

LEGAL SERVICES

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MEMORANDUM

December 9, 2015

SUBJECT: Changes to your requested language
(Work Order No. 29-LS0244\W)

TO: Senator Peter Micciche
Attn: Chuck Kopp

FROM: Alpheus Bullard *LAB*
Legislative Counsel

This memorandum accompanies the bill draft you requested. As I discussed with Mr. Kopp on December 7, your request has been prepared as a sponsor blank House Committee Substitute for SB 9.¹ I made a number of changes to the draft amendment that you provided to initiate your request. These changes are described in my comments below.

AS 15.07.195(c)

You asked that a new paragraph be added to AS 15.07.195(c) that would allow the division of elections (division) to release certain confidential information² to another state or "organized group of states. The language of your draft provided that this information could be released "to another state or group of states for the legitimate purpose of supervising the registration of voters and administering voter registration under [AS 15.07], provided that such state or group of states have entered into an agreement to protect the confidentiality of such information or data."

I removed the phrase "legitimate purpose" because it is unnecessary to clarify that the statute's purpose is legitimate. I also changed the purpose to "ensuring the accuracy of the state's voter registration list . . . and the eligibility of persons on the list to vote in state elections . . ." because I assume that the purpose of this legislation is to clarify that the division may lawfully check its voter registration list against those of other states in an effort to address possible voter fraud. I use the term "clarify," because the state may

¹ Please note that this version of the bill requires a title change resolution. The appropriate resolution accompanies this memorandum and the new bill draft.

² The confidential information that the division may release under AS 15.07.195(c) is described under AS 15.07.195(a) and (b). It includes a voter's age or date of birth, social security number, or any part of that number, driver's license number, voter identification number, place of birth, signature, and residential address.

already be participating in at least one such arrangement. According to a January 26, 2013, presentation for the National Association of State Election Directors (by Brad Bryant, State Election Director, Kansas Secretary of State's Office), Alaska was participating in the "Interstate Voter Registration Crosscheck Program," administered by the Kansas Secretary of State, in 2013.³ I also made some less significant changes.

AS 28.15.151(g) / AS 15.07.055(e)

Your draft included amendments to AS 28.15.151. This statute relates to certain records that must be maintained by the Department of Administration (department). Given the nature of your request, I do not believe that amending this statute is consistent with your objectives. Instead, the bill amends AS 15.07.055(e) to permit the division to match identifying information (held by the division) for any voter -- against information for that same person that is held by the department or Department of Revenue.⁴ Please advise if this change is not consistent with your intent.

Additional note

I advise that you have the division review this bill. If the division was participating in the Interstate Voter Registration Program in 2013, the division may interpret AS 15.07.195(c)(1) to already provide it sufficient authority to check the state's voter list against those of other states and this legislation may not be necessary. Conversely, if this legislation is necessary, because the bill explicitly permits the division to release confidential information about state voters, including the voters' social security numbers to another state or group of states that may be outside the reach of Alaska law, it may be helpful to the division if the bill provides clearer direction as to exactly who this information may be released to, and what protective measures a recipient must take.

If you have questions, please do not hesitate to contact me.

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Attachment

³ The presentation is available at:
http://www.nased.org/NASED_Winter_2013_PP_Presentations/KANSAS.pdf.

⁴ The bill amends AS 15,07.055 to expand the division's authority to match identifying information with these departments for voters who "initially register[] by mail or by facsimile or other electronic transmission approved by the director . . ." to all voters, no matter how they may have initially registered.