

SJR

3

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 24, 1999

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 4/8/99

The STATE AFFAIRS Committee considered:

SJR 3

SENATE JOINT RESOLUTION NO. 3

REPEAL OF REGULATIONS BY LEGISLATURE

Proposing an amendment to the Constitution of the State of Alaska relating to the 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) GOV

zero fiscal note(s) _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jannette Jones</i>	✓			
<i>Hal Smalley</i>		✓		
<i>Ben Bestul</i>		✓		
<i>John Carlisle</i>	✓			
<i>Bill Hudson</i>			✓	
<i>AA. [Signature]</i>	✓			
<i>Scott Dyer</i>	✓			

CHAIR'S SIGNATURE Jannette Jones

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



Representative Jeannette James
Chair, House State Affairs Committee
Alaska State Capitol
Juneau, Alaska

Re: SJR3, Legislative Repeal of Regulations

Dear Representative James:

The Alaska State Chamber of Commerce, representing approximately 700 member businesses, as well as a network of local chambers of commerce statewide, supports SJR 3, relating to the repeal of regulations by the Legislature.

The volumes of regulations produced by the bureaucracy are beyond the checks and balances that are part of the legislative process. It is essential that the elected leaders of Alaska, rather than the anonymous members of the bureaucracy, have the final say on the laws Alaskans live by and the regulations that implement those laws. SJR 3 would return the system of checks and balances to the regulatory process that was intended by the creators of Alaska's Constitution.

SJR 3 is a straight forward and clearly worded proposal that the ASCC membership believes should be put before the public. We urge the Committee's support of SJR 3.

Sincerely,

Pamela La Bolle
President

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



URGING YOUR SUPPORT FOR SJR 3

Calling for a constitutional amendment to allow Legislative repeal of regulations

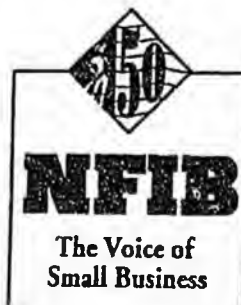
The Alaska State Chamber of Commerce, representing approximately 700 member businesses as well as a network of local chambers of commerce statewide, urges your support of SJR 3, relating to the repeal of regulations by the Legislature.

The volumes of regulations produced by the bureaucracy are beyond the checks and balances that are part of the legislative process. It is essential that the elected leaders of Alaska, rather than the anonymous members of the bureaucracy, have the final say on the laws of the land and the regulations that implement those laws. SJR 3 would return the system of checks and balances to the regulatory process that was intended by the creators of Alaska's Constitution.

SJR 3 is a straight forward and clearly worded proposal that the ASCC membership believes should be put before the public. We ask for your support of SJR 3.

*Submitted by Pamela La Bolle, President, Alaska State Chamber of Commerce
Distributed by Senator Robin Taylor*

NFIB Alaska



National Federation of Independent Business

Statement of Support

of SJR 3

A resolution calling for a constitutional amendment to allow the legislature to annul regulations found to be inconsistent with the intent of the law.

January 29, 1999

The Alaska Chapter of the National Federation of Independent Business has 3,000 members, making it the largest small-business advocacy group in the state.

The legislative agenda of NFIB is determined by ballot. The ballot is our poll of members on a series of state legislative and regulatory issues.

NFIB/Alaska ballot results have shown very strong support for giving the voters the chance to amend the constitution to allow repeal of regulations by the legislature. Following are the ballot results on this issue:

Should the State of Alaska place a proposed constitutional amendment before the voters to decide whether the legislature should be given the authority to repeal regulations found to be improper or inconsistent with the law?

73 % YES

15 % NO

12 % Undecided

NFIB/Alaska urges support for SJR 3.

Submitted by Thyres Shaub on behalf of NFIB/Alaska.

Alaska State Legislature

Chairman,
Judiciary Committee
State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922



50 Front Street
Suite 203
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Senator Robin L. Taylor

Sponsor Statement

Senate Joint Resolution 3 - Repeal of Regulations

Senate Joint Resolution 3 is a proposed amendment to the Constitution of the State of Alaska which would grant the Legislature the ability to repeal a regulation adopted by a state department or agency that is inconsistent with its enabling statute. This proposed amendment would allow the repeal of a regulation by a resolution passed by a majority of the members of each house.

The numerous regulations contained in the Alaska Administrative Code were not created by legislators. The only recourse for the Legislature is to repeal the law that enabled the regulation. This wastes Alaskan's time and money in the process. The repeal of burdensome regulations is vital to the progress of economic development for all of Alaska.

This issue has come before the voters in the past and now the time has come again for the voters to reduce the amount of time and money spent in legislation. Voters would have the chance to speak out about the proposed amendment in the next general election.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

SENATE JOINT RESOLUTION NO. 3

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATORS TAYLOR, Tim Kelly, Phillips

Introduced: 1/21/99

Referred: State Affairs, Finance

A RESOLUTION

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

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

4 * Section. 1. Article II, Constitution of the State of Alaska, is amended by adding a new
5 section to read:

6 Section 22. Repeal of Regulations. The legislature may, after finding that a
7 regulation adopted by a State department or agency is inconsistent with its enabling
8 statute, repeal the regulation by a resolution concurred in by a majority of the members
9 of each house. The repeal of the regulation is effective thirty days after the passage
10 of the resolution by the legislature unless a different prospective effective date is
11 specified in the resolution.

12 * Sec. 2. The amendment proposed by this resolution shall be placed before the voters of
13 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
14 State of Alaska, and the election laws of the state.

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



URGING YOUR SUPPORT FOR SJR 3

Calling for a constitutional amendment to allow Legislative repeal of regulations

The Alaska State Chamber of Commerce, representing approximately 700 member businesses as well as a network of local chambers of commerce statewide, urges your support of SJR 3, relating to the repeal of regulations by the Legislature.

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SJR 3 is a straight forward and clearly worded proposal that the ASCC membership believes should be put before the public. We ask for your support of SJR 3.

*Submitted by Pamela La Bolle, President, Alaska State Chamber of Commerce
Distributed by Senator Robin Taylor*

NFIB Alaska



National Federation of Independent Business

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NFIB/Alaska ballot results have shown very strong support for giving the voters the chance to amend the constitution to allow repeal of regulations by the legislature. Following are the ballot results on this issue:

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73 % YES

15 % NO

12 % Undecided

NFIB/Alaska urges support for SJR 3.

Submitted by Thyes Shaub on behalf of NFIB/Alaska.

FISCAL NOTE

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

BILL NO. SJR3

Revision Date/Time (Note if correction) _____ Dept. Affected Office of the Governor
 Title Constitutional Amendment relating to BRU Elective Operations
the repeal of regulations by the legislature Component General and Primary
 Sponsor Senator Taylor
 Requester Senate State Affairs Committee Component Serial No. 22

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Since the state has transferred to an optical scan ballot tabulation system, fiscal notes for constitutional amendments will be zero. The optical scan ballot tabulation system allows for greater flexibility in ballot printing.

Prepared by Gail Fenumiai *Gail Fenumiai*
 Division Division of Elections
 Approved by C Lt. Governor Fran Ulmer *Fran Ulmer*
 Agency Office of the Lieutenant Governor

Phone 465-3935
 Date/Time 2/2/99 10:32 AM
 Date 2/2/99

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Judiciary Committee
Administrative Regulations
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Vice Chairman,
Resources Committee



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Suite 203
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Senator Robin L. Taylor

M E M O R A N D U M

TO: Representative Jeannette James
House State Affairs
FROM: Senator Robin L. Taylor
DATE: February 25, 1999
RE: Hearing Request

Request that you hear Senate Joint Resolution No. 3 Proposing and amendment to the Constitution of the State of Alaska relating to the repeal of regulations by the Legislature at your earliest convenience.

A handwritten signature in cursive script, appearing to read "Robin L. Taylor".

Robin L. Taylor

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 25, 1999

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 HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

Hon. Jeannette James
Chair
House State Affairs Committee
State Capitol, Rm 102
Juneau, Alaska 99801

Re: SJR 3

Dear Representative James:

SJR 3 has been referred to the House State Affairs Committee.

SJR 3 is a resolution to place before the voters, for the fourth time, 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 the 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. The voters of Alaska have already voted down this type of constitutional amendment three times, in the 1980, 1984, and 1986 general elections. Two of those defeats were by margins of four to three to two. 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.

2. Under existing law, the legislature has substantial power to guide or limit the adoption of regulations. Initially, the legislature can pass 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 regulations 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 regulations formation.

3. 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 a regulation changes law. The state 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 the action being subject to the governor's review. This is an important change in our constitution's system of checks and balances between the legislature and executive branches.

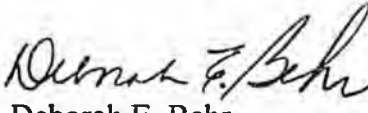
4. Significantly, by repealing a regulation by resolution, the legislature would not be providing policy guidance or direction that is appropriate to the legislature's lawmaking function. In other words, the resolution would tell the executive branch that the regulation was unacceptable, but not what 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.

5. The Administrative Procedure Act allows legislators, as well as the general public, to comment on any new regulation proposed. Agencies of the executive branch consider comments in the development of the final content of regulations. In this way, the legislature and public have input into the rulemaking process.

If you have additional questions, please let me know.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Deborah E. Behr
Assistant Attorney General

DEB:jf

cc: Hon. Robin Taylor
Alaska State Senate

Hon. Beth Kerttula
Alaska State House

Hon. Jeannette James, Chair
House State Affairs Committee

March 25, 1999
Page 3

Hon. Harold Smalley
Alaska State House

Pat Pourchot, Legislative Director
Office of the Governor

Bruce M. Botelho, Attorney General
Barbara Ritchie, Deputy Attorney General
Chrystal Smith, Legal Administrator
Dept. of Law

FISCAL NOTE

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

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Prepared by Gail Fenumiai *Gail Fenumiai* Phone 465-3935
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