

MEMORANDUM

State of Alaska Department of Law

TO: The Honorable Fran Ulmer
Lieutenant Governor

DATE: July 28, 1999

FILE NO: 663-00-0020

TELEPHONE NO: (907) 465-3600

SUBJECT: Initiative Petition
Application Authorizing
Advisory Vote on Use of
Alaska Permanent Fund
Earnings

FROM: James L. Baldwin
Assistant Attorney General
Governmental Affairs Section

We have reviewed the following application for an initiative petition:

"An Act requiring placement before the qualified voters of the state, at the next statewide election, a question advising the Legislature as to whether it should propose an amendment to the Constitution of the State of Alaska guaranteeing the Permanent Fund's Earnings shall be used solely for dividends and for inflation proofing the principal of the Permanent Fund, and requiring approval by a majority vote of the registered voters before the Permanent Fund's Earnings are used for any other purpose."

Under AS 15.45.070, the lieutenant governor is required to review an application for a proposed initiative and either "certify it or notify the initiative committee of the grounds for denial." Among the grounds for denial is that the application is not in the required form. AS 15.45.080(2).

Based on our review, we conclude that the initiative application is not in the proper form required by law and must be rejected. According to AS 15.45.030(2), the subscribers must indicate that they signed the application with the bill to be initiated attached. The application contains the title of the bill and a statement that the subscribers have read it.

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The requirement that the bill be attached to the application is based on a provision in the Alaska Constitution that the application contain the bill to be initiated. Alaska Const. art VI, sec. 2. This requirement is mandatory and may not be waived. 1993 Inf. Op. Att'y Gen. (Sept. 21; 663-94-0066). Failure to comply with the statute renders the application "not in the proper form" and it may not be certified.

We acknowledge that the bill to be initiated is similar to one contained in an initiative petition that was previously certified by this office. The petition was not returned within the time period allowed for circulation. Even though we have passed on the substance of a similar bill, we reserve the right to review this application *de novo* if the deficiency noted above is corrected and the application is once again before us.

JLB:jn

cc: Janet Kowalski, Director
Division of Elections