

**HJR**

**1**

**HFIN**

**FILE**

# USE COMMITTEE REPORT

(11)

Date Referred: March 14, 1995

FURTHER REFERRALS:

Date of Committee Action: 3/20/95

The FINANCE Committee considered:

HJR 1

HOUSE JOINT RESOLUTION NO. 1

REPEAL OF REGULATIONS BY LEGISLATURE

Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature.

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal note(s) \_\_\_\_\_

fiscal note(s) office of gov 3/1/95

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) law 3/1/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gilbert Juel</i>	MULDER	<input checked="" type="checkbox"/>			
<i>Terry Martin</i>	MARTIN	<input checked="" type="checkbox"/>			
<i>Jean Parnell</i>	PARNELL			<input checked="" type="checkbox"/>	
<i>Vic Kohring</i>	Kohring	<input checked="" type="checkbox"/>			
<i>Ben Grussendorf</i>	Grussendorf	<input checked="" type="checkbox"/>			
<i>Chick Navarre</i>	NAVARRE	<input checked="" type="checkbox"/>			
<i>Tay Brown</i>	BROWN			<input checked="" type="checkbox"/>	
<i>Gene Therman</i>	Therman	<input checked="" type="checkbox"/>			
<i>Richard Foster</i>	FOSTER	<input checked="" type="checkbox"/>			
<i>Mark Hanky</i>	Hanky	<input checked="" type="checkbox"/>			

CO-CHAIR'S SIGNATURE

*Mark Hanky* *Richard Foster*  
 Hanky FOSTER

FISCAL NOTE

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: Amendment to the Constitution RE:  
 Repeal of regulations by legislators.  
 Sponsor: Senator Phillips  
 Requestor: \_\_\_\_\_

Department Affected: Office of the Governor  
 BRU: Division of Elections  
 Component: General and Primary Elections  
 COMPONENT SERIAL NO. 12

EXPENDITURES/REVENUES:

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	2.2*	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	2.2*	0	0	0	0

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

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

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
1008 GF/Program	0	0	0	0	0	0
1008 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	2.2*	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 (FY95) 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 16.58, and programming for counting of votes cast on the 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 \$1.4.

Prepared by: David Kolvundem, Acting Director Phone: 465-4611  
 Division: Division of Elections Date: 2-22-95

Approved by Commissioner: Lt. Governor Date: \_\_\_\_\_  
 Agency: Office of the Lt. Governor

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information call the Governor's Legislative Office  
 Rev 12/93 Page 1 of 1

# FISCAL NOTE

J. 2  
 Bill Version:           HJR 1            
 (H) Publish Date:           3/1/95          

**STATE OF ALASKA  
 1995 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected:           Department of Law            
 Title:           "...relating to repeal of regulations by the           BRU:           Legal Services            
 legislature..." \_\_\_\_\_ Component:           Operations            
 Sponsor:           Representative Phillips            
 Requester:           House State Affairs           COMPONENT SERIAL NO.           0093          

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$           0.0          

**POSITIONS**

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

House Joint Resolution No. 1 proposes an amendment to the Constitution of the State of Alaska that would give the legislature the power to repeal a regulation adopted by a state department or agency by joint resolution of the legislature. If the amendment is adopted in the 1996 general election, it will probably not have a direct immediate fiscal impact on the department's operations. The department is statutorily responsible for reviewing all regulations for legality and form to insure consistency with the appropriate enabling legislation. The department also drafts regulations on behalf of some departments and assists other departments in drafting regulations that deal with highly complex matters requiring the attention of an attorney. Obviously, some of the time spent in these efforts will have been lost whenever a regulation has been annulled. Larger departments which have the responsibility for carrying out major state programs, and who routinely draft numerous program operating regulations in-house, will probably experience an even greater loss of staff time. More importantly, the absence of statutorily mandated regulations, which would occur after annulment, could result in litigation from an adversely impacted industry, public interest group, or a member of the public claiming damages due to the

Prepared by:           Richard I. Peques, Director           Phone:           465-3672            
 Division:           Administrative Services Division           Date:           2/13/95            
 Approved by Commissioner:           Bruce M. Botelho, Attorney General           Date:           2/13/95            
 Agency:           Department of Law          

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**  
 For further distribution information, call the Governor's Legislative Office

**COMMITTEE COPY**

FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HJR 1

ANALYSIS CONTINUATION:

absence of required regulations. The impact of such litigation cannot, in this case, be estimated in advance and therefore no cost impact can be shown.

# Alaska State Legislature



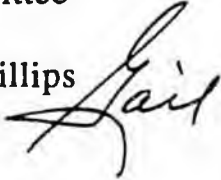
Official Business  
Fax: (907) 465-3472

Speaker of the House of Representatives

State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-3720  
(907) 465-2689

## MEMORANDUM

TO: House Judiciary Committee

FROM: Representative Gail Phillips  
SPEAKER 

DATE: March 8, 1995

RE: HJR 1, "Proposing an amendment to the Constitution of the State of Alaska relating to the repeal of regulations by the legislature."

This proposal for an amendment to the Constitution of the State of Alaska to repeal regulations by the Legislature has been placed on the ballot on three previous occasions. The chart below shows the results of those votes. Although prior efforts to persuade the voters to support this amendment have failed, I believe that with a better campaign presentation, clearer ballot language, and the current popular support for regulatory reform, we can see this Constitutional Amendment become a reality.

<u>1980</u>	<u>1984</u>	<u>1986</u>	
58,808	91,174	65,176	Yea's
82,010	98,856	94,299	Nay's
140,818	190,030	159,475	Total Proposition Votes
162,653	213,173	182,526	Total Votes Cast
258,742	305,262	292,274	Total Registered Voters
63 %	70 %	62 %	Voter Turnout

Headquarters:  
217 2nd Street, Suite 201  
Juneau, Alaska 99801  
(907) 586-2323 FAX 463-5515



March 8, 1995

To members of the House Judiciary Committee

Regarding HJR 1

Recognizing the extent to which regulations are strangling our economy and our society, it is a priority of the Alaska State Chamber of Commerce to reform the regulatory process.

In providing for legislative repeal of harmful regulations by passage of a joint resolution by the House and Senate, HJR 1 is a step in the direction of lessening excessive and burdensome regulations.

The Alaska State Chamber of Commerce supports passage of HJR 1.

Sincerely,

*Pamela Neal*  
Pamela Neal  
President



March 8, 1995

Testimony before House Judiciary Committee  
Supporting HJR 1

My name is Chuck Achberger and I am the Executive Director of the Juneau Chamber of Commerce, and also a member representing the Alaska State Chamber of Commerce. We would like to go on the record today in support of HJR 1.

The cost of regulations in Alaska is becoming one of the biggest costs of doing business. While regulations are necessary, some make no sense or worse yet are being used by regulatory agencies as blunt instruments against business.

The act of writing regulations is often without public input, and with an eye to making life easier for the regulator than the citizen, this is just human nature.

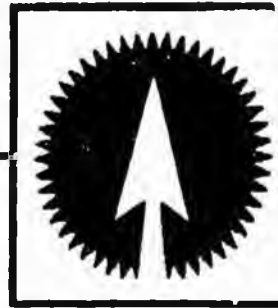
What is truly disturbing is when a regulatory agency sets out to protect; the environment, you and me, etc. At this point an individual's bias often takes the regulation away from the intent of the law that was passed, in doing so they become the lawmakers.

HJR 1 would provide some recourse for both, you the legislature and your constituents to control some of these digressions, and return the making of laws to those elected to do the job.

Sincerely,

Chuck Achberger  
Director

# Alaska Forest Association, Inc.



111 STEDMAN SUITE 200  
KETCHIKAN, ALASKA 99901-6589  
Phone 907-225-6114  
FAX 907-225-5820

## POSITION PAPER ALASKA FOREST ASSOCIATION, INC.

### HOUSE JOINT RESOLUTION NO.1

**TITLE: "PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF ALASKA RELATING TO REPEAL OF REGULATIONS BY THE LEGISLATURE."**

This joint resolution is a proposal to place a Constitutional Amendment before the voters of the State of Alaska on the 1996 General Election ballot. The Amendment would permit the Legislature to repeal regulations promulgated by state agencies that do not properly implement state statutes.

This resolution would allow the intent of the legislature to more accurately be reflected in rules carrying out the laws of the State of Alaska.

The Alaska Forest Association, Inc. strongly supports passage of HJR-1 for the following reasons:

A. The procedural, regulatory and judicial framework that has developed in response to the complex array of state laws imposes actions never envisioned by those who wrote the law. If the amendment is approved the legislature would have the ability to suspend application of law, by repeal of offensive regulations, until new regulations could be written which more accurately reflected the will and intent of lawmakers.

B. The resolution recognizes that the legislative branch of government is at a disadvantage versus the other two co-equal branches in that statutes envisioned by the legislature can be significantly altered in application and effect by the way that the then-present administration chooses to implement the law through regulations.

C. Approving this amendment would allow the legislature to reconsider laws in the light of their total impact on Alaskans. Once the system of implementation is understood, reasonable lawmakers may choose to repeal statutes where implementation of seemingly good public law is, in fact, untenable to normal citizens.

The Alaska Forest Association urges your support of HJR-1.



Plant Office Box 6600  
Ketchikan, Alaska 99901  
USA  
TEL 907/225-2151  
FAX 907/225-8260

**POSITION OF THE KETCHIKAN PULP COMPANY  
REGARDING HJR 1  
MARCH 7, 1995**

The Ketchikan Pulp Company supports HJR 1 which proposes an amendment to the Constitution of the State of Alaska relating to the repeal of regulations by the Legislature. It is our experience that greater legislative oversight, and option for repeal of excessive regulations, is needed to insure the proper desire of the Legislature is achieved.

There is a tremendous volume of regulations produced each year which are beyond the checks and balances which are part of the legislative process. It is essential that the elected leaders of Alaska, rather than the faceless bureaucracy, have the final say on the laws of the land and the regulations which implement those laws. HJR 1 is the proper check and balance which is needed to our Constitution.

HJR 1 is a straight forward and clearly worded proposal to the Alaska Constitution. HJR 1 deserves to be put before the public.

OPERATING DIVISIONS

WAPAS COVE PULP MILL  
THORNE BAY LOG

KETCHIKAN SAWMILL  
TUXEKAN LOG  
ASUKATI LOG

ANNETTE HEMLOCK SAWMILL  
EL CAPITAN LOG

MAR 07 '95 15:41 KONCOR ANCHORAGE

P. 1/1

March 7, 1995

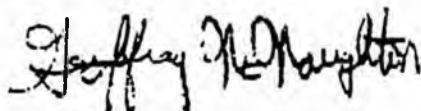
**KFP**  
**Koncor Forest Products Company**3501 Denali, Suite 202  
Anchorage, Alaska 99503  
(907) 562-3335 FAX (907) 562-0599Representative Gail Phillips  
Alaska State Legislature

Via FAX

Dear Representative Phillips:

We are pleased that you have introduced House Joint Resolution No. 1 proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the Legislature. This resolution is desirable because it would allow the Legislature to repeal regulations promulgated by state agencies that do not properly implement state statutes. It also allows for greater public participation and control of government, and must first be passed by the people as a constitutional amendment. Please contact me if I can be of any help.

Sincerely,

Geoffrey McNaughton, Ph.D.  
Environmental Manager

MAR-07-'95 TUE 16:04 ID:WTSTONE LOG 945-3533 #959 P01

## WHITESTONE SOUTHEAST LOGGING COMPANY

P.O. BOX 389  
HOONAH, AK 99829  
PHONE: (907) 945-3626  
FAX: (907) 945-3533

Representative Gail Phillips  
Alaska State Legislature  
Juneau, Alaska

Dear Representative Phillips:

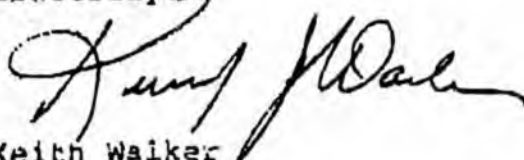
It is a sorry state of affairs when the elected government of the people has to amend the Constitution to get free of regulatory strangulation.

Many of the States regulatory agencies, most notably the ADF&G, operate as autonomous kingdoms, producing regulations that promote the power and authority of the agency, rather than to pursue the intent of the peoples representatives.

Over the last few decades we have seen the evolution of a judicial system that actively promotes social change by judicial fiat rather than change by amending the Constitution.

I believe that it is time for the peoples representatives regained control of the government. I support your Bill HJR1

Sincerely,



Keith Walker  
Owner



**Alaska  
Lumbermen's  
Association**

---

P.O. Box 7135 Ketchikan, AK 99901 (907) 247-2088 Fax: (907) 247-2692

**POSITION OF THE ALASKA LUMBERMEN'S ASSOCIATION  
REGARDING HJR 1  
MARCH 7, 1995**

My name is Cliff Skillings, Executive Director of the Alaska Lumbermen's Association. Observing the advice of Thyges, I will keep this testimony brief. On behalf of the Alaska Lumbermen's Association, I would like to thank the House Judiciary Committee for allowing us the opportunity to voice support for House Joint Resolution 1 which proposes an amendment to the constitution of the State of Alaska relating to the repeal of regulations by the Legislature. It is extremely pertinent that the Alaska Legislature, comprising of the people's elected officials, have the power to impose legislative oversight with the option to repeal, those regulations adopted by a State Department or agency which pose excessiveness and inconsistency with current statutes. HJR 1 merits a vote by the people of the State of Alaska.

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

☐ 1031 WEST 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 269-5100  
FAX: (907) 276-3697

☐ KEY BANK BUILDING  
100 CUSHMAN ST., SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 451-2811  
FAX: (907) 451-2846

☐ P.O. BOX 110300-DIMOND COURT HC  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-6735

March 6, 1995

Hon. Brian Porter, Chair  
House Judiciary Committee  
Alaska House of Representatives  
State Capitol, Room 118  
Juneau, AK 99801-1182

RECEIVED  
MAR - 6 1995

Re: HJR 1

Rep. Brian Porter

Dear Representative Porter:

HJR 1 has been scheduled for review by the House Judiciary Committee. This letter is to express the Department of Law's opposition to HJR 1.

HJR 1 is a resolution to place before the voters for the fourth time in 15 years an amendment to the Constitution of the State of Alaska to allow repeal of regulations by resolution of the legislature. If passed by the voters, the amendment would create a new section 22 in Article II of our state constitution to allow the legislature, by joint resolution, to repeal a regulation adopted by a state department or agency. The resolution would not be subject to the review, and possible veto, of the governor.

The Department of Law opposes the resolution for the following reasons:

1. Under existing law, the legislature has substantial power to guide or limit the adoption of regulations. Initially, the legislature can pass tight statutes that clearly define the executive branch's rule-making authority. The Administrative Procedure Act requires that a regulation must be consistent with the statute. See AS 44.62.030. The Department of Law makes a legal review for consistency before a regulation is filed by the Office of the Lieutenant Governor. After an

executive-branch regulation is adopted, if the legislature believes that the regulation is not consistent with the enabling statute, the legislature can amend the statute to clarify its intent. The current system provides the legislature with the power to guide regulation formation.

2. Allowing the legislature to repeal a regulation by resolution would mean a major change in the way law is developed in this state. Regulations have the force of law. Repealing regulations changes law. Our constitution presently grants the power to the legislature to change law by passing a bill, which is then subject to the governor's review and possible veto. Because the governor cannot veto a resolution, allowing repeal of regulations by resolution would allow the legislature to change law without that action being subject to the governor's review. This is an important change in our constitution's system of checks and balances between the legislative and executive branches.

3. By repealing a regulation by resolution, the legislature would not be providing policy guidance or direction that is appropriate to the legislature's law-making function. In other words, the resolution would tell the executive branch that the regulation was unacceptable, but not what is acceptable. The state agency would have to guess again and spend state money to develop a new regulation, which might not be on the "right track." By using a bill, the legislature could change statutes to give clearer policy direction to the executive branch.

4. The Administrative Procedure Act allows legislators, as well as the general public, to comment on any new regulation proposed. The executive branch considers comments in the development of regulations. In this way, the legislature and the public have input into the regulation-adoption process.

5. The voters of Alaska have voted down this type of constitutional amendment three times in the last 15 years. We assume that the public means what its votes have indicated, and that the public prefers the status quo on checks and balances in the development and enforcement of regulations.

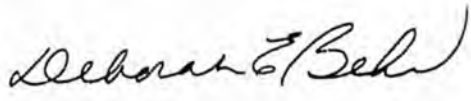
Hon. Brian Porter, Chair  
House Judiciary Committee

March 6, 1995  
Page 3

If you have additional questions, please let me know.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:   
Deborah E. Behr  
Assistant Attorney General

DEB:cl

cc: Representative Gail Phillips  
Speaker of the House  
State Capitol, Room 208

Representative Tom Brice  
Alaska House of Representatives  
State Capitol, Room 426

Bruce M. Botelho, Attorney General  
Barbara J. Ritchie, Deputy Attorney General

Pat Pourchot, Legislative Administrator  
Office of the Governor

Headquarters:  
217 2nd Street, Suite 201  
Juneau, Alaska 99801  
(907) 586-2323 FAX 463-5515



March 8, 1995

To members of the House Judiciary Committee

Regarding HJR 1

Recognizing the extent to which regulations are strangling our economy and our society, it is a priority of the Alaska State Chamber of Commerce to reform the regulatory process.

In providing for legislative repeal of harmful regulations by passage of a joint resolution by the House and Senate, HJR 1 is a step in the direction of lessening excessive and burdensome regulations.

The Alaska State Chamber of Commerce supports passage of HJR 1.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Neal".

Pamela Neal  
President

**ALASKA STATE CHAMBER OF COMMERCE****Resolution 95-2****Regulatory Support of Economic Development**

**WHEREAS, Alaska is competing in a global economy with increasingly competitive areas working to attract industry and business worldwide; and**

**WHEREAS, the perception of Alaska as a favorable place to do business is vital to its success in this competitive arena; and**

**WHEREAS, excessive and burdensome regulation constrains and discourages business;**

**THEREFORE BE IT RESOLVED that the Alaska State Chamber of Commerce asks the Administration and the State Legislature to focus its efforts toward creating a regulatory and economic environment supportive of business development which encourages businesses to locate and grow in Alaska, and**

**BE IT FURTHER RESOLVED that the Alaska State Chamber of Commerce also asks that the legislature and administration provide for oversight to assure regulations are producing effective results which follow legislative intent.**

**ADOPTED**

*December 9, 1994*

BY *Pamela Neal*

**Pamela Neal  
President**

BY *Paul Richards*

**Paul Richards  
Chair, Board of Directors**