

SCOMM

#27:5



Official Business

# Alaska State Legislature

## Senate

### Committee on State Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MEMORANDUM

TO: Wilson Condon, Attorney General

FROM: Sen. Vic Fischer

DATE: Feb. 26, 1981

SUBJ: Constitutional Convention

Your assistance is requested in clarifying how legal and policy issues on this subject can be resolved.

#### PREPARATORY COMMISSION

The Senate State Affairs Committee has considered SB 165, providing standby legislation in case Alaska voters approve a constitutional convention in the 1982 referendum or at a subsequent time. The bill is essentially the same as HB 723 approved by the Legislature last year but vetoed by the Governor.

The Governor's veto was based on the composition of the preparatory commission, which was to have included appointees of the Governor, Speaker of the House, President of the Senate, and Chief Justice of the Supreme Court. The appointive structure was seen as a violation of the separation of powers concept.

SB 165 does not include provision for a preparatory commission so as to avoid raising the appointment method issue. We now have the option of amending SB 165 to include provision for a preparatory commission, dealing with the matter in separate legislation to make SB 165 "veto proof", or making no provision for convention preparation. The latter course is to me extremely undesirable, as experience has shown that lack of adequate preparation can lead to disastrous constitutional conventions.

Based on the scheduling of a convention established by SB 165 in case of a positive convention vote by the people, a preparatory commission would have to be activated as soon as possible after the referendum to assure that preparatory work is carried out in timely fashion. Therefore, necessary legislation has

to be enacted by this Legislature, preferably during this session.

State Affairs Committee discussion brought out the opinion that a constitutional convention is the highest legislative process of the people of the state. Neither the executive, legislature, or judiciary can limit the scope of this law making process.

At the same time, someone has to provide for the constitutional convention preparatory process. Our question now is who should be involved in doing that.

It appears clear that the Legislature could establish a preparatory commission, with appointments made by the House Speaker, Senate President, or others within the Legislature.

The Legislature could also provide for a commission, the members of which would be appointed by the Governor.

My main question is whether you would find any kind of joint executive-legislative- appointment legally acceptable, particularly in view of the constitutional convention being essentially a legislative function. I pose the question because of my belief that a convention preparatory commission performs a crucial function and that its composition is most important to an effective preparatory process.

I would very much appreciate your comments and suggestions on this issue at the very earliest time.

Sen. Vic Fischer

/lf

cc: Sen. Rodey, Chair, Judiciary Committee

Rep. Rogers, Chair, Constitutional Convention Committee

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BY E. HARRISON, GOVERNOR

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 485-3800

April 10, 1981

Hon. Vic Fischer  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: Constitutional convention  
preparatory commission  
Our file: J-66-557-81

Dear Senator Fischer:

You have asked whether we can find any kind of joint executive-legislative appointment of a commission to prepare for a constitutional convention to be legally acceptable. We regret to advise that we cannot.

There are at least two cases, each of which includes a compelling dissent, which hold that a legislator's serving as a delegate to a constitutional convention is not holding a dual office. Harvey v. Ridgeway, 450 S.W.2d 281 (Ark. 1970); Bd. of Supervisors of Elections v. Attorney General, 229 A.2d 388 (Md. 1967). Both cases ignore the case authority in their own and other states in arriving at their decisions. Accordingly, neither is persuasive. Our own court takes a broad view on what is an office. Larson v. State, 564 P.2d 356 (Alaska 1977). And the cases uniformly hold that an office is "a public charge or employment, the duties of which are prescribed by law, and he who performs the duties is an officer." State v. Dunn, 496 S.W.2d 480, 490 (Tenn. 1973), quoting from State v. Bratton, 253 S.W. 705 (Tenn. 1923). See also Warwick v. State ex rel. Chance, 548 P.2d 384 (Alaska 1976); Begich v. Jefferson, 441 P.2d 27 (Alaska 1968) (prohibition against dual-office holding literally applied). The Alaska Constitution expressly makes employment by or election to a constitutional convention an exception from the prohibition against legislators' holding dual office. Alaska Const., art. II, § 5. In Begich, the court stated that these (and other) express exceptions in the constitution necessarily result in the prohibition's extending to all other offices. 441 P.2d at 30-33.

It might be argued that legislative appointees to the preparatory commission are employees of the convention.

April 10, 1981

However, while the legislature is empowered to make provision for the convention, "by law," Alaska Const., art. XIII, § 3, the constitution does not make an exception for the legislature to appoint either its members or its agents to be the officers or employees of the convention or for either to serve on a commission appointed by the legislature in whole or in part. Absent constitutional provision to the contrary, the chief executive is the appointing authority for those charged with carrying out a law. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

Either on an informal basis or on a basis formalized by law, resolution, or interbranch agreement, the agencies of the two branches -- including duly established permanent or ad hoc interim committees -- can certainly cooperate in studies and gathering information to prepare for a convention. So too, the legislature, through existing or duly established interim committees can study the needs for constitutional reformation. But the legislature cannot write a public law and then appoint a commission of its own members or agents to carry it out. Book v. State Office Bldg. Comm'n, 149 N.E.2d 273 (Ind. 1958).

Sincerely yours,

WILSON L. CONDON  
ATTORNEY GENERAL

By: 

Rodger W. Pegues  
Assistant Attorney General

RWP/pjg



# Alaska State Legislature

## Senate

### State Affairs Committee

#### Official Business

Vic Fischer, Chairman  
Mike Colletta, Vice-Chairman  
Brad Bradley  
Dick Eason  
Terry Stimson

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4954  
(907) 465-4955

#### M E M O R A N D U M

TO: REP. BRIAN ROGERS  
FROM: SENATOR VIC FISCHER *VF*  
DATE: MARCH 4, 1981  
RE: Constitutional Convention bill

Sec. 44.90.020(d) specifies that the convention shall meet for not more than 90 days but may recess for 15 days. It is not clear in the section whether the 15 days would come out of the 90 or could be in addition. You might wish to clarify this while the bill is in Senate Judiciary or on the House side.

cc: Sen. Pat Rodey



# Alaska State Legislature

## Senate

### Official Business

Vic Fischer, Chairman  
Mike Colletta, Vice-Chairman  
Brad Bradley  
Dick Eason  
Terry Stimson

### State Affairs Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4954  
(907) 465-4955

### M E M O R A N D U M

TO: SENATOR PAT RODEY  
FROM: SENATOR VIC FISCHER  
DATE: MARCH 4, 1981  
RE: SB 165, Constitutional Convention

The Judiciary Committee will shortly receive CSSB 165, providing for a Constitutional Convention in case voters approve a call at the 1982 or a subsequent referendum. I would like to bring several items to your attention.

Similar legislation was enacted last year but vetoed by the Governor due to composition of the proposed preparatory commission. Brian Rogers suggested we get the basic enabling legislation enacted and deal with the preparatory commission separately.

My preference is to include the commission as part of the basic convention legislation, though not at the expense of jeopardizing the measure. I have therefore requested the advice of the Attorney General on commission composition that might be acceptable to the Administration; see attached memo of February 26.

I would suggest that you proceed with CSSB 165 without the preparatory commission. If we get something back from Will Condon in time for inclusion by your committee, fine. Otherwise we can deal with the matter in the House, if we all conclude that we can attach the appropriate provisions to the bill. In lieu of that we will proceed with separate legislation after hearing from Condon.

The second issue I would like to bring to your attention pertains to a fiscal note. The Division of Elections provided us with a fiscal note that showed no expenditures in FY '81 and '82, with \$1.1 million in FY '83, \$1.2 million in FY '84. These amounts would cover costs of special elections for delegate selection and ratification of any amendments or revisions proposed by a

convention, if one were held. The fiscal note is predicated on a positive vote on issuing a convention call.

Both Brian and I feel very strongly that the Constitutional Convention bill now under consideration has no costs that would result from its enactment. Any costs would be ascribable to the convention referendum itself, but not CSSB 165. If the people approve a convention call total costs will be far in excess of \$2.6 million. If the people reject a convention, there is no cost whatsoever. In either case, it's the action of the people on the referendum and not legislative action on the current bill to which costs should be ascribed. Accordingly, CSSB 165 carries a zero fiscal note from the State Affairs Committee.

In view of the zero fiscal note, both Brian and I feel that referral to Finance Committee is unnecessary. We will deal with that when the bill comes out of your committee.

Third is an issue that just occurred to me. It might be good to add a provision to the bill that the lieutenant governor include a fiscal note for the convention in the election pamphlet for the election at which the constitutional convention question is put to the voters. The fiscal note should cover costs of delegate election, the convention itself, ratification election, and other expenses ascribable to a convention if one were held. Unless an authoritative figure is given, we are liable to have a big argument over potential expenses of a convention...If you concur, Judiciary might add such a provision.

Thanks for your consideration of these issues.

cc: Rep. Brian Rogers



Official Business

# Alaska State Legislature

## Senate

### Committee on State Affairs

Fouch V  
State Capitol  
Juneau, Alaska 99811

#### MEMORANDUM

TO: Wilson Condon, Attorney General  
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Sen. Vic Fischer

/lf

cc: Sen. Rodey, Chair, Judiciary Committee

Rep. Rogers, Chair, Constitutional Convention Committee

TO: Senator Rodey, Chairman  
and  
All Members of the Judiciary Committee

FROM: Constitutional Convention Committee  
Guy A. Van Doren, Administrative Assistant

SUBJECT: Information Packet Re: Joint Committee  
on Constitutional Convention

HISTORICAL PERSPECTIVE:

Alaskans wrote and approved their state constitution two years before Congress granted statehood to Alaska. A constitutional convention with 55 (the number of members who drafted the United States Constitution in 1787) elected citizens met in what is now known as Constitution Hall on the campus of the University of Alaska a few miles west of Fairbanks, on November 8, 1955, and adjourned February 6, 1956. The voters ratified the work of the convention by a two-to-one margin in a special referendum April 24, 1956.

Article XIII, Section 3, provides, "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 voters 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, dele-

gates to the convention shall be chosen at the next 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 appropriate provisions of the call shall be self-executing and shall constitute a first claim on the State Treasury."

In 1970, the voters, by a slim margin, approved a convention call; however, that referendum was voided by the Supreme Court because of improper wording of the question on the ballot. Voting on the issue again on November 7, 1972, the voters rejected the proposition. In accordance with the constitution, Alaska voters will be asked at the November 1982 general election whether or not a convention should be held.

CURRENT STATUS:

A conference held in Fairbanks in October 1976 to review the state constitution twenty years after it was written and first approved, concluded that a general revision was not needed,

although some issues were deemed to deserve further study and possible change. Most delegates to the original convention -- legislators and others who attended the conference -- felt that a new convention was not necessary and, if there were to be a convention, it would open the whole constitution to unnecessary tinkering and possible massive revision since Article XIII, Section 4, Powers, states, "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." (Emphasis added).

In general, most conferees concluded that the constitution was adequate for our own time and in the foreseeable future.

Although there has not been a convention since statehood, the constitution has been changed over the years. Approximately 250 resolutions to amend the constitution have been introduced in the legislature since the first session of the first legislature. Of those 250, 23 have passed both houses of the legislature and have been placed before the public. Sixteen of those have been ratified by the voters and have become part of the constitution. Generally, voters have supported changes recommended by the legislature.

Recently, certain issues have surfaced which supporters feel can only be solved through changes in the constitution at a constitutional convention. These issues have been introduced many times in the legislature but have not passed both houses. Supporters feel they would receive fairer consideration by non-partisan convention delegates. These issues include:

- |                                 |                     |
|---------------------------------|---------------------|
| 1. Election of judges           | Introduced 5 times  |
| 2. Election of Attorney General | Introduced 18 times |
| 3. Length of session            | Introduced 23 times |
| 4. Unicameral Legislature       | Introduced 13 times |

New issues have surfaced which supporters feel necessitate changes in the constitution. These issues include:

1. Right-to-live vs. abortion choice;
3. Capitol move;
4. Land distribution;
5. Limitations on taxes and expenditures.

Any of the above issues could bring about a convention oriented toward individual causes rather than one concerned with general governmental structure and constitutional integrity.

To:

1. Assure that the public will be given a chance to express their feelings on the above, and other issues, will be informed

on the pros and cons of calling a convention, and will be appraised of alternative methods of achieving the goals;

2. Provide a plan and develop material relating to the Alaska Constitution, Constitutional revision and a constitutional convention;

3. Insure successful and well planned convention should one be called.

The Joint Committee on the Constitutional Convention was formed during the interim period of 1979.

In 1979 the committee solicited work from various instate consultants relating to constitutional conventions, issues, proposed amendments, the calling of a constitutional convention.

In 1980, the Legislature felt that the work of the committee was important enough to continue the committee. During the 1980 interim, the committee decided to accomplish certain tasks. Unfortunately, the committee which was originally scheduled to begin its work in the month of June, was not even formed until August 29, 1980, three months late. Because of the delay, the committee was not able to accomplish all of the goals it had set for itself.

The major undertaking of the committee during the 1980 interim was to meet with recognized experts on constitutional conventions, revision and issues. From those meetings came invaluable advice on conventions, preparation for, holding of and post convention work. Changes and issues relating to the Alaska constitution were also discussed.

The transcripts of those meetings have been edited and reproduced and have led to various "occasional papers" being developed by staff to outline various provisions of constitutional convention planning and revision.

The committee has engaged the services of a person to write "A Citizen's Guide to the Alaska Constitution", which will be useful to both people in government and the public at large even if the voters do not approve the calling of a convention. This guide will be published during the 1981 interim. It has begun the work of translating the Alaska constitution into the Yupik language in order that some 15 to 20 thousand people can read the constitution in their "first" language.

The committee is planning on distributing a pamphlet to explain the Alaska constitution, constitutional revision, and the functions of a constitutional convention and has entered into a contract with the League of Women Voters to provide materials

and conduct meetings with the public to discuss issues of revision, the constitution and or a constitutional convention.

THE FUTURE:

As mentioned earlier, in 1980 the committee began its work three months late. There are only twenty months before the people of the state must decide on the very important question of whether or not to call a convention. The committee feels that it is imperative that as much information on the constitution and a convention, as possible, should be distributed to the public prior to the vote and that preparation for a convention should continue in the event the electorate votes for calling a convention. Every person involved with constitutional revision and conventions the committee met with, stressed the importance of preparatory work.

In the event the people do not approve the calling of a convention, the materials gathered will undoubtedly be useful in the future. Prior to the work of the committee, no work had been done relating to preparation for a convention.

You have all received a brief outline of the plans for the committee separate from this memo, but I am including the proposed schedule in order to refresh your memory.

1981 Session

1. Adopt enabling and procedures act.
2. Continue Joint Committee (adopt resolution).
3. Complete Citizen's Guide.
4. Complete brochure.
5. Conduct public opinion survey.
6. Yupik translation (Phases I & II).
7. Possible pre-information work by League of Women Voters.

1981 Interim

1. Publish "Citizen's Guide" and brochure.
2. Public information begins - Committee and League of Women Voters.
3. Convention site survey.
4. Committee public hearings.
5. Prepare constitutional amendment package(?).
6. Solicit public papers and print same.
7. Yupik Translation completed (Phases II & III).

1982 Session

1. Contingent appropriations for convention.  
(a) Planning and election
2. Adoption of amendment package (?).
3. Convention logistics planning begins.

1982 Interim

1. Convention logistics planning.
2. Public information program.  
(a) begin drafting materials  
(b) committee hearings.
3. If affirmative vote, begin choosing preparatory staff.

November 1982

Vote by the people.

1983

1. Appropriation for convention.
2. Convention drafting manual completed.
3. Temporary rules preparation.
4. Election of Delegates (May).
5. Delegate studies materials ready.
6. Convention logistics completed.
7. Solicit and prepare lists of staff and consultants available for convention to use.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 6, 1981

SUBJECT: Appointments to Constitutional Convention  
Committee of the legislature which may be  
established under SCR 9 (Work Order  
Number 12-0980)

TO: Senator Vic Fischer  
Representative Brian Rogers

FROM: Richard A. Bradley   
Legislative Counsel

You have asked my opinion as to the implications of the failure or refusal of the chief justice, the lieutenant governor, or the governor to make appointments authorized under SCR 9 to a joint committee of the legislature concerned with the organization and procedures of a constitutional convention.

In my view there will be no substantial effect. The committee would have whatever power the committee would otherwise have.

If any effect occurs at all, it will be because the vacancies may cause quorum or similar procedural questions.

RAB:ljb

February 14, 1981  
224 Nerland Hall  
Fairbanks, Alaska  
99701

Representative Brian Rogers  
Pouch V  
Juneau, Alaska 99811

Dear Representative Rogers,

I am writing to commend you on your article in this week's All-Alaska Weekly, where you addressed the subject of Alaska's next Constitutional Convention. Speaking not only for myself but also for the members of the Farthest North Political Science Union at the University of Alaska, I would like to thank you for sparring some discussion and interest in this very important matter.

At this time the FNPSU is arranging for lectures and seminars to be held on the campus of UAF which will discuss such issues as the next Constitutional Convention. On behalf of FNPSU, I would like to invite you to be a guest speaker before our club and all interested persons on the subject of the next Constitutional Convention. We can arrange such a visit according to your schedule and upon very short notice. We of course realize that your time is very precious, and therefore we regard this invitation as an open one, to be accepted or refused as is convenient for you.

For your information, there are many students here who are interested in the idea of the Convention, but who are woefully ill-informed about both Alaska's Constitution and the first Convention. This fact bears upon your suggestion in your article that Alaska's citizens are in danger of having a second Convention without being even minimally prepared for it. Therefore, it seems not only reasonable but vital that there be increased publicity and governmental promotion of the pertinent law, issues, Legislative actions and circumstances under which our next Convention will be held. To help in this regard, the FNPSU of the University of Alaska-Fairbanks offers to provide such research, promotion, and manpower as we can which will help Alaskans prepare for the Convention.

Please contact me, Scott Sterling, care of the above address, for any further discussion and information which may help both you and us in our efforts regarding the next Convention. Your concern and attention is deeply appreciated.

Sincerely,  
Scott A. Sterling

REPRESENTATIVE  
**BRIAN ROGERS**  
*Alaska State Legislature*

23 February 1981

Scott A. Sterling  
224 Nerland Hall  
Fairbanks, Alaska 99701

Dear Mr. Sterling,

Thank you for your letter of February 14th regarding my work with the Constitutional Convention Committee.


I would be happy to speak with your group on this subject whenever I am in Fairbanks. At this time, however, I do not know when that may be as we are still in the process of making the Legislative schedule and any time I may have to travel is still unknown to me.

I will keep your name handy, however, and contact you whenever I know I am coming to Fairbanks.

Thank you again for contacting me and for your interest in the subject. There is little else I can think of that will shape the future of our state more than the outcome of a Constitutional Convention if the voters should choose to have one. Now is the time to think about the situation and prepare ourselves. Your interest at this time is comforting.

Thanks again for writing. I'll be in touch.

Sincerely,

  
Rep. Brian Rogers

BR/vb

JOINT COMMITTEE ON  
CONSTITUTIONAL CONVENTION

Minutes of Meeting of  
February 7, 1981

The February 7, 1981 meeting of the Joint Committee on Constitutional Convention was held in the Butrovich Committee Room Capitol Building, Juneau, Alaska.

Members Present:

Representative Brian Rogers, Chairman  
Representative Terry Gardiner  
Senator Bob Mulcahy  
Senator John Sackett  
Senator Robert H. Ziegler, Sr.

Members Absent:

Senator George Hohman  
Representative Joe Hayes

Also Present:

Gordon Harrison, Consultant  
George Braden, Consultant  
Guy A. Van Doren, Administrative Assistant  
Landa Krossa, Secretary

Chairman Rogers called the meeting to order at 10:07 a.m.

The committee discussed the two proposals for the statewide survey. After general discussion, Representative Gardiner moved to renegotiate with both proposers to obtain a statewide survey that will be within the committee budget. There was no objection and the motion passed unanimously.

The committee discussed the two proposals submitted for the illustration of the brochure. After discussion and review of each proposer's work, there was a motion by Representative Terry Gardiner to accept the proposal for illustration of the brochure by Today's Graphics. The contract would stipulate one-third payment on signing of the contract, one-third after receipt of the draft, and the final third payment upon completion of the project. There being no objection, the motion passed unanimously.

Mr. Guy A. Van Doren, Administrative Assistant to the Committee, introduced Mr. George Braden and Mr. Gordon Harrison. Mr. Harrison will be the author of the "Citizen's Guide to the Alaska Constitution" and Mr. Braden will work with Mr. Harrison and will write an introduction to the "Guide". Mr. Braden discussed his several concepts and his philosophy regarding constitutions and constitutional conventions.

There was discussion regarding the advisory group to help with the "Citizen's Guide to the Alaska Constitution". After discussion, it was decided that the group would be only an advisory group, and would not dictate to Mr. Harrison or Mr. Braden in their endeavors.

Several persons were suggested by Mr. Van Doren in his memo to Chairman Rogers. These include:

The Attorney General or his designee;

A person chosen by the Alaska League of Women Voters;

Judge Tom Stewart;

Mr. Dick Engen, Director, Alaska State Libraries;

Staff of Joint Constitutional Convention Committee;

Mr. George Braden;

Chairman of the Joint Constitutional Convention Committee

Senator Vic Fischer.

Senator Ziegler suggested Mr. Joe LaRocca be included and Mr. LaRocca stated he would consider serving.

Chairman Rogers informed the committee members that the enabling legislation for the constitutional convention would be introduced on February 9, 1981, and the legislation to continue the committee would be introduced on February 10.

There being no further business, it was moved to adjourn the meeting. There was no objection and the meeting adjourned at 11:20 a.m.

Landa Krossa,  
Secretary

EMORY UNIVERSITY SCHOOL OF LAW

GAMBRELL HALL ATLANTA, GEORGIA 30322

Law Library

January 26, 1981

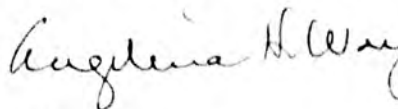
Alaska State Legislature  
Interim Committee on the Constitutional Convention  
State Capitol  
Juneau, Alaska 99811

Gentlemen:

Please advise us of the availability and price of the  
publication(s) listed below.

Thank you very much.

Yours truly,



Angelina H. Way  
Reference Librarian

Fischer, Victor. A new constitutional convention for  
Alaska? The lessons of Hawaii, 1978.

AHW/mb

Rep. Brian Rogers

Capitol Building

Juneau, Alaska

99811

(907) 465-3763

Staff:

Guy Van Doren

Admin. Asst.

Members:

Sen. Rohman

Sen. Mulcahy

Sen. Sackett

Sen. Ziegler

Rep. Cardinale

Rep. Hayes

29 January 1981

Angelina H. Way  
Reference Librarian  
Emory University School of Law  
Gambrell Hall  
Atlanta, Georgia 30322

Dear Ms. Way,

Enclosed is a copy of the report, "A New Constitutional Convention for Alaska? The Lessons of Hawaii 1978".

There is no charge for this publication and you may feel free to make copies of it as you see fit.

Thank you for your letter and request. We are pleased to have been of help.

Sincerely,

  
Rep. Brian Rogers, Chair  
Interim Committee on the Constitutional Convention



Alaska State Legislature  
Senate

*Fischer*

JUNEAU, ALASKA

MEMORANDUM

Date: 1/20/81  
To: Rep. Brian Rogers  
From: Sen. Fischer

Attached is a comment from a member of Hawaii's Constitutional Convention about the report I did on their 1978 convention. I have not sent a copy of this to Bill Sumner, as I'm not sure he would really appreciate it, or even understand it.

A handwritten signature in cursive script, likely belonging to Sen. Fischer.

*Paul E. DiBianco*

ATTORNEY AT LAW  
A LAW CORPORATION

SUITE 904  
HAWAII BUILDING  
745 FORT STREET  
HONOLULU, HAWAII 96813  
(808) 536-4984

January 5, 1981

Victor Fischer  
221 E. 7th Avenue  
Anchorage, Alaska 99501


Dear Mr. Fischer:

Tom Dinell of the University of Hawaii forwarded to me your report for the Alaska State legislature on Hawaii's 1978 Constitutional Convention. I want to congratulate you on a fine job--and I understand that congratulations are also in order on account of your being elected to the Alaska State Senate!

Your report was, in my opinion, accurate and complete. I wish a lot of people in Hawaii (and in the Convention) had seen the issues as clearly as you did. I trust you learned from our mistakes and that Alaska will profit from your experience.

It was a pleasure to have met with you and I wish you success in your political career. I also want to take this opportunity to thank Tom Dinell for sending the material along to me.

Sincerely yours,

  
Paul E. DiBianco

PEDB:gw

**GORDON HARRISON**

social and economic research

1621 Wilton Road, Tacoma, WA 98465  
(206) 565-6523

1/5/81

Guy,

will you return writing  
samples when the selection  
process is finished. I  
don't want to take any  
chances on FWS material  
circulating before it is  
released by them.

Thanks

Gordon

**GORDON HARRISON**  
& ASSOC.

social and economic research

1621 Wilton Road  
Tacoma, WA 98465  
(206) 565-6523

January 5, 1981

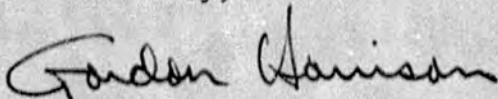
Mr. Guy Van Doren  
Joint Committee on the Constitutional Convention  
Pouch Y  
Juneau, Alaska 99811

Dear Guy:

Enclosed is my proposal to write a citizen's guide to the state constitution. I am including a brief proposal statement, my resume, and samples of my writing. This project interests me a great deal, and I feel particularly well suited for it by virtue of my background and experience, which includes a masters degree in journalism and doctorate in political science.

For the past several years I have lived in the Seattle area while my wife has been in medical school as an Alaska WAMI student. She finishes her residency in family practice in July, 1981, and we plan to return permanently to Alaska soon thereafter (we hope to Juneau). During April my wife is going to work at a clinic in Juneau in order to learn about the medical situation locally and assess opportunities for her there. In my proposed work schedule I suggest that the project begin in April, as this would give me a full month to work in the state library in Juneau.

Sincerely,

  
Gordon Harrison

PROPOSAL

Writing a Citizen's Guide to the Alaska Constitution

Submitted to

Joint Legislative Committee on the Constitutional Convention

by

Gordon Harrison and Associates

January, 1981

## PROPOSAL

### Introduction

This proposal is submitted in response to the Request for Proposals from the Joint Legislative Committee on the Constitutional Convention for writing a citizens' guide to the Alaska constitution. My general approach to the task and my qualifications for undertaking it, as well as a proposed schedule and budget, are presented below.

### Approach

As a layman's guide to the state constitution, this publication must be clearly and simply written. But it must do much more than paraphrase constitutional text in sentences that are simple, short, active and unadorned. The booklet must provide historical context for each constitutional section; it must point to major political issues; and it must explain controversy that has arisen over the interpretation of disputed provisions. Readers of this guide should learn what the constitutional convention delegates hoped to achieve with each section; why they chose the words they did; and how the legislature and courts have given form and substance to their language. For example, only when the reader knows what the delegates sought through borough government, how local areas have responded to the opportunity and

requirement to form boroughs, and how the Local Boundary Commission and Alaska Supreme Court have interpreted the constitutional mandates, will be fully acquainted with this important aspect of Article X.

That this guide should be easily readable does not require it to be artless. Nor does it require that complex and subtle issues be shunned. Complexity and subtlety animate the subject, and without them the guide would be flat, tedious, and little-used. Clearly, the challenge of this publication is to present a comprehensive view of Alaska's constitution in language that is uncomplicated yet legally precise, and in a style that is direct yet imaginative and resourceful.

Before writing anything for publication, an author should have a good idea of who his readers will be. I think the Committee should give careful consideration to the likely readers of this guide before writing begins. This effort will help define the content and characteristics of the final product. For example, it seems to me that important potential groups of readers are students at the high school and college level; in-coming legislators and their staff; and members of civic organizations such as the League of Women Voters. We can presume that the interest of this audience will be keen, and the level of intellectual sophistication high. Thus, these readers will be dissatisfied with a primer that is targeted for a less well educated readership and is overly superficial as a consequence.

Another potential group of users may be people other than lawyers who are interested in researching some aspect of the state constitution or constitutional history. Therefore it seems appropriate for the primer to

contain an annotated bibliography of material on Alaska statehood and the constitutional convention (including Proceedings of the Alaska Constitutional Convention), as well as opinions of attorneys general and the Alaska Supreme Court that address basic constitutional issues (the latter would be selective of the extensive annotations found in the constitution published with the Alaska Statutes).

I have read A Citizen's Guide to the Texas Constitution by George D. Braden, and I find it a useful example of a state constitutional primer. Especially valuable are the author's frequent contrasts and comparisons with other state practices, and his introductory discussion of constitutions and their functions. However, it seems to me that the main narrative of an Alaska version of this book would be altogether different because the constitutions of the two states are so fundamentally dissimilar. Indeed, it was the nightmare of a Texas constitution that the Alaska convention delegates sought to avoid. Alaska's constitution is much more like that of the United States in its brevity and resiliency. Mr. Braden's task was to bring a measure of coherence to a hopelessly fragmented, incomplete, scrambled, detailed, and unreadable document. The author of Alaska's guide begins with a short, concise, intelligible constitution, and his task is to explain the origin, intent, and implementation of these few deliberate words. Also, the tone of Mr. Braden's work is condemnatory. The author of Alaska's guide should not evaluate the constitution, either explicitly or implicitly.

It is my understanding that Mr. Braden will be a consultant to this project. I suggest it would be helpful to the author of this publication

to have the advice of others as well. I propose that the Joint Committee appoint a formal editorial advisory group. In addition to Mr. Braden and the Committee staff, the group might include one or more lawyers with knowledge of the constitution (perhaps assistant attorneys general in Juneau) and a local person or two outside state government representing potential user groups (a teacher, librarian, civic activist, etc.)

This editorial committee would be helpful to the author at the outset of the project in discussing such matters as outline, format, readership, etc. The members of this committee would later review the draft manuscript, and at that time they will be better able to evaluate the success of the product than had they not participated in discussions of what it aimed to accomplish, and how.

#### Schedule

I am proposing the schedule in Figure 1 to take advantage of the fact that my wife and I plan to reside in Juneau during April, 1981. If another schedule is more convenient for the committee I will attempt to accommodate it. However, to do so would not allow me as much time to work in the Alaska State Library, and it would require increased travel and per diem expenses.

According to the schedule I have proposed, work would begin on April 6 with a meeting of the editorial group. I would spend approximately three weeks immediately thereafter engaged in background reading and research. During this period I would work in the state historical and law libraries in Juneau where I would have access to the Proceedings and AG and Supreme Court opinions. Also, in Juneau I would have access to lawyers and other people knowledgeable of the daily workings of the constitution.

# SCHEDULE

APRIL

MAY

JUNE

JULY

ACTIVITY

6-10    13-17    20-24    27-1    4-8    11-15    18-22    25-29    1-5    8-12    15-19    22-26    29-3    6-10

1st meeting of editorial group (Juneau)



Background reading, research (Juneau)



Writing



Draft in typing



Submit draft



Draft review



2nd meeting of editorial group (Juneau)



Revisions



Final in typing



Submit final



A draft would be submitted for review on June 1, and a final product on July 6.

#### Qualifications

I hold advanced degrees in both journalism and political science; I have had substantial exposure to the state constitution and constitutional issues; and I have had extensive writing and editorial experience. My resume summarizes much of this experience. In addition, however, I have written several corporate annual reports and other publications. Currently I am assisting Northwest Alaskan Pipeline Company design and prepare a publication that is, in effect, a citizen's guide to the gasline project in all of its technical, organizational, and regulatory dimensions. While at the University of Alaska, I worked closely in an editorial role with Victor Fischer while he was writing Alaska's Constitutional Convention.

During the past year I have been involved in a major effort with other consultants to review for the U.S. Fish and Wildlife Service federal on-shore oil and gas leasing in Alaska and the environmental effects of on-shore petroleum operations. I wrote major sections of the final technical report that deal with procedural, historical, and administrative issues. Also, I prepared an introductory handbook for field biologists that is designed to acquaint them with oil industry operations and potential environmental impacts.

You may contact as references Ms. Susan Fison, Northwest Alaskan Pipeline Co., Fairbanks (452-5500); Dr. Thomas Morehouse, ISER, Anchorage (278-4621);

Mr. Peter Hanley, Dames and Moore, Anchorage (279-0673); Mr. Kent Wohl, U.S. Fish and Wildlife Service, Anchorage (276-3800, ex. 503); and Mr. Victor Fischer, Anchorage (272-2381).

#### Budget

Figure 2 presents a budget for the project of \$18,190. If the Committee provides typing from dictaphone tapes, the budget is \$17,190.

# FIGURE 2

## BUDGET

### LABOR

Professional	320 hrs @ \$50/hr	\$16,000
Secretarial	40 hrs @ \$25/hr	1,000*

### EXPENSES

Travel	2 RT Seattle-Juneau @ \$325	650
Per diem	4 days Juneau @ \$85/day	340
Xerox		100
Telephone, Postage		100
		<hr/> <hr/>
		\$18,190

\*This expense may be omitted if the secretarial staff of the Committee types the draft and final from dictaphone tapes. In this case, the budget is \$17,190.