

**HOUSE CS FOR CS FOR SENATE BILL NO. 99(JUD) am H**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Amended: 4/23/99**

**Offered: 4/13/99**

**Sponsor(s): SENATE RULES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act providing for preparation for redistricting before appointment of the  
2 Redistricting Board; relating to preclearance under the Voting Rights Act of  
3 1965, as amended, and legal representation of the state in matters concerning  
4 redistricting; clarifying the meaning of 'decennial census of the United States'  
5 in art. VI, Constitution of the State of Alaska; relating to adjustment of census  
6 numbers by using estimates, population surveys, or sampling in the redistricting  
7 of the house of representatives and the senate; and prohibiting expenditures of  
8 public funds for population surveys or sampling for certain purposes relating  
9 to legislative redistricting without an appropriation; and providing for an  
10 effective date."

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

12 \* **Section 1. FINDINGS.** The legislature finds that

- 1 (1) a fair and impartial redistricting requires  
2 (A) the assimilation, compilation, and analysis of large amounts of data  
3 and maps;  
4 (B) complex statistical analysis; and  
5 (C) a thorough consideration of legal issues under the Constitution of  
6 the State of Alaska and the Constitution of the United States;  
7 (2) there is an enormous amount of preparatory work that must be done before  
8 the appointment of the Redistricting Board if the Redistricting Board is to adopt a fair and  
9 impartial plan within 30 days after receiving redistricting data from the United States Bureau  
10 of the Census;  
11 (3) Alaska's redistricting plan will be subject to review by the United States  
12 Department of Justice under 42 U.S.C. 1973 - 1973l (Voting Rights Act of 1965, as amended);  
13 (4) ensuring that the redistricting plan complies with the provisions of 42  
14 U.S.C. 1973 - 1973l, as amended, will require in-depth analysis of voting patterns over the  
15 past decade;  
16 (5) the United States Bureau of the Census has traditionally conducted an  
17 actual enumeration of the American people and reported the results of that actual enumeration,  
18 without statistical adjustment, to the states for purposes of redistricting;  
19 (6) the United States Bureau of the Census has announced plans to use  
20 sampling and estimates to adjust the actual population counts in the 2000 census;  
21 (7) the United States Supreme Court, in *Department of Commerce v. United*  
22 *States House*, 119 S.Ct. 765 (1999), has interpreted existing federal law to prohibit the use of  
23 adjusted or estimated figures in reapportioning the seats in the United States House of  
24 Representatives among the states;  
25 (8) the United States Supreme Court, in *Department of Commerce v. United*  
26 *States House*, 119 S.Ct. 765 (1999), declined to address the constitutionality of the use of  
27 sampling and estimates by the census bureau in developing decennial census counts;  
28 (9) the United States Supreme Court's decision in *Department of Commerce*  
29 *v. United States House*, 119 S.Ct. 765 (1999), did not resolve the issue of whether the census  
30 bureau may supply states with adjusted or estimated census figures for use in redistricting;  
31 (10) each decade since statehood, Alaska's redistricting plan has been the

1 subject of expensive litigation;

2 (11) in the past, Alaska's redistricting boards have sometimes relied on surveys  
3 and population estimates in order to remove Alaska's military population from the decennial  
4 census figures in order to comply with the former wording of art. VI, secs. 3 and 5,  
5 Constitution of the State of Alaska, which referred to the "civilian population"; and

6 (12) although recent amendments to the Constitution of the State of Alaska  
7 have removed the reference to "civilian" population, court precedent regarding the exclusion  
8 of nonresident military personnel and civilian "transients" remains (see Egan v. Hammond,  
9 502 P.2d 856, 869 (Alaska 1972); Groh v. Egan, 526 P.2d 863, 869-874 (Alaska 1974);  
10 Carpenter v. Hammond, 667 P.2d 1204, 1210-1213 (Alaska 1983); Hickel v. Southeast  
11 Conference, 846 P.2d 38, 54-56 (Alaska 1992)).

12 \* **Sec. 2. PURPOSE.** It is the purpose of the legislature to eliminate confusion in the  
13 event the census bureau's report of the decennial census includes more than one population  
14 figure for Alaska, to facilitate the work of the Redistricting Board by identifying the  
15 appropriate census figures to be used in developing a redistricting plan, to avoid litigation over  
16 the board's redistricting plan, to prevent discrimination against any segment of Alaska's  
17 population in redistricting, to make necessary preparations for redistricting in a timely, fair,  
18 and impartial fashion, and to make tools needed for the task of redistricting available to the  
19 Redistricting Board as soon as that body is appointed.

20 \* **Sec. 3.** AS 15.10 is amended by adding new sections to read:

21 **Article 2. Census and Population.**

22 **Sec. 15.10.200. Definition of "decennial census of the United States" and**  
23 **use of census numbers by redistricting board.** (a) In art. VI, Constitution of the  
24 State of Alaska, reference to the official decennial census of the United States is a  
25 reference to the census enumeration used to establish apportionment among the several  
26 states.

27 (b) In adopting a redistricting plan under art. VI, Constitution of the State of  
28 Alaska, the redistricting board may not adjust the census numbers by using estimates,  
29 population surveys, or sampling for the purpose of excluding or discriminating among  
30 persons counted based on race, religion, color, national origin, sex, age, occupation,  
31 military or civilian status, or length of residency.

(c) A qualified voter may bring an action in the superior court against the redistricting board to enforce the provisions of (b) of this section.

**Sec. 15.10.210. Expenditures for population surveys or sampling prohibited.** An expenditure of public funds may not be made for a population survey or sampling conducted for purposes of redistricting the legislature without an express appropriation by the legislature for that purpose.

**Sec. 15.10.220. Voting Rights Act review and legal representation.** (a) The independent legal counsel for the Redistricting Board provided for in art. VI, sec. 9, Constitution of the State of Alaska, shall

(1) submit the board's redistricting plan for preclearance to the United States Department of Justice or the United States District Court for the District of Columbia under 42 U.S.C. 1973c; and

(2) defend the plan and board in all matters concerning redistricting until a final plan for redistricting and a proclamation of redistricting have been adopted and all challenges to them brought under art. VI, sec. 11, Constitution of the State of Alaska, have been resolved after final remand or affirmation; the board shall have sole discretion to enter a settlement agreement and control litigation strategy that affects the final proclamation issued under art. VI, sec. 10, Constitution of the State of Alaska.

(b) Nothing in this section denies or creates standing in the governor, the legislature, or another person to be a party to the proceedings described in subsection (a).

### **Article 3. Redistricting.**

**Sec. 15.10.300. Preparation for legislative redistricting.** (a) There is created as an independent agency of the state the Redistricting Planning Committee. The committee shall be composed of five members. One member shall be appointed by the president of the senate, one member shall be appointed by the speaker of the house of representatives, one member shall be appointed by the chief justice of the Alaska Supreme Court, and two members shall be appointed by the governor.

(b) Four members of the committee constitute a quorum to transact business. Meetings of the committee are subject to AS 44.62.310.

(c) The committee may make necessary preparations and arrangements for the

1 Redistricting Board provided for in art. VI, sec. 8, Constitution of the State of Alaska.  
 2 The committee may arrange for office space for the board and its staff before the  
 3 convening of the board, including the leasing of appropriate facilities and office  
 4 equipment.

5 (d) The committee may compile or contract for the compilation of information  
 6 necessary for the Redistricting Board to begin its work, including

7 (1) paper maps or a computer data base received from the United States  
 8 Bureau of the Census describing all units of census geography;

9 (2) a computer data base of election and voter registration information  
 10 from the division of elections to assist the Redistricting Board in determining  
 11 compliance with 42 U.S.C. 1973-1973i (Voting Rights Act of 1965, as amended) and  
 12 other statutory and constitutional requirements;

13 (3) information indicating the location of cultural, economic,  
 14 geographic, demographic, and trade area factors in the state; and

15 (4) information or analysis of state and federal court decisions  
 16 concerning reapportionment.

17 (e) The committee shall develop and issue a request for competitive sealed  
 18 proposals to procure a computerized system that uses census data and maps to prepare  
 19 plans for state senate and house districts in conformity with statutory and constitutional  
 20 criteria and within applicable time constraints. The committee may award a contract  
 21 for the acquisition of computer software and hardware and for the provision of  
 22 computer services to the responsible and responsive offeror whose proposal is  
 23 determined to be the most advantageous to the state, taking into consideration price  
 24 and evaluation factors set out in the request for proposals. The computer system must  
 25 be developed so that it is available for use by the Redistricting Board immediately  
 26 upon the board's convening.

27 (f) The committee may seek assistance as necessary from the legislative  
 28 council, the Department of Administration, the Department of Labor, the Department  
 29 of Law, and the division of elections.

30 (g) In the event that the committee is determined to be unlawful, the legislative  
 31 council shall assume the committee's responsibilities and perform its duties as

1 described in this section.

2 (h) In this section, "committee" means the Redistricting Planning Committee.

3 \* **Sec. 4. SEVERABILITY.** Under AS 01.10.030, if a provision of this Act or the  
4 application of this Act to any person or circumstance is held invalid, the invalidity does not  
5 affect other provisions of the Act that can be given effect without the invalid provision.

6 \* **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).