

HJR

37

Additional Documents for
HJR 37
Const Am: Sec. of State Preferences

LEGAL SERVICES

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STATE OF ALASKA

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MEMORANDUM

March 10, 2008

SUBJECT: HJR 37, correcting obsolete references in the state constitution to "secretary of state" (Work Order No. 25-LS1527C)

TO: Representative Max F. Gruenberg, Jr.

FROM: Jack Chenoweth
Assistant Revisor

The joint resolution has been scheduled for a House State Affairs Committee hearing.

For whatever use you may choose to make of the material, set out below is a replication of my notes shared with the joint resolution's sponsor when this matter was last before the legislature in 2005.

In 1970, the legislature proposed and the voters, by a margin of 71% - 29% (yes = 46,102; no = 18,781), approved a series of amendments to the state constitution that changed the name of the constitutional office of "secretary of state" to the office of "lieutenant governor." In the 1970 joint resolution that proposed the amendments, SJR 2, a copy of which accompanies this memo, the drafting attorneys of the time did not catch all the references to "secretary of state." They missed the two that appear in article II, section 5 and article III, section 25. By proposing amendments to delete in those two sections the obsolete references to secretary of state and substituting references to lieutenant governor, this House joint resolution would correct the oversight.

Unlike statutes, corrections of errors and omissions in the state constitution cannot be completed editorially. Under article XIII, section 1,

Amendments. Amendments to this constitution may be proposed by a two-thirds vote of each house of the legislature. The lieutenant governor shall prepare a ballot title and proposition summarizing each proposed amendment, and shall place them on the ballot for the next general election. If a majority of the votes cast on the proposition favor the amendment, it shall be adopted. Unless otherwise provided in the amendment, it becomes effective thirty days after the certification of the election returns by the lieutenant governor.

Representative Max F. Gruenberg

March 10, 2008

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Corrective changes of this kind might have been proposed by a constitutional convention called to make changes to the state constitution. However, when, at ten-year intervals since 1970, the proposals have been presented to the voters as referenda under article XIII, section 3, the voters have repeatedly failed to approve calls for state constitutional conventions. The voters defeated the calls for constitutional conventions in each of the 1972, 1982, 1992, and 2002 general elections.

JBC:med

08-168.med

Enclosure



Alaska State Legislature

1970

Source:

SJR 2

SJR 2

SENATE JOINT RESOLUTION

Proposing that the Constitution of the State of Alaska be amended by changing the name of the secretary of state to lieutenant governor.

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

Section 1. Secs. 7, 8, 9, 10, 11, 13, 14 and 15, Art. III, Constitution of the State of Alaska, are amended to read:

SECTION 7. There shall be a lieutenant governor. He shall have the same qualifications as the governor and serve for the same term. He shall perform such duties as may be prescribed by law and as may be delegated to him by the governor.

SECTION 8. The lieutenant governor shall be nominated in the manner provided by law for nominating candidates for other elective offices. In the general election the votes cast for a candidate for governor shall be considered as cast also for the candidate for lieutenant governor running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor.

SECTION 9. In case of the temporary absence of the governor from office, the lieutenant governor shall serve as acting governor.

SECTION 10. If the governor-elect dies, resigns, or is disqualified, the lieutenant governor elected with him shall succeed to the office of governor for the full term. If the governor-elect fails to assume office for any other reason, the lieutenant governor elected with him shall serve as acting governor, and shall succeed to the office if the governor-elect does not assume his office within six months of the beginning of the term.

SECTION 11. In case of a vacancy in the office of governor for any reason, the lieutenant governor shall

succeed to the office for the remainder of the term.

SECTION 13. Provision shall be made by law for succession to the office of governor and for an acting governor in the event that the lieutenant governor is unable to succeed to the office or act as governor. No election of a lieutenant governor shall be held except at the time of electing a governor.

SECTION 14. When the lieutenant governor succeeds to the office of governor, he shall have the title, powers, duties, and emoluments of that office.

SECTION 15. The compensation of the governor and the lieutenant governor shall be prescribed by law and shall not be diminished during their term of office, unless by general law applying to all salaried officers of the State.

* Sec. 2. Secs. 2, 3, 4, 5 and 6, Art. XI, Constitution of the State of Alaska, are amended to read:

SECTION 2. An initiative or referendum is proposed by an application containing the bill to be initiated or the act to be referred. The application shall be signed by not less than one hundred qualified voters as sponsors, and shall be filed with the lieutenant governor. If he finds it in proper form he shall so certify. Denial of certification shall be subject to judicial review.

SECTION 3. After certification of the application, a petition containing a summary of the subject matter shall be prepared by the lieutenant governor for circulation by the sponsors. If signed by qualified voters, equal in number to ten per cent of those who voted in the preceding general election and resident in at least two-thirds of the election districts of the State, it may be filed with the lieutenant governor.

SECTION 4. An initiative petition may be filed at any time. The lieutenant governor shall prepare a ballot title and proposition summarizing the proposed law, and shall place them on the ballot for the first statewide election held more than one hundred twenty days after adjournment of the legislative session following the filing. If, before the election, substantially the same measure has been enacted, the petition is void.

SECTION 5. A referendum petition may be filed only within ninety days after adjournment of the legislative session at which the act was passed. The lieutenant governor shall prepare a ballot title and proposition summarizing the act and shall place them on the ballot for the first statewide election held more than one hundred eighty days after adjournment of that session.

SECTION 6. If a majority of the votes cast on the proposition favor its adoption, the initiated measure is enacted. If a majority of the votes cast on the proposition favor the rejection of an act referred, it is rejected. The lieutenant governor shall certify the election returns. An initiated law becomes effective ninety days after certification, is not subject to veto, and may not be repealed by the legislature within two years of its effective date.

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It may be amended at any time. An act rejected by referendum is void thirty days after certification. Additional procedures for the initiative and referendum may be prescribed by law.

Sec. 3. Secs. 1 and 3, Art. XIII, Constitution of the State of Alaska, are amended to read:

SECTION 1. Amendments to this constitution may be proposed by a two-thirds vote of each house of the legislature. The lieutenant governor shall prepare a ballot title and proposition summarizing each proposed amendment, and shall place them on the ballot for the next statewide election. If a majority of the votes cast on the proposition favor the amendment, it shall be adopted. Unless otherwise provided in the amendment, it becomes effective thirty days after the certification of the election returns by the lieutenant governor.

SECTION 3. If during any ten-year period a constitutional convention has not been held, the lieutenant governor shall place on the ballot for the next general election the question: "Shall there be a Constitutional Convention?" If a majority of the votes cast on the question are in the negative, the question need not be placed on the ballot until the end of the next ten-year period. If a majority of the votes cast on the question are in the affirmative, delegates to the convention shall be chosen at the next regular statewide election, unless the legislature provides for the election of the delegates at a special election. The lieutenant governor shall issue the call for the convention. Unless other provisions have been made by law, the call shall conform as nearly as possible to the act calling the Alaska Constitutional Convention of 1955, including, but not limited to, number of members, districts, election and certification of delegates, and submission and ratification of revisions and ordinances. The appropriation provisions of the call shall be self-executing and shall constitute a first claim on the state treasury.

Sec. 4. Sec. 9, Art. XV, Constitution of the State of Alaska, is amended to read:

SECTION 9. The first governor and lieutenant governor shall hold office for a term beginning with the day on which they assume office and ending at noon on the first Monday in December of the even-numbered year following the next presidential election. This term shall count as a full term for purposes of determining eligibility for reelection only if it is four years or more in duration.

Sec. 5. The amendments proposed by this resolution shall be placed before the voters of the state at the next statewide election in conformity with sec. 1, art. XIII, of the Constitution of the State of Alaska, and the state election code.

Member

Alaska State Legislature

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Representative Max F. Gruenberg, Jr.

House District 20

**Anchorage (Mountain View, Russian Jack, East Anchorage)
House Minority Assistant Floor Leader**

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SPONSOR STATEMENT FOR HJR37

BY: REPRESENTATIVE MAX F. GRUENBERG, JR.

TITLE: "Proposing amendments to the Constitution of the State of Alaska to correct obsolete references to the office of secretary of state by substituting references to the office of lieutenant governor and to eliminate personal pronoun references in the sections proposed to be amended."

In 1970 the legislature proposed and the voters of Alaska approved a series of amendments to the state constitution that changed the name of the office of "Secretary of State" to the office of "Lieutenant Governor." At that time, however, the drafting attorneys did not catch all of the references to "Secretary of State".

HJR37 corrects the two remaining references to "Secretary of State" in the state constitution. The proposed amendments, if approved by the legislature, would be placed before the voters in the next general election.

HJR37 also corrects personal pronouns referenced in the sections.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HJR37
 () Publish Date: _____

Identifier (file name): HJR037-OOG-DOE-3-7-08 Dept. Affected: OOG
 Title: Constitutional amendment to correct obsolete references to offices RDU: Elections
 Component: Elections
 Sponsor: Representative Gruenberg
 Requester: House State Affairs Committee Component Number: 21

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
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	0.0

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

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
*002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Interagency Receipts						
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The passage of this resolution would require the constitutional amendment to appear on the 2008 general election ballot. The cost of providing information about the constitutional amendment in the Official election Pamphlet, as required by AS 15.58 is \$1.5. Should the addition of this question require printing an 8-1/2 by 18 inch ballot, the cost will increase to \$22.0.

Prepared by: Gail Ferrumisi, Director Phone: 465-2644
 Division: Division of Elections Date/Time: 3/7/2008, 12:37pm
 Approved by: Linda Perez, Administrative Director Date: 3/7/2008
Office of the Governor

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Alaska State Legislature

House of Representatives



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Sectional Analysis for HJR37

BY: Representative Max F. Gruenberg, Jr.

Section 1. Amends Article II, sec. 5, Constitution of the State of Alaska

Adds: lieutenant governor
Removes: [SECRETARY OF STATE]

Adds: the legislator
Removes: [HE]

Section 2. Amends Article II, sec. 25 Constitution of the State of Alaska

Adds: lieutenant governor
Removes: [SECRETARY OF STATE]

Adds: the head of each principal department
Removes: [HE]

These sections update by correcting the only two outdated references to "secretary of state" to "lieutenant governor" following the 1970 constitutional amendment that changed the name of that office. These amendments also correct the wording of these sections to make them gender neutral.

Section 3. This section states that the constitutional amendments will be placed on the ballot at the next general election as required by Alaska.

Art. XIII, Sec. 1 of the Constitution. Two thirds of each House must approve the proposed amendment and a majority of the electoral voting must ratify it.

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MEMORANDUM

February 18, 2008

SUBJECT: Consideration of draft House Joint Resolution concerning correction of obsolete references in the state constitution to "secretary of state" (Work Order No. 25-LS1527A)

TO: Representative Max F. Gruenberg, Jr.

FROM: Jack Chenoweth
Assistant Revisor

I've prepared the draft House Joint Resolution in response to the substance of the request -- to use the "G" version of HJR 7 that was offered in the 24th Legislature. I was the drafting attorney that handled that legislation as well. At the time, I recall that I verbally counseled against introduction of the House Judiciary Committee Substitute in the form then reported. I did so out of concern that the inclusion in the committee substitute of two provisions eliminating personal pronouns in the texts of the respective sections proposed to be amended may be enough to cause the court to conclude that the joint resolution's title was incomplete. The matter of passage and presentation of the content of joint resolutions proposing constitutional amendments is guided by article XIII of the state constitution, and includes, at article XIII, section 1, direction to the lieutenant governor to

. . . prepare a ballot title and proposition summarizing each proposed amendment, and shall place them on the ballot for the next general election.

That provision has been implemented by provisions of AS 15.50, including, in AS 15.50.010(a), a limitation that "[e]ach [proposed constitutional] amendment shall be confined to one subject," and language in AS 15.50.020 to the effect that [t]he ballot title shall . . . indicate the general subject of the [proposed] act."

Suffice to say that, in the joint resolution that accompanies this memo, because the bill title identifies the correction of the obsolete references but omits mention of the elimination of the related personal pronouns, it entails the risk that, if challenged, the measure could be found unconstitutional for failure of its title to accurately describe its contents. Alternatively, though I can't imagine that the court would head off in this direction, the court might find that, as a constitutional matter, article XIII does not impose a requirement of a descriptive title for a constitutional amendment that equals the

Representative Max Gruenberg

February 18, 2008

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descriptive title requirement of the third sentence of article II, section 13, of the state constitution:

Form of Bills. Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. *The subject of each bill shall be expressed in the title.* The enacting clause shall be: "Be it enacted by the Legislature of the State of Alaska."

I would ask that you consider introduction of the measure in the form first offered, omitting the treatment of personal pronouns and limiting the subject matter to the references to "lieutenant governor [SECRETARY OF STATE]". I respectfully suggest that the latter is cleaner. Or, the title could be changed.

JBC:med

08-109.mcd

Enclosure

**Alaska State Legislature
House of Representatives**



**Representative Max F. Gruenberg, Jr.
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- Finance Subcommittees:*
 - Administration
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TO: Representative Bob Lynn
Chair, State Affairs

FROM: Representative Max F. Gruenberg, Jr. 

DATE: February 28, 2008

RE: HJR 37 - Const. AM: Sec. of State References

Please consider this memorandum as a request for the House State Affairs Committee to schedule a hearing on HJR 37. Accompanying this memo are the following documents:

- ▶ Sponsor Statement
- ▶ HJR 37 - 25-LS1527\C
- ▶ Sectional Analysis
- ▶ Legal Memorandum - Dated February 18, 2008

Many thanks.