

HJR

37

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/11/88

FURTHER REFERRALS: Judiciary

DATE: 4-11-88

The State Affairs Committee; considered HJR 37

Proposing amendments to the Constitution of the State of Alaska relating to sessions of the legislature.

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

[Handwritten signatures]

SIGNING OTHER RECOMMENDATIONS:

[Handwritten signature: Cliff Davidson]

[Handwritten signature: David Douley]

[Handwritten signature]

Chairman's signature

Alaska State Legislature

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DISTRICT 10
3111 C Street, Suite 410
ANCHORAGE, ALASKA 99503
(907) 561-2040



Representative Virginia M. Collins

MEMBER
Community and Regional
Affairs

Special Committee
on Telecommunications
Finance Sub-Committee
for Labor

Anchorage Caucus,
House Chair

JC
for
HJR 37

To: All House Members
From: Rep. Virginia Collins *VMC*
Re: Judge Shortell's decision on the length of
legislative sessions
Date: March 24, 1988

Attached please find:

- 1) Memo from Tam Cook on the length of legislative sessions;
- 2) The March 22, 1988 Decision by Judge Brian Shortell;
- 3) 1984 General Election results on Ballot No. 2 (on the length of legislative sessions) --
YES -- 150,999
NO -- 46,099
- 4) HJR 37 -- relating to sessions of the legislature (and referenced in Tam Cook memo).

Please note that due to the Judge Shortell's decision, the deadline for this session is May 10 and not May 9 as listed on all our calendars.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MAR 23 1988

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

March 23, 1988

SUBJECT: Length of legislative session
TO: Representative Virginia M. Collins
FROM: Tamara Brandt Cook ^{TBC}
Director
Division of Legal Services

You have asked several questions regarding the length of the legislative session.

(1) Does Judge Shortell's recent decision imply that the legislative session lasts 121 days?

Judge Shortell's decision in Alaska Christian Bible Institute v. State, No. 3AN-86-7052 Civil, Superior Court, Third Judicial District, March 22, 1988 holds that a regular legislative session is 121 days in length. This is the position that our office has consistently taken on this issue.

(2) Does this year's session end on midnight, May 10, 1988 rather than on May 9, 1988?

Yes, not counting a possible extension.

(3) Does the language in HJR 37 limit the session to 120 days?

Yes, not counting a possible extension.

(4) Based upon Judge Shortell's reference to West Virginia law, should HJR 37 be amended to include, ". . . computed from and including the first day the legislature convenes."?

This is not necessary. (See Judge Shortell's other references to constitutions that do not contain that language -- Georgia, Minnesota and Washington).

TBC:gc
WKG2:070

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT

ALASKA CHRISTIAN BIBLE INSTITUTE,)
))
 Plaintiff,))
))
 vs.))
))
STATE OF ALASKA, et al.,))
))
 Defendants.))

Case No. 3AN-86-7052 Civil

DECISION

There are two issues now before the court. The first involves the manner of computing the length of Alaska's legislative session under Article II, Section 8. The second question is whether legislative clockstopping is a constitutionally valid practice.¹

The first question at issue is whether the 1986 Alaska legislature, which was convened on January 13, 1986, was legally authorized to be in session on May 13, 1986, or whether it was required to adjourn one day earlier, on May 12.

Article II, Section 8 of the Alaska Constitution says, in part:

The legislature shall adjourn from regular session no later than one hundred twenty consecutive calendar days from the date it convenes. . . .

¹ Because of the resolution reached on the first issue it shall not be necessary to reach or discuss the second.

Twenty seven states in addition to Alaska have constitutional limitations on the length of regular legislative sessions. None use the same wording as Art. II, Sec. 8. In some states, such as California, the constitution specifies a calendar date for adjournment. See, California Constitution, Art. IV, Sec. 3.

Many state constitutions limit session length to a specified number of days. The Georgia constitution says that the legislature may "continue in session for a period of no longer than 40 days in the aggregate each year." Georgia Constitution, Sec. IV, para. 1, Minnesota's constitution says that the legislature "shall meet. . . for not exceeding a total of 120 legislative days. "Minnesota Constitution, Art. IV. Sec. 12. In the State of Washington, "the regular session shall not be more than one hundred five consecutive days". Washington Constitution, Article II, Sec. 12. In West Virginia, the regular session "shall . . . not exceed sixty calendar days computed from and including the second Wednesday of February", West Virginia Constitution, Article VI, Sec. 22.

As the language of other state constitutions differs from that of Alaska, no cases from these jurisdictions offer appropriate guidance in interpreting the specific constitutional language at issue.

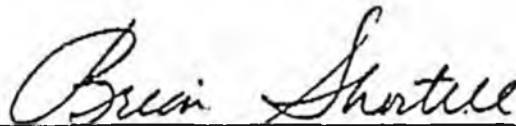
However, AS 01.10.080 states:

Computation of time. The time in which an act provided by law is required to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded.

This statute merely states the common law rule for computation of time, used in Alaska before and after statehood. See, Lowe v. Hess, 10 Alaska 174 (1941); Wade v. Dworkin, 407 P.2d 587 (Alaska 1965); David v. Sturm Ruger & Co., Inc., 557 P.2d 1133 (Alaska 1976); Foltz-Nelson Architects v. Koblyk, Ak. Op. No. 3273, February 19, 1988.

The common law rule codified in AS 01.10.080 is consistent with a correct reading of Article II, Section 8. The plain language of Article II, Section 8 allowed the 1986 legislature validly to be in regular session on May 13, 1986. As the day the legislature convened must be excluded from the computation, May 13 was exactly one hundred twenty consecutive days from the date the 1986 legislature convened. The State's motion for judgment on the pleadings is, therefore, granted, and this case is dismissed with prejudice.

DATED at Anchorage, Alaska this 22 day of March, 1988.



BRIAN SHORTELL
SUPERIOR COURT JUDGE

State of Alaska

Official Returns

By

Election Precinct

General Election

November 6, 1984



Bill Sheffield
Governor

Stephen A. McAlpine
Lt. Governor

BALLOT MEASURE NO. 2

Constitutional Amendment

LIMITING LENGTH OF REGULAR LEGISLATIVE SESSIONS (SCS CS HJR 2)

SUMMARY

(As it will appear on the November 6, 1984 General Election Ballot)

This amendment to article II, section 8, of the Alaska Constitution adds a limit on the length of regular sessions of the state legislature. The legislature must adjourn no later than 120 consecutive calendar days after the date it convenes in regular session each year. If at least two-thirds of each house of the legislature votes to extend the regular session, the session may be extended once for up to 10 calendar days. The legislature will adopt deadlines for scheduling session work in keeping with these provisions.

BALLOT FORM:

A vote "FOR" adopts the amendment.
A vote "AGAINST" rejects the amendment.

FOR
AGAINST

VOTES CAST BY MEMBERS OF THE 13TH STATE LEGISLATURE ON FINAL PASSAGE

Senate	(20 members):	Yeas 18	Nays 2	Absent or Not Voting 0
House	(40 members):	Yeas 33	Nays 6	Absent or Not Voting 1

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

This proposal for a constitutional amendment would limit the length of a regular session of the legislature to 120 consecutive calendar days from the date the session convenes. There may be one extension for up to 10 consecutive calendar days if the extension is approved by at least two-thirds of the membership of each house. The legislature is required to adopt, as part of the uniform rules of procedure, deadlines for scheduling session work to control the length of the session.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

(Italics represent material to be added)

SECTION 8. REGULAR SESSIONS. The legislature shall convene *in regular session* each year on the fourth Monday in January, but the month and day may be changed by law. *The legislature shall adjourn from regular session no later than one hundred twenty consecutive calendar days from the date it convenes except that a regular session may be extended once for up to ten consecutive calendar days. An extension of the regular session requires the affirmative vote of at least two-thirds of the membership of each house of the legislature. The legislature shall adopt as part of the uniform rules of procedure deadlines for scheduling session work not inconsistent with provisions controlling the length of the session.*

STATEMENT IN FAVOR OF BALLOT MEASURE NO. 2

The setting of goals is necessary for success in business, a profession and in our personal lives. Once a goal is set, a timetable must be established to meet the goal.

Despite good intentions in the recent past, there has been no legislative timetable, and results have proven a need for a limit to the length of legislative sessions.

Until 1970, no session had exceeded 95 days. In the past few years they have lengthened to between 140 and 165 days, and each day of the session now costs the state over \$50,000.

33 states have imposed a legislative session limit. They range between 20 and 140 days, with an average of 76. While major complicated issues face our Legislature every session, I believe they can be addressed within 120 days as proposed by this amendment.

Some may argue that a session limit will diminish the Legislature's power in favor of the Administration and the Legislature's ability to address complicated issues. However, the Constitution still provides for the Legislature to call itself into special session at any time it deems necessary to address issues which may require additional study or which may arise unexpectedly.

The proposal also allows one ten-day extension by a 2/3 vote of the Legislature to address critical matters which may not be resolved at the last minute. These are adequate safeguards to protect the Legislature's power.

The Legislature has voluntarily attempted to work within a 120-day limit and set guidelines. But such attempts have not succeeded and will not succeed unless both bodies collectively work toward that goal or are forced to meet a goal.

Approval of this amendment will set a 120-day goal. Additionally, it will require the Legislature to set a timetable for conducting business from introduction of bills to budget negotiations within that 120 days.

If we are to retain the concept of a citizen Legislature, we must be able to attract more than just persons who are retired, independently wealthy or employed in seasonal industries. There must be some assurance that citizens who undertake public service will be able to return to private sector jobs and families in a reasonable amount of time. Establishing a limit will bring that assurance.

120 days is more than sufficient time for a Legislature to address the issues which face Alaska each year. Passage of the proposed limit will produce a goal-oriented atmosphere in the Legislature which will be to the benefit of all Alaskans.

—Joe L. Hayes,
Speaker of the House

STATEMENT OPPOSING BALLOT MEASURE NO. 2

Not too many years ago, when we, as a state, literally didn't know where the next nickel was coming from, sessions much shorter than the 120-day session proposed by Ballot Measure No. 2 were commonplace. After the September 1969 Prudhoe Bay sale, when we received slightly more than 900 million dollars cash, we went from rags to riches overnight and we've been waddling in dough ever since. I think the record will reflect that, as a general rule, as our income has increased, the length of the sessions has correspondingly kept pace.

Life was admittedly simpler then; each session saw essentially the same number of bills, excepting bills pertaining to finances, become law. The only significant impact of our vast largess has been upon those legislators who serve on the respective Finance Committees. Always the work horses of the legislative process, those dedicated people have seen their duties expand in direct proportion to income received. There is so much more to be examined, so much more to be considered in the budgetary process, so much more to analyze in terms of what makes economic sense, that it becomes abundantly clear that the Finance Committee members put in a great deal more time than the average member of the Legislature who doesn't serve on either Finance Committee. Moreover, when you look at the structure of the membership of these two committees, you will note that many members chair other committees, thereby guaranteeing additional time will be required if they are going to do their non-financial homework in a proper manner.

Although I suspect this measure will pass handily, and although I realize my stance may be unpopular, I think it's unwise to curtail the length of legislative sessions. After all, we're conducting the business of a multi-billion dollar corporation, and to tell legislators, as members of the board of directors of that corporation, so to speak, that we only have "x" amount of days within which to conduct our business in an orderly fashion may very well do more harm than good.

Finally, members of the Legislature are now paid a flat salary; per diem is a thing of the past. The amount of per diem payments was one of the main reasons for the submission to the voters of Ballot Measure No. 2. It seems to me that issue has now been rendered moot.

—Robert H. Ziegler, Sr.,
State Senator

STATE OF ALASKA - GENERAL ELECTION NOVEMBER 6, 1984 - STATEWIDE BALLOT MEASURES

PAGE NUMBER

MEASURE	YES	NO
305262	213173	70
70	145258	53548
145258	91171	98855
53548	150999	46099
91171	116891	78663
98855		
150999		
46099		
116891		
78663		

T O T A L S #### 305262 213173 70 145258 53548 91171 98855 150999 46099 116891 78663

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HJR 37
PUBLISH DATE: 1/11/88

FISCAL NOTE

REQUEST:

Revision Date: 1/25/88
Title: Constitutional amendments
relating to legislative sessions.
Sponsor: COLLINS
Requestor: House State Affairs

Agency Affected: Office of the Governor
BRU: Division of Elections
Components: II - Primary & General
Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	2.2*	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CL. IMS						
MISCELLANEOUS						
TOTAL OPERATING	0	2.2*	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	2.2*	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

* Costs included cover 2 to 3 additional pages in each Official Election Pamphlet, for printing and typesetting, and costs estimated to cover computer programming requirements for vote (cont.)

Prepared by: Linda Edgeworth Phone: 465-4611
Division: Elections Date: 1/22/88

Approved by Commissioner: [Signature] Date: 2/1/88
Agency: Office of the Governor, Division of Elections

Distribution (by preparer): 2/1/88

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 37

counting purposes. However, these costs are based on the assumption that all candidates and issues will fit on three ballot cards, which is the norm. It should be noted, however that should the inclusion of this issue require a 4th ballot to be printed, the cost increase would have to be calculated at 16 cents per ballot x approximately 320,000 voters. The total cost of printing the additional ballot card would be \$51.2.

Under these circumstances the fiscal note would be:

53.4

STATE OF ALASKA
THE LEGISLATURE

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LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HSA

4-11-88

3:00 p.m.