplementary petition within 30 days of the date that notice was

**Sec. 15.45.250. Provision and scope of use of referendum.** The people may approve or reject acts of the legislature by referendum. However, no referendum may be applied to dedication of revenues, to appropriation, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety. (§ 9.31 ch 83 SLA 1960)

**Am. Jur. reference.** — 28 Am. Jur., Initiative, Referendum and Recall, § 1 et seq.

**Sec. 15.45.260. Filing application.** A referendum is proposed by filing an application with the lieutenant governor. A deposit of \$100 must accompany the application. This deposit will be retained if a petition is not properly filed. If a petition is properly filed, the deposit shall be refunded. (§ 9.32 ch 83 SLA 1960; am § 23 ch 125 SLA 1962)

**Sec. 15.45.270. Form of application.** The application shall include (1) the act to be referred, (2) a statement that the sponsors are qualified voters who signed the application with the proposed bill attached, (3) the designation of a referendum committee of three sponsors who shall represent all sponsors and subscribers in matters relating to the referendum, and (4) the signatures and addresses of not less than 100 qualified voters. (§ 9.33 ch 83 SLA 1960)

**Section implements constitutional provision.** — The state legislature has interpreted and implemented Alaska Constitution, art. XI, § 2, passing this section requiring the application for a referendum petition to include the act to be referred. 1963 Op. Att'y Gen., No. 17.

The application for referendum petition relating to borough legislation

was not in proper form, and it was necessary for the proponents of the measure to prepare an application containing the text of ch. 52, SLA 1963, and secure the necessary number of signatures to this application before they could validly prepare a petition for circulation under § 3, art. XI, of the Alaska Constitution. 1963 Op. Att'y Gen., No. 17.

**Sec. 15.45.280. Manner of notice.** Notice to the referendum committee on any matter pertaining to the application and petition may be served on any member of the committee in person or by mail addressed to a committee member as indicated on the application. (§ 9.34 ch 83 SLA 1960)

**Sec. 15.45.290. Designation of sponsors.** The qualified voters who subscribe to the application are designated as sponsors. The referendum committee may designate additional sponsors by giving notice to the lieutenant governor of the names and addresses of those so designated. (§ 9.35 ch 83 SLA 1960)

**Sec. 15.45.300. Time of review of application for certification.** Within seven calendar days after the date the application is received, the lieutenant governor shall canvass the application and shall either certify

it or notify the referendum committee of the grounds for denial. (§ 9.36 ch 83 SLA 1960)

**Sec. 15.45.310. Bases of denial of certification.** The lieutenant governor shall deny certification if he determines (1) that the application is not substantially in the required form, or (2) that there is an insufficient number of qualified sponsors, or (3) that more than 90 days have expired since the adjournment of the legislative session at which the act being referred was passed. (§ 9.37 ch 83 SLA 1960)

**Sec. 15.45.320. Preparation of petition.** If the application is certified, the lieutenant governor shall, within seven calendar days after the date of certification, prescribe the form of, and prepare, a petition containing (1) a copy of the act to be referred, if the number of words included in both the formal and substantive provisions of the bill is 500 or less, (2) an impartial summary of the subject matter of the act, (3) the warning prescribed in § 330 of this chapter, (4) sufficient space for signatures and addresses, and (5) other specifications prescribed by the lieutenant governor to assure proper handling and control. Petitions, for purposes of circulation, shall be prepared by the lieutenant governor in a number reasonably calculated to allow full circulation throughout the state. The lieutenant governor shall number each petition and shall keep a record of the petitions delivered to each sponsor. Upon request of the referendum committee, the lieutenant governor shall specify the number of persons who voted in the preceding general election. (§ 9.38 ch 83 SLA 1960)

**Sec. 15.45.330. Statement of warning.** Each petition shall include a statement of warning that a person who signs a name other than his own to the petition, or knowingly signs his name more than once for the same proposition at one election or who signs the petition knowing he is not a qualified voter, upon conviction, is punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both. (§ 9.39 ch 83 SLA 1960)

**Sec. 15.45.340. Circulation by sponsor.** The petitions may be circulated throughout the state only by a sponsor and only in person. (§ 9.40 ch 83 SLA 1960)

**Sec. 15.45.350. Manner of signing and withdrawing name from petition.** Any qualified voter may subscribe to the petition by signing his name and address. A person who has signed the referendum petition may withdraw his name only by giving written notice to the lieutenant governor before the date the petition is filed. (§ 9.41 ch 83 SLA 1960)

**Sec. 15.45.360. Certification of sponsor.** Before being filed, each petition shall be certified by an affidavit by the sponsor who circulated the petition. The affidavit shall state in substance that (1) the person signing the affidavit is a sponsor, (2) the person is the only circulator of

the petition, (3) the signatures were made in his actual presence, and (4) to the best of his knowledge, the signatures are the signatures of persons whose names they purport to be. In determining the sufficiency of the petition, the lieutenant governor shall not count subscriptions on petitions not properly certified. (§ 9.42 ch 83 SLA 1960)

Sec. 15.45.370. Filing of petition. The sponsors may file the petition only within 90 days after the adjournment of the legislative session at which the act was passed and only if signed by qualified voters equal in number to 10 per cent of those who voted in the preceding general election and resident in at least two-thirds of the election districts of the state. (§ 9.43 ch 83 SLA 1960)

Sec. 15.45.380. Review of petition. Within not more than 60 days of the date the petition was filed, the lieutenant governor shall review the petition and shall notify the committee whether the petition was properly or was improperly filed and at which election the proposition shall be placed on the ballot. (§ 9.44 ch 83 SLA 1960)

Sec. 15.45.390. Bases for determining the petition was improperly filed. The lieutenant governor shall notify the committee that the petition was improperly filed if he determines that (1) there is an insufficient number of qualified subscribers, or (2) the subscribers were not resident in at least two-thirds of the election districts of the state, or (3) the petition was not filed within 90 days after the adjournment of the legislative session at which the act was passed. (§ 9.45 ch 83 SLA 1960)

Sec. 15.45.400. Submission of supplementary petition. Upon receipt of notice that the filing of the petition was improper, the committee may amend and correct the petition by circulating and filing a supplementary petition within 10 days of the date that notice was given if 90 days have not expired after the adjournment of the legislative session at which the act was passed. (§ 9.46 ch 83 SLA 1960)

Sec. 15.45.410. Preparation of ballot title and proposition. The lieutenant governor, with the assistance of the attorney general, shall prepare a ballot title and proposition if he determines that the petition is properly filed. The ballot title shall, in not more than six words, indicate the general subject area of the act. The proposition shall, in not more than 100 words, give a true and impartial summary of the act being referred. (§ 9.47 ch 83 SLA 1960)

Sec. 15.45.420. Placing proposition on ballot. The lieutenant governor shall place the ballot title and proposition on the election ballot for the first statewide general, special, or primary election held more than 180 days after adjournment of the legislative session at which the act was passed. (§ 9.48 ch 83 SLA 1960; am § 36 ch 69 SLA 1970)

Legislative committee report. — For 1970 House Journal Supplement No. 2, p. 7 report on ch. 69, SLA 1970 (HB 564), see

Sec. 15.45.430. Display of act being referred. The lieutenant governor shall provide each election board with 10 copies of the act being referred, and the election board shall display three copies of the act in a conspicuous place in the room where the election is held. (§ 9.49 ch 83 SLA 1960)

Sec. 15.45.440. Rejection of act. If a majority of the votes cast on the referendum proposition favor the rejection of the act referred, the act is rejected, and the lieutenant governor shall so certify. The act rejected by referendum is void 30 days after certification. (§ 9.50 ch 83 SLA 1960)

Section adopts language of Constitution. — This section adopted almost verbatim the language of Alaska Constitution, art. XI, § 6, for establishing the time when an act rejected by referendum shall become void. Walters v. Cease, Sup. Ct. Op. No. 182 (File No. 447), 388 P.2d 263 (1964).

Sec. 15.45.450. Insufficiency of application or petition. No referendum submitted to the voters shall be held void because of the insufficiency of the application or petition by which the submission was procured. (§ 9.51 ch 83 SLA 1960)

Sec. 15.45.460. Judicial review. Any person aggrieved by any determination made by the lieutenant governor may bring an action to have the determination reviewed within 30 days of the date on which notice of the determination was given by any appropriate remedy in the superior court. (§ 9.52 ch 83 SLA 1960)

Article 3. Recall.

Section	Section
470. Provision and scope for use of recall	610. Filing of petition
480. Filing application	620. Review of petition
490. Time of filing application	630. Bases for determining the petition was improperly filed
500. Form of application	640. Submission of supplementary petition
510. Grounds for recall	650. Calling special election
520. Manner of notice	660. Preparation of ballot
530. Notice of the number of voters	670. Conduct of special election
540. Review of application	680. Display of bases for and against recall
550. Bases of denial of certification	690. Certification of election results
560. Preparation of petition	700. Filing vacancy
570. Statement of warning	710. Insufficiency of grounds, application, or petition
580. Circulation by sponsor	720. Judicial review
590. Manner of signing and withdrawing name from petition	
600. Certification of sponsor	

Introduced: 2/15/79  
Referred: State Affairs and  
Judiciary

B. RANDOLPH, BARNES, BEIRNE, BETTISWORTH,  
FULLER, HALFORD, HAYES, HURLBERT, MARTIN,  
METCALFE, MOSS, MUNSON AND PHILLIPS

1 IN THE HOUSE

2 HOUSE BILL NO. 230

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to initiatives and referenda."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 15.45.110, 15.45.130, 15.45.340, and 15.45.360 are  
9 repealed.

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16 10% of those who voted in preceding genl. elec  
17 ↓ in each of 2/3 of the election districts

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letter of intent to AG requesting opinion on how  
broad interpretation of other bill coming  
Judiciary committee  
your way