

SJR

40





# Alaska State Legislature

## Senate

Official Business

SENATOR PAUL FISCHER

Pouch V  
State Capitol  
Juneau, Alaska 99811

To: All Senate Judiciary Members

From: Senator Paul Fischer *PF*

Date: March 24, 1986

Subject: SJR 40, Proposing an amendment to the Constitution of the State of Alaska relating to annulment of regulations by the legislature.

I have introduced this legislation in response to the conflicts that continue to arise when an agency develops regulations from law.

The Department of Education, for example, passed regulations to comply with a new law which mandates that municipalities may only use interest on bond proceeds for the projects which were bonded. DOE wrote regulations which exceeded the intent of the new law. Yet even if the legislature agrees that the regulations exceed the law and passes a bill negating the regulation, the Governor will have the opportunity to veto legislative intent.

The First Alaska Legislature provided that the Legislature could, by a concurrent resolution passed by a majority of each house, annul an administrative regulation. This provision, in effect from 1961 to 1980, provided a legislative check on regulatory agencies which might override legislative intent by writing regulations which would exceed the original law.

In 1980, the law which had provided for a reasonable oversight of agencies by the legislature for 19 years was ruled unconstitutional by the Alaska Supreme Court in a 3-2 decision.

I believe that now is the time to ask the voters to reenact this legislative power. Our government is based upon the division of powers among the three branches: legislative, executive and judicial. The current situation gives too much power to the executive branch. The legislature should have the check that they had previously exercised with restraint, returned.

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Similar legislation was introduced in 1980 and 1983, both passed the legislature and were on the 1980 and 1984 general election ballots. Each time the propositions were turned down by the voters. However, the votes favoring the constitutional amendment increased substantially in the 1984 general election. I believe the proposition failed due to a poorly informed electorate, we have the momentum with us to pass this amendment this time.

To do this we must inform the public that this power was used in a responsible manner for 19 years by the legislature. The status quo will only allow state agencies to continue to proliferate new "laws", without regard to the legislature's intent. I urge your support.



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To: Senator Pat Rodey, Chairman  
Senate Judiciary Committee

From: Senator Paul Fischer *PF*

Date: February 22, 1986

Subject: Senate Joint Resolution 40

I urge that you promptly schedule hearings on SJR 40. As you are aware, the legislature lost its power to exercise a veto over agency promulgated regulations in the courts.

This has placed the legislature in the awkward position of passing laws and having an agency write regulations that supersede the law.

An example of this is Senate Bill 51 which was passed into law last year. In Senate Bill 51, the legislature mandated that interest earned on bond proceeds be used for the project for which the bonds were passed. The regulations that were passed far exceed the authority granted by the legislature.

The legislature cannot repeal these regulations without the governor's concurrence, even though they supersede the legislature's intent. Under current law, the legislature cannot be guaranteed the laws it passes will be interpreted in the manner in which they were intended.

I realize that this proposed constitutional amendment has been before the voters previously and that it failed. I think the voters were not fully informed of the consequences of current law. There are more issues that can demonstrate the need for this legislative power.

I appreciate your thoughtful consideration of my request.