

HJR

41

March 22, 1982



H.J.R. 41 — Alfani's appropriation

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FISCAL NOTE

I. REQUEST

Bill/Resolution No. HJR 41

Title Proposing an amendment to the Constitution of the State of Alaska

Requested by Repr. Barnes, House Judiciary Date March 22, 1982

defining the term "appropriation."

II. FISCAL DETAIL

Agency Affected Department of Law

Program Category Affected General Government

BRU, Program, Or Subprogram(s) Affected Legal Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No fiscal impact.

Richard I. Peques

IV. DATE March 22, 1982

PREPARED BY Richard I. Peques, Director, Admin. Serv

AGENCY Department of Law

Original: Legislative Finance

PHONE 465-3672

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

HJR 41

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HJR 41 (3/26/81)
Title Relating To The Term "Appropriation"
Requested by House Judiciary Committee Date 3/22/82

II. FISCAL DETAIL

Agency Affected General Fund Unrestricted Revenue
Program Category Affected _____
BRU, Program, Or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) SEE ANALYSIS SECTION

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) SEE ANALYSIS SECTION

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This Constitutional amendment would remove the disposition of land or tangible property of the state from being subject to legislative appropriation.

All state land and tangible property has some asset value and income producing value. Therefore, the monetary equivalent of the land, in effect, would be allowed to be distributed without legislative appropriation; including future potential income. Significant fiscal impact to potential state revenues exist but are indeterminate (unquantifiable at this time) due to the nature, type, extent and potential uses to which the land or property could be put.

A. Stack

IV. DATE March 22, 1982 PREPARED BY Anselm C. Stack, Treasury Comptroller
AGENCY Dept. of Revenue, Treasury Division
Original: Legislative Finance PHONE 465-2350
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

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REP. M. F. "MIKE" BEIRNE

MEMBER OF:
FIFTH STATE LEGISLATURE
NINTH STATE LEGISLATURE
TENTH STATE LEGISLATURE
ELEVENTH STATE LEGISLATURE
TWELFTH STATE LEGISLATURE

COMMITTEES:
HEALTH, EDUCATION
AND SOCIAL SERVICES, CHAIRMAN
AND LEGISLATIVE COUNCIL

TO: ALL HOUSE MEMBERS

FROM: REP. MIKE BEIRNE

DATE: Feb. 12, 1982

One of my major priorities this session is HJR 41. It is most important that the people of Alaska be allowed some control over the disposal of state lands, particularly since an incredibly large percentage of our land is in state, rather than private, ownership. This resolution has engendered excellent bi-partisan backing, as reflected by our co-sponsors. If you desire knowledge reflecting popular support, recall the Beirne Homestead Initiative vote. This bill will remedy the constitutional problem which caused the Alaska Supreme Court to overrule the peoples' mandate.

I earnestly seek your support for this measure. Please call my office at 3777 and let me know if you can support this legislation. If you have any questions, please contact Jody Sutherland, my Administrative Assistant.

Thank you.

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all become... t. Op. No. 182 (1964),... between the rejection by... of the class... Alaska Const... framers of the... who adopted a... ness of an act... should not be... od between the... rection by the... had intended... e expressly... on. Walters v... (File No. 447)... ted pursuant... placement of... t, see Boucher... No. 1097 (File... 174)... re used to... orts, define... act local or... dedications... , or to law... ace, health... cal or special... ngstrom, Sup... 232), 528 P.2d... m restricted... wer of both... i restricted... es not extend... es. Wolf v... p Ct. Op. No... d 233 (1973)... few in the... f the school... ere property... then it was... for private... State Hous... 37 (File No... her, Sup Ct... 543 P.2d 71

...ed in Walters v. Cease, Sup. Ct. Op. No. 182 (File No. 447), 388 P.2d 263 (1964).
... Abrams v. State, Sup. Ct. Op. No. 2407, 534 P.2d 91 (1975).
... in Thomas v. Bailey, Sup. Ct. Op. No. 4204, 595 P.2d 1 (1979).

II. APPROPRIATIONS.

The language of this section prohibits initiatives for the purpose of making appropriations. Thomas v. Bailey, Sup. Ct. Op. No. 1835 (File Nos. 4204, 4220), 595 P.2d 1 (1979).

General wording of appropriation limitation. — Though most state constitutions with referendum and initiative provisions have some limitation relating to appropriations, Alaska's appropriation limitation is worded more broadly than that of most other states. Thomas v. Bailey, Sup. Ct. Op. No. 1835 (File Nos. 4204, 4220), 595 P.2d 1 (1979).
By the term "appropriations," this section prohibits an initiative whose primary object is to require the outflow of state assets in the form of land as well as money. Thomas v. Bailey, Sup. Ct. Op. No. 1835 (File Nos. 4204, 4220), 595 P.2d 1 (1979).

"Appropriations" includes statutes that require a specific amount of lands and money to be given away in the manner required by a 1978 initiative, entitled "The Alaska Homestead Act," which gave away to any resident of three or more years who would conduct a survey, file two papers, and pay a nominal filing fee public assets in the form of state land, and which imposed no obligations on the applicant who did or she received the land. Thomas v. Bailey, Sup. Ct. Op. No. 1835 (File Nos. 4204, 4220), 595 P.2d 1 (1979).

Alaska Homestead Act held unconstitutional initiative. — The law enacted by a 1978 initiative entitled "The Alaska Homestead Act" was, for purposes of this section, a law making an appropriation and, therefore, an unconstitutional subject for initiative. Thomas v. Bailey, Sup. Ct. Op. No. 1835 (File Nos. 4204, 4220), 595 P.2d 1 (1979).

The Alaska Homestead Act would have substantially reduced the state government of valuable property just as surely as an initiative requiring residents of specified years to contribute money. In the same manner, the Alaska Homestead Act would have constituted an appropriation and hence an unconstitutional subject for initiative. Thomas v. Bailey, Sup. Ct. Op. No. 1835 (File Nos. 4204, 4220), 595 P.2d 1 (1979).

The fact that a survey might be costly did not change the essential nature of a 1978 initiative entitled "The Alaska Homestead Act" as an appropriations initiative. The applicant would have paid the surveyor; no compensation or service was rendered to the state. The stated purpose and effect of the initiative on the state treasury would still be an expenditure of state assets in the form of public lands. Thomas v. Bailey, Sup. Ct. Op. No. 1835 (File Nos. 4204, 4220), 595 P.2d 1 (1979).

Authorizing school service areas to submit their budgets to the people by referendum would violate this section. 1961 Op. Att'y Gen., No. 24.

III. LOCAL OR SPECIAL LEGISLATION.

This section expressly exempts "local or special legislation" from both the initiative and the referendum. Wolf v. Alaska State Hous. Auth., Sup. Ct. Op. No. 937 (File No. 1708), 514 P.2d 233 (1973).

This section specifically precludes use of the initiative to enact "local or special legislation." Boucher v. Engstrom, Sup. Ct. Op. No. 1097 (File No. 2232), 528 P.2d 456 (1974).

What constitutes local or special legislation. — See Boucher v. Engstrom, Sup. Ct. Op. No. 1097 (File No. 2232), 528 P.2d 456 (1974).

Description of local legislation in Walters v. Cease, Sup. Ct. Op. No. 235 (File No. 518), 394 P.2d 670 (1964), disapproved. — See Boucher v. Engstrom, Sup. Ct. Op. No. 1097 (File No. 2232), 528 P.2d 456 (1974).

A law does not cease to be general because it operates only in certain subdivisions of the state. Boucher v. Engstrom, Sup. Ct. Op. No. 1097 (File No. 2232), 528 P.2d 456 (1974).

Critical element is whether rational basis for classification exists. — Legislation, whether enacted by the legislature or by the initiative, need not operate evenly on all parts of the state to avoid being classified as local or special. The critical element is whether there is a rational basis for the particular classification. Boucher v. Engstrom, Sup. Ct. Op. No. 1097 (File No. 2232), 528 P.2d 456 (1974).

The classification must bear a reasonable and proper relationship to the purposes of the act and the problem sought to be remedied. Boucher v. Engstrom, Sup. Ct. Op. No. 1097 (File No. 2232), 528 P.2d 456 (1974).

File 3
Agriculture and Animals
File 4
Alcoholic Beverages
Annual Contents Card
File 1
General Provisions
File 2
Aeronautics

3-15-85

HR 41

Bennis

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Introduced: 3/26/81
Referred: Judiciary and Finance

BY BEIRNE, FREEMAN, MALONE, HAYES,
CATO, RANDOLPH, MOSS, BARNES, HALFORD,
FANNING, MONTGOMERY, O'CONNELL AND
BETTISWORTH

1 IN THE HOUSE

2 HOUSE JOINT RESOLUTION NO. 41

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 Proposing an amendment to the Consti-
6 tution of the State of Alaska defin-
7 ing the term "appropriation."

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

9 * Section 1. Article XII, Constitution of the State of Alaska, is amended
10 by adding a new section to read:

11 SECTION 14. APPROPRIATION DEFINED. As used in this constitution
12 the term "appropriation" or variations of the term means an authoriza-
13 tion to withdraw money from the treasury for a specified purpose. It
14 does not include disposition of land or other tangible property.

15 * Sec. 2. The amendment proposed by this resolution shall be placed
16 before the voters of the state at the next general election in conformity
17 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-
18 tion laws of the state.

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21 To convey land of
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