HJR

71

COMMITTEE REPORT

HOUSE

(5) FURTHER: JUDICIARY
FINANCE

1/12/82

Date: 2/3/82

Mr. Speaker:

The Committee on STATE AFFAIRS has had HJR 71

Proposing an amendment to the Constitution of the State of Alaska relating to incurring general obligation indebtedness for veterans housing.

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 ______ [X] 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 DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

January 26, 1982

The Honorable Ray H. Metcalfe
Chairman
House State Affairs Committee
Room 102 - Capitol Building
Juneau, AK 99811

Re: House Joint Resolution No. 71

Dear Representative Metcalfe:

House Joint Resolution No. 71, proposing an amendment to the Constitution of the State of Alaska relating to incurring general obligation indebtedness for veterans housing, was introduced in the House on January 12, 1982, and was referred to the House State Affairs, Judiciary and Finance Committees.

For the consideration of the House State Affairs Committee, I am enclosing a copy of a Fiscal Note prepared by Thomas K. Williams, Commissioner, Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson

R. D. Stevenson
Special Assistant

RDS:mll
Enclosure

cc: The Honorable Ramona L. Barnes
Chairwoman
House Judiciary Committee

The Honorable Al Adams
Chairman
House Finance Committee

Thomas K. Williams
Commissioner of Revenue
Department of Revenue

Joseph K. Donohue
Deputy Commissioner, Taxation
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HJR 71
Title Constitutional Amendment for G.O. bonds for veterans housing
Requested by House State Affairs Committee Date

II. FISCAL DETAIL
Agency Affected Revenue/State Bond Committee
Program Category Affected General Government
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)

	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	None	Unknown	Unknown	Unknown	Unknown	Unknown

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This proposed amendment to the State Constitution seeks to take advantage of existing provisions in the Internal Revenue Code which allow tax-exempt bonds to be issued to finance housing for veterans, provided those bonds are either general obligation bonds of a state or are guaranteed by the general obligation (or full faith and credit) of a state. Unlike tax-exempt bonds which AHFC may currently issue (which don't have the guarantee of the State's full faith and credit), the bonds under the proposed amendment would not be subject to the same strict eligibility requirements that are imposed under the federal tax law for the AHFC tax-exempt bonds. In addition, the authority for AHFC to issue tax-exempt bonds at all will expire after 1983 unless Congress acts to extend this deadline; there would be no such expiration problem for the veterans bonds under the proposed amendment.

Continued on next page

IV. DATE January 26, 1982 PREPARED BY Thomas K. Williams
AGENCY Revenue
Original: Legislative Finance PHONE 465-2300
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

The reason for this provision in the Internal Revenue Code favoring veterans housing when financed by bonds secured by the full faith and credit of a state is that the author of the 1980 legislation which so curtailed AHFC's tax-exempt program was Representative Al Ullman of Oregon. Oregon's constitution specifically authorized the State of Oregon to issue its general obligation bonds to finance veterans housing. As one can see from my description of the difference between AHFC-type programs and Oregon's veterans program, Mr. Ullman was quite successful in protecting the special interests of his home constituency.

Unfortunately for the security of Oregon's veterans program, Mr. Ullman was not re-elected to Congress is 1980, and consequently a representative from another state (Mr. Rostenkowski of Illinois) is Chairman of the House Ways and Means Committee (where all tax legislation would originate). With Mr. Ullman gone, there is much less assurance that the federal tax laws won't be changed to limit or cut off the tax-exempt status of state general obligation bonds for veterans housing, especially as the Reagan Administration is looking at cutting off certain tax-exempt bond programs as a means of gaining additional income taxes and reducing the projected federal deficits.

Despite these uncertainties over its future, the federal tax law currently allows state general obligation bonds for veterans housing to be tax-exempt. Assuming that this law is not changed, an amendment to the Constitution of the State of Alaska authorizing the issuance of such bonds would allow veterans to get mortgages financed based on tax-exempt rates and thereby reduce the amount of State subsidies needed for housing statewide through AHFC.

There are two ways to go in amending the State Constitution to set up a veterans housing bond program. One is to have the State itself issue general obligation bonds. The other is to have a different entity like AHFC actually issue the bonds, which would then be guaranteed by a pledge of the full faith and credit of the State of Alaska. Under this second approach the voters would have to ratify and approve a specified amount of bonds to be so guaranteed, just as (under the first alternative) they would have to ratify and approve the amount of general obligation bonds that the State would directly issue for veterans housing. In other words, from the perspective of having the people vote on the amount to which the full faith and credit of the State would be pledged in support of the financing of veterans housing, both approaches are essentially the same.

From the perspective of the State's continued credit rating, however, the difference between the two approaches would be significant. Under the first approach the bonds that are issued are direct obligations of the State, while under the second they would be contingent obligations -- that is, AHFC would first have to be unable to meet the debt service of the bonds on its own before there would be a call placed against the resources of the State (of course, if such a call were made, it would be a paramount demand upon the State's resources, the same as with the State's own general obligation bonds). The difference boils down to this -- under the first approach the payment of the debt service on the veterans housing bonds is a paramount demand on the State's resources each and every time an installment of the debt service comes due, and the State would have to come up with the money to meet that debt service payment regardless of any cash flow problems it might temporarily be experiencing at the due date; whereas, under the second approach, AHFC would first have to be unable to meet the debt service on the veterans housing bonds before the State would be subject to the paramount demand upon its resources. With AHFC acting as a buffer between the bondholders and the State under the second approach, it provides an additional measure of assurance that the debt service on the veterans housing bonds will be paid in full and on time. This assurance becomes greater, the more AHFC's own programs and financial strength remain sound.

The disadvantage of the first approach (which is to have the State issue general obligation bonds directly) is best illustrated by the example of Oregon. Oregon financed veterans housing through general obligation bonds issued in its own name. As the program continued over the years, Oregon issued millions and millions of dollars of its own general obligation bonds for veterans housing and millions more for regular capital projects. Eventually its credit rating started to slip, making it more and more expensive for Oregon to finance either the veterans mortgages or its capital projects. Today both Oregon's credit rating and its capacity to borrow are materially impaired as the result of its veterans housing bond program.

The constitutional amendment as proposed in HJR 71 would follow the same approach as Oregon used. I believe (as does the State Bond Committee's Financial Advisor) that if the State of Alaska is going to pledge its full faith and credit for bonds issued to finance veterans housing and thereby take advantage of a present feature of the Internal Revenue Code, the better way to do this is with an instrumentality of the State like AHFC serving as the actual issuer of the bonds and with the State pledging its full faith and credit to guarantee those bonds. Ultimately, we should be able to issue more bonds with a better credit rating and at lower interest rates.

I would therefore recommend for the Committee's consideration the following change to HJR 71 -- delete lines 12 - 19 and substitute the following:

SECTION 8. STATE DEBT. No state debt shall be contracted [UNLESS AUTHORIZED BY LAW] for capital improvements nor shall the full faith and credit of the State be pledged to guarantee bonds issued by the State or an instrumentality of the State to finance housing for veterans, unless authorized by law and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, contract debt for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective.

This language would allow the second approach to be taken instead of going the way Oregon did, but at the same time it would allow the State to issue general obligation bonds in its own name, without having to re-amend the State Consititution to do so, in the event AHFC (or whatever instrumentality is set up to issue the veterans housing bonds) for some reason proves to be unsatisfactory.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M January 28, 1982

SUBJECT: HJR 71 -- GO Bonds for Veterans

TO: Representative Ray H. Metcalfe
Chairman, House State Affairs Committee

FROM: Billy G. Berrier
Director
Division of Legal Services

As you requested I have prepared two alternative drafts for the committee substitute.

Alternative 1 is the draft adopted by the committee. I have made no changes to it as you requested. The draft has two significant problems.

You have furnished a copy of a presentation by Commissioner Tom Williams of the Department of Revenue. The purpose of the change is to allow agency financing (through the Alaska Housing Development Corporation) with a full faith and credit guarantee by the state as well as direct bonding by the state itself.

The additional language is unnecessary since a full faith and credit guarantee of an instrumentality obligation is by definition creating state debt. This could cause interpretative problems when contrasted with the term state debt as used in this section and elsewhere in the constitution. It could also be restrictive since the term state debt is broader. This is the kind of language that is properly used in a bond bill authorizing a guarantee. The bill would deal with a particular financing situation. It would not be improper in an authorization bill but an authorization bill is evidently not necessary unless the legislature desires by law to limit the financing procedure. It is however not consistent with other usage in the constitution which is the basic document of government.

It also creates an inadvertent but quite significant constitutional change not related to the intent of the resolution.

Under the current constitutional provisions state debt may be incurred only for capital improvements. The intent of the resolution is to also allow state debt for veterans housing loans. In addition this language would also on its face allow state debt to be incurred for any other purpose without an authorizing vote of the people, making that requirement only applicable to state debt for capital improvements or veterans loans. While some states do al w the legislature alone to contract state debt without voter approval in certain circumstances there is no indication the committee intended this significant change.

This results since contracting state debt is within the power of the legislature except as restricted by the constitution. This section is the only restriction on that power in the Alaska Constitution. The suggested wording narrows the limitation to these two categories.

I have discussed my reservations with Commissioner Williams who agrees that expanding the authority of the legislature to contract state debt was not an intended result and should be corrected. I have also discussed the language with him and, at his suggestion, with Mr. Eric Wohlforth who is bond counsel for, among others, the Alaska Housing Finance Corporation. Mr. Wohlforth agrees that the instrumentality guarantees sought to be a thorized are authorized by the original language. However, Mr. Wohlforth did suggest the language would be improved by inserting the term "loans" following the term "housing" on line 14, page 1 since the obvious intent is to use funds for loan purposes. I agree this improves the language and after again talking with Commissioner Williams he also agreed with Mr. Wohlforth's suggestion.

I have therefore prepared Alternative 2 which has made only that change. In this alternate the same ends are accomplished without the problems attendant on Alternative 1.

BGB:jdn

Enclosures

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

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Continued on next page

IV. DATE January 26, 1982 PREPARED BY Thomas L. Williams
AGENCY Revenue
PHONE 465-2300

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

January 26, 1982

The Honorable Ray Metcalfe, Chairman
House State Affairs Committee
Pouch V
Juneau, AK 99811

Re: HJR 71

Dear Mr. Chairman:

I have received and reviewed copies of Alternatives 1 and 2 for a Committee Substitute for HJR 71. Alternative 1 incorporates the language which I recommended both in my analysis in the Fiscal Note for this Resolution and in my personal testimony before your Committee.

After discussion of both alternatives with legislative counsel and with the State Bond Committee's bond counsel, I am persuaded that Alternative 2 is superior to Alternative 1. One of my concerns was that the phrase "state debt" might not allow bonds to be issued by an instrumentality of the State that were guaranteed by a pledge of the State's full faith and credit. As I pointed out, we would not want to limit ourselves to the case where the State alone would be able to issue such bonds, as Oregon did. However, bond counsel has reassured me that such a guarantee by the State would be "state debt" as that phrase is used in the Constitution.

In addition, legislative counsel explained to me the superiority of having the phrase "unless authorized by law" where it is in Alternative 2, instead of where it would have been in my proposal (Alternative 1).

Therefore, I have no further drafting problems or suggestions with respect to Alternative 2, and I further recommend that if your Committee wishes to act favorably on HJR 71, Alternative 2 should be used as the basis for a Committee Substitute

Very truly yours,

Thomas K. Williams

Thomas K. Williams
Commissioner of Revenue

TKW

cc: Representative Cotten

Alaska State Legislature
House of Representatives

THE SEAL OF THE STATE OF ALASKA

Official Business

COMMITTEE ON
STATE AFFAIRS

Pouch V
State Capitol
Juneau, Alaska 99811

DATE: 1-26

Bills to be considered: HJR 71 ; HCR 46 ; ______ ; ______

Please Print: Name	Address	Affiliation	Bill# of testimony
T.K. Williams	Pouch S	Dept. of Revenue	HJR 71

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Committee's Financial Advisor) that if the State of Alaska is going to pledge its full faith and credit for bonds issued to finance veterans housing and thereby take advantage of a present feature of the Internal Revenue Code, the better way to do this is with an instrumentality of the State like AHFC serving as the actual issuer of the bonds and with the State pledging its full faith and credit to guarantee those bonds. Ultimately, we should be able to issue more bonds with a better credit rating and at lower interest rates.

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Strike words for Veterans

I can't your objectives be reached via same language

II. was full faith and credit behind previous sales

III. interest rate of no full faith

4 Fed I.R.S. reg change would wipe out language

Alaska State Legislature

House of Representatives

Committee on State Affairs

Official Business

NOTIFICATION SHEET
BILL NO. HJR 71

1-25 + 2-3

Pouch V
State Capitol
Juneau, Alaska 99811

NAME	ORGANIZATION	PHONE NO.
Sam Cotton		
Gov's office Karen Slack	1-22	
Denna Cline	1-22 Revenue	
Harry Goldbar	AHFC 1-22	

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

2-3

NOTIFICATION SHEET
BILL NO. ~~[illegible]~~, HJR 71

NAME	ORGANIZATION	PHONE NO.
1-24 Bradley	Senate	
1-24 VFW	1-26 no ans.	62428
1-24 VA	1-26, no ans.	67472
1-24 VFW Amer Legion	Mr. Anderson	2268213
1-24 Harold Eastham	VFW [illegible]	69603-8643306
1-24 [illegible] Sec Affairs		6-1950
Dick Roundtree General Sherril 1-26	(Natl Guard) Military Affairs	4600