

HJR

60

(7)

Date Referred: February 28, 1994

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3-8-94

The STATE AFFAIRS Committee considered:

HJR 60

HOUSE JOINT RESOLUTION NO. 60

AMEND US CONSTT. TO LIMIT FED. COURTS

Relating to an amendment to the Constitution of the United States prohibiting federal courts from ordering a state or a political subdivision of a state to increase or impose taxes.

RECOMMENDATIONS:

be replaced with _____ [] the same title

[] have attached amendments(s) [] a new title

[] 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 _____

[] fiscal note(s) _____

[✓] zero fiscal note Elections

[] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Al Veary</i>	X				
<i>Pat Hill</i>	X				
<i>Jim Sanders</i>	X				
<i>Larry L. Davis</i>	✓				
<i>Timothy Olberg</i>	✓				
<i>Betty D. Davis</i>	X				

Al Veary
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HJR 60

Revision Date: _____
Title: Amendment to the U.S. Constitution:
RE: To Limit Federal Courts
Sponsor: State Affairs
Requestor: _____

Department Affected: Office of the Governor
BRU: Division of Elections
Component: Operations
COMPONENT SERIAL NO. 21

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	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 &	0	0	0	0	0	0
GRANTS,	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE						
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FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	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 (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Joseph L. Swanson, Director
Division: Division of Elections

Phone: 465-4611

Date: 3/7/94

Approved by Commissioner: John B. Coghill, Lieutenant Governor
Agency: Office of the Governor

Date: 3/7/94

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DIVISION OF LEGAL SERVICES

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STATE OF ALASKA**

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FEB 17 1994

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 17, 1994

SUBJECT: Amendment to the United States Constitution (8-LS1764)

TO: Representative Al Vezey, Chair
House State Affairs Committee

FROM: Tamara Brandt Cook
Director *TBC*

Here is a draft resolution requesting the United States Congress to propose an amendment to the Constitution to prohibit federal courts from ordering states or political subdivisions to impose or increase taxes. Under Article V of the U.S. Constitution Congress may propose amendments. Additionally, upon application of the legislatures of two thirds of the states, Congress is required to call a convention for the purpose of considering amendments. This latter method has never been used and there is considerable debate about whether a convention may be limited to consideration of only a specific amendment or whether, having called a convention, any amendment may be considered. Because of this uncertainty, I have not in this draft included a request that a convention be called for the limited purpose of considering a specific amendment relating to court ordered taxation.

TBC:pl
94-136.plm

Enclosure

*Rec'd
2/24/94*

Legal Svc. Memo 2-17-94

The Madison Forum

17 East Glenwood Lane - St. Louis, Missouri 63122

February 8, 1994

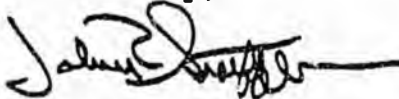
Mandates! Directives! That's all we seem to hear from our federal brethren in Washington, D.C. States have recognized the burden these mandates and directives have created at the state level. Unlike the feds the states can't print money to cover their debts. Patrick Henry put it this way, "(Y)our rich, smug, fine, fat, federal officers - the number of collectors of taxes and excises - will outnumber anything from the states. Who can cope with the excise man and the tax man?"

But when an order to levy taxes is mandated by a federal court, how are you to respond to such an order? How do states begin to question or even reject the orders of the federal courts when even the United States Supreme Court upholds as constitutional a lower federal court order to levy a direct tax increase upon the citizens of a city? How do you respond to what we believe is a violation of not only the Constitution of that state, but as we also believe the Constitution of the United States?

With this in mind Missouri State Senator Walt Mueller and I visited a federal judge in his office, and in the capacity of an elected state official and as a private citizen posed that very question. We were notified that such action was part of an ongoing case and as such, he would not discuss it. We were then directed to leave. This action by the judge was not unexpected, but it was felt that his orders needed to be questioned. We felt it was a legitimate question to pose inasmuch as the Constitution of the United States is quite clear in that the judiciary has never been granted the power to tax.

When a federal judge claims that he cannot discuss judicial directives which violate the constitution of a state with a member of the legislative branch of government, something is drastically wrong. So what does one do when the judiciary mandates direct taxes and Congress refuses to challenge the federal court's usurpation of Article I powers as they pertain to taxation? Our answer is to rein in the power that the judiciary has usurped by asking other states to join our call for an amendment to the Constitution that will put a stop to this judicial grab for power. Action must be taken now. We need your help and active support of this proposed amendment.

Sincerely,



John R. Stoeffler
Chairman, The Madison Forum



RECEIVED

FEB 14 1994

Ans'd.....

BILL SKAGGS

February 8, 1994

Honorable Ramona Barnes
Speaker of the House
State Capitol Building
Juneau, Alaska 99801

Dear Representative Barnes:

As you know, Missouri House and Senate passed a concurrent resolution petitioning Congress to propose ratification by the legislators of three-fourths of the state to restrict the Supreme Court or any inferior court of the United States to levy or increase taxes.

Not every state has begun their regular legislative session, but for those of us who have, it's a busy and exciting time.

Twenty-six states have responded to our call to propose a change in our federal constitution which reads:

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes."

Federal mandates under the Clean Air Act are just one example of an ongoing and growing squeeze being placed upon the states by the federal government. These mandates have caused fear, anger and resentment among our citizens and our commercial and industrial community. Mandates, dictated by Washington, are putting additional strains on an already tight state budget.

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To further compound this assault on state revenues the federal district court, with the blessing of the United States Supreme Court, continues to order property tax increases "ad infinitum" to correct what Supreme Court Justice Kennedy rightly referred to as an issue which is properly "part of a legitimate political debate over . . . spending priorities" and not a Constitutional command. In his dissenting opinion to this usurpation of legislative authority by the federal courts Justice Kennedy noted, "This . . . begins a process that over time could threaten the fundamental alteration of the form of government our Constitution embodies."

The Constitution does not allow, nor do we need, judicial intervention requiring tax increases as solutions to potentially serious problems.

You're busy, I know, but in order to be of help to all those working for passage of a concurrent resolution, we are asking you to send us an update of your progress. Just return the enclosed questionnaire at your earliest convenience.

Sincerely,



Bill Skaggs

BS:ya

Enclosure