

**HJR**

**13**



Talking Points  
HJR 13

- In 1970 the voters of Alaska changed the Constitution by changing “Secretary of State” to the “Lieutenant Governor”. When the book was redone, two typographical errors remain stating “Office of Secretary of State.” This bill just cleans up those areas.
- The proposed amendments, if approved by the legislature, would be placed before the voters in the next general election.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 19, 2009

**SUBJECT:** Combining proposed constitutional amendment HJR 2 (gender neutral pronouns) with HJR 13 (correcting obsolete references to secretary of state)

**TO:** Representative Max F. Gruenberg, Jr.

**FROM:** Tamara Brandt Cook  
Director *TBC*

You ask whether the legislature may combine HJR 2 with HJR 13 into a single proposition for constitutional amendments. The problem with this course of action is that the court has decided that each proposal for constitutional amendments must be confined to a single subject in Bess v. Ulmer, 985 P.2d 979 (Alaska 1999). While the court has upheld very broad subjects in cases construing the single-subject requirement that applies to bills changing statutes, there have been no other cases that shed light on the scope of a single subject for the purposes of proposed constitutional amendments. I think that there is a reasonably good chance that the court, if confronted with a constitutional amendment proposal consisting of the contents of both HJR 2 and HJR 13, would conclude that the proposal is encompassed in the single subject of technical, nonsubstantive amendments. Nonetheless, it is not certain that a court would agree for the reasons stated in a memorandum on this subject to you by Jack Chenoweth, Assistant Revisor, dated March 19, 2008, copy attached. Therefore, the safest course is for HJR 2 and HJR 13 to be offered to the people to consider as separate proposals.

TBC:med  
09-010.med

Attachment

# LEGAL SERVICES

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## MEMORANDUM

March 19, 2008

**SUBJECT:** Consistent with the analytical principles set out in *Bess v. Ulmer*, may HJR 7 (proposing constitutional amendments substituting gender-neutral language for personal pronouns) and HJR 37 (proposing constitutional amendments to correct obsolete references to secretary of state) be combined?

**TO:** Representative Max F. Gruenberg, Jr.

**FROM:** Jack Chenoweth  
Assistant Revisor

As you and I have discussed, I am reluctant to endorse any proposal to combine the two joint resolutions identified in this memo's subject line into a committee substitute. I say this principally because of concerns arising out of the court's decision in *Bess v. Ulmer*, 985 P.2d 979 (Alaska 1999).

Under section 1 of article XIII, the legislature may initiate proposed constitutional amendments:

**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.

By contrast, under section 4 of that article, constitutional revision is the prerogative of a constitutional convention:

**Powers.** Constitutional conventions shall have plenary power to amend or revise the constitution, subject only to ratification by the people. No call for a constitutional convention shall limit these powers of the convention.

The decision in *Bess* established that the legislature's power to propose a change in the text of the state constitution is limited to amendments that are "few, simple, independent,

and of comparatively small importance."<sup>1</sup> The legislature lacks authority, the court concluded, to propose changes to the document's "substance and integrity." Changes of that magnitude would have to be prepared and offered by a constitutional convention as revisions. The standard that the court fashioned relates that:

... an enactment which is so extensive in its provisions as to change directly the "substantial entirety" of the constitution by the deletion or alteration of numerous existing provisions may well constitute a revision thereof [while] even a relatively simple enactment may accomplish such far reaching changes in the nature of our basic governmental plan as to amount to a revision also.

The process of amendment, on the other hand, is proper for those changes which are "few, simple, independent, and of comparatively small importance." The core determination is always the same: whether the changes are so significant as to create a need to consider the constitution as an organic whole.

*Bess*, 985 P.2d at 987 (notes omitted).

The *Bess* standard spoke of evaluating an amendment's qualitative and quantitative effects.

#### **HJR 7:**

Quantitatively, the material in HJR 7 arguably fails at least part of the standard. The proposed changes are, admittedly, not clearly "few," nor, it may be contended, are they "independent." On the other hand, the material proposes changes that are "simple" -- the amendment is confined to a series of technical changes affecting singular masculine personal pronouns and a handful of gender-related terms. At least when compared to the much more significant questions of assigning powers among the branches of government, limiting the exercise of institutional authority, or providing protection of individual rights, cited as examples by the court in *Bess*, HJR 7 does not propose to make fundamental changes in the scheme or plan of operation of the state government. Indeed, in that context, the modifications proposed in HJR 7 are arguably of relative unimportance.

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<sup>1</sup> The court prefaced its analysis by noting that, in its view, the framers' distinction between an amendment and a revision was intended to be substantive, and concluded that:

a revision is a change which alters the substance and integrity of our Constitution in a manner measured both qualitatively and quantitatively.

*Bess*, 985 P.2d at 982.

Qualitatively, it is my observation that nothing in the resolution would "substantially alter the substance and integrity of the state Constitution as a document of independent force and effect." *Bess*, 985 P.2d at 987, quoting *Raven v. Deukmejian*, 801 P.2d 1077, 1087 (Cal. 1990) (note omitted). The material in the resolution is arguably wholly technical and not intended to make a substantive change in a matter of constitutional law.

On balance, I am satisfied that, if challenged, the court could conclude that the absence of qualitative change within the proposed amendments as set out and, despite the number of sections affected, the relatively insignificant incidental effect on the integrity of the document as a whole would allow the material in HJR 7 to be treated through the amendment process rather than as a revision.<sup>2</sup>

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<sup>2</sup> When, in 1955-1956, the Alaska Constitution was deliberated, decades of territorial bill drafting practice reflected use of the masculine gender to reference to the feminine. See, for example, CLA 1913, § 2096 ("[t]hat words used in the masculine gender comprehend as well the feminine and the neuter"), CLA 1933, § 3274 (same), both part of the territorial compiled laws. The Constitutional Convention's Style and Drafting Committee prepared a "Drafting Suggestions" memo to guide its work; the document cited to Crawford, *Statutory Construction*, as a source, and that volume, at § 374, endorses the idea that "words importing the masculine gender may include the feminine and neuter." Indeed the Constitution itself relates (article XII, section 10) that "Personal pronouns used in this constitution shall be construed as including either sex," but the document makes no use of words imparting feminine gender. A later, 1981 edition of the *Merriam Webster Legal Secretaries Handbook* directs that:

Notwithstanding recent concern about sexism in language, forms of the personal pronoun *he* and the indefinite pronoun *one* are still standard substitutes for antecedents whose genders are mixed or irrelevant:

Handbook, at page 247.

Times change. In 1981-1982, the Twelfth Legislature initiated a change to the state's bill drafting policy. The original form of the vehicle of change, SB 266, declared:

POLICY. The constitution and laws of Alaska prohibit discrimination because of sex. In keeping with the spirit of those prohibitions the legislature now recognizes the inherent bias our laws occasioned by an official policy calling for the use of the masculine pronoun in the Alaska Statutes. The legislature finds that the interest of all Alaskans would be best served by eliminating all vestiges of sexual discrimination. The legislature declares a step in that endeavor by establishing in this Act the official policy of eliminating, whenever possible, the use of sexually explicit pronouns in the Alaska Statutes.

**HJR 37:**

My analysis of the resolution you introduced would proceed along the same lines. Suffice to say, a resolution that substitutes only references to "lieutenant governor" for the two obsolete references to "secretary of state" should easily meet the *Bess* criteria.

\*

My doubts about the likelihood that a merger of these two measures would survive judicial scrutiny is based on two other elements of the *Bess* decision.

The court's preliminary opinion in the *Bess* matter looked at the qualitative standard from a different perspective, indicating that changes that are "few and simple and independent" are permissible amendments while "sweeping change" requires revision. In that preliminary opinion, the court identified four factors that suggest that a particular proposal is a valid amendment: it (1) "is simple to express and understand"; (2) "is complete within itself"; (3) "*relates to only one subject*"; and (4) "does not substantially affect numerous other sections of the constitution. . . ." Preliminary Opinion and Order, at paragraphs 10 and 12 (emphasis added). The third of the four factors gives pause. It may be argued -- well argued, in my view -- that the reference puts the legislature on notice that the court is prepared to examine proposed constitutional amendments for compliance with a single subject requirement. A committee substitute joint resolution that combines arguably unrelated topics invites tougher scrutiny.

Any hesitation of that point should be resolved by the court's caution concerning joinder of marginally consistent subjects, as expressed within the *Bess* decision. Speaking of a proposed "amendment" to the California Constitution that ran to 228 subsections and more than 21,000 words, the court noted the California Supreme Court's rejection of the proposal as an "amendment":

The proposal is offered as a single amendment but it obviously is multifarious. *It does not give the people an opportunity to express approval or disapproval severally as to each major change suggested; rather does it, apparently, have the purpose of aggregating for the measure the favorable votes from electors of many suasions who, wanting strongly enough any one or more propositions offered, might grasp at that which they want, tacitly accepting the remainder.* Minorities favoring each proposition severally might, thus aggregated,

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While the bill's policy statement didn't survive the committee review process, the direction to the revisor of statutes to "edit and revise the laws enacted by the legislature, without changing the meaning of any law, so as to avoid the use of pronouns denoting masculine or feminine gender" has become part of the current statute law. AS 01.05.031(c).

Representative Max Gruenberg

March 19, 2008

Page 5

adopt all. Such an appeal might well be proper in voting on a revised constitution, proposed under the safeguards provided for such a procedure, but it goes beyond the legitimate scope of a single amendatory article. There is in the measure itself no attempt to enumerate the various and many articles and sections of our present Constitution which would be affected, altered, replaced or repealed.

*Bess*, 985 P.2d at 985, considering *McFadden v. Jordan*, 196 P.2d 787, 796 - 797 (Cal. 1948) (emphasis added). Neither of the changes you're contemplating by combining HJR 7 and HJR 37 is as lengthy or extensive as those alluded to by the Alaska court in its comments concerning *McFadden*. Still, our Supreme Court's reference does serve as a warning that it may consider as clearly distinct or separate the elements of the material presented within a modified House Joint Resolution proposing the amendment. Taken altogether, the court might be more disposed to view these separate elements as evidence of matter that should be treated as a revision for the public to consider through presentation by a constitutional convention rather than for the legislature to initiate.

The drafting manual relates that "[a] legal opinion [provided by this office] expresses a well-considered opinion that may or may not be agreed with by a court faced with the same issue at a later date." At this point, I feel that I am obligated to identify the considerations that may bear on the court's *Bess* analysis if the question of combining the two joint resolutions into one measure is offered. The *Bess* decision has so limited a later appellate history that I don't feel I can be any more definitive.

JBC:ljw

08-158.ljw

# Committee Action on Legislation

HOUSE RECORDS COMMITTEE SECRETARY: LORI ROLAND

FEBRUARY 19, 2009

HOUSE STATE AFFAIRS STANDING COMMITTEE

PAGE 1 OF 1

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#	SHORT TITLE	ACTION TAKEN ON LEGISLATION
		<input checked="" type="checkbox"/> Moved Out of Cmte
		<input type="checkbox"/> Moved CS (____)Out of Cmte
		<input type="checkbox"/> Moved HCS (____)Out of Cmte
		<input type="checkbox"/> Heard and Held
		<input type="checkbox"/> Heard and Held; Assigned to Subcmte
		<input type="checkbox"/> Scheduled but not Heard
		<input type="checkbox"/> Failed to Move Out of Committee
		<input type="checkbox"/> Waived Out of Committee

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#	SHORT TITLE	ACTION TAKEN ON LEGISLATION
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		<input type="checkbox"/> Scheduled but not Heard
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		<input type="checkbox"/> Heard and Held
		<input type="checkbox"/> Heard and Held; Assigned to Subcmte
		<input type="checkbox"/> Scheduled but not Heard
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# Alaska State Legislature



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*A Communication From*  
**REPRESENTATIVE BOB LYNN**  
**District 31 Anchorage**

**E-Mail:** Representative\_Bob\_Lynn@legis.state.ak.us  
**"Bob Lynn's Alaska Blog"** www.RepLynnBlog.com

## **SPONSOR STATEMENT** **HJR 13**

**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."

In 1970 Alaska voters approved amendments to the state constitution changing the name of "Secretary of State" to "Lieutenant Governor." At that time, however, the drafting attorneys did not catch all of the references to "Secretary of State". HJR13 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.

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## Sectional Analysis for HJR 13

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

Adds: lieutenant governor  
Removes: [SECRETARY OF STATE]

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

Adds: lieutenant governor  
Removes: [SECRETARY OF STATE]

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.

**Section 3.** This section states that the constitutional amendments will be placed on the ballot at the next general election as required by Art. XIII, Sec. 1 of the Alaska Constitution. Two thirds of each House must approve the proposed amendments and a majority of the electorate voting must ratify it.

# FISCAL NOTE

STATE OF ALASKA  
2009 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HJR13  
( ) Publish Date: \_\_\_\_\_

Identifier (file name): HJR003-OOG-DOE-2-5-09 Dept. Affected: OOG  
Title Constitutional amendment to correct obsolete references RDU Elections  
to office of secretary of state Component Elections  
Sponsor House State Affairs Committee  
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 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual			1.5					
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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**FUND SOURCE** (Thousands of Dollars)

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1002 Federal Receipts							
1003 GF Match							
1004 GF			1.5				
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2009) 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 2010 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 Fenumiai, Director Phone 465-4611  
Division: Division of Elections Date/Time 2/13/09, 8:26am  
Approved by: Linda Perez, Director Date 2/13/2009  
Division of Administrative Services

## States Pursue Title of Lieutenant Governor

The last states without lieutenant governors may soon jump on the bandwagon. Two states, Tennessee and Arizona, are pursuing in this legislation session the creation of the lieutenant governor position as a statewide elected office. Rhode Island lawmakers are considering expanding powers of the lieutenant governor. Only five states do not have lieutenant governors.

In each case, lieutenant governor supporters say the position allows for gubernatorial succession that's clear to voters, while protecting the continuity of government.

However, in Arizona, Oregon and Wyoming, states without the lieutenant governor position, the secretary of state is first in line for gubernatorial succession.

"People who are voting for secretary of state should note they are also electing the person next in line for governor," Arizona

Sen. Chuck Gray told the Cronkite News Service.

An East Valley Tribune editorial agreed: "Arizonans always should keep in mind that the official who oversees the state election system suddenly could have power to veto legislation and control a large portion of state government, if the governor became unable to do the job."

Gubernatorial succession has happened five times in Arizona's 95-year history, most recently in 1997 when then-Secretary of State Jane Hull replaced Fife Symington. Voters may not realize that the secretary of state is next in line if the current governor dies or resigns since nearly all other states have a lieutenant governor, according to the East Valley Tribune editorial.

Four states place the senate president first in line to replace the governor, but

Tennessee and West Virginia give the title lieutenant governor to this officer in recognition of the vital succession duty. Yet, Tennessee this year is considering creating an office of lieutenant governor, which would be elected statewide.

"An elected lieutenant governor is a companion piece to any sort of sensible line of succession," Gov. Phil Bredesen told *The Tennessean*. Only three officials are elected statewide in Tennessee, the governor and two U.S. senators.

New Hampshire and Maine are the other states where the senate president is first in line of succession and with no use of the lieutenant governor title. Voters in New Jersey approved creation of a statewide elected office of lieutenant governor in 2005; the first will be elected next year in 2009.

## States Lengthen School Days



An additional 33 schools in 16 districts are in the pipeline and hope to convert to longer days in the future, according to *The Boston Globe*.

In most cases, the school days are expanded from six-hour days to eight- or nine-hour days.

The Commonwealth Readiness Project—the cornerstone of Gov. Deval Patrick's education priorities—issued an update in January 2008 that continued the recommendation of expanded teaching and learning time in Massachusetts.

"Expanded teaching and learning time, whether through full-day kindergarten, longer school days, summer learning programs or high-quality out-of-school or after-school programs, can provide increased opportunities that impact academic achievement, address out-of-school factors, such as health and nutrition and enhance support services including in-home resources and parenting skills," the report stated.

The Massachusetts report also said schools with longer days narrowed the achievement gap at a faster rate than the state and increased the number of students

at or above the proficiency level by 10.8 percent compared to the state rate of only 3.5 percent.

Sen. Edward M. Kennedy, chairman of the U.S. Senate's Health, Education, Labor and Pensions Committee, joined with Boston Mayor Thomas M. Menino, to celebrate expanded school day programs in Massachusetts at the Clarence R. Edwards Middle School in Charlestown in January. The middle school implemented the state's expanded learning time initiative in 2006.

"It gives students the time not only to master the basics, but also to expand their horizons through art, music, physical education and other activities. It gives teachers additional time for collaboration and planning to improve instruction," Kennedy said in a press release.

New York tacked on minutes a day for schools in 28 different school systems, *The Washington Post* reports. New Mexico is also spending slightly more than \$7 million to add 25 extra days at 29 schools where students need the most help, according to *the Post*.

In an effort to raise achievement in schools, some states are looking to lengthen the school day. A handful of states and cities, along with many charter schools, are seeking to add more hours, days and weeks to their school calendar, according to *The Washington Post*.

Massachusetts is spending \$13 million this year as part of a program to lengthen school days, according to Heidi Guarino, spokeswoman for the Massachusetts Department of Education. Ten schools made school days longer for the 2006-2007 school year and this school year, the number of schools increased to 19, Guarino said.

from: 51 State News at 9 (March 2008)  
distributed by Bisantha...  
1760

2008 HJR 37

Bill History/Action for 25th Legislature

BILL: HJR 37

SHORT TITLE: CONST AM: SEC. OF STATE REFERENCES

BILL VERSION: CSHJR 37(JUD)

CURRENT STATUS: (S) FIN

STATUS DATE: 04/06/08

SPONSOR(s): REPRESENTATIVE(s) GRUENBERG, Cissna

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.

HJR 37  
minutes

Bill Number:

Jrn-Date	Jrn-Page	Action
02/19/08	<u>2002</u>	(H) READ THE FIRST TIME - REFERRALS
02/19/08	<u>2002</u>	(H) STA, JUD
03/17/08	<u>2291</u>	(H) STA RPT 4DP 1NR
03/17/08	<u>2291</u>	(H) DP: JOHNSON, GRUENBERG, DOLL, ROSES
03/17/08	<u>2291</u>	(H) NR: COGHILL
03/17/08	<u>2292</u>	(H) FN1: (GOV)
03/17/08	<u>2316</u>	(H) FIN REFERRAL ADDED AFTER JUD
03/20/08	<u>2378</u>	(H) JUD RPT CS(JUD) NT 5DP 1NR
03/20/08	<u>2378</u>	(H) DP: GRUENBERG, COGHILL, DAHLSTROM, LYNN, RAMRAS
03/20/08	<u>2378</u>	(H) NR: SAMUELS
03/20/08	<u>2378</u>	(H) FN1: (GOV)
03/28/08	<u>2485</u>	(H) FIN RPT CS(JUD) NT 4DP 5NR
03/28/08	<u>2485</u>	(H) DP: CRAWFORD, KELLY, THOMAS, MEYER
03/28/08	<u>2485</u>	(H) NR: HAWKER, GARA, STOLTZE, JOULE, CHENAULT
03/28/08	<u>2485</u>	(H) FN1: (GOV)
03/31/08	<u>2517</u>	(H) RULES TO CALENDAR 3/31/2008
03/31/08	<u>2517</u>	(H) READ THE SECOND TIME
03/31/08	<u>2518</u>	(H) JUD CS ADOPTED UNAN CONSENT
03/31/08	<u>2518</u>	(H) ADVANCED TO THIRD READING UNAN CONSENT
03/31/08	<u>2518</u>	(H) READ THE THIRD TIME CSHJR 37(JUD)
03/31/08	<u>2518</u>	(H) PASSED Y36 N1 E3
03/31/08	<u>2521</u>	(H) COSPONSOR(S): CISSNA
03/31/08	<u>2523</u>	(H) TRANSMITTED TO (S)
03/31/08	<u>2523</u>	(H) VERSION: CSHJR 37(JUD)
04/01/08	<u>2492</u>	(S) READ THE FIRST TIME - REFERRALS
04/01/08	<u>2492</u>	(S) JUD, FIN
04/06/08	<u>2669</u>	(S) JUD RPT 3DP 2NR
04/06/08	<u>2669</u>	(S) DP: FRENCH, WIELECHOWSKI, MCGUIRE
04/06/08	<u>2669</u>	(S) NR: THERRIAULT, HUGGINS
04/06/08	<u>2669</u>	(S) FN1: (GOV)
04/06/08	<u>2669</u>	(S) REFERRED TO FINANCE

[Similar Subject Match](#) or [Exact Subject Match](#)

Committee Minutes

Mar 15, 2008

HJR 37-CONST AM: SEC. OF STATE REFERENCES

[Contains mention of HJR 7.]

11:08:23 AM

VICE CHAIR ROSES announced that the first order of business was HOUSE JOINT RESOLUTION NO. 37, 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.

11:08:37 AM

REPRESENTATIVE GRUENBERG presented HJR 37 as prime sponsor. He stated his hope that the resolution would be noncontroversial. He said it is similar to HJR 7, which was sponsored by Representative Anderson in 2007. As noted in the sponsor statement and in a memorandum from Jack Chenoweth of Legislative Legal and Research Services, dated 2/18/08, included in the committee packet, voters approved a series of amendments to the Constitution of the State of Alaska in 1970, technically changing the name, "Office of Secretary of State," to "Office of the Lieutenant Governor." However, through an oversight, the drafting attorneys missed two of the references to secretary of state, located in Article 2, Section 5, and Article 3, Section 25. The proposed resolution would correct that technical oversight. Furthermore, the resolution would change masculine pronouns to gender neutral.

11:10:53 AM

VICE CHAIR closed public testimony.

11:11:03 AM

REPRESENTATIVE GRUENBERG moved to report HJR 37 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HJR 37 was reported out of the House State Affairs Standing Committee.

*3 minutes*

*2/18/09  
to Deven 4/9/09  
asked for memo from  
Jack Chenoweth.*

BRENDA PAGE, Assistant Attorney General  
Labor and State Affairs Section  
Civil Division (Anchorage)  
Department of Law (DOL)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on  
HB 281.

JANE W. PIERSON, Staff  
to Representative Jay Ramras  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered a question during the hearing on  
HB 281.

LISA MARIOTTI, Staff  
to Representative Max Gruenberg  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on  
HB 368.

#### **ACTION NARRATIVE**

**CHAIR JAY RAMRAS** called the House Judiciary Standing Committee meeting to order at 1:11:42 PM. Representatives Lynn, Gruenberg, Dahlstrom, Coghill, and Ramras were present at the call to order. Representative Samuels arrived as the meeting was in progress.

#### HJR 37 - CONST AM: SEC. OF STATE REFERENCES

1:12:05 PM

CHAIR RAMRAS announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 37, 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.

1:13:01 PM

REPRESENTATIVE DAHLSTROM moved to adopt the proposed committee substitute (CS) for HJR 37, Version 25-LS1527\E, Chenoweth,

*5 Minutes*

3/18/08, as the work draft. There being no objection, Version E was before the committee.

REPRESENTATIVE GRUENBERG, speaking as the sponsor of HJR 37, relayed that the resolution cures an oversight that occurred in 1970, when the legislature changed the name of the office of secretary of state to the office of lieutenant governor. At that time, two sections were missed and so this resolution would conform those sections. Version E also removes the provision in the original resolution to eliminate personal pronoun references, he explained, because gender neutral references are instead being addressed by HJR 7.

*eliminated  
General  
Neutral  
from his bill*

CHAIR RAMRAS, after ascertaining that no one wished to testify, closed public testimony on HJR 37.

1:14:52 PM

REPRESENTATIVE GRUENBERG, in response to questions, indicated that his attention was drawn to this matter by an identical bill that died in committee during a prior legislature.

REPRESENTATIVE COGHILL pointed out that the proposed constitutional amendment must be approved by the voters. He then asked about the purpose of the change from secretary of state to lieutenant governor.

REPRESENTATIVE GRUENBERG surmised that it was a more modern term.

REPRESENTATIVE COGHILL observed that the governor has the authority to assign broad duties to the lieutenant governor.

1:16:58 PM

REPRESENTATIVE DAHLSTROM moved to report the committee substitute for HJR 37, 25-LS1527\E, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 37(JUD) was reported out of the House Judiciary Standing Committee.

HB 281 - CAMPAIGN FINANCE COMPLAINTS

1:17:30 PM

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 281, "An Act extending the statute of limitations

## Committee Minutes

Mar 27, 2008

2:48:48 PM

HOUSE JOINT RESOLUTION NO. 37

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.

REPRESENTATIVE MAX GRUENBERG, SPONSOR, advised that 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, the drafting attorneys did not catch all of the references to "Secretary of State".

HJR 37 corrects the two remaining references to "Secretary of State". The proposed amendments, if approved would place it before the voters in the next general election. He added, it also corrects personal pronouns referenced in those sections.

2:50:27 PM

In response to Representative Gara's observation of changing all pronouns to "he", Representative Gruenberg responded that he wanted to take the path of least resistance and controversy.

Representative Gara thought that since the bill intends to be a "clean-up", all legislators should not be referenced as "he". Representative Gruenberg noted that the original bill could be adopted rather the House Judiciary draft.

Representative Gara asked why the House Judiciary Committee changed the pronouns to "he". Representative Gruenberg noted that the House Judiciary draft has attached a memorandum addressing two subjects. For that reason, it was determined safer to limit it to "Lt. Governor" and "he". He noted that another bill HJR 7, adds additional language clean-up.

2:53:41 PM

Vice-Chair Stoltze commented that incorrect gender reference falls under obsolete but that the courts will do what they want to in any case. He noted that he had not received any complaints regarding the matter.

Representative Hawker questioned why an oversight from a previous amendment, merits a process of putting it back in front of the people for a vote. Representative Gruenberg responded that it is important to keep the Alaska Constitution correct and up to date, acknowledging, it is not earth-shaking.

2:58:16 PM

Vice-Chair Stoltze stated that he would vote "do not pass" the bill out of Committee if the sponsor intended to place any amendments into it on the House floor. Representative Gruenberg replied he had no intention of adding amendments.

Co-Chair Chenault MOVED to REPORT CS HJR 37 (JUD) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS HJR 37 (JUD) was reported out of Committee with "individual recommendations" and with fiscal note #1 by the Office of the Governor.

3:01:00 PM

10 min

## Committee Minutes

Apr 05, 2008

CSHJR 37(JUD)-CONST AM: SEC. OF STATE REFERENCES

CHAIR FRENCH announced the consideration of CSHJR 37(JUD).

10:11:34 AM

DENEEN TUCK, Staff to Representative Max Gruenberg, sponsor of HJR 37, explained that in 1970, the voters of Alaska approved amendments to the state constitution to change the name of "secretary of state" to "lieutenant governor". At that time, the drafting attorneys caught all but two of the references to secretary of state, and HJR 37 corrects those omissions. The attached \$1,500 fiscal note is to cover the first-time publication of the corrected references.

10:12:36 AM

CHAIR FRENCH recapped that Sections 1 and 2 each replace one reference to "secretary of state" with "lieutenant governor," and Section 3 says the constitutional amendments will be placed before the voters of the state because the legislature can't change the constitution without voter approval.

MS. TUCK agreed.

CHAIR FRENCH asked how the word "secretary of state" got into the state constitution in the first place.

REPRESENTATIVE MAX GRUENBERG, sponsor of HJR 37, explained that in the past all states used the term "secretary of state" to identify the second highest office in the state. In the last 30-40 years all but two states changed the second highest office to "lieutenant governor." Now some states have a secretary of state, but that person isn't the second in line after the governor.

CHAIR FRENCH noted the bill history provided in the packet.

REPRESENTATIVE GRUENBERG credited former Representative Anderson with introducing the legislation in the 24 legislature.

10:15:15 AM

CHAIR FRENCH found no one who wished to testify on behalf of HJR 37, and closed public testimony. Finding no further discussion, he asked the will of the committee.

SENATOR MCGUIRE motioned to report CSHJR 37 and attached fiscal note(s) from committee with individual recommendations.

CHAIR FRENCH announced that without objection CSHJR 39(JUD) is moved from the Senate Judiciary Committee.

*4 min*

# FISCAL NOTE

STATE OF ALASKA  
2010 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HJR13  
( ) Publish Date: \_\_\_\_\_

Identifier (file name): HJR013-OOG-DOE-2-1-10 Dept. Affected: OOG  
Title Constitutional amendment to correct obsolete references RDU Elections  
to office of secretary of state Component Elections  
Sponsor House State Affairs Committee  
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 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual			1.5					
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>		<b>0.0</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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**FUND SOURCE** (Thousands of Dollars)

	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
1002 Federal Receipts							
1003 GF Match							
1004 GF			1.5				
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>0.0</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: \_\_\_\_\_

**POSITIONS**

	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
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 2010 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 Fenumiai, Director Phone 465-4611  
Division Division of Elections Date/Time 2/1/10, 8:52am  
Approved by: Linda Perez, Director Date \_\_\_\_\_  
Division of Administrative Services