

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9886 HOUSE JUDICIARY

SJR

3

Alaska State Legislature

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Administrative Regulations
Revenue Committee

Vice Chairman,
Resources Committee



State Capitol
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Senator Robin L. Taylor

MEMORANDUM

Pete
TO: REPRESENTATIVE PETE KOTT, CHAIRMAN HOUSE JUDICIARY COMMITTEE
FROM: SENATOR ROBIN L. TAYLOR
SUBJECT: SJR 3 - REPEAL OF REGULATIONS
DATE: 4/8/99
CC:

SENATE JOINT RESOLUTION NO. 3

Requesting that you hear SJR No. 3 - Proposing an amendment to the Constitution of the State of Alaska relating to the repeal of regulations by the legislature at your earliest convenience.

Robin L. Taylor
Robin

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

Alaska State Legislature

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Judiciary Committee

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Senator Robin L. Taylor

Sponsor Statement

Senate Joint Resolution 3 - Repeal of Regulations

Senate Joint Resolution 3 is a proposed amendment to the Constitution of the State of Alaska which would grant the Legislature the ability to repeal a regulation adopted by a state department or agency that is inconsistent with its enabling statute. This proposed amendment would allow the repeal of a regulation by a resolution passed by a majority of the members of each house.

The numerous regulations contained in the Alaska Administrative Code were not created by legislators. The only recourse for the Legislature is to repeal the law that enabled the regulation. This wastes Alaskan's time and money in the process. The repeal of burdensome regulations is vital to the progress of economic development for all of Alaska.

This issue has come before the voters in the past and now the time has come again for the voters to reduce the amount of time and money spent in legislation. Voters would have the chance to speak out about the proposed amendment in the next general election.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

NFIB Alaska



National Federation of Independent Business

Statement of Support

of SJR 3

A resolution calling for a constitutional amendment to allow the legislature to annul regulations found to be inconsistent with the intent of the law.

January 29, 1999

The Alaska Chapter of the National Federation of Independent Business has 3,000 members, making it the largest small-business advocacy group in the state.

The legislative agenda of NFIB is determined by ballot. The ballot is our poll of members on a series of state legislative and regulatory issues.

NFIB/Alaska ballot results have shown very strong support for giving the voters the chance to amend the constitution to allow repeal of regulations by the legislature. Following are the ballot results on this issue:

Should the State of Alaska place a proposed constitutional amendment before the voters to decide whether the legislature should be given the authority to repeal regulations found to be improper or inconsistent with the law?

73 % YES

15 % NO

12 % Undecided

NFIB/Alaska urges support for SJR 3.

Submitted by Thyes Shaub on behalf of NFIB/Alaska.

National Federation of Independent Business Key Vote

Vote Yes on SJR 3

A resolution calling for a constitutional amendment to allow
Repeal of regulations by the Legislature.

The Alaska Chapter of the National Federation of Independent Business has over 3,000 members, making it the largest small-business advocacy group in the state. The legislative agenda of NFIB is determined by ballot. The ballot is our poll of members on a series of state legislative and regulatory issues.

NFIB/Alaska ballot results have shown very strong support for giving voters the chance to amend the constitution to allow repeal of regulations by the legislature. NFIB/Alaska asks for your support of SJR 3.



Submitted by Thyes Shaub on behalf of NFIB/Alaska.
Distributed by Senator Robin Taylor

NFIB/Alaska 217 Second Street, Suite 206 Juneau, AK 99801

Key Small-Business Vote

Headquarters:
217 2nd Street, Suite 201
Juneau, Alaska 99801
(907) 586-2323 FAX 463-5515



URGING YOUR SUPPORT FOR SJR 3

Calling for a constitutional amendment to allow Legislative repeal of regulations

The Alaska State Chamber of Commerce, representing approximately 700 member businesses as well as a network of local chambers of commerce statewide, urges your support of SJR 3, relating to the repeal of regulations by the Legislature.

The volumes of regulations produced by the bureaucracy are beyond the checks and balances that are part of the legislative process. It is essential that the elected leaders of Alaska, rather than the anonymous members of the bureaucracy, have the final say on the laws of the land and the regulations that implement those laws. SJR 3 would return the system of checks and balances to the regulatory process that was intended by the creators of Alaska's Constitution.

SJR 3 is a straight forward and clearly worded proposal that the ASCC membership believes should be put before the public. We ask for your support of SJR 3.

*Submitted by Pamela La Bolle, President, Alaska State Chamber of Commerce
Distributed by Senator Robin Taylor*

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SJR3

Revision Date/Time (Note if correction) _____ Dept. Affected Office of the Governor
 Title Constitutional Amendment relating to BRU Elective Operations
the repeal of regulations by the legislature Component General and Primary
 Sponsor Senator Taylor
 Requester Senate State Affairs Committee Component Serial No. 22

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 Since the state has transferred to an optical scan ballot tabulation system, fiscal notes for constitutional amendments will be zero. The optical scan ballot tabulation system allows for greater flexibility in ballot printing.

Prepared by Gail Fenumiai *Gail Fenumiai* Phone 465-3935
 Division Division of Elections Date/Time 2/2/99 10:32 AM
 Approved by C Lt. Governor Fran Ulmer *Fran Ulmer* Date 2/2/99
 Agency Office of the Lieutenant Governor

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SJR

8

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

No. 1
Bill Version: STR 8
(S) Publish Date: 3/12/99

Revision Date/Time (Note if correction) _____ Dept. Affected _____
Title Senate Joint Resolution relating BRU _____
to fair count census Component _____
Sponsor Senator Jerry Ward _____
Requester Senate State Affairs Committee Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

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Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Senator Jerry Ward *Jerry Ward* Phone 465-4940
Division Senate State Affairs Committee Date/Time 3/9/99 10:07 AM
Approved by Commissioner Senator Jerry Ward, Chair Date 3/12/99
Agency Senate State Affairs Committee

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SJR

25

100TH CONGRESS
1st Session

HJR 25

H. J. RES. 7

Proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

IN THE HOUSE OF REPRESENTATIVES

January 6, 1999

Mrs. EMERSON introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of at least three-fourths of the several States within seven years from the date of its proposal to the States by the Congress:

Article--

'Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer. Neither the United States nor any State shall prescribe the content of any such prayer.'

(AS INTRODUCED)

Constitutional Amendment - Declares that: (1) nothing in the Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions; (2) no person shall be required by the United States or any State to participate in prayer; and (3) neither the United States nor any State shall prescribe the content of any such prayer.

SJR

27



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

SJR 27 PACKET OF INFORMATION

1. **SENATE JOINT RESOLUTION 27**
2. **SJR 27 SPONSOR STATEMENT**
3. **ALASKA STATE CONSTITUTION – ARTICLE XIII**
4. **HOUSE CS FOR CS SJR 3 (FIN) – LEGISLATIVELY PROPOSED CONSTITUTIONAL AMENDMENT THAT WAS STRUCK FROM THE BALLOT BY THE COURT.**
5. **CALIFORNIA’S PROPOSITION 115 – CITED BY THE COURT AS AN EXAMPLE OF A REVISION.**
6. **HOUSE CS FOR CS FOR SJR 42 (RLS) – LEGISLATIVELY PROPOSED CONSTITUTIONAL AMENDMENT THAT HAD LANGUAGE REMOVED FROM IT BY THE COURT (HIGHLIGHTED TEXT).**
7. **BESS V. ULMER – BRIEF ANALYSIS BY KEVIN CLARKSON (THE ATTORNEY THAT REPRESENTED THE LEGISLATURE IN BESS V. ULMER).**

DD/hrn
March 13, 2000

Vice-Chair, Senate Finance Committee • Chair, Capital Budget Subcommittee • Co-Chair, Anchorage Caucus
Member: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council

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June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238

SENATE JOINT RESOLUTION NO. 27 am
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATORS DONLEY, Pearce, Tim Kelly, Green, Pete Kelly, Leman, Miller, Phillips, Taylor, Ward, Wilken

Amended: 2/22/00
Introduced: 5/14/99

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska relating to
2 revisions of the state constitution and providing that a court may not change
3 language of a proposed constitutional amendment or revision.

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

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

6 Section 1. Amendments and Revisions. Amendments to or revisions of this
7 constitution may be proposed by a two-thirds vote of each house of the legislature.
8 The lieutenant governor shall prepare a ballot title and proposition summarizing each
9 proposed amendment or revision, and shall place them on the ballot for the next
10 general election. If a majority of the votes cast on the proposition favor the
11 amendment or revision, it shall be adopted. Unless otherwise provided in the
12 amendment or revision, it becomes effective thirty days after the certification of the
13 election returns by the lieutenant governor.

14 * Sec. 2. Article XIII, Constitution of the State of Alaska, is amended by adding a new
15 section to read:

16 Section 5. **Changing Constitutional Proposal Prohibited.** A court may not

1 alter or change the language of an amendment or revision to this constitution proposed
2 by the legislature or by a constitutional convention.

3 * Sec. 3. The amendments proposed by this resolution shall be placed before the voters of
4 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
5 State of Alaska, and the election laws of the state.



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

SPONSOR STATEMENT FOR SJR 27 AMENDING THE STATE CONSTITUTION TO PROTECT ALASKAN'S RIGHT TO AMEND THEIR CONSTITUTION

Senate Joint Resolution 27 amends Article XIII, sec. 1 of the Alaska State Constitution by making it possible for the legislature to place constitutional *revisions* as well as *amendments* before Alaskans for a vote. SJR 27 also adds a new section to Article XIII which would prohibit a court from changing the wording of constitutional amendments or revisions proposed by the legislature or constitutional convention.

The Alaska Supreme Court's August 17, 1999 final decision in Bess v. Ulmer, Case No. 5167, severely weakened the rights of the people of Alaska to amend Alaska's State Constitution. In Bess v. Ulmer the members of the court, for the first time in our state history, removed a legislatively proposed constitutional amendment from the ballot (the Amendment to Limit Prisoners' Rights) and changed the wording of another amendment (the Definition of Marriage Amendment). This decision badly unbalances the constitutional separation of powers in Alaska and destroys a fundamental element in the success of American democracy—the right of the people to amend their constitution. The Bess v. Ulmer decision sets up the members of the Alaska Supreme Court as an elitist oligarchy of lawyers who can dictate to the Alaskan public what constitutional issues they can and cannot vote on.

The Bess v. Ulmer decision, for the first time in Alaska, created a distinction between amendments to the state constitution and revisions to the constitution. An amendment may be proposed by vote of two-thirds of the legislature and take effect after approval by a majority of voters (Art. XIII, sec. 1). An amendment may also be proposed at a constitutional convention and take effect after voter ratification (Art. XIII, sec. 4). A revision may only be proposed by a constitutional convention and take effect after ratification by the voters (Art. XIII, sec. 4). The court, in Bess v. Ulmer, dictated that amendments can only consist of changes that are 'few and simple and independent', whereas revisions are apparently whatever else the members of the court say they are.

The ambiguous nature of these definitions allows the members of the court tremendous latitude as to what constitutional issues Alaskans can and cannot vote on. By usurping the elected legislators' constitutionally granted power to decide whether an amendment is appropriate for the ballot, they actually can and have removed amendments from the ballot, thus taking the power away from the people to amend the people's constitution.

Vice-Chair, Senate Finance Committee • Chair, Capital Budget Subcommittee • Co-Chair, Anchorage Caucus
Member: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council

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Since statehood, Alaskans have understandably been reluctant to call a constitutional convention due to the uncertainty of what would result. But Alaskans have voted in favor of 24 amendments since statehood. Several of these amendments, such as those concerning the right to privacy and limited entry, arguably do not meet the vague test the court adopted in Bess v. Ulmer. To now force Alaskans to call constitutional conventions to make even single subject changes to their constitution is terrible public policy and bad government. The court action forces Alaskans into an undemocratic, take it or leave it risk of a constitutional convention to make future improvements to our constitution.

The Bess v. Ulmer decision was an outrageous abuse of judicial process. The ultimately decided issues of revision and the court's power to change the wording of a proposed amendment were not noticed as points on appeal or even briefed. The court allowed plaintiffs to raise new arguments/issues in their reply briefs that the defendants were never given the opportunity to respond to. This violates basic due process requirements of both the Alaska and United States Constitutions. The failure of the members of the court to ensure such fundamental and basic fairness in their decision process is truly an outrage.

Additionally, the California case the members of the court primarily relied on as a justification of their revision versus amendment analysis is clearly distinguishable from the facts of the case that was before the court. That California case dealt with a state constitutional amendment proposed by initiative not a legislature and consisted of sweeping wholesale changes to many sections of the California Constitution. This is very different from the legislatively proposed single subject amendment on prisoners' rights the members of our court removed from the ballot.

Even more shocking is that the members of the Alaska Supreme Court have also now assumed the power to actually change the wording of constitutional proposals. In Bess v. Ulmer, the court deleted an entire sentence from the proposed definition of marriage amendment. This is an incredibly dangerous and terrible public policy and the worst kind of political power grab. Under the Alaska State Constitution, the unelected and unconfirmed judges of Alaska do not have the power to make policy that is constitutionally reserved for the elected Governor and Legislature; however, by altering the wording of ballot propositions, that is exactly what the members of the court now claim the power to do.

This creates a situation where a small group of elitist lawyers, who are not elected by the people or confirmed by the people's elected representatives, are dictating whether the people may vote on constitutional amendments and even deciding what ballot propositions say and mean. This is undemocratic and un-American. To our knowledge, in the entire history of the United States no other court has ever before manipulated the wording of a constitutional amendment proposed by a legislature before submitting it to a vote of the people.

Senate Joint Resolution 27 addresses this undemocratic, un-American situation by putting *revisions* in Article XIII, sec. 1 alongside *amendments* and making it impossible for the courts to alter or change the language of constitutional amendments or revisions proposed by the legislature or constitutional convention. This would restore the true meaning of these sections of Alaska's State Constitution and return this power to the people of Alaska.

**ARTICLE XIII.
AMENDMENT AND REVISION.**

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

SECTION 2. CONVENTION. The legislature may call constitutional conventions at any time.

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

members, districts, election and certification of delegates, and submission and ratification of revisions and ordinances. The appropriation provisions of the call shall be self-executing and shall constitute a first claim on the state treasury.

SECTION 4. POWERS. Constitutional conventions shall have plenary power to amend or revise the constitution, subject only to ratification by the people. No call for a constitutional convention shall limit these powers of the convention.

HOUSE CS FOR CS FOR SENATE JOINT RESOLUTION NC. 3(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/2/98

Referred: Rules

Sponsor(s): SENATORS DONLEY, Halford, Pearce, Phillips, Sharp, Leman, Green, Ward, Miller, Kelly

REPRESENTATIVES James, Porter, Martin, Barnes, Sanders, Kohring, Cowdery, Dyson, Masek, Austerman, Phillips, Mulder, Kott

A RESOLUTION

1 **Proposing an amendment to the Constitution of the State of Alaska limiting the**
2 **rights and protections of prisoners to those required under the Constitution of the**
3 **United States.**

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

5 *** Section 1.** Article I, Constitution of the State of Alaska, is amended by adding a new
6 section to read:

7 **Section 25. Rights of Prisoners.** Notwithstanding any other provision of this
8 constitution, the rights and protections, and the extent of those rights and protections,
9 afforded by this constitution to prisoners convicted of crimes shall be limited to those
10 rights and protections, and the extent of those rights and protections, afforded under
11 the Constitution of the United States to prisoners convicted of crimes.

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

Copr. (C) West 2000 No Claim to Orig. U.S. Govt. Works

CA LEGIS Prop. 115 (1990)
1990 Cal. Legis. Serv. Prop. 115 (West)

CALIFORNIA LEGISLATIVE SERVICE 1989-90
1990 PROPOSITIONS -- ELECTION RESULTS
Copr. (C) West 1990 No Claim to Orig. Govt. Works



Additions are indicated by <<+ Text of addition +>>; Deletions by <<- *** ->>. Changes in tables are made but not highlighted. Vetoed provisions within tabular material are not displayed.

PROPOSITION 115
CRIMINAL LAW--INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE

Approved by the electors June 5, 1990

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by amending and adding sections thereto, repeals and adds sections to the Code of Civil Procedure, adds a section to the Evidence Code, amends, repeals, and adds sections to the Penal Code.

PROPOSED LAW

SECTION 1. (a) We the people of the State of California hereby find that the rights of crime victims are too often ignored by our courts and by our State Legislature, that the death penalty is a deterrent to murder, and that comprehensive reforms are needed in order to restore balance and fairness to our criminal justice system.

(b) In order to address these concerns and to accomplish these goals, we the people further find that it is necessary to reform the law as developed in numerous California Supreme Court decisions and as set forth in the statutes of this state. These decisions and statutes have unnecessarily expanded the rights of accused criminals far beyond that which is required by the United States Constitution, thereby unnecessarily adding to the costs of criminal cases, and diverting the judicial process from its function as a quest for truth.

(c) The goals of the people in enacting this measure are to restore balance to our criminal justice system, to create a system in which justice is swift and fair, and to create a system in which violent criminals receive just punishment, in which crime victims and witnesses are treated with care and respect, and in which society as a whole can be free from the fear of crime in our homes, neighborhoods, and schools.

(d) With these goals in mind, we the people do hereby enact the Crime Victims Justice Reform Act.

CA CONST Art. 1, s 14.1

SEC. 2. Section 14.1 is added to Article I of the California Constitution, to read:

<<+SEC. 14.1. If a felony is prosecuted by indictment, there shall be no postindictment preliminary hearing.+>>

CA CONST Art. 1, s 24

SEC. 3. Section 24 of Article I of the California Constitution is amended to read:

SEC. 24. Rights guaranteed by this Constitution are not dependent on those

guaranteed by the United States Constitution.

<<+In criminal cases the rights of a defendant to equal protection of the laws, to due process of law, to the assistance of counsel, to be personally present with counsel, to a speedy and public trial, to compel the attendance of witnesses, to confront the witnesses against him or her, to be free from unreasonable searches and seizures, to privacy, to not be compelled to be a witness against himself or herself, to not be placed twice in jeopardy for the same offense, and to not suffer the imposition of cruel or unusual punishment, shall be construed by the courts of this state in a manner consistent with the Constitution of the United States. This Constitution shall not be construed by the courts to afford greater rights to criminal defendants than those afforded by the Constitution of the United States, nor shall it be construed to afford greater rights to minors in juvenile proceedings on criminal causes than those afforded by the Constitution of the United States.+>>

This declaration of rights may not be construed to impair or deny others retained by the people.

CA CONST Art. 1, s 29

SEC. 4. Section 29 is added to Article I of the California Constitution, to read:

SEC. 29. In a criminal case, the people of the State of California have the right to due process of law and to a speedy and public trial.

CA CONST Art. 1, s 30

SEC. 5. Section 30 is added to Article I of the California Constitution, to read:

SEC. 30. (a) This Constitution shall not be construed by the courts to prohibit the joining of criminal cases as prescribed by the Legislature or by the people through the initiative process.

(b) In order to protect victims and witnesses in criminal cases, hearsay evidence shall be admissible at preliminary hearings, as prescribed by the Legislature or by the people through the initiative process.

(c) In order to provide for fair and speedy trials, discovery in criminal cases shall be reciprocal in nature, as prescribed by the Legislature or by the people through the initiative process.

CA CIV PRO s 223 Repealed

SECTION 6. Section 223 of the Code of Civil Procedure is repealed.

<<-* * *->>

CA CIV PRO s 223

SEC. 7. Section 223 is added to the Code of Civil Procedure, to read:

223. In a criminal case, the court shall conduct the examination of prospective jurors. However, the court may permit the parties, upon a showing of good cause, to supplement the examination by such further inquiry as it deems proper, or shall itself submit to the prospective jurors upon such a showing, such additional questions by the parties as it deems proper. Voir dire of any prospective jurors shall, where practicable, occur in the presence of the other jurors in all criminal cases, including death penalty cases.

Examination of prospective jurors shall be conducted only in aid of the exercise of challenges for cause.

The trial court's exercise of its discretion in the manner in which voir dire is conducted shall not cause any conviction to be reversed unless the exercise of that discretion has resulted in a miscarriage of justice, as specified in Section

13 of Article VI of the California Constitution.

CA CIV PRO s 223.5 Repealed

SEC. 7.5. Section 223.5 of the Code of Civil Procedure is repealed.

<<-* * *->>

CA EVID s 1203.1

SEC. 8. Section 1203.1 is added to the Evidence Code, to read:

1203.1. Section 1203 is not applicable if the hearsay statement is offered at a preliminary examination, as provided in Section 872 of the Penal Code.

CA PENAL s 189

SEC. 9. Section 189 of the Penal Code is amended to read:

189. All murder which is perpetrated by means of a destructive device or explosive, knowing use of ammunition designed primarily to penetrate metal or armor, poison, lying in wait, torture, or by any other kind of willful, deliberate, and premeditated killing, or which is committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, mayhem, <<+ kidnapping, train wrecking,+>> or any act punishable under <<-* * *->> <<+Section 286, 288, 288a, or 289,+>> is murder of the first degree; and all other kinds of murders are of the second degree.

As used in this section, "destructive device" shall mean any destructive device as defined in Section 12301, and "explosive" shall mean any explosive as defined in Section 12000 of the Health and Safety Code.

To prove the killing was "deliberate and premeditated," it shall not be necessary to prove the defendant maturely and meaningfully reflected upon the gravity of his or act.

CA PENAL s 190.2

SEC. 10. Section 190.2 of the Penal Code is amended to read:

190.2. (a) The penalty for a defendant found guilty of murder in the first degree shall be death or confinement in state prison for a term of life without the possibility of parole in any case in which one or more of the following special circumstances has been <<-* * *->> found under Section 190.4, to be true:

(1) The murder was intentional and carried out for financial gain.

(2) The defendant was previously convicted of murder in the first degree or second degree. For the purpose of this paragraph an offense committed in another jurisdiction which if committed in California would be punishable as first or second degree murder shall be deemed murder in the first or second degree.

(3) The defendant has in this proceeding been convicted of more than one offense of murder in the first or second degree.

(4) The murder was committed by means of a destructive device, bomb, or explosive planted, hidden or concealed in any place, area, dwelling, building or structure, and the defendant knew or reasonably should have known that his <<+or her+>> act or acts would create a great risk of death to a human being or human beings.

(5) The murder was committed for the purpose of avoiding or preventing a lawful arrest or to perfect, or attempt to perfect an escape from lawful custody.

(6) The murder was committed by means of a destructive device, bomb, or explosive that the defendant mailed or delivered, attempted to mail or deliver, or cause to be mailed or delivered and the defendant knew or reasonably should have known that his <<+or her+>> act or acts would create a great risk of death to a human being or human beings.

(7) The victim was a peace officer as defined in Section 830.1, 830.2, 830.3, 830.31, 830.35, 830.36, 830.4, 830.5, 830.5a, 830.6, 830.10, 830.11 or 830.12,

who, while engaged in the course of the performance of his <<+or her+>> duties was intentionally killed, and such defendant knew or reasonably should have known that such victim was a peace officer engaged in the performance of his <<+or her+>> duties; or the victim was a peace officer as defined in the above enumerated sections of the Penal Code, or a former peace officer under any of such sections, and was intentionally killed in retaliation for the performance of his <<+or her+>> official duties.

(8) The victim was a federal law enforcement officer or agent, who, while engaged in the course of the performance of his <<+or her+>> duties was intentionally killed, and such defendant knew or reasonably should have known that such victim was a federal law enforcement officer or agent, engaged in the performance of his <<+or her+>> duties; or the victim was a federal law enforcement officer or agent, and was intentionally killed in retaliation for the performance of his <<+or her+>> official duties.

(9) The victim was a fireman as defined in Section 245.1, who while engaged in the course of the performance of his <<+or her+>> duties was intentionally killed, and such defendant knew or reasonably should have known that such victim was a fireman engaged in the performance of his <<+or her+>> duties.

(10) The victim was a witness to a crime who was intentionally killed for the purpose of preventing his <<+or her+>> testimony in any criminal <<+or juvenile+>> proceeding, and the killing was not committed during the commission, or attempted commission <<-* * *->> <<+of+>> the crime to which he <<+or she+>> was a witness; or the victim was a witness to a crime and was intentionally killed in retaliation for his <<+or her+>> testimony in any criminal <<+or juvenile+>> proceeding. <<+As used in this paragraph, "juvenile proceeding" means a proceeding brought pursuant to Section 602 or 707 of the Welfare and Institutions Code.+>>

(11) The victim was a prosecutor or assistant prosecutor or a former prosecutor or assistant prosecutor of any local or state prosecutor's office in this state or any other state, or a federal prosecutor's office and the murder was <<+intentionally+>> carried out in retaliation for or to prevent the performance of the victim's official duties.

(12) The victim was a judge or former judge of any court of record in the local, state or federal system in the State of California or in any other state of the United States and the murder was <<+intentionally+>> carried out in retaliation for or to prevent the performance of the victim's official duties.

(13) The victim was an elected or appointed official or former official of the <<-* * *->> <<+federal government+>>, a local or <<-* * *->> <<+state+>> government of California, or of any local or state government of any other state in the United States and the killing was intentionally carried out in retaliation for or to prevent the performance of the victim's official duties.

(14) The murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity <<-* * *->><<+. As+>> utilized in this section, the phrase especially heinous, atrocious or cruel manifesting exceptional depravity means a conscienceless, or pitiless crime which is unnecessarily torturous to the victim.

(15) The defendant intentionally killed the victim while lying in wait.

(16) The victim was intentionally killed because of his <<+or her+>> race, color, religion, nationality or country of origin.

(17) The murder was committed while the defendant was engaged in or was an accomplice in the commission of, attempted commission of, or the immediate flight after committing or attempting to commit the following felonies:

(i) Robbery in violation of Section 211 or 212.5.

(ii) Kidnapping in violation of <<-* * *->> <<+Section+>> 207 <<-* * *->> <<+or+>> 209.

(iii) Rape in violation of Section 261.

(iv) Sodomy in violation of Section 286.

(v) The performance of a lewd or lascivious act upon person of a child under the age of 14 in violation of Section 288.

- (vi) Oral copulation in violation of Section 288a.
- (vii) Burglary in the first or second degree in violation of Section 460.
- (viii) Arson in violation of <<+subdivision (b) of+>> Section <<-* * *->> <<+451+>>.
- (ix) Train wrecking in violation of Section 219.
- <<+(x) Mayhem in violation of Section 203.+>>
- <<+(xi) Rape by instrument in violation of Section 289.+>>
- (18) The murder was intentional and involved the infliction of torture. <<-* * *->>
- (19) The defendant intentionally killed the victim by the administration of poison.
- (b) <<-* * *->> <<+Unless an intent to kill is specifically required under subdivision (a) for a special circumstance enumerated therein, an actual killer as to whom such special circumstance has been found to be true under Section 190.4 need not have had any intent to kill at the time of the commission of the offense which is the basis of the special circumstance in order to suffer death or confinement in state prison for a term of life without the possibility of parole.+>>
- <<+(c) Every person not the actual killer who, with the intent to kill, aids, abets, counsels, commands, induces, solicits, requests, or assists any actor in the commission of murder in the first degree shall suffer death or confinement in state prison for a term of life without the possibility of parole, in any case in which one or more of the special circumstances enumerated in subdivision (a) of this section has been found to be true under Section 190.4.+>>
- <<+(d) Notwithstanding subdivision (c), every person not the actual killer, who, with reckless indifference to human life and as a major participant, aids, abets, counsels, commands, induces, solicits, requests, or assists in the commission of a felony enumerated in paragraph (17) of subdivision (a), which felony results in the death of some person or persons, who is found guilty of murder in the first degree therefor, shall suffer death or confinement in state prison for life without the possibility of parole, in any case in which a special circumstance enumerated in paragraph (17) of subdivision (a) of this section has been found to be true under Section 190.4.+>>
- <<+(e)+>> The penalty shall be determined as provided in Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

CA PENAL s 190.41

SEC. 11. Section 190.41 is added to the Penal Code, to read:

190.41. Notwithstanding Section 190.4 or any other provision of law, the corpus delicti of a felony-based special circumstance enumerated in paragraph (17) of subdivision (a) of Section 190.2 need not be proved independently of a defendant's extrajudicial statement.

CA PENAL s 190.5

SEC. 12. Section 190.5 of the Penal Code is amended to read:

190.5. <<+(a)+>> Notwithstanding any other provision of law, the death penalty shall not be imposed upon any person who is under the age of 18 at the time of the commission of the crime. The burden of proof as to the age of such person shall be upon the defendant.

<<+(b) The penalty for a defendant found guilty of murder in the first degree, in any case in which one or more special circumstances enumerated in Section 190.2 or 190.25 has been found to be true under Section 190.4, who was 16 years of age or older and under the age of 18 years at the time of the commission of the crime, shall be confinement in the state prison for life without the possibility of parole or, at the discretion of the court, 25 years to life.+>>

<<+(c) The trier of fact shall determine the existence of any special

circumstance pursuant to the procedure set forth in Section 190.4.+>>

CA PENAL s 206

SEC. 13. Section 206 is added to the Penal Code, to read:

206. Every person who, with the intent to cause cruel or extreme pain and suffering for the purpose of revenge, extortion, persuasion, or for any sadistic purpose, inflicts great bodily injury as defined in Section 12022.7 upon the person of another, is guilty of torture.

The crime of torture does not require any proof that the victim suffered pain.

CA PENAL s 206.1

SEC. 14. Section 206.1 is added to Penal Code, to read:

206.1. Torture is punishable by imprisonment in the state prison for a term of life.

CA PENAL s 859

SEC. 15. Section 859 of the Penal Code is amended to read:

859. When the defendant is charged with the commission of a public offense over which the superior court has original jurisdiction, by a written complaint subscribed under oath and on file in a court within the county in which the public offense is triable, he or she shall, without unnecessary delay, be taken before a magistrate of the court in which the complaint is on file. The magistrate shall immediately deliver to the defendant a copy of the complaint, inform the defendant that he or she has the right to have the assistance of counsel, ask the defendant if he or she desires the assistance of counsel, and allow the defendant reasonable time to send for counsel. However, in a capital case, the court shall inform the defendant that the defendant must be represented in court by counsel at all stages of the preliminary and trial proceedings and that the representation will be at the defendant's expense if the defendant is able to employ counsel or at public expense if he or she is unable to employ counsel, inquire of him or her whether he or she is able to employ counsel and, if so, whether the defendant desires to employ counsel of the defendant's choice or to have counsel assigned for him or her, and allow the defendant a reasonable time to send for his or her chosen or assigned counsel. The magistrate must, upon the request of the defendant, require a peace officer to take a message to any counsel whom the defendant may name, in the judicial district in which the court is situated. The officer shall, without delay and without a fee, perform that duty. If the defendant desires and is unable to employ counsel, the court shall assign counsel to defend him or her; in a capital case, if the defendant is able to employ counsel and either refuses to employ counsel or appears without counsel after having had a reasonable time to employ counsel, the court shall assign counsel to defend him or her. If it appears that the defendant may be a minor, the magistrate shall ascertain whether that is the case, and if the magistrate concludes that it is probable that the defendant is a minor, he or she shall immediately either notify the parent or guardian of the minor, by telephone or messenger, of the arrest, or appoint counsel to represent the minor. <<-* * *->>

CA PENAL s 866

SEC. 16. Section 866 of the Penal Code is amended to read:

866. <<+(a)+>> When the examination of witnesses on the part of the people is closed, any <<-* * *->> <<+witness+>> the defendant may produce <<-* * *->> <<+shall+>> be sworn and examined.

<<+Upon the request of the prosecuting attorney, the magistrate shall require an offer of proof from the defense as to the testimony expected from the witness.

The magistrate shall not permit the testimony of any defense witness unless the offer of proof discloses to the satisfaction of the magistrate, in his or her sound discretion, that the testimony of that witness, if believed, would be reasonably likely to establish an affirmative defense, negate an element of a crime charged, or impeach the testimony of a prosecution witness or the statement of a declarant testified to by a prosecution witness.+>>

<<+(b) It is the purpose of a preliminary examination to establish whether there exists probable cause to believe that the defendant has committed a felony. The examination shall not be used for purposes of discovery.+>>

<<+(c) This section shall not be construed to compel or authorize the taking of depositions of witnesses.+>>

CA PENAL s 871.6

SEC. 17. Section 871.6 is added to the Penal Code, to read:

871.6. If in a felony case the magistrate sets the preliminary examination beyond the time specified in Section 859b, in violation of Section 859b, or continues the preliminary hearing without good cause and good cause is required by law for such a continuance, the people or the defendant may file a petition for writ of mandate or prohibition in the superior court seeking immediate appellate review of the ruling setting the hearing or granting the continuance. Such a petition shall have precedence over all other cases in the court to which the petition is assigned. If the superior court grants a peremptory writ, it shall issue the writ and a remittitur three court days after its decision becomes final as to the court if this action is necessary to prevent mootness or to prevent frustration of the relief granted, notwithstanding the rights of the parties to seek review in a court of appeal. When the superior court issues the writ and remittitur as provided in this section, the writ shall command the magistrate to proceed with the preliminary hearing without further delay, other than that reasonably necessary for the parties to obtain the attendance of their witnesses.

The court of appeal may stay or recall the issuance of the writ and remittitur. The failure of the court of appeal to stay or recall the issuance of the writ and remittitur shall not deprive the parties of any right they would otherwise have to appellate review or extraordinary relief.

CA PENAL s 872

SEC. 18. Section 872 of the Penal Code is amended to read:

872. (a) If, however, it appears from the examination that a public offense has been committed, and there is sufficient cause to believe <<+that+>> the defendant <<+is+>> guilty <<-* * *->>, the magistrate <<-* * *->> <<+shall+>> make or indorse on the complaint an order, signed by him <<+or her+>>, to the following effect: "It appearing to me that the offense in the within complaint mentioned (or any offense, according to the fact, stating generally the nature thereof), has been committed, and that there is sufficient cause to believe <<+that+>> the within named A.B. <<+is+>> guilty <<-* * *->>, I order that he <<+or she+>> be held to answer to the same."

<<-* * *->>

(b) Notwithstanding Section 1200 of the Evidence Code, the finding of probable cause may be based in whole or in part upon the sworn testimony of a law enforcement officer relating the statements of declarants made out of court offered for the truth of the matter asserted. Any law enforcement officer testifying as to hearsay statements shall either have five years of law enforcement experience or have completed a training course certified by the Commission on Peace Officer Standards and Training which includes training in the investigation and reporting of cases and testifying at preliminary hearings.

CA PENAL s 954.1

SEC. 19. Section 954.1 is added to the Penal Code, to read:

954.1. In cases in which two or more different offenses of the same class of crimes or offenses have been charged together in the same accusatory pleading, or where two or more accusatory pleadings charging offenses of the same class of crimes or offenses have been consolidated, evidence concerning one offense or offenses need not be admissible as to the other offense or offenses before the jointly charged offenses may be tried together before the same trier of fact.

CA PENAL s 987.05

SEC. 20. Section 987.05 is added to the Penal Code, to read:

987.05. In assigning defense counsel in felony cases, whether it is the public defender or private counsel, the court shall only assign counsel who represents, on the record, that he or she will be ready to proceed with the preliminary hearing or trial, as the case may be, within the time provisions prescribed in this code for preliminary hearings and trials, except in those unusual cases where the court finds that, due to the nature of the case, counsel cannot reasonably be expected to be ready within the prescribed period if he or she were to begin preparing the case forthwith and continue to make diligent and constant efforts to be ready. In the case where the time of preparation for preliminary hearing or trial is deemed greater than the statutory time, the court shall set a reasonable time period for preparation. In making this determination, the court shall not consider counsel's convenience, counsel's calendar conflicts, or counsel's other business. The court may allow counsel a reasonable time to become familiar with the case in order to determine whether he or she can be ready. In cases where counsel, after making representations that he or she will be ready for preliminary examination or trial, and without good cause is not ready on the date set, the court may relieve counsel from the case and may impose sanctions upon counsel, including, but not limited to, finding the assigned counsel in contempt of court, imposing a fine, or denying any public funds as compensation for counsel's services. Both the prosecuting attorney and defense counsel shall have a right to present evidence and argument as to a reasonable length of time for preparation and on any reasons why counsel could not be prepared in the set time.

CA PENAL s 1049.5

SEC. 21. Section 1049.5 is added to the Penal Code, to read:

1049.5. In felony cases, the court shall set a date for trial which is within 60 days of the defendant's arraignment in the superior court unless, upon a showing of good cause as prescribed in Section 1050, the court lengthens the time. If the court, after a hearing as prescribed in Section 1050, finds that there is good cause to set the date for trial beyond the 60 days, it shall state on the record the facts proved that justify its finding. A statement of facts proved shall be entered in the minutes.

CA PENAL s 1050.1

SEC. 22. Section 1050.1 is added to the Penal Code, to read:

1050.1. In any case in which two or more defendants are jointly charged in the same complaint, indictment, or information, and the court or magistrate, for good cause shown, continues the arraignment, preliminary hearing, or trial of one or more defendants, the continuance shall, upon motion of the prosecuting attorney, constitute good cause to continue the remaining defendants' cases so as to maintain joinder. The court or magistrate shall not cause jointly charged cases to be severed due to the unavailability or unpreparedness of one or more

defendants unless it appears to the court or magistrate that it will be impossible for all defendants to be available and prepared within a reasonable period of time.

CA PENAL Prec. s 1054

SEC. 23. Chapter 10 (commencing with Section 1054) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 10. DISCOVERY

CA PENAL s 1054

1054. This chapter shall be interpreted to give effect to all of the following purposes:

- (a) To promote the ascertainment of truth in trials by requiring timely pretrial discovery.
- (b) To save court time by requiring that discovery be conducted informally between and among the parties before judicial enforcement is requested.
- (c) To save court time in trial and avoid the necessity for frequent interruptions and postponements.
- (d) To protect victims and witnesses from danger, harassment, and undue delay of the proceedings.
- (e) To provide that no discovery shall occur in criminal cases except as provided by this chapter, other express statutory provisions, or as mandated by the Constitution of the United States.

CA PENAL s 1054.1

1054.1. The prosecuting attorney shall disclose to the defendant or his or her attorney all of the following materials and information, if it is in the possession of the prosecuting attorney or if the prosecuting attorney knows it to be in the possession of the investigating agencies:

- (a) The names and addresses of persons the prosecutor intends to call as witnesses at trial.
- (b) Statements of all defendants.
- (c) All relevant real evidence seized or obtained as a part of the investigation of the offenses charged.
- (d) The existence of a felony conviction of any material witness whose credibility is likely to be critical to the outcome of the trial.
- (e) Any exculpatory evidence.
- (f) Relevant written or recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor intends to call at the trial, including any reports or statements of experts made in conjunction with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the prosecutor intends to offer in evidence at the trial.

CA PENAL s 1054.2

1054.2. No attorney may disclose or permit to be disclosed to a defendant the address or telephone number of a victim or witness whose name is disclosed to the attorney pursuant to subdivision (a) of Section 1054.1 unless specifically permitted to do so by the court after a hearing and a showing of good cause.

CA PENAL s 1054.3

1054.3. The defendant and his or her attorney shall disclose to the prosecuting attorney:

- (a) The names and addresses of persons, other than the defendant, he or she intends to call as witnesses at trial, together with any relevant written or

recorded statements of those persons, or reports of the statements of those persons, including any reports or statements of experts made in connection with the case, and including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the defendant intends to offer in evidence at the trial.

(b) Any real evidence which the defendant intends to offer in evidence at the trial.

CA PENAL s 1054.4

1054.4. Nothing in this chapter shall be construed as limiting any law enforcement or prosecuting agency from obtaining nontestimonial evidence to the extent permitted by law on the effective date of this section.

CA PENAL s 1054.5

1054.5. (a) No order requiring discovery shall be made in criminal cases except as provided in this chapter. This chapter shall be the only means by which the defendant may compel the disclosure or production of information from prosecuting attorneys, law enforcement agencies which investigated or prepared the case against the defendant, or any other persons or agencies which the prosecuting attorney or investigating agency may have employed to assist them in performing their duties.

(b) Before a party may seek court enforcement of any of the disclosures required by this chapter, the party shall make an informal request of opposing counsel for the desired materials and information. If within 15 days the opposing counsel fails to provide the materials and information requested, the party may seek a court order. Upon a showing that a party has not complied with Section 1054.1 or 1054.3 and upon a showing that the moving party complied with the informal discovery procedure provided in this subdivision, a court may make any order necessary to enforce the provisions of this chapter, including, but not limited to, immediate disclosure, contempt proceedings, delaying or prohibiting the testimony of a witness or the presentation of real evidence, continuance of the matter, or any other lawful order. Further, the court may advise the jury of any failure or refusal to disclose and of any untimely disclosure.

(c) The court may prohibit the testimony of a witness pursuant to subdivision (b) only if all other sanctions have been exhausted. The court shall not dismiss a charge pursuant to subdivision (b) unless required to do so by the Constitution of the United States.

CA PENAL s 1054.6

1054.6. Neither the defendant nor the prosecuting attorney is required to disclose any materials or information which are work product as defined in subdivision (c) of Section 2018 of the Code of Civil Procedure, or which are privileged pursuant to an express statutory provision, or are privileged as provided by the Constitution of the United States.

CA PENAL s 1054.7

1054.7. The disclosures required under this chapter shall be made at least 30 days prior to the trial, unless good cause is shown why a disclosure should be denied, restricted, or deferred. If the material and information becomes known to, or comes into the possession of, a party within 30 days of trial, disclosure shall be made immediately, unless good cause is shown why a disclosure should be denied, restricted, or deferred. "Good cause" is limited to threats or possible danger to the safety of a victim or witness, possible loss or destruction of evidence, or possible compromise of other investigations by law enforcement.

Upon the request of any party, the court may permit a showing of good cause for the denial or regulation of disclosures, or any portion of that showing, to be made in camera. A verbatim record shall be made of any such proceeding. If the court enters an order granting relief following a showing in camera, the entire record of the showing shall be sealed and preserved in the records of the court, and shall be made available to an appellate court in the event of an appeal or writ. In its discretion, the trial court may after trial and conviction, unseal any previously sealed matter.

CA PENAL s 1102.5 Repealed

SEC. 24. Section 1102.5 of the Penal Code is repealed.
<<-* * *->>

CA PENAL s 1102.7 Repealed

SEC. 25. Section 1102.7 of the Penal Code is repealed.
<<-* * *->>

CA PENAL s 1385.1

SEC. 26. Section 1385.1 is added to the Penal Code, to read:
1385.1. Notwithstanding Section 1385 or any other provision of law, a judge shall not strike or dismiss any special circumstance which is admitted by a plea of guilty or nolo contendere or is found by a jury or court as provided in Sections 190.1 to 190.5, inclusive.

CA PENAL s 1430 Repealed

SEC. 27. Section 1430 of the Penal Code is repealed.
<<-* * *->>

CA PENAL s 1511

SEC. 28. Section 1511 is added to the Penal Code, to read:
1511. If in a felony case the superior court sets the trial beyond the period of time specified in Section 1049.5, in violation of Section 1049.5, or continues the hearing of any matter without good cause, and good cause is required by law for such a continuance, either party may file a petition for writ of mandate or prohibition in the court of appeal seeking immediate appellate review of the ruling setting the trial or granting the continuance. Such a petition shall have precedence over all other cases in the court to which the petition is assigned, including, but not limited to, cases that originated in the juvenile court. If the court of appeal grants a peremptory writ, it shall issue the writ and a remittitur three court days after its decision becomes final as to that court if such action is necessary to prevent mootness or to prevent frustration of the relief granted, notwithstanding the right of the parties to file a petition for review in the Supreme Court. When the court of appeal issues the writ and remittitur as provided herein, the writ shall command the superior court to proceed with the criminal case without further delay, other than that reasonably necessary for the parties to obtain the attendance of their witnesses.

The Supreme Court may stay or recall the issuance of the writ and remittitur. The Supreme Court's failure to stay or recall the issuance of the writ and remittitur shall not deprive the respondent or the real party in interest of its right to file a petition for review in the Supreme Court.

SEC. 29. If any provision of this measure or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the measure which can be given effect without the

invalid provision or application, and to this end the provisions of this measure are severable.

SEC. 30. The statutory provisions contained in this measure may not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

CA LEGIS Prop. 115 (1990)

END OF DOCUMENT

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HOUSE CS FOR CS FOR SENATE JOINT RESOLUTION NO. 42(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered: 5/10/98

Referred: Today's Calendar

Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

A RESOLUTION

1 Proposing an amendment to the Constitution of the State of Alaska relating to
2 marriage.

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

4 * Section 1. Article I, Constitution of the State of Alaska, is amended by adding a new
5 section to read:

6 Section 25. Marriage. To be valid or recognized in this State, a marriage
7 may exist only between one man and one woman. No provision of this constitution
8 may be interpreted to require the State to recognize or permit marriage between
9 individuals of the same sex.

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

BRIEF ANALYSIS OF BESSV. ULMER

BY KEVIN G. CLARKSON

Bess v. Ulmer: This is the case regarding the Alaska Marriage Amendment. Wagstaff and the ACLU attacked the then proposed marriage amendment as a "revision" of the constitution rather than an amendment and argued that the Legislature had no power to present the issue to the people for ratification. In furtherance of this argument against the Marriage Amendment, Wagstaff pointed to two other amendments which the Legislature proposed at the same time (the Prisoners Rights and Apportionment Amendments) and argued that taken together the three constituted a revision. No one ever briefed whether the Prisoners Rights Amendment standing alone was a revision and it was only addressed as an aside from the perspective of whether the Marriage Amendment should be removed from the ballot because the three amendments taken together were impermissible. Nonetheless, the Alaska Supreme Court struck the Prisoners Rights Amendment as a revision which could not be proposed by the Legislature. The Court also decided to edit the Marriage Amendment by deleting the last sentence. The Court was told at argument that if it found that the second sentence of the Marriage Amendment rose to the level of being a "revision" then it should sever that sentence from the remainder of the Amendment, but instead the Court simply asserted some unheard of "editing" right to eliminate what it viewed as "surplusage." The Courts (both the Alaska Supreme Court and Judge Sen Tan in the Superior Court) then actually ruled that Wagstaff had prevailed in his litigation and awarded him attorney's fees and costs on the premise that he had eliminated the Prisoners Rights Amendment and the second sentence of the Marriage Amendment – even though the entire focus of his litigation had been the first sentence of the Marriage Amendment and he had completely lost on that score.

SJR

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4/20/00

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The Anchorage Times

Publisher: BILL J. ALLEN

"Believing in Alaskans, putting Alaska first"

Editors: PAUL JENKINS; WILLIAM J. TOBIN

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Yes to amendment

YOU HAVE TO marvel at the angry response to a proposed constitutional amendment that would mandate our governor be elected by a majority vote. Absent a majority, a runoff would be required between the top two vote-getters in the general election.

Simple. Straightforward. Logical. After all, shouldn't the elected leader of our great state be the man or woman a majority of voters want elected? Not in some quarters, apparently. The very notion of changing the state constitution to ensure majority rule has set off paroxysms of rhetorical gobbledygook from the left.

It's too expensive and it's not needed, they say. No other state does it that way, they say. It's inconvenient, they say. The system is not broken, it doesn't need fixing, they say. And on, and on, and on.

Will it be too costly? Hardly. The governor's office pegs the cost at \$750,000, but that figure may be suspect. The governor thinks the change is unnecessary. To pay the costs, state employees could return their frequent-flier miles, received on tickets paid for by the state, or perhaps we could survive without paving the Denali Highway. There is more than enough waste in state government that could be cut to underwrite a runoff.

Is it necessary? Only if you believe that the best government is one supported by a majority of those governed. Electing a governor by fewer than half the votes cast does nothing to increase the public's trust of whoever holds that office.

No other state does it that way? That is the lame mantra of born followers, those too afraid to be the first to try something new. No other state gives its citizens a fat dividend check annually, either, but there are few complaints about that.

Inconvenience? Who cares? When did doing the right thing — the very thing that would instill greater respect and trust in the state's top elected post — become a matter of mere convenience and the winter weather?

Is the system broken? Only three governors since statehood have entered office with a majority of the votes cast. Is that a good thing or a bad thing? For the majority, it was a bad thing.

What has not been said in all this hoo-hah is the reason those on the left — editors and politicians alike — oppose this very sensible legislation that now faces a vote in the House. That reason? Self-preservation.

They know that if a runoff is required in a very conservative state, liberals are put at a distinct disadvantage. In their view, a status quo favoring election to office by less than a majority is a status quo that works for Democrats, and against Republicans. That suits them just fine.

When those on the Left start whining that the proposed amendment is nothing more than crass political posturing, keep in mind they are trying to save themselves — from the majority of you.

JUNEAU EMPIRE

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Let a majority of voters pick the governor

Should the chief elected executive officer in the state of Alaska be chosen by at least half of the voters who cast ballots? We think so, and there's a bill moving through the Legislature that would require the governor and lieutenant governor to get at least 50 percent of the vote in order to win office.

Currently, candidates for both offices need merely win a plurality of the vote — not necessarily half. In other words, our chief executive could actually live in the governor's mansion by garnering only 30 or 40 percent of the vote.

That's happened in the past. Gov. Tony Knowles won 42 percent of the vote when he took office in 1994. Likewise, former Gov. Walter J. Hickel won with just 39 percent of the vote in 1990.

In fact, only twice have governors won with more than half the vote — Gov. Knowles in 1998 and Bill Egan in 1970. We don't think that's right. We see it as important that our chief executive be chosen by at least half the voters.

As with any legislation, there are some concerns that should be addressed. One sticking point is that under the current proposal, if there's a runoff the winner wouldn't take office until the third Monday in February — more than a month after the Legislature convenes. That won't work. It doesn't make sense to have the Legislature convene and not have the new governor sitting.

And there are some concerns about how the bill would impact smaller political parties. Third parties are well-known for taking votes away from the two major parties, and that in turn makes it difficult for candidates to gather 50 percent. But that's part of the political process and it would require the successful candidate to appeal to enough voters.

Despite this, we think it's in the best interest of the state that its chief representative be selected by at least half the voters. We support Senate Joint Resolution 40. If passed, a constitutional amendment would go before voters — and to pass, it needs 50 percent plus one vote. If it takes at least half to pass a bill or amendment, shouldn't our governor be chosen the same way?

Governor

By REP. JEANNET
On April 10, Gov. [Name] dashed off a "Dear [Name]" letter requesting support of Senate Bill 267, permit same-day-as-hunting.

This divisive [Name] will never have confrontation if the governor's job. Instead, he has his administration's [Name] the issue of [Name] While residents of [Name] other communities have their subsistence [Name] drastically [Name] governor has refused [Name].

In his letter, [Name] states: "The [Name] Department of Fish and Game [Name] ready has the opportunity [Name] land-and-shoot programs by [Name] He's right. Trouble [Name] nor has refused to [Name] option — even in [Name] life biologists [Name] administration has [Name] predator control [Name] McGrath, and [Name] refused to implement [Name] trol programs [Name] by his own [Name]."

Editorial

The majority should rule

By a large majority along party lines except for one defecting Republican, the Alaska Senate has approved a proposed state constitutional amendment that would require that the governor of Alaska be elected by a majority of voters who show up at the polls.

A no-brainer, right? Isn't that the way a democracy is supposed to work? And what have we been doing until now when we have chosen a new governor?

In Alaska, as in numerous other states, a governor can be elected if he or she receives more votes than any other candidate. That means that a governor could be elected who was favored by only one in three voters, if two or more other candidates manage to split and dilute the elective power of the remaining votes.

That nearly happened in 1990, when Gov. Wally Hickel was elected by a mere 38 percent of those voting. The remaining 62 percent wanted someone else. Too bad. Under Alaska law, Hickel became governor.

Hickel isn't the only non-majority governor to take office. Since statehood, only William Egan (in 1958 and again in 1970) and Tony Knowles (in 1998) earned a majority of the vote. All other governors won with less than a majority.

That isn't to say that had there been a runoff, Jay Hammond, Bill Sheffield, Steve Cowper and others would have lost. But in Alaska, there is no such runoff. Whoever gets the most votes, majority or not, in the general election in November is the winner.

The Republican-sponsored constitutional amendment would require a runoff if the November election produces no majority. Democratic leaders in the Alaska Senate resist such a notion because they know their party is the one to likely suffer from this step toward better democracy. On Monday, they sent out a press release titled "Republicans attempt to benefit their political party in gubernatorial elections; Democrats object to Republican plan for longer and more expensive political campaigns." Johnny Eli (D-Anchorage) calls the Republican effort "a slap in the face" to members of Alaska's third parties. The real reason is that those third parties have tended to split the conservative vote and help Democrats like Tony Knowles win, as he did with 41 percent of the vote in 1994, his first term.

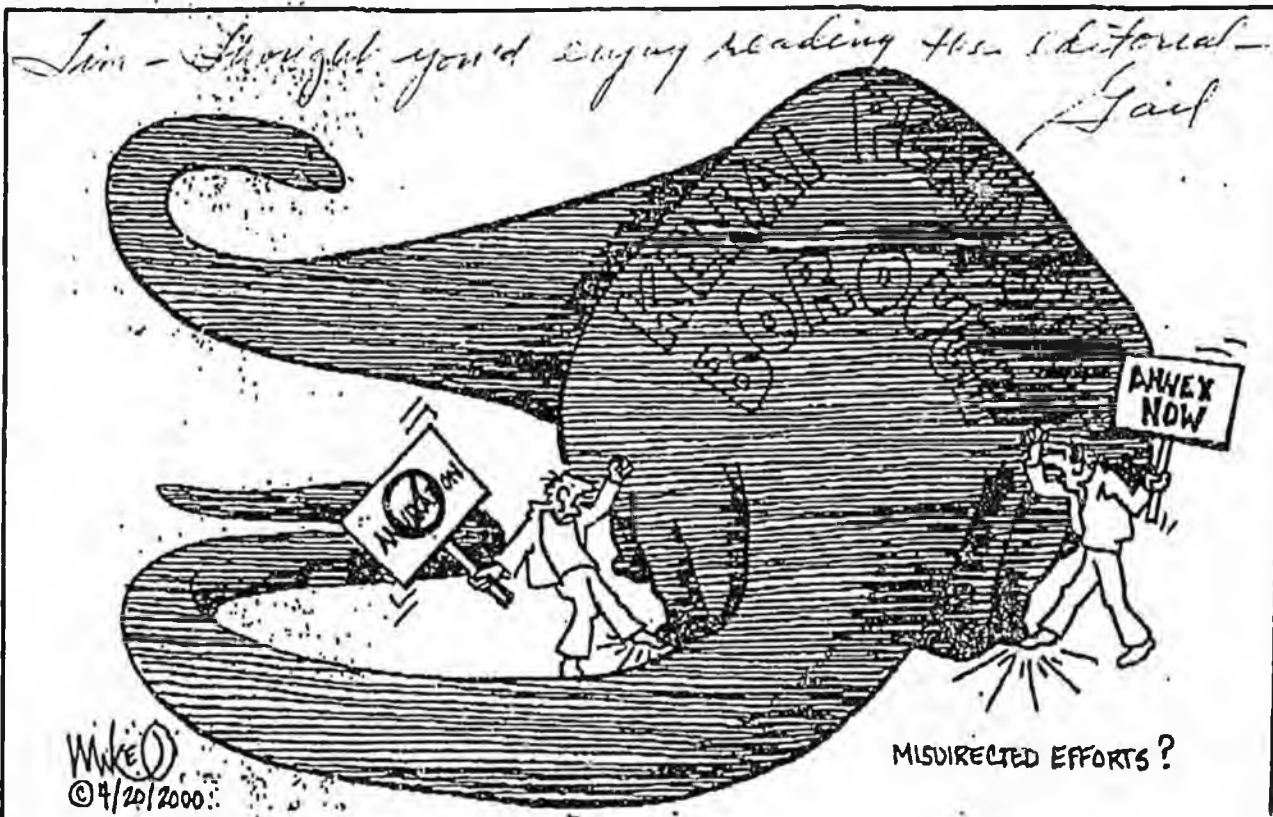
Sen. Kim Elton (D-Juneau) said such an amendment would cripple third-party candidates, and said that it's doubtful a runoff would represent the majority because voter turnout tends to drop in runoffs. Sen. Georgianna Lincoln (D-Rampart) wants to know where the Department of Justice is in clearing such a change in law per the Voting Rights Act of 1964.

And Ellis laments the extra cost of runoff elections and the longer campaigns, which are assured because, after all, only two governors thus far got into office with a majority of the vote.

Have you ever heard such sophistry? Fifty years from now, the populace will look back and wonder how our age allowed the top official in this state to be chosen by a minority and called that democratic. It will rank with poll-taxes, male-only voting, property-owner-only voting and white-only voting as one of the kinks that needed ironing out in perfecting the great American experiment.

I like the idea that the governor of this state is chosen by a majority of its voting citizens and not some quirk in the electoral process.

- Mark Turner, Editor and Publisher



LEGAL SERVICES

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

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Juneau, Alaska 99801-1162
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MEMORANDUM

April 20, 2000

SUBJECT: CSSJR 40 (Rules) am: determination of the governor's "term of office" (Work Order No. 1-L1579\X.a)

TO: Senator Tim Kelly

FROM: Jack Chenoweth
Assistant Revisor of Statutes

The resolution proposes amendments to require a majority vote for election of the governor (and lieutenant governor) and, in the resolution's bill section 2, makes a related change to the definition of the governor's term of office. You inquire as to whether there are inconsistencies in verbiage within section 2 that might cause a court to mistake the legislature's intent and give effect to a different outcome.

As drafted, the section's first sentence carries forward the first clause of the language of the current section, setting the duration of the governor's term as four years. The next two sentences provide for alternative start dates for that term depending on whether or not a runoff election becomes necessary. The last sentence sets the end of the incumbent's term to the start of term of the succeeding governor as determined under the section, when that individual's identity is known and the individual has qualified for the office.

While the current language of the section, geared without exception to the first Monday in December every fourth year, has the advantage of clarity, a court should not have trouble understanding and applying the provision as modified. First, the court would understand that the change made is collateral to the resolution's principal purpose--that of amending the election provisions to assure choice of a chief executive with a majority vote. Second, the first sentence, with its reference to "four years," should be understood as setting out general parameters of the governor's term of office, subject to adjustment as may be necessary based on application of one or the other of the alternative starting dates set out in the next two sentences and the ending date spelled out in the concluding sentence.

Applying usual rules of construction, the court should start from the presumption that, as with a statute, unless one provision is clearly more specific and, therefore, controlling, every part of a constitutional provision should be given effect, reconciling any conflicting provisions, if possible. Would the court apply the first sentence literally and determine that a governor who had been elected by majority vote at a general election and inaugurated on the first Monday in December should forfeit the office on a date that is precisely four years later even though the governor's successor had yet to be elected at a runoff election (and

Senator Tim Kelly
April 20, 2000
Page 2

especially if that governor were seeking re-election)? Not likely. The court would well understand that the last three sentences set out the specific parameters on the dates of the beginning and end of the governor's term, and that the first sentence sets out the general description of the period in which a new governor is subject to election and the start of the governor's term. Viewed a little differently, the court would be reluctant to elevate the effect of the first sentence (four years and not a day longer) so as to undercut the effect of the last (retain power until your successor has been elected and qualified).

Please appreciate that the question of the relationship between the statement of a "term of four years" and the variation in the start date is with us, even today, under the existing constitutional provision. Expressing the first day of the governor's term as a "day" rather than a "date" does not ensure that the term of office will begin and end on precisely the same date at four year intervals. In the first four decades of this state's history, this inconsistency has not been a problem. I cannot see that it should be under the changes proposed in CS SJR 40 (Rules) am.

In the short time available, I hope this is sufficient for your purposes.

JBC:lmb
00-034.lmb

ALASKA FEDERATION OF NATIVES, INC.

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ALBERT KOOKESH

**TO: MEMBERS OF THE ALASKA HOUSE
OF REPRESENTATIVES**
FROM: ^{File} JULIE KITKA, AFN PRESIDENT ^{CK}
SUBJECT: CS FOR SENATE JOINT RESOLUTION 40
DATE: APRIL 20, 2000

On behalf of the Board of Directors of the Alaska Federation of Natives, I am writing to you to urge the prompt defeat of CSSJR 40, which was passed by the Alaska Senate and is now up for consideration by the House.

We find this to be an uninformed and frightening attack on sound constitutional practices that have served the State of Alaska very well for more than 40 years. It is an attempt by irresponsible office-holders to entrench themselves and to upset the balance of powers. If adopted, it will create governmental nightmares, as well as a host of court cases. Our Constitution and the electoral system it contains work, and they should be left alone. The last thing this Legislature should be doing to tinkering with the most precious right of all: the vote.

As you consider this legislation today, I am requesting that you ask yourself some very important questions:

1. Why is CSSJR 40 strictly limited to the offices of Governor and Lt. Governor? If the requirement of a majority vote is a good idea for those positions, why have the sponsors not applied that principle to their own offices? Could it be that this is not really an attempt to improve government, but to grab permanent partisan control of it? Could it also be an attempt by the legislative branch to weaken the executive, if only as a reflection of the current political differences between them?
2. Why should a new Governor be sworn in a full month after the Legislature convenes? Isn't it already hard enough for an incoming administration to gear up in only one month before the legislative session? Why bring it to office even later, requiring that the executive it play "catch-up" during its entire first year? Isn't it true that having legislative and executive terms "out of sync" with one another was so disruptive to the federal government before 1833 - a time when the Congress convened in January and the new President was inaugurated on March 3 - that the start of executive

term had to be changed to January 20? Why create a similar operational nightmare in Alaska?

3. Isn't it true that depending on a lame-duck administration for the budget, for executive orders and for board appointments at the outset of a new legislature is just another way of ensuring the supremacy of the legislative branch, rather than maintaining a healthy balance with the executive? Is that a good idea?
4. What will happen when there is a runoff election for Governor sometime in the near future (in a state with a history of close elections by pluralities)? Will the person finally elected even be able to take office by the third Monday in February - given vote counts, re-counts, the runoff and possible litigation? Are you sure this would not plunge the state into some degree of constitutional crisis every four to eight years?
5. If Alaska sets up a system of runoff elections for Governor, what will happen to voter turnout, especially in places like bush villages? Or is one of the real motives behind this resolution to limit turnout, as far as possible, to the urban "super-voters" who always go to the polls and tend to vote conservative? Can we agree that turnout is already low enough in America, and that the last thing we need to do is depress it further, alienating the people even more from their own system?
6. Why burden the already limited state budget with the expense of more elections? And why make additional, expensive campaigning a requirement of executive offices? Shouldn't both such resources be used for better purposes than a nonsensical effort to engineer electoral majorities in just one branch of government?

CSSJR 40 may be the worst idea to surface in the Alaska Legislature in recent years. It is not simply a bad statute. It is a fundamental change in the rules of the game; and it is being pressed by its sponsors, not to improve the process of voting, but to influence the substantive decisions of our state government.

For all of the questions listed above, AFN and the statewide Native community urge you to vote against CSSJR 40.

Thank you for your consideration.

ALASKA STATE LEGISLATURE

Sen. Robin Taylor, Chair
Sen. Rick Halford, Vice-Chair
Sen. Dave Donley
Sen. John Torgerson
Sen. Johnny Ellis



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Senate Judiciary Committee

Sponsor Statement

SJR # 40

Proposing amendments to the Constitution of the State of Alaska providing that the governor and lieutenant governor be elected by a majority vote; and changing the term of office of the governor and lieutenant governor.

Alaskans are looking for leadership from their elected representatives and are demanding accountability. However many people in the state feel betrayed because the men or women elected at the statewide level are not necessarily selected by a majority. This is most apparent by the continued decline in the voter turnout, 50.11 percent in 1998.

There are at least five political parties on the ballot in the Governor/Lieutenant Governor race. While these parties and their candidates represent the true diversity of Alaska they could also leave the winner of the race without that clear majority vote. In the last Gubernatorial General Election 48.73 percent of the vote was split between four candidates. Prior to that, the last Governor to be elected by a majority was Bill Egan in 1970.

SJR 40 will correct that by allowing the people of Alaska to decide if they want the opportunity to elect statewide candidates with a majority vote. The resolution does not mandate what will happen if a majority vote is not reached other than some form of a run-off. Currently there are different ideas on how that should be done. If passed by the public it gives the next Legislature a clear mandate that a plan must be put in place prior to the 2002 general election.

This resolution will establish the future of statewide elections and create a sense of representation to all Alaskans, as the individual holding the seat will be there with a clear majority of the voters.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. SJR 40

Revision Date/Time (Note if correction) _____ Dept. Affected Office of the Governor
 Title Constitutional Amendment: Relating to a BRU Elective Operations
majority vote for statewide offices Component Elections
 Sponsor Senate Judiciary Committee
 Requester Senate Finance Committee Component No. 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	1.5	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	1.5	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. However, only six measures can be printed on an 8-1/2 by 14 inch ballot. If this measure requires printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Gail Fenumiai Phone 465-3935
 Division Division of Elections Date/Time 3/31/00 2:48 PM
 Approved by: Lt. Governor Fran Ulmer Date 03/31/2000
 Agency Office of the Lieutenant Governor

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CS FOR SENATE JOINT RESOLUTION NO. 40(RLS) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Amended: 4/18/00
Offered: 4/16/00

Sponsor(s): SENATE JUDICIARY COMMITTEE

A RESOLUTION

1 Proposing amendments to the Constitution of the State of Alaska providing that
2 the governor and lieutenant governor be elected by a majority vote; and changing
3 the term of office of the governor and lieutenant governor.

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

5 * Section 1. Article III, sec. 3, Constitution of the State of Alaska, is amended to read:

6 Section 3. Election. The governor shall be chosen by the qualified voters of
7 the State at a general election. The candidate receiving at least 50 percent plus one
8 of the votes cast for the office [THE GREATEST NUMBER OF VOTES] shall be
9 governor. If no candidate receives at least 50 percent plus one of the votes cast
10 at the general election, a runoff election between the two candidates receiving the
11 greatest number of votes shall be held, as prescribed by law.

12 * Sec. 2. Article III, sec. 4, Constitution of the State of Alaska, is amended to read:

13 Section 4. Term of Office. The term of office of the governor is four years.
14 If the governor is elected at the general election, the term begins [, BEGINNING]
15 at noon on the first Monday in December following the [HIS] election. If the
16 governor is elected at the runoff election, the term begins [AND ENDING] at noon

might want to see committee

1 on the third [FIRST] Monday in February following the election, unless otherwise
2 provided by law. It ends at noon on the day when the term of office of the
3 governor's successor begins under this section [DECEMBER FOUR YEARS
4 LATER].

5 * Sec. 3. Article III, sec. 8, Constitution of the State of Alaska, is amended to read:

6 **Section 8. Same - Election.** The lieutenant governor shall be nominated in
7 the manner provided by law for nominating candidates for other elective offices. In
8 the general election and any runoff election, the votes cast for a candidate for
9 governor shall be considered as cast also for the candidate for lieutenant governor
10 running jointly with the candidate for governor [HIM]. The candidate whose name
11 appears on the ballot jointly with that of the successful candidate for governor shall
12 be elected lieutenant governor.

13 * Sec. 4. The amendments proposed by this resolution shall be placed before the voters of
14 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
15 State of Alaska, and the election laws of the state.

Governor/Lieutenant Governor Election Results

Year	Winners	Percent
1998:	Knowles/Ulmer	51.27%
1994:	Knowles/Ulmer	41.1%
1990:	Hickel/Coghill	38.8%
1986:	Cowper/McAlpine	47.3%
1982:	Sheffield/McAlpine	45.10%
1978:	Hammond/Miller	38.22%
1974:	Hammond/Thomas	46.51%
1970:	Egan/Boucher	51.34%

This information was supplied courtesy of the Division of Elections.

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Alaska Division of Elections

RECOGNIZED POLITICAL PARTIES IN ALASKA Updated 2/17/00

A Recognized Political Party is an organized group of voters that represents a political program and either nominated a candidate for Governor who received at least 3% of the total votes cast for Governor at the preceding General Election or has registered voters equal to 3% of the votes cast for Governor in the last election. Candidates of a recognized political party file a Declaration of Candidacy. Until it qualifies as a recognized political party under this definition, an independent Political Group may field candidates for statewide and district-wide offices only by filing nominating petitions as required by AS 15.25.140 - 15.25.205. Reference: AS 15.60.010(20)

The following parties are currently recognized political parties in Alaska:

ALASKAN INDEPENDENCE PARTY

Mark Chryson, Chair
(907) 376-8285

DEMOCRATIC PARTY OF ALASKA

Christopher Cooke, Chair
(907) 258-3050

GREEN PARTY OF ALASKA

Soren Wuerth, Chair
(907) 344-9888

LIBERTARIAN PARTY

Len Karpinski
(907) 248-4367

REPUBLICAN MODERATE PARTY, INC.

Ray Metcalfe, Chair
(907) 344-4514

REPUBLICAN PARTY OF ALASKA

Tom McKay, Chair
(907) 276-4467

LIMITED POLITICAL PARTIES IN ALASKA

A Limited Political Party is a political group that organizes for the purpose of selecting candidates for electors for President and Vice President of the United States. A Limited Political Party ceases to be recognized in the State of Alaska if its presidential candidate fails to receive at least 3% of the votes cast for President. Reference: AS 15.60.010(12) and 15.30.025

The following party is a Limited Political Party in Alaska, holding that status for the 2000 General Election:

NATURAL LAW PARTY

Barbara Morgan, Alaska Chair
(907) 258-6261

REFORM PARTY

Edward Wassell, Alaska Chair
(907) 245-5113



Alaska Division of Elections Home Page

*To comment on this page, contact [Barbara Whiting](#)
at the Alaska Division of Elections.*

of attainder, ex post facto law or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No state shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

§ 1. **President and Vice President.** The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and representatives to which the state may be entitled in the Congress; but no Senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.]⁶

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice President, declaring what officer

shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

§ 2. Powers of the President. The President shall be commander-in-chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have the power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

§ 3. Messages to Congress; additional powers and duties. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

§ 4. Impeachment. The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

§ 1. Judicial power; tenure of office. The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in

§ 2. Jurisdiction. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or