

FOLDER NO.

410.11

Constitutional Convention
Committee Proposal/3/Enrolled
Style and Drafting
January 23, 1956

ALASKA CONSTITUTIONAL CONVENTION
REPORT OF THE COMMITTEE ON STYLE AND DRAFTING

Hon. William A. Egan, President
Alaska Constitutional Convention

Dear President Egan:

Your Committee on Style and Drafting herewith presents its redraft of the Article on Initiative, Referendum and Recall for consideration by the Convention.

We desire to call attention to several changes made by our committee since the enrolled copy of this proposal was delivered to delegates. Some of these were necessitated, in our opinion, to make the initiative and referendum processes clear and workable. We will ask for suspension of the rules to incorporate such amendments as are substantive in nature.

In Section 2, we have distinguished between the initial document to be filed by the 100 sponsors and the document which is circulated throughout the State. Both, in the enrolled copy, are referred to as "the petition" though it seems clear from the description of what each must contain that they are separate documents. We have called the first an application (Section 2) and the second a petition (Sections 3, 4 and 5). This is desirable, we feel, because it makes it clear, among other things, that the filing date mentioned in Section 5 applies to the completed signed petition and not to the initial application by the 100 sponsors.

In Sections 2, 3, 4, 5 and 6, we have changed "attorney general" to "secretary of state" in accordance with specific instructions from the convention.

In Sections 4 and 5, we fix on the secretary of state the responsibility for placing the initiative or referendum question on the ballot. The enrolled copy provides merely that the proposition "shall go upon the ballot".

In Section 4, we have provided that an initiative question shall not go on the ballot if substantially the same measure has been enacted at any time up to the holding of the election. We feel this is a more practicable provision than that in the enrolled copy. That provision is that only if substantially the same measure has been enacted at a particular session the question should be kept off the ballot. Initiative petitions may be filed at any time. They might be filed during a session of the legislature. We feel that if the requested legislation should be enacted at that session, the State should not be put to the trouble and expense of holding an election on the subject at some election occurring more than 120 days after the next session.

In Section 6, we have provided that a majority of votes cast on the proposition is required to enact an initiated law or defeat an act referred. The enrolled copy referred only to "a majority of the votes cast".

In Section 6, we provide that the secretary of state shall certify the election returns and we provide for dates when an initiated law approved at the polls shall take effect and when a referred law rejected at the polls should become void. These are admittedly amendments of substance. We offer them so as to make the article wholly self-executing which it was in enrolled form except in these respects. They might be added by the legislature, but the article's provision in this regard is that such procedures may be provided by the legislature. If legislators did not choose to do so, it is possible they could prevent the satisfactory working of the initiative and referendum. We hold no brief for the particular provision of 90 days in the case of the initiative and 30 days for the referendum, but feel these suggestions are appropriate.

In Section 6, we provide that the two years within which an initiative may not be repealed dates from its effective date.

There is one additional change, substantive in nature, which we feel should be incorporated, although we have not done so in our proposed draft. This would be to change the required minimum time before an election from 120 days in the case of the referendum to 180 days after the end of the legislative session. Petitions may be filed as late as 90 days after the session. Experience shows that the mechanics of getting ballots printed and distributed in Alaska, even when a petition does not have to be checked, requires at least $2\frac{1}{2}$ months. The 30 days provided in the enrolled copy would be unworkable. If 180 days are provided, the measure could still go

on the ballot in October of the same year (if the legislature adjourns by the end of March as has been the custom).

Respectfully submitted,

George Sundborg, Chairman
R. Rolland Armstrong
Edward V. Davis
Victor Fischer
Mildred R. Hermann
James J. Hurley
Maurice T. Johnson
George M. McLaughlin
Katherine D. Nordale

REPORT OF COMMITTEE ON STYLE AND DRAFTING

Constitutional Convention
Committee Proposal/3
Enrolled/Style and Drafting
January 23, 1956

CONSTITUTIONAL CONVENTION OF ALASKA

RESOLVED, that the following be agreed upon
as part of the Alaska State Constitution:

ARTICLE XI

INITIATIVE, REFERENDUM AND RECALL

Initiative
and
Referendum

1 Section 1. The people may propose and enact laws
2 by the initiative and approve or reject acts of the
3 legislature by the referendum.

Application

4 Section 2. An initiative or referendum is proposed
5 by an application containing the bill to be initiated
6 or the act to be referred. The application shall be
7 signed by not less than one hundred qualified voters
8 as sponsors and be filed with the secretary of state.
9 If he finds it in proper form he shall so certify.
10 Denial of certification is subject to judicial review.

Petition

11 Section 3. After certification of the application,
12 a petition containing a summary of the subject matter
13 shall be prepared by the secretary of state for circu-
14 lation by the sponsors. If signed by qualified voters,
15 equal in number to ten per cent of those who voted in
16 the preceding general election and resident in at least
17 two-thirds of the election districts of the State, it
18 may be filed with the secretary of state.

Initiative
Election

1 Section 4. An initiative petition may be filed at
2 any time. The secretary of state shall prepare a title
3 and summary of the proposed law and shall place them on
4 the ballot for the first statewide election held more
5 than one hundred twenty days after adjournment of the
6 legislative session following the filing. If before the
7 election substantially the same measure has been enacted,
8 the petition is void.

Referendum
Election

9 Section 5. A referendum petition may be filed only
10 within ninety days after adjournment of the legislative
11 session at which the act was passed. The secretary of
12 state shall prepare a title and summary of the act and
13 shall place them on the ballot for the first statewide
14 election held more than one hundred twenty days after
15 adjournment of that session.

Enactment

16 Section 6. A majority of the votes cast on the pro-
17 position is necessary for the enactment of an initiated
18 law or for the defeat of an act referred. The secretary
19 of state shall certify the election returns. An initi-
20 ated law is effective ninety days after certification,
21 is not subject to veto, and may not be repealed by the
22 legislature within two years of its effective date. It
23 may be amended at any time. An act rejected by referen-
24 dum is void thirty days after certification. Additional
25 procedures for the initiative and referendum may be
26 prescribed by law.

Restrictions

1 Section 7. The initiative may not be used to
2 dedicate revenues, make or repeal appropriations, or
3 enact local or special legislation. The referendum
4 shall not be applied to dedications of revenue, to
5 appropriations, to local or special legislation, or to
6 laws necessary for the immediate preservation of the
7 public peace, health or safety.

Recall

8 Section 8. All elected public officials in the
9 State, except judicial officers, are subject to recall
10 by the voters of the State or political subdivision from
11 which elected. Procedures and grounds for recall shall
12 be prescribed by the legislature.

F I R S T E N R O L L E D C O P Y

Constitutional Convention
Committee Proposal/3/Enrolled
January 9, 1956

CONSTITUTIONAL CONVENTION OF ALASKA

COMMITTEE PROPOSAL NO. 3

Introduced by Committee on Direct Legislation

INITIATIVE, REFERENDUM AND RECALL
AMENDMENT AND REVISION

RESOLVED, that the following be agreed upon as part
of the Alaska State Constitution:

ARTICLE ON DIRECT LEGISLATION

- Initiative 1 Section 1. The people reserve the power by petition
2 to propose laws and to enact or reject such laws at the
3 polls.
- Referendum 4 Section 2. The people reserve the power to require,
5 by petition, that laws enacted by the legislature be
6 submitted to the voters for approval or rejection.
- Procedure 7 Section 3. The legislature shall prescribe the
8 procedures to be followed in the exercise of the powers
9 of initiative and referendum, except as herein provided.
- Petitions, 10 Section 4. Prior to general circulation, an initia-
ballot 11 tive petition containing a draft of the proposed law in bill
title, 12 form shall be signed by 100 qualified electors as sponsors
election, 13 and have its sufficiency as to form certified by the attor-
vote re- 14 ney general. The same procedure, so far as applicable,
quired 15 shall apply to referendum petitions. Denial of certification

1 shall be reviewable by the court. If certified to be suf-
2 ficient the initiative or referendum petition containing a
3 summary of the subject matter prepared by the attorney
4 general may then be circulated and must be signed by qual-
5 ified electors equal to 10% of the number of voters who
6 voted in preceding general election. The petition
7 shall contain signatures of qualified electors resident in
8 at least two-thirds of the election districts of the State.
9 The petition may be filed with the attorney general who
10 shall prepare a ballot title or proposition designating
11 and summarizing the substance of the proposed law which
12 proposition shall go upon the ballot as hereinafter pro-
13 vided. Initiative petitions may be filed at any time.
14 Referendum petitions shall be filed within 90 days after
15 adjournment of the legislative session at which the measure
16 was passed. Laws proposed by the initiative shall be sub-
17 mitted to the voters by ballot title at the first statewide
18 election which occurs more than one hundred twenty (120)
19 days after adjournment of the legislative session following
20 the filing of the initiative petition, unless the legisla-
21 ture at said session shall have enacted substantially the
22 same measure. Questions on referendum shall also be sub-
23 mitted to the voters by ballot title at the first statewide
24 election occurring more than one hundred twenty (120) days
25 after adjournment of the legislature which passed the law

1 being referred. A majority of the votes cast is necessary
2 for the adoption of an initiated law, or the defeat of a
3 measure referred. No law passed by the initiative may be
4 vetoed by the Governor nor may it be repealed by the legis-
5 lature for a period of two years, but may be amended at
6 any time.

Restrictions

7 Section 5. The initiative and referendum may not be
8 used as a means of earmarking revenues, for making or de-
9 feating appropriations of public funds, or for local or
10 special legislation. The referendum shall not be applic-
11 able to such laws as are necessary for the immediate pre-
12 servation of the public peace, health or safety, and laws
13 making appropriations for the current expenses of the
14 State government and for the maintenance of public
15 institutions.

Recall

16 Section 6. Every elected public official in the State,
17 except judicial officers, is subject to recall by the
18 voters of the State or subdivision from which elected.
19 The legislature shall prescribe the recall procedures and
20 grounds for recall.

F I R S T E N R O L L E D C O P Y

ARTICLE ON REVISION AND AMENDMENT

Methods

1 Section 1. Revisions of or amendments to this Con-
2 stitution may be adopted by the Legislature or by consti-
3 tutional convention as hereinafter authorized subject to
4 ratification by the people.

Proposals by
Legislature

5 Section 2. Any legislature may by a two-thirds vote
6 of each house propose amendments to the Constitution. Pro-
7 posed amendments shall be submitted by ballot title prepared
8 by the Attorney General to the voters at the next general
9 election. If a majority of the votes tallied on the ques-
10 tion favor the ratification of the amendment, the amend-
11 ment is ratified.

Constitutional
Convention

12 Section 3. The legislature may provide for Consti-
13 tutional Conventions. If any ten-year period elapses dur-
14 ing which the legislature has not called a convention,
15 the Governor shall certify the question, "Shall there be a
16 Constitutional Convention?" The question shall be sub-
17 mitted at the first general election following the expir-
18 ation of such period. If a majority of the ballots cast
19 upon the question are in the affirmative, delegates to the
20 convention shall be chosen at the next regular election
21 unless the legislature provides for the election of
22 delegates at a special election.

23 Unless the legislature provides otherwise, the law
24 providing for the Alaska Constitutional Convention of 1955
25 shall be followed insofar as possible relating to number

1 of members, districts, convention powers, election and
2 certification of delegates, submission and ratification
3 of revisions and ordinances, and other applicable pro-
4 visions. The appropriation provisions of the law shall
5 be self-executing and shall constitute a first claim on
6 the general fund of the State Treasury. The legislature
7 may provide additional appropriations.

As amended through December 19, 1955
but still in second reading.

CONSTITUTIONAL CONVENTION OF ALASKA

COMMITTEE PROPOSAL NO. 3

Introduced by Committee on Direct Legislation

INITIATIVE, REFERENDUM AND RECALL,
AMENDMENT AND REVISION

RESOLVED, that the following be agreed upon as part of
the Alaska State Constitution:

ARTICLE ON DIRECT LEGISLATION

- Initiative 1 Section 1. The people reserve the power by peti-
2 tion to propose laws and to enact or reject such laws
3 at the polls.
- Referendum 4 Section 2. The people reserve the power to re-
5 quire, by petition, that laws enacted by the legis-
6 lature be submitted to the voters for approval or
7 rejection.
- Procedure 8 Section 3. The legislature shall prescribe the
9 procedures to be followed in the exercise of the powers
10 of initiative and referendum.
- Petitions, 11 Section 4. Prior to general circulation, an ini-
ballot
title, elec-12 tiative petition containing a draft of the proposed
tion, vote
required 13 law in bill form shall be signed by 100 qualified
14 electors as sponsors and have its sufficiency as to
15 form certified by the attorney general. The same
16 procedure so far as applicable, shall apply to re-
17 ferendum petitions. Denial of certification shall

1 be reviewable by the court. If certified to be suf-
2 ficient the initiative or referendum petition contain-
3 ing a summary of the subject matter prepared by the
4 attorney general may then be circulated and must be
5 signed by qualified electors equal to 10% of the number
6 of votes cast for governor in the preceding general
7 election at which the governor was chosen. The peti-
8 tion shall contain signatures of qualified electors
9 resident in at least two-thirds of the election Dis-
10 tricts of the State. The petition may be filed with
11 the attorney general who shall prepare a ballot title
12 or proposition designating and summarizing the sub-
13 stance of the proposed law which proposition shall go
14 upon the ballot as hereinafter provided. Initiative
15 petitions may be filed at any time. Referendum peti-
16 tions shall be filed within 90 days after adjournment
17 of the legislative session at which the measure was
18 passed. Laws proposed by the initiative shall be sub-
19 mitted to the voters by ballot title at the first state-
20 wide election which occurs more than one hundred twenty
21 (120) days after adjournment of the legislative session
22 following the filing of the initiative petition, unless
23 the legislature at said session shall have enacted sub-
24 stantially the same measure. Questions on referendum
25 shall also be submitted to the voters by ballot title

1 at the first statewide election occurring more than one
2 hundred twenty (120) days after adjournment of the leg-
3 islature which passed the law being referred. A major-
4 ity of the votes cast is necessary for the adoption of
5 an initiated law, or the defeat of a measure referred.
6 No law passed by the initiative may be vetoed by the
7 Governor.

Restrictions 8 Section 5. The initiative or referendum may not
9 be used as a means of earmarking revenues, for making
10 or defeating appropriations of public funds, or for
11 local or special legislation. The referendum shall not
12 be applicable to such laws as are necessary for the
13 immediate preservation of the public peace, health and
14 safety.

Recall 15 Section 6. Every elected public official in the
16 State, except judicial officers, is subject to recall
17 by the voters of the State or subdivision from which
18 elected. Grounds for recall are malfeasance, misfeas-
19 ance, nonfeasance, or conviction of a crime involving
20 moral turpitude. The legislature shall prescribe the
21 recall procedures.

Constitutional Convention
Committee Proposal/3
December 9, 1955

ALASKA CONSTITUTIONAL CONVENTION
REPORT OF THE COMMITTEE ON
DIRECT LEGISLATION, AMENDMENT AND REVISION

Hon. William A. Egan
President, Alaska Constitutional Convention

Dear Mr. President:

Your Committee on Direct Legislation, Amendment and Revision presents for your consideration and adoption its proposed Articles on Initiative, Referendum and Recall; and Amendment and Revision.

The Committee proposal, while incorporating many of the ideas contained in Convention Proposals No. 29 and 34, and in other drafts submitted to the Committee, is a Committee substitute.

A section by section commentary of the subject matter has been prepared by your Committee for the use of the Delegates to the Convention.

Respectfully submitted,
E. B. Collins, Chairman
Jack Hinckel
M. R. Marston
Irwin L. Metcalf
Warren A. Taylor
W. O. Smith
Leonard King

CONSTITUTIONAL CONVENTION OF ALASKA

COMMITTEE PROPOSAL NO. 3

Introduced by Committee on Direct Legislation

INITIATIVE, REFERENDUM AND RECALL
AMENDMENT AND REVISION

RESOLVED, that the following be agreed upon as part
of the Alaska State Constitution:

ARTICLE ON DIRECT LEGISLATION

Initiative 1 Section 1. The people reserve the power by petition
2 to propose laws and to enact or reject such laws at the
3 polls.

Referendum 4 Section 2. The people reserve the power to require,
5 by petition, that laws enacted by the legislature be
6 submitted to the voters for approval or rejection.

Procedure 7 Section 3. The legislature shall prescribe the
8 procedures to be followed in the exercise of the powers
9 of initiative and referendum, subject to the specific
10 authority reserved herein. No law shall be enacted to
11 hamper, restrict or impair the exercise of powers reserved
12 herein by the people.

Petitions, 13 Section 4. Prior to general circulation, an initia-
ballot 14 tive petition shall be signed by ten qualified electors
title, 15 as sponsors and have the constitutionality certified by
election, 16 the Attorney General. Certification shall be reviewable
vote re- 17 by the courts. A valid initiative or referendum petition
quired 18 shall be signed by qualified electors equal to eight

1 percent of the number of votes cast for Governor in the
2 preceding general election at which the Governor was
3 chosen. Petitions shall be filed with the Attorney Gen-
4 eral, who shall prepare a ballot title, and the adequa-
5 cy of the ballot title shall be reviewable by the courts.
6 Initiative petitions may be filed at any time. Refer-
7 endum petitions shall be filed within 90 days after ad-
8 journment of the legislative session at which the measure
9 was passed. Laws proposed by the initiative shall be
10 submitted to the voters by ballot title at an election
11 not later than 180 days after the adjournment of the
12 legislative session following the filing of the petition,
13 unless the legislature enacts the measure initiated
14 during the session. The question on referendum shall be
15 submitted to the voters by ballot title not later than
16 120 days after the filing of a petition against the mea-
17 sure. A majority of the votes cast is necessary for the
18 adoption of an initiated law, or the defeat of a measure
19 referred. No law passed by the initiative may be vetoed
20 by the Governor nor amended or repealed by the legislature
21 for a period of three years.

Restrictions 22 Section 5. Neither the initiative nor referendum
23 may be used as a means of making or defeating appropria-
24 tions of public funds or earmarking of revenues nor for
25 local or special legislation. Emergency acts are not

1 subject to referendum.

Recall

2 Section 6. Every elected public official in the
3 State, except judicial officers, is subject to recall by
4 the voters of the State or subdivision from which elected.
5 Grounds for recall are malfeasance, misfeasance, nonfeas-
6 ance, or conviction of a crime involving moral turpitude.
7 The legislature shall prescribe the recall procedures.

ARTICLE ON REVISION AND AMENDMENT

Methods

1 Section 1. Revisions of or amendments to this
2 constitution may be adopted by two succeeding legisla-
3 tures, or be proposed by constitutional convention or
4 by the legislature.

Proposals by
Legislature

5 Section 2. Any legislature may by a two-thirds
6 vote of each house propose amendments to the Constitu-
7 tion. Proposed amendments may be submitted by ballot
8 title prepared by the Attorney General to the voters at
9 the next general election. If a majority of the votes
10 tallied on the question favor the adoption of the amend-
11 ment, the amendment is adopted.

12 Proposed amendments may be submitted to the next
13 legislature not less than two years after being proposed.
14 If the second legislature by a two-thirds vote of each
15 house favors the adoption of the amendment, the amend-
16 ment is adopted.

Constitutional
Convention

17 Section 3. The legislature may provide for
18 Constitutional Conventions. If any ten-year period
19 elapses during which the legislature has not called a
20 convention, the Governor shall certify the question,
21 "Shall there be a Constitutional Convention?" The
22 question shall be submitted at the first general elec-
23 tion following the expiration of such period. If a
24 majority of the ballots cast upon the question are in
25 the affirmative, delegates to the convention shall be

ARTICLE ON REVISION AND AMENDMENT

-2-

1 chosen at the next regular election unless the legisla-
2 ture provides for the election of delegates at a special
3 election.

4 Unless the legislature provides otherwise, the law
5 providing for the Alaska Constitutional Convention of
6 1955 shall be followed insofar as possible relating to
7 number of members, districts, convention powers, election
8 and certification of delegates, submission and ratifica-
9 tion of revisions and ordinances, and other applicable
10 provisions. The appropriation provisions of the law
11 shall be self-executing and shall constitute a first
12 claim on the general fund of the State Treasury. The
13 legislature may provide additional appropriations.

Constitutional Convention
Committee Proposal/3
December 9, 1955

ALASKA CONSTITUTIONAL CONVENTION

Commentary on the Article of Initiative, Referendum
and Recall

(Sec. 1 Initiative)

The initiative is the power of the people to initiate laws themselves and provide for a referendum on such laws without action by the legislature. This section reserves the authority of the people to initiate laws by petition and vote of the people directly.

(Sec. 2 Referendum)

This section permits the people to require that laws passed by the Legislature be referred to a vote of the people before taking effect. This power is known as the Referendum.

(Sec. 3 Procedure)

Many constitutions, in the states which make provision for the use of the initiative and referendum, contain a great degree of detail relating to the exercise of the initiative and referendum. This section permits the legislature to provide by law for some details, but provides that the legislature may not restrict the substantive rights guaranteed in Section 4, nor to require procedures more difficult than provided in Section 4.

(Sec. 4 Petition, Ballot title; election; vote required)

This section sets forth certain substantive provisions and minimum procedures affecting the exercise of the initiative

and referendum. To prevent waste of money on elections for laws that are unconstitutional, sponsors are required to submit a proposed law to the Attorney General for certification of its constitutionality, subject to court review, prior to the circulation of petitions. The provision is intended to stop, at the initial stage, the circulation of petitions for laws that would, even if approved by the voters, result in expensive court action.

If the legislature adopts a measure that is the subject of the initiative, the measure does not have to be submitted to the people.

Additional details of procedure may be provided by the legislature subject to the limits imposed by this section. The procedure outlined has the advantage of brevity while ensuring the substantive rights to the people.

(Sec. 5 Restrictions)

The exercise of the initiative is a fundamental right of the people, but special interest groups should not be permitted to unduly hamper the operation of government. The restrictions in Section 5 will prevent the abuses and problems that have sometimes arisen in the states permitting initiative and referendum. Neither the initiative nor referendum can be used with regard to emergency legislation, appropriations, or measures earmarking taxes and other revenues, or for special or local laws that are of interest to only one group of people or people in only one portion of the state.

(Sec. 6 Recall)

The right of the people to remove elected officials is preserved. The Legislature is directed to provide the methods to be used.

Commentary on the Article on Amendment and Revision

(Sec. 1 Methods)

This section outlines three methods by which the constitution may be amended or revised. (1) By action of two separate legislatures directly; (2) by action of one legislature and referral to the people; and (3) by constitutional convention.

(Sec. 2 Proposals by Legislature)

The Legislature, by a two-thirds vote, may submit a proposed amendment to a vote at a general election. Use of general election is intended to insure a substantial vote on the question.

An alternate method is provided which permits the legislature, by a two-thirds vote, to submit a proposed amendment to the next legislature, but not to a succeeding session of the same legislature. If the second legislature adopts the amendment by a two-thirds vote it becomes part of the constitution without referring it to a vote of the people.

(Sec. 3 Constitutional Convention)

The legislature is empowered to call a convention, but if the legislature does not provide for a convention each ten years, the question is submitted to the people at the following general election.

The legislature is authorized to prescribe the procedures and powers of a convention; but if it does not make such provisions, the law calling this convention will be followed insofar as practicable.