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Alaska Initiatives and Referenda

Tina S. Ching

SUMMARY. This article is intended to be used as a starting point for those researching initiative and referendum issues for the state of Alaska. A brief history of I&R in Alaska is followed by an overview of the process. The piece concludes with an annotated list of resources to begin research into Alaska I&R. doi:10.1300/J113v26n03_02 [Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <docdelivery@haworthpress.com> Website: <<http://www.HaworthPress.com>> © 2007 by The Haworth Press. All rights reserved.]

KEYWORDS. Alaska, initiative, referendum, election law

INTRODUCTION

This article is intended to be used as a starting point for those researching initiative and referendum issues for the state of Alaska. A brief history of I&R in Alaska is followed by an overview of the process. The piece concludes with an annotated list of resources to begin research into Alaska I&R.

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HISTORY OF I&R IN ALASKA

Alaska adopted a limited initiative and referendum process at statehood in 1959 amid much debate. Despite the fact that most of the Western States had already adopted a version of the initiative and referendum by the time the Alaskan delegates met to draft their constitution, some of the members of Alaska's Constitutional Convention were not immediately convinced that direct legislation was a necessary component for their constitution.¹ In the end, the members of the convention approved the initiative and referendum process, but not without several restrictions.

Some of those restrictions have affected the implementation of approved measures. For instance, the constitution does not allow the people to make appropriations or amend the constitution using the initiative and referendum. The people of the State of Alaska have voted several times on issues related to moving the State capitol from Juneau, beginning with the first Alaskan initiative in 1960.² In 1974, a measure was passed to move the capitol. However, because a move would require money to be allocated to the cause and the legislature did not make any appropriations for the move, the measure was eventually repealed.³

BASICS OF ALASKA'S I&R PROCESS

Direct legislation via the initiative and referendum is reserved for the people of Alaska through the Constitution of Alaska.⁴ The procedure for using the I&R process is set out in the Alaska Constitution,⁵ Alaska Statutes⁶ and Alaska Administrative Code.⁷

There are several steps that must be taken before a petition appears on a ballot. First, an application must be filed with the Lieutenant Governor.⁸ The application includes the contact information for the three primary sponsors of the initiative, a refundable \$100 deposit, and the text of the proposition.⁹ The proposition must only cover one subject and cannot deal with issues such as appropriations or create courts.¹⁰ The application must also be accompanied by a collection of at least 100 signatures of voters who are considered sponsors for circulation purposes.¹¹

The application is then reviewed by the Lieutenant Governor, the Department of Law and the Division of Elections.¹² Once the application is certified, the Division of Elections prints 500 petition booklets.¹³ Circulators use these booklets to gather the required number of signatures.

The booklet includes information such as the text of the proposition, a summary of the bill written by the Department of Law, a statement of costs and space for signatures.¹⁴

Within one year, the sponsors must file the petition with the required number of signatures.¹⁵ A number of qualified signatures equal to at least 10 percent of the votes in the previous general election must be gathered.¹⁶ Signatures from at least three-fourths of the house districts in the state are also required.¹⁷ In addition, sufficient signatures equal to at least seven percent of the votes cast in the previous general election within that district are required.¹⁸ The Lieutenant Governor provides the amount needed in each district on the elections Web site.¹⁹

Within 60 days of filing, the Lieutenant Governor will review the petition.²⁰ The committee will be informed whether the petition was filed properly and in which election the proposition will appear.²¹ If the petition is properly filed, then the \$100 deposit is refunded.²²

LOCATING ALASKA I&R MATERIALS

The best place to begin researching Alaskan I&R materials is the State of Alaska Division of Elections Web site, available at <http://www.gov.state.ak.us/ltagov/elections/>. The site not only provides a summary of Alaska's I&R laws, but it also includes information on filing a petition, the status of petitions filed and sponsors' contact information. While the site itself is not particularly well organized or intuitive to navigate, it does contain a substantial amount of valuable information about I&R which should satisfy most research needs.

General Information

State of Alaska Division of Elections, *Initiative, Referendum and Recall Information*, at <http://ltagov.state.ak.us/elections/petitions/irr.php>.

The Division of Elections does a good job of breaking down the statutes and regulations and explaining the provisions clearly, with references to the applicable laws.

Waters, M. Dane, *Initiative and Referendum Almanac*, 38-49 (Carolina Academic Press 2003).

Waters provides a brief description of how I&R has been used in Alaska, followed by a list of statewide initiatives from statehood to

2000, a reproduction of the relevant laws and the basic initiative process steps.

History of I&R in Alaska

Alaska Statutes, vol. 11 (Lexis 2006).

Anyone with access to a law library that has a set of the *Alaska Statutes*, published by the Alaska Legislative Council and annotated and printed by LexisNexis, will find near the end of volume 11 a section on initiatives. This section lists all of the propositions from the first initiative in 1960 to the publication date (as of this article it includes ballot measures appearing in the 2006 election). It also includes a summary of the proposal and if available, the disposition, where it was codified, when it became effective and any cases that directly relate to the proposal.

State of Alaska Division of Elections, *Alaska's History of Ballot Issues and Petitions*, at <http://www.ltgov.state.ak.us/elections/inithist.htm> (last visited May 5, 2007).

This page includes prior initiatives and referendums (election date, title and ballot language, votes for, and votes against); a list of proposed measures that did not make it to the ballot (year and subject); a list of rejected applications (year and subject); a separate list of constitutional amendments that have been on the ballot (election date, title and ballot language, votes for and votes against); bonding propositions; advisory votes, propositions and other questions on Alaska's ballots (election date, title and ballot language, votes for and votes against).

Minutes of the Daily Proceedings, Alaska Constitutional Convention (Alaska Legislative Council, 1965).

The Minutes are either found as a six part print set or on microfiche. There is an index available, though it does not appear to be readily available outside of Alaska. The minutes lay out the discussion amongst the committee members about the issues surrounding I&R and how the process should be administered.

Victor Fischer, *Alaska's Constitutional Convention* 79-81 (University of Alaska Press, 1975).

If you do not want to read through the Minutes of the Daily Proceedings, this resource may be for you. Fischer summarizes the over 100

pages of discussion during the Constitutional Convention on initiative and referendum in four concise pages.

Miscellaneous Resources

M. Katheryn Bradley and Deborah L. Williams, “*Be it enacted by the people of the state of Alaska . . .*” *A Practitioner’s Guide to Alaska’s Initiative Law*, 9 Alaska L. Rev. 279 (1992).

This article begins by briefly discussing the steps to filing a petition and then proceeds to a discussion of how the Alaskan courts have treated I&R issues. Because the article was published in 1992, it does not include changes that have been recently made due to amendments to the statutes, particularly the 2004 and 2005 amendments, or recent cases. However, the authors do an excellent job of summarizing the issues and analyzing past court cases dealing with the initiative and referendum.

Sen. Dave Donley with Douglas Baily, Mara Mallory, Ted Popely, & Matthew Roskoski, *Bess v. Ulmer—The Supreme Court Stumbles and the Subsistence Amendment Falls*, 19 Alaska L. Rev. 295 (2002).

The authors in this article take an in depth look at the Alaska Supreme Court case *Bess v. Ulmer* in which the court makes the distinction between a constitutional amendment and revision.

Rachael Downey, Michelle Hargrove & Vanessa Locklin, *A Survey of the Single Subject Rule as Applied to Statewide Initiatives*, 13 J. Contemp. Legal Issues 579, 580-581 (2004).

A very brief discussion about how the Alaska courts have interpreted the single subject rule with regard to initiatives.

NOTES

1. See *Minutes of the Daily Proceedings, Alaska Constitutional Convention* 931 (Alaska Legislative Council, 1965).

2. St. of Alaska Div. of Elections, *Moving the Capital: A History of Ballot Measures*, <http://www.ltgov.state.ak.us/elections/capmove.htm>.

3. 1981 Alaska Sess. Laws 54.

4. Alaska Const. art. XI.

5. *Id.*

6. Alaska Stat. §§ 15.45.010-15.45-720 (Lexis 2006).

7. Alaska Admin. Code tit. 6, §§ 25.240 and 245 (2007).

8. Alaska Const. art. XI, § 2; Alaska Stat. § 15.45.020 (Lexis 2006).
9. Alaska Const. art. XI, § 2; Alaska Stat. § 15.45.030 (Lexis 2006).
10. Alaska Stat. § 15.45.040 (Lexis 2006).
11. Alaska Const. art. XI, § 2; Alaska Stat. § 15.45.030 (Lexis 2006).
12. St. of Alaska Div. of Elections, *Initiative, Referendum and Recall Information*, <http://ltgov.state.ak.us/elections/petitions/irr.php> (last updated July 18, 2006).
13. *Id.*
14. Alaska Stat. § 15.45.090 (Lexis 2006).
15. Alaska Stat. § 15.45.140 (Lexis 2006).
16. *Id.*
17. *Id.*
18. *Id.*
19. St. of Alaska Div. of Elections, *supra* n. 12.
20. Alaska Stat. § 15.45.150 (Lexis 2006).
21. *Id.*
22. Alaska Stat. § 15.45.020 (Lexis 2006).

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