

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10084 SENATE JUDICIARY

1 * Sec. 4. AS 15.45.130 is amended to read:

2 **Sec. 15.45.130. Certification of circulator [SPONSOR].** Before being filed,
3 each petition shall be certified by an affidavit by the person [SPONSOR] who
4 personally circulated the petition. The affidavit must state in substance that (1) the
5 person signing the affidavit meets the residency, age, and citizenship qualifications
6 of AS 15.05.010 [IS A SPONSOR], (2) the person is the only circulator of that
7 petition, (3) the signatures were made in the circulator's [SPONSOR'S] actual
8 presence, (4) to the best of the circulator's [SPONSOR'S] knowledge, the signatures
9 are those of the persons whose names they purport to be, (5) the signatures are of
10 persons who were qualified voters on the date of signature, (6) the person has not
11 entered into an agreement with a person or organization in violation of
12 AS 15.45.110(c), (7) the person has not violated AS 15.45.110(d) with respect to that
13 petition, and (8) the circulator [SPONSOR] prominently placed, in the space provided
14 under AS 15.45.090(5) before circulation of the petition, in bold capital letters, the
15 circulator's [SPONSOR'S] name and, if the circulator [SPONSOR] has received
16 payment or agreed to receive payment for the collection of signatures on the petition,
17 the name of each person or organization that has paid or agreed to pay the circulator
18 [SPONSOR] for collection of signatures on the petition. In determining the sufficiency
19 of the petition, the lieutenant governor may not count subscriptions on petitions not
20 properly certified.

21 * Sec. 5. AS 15.45.140 is amended to read:

22 **Sec. 15.45.140. Filing of petition.** (a) The sponsors must file the initiative
23 petition within one year from the time the sponsors received notice from the lieutenant
24 governor that the petitions were ready for delivery to them. The [, AND THE]
25 petition may be filed with the lieutenant governor only if it meets all of the
26 following requirements: it is [MUST BE] signed by qualified voters

27 (1) equal in number to 10 percent of those who voted in the preceding
28 general election;

29 (2) [AND] resident in at least three-fourths [TWO-THIRDS] of the
30 house [ELECTION] districts of the state; and

31 (3) who, in each of the house districts described in (2) of this

1 subsection, are equal in number to at least four percent of those who voted in the
2 preceding general election in the house district.

3 (b) If the petition is not filed within the one year period provided for in (a)
4 of this section, the petition has no force or effect.

5 * Sec. 6. AS 15.45.340 is amended to read:

6 Sec. 15.45.340. Circulation [BY SPONSOR]. The petitions may be
7 circulated throughout the state [ONLY BY A SPONSOR AND] only in person.

8 * Sec. 7. AS 15.45.360 is amended to read:

9 Sec. 15.45.360. Certification of circulator [SPONSOR]. Before being filed,
10 each petition shall be certified by an affidavit by the sponsor who circulated the
11 petition. The affidavit must [SHALL] state in substance that (1) the person signing
12 the affidavit meets the residency, age, and citizenship qualifications of
13 AS 15.05.010 [IS A SPONSOR], (2) the person is the only circulator of the petition,
14 (3) the signatures were made in the circulator's [SPONSOR'S] actual presence, and
15 (4) to the best of the circulator's [SPONSOR'S] knowledge, the signatures are the
16 signatures of persons whose names they purport to be. In determining the sufficiency
17 of the petition, the lieutenant governor may not count subscriptions on petitions not
18 properly certified.

19 * Sec. 8. AS 15.45.370 is amended to read:

20 Sec. 15.45.370. Filing of petition. The sponsors may file the petition

21 (1) only within 90 days after the adjournment of the legislative session
22 at which the act was passed; and

23 (2) only if it meets all of the following requirements: it is signed by
24 qualified voters

25 (A) equal in number to 10 percent of those who voted in the
26 preceding general election;

27 (B) [AND] resident in at least three-fourths [TWO-THIRDS]
28 of the house [ELECTION] districts of the state; and

29 (C) who, in each of the house districts described in (B) of
30 this paragraph, are equal in number to at least four percent of those who
31 voted in the preceding general election in the house district.

1 * Sec. 9. AS 15.45.580 is amended to read:

2 **Sec. 15.45.580. Circulation [BY SPONSOR].** The petitions may be
3 circulated [ONLY BY A SPONSOR AND] only in person throughout the state or
4 senate or house [ELECTION] district represented by the official sought to be recalled.

5 * Sec. 10. AS 15.45.600 is amended to read:

6 **Sec. 15.45.600. Certification of circulator [SPONSOR].** Before being filed,
7 each petition shall be certified by an affidavit by the circulator [SPONSOR] who
8 personally circulated the petition. The affidavit must [SHALL] state in substance that
9 (1) the person signing the affidavit meets the residency, age, and citizenship
10 qualifications of AS 15.05.010 [IS A SPONSOR], (2) the person is the only circulator
11 of that petition or copy, (3) the signatures were made in the circulator's
12 [SPONSOR'S] actual presence, and (4) to the best of the circulator's [SPONSOR'S]
13 knowledge, the signatures are those of the persons whose names they purport to be.
14 In determining the sufficiency of the petition, the director may not count subscriptions
15 on petitions not properly certified.

16 * Sec. 11. AS 15.45.110(b) is repealed.

17 * Sec. 12. **CONDITIONAL EFFECT OF ACT.** Sections 5 and 8 of this Act take effect
18 only if a constitutional amendment requiring signatures from four percent of the qualified
19 voters who voted in the district in the preceding general election in each of three-fourths of
20 the house districts of the state is passed by the legislature and approved by the voters at the
21 2000 general election.

22 * Sec. 13. If sections 5 and 8 of this Act take effect under sec. 12 of this Act, they take
23 effect on the effective date of the amendment described in sec. 12 of this Act.

24 * Sec. 14. Sections 1 - 4, 6, 7, and 9 - 12 of this Act take effect immediately under
25 AS 01.10.070(c).

LEGAL SERVICES

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Juneau, Alaska 99801-1182
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MEMORANDUM

January 24, 2000

SUBJECT: Senate CS for CSHB 45(FIN), Changing Alaska's Initiative Law to Conform with Recent United States Supreme Court Decision (Work Order No. 21-LS0254I)

TO: Representative Bill Williams
Attn: Kyle Johansen

FROM: Kathryn L. Kurtz 
Legislative Counsel

Enclosed is a draft committee substitute designed to bring Alaska law into line with the United States Supreme Court's decision in Buckley v. American Constitutional Law Foundation, 119 S.Ct. 636, 142 L.Ed.2d 599, 67 U.S.L.W. 4043 (1999).

In the Buckley case, the Supreme Court said that Colorado could not require initiative circulators to be registered voters, and it could not require them to wear name badges. Alaska law has those same two requirements, and under the logic of the Buckley case, they are now clearly unconstitutional. Alaska law also requires those circulating referendum and recall petitions to be registered voters; by the same logic, those provisions are probably also unconstitutional.

The name badge problem is easy to solve: repeal AS 15.45.100(b). The enclosed draft close this.

The voter registration problem is more complicated. Currently, under Alaska law, only initiative sponsors may circulate initiative petitions, and sponsors are required to be registered voters. So, by implication, all petition circulators are required to be registered voters--which is exactly what the Buckley case prohibits.

The enclosed draft removes the AS 15.45.100(a) provision that says only sponsors can circulate petitions. It also changes all references to "sponsor" in AS 15.45.130 to "circulator." I believe this is the approach Mr. Botelho was suggesting. See Botelho letter at 4-5.

Mr. Botelho seems to believe that this approach is free of constitutional problems. See Botelho letter at 4. I do not share this view. Article XI, section 3 of the Constitution of the State of Alaska provides:

Representative Bill Williams

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After certification of the application, a petition containing a summary of the subject matter shall be prepared by the lieutenant governor **for circulation by the sponsors**. If signed by qualified voters, equal in number to ten per cent of those who voted in the preceding general election and resident in at least two-thirds of the house districts of the State, it may be filed with the lieutenant governor.

(emphasis added).

This provision might be read narrowly to imply that only sponsors may circulate initiative petitions, and this may be the basis for the existing statutory requirement to that effect. There is some support for this narrow reading of the constitution in a comment made by Delegate Sweeney at the Constitutional Convention. Discussing a proposal that would require at least 10 sponsors for each initiative petition, she argued for a 15% signature requirement rather than 10%, noting that "[i]f you have 4,000 votes to get **it requires each sponsor to secure 400 votes**, and I believe it should be left at fifteen percent." Proceedings of the Alaska Constitutional Convention at 1028 (December 17, 1955) (emphasis added). This comment seems to suggest that Mrs. Sweeney envisioned each of those ten people going out and getting 400 signatures each, and that she did not find this requirement especially burdensome. However, Mrs. Sweeney was one delegate among many, and it may be that a court would not find her remarks representative of the intent of the body.

A less literal reading would make sponsors responsible for gathering the necessary signatures, but allow them to delegate some of the actual work of soliciting signatures to others. This is the approach that the enclosed draft takes.

Please note that I have changed the title in this draft to include recall petitions, which were not mentioned in the original title of HB 45. As the bill is now in the second house, I am also enclosing a draft resolution waiving the uniform rules to permit this title change.

KLK:glc
00-018.glc

Enclosure

GPVD090P X31U

VIEW PETITION TOTALS

01/31/2000 09:09

PETITION ID: 99PTAR

TYPE: INITIATIVE

NAME: AN ACT PROVIDING PROPERTY TAX AND ASSESSMENT REFORM

REQUIRED SIGNATURES: 22715

NUMBER OF QUALIFIED: 23592

NUMBER OF UNQUALIFIED: 7590

(Q) COMPUTER QUALIFIED 23592

(D) DUPLICATE 1418

(M) MANUALLY QUALIFIED 0

(J) NOT IN JURISDICTION 0

(I) INACTIVE 162

TOTAL SIGNATURES: 31182

(N) NOT REGISTERED 1601

(A) ADDRESS NOT PROVIDED 939

(U) UNABLE TO IDENTIFY 0

QUALIFIED SPONSORS 258

(X) NOT YET COUNTED 0

UNQUALIFIED SPONSORS 49

() OTHER 3470

(W) WITHDRAWN 0

PF1-MENU PF2-HELP

VREMS - (GBVREMS)
PETITION STATISTICS REPORT FOR PETITION - 99PTAR

STATE OF ALASKA -- DIVISION OF ELECTIONS

TIME: 09:09

PAGE: 9

GPVR100P-R1

ID: 99PTAR
TYPE: INITIATIVE

NAME: AN ACT PROVIDING PROPERTY TAX AND ASSESSMENT REFORM

NUMBER OF DISTRICTS IN STATE: 40
NUMBER OF DISTRICTS REQUIRED: 27
NUMBER OF DISTRICTS WITH SIGNATURES: 40

QUALIFIED SIGNATURES BY DISTRICT:	DIST	SIGNATURES
	1	24
	2	26
	3	38
	4	37
	5	52
	6	102
	7	435
	8	428
	9	272
	10	1043
	11	969
	12	898
	13	794
	14	585
	15	708
	16	837
	17	1141
	18	1197
	19	1114
	20	779
	21	921
	22	1057
	23	597
	24	1017
	25	1184
	26	1223
	27	1895
	28	1443
	29	304
	30	284
	31	290
	32	183
	33	400
	34	220
	35	245
	36	177
	37	157
	38	180
	39	194
	40	142

VREMS - (GBVREMS)
PETITION STATISTICS REPORT FOR PETITION - 99PTAR

STATE OF ALASKA -- DIVISION OF ELECTIONS

TIME: 09:09

PAGE: 9

GPVR100P-R1

ID: 99PTAR
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1	24
2	26
3	38
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7	435
8	428
9	272
10	1043
11	969
12	898
13	704
14	585
15	708
16	837
17	1141
18	1197
19	1114
20	779
21	921
22	1057
23	597
24	1017
25	1184
26	1223
27	1895
28	1443
29	304
30	284
31	290
32	183
33	400
34	220
35	245
36	177
37	157
38	180
39	194
40	142

ID: 97TRAP
TYPE: INITIATIVE

NAME: AN ACT RELATING TO THE USE OF SNARES IN TRAPPING WOLVES

NUMBER OF DISTRICTS IN STATE: 40
NUMBER OF DISTRICTS REQUIRED: 27
NUMBER OF DISTRICTS WITH SIGNATURES: 41

QUALIFIED SIGNATURES BY DISTRICT: DIST SIGNATURES

1	48
2	475
3	1354
4	1266
5	224
6	144
7	439
8	419
9	243
10	1027
11	1096
12	1027
13	1440
14	821
15	1432
16	1403
17	1253
18	1291
19	1227
20	1182
21	1140
22	1106
23	641
24	977
25	863
26	765
27	692
28	919
29	481
30	253
31	251
32	121
33	214
34	180
35	205
36	124
37	140
38	113
39	113
40	111
88	4

ID: 99HEMP
TYPE: INITIATIVE

NAME: AN ACT TO RE-LEGALIZE HEMP

NUMBER OF DISTRICTS IN STATE: 40
NUMBER OF DISTRICTS REQUIRED: 27
NUMBER OF DISTRICTS WITH SIGNATURES: 40

QUALIFIED SIGNATURES BY DISTRICT:	DIST	SIGNATURES
	1	44
	2	54
	3	224
	4	172
	5	78
	6	152
	7	414
	8	434
	9	278
	10	857
	11	1030
	12	870
	13	1232
	14	632
	15	1325
	16	1405
	17	1162
	18	1249
	19	1171
	20	1016
	21	1153
	22	782
	23	559
	24	763
	25	889
	26	998
	27	1406
	28	1362
	29	259
	30	216
	31	236
	32	148
	33	332
	34	204
	35	212
	36	279
	37	280
	38	208
	39	203
	40	186

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January 24, 2000

TO: SENATE JUDICIARY COMMITTEE

Re: House Bill 45, Limitations on Initiatives

Dear Chairman Taylor and Committee Members,

I am the legal counsel for the Republican Party of Alaska and have worked on several initiative petitions. I will be testifying today at the hearing on this bill, but did want to submit certain information in writing. These comments are my own as an individual and do not represent any policy or statement of the Republican Party of Alaska.

First, the members of the committee must read two excellent articles by Liz Ruskin and Martha Bellisle at Page One of the Metro Section of the Anchorage Daily News of Sunday, January 23, 2000. These articles present an excellent, accurate and objective view of the issues.

House Bill 45 proposes and requires the adoption of a Constitutional Amendment to limit the rights of Alaskan voters to participate in the initiative process. Article One, Section Two of the Alaska Constitution specifically provides:

All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.

Especially given the present political situation in Alaska, there is no way that anyone can justify a Constitutional amendment to restrict the initiative power of the people. It will end up being another massive embarrassment to the Republican legislators and Republican Party if this Constitutional amendment is placed on the ballot. There will be massive criticism across the entire political spectrum.

I can understand that certain legislators did not like certain laws that were enacted by the initiative, but this is no reason to restrict the rights of the people to enact these laws. Under our Constitution and our form of government, the power of the people is supreme, and the rights of the people should not be limited because some legislators did not like what the people did.

In addition, there is no problem which needs to be addressed, except the problems created by the Legislature itself when it previously limited the people's initiative rights. These limitations were

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in violation of the Constitution of the United States, and greatly increased the costs and risks involved in an initiative petition.

Despite the relative simplicity of the process and lower costs as compared to states such as California or Oregon, we have only a small number of petitions, only a smaller number of which actually make it to the ballot.

PROPOSED ADDITIONAL LIMITATIONS

HB 45 proposes that the present Constitutional requirement of 10% of the number of votes cast statewide in the last general election, including at least one signature from each of 27 election districts, be changed to 10% of the number of votes cast statewide in the last general election, including at least 4% from each of 30 election districts. This additional limitation is not appropriate, particularly where we are going to have to amend our basic document of government - the Alaska Constitution - to do so.

One proposed justification for change is that it will force initiatives to be more broadly based. Upon closer examination, this is not a problem. For example, the 1998 Official English for Government initiative, processed under prior law, submitted multiple signatures from all 40 election districts. I am certain, without checking, that the initiatives which are going to be on the ballot in 2000 - hemp and property tax limitation - also have multiple signatures from all or almost all of the election districts. In order to pass the law once it is on the ballot, broad-based support is important. The circulators already seek this broad-based support from the beginning during their signature-gathering processes.

For example, both the hemp and property tax limitation petitions actually had people circulating petitions in most parts of Alaska - all the way from south-east to north of the Arctic Circle. Petition circulators actually flew or drove to other areas of Alaska in order to collect signatures. The petition upon which I am now working - instant run-off voting (IRV) - has actually distributed petitions to volunteer circulators who are responsible for circulation in all 40 election districts. This has been done, in part, in order to educate voters in all areas as to what the proposed law is all about. I am continuing to add additional local areas for circulation. For example, yesterday I mailed a petition to Nikiski for volunteer signature-gathering.

Another proposed justification for change is to insure that petitions are local and volunteer rather than paid efforts. Any proposed change which makes the process more difficult, however, has exactly the opposite result. Each change makes a locally-based volunteer petition more difficult, without affecting the ability of a well-funded petition to get on the ballot. A good example is

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the 2000 hemp initiatives. Actually, there were two proposed marijuana initiatives gathering signatures for the 2000 ballot. 99HEMP, the one that will make the ballot, was funded by California-based hemp crusader Jack Herer. 99MJNA, a local initiative to revise state drug laws, tried to rely completely on volunteers and failed miserably in the attempt to gather sufficient signatures. A local initiative to raise alcohol taxes also relied on volunteers. Despite having more than 200 volunteers gathering signatures, it did not obtain sufficient signatures to make the 2000 ballot.

As an aside, no one should fear well-paid initiative petition efforts, even from sources outside of Alaska. If the idea is not good, the voters will defeat it. Also, the Daily News Articles cite a study of 168 initiative petitions in 8 states done by Elisabeth Gerber, a political science professor at the University of California, San Diego. From this study, Professor Gerber concluded that the more money that is spent on an initiative, the more likely it is that the initiative will fail.

At present, about 23,000 valid signatures are needed to place an initiative on the ballot. Petitions have a signature validity rate of from 70 to 75%. Two years ago, if a petition came up short of valid signatures, there was an additional 30 days allowed during which a supplemental petition could be submitted to make up the shortfall. Then, a petitioner could be safe turning in 30,000 signatures, knowing that there was an additional 30 days to make up any shortfall that might occur. (Cost - a combination of \$30,000 @ \$1/signature or substantial volunteer hours) Now that the Legislature has removed the grace period, a petitioner cannot be safe turning in less than 40,000 signatures, because there is no opportunity to make up any shortfall. (Cost - a combination of \$40,000 @ \$1/signature or 1 1/3 times as many volunteer hours) I have not calculated the effect of House Bill 45 on the cost of petitioning because it would be too time consuming with too much estimating involved. I know that a petitioner would need to turn in many more than 40,000 signatures, at substantial additional cost, because a petitioner could not afford to miss the required 4% of valid signatures in each of 30 election districts.

The year 2000 is a presidential election year, will have property tax limitation and hemp legalization on the ballot, and may very well also include a \$25,000 Permanent Fund payout. One can reasonably expect a large voter turn-out. This means that the number of signatures required for an initiative petition will substantially increase after the 2000 general election, even without any change at all in the Alaska Constitution or laws.

HB 45 will kill volunteer petitions. Volunteer petitions already have one foot in the grave because the 30 day grace period has been taken away. I believe that we will see the effect of the removal of the grace period in a month or so. The minimum wage petition turned in sufficient

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signatures. If the petitioners did not actually validate their own signatures prior to turning them in, however, it will be a miracle if they have sufficient valid signatures to make the ballot. These petitioners will have no time to gather the few additional signatures necessary, and all their prior efforts will have gone for nothing.

In summary, there is no problem which needs to be addressed by Constitutionally-restricting the voters' right of initiative and to try to do so is counter-productive in several ways. This bill should not be enacted.

CHANGES WHICH ARE NEEDED

There are various provisions which do need to be enacted, as follows:

- (1) Those provisions of the present law which violate the U.S. Constitution need to be repealed.
- (2) The grace period should be reinstated at 30 or 45 days, in order to breathe life back into local volunteer petition efforts. This will decrease the number of signatures that need to be collected initially and decrease the cost and effort that must be put in by local volunteers.
- (3) The \$1/signature limit should be removed, and allow the matter to be determined by free enterprise. First, price controls never work and people look for ways to get around them. Second, although a year ago I believed that the \$1/signature limitation was Constitutionally valid, I no longer believe that it is. This limit effectively prevents the exercise of the right of petition. The year 2000 volunteer petitions did not make the ballot. The right of petition is now exercised through the use of paid circulators. People who believe in an issue are generally extremely busy, and would rather contribute money to hire people to gather signatures than stand in the winter cold in front of a large box store in Fairbanks gathering signatures themselves. In addition, it takes a certain type of person who is willing to stand in the cold and ask total strangers to sign a petition. Most people do not have that type of personality or physical constitution.

The economy of Alaska and the United States has changed substantially since a year ago. Unemployment is down. It is no longer possible to hire sufficient competent circulators at \$1/signature in order to mount an effort with paid circulators. This point was made in the Daily News Articles by Rick Arnold of National Voter Outreach, a professional signature-gatherer, who can no longer bid on Alaska petitions because of this limitation. In the lower 48, payments of more than \$1/signature are being made. Alaska is known as a difficult location, justifying higher rates, because many signatures must be collected during the winter months to meet an early

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January turn-in date.

In summary, the \$1/signature limit should be removed because I believe that it unconstitutionally prevents the right to petition.

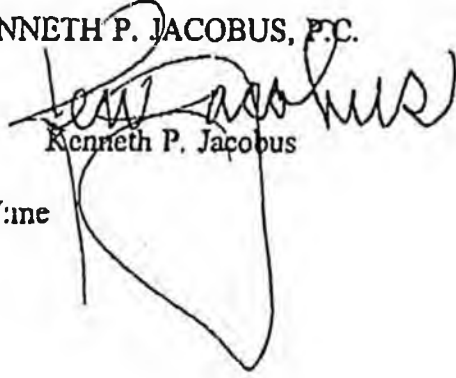
(4) Another problem exists which circulators have been trying to address on a case-by-case basis which relates to access to public areas for purposes of gathering signatures. Circulators, volunteer and paid, are being evicted from places that they clearly should be allowed to gather signatures. A "guaranteed access" law needs to be enacted in order to protect the right to petition.

If you have any questions, or need further information, please let me know and I will try to help.

Very truly yours,

KENNETH P. JACOBUS, P.C.

By


Kenneth P. Jacobus

KPJ:me

Alaska State Legislature



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House Finance
Subcommittee Chair:
Transportation
Environmental Conservation
Subcommittee Member:
Fish and Game

Representative William K. Williams

Sponsor Statement HJR 7/HB 45

HJR 7 and HB 45 were introduced to ensure statewide consideration and discussion of an initiative petition before it is put on the ballot. The legislation requires signatures equal to 10% ballots cast in the prior General Election (same as current law) and 4% of ballots cast from 30 of the 40 Election Districts.

In past elections the greatest support for initiatives has come from one general area of the State, the Anchorage-M... region. The legislation is intended to further statewide discussion of an issue before it reaches the voters on Election Day.

Alaska's population distribution is much different now than it was when our Constitution was approved. Today, initiative supporters can collect signatures in a limited area and get a question on the ballot. The legislation will facilitate a broader discussion of potential ballot questions, thus helping to create a balanced question which considers effects on all the citizens of Alaska.

As we write laws in the Capitol many perspectives are taken into account as issues are discussed through the committee process. During this process healthy debate, from representatives of all areas of the state, is conducted. This healthy debate gives all members opportunity to see how their lawmaking will affect areas that they do not represent. Pertinent questions are asked and legislation is constantly amended to take into account those concerns.

Currently, initiatives can be put onto the ballot with very limited perspective. Constructive analysis of a question, from a statewide perspective, does not currently occur. Right now signatures equaling 10% of ballots cast is required. In addition, initiative sponsors must obtain one signature from 27 districts. One signature from a district is hardly representative of a districts opinion on an issue.

In closing, this legislation would get people from all over the state more involved in the initiative process. This in turn can create an atmosphere of healthy debate and ensure questions which reach the ballot have a statewide perspective.

WILLIAM A. EGAN
President of the Convention

/s/

THOMAS B. STEWART
Secretary of the Convention

Attest:

Signed and the Seal of the
State of Alaska affixed this
(seal) 14th day of May, 1965.

/s/

HUGH J. WADE
Secretary of State

ALASKA CONSTITUTIONAL CONVENTION

University of Alaska

1955

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1455

Alaska Place of Date of

Delegate Home Resident Birth Birth

Since

Armstrong, R. Rolland Juneau 1940 Pennsylvania 1910

Awes, Dorothy J. Anchorage 1945 Minnesota 1918
 Barr, Frank Fairbanks 1932 Illinois 1903
 Boswell, John C. Fairbanks 1926 Oregon 1905
 Buckalew, Seaborn J. Anchorage 1950 Texas 1920
 Coghill, John B. Nenana 1925 Alaska 1925
 Collins, E. B. Fairbanks 1904 Indiana 1873
 Cooper, George D. Fairbanks 1949 Colorado 1923
 Cross, John M. Kotzebue 1934 Kansas 1895
 Davis, Edward V. Anchorage 1939 Idaho 1910
 Doogan, James P. Fairbanks 1914 Alaska 1914
 Egan, William A. Valdez 1914 Alaska 1914
 Emberg, Truman C. Dillingham 1935 Minnesota 1909
 Fischer, Mrs. E.A. Anchorage 1905 Washington 1905
 (Helen)
 Alaska Place of Date of
 Delegate Home Resident Birth Birth
 Since
 Fischer, Victor Anchorage 1950 Germany 1924
 Gray, Douglas Douglas 1912 Montana 1908
 Harris, Thomas C. Valdez 1950 Oklahoma 1926
 Hellenthal, John S. Anchorage 1915 Alaska 1915
 Hermann, Mildred R. Juneau 1919 Indiana 1891
 Hilscher, Herb Anchorage 1906 Washington 1902
 Hinckel, Jack Kodiak 1922 Massachusetts 1901
 Hurley, James Palmer 1933 California 1915
 Johnson, Maurice T. Fairbanks 1937 Minnesota 1901
 Kilcher, Yule F. Homer 1936 Switzerland 1913
 King, Leonard H. Haines 1920 Michigan 1901

Knight, William W. Sitka 1919 England 1889
Laws, W. W. Nome 1935 Washington 1884
Lee, Eldor R. Petersburg 1920 Alaska 1920
Londborg, Maynard D. Unalakleet 1946 Nebraska 1921
McCutcheon, Steve Anchorage 1911 Alaska 1911
McLaughlin, George W. Anchorage 1949 New York 1914
McNealy, Robert J. Fairbanks 1940 Nebraska 1907
McNees, John A. Nome 1942 Idaho 1917
Marston, M. R. Anchorage 1941 Washington 1900
Metcalf, Irwin L. Seward 1927 Washington 1908
Nerland, Leslie Fairbanks 1930 Yukon Territory 1902
Nolan, James Wrangell 1920 Massachusetts 1901
Alaska Place of Date of
Delegate Home Resident Birth
Since
Nordale, Katherine D. Juneau 1925 Washington 1902
Peratrovich, Frank Klawock 1895 Alaska 1895
Poulsen, Chris Anchorage 1933 Denmark 1904
Reader, Peter L. Nome 1934 North Dakota 1913
Riley, Burke Haines 1938 Montana 1914
Rivers, Ralph J. Fairbanks 1906 Washington 1903
Rivers, Victor C. Anchorage 1906 Washington 1905
Robertson, R. E. Juneau 1906 Iowa 1885
Rosswog, John H. Cordova 1905 Washington 1904
Smith, W. O. Ketchikan 1932 New Mexico 1907
Stewart, B. D. Sitka 1910 Montana 1878
Sundborg, George Juneau 1938 California 1913
Sweeney, Dora M. Juneau 1907 Minnesota 1907

Taylor, Warren A. Fairbanks 1909 Washington 1891

VanderLeest, H. R. Juneau 1908 Michigan 1882

Walsh, M. J. Nome 1905 Ireland 1882

White, Barric M. Anchorage 1947 New York 1923

Wien, Ada B. Fairbanks 1907 Alaska 1907

V. RIVERS: I move and ask unanimous consent that we adopt that amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves that the proposed amendment be adopted.

JOHNSON: I object.

V. RIVERS: I so move.

SMITH: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Victor Rivers.

V. RIVERS: Mr. President, it seems to me in view of the geographical distribution of the country and in view of the varied interests, economic and otherwise, that we would be defeating practically the purpose of the initiative and referendum if we require two-thirds of the districts to be represented on this petition. I think that half is a fair figure. It seems to me that if you were going to have an initiative or referendum on mining matters that in all probability it would be very hard to get votes for that initiative in two-thirds of the districts where their main interests perhaps would lie in fish, or fur, or timber. I put this amendment in in all sincerity, because I think it will make the initiative and referendum more workable and more fair if we allow it to go through.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to say that we are talking not about precincts here, which at the present time there are something like 400 in the Territory, but about election districts under the constitution, and my understanding is that the Committee on Apportionment will bring in a proposal which will specify there will be 24 election districts. That would mean if we leave it the way it is that it would require at least one person's signature only from 16 of the districts to be among either ten or fifteen per cent as we may vote tomorrow on Mr. McNealy's motion to reconsider. The way Mr. Rivers would propose to change it, it would be necessary to get signatures from only 12 different districts, that is 12 signatures would be necessary, one from each district, making up a total of around 4,000 at the present time. I feel that as it is it is not at all cumbersome or difficult. If we had required that a large number had to be obtained from the districts, it might be, but all that is necessary is one lone signature from each district.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Fellow delegates, I hope that most of you are more aware of this issue that is getting more and more confused than I am. As I have shown on the last vote, and I want to be well aware that those among you who are in favor of the initiative in principle should see that any other attempt to emasculate the initiative as such should be voted down, and I see that Mr. Rivers' amendment is in favor of reinjecting some strength in the initiative. Since Section 3 has been amended to take more rights away

from the people, since the first sentence will give the legislature the right to prescribe procedures, it is only fair that we reduce the "two-thirds" to one-half" because if those that are opposed now and in the future to the initiative will have their way, they will have the legislature immediately to go about and have strict procedures established, for instance that in two-thirds of all the election districts we will have to have the full 15 per cent of signatures prorated in each district. I think the legislature will try to do that, and if they try to do it, if it is unconstitutional, it will have to be the people who go to the court and prove that such an act by the legislature would be unconstitutional. I think the legislature would get away with it and I wouldn't blame them for trying. It is not true that it will take only eleven signatures, one signature from each of the other eleven districts, and the one that tries to "railroad" something, I have no doubt whatsoever that those elements opposed to the initiative in the legislature will circumscribe the necessary procedure where we would end up by having two thirds of all the election districts required to furnish 15 per cent of the signatures. They would not rest quiet before they have that. Consequently, they will make the initiative unworkable. Consequently I am in favor of Mr. Rivers' amendment that only half of the election districts be required to furnish signatures. I have no doubt that before long they will be required to furnish each 16 per cent of the signatures, and be well aware of that, that attempt will be made, and all in favor of the initiative in principle should vote in favor of Mr. Rivers' amendment.

PRESIDENT EGAN: The question is -- Mr. Victor Rivers. V.

RIVERS: I ask that the roll be called.

PRESIDENT EGAN: The question is, "Shall the proposed amendment offered by Mr. Victor Rivers be adopted by the Convention?" The Chief Clerk will call the roll.

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

Yeas: 26 - Awes, Coghill, Doogan, Emberg, H. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McNees, Marston, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Taylor, VanderLeest.

Nays: 26 - Armstrong, Barr, Boswell, Buckalew, Collins, Cooper, Davis, V. Fischer, Hellenthal, Johnson, Laws, Londborg, McLaughlin, McNealy, Metcalf, Nolan, Poulsen, Reader, Robertson, Rosswog, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 3 - Cross, McCutcheon, Nerland.)

CHIEF CLERK: 26 yeas, 26 nays and 4 absent.

PRESIDENT EGAN: So the motion has failed of adoption. Mr. Buckalew



R. RIVERS: I now move the adoption of the amendment in the form presently presented and before you.

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Page 1, Section 4, strike lines 13 to 18 inclusive, and lines 1 to 5 inclusive, on page 2 and substitute the following: 'Section 4. Prior to general circulation, an initiative petition containing a draft of the proposed law in bill form shall be signed by ten qualified electors as sponsors and have its sufficiency as to form certified by the attorney general. Denial of certification shall be reviewable by the court. If certified to be sufficient the initiative or referendum petition containing a summary of the subject matter prepared by the attorney general may then be circulated and must be signed by qualified electors equal to 15% of the number of votes cast for governor in the preceding general election at which the governor was chosen. The petition shall contain signatures from at least two-thirds of the election districts of the State. The petition may be filed with the attorney general who shall prepare a ballot title or proposition designating and summarizing the substance of the proposed law which proposition shall go upon the ballot as hereinafter provided.

PRESIDENT EGAN: Is there a second to the motion by Mr. Ralph Rivers?

BARR: I second the motion.

PRESIDENT EGAN: It has been moved and seconded, and the motion is open for discussion. Mr. Taylor.

TAYLOR: I have an amendment to offer. It is on the desk, an amendment changing "15" as a per cent in the unnumbered lines here, but it is the last word in the original proposal, changing the 15%" to "10%".

PRESIDENT EGAN: Your amendment is out of order at this time. This motion is before us. A new amendment is on the floor at this time.

TAYLOR: Amending the amendment though.

PRESIDENT EGAN: Amending the "15%" to "10%"? Mr. Taylor then offers an amendment to the amendment seeking to change to read "10%". Is there a second?

MARSTON: I second the motion.

SWEENEY: I object.

PRESIDENT EGAN: The question is on the amendment to the amendment seeking to make it ten per cent of the number of votes cast. Mrs. Sweeney.

SWEENEY: This matter was voted on in the Committee of the Whole last night, and in coming into the plenary session we adopted the oral report of the Committee. Now I don't feel that we can vote on that issue again any more than we can vote on the 19 or 20 years again.

PRESIDENT EGAN: Mrs. Sweeney, the Chair does not recall that we ever voted on ten per cent. But anything that happened in the Committee of the Whole session would just come to the plenary session as a recommendation. That is all. Mr. Sundborg.

SUNDBORG: Mr. President, I believe Mrs. Sweeney's recollection is perhaps incorrect and that we did in plenary session amend from the figure eight to fifteen per cent. I don't believe we discussed that matter at all in Committee of the Whole.

PRESIDENT EGAN: No one could again offer the amendment and be in order to make it eight per cent, Mrs. Sweeney, but the Chair will have to rule that the particular amendment to the amendment offering ten per cent as the figure is in order. Mr. Taylor.

TAYLOR: I would like to speak briefly. I think this has been argued pro and con at the time that the original proposal was eight per cent. I think a number of the Committee have spoken against the fifteen per cent on the grounds that it would positively make it impossible or so difficult to circulate a petition for an initiative that it would render the law inoperative. Now as Mr. Londborg said, this morning he was reading some statistics in Missouri, and to initiate a law it only requires five per cent. Now, of course, we realize that in Missouri it is much easier to get petitions circulated. The transportation problem is nothing. The people who circulate them can drive around different places and counties and get them signed. Here with the vast distances and the difficulties of transportation, it would be a little bit difficult. So that would leave us, if we adopt the ten per cent, still twice as high as the State of Missouri where transportation is very easy. So I think ten per cent would be a good compromise.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I think if we read the Missouri Constitution carefully we will find that it is "five per cent of the qualified electors". We are only asking for a certain per cent of the governor's vote. There is a lot of difference because I don't think half or maybe a third of the people who can vote go out and vote. So actually five per cent in Missouri would be equivalent to maybe fifteen or twenty per cent here. Not only that, they also require five per cent of the electors in each of two-thirds of the voting precincts. We are saying that they can get all but fourteen, I believe it is, in one precinct and then just go out and spot enough so that they qualify in the two-thirds in the other.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I don't go along with Mr. Taylor that this is going to be such a difficult task to get the fifteen per cent. Every petition will have at least ten sponsors, and if they know it is going to have to come from two-thirds of the legislative districts, those ten sponsors will in all likelihood come from ten different districts or maybe five. If you have 4,000 votes to get it requires each sponsor to secure 400 votes, and I believe it should be left at fifteen per cent.

MARSTON: The 19 states who have the initiative and referendum laws have averaged a little below eight per cent requirement. We went over this document and this figure with the experts here. It was in keeping with their thinking, and eight per cent is higher than the average of the 19 states who have this, and it is the right number. I want to warn the people here of one thing I see coming up. The person or persons who are issuing most of these amendments are people against initiative and referendum. I know that.

PRESIDENT EGAN: The Chair will have to hold from here on that the Chair will have to declare any one out of order if they allude to the motives behind any delegate.

MARSTON: Can I say who is for and against? It has been said on the floor.

PRESIDENT EGAN: This does not particularly refer to your statements, but the Chair is going to have to hold firm on allusions as to what might be the motives of other delegates on the floor.

MARSTON: Eight per cent is above the average required. If you want the initiative and referendum to work, if you want the people of Alaska to have a chance to initiate and recall laws, keep it at eight per cent. That is the right figure. Ten per cent would be plenty high. Fifteen per cent rules it out. It is not effective.

PRESIDENT EGAN: Mr. Harris.

HARRIS: I am both in agreement and in disagreement with Mr. Taylor's proposal. Ten per cent at the present time with our present voting population perhaps would be a little low. Also, I have an amendment on the desk, and if Mr. Taylor would adopt the latter part of my amendment, I think maybe we would straighten this situation out. I would go ten per cent provided however that no petition shall have less than 5,000 signatures.

SUNDBORG: Question.

COOPER: I move the previous question.

PRESIDENT EGAN: Mr. Cooper moves the previous question.

BUCKALEW: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered? All those in favor of ordering the previous question will signify by saying "aye", all opposed "no". The ayes" have it and the previous question has been ordered. The question is, "Shall Mr. Taylor's proposed amendment to the amendment be adopted by the Convention?"

JOHNSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

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Yeas: 29 - Coghill, Collins, Davis, Doogan, Emberg, H. Fischer, Harris, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Lee, McLaughlin, McNealy, McNees, Marston, Metcalf, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Taylor, VanderLeest.

Nays: 21 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Gray, Hellenthal, Johnson, Laws, Londborg, Nolan, Poulsen, Reader, Robertson, Rosswog, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 5 - Cross, V. Fischer, Hilscher, McCutcheon, Nerland.)

LONDBORG: I have an amendment. It is the one I submitted before the recess. I would like to resubmit it.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment. The amendment was not voted upon, is that right?

LONDBORG: It was not voted upon, I had asked that it be withdrawn.

CHIEF CLERK: This was to Section 4, is that right?

LONDBORG: I believe so. It is in the Ralph Rivers amendment. I think you will find it better on page 2, line 8 of the changed copy, although I can't legally attach it to that.

CHIEF CLERK: "After the word 'signatures' in the next to the last sentence of the Ralph Rivers amendment, delete the rest of the sentence and substitute the following: 'from each of two-thirds of the election districts of the State with signatures equalling not less than 3% of the number of voters casting ballots for governor in each such district in the preceding general election at which a governor was elected'."

PRESIDENT EGAN: What is your pleasure, Mr. Londborg?

LONDBORG: I move the adoption of the amendment.

JOHNSON: I second the motion.

PRESIDENT EGAN: The question is open for discussion and the Chief Clerk might read the proposed amendment once more.

CHIEF CLERK: You can find it on page 5 of the journal of the 42nd day, next to the last paragraph, it is the bottom of the page.

PRESIDENT EGAN: Is there discussion of the proposed amendment? Mr. Londborg.

LONDBORG: The reason for this proposed amendment is to make it a little more clear that there should be at least more than one signature in each of these two-thirds of the districts. As the proposal now reads, they are to obtain signatures in at least two-thirds of the election districts of the state. Now, as I take it, that would mean that a person wanting to start an initiative, if he would get ten per cent of the total votes cast in one city, then he could send out or go out, either way, and just get one signature in each of two-thirds remaining districts and that would make the petition valid. Probably he would get two or three to play safe, but he would only have to get one. He would get a signature in each of the two-thirds districts and I believe that when we have such an important thing as an initiative and if the legislature has failed to the great extent that initiative is necessary, then that initiative should be a vital interest over all the state and not just in one area, and I believe that that interest will be best shown if we have at least three per cent of the voters in each of those two-thirds districts signing. Now three per cent is not very high. I put that purposely low so that it would not make it hard to get the signatures in any one of those areas, but at least it should be

more than one signature in two-thirds of the election districts. That is not going to make the initiative, I don't believe, any harder to work but it will at least show and prove that that proposed bill or that proposed law is gaining interest over the whole state, not just a local affair that the ten per cent would indicate if they were taken from one city or one locality and just go out and get one signature to comply with our initiative.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I am going to support the amendment because I think it makes good sense.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I am going to vote against the amendment because I don't think it makes good sense. The reasoning behind it sounds perfectly logical but I call attention to the fact that in this proposal that we have so far, we have at least three types of initiative which are not possible. We have put safeguards on it as far as the people are concerned so that the Territorial legislature will not be faced with a law they do not want. I think we also should remember that the initiative petition is just the beginning, that it will still be referred to the people for a vote throughout the Territory of Alaska, and I am sure by that time there will be sufficient discussion of it so it will be taken up, but I have the feeling we have gone to too large an extent in legislating this matter of initiative and referendum in the first place. We are continually getting into numbers. We are getting into things that are subject to critical glances from the people that are trying to get the job done, and I think generally that the less restrictions that we put on this thing the better off we are going to be, and I don't think the amendment will serve the purpose that the proposer thinks it will.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I believe I agree with Mr. Hurley's position on this. Even though the signatures originate in one area I want you to note that in Section 5 it states, "Neither the initiative nor referendum may be used as a means of making or defeating appropriations of public funds or earmarking of revenues nor for local or special legislation." Well, if there is no special local interest in the legislation, even though the signatures should come from a local area, if it is an overall general legislation, it would be my assumption that they would probably try to get as widespread number of signatures as possible to get as widespread interest as possible. I see no reason to impose some other percentage figure now. I don't see we gain a thing by it. I think it is an extra handicap and does not add to but detracts from the initiative and referendum as we now have it.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to close this short debate. In answer to the last objection, I don't believe Section 5 is a safeguard at

all. It just merely says that they may not be used for means of earmarking revenues, etc., but there still may be a law that one locality might particularly want, maybe it isn't pertaining to them, but it may pertain to the whole state, but the state may not be particularly interested in it, and the initiative may spring out of a populous area and they could get the ten per cent in just an overnight campaign and get the one signature out around, and then in answer to the former objection where we should not make it hard or things of that nature, let us remember that the initiative is not enacting laws by an apportionment representation. We are enacting laws by popular vote, and we have set up a machinery in the legislature to make our laws and they are sitting representing the various areas of the country, but when it comes to a popular vote, then you will find that it is where the people are that is going to count, and I think as a safeguard, and again I say it is not a high safeguard but very low, if you get three per cent of the qualified voters in these two-thirds districts you will have a good indication of whether it is of statewide interest.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Londborg be adopted by the Convention?"

LONDBORG: Mr. President, I request a roll call.

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

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

Yeas: 17 - Barr, Boswell, Cross, Hinckel, Johnson, Kilcher, Laws, Londborg, McNealy, Metcalf, Nerland, Poulsen, Reader, R. Rivers, Stewart, Sweeney, Walsh.

Nays: 31 - Barr, Coghill, Collins, Cooper, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, King, Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Nordale, Riley, V. Rivers, Rosswog, Smith, Sundborg, VanderLeest, White, Wien, Mr. President.

Absent: 7 - Armstrong, Buckalew, Davis, Nolan, Peratrovich, Robertson, Taylor.)

CHIEF CLERK: 17 yeas, 31 nays and 7 absent.

PRESIDENT EGAN: The "nays" have it, and the proposed amendment has failed of adoption. Mr. Sundborg.

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

CHIEF CLERK: "Page 1, Section 4, line 18. Strike word 'eight' at the end of the line and insert in lieu thereof the word 'fifteen'."

JOHNSON: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the proposed amendment.

MCNEALY: I second the motion.

GRAY: I would like to ask the mover how he arrived at the figure "fifteen". I had in mind "twenty-five" but I don't know what

the difference is between eight, ten, or fifteen per cent.

JOHNSON: I suppose I arrived at my fifteen like you arrived at your twenty-five. It was simply an estimate of what I thought would be a far better percentage of the electorate needed to initiate a proposal under this act. It seemed to me that eight per cent was a little bit low.

SUNDBORG: I think we should all be clear that all that this figure refers to is the percentage of the electors or of those voting at the last election who would have to sign a petition in order to get it voted upon. It does not mean that eight or fifteen percentage means it goes into effect. It just puts it on the ballot. I venture if we change this to fifteen there would be very few initiative measures would ever get on the ballot. That is quite a high percentage to get when you carry petitions around.

LONDBORG: If you can't get fifteen per cent to put it on the ballot they certainly would not get enough to pass it when it does come out. I think it should be a little bit higher than eight per cent because its not eight per cent of the qualified electors, it's only eight per cent of the ones that voted . and I think we ought to have it a little bit higher to preclude any possibility of throwing in legislation that might also call for special elections and a lot of expense.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I am not an authority on the subject, but I understand there are other states who have as high a percentage as 15 and I believe one has as high as 20 per cent. I can't quote the number of states. I would like to hear from some of the Committee that has investigated that.

MARSTON: Mr. Chairman, the average requirement is eight per cent of the states that have this form of law. The average is eight per cent.

PRESIDENT EGAN: Mr. Kilcher, did you want the floor?

KILCHER: Yes. I advise that this amendment be defeated. It is exorbitantly high and I intend to suggest an amendment at a

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much lower figure than this. The average is slightly less than eight per cent, as for as my figures show. Considering the distance and geography of Alaska, we should rather have a figure lower than eight or leave it as it is. That defeats the purpose of the measure.

GRAY: I feel that this is an important figure. I feel that this is the one place, if this is a constitutional measure, to insure that the people want the measure rather than some small

group in one locality. I believe that this figure should be sufficiently high. Under a republican form of government we are going to legislate through our legislature. We want to keep the principle of the law ultimately belongs to the people, and I think the figure should denote and be used only at a time that the legislature is not conforming to the wishes of the people, and that is why I believe this figure is very important, and by this figure I think we save the initiative for the constitution or we lose it due to the cumbersome expenses of practice of possibly poor legislation.

PRESIDENT EGAN: If there is no further discussion -- Mr. Barr?

BARR: Mr. President, as I stated before, I am against the basic idea of an initiative but I realize it has some value if it is in the constitution. In fact it may be a deterrent on the actions of legislature if they know it is there and could be used, but my main fear was it would be used too often for no good purpose. I may change my mind and vote for it if this figure of fifteen per cent is adopted.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I think that possibly the adoption of this 15 per cent motion would make the program of the initiative unworkable. I notice that the states that used the initiative for statutory purposes, there are none of them that are above ten. Now I will grant that for purposes of amending the constitution there are some states that go as high, I believe, as thirty. I think it would be an error to adopt this fifteen per cent because of the fact it would be practically impossible to get that number of signatures on the petition required to initiate an initiative.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, now they call this a petition by the voters, how to get a certain per cent of it. Now in looking at it another way, it is a motion by a certain percentage of the electors that they would like to have something voted on. Now you say eight per cent is too much, but as important as this session is, less than two per cent of the body of this house can initiate anything they want to before this body and have it voted on, so why should you have to have the electors, eight per cent or fifteen per cent more. Eight per cent I think is a fair compromise. We discussed that considerably in the Committee, but when you figure that less than two per cent in here can start something, all a man has to do is to make a motion. That one man is less

than two per cent and everybody considers it, so I think if we have eight per cent on this initiative, that is plenty.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Eight per cent is a little higher than the average state that uses this law. Now we know how hard it was to go out and get 250 names on a paper to get the chance to run for this Constitutional Convention. It was a lot of work for most of us to go out and do it ourselves. To get one of these initiative measures before the people it takes over 2,000 people to sign up. You would not get any place if you had to get 2,000. You would not be here and neither would I. It's a hurdle high enough if they feel that 2,000 votes to get on the ballot is what you have to get, they have a cause and then the people have a chance to say "yes or "no". I think eight per cent is right.

BOSWELL: I wondered if the Committee had studied the statistics of voting and about what eight per cent would require. Is that the figure -- 2,000?

MARSTON: My recollection is 27,000 votes here all over Alaska. Eight per cent of that is 2,160.

BOSWELL: I would speak in favor of a higher figure than eight per cent. It seems to me that one of the things, one of the abuses is that a number of bills could get introduced with a few voters and with only 2,000 it seems to me that it would be very easy for one locality to get 2,000 votes on a particular issue. That is why I would favor a higher figure, and I think fifteen per cent is about right.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: If Alaska had a static population I would be inclined to agree, but I feel we have an expanding population, and by the time we become a state, the people that are concerned with introducing proposals, our population and our voting population will be such that eight per cent will be a reasonable figure.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, talking about the difficulty of getting that number of signatures to a petition, I maintain it is pretty easy to get a petition signed. I know of one candidate to this Constitutional Convention who merely typed up some petitions and mailed them to friends and he got 800 signatures with no effort on the part of himself.

PRESIDENT EGAN: Mr. Gray.

GRAY: I have to rise a second time because of that 200-vote

deal. The gentleman on that pointed directly at me. I wish to cite right now the principle of the thing. On the extraneous, unimportant matters, we don't care what the percentage is, two per cent, but on these important matters we must raise it to a higher value.

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PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would just like to say that the effect of the amendment, if it is adopted, would be that in Alaska right now in order to get any measure up before the people on an initiative basis, it would require 4,050 signatures on petitions. That is a lot of signatures to try to go out and get in Alaska. That is what fifteen per cent of 27,000 is. This is not going to carry the proposition. This is what is required to simply get it on the ballot so the people can have a chance to vote on it. The eight per cent now in there, as Mr. Marston said, would require slightly over 2,000, so that is what we are voting on.

ROSSWOG: Mr. Chairman, I would like to say a few words.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I think it should be hard to get these petitions out and have them filled out, and I would be in favor of a little higher figure than the eight per cent.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I am recalling the other arguments that have been made prior to this particular question. And if you will recall various people stated "Well, when the legislature fails to enact some necessary legislation the people can put the blocks to them. If the legislature has fallen down that much, it is not going to be any trouble at all to get fifteen per cent because they are all going to be up in arms. If the legislature has fallen down that much and they have to resort to the initiative, I think you can get fifteen per cent, if it's that important.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I take my second turn here. I still believe it should be a lot higher. If that small percentage can throw the wheels in motion and perhaps calls for a special election and have \$40,000 every time a few people get together and want it if it does not happen to fall on a primary or general election, I think it should be relatively hard to do it because if it is something that that many people want, I am sure you can get the signatures. There have been various experiments performed on the idea of getting people to sign their names, and they say in cities that one out of ten will refuse to sign their signatures on a petition and perhaps not even look at the petition.

COOPER: I would like to point out that the figure fifteen per cent as used in the proposal, the figures that were presented on the floor were fifteen percent of 27,000 votes, and the last general election, as I recall I am not letter perfect on these figures -- was over 40,000. Is that correct? Might I ask if any of the delegates know?

PRESIDENT EGAN: Twenty seven thousand the Chair believes, or something like that.

COOPER: Of the general election?

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PRESIDENT EGAN: Twenty seven thousand, six hundred and something.

COOPER: I just wanted to point out in argument that the delegate that was elected at large with the greatest number of votes, Territory wide, received 7,000 votes, which in effect would be a signature. The 15 per cent of the 27,000 votes then would be over 4,000 signatures. I believe it is a little high.

R. RIVERS: That delegate was running in a field of seven candidates. The 27,000 reflects the number of votes cast per delegate, I believe.

HILSCHER: According to the report of PAS slightly less than eight per cent seems to be the average in the states where this provision applies. Those states have a far more static population than we have. They are closely allied through transportation, through numerous radio stations, telephones, and it is much easier to get your message across. Here in Alaska where we have such a large area, the great distances between our towns and communities, our lack of communications comparable to those in the states places an additional penalty upon our people. So if we are to adopt the fifteen per cent, we might in essence from the standpoint of inconvenience, be setting it up almost at 25 per cent. I am in favor of the figure as it stands at the present time in Section 4, at eight per cent.

HINCKEL: I originally proposed or composed an article in which I set forth fifteen per cent. In Committee they changed my mind and I agreed to the eight per cent. In view of the fact that we have now removed all restrictions on the voters, a voter does not have to be able to read, etc., the qualified elector who would be permitted to sign this petition, I now favor that we raise the percentage back to a higher figure than eight -- possibly as high as fifteen.

UNIDENTIFIED DELAGATE: Question.

TAYLOR: I would like to say too that some of the states don't favor too large petitions. New York with three or four million voters, you can't present a petition that has more than 50,000 signatures, so it is a very small percentage of the voters that are on the petition because they are too bulky, there is too much trouble checking them. So in New York State you can't get more than 50,000 people on which would be a small percentage.

MCNEALY: I had not intended to speak on this, but everybody is taking a turn. The point is that I have some amendments to offer here which if the fifteen per cent went through I would be inclined to go along with the initiative and not offer my proposed amendments. Mr. Taylor speaks of New York. I think there are others here in the body who talked with Congressman O'Brien from New York. He said in one of his last words of parting from a little meeting, he said, "Don't get stuck like the State of New York with an initiative system or you will be spending out a good percentage of the Territory's money. You will find that your

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initiative elections will cost you far more than your regular elections. As a Congressman from New York I sincerely hope you do not write the initiative into the constitution." I think this fifteen per cent would be somewhat of a safeguard against too many elections at least.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?" That is changing "eight per cent" to read "fifteen per cent". All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no".

SWEENEY: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 25 - Armstrong, Aves, Barr, Boswell, Buckalew, Cross, Doogan, V. Fischer, Gray, Hinckel, Johnson, Laws, Londborg, McCutcheon, McNealy, Nerland, Nolan, Poulsen, Reader, Rosswog, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 23 - Coghill, Collins, Cooper, Davis, Emberg, Harris, Hermann, Hilscher, Hurley, Kilcher, Knight, Lee, McLaughlin, McNees, Marston, Metcalf, Nordale, Peratovich, R. Rivers, V. Rivers, Smith, Stewart, Taylor..

Absent: 7 - H. Fischer, Hellenthal, King, Riley, Robertson, Sundborg, VanderLeest.)

CHIEF CLERK: 25 yeas, 23 nays and 7 absent.

PRESIDENT EGAN: And so the motion has carried and the amendment is ordered adopted.

V. RIVERS: It takes a majority of all of the members to which the body is entitled for final action.

PRESIDENT EGAN: The Chair will declare a two-minute recess.

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

CHIEF CLERK: Do you want this one taken up next?

JOHNSON: Yes, please.

CHIEF CLERK: "Page 2, line 3. Section 4, after word 'chosen' add new sentence, 'The petition shall be from two-thirds of the voting precincts.'"

JOHNSON: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: "The petition shall be from two-thirds of the voting precincts" -- where, Mr. Johnson, of the Territory?

JOHNSON: Of course it would be from the state.

PRESIDENT EGAN: The Chair stands corrected.

CHIEF CLERK: Do you want to add that?

JOHNSON: It is not necessary.

PRESIDENT EGAN: Do you move the adoption of the proposed amendment?

JOHNSON: I do.

ROBERTSON: I second the motion.

JOHNSON: I might explain, Mr. President, that it occurs to me that under the present wording that a petition could be circulated in one large population area and the required number of signatures be obtained from that one population area, and I believe that it would be better or equitable to have the petitions circulated in at least two-thirds of the voting precincts and signatures obtained all around the state rather than just in one locality.

PRESIDENT EGAN: Mr. Marston.

MARSTON: We went all through this, and in this big land of Alaska we said the other day one voting precinct was bigger than 40 of the states, and we concluded it was not fair if we want the initiative to work, to chase them all over the great land of Alaska to get these petitions. You nullify it. Here is one man with five petitions here. It is not improving this thing. If you want to nullify it, this is one way to do it. We worked on it for about four weeks, good men, even if I was on there, the rest of them anyway, and we decided that some of these people -- we had it in there. We took it out. It was too big a land to chase them over the mountains and across the rivers and the oceans to get this scattered vote, so I wish if you want this initiative and referendum you would hold back on a lot of these amendments. They are not improving it. That is the reason we did not put it in there. We considered Mr. Johnson's amendment carefully. I would like to hear some of the other Committees on this.

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PRESIDENT EGAN: The question is, "Shall Mr. Johnson's proposed amendment be adopted by the Convention?" Mr. Davis.

DAVIS: May I ask Mr. Johnson a question? If I understood your explanation correctly, Mr. Johnson, what you intended was that the petition should be circulated or that signatures should be secured from at least two-thirds. It seems to me the form does not quite carry out what you are trying to do. I am in favor of the suggestion that I think you are trying to make there.

JOHNSON: We could add the words "shall be circulated in at least two-thirds of the voting precincts." I will accept Mr. Davis' suggested amendment, and insert, "The petition shall contain signatures from at least two-thirds of the election districts of the State."

PRESIDENT EGAN: Mr. Davis, do you offer that proposed amendment?

DAVIS: Yes.

PRESIDENT EGAN: Is there objection to Mr. Davis's proposed amendment to the amendment? Mr. McLaughlin.

MCLAUGHLIN: Are you substituting the word "circulating" and do not require signing, Mr. Davis?

DAVIS: Either "circulated" or "signatures should be secured from". Either one would be all right from my standpoint. But as it reads it says, "it shall be from" and I think it is meaningless.

MCLAUGHLIN: I am just anxious to know what the amended amendment is.

DAVIS: I will say "circulated" as an amendment.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I have the same question in mind, and in my mind it would have been at least two-thirds of the voting precincts that would be represented, and that would indicate at least one vote from at least two-thirds of the voting precincts in Alaska.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I can certainly see a value in having signatures from that many of the precincts. That would be one of the best ways to get the people all over the State of Alaska acquainted with what is coming up, otherwise many people will have to depend on radio or newspapers, etc., to find out and first thing you know there is a special election and a lot of them will have the initiative before them to vote and come to the polls and probably have not had a chance to talk it over and can't read, and we are going to have a lot of confusion, but if it can be circulated around I think it is going to stimulate a lot of interest and a lot of study on the initiative.

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PRESIDENT EGAN: Mr. Metcalf.

METCALF: I am partially in favor of Mr. Johnson's motion, and I am against it for the use of the phraseology "of all the voting precincts", which would be a difficult job. I would like to amend the motion and make it similar to the Missouri Constitution, what they say on the matter. I would like to amend the motion and say "the major political subdivisions" and put the word "each" before that. In other words, you have Nome, Fairbanks, Anchorage, and Juneau, and you have to get two-thirds of your signatures from those major areas, and you won't work a hardship on the people with the initiative.

PRESIDENT EGAN: Mr. Metcalf, at the present time the particular motion cannot be further amended in its present state. There has already been an amendment to the proposed amendment offered and an amendment to the amendment to the amendment the Chair would hold would be out of order at this time. Mr. Stewart.

STEWART: Mr. President, just one question of information. Would the word "circulating include posting in a public place?

DAVIS: Mr. President, in order to get away from the confusion which I caused here, I would like to withdraw the proposed amendment, putting it back to Mr. Johnson's amendment, then we can start over again.

PRESIDENT EGAN: If there is no objection, Mr. Davis asks unanimous consent to withdraw his proposed amendment to the amendment.

MCNEALY: I object.

PRESIDENT EGAN: That will take a motion before we can discuss it further. Mr. Davis.

DAVIS: I move that I be allowed to withdraw my proposed amendment to Mr. Johnson's amendment.

JOHNSON: I second.

MCNEALY: I withdraw my objection.

PRESIDENT EGAN: The proposed amendment to the amendment was withdrawn. Mr. Metcalf.

METCALF: I should like to read the amendment to Mr. Johnson's motion here.

PRESIDENT EGAN: If you could get it in writing. The Convention will sit at ease for a minute or two. The Convention is at ease. The Convention will come to order. Mr. Johnson.

JOHNSON: Mr. President, I ask leave by unanimous consent to withdraw my original amendment and substitute in lieu thereof a different wording which I have placed on the Secretary's desk.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that he be allowed to withdraw his original amendment and substitute another amendment. Is there objection? If there is no objection it is so ordered, and the Chief Clerk may read the proposed amendment.

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CHIEF CLERK: "Page 2, line 3, Section 4, after word 'chosen' add a new sentence, The petition shall contain signatures from at least two-thirds of the election districts of the State."

JOHNSON: I move the adoption of the amendment as read.

ROBERTSON: I second it.

PRESIDENT EGAN: The motion is open for discussion. Mr.

Smith.

SMITH: Mr. President, my recollection of the Committee discussion on this question was that under Section 3 the legislature would have the authority to require that signatures be obtained from as many legislative districts as they might deem necessary. The Committee felt, that is my version of the Committee feeling was, that due to the changes which will inevitably come, that the legislature could safely make those requirements. They could change those requirements to meet changing conditions and, therefore, I am opposing the amendment.

TAYLOR: I would just like to substantiate the remarks of Mr. Smith. We went over this quite carefully. We argued pro and con as to whether we should put anything in about where the petition was to be circulated, how many names to it, studied the other states' provisions along these same lines, and we felt due to our geographical limits that it would be better to leave that to the legislature. Now that is an untried thing in Alaska, and if we put this in here the legislature then would be unable to change it. It would take a constitutional amendment to make any change in the method of getting the signatures or where you got them from. So we thought we would leave this thing in the fluid stage so if there was an attempt to initiate legislation by this method, and they found out that the provision by law pursuant to the article was unwieldly, cumbersome, and made it practically impossible to get a measure through, that the legislature could change it at the first session if they realize it should be done. So we purposely left that out. We felt it would be better to leave it fluid so by trial and error we can find out what is the best manner to handle this, so I would think that the amendment should be defeated.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I was going to state for the advocacy of the delegates that the original wording we had in there was that not over 25 per cent of the signatures on a petition should come from any one political subdivision, and we all agreed that it would probably be adequate but as Mr. Taylor has said, we finally decided that we might be wrong and it would be better to leave it to the legislature so it could be amended or changed without all the trouble of going through constitutional amendment.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Line 25 on page 2, actually Section 5, says this measure of the initiative shall not pertain to local or special legislation. Therefore, I don't think the amendment is in any way, shape or form out of order. If the people of the state at-large are to be affected by eventual legislation, then I believe that petition should be distributed within at least two-thirds of the voting precincts.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: There seems to be a feeling here that this is making it too hard to get an initiative. I would like to call the attention to the initiative provision in the State of Missouri where they not only ask that it be circulated in two-thirds of the congressional districts of the state, but that it be signed by a certain per cent of the legal voters. Now in the case of the constitutionality amendment it is eight per cent. In case of the law it is five per cent, which I think would compare to our fifteen per cent of those who voted. This is five per cent of the legal voters and it shall be signed by five per cent of the voters in each of two-thirds of the districts, so they certainly have their initiative a lot harder than we are proposing here.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I think we are losing sight of one of the main things to be considered in connection with this proposal. These amendments and others that have already been adopted, as well as some of the sections themselves, are clearly attempts to replace fundamental law with statutory law, and I think that the whole thing of setting up the procedure for initiative and referendum, which is now being clumsily done by the body, should be left in the hands of the legislature. I have said once on this floor, if I have said it once I have said it a dozen times and probably will say it that many more, we have got to leave things to the legislature that belong among the legislature's functions, and instead of trying to write statutory law into the constitution of the State of Alaska let's get down to brass tacks and write the fundamental law on which the legislature may base its actions. I am against the amendment.

SUNDBORG: I have to take a view opposite to that of Mrs. Hermann's, something which I do not often do, for the reason that this provision would cover not only initiative petitions but referendum petitions, and I do not believe it proper to leave in the hands of the legislature the writing of basic provisions on how petitions which would override and defeat actions which the legislature has taken would have to be handled. Now under your view it is open here if we don't mention it, and it is open to the legislature to put up any kind of a provision it wants, it could require that there would have to be signatures from every voting precinct in the state which would defeat it because it would be impossible to get such signatures, and I don't believe that if we are going to have the referendum at all which is the process for the people to say, "We don't want this law which the legislature has just passed. We don't want to leave it to the legislature to set up the ground rules of how those things are going to be

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handled. I think that the amendment as now submitted does not require very much. All it says is that the petition shall contain signatures from at least two-thirds of the election districts of the state. The Apportionment Committee is bringing out a report which is going to set up 24 election districts in the state. This would require that anyone who wants to get a matter on the ballot would only have to have signatures from 16 of those election districts. Say that we need 4,000 as it is in Alaska today, he could have 3,985 signatures from the City of Anchorage and he could get one each from the other 16 election districts and he's on the ballot. Now I don't think that is going to restrict very many initiative or referendum petitions.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I certainly agree with Mrs. Hermann. It seems to me a lot of delegates, and I have had the same idea myself up to this point, that you can't write into the constitution provisions that are going to take care of every imaginary evil that might come up. I think you can trust the legislature. We are going to trust the judges. We have created judges. We have given to the judges the power to incarcerate people and even hang them, and it is not any more illogical to trust the legislature. I might say that I offered an amendment which I think will cure all of this discussion, and I don't mean any reflection on Mr. Collins or his Committee, but I certainly agree with Mrs. Hermann. Now you can see the hassle we have gotten into over whether it is going to be ten or fifteen per cent, and it is all legislation, and if it proves to be unworkable you have got to amend the constitution to change it, and Mrs. Hermann is absolutely right.

MCLAUGHLIN: Without committing myself either way, I am just a little bit puzzled. Under Mrs. Hermann's suggestion it would all be left to the legislature. If the legislature exercises its authority under Section 3 prescribing the procedures to be followed in the exercise of powers of initiative and referendum, it makes it an emergency act, and you can't have a referendum on your referendum.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, the only value for the initiative and referendum procedure is if there is a clear channel for enactment of legislation by the people. That is, if it goes directly from the people bypassing the legislature. If you give the legislature the power to block that channel, then you just as well as have no initiative and referendum at all. Now this is the second time I have had to change my mind on the question that is concerned with this, but I will now support the amendment offered.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think, in answering Mr. Smith's objections, he possibly loses sight of the fact that this Convention, if we adopt this proposal would be bound by it, as it says "No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein...by the people." They have got to pass the legislation. It has got to be introduced. It has got to be implemented

by the proper legislative measure. Let us trust the legislature. Let us leave this just as much as basic law as we possibly can. Otherwise, we are coming out of here with a constitution that the voters will not ratify. Maybe some of these amendments are put in for the purpose of defeating the constitution.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I want to say that I agree, strange as it may seem, with what Mrs. Hermann has said here. I think a good deal that is in this bill as written is legislation. The amendment which Mr. Johnson offered and which I supported was a matter to amend something that is legislation in my opinion to make the thing clearer and more nearly responsive to the will of the people of the whole rather than one section. That was the reason for offering the amendment. I would agree right off that if this part of Section 4 could be stricken as legislation.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I resent the implication that I have offered any amendments for the purpose of defeating this constitution. I don't believe that Delegate Taylor had any right to make such an inference. I think that any delegate here has the right to offer amendments as long as they feel they are justified and it is part of the subject matter at hand. Now certainly in this instance, the constitutions that have been read to us, clearly indicate that this provision which is now before us by way of amendment is not unusual. There is nothing strange about it, and as Delegate Sundborg points out, it is not an impractical proposition because you can get, as he says, 3,995 signatures in Anchorage and get the rest of them, one signature from the other 15 voting precincts, so it is not an impractical proposition. It still acts as an additional safeguard on the misuse of the initiative. Yesterday I was opposed to the initiative principle, but the delegation in the Committee of the Whole voted to support the principle, and it is now in our constitution and will be I assume, but I still think that we have the right to make it as strong as possible because certainly it can be very easily misused as has been pointed out, and a special election under the initiative could cost the taxpayers \$40,000 and you might have a number of those special elections every year, and it runs into money, and I don't think we are going to have any too much money after we become a state, at least not for awhile, so I believe it is a reasonable safeguard and that the amendment should be passed.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I am a strong advocate of leaving matters to the legislature, but I want to point out that when you start writing legislation into the constitution then you have got to write more legislation in order to supplement the legislation that you already have written in, and I too want to call attention to Section 3, the last line where it states, "No law shall be enacted to hamper, restrict, or impair the exercise of powers reserved herein by the people. If this is left blank, the percentage of the voters

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who must sign the petition, and if it is left in the blank about what districts they shall be signed in, then I can foresee and very clearly there will be untold litigation, because if the legislature attempted to pass a bill and required fifteen per cent of the signatures, the people, or a small segment, would attack it on the grounds that it was hampering or restricting or impairing the voters. If the legislature attempted to say that the petitions had to be secured in certain districts they could always refer back to this clause here of hampering, restricting, or impairing. I think as long as we started writing legislation into this, unless the matter is clearly spelled out in the bill and left up to the legislature, then we must spell out these things in order to protect against future court action.

PRESIDENT EGAN: The Chair is going to adhere to the rule, Mr. Taylor, that each delegate is allowed two times around. Mr. Kilcher.

KILCHER: Point of information. I would like to address a question to Mr. Johnson. If Mr. Johnson's amendment should be adopted, would that leave enough power to the legislature later on to determine the percentage of signatures required in each of the two-thirds of the legal subdivisions?

JOHNSON: Offhand, I would say no, but it seems to me that it might be construed that if the legislature should determine later that each voting precinct would have to produce a proportionate share of the signatures, that might be in contravention of the constitutionality. I am not enough of a constitutional lawyer to know, but my offhand opinion is that this provision as it is now before us would make it flexible, and if the legislature attempted to put any restrictions on that flexibility, that it would not be improper.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Personally I think that the legislature would be entitled to make further specifications that are not limited by any of the constitutional sections, and I hope that it will. and provided that I am right in my assumption, I am in favor of Mr. Johnson's amendment.

ARMSTRONG: If Section 4 is to stay in the act, it seems to me that we have to have this provision. I want to revert back to the thing that Mr. Marston constantly talks about, the people. I have a feeling so often that when I vote on the wrong side of an issue that I am voting against the people because that word has been underscored so emphatically. I think that to eradicate sectionalism and provincialism from Alaska we must have an expression from as many sections of the state as possible. I think one of the great things that is hampering us now is the feeling that one area wants to dominate another area, and I will vote for this amendment because of my inner feeling that this is bridging all of these depressions of sectionalism. It is asking for a widespread opinion on a piece of legislation. If folks say "Well, we are not intelligently" enlightened on this enough so that we

can sign this petition, then let them dig into it before they sign it. It will probably give a wider base of opinion when it comes to a vote. We can probably vote on it more intelligently. I will support this amendment if we are keeping in Section 4.

BOSWELL: I move the previous question.

HERMANN: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of the question will signify by saying "aye", all opposed by saying no. The "ayes have it and the previous question is ordered. The question is, "Shall Mr. Johnson's proposed amendment be adopted by the Convention?" All those in favor --

TAYLOR: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll. Will the Chief Clerk please read the amendment.

CHIEF CLERK: "Page 2, line 3, Section 4, after the word 'chosen' add a new sentence, 'The petition shall contain signatures from at least two-thirds of the election districts of the State.'"

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

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

Yeas: 38 - Armstrong, Barr, Boswell, Coghill, Collins, Cooper, Davis, Doogan, H. Fischer, Gray, Harris, Hellenthal, Hilscher, Johnson, Kilcher, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Nolan, Poulsen, Reader, R. Rivers, Robertson, Rosswoog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 13 - Aves, Buckalew, Emberg, Hermann, Hinckel, Hurley, King, Metcalf, Nordalc, Peratrovich, Riley, V. Rivers, Taylor.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 38 yeas, 13 nays and 4 absent.

PRESIDENT EGAN: The "ayes" have it and the proposed amendment is ordered adopted. Mr. Hellenthal.

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CHAIRMAN R. RIVERS: Mrs. Sweeney.

SWEENEY: I would like to ask Mr. Taylor a question. On Section 4, the last line on page 1 and going to the top of page 2 it

provides that you will have eight per cent of the number of votes cast for governor in the preceding general election, at which the governor was elected. I am wondering if your Committee considered the possibility of a restriction in there similar to the one that is in the model constitution requiring that only a certain percentage of those signatures can come from a certain district. That is, that the petition must represent a large area rather than a restricted area.

TAYLOR: We did talk that over. We gave it consideration. We felt that with the geographical limitations of the state of Alaska, we felt that in view of the size of Alaska, the geographical size of it in proportion to the population, that if we put a limitation upon the number of voters that could come from any political subdivision or of any particular area, that it would make it very difficult up here by reason of the great sparsely populated areas, we did not hold that up. We felt it would make it very difficult if 25 per cent of, say 25 or 30 per cent of the petitions had to be from one division or one part of a division. Well, you could go in there and get those all right, but it is so difficult to circulate those petitions in the outlying precincts.

SWEENEY: On the other hand, I feel that, if just speaking of divisions now, if one division, for instance the Southeast, had a bit of legislation they wanted passed, they could get the eight per cent of the votes very easily and yet we would be imposing, if the legislature then passed whatever it was we wanted, we would be imposing our will on the whole of Alaska, and it seems to me that a portion should be required to come from another division, perhaps a third or even half from another section.

CHAIRMAN R. RIVERS: The Committee will be at ease for a moment while our guests pass out. (Guests left gallery.) The Committee will come to order.

TAYLOR: Mr. Chairman, I would like to answer Mrs. Sweeney's question in this way. Although as she states the eight per cent of the voters, of the number of voters that cast their votes for the governor at the previous election was secured in one division, that does not make it a law because that then is submitted, if they get the sufficient number of signatures on there, then it is submitted to the entire electorate and then it can be defeated by the voters of other divisions or political subdivisions whichever they might be, because the entire electorate then votes upon what eight per cent of the electorate initiated.

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HB

67

1-LS0197M-
Luckhaupt
3/10/00

adopted
3/20/00
amended

SENATE CS FOR CS FOR HOUSE BILL NO. 67()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Dyson, Croft, Harris, Halcro, Murkowski

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to release of certain persons alleged to have committed certain
2 sexual offenses."

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

4 * Section 1. AS 12.30 is amended by adding a new section to read:

5 Sec. 12.30.029. Release in sexual abuse and sexual assault cases. (a)

6 Before ordering release before trial of a person charged with a crime under
7 AS 11.41.410 - 11.41.438 or 11.41.450 - 11.41.458, the court shall consider the safety
8 of the alleged victim. The court may impose bail and any of the conditions authorized
9 under AS 12.30.020 and any other condition necessary to protect the alleged victim
10 and the public and to assure the appearance of the person in court.

11 (b) The court may impose any of the following conditions on a person charged
12 with an offense under AS 11.41.410 - 11.41.438 or 11.41.450 - 11.41.458

13 (1) that the person have no contact with the alleged victim except as
14 specifically allowed by the court;

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(2) that the person reside in a place where the person is not likely to come into contact with the alleged victim of the offense; and

(3) if the person is on medication, that the person take the medication as prescribed.

(c) Before a judicial officer releases a person charged with an offense under AS 11.41.410 - 11.41.438 or 11.41.450 - 11.41.458, the court shall

(1) assure that the alleged victim, or the alleged victim's parent or guardian if the alleged victim is under 18 years of age, has been notified by a law enforcement agency or the prosecuting attorney of the hearing where the release is being considered, or a reasonable effort at notification has been made;

(2) solicit comments from the victim or the victim's parent or guardian who is present and wishes to comment and consider those comments before making a decision to release the person.

* Sec. 2. AS 12.30.040(b) is amended to read:

(b) Notwithstanding the provisions of (a) of this section, a person may not be released on bail either before sentencing or pending appeal if the person has been convicted of an offense that is

(1) an unclassified felony or a class A felony; [OR]

(2) a class B or class C felony if the person has been previously convicted of an offense in this state that is an unclassified felony, a class A felony, or a violation of AS 11.41.260, 11.41.420 - 11.41.425, or 11.41.436 - 11.41.438 or of an offense in another jurisdiction with elements substantially similar to an offense of this state described in this paragraph; or

(3) a crime under AS 11.41.410 - 11.41.438 or 11.41.450 - 11.41.458.

* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. This Act applies to criminal proceedings occurring on or after the effective date of this Act regardless of whether the criminal offense occurred before, on, or after the effective date of this Act.

1-LS0197M.1
Luckhaupt
3/20/00

adopted

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 67(), Draft Version "M"

1 Page 2, line 24, following "11.41.450 - 11.41.458"

2 Insert "unless the court finds it likely that, if not released on bail, the person will
3 remain in custody before

4 (A) sentencing for a greater period than the term of
5 imprisonment the person is likely to be sentenced to serve; or

6 (B) appeal for a greater period than the term of
7 imprisonment the person was sentenced to serve"

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. SCSHB 67 (JUD) AM

Revision Date/Time (Note if correction) <u>March 21, 2000</u>	Dept. Affected <u>Administration</u>
Title <u>"An act relating to release of certain persons alleged to have committed certain sexual offenses"</u>	BRU <u>Legal and Advocacy Services</u>
Sponsor <u>Representative Rokeberg</u>	Component <u>Public Defender Agency</u>
Requester <u>(S) JUD</u>	Component No. <u>1631</u>

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						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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	*	*	*	*	*	*

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill directs the court's discretion regarding release conditions on those defendants charged with or convicted of sexual assault and abuse offenses who are able to make bail. The bill requires the court to consider the safety of the alleged victim and gives the court broad authority to impose conditions to protect the alleged victim and ensure the defendant's appearance. The bill also requires the court to assure that the alleged victim has been notified of release hearings and to solicit comments if the victim wishes to comment.

This bill may have some fiscal impact on the Public Defender Agency. The Agency represents defendants in bail hearings on these offenses. This bill may make representing clients at these bail hearings somewhat more difficult. However, it is not possible to quantify what the potential impact would be.

Prepared by: <u>Barbara Brink, Director</u>	Phone <u>264-4414</u>
Division <u>Public Defender Agency</u>	Date/Time _____
Approved by Commissioner -- <u>Robert Poe, Jr.</u> <i>Alison M. Elger</i>	Date <u>3/22/00</u>
Agency <u>Department of Administration</u>	

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FISCAL NOTE

Bill Version: CSHB 67(JUD)
 (H) Publish Date: 2/21/00

**STATE OF ALASKA
 2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) February 17, 2000 1:30 p Dept. Affected Department of Corrections
 Title An Act relating to release of certain persons BRU Administration and Operations
 alleged to have committed certain sexual offenses. Component All
 Sponsor Representative Rokeberg
 Requester House Rules Committee Component No. #0694

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						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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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 (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The committee substitute for HB 67 changed the bill in such a way that the Department of Corrections does not believe that it will have a fiscal impact.

Prepared by: Candy Brower, Legislative Liaison
 Division Commissioner's Office
 Approved by Commissioner Margaret M. Pugh
 Agency Dept. of Corrections

Phone 465-3307
 Date/Time 2/17/00 1:58 PM
 Date 2-17-02

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FISCAL NOTE

Bill Version: CSHB 67(JUD)
(H) Publish Date: 2/21/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Revision Date: 2/18/00
Title: "An Act relating to release of certain persons alleged to have committed certain sexual offenses"
Sponsor: Representative Rokeberg
Requestor: (H) RLS

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**

CAPITAL EXPENDITURES	**	**	**	**	**	**
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CHANGE IN REVENUES ()	**	**	**	**	**	**
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FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 2000) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Barbara Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Robert Poe Jr. / *Robert Poe Jr.*
Agency: Department of Administration

Date: 2/18/00

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSHB 67(JUD)

ANALYSIS: (continued)

This bill directs the court's discretion regarding release conditions on those defendants charged with or convicted of sexual assault and abuse offenses who are able to make bail. The bill requires the court to consider the safety of the alleged victim and gives the court broad authority to impose conditions to protect the alleged victim and ensure the defendant's appearance. The bill also requires the court to assure that the alleged victim has been notified of release hearings and to solicit comments if the victim wishes to comment.

This bill may have some fiscal impact on the Public Defender Agency. The Agency represents defendants in bail hearings on these offenses. This bill may make representing clients at these bail hearings somewhat more difficult. However, it is not possible to quantify what the potential impact would be.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSHB 67 (JUD) AM

Revision Date/Time (Note if correction) <u>March 17, 2000</u>	Dept. Affected <u>Administration</u>
Title <u>"An act relating to release of certain persons</u>	<u>BRU</u> <u>Legal and Advocacy Service</u>
<u>alleged to have committed certain sexual offenses"</u>	Component <u>Public Defender Agency</u>
Sponsor <u>Representative Rokeberg</u>	
Requester <u>(S) JUD</u>	Component No. <u>1631</u>

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						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING

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	.	.	.	.	.	.

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill directs the court's discretion regarding release conditions on those defendants charged with or convicted of sexual assault and abuse offenses who are able to make bail. The bill requires the court to consider the safety of the alleged victim and gives the court broad authority to impose conditions to protect the alleged victim and ensure the defendant's appearance. The bill also requires the court to assure that the alleged victim has been notified of release hearings and to solicit comments if the victim wishes to comment.

This bill may have some fiscal impact on the Public Defender Agency. The Agency represents defendants in bail hearings on these offenses. This bill may make representing clients at these bail hearings somewhat more difficult. However, it is not possible to quantify what the potential impact would be.

Prepared by: <u>Barbara Brink, Director</u>	Phone <u>264-4414</u>
Division <u>Public Defender Agency</u>	Date/Time _____
Approved by <u>Commissioner - Robert Poe, Jr.</u> <i>Alison M. Slager</i>	Date <u>3/30/00</u>
Agency <u>Department of Administration</u>	

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STATE OF ALASKA /

DEPARTMENT OF CORRECTIONS

MEMORANDUM

Commissioner's Office
240 Main Street, Suite 700
Juneau, Alaska 99801
Phone (907) 465-4652 Fax (907) 465-3390

TO: Representative Norman Rokeberg
Alaska State Legislature
State of Alaska

DATE: March 15, 2000

FROM: Candace Brower
Program Coordinator

SUBJECT: HB 67

RECEIVED
MAR 17 2000

A review of the draft of SCS CSHB 67 reveals a significant change by the insertion of Section 2. Two of the crimes are already covered under this section, AS 11.41.410 and 11.41.434 because they are unclassified felonies. Additionally, some offenders would fall under AS 12.30.040(b)(2). Our data indicates that in 1999 that was the case for 19 per cent of those offenders sentenced for B and C felony sexual assaults.

The 1999 data also indicates that the average sentence for 1st time B felony sex offenses was 2.34 years with a range of .33 to 7 years. The average sentence for C felony was 1.10 years with a range of .16 to 3.0 years.

It is difficult to come up with a fiscal impact for this change and the Department, at this point, would have to submit an indeterminate note.

Although, at first blush, it would seem that there would be no significant fiscal impact for those who are pending sentencing, since they will end up doing their time anyway, that may not be the case. In particular, for C felonies, the sentences tend to be shorter and someone might bail out and ultimately be sentenced to time served. Under this legislation, they would be incarcerated until their sentencing, which could be an additional 3 months after conviction. If one considers that this is in addition to the 120 days it often takes for a case to come to some sort of resolution, an offender could end up spending more time in jail than their actual sentence.

The issue becomes even more complicated when appeal status is considered. Every offender has a right to appeal his or her case. Legislation that would render them unable to bail out pending appeal may ultimately end up in the offender spending time in jail that he would not have had to if his appeal is reversed and the state doesn't retry him. Excess jail time results in additional cost to the Department. To reiterate, it is difficult to determine what the extent of the fiscal impact would be.

One other issue to consider when dealing with sex offenders is that as long as an offender is in appeal status, he is unable to participate in sex offender treatment. If he or she is required to be incarcerated pending appeal, it is conceivable that he/she would do his entire sentence before an appeal would be exhausted and they would then be released untreated.

These are the main DOC concerns regarding this committee substitute.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER



e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

INTERIM:
716 WEST 4TH AVENUE, SUITE 640
ANCHORAGE, AK 99501
PHONE: (907) 269-0117
FAX: (907) 269-0119

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4968
FAX: (907) 465-2040

Representative Norman Rokeberg

MEMORANDUM

TO: Senator Robin Taylor, Chairman
Senate Judiciary Committee

FROM: Representative Norman Rokeberg *Norman Rokeberg*

DATE: February 24, 2000

RE: Scheduling request

I would request that CSHB 67 (JUD) am (An Act relating to release of certain persons alleged to have committed certain sexual offenses) be placed on the calendar for House floor action.

I am submitting the following:

1. CSHB 67 (JUD) am
2. Sponsor Statement
3. Sectional Analysis
4. E-mail message from Angela Camos entitled "Unsupervised Sex Offenders"
5. Letters of Support:
 - a. Victims for Justice
 - b. Tundra Women's Coalition
 - c. Sitkans Against Family Violence
 - d. Unalaskans Against Sexual Assault & Family Violence
 - e. Alaska Peace Officers Association
6. Opposition: I know of no opposition. All the entities that supplied letters of support in 1999 were contacted, via fax, and none have withdrawn their support for this legislation.

Thank you for your consideration of this request.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us



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Representative Norman Rokeberg

SPONSOR STATEMENT

CSHB 67 (JUD) am

An Act relating to release of certain persons alleged to have committed certain sexual offenses

CSHB 67(JUD) is being proposed to strengthen protection for victims of sexual abuse. This bill adds a new section (release in sexual abuse and sexual assault cases) that mandates the court to consider safety of the alleged victim in the following cases: sexual assault [first degree to third degree], Sexual abuse of a minor [first degree to third degree], incest, unlawful exploitation of a minor, and indecent exposure in the first degree.

The bill permits the judge to impose additional conditions on a person charged or convicted of these crimes concerning no contact with alleged victim, residing in a place where there is no likelihood of coming in contact with the victim, and taking medication as prescribe.

Currently a victim is usually notified of a bail hearing but inquiry by the judicial officer as to if such notification has been made is not statutorily required. This was where the system broke down in my constituent's case. The bill indicates that before a person who is charged or convicted of one of these crimes is released that the judicial officer is required to ask about the notice of the victim or victim's representative. The judicial officer is also to inquire if the victim or victim's representative is in court and wishes to comment.

This legislation stems from a situation faced by one of my constituents this past year. This person's young child was sexually abused. The parent was not notified of the bail hearing and the predator, who changed his plea at the last minute, was released back into the community [and is still out in the community awaiting sentencing which has now been scheduled for May] with minimal supervision despite the District Attorney's request for 24-hour supervision. As might be expected, the victim's parent was outraged that the criminal who abused a young child was again in the community without any supervision. I agreed with the parent's concerns and introduced this legislation.

Support for this legislation has been expressed by the following organizations: Victims for Justice, Tundra Women's Coalition, Sitkans Against Family Violence, Unalaskans Against Sexual Assault & Family Violence, and the Alaska Peace Officers Association.

I would urge your support of this legislation.

ED3:01/28/00

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us



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Representative Norman Rokeberg

SECTIONAL ANALYSIS

CSHB 67 (JUD) am

An Act relating to release of certain persons alleged to have committed certain sexual offense.

Section 1. Adds new section to statute concerning release in sexual abuse and sexual assault cases. Requires court to:

- A. Consider safety of the alleged victim**
- B. Impose other conditions [in addition to bail] if the person is considered a danger to the victim or may not appear at court hearing:
 - i. No contact with alleged victim except as allowed by court;**
 - ii. Person reside in place where not likely to come in contact with the victim; and**
 - iii. Take medication if so prescribed.****
- C. Court now has a duty to inquire if:
 - i. Victim or victim's parent or guardian has been notified of the hearing;**
 - ii. Solicit comments from victim or victim's parent or guardian if present in the court room and wish to testify.****

Section 2: Applicability. Applies to proceedings occurring on or after the effective date of the legislation.

NOTE: Crimes Covered By This Legislation Include:

- 11.41.410 Sexual Assault in the First Degree**
- 11.41.420 Sexual Assault in the Second Degree**
- 11.41.425 Sexual Assault in the Third Degree**
- 11.41.434 Sexual Abuse of a Minor in the First Degree**
- 11.41.435 Sexual Abuse of a Minor in the Second Degree**
- 11.41.438 Sexual Abuse of a Minor in the Third Degree**
- 11.41.450 Incest**
- 11.41.455 Unlawful Exploitation of a Minor**
- 11.41.458 Indecent Exposure in the First Degree**

ED3:04/16/99

Subject: Unsupervised Sex Offenders

Date: Mon, 14 Dec 1998 06:55:09 -0900

From: "Angela Camos" <acamos@ibm.net>

To: <Representative_Norman_Rokeberg@legis.state.ak.us>

First I would like to take this opportunity to thank you and your staff for your help and courtesy in this matter.

I am writing this letter in regards to changing how sex offenders are supervised on third party when released on bail, waiting trial or sentencing.

I am a concerned parent whose ten-year-old daughter was molested. The man who did this, Eric Kostiner (Case # JAN-S98-9699CR), was released on an unsupervised third party after pleading no contest. His third party works swing shifts, which include nights and graveyard shifts, while the offender works days. This concerns me greatly as this provides the opportunity for this sex offender to repeat this crime with yet another child or my daughter. As a result, this has left my daughter feeling unsafe.

The statistics that I have read show that 1 in 4 children are molested. These aren't very good odds. How many children or grandchildren do you have? Now apply these odds to your own family. How many of these people repeat this offense? I have read that quite a number of sex offenders do repeat this crime. As a victim of this crime myself, to me there is no greater crime. I say this because this crime is something the victim lives with for the rest of their lives. It is not something that is ever forgotten. The original pain eventually subsides, but the memory exists forever.

I get the impression that some people in our judicial system see these offenders as not being dangerous if they have no prior history; they haven't snatched a child off the street; they aren't dealing or using, drugs; they aren't having drug parties; or they have no prior record. With all due respect this is generally not the case. These sex offenders are usually upstanding folks who find their way into the lives of people, and then take advantage of their children. I know this first hand both as a result of my childhood and this case with my daughter.

On December 4, 1998 Channel 2 News, Laura Tannis, aired a story regarding this offender being out on third party unsupervised. As a result of this story it was found that an offender is required to register with the Alaska Department of Public Safety as soon as they plead guilty or no contest to these charges. Unlike another law on the books which doesn't require them to register until 7 days after they are sentenced. As of December 13, 1998 I still have not found this offender registered. A new law is going to be passed on January 1, 1999 which will also require offenders to register immediately instead of 7 days after they are sentenced.

Some questions come to mind regarding unsupervised offenders. Shouldn't all of these sex offenders be placed on supervised third party bail? Should any of these offenders, whether they plead guilty or not, have the opportunity to hurt any other children? Should any child have to feel unsafe during this judicial process? Isn't the whole experience scary enough? I am aware that there are those who have been falsely accused and this too appalls me because there are enough true cases to go around. For those who plead not guilty, yet are found guilty, let's not allow any other child to be hurt or unsafe.

I am asking that the law be written more clearly so that no sex offender can be released on bail to a third party without sight and sound supervision. I think that once these offenders have pleaded no contest or guilty to this crime they remain incarcerated to fulfill their sentence. Unfortunately I do not know how to make this fair to all parties concerned - landlords, mortgage holders etceteras.

Thank you for taking the time to read this letter and I sincerely hope that you will consider some changes to help our children be and feel safe. I have attached a copy of the letter written to Judge Andrews concerning this matter. Feel free to contact me if you have any questions.

Thank you for your prompt action.

Sincerely,

Unsupervised Sex Offenders

Angela S. Camos
3401 W. 64th Ave #5
Anchorage, AK 99502
(907) 248-2512

☐ <u>Judge Andrews.doc</u>	Name: Judge Andrews.doc Type: Winword File (application/msword) Encoding: base64
----------------------------	--

Subject: Re: HB 67
Date: Wed, 10 Feb 1999 15:36:15 -0900
From: "Anne Gwen" <acamos@ibm.net>
To: "Janet Seitz" <Janet_Seitz@legis.state.ak.us>

Janet,

Here is the copy of the letter to Judge Andrews that you requested. Please accept and pass on my gratitude for all that you are doing.

Angela

Angela Camos
3401 W. 64th Ave #5
Anchorage, AK 99502
(907) 248-2512

Judge Andrews
825 W. 4th Ave
Anchorage, AK 99501

December 7, 1998

Judge Andrews:

I am writing this letter in regards to your actions in Eric Kostiner's bail hearing (Case # JAN-S98-9699CR). I would also like to take the opportunity to express my thoughts and feelings in this matter.

At the bail hearing it was decided that this sex offender would be released without constant supervision until his sentencing. I feel that you are making a mistake by letting any child sex offender out on a third party which is not sight and sound. As a result of your letting Eric Kostiner out in such a manner, I now have a ten-year-old daughter who does not feel safe. She is worried that he will come and pick her up at school, or try to come to the house and get her.

At Eric Kostiner's bail hearing I thought that I would have the opportunity to speak, but I didn't. After the hearing when I spoke to the DA and I was told it doesn't work like that. So I would like to take this time to tell you what I had to say. It may not change anything in this case, but I am hoping that it will change your views in the future.

As I listened to your ruling I got the impression that you see these offenders as not being dangerous if they have no prior history; they haven't snatched a child off the street; they aren't dealing or using, drugs; they aren't having drug parties; or they have no prior record. With all due respect this is generally not the case. These sex offenders are usually upstanding folks who find their way into the lives of people, and then take advantage of their children. I know this first hand both as a result of my childhood and this case with my daughter.

In the hearing it came up that the offender had a letter from a psychiatrist. I did not have the opportunity to tell anyone that I have additional information about this. The offender told me he has a degree in psychology and he feels those in this profession are his equals. This could easily allow him to mislead someone else in this

profession.

As I mentioned I am familiar with being the victim of a sex offender. This offender was a tax investigator for the City of Chicago; very well respected in the community, he worked elections, and had many reputable friends. At home this man was molesting me. It began at the age of 6 and it didn't end until I was 14. The first time I told my mother what happened she didn't know what to do, so we went to the church. But the abuse continued. Next I told the police about the abuse that was occurring. They knew my stepfather very well and decided for themselves that this could not be true, so they brought me home. The next time I told what happened I was brought down to the Department of Child and Family Services. I was placed out of my home for a short time, but my aunt and uncle could not keep me there. So I ended up back at home and the abuse continued. When my mother tried to go to court DCFS had mysteriously lost his file. There suddenly seemed to be no record of the report made on my stepfather, a fine member of the community. The court appointed psychiatrist had moved and couldn't be located. Eventually my mother divorced this man.

Now, 22 years later I am still faced with a system that doesn't protect the child victim and allow them to feel safe. I am asking that laws be written more clearly so that no sex offender can be released on bail to a third party without sight and sound supervision. I think that once these offenders have pleaded no contest or guilty to this crime they should remain in prison. Unfortunately, I do not know how to make this fair to all parties concerned, landlords, mortgage holders, etceteras. The child victim needs to be kept and made to feel safe. Letting out an offender on a third party who is not supervised under an order of sight and sound does not do this. The statistics I have read show that 1 in 4 children are molested. Can you honestly tell by meeting an offender for a few moments at a bail hearing you know whether or not they will do this while they are out awaiting sentencing if they are unsupervised?

On December 4, 1998 Channel 2 News, Laura Tannis, aired a story regarding this offender being out on third party unsupervised. As a result of this story it was found that an offender is required to register with the Alaska Department of Public Safety as soon as they plead guilty or no contest to these charges. Unlike another law on the books which doesn't require them to register until 7 days after they are sentenced. As of December 13, 1998 I still have not found this offender registered. A new law is going to be passed on January 1, 1999 which will also require offenders to register immediately instead of 7 days after they are sentenced.

Some questions come to mind regarding unsupervised offenders. Shouldn't all of these sex offenders be placed on supervised third party bail? Should any of these offenders, whether they plead guilty or not, have the opportunity to hurt any other children? Should any child have to feel unsafe during this judicial process? Isn't the whole experience scary enough? I am aware that there are those who have been falsely accused and this too appalls me because there are enough true cases to go around. For those who plead not guilty, yet are found guilty, let's not allow any other child to be hurt or unsafe.

I am asking you to reconsider these types of situations, help get some laws passed so that this doesn't have to happen to any more children. Things have come a long way since I was a child. Please don't let it end here. Take it to the next level.

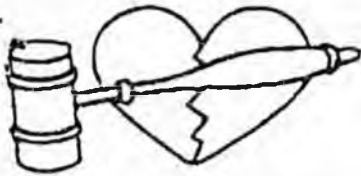
Please, don't let this happen anymore. Thank you for taking the time to read this letter and think over what I have set before you.

Sincerely,

Angela S. Camos

Cc: Governor
City Assembly Members
District Attorney's Office
House and Senate Committee Representatives
House and Senate Judiciary Representatives
Congressional House and Senate Representatives
President of the United States

VICTIMS



for Justice 619 East Fifth Avenue • Anchorage, AK 99501
(907) 278-0977 • Fax: (907) 258-0740

January 25, 1999

Representative Norman Rokeberg
State Capitol
Juneau, AK 99801-1182

Dear Representative Rokeberg

I am sending this letter to support your proposal to tighten the conditions under which individuals charged with sexual offenses may be released from custody, and to legislate the solicitation of victim comments by the judicial officer before making a decision to release an alleged offender.

Too often the person charged with a sexual offense is released back to the neighborhood where the alleged offense occurred, often without bond or on personal recognizance only. Imagine the feelings of fear and vulnerability the victim experiences when she or he sees the person who committed such an offense again walking the streets of the neighborhood, with few restrictions, and often with little or no supervision.

This re-victimizes the victim and adds to the trauma the victim has already experienced. The perception of the victim may be that there is no protection, no place of safety from the person who committed the offense.

This proposed legislation will permit the victim or her/his representative to express their concerns and fears to the judge, and to tell the judge what it will take to help them feel safe if the alleged offender is released. Further, it will allow them to tell the judge what they feel are appropriate conditions of release, if any, to guarantee the safety of the victim and the neighborhood.

We all know that most sex offenders repeat their crimes again and again. This proposed legislation will strengthen the laws protecting victims of sex offenses, and enable the courts to place additional restrictions on the movements of alleged offenders until they can be brought to trial.

Respectfully,

Charlotte Phelps
Victim Advocate

7 .JDRA WOMEN'S COA...ION
WORKING TOGETHER TOWARD A BRIGHTER FUTURE



FEB 03 1999

February 2, 1999

Representative Norman Rokeberg
Alaska State Legislature
House of Representatives
State Capital, Room 24
Juneau, AK 99801-1182

Dear Representative Rokeberg,

Thank you most sincerely for introducing House Bill 67 to your colleagues. I believe that this legislation will significantly strengthen protection for children who have been sexually abused. It is imperative that those of us who are aware of the devastating impact of sexual abuse work together to lessen the likelihood that an alleged offender against children has an opportunity to reoffend.

I strongly support efforts to ensure that a suspected offender against children has 24 hour supervision if released to a third party following a bail review; I believe that asking for comments from the victims or those who can speak, in the case of very young children, on the victim's behalf will do a great deal to educate judges on the impact of sexual abuse, also.

I again offer my appreciation for your introduction of this much needed legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nancy J. O'Mara".

Nancy J. O'Mara

SITKANS AGAINST FAMILY VIOLENCE

P.O. Box 6136 • Sitka, Alaska 99835
(907) 747-3370 • Fax 747-3450 • Crisis Line 1-800-478-6511



February 8, 1999

Senator Rokeberg
Alaska Senate
Capital Building
Juneau, Alaska 99801

Dear Senator Rokeberg:

Sitkans Against Family Violence would like to express our support of House Bill 67 "An Act relating to releases of certain persons alleged to have committed certain sexual offenses." We appreciate the provisions in the bill that would strengthen protections for sexually abused minors, some of our most vulnerable citizens. Thank you for sponsoring this important legislation.

Yours very truly,

SITKANS AGAINST FAMILY VIOLENCE

Christine M. Pate
Executive director

FEB 10 1999



Member of the Alaska Network on Domestic Violence and Sexual Assault
United Way Member Agency

TOTAL P. 01



Unalaskans Against Sexual Assault & Family Violence

Box 38, Unalaska, AK 99885 • Office: 581-1500 • Crisis Line Call: 711

FEB 09 1999

Alaska State Legislature
House of Representatives
State Capitol - Room 24
Juneau, AK 99801-1182

Attn: Representative Norman Rokeberg

Dear Representative Rokeberg,

I am writing this letter in support of House Bill 67, which you introduced in January.

HB 67 will provide additional protections for sexually abused minors. It provides (1) that the judge or magistrate must solicit comments from the victim, and consider those comments at any bail hearing; and (2) if the alleged perpetrator is charged with second- or third-degree sexual assault or incest and the victim is under the age of 18, any release to a third-party custodian must be a 24 hour sight and sound supervision by a court approved third-party custodian.

I want to thank you for sponsoring this bill, and express our support for it. Child victims of sexual abuse need every possible protection that the law can provide, and their comments must be taken into consideration when a perpetrator may be released on bail. Please do not let children be victimized twice by a court system that fails to protect them. Please continue to support this bill.

Sincerely,

M. Lynn Crane
Director
USAFV

STATE OFFICERS
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



Business Manager

Joseph E. Young
Anchorage

Board of Directors

John Charbonneau, President
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Michael Corkill, Past President
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Tod McGilivray, Member
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Leo Brandlen, Member
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Pres. Anchorage Chapter

Angella Long, Member
Palmer
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Tonya Barnes, Member
Fairbanks
Pres. Fairhast North Chapter

Robert Fletcher, Member
Juneau
Pres. Capitol City Chapter

Leroy Mastas, Member
Ketchikan
Pres. First City Chapter

Robert Claus, Member
Craig
Pres. Prince of Wales Chapter

John Lucking, Jr., Member
Unalaska
Pres. Aleutian Islands Chapter

Representative Rokeberg
Alaska State Legislature
State Capital
Juneau, Alaska 99801-1182

February 19, 1999

FEB 23 1999

Dear Representative Rokeberg,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse HB 67.

Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau

State President

Alaska Peace Officers Association

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



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Ketchikan
Pres. First City Chapter

Robert Claus, Member
Craig
Pres. Prince of Wales Chapter

John Lucking, Jr., Member
Unalaska
Pres. Aleutian Islands Chapter

February 2, 2000

Representative Norm Rokeberg
Alaska State Legislature
State Capital
Juneau, Alaska 99801-1182

Dear Representative Rokeberg:

We received your January 31, 2000 correspondence requesting our consideration of CSHB 67. We've reviewed the bill and agreed to endorse CSHB 67.

You may contact us at the APOA office in Anchorage at 277-0515.

Sincerely,

John Charbonneau
State President

cc: Representatives John Cowdery and Fred Dyson

What about those
with out access to
computers.

Sen. Lafford has issue of
definition

Victim Rights leg is
still in the house
Senate.

Prohibition

Analysis of title
of language

Put some fact
in this.

after the conviction.

*File***Subject: CSHB 67 (JUD)****Date: Fri, 3 Mar 2000 13:46:07 -0900****From: "Angela" <acamos@attglobal.net>****To: "Senator Robin Taylor" <Senator_Robin_Taylor@legis.state.ak.us>**

Senator Taylor,

Currently the victim has a voice in each stage of the criminal procedure, most of them are stated quite clearly in AS 12.61.010. One of the exceptions to this is the bail hearing. I see this as an important place for a couple of reasons. One reason is that this is the beginning of the process. The other is that this place directly involves the victim's safety, or the perception thereof.

Bringing and encouraging victim participation from the beginning of the process directly empowers the victim from the start. Many times when a victim is not allowed, or given a voice the victim takes on a sense of why should I bother, no one wants to hear from me, the system doesn't care. A victim who has the opportunity to voice their concerns about their safety is empowered by being heard. This encourages the victim to continue to participate in the rest of the proceedings. The more a victim is given the opportunity to participate the better their chances of going from the state of being a victim to that of becoming a survivor.

I believe that a judge who hears a victim's plea for safety is likely to act on them. More victim participation increases the likelihood of the offender being held responsible for their actions. More victim participation aids an overburdened system to do their job, keep track of offenders, and achieve better results.

This Bill encourages victim participation from the beginning of the process. So, once again I am encouraging you to pass this Bill and allow this process to begin. If you would like to add more to this Bill later I would encourage that also. Yet, in the meantime, let the victim have a say from the beginning now while you work on more at later time.

Sincerely,

Angela Camos
4924 East 43rd Avenue C 3
Anchorage, AK 99508
(907) 332-2512
acamos@attglobal.net

Re: CSHB 67 (JUD)

see file

Subject: Re: CSHB 67 (JUD)

Date: Thu, 2 Mar 2000 18:17:53 -0900

From: "Angela" <acamos@atiglobal.net>

To: "Senator Taylor" <Senator_Taylor@legis.state.ak.us>

Senator Taylor,

Please take a look at the original bill...HB 67, this had more teeth to it. Unfortunately, it was torn apart by the House since it's original formation by Representative Rokeberg. Many of the original items were taken out and the reasoning behind it was that it was a violation of the offenders constitutional rights. When I asked how they were violated I did not receive an answer. I also proposed making an amendment and then putting the bill through.

I am actually glad to hear that the Senate would like to do more. My own idea was to get at least this much through, and then come back and begin to ask for more to be done. I looked at it as one piece at a time.

Most of the notification processes do exist in the laws now. Although many are taken lightly, and there is no enforcement, or penalty imposed for failure to do so.

If there is anything at all I can do to help with this please let me know. I would be glad to talk with any of the Senators.

Angela Camos

Robin Taylor wrote:

> Dear Angela:

> Unfortunately the bill as it came to our committee di almost

> nothing. After receiving the testimony of an aggravated rape victim,

> who basically testified that the bill did nothing and begged our

> committee to put some teeth into the bill - the committee agreed and we

> intend to make the bill much stronger. Prior to trial and conviction it

> is as you know difficult, but there are additional notice requirements

> and restrictions we can impose. After conviction we find that the

> courts are too liberal in granting release pending sentencing. In fact

> in your case the defendant changed his plea and basically plead guilty

> (nolo) and is now out awaiting sentencing. I know that we can keep that

> from happening in the future.

> Believe me that we not only want to help you on this bill we intend

> to make it a real change and not just a peice of fluff that does

> nothing.

> Sen. Robin Taylor

>

> Angela wrote:

>

> > Senator Taylor,

> >

> > I am writing this letter in support of HB 67.

> >

> > Representative Rokeberg was kind enough to hear the
plight

> > of my daughter, and took the initiative to start this
Bill.

> > For which we are very grateful. Even though it has not
> > helped us, we hope that it will help others in the
future.

> >

> > Currently, when the victim is present at a bail hearing
> > they are not asked if they have any information to add
> > about the offender. Many of victim's do. My daughter's
> > offender was released with out being supervised 24/7
with

> > his third party. This led her to feeling quite unsafe.

I

> > honestly believe if I had been allowed a chance to
speak at

> > the bail hearing, on my daughter's behalf, this would
not

> > have happened.

> >

> > I am asking you to support this Bill passing through
the

> > Senate, for my daughter and all the other victims in
this

> > state.

> >

> > Sincerely,

> >

> > Angela S. Camos

> > 4924 East 43rd Ave. C3

> > Anchorage, AK 99508

> > (907) 332-2512

> > acamos@attglobal.net

>

>

HB

69

1 persons and by minors;

2 (13) required reports from corporations licensed under this title,
3 including reports of stock ownership and transfers and changes of officers and
4 directors;

5 (14) creation of classifications of licenses or permits not provided for
6 in this title;

7 (15) establishment and collection of fees to be paid on application for
8 a license or permit;

9 (16) required reports from partnerships and limited partnerships licensed
10 under this title, including reports of transferred interests of 10 percent or more;

11 (17) required reports from limited liability organizations licensed
12 under this title, including reports of the transfer of a member's interest if the
13 transfer equals 10 percent or more of the ownership of the limited liability
14 organization and any change of managers.

15 * Sec. 2. AS 04.06.110 is amended to read:

16 **Sec. 04.06.110. Peace officer powers.** The director and the persons employed
17 for the administration and enforcement of this title may, with the concurrence of the
18 commissioner of public safety, exercise the powers of peace officers when those
19 powers are specifically granted by the board. Powers granted by the board under this
20 section may be exercised only when necessary for the enforcement of the criminally
21 punishable provisions of this title, regulations of the board, and other criminally
22 punishable laws and regulations, including investigation of violations of laws against
23 prostitution and promoting prostitution described in AS 11.66.100 - 11.66.130 and
24 laws against gambling, promoting gambling, and related offenses described in
25 AS 11.66.200 - 11.66.280 [GOVERNING THE MANUFACTURE, BARTER, SALE,
26 CONSUMPTION, AND POSSESSION OF ALCOHOLIC BEVERAGES IN THE
27 STATE].

28 * Sec. 3. AS 04.11.040(c) is amended to read:

29 (c) A person may not receive or transfer controlling interest in a liquor license
30 issued to a partnership, including a limited partnership, a limited liability
31 organization, or a corporation under this title, except with the written consent of the

Sunset Audit
w/D Amend. #1

1 board.

2 * Sec. 4. AS 04.11 is amended by adding a new section to read:

3 **Sec. 04.11.045. Reports required of limited liability organizations.** (a) A
4 limited liability organization licensed under this title shall report to the board when a
5 member of the limited liability organization transfers 10 percent or more of the
6 ownership of the organization and shall report a change of managers.

7 (b) The report to the board shall be made in writing in duplicate and shall be
8 sent within 10 days after the change in member interest or manager.

9 * Sec. 5. AS 04.11.135(a) is amended to read:

10 (a) A brewpub license authorizes the holder of a beverage dispensary license
11 to

12 (1) manufacture on premises licensed under the beverage dispensary
13 license not more than 75,000 gallons of beer in a calendar year;

14 (2) sell beer manufactured on premises licensed under the beverage
15 dispensary license for consumption [ONLY] on the licensed premises or other
16 licensed premises of the beverage dispensary licensee;

17 (3) sell beer manufactured on the premises licensed under the beverage
18 dispensary license in quantities of not more than five gallons per day to an individual
19 who is present on the licensed premises; [AND]

20 (4) provide a small sample of the brewpub's beer manufactured on the
21 premises free of charge unless prohibited by AS 04.16.030; and

22 (5) sell beer manufactured on the premises licensed under the
23 beverage dispensary license to a person licensed as a wholesaler under
24 AS 04.11.160.

25 * Sec. 6. AS 04.11.135 is amended by adding a new subsection to read:

26 (d) Notwithstanding (a) of this section, the holder of a brewpub license who
27 under the provisions of AS 04.11.450(b) formerly held a brewery license and a
28 restaurant or eating place license and who, under the former brewery license,
29 manufactured beer at a location other than the premises licensed under the former
30 restaurant or eating place license may

31 (1) manufacture not more than 75,000 gallons of beer in a calendar year

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER



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SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4968
FAX: (907) 465-2040

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

Representative Norman Rokeberg

MEMORANDUM

TO: The Honorable Robin Taylor, Chairman
Senate Judiciary

FROM: Rep. Norman Rokeberg

DATE: April 27, 1999

RE: CSHB 69 (FIN) am
Alcoholic Beverage Control

A handwritten signature in black ink, appearing to read "Norman Rokeberg".

I would request that CSHB 69 (FIN) am be brought before the Senate Judiciary Committee for a hearing. This legislation is time sensitive and needs to be addressed this year. Your cooperation in bring this to the Committee would be appreciated.

Attached are:

1. CSHB 69 (Fin) am
2. Fiscal Note
3. Sponsor Statement
4. Sectional Analysis
5. Historical Information Regarding Certain ABC License Changes
6. CHARR letter dated 26 March 1999
Fax from Larry Hackenmiller, President, CHARR, dated 29 March 1999
7. Letter from Moose's Tooth Brewing Co.
8. Letter from Gordon Schmidt

This legislation was adopted by a vote of 37-0 on the House floor on Friday, April 23, 1999.

If you have any questions, please do not hesitate to contact me. Thank you for your consideration of this request.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER



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PHONE: (907) 465-4968
FAX: (907) 465-2040

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

Representative Norman Rokeberg

SPONSOR STATEMENT

CSHB 69 (FIN) am

RELATING TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

CSHB 69 (FIN) am would extend the termination date of the Alcoholic Beverage Control Board (ABC) until June 30, 2003. During the last Legislature, the termination date was extended to June 30, 1999, and if legislation does not pass extending the termination date this year, the board will be in its wind down year.

The Board consists of five members and is responsible for control, manufacture, barter, possession, and sale of alcoholic beverages in the state. The Legislative Audit, dated September 8, 1997, indicated that the Board was fulfilling its responsibility by licensing establishments to manufacture, distribute or sell alcoholic beverages to the public and enforcing the alcohol control laws in Title 4. At the time the Audit was issued, the Auditor recommended extending the Board to June 30, 2002. Since the Legislature did not extend the Board last year, this bill would add an extra year to the extension date recommended by the audit.

This bill permits a local governing body to recommend that a liquor license be issued, renewed, relocated, or transferred with conditions. The Board shall impose these conditions unless the Board finds them arbitrary, capricious, or unreasonable. The local governing body is to assume responsibility for monitoring compliance with the conditions, except as otherwise provided by the Board.

The bill also permits a "corkage" policy to be adopted by a licensee. This would allow a customer, with the permission of the licensee, to bring fine wine onto a restaurant location, turn the wine over to the licensee for serving and control, and permit the licensee to charge a fee for serving the wine. This is a common practice in many locations across the world.

Another provision of the bill would permit a licensee to make arrangements to deliver a hospitality basket to a cruise ship or a hotel room and to deliver, between 8:00 a.m. and 5:00 p.m., alcohol to a responsible adult for a social event.

At the request of the ABC Board, the bill also includes language adding limited liability organizations (limited liability companies and limited liability partnerships) to be brought under the licensing authority of the Board. The bill sets forth what requirements these organizations would have to meet in order to receive a license from the Board.

The House Finance Committee added two provisions to this bill: one deletes the one-year residency requirement for receipt of a license and the other amends the peace officer powers of ABC employee to include the investigation of violations of laws against prostitution, promoting prostitution, gambling, promoting gambling and related offenses.

Over the years, the Legislature has made certain policy decisions concerning the licensing of brewpubs and breweries. This bill addresses some concerns that have been raised because of the history of these licenses. In 1980, brewery licenses were authorized and 04.11.450 (prohibited financial interests) was put in place to state that certain combination of licenses could not be held. In 1988, the Legislature authorized brewpub licenses, which were not transferable, and which had to be held in conjunction with a beverage dispensary license.

In 1995, by passage of HCS CSSB 87 (JUD), the Legislature placed a category of exempted licensees in the restaurant or eating place license section and thus created a "tavern" situation. In 1996, with an effective date of October 1, 1996, the Legislature went back and grandfathered in certain exempt licenses and then prohibited the future combination of a brewery license and a restaurant or eating place license. Five licensees were covered by the 1996 exemption and currently hold the grandfathered brewery/restaurant licenses. Because of this legislation and the addition of "restaurant or eating place" in the prohibited financial interest section, it is no longer possible to obtain a brewery license or a beverage dispensary license (which is necessary for a brewpub license) in combination with a restaurant or eating place license. This has placed the current businesses in a situation where their expansion opportunities are limited.

Currently a grandfathered restaurant/brewery combination licensee can sell beer at its own restaurant or other licensed premises, has no beer production cap, must use a distributor or self-distribute, and may never open a second location. If CSHB 69 (FIN) is adopted, a grandfathered brewery/restaurant licensee can continue to operate under the grandfather provisions or elect to purchase a beverage dispensary license and become a brewpub. If the desire is to become a brewpub, then the licensee must: relinquish the brewery license, accept a 75,000 gallon per year production cap, can purchase other restaurant licenses and open additional locations, can self-distribute to other locations owned by the same licensee, must use a distributor to distribute product to any location not owned by the licensee, and could sell its license as a package. All of this will permit expansion where the licensee wants expansion.

Your support would be appreciated.

ED:4:04/26/99