

HJR

31

# HOUSE COMMITTEE REPORT

3/3

(7)  
Date Referred: February 21, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: \_\_\_\_\_

The STATE AFFAIRS Committee considered:

HJR 31

HOUSE JOINT RESOLUTION NO. 31

[CHANGE WHEN VETO MAY BE OVERRIDDEN]

Proposing an amendment to the Constitution of the State of Alaska relating to reconsideration of vetoes.

### RECOMMENDS:

- replacing with CS HJR 31 (SA)  the same title
- the 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
- zero fiscal note
- zero with analysis - *elections*

### APPROVES PREVIOUS:

- fiscal note(s) published: \_\_\_\_\_
- zero fiscal notes(s) published: \_\_\_\_\_

### SIGNING DO PASS:

\_\_\_\_\_  
*Donley* DONLEY  
 \_\_\_\_\_  
*Hanley* HANLEY  
 \_\_\_\_\_  
*Zawacki* ZAWACKI  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### SIGNING OTHER THAN DO PASS: (Do Not Pass, No Recommendation, Amend)

\_\_\_\_\_  
*Boucher* BOUCHER  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
*Boucher*  
 Chairman's signature

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W.O. Number 16-0397  
December 21, 1988

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF  
HJR 31

*Change When Veto May Be Overridden*

Received February 21, 1989  
by the State Affairs Committee

Heard March 1, 1989

Committee Substitute adopted March 1, 1989

Passed Out of Committee March 1, 1989  
3 Do Pass  
2 No Recommendation

STATE OF ALASKA  
THE LEGISLATURE

FOUCHER STATE CAPITOL  
JUNEAU, ALASKA 99801  
707 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 1, 1989

SUBJECT: Reconsideration of Vetoes (CSHJR 31(SA))

TO: Representative H.A. "Red" Boucher  
House State Affairs

FROM: Tamara Brandt Cook *TBC*  
Director  
Division of Legal Services

Here is the committee substitute that you requested for HJR 31. In three instances, the word "shall" which now appears in the constitution is changed to "must." I do not believe the change results in any substantive difference as a matter of law. Under Uniform Rule 10 the Manual of Legislative Drafting is required to be followed in the preparation of legislation. The manual provides with respect to the use of "shall" and "must":

Use the word "shall" only to impose a duty upon someone. Use the word "must" when describing requirements related to objects such as forms or criteria. (Use "must" sparingly, however, because most sentences using it can probably be written more clearly to impose a duty on a person, in which case "shall" would be the proper word.) Use the word "may" to grant a privilege or discretionary power. Use the words "may not" to impose a prohibition upon someone. For a further discussion, see Dickerson, The Fundamentals of Legal Drafting (1965), pp. 130 and 131.

TBC:gc  
WKG7/075

# MEMORANDUM

State of Alaska

Department of Law

TO: Bob Evans  
Legislative Liaison  
Office of the Governor

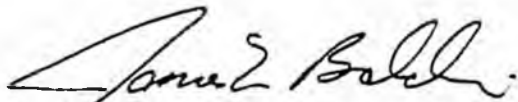
DATE: March 1, 1989

FILE NO

TEL. NO: 465-3600

SUBJECT: HJR 31 reconsideration of gubernatorial vetoes

FROM:



James L. Baldwin  
Assistant Attorney General  
Governmental Affairs-Juneau

You requested that we review HJR 31 (proposing an amendment to the Alaska Constitution concerning the reconsideration of vetoes) and offer any comments that would assist the legislature in considering the constitutional amendment proposed in the resolution. The proposed amendment would allow the legislature to reconsider a bill that was vetoed by the governor and returned at the conclusion of the second regular session at the beginning of the first regular session of the succeeding legislature. Under the existing provisions of the Alaska Constitution, a vetoed bill may only be reconsidered by the legislature which passed it. If the legislature is meeting in regular session, the veto must be reconsidered immediately. However, if the legislature is not in session, the veto may be reconsidered at the beginning of the next special or regular session of that legislature. Alas. Const. Art. II, Sec. 16.

The provision for holding a reconsideration over to another session of the same legislature was added by amendment in 1976 (HJR 11, 9th Alas. St. Leg.). We have reviewed the legislative history of HJR 11 and determined that the Ninth legislature considered a resolution identical to HJR 31 and rejected it in favor of the provision currently contained in section 16. The original version of section 16 adopted by the framers required that reconsideration be taken up immediately. If reconsideration was not taken up immediately, the power to reconsider the veto was lost. The framers thought it was extremely important to timely reconsider vetoes. Delegate Nordale explained the reasons for this provision as follows:

If the bill should be considered immediately after the veto, then if the veto is sustained, there is an opportunity for those who still believe in the substance of the bill to introduce a revised bill incorporating such amendments as will coincide with the governor's attitude on the bill.

Bob Evans, Legislative Liaison  
Office of the Governor

March 1, 1989  
Page 2

3 Proceedings of the Alaska Constitutional Convention 1744 (Jan. 11, 1956). The expansion of the power to reconsider to other sessions of the legislature somewhat watered down this opportunity to seize the moment and either override or attempt to pass an acceptable bill. However, by allowing reconsideration of a veto to be taken up at a special session, the same legislature was exercising the power and even though precious time had passed, proponents active in the enactment process could still urge reconsideration or accommodation.

The amendment proposed in HJR 31 would depart even further from the original intent of the framers. By allowing a new legislature to take up reconsideration of a veto, it may happen that legislators who were key to the passage of the bill either retired or failed to be reelected. It must be remembered that the entire House of Representatives stands for reelection at the end of each legislature as does one-half of the Senate. Under the existing provision, if there is strong support for the vetoed bill returned during the interim after the second session, proponents could raise sufficient support for a special session. However, a reconstituted succeeding legislature may have a membership that could not be roused to action. Members of the House of Representative that passed a vetoed bill would be at a distinct disadvantage if there was a substantial turnover in membership. The Senate would be somewhat better off.

This proposal would also run counter to the legislature's well recognized rule that bills of one legislature do not carry over to another legislature. AS 24.08.110; Rule 47, Uniform Rules Alaska State Legislature. Rather than reconsider a bill passed by the preceding legislature, the new legislature would be free to introduce a new bill on the subject which conforms to the wishes of the membership. An additional and perhaps lesser consideration would be the possibility that a veto override issue that carries over to a new legislature could become a campaign issue for incumbents to worry about. We acknowledge that issue could cut both ways.

We hope this memorandum will serve your purposes.

JB:tg

cc: Ron Lorensen, Deputy Attorney General  
Art Peterson, Assistant Attorney General

Item 2

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: HJR 31  
PUBLISH DATE: 2/21/89

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Const. Amend. - Reconsideration  
of Vetos  
Sponsor: State Affairs Committee  
Requestor: State Affairs Committee

Agency Affected: Office of the Governor  
BRU: Division of Elections  
Components: I Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-0-	-0-	2.2*	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	2.2*	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

\* Costs included cover 2 and 3 pages in each Official Elections Pamphlet, for printing and typesetting, and costs estimated to cover computer program-ing requirements for vote (Continued)

Prepared by: Linda Edgeworth  
Division: Elections

Phone: 465-4611  
Date: \_\_\_\_\_

Approved by Commissioner: *[Signature]*  
Agency: Division of Elections

Date: 2/28/89

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 31

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

Item 3

COPY

MEMORANDUM

December 21, 1988

SUBJECT: Reconsideration of vetoes  
(W.O. No. 16-0397).

TO: Representative Dave Donley

FROM: Tamara Brandt Cook  
Director  
Division of Legal Services

You have asked how the constitutional session limit has affected the power of the legislature to reconsider vetoes during a regular session. Article II, Section 16 provides in pertinent part:

Upon receipt of a veto message during a regular session of the legislature, the legislature shall meet immediately in joint session and reconsider passage of the vetoed bill or item.

This section was not amended when the session limit was adopted. Prior to the session limit, if a veto message was received just prior to a planned adjournment of the legislature, the legislature could still choose to remain in session for the purpose of meeting in joint session to reconsider the vetoes. Under the session limit it is possible that a veto message could be received so late in the session that the legislature will not, as a practical matter, be able to meet in joint session before it is constitutionally required to adjourn. Note that under Article II, Section 16 the legislature does not have the option of holding a special session or taking the matter of vetoes up at the next regular session so long as the veto occurs at any time while they are actually in regular session.

This potential problem could be fixed by constitutional amendment giving the legislature an opportunity to consider a veto it receives very late in the session at the next regular session or during a special session. The enclosed

Representative Dave Donley  
Page 2  
December 21, 1988

draft takes the approach of requiring legislative reconsideration of a veto to occur before adjournment from a regular session only if the veto message is received no later than 115 calendar days after the date that session convened. This gives the legislature 5 days to consider the matter of holding a joint session before the session limit (exclusive of an extension) comes into play. Under this draft, a veto after that deadline can be considered by the legislature at the next regular or special session. At your request, this draft also eliminates the requirement of a special session for reconsideration of a veto that takes place after a second regular session.

Enclosure

TBC:gc  
WRG5/023

# MEMORANDUM

State of Alaska

Department of Law

TO: Bob Evans  
Legislative Liaison  
Office of the Governor

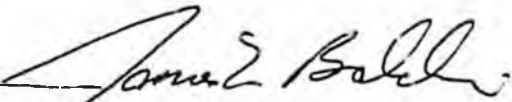
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JB:tg

cc: Ron Lorensen, Deputy Attorney General  
Art Peterson, Assistant Attorney General

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

POUCHY - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

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

HOUSE State Affairs

March 1, 1989 8:30AM

1+JR 31

