

HJR

45

HOUSE COMMITTEE REPORT

(7)

Date Referred: May 1, 1991

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 1/25/92

The STATE AFFAIRS Committee considered:

HJR 45

HOUSE JOINT RESOLUTION NO. 45

REAPPORTIONMENT BOARD & REAPPORTIONMENT

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

RECOMMENDATIONS:

be replaced with CS HJR 45 (ST) 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 Office of the Gov.

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eugene A. Kukhina</i>		<i>Dave (Russell)</i>		<input checked="" type="checkbox"/>	
<i>Tom Mays</i>	<input checked="" type="checkbox"/>	<i>Janet</i>			
<i>Bruckner</i>	<input checked="" type="checkbox"/>	<i>Mike Miller</i>	<input checked="" type="checkbox"/>		
		<i>Co. Greenberg</i>		<input checked="" type="checkbox"/>	

Eugene A. Kukhina
CHAIRMAN'S SIGNATURE

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

February 5, 1991

SUBJECT: Constitutionality under U.S. Constitution of Article VI sections of Alaska constitution (Work Order No. 7LS0653)

TO: Representative Dave Donley
Attn: Laurie Otto

FROM: John B. Gaguine *JBG*
Legislative Counsel

Since the "one person, one vote" decisions of the U.S. Supreme Court in the early 1960s (Baker v. Carr, 369 U.S. 186, 7 L.Ed.2d 663 (1962); Reynolds v. Sims, 377 U.S. 533, 12 L.Ed.2d 506 (1964); and many others), it is obvious that many of the provisions of the reapportionment article of the Alaska Constitution, article six, are unconstitutional under the federal constitution. Some of these have been specifically held unconstitutional by the Alaska Supreme Court, and others have been simply ignored. You have asked for an analysis of the constitutionality of Article VI, sections 1 - 7.

Section 1 is still constitutional. That section provides that members of the house of representatives shall be elected by the qualified voters of the respective election districts. Under section 3, the election districts are to be reapportioned "immediately following the official reporting of each decennial census of the United States." This has been done by the governor and the Reapportionment Board (sections 8 - 10), and the most recent reapportionment of house districts (Article XIV, Sections 1 and 3, proclaimed by the governor in 1984) has been upheld by the Alaska Supreme Court. Kenai Peninsula Borough v. State, 743 P.2d 1352, 1358-61 (Alaska 1987).

Section 2 is not constitutional as written. It provides that members of the senate shall be elected by the qualified voters of the respective senate districts set forth in Article XIV, Section 2 of the original constitution, subject to changes authorized in Article VI. In Wade v. Nolan, 414 P.2d 689 (Alaska 1966), the Alaska Supreme Court reached the inescapable conclusion that those senate districts did not comport with the U.S. Constitution. The court also ruled that the governor and the Reapportionment Board could reapportion the senate on a constitutional basis, even though the

LEGAL OPINION - CONSTITUTIONALITY

Representative Dave Donley

February 5, 1991

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Alaska Constitution only gave the governor and the board reapportionment authority as to the house.

Since Wade the Alaska constitution has been treated as though amended. The governor and the Reapportionment Board are now seen by all, including the courts, as having the power to reapportion the senate as well as the house. Thus, for instance, current Article XIV, Section 2, relating to senate districts, was promulgated by the governor, with the advice of the board, under Article VI, Section 10. Kenai Peninsula Borough, supra at 1364 (citing Egan v. Hammond, 502 P.2d 856, 874 (Alaska 1972)), notes that because the constitution has never been amended with regard to senate reapportionment, "the governor's implied power to reapportion senate districts therefore remains in force under Wade."

The first sentence of section 3 ("The governor shall reapportion the house of representatives immediately following the official reporting of each decennial census of the United States") is still constitutional, although, as noted, it is now being interpreted as allowing reapportionment of the senate as well. The second sentence ("Reapportionment shall be based upon civilian population within each election district as reported by the census") was ruled unconstitutional by the Alaska Supreme Court in Egan v. Hammond, supra at 868-69, because it totally disenfranchised the military in Alaska, in violation of several decisions of the U.S. Supreme Court. Egan also ruled that the portion of the sentence requiring use of census data in reapportionment was also unconstitutional, because it could not be severed from the unconstitutional "civilian population" part. Id. at 870-71.

However, the Egan court ruled, id. at 869, that the state could legitimately exclude some (but not all) military personnel as a permissible device for limiting the impact of transients and non-residents; specific formulas for such exclusion were upheld by the court in Groh v. Egan, 526 P.2d 863, 869-74 (Alaska 1974), and in Carpenter v. Hammond, 667 P.2d 1204, 1210-13 (Alaska), appeal dismissed, 464 U.S. 801, 78 L.Ed.2d 67 (1983). And the Groh v. Egan court ruled that, although the Reapportionment Board was not constitutionally required to use 1970 census data when it reapportioned in 1973, it did not abuse its discretion in using this data, especially since it explained in its order why using more recent data would be impractical. 526 P.2d at 867-69. Thus, the second sentence of section 3 still has considerable validity.

Sections 4 and 5 are rather turgid. I believe that their intent is that the governor, in reapportioning, should adhere to the election districts set out in original Article XIV even if such adherence leads to districts with quite different populations. If my reading is correct, then these sections are inconsistent with the U.S. Supreme Court decisions, which have only tolerated very small variances. At any rate, sections 4 and 5 appear to be a dead letters, no longer considered by the reapportionment boards or cited by the courts in their reapportionment decisions.

Representative Dave Donley

February 5, 1991

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Insofar as section 6 refers to the retaining or combining election districts provided in sections 4 and 5, it too is unconstitutional and a dead letter. Its reference to the "civilian" population is also unconstitutional. Other than that, section 6 appears alive and well. No one has argued that the governor and the board may not or should not give consideration to local government boundaries, or that they may not or should not use drainage and other geographic features wherever possible in describing district boundaries. As to the requirement that house election districts contain "as nearly as practicable a relatively integrated socio-economic area," that was upheld in Carpenter, supra (where the court held that Cordova was improperly joined with House District 2, the Southeast "iceworm" district), even though the likely result would be to increase the population disparities between house districts. (The court in Kenai Peninsula Borough, supra at 1358-61, upheld a smaller "iceworm" district established by the Reapportionment Board as the result of Carpenter. Kenai Peninsula Borough also ruled, at 1364-65, that the "integrated socio-economic area" requirement did not apply to senate districts.)

Section 7 is clearly unconstitutional and dead. Like Section 2, its intent was to preserve senate districts based on geographic area and not population. Thus, although it allowed the governor to modify senate districts based on changes in election (house) districts, it required that each senate district retain its total number of senators and its approximate perimeter.

I hope that this memorandum has been of assistance to you. Please let me know if I can be of further assistance.

JBG:mi

91-020.mai

DIVISION OF LEGAL SERVICES**LEGISLATIVE AFFAIRS AGENCY
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Juneau, Alaska 99801-2101

MEMORANDUM

November 8, 1991

SUBJECT: CSHJR 45 (State Affairs)

TO: Representative Gene Kubina
Chair, House State Affairs Committee
Attn: Annie

FROM: John B. Gaguine ^{JBG}
Legislative Counsel

Enclosed is a draft CSHJR 45 (State Affairs), incorporating the changes to HJR 45 that you requested, with one exception. There is no lapse date for the transitional provision; I asked Dave Dierdorff about this, and he indicated, as I suspected he would, that a lapse date was not appropriate. Transitional provisions remain in the constitution, even when they are obsolete.

There is one provision of this resolution that I believe may violate the federal constitution: the provision (part of article VI, section 10(c)) that if census data is not available in time, the old districts stay in effect for the first post-census election. I believe that this provision may violate the equal protection clause of the Fourteenth Amendment, as construed by the U.S. Supreme Court in the one-person, one vote cases. The California Supreme Court in 1982 ruled that the old districts could not stay in place, when the legislature failed to produce a plan by 1982; instead the court imposed an interim plan. Assembly v. Deukmejian, 639 P.2d 939, 955-61 (Cal. 1982). However, the California court did not cite any direct authority that an interim plan was required, and three of the seven justices concluded that an interim plan was not required, and that the districts in effect during the 1970's could stay in effect for 1982. At any rate, as Laurie Otto notes, subsection (c) will likely never be invoked, as the census data will always be available by September of the following year.^U

^U Question: If this situation will never arise, why have a provision in the constitution addressing it? I suppose the answer is that there is an extremely remote possibility that it might arise. My feeling, though, is that the constitution - the foundational document of state government - should not concern itself with extremely remote possibilities. If the situation did arise, the supreme court could address it, just as the court very capably addressed the matter of reapportioning the state senate - which the constitution did not (and still does not) provide for - after the one person, one vote decisions of the U.S. Supreme Court.

LEGAL SERVICES 003
Representative Gene Kubina
November 8, 1991
Page 2

With Laurie's agreement, I provided that if the Reapportionment Board, on its second try (if the supreme court rejects all the plans), still cannot come up with a plan that can win a two-thirds vote, then the supreme court is free to adopt any plan that it wants. I also eliminated the provision that all members serve at the pleasure of the entity appointing them. That provision would have greatly increased the likelihood of no two-thirds vote, since a member of one party who was expressing inclination to support another party's plan could then be removed by the entity that appointed the member solely because of the member's expressed inclination.

As I have told Annie, I will be leaving this office on Friday to go to work for the Department of Law, so any further work on this bill, and on other elections and reapportionment questions, will be done by someone else. I don't know yet who that someone else will be. I have enjoyed working with you and with the fine folks on your staff.

JBG:mi
91-184.mai

Enclosure

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HJR 45

Revision Date: _____ Department Affected: Office of the Governor/Elections
 Title: Ammend. to the Constitution -re-reapportionment of the legislature. BRU: Division of Elections
 Component: II - Primary and General Elections
 Sponsor: House Judiciary Committee
 Requestor: State Affairs COMPONENT SERIAL NO.

0	0	2	2
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		2.2*				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		2.2*				

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		2.2*				
FEDERAL FUNDS						
OTHER						
TOTAL		2.2*				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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 Election 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 Phone: 465-4611
 Division: Elections Date: 9/25/91
 Approved by Commissioner: D. Max Hodel, Chief of Staff
 Agency: Office of the Governor Date: 9/25/91

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

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HJR 45

Revision Date: _____
Title: Amendment to the Constitution-Reapportionment of the legislature.
Sponsor: House Judiciary Committee
Requestor: House State Affairs

Department Affected: Office of the Governor-Elections
BRU: Division of Elections
Component: 11 - Primary and General Elections

COMPONENT SERIAL NO.

0	0	2	2
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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
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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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 Election 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 of an additional ballot card, the fiscal impact would be: 53.4.

Prepared by: Elizabeth Ziegler, Deputy Director
Division: Elections

Phone: 465-4611
Date: 01/10/92

Approved by Commissioner: *Charlotte E. Thrickett*
Agency: Office of the Governor

Date: 01/10/92

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

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE DONLEY

TO: Draft CSHJR 45 (State Affairs)

Page 4, lines 23 - 29:

Delete all material and insert:

"Within ten days of receipt of the transmittal, the supreme court shall appoint a panel of three superior court judges and transmit to the panel not more than the three proposals that received the greatest number of votes by the board. Within forty-five days of the transmittal, the panel shall adopt one of the proposals transmitted without change as a final plan. The supreme court shall adopt rules for proceedings before the three-judge panel under this subsection."

Page 5, line 17, after "Reapportionment Board":

Insert: "or the three-judge superior court panel appointed by the supreme court under Section 10 of this article"

DIVISION OF LEGAL SERVICES

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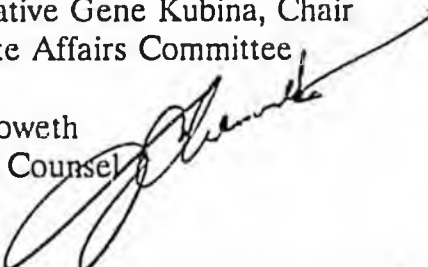
240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

January 21, 1992

SUBJECT: Draft CSHJR 45 (State Affairs) (Legislative reapportionment)
(Work Order No. 7-LS1035D)

TO: Representative Gene Kubina, Chair
House State Affairs Committee

FROM: Jack Chenoweth
Legislative Counsel 

I have been assigned responsibility for further work on this measure.

Looking at the proposed committee substitute resolution with a fresh perspective, I'd like to propose a number of technical changes for the committee's consideration.

I

In sections 2 and 3, amending art. VI, secs. 1 and 2, respectively, a specific reference to the party responsible for districting (" . . . districts shall be set by the Reapportionment Board . . .") has been omitted in this version. Somewhere in the measure the districting (i.e line drawing) responsibility should be formally assigned. Since redistricting is a function of reapportionment and reapportionment may be handled by the Reapportionment Board or the court, the handiest way to accomplish that would seem to me to be to expand the last sentence of subsection (a) of art. VI, sec. 10 (sec. 9 of the resolution) to read:

The final reapportionment plan adopted under this section shall set out election district and senate district boundaries and [REDISTRICTING] shall be effective for the election of members of the legislature until after the official reporting of the next decennial census.

In this way, whichever entity actually reapportions is also required to redistrict.

II

The distinction between the establishment of the Reapportionment Board under art. VI, sec. 8 (sec. 7 of the resolution) and the enumeration of the responsibilities of that board under art. VI, sec. 10 (sec. 9 of the resolution) should be maintained. Since the duties of the board are set out at length in the latter section, and since reapportionment may in certain circumstances be accomplished by the court, the reference to reapportionment being conducted by the board set out in the earlier section may be omitted. The first sentence of subsection (a) of art. VI, sec. 8 should be revised to read:

(a) There shall be a Reapportionment Board [THE GOVERNOR SHALL APPOINT A REAPPORTIONMENT BOARD TO ACT IN AN ADVISORY CAPACITY TO HIM].

III

In order to provide certainty to the several critical benchmark reference dates set out in art. VI, sec. 10--dates that may also be critical to the enforcement clause, art. VI, sec. 11--I would encourage adoption of the following changes in the new language being added in subsection (a) of that section:

(a) Except as provided under (c) of this section, no later than the date that is eighteen months before the date of the first general election following the official reporting of each decennial census, the Reapportionment Board shall adopt a proposed reapportionment plan. . . . No later than the date that is fourteen months before the date of the first general election following the official reporting of each decennial census, the board shall adopt a final reapportionment plan.

and in the new language set out at the beginning of subsection (c):

(c) If the data from a decennial census is not available to the board by the date that is sixteen months before the date of the first general election following a decennial census year . . .

These changes should allow the board, the court, and parties seeking to use the enforcement provision to determine deadlines with specificity.

JC:gc
92-034.glc
Enclosure

cc: Representative Dave Donley

Alaska State Legislature



House of Representatives

House Judiciary Committee

SPONSOR STATEMENT

P. O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4990
(907) 465-4712

HJR 45 proposes a ballot proposition which amends the Alaska Constitution to reduce the influence of partisan politics on the redistricting process, and to eliminate provisions of the Alaska constitution that have been held to be unconstitutional under federal law.

Alaska is one of two states in the country in which the Governor has sole responsibility for redistricting (Maryland is the other state). Although the framers of the Alaska Constitution adopted this unique approach to reapportionment in an attempt to remove partisan politics from the redistricting process (see attachment 1), to date every attempt at redistricting in Alaska has been contentious and partisan.

The constitutional amendment set out in HJR 45 would transfer responsibility for redistricting from the governor to an independent reapportionment board. The advantages of having redistricting done by an independent board are:

- the reapportionment plan would be drawn by a body that does not have a direct stake in the final outcome;
- existence of an independent board would help take the politics out of an extremely political and divisive issue, and the process would become more technical, thereby enabling a fair plan to be drawn;
- a board would be more willing to create a plan with balanced districts, thereby allowing for competitive elections;
- the specter of gerrymandering, and the sense of unfairness that many people believe taints the current process, will be eliminated by having an independent board conduct redistricting.

In addition to the recurring problems with partisan political considerations controlling the redistricting process, many of the provisions of the reapportionment article of the Alaska Constitution are unconstitutional under the federal constitution as a result of the "one person, one vote" decisions of the U.S. Supreme Court (see attachment 2). The amendments proposed in HJR 45 correct these constitutional problems.

DIVISION OF LEGAL SERVICES

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MEMORANDUM

November 8, 1991

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TO: Representative Gene Kubina
Chair, House State Affairs Committee
Attn: Annie

FROM: John B. Gaguine ^{JBG}
Legislative Counsel

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^{1/} Question: if this situation will never arise, why have a provision in the constitution addressing it? I suppose the answer is that there is an extremely remote possibility that it might arise. My feeling, though, is that the constitution - the foundational document of state government - should not concern itself with extremely remote possibilities. If the situation did arise, the supreme court could address it, just as the court very capably addressed the matter of reapportioning the state senate - which the constitution did not (and still does not) provide for - after the one person, one vote decisions of the U.S. Supreme Court.

Representative Gene Kubina
November 8, 1991
Page 2

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As I have told Annie, I will be leaving this office on Friday to go to work for the Department of Law, so any further work on this bill, and on other elections and reapportionment questions, will be done by someone else. I don't know yet who that someone else will be. I have enjoyed working with you and with the fine folks on your staff.

JBG:mi
91-184.mai

Enclosure

Alaska State Legislature

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

Legislative Research Agency



Phone: (907) 465-3991
Fax: (907) 463-3351

November 20, 1991

RECEIVED
DEC 4 1991

MEMORANDUM

TO: Representative Dave Donley
FROM: Gordon S. Harrison, Director *gsh*
RE: Waiving District Residency Requirements After Redistricting

Some time ago you asked us to look for electoral laws of other states that waive the usual district residency requirements for a period after a legislative redistricting. We could not find any at the time, nor have we since seen any reference to existing laws of this kind (although they may well exist). However, there appear to be *constitutional* provisions in at least four states that relax district residency requirements immediately after redistricting. These are mentioned in footnotes to a table on electoral qualifications for legislators that appears in the *Book of the States, 1990-91*. Also, a constitutional study published prior to the 1970 Illinois constitutional convention recommends such a provision. The recommendation was apparently favorably received by the convention delegates and voters, as Illinois is one of the four states with such a provision.

Attachments

Waiving District
Leg. Research-Residency Requirements
After Redistricting

Table 3.5
THE LEGISLATORS: QUALIFICATIONS FOR ELECTION

State or other jurisdiction	House					Senate				
	Minimum age	U.S. citizen (years)	State resident (years)	District resident (years)	Qualified voter (years)	Minimum age	U.S. citizen (years)	State resident (years)	District resident (years)	Qualified voter (years)
Alabama	21	...	3 (a)	1	...	25	...	3 (a)	1	...
Alaska	21	...	3	1	*	25	...	3	1	*
Arizona	25	*	3	1	...	25	*	3	1	...
Arkansas	21	*	2	1	*	25	*	2	1	*
California	18	3	3	1	*	18	3	3	1	*
Colorado	25	*	...	1	...	25	*	...	1	...
Connecticut	18	...	...	*	*	18	...	...	*	*
Delaware	24	...	3 (a)	1	...	27	...	3 (a)	1	...
Florida	21	...	2	*	*	21	...	2	*	*
Georgia	21	*	(a)	1	...	25	*	(a)	1	...
Hawaii	18	...	3	(b)	*	18	...	3	(b)	*
Idaho	18	*	...	1	*	18	*	...	1	*
Illinois	21	*	...	2 (c)	...	21	*	...	2 (c)	...
Indiana	21	*	2	1	...	25	*	2	1	...
Iowa	21	*	1	60 da.	...	25	*	1	60 da.	...
Kansas	18	...	...	*	*	18	...	...	*	*
Kentucky	24	...	2 (n)	1	...	30	...	6 (a)	1	...
Louisiana	18	...	2	1	*	18	...	2	1	*
Maine	21	5	1	(r)	...	25	5	1	(r)	...
Maryland	21	...	1 (a)	6 mo. (d)	*	25	...	1 (a)	6 mo. (d)	*
Massachusetts	18	...	...	1	...	18	...	5	*	...
Michigan (e)	21	*	...	(b)	*	21	*	...	(b)	*
Minnesota	21	...	1	6 mo.	*	21	...	1	6 mo.	*
Mississippi	21	...	4 (a)	...	*	25	...	4	...	4
Missouri	24	...	...	1 (f)	2	30	...	...	1 (f)	3
Montana (g)	18	...	1 (a)	6 mo. (h)	*	18	...	1 (a)	6 mo. (h)	*
Nebraska	U	U	U	U	U	21	...	...	1	*
Nevada	21	...	1 (a)	(b)	*	21	...	1 (a)	(b)	*
New Hampshire	18	...	2	*	...	30	...	7 (a)	*	...
New Jersey	21	...	2 (a)	1	*	30	...	4 (a)	1	*
New Mexico	21	...	...	*	...	25	...	...	*	...
New York	18	*	5	1 (i)	...	18	*	5	1 (i)	...
North Carolina	(j)	*	1	1	*	25	*	2 (a)	1	*
North Dakota	18	...	1	(b)	*	18	...	1	(b)	*
Ohio (k)	18	...	...	1	*	18	...	...	1	*
Oklahoma	21	...	...	(b)	*	25	...	...	(b)	*
Oregon	21	*	...	1	...	21	*	...	1	...
Pennsylvania	21	...	4 (a)	1	...	25	...	4 (a)	1	...
Rhode Island (l)	18	...	...	...	*	18	...	...	...	*
South Carolina	21	...	...	(b)	*	25	...	...	(b)	*
South Dakota (k,l)	25	*	2	(b)	*	25	*	2	(b)	*
Tennessee	21	*	(a)	1 (b)	*	30	*	3	1 (b)	*
Texas	21	*	2	1	*	26	*	5	1	*
Utah	25	*	3	6 mo. (b)	*	25	*	3	6 mo. (b)	*
Vermont	18	...	2	1	...	18	...	2	1	...

LEGISLATURES

THE LEGISLATORS: QUALIFICATIONS FOR ELECTION—Continued

State or other jurisdiction	House					Senate				
	Minimum age	U.S. citizen (years)	State resident (years)	District resident (years)	Qualified voter (years)	Minimum age	U.S. citizen (years)	State resident (years)	District resident (years)	Qualified voter (years)
Virginia.....	21	...	...	*	*	21	...	...	*	*
Washington.....	18	*	...	(b)	*	18	*	...	(b)	*
West Virginia(l).....	18	...	(a)	1	*	25	...	(a)	1	*
Wisconsin.....	18	...	1	(b)	*	18	...	1	(b)	*
Wyoming.....	21	*	(a)	1	...	25	*	(a)	1	...
Dist. of Columbia.....	U	U	U	U	U	18	...	1	*	*
American Samoa (l) ..	25	* (m)	5	1	...	30 (n)	* (m)	5	1	...
Guam (o).....	U	U	U	U	U	25	*	5	...	...
No. Mariann Islands...	21	...	3	...	*	25	...	5	...	*
Puerto Rico(p).....	25	*	2 (a)	1 (q)	...	30	*	2 (a)	1 (q)	...
U.S. Virgin Islands (o).	U	U	U	U	U	21	*	3	...	*

Note: This table includes constitutional and statutory provisions.

Key:

U — Unicameral legislature; members are called senators, except in District of Columbia.

* — Formal provision; number of years not specified.

... — No formal provision.

(a) Additional state citizenship requirement. Alabama, Delaware—three years. Georgia, New Jersey—House, two years; Senate, four years. Mississippi—four years. New Hampshire—seven years. North Carolina—two years. Pennsylvania—four years. West Virginia—five years.

(b) Must be a qualified voter of the district; number of years not specified.

(c) Following redistricting, a candidate may be elected from any district that contains a part of the district in which he resided at the time of redistricting, and reelected if a resident of the new district he represents for 18 months prior to reelection.

(d) If the district was established for less than six months, residency is length of establishment of district.

(e) No person convicted of a felony or breach of public trust within preceding 20 years or convicted of subversion shall be eligible.

(f) Only if the district has been in existence for one year; if not, then legislator must have been a one year resident of the district(s) from which the new district was created.

(g) No person convicted of a felony is eligible to hold office until final discharge from state supervision.

(h) Shall be a resident of the county if it contains one or more districts or of the district if it contains all or parts of more than one county.

(i) After redistricting, must have been a resident of the county in which the district is contained for one year immediately preceding election.

(j) A conflict exists between two articles of the constitution, one specifying age for House members (i.e., "qualified voter of the state") and the other related to general eligibility for elective office (i.e., "every qualified voter . . . who is 21 years of age . . . shall be eligible for election").

(k) No person convicted of embezzlement of public funds shall hold any office.

(l) Disqualification for bribery. In South Dakota and West Virginia, disqualification also for perjury or other infamous crimes. In American Samoa, also for felony.

(m) Or U.S. national.

(n) Must be registered male.

(o) Disqualification for felony or crime involving moral turpitude unless person received pardon restoring civil rights.

(p) Read and write the Spanish or English language.

(q) When there is more than one representative district in a municipality, residence in the municipality shall satisfy this requirement.

(r) Must be district resident at time of nomination.

**THE ILLINOIS CONSTITUTION:
AN ANNOTATED and COMPARATIVE ANALYSIS**

by George D. Braden
and Rubin G. Cohn

Prepared for ILLINOIS CONSTITUTION STUDY COMMISSION

Thomas G. Lyons, Chairman
Terrel E. Clarke, Co-Chairman



**INSTITUTE OF GOVERNMENT AND PUBLIC AFFAIRS
UNIVERSITY OF ILLINOIS • URBANA**

October, 1969

Foreign Employment: "12 prohibit legislators to hold a job with a foreign country."

Federal Employment: "43 forbid legislators to hold a job with the national government."

State Employment: "38 state that legislators shall hold no position under the state government."

County Employment: "3 forbid legislators to hold a position with a county government."

Municipal Employment: "3 ban legislators from employment by municipalities."

(State Constitutional Provisions Affecting Legislatures 19-20 (May 1967))

In the Citizens Conference tabulation, Illinois is included under the first three categories but not under the last two.

The United States Constitution provides:

"No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office." (art. I, § 6.)

The Model State Constitution is silent on dual office holding.

Dual Office Holding (General): About a dozen states prohibit state officers from holding offices, usually of trust or profit, under any foreign government. In several of these states, the prohibition also runs to any other state government. Approximately 18 states extend the same prohibition to United States offices, frequently with exceptions. The most common is for service in the National Guard. A few states exclude postmasters, but usually only those above a maximum compensation. Some 15 states prohibit, in greater or lesser degree, dual office holding within the state.

The United States Constitution prohibits any office holder from accepting any "present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state" without the consent of Congress. The Constitution also prohibits the President from receiving any emolument from any state. The Model State Constitution is silent on the subject.

Comment

Age, Residency, Citizenship: In view of the fact that, under the United States Supreme Court's "one man-one vote" rule, regular redistricting will have to take place, consideration should be given to the problem of the legislator who finds that, after redistricting, his residence has been separated from the geographical area which he used to represent. If such a legislator wishes to run for re-election, he has at least one problem and possibly two. He has to run in a new district where he may not be well known and he may be faced with running against a legislator who

has always been in the new district and is well known. In the proposed 1967 New York Constitution this eventuality was covered, though it must be conceded that the drafting problem was most complex. The proposed provision read as follows:

"Every member of the legislature shall be at least twenty-one years old and eligible to vote in this state. He shall have been domiciled in the state for the three years preceding his election and for the twelve months preceding his election in his legislative district. If, however, any redistricting plan for senate or assembly has been certified pursuant to section two of this article since the last general election for the legislature, he shall have been domiciled for the twelve months preceding his election in a county in which all or part of the new district is located or in a county contiguous to such district if such district be composed of a whole county and all or parts of another county or counties."

Dual Office Holding: This subject, as well as the related problem of conflict of interest, was strong in the minds of the delegates to the 1870 Convention. One of the results of this concern was a proliferation of different provisions. (In addition to Sec. 3, see Secs. 15 and 25 of this Art., *infra*, pp. 176 and 230; Sec. 5 of Art. V and Sec. 4 of Art. VIII, *infra*, pp. 267 and 409.) Consideration should be given to consolidating such provisions as are to be retained in one section or, if legislators are to be treated differently from other government officials, then in two sections. (For some policy considerations on this subject, see the *Comment* on Sec. 15, *infra*, p. 177-8.)

Disqualification for Crimes

Sec. 4. No person who has been, or hereafter shall be convicted of bribery, perjury or other infamous crime, nor any person who has been or may be a collector or holder of public moneys, who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the General Assembly, or to any office of profit or trust in this State.

History

The 1818 and 1848 Constitutions contained comparable provisions concerning paying over public moneys due, and contained provisions giving the legislature "full power to exclude from the privilege of . . . being elected any person convicted of bribery, perjury or any other infamous crime." (The word "any" before "other" was omitted in 1848.) In the 1870 Convention, the proposal as originally offered changed the part concerning convicted persons from power to exclude by law to a command to the legislature to exclude. A delegate suggested that the Convention ought to make the decision and be done with it. Accordingly, an amendment was offered embodying the suggestion. (Debates 572.) The amendment was accepted and the Committee on Revision and Adjustment combined it with the proposed section on accounting for public

Alaska State Legislature



House of Representatives

House Judiciary Committee

SUMMARY OF HJR 45

P. O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4990
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CONSTITUTIONAL AMENDMENT RELATING TO REAPPORTIONMENT

HJR 45 changes the reapportionment process from the current system where the Governor has sole control over redistricting, to a system where redistricting is done by an independent, non-partisan reapportionment board. An outline of the key provisions of HJR 45 follows.

I. **Duties of Board:** The reapportionment board has responsibility for developing and establishing a redistricting and reapportionment plan after each decennial census. In addition to most of the existing criteria for drawing boundaries, a new criterion of political fairness is added.

II. **Makeup of Board:** The reapportionment board has nine members:

A. **Appointed by:**

1. Governor - one member
2. House caucus of party with largest number of representatives - two members
3. House caucus of party with second largest number of representatives - two members
4. Senate caucus of party with largest number of senators - two members
5. Senate caucus of party with second largest number of senators - two members

B. **Qualifications/disqualifications of members:**

1. Can't be public official or public employee.
2. Can't run for legislative office in the next two elections after term of office on board expires.

SUMMARY

3. No more than five members of board can be members of the same political party.
4. No more than five members of board can be from the same judicial district and there must be at least one member from each judicial district.

C. Selection of Chair:

1. Elected by the board from the members.
2. If there is an impasse and a chair is not elected within 14 days of appointment, the majority of the Supreme Court must choose a chair from the membership within seven days of the end of the 14 day impasse.

III. DEVELOPMENT OF REAPPORTIONMENT PLAN

- A. Public hearings must be held in each judicial district after issuance of draft plan and before issuance of final plan.
- B. Draft plan must be completed 18 months before the date of the first general election following the official reporting of each decennial census.
- C. Final plan must be completed 14 months before the general election.

IV. ELIGIBILITY OF CANDIDATES AFTER REAPPORTIONMENT

In the election held after a reapportionment plan is adopted, a person can run for the legislature in the district in which that person's residence is located or in a new district that contains part of the former district in which the person resides, even if the person's residence is not located in the boundaries of the new district. If a person is elected in a district in which the person does not reside, the person has one year from the election date to physically relocate to the new district.

than according to population, the Convention was following the pattern established by the United States Constitution and later followed by many of the states of the Union with respect to one or the other of their legislative bodies. The Convention obviously did not want the Senate apportioned on a population basis; it had practical reasons for not doing so and had no reason to anticipate that it would ever be necessary to reapportion the Senate on a population or on any other basis, hence no specific provision was made for its reapportionment.

The question which is squarely presented is whether the acts of the Governor and his advisory Reapportionment Board in reapportioning the Senate were authorized by the Alaska Constitution.

Before attempting to discuss this question it is well to explain the origin of a unique feature of the reapportionment provisions of the Alaska Constitution. Whereas, traditionally, reapportionment had been made the responsibility of state legislatures, the Alaska Constitutional Convention purposely avoided placing any authority or responsibility for reapportionment in the legislature. The Convention was aware of the notorious and frequent failure or downright refusal of state legislatures to comply with their constitutional or statutory duty to reapportion. The Alaska Convention's reason for placing reapportionment responsibility in the Governor was well stated by its Chairman of the Committee on Suffrage, Elections and Apportionment, John S. Helleenthal, as follows:

HELLEENTHAL: * * * Now on the method of the composition of the reapportionment and redistricting board, because redistricting, as we have explained would be necessary, the Committee recommends that the stress be placed on the executive in determining which of these election districts and where redistricting shall take place, or reapportionment, and it recommends the creation of

a five-man advisory board to advise the governor with regard to the redistricting and reapportionment. * * * The reason that this plan was adopted is that the students and writers seem generally in accord that reapportionment, for some reason or other, I don't know why, but it has been neglected where it has been left to the legislators. Maybe it's that human element I spoke of earlier, but anyway the experience of the nation shows that the thing is delayed—procrastination; that in the State of Washington they waited for years and years and years, and finally, only by resorting to the courts and the initiative were they able to reapportion Washington. It was costly, the people suffered. And based on that experience and the recommendations, and it's almost universal of the advisors, and by advisors I don't mean the men that were here necessarily—but the writers throughout the country, the executive board was chosen, an advisory board. (Minutes of the Alaska Constitutional Convention, January 11, 1956, at 1839).

* * * * *
Now there are other plans. There is no end of variations of plans that can be devised for the reapportionment with the mandamus feature, and you could have variance where a board can be picked—three from the legislature, three nominated by the judicial council, if you want, three of them nominated by some other group of civilians, some appointed by the governor, and get a good cross-section, and they could have the authority themselves to make the redistricting and reapportionment. There is no end to it, but the best thought seemed to indicate that the people would be best helped if it [reapportionment] were an executive function. * * * But it is the inaction of the legislature, as testified to by the universal history of the 48 states, that we're trying to overcome. [Id. at 1859.]
HELLEENTHAL: It was felt that it [reapportionment] was a proper executive

function as contrasted to the legislative.
* * * [Id. at 1863.]

In its "Report to the People of Alaska" issued in February of 1956 the Constitutional Convention stated:

Representation [in the legislature] will be kept up to date every ten years by an automatic reapportionment carried out by the governor on the advice of a board representing each of the four major districts and subject to review by the courts. Thus, the constitution guards against what has become a great evil in many states: a legislature that becomes more and more unrepresentative and loses public confidence because it refuses to reapportion itself. Alaska Legislative Council, Legislative Apportionment in Alaska, 1912-1961, p. 4 (1962).

A reading of the Convention minutes in relation to the reapportionment provisions makes it abundantly clear that it was the specific intent of the Convention to grant no authority to and to place no responsibility in the legislature with respect to reapportionment. In a clear and clean-cut departure from tradition, all of the authority and responsibility for reapportionment granted or assigned was placed in the Governor, assisted by a Reapportionment Board, including the authority to make minor changes in Senate districts. In an effort to make the reapportionment provisions as nearly self executing as possible, the Convention provided that the Reapportionment Board should automatically commence to function after the decennial census, without any direction from the Governor; that it must submit its plan within ninety days and that the Governor must proclaim a plan within ninety days of receipt from the Board, explaining any deviation from the Board's plan. Any qualified voter was empowered to resort

to the courts to force the Governor to perform his reapportionment duties or to correct any error in redistricting or reapportionment.

Baker v. Carr and Reynolds v. Sims resulted in court declarations in many states that one or both of the legislative bodies was malapportioned. In almost every instance the state constitution had made no provision for reapportioning the "frozen" body on an interim basis until the constitution could be amended. Because of the wide variations in factual situations, most of the court decisions dealing with the question of where the authority lay to reapportion a frozen legislative body on an interim basis are not of great assistance.

It is significant, however, that in some states where reapportionment was a legislative responsibility, the courts have approved reapportionment by those state legislatures on an interim basis even though the respective state constitutions gave no specific authority to reapportion the particular frozen legislative body. Illustrative is Buckley v. Hoff¹² decided by the United States District Court in Vermont. In a previous decision, that court had declared both the House and the Senate malapportioned. The constitution required the legislature to reapportion the Senate after each United States census, but the House was frozen to provide one representative for each inhabited town, forever. The General Assembly, consisting of the members of the Senate and House, was only empowered by the constitution to regulate the mode of filling vacancies in House seats. Without any specific constitutional authority, the General Assembly provided reapportionment plans for the Senate and the House which were approved by the court. The authority of the General Assembly to reapportion was not questioned.¹³

12. 243 F.Supp. 573 (D.Vt.1961).

13. See: Robert B. McKay, Reapportionment: The Law and Politics of Equal Representation where reapportionment of "frozen" legislative bodies by the legisla-

tures of New Jersey, Connecticut and North Dakota, was accomplished even though the constitutions gave no such specific authority. Pages 295-297, 374-375 and 394-396.

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7-LS1035D

Gaguine

11/12/91

CS FOR HOUSE JOINT RESOLUTION NO. 45 (STATE AFFAIRS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to
2 reapportionment of the legislature.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. Article II, sec. 2, Constitution of the State of Alaska, is amended to read:

5 SECTION 2. MEMBERS' QUALIFICATIONS. A member of the legislature shall be
6 a qualified voter who has been a resident of Alaska for at least three years and, except as
7 provided in Section 12 of Article VI, of the district from which elected for at least one year,
8 immediately preceding his filing for office. A senator shall be at least twenty-five years of age
9 and a representative at least twenty-one years of age.

10 * Sec. 2. Article VI, sec. 1, Constitution of the State of Alaska, is amended to read:

11 SECTION 1. ELECTION DISTRICTS. Members of the house of representatives shall
12 be elected by the qualified voters of the respective election districts. The boundaries of the
13 election districts shall be set under this article after each decennial census of the United
14 States [UNTIL REAPPORTIONMENT, ELECTION DISTRICTS AND THE NUMBER OF
15 REPRESENTATIVES TO BE ELECTED FROM EACH DISTRICT SHALL BE AS SET
16 FORTH IN SECTION 1 OF ARTICLE XIV].

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1 * Sec. 3. Article VI, sec. 2, Constitution of the State of Alaska, is amended to read:

2 SECTION 2. SENATE DISTRICTS. Members of the senate shall be elected by the
3 qualified voters of the respective senate districts. The boundaries of the senate districts shall
4 be set under this article after each decennial census of the United States [SENATE
5 DISTRICTS SHALL BE AS SET FORTH IN SECTION 2 OF ARTICLE XIV, SUBJECT TO
6 CHANGES AUTHORIZED IN THIS ARTICLE].

7 * Sec. 4. Article VI, sec. 3, Constitution of the State of Alaska, is amended to read:

8 SECTION 3. REAPPORTIONMENT OF HOUSE AND SENATE. The
9 Reapportionment Board [GOVERNOR] shall reapportion the house of representatives and the
10 senate immediately following the official reporting of each decennial census of the United
11 States. Reapportionment shall be based upon resident [CIVILIAN] population within each
12 election district as reported by the census.

13 * Sec. 5. Article VI, sec. 4, Constitution of the State of Alaska, is amended to read:

14 SECTION 4. METHOD. Reapportionment shall be by the method of equal proportions,
15 An election district may elect more than one representative. A senate district shall be
16 composed of one or more adjacent election districts and may elect more than one senator
17 [EXCEPT THAT EACH ELECTION DISTRICT HAVING THE MAJOR FRACTION OF THE
18 QUOTIENT OBTAINED BY DIVIDING TOTAL CIVILIAN POPULATION BY FORTY
19 SHALL HAVE ONE REPRESENTATIVE].

20 * Sec. 6. Article VI, sec. 6, Constitution of the State of Alaska, is amended to read:

21 SECTION 6. DISTRICT BOUNDARIES. Election districts and senate districts
22 [REDISTRICTING. THE GOVERNOR MAY FURTHER REDISTRICT BY CHANGING THE
23 SIZE AND AREA OF ELECTION DISTRICTS, SUBJECT TO THE LIMITATIONS OF THIS
24 ARTICLE. EACH NEW DISTRICT SO CREATED] shall be formed of contiguous and compact
25 territory containing as nearly as practicable a relatively integrated socio-economic area. [EACH
26 SHALL CONTAIN A POPULATION AT LEAST EQUAL TO THE QUOTIENT OBTAINED
27 BY DIVIDING THE TOTAL CIVILIAN POPULATION BY FORTY.] Consideration may be
28 given to local government boundaries. Drainage and other geographic features shall be used in
29 describing boundaries wherever possible. Election district and senate district boundaries may
30 not be drawn with the intent of giving an advantage to a political party.

31 * Sec. 7. Article VI, sec. 8, Constitution of the State of Alaska, is amended to read:

32 SECTION 8. REAPPORTIONMENT BOARD. (a) Reapportionment shall be

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1 conducted by the Reapportionment Board [THE GOVERNOR SHALL APPOINT A
2 REAPPORTIONMENT BOARD TO ACT IN AN ADVISORY CAPACITY TO HIM]. It shall
3 consist of nine [FIVE] members, none of whom may be public employees or officials. At least
4 one member [EACH] shall be appointed from each judicial district established by law under
5 Section 1 of Article IV and no more than five members shall be appointed from a judicial
6 district [THE SOUTHEASTERN, SOUTHCENTRAL, CENTRAL, AND NORTHWESTERN
7 SENATE DISTRICTS]. Appointments shall be made without regard to political affiliation, and
8 no more than five members may be members of the same political party. Board members
9 shall be compensated as provided by law.

10 (b) Board members shall be appointed during the first fifteen days of the first
11 regular session of the legislature that convenes in a year following a year in which the
12 census is taken. Board members shall be appointed as follows:

13 (1) one member shall be appointed by the governor;

14 (2) two members shall be appointed by a caucus of the members of the house
15 of representatives representing the political party with the largest number of members in
16 the house of representatives;

17 (3) two members shall be appointed by a caucus of the members of the house
18 of representatives representing the political party with the second largest number of
19 members in the house of representatives;

20 (4) two members shall be appointed by a caucus of the members of the senate
21 representing the political party with the largest number of members in the senate; and

22 (5) two members shall be appointed by a caucus of the members of the senate
23 representing the political party with the second largest number of members in the senate.

24 *added* (c) A board member may be removed for misfeasance or nonfeasance in office by
25 the entity that appointed the member. A vacancy on the board shall be filled by the entity
26 that appointed the member whose seat is vacant.

27 (d) A member of the Reapportionment Board may not be a candidate for the
28 legislature in the two general elections following the adoption of a final reapportionment
29 plan under this article.

30 * Sec. 8. Article VI, sec. 9, Constitution of the State of Alaska, is amended to read:

31 SECTION 9. ORGANIZATION. The board shall elect one of its members chairman and
32 may employ temporary assistants. Concurrence of five [THREE] members is required for a

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1 ruling or determination, except for the adoption of a final reapportionment plan, but a lesser
2 number may conduct hearings or otherwise act for the board.

3 * Sec. 9. Article VI, sec. 10, Constitution of the State of Alaska, is amended to read:

4 SECTION 10. REAPPORTIONMENT PLAN [AND PROCLAMATION]. (a) Except
5 as provided under (c) of this section, no later than eighteen months before the date of the
6 first general election following the official reporting of each decennial census, the
7 Reapportionment Board shall adopt a proposed reapportionment plan. The board shall
8 hold public hearings on the proposed plan and shall hold at least one hearing in each
9 judicial district under Section 1 of Article IV. No later than fourteen months before the
10 date of the first general election following the official reporting of each decennial census,
11 the board shall adopt a final reapportionment plan [WITHIN NINETY DAYS FOLLOWING
12 THE OFFICIAL REPORTING OF EACH DECENNIAL CENSUS, THE BOARD SHALL
13 SUBMIT TO THE GOVERNOR A PLAN FOR REAPPORTIONMENT AND REDISTRICTING
14 AS PROVIDED IN THIS ARTICLE. WITHIN NINETY DAYS AFTER RECEIPT OF THE
15 PLAN, THE GOVERNOR SHALL ISSUE A PROCLAMATION OF REAPPORTIONMENT
16 AND REDISTRICTING. AN ACCOMPANYING STATEMENT SHALL EXPLAIN ANY
17 CHANGE FROM THE PLAN OF THE BOARD]. The final reapportionment plan adopted
18 under this section [AND REDISTRICTING] shall be effective for the election of members of
19 the legislature until after the official reporting of the next decennial census.

20 *added* (b) Adoption of a final reapportionment plan shall require the affirmative votes of
21 six members of the board. If the board is unable to adopt a final plan by the date specified
22 in (a) of this section, it shall transmit all the proposals before it to the supreme court,
23 Within forty-five days of the transmittal, the supreme court shall either adopt one of the
24 proposals transmitted, without change, or return all of the proposals to the board. If the
25 court returns the proposals, it may make suggestions to the board concerning appropriate
26 revisions to one or more of the proposals. Upon return of the proposals, the board shall
27 have an additional forty-five days to adopt a final plan. If the board is again unable to
28 adopt a final plan, the supreme court shall adopt a plan. The supreme court shall adopt
29 rules for proceedings before it under this subsection.

30 (c) If the data from a decennial census is not available to the board by a date sixteen
31 months before the first general election following a decennial census year,

32 (1) a plan adopted by the board shall not take effect until the second general

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1 election following the decennial census year;

2 (2) for the first general election following the decennial census year, members
3 of the legislature shall be elected from districts in existence as a result of the previous
4 reapportionment plan or proclamation; and

5 (3) the board shall adopt a proposed plan within four months of the receipt
6 of the census data and shall adopt a final plan within four months of the adoption of the
7 proposed plan.

8 * Sec. 10. Article VI, sec. 11, Constitution of the State of Alaska, is amended to read:

9 SECTION 11. ENFORCEMENT. Any qualified voter may apply to the superior court
10 to compel the governor, the members of the legislature, or the Reapportionment Board [BY
11 MANDAMUS OR OTHERWISE,] to perform their [HIS] reapportionment duties or to correct
12 any error in redistricting or reapportionment. Application to compel performance of [THE
13 GOVERNOR TO PERFORM HIS] reapportionment duties must be filed within thirty days of
14 the date that an act is required to be done under [EXPIRATION OF EITHER OF THE TWO
15 NINETY-DAY PERIODS SPECIFIED IN] this article. Application to compel correction of any
16 error in redistricting or reapportionment must be filed within thirty days following the adoption
17 of the final plan by the Reapportionment Board [PROCLAMATION]. Original jurisdiction
18 in these matters is hereby vested in the superior court. On appeal, the cause shall be reviewed
19 by the supreme court upon the law and the facts.

20 * Sec. 11. Article VI, Constitution of the State of Alaska, is amended by adding a new section to
21 read:

22 SECTION 12. ELIGIBILITY OF CANDIDATES AFTER REAPPORTIONMENT. In
23 the first general election following the adoption of a reapportionment plan, a person may be a
24 candidate for election to the legislature in an election district or senate district that contains a part
25 of the former district in which the candidate resides, even if the candidate's residence is not
26 located in the boundaries of the new district. If a candidate is elected under this section in a
27 district in which the candidate does not reside, the candidate shall within one year of election
28 physically relocate the candidate's residence to the new district, or the candidate shall be
29 automatically expelled from the legislature.

30 * Sec. 12. Article XV, Constitution of the State of Alaska, is amended by adding a new section to
31 read:

32 SECTION 29. REAPPORTIONMENT OF LEGISLATURE FOLLOWING 1990

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1 CENSUS. (a) A proclamation of reapportionment issued by the governor following the 1990
2 census shall remain in effect until the decennial census in the year 2000 if, on the effective date
3 of the 1992 amendments to Article VI,

4 (1) the proclamation has been in effect for over thirty days without judicial review
5 being sought;

6 (2) the proclamation has been upheld by the superior court under Section 11 of
7 Article VI and the time for appeal to the supreme court has run without an appeal being taken;

8 (3) the proclamation has been upheld by the supreme court and the time to request
9 reconsideration of the supreme court's ruling has run;

10 (4) the proclamation is still subject to a request for judicial review under Section
11 of Article VI and a request is not made in a timely fashion; or

12 (5) the proclamation is undergoing judicial review under Section 11 of Article VI
13 and the proclamation is upheld by the courts.

14 (b) Reapportionment of the legislature following the 1990 census shall be done by the
15 Reapportionment Board established in Section 8 of Article VI, as amended by the 1992
16 amendments, if, on the effective date of the 1992 amendments to Article VI,

17 (1) there is no valid proclamation of reapportionment in effect because of judicial
18 invalidation of a prior proclamation; or

19 (2) a proclamation of reapportionment is undergoing judicial review under Section
20 11 of Article VI and that judicial review results in the invalidation of that proclamation.

21 • Sec. 13. Article VI, secs. 5 and 7, and Article XIV, Constitution of the State of Alaska, are
22 repealed.

23 • Sec. 14. The amendments proposed by this resolution shall be placed before the voters of the state
24 at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and
25 the election laws of the state.

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for clarity
rewritten



House State Affairs Committee

Representative Gene Kubina, Chair

DATE: January 22, 1992

PLACE: Capitol Room 102

SUBJECT OF MEETING:
 HB 155 Barrier-free Remodeling Fund
 HB 157 Approp: Barrier Free Facility Fund
 HJR 13 Run-off Election: Gov. & Lt. Gov
 HJR 51 Halt Testing Nuclear Weapons
 HJR 45 Reapportionment Board & Reapportionment

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Don BRANDEN	Gov. Comm on Employment	2920 Valkeywood Dr Anch AK	99577	248-7325	544-1111	(Y) N	HB 155 ✓
Red Wilson	DOT&PF	3132 Channel Drive Juneau	99801	789-4867	465-2960	(Y) N	will answer questions on HB 155 ✓
Judy Knight	Labor	Box 3-7000 Juneau	99801	465-2711		(Y) N	HB 155 ✓
Virginia Kesper	Labor EFWD	Juneau	99802	465-4531	465-4531	(Y) N	HB 155 ✓
Crystal Smith	Alaska Miners League	217 2nd Suite 200 Juneau	99801	463-5775 586-1325	586-7325	(Y) N	HB 155/157 ✓
ART SNOWDEN	COURTIA	303 K ST Anch	99501	714-044	264-251	(Y) N	HJR 45 + HB 157 ✓
Terry Schach	SAIL	8800 Glacier Hwy, Ste. JUNEAU 99801 236		789-9665	789-9665	(Y) N	HB 155 ✓
						Y N	
						Y N	
						Y N	
						Y N	

