

SJR

34

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT OF
SFC 4/3/00

DATE: 2/23/00

FURTHER:

DATE TURNED
IN TO OFFICE: 3 April 00

Finance Committee considered

SENATE JOINT RESOLUTION NO. 34

Proposing an amendment to the Constitution of the State of Alaska relating to certain public corporations.

and recommends:

- be replaced with CS SJR 34 (FIN)
- adopt previous CS ()
- attached amendment(s) CS forthcoming
- adopt Letter of Intent by _____
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Red E. Hill</i>	✓	<i>tie closer</i>		X	
<i>Sydney Meyers</i>	✓				
<i>Pete Kelly</i>	✓				
<i>Gary White</i>	✓				
<i>Loren D. Jensen</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair: _____			
Co-Chair: _____		Co-Chair: <i>Sean R. Farrell</i>	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>Elections</i>	<i>3/31/00</i>		<i>1.5</i>

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
SFC 4/3/00

BILL NO. CSSJR 34(L&C)

Revision Date/Time (Note if correction) _____ Dept. Affected Office of the Governor
 Title Constitutional Amendment: Relating to the BRU Elective Operations
certain public corporations Component Elections
 Sponsor Senator Halford
 Requester Senate Finance Committee Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.5	0.0	0.0	0.0	0.0	0.0

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

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. However, only six measures can be printed on an 8-1/2 by 14 inch ballot. If this measure requires printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Gail Fenumai Phone 465-3935
 Division Division of Elections Date/Time 3/31/00 2:50 PM
 Approved by C. Lt. Governor Fran Ulmer Date 03/31/2000
 Agency Office of the Lieutenant Governor

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CS FOR SENATE JOINT RESOLUTION NO. 34(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS HALFORD, Ward, Donley, Taylor

A RESOLUTION

1 Proposing an amendment to the Constitution of the State of Alaska relating to
2 public corporations.

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

4 * Section 1. Article III, sec. 26, Constitution of the State of Alaska, is amended to read:

5 Section 26. Boards and Commissions. When a board or commission is at
6 the head of a principal department or a regulatory or quasi-judicial agency, or is the
7 governing entity of a public corporation established by law that manages
8 significant State assets as defined by law, its members shall be appointed by the
9 governor, subject to confirmation by a majority of the members of the legislature in
10 joint session, and may be removed as provided by law. They shall be citizens of the
11 United States. The board or commission may appoint a principal executive officer
12 when authorized by law, but the appointment shall be subject to the approval of the
13 governor.

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

Amend
#1
deleted
text

CS FOR SENATE JOINT RESOLUTION NO. 34(J.&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 2/23/00
Referred: Finance

Sponsor(s): SENATORS HALFORD, Ward, Donley, Taylor

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to
2 departments, agencies, and public corporations.

*tech.
Amend
#1*

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

4 * Section 1. Article III, sec. 26, Constitution of the State of Alaska, is amended to read:

5 Section 26. Boards and Commissions. When a board or commission is at
6 the head of a principal department or a regulatory or quasi-judicial agency, or is the
7 governing entity of a public corporation established by law that manages
8 significant State assets as defined by law, its members shall be appointed by the
9 governor, subject to confirmation by a majority of the members of the legislature in
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11 United States. The board or commission may appoint a principal executive officer
12 when authorized by law, but the appointment shall be subject to the approval of the
13 governor.

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



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HALFORD**

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Sponsor Statement Senate Joint Resolution 34

**"Proposing an amendment to the Constitution of the State of Alaska
relating to certain public corporations"**

The Alaska Constitution provides for legislative confirmation of any board or commission at the head of a principal department or a regulatory or quasi-judicial agency. This includes the Board of Education, the Board of Game, and all the professional and regulatory boards, such as the Board of Dispensing Opticians.

In sharp contrast, public corporations, which manage tens of billions of dollars in state assets, are not subject to this provision. These corporations, including the Permanent Fund Corporation, Alaska Railroad and Alaska Housing Finance Corporation, have a tremendous impact on all Alaskans and our State's economy. Members are appointed at the Governor's pleasure and removed in the same manner, without legislative oversight.

The amendment proposed in SJR 34 is a necessary addition to our state's constitution. It would ensure that the people who control Alaska's largest assets are subject to a formal appointment, confirmation and removal process, not the whim of a newly elected Governor.

Please give SJR 34 your full consideration. Thank you.



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SJR 34 -Background Information

At the time the fifty-five delegates to Alaska's Constitutional Convention met in Fairbanks almost forty-five years ago, it is fair to say that they could not have foreseen that there would one day be public corporations that would manage tens of billions of dollars in public assets. If so, I believe the delegates would have included directors of public corporations in Article III, Section 26.

In the case of the Permanent Fund Corporation, we have seen wholesale turnover of the Board of Trustees with changes in administrations. The lack of stability associated with this wholesale turnover, as well as the potential for political manipulation of a Board serving only at the pleasure of the Governor are among the reasons that the legislature has brought proposed changes to the appointment process, and the tenure of directors, forward.

Only those offices that are expressly mentioned by the Constitution are subject to legislative confirmation. The legislature is prohibited from adding to the list of boards and commissions, for which legislative confirmation is required, unless they are regulatory boards. This issue was effectively settled in Bradner v. Hammond, in the mid 1970's. As a result, a Constitutional Amendment is necessary to require legislative confirmation for directors of public corporations such as the Permanent Fund Corporation, AHFC, AIDEA or the Alaska Railroad Corporation.

The following is a brief synopsis of some of the recent proposed legislative actions related to public corporations that manage state assets.

(1995) SJR 14, which was sponsored By Senator Halford and eleven other members of the Senate would have amended the Article III, Section 26 of the Alaska Constitution to add "...or is at the head of a public corporation that manages state assets..." to the list of members of board or commissions subject to legislative confirmation. The proposed Amendment would have given the legislature the ability to exclude the applicability of this section based on the value of the assets managed by the public corporation. After being reviewed by

the Senate State Affairs, Judiciary and Finance Committees SJR 14 died in the Senate Rules Committee, chaired by Senator Miller.

(1995) SB 89, which was sponsored by Senator Rieger, proposed several statutory changes related to the board and staff of the Permanent Fund Corporation. It would have increased the size of the board from six to seven members, reduced the number of department heads who serve on the Board by one member, and would have added new minimal professional requirements for at least one of the Board members. It would have also staggered the terms of public members, helping to limit dramatic turnover. The legislation also provided that the governor could remove a public member only for cause, and defined cause. Fifty-three members of the legislature (thirty-five in the House; eighteen in the Senate) voted for it, but Governor Knowles vetoed the bill following adjournment of the legislature. SB 89 did not address the issue of legislative confirmations.

(1991) SJR 4, which Senator Kerttula introduced, would have provided for legislative confirmation of a "... governing entity of a public corporation established by law." Senator Kerttula pointed to the size of assets of the Permanent Fund (then \$11.9 billion) and the Alaska Railroad Corporation (then \$98.6 million) as being too important for those individuals managing them to be exempted from legislative confirmation. SJR 4 passed the Senate, but died in the House Finance Committee.

LEGAL SERVICES

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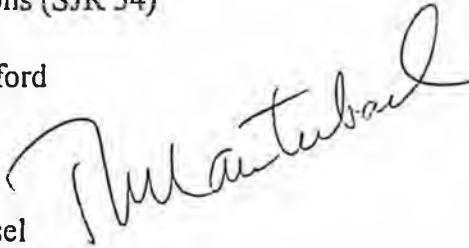
MEMORANDUM

February 16, 2000

SUBJECT: Public Corporations (SJR 34)

TO: Senator Rick Halford
Attn: Juli Lucky

FROM: Terri Lauterbach
Legislative Counsel



The "public corporations" list I gave you in 1995 is still accurate except that the Alaska Tourism Marketing Council (AS 44.33.700) is scheduled to be repealed July 1, 2000, and there is a new public corporation to add to the list: the Adak Re-use Authority (AS 30.17.010). Therefore, the new list of public corporations is the following:

- (1) Alaska Aerospace Development Corporation (AS 14.40.821);
- (2) Alaska Energy Authority (AS 44.83.020);
- (3) Alaska Housing Finance Corporation (AS 18.56.020);
- (4) Alaska Industrial Development and Export Authority (AS 44.88.020);
- (5) Alaska Medical Facility Authority (AS 18.26.010);
- (6) Alaska Mental Health Trust Authority (AS 47.30.011);
- (7) Alaska Municipal Bond Bank Authority (AS 44.85.020);
- (8) Alaska Permanent Fund Corporation (AS 37.13.040);
- (9) Alaska Railroad Corporation (AS 42.40.010);
- (10) Adak Re-Use Authority (AS 30.17.010);
- (11) Alaska Science and Technology Foundation (AS 37.17.010);
- (12) Alaska Seafood Marketing Institute (AS 16.51.010);
- (13) Alaska Student Loan Corporation (AS 14.42.100);
- (14) Alaska Tourism Marketing Council (AS 44.33.700 - scheduled to be repealed July 1, 2000).

The Commercial Fishing and Agriculture Bank (AS 44.81.010) appears to have some of the attributes of a public corporation in that the exercise of its powers "is considered to be for a public purpose," but it is not specifically designated as a "public corporation" in its enabling statute, AS 44.81.010(a). Therefore, I am not certain how CFAB would be treated under SJR 34 and you might need other legislation to clarify its status.

Senator Rick Halford
February 16, 2000
Page 2

I hope you find this information helpful. Please let me know if I can be of further assistance.

TML:jdr
00-083.jdr