

997

HJ

HJR 80

-

HB 6

70

HJR

80

To J

Date 03/17 Time 9:02

WHILE YOU WERE OUT

M Sandra Springer

of House Judiciary

Phone 3882

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>

RETURNED YOUR CALL

Message RE: HJR 80

3PM / 124

(EJ)

Operator

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU 99801

SUMMARY OF ARGUMENTS IN FAVOR OF PROPOSITION NO. 2 THE CONSTITUTIONAL AMENDMENT RELATING TO INTERIM COMMITTEES OF THE LEGISLATURE

The Alaska Constitution states two basic budgetary/expenditure requirements (Article IX, FINANCE AND TAXATION):

SECTION 12. BUDGET. The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. . . .

SECTION 13. EXPENDITURES. No money shall be withdrawn from the treasury except in accordance with appropriations made by law. . . .

The problem is: How can provision be made for necessary changes or revisions to the state budget during the course of the budget year? An expensive solution would be to call the legislature into periodic special sessions or have it meet year-round so that the legislature would always be available to pass laws making the various revisions to the state budget. Another more economical way would be to follow the pattern set by some fourteen other states* and used in Alaska since 1971 - establish an interim committee of the legislature to approve, jointly with the governor, state budget revisions.

This amendment - Proposition No. 2 - would assure the continued use of the established method of budget revision. The following are points in its favor.

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
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LINEAU 99801

BALLOT PROPOSITION NUMBER 2

This is a proposed constitutional amendment to article II, section 11 (interim legislative committees) to allow the legislature, by law, to vest one of its interim committees with the authority to share with the governor the authority to approve or disapprove revisions to the budget. The amendment would also permit the legislature to delegate to the committee its power to appropriate federal or other monies received from non-state sources.

OFFICIAL ELECTION PAMPHLET STATEMENT
IN FAVOR OF PROPOSITION NO. 2
INTERIM LEGISLATIVE COMMITTEE CONSTITUTIONAL AMENDMENT

The Alaska Constitution vests the "legislative power of the State" in the legislature, and Sections 13-16 of Article II spell out the major legislative powers: the authority to enact bills into law and to reconsider and enact bills overriding the governor's veto. Of the 150 to 250 bills enacted into law annually, some 40 to 60 are appropriation bills, including perhaps the most important -- the General Appropriation or Budget Bill.

All appropriation bills when passed by the legislature contain the following elements:

- (1) amounts appropriated
- (2) fund sources from which the amounts are appropriated
- (3) departments or agencies to which appropriated
- (4) purposes for which appropriations are made

Since the four elements are stated for each appropriation within an Act, it is not possible to change any of the elements during the course of the budget year without in effect "amending" the appropriation as passed by the legislature.

Now, then, can provision be made for necessary changes or revisions to the State budget during the course of the budget year? One way would be to call the legislature into periodic special sessions or have it meet year-round so that the legislature would always be available to pass laws accomplishing the various revisions to the State budget. Another way would be to follow the pattern set by some twelve other states -- establish an interim committee of the legislature to approve, jointly with the governor, state budget revisions.

Alaska has, in fact, been operating under the governor/legislative committee approach for approval of budget revisions since 1971. The problem is that the Alaska Constitution, though providing for interim committees of the legislature, is silent on the question: Can the legislature delegate responsibility to one of its committees to jointly approve with the governor revisions to the budget? The proposed constitutional amendment if approved would clearly authorize continued use of the existing budget revision system.

Approval of this amendment is recommended by your legislative committee who urge you to VOTE YES.

--Mike Colletta, State Senator
Chairman, Legislative Budget
and Audit Committee

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNE 1981

U. S. ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS SUPPORTS INTERIM COMMITTEE CONSTITUTIONAL AMENDMENT CONCEPT

The Advisory Commission on Intergovernmental Relations (ACIR) was created by the Congress in 1959 to monitor the operation of the American federal system and to recommend improvements. ACIR is a permanent national bipartisan body representing the executive and legislative branches of federal, state, and local government and the public.

After selecting specific intergovernmental issues for investigation, ACIR follows a multistep procedure that assures review and comment by representatives of all points of view, all affected levels of government, technical experts, and interested groups. The Commission then debates each issue and formulates its policy position. Commission findings and recommendations are published and draft bills and executive orders developed to assist in implementing ACIR policies.

In a soon-to-be-published Advisory Commission on Intergovernmental Relations report, Model State Legislation, to be distributed prior to the 1979 state legislative sessions, the Commission makes the following recommendation:

"Delegation of Certain Appropriations-Related Functions to an Interim Committee

Delegation of appropriations powers to a designated body of the legislature when the legislature is out of session has been declared unconstitutional in several states on the grounds that it is an unauthorized delegation of the legislative power. Thus, in order to provide for any such delegation, states should consider a constitutional amendment clearly giving the legislature this power. The following language [the language recommended is similar to that proposed in Alaska], which is modified from a section in the Oregon Constitution, sets up an interim committee with broad appropriations-related powers. It provides that the committee shall approve the expenditure of federal funds that become available when the legislature is out of session and appropriate necessary state matching funds for those federal monies."

An earlier Advisory Commission report* made the following recommendations:

"The State Legislature and
Federal Grants

The Commission recommends that state legislatures take much more active roles in state decision-making relating to the receipt and expenditure of federal grants to the states. Specifically, the Commission recommends that legislatures take action to provide for:

- inclusion of anticipated federal grants in appropriation or authorization bills;
- prohibition of receipt or expenditure of federal grants above the amount appropriated without approval of the legislature or its delegate;
- establishment of subprogram allocations, where state discretion is afforded in formula-based categorical and block grants, in order to specify priorities; and
- specification of the basis of fund allocation and recipient eligibility and the conditions of performance where states have a discretionary role in passing funds through to local governments." [emphasis added]

*Summary and Concluding Observations - The Intergovernmental Grant System: An Assessment and Proposed Policies, Washington, D.C., June 1978, page 32.

WHAT IS ACIR?

The Commission is composed of 26 members--nine representing the Federal government, 14 representing state and local government, and three representing the public. The President appoints 20--three private citizens and three Federal executive officials directly and four governors, three state legislators, four mayors, and three elected county officials from states nominated by the National Governors' Conference, the Council of State Governments, the National League of Cities/U.S. Conference of Mayors, and the National Association of Counties. The three Senators are chosen by the President of the Senate and the three Congressmen by the Speaker of the House.

STATE OF ALASKA

THE LEGISLATURE

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POUCH W--ALASKA OFFICE BUILDINGFINANCE DIVISION
POUCH WF--STATE CAPITOL

JUNEAU 99801

KELLEY VS. HAMMOND

Chapter 74, SLA 1977, an Act Relating to Revisions of Appropriations provided in part for the following amendment to the Executive Budget Act: (AS 37.07.080)

(n) Appropriations may be revised on approval by the governor and the Legislative Budget and Audit Committee to allow for

- (1) increase of an appropriation item based on additional federal or other program receipts;
- (2) establishment of a new, permanent position not authorized in the appropriated operating budget;
- (3) reallocation between appropriation items.

CH. 74 SLA 1977	<u>PASSED</u> THE SENATE	19 to 0
	WITH 1 EXCUSED	
	<u>PASSED</u> THE HOUSE	32 to 2
	WITH 6 EXCUSED	
	<u>WAS VETOED AND THEN</u>	57 to 0
	<u>THE VETO OVERRIDDEN</u>	
	WITH 3 EXCUSED	

The Legislature filed suit, Kelley vs. Hammond, on January 5, 1977, originally to force executive compliance with prior versions of this appropriation revision language. The Governor claimed that it was unconstitutional for the whole legislature or one of its committees to have a say in the above three matters. The case was partially decided May 30, 1978, by Superior Court Judge Thomas Stewart. Briefly, the Judge ruled that under the Constitution as written the Legislative Committee cannot approve or veto the increase of an appropriation item, cannot approve or veto transfers between appropriations and cannot veto the establishment of permanent positions. But the Judge held that the Constitution does require a legislative appropriation for the expenditure of all funds, including "so-called trust or custodial monies" received from the Federal government (Partial Summary Judgment

attached). The Governor then petitioned the State Supreme Court for immediate review of the "trust or custodial monies" appropriation requirement, but lost the petition (Supreme Court Order attached).

The 1978 Legislature passed Legislative Resolve No. 39, placing before the voters in November the question, shall the Legislature have the authority to establish a "committee to approve jointly with the Governor, as provided by law, state budget revisions, including revisions authorizing the receipt and expenditure of federal and other program receipts as defined by law" (Legislative Resolve No. 39 attached).

LR 39, SLA 1978	<u>PASSED THE SENATE</u>	19 to 0
	WITH 1 EXCUSED	
	<u>PASSED THE HOUSE</u>	31 to 9
	AND <u>PASSED THE HOUSE</u>	
	ON <u>RECONSIDERATION</u>	38 to 2

Since the voters will decide the question of Legislative involvement in the appropriation revision process, both parties have filed to dismiss Kelley vs. Hammond. Procedure for the treatment of unbudgeted federal and other program receipts for fiscal year 1979 has been provided by letter agreement making all such expenditures contingent "only on approval by the Governor and the Legislative Budget and Audit Committee." (letter agreement and Stipulation of Dismissal attached)

1 IN THE SUPERIOR COURT OF THE STATE OF ALASKA

2 FIRST JUDICIAL DISTRICT AT JUNEAU

3 RAMONA M. KELLEY, et al.,)

4 Plaintiffs,)

5 vs.)

6 JAY S. HAMMOND, et al.,)

7 Defendants.)

FILED
SUPERIOR COURTS
JUN 30 1978
JUN 3 29
FIRST DISTRICT
ALASKA
C.A. No. 77-4

8
9 PARTIAL SUMMARY JUDGMENT

10 This matter came before the court on a motion for
11 partial summary judgment. With respect to the following is-
12 sues raised by the motion, it is ORDERED, ADJUDGED, AND DE-
13 CREED:

14 (1) The Legislative Budget and Audit Committee
15 cannot, under the Constitution of the State of Alaska, ap-
16 prove or veto transfers between appropriations made by law
17 to the executive branch. To the extent that AS 37.07.080(e)
18 and (h) purport to vest it with those powers, they are un-
19 constitutional.

20 (2) The Legislative Budget and Audit Committee
21 cannot, under the Constitution of Alaska, approve or veto
22 the establishment of permanent positions in the executive
23 branch. To the extent that AS 37.07.080(e) and (h) purport
24 to vest it with those powers, they are unconstitutional.

25 (3) The Legislative Budget and Audit Committee
26 cannot approve or veto the expenditure of so-called trust or
27 custodial monies received by the other branches from federal
28 or other sources for specific functions or purposes. The
29 power to appropriate those monies cannot be delegated to the
30 Legislative Budget and Audit Committee. To the extent that
31 AS 37.07.080(e) and (h) are to the contrary, they are uncon-
32 stitutional.

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE (907) 465-3600

J-5-78 #42

1 (4) The prohibition contained in the Alaska Con-
2 stitution, art. IX, §13, against the expenditure of money
3 from the treasury without an appropriation made by law ap-
4 plies to so-called trust or custodial monies received from
5 federal or other sources for specific functions and purposes.
6 and those monies may not be expended without an appropria-
7 tion made by law. To the extent that AS 37.07.080(e) and
8 (h) are to the contrary, they are unconstitutional.

9 DATED: ~~May~~ 30, 1978.

10 Thomas B. Stewart
11 Thomas B. Stewart
12 Presiding Judge

13
14 CERTIFICATION

15 This is to certify that on the above date I mailed
16 a copy of this order to:

17 Joseph R. Henri

18 Rodger W. Pegues

19 Ilona J. ...
Secretary to the Judge

20 Received, April 17th, 1978

21 Joseph R. Henri
22 Attorney for Plaintiffs

23
24
25
26
27
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29
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31
32
RECEIVED - JUNE 1978 - OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE (907) 455-3800

THE SUPREME COURT OF THE STATE OF ALASKA



JAY S. HAMMOND, et al.,
Petitioners,
v.
RAMONA M. KELLEY, et al.,
Respondents.

File No. 3995

ORDER

Upon consideration of the Petition for Review, filed April 24, 1978, and the answer in opposition to the petition, filed May 15, 1978,

By direction of the Court, IT IS ORDERED:

The Petition for Review from part (4) of the Partial Summary Judgment, entered by the Superior Court on May 30, 1978, is denied. There has been an insufficient showing that immediate review will materially advance the ultimate termination of the litigation or that postponement of review until normal appeal will result in injustice because the partial summary judgment, until it becomes final, does not require any change in the present practices of the parties.

DATED this 21st day of June, 1978.

CLERK OF SUPREME COURT

By Connie Staska
Chief Deputy Clerk

cc: Counsel, Justices
Hon. Thomas B. Stewart

Filed and entered... 6-21-78
SUPREME COURT of the State of Alaska
DONNA SPACCO REGUES Clerk
By... Connie Staska Deputy
cuc

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU 99801

STATE OF ALASKA

THE LEGISLATURE

Source	1978	Legislative Resolve No.
<u>HCSSJR 16</u>		<u>39</u>



Proposing an amendment to the Constitution of the State of Alaska relating to the work of interim committees of the legislature.

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

* Section 1. Article II, sec. 11, Constitution of the State of Alaska is amended to read:

SECTION 11. INTERIM COMMITTEES. There shall be a legislative council, and the legislature may establish other interim committees, including a committee to approve jointly with the governor, as provided by law, state budget revisions, including revisions authorizing the receipt and expenditure of federal and other program receipts as defined by law. 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.

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

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU 99801

August 7, 1978

Governor Jay S. Hammond
State of Alaska
Pouch A
Juneau, AK 99811

Dear Governor Hammond:

I am happy that the parties were able to mutually dismiss Kelley vs. Hammond, Civil Action No. 77-4, in the Superior Court at Juneau. I think we both agree that the best forum for settlement of the role of the Budget and Audit Committee in budget revision is the November ballot box wherein the people of Alaska will decide whether to amend the State Constitution in accord with Legislative Resolve No. 39.

As to the treatment of unbudgeted federal and other program receipts for fiscal year 1979, this letter serves to record that the Executive and Legislative Branches will continue to honor Stipulation No. 9, entered by the parties on 15 June 1978, which provides:

"A general appropriation of all unforeseen and otherwise unbudgeted federal and other program receipts for fiscal years 1978 and 1979 will be made by the Legislature, but their expenditure shall continue to be made only on approval by the Governor and the legislative Budget and Audit Committee. The Committee will act on proposed revised programs within sixty (60) days of their receipt. If the Committee does not act on the proposal within that time, no Committee approval of it is required."

Your noting your concurrence in the above will ensure an adequate modus vivendi, at least until the Eleventh State Legislature convenes in 1979.

Thanking you for your cooperation, I am

Sincerely yours,

Mike Colletta

MIKE COLLETTA
Chairman, Legislative
Budget and Audit
Committee

CONCUR

Jay S. Hammond
JAY S. HAMMOND

Governor

Date: *Aug 11, 1978*

IN THE SUPERIOR COURT OF THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

SARONA M. KELLEY, et al.,)
)
 Plaintiffs,)
)
 vs.)
)
 JAY S. HAMMOND, et al.,)
)
 Defendants.)

C. A. No. 77-4

STIPULATION OF DISMISSAL

Pursuant to Civil Rule 41(a)(1)(b), Plaintiffs file this Stipulation of Dismissal on the ground that the public interest is best served by dismissing the above-captioned action inasmuch as (1) the parties have entered certain stipulations dated 15 June 1978, and they intend by mutual agreement to observe Paragraph 9 thereof providing for the treatment of unbudgeted federal and other program receipts, and (2) Legislative Resolve No. 39, passed by the 1978 Alaska Legislature, asks the people of Alaska to decide whether to amend the Constitution of the State so as to provide for an interim committee to approve, jointly with the Governor, State budget revisions. Therefore, the parties stipulate to dismissing this case, with prejudice.

DATED at Juneau, Alaska, the 5th day of September, 1978.

Joseph R. Henri

 JOSEPH R. HENRI
 Attorney for Plaintiffs

Avrum M. Gross

 AVRUM M. GROSS
 Attorney General

By: Rodger W. Pegues
Attorney for Defendants

IT IS SO ORDERED; CASE DISMISSED.

SEP 9 1978

Barbara A. ...

Thomas B. Stewart

 Judge of the Superior
 Court

DATED: *September 6, 1978*

SUMMARY OF ALASKA CONSTITUTIONAL AMENDMENTS

Year of Legislative Action	Title	Legislative Reference	Election Date	Certification Date	Effective Date	Provisions Affected
1966	"Proposing that the Constitution of the State of Alaska be amended to permit the residency requirements for voting for the President and Vice President of the United States to be prescribed by law."	SJR 1	Aug. 23, 1966	Sept. 9, 1966	Oct. 9, 1966	Article V, sec. 1
1968	"Proposing amendments to the Constitution of the State of Alaska providing for the disqualification, suspension, removal from office, retirement and censure of justices and judges, and providing for a Commission on Judicial Qualification."	2d FCCS SCS CSJR 74	Aug. 27, 1968	Sept. 11, 1968	Oct. 11, 1968	Article IV, sec. 10, 13
1969	"Proposing an amendment to the Constitution of the State of Alaska establishing the voting age at 18 years."	HJR 7	Aug. 25, 1970	Sept. 10, 1970	Oct. 10, 1970	Article V, sec. 1
1970	"Proposing that the Constitution of the State of Alaska be amended by changing the name of the secretary of state to lieutenant governor."	SJR 2	Aug. 25, 1970	Sept. 10, 1970	Oct. 10, 1970	Article III, sec. 7-11, 13-15, 25. Article XI, sec. 2-6. Article XIII, sec. 1, 3
1970	"Proposing amendments to the judiciary article of the Alaska Constitution relating to the office of the chief justice of the supreme court."	FCCS SCS CSJR 11	Aug. 25, 1970	Sept. 10, 1970	Oct. 10, 1970	Article IV, sec. 2, 16
1970	"Proposing an amendment to the Constitution of the State of Alaska eliminating the requirement of ability to read or speak English as a prerequisite to voting."	HJR 51 am S	Aug. 25, 1970	Sept. 10, 1970	Oct. 10, 1970	Article V, sec. 1
1971	"Amending the exclusive right of fisheries provision of the Constitution of the State of Alaska."	HCS CSJR 10	Aug. 22, 1972	Sept. 14, 1972	Oct. 14, 1972	Article VIII, sec. 3
1972	"Proposing an amendment to the civil rights section of the Constitution of the State of Alaska."	HJR 102	Aug. 22, 1972	Sept. 14, 1972	Oct. 14, 1972	Article I, sec. 3
1972	"Proposing an amendment to the Constitution of the State of Alaska insuring the individual's right of privacy."	HCS SJR 68	Aug. 22, 1972	Sept. 14, 1972	Oct. 14, 1972	Article I, sec. 22
1972	"Proposing an amendment to the Constitution of the State of Alaska regarding residency requirements for voting in state and local elections."	HJR 120 am S	Aug. 22, 1972	Sept. 14, 1972	Oct. 14, 1972	Article V, sec. 1
1972	"Amending the local government article of the Constitution of the State of Alaska relating to representation of cities or borough assemblies."	SJR 52	Aug. 22, 1972	Sept. 14, 1972	Oct. 14, 1972	Article X, sec. 4
1973	"Proposing an amendment to the amendment and revision section of the Constitution of the State of Alaska."	HJR 20	Aug. 27, 1974	Sept. 12, 1974	Oct. 12, 1974	Article XIII, sec. 1

63

24

Year of Legislative Action	Title	Legislative Reference	Election Date	Certification Date	Effective Date	Provisions Affected
1975	"Amending the Constitution of the State of Alaska to provide for consideration of vetoed bills."	SCS CSHJR 11	Nov. 2, 1976	Nov. 23, 1976	Dec. 23, 1976	Article II, sec. 6, 9
1976	"Proposing an amendment to the Alaska Constitution, establishing an Alaska Permanent Fund for certain proceeds derived from non-renewable resources."	SCS CSSS HJR 39 (Resources) am S	Nov. 2, 1976	Nov. 23, 1976	Feb. 21, 1977	Article IX, sec. 7, 15

An amendment to the Constitution becomes effective 30 days after the date of certification of the election unless otherwise provided in the amendment. (Article XIII, sec. 1)

This summary of Alaska constitutional amendments has been reproduced as it appears in the back of The Constitution of the State of Alaska, as reproduced by the Lieutenant Governor in 1978.

ing 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.

Salary and Expenses

SECTION 7. 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.

Regular Sessions

SECTION 8. The legislature shall convene each year on the fourth Monday in January, but the month and day may be changed by law.

(Exercising its authority under this section, the legislature has provided that it shall convene on the second Monday in January, except in years immediately following a gubernatorial election when it shall convene on the third Monday in January; see AS 24.05.090.)

Special Sessions

SECTION 9. 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.

(The amendment of this section was approved by the voters of the state November 2, 1976 and became effective December 23, 1976. This amendment deleted "or" preceding "to subjects" in the third sentence and added "and the reconsideration of bills vetoed by him after adjournment of the last regular session.")

Adjournment

SECTION 10. 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.

Interim Committees

SECTION 11. 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.

Rules

SECTION 12. 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 proceedings. A majority of the membership of each house constitutes a quorum to do business, but a smaller number may adjourn from day to day and may compel attendance of absent members. The legislature shall regulate lobbying.

Form of Bills

SECTION 13. Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title. The enacting clause shall be: "Be it enacted by the Legislature of the State of Alaska."

Passage of Bills

SECTION 14. The legislature shall establish the procedure for enactment of bills into law. No bill may become law unless it has passed three readings in each house on three separate days, except that any bill may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it. No bill may become law without an affirmative vote of a majority of the membership of each house. The yeas and nays on final passage shall be entered in the journal.

Veto

SECTION 15. The governor may veto bills passed by the legislature. He may, by veto, strike or reduce items in appropriation bills. He shall return

Introduced: 3/4/80
Referred: Judiciary

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 HOUSE JOINT RESOLUTION NO. 80

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Con-
6 stitution of the State of Alaska
7 relating to joint budget revision
8 power of interim committees of the
9 legislature.

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

11 * Section 1. Article II, sec. 11, Constitution of the State of Alaska is
12 amended to read:

13 SECTION 11. INTERIM COMMITTEES. There shall be a legislative
14 council, and the legislature may establish other interim committees,
15 including a committee to approve jointly with the governor, as provided
16 by law, state budget revisions, including revisions authorizing the
17 receipt and expenditure of federal and other program receipts as defined
18 by law. The council and other interim committees may meet between
19 legislative sessions. They may perform duties and employ personnel as
20 provided by the legislature. Their members may receive an allowance for
21 expenses while performing their duties.

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

26

27

28

29

HB

1

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

1/24/79

Date: 3/18/80

Mr. Speaker:

The Committee on RESOURCES has had HB 1

"An Act relating to the maximum length of salmon seine vessels; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 1 same title
- new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without ^{individual} recommendations
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

Rich Martin

W. L. ...

James R. ...

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

Frank E. ... DO NOT PASS

Alvin ... DO NOT PASS

John ... DO NOT PASS

Devin ...
CHAIRMAN

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

April 7, 1980

SUBJECT: Salmon seine vessels
CSHB 1

TO: Representative Charles H. Parr

FROM: Kenneth E. Vassar
Legislative Counsel *KEV*

You have asked for an opinion relating to any constitutional questions which may arise under CSHB 1 (relating to the maximum length of salmon seine vessels). This bill amends the existing statute which places a maximum length on salmon seine vessels in the state of 58 feet overall length and 50 feet official Coast Guard register length. The amendment in the bill would provide that this limitation does not apply to salmon seine vessels in southeastern Alaska.

Since this bill, on its face, treats one area of the state differently from other areas, it raises questions relating to Article II, sec. 19, Constitution of the State of Alaska. That constitutional section provides in part:

The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination.

Essentially, an act challenged as local or special is analyzed in the same manner as an act challenged as violative of equal protection. Abrams v. State, 534 P.2d 91 (1975); State v. Lewis, 559 P.2d 630 (1977). However, there is one significant difference between the local legislation analysis and the equal protection analysis. Under the equal protection analysis, the act must fairly and substantially relate to a legitimate state interest or concern. Under the local legislation analysis, the interest or concern is, at least in part, determined to be "legitimate" only if it is

April 7, 1980

statewide in nature. That is, even though the act may treat certain areas of the state differently from other areas, it is not local or special if it fairly and substantially relates to a matter of statewide concern or interest. Thus, in Abrams, the court found the incorporation of the Eagle River-Chugiak Borough to be a matter which is not of statewide interest or concern and found the legislation authorizing the formation of that borough to be local legislation. On the other hand, in Lewis, the court found the capital move to be a matter of statewide concern, and legislation which fairly and substantially related to the capital move was not found to be local or special legislation.

The first question in this bill, then, is whether the length of salmon seine vessels in southeastern Alaska is a matter of statewide concern or interest. I think it probably is not. Perhaps it is conceivable that this bill is somehow related to boating safety, which would be a matter of statewide concern; however, nothing in the bill indicates this is the concern being addressed or, if it is, how it is fairly and substantially related to that concern.

Assuming that the length of salmon seine vessels in southeastern Alaska is not a matter of statewide concern, the next question is whether a general act can be made applicable to the problem being addressed. There is in existence in Alaska a board of fisheries with powers to regulate the means used for harvesting fish in the waters of the state. If there were no maximum length of salmon seine vessels in the statutes, the board of fisheries would probably have the authority to fix a maximum length under the powers it currently possesses; however, to resolve any doubt, a general act could be passed expressly giving the board that authority. If considerations of safety necessitate a maximum length or lack of a maximum length, the general act authorizing the board to establish maximum lengths could list those considerations as criteria for the board to follow. Alternatively, a new statute prescribing maximum lengths of vessels in various areas of the state might be fashioned using the same kinds of criteria, or other criteria which establish a fair and substantial relationship between the legislation and a legitimate state interest could be used.

In summary, I believe the bill in its present form poses significant problems under the local legislation prohibition in the state Constitution.

KEV:ljb

Alaska House of Representatives



COMMITTEE ON NATURAL RESOURCES
POUCH V • JUNEAU, ALASKA 99811

March 18, 1980

LETTER OF INTENT FOR CSHB 1
BY THE
HOUSE RESOURCES COMMITTEE

In passing CSHB 1, it is the intent of the House Resources Committee to return to the Board of Fisheries, the responsibility for determining legal maximum lengths for salmon seine vessels in Southeast Alaska by regulation. The Committee in no way implies through this action any intent to direct the Board of Fisheries to raise or lower the present 58 foot length limit.

A handwritten signature in cursive script that reads "Alvin Osterback".

Alvin Osterback, Chairman

CO-CHAIRMEN

REP. ALVIN OSTERBACK (465-3715) • REP. BILL MILES (465-3779)

VICE-CHAIRMAN

REP. FRED ZHAROFF

REP. PAT CARNEY • REP. C.V. "CHAT" CHATTERTON • REP. SAM COTTEN
REP. DICK ELIASON • REP. JACK FULLER • REP. RICK HALFORD



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Alvin Osterback, Chairman

CO-CHAIRMEN

REP. ALVIN OSTERBACK (465-9719) • REP. BILL MILES (465-3779)

VICE-CHAIRMAN

REP. FRED ZHAROFF

REP. PAT CARNEY • REP. C.V. "CHAT" CHATTERTON • REP. SAM COTTEN
REP. DICK ELIASON • REP. JACK FULLER • REP. RICK HALFORD

Mary

*Comm
Hemm
Judy
File: 16e*

January 14, 1980

Jin Edens, Bottomfish Coordinator
Office of the Governor

Lynn
Lynn Pistoll, Labor Economist
Research & Analysis

Status of Preliminary Results
Status of Preliminary Results
of Fishermen's Survey

The fishermen's survey is now closed, all of the data has been entered into the computer, and first run cross-tabulations are complete. Of the 4,000 questionnaires mailed, over 1,500 were returned, constituting a 38 percent return and representing 10 percent of all vessel license holders.

Who Responded?

Indicators of who responded to the questionnaire can be derived by looking at fishing experience, the area that fishermen spent the most time fishing, the species caught and the size of fishermen's vessels. Fishermen indicated the following areas as the area they spent the most time fishing:

Southeast Alaska	28.4%	
Prince William Sound	8.2%	
Cook Inlet	13.8%	
Kodiak	8.0%	
Chignik	1.1%	
South Alaska Peninsula	1.2%	
North Alaska Peninsula	.2%	
Bristol Bay	11.0%	
Arctic-Yukon-Kuskokwin	12.4%	(High return by Alaska Natives in this region)
Aleutian Islands West	.4%	
Aleutian Islands East	.7%	
Bering Sea	2.1%	
No Response	11.9%	

Vessel size distribution looked like this:

29 ft. or less	31.7%	<i>2.9</i>
30-39 ft.	27.5%	<i>2.7</i>
40-49 ft.	9.2%	<i>9.2%</i>
50-89 ft.	7.4%	<i>7.4%</i>
90 ft. or larger	2.3%	<i>2.3%</i>
No Response	21.6%	<i>21.6</i>

Fishing experience looked like this:

3 yrs. or less	14.0%
4-10 yrs.	27.3%
11-20 yrs.	24.2%
21-40 yrs.	18.8%
41 yrs or more	3.8%
No Response	11.6%

Species caught:

Halibut	14.4%
Herring	7.2%
Crab	5.4%
Shrimp	2.1%
Salmon	38.6%
Bait	1.2%
Blackcod	1.7%
Gray Cod	1.3%
Bottomfish, other	1.5%
Other	.9%
No Response	25.2%

The above data appears to represent many fishermen with a variety of vessels and fishing experience.

Highlights:

- 50% said they intend to bottomfish
41.7% said they don't intend to bottomfish
6.2% said maybe
1.8% did not respond to this question
- of those who intend to bottomfish 70.9% hope to start before or by 1982.
- With respect to information on bottomfish that fishermen who are intending to bottomfish would like to see covered in workshops or demonstration projects, the distribution looked like this:

Gear	71.5%
Vessels	39.4%
Financing	62.8%
Marketing	64.7%
Fish Handling Techniques	59.2%
Resource Location	57.3%
None	1.3%
Other	5.1%

Note that gear, marketing, and financing are respectively the three most important, however, information needs on fish handling techniques

and resource location are also rated very high.

- The distribution for circumstances that have kept fishermen from bottomfishing looked like this:

Financing for refit or purchase of new vessel	39.4%
Location & quantity of fish stocks	15.9%
Price of fish	23.1%
Fishing Techniques	13.4%
Climate Conditions	4.0%
Level of risk	10.4%
Market for fish	31.7%
Other	10.6%
None	14.6%

Note that financing, market for fish, and price were the three most important.

- 39.7% plan to refit their vessels
- 55.5% plan to buy new ones

- In Favor of Joint Ventures?

	<u>For All Fishermen</u>	<u>For those who intend to bottomfish</u>
Yes	43.7%	51.6%
No	36.1%	37.2%
Not Sure	1.6%	2.6%
No Response	18.4%	8.3%

This shows that fishermen are generally in favor of joint venture arrangements with foreign processors.

- Fishermen were most interested in catching:

Black Cod	21.8%
Gray Cod	16.8%
Flounder	9.3%
Pollock	7.7%

- Fishermen are most interested in using:

Longlining	32.0%
Trawling	14.3%
Potting	11.3%
Jigging	8.5%

- Fishermen who intend to bottomfish said they are interested in fishing the following areas:

Southeast Alaska	23.7%
Prince William Sound	16.6%
Cook Inlet	7.7%
Kodiak	14.9%

Chignik	2.2%
South Alaska Peninsula	3.0%
North Alaska Peninsula	1.7%
Bristol Bay	3.0%
Arctic-Yukon-Kuskokwim	1.9%
West Aleutian Islands	.8%
East Aleutian Islands	1.8%
Bering Sea	4.7%
Not Sure	.6%
No Response	16.7%

Southeast Alaska (23.7%), West of Kodiak (17.2%), Prince William Sound (16.6%), and Kodiak (14.9%) attract the most interest as areas for bottomfish.

I've tried to include enough information in this memo to help you with current bottomfish issues. More information with analysis and recommendations will be available in our final report.

If you need further clarification of these numbers give me a call at 465-4513. I've also included a few draft pages of fishermen's comments which I feel are as important as the numbers for developing a good perspective of fishermen's attitudes, opinions, and experiences with regard to bottomfisheries development.

Attachment

cc: Dave Alison
John E. Post
LPinw

Editor's note. — The repealed section derived from § 27, art. I, ch. 94, SLA 1959.

Sec. 16.05.831. Waste of salmon. (a) It is unlawful for a person to waste salmon intentionally, knowingly, or with reckless disregard for the consequences. In this section, "waste" means the failure to utilize the majority of the carcass, excluding viscera and sex parts, of salmon which are to be

- (1) sold to a commercial buyer or processor;
- (2) utilized for consumption by humans or domesticated animals; or
- (3) utilized for scientific, educational, or display purposes.

(b) The commissioner may authorize other uses of salmon upon request if he finds that to do so would be consistent with maximum and wise use of the resource.

(c) A person who violates this section or a regulation adopted under it is punishable by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both. In addition, a person who violates this section is subject to a civil action by the state for the cost of replacing the salmon wasted. (§ 3 ch 89 SLA 1975; § 3 ch 99 SLA 1975)

Editor's note. — This section is set out as it appears in ch. 99, SLA 1975. Chapters 89 and 99, SLA 1975, are virtually identical except that ch. 99 contains a § 5, providing for an effective date of the act.

Section 1, chs. 89 and 99, SLA 1975, provides, in subsection (b): "It is the intent of sec. 3 of this Act to control the waste of salmon resources."

HBI {

Sec. 16.05.835. Maximum length of salmon seine vessels. No salmon seine vessel may be longer than 50 feet, official Coast Guard register length, and 58 feet overall length except vessels that have fished for salmon with seines in waters of the state before January 1, 1962, as 50-foot, official Coast Guard register length vessels. (§ 1 ch 252 SLA 1970)

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Sec. 16.05.850. Hatchery required. If a fishway over a dam or obstruction is considered impracticable by the commissioner because of cost, the owner of the dam or obstruction, in order to compensate for the loss resulting from the dam or obstruction shall, at his option: (1)



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 18, 1980

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch Y, State Capitol
Juneau, Alaska 99811

Dear Mr. Speaker:

The Judiciary Committee finds that it is appropriate and necessary to amend AS 16.05.835 to allow vessels longer than 50 foot keel length to participate in the salmon seine fishery in certain areas of Alaska. The testimony to the Committee revealed that the many separate salmon seine fisheries in the state have developed differently, based on unique geographic conditions of land and water in each area.

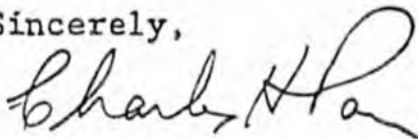
Although the limit to a length of 50 foot keel and 58 foot overall applies to the entire state, it is mainly in the Southeastern area that the salmon seine fishery is arbitrarily limited by length. The result of such an arbitrary limit has been to force the construction of vessels which are of questionable seaworthy design and may in fact be unsafe. In the design of a vessel there is a preferred length-to-width ratio for maximum safety and seaworthiness, fuel efficiency, and functional use. The arbitrary length limit has forced an increase in width of the vessel in order to meet the functional needs.

Removal of the length limit would allow construction of vessels in a safer and more efficient manner. The safety would be enhanced by vessels having a better length-to-width ratio. They would not have to be short and stubby; the efficiency in fuel consumption would be greatly increased. Most of the present vessels require an enormous amount of power due to their design -- with a short, but wide, hull. By increasing the length of many present vessels, they could use the same engine but would increase their speed by 10 to 20 percent. In these days of high energy costs and the need to conserve energy, it is important to not arbitrarily impose a condition forcing the needless waste of fuel.

April 18, 1980

It is also in the interest of the state to encourage expansion of Alaska fisheries into groundfishing in the 200 mile limit Fishery Conservation and Management Zone. Groundfishing is based in the offshore regions in the Gulf of Alaska and the Bering Sea. The fish are of low value, thus requiring the handling of large volumes. The fishery requires a vessel longer than a 50 foot keel length for safety as well as for efficiency. By removing the limit, the fishermen will be able to participate in both the salmon seine fishery and the groundfishery with the same vessel, in a safe and efficient manner. Due to the means by which the various salmon seine fisheries have developed throughout the state, the design of vessels in areas other than Southeast Alaska is not presently affected by the limit. Thus, the Committee finds that it is in the best interests of the state to remove the limit on the length of salmon seine vessels for the Southeast area.

Sincerely,



Charles H. Parr
Chairman

CHP:vc

PROPOSED COMMITTEE REPORT: HB 1 HOUSE JUDICIARY

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Although the limit to a length of 50 foot keel and 58 foot overall applies to the entire state it is mainly the Southeastern area that the salmon seine fishery is arbitrarily limited by length. The result of such an arbitrary limit has been to force the construction of vessels which are of questionable seaworthy design and may in fact be unsafe. In the design of a vessel there is a preferred length to width ratio for maximum safety and seaworthiness, fuel efficiency, and functional use. The arbitrary length limit has forced an increase in width of the vessel in order to meet the functional needs.

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Alaska Native Brotherhood

Camp Number 2

510 West Willoughby Avenue

Juneau, Alaska 99801

March 20, 1980

The Honorable Charles H. Parr
House of Representatives
Pouch V - M.S. 3301
Juneau, Alaska 99811

Dear Mr. Parr:

The Judiciary Committee has before it, CS for House Bill No. 784, "an Act Relating to the Maximum Length of Salmon Net Vessels", and House Bill No. 1 by Eliason.

As we stated to Resources Committee, the Alaska Native Brotherhood has consistently opposed any bill that would lift the maximum limit. That is our position now. We do so far have a number of reasons:

1. If the maximum limit were lifted, it is our feeling that the seine vessels larger than 50' would enter the Southeast waters from Puget Sound (Washington State);
2. If the limit is raised, the value of those vessels in the Southeast that are less than 50' would drop and create problems for insurability;
3. If the limit is raised, we feel the threat of HB 791 (Gardiner) which would legalize drum seiners might be passed into law, and, which we strongly oppose as well. We have had experience with drum seine vessels prior to Statehood and we are opposed;
4. If we deluged with larger vessels, or if larger vessels are legalized, then the value of the Salmon Seine Limited Entry Permits would increase substantially -- to the point of tempting our permit holders with selling the permits. In years of poor returns of salmon, it is very difficult to turn down \$100,000 or more, when family needs dictate your actions;

Hon. Charles H. Parr
Re: HB 1

March 20, 1980

-2-

5. If the size limit goes up, there are few, if any, on shore facilities such as dry docks, moorage facilities, engine parts that could accommodate a larger vessel fleet;

6. With a larger vessel, it requires a stronger main engine -- thereby using more fuel and the fuel tanks would be more than the present 50' vessels. This would diminish available fuel reserves that are already not capable to handle a full fleet of over 450 vessels. The smaller vessels would have a difficult time obtaining necessary fuel;

7. If HB 1 and HB 791 are enacted, boat loans to renovate existent vessels to drum seiners are virtually an impossibility either on the federal, state or local levels. Presently, loans to acquire new vessels are nearly an impossibility in the eyes of financiers.

It is our opinion that there are more reasons to reject passage of HB 1 than there are to act favorably on it. If indeed the intent is to pass HB 1, then HB 791, gives all the more reason to turn down HB 1.

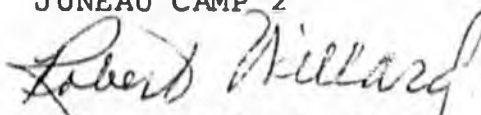
It has been suggested that with the developing bottom fishery, that HB 1 should now be enacted. We disagree. There are no on shore facilities to handle a large influx of bottom fishing vessels. At a time that there is adequate processing facilities, then, we may approach the Alaska Board of Fisheries to lift the limit. It is our understanding the present State law rests the decision to the Board of Fisheries.

Until all of our concerns above enumerated are resolved, we will continue to oppose HB 1 - or any bill that would lift the maximum size limit for Salmon seine vessels.

We thought you should be made aware of our position. We are authorized to speak for and on behalf of all ANB Camps which include, Yakutat, Hoonah, Pelican, Haines, Klukwan, Juneau, Angoon, Tenakee, Sitka, Kake, Petersburg, Wrangell, Craig, Klawock, Hydaburg, Kasaan, Ketchikan, Saxman, Anchorage, Tyonek, Seattle, Wash. and Copper Center.

Respectfully Submitted,

ALASKA NATIVE BROTHERHOOD
JUNEAU CAMP 2



Robert Willard, Chairman
Legislative Affairs Committee

RW:in

STATE OF ALASKA
THE LEGISLATURE

17814
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 7, 1980

SUBJECT: Salmon seine vessels
CSHB 1

TO: Representative Charles H. Parr

FROM: Kenneth E. Vassar
Legislative Counsel *KEV*

You have asked for an opinion relating to any constitutional questions which may arise under CSHB 1 (relating to the maximum length of salmon seine vessels). This bill amends the existing statute which places a maximum length on salmon seine vessels in the state of 58 feet overall length and 50 feet official Coast Guard register length. The amendment in the bill would provide that this limitation does not apply to salmon seine vessels in southeastern Alaska.

Since this bill, on its face, treats one area of the state differently from other areas, it raises questions relating to Article II, sec. 19, Constitution of the State of Alaska. That constitutional section provides in part:

The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination.

Essentially, an act challenged as local or special is analyzed in the same manner as an act challenged as violative of equal protection. Abrams v. State, 534 P.2d 91 (1975); State v. Lewis, 559 P.2d 630 (1977). However, there is one significant difference between the local legislation analysis and the equal protection analysis. Under the equal protection analysis, the act must fairly and substantially relate to a legitimate state interest or concern. Under the local legislation analysis, the interest or concern is, at least in part, determined to be "legitimate" only if it is

statewide in nature. That is, even though the act may treat certain areas of the state differently from other areas, it is not local or special if it fairly and substantially relates to a matter of statewide concern or interest. Thus, in Abrams, the court found the incorporation of the Eagle River-Chugiak Borough to be a matter which is not of statewide interest or concern and found the legislation authorizing the formation of that borough to be local legislation. On the other hand, in Lewis, the court found the capital move to be a matter of statewide concern, and legislation which fairly and substantially related to the capital move was not found to be local or special legislation.

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Assuming that the length of salmon seine vessels in southeastern Alaska is not a matter of statewide concern, the next question is whether a general act can be made applicable to the problem being addressed. There is in existence in Alaska a board of fisheries with powers to regulate the means used for harvesting fish in the waters of the state. If there were no maximum length of salmon seine vessels in the statutes, the board of fisheries would probably have the authority to fix a maximum length under the powers it currently possesses; however, to resolve any doubt, a general act could be passed expressly giving the board that authority. If considerations of safety necessitate a maximum length or lack of a maximum length, the general act authorizing the board to establish maximum lengths could list those considerations as criteria for the board to follow. Alternatively, a new statute prescribing maximum lengths of vessels in various areas of the state might be fashioned using the same kinds of criteria, or other criteria which establish a fair and substantial relationship between the legislation and a legitimate state interest could be used.

In summary, I believe the bill in its present form poses significant problems under the local legislation prohibition in the state Constitution.

KEV:ljb

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**Local or
Special Acts**

SECTION 19. The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected.

Impeachment

SECTION 20. All civil officers of the State are subject to impeachment by the legislature. Impeachment shall originate in the senate and must be approved by a two-thirds vote of its members. The motion for impeachment shall list fully the basis for the proceeding. Trial on impeachment shall be conducted by the house of representatives. A supreme court justice designated by the court shall preside at the trial. Concurrence of two-thirds of the members of the house is required for a judgment of impeachment. The judgment may not extend beyond removal from office, but shall not prevent proceedings in the courts on the same or related charges.

**Suits Against
the State**

SECTION 21. The legislature shall establish procedures for suits against the State.

ARTICLE III

THE EXECUTIVE

**Executive
Power**

SECTION 1. The executive power of the State is vested in the governor.

**Governor:
Qualifications**

SECTION 2. 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.

file copy

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill Resolution No. CSHR 1
 Title An Act relating to maximum length of salmon seine vessels; E.D.
 Requested by House Judiciary Committee Date 4-15-80

II. FISCAL DETAIL

Agency Affected Department of Fish and Game
 Program Category Affected Natural Resource Management
 BRU, Program, or Subprogram(s) Affected Commercial Fisheries Division
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill has no fiscal impact on the Department of Fish and Game.

IV. DATE April 15, 1980 PREPARED BY Russell H. Clark
 AGENCY Department of Fish and Game
 PHONE 465-4120

Original: Legislative Finance
 cc: Budget and Management
~~Prime Sponsor (First Legislator Named)~~ *House Judiciary Cte.*
 Office of the Governor-Keith Specking
 33-001 (Rev. 12/79)

Editor's note. — The repealed section derived from § 27, art. I, ch. 94, SLA 1959.

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- (1) sold to a commercial buyer or processor;
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(b) The commissioner may authorize other uses of salmon upon request if he finds that to do so would be consistent with maximum and wise use of the resource.

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HB

3

Let us keep them with us. I urge you to stand by your good will and your first vote.

METCALF: I asked for a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll on the proposed amendment.

(The Chief Clerk called the roll with the following result:

Yeas: 10 - Hinckel, Johnson, Laws, Londborg, Metcalf, Nerland, Reader, R. Rivers, V. Rivers, Robertson.

Nays: 40 - Armstrong, Awes, Barr, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nolan, Nordale, Peratrovich, Poulsen, Rosswog, Smith, Sundborg, Sweeney, VanderLeest, Walsh, Wien, Mr. President.

Absent: 5 - Boswell, Riley, Stewart, Taylor, White.)

VANDERLEEST: Mr. President, I voted "yes" and I meant "no".

PRESIDENT EGAN: Mr. VanderLeest wishes to change his vote from "yes" to "no".

CHIEF CLERK: 10 yeas, 40 nays and 5 absent.

PRESIDENT EGAN: And so the proposed amendment has failed of adoption. Mr. Buckalew.

BUCKALEW: Mr. President, I have an amendment.

PRESIDENT EGAN: The Chief Clerk will please read Mr. Buckalew's proposed amendment.

CHIEF CLERK: "Section 3, lines 10 and 11, strike all language down through word 'mind' and insert the following: 'No person who is non compos mentis'."

PRESIDENT EGAN: What is your pleasure, Mr. Buckalew? Non compos mentis --

BUCKALEW: Did you accuse me of being non compos mentis?

PRESIDENT EGAN: The Chair was just wondering if that was the amendment?

BUCKALEW: That is the amendment. I move the adoption of the proposed amendment.

BARR: I object.

MCNEALY: I second the motion.

BUCKALEW: I want to direct the body's attention to Section 3. You will see that it provides for a restoration of a civil disability in the case of a convicted felon, and it makes no provision for a person who has been judicially determined to be of unsound mind. Now as I understand this provision, that is an absolute constitutional disability, and there is no provision for a person who has been adjudicated an insane person to take away this civil disability and the effect of my amendment, the test is that a man has to be of sound mind at the time he votes. Another objection I have, I think that probably ten years from now we probably won't even be using the judicial procedure to determine whether a person is sane or insane, and I think probably in ten years it will be meaningless. The effect of my provision is to require that when a person votes he be of a sound mind. This provision here would prevent any person, 20 years ago, if a commissioner at Klawock found him insane they could never vote again, and there is no provision for a restoration of that civil disability.

PRESIDENT EGAN: Does that give them the right later, Mr. Buckalew?

BUCKALEW: "Non compos mentis" means a present state of mental illness.

MCLAUGHLIN: Mr. Chairman, I have another expression. "Montes murientur mus nascetur -- The mountains are in labor, and a mouse is born." Mr. President, the substitution of a Latin phrase which has no specific and definite meaning would be unwise. I think this phraseology is the one that is normally used, and if we didn't use the expression "judicially determine" you might be subject to the interpretation right at the polls, that they decide whether or not the elector were an idiot or no. So the judicial determination would cover all types of commitment and certainly it was never intended and it would never be interpreted by any court that the judicial determination, that if at any one time you were found of unsound mind by judicial determination, that the fact is you could not vote thereafter. The obvious intent here is that while you are under the disability of being insane and so judicially determined you not vote. I don't feel that the amendment would add anything. It would hopelessly confuse the article.

DAVIS: I was going to ask Mr. Buckalew, Mr. President, if instead of using a Latin phrase he would accept "no person of

unsound mind".

BUCKALEW: I did not realize that this Latin phrase was going to cause a furor. It is a common expression and it has a meaning in the courts. I would certainly accept Mr. Davis's amendment. I would ask then with the consent of my second that we strike the "non compos mentis" and insert "unsound mind".

PRESIDENT EGAN: Then it would read "no person" -- delete "judicially".

CHIEF CLERK: He does not have that in now.

DAVIS: I just suggested "no person of unsound mind" to try to say the same thing he was saying.

PRESIDENT EGAN: And leave out the "judicially determined", is that right?

BUCKALEW: It would have to be "no person of unsound mind".

PRESIDENT EGAN: Is there objection to Mr. Buckalew's changing his motion to read that way? Mr. Hellenenthal.

HELLENTHAL: Mr. President, if a man is to be adjudged of unsound mind somebody must make the adjudication. Now even I, like Mr. Buckalew, believe that the present method of incarcerating and proceeding criminally against insane people or, better still, persons mentally disturbed, I think that method is inhuman just as violently as Mr. Buckalew does. However, under no system that has yet been advocated by the most violent critics of the present method would a judicial determination of mental capacity be done away with. It would be an appalling thing if a board or if a group or a psychiatrist could determine one to be of unsound mind. There must be a standard. We have faith in our courts. In all civilized countries the courts or a judicial body makes the determination of whether you are capable of distinguishing between right and wrong, whether you are capable of voting, whether you are capable of taking care of your children and your home. Mr. Buckalew's amendment would throw this right up in the air, and it was for this reason that after careful thought the Committee felt that the language should read "no person judicially determined to be of unsound mind". That does not mean we have to preserve our inhuman method now of treatment of the insane, or the inhuman method of proceeding against them in a criminal proceedings. It doesn't mean that, but it means that before you can be stripped of your civil rights because of mental aberrations some court somewhere must pass on it, and that is the way our government was founded and that is the way it ought to be, and that is the reason that the words "judicially determined" were inserted in the article.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I think we all have seen how binding rules are and I think the constitution once adopted and is in effect is going to be binding. The courts are going to make their interpretation, and a person coming under there for a question will not have any chance. Now as I read it, a person that is judicially determined to be of unsound mind loses thereafter their vote right according to the way this reads.

HELLENTHAL: No, Mr. Londborg, it is qualified by the language, "unless restored to his civil rights".

BUCKALEW: It is not in there. Read it.

HELLENTHAL: "No person judicially determined to be of unsound mind, unless restored to his civil rights, shall be qualified to vote in any state or local election."

LONDBORG: I would like to have that clear, because it says here, in referring to the person of unsound mind, and you have the words "pardoned and restored". I don't know of a person in an insane institution being pardoned. It says they are to be "pardoned and restored", as if they have done something criminally violent. I think that could be cleaned up a bit as far as the language. I think I see your intent and go along with your intent. May I have the floor, Mr. President?

PRESIDENT EGAN: Mr. Londborg, you have the floor.

LONDBORG: I see the intent and go along with your intent, but I do believe it could be cleared up a little bit so there would be specifically in our constitution that a person that has been in an insane institution, has been released, is of sound mind, can go to the polls. According to this it sounds that a person judicially determined to be of unsound mind loses his vote right unless they are "pardoned and restored", and I don't think pardoning has anything to do with it. There is something that needs to be straightened out.

PRESIDENT EGAN: Would you be acceptable to a two-or three-minute recess so you attorneys can get together on this?

HELLENTHAL: I think there is no question but that if we substitute the word "or" for "and" and I know I have the unanimous approval of the Committee for that, that the objection will be obviated.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I would like to point out that actually that would not remove a very valid objection raised by Mr. Londborg because even if it says, "unless restored to his civil rights",

nowhere does it say, even if that person is judicially determined to be of unsound mind, he is deprived of his civil rights. He is deprived of his voting rights but not of civil rights.

BARR: This does not say that "no person who has been or who has ever been judicially determined." It says "no person judicially determined to be of unsound mind", meaning at the present or at the time of the election. Therefore, if he has been discharged from an asylum, after of course going before a board of psychiatrists, which they always do, then he is of sound mind because they say so. It is a matter of record that he is sane. In fact, he has a great advantage over us. It is not a matter of record that any of us are sane. Therefore, he is judicially determined to be of unsound mind when he goes into the asylum, not at any other time.

PRESIDENT EGAN: If there is no objection the Chair will declare a two-or three-minute recess so the attorneys and others can get together and talk this over. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, during the recess I was informed by Mr. Buckalew that he would permit me to ask unanimous consent that his pending amendment be withdrawn and that the following amendment be submitted in its place.

BUCKALEW: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked by Mr. Sundborg that Mr. Buckalew's amendment be withdrawn. Is there objection? If there is no objection Mr. Buckalew's original amendment is ordered withdrawn. Mr. Sundborg.

SUNDBORG: I now move and ask unanimous consent for the adoption of the following amendment: "Section 3, strike all of lines 10, 11, 12, and 13 and insert in lieu thereof the following"
'Section 3. No person convicted of a felony involving moral turpitude, unless pardoned and restored to his civil rights, and no person judicially determined to be of unsound mind, until the disability is removed, shall be'."

DAVIS: Will you read the last line of that again?

SUNDBORG: Here is the insert: "Section 3. No person convicted of a felony involving moral turpitude, unless pardoned and restored to his civil rights, and no person judicially determined to be of unsound mind, until the disability is removed, shall be", and then it would pick up "qualified to vote in any state

or local election."

PRESIDENT EGAN: Mr. Sundborg moves --

V. RIVERS: You have "judicially determined" in that have you, Mr. Sundborg? I was fearful of that because in the future if somebody looked over some of the proceedings of this Convention that we might disenfranchise ourselves.

SUNDBORG: Yes, they are in there.

HERMANN: I wish to offer an amendment to the amendment. I had it as a major amendment that I meant to offer.

PRESIDENT EGAN: Mrs. Hermann, would you wait please until the Chief Clerk reads the proposed amendment once more.

CHIEF CLERK: "Section 3. Strike lines 10, 11, 12, and 13 and insert in lieu thereof the following: 'Section 3. No person convicted of a felony involving moral turpitude, unless pardoned and restored to his civil rights, and no person judicially determined to be of unsound mind, until the disability is removed, shall be'."

HERMANN: My amendment would be to strike after the word "felony", strike the three words "involving moral turpitude". I ask unanimous consent.

PRESIDENT EGAN: Mrs. Hermann moves an amendment to the amendment striking the words "involving moral turpitude". Mrs. Hermann asks unanimous consent.

SUNDBORG: I object.

HERMANN: I so move.

KILCHER: I second the motion.

SUNDBORG: I would like to ask Mrs. Hermann what the effect of her amendment would be and how it would change this in substance.

HERMANN: I don't think there is such a thing as a felony that does not involve moral turpitude, so I don't see the necessity of the three words. I say conviction of a felony is inclusive enough to cover the whole situation.

BUCKALEW: That is what a felony means so it is superfluous.

HELLENTHAL: The reason that the qualifying language was used was that not all felonies involve moral turpitude, not all. There are some felonies that do not and the term "moral turpitude" is a generally accepted word. Now we adopted this

language on the advice of the adviser who agreed with that contention and who felt that we should not require all persons convicted of any felony to have to go before the pardon board. Now that was the reason for the language. Other language that was rejected was "a felony of serious nature". Another suggestion was "convicted of an infamous crime". There was one group in the Committee who felt that any person who served his time should automatically be restored to his civil rights. The majority definitely felt, and later the unanimous opinion of the Committee was that construction would not be sound. But they felt that not all convicted felons should have to go before the pardon board but only those of the more serious felonies. Now, Alaska has a fairly good criminal code, but throughout the United States there are many many offenses which in Alaska are misdemeanors, are considered felonies, and vice versa, and that is why the moral connotation was added and only that.

PRESIDENT EGAN: Is there further discussion of the amendment to the amendment? Mr. Buckalew.

BUCKALEW: I would just like to ask Mr. Helleenthal a question through the Chair. Did this expert tell you what felonies did not involve moral turpitude?

HELLENTHAL: Yes, assault in some cases does not involve moral turpitude. It comes under the decisions of courts.

BUCKALEW: Assault is not a felony.

HELLENTHAL: Many assaults are felonies.

DAVIS: Mr. President, I might suggest that involuntary manslaughter is a case in point of a felony not involving moral turpitude.

PRESIDENT EGAN: Is there further discussion of the proposed amendment to the amendment as offered by Mrs. Hermann? Mr. Gray.

GRAY: Mr. Chairman, if there is a question of whether a felony involves moral turpitude or not, we should leave the phrase in. It seems to be the one point -- whether it does or does not. If we leave the three words in there it conclusively clears up any misunderstanding on that particular subject.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: On the other hand, I suggest we strike it because even if a felon has committed a crime involving the technicality of moral turpitude, I don't see why that should impair his voting capacity. As to a felon that has committed a crime equally serious but technically not involving moral turpitude,

take assault -- assault with a dangerous weapon -- I don't know whether that would be moral turpitude. Assuming it is, I don't see how a man can vote. I don't see that a man might be not smart, but not a coward.

PRESIDENT EGAN: Is there further discussion? The question is, "Shall Mrs. Hermann's proposed amendment to the amendment be adopted by the Convention?" All those in favor of the proposed amendment as offered by Mrs. Hermann will signify by saying "aye", all opposed "no". The "noes" have it and the amendment has failed. Mr. Kilcher.

KILCHER: Mr. President, I offer another amendment to this amendment, to strike "until the disability is removed". I don't think it makes any sense because it says "judicially determined to be" -- not "to have been". If the man is determined to be of unsound mind then the disability is not removed. At the time of voting the man has to be determined to be judicially of unsound mind.

PRESIDENT EGAN: Do you so move the adoption of such an amendment?

KILCHER: I move the adoption of the amendment to strike "until such disability is removed". There is no need for too much wordage in the constitution.

PRESIDENT EGAN: Is there a second to Mr. Kilcher's motion?

ROBERTSON: Can we have the motion read as it would read?

PRESIDENT EGAN: Mr. Kilcher has offered a motion; it has not been seconded yet.

LEE: I second the motion.

PRESIDENT EGAN: The motion is to strike the words in the proposed amendment. Would the Chief Clerk read those words please.

CHIEF CLERK: "Until the disability is removed".

PRESIDENT EGAN: How would that leave the proposed amendment reading then?

CHIEF CLERK: "No person convicted of a felony involving moral turpitude, unless pardoned and restored to his civil rights, and no person judicially determined to be of unsound mind shall be".

PRESIDENT EGAN: That is the way it would be if Mr. Kilcher's motion was adopted. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I was in on some of the huddles

during the recess. It originally read "no person judicially determined to be of unsound mind". Now then Mr. Kilcher's amendment would put us exactly back where we started from. Mr. Buckalew wanted it made absolutely clear that after the disability was removed the person could then vote. So I think the only way to go along with Mr. Buckalew's amendment and to be positive on that point is to turn down Mr. Kilcher's amendment.

KILCHER: I hate to waste any more time about a few words, but the general tenor seems to have been that we are going to make this instrument as simple as possible. If we say in there, "any person determined to be of unsound mind cannot vote", he must be of sound mind to be permitted to vote, and if he has been of unsound mind that means he has been judicially declared to not to be any more whatsoever. Naturally the person that goes to the polls is as normal as any of us, presumably. As Mr. Barr says he may be more. He only may not vote if determined to be of unsound mind. The rest is unnecessary.

PRESIDENT EGAN: Is there further discussion of the proposed amendment to the amendment as offered by Mr. Kilcher? If not, the question is, "Shall Mr. Kilcher's proposed amendment to the amendment be adopted by the Convention?" All those in favor of the adoption of the proposed amendment to the amendment will signify by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment to the amendment has failed. Now we have the proposed amendment to Section 3 as offered by Mr. Sundborg. The Chief Clerk will please read that proposed amendment again.

CHIEF CLERK: "Section 3. Strike lines 10, 11, 12, and 13 and insert in lieu thereof the following: 'Section 3. No person convicted of a felony involving moral turpitude, unless pardoned and restored to his civil rights, and no person judicially determined to be of unsound mind, until the disability is removed, shall be'."

HINCKEL: Mr. President, point of information. It occurs to me that the pronoun "his" is superfluous. I will leave it to Style and Drafting and I withdraw my objection.

PRESIDENT EGAN: The question is, "Shall the proposed amendment to Section 3 as offered by Mr. Sundborg be adopted by the Convention?" All there in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments? Mr. Metcalf.

METCALF: I have one.

PRESIDENT EGAN: We have an amendment first by Mr. Metcalf.

up the authorities he had ascertained that unless the constitution did provide for absentee voting it is very questionable whether it can be legally done.

HELLENTHAL: That is correct, and Mr. Sundborg correctly stated the main reason for these insertions in Section 2.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Barr's proposed amendment be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye", all opposed by saying "no". So the "noes" have it and the amendment has failed of adoption. Are there other amendments to Committee Proposal No. 1?

LONDBORG: Mr. President, I have one.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment by Mr. Londborg.

CHIEF CLERK: "Page 2, Section 3, strike 'judicially determined to be of unsound mind' and insert after 'person', 'found, in manner provided by law, to be of unsound mind.'"

LONDBORG: I move the adoption.

PRESIDENT EGAN: Is there a second?

BUCKALEW: I second the motion.

PRESIDENT EGAN: Is there discussion? Will the Chief Clerk please read the proposed amendment again.

CHIEF CLERK: "Page 2, Section 3, strike 'judicially determined to be of unsound mind' and insert after 'person', 'found, in manner provided by law, to be of unsound mind.'"

LONDBORG: I don't know if any discussion is needed. The reason for the amendment is to make it possible in case the legislature should want to set up some other method of determining insanity, such as a board or anything of that nature, they would be at liberty to do so and would take away the mandate that it should be judicially determined, which of course, the legislature can provide that method if they choose.

PRESIDENT EGAN: Is there further discussion? Mr. Gray.

GRAY: Mr. Chairman, I wonder if that is covered by the Bill of Rights? Do we not have something that no one shall be deprived of life, liberty without due process of law? Regardless of how a person is judged unsound it must be by due process of law, and I believe myself "judicially determined"

HOUSE JUDICIARY COMMITTEE MEETING MINUTES
February 1, 1979

CHAIRMAN PARR called the meeting to order with all members present at 3:10 p.m.

The SUBJECT was House Bill 3, a bill providing for the restoration of the right to vote for persons convicted of felonies once they have served their period of incarceration and any periods of probation and parole.

REPRESENTATIVE MIKE MILLER, prime sponsor of the bill testified to the fact that the statutes state that a person convicted of a felony can have his voting rights restored after serving his time and having his civil rights restored. There is no provision for restoring civil rights under present state law.

BARRY STERN appeared on behalf of the Department of Law. He suggested considering a 7 year between felony conviction criteria as it reads in the Criminal Code.

REPRESENTATIVE MALONE moves that staff research the questions with this legislation and obtain an opinion from the research attorneys.

CHAIR ADJOURNS, 4:25 p.m.

Judiciary Committee Meeting Minutes
Thursday, February 15, 1979

At 3:07 Chairman CHARLIE PARR called the meeting to order with all members present but Representative Brown.

The Subject of the meeting was HOUSE BILL 3, dealing with the restoration of the right to vote. PEGGY BERCK, staff counsel, explained that her research had led to the preparation of two alternative CS Drafts, one dealing only with the restoration of voting rights and the other with the restoration of civil rights and voting rights. She had requested an opinion from Dick Bradley and briefly reviewed that opinion with the Committee.

Representative HUGH MALONE moved that the committee adopt Alternative #2, dealing with the restoration of voting rights. There being NO OBJECTION the motion passed.

BARRY STERN of the Department of Law had the following testimony to offer on Alternative #2:
He suggested that on line 15, after "resored" all language be deleted and the words UPON THE PERSONS UNCONDITIONAL DISCHARGE be added, and that a definition provision for "unconditional discharge" be included. This is in keeping with the new Criminal Code also.

HUGH MALONE makes the motion and it PASSES unanimously.

MALONE moves that on lines 17 & 18 "released from imprisonment, parole, or probation" be replaced with UNCONDITIONALLY DISCHARGED and there being NO OBJECTION, the motion PASSES.

Representative RANDY PHILLIPS moves the committee report out CSHB 3 with the above amendments, and there being NO OBJECTION, the motion PASSED and the meeting ADJOURNED 4:10 p.m.

brooke kocsis

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 7, 1979

SUBJECT: HB 3 and Art.V, Sec.2 of the Constitution

TO: Representative Charles H. Parr, Chairman
House Judiciary Committee

FROM: Richard A. Bradley, Legislative Counsel *B*

HB 3 was requested by its sponsor as the legislative solution to the problem created by Art.V, Sec.2 of the Constitution. The latter provision provides, in part:

No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. * * *

While "civil rights" may be "restored" by an executive pardon, Alaska law at this time appears to provide no other mechanism for the restoration of civil rights and, of course, the executive pardon authority is infrequently exercised.

During the Judiciary Committee's review of HB 3, the question arose whether HB 3 needed to restore "civil rights" broadly as opposed to its restoration only of the right to vote, that is, does the Constitution require that "civil rights" as opposed to the "right to vote" be restored.

I have reviewed the proceedings of the Constitutional Convention and I do not find it particularly useful. The Index of the Minutes to the Proceedings of the Alaska Constitutional Convention suggests that Art.V, Sec.2 was discussed at pp. 885-893 and 904-905. Copies of those pages are included for your information.

Representative Charles H. Parr
Page 2
February 7, 1979

The debates focussed entirely on the restoration of the right to vote subsequent to a judicial determination of unsound mind. The evolution of the language reflects indirectly a parallel attention to the procedures to be followed, to restore voting rights following a conviction for a felony involving moral turpitude -- but the debates themselves do not reflect this development.

Thus, a "pardon" would have been required as part of the procedure on the restoration of a convict's right to vote [p.888] and it disappears subsequently, without debate indicating a reason for its deletion [the deletion makes sense to the extent that a more mechanical procedure is desired; a "pardon" will involve executive discretion and, therefore, operate less evenly].

And to a certain extent, the analogy between the deprivation of the right to vote following a conviction or following a determination of unsound mind do not seem analogous.

A determination of unsound mind casts doubt on the objective wisdom and discretion of a citizen generally. As such, the right to vote is but one of the rights of adulthood on which the subject may not be trusted and which are therefore withdrawn.

A conviction, however, does not create quite the same conclusion. An individual convicted has the burden of the conviction but the right to vote is withdrawn as a matter of constitutional policy, not because the conviction casts doubt on the objective wisdom and discretion of the convict generally. A convict is not incompetent; rather, the policy of the law withdraws certain citizen-privileges as part of the sanctions imposed for the conviction.

Representative Charles H. Parr
Page 3
February 7, 1979

The Supreme Court in Bush v. Reid, 516 P.2d 1215 (1973) held that to the extent that AS 11.05.070 and AS 33.15.190 deny a parolee the right to sue, they are unconstitutional under due process concepts; the court withheld judgement on the right of a prisoner to sue. 516 P.2d at 1221, n.37. It is significant that Bush ignores Art.V, §2; the section is nowhere mentioned in the opinion. Thus, there is no suggestion in the opinion that individuals convicted of a felony involving moral turpitude [Bush's crime is not stated in the opinion] have lost their civil rights, including the right to sue, because those rights have not been restored. The opinion rather concludes that there is no compelling state interest in depriving parolees of access to the courts, and thus AS 11.05.070 and AS 33.15.190 are unconstitutional to the extent that they deny such access, even if the parolee's rights under Art.V, §2 have-or have not - been restored.

It would be entirely consistent with Bush for the legislature to restore "civil rights" generally on the release from prison. In view of Bush, it is unclear what rights remain to be restored.

I cannot conclude, however, that the use of the phrase "civil rights" in Art.V, §2 requires that the legislature deal with the issue broadly. In my view, §2 states that conviction suspends only the right to vote; if other rights are suspended, the result occurs in no way because of §2 and there is no mandate on the Constitution for that result.

Art.V moreover does not deal with civil rights but rather with Suffrage and Elections; there is no basis for concluding that having lost the right to vote, on conviction, a felon may not get it back unless all rights [or "civil rights"] are restored.

Representative Charles H. Parr
Page 4
February 7, 1979

One other point may be noted in passing. I have advised Representative Miller that my failure to use the phrase "Convicted of a felony involving moral turpitude" on line 11 of the bill was a drafting oversight. The constitutional debates, at page 890-892 make clear the knowledge of the convention that not all felonies involve moral turpitude and that the provision suspends the right to vote of only those that do involve moral turpitude. Since misdemeanors and felons convicted of crimes not involving moral turpitude may apparently vote, even while in prison, the thrust of HB 3 is too broad and I suggest that the phrase "involving moral turpitude" be added on line 11.

RAB:nem

Enclosures

cc: Representative Mike Miller



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Effects that Convictions Have on a Person's Civil Rights

Pursuant to Alaska law (AS 11.05.070), the civil rights of a person who is imprisoned in the penitentiary for a term of less than for life are suspended. This suspension of civil rights continues while the person is on parole (See AS 33.15.190).

Furthermore pursuant to Alaska law (AS 11.05.080) a person sentenced to imprisonment in the penitentiary for life is thereafter deemed civilly dead.

Since current Alaska law does not specifically define what is meant by "civil rights" this matter must be resolved by the courts on a case by case basis.

For example, in Bush v. Reid, the Alaska Supreme Court held that "civil rights" included the right to sue. Ultimately the Bush court concluded that because AS 11.05.070 and AS 33.15.190 combine to deny a parolee his right to sue those statutes are unconstitutional to that extent.

Although the Alaskan Supreme Court has not further defined "civil rights" other than that provided in Bush other jurisdictions have found civil rights to be any of the following rights:

- jury service
- disqualification from being a witness
- take, hold or dispose property

right of inheritance
make contracts
hold public office
perform any legal function
hold any office of honor, trust, or profit

CONCLUSION

Current Alaska law on this point raises serious due process and equal protection problems. For this reason, the committee may wish to consider modification of the present statutory scheme.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3850

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 30, 1979

SUBJECT: House Bill No.3

TO: Representative Mike Miller

FROM: Richard A. Bradley, Legislative Counsel

B

Under our Work Order No. 5709 we gave you a bill "relating to the restoration of the right to vote." In that bill we used the phrase "a person who has been convicted of a felony by the state courts of Alaska....."

The constitution at Article 5, Section 2, uses the phrase "No person may vote who has been convicted of a felony involving moral turpitude..."

I have reconsidered the bill that I gave you and I believe that the language in the bill should more properly track the constitutional provision. I suggest that the language in HB 3 at line 11 read instead:

"A person who has been convicted of a felony involving moral turpitude by the state court of Alaska..."

The reason for this analysis is that the constitutional provision itself only suspends the rights of a person who has been convicted of a felony involving moral turpitude. While most felonies do involve moral turpitude, there are a small number of felonies that do not, and it seems that the broader phrase that I had used in HB 3 had the result of suspending rights beyond those required by the constitution.

I have advised Peggy Berck of the House Judiciary Committee of my conclusions on this question; her inquiry on the reasons for the style of the bill had caused me to rethink the problem I have pointed out to you now. I can prepare a Judiciary Committee substitute or a floor amendment for you, [or the committee] as you wish.

RAB:nem

STATE OF ALASKA
THE LEGISLATURE

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


LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 15, 1979

SUBJECT: Committee Substitutes for HB 3

TO: Representative Charles H. Parr, Chairman
House Judiciary Committee

FROM: Richard A. Bradley, Legislative Counsel 

Peggy Berck has requested two alternate committee substitutes for your committee's review. They are enclosed; I believe them to be responsive to your request.

Some comments on the contents of the two bills:

1. Definition of "felony involving moral turpitude."
I did a computer run on the phrase moral turpitude. It occurs some 40 or more times in Alaska Statutes. Somewhat significantly, the only time the Legislature sought to define the term is in present AS 15.05.030. The closest I came to a definition in the encyclopedias that I view as useful and accurate was found at 22 C.J.S., Criminal Law, §8; there the suggestion was offered that the concept of crimes mala in se [immoral as wrong in itself as opposed to merely prohibited in law] was substantially identical to the concept of crimes involving moral turpitude.

A modification of that concept is found in the bills that are enclosed. See AS 15.05.035(d) in each bill. I found it useful to give some examples of the crimes found to involve moral turpitude. The list is obviously partial and expressed in common law concepts. If the committee is dissatisfied with that approach, the only significant improvement that I can offer would be an encyclopedic recital of the actual crimes viewed by the Legislature as constituting felonies involving moral turpitude.

If the committee does not find the definition offered adequate, then I will undertake a comprehensive listing.

2. The problem of out-of-state imprisonment. As I see this question, it has two aspects:

(a) Persons convicted of a crime in the state courts of Alaska. Whether they are imprisoned in Alaska or elsewhere, they remain during their entire imprisonment in the "custody of the commissioner of Health and Social Services." AS 33.30.090. As such, a direction to the commissioner as under draft secs. AS 11.05.075(c) and AS 15.05.035(c) seems a complete answer to the concern.

(b) Persons convicted in a court other than an Alaska state court. If the individual was not an Alaska resident before his conviction or if he had been but was convicted by a court other than an Alaska court, I see no mechanism for advising him that his rights have been restored. Obviously, of course, the election offices will have the correct information and on attempts to register or obtain information, they will provide it. That seems an adequate mechanism and, as it is implicit in the election code, no specific provision is suggested in the bills.

3. I believe that the phrase "position of private trust" has well established meanings. Black's Law Dictionary states that a trust it describes is:

"One established or created for the benefit of a certain designated individual or individuals, or a known person or class of persons, clearly identified or capable of identification by the terms of the instrument creating the trust, as distinguished from trusts for public institutions or charitable trusts."

As such it describes the role of trustee for a private trust [but not, I think, the role of the trustee or beneficiary].

Representative Charles H. Parr
Page 3
February 15, 1979

4. Problems arising out of convictions not including imprisonment. The law should not seek to address all the possible variations that a court may possibly fashion in establishing sentences for crimes covered in the bills. Rather, it seems that the concepts of "imprisonment, parole, and probation" are well understood. If on a conviction, one of these becomes the penalty for the crime, then the rights would be suspended during the pendency of that aspect of the sentence. If a conviction resulted with neither "imprisonment, parole, [nor] probation" then the rights are immediately restored.

RAB:nem

Enclosure

*Members files
HB3*

Tanana Valley Bar Association
Legislative Committee
C/O 604 Barnette Street, Rm. 329
Fairbanks, Alaska 99701
January 30, 1979

Dear Charlie,

The Legislative Committee of the Tanana Valley Bar Association desires to convey its position on the following bill pending before the Eleventh Legislature General Session.

HB 3 by Miller

"An Act relating to the restoration
of the right to vote."

Recommend:

Do Pass.

Reason: This bill will clear up an area of law which is difficult
for the typical layman to understand.

Cordially,


Hugh H. Connelly, Chairman
Tanana Valley Bar Association
Legislative Committee

Sec. 24.05.020. Composition. The legislature is composed of two houses: a senate consisting of 20 members and a house of representatives consisting of 40 members. (§ 2 ch 157 SLA 1959)

Sec. 24.05.030. Qualifications of members. A member of the legislature shall be a qualified voter who has been a resident of the state 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 25 years of age and a representative at least 21 years of age at the time he takes his oath of office. (§ 3 ch 157 SLA 1959)

Am. Jur. references. — 42 Am. Jur., Public Officers, § 38; 49 Am. Jur., States, Territories and Dependencies, § 34.

Sec. 24.05.040. Dual office. No member of the legislature 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 does not prevent any person from seeking or holding the office of governor, lieutenant governor, or member of Congress. This section does not apply to employment by or election to a constitutional convention. A member may serve on or at the behest of an interim committee of the legislature. (§ 4 ch 157 SLA 1959; am § 1 ch 85 SLA 1965; am § 56 ch 69 SLA 1970)

Revisor's note (1971). — In this section "secretary of state" has been changed to "lieutenant governor" in conformity with the 1970 Alaska constitutional amendment (SJR 2) changing the designation of that office.

Legislative committee report. — For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7.

Purpose of section. — The purpose of a prohibition such as contained in this section is to eliminate any hope in the mind of the legislator that an office created while he is a member of the legislature may be filled by himself, and to insure to the people independent judgment of their

representatives. *Kederick v. Heintzleman*, 15 Alaska 582, 132 F. Supp. 582 (D. Alas. 1955).

It is necessary to good government that legislators exercise their judgment free from selfish motives and, to this end, prohibitions such as contained in this section have been placed in constitutions and on statute books. *Kederick v. Heintzleman*, 15 Alaska 582, 132 F. Supp. 582 (D. Alas. 1955).

Former amendment unconstitutional. — The 1965 amendment to this section was inconsistent with Alaska Const., art. II, § 5, and thus unconstitutional. *Begich v. Jefferson*, Sup. Ct. Op. No. 481 (File No. 894), 441 P.2d 27 (1968).

Sec. 24.05.050. Membership on boards and commissions. A member of the legislature may serve on a board or commission of the state government only if the membership of legislators on the board or commission is specifically authorized by law. (§ 1 ch 32 SLA 1951; am § 1 ch 126 SLA 1966)

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Sec. 11.05.070. Effect of judgment of imprisonment in penitentiary.

This section and AS 33.15.190 deny parolees right to initiate civil suit. — In light of the absence of indications of legislative intent to distinguish the use of "the civil rights" in this section from "all civil rights," and the strong common law authority holding that convicts are denied civil access to the courts, the supreme court held that this section and AS 33.15.190 combine to deny parolees the right to initiate civil suit. *Bush v. Reid*, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

This section and AS 33.15.190 when read together clearly indicate that a parolee's civil rights, similar to those of a prisoner, remain suspended during the time he is in the custody of the parole board. *Bush v. Reid*, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

AS 33.15.190 expressly states that a parolee is subject to the disabilities imposed by this section. *State v. McCracken*, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

This section and AS 33.15.190 combine to deny a parolee the right to initiate civil suit; but such denial of access to the civil courts is a violation of due process and equal

protection provisions of the Alaska and United States constitutions. *State v. McCracken*, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

Punishment under section not unconstitutional. — The supreme court did not find the punishment provided under this section to be so severe as to constitute "cruel and unusual punishment" nor the statute void for vagueness. *Bush v. Reid*, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

But AS 33.15.190 held unconstitutional. — See *Bush v. Reid*, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

The administration of a parole system differs so substantially from the administration of a prison that the reasons for denying convicts while imprisoned access to civil courts cannot logically support the "civil death" of parolees. *Bush v. Reid*, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973).

As to statute of limitations problems affected by holding in *Bush v. Reid*, Sup. Ct. Op. No. 973 (File No. 1841), 516 P.2d 1215 (1973), see *State v. McCracken*, Sup. Ct. Op. No. 978 (File No. 1781), 520 P.2d 787 (1973).

Sec. 11.05.130. Forfeiture of property upon conviction and lien for fine and costs.

Applied in *One Cocktail Glass v. State*, Sup. Ct. Op. No. 1437 (File No. 2729), 565 P.2d 1265 (1977).

Sec. 11.05.140. Duty of court to determine and impose punishment.

There is no authority which would sanction the expansion of the superior court's jurisdiction to pass sentence into a realm of review and modification which is statutorily vested in either the supreme court or the executive branch of government. Therefore, the superior court lacks jurisdiction to review its own sentence, after it has entered a judgment on the matter, more than 60 days after it has imposed sentence. *Davenport v. State*, Sup. Ct. Op. No. 1218 (File No. 2202), 543 P.2d 1204 (1975); *Szeratics v. State*, Sup. Ct. Op. No. 1525 (File No. 3390), 572 P.2d 63 (1977).

Test to be used in determining whether multiple offenses can be punished separately. — See *State v. Occhipinti*, Sup.

Ct. Op. No. 1405 (File No. 3084), 562 P.2d 348 (1977).

Separate sentences were called for where defendant's conduct in kidnapping and ransoming his victim and assaulting her with a deadly weapon constituted the commission of three distinct offenses, each of which violated a different societal interest. *State v. Occhipinti*, Sup. Ct. Op. No. 1405 (File No. 3084), 562 P.2d 348 (1977).

Cited in *Rust v. State*, Sup. Ct. Op. No. 1668 (File No. 3172), 532 P.2d 134 (1978).

or is concurrent with that of the superior court. Consecutive sentencing by the district court is permissible. *State v. Pete*, Sup. Ct. Op. No. 372 (File No. 673), 420 P.2d 338 (1966).

But sentences should be limited to one term of imprisonment where two offenses are part of one transaction. —Where two offenses were really

part of one general transaction involving the unlawful sale of liquor, the judgment of conviction should be modified so as to limit defendant's sentences to one term of imprisonment. *State v. Pete*, Sup. Ct. Op. No. 372 (File No. 673), 420 P.2d 338 (1966).

Sec. 11.05.060. Judgment of imprisonment. A judgment of imprisonment in the penitentiary need only specify the duration and place of confinement. The manner of the confinement and the treatment and employment of the person sentenced shall be regulated and governed by the law in force prescribing the discipline of the penitentiary in which he is confined and the treatment and employment of persons sentenced to confinement in it. (§ 65-2-8 ACLA 1949; am § 3 ch 43 SLA 1964; am § 1 ch 68 SLA 1965)

Effect of amendments.—The 1965 amendment rewrote this section to appear as it did prior to the 1964 amendment.

Discretion of court as to judgment. —See 1964 Op. Att'y Gen., No. 8. Am. Jur. reference. — 15 Am. Jur., Criminal Law, § 520.

Sec. 11.05.070. Effect of judgment of imprisonment in penitentiary. A judgment of imprisonment in the penitentiary for a term less than for life suspends the civil rights of the person sentenced, and forfeits all public offices and all private trusts, authority, or power during the term or duration of imprisonment. (§ 65-2-9 ACLA 1949)

Cross reference.—As to voter disqualification for felony conviction, see AS 15.05.030.

Suspension of civil rights does not suspend the running of a statute of limitation. *Grasser v. Jones*, 201 P. 1069 (Ore. 1921), construing the Oregon statute.

No removal suit is necessary to terminate official's term under this section. *Fehl v. Jackson County*, 161 P.2d 782 (Ore. 1945), construing the Oregon statute.

Effect of section on citizenship requirement for location of mineral lands. — See *Vedin v. McConnell*, 22 F.2d 753 (9th Cir. 1927).

Quoted in *United States v. Powers*, 1 Alas. 180 (1901).

Cited in *Williams v. Coughlan*, 17 Alas. 147, 244 F.2d 6 (9th Cir. 1957).

Am. Jur. reference. — 41 Am. Jur., Prisons and Prisoners, § 38 et seq.

Sec. 11.05.080. Effect of sentence to life imprisonment. A person sentenced to imprisonment in the penitentiary for life is thereafter considered civilly dead. (§ 65-2-10 ACLA 1949)

Cross reference.—As to voter disqualification for felony conviction, see AS 15.05.030.

Am. Jur. reference. — 16 Am. Jur., Death, § 2 et seq.

Sec. 11.05.090. Crime against convict in penitentiary. A convict sentenced to imprisonment in the penitentiary is under the protection of the law, and any injury to his person not authorized by law is punishable as if he was not convicted or sentenced. (§ 65-2-11 ACLA 1949)

(4) A person does not lose his residence if he leaves his home and goes to another country, state or place in this state for temporary purposes only and with the intent of returning.

(5) A person does not gain residence in any place to which he comes without the present intention to establish his permanent dwelling at that place.

(6) A person loses his residence in this state if he votes in another state's election, either in person or by absentee ballot, and will not be eligible to vote in this state until he again qualifies under § 10 of this chapter.

(7) Repealed by § 38 ch 116 SLA 1972.

(8) The term of residence is computed by including the day on which the person's residence begins and excluding the day of election.

(9) Repealed by § 38 ch 116 SLA 1972.

(10) The address of a voter as it appears on his official voter registration card is presumptive evidence of the person's voting residence. If the person has changed his voting residence, this presumption is negated only by the voter executing an affidavit on a form prepared by the lieutenant governor setting out his new voting residence. (§ 1.02 ch 83 SLA 1960; am § 2 ch 125 SLA 1962; am §§ 2, 3 ch 136 SLA 1966; am § 1 ch 228 SLA 1968; am §§ 4, 38 ch 116 SLA 1972; am §§ 4, 5 ch 197 SLA 1975)

Cross reference. — For discussion of unconstitutionality of basing reapportionment on civilian population within each election district as reported by the census, see note to Alaska Const., art VI, § 3.

Effect of amendments. — The 1972 amendment added paragraph (10) and repealed paragraphs (7) and (9).

The 1975 amendment added the second and third sentences of paragraph (2) and substituted the language beginning "residence in any place" for "a residence in a place to which he comes for temporary purposes only" at the end of paragraph (5).

Paragraph (10) does not apply to municipal elections. *Miller v. North Pole City Council*, Sup. Ct. Op. No. 1129 (File No. 2170), 532 P.2d 1013 (1975).

Military personnel as a class cannot be deprived of the right to vote, and they cannot be arbitrarily eliminated in a population base used to design an apportionment scheme. *Egan v. Hammond*, Sup. Ct. Ops. No. 815 and 830 (File No. 1711), 502 P.2d 856 (1972).

Therefore, civilian-military distinction in Alaska Const., art VI, § 3 is unconstitutional. — See *Egan v. Hammond*, Sup. Ct. Ops. No. 815 and 830 (File No. 1711), 502 P.2d 856 (1972).

But some military may be excluded. — While the clause of Alaska Const., art VI, § 3 seeking to exclude military as a class is unconstitutional, that is not to say that some military cannot be excluded as a permissible device for limiting the impact of transients and nonresidents on legislative districting. *Egan v. Hammond*, Sup. Ct. Ops. No. 815 and 830 (File No. 1711), 502 P.2d 856 (1972).

Exclusive use of census requirement for determining civilian population is void. — The provision in Alaska Const., art VI, § 3, requiring exclusive use of the census in determining civilian population for reapportionment would not have been enacted independently of the void reference to "civilian population," and therefore also falls. *Egan v. Hammond*, Sup. Ct. Ops. No. 815 and 830 (File No. 1711), 502 P.2d 856 (1972).

Sec. 15.05.030. Voter disqualification for felony conviction. No person may vote who has been convicted either by the state courts of

Voting rights

Alaska, by the courts of another state or by the federal courts of a felony under Alaska law involving moral turpitude under Alaska law unless his civil rights have been restored by law or by the proper authority in the jurisdiction in which the person was convicted. Felonies involving moral turpitude include, but are not limited to, the crimes of murder, abortion, rape, robbery, kidnapping, burglary, incest, and other crimes which are punishable by imprisonment in the penitentiary under Alaska law and which involve conduct contrary to justice, honesty, modesty, or good morals. (§ 1.03 ch 83 SLA 1960)

Cross references. — As to effect of judgment of imprisonment in penitentiary, see AS 11.05.070. As to effect of sentence to life imprisonment, see AS 11.05.080. ALR and C.J.S. references. — What constitutes "conviction" within constitutional or statutory provision disenfranchising one convicted of crime, 36 ALR2d 1238. 29 C.J.S. Elections § 130 et seq.

Sec. 15.05.040. Voter disqualification for unsound mind. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed. (§ 1.04 ch 83 SLA 1960)

ALR and C.J.S. references. — What constitutes "conviction" within constitutional or statutory provision disenfranchising one convicted of crime, 36 ALR2d 1238. 29 C.J.S. Elections § 130 et seq.

Chapter 07. Registration of Voters.

Section	Section
10. Registration of voters	110. Expense of registration
20. Registration as a prerequisite	120. Custody of registers
30. Who may register	130. Elimination of excess names
40. Time for registration	140. General administrative supervision by lieutenant governor
50. Registration in person or by mail	150. Appeal to superior court for denial of registration
60. Required registration information	160. Unlawful action
65. Exchange of voter registration information	170. False statements
70. Procedure for registration	180. Fees prohibited
80. [Repealed]	190. Violations
81. Registration officials	200. Registration supervision
90. Re-registration	
100. Registration officials	

Sec. 15.07.010. Registration of voters. The precinct election judges at any election shall allow a person to vote whose name is registered and who is qualified under AS 15.05.010 in the precinct in which he intends to vote. (§ 2 ch 211 SLA 1968; am § 5 ch 116 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "any" for "an" and inserted "and who is qualified under AS 15.05.010." Cited in Green v. State, Sup. Ct. Op. No. 592 (File No. 1177), 462 P.2d 994 (1969).

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Introduced: 1/24/79
Referred: Judiciary

1 IN THE HOUSE

BY MILLER

2 HOUSE BILL NO. 3

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the restoration of the right to
7 vote."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 15.05 is amended by adding a new section to read:

10 Sec. 15.05.035. VOTER DISQUALIFICATION DURING IMPRISONMENT. A
11 person who has been convicted of a felony by the state courts of Alaska,
12 by the courts of another state, or by federal courts may not vote in
13 state or municipal elections during the period of imprisonment imposed
14 by the court. The rights withdrawn by this section are restored upon
15 completion of any ~~term~~ ^{involving moral turpitude} of imprisonment and ~~completion~~

16 * Sec. 2. AS 15.05.030 is repealed.

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any period of
probation or parole.

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24 civil rights
25 voting held public office
26 etc.
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HB

6

24.05.080

Repealed & re-enacted

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

HB 6 file

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

MEMORANDUM

February 2, 1979

TO: REPRESENTATIVE CHARLES PARR
FROM: Warren W. Endicott, Director *WWE*
Administrative Services
SUBJECT: Session Travel Costs

Round trip air travel for legislators to attend the session currently is \$11,397. This figure does not include any allowance for excess baggage.

Daily per diem costs are currently \$3,240. With an allowance of one day per diem while traveling each way, this should add \$6,480 in travel costs.

WWE:mm

CORRECTION

Please discard all copies of the following:

HOUSE BILL NO. 5

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 6

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 6 (Judiciary)

Retain the corrected copies.

HB 6 members file

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3860

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 26, 1979

SUBJECT: Legislative Sessions (Work Order No. 6408)
TO: Representative Charles H. Parr
FROM: Kenneth E. Vassar
Legislative Counsel *K.E.V.*

Enclosed is a rough draft of the bill you requested relating to regular sessions of the legislature. You should be aware, as I have discussed with you on occasion, that this bill raises some constitutional questions. While I believe that the legislature can establish by law a minimum length for legislative sessions with specified dates for convening and reconvening, I am not sure that the subject matter for any part of a regular session may be limited by law. The only section of our constitution which provides for limiting subject matter at a legislative session is Article II, section 9, relating to special sessions; and it is noteworthy that this section limits subject matter at special sessions only for those special sessions called by the governor. Legislatively called special sessions are not so limited.

Of course, there is nothing in this bill which prevents the legislature from reconvening from recess at any times other than those specified in the bill. So, if there were a desire to consider other subjects, the legislature would be empowered to convene at another time to consider them. Nevertheless, I thought you should be advised of the constitutional question involved.

Another possible constitutional question arises by virtue of the three-day limitation set on those parts of the regular session reconvened in accordance with sec. 24.05.090(b) of the bill. I have deleted that limitation for the last reconvening period in November. I believe the constitution requires affirmative concurrence by both houses of the

Representative Charles H. Parr
Page 2
February 26, 1979

legislature before a regular session may be brought to an end. Passive concurrence by failure to amend or repeal a law passed by a previous legislature is not what the constitution requires or what the framers of the constitution had in mind for adjourning a regular session. If you would like to have the three-day limitation included for the November reconvening date, I will re-do the bill to reflect that wish; but I do believe that would be a violation of the constitution. There may even be some question about imposing a limitation on the other reconvening dates; again, however, the legislature would retain the power to reconvene at times in addition to the times specified in this bill, so the three-day limitation on these parts of the regular session should present no real difficulty.

KEV:jdn

Enclosure



JUNEAU ALASKA

Alaska State Legislature House

January 30, 1979

MEMORANDUM

TO: Representative Charlie Parr
Chairman
House Judiciary Committee

FROM: Representative Ray Metcalfe

RE: H.B. 6

There are several items which are required by law to be submitted to the legislature within a specified number of days from the beginning day, as well as many items that the legislature is required to respond to within a given number of days. Therefore language should be included in H.B. 6 to point out that the clock begins running at the beginning of the regular session.

cc: Representative Brian Rogers

HOUSE

Am #1 by Brown was adopted

Am #2 by Duncan

not read

Am #3 by Randolph

SB # ~~Am #4 by Eliason~~

SJR # ~~Am #4~~ by Malone

SCR # _____

ENGROSS: _____

ENROLL: _____

CS HB # 6 (Jud.) am

HJR # _____

HCR # _____

HR # _____

DATE PASSED 4/6/79

ROLL CALL: YEAS: _____

EFFECTIVE DATE: YEAS: _____

NAYS: _____

NAYS: _____

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ABSENT: _____

EXCUSED: _____

EXCUSED: _____

referred back to Jud.

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AMENDMENT

#1

OFFERED IN THE HOUSE:

BY: ROGERS, Hayford

To: CS

HOUSE BILL No. 6 (J.D.)

Brown

SENATE BILL No. _____

PAGE: 2

LINE: 7

delete ~~the~~ "the following dates:"

delete line 8

line 9 delete "(2)"

line 11 delete "(d)(1) of"

line 11 delete "three" insert "five"

line 12 delete "a part" through

line 13 "as to duration"

line 29 delete ~~"in October"~~ "(d)(2) of"

adopted (24-13)

#2

AMENDMENT

OFFERED IN THE ^{HOUSE} ~~SENATE~~:
To: JUDICIARY
CSHB

By: DUNCAN

SENATE BILL No. _____

HOUSE BILL No. 6

PAGE: 2

LINE: _____

Lines 8 + 9 Delete present
Language insert the following:

- " (1) The first Friday in August "
- " (2) the first Friday in November "