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Alaska Judicial Council

NON-ATTORNEY MEMBERS
MARY JANE FATE
JOHN E. LONGWORTH
ROBERT H. MOSS

1031 W. Fourth Avenue, Suite 301
ANCHORAGE, ALASKA
99501
(907) 279-2526

EXECUTIVE DIRECTOR
FRANCIS L. BREMSON

ATTORNEY MEMBERS
JAMES B. BRADLEY
JOSEPH L. YOUNG
BARBARA L. SCHUHMAN

CHAIRMAN, EX OFFICIO
EDMOND W. BURKE
CHIEF JUSTICE
SUPREME COURT

March 16, 1983

Representative Charlie Bussell
Chairman, House Judiciary Committee
State Capitol
Pouch 5
Juneau, AK 99811

RE: House Bill 8 and Senate Bill 84

Dear Representative Bussell:

The Alaska Judicial Council wishes to go on record in opposition to House Bill 8 and Senate Bill 84, both of which are currently under consideration by the Alaska State Legislature. Both bills would alter the number and size of election districts for judicial retention purposes and, thereby, the roles and responsibilities of the Judicial Council.

At the Council's meeting in Anchorage on February 15-16, 1983, Council members specified the following statutory, administrative and constitutional bases for its objections to the legislation:

Statutory Reasons:

- The difficulty of the Judicial Council determining, on the basis of vague language ("routinely and frequently"), whether a judge should be subject to election in districts other than the one in which he/she resides;
- The possible conflict created by requiring the Council to determine where a judge must run, while at the same time evaluating the judge for retention purposes.

Representative Charlie Bussell
March 16, 1983
Page two

Administrative Reasons

- The possibility that some voters, while within the jurisdiction of one Judicial District, would actually vote for retention purposes for the judge of another Judicial District;
- The confusion occasioned by using different election districts for retention elections than are used for general elections.

Constitutional Reasons

- The possibility that voters in whose election districts no Superior and/or District Court exists may be disenfranchised, either because the election district does not include a court, or because the district is served by one or more judges, none of whom hear matters "routinely or frequently" in such districts.

Should you or any member of your Committee wish to discuss the Council's position with regard to this legislation in further detail, please let me know. I would be pleased to appear before the committee to testify in opposition to this legislation at such time and place as may be convenient.

Thank you for the opportunity to present the Council's position on this matter.

Sincerely,



Francis L. Bremson
Executive Director

FLB/pjd

cc: Alaska Judicial Council

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 18, 1982

SUBJECT: Judicial retention elections -- HB 624.

TO: Representative Ramona L. Barnes
Chairman, House Judiciary Committee

FROM: Richard A. Bradley
Legislative Counsel *B*

You have asked that I explain the provision of HB 624 that ties judicial retention election districts to the legislative election districts as they existed in 1959. Sec. 22.18.050(b) (as enacted in Sec. 1 of HB 624) provides:

(b) For purposes of the section, the judicial retention election districts of the state are the election districts as they are described in art. XIV of the state constitution as it existed on March 19, 1959.

March 19, 1959 has no particular significance in itself; it is merely the effective date of Chapter 50, SLA 1959, the Act that established the Alaska court system and became the basis for AS 22.

The source of the date is AS 22.10.010, the section providing for the "establishment of the superior court" and establishing the borders of the four judicial districts of the superior court. The language of the section establishes each judicial district with reference to identified election districts, "as said districts are described in art. XIV of the state constitution on March 19, 1959".

Ever since the Alaska court system was established, the jurisdiction of the superior court has been tied to the 1959 election district borders. While the districts for the election of members of the legislature have varied since then, no alteration of the borders of the four judicial districts has occurred.

Representative Rhonda L. Barnes

Page 2

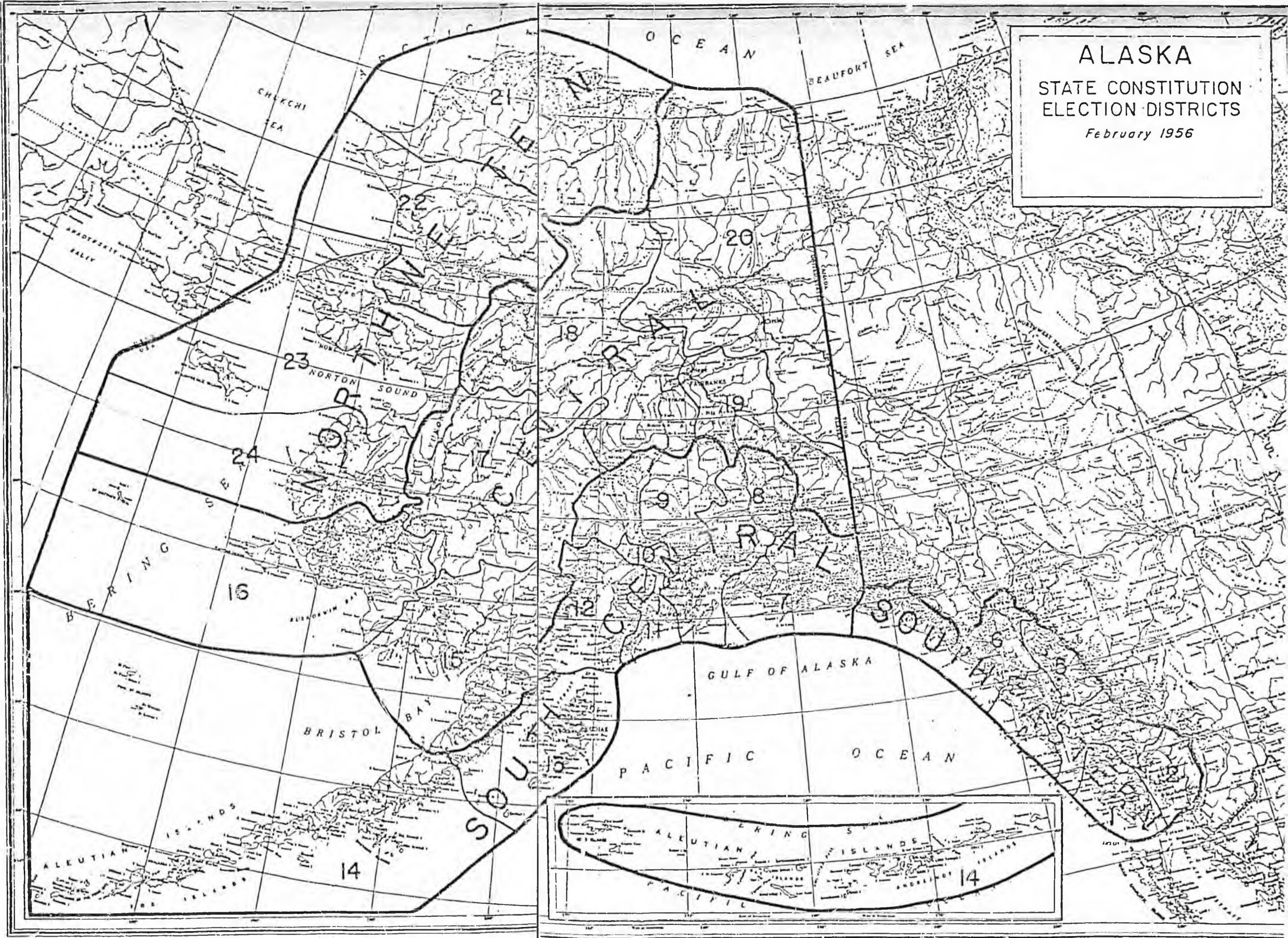
February 18, 1982

I have no idea whether the judicial districts are obsolete in their borders or would benefit from revision. I am aware that there was some interest in that question several years ago but I believe the difficulties that caused the proposals may have been resolved otherwise. But I suggest that this bill should not seek to establish retention districts for judges in terms of the recent reapportionment, for example, without simultaneously altering the judicial districts of the superior court. Since the judicial districts establish lines in which cases may be brought and heard by particular judges, they should also establish the districts in which the judges seek retention.

If I may assist further, please advise. If you wish me to attend your hearing tomorrow, give me a call and I will come over.

RAB:ljb

ALASKA
STATE CONSTITUTION
ELECTION DISTRICTS
February 1956



4/11

given the opportunity to express their will in response to a ballot that is drawn in conformity with the intent of the framers

of the Constitution of Alaska. *Boucher v. Bomhoff*, Sup. Ct. Op. No. 775 (File No. 1487), 495 P.2d 77 (1972).

Section 4. Powers. Constitutional conventions shall have plenary power to amend or revise the constitution, subject only to ratification by the people. No call for a constitutional convention shall limit these powers of the convention.

The United States Congress has no power to amend a state's constitution. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, cert. denied, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

The constitution of the State of Alaska provides only two means for its amendment. Alaska Const., art. XIII, § 1 authorizes such amendments by a two-thirds vote of each house of the legislature thereafter approved by a majority vote at the next statewide election. This section provides for amendments by a constitutional convention subject to ratification by the people. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, cert. denied, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

The Alaska Constitution may not be amended by popular vote alone, without prior action by either the legislature or a constitutional convention. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, cert. denied, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

Adoption of provision in Statehood Act did not amend constitution. — Although included in Alaska Statehood Act, § 8(b), 48 U.S.C. Prec. § 21, was the provision that in the event that three propositions to be submitted to the voters were adopted by a majority vote, "the proposed constitution of the proposed State of Alaska ... shall be deemed amended accordingly," and although the propositions were adopted, the Alaska Constitution was not thereby amended to include "the terms or conditions of the grants of land" set forth in Alaska Statehood Act, § 6(i) since there was no state legislature in existence at the time of passage of the Statehood Act, the territorial legislature never approved an amendment incorporating the restrictions of Alaska Statehood Act, § 6(i), which relates to mineral land grants, into the Alaska Constitution, and no constitutional convention was called to act on the matter. *State v. Lewis*, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630, cert. denied, 432 U.S. 901, 97 S. Ct. 2943, 53 L. Ed. 2d 1073 (1977).

Article XIV

Apportionment Schedule

Cross reference. — As to legislative apportionment, see Alaska Const., art. VI.

Section 1. Election Districts. Members of the house of representatives shall, until reapportionment, be elected from the election districts and in the numbers shown below:

Number of District	Name of District	Number of Representatives
1	Prince of Wales	1
2	Ketchikan	2

<i>Number of District</i>	<i>Name of District</i>	<i>Number of Representatives</i>
3	Wrangell-Petersburg	1
4	Sitka	2
5	Juneau	2
6	Lynn Canal-Icy Straits	1
7	Cordova-McCarthy	1
8	Valdez-Chitina-Whittier	1
9	Palmer-Wasilla-Talkeetna	1
10	Anchorage	8
11	Seward	1
12	Kenai-Cook Inlet	1
13	Kodiak	2
14	Aleutian Islands	1
15	Bristol Bay	1
16	Bethel	1
17	Kuskokwim	1
18	Yukon-Koyukuk	1
19	Fairbanks	5
20	Upper Yukon	1
21	Barrow	1
22	Kobuk	1
23	Nome	2
24	Wade Hampton	1

Reapportionment and redistricting.
— The reapportionment proclamation of the governor, dated June 14, 1974, as modified by the Alaska supreme court in *Groh v. Egan*, Sup. Ct. Op. Nos. 1081a, 1081b (File No. 2237), 526 P.2d 863 (1974),

provides that the election districts are to have the following numbers, names, and assignments of seats in the house of representatives:

<i>Election District</i>	<i>Name of District</i>	<i>Number of Representatives</i>
1	Ketchikan-Prince of Wales	2
2	Wrangell-Petersburg	1
3	Sitka	1
4	Juneau-Lynn Canal	2
5	Cordova-Valdez-Seward	1
6	Palmer	1
7	Anchorage Northwest	4
8	Anchorage Northeast	4
9	Anchorage Spenard	2
10	Anchorage East	2
11	Anchorage South	2
12	Anchorage West	2
13	Kenai-Cook Inlet	2
14	Kodiak	1
15	Aleutian Chain	1
16	Bristol Bay	1



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 21, 1981

MEMORANDUM

TO: Representative Ben Grussendorf

FROM: Leslie Longenbaugh ✓
Research Staff

RE: Retention Election of Judges
Research Request Number 81-141

You asked that we provide information on options for changing the system of retention by election for district and superior court judges in this state. You would like to find a way of reconciling the differences between the population most likely to be served by the judge and the population which is given the opportunity to vote on the judge's retention.

The "modified Tennessee plan," where judges are appointed and then subject to approval or rejection by the voters, is incorporated in the Alaska Constitution; however, that Constitution does vest the Legislature with the power to establish the manner in which judges are approved or rejected (see Article IV, Section 6, of the Alaska Constitution, which is Attachment C to this memorandum).

PRESENT SITUATION

One question raised by this inquiry is whether the group which is served by a judge includes few, many, or most of those who may vote for his or her retention. For the most part, the disparity between these two groups is significant. For example, a judge whose court is in Sitka will seldom hear cases from Juneau, Ketchikan, and Wrangell, and yet will be subject to approval or rejection by voters in those communities. Some proponents of change argue that a judge who is unpopular among the population he or she serves is nonetheless likely to be retained by a voting population that includes a majority who are uninformed about the judge's performance.

This difference between those served and those who may vote on a judge's retention is also perceived as a problem by some staff within the court system. The Honorable Duane Craske, Superior Court Judge in Sitka, for example, told us that he would welcome a reform in this area, seeing it

as a way of furthering communication between a judge and those he or she serves. Nick Maroules, Attorney for the Judicial Council,¹ also has said that he thinks some change in this direction is a good idea, particularly for Southeast.

For the purposes of court administration, Alaska is divided into four judicial districts (see Attachment A). The First Judicial District encompasses all of Southeast Alaska, the Second includes the far northwestern region of the state, the Third comprises Southcentral Alaska and the Aleutian Islands, and the Fourth cuts a diagonal swathe across the center of the state, including Fairbanks and Bethel. In the First Judicial District, superior and/or district court judges sit in four municipalities: Juneau, Ketchikan, Sitka and Wrangell. In the Second, judges sit in Kotzebue and Nome; the Third Judicial District contains five communities where judges sit: Anchorage, Homer, Kenai, Kodiak and Valdez. The Fourth has judges in Bethel and Fairbanks. The size of the four districts is thought by some to reduce the chances that a voter will be well-informed about the performance and popularity of a judge from another part of the judicial district.

Once appointed by the Governor, an Alaskan district or superior court judge is likely to spend most of his or her tenure in the municipality where he or she was originally assigned. This position contradicts the popular view that judges quite frequently move from one town to another. There are three occasions when a district or superior court judge will be temporarily replaced by a judge from another part of his or her judicial district: 1) illness; 2) vacation; and 3) preemption, or disqualification.

The third case mentioned above, that of disqualification, is the most common reason for temporary reassignment. Alaska law allows participants in civil cases and defendants in criminal prosecutions to request that their cases be tried before a judge other than the one assigned. The petitioner need not provide any reason for the request for disqualification. In addition, it sometimes happens that a judge feels himself or herself to be unable to participate fairly in a proceeding; in these cases, the judge files a disqualification from the case.

On a change of judge has been granted, the Presiding Judge of the judicial district must choose a judge of the same authority as the disqualified judge, i.e., district or superior, to go to the other court to hear the case. This reassignment is sometimes a problem, particularly in judicial districts with only a few courts. For example,

¹Nick Maroules, Attorney/legal Analyst, Alaska Judicial Council, 420 "L" Street, Suite 502, Anchorage, 99501; telephone: 279-2526.

Because none of the four towns in the First Judicial District which have courts presently contains more than one superior court judge, judges who are reassigned within this district must nearly always travel some distance. During 1980, 2% of the cases heard in the First Judicial District were reassigned because of the disqualification of the original judge.²

In terms of the number of judges and the size of the population served, the Third Judicial District is the largest in the State. Anchorage, which is located within the Third District, has ten Superior Court judges and seven District Court judges. When a judge is disqualified from a case in the Anchorage area, another judge usually can be found in Anchorage to replace him or her on the case. Judges in Valdez, Kenai, Homer, and Kodiak, however, are also likely to be replaced by Anchorage judges. For this reason, it would seem that voters in the Third Judicial District would be more likely than voters in the First to know the judges from throughout their district.

The two remaining judicial districts, the Second and the Fourth, present situations similar to that in the First, although on a different scale. Each of these districts contains two municipalities with courts, and in each the two municipalities are separated by hundreds of miles.

OPTIONS

In your request to this Agency, you mentioned two alternatives for resolving the perceived disparity between those eligible to vote for a judge's retention and those who are served by that judge. These options are: 1) to have the voters within each election district vote on the retention of the judges in their election district; and 2) to have the voters in each community vote on the retention of judges serving in their community. For reasons discussed below, we offer a third option for your consideration: to break the present judicial districts down into smaller election units which would correspond more closely to the areas actually served by the judges within them.

²We computed this figure ourselves by counting the number of disqualifications in Judge Stewart's 1980 files, and using the figure for the total number of cases other than traffic violations given to us by Merle Martin, the Manager of Technical Operations for the Court System (telephone: 264-0544). This figure is not presently available for the other three judicial districts, but presumably could be computed in the same fashion.

Representative Grussendorf

May 21, 1981

Page 4

The first option, to have judges retained only by the voters in their election districts, would present difficulties because of the impracticability of matching election district boundaries with the present areas served by judges (compare Attachments A and B). In order to institute this change, the area served by each judge would have to be redefined to conform to the election district.

The second option you suggested, to have only those voters in the community where a judge sits vote on his or her retention, also would be difficult to institute. If only the community where the judge sits is included in this plan, the surrounding smaller communities whose inhabitants are routinely subject to the judge's orders will be disenfranchised. For example, the judge in Sitka who hears cases from Angoon would not be voted upon by the inhabitants of Angoon, or of any of the small communities whose cases he or she hears.

We have worked out a third option, which is a combination of the two you suggested and the present practice: having the Division of Elections break up the present judicial districts, precinct by precinct, into smaller election units. This would be similar to the Division's present practice, which is to divide the election districts every ten years, precinct by precinct, in order to match the ballots to the judicial districts involved.

According to Patty Ann Polley, Director of the Division of Elections,³ her office hopes to divide up the reapportioned election districts in time for the 1982 retention elections. Ms. Polley reports that making divisions smaller than the four judicial districts would not present any real difficulty.

The primary problem associated with this approach seems to lie in the timing. Ms. Polley has estimated that the Division of Elections must have the figures from the reapportioned election districts by February 1982 in order to use the new districts in the 1982 elections. Thus, February 1982 is the latest date, assuming that there are no major delays in the progress of the reapportionment plan, that the Division of Elections will be starting work on the decennial division of election districts into judicial districts. If new election units of some kind are to be included in the Division's efforts, the Legislature will have had to pass the appropriate legislation, and the Judicial Council (or some other group which is qualified to make such judgments about the judiciary) will have had to decide on the boundaries of the new "judicial election districts" before February 1982.

³Patty Ann Polley, Director, Division of Elections, 3rd Street Community Building, Juneau, 99811; telephone: 586-5181.

Representative Grussendorf
May 21, 1981
Page 5

Of course, at the request of the Legislature, the Division of Elections could redivide the judicial districts at almost any time; the time limits mentioned above refer to the earliest possible election, i.e., 1982, and to the most efficient use of staff time at the Division of Elections, since they must redivide the districts in 1982 as they do every ten years.

Mr. Maroules, the Attorney for the Judicial Council, has told us that as far as he knows, the idea of redistricting for judicial elections has never come before the Judicial Council. Mr. Maroules has placed the idea on the agenda for the next general meeting of the Council, scheduled for the first week in June, and has said that he will call us with the results of that meeting. We will keep you informed of the Judicial Council's response to the suggestion.

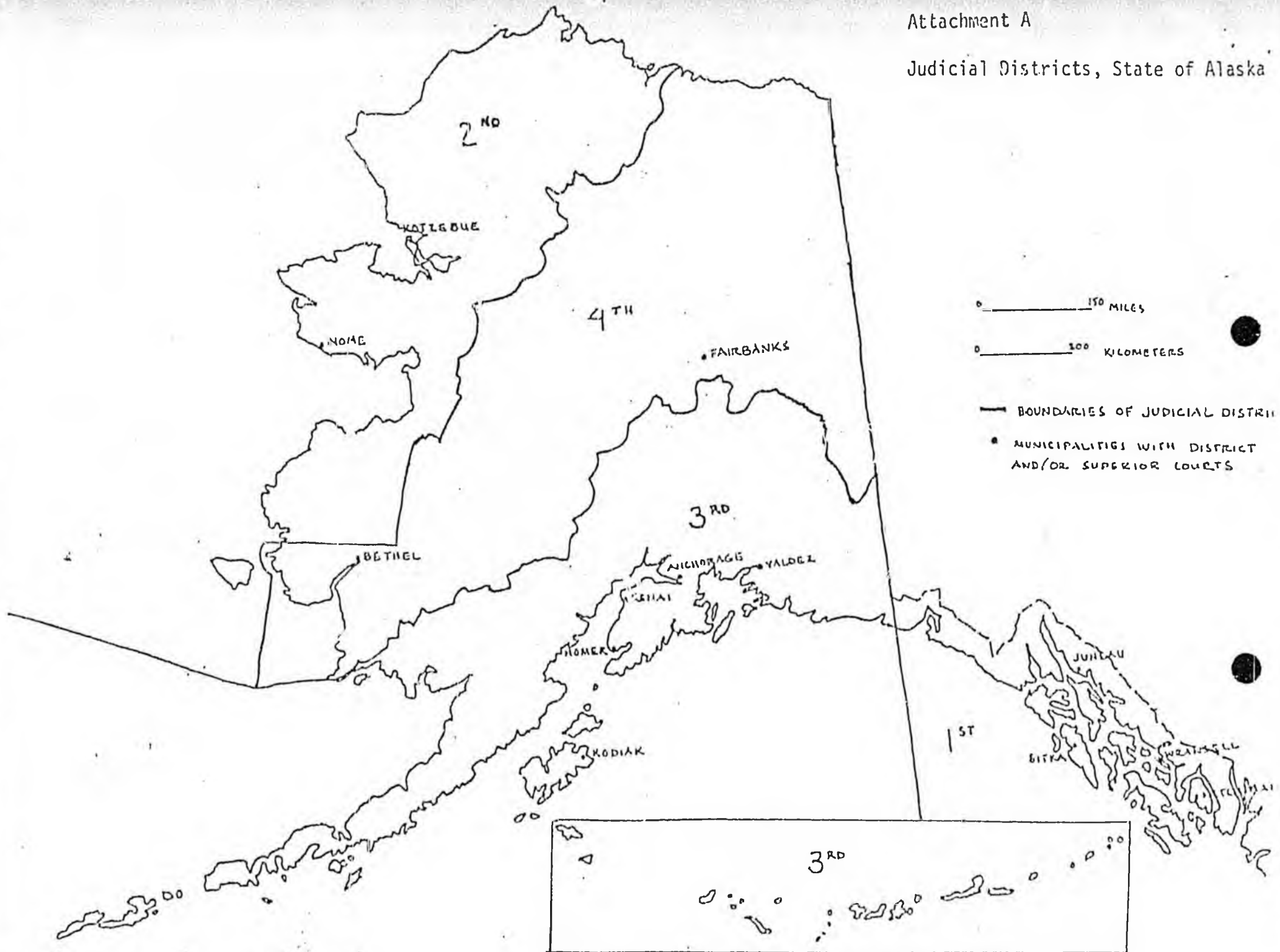
If you would like us to research further any of the alternatives listed above, please do not hesitate to call on us.

LL/bf

Encls.

Attachment A

Judicial Districts, State of Alaska



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tion of courts shall be prescribed by law. The courts shall constitute a unified judicial system for operation and administration. Judicial districts shall be established by law.

Supreme Court

SECTION 2. (a) The supreme court shall be the highest court of the State, with final appellate jurisdiction. It shall consist of three justices, one of whom is chief justice. The number of justices may be increased by law upon the request of the supreme court.

(b) The chief justice shall be selected from among the justices of the supreme court by a majority vote of the justices. His term of office as chief justice is three years. A justice may serve more than one term as chief justice but he may not serve consecutive terms in that office.

(The amendment to this section was approved by the voters of the state August 25, 1970 and became effective October 10, 1970. Subsection (b) was added.)

Superior Court

SECTION 3. The superior court shall be the trial court of general jurisdiction and shall consist of five judges. The number of judges may be changed by law.

Qualifications of Justices and Judges

SECTION 4. Supreme court justices and superior court judges shall be citizens of the United States and of the State, licensed to practice law in the State, and possessing any additional qualifications prescribed by law. Judges of other courts shall be selected in a manner, for terms, and with qualifications prescribed by law.

Nomination and Appointment

SECTION 5. The governor shall fill any vacancy in an office of supreme court justice or superior court judge by appointing one of two or more persons nominated by the judicial council.

Approval or Rejection

SECTION 6. Each supreme court justice and superior court judge shall, in the manner provided by law, be subject to approval or rejection on a nonpartisan ballot at the first general election held

more than three years after his appointment. Thereafter, each supreme court justice shall be subject to approval or rejection in a like manner every tenth year, and each superior court judge, every sixth year.

Vacancy

SECTION 7. The office of any supreme court justice or superior court judge becomes vacant ninety days after the election at which he is rejected by a majority of those voting on the question, or for which he fails to file his declaration of candidacy to succeed himself.

Judicial Council

SECTION 8. The judicial council shall consist of seven members. Three attorney members shall be appointed for six-year terms by the governing body of the organized state bar. Three non-attorney members shall be appointed for six-year terms by the governor subject to confirmation by a majority of the members of the legislature in joint session. Vacancies shall be filled for the unexpired term in like manner. Appointments shall be made with due consideration to area representation and without regard to political affiliation. The chief justice of the supreme court shall be ex officio the seventh member and chairman of the judicial council. No member of the judicial council, except the chief justice, may hold any other office or position of profit under the United States or the State. The judicial council shall act by concurrence of four or more members and according to rules which it adopts.

Retirement

Impeachment

Additional Duties

SECTION 9. The judicial council shall conduct studies for improvement of the administration of justice, and make reports and recommendations to the supreme court and to the legislature at intervals of not more than two years. The judicial council shall perform other duties assigned by law.

Compensation

Commission on Judicial Qualifications

SECTION 10. The commission on judicial qualifications shall consist of nine members, as follows: one justice of the supreme court, elected by the



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 31, 1981

MEMORANDUM

TO: Representative Pat O'Connell

FROM: Leslie Longenbaugh *LL*
Research Staff

RE: Campaign Laws
Research Request Number 81-96

You have asked that we clarify the effect of the two Judiciary Committee amendments to House Bill 89 on the reporting obligations of candidates for judicial retention.

Presently judicial candidates for retention are governed by AS 15.13.110 (attached), which requires all candidates for civil office to report campaign contributions and expenditures to the Alaska Public Offices Commission. Nancy Carlson, Director of APOC¹, reports that judges are treated by the Commission in the same manner as other candidates, although judges very rarely file more than a "15-0 form," which states that they have received no contributions and have made no campaign expenditures. To Ms. Carlson's knowledge, no judges have been accused of violating the reporting requirements.

Because judges are already within the jurisdiction of APOC, this amendment would have the effect of clarifying the steps to be taken by APOC in the case of a violation by a judicial candidate of the reporting requirements. The amendment would not alter the reporting requirements already imposed upon judicial candidates.

If we can be of further assistance, please call on us.

LL/dp

Encls.

¹Nancy Carlson, Director, Alaska Public Offices Commission; phone: 274-0321.

- 1-- This adds a chapter to Title 22, Judiciary, re-enacting existing wording now found in separate chapters this bill will repeal (i.e., AS 22.15.100, Supreme Court; AS 22.07.060, Criminal Court of Appeals; AS 22.10.150, Superior Court and AS 22.15.195, District Court) It combines the procedures regarding retention elections all in one new chapter.
- 2--Changes from running for election in an entire judicial district (one of the four) to running in those election districts the judges on the ballot serve. For example, under this bill, Sitka voters would not vote on Juneau judges and vice versa; Ketchikan voters would vote on judges there, not in other Southeast locations; Anchorage judges would not be voted on in the Matanuska-Susitna Borough; a judge serving Cordova-Glennallen, Valdez would be voted on in those districts rather than those plus the entire Third Judicial District.
- 3--Provision is made for certification by the Judicial Council to the director of elections, that a judge can be on ballots in other election districts when the judge sits or serves other election districts as well on a "routinely and frequently" basis.

IMPACT:

FISCAL NOTE:

AMENDMENTS:

(Suggested amendment: Lines 15,16 page 1; lines 2,3 page 2; line 17, page 2 and line 3, page e):

Omit words "...and may provide a recommendation regarding retention or rejection." This would remove the possibility of a recommendation based on whim, fancy, hearsay, manipulated statistics, personal dislike or disregard by people around the state who comprise the Judicial Council, who have never seen particular judges, observed them in court, read their opinions and may be totally unqualified to judge whether a judge is qualified..

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill #8 Date on Bill: 1-17-83
 Title: "An Act relating to judicial retention elections; and providing for an
 Sponsor: Grussendorf and Barnes effective date."
 Requestor: House Judiciary

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating			-0-	-0-	91.8			
Total			-0-	-0-	91.8			

b. Revenues:

Revenue								
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2. Source of funds to offset fiscal impact of bill:

Sponsor suggested taking the funds from the budget of the Office of Budget and Management.

3. Assumptions:

See attached sheet.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Dana C. Coffman, Deputy Director Phone: 586-6181
 Division: Division of Elections Date: 2-14-83

Approved by Commissioner: _____ Date: _____
 Department: _____

5. Distribution:

Original to Legislative Finance
 Copy to OMB
 Copy to Sponsor

"An Act relating to judicial retention elections"

Assumptions:

1. The passage of this legislation will initially affect the 1984 General Election ballots.
2. There would be 24 election districts as were designated in 1959.
3. Necessity of printing 24 separate ballots - one for each of the judicial retention.
4. Additional 12% inflation for each of the subsequent election years.

No additional funds are required beyond the Contractual Services area. Additional postage, printing and advertising costs will be required for the printing of 24 separate ballots. There will also be costs associated with printing additional pages in the Official Election Pamphlet, and postage associated with the heavier weight of the pamphlet.

Programming costs related to ballot counting will be substantial.

Professional Services Agreement will be required to contract for the production of a cross-reference listing of communities using the 1959 and 1981 reapportionments.



FOUCH V
JUNEAU, ALASKA 99801
19071 405-4000

Alaska State Legislature
HOUSE OF REPRESENTATIVES

REPRESENTATIVE
CHARLES BURSSELL
CHAIRMAN

Committee on Judiciary

March 21, 1983

Mr. Francis L. Bremson
Executive Director
Alaska Judicial Council
1031 W. Fourth Avenue, Suite 301
Anchorage, Alaska 99501

Dear Director Bremson:

Thank you for your letter of March 16, 1983, expressing your views on HB 8 and SB 84, regarding judicial retention elections, and your participating in the legislative process.

I would like to comment on points raised through this letter in the order conveyed by the letter.

Statutory Reasons. A judge would be voted on, I gather, in all the districts from which litigation stems that would come before a particular judge or judges, so I do not believe there would be an insurmountable difficulty in the Council's making that determination.

Where would a conflict arise in the Council's determining where a judge must run and at the same time making an evaluation of that judge? Surely you would not want the Council considering either positive or negative comments from interested persons who would never have a case going before the particular judge or judges? Or would the Council rather solicit good (or bad) comments from any area in order either to boost or knock down a judge? I cannot believe the Council would resort to such tactics, as they might possibly border on the unethical.

As you know, the Constitution establishes the Council, but it does not set forth Council duties, which is accomplished by legislation. Perhaps clarifying legislation should be enacted.

Administrative Reasons. I think you are confusing the four judicial districts which have existed since long before statehood with the House and Senate smaller election districts we now have. That tends to obfuscate the issue.

MEMBERS:

REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLOCKSIN; REP. RON WENDIE

Mr. Francis L. Breason
March 21, 1983
Page No. 2

You maintain that judges of one judicial district (one of the territorial four?) might actually be voted on by voters in another judicial district (one of the territorial four). As I understand the bills, no voter would be able to vote for a judge unless, in prosecuting or defending a piece of litigation, there would be the distinct possibility of a particular judge or judges of a location hearing the litigation. If the particular voter would have to bring the lawsuit in some other court, then that is the area in which the voter would vote on judges. Let us neither be confused or bound by out-moded, out-dated territorial judicial district boundaries, which probably should be demolished anyway!

I do not understand your point of confusion "by using different election districts for retention elections than are used for general elections." That is already a fact and has been a fact since statehood. That is to say, retention elections for judges are judicial district-wide now (referring to the four judicial districts mentioned earlier), whereas legislators use small divisions within those huge districts as their election districts, so the differences you mention already exist, you see. Both legislators and judges are elected now at general elections and I fail to see why confusion would reign merely by narrowing the scope of geographical areas in which judges should run. Or, would you rather scrap all House/Senate election district boundaries and have legislators run at large in the four judicial districts? For example, why should residents of the Aleutian Islands in the Third Judicial District vote for judges in Palmer, or Kenai, or Valdez, and visa versa? For that matter, why should residents of Valdez, Cordova and Glennallen vote for Anchorage and Kodiak and Kenai judges whom they rarely, if ever, see? Using common sense in establishing retention election districts should cause no confusion.

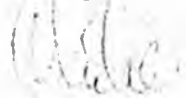
Constitutional Reasons. It is my understanding that the authors of the bills have no intention of anyone ever being disenfranchised in voting for a judge or judges. It cannot be that there would have to be a courthouse in every House (or Senate) election district in order for a citizen to vote; rather, wherever such voter would bring his/her cause of action, if one existed, would be the area in which that voter would see judges' names on the ballot. Is that not quite simple?

Mr. Francis L. Branson
March 21, 1983
Page No. 3

You mention the willingness to appear before the Committee(s) to discuss the legislation in further detail. I cannot speak for my counterpart in the Senate, but I will assure you that testimony from interested persons is always welcome. It seems to me, however, that as far as the House is concerned, the Committee quite fully understands the purpose of the proposed legislation. A determination of whether further testimony is needed will be made, I am sure, at the appropriate time.

Again, I wish to thank you for your interest in involving yourself in the legislative process.

Very truly yours,



Representative Charlie Bussell
Chairman, Committee on Judiciary

CB:lyn

cc: Alaska Judicial Council

Mr. Francis L. Anderson
March 21, 1983
Page No. 3

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CB:lyn

cc: Alaska Judicial Council

bcc: Edmund W. Burke, Chief Justice
Alaska Supreme Court
Chairman, Exofficio, Alaska Judicial Council
303 "K" Street, Anchorage, Alaska 99501

Mr. John E. Longworth
Robert H. Moss
James B. Bradley
Joseph L. Young
Barbara L. Schumann

Mary Jane Fate