

HOUSE BILL NO. 95

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/18/21

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to elections and election investigations."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 15.56 is amended by adding a new section to read:

4 **Sec. 15.56.140. Civil enforcement of election laws.** (a) A person may file
5 with the division a written complaint alleging that a violation of an election law or rule
6 adopted under this title has occurred, the factual basis for the allegation, and any
7 related evidence. A complaint filed under this section must be filed within 30 days
8 after the election at which a violation of an election law or rule is alleged to have
9 occurred or within 30 days after the date of the violation of an election law or rule is
10 alleged to have occurred, whichever is later.

11 (b) If a complaint alleges a violation of AS 15.13 or a regulation adopted
12 under the authority of AS 15.13, the division shall refer the complaint to the Alaska
13 Public Offices Commission. For all other complaints filed under (a) of this section, the
14 division may refer the complaint to the attorney general. If the complaint is
15 incomplete, determined by the division to be frivolous, or the allegations in the

1 complaint, if true, do not constitute a violation, the division may request additional
2 information or dismiss the complaint.

3 (c) Excluding an alleged violation of a provision of AS 15.13 or a regulation
4 adopted under AS 15.13, the attorney general may investigate an allegation of a
5 violation of a provision of this title

6 (1) upon receipt of a complaint referred by the division;

7 (2) identified by the director; or

8 (3) upon the attorney general's own motion.

9 (d) In conducting an investigation under this section, the attorney general may
10 issue subpoenas or subpoena duces tecum to compel the attendance of witnesses and
11 the production of books, records, documents, and other tangible goods. Subpoenas
12 may be issued and shall be served in the manner prescribed by AS 44.62.430 and court
13 rule. Failure, refusal, or neglect to obey a subpoena is punishable as contempt in the
14 manner prescribed by law or court rule. The superior court may compel obedience to
15 the attorney general's subpoena in the same manner as prescribed for obedience to a
16 subpoena issued by the court. The attorney general may also

17 (1) administer oaths and hold hearings in conducting an investigation
18 under this section;

19 (2) require a witness to respond to written interrogatories under oath;
20 and

21 (3) examine and make true copies of books, records, documents, and
22 other papers examined under this subsection.

23 (e) Subject to (f) of this section, a record of an investigation or intelligence
24 information of the attorney general obtained under this section is not a public record
25 under AS 40.25.100 - 40.25.295, except that the attorney general is not prevented from
26 issuing a public statement describing or warning of a course of conduct that constitutes
27 or will constitute a violation, whether on a local, state, regional, or national basis.

28 (f) At the conclusion of an investigation under this section, the attorney
29 general shall inform the division of the result of the investigation and may submit to
30 the division a report of the investigation. If the attorney general investigation
31 determines that a complaint against a state agency or state employee is meritorious,

1 the division shall make a reasonable effort to work with the agency or employee to
 2 take corrective action. Investigation or intelligence information obtained over the
 3 course of the investigation remain confidential under (e) of this section unless
 4 submitted to the court as part of a civil action under (g) of this section or used by the
 5 division as the basis for a course of action.

6 (g) If, after an investigation, the attorney general has reason to believe that a
 7 person has engaged, is engaging, or is about to engage in an act or practice in violation
 8 of a provision of this title, excluding AS 15.13, the attorney general may bring a civil
 9 action for injunctive relief to compel compliance with the provisions of this title.

10 (h) In an action brought under (g) of this section,

11 (1) if the court finds that a person has engaged, is engaging, or is about
 12 to engage in an act or practice in violation of a provision of this title, excluding
 13 AS 15.13, the attorney general may, upon petition to the court, recover on behalf of
 14 the state a civil penalty of up to \$25,000 for each violation;

15 (2) if the attorney general prevails, the court may award the state actual
 16 attorney fees and costs, including the cost of an investigation, to the extent those fees
 17 and costs are reasonable.

18 (i) The director may adopt regulations to implement this section, including
 19 regulations creating a process for a person to file a written complaint.

20 (j) The attorney general may adopt regulations to implement this section.

21 (k) Nothing in this section prevents a complainant from filing an action in
 22 court.

23 (l) In this section,

24 (1) "frivolous" means

25 (A) not reasonably based on evidence or on existing law or a
 26 reasonable extension, modification, or reversal of existing law; or

27 (B) brought to harass the subject of the complaint or to cause
 28 unnecessary delay or needless expense;

29 (2) "state agency"

30 (A) means

31 (i) a department, division, office,

1 (ii) a state board, commission, public corporation, or
2 other organizational unit of or created under the executive branch of the
3 state government, and the University of Alaska, to the extent that these
4 locations serve as a polling place under AS 15.15.060;

5 (B) does not include an agency of the legislative or judicial
6 branch of state government;

7 (3) "state employee" includes a permanent employee, emergency
8 employee, nonpermanent employee, or a program or project employee as defined in
9 AS 39.25.200; "state employee" does not include a person hired by the state to work as
10 an independent contractor or a person who is in the custody of the state.