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League of Women Voters of Alaska

March 3, 1983

Representative Mitch Abood
House State Affairs Committee
Juneau, Alaska 99811.

Re: SB 54

Dear Representative Abood:

Due to a work commitment, I will not be able to personally appear and represent the League of Women Voters at your committee hearing on March 7th. However, I hope this letter will serve to explain why the League favors the passage of Senate Bill 54.

The state election pamphlet serves a valuable purpose by informing Alaskan voters about candidates and issues. It is the League's observation that this pamphlet has become better and better each year the Division of Elections has published it.

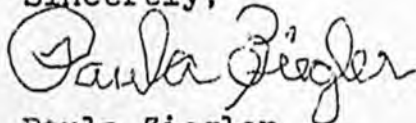
We were distressed, however, to find quite a flaw in the 1982 pamphlet. This flaw, I hasten to point out, was not the fault of the Division. They were only following the advice set forth in an Attorney General's opinion which indicated that Ballot Measure No. 1 (the constitutional convention question) should receive different treatment than the other measures printed in the pamphlet. "Different treatment" meant voters received no neutral summary or pro or con statement on this issue, simply because ballot questions such as this had not been listed in the statute establishing the election pamphlet.

As it happened, the League wanted to submit a statement opposing the constitutional convention. Even if we had no position on the issue, though, it is our firm belief that voters are just as entitled to information on a ballot "question" as on any other ballot measure. In addition, citizens who wish to express an opinion on a ballot "question" should have the opportunity to do so.

For these reasons, the League of Women Voters supports SB 54.

Thank you.

Sincerely,



Paula Ziegler
President
127 N Franklin Street #909
Juneau, Alaska 99801
586-9439 or 2660

AN ACT RELATING TO THE CONTENTS OF THE ELECTION PAMPHLET

THIS BILL WAS INTRODUCED AT THE REQUEST OF THE LEAGUE OF WOMEN VOTERS. THE LEAGUE FEELS THAT ALL BALLOT MEASURES SHOULD BE TREATED IN EXACTLY THE SAME WAY, AND THAT ALL MEASURES SHOULD BE ENTITLED TO HAVE NEUTRAL SUMMARIES AND "PRO" AND "CON" STATEMENTS RELATING TO THE QUESTION.. THE LEAGUE ALSO FEELS THAT IT IS UNFAIR TO THOSE CITIZENS WHO WISH TO EXPRESS THEMSELVES, EITHER FOR OR AGAINST ANY BALLOT MEASURE TO BE PRECLUDED FROM DOING SO IN THE CASE OF A CONSTITUTIONAL CONVENTION.

THE ATTORNEY GENERAL ISSUED AN OPINION ON MAY 6, 1982, STATING THAT IT WAS HIS OPINION THAT THE ELECTIONS DIVISION LACKED THE STATUTORY AUTHORITY TO INCLUDE IN THE ELECTION PAMPHLET A NEUTRAL SUMMARY OF, OR STATEMENTS FOR AND AGAINST A QUESTION REGARDING THE CALLING OF A CONSTITUTIONAL CONVENTION.....

THEREFORE, THIS BILL WAS INTRODUCED TO INSERT LANGUAGE IN THE PROPER STATUTE WHICH WOULD ALLOW THE DIVISION OF ELECTIONS TO INCLUDE SUMMARIES, AND "PRO" AND "CON" STATEMENTS IN THE CASE OF A QUESTION RELATING TO THE CALLING OF A CONSTITUTIONAL CONVENTION.

SINCE THE QUESTION OF WHETHER OR NOT TO CALL A CONSTITUTIONAL CONVENTION MUST COME BEFORE THE PEOPLE, AT LEAST, EVERY TEN YEARS, THIS CLEAN-UP LEGISLATION SHOULD BE APPROVED.....

MEMORANDUM
LEAGUE OF WOMEN VOTERS OF ALASKA

TO: Senator Ziegler

DATE: January 4, 1983

FROM: League of Women Voters of Alaska

SUBJECT: Possible amendment to AS 15.58.020

Attached please find an attorney general's opinion which indicates that no neutral summary, pro or con statement may appear in the state election pamphlet for ballot issues referred to specifically as "questions." Also attached are pages from the 1982 pamphlet which illustrate the different treatment Ballot Measure No. 1 received, as opposed to any of the other seven measures, as a result of the aforesaid opinion.

The League of Women Voters of Alaska feels that all ballot measures should be treated in exactly the same way and that all should be entitled to have neutral summaries and pro and con statements written about them. We feel it is confusing and misleading to the voters to have one measure set apart on the basis of what we feel is only a technicality.

In addition, it is unfair to those citizens who wish to express themselves, either for or against, such a ballot measure. They are deprived of so doing. It would be remiss of the League not to point out here that we did wish to submit a statement opposing Ballot Measure No. 1. It was when we were advised no statements could appear in the pamphlet regarding this measure that we became aware of what we feel is an inequity that could easily be corrected.

If you agree with the League, we would be most appreciative of your sponsoring remedial legislation on the subject. It may well be that the Division of Elections has this in mind as well; that could be easily ascertained.

Thank you for your consideration.

enc.

MEMORANDUM

State of Alaska

TO: Patty Ann Polley, Director
Division of Elections

DATE: May 6, 1982

FILE NO: J66-588-82

Attn: Marcy Rähfeld
Research Analyst

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Election pamphlet
discussion of consti-
tutional convention
question

By: 
Laura Davis
Assistant Attorney General

In response to your memorandum of April 1, 1982, it is our opinion that you lack statutory authority to include in the election pamphlet a neutral summary of or statements for and against a question regarding the calling of a constitutional convention. Our opinion is based upon the following reasoning.

AS 15.58.020 lists in some detail what the election pamphlet "shall contain." It must contain certain specific information "for each ballot proposition submitted to the voters by initiative or referendum petition or by the legislature." AS 15.58.020(8). The question of whether to have a constitutional convention is neither an initiative nor a referendum. It is not submitted by the legislature, but rather is constitutionally required to be on the ballot at least once every 10 years. Alaska Const., art. XIII, § 3. */

The constitutional convention issue is excluded from the definition of "proposition" and included in the definition of a "question." Title 15 defines "proposition" to mean "an initiative, referendum, or constitutional amendment submitted at an election to the public for vote." AS 15.60.010(23) (emphasis added). "Question" is defined to include "whether a constitutional convention shall be called." AS 15.60.010(26).

There is no reference in the section describing the contents of the election pamphlet to the ballot question regarding the calling of a constitutional convention. AS 15.58.020 does describe the information which shall be published as to ballot questions regarding the issuance of bonds, and retention of judges. AS 15.58.020 requires that the election pamphlet contain "additional information on voting procedures that the lieutenant governor considers necessary." There is no general provision regarding the inclusion of information regarding

*/ This constitutional section is entitled "Call by Referendum." The question has been referred to as a "referendum" in *Boucher v. Bomhoff*, 495 P.2d 77, 78 (Alaska 1972). However, it is not a "referendum" in the meaning of AS 15.58.020.

ballot measures.

The statute is clearly written and specific as to the required contents of the election pamphlet. According to the common rules of statutory construction, a statute which lists several specific items implicitly excludes any items not specifically included. Sands, SUTHERLAND STATUTORY CONSTRUCTION (1973) § 47-23. The statute simply omits any reference to a ballot question regarding the calling of a constitutional convention. The reason for this omission is not apparent, and no relevant legislative history has been discovered.

The statute regarding the contents of the pamphlet was amended by the election code revision, 1980 Alaska Sess. L., ch. 100, § 206. However, there is no pertinent administrative interpretation of the former law on this issue since it was enacted after the last election in which the question of a constitutional convention appeared on the ballot. AS 15.57.010, adopted by 1974 Alaska Sess. L., ch. 76, § 2.

It could be argued that the statute should be interpreted according to its purpose, to ensure that the voters are informed as to the contents of the ballot, including the significance of the calling of a constitutional convention. If there were any doubt as to the statute's meaning, this rule of interpretation would apply. However, we see no doubt as to the statute's meaning.

If the election pamphlet did include information not strictly required by AS 15.58.020, and litigation resulted, we doubt that the Alaska Supreme Court would find any malconduct. The court has stated that election "irregularities containing no element of bias, even if they amount to significant deviations from prescribed norms, do not necessarily constitute malconduct." Hammond v. Hickel, 588 P.2d 256 (Alaska 1975). In determining whether irregularities constitute malconduct, the court considers whether the irregularities show "knowing non-compliance with the law or a reckless indifference to norms established by law." Hammond v. Hickel at 259.

The inclusion of material regarding the constitutional convention question probably would not constitute malconduct, if it occurred inadvertently or was based on a reasonable interpretation of your statutory authority. However, we cannot advise you that the statutes permit you to include this material. We suggest that you recommend a legislative amendment to AS 15.58.020 to permit the inclusion of this and other information which you think would be helpful to the voters. We hope that this answers your questions.

LLD/pjg

BALLOT MEASURE NO. 1

Question

CONSTITUTIONAL CONVENTION

The Alaska State Constitution states that during any ten-year period, if a constitutional convention has not been held, the lieutenant governor shall place on the ballot for the next general election the question:

“Shall there be a Constitutional Convention?”

BALLOT FORM:

YES
NO

vote **82**

**MAKE YOUR
OPINION COUNT—
VOTE ON TUESDAY,
NOVEMBER 2**

Constitutional Amendment
VETERANS' HOUSING BONDING AUTHORITY
(Committee Substitute for House Joint Resolution No. 71 State Affairs)

SUMMARY

(As it will appear on the November 2, 1982 General Election Ballot)

This amendment to article IX, section 8, of the Alaska Constitution would expand the state's authority to incur indebtedness by allowing the State to issue general obligation bonds for veterans' housing loans. The constitution currently permits the State to issue bonds secured by the general obligation of the State only for capital improvements.

BALLOT FORM:

A vote "FOR" adopts the amendment.

A vote "AGAINST" rejects the amendment.

FOR
AGAINST

VOTE CAST BY MEMBERS OF 12TH STATE LEGISLATURE ON FINAL PASSAGE

| | | | | |
|--------|---------------|----------------|---------------|-------------------------------|
| Senate | (20 members): | Yeas <u>18</u> | Nays <u>1</u> | Absent or Not Voting <u>1</u> |
| House | (40 members): | Yeas <u>33</u> | Nays <u>3</u> | Absent or Not Voting <u>4</u> |

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

This proposal for a constitutional amendment would allow general obligation state debt to be contracted to provide housing loans for veterans. Currently general obligation state debt may be contracted only for capital improvements, for certain emergency purposes, or for redemption of indebtedness that was outstanding at the time the Constitution of the State of Alaska became effective.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

(Underlining indicates material to be added.)

SECTION 8. STATE DEBT. No state debt shall be contracted unless authorized by law for capital improvements or unless authorized by law for housing loans for veterans, 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.

STATEMENT IN FAVOR OF BALLOT MEASURE NO. 2

The Mortgage Subsidy Tax Act of 1980 removed the ability of states or public corporations (AHFC) to sell housing bonds in the tax-exempt market. As a consequence, AHFC must now raise most of its capital in the more expensive taxable bond market. However, the Act did provide an exception for General Obligation Bonds for veterans' housing loans. Alaska's Constitution currently allows for the sale of General Obligation Bonds only for capital improvements. This constitutional amendment is necessary for Alaska to take advantage of the exception.

This amendment deserves support because of the positive benefits that will accrue to veterans and other housing loan recipients.

1. The State will save millions of dollars
 - By selling General Obligation Bonds, the State can access a tax free market with lower interest rates resulting in less state subsidy.
2. Other home loan programs will also benefit
 - Ensures stability in the existing programs by decreasing the mortgage subsidy needed to

operate these programs, relieving the subsidy demand.

3. Ensure funding for veterans' programs
 - Current Federal law does not restrict the sale of tax-exempt debt for veterans' loans.
4. Gives recognition to veterans in Alaska's Constitution.
5. The bond and credit rating of the State of Alaska will not be jeopardized because each sale of Veterans' Housing Bonds must have the approval of the State Bond Committee.
6. Voter approval is required for passage of the constitutional amendment and any General Obligation Bond sale.

In light of the benefits which all citizens of the State will enjoy, your support of this constitutional amendment and bond authorization is respectfully requested.

—Sam Cotten, Representative
Alaska State Legislature

STATEMENT AGAINST BALLOT MEASURE NO. 2

It is not necessary to borrow money to help the veterans. I oppose this as totally unnecessary. While veterans deserve recognition for their sacrifices, we can accomplish this by providing them directly with low interest rate home loans from the treasury. We can also give them free land. We have the cash. We have the

land. We don't need to borrow more money. And every exception made to the Constitution in this way weakens it. This is a political gimmick. Vote no.

—Mike Beirne, Representative
Alaska State Legislature

Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

Constitutional Amendment

CHANGES IN COMMISSION ON JUDICIAL QUALIFICATIONS

(Committee Substitute for House Joint Resolution No. 32 Judiciary Committee Amended Senate)

SUMMARY

(As it will appear on the November 2, 1982 General Election Ballot)

The amendment to article IV, section 10, of the Alaska Constitution re-names the Commission on Judicial Qualifications and changes the makeup of the body. Membership of the new Commission on Judicial Conduct would include: three justices or judges of state courts (instead of the present requirement of five from specified courts); three (instead of two) lawyers; and three (instead of two) persons who are neither members of the state bar nor judges. Judicial members would be elected by all justices and judges, rather than their respective courts, and lawyer members would be appointed by the governor from state bar association nominees and subject to legislative confirmation, rather than appointed directly by the bar.

BALLOT FORM:

A vote "FOR" adopts the amendment.

A vote "AGAINST" rejects the amendment.

FOR
AGAINST

VOTE CAST BY MEMBERS OF 12TH STATE LEGISLATURE ON FINAL PASSAGE

| | | | | |
|--------|---------------|----------------|---------------|-------------------------------|
| Senate | (20 members): | Yeas <u>19</u> | Nays <u>0</u> | Absent or Not Voting <u>1</u> |
| House | (40 members): | Yeas <u>35</u> | Nays <u>0</u> | Absent or Not Voting <u>5</u> |

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

This proposal for a constitutional amendment would change the name of the Commission on Judicial Qualifications to the Commission on Judicial Conduct. The proposal would also realign the membership of the commission:

(1) At this time, there are five justices or judges who are elected from the judiciary, one from the supreme court, three from the superior court, and one from the district court. Under the proposal, there would be three justices or judges elected by the members of the judiciary.

(2) At this time, there are two attorneys appointed by the governing body of the organized bar. Under the proposal, there would be three attorneys nominated by the governing body of the organized bar, appointed by the governor, and subject to confirmation by the legislature.

(3) At this time, there are two persons appointed by the governor and subject to confirmation by the legislature who are required not to be judges, retired judges, or members of the state bar. Under the proposal, there would be three persons appointed to the commission by the governor and confirmed by the legislature who are required not to be judges, retired judges or members of the state bar.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

(Underlining indicates material to be added. Brackets indicate material to be deleted.)

SECTION 10. COMMISSION ON JUDICIAL CONDUCT [QUALIFICATIONS]. The Commission on Judicial Conduct [QUALIFICATIONS] shall consist of nine members, as follows; three persons who are justices or judges of state courts [ONE JUSTICE OF THE SUPREME COURT], elected by the justices and judges of state courts [OF THE SUPREME COURT; THREE JUDGES OF THE SUPERIOR COURT, ELECTED BY THE JUDGES OF THE SUPERIOR COURT; ONE JUDGE OF THE DISTRICT COURT, ELECTED BY THE JUDGES OF THE DISTRICT COURT]; three [TWO] members who have practiced law in this state for ten years, appointed by the governor from nominations made by the governing body of the organized bar and subject to confirmation by a majority of the members of the legislature in joint session; and three [TWO] persons who are not judges, retired judges, or members of the state bar, appointed by the governor and subject to confirmation by a majority of the members of the legislature in joint session. In addition to being subject to impeachment under Section 12 of this article, a justice or judge may be disqualified from acting as such and may be suspended, removed from office, retired, or censured by the supreme court upon the recommendation of the commission. The powers and duties of the commission and the bases for judicial disqualification shall be established by law.