

HJR

14

<TARGET><BILL>HJR 14</BILL><SUBJECT>HJR
14</SUBJECT><COMM>HJUD27</COMM></TARGET>

Alaska State Legislature

House of Representatives



Representative Max F. Gruenberg, Jr.

House District 20

Anchorage (Mountain View, Russian Jack, East Anchorage)

House Minority Floor Leader

Member

Standing Committees:

Judiciary

Rules

State Affairs

Transportation

Interim:

716 W 4th Avenue, Rm 350
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Rep.Max.Gruenberg@legis.state.ak.us

TO: Representative Carl Gatto, Chair
House Judiciary Committee

FROM: Representative Max F. Gruenberg, Jr. *MFG*

DATE: February 10th, 2011

RE: HJR 14: Constitutional Amendment Secretary of State References



Please consider this memorandum as a request for the House Judiciary Committee to schedule a hearing on House Joint Resolution 14. Accompanying this memo are the following documents:

- Sponsor Statement
- Sectional Analysis
- House Joint Resolution 14 (27-LS0422\A)
- Legislative Legal Counsel Memo from Jack Chenoweth, March 10, 2008
- Copy of passages from the Alaska Constitution

Thank you for considering my request for a hearing on House Joint Resolution 14. Please contact my legislative aide, Ted Madsen, at 465-2840 with any questions.

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House Joint Resolution 14:
Constitutional Amendment:
Secretary of State References
Sponsor Statement

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." HJR 14 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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House Joint Resolution 14: Constitutional Amendment: Secretary of State References Sectional Analysis

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

Adds: **lieutenant governor**
Removes: [SECRETARY OF STATE]

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

Adds: **lieutenant governor**
Removes: [SECRETARY OF STATE]

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

LEGAL SERVICES

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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-LS1527\C)

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
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Enclosure

Article 2 ~ The Legislature

Article 2, Sections:

1. Legislative Power; Membership
2. Members: Qualifications
3. Election and Terms
4. Vacancies
5. Disqualifications
6. Immunities
7. Salary and Expenses
8. Regular Sessions
9. Special Sessions
10. Adjournment
11. Interim Committees
12. Rules
13. Form of Bills
14. Passage of Bills
15. Veto
16. Action Upon Veto
17. Bills Not Signed
18. Effective Date
19. Local or Special Acts
20. Impeachment
21. Suits Against the State

§ 1. Legislative Power; Membership - The legislative power of the State is vested in a legislature consisting of a senate with a membership of twenty and a house of representatives with a membership of forty.

§ 2. Members: Qualifications - A member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the

district from which elected for at least one year, immediately preceding his filing for office. A senator shall be at least twenty-five years of age and a representative at least twenty-one years of age.

§ 3. Election and Terms - Legislators shall be elected at general elections. Their terms begin on the fourth Monday of the January following election unless otherwise provided by law. The term of representatives shall be two years, and the term of senators, four years. One-half of the senators shall be elected every two years.

Editor's Note - The legislature has provided that the terms of legislators begin on the second Monday in January following a presidential election year and on the third Tuesday in January following a gubernatorial election year. See AS 24 05 080.

§ 4. Vacancies - A vacancy in the legislature shall be filled for the unexpired term as provided by law. If no provision is made, the governor shall fill the vacancy by appointment.

§ 5. Disqualifications - No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member

The Alaska Constitution

of Congress. This section shall not apply to employment by or election to a constitutional convention.

Editor's Note - Senate Joint Resolution No. 2, "changing the name of the secretary of state to lieutenant governor" in 16 sections of the Alaska Constitution, approved by the voters August 25, 1970, inadvertently omitted express amendment of this section.

§ 6. Immunities - Legislators may not be held to answer before any other tribunal for any statement made in the exercise of their legislative duties while the legislature is in session. Members attending, going to, or returning from legislative sessions are not subject to civil process and are privileged from arrest except for felony or breach of the peace.

§ 7. Salary and Expenses - Legislators shall receive annual salaries. They may receive a per diem allowance for expenses while in session and are entitled to travel expenses going to and from sessions. Presiding officers may receive additional compensation.

§ 8. Regular Sessions - The legislature shall convene in regular session each year on the fourth Monday in January, but the month and day may be changed by law. The legislature shall adjourn from regular session no later than one hundred twenty consecutive calendar days from the date it convenes except that a regular session may be extended once for up to ten consecutive calendar days. An extension of the regular session requires the affirmative vote of at least two-thirds of the membership of each house of the legislature. The legislature shall adopt as part of the uniform rules of procedure deadlines for scheduling session work not inconsistent with

Article 2 ~ The Legislature

provisions controlling the length of the session. [Amended 1984]

§ 9. Special Sessions - Special sessions may be called by the governor or by vote of two-thirds of the legislators. The vote may be conducted by the legislative council or as prescribed by law. At special sessions called by the governor, legislation shall be limited to subjects designated in his proclamation calling the session, to subjects presented by him, and the reconsideration of bills vetoed by him after adjournment of the last regular session. Special sessions are limited to thirty days. [Amended 1976]

§ 10. Adjournment - Neither house may adjourn or recess for longer than three days unless the other concurs. If the two houses cannot agree on the time of adjournment and either house certifies the disagreement to the governor, he may adjourn the legislature.

§ 11. Interim Committees - There shall be a legislative council, and the legislature may establish other interim committees. The council and other interim committees may meet between legislative sessions. They may perform duties and employ personnel as provided by the legislature. Their members may receive an allowance for expenses while performing their duties.

§ 12. Rules - The houses of each legislature shall adopt uniform rules of procedure. Each house may choose its officers and employees. Each is the judge of the election and qualifications of its members and may expel a member with the concurrence of two-thirds of its members. Each shall keep a journal of its

§ 17. **Convening Legislature** ~ Whenever the governor considers it in the public interest, he may convene the legislature, either house, or the two houses in joint session.

§ 18. **Messages to Legislature** ~ The governor shall, at the beginning of each session, and may at other times, give the legislature information concerning the affairs of the State and recommend the measures he considers necessary.

§ 19. **Military Authority** ~ The governor is commander-in-chief of the armed forces of the State. He may call out these forces to execute the laws, suppress or prevent insurrection or lawless violence, or repel invasion. The governor, as provided by law, shall appoint all general and flag officers of the armed forces of the State, subject to confirmation by a majority of the members of the legislature in joint session. He shall appoint and commission all other officers.

§ 20. **Martial Law** ~ The governor may proclaim martial law when the public safety requires it in case of rebellion or actual or imminent invasion. Martial law shall not continue for longer than twenty days without the approval of a majority of the members of the legislature in joint session.

§ 21. **Executive Clemency** ~ Subject to procedure prescribed by law, the governor may grant pardons, commutations, and reprieves, and may suspend and remit fines and forfeitures. This power shall not extend to impeachment. A parole system shall be provided by law.

§ 22. **Executive Branch** ~ All executive and administrative offices, departments, and agencies of the state government and their respective functions, powers, and duties shall be allocated by law among and within not more than twenty principal departments, so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may be established by law and need not be allocated within a principal department.

§ 23. **Reorganization** ~ The governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have sixty days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in joint session, these orders become effective at a date thereafter to be designated by the governor.

§ 24. **Supervision** ~ Each principal department shall be under the supervision of the governor.

§ 25. **Department Heads** ~ The head of each principal department shall be a single executive unless otherwise provided by law. He shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and shall serve at the pleasure of the governor, except as

otherwise provided in this article with respect to the secretary of state. The heads of all principal departments shall be citizens of the United States.

Editor's Note: Senate Joint Resolution No. 2 "changing the name of the secretary of state to lieutenant governor" in 16 sections of the Alaska Constitution, approved by the voters August 25, 1970, inadvertently omitted express amendment of this section.

§ 26. **Boards and Commissions** ~ When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the leg-

islature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

§ 27. **Recess Appointments** ~ The governor may make appointments to fill vacancies occurring during a recess of the legislature, in offices requiring confirmation by the legislature. The duration of such appointments shall be prescribed by law.

Article 3 ~ The Executive

Article 3, Sections:

1. Executive Power
2. Governor: Qualifications
3. Election
4. Term of Office
5. Limit on Tenure
6. Dual Office Holding
7. Lieutenant Governor Duties
8. Election
9. Acting Governor
10. Succession: Failure to Qualify
11. Vacancy
12. Absence
13. Further Succession
14. Title and Authority
15. Compensation
16. Governor's Authority
17. Convening Legislature
18. Messages to Legislature
19. Military Authority
20. Martial Law
21. Executive Clemency
22. Executive Branch
23. Reorganization
24. Supervision
25. Department Heads
26. Boards and Commissions
27. Recess Appointments

§ 1. **Executive Power** ~ The executive power of the State is vested in the governor

§ 2. **Governor: Qualifications** ~ The governor shall be at least thirty years of age and a qualified voter of the State. He shall have been a resident of Alaska at least seven years immediately preceding his filing for office, and he shall have been a citizen of the United States for at least seven years.

§ 3. **Election** ~ The governor shall be chosen by the qualified voters of the State at a general election. The candidate receiving the greatest number of votes shall be governor.

§ 4. **Term of Office** ~ The term of office of the governor is four years, beginning at noon on the first Monday in December following his election and ending at noon on the first Monday in December four years later.

§ 5. **Limit on Tenure** ~ No person who has been elected governor for two full successive terms shall be again eligible to hold that office until one full term has intervened.

§ 6. **Dual Office Holding** ~ The governor shall not hold any other office or position of profit under the United States, the State, or its political subdivisions.

§ 7. **Lieutenant Governor Duties** ~ 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. [Amended 1970]

§ 8. **Election** ~ 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. [Amended 1970]

§ 9. **Acting Governor** ~ In case of the temporary absence of the governor from office, the lieutenant governor shall serve as acting governor. [Amended 1970]

§ 10. **Succession: Failure to Qualify** ~ 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. [Amended 1970]

§ 11. **Vacancy** ~ 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. [Amended 1970]

§ 12. **Absence** ~ Whenever for a period of six months, a governor has been continuously absent from office or has been

unable to discharge the duties of his office by reason of mental or physical disability, the office shall be deemed vacant. The procedure for determining absence and disability shall be prescribed by law.

§ 13. **Further Succession** ~ 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. [Amended 1970]

§ 14. **Title and Authority** ~ When the lieutenant governor succeeds to the office of governor, he shall have the title, powers, duties and emoluments of that office. [Amended 1970]

§ 15. **Compensation** ~ 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. [Amended 1970]

§ 16. **Governor's Authority** ~ The governor shall be responsible for the faithful execution of the laws. He may, by appropriate court action or proceeding brought in the name of the State, enforce compliance with any constitutional or legislative mandate, or restrain violation of any constitutional or legislative power, duty, or right by any officer, department, or agency of the State or any of its political subdivisions. This authority shall not be construed to authorize any action or proceeding against the legislature.