

HJR

7

(7) HOUSE COMMITTEE REPORT

Date Referred: March 23, 1992

FURTHER REFERRALS:

Finance

Date of Committee Action: 5/9/92

The JUDICIARY Committee considered:

HJR 7

HOUSE JOINT RESOLUTION NO. 7

LIMITING TERMS OF LEGISLATORS

Proposing an amendment to the Constitution of the State of Alaska relating to terms of legislators.

RECOMMENDATIONS:

be replaced with CS HJR 7 (JUD) [] the same title

[] have attached amendments(s)

[X] do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

[] fiscal impact _____

[] zero fiscal note _____

APPROVES PREVIOUS:

[] fiscal note(s) Law 3-23-92 Elections
[X] zero fiscal note(s) LAA 3-23-92 3/23/92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
David Donley	✓	H. J. ...	-		
John Ellis	X	Mark ...		X	
Ken ...	✓				
Ken ...	✓				

David Donley
CHAIRMAN'S SIGNATURE

Revision Date: _____
 Title: Proposing an amendment to the
 Constitution .. relating to terms of legislators.
 Sponsor: Representative Leman
 Requestor: House State Affairs

Department Affected Legislative Affairs Agency
 BRU: Legislative Council

Component: Legislators' Salaries & Allowances

COMPONENT SERIAL NO: 776

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Pamela A. Stoops, Director
 Division: Administrative Services

Pamela A. Stoops

Phone: 465-3850
 Date: 1/29/91

Approved By: Warren W. Endicott, Executive Director
 Agency: Legislative Affairs Agency

Warren W. Endicott

Date: 1/29/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Title: Amendment to the Constitution RE: Limiting Terms of Legislators BRU: Division of Elections

Component: 11-Primary and General Elections

Sponsor: Representative Lantz

Requestor: House State Affairs

COMPONENT SERIAL NO.

0	0	2	2
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.) * This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on this measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be: 53.4.

Prepared by: Elizabeth Ziegler, Deputy Director
 Division: Elections

Phone: 465-4611
 Date: 01/13/92

Approved by Commissioner: *Charles E. Hicks*
 Agency: Office of the Governor

Date: 01-13-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

FEB 13 1992

BILL NO. HIR 7

Revision Date: February 13, 1992
Title: "... amendment to the Constitution ... relating to terms of legislature."
Sponsor: Representative Leman
Requestor: House State Affairs

Department Affected: Department of Law
BRU: Legal Services
Component: Operations

COMPONENT SERIAL

		9	3
--	--	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.) Please see the attached analysis.

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Date: February 13, 1992
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: February 13, 1992

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HJR 7

ANALYSIS: (continued)

House Joint Resolution No. 7 proposes an amendment to the state's constitution that would provide that a person may not serve more than eight consecutive years as a member of the legislature. After that period, the person may not again serve as a member of the legislature until two years after the member leaves office. This is a matter involving a separate, co-equal branch of government, and it will not have a fiscal impact on the Department of Law.



REPRESENTATIVE LOREN LEMAN West Anchorage

3111 C Street Anchorage, AK 99503 561-7614 During Session: P.O. Box V Juneau, AK 99811 465-2095

M E M O R A N D U M

DATE: March 23, 1992

TO: Representative Dave Donley
Chairman, House Judiciary Committee

FROM: Representative Loren Leman *Loren Leman*

SUBJECT: Request for Hearing
CSHJR 7 (STATE): Limiting Legislative Terms to
Eight Years

=====

Please schedule CSHJR 7 for a hearing by the Judiciary Committee at your earliest convenience.

Attached are the following:

- o Sponsor Statement
- o Zero fiscal notes from Department of Law, and Legislative Affairs Agency. Fiscal note from Division of Elections.
- o Backup information



REPRESENTATIVE LOREN LEMAN West Anchorage

3111 C Street Anchorage, AK 99503 561-7614 During Session: P.O. Box V Juneau, AK 99811 465-2095

SPONSOR STATEMENT

DATE: March 23, 1992
BY: Representative Loren Leman
SUBJECT: CS HJR 7 (STATE): Limiting Legislative Terms to Eight Years

=====

HJR 7 proposes a constitutional amendment to limit the length of legislative service to eight consecutive years. It allows for a return to office after a minimum twenty three month break in service.

Limiting terms of office has become a popular movement across the United States. In 1990, legislation to limit terms was introduced in 21 states, including HJR 57, which I introduced in the 16th Legislature. Oklahoma, California and Colorado passed term limit ballot initiatives in 1990. Ten states are circulating ballot initiatives. Ballot initiatives are planned for this year in another seven states. Of the 27 states with no initiative process, citizens are lobbying legislatures, with the Wisconsin and Texas legislatures actively considering term limits. The Oregon House passed a term limit bill in August, 1991.

Most recently, the U.S. Supreme Court refused to hear arguments against the California term limit amendment, confirming the constitutionality of such a change.

Professional political life is inconsistent with good representative government. The premise behind a democratic republic is citizen legislators. Citizens serve for a limited period, then return to live among those they represented. This premise is undermined the longer a representative serves.

Surveys of Alaskans consistently show more than 70% of respondents favor term limits for state legislators. On November 6, 1990, 75% of Anchorage voters supported amendments to the Municipal Charter limiting terms of Assembly and School Board members. The Kenai Peninsula Borough Assembly has recently voted to allow an advisory vote on a two term limit on Assembly members and the Mayor.

Alaskans have made their intent clear. The Legislature should enact the will of the majority and place this proposed amendment on the 1992 ballot.

The amendment will result in:

- o expanded opportunity for people to serve, increasing diversity;
- o decreased advantages of incumbency and seniority;
- o improved candidate recruitment;
- o infusion of new ideas and approaches;
- o reduction in the power of lobbyists; and,
- o improved public perception of representative government.

Detractors state that term limits will limit voters in their choice of who represents them; that limits will result in a loss of expertise and institutional memory; and, that the Governor and state bureaucracy will gain power. These detractions are distortions of clear, constitutional separation of power, and have not been borne out where term limits exist. Did the two term limit placed upon the U.S. Presidency negatively affect the choice of voters, the expertise brought to the Presidency, and the power of the executive branch?

My proposed eight year limit, with a two year hiatus before seeking office again, contrasts with more aggressive proposals in our state which will limit terms to six years with no possibility of seeking office at a later date.

A group of Alaskans, denied the right to begin a ballot initiative in favor of placing a term limit amendment on the 1992 ballot, is presently preparing to bring suit against the State to force this issue past.

Can we call ourselves representative of the Alaskan people while not even allowing voters a choice on the 1992 ballot?

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 21, 1991

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 3/20/92

The STATE AFFAIRS Committee considered:

HJR 7

HOUSE JOINT RESOLUTION NO. 7

LIMITING TERMS OF LEGISLATORS

Proposing an amendment to the Constitution of the State of Alaska relating to terms of legislators.

RECOMMENDATIONS:

be replaced with _____

CS HJR 7 (STA)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact Div of Elections, ID

fiscal note(s) _____

2 zero fiscal note LAA, Dept of LAW

zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

		Check appropriate column:	Do Not Pass	No Rec	Amend
<i>Handwritten signature</i>	<i>Handwritten signature</i>		<input checked="" type="checkbox"/>		
<i>Handwritten signature</i>	<i>Handwritten signature</i>			<input checked="" type="checkbox"/>	
	<i>Handwritten signature</i>		<input checked="" type="checkbox"/>		
	<i>Handwritten signature</i>				

Handwritten signature of Eugene A. Kubina

Chairman's Signature

Alaska State Legislature

NOV 21 1991

130 Seward Street, Suite 218
Juneau, Alaska 99801-2196

Phone: (907) 165-3991
Fax: (907) 163-3351

Legislative Research Agency



November 19, 1991

MEMORANDUM

TO: Representative Loren Leman

FROM: Patricia Young *PM*
Legislative Analyst

RE: Term Limits for Legislators
Research Request 92.091

You wished to know which states have enacted laws limiting the terms of legislators. You also wished to know if any term limits are imposed on members of Congress. Additionally, you requested copies of proposed and enacted legislation pertaining to this issue.

According to information supplied by the National Conference of State Legislatures, more than 140 bills to limit legislative terms have been introduced in 45 states. Nevertheless, only three states--California, Colorado, and Oklahoma--have passed initiatives limiting the terms of state legislators. Colorado is the only state to limit the terms of its Congressional delegation. California limits are three 2-year terms in the assembly and two 4-year terms in the senate. Colorado limits are four consecutive 2-year terms in the house and two consecutive 4-year terms in the senate. Members of Congress are limited to six consecutive 2-year terms in the House of Representatives and two consecutive 6-year terms in the Senate. These limits will not affect currently elected members of Congress until 2002. The Oklahoma law simply limits legislators to 12 years of legislative service.

A recently failed (54 to 46 percent) Washington initiative would have limited representatives to three consecutive 2-year terms and senators to two consecutive 4-year terms. Additionally, an individual could have served no more than ten consecutive years in any combination of membership. The Washington initiative would also have limited Congressional delegates to three consecutive terms in the House and two consecutive terms in the Senate, with a maximum of 12 years in any combination of Congressional membership. Washington's was the first statewide initiative to propose retroactive application to incumbents.

Initiatives are currently circulating for 1992 ballots in ten states--Alaska, Arizona, Florida, Massachusetts, Michigan, Missouri, Ohio, Oregon, South Dakota, and Wyoming. Initiatives in all of these states, with the exception of Alaska, attempt to limit the terms of Congressional officeholders as well as state legislators. Proponents are attempting initiatives for 1992 ballots in Arkansas, Illinois, Maine, Montana, Nebraska, Nevada, and North Dakota.

Representative Leman
November 19, 1991
Page 2

Also, proponents hope to place federal limits on the California and Oklahoma ballots in 1992. Whether these initiatives will be certified for inclusion on ballots is uncertain.

In those 27 states which have no initiative process, proponents are pressing state legislatures to introduce and pass term limit measures. Texas and Wisconsin are frequently cited as likely to consider such bills.

Despite continuing debate about whether limiting terms would have the hoped for effect on legislatures and Congress, the key issue seems to be the constitutionality of such measures. In the first such challenge, the California Supreme Court ruled the adopted measure valid under the state's constitution. Opponents say the decision will be appealed to the U.S. Supreme Court.

Copies of the initiatives adopted in California, Colorado, and Oklahoma are included in Attachment A, as is a copy of Washington Initiative 553. Two analyses of term limits are included in Attachment B. Copies of initiatives in states noted above will be forwarded to you as they are certified.

I hope this information is sufficient for your purposes. If you have questions or need further information, please call.

Attachments

Assembly term limitation

It's naturally hard to think about changing the rules of a game when a person is in the middle of playing it, but congratulations are in order to the Borough Assembly for at least providing the option to changing the rules.

The rules refer to the current ability of any local politician to hold office on the Borough Assembly as many times as he or she can get elected. The potential rule change, of course, would impose a limit on the number of terms a candidate could hold office.

Borough Assemblyman Mark Hodgins introduced an ordinance which would limit the terms to two, for a total of six years that a person could serve, then that person would have to bow out for at least a year before returning to the assembly.

The ordinance was greeted with heated debate. Much of the debate centered of the idea that what if the electorate wanted to keep an assembly person more than two terms? Would limiting terms be limiting the electorate's choices? The Assembly refused to introduce the ordinance.

Hodgins addressed that concern with a few changes before introducing the ordinance again. The big change is that the ordinance would go before the voters. They would decide if they would rather see a limit of terms, or if they perceive a limit of terms as being a limit of choices.

There are quite a few thoughts to consider before actually making a choice. Does a term ceiling indeed limit the choices of the voters, or does having an entrenched politician with widespread name recognition running term after term as an incumbent limit the choices.

There's some validity to having politicians in office locally for extended periods of time. First, the budget process is a complicated one, and important details may escape the eyes of naivity. The borough's issues often have a long and convoluted history, and knowledge of past history is beneficial in a governing body.

Likewise, eyes not clouded by years of looking at the same columns of numbers in a budget might bring in some money-saving ideas not yet considered. Sometimes fresh ideas can put a new perspective on a perpetual borough issue.

It is true that incumbency has the power of name recognition, particularly in light of the fact that the Borough Assembly members are broadcast over the radio every other Tuesday evening. On the other hand, the people that tune in to the Assembly meetings are not likely to be the type of people swayed by name recognition alone. They are the part of the borough populace familiar with the issues, and they will vote for people they perceive as favoring their side of the issue, regardless of incumbency.

One of the problems with long-term politicians on the state level is the close relationship they develop with campaign contributors and lobbyists. That problem is not as serious on the local level, as campaigns are often won with very little money. There really aren't any high-rolling lobbyists flinging 100-dollar-bills at the Borough Assembly meetings.

There are points on either side of the issue. Since the issue is one that directly affects each member of the Assembly, it was wise to let the voters decide.

reducing unemployment benefits for an employee dismissed for the use of illegal drugs or for alcohol abuse on the job.

GOVERNMENT COMPETITION

5. Should the legislature establish a Private Enterprise Preservation Task force in order to study and recommend legislation to limit competition with private business by state and local government?

Yes 67.0% No 23.1% Undecided 9.9%

State and local government agencies in Alaska engage in competition with private enterprise in a wide variety of commercial activities. On previous ballots our members have strongly favored restricting government competition. Unfortunately, no one source has data on the amount and the impact on businesses. The Task Force concept was presented as a means of gathering the facts on this issue.

TERM LIMITATION

6. Should Alaska state legislators be limited in the number of terms they can serve in office?

Yes 79.7% No 14.1% Undecided 6.2%

6a. If you answered "Yes" to question 6, how many terms should a member of the House of Representatives serve? (Select one.)

Two terms (4 years) 47.1%
Four terms (8 years) 46.6%
Six terms (12 years) 6.3%

6b. If you answered "Yes" to question 6, how many terms should a state Senator be allowed to serve? (Select one.)

Two terms (8 years) 87.7%
Four terms (16 years) 12.3%
Six terms (24 years) 0.0%

For years there has been discussion and debate on limiting the number of terms state legislators can serve. This was presented on the 1991 NFIB/Ballot because of the increased interest in this issue.

Limits Stand in California

With the state's high court ruling, legislators are contemplating life with term limitations, at least until they appeal to the U.S. Supreme Court.

Daniel M. Weintraub

California legislators may have to live with term limits, but they don't have to like them.

Now that the state Supreme Court has upheld a 1990 ballot initiative that limited terms, slashed the Legislature's operating budget and eliminated pensions for future lawmakers, the reality is starting to set in. All of those now serving in the Assembly and half of the Senate's members will be gone by the end of 1996. Only a handful in the upper house are eligible to serve beyond 1998.

Although legislative leaders may yet appeal to the U.S. Supreme Court, most lawmakers seem resigned to the fact that term limits are here to stay—at least long enough to toss them from office before the end of the century.

"We should accept the judgment of the people with good grace and act on the assumption that that's the way things are going to be," said former Assembly Republican Leader Ross Johnson of Orange County, who opposed the measure. "That's the way the game is going to be played."

Johnson's fatalism is the typical attitude among legislators. But he and most others who have accepted the verdict also say that they don't think voters will be any happier with the new breed of legislator—and Legislature—than they are with the current brand. Most see a decided shift in power from the legislative to the executive branch, not just to the governor but to the unelected, career civil servants who are

charged with implementing the laws passed by the Legislature.

The problem, as most see it, is the combination of the term limits and the 38 percent cut in the Legislature's operating budget required by the measure. Assembly members will serve no more than three two-year terms. Senators will get two four-year terms. Already, more than 600 aides have been let go. More may soon be laid off, and even the non-partisan legislative analyst's office, which researches budget issues and analyzes fiscal bills, is not safe from the budget axe. The auditor general's staff, which probes the efficiency of state-funded programs, also could be eliminated. Final decisions may not be made until January.

Without these resources, or the experience in office to compensate for the staff cut, doubters fear that future legislators and the laws they enact will be at the mercy of "faceless bureaucracy." Lobbyists may find it easier to kill major legislation by raising fears about a measure's potential impact, fears that inexperienced lawmakers will not be able to rebut.

"While I understand the frustration of the public with inaction, I think Proposition 140 is going to frustrate the public even more," said Assemblyman Terry Friedman of Los Angeles, a liberal Democrat. "The people who will really benefit from it are not average people and consumers; it's going to be the powerful corporate interests for whom the status quo is just fine."

But the Supreme Court turned aside such issues in its 6-1 decision. Chief Justice Malcolm Lucas wrote the opin-

ion, and all of former Republican Governor George Deukmejian's appointees joined him in the majority. Associate Justice Stanley Mosk, appointed in 1964 by former Governor Edmund G. Brown, was the lone dissenter.

The case was filed by Democratic and Republican legislators, who used campaign funds and private donations to pay the legal expenses. They argued that the measure violated the state and federal constitutions, infringing the right to vote and the right to free association. The initiative was defended by newly elected attorney general Dan Lungren, a Republican, and by attorneys representing the sponsors of Proposition 140. In the opinion, the Court systematically dismantled the Legislature's case, siding with the lawmakers only on the relatively minor point of legislative pensions, and then accepting only half the Legislature's argument. Current members will keep their pension rights for as long as they serve. Future lawmakers, including those elected in 1990, will get only Social Security.

First, the justices took up the issue of whether the term limits should be a lifetime ban, as the authors argued, or a limit only on consecutive terms, as legislators contended. The Court said there would be a lifetime ban.

Next, the Court addressed two technical tests that the California Constitution applies to all initiatives. One prohibits initiatives from enacting broad revisions to the constitution, as opposed to more narrow amendments. The other requires that all initiatives be focused on a "single subject."

Many lawmakers rested their legal hopes on the argument that Proposition 140 was a "revision," in part because the Court only recently struck down a portion of an anti-crime initiative on those same grounds. In that case, the revision

Washington Rejects Term Limits

was aimed at the Court itself and would have required that state justices give criminal defendants no greater rights than those provided in the U.S. Constitution and through U.S. Supreme Court rulings. But in this case, the Court found that Proposition 140, while it might change the character of the Legislature, would leave untouched its basic power to make laws. The justices noted that the measure also limited the terms of the governor and other elected state officials and said its future impacts on the balance of power were "unfathomable."

The Court also decided that the measure was devoted to the single subject of limiting the power of incumbents and that its budget, pension and term limit provisions all were tied to that concept.

In addition, the justices rejected the Legislature's argument that the initiative represented an unconstitutional "bill of attainder." The lawmakers argued unsuccessfully that the measure aimed to punish a narrow class of people, particularly legislative leaders Willie Brown and David Roberti, without the benefit of a trial.

After disposing of these technical questions, the opinion focused on the question of balancing rights—the right of incumbents to run for re-election and voters to elect them versus the interests of the state in limiting the powers of incumbency and the electoral advantages that come with that power.

The legislators argued that the term limits would "permanently ban those who are arguably the most qualified candidates—incumbents with the experience and expertise in the legislative process necessary to the most effective representation of their constituencies." Similarly, they argued, voters would be denied the right to choose the most qualified candidates.

The authors of Proposition 140, however, argued that term limits would encourage, rather than inhibit, more qualified candidates seeking shorter stints in public office. They pointed out that by serving in the Assembly and then the Senate and going on to higher office, politicians might still serve a total of 20 years or more in state government. They characterized term limits as just one more requirement of candidacy, like age or residency. The Court agreed.

Wrote Chief Justice Lucas: "The state's strong interest in protecting against an entrenched, dynastic bureau-

State Legislatures December 1991

The consequences of losing congressional clout apparently outweighed any antipathy toward incumbents when Washington voters Nov. 5 defeated the most restrictive term limitation initiative to go before the electorate in any state so far.

The Washington measure, which led at times by as much as 30 points in the polls, would have restricted both legislative and congressional terms of office. It was defeated 54 percent to 46 percent in a record turnout for an off-year election, and was the first time voters turned down limits since they were approved in 1990 in California, Colorado and Oklahoma.

Had the initiative passed, Tom Foley, speaker of the U.S. House of Representatives, and the rest of the state's House delegation would have been out of office in 1994. The measure would have allowed only one more term for state legislators and members of Congress who had already reached the consecutive number of terms permitted for their current office.

Observers believed that it was Foley's stumping against the initiative in his own state that turned the tide. He argued that Washington would lose influence to California, a state that will have a 52-member congressional delegation after 1992, if the measure passed.

cracy, and in thereby encouraging new candidates to seek public office, are both legitimate and compelling ones that support a lifetime ban from the office and outweigh any interest the incumbent legislators, or the voting public, may have in perpetuating the incumbents' positions of control."

Joseph Remcho, the private attorney who tried the case for the Legislature, said he believes an appeal to the U.S. Supreme Court would have a good chance of succeeding. The argument would be that a lifetime ban on running for an office simply because you have already served a certain number of terms violates the equal protection and free speech clauses in the Constitution.

"The Court would be looking at if you can constitutionally ban somebody for life from being a candidate for that office if there is a more narrowly drafted way

The proponents of term limits spent some \$800,000, most of it raised outside Washington. The initiative would have limited members of the Legislature to six years in the House and eight years in the Senate. Members of Congress would have been limited to six years in the House of Representatives and 12 years in the Senate. A six-year break in service would have been required before running again for Congress.

Petitions for term limitations are circulating in 10 states for the 1992 general election. Florida's Supreme Court is to rule on the validity of an initiative petition there that would limit to eight consecutive years the terms of state legislators, members of Congress, cabinet officers and the lieutenant governor. The high court ruling is required after 10 percent of the required signatures have been collected on initiatives that would change the state constitution.

Signatures are also being gathered for term limit initiatives in Alaska, Arizona, Massachusetts, Michigan, Missouri, Ohio, Oregon, South Dakota and Wyoming. Citizens are organizing campaigns in Arkansas, Illinois, Maine, Montana, Nebraska, Nevada and North Dakota, and in California and Oklahoma there's a move to add term limits to federal office holders.

—Nancy Rhyme, NCSL

to accomplish your purpose," Remcho said. "You may accept that they can limit the power of incumbency. But are they doing it in the least restrictive way?"

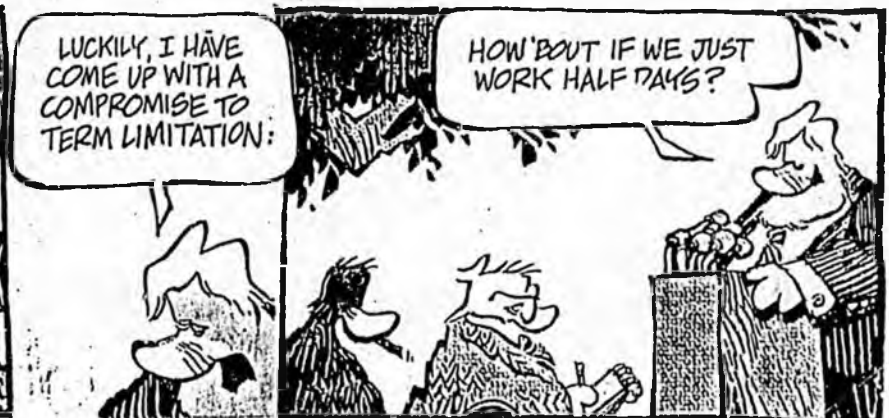
"Forcing someone to take off two or four years and then run against an incumbent would seem to pretty well limit the power of incumbency."

Although the U.S. Constitution's presidential term limit is a lifetime ban, Remcho notes that the Supreme Court has said such strictures are not necessarily models for the states. After all, the high court ordered states to apportion their senates on a one-person, one-vote basis even as the U.S. Constitution permitted the nation's 100 Senate seats to be apportioned two to each state, regardless of size.

"The federal Constitution is not a model in that case; it is an exception," Remcho said.

SHOE

BY JEFF MacNELLY



Second thoughts

STEVE MCCUTCHEON, one of the 55 men who wrote the state constitution in 1955, is having some second thoughts on what he should have done. He highlighted some of them at a public celebration of the 30th anniversary of Alaska's statehood.

Most of his second thoughts won applause as he gave them.

McCutcheon was chairman of the legislative committee that wrote the rules pertaining to legislative procedures. If he were doing it today, he said, he would:

1. Limit legislators to two consecutive terms in office, the same as the governor.

2. Establish an annual salary which could be changed each 10 years by a vote in a general election.

3. Provide for the legislature to meet on the odd numbered years for no more than 60 days to consider general legislation. On even numbered years the legislators could meet for no more than 30 days to consider budget matters.

4. Provide rules for the orderly handling of bills, requiring floor consideration 14 days after being referred to a committee, and only by vote of the body could the bill be referred to another committee. By the 21st day after introduction a bill would have to get final consideration. McCutcheon said this would eliminate the practice of committee chairmen holding bills hostage or

killing them for personal reasons.

5. Devise a plan for limiting the number of state employes, based on the rise and fall in the state's population.

EACH ONE of those changes is more pragmatic than idealistic. McCutcheon and the 54 other delegates were inspired by the highest ideals for good government when they wrote the constitution. They gave minimum concern to politics or politicians and their ability to abuse the rules. The document they produced was hailed nationally as one of the best ever written in any state.

At the convention it was not considered desirable to limit the number of terms for a legislator because the limitation might deprive the state of the services of some very good legislators. Neither would it be good to limit their pay because they wanted the best not the cheapest talent. Limiting the length of sessions might put pressure on lawmakers to write bum laws fast because of the deadline. They wanted good laws regardless of how long it took to get them.

Such were the ideals in 1955 when Alaskans were dreamy-eyed in their ambitions for their new state. Now, 30 years later, they have learned that it takes more than ideals. It takes the right people and, under our political process, we won't always elect idealists.

The Uncharted Realm of Term Limitation

It has caught the fancy of the voters, and it is coming in at least three states. What in the world will life under it be like?

By Jeffrey L. Katz

It's swearing-in day at the Colorado House of Representatives, a cold January morning in Denver, early in the next century. The 65 legislators are greeting each other and sorting themselves into little clusters, corresponding to the four classes that make up the institution. About half are either just taking office or preparing to leave; all are allowed only four two-year terms under the law approved by voters back in 1990.

Each of the legislative classes is behaving about as those who watch the institution have come to expect. The freshmen are gaping at the ornate chambers and wandering the hallways, trying to reassure themselves that they aren't the first ones to have gotten lost. The second-termers, the sophomores, are relieved that much of the hazing is finally over, but still deferential to upperclassmen and realistic enough not to expect the best committee assignments.

Those with a couple of terms under their belts, the juniors, are swiveling in the chairs in their new, well-located offices, musing that these may be the best, most carefree days of their legislative careers before they grapple seriously with the burdens of earning a living outside the Capitol walls. And then there are the seniors, the lame ducks, who by tradition are just now settling into the most valued leadership and committee positions. Obsessed with their plans for after legislative graduation day, they will spend a disproportionate amount of time maneuvering for jobs on the outside.

Other seniors will be debating the sort of legislative gift they should bestow on the public as their class legacy. Some of them want to leave behind a new environmental program; others prefer a tax cut. All of them want to be remembered as a class that accomplished something before moving together

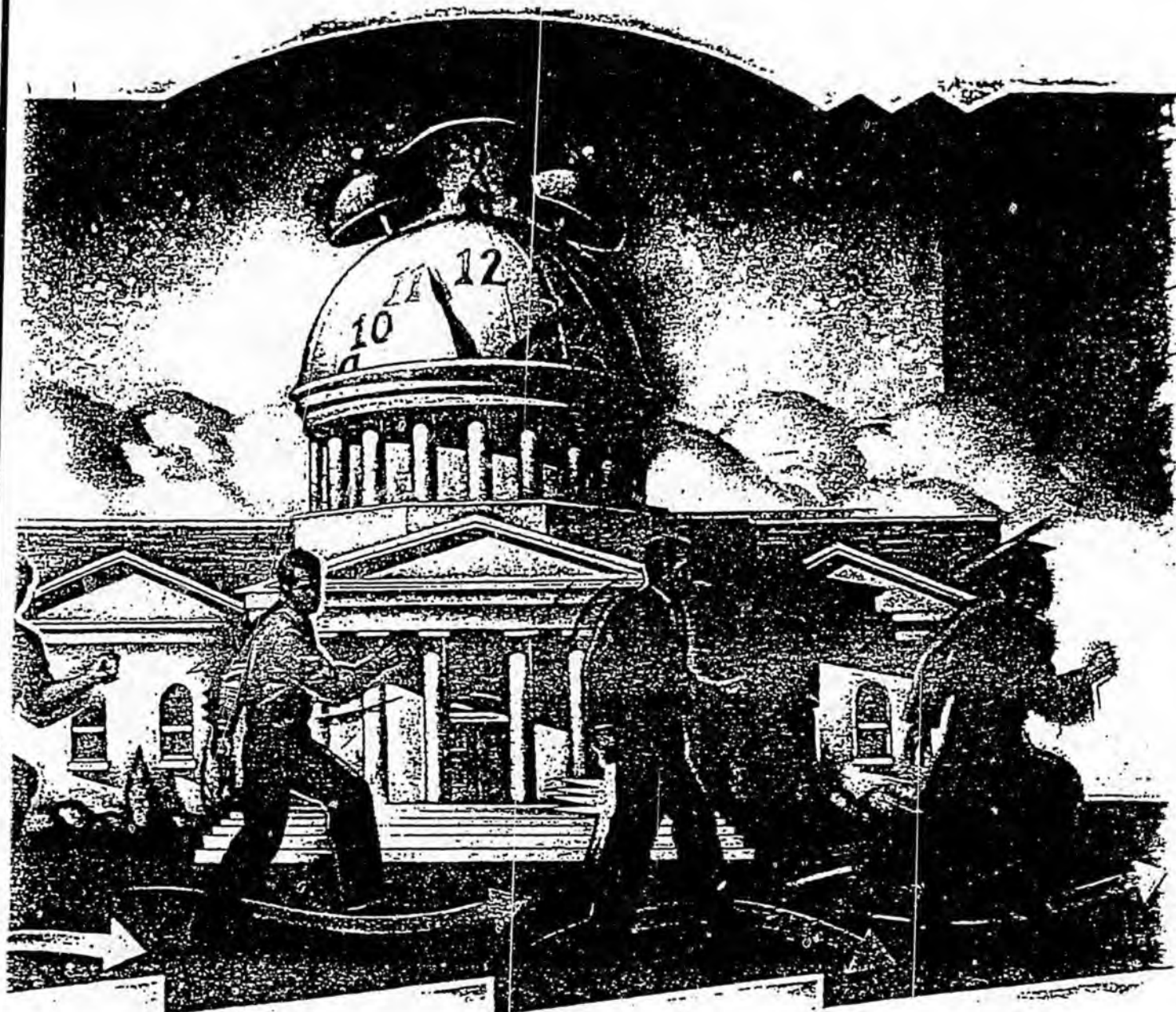
into the cold world beyond. Many of them will find it difficult to concentrate on their legislative chores.

Is this what we can expect from term limitation? Is it possible that a movement launched last year with the idealism of a grass roots demand for good government will merely turn our legislatures into institutions plagued by all the depressing rigidities of high school? Could a law designed in part to control the evils of seniority actually end up magnifying them?

Perhaps. The preceding is one of many plausible scenarios that can be spun about the consequences of placing limits on legislative terms. But the very ease of constructing those scenarios raises questions about the full impact of the reform. When it comes to term limitation, the possible side effects are endless and just as likely to come true as the movement's ultimate goal: a corps of public-spirited citizen-legislators eager to do the public's business untainted by the careerist virus.

One thing seems certain. We are going to find out how it works. California, Colorado and Oklahoma have already adopted citizen initiatives to limit state legislative terms. In Colorado, the limit on consecutive service will be four two-year terms in the House, two four-year terms in the Senate. In Oklahoma, it will be a total of 12 years in either chamber. California's new law will be the most restrictive: State senators will be able to serve a maximum of two four-year terms, but members of the Assembly, the legislature's lower





house, will be allowed just three two-year terms.

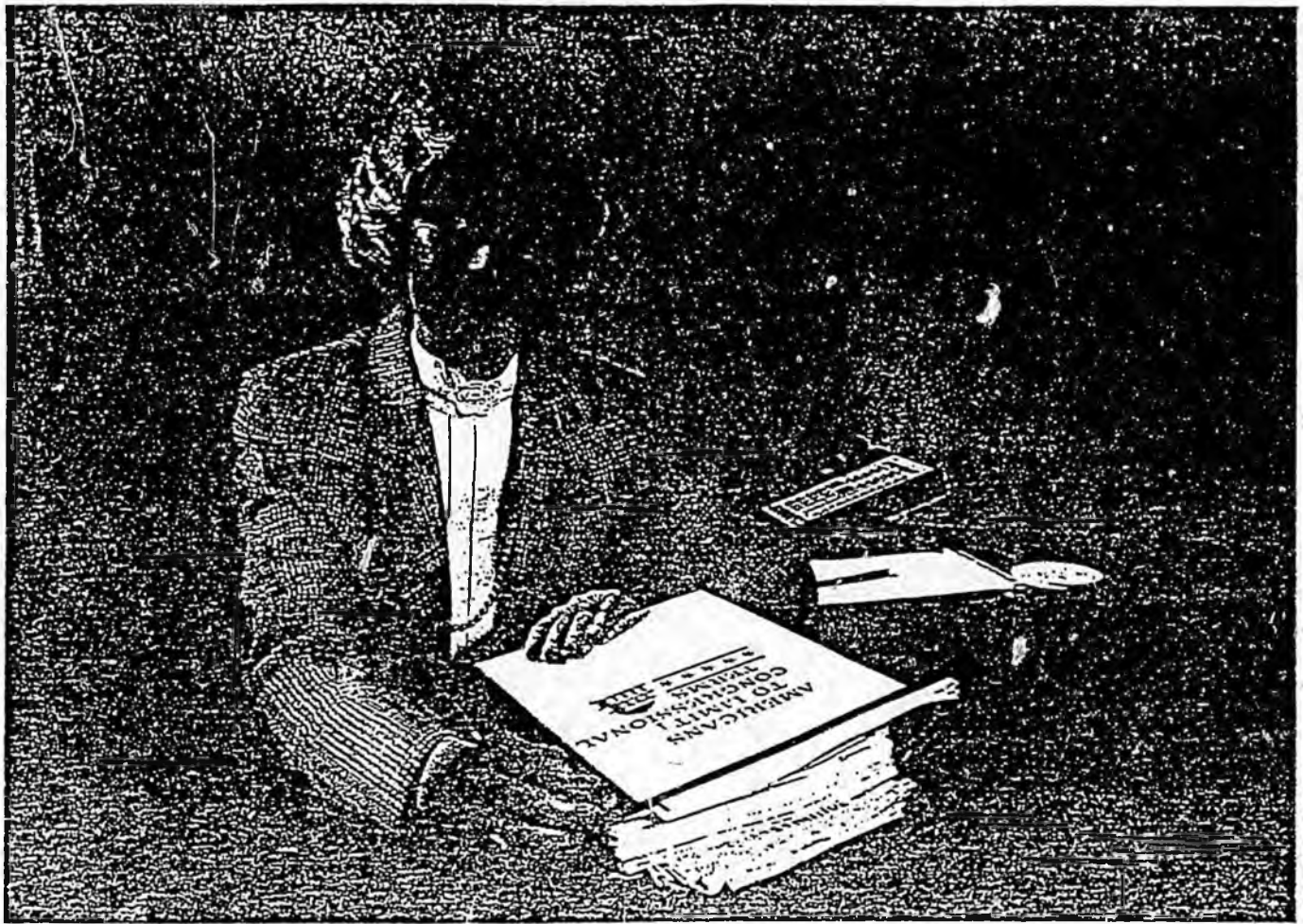
The movement has been fueled, of course, by the growing public awareness of the extraordinary re-election rate in most legislatures. Nearly all the term-reformers cite the high costs of campaigning, the overwhelming incumbent fundraising advantage and the staff support that challengers cannot match. The result, they say, is a crew of life-tenured legislators out of touch with the way the public lives and thinks. The solution is to cut through the assurance of re-election, create more opportunities for candidates who are not career politicians and force the commonsense values of ordinary American people into the corridors of public office.

Ed Crane, president of the Cato Institute, a libertarian think tank, says turnover will be valuable in itself, almost regardless of who comes in. "I literally think," Crane says, "that you'd have a better legislature with a lottery." Lloyd

Noble II, the Tulsa oilman who led the fight for Oklahoma's new law, envisions a broad cross section of citizens cycling in and out of legislatures, encouraged both by their chances of winning and of getting things done in a more dynamic institution. A legislative career, Noble says, "ought to be like serving on jury duty."

But is that realistic? Most juries serve for a few days or weeks. Twelve years is a long time; so, for that matter, is eight. Would people who are reluctant to break off their private careers to run for office under the current system be inclined to do so just because they could count on being back home in eight years?

"This notion that you're going to get citizen-legislators is silly," says Gary C. Jacobson, a political science professor at the University of California at San Diego. "You're going to get those people who can afford to interrupt their careers for



Cleta Deatheridge Mitchell, who spent eight years in the Oklahoma House, is an advocate of term limits. She says those who stay in office term after term become ineffective watchdogs of the bureaucracy.

a few years, and that precludes people who have a normal job or family life. It includes people who are wealthy or on pensions, retired people in general, and political fanatics or zealots who are willing to make that sacrifice for whatever they believe in."

In the larger states, particularly, it seems likely that the experienced political activists who make the strongest candidates now would also perform best in a term-limited world. Being motivated enough to run for and win a legislative seat will require certain skills and sacrifices no matter how often the seats come open. Candidates will still face financial disclosure, intense public and media scrutiny, door-to-door campaigning, a steady diet of speech-making and the burden of pleading for money from friends and strangers.

So even if term limitations do usher in more legislative newcomers, there is no assurance that they will be much different in background or outlook from the current crop. This is the argument made by Jeffrey A. Neubauer, chairman of the Wisconsin Democratic Party and a former legislator himself. "The person who wanders in and says, 'I'm middle-aged, raised a family, own a home and paid property taxes and you ought to vote for me because I'm a good guy or woman—they lose. They lose to younger, more aggressive people, well connected to the interest groups through their work as legislative aides.'" In Neubauer's opinion, a term limitation is not going to change that.

Cleta Deatheridge Mitchell knows all about those prob-

lems, having spent eight years in the Oklahoma House. But she believes that term limits will be worth it for the sheer turnover they will create, even if the same sorts of people are elected. She is a member of the board of Americans to Limit Congressional Terms, which is pressing its case upon the legislatures as well as Congress. "It takes a certain amount of ego," Mitchell agrees, "to take the risk and abuse and be foolhardy enough to believe you can run and win and make a difference. That's not going to change. But hopefully there will be more opportunities."

Or will there? A state that limits legislators to six two-year terms will be able to assume, on the average, a biennial turnover of 16 percent, plus whatever changes are brought about by the retirement or defeat of members who have not reached the 12-year limit. This means that the legislature can count on a big crop of newcomers every time—if a reasonable number do retire or lose before their terms are up.

But some commentators argue that there will be very little competition within the 12-year tenure period, that once members have been in a term or two, challengers will be inclined to avoid taking them on, waiting for the seat to open up at the 12-year point. "Why take a risk trying to knock off an incumbent," Jacobson asks, when you know the seat will soon be vacant anyway? If that attitude takes hold, there might be less turnover with limits than without them.

In fact, there is currently quite a bit of turnover. According to a study published by the National Conference of State

Legislatures, the lower houses of California, Colorado and Oklahoma all experienced membership turnover of 89 percent or more in the 12-year period from 1977 to 1989. Three-quarters or more of the Senate seats in Colorado and Oklahoma changed hands in that period, as did two-thirds of the Senate seats in California. In 1988 alone, there was a turnover of 24 percent of both houses in Colorado and 30 percent in Oklahoma. If competition in term-limit states dries up except when the seat is vacant, Cleta Mitchell's dream will be difficult to realize.

Some reformers see value not only in frequent membership changes, but in party changes as well. They argue that with no limits on tenure, one party can keep its majority almost indefinitely on the basis of incumbency alone. It is not only the individual challengers who have trouble being heard, it is the challenging party. No matter how good its platform or its talent may be, the minority party falls victim every two years to an avalanche of public relations gimmicks launched by the majority officeholders to keep their jobs.

Term limitation, its advocates say, would help even the score. "It strengthens whichever party has the better idea, better candidates, better resources," says Republican Terry Considine, a three-year veteran of the Colorado Senate and main author of that state's term limitation measure. Term limitation will be harmful, Considine believes, to the party that has the most to lose.

Perhaps. But the necessity of filling more open seats will put a premium on the parties' ability to recruit and assist a bigger crop of candidates. That could exaggerate the importance of the very qualities that gave a party the edge in a legislature in the first place. Paul Schauer, a Republican and 12-year veteran of the Colorado House who opposes term limits, says they would benefit "whichever party has the best trainers, has the more permanent party structure that can recruit candidates and influence candidate input and, once they're elected, keep them more in line with the party." In other words, the party that knows how to find 20 good candidates each election year might have an even greater advantage at finding 30—regardless of what the hot issues of the moment happened to be.

Whichever party predominates in a term-limited legislature, the members will have to conduct business in the absence of the 15- and 20-year veterans who have made many of the important decisions in the past. How would such an institution behave? Peter Schrag of the *Sacramento Bee* argues that the state's limitation law will turn the California legislature into "something that looks like an airport waiting room—inchoate, without organization or leadership, where most of the occupants are either just arriving or just preparing to go."

That is not what the reformers have in mind at all. As they see it, a legislature purged of its most senior members will finally be able to select leaders on a rational basis, choosing the people with the most ability, not people who have simply been there the longest, or who take orders from those who have. There will be more competition for leadership posts and key committees. Ideology will count for more, as will specific public policy stands and styles of governing. "You would see a much more substantial style of campaigning for those positions," says Jim Weber, director of Americans to Limit Congressional Terms.

That remains to be proven, however. If nobody in a legislature has more than a few terms of seniority, then seniority might be more precious, not less. Awarding key positions on an automatic basis to the least inexperienced people might be hard to avoid. If nothing else, it would guarantee everybody a slice of power in the brief time before they were mustered out.

If term limits promise a change in the way legislatures organize themselves, they promise an equal change in the way legislatures interact with the rest of the political system. And that is exactly what many of the reformers would like. They believe that familiarity breeds coziness, and ultimately cronyism—between legislators and the lobbyists and bureaucrats they should be dealing with on an arm's-length basis.

In the term-limited legislature Jim Weber envisions, so many members would be rotating in and out that it would be much harder for lobbyists to do business on a buddy system. As Weber sees it, lobbyists would be forced to stop patting backs and start talking more about the merits of legislation. "It ought not to be a wink and a nod and a campaign contribution," Weber says.

Henry McMaster, who ran unsuccessfully for lieutenant governor of South Carolina last year on the issue of term limits, makes the same point. He concedes that a term-limited legislature might be more dependent upon lobbyists for information than an experienced legislature is now. But he thinks that, with the right

sort of members, that wouldn't be anything to worry about. "If you have good people running," McMaster insists, "going to a lobbyist for information is like going to a library for information. You have to sort out the good information from the bad." He is confident that clear-headed newcomers arriving fresh from the outside world would, if anything, be better able to do that than the current bunch.

It should come as no surprise that today's senior legislators disagree with this idea. Political scientists generally disagree with it as well. Many argue that the typical legislative freshman—short of experience and information, frequently burdened with a large campaign debt that has to be retired—is the most susceptible to trickery by lobbyists.

"That's when a member feels especially beholden," says Thomas E. Mann, director of governmental studies at the Brookings Institution. "Over time you acquire some independence and confidence." Under term limits, Mann says, legislators would acquire those traits just as they were nearing their final terms and thinking about jobs in the outside world. In some cases, the jobs they were applying for would be lobbying jobs. It does not sound like a recipe for

Reformers
think
a term-limited
legislature
will finally
be able to
select leaders
rationally.

creating McMaster's world, in which lobbyists are used solely for purposes of information.

Cleta Mitchell worries about legislators being soft on bureaucrats. She says those who stay in office term after term become ineffective watchdogs of the bureaucracy they're supposed to be overseeing. "People get familiar with executive agencies," she says. "They get familiar with personnel and programs, and they become unwilling to challenge them because they become their friends." During her tenure in Oklahoma, Mitchell watched legislators par around with bureaucrats, increase agency appropriations in order to get jobs for their cronies and generally take the edge off what she believes should be an adversarial relationship.

Imposing term limits may be a good way to re-establish an adversarial attitude toward the bureaucracy. What is not so clear is whether a legislature loaded with junior members would know enough about the system to be a competent adversary. "The bureaucrats are going to be here forever," says Ted Strickland, president of the Colorado Senate. "Their experience in dealing with legislators is going to be much greater than that of the legislators who will be dealing with the bureaucrats." Strickland thinks a legislature full of short-termers will get outsmarted time after time. He warns of agencies that will wait until after the year's legislative session and then embark on new programs or initiatives that don't have legislative approval.

"It takes a while to have a good understanding of the budget, and a budget is the lifeblood of any agency," says Wayne Goode, a 28-year veteran of the Missouri Senate. "When you don't have people there who understand it, the bureaucrats are going to have a better opportunity to build empires, hide items in the budget and build the size of the bureaucracy around them, because people are going to quickly forget what they got a couple of years ago."

To term-limit activists, of course, that is merely the special pleading of incumbents who don't want to be forced from office. "I happen to believe that new, enthusiastic, interested lawmakers as they go through their learning curve can test and keep an eye on the bureaucrats," says Los Angeles



Ted Strickland, president of the Colorado Senate, thinks that a legislature full of short-termers will get outsmarted time after time by the bureaucrats.

County Supervisor Pete Schabarum. He is a prime sponsor of the new California law that limits Assembly members to six years and state senators to eight.

If state bureaucrats have reason to be happy about term limits, governors may have more reason. Although some who favor the limits say their goal is to make legislatures more creative and dynamic, others acknowledge that a less experienced legislature without a continuing core of veteran members would wield less clout when jousting with the chief executive. As they rotate from office, legislative leaders would have less leverage to strike a deal with the governor and probably less instinct for what sort of deal to strike. The senior legislators who exercise personal power over large

areas of public policy would gradually become extinct.

This is seen by some reformers as a blessing. Ed Crane, of the Cato Institute, longs for less aggressive legislatures. He claims that veteran lawmakers get indoctrinated in the political culture of a state capitol and end up spending too much money and adopting too many regulations. Similarly, Henry McMaster figures less experienced legislators would be more willing to take sensible direction from a chief executive who has the welfare of the entire state in mind. "I think the legislature ought to be weaker in its interaction with the governor," he says.

Alan Rosenthal, the Rutgers University political scientist who has studied governors and legislatures for 20 years, believes that sapping legislative authority may make states overly dependent on governors in a system that is supposed to feature separation of powers. Under term limits, he says, "it will be up to the governor to advance a program, provide the experience and pull the legislature together even to a greater extent than they do today. The legislature will be a weak branch of government." He does not want to go back to the rubber-stamp legislatures that predominated in many American states a generation ago; it is an open question whether most term-limit reformers, if they remembered the old days of arbitrary gubernatorial power, would want to go back to them either.

In the end, it is not turnover or partisan change or compe-

tion that reformers mainly seem to want. It is courage. They believe they can generate a new breed of legislator willing to make the right decisions on the basis of facts and common sense regardless of the political repercussions. Pete Schabarum, the Los Angeles County supervisor, believes term limits will gradually attract people who will take risks that the incumbents currently fear. He doesn't mind that this might mean going against the majority's wishes. "On some occasions," he says, "that isn't all bad."

If Schabarum is right that term limits are a formula for creating the political courage that today's legislatures often lack, then there probably is no good argument against them. But one has to take that on faith. It isn't just a swarm of special interests that block the enactment of sound public policy, it's also the absence of any public consensus on major issues. Term limitations wouldn't change that. The same forces that make legislators reluctant to take unpopular or controversial stands now are likely to temper term-limited legislatures in the same way.

Or so concludes Joe Clarke, a 21-year veteran of the Kentucky House. Clarke says he has spent years trying to persuade lame-duck legislators to vote their consciences, and finding that the prospect of retirement doesn't make them any more courageous. Not long ago, Clarke reminded a lame-duck colleague that he needn't worry about political retribution, since he wasn't seeking re-election. "No," the man told him, "but I'm going to be living back there." □

It's this simple.



When you need to know about Congress, you need Congressional Quarterly.

CQ Insight
CQ Weekly Report
CQ Weekly Monitor

For more information and free copies of these Congressional Quarterly publications, call Tanya Lown at 1 (800)-432-2250 ext 252

THURSDAY
March 12, 1992

METRO

The Anchorage Times

B2

✓ Term limit measures crawl through Capitol

By JAY CROFT

TIMES CAPITAL BUREAU

JUNEAU — Legislators have taken little action on proposals to limit the number of terms they can serve, and even supporters acknowledge the measures have little chance of success.

Two resolutions in the House and two in the Senate, including one from Gov. Walter J. Hickel, are making their way through committees and they are not exactly on the fast track.

Hickel wants the public to decide whether lawmakers' terms should be limited, as executives' are, to prevent the creation of lifelong bureaucrats holding onto power. Opponents argue Alaska's Legislature already has a high turnover and that voters should not be restricted.

House State Affairs Committee Chairman Gene Kubina, D-Valdez, said he reluctantly will send one of the resolutions to the Judiciary Committee on March 20. Only one bill about the same

issue is allowed to go from one committee to the next.

Hickel's measure, introduced last year, was sent out of its first committee, Senate Judiciary, on Feb. 25, while the other languished without action. The Senate Finance Committee has not scheduled a hearing for Hickel's.

The resolutions seek to let voters decide on a constitutional amendment restricting legislative terms. That requires a two-thirds vote in both chambers and a simple majority of voters.

Term limit movements have been active in several states.

The U.S. Supreme Court on Monday rejected a challenge to the term limits imposed for members of the California Legislature. The justices let stand a California Supreme Court decision that the limits, adopted in a 1990 statewide voter initiative, do not violate constitutional rights of any lawmaker or voter.

Colorado and Oklahoma voters passed limits in 1990, and Florida

voters will consider the idea in November. Washington voters rejected a similar move last year.

Hickel asked for support for his resolution during his State of the State Address in January.

"Let the people vote," Hickel said. "Let them decide if it is time to apply the same yardstick to legislators we do to our governors and president."

Hickel's legislative liaison, Paul Fuhs, said the idea remains a high priority of the administration despite the apparently slim chance of success.

"You're expecting the Legislature to do something which is going to affect some of its most powerful members," Fuhs said.

The bill Kubina plans to move is sponsored by Rep. Loren Lemman, R-Anchorage.

The measure would allow a person to serve a maximum of eight consecutive years and then wait two years before seeking election again.

Lemman called the high court's

decision in the California case "comforting" but said, "Even if we were to get this to the floor, I'm pretty sure there aren't two-thirds who support it."

That includes Kubina.

"I don't like the bills," Kubina said. "I don't know why anybody would want to restrict anybody's right to choose who they vote for when it's pretty obvious people don't stay in our Legislature very long."

House Speaker Ben Grussendorf, D-Sitka, said there is little discussion on the issue. "I don't hear much support."

Grussendorf and others said the administration was seeking to enhance its power at the Legislature's expense.

The Legislature's senior member, Sen. Jay Kerttula, has been in office 30 years.

"The chief executive has a quiver full of arrows," the Palmer Democrat said. "We've just got one arrow each."

✓ Term limit advisory vote OK'd

By CATHY BROWN
Peninsula Clarion

Voters will get to have their say this fall on whether to impose term limits on borough elected officials — but their vote won't be the final word.

The Kenai Peninsula Borough Assembly decided 12-3 Tuesday to put an advisory question on the fall election ballot. It would ask voters whether they want to limit assembly members, school board members and the borough mayor to serving no more than two consecutive three-year terms.

Several assembly members who had opposed a binding vote on term limits in the past agreed to go along with a neutrally worded advisory question.

"I think there is an important difference in that this is a neutral resolution," Assemblyman Jonathan Sewall said. He said he would vote against it in the fall, but he didn't have a problem with putting it on the ballot to see what voters think.

Nikiski Assemblyman Gary Superman also changed his position and voted for the advisory measure. But he warned voters to be sure they understand the implications of the measure. "An automatic turnover is not a cure-all for what you think ails your local

See VOTE, back page

Vote: Advisory question will allow issue to be aired

Continued from page 1

government," he said. "What ails your local government is basically not enough local input."

Opponents have argued limiting terms disenfranchises voters who want to continue electing an incumbent.

Supporters have said it will prevent people from becoming entrenched in local government and bring fresh ideas to the process.

Assembly members Phil Nash, John Calhoun and Jim Skogstad were the only assembly members to hold out against putting the advisory question on the ballot.

"I'm still basically opposed to the idea that some other area of the borough is going to tell my area of the borough what they can do for an election," Nash said. "In a local area where people are basically donating their time, it ought to be up to us, our families and our communities whether we choose to run again."

Calhoun, who joined the assembly last October after defeating an incumbent in a Homer race, said term limits are just not necessary at the local level.

"Even though this is an advisory vote, I cannot fathom the purpose of it, nor can I justify the expenditure," Calhoun said. "There's nobody here that ... holds their seat because they are an incumbent."

The majority of assembly members have not held more than two consecutive full terms, and seven of the 16 have been elect-

ed within the last two years.

The vote will be only advisory. If the election favors term limits, it would take an assembly ordinance and another election the following year to put the idea into place.

The assembly would not have to follow voters' wishes and put a binding question on the ballot the following year. But backers of the advisory vote have said they believe the assembly would do what voters ask.

OPINION

TAKING A STAND

Polls show Alaskans want to limit legislators' terms of office

Today and Friday the Legislature will do something unusual. Today the Senate Judiciary Committee, and on Friday the House State Affairs Committee, will debate term limit legislation.

For years, these proposals have roiled in committee. Since 1968, term limit resolutions have been introduced 19 times, including my HJR 57 in the 16th Legislature. The hearings today and Friday are unique opportunities for Alaskans to voice their opinions.

Poll after poll of Alaskans show overwhelming support for limiting terms of state legislators. The Anchorage municipal election in 1989 confirmed this when local voters limited terms for members of the Assembly and School Board. However, legislators are afraid to see the issue come to a floor vote.

Politicians tend to listen more closely to their constituents in election years.



Loren Leman

Perhaps during this year, more legislators will listen.

HJR 7 and SR 20 propose restricting legislative service to eight consecutive years. They allow a person to run for office again after a two-year break.

By limiting terms of state legislators, voters will restrict the quiet, but certain move toward a full-time, career legislature. Many find the power too difficult to give up.

Passage of limits will be a big step in the right direction. Citizen participation in our government will be increased, and the influence of power brokers and career politicians, who see this legislation as an erosion of their power, will be reduced.

Term limit legislation has already passed in Oklahoma, Colorado and California. It is pending in many other states. Recently, Washington voters said no to immediate and strict limits on their Congressmen — and understandably so. Their initiative would have disadvantaged their state at the federal level during the few years it takes the other states

to adopt Congressional term limits. With slight revision, it too would have passed easily.

By limiting terms of state legislators, voters will restrict the quiet, but certain move toward a full-time, career legislature. Serving in the Legislature is hard work, but many find the power too difficult to give up.

Term limits will also improve the recruitments of good candidates. Citizens wishing to serve in the Legislature are now faced with almost impossible odds of beating an incumbent.

Restrictions on length of service will

improve the chances for honest consideration of legislation and debate on its merit. The existing system of selective manipulation does not serve the public well.

Finally, term limits will improve voter confidence in our Legislature. People want to know that legislators act for the right reasons — and not just to get re-elected.

If the Legislature does not pass term limit legislation this session, I will join many other Alaskans who support holding a constitutional convention. The convention question will be on the ballot in November.

If you wish to testify, call your Legislative Information Office, or contact your legislator directly.

Loren Leman represents West Anchorage in the state House of Representatives. Opinions expressed in Taking a Stand do not necessarily reflect the editorial position of The Anchorage Times.

Term Limits: Topic for Constitutional Convention?

by Rep. Loren Leman (R)
House District 9, Seat A
Turnagain/Sand Lake



Rep. Loren Leman

In October of 1990, Anchorage voters overwhelmingly supported limiting Assembly members' to six years in office. The sentiment is just as strong for

limiting legislative service. I agree!

I introduced HJR 7 earlier this year. This resolution proposes a reasonable restriction of legislative service to eight consecutive years. Passage would be a big step in the right direction, increasing citizen participation in our government and reducing the influence of power brokers and career politicians.

Although my proposal has broad public support, it is lan-

guishing in the very body it would reform—the legislature! Old Guard and career legislators oppose term limits as an erosion of their power.

Recently, Washington voters rejected immediate and strict limits on their congressmen—and understandably so. The initiative was very limiting and would have disadvantaged the state during the few years it takes other states to adopt congressional term limits. With slight

revision, it would pass easily.

By limiting the terms of legislators, voters will restrict the quiet but certain move of the body toward a full-time career legislature. Serving in the legislature is hard work, but many find the power too difficult to give up.

Term limits will also improve the recruitment of good candidates. Citizens wishing to serve in the legislature are faced with almost impossible odds of beating an incumbent. This results in an upward spiral of campaign costs.

Restrictions on length of service will improve the chances for honest consideration of legislation and debate on its merit. The existing system of selective manipulation does not serve the public well.

Finally, term limits will improve

voter confidence in our legislature. The legislature is ours, but unfortunately, too few participate in the making of our law.

If the legislature does not pass term limit legislation this session I will join many other Alaskans who support holding a constitutional convention. This question will be on the ballot in November 1992.

Proposals to limit terms that advanced from a constitution convention are likely to be even more restrictive than HJR 7. The legislature should act now and place my proposed amendment before the voters.

Please call me at 561-7614 to discuss this or other legislative matters. Carolyn and I extend our best wishes for a Merry Christmas.

The Anchorage Times

Locally owned since 1915. Alaska's best newspaper

SUNDAY, November 24, 1991

Volume 77 No 328 50¢

F4 Sunday, November 24, 1991, The Anchorage Times

OPINION

TAKING A STAND

Don't fear constitutional convention

BY TERRY MARTIN

The recent denial by the lieutenant governor to prohibit the people from circulating a petition to limit the terms of legislators is an example of arbitrary dictatorial powers. In the first place, it took eight months to make a decision, while the law called for a 60-day determination. This deliberate procrastination is calculated to further deprive the petitioners of the necessary time to gather the 20,000 signatures.

The proper papers and forms were introduced in February 1991, which would have given the entire summer and fall, especially during the state fairs throughout the state, to meet the law and provide time for the election office to certify prior to the next legislative session convening Jan. 13, 1991.

This illegal delay is also timely in limiting the abilities of the people to raise the necessary money to appeal the decision in court, as is allowed, but is useless when it means an additional month of hearings. In the end, the lieutenant governor's office and the department of law have used delay tactics to make the appeal ineffective to the right of timely petitioning.

A number of states have no mention of the inherent rights of people to petition so as not to undermine the original intent of the Declaration of Independence of 1776, which declared that it is the natural right and responsibility of the people to change their contract (constitution) with the government and those legislative bodies as experienced.

In numerous papers, both Thomas Jefferson and James Madison before, during and after the Constitutional Convention (13 years later in 1789), explicitly clarified what people had to do to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That, whenever any form of government becomes destructive of these ends, it is the rights of the people to alter ... its powers in such form, as to them shall seem most likely to effect their safety and happiness.

Since statehood, the lieutenant governor's office has been used to blockade the rights of initiative and referendums,

mostly by weak and loose interpretations under the term "constitutionality." Such denials are grossly negligent when used to undermine Article I, Sec. 6, of the Alaska Constitution stating "The right of the people peaceably to assemble, and to petition the government shall never be abridged."

"Limitophobia" — the fear of being cast into outer darkness (the private life) by term limitation is causing politicians



Martin

throughout the nation to seek remedies to stop this reform measure by the grass roots public. Even during the Fairbanks convention of 1955-56, the delegates demeaned the people of California as a bunch of crazy revolutionists for having the right to directly change their constitution.

Most recently, Californians were allowed to circulate a constitutional petition limiting terms of elected officials. The initiative passed overwhelmingly and, in turn, the elected legislature voted to use tax dollars to sue the people's action as unconstitutional.

The California State Supreme Court upheld the right of the people to change their constitution, whereupon the legislature again, using public monies, filed suit with the U.S. Supreme Court to stop the people from controlling them.

The politicians in Oklahoma and Colorado accepted the will of the people regarding the 1992 election, which will establish a limitation on their terms as legislators. Today, 22 states have introduced legislation limiting terms. No legislature has passed such a law thus far.

It is obvious that the majority of legislators will not promote the will of the people, but will employ formerly introduced bills as a stopgap or ploy to vent the issue until the winds of public support are frustrated. Such is the Alaska situation when the lieutenant governor asked the backers of the petition "to fo-

cus their efforts on the term-limit measure pending in the legislature."

This same game was played for eight years with the citizens who wanted to recriminalize marijuana. Eventually, the high school students throughout the state, their parents and organizers of Drug Free Alaska realized the scam being orchestrated and started their own petition drive.

They were told it would be unconstitutional (conflict with right to privacy) by Alaska's attorney general office, but then the lieutenant governor ruled that particular opinion was not to supersede the guaranteed right of petition.

Last November, the public supported the petition at the ballot box. Now, those who are of opposite mind can: file suit in court, start a new petition (as they are currently advocating), or wait until 1993 to develop new legislation which would meet their concerns. This was, and is, democracy in action.

There is nothing in Alaska's Constitution that calls for the lieutenant governor to make a constitutional judgment for denial.

The growing opposition and the permanent governing class — the legislators — are using public funds to prevent the citizens from seeking to change the governing class. Public funds in Alaska are also being used to thwart the public will.

Myopic visionaries of out-of-date Alaska keep using the aged labels of "modern and model" to intimidate and harass people from any constructive change of "their" constitution. There is nothing modern about silencing the voice of the people.

Alaskans will have a chance next year to vote for a constitutional convention. Again, the voices of fear will discredit anyone who advocates amending the constitution or, even worse, suggesting an amendment that imposes term limitations.

The self-righteous incumbents need high boots to walk through the alleys flooding with waves of self-importance.

Terry Martin of Anchorage represents District 13-B in the state House. Opinions expressed in Taking a Stand do not necessarily reflect the editorial position of The Anchorage Times.



Public wins with term limits

BY BOB BELL

Alaskans for Legislative Reform are trying to limit the terms of state legislators. Our plan is to require legislators to skip a term after eight years.

This would accomplish two things. One, it would make our state legislators go out and get a job like the rest of us. They need to know how their actions or inactions affect the working folks. Second, it would break the power of incumbency.

After two or four years out of office, they would have to run against an incumbent. Then the voters could compare the public records of both candidates. We have no intention for trying to limit the terms of our national representative or senators.

The ultimate goal of AFLAR is to return our state Legislature to citizen legislators. We currently have mostly professional legislators in office. That was not the intent of the framers of our Constitution.

With a 120-day session and fabricated interim committees, it is impossible for any Alaskans with a full-time job or a business to serve in office. This excludes 80 percent of Alaskans from serving. We think that is wrong. If the sessions were short then everyone would have an opportunity to serve.

If we had citizen legislators who were serving out a sense of public service, we wouldn't need to bribe them with more goodies to vote properly. They would represent their constituents instead of themselves.



Bell

The tort reform and marijuana issues are examples of the citizens having to force the legislator to represent the citizens' wishes. A current example is Joint Resolution 6, which is a proposal to limit the session to 90 days. The two public hearings on this bill were held in Palmer at 4:30 p.m., Nov. 16, and in Valdez at 1 p.m. on Nov. 16. No teleconference was available, therefore most of the citizens of the state didn't have an opportunity to testify.

It also seems interesting that Nov. 15 and 16 were the dates of the Constitutional Convention Conference, so most of the people who would testify in favor of limits were otherwise occupied.

One way to get shorter sessions is to send citizen legislators to someone who will get the job done quickly and efficiently and come home. We can take a large step in that direction by limiting the terms of legislators. It is obvious that this issue will have to be a grass roots movement because the entrenched political establishment will never pass a bill to limit terms.

Alaskans for Legislative Reform is that grass roots movement.

Polls show at least 80 percent of Alaskans favor term limits on state legislators. Yet, bills to limit terms never make it out of committee year after year.

Who are our legislators representing when they kill these bills? Why don't they want to let the people vote on the issue? We think these questions run to the heart of the problem.

It is time to limit state terms just like California, Colorado and Oklahoma. We did it for the Anchorage Assembly and School Board. Now it is time for the state Legislature.

Bob Bell has been chairman of Alaskans for Legislative Reform since its beginning three years ago. Opinions expressed in Taking a Stand do not necessarily reflect the editorial position of The Anchorage Times.

The Anchorage Times

Locally owned since 1915. Alaska's best newspaper

SUNDAY, November 24, 1991

Volume 77 No. 328 50¢

Legislators will limit their terms of office when hell freezes over

Well it looks like our Legislature is temporarily relieved from having to fend off the pressure for a limitation on the number of terms a legislator may serve. The newfound escape has been provided by Lt. Gov. Jack Coghill's recent decision to deny an initiative by the people that imposes term limitations.

As a long-time supporter of limited terms, the lieutenant governor blames a Department of Law interpretation of the state's constitution as the basis for his denial. Conceivably, the Department of Law could blame the Legislature, since any other decision might otherwise result in the Legislature cutting the law department's budget.

Neither the Constitution of the United States, nor the Alaska Constitution provides for a professional or career legislator. Our state constitution is quite explicit in that "All political power is in-



Fred Chiei

herent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole."

Our founding fathers had the foresight of tenure begetting power, and the greater the tenure, the greater the corruption of power. As such, they prescribed a citizen legislature, composed of elected

citizens who could ably represent their constituency's majority positions. And in doing so, they would dedicate some period of time within their livelihoods or endeavors towards achieving the common good.

But our state's lawyers have now concluded that limiting the terms a legislator may serve is a constitutional change which cannot be accomplished by an initiative. It seems strange that a term limitation statute can now only happen through a constitutional amendment.

Procedurally, our state's constitution can only be amended in one of two ways. The Legislature can amend the constitution by a two-thirds vote of each house and then place the matter on the ballot. In the last session, Gov. Hickel introduced Senate Joint Resolution 20 which proposes amending the state's constitution to enable limiting the terms of legislative office.

The lieutenant governor advises pursuing this route.

But only a miracle would see both houses passing a resolution that would place the question on the upcoming 1992 ballot.

After all, why should the legislature voluntarily forsake its many benefits and privileges of tenure.

This then leaves the alternate — the people calling a constitutional convention.

Our constitution mandates that with the conclusion of every 10 year census, a ballot question shall request the public's desire of holding a constitutional convention to amend the constitution.

If the 1992 ballot response is in the affirmative, a convention is convened, delegates are selected and the proposed amendment would be debated for its placement on the 1993 ballot.

Historically, the public has

never opted for a constitutional convention, and if that is the case in the 1992 ballot, the term limitation amendment is dead.

On the other hand if the public elects to convene a constitutional convention, then the amendment must survive the debate to see the ballot. And if it survives, it would be placed on the 1994 a ballot.

Ironically, the very constitution that guarantees a citizen legislature is now unwittingly providing the Legislature the means of stonewalling all attempts to limit their tenure.

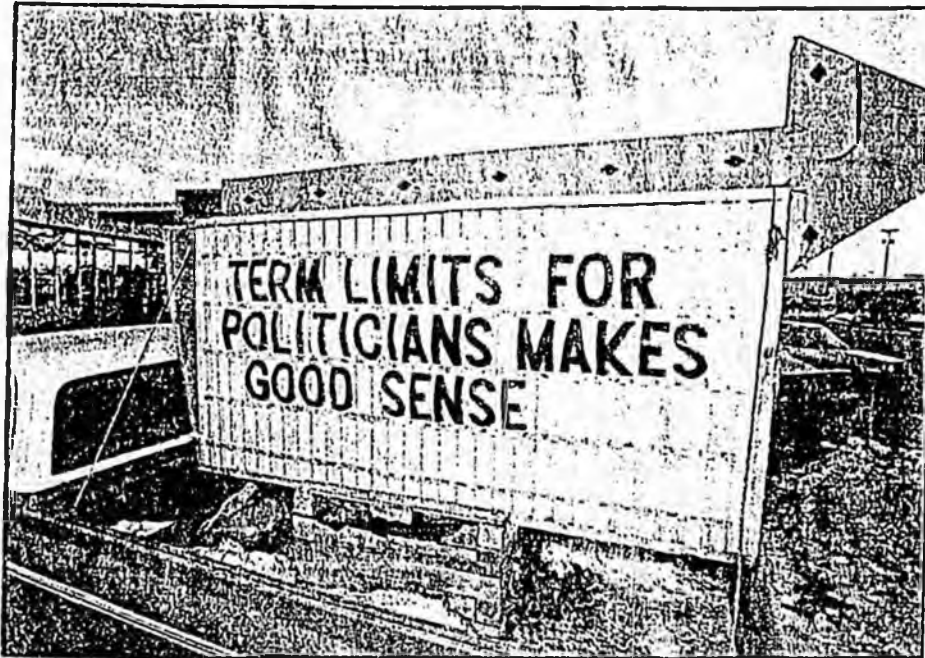
It is being used as the safe haven that gives the Legislature playing time to delay and frustrate the will of the people.

Lets face it — the Legislature is winning this battle.

Fred Chiei is a former member of the Anchorage Assembly and longtime businessman. His column appears every Sunday.



Alaskans back term limits; delegation doesn't



JIM LAVRAKAS / Anchorage Daily News

Eddie Burke installed a mobile sign at his Chevron station downtown.

By BRIGID SCHULTE
States News Service

WASHINGTON — As voters in Washington state began to vote Tuesday on whether to limit their elected officials' stay in Congress, Eddie Burke began his own term-limit movement in Alaska. He put up a big black sign in the back of his beat-up 1971 green pickup announcing: "Term Limits for Politicians Makes Good Sense."

Since then, says the owner of Eddie's Chevron on one of the busiest corners in Anchorage, people have been calling to volunteer money or time to help cut off terms in the Alaska state legislature and in the U.S. Congress.

"Term limits are the only thing that will save America from continuing corruption," Burke said. "Some of those guys have been in there 30 years. The Soviets don't even stay in office that long."

On average, 98 percent of the congressional incumbents who run in any given election year are re-elected, usually with cam-

Please see Page B-3, LIMITS

ADN 11/8/91

LIMITS: Some Alaskans want terms trimmed

Continued from Page B-1

campaign treasuries two and three times larger than their challengers.

Burke is not alone in thinking Congress needs more new blood, more often. Several groups are active nationally, and at least two are at work in Alaska.

But Burke's desire to limit terms in Congress is largely unshared by the three men who represent him and other Alaskans there.

"You're playing right into the hands of those that will force this country into chaotic disarray, and then someone will rise from the shambles of a crippled government," warned Republican Don Young, in office since 1973. "Someone like Joe McCarthy or Adolf Hitler."

One of Burke's allies in the term-limit drive is Jay Loesch, Anchorage manager of a North Slope oil drilling contractor. He has started an

Alaska group and aligned himself with Washington state and national term-limit groups to try to force the issue to a vote.

He is planning a 20,000-signature petition drive to get the issue on the ballot in '94. His effort is modeled on the one in Washington state, which would limit politicians to 12 years service in Congress.

And Fritz Pettyjohn, a former minority leader in the Alaska state House who pushed for term limits there, is now working with the national Americans To Limit Congressional Terms to reform a Congress he describes as a "snakepit."

Republican Sen. Ted Stevens, who has been in Congress since 1968, thinks the term-limit movement is politically motivated.

"I think what you're hearing is a bunch of people in my party saying they can't get a majority elected," Stevens said, referring to Republican frustration that

Democrats control the leadership and chairmanships of every committee in Congress.

Stevens argued that a new system would harm states with small populations, like Alaska. Under the current system, the longer a lawmaker is in Congress, the more he or she gains power and prestige — access to important committees and the ability to influence legislation.

Stevens is himself an imposing senator by virtue of his longevity, serving with seniority on key appropriations, commerce, rules and small business committees.

But, with the U.S. Senate voting last week to kill an energy bill and with it, drilling for oil in Alaska's Arctic National Wildlife Refuge, Pettyjohn scoffed at the seniority argument.

"With the disposition of ANWR, which a number of the people in this state supported, it's questionable how much the delegation's seniority is paying off in dividends," he said.

Republican Sen. Frank Murkowski, elected in 1982 and up for re-election next year, was more circumspect.

"Voters are concerned about access, money, incumbents and special interests," Murkowski said. "Those are valid concerns."

But he, like the other delegation members, said limiting terms would give rise to rule by bureaucrats, as a steady stream of inexperienced lawmakers would be forced to rely on professional staffers and special-interest lobbyists for information.

Murkowski and the others said reforming the way campaigns are financed might answer some voter concerns that special and corporate interests can buy members of Congress.

Reformer Pettyjohn, vehemently disagreed.

"If you think Congress capable of reforming itself then I have a few bridges to sell you," Pettyjohn said. "And you can tell me about the last time you saw Elvis."

REPRESENTATIVE LOREN LEMAN

District 9 - West Anchorage

2699 Nathaniel Court • Anchorage, Alaska 99517

243-2000

A14 THE WALL STREET JOURNAL FRIDAY, FEBRUARY 8, 1991

REVIEW & OUTLOOK

Term Wake

Anyone following the term-limit movement will be interested to find out what has happened in California in the wake, so to speak, of the state's law limiting terms for legislators and reducing their staffs. From one end of the state's capitol building to the other, political professionals who thought they had life tenure are packing up and getting out. Depending on where you sit, this is either a tragedy or cause to celebrate.

Assembly Majority Floor Leader Tom Hannigan is retiring. Mike Roos, the Assembly Speaker Pro Tem, is considering resigning to head a group seeking to improve the public schools. Assembly Speaker Willie Brown says that as many as 40% of Assembly members may retire by next year—either to run for other offices or take new jobs.

Democratic Assemblyman Richard Floyd says he'll virtually close his district office and tell constituents who voted for term limits to look for help elsewhere. "I'm depressed," he says. "There's no future for me. There's no future for my staff." He has asked his four district aides to take the five months' severance pay offered staffers if they leave before cuts in the legislature's budget hit in July. They will be replaced by a part-time worker and an answering service.

Assemblyman John Vasconcellos, a 24-year incumbent well known for his advocacy of a "commission on self-esteem" in the 1970s, is even more bitter. He says he may resign before his current term expires. "I'm reducing my working time to 40 hours a week," he told the Los Angeles Times. "I don't see any point in killing myself for people who apparently don't care if they have decent government or not." Mr. Vasconcellos says he can't believe the voters were so "self-destructive."

All this is as it should be, according to Lew Uhler, a co-author of the term-limit initiative. "In private life if someone spends eight years in the same job, you wonder why he hasn't either been promoted or fired," he says. "Term limits mean the best legislators will try for promotion to Congress, statewide office or the non-profit sector. Anyone can still spend a lifetime in politics, but you must keep climbing the career ladder. The best ones will."

Democrat Tom McEnery, a former San Jose mayor and friend of the embittered Mr. Vasconcellos, agrees. He says his friend "can make other contributions." He compares the legisla-

ture to a "hermetically sealed mayonnaise jar." Most members, he says, don't realize they are part of "a fatally flawed system."

Leaving the safety of their sealed jar has been a wrenching experience for departing staffers. "The Capitol is a subculture, a separate community," says Kevin Sloat, chief of staff to State Senator Marian Bergeson. "Being forced to leave is a major upheaval. It's almost like forcing a mid-life crisis on someone." More than 700 of the legislature's 2,500 staffers are taking the five months' severance pay and retiring.

The staffers complain that their absence will mean the legislature will depend more on lobbyists for advice and information. But far from being pleased, the lobbyists instead fear losing their "investments"—longtime incumbents who became attuned to their interests. Jack Carrigan, executive director of the California Commission on Aging, says many elderly lobbyists fear having to "educate" a whole new crop of legislators. "There's real potential the aging programs in California will be weakened this way," he says.

None of this is to suggest that the survivors who are staying with the ship are ready to surrender to the voters everything they've worked for. Both houses have voted to file a lawsuit claiming the term limits are unconstitutional because they "reduce the legislature to an agency, rather than a co-equal branch of government." Legal scholars view that argument skeptically, because term limits already apply to the President and 28 governors.

Speaker Brown, who calls term limits the equivalent of "terrorist bombs," also claims that they're racist because the most powerful minority politicians, including him, are longtime incumbents. But in fact legislative turnover would open up demographically changing districts to women and minorities, which is indeed why some Hispanic groups and the National Organization for Women endorsed a milder state term limit. Who would deny that the quality of our politics suffers now because bright people, often representing minority interests, are thwarted by old-boy incumbency networks?

If the California experience is repeated elsewhere, voters may yet achieve what had begun to seem impossible: a real and lasting improvement in the political life of the United States.